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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Aiken County

Honorable Courtney Clyburn-Pope, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

XABIAN URONIE BAILEY,

APPELLANT

APPELLATE CASE NO. 2024-001526

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[THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE'S EXHIBIT 3 (911 CALL)]

STATE OF SOUTH CAROLINA) IN THE CIRCUIT COURT 2
COUNTY OF AIKEN) DOCKET Nos. 2022-GS-02-02201
2022-GS-02-02204

STATE OF SOUTH CAROLINA,)
Plaintiff,)
versus)
XABIAN URONIE BAILEY,)
Defendant.)

H E A R I N G
BEFORE THE HONORABLE COURTNEY CLYBURN POPE

DATE: September 3, 2024
TIME: 10:27 a.m.
LOCATION: South Carolina Circuit Court 2
TRANSCRIBED BY: Mary Ragsdale

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1 THE COURT: Good morning.

2 MS. HAMMACK: Good morning, your Honor.

3 THE COURT: All right. Madam Solicitor.

4 MS. HAMMACK: Your Honor, next we have the trial roll
5 call for this general session's term, beginning with Xabian
6 Bailey, prosecuted by Jackie Charbonneau, and represented by
7 Will McKellar.

8 MS. CHARBONNEAU: State is ready, your Honor. It'll be
9 for four days.

10 MR. MCKELLAR: Defense is ready.

11 THE COURT: Okay. On the record. So we will select
12 that jury this afternoon beginning at 1:30, and we will
13 proceed -- provided with the trial, is my understanding. So
14 we've got some pretrial motions?

15 MS. CHARBONNEAU: Yes. If we could do those this
16 morning, that'd be great.

17 THE COURT: All right. We'll do those as soon as we
18 conclude the trial roll call. We'll go straight into the
19 pretrial motions.

20 MS. CHARBONNEAU: Thank you.

21 (Off the record.)

22 THE COURT: All right. Ms. Charbonneau, switching
23 places. We have several pretrial motions. Would you like to
24 go forward with those? State ready to proceed?

25 MS. CHARBONNEAU: Yes, ma'am. We need to do this right

1 now.

2 THE COURT: Mr. McKellar, are you ready to proceed?

3 MR. MCKELLAR: Yes, your Honor.

4 THE COURT: Has your client come out?

5 MR. MCKELLAR: I believe his mother is working close.

6 She should be here before the jury comes at 1:30.

7 THE COURT: All right. Thank you, sir.

8 (Bench Conference at 10:52 a.m.)

9 THE COURT: All right. Madam Solicitor?

10 MS. CHARBONNEAU: Yes, your Honor. Before the State
11 proceed on their motion, the Defendant has filed yet another
12 motion to relieve his counsel at the prior motion (inaudible)
13 first. By way of history, the Defendant had filed a motion
14 to relieve his counsel back on 1/23/24. And that's when he
15 was going into the courtroom. He withdrew that on the
16 record.

17 He did it again on 4/18/24. And again, he withdrew it
18 on the record when we came into court. A couple of weeks
19 ago, he filed a motion to relieve again. Judge McCaslin
20 actually heard it, and denied his motion. And in the two
21 weeks since that time, we have yet another motion where he
22 was asking that his defense attorney be removed.

23 THE COURT: Okay. Mr. McKellar?

24 MR. MCKELLAR: Your Honor, I do not know what Mr.
25 Bailey's current position is on the matter.

1 THE COURT: All right. Mr. Bailey. Good morning, sir.
2 Stand up for me. All right. Mr. Bailey, you have a motion?
3 Do you have a motion?

4 MR. BAILEY: Yes, your Honor.

5 (Bench Conference at 10:53 a.m.)

6 THE COURT: All right. Okay. And so, you have your
7 two attorneys here to help -- to help you with this motion.
8 You filed a motion to do what we call relieve counsel to not
9 have them as your attorneys. Is that right?

10 MR. BAILEY: Yes.

11 THE COURT: Okay. Can we swear him in, please? Come up
12 front. What's his name? Huh?

13 MS. CHARBONNEAU: Xabian Bailey.

14 THE COURT: Xabian?

15 MS. CHARBONNEAU: Xabian.

16 THE CLERK: Please place your left hand on the Bible
17 and raise your right. The testimony you shall give the Court
18 in this case will be the truth, the whole truth and nothing
19 but the truth, so help you God?

20 THE WITNESS: Yes, ma'am.

21 THE COURT: Thank you. All right. Mr. Bailey, and so,
22 you filed this motion, and we're going to walk through the
23 motion. Mr. McKellar, do you join in on this motion?

24 MR. MCKELLAR: I do not, your Honor.

25 THE COURT: Okay. So Mr. Bailey, you filed this

1 motion. Do you remember what you filed?

2 THE WITNESS: (Inaudible).

3 THE COURT: All right. Let's talk about it. Tell me
4 why you want to leave your attorney as your counsel.

5 THE WITNESS: Well, the first thing was that I had
6 asked him to submit the legal documents that would change the
7 dynamics of my case, and he refused to do that. Told me he
8 did not have to do anything that I ask him to do. And then
9 we really just can't see eye-to-eye on how to strategize with
10 the case.

11 THE COURT: All right. So Mr. Bailey, do you
12 understand that you are set for trial for today?

13 THE WITNESS: Yes, ma'am.

14 THE COURT: And do you understand that the jury is
15 coming in, and we'll do what's called selecting your jury,
16 though? You'll pick the jury -- you and the attorneys will
17 pick the jury. Do you understand that, Mr. Bailey?

18 THE WITNESS: Yes, ma'am.

19 THE COURT: So tell me why we're just now getting the
20 motion to relieve your attorneys for the trial set for now?
21 When did you write motion? You don't have to give me an exact
22 date. Two days ago, a week ago, four weeks ago?

23 MR. MCKELLAR: Your Honor, I may be able to help. He
24 wrote this -- first motion that -- I don't know when he wrote
25 it, but it was heard last term by the visiting judge. And

1 after that judge denied that motion, he wrote another motion.

2 THE COURT: I see. Okay. So recently.

3 MS. CHARBONNEAU: It looks like it was filed August 21,
4 2024.

5 THE COURT: All right. Mr. Bailey, do you understand
6 that if I relieve McKellar and Mr. Thompson as your
7 attorneys, that I cannot -- I -- I -- I'm not required to
8 give you another appointed attorney. Do you understand that,
9 Mr. Bailey?

10 THE WITNESS: Yes, ma'am.

11 THE COURT: Do you have another attorney who is going
12 to help you through this trial?

13 THE WITNESS: No, ma'am. Not at the moment.

14 THE COURT: All right. And so, when you first filed
15 for the attorney to be relieved, why didn't you get an
16 attorney then? Or your family? Why didn't -- whoever get an
17 attorney then?

18 THE WITNESS: Money issues.

19 THE COURT: All right. So Mr. Bailey, I'm -- let --
20 I'm going to deny your motion, but I'll tell you why I'm
21 going to deny your motion. You're set for trial today. Your
22 charge is -- what is Mr. Bailey charged with?

23 MS. CHARBONNEAU: Three counts of murder, and one count
24 of possession of a weapon during a violent crime.

25 THE COURT: All right. And so, the -- the three counts

1 of murder alone can carry -- you know, up to a -- a life
2 sentence just by themselves. And so, I'm telling you that
3 because of the importance of the trial, I cannot allow you --
4 it is not advisable that you handle this trial by yourself.
5 And you're going to trial today. It starts today, Mr.
6 Bailey.

7 THE WITNESS: Yes, ma'am.

8 THE COURT: And so, I'm going to deny your motion so
9 that you have representation during this trial, Mr. Bailey.

10 THE WITNESS: That's okay.

11 THE COURT: All right. Do you have any questions for
12 me?

13 THE WITNESS: No, ma'am.

14 THE COURT: Okay. Is that the only motion that Mr.
15 Bailey has?

16 MR. MCKELLAR: Your Honor, I would like the record to
17 reflect that he would -- if his choice is to represent
18 himself in trial or have me as his attorney, that he would
19 prefer to have me as his attorney than represent himself.

20 THE COURT: Is that right, Mr. Bailey?

21 THE WITNESS: Yes, ma'am.

22 THE COURT: Okay. So we understand your motion and
23 I've denied that motion, but also the record is going to
24 reflect that you would rather have Mr. McKellar as your
25 attorney than to have -- than to have no attorney. Is that

1 correct, sir?

2 THE WITNESS: Yes, your Honor.

3 THE COURT: All right. Anything else you need to tell
4 me Mr. Bailey?

5 THE WITNESS: No, ma'am.

6 THE COURT: All right. Any other motions from Mr.
7 Bailey?

8 MR. MCKELLAR: No.

9 THE COURT: All right. Very good.

10 MS. CHARBONNEAU: Your Honor, while he is here under
11 oath, I'd like to put the plea offer on the record and make
12 sure that he has rejected that offer. The State offered that
13 rather than three life sentences plus five years, he could
14 plead guilty to 40 years, and that would run concurrent on
15 all four counts.

16 THE COURT: All right. So Mr. Bailey, did you hear
17 that offer from the State?

18 THE WITNESS: Yes, ma'am.

19 THE COURT: And was that offer given to you before
20 today?

21 THE WITNESS: Yes, ma'am.

22 THE COURT: Do you accept that offer -- have you had
23 time to think about whether you want to accept that offer?

24 THE WITNESS: (Inaudible).

25 THE COURT: That's a "Yes"? We have to say "Yes" or

1 "No."

2 THE WITNESS: Oh, I had time to think about it.

3 THE COURT: You had time?

4 THE WITNESS: I don't want to say.

5 THE COURT: Right. That's all I'm asking you is if you
6 had time to -- to go over it with your family or whoever,
7 right?

8 THE WITNESS: Yes, ma'am.

9 THE COURT: And you do not wish to accept that offer?

10 THE WITNESS: No, ma'am.

11 THE COURT: Okay.

12 MR. MCKELLAR: Your Honor, just to -- to clarify, they
13 were -- the State was offering a negotiated 40 years, but if
14 he pled to -- to the charges on an open plea, he could get
15 less, and he understands that. Correct? And you do not wish
16 to plead guilty?

17 THE WITNESS: (Inaudible).

18 THE COURT: All right. And so, let the record indicate
19 that Mr. Bailey has shaken his head "No." So Mr. Bailey, I
20 -- I can see you, but we only take audio and so you have to
21 say "Yes" or "No" so that we can pick up what your answers
22 are. Okay?

23 THE WITNESS: Yes, ma'am.

24 THE COURT: All right -- all right. So that's been
25 placed on the record. He has rejected that offer. Is the

1 State ready to proceed with trial?

2 MS. CHARBONNEAU: Yes.

3 THE COURT: Mr. McKellar and Mr. Thompson, you are
4 ready to proceed with trial?

5 MR. MCKELLAR: We are ready.

6 THE COURT: All right. Very good. So, Mr. Bailey,
7 have a seat. We're going to go through some pre-trial
8 motions --

9 THE WITNESS: Yes, ma'am.

10 THE COURT: -- for your case.

11 THE WITNESS: Yes, ma'am.

12 THE COURT: All right. Madam Solicitor?

13 MS. CHARBONNEAU: Yes, your Honor. I filed a motion in
14 limine, and I'm handing up the case law as well.

15 THE COURT: Thank you. All right. Madam Solicitor,
16 whenever you're ready.

17 MS. CHARBONNEAU: Yes, your Honor.

18 THE COURT: Which -- which -- which motion will you be
19 arguing first?

20 MS. CHARBONNEAU: On the State's motion in limine, as
21 far as any mention of gang, gang membership, gang status or
22 affiliation, it's my understanding both Defense Counsel and I
23 have agreed that no one will mention anything in regards to
24 gang -- gang mention in any way, shape or form. And I have
25 instructed eyewitnesses to that effect.

1 MR. MCKELLAR: That is correct, your Honor. We will
2 instruct our witnesses not to mention any gang or gang
3 activity.

4 THE COURT: All right. Very good. And so, the record
5 will reflect that the State has prepared their witnesses as
6 well as Defense has prepared their witnesses, that there is
7 to be no mention of gang activity or gang -- use -- usage of
8 the word "Gang"?

9 MR. MCKELLAR: Specifically, the use of the word
10 "Gang."

11 THE COURT: Okay.

12 MS. CHARBONNEAU: The second part of that motion,
13 Judge, is I am not aware of any specific violent acts
14 concerning the Defendant, and -- and the State -- I'm sorry,
15 and the victims. So I have filed this in the abundance of
16 caution. Because once opening is said, I can't (inaudible)
17 that (inaudible). So I'm relying on the State versus McCray
18 as well as the State versus Williams that I listed in the
19 motion.

20 And basically, the McCray case, which was decided in
21 2009, goes through a lot of specifics that would be pertinent
22 in this case. Again, not knowing exactly where Defense would
23 go with any mention of prior violent acts, or anything along
24 those lines, but I want to make sure that it doesn't happen.
25 Under McCray, they went over prior drug use. They went over

1 prior prison records.

2 They went over prior acts of -- specific acts of
3 violence that even happened the night before, and the Court
4 ruled that they did not come in. The Court did have them
5 proffer the testimony in that McCray case. Defense wanted
6 Lieutenant Jackson to talk about the Defendant being -- I'm
7 sorry, the victim being convicted of burglary, burglary
8 second, violent and state (inaudible). That was not allowed.

9 Another proffer they did was Lieutenant David Brabham.
10 They were going to have him testify about where the victim
11 was arrested for DUS, failure to stop for a (inaudible). And
12 again, that was not allowed. And the Court, on page 923,
13 specifically, ruled. The rule has long been established in
14 this kind of evidence of other specific instances of violence
15 on the part of the deceased are not admissible unless they
16 were directed against the Defendant, or if directed against
17 others, were so closely connected in point of time or
18 occasion with the homicide as reasonably to indicate the
19 state of mind of the deceased at the time of the homicide.

20 Then they go on about the proffer of Jackson Brown was
21 situation specific and unrelated to the victim's state of
22 mind at the time of homicide and was denied. Then the
23 Defense did another proffer with a witness named Chavis
24 Wright. This Mr. Wright was with the victim the night
25 before. They were buying marijuana. The victim was very

1 upset, and very angry, and turning on about the Defendant,
2 and the situation earlier that day.

3 The witness, Wright, saw the victim pull out a gun, and
4 fired into the air. This was all the night before the
5 murder. The witness said the victim had animosity towards
6 the Defendant, and he was going to retaliate on him the next
7 day. And then the Court ruled that that was not related.
8 First of all, buying marijuana has nothing to do with
9 anything. There was no gun found at the scene, which is the
10 same facts of our case.

11 So the Court ruled that even though the victim had a
12 gun the night before and shot the gun off, that it was not to
13 come in. And so, the -- again, without a little bit in the
14 dark as to what Opposing Counsel may be trying to get in, we
15 feel that specific acts of conduct prior -- his prior
16 criminal history. The victims are all juvenile, so we are
17 not aware of any prior criminal history. If there's specific
18 acts of conduct, they would not come in. The State's not
19 aware of anywhere it would under the McCray and Williams
20 case.

21 THE COURT: All right. Mr. McKellar, any -- any
22 argument or any agreement with --

23 MR. MCKELLAR: Your Honor, that she states the rule,
24 and the rule could be found on page 12 of the case she
25 provided. It's --

1 THE COURT: McCray and -- McCray?

2 MR. MCKELLAR: Yes, your Honor. In the murder
3 prosecution of one plea self-defense against the attack by
4 the deceased, evidence of other specific instances of --

5 THE COURT: Wait a minute. Where are you, Mr.
6 McKellar? On page?

7 MR. MCKELLAR: (Inaudible). It's under D, Chavis
8 Wright's testimony, second paragraph. It's the citation to
9 State v. Davis. Is the -- are you on McCray? State v.
10 McCray?

11 (Bench Conference at 11:07 a.m.)

12 THE COURT: All right. Go -- proceed.

13 MR. MCKELLAR: Okay. Let me start over.

14 THE COURT: Start over, Mr. --

15 MS. CHARBONNEAU: It would be page 924.

16 MR. MCKELLAR: Or page 95 on the South Carolina report.

17 THE COURT: Okay.

18 MR. MCKELLAR: That paragraph --

19 THE COURT: I see it.

20 MR. MCKELLAR: Okay. In the murder prosecution of one
21 plea self-defense against an attack by the deceased, evidence
22 of other specific instances of violence on the part of the
23 deceased are not admissible unless they were directed against
24 the defendant, or -- if directed against others, were so
25 closely connected at the point of time or occasion with the

1 homicide as to reasonably indicate the state of mind of the
2 deceased at the time of the homicide, or to produce
3 reasonable apprehension of great bodily harm. And that would
4 apply to the Defendant.

5 So as of right now, your Honor, I do not know that I
6 will introduce any -- attempt to introduce any specific acts
7 of violence on the part of three decedents. If I do, I will
8 serve -- I would -- I could certainly inform the Court for
9 the prosecution.

10 THE COURT: All right. So before -- let me -- let me
11 say this before I issue a blanket ruling. What we'll do is
12 if it is both relevant -- if it is -- if it is relevant, we
13 need -- we need to be told that timely so that we can at
14 least proffer testimony, and I can make a determination as to
15 whether or not it is: one, relevant to this case and -- and
16 two, whether it meets this standard listed in -- in this
17 case.

18 And so, if it is necessary, I'll make a ruling in that
19 regard. But let us know -- like, I don't solicit the
20 testimony. Let us know beforehand that you intend -- if you
21 do intend to solicit that type of testimony.

22 MR. MCKELLAR: Yes, your Honor.

23 THE COURT: Okay.

24 MS. CHARBONNEAU: Judge, that applies to the opening as
25 well so that something isn't said that I can't --

1 MR. MCKELLAR: I'm not eliciting anything, your Honor.

2 THE COURT: All right. And so, there will be no
3 mention -- Counsel has agreed there will be no mention of any
4 potential acts of violence with regards to them being
5 committed by the victims. That will not be placed in the
6 opening. If it comes up later in the trial, we will handle
7 that accordingly.

8 MS. CHARBONNEAU: Thank you.

9 MR. MCKELLAR: Your Honor, she -- in the State's
10 motion, they also argue against propensity evidence of the
11 decedents. And there is a specific rule of evidence that --
12 that allows this type of evidence. And that is, your Honor,
13 Rule 404(a)(2). "Evidence of a pertinent trait of character
14 of the victim of the crime offered by an accused, or by the
15 prosecution to rebut the same, or evidence of a character
16 trait of peacefulness of the victim offered by the
17 prosecution in a homicide case to rebut evidence that the
18 victim was the first aggressor."

19 Your Honor, 404(a)(2) allows defendants to use
20 propensity evidence against the decedent of the homicide and
21 the method of proving this would be under 405 using
22 reputation or opinion evidence. And there is a case that I
23 think was -- I'm not sure if it was before or after South
24 Carolina adopted the federal rules, but it is State v.
25 Franklin. And I've already gave a copy to the State, and I

1 have two copies to the Court. I have highlighted -- and
2 everybody has a highlighted copy. I highlighted page -- page
3 six of six.

4 THE COURT: Okay.

5 MR. MCKELLAR: And actually, the appropriate -- the
6 relevant portion begins in the paragraph above what I
7 highlighted as -- the -- the Supreme Court, the State v.
8 Franklin, 267 South Carolina 240 states that, "The appellant
9 next contends that he was prevented from impeaching the
10 character and reputation of the deceased. Upon objection the
11 trial judge properly ruled that the witness could testify as
12 to the reputation of the deceased for turbulence and
13 violence, but could not testify as to specific acts."

14 So I think there are two ways, your Honor, that the
15 defense can get into this topic, generally. One is through
16 reputation of opinion evidence, and the other is through --
17 with the appropriate foundation, and the other is through
18 specific acts as -- as is illustrated that in the State v.
19 McCray.

20 THE COURT: All right. And so, if it is -- if it is
21 necessary -- excuse me, if it is necessary, if you do make
22 that determination, Mr. McKellar, we will further analyze the
23 testimony that's being proffered.

24 MR. MCKELLAR: Yes, your Honor.

25 THE COURT: Ms. Charbonneau?

1 MS. CHARBONNEAU: Yes, your Honor. Just to put on the
2 record, I believe that there's a stipulation between Defense
3 Counsel and myself in regards to DNA testimony. Investigator
4 Scott Neel will testify, and he'll testify to the results,
5 which none of the results came back against the Defendant.

6 MR. MCKELLAR: We stipulate.

7 MS. CHARBONNEAU: Also, Opposing Counsel asked for me
8 to stipulate, and I do agree that Alvin Artis, one of his
9 Defense witnesses can wear street clothes. I have no
10 objection to that.

11 MR. MCKELLAR: Yes, your Honor. That may -- may take
12 some coordination with the jail.

13 THE COURT: Okay.

14 MR. MCKELLAR: So I -- I anticipate Alvin Artis, who is
15 a co-defendant in this case to -- to testify. He is on my
16 witness list, and the State has agreed that he can wear
17 street clothes with -- when he testifies. I -- and I would
18 ask that the jury not see his shackles either.

19 MS. CHARBONNEAU: Your Honor, if it's okay with -- with
20 -- with the jail, and your Honor, what I -- what I've seen
21 done before is that they have the jury just go out for a
22 moment. They bring the Defendant in who is wearing his
23 shackles. They come back in, and then the same when he's
24 done testifying, they go out a second time and they take them
25 off.

1 THE COURT: Mr. McKellar, I'll make those
2 accommodations, and we'll do so out of the presence of the
3 jury. I do not wish to -- I don't want to mess with the
4 State's protocol -- excuse me, the jails safety protocols.
5 And so, we will allow him to wear plain clothing, but we will
6 make accommodations for him to be up here before the jury
7 comes in, and then to leave once the jury goes back up.

8 MR. MCKELLAR: Thank you, your Honor.

9 THE COURT: All right.

10 MS. CHARBONNEAU: Lastly, there was one arguable
11 witness -- State witness, that I'm not sure, Smith or not.
12 Joshua Smith is a State witness (inaudible), and of all the
13 witnesses, he's the only one that is possible to even argue
14 that he has a prior conviction that will come in under State
15 v. Shands; it's the State's position that would not come in.

16 It is a 10-year-old conviction for possession and
17 intent to distribute crack from 10/14 of 2014 under the State
18 v. Shands case. It is a 10-year-old conviction. It's the
19 State's position and obviously, has no relevance to be
20 brought in to prejudice the jury against the witness himself.
21 This is not a drug-involved murder. It's not a drug rip-off.
22 It's nothing concerning drugs and what happened in our case.
23 So we ask that that not come in.

24 THE COURT: Okay. Mr. McKellar?

25 MR. MCKELLAR: Your Honor, it's actually, it's not

1 quite 10 years old. It will be 10 years old on the 10th of
2 this month.

3 THE COURT: Okay.

4 MR. MCKELLAR: So it falls within the two 10-year
5 benchmark, and Defense argues that a felony conviction for
6 possession to take and distribute drugs is -- has impeachment
7 value and he should be allowed to use it to impeach his
8 privilege.

9 THE COURT: Okay. When is he set to testify, today?

10 MS. CHARBONNEAU: He's actually going to testify in the
11 motions before, your Honor, momentarily and then later on
12 today. To impeach his testimony.

13 THE COURT: All right. And so, obviously, the motion
14 is not as -- as bothersome as potentially releasing that
15 information to the jury. Let me make a decision on that
16 before he testifies before the jury as to whether or not Mr.
17 McKellar can impeach him with that.

18 MR. MCKELLAR: I beg the Court's indulgence.

19 (Bench Conference at 11:19 a.m.)

20 MR. MCKELLAR: Your Honor, I do wish to clarify
21 something also as to the date I believe will be 10 years in
22 October.

23 THE COURT: All right. Thank you, Madam Solicitor. So
24 I am going to allow Mr. McKellar to use this as impeachment.
25 I do believe that all that does fall within the 10 years, and

1 he has the ability -- has the right to ask him about that
2 conviction.

3 MS. CHARBONNEAU: Okay. And lastly, we do have the
4 photo lineup.

5 THE COURT: All right. You all ready to proceed with
6 that hearing?

7 MR. MCKELLAR: Yes, your Honor.

8 THE COURT: Okay.

9 MS. CHARBONNEAU: Your Honor, while someone is bringing
10 them up, also I believe another stipulation is an opening
11 statement. One of the exhibits was going to be used. It's
12 an aerial photo of the -- of -- where the scene took place.

13 MR. MCKELLAR: We have no objection.

14 THE COURT: Okay. Thank you. It's an aerial photo of
15 the scene? All right. Madam Solicitor, are you ready with
16 your first witness?

17 MS. CHARBONNEAU: We are ready, your Honor.

18 THE COURT: All right. Very good.

19 (Bench Conference at 11:22 a.m.)

20 THE COURT: Mr. McKellar?

21 MR. MCKELLAR: Yes, your Honor.

22 THE COURT: I think you needed that.

23 MR. MCKELLAR: I'm sorry?

24 THE COURT: I think you needed this.

25 (Bench Conference from 11:23 a.m. to 11:28 a.m.)

1 THE COURT: Ms. Charbonneau, did they bring you the
2 person?

3 MS. CHARBONNEAU: Yes, I'm sorry for the delay, Judge.

4 THE COURT: I just want to make sure you don't write no
5 name.

6 MS. CHARBONNEAU: No.

7 THE COURT: Okay.

8 MS. CHARBONNEAU: He was downstairs.

9 (Bench Conference at 11:28 a.m.)

10 THE CLERK: Place your left hand on the Bible, raise
11 your right.

12 TYWAINE CARROLL,

13 being duly sworn testified as follows:

14 THE CLERK: Okay. Have a seat. State your full name,
15 spelling your last name.

16 THE WITNESS: My name is Tywaine Carroll -- Tywaine
17 Carroll.

18 THE COURT: Check his microphone. Hold on, Mr.
19 Carroll. Hold on one second.

20 THE WITNESS: Good morning. My name is Tywaine
21 Carroll. First name, T-Y-W-A-I-N-E. Last name,
22 C-A-R-R-O-L-L.

23 DIRECT EXAMINATION

24 BY MS. CHARBONNEAU:

25 Q. Good morning, Mr. Carroll.

1 A. Good morning.

2 Q. Just please speak up so that we can all hear you.

3 A. Yes, ma'am.

4 Q. Just to make sure that I can hear you over here.

5 A. Yes, ma'am.

6 Q. Okay. Please tell us how old you are.

7 A. I'm 44.

8 Q. And Mr. Carroll, just going right to the day of
9 the incident, Sunday, June 26, 2022, can you tell us where
10 you were?

11 A. I was sitting in the yard talking, me, and my
12 brother, and my nephews.

13 Q. Okay.

14 MR. MCKELLAR: Your Honor, I'm sorry, I can't hear him.

15 BY MS. CHARBONNEAU:

16 Q. You got to keep your voice up.

17 A. We were sitting in my brother's yard talking, and
18 having a good time, me, and my brother, and nephews, and my
19 cousin, and the next thing I know, the Defendant walked up,
20 and that's when everything took place.

21 Q. Okay. So first of all, tell us what was the
22 address where all this took place?

23 A. I don't know my brother's address by heart.

24 Q. Okay. What is your address?

25 A. X27 Wadley Drive.

1 Q. Wadley Drive?

2 A. Yes, ma'am.

3 Q. And where does your brother live in relation to
4 you?

5 A. Across the street from me.

6 Q. Okay. And you said that you guys were hanging out
7 outside? Was this a -- a nice clear day?

8 A. Yes, ma'am.

9 Q. And was it a sunny day?

10 A. Yes, ma'am.

11 Q. Was it -- it was in the afternoon?

12 A. Yes, ma'am, it was in the evening.

13 Q. Okay. And can you give us the names, I know you
14 said your brothers and your nephews, but can you tell us who
15 their names, who was out there with you?

16 A. It was me, my brother, Larry, C.C., W.G. [REDACTED], I.P. [REDACTED],
17 and Pawn, and Little W.G. [REDACTED].

18 Q. Okay. So just for clarification, your brother is
19 Larry Carroll?

20 A. Yes, ma'am.

21 Q. Okay. And you said W.G. [REDACTED], is that W.G. [REDACTED]
22 [REDACTED]?

23 A. Yes, ma'am.

24 Q. And you said I.P. [REDACTED], is that I.P. [REDACTED]?

25 A. I.P. [REDACTED] and --

1 Q. Okay. And you said C.C. .

2 A. C.C. .

3 Q. C.C. ?

4 A. Yes, ma'am.

5 Q. Okay. And Pawn, what is his real name?

6 A. Joe or something like that. I don't know.

7 Q. Is that Joshua Smith?

8 A. Yes, ma'am.

9 Q. Okay. Anybody else out there with you?

10 A. No, ma'am. It was just us at first.

11 Q. All right. And when you're out there, what are
12 you guys doing?

13 A. We're sitting out there talking, and having a good
14 time talking about the old days.

15 Q. All right. And is there a point in time when
16 people walk up to where you are?

17 A. Yes, ma'am.

18 Q. And had you seen those people before?

19 A. Yes, I seen them before.

20 Q. You knew those people?

21 A. Yes, ma'am.

22 Q. Okay. Can you name the people that walked up to
23 you guys?

24 A. It was Richard Carroll, my son, Fantasia Carroll,
25 my niece, Zay (ph), Antonio, and the other guy, Alvin. And

1 the girl name, I can't think of her name right now.

2 Q. Okay. And when you say "Zay," do you know his
3 real name?

4 A. No, ma'am. I just know they call him "Zay."

5 Q. Okay. And what is Zay's relationship to anyone
6 that walked up with him?

7 A. Nothing that I know of.

8 Q. Okay. Is Zay in the courtroom today?

9 A. Yes, ma'am.

10 Q. Can you point to him and describe an article of
11 clothing?

12 A. Right there in the orange suit.

13 MS. CHARBONNEAU: At this time, may the record reflect
14 he's identified the Defendant, Xabian Bailey.

15 THE COURT: Yes.

16 BY MS. CHARBONNEAU:

17 Q. And when you said Fan -- you said Fantasia?

18 A. Fantasia.

19 Q. She -- and what relation is she to you?

20 A. That's my niece. My brother, Larry Carroll's
21 daughter.

22 Q. Fantasia Carroll. You said Richard Carroll was
23 your son?

24 A. No. Yeah, Richard Carroll's my son.

25 Q. Okay. And you said "Alvin," do you know his full

1 name?

2 A. No, ma'am, I do not.

3 Q. Okay. But you named six people, is that right?

4 A. Yes, ma'am.

5 Q. Had you seen those six people before?

6 A. Yes, ma'am.

7 Q. So when they walked up, did you recognize them?

8 A. Yes, ma'am.

9 Q. Was there any issue when you first got -- when
10 they first walked up?

11 A. No, ma'am.

12 Q. About how long do you think they were there before
13 something happened?

14 A. Probably about 20 minutes or less.

15 Q. And then what happened?

16 A. I was finishing using the restroom around my
17 brother's truck. Next thing I know is they started shooting.

18 Q. And who is they that started shooting?

19 A. I seen Antonio with a gun. I don't know if he
20 shot it or not. And the -- I seen Zay with a gun, and I know
21 he ran through my yard, he was shooting at them while he was
22 running. And the other guy that -- Alvin or whatever they
23 call him, he started shooting first. And --

24 Q. So Alvin shot first?

25 A. Yes, ma'am.

1 Q. You saw him shooting?

2 A. Yes, ma'am.

3 Q. And you said you saw Zay shooting?

4 A. Yes, ma'am. He was running in my front yard with
5 a gun.

6 Q. Okay. And then you said Antonio also had a gun?

7 A. Yes, ma'am. But I didn't -- I don't know if he
8 shot it or not.

9 Q. Okay. After that happens, who ends up dead?

10 A. W.G. , C.C. and J.P. . C.C. , and
11 W.G. .

12 Q. And when -- were you there when the police
13 arrived?

14 A. Yes, ma'am.

15 Q. And did you talk to the police?

16 A. Yes, ma'am.

17 Q. When the police arrived, and -- are two of the
18 victims on the ground?

19 A. Yes, ma'am.

20 Q. And had they moved from where they had been shot?

21 A. No, ma'am.

22 Q. And C.C. , where did he go?

23 A. He was trying to crawl over there, but he couldn't
24 move, and he was bleeding, and I told him to stop moving.

25 Q. And was he taken to the hospital?

1 A. Yes, ma'am.

2 Q. And did he die that day?

3 A. Yes, ma'am.

4 Q. Okay. When you speak to the police, did they show
5 you photo lineups to see if you could recognize --

6 A. Yes, ma'am.

7 Q. -- those who shot?

8 A. Yes, ma'am.

9 Q. And did you have an opportunity to look at those
10 photos?

11 A. Yes, ma'am, I did.

12 Q. Did anyone suggest to you anyone that you had to
13 specifically pick out?

14 A. No, ma'am.

15 Q. Did anyone make a promise?

16 A. No, ma'am.

17 Q. Threaten you?

18 A. No, ma'am.

19 Q. Okay. And were you able to pick out the three
20 people who shot that day?

21 A. Yes, ma'am.

22 MS. CHARBONNEAU: Now, I'm going to show you -- you can
23 mark this as Court Exhibit -- Court's Exhibit 1.

24 (Court's Exhibit 1 marked for identification.)

25 BY MS. CHARBONNEAU:

1 Q. If you would take a look at this. Do you
2 recognize -- so it's Court's Exhibit 1; lineup A, two pages.
3 Lineup B, two pages and lineup C.

4 A. Yes, ma'am.

5 Q. Two pages?

6 A. Yes, ma'am.

7 Q. Okay. Is this your -- is it you who actually does
8 the circling?

9 A. Yes, ma'am.

10 Q. And is it you who put your initials?

11 A. Yes, ma'am. By the pictures.

12 Q. Okay. And the date?

13 A. Yes, ma'am.

14 Q. All right. First lineup A in Court Exhibit 1.
15 Did you also write something for each one?

16 A. Yes, ma'am.

17 Q. And this is your handwriting?

18 A. Yes, ma'am.

19 Q. All right. So tell the Court -- tell the Judge
20 what you wrote for lineup A.

21 A. He had a gun, and he was shooting at C.C. and
22 W.G. and I.P. on Sunday.

23 Q. Okay. And then did you sign it?

24 A. Yes, ma'am.

25 Q. And dated it?

1 A. Yes, ma'am. I did.

2 Q. Okay. And the date was -- oh, he wrote on Sunday,
3 June 26th --

4 A. Yes, ma'am.

5 Q. -- but this is the date that you actually did the
6 lineup?

7 A. Yes, ma'am.

8 Q. Okay. And tell us about lineup B. What did you
9 tell -- what did you write?

10 A. Antonio in his -- excuse me.

11 Q. That's okay. Take your time.

12 A. He is Antonio, and he was shooting at C.C., W.G.,
13 and J.P. on Sunday.

14 Q. Okay. And that was you again --

15 A. Yes, ma'am.

16 Q. -- who wrote?

17 A. Yes, ma'am.

18 Q. And lineup C, tell the Judge what you wrote for
19 lineup C.

20 A. Zay was --

21 THE COURT: Just a little bit louder.

22 THE WITNESS: Zay --

23 THE COURT: Bring that mic down.

24 THE WITNESS: Zay was shooting at C.C., W.G. and J.P. on
25 Sunday.

1 BY MS. CHARBONNEAU:

2 Q. Okay. And again, those are your words --

3 A. Yes, ma'am.

4 Q. -- and your signature?

5 A. Yes, ma'am.

6 MS. CHARBONNEAU: Your Honor, can I hand these up to
7 you? Thank you, Mr. Carroll. I have nothing further. Mr.
8 McKellar may have some questions.

9 THE WITNESS: Yes, ma'am.

10 CROSS-EXAMINATION

11 BY MR. MCKELLAR:

12 Q. Hey, Mr. Carroll. Will McKellar --

13 A. How you doing?

14 Q. -- representing Xabian Bailey. You testified
15 today that you don't know if Antonio shot?

16 A. Yeah, I don't know. I don't -- I can't remember.
17 I don't know if he shot or not, but I know -- yeah, I seen
18 him with a gun.

19 Q. But you wrote on the lineup that Antonio was
20 shooting?

21 A. Yes, but I can't remember, like I said, I got hit
22 by a (inaudible). My memory ain't that good sometimes.

23 MR. MCKELLAR: No questions. No more questions.

24 THE COURT: All right. Madam Solicitor?

25 MS. CHARBONNEAU: I'm finished.

1 THE COURT: All right. This witness may be excused.

2 Mr. Carroll, watch your step going down.

3 THE WITNESS: Yes, ma'am.

4 THE COURT: Yes, sir.

5 MS. CHARBONNEAU: Mr. Joshua Smith.

6 MR. SMITH: Yes, ma'am.

7 THE CLERK: Watch your step. Place your left hand on
8 the Bible, raise your right.

9 JOSHUA SMITH,

10 being duly sworn testified as follows:

11 THE CLERK: Thanks. Go to the witness box, and watch
12 your step. While in the box, state your full name, spelling
13 your last name.

14 DIRECT EXAMINATION

15 BY MS. CHARBONNEAU:

16 Q. Good morning, Mr. Smith.

17 A. Good morning.

18 Q. Can you please state your full name, spelling your
19 last name?

20 A. Joshua Smith, S-M-I-T-H.

21 Q. Okay. And do you have a nickname?

22 A. Yes.

23 Q. What is it?

24 A. Pawn.

25 Q. Pawn? Okay. And Mr. Smith, how old are you?

1 A. 38.

2 Q. Going right to the date of the incident on Sunday
3 afternoon, June 26, 2022, can you tell us where you were?

4 A. On Wadley Street.

5 Q. Wadley Drive?

6 A. Wadley Drive.

7 Q. And what were you doing there?

8 A. Socializing. Visiting.

9 Q. I'm sorry?

10 A. Socializing. I was visiting.

11 Q. Okay. And who were you with?

12 A. Larry Carroll and Tywaine Carroll, and --

13 Q. Okay. Go ahead.

14 A. And the other -- and the three guys. That's --

15 Q. You have to speak up so that I can hear you.

16 A. And the other three guys.

17 Q. Okay. What three guys?

18 A. W.G. [REDACTED], C.C. [REDACTED] and J.P. [REDACTED].

19 Q. Okay. And how long were you guys hanging out out
20 there?

21 A. Like a -- like an hour or something.

22 Q. Okay. Was this a bright, sunny day?

23 A. Yes.

24 Q. And you were outside?

25 A. Yes, ma'am.

1 Q. So does it come a point in time when -- when six
2 people walk up to where you guys are?

3 A. Yes.

4 Q. And had you seen those people before? Did you
5 know them?

6 A. I just knew -- I knew a couple.

7 Q. I'm sorry?

8 A. I said I knew a few of them.

9 Q. Okay. The -- the people that walked up, who did
10 you know from before?

11 A. Heavenly, Fantasia, and Richard.

12 Q. Okay. When you say "Richard," is that Richard
13 Carroll?

14 A. Yes.

15 Q. Okay. And when you say "Heavenly," is that
16 Heavenly Reedy?

17 A. Yes, ma'am.

18 Q. And who else did you say? Fantasia?

19 A. Yes. Fantasia.

20 Q. Fantasia Carroll?

21 A. Yes, ma'am.

22 Q. Okay. Did you know the other -- the three other
23 people?

24 A. No, ma'am.

25 Q. Okay. You hadn't seen them before?

1 A. No, I seen Antonio.

2 Q. Antonio, meaning Antonio Jones?

3 A. Yes, ma'am.

4 Q. Okay. Had you seen the other two guys before?

5 A. No.

6 Q. Okay. When you're out there, and they walk up,
7 how long were they there before something happened?

8 A. Say about three to five minutes.

9 Q. Okay. Okay. And during --

10 MR. MCKELLAR: I'm sorry, couldn't hear that.

11 BY MS. CHARBONNEAU:

12 Q. Can you speak up and say it again?

13 A. Approximately like three to five minutes.

14 Q. Okay.

15 A. Six minutes.

16 Q. Try and keep your voice up, make sure that we can
17 hear you, okay?

18 A. Yes, ma'am.

19 Q. So three to five minutes, and then what happens?

20 A. A little argument happened, or whatever, and then
21 before you know it, you heard gunshots.

22 Q. Okay. Were you able to see -- how close are you
23 to where everything is happening?

24 A. Like, maybe, like, from three or four feet?

25 Q. Three to four feet?

1 A. Yes, ma'am.

2 Q. And did you actually see who was shooting?

3 A. Yes, ma'am.

4 Q. Okay. And did you see who shot first?

5 A. Yes.

6 Q. Who shot first?

7 A. The one that was -- I guess, Fantasia's boyfriend.

8 Q. Do you know his name or nickname? If you don't

9 know, that's okay.

10 A. I don't know the name.

11 Q. Okay. Did you actually see that person shooting?

12 A. Yes, ma'am.

13 Q. Where did the gun come from?

14 A. From his -- from the front -- front of his waist.

15 Q. Okay. How about the other two guys? Did you see

16 them with guns?

17 A. I didn't see.

18 Q. You did not see?

19 A. I did see that one gun.

20 Q. Okay. Did you see anybody else shooting that day?

21 A. No, ma'am.

22 Q. Okay. Did -- did police show you a photo lineup?

23 A. Yes.

24 Q. Okay. Did they suggest to you who to pick out?

25 A. No.

1 Q. Okay. Did they hint to you who to pick out, or
2 what to -- or who to say?

3 A. No, ma'am.

4 Q. And when they showed you the photo lineup, did you
5 pick out the three people that were shooting that day?

6 A. Yes.

7 MS. CHARBONNEAU: Okay. So I'm going to show you
8 Court's Exhibit 2. It is: lineup A is two pages, lineup B is
9 two pages, lineup C is two pages.

10 (Court's Exhibit 2 marked for identification.)

11 BY MS. CHARBONNEAU:

12 Q. Do you recognize them? The lineups?

13 A. No.

14 Q. Okay. Do you -- do you remember when the police
15 showed these to you?

16 A. Yes, I remember.

17 Q. Okay. And is it you who actually circles one --
18 each one of the photos?

19 A. Yes, ma'am.

20 Q. All right. And is it your initials and the date?

21 A. Yes, ma'am.

22 Q. The date being July 14, 2022?

23 A. Yes, ma'am.

24 Q. Okay. And on page two of each one of the lineups,
25 there's writing, are you the one who actually writes it?

1 A. Yes, ma'am.

2 Q. And do you sign it?

3 A. Yes, ma'am.

4 Q. Okay. So for lineup A, tell us, first of all,
5 what number do you circle?

6 A. Five.

7 Q. All right. And what did you say about number
8 five?

9 A. He was the one who did the shooting, and ran
10 through the woods.

11 Q. Okay. And those are your own words?

12 A. Yes.

13 Q. Okay. And for lineup B, which one did you circle?
14 What number?

15 A. Two.

16 Q. Two. And what did you write about number two?

17 A. He was with the guys that did the shooting, but
18 did not have a gun.

19 Q. Okay. And do you remember who you said that was?

20 A. Antonio.

21 Q. Antonio. And for lineup C, what number did you
22 circle?

23 A. Three.

24 Q. Okay. And what did you say about three?

25 A. He did the shooting that killed **CC.**, and ran down

1 the dirt road on Wadley.

2 Q. Okay. And who is number three? Do you remember
3 his name?

4 A. No.

5 Q. That's okay. And is any of these three in the
6 courtroom today?

7 A. Yes, ma'am.

8 Q. Can you please point him out, and describe an
9 article of clothing that he's wearing?

10 A. In orange.

11 Q. Yes. Speak up, sir.

12 A. In the orange.

13 MS. CHARBONNEAU: Orange. Okay. May the record
14 reflect he's identified the Defendant, Xabian Bailey.

15 THE COURT: Yes.

16 BY MS. CHARBONNEAU:

17 Q. And Mr. Smith, has anyone promised you, or coerced
18 you, or tell you what to say?

19 A. No, ma'am.

20 Q. That's what you witnessed on that day?

21 A. Yes, ma'am.

22 MS. CHARBONNEAU: I have nothing further.

23 THE COURT: Mr. McKellar?

24 MR. MCKELLAR: Thank you, your Honor.

25 CROSS-EXAMINATION

1 BY MR. MCKELLAR:

2 Q. Hi, Mr. Smith. I'm Will McKellar, I represent
3 Xabian Bailey. You just testified that you saw only one
4 person shoot?

5 A. Yes.

6 Q. Tell me which person that is in these three
7 lineups.

8 (Bench Conference at 11:50 a.m.)

9 THE WITNESS: Two.

10 MR. MCKELLAR: Your Honor, I'd like the record to
11 reflect he has pointed to lineup number five in lineup A as
12 the person he observed shooting.

13 THE COURT: And so the record reflects that.

14 BY MR. MCKELLAR:

15 Q. You didn't see anybody else shoot?

16 A. No.

17 Q. You shook your head?

18 THE COURT: All right. Sir, you need to say "Yes" or
19 "No." Understood?

20 THE WITNESS: No, sir.

21 MR. MCKELLAR: No further questions.

22 THE COURT: Thank you.

23 RE-DIRECT EXAMINATION

24 BY MS. CHARBONNEAU:

25 Q. Mr. Smith, I just want to be clear because I'm a

1 little confused. On the photo lineups that you wrote, you
2 said you saw Antonio with a gun, but -- or he did not shoot?

3 A. He did not shoot.

4 Q. Okay. And then the other two, which -- looking at
5 Court's Exhibit 2 on lineup A and lineup C -- okay, on lineup
6 -- Court's Exhibit 2, we're looking at lineup A, you told us
7 that -- you wrote that, "He's the one that did the shooting,
8 and ran through the woods."

9 A. Yes, ma'am.

10 Q. Did you see him shooting?

11 A. Yes, ma'am.

12 Q. Okay. Lineup B, you wrote, "He was with the guys
13 that did the shooting, but he did not have a gun."

14 A. Correct.

15 Q. Did -- and you saw that?

16 A. Yes, ma'am.

17 Q. And that's who you called Antonio?

18 A. Yes, ma'am.

19 Q. Okay. In lineup C, you wrote, "He did the
20 shooting that killed **C.C.** and ran down the dirt road on
21 Wadley."

22 A. Yes, ma'am.

23 Q. Did you see C shooting? This one?

24 A. I know two guns shooting.

25 Q. Okay.

1 MR. MCKELLAR: I'm sorry. I can't hear that answer.

2 BY MS. CHARBONNEAU:

3 Q. Say it again?

4 A. I said I know two guns shooting.

5 Q. Did you see him shooting? We're talking about

6 Court's Exhibit 2, lineup C. Tell us why you wrote that.

7 Did you see him?

8 A. Yeah, I seen -- I seen the gun came out, and by

9 the time I -- the other guy was shooting and, I ran --

10 MR. MCKELLAR: Your Honor --

11 THE WITNESS: -- I know it was another gun was -- was

12 being fired.

13 THE COURT: Mr. McKellar, I'm having a hard time

14 understanding Mr. Smith as well. Mr. Smith, if you could

15 just talk a little bit louder, it would be okay. Could you

16 -- could you repeat --

17 MR. MCKELLAR: Repeat that last answer.

18 THE WITNESS: I said when the other guy pulled a gun

19 out, and was shooting him when I ran, you know, got out the

20 way. I knew it was another gun being fired.

21 BY MS. CHARBONNEAU:

22 Q. How'd you know there was another gun that was

23 fired?

24 A. I saw it.

25 Q. Okay. So as far as Court's Exhibit 2, line up C,

1 you circled number three?

2 A. Yeah.

3 Q. Why did you circle that one?

4 A. Because that's the one that was firing the second
5 gun.

6 MS. CHARBONNEAU: Okay. Nothing further.

7 THE COURT: Mr. McKellar?

8 RE-CROSS EXAMINATION

9 BY MR. MCKELLAR:

10 Q. Now, I'm confused. You told me you only saw one
11 shooter, and you identified that person within the lineup --
12 lineup C that I just showed you. And now you say you seen
13 two shooters?

14 A. Yes.

15 Q. And that second shooter was the person sitting
16 there?

17 A. Yes.

18 MR. MCKELLAR: Nothing further.

19 THE COURT: Thank you. This witness may be excused.
20 Mr. Smith, watch your step and contact.

21 MS. CHARBONNEAU: Next is Scott Neel.

22 INVESTIGATOR SCOTT NEEL,
23 being duly sworn testified as follows:

24 THE CLERK: Have a seat.

25 DIRECT EXAMINATION

1 BY MS. CHARBONNEAU:

2 Q. Please state your full name, and spell your last
3 name.

4 A. Scott Neel, N-E-E-L.

5 Q. And are you the lead investigator on the case:
6 State versus Xabian Bailey, Antonio Jones, and Alvin Artis?

7 A. Yes, ma'am, I am.

8 Q. Okay. Are you the one who actually shows the
9 photo lineup to Tywaine Carroll and Josh Smith?

10 A. I did.

11 Q. When you showed it to them, are they on separate
12 days?

13 A. Yes, ma'am.

14 Q. Separate times, they're not together?

15 A. No, they're not.

16 Q. Okay. when you showed Tywaine Carroll the photo
17 lineup, was anyone else with you guys?

18 A. Investigator Jessica Abdullah, with the sheriff's
19 office.

20 Q. And did Tywaine Carroll, was he able to pick out
21 all three people out of the three different photo lineups?

22 A. Yes, ma'am, he did.

23 Q. Was he promised anything, coerced in -- in any
24 way, or anyone suggest who he should pick out?

25 A. No, ma'am.

1 Q. And when Josh Smith was shown the photo lineups,
2 was he able to pick out three individuals?

3 A. He was.

4 Q. And was he promised anything, coerced, or have any
5 hesitancy in who he picked out?

6 A. No, ma'am.

7 Q. The -- the Court's exhibit that we just handed up,
8 the wording that's written on there, were they written by the
9 witnesses, or by you, or by Investigator Abdullah?

10 A. On the actual photo lineup, I write lineup A or B
11 or C, I labeled it. Other than that, on the actual lineup, I
12 don't write anything else.

13 Q. So each witness wrote the little sentence or two
14 that pertain to the individual.

15 A. Correct. So there's a second sheet that
16 accompanies the photo lineup, and that is where we have them
17 explain what they saw that person do. And so on that sheet,
18 I would've signed my signature as well.

19 MS. CHARBONNEAU: Thank you. Nothing further.

20 THE COURT: Mr. McKellar?

21 MR. MCKELLAR: Thank you, your Honor.

22 CROSS-EXAMINATION

23 BY MR. MCKELLAR:

24 Q. Good morning.

25 A. Good morning.

1 Q. How are you?

2 A. Good. How are you, sir?

3 Q. Good. Did you present the lineups yourself to
4 Tywaine Carroll and Joshua Smith?

5 A. Yes, sir, I did.

6 Q. Did you know the identity of Xabian Bailey? Did
7 you know what Xabian Bailey looked like when you presented
8 that lineup?

9 A. I did.

10 Q. Okay. What is a blind lineup?

11 A. I'm not familiar with the term.

12 Q. All right. Is it not best practice for a person
13 who is not -- who does not know the identity of the subject
14 -- who does not know what the subject looks like to present
15 the lineup to the witness?

16 A. I guess that's a matter of an opinion. We don't
17 do that.

18 MR. MCKELLAR: Okay. I have no further questions.

19 THE WITNESS: Sure.

20 THE COURT: Ms. Charbonneau, anything?

21 MS. CHARBONNEAU: Nothing further. Thank you.

22 THE COURT: This witness may be excused. Watch your
23 step.

24 THE WITNESS: Thank you.

25 THE COURT: Ms. Charbonneau, any further witnesses?

1 MS. CHARBONNEAU: No, ma'am. Thank you.

2 THE COURT: All right. Anything further, Mr. McKellar?

3 MR. MCKELLAR: Nothing from the Defense, your Honor.

4 THE COURT: So Madam Solicitor, any argument with --
5 with regards to the identification?

6 MS. CHARBONNEAU: Just that the witnesses were clear on
7 the stand as far as they picked people out. They wrote down
8 at the time, two years ago, what they remembered that
9 individual doing. We feel the photo lineups were not
10 suggestible or coerced, and that they should be admitted into
11 evidence.

12 THE COURT: Thank you. Mr. McKellar?

13 MR. MCKELLAR: We have no objection, your Honor.

14 THE COURT: So we would allow the identifications to --
15 to all come in. So in conclusion of that (inaudible)
16 hearing, do you have any other pretrial motions before we go
17 into jury selection?

18 (Court's Exhibits 1 and 2 admitted into evidence.)

19 MS. CHARBONNEAU: No.

20 MR. MCKELLAR: Nothing from the Defense.

21 THE COURT: All right. So we will stand down on this
22 particular case until 1:30 when we bring the jury back in for
23 jury selection this afternoon. Mr. Thompson?

24 MR. THOMPSON: Your Honor, if we can get Ms. Delouch
25 (ph), would -- would you be willing to hear Ms. Delouch's

1 preference?

2 THE COURT: If we can have her here in the next five
3 minutes. All right. So let's stand down on this -- on this
4 case.

5 MS. CHARBONNEAU: Thank you.

6 THE COURT: Thank you.

7 (Off the record at 12:01 p.m.)

8 THE COURT: Mr. McKellar? Mr. McKellar?

9 MR. MCKELLAR: Yes, your Honor.

10 MR. THOMPSON: Your Honor, I just follow this number of
11 people that were probably likely to move in, if you could
12 only try to get folks to move back a little bit?

13 THE COURT: Yes, we'll need that -- we potentially will
14 need that third row. So if you all can get -- go to the --
15 just scoot one row back, and that way the jury pool will sit
16 right there. Then you can move back after we allow the jury
17 pool to -- to leave. All right. Thank you.

18 (Bench Conference at 1:47 p.m.)

19 THE COURT: All right. Ms. Charbonneau, can we bring
20 in -- well, Madam Solicitor and Mr. McKellar, are you all
21 ready for us to bring in the jury pool?

22 MS. CHARBONNEAU: Yes, your Honor.

23 MR. MCKELLAR: Right.

24 MS. CHARBONNEAU: Well, I was going to ask, when you
25 ask the State to read the indictments, and it says along with

1 others just to make sure that the jury does not know any of
2 the co-defendants, can -- instead of saying along with
3 others, can I say along with Antonio Jones and Alvin Artis?
4 Those are the two co-defendants.

5 THE COURT: All right. Are you going to be reading the
6 -- the indictments, Madam Solicitor?

7 MS. CHARBONNEAU: For -- for use, or?

8 THE COURT: Would -- I think that it may be better for
9 use so that you can include the names to -- to make sure that
10 no one in the jury pool does know them.

11 MS. CHARBONNEAU: Okay.

12 THE COURT: So I have no issue with that, but when we
13 get to that point, I will ask you if you'll read the
14 indictments out. All right. Thank you. Anything,
15 Mr. McKellar?

16 MR. MCKELLAR: Your Honor, may I beg the Court's
17 indulgence?

18 THE COURT: Certainly. All right. We ready to go
19 forward, Mr. McKellar?

20 MR. MCKELLAR: Yes, your Honor.

21 THE COURT: All right. Very good. Ms. Charbonneau,
22 can you (inaudible) the jury pool? Thank you.

23 UNIDENTIFIED SPEAKER: The clerk (inaudible).

24 THE COURT: The clerk, sir? All right. And so, once
25 they're done, we'll just bring them in.

1 MR. MCKELLAR: Your Honor, do you like everyone to
2 stand when the jury pool comes into the courtroom, or --?

3 THE COURT: That won't be necessary until we select the
4 actual jury. Thank you. While we are waiting on the jury
5 pool to come in, Madam Solicitor, do you have any indication
6 of how long your opening will be?

7 MS. MORGAN: Your Honor, I believe it's maybe 10
8 minutes, maybe 15.

9 THE COURT: Yes, ma'am. All right. Mr. McKellar?

10 MR. MCKELLAR: Likely around 10 minutes.

11 THE COURT: Very good. Thank you.

12 (Off the record at 1:52 p.m.)

13 THE CLERK: Juror Number 301, Charles Abraham.

14 JUROR NUMBER 1: Juror Number 1, Retired,
15 self-employed. Widowed.

16 THE CLERK: Thank you. Juror Number 4, Regina L. Argo.

17 JUROR NUMBER 4: Juror Number 4. (Inaudible).

18 THE CLERK: Thank you. Juror Number 6, A. Armstrong.

19 JUROR NUMBER 6: Juror Number 6. (Inaudible) Riverside
20 contracting. My husband is retired school teacher, and he
21 (inaudible).

22 THE CLERK: Thank you. Juror Number 7. All right.
23 Daniel -- Daniel --

24 JUROR NUMBER 7: Juror 7, Daniel Obernauer (ph). IT
25 intern and also software developer.

1 THE CLERK: Did you say your last name means Obernauer?

2 JUROR NUMBER 7: Obernauer.

3 THE CLERK: Thank you. Juror Number 11, Barry Baynham.

4 JUROR NUMBER 11: Juror Number 11, Barry Baynham. Work
5 full-time, (inaudible). My wife does not work.

6 THE CLERK: Thank you. Juror Number 14, Jeffrey
7 Betosky.

8 JUROR NUMBER 14: All right. Juror Number 14, Jeffrey
9 Betosky. I'm self-employed, my wife is self-employed.

10 THE CLERK: Thank you. Juror Number 16, Wesley Bode.

11 JUROR NUMBER 16: Juror Number 16, Wesley Bode. I'm
12 self-employed. My wife is a craft designer.

13 THE CLERK: Thank you. Juror Number 19, Robert Bolton.

14 JUROR NUMBER 19: Juror 19, Robert Bolton. Retired,
15 Savannah River Site. My wife is also retired, Savannah River
16 Site.

17 THE CLERK: Thank you. Juror Number 45, Nicholas Josh
18 McBride (ph).

19 JUROR NUMBER 25: It should be 25, sir. Director for a
20 team of exceptional specialized vehicles. My wife works for
21 the competition. She's a logistics manager at Puffer (ph).

22 THE CLERK: Thank you. Juror Number 47, Thomas Bush.

23 JUROR NUMBER 47: Juror Number 47, Thomas Bush.
24 Working (inaudible). Unmarried.

25 THE CLERK: Thank you. Juror Number 34, Jimmy Carroll.

STATE OF SOUTH CAROLINA) SOUTH CAROLINA CIRCUIT COURT 2
COUNTY OF AIKEN) DOCKET NO. 2022-GS-02-02201

STATE OF SOUTH CAROLINA,)
 Plaintiff,)
versus)
)
XABIAN URONIE BAILEY,)
 Defendant.)

H E A R I N G
BEFORE THE HONORABLE COURTNEY CLYBURN POPE

DATE: September 3-6, 2024
TIME: ***
LOCATION: South Carolina Circuit Court 2

TRANSCRIBED BY: Mary Ragsdale

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25	IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)		

1 THE COURT: Madam Solicitor, Mr. McKellar, do we have
2 any items of law that we need to discuss outside the presence
3 of the jury at this time?

4 MS. CHARBONNEAU: No, Your Honor.

5 THE COURT: Anything from Defense?

6 MR. MCKELLAR: Nothing from Defense.

7 THE COURT: Very good. Thank you. So over the course
8 of this trial, ladies and gentleman of the jury and have two
9 alternates, I'll just refer to you collectively as a jury.
10 There are some rules that we -- we have to follow and abide
11 by. I will explain those to you as we go through the
12 duration of this trial.

13 One of those most important rules is that you do not
14 discuss this case with anyone outside of this courtroom. You
15 cannot even discuss it with your fellow jurors. And so you
16 will go home tonight and people will ask you what you are
17 doing all day at the courthouse. And you certainly can tell
18 them that you were selected to serve as a member of the jury.
19 What you cannot do is -- is go into any further detail than
20 that. We expect that you do not have any type of
21 communication with anyone who is related to this trial in any
22 type of way.

23 So before we begin this trial, I want to tell you that
24 this trial will probably be much different than what you
25 might expect. Many people do not have the opportunity to

1 attend actual court sessions the way that you all are
2 attending right now. They may make from watching television
3 and the movies that trials are full of high drama, intense
4 action, and related circumstances.

5 While some of those things may be true at times, this
6 trial is not for entertainment. It is a fundamental part of
7 our democracy and effort to make sure that justice is done
8 between the two parties.

9 Making sure that justice is done as often slow,
10 deliberate, and repetitive, which is the opposite of what you
11 may have seen on television or in movies. This courtroom is
12 a place of honor that is dedicated to the protection and
13 preservation of citizens' rights.

14 The attorneys appearing before you are advocates for
15 the parties that they represent. But first and foremost,
16 they are officers of the court. They're sworn to uphold the
17 integrity and fairness of our judicial system and help you to
18 reach your verdict. You should expect the attorneys to be
19 professional, competent, and ethical in the representation of
20 their client's interest. Remember that you too have taken an
21 oath to try this case in which a fair and just verdict. And
22 you are also expected to be professional, reasonable, and
23 ethical.

24 Thank you very much for accepting this important
25 responsibility of jury service and for your contribution

1 today to our judicial system. What I will say now is meant
2 to serve as an introduction to the trial of this case. These
3 remarks are not about the law in this case. I will instruct
4 you on the law at the end of the trial before you decide the
5 case. Before the trial begins, I want to explain the
6 procedure that we will follow so that you all can better
7 understand what is happening.

8 You will be allowed to take notes during this trial.
9 You have been selected as fair and impartial jurors whose
10 purpose is to find and to determine the facts. You are the
11 sole judges of the facts. If at any time I make a comment
12 regarding the facts, you must disregard it. You are to
13 determine the facts from the testimony that you hear and any
14 other evidence that is presented to you. You should not be
15 influenced by any opinions or statements that you may have
16 heard outside of this courtroom.

17 It is especially important that you perform your duty
18 of determining the facts in a diligent manner. This is
19 because there is no way to fix an incorrect determination of
20 the facts by a jury. When you comply with your oaths to
21 impartially determine the facts of this case, you will have
22 fulfilled your duty as jurors and no one will have the right
23 to criticize your verdict.

24 On the other hand, and with equal emphasis, the same
25 law that makes you the judge of the facts, makes me the Judge

1 of the law. The law is given by the Court, is the only law
2 that you may consider. You must accept and follow it even
3 though you may disagree with the law. I cannot tell the jury
4 what the facts are and you cannot disagree with me about what
5 the law is or what you believe it should be.

6 Your job as jurors is to take the law as I give it to
7 you and apply it to the facts that you find them from the
8 testimony of the witnesses and any other evidence that is
9 presented. After doing that, you will render your verdict, a
10 true and just verdict under the solemn oath that you just
11 took as jurors.

12 Until I advise you to begin your deliberations, you
13 must not discuss this case with anyone including your fellow
14 jurors, friends, family members, or anyone who is involved in
15 this case. This includes discussions face to face and those
16 by telephone, email, text message, blogs, vlogs, social
17 media, or any other method of communication. You may not use
18 a computer, cell phone, or any other electronic device with
19 communication capabilities at any time while you are in the
20 courtroom or during your deliberations.

21 During your breaks for meals or overnight, if
22 necessary, you may certainly use those devices. However, you
23 may not at any time use those devices to get or to send
24 information about this case. This includes information about
25 a party, a witness, an attorney, a court officer, any news

1 accounts about this case. You cannot conduct any research on
2 any of the topics raised, any topics you think may be helpful
3 in deciding the case or any research on testimony presented
4 by any witness.

5 During the trial, do not read, listen to, or watch any
6 news reports about this case. This includes anything that
7 may be in the newspaper or on the internet, radio, or
8 television. You must not consider anything you have read or
9 heard about the case outside of the courtroom whether before
10 or during the trial.

11 After the case is submitted to you. You must discuss
12 it only in the jury room with your fellow jurors. The
13 attorneys and the parties in this case have been advised that
14 they are not to talk to you at all. So if you see anyone
15 involved in this case at the grocery store, at lunch and they
16 do not even speak to you, they are not being rude, they're
17 following instructions of the court.

18 It is important that you keep an open mind and not
19 decide any issue in this case until all of the evidence has
20 been presented. The parties have made their closing
21 arguments and I have instructed you on the law in this case.

22 Now, just a moment, the attorney for the Plaintiff --
23 excuse me, the attorney for the State will make what is
24 called an opening statement. The attorney will explain to
25 you the issues in this case, or at least what the attorney

1 believes the issues are in this case. The attorney for the
2 Defendant will also make an opening statement. What the
3 attorneys tell you during their opening statements is not
4 evidence in this case. It is only their contention as to
5 what the issues are.

6 The evidence in this case will be presented to you by
7 the testimony of sworn witnesses from this witness stand and
8 by exhibits that may be introduced into evidence. From time
9 to time during the trial you may hear one of the attorney say
10 something like, Your Honor, we have a question of law or a
11 matter of law to discuss with you. Or, Your Honor, may we
12 approach the bench.

13 Sometimes I myself may find it necessary to excuse the
14 jury from the courtroom for a short while so that the
15 attorneys and I can discuss the matter of the law. The
16 reason that we do this is because the jury, you are the
17 judges of the facts. And sometimes when I'm discussing the
18 matters of law with the attorneys, it may be necessary for me
19 to make some comment as to the facts so that I can rule
20 whether or not a particular law applies.

21 Because I'm not supposed to tell you what I think the
22 facts are, we will excuse you from the courtroom while these
23 discussions take place, so that you will not be influenced by
24 anything that I may say or do in connection with those facts.
25 In determining what the facts are in this case, you must

1 decide whether or not the testimony of the witnesses is
2 believable. It will be my responsibility to rule as a matter
3 of law as to whether certain testimony is admissible at all
4 or not. But once the testimony is admitted, whether or not
5 you believe it is solely for you to determine.

6 In deciding whether to believe a witness, you have the
7 right to consider whether the witness has an interest in the
8 result of the trial. Whether the witness is prejudiced
9 toward either party in this case, and whether the witness has
10 had an opportunity to have seen the matters and things about
11 which the witness is testifying. And you may also consider
12 the way the witness acts on the witness stand.

13 You have a right to consider anything that is in the
14 record that will help you evaluate the testimony of the
15 witnesses. This means that is your duty to pay close
16 attention to these witnesses, to observe the witnesses, to
17 listen to the witnesses, and to pay close attention to the
18 attorneys as well as to the Court.

19 Do not let your thoughts wander, but pay close
20 attention to the testimony so that at the end of the trial
21 you will be able to determine what the true facts are to
22 apply the law to those facts and to render a true and just
23 verdict.

24 Juror number 19?

25 JUROR NUMBER 19: Yes, ma'am.

1 THE COURT: Juror number 19, you have an added duty.
2 You have an additional duty. You will be the jury's
3 foreperson during the course of the trial.

4 JUROR NUMBER 19: Okay.

5 THE COURT: That means that you serve as the jury --
6 jury spokesperson here in court. If there are any issues or
7 any questions that you have, please address the foreperson
8 and he will communicate with the bailiffs who will then
9 communicate with me.

10 In order to preserve everyone's rights, I will give the
11 parties an opportunity to object to anything that I have said
12 during my instruction. Are there any objections to anything
13 that I have said from the State?

14 MS. CHARBONNEAU: No objection.

15 THE COURT: Are there any objections to anything that I
16 have said from the Defendant?

17 MR. MCKELLAR: No, Your Honor.

18 THE COURT: All right. Now, ladies and gentlemen of
19 the jury you were just selected and you are going to go into
20 opening statements. However, what I'm going to do is to
21 allow you a bathroom break as well as a stretch break. And
22 so we will stand down for 10 minutes and allow you that
23 break. Please remember that as you go on break, you are not
24 to discuss this case with your fellow jurors. We'll stand
25 down -- if we'll -- you'll escort the jury out. We'll stand

1 down without a 10-minute break.

2 (Jury exits courtroom.)

3 THE COURT: Are we ready for the jury?

4 MS. CHARBONNEAU: Yes.

5 MR. MCKELLAR: Yes, Your Honor.

6 THE COURT: Okay. And so we have -- I see we have, I
7 believe, maybe some family members, but we have people in
8 gallery. And so when we bring the jury in now and a standard
9 procedure that everyone in the court will stand as the jury
10 comes in. And so I'll ask you to stand and then once the
11 jury is seated, we'll have everyone else to sit.

12 All right. And so, Mr. White, will you please bring
13 the jury back in? Thank you.

14 (Jury enters courtroom.)

15 THE COURT: Ladies and gentlemen of the jury, it does
16 not matter where you sit today. You just file that. Very
17 good. Thank you. Please be seated.

18 At this time, ladies and gentlemen of the jury, we will
19 now hear opening statements.

20 Madam Solicitor?

21 MS. MORGAN: May I please the Court?

22 THE COURT: Yes.

23 MS. MORGAN: A Sunday afternoon family meeting that
24 turned into family mayhem. Ladies and gentlemen of the jury,
25 it is the State's burden to prove beyond a reasonable doubt

1 that on June 26, 2022, that the Defendant, Xabian Bailey,
2 along with Co-Defendant Antonio -- Antonio Jones and Alvin
3 Artis did in fact kill C.C. [REDACTED], I.P. [REDACTED], and
4 W.G. [REDACTED]. At the time, W.G. [REDACTED] was 17 years
5 old. C.C. [REDACTED] was 16 years old. I.P. [REDACTED] was 16
6 years old.

7 Now, in order for the State to prove its burden in
8 South Carolina that is in all states there's -- there's a
9 definition of murder that the Defendant did with malice and a
10 forethought take the life of this person.

11 And the Judge will give you all of those legal
12 instructions. But when you hear the things with the
13 forethought, it's like they intended. And just keep in mind
14 as we go through the testimony that that intention is not
15 like there had to be a six month plan or a year plan. That
16 intention can happen in a moment, in a second, in a decision
17 that is made.

18 The fourth count, three counts of murder that the
19 Defendant's charged with. And then the fourth count is
20 possession of a weapon during a violent crime. And in order
21 for the State to prove that particular count, the Defendant
22 has to be found guilty of a murder. And at the time of that
23 murder, the Defendant had a weapon. In this case it was a
24 gun.

25 Now, throughout the testimony, you won't -- you won't

1 hear testimony or see that a gun was recovered from this
2 crime, but you'll have eyewitness testimony of the shooting.
3 You will have ear witness, someone heard, people heard the
4 gunshots. You'll have ear witness testimony. And then you
5 will also have the testimony from the medical examiner of
6 what the cause and the manner of death of the three victims.

7 Now, as we go through this testimony, you all -- you
8 make your testimony of how many gunshots hit a person and how
9 many gunshots and whose gun. And there were three guns and
10 two guns, and everyone was firing.

11 In South Carolina there's also a legal concept called
12 the hand of one is the hand of all. So if all three
13 Defendants were shooting and firing upon these three
14 individuals, it doesn't matter if Xabian Bailey's bullets
15 hit, because the bullet does not have a name on it. It
16 doesn't matter if Alvin Artis bullets hit that person. It
17 doesn't matter if Antonio Jones, if those bullets hurt that
18 person, because it is the hand of one is the hand of all.

19 If they all came to the scene to do -- to make the same
20 act, then they're all in it together. And then you as a --
21 as a finder of fact or as the jury at the end of the trial,
22 my Co-Counsel will come back to you and ask that you find the
23 Defendant guilty.

24 So before we go through the testimony, I just want to
25 give you an overview of the area of which this occurred. So

1 it occurred in the neighborhood. Some of you may be familiar
2 with it, Shallow Heights in Aiken that's out in the direction
3 of number one. And it occurred at -- and as we go through
4 the testimony, we'll also find that there -- there are
5 familial relationships between the individuals that were
6 killed as well as the Defendants. And in this case, one
7 Defendant being on trial today.

8 And the State will take periodically through those
9 family relationships. So the address of the relationship is
10 shown -- of -- of the incident was on Wadley Drive. And this
11 is the home of the uncle of C.C. [REDACTED]. This is Larry
12 Carroll's home. Within this -- it is like a cul-de-sac.
13 There is his brother's home, Twaine Carroll. Our ear witness
14 residence is right here. And at the time of the incident,
15 the Carroll brothers, their sister lived in this location as
16 well.

17 So the testimonial here that on this Sunday afternoon
18 there were six individuals sitting in the front of Larry
19 Carroll's house. And those six individuals included Larry
20 Carroll, his brother Twaine Carroll and individual by the
21 name of Joshua Smith. And he has the nickname of Pun.

22 Along with him were W.G. [REDACTED], who was killed on
23 that day, I.P. [REDACTED], who was also killed on that -- that
24 day, as well as C.C. [REDACTED]. And both of these men were
25 the uncles of C.C. [REDACTED].

1 You'll hear testimony that they were doing what
2 possibly families can do. They were talking about just, "Old
3 times." How life was when they were younger children. When
4 some individuals, six other individuals, and I would take,
5 even though it looks larger to scale, left this house.

6 And this house if you were to look at it as a city
7 block, I would say possibly three city blocks turning right
8 here, then turning left. And these six -- these six
9 individuals as they have been here possibly about an hour,
10 maybe more than an hour, maybe a little less than an hour
11 talking. Six individuals leave this residence.

12 This residence, as the testimony will show, was the
13 residence of the Defendant, Xabian Bailey, his grandfather.
14 So he lived at this residence and they left this residence,
15 came up this -- this road, came up this hill, and entered
16 into the yard. Everyone was out in the yard. They weren't
17 inside the residence.

18 And an argument and/or arguments -- an argument ensued.
19 There was possibly a discussion about some accusations. And
20 we will name now these six people. The first one being
21 Xabian Bailey, the Defendant that is on trial today.

22 The other one being Alvin Artis who was also there and
23 the other one, Antonio Jones. But also in this group of six
24 people, there was Twaine's son or Richard Carroll. And there
25 was also -- don't want to say the right name, Fantasia --

1 Fantasia Carroll, which was one of the brother's daughters.
2 And then there was a Heavenly Reedy, which was a girlfriend
3 of -- of Richard Perry at the time.

4 So all six of these individuals come up? There's a
5 conversation and there may have been accusations, which we --
6 which the State were proper evidence that there was some
7 dispute as to whether or not Joshua Pun's house had been
8 broken into. What exactly the argument was prior to the
9 shooting may very well be undefined, but it is not necessary
10 to prove that they were killed.

11 You'll also hear evidence that these three individuals
12 did not -- they were unarmed, they did not have any weapons.
13 They were just on a casual at that -- on that particular day,
14 on a casual meeting with family members. The argument
15 ensues. The individuals take out guns, fire, W.G. [REDACTED]
16 was shot. The evidence would show seven times. I.P. [REDACTED]
17 was shot two times. Both of those individuals died on the
18 scene.

19 C.C. [REDACTED] survived the initial shooting, was in
20 the yard, struggling talking to his uncles about being shot,
21 trying to go to the help of his friends that were with
22 friends and relatives that were with him, but was unable to
23 do so. He died after leaving and being transported to the
24 hospital on that day. It was a family meeting that turned
25 into family mayhem. And the evidence will show, you also

1 will see video evidence of them walking up this three block
2 area.

3 The evidence will show at the end of this trial that
4 Xabian Bailey is guilty of murder of W.G. [REDACTED], the
5 murder of I.P. [REDACTED], and the murder of C.C. [REDACTED]. And
6 at the end of this trial, my Co-Counsel will come back to you
7 and ask that you find the Defendant guilty of all charges.

8 THE COURT: Thank you, Madam Solicitor.

9 Mr. McKellar?

10 MR. MCKELLAR: Thank you, Your Honor. Good afternoon
11 again. My name is William McKellar and I represent Xabian
12 Bailey. You are going to hear a lot of names in this trial
13 and it may be confusing at times.

14 This shootout happened at Larry Carroll's house and
15 Twaine Carroll's house. Xabian Bailey dated Larry Carroll's
16 daughter, Larry Carroll's daughter is named Fantasia Carroll.
17 Xabian Bailey was with Twaine Carroll's son that day. They
18 were all at the Xabian and Bailey's grandfather's house
19 together. His name is Richard Carroll. Richard Carroll had
20 his girlfriend with him. Her name is Heavenly Reedy. And
21 they were also joined by Co-Defendants who are not being
22 tried today. Alvin Artis and Antonio Jones.

23 Now, you'll hear testimony that the six individuals,
24 that the five individuals that were with Xabian on this day
25 all slept at the same house together that -- the night

1 before. And that morning when they woke up, they received a
2 call and this hurt. And they were informed on this call that
3 Larry Carroll was accusing them of breaking into Joshua
4 Smith's house. Joshua Smith is the other witness who was
5 also there at the time of the shooting.

6 So after hearing this, the six of them decide to walk
7 up the street, walk up Sassafras Road and up Wadley Drive
8 into what was like a cul-de-sac and talk to Larry. Say
9 Larry, "Why are you saying this about me? I didn't break
10 into Josh's house. Please stop telling people that I did."

11 So the six of them walk up the street, including
12 Fantasia Carroll, Larry's daughter and Richard Carroll, Twaine
13 -- Twaine's son. They didn't know W.G. [REDACTED], I.P. [REDACTED], and C.C. [REDACTED]
14 were there. They only went there to clear the air with
15 Larry. They were not expecting any type of dispute.

16 So they walk and once they get there, they see Larry
17 and Twaine and Joshua Smith. And they ask Larry, "Why are
18 you telling me? Why are you telling people that we broke
19 into Joshua Smith's house? We didn't." And there's an
20 argument.

21 And Larry Carroll says, "Fess up, you know you did it.
22 Fess up, you broke into his house." It is at this moment
23 that from behind Larry Carroll's house to the right side of
24 his trailer. So his trailer faces where the shooting
25 occurred. From the right side of that trailer come W.G. [REDACTED],

1 I.P. [REDACTED], and C.C. [REDACTED]. And they were all armed, every one. And
2 that words were exchanged. Threats were made by W.G. [REDACTED],
3 I.P. [REDACTED], and C.C. [REDACTED]. And then they were shot and killed. And they
4 were shot and killed in self-defense.

5 Now, after that shooting, just about everybody ran off
6 their own ways, their own direction, with the exception of
7 one person, Fantasia Carroll. Fantasia Carroll who -- whose
8 dad is Larry Carroll stuck around. And you will hear
9 Fantasia Carroll testify that her father, Larry Carroll
10 directed Twaine Carroll and Joshua Smith to remove the
11 weapons from W.G. [REDACTED], I.P. [REDACTED], and C.C. [REDACTED] and go hide them in
12 Twaine's house. That's why the weapon was found. They were
13 hidden.

14 You'll hear that Twaine's house was never searched.
15 They searched Larry Carroll's house. He's got a camera on
16 the outside of his wall. They search his house. They don't
17 search Twaine's house. And you'll also hear Heavenly Reedy
18 testify that guns were removed.

19 Now, I want to change gears a little bit. I want to
20 talk about the law in the United States. Xabian Bailey is
21 presumed innocent. Right now he sits before you an innocent
22 man, the State has the burden of proving that he committed
23 the crimes. And not only do they have to prove beyond a
24 reasonable doubt that he committed the crimes, they have to
25 prove beyond a reasonable doubt that it was not self-defense.

1 And that presumption of innocence stays with Mr. Bailey
2 throughout this entire trial. Mr. Bailey does not have to
3 prove his innocence, State has to prove his guilt.

4 And one last thing, this trial is likely going to be
5 stressful. It's probably going to be stressful for you.
6 It's stressful for me. It's likely stressful for everybody
7 in the courtroom, and that's okay.

8 We'll as we progress through the trial, things will
9 loosen up, and everybody will feel a little bit better. And
10 I think we'll -- we'll come to a close hopefully by Thursday
11 or Friday. And I'm confident at the conclusion of this
12 trial, you will return the verdict of not guilty. Thank you.

13 THE COURT: Thank you, Mr. McKellar.

14 Ladies and gentlemen of the jury, at this time we're
15 going to excuse you all for the night. Let me give you a few
16 reminders. First thing is -- is that you are not to discuss
17 this case with anyone, not even your fellow jurors. And
18 again, if you see any of the court officers any of the
19 attorney's in public and they do not even speak to you, they
20 are not being rude. Simply following the instructions of the
21 Court not to engage in any conversation with you all.

22 Let me also remind you that you do not need to do any
23 type of research, ask anyone about any of the testimony of
24 the information that you have received here today. Anything
25 about this case. We will give you everything that you need

1 in order to come back with a fair and just verdict.

2 So we will have you all to come back tomorrow morning
3 at 9:45. We are going to provide biscuits for the jury. If
4 you are having any type of transportation issues, please call
5 us immediately so that we can arrange for transportation for
6 you. Do any of the members of the jury or the ultimate have
7 questions for me?

8 All right. Very good. We'll see you tomorrow morning
9 at 9:45. Have a good evening. Thank you.

10 (Jury exits courtroom.)

11 THE COURT: Thank you. Please be seated.

12 Madam Solicitor and Mr. McKellar, do we have any
13 housekeeping issues that we need to address before tomorrow
14 morning?

15 MS. CHARBONNEAU: Yes, Your Honor. This morning during
16 the motion where Joshua Smith was testifying he was super
17 nervous. These are his words. We got off the stand. He
18 told me how nervous he was and that there were two gang
19 bangers that were standing outside the courtroom, which there
20 were two gentlemen out there that were looking into the door.

21 Once he left here, somebody sent him on Facebook, a
22 picture of himself. I can pass up my phone. I don't have to
23 print it out just yet. But it's a picture clearly taken from
24 the courtroom door of Joshua Smith on the stand.

25 He felt threatened by that, was sent to him on

1 Facebook. We're trying to track down. There's a second
2 picture behind it. That's who told him about it. That's not
3 who sent it to him. I can print it out for the Court
4 tomorrow. I just don't know how to do that right now. But
5 he's feeling threatened obviously by this. It's not legal
6 for somebody to be taking pictures of him on the stand and
7 putting it on Facebook. I don't know what the Court can do.

8 THE COURT: Well, first, the first thing that we'll do
9 is we'll cover the windows tomorrow morning, so those will be
10 covered so that that does not happen to any of the witnesses
11 from either side. And so we will -- we will make those
12 accommodations tomorrow morning.

13 If you can get those pictures printed out. We will
14 address -- I will address with you all, if anything further
15 needs to be done at this time because you have not had the
16 opportunity to determine the source of the picture. Is that
17 -- is that what I heard you say?

18 MS. CHARBONNEAU: We do know who it was.

19 THE COURT: Okay. All right. I don't need you to tell
20 me what the name is.

21 MS. CHARBONNEAU: The name is quiet --

22 THE COURT: I don't need you to tell me the name.

23 MS. CHARBONNEAU: I'm sorry.

24 THE COURT: All right. We'll address that -- we'll
25 address that back in chambers.

1 Okay. Any other housekeeping matters?

2 MS. CHARBONNEAU: Not from the State.

3 MR. MCKELLAR: Nothing from the Defense, Your Honor.

4 THE COURT: Oh, very good. And so we'll start tomorrow
5 morning at 10:00 a.m., if anything arises that the Court
6 needs to be made aware of, please do not hesitate to contact
7 our office before tomorrow morning.

8 But how many witnesses will you -- do you anticipate
9 tomorrow, Madam Solicitor?

10 MS. CHARBONNEAU: I would love to get nine on.

11 THE COURT: Okay. All right. And how many total do
12 you have --

13 MS. CHARBONNEAU: At probably --

14 THE COURT: -- Madam Solicitor?

15 MS. CHARBONNEAU: -- probably 12.

16 THE COURT: Okay. All right. Thank you. So we'll
17 adjourn for the day and if I can see Counsel back in
18 chambers. Thank you.

19 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED AT
20 4:47 P.M.)

21

22

23

24

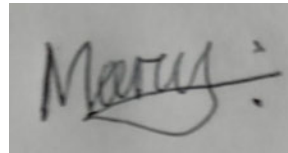
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CERTIFICATE OF TRANSCRIBER

I, MARY RAGSDALE, a Court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 2 of Aiken County, South Carolina, on the 3rd Day of September, 2024.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

September 28, 2024

A handwritten signature in dark ink, appearing to read "Mary Ragsdale", with a horizontal line drawn through the middle of the signature.

MARY RAGSDALE

Transcriber

1 CONTINUATION OF PROCEEDINGS - SEPTEMBER 4, 2024

2 THE COURT: Good morning.

3 MS. CHARBONNEAU: Good morning.

4 MR. MCKELLAR: Good morning.

5 THE COURT: Just a regular housekeeping over the
6 duration of the trial, I want to make everyone aware that
7 there will be no cell phones permitted in the courtroom at
8 all. If there is a cell phone, there is a contempt. I can
9 hold you in contempt for up to six months or \$500 fine. And
10 so if there is a cell phone that is confiscated, we will
11 address that accordingly.

12 The second thing is that the doors of the courtroom
13 will be closed. There will be no in and out at this time
14 until there are breaks. There are some appropriate times for
15 certain individuals to leave the courtroom and then to come
16 back in. And we will -- the Court will address that
17 accordingly during the testimony of certain individuals.

18 All right. Do we have any housekeeping issues that we
19 need to address, Mr. McKellar?

20 MR. MCKELLAR: Your Honor, our attorneys and their
21 staff exempt from the cell phone?

22 THE COURT: The attorneys as well as court staff and --
23 and your staff and security officials are exempt obviously
24 from the cell phone.

25 MR. MCKELLAR: Thank you.

1 THE COURT: All right. Very good.

2 Madam Solicitor?

3 MS. CHARBONNEAU: Judge, we anticipate putting
4 Dr. Eason the medical examiner on as the second witness. So
5 I'm assuming that the victim's family will be leaving?

6 THE COURT: Certainly. And we will make accommodations
7 for that. We will not force anyone to be in during certain
8 testimonies.

9 MS. CHARBONNEAU: Okay. Thank you.

10 THE COURT: Madam Solicitor, are you ready to proceed
11 with your first witness?

12 MS. CHARBONNEAU: Yes.

13 THE COURT: Mr. McKellar, are you ready to proceed?

14 MR. MCKELLAR: Ready, Your Honor.

15 THE COURT: Okay. All right. Can you please bring the
16 members of the jury in?

17 (Jury enters courtroom.)

18 (Sidebar conversation.)

19 THE COURT: Mr. Foreperson -- Mr. Foreman?

20 JUROR NUMBER 19: Yes, ma'am.

21 THE COURT: If you'll -- if you'll sit on the corner.

22 JUROR NUMBER 19: Right here?

23 THE COURT: Yes, sir.

24 JUROR NUMBER 19: Okay.

25 THE COURT: Thank you. You've got one extra seat in

1 the front if you all will slide over. Thank you. Please be
2 seated.

3 THE BAILIFF: Jury (inaudible).

4 THE COURT: Thank you. Ladies and gentlemen of the
5 jury and our alternates, thank you very much for your
6 presence here today. At this time, we'll now go into
7 testimony of the trial. You will allow the State to present
8 their case.

9 Madam Solicitor, please call your first witness.

10 MS. CHARBONNEAU: Thank you, Your Honor.

11 Larry Carroll.

12 (Sidebar conversation.)

13 LARRY CARROLL,

14 having been duly sworn, testifies as follows:

15 THE CLERK: Please be seated.

16 THE COURT: Mr. Bailey, state your full name and spell
17 your last -- Mr. Carroll, excuse me. State your full name
18 and -- and spell your last name for the court reporter
19 please.

20 THE WITNESS: My name is Larry Carroll, spelled
21 L-A-R-R-Y C-A-R-R-O-L-L.

22 THE CLERK: Thank you, Your Honor.

23 THE COURT: All right. Can you turn the microphone up
24 some. Mr. -- Mr. Carroll, say your name one more time.

25 THE WITNESS: My name is Larry Carroll. Spelled

1 L-A-R-R-Y C-A-R-R-O-L-L.

2 THE COURT: Can we switch -- can we switch posts? Just
3 allow, I'm not sure. Try again Mr. Carroll.

4 THE WITNESS: My name is Larry Carroll, L-A-R-R-Y
5 C-A-R-R-O-L-L.

6 MS. CHARBONNEAU: Joseph, is there any way to get that
7 closer to him so he doesn't have to lean over?

8 THE COURT: We need another microphone. Page, don't
9 you all have a microphone? Don't you all have a microphone?
10 Test. Test.

11 MS. CHARBONNEAU: There we go.

12 THE COURT: Test.

13 MS. CHARBONNEAU: There we go.

14 THE COURT: Mr. Carroll, I apologize if you'll hold
15 that down just a bit while you provide your testimony.

16 DIRECT EXAMINATION

17 BY MS. CHARBONNEAU:

18 Q. Good morning.

19 A. Good morning.

20 Q. Make sure you hold that microphone up so that I
21 can hear you all the way back here, okay?

22 A. Yes, ma'am.

23 Q. Perfect. Are you married?

24 A. Yes, ma'am.

25 Q. Do you have any children?

1 A. I got six.

2 Q. Okay. And do you work?

3 A. Yes, ma'am. McDonald's, been there 17 years.

4 Q. Okay. And do you have a nickname Larry?

5 A. Junior.

6 Q. Junior?

7 A. Yes, ma'am.

8 Q. Okay. Going back to June of 2022, can you tell us
9 where you were living?

10 A. X26 Wadley Drive.

11 Q. Is that in Aiken?

12 A. Aiken, South Carolina.

13 Q. Okay. And did you have any family living nearby?

14 A. Yes, ma'am.

15 Q. Who else lived on Wadley Drive?

16 A. My brother Twaine and my sister,
17 Shequery (Ph) Carroll.

18 Q. And do you know their exact addresses?

19 A. Shequery's address is X06 Wadley Drive, I don't
20 know Twaine's on or the number on his house.

21 Q. Okay. I'm going to show you what's been marked as
22 State's Exhibit 1. Do you recognize this?

23 A. Yes, ma'am.

24 Q. And is this an aerial photo of Wadley Drive?

25 A. Yes, ma'am.

1 Q. In the surrounding neighborhood?

2 A. Yes, ma'am.

3 Q. Is it accurate as far as where the homes are in
4 2022?

5 A. Yes, ma'am.

6 MS. CHARBONNEAU: At this time the State would move
7 State's Exhibit 1 into evidence.

8 THE COURT: Any objection?

9 MR. MCKELLAR: No objection.

10 THE COURT: So moved.

11 (State's Exhibit 1 was admitted into evidence.)

12 MS. CHARBONNEAU: Your Honor, may I publish?

13 THE COURT: Yes.

14 Thank you. Sorry, they had a microphone. So we have
15 microphone. I forgot that.

16 BY MS. CHARBONNEAU:

17 Q. Mr. Larry, will you come down and show the jury?
18 Looking at State's Exhibit 1.

19 THE COURT: Just step down, Mr. Carroll.

20 BY MS. CHARBONNEAU:

21 Q. Show them where your house is. You want use this
22 so they can -- you can stand sideways and then they can see.
23 Okay. Stand to the side, right? So that's your house?

24 A. Yes, that's my house right there.

25 Q. And where is your brother, Twaine's house?

1 A. Right here.

2 Q. Okay. And where's your sister's house?

3 A. It up there.

4 Q. And is that Wadley Drive?

5 A. Yes, ma'am.

6 Q. And do you know who lives at Hillview Circle **xxx**
7 address, down there?

8 A. Xabian Bailey.

9 Q. Okay. Thank you. You can have a seat. Larry, is
10 your brother Twaine -- does he have the same last name as you
11 Carroll?

12 A. Yes, ma'am.

13 Q. Okay. Going back to June -- Sunday, June 26,
14 2022, that afternoon, can you tell us around 1:20 p.m., what
15 you were doing?

16 A. We was out in the front yard, me and my nephews
17 and my brothers, we were standing around in a circle talking.

18 Q. Okay. Tell us the names of the people that were
19 out there?

20 A. It was Twaine, Joshua Smith, Twaine Carroll,
21 Joshua Smith, **C.C.**, Little **W.G.**, and **I.P.**.

22 Q. Okay. And do you know Little **W.G.'s** last name?

23 A. **W.G.**.

24 Q. And how about **I.P.'s** last name?

25 A. **I.P.**.

1 Q. Yes.

2 A. Yes, ma'am.

3 Q. Other than the -- so there was six of you out
4 there?

5 A. Yes, ma'am.

6 Q. What were you doing?

7 A. We was just out there talking about old days,
8 reminiscing about old days.

9 Q. Okay. And you said that you were standing
10 outside?

11 A. Yes, ma'am. In the front yard.

12 Q. And is that in front of your front yard or
13 Twaine's?

14 A. Yes, ma'am, mine.

15 Q. Okay. And so tell me how long you were out there
16 before anybody walks up?

17 A. We was out here about a good 30 minutes to an hour
18 before they walked up.

19 Q. Okay. When somebody walks up, first of all, did
20 you recognize who walked up?

21 A. Yes, ma'am.

22 Q. Okay. Who walks up?

23 A. Xabian, Antonio Jones, and Alvin, whatever his
24 name Alvin.

25 Q. Alvin?

1 A. Alvin. Yes, ma'am.

2 Q. Okay. Who else was with them?

3 A. And my daughter Fantasia Carroll, was Heavenly,
4 and my nephew, Richard Carroll.

5 Q. Okay. And when you said Xabian, do you -- did you
6 know him from before?

7 A. Yes, ma'am.

8 Q. Did you know all six of those people from before?

9 A. Yes, ma'am.

10 Q. Okay. Who is Xabian?

11 A. Before -- before this happened we was just at the
12 -- we had -- we were just on a trip at the cabin, all of us
13 except for our -- the Artis man.

14 Q. Alvin?

15 A. Alvin.

16 Q. Okay.

17 A. He went with us, everybody else was with us.

18 Q. All right. Tell me about the trip. When did that
19 happen?

20 A. We had took a trip to Tennessee to the cabin that
21 happened, like, I think about a week before.

22 Q. Before the shooting?

23 A. Few weeks -- few weeks -- yes, ma'am.

24 Q. And you rented a cabin?

25 A. Yes, ma'am. Me and my sister there.

1 Q. You and your sister?

2 A. Yes, ma'am.

3 Q. Who else went with you and your sister?

4 A. It was Xabian Bailey, Antonio Jones, my daughter
5 Fantasia Carroll, my sister Shequary (ph) Carroll, Aaron
6 Carroll and Tameika Bates and her kids and my sister kids.

7 Q. And was C.C. [REDACTED] there as well?

8 A. Yes, ma'am.

9 Q. Okay.

10 A. He was there.

11 Q. What is the relationship, if any between your
12 daughter, Fantasia Carroll and Xabian Bailey?

13 A. That was her boyfriend.

14 Q. Is there a relationship between Richard Carroll
15 and Heavenly?

16 A. It was. Yes, ma'am.

17 Q. Okay. And what was their relationship?

18 A. They was -- they was together.

19 Q. Okay.

20 A. Yes, ma'am.

21 Q. Boyfriend girlfriend?

22 A. Yes, ma'am.

23 Q. Do you see Xabian Bailey in the courtroom today?

24 A. Yes, ma'am.

25 Q. Can you please point him out and describe an

1 article of clothing that he's wearing?

2 A. He's wearing a blue jacket.

3 Q. There's more than one blue jacket over there.

4 Let's just make sure.

5 A. Blue jacket with a blue tie.

6 MS. CHARBONNEAU: May the record reflect he's

7 identified the Defendant, Xabian Bailey.

8 BY MS. CHARBONNEAU:

9 Q. When they -- when -- how many people walk up?

10 A. It was around, like, I think it was six. Six of
11 them altogether, yes, ma'am.

12 Q. When they first walk up, were you expecting them?

13 A. No, ma'am.

14 Q. When they walk up, did you -- were you alarmed in
15 any way?

16 A. No, ma'am.

17 Q. Okay. Did you see any weapons or guns on anybody?

18 A. Not -- not then.

19 Q. Okay. What happens when they walk up? Do they
20 actually come up to your property?

21 A. Yes, ma'am.

22 Q. And what happened?

23 A. He was -- he was, like, he was going to say
24 something to me but he never got it out. And --

25 Q. Who is he?

1 A. Xabian Bailey.

2 Q. Okay.

3 A. Yes, ma'am. And Alvin, I mean, Artis -- with
4 Artis.

5 Q. Alvin?

6 A. Alvin Artis, him and Little W.G. had got into
7 it. I don't know what they said to each other, but when he
8 said that he took out his gun and shot.

9 Q. Okay. Let's back up. As far as the other people,
10 you told us that Fantasia was your daughter?

11 A. Yes, ma'am.

12 Q. Who else are you related to? You said Twaine is
13 your brother?

14 A. Yes, ma'am.

15 Q. Who else were you related to out there?

16 A. C.C. .

17 Q. What is your relationship to him?

18 A. That's my nephew.

19 Q. Okay.

20 A. Yes, ma'am. Little W.G. was my godson.

21 Q. Okay.

22 A. I.P. was my half-brother by marriage.

23 Q. Okay.

24 A. Yes, ma'am.

25 Q. And then are you related to anybody else?

1 A. I'm related to Richard -- Richard Carroll, my
2 nephew.

3 Q. Okay. And you said you're the father to Fantasia
4 Carroll?

5 A. Yes, ma'am.

6 Q. I'm going to show you State's Exhibit 2. Have you
7 had an opportunity to view this before? Have you seen this
8 before?

9 A. Yes, ma'am.

10 Q. Okay. And do you recognize it?

11 A. Yes, ma'am.

12 Q. Is this a fair and accurate depiction of the
13 relationships between you and the other people that were out
14 there that day?

15 A. Yes, ma'am.

16 MS. CHARBONNEAU: At this time I move State's Exhibit 2
17 into evidence.

18 THE COURT: Any -- any objection?

19 MR. MCKELLAR: Your Honor, we object for lack of
20 foundation.

21 Your Honor, may we approach?

22 THE COURT: Yes.

23 (Bench conference.)

24 THE COURT: Madam Solicitor?

25 MS. CHARBONNEAU: Thank you.

1 BY MS. CHARBONNEAU:

2 Q. And, Larry, as far as Josh Smith, is he related to
3 anyone at the scene?

4 A. No, ma'am.

5 Q. That's all right.

6 A. His cousin.

7 Q. He's a cousin?

8 A. It's his cousin, [P.].

9 Q. Okay. And how --

10 MR. MCKELLAR: I'm sorry, I can't hear.

11 THE WITNESS: That's his cousin, [P.].

12 BY MS. CHARBONNEAU:

13 Q. All right. And your brother Twaine Carroll, who
14 is he related to?

15 A. He related to Richard, my nephew, Richard Carroll.

16 Q. He's his father?

17 A. Yes, ma'am.

18 Q. Okay. And how about is he related to anybody
19 else?

20 A. Nobody, but [C.C.], [P.], Twaine. Yes, ma'am.

21 Q. All right. And is he related to Xabian Bailey?

22 A. No, ma'am.

23 Q. And he is the -- you said that you were godfather
24 to [W.G.]. Is your brother Twaine also related to
25 him?

1 A. No, ma'am.

2 Q. Is he his uncle?

3 A. No, ma'am.

4 Q. Okay.

5 A. We just -- he -- we grew up calling him uncle so,
6 you know.

7 Q. Okay. All right. And nobody is related to Alvin
8 Artis?

9 A. No, ma'am.

10 MS. CHARBONNEAU: Okay. State renews moving number 2
11 into evidence.

12 THE COURT: Any objection?

13 MR. MCKELLAR: Defense renews it's objection.

14 THE COURT: Foundation has been layed, exhibit is
15 entered.

16 (State's Exhibit 2 admitted into evidence.)

17 BY MS. CHARBONNEAU:

18 Q. The week -- you said the week before that you were
19 on vacation --

20 A. Yes, ma'am.

21 Q. -- staying in the cabin, did anything happen
22 during that time?

23 A. No, ma'am.

24 Q. Were there any fights or issues between anyone?

25 A. No, ma'am.

1 Q. Okay. How long were you in Tennessee?

2 A. Like a week.

3 Q. How long would you say when the six people walk
4 up, how long would you say that they were there before
5 anything happened?

6 A. Probably about -- they jumped off like about like
7 five or 10 minutes. It just -- everything went left.

8 Q. Okay. Before it went left --

9 A. Yes, ma'am.

10 Q. -- was there any physical fights between anybody?

11 A. No, ma'am. Like I said, he was going -- he
12 approached like he was going to say something.

13 Q. When you say he, you got to tell us who.

14 A. Xabian Bailey.

15 Q. Okay.

16 A. But it never got to that Alvin and Little **W.G.**
17 got into when he -- when Little **W.G.** said, you think I'm
18 ready to die, that's when the guy start -- Alvin started
19 shooting.

20 Q. When you say they got into it, was it a verbal
21 argument or a physical?

22 A. I don't know what they said to each other.

23 Q. Okay. Did they have a fight? Did they physically
24 fight?

25 A. No, ma'am.

1 Q. Did I.P. [REDACTED], C.C. [REDACTED], or
2 W.G. [REDACTED], did they have any guns or weapons on them?

3 A. No, ma'am.

4 Q. How about you or Josh Smith or Twaine Carroll.
5 Did you guys have any guns on you?

6 A. They found the gun in my truck.

7 Q. Okay. Your truck was parked at the scene?

8 A. Yes, ma'am.

9 Q. Did you have your gun on you that day?

10 A. No, ma'am.

11 Q. All right. So what happens when you said it -- it
12 went left. What happened? What do you mean by that?

13 A. I guess when they got into the argument, I don't
14 know what they said to each other, it just went.

15 Q. What's the first thing that you saw happen?

16 A. I see Alvin -- Alvin pull out his gun and start
17 shooting.

18 Q. Could you see where Alvin pulled his gun out from?

19 A. Stands in front of the waistline.

20 Q. And you're indicating like the front of your body?

21 A. Yes, ma'am.

22 Q. Were you able to see the gun? Do you have any
23 description of it?

24 A. No, ma'am.

25 Q. Okay. When he pulls the gun out, how close are

1 all you guys while you're talking and then this happens?

2 A. They probably about, I say like 10, 15 feet.

3 Q. Okay. Everybody's just talking and then it just
4 happens?

5 A. It just happened.

6 Q. When Alvin pulls out his gun, what does he do?

7 A. He starts shooting.

8 Q. Who does he shoot at?

9 A. He shoot at W.G. [REDACTED].

10 Q. Okay. And what happens after that? What do you
11 see?

12 A. I see Little W.G. [REDACTED] fall.

13 Q. Does anybody else shoot out there?

14 A. Then I see Xabian Bailey, he runs out -- he runs
15 out shooting.

16 Q. You saw Xabian Bailey actually shooting?

17 A. Running out shooting, yes, ma'am.

18 Q. Where did you -- did you see where he got his gun
19 from?

20 A. His waistline too.

21 Q. Front or back?

22 A. Front.

23 Q. Okay. And when were you --

24 A. I see when they walked up, guns was never showing.

25 I ain't see no guns until the argument went on.

1 Q. With Little W.G. ?

2 A. Yes, ma'am. Between Alvin and Little W.G. .

3 Q. Okay. When you see -- can you describe how --
4 first, let's start with Alvin Artis. Can you describe how he
5 is shooting?

6 A. Ma'am, can you repeat that?

7 Q. Yes. Starting with Alvin Artis, can you describe
8 how he is shooting?

9 A. When he pulled out his gun they said, run it just
10 went like there -- like there he was waving at us.

11 Q. And are you indicating those are -- are several
12 shots or he's just waving the gun?

13 A. Yes, ma'am. That was several shots.

14 Q. Okay. And were they quick?

15 A. Yes, ma'am, real fast.

16 Q. Does W.G. or C.C. or I.P. say anything after the
17 shooting starts?

18 A. They ain't have a chance.

19 Q. Okay.

20 A. I.P., W.G. or C.C. ain't have a chance.

21 Q. When -- are all three of them shot?

22 A. (Inaudible response).

23 Q. I'm sorry. You have -- you have to answer out
24 loud.

25 A. Yes, ma'am.

1 Q. Okay. When they get shot, are they able to run
2 away or anything, or did they drop right where they were
3 shot?

4 A. When I see them fell, I knew they was gone.

5 Q. Okay. And which ones did --

6 A. I.P. and Little W.G.

7 Q. Okay.

8 A. And C.C., he was trying -- he was trying to
9 move. I told him to lay down.

10 Q. Was he able to get up? C.C.?

11 A. No, he was trying. I told him to lay down because
12 I had got on the phone with you all. I told my nephew Chuck
13 to stay there with him. I was on the phone with you all.

14 Q. You were on the phone with -- with the police?

15 A. Yes, ma'am.

16 Q. Okay. And did you have your phone with you that
17 day?

18 A. No, ma'am.

19 Q. Okay. So how did you call 911?

20 A. Off Fantasia's phone.

21 Q. The two of you called together?

22 A. She had -- she didn't want to call at first.

23 Q. And you guys do end up calling?

24 A. Yes, ma'am.

25 Q. Okay. What about the third individual,

1 Antonio Jones? Did you see him with a gun?

2 A. He had a gun, but I don't know whether he shot or
3 not.

4 Q. Okay. What did you see him do with the gun?

5 A. They was running, both of them was running, but I
6 don't know if he shot, I have no idea if he shot.

7 Q. Were you or Twaine or Josh, did any of you get
8 shot?

9 A. No, ma'am. We had lied on the ground.

10 Q. The six people that walked up, did any of them get
11 shot?

12 A. No, ma'am.

13 Q. Okay. What happens -- how fast does all this
14 shooting take place?

15 A. Real fast.

16 Q. What happens after the shooting?

17 A. They run off.

18 Q. Is that when you call 911 with your daughter?

19 A. Yes, ma'am.

20 Q. Okay. So she stayed -- she stayed there?

21 A. No, ma'am, she don't stay with me.

22 Q. No. That day after the shooting, did your
23 daughter Fantasia, did she stay on scene to call 911 with
24 you?

25 A. Yes, ma'am. She stayed on the scene with me.

1 Q. Okay. Which way did they run? If you can tell us
2 that, do you know?

3 A. Like back towards Xabian Bailey house.

4 Q. On Hillview Circle?

5 A. Yes, ma'am.

6 Q. Okay. And did they all run together?

7 A. Yes, ma'am.

8 Q. And five of them went back?

9 A. Yes, ma'am.

10 Q. Was C.C. [REDACTED] ever able to get up or move
11 around?

12 A. No, ma'am.

13 Q. Okay. And once the police came was he even able
14 to speak?

15 A. No, ma'am.

16 Q. Did they take C.C. [REDACTED] to the hospital?

17 A. Yeah, it took him a while to get there -- the
18 ambulance.

19 Q. And did C.C. [REDACTED] die that day?

20 A. He died at the hospital.

21 Q. I'm showing you State's Exhibit 3. Have you had
22 an opportunity to listen to the 911 call?

23 A. Yes, ma'am.

24 Q. And did you recognize your voice and your daughter
25 Fantasia Carroll's voice?

1 A. Yes, ma'am.

2 Q. Is it a fair and accurate recording of what you
3 guys said to the police on June 26, 2022?

4 A. Yes, ma'am.

5 MS. CHARBONNEAU: At this time I move State's Exhibit 3
6 into evidence.

7 THE COURT: Any objection?

8 MR. MCKELLAR: No objection.

9 THE COURT: So moved.

10 (State's Exhibit 3 was admitted into evidence.)

11 MS. CHARBONNEAU: Your Honor, may I publish?

12 THE COURT: Yes.

13 (Audio starts.)

14 UNIDENTIFIED SPEAKER: (Inaudible).

15 MS. CARROLL: (Inaudible).

16 UNIDENTIFIED SPEAKER: Okay. Hang on just a second for
17 me. Where did he get shot at?

18 MS. CARROLL: He got shot at --

19 UNIDENTIFIED SPEAKER: You can talk to me. Okay. Can
20 you go see if somebody else is there? Can I talk to somebody
21 else that can answer my question.

22 MR. CARROLL: Hello.

23 UNIDENTIFIED SPEAKER: Okay. Where did the person that
24 shot whoever was shot go?

25 MR. CARROLL: They ran down Hill. They came up to my

1 yard and shot my daggum nephew there.

2 UNIDENTIFIED SPEAKER: Okay. Is your nephew
3 (inaudible)?

4 MR. CARROLL: Help -- help.

5 UNIDENTIFIED SPEAKER: Hey -- hey I need you to talk --
6 I need you to talk to me.

7 MS. CARROLL: (Inaudible) yes, ma'am.

8 UNIDENTIFIED SPEAKER: Were they black, white,
9 Hispanic?

10 MS. CARROLL: They are black. Hello.

11 UNIDENTIFIED SPEAKER: Male, female (inaudible)?

12 MR. CARROLL: They -- they black.

13 UNIDENTIFIED SPEAKER: Okay. How many were there?

14 MR. CARROLL: There are three of them. There are three
15 of them.

16 UNIDENTIFIED SPEAKER: Okay. Were they all wearing --
17 were they wearing all black? Were they wearing different
18 things?

19 MR. CARROLL: What they got on? They got on. You need
20 to tell my daughter. My daughter is -- one of them is my
21 daughter boyfriend. Pick and go right here. Tell them what
22 they got on.

23 UNIDENTIFIED SPEAKER: Ma'am -- ma'am, what were they
24 wearing? Okay. I need a name. I need something, ma'am.

25 MS. CARROLL: (Inaudible).

1 MR. CARROLL: (Inaudible).

2 UNIDENTIFIED SPEAKER: Ma'am. Okay. I understand that
3 you are upset, but I need this information. Honey, listen to
4 me. We are trying to get help to you, but I need as much
5 information as you can give me.

6 MS. CARROLL: Hello.

7 UNIDENTIFIED SPEAKER: Hey honey, I need to know who
8 was involved in this shooting.

9 MS. CARROLL: I don't know their name.

10 UNIDENTIFIED SPEAKER: Okay. No, that's a lie. You're
11 -- whoever I was just talking to just says that one of them
12 was your boyfriend. What is his name?

13 MS. CARROLL: Hello. Is you sending the ambulance or
14 not?

15 UNIDENTIFIED SPEAKER: We are. I need as much
16 information. Let me talk to the male that I was speaking to.

17 MS. CARROLL: I'm not down there anymore. I walked to
18 my auntie house.

19 UNIDENTIFIED SPEAKER: Okay. Well, I need to know who
20 shot your nephew or your cousin.

21 MS. CARROLL: That's not my nephew. That's my cousin
22 laying on the ground.

23 UNIDENTIFIED SPEAKER: Okay. Who shot him? I need to
24 know who shot him.

25 MS. CARROLL: (Inaudible).

1 UNIDENTIFIED SPEAKER: Honey, I need you answer to my
2 question.

3 (Audio ends.)

4 BY MS. CHARBONNEAU:

5 Q. Larry, we could hear you in the background telling
6 C.C. to lay down.

7 A. Yes, ma'am.

8 Q. Was he ever able to move from where he was shot?

9 A. No, ma'am.

10 Q. Okay. Were -- while you were on the phone with
11 911, are you able to see the three victims the whole time?

12 A. Yes, ma'am.

13 Q. Did anyone take anything off the victims?

14 A. No, ma'am.

15 Q. Did anyone move the victims?

16 A. No, ma'am.

17 Q. Okay. And at any point that day, did any of the
18 three victims have any guns or weapons on them?

19 A. No, ma'am.

20 Q. You said that C.C. had said something to you on
21 scene?

22 A. He was like -- he was like, Uncle Junior picked me
23 up and shot me.

24 Q. Did you --

25 A. He --

1 Q. I'm sorry, go ahead.

2 A. He kept saying that.

3 Q. Did you pick him up?

4 A. No, ma'am.

5 Q. Were you there when the first police arrived?

6 A. Yeah. I was in town yard talking to him. I had
7 my nephew stay over there with him.

8 Q. Okay. And nobody touched the victim?

9 A. No, ma'am.

10 Q. You said that you had a vehicle parked at the
11 scene. What was your vehicle?

12 A. The blue Dodge.

13 Q. Okay. And you said there was a gun inside?

14 A. Yes, ma'am.

15 Q. Was that gun out at all that day?

16 A. No, ma'am.

17 Q. I'm showing you State's Exhibit 4 and 5. Do you
18 recognize these two photos?

19 A. Yes, ma'am.

20 Q. Is that a fair and accurate depiction of where
21 your truck was and where the gun was on June 26, 2022?

22 A. Yes, ma'am.

23 MS. CHARBONNEAU: Okay. At this time, the State would
24 move State's Exhibits 4 and 5 into evidence.

25 THE COURT: Any objection -- any objection?

1 MR. MCKELLAR: No objection.

2 THE COURT: So moved.

3 (State's Exhibits 4 and 5 admitted into evidence.)

4 BY MS. CHARBONNEAU:

5 Q. Was this gun out at any time on that scene that
6 day?

7 A. No, ma'am.

8 Q. And do you remember what kind of gun it was?

9 A. A nine millimeter.

10 Q. Okay. When the police came, did you talk to them
11 and give them a statement?

12 A. Yes, ma'am.

13 Q. Did you give them the name of the shooters?

14 A. Yes, ma'am.

15 Q. The other three people that walked up with
16 Alvin Artis, Antonio Jones, and Xabian Bailey, did they have
17 guns?

18 A. No, ma'am.

19 Q. Were they involved in the shooting?

20 A. No, ma'am.

21 Q. With the three other people?

22 A. No, ma'am.

23 Q. Did you even know some of the people's nicknames?

24 A. I know my nephew, they call him Rich G.

25 Q. That's Richard Carroll?

1 A. Yes, ma'am.

2 Q. Okay. And is there a nickname for the Defendant,
3 Xabian Bailey?

4 MR. MCKELLAR: Objection, Your Honor. May we approach?

5 THE COURT: Yes.

6 THE WITNESS: Xay.

7 MS. CHARBONNEAU: Hold on.

8 (Bench conference.)

9 THE COURT: All right. At this time, Mr. White, can
10 you please excuse the jury to the jury room?

11 (Jury exits the courtroom.)

12 THE COURT: Mr. White -- Mr. White. Please be seated.
13 At this time there is an objection. We're going to proffer
14 the testimony of the witness outside of the presence of the
15 jury.

16 Madam Solicitor?

17 MS. CHARBONNEAU: Yes.

18 BY MS. CHARBONNEAU:

19 Q. Larry, what is the Defendant, Xabian Bailey's
20 nickname?

21 A. Xay.

22 MS. CHARBONNEAU: That's it, Your Honor.

23 THE COURT: All right. Very good. All right. And so
24 at this time it is necessary for us to stand down for a short
25 10-minute break in order to give a bathroom break to the jury

1 as well as to the attorneys in the room. We will stand down
2 for approximately 10 minutes.

3 Let me advise everyone in the gallery that we will open
4 the doors for the 10 minutes, but you need to be back in
5 before the end of that 10 minutes because they will be locked
6 after -- after that time. All right. And so we'll stand
7 down for 10 minutes.

8 MS. CHARBONNEAU: Can you instruct the -- the witness.

9 THE COURT: Excuse me, just for the record, Mr.
10 Carroll, you cannot -- do you need to go bathroom?

11 THE WITNESS: Yes.

12 THE COURT: Go bathroom?

13 THE WITNESS: Yes, ma'am.

14 THE COURT: Okay. All right. And so while you are off
15 of the stand, you cannot have any conversation with anyone
16 and particularly anyone from the solicitor's office because
17 you're still under oath as a witness.

18 THE WITNESS: Yes, ma'am.

19 THE COURT: All right.

20 THE WITNESS: Very good.

21 THE COURT: We'll stand down for 10 minutes, watch your
22 step, the people fall all the time.

23 (Off the record.)

24 THE COURT: Defense ready to proceed?

25 MR. MCKELLAR: Yes, Your Honor.

1 THE COURT: Please let the jury back in Mr. White.

2 (Jury enters courtroom.)

3 THE COURT: Thank you, ladies and gentlemen of the
4 jury. Please be seated. At this time we will resume.

5 Madam Solicitor?

6 MS. CHARBONNEAU: Thank you.

7 BY MS. CHARBONNEAU:

8 Q. Larry, I think we left off with, did you -- were
9 you able to tell the police the nickname of the Defendant,
10 Xabian Bailey?

11 A. Yes, ma'am.

12 Q. And what's his nickname?

13 A. Xay.

14 Q. Did any of the three shooters that day have masks
15 on?

16 A. No, ma'am.

17 Q. Were you clearly able to see their faces?

18 A. Yes, ma'am.

19 Q. You knew them from before?

20 A. Yes, ma'am.

21 Q. Were you able to show the police photos or they
22 showed you photos of the individuals so that you could make
23 sure you were talking about the right people?

24 A. Yes, ma'am.

25 Q. Okay. Did the police search your home that day?

1 A. Yes, ma'am.

2 Q. Were any guns or weapons found?

3 A. No, ma'am.

4 Q. And I'm going to show you State's Exhibit 7. Did
5 you have an opportunity to review the surveillance video in
6 this case?

7 A. Yes, ma'am.

8 Q. And did you recognize it as a camera in your
9 neighborhood?

10 A. Yes, ma'am.

11 Q. Did you recognize some of the people that you see
12 in the -- in the surveillance video?

13 A. Yes, ma'am.

14 MS. CHARBONNEAU: Okay. At this time I move the
15 State's Exhibit 7 into evidence.

16 THE COURT: Any objection?

17 MR. MCKELLAR: No objection, Your Honor.

18 THE COURT: So moved.

19 (State's Exhibit 7 admitted into evidence.)

20 BY MS. CHARBONNEAU:

21 Q. Can you tell the jury when we -- when we watch the
22 surveillance video, who do you recognize?

23 A. Xabian Bailey and my daughter Fantasia Carroll.

24 Q. Okay. And when you said that you saw Xabian
25 Bailey shooting that day, were you able to -- are you able to

1 tell us where he was when he was shooting?

2 A. He was running off.

3 Q. In what direction? Do you know?

4 A. Back towards his house way, like towards the
5 roadway. Yes, ma'am.

6 MS. CHARBONNEAU: Okay. Your Honor, at this time I'd
7 like to publish 4, 5, and 7.

8 THE COURT: You may. You may publish. Just seven, not
9 six.

10 BY MS. CHARBONNEAU:

11 Q. Larry, are you able to see that from where you
12 sitting? Are you able to see it on that side?

13 A. No, ma'am. My house.

14 Q. Do you want us to come there? Looking at State's
15 Exhibit 4. Whose truck was that?

16 A. Which one?

17 Q. The blue one?

18 A. Yes, ma'am.

19 Q. Okay. And is that in front of your house?

20 A. Yes.

21 Q. So that's on X26 Wadley Drive?

22 A. Yes.

23 Q. All right. And just while you're standing here,
24 hang on one sec. State's Exhibit 5, is that the inside of
25 your truck and is that where your Dodge was?

1 A. Yes, ma'am.

2 Q. Okay. You can have a seat. Thank you. Larry, if
3 you can't see, can you step down. Can you tell the jury
4 where that -- where that house is, that view?

5 A. Just down the road.

6 Q. Okay. And would you mind stepping to the side
7 just so you don't block the jury and you tell us when you
8 see. So either your daughter or the Defendant?

9 A. Xabian Bailey, my daughter Fantasia.

10 THE COURT: Mr. Carroll, just a bit louder,
11 Mr. Carroll.

12 BY MS. CHARBONNEAU:

13 Q. Can you repeat that?

14 A. My daughter, Xabian -- Xabian Bailey was in the
15 front.

16 Q. And which one was your daughter?

17 A. Fantasia was one with the red jacket.

18 Q. Okay.

19 A. Xabian had the blue shirt.

20 Q. Okay. And then do you see them when they come
21 back again when they're running? We will fast forward a few
22 minutes.

23 (Video playing - inaudible.)

24 BY MS. CHARBONNEAU:

25 Q Who is that?

1 A. The one...

2 Q. Who is that? The second one.

3 A. The (inaudible) Xabian Bailey right there.

4 Q. That's the Defendant?

5 A. Yes, ma'am.

6 THE COURT: Mr. Carroll -- Mr. Carroll, we can't hear,
7 use the microphone.

8 THE WITNESS: Yes, ma'am.

9 BY MS. CHARBONNEAU:

10 Q. Okay. You can have a seat. Larry, when the six
11 people originally walk up when you guys are hanging out
12 outside, was -- W.G. [REDACTED], I.P. [REDACTED], and C.C. [REDACTED], were they hanging
13 out with you when the six people first walk up with the
14 Defendant?

15 A. Yes, ma'am.

16 Q. Okay. Was anyone hiding behind your house?

17 A. No, ma'am.

18 Q. Did any of -- any of the six of you have any guns
19 or weapons?

20 A. No, ma'am. Only the one they found in my truck.

21 Q. Okay. And did any of the three victims,
22 C.C. [REDACTED], W.G. [REDACTED], or I.P. [REDACTED], did any of
23 them make any type of threats to the Defendant?

24 A. We -- no -- we let no threat to them.

25 MS. CHARBONNEAU: Thank you. Nothing further.

1 THE COURT: Okay. Cross-exam?

2 MR. MCKELLAR: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. MCKELLAR:

5 Q. Good afternoon.

6 A. Good afternoon.

7 Q. Mr. Carroll, I'd like to review with you what's
8 been marked as State's Exhibit 2. This exhibit states that
9 Twaine Carroll is Xabian Bailey's cousin; is that correct?

10 A. No, sir.

11 Q. I only have a few questions for you, Mr. Carroll.
12 Xabian is your daughter's boyfriend, correct?

13 A. Yes, sir.

14 Q. Or was?

15 A. Was.

16 Q. Was your daughter's boyfriend, they are no longer
17 together?

18 A. Yes, sir.

19 Q. But at the time of this incident, they were
20 dating?

21 A. Yes, sir.

22 Q. And at the time -- around the time of the incident
23 and leading up to it, they would visit with you frequently?

24 A. Visit with me?

25 Q. Yes.

1 A. That she don't visit me.

2 Q. She doesn't visit you?

3 A. No, she don't talk to me like that.

4 Q. Not leading up to this incident. You all didn't
5 talk?

6 A. No, sir. Only when we was at Cameron's she ain't
7 talked to me since.

8 Q. So you all have had a relationship leading up to
9 this incident?

10 A. We had a good relationship.

11 Q. Okay. What did she call you?

12 A. What'd she call me?

13 Q. Yeah.

14 A. Daddy.

15 Q. Larry?

16 A. Daddy.

17 Q. Daddy?

18 A. Daddy.

19 Q. Daddy. Okay. Well, do they have permission to be
20 there?

21 A. No.

22 Q. Did not have permission?

23 A. No, sir.

24 Q. Did you ask him to leave when they walked up?

25 A. He never got -- I never got to talk to him.

1 Q. I would like to find out where everyone was
2 standing at the time of the shooting. To the best of your
3 ability, you live at the end of what, I believe, what -- what
4 -- call a cul-de-sac; is that correct?

5 A. Yes, sir.

6 Q. And you're at the top of the hill?

7 A. Yes, sir.

8 Q. A small hill, but it's a hill. You have to walk
9 down hill to get to the -- the street?

10 A. To the mailbox. No, it's level ground.

11 Q. Well, you don't -- to walk from your house to
12 Sassafras is slightly downhill, isn't it?

13 A. Yes, sir.

14 Q. Okay. When Xabian, Alvin, Antonio, your daughter,
15 your nephew, Richard, and who am I missing? Alvin?

16 A. Yes, sir.

17 Q. When the six of them walk up -- actually let me
18 rephrase this. At the time of the shooting, W.G. [REDACTED], J.P. [REDACTED],
19 and C.C. [REDACTED] were standing between the six of them and your house,
20 correct?

21 A. Six of us. It was us. Six on this side and it
22 was them on that side.

23 Q. Right. You were on your house side?

24 A. Yes, sir.

25 Q. And your family and W.G. [REDACTED] and J.P. [REDACTED] and C.C. [REDACTED]

1 were on the side of your house?

2 A. Yes, sir.

3 Q. And they were on the side?

4 A. We wasn't in the -- on the side, we was in the
5 front.

6 Q. Okay. But they were -- they were closer to the
7 street than W.G. [REDACTED], I.P. [REDACTED], and C.C. [REDACTED], correct?

8 A. Yep.

9 MR. MCKELLAR: Okay. I beg the Court's indulgence.

10 May I approach, Your Honor?

11 THE COURT: Yes.

12 BY MR. MCKELLAR:

13 Q. Mr. Cameron, I'm going to show you a picture. Do
14 you recognize what is in that picture?

15 A. A camera.

16 Q. What is it?

17 A. Camera box.

18 Q. It's a camera box?

19 A. Yes, sir.

20 Q. And tell me what function does it -- what function
21 does it serve?

22 A. Night Owl.

23 Q. Yeah. What is it?

24 A. It's a camera system.

25 Q. Okay. And what does it -- where are the cameras?

1 A. On the side of the house.

2 Q. Is there one on the front of your house?

3 A. Yes, sir.

4 Q. And I noticed there's a lot of dust on it. Does
5 there look like there's a lot of dust on that?

6 A. Yes, sir.

7 Q. How long do you think that's been sitting there?

8 A. For a minute.

9 Q. How long is a minute?

10 A. I had that account system about a -- a few years.

11 Q. A few years?

12 A. Yes, sir.

13 Q. Okay. To give the jury a little perspective, how
14 long your driveway is, how long does it take for you to walk
15 from your house on top of the cul-de-sac to Sassafras?

16 A. How long it take --

17 Q. Yeah.

18 A. -- to the end of -- to the end of the dirt road?

19 Q. Right.

20 A. Probably no more than 10 minutes.

21 Q. To walk from --

22 A. About five to 10 minutes -- about five to 10
23 minutes.

24 Q. I think you may misunderstand my question. I'm
25 going to show you what's been marked as Exhibit 1. How long

1 does it take for you to walk from your home to Sassafras,
2 this road right here? How long does it take to walk -- walk
3 down that driveway?

4 A. About five minutes.

5 Q. After the shooting, did you render any first aid?

6 A. Render any first aid?

7 Q. Yeah. Did you -- what did you -- what'd you do to
8 help **C.C.**?

9 A. I didn't do nothing. I didn't touch him.

10 Q. Okay. Who was helping?

11 A. Nobody touched him. He laid on the ground until
12 they got there. My nephew just stood there with him.

13 MR. MCKELLAR: I don't have more questions.

14 THE COURT: Re-direct?

15 RE-DIRECT EXAMINATION

16 BY MS. CHARBONNEAU:

17 Q. Mr. Carroll, you said that Fantasia doesn't talk
18 to you anymore?

19 A. She -- we never had a good relationship.

20 Q. But she did go on vacation with you guys a week
21 before this happened?

22 A. Yes, ma'am.

23 Q. And was everything fine on vacation?

24 A. Yes, ma'am. It was all right. She --

25 MS. CHARBONNEAU: Thank you. Nothing further.

1 THE COURT: Any re-cross?

2 MR. MCKELLAR: No, Your Honor.

3 THE COURT: Okay. This witness may be excused. Please
4 watch your step.

5 MS. MORGAN: Your Honor, the State -- oh, I'm sorry.

6 THE COURT: You calling your next witness?

7 MS. MORGAN: Yeah.

8 THE COURT: All right. At this time we're going to
9 allow -- we have a medical examiner; is that correct?

10 MS. MORGAN: That is correct, Your Honor.

11 THE COURT: All right. So at this time we have a
12 medical examiner who is going to testify. If there is anyone
13 in the courtroom at this time who does not wish to hear the
14 testimony of that medical examiner, please exit at this time.

15 MS. MORGAN: Your Honor, the State provides that there
16 are some -- we've agreed with the Defense counsel there are
17 some graphic photos.

18 THE COURT: All right. And just for clarification,
19 there are some --

20 MS. MORGAN: Photograph.

21 THE COURT: -- there are some graphic photos.

22 MS. CHARBONNEAU: Judge, can we sidebar while we're
23 waiting?

24 THE COURT: All right.

25 (Bench conference.)

1 MS. MORGAN: Your Honor, the State calls
2 Dr. Eric Eason.

3 DR. ERIC AUGUST EASON,
4 having been duly sworn, testifies as follows:

5 THE CLERK: Please state your full name for the record.

6 THE WITNESS: First name Eric, E-R-I-C. Middle name
7 August spelled like the month. Last name Eason, E-A-S-O-N.

8 DIRECT EXAMINATION

9 BY MS. MORGAN:

10 Q. Good morning, Dr. Eason. Where do you work now?

11 A. Currently I work as an -- an assistant or an
12 associate medical examiner for the Palm Beach County medical
13 examiner in West Palm Beach, Florida.

14 Q. Okay. And what is -- what is the job title?

15 A. Associate medical examiner or just medical
16 examiner.

17 Q. Now what is your training and education in order
18 to become medical examiner?

19 A. Medical examiner is a physician. So we go to
20 medical school and you first have to go to college. So I
21 went to Clemson University, graduated with a degree in
22 biology in 1994.

23 I then went to medical school at the Medical University
24 of South Carolina in Charleston, South Carolina, graduated
25 1998. I then spent a year in Columbia, South Carolina at USC

1 and completed a family practice internship that was a
2 different medical specialty. Started out, did that a couple
3 months and realized that that's not what I wanted to do. So
4 I transferred into a different medical specialty into
5 pathology. So I moved back down to Charleston and then MUSC
6 for the next four years. Completed my anatomic and clinical
7 pathology residency at MUSC. That ended in 2003.

8 During that four year time period, I decided to
9 sub-specialize in forensic pathology. So in 2003 I moved to
10 Atlanta, Georgia, and then for the next year completed my
11 forensic pathology fellowship. It's a one year training
12 fellowship. And then when that was over with, I then started
13 my first full-time job in July of 2004 for the
14 Georgia Bureau of Investigation.

15 Q. Now, where are you licensed to be a medical
16 examiner?

17 A. Illinois, South Carolina, and Florida.

18 Q. Are you board certified?

19 A. Yes.

20 Q. How many years have you been a medical examiner?

21 A. Technically, since 2000, because when I was at
22 MUSC in the pathology residency program, we were allowed to,
23 on the weekends, conduct forensic autopsies for the
24 Charleston County Medical Examiner. So I was technically a
25 medical examiner while I was also in training. So since

1 2000.

2 Q. Okay. So that's 24 years?

3 A. That's right.

4 Q. Okay. Now, as the medical examiner, what are your
5 job duties?

6 A. Medical examiner is a job title and what we do is
7 we practice a specialty of medicine called forensic pathology
8 and forensic pathology, we are the doctors who determine
9 cause of death and manner of death in individuals who die
10 suddenly or unexpectedly or if the death is suspicious
11 oftentimes due to foul play trauma, violence, or drugs. And
12 we do that by doing an autopsy usually.

13 Q. Okay. And what is an autopsy?

14 A. Autopsy is an examination of someone who has died
15 suspiciously or unexpectedly. And the goal of the autopsy is
16 to examine the body with an external examination and then an
17 internal examination where we actually open the body and
18 dissect the internal organs. And the whole goal of that
19 process is to determine the cause of death.

20 Q. How many autopsies have you performed?

21 A. I give a number of -- it's called postmortem
22 examinations. And so I -- I've done around at least 4,000
23 post-mortem examinations, of which at least probably about
24 2000 of those would be autopsies. Because we don't autopsy
25 everybody, sometimes we just will do an external exam.

1 Q. So have you -- you testified -- have you testified
2 in court before?

3 A. Several times, yes.

4 Q. And how many times have you testified?

5 A. At least 200 times.

6 Q. As an expert?

7 A. That's right.

8 MS. MORGAN: Your Honor, at this time the State moves
9 to admit Dr. Eric Eason as an expert in medical examination.

10 THE COURT: Any objection? Any question?

11 MR. MCKELLAR: No objection.

12 THE COURT: All right. Solicitor, I do find that this
13 subject matter is beyond the ordinary knowledge and scope of
14 the jury and that the expert has the requisite knowledge and
15 skill in order to be qualified as an expert in the subject of
16 medical examination.

17 MS. MORGAN: Thank you, Your Honor.

18 BY MS. MORGAN:

19 Q. Did you have the opportunity to perform three
20 autopsies in the case of State v. Xabian Bailey?

21 A. Yep.

22 Q. And Artis and Antonio Jones?

23 A. Yes.

24 Q. Okay. And where were you working at that time?

25 A. Oh, I was working technically for myself. So I

1 was living in Chicago in 2020 working for the Cook County
2 medical examiner. The pandemic hit and everything just went
3 awry. So I decided to leave that job and I moved back to
4 Charleston in September of 2020.

5 And then I formed my own LLC. It's -- say -- it's just
6 in Eastern Forensic Pathology Services. And so I did that so
7 that I could work all around South Carolina and fly back to
8 Illinois and worked for various coroner offices around the
9 state of South Carolina. And so in 2022 when these cases
10 occurred, I was doing contract work for the Newberry
11 Pathology Group. So I was working for myself, but these
12 autopsies were for the Newberry Pathology Group, and they
13 paid me as a contractor.

14 Q. Now, could you give the ladies and gentlemen of
15 the jury the -- the names and the ID numbers of each victim?

16 A. Yes. So the way Newberry Pathology Group labels
17 the cases, each autopsy report and each case is going to be
18 assigned a unique number. And so the number consists of the
19 letters FA, which stands for forensic autopsy followed by the
20 year in which they were done. And then the -- it's a
21 sequential case number.

22 So for **W.G.**, the autopsy number was
23 FA22. It occurred in 2022-458. So that was the 458th case
24 that Newberry handled that year. For **I.P.** his number
25 was FA22-459. And then for **C.C.**, his number was

1 FA22-460.

2 Q. Do you recall what date did you perform these
3 autopsy?

4 A. They were all on June 29th of 2022.

5 Q. Now, were photographs taken to document your
6 findings?

7 A. Yes.

8 Q. And also to identify, were photos taken to
9 identify who you were doing the autopsy?

10 A. That's right.

11 Q. Okay. Do those photos help into help you into
12 describing the injuries that the individual sustained?

13 A. Yes.

14 Q. So let's first talk about -- well, methodically go
15 through each victim first starting with **W.G. [REDACTED]**. How
16 old was he at the time of the autopsy?

17 A. I have that he was 17 years of age.

18 Q. And could you describe Mr. Garrett by his clothes?

19 A. Yes. So the body came in, we will do X-rays and
20 also take photographs of them as is. And so I have that he
21 was wearing a gray T-shirt on the chest. I have blue denim
22 pants worn up to the upper thighs, and he had multicolored
23 boxer shorts worn underneath. I have black socks worn on the
24 feet, and then I have that a pink blanket and two flip flops
25 were recovered in the body bag.

1 Q. Did you happen to document like his hair or
2 facial?

3 A. Yes. So during the external exam, we'll do height
4 and weight, eye color, hair color, and I have that he was 140
5 pounds and measured 72 inches in length, or that's around 6
6 feet in height. His hair was black and fastened into -- into
7 braids, brown eyes. And he also had tattoos that we will
8 photograph as well.

9 Q. So can -- let's walk through. Can you tell us
10 what injuries overall did you find in Mr. Garrett during
11 autopsy?

12 A. Multiple gunshot wounds were identified on the
13 body.

14 Q. So can we go with each gunshot wound?

15 A. Yes, we can.

16 Q. So the first gunshot wound can you describe that
17 for us?

18 A. Yes. So the first one that I described, I called
19 it a -- it was a gunshot wound of the head. And the wound
20 was on the left side of the top of his head. I have that
21 there was no evidence of what we call close range firing.
22 And so when a gun is fired, you have to take into account
23 range of fire estimations.

24 And so when a gun is fired, you have the hot flame that
25 leaves the gun, the bullet leaves the gun. You also have

1 unburned gunpowder that will leave the gun. And you'll also
2 have burned gunpowder, which turns into soot like you see
3 that will stay in a -- a fireplace. And so all that leaves
4 the gun.

5 And so if you imagine a gun is touching the skin when
6 it's fired, that's a contact gunshot wound. You're going to
7 have burning of the -- the skin, you're going to have a soot
8 deposition on the skin.

9 The bullet's going to enter the skin. As you start to
10 pull the gun a couple inches away, the hot flame is not going
11 to reach the target. The soot is not going to be able to
12 reach the target, but the unburned gunpowder will be able to
13 reach the target and it's going to strike the skin. And
14 cause what we call stippling or gunpowder tattooing, is these
15 are red dots that form on the skin.

16 That's an up close and personal type gunshot wound.
17 When you get to around about two and a half to three feet
18 away from the target, the only thing that's going to reach
19 the -- the target is going to be the bullet. And so you're
20 not going to see the -- the burning of the skin. You're not
21 going to see tattooing and you're not going to see any kind
22 of soot deposition. And so we call that a distant range or
23 an indeterminate range gunshot wound.

24 And so in this wound here, since I did not see any kind
25 of soot or stippling or burning of the -- the wound defect,

1 it tells me that this is a distant or indeterminate range
2 gunshot wound. It was not contact or touching the skin. It
3 was not up close and personal. The best guess is that it was
4 at least -- at least two and a half to three feet away when
5 the trigger was pulled.

6 And the only way to prove exactly how far away the gun
7 was is to test fire the weapon, but you -- we can at least
8 come up with a range. I know it wasn't contact, I know it
9 wasn't up close and personal. I would give it at least two
10 and a half, three feet away from the body. And so that's
11 when I say there's no evidence of close range firing. That's
12 what I mean. It was not contact or up close. Yeah.

13 Q. Okay. So what -- what was the wound track?

14 A. The wound track is what the bullet went through.
15 And so I have that, it went through the scalp, it went
16 through the left parietal bone, which is part of your skull.
17 So it entered the -- went through the skull, entered into the
18 -- the cranial cavity where the brain is. It went through
19 the left side of the brain and it ended up in the right side
20 of the brain and -- and terminated and stayed within the
21 right side of the brain.

22 Q. Could you tell ladies and gentlemen of the jury,
23 what was the direction of the wound track?

24 A. I first need to describe anatomic position because
25 it's going to be important, so I -- may I describe that

1 first?

2 Q. Yeah.

3 A. Yeah, yeah. So anytime we describe wound track
4 direction, it's always a reference that we use. It's called
5 the anatomic position. And so if you imagine somebody
6 standing forward with their pants -- palms facing forward, we
7 base wound track directions based on this position right
8 here. We assume that everybody is going to be shot or
9 stabbed while they're standing in the anatomic position, even
10 knowing that that's not the case most of the time.

11 So if I have an entrance wound to the left side of the
12 head and the bullet was recovered on the right side of the
13 brain, the wound track is going downward and it's going from
14 my left to my right and do I have it going back to the -- it
15 wasn't going front to back or back to front, but that's how
16 we do it on -- on every case, even though we don't know
17 whether they were sitting down or -- or running or twisted or
18 any -- any sort of way. It's always with respect to the
19 anatomic position.

20 Q. Okay.

21 A. Yeah.

22 Q. And so in this, for -- for this gunshot wound --

23 A. That's right.

24 Q. -- so Mr. Garrett. Could you tell us the
25 direction of the wound track?

1 A. Left or right and downward.

2 Q. Now, was anything recovered in relation to this
3 gunshot wound?

4 A. Yes. So when the bullet went into the skull, it
5 started to break up into a bunch of pieces. And so I found
6 multiple pieces of that bullet within the wound track. And
7 we can see it on the X-ray, but there was a small piece found
8 right when it entered the skull. And there were two other
9 pieces found within the brain. So I just took all those
10 pieces together, collected them all, and I give bullets a
11 name whenever I find a bullet during the autopsy. And since
12 I found this bullet within the head, I called it projectile
13 head. And so it's going to be packaged into a projectile
14 container and then sealed with the label and then it's
15 transferred to law enforcement.

16 Q. Now, was this shot failed?

17 A. Yes.

18 Q. Let's move to the second gunshot wound.

19 A. Second gunshot wound involved the torso, which is
20 the chest, abdomen and the back. And it also involved his
21 left arm. I have that the entrance wound was on the right
22 chest, no evidence of close range firing. This wound track
23 was through skin and subcutaneous tissue. It went through
24 the right side of the ribcage. It went through the
25 pericardium, which is the fancy name for the -- the bag that

1 kind of holds the heart in place. So your heart just isn't
2 sitting there in the chest. It's got this protective bag
3 known as the pericardium.

4 So it went through that bag. It then went through the
5 pulmonary artery, which is this large blood vessel that
6 leaves the heart and takes blood to the lungs. And then went
7 through the other side of the pericardium, went through the
8 left lung, went through the left side of the rib cage, and
9 then it exited the body through, it's called the left axilla,
10 which is the left armpit region -- region essentially. That
11 bullet kept going and it reentered the skin of the left arm.
12 And then it just went through just some subcutaneous tissue
13 and then re-exited. So you have four defects from one shot,
14 entrance wound, exit wound, reentry wound, second exit wound
15 from that one shot.

16 Q. Is that -- is that why the term -- what would you
17 use the term complex with that?

18 A. I used the word complex for -- for other reasons
19 so that -- that wouldn't apply here.

20 Q. So what was the direction of wound track in the
21 second gunshot?

22 A. The wound was on the right chest and the exit was
23 to the left arm. So I have that it's going right to left and
24 front to back.

25 Q. Was this shot fatal?

1 A. Yes.

2 Q. Let's move to the third gunshot wound.

3 A. All right. Gunshot wound of the right arm. So I
4 have the entrance on the front or front side of the right
5 arm. This wound track went through skin and subcutaneous
6 tissue. It went through musculature of the right arm, and it
7 also went through the right humerus, which is the bone of the
8 right arm, and it fractured the right humerus and then it
9 exited the back of the right arm.

10 Q. Was this gunshot at indeterminate range?

11 A. It was, yes.

12 Q. Okay. Now, what was the direction of the wound
13 track?

14 A. Front to back and right to left.

15 Q. Let's move to the -- was this -- was this fatal?
16 Was this...

17 A. It would not have been instantly fatal. So if
18 this is the only wound he had, he could have survived
19 initially, but if for some reason he did not seek medical
20 treatment, it could have become infected and he could have
21 died like weeks later, but it would not have killed him right
22 then and there.

23 Q. Let's move to the fourth gunshot would.

24 A. That's also to the right arm. I have it also on
25 the lateral right arm. I have that this wound track went

1 through skin and subcutaneous tissue, muscular deter of the
2 right arm. This also went through the right humerus, and
3 then it also exited the posterior right arm.

4 Q. Now, was there evidence of close range firing?

5 A. No.

6 Q. What was the -- what was the direction of the
7 wound track?

8 A. Front to back and right to left.

9 Q. Was this a fatal shot?

10 A. It would not have been instantly fatal, no.

11 Q. Let's go to the gunshot number five.

12 A. Yeah, the fifth one I described. So this is a
13 situation where the bullet just kind of skims across the skin
14 and it was located on the front of his right arm. And so
15 this bullet just kind of grazed across. It's called a
16 grazing gunshot wound. It's very superficial, doesn't really
17 go through anything, doesn't perforate the body. And I can't
18 even tell which -- what the direction was. It's tough to do
19 with the grazing gunshot wound.

20 Q. About gunshot wound number six.

21 A. Number six, that one -- so this one is where I
22 have what we call superficial projectile fragment defects.
23 And so what this -- what happened with this wound here is
24 that the bullet leaves the gun, it hit an intermediate
25 target. I'm not sure what it was, but it broke up into a --

1 multiple pieces, multiple fragments, and those embedded
2 themselves into the lateral left thigh and cause small little
3 fragment defects on the lateral left thigh.

4 Q. And where -- where did you recover this
5 projectile?

6 A. So when we started taking the clothing off, they
7 fell out of the clothing and some of them were just already
8 in the body bag. And so what I think happened is the
9 fragments ended up into the thigh and then as we were taking
10 the clothing off, they fell out onto the body bag and out of
11 the clothing. So I collected all of them and put them all
12 together in one projectile container.

13 Q. Could you, for ladies and gentlemen of the jury,
14 describe a gunshot wound to number seven?

15 A. Number seven, that involved the back. I had that
16 was on the left back. That one was very superficial and it
17 just went through the skin of the left back, essentially. It
18 did not penetrate the body very deeply. Did not hit any
19 major organs. That would not have been an incident lethal
20 wound.

21 Q. Was it an indeterminate range or close range?

22 A. It was indeterminate, yes.

23 Q. What was the point -- you said it was superficial.

24 A. Superficial, yeah.

25 Q. And what -- do you know the direction of the wound

1 that was?

2 A. I have that it was upward and left to right.

3 Q. So finally, there were eight -- eight gunshot
4 wounds. Could you describe the eighth gunshot?

5 A. Yes. That one the entrance wound was on the left
6 abdomen. And I have that one went through skin and
7 subcutaneous tissue. It went through the liver, the stomach,
8 went through muscles of the right back and then it exited the
9 right back.

10 Q. What was the direction of wound track?

11 A. Front to back, left to right, and downward.

12 Q. Now, was this injury fatal?

13 A. It could have been, yes.

14 Q. Okay. Now, during your examination, did you see
15 any defensive wounds on **W.G. [REDACTED]**?

16 A. I did not.

17 Q. Going to show you -- show you.

18 MS. MORGAN: Your Honor, may I approach the bench?

19 THE COURT: Yes.

20 BY MS. MORGAN:

21 Q. So, doctor, I am showing you what has been
22 previously marked as State's Exhibits 13 through 22. Would
23 you please look at these photographs?

24 A. Okay.

25 Q. And do you recognize these photographs?

1 A. Yes.

2 Q. And why do you recognize these photographs?

3 A. They are copies of the photographs taken at
4 autopsy, and I'm matching it up to the case because I see in
5 each photograph you have FA22-458. That's the case number
6 that matches the case number in the autopsy report.

7 Q. And -- and does that number match to the victim,
8 W.G. [REDACTED] ?

9 A. Yes.

10 Q. Okay. I'm showing you what has been marked. Let
11 me just -- Defense. Showing you what has been marked as
12 State's Exhibit 23 and 24. Do you recognize these items?

13 A. Yes.

14 Q. And -- and why do you -- what -- why do you
15 recognize them?

16 A. They have the case label that Newberry Pathology
17 Group prepares, and it has the decedent's name. I see the
18 case number FA22-458. So these are the projectile containers
19 that I was talking about. And so I see the -- the one
20 projectile container that had all the fragments that we
21 recovered in the body bag and in the clothing. And then we
22 have the projectile, the pieces that are recovered from the
23 head.

24 Q. And so -- and once you retrieved these projectiles
25 from Mr. Garrett's body, what did you do with them and what

1 happens?

2 A. I have them photographed and then they're placed
3 into these containers and sealed, and then they get
4 transferred to law enforcement.

5 Q. Okay. And has -- has this been altered in any
6 way?

7 A. No.

8 MS. MORGAN: Your Honor, at this time, the State moves
9 to admit State's Exhibit 13, State's Exhibit 14, State's
10 Exhibit 15, State's Exhibit 16, State's Exhibit 17, State's
11 Exhibit 18, State's Exhibit 19, State's Exhibit 20, State's
12 Exhibit 21, State's Exhibit 22, State's Exhibit 23, and
13 State's Exhibit 24.

14 THE COURT: Is that without objection?

15 MR. MCKELLAR: No objection.

16 MS. MORGAN: Your --

17 THE COURT: So moved.

18 (State's Exhibits 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23,
19 24 admitted into evidence.)

20 MS. MORGAN: Your Honor.

21 THE COURT: Madam Solicitor?

22 MS. MORGAN: Request permission to publish to the jury.

23 Court's indulgence. So at this time, we'll just
24 publish just by way due to the jury State's Exhibit 23 and
25 24, the fragment that were removed from Mr. W.G.'s

1 body bag.

2 BY MS. MORGAN:

3 Q. Doctor, if you don't mind, will you just step
4 down?

5 A. Sure.

6 Q. Okay. And so, doctor, could you just briefly go
7 over the State's Exhibit 13 to the jury?

8 A. Yes. This is one of the first photographs we
9 take. After X-rays are obtained, the body bag is open and
10 we'll start the external examination. And so he's lying on
11 his back. And so the clothing that I talked about, that's
12 the gray shirt. Those are the boxer shorts that he was
13 wearing. You're looking at the upper -- upper part of his
14 body.

15 And you also see the two gunshot wounds to the right
16 arm that I talked about. So you have entrance wound --
17 entrance wound, and then the exit wound is going to be the
18 back -- back part of the arm. So you see two gunshot wounds,
19 the clothing, and see the tattoo that he had -- he had
20 tattoos on as well.

21 Q. So State's Exhibit 14?

22 A. All right. So we're looking at a close up here.
23 I also need to mention, see the case number at FA22-358.
24 That matches the case number in the autopsy report. This is
25 that grazing gunshot wound in the right arm that I was

1 talking about. So it was right elbows right here. His right
2 shoulder's going to be up there. And so the bullet just
3 skimmed across the skin. It didn't really enter the body or
4 into the skin, it just kind of breezed across like that or
5 like that. I can't -- I can't tell the direction the bullet
6 was going.

7 Q. State's Exhibit 15?

8 A. All right. Right here we're looking at his head.
9 And so I mentioned the -- the black braids that he had. And
10 so here's that entrance gunshot wound on the top of the left
11 side of his head. So the left side of his -- top of his head
12 is over here. And the right side of the area, you have a
13 round hole, and I don't see any sort stippling. And so this
14 is the in determined range gunshot wound, just like they all
15 were in this case. Left side of the top of the head.

16 Q. And that gunshot went to the back of the head. Is
17 that -- that was the fatal?

18 A. It was fatal yes, it was a fatal shot, yes.

19 Q. State's Exhibit 16?

20 A. This is the wound to the right chest that I
21 mentioned. It says right ankle right here. And there's the
22 entrance wound. It's around old shaped hole, the one that
23 went through the pericardium and the right pulmonary artery
24 to the left lung. This one ended up exiting and then going
25 further on into the left arm. And in this picture you also

1 see the interest wound, the left abdomen that I've talked
2 about, this when the lymph to the liver and the stomach, and
3 then it exited the -- the back.

4 Q. State's Exhibit 17?

5 A. Seventeen, so we're looking at the exit wound to
6 the right chest. And so that's located right here on the
7 left -- left side of his body. This is the left arm region,
8 the left axilla. This bullet then re-entered the skin of the
9 left arm and then re-exited the skin of the left arm. So you
10 have entrance to the right chest, exit to the left axilla,
11 re-entry to the left arm, then a second exit wound, or
12 re-exit wound, the left arm all from one shot.

13 Q. State's Exhibit 18?

14 A. Eighteen, we're showing the left side of his body.
15 So his left -- left pattern is right here. His left feet are
16 going to be down there. And this is the left thigh. So
17 these are these fragment defects that I talked about. So
18 bullets passed through, something broke up to a bunch of
19 pieces, and then they all embedded themselves into this --
20 into these small fragment defects. And then when we were
21 taking the clothing off as we're removing them from the body
22 bag, they fell out into the body bag and fell off from the
23 clothing so of course putting them into that container.

24 Q. State's Exhibit 19?

25 A. Nineteen, is that -- first of all, here's the exit

1 wound to the -- the right back. We had an entrance to the
2 left abdomen, and that's the one that went through the liver
3 and the stomach and then exited the right back. And then we
4 had this superficial gunshot wound that just kind of skimmed
5 just underneath the skin to the -- to the left back.

6 Q. State's Exhibit 20?

7 A. Twenty, is going to be a picture of the bullets
8 recovered from the head. And so as you can see, you have the
9 case number, you have the decedent's name, and then you have,
10 I named the projectiles and called the projectile head.

11 Q. State's Exhibit 21?

12 A. This one shows all those bullet fragments
13 recovering the clothing and the body bag. And these, I
14 believe were the ones that were embedded themselves in the
15 left thigh. And so as you took the clothing off and removed
16 the body from the body bag, they fell out into the body bag.
17 So I just collected them all together and I placed them in
18 this -- on -- on that container.

19 Q. And finally, for Mr. Garrett's, State's
20 Exhibit 22?

21 A. This is a picture of the X-ray of the head. This
22 is done before we even opened the body bag. And it's showing
23 the three projectile pieces that were recovered in the head.
24 So the entrance wounds going to be right around here
25 somewhere, actually more up here. And so you have a metal

1 fragment found right there. You have a metal fragment found
2 on the right side of the brain, and another larger piece down
3 the left side of the brain. Just took them all together and
4 placed it in the container.

5 Q. Okay. Thank you. Let's move on to [P. ██████████].
6 Now, for Mr. [P. ██████████], how -- how old was he when he --

7 A. I believe he was 16 years of age.

8 Q. And how long was he?

9 A. He measured 70 and a half inches of length. So
10 that's just under six feet and weighed approximately
11 220 pounds.

12 Q. Could you describe his clothing?

13 A. That's in a separate document. Sometimes the
14 clothing inventory does not make its way into my autopsy
15 report, and they're inventoried separately. That should be
16 in a separate property inventory sheet somewhere.

17 Q. So, doctor, before we -- before we move on to --
18 to [P. ██████████] --

19 A. Yes.

20 Q. -- we need to go back to, I'm sorry, to -- to Mr.
21 Garrett. You -- you, I'm sorry. You explained the injury
22 and you explained the gunshot --

23 A. Right.

24 Q. -- wound -- wounds, but I -- I didn't need to.
25 How many total gunshot wounds did Mr. Garrett have?

1 A. I think he had eight.

2 Q. He had eight gunshots?

3 A. He described eight, yes.

4 Q. And based on your examination, do you have an
5 opinion within a reasonable degree of medical certainty what
6 the cause of death was?

7 A. Multiple gunshot wounds.

8 Q. And do -- can -- with a reasonable degree of
9 medical certainty, can you tell the ladies and gentlemen of
10 the jury what the manner of death --

11 A. Yes.

12 Q. -- for Mr. Garrett was?

13 A. Can I first explain what manner of death is? Is
14 that allowed? So -- so cause of death is what took the
15 individual's life. And just discuss that. It's the multiple
16 gunshot wounds. Manner of death there's only five
17 possibilities. And so natural is a death due to old age or
18 disease. Accidental is the death is due to some type of
19 trauma or drug overdose in which it was preventable and
20 unforeseeable.

21 Suicide in which the individual takes his own life.
22 Homicide in which the death was due to the actions of another
23 individual. And then the fifth category is undetermined, and
24 that's just where we can't -- can't figure it out. And so in
25 case number 22-458, **W.G. [REDACTED]**, since the injuries are

1 sustained by another individual, the manner of death is
2 homicide.

3 Q. Okay. So just for clarity, thank you so much for
4 that.

5 A. Yes.

6 Q. For clarity, let's now move to [P. ██████████] again.

7 A. Sure.

8 Q. And I'll just ask you, how old was [P. ██████████] ?

9 A. Sixteen.

10 Q. Okay. And how -- how long was he again?

11 A. Seventy and a half inches of length and
12 220 pounds.

13 Q. Okay. And what injuries did [P. ██████████] have?

14 A. I found two gunshot wounds on [P. ██████████] .

15 Q. So can we walk through the first gunshot wound?

16 A. Yes. It was a gunshot wound of the right back.

17 Let's see. I have that it -- no evidence of close range
18 firing. I have that it went through skin and subcutaneous
19 tissue. It went through the rib cage, it went through the
20 right lung, it went through the spine, and then went through
21 the left jugular vein, which is this large vein in the neck.
22 You got two of them. And it drains blood from the -- the
23 brain and from the head. And then this one terminated in the
24 left shoulder. So I found a bullet associated with this
25 wound. And so I collected it and I labeled it, bullet left

1 shoulder.

2 Q. Now, what was the direction of the wound track?

3 A. Back to front, right to left, and upward.

4 Q. Was this shot fatal?

5 A. Yes.

6 Q. Let's go to the second gunshot wound.

7 A. Had -- he had a gunshot wound to the right arm. I
8 have that this one went through. It was not close range
9 firing. It went through the right third rib. So it went
10 through the rib cage. It went through the upper lobe, but
11 the right lung. So this one also went through the right
12 lung. This one passed through the aortic arch. And so the
13 aorta is that large blood vessel that leaves the heart and
14 takes blood to the rest of the body. It went through there.
15 It went through the left lung, and then it went through the
16 left side of the rib cage, went -- tracked its way through
17 the left armpit region. And this -- this one terminated
18 within the left arm. So I recovered a bullet for this wound
19 as well, and I labeled it bullet left arm.

20 Q. Now, what was the direction of this wound track?

21 A. Back to front, right to left, and downward.

22 Q. Was this shot fatal?

23 A. Yes.

24 MS. MORGAN: Showing Defense counsel.

25 BY MS. MORGAN:

1 Q. So, doctor, I am showing you what has been
2 previously marked as State's Exhibit 26, 27, 28, 29, 30, and
3 31. Would you please take a look at those photographs and
4 look at them?

5 A. So copies of the photographs taken at autopsy, and
6 then I see two projectile containers with the case number
7 22-459 one is labeled bullet left shoulder. The other was
8 labeled bullet left arm. And the bullets that were recovered
9 at autopsy.

10 Q. And so you testified early when you recovered
11 bullets from -- from Mr. Perry's body. What did you do with
12 those or those -- what did you do with those projectiles?

13 A. Photographed them, print the label, give them a
14 name, and then they are placed into these containers and then
15 sealed and then transferred to law enforcement.

16 Q. And so based on what you've just reviewed here in
17 court, are -- do these bullet these cases, do they match
18 Mr. Perry's autopsy?

19 A. Yes.

20 Q. And have they been changed or altered in any way?

21 A. No.

22 Q. Now, you reviewed the photos, why did you
23 recognize those photographs?

24 A. They have the case number FA22-459 in each of the
25 photographs, and they also have the decedent's name on the

1 bullet labels that I have.

2 Q. And are they a fair and accurate representation of
3 the photographs that were taken during the autopsy of
4 I.P. [REDACTED]?

5 A. Yes.

6 MS. MORGAN: Your Honor, the State moves to admit
7 State's Exhibit 26, State's Exhibit 27, State's Exhibit 28,
8 State's Exhibit 29, State's Exhibit 30, and State's Exhibit
9 31 into evidence.

10 THE COURT: Is that without objection?

11 MR. THOMPSON: No objection, Your Honor.

12 MS. MORGAN: Your Honor --

13 THE COURT: So moved.

14 (State's Exhibits 26, 27, 28, 29, 30, 31 admitted into
15 evidence.)

16 MS. MORGAN: -- the State wishes to publish the
17 evidence.

18 THE COURT: Certainly.

19 BY MS. MORGAN:

20 Q. Doctor, if you would, please, could you step down
21 for ladies and gentlemen of the jury again? Thank you. So
22 this is State's Exhibit 26. Could you please explain to
23 ladies and gentlemen of the jury?

24 A. Yes. So first of all, the case labeled FA22-459
25 that matches with the number and the autopsy report. So we

1 have the decedent lying on his left side in order to take the
2 photographs that we have. This -- his left ear is right
3 there. And so these are the two gunshot wounds that I
4 described in the report. The one to the left arm was located
5 right at the left shoulder. And then we have one down here,
6 which is actually on his, I'm sorry, the right arm. And this
7 is his right back. Did I say left earlier?

8 Q. Yeah.

9 A. It's okay. So right shoulder, right shoulder
10 right back. Sometimes people rights are less confused.

11 Q. State's Exhibit 28. I'm sorry, 27?

12 A. Yeah, picture of the X-ray. So we're looking at
13 his left arm now. So the bullets ended up in the left arm.
14 So that's the one to the -- that I called left shoulder. And
15 that's the gentile left arm.

16 Q. State's Exhibit 28?

17 A. Picture of the bullet to the left shoulder. So
18 that's labeled left shoulder bullets. That's the date of the
19 autopsy. That's the case number and that's the decedent's
20 name and that's the bullet right there.

21 Q. State's -- State Exhibit 29?

22 A. That's the one with the left arm. And so same
23 thing, the name of the bullet, case number, date of the
24 autopsy, and the bullets that was recovered.

25 Q. State's Exhibit 30?

1 A. That is the bullet that we see. And it is in the
2 container one on the left shoulder. I see left shoulder
3 within there case number is there and there is bullet.

4 Q. And State's Exhibit 31?

5 A. That is the bullets left arm. And so same thing
6 decedent's name, case number, and then the other bullet right
7 there.

8 Q. Now, thank you. You can have a seat. Did
9 I.P. [REDACTED] have any defensive wounds?

10 A. No.

11 Q. How many total gunshot wounds did he have?

12 A. Two.

13 Q. Now, based on your examination, do you have an
14 opinion with a reasonable degree of medical certainty what
15 the cause of death was?

16 A. Multiple gunshot wounds.

17 Q. Do you have an opinion with a reasonable degree of
18 medical certainty what the -- the manner of death was?

19 A. Homicide.

20 Q. Now, let's move on to -- finally to
21 Mr. C.C. [REDACTED]. How old was C.C. [REDACTED] when you
22 conducted the autopsy?

23 A. Sixteen.

24 Q. And how long was he?

25 A. He measured 71 inches in length, that's just under

1 six feet and was 150 pounds.

2 Q. Were there any signs of medical intervention?

3 A. Yes. So he actually made it to the hospital and
4 made it to the ER. Not sure if he actually made it to the
5 OR, but when the body arrived to us, he still had these
6 medical devices on him. ER's not supposed to remove them, so
7 this was all done properly, but he still had the -- the
8 breathing tube. It's called an endotracheal tube that was in
9 his mouth. It was known as a thoracotomy incision.

10 And so when somebody is shot or stabbed in the chest
11 they bring the patient to the ER and they will make a large
12 incision across the chest and open the chest up and try and
13 repair the heart or repair the lungs. And if they don't make
14 it before they come to the -- to the autopsy suite, the
15 surgeons will close the body up with suture.

16 And so I have a thoracotomy incision. It was closed
17 with suture and it extended from the right side of his body
18 all the way over to the left side. He had nasogastric tube,
19 and so that's just a tube to help provide nutrients. That
20 was in his oral cavity. Then he had IVs, intravascular lines
21 we have -- we found one on the right side of the neck. We
22 had lines that were fastened in both of his elbows.

23 We have these large IVs known as intraosseous
24 catheters. So instead of placing the IV in a vein, they'll
25 place it just directly in the bone. And those were in both

1 legs. EKG patch on the left chest, and then you had a
2 separate IV in the -- the right thigh.

3 Q. Now, if -- just generically, if a victim has
4 surgery and/or a blood transfusion, would that affect and
5 possibly affect that victim's DNA sample?

6 A. It could, yes.

7 Q. Now, what were the injuries you found on your
8 exam?

9 A. Multiple gunshot wounds.

10 Q. Can we go without through the gunshot wound?

11 A. Yes.

12 Q. Yes. So could you, for ladies and gentlemen of
13 the jury, explain the first gunshot wound?

14 A. That was to the left forearm and so the entrance
15 wound was on the front of the left forearm. The bullet
16 simply went through skin of subcutaneous tissue and it exited
17 the lateral left forearm. And I have that the wound track is
18 going from right to left.

19 Q. In -- in this case, was there any evidence of
20 close range firing?

21 A. No.

22 Q. Can we talk about, was that -- was that gunshot
23 fatal?

24 A. No.

25 Q. Okay. Let's move to the second gunshot wound.

1 A. Yes. That one involved the right upper extremity
2 and the back. And so this one, the entrance was on the tip
3 of the right shoulder. No evidence of close range firing.
4 This one went through the skin of subcutaneous tissue and
5 musculature of the right shoulder and the right back, and
6 then it exited the right mid-back. So that one just passed
7 through muscle and subcutaneous tissue would not have been
8 lethal and had the wound track direction as front to back,
9 downward, and right to left.

10 Q. Was anything recovered from that gunshot wound?

11 A. No. He had an exit wound.

12 Q. Okay. So let's move to the -- I -- I do believe
13 you said that that was not close -- was not close range --

14 A. No.

15 Q. Let's move to the third gunshot wound.

16 A. That one involved the torso. And so the entrance
17 wound was on the upper right chest. I have that this wound
18 track went through skin of subcutaneous tissue. It went
19 through the right side of the rib cage. It went through the
20 right lung and then it went through the rib cage. The back
21 of the rib cage, went through musculature of the back, and
22 then it terminated within the left back.

23 So this one would've been lethal. I have that a
24 projectile was recovered. I found it in the back. So I
25 called it projectile back. And so I would've photographed it

1 and placed it into the projectile container.

2 Q. What was in the right side of the wound track?

3 A. Back front to back, right to left, and downward.

4 Q. Can we move to the fourth gunshot one?

5 A. Yes. That one was on the right arm. I have that
6 it was on the lateral right arm. This bullet went through
7 skin and subcutaneous tissue. It went through the right
8 axilla. It went through the right side of the rib cage.
9 This one also went through the right lung, went through the
10 spine, and then it exited the skin of the left back. And so
11 we have the exit wound on the left back. This one was going
12 front to back, upward, and right to left.

13 Q. Was there any evidence of close range firing in
14 this gunshot?

15 A. No.

16 Q. Was this a fatal shot?

17 A. It -- it was a fatal wound, yes.

18 Q. And what was -- what was the wound -- wound track
19 again?

20 A. It went through the right armpit region, the rib
21 cage, the right lung, and then the spine, and then it exited
22 the left back.

23 Q. So, doctor, I'm showing you what has been
24 previously marked as State's Exhibits 32, 33, 34, 35, and 36.
25 All right. And carefully, I'm showing you State's Exhibit

1 37. You have to be very careful.

2 A. Okay.

3 MR. THOMPSON: I -- I apologize. Can you say again --
4 what?

5 MS. MORGAN: It's telling him to be careful because of
6 the open.

7 BY MS. MORGAN:

8 Q. State's Exhibit 37?

9 A. Okay. So I have copies of the autopsy photographs
10 and then the bullet that was recovered in the back and it's
11 in the bullet container and I have the case labeled. The
12 case number all matches. It should be 460 and it matches
13 everything.

14 Q. Okay. Now, once again, when you retrieve any
15 projectiles or bullets from the -- in the autopsy, what is
16 your procedure?

17 A. Photograph it, assign it a name, and then place it
18 into these projectile containers and then they get sealed and
19 then transferred to law enforcement.

20 Q. Okay. Now, as far as State's Exhibits 32 through
21 36, which are the photographs from the autopsy, are these a
22 fair and accurate representation of the photographs that you
23 took on the day of the autopsy?

24 A. Yes.

25 Q. Have they been changed or altered in any way?

1 A. No.

5 A. No.

10 THE COURT: Any objection?

12 THE COURT: So moved.

15 MS. MORGAN: Request permission to publish?

17 MS. MORGAN: Thank you.

19 Q. Doctor.

21 Q. Step down. So, doctor, let's start with State's

22 Exhibit 32. Could you please --

1 incision I'm talking about. So the ER put that there. And
2 when he was pronounced deceased, they -- they sewed the body
3 back up. Because that's all suture that's in there.

4 And this is the wound to the left forearm that I talked
5 about. So entrance wound was right here on the left forearm.
6 It just kind of went directly underneath the skin and then
7 exited the lateral part's of his left arm. So that's the
8 gunshot wound to the left arm. And you get the case number
9 as well matches it.

10 Q. State's Exhibit 33?

11 A. So we're now looking at the right side of his
12 body. And so the thoracotomy incision extended all the way
13 across his chest and then terminated on the right side of his
14 body. And so you can actually see three of the gunshot
15 wounds. The last three gunshot wounds that we're talk about,
16 there's the one on the right arm, right chest. And then
17 there's the other one that you can kind of, sort of see to
18 the right chest, but that's the entrance wound. The right
19 arm right there.

20 Q. State's Exhibit 34?

21 A. This is a picture of his upper -- upper chest. We
22 rotated it.

23 Q. Can you turn it down?

24 A. Well, I -- I need the head at the top of you.

25 Yes, exactly. All right. So his chin is right here. That's

1 the gunshot into the right chest that I was talking about.

2 Here's our case number and you see these three holes that --
3 what's going on here. So remember I described an IV in the
4 right side of his neck, so that's where the IV was.

5 All right. So these sites here where they tried to put
6 it -- place an IV, but were either unable to or just
7 couldn't. I decide attempts is what these are. And so this
8 one looks like a gunshot wound, but it's not. And so I
9 always document that an IV was there. We take the IV out,
10 then we take all the photographs and so that's what those
11 are. And then we have the case number that matches and then
12 the gunshot wound the right chest.

13 Q. So just for clarification, State's Exhibit 34
14 those are not gunshot wounds?

15 A. They --

16 Q. They're not gunshot wounds there. So we just need
17 to be clear for the jury.

18 A. There is one there.

19 Q. There is one there.

20 A. Well, to the right chest.

21 Q. To the right chest.

22 A. This is the gunshot wound. These are not.

23 Q. Okay.

24 A. These are all either IVs. An IV was actually
25 there when open the body bag. And these were where they

1 tried to place an IV right before he died.

2 Q. Okay. I just want to be clear that -- that does
3 show a gunshot wound. It's just the other wounds are not
4 gunshots wounds.

5 A. Correct.

6 Q. Okay. Thank you. State's Exhibit 35?

7 A. Here's the X-ray. So it -- right shoulders over
8 here. And then we have the -- that's the bullet that I found
9 in this case. It was in his left back right there.

10 Q. State's Exhibit 36?

11 A. That's a picture of the bullet. So we have the
12 case number that matches and that's the bullet that we
13 probably going to see from that right now.

14 Q. Okay. And finally, State's Exhibit 37?

15 A. So that's a picture of the bullet that we just
16 saw. So here it is right there. And then we have the name
17 of the bullet projectile back. We have the case number that
18 matches and you can see his name up there as well.

19 Q. All right. Thank you. Dr. Eason, did C.C. [REDACTED]
20 [REDACTED] have any defensive wounds?

21 A. No.

22 Q. And how many gunshot wounds that C.C. [REDACTED]
23 had?

24 A. Four.

25 Q. Based on your examination, do you have an opinion

1 within a reasonable degree of medical certainty what the
2 cause of death was?

3 A. Multiple gunshot wounds.

4 Q. Within a reasonable degree of medical certainty.
5 What was the manner of death of C.C. [REDACTED]?

6 A. Homicide.

7 MS. MORGAN: No further questions at this time.

8 THE COURT: Cross-exam?

9 CROSS-EXAMINATION

10 BY MR. THOMPSON:

11 Q. Dr. Eason the -- the deceased persons in this
12 case, 16 and 16 and 17 respectively?

13 A. Yes.

14 Q. But were all about six feet tall?

15 A. That's right.

16 Q. Weight somewhere between 140 to 220 pounds?

17 A. Correct.

18 Q. You -- when you -- when you talk about the -- the
19 different gunshots, I realize there's no -- there's no way to
20 talk about this other than labeling, okay, here's the first
21 gunshot. When here's the second gunshot. I -- I realize
22 there's no way to talk about that other than for you to say
23 this is the first one we're talking about, second one we're
24 talking about?

25 A. Right.

1 Q. But scientifically, there's no way to -- to
2 determine which one of these wounds is first or second or
3 third?

4 A. Correct. Yeah. I put a disclaimer. Should be in
5 all three reports. Let me double check. So I -- what I do
6 is I put the order in which the following wounds are
7 described as for convenience only, and does not necessarily
8 indicate the order in which they were sustained, nor is it an
9 indication of their severity. So that's just my way of
10 saying even though I'm listing this as gunshot wound number
11 one, it does not mean that this was the first one that
12 happened or the last one. I can't tell.

13 Q. So for instance, Mr. Garrett, I want to say your
14 testimony seven gunshot wound, Mr. Garrett?

15 A. Mr. Garrett had eight.

16 Q. Eight?

17 A. Eight.

18 Q. So there are eight gunshot wounds for Mr. Garrett.
19 I believe your testimony was that there were three of them
20 that would've been almost instantly fatal?

21 A. Correct. The one to the head, yeah.

22 Q. First one you talked about, and the second one you
23 talked about, I think the seventh one that you talked about.

24 A. That's the one that went through the liver.
25 That's right. Yes.

1 Q. So number one, number two, and number seven
2 would've been instantly fatal?

3 A. It's actually number eight.

4 Q. I'm sorry. Number eight would've been --

5 A. Number eight. Number eight, yes.

6 Q. -- fatal. But that doesn't mean that this person
7 was -- was shot in that order?

8 A. Correct.

9 Q. Some of these gunshot wounds could have been --
10 and in fact, for instance, the one with -- to the back of the
11 head for Mr. Carroll could have been him falling over as
12 maybe one of these other wounds?

13 A. Correct.

14 Q. Okay. Perfect.

15 A. Correct. I don't know the position of the body
16 when the shots were fired, which means I don't know the
17 position of the shooter when the shots were fired.

18 Q. Okay. It -- it -- like you said, there's --
19 there's a -- what was the name of the position of the body
20 that you assumed everybody?

21 A. Anatomic position.

22 Q. Anatomic position. But in fact, there's no way to
23 determine whether people are moving in which direction
24 they're moving in?

25 A. Correct.

1 Q. If they're reaching for -- there's no way to
2 determine?

3 A. Not an autopsy, no.

4 MR. THOMPSON: Okay. Beg Court's indulgence.

5 BY MR. THOMPSON:

6 Q. I guess the only other thing is in your testimony
7 is that -- that all of these gunshots are -- they're not like
8 up close execution style. All of these gunshots are
9 intermediate distance gunshots?

10 A. Indeterminate.

11 Q. Indeterminate?

12 A. Indeterminate instance.

13 Q. Indeterminate.

14 A. Yeah.

15 Q. Which -- which would mean not directly up on you,
16 but anywhere from maybe here to -- here to --

17 A. Right.

18 Q. -- maybe even here.

19 A. Not contact, not up close and personal. The best
20 guess is that the gun was at least two and a half, three feet
21 away up to infinity, yes.

22 MR. THOMPSON: Beg Court's indulgence.

23 I have no further questions.

24 THE COURT: Re-direct?

25 MS. MORGAN: Court indulgence.

1 THE COURT: Sure.

2 MS. MORGAN: Your Honor, based on that group of
3 questions, this witness may be excused.

4 MR. EASON: Thank you, Your Honor. Sure. I got
5 everything.

6 MS. MORGAN: All right. Judge, can we approach
7 briefly?

8 (Bench conference.)

9 MS. CHARBONNEAU: Ashley Meyer.

10 THE CLERK: Raise your right hand and place your left
11 on the Bible.

12 ASHLEY MEYER,

13 having been duly sworn, testifies as follows:

14 THE CLERK: State your full name spelling your last.

15 THE WITNESS: Spell my last?

16 THE CLERK: Yes, ma'am.

17 THE WITNESS: Good morning.

18 DIRECT EXAMINATION

19 BY MS. CHARBONNEAU:

20 Q. Good morning.

21 A. My name is Ashley Lauren Meyer. My last name is
22 spelled M-E-Y-E-R.

23 Q. Where do you work?

24 A. With the Aiken County Sheriff's Office.

25 Q. What is your job title?

1 A. I'm sorry, I couldn't hear you.

2 Q. What is your job title?

3 A. I'm a -- a patrol deputy.

4 Q. Have you ever been in the military?

5 A. Yes, ma'am.

6 Q. Which branch?

7 A. Air Force.

8 Q. And how many years?

9 A. Three.

10 Q. What was your job duty there?

11 A. I was security forces, which is similar to
12 military police.

13 Q. How long have you been in law enforcement all
14 total?

15 A. Total would be 13 years this coming February.

16 Q. Were you working on Sunday, June 26th, 2022?

17 A. Yes, ma'am.

18 Q. And were you -- tell us first of all, did you go
19 out to X26 Wadley Drive in Aiken?

20 A. Yes, ma'am.

21 Q. What time were you dispatched?

22 A. We were dispatched at 1323 hours.

23 Q. Is that 1:23 p.m.?

24 A. Yes, ma'am.

25 Q. Okay. And were you one of the first people to

1 arrive one of the first law enforcement to arrive?

2 A. Yes, ma'am.

3 Q. Is that within Aiken County?

4 A. Yes, ma'am.

5 Q. And is it within the Aiken County Sheriff's Office
6 jurisdiction?

7 A. Yes, ma'am.

8 Q. When you got there, what do you first see?

9 A. When I first arrived on scene, we saw three black
10 males that were unresponsive with what we call GSWs, which
11 are gunshot wounds.

12 Q. What did you do?

13 A. We secured the scene and rendered aid to these
14 individuals.

15 Q. Were all of them alive when you arrived?

16 A. No, ma'am. The two of them were pronounced dead
17 by EMS.

18 Q. When you -- tell us what secure the scene means?

19 A. So what it means is that we're making sure that
20 the scene is safe for EMS to come in and what we're also
21 doing is securing any evidence cordon -- doing like a cordon
22 area to make sure that nobody is essentially entering the
23 scene and disrupting any evidence on scene.

24 Q. The individual that was still alive, was he able
25 to speak to you?

1 A. No, ma'am.

2 Q. Was he responsive or conscious at all?

3 A. No, ma'am.

4 Q. Was anyone standing over the victims or right --
5 right close to them when you arrived?

6 A. No, ma'am.

7 Q. Did you see anyone take anything from the victims?

8 A. No, ma'am.

9 Q. Did any of the three victims, I.P. [REDACTED], W.G. [REDACTED]
10 [REDACTED], or C.C. [REDACTED], did any of them have any guns or
11 weapons on them or near them?

12 A. No, ma'am.

13 Q. When you pulled up initially on scene, was anyone
14 walking away from the victims?

15 A. No, ma'am.

16 Q. Were any of the three shooters on scene when you
17 arrived?

18 A. No, ma'am.

19 Q. And I am going to show you state's Exhibit 9. Do
20 you recognize it?

21 A. Yes, ma'am.

22 Q. Okay. And what is this a photograph of?

23 A. It is a still shot from my body camera footage.

24 Q. Explain to the jury what your body camera is?

25 A. A body camera is a recording device. When we're

1 -- anytime that we are on a call, we have to initiate it and
2 it records the interactions on our calls.

3 Q. And is this a still photo from -- from your actual
4 body cam video?

5 A. Yes, ma'am.

6 MS. CHARBONNEAU: At this time I move State's Exhibit 9
7 into evidence.

8 THE COURT: Any objection?

9 MR. THOMPSON: No objection.

10 THE COURT: So moved.

11 (State's Exhibit 9 admitted into evidence.)

12 MS. CHARBONNEAU: May I publish?

13 THE COURT: Yes.

14 BY MS. CHARBONNEAU:

15 Q. Deputy Meyer, is this how you found the three
16 victims when you arrived on scene on June 26, 2022?

17 A. Yes, ma'am.

18 MS. CHARBONNEAU: Thank you. I have nothing further.

19 THE COURT: Cross-exam?

20 CROSS-EXAMINATION

21 BY MR. MCKELLAR:

22 Q. Good afternoon, Deputy Meyer.

23 A. Good afternoon, sir.

24 Q. I only have a couple questions.

25 A. Yes, sir.

1 Q. You said you were dispatched at what time?

2 A. 1323 hours, which is 1:30 -- 23 p.m.

3 Q. 1:23 p.m. And what time did you arrive?

4 A. I arrived specifically at 1335 hours according to
5 my radio logs.

6 MR. MCKELLAR: Okay. No further questions.

7 THE COURT: All right. Any re-direct?

8 MS. CHARBONNEAU: No. Thank you.

9 THE COURT: This witness may now be excused. Please
10 watch your steps.

11 MR. MCKELLAR: Your Honor, I do have her letter
12 subpoena. I would ask that she be made available tomorrow.

13 THE COURT: Certainly. Because you are placed under
14 subpoena and we have to ensure that you will be available if
15 recalled to the stand.

16 MS. MEYER: Yes, sir.

17 THE COURT: Thank you.

18 MS. MEYER: Thank you.

19 THE COURT: All right. Ladies and gentlemen, at this
20 time -- ladies and gentlemen of the jury, at this time we
21 will recess and briefly in order to give you all a lunch
22 break. Let me remind you of a few things. Please do not
23 discuss this case with anyone including your fellow jurors.
24 While you are on break, do not attempt to do any type of
25 research in this case. We will give you all of the

1 information that you need in order to make a just verdict.

2 Mr. White, if you will escort the jury -- members of
3 jury to jury room.

4 (Jury exits courtroom.)

5 THE COURT: Please be seated. At this time I'm going
6 to break -- recess for lunch. We will reconvene back here at
7 1:45. If you do wish to observe (inaudible) please make sure
8 that you're back in the courtroom by 1:45 p.m., because we
9 will be locking the doors again at that point. So we're
10 excused. We'll stand down until 1:45.

11 (Off the record.)

12 THE COURT: Madam Solicitor, ready to proceed with your
13 next witness?

14 MS. MORGAN: Yes, Your Honor.

15 THE COURT: Mr. McKellar, are you ready to proceed?

16 MR. MCKELLAR: I am, Your Honor.

17 THE COURT: All right. Mr. White, can we bring the
18 jury in, please?

19 (Jury enters courtroom.)

20 (Sidebar conversation.)

21 THE COURT: All right. Please be seated. Ladies and
22 gentlemen of the jury, at this time we will resume the trial.

23 Madam Solicitor please call your next witness.

24 MS. MORGAN: Yes, Your Honor. The State calls Twaine
25 Carroll.

1 THE CLERK: (Inaudible)

2 TWAIN WAYNE CARROLL,

3 having been duly sworn, testifies as follows:

4 THE CLERK: State your name and spell your last name.

5 THE WITNESS: Twaine Wayne Carroll. Last name

6 C-A-R-R-O-L-L.

7 DIRECT EXAMINATION

8 BY MS. MORGAN:

9 Q. Good afternoon, Mr. Carroll. How are you?

10 A. Good afternoon.

11 Q. Mr. Carroll, are you married?

12 A. Yes.

13 Q. And do you have any children?

14 A. Yes.

15 Q. Okay. And you live here in Aiken County?

16 A. Yes, I do.

17 Q. And back in June of 2020 -- 2022, where were --

18 where were you living at that time?

19 A. X27 Wadley Drive.

20 Q. Okay. And who lived with you at that time?

21 A. My wife and kids.

22 Q. Did you have any family members that lived nearby?

23 A. Yes, my brother.

24 Q. Okay. And what is your brother's name?

25 A. Larry Carroll.

1 Q. Now did you have a -- did you have a sister that
2 lived nearby you as well?

3 A. She stayed up the road.

4 Q. Okay.

5 A. And she moved -- she moved now.

6 Q. Okay. So what does up the road mean? Does that
7 mean like --

8 A. The trailer up the road, like two trailers down
9 from my brother.

10 Q. Like a -- like a block?

11 A. Yeah, it wasn't even a block. It's the same
12 trailer park.

13 Q. Okay. So now, on June -- on that June 26, 2022,
14 can you tell us what you were doing on that afternoon?

15 A. Me and my brother Larry and Joshua Smith were
16 sitting out the yard with my nephew, W.G. and C.C. and my
17 stepbrother I.P., sitting out there talking about the old
18 days and laughing and having fun.

19 Q. Okay. So let -- let's back up. So you said you
20 were -- you were outside with -- how many people were outside
21 with you?

22 A. It was me, my brother, Josh, and C.C. W.G., and
23 I.P. .

24 Q. And who is Josh?

25 A. Pun. The one they call Pun.

1 Q. Okay. Do you know his last name?

2 A. Smith.

3 Q. Okay. Now, is -- is he related to you?

4 A. Yes.

5 Q. Okay. And how is -- how is Josh --

6 A. He's my cousin.

7 Q. Okay. And then you said who else was out there
8 with you?

9 A. My nephew C.C., my nephew W.G., and my
10 stepbrother I.P. .

11 Q. So your nephew C.C., is that C.C. ?

12 A. Yes, ma'am.

13 Q. Okay. And your nephew W.G. what's that --

14 A. W.G. .

15 Q. W.G. . And you said I.P. ?

16 A. I.P. . Yes.

17 Q. Now, what is I.P. ?

18 A. No, my stepbrother.

19 Q. That's your stepbrother?

20 A. Yes.

21 Q. Okay. Okay. And what were you all doing that
22 afternoon?

23 A. Sitting in the yard, laughing and talking about
24 the old days, having a good time.

25 Q. And were you all outside of the --

1 A. Yes.

2 Q. -- the residence? How long would you say you all
3 were outside of the residence?

4 A. Probably about an hour.

5 Q. Okay. During the time that you were outside, when
6 you said you were talking about old times?

7 A. Just sitting out there talking about when they was
8 little and how they done grown up and laughing about old
9 stuff.

10 Q. Okay. And so did there comes a time that some
11 other people came up to you all?

12 A. Yes.

13 Q. Do you recall who those people were?

14 A. My niece, Fantasia Carroll, my son Richard
15 Carroll, Antonio, Xay, Alvin, and Heavenly.

16 Q. Okay. So let's -- we're going to kind of just
17 slow it down just a little bit.

18 A. Yes, ma'am.

19 Q. Maybe I'm talking fast. Okay. So you said it --
20 Xay?

21 A. Yes.

22 Q. And do you know Xay's official name?

23 A. No, I do not.

24 Q. Do you see -- do you see Xay in the courtroom
25 today?

1 A. Yes, I do.

2 Q. Could you point to him and identify him by his
3 clothing?

4 A. Yes. He's right there on the end with a blue
5 jacket, white shirt, and a blue tie.

6 MS. MORGAN: Okay. Let the record reflect that the
7 witness has identified the Defendant.

8 BY MS. MORGAN:

9 Q. And who else was there?

10 A. Antonio, Xay, Fantasia, Richard Carroll, Heavenly,
11 Antonio.

12 Q. Okay.

13 A. And Alvin.

14 Q. Okay. And so is Alvin, Alvin Artis?

15 A. I guess that's his last name. I don't know.

16 Q. You didn't know his last name. Fantasia Carroll.

17 A. That's my niece.

18 Q. Okay. Antonio, do you know Antonio's last name?

19 A. Yes, I know Antonio.

20 Q. Do you know his last name?

21 A. No, I do not.

22 Q. Okay. Richard Carroll.

23 A. That's my son.

24 Q. Richard. And Heavenly Reedy?

25 A. She was talking to my son.

1 Q. And when you say this just defined, I'm talking
2 to?

3 A. It was going, they were going together.

4 Q. Right. An alternative?

5 A. Yes.

6 Q. That they were dating?

7 A. Yes.

8 Q. Okay. Now, was -- to your knowledge, was
9 Fantasia Carroll in a relationship with anybody in that
10 group?

11 A. Yes, the Defendant.

12 Q. Okay. And so were was Fantasia and Xabian Bailey
13 were they --

14 A. Her and Xabian was dating.

15 Q. They were dating. Okay. So I'm going to show you
16 what has previously been admitted as State's Exhibit 2. Do
17 you mind coming down off of the -- just wait one second. You
18 just orient to the jury so we can talk about that chart, the
19 relationship chart. Okay. So I will probably, I will just
20 point and then you can talk and just hopefully reorient
21 ourselves so we don't stand in front of the jury looking at
22 the -- so first we need to clear, so this is you here?

23 A. Yes.

24 Q. (Inaudible). Now, you and Larry Carroll, do you
25 -- do you share the same father?

1 A. No. Same mother.

2 Q. So you -- you both have the same mother?

3 A. Yes.

4 Q. And so, to be clear, are you -- are you cousins
5 with Xabian Bailey?

6 A. No. Supposed because I know, I don't know how.

7 Q. You don't know how?

8 A. Yes.

9 Q. But you were under the belief that you were
10 cousins with him?

11 A. Yes.

12 Q. And how long did you believe that you were cousins
13 with him?

14 A. I found out like a year and I believe some like
15 that.

16 Q. Okay. All right. Now, you see these people
17 depicted on the chart here?

18 A. Yes, ma'am.

19 Q. Were these the six people -- and I'll just name
20 them. Were these the six people that came up to you all when
21 you in the yard?

22 A. Yes.

23 Q. And that was Xabian Bailey, who you named as Xay?

24 A. Yes.

25 Q. Fantasia Carroll?

1 A. Yes, my niece.

2 Q. Does Alvin Artis any way relate to you?

3 A. No.

4 Q. Okay. And Antonio Jones?

5 A. He's supposed to be, but I don't look at it.

6 Q. Okay.

7 A. My mother's son.

8 Q. But you have information but not know how?

9 A. Yes.

10 Q. Richard Carroll?

11 A. That's my son.

12 Q. And Heavenly Reedy?

13 A. He was dating her.

14 Q. And he was dating her at the time?

15 A. Yes.

16 Q. Okay. Now, were you -- are you in any way related
17 to Joshua?

18 A. Yes.

19 Q. How are you related to Joshua Smith?

20 A. Yes, on my daddy's side. His -- his mother and my
21 father are cousins.

22 Q. Okay. And then of course, your brother here.

23 Now, were you related to **W.G. [REDACTED]**?

24 A. Yes, that's my nephew.

25 Q. Okay. So sometimes -- sometimes we can call

1 people our nephews. Is he nephew by blood or nephew by
2 "Love"?

3 A. By quote unquote blood.

4 Q. Okay. And then C.C. [REDACTED]?

5 A. That's my nephew.

6 Q. And that's your nephew?

7 A. (Inaudible).

8 Q. Okay. And I.P. [REDACTED], how is --

9 A. Step brother. My mother was married to his
10 father.

11 Q. Okay. I do believe that goes up the whole chart
12 as you know, it is for your family relationships.

13 A. Yes.

14 Q. So you knew these people as well as knowing these
15 people?

16 A. Yes.

17 Q. Okay. All right. Thank you. Now, your testimony
18 was that six people, you were out -- you were out in the
19 yard, you said, for about an hour?

20 A. Yes.

21 Q. Okay. And then -- so what if anything happened
22 when the six people that are depicted on the bottom or when
23 they walked up to you, what if anything happened at that
24 time?

25 A. They was talking and I was feeling to use the

1 bathroom on the side of the truck. And that's when I -- I
2 heard the shootings started.

3 Q. Do you recall how long, when they walked up prior
4 to some shooting?

5 A. No, I do not remember.

6 Q. Okay. Now, you said you were out -- outside an
7 hour with W.G. [REDACTED], with C.C. [REDACTED], and
8 I.P. [REDACTED]. At any time did you see them with weapons on?

9 A. No, I did not.

10 Q. Did you see any guns on them any time?

11 A. No, I did not.

12 Q. Were you -- were you all, or -- or were you aware
13 that the -- that Xabian Bailey, Fantasia Carroll, Alvin
14 Artis, your son, Heavenly Reedy, were you aware that they
15 were going to come to your --

16 A. No, we did not.

17 Q. Okay. And so once the shooting started, what
18 happened after that?

19 A. That's when they hit the ground. I heard them hit
20 the ground and I don't know how long it been since they left,
21 after they did the shooting, none of that.

22 Q. Did you have a gun that day?

23 A. No, I did not.

24 Q. To your knowledge, did your brother Larry have a
25 gun?

1 A. I heard -- I heard they found one in his truck,
2 but I do not know if they did.

3 Q. Did you see -- did you see a gun on Larry when --
4 when you all were just outside talking about old times?

5 A. No, I did not.

6 Q. Did you see a gun on Joshua Smith when you all
7 were outside?

8 A. No, I did not.

9 Q. So when the six of you were outside for that one
10 hour or what, however period it was, did you see guns on
11 anybody that was first at Larry's house?

12 A. No, I did not.

13 Q. Were you all standing in front of Larry's house
14 talking?

15 A. Yes.

16 Q. Okay. Do you know what -- when -- when this group
17 of six walked up, did you know what they were talking about?

18 A. No, I do not.

19 Q. Were they -- was -- was did any kind of fight in
20 suit? Was their fight --

21 A. No, they was talk -- they was talking and I seen
22 Alvin backing up with his hand in the back. That's when the
23 shooting started.

24 Q. Who was the first person that you saw?

25 A. Alvin.

1 Q. And can you describe how he was shooting?

2 A. The gun he had sounded like it belong in the
3 military.

4 Q. Can you say that a little louder, please?

5 A. The gun he had sounded like it belonged in the
6 military.

7 Q. What does military mean?

8 A. Like guns they have when they at war and the
9 service like a machine gun, the way -- the way the gun was
10 going off.

11 Q. So it sounded like a machine gun?

12 A. Yes.

13 Q. Okay. When Alvin Artis started shooting, what did
14 Xabian Bailey do?

15 A. He started running towards my house shooting at
16 C.C. [REDACTED], W.G. [REDACTED], and I.P. [REDACTED].

17 Q. And when you say he started running -- so when you
18 say he started running towards your house?

19 A. He was run -- doing like this shoot, running
20 towards my house.

21 Q. Okay. And did you see a gun in Xabian Bailey's
22 hand?

23 A. Yes, I did.

24 Q. If you recall, what was that gun -- was that a
25 rapid fire gun as well?

1 A. No, it was not.

2 Q. Okay. Did you see a gun in Antonio Jones hand?

3 A. Yes, I did.

4 Q. Do you recall if he was shooting or not?

5 A. I can't remember.

6 Q. Okay. Do you recall, was there a gun in Fantasia
7 Carroll's hand?

8 A. I didn't see her with no gun.

9 Q. If you recall, was there a gun in Richard Carroll?

10 A. I didn't see one in his hand either.

11 Q. Did you see a gun on Heavenly?

12 A. No, I did not.

13 Q. What happened after the shooting?

14 A. I was shook up. I went in the house and the
15 police came and knocked on the door. That's all I remember.

16 Q. Did there comes a time that Xabian Bailey tried to
17 enter your home?

18 A. He tried to run in there, but my kids shut the
19 door.

20 Q. Okay.

21 A. Because they was trying to come out the door and
22 see what was going on.

23 Q. And what happened after they closed the door?

24 A. He took off running. I don't know which way he
25 went, but he took off running.

1 Q. After the shooting, who -- who got shot that day?

2 A. W.G. [REDACTED], C.C. [REDACTED], and I.P. [REDACTED].

3 Q. And what was the -- what -- how was W.G. [REDACTED] after
4 the shooting? Was he alive?

5 A. No.

6 Q. What about I.P. [REDACTED]?

7 A. No.

8 Q. What about, you call him C.C. [REDACTED], but what about
9 C.C. [REDACTED]?

10 A. Yes, he's trying to go check crawl and check on
11 him.

12 Q. He was trying to crawl and check on?

13 A. Larry. I mean, C.C. [REDACTED], W.G. [REDACTED], and I.P. [REDACTED].

14 Q. Okay. Did you -- did you see this? Did you --

15 A. Yes, I did.

16 Q. And so, did at -- at any time, did you -- did
17 anybody take anything away from them?

18 A. No, not to my knowledge.

19 Q. Did you see anyone take a weapon or anything --

20 A. No, I did not.

21 Q. -- any of them?

22 A. No, I did not.

23 Q. After the shooting, where did the -- where did the
24 -- you said that Xabian Bailey ran away. What -- what did
25 the other five people do?

1 A. They took off too.

2 Q. Now, did Fantasia take off as well?

3 A. She -- no, she stayed and rode to the hospital
4 with my brother to check on C.C. .

5 Q. Okay. Could you say, when the shooting started
6 did you -- how close would you say everyone was when the
7 shooting started?

8 A. I really don't know. I was trying to take off so
9 I wouldn't get hit.

10 Q. When they first came -- when the six, when -- not
11 they, but when the six people, Xabian Bailey, Fantasia
12 Carroll, Alvin Artis, and Antonio Jones, and Richard Carroll
13 and Heavenly, when they walked up and you all were talking or
14 they were talking, how far would you say they were from each
15 other when they initially walked up?

16 A. I really can't say.

17 Q. Okay. Did you ever -- after the shooting, did you
18 see anyone else take anything off the victim?

19 A. No, I did not.

20 Q. Do you believe that I.P. and -- did -- did it
21 appear, not believe, but did it appear that I.P. and W.G.
22 died instantly?

23 A. Yes.

24 Q. At any time, was C.C. able to get up off the
25 ground?

1 A. No. They made him be still because he was
2 bleeding real bad.

3 Q. Was he able to say anything?

4 A. He was trying to talk, but they told him just to
5 relax because the paramedics was on the way.

6 Q. Were you there when the -- when the police first
7 arrived?

8 A. Yes, I was.

9 Q. Okay. And did -- at any time, did you talk to the
10 police that day?

11 A. Yes, they came and talked to me.

12 Q. Now, did there come a time that the police
13 searched your home?

14 A. Yes, they did.

15 Q. Did they search your home? Do you know -- do you
16 recall when they searched your --

17 A. I don't know what day they searched, but they
18 searched my home.

19 Q. Okay. And now, did they find any guns in your
20 home?

21 A. No, they did not.

22 Q. Did you give the police the names of the shooters?

23 A. Yes, I did.

24 Q. Okay.

25 MR. MCKELLAR: Your Honor, we have a matter --

1 THE COURT: All right. Can you please excuse the jury
2 to the jury room?

3 (Jury exits the courtroom.)

4 THE COURT: All right. Please be seated.

5 MR. MCKELLAR: Your Honor, we just heard for the first
6 time that Mr. Twaine's Carroll's house was searched. That
7 is, to my knowledge not mentioned anywhere in discovery. And
8 I've consulted with my Co-Counsel and Counsel for Alvin Artis
9 attorneys. They're not aware that any mention in discovery
10 of his house ever being searched. Now, if that's true, that
11 would be it happen. I believe that would be a discovery
12 violation.

13 THE COURT: Okay. Madam Solicitor?

14 MS. CHARBONNEAU: Judge, I've always known that that
15 house was searched, so I'm not sure, I can't point to
16 something standing right here right now as far as how it was,
17 but that's something that I've always known. He gave verbal
18 consent. It was the day that he did his photo lineup. So
19 whatever date is on his photo lineup was the day that they
20 searched his home. Investigator Neel was the one who did it.

21 THE COURT: All right. Mr. McKellar, can you help me
22 understand the significance to -- to your defense with
23 regards to the home being searched?

24 MR. MCKELLAR: Well, Your Honor, the theory of the
25 defense is that the guns have moved and moved into Twaine's

1 house.

2 THE COURT: How --

3 MR. MCKELLAR: There no mention to my knowledge
4 anywhere discovery of this house searched.

5 THE COURT: All right.

6 MS. CHARBONNEAU: It was not searched the day of -- I
7 have -- I would have to look at the photo lineup.

8 MS. MORGAN: And I -- I may -- maybe I need to -- I
9 believe that the witness said he didn't -- he didn't know
10 when it was searched, but it was searched. So there was no
11 indication that it was a search on the day. And there is no
12 search warrant that would've been given to defense counsel in
13 discovery that the -- that the house was searched, I mean, if
14 he's saying that's --

15 THE COURT: Sir, is there any documentation that, and I
16 believe that's what you're asking for.

17 MR. MCKELLAR: Right. I'm not aware of any, I mean, it
18 is a huge file and it is possible that I missed it, but I
19 don't think I have, and I don't think any -- we've talked to
20 other lawyers who they don't recall seeing. I don't think
21 it's there. If the house was searched, that's a significant
22 omission not to self Defense counsel that it was searched.
23 Especially when they know when the State knows, when law
24 enforcement knows that witnesses are putting the guns inside
25 his house.

1 THE COURT: All right. And so what -- what I'm going
2 to do, I'm going to stand down for a few moments. Let me ask
3 another question. Is there -- and maybe that's what your
4 investigator's trying to determine now, if there's any
5 documentation, please determine if there is any documentation
6 as to whether or not there was a search. And so we'll stand
7 down for just a few moments and allow --

8 MS. MORGAN: I do believe in -- even in motions
9 yesterday that he talked about his house being searched. I
10 may be wrong.

11 THE COURT: I'm going to ask. Mr. Carroll.

12 THE WITNESS: Yes.

13 THE COURT: I'm going to ask Mr. Carroll to remain on
14 the stand for right now.

15 Do you need to use the bathroom?

16 THE WITNESS: No. No.

17 THE COURT: Okay. All right. And so we'll -- we'll
18 ask Mr. Carroll to remain on the stand for the time being.
19 Mr. Carroll I'm required to caution you that -- while you are
20 still an open witness on the stand that you cannot consult
21 with a member of the solicitor's team, but this will be a
22 brief -- this will be a brief break. All right. So we'll
23 stand down for just a few minutes to go off the record.

24 (Off the record.)

25 THE COURT: All right. Mr. McKellar, just to address

1 your objection.

2 MR. MCKELLAR: I have for another motion in addition.

3 THE COURT: All right. And so I'll address that motion
4 -- excuse me, that -- that objection first. And I wanted to
5 take a brief moment to do a bit of research with regards to
6 the Brady motions. Brady motion, which I assume is what
7 you're referring to. What are you referring to?

8 MR. MCKELLAR: No, Your Honor. I wouldn't be Brady. I
9 think Brady just applies to exculpatory.

10 THE COURT: It does.

11 MR. MCKELLAR: I think this would be a Rule 5 violation
12 --

13 THE COURT: Okay.

14 MR. MCKELLAR: -- evidence held by the State that was
15 not given to the Defense. And because of that, and he --
16 they -- they have information, the State gave me transcripts
17 of Fantasia Carroll saying to Investigator Neel that those
18 guns were collected from **W.G.**, **I.P.**, and **C.C.**, and they were
19 put in my Uncle Twaine's house. And there is nothing in the
20 record in discovery that disputes that with the exception of
21 the three eyewitnesses saying there are no guns.

22 THE COURT: Say -- run that by me again, Mr. McKellar.
23 The -- the solicitor's office gave you what?

24 MR. MCKELLAR: So there is a transcript of
25 Fantasia Carroll speaking to Investigator Neel.

1 THE COURT: Okay.

2 MR. MCKELLAR: Okay. And Fantasia Carroll tells
3 Investigator Neel and I will read it verbatim. I can find
4 it. I'm just -- change the page.

5 THE COURT: Sure. She tells them that the guns were
6 hidden in her uncle's house.

7 MR. MCKELLAR: She says, "My dad, before you all got to
8 the scene, he hid my cousin's handguns." Excuse me, it's not
9 Investigator Neel I apologize it is Investigator Williams.
10 And he says -- and she says, "Where are they at?" He says,
11 "At my uncle's house." She says, "Okay, which uncle?"
12 "Twaine." And she says, "Is that on Wadley Drive?" She
13 says, "Uh-uh that's the one across the street from my dad's
14 trailer."

15 So the evidence that we were going to present was that
16 the guns were collected from W.G. [REDACTED], I.P. [REDACTED], C.C. [REDACTED] -- C.C. [REDACTED] and
17 that they were hidden and they were hidden in the Uncle
18 Twaine's house. And that's why law enforcement never found
19 them, because law enforcement never searched. We never knew
20 they searched the house. There's nowhere in -- in the
21 documentation that the house was searched. And I built this
22 entire defense upon the guns being removed.

23 THE COURT: Off of the transcript from Fantasia?

24 MR. MCKELLAR: Along with, you mean in a -- yes and
25 additional witnesses, but the -- the cornerstone of this

1 defense is that there were guns and that they were hidden.
2 And there was nothing in the discovery that disputed that.
3 And it is in discovery that they were hidden. And there's
4 nothing in discovery that says they worked with them. They
5 searched the house for the guns to be found. That is a vital
6 piece of evidence. It completely was --

7 THE COURT: So this is a -- this is a search that was
8 -- this was a search that was no search warrant. This is a
9 consented to search (crosstalk).

10 MS. CHARBONNEAU: This is a verbal consent. And it's
11 the same day that he gave the photo lineup, which is three
12 days later, which doesn't change the defense. Because in
13 three days anything could happen. We've already put on
14 testimony that there were no guns to hide.

15 And we have witnesses that will rebut anything that
16 Fantasia Carroll says. So that's going that way. But,
17 Investigator Neel did not take Fantasia's statement. It was
18 Faulkner and Williams. And his testimony to, Your Honor,
19 would be that at the serna motion for Mr. Bailey, which took
20 place on 4/18/24, he was specifically cross-examined by Mr.
21 McKellar during the serna motion. And he testified that
22 Twaine Carroll's house was searched not on the day of the
23 incident, it was searched. He was asked what day he said he
24 did not recall. While he was on the stand, he said he did
25 not recall the exact date, but it was not the date of the

1 incident. It was several days later.

2 So as of April 18, 2024, although it's not documented
3 in a search warrant, because there was no search warrant, it
4 was relayed to the defense during that motion.

5 THE COURT: Okay. Mr. McKellar?

6 MR. MCKELLAR: I don't have any recollection. I'm not
7 saying he did not say it, but I have no recollection of him
8 saying that house was searched. I clearly would not have
9 built this defense around that house not being searched if, I
10 mean.

11 THE COURT: I understand. All right. But
12 Mr. McKellar, my -- my ruling still remains the same even
13 after hearing that this is a Rule 5 discovery motion, excuse
14 me, an -- an objection under the belief that this is a Rule 5
15 discovery violation. I do not believe that it is.

16 I do believe that whatever defense you built from a
17 statement of one witness or several witnesses, this was a
18 warrantless search. And so I do not believe that the
19 discovery four five still was violated in any way. I am
20 going to allow them to continue questioning Mr. Carroll.

21 THE WITNESS: Yes.

22 THE COURT: But you -- you said that you had another
23 motion, Mr. Carroll.

24 MR. MCKELLAR: Your Honor, just to perfect the record I
25 would move for a mistrial on the basis of the State not

1 providing any documentation of this house ever searched.

2 THE COURT: All right. Madam Solicitor any response to
3 the motion for mistrial?

4 MS. MORGAN: Your Honor.

5 MS. CHARBONNEAU: Judge, this was -- this was cured as
6 of the serna motion back in April of 2024. If there was any
7 violation as of the date that Investigator Neel testified
8 under oath that his house was searched, just not on the day
9 of the incident. Any -- any inadvertent violation would've
10 been cured on that day.

11 THE COURT: Thank you, Madam Solicitor.

12 Mr. McKellar, I'm going to deny the motion for
13 mistrial. I am going to make sure that -- that is documented
14 in record. Your motion for mistrial.

15 MR. MCKELLAR: Thank you, Your Honor.

16 THE COURT: All right. Mr. White, can you please bring
17 in the jury?

18 (Jury enters courtroom.)

19 THE COURT: Please be seated. Thank you. Ladies
20 gentlemen of the jury, we'll resume questioning at this time.

21 Madam Solicitor?

22 MS. MORGAN: Thank you, Your Honor.

23 BY MS. MORGAN:

24 Q. So, Mr. Carroll, you said that the police searched
25 your house?

1 A. Yes.

2 Q. And do you -- do you recall -- did they search
3 your house the day of the incident?

4 A. No, they did not.

5 Q. Okay.

6 A. Not the day of. I can't recall what day it was,
7 but it wasn't the day of.

8 Q. Okay. When they searched your home did they find
9 any --

10 A. No, they did not.

11 Q. Okay. Did you take any weapons off the --

12 A. No, I did not.

13 Q. Did you ever hide any weapons?

14 A. No, I did not.

15 Q. Did you hide any weapons in your home on the
16 request of your brother?

17 A. No, I did not.

18 Q. Did you hide any weapons in your home from that
19 incident on the request of anyone else?

20 A. No, I did not.

21 Q. Now, when the six people approached, did any of
22 them, did they have masks on?

23 A. No, they did not.

24 Q. Did you recognize all of them?

25 A. Yes, I did.

1 Q. Did you know all six of these people prior to the
2 shooting?

3 A. Yes.

4 Q. Now, did there come a time that the police, they
5 gave you a photo array?

6 A. Yes, they did.

7 Q. Okay. Mr. Carroll, I am showing you what has been
8 previously marked as State's Exhibit 40, and we're going to
9 go through that one first. Do you recognize this exhibit?

10 A. Yes.

11 Q. And why do you recognize this exhibit?

12 A. That's Alvin.

13 Q. Okay. Now, are these your initials here?

14 A. Yes.

15 Q. On the second page of Exhibit 40.

16 A. "He had a gun. He was shooting at W.G. [REDACTED], I.P. [REDACTED],
17 and C.C. on Sunday."

18 Q. Right. So before you -- you -- I just want to ask
19 you questions about the exhibit first. So did -- did you
20 write your name here?

21 A. Yes, I did.

22 Q. And did you write that statement that you just
23 read?

24 A. Yes, I did.

25 Q. And what date was -- did that occur?

1 A. 6/26/2022.

2 Q. Okay. And is this your signature here?

3 A. Yes.

4 Q. Okay. And when the police showed you this photo
5 array, did anyone coerce you or --

6 A. No.

7 Q. -- or pressure you to pick out a person?

8 A. No.

9 Q. Was there any promises made --

10 A. No.

11 Q. -- to pick out a person? And so this is fair and
12 accurate?

13 A. Yes.

14 Q. And has not been changed. So let's move to State
15 -- and who is this person?

16 A. Alvin.

17 Q. Okay. Now, showing you what's been previously
18 marked as State's Exhibit 41, will you take a look at that?

19 A. Yes.

20 Q. And do you -- do you recall this photo right?

21 A. Yes, I do.

22 Q. Are these your initials here?

23 A. Yes.

24 Q. Do -- did you -- this second sheet, did you fill
25 this sheet?

1 A. Yes, I did.

2 Q. And is this your name?

3 A. Yes.

4 Q. And is this your handwriting here?

5 A. Yes, it is.

6 Q. And what is said in this writing?

7 A. Yeah. "Antonio and there was shooting at C.C.,
8 W.G., I.P. on Sunday."

9 Q. And is this your signature here?

10 A. Yes, it is.

11 Q. And is it a fair and accurate representation?

12 A. Yes, it is.

13 Q. Has it been altered in any way?

14 A. No.

15 Q. Did anyone coerce you to --

16 A. No.

17 Q. -- make this mark?

18 THE COURT: Hold on one second.

19 Mr. Carroll, feel that let her finish is hard for my
20 court reporter.

21 MS. MORGAN: Too fast.

22 THE COURT: To get both of you.

23 THE WITNESS: All right.

24 THE COURT: You all going just a little fast.

25 MS. MORGAN: Okay.

1 THE COURT: If we could slow down just a bit. So the
2 record can be recorded.

3 BY MS. MORGAN:

4 Q. Okay. So this is a fair and accurate
5 representation of what you saw --

6 A. Yes.

7 Q. -- on June? And did anyone coerce you to make
8 this -- to make this identification?

9 A. No.

10 Q. Did anyone point you to the person to pick out for
11 this identification?

12 A. No, ma'am.

13 Q. Did anybody promise you anything?

14 A. No, ma'am.

15 Q. Okay. Showing you what has been previously marked
16 as State's Exhibit 42. Do you recognize this photo array?

17 A. Yes, I do.

18 Q. Are these your initial sheet --

19 A. Yes.

20 Q. -- on the --. Has it been altered or -- in any
21 way?

22 A. No, ma'am.

23 Q. Is it a fair and accurate representation --

24 A. Yes.

25 Q. -- of what you saw that day? Now, for the second

1 page, what -- is this your name here?

2 A. Yes, it is.

3 Q. Did you fill out this document?

4 A. Yes, I did.

5 Q. And what did it say?

6 A. "Xay was shooting at C.C., W.G., and I.P. on
7 Sunday."

8 Q. And what is the date?

9 A. 6/26/22.

10 Q. And is this your signature?

11 A. Yes, it is.

12 Q. And once again, no one coerced you to make this
13 identification?

14 A. No.

15 Q. Did anybody make a promise to you?

16 A. No.

17 Q. Did anybody point you to the person that you
18 should choose?

19 A. No.

20 MS. MORGAN: Your Honor, based on that representation,
21 the State seeks to admit State's Exhibit 40, 41, and 42.

22 THE COURT: Any objection?

23 MR. MCKELLAR: No objection, Your Honor.

24 THE COURT: So moved.

25 (State's Exhibits 40, 41, 42 admitted into evidence.)

1 MS. MORGAN: Request permission to publish to the jury.

2 THE COURT: Yes.

3 BY MS. MORGAN:

4 Q. So, Mr. Carroll, if you don't mind, would you
5 please step down? So could you just show ladies and
6 gentlemen of the jury who you picked out in this photo? And
7 it State's Exhibit 40 and it's lineup A. Could you show
8 ladies and gentlemen of the jury who you picked up?

9 A. Alvin.

10 Q. Okay. And that was a fair and accurate
11 representation. Okay. Could you turn to the second page of
12 that? And is that your testimony that this is your
13 handwriting?

14 A. Yes.

15 Q. Is that the statement you wrote on that?

16 A. Yes.

17 Q. When the police showed. Okay. Thank you.

18 State's Exhibit 41?

19 A. Antonio.

20 Q. Are those your initials there?

21 A. Yes.

22 Q. And that is the date that you signed it?

23 A. Yes.

24 Q. Please turn the second page. Now, is this your
25 handwriting?

1 A. Yes, it is.

2 Q. And this is?

3 A. What I wrote.

4 Q. And this is the statement you wrote?

5 A. Yes.

6 Q. And is that your signature?

7 A. Yes.

8 Q. Okay. Thank you. And State's Exhibit 42?

9 A. Xay.

10 Q. And by Xay you mean Xabian Bailey?

11 A. Yes.

12 Q. Is this the statement you wrote?

13 A. Yes, I did.

14 Q. Okay. And you identified him as being one of the
15 shooters --

16 A. It is.

17 Q. -- that day?

18 MS. MORGAN: Okay. No. You -- no further questions --
19 no further questions at this time.

20 THE COURT: Cross-examination?

21 CROSS-EXAMINATION

22 BY MR. MCKELLAR:

23 Q. Good afternoon, Mr. Carroll.

24 A. Good afternoon.

25 Q. Your son is Richard Carroll?

1 A. Yes.

2 Q. And at the time of this incident, your son was
3 dating Heavenly Reedy?

4 A. Yes.

5 Q. And your niece is Fantasia Carroll?

6 A. Yes.

7 Q. Correct? And her boyfriend was Xabian?

8 A. Yes.

9 Q. And Richard was welcome up to your home, correct?

10 A. Yes, he --

11 Q. Did -- did he live there at the time?

12 A. No, he did not.

13 Q. But he was welcome?

14 A. Yes, he was at one time.

15 Q. And Fantasia was welcome to your home, correct?

16 A. Yes, at one time

17 Q. Before the time of the incident and leading up to
18 the --

19 A. Yes -- yes -- yes

20 Q. Please let me finish the question. And Xabian was
21 welcome to your home leading up to the incident; is that
22 correct?

23 A. Yes.

24 Q. Your house -- your home is on Wadley Drive,
25 correct?

1 A. Yes.

2 Q. And all of the trailers that are on Wadley Drive
3 are on the same piece of property; is that correct?

4 A. Yes.

5 Q. Family property?

6 A. No.

7 Q. Okay. But it's the same piece of property?

8 A. Yes.

9 Q. And Larry's home faces your home?

10 A. Yes.

11 Q. And so on the day of this incident, you would've
12 not had any problem with Fantasia, your niece, your son, and
13 Xabian coming to your house?

14 A. Say that again.

15 Q. At the time of this incident, you would've had no
16 problem with Fantasia, Xabian, and Richard coming to your
17 house?

18 A. They couldn't come to my house when they was with
19 Richard.

20 Q. Okay.

21 A. Because me and him was -- me and him had a fall
22 out. So that was ended. That was canceled.

23 Q. At the time -- at the time could they come? I'm
24 -- I'm not -- I'm not trying to trip you up. I just don't
25 know. I'm understanding what you're telling me.

1 A. What I'm saying, but -- but even before this
2 happened, they couldn't have came. Because me and Richard
3 wasn't getting along at all.

4 Q. So at the time this incident got over -- got over
5 with Richard?

6 A. Yeah, I have -- I have.

7 Q. Okay. I misunderstood you. What about Fantasia?

8 A. If they was with Richard, they couldn't come to my
9 house.

10 Q. Now, again, I'm not trying to give you a hard
11 time, but you previously testified that your memory is not
12 good?

13 A. Is --

14 Q. Can you tell -- tell me about?

15 A. Because I got hit by a paramedics.

16 Q. You got hit by a paramedic?

17 A. Yes, I did.

18 Q. An -- an ambulance?

19 A. Yes.

20 Q. Sorry. When was this?

21 A. I can't remember when it happened, but I know it
22 been about six years now.

23 Q. Six years. Now, you said your house was searched?

24 A. Yes, it was.

25 Q. But it was not searched on the day of the

1 incident?

2 A. No, it was not.

3 MR. MCKELLAR: Beg the Court's indulgence.

4 BY MR. MCKELLAR:

5 Q. One last question. You're close -- your house is
6 close to Larry's, right?

7 A. Yes.

8 Q. And you could throw a rock and hit it probably
9 from your doorstep, right?

10 A. No, it ain't that close.

11 MR. MCKELLAR: Not that close. I've have no questions.
12 Thank you.

13 THE COURT: Any re-direct?

14 RE-DIRECT EXAMINATION

15 BY MS. MORGAN:

16 Q. Yes, Mr. Carroll, briefly. On June on the day of
17 the incident.

18 A. Uh-huh.

19 Q. Were you expecting to see those other six people
20 join you?

21 A. No.

22 Q. As to your knowledge, were they invited to join
23 you?

24 A. No.

25 MS. MORGAN: Okay. No further questions.

1 THE COURT: Okay. Any re-cross?

2 MR. MCKELLAR: No, Your Honor.

3 THE COURT: This witness may be excused.

4 Mr. Carroll watch your steps.

5 MR. T. CARROLL: Yes, ma'am.

6 THE COURT: The State may call it's next witness.

7 MS. MORGAN: Your Honor, the State calls Yolanda
8 Miller.

9 THE COURT: It is number six. Do you know?

10 Number four. Number five. Okay.

11 THE CLERK: "Do you swear the testimony you are about
12 to give will be truth, the whole truth, and nothing but the
13 truth so help you God?"

14 YOLANDA MILLER,

15 having been duly sworn, testifies as follows:

16 THE CLERK: You may have a seat.

17 DIRECT EXAMINATION

18 BY MS. MORGAN:

19 Q. Could you speak -- please spell your last name?

20 A. Miller, M-I-L-L-E-R.

21 Q. Good afternoon, Ms. Miller. What -- what type of
22 work do you do, Ms. Miller?

23 A. I work for a financial institution.

24 Q. And do you have children?

25 A. I do.

1 Q. Okay. On June 26 of 20 -- 2022, where did --
2 where did you live?

3 A. X22 Wadley Drive.

4 Q. Okay. I'm going to show you what's been
5 previously admitted as State's Exhibit 1. Just tell me if
6 you -- if you recognize this, if you don't, it's fine. Do
7 you recognize this --

8 A. Yes.

9 Q. -- Wadley Drive?

10 A. Uh-huh.

11 Q. Okay. And so is it possible, can you point out on
12 that document where your trailer was?

13 A. Right here.

14 Q. Okay. Do -- do you still live there?

15 A. No, ma'am.

16 Q. Okay. So at the end I'll just ask you to point
17 out after we finish the testimony I point out to the jury.

18 A. Okay.

19 Q. Did you -- did you know your neighbors at that
20 time?

21 A. Not really, no.

22 Q. Okay. So you would've known -- did you know Larry
23 Carroll?

24 A. No, I'm not sure who that is.

25 Q. Okay. Did you ever -- did you have any

1 interactions with your next door neighbors at all?

2 A. Not really. It was just one gentleman.

3 Q. Okay.

4 A. He lived across the street. I think he was a
5 brother or something like that.

6 Q. Okay. Okay. So on that afternoon, were -- was
7 there a shooting that took place next -- next to you on that?

8 A. There was.

9 Q. Okay. But had -- you didn't know your neighbors,
10 did you have any issues with your neighbors, like arguments
11 or any?

12 A. No, ma'am.

13 Q. Okay. So around 1:22 or 1:00, a little after 1:00
14 in the afternoon, what were you doing that day?

15 A. I was in my home getting ready to cook Sunday
16 dinner that day.

17 Q. Okay. Who -- who of anyone was at home with you
18 that day?

19 A. My two little girls.

20 Q. And tell me what happened?

21 A. One of them, she woke up kind of late so she had a
22 late breakfast and I was in the kitchen on the phone with my
23 friend Patricia. And all of a sudden I just heard like a --
24 a bunch of shots, something like fireworks. And then I heard
25 like a loud ping and I snatched her down out the chair and I

1 told them to get down. And my other daughter, she came
2 running out the back room. I told her to get down. And so
3 when I got up I looked out the window and I saw like three
4 people running that day.

5 Q. Okay. So when you saw three people running, can
6 you describe those three people?

7 A. Not really. I knew they were black males. One of
8 them was kind of like a caramel color and he had dreads and
9 they were up in like a -- a ponytail, but like a -- a bandana
10 or something was wrapped around it, like a rubber band or
11 something.

12 Q. Okay. But did you know any of those people --

13 A. No, ma'am.

14 Q. -- saw running by?

15 A. Uh-uh.

16 Q. Okay. So once you looked outside, what -- what
17 did you do after that?

18 A. I called 911.

19 Q. After the shooting, did you see any of your
20 neighbors outside?

21 A. Just the one who I may speak to in passing. I saw
22 him outside.

23 Q. Okay. Did any of your neighbors have any -- did
24 -- did it appear that any of your neighbors had a weapon in
25 their hand?

1 A. No, ma'am.

2 Q. But you only saw one of your neighbors out there?

3 A. Yes, ma'am.

4 Q. Okay. Did you see that particular neighbor take
5 anything from the victim?

6 A. No, ma'am.

7 Q. Can you describe the neighbor that you -- you
8 speak to in passing?

9 A. I would say he's kind of, I guess I would be a
10 little taller than him. He's very tiny. I think he was --
11 had like a brace or something from time to time when I would
12 see him. I think he had like a back issue.

13 Q. And you said he lived across the trailer -- to the
14 trailer across the street from you?

15 A. Yes.

16 Q. Okay. Did -- at any time when you were looking
17 out of the window, did you see anyone else?

18 A. No, ma'am.

19 Q. And did you see -- did you even observe anybody?
20 Did you see anybody -- did you see any of the people that
21 were shot that day?

22 A. No, ma'am.

23 Q. And could you see them from your kitchen?

24 A. No, ma'am. I didn't even go outside.

25 Q. Okay. Were you shown a possible lineup of -- of

1 suspects by the police?

2 A. I believe I was, but I wasn't able to identify
3 anyone because I didn't actually get a good look at them.

4 Q. Show you what has been previously marked as
5 State's Exhibit 8. Do you recognize this?

6 A. Yes.

7 Q. And did there come a time that the State -- the
8 State, when I say the State, that would be in preparation,
9 play this 911 tape so that you could hear it?

10 A. Uh-huh.

11 Q. And is -- are these your initials?

12 A. Correct.

13 Q. And has -- as far as your knowledge, has it been
14 altered in any way?

15 A. No, ma'am.

16 Q. Okay. And you would recognize your voice?

17 A. Uh-huh.

18 Q. When you hear it?

19 MS. MORGAN: Your Honor, the State seeks to admit
20 State's Exhibit 8 into evidence.

21 THE COURT: Any objection?

22 MR. MCKELLAR: No objection.

23 THE COURT: So moved.

24 (State's Exhibit 8 admitted into evidence.)

25 MS. MORGAN: Your Honor, request permission to publish

1 State's Exhibit 8 and State's Exhibit 1?

2 THE COURT: Yes.

3 BY MS. MORGAN:

4 Q. While we -- while we wait for that, just let me
5 ask you two more questions. What your -- what's your, you
6 said that you heard the gunshots and you said you asked the
7 children to get down. Was -- were any -- were your children
8 wounded at all?

9 A. No, but one of the bullets came through my bedroom
10 and it hit my lamp. And I think by being metal, it went
11 through the wall.

12 Q. And how -- how did you -- how did you know that
13 the bullet came through the house?

14 A. Because I heard a loud ping. It was like a loud
15 -- I -- I'm assuming when it hit the -- the lamp, it made a
16 loud sound.

17 Q. Okay. And was the lamp in your home damaged?

18 A. Yes, it was.

19 Q. And did you show that to the police?

20 A. I did.

21 Q. Okay. And then you said that eventually -- and
22 you said you saw the black males running, you could not
23 identify anything, you didn't know that in what direction
24 were they running?

25 A. So for instance, if this is my trailer, two of

1 them run through the yard, and one of them there's like some
2 trees here. So he ran through the road that way they ran
3 towards the left back out.

4 Q. And we can show ladies and gentlemen of the jury
5 (inaudible) took his (inaudible). Okay.

6 (Audio starts.)

7 UNIDENTIFIED SPEAKER: Can I help you?

8 MS. MILLER: Yes, ma'am. I was at x22 Wadley Drive and
9 I heard, I thought gunfire.

10 UNIDENTIFIED SPEAKER: Okay. Do you know if there --
11 do you know where the patient went (inaudible) the people
12 around?

13 MS. MILLER: No, ma'am. I don't know. I was standing
14 in my kitchen cooking and my -- one of my daughter in the
15 kitchen to that dining room table. And (inaudible) house and
16 I (inaudible).

17 UNIDENTIFIED SPEAKER: What's your name? What --
18 what's your name?

19 MS. MILLER: Yolanda.

20 UNIDENTIFIED SPEAKER: (Inaudible).

21 MS. MILLER: (Inaudible).

22 UNIDENTIFIED SPEAKER: I'm going to have out there to
23 in your house. I'm going to have with you after (inaudible)
24 house. Okay? Your house (inaudible).

25 MS. MILLER: My house. (Inaudible) bullet hole went by

1 my lamp -- went through my -- my bedroom.

2 UNIDENTIFIED SPEAKER: Okay.

3 MS. MILLER: There's a hole in my lamp and in my wall
4 and it (inaudible) all over my bed.

5 UNIDENTIFIED SPEAKER: Okay. They are on the way out
6 there. Ask on out there trying to foundation and -- and put
7 the subject try, I'm going to have to meet with you so that
8 they can look at your house. Okay? And they can take a
9 report for that. Okay?

10 MS. MILLER: Okay.

11 UNIDENTIFIED SPEAKER: Just stay at your house. Okay?
12 So they come and knock on your door.

13 MS. MILLER: Okay.

14 UNIDENTIFIED SPEAKER: All right.

15 MS. MILLER: All right. Thank you.

16 UNIDENTIFIED SPEAKER: You're welcome, ma'am.

17 (Audio ends.)

18 BY MS. MORGAN:

19 Q. When you saw the -- when you saw the males running
20 from your home, did you see anything in their hands? Did you
21 see any weapons in their hands?

22 A. No.

23 Q. When the gunshots rang out, were they -- do you
24 recall, if you recall, were they -- did it sound like it was
25 just one gun? Do you recall?

1 A. Just one gun.

2 Q. That you don't -- did you -- was it rapid or?

3 A. It was kind of like, brrrr, it sounded like that.

4 Q. Ms. Miller, do you mind stepping down, please?

5 A. Uh-huh.

6 Q. So just for ladies and gentlemen of the jury, so
7 this is Wadley Drive where you lived in June 2022. Do you
8 want to point -- just point to your home?

9 A. This right here would be my trailer.

10 Q. Okay. And where did the neighbor live that you
11 would sometimes engage with that you saw across the street
12 at?

13 A. Here.

14 Q. Okay. And do -- you have no idea where the
15 gunfire was?

16 A. No, ma'am. I don't. These are like a bushes
17 between me and I guess the house where it happened at.

18 (Inaudible)

19 Q. Okay. And where did you see individuals running?

20 A. They looked -- it was like, let's see -- two ran
21 into my yard because it's like bushes here.

22 MS. MORGAN: Okay. And no further questions for this
23 witness at this time.

24 MR. MCKELLAR: Thank you, Your Honor.

25 THE COURT: Cross-examination?

1 MR. MCKELLAR: Thank you.

2 CROSS-EXAMINATION

3 BY MR. MCKELLAR:

4 Q. Good afternoon.

5 A. Hi.

6 Q. Did you wait for things to cool down before you
7 went outside?

8 A. I did.

9 Q. You -- how long do you think it was before you
10 went out?

11 A. I'm not sure. Maybe an hour or two. Because I
12 end up calling my mom. I told her, come get my girls.

13 Q. And were you ever able to see the people who were
14 shot?

15 A. No.

16 MR. MCKELLAR: No further questions.

17 THE COURT: All right. Any re-direct?

18 MS. MORGAN: No further questions, Your Honor.

19 THE COURT: All right. This witness may be excused.

20 MS. MORGAN: Your Honor, the State calls Joshua Smith.

21 THE COURT: Joshua Smith?

22 MS. MORGAN: Yes.

23 THE CLERK: "Do you swear the testimony you are about
24 to give will be truth, the whole truth, and nothing but the
25 truth so help you God?"

1 JOSHUA SMITH,

2 having been duly sworn, testifies as follows:

3 THE CLERK: All right. (Inaudible).

4 DIRECT EXAMINATION

5 BY MS. MORGAN:

6 Q. Good afternoon, Mr. Smith. Could you please spell
7 your last name for the jury?

8 A. S-M-I-T-H.

9 Q. Okay. And what is your first name?

10 A. Joshua.

11 Q. Okay. And how old are you?

12 A. Thirty-eight.

13 Q. And are you married?

14 A. No.

15 Q. Do you have children?

16 A. Yes.

17 Q. Okay. And how many children do you have?

18 A. Two.

19 Q. Okay. Now, do you have a nickname?

20 A. Yes.

21 Q. What is your nickname?

22 A. Pun.

23 Q. Before I turn your attention to June 26, 2022, I
24 just want to -- we just kind of need to go back in time for a
25 bit. When you were in your twenties, did you have a -- a

1 conviction for drug distribution?

2 A. Yes, ma'am.

3 Q. Okay. Now, let's come back forward to now
4 June 26, 2022. Were you visiting anyone on Wadley Drive on
5 that day?

6 A. Yes.

7 Q. And who were you visiting?

8 A. Larry Carroll.

9 Q. Okay. And who else was there when you were
10 visiting?

11 A. Twaine and --

12 THE COURT: And just a little louder or lean into that
13 microphone.

14 THE WITNESS: Okay.

15 THE COURT: -- (inaudible) standing.

16 BY MS. MORGAN:

17 Q. Okay. And who else was there?

18 A. And the other -- and the other three.

19 Q. Who were the other three people that were there
20 that day?

21 A. Little W.G. [REDACTED], I.P. [REDACTED], and C.C. [REDACTED].

22 Q. And by W.G. [REDACTED] do you mean W.G. [REDACTED]?

23 A. Yes, ma'am.

24 Q. And by I.P. [REDACTED] do you mean, if you know, I.P. [REDACTED]?

25 A. Yes, ma'am.

1 Q. And by -- did you say C.C. [REDACTED] or C.C.?

2 A. Yes, ma'am.

3 Q. And do you mean C.C. [REDACTED]?

4 A. Yes, ma'am.

5 Q. Okay. And so what were you all doing?

6 A. Sitting around laughing, joking like always.

7 Q. Okay.

8 A. Yes, ma'am.

9 Q. And where -- where were you all located? Where --
10 were you inside the house or were you outside?

11 A. Outside.

12 Q. Okay. Now, I want to show you what's been
13 previously admitted as State's Exhibit 2. I'm just going to
14 go through this board one more time for relations. So is it
15 cumbersome to come down just for a little while? Just to go
16 -- move forward with the relations.

17 A. Yeah.

18 Q. Okay. So we're going to -- you going to step over
19 there to the side so that they can say this is important for
20 them you know these people or you know some of them. So --
21 so is this you here?

22 MS. MORGAN: And so and just let the record reflect
23 that the State's reporting -- pointing to named Joshua Smith
24 on the board.

25 BY MS. MORGAN:

1 Q. Now, were you outside with Twaine Carroll,
2 Larry Carroll, W.G. [REDACTED], C.C. [REDACTED], and
3 I.P. [REDACTED]?

4 A. Yes.

5 Q. Now, are you -- do you have family relationships
6 to some of these people?

7 A. Uh-huh.

8 Q. And who are your -- what are your family
9 relationships?

10 A. Family blood.

11 Q. So you are cousins with I.P. [REDACTED]; is that
12 correct?

13 A. (Inaudible).

14 Q. And you are cousins to -- are you blood cousins as
15 well? Okay. So you're cousins. Now, are you blood cousins
16 or cousins by -- are you blood cousins?

17 A. (Inaudible).

18 Q. Oh, okay. I don't think they can hear you. Okay.
19 Can you hear now? Yeah. I and so your -- your cousins to --
20 you were cousins with I.P. [REDACTED]?

21 A. Yes.

22 Q. And you were cousins to C.C. [REDACTED]?

23 A. Correct.

24 Q. Now, did you know -- did -- did there come a times
25 that six people came up to your group?

1 A. Yes, ma'am.

2 Q. And did you know, without saying any names -- but
3 did you know all of the six people?

4 A. No.

5 Q. Of the six who did you know prior to them coming
6 up?

7 A. Richard, Fantasia Carroll.

8 Q. So please say that loud for the recorder. So you
9 do Richard Carroll --

10 A. Richard Carroll, Antonia, Fantasia.

11 Q. And -- and you do -- Fantasia Carroll and who
12 else?

13 A. That's it.

14 Q. So you just, you only do Richard and Fantasia?

15 A. Antonio.

16 Q. And -- and Antonio Jones?

17 A. Yeah.

18 Q. Okay. All right. So we can have a seat and we'll
19 just keep this just in case we need anything. So -- so what
20 were you -- what were you all -- what were you all doing that
21 afternoon you said?

22 A. Talking, laughing, joking.

23 Q. And so did there come a time that six other
24 individuals walked up?

25 A. Yes.

1 Q. Did you all expect these other six people to walk
2 to your knowledge?

3 A. No, ma'am.

4 Q. Okay. And when -- when those six individuals
5 first walked up, did you see any weapons on those people?

6 A. No.

7 Q. On that day in June, did you have a gun?

8 A. No.

9 Q. Did -- to your knowledge, did **W.G.** have
10 a gun?

11 A. No.

12 Q. Did **I.P.** have a gun?

13 A. No.

14 Q. Did **C.C.** have a gun?

15 A. No.

16 Q. To your knowledge, did Twaine Carroll have a gun?

17 A. No.

18 Q. Did Larry Carroll have a gun?

19 A. No.

20 Q. What happened when the six individuals walked up?

21 A. They walked up and I don't know what the word, I
22 forgot the words that was estranged. And next thing you know
23 is fired gunshots.

24 Q. So let's back up. Prior to this day, did there
25 come a time that your house was broken into?

1 A. Yes.

2 Q. Okay. And did you -- do you know who broke into
3 your home?

4 A. No.

5 Q. Were there allegations about them broken into --
6 did -- did somebody try to blame someone who broke into your
7 home?

8 A. Yeah. But it wasn't -- it wasn't correct.

9 Q. Okay.

10 A. It wasn't.

11 Q. And was that -- was that resolved on that day
12 about the break-in, or possible break or it was a break-in?

13 A. It was a break-in.

14 Q. Was that break-in ever reported to the police?

15 A. No.

16 Q. Okay. So you said that's when everything broke
17 out. How long was it after the six individuals arrived that
18 there was a shooting? How long was it?

19 A. I'd say about four or five minutes.

20 Q. What did you do after that?

21 A. I hear shooting.

22 Q. What at -- when they started shooting, what did --
23 what did you do?

24 A. I got away. I ran -- I -- I ran behind my truck.

25 Q. Do you recall where individuals were standing?

1 Did -- can you recall that?

2 A. Yeah.

3 Q. So how far apart would you say everyone was
4 standing?

5 A. I think like three or four feet.

6 Q. Okay. Do you recall who you were standing beside?

7 A. I was standing next -- I was standing next to
8 W.G. .

9 Q. You were standing next to -- to W.G. ?

10 A. Yeah. Yes, ma'am.

11 Q. Okay. And what -- do you recall, if you recall,
12 do you recall who shot first?

13 A. Actually was a gun come out and --

14 Q. And how you saw -- you saw a gun come out?

15 A. Yeah, I saw the gun come out and actually he
16 started shooting.

17 Q. Okay. How did -- how did it -- how did it sound?

18 A. Like a machine gun.

19 Q. Okay. And you say like a machine gun, like how
20 does that -- like, was it -- was it rapid fire?

21 A. Yes, ma'am.

22 Q. Okay. And do you know who pulled that gun out
23 initially?

24 A. I -- I get their names messed up.

25 Q. Okay.

1 A. Yeah.

2 Q. And so once the -- what happened to W.G. [REDACTED]

3 once that gun came out?

4 A. He was -- he was on the ground, laid on the
5 ground.

6 Q. Okay. Where -- where did you go?

7 A. I ran behind my truck.

8 Q. Okay. Who else did you see? Who else, if anyone
9 else, did you see with gun?

10 A. Other guy with the drill. I can't think of their
11 name is Xay whoever name is.

12 Q. By Xay, you mean Xabian Bailey?

13 A. Yes.

14 Q. Okay. Now, do you see Xabian Bailey in the
15 courtroom today?

16 A. I get them mixed up, I guess I don't, like I said,
17 I don't know him.

18 Q. Do you see one of the people that was shooting
19 that day in the courtroom?

20 A. Yes. Yes, ma'am.

21 Q. Okay. And can you point him out and identify him
22 by a piece of clothing?

23 A. Yeah, the blue jacket.

24 Q. And?

25 A. Blue tie, white shirt.

1 Q. Okay. And you saw him shooting on that day?

2 A. Yes, ma'am.

3 Q. Okay. Do you recall how he was shooting at all?

4 Can you recall that at all?

5 A. He was shooting and running.

6 Q. He -- please say that clearly?

7 A. Shoot -- shooting and running.

8 Q. He was shooting. And did you say he was running?

9 A. Yes. Shooting and running.

10 Q. Do you recall how the gun looked?

11 A. No.

12 Q. Do you know what a switch is?

13 A. I get not too much.

14 Q. Okay. Did you -- do you recall seeing

15 Antonio Jones shooting?

16 A. No.

17 Q. Do you know who got shot that day?

18 A. Yes.

19 Q. Okay. And who got shot that day?

20 A. Little W.G. [REDACTED], Alvin -- I mean Little W.G. [REDACTED], C.C. [REDACTED],

21 and -- and I.P. [REDACTED].

22 Q. And I.P. [REDACTED]?

23 A. I.P. [REDACTED].

24 Q. And so after the shooting stopped, of the three
25 people that were shot, were any of the -- what -- what was

1 the status of W.G. after the shooting stopped. What -- how
2 was he?

3 A. He was laid out.

4 Q. And what was the status of J.P.? How was J.P.
5 after the shooting?

6 A. Laid out dead. He was laid out dead.

7 Q. What was the status of C.C. or C.C. after the
8 shooting stopped?

9 A. He still was moving.

10 Q. Okay. If you recall, was he saying anything?

11 A. Yes.

12 Q. Can you recall what he was saying?

13 A. He said, "Why you all let him shoot me?"

14 Q. Just based on what you saw after the shooting, did
15 anyone take anything off of the three victims?

16 A. No, ma'am.

17 Q. Did anyone take -- did -- to your knowledge, did
18 anyone take a gun away from the three victims?

19 A. No, ma'am.

20 Q. Of the six people that came up that you all didn't
21 know about, were any of those people to your knowledge shot
22 during this gun fire?

23 A. No, ma'am.

24 Q. Did you see anyone after the shooting take or hide
25 any evidence?

1 A. No, ma'am.

2 Q. Could you -- could you see who the -- the person
3 that's sitting at the table that you've identified today that
4 was at the shooting, could you see or tell who he shot or if
5 -- could you tell at all?

6 A. I can't remember.

7 Q. Now, did you stay on the scene and talk to the
8 police?

9 A. Yes.

10 Q. Were you traumatized after --

11 A. Yes.

12 Q. -- watching this?

13 A. Yes, ma'am.

14 Q. And when I say traumatized, I mean how -- did you
15 recall every -- every aspect of the incident that day?

16 A. Yes, ma'am.

17 Q. Now, at some point, did the police show you a
18 lineup of -- of a photo array?

19 A. Yes.

20 Q. Okay. So, Mr. Smith, I am showing you what has
21 been previously marked as State's Exhibits 10, 11, and 12.
22 And first we're going to go over State's Exhibit 10. Do you
23 recognize this document?

24 A. Yes.

25 Q. And do you recognize your initials here?

1 A. Yes, ma'am.

2 Q. And this is the same that the police showed or a
3 fair and accurate representation of what the police showed
4 you on that day?

5 A. Yes, ma'am.

6 Q. Now, when they showed you this lineup and you
7 indicated by your initials in circling here, did anyone
8 coerce you to make that identification?

9 A. No, ma'am.

10 Q. Did anyone promise you anything?

11 A. No, ma'am.

12 Q. Did you feel pressured in any way to pick this
13 person out?

14 A. No, ma'am.

15 Q. Okay. And I'm showing you the second page of
16 State's Exhibit 10. Is this your handwriting?

17 A. Yes, ma'am.

18 Q. And what did you annotate here from photo -- this
19 is photo lineup A State's Exhibit 10. What did you annotate
20 here? What photograph did you choose?

21 A. Five.

22 Q. Okay. And what did you write on this?

23 A. "The one who did the shooting and ran through the
24 woods."

25 Q. Okay. And is this your signature?

1 A. Yes.

2 Q. State's Exhibit 11. Are these your initials?

3 A. Yes.

4 Q. And is this -- did you make this circle around
5 this individual?

6 A. Yes.

7 Q. And is this the date?

8 A. Yes.

9 Q. What date was that that you did this?

10 A. 7/14/22.

11 Q. Okay. And that's photograph number what that you
12 picked out on State --

13 A. Two.

14 Q. -- 11? Okay. And is this your handwriting?

15 A. Yes.

16 Q. And did you fill this at -- are these your words?

17 A. Yes.

18 Q. Okay. Okay. And just write -- just read what you
19 --

20 A. "He was with the guys that did the shooting, but
21 did not have a gun."

22 Q. Okay. And is that your signature?

23 A. Yes.

24 Q. And it hasn't been -- nothing's been altered.
25 It's fair and accurate?

1 A. Yeah.

2 Q. Okay. State's Exhibit 12, do you recognize --

3 A. Yes.

4 Q. -- this? And did you make this circle here?

5 A. Yes, ma'am.

6 Q. And do you recognize this person?

7 A. Yes.

8 Q. Now, is that the same person that's in the
9 courtroom today?

10 A. Yes.

11 Q. Okay. All right. And did you -- these are your
12 initials here?

13 A. Yes.

14 Q. Okay. Okay. And did you fill out this document
15 as well?

16 A. Yes.

17 Q. And is this your handwriting?

18 A. Yes, ma'am.

19 Q. And what is the statement that you wrote here?

20 A. "He did the shooting that killed C.C. and ran down
21 Dirt road on Wadley Drive."

22 Q. Okay. And is this your signature?

23 A. Yes, ma'am.

24 Q. All right. And no one -- did anyone coerce you to
25 do this?

1 A. No, ma'am.

2 Q. Did they make you any promises?

3 A. No, ma'am.

4 Q. Okay. And all of these are fair and accurate
5 representations of what you did on that day on, okay?

6 A. Yes, ma'am.

7 Q. On 7/14/22.

8 MS. MORGAN: Your Honor, based on that the State seeks
9 to admit State's Exhibit 11 -- 10, 11, and 12.

10 THE COURT: Any objection?

11 MR. MCKELLAR: No objection.

12 THE COURT: So moved.

13 (State's Exhibits 10, 11, 12 admitted into evidence.)

14 MS. MORGAN: Your Honor, request permission to publish
15 it.

16 THE COURT: Sure.

17 BY MS. MORGAN:

18 Q. So, Mr. Smith, I'm going to ask you to step down
19 one more time. Just to verify you want to point yourself.
20 Let me do. Okay. Just to point out for the jury, these are
21 your initials, correct? On 714, second page, please. And
22 this is your handwriting?

23 A. Correct.

24 Q. And you wrote that statement?

25 A. Yes, ma'am.

1 Q. All right. Thank you. Once again, those are your
2 initials?

3 A. Yes, ma'am.

4 Q. That is the date?

5 A. Yes, ma'am.

6 Q. This is your identification?

7 A. Yes, ma'am.

8 Q. All right. And this is your handwriting?

9 A. Yes, ma'am.

10 Q. Okay. All right. Thank you. And once again,
11 finally this is the same Defendant that you identified is in
12 the courtroom today?

13 A. Yes, ma'am.

14 Q. And this is your handwriting?

15 A. Yes, ma'am.

16 Q. That's the date?

17 A. Yes, ma'am.

18 Q. And this is your handwriting?

19 A. Yes, ma'am.

20 Q. Okay. Thank you.

21 MS. MORGAN: Your Honor, no further questions.

22 THE COURT: Cross-exam?

23 MR. MCKELLAR: Thank you, Your Honor.

24 CROSS-EXAMINATION

25 BY MR. MCKELLAR:

1 Q. Good afternoon, Mr. Smith.

2 A. Good afternoon.

3 Q. Mr. Smith, you witnessed Alvin Xabian -- Alvin and
4 Xabian and Richard Carroll, Fantasia Carroll, (inaudible)
5 walk up Wadley Drive, right?

6 A. Correct.

7 Q. Sorry?

8 A. Correct.

9 Q. Thank you. And they approached Larry Carroll,
10 correct?

11 A. (Inaudible).

12 Q. And Xabian approached Larry Carroll, correct? And
13 asked them, is that -- am I right?

14 A. I don't know.

15 Q. You don't remember. Do you remember Xabian asking
16 Larry why he was accusing Xabian of breaking in your house?

17 A. Yes.

18 Q. You do remember that?

19 A. Yes.

20 Q. So Larry and Xabian had this conversation --

21 A. Yes.

22 Q. -- in front of you. And Xabian was saying, "I
23 didn't break into your house.", right?

24 A. Yes.

25 Q. And Richard, or excuse me, Larry Carroll was

1 saying, "Yeah, you did." Right?

2 A. I don't know him saying that.

3 Q. You don't remember them saying that? Not exactly.

4 A. No.

5 Q. Well, did Larry -- did Larry Carroll believe him?

6 MS. MORGAN: Objection.

7 BY MR. MCKELLAR:

8 Q. Did Larry Carroll -- I'll withdraw that question.

9 Did Larry Carroll say, "Fess up, you know you did it."

10 A. I don't recall.

11 MS. MORGAN: Objection.

12 THE COURT: Sustained.

13 MR. MCKELLAR: I don't know the objection is --

14 MS. MORGAN: I withdraw -- withdraw.

15 THE COURT: Okay.

16 BY MR. MCKELLAR:

17 Q. You don't recall?

18 A. Yes.

19 Q. Do you recall speaking with -- so today is, you
20 don't remember what he exactly said between Larry and Xabian
21 regarding writing notice?

22 A. I don't remember all that.

23 Q. Okay. Do you remember speaking to
24 Investigator Neel sitting behind the counsel table?

25 A. Yes.

1 Q. Do you remember recounting to Investigator Neel
2 what happened on this day?

3 A. I don't remember.

4 Q. What were you there to talk to Investigator Neel
5 about?

6 A. I'm not sure.

7 Q. And at the time, this was relatively recently
8 after the shooting, right?

9 A. Yeah.

10 Q. Maybe about a month later, less than that?

11 A. (Inaudible).

12 Q. Okay. And your memory was likely better than then
13 of the events than it is now, correct?

14 A. Correct.

15 Q. I'm sorry.

16 A. I guess.

17 Q. Guess. Okay. And you had no reason to lie?

18 A. No.

19 Q. And he asked you what you observed and what you
20 heard, correct?

21 A. Correct.

22 Q. And you said to him, "The people walking up that
23 did the shooting and I'm like, man, Larry be talking about
24 when you broke in this man's house and then the next thing
25 you know you ease out his gun and he had a switch on." So

1 there was an argument. Do you -- do you remember saying
2 this? If you don't remember, that's fine.

3 A. I don't remember.

4 Q. Okay. Now, on the day -- so this conversation
5 with the -- with Investigator Neel would've been after the
6 incident days after the incident at least, correct? Or was
7 it the same day?

8 A. Maybe days later.

9 Q. Couple days later. I had something written down.
10 I don't know if you're wrong, but -- on the same day of the
11 incident you spoke with a female uniformed law officer,
12 correct?

13 A. Correct.

14 Q. Her name is Deputy Myron, correct?

15 A. Correct.

16 Q. And she asked you what you saw, correct?

17 A. Correct.

18 Q. And do you admit or deny saying, "Caught the tail
19 end of it, saw bodies drop. All I saw. I didn't see no
20 faces yet, caught back of their heads running off." Do you
21 admit or deny saying that was true (inaudible). Do you have
22 any recollection?

23 A. No.

24 Q. You don't know. Okay. We would like to talk to
25 you about another discrepancy. So today you testified that

1 Xabian shot, correct?

2 A. Yes.

3 Q. Now, let's talk about what you testified to
4 yesterday. Yesterday you testified there was only one
5 shooter, correct?

6 A. There was two.

7 Q. Yesterday did you testify that there was only one
8 shooter?

9 A. There was two.

10 Q. So I am asking -- I'm not asking you how many
11 shooters there were right now I'm asking you what you
12 testified to yesterday. Did you testify yesterday that there
13 was only --

14 MS. MORGAN: Objection.

15 BY MR. MCKELLAR:

16 Q. -- one shooter?

17 MS. MORGAN: Your Honor, may I approach?

18 THE COURT: Yes.

19 THE WITNESS: Yes.

20 (Bench conference.)

21 THE COURT: Mr. McKellar?

22 MR. MCKELLAR: Thank you, Your Honor.

23 BY MR. MCKELLAR:

24 Q. Mr. Smith, I'll repeat the question. At any time
25 yesterday, did you testify that there was only one shooter?

1 THE COURT: Mr. Smith, you'll need to answer the
2 question to the best of your ability.

3 THE WITNESS: Repeat the question.

4 BY MR. MCKELLAR:

5 Q. At any time yesterday, did you testify that there
6 was only one shooter?

7 A. Yes.

8 MR. MCKELLAR: May I approach, Your Honor?

9 THE COURT: Yes.

10 BY MR. MCKELLAR:

11 Q. And you identified that shooter, correct?

12 A. Yes.

13 Q. And that shooter was number five in lineup A,
14 correct?

15 A. Yes.

16 Q. Do you know his name?

17 A. I forgot.

18 Q. Is it Alvin?

19 A. Yeah. Alvin.

20 MR. MCKELLAR: I -- I have no further questions, Your
21 Honor.

22 THE COURT: Re-direct?

23 RE-DIRECT EXAMINATION

24 BY MS. MORGAN:

25 Q. Mr. Smith, when you came to testify yesterday,

1 were you a bit nervous?

2 A. Yes.

3 Q. And when law -- we -- we talked about this
4 earlier, but just to -- to get -- law enforcement gave you
5 the photo lineups in 2022?

6 A. Yes.

7 Q. Correct?

8 A. Correct.

9 Q. Okay. So I'm just going to turn your attention to
10 these once again. And Defense counsel, they questioned you
11 and said that you identified -- let me back up. Yesterday,
12 when you were initially questioned and you -- you were
13 questioned and you said that there was one shooter and then
14 one of the solicitors questioned you again, questioned you
15 after the Defense counsel; is that correct? On yesterday?

16 A. Correct.

17 Q. And when that solicitor questioned you as to
18 whether or not there was one or two shooters, did you or did
19 you not say that there were two shooters and correct yourself
20 on yesterday?

21 A. Yes.

22 Q. Now, once again, when you had the photo lineups in
23 2022, shortly after the incident, we just want to go through
24 this again. Defense counsel questioned you on this that you
25 identified when your initial statement on yesterday or

1 initial interview on yesterday, you said number five was the
2 only shooter, and then afterwards you corrected yourself?

3 A. Yes.

4 Q. And so just read for ladies and gentlemen of the
5 jury on this particular lineup, what did you say again?

6 A. "The one who did the shooting and ran through the
7 woods."

8 Q. The one that did the shooting and ran through the
9 woods. And this person was later identified as Alvin Artis;
10 is that correct?

11 A. Correct.

12 Q. Okay. Now, you said that you knew Antonio Jones
13 prior to the day of the shooting; is that correct?

14 A. Correct.

15 Q. Okay. And you -- on State's Exhibit 11, lineup B,
16 you identified this first?

17 A. Correct.

18 MR. MCKELLAR: Objection. Leading.

19 BY MS. MORGAN:

20 Q. Okay. Who did you identify on State's -- on
21 lineup B State's Exhibit 11?

22 A. Antonio.

23 Q. Okay. And these are your initials?

24 A. Correct.

25 Q. And that -- and what did you say about Antonio

1 Jones on that day? On -- on --

2 A. "He was with the guy that did the shooting with"

3 --

4 Q. And what --

5 A. -- "didn't have a gun."

6 Q. He was with the guy that did the shooting. And
7 what else?

8 A. Didn't have a gun.

9 Q. And he did not have a gun. And then on what day
10 that this occurred that you told police officers this?

11 A. 7/14/22.

12 Q. So that was on July 14, 2022?

13 A. Correct.

14 Q. Once again. And -- but there was a third lineup?

15 A. Yes.

16 Q. And I'm showing you what's State's Exhibit number
17 12, which you was already in evidence and lineup C.

18 A. Correct.

19 Q. Who did you identify on this lineup?

20 A. This was --

21 Q. The person that's in -- is this the person that is
22 in the courtroom today?

23 A. Correct.

24 Q. Okay. And is it -- and this is the Defendant that
25 is on trial today?

1 A. Yes.

2 Q. Okay. And what did you write to police officers
3 on July 14, 2022 closer to the incident. What did you write
4 on that?

5 A. "He did the shooting that killed C.C. and ran down
6 the road -- Dirt road on Wadley."

7 Q. And did you sign this document?

8 A. Correct.

9 Q. Did you write this document?

10 A. Correct.

11 Q. And what day was this document signed?

12 A. 7/14/22.

13 MS. MORGAN: Okay. No further questions at this time.

14 THE COURT: Any re-cross?

15 MR. MCKELLAR: No further questions, Your Honor.

16 THE COURT: This witness may be excused. Please watch
17 your steps, Mr. Smith.

18 All right. At this time we will ladies and gentlemen
19 of the jury, if you will take a brief recess for a bathroom
20 and stretch break for 10 minutes. Jury will be excused
21 please.

22 (Jury exits courtroom.)

23 THE COURT: All right. We'll stand down and take a
24 brief recess for 10 minutes. The doors are open. Please
25 make sure that you are back in the courtroom within 10

1 minutes.

2 (Off the record.)

3 THE COURT: Can we bring the jury back in, please sir.
4 Thank you.

5 (Jury enters courtroom.)

6 THE COURT: All right. Please be seated. Ladies and
7 gentleman of the jury at this time we'll now resume the
8 trial. Madam Solicitor?

9 MS. CHARBONNEAU: Investigator Melissa Murdock.

10 THE CLERK: (Inaudible) and raise your right.

11 INVESTIGATOR MELISSA MURDOCK,
12 having been duly sworn, testifies as follows:

13 THE CLERK: State your first and last name.

14 THE WITNESS: My name is Melissa Murdock, M-E-L-I-S-S-A
15 M-U-R-D-O-C-K.

16 DIRECT EXAMINATION

17 BY MS. CHARBONNEAU:

18 Q. Good afternoon.

19 A. Good afternoon.

20 Q. Where do you work?

21 A. The Aiken County Sheriff's Office.

22 Q. What is your job title?

23 A. Forensics investigator.

24 Q. What is your education, please?

25 A. I'm an associate in arts.

1 Q. How long have you been in law enforcement all
2 total?

3 A. Eight years.

4 Q. Were you working on Sunday, June 26, 2022?

5 A. Yes.

6 Q. And did you go out to the crime scene at
7 **x26** Wadley Drive in Aiken?

8 A. Yes, ma'am.

9 Q. When you got there, was the crime scene secured?

10 A. Yes, ma'am.

11 Q. What does that mean?

12 A. It means that all people not necessary for the
13 scene are removed from it and there it is barricaded with
14 crime scene tape.

15 Q. Okay. And Wadley Drive, is that within the
16 jurisdiction of the Aiken County Sheriff's Office?

17 A. Yes, ma'am.

18 Q. Within Aiken County?

19 A. Yes, ma'am.

20 Q. When you got there as a forensic investigator,
21 what is your job to do when you get there?

22 A. My job is to process the crime scene.

23 Q. What does that entail?

24 A. It -- taking photographs, marking evidence,
25 picking up evidence, securing it.

1 Q. When you first get to a crime scene, are you able
2 to ascertain what exactly is evidence and what may or may not
3 be?

4 A. No.

5 Q. So what is it that you do at the crime scene when
6 you're there on the day it happens?

7 A. We go, I do initial walkthrough, take photographs
8 and anything that could potentially be evidence, we take it.
9 We prefer to take more than is necessary.

10 Q. Okay. Did you take photographs in this case?

11 A. I did.

12 Q. I'm going to show you what's been marked State's
13 Exhibit 49 through 79. Let me know if you recognize this.

14 A. Yes, ma'am. These are the photos that I took of
15 the crime scene.

16 Q. Okay. And are they a fair and accurate depiction
17 of what X26 Wadley Drive looked like on June 26, 2022?

18 A. Yes, ma'am.

19 MS. CHARBONNEAU: Okay. At this time I'd move State 49
20 through 79 into evidence.

21 THE COURT: Any objection?

22 MR. MCKELLAR: No objection.

23 THE COURT: So moved.

24 (State's Exhibits 49 through 79 admitted into evidence.)

25 MS. CHARBONNEAU: May I publish?

1 THE COURT: Yes.

2 BY MS. CHARBONNEAU:

3 Q. Would you step down from the seat. If you
4 wouldn't mind, stand to the side so the jury can see and if
5 you need to point anything out. Just use the marker. All
6 right. Let's start with State 49. Can you tell the jury what
7 we're looking at?

8 A. This is the right hand side of the initial crime
9 scene. We have the residence of X26 Wadley Drive and three
10 vehicles.

11 Q. What were the three vehicles that were on scene?

12 A. We had a white -- it is hard for me to confirm the
13 model of the vehicle. It is a 2008 white Chevy Cobalt, a
14 2015 black Dodge Ram. I do not remember the make and models
15 of the truck, we did not mark that one.

16 Q. Okay. Let's go to 50. What are we looking at
17 here?

18 A. This is the front door of the residence
19 X26 Wadley Drive.

20 Q. Fifty-one, please?

21 A. Another angle of the front door of the residence.

22 Q. Was X26 actually struck by any bullets?

23 A. It is -- we do have it consistent with a gun
24 strike right there.

25 Q. To the right --

1 A. Of the right of the door.

2 Q. Okay. Next one, 52.

3 A. This is another picture of the residence.

4 Q. Okay. And are we zeroing in on another bullet
5 strike?

6 A. We have a potential bullet strike here and here.

7 Q. Fifty-three, please?

8 A. Close ups of those bullet strikes there and there.

9 Q. And is that -- part of your documenting is to take
10 far away views and then closer and closer?

11 A. Yeah. So when we document by photograph of views,
12 we start further away and then move up. You do length or
13 long distance media instead of just close up documentation
14 photographs.

15 Q. Fifty-four, please?

16 A. This is a wide angle view of the crime scene.

17 Q. And are there markers yet?

18 A. Yes, there are markers.

19 Q. Explain to the jury what those off the wall?

20 A. So the markers are items of evidence that we find
21 and want to photograph and document better with the scale
22 that are on the markers to collect.

23 Q. So that's something that you put on the scene?

24 A. Yes.

25 Q. Okay. Fifty-five, please?

1 A. This is another angle of the photo markers.

2 Q. And the numbers, what do they relate to?

3 A. Our items of the evidence. So item number one is
4 going to be marked on number one and so on so forth with the
5 pictures.

6 Q. And are the two decedents in the picture?

7 A. Yes, ma'am. We do have two of the decedents on
8 the -- in the picture.

9 Q. And they're covered up?

10 A. Yes, ma'am.

11 Q. Is this a photograph to show the relationship of
12 where you found by of evidence in relationship to where the
13 victims were?

14 A. Yes.

15 Q. Okay. Fifty-six.

16 A. Another angle of the items of evidence in relation
17 to this event.

18 Q. Okay. Fifty-seven?

19 A. Just a little bit better of a close up photo of
20 some of the items of evidence.

21 Q. And we'll -- we can go over what item of evidence
22 is that? Every number, but can you tell us predominantly
23 what is it that you are wanting on this --

24 A. Shell casings.

25 Q. You said shell casings?

1 A. Yes. Shell casings.

2 Q. Fifty-eight?

3 A. Another photograph showing a cluster of two items
4 of evidence.

5 Q. Okay. Fifty-nine?

6 A. Some items of evidence in relation to one of the
7 decedents.

8 Q. Okay. Sixty?

9 A. A couple more pieces of evidence.

10 Q. And when you are marking them, nobody has moved
11 them or touched them?

12 A. No.

13 Q. Okay. Do you mark them --

14 A. (Crosstalk).

15 Q. And then do you collect them --

16 A. Uh-huh.

17 Q. -- in bags?

18 A. Yes.

19 Q. Okay. Sixty-one?

20 A. Another photograph showing items of evidence.

21 Q. Sixty-two?

22 A. Another angle of where the evidence lies in
23 relation to the rest of the crime scene in the residence.

24 This is --

25 Q. To orient us, can you point where

1 **X26** Wadley Drive?

2 A. **X26** is going to be over on this area. This is a
3 black truck that is directly behind the scene.

4 Q. Okay. So we're starting to angle to the left?

5 A. Yes.

6 Q. Okay. Sixty-three?

7 A. This is the residence to the right of

8 **X26** Wadley Drive.

9 Q. And is that address **X27**?

10 A. I am not sure of the exact address.

11 Q. Okay. But this one is across from **X26**?

12 A. Yes.

13 Q. Okay. Did you find items of evidence at -- in
14 front of **X26**?

15 A. I did.

16 Q. Okay. Looking at 64.

17 A. Okay. It is the residence directly across from
18 **X26** and it is showing marker -- A marker. At this time
19 there's going to be another one showing items of evidence
20 found in front of this address.

21 Q. The yellow tape just described item of evidence?

22 A. The yellow tape is the barrier of the crime scene
23 and it was extended outward when we realized we had the
24 decedent.

25 Q. Meaning that you were finding things further out

1 of the barrier?

2 A. Yes, ma'am. This is an item of evidence
3 discovered in front of that residence.

4 Q. This is 65. Okay. Sixty-six?

5 A. This is an angle of the residence directly across
6 from X26 and the pickup truck, this is before we place the
7 markers.

8 Q. Okay. Sixty-seven?

9 A. This is another item of evidence.

10 Q. In relation to 66 of those, the bushes that we
11 were looking at --

12 A. To the back to the left of the right. To the left
13 of the bushes.

14 Q. Okay. Go back to 66.

15 A. So these bushes.

16 Q. All right. So 67 is a close up of the bushes that
17 are showing 67?

18 A. Yes.

19 Q. Sixty-eight

20 A. Another item of evidence in front of the residence
21 across X26 Wadley Drive.

22 Q. Okay. Sixty-nine?

23 A. A different perspective of X26 Wadley Drive. This
24 is facing from the residence across from it. So you have the
25 X26 Wadley Drive, the Cobalt, the Dodge ram and the blue

1 pickup truck.

2 Q. And now you're standing across the road?

3 A. Yes.

4 Q. Okay. Is that a -- is that a big wide road? Can
5 you give us an idea?

6 A. It is not a wide road. It's approximately two
7 lane dirt road most of the time.

8 Q. Seventy?

9 A. This is the items of evidence in relation to the
10 decedent standing closest to the house of her or across from
11 **X26** Wadley Drive. So approaching from that residence back
12 toward the **X26** Wadley.

13 Q. Okay. Seventy-one?

14 A. Another angle showing the items of evidence in
15 relation to the decedent.

16 Q. Did the numbers have any significance as far as
17 did they mean anything in particular or it's just that's the
18 next number for the next item there's potential evidence that
19 you found?

20 A. Yes, generally we try to do it shell casings and
21 then other items of evidence, but it is as we are processing
22 the scene.

23 Q. Okay. Seventy-two?

24 A. And this is behind the Chevy Cobalt, front of the
25 blue truck with **X26** Wadley Drive to (inaudible).

1 Q. Seventy-three?

2 A. This is the VIN of the blue pickup truck.

3 Q. Is there a projectile or a pacing sitting on that
4 white truck?

5 A. I don't believe that leads to that tile.

6 Q. Seventy-four?

7 A. Showing suspected gunshot strikes to the blue
8 truck. The yellow marker is going to be my trajectory rod.

9 Q. And can you explain what that is?

10 A. So a trajectory rod is -- it is a plastic rod that
11 I'm going to place him to the bullet strikes on a residence
12 or vehicle get the approximate location of where the bullet
13 strike came from.

14 Q. So that's added by you otherwise everything else
15 --

16 A. Yes.

17 Q. -- has not been moved? Is that right?

18 A. Yes.

19 Q. Seventy-five?

20 A. A close up risk scale of one of the bullet strike
21 to blue truck.

22 Q. Seventy-six?

23 A. This is the black pickup truck.

24 Q. And is it in relation to where one of the deceased
25 is?

1 A. It is directly behind where both the decedents
2 are.

3 Q. Seventy-seven?

4 A. This is projectiles placed into inspected bullet
5 strike in a black truck.

6 Q. How many did you place in there?

7 A. Five.

8 Q. And the black truck is in front of **x26**?

9 A. It is in front of **x26**. And directly behind those
10 (inaudible).

11 Q. Seventy-eight?

12 A. The white Chevy Cobalt that is in front of
13 **x26** Wadley Drive.

14 Q. When you got on scene, would someone have opened
15 that door or is that how you found it?

16 A. That is how I found it.

17 Q. Seventy-nine? Through the Chevy Cobalt? You
18 pointed to a windshield?

19 A. There is a defect in the windshield of Chevy
20 Cobalt.

21 Q. Is that a possible if --

22 A. And possible.

23 Q. Okay. Oh, that's -- oh, you can have a seat.

24 Thank you. All right. If you wouldn't mind for us, now,
25 that we have seen the markers on the crime scene, will you

1 tell us what you found at the markers?

2 A. Yes, ma'am. Markers number one through marker
3 number 18 were nine millimeter shell casings.

4 Q. Were they all the same brand?

5 A. Yes, ma'am. They're all FC 9mm luger. Number 19
6 is a 40 caliber shell casing, headstamped PMC 40 S&W. The
7 headstamp is going to be the manufacturer's mark on the end
8 of the shell casing. Number 20 through 22 are more FC 9mm
9 luger shell casings.

10 Q. So that's the same brand?

11 A. As the first.

12 Q. Eighteen?

13 A. Eighteen. Yes, ma'am.

14 Q. All right.

15 A. Number 23 is a 40 caliber shell casing headstamped
16 PMC 40 S&W the same as marker number 19. Number 24 is a
17 partially smoked black and mile. Number 25 is a cigarette
18 lighter on a key chain. Number 26 is a Newport cigarette
19 butt. Number 27 was a purple T-shirt with suspected blood.
20 Number 28 was a black zippered hooded jacket. Number 29 was
21 a 40 caliber shell casing. This brand was double tap.
22 Number 30 was another 40 caliber shell casing PMC 40 S&W.
23 Number 31 was an American spirit cigarette butt. Number 32
24 was a Glock 19 generation four pistol. Number 33 2410
25 shotgun shells. Number 34, a DVR system. Number 35 and 36

1 are projectiles. Number 37 are fragments, and the difference
2 between the projectile and the fragment is going to be how
3 much is left.

4 A projectile is going to be closer to a full bullet
5 while a fragment is going to be the splinter pieces. Number
6 38 was the black 2015 Dodge Ram pickup. And number 39 was
7 the white 2008 Chevy Cobalt.

8 Q. Okay. Let's start with State's Exhibit 6. Do you
9 recognize State's Exhibit 6?

10 A. Yes, ma'am.

11 Q. How do you recognize it?

12 A. It is the Glock 19 gen four -- generation four
13 pistol and a packaging that I packed it in.

14 Q. And does each crime scene have like its own case
15 number and things like that?

16 A. Yes. And each call for service with the sheriff's
17 office gets assigned its own separate case number to
18 distinguish it from all others.

19 Q. So this is a gun that was retrieved at the crime
20 scene?

21 A. Yes, it is marked with the case number, the item
22 number, the date and time it was collected.

23 Q. And you collected?

24 A. Yes.

25 Q. You want to open it?

1 A. Sure.

2 Q. Be careful. When looking inside. Do you
3 recognize it?

4 A. Yes, I do. It is the pistol that I collected on
5 scene.

6 MS. CHARBONNEAU: At this time the State move Exhibit 6
7 into evidence.

8 THE COURT: Any objection?

9 MR. MCKELLAR: No objection.

10 THE COURT: So moved.

11 (State's Exhibit 6 admitted into evidence.)

12 BY MS. CHARBONNEAU:

13 Q. And where did you find this gun?

14 A. This pistol was located in -- underneath a bench
15 seat in the back of the blue pickup truck.

16 Q. And did you determine whose blue pickup truck that
17 was?

18 A. The blue pickup truck belonged to Larry Carroll.

19 Q. And are you the one who actually does any testing
20 on a gun or is that done by somebody else?

21 A. That is done by somebody else.

22 Q. Is that sent to -- can you explain SLED?

23 A. So it is sent to our state law enforcement
24 division, which SLED located in Columbia. We send items of
25 evidence there for further testing after collection.

1 Q. Are they a separate agency from the sheriff's
2 office?

3 A. They are.

4 Q. Okay. We have photos already in evidence of the
5 blue truck, 84 and 85 is this document where you actually
6 found that gun?

7 A. Yes, ma'am.

8 Q. Thank you. Show you what's been marked as State's
9 100. Do you recognize this?

10 A. Yes, ma'am. These are the shell casings that I
11 collected from the incident location.

12 Q. Everything in 100, are they all the same type of
13 shell casings? So same caliber I should say?

14 A. Yes.

15 Q. Okay. And are they in substantially the same
16 condition as when you collected them on June 26, 2022?

17 A. Yes, ma'am.

18 MS. CHARBONNEAU: At this time I move State's Exhibit
19 100 into evidence.

20 THE COURT: Any objection?

21 MR. MCKELLAR: No objection.

22 THE COURT: So moved.

23 (State's Exhibit 100 admitted into evidence.)

24 BY MS. CHARBONNEAU:

25 Q. Tell the jury what caliber the shell case -- shell

1 casings are in 100.

2 A. And State's Exhibit 100, this is holds 21,
3 9mm shell casings.

4 Q. And all of those were found at the scene?

5 A. Yes, ma'am.

6 Q. Looking at State's 96, tell me if you recognize
7 these.

8 A. Yes, ma'am.

9 Q. And how do you recognize them?

10 A. These are the 40 caliber shell casings that I
11 collected from the incident location.

12 Q. Okay. And are they in substantially the same
13 condition as when you collected them on June 26, 2022?

14 A. Yes.

15 MS. CHARBONNEAU: At this time I move State's Exhibit
16 96 into evidence.

17 THE COURT: Any objection?

18 MR. MCKELLAR: No objection.

19 THE COURT: So moved.

20 (State's Exhibit 96 admitted into evidence.)

21 BY MS. CHARBONNEAU:

22 Q. Tell the jury how many 4, 40 caliber spent shell
23 casings you found at the scene?

24 A. 4, 40 caliber shell casings.

25 Q. I am going to show you State's Exhibit 98. And if

1 you recognize that.

2 A. Yes, ma'am.

3 Q. And again, how do you recognize it?

4 A. I collected this from a search warrant to the
5 Chevy Cobalt.

6 Q. Okay. Explain to the jury what you did with the
7 Chevy Cobalt from the scene.

8 A. Okay. The Chevy Cobalt, we had towed from the
9 scene back to our office for more in depth processing and the
10 shell casing was located on top of that.

11 Q. And do you remember where?

12 A. It was located in the area where the windshield
13 wiper meets the hood in that little gap right there.

14 Q. On the outside of the vehicle?

15 A. Yes, ma'am.

16 Q. Is it in substantially the same condition as when
17 you collected it?

18 A. Yes, ma'am.

19 MS. CHARBONNEAU: At this time I move State's Exhibit
20 98 into evidence.

21 THE COURT: Any objection?

22 MR. MCKELLAR: No objection.

23 THE COURT: So moved.

24 (State's Exhibit 98 admitted into evidence.)

25 BY MS. CHARBONNEAU:

1 Q. And can you tell what caliber shell casing that
2 is?

3 A. It is a 9mm caliber

4 Q. Looking at 99. Do you recognize that?

5 A. Yes, ma'am.

6 Q. Again, how do you recognize it?

7 A. These are fragments. Am I allowed to?

8 Q. Yes.

9 A. Okay. Fragments and projectiles that I collected
10 in reference to this case.

11 Q. And where did those come from?

12 A. These came from the vehicle's process of the
13 sheriff's office.

14 Q. Which vehicle was that? Was that the black Dodge?

15 A. Yes, ma'am. The black Dodge truck.

16 Q. Okay. And again, explain to the jury, did you
17 take the black Dodge truck from the scene?

18 A. We did. We towed that vehicle as well to process
19 it more thoroughly at the sheriff's office.

20 Q. And State's Exhibit 98, is that the items of the
21 evidence that you found inside the truck?

22 A. Ninety-nine?

23 Q. Ninety-nine, I'm sorry.

24 A. Yes, ma'am.

25 Q. Okay. Substantially same condition as when you

1 collected it?

2 A. Yes ma'am.

3 MS. CHARBONNEAU: At this time I move State's Exhibit
4 99 into evidence.

5 THE COURT: Any objection?

6 MR. MCKELLAR: No objection.

7 THE COURT: So moved.

8 (State's Exhibit 99 admitted into evidence.)

9 BY MS. CHARBONNEAU:

10 Q. Can you just let the jury know where you found the
11 individual projectiles in the truck?

12 A. Sure. Okay. One fragment was found in the rear
13 passenger floorboard of the Dodge truck. One projectile was
14 found in the driver's floorboard of the Dodge truck. One
15 projectile was found in the Dodge truck bed liner, and
16 fragments were recovered from the rear driver's door panel of
17 the Dodge truck.

18 Q. And just as a reminder, the black Dodge truck was
19 in front of **X26**?

20 A. Yes, ma'am.

21 Q. And is that the one we saw that you put the rods
22 in?

23 A. Yes, ma'am.

24 Q. And I'm showing you State's Exhibit 97. Do you
25 recognize that one?

1 A. Yes, ma'am.

2 Q. Again, how do you recognize it?

3 A. It is fragments and projectiles that were
4 collected at the initial incident location.

5 Q. Okay. And are they in substantially the same
6 condition as when you collected them?

7 A. Yes, ma'am.

8 Q. At this time I would move State's Exhibit --

9 A. Ninety-seven.

10 MS. CHARBONNEAU: -- 97 into evidence.

11 THE COURT: Any objection to 97?

12 MR. MCKELLAR: No objection.

13 THE COURT: So moved.

14 (State's Exhibit 97 admitted into evidence.)

15 BY MS. CHARBONNEAU:

16 Q. Tell the jury what that is?

17 A. These are fragments and projectiles that were
18 collected at the initial incident location of
19 X26 Wadley Drive.

20 Q. Do they correlate to a certain marker?

21 A. They correlate to the markers as found. So we
22 have marker number 37, which is item number 37. Marker
23 number 36, which is item 36. And marker number 35, which is
24 item number 35.

25 Q. Those three, were they found after the trucks were

1 moved?

2 A. Yes.

3 Q. Okay. So the other markers that we saw in the
4 photos so far were before anything was moved?

5 A. Yes.

6 Q. Okay. I am going to show you State's Exhibit 80
7 through 83 and 84 through 91. Starting with 80, do you
8 recognize that? Too through 83.

9 A. Yes, ma'am. These are pictures of the -- pictures
10 of the white Chevy Cobalt recovered from x26 Wadley.

11 Q. Okay. And are those photographs documenting after
12 you had towed it to a secured location?

13 A. Yes.

14 Q. And that's when you process it?

15 A. Yes.

16 Q. Are the photographs fair and accurate depiction of
17 the white Chevy Cobalt at the time?

18 A. Yes.

19 MS. CHARBONNEAU: At this time I move 8 -- 80 to 83
20 into evidence.

21 THE COURT: Any objection?

22 MR. MCKELLAR: No objection.

23 THE COURT: So moved.

24 (State's Exhibit 80 to 83 admitted into evidence.)

25 BY MS. CHARBONNEAU:

1 Q. And if you would look at 84 to 91?

2 A. These are photographs of the black Dodge pickup
3 truck that was also recovered from X26 Wadley Drive.

4 Q. And are those photographs depicting you're
5 pursuant to the search warrant, you're collecting evidence?

6 A. Yes.

7 Q. Are they -- are they a fair and accurate depiction
8 of what you found on that day?

9 A. Yes, ma'am.

10 MS. CHARBONNEAU: At this time then I move State's 84
11 through 91 into evidence.

12 THE COURT: Any objection?

13 MR. MCKELLAR: No objection.

14 THE COURT: So moved.

15 (State's Exhibits 84 through 91 admitted into evidence.)

16 MS. CHARBONNEAU: May I publish?

17 THE COURT: Yes.

18 BY MS. CHARBONNEAU:

19 Q. Okay. If we can start with 80, I can't see the
20 number. It's 80. You would please?

21 A. This is a photograph of the white Chevy Cobalt
22 that was recovered from X26 Wadley Drive.

23 Q. Eighty-one?

24 A. A picture of the damage to the Chevy Cobalt.

25 Q. What side of the vehicle is the damage on?

1 A. That is the front passenger windshield.

2 Q. Eighty-two?

3 A. Another angle of side damage.

4 Q. And is there anything in the -- by the windshield
5 wiper in 82?

6 A. So right there is going to be where the shell
7 casing was recovered from.

8 Q. Eighty-three?

9 A. Kind of blurry photograph, but it's another
10 photograph of shell casing in that blue Dodge.

11 Q. Is that the same it's just close up --

12 A. Yes.

13 Q. -- place of the vehicle?

14 A. Uh-huh.

15 Q. Okay. Eighty-four?

16 A. This is the black pickup truck that was recovered
17 from X26 Wadley drive.

18 Q. Eighty-five?

19 A. A photograph documenting the damage once again, of
20 that pickup truck.

21 Q. On which side of the truck?

22 A. That is on the passenger side of the truck.

23 Q. When -- when that truck was at the scene, what
24 side was that vehicle facing?

25 A. The vehicle was facing X26 Wadley drive. So this

1 side of the vehicle was facing the Defense.

2 Q. Eighty-six, please?

3 A. Another angle of the damage to the pickup truck.

4 Q. Is there one down by the running board as well?

5 A. Yes. There is another bullet strike right there.

6 Q. Eighty-seven?

7 A. And there's another angle of it closer. That is
8 the bullet strike down by the running board.

9 Q. Eighty-eight?

10 A. Save a picture of the backseat of the pickup truck
11 and we have fragments and protect us.

12 A. Eighty-nine?

13 A. Close up of the projectile that was in the back of
14 the pickup truck.

15 Q. Ninety?

16 A. A photo of the driver's seat in the driver's seat
17 photo of the black pickup truck.

18 Q. Is there a projectile on the floor there?

19 A. We do have some on the floor as well.

20 Q. Ninety-one?

21 A. And there you go. Projectile on our floorboard of
22 the black pickup truck.

23 Q. Okay. I have one more short set to show.

24 A. Okay.

25 Q. Ninety-two through 95. Do you recognize these?

1 A. These are photographs of the projectile that was
2 recovered at X26 Wadley Drive after the vehicles have been
3 towed.

4 Q. So you moved the vehicle and you went back down to
5 the scene?

6 A. We were still out of the scene. We moved the
7 vehicles and then continued to process the area and
8 discovered projectiles.

9 Q. So the exhibit things that were found that were
10 blocked by the vehicle?

11 A. Yes it was.

12 Q. Okay.

13 A. Can see the prior marks of where the vehicle was
14 sitting.

15 Q. Okay. And this is a fair and accurate depict of
16 what it looked like once the vehicles were moved on
17 June 26, 2022?

18 A. Yes.

19 MS. CHARBONNEAU: This time I move State's 92 through
20 95 into evidence.

21 MR. MCKELLAR: No objection.

22 THE COURT: All right. So moved.

23 (State's Exhibits 92 through 95 admitted into evidence.)

24 MS. CHARBONNEAU: May I publish?

25 THE COURT: Yes.

1 BY MS. CHARBONNEAU:

2 Q. Ninety-two?

3 A. Okay. So we are -- this is going to be

4 **x26** Wadley Drive over in this area right here. And this is
5 going to be where the black pickup truck had been sitting.

6 And these are markers identifying items of evidence found
7 after the truck has been removed.

8 Q. And are those the three markers that you are that
9 just came into evidence or they were projectile?

10 A. Yes.

11 Q. Ninety-three?

12 A. Projectile recover item number 35.

13 Q. Okay. Ninety-four?

14 A. Item number 36 another projectile that was
15 recovered.

16 Q. Ninety-five?

17 A. And then item number 37 another projectile
18 recovered.

19 Q. When the decedents were removed from the scene,
20 did you find any spent shell casings under them?

21 A. No.

22 Q. Is that right? You can have a seat. Thank you.
23 To orient us, you said on the markers that the 9mm shell
24 casings were, can you also tell us where the markers of all
25 the 40 caliber shell casings were?

1 A. They were marker number 19, number 23, number 29,
2 and number 30.

3 Q. Were there any bullet strikes on any of the
4 trailers across the road?

5 A. No.

6 Q. How about the -- the gentleman's brother that
7 lived across the way, was his -- was his trailer struck?

8 A. Not to my knowledge.

9 Q. Was any trailers on further down the road struck?

10 A. No.

11 Q. Were you involved in Ms. Miller's trailer that was
12 next to X26? Were you involved in processing hers the
13 trailer next door to X26?

14 A. The number --

15 Q. Same side?

16 A. Okay. No.

17 Q. Okay. Why not tow the blue truck?

18 A. The blue truck we felt we were comfortably able to
19 process it on scene. It didn't have substantial damage and
20 it did not have what we would find as items of the evidence
21 inside other than the pistol that was recovered.

22 Q. Okay. The white Chevy Cobalt, was there any
23 evidence that was brought to your attention in this
24 investigation that the Chevy, the white Chevy Cobalt was
25 involved at all in the crime itself?

1 A. No.

2 Q. How about the blue truck?

3 A. No.

4 Q. And how about the black Dodge truck?

5 A. No.

6 Q. Involving this case, were you ever given any guns
7 recovered from potential shooters?

8 A. No.

9 Q. Did you attend the autopsy in this case?

10 A. I did.

11 Q. And was it a part of your job to take the evidence
12 that was found by Dr. Eason and submit that into the
13 sheriff's office evidence also?

14 A. It was.

15 Q. Okay. And when you received it from Dr. Eason,
16 were they all sealed?

17 A. They were.

18 Q. What is it that you recovered?

19 A. I recovered fragments from the decedent,
20 W.G. [REDACTED], personal effects from W.G. [REDACTED],
21 including US currency and a lighter. Projectiles or a
22 projectile from the decedent, C.C. [REDACTED]. Two
23 projectiles from the decedent, I.P. [REDACTED]. Suspected
24 marijuana from W.G. [REDACTED]. And then clothing
25 belonging to W.G. [REDACTED] and clothing belonging to

1 I.P. [REDACTED].

2 Q. When you -- when you get those items from -- from
3 Dr. Eason the medical examiner, what is it that you do with
4 them?

5 A. We secure them at the sheriff's office and log
6 them into evidence.

7 Q. And then if they are to be tested, that's done by
8 a separate agency?

9 A. Yes.

10 MS. CHARBONNEAU: Thank you. I have nothing further.

11 THE COURT: All right. Cross-examination?

12 MR. MCKELLAR: Thank you, Your Honor. I'll be brief.

13 CROSS-EXAMINATION

14 BY MR. MCKELLAR:

15 Q. Good morning. Oh no, good afternoon.

16 A. Good afternoon.

17 Q. So you were under the impression of the only house
18 that was struck by a bullet was Larry Carroll's?

19 A. Yes.

20 Q. Well, so you -- so you never looked in Yolanda
21 Miller's house for any projectile?

22 A. No.

23 Q. So no projectiles ever covered from Yolanda
24 Miller's house to be set off to SLED for analysis?

25 A. No, sir.

1 Q. All right. So Yolanda Miller's house was never
2 entered in to photograph?

3 A. No.

4 Q. So when you first arrived on the scene, you
5 inspected the -- what you thought was the crime scene,
6 correct?

7 A. Yes, sir.

8 Q. And you photographed it without markers?

9 A. Yes, sir.

10 Q. And then you photographed it with markers?

11 A. Yes, sir.

12 Q. And then you went inside the residence, correct?

13 A. Yes, sir.

14 Q. And you also looked for evidence inside the --
15 when I say the residence, I mean Larry Carroll's.

16 A. The -- yes, sir.

17 Q. You went inside Larry Carroll's residence?

18 A. Uh-huh.

19 Q. To look for evidence. And I'm going to show you
20 what is -- has been pre-marked as Defendant's Exhibit 1.

21 A. Okay.

22 Q. Do you recognize that?

23 A. Yes, sir. It is a DVR system that was recovered
24 from inside of x26 Wadley Drive.

25 Q. Okay. And that was Larry Carroll's residence?

1 A. Yes, sir.

2 Q. Okay. Does it fairly and accurately depict the
3 subject matter?

4 A. Yes.

5 MR. MCKELLAR: Your Honor, we move to enter Defense
6 Exhibit 1 into evidence.

7 THE COURT: Any objection to Defense 1?

8 MS. CHARBONNEAU: No objection.

9 MR. MCKELLAR: I'm sorry I didn't show it.

10 MS. CHARBONNEAU: I saw it.

11 MR. MCKELLAR: Okay.

12 THE COURT: So moved.

13 (Defendant's Exhibit 1 admitted into evidence.)

14 MR. MCKELLAR: Beg Court's indulgence.

15 THE COURT: Okay.

16 BY MR. MCKELLAR:

17 Q. I am going to hand you what has been pre-marked as
18 Defendant's Exhibit number 2. Do you recognize that?

19 A. That is the television set that was inside of the
20 **X26** Wadley Drive.

21 Q. Okay. And what is attached to? What is -- it is
22 a fairly accurately the subject matter in the picture?

23 A. Yes, sir.

24 MR. MCKELLAR: Okay. Your Honor, we move to enter
25 Defense Exhibit 2 into evidence.

1 THE COURT: Any objection?

2 MS. CHARBONNEAU: No objection.

3 THE COURT: So moved.

4 (Defendant's Exhibit 2 admitted into evidence.)

5 BY MR. MCKELLAR:

6 Q. And what is displayed on that screen?

7 A. It is pictures of security footage.

8 MR. MCKELLAR: Okay. Permission to publish to the
9 jury?

10 THE COURT: Yes.

11 THE WITNESS: You want me to step down?

12 BY MR. MCKELLAR:

13 Q. You don't.

14 A. Okay.

15 Q. And what do you see projected on in this
16 photograph?

17 A. Photographs of the outside of the residence.

18 Q. Photograph, I'm sorry, say that again?

19 A. Photographs of the outside of the residence.

20 Q. On the -- I'm sorry. I do see the video.

21 A. Not a problem.

22 Q. I apologize. I was really confused. What do you
23 see now?

24 A. Okay. I see video footage of the outside of the
25 residence and a logo for the DVR system.

1 Q. Okay. And what is being displayed on the TV in
2 that photograph?

3 A. The outside of the residence.

4 Q. Through the security camera system?

5 A. Yes.

6 Q. Okay.

7 A. Sorry. Okay.

8 Q. I am going to show you what has been pre-marked as
9 Defendant's Exhibit 3 and Defendant's Exhibit 4. Do you
10 recognize what those photographs are?

11 A. Yes, sir. They are of security cameras that were
12 posted outside of X26 Wadley Drive.

13 Q. Okay. Did the photographs truly and accurately
14 depict the subject matter?

15 A. Yes.

16 MR. MCKELLAR: Your Honor, the Defense moves to enter
17 Exhibits 3 and 4.

18 THE COURT: Any objection?

19 MS. CHARBONNEAU: No objection.

20 THE COURT: So moved.

21 (Defendant's Exhibits 3 and 4 admitted into evidence.)

22 MR. MCKELLAR: Your Honor, I'd like to publish these to
23 the jury by hand to the jury.

24 THE COURT: All right.

25 BY MR. MCKELLAR:

1 Q. I am going to show you what has been pre-marked as
2 Defendant's Exhibit 5.

3 A. Okay.

4 Q. Do you recognize that?

5 A. It is the blue pickup truck sitting in front of
6 **X26** Wadley Drive.

7 Q. Okay. And does it fairly and accurately depicts
8 the subject matter?

9 A. Yes.

10 MR. MCKELLAR: Your Honor, the Defense moves to enter
11 Defendant's Exhibit 5 into evidence.

12 THE COURT: Any objection to 5?

13 MS. CHARBONNEAU: No objection.

14 THE COURT: So moved.

15 (Defendant's Exhibit 5 admitted into evidence.)

16 BY MR. MCKELLAR:

17 Q. And last, I will show you Defendant's Exhibits 6
18 and 7.

19 A. Okay.

20 Q. Do you recognize those?

21 A. Yes. These are unfired 9mm bullets in the front
22 passenger side of the Chevy Cobalt in the door pocket.

23 Q. And does that photograph fairly and accurately
24 depict the subject matter?

25 A. Yes.

1 MR. MCKELLAR: Your Honor, the Defense moves to enter
2 Defense Exhibits 6 and 7.

3 THE COURT: Any objection to 6 and 7?

4 MS. CHARBONNEAU: No objection.

5 THE COURT: So moved.

6 (Defendant's Exhibits 6 and 7 admitted into evidence.)

7 MR. MCKELLAR: May I publish to the jury, Your Honor?

8 THE COURT: Yes.

9 MR. MCKELLAR: Thank you. Beg for Court indulgence.
10 No further questions.

11 THE COURT: Okay. Ms. -- sorry.

12 MS. CHARBONNEAU: Two questions.

13 THE COURT: Re-direct, sorry.

14 RE-DIRECT EXAMINATION

15 BY MS. CHARBONNEAU:

16 Q. When you were inside Larry Carroll's for the
17 search of his house, did you find any guns or weapons?

18 A. No.

19 Q. And the Defense 6 and 7, you said they are unfired
20 bullets?

21 A. Unfired.

22 Q. Were they not related?

23 A. Not related.

24 Q. Okay.

25 THE COURT: Any re-cross?

1 MR. MCKELLAR: One further question, Your Honor.

2 RE-CROSS EXAMINATION

3 BY MR. MCKELLAR:

4 Q. That DVR system, was it collected into evidence?

5 A. It was.

6 Q. Was it submitted to your lab for evaluation?

7 A. It was processed by Investigator Truesdale.

8 MR. MCKELLAR: No further questions.

9 THE COURT: Okay. This witness may be excused. Please
10 watch your step.

11 MS. MURDOCK: Thank you.

12 THE COURT: All right. This time we'll stand down for
13 a brief 10 minute break.

14 (Off the record.)

15 (Jury enters courtroom.)

16 THE COURT: Please be seated. Thank you.

17 Madam Solicitor, please call your next witness.

18 MS. MORGAN: Your Honor, State calls Lieutenant David
19 Blevins.

20 LIEUTENANT DAVID BLEVINS,

21 having been duly sworn, testifies as follows:

22 THE CLERK: All right. Have a seat in the witness
23 stand. State your name and spell the last.

24 THE WITNESS: David Blevins, B-L-E-V-I-N-S.

25 DIRECT EXAMINATION

1 BY MS. MORGAN:

2 Q. Officer, and for ladies and gentlemen of the jury,
3 where do you work?

4 A. I work for Dayton County Sheriff's Office.

5 Q. And what is your job title at this time?

6 A. I'm the training manager over the agency.

7 Q. And how long have you been in law enforcement?

8 A. I've been with Aiken County 28 years.

9 Q. Now, are you also on special teams?

10 A. I was at the time. I retired and on June 14th of
11 this year.

12 Q. Okay. And what special teams were you on?

13 A. SWAT.

14 Q. Okay. What does SWAT do just briefly?

15 A. Stands for special weapon and tactic. We're just
16 a -- we're a little bit more highly trained unit than the
17 normal average officer. We have more specialty equipment to
18 work with under high risk situations.

19 Q. Now on June 26, 2022, were you called out as a
20 part of the -- a special operations team?

21 A. Yes, ma'am.

22 Q. And where did you go?

23 A. ■ -- xxx Lloydtown Road.

24 Q. And is that in Aiken County?

25 A. Yes, ma'am.

1 Q. Okay. And why were you called there?

2 A. We -- according to the report, we had gotten a
3 call to come out due to a homicide investigation and that
4 they had located a possible suspect.

5 Q. Okay. Now was that within the jurisdiction of --
6 of the Aiken county sheriff's office?

7 A. Yes, ma'am.

8 Q. And in Aiken county?

9 A. Yes.

10 Q. Okay. Now, were -- when you went to the
11 residence, were there attempts to get someone to come outside
12 of the residence on their own?

13 A. Based on -- from what I would -- the command --
14 the command structure, based on what I understand, there were
15 attempts, but there was no response from anybody in the
16 residence.

17 Q. So what -- what if anything did you do after that?

18 A. Once we advised that there was a search warrant
19 being obtained to enter the residence to look for the
20 individual, we got -- I -- I personally got an injury team
21 together to go up to the house, basically open the door, we
22 deployed a distraction device and back -- back out, leaving
23 the front door open.

24 Q. Now, did there come times that you had to get a
25 search warrant?

1 A. The search warrant was being obtained by the
2 investigators.

3 Q. Okay. And so what -- what kind of device was it
4 that you used?

5 A. A distraction device. It's -- some people call it
6 a flash bang, stun grenade. It puts off a high heat,
7 highlight, smoke, it makes a loud noise. We use that at
8 times to help maybe change the subject's mind.

9 Q. Do you -- do you recall how big this response team
10 was?

11 A. It was just -- the initial, it was just the four
12 of us that went up.

13 Q. Did -- did there come a times to use the drone to
14 search in the area?

15 A. That -- yes, ma'am. Once the distraction device
16 went off and the smoke cleared Lieutenant Chavis, who's now
17 former retired, flew the drone in to do a cursory search of
18 the residence to see if he could find anybody what appeared
19 to be a in -- in persons inside the residence before we made
20 entry.

21 Q. And -- and did -- was there anything as a result
22 of that?

23 A. His search did not reveal any -- anything to that
24 effect.

25 Q. Are you familiar with the MRAP?

1 A. Yes, ma'am.

2 Q. And could you explain to ladies and gentlemen of
3 the jury what that is?

4 A. MRAP's a military vehicle. It stands for it's a
5 mine-resistant armored personnel carrier and we use that on
6 certain call outs where there real high risk where there may
7 be weapons involved.

8 Q. Was that used this time?

9 A. Yes, ma'am.

10 Q. Okay. Now, did there come a times that you went
11 inside the residence?

12 A. Correct. After the drone come back out, we got
13 our entry team together, approached the residence, and then
14 started conducting a methodical search of the residence.

15 Q. What, if anything, did you find?

16 A. Once inside the building, we got -- cleared it, we
17 made entry into what was the master bedroom and found that
18 there was another door to the right and closed, which was the
19 bathroom. We opened the bathroom door and as searching,
20 opened the cabinet door and found the suspect hiding under
21 sink.

22 Q. Do you remember the suspect's name?

23 A. Xabian Bailey.

24 Q. And do you see that -- the Defendant sitting in
25 courtroom today?

1 A. Yes, ma'am.

2 Q. And could you point him out and identify him by
3 piece of clothing?

4 A. He's the third one on the Defense table wearing, I
5 guess it's a black jacket and white shirt.

6 MS. MORGAN: Let the record reflect that the witness
7 has identified the Defendant.

8 BY MS. MORGAN:

9 Q. Were there -- were at the time of the going into
10 the house, were there any other people inside that house?

11 A. No, ma'am. Nobody else was located in the house.

12 Q. Okay. I'm showing you what has been previously
13 marked as State's Exhibit 43, 44, 45, 46, and 47. Would you
14 take a look at those photographs?

15 A. Yes, ma'am. This would be the front of the house
16 known as xxx Lloydtown Road.

17 Q. So just let me -- do you recognize these
18 photographs?

19 A. Yes.

20 Q. And would you just look and are they fair and
21 accurate representations of what you saw on the night that
22 you conducted the arrest?

23 A. Yes, ma'am.

24 MS. MORGAN: Your Honor, based on that representation,
25 the State seeks to -- which to -- moves to admit State's

1 Exhibit 43, 44, 45, 46 and 47.

2 THE COURT: Any objection?

3 MR. MCKELLAR: Your Honor, may we approach?

4 THE COURT: Yes.

5 (Bench conference.)

6 THE COURT: All right. Madam Solicitor, your exhibits
7 are entered.

8 (State's Exhibits 43, 44, 45, 46, 47 admitted into evidence.)

9 MS. MORGAN: Request to publish for the jury?

10 THE COURT: Yes.

11 BY MS. MORGAN:

12 Q. Lieutenant Blevins, would you mind stepping down
13 from the witness stand, please?

14 A. Yes, ma'am.

15 Q. Could you point for the ladies and gentlemen of
16 the jury, if the witness could speak graphically.

17 A. (Inaudible) This road that's the city park there
18 used for, like I say, high risk issues. This is the front of
19 **xxx** Lloydtown Road of the house that we eventually entered
20 for the suspect that we found.

21 Q. State's Exhibit 44, please?

22 A. That's the front door. This portion of the screen
23 is already opened. We open this door and deploy flash bang
24 distraction license into the house. And then back -- back
25 off the porch. You see we got a reaction. Got somebody's in

1 the house.

2 Q. State's Exhibit 45, please?

3 A. This is the master bedroom. When you come in the
4 living room, the door of this room was shut alone as well as
5 the bathroom. The room couldn't get in. This is the
6 entrance looking, this is the master bathroom looking into
7 the bathroom, Mr. Xabian was found inside.

8 Q. State's Exhibit 46?

9 A. Once inside, we had checked all the cabinets and
10 Mr. Xabian was found. On the left hand, if you're facing the
11 sinks on the left side of the cabinets on the sink. And this
12 would be the location in which he was found under left sink,
13 master bathroom, looking greatly at the sink, left-hand side.

14 Q. Okay. Thank you.

15 MS. MORGAN: Your Honor, no further questions at this
16 time.

17 THE COURT: Cross-examination?

18 MR. MCKELLAR: No questions, Your Honor.

19 THE COURT: All right. This witness may be excused,
20 watch your step.

21 Madam Solicitor?

22 MS. CHARBONNEAU: Investigator Scott Neel.

23 INVESTIGATOR SCOTT NEEL,

24 having been duly sworn, testifies as follows:

25 THE CLERK: State your first name, and spell your name.

1 THE WITNESS: My name is Scott Neel. My last name is
2 spelled N-E-E-L.

3 DIRECT EXAMINATION

4 BY MS. CHARBONNEAU:

5 Q. Good afternoon.

6 A. Good afternoon.

7 Q. Where do you work?

8 A. For -- I work for the Aiken County Sheriff's
9 Office.

10 Q. What is your education, please?

11 A. I have a bachelor's degree from the University of
12 South Carolina with a major in criminal justice.

13 Q. And what is your job title?

14 A. I'm an investigator.

15 Q. How long have you been in law enforcement all
16 total?

17 A. A little over 17 years.

18 Q. Were you working on Sunday, June 26, 2022?

19 A. Originally, no, ma'am. I was not.

20 Q. How does it happen that you became the lead
21 investigator in this case?

22 A. I had received a phone call from my supervisor who
23 asked if I would be able to come to the scene on Wadley Drive
24 and assist with the investigation.

25 Q. Did you actually go out to the crime scene?

1 A. Yes, ma'am, I did.

2 Q. And X26 Wadley Drive. Is that in Aiken?

3 A. It is, yes, ma'am.

4 Q. Within Aiken County Sheriff's Office jurisdiction?

5 A. Yes, ma'am.

6 Q. Within Aiken County?

7 A. Yes, ma'am.

8 Q. What time did you arrive, if you know?

9 A. I believe it was 2:32 p.m.

10 Q. Okay. Were the victims still on the scene when
11 you got there?

12 A. One victim had been transported to the hospital,
13 the other two were still at the incident location.

14 Q. Was the scene secured?

15 A. It was, yes, ma'am.

16 Q. What did you observe when you first arrived?

17 A. When I arrived, I observed an area in -- in front
18 of X26 Wadley Drive. It was kind of a dirt area in the front
19 yard. There were a large number of shell casings on the
20 ground. The residence at X26 there were cameras on the
21 exterior of the house.

22 There were several officers who were already there
23 prior to my arrival who were already beginning to photograph
24 some of the evidence. Also Investigator Grayville was there
25 and to -- I met with him and we decided at that point that a

1 search warrant would be necessary to process the scene.

2 Q. Okay. And did you get that search warrant?

3 A. Investigator Grayville did, yes, ma'am.

4 Q. Was it for that address X26 Wadley Drive?

5 A. Yes, ma'am, it was.

6 Q. Was it searched on June 26, 2022?

7 A. Yes, ma'am.

8 Q. Were any guns or weapons recovered in that house?

9 A. No, ma'am.

10 Q. You said that -- you mentioned shell casings on
11 the scene, in your 17 years of experience just approximation,
12 how many shooting scenes have you gone to in your career?

13 A. I would estimate anywhere from maybe 3 -- 350, 400
14 shooting scenes.

15 Q. And in the -- in that experience of 350 to 400
16 shooting scenes, was there any significance or anything that
17 caught your eye about the shell casings in this case?

18 A. Based off of the conversations I had with the
19 crime scene investigators who were there, the location of the
20 shell casings compared to the location of the victims
21 initially the assessment, it appeared that the shell casings
22 were fired from in front of where the victims were found
23 laying on the ground.

24 Q. In -- meaning in which direction?

25 A. It would've been that whoever the shooter was,

1 would've been standing in front of the victims and they were
2 shooting towards the victims.

3 Q. Did you find any spent shell casings behind the
4 victims?

5 A. No, ma'am.

6 Q. Did you find any spent shell casings under the
7 victims?

8 A. No, ma'am.

9 Q. Okay. Were there any guns or weapons of any kind
10 on any of the victims?

11 A. No, ma'am.

12 Q. How about within their reach?

13 A. No.

14 Q. Did you also get a search warrant for the vehicles
15 on the property?

16 A. The original search warrant that we obtained for
17 the processing of the crime scene included the vehicles that
18 were found on the property, yes.

19 Q. And as far as inside Larry Carroll's house, there
20 was testimony about a -- a DVR or a camera system inside?

21 A. Yes, ma'am.

22 Q. Okay. When -- that was collected and taken into
23 evidence?

24 A. It was, yes, ma'am.

25 Q. And through the processing of the DVR, were you

1 able to obtain any video of June 26, 2022?

2 A. No.

3 Q. Was there a missing video of a time period?

4 A. My understanding it was processed by
5 Investigator Truesdale that I believe the last video was from
6 May 22nd of 2022.

7 Q. Okay. Nothing after that?

8 A. Correct.

9 Q. Did you talk to any potential witnesses and take
10 their statements at the scene?

11 A. Yes, ma'am, I did.

12 Q. And do you remember who that was?

13 A. The first witness I talked to was Larry Carroll.

14 Q. He was on scene?

15 A. Yes, ma'am, he was.

16 Q. Okay. Was he able to tell you the actual names of
17 the shooters and who they were?

18 A. He was able to tell us their first names and he
19 knew Mr. Bailey's last name.

20 Q. Okay. Was he able to give you descriptions of
21 them and where they went and who was shooting?

22 A. Yes, he was.

23 Q. Okay. And was he also able to tell you the
24 relationship between him and the victims and the Defendants
25 and the people that walked up with the Defendants?

1 A. He was able to explain to us, it was a little
2 complicated to understand initially, but obviously he was
3 able to relay that he was related to the victims. And then
4 there were some familial relationships with the suspects as
5 well.

6 Q. Did -- was he able to tell you -- was Larry
7 Carroll able to tell you where the Defendant in this case
8 lived?

9 A. Yes, ma'am, he was.

10 Q. What was that address?

11 A. He was able to tell us that he lived on Hillview
12 -- at Hillview Drive. I believe it is.

13 Q. And is that close to the crime scene?

14 A. It is very close.

15 Q. What do you do in relation to where that house is
16 and where the crime scene is as far as canvassing
17 neighborhood or anything like that?

18 A. So part of what we did was obviously look for any
19 video evidence. So we did search the area going door to door
20 and try to knock on as many doors as we could, talk to as
21 many people as we could and locate any video cameras that may
22 be visible from the outside of their house.

23 Q. And the surveillance video that's in evidence
24 already --

25 A. Yes, ma'am.

1 Q. -- did you actually collect that surveillance
2 video?

3 A. I did, yes, ma'am.

4 Q. And looking at State's 1 can you -- let's
5 (inaudible). If you wouldn't mind just stepping down to the
6 jury where -- what house you got that from?

7 A. Sure.

8 Q. Can you take this?

9 A. Okay.

10 Q. I am looking at State 1 to -- Richard, can you
11 turn it so it's facing up? How about one more -- one more
12 time.

13 A. Okay. So this is x26 Wadley Drive and the video
14 that you were referring to was from the house here at the
15 corner of Sassafras in Hillview Circle.

16 Q. And what is the xxx Hillview on Sassafras?

17 A. That was Xabian Bailey's address.

18 Q. Okay. While, you and Mr. Carroll, Larry Carroll
19 are still on scene, was he able to actually give you the name
20 Xay?

21 A. Yes, ma'am.

22 Q. And did you show him photos or he showed you
23 photos of who that was?

24 A. I was able to find a photo of Xabian Bailey and he
25 matched the physical description described by Larry Carroll.

1 So I showed him that photograph and he identified him as
2 being Xabian Bailey.

3 Q. Is that person in the courtroom today?

4 A. Yes, ma'am, he is.

5 Q. Can you please point him out and describe an
6 article of clothing that he's wearing?

7 A. He's the individual at table with the dark coat
8 and the navy tie with the white dress shirt.

9 MS. CHARBONNEAU: May the record reflect he's
10 identified the Defendant, Xabian Bailey.

11 BY CHARBONNEAU:

12 Q. What do you do after the crime scene?

13 A. After speaking to Mr. Carroll, myself and several
14 other investigators went to our office. We began the process
15 of obtaining arrest warrants for the three individuals that
16 were identified by Mr. Carroll as -- as the shooters.

17 Q. Let me -- and what were those three names?

18 A. Alvin Artis, Xabian Bailey, and Antonio Jones.

19 Q. Did your investigation reveal that there were also
20 three other people that were with them?

21 A. Yes, ma'am.

22 Q. Did you get arrest warrants for them?

23 A. No, ma'am.

24 Q. Why is that?

25 A. None of those three were identified as ever having

1 a firearm or shooting a firearm during the commission of the
2 incident.

3 Q. Okay. After you get the arrest warrants, do you
4 get a lead about where one of the possible suspects is?

5 A. We did. Myself and Investigator Abdullah
6 continued to finish up the paperwork. Investigator Faulkner
7 and Investigator Williams with our office went to an address
8 on Edgefield Highway to attempt to locate Fantasia Carroll.

9 Q. And were someone able to speak to her?

10 A. They were, yes, ma'am.

11 Q. And how was she helpful in finding the Defendant?

12 A. She told them that she was a girlfriend of
13 Xabian Bailey's and that she had recently given him her old
14 cell phone and she had the ability to look up the location of
15 the cell phone if it was being used on a Wi-Fi signal.

16 Q. Were you able to track where the Defendant was by
17 that cell phone?

18 A. They were, yes, ma'am.

19 Q. What address was that?

20 A. At [REDACTED] Lloydtown Road.

21 Q. Do you go to [REDACTED] Lloydtown Road?

22 A. Yes, ma'am, we did.

23 Q. And are there attempts to knock on the door and
24 get someone to come out?

25 A. We did. We took several officers with us. We

1 attempted to knock on the front door. We announced ourselves
2 verbally outside that the sheriff's office was present, but
3 never got a response.

4 Q. What do you do when you get no response?

5 A. Investigator Faulkner had stayed with Fantasia
6 while she continued to monitor the location of the cell
7 phone. It appeared that it was still using the Wi-Fi signal
8 inside [REDACTED] Lloydtown Road. While we were there another
9 investigator also heard some movement inside the residence
10 there at [REDACTED]. So at that point we decided to get a -- a
11 search warrant for that address.

12 Q. Once you got the search warrant for
13 [REDACTED] Lloydtown Road, what do you do?

14 A. Once I received the -- I obtained the search
15 warrant I notified Captain Sanders, who was the supervisor of
16 SWAT team who was on scene by the time I had returned from
17 getting the search warrant signed.

18 Q. Well, if this shooting happened at 1:23 p.m.,
19 June 26th, what time do you actually get in the house at
20 [REDACTED] Lloydtown Road?

21 A. It was somewhere in the neighborhood of 10:30
22 p.m., that night, I believe.

23 Q. And who was in that house?

24 A. Xabian Bailey.

25 Q. Was anyone else in that house?

1 A. No, ma'am.

2 Q. And where was he found?

3 A. Hiding under a bathroom sink.

4 Q. And was there a cell phone recovered in that
5 house?

6 A. There was.

7 Q. Do you collect any possible evidence from
8 Xabian Bailey?

9 A. Yes, ma'am. There was a cell phone collected from
10 him there at the house. And then we took him to the
11 sheriff's office for an interview. During the course of that
12 interview we collected the T-shirt that he was wearing.

13 Q. I want show you State's Exhibit 38. Do you
14 recognize that?

15 A. Yes, ma'am, I do.

16 Q. And what is 38?

17 A. This contains the shirt that I collected from
18 Xabian that night.

19 Q. Why take his shirt?

20 A. He had indicated to us while we were talking to
21 him that he was still wearing the same shirt that he was
22 wearing during the shooting. So we collected it for
23 potential testing for gunshot residue.

24 MS. CHARBONNEAU: At this time I've move State's
25 Exhibit 38 into evidence.

1 THE COURT: Any objection?

2 MR. MCKELLAR: No objection.

3 THE COURT: So moved.

4 (State's Exhibit 38 was admitted into evidence.)

5 BY MS. CHARBONNEAU:

6 Q. Would -- if you don't mind putting gloves on and
7 opening this so the jury can see it. If you wouldn't mind
8 just holding it up and showing it to the jury.

9 A. It should be the front. That's the back.

10 Q. Any further testing done to that shirt would be
11 done by who? If there was any further testing?

12 A. It would've a -- what we refer to as a GSR kit, a
13 gunshot residue kit would've been completed by one of our
14 forensics investigators.

15 Q. And then who -- who actually tests that kit?

16 A. The kit is collected and then submitted to SLED
17 for testing.

18 Q. And that's a separate agency from the sheriff's
19 office?

20 A. It is, yes, ma'am.

21 Q. And was that done in this case?

22 A. It was.

23 Q. Okay. Did you take any witness statements that
24 you also showed them photo lineups?

25 A. Yes, ma'am.

1 Q. Okay. And who was that?

2 A. We took a statement from Twaine Carroll and also
3 Josh Smith.

4 Q. Okay. And are you the one who actually showed the
5 photo lineups to Twaine Carroll 40, 41, and 42?

6 A. Yes, ma'am.

7 Q. Okay. And the writing on there, is the writing
8 done by the witness who you show in the photo lineup or is it
9 done by you?

10 A. On the actual lineups, the only writing that I do
11 is the labeling at the bottom, identifying it as lineup A, B,
12 or C.

13 Q. Otherwise, the witness is the one who circles and
14 dates and writes whatever they write on the second page?

15 A. Correct.

16 Q. And was that done in this case?

17 A. It was. On the second page the only writing I may
18 do is the case number and then my signature and the date and
19 the time.

20 Q. And what was the date that you showed the photo
21 lineups to Twaine Carroll?

22 A. June 29, 2022.

23 Q. So three days after the incident?

24 A. Yes, ma'am.

25 Q. When -- when you showed him the photo line ups,

1 did you also search his house?

2 A. Yes, ma'am.

3 Q. And how was that accomplished?

4 A. Myself and Investigator Abdullah went there. We
5 obtained the recorded statement from him, showed him the
6 photo lineup, and then he provided verbal consent for us to
7 search the house, yes.

8 Q. When you searched his house, did you find any guns
9 or weapons?

10 A. No, ma'am.

11 Q. Did Twaine Carroll know that you and
12 Investigator Abdullah were coming to his house?

13 A. No, he did not.

14 Q. You didn't call him and say, I -- I am coming or
15 meet us?

16 A. No.

17 Q. Okay. Also looking at State's 10, 11, and 12, the
18 photo lineups shown to Josh Smith, are you the one who showed
19 him these photos?

20 A. Yes, ma'am.

21 Q. And again, the same scenario as far as who's doing
22 the writing and what is being said?

23 A. Yes, ma'am.

24 Q. And what date did you show to Josh Smith?

25 A. July 14, 2022.

1 Q. Not the same day and not together?

2 A. No, ma'am.

3 Q. I don't know if I asked you this. When you
4 searched Twaine Carroll's house, did you find any weapons or
5 guns?

6 A. No, ma'am.

7 Q. And when you showed Twaine Carroll and then on a
8 separate day, Josh Smith, the photo lineups, did either one
9 of them hesitate in picking out who they said the shooters
10 were?

11 A. No, ma'am.

12 Q. When you did the neighborhood canvas, did
13 Yolanda Miller come on -- come into the investigation?

14 A. We did talk to her, yes.

15 Q. And what was her involvement as far as your
16 investigation?

17 A. We knew that she had called 911 the day of the
18 incident and reported hearing gunshots. And then she had
19 also told us that one of the bullets fired that day had gone
20 through her trailer.

21 Q. Was her trailer next door to Larry Carroll's or
22 across?

23 A. Next door.

24 Q. Okay. And so that would make it across from
25 Twaine's Carroll's trailer?

1 A. I believe, across and diagonal. Yes, ma'am.

2 Q. Okay. When you were out at the scene and after
3 canvassing and covering everything that you can at the scene,
4 was there any evidence that any shooting had happened from
5 the front of X26 Larry Carroll's house towards the road?

6 A. No, ma'am.

7 Q. You found no physical evidence of that?

8 A. No.

9 Q. Okay. Were any of the trailers or homes across
10 from X26 Larry Carroll's house, were any of those trailers
11 hit in that direction?

12 A. No.

13 Q. Towards Twaine Carroll's house?

14 A. No.

15 Q. Okay. The only houses and cars that were hit were
16 in front of X26 and then Yolanda Miller next door?

17 A. Correct.

18 Q. And then the surveillance video that you
19 collected, were you able to determine that the date, time,
20 and stamp was correct?

21 A. Yes, ma'am.

22 Q. Okay. What is the time period, if you recall,
23 between when we first see the six individuals walking up to
24 Wadley Drive and then we see five of them coming back?

25 A. I believe it was approximately six minutes.

1 Q. Okay.

2 A. I believe.

3 Q. Who are all the 911 callers from that day?

4 A. Yolanda Miller. And then the call from
5 Fantasia Carroll with Larry Carroll.

6 Q. Do you ultimately arrest Antonio Jones?

7 A. Yes, ma'am.

8 Q. And do you ultimately arrest Alvin Artis?

9 A. Yes, ma'am.

10 Q. When you're on the crime scene and it's just
11 happened, is there any way for you to tell as an investigator
12 what is potential evidence and what isn't?

13 A. Some pieces may be obvious, but there -- there's
14 -- at that point it -- it's very hard to know for sure
15 exactly what is evidence.

16 Q. So what do you do?

17 A. Out of abundance of caution, you try to collect
18 anything that has the remote possibility or potential of
19 being evidence.

20 Q. Okay. In this case, did you attempt to get
21 fingerprints on any items?

22 A. Yes, we did.

23 Q. And what items were that? Where is that?

24 A. The white Chevy Cobalt that was towed to the
25 sheriff's office was processed by our forensics division for

1 fingerprints.

2 Q. And any fingerprints come back?

3 A. I believe there were a few fingerprints pulled and
4 they all matched to C.C. [REDACTED] and I.P. [REDACTED].

5 Q. The victims?

6 A. Yes.

7 Q. Okay. Did you have any evidence that the white
8 Chevy Cobalt was involved or that the -- any of the
9 Defendants had touched it?

10 A. No, ma'am.

11 Q. Okay. Did you collect anything out of the white
12 Chevy Cobalt?

13 A. Yes, there was a cell phone collected on the
14 passenger -- front passenger seat.

15 Q. And did you attempt any testing on that?

16 A. Yeah, it was swabbed for potential DNA, yes.

17 Q. Okay. What other -- so when you swab for DNA,
18 just so we understand, can you actually see DNA when you swab
19 for it?

20 A. No, ma'am.

21 Q. You -- and can you explain to the jury kind of how
22 that's -- how that's done?

23 A. You use instruments similar to a Q-tip and you
24 would, depending on what the object is, in this particular
25 case a cell phone, where you would normally hold a cell

1 phone, you would swab the area with the Q-tip. You would do
2 two swabs and then secure that into evidence.

3 Q. And then what happens with those swabs? What do
4 you do with them?

5 A. They would be submitted to the state law
6 enforcement division.

7 Q. Was that done in this case?

8 A. It was, yes, ma'am.

9 Q. What items of evidence were you able to send up to
10 SLED?

11 A. We sent the swabs from that cell phone and then we
12 also sent swabs from the Glock 9mm that was found in the
13 truck there at the incident location.

14 Q. And was there a third item as well, a lighter
15 leash or so?

16 A. Oh, yes. There was a -- we called it a lighter
17 leash. It buckles to your belt and it has a retractable
18 string and there's a piece that holds a lighter that was
19 found in the area where the shell casings were found. So
20 that item was also swabbed for potential DNA and submitted,
21 yes.

22 Q. And what were the results that you obtained from
23 the SLED in regards to the DNA?

24 A. There was no DNA found on the lighter. There was
25 a profile found on the Glock. However, when we submitted

1 standards of the -- for the victims and for the suspects,
2 none of them matched the DNA that was found on the Glock.
3 And then the DNA swabbed from the cell phone matched to
4 W.G. .

5 Q. And that was the -- one of the victims?

6 A. One of the victims, yes.

7 Q. Did you have any evidence through your
8 investigation that any of the Defendants had used that cell
9 phone?

10 A. The Defendants, no, ma'am.

11 Q. Did you ever recover any guns from any of the
12 three shooters?

13 A. No, ma'am.

14 Q. Wait, when your investigation -- you've collected
15 all these items, you've sent them away, is that the end of
16 your investigation?

17 A. No.

18 Q. Okay. What is it that you do as the lead
19 investigator as time goes on?

20 A. Obviously, you have your initial investigation.
21 The canvas would be part of the additional follow up. You
22 have interviews with potential witnesses. I mean, there --
23 there's a lot of -- a lot of steps that -- that we take.

24 Q. Does something possibly develop in this case
25 months later?

1 A. Yes.

2 Q. Okay. And tell us about you -- a potential second
3 gun?

4 A. I believe it was in January of 2023, a search
5 warrant was executed by our narcotics division at an address
6 here in Aiken. During that search, there was a firearm that
7 was recovered. When we recover a firearm, it is normal for
8 us to enter it into what's called IBIS, which is a database
9 kind of similar to a fingerprint database, but it would be
10 for shell casings. So a bullet is fired and an empty shell
11 casing is produced. So when that gun was recovered it
12 would've been submitted to SLED for entry into IBIS.

13 Q. And so months later, you sent this gun that's on a
14 different search warrant on a different crime scene?

15 A. Yes, ma'am.

16 Q. And what were the results of that?

17 A. We had -- there was a -- a preliminary match to
18 that shell casing. How -- so what -- when we get a
19 preliminary match, what we will do is take the firearm and
20 the shell casing and request a direct comparison to be done
21 by the SLED firearms division. And so we did that in this
22 case, yes.

23 Q. Okay. Do you remember what type of gun that was?
24 The second one?

25 A. I know it shot 9mm. I think it was a tactical

1 arms.

2 Q. Okay.

3 A. Was the brand, I believe.

4 Q. And did it ultimately end up matching our scene?

5 A. No, it was inconclusive, I believe, or did match.

6 Q. Was -- did you get a lead about a possible black
7 car being involved?

8 A. Some of the initial information we had received at
9 the scene some people believed that the Defendants or the
10 suspects involved may have left in a black sedan, yes.

11 Q. So when you get a lead like that, what do you do?

12 A. Obviously, in this particular situation, we had
13 several investigators who were out assisting with us. One
14 investigator was familiar with a female who drove -- drove a
15 black sedan who she knew to be associated with some of the
16 potential people involved in this case. So we identified her
17 and we went and met with her, yes.

18 Q. Did you take her statement?

19 A. A statement, yes, ma'am.

20 Q. And was she eliminated or did you feel she was
21 involved?

22 A. She was very cooperative with us. We searched her
23 vehicle. We found obviously no bullet holes or any other
24 evidence to indicate that she would've been at the incident
25 location. She denied any involvement or knowledge of the

1 incident. And she -- like said she was very -- very
2 cooperative and didn't appear to be related to the incident
3 night.

4 Q. Once you got the surveillance video off of that
5 house on the corner of Hillview in Sassafras, does that tell
6 you whether a black car was involved or not?

7 A. There was no black vehicle found.

8 Q. And can you tell us what vehicles on the scene
9 were -- had bullet strikes?

10 A. The black Dodge truck and the blue Dodge truck.

11 Q. Okay. On the Sunday afternoon, June 26, 2022, of
12 the six people who walk up -- who walk up on 266 --
13 **x26** Wadley Drive, where the three victims were hanging out
14 with Larry and Twaine and Josh?

15 A. Yes, ma'am.

16 Q. Were any of those six people that walked up, were
17 any of them shot?

18 A. No, ma'am.

19 MS. CHARBONNEAU: Thank you. Nothing further.

20 MR. MCKELLAR: Your Honor, can we approach?

21 (Bench conference.)

22 CROSS-EXAMINATION

23 BY MR. MCKELLAR:

24 Q. Good afternoon, Investigator Neel.

25 A. Good afternoon, sir.

1 Q. How are you?

2 A. Good. How are you?

3 Q. Good. Thank you. There are a few topics I'd like
4 to discuss with you. I'd like to start off with the
5 description of the Chevy Cobalt, the white car that was
6 parked or in front of Larry Carroll's house, that the
7 windshield, the lower left hand side, the windshield --
8 windshield was cracked, correct?

9 A. Yes, sir.

10 Q. And that could have been a bullet that hit that,
11 correct?

12 A. It's possible, yes.

13 Q. We don't know?

14 A. I do not.

15 Q. And the rounds that were found within the Chevy
16 Cobalt, they were 9mm rounds, correct?

17 A. Bullets, yes, sir. Yes, sir.

18 Q. Bullets?

19 A. Yes, sir.

20 Q. And they were not sent off to SLED for any type of
21 analysis?

22 A. No, sir.

23 Q. Or sent off a paper print, sir?

24 A. No, sir.

25 Q. Were you able -- ever able to determine the owner

1 of that white Chevy Cobalt?

2 A. I believe the last registered owner was a man by
3 the name of Patrick Cade out of the state of Georgia.

4 Q. Okay. So it would not have been any of the
5 witnesses or subjects or decedents at the incident location?

6 A. No, sir.

7 Q. Were you able to determine who drove that white
8 Chevy Cobalt to the scene?

9 A. Not positively, no.

10 Q. I would like to talk to you a little bit about the
11 video system that was located in Larry Carroll's house. That
12 video system was functional, correct?

13 A. It appeared to produce a live feed, yes, sir.

14 Q. And the camera system was capable of recording?

15 A. I -- I -- I don't know the answer to that.

16 Q. Well, you found artifacts from previous recording
17 from back in May, correct?

18 A. Yes.

19 Q. So that indicates that at some point the camera
20 system --

21 A. At some point, yes, sir.

22 Q. Okay. But there were no recent records?

23 A. Correct.

24 Q. I'd like to change gears again. You mentioned in
25 your testimony that judging by the way the bullet casings

1 were on the ground, you were able to estimate where the
2 shooters were?

3 A. It gives you a general idea, yes, sir.

4 Q. Okay. And is my understanding your testimony was
5 the -- the shooters were standing in front of the decedents?

6 A. Yes, sir.

7 Q. Okay. So the decedents W.G. [REDACTED], I.P. [REDACTED], and C.C. [REDACTED]
8 --

9 A. Uh-huh.

10 Q. -- would have been between the shooters -- shooter
11 or shooters and Larry Carroll's house?

12 A. Yes, sir.

13 Q. And the white Chevy Cobalt would've been behind --
14 would've been behind where the shooter or shooters were?

15 A. If I remember correctly, it would've been behind
16 and slightly to the right.

17 Q. Slightly to the right.

18 A. If you're -- if you're facing the victims.

19 Q. And the -- Yolanda Miller whose house was struck,
20 her house would've been behind and to the right?

21 A. You're asking me?

22 Q. I'm asking you, yes.

23 A. Okay. Behind the victims, is that what you're
24 asking?

25 Q. Behind the -- the shooter or shooters?

1 A. It would've been to the right, I believe.

2 Q. Now, I'm trying to map that visually where
3 Larry Carroll's trailer is, Yolanda Miller truck trailer is,
4 and the third trailer. If you enter Wadley Drive, there are
5 three trailers to the right, correct?

6 A. Yes, sir.

7 Q. And there all running parallel with the direction
8 of Wadley Drive?

9 A. Correct.

10 Q. And Larry Carroll was on the far right side, the
11 deep right side?

12 A. At the end.

13 Q. That trailer --

14 A. At the end, yes.

15 Q. And Yolanda Miller's would've been trailer to the
16 right of his?

17 A. Yes.

18 Q. You mentioned previously that a shirt was
19 collected for submission for GSR, and GSR stands for what
20 again?

21 A. Gunshot residue.

22 Q. And the purpose of collecting for GSR was what?

23 A. It would tell you whether or not somebody was in
24 close proximity when a gun was fired.

25 Q. Okay. You did not collect -- look for GSR on

1 Mr. Bailey's hands?

2 A. No, sir.

3 Q. You did not look for GSR on W.G.'s hands?

4 A. No, sir.

5 Q. You did not look for GSR on I.P.'s hands?

6 A. No, sir.

7 Q. You did not look for GSR on Cameron's hands?

8 A. No, sir.

9 Q. And you did look for GSR on Mr. Bailey's shirt?

10 A. Yes.

11 Q. And when you collected that shirt, you noticed
12 that the shirt was dirty, correct?

13 A. There were a couple dirt spots, I believe.

14 Q. Sandy? Dirty?

15 A. I don't see it on here any today, but if I
16 remember correctly, during the interview, there were a couple
17 of pieces of sand, I believe, I'm not sure.

18 Q. Is your memory a little fuzzy or do you have a
19 clear recollection?

20 A. Of?

21 Q. Of --

22 A. The shirt?

23 Q. -- the shirt when you collected.

24 A. I feel pretty confident that there was some --

25 Q. Some dirt?

1 A. -- some sand, yes.

2 Q. Okay. The last thing I'd like to talk to you
3 about is the search of Twaine's Carroll house.

4 A. Yes, sir.

5 Q. How long after the shooting was his house
6 searched?

7 A. Three days.

8 Q. Three days after the shooting. Okay. The law
9 enforcement learned on the day of the shooting that guns were
10 alleged to be within Twaine Carroll's house, correct?

11 A. Correct.

12 Q. And a warrant was never -- never got a warrant to
13 search his house?

14 A. No, sir.

15 Q. But you did search it on the third day?

16 A. I did, yes, sir.

17 Q. And you didn't photograph the search?

18 A. I did not.

19 Q. When -- part of your training is to document all
20 of the actions, everything you -- everything important that
21 you have done in the investigation, correct?

22 A. Yes, sir.

23 Q. And you do that so you remember what happened?

24 A. Yes, sir.

25 Q. You do that so your superiors know what happened,

1 correct?

2 A. Yes, sir.

3 Q. You do that so the prosecutor knows what happened,
4 correct?

5 A. Yes, sir.

6 Q. And you do that so the Defense attorney knows what
7 happened?

8 A. Correct.

9 Q. And the fact that you searched Twaine Carroll's
10 house is not documented?

11 A. Correct.

12 MR. MCKELLAR: Beg the Court's indulgence.

13 BY MR. MCKELLAR:

14 Q. Two more questions. After that first day at the
15 Wadley Drive, X26 Wadley Drive there was not a continuous
16 police presence at Wadley Drive, correct?

17 A. No, sir.

18 Q. And the DVR recording system, it was not sent off
19 to SLED for analysis?

20 A. No, sir.

21 Q. No search warrant was issued to Night Owl for
22 anything that was possibly saved on the cloud?

23 A. No, sir.

24 Q. You don't know if anything was saved on the cloud?

25 A. I don't even know if it has the capability of

1 being saved on the cloud.

2 Q. Did look?

3 A. I searched the hard drive itself.

4 Q. You -- did you look -- did you contact Night Owl?

5 A. No, sir.

6 MR. MCKELLAR: I have no further questions.

7 THE COURT: Re-direct?

8 MS. CHARBONNEAU: Yes.

9 RE-DIRECT EXAMINATION

10 BY MS. CHARBONNEAU:

11 Q. Mr. McKellar asked you about the 9mm bullets found
12 inside the white Chevy Cobalt why you didn't send them to
13 SLED? Were they fired both?

14 A. No, ma'am.

15 Q. So is there anything to send to SLED?

16 A. No, ma'am.

17 Q. Mr. McKellar asked you about why he didn't test
18 the Defendant's hand the GSR. Why is that?

19 A. GSR is basically a cloud. When a gun is fired,
20 there's a cloud of GSR that's thrown. And so if -- if you're
21 within close proximity of a gun being fired, there's a high
22 potential of you having GSR on -- on you regardless of
23 whether you actually fired a weapon or whether you were just
24 standing a few feet from someone who fired a weapon, that is
25 very likely that you're going to have GSR on you.

1 Q. Is there a time limit that SLED has given you as
2 far as what they will accept for -- for testing for GSR?

3 A. Six hours, yes, ma'am.

4 Q. So if you don't get to somebody within six hours,
5 they're not going to test that person's names?

6 A. Correct.

7 Q. And remind us again if the shooting was at 1:23
8 p.m., when you get your hands on Xabian Bailey.

9 A. It is 10:31.

10 Q. It was?

11 A. And it was.

12 Q. Okay. And then opposing counsel asked about
13 Co-Defendants being tested. Alvin Artis took off to
14 Oklahoma?

15 A. Yes, ma'am.

16 Q. When does he get arrested?

17 A. I believe it was in December.

18 Q. Of 2022?

19 A. Yes, ma'am.

20 Q. (Crosstalk).

21 MR. MCKELLAR: Objection, outside the scope.

22 MS. CHARBONNEAU: It's indirect response to his
23 question.

24 THE COURT: I'll allow it.

25 BY MS. CHARBONNEAU:

1 Q. So he was beyond six hours?

2 A. Yes, ma'am.

3 Q. And Antonio Jones, was he arrested within six
4 hours?

5 A. No, ma'am.

6 Q. Mr. McKellar asked you about law enforcement
7 finding out that someone said that guns had been taken to
8 Twaine Carroll's house. When did you learn of that?

9 A. Three days later.

10 Q. Three days later?

11 A. Yes, ma'am.

12 Q. Who was it that you -- it was not you who took
13 Fantasia Carroll's statement?

14 A. No, ma'am, I did not.

15 Q. Mr. McKellar asked you about not documenting the
16 search of Twaine Carroll's house. Have you testified to
17 Mr. McKellar's questions about the search of Twaine Carroll's
18 house prior to this week?

19 A. Yes, ma'am.

20 Q. And the DVR was not sent to SLED. Is that because
21 there's somebody in house at the sheriff's office who
22 examines DVR?

23 A. Yes, ma'am.

24 Q. Who is that?

25 A. Investigator Adam Truesdale.

1 Q. And did he do that in this case?

2 A. He did.

3 Q. And is he the one who said there was nothing past
4 May of 2022?

5 A. Correct.

6 MS. CHARBONNEAU: Thank you. Nothing further.

7 THE COURT: Any re-cross?

8 MR. MCKELLAR: Very briefly, Your Honor.

9 RE-CROSS EXAMINATION

10 BY MR. MCKELLAR:

11 Q. You say you don't look for GSR for six hours. Why
12 is that? Why is -- well, why -- why six hours?

13 A. I -- my understanding is it changes. SLED is the
14 one that dictates that based upon their testing results, they
15 try to keep track of the timeframes of the kits that they
16 receive. And in my -- in their opinion, people would wash
17 their hands, they would've showered, they would've done
18 something to potentially wash the -- the residue away.

19 Q. Would they not -- not wash their hands?

20 A. May not, yes, sir.

21 Q. Not take a shower.

22 MR. MCKELLAR: No further questions.

23 THE COURT: I think this witness may now be excused.
24 Please watch your step.

25 MR. NEEL: Thank you.

1 THE COURT: Ladies and gentlemen of the jury, that will
2 complete the testimony that will be presented to you today.
3 We'll get started tomorrow morning at 10:00 a.m., that the
4 members of the jury report at 9:45. Breakfast will be
5 provided for you again. If you are having any transportation
6 issues, please do not hesitate to contact the clerk's office
7 and we'll make sure that you are here safely at the
8 courthouse.

9 Do not attempt to do any type of research on any of the
10 issues or any of the people or any of the witness testimony
11 that was presented to you today in court. We'll give you all
12 of the information that you need. And in addition, please
13 remember not to discuss the facts of this case or any of the
14 testimony that you have heard with anyone, including your
15 fellow jurors. And so we'll excuse the jury for today.
16 Thank you.

17 (Jury exits courtroom.)

18 THE COURT: All right. Ladies and gentlemen, at this
19 time we will adjourn for the day. We'll start tomorrow
20 morning at 10:00 p.m. Counsel, if there -- 10:00 a.m.,
21 excuse me.

22 Counsel, if there are any issues that arise, please do
23 not hesitate to contact our office via email. We'll see you
24 all tomorrow morning. Have a good evening. Thank you.

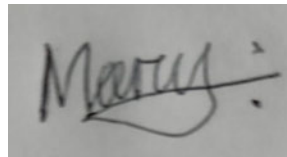
25 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED AT 6:06 P.M.)

CERTIFICATE OF TRANSCRIBER

I, MARY RAGSDALE, a Court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 2 of Aiken County, South Carolina, on the 4th Day of September, 2024.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

September 28, 2024

A rectangular box containing a handwritten signature in dark ink. The signature appears to be 'Mary' followed by a stylized flourish and a period.

MARY RAGSDALE

Transcriber

CONTINUATION OF PROCEEDINGS - SEPTEMBER 5, 2024

THE CLERK: September 5, 2024.

1 having been duly sworn, testifies as follows:

2 THE CLERK: Please spell your last name.

3 THE WITNESS: Tyler Sturkie, S-T-U-R-K-I-E.

4 DIRECT EXAMINATION

5 BY MS. MORGAN:

6 Q. Good morning, Mr. Sturkie.

7 A. Good morning.

8 Q. Where do you work?

9 A. I work in the South Carolina Law Enforcement
10 Division, forensic Services Laboratory.

11 Q. And how long have you worked there?

12 A. Ten years.

13 Q. What is your current job title?

14 A. I'm a forensic scientist in the Trace Evidence
15 Department.

16 Q. Now, what -- just quickly what -- what is Trace
17 Evidence?

18 A. Trace evidence is a type of physical evidence that
19 is typically needs to be some sort of magnification or
20 instrument instrumentation to view and characterize the
21 evidence. The Trace Evidence Lab at SLED, we analyze
22 evidence pertaining to gunshot residue, fire debris, glass,
23 paint, fiber, explosives, and general unknowns.

24 Q. What is your educational background?

25 A. I have a Bachelor of Science degree in Chemistry

1 from Newbury College. When I first started at SLED, I began
2 a year-long training program in the analysis of gunshot
3 residue. This training consisted of written and practical
4 examinations on the theory and practice of GSR. I also
5 attended and completed courses at the Hooke College of
6 Applied Sciences titled Gunshot Residue Identification
7 Scanning Electron Microscopy and Advanced X-Ray
8 Microanalysis.

9 Q. Now, would -- so that pretty much covers your
10 specialized training?

11 A. Yes, ma'am. And -- and specific to gunshot
12 residue.

13 Q. Now, do you -- are you required to take any type
14 of proficiency -- proficiency testing?

15 A. Yes, ma'am. We take proficiency tests yearly in
16 certain disciplines within the Trace Evidence Department to
17 maintain case work and our proficiency in that case work.

18 Q. And have you ever failed any?

19 A. No, ma'am. I have not. If we did fail, we would
20 go into some type of remedial training and be taken off of
21 casework.

22 Q. And just for ladies and gentlemen of the jury,
23 GSR, again what is, specifically we're talking about today,
24 GSR?

25 A. Yes, ma'am. GSR is composed of the burned and

1 unburned particles from the primer, the propellant, and the
2 projectile of a firearm that has been discharged. These
3 particles that we look for are microscopic in size, they are
4 round or molten in shape, and they contain the elements of
5 lead, barium, and antimony. When we find a particle through
6 the course of our analysis that fits this criteria, it is
7 known that that particle has come at some point from the
8 discharge of a firearm.

9 Q. How many GSR kit cases have you analyzed?

10 A. To include training? I've analyzed maybe close to
11 300 cases, which is around 1200 samples of GSR particle
12 lifts.

13 Q. Have you -- have you testified in court before?

14 A. Yes, I have.

15 Q. And how many times have you testified before?

16 A. Thirty-six.

17 MS. MORGAN: Your Honor, at this time, the State offers
18 Mr. Taylor Sturkie as an expert in the field of GSR analysis.

19 THE COURT: Any questions or objections?

20 MR. THOMPSON: Your Honor, if -- if I may briefly?
21 Agent Sturkie, you said you worked in the SLED Lab for 10
22 years doing GSR?

23 THE WITNESS: Yes, sir, I have.

24 MR. THOMPSON: And do you know anyone that's ever
25 failed any of the proficiency tests?

1 THE WITNESS: Not within my department, no, sir.

2 MR. THOMPSON: Okay. And how much training have you
3 had on the electron microscope

4 THE WITNESS: For the electron microscope itself? It
5 within that year-long training program of GSR, it is included
6 within that year-long training program. And then we do
7 continuing education as often as we can for the scanning
8 electron microscope.

9 MR. THOMPSON: Okay. And -- and how many times in a --
10 a normal work week would you say that you use the electron
11 microscope?

12 THE WITNESS: For a normal work week, I would use it at
13 least four out of the five days in a week.

14 MR. THOMPSON: I -- I have no further questions and no
15 objections to the witness's testimony.

16 THE COURT: Very good. Thank you, Mr. Thompson. Madam
17 Solicitor, I am going to qualify the witness as an expert. I
18 do believe that the subject matter is beyond the ordinary
19 knowledge and scope of the jury, and that this expert has the
20 requisite knowledge and skill in order to be deemed to
21 qualify as an expert in GSR analysis.

22 BY MS. MORGAN:

23 Q. Mr. Sturkie, how does GSR get on someone or
24 something? How does it?

25 A. Yes, ma'am. So when a firearm is discharged or

1 the gun is fired, the firing pin will strike the primer of
2 the cartridge case. The cart -- the primer will then ignite
3 the propellant, which then moves that bullet or the
4 projectile forward and out of the weapon. Any opening in
5 that weapon has the potential to -- GSR can be emitted from
6 those openings.

7 GSR will likely come out of the muzzle end of the gun
8 for a semi-automatic, the ejection port and for revolvers any
9 cylinder gaps as well. When gunshot or when a firearm is
10 discharged, that gunshot residue will be produced and create
11 kind of a cloud or a plume of smoke around that weapon.
12 Gunshot residue can travel some distance with the bullet
13 itself and any person or object within that vicinity of that
14 discharge has that potential to acquire gunshot residue.

15 Q. And what did you say that distance? Do you know
16 that?

17 A. Yes, ma'am. For the distance from the shooter to
18 a specific target, the furthest it has been researched and
19 studied is 60 feet.

20 Q. How long does GSR remain on a living person?

21 A. For living individuals, at SLED we have a time
22 limit of six hours from the time of shooting to the time of
23 collection in which we will analyze a kit. The reason being,
24 is gunshot residue is a very fragile microscopic type of
25 evidence. And the more it moves or gets disturbed, it has

1 that potential to be removed. On a living individual, the
2 hands themselves if gunshot residue is deposited, the
3 individual could be moving, sweating, wiping their hands just
4 unknowingly removing anything that could be there to begin
5 with. And studies have shown that beyond six hours if any
6 GSR is found, we cannot contribute it to a specific incident.
7 So for living individuals, we have a six-hour timeframe as to
8 when we will test the kit.

9 Q. Now, does SLED test for GSR on -- on a decedent on
10 someone that's concluded?

11 A. We currently have a policy in place where we do
12 not test gunshot residue on the victims of a gunshot wound.
13 And the reason being is a -- throughout the course of
14 analyzing for gunshot residue, if we have a positive result,
15 I can tell you one of three things. One, is that the
16 individual fired the weapon. Two, is that the individual was
17 in the vicinity to the discharge of a weapon.

18 Or three, that the individual touched an object that
19 had GSR. Victims of gunshot wounds have already been
20 associated with being in the vicinity of a gunshot being
21 fired. So therefore, we cannot give any more information.
22 The purpose of a gunshot residue kit is to -- for an
23 individual to associate them with the shooting or handling of
24 a discharge firearm.

25 Q. Do you ever test inanimate objects?

1 A. We do test inanimate objects. We routinely test
2 clothing or vehicle kits. Now, the same goes for the
3 inanimate objects as a living or just a normal individual
4 except for the fact that the inanimate object cannot fire the
5 weapon.

6 So if we have a positive result for inanimate objects,
7 it's that that object was in the vicinity to the discharge,
8 or at some point gunshot residue had been transferred to that
9 object.

10 Q. Did you have the opportunity from involved with a
11 -- with the State be the Xabian Bailey, Alvin Artis, and
12 Antonio Jones?

13 A. Yes, I did.

14 Q. And did your lab receive the GSR kit?

15 A. Yes, ma'am. We did receive one GSR kit.

16 Q. I'm showing you what has been previously admitted
17 into evidence State's Exhibit 48. Now, do you recognize?

18 A. I do recognize State's Exhibit 48 and I recognize
19 it by the unique SLED lab number and item number and the
20 initials and date of myself written on this GSR kit.

21 Q. Now, is there a chain of custody on these items?

22 A. There with -- at SLED, we do keep an electronic
23 chain of custody and it will be associated with this
24 particular item number.

25 Q. And based on your knowledge, was the chain of

1 custody intact in -- in this particular case?

2 A. Yes, ma'am. Based to my -- based on my knowledge.

3 Q. Now, what testing was performed on this GSR
4 sample?

5 A. This -- the gunshot residue analysis was --
6 testing was performed on this particular item.

7 Q. What -- what do those tests consist of?

8 A. When we receive a gunshot residue kit the first
9 thing, we will do is inventory the item itself. If it's an
10 individual or inanimate object, we will just inventory the
11 person, the object itself, and the amount of particle lifts
12 that are inside of the kit. The kit typically contains
13 particle lifts as well as a GSR kit information form. And
14 this information form contains information such as the time
15 of the shooting, the time of collection, the subject's name,
16 and any other pertinent information such -- such as activity
17 between time of shooting and time of collection.

18 Once we inventory the kit, we will prepare it for
19 analysis by scanning electron microscopy. We will analyze it
20 via the microscope for an automated analysis at first. Once
21 the automated analysis is complete, I will perform a manual
22 analysis to go through the particles that were detected and
23 confirm the presence or absence of any GSR that were found on
24 the particle lifts.

25 Once that is complete, I will generate a report. It

1 goes through a full technical and administrative review by
2 another competent analyst, and then the report is finalized
3 and issued.

4 Q. What exactly are you looking for?

5 A. In my analysis, I'm looking specifically for the
6 presence or absence of any particles of gunshot residue.

7 Q. Would that be like leg area?

8 A. Yes, ma'am. So the -- any particles of GSR are
9 considered microscopic, they're molten or round in shape, and
10 they contain the elements of lead, barium, and antimony.

11 Q. So referring that to State's Exhibit 48, and I
12 believe it was item number 29 for the GSR kit, what were the
13 results of the testing that you performed on this particular
14 sample?

15 A. Yes, ma'am. If it's okay if I may refer to my
16 report to read them directly to the jury?

17 Q. Yes.

18 A. Item 29 in this particular lab number, which is
19 L2214143 have it labeled as item submitted as GSR kit
20 collected from Xabian Bailey's t-shirt. And the results were
21 that particle characteristic of gunshot primary residue were
22 found. In general particles are molten that contain the
23 elements of lead, barium, and antimony.

24 GSR can come from the discharge of a firearm being in
25 the vicinity of the discharge or coming into contact with

1 something that had GSR on it. With this particular scenario,
2 I cannot provide any information as to the timeframe in which
3 these characters or these particles were deposited simply
4 because it is an inanimate object.

5 Q. So specifically does that mean that it -- does it
6 mean that that sample, it could have been from being near a
7 gunshot or firing weapon?

8 A. Yes, ma'am. So the -- this particular kit
9 contained two particle lifts. And both particle lifts were
10 analyzed by the scanning electron microscope. I have results
11 for each individual lift, however, since they were both
12 collected from the t-shirt, the report states a conjunction
13 of those two particle lifts. And the total results were
14 multiple particles or more than one. In this case, I would
15 need to refer to my notes for the exact number. But it is
16 multiple particles that were found within these two lifts
17 that were collected from the t-shirt.

18 Q. And do you know the numbers or?

19 A. Yes. So in this particular case -- generally when
20 we receive inanimate objects such as clothing, the actual
21 item of or article of clothing will come to the lab and then
22 we will sample the test or the shirt itself. With this
23 particular case, these particle lifts had already been
24 collected from the shirt. So I have -- I had not seen the
25 shirt. The particle lifts were submitted as the front of

1 t-shirt and the back of t-shirt. Throughout the analysis, it
2 was confirmed that zero particles were found on the front of
3 the t-shirt, and three particles were found on the back of
4 the t-shirt.

5 Q. Does the number of particles -- well, let me
6 backup. Is there any way for you to know after testing GSR
7 particles what kind of weapon was fired or is there any way
8 for you to know that?

9 A. No, ma'am. Oftentimes, the primer itself, the
10 particles from the primer are what we are specifically
11 looking for. Gunshot residue as a whole can contain
12 particles from the propellant, which is usually gunpowder and
13 some particles from the projectile or the bullet.

14 However, the particles that originate from the primer
15 itself, the ones that contain lead, barium, and antimony, are
16 unique to the primer. And it's generally pretty global for
17 the primer to be of the same composition for certain calibers
18 depending on the manufacturer. But I cannot identify whether
19 it's a 9mm or a 22 or any other type of caliber just from the
20 GSR itself.

21 Q. Does the number -- the number of particles, does
22 that indicate anything to you?

23 A. In theory, it could. However, our -- our analysis
24 is for the presence or absence of gunshot residue. The
25 reason we don't put the exact number of particles in any

1 report is because we don't often know how many particles are
2 originated from the discharge of a firearm.

3 We don't know how the particles essentially got to the
4 object or subject that we are testing. We just know that
5 gunshot residue is found if it is a positive result. When we
6 find gunshot residue on an inanimate object, I can state that
7 that object was in the vicinity to the discharge of the
8 firearm or came into contact with GSR via some type of
9 transfer. I cannot distinguish the between the two.

10 Q. Now, generically -- if an individual fired a
11 weapon and they had on a t-shirt, sweatshirt, and they were
12 to, maybe, line the prom position a military term, but in a
13 -- you know, face down.

14 A. Yes, ma'am.

15 Q. Is it possible that that GSR could be wiped away
16 from that shirt by that position?

17 A. There is a possibility. It would depend primarily
18 on, at first, if any GSR was deposited on the shirt to begin
19 with, and then how many particles were deposited. With
20 inanimate objects there has that potential for GSR to be
21 removed via washing or wiping, any type of water or -- or
22 environmental factors such as -- as wind and rain can have
23 that potential to remove any GSR particles that are there.

24 So given your example, that is a possibility. However,
25 it is unknown by this particular analysis, just if particles

1 were removed because we don't know if GSR was there to begin
2 with.

3 Q. And so, finally, hypothetically, if -- if there
4 were three shooters as in this case, and the first shooter
5 was behind the Defendant that's on trial today, they were --
6 and they were all staying close together, could the GSR
7 particles from the first shooter get on the back of the shirt
8 of the Defendant if -- if another Defendant would've been
9 standing in front of him?

10 A. Yes, ma'am. That's a -- a very high possibility.

11 Q. If the Defendant was possibly running or -- or
12 moving in this direct direction and shooting backwards, is it
13 possible that the GSR would get on the back of the Defendant
14 shirt?

15 A. Yes, ma'am. If that -- if this t-shirt was in the
16 vicinity of a discharge or several discharges of -- of
17 several firearms, then I would expect you to find GSR on this
18 shirt.

19 MS. MORGAN: I have no further question.

20 THE COURT: Cross-exam?

21 CROSS-EXAMINATION

22 BY MR. THOMPSON:

23 Q. Hey, Mr. Sturkie. We -- you actually authored the
24 GSR report. Right?

25 A. Yes, sir. I did.

1 Q. Okay. And what we know from the GSR report is
2 there's absolutely gunshot residue on Xabian Bailey's shirt,
3 correct?

4 A. That is correct.

5 Q. And -- but we can't tell from -- with any degree
6 of scientific certainty when the GSR got there or how it got
7 there, correct?

8 A. Correct. With inanimate objects, I have no time
9 information. Other than the fact that -- for presence or
10 absence of GSR.

11 Q. It could have gotten there the day of the
12 incident. It could have gotten -- it could have gotten there
13 before the day of the incident?

14 A. That is correct.

15 Q. It's possible to get GSR on your clothes from
16 firing a weapon?

17 A. Yes, sir.

18 Q. Okay. It is also possible to get GSR on your
19 clothes from being in the vicinity of a weapon being fired?

20 A. That's correct.

21 Q. I believe you said up to 60 feet away?

22 A. Yes, sir.

23 Q. The only gunshot residue that's actually found on
24 Xabian Bailey's shirt is on the back of the shirt, correct?

25 A. Yes, sir. From the particle list submitted and

1 tested? That is correct.

2 Q. And I -- you were given a couple hypotheticals, so
3 I'll -- I'll give you one more. If Xabian Bailey didn't fire
4 a weapon at all and was running away from a firefight, it's
5 possible he would've gotten GSR on the back of his shirt,
6 correct?

7 A. If that t-shirt is in the vicinity of discharge
8 firearms? Yes. That is correct.

9 MR. THOMPSON: Thank you very much. I beg Court's
10 indulgence. No further questions.

11 THE COURT: Re-direct?

12 MS. MORGAN: No, Your Honor.

13 THE COURT: Very good. This witness may be excused
14 then. The State may call its next witness.

15 MS. CHARBONNEAU: James Green.

16 JAMES GREEN,

17 having been duly sworn, testifies as follows:

18 THE CLERK: (Inaudible).

19 THE WITNESS: James Green, G-R-E-E-N.

20 DIRECT EXAMINATION

21 BY MS. CHARBONNEAU:

22 Q. Good morning.

23 A. Good morning.

24 Q. Can you please tell us where you work?

25 A. I'm employed by the

1 South Carolina Law Enforcement Division, commonly referred to
2 as SLED.

3 Q. And what is your job title?

4 A. I'm a forensic scientist in the firearms
5 department.

6 Q. What is -- as a forensic scientist in the firearms
7 department, what type of case work do you do?

8 A. We examined firearms and firearm related evidence
9 to see if these bullets and cartridge cases were fired by a
10 particular firearm or not. We also examine tools and tool
11 marks to see if this screwdriver made this prime mark, that
12 kind of stuff. We also do destruction of weapons for
13 agencies throughout the state. We also do serial number
14 restoration and enter the appropriate specimens into a
15 computerized database called IBIS.

16 Q. And what is the purpose of putting them in the
17 IBIS?

18 A. IBIS is a national searchable database provided to
19 us by the ATF that is almost like IAFIS for fingerprints, but
20 it takes images of cartridge cases and it gives us a list of
21 cartridge cases computerized images that we can look through
22 to see if there are any similarities to possibly connect
23 previously unrelated crimes.

24 Q. How long have you worked for SLED?

25 A. Since June of 2005.

1 Q. Nineteen years?

2 A. Yes, ma'am. Nineteen and a half-ish.

3 Q. And please tell us your education and training.

4 A. I have a bachelor's and a master's from Charleston
5 Southern University and after I was hired at SLED, I started
6 the SLED firearm and tool market course of instruction, which
7 is approximately a three to three-and-a-half-year course of
8 instruction, studying under Court qualified firearm examiners
9 in an apprentice type fashion. Learning to do what I do now.

10 Q. And do you do continue training and education to
11 stay current in your field?

12 A. Yes, ma'am.

13 Q. And have you ever testified as an expert in the
14 field of firearms identification before?

15 A. Yes, ma'am.

16 Q. Approximately how many times?

17 A. I think it's 117, 114 times in state courts and
18 three times in federal.

19 MS. CHARBONNEAU: At this time, the State offers James
20 Green as an expert in the field of firearms identification.

21 THE COURT: Any questions? Any questions for this
22 witness?

23 MR. THOMPSON: No questions. No objection.

24 THE COURT: All right. So Madam Solicitor, I am going
25 to certify him as a -- as an expert. I do believe that

1 subject matter is beyond the ordinary scope and knowledge of
2 the jury and that this witness has the requisite knowledge
3 and skill in order to be qualified as an expert.

4 MS. CHARBONNEAU: Thank you.

5 BY MS. CHARBONNEAU:

6 Q. Were you sent items of evidence in the State
7 versus Xabian Bailey, Alvin Artis, and C.C. [REDACTED] -- I'm sorry.
8 And Antonio Jones in your lab number L2214143?

9 A. Yes, ma'am.

10 Q. Okay. And did you perform examinations in
11 comparison on the items of the evidence that you received?

12 A. Yes, ma'am.

13 Q. As far as the chain of custody of the items that
14 you received and while it was in SLEDs, was the chain of
15 custody intact?

16 A. Yes, ma'am.

17 Q. No issues with how you received it or if -- if
18 there was, what would happen?

19 A. Whenever I get evidence from evidence control
20 department, I make sure it's sealed. That way if it's
21 unsealed, I know something happened, whether it was
22 inadvertently opened by another department or whatever, and I
23 immediately stopped working on the case whatsoever until I
24 found out what was happening, why it was unsealed. Sometimes
25 the heat sealer doesn't seal all the way it looks like it is,

1 but it's not. But in this case, everything was sealed
2 properly when I received it.

3 Q. Okay. Can you explain, let's start with the
4 different parts of a cartridge case.

5 A. Okay.

6 Q. Or cartridge?

7 A. Yes, ma'am. A cartridge is a complete unfired
8 piece of ammunition. When my dad was alive, he would say he
9 was going to Walley World or Walmart to buy bullets. And no
10 matter how many times I corrected him, you know, I was just a
11 son, he was going to go buy bullets. What he was actually
12 going to do was buy cartridges.

13 So a cartridge consists of the cartridge case, which is
14 just the holder for everything else, the primer which sits in
15 the cartridge case, the gunpowder, and the projectile. So
16 when the cartridge is fired, you get a fired bullet and a
17 fired cartridge case.

18 Q. And they're two separate pieces?

19 A. Yes, ma'am.

20 Q. Okay. And can you tell us what a switch is?

21 A. People commonly refer to a switch or a Glock dot.
22 It's a aftermarket device that you can put on the backup
23 Glocks or Smith and Weston's or some other types of
24 semi-automatic pistols that turns that pistol into a machine
25 gun. So with a regular Glock or Smith and Wesson are -- your

1 six-hour or whatever semi-automatic firearm, you pull the
2 trigger, it goes bang, you let it go, you pull the trigger
3 again, it goes bang.

4 You have to pull the trigger for every time you want to
5 shoot. With a switch, some of them have one where you push a
6 little selector to one way it fires semi-automatic. You push
7 it the other way, it's supposed to fire fully automatic.
8 Fully automatic means that when you pull the trigger, you
9 hold the trigger, you don't let go and the gun will keep
10 firing until it runs out of ammunition. You just stop
11 shooting or there's a malfunction.

12 However, all the switches I've personally examined in
13 case work, they don't work like they were intended. So no
14 matter which way you put that little selector, it fires fully
15 automatic. Per federal law, just that little device is
16 considered a machine gun. So you don't have to put it on a
17 gun or a pistol or anything to make it a machine gun. Just
18 that little piece just get the machine gun.

19 Q. This little piece that you're describing it is --
20 is it something that we would, as just lay people, would we
21 notice it in necessarily seeing it on someone's gun or is it
22 hard to say?

23 A. It depends. Some of them you can make 3D printed
24 and when you put it on there, it just replaces the slide
25 cover plate of the slide on the pistol. If it is 3D printed,

1 you won't even know it's there until you open the slide and
2 look at it. But the ones that have the selector switch on
3 the back, it actually protrudes a little bit. So if you're
4 familiar with guns, you can see it, know something's not
5 right.

6 Q. I'm going to show you what's already in evidence
7 and ask if these are the items of evidence that you received
8 in this case. So we have State's 6.

9 A. Yes, ma'am. State's Exhibit 6 is the Glock pistol
10 I examined as item -- SLED item 22.

11 Q. Okay. We have 97, 99.

12 A. State's Exhibit 99 is made up of what I examined
13 as SLED item 43, SLED item 35, SLED item 36, and SLED item
14 38.

15 Q. And just so we're clear for the jury, the -- the
16 item numbers that I have put on for court are different than
17 your SLED items?

18 A. Yes, ma'am.

19 Q. Okay.

20 A. The State's Exhibit number -- it -- lot -- be a
21 lot easier if they were always the same thing for me, but
22 commonly they're very much different. But yes, so I will try
23 to refer to them as the State's Exhibit number and also the
24 SLED item number.

25 Q. Ninety-seven.

1 A. Ninety-seven or State's Exhibit 97 is what I
2 examined, is SLED item 33, SLED item 37, and SLED item 34,
3 which is -- makes up State's Exhibit 97.

4 Q. Ninety-six.

5 A. State's Exhibit 96 are what I examined as SLED
6 items 39 through 42, which were fired 40 S&W caliber
7 cartridge cases.

8 Q. We have 23 and 24.

9 A. State's Exhibits 23 and 24 are SLED items 26 and
10 item 30.

11 Q. Ninety-eight.

12 A. State's Exhibit 98 is SLED item 23.

13 Q. Thirty and 31.

14 A. State's Exhibits 30 and 31 are SLEDs item 31 and
15 28. And I should also say that when I'm looking through
16 these, what I'm doing in addition to looking at the State
17 exhibit numbers, I'm looking at the packaging on the inside.
18 They all have my writing and the SLED item numbers on them so
19 I know what's what as well.

20 Q. State's 37.

21 A. The State's Exhibit 37 is SLED item 27.

22 Q. And we have State's 100.

23 A. State's Exhibit 100 are what I examined as SLED
24 items 1 through 21.

25 Q. Okay. Thank you. And all of these items you

1 personally analyzed?

2 A. Yes, ma'am.

3 Q. Can we start with the firearm that you were given,
4 State's Exhibit 6?

5 A. Yes, ma'am.

6 Q. Can you tell us first of all, what do you do when
7 you analyze it?

8 A. When we receive firearms for -- actually when we
9 receive any evidence to begin with, I'll look at the evidence
10 submission forms of what people call the login documents to
11 make sure that what they say I'm supposed to have, I actually
12 have. So I conduct a detailed inventory once I open the
13 packaging. But before I even open the packaging, we take
14 photographs of everything.

15 So I'll take a picture of the barcode from the SLED
16 lab, on one top of the box, open it up, what it looks like
17 when I get it, and then I'll note the make model caliber and
18 serial number of any firearms, any obvious defects like a
19 switch or anything that we may see on there. And then we
20 will write them up on our worksheets and then -- to get test
21 specimens for comparison purposes that we know were fired by
22 this firearm beyond a shadow of the doubt is I'll go shoot
23 them myself.

24 So what I did was once I did all the documentation and
25 writing up of the State's Exhibit 6 at Glock Pistol for SLED

1 item 22, I would look at the ammunition we have in the fired
2 cartridge cases and try to shoot test specimens as closely
3 constructed as possible. Brass primer, brass case, that kind
4 of stuff. And then I'll microscopically compare the test
5 specimens with each other on a comparison microscope, which
6 is two microscopes connected by one optical bridge. It lets
7 you look at two objects at the same time. So I'll put one
8 test cartridge case on one side of the microscope, another on
9 the other, and I'll compare them to see if the gun is marking
10 consistently. If it is, I'll then compare tests from State's
11 Exhibit 6 to the fired cartridge cases or the fired bullets
12 submitted in the case.

13 Q. And can you explain what it is that you're looking
14 at the changes in the -- in the barrel that identified for
15 you whether it could have shot the cartridge cases or not?

16 A. Yes, ma'am. Think about it like this, metal has a
17 grain structure, sand has a grain structure. So if I go to
18 Lowe's and buy a rake and we all go to the beach and we all
19 rake a three foot by three foot section of sand, if we all
20 stand up and look at it, standing up, it's going to look the
21 same. But when we start looking at it closer microscopically
22 different grains of sand, they're going to fall differently
23 based on the strength of the person making the -- the rake or
24 the -- the mark the angle.

25 Did they pick up a shell or something? That would make

1 a bigger mark? It's the same thing with firearms when
2 they're being produced, certain tools used to make the barrel
3 will put markings in that barrel that the manufacturer means
4 to be there because they'll all have rifling in them or
5 pistols. They'll have, you know, maybe six grooves with a
6 right twist and either conventional or polygonal rifling.
7 The manufacturer means for those markings to be there.

8 What they don't intend to be there are those tiny
9 individual scratches or striations that we use to make our
10 identification. Just like when we rake the sand, grains of
11 sand fall differently. When a reamer is making the barrel or
12 the rifling button or the swage or however they're making the
13 rifling is imparted in that barrel. The grain structure is
14 interrupted.

15 So those tiny markings are put there during the
16 manufacturing process even though they're not meant to be
17 there. There have been studies of which I've taken some
18 where they get consecutively made firearms, they'll get like
19 10 consecutively made slides. And if you're ever going to
20 get any carryover or any similarities between barrels where
21 somebody say, "Man, that came out of that one, not that one."
22 You're going to get them on consecutively made firearms.

23 Because they're made by the same tool in the same state
24 of wear one right after the other. Even though there are
25 similarities, if you know what you're looking for, you can

1 tell which bullet was fired out of barrel one versus barrel
2 two versus barrel 10. It's the same thing with the slides.
3 You can tell which cartridge case was fired by which slide
4 based on the markings, if you know what you're looking for.

5 Q. So State's Exhibit 6, the gun that was found
6 inside a truck on the -- onto the -- on the other seat, can
7 you tell us what type of gun that was?

8 A. State's Exhibit 6 is a Glock model 19 Gen4, 9mm
9 semi-automatic pistol.

10 Q. And comparing it to all of the cartridge cases
11 that you got in this case as well as the projectiles, were
12 you able to make a determination as to whether that gun fired
13 anything that was recovered on our scene?

14 A. Yes, ma'am. I was. And this firearm, State's
15 Exhibit 6 did not fire any of the cartridge cases or the
16 bullets or bullet fragments submitted in this case.

17 Q. Okay. And then let's go to the cartridge cases
18 that you received. Can you tell us about one through -- your
19 items, 1 through 21?

20 A. Yes, ma'am. SLED items 1 through 21 were all
21 fired, 9mm Luger caliber cartridge cases. I talked about
22 what I did with the firearms once I, you know, got it and I
23 took pictures of it and I wrote it up and I testified it.
24 Before I do that, I'll look at all the cartridge cases. I'll
25 do the same thing. I'll make sure I'm supposed to have 21

1 cartridge cases.

2 I move 1 through 21, I'll make sure I have 21 cartridge
3 cases and then I'll take pictures of the packaging and write
4 everything up on the worksheets. And then I'll look at them
5 microscopically, I'll compare the firing pin impressions, the
6 breach face markings, any shear that may be available to use.
7 So I'll look at the evidence with evidence to see in those 21
8 cartridge cases how many guns are present and I did.

9 Q. And what did you determine?

10 A. SLED items 1 through 21 were all fired by one
11 firearm.

12 Q. The same gun 21 shell cartridge cases?

13 A. Yes, ma'am.

14 Q. Okay. Let's go to some of the other things that
15 were found at the scene. Your item 23, can you tell us that
16 it -- it's listed as one fired 9mm Luger cartridge case from
17 Chevy Cobalt.

18 A. Okay. SLED item 23 was a fired 9mm cartridge case
19 and it was fired by a second firearm. So between items 1
20 through 21 and 23, I had 22 cartridge cases in two firearms.

21 Q. And again, you can tell that by your physical
22 examination.

23 A. Yes, ma'am. Through physical and microscopic
24 comparisons. SLED items 1 through 21 all have a very
25 distinctive, what we call a teardrop shaped firing aperture.

1 And a firing aperture is literally the hole that the firing
2 pin protrudes from or -- or goes through on the breech face.
3 They're all very distinctive. They all look like a teardrop.

4 SLED item 23 did not have that teardrop, so it's
5 completely class wrong, meaning a -- a different gun. The
6 easiest way to explain that is if you go to your local Ford
7 dealership in your -- you know, you want to buy a Ford truck.
8 Okay. Well, Ford is the class characteristic. 9mm Luger is
9 a class characteristic. You want to get a F-150 now another
10 class characteristic.

11 So items 1 through 21 would be like your F-150, but the
12 salesman's really good and he talks you into a Ranger that's
13 a class characteristic. So while you're still looking for
14 9mm Luger cartridge cases and they're still the same caliber,
15 they've got two different -- completely different class
16 characteristics. So there's no way that SLED item 23 was
17 fired by the firearm that fired SLED items 1 through 21.

18 Q. Let's go to your item, SLED items 39 through 42
19 via 4/40 caliber cartridge cases. What can you tell us about
20 those?

21 A. Those 4/40 S&W caliber cartridge cases, same
22 thing. Compare them microscopically, look at the different
23 markings on them. And if we look at all the cartridge cases
24 separate or together in totality, those three -- excuse me,
25 those 4/40 caliber cartridge cases, what will be fired by a

1 third firearm. So they were all fired by the same firearm,
2 but third firearm when you look at the 9mms as well.

3 Q. So just so I'm clear, 1 through 21 is one firearm,
4 23 is a second firearm and the 4/40 caliber is a third
5 separate firearm?

6 A. Yes, ma'am.

7 Q. What can you tell us your item 26? It's one fired
8 bullet jacket fragment and two pieces of lead from the
9 autopsy of W.G.'s head?

10 A. May I look at my notes?

11 Q. Yes.

12 A. Cartridges cases are a little easy to remember,
13 but when you get a whole bunch of projectiles that come
14 apart, they're not quite as easy to remember. So I have to
15 refer to my notes. Okay. Sorry. SLED item 26 was comprised
16 of one fired bullet jacket fragment and two pieces of lead.

17 Q. And what -- were you able to determine anything
18 about that? What did your examination tell you?

19 A. Due to the damage and its size, I could not
20 determine the caliber of the item 26 fired bullet jacket
21 fragment. But I could determine what type of riffling it had
22 on it. And it may or may not be suitable for identification
23 with other bullets or with a firearm. The two pieces of
24 lead, I was unable to determine the origin of them. It could
25 have been part of a lead coat from a fired bullet or they

1 could have been something else. I -- I can't tell. And they
2 have no marks suitable for identification, so I can't tell
3 you what they were.

4 Q. Are you able to tell us within a reasonable degree
5 of certainty what it would be most consistent with?

6 A. As far as the fired bullet jacket fragment, the
7 rifling on there that was present is what's called a GMB or
8 Glock Marksmanship Barrel. The only firearms we know out
9 there that have that rifling is newer Gen5 Glock pistols.

10 Q. And that's a separate gun from a Gen4?

11 A. Yes, ma'am. The parts don't interact. And like
12 State Exhibit 6 was a Glock Gen4, they changed almost
13 everything about the pistol other than the name. It looks --
14 has different rifling specifications and the firing pin shape
15 -- and the firing pin aperture shape is different between the
16 two.

17 Q. Going to item 27, the fired bullet from autopsy of
18 C.C. [REDACTED], what can you tell us about that?

19 A. SLED item 27 was a bullet that was most consistent
20 with bullets that I would expect to find in 9mm Luger caliber
21 cartridges. It also had GMB rifling on it and it may be
22 suitable. It may or not be suitable for identification.

23 Q. And is there anything that would be most -- are
24 you able to give us a -- an opinion about what it would most
25 consistently be like?

1 A. Since it had the GMB rifling. Is that what you're
2 asking?

3 Q. Yes, I'm sorry.

4 A. Okay. since it also had the GMB rifling on it,
5 the only thing we know of again that has it is the Gen5 Glock
6 pistols.

7 Q. Going to item 28, the fired bullet recovered from
8 the autopsy of [REDACTED]. What can you tell us about that?

9 A. It's also a 9mm Luger bullet with a GMB rifling on
10 it.

11 Q. Would that make it the same, most consistent with
12 the Glock Gen5?

13 A. Yes, ma'am.

14 Q. Items 30 and 31, the autopsy of [REDACTED] -- W.G.'s
15 [REDACTED] clothing and what was found in the body bag. Can
16 you tell us about that?

17 A. Okay. Yes, ma'am. We'll start with SLED item 31
18 first. It was comprised of four fired bullet jacket
19 fragments, two bullet jacket fragments, and nine pieces of
20 lead. We'll start with the easiest ones first. The nine
21 pieces of lead. Can't tell you what they are, they're just
22 pieces of lead. That's about all I can tell you. And
23 they're unsuitable for identification.

24 We have two different types of bullet jacket fragments
25 consistent in item 30. We had fired bullet jacket fragments

1 and we had bullet jacket fragments that I can't tell you if
2 they're fired or not. Since they came from autopsy, they
3 probably are. However, since they don't have any rifling on
4 them, I cannot call them fired bullet jacket fragments.

5 But the actual fired bullet jacket fragments, there
6 were four of them. I was unable to determine the caliber due
7 to the damage. Because, you know, fragments are just little
8 pieces. But they all had that GMB rifling on them, which
9 would be consistent with a Glock Gen5.

10 Q. And item 31, the fired bullet from the autopsy of
11 I.P. [REDACTED].

12 A. That was a 9mm Luger caliber bullet or SLED item
13 31. It had GMB rifling on it and it may be suitable up front
14 in indication.

15 Q. And again, with the GMB, are we talking about most
16 consistent with the Glock Gen5?

17 A. Yes, ma'am.

18 Q. Can you tell us about item 33, the fired bullet?

19 A. Yes, ma'am. SLED item 33. We have a slight
20 change. It was most consistent with -- excuse me, it's what
21 I would expect to find bullet wise in a 40 S&W or a 10mm auto
22 caliber cartridge. I say 40 and/or 10 because the 40 S&W
23 cartridge was developed from the 10mm auto cartridge. So the
24 bullet is the same.

25 Just differences in -- in pressure and everything. But

1 with just a bullet, I can't tell you if it's 40 or 10 unless
2 I match it to a particular firearm. It also has the GMB
3 rifling on it. Glock Marksmanship Barrel and once again, the
4 only gun we know of that has that right now is Glock Gen5
5 Pistols.

6 Q. Item 34, please. Three fired bullet jacket
7 fragments and six pieces of lead?

8 A. Yes, ma'am. The fired bullet jacket fragments due
9 to their damage and their sizes, again, I was unable to
10 determine the caliber of any of those three fragments. They
11 may not be suitable for identification, but they all had the
12 GMB rifling on them as well. And the six pieces of lead. My
13 kit -- I was unable to determine the origins and they were
14 unsuitable.

15 Q. How about items 35, fired bullet jacket fragment
16 from rear passenger floorboard of the Dodge Truck?

17 A. Item 35 was a fired bullet jacket fragment. It
18 was most consistent with what I expect the jacket fragment
19 looked like from the 9mm Luger caliber cartridge. Due to
20 damage, it may not be suitable for identification and it also
21 had the GMB rifle on it.

22 Q. So we're talking again about a Glock Gen5?

23 A. Yes, ma'am.

24 Q. Item 36, one lead core from the driver's
25 floorboard of the Dodge Truck.

1 A. Yes, ma'am. Let me stop for just a second.
2 Bullets are like M&M'S. Jacket bullets are like M&M'S in the
3 sense that the candy coating of the M&M is the jacket of the
4 bullet. The lead core or the steel core, whatever, in the
5 bullet is like the chocolate inside of an M&M. If I take an
6 M&M and throw it over my shoulder and hit that wall, it's
7 going to break apart.

8 Bullets are the same way when they hit things,
9 sometimes they break apart. So when we talk about SLED item
10 36, the one lead core the jacket's somewhere and it's just a
11 core. It's consistent with what I'd expect a lead core to be
12 from a nominal 38 caliber cartridge that includes 9mm, 380
13 auto, 38 is a family really. So it's 38 special 357 magnum
14 9mm, 380 auto 357 SIG among others.

15 But due to the damage, I'm unable to tell you what
16 caliber it is specifically other than nominal 38. Since it
17 is just a core, there's no markings on it that I can use for
18 identification because when the bullet goes down the barrel,
19 all the markings in the barrel are imparted on the jacket.
20 So if the jacket and the core separate, there's nothing left
21 on the core to -- to identify. So it's just a core.

22 Q. Item 37, one fired bullet.

23 A. Item 37 was a bullet I would expect to find or is
24 most consistent with a bullet loaded into some 9mm Luger
25 caliber cartridges. And that may not be suitable for

1 identification, but again, it has the GMB rifling on it.

2 Q. So again, we're talking most consistently with
3 Glock Gen5?

4 A. Yes, ma'am.

5 Q. Item 38, one fired bullet from the Dodge Truck
6 bedliner.

7 A. SLED item 38 was again -- was a bullet most
8 consistent with those loaded in the 9mm Luger caliber
9 cartridges. Due to damage, it may not be suitable for
10 identification, but it did have that same GMB Glock Gen5
11 rifling on it.

12 Q. And would -- that would be consistent with the
13 Glock Gen5?

14 A. Yes, ma'am.

15 Q. We could go to your item 43, fired bullet
16 fragment, jacket fragment, jacket fragment, lead core
17 fragment, four pieces of lead, one piece of metal from black
18 Dodge Truck.

19 A. Yes, ma'am. The one fired bullet fragment was
20 consistent with the fragment from a 9mm Luger caliber
21 cartridge. Had the GMD rifling on it. So Glock Gen5 is all
22 we know about. The fired bullet -- excuse me, the fired
23 bullet fragment was fragment 9mm had GMB rifling on it. A
24 fired bullet jacket fragment. So we had a fired bullet
25 fragment and the fired bullet jacket fragment.

1 The fired bullet jacket fragment due to the damage in its
2 size that was unable to determine the caliber of it, but it
3 did have the GMB rifling on it. The bullet jacket fragment,
4 I didn't see any signs of being fired on it. I could not
5 tell you the caliber and it was unsuitable for
6 identification. The four pieces of the lead and the piece of
7 metal, I couldn't tell you the origins. I was unable to
8 determine the origins and they were unsuitable for
9 identification.

10 Q. So the bullet fragment would be, again, most
11 consistent with the Glock Gen or just 9mm in general?

12 A. The -- both the fired bullet fragment and the
13 fired bullet jacket fragment, all had the GMB rifling -- or
14 excuse me, both had the GMB rifling on them, which was
15 consistent with what we know of being a Glock Gen5.

16 Q. Is it fair to say that you get more information or
17 you can be more specific on the cartridge casing as opposed
18 to the lead cores or the projectile?

19 A. Yes and no. Cartridge cases, you look at the
20 extractor, the objector of the breech face, the firing pin in
21 any shear that may be available in chamber marks. So there
22 more things to look at on cartridge cases than there are
23 bullets. Because when you're looking at bullets, you're only
24 looking for the rifle. There's, you got lands and grooves,
25 you got two and then you've got six if it's a Glock.

1 So there's like 12 if you look at land and groove, land
2 and groove, land and groove. So there's more to look at on
3 the cartridge cases as far as more information what you can
4 see on them. But the bullets when you get pieces parts, and
5 some of them, I can tell you the caliber, some of them I can
6 tell you, I can't tell you the caliber. So the 9mm bullets
7 or the 9mm fragments were not fired by the firearm that fired
8 the 40 or the 10 fragment -- excuse me, the 40 or 10 bullet.

9 But when you get fragments that have GMB rifling on
10 them and both the 9mm and the 40 bullets have GMB rifling on
11 them, the results kind of tend to get confusing. They're
12 confusing when I wrote them because there's just so much
13 information. You've got these that could be fired by one
14 firearm but not the firearm that fired the 40. And then
15 you've got a whole bunch of pieces that are inconclusive with
16 the 9s and the 40 because they're pieces.

17 Q. Okay. Did you come a time where you also received
18 a second firearm from a search warrant that was done months
19 after the -- after this original shooting?

20 A. Yes, ma'am.

21 Q. Okay. And can you tell us about that gun when you
22 examined that gun? Your item 32.

23 A. Yes, ma'am. SLED item 32 was -- the brand that
24 was American Tactical. The model was a Milsport,
25 M-I-L-S-P-O-R-T. And when we're describing firearms like

1 State's Exhibit 6, I'll say in this one, Glock modeled this
2 semi-automatic pistol caliber serial number. SLED item 32
3 was a bit of a quagmire because while the State of South
4 Carolina does have minimum lengths for barrels on pistols --
5 excuse me, on rifles which are 16 inches. We don't have the
6 laws that the federal government has.

7 SLED item 32, I called it a semi-automatic firearm. I
8 didn't call it a pistol. I didn't call it a rifle. Because
9 it had an arm brace on it, which the federal government has
10 said that makes a -- you put that on a pistol, that pistol
11 now becomes a short barrel rifle and you -- it's illegal to
12 own one without the proper tax stamps and documentation. And
13 then it also had a vertical forward grip on it which makes it
14 possibly AOW or any other weapon. So my results for this
15 item 32 on the report, since the State doesn't do it as far
16 as legislative and laws.

17 I said it could be federally classified, could be as a
18 short barrel rifle or in any other weapon because of the arm
19 brace and/or the vertical forward grip. But when I got it,
20 the gun had problems. The pivot pin was loose and, in the
21 box, and the pivot pin is the back pin that you push it to
22 take it apart. The takedown pin fell out when I picked it
23 up. The safety lever had no tension on it, which means it
24 just spin without because when -- if you've ever shot an AR,
25 you know, when you -- when you click the safety lever, you

1 can actually feel it click and stop.

2 This one didn't have that. Additionally, when I test
3 fired the -- the firearm, usually with a semi-automatic
4 firearm, you pull the trigger, it goes bang, very general
5 term. You let it go, you pull the trigger, it goes bang, you
6 let it go, nothing happens you pull the trigger. SLED item
7 32, when I pull the trigger, it went bang. When I let it go,
8 it went bang. When I pulled the trigger again, it went bang.
9 When I let it go, it went bang.

10 So I'm thinking, okay, there's some kind of alteration,
11 like a binary trigger, which does the same thing. However,
12 when -- well, basically the gun fell apart when I got done
13 shooting anyway because the pins wouldn't stay in it. But I
14 looked down inside the receipt -- the below receiver and I
15 didn't see anything that would make it happen. There was no
16 binary trigger, there was no obvious alterations or defects
17 in that firearm that would make it happen.

18 So there's kind of like show and tell in the office. I
19 got with people who have been there less time than I have who
20 may have more experience with military with those types of
21 guns. But being around these guns for 20 years, you kind of
22 know what you're looking at. None of us could figure out why
23 it was doing what it was doing. So we all loaded up and went
24 into our new range in the new lab and everybody was going to
25 shoot it for themselves to figure out, you know, maybe they

1 could feel it when they're shooting.

2 So I pulled the trigger and it went bang, I let go,
3 nothing happened. So I'm like, "Hmm, that's weird." So I
4 pulled the trigger, it went bang, I let it go, it went bang.
5 So it -- it was just acting very, very sporadically in how it
6 worked. But when I did testify it to get test specimens to
7 compare against the cartridge case submitted in this case.

8 SLED item 23 was inconclusive with that gun. There
9 were enough markings on there for me to say, "Wow, SLED item
10 23 could have been fired by SLED item 32." But there were
11 not enough markings for me to say, "Yes, it was fired by SLED
12 item 32." So my answer for it was inconclusive.

13 Q. Inconclusive?

14 A. Yes, ma'am. It's a fancy word for, I don't know.

15 Q. Okay. And as far as items 1 through 21, the 9mm
16 shell casings, you said they were all fired by one firearm?

17 A. Yes, ma'am.

18 Q. Is that the cartridge cases that you are saying
19 were most consistent with the Glock Gen5?

20 A. They have markings on them, both SLED items 1
21 through 21, the group of 21 cartridge cases, and then the 40
22 S&W caliber cartridge cases, their aperture shape and their
23 firing pin shape is what I would expect to see in a Glock
24 Gen5.

25 Q. Okay. But definitely two separate guns between

1 the 9mm cartridge cases and the 4/40 caliber cartridges?

2 A. Yes, ma'am. If -- if you can sometimes shoot 9mm
3 Luger cartridge cases or cartridges in a 40 if the extractor
4 holds it. But when you do, you can look at the cartridge
5 cases since the 40 is wider, the -- the diameter is roughly
6 0.40 and diameter of a 9mm, 0.355. So there's a little bit
7 of, you know, whatever it is. But there -- the 9mm are
8 smaller.

9 So when you shoot the 9mm cartridge in the 40 caliber
10 chamber, that cartridge case tries to expand and fill the
11 void. So you can actually look and see if it did happen,
12 which it did not in this case, the 9mm Luger caliber
13 cartridge cases would all be bulged, they would all be
14 misshapen at the base -- excuse me, at the case mouth.

15 So you'd be able to tell that these might have been
16 fired in something other than what they were supposed to be.
17 But none of those were -- happened for SLED items 1 through
18 21 or through 23. They were all fired in the proper caliber
19 based on their -- there's no damage, there's no expansion
20 that I noted.

21 Q. And you were not given any additional guns to test
22 against these cartridge cases other than the two?

23 A. Correct. Other than the American Tactical and the
24 Glock? No, ma'am. No others.

25 Q. So the bottom line is items 1 through 21, 21, 9mm

1 Luger cartridge cases were fired by one -- the same gun?

2 A. Yes, ma'am.

3 Q. And then item 23, which you said was not a Glock?

4 A. Correct. It just had a -- just a regular circular
5 shaped aperture and I've never seen a Glock pistol. Gen1,
6 Gen2, Gen3, Gen4, or Gen5 that has that type aperture.

7 Q. So that 9mm cartridge case was fired by a second
8 separate gun?

9 A. Yes, ma'am.

10 Q. And then items 39 through 42, which were the 4/40
11 caliber cartridge cases, they were fired by a third separate
12 gun?

13 A. Yes, ma'am. Based on the cartridge cases, there
14 were three firearms that I examined. Based on the cartridge
15 cases I examined, three firearms were present.

16 MS. CHARBONNEAU: Thank you.

17 THE COURT: Mr. Thompson? And, Mr. Thompson?

18 MR. THOMPSON: Yes, ma'am.

19 THE COURT: I'm going to allow the jury a break and so
20 we will return on cross after this break. Madam Clerk, would
21 you please escort the jury out? We will stand down for a
22 brief and two-minute break.

23 (Jury exits courtroom.)

24 THE COURT: All right. Thank you. Ladies and
25 gentlemen, I -- I need to make an announcement. The City of

1 Aiken has let us know that if anyone is parked on Park
2 Avenue, you will be towed. And that is because they are
3 setting up for Aiken's Makin'. I believe that's today and
4 tomorrow as well.

5 And so, if you are parked on Park Avenue, please move
6 your car so that the city of Aiken does not tow -- does not
7 tow you. That's not the Courthouse, that's the city of
8 Aiken. All right. We'll stand down for a 10-minute break.

9 (Off the record.)

10 THE COURT: All right. Mr. Thompson, are you ready to
11 proceed with cross-examination?

12 MR. THOMPSON: We are.

13 THE COURT: Okay. Madam Solicitor, are you ready to
14 proceed?

15 MS. CHARBONNEAU: Yes.

16 THE COURT: Mr. White, can you please bring the jury?

17 (Jury enters courtroom.)

18 THE COURT: Please be seated.

19 Mr. Thompson, ready for cross-examination?

20 MR. THOMPSON: Thank you.

21 CROSS-EXAMINATION

22 BY MR. THOMPSON:

23 Q. Mr. Green, I -- I'll be brief. It's fair to say
24 that the vast majority of all the firearm evidence in this
25 case that was given to you at your lab is 9mm cases is that

1 correct?

2 A. Yes, sir.

3 Q. And all the projectiles were covered from the
4 deceased in this case are not inconsistent with 9mm
5 projectiles. Correct?

6 A. Let me look real quick.

7 Q. Take your time.

8 A. Yes, sir. That's correct.

9 Q. There are also -- it would be fair to say that
10 there are some things that we don't know. The illegal weapon
11 that's taken from the black truck. The one that you -- I
12 believe it's item 32. We don't really know whether it fired
13 item 23 or not, correct?

14 A. Yes, sir. It was inconclusive. It could have,
15 then again, it could not have.

16 Q. We don't know?

17 A. Correct.

18 Q. All right. You testified earlier -- I realize
19 from your perspective that it would be easy to kind of assume
20 this because you get all this stuff in your lab at the same
21 time, but we really don't know when all of these projectiles
22 and casings were -- were fired, correct?

23 A. Yes, sir. We don't have a test to determine when
24 something was fired. It was fired, it was not.

25 Q. Yeah. So in your lab -- when you get this stuff

1 in your lab, you can't tell whether this is all from
2 Wednesday or Tuesday and Wednesday or Tuesday, Wednesday, and
3 Thursday. You can't tell from your lab when things were
4 fired?

5 A. Correct.

6 Q. And the 40-caliber casing -- yeah. Casings. I'm
7 trying to get all the words right. The 40-caliber casings,
8 we know that a -- at some point in time a 40-caliber firearm
9 was fired at the incident location because it was collected
10 from incident but we don't know when, correct?

11 A. Yes, that's correct.

12 Q. And the -- any -- again, of the vast majority of
13 -- of the firearms evidence is 9mm rounds. I know there's
14 some 9mm projectiles in some of the cars, but if there were
15 to be a projectile that was not a 9mm in one of the pickup
16 trucks, trucks move, cars move, there would be no way to tell
17 exactly when that was fired either. Because it's not in a
18 body where you can kind of tell exactly the day that it was
19 fired, correct?

20 A. Yes, sir. That's correct.

21 MR. THOMPSON: I beg Court's indulgence. I don't think
22 I have any further questions. Thank you very much.

23 THE COURT: Re-direct?

24 MS. CHARBONNEAU: No thank you.

25 THE COURT: All right. Very good. This witness may be

1 excused. Please watch your step.

2 Okay. Madam Solicitor, does the State have any more
3 witnesses to present?

4 MS. CHARBONNEAU: No, Your Honor, the State rests.

5 THE COURT: Thank you. Ladies and gentlemen of the
6 jury, at this time we are going to excuse you to the jury
7 room. We do have some matters of law that we must do outside
8 of your presence. Mr. White, will you escort the jury to the
9 jury to the jury room?

10 (Jury exits courtroom.)

11 THE COURT: Please be seated. All right. The State
12 has rested. Are there any motions?

13 MR. MCKELLAR: Your Honor, defense moves for a motion
14 for directed verdict. Your Honor, the basis of the motion is
15 that the three counts of murder require malice, and
16 construing the evidence most favorably to the State. The
17 evidence is that my client may have shot while running away
18 after the initial shots were fired.

19 We -- it's our position that that indicates there
20 approves of lack of malice and therefore all three counts of
21 murder should be dismissed. And we -- and with all three
22 counts of murder being dismissed, the -- the murders would be
23 the credited crimes for the possession of weapon during
24 commission of violent crimes. So that -- that as well that
25 be dismissed.

1 THE COURT: All right. Thank you, Mr. McKellar.

2 Madam Solicitor, any response?

3 MS. CHARBONNEAU: Judge, the testimony is clear that
4 the Defendant along with the other two co-Defendants with
5 progressors, they came to where the victims were hanging out
6 with their -- with their family on a Sunday afternoon that
7 they fired first and they are the only ones that fired the
8 firearms. Expert said there were three guns out there.

9 So the -- this premeditation that they came there
10 loaded with firearms and they went there to confront them
11 which would be the malice aforethought. That's a question
12 for the jury. So we feel that we have met the burden on the
13 three counts of murder and the possession of weapon during a
14 violent crime.

15 THE COURT: Thank you. Any response Mr. McKellar?

16 MR. MCKELLAR: No, Your Honor.

17 THE COURT: All right. Mr. McKellar, your motion for
18 directed verdict is -- is denied. We will proceed on to the
19 presentation of the defense's case. Mr. McKellar, how many
20 witnesses, just for housekeeping, are you prepared to -- to
21 place on the stand today?

22 MR. MCKELLAR: Three, if Mr. Bailey does not testify.

23 THE COURT: All right. And Mr. Bailey has not yet
24 determined whether or not he will testify?

25 MR. MCKELLAR: I think he has.

1 THE COURT: Okay. Has he -- has he determined that he
2 will not testify?

3 MR. MCKELLAR: Make the decision, Mr. Bailey.

4 THE COURT: All right. Mr. Bailey, what I want you to
5 do is to raise your right hand. The clerk is going to swear
6 you in. We're going to talk about a few things. Your
7 attorneys are right here to help you out with what we're
8 going to say. But you can stand by there. You can stand
9 right there. All right. Raise your right hand.

10 XABIAN BAILEY,
11 having been duly sworn, testifies as follows:

12 THE CLERK: The court reporter did not hear
13 (inaudible).

14 THE COURT: (Inaudible) I do?

15 THE WITNESS: Yeah.

16 THE COURT: Okay. Thank you. Very good. Thank you.
17 All right. Xabian Bailey -- Mr. Bailey, at this time I'm
18 going to explain certain elements of your rights to you. If
19 you do not understand anything that I'm saying, you have both
20 of your attorneys, your three attorneys with you to help you.
21 You can stop at any time and you can ask them and I will
22 allow you to conference with your attorneys. Do you
23 understand that Mr. Bailey?

24 THE WITNESS: Yes, ma'am.

25 THE COURT: All right. Mr. Bailey, we've reached the

1 point of the trial where you as the Defendant are going to
2 present your defense. You have the right to claim the
3 protections given to you by the Fifth Amendment to the
4 Constitution of the United States. I'm going to read that
5 amendment to you. This amendment states in part that, "No
6 person shall be compelled in any criminal case to be a
7 witness against himself."

8 This means that you cannot be required to testify in
9 this case. This also means that you have the right to
10 testify on your behalf. However, no one can make you
11 testify. This is a personal right and no one has this right
12 except for you, Mr. Bailey. Do you understand that?

13 THE WITNESS: Yes, ma'am.

14 THE COURT: If you decide to testify, Mr. Bailey, you
15 will be subject to the same rules that we apply to the other
16 witnesses, and you may be examined and cross-examined the way
17 that you have seen on any type of relevant issue in this
18 case. In addition, if you have any convictions involving
19 dishonesty or false statements for a crime that is punishable
20 by imprisonment for more than one year, and this Court
21 determines that the probative value of admitting the evidence
22 outweighs the prejudicial effect that it has on you.

23 If I decide that, then that means the solicitor will be
24 able to introduce any criminal record that you may have in
25 order to attack your credibility as a witness. If you do

1 decide to testify, this decision on your part must be freely,
2 voluntarily, and intelligently made. You must have the
3 knowledge of the protections given to you by the Fifth
4 Amendment of the Constitution and the consequences of your
5 decision to testify.

6 Now, if you decide not to testify, I will instruct the
7 jurors that it -- that they cannot give the fact that you did
8 not testify any consideration whatsoever, and that there is
9 to be absolutely no prejudice to you because you did not
10 testify. It is left entirely up to you, Mr. Bailey, whether
11 or not you testify.

12 You obviously can speak to your attorney, your family,
13 or anyone else, but the final decision on whether or not you
14 testify Mr. Bailey lies with you. Do you understand that,
15 sir?

16 THE WITNESS: Yeah.

17 THE COURT: All right, Mr. Bailey. Just a few more
18 questions. Do you understand everything that I have told you
19 just now?

20 THE WITNESS: Yes, ma'am.

21 THE COURT: You understand your right to remain silent
22 under the Fifth Amendment of the Constitution?

23 THE WITNESS: Yes, ma'am.

24 THE COURT: Do you have any questions about anything
25 that I just explained to you?

1 THE WITNESS: (Inaudible).

2 THE COURT: Do you have any questions for your attorney
3 about anything that I've just explained to you?

4 THE WITNESS: No.

5 THE COURT: All right. Do you wish to talk with your
6 attorney any further about your decision to testify or to not
7 testify?

8 THE WITNESS: No.

9 THE COURT: All right. Mr. Bailey, what is your
10 decision? Do you wish to testify on your behalf -- on
11 behalf?

12 THE WITNESSs: No, ma'am.

13 THE COURT: All right. Mr. Bailey, thank you. Were
14 you forced to make that decision or did you make that
15 decision freely and voluntarily by yourself?

16 THE WITNESS: Freely.

17 THE COURT: All right. Was it voluntary as well?

18 THE WITNESS: Yes.

19 THE COURT: All right. Thank you, Mr. Bailey. And you
20 can have a seat for him, please. Okay. All right. Madam
21 Solicitor and Mr. McKellar, I've gone over his rights to
22 remain silent for the record. I will include in the charges
23 a charge regarding his right not to testify as we normally
24 do. All right.

25 MR. MCKELLAR: Thank you, Your Honor.

1 THE COURT: All right. Any -- any other housekeeping
2 issues?

3 MS. CHARBONNEAU: Yes, Judge. Just with the State's
4 motion in limine if there's any proffer that needs to be made
5 prior to the defense witnesses testifying.

6 THE COURT: All right. Is there anything necessary
7 proof that needs to be made, Mr. McKellar?

8 MR. MCKELLAR: Not at this time, Your Honor. Not for
9 the next two witnesses.

10 THE COURT: All right. Please, all parties, as we
11 discussed earlier on in the week, I understand that there is
12 a -- a witness. Is it a -- a co-Defendant?

13 MR. MCKELLAR: Co-Defendant.

14 THE COURT: All right. And so, we understand what
15 we're going to do in terms of the jury with that
16 co-Defendant, you -- you need to alert me before you call
17 back a co-Defendant so that we can take care.

18 MR. MCKELLAR: He will be my third witness.

19 THE COURT: The third witness?

20 MR. MCKELLAR: Third and final witness.

21 THE COURT: Okay.

22 MS. CHARBONNEAU: Your Honor.

23 THE COURT: Okay. Yes, ma'am.

24 MS. CHARBONNEAU: Just -- we just want to be clear with
25 the two lay witnesses that are coming that they are not going

1 to testify about any reputation acts of violence or pot or
2 drugs.

3 MS. MORGAN: Or drugs. There's many -- both of the --
4 if I'm assuming it -- it's Heavenly and Fantasia?
5 Fantasia Carroll and Heavenly? Right. There were references
6 in their statements of who was selling drugs, what was a drug
7 house, and that would be a 404 (b). And the State would ask
8 that -- that not be mentioned at all. This is not -- there's
9 no indication that this --

10 THE COURT: Well, let me ask Mr. McKellar, is that --
11 is -- is that the type of testimony you're going to elicit?

12 MR. MCKELLAR: No, Your Honor, I'm not asking about any
13 of that.

14 THE COURT: Okay. And so, if we see it gone there,
15 obviously none solicitors, you'll -- you'll object. But
16 Mr. McKellar has told us that he's not -- his intent is not
17 to elicit that type of information from the witnesses. All
18 right. Mr. McKellar, how long do -- you're going to testify?
19 You've got about -- you've got a solid hour, Mr. McKellar, is
20 that enough time to get one witness in?

21 MR. MCKELLAR: Yes, I think we can probably do -- we
22 might be able to do both. Two witnesses in an hour.

23 THE COURT: All right. Well, we'll certainly try. But
24 in no way do I want either party to rush through the
25 examinations.

1 MR. MCKELLAR: Your Honor, I -- I failed to mention
2 that I would renew my motion for a mistrial and I'll also
3 renew my previously made objections.

4 THE COURT: Yes, sir. So those -- those motions have
5 been renewed for the record. Madam Solicitor, do you wish to
6 renew your arguments or maintain the same arguments?

7 MS. CHARBONNEAU: Maintain the same.

8 THE COURT: All right. Thank you. So those arguments
9 are maintained by the solicitor. Mr. McKellar, I am going to
10 continue with my denial of both of those motions for --
11 excuse me, the motion for mistrial as well as your first
12 motion for -- what was the first motion, Mr. McKellar?

13 MS. CHARBONNEAU: There was an objection to sidebar
14 that we need to put on the record. There was an objection to
15 one of the photos at the Lloydtown Road.

16 THE COURT: Well, it was -- it was a motion regarding
17 evidence -- evidence disclosure?

18 MR. MCKELLAR: Your Honor, we --

19 THE COURT: It's a Rule 5 motion?

20 MR. MCKELLAR: The --

21 THE COURT: No. Not Rule 5.

22 MR. MCKELLAR: The motion for a mistrial is based on
23 Rule 5.

24 THE COURT: All right.

25 MR. MCKELLAR: The -- we objected to the foundation of

1 the family chart and what we -- what I forgot to put on the
2 record and what we sidebar about later in the afternoon was
3 my -- for vote three objection to Exhibit 44.

4 THE COURT: Forty-four. Okay. And so, those are
5 placed on the record. And just for -- for the records
6 reference defense counsel objected to Exhibit Number 44,
7 which is a picture of the front of the house in which the
8 Defendant was obtained for arrest.

9 There were -- the objection was based on the State of
10 the -- the front of the house, there may or may not have been
11 bullet holes in the home. I did overrule that objection. I
12 did allow Exhibit Number 44 into evidence and to be published
13 to the jury. Is that correct, Mr. McKellar?

14 MR. MCKELLAR: Yes, Your Honor.

15 THE COURT: Is that correct?

16 MR. MCKELLAR: That's my word.

17 MS. CHARBONNEAU: Yes.

18 THE COURT: All right. Very good. Thank you. Any
19 other housekeeping?

20 MR. MCKELLAR: Your Honor, before the jury comes in,
21 may I -- may I look through the exhibits for --

22 THE COURT: Certainly. We'll stand down. I'll pause
23 the parties to do that.

24 (Off the record.)

25 THE COURT: Mr. McKellar, you ready to call your first

1 witness?

2 MR. MCKELLAR: Ready, Your Honor.

3 THE COURT: Thank you. All right. Mr. White, can you
4 please bring the jury in?

5 (Jury enters courtroom.)

6 THE COURT: Please be seated. Ladies and gentlemen of
7 the jury and our two alternates, we are now at the stage of
8 the trial where the defense will present their case.

9 Mr. McKellar, will you call your first witness, please?

10 MR. MCKELLAR: Thank you, Your Honor. The defense
11 calls Fantasia Carroll.

12 UNIDENTIFIED SPEAKER: She is going to swear you in.

13 FANTASIA CARROLL,

14 having been duly sworn, testifies as follows:

15 THE CLERK: Okay. Have a seat and state your full
16 name, spelling your last name, please.

17 MR. MCKELLAR: State your name.

18 THE WITNESS: Fantasia Carroll.

19 THE COURT: Spell your last name, please.

20 THE WITNESS: C-A-R-R-O-L-L.

21 THE COURT: Thank you, Mr. McKellar.

22 MR. MCKELLAR: Thank you, Your Honor.

23 DIRECT EXAMINATION

24 BY MR. MCKELLAR:

25 Q. Ms. Carroll, I have -- I know we're in a formal

1 environment and I've always called you Fantasia. Is that
2 okay?

3 A. Yes, sir.

4 Q. You have to say.

5 A. Yes, sir.

6 Q. He's going to be recording everything that you
7 say. We'll have a written transcript of what is said, so
8 everything has to be out loud. Okay? He can't pick up nods
9 and chains. So Ms. Carroll -- Fantasia, how old are you?

10 A. Twenty -- 20.

11 Q. Can you -- can you pull the microphone a little
12 bit closer to you?

13 A. This one? Twenty.

14 Q. Okay. And how do you know Xabian Bailey?

15 A. He's my ex-boyfriend.

16 Q. Ex-boyfriend. So you all have broken up?

17 A. Right.

18 Q. And do you have a new boyfriend?

19 A. Yes, sir.

20 Q. Okay. Who is your father?

21 A. Larry Carroll.

22 Q. Okay. I'm going to ask you, do you remember
23 June 26 of 2022?

24 A. Yes, sir.

25 Q. Okay. Tell me, where did you wake up that

1 morning?

2 A. I was at AJ's house.

3 Q. Okay. And when you woke up there, who was there
4 when you woke up?

5 A. It was me, Antonio, Alvin, Heavenly, Richard, and
6 Antonio.

7 Q. Okay. Let's -- let's go through again, let's use
8 last names. If you -- if you know.

9 A. Xabian Bailey, me, Fantasia Carroll,
10 Richard Carroll, Heavenly Reedy, and Alvin Artis and
11 Antonio Jones.

12 Q. Antonio Jones. Okay. And at the time of this
13 incident, how old were you?

14 A. Like 18.

15 Q. Okay. And how old was Xabian?

16 A. Eighteen.

17 Q. How old was Antonio Jones?

18 A. He had to be like 16 or something like that.

19 Q. Okay. How old was Richard Carroll?

20 A. I don't know. I know he was like somewhere in his
21 20s.

22 Q. All right. Early 20s? Late 20s?

23 A. Early.

24 Q. How old was Alvin Artis?

25 A. In his early 20s.

1 Q. How old was Heavenly Reedy?

2 A. Probably like the same age as me and Xay.

3 Q. I couldn't hear you.

4 A. Probably like the same age as me and Xay.

5 Q. Okay. So around 18. And did the -- did all six
6 of you wake up that morning at Xay's house?

7 A. Yes, sir.

8 Q. Was anybody else there when you woke up?

9 A. His little brother and his granddaddy.

10 Q. Okay. And whose house is it?

11 A. His granddaddy's house.

12 Q. Were you living there at the time?

13 A. Yes, sir.

14 Q. You were? Okay. That morning or late morning to
15 early afternoon of that day, did anyone receive what I would
16 call an alarming phone call?

17 A. Yes, sir.

18 Q. Okay. And who received that call?

19 A. Antonio received a call from my cousin, Dilo.

20 Q. Okay. Were you able to hear it?

21 A. We was in the same room, yeah.

22 Q. I'm sorry.

23 A. Yeah, we were in the same room.

24 Q. You were in the same room? Okay. And was it on
25 speaker phone or was it on, I don't know what the other

1 option is. Was it speaker phone? So everybody could hear?

2 Was it a FaceTime call? What was the -- how was --

3 A. I don't know if it was a FaceTime call, but -- I
4 don't know if everybody could have heard it too.

5 Q. You could hear the caller?

6 A. Yes, sir.

7 Q. And you could hear the caller well enough to
8 recognize the caller's voice?

9 A. Yes, sir.

10 Q. And you know who that caller was?

11 A. My cousin, Dilo.

12 Q. Okay. And what did Dilo say on that call?

13 A. He was like that, "My daddy had wanted to talk to
14 Xay, Antonio, and Alvin."

15 Q. And did Dilo -- what is Dilo's real name?

16 A. Devin.

17 Q. What's his last name?

18 A. Mims.

19 Q. Did Devin Mims say why Larry wanted to talk to
20 him?

21 A. He was just like that they had money on their
22 hands.

23 Q. You said they, who's they?

24 A. My daddy.

25 Q. So the -- the message was that your dad had money

1 on?

2 A. Antonio, Xay, and Alvin.

3 Q. Okay. Did he say why?

4 A. Because he thinks that they had broken into his --
5 into Pawn's house.

6 Q. And who was Pawn?

7 A. Josh Smith.

8 Q. Joshua Smith. Is he a big guy?

9 A. Yes, sir.

10 Q. Okay. And was that the first time that you all
11 heard of this allegation?

12 A. Yes, sir.

13 Q. It was -- okay. And after you received that call,
14 what did the group decide to do?

15 A. Well, at the time, I was doing Antonio's hair, so
16 I had paused on his hair. We all had got ready and we had
17 put clothes on and walked to my dad's house because he said
18 he wanted to talk to Xay then.

19 Q. Okay. About how long of a walk is it?

20 A. Probably two to three minutes because it's right
21 down the street.

22 Q. So you walked there, you didn't run?

23 A. No, sir.

24 Q. Walked casually?

25 A. I walked -- yes, sir. We had to walk.

1 Q. And who did you expect to see when you got there?

2 A. It was supposed to be my dad. I didn't know who
3 else supposed to be there.

4 Q. You -- you only were expecting to go see your dad?

5 A. Yes, sir.

6 Q. Okay. And you all were going there. Why did Xay
7 want to go there?

8 A. They wanted to clear their names.

9 Q. Okay.

10 A. Xay and Antonio.

11 Q. Did you know that W.G. [REDACTED], I.P. [REDACTED], or C.C. [REDACTED] were
12 there?

13 A. No, sir.

14 Q. Did anyone express, say out loud, W.G. [REDACTED], I.P. [REDACTED],
15 and C.C. [REDACTED] are there?

16 A. No, sir.

17 Q. Did anyone express an intent to go commit an act
18 of violence once they were there?

19 A. No, sir.

20 Q. Did you see weapons on Xabian, Alvin, or Antonio
21 before you went?

22 A. No, sir. I didn't see.

23 Q. Did you see weapons on Antonio, Alvin, or Xabian
24 once you got there?

25 A. I didn't see them.

1 Q. Okay. So when you get there, who was -- when --
2 when I say when you get there, you -- where do you -- tell me
3 the street name of where you walked?

4 A. It's Hillview and then --

5 Q. You got to speak loud. I'm sorry, I'm having it
6 hard hearing you.

7 A. It's Hillview Road and then the right -- at the
8 stop sign and then you go up a little bit and make a left on
9 Wadley Drive.

10 Q. Okay. What road are you on before you take a left
11 on Wadley Drive? You know?

12 A. No, I don't.

13 Q. So you get to Wadley Drive? And is it when you
14 approach Wadley Drive or are you walking up the hill or
15 downhill?

16 A. Walk up.

17 Q. You walking up a little bit of a hill, a slight --
18 is it a slight -- a steep hill or a slight incline?

19 A. Just like a little incline.

20 Q. Incline. Okay. And who do you -- who is the
21 first person that you see? If you remember.

22 A. When we was walking up?

23 Q. When you were walking up?

24 A. I saw my dad, my uncle, Twaine, and Pawn.

25 Q. Okay. And where do you walk to after you see

1 them?

2 A. We all had -- we walked to my dad's house, but we
3 like -- okay, so Pawn was standing behind the truck. My
4 daddy was standing by the table and my uncle Twaine was
5 standing beside him. We all walked up --

6 Q. Sorry. Slow down. Your uncle Twaine was standing
7 where?

8 A. Beside my dad.

9 Q. Okay. We all walked up. We gave each other hugs
10 and stuff. So you -- the first person you approach was --

11 A. My dad.

12 Q. -- your dad. And you said you hugged?

13 A. Yes, sir.

14 Q. Did you hug anybody else?

15 A. I gave my uncle a hug too.

16 Q. Uncle Twaine.

17 A. Uh-huh.

18 Q. Josh Smith?

19 A. No.

20 Q. Okay. And after you hug, what -- what is
21 discussed?

22 A. So Xay had asked what had happened and why we had
23 got called down there. And so, my daddy was like, "You all
24 did that, you all did that." And they was trying to figure
25 out what he was talking about and Xabian was trying to let

1 them know that that wasn't them that had did it.

2 Q. Okay. Did your dad claim to have any evidence
3 that this happened?

4 A. Well, the other did have evidence.

5 Q. Okay. And what was that?

6 A. It was a video but it wasn't Xabian that was on
7 the video.

8 Q. Okay. Did you all ask to see the video?

9 A. Well, I knew somebody that had seen the video and
10 they had --

11 Q. Okay. Well, don't -- don't tell me what other
12 people say. Okay? So you didn't see the video?

13 A. No, I didn't.

14 Q. But there was supposedly a video that existed?

15 A. Uh-huh.

16 Q. That your dad called to prove to you? Okay. And
17 did -- was your dad angry or was Xabian angry?

18 A. No, he wasn't angry, but my daddy was.

19 Q. Okay. And how did he express his anger?

20 A. He was mad. He was like, "You all did that shit.
21 You all did that shit."

22 Q. Okay. And when this conversation is happening --
23 happening, is **W.G.**, **I.P.**, and **C.C.** in this conversation?

24 A. No, not yet. They not came out the side of the
25 house.

1 Q. Okay. Now, you say that came out of the side of
2 the house. Whose house?

3 A. My dad's house.

4 Q. What side?

5 A. Off the right side of the house.

6 Q. Okay. Did they have the weapons?

7 A. Yes, sir.

8 Q. Did you see those weapons?

9 A. Yes, sir.

10 Q. Did they all have weapons the first time you saw
11 them?

12 A. Yes, sir.

13 Q. They all had weapons at the moment they rounded
14 the house?

15 A. Yes, sir.

16 Q. Okay. And where do they walk? Do they -- what --
17 well, what happens next?

18 A. They walked in front of us and then they had asked
19 Xabian where their guns was.

20 Q. I'm sorry?

21 A. They walked in front of us and asked Xabian where
22 their guns was.

23 Q. Asked where their guns were? Why did they ask
24 that?

25 A. I didn't know.

1 Q. Did they -- I want to ask you what you saw. I'm
2 only going to ask you what you saw. Okay? And did you see
3 them make any threatening gestures with the guns in a --
4 aside from them having them out?

5 A. Like they just had them in front of them like in
6 an arm-wrist position.

7 Q. In a what position?

8 A. Arm-wrist position. Like in front of them like
9 this.

10 Q. And at some point, shots were fired, is that
11 right?

12 A. Yes, sir.

13 Q. Well, let me backup. So when the three of them
14 walk around the corner with the guns drawn, did Antonio,
15 Xabian, or Alvin have a gun drawn at that moment?

16 A. No, sir.

17 Q. Okay. When they walked up, did Antonio, Xabian,
18 or Alvin have a gun drawn?

19 A. No, sir.

20 Q. Okay. At some point shots are fired, correct?

21 A. Yes, sir.

22 Q. Before shots were fired, did you see **W.G. [REDACTED]**, **I.P. [REDACTED]**,
23 or **C.C. [REDACTED]** make any threatening gestures with the guns? Aside
24 from having them out?

25 A. No.

1 Q. No. Okay. Did -- you said they asked where --
2 where your gun's at?

3 A. Yes, sir.

4 Q. Did they say anything else threatening?

5 A. I can't remember.

6 Q. Okay. Shots were fired. Do you know who fired
7 first?

8 A. No, sir.

9 Q. Do you know who fired?

10 A. No, sir.

11 Q. Did you see Alvin, Xabian, or Antonio with a gun
12 at all?

13 A. No, sir.

14 Q. But W.G. [REDACTED], I.P. [REDACTED], and C.C. [REDACTED] dropped. Right?

15 A. Yes, sir.

16 Q. So somebody shot. Okay. So W.G. [REDACTED], I.P. [REDACTED], and C.C. [REDACTED]
17 -- C.C. [REDACTED] are shot and do all three fall to the ground?

18 A. Yes, sir. All of them on the ground.

19 Q. And when that happens, what do the six of you do?

20 A. I jump behind the tree. By the time I got back
21 up, the people that came with me, they was gone. I was there
22 by myself.

23 Q. They were gone. So Antonio was gone. Xabian was
24 gone?

25 A. Uh-huh.

1 Q. That's a yes?

2 A. Yes, sir.

3 Q. Alvin, Antonio, and Xay were all gone?

4 A. Yes, sir.

5 Q. Heavenly Reedy was gone?

6 A. Yes.

7 Q. And Richard was gone?

8 A. Yes, sir.

9 Q. But you stayed?

10 A. Yes, sir.

11 Q. Okay. And after the dust settles or after you get
12 your bearings, who calls 911?

13 A. I did.

14 Q. Did your dad also speak?

15 A. He was the one that told me to call 911.

16 Q. So you called 911?

17 A. Yes, sir.

18 Q. And as [I.P.], [C.C.], and [W.G.] were on the
19 ground, what did you observe Larry, Twaine, and Joshua Smith
20 doing?

21 A. While I was -- because [C.C.] was asking me to help
22 him up, I was trying to help [C.C.] up. At the time, he was on
23 the phone with somebody else and was like that Xabian had
24 came --

25 Q. Hold on -- hold on -- hold on. You said he was on

1 the phone with somebody else?

2 A. He -- yeah, he was like --

3 Q. Who's he?

4 A. My dad.

5 Q. Your dad's on the phone with somebody else? Not
6 911?

7 A. No, sir.

8 Q. Okay.

9 A. He had -- he was like Xabian had came and shot my
10 nephews, so. And then at the time they was trying to hide
11 the gun that C.C., W.G., and --

12 Q. Hold on. You said they again, who's they?

13 A. My dad, Twaine, and Josh.

14 Q. Okay. Trying to hide guns?

15 A. Yes, sir.

16 Q. How did -- did you see this?

17 A. Yes, sir.

18 Q. Who among the three picked up the weapons?

19 A. All three of them.

20 Q. And what did they do with those weapons?

21 A. They put them in my uncle Twaines' house.

22 Q. Where do you go next?

23 A. I was still on the phone with the lady on -- from
24 dispatch and I was walking to my Auntie Sean's house. When I
25 got there --

1 Q. Let me stop you. Where does she live?

2 A. A trailer over from my dad.

3 Q. On that same street?

4 A. Yes, sir.

5 Q. Okay. And what do you do once you get there?

6 A. My granddaddy had took me to my grandma house.

7 Q. Okay.

8 A. Because I told him what had -- well, like, I ain't
9 tell him what happened, but he -- he was like that. He had
10 heard some shots and he asked me was I okay.

11 Q. Okay. You stayed at your grandma's house?

12 A. Yes, sir.

13 Q. At what point do you leave your grandma's house?

14 A. What do you mean?

15 Q. Well, you -- you just say there indefinitely. You
16 -- at some point you leave your grandma's house at some
17 point. Correct?

18 A. I -- okay. So I had -- when I -- when my
19 granddaddy took me to my grandma house, I stayed at my
20 grandma house until later on I had talked to police.

21 Q. Okay.

22 A. But I had --

23 Q. Did you --

24 A. For my safety, I moved to Kansas and I came back.

25 Q. Back up. Did you go to the hospital?

1 A. Yes, sir.

2 Q. Who did you go to the hospital with?

3 A. It was me and my grandma, Ron, and Chanel.

4 Q. You your grandmother. What's your grandmother's
5 name?

6 A. Sandra.

7 Q. Sandra?

8 A. Bill.

9 Q. Bill. And who else?

10 A. Ron and Chanel.

11 Q. Chanel?

12 A. Garrett.

13 Q. Garrett. Did you all -- all three leave together
14 or did you have to go pick somebody up?

15 A. We went to go pick up Chanel and Jerome.

16 Q. Okay. And who is Chanel Garrett?

17 A. Cameron's mom and W.G.'s auntie.

18 Q. And the three of you went to the hospital?

19 A. All four of us.

20 Q. The four of you? Who was the fourth person?

21 A. Me, my grandma, Ron, and Chanel.

22 Q. Okay. And did C.C. pass away while you were
23 there? To your knowledge? If you don't mind, that's fine.

24 A. When -- when we was at the hospital in the little
25 waiting area.

1 MR. MCKELLAR: Okay. Your Honor, may we approach for
2 sidebar?

3 THE COURT: Yes.

4 (Bench conference.)

5 MR. MCKELLAR: Please answer any questions that the
6 State has for you.

7 CROSS-EXAMINATION

8 BY MS. MORGAN:

9 Q. Good afternoon, Ms. Carroll.

10 A. Hey, how are you?

11 Q. It's been -- been a while, but I want go have to
12 walk through some of the testimony and the incident. Let's
13 talk about just right before the shooting at your father's
14 house, your relationship with -- with Xabian Bailey or his
15 girlfriend?

16 A. Yes, ma'am.

17 Q. Was and how long were you -- how long were you
18 together?

19 A. Three years.

20 Q. Three years. And how long did you live with him
21 and his grandmother's home?

22 A. Not that long.

23 Q. What is not long? Is that a year?

24 A. Like maybe a month. Like I was just coming back.

25 Q. Just back and forth? Okay. And isn't it true

1 that you didn't have a good relationship with your father?

2 A. Yes, ma'am.

3 Q. Is a strange relationship?

4 A. Like I don't really talk to him like that.

5 Q. And so, not where you would be welcome just to
6 walk up to his home?

7 A. Like we -- we talk certain occasions or hug each
8 other and see each other whenever we see each other,
9 whatever. But like we don't -- it ain't nothing like that.

10 Q. Yeah. So it's fair to say it was not a good
11 relationship with your father?

12 A. Yes, ma'am.

13 Q. Now, so you and the five others, you walked from
14 the Defendant's home?

15 A. Yes, ma'am.

16 Q. And you were told prior to who was at your
17 father's house that day off Wadley Drive?

18 A. What do you mean I was told?

19 Q. Prior to you all walking up to your dad's house,
20 you said that your cousin called?

21 A. Yeah, my cousin Dilo.

22 Q. Right. And Dilo called?

23 A. Antonio and he had said that my daddy had needed
24 to talk to Alvin, Xay, and Antonio.

25 Q. So based on that he told -- who -- who did your

1 father allegedly need to speak with? Who?

2 A. Alvin, Xay, and Antonio.

3 Q. So for whatever reason he wanted to talk to these
4 three people?

5 A. Yes, ma'am.

6 Q. All six of you went there?

7 A. Yes, ma'am.

8 Q. Okay. And -- but you weren't in invited by your
9 father to be there?

10 A. No.

11 Q. Your father didn't call Antonio. And your father
12 didn't call C.C. [REDACTED]?

13 A. No.

14 Q. And your father didn't call Xabian Bailey?

15 A. No.

16 Q. But you all proceeded to the home?

17 A. Yes, ma'am.

18 Q. Now, your testimony was when you arrived, there
19 was conversation or a discussion with your father?

20 A. Yes, ma'am.

21 Q. And that was between Xabian Bailey?

22 A. Yes, ma'am.

23 Q. But not with -- not --

24 A. Like it was between all three of them. They were
25 trying to clear their names.

1 Q. Okay. So all three of them were talking with your
2 father?

3 A. Yes, ma'am.

4 Q. But at that time you, based on your testimony, you
5 hadn't seen **W.G. [REDACTED]**?

6 A. No, I didn't see none of them.

7 Q. You hadn't seen your cousin **C.C. [REDACTED]**?

8 A. No.

9 Q. And you hadn't seen **I.P. [REDACTED]**?

10 A. No.

11 Q. And so, you said they came out of the right side
12 of the house?

13 A. Off of the right side of the house.

14 Q. So they came off? Based on your testimony, they
15 came off the -- and -- but they hadn't called for these --
16 for these three, they hadn't called for Xabian Bailey to come
17 up. **W.G. [REDACTED]** nor **I.P. [REDACTED]** nor **C.C. [REDACTED]**, they
18 hadn't called to ask them to come to your father's house?

19 A. I don't know. I mean, we didn't know they was
20 there.

21 Q. So you had no idea they were there, but for some
22 reason allegedly they walked out with weapons?

23 A. Yes, ma'am.

24 Q. Holding it to their chest?

25 A. Yes, ma'am.

1 Q. How long would you say you were there before the
2 shooting started?

3 A. I don't -- how long.

4 Q. You have no idea how long you were there?

5 A. We was there for like, probably a couple of
6 minutes. It wasn't that long. We had really just walked
7 off.

8 Q. So these arbitrary people came out in a couple of
9 minutes. Is that your testimony?

10 A. Yes, ma'am.

11 Q. Now, let's talk to what happened after the
12 shooting, then we'll go to the incident. So after the
13 shooting, your testimony was that you called 911?

14 A. Yes, ma'am.

15 Q. And you said you -- your father told you to call
16 911?

17 A. Yes, ma'am. He was there and I called the police.

18 Q. And you walked down to your auntie's house, you
19 said?

20 A. Not right then and there.

21 Q. So how long was it before you walked down to your
22 auntie's house?

23 A. I don't know the timeframe.

24 Q. Can you --

25 A. Like, it was -- it had to be like within a couple

1 of minutes, I don't know.

2 Q. Okay. So you are walking out to the house. And
3 then your testimony was for some reason the three weapons
4 that were there, all three individuals went to pick up these
5 weapons?

6 A. Yes, ma'am.

7 Q. They picked up -- did one person pick all three of
8 them up?

9 A. No.

10 Q. Oh, each person picked up one person, one weapon?

11 A. They all picked up a weapon.

12 Q. Excuse me, ma'am?

13 A. They all picked up a weapon.

14 Q. Okay. And then they all walked back to Twaine's
15 house.

16 A. It is right across the street.

17 Q. So they all three walked over to the house to put
18 these weapons in his house?

19 A. Yes, ma'am.

20 Q. Okay. Now, do you recall telling I.P. [REDACTED], and Reedy
21 that you were -- you said you -- after you went to your
22 auntie's house, did you go to the hospital then?

23 A. After I went to my auntie's house, we -- my
24 granddaddy dropped me off to my grandma house. And then we
25 had went to go pick up Chanel and Ron.

1 Q. And you told -- having agreed, that you were there
2 when C.C. closed his eyes and was put into the ambulance.
3 Do you recall doing that?

4 A. I wasn't there when he got in the ambulance.
5 Wait, I might -- I don't know. I don't know.

6 Q. So you said you went to your grandfather, got you
7 -- your grandfather got you at your grandmother's house?

8 A. We rode to the hospital. We -- we went back to
9 the scene, but they was taking him to the hospital. So we
10 went to the hospital.

11 Q. You said you went to the hospital with Chanel
12 Garrett, is that correct?

13 A. Yes, ma'am. But we also went to the scene. We
14 went to the scene before we went to the hospital. So after
15 we went to the scene, we went to the hospital afterwards.

16 Q. So you were in the car with her for quite some
17 time?

18 A. Yeah, it took some time to get there. She stayed
19 about a three-way store.

20 Q. And you told her that C.C. nor I.P. nor W.G. had
21 a gun on him?

22 A. No, ma'am. I did not tell her that.

23 Q. So that's your testimony today that you did not
24 tell her that?

25 A. Yes, ma'am. And I put it on my dead grandma.

1 Q. And then (inaudible).

2 A. I never even spoke to her either on my dead
3 grandma.

4 Q. Okay. Well, I say, did you message her?

5 A. No, ma'am.

6 Q. So would it be your testimony that you didn't
7 message her?

8 A. I didn't tell her nothing like that. Would
9 message her about what?

10 Q. Do you have a nickname?

11 A. Taza (ph).

12 Q. For identification purposes only. So you're
13 saying that you did -- you -- your -- your testimony today
14 would be you did not call her?

15 A. No.

16 Q. You did not tell her that his brother was dead?

17 A. Well, I told -- I told her that her brother was
18 dead, but I ain't -- I don't remember calling her.

19 Q. How did you tell her?

20 A. I think I texted her. I don't know.

21 Q. So you sent a text to her?

22 A. Yes, ma'am.

23 Q. And you told her that her brother was dead?

24 A. Yeah, because I was there at the time.

25 Q. And you told her that once again, I.P. [REDACTED] did

1 not have gun?

2 A. No, I did not tell her that.

3 Q. And you told her that W.G. did not have a gun?

4 A. I did not tell her that either.

5 Q. And you told her that C.C. didn't have?

6 A. I didn't tell her that either.

7 Q. So let's go to the actual when everything
8 happened, when -- when the shooting started. But you said
9 you were 18 years old at the time?

10 A. Yes, ma'am.

11 Q. And when you said you hid behind the tree?

12 A. Yes, ma'am.

13 Q. And when you came out, what did you -- did you
14 observe W.G. at that time?

15 A. Yeah, they laying on the ground.

16 Q. And when you say they, identify they.

17 A. My cousin C.C., my grand brother W.G. and I.P..

18 Q. And so, do you recall you called nine one, your
19 father called 911?

20 A. No, I called 911.

21 Q. Was your father on the phone first?

22 A. No, he got like, okay, I called the police and
23 then that's when he called whoever he called.

24 Q. Would it help you if we replay the 911 for you?

25 A. Okay.

1 MR. THOMPSON: Your Honor, may we approach?

2 THE COURT: Yes.

3 (Bench conference.)

4 MS. MORGAN: Your Honor, request permission to
5 republish (inaudible)?

6 THE COURT: Yes.

7 (Audio starts)

8 UNIDENTIFIED SPEAKER: Aiken County, (inaudible).

9 (Audio paused.)

10 MS. MORGAN: (Inaudible) is that okay?

11 (Audio continues)

12 UNIDENTIFIED SPEAKER: (Inaudible) shot at?

13 (Inaudible) shot at?

14 THE WITNESS: I still can't hear that.

15 UNIDENTIFIED SPEAKER: Aiken County, (inaudible).

16 MS. CARROLL: (Inaudible).

17 UNIDENTIFIED SPEAKER: Okay, hang on just a second for
18 me. Where did he get shot at?

19 MS. CARROLL: (Inaudible).

20 UNIDENTIFIED SPEAKER: (Inaudible) how many were there?

21 MS. CARROLL: Three of them.

22 UNIDENTIFIED SPEAKER: Okay. (Inaudible). What are
23 they wearing?

24 MS. CARROLL: (Inaudible).

25 UNIDENTIFIED SPEAKER: Okay. I -- I need a (inaudible)

1 I need (inaudible) ma'am.

2 MS. CARROLL: (Inaudible).

3 UNIDENTIFIED SPEAKER: Okay. I understand (inaudible)
4 we are trying to get help to you, but (inaudible). I need to
5 know who was involved in this shooting.

6 MS. CARROLL: (Inaudible).

7 UNIDENTIFIED SPEAKER: Okay. No, that's a lie.
8 (Inaudible) whoever was your boyfriend.

9 MS. CARROLL: (Inaudible).

10 UNIDENTIFIED SPEAKER: (Inaudible) talk to the
11 (inaudible) I'm not (inaudible) I need to know who shot your
12 nephew.

13 MS. CARROLL: (Inaudible).

14 UNIDENTIFIED SPEAKER: Okay. Who shot him?

15 MS. CARROLL: (Inaudible).

16 UNIDENTIFIED SPEAKER: I need you to answer my
17 questions.

18 (Audio ends.)

19 BY MS. MORGAN:

20 Q. So you just heard the 911?

21 A. Yes, ma'am.

22 Q. Is that -- you have to speak loudly. Yes?

23 A. Yes, ma'am.

24 Q. And that was you on the 911?

25 A. Yes, ma'am.

1 Q. With the dispatcher?

2 A. Yes, ma'am.

3 Q. And just based on what we just heard, you -- the
4 dispatcher asked you one time who the people were that you
5 walked with in the morning, is that correct?

6 A. Yes, ma'am.

7 Q. And you didn't answer?

8 A. I didn't answer. I was scared. I was shaken up.

9 Q. Did you -- an did -- you did a lot of things that
10 did you -- but you -- she asked you one time and you didn't
11 answer, correct?

12 A. Yes, ma'am.

13 Q. And you -- she asked you two times and you didn't
14 answer?

15 A. Yes, ma'am.

16 Q. And all this time, your cousin is lying there
17 dying, is that correct?

18 A. I wasn't down there anymore, but I wasn't down
19 there anymore. I was already gone.

20 Q. You knew at the time that three people had been
21 shot?

22 A. Yes, ma'am.

23 Q. She asked you a third time and you didn't answer?

24 A. Yes, ma'am.

25 Q. And then when you did answer, you said you didn't

1 know who shot the people.

2 A. Because I didn't see anything. I was behind a
3 tree. I jumped behind a tree. How would I see who shot? I
4 didn't know.

5 Q. So when the dispatcher -- when your -- when your
6 father said, "One of them is my daughter's boyfriend." You
7 heard that?

8 A. Yes, ma'am.

9 Q. But you didn't relay that to the 911 operator?

10 A. No.

11 Q. Who called you a liar -- liar in real time?

12 A. I'm sorry?

13 Q. She called --

14 MR. MCKELLAR: Objection.

15 BY MS. MORGAN:

16 Q. The 911 operator said --

17 MR. MCKELLAR: Objection relevance.

18 THE COURT: (Inaudible) objection?

19 MR. MCKELLAR: Relevance.

20 THE COURT: All right. I'm going to overrule --

21 MR. MCKELLAR: (Inaudible) misstating the evidence.

22 THE COURT: All right. I'm going to -- about the
23 question, Mr. McKellar.

24 MS. MORGAN: I know, I'm going to rephrase.

25 BY MS. MORGAN:

1 Q. The 911 operator said to you -- that is a lie.

2 You -- you -- they just told you that -- that was your

3 boyfriend. Is that correct? You just heard that?

4 A. Yes.

5 Q. Is that a yes?

6 A. Yes. I heard it.

7 Q. And then find -- you -- you do recall, you said

8 you talked to the police?

9 A. Yes, ma'am.

10 Q. And you told Investigator Faulkner that Xay and

11 Alvin had guns?

12 A. I don't know.

13 Q. Can I --

14 A. I don't remember.

15 Q. Okay.

16 A. Yes, ma'am.

17 Q. Can I just show you the transcript of your

18 discussion with him and refresh your recollection? You can

19 read the whole, but it's on --

20 MR. MCKELLAR: Your Honor, I object to -- being read.

21 I think she's trying to refresh her recollection.

22 MS. MORGAN: I'm not -- Your Honor, I'm not asking her

23 to read it to the jury. I'm asking her to read it, to

24 refresh her recollection. Therefore, she can answer the

25 question truthfully.

1 THE COURT: I will allow.

2 THE WITNESS: Where is that?

3 BY MS. MORGAN:

4 Q. It's on page three. And you're more than --

5 A. Which is supposed to be in? Which line I'm I
6 supposed to be reading to myself?

7 Q. May I just direct? She said I need to direct her
8 to the line.

9 THE COURT: Certainly, you can direct her. It's not --
10 you can point to her the testimony to refresh.

11 BY MS. MORGAN:

12 Q. So now you recall talking to
13 Investigator Faulkner?

14 A. Yes, ma'am.

15 Q. And you stated that Xay and Alvin had guns?

16 A. Well, I didn't know --

17 Q. When you were speaking with -- I'm sorry. When
18 you were speaking with Investigator Faulkner, based on this
19 transcript of yours, you -- you told the investigator that
20 Zay and Alvin had guns, correct?

21 A. I don't know if Alvin had a gun.

22 Q. When you were speaking to Investigator Faulkner --

23 A. I mean, that's what it says, but I don't know.
24 That's what I'm telling you.

25 Q. So when you spoke to him in June of 2022, you told

1 him that Xay and Alvin -- and this is his transcript of your
2 words?

3 A. Yes, ma'am. I see the words, but I don't
4 remember. That's what I'm telling you.

5 Q. Okay. And you told him that the guns were inside
6 of their pants?

7 A. This is -- it is on the paper.

8 Q. Yes, it is on this paper. Based on your words in
9 the interview. Is that correct? Is that what you read?

10 A. It's on the paper.

11 Q. Did you read that? Did you read this transcript?

12 A. I'm saying, yeah. I just read it on the paper.

13 Q. And additionally, you told him the reason you knew
14 that they had guns is because you saw them shoot.

15 A. I did not see them shoot.

16 Q. Based on this transcript of your interview with
17 Investigator Faulkner, did you -- is that what the words say
18 here?

19 MR. MCKELLAR: Objection. Your Honor, the proper --
20 this is not -- may we approach?

21 THE COURT: Yes.

22 (Bench conference.)

23 BY MS. MORGAN:

24 Q. So Ms. Carroll -- so in June -- on the day of the
25 incident, you talked to an investigator, police officer?

1 A. Yes, ma'am.

2 Q. And they came to see you?

3 A. Uh-huh.

4 Q. And they questioned you about who had guns?

5 A. Yes, ma'am.

6 Q. And during that questioning, it has been
7 attributed or -- or stated that you said Xay and Alvin had
8 guns.

9 A. Yes, ma'am. I see it on the paper, but I don't
10 remember saying to them.

11 Q. So you don't remember saying that Xay and Alvin
12 had guns. And do you recall saying that Xay and Alvin had
13 guns that they were stuck in their pants?

14 A. I don't remember.

15 Q. And do you recall telling Investigator Faulkner,
16 in June of 2022, that the reason you knew they had guns is
17 that you saw them shoot?

18 A. No, ma'am. I did not see them shooting.

19 MS. MORGAN: Your Honor, just one moment, Court's
20 indulgence. Okay. Your Honor, I have no further questions
21 at this time.

22 THE COURT: Any re-direct, Mr. McKellar?

23 MR. MCKELLAR: Just very briefly.

24 RE-DIRECT EXAMINATION

25 BY MR. MCKELLAR:

1 Q. Fantasia, when C.C. fell, did you try to help
2 him?

3 A. When he was already on the ground, I was trying to
4 help him up.

5 Q. You were trying to help him up?

6 A. Uh-huh.

7 Q. Did he -- did you see anybody else trying to help
8 him?

9 A. No.

10 MR. MCKELLAR: No further questions.

11 THE COURT: Any re-cross?

12 MS. MORGAN: No, Your Honor.

13 THE COURT: Okay. This witness may be excused. Ms.
14 Carroll, watch your step. Okay. All right. At this time,
15 ladies and gentlemen of the jury, we are going to recess in
16 order to give you all a lunch break. Your lunch order should
17 be in the back right now. Please remember that while you're
18 not in the courtroom, that -- or excuse me at all. At this
19 point, you're not to discuss this case with anyone even your
20 fellow jurors.

21 And do not attempt to do any type of research over the
22 lunch break. We'll give you all the information that you
23 need. Mr. White, if you would escort the jury to the jury
24 room.

25 (Jury exits courtroom.)

1 THE COURT: Please be seated. At this time, we are
2 going to wait for a brief lunch. It's 1:00 -- it's 1:15.
3 We'll fix the clock, but we'll reconvene at 2:00 p.m. So
4 we'll just have a brief recess for lunch today. If there are
5 any housekeeping issues that come up, please do not take the
6 call off of this counsel. All right. We'll stand down until
7 2:00 p.m.

8 (Off the record.)

9 THE COURT: Mr. McKellar, are you ready to proceed?

10 MR. MCKELLAR: I am, Your Honor.

11 THE COURT: Madam Solicitor, you ready to proceed?

12 MS. CHARBONNEAU: Yes.

13 THE COURT: All right. Very good. Mr. White, can you
14 bring the jury back in please?

15 (Jury enters courtroom.)

16 THE COURT: Thank you. Please be seated. Ladies and
17 gentlemen of the jury, at this time, we'll now resume the
18 defense's presentation.

19 Mr. McKellar?

20 MR. MCKELLAR: Thank you, Your Honor. This -- the
21 defense calls Heavenly Reedy.

22 THE CLERK: Place your left hand on the Bible and raise
23 your right.

24 HEAVENLY REEDY,

25 having been duly sworn, testifies as follows:

1 THE CLERK: Okay. Please state your name, spelling
2 your last.

3 THE WITNESS: Hello, I'm Heavenly Reedy.

4 DIRECT EXAMINATION

5 BY MR. MCKELLAR:

6 Q. Will you spell your last name for the record,
7 Please?

8 A. R-E-E-D-Y.

9 Q. Thank you. Ms. Reedy, do you prefer Heavenly or
10 Ms. Reedy?

11 A. Either is fine.

12 Q. Or I call you Heavenly?

13 A. Heavenly is fine.

14 Q. Heavenly's fine?

15 A. Yes, sir.

16 Q. Thank you. Heavenly, do you know Xabian Bailey?

17 A. Yes, sir.

18 Q. And how do you know Xabian?

19 A. Through Richard Carroll.

20 Q. And who is Richard Carroll?

21 A. My ex-boyfriend.

22 Q. You are no -- no longer dating?

23 A. No, sir.

24 Q. And who was Richard Carroll's father?

25 A. That's Twaine Carroll.

1 Q. Do you remember June 26, 2022?

2 A. Yes, sir.

3 Q. Where'd you wake up that morning?

4 A. At Xabian's house.

5 Q. And who else woke up there that day?

6 A. It was me, Fantasia, Antonio, Richard, and his
7 little brother.

8 Q. Whose little brother?

9 A. Xabian's little brother.

10 Q. Okay. Xabian, was he there?

11 A. Yes, sir.

12 Q. Were there any older adults there?

13 A. His granddad.

14 Q. Okay. What time -- what time did you wake up?

15 A. I'd say like 9:30.

16 Q. 9:30. Was everybody up when you woke up or people
17 wake up earlier?

18 A. We kind of all woke up at the same time if --

19 Q. Okay. Now, on this day, did anyone receive a
20 phone call?

21 A. Yes, sir. Antonio received a phone call.

22 Q. Okay. And who did you receive a phone call for?

23 A. They -- they called him Dilo.

24 Q. Okay. And were you in the room when -- when Dilo
25 called?

1 A. Yes, sir.

2 Q. You were in the room?

3 A. Yes, sir.

4 Q. Could you hear what was being said?

5 A. Yes, it was on speaker.

6 Q. Do you remember, was it a phone call, FaceTime
7 call? Do you -- you don't remember it?

8 A. Through Messenger.

9 Q. It was messages?

10 A. Messenger, like Facebook Messenger.

11 Q. Okay. But you could hear?

12 A. Yes, sir.

13 Q. It's like a phone call that's through Facebook as
14 opposed to T-Mobile? Is that how that works? You can call
15 people. I'm -- I'm not very tech savvy. So, I mean, you're
16 able to call people using Facebook, is that what you're
17 telling me?

18 A. Yes, sir.

19 Q. Okay. And you were able to hear the conversation?

20 A. Yes, sir.

21 Q. And what did Dilo -- who else was in the room?

22 A. It was me, Fantasia, Xabian, Antonio, and also
23 Alvin.

24 Q. Okay. And what did Dilo say?

25 A. He told them that Junior and Pawn was up to --

1 like at their house. Basically, Junior and Pawn was at
2 Junior's house.

3 Q. And what -- why is that -- why was that a problem?

4 A. Word was going around saying that money was put on
5 Xabian's and Alvin's head. So I'm guessing, yeah.

6 Q. Did you hear Dilo say that?

7 A. Did I hear him say about --

8 Q. There was money on his head?

9 A. No, sir, I didn't.

10 Q. Where did you learn that?

11 A. I learned that from Richard Carroll when he was
12 told by two females.

13 MS. MORGAN: I object.

14 MR. MCKELLAR: Okay.

15 THE COURT: What basis?

16 MS. MORGAN: Hearsay, Your Honor.

17 THE COURT: All right.

18 Mr. McKellar, will you rephrase that question? And
19 sustained.

20 MR. MCKELLAR: Your Honor, if I may, I'm not offering
21 the proof, the truth of the matter so I'm not proofing that
22 there was money on his head. I'm offering the proof why they
23 go down there.

24 THE COURT: I'll allow it. Mr. McKellar?

25 BY MR. MCKELLAR:

1 Q. So what did you and Richard Carroll learn?

2 A. That there was money put on Xabian's and -- and
3 Antonio's head or some drugs being stolen.

4 Q. Do you know who the drugs were supposedly stolen
5 from?

6 MS. MORGAN: Objection.

7 THE WITNESS: From --

8 MS. MORGAN: Objection.

9 THE COURT: What's the basis?

10 MS. MORGAN: May we approach, Your Honor?

11 THE COURT: Yes.

12 (Bench conference.)

13 THE COURT: Mr. White, will you please excuse the jury?
14 I have a matter of law to take outside their presence.

15 (Jury exits courtroom.)

16 THE COURT: All right. Please be seated.

17 MR. MCKELLAR: Your Honor, I did not construct this
18 reading on this issue.

19 THE COURT: All right. So we'll give you the
20 opportunity to do that. I do want to place on -- and
21 Ms. Reedy, I'm required to, just to place on the record that
22 Ms. Reedy and I had a very brief that she asked me a
23 question, I answered a question if -- if it is necessary for
24 this witness to -- if she indicates to you that she needs a
25 break, the Court will accommodate for that. And so, that was

1 the question -- that was the question, and that was an
2 answer.

3 Mr. Anthony, will you please instruct, on the record,
4 your witness -- well, I'll tell you what. We'll stand --
5 we'll stand down for just a moment and then I'd like for you
6 to instruct her on what -- what our pretrial motions involved
7 and what that means in regards to her testimonay.

8 All right. Just you want to place it on the record?
9 You placing it on the record? You want to stand down or
10 place on the record? You want to stand down or you want to
11 place it on the record?

12 MR. MCKELLAR: I'll do it on the record.

13 THE COURT: All right. So we'll do that -- we'll do
14 that on the record.

15 Mr. McKellar. Sorry. Mr. McKellar?

16 MR. MCKELLAR: This is -- read. I did not instruct
17 this earlier. I did not mention this to you. I don't think
18 I did. I'll stay away from drug talk. Okay? So --

19 THE COURT: He's prohibited from elicit -- from getting
20 any testimony from you or any other witness with regards to
21 any acts involving drug sales, exchange of drugs, I believe
22 we also have acts of violence.

23 MR. MCKELLAR: Your Honor, I -- look, I think what the
24 agreement was is that I would proffer it first and I did tell
25 the State that I wasn't going to elicit that testimony. I

1 wasn't going to elicit that testimony. And frankly, I didn't
2 anticipate it. So I will try to stay away from -- from drug
3 talk.

4 THE COURT: Certainly, so questions that -- that -- you
5 are to answer every question honestly and openly. However,
6 Mr. McKellar, you will continue to -- to try not to elicit on
7 what we've agreed upon.

8 MR. MCKELLAR: Yes, Your Honor.

9 THE COURT: And if you do feel as though you need to do
10 that, we will proffer the testimony.

11 MR. MCKELLAR: Yes, Your Honor.

12 THE COURT: Madam Solicitor?

13 MS. MORGAN: Yes, Your Honor. I just would -- I just
14 wanted to be clear to -- to include the drug testimony that
15 the witness has been instructed on any because her statement
16 has a lot of stuff about gangs or has the witness been
17 instructed? No gangs, no acts of prior acts of violence?
18 Nothing That would be called 404(b) for purposes of this
19 testimony.

20 THE COURT: That's correct. And so, no testimony
21 regarding any -- any potential or any alleged gang activity
22 or any gang nicknames? I --

23 MR. MCKELLAR: I heard the mention of the word gang.

24 THE COURT: Right.

25 MR. MCKELLAR: I did not mention any reputation. Well,

1 she notes -- we -- we did discuss a reputation for violence.
2 We're not going into that based upon what we discussed. And
3 I don't -- I'm not aware of any specific acts of violence to
4 ask about, so I didn't intend to ask elicit any of those.

5 THE COURT: Very good. And so, just in the event
6 there's an open-ended question, we will not touch those
7 areas. Do you understand that?

8 THE WITNESS: Yes, ma'am.

9 THE COURT: All right. Very good. Thank you.

10 THE WITNESS: You're welcome.

11 THE COURT: All right. So we'll -- we'll allow you to
12 continue back again, Mr. McKellar.

13 MR. MCKELLAR: Thank you.

14 THE COURT: We'll bring the jury back in. Is that --
15 is that the basis of the --

16 MS. MORGAN: Thank you, Your Honor.

17 THE COURT: Very good. Mr. White, will you bring that
18 jury back in please?

19 (Jury enters courtroom.)

20 THE COURT: Thank you. If you need a break, go with
21 that. All right. Please be seated.

22 Mr. McKellar?

23 MR. MCKELLAR: Thank you, Your Honor.

24 BY MR. MCKELLAR:

25 Q. I'm not exactly sure where I left off. Let me try

1 to lead you back in the direction. Were you under the
2 impression that were -- did you receive -- were you under the
3 impression that Larry Carroll had put money on Xabian's head?

4 A. As -- are you asking me if I was -- did I know
5 that?

6 Q. Yes. Did you -- did you hear that? Did you hear
7 that allegation?

8 A. I heard -- I heard it from --

9 Q. I'm just asking you if you heard that allegation.
10 Did you hear the allegation from anyone --

11 A. Yes.

12 Q. -- that Larry Carroll put money on Xabian's head?

13 A. No, sir. No, sir.

14 Q. You did not hear the allegation that Xabian --

15 A. I didn't hear that Junior did. I -- I didn't hear
16 --

17 Q. Junior Carroll?

18 A. I didn't hear. Right.

19 Q. Okay. Did you hear the allegation that Larry
20 believed Xabian broke into Joshua's --

21 A. Yes, sir.

22 Q. -- house?

23 A. Yes, sir.

24 Q. Okay. And was the entire group made aware of that
25 allegation?

1 A. Yes, sir.

2 Q. Okay. And with that information, what did you
3 decide to -- what as a group did you decide to do?

4 A. We did --

5 Q. Where did you -- where did you go?

6 A. We walked up the street to Larry's house --

7 Q. Okay.

8 A. -- to clear our names? Well, their names, I just
9 walked with them.

10 Q. Okay. First, you said our, then you said their.

11 A. Their --

12 Q. Whose names needed clearing?

13 A. Xabian and Alvin -- Xabian and Antonio's name.

14 Q. Not Alvin?

15 A. No, sir.

16 Q. Okay. But the six of you went?

17 A. Yes, sir.

18 Q. And how did you get there?

19 A. By feet.

20 Q. How long did it take to get there about?

21 A. Sixty seconds. A minute.

22 Q. Not long?

23 A. Not long.

24 Q. Okay. Do you -- before this day, did you know

25 W.G. [REDACTED], I.P. [REDACTED], and C.C. [REDACTED]?

1 A. No, sir. Not personally. Just went to school
2 together.

3 Q. You knew -- you knew all of them, but you didn't
4 know them personally?

5 A. No, sir.

6 Q. You didn't know of them?

7 A. I didn't know of them.

8 Q. Okay. Who did you believe was at Larry's house?
9 When you walked to Larry's house, who did you expect to see?

10 A. Just Larry.

11 Q. Just Larry. As you approach Larry's house, who do
12 you see?

13 A. W.G. [REDACTED], C.C. [REDACTED], and J.P. [REDACTED].

14 Q. Is that who you saw first?

15 A. I saw Twaine first.

16 Q. You saw Twaine first?

17 A. Yes, sir.

18 Q. Okay. And who do you see next? And where --
19 well, where are you when you see Twaine?

20 A. I'm walking past the bush that's on the right.

21 Q. How close are you to Larry's house?

22 A. Maybe about 10 more steps.

23 Q. Okay. You see Twaine first?

24 A. Yes, sir.

25 Q. And who's the next person you see?

1 A. I see Larry and I see W.G. [REDACTED], C.C. [REDACTED], and I.P. [REDACTED] on the
2 right.

3 Q. Okay. You see W.G. [REDACTED], C.C. [REDACTED], and I.P. [REDACTED] over to the
4 right?

5 A. Yes, sir. Past the bush.

6 Q. What are they doing?

7 A. Sitting in the chairs -- sitting in the chair with
8 guns sitting on their lap.

9 Q. So the first time you saw them, they already had
10 guns drawn?

11 A. Yes, sir. They was already armed.

12 Q. And it was plainly visible?

13 A. Yes, sir. Plainly visible.

14 Q. Did Xabian speak to Larry?

15 A. Yes, sir. After we stopped at a complete stop.
16 He did. Yes, sir.

17 Q. Did they discuss this allegation that Xabian broke
18 into somebody's house?

19 A. They discussed the allegation of him not taking
20 anything,

21 Q. Okay.

22 A. Yes, sir.

23 Q. So they discussed it?

24 A. Yes, sir.

25 Q. Xabian denied it?

1 A. Yes, sir.

2 Q. Okay. And what was Larry's response to Xabian's

3 not --

4 A. "Fest up to that shit, you know you did that
5 shit."

6 Q. I'm sorry, say that again?

7 A. "Fest up to that shit, you all know you all did
8 that shit."

9 Q. Is that verbatim? Is that --

10 A. That's his exact words.

11 Q. Is that your recollection? Verbatim?

12 A. Huh?

13 Q. Is were those his exact words?

14 A. That's his exact words.

15 Q. Okay. And then what happens next?

16 A. W.G., C.C., and J.P. stand up.

17 Q. And what did they do?

18 A. They approached.

19 Q. Where are the guns?

20 A. In their hands.

21 Q. Okay. And what are they doing with their guns?

22 A. They're clutching the guns.

23 Q. What does that mean?

24 A. Their finger is on the trigger.

25 Q. Okay. Do they make any -- when -- when they

1 approach with the guns drawn and the fingers on the trigger,
2 do you see Xabian, Alvin, or Antonio draw their weapons?

3 A. No, sir.

4 Q. Did you see anyone draw -- of the three -- did you
5 -- let me backup. Before you went there, did you see any of
6 -- any one of the three have a weapon?

7 A. No, sir.

8 Q. When you got there and they spoke to Larry, did
9 you see any of the three have the weapons?

10 A. No, sir.

11 Q. And when W.G. [REDACTED], I.P. [REDACTED], and C.C. [REDACTED] approached with
12 their weapons drawn, did you see Antonio, Xabian, or --
13 Xabian or Alvin with a weapon?

14 A. No, sir.

15 Q. Did you see anyone shoot?

16 A. No, sir.

17 Q. Okay. You do not know who shot?

18 A. No, sir.

19 Q. Is -- in addition to having fingers on triggers,
20 did W.G. [REDACTED], I.P. [REDACTED], or C.C. [REDACTED] do make any other threatening
21 gestures with the guns?

22 A. Yes, sir.

23 Q. And what was that?

24 A. Raise the gun up as if like, they're about to use
25 it.

1 Q. Who did that?

2 A. W.G. .

3 Q. Okay. Do you recall what kind of gun he had?

4 A. It was in a black, I want to say AR I'm not -- I
5 know it as a stick. I don't know it as the actual name of
6 the gun.

7 Q. Okay. Is it a long gun or a short gun?

8 A. It's a long gun.

9 Q. Is it two feet long, three feet long?

10 A. Maybe three feet long.

11 Q. Okay. And did anybody else have guns sticks? If
12 you don't know, that's fine.

13 A. I.P. -- I.P. did. Yes, sir.

14 Q. I.P. did?

15 A. Yes, sir.

16 Q. And the other gun -- guns were what?

17 A. Like pistol Glockes.

18 Q. Okay.

19 A. Handgun

20 Q. What color?

21 A. One was like a tannish brown, maybe like a -- a
22 little cream with it. And the other was black.

23 Q. Now, you said -- you just mentioned two handguns,
24 but you already mentioned two sticks.

25 A. Right.

1 Q. That's four guns?

2 A. Right.

3 Q. Somebody had more than one gun?

4 A. Yes.

5 Q. Who?

6 A. W.G. had more than one gun.

7 Q. And you don't know who shot first?

8 A. No, sir.

9 Q. Okay. But there were shots?

10 A. Yes, sir.

11 Q. And let me back up again. Go ahead on myself.

12 Did W.G., I.P., or C.C. say -- say anything threatening
13 before shots or after?

14 A. Yes, sir.

15 Q. Okay. And what was it? Let me rephrase that.

16 Did any --

17 MR. MCKELLAR: Judge, I think I'm going to take this
18 issue off -- outside presence of the jury.

19 THE COURT: All right. Well, escort the jury to the
20 jury room, please.

21 (Jury exits courtroom.)

22 MR. MCKELLAR: Judge, I -- I don't know what the answer
23 is going to be to that question.

24 THE COURT: Certainly, we could proffer the -- proffer
25 the testimony right now.

1 BY MR. MCKELLAR:

2 Q. What did W.G. [REDACTED], J.P. [REDACTED], or C.C. [REDACTED] say that was
3 threatening?

4 A. Exactly like word for word?

5 Q. To the best of your knowledge?

6 A. He said, "You all said you all are 9K. What's up
7 with that 9K shit now? You all said you all ready to die.
8 What's up with that shit now?"

9 Q. Okay.

10 MS. MORGAN: And the statement -- Your Honor, the
11 statements say absolutely nothing.

12 MR. MCKELLAR: Your Honor, we have agreed that we would
13 not use the word gang and that is as far as we've agreed
14 there's no mention of the word gang. I mean, 9K -- I don't
15 know if they know what 9K is, might -- they might not. It is
16 a gang -- to my knowledge, it is a gang. But the other
17 statement was are was it -- I'm sorry.

18 BY MR. MCKELLAR:

19 Q. What else did they say regarding, "Are you ready
20 to die?"

21 A. Are you -- he said, "You all said you all was
22 ready to die. What's up with that shit now?"

23 Q. "You all said you all are ready to die. What's up
24 with that?"

25 MS. MORGAN: So, Your Honor, if beyond the fact that, I

1 would hate to say it, I know it after being here for 12
2 months, that the 9K is a gang to even assume using that gang
3 terminology. I know -- I don't know why we're kind of
4 stretching the -- you know what the --

5 THE COURT: I'm not going to allow the testimony
6 regarding the 9 -- the 9K because there has been that
7 stipulation. It's the remainder of the testimony.

8 MR. MCKELLAR: Okay. So I can ask her what she -- if
9 they asked -- mentioned anything about dying. I believe that
10 could be my next question when the jury comes back in to
11 elicit the second half of --

12 THE COURT: All right. However, you wish to ask the
13 question. But it is -- it just needs to be clear for the
14 record that pursuant to that stipulation, there is to be no
15 mention of any type of gang activity.

16 MR. MCKELLAR: Judge, I believe that is beyond what I
17 agreed to.

18 THE COURT: What is exactly -- what did you agree to
19 exactly? What is it?

20 MR. MCKELLAR: My -- my recollection was I agreed not
21 to use the word gang.

22 MS. MORGAN: Your Honor --

23 MS. CHARBONNEAU: I -- the motion that I filed, I
24 specifically said, or any gang affiliation, membership, et
25 cetera, this is clearly a gang name that people know in

1 Aiken County. And it doesn't -- it's not relevant to what is
2 being said. It can be cleaned up. She can be limited in her
3 response and take those words out. And the same meaning that
4 Mr. McKellar wants out can come out without mentioning gang,
5 it has no relevance.

6 THE COURT: So Mr. McKellar, the, you know, the notes
7 indicate without pulling the actual, but -- I have from
8 Tuesday, my notes indicate counsels agreed not to mention
9 anything in regard to gang affiliation or gang activity. And
10 so, the naming of -- thank you, the naming of a -- a gang --
11 a known gang affiliation is going to be within the bounds of
12 that stipulation.

13 There is nothing stipulating that you cannot elicit the
14 second half of this testimony. I certainly allow that. I
15 understand what your defense is and so I'll certainly allow
16 that. But the first half is going to be too prejudicial.

17 MR. MCKELLAR: Yes, Your Honor.

18 THE COURT: All right. Mr. McKellar, are you ready to
19 proceed?

20 MR. MCKELLAR: Yes, Your Honor.

21 THE COURT: State?

22 MS. CHARBONNEAU: I just want the witness be clear what
23 -- what her answer can be.

24 THE COURT: Why don't you -- why don't you proffer the
25 question and that you'll ask her, Mr. McKellar?

1 BY MR. MCKELLAR:

2 Q. Did W.G. [REDACTED], I.P. [REDACTED], or C.C. say anything about dying?

3 A. Yes, sir.

4 Q. And what was that?

5 A. "You all say you all ready to die. What's up with
6 that shit now?"

7 Q. I'm sorry?

8 A. "You all say you all ready to die. What's up with
9 that shit now?"

10 Q. Okay.

11 THE COURT: That portion of the testimony I will -- I
12 will allow because it stays within the balance.

13 MR. MCKELLAR: Yes, Your Honor. Thank you.

14 THE COURT: All right. All right. State ready to
15 proceed?

16 MS. CHARBONNEAU: Yes, Your Honor.

17 THE COURT: Please, bring the jury back in Mr. White.

18 (Jury enters courtroom.)

19 THE COURT: All right. Please be seated.

20 MR. MCKELLAR: Thank you, Your Honor. Thank you, Your
21 Honor.

22 BY MR. MCKELLAR:

23 Q. Ms. -- Heavenly, did W.G. [REDACTED], I.P. [REDACTED], or C.C. say
24 anything about dying?

25 A. Yes, sir.

1 Q. And what was that?

2 A. "You all say all ready to die. What's up with
3 that shit now?"

4 Q. Who said that?

5 A. W.G. .

6 Q. Okay. So now, let's leapfrog back and forth to
7 after shots were fired. After the shots were fired. What
8 happened next?

9 A. After shots were fired, I just seen dust.

10 Q. Okay.

11 A. And I just stood there.

12 Q. Why did you just stand there?

13 A. I was -- I was in shock. I was in disbelief. I
14 was lost. Scared.

15 Q. Not what you expected?

16 A. No, sir. Not at all.

17 Q. Were you afraid for your life when you saw W.G. ,
18 I.P. , and C.C. with guns on?

19 A. Yes, sir. Yes.

20 THE COURT: All right. I'll stand down for just a
21 moment.

22 MR. MCKELLAR: Okay.

23 THE COURT: Mr. White, please escort -- please escort
24 the jury out, I apologize.

25 (Jury exits courtroom.)

1 (Off the record.)

2 MR. MCKELLAR: Your Honor.

3 THE COURT: Madam Solicitor, are you ready to proceed?

4 MS. CHARBONNEAU: Yes, Your Honor.

5 THE COURT: All right. Mr. White, can you please bring
6 the jury back in?

7 (Jury enters courtroom.)

8 (Bench conference.)

9 THE COURT: Thank you. Please be seated. Ladies and
10 gentlemen of the jury, at this time we will resume.

11 Mr. McKellar?

12 MR. MCKELLAR: Thank you, Your Honor.

13 BY MR. MCKELLAR:

14 Q. Heavenly, I was a little distracted before we took
15 a break. Did someone mention anything about death?

16 A. Yes, sir. It was W.G. [REDACTED].

17 Q. What was said again?

18 A. "You all know you all" -- sorry. Can you repeat
19 the question? I'm sorry.

20 Q. Yes. Did anybody say anything about dying or
21 death?

22 A. Yes, sir. It was W.G. [REDACTED].

23 Q. And what was that?

24 A. He said, "You all said you all ready, did -- you
25 all said you all already die. What's up with that shit now?"

1 Q. Okay. And who said that?

2 A. W.G. .

3 Q. And were you in fear for your life?

4 A. Yes, sir.

5 Q. Okay. Now -- now, let's move forward -- move
6 forward. After the shooting, you mentioned there was dust --
7 dust?

8 A. Yes, sir.

9 Q. After the dust settled, what happened?

10 A. I didn't stay until the dust settled. I kind of
11 stayed for like two or three minutes. The dust was kind of
12 in the air for a -- a long period of time. When I didn't see
13 Fantasia, I just left.

14 Q. Did you see anything -- did you see anyone pick up
15 any weapons before you left?

16 A. No, sir.

17 Q. You did not?

18 A. No, sir.

19 Q. Did you see anyone standing over the bodies of
20 W.G. , I.P. , C.C. ?

21 A. Junior and Twaine were still there.

22 Q. What were they --

23 A. Just standing there?

24 Q. Just standing there?

25 A. Yes, sir.

1 Q. You didn't see them pick off anything?

2 A. No, sir.

3 Q. Okay. When did you first speak to law enforcement
4 about this?

5 A. I don't recall the -- an exact date.

6 Q. Was it the same day?

7 A. No, sir.

8 Q. Was it sometime later?

9 A. Yes, sir.

10 Q. Did you reach out to them or did they reach out to
11 you?

12 A. They reached out to me.

13 Q. Why didn't you go to them?

14 A. I felt as though I didn't have any parts of the
15 situation.

16 Q. I am going to show you what has been marked as
17 State's Exhibit 78.

18 Q. Do you recognize what that is?

19 A. Yes.

20 Q. Do you recognize that car?

21 A. Yes, sir.

22 Q. Is there anything -- do you notice anything
23 unusual about the doors?

24 A. Yes, sir.

25 Q. And what's that?

1 A. The door is open.

2 Q. Okay. Now, you see anything usual -- unusual
3 about the trunk?

4 A. Yes, sir. It's closed.

5 Q. Okay. And why is that unusual?

6 A. Because the trunk was open at first, there was no
7 doors open to the car.

8 Q. And the trunk was open?

9 A. Yes, sir.

10 Q. And now the trunk is closed?

11 A. Yes, sir.

12 Q. And this passenger -- front passenger door --

13 A. Was closed --

14 Q. -- it was closed?

15 A. Yes, sir.

16 Q. And as to both?

17 A. Yes, sir.

18 MR. MCKELLAR: Okay. I beg the Court's indulgence. I
19 have no further questions. Please any answer questions from
20 the prosecution.

21 THE COURT: Cross-examination.

22 MS. MORGAN: Thank you, Your Honor.

23 CROSS-EXAMINATION

24 BY MS. MORGAN:

25 Q. Good afternoon?

1 A. Hi.

2 Q. Just a quick question. Defense counsel showed you
3 what has been marked as State's Exhibit 78.

4 A. Yes, ma'am.

5 Q. Do you know when this picture was taken?

6 A. No, I don't.

7 Q. Do you know who took this picture?

8 A. No, I don't.

9 Q. Do you know what time of day it was when this
10 picture was taken?

11 A. Print -- the picture looks like daytime.

12 Q. But you don't have to guess. I mean, were you --
13 were you there when someone took this picture?

14 A. No, ma'am.

15 Q. Do you know why they took this picture? Would --
16 would you -- you don't have to answer if you don't know. I'm
17 just, you weren't there?

18 A. No.

19 Q. And so, you don't know who took this picture?

20 A. No.

21 Q. And you don't know when they took it?

22 A. No.

23 Q. All right. So I just want to walk a little bit
24 back through your testimony. So you testified you were at
25 that time dating Richard Carroll?

1 A. Yes.

2 Q. And how long did you date Richard?

3 A. Four years.

4 Q. For four years?

5 A. Yes.

6 Q. Okay. And so, you were aware that his -- that he
7 and his father didn't have a good relationship?

8 A. Yes.

9 Q. And were you -- you were aware that he did not
10 want him coming to his home?

11 A. No.

12 Q. You were aware that he didn't have a good
13 relationship?

14 A. I was.

15 Q. Okay. And did you frequently visit his father's
16 home?

17 A. No.

18 Q. Did you frequently visit Larry Carroll's home?

19 A. No.

20 Q. So this was not a normal visit that you all would
21 make?

22 A. No.

23 Q. Okay. And so, you testified that you spent the
24 night over to the Defendant, Xabian Bailey's home?

25 A. Right.

1 Q. And you said there were -- who was there again?

2 A. It was me, Xabian, Alvin, Antonio, Fantasia, his
3 little brother, and granddad.

4 Q. I -- [P.] was there?

5 A. Alvin was there.

6 Q. Alvin -- Alvin -- I'm sorry. So you all were
7 there?

8 A. Yes.

9 Q. And then there -- some -- someone received a call?

10 A. Yes.

11 Q. And that was Antonio?

12 A. Yes.

13 Q. And where were you all when that call -- call was
14 received?

15 A. We were just waking up, going in the room.

16 Q. So you woke up where? In like a one -- all of --
17 all six of you are in one bedroom?

18 A. No.

19 Q. Okay.

20 A. I -- I woke up in the living room and I walked
21 into Xabian's room.

22 Q. Okay. And so, Xabian's room is where all -- who
23 heard the phone call? Who all was in the room when the phone
24 call came in?

25 A. Me, Xabian, Antonio, and Fantasia.

1 Q. So four of you were in the room and you all heard
2 the phone call?

3 A. Also -- I'm sorry. Also, Richard. He was in the
4 room as well.

5 Q. And Richard was in the room as well. And that
6 morning, all of you -- from the time that you all spent the
7 night there prior to going to Larry's home, did you all stay
8 at -- at the Defendant's house? You -- did anyone leave the
9 Defendant's house in between waking up in the morning to your
10 knowledge and walking up to Larry Carroll's home?

11 A. No, ma'am. No one left. But can you repeat that?

12 Q. So you said there were six of -- six of you -- the
13 six of you spent the night there.

14 A. Right.

15 Q. Correct? And then the six of you woke up?

16 A. Right.

17 Q. And you were sleeping in the living room?

18 A. With Richard. Yes.

19 Q. With Richard?

20 A. Yes.

21 Q. Okay. And then Xabian and Fantasia were in his
22 room?

23 A. Yes.

24 Q. And Antonio Jones was?

25 A. He slept on a little mattress in Xabian's room.

1 Q. So he was in the room with him?

2 A. Yes.

3 Q. And Alvin Artis?

4 A. He was in the guest room?

5 Q. He was in the guest room. And then there's
6 another room for the grandfather?

7 A. Right.

8 Q. And another room for the little brother of Xabian?

9 A. Right.

10 Q. Okay. And so, you all wake -- you wake up. Do
11 you remember what time that call was that you received?

12 A. I want to say 11:00 -- 11-ish.

13 Q. Okay.

14 A. 12:00.

15 Q. And so, you received a call about 11:00. And in
16 that bedroom, it was you?

17 A. Me, Fantasia, Xabian, Antonio.

18 Q. And you -- it was on Messenger?

19 A. Yes.

20 Q. And you all heard the phone call?

21 A. Yes.

22 Q. And on that phone call, Dilo -- Dilo called him?

23 A. Yes.

24 Q. And Dilo said what?

25 A. He said, "Junior and Pawn wants us up the road

1 right now."

2 Q. So he told you they were there?

3 A. Right.

4 Q. Did he indicate that Junior, who is Larry --
5 Larry Carroll, correct?

6 A. Right.

7 Q. Did he indicate that Larry Carroll wanted you all
8 to come up there?

9 A. No.

10 Q. Okay. So you all made the decision to go there?

11 A. Right.

12 Q. And you made the decision based on the rumor?

13 A. Based on the rumor. Yes.

14 Q. Okay. And so, what did you -- the six of you, do
15 in preparation to go walking up that hill? What did you do?

16 A. We just got dressed. Well, I didn't have any
17 clothes so I didn't get dressed. I had on what I had on, but
18 they got dressed and put their shoes on.

19 Q. And what were the discussions as you were getting
20 dressed to go up that hill?

21 A. They were saying they didn't do it. So why be
22 scared to go down there? They were saying that they were all
23 family and that they were just going to confess that they
24 didn't do anything or didn't take anything, so.

25 Q. Why are they scared? Why are -- the word scared?

1 How about --

2 A. Scared?

3 Q. You said scared --

4 A. Because I mean by -- yeah. Because I was hearing
5 money was put on their heads by that person. So, you know,
6 why not be scared to go down there?

7 Q. And what -- and just to be clear on this too, was
8 the -- the break-in was to Pawn's house?

9 A. I don't know.

10 Q. Oh, you didn't know what the break-in allegedly
11 was?

12 A. I don't know about the break-in. I don't know
13 when it happened. I was just told, so I went with Richard
14 because that was my boyfriend at the time.

15 Q. So you were told that the break-in was of -- at
16 Larry's house? Off Larry's house?

17 A. No.

18 Q. You were told that there was this --

19 A. I was told it was a break out.

20 Q. It was a break-in?

21 A. Yeah.

22 Q. It was a break-in?

23 A. Yeah.

24 Q. Okay. And so, and you don't recall what you did
25 -- were the other people dressed already prior to the party?

1 A. No, they had on night clothes. They just changed
2 the shirt or whatever and put on shoes. That was it.

3 Q. So you saw them getting dressed?

4 A. I didn't see them physically getting dressed. I
5 know they was getting dressed up.

6 Q. So you didn't see what they had on?

7 A. Yeah, I saw what they had on, but I wasn't
8 watching them get dressed.

9 Q. Right. So you wouldn't -- so if they put guns on
10 them, you wouldn't have seen that them?

11 A. Right.

12 Q. Okay. And so, then you proceeded to walk up the
13 hill?

14 A. Right.

15 Q. And as you said, without fear, correct?

16 A. Right.

17 Q. And as you were walking up -- walking, because you
18 have to go out and -- and you take a right. Is that correct?

19 A. Yes.

20 Q. And then you go up, you go to the left.

21 A. Yes.

22 Q. You go -- okay. As you were walking up the hill,
23 you saw you -- you stayed at Larry Carroll's home?

24 A. Huh?

25 Q. You said --

1 A. I mean, as we were walking up the hill, I didn't
2 see nobody until we physically got in the area.

3 Q. Okay.

4 A. Basically, like physically walking through the
5 apartment, the trailer or whatever.

6 Q. Okay.

7 A. And I seen Twaine and I saw Junior and I didn't
8 see Pawn until after he came from behind the truck or
9 wherever he came from.

10 Q. Okay. And then you saw?

11 A. W.G. [REDACTED] came and J.P. [REDACTED] sitting in the chairs on the
12 side.

13 Q. So they were sitting in -- in the chair?

14 A. Right.

15 Q. Okay. And so, and you said that they had guns in
16 here?

17 A. Yes.

18 Q. And you said it was like AR-15 said they had s
19 sitting, lying on their laps?

20 A. Yes.

21 Q. Okay. And how long would you say you were there
22 before the shooting started?

23 A. Huh?

24 Q. How long --

25 A. No -- no 20 minutes, 15 minutes.

1 Q. You said 20 or 15 minutes. And correct me if I'm
2 wrong, did you say that -- that W.G. [REDACTED], I.P. [REDACTED], and C.C. [REDACTED],
3 eventually they stood up?

4 A. Yes. Eventually they stood up.

5 Q. And you said that they had their fingers on the
6 trigger?

7 A. Yes.

8 Q. Okay. So I just -- just for clarification, just
9 to make sure, can I just do a little demonstration here on
10 the table? That's fine. Can you just clarify, let the
11 record reflect the State was just using yellow stick to
12 clarify the scene. And so, just say this was the sixth of
13 you and you're in the yard now, correct?

14 A. It wasn't like that.

15 Q. Okay.

16 A. Can I show you? Because it wasn't like that.

17 Q. So how was it -- were you intermingled with
18 everybody? Were -- when -- when you -- when the six of you
19 walked up? You said that there was --

20 A. Okay. Yes, we were intermingled, but like we kind
21 of -- Xabian was in front of Junior, Alvin was beside Xabian
22 and W.G. [REDACTED], C.C. [REDACTED], and I.P. [REDACTED] was sitting on the side. Me,
23 Richard, and Antonio was standing together.

24 Q. So you're saying W.G. [REDACTED].

25 A. It wasn't like that though.

1 Q. Okay.

2 A. They was on the right side, not the left side.

3 Q. So this is my right. Okay. So your right. Yes.

4 So -- okay. So if -- so let's do it for the jury. So

5 W.G. [REDACTED], C.C. [REDACTED] and I.P. [REDACTED] were sitting -- were like this on the
6 right side, sitting in chairs?

7 A. It was like this, like facing.

8 Q. Facing who?

9 A. They -- their backs were face -- turned beside the
10 trailer. If you see the trailer, the chairs was right there
11 and they were right there.

12 Q. Okay. And they were just -- okay. So they were
13 sitting on the side of the trailer like this. Okay. And
14 then where was Larry Carroll? This -- this -- just say this
15 is the trailer. And here the -- the young men are sitting
16 here. Okay. Now, where was Larry?

17 A. Like close to the white car.

18 Q. Well, just say like on this -- there at the
19 trailer?

20 A. They was in -- they was -- he was way further back
21 than they were. So they were up close and the -- he was
22 behind -- like behind them.

23 Q. Like here?

24 A. But back up a little bit. Yeah, no, like -- yeah.

25 Q. And where was he?

1 A. Hmm?

2 Q. And where was Twaine? His brother?

3 A. Like leaving out the house. So he was like, right
4 -- right. You know, down the way. Yeah. So -- you know,
5 like that. Yeah.

6 Q. Okay. So now let's talk about the six of you.
7 Where were you standing?

8 A. We were standing like in the front of the yard.

9 Q. So in reference to where W.G. [REDACTED] was -- W.G. [REDACTED]?

10 A. They weren't in front of us, they were still
11 standing on this side. We were like this.

12 Q. So where --

13 A. And they were like that.

14 Q. Were you like this?

15 A. No, W.G. [REDACTED] and C.C. [REDACTED] and I.P. [REDACTED] were like that.

16 Q. Okay. But where were you? Where -- where were
17 you? Where the six of you? We got all these people in
18 place.

19 A. Right.

20 Q. You walked up --

21 A. We was in front of them. Just in front of them.

22 Q. So when you walked up, you were like in front of
23 them like this?

24 A. They were on the side of the trailer. We weren't
25 in front of them.

1 Q. Here's the trailer.

2 A. The way you have it. We were in front of them.

3 Q. So you would've been in front of them, like they
4 were in front of the trailer and then you were in front of
5 the -- in front of them with the guns in the lap. You were
6 in front of them? Is that what your testimony?

7 A. No. Do you have a picture of the trailer or
8 whatever?

9 Q. Yeah. So unfortunately, we have that. We'll
10 bring it up so the jury can see. We'll have to -- have you
11 step down. You can explain to them.

12 A. Do you want me to get down?

13 Q. Yeah. Well, just as soon as it comes up, we'll
14 have you get down. Okay.

15 A. Okay.

16 Q. I don't want -- you know, you can wait till it
17 comes up.

18 A. Now?

19 Q. You want to step down and so do you see -- do you
20 see that trailer?

21 A. Right there.

22 Q. Okay. Is that where you -- can you -- like, from
23 this picture, did you show ladies and gentlemen of the jury
24 where the trailer was?

25 A. Okay. So we were walking up right there. See

1 I.P. came behind the tree (inaudible) and so when we got
2 behind the tree, it was sitting right there. The car was
3 right there and Larry was right there.

4 Q. So they was -- they was -- they were sitting here.

5 A. Right.

6 Q. And where were you -- nor where was
7 Larry Carroll's home?

8 A. Right there.

9 Q. He was standing here.

10 A. The car was like right there.

11 Q. And where was he coming?

12 A. (Inaudible) I walking out there. So when he came
13 out, he walked over there and stood in the parking.

14 Q. Now, show us where you over standing?

15 A. Right here in the stand.

16 Q. So you were standing here in the stand, but you
17 were standing here. You could see the three of them?

18 A. When we passed the tree.

19 Q. When you passed the tree?

20 A. Correct.

21 Q. Then you standing right here?

22 A. Yeah.

23 Q. There's no vehicle here. When you all there,
24 there nothing there? I said you were standing there?

25 A. Yes.

1 Q. And then you said eventually they stood up?

2 A. Yes, ma'am.

3 Q. And then they had their fingers on the trigger of
4 weapons, is that correct?

5 A. No, they were sitting in the chair first and the
6 weapons were only locked. Once Junior said, "You all did
7 that, shit (inaudible) that." They stood up smiling
8 (inaudible) where we were standing, which is right here.

9 Q. Oh, so everybody was standing in the circle then?

10 A. Right.

11 Q. And were you all faced off of each other when they
12 had -- they had these weapons?

13 A. We was facing like -- like --

14 Q. Opposing each other.

15 A. Right.

16 Q. So you were facing against each other?

17 A. Right.

18 Q. So the six of you?

19 A. Right.

20 Q. And the six of them?

21 A. Right.

22 Q. Okay. And so, at this time you said they had
23 their fingers on the trigger.

24 A. They didn't have their fingers on the trigger
25 until they walked up?

1 Q. Yeah. Once they stood up and you were standing
2 face to face, you saying they had their fingers on the
3 trigger?

4 A. Right.

5 Q. Okay. And then -- you can go ahead and take the
6 stand. So it's your testimony, shots rang out. They were
7 facing you.

8 A. Right.

9 Q. And they had long guns?

10 A. Right.

11 Q. Or AR-15s?

12 A. Right.

13 Q. You didn't get shot?

14 A. No.

15 Q. And you told me Antonia Jones didn't get shot?

16 A. No.

17 Q. Richard didn't get shot?

18 A. No, but I didn't know none of that until after I
19 got back to the house. So I don't know who got shot.

20 Q. But today, you know.

21 A. Today I know.

22 Q. You know --

23 A. Right.

24 Q. You know who died that day?

25 A. Right.

1 Q. Okay.

2 A. Afterwards.

3 Q. Right afterwards. So I'm saying based on your
4 testimony --

5 A. Okay.

6 Q. -- that you standing face to face to you all with
7 long guns with fingers on the trigger.

8 A. Right.

9 Q. And they said, are you ready to die today or are
10 you ready to die?

11 A. "You all said you all ready to die. What's up
12 with that shit now?"

13 Q. "What's up with that shit now?"

14 A. Okay.

15 Q. And then shots rang out.

16 A. Shots rang out. Dust is -- dust is flying
17 everywhere. And I didn't know what was going on.

18 Q. Right.

19 A. And I stood there for a little minute, didn't see
20 Fantasia, so I left.

21 Q. Understand.

22 A. Yes, ma'am.

23 Q. This is your testimony they had these AR-15s
24 pointed very close to you.

25 A. Right.

1 Q. And that one of the six that walked up that hill,
2 but they had all these guns. None of you all got shot? Not
3 even --

4 A. Today. None of us got shot. When I was there, I
5 didn't know who got shot. I just heard gunshots.

6 Q. Okay. So if the evidence shows that none of you
7 all you were -- you were not shot that day?

8 A. Okay.

9 Q. Is that correct?

10 A. Yes.

11 Q. You did not get shot?

12 A. No.

13 Q. Fantasia did not get shot. Now, you said that you
14 don't know if anyone got shot, but where did you go after the
15 shooting?

16 A. I went back to Xabian's house.

17 Q. And who else met you back at Xabian's house?

18 A. All three of them. Xabian --

19 Q. Who -- who was -- their names.

20 A. Xabian and Alvin and Antonio and Richard.

21 Q. So that's four of them.

22 A. Four. I didn't see Fantasia. She stayed.

23 Q. Right.

24 A. Okay.

25 Q. So of those four people, when they met you back at

1 that house after being stood down with long guns with people
2 with their finger on the trigger, were any of those people
3 shot?

4 A. No.

5 Q. Did any of those people have a grave wound on
6 them?

7 A. No. Not that I know of. I wasn't looking at
8 their bodies to know.

9 Q. Did you see any blood?

10 A. No.

11 Q. Did you see any blood on their clothes?

12 A. No.

13 Q. Did they go seek medical attention?

14 A. I don't know.

15 Q. Did Richard leave the area after the shooting?

16 A. What do you mean leave the area?

17 Q. Did he leave Aiken County?

18 A. We all left Aiken County.

19 Q. So that -- so that's true that Richard left Aiken
20 County?

21 A. I mean, I left with him. He didn't leave by
22 himself.

23 Q. And so, when you were with him, did you see any
24 wounds on him --

25 A. No, I didn't.

1 Q. Okay. So, but let's move to this. So there --
2 there did come a time that you spoke to law firm.

3 A. I did.

4 Q. And -- let me back up. After the shooting did you
5 said there was dust flying everywhere?

6 A. Yes.

7 Q. Did you see any dead bodies?

8 A. No, I did not.

9 Q. Did -- you didn't see anybody that was injured?

10 A. No, I did not.

11 Q. You didn't see anything?

12 A. No, I did not. I just saw dust.

13 Q. You just saw dust. And then when you departed,
14 did you walk away?

15 A. No, I ran.

16 Q. So you ran away and -- and how did you run?

17 A. Like, across from the lady yard. The neighbor's
18 yard. I didn't -- I didn't make a left and make a right. I
19 just ran straight across.

20 Q. Okay. Now, then did come a time that you -- you
21 talked to law enforcement.

22 A. Okay?

23 Q. Did you --

24 A. Yes.

25 Q. -- you recall that? And when you did speak with

1 law enforcement isn't it true that you said not -- not only
2 did you -- you represent that the victims that were killed
3 that day, that they had weapons, did you not say that Alvin
4 Artists had a gun that day?

5 A. No. I do not remember saying that.

6 Q. If I -- if I would show you something, could I
7 refresh your recollection?

8 A. That's fine.

9 Q. Additionally, do you recall saying that
10 Xabian Bailey also had a weapon?

11 A. No, I don't.

12 Q. Do you recall saying that he likely got one shot
13 off?

14 A. No, I don't.

15 Q. So you won't read this out loud. You just get to
16 read it to remind you. And then we can talk some more.

17 A. Okay.

18 Q. So I'll let you start here on page 11.

19 A. Where?

20 Q. So you can start right here. And Investigator
21 Neil talked to you? You said ask -- did he ask you this
22 question? And then you -- see?

23 A. Okay. So when was this done? Because I don't
24 remember. Like it wasn't done like, okay. August.

25 Q. In -- in 2022.

1 A. Right.

2 Q. Closer to the time of the incident.

3 A. That's two months after.

4 Q. Right. It's close to -- it is today that -- so --
5 so do you -- do you -- do you recall now?

6 A. I mean, well he recorded -- he talked to me before
7 he recorded, so it was a lot of stuff he was trying to get me
8 to say a lot of stuff he was trying to get me to remember.
9 But yeah.

10 Q. So this is an official transcript and that came
11 from -- this came from a recording. Not what he said. That
12 comes from the recording of the recording --

13 A. After he -- after he talked to me before the
14 recording. He didn't record me until after -- like, after I
15 said the story like three or four times.

16 Q. So you're saying you were, you were not accurate
17 here, but --

18 A. No.

19 Q. -- but today you're accurate?

20 A. Today I am accurate.

21 Q. Today you -- what you're saying is truthful?

22 A. Right.

23 Q. But back then you weren't telling the truth?

24 A. Back then, I wasn't. It was two months after I
25 couldn't remember much. I still don't remember certain

1 things, so. I mean, and half of the stuff, two months later
2 I was told this happened. I was told that happened. So I
3 was with -- going off what the street was saying and also
4 what I seen.

5 Q. And just finally now. You do -- you have a
6 conviction for shoplifting?

7 A. Yeah.

8 Q. In North Augusta?

9 A. Yeah.

10 MS. MORGAN: No further question.

11 THE WITNESS: Why she ask me that?

12 THE COURT: Any re-direct?

13 THE WITNESS: Why she ask me that? Go ahead.

14 THE COURT: Any re-direct?

15 MR. MCKELLAR: Yes, Your Honor. Thank you. One more
16 question.

17 RE-DIRECT EXAMINATION

18 BY MR. MCKELLAR:

19 Q. The gun talk.

20 A. Okay.

21 Q. Why is that it? Pal, Pal, Pal, Pal?

22 A. I don't know. I just heard gunshots.

23 Q. Babababa

24 A. I don't know.

25 Q. You don't know?

1 A. I just heard gunshots.

2 MR. MCKELLAR: Okay. All right. No further questions.

3 THE COURT: All right. Anything on re-cross?

4 MS. MORGAN: No further questions, Your Honor.

5 THE COURT: Very good. This witness may be excused.

6 Mr. White, while we're doing that transition, will you please
7 take -- escort the jury out?

8 THE BAILIFF: Yes, ma'am.

9 (Jury exits courtroom.)

10 THE COURT: Thank you. And Mr. McKellar, you'll be
11 calling your third witness?

12 MR. MCKELLAR: Yes, Your Honor. Actually, I -- I have
13 more -- I apologize. Okay. The next witness will be --

14 THE COURT: Is this the co-Defendant?

15 MR. MCKELLAR: No, it is Deputy Meyer. I -- I -- I --

16 THE COURT: Okay.

17 MR. MCKELLAR: -- I -- I -- I let her...

18 THE COURT: All right. We'll bring -- we'll -- we'll
19 call that next witness. That's okay. Has he been called
20 Mr. McKellar? What's his name?

21 MR. MCKELLAR: Yes, she's Deputy Meyer. She was --

22 THE COURT: Oh, she's in. All right. Very good. And
23 so, we'll bring -- we'll need to bring the jury back in, Mr.
24 White.

25

1 (Jury enters courtroom.)

2 THE COURT: All right. Please be seated.

3 Mr. McKellar, please call your next witness.

4 MR. MCKELLAR: The defense's next witness is
5 Deputy Meyer.

6 ASHLEY LAUREN MEYER,
7 having been duly sworn, testifies as follows:

8 THE CLERK: Please state your name, spelling your last
9 name.

10 THE WITNESS: Good afternoon. My name is Ashley Lauren
11 Meyer. My last name is spelled M-E-Y-E-R.

12 DIRECT EXAMINATION

13 BY MR. MCKELLAR:

14 Q. Thank you, Deputy Meyer. Thank you for coming
15 back. I have just one quick question.

16 A. Yes, sir.

17 Q. When you arrived on the scene, did you have the
18 opportunity to speak to Joshua Smith?

19 A. Yes, sir.

20 Q. Did Joshua Smith advise you that -- and I'll --
21 I'll quote it to the best of my ability. "I caught tail end
22 of it, saw bodies drunk. All I saw. Caught in the back of
23 their heads. I didn't see no faces. Yeah, caught back of
24 their heads running off?"

25 A. Yes, sir.

1 MR. MCKELLAR: I have no further questions.

2 THE COURT: Cross?

3 CROSS-EXAMINATION

4 BY MS. CHARBONNEAU:

5 Q. Good afternoon.

6 A. Good afternoon.

7 Q. I think you told us you had -- is it 13 years
8 experience?

9 A. Yes, ma'am.

10 Q. And in your 13 years of experience you have
11 interviewed witnesses?

12 A. Yes, ma'am.

13 Q. Many times?

14 A. Yes, ma'am.

15 Q. And in your 13 years of experience what happens
16 after the shock runs off as far as witnesses and what they're
17 able to tell you?

18 A. It's not unusual for during first initial contact
19 with a witness that inaccurate, like, information is given
20 during that moment in time. Or not everything, not the whole
21 story is given. That's why it's always best to do follow-up
22 interviews just because of the shock of the trauma from an
23 incident like a shooting incident.

24 Q. And then were you involved when Josh Smith
25 actually gave an interview and did photo lineups?

1 A. No, I was not.

2 MS. CHARBONNEAU: Okay. Nothing further.

3 THE COURT: Any re-direct?

4 RE-DIRECT EXAMINATION

5 BY MR. MCKELLAR:

6 Q. It's common for stories to change?

7 A. It's not unusual. No, sir.

8 MR. MCKELLAR: Nothing further.

9 THE COURT: Any re-cross?

10 MS. CHARBONNEAU: No.

11 THE COURT: Thank you. This -- this witness may be
12 excused.

13 THE WITNESS: Thank you.

14 THE COURT: Thank you. All right. Ladies and
15 gentlemen of the jury, at this time we are going to give you
16 a brief break. Make some transitional changes. Mr. White,
17 will you please escort the jury out there, please?

18 (Jury exits courtroom.)

19 THE COURT: Very good. May I have order. Mr.
20 McKellar, are you ready to call your -- your fourth witness?

21 MR. MCKELLAR: Yes, Your Honor. The defense calls
22 Alvin Artis.

23 THE COURT: I recognize. So we will place Mr. Artis on
24 the stand and after he's placed on the stand and when it's
25 appropriate, we'll put the jury back in.

1 MR. MCKELLAR: Your Honor, please --

2 THE COURT: I apologize.

3 MR. MCKELLAR: Mr. Artis will require a proffer
4 regarding reputation evidence.

5 THE COURT: Okay. I will proffer his testimony before
6 we bring the jury out.

7 THE CLERK: Place your left hand on the Bible and raise
8 your right.

9 ALVIN ARTIS,
10 having been duly sworn, testifies as follows:

11 THE CLERK: State your first and last name. Spell your
12 last name.

13 THE COURT: Yes. I'm going to come up here. You'll
14 sit right here and then you'll tell your first name, your
15 last name. Spell your last name. You give your first and
16 your last name and spell your last name.

17 THE WITNESS: Alvin Artis. A-R-T-I-S.

18 THE COURT: All right. Go ahead.

19 MR. MCKELLAR: Thank you, Your Honor.

20 DIRECT EXAMINATION

21 BY MR. MCKELLAR:

22 Q. Mr. Artis, we're going to ask a few questions
23 before the jury comes in, okay? And I'm going to ask
24 questions about the reputations of W.G. [REDACTED], I.P. [REDACTED], and C.C. [REDACTED].

25 MR. MCKELLAR: I beg the Court's indulgence?

1 THE COURT: All right.

2 BY MR. MCKELLAR:

3 Q. Mr. Artis, do you know W.G. [REDACTED] or did you
4 know W.G. [REDACTED]?

5 A. Yes, sir.

6 Q. And how long did you know W.G. [REDACTED]?

7 A. Since about 2018.

8 Q. About six years?

9 A. Yeah. Yes, sir.

10 Q. Well, so been four years at the time of this
11 incident. And did you live in the same community with him?

12 A. No, sir. You mean community like?

13 Q. Aiken.

14 A. Oh yeah -- yeah -- yeah.

15 Q. And did you know what his reputation was in the
16 community?

17 A. Yes, sir.

18 Q. Do you have -- do you know if he had a reputation
19 for either peacefulness or violence?

20 A. Violence.

21 Q. He had a reputation for violence?

22 A. Yes, sir.

23 Q. I'm going to ask you the same questions for

24 I.P. [REDACTED]? How long did you know I.P. [REDACTED]?

25 A. A little minute -- couple years? Probably about

1 the same.

2 Q. You both lived in Aiken?

3 A. Yes, sir.

4 Q. Did you know what his reputation was in the
5 community?

6 A. Yes, sir.

7 Q. Did he have a reputation for either peacefulness
8 or violence?

9 A. Violence.

10 MR. MCKELLAR: No further questions.

11 THE COURT: Any cross-examination for the -- this line
12 of questioning?

13 MS. CHARBONNEAU: Not for the proffer. Is it just two
14 of them?

15 MR. MCKELLAR: Huh?

16 MS. CHARBONNEAU: Just two victims? Two? Okay.
17 Nothing further.

18 THE COURT: All right. Any objection to the testimony?

19 MS. CHARBONNEAU: Nope.

20 THE COURT: All right. Very good. And so, are we --
21 are we ready to bring the jury out?

22 MR. MCKELLAR: Ready. Can he be sworn again in front
23 of the jury, Your Honor? I -- I don't know if he was -- I
24 think he was sworn, but I would like the jury to see him
25 sworn too.

1 THE COURT: All right.

2 UNIDENTIFIED SPEAKER: (Inaudible).

3 THE COURT: But he's -- right --

4 MR. MCKELLAR: Right. Well, it's something you could,
5 Your Honor, or maybe --

6 THE COURT: With the --

7 MR. MCKELLAR: Okay.

8 THE COURT: I mean, I could, if you hand me the Bible,
9 I don't mind swear him from here.

10 MR. MCKELLAR: I'm fine. It will -- I think it'll be
11 awesome just --

12 THE COURT: Okay. Yes. Well, they haven't seen anyone
13 else sworn that way?

14 MR. MCKELLAR: Right.

15 THE COURT: Okay. All right. Very good. And so, Mr.
16 McKellar, are you ready to proceed?

17 MR. MCKELLAR: Ready.

18 THE COURT: We're ready -- we ready?

19 MS. CHARBONNEAU: Yes.

20 THE COURT: All right. Mr. White, you'll bring that
21 jury back in, please.

22 (Jury enters courtroom.)

23 THE COURT: All right. Please be seated.

24 Mr. McKellar, next witness.

25 MR. MCKELLAR: Your Honor, our next witness is Alvin

1 Artis.

2 BY MR. MCKELLAR:

3 Q. Mr. Artis, would you please state your full name
4 and spell your last name?

5 A. Alvin Artis, IV. Artis, A-R-T-I-S.

6 Q. Mr. Artis, you already been sworn, is that
7 correct?

8 A. Yes, sir.

9 Q. Mr. Artis, do you know my client, Xabian Bailey?

10 A. Yes, sir.

11 Q. And how long have you known Mr. Bailey?

12 A. About -- maybe close to 10 years or something.

13 Q. Okay. Are you all good friends?

14 A. Yes, sir.

15 Q. Do you all remain good friends?

16 A. Yes, sir.

17 Q. Okay. I'd like to talk about the day of
18 June 22, 2022. Do you remember that day?

19 A. Uh-uh.

20 Q. Do you remember the day of the shooting?

21 A. I think it was the 20 -- the 26th I think.

22 Q. Did I say 22nd?

23 A. Yeah.

24 Q. I'm sorry. 26th. You're correct. Okay. Where
25 did you wake up that morning?

- 1 A. Xay's house.
- 2 Q. Who all was there when you woke up?
- 3 A. Me, Xay, Antonio, Rich, Heavenly, and Fantasia.
- 4 Q. Who's Rich?
- 5 A. His name Richard Carroll.
- 6 Q. Okay. Did you all wake up there together?
- 7 A. Yes, sir.
- 8 Q. Were you living there at the time?
- 9 A. Yeah.
- 10 Q. And how long had you been living there?
- 11 A. About a month.
- 12 Q. Did anybody else spend the night there?
- 13 A. Everybody.
- 14 Q. Did anyone else other than you six?
- 15 A. Oh, nah.
- 16 Q. No.
- 17 A. No, sir.
- 18 Q. Any other people?
- 19 A. His granddaddy.
- 20 Q. Any youngest?
- 21 A. And -- and his little brother.
- 22 Q. At what time do you think you went, if you
- 23 remember?
- 24 A. Probably about 10:00, 10:30?
- 25 Q. Okay. That morning, did you or anyone in your

1 party receive an alarming phone call?

2 A. Yes, sir.

3 Q. And who was that call from?

4 A. Dilo.

5 Q. And what -- was Dilo concerned about something?

6 A. Yes, sir.

7 Q. And what was that?

8 A. They say they had us on camera breaking in on
9 Joshua Smith's house.

10 Q. Okay. And did he say who was telling people that?

11 A. Junior, Larry Carroll.

12 Q. And was it your impression you were implicated in
13 that break-in?

14 A. Yes, sir.

15 Q. Along with who else?

16 A. Xay and Anton.

17 Q. Okay. Now, with that information, what did you
18 on-site do?

19 A. You go up there to clear it up.

20 Q. Clear up? With who?

21 A. Junior.

22 Q. And you say go up where? Go up -- go up there.
23 Go up where?

24 A. To Larry's house.

25 Q. Okay. And did you go there?

1 A. Yes, sir.

2 Q. How'd you get there?

3 A. Walk.

4 Q. Didn't run?

5 A. Uh-uh.

6 Q. Okay. Did you -- who did you think was there?

7 A. Really, just Junior.

8 Q. Okay. You had -- you did not know W.G. [REDACTED], I.P. [REDACTED],
9 or C.C. [REDACTED] were there?

10 A. No, sir.

11 Q. And you know who W.G. [REDACTED], I.P. [REDACTED], and C.C. [REDACTED] are?

12 A. Yeah.

13 Q. When the six of you all went there, did you all
14 have any intent of committing violent acts?

15 A. No, sir.

16 Q. And you went there with Larry Carroll's daughter?

17 A. Yes, sir.

18 Q. And you went there with Twaine Carroll's son?

19 A. Yep.

20 Q. When you arrived, who did you see?

21 A. Junior, Twaine, and Big Pawn, Joshua Smith.

22 Q. Okay. And did anyone confront, not -- I shouldn't
23 say, confront. Did anyone speak to Larry Carroll about these
24 accusations?

25 A. I did.

1 Q. What did you tell him?

2 A. I told him to let me see his camera because it
3 wasn't, I told him just let me see the camera. I help him
4 figure out who did it.

5 Q. What did he say? Did he believe you?

6 A. Nah. You want me to say exactly what he said?

7 Q. I don't know exactly what he said. Yeah, tell me
8 exactly --

9 MS. CHARBONNEAU: Can I object? Can we sidebar?

10 THE COURT: Yes.

11 (Bench conference.)

12 BY MR. MCKELLAR:

13 Q. I will rephrase the question. He didn't -- he
14 didn't believe you?

15 A. Nah.

16 Q. And was he angry with you?

17 A. Yeah.

18 Q. Was he angry with Xabian?

19 A. Yes, sir.

20 Q. And was he angry with Antonio?

21 A. Yes, sir.

22 Q. And at what point do you see W.G. [REDACTED], J.P. [REDACTED], and
23 C.C. [REDACTED]?

24 A. I was talking to Junior and I -- it wasn't even
25 for like a whole minute. It was probably like 30 seconds or

1 something.

2 Q. Okay. And where do you see them for the first
3 time?

4 A. They came out of the woods.

5 Q. Okay. If you're looking up Wadley Drive, Larry
6 Carroll's phone is on the right. Do they come from Larry
7 Car's side of the road or opposite side of road?

8 A. They came from behind Larry House.

9 Q. Right. Did they come from the left side of
10 Larry's house or the right side of Larry's house?

11 A. The right.

12 Q. Were they armed?

13 A. Yes, sir.

14 Q. The first time you saw them, were they armed?

15 A. Yes, sir.

16 Q. At this point, did you have a weapon drawn?

17 A. No.

18 Q. What did W.G. [REDACTED], I.P. [REDACTED], and C.C. [REDACTED] do when they walked
19 around the corner of the house?

20 A. W.G. [REDACTED] walked up on me.

21 Q. Be careful. I don't want you to say what they
22 said.

23 A. Or what they did.

24 Q. You know what they did? What actions?

25 A. Came out --

1 Q. Their actions.

2 A. Came out the woods and pointed guns to us.

3 Q. They point?

4 A. Yeah.

5 Q. Did you fear for your life?

6 A. Of course.

7 Q. Did you think they were going to shoot you?

8 A. Yep.

9 Q. Did you think they may shoot the other people in
10 your group?

11 A. Yes, sir.

12 Q. Did they give you any assurance that they weren't
13 going to shoot?

14 A. Nah.

15 Q. Did they say threatening things?

16 A. Yeah.

17 Q. Let me back up a bit. When you got there, did
18 anybody tell you -- you all to leave?

19 A. No, sir.

20 Q. So what'd you do as a result of being in fear for
21 your life?

22 A. Shot.

23 Q. Who'd you shoot?

24 A. All three of them.

25 Q. Did you think they were going to shoot you if you

1 did not shoot them?

2 A. Yes, sir.

3 Q. What kind of weapons did they have?

4 A. You want me to like be -- specific name one by
5 one?

6 Q. No, just automatics, long guns, sticks.

7 A. I haven't -- I haven't. W.G. had Glocks, C.C.
8 had an ARP.

9 Q. Okay. So there was one -- what's an ARP?

10 A. It is like -- it is -- it's -- it's -- it's like
11 an AR but a shorter version. Like a smaller version.

12 Q. What's an AR?

13 A. Assault rifle.

14 Q. All right. It's shorter assault rifle. There was
15 one assault rifle and two other guys had pistols?

16 A. Yes, sir.

17 Q. Okay. Did anybody have a gun pointed at you when
18 you shot?

19 A. Yes, sir.

20 Q. Who?

21 A. W.G. .

22 Q. And what kind of gun did he have?

23 A. Glock.

24 Q. What kind of gun did you have?

25 A. A Glock.

1 Q. What caliber was it?

2 A. A 9.

3 Q. Did it have any -- would it -- how many
4 projectiles would it shoot per trigger pulled?

5 A. Two.

6 Q. Explain that.

7 A. It is -- it's -- it's called a binary trigger.
8 It's like if you pull it once, it'll shoot and then when you
9 let it go, it'll shoot again.

10 Q. Okay. Did you shoot as fast as you could?

11 A. Yeah.

12 Q. Do you know how many rounds you shot? You don't?

13 A. Like 21, 22.

14 Q. Just pull the trigger as fast as you could?

15 A. Yes, sir.

16 Q. When they walked up with guns drawn, where was
17 your gun?

18 A. In the -- in the front of my waistband on my
19 basketball shorts.

20 Q. Would anybody have known you had a weapon?

21 A. Nah, my clothes be like kind of big on the
22 streets.

23 Q. Right.

24 A. So you wouldn't be able to see it.

25 Q. So W.G. [REDACTED], I.P. [REDACTED], C.C. [REDACTED] wouldn't have known you're

1 armed?

2 A. Nah.

3 Q. And when do you pull out your weapon in relation
4 to when W.G. had his gun pointed at you?

5 A. Like, how long after?

6 Q. Before or after.

7 A. I mean --

8 Q. Did he point the gun at you and then you pulled
9 your gun out?

10 A. Nah, he -- he said a couple words.

11 Q. Okay. Was his -- was he pointing the weapon at
12 you when you drew your gun?

13 A. Yes, sir.

14 Q. Did you see Xabian Bailey with a gun?

15 A. No, sir.

16 Q. Did you see Xabian Bailey with a gun, any, that
17 day?

18 A. No, sir.

19 Q. Did you see Antonio Jones with a gun?

20 A. No, sir.

21 Q. And after the shooting, what did you do?

22 A. Ran.

23 Q. Where'd you run to?

24 A. Back to Xay's house. I ran right straight back up
25 to Dirt Road.

1 Q. Okay. Why'd you run?

2 A. I mean, why would I stay?

3 Q. Right. Did you ultimately -- before -- you were
4 ultimately arrested, correct?

5 A. Yes, sir.

6 Q. Where were you arrested?

7 A. Oklahoma.

8 Q. Why were you in Oklahoma?

9 A. That's just where I ran to.

10 Q. Did you think anyone would believe your story?

11 A. Nah, that's why I ran.

12 Q. Did anyone believe your story?

13 A. Nah.

14 MR. MCKELLAR: I beg the Court's indulgence.

15 BY MR. MCKELLAR:

16 Q. Did you think that you had the ability to retreat
17 or to run away without being shot?

18 A. Nah. No, sir.

19 MR. MCKELLAR: All right. I beg the Court's
20 indulgence. All right. Thank you.

21 BY MR. MCKELLAR:

22 Q. Mr. Artis, how long -- did you know **W.G.**
23 before this day?

24 A. Yes, sir.

25 Q. And how long -- approximately how long did you

1 know him?

2 A. About six -- six years now. About -- about 2018.

3 Q. Okay. Did -- did you live in the same town as
4 Mr. Garrett?

5 A. Yes, sir.

6 Q. You all associate with some of the same people?

7 A. Yeah. Yes, sir.

8 Q. Were you able to form a -- based on your knowledge
9 of Mr. Garrett and of the people that know Mr. Garrett and
10 their opinions, do you know what his reputation was?

11 A. Yeah.

12 Q. Did he have a reputation of either peacefulness or
13 violence?

14 A. Violence.

15 Q. Next, I'll ask the same questions about I.P. [REDACTED]
16 [REDACTED]. How long did you know I.P. [REDACTED]?

17 A. A couple years.

18 Q. Did you live in the same town as I.P. [REDACTED]?

19 A. Yes, sir.

20 Q. Did you all have mutual acquaintances?

21 A. A couple of them.

22 Q. Did you have enough mutual acquaintances to -- did
23 you know enough people that knew him to form a reputation --
24 to form an opinion of his reputation?

25 A. Yes, sir.

1 Q. Or to know what that reputation is --

2 A. Yes.

3 Q. -- in the community? Was he -- was he -- did he
4 have a reputation of peacefulness or violence?

5 A. Violence.

6 MR. MCKELLAR: No further question. Please answer any
7 questions the State has.

8 THE COURT: Cross-examination.

9 MS. CHARBONNEAU: Thank you.

10 CROSS-EXAMINATION

11 BY MS. CHARBONNEAU:

12 Q. Mr. Artis, I'm Jacquie Charbonneau, remember I'm
13 prosecuting you as well?

14 A. Yes, ma'am.

15 Q. You know this jury is not yours. You will have
16 another day.

17 A. All right.

18 Q. Are you -- are you aware that everything that you
19 are testifying to can be used against you?

20 A. Yes, ma'am. You discussed it with your attorney?

21 A. Yes, ma'am.

22 Q. Your attorney --

23 MR. MCKELLAR: Objection. What Mr. McKellar and
24 Mr. Artis speak about in private are protected by the
25 attorney-client privilege.

1 THE COURT: Certainly. I do not believe the solicitor
2 was eliciting any of their disclosed conversations. Only
3 verifying that he's aware of the ramifications or
4 consequences of any of his sworn testimony. And so, I'll
5 allow that line of question.

6 BY MS. CHARBONNEAU:

7 Q. And your attorney is in the courtroom?

8 A. Yes, ma'am.

9 Q. Okay. And with that you are going forward with
10 your testimony?

11 A. Yes, ma'am.

12 Q. You are facing the same three counts of murder of
13 **I.P. [REDACTED]**, **W.G. [REDACTED]**, and **C.C. [REDACTED]**, correct?

14 A. Yes, ma'am.

15 Q. And you know that you are facing anywhere the
16 judge could give you 30 years all the way to life?

17 A. Yes, ma'am.

18 Q. And you have another count in possession of weapon
19 during violent crimes. You aware?

20 A. Yes, ma'am.

21 Q. And you're facing five years for that?

22 A. All right.

23 Q. And you also have a charge by putting a switch on
24 the gun?

25 A. Yes, ma'am.

1 Q. And you're aware of that?

2 A. Yes, ma'am.

3 Q. Okay. After Dilo calls you, did you or any of the
4 six of you who walk up to Wadley Drive, did any of you have
5 communication with Larry Carroll or Twaine Carroll or Josh
6 Smith, you called Pawn, before you got to Wadley Drive?

7 A. No, ma'am.

8 Q. So you get a call from Dilo, he tells you
9 something about Junior saying -- something that Junior's
10 saying and you guys all decide to go up to Wadley Drive?

11 A. Yes, ma'am.

12 Q. And you're telling us that you left -- that the
13 Defendant's home on Hillview Circle and you had a gun in your
14 waistband?

15 A. Yes, ma'am.

16 Q. And it was loaded?

17 A. Yes, ma'am.

18 Q. And it had a switch on it?

19 A. Nah.

20 Q. It didn't have a switch on it?

21 A. Nah.

22 Q. So you actually pulled the trigger 21 times at
23 those three (inaudible)?

24 A. No, I pulled it 11 times when you shoot it, shoot
25 twice.

1 Q. So you pulled your trigger 11 times?

2 A. Yes, ma'am.

3 Q. And you were shooting at W.G. [REDACTED],

4 I.P. [REDACTED], and C.C. [REDACTED]?

5 A. Yes, ma'am.

6 Q. So you go up there and you -- I think you said to
7 Mr. McKellar that no one could tell that you had a gun
8 because of your loose clothing?

9 A. Yes, ma'am.

10 Q. How many guns did you have on you that day?

11 A. Just one.

12 Q. How many people shot that day?

13 A. Just me.

14 Q. So you shot all of the shots that day?

15 A. From my side, yeah.

16 Q. Okay. You go up there because I think you said
17 you want to clear it up with Junior?

18 A. Yes, ma'am.

19 Q. Did six of you walk up to Wadley Drive to where
20 Junior is at his own home?

21 A. Yes, ma'am.

22 Q. Did he expect you to come?

23 A. Yeah.

24 Q. How -- you didn't have any communication with him?

25 A. Dilo told -- told us, "Junior said come talk to

1 him if you all didn't do it." So we went out and talked to
2 him.

3 Q. So Larry Carroll couldn't talk to you directly, he
4 had someone else call you?

5 A. I mean, he could if he got our Facebook, it just
6 --

7 Q. But there was no communication between
8 Larry Carroll and you guys?

9 A. No, ma'am.

10 Q. Okay. And you're telling us that W.G. [REDACTED]
11 and I.P. [REDACTED] have a reputation for violence in the
12 community that you're aware of, but when you saw those three
13 boys come out of the woods, you didn't decide that you should
14 leave?

15 A. Yeah, there weren't really no way for us to leave.

16 Q. Could you have gone back down the road that you
17 just walked up?

18 A. Probably, but they probably would've shot us in
19 our back too.

20 Q. Okay. Did they shoot you that day?

21 A. No, ma'am.

22 Q. Did any of the six of you get shot that day?

23 A. No, ma'am.

24 Q. Did the victims, W.G. [REDACTED], I.P. [REDACTED], or
25 C.C. [REDACTED], did they ever shoot anyone that day?

1 A. No, they ain't shoot nobody. No.

2 Q. Okay. So you see them come from around Larry's
3 house is your testimony and they already have their guns out?

4 A. Yes, ma'am.

5 Q. Did you call 911?

6 A. No, ma'am.

7 Q. Did you call and ask anybody for help?

8 A. No, ma'am.

9 Q. Did you go back down Wadley Drive?

10 A. After -- after it was done? Yeah.

11 Q. When you see the gun?

12 A. No, not.

13 Q. Okay. Did you yell out for help?

14 A. No, ma'am.

15 Q. So you decide to stay. Your testimony today is
16 that, that Defendant, Xabian Bailey, didn't have a gun?

17 A. Yes, ma'am.

18 Q. So only you -- you are going to take on these six
19 people that you went to their homes?

20 A. Yes, ma'am.

21 Q. All by yourself?

22 A. I mean, we wasn't expecting for it to happen.

23 Q. You were fully loaded in taking 11 or 21 shots
24 according to your testimony.

25 A. Yeah.

1 Q. Ready to go. Right? You were ready to go?

2 A. I guess.

3 Q. Okay. Did you make any comment to W.G. [REDACTED] about,
4 "I got no beef with you, we're here to see Larry?"

5 A. No, ma'am.

6 Q. Okay. And Larry -- this story about Larry Carroll
7 and a burglary, we're not talking about a burglary to
8 Larry Carroll's house, right?

9 A. No, ma'am.

10 Q. So the story is that Larry Carroll is mad at you
11 guys for breaking into someone else's house.

12 A. Yeah. That's his brother though.

13 Q. Josh is his brother?

14 A. Yeah.

15 Q. And you said that you fled to Oklahoma, right?

16 A. Yes, ma'am.

17 Q. And you said that you ran there because no one
18 believed your story?

19 A. Yes, ma'am.

20 Q. Who did you tell the story to that didn't believe
21 you?

22 A. Nobody.

23 Q. So when you said no one believed your story,
24 that's not true because you didn't tell anybody.

25 A. I mean, witnesses was already telling what

1 happened.

2 Q. Okay. Once you got to Oklahoma, did you call 911
3 from there?

4 A. No, ma'am.

5 Q. In fact, you were not arrested for these charges
6 until November 30th of 2022, correct?

7 A. Yes, ma'am.

8 Q. So from June 26th until November 30th of 2022, at
9 any point in time did you call 911 or tell the police, "Hey
10 this is what happened out there?"

11 A. No, ma'am.

12 Q. You've been convicted of a petty larceny in 2022?

13 A. Yeah. Yes, ma'am.

14 Q. Did you know Antonio before that day?

15 A. Yes, ma'am.

16 Q. But he didn't have a reputation for violence?

17 A. Not that I know of.

18 Q. Did Larry Carroll shoot at you?

19 A. No, ma'am.

20 Q. Did Twaine Carroll shoot at you?

21 A. No, ma'am.

22 Q. And how about Pawn, Josh Smith?

23 A. Yes, ma'am.

24 Q. He shot at you?

25 A. Not at me. He shot at Xay.

1 Q. And did he hit him?

2 A. No, ma'am.

3 Q. So did you all take off and the five of you run
4 back to Xay's house, correct?

5 A. Yes, ma'am.

6 Q. Then where do you go from there?

7 A. To Econo Lodge.

8 Q. Econo Lodge, where?

9 A. Going, I think Richmond, I think.

10 Q. How long did you stay there?

11 A. About five, six days.

12 Q. And who did you stay there with?

13 A. My girl.

14 Q. Who is that?

15 A. Neisha (ph) Sharp.

16 Q. And after the six days, where did you go?

17 A. Memphis.

18 Q. How long did you stay there?

19 A. Up to November when I got caught in Oklahoma. I
20 was only up there for like two or three days.

21 Q. So you went from Memphis to Oklahoma?

22 A. Yes, ma'am.

23 Q. When you left the Econo Lodge -- when you went to
24 Memphis, how'd you get there?

25 A. How I got to Memphis?

1 Q. Yes.

2 A. Bus.

3 Q. And who went with you?

4 A. My girl.

5 Q. Same girl?

6 A. Yeah.

7 Q. And then when you went to Memphis, you stayed
8 there until the middle or towards the end of November, 2022?

9 A. Yeah.

10 Q. And how'd you get to Oklahoma?

11 A. The bus again.

12 Q. And who went with you?

13 A. Myself.

14 Q. And when you got to Oklahoma, you -- who did you
15 stay with?

16 A. Nobody.

17 Q. You didn't stay with your friend?

18 A. Nah, I was paying -- I was staying at a hotel.

19 Q. And how long were you there?

20 A. About two days.

21 Q. And then you got arrested on this (inaudible)?

22 A. Yes, ma'am.

23 Q. The gun that you had, can you tell me again? That
24 I know to be a Glock. Was it a Gen5?

25 A. Yeah. Yes, ma'am.

1 Q. It was?

2 A. Yes, ma'am.

3 Q. You positive?

4 A. I'm about sure, yeah.

5 Q. Where's that gun?

6 A. In the river somewhere.

7 Q. What river?

8 A. I don't know. When I was at Econo Lodge, I went
9 to North Carolina. I was asleep in the car. I don't know
10 for how long. I woke up and seen a lady rolled the window
11 down and threw it. I don't know where we was at.

12 Q. So when you left the Econo Lodge, you didn't go
13 straight to Memphis, you went to North Carolina first?

14 A. No, I just went to North Carolina just to get
15 away. Then I went back to Econo Lodge.

16 Q. Okay. So let's -- let's track again. Go to Econo
17 Lodge for about five, six days?

18 A. Yes, ma'am.

19 Q. And then where do you go from there?

20 A. North Carolina.

21 Q. What town in North Carolina?

22 A. I wasn't quite sure I was riding with somebody.

23 Q. Who do you ride with?

24 A. My homeboy. Devin.

25 Q. Devin Trioche.

1 A. Uh-uh.

2 Q. Devin who?

3 A. I don't know how to say it. I -- I can spell it
4 though. I don't know how to say it.

5 Q. Okay. Go ahead and spell it.

6 A. It's T-R-I-O-C-H-E.

7 Q. And he takes you to North Carolina?

8 A. Yes, ma'am.

9 Q. And on the way to North Carolina is when -- is
10 where you throw the gun into the river?

11 A. Yes, ma'am.

12 Q. Okay. And what river was that?

13 A. I don't know.

14 Q. What road were you on?

15 A. I don't know.

16 Q. Highway? Main road? Well, did you pull off
17 somewhere?

18 A. On the highway.

19 Q. Okay. And was Devin with you when you threw the
20 gun?

21 A. Yes, ma'am.

22 Q. And did you actually like, get out of the car and
23 go into the woods or to the river and then throw it in?

24 A. No, we was just riding. I just really rolled the
25 window down and threw it.