

VOLUME I OF II

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Greenville County

Honorable Alex Kinlaw, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

WILLIAM MCKINNEY,

APPELLANT

APPELLATE CASE NO. 2023-001692

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE’S EXHIBIT #2 FROM IMMUNITY HEARING DATED 1/5/23 (DVD IN-CAR VIDEO CAR CHASE); STATE’S EXHIBIT #3 FROM IMMUNITY HEARING DATED 1/5/23 (DVD INTERVIEW-DWIGHT LITTLES); STATE’S EXHIBIT #4 FROM IMMUNITY HEARING DATED 1/5/23 (DVD IN-CAR VIDEO AFTER CHASE); STATE’S EXHIBIT #6 FROM IMMUNITY HEARING DATED 1/5/23 (DVD CCTV VIDEO); DEFENSE EXHIBIT #1 FROM IMMUNITY HEARING DATED 1/5/23 (PHOTO OF DEFENDANT); DEFENSE EXHIBIT #2 FROM IMMUNITY HEARING DATED 1/5/23 (PHOTO OF DEFENDANT);

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
)
PLAINTIFF,)
)
-VS-)
)
WILLIAM McKINNEY,)
)
DEFENDANT.)
_____)

2020-GS-23-05244
2021-GS-23-03551

TRANSCRIPT OF RECORD

JANUARY 5, 2023
GREENVILLE, SOUTH CAROLINA

B E F O R E:

THE HONORABLE ALEX KINLAW, JR.

A P P E A R A N C E S:

ATTORNEY FOR PLAINTIFF:

DEREK POLSINELLO, ASST. SOL.

ATTORNEY FOR DEFENDANT:

ASHALEY BOATWRIGHT, ESQ.

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

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STATE'S EXHIBITS

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MOTIONS

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1 **Thursday, January 5, 2023:**

2 (Whereupon court convened at 9:59 am)

3 **THE COURT:** This is in the interest of State versus
4 William McKinney. Mr. McKinney is present with his counsel,
5 Mr. ...

6 **MR. BOATWRIGHT:** Ashaley Boatwright, Your Honor.

7 **THE COURT:** Ashaley Boatwright. And the State is
8 represented by Mr. -- and I'm going to do my best this week,
9 counsel, to not butcher your name, Polsinello.

10 **MR. POLSINELLO:** Yes, Your Honor.

11 **THE COURT:** Okay. The State is represented by Mr.
12 Polsinello.

13 This is before the Court for purposes of a Stand Your
14 Ground hearing. And, of course, as counsel well knows, it's
15 phrased the South Carolina Protection of Persons and Property
16 Act. That's what it was originally called. The Legislature
17 called it that.

18 So we got any preliminary matters before we get started
19 from either side?

20 **MR. BOATWRIGHT:** Nothing from the Defense, Your Honor.

21 **MR. POLSINELLO:** Your Honor, before we begin with the
22 Defense counsel's motion, the State would have a brief motion
23 of itself. I believe there's a few things that Your Honor
24 would like to know before we begin.

25 **THE COURT:** Okay.

MOTIONS

7

1 **MR. POLSINELLO:** Because I believe it goes to the heart
2 of the issue in the statute.

3 **THE COURT:** All right. And just -- I think the court
4 reporter provided me a copy of the witness list for the State.
5 And I think it's Tracy King and Sergeant Jarrod -- is it
6 Jarrod Sparkman?

7 **MR. POLSINELLO:** Jarrod Sparkman, Your Honor.

8 **THE COURT:** Jarrod Sparkman, and then for the Defense,
9 the witness list was Mr. McKinney, a Jewell Simpson?

10 **MR. BOATWRIGHT:** Yes, Your Honor.

11 **THE COURT:** Isaac McKenzie, Bryan Threlkeld, and that's
12 T-h-r-e-l-k-e-l-d, and Shawn -- is it Cutting, C-u-t-t-i-n-g?

13 **MR. BOATWRIGHT:** Yes, Your Honor.

14 **THE COURT:** And Alvin King, is that right?

15 **MR. BOATWRIGHT:** Yes, Your Honor.

16 **THE COURT:** Okay. All right. Go ahead, counsel.

17 **MR. POLSINELLO:** May it please the Court?

18 **THE COURT:** Uh-huh (affirmative).

19 **MR. POLSINELLO:** Derek Polsinello for the State. Your
20 Honor, obviously this is Defense attorney's motion. Their
21 burden of proof, we know that.

22 Your Honor, the State has some concerns. There were some
23 -- it's the State's position there's undisputable facts in
24 this case that the Defense must concede to in the beginning.
25 They have to admit, because, Your Honor, this is a club

MOTIONS

8

1 shooting that occurred on video. So this is -- this incident
2 is on video.

3 Your Honor, when we look at section 16 11 1410 [sic],
4 coupled with the case law, it's absolutely clear that our
5 Legislature, when looking at the plain meaning, coupled with
6 case law, meant for this immunity to be granted to, one, a
7 person who's acting lawfully, and then, two, if it's in your
8 dwelling, ---

9 **THE COURT:** Right.

10 **MR. POLSINELLO:** --- vehicle, or your place of business.

11 **THE COURT:** Correct.

12 **MR. POLSINELLO:** Your Honor, here the undisputable facts
13 that I believe the Defense can agree to right now -- and when
14 we take those facts and you apply them to the law in the face
15 of the statute, we believe that an exhaustive hearing is not
16 necessary. We believe that a defendant is absolutely barred
17 right away from the plain meaning.

18 And here are those factors, Your Honor. Number one, this
19 is captured on CC TV. So this isn't a question of if what
20 happened as a lot of these hearings are when they occur in the
21 person's home or in their vehicle and it's not on video. So
22 we know it's on video before the shooting and after the
23 shooting.

24 **THE COURT:** All right. And I'm going to let you
25 continue. I know nothing about this case.

MOTIONS

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1 **MR. POLSINELLO:** Yes, Your Honor.

2 **THE COURT:** So I don't -- so if you're referencing a club
3 or give me some specific names so I can sort of put it where
4 you are because I know nothing about the case at all.

5 **MR. POLSINELLO:** Yes, Your Honor.

6 **THE COURT:** All right. So -- because I may be familiar
7 with the club you're talking about or know where it's at, at
8 least proximity-wise.

9 **MR. POLSINELLO:** Yes, Your Honor. The incident date was
10 July 4th, 2020 around four am, formerly Club Dolce that was
11 330 White Horse Road in Greenville County.

12 **THE COURT:** All right.

13 **MR. POLSINELLO:** It since has been demolished and leveled
14 ---

15 **THE COURT:** Okay.

16 **MR. POLSINELLO:** --- at this time. But it was called
17 Club Dolce.

18 **THE COURT:** Okay.

19 **MR. POLSINELLO:** The club was closing at four am. And
20 the shooting occurred there. So right away we know it didn't
21 occur in the Defendant's dwelling, his vehicle, inside his
22 vehicle or his place of business.

23 Number three, they're claiming self-defense. On video
24 you see the Defendant, after he gets shot with a ballistic
25 bullet by a security guard, you see the Defendant take a gun

MOTIONS

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1 out of his pocket, turn around, and he shoots a security guard
2 three times. Not the security guard who shot him in the back,
3 but another security guard who was standing to his right. So
4 the Defendant was in possession of a gun. They have to
5 concede to that.

6 Here's the fourth point. At the time of the shooting the
7 Defendant was a convicted violent felon per South Carolina
8 statutory law. Here's a couple of his convictions, Your
9 Honor.

10 He has a 2001 ABHAN conviction. I have certified copies
11 of those indictments and the sentencing sheet, which he signed
12 and pled guilty to. That victim was Maxie Makins, Jr. He
13 caused serious bodily injury to him.

14 He has a 2006 assault and battery with intent to kill
15 conviction. That victim was Lee Wonex. That was a shooting
16 at Club Salsatheque At 723 Congaree Road at the time in
17 Greenville County. The victim was shot in the leg by this
18 Defendant. He was a security guard. And this Defendant pled
19 guilty to ABWIK.

20 He was also charged with murder in 2012 for a shooting at
21 Bobby T's nightclub off of White Horse Road. Your Honor, I'm
22 sorry. The incident date -- the location for this club was
23 1705 White Horse Road. That was Dolce.

24 The murder charge -- the shooting at Bobby T's nightclub
25 was 330 White Horse Road in 2012. The Defendant shot and

MOTIONS

11

1 killed Raheem Robinson. He was shot three times in the back.

2 This Defendant pled guilty to involuntary manslaughter.

3 So we know this shooting occurred on July 2020. So
4 already he was a violent convicted felon in possession of a
5 weapon. It's the State's position, Your Honor, when you take
6 those undisputable facts and you immediately apply them
7 looking at the statute, it's the State's position that
8 immunity should be barred.

9 There's no need for an exhaustive hearing. He doesn't
10 qualify. The Legislature and case law expressly says that
11 this is for law-abiding citizens. And clearly he's acting
12 unlawfully because he was a convicted violent felon in
13 possession of a weapon arriving to a club. So right there
14 he's acting unlawfully before the shooting even occurs.

15 **THE COURT:** Okay. Mr. Boatwright.

16 **MR. BOATWRIGHT:** Thank you, Judge. May it please the
17 Court?

18 At this time I would like to hand up to the Court a
19 memorandum in support of the motion and some case law that
20 will actually address a lot of the State's arguments. The
21 State has a copy of it as well, Judge. All right.

22 Judge, at first I'd like to point out that the statute,
23 16 11 440, which grants immunity, has been interpreted by the
24 Supreme Court of South Carolina.

25 **THE COURT:** Would have been nice to receive this on

MOTIONS

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1 yesterday, Mr. Boatwright.

2 **MR. BOATWRIGHT:** I just got it finished this morning,
3 Judge.

4 **THE COURT:** You just got it finished?

5 **MR. BOATWRIGHT:** I got it finished this morning, and
6 clocked it this morning and handed it over.

7 **THE COURT:** All right. Go ahead.

8 **MR. BOATWRIGHT:** All right. So under State v. Glenn,
9 429, the Supreme Court of South Carolina -- or S.C. 108, the
10 Supreme Court of South Carolina actually evaluated this
11 statute. There they said that entitlement to immunity,
12 prosecution under the Protections of Persons and Property Act,
13 must be decided pretrial using a preponderance of the evidence
14 standard.

15 They then go on to continue to evaluate this statute.
16 They talk about that you have three different ways that you
17 can get immunity under this statute. One, is under the actual
18 statute. Two, is by pleading self-defense under the common
19 law theory of self-defense. And, three, is if you have a duty
20 to retreat then by proving self-defense with subsection (c) of
21 the Act.

22 Now the important part here that the State was just
23 harping on is that he was in unlawful possession and,
24 therefore, he was engaged in an illegal activity. However,
25 State v. Glenn clearly says that a person can be acting

MOTIONS

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1 lawfully even if he is in unlawful possession of the weapon if
2 he was entitled to arm himself in self-defense at the time of
3 the shooting.

4 **THE COURT:** Which page of the case are you referencing?

5 **MR. BOATWRIGHT:** One second, Judge.

6 **THE COURT:** Because I read this case last night, and I
7 didn't see that. Tell me where you ---

8 **MR. BOATWRIGHT:** That is on page 120 to 121, Judge. They
9 are quoting State v. Goodson, 312 S.C. 278, 280.

10 They then go on to say ---

11 **THE COURT:** Hold on. Hold on one second. Let me find
12 that. On the case that you gave me, is it page 3 of 10 or 4
13 of 10? Which one?

14 **MR. BOATWRIGHT:** I'm not sure of that, Your Honor.

15 **THE COURT:** Look at the numbers on the top of the case
16 you gave me. It would just be easier for me to find it that
17 way.

18 **MR. BOATWRIGHT:** Yes, Judge. That will be ...

19 **THE COURT:** Page 8 of 10? Is that where you are?

20 **MR. BOATWRIGHT:** One second, Your Honor.

21 **THE COURT:** You quoted a portion of the case. I just
22 want to make sure that I ---

23 **MR. BOATWRIGHT:** Yes.

24 **THE COURT:** Because I don't see that. Mr. Polsinello,
25 have you found where he's referencing?

MOTIONS

14

1 **MR. POLSINELLO:** I have the case in front of me, Your
2 Honor. I don't -- if he could give us a headnote, that might
3 help.

4 **THE COURT:** Yeah.

5 **MR. POLSINELLO:** You know, headnote 3, headnote 4.

6 **THE COURT:** Yeah.

7 **MR. POLSINELLO:** Those are reference points for us.

8 **THE COURT:** Yeah. That would be much easier.

9 **MR. BOATWRIGHT:** Give me one second, Judge, and I will
10 have it for you.

11 (Pause)

12 **MR. BOATWRIGHT:** Judge, I apologize. I believe I quoted
13 the wrong case. I believe it's State v. Burriss.

14 (Pause)

15 **THE COURT:** I think what you -- where you ---

16 **MR. BOATWRIGHT:** Here we go. Judge, I found it. I'm
17 sorry. It's on page 9 of State v. Glenn. In the first
18 paragraph, it says, in addition we find the proximate cause
19 analysis must be applied to the unlawful activity element of
20 subsection (c). See State v. Burriss.

21 And then it says, a person can be acting lawfully even if
22 he is in an unlawful possession of a weapon if he was entitled
23 to arm himself in self-defense at the time of the shooting.
24 And then it goes on to say that the State -- the burden rests
25 upon the State to prove beyond a reasonable doubt that the

MOTIONS

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1 unlawful act in which the accused was engaged was at least the
2 proximate cause of the homicide. So just on that portion,
3 Judge, as far as him unlawfully carrying a firearm ...

4 The undisputed facts as he said is, yes, my client was a
5 convicted felon and did have possession of a firearm, however,
6 that possession was concealed. The security guards did not
7 know that he had a weapon on him. He did not have that weapon
8 out and about. It was in his pocket.

9 He was in a group of people talking. The armed security
10 guards started approaching the crowd of people telling the
11 people to disperse. He started walking away. While he's
12 walking away they're giving commands telling him to take his
13 hands out of his pockets.

14 They never identify who they're talking to. My client
15 continues walking away, and then he's shot in the back twice
16 by one of these three armed men. He turns around and returns
17 fire.

18 So it is clear that at the time of that incident he is
19 walking away from three hostile men, one who is licensed to
20 carry an arm, the other two who are illegally carrying
21 firearms are approaching from -- him from behind, and he is
22 shot from the back.

23 He is clearly in fear for his life. That fear is
24 reasonable. And he acted as any reasonable person would have
25 done, and he tried to defend himself. So his defense at the

MOTIONS

16

1 time of that actual incident would be justified under this --
2 for self-defense.

3 And the unlawful activity element would be the burden on
4 the State to prove that the only reason this shooting happened
5 was because he had a gun. And the State can't do that.

6 Here, all three of the security guards give different
7 statements as to why they even approached Mr. McKinney. None
8 of them say the same thing. The victim that was shot says
9 that William McKinney kept his hands in his pockets, and
10 Carlos Jenkins shot him. Carlos Jenkins, the security guard
11 that shot William McKinney, says William McKinney pulled a
12 gun.

13 All of the eyewitnesses that were there say that William
14 McKinney was walking away with his hands in his pockets,
15 Carlos Jenkins told him, take your hands out of your pockets,
16 then shot him in the back. So the unlawful activity section
17 must have a proximate cause of analysis to determine if the
18 unlawful activity was, in fact, the proximate cause of the
19 shooting.

20 As far as the statute applying specifically to the house,
21 business, or car, again, if we look to State v. Glenn -- give
22 me one second and I'll tell you which page, Your Honor. On
23 page 8 of 10 it says, State v. Glenn, the Supreme Court said,
24 we recognized in Jones the irrationality of foreclosing
25 immunity based on the location of the incident provoking the

MOTIONS

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1 use of self-defense.

2 We find that the Legislature intended the protection of
3 subsection (c) to apply to incidents provided the other
4 requirements are met without a geographical restriction.
5 Similarly, analyzing a defendant's right to be in a place
6 where he is attacked without considering proximate cause or a
7 casual connection to the incident leaves an innocent person's
8 ability to seek the Act's protection up to happenstance, which
9 we do not believe was the intent of the Legislature.

10 They then go on to analyze that and say that would --
11 under the State's theory, and the State's arguing it that it
12 must be at their house, they go on to say that that would mean
13 that a person peacefully jogging through a city park at 8:59
14 pm has every right to defend themselves because they are
15 somewhere they have a lawful right to be, however, at nine pm
16 when that park closes, they can no longer defend themselves.
17 And the court says that that's just a ridiculous argument.

18 And, therefore, the court then also establishes that in
19 evaluating the location of the incident a proximate cause
20 analysis must also be applied to the location in determining
21 if him being in that location is the cause of the incident.
22 Here, that's clearly not the case.

23 This is a nightclub that opened at two pm and closes at
24 four pm [sic]. There were approximately 50 plus people in
25 this parking lot hanging out. Inside the club was packed.

MOTIONS

18

1 William McKinney was not on the park -- or not on the property
2 of Club Dolce.

3 Club Dolce hired a security service to provide security
4 for their club. Those men were supposed to be SLED certified
5 to be armed security guards. Only one was SLED certified, the
6 other two were not. And under SLED's security guard
7 licensing, they're only entitled and allowed to protect the
8 property that they're hired to protect.

9 William McKinney was on the restaurant's property next
10 door. When he parked his truck ---

11 **MR. POLSINELLO:** Your Honor, ---

12 **MR. BOATWRIGHT:** --- on the property ---

13 **MR. POLSINELLO:** --- I'm going ---

14 **MR. BOATWRIGHT:** --- and when ---

15 **THE COURT:** Hold on.

16 **MR. BOATWRIGHT:** --- he stood there ---

17 **MR. POLSINELLO:** I'm going to object, Your Honor. We're
18 getting outside the scope right now of the immunity hearing.
19 We're talking about property lines and disputes.

20 **MR. BOATWRIGHT:** It goes to the location, Your Honor.

21 And the State brought it up. They opened the door.

22 **THE COURT:** Well, I think, Mr. Polsinello, you indicated
23 that the shooting occurred at a club, and that was not proper
24 under the statute. And I think in the -- I think Mr.
25 Boatwright is talking about the place right now.

MOTIONS

19

1 I think -- I'm looking at page 8 of 10 of the State
2 versus Glenn case. And it states -- I'm assuming this is the
3 paragraph you're talking about, Mr. Boatwright. In that case
4 it says, we recognize in Jones irrationality of foreclosing
5 immunity based on the location of the incident provoking a use
6 of self-defense. Is that where you are?

7 **MR. BOATWRIGHT:** Yes, Judge.

8 **THE COURT:** All right. You're saying he's going too far?

9 **MR. POLSINELLO:** Your Honor, I'm saying in terms of
10 talking about property lines, where everyone is located. I
11 would argue that's for another pretrial matter, or possibly
12 later on in this hearing or for a question for the jury.

13 What we are focusing on right now are undisputable facts
14 that they have to concede to. And I just wanted to bring that
15 to the Court's attention when applying that to the statute.

16 **THE COURT:** Okay.

17 **MR. POLSINELLO:** He's starting to talk about facts,
18 alleged facts of the case that we haven't heard, we don't
19 know. We haven't heard from any witnesses.

20 **THE COURT:** Right.

21 **MR. POLSINELLO:** I'm talking about undisputable things
22 that they obviously have already consented to.

23 **THE COURT:** All right. So it's undisputed that this
24 incident occurred at a nightclub and not at ---

25 **MR. BOATWRIGHT:** No, that is disputed, Judge.

MOTIONS

20

1 **THE COURT:** That's disputed?

2 **MR. BOATWRIGHT:** That is definitely disputed. Video
3 evidence will prove that it was not at the nightclub when the
4 incident happened. So that is -- that is disputed, Judge.

5 He brought up the facts, talking about ---

6 **THE COURT:** Well, you know, I haven't seen -- I haven't
7 seen any videos. So I'm just hearing from --

8 **MR. BOATWRIGHT:** Exactly, Judge.

9 **THE COURT:** --- the two of you.

10 **MR. BOATWRIGHT:** We're just talking. But in this hearing
11 for purposes of -- you understand it, I feel that ---

12 **THE COURT:** Your position is ---

13 **MR. BOATWRIGHT:** --- the location of the incident ---

14 **THE COURT:** Your position is it didn't occur at the
15 nightclub, it occurred somewhere else?

16 **MR. BOATWRIGHT:** It occurs in the parking lot adjacent to
17 the nightclub, which matters because it does go to the element
18 of being in a place that you have a lawful right to be.
19 Nobody -- he was not on the nightclub property. Nobody at the
20 nightclub told him to leave. So he was not unlawfully where
21 he was at.

22 But, too, even under State v. Glenn, even if he was at
23 the nightclub, he still would be entitled to immunity under
24 the Act. Because the immunity -- the Supreme Court clearly
25 states that immunity is not limited to the house, place of

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1 business or car.

2 MR. POLSINELLO: Your Honor, ---

3 THE COURT: Yes, sir.

4 MR. POLSINELLO: --- a couple of things Mr. Boatwright
5 brings up. He's admitted that the Defendant had the gun
6 concealed in his pocket. We know he's a convicted violent
7 felon before this.

8 THE COURT: And that's undisputed, right?

9 MR. BOATWRIGHT: That is undisputed, yes, Your Honor.

10 MR. POLSINELLO: Exactly. And that's the State's
11 position that he's acting unlawfully right then and there
12 before the shooting even happens.

13 Also, Your Honor, he doesn't have a CWP. That would be
14 another reason why he's acting unlawfully. Your Honor, the
15 State has a case, Gilchrist v. State, ---

16 MR. BOATWRIGHT: Could I see that?

17 MR. POLSINELLO: --- that's a Supreme Court South
18 Carolina -- the Supreme Court of South Carolina ---

19 MR. BOATWRIGHT: Judge, I'm going to object that they
20 haven't -- they haven't given me any of this that he's talking
21 about now. I gave him a copy of everything that I've talked
22 about.

23 MR. POLSINELLO: Well, I'm about to read off the statute
24 so he has it for reference.

25 THE COURT: Well, you know, here's the deal, counselor.

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1 You know, the way this works, you both knew this hearing was
2 coming up. And so any exchange of case law probably should
3 have occurred before today. I mean, I've got -- I've been
4 given about six or seven cases. Two of them I read before.

5 But go ahead -- go ahead -- I'm going to let you go ahead
6 and reference the case. And then if Mr. Boatwright needs to
7 see it, I'll let you give it to him so he can read it.

8 **MR. POLSINELLO:** Thank you, Your Honor. In Gilchrist v.
9 State, 364 S.C. 173, the Supreme Court of South Carolina
10 decided in 2005. Your Honor, in this case, it was a shooting
11 that occurred at a dance club. And our Supreme Court held,
12 Your Honor, that a club will not have the same status as a
13 home or a place of business when assessing immunity and
14 arguments for these types of hearings.

15 They said, quote, it's not good public policy. Our
16 Supreme Court will not extend dance clubs to the same level of
17 protection as a place of business. That defendant in that
18 case shot a victim at a nightclub. So it goes to the point,
19 Your Honor, when looking at 16 ll 410 our Legislature and
20 Supreme Court specifically tailors this to your dwelling,
21 inside a vehicle or a place of business.

22 Now the cases that Mr. Boatwright just brought up, Glenn
23 and Jones, and proximate cause, and geographical location,
24 that's when a person is acting lawfully. The Defendant is not
25 acting -- he knows he's a convicted violent felon, arriving to

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1 the club, Your Honor. That's another key part of this thing
2 that they have to agree.

3 On video, Your Honor, you see him -- the club is closing,
4 Your Honor, at four am. You see him arrive at 4:01, and he
5 circles, Your Honor. He circles in his car. He circles, and
6 it's 4:05 am. He circles. He parks his car at 4:06 am and
7 gets out. They have to agree to that.

8 Your Honor, he invited this on him. He's acting
9 unlawfully, in possession of a weapon, approaches a group of
10 people, arrives to the club with a gun, in possession of a
11 weapon. And he knew he shouldn't have it.

12 It's undisputable, Your Honor, when you look at the
13 intent and the spirit of the statute and case law, we believe
14 that he's barred right away.

15 **THE COURT:** Mr. Boatwright, you need to see that case?

16 **MR. BOATWRIGHT:** I don't, Judge. What I would point out
17 about that case is he said that was a 2005 case. The Supreme
18 Court then heard State v. Glenn in 2019. And that was where
19 they just ---

20 **THE COURT:** Did the court in Glenn over ---

21 **MR. POLSINELLO:** No, Your Honor.

22 **THE COURT:** --- reference that case or overrule that
23 case?

24 **MR. BOATWRIGHT:** What was the name of that case?

25 **THE COURT:** You got anything that ---

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24

1 **MR. POLSINELLO:** Gilchrist v. State.

2 **MR. BOATWRIGHT:** Gilchrist v. State.

3 **THE COURT:** I don't think the Glenn case references that
4 at all.

5 **MR. POLSINELLO:** Your Honor, when we looked -- when the
6 State looked this case up, it's still good case law. And it's
7 cited by other cases.

8 **MR. BOATWRIGHT:** I mean, I don't see his reference,
9 Judge. But in State v. Glenn it clearly says that a proximate
10 cause analysis must be given based on the incident location,
11 one. Two, Club Dolce is actually not considered a nightclub.
12 It is a ---

13 **THE COURT:** What is it?

14 **MR. BOATWRIGHT:** It is a restaurant and lounge, Your
15 Honor.

16 **THE COURT:** So why is it called Club Dolce, then?

17 **MR. BOATWRIGHT:** That's the name of it, Judge. But ---

18 **THE COURT:** So why -- why would they use the word club if
19 it's not a club, counselor?

20 **MR. BOATWRIGHT:** We'd have to call the owner of the club
21 and find out, Judge. But that's ---

22 **THE COURT:** There's a lot of -- you've got to use a lot
23 of common sense, counselor. I mean, they call the place club.
24 So why would they call it a club if it wasn't a club?

25 **MR. BOATWRIGHT:** Well, that may be how it acted, Judge,

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25

1 but how it was licensed under the views of the State, ---

2 **THE COURT:** How was it -- how was it licensed? As a
3 restaurant?

4 **MR. BOATWRIGHT:** Yeah, as a restaurant and lounge, Judge.

5 **THE COURT:** Isn't a lounge a club?

6 **MR. BOATWRIGHT:** No, it's a lounge.

7 **THE COURT:** They said ---

8 **MR. BOATWRIGHT:** A nightclub, I would believe, would be
9 something that is considered a nightclub, a bar, something
10 along those lines. But, I mean, under the licensing it was a
11 lounge and a restaurant.

12 However, again, Judge, under State v. Glenn, which is
13 more recent, binding precedent says that it is not the nature
14 -- it is not the intent of the Legislature to limit this Act
15 only to a place of your home, car or business.

16 **THE COURT:** Let me ask you this. Have you been to that
17 location?

18 **MR. BOATWRIGHT:** Yes, I have, Judge.

19 **THE COURT:** You've been inside?

20 **MR. BOATWRIGHT:** Not inside. It's been closed, Your
21 Honor. But I've been to the actual, ---

22 **THE COURT:** You've been to the actual ---

23 **MR. BOATWRIGHT:** --- physical location, walked around the
24 parking lot and the Chinese restaurant's parking lot next
25 door, Your Honor.

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1 As far as ---

2 **THE COURT:** Let me see that case, Mr. ---

3 **MR. BOATWRIGHT:** As far as the ---

4 **MR. POLSINELLO:** Gilchrist, Your Honor?

5 **THE COURT:** Yeah, Gilchrist case. Let me see that.

6 **MR. BOATWRIGHT:** As far as the State's position on the
7 concealed weapon, Judge, I would point to you State v.
8 Burriss. State v. Burriss, which is 334 S.C. 256, 261. The
9 South Carolina Supreme Court then went on to say or said that
10 the fact that one carries a concealed weapon in violation of
11 the law does not render him criminally responsible for a death
12 that's caused.

13 They go on to say that -- when you read McCaskill ---

14 **THE COURT:** Which page -- which page are you on in the
15 Burriss case?

16 **MR. BOATWRIGHT:** Page 6 of 10, Judge.

17 There they're talking about -- in this case ---

18 **THE COURT:** You in the -- what paragraph? Where are you?

19 **MR. BOATWRIGHT:** The second paragraph on the left hand
20 column, Judge. Down at the bottom, ---

21 **THE COURT:** Okay.

22 **MR. BOATWRIGHT:** --- it says the fact that one carries a
23 concealed weapon does not leave him criminally responsible ...
24 where death is caused by accidental discharge of a weapon for
25 in such case death cannot be ---

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1 **THE COURT:** Hold -- slow it down just a minute. I'm sure
2 the court reporter needs to keep up with you.

3 **MR. BOATWRIGHT:** Sorry, Judge.

4 **THE COURT:** You in that last paragraph?

5 **MR. BOATWRIGHT:** The second paragraph under the left hand
6 column, Judge. It's the first paragraph on the page that
7 starts on the first new paragraph that starts on the page.

8 **THE COURT:** Yeah.

9 **MR. BOATWRIGHT:** And then it's the last -- it's three
10 sentences up from the bottom.

11 **THE COURT:** In the first -- go ahead.

12 **MR. BOATWRIGHT:** All right. Judge, they then go on on
13 the second column, the first paragraph, they then go on to say
14 that McCaskill and Goodson stand for the proposition that a
15 person can be acting lawfully even if he is in unlawful
16 possession of a weapon if he was entitled to arm himself in
17 self-defense at the time of the shooting.

18 Judge, these cases make it clear and the Supreme Court
19 has made it clear through these cases that what must be
20 determined for this hearing is if him being at that location
21 was the proximate cause of the shooting. And if it was, then
22 he is barred from immunity. If it was not, then he is still
23 entitled to immunity.

24 That would bring us to the next thing that the State is
25 arguing, which is unlawful activity. Under that -- under that

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1 statute he had to be acting lawfully. So the court goes on to
2 say that as far as unlawful possession of a firearm and
3 concealed carry of a firearm that they must do a proximate
4 cause analysis to determine if the carrying of that firearm is
5 the proximate cause of the shooting.

6 And, Judge, I'd also point out that their burden in that
7 is beyond a reasonable doubt. Our burden is preponderance of
8 the evidence. We have raised the issue of self-defense. And
9 we have claimed immunity under the Act. Our burden is to
10 prove by a preponderance of the evidence that Mr. McKinney was
11 following the law under the statute and/or acting in self-
12 defense under common law.

13 **THE COURT:** So the fact that he was a convicted felon in
14 possession of ---

15 **MR. BOATWRIGHT:** Has absolutely ---

16 **THE COURT:** --- a firearm ---

17 **MR. BOATWRIGHT:** --- no bearing.

18 **THE COURT:** --- you say has absolutely -- but that's the
19 -- that's the unlawful activity.

20 **MR. BOATWRIGHT:** That's the unlawful act that the State
21 is alleging prevents him from being -- prevents him from ---

22 **THE COURT:** But your position is that's irrelevant?

23 **MR. BOATWRIGHT:** That is completely irrelevant unless and
24 until they prove beyond a reasonable doubt that him unlawfully
25 carrying that firearm was the proximate cause of the shooting.

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1 **THE COURT:** All right. I respectfully disagree with you
2 this was a -- something other than a club. I disagree with
3 you with that. I think it's clear as a whistle this was a
4 club, nightclub. I don't think there's any question about
5 that.

6 Mr. Polsinello, anything you ---

7 **MR. POLSINELLO:** Yes, Your Honor, briefly.

8 **THE COURT:** You need to see this Gilchrist case, Mr.
9 Boatwright?

10 **MR. BOATWRIGHT:** No, Your Honor.

11 **THE COURT:** All right.

12 **MR. POLSINELLO:** Your Honor, Mr. Boatwright's focused on
13 State v. Burriss, Your Honor. This was a homicide, a murder.
14 And the crux of this case, Your Honor, was the appellant
15 contended the trial court erred in refusing to instruct the
16 jury regarding the law of accident and involuntary
17 manslaughter.

18 This case didn't focus on the pretrial hearing of
19 granting immunity under 16 11 410 as well as a lot of the
20 other case law that Mr. Boatwright has cited. Today's purpose
21 in the hearing is very limited in scope to section 16 11 410
22 ---

23 **THE COURT:** Um-hum (affirmative).

24 **MR. POLSINELLO:** --- and if the Defendant qualifies or if
25 he's barred for various factors. The self-defense argument,

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1 Your Honor, that's a question for the jury at trial. That's
2 the State's position.

3 So we know they're claiming self-defense. We know they
4 have all these arguments about self-defense and geographic
5 location. It's the State's position among many things that
6 that's something when the judge during jury charges at trial
7 gives -- when he gives the instruction for self-defense.

8 Your Honor, a lot of the cases that Mr. Boatwright is
9 also citing occurred in an apartment, a home. Your Honor, all
10 the case law right now -- the main case law controlling 16 11
11 410 in these hearings, Your Honor, State v. Curry, it's 406
12 S.C. 364, it's 2013, that occurred in an apartment, a
13 dwelling.

14 State v. Cervantes-Pavon, 426 S.C. 422 [sic], 2019
15 Supreme Court case, that occurred in the defendant's place of
16 work. He was an employee. He got in a fight with another
17 employee. They were employed there. And the defendant
18 stabbed the victim with a saw. So, again, dwelling, person's
19 place of business or inside a vehicle.

20 State v. Scott, 424 S.C. 464, 2018, that occurred in the
21 defendant's home. State v. Duncan, 429 S.C. 404, 2011, that
22 occurred in the defendant's home. State v. Manning, 418 S.C.
23 38, 2016, that occurred in the victim's home. State v. Glenn,
24 429 S.C. 108, 2019, and we've heard Mr. Boatwright focus on
25 State v. Glenn today, that occurred in the victim's home or

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1 dwelling.

2 Therefore, Your Honor, our Supreme Court -- the case law
3 has been clearly laid out and established for purposes of this
4 immunity being granted. Look where -- look where these
5 hearings are -- look where the incident occurred, where the
6 statute expressly shows where -- when and where immunity
7 should be granted.

8 And it's the State's position -- we know this occurred in
9 a club. I think they've called it a lounge. But we know it
10 did not occur in his dwelling, inside his vehicle or place of
11 business. Therefore, for many reasons he's barred from
12 immunity right at face value.

13 **THE COURT:** All right.

14 **MR. BOATWRIGHT:** Judge, I'd point you to State v. Glenn,
15 again, where State v. Glenn discusses State v. Curry on page 7
16 of 10. I would argue that the State is incorrect in their
17 analysis of the immunity. State v. Glenn, the Supreme Court
18 says that you are entitled to immunity under the Act if you
19 meet those engagements of the -- or if you're under that -- if
20 you meet the requirements under that statute or any other
21 applicable provisions of law.

22 There they say -- they go on and they talk -- they
23 discuss 16 11 450, which says a person who uses deadly force
24 as permitted by the provisions of this article or another
25 applicable provision of law is justified in using deadly force

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1 and is immune from criminal prosecution.

2 It also goes on to say that they have ---

3 **THE COURT:** Slow down, Mr. Boatwright.

4 **MR. BOATWRIGHT:** Sorry, Judge.

5 **THE COURT:** Slow down. Go ahead.

6 **MR. BOATWRIGHT:** It also goes on to say that another
7 applicable provision of law is the common law theory of self-
8 defense. And, Judge, here not only are we alleging that we're
9 entitled to immunity under self-defense, we're also alleging
10 that we're entitled to immunity under 16 11 450, and we would
11 argue that we're entitled to it ---

12 **THE COURT:** All right.

13 **MR. BOATWRIGHT:** --- under 16 11 440.

14 **THE COURT:** All right. Let me just -- I'm going to go
15 ahead and hear the case. I'm going to go ahead and hear --
16 listen to some witnesses.

17 But, Mr. Boatwright, in your memorandum that you
18 submitted to the Court, on the first page -- and this is the
19 memorandum you just submitted to the Court, in the first
20 paragraph you -- says on July 4th, 2020 William McKinney was
21 walking to his vehicle and he was shot in the back by Carlos
22 Jenkins. McKinney had been at Dolce, a nightclub, located on
23 White Horse Road.

24 You -- this is what your memorandum says that you gave
25 me. In your ---

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1 **MR. BOATWRIGHT:** Yes, Judge.

2 **THE COURT:** --- your memorandum you referred to it as a
3 nightclub.

4 **MR. BOATWRIGHT:** Yes, Judge. Everyone refers to it as a
5 nightclub. But for the purposes of that case law that he was
6 trying to -- the State's bringing up saying that nightclubs
7 aren't entitled to it, I wanted to point out that legally this
8 isn't a nightclub. They're not allowed to serve alcohol.
9 They are considered a restaurant and a lounge.

10 **THE COURT:** Then why did you call it a nightclub in your
11 memorandum?

12 **MR. BOATWRIGHT:** That is what is -- everyone refers to it
13 as, Judge. So common-sense-wise, it's what people refer to it
14 as, however, legally, that is not how it is incorporated or
15 operated. So legally -- the point of me bringing that up,
16 Judge, is legally that statute or that case that he responded
17 to that he cited ---

18 **THE COURT:** All right. I understand it. I just made
19 reference to your memorandum that's about 20 pages long -- had
20 an opportunity to look at it. But you reference it being a
21 nightclub. So we're going to go ahead and extract some
22 testimony from some witnesses. All right. The State's ready
23 to proceed?

24 **MR. POLSINELLO:** The State's ready, Your Honor.

25 **THE COURT:** All right.

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1 **MR. BOATWRIGHT:** Defense is ready, Your Honor.

2 **THE COURT:** All right. Your motion.

3 **MR. BOATWRIGHT:** Yes, Judge. The Defense calls William
4 McKinney to the stand.

5 **THE COURT:** Place your left hand on the Bible and raise
6 your right. Do you swear or affirm the testimony you'll
7 render in this proceeding to be the truth?

8 **MR. MCKINNEY:** Yes, sir.

9 **THE COURT:** All right.

10 **Direct Examination by Mr. Boatwright:**

11 Q. Good morning. Please state your name for the record.

12 A. William Lykis McKinney.

13 Q. William, do you remember July 4th, 2020?

14 A. Yes, sir.

15 Q. Why do you remember that day?

16 A. Because I was attacked by ---

17 **THE COURT:** You've got to speak -- sir, you've got to
18 speak into that microphone and you've got to ---

19 A. Because I was attacked by security ---

20 **THE COURT:** Push your chair up and speak into that
21 microphone so everybody can hear you.

22 A. You say push it back?

23 **THE COURT:** No, push it up just so you can speak into
24 that microphone.

25 A. I was attacked at the nightclub while going to talk to

WILLIAM McKINNEY - DIRECT EXAMINATION BY MR. BOATWRIGHT

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1 some friends that night.

2 Q. All right. Let's talk about that night. At what time
3 did you first arrive at Dolce?

4 A. I'm not sure the first time, the time that I first got
5 there because I had -- I was on my motorcycle. And so I don't
6 know the exact time that ---

7 **THE COURT:** Keep your voice up, Mr. McKinney.

8 A. --- when I first arrived there.

9 **THE COURT:** I'm sitting right next to you and can't hear
10 you. You've got to keep your voice up and speak into that
11 microphone.

12 Q. All right. So you arrived before four am?

13 A. Yes, sir.

14 Q. All right. And what did you do once you got to Dolce?

15 A. We was sitting outside -- I was sitting out with some
16 friends. I pulled up on my motorcycle. I parked -- well,
17 actually, I parked at the restaurant next door.

18 And so when I was sitting on my motorcycle listening to
19 my music, my friend pulled up. He had a bottle of Hennessy.
20 And he was in a Jeep. So I parked my motorcycle, got in his
21 Jeep with him and we went and parked over by -- in front of
22 Dolce, in the middle of the parking lot.

23 Q. Did you ever leave Dolce?

24 A. Yes, sir.

25 Q. Did you go back to Dolce after you left?

WILLIAM McKINNEY - DIRECT EXAMINATION BY MR. BOATWRIGHT

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1 A. Yes, sir.

2 Q. What time did you get back to Dolce the second time?

3 A. Again, I'm not sure, but I would say it was around three
4 something, close to 4:00.

5 Q. Once you got to Dolce that time, what happened?

6 A. I pulled in the parking lot. Now I'm driving my 450
7 dually truck. So I don't have nowhere to park except on the
8 side unless I can get a parking spot to go straight through.
9 So I went around the parking lot looking for a parking spot.
10 I seen a couple of my friends standing right by the
11 Chinese restaurant. So I park -- I went to park between Dolce
12 and the Chinese restaurant. And when I went to park right
13 there, security said you can't park right here, which I had
14 done parked right there previously before. So I didn't think
15 it was a big deal.

16 So he said, you're blocking traffic. Then I realized,
17 you know, I'm in this big truck, so I'm blocking more space
18 than I'm usually blocking. So I pulled off and went and
19 parked in front of the Chinese restaurant.

20 Q. Okay. What did you do after you parked?

21 A. I got out. The friend-guy was standing talking to his
22 girlfriend. I asked him did he have a cigarette, I had a
23 cigarette for him. And I walked off from him and walked
24 towards the back where my other friends was standing at, you
25 know, listening to music, just politicking in the parking lot.

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1 Q. Okay. And while you were standing there talking did
2 anything else happen?

3 A. Yeah. When I walked up, I was standing there talking to
4 them maybe not even a minute and one of my friends say, I
5 don't know what's going on, but everybody walk off. He said,
6 don't look back.

7 So when he said don't look back, you know, my fear of
8 somebody coming behind me, I was leaning over my shoulder and
9 I see guns pointing at us, coming at us.

10 Q. Who was pointing these guns or carrying these guns?

11 A. At the time I didn't know them, but come to find out it
12 was supposed security. But ---

13 Q. What did you do once you saw that?

14 A. Started walking off.

15 Q. Did anybody ever say, hey, William, come here?

16 A. No. You couldn't hear nothing out there anyway. It was
17 -- people was out there with doors open, music blasting. I
18 didn't hear nothing. I just started walking, you know.
19 Everybody dispersed.

20 Q. Where were you heading?

21 A. I was actually trying to get away from the gun.

22 Q. Okay. And then was you trying to leave or you just kind
23 of ---

24 A. Yeah, I wanted to leave, but my truck was parked behind
25 me from where they were coming from. So my intention was -- I

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1 seen a car -- as I was walking up, there was a car parked.

2 And my intentions was on getting behind this car, hopefully,

3 you know, thinking I was going to get shot. And as I was

4 getting up to that car, I'm hit four times in my back.

5 Q. What do you mean you're hit?

6 A. I'm feeling my back ripped apart. You know, I heard the

7 gunshots and my back is being ripped apart.

8 Q. All right. So you heard gunshots?

9 A. I heard them and felt them. So when I felt -- when I

10 felt the gunshots, I buckled two, three times, you know,

11 realizing I'm hit. And so I went -- ducked down behind the

12 car. And I turned around, pulled my gun out of my pocket, and

13 I started shooting at them, hopefully, thinking they going to

14 stop shooting at me.

15 Q. What was going through your head once you realized you

16 had gotten shot?

17 A. That I was being ambushed.

18 Q. Well, did that make you afraid?

19 A. Definitely scared. I mean, who wouldn't be?

20 Q. So why did you shoot back?

21 A. To -- hopefully to stop them from shooting at me. They

22 was shooting at me for nothing.

23 Q. How many times did you shoot? Do you remember?

24 A. I say three, four, five times, something like that.

25 Q. I'm going to show you -- I'm going to show you a few

WILLIAM McKINNEY - DIRECT EXAMINATION BY MR. BOATWRIGHT

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1 pictures. Don't tell me what they are or anything. Do you
2 recognize those?

3 A. Yes.

4 Q. And how do you recognize them?

5 A. As in how? What you mean? That's me.

6 Q. That's you?

7 A. That's me.

8 Q. All right. And what about this one?

9 A. That's a map of White Horse Road, Dolce and the Chinese
10 restaurant.

11 Q. All right. And is this a fair and accurate
12 representation of that location?

13 A. Yes.

14 Q. And are these fair and accurate representations of
15 pictures of you?

16 A. Yeah.

17 Q. When were these pictures taken?

18 A. The ones of me up in this car were taken, I think, as I
19 was being arrested.

20 **MR. BOATWRIGHT:** Judge, can you turn on the overhead
21 projector so I can show the pictures to the Court?

22 Q. All right, William. You said this is a picture of you?

23 A. Yes.

24 Q. And this was taken on the night of the shooting?

25 A. Yes.

WILLIAM McKINNEY - DIRECT EXAMINATION BY MR. BOATWRIGHT

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1 Q. What is this right here?

2 A. That's blood from one of the wounds.

3 Q. All right. So that's one of the places you were shot ---

4 A. Actually, that's -- two of the wounds is right there.

5 And the other two were up higher. So that's like two of them
6 right there together.

7 Q. And would you say that's your back?

8 A. Yes, it's my -- my lower back.

9 Q. All right. And in this picture, the same thing, we're
10 looking at the wounds from you being shot in the back?

11 A. Yes. And up higher you can see the ones that hit me up
12 top, too.

13 Q. All right. Next I want to show you this map, Club Dolce.

14 A. Can you ---

15 **MR. BOATWRIGHT:** Judge, may the witness ---

16 A. Can you move this coffee mug right here?

17 Q. I was actually going to -- one second.

18 **MR. BOATWRIGHT:** May the witness step down so he can draw
19 on the map for the Court?

20 **THE COURT:** When you say draw, make ---

21 **MR. BOATWRIGHT:** Yeah, I'll have him point to where he
22 parked his car and where he was at when all this happened,
23 Judge.

24 **THE COURT:** All right. Can he do that?

25 **THE BAILIFF:** He can see ---

WILLIAM McKINNEY - DIRECT EXAMINATION BY MR. BOATWRIGHT

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1 **THE COURT:** Does he have the screen in front of him?

2 **THE BAILIFF:** He's got a screen right here. And it's got
3 the same thing that everybody else is seeing. But if he shows
4 it, it won't show up anyplace else.

5 **MR. BOATWRIGHT:** I can -- I can point to it and show it
6 and just have him testify to it ---

7 **THE COURT:** I think that would be okay.

8 **MR. BOATWRIGHT:** Okay.

9 **THE COURT:** Let's do it that way.

10 Q. All right, William. From our conversations, you say you
11 parked your truck when you came back around four am right here
12 in this area?

13 A. Yes, sir.

14 Q. And what parking lot is this to?

15 A. That's the -- let me see which way. Yeah, that's the
16 Chinese restaurant parking lot.

17 Q. And this is that restaurant right here?

18 A. Yes, sir.

19 Q. All right. And right about here is where you were
20 standing when ---

21 A. Yes.

22 Q. --- you were talking with a group of people?

23 A. Yes.

24 Q. And ---

25 A. There were cars back -- there were cars backed up to the

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1 building. So you can get a estimate about how -- we were
2 standing like right at -- between the cars that was backed up
3 to that building.

4 Q. Okay. And then when the guards started approaching you,
5 you walked this way, correct?

6 A. Yes.

7 Q. All right. I'm going to ---

8 **MR. BOATWRIGHT:** Judge, may you -- will you turn on the
9 -- I guess, the access to my laptop so I can pull up the club
10 footage so that Mr. McKinney can testify as to the video
11 footage?

12 **THE COURT:** You've done on your end, Mr. Boatwright?

13 **MR. BOATWRIGHT:** It says that it is currently displaying
14 your PC, Your Honor.

15 **MR. POLSINELLO:** Your Honor, before we begin, I'd just
16 ask the Court -- if Defense could, for purposes of the record,
17 reference to numbers, to his exhibits as numbers for purposes
18 of the record.

19 **THE COURT:** That would be -- that would be proper. And I
20 think the first exhibit was the picture.

21 **MR. BOATWRIGHT:** Yes, Judge.

22 **THE COURT:** And you just -- you're just -- do you want
23 them introduced or you just want them marked for
24 identification purposes?

25 **MR. BOATWRIGHT:** It was just for identification purposes,

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1 Judge.

2 **THE COURT:** All right. Madam Court Reporter, just number
3 1 would be the picture of the Defendant. That would be number
4 1 for ID purposes. And the second one would be the club
5 location, is that right?

6 **MR. BOATWRIGHT:** The second one was the second picture,
7 Judge.

8 **THE COURT:** Second picture of the Defendant.

9 **MR. BOATWRIGHT:** And the third one would be the club
10 location.

11 **THE COURT:** Third would be -- okay. All purposes --
12 introduced for purposes of identification.

13 (Whereupon Defendant's exhibits 1 - 3 were marked for
14 identification)

15 **THE COURT:** Try it now, Mr. Boatwright.

16 (Pause)

17 **Direct Examination by Mr. Boatwright Continued:**

18 (Whereupon a video was being played)

19 Q. All right. William, do you recognize this?

20 A. Yes, sir.

21 Q. And what are we looking at here?

22 A. That's my truck right there coming in the parking lot
23 right there in front of -- I think that's the front of Club
24 Dolce. Yeah, that's the front of Dolce.

25 Q. And just for the record, can you note what time that

WILLIAM MCKINNEY - DIRECT EXAMINATION BY MR. BOATWRIGHT

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1 shows? Do you know what time is on that video?

2 A. 4:02. 4:02 am.

3 Q. Okay. All right. So this is when you're first pulling
4 up to the club in your truck?

5 A. Yes.

6 Q. All right. Is that when you were -- right here, this is
7 when you're parked in that area you were talking about? You
8 were parked where you weren't supposed to be?

9 A. No. No.

10 Q. Okay. What's going on right there?

11 A. Nothing's going on right there. It was just I was coming
12 across the front of the parking lot looking for a parking
13 spot.

14 Q. Okay. Now what are we looking at right here?

15 A. This is where I was fixing to park right here in this
16 empty spot by the chain right here. And my friends is
17 standing over there by the red car right there.

18 Q. Okay. So this group of people right here?

19 A. Yeah. Yes, sir.

20 Q. All right. Who is this right here?

21 A. That's me.

22 Q. All right. So this is you walking, approaching your
23 group of friends?

24 A. Yes.

25 Q. And what time is that, that says up there at the top?

WILLIAM McKINNEY - DIRECT EXAMINATION BY MR. BOATWRIGHT

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- 1 A. 4:09 am.
- 2 Q. All right. So what's going on in this video?
- 3 A. I think we all sitting right there talking. Yeah, we all
- 4 -- we all sitting right there talking.
- 5 Q. Who are these two guys right here?
- 6 A. Those are the security guards.
- 7 Q. Okay. And do you know what this guy's carrying?
- 8 A. You can't see it in that picture right there, but from
- 9 where I was standing, when I turned around he had a assault
- 10 rifle in his hands.
- 11 Q. Okay. So that video shows them approaching your group of
- 12 people. And then this video, what's going on?
- 13 A. I'm walking trying to get away from them.
- 14 Q. And this is you right here, correct?
- 15 A. Yes.
- 16 Q. And these are those armed security guards?
- 17 A. Yes.
- 18 Q. All right. So you're walking way. We see you look back
- 19 right there and you continue walking away.
- 20 A. I looked to see if they was still following me. I kept
- 21 walking.
- 22 Q. Now did you see what just happened there?
- 23 A. Fire just came off his gun. That's where he shot me at.
- 24 Q. Okay. So that right there is where he shot you?
- 25 A. Yes.

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- 1 Q. And then this is when you returned fire?
- 2 A. Yes. I jumped behind the car and returned fire.
- 3 Q. Okay. So when you were walking away in that video were
- 4 you carrying your weapon?
- 5 A. It was in my pocket.
- 6 Q. Did you have it out and about?
- 7 A. No, sir.
- 8 Q. Did you point it at anybody?
- 9 A. No, sir.
- 10 Q. Did you tell anybody, I'm going to shoot you?
- 11 A. No, sir.
- 12 Q. All right. So you were just hanging out with a weapon in
- 13 your pocket?
- 14 A. Yes, sir.
- 15 Q. Did these security guards -- did they know who you were?
- 16 A. I actually don't think so, but I don't know, really.
- 17 Q. Did they ever call you by your name?
- 18 A. No.
- 19 Q. All right.
- 20 **MR. BOATWRIGHT:** No further questions at this time, Your
- 21 Honor.
- 22 **THE COURT:** Cross-examination.
- 23 **Cross-examination by Mr. Polsinello:**
- 24 Q. Okay. Mr. McKinney, can you see the time stamp on that
- 25 video?

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- 1 A. Yeah, 3:59 am.
- 2 Q. 3:59 am?
- 3 A. Yes, sir.
- 4 Q. Are you in front of this club yet?
- 5 A. I don't see me nowhere, but I see my friend's Jeep that
- 6 we was standing beside.
- 7 Q. Did you arrive at the club at this time, at 3:59?
- 8 A. Yeah, I think I was there at 3:59.
- 9 Q. Where are you on this video right here at 3:59 am?
- 10 A. I don't know, but I just know I was there because that's
- 11 my friend's Jeep right there.
- 12 Q. That could be your friend's Jeep, but I'm asking
- 13 specifically where are you on this video at 3:59 am?
- 14 A. I can't see.
- 15 Q. Are you there?
- 16 A. I'm pretty sure I am, that Jeep right there.
- 17 Q. Where?
- 18 A. He pulled in with me. And I got in his Jeep.
- 19 Q. You're in that Jeep ---
- 20 **MR. BOATWRIGHT:** Objection, Judge.
- 21 Q. --- right now?
- 22 **MR. BOATWRIGHT:** Asked and answered. And badgering.
- 23 **THE COURT:** Overruled. Go ahead.
- 24 Q. It's your testimony right now that you're in that red
- 25 Jeep?

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- 1 A. No, I'm not saying I'm in that Jeep. I just know that
2 Jeep was in the parking lot when I was there.
- 3 Q. Okay. That's great. I'm not asking about the Jeep. I'm
4 asking are you in front of this club right now ---
- 5 A. No.
- 6 Q. --- driving your car?
- 7 A. No.
- 8 Q. Okay. Where were you coming from right now?
- 9 A. I'm not there.
- 10 Q. I know -- we all know you're not there. Where are you
11 coming from?
- 12 A. I don't know.
- 13 Q. You don't remember where you were coming from?
- 14 A. I mean, I don't know at that time where I was coming
15 from, no. No.
- 16 Q. Okay. Let's watch -- watch the video. Now it's four am.
17 Are you driving by the club right now in your truck?
18 Literally right now, are you driving by?
- 19 A. No.
- 20 Q. Okay. Can you see -- can you see the time stamp?
- 21 A. Yes.
- 22 Q. What time does that say?
- 23 A. 4:00.
- 24 Q. Right here that I'm circling with my mouse, is that you
25 in your truck?

WILLIAM McKINNEY - CROSS-EXAMINATION BY MR. POLSINELLO

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1 A. Yes.

2 Q. Okay. Where were you coming from before you arrived at
3 the club?

4 A. From taking my motorcycle home and getting in my truck.

5 Q. Okay. So you were at your home?

6 A. No, I'm in my truck.

7 Q. Before you arrived to the club where were you physically
8 if you weren't at the club?

9 A. On White Horse Road.

10 Q. On White Horse Road?

11 A. Yeah.

12 Q. Where were you coming from?

13 A. From the house getting my truck.

14 Q. What house?

15 A. The house I have in Greenville.

16 Q. And what's the address for that house?

17 A. I'm not sure of the address. Hey, I've been locked up
18 two years and a half. So -- I hadn't been staying there ---

19 Q. Was that ---

20 A. --- long.

21 Q. --- your home?

22 A. It wasn't my home home, but it was a house I come to in
23 Greenville. Me and my friend ---

24 Q. Was it your property?

25 A. Me and my friend stayed there.

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- 1 Q. Was it your property?
- 2 A. No.
- 3 Q. Okay. So that's where you were coming from?
- 4 A. Yes.
- 5 Q. A friend's house?
- 6 A. Yes.
- 7 Q. In Greenville County?
- 8 A. Yes.
- 9 Q. But you don't know the address?
- 10 A. No.
- 11 Q. Okay. So what are you doing right here right now?
- 12 A. Looking for a place to park.
- 13 Q. Okay. You see that open parking spot right there?
- 14 A. Yes, I see it.
- 15 Q. Why didn't you park there?
- 16 A. If you could -- that's a big truck.
- 17 Q. Okay.
- 18 A. It's not a long enough parking spot.
- 19 Q. Okay. Let's play the video. Look to your right right
- 20 now. Do you see open spots where that white car is to your
- 21 right if you were sitting in your truck?
- 22 A. Yeah. I see a spot between the two cars right there,
- 23 yeah.
- 24 Q. Okay. Those parking spots weren't suitable for you?
- 25 A. No, not for that truck.

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- 1 Q. You see the time stamp here?
- 2 A. Yes.
- 3 Q. What time does that say?
- 4 A. 4:01.
- 5 Q. Is your truck stopped?
- 6 A. The video stopped.
- 7 Q. I'm playing the video and your vehicle's not moving.
- 8 A. Okay. Well, yeah, it stopped right there.
- 9 Q. Okay. Who are you talking to?
- 10 A. It look like I'm talking to my friends right there.
- 11 Q. What are their names?
- 12 A. Twan Miller. That was one.
- 13 Q. Twan Miller?
- 14 A. Yeah, Antwan Miller.
- 15 Q. Where is he in this video?
- 16 A. Well, the video -- the video very -- I can't really just
- 17 see it that -- that clear.
- 18 Q. Okay. That's pretty clear right now. What color of
- 19 shirt is Twan wearing?
- 20 A. I'm not sure. You got a whole lot of people right there.
- 21 Q. Okay. What were you talking about?
- 22 A. Nothing in particular.
- 23 Q. Talking about nothing?
- 24 A. I mean, I just pulled up, we spoke. He spoke, I spoke.
- 25 I was getting ready to park. I was looking for a parking

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1 spot.

2 Q. And where are you heading off now?

3 A. To go park.

4 Q. Okay. That's you in the driver's seat?

5 A. Yes.

6 Q. You're wearing a white under -- white undershirt?

7 A. Yes.

8 Q. With no sleeves?

9 A. Yes.

10 Q. You see the time stamp on this video?

11 A. 4:02.

12 Q. Is that you driving around in the front?

13 A. Yes.

14 Q. Okay. So right now you've already circled the club once,
15 correct?

16 A. Yes.

17 Q. Okay. What are you doing now?

18 A. Still looking for a parking spot.

19 Q. If you're in the driver's seat right now, look to your
20 right, there's no parking spots there for you to pull in?

21 A. As you can see, there are cones blocking those parking
22 spots. So that means you can't park there.

23 Q. But what about in the back towards White Horse Road? Do
24 you see where I have this mouse? What about all these parking
25 spots?

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- 1 A. Those are still -- those are single parking spots.
- 2 Q. Yeah.
- 3 A. My truck can't park in a single parking spot.
- 4 Q. Your truck couldn't fit right here where I'm referencing?
- 5 A. No, that -- no, it couldn't.
- 6 Q. Okay. You didn't want to park right here?
- 7 A. It's definitely not going to fit in that parking spot.
- 8 Q. Okay. So do you always require two parking spots
- 9 wherever you park this truck?
- 10 A. Yes.
- 11 Q. Two parking spots like this?
- 12 A. Well, they have to go straight through, two parking spots
- 13 straight through. Can't nobody pull behind me.
- 14 Q. Okay. Did you stop your vehicle right here?
- 15 A. Yes, blinker light's on.
- 16 Q. Okay. What are you doing here?
- 17 A. I don't know if I'm waiting -- traffic could be passing
- 18 by. That's a -- you got to turn right there.
- 19 Q. Did you know the club was closing at four am?
- 20 A. No.
- 21 Q. You didn't?
- 22 A. It actually doesn't close -- it closes when it closes.
- 23 Q. It closes when it closes?
- 24 A. It closes when it closes.
- 25 Q. It doesn't have a closing time?

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1 A. No.

2 Q. It's your testimony that this club was not closing at
3 four am and security was not getting people out of the club?

4 A. No.

5 Q. Okay. How do you know it doesn't close at four am?

6 A. Because I've been there before.

7 Q. How many times have you been there before?

8 A. Quite a lot.

9 Q. A lot?

10 A. Yes.

11 Q. Can you give the number?

12 A. A lot. Three years, a lot. It's been different --
13 different clubs.

14 Q. Okay.

15 A. It actually just opened up, too, because it's a -- it's a
16 after-hours restaurant. We go there to get food. It's not a
17 club.

18 Q. But it's called Club Dolce, right?

19 A. Well, it's called Dolce now, but it's -- figure of
20 speech, everybody called it a club, yeah.

21 Q. Okay.

22 A. But it's not.

23 Q. You see the time stamp on this video?

24 A. 4:04 am.

25 Q. 4:04?

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- 1 A. Yes.
- 2 Q. So you arrived at four am, correct?
- 3 A. Yes.
- 4 Q. And it's 4:04?
- 5 A. Yes.
- 6 Q. Three minutes have passed, right?
- 7 A. Yes.
- 8 Q. You couldn't find a parking spot?
- 9 A. No.
- 10 Q. Do you remember -- can you see this time stamp?
- 11 A. Yes.
- 12 Q. What time does that say?
- 13 A. 4:05.
- 14 Q. Is your truck stopped right here?
- 15 A. Yes.
- 16 Q. Do you remember a security guard approach you when you
- 17 were in the driver's seat right here?
- 18 A. Yes.
- 19 Q. You remember a security guard approaching you?
- 20 A. Yes.
- 21 Q. Did you have a conversation with that security guard?
- 22 A. Well, he just asked me not to park right there. I was
- 23 fixing to park right there.
- 24 Q. Do you understand why he asked you to park not there?
- 25 A. No, because it's other cars parked right there, too, ---

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1 Q. Okay.

2 A. --- and I've parked right there before.

3 Q. Okay. Right here at 4:05 when you were talking to the
4 security guard, do you know his name?

5 A. No.

6 Q. Do you remember flashing a gun at him?

7 A. No.

8 Q. You didn't flash a gun at him?

9 A. No.

10 Q. You see how traffic is clogged up?

11 A. Yes.

12 Q. So the security guard is telling you you couldn't park
13 there, correct?

14 A. Yes.

15 Q. What did you say when he told you that?

16 A. That I usually -- that I usually park right there if I
17 can.

18 Q. You usually park right there?

19 A. Yes.

20 Q. You see the time stamp on this video?

21 A. Yes.

22 Q. What time is it?

23 A. 4:06.

24 Q. 4:06 am?

25 A. Yes.

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- 1 Q. Okay. Right here where I'm circling my mouse, that's ---
- 2 A. Yes.
- 3 Q. --- you parking, correct?
- 4 A. Yes.
- 5 Q. That white shirt right there, I know it's kind of tough
- 6 to see, white undershirt, no sleeves, basketball shorts, is
- 7 this you?
- 8 A. Yes.
- 9 Q. Okay. At this moment did you have a gun in your pocket?
- 10 A. Yes.
- 11 Q. And you knew you were a convicted violent felon?
- 12 A. Yes.
- 13 Q. Did you have a valid CWP on you at the time?
- 14 A. No.
- 15 Q. Do you know what CWP stands for?
- 16 A. No.
- 17 Q. And so who are you talking to right here at 4:06 am in
- 18 front of the club? Up here where I'm circling my mouse?
- 19 A. Where at?
- 20 Q. Up here.
- 21 A. A guy named Wayne.
- 22 Q. Wayne -- a guy named Wayne?
- 23 A. Yeah.
- 24 Q. You know his last name?
- 25 A. No.

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1 Q. What were you and Wayne talking about?

2 A. I asked him for a cigarette.

3 Q. Did he give you one?

4 A. I think -- yes.

5 Q. So at 4:07 am you're still by your truck talking to Wayne
6 smoking a cigarette?

7 A. Yes.

8 Q. At the time right here, knowing the gun was in your
9 pocket, did you know that it was illegal for you to possess
10 that gun?

11 A. No.

12 Q. Even with your prior record, you didn't know?

13 A. No.

14 Q. On this video right here can you see the time stamp?

15 A. 4:08.

16 Q. AM?

17 A. Yes, am.

18 Q. Is that you walking right here?

19 A. Yes.

20 Q. Okay. So is this considered the side of the club?

21 A. Yes.

22 Q. Okay. So right here, do you see my mouse where I'm
23 circling?

24 A. Yes.

25 Q. You're in here, right, talking to these individuals?

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- 1 A. Yes.
- 2 Q. Do you remember the names of who you were talking to?
- 3 A. Panama, Antwan, Jewell and there's a couple of more guys,
- 4 but I don't -- I don't -- I can't see good to --
- 5 Q. Was that first name Panama?
- 6 A. Yes.
- 7 Q. Last name?
- 8 A. His name is Kevin Dunham.
- 9 Q. Kevin Dunham?
- 10 A. Yeah. I call him his nickname.
- 11 Q. Antwan? Do we have a last name?
- 12 A. Miller.
- 13 Q. Jewell? Do we have a last name?
- 14 A. Simpson.
- 15 Q. Did you know these individuals prior to the club?
- 16 A. Yes.
- 17 Q. Prior to this night, you knew them?
- 18 A. Yes.
- 19 Q. What were y'all talking about?
- 20 A. We actually didn't get to talk. As soon as I walked up,
- 21 he told us to -- Tangy (ph.) said to walk off and don't look
- 22 back.
- 23 Q. Who said that?
- 24 A. Antwan did.
- 25 Q. You see this security guard, who I'm circling?

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- 1 A. Yes.
- 2 Q. Is he the one that had the, as you stated, rifle?
- 3 A. Yes.
- 4 Q. Did you know it was a shotgun?
- 5 A. I just -- I knew it was a assault rifle, but I couldn't
- 6 tell what it was.
- 7 Q. Do you know now that it was a shotgun?
- 8 A. Yes.
- 9 Q. So you know it's not an assault rifle?
- 10 A. No.
- 11 Q. But you just said you knew it was a shotgun?
- 12 A. It was a rifle. It was a long rifle.
- 13 Q. You thought it was a rifle?
- 14 A. No, I knew it was a long rifle.
- 15 Q. If I told you that that was a shotgun, would that
- 16 surprise you?
- 17 (Pause)
- 18 A. I don't even know what you asked.
- 19 Q. Do you know the difference between a long rifle and a
- 20 shotgun?
- 21 A. All of them could be the same, hunting rifles, assault
- 22 rifles. Rifles are rifles.
- 23 Q. Do you know the difference between a long rifle and a
- 24 shotgun?
- 25 A. No.

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- 1 Q. Right here, is he pointing that gun at you?
- 2 A. I actually can't tell ---
- 3 Q. Can't tell? You can't see him pointing that in a
- 4 downward position towards the ground?
- 5 A. No.
- 6 Q. No what?
- 7 A. I can't tell.
- 8 Q. Take another look. Is he pointing that gun at you right
- 9 now?
- 10 A. No, not when he passed by that white car, he wasn't.
- 11 Q. At 4:09:26 am is he pointing the gun at you?
- 12 A. I can't tell.
- 13 Q. I'm playing it again for you.
- 14 A. No.
- 15 Q. Okay. So he is not pointing the gun at you at 4:09:30
- 16 am?
- 17 A. No.
- 18 Q. Okay. These two security guards, what did they -- at
- 19 4:09:38 am, can you see that? Time stamp?
- 20 A. Yes.
- 21 Q. What did they tell that group right there?
- 22 A. I don't know what they told them. It was cars with the
- 23 doors open and music blasting.
- 24 Q. Okay. But, obviously, everyone dispersed, right?
- 25 A. You got people walking up with guns, yes.

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1 Q. Okay. Right here, the gun's in your pocket, your
2 handgun's in your pocket, correct?

3 A. Yes.

4 Q. Are your hands in your pockets?

5 A. No.

6 Q. Are your hands by your side?

7 A. I can't really see ---

8 Q. I'll play it again for you. Are your hands in your
9 pockets?

10 A. (No response).

11 Q. Let me blow it up for you.

12 A. Yes.

13 Q. Your hands are in your pockets?

14 A. Yes.

15 Q. What are they telling you right now?

16 A. They're not telling me nothing.

17 Q. They didn't tell you to get your hands out of your
18 pockets?

19 A. No.

20 Q. You didn't hear that command multiple times by them?

21 A. It was loud music playing. I didn't hear nothing.

22 Q. I stopped the video at 4:09:43 am. Do you see the
23 security guard pointing the gun at your back right now? This
24 security guard?

25 A. It's blurry. You can't tell.

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- 1 Q. Right now is he pointing the gun at you?
- 2 A. Yes, at a downward angle -- yeah.
- 3 Q. You just said a downward angle?
- 4 A. Yeah, at -- towards my lower back.
- 5 Q. Okay. Now where were you going right now?
- 6 A. I was walking -- still walking away from the security
- 7 guard.
- 8 Q. And where were you going?
- 9 A. I was just trying to get away from them.
- 10 Q. Did you just see that muzzle flash?
- 11 A. Yes.
- 12 Q. What's the time stamp?
- 13 A. Still 4:09.
- 14 Q. 53 am?
- 15 A. Yes.
- 16 Q. Okay. So is that when you got hit?
- 17 A. Yes.
- 18 Q. Okay. Right now, knowing what happened to you, did you
- 19 get hit with a live bullet or was it a ballistic bullet?
- 20 A. I don't know what I was hit with.
- 21 Q. To this day you don't know what type of round you were
- 22 hit with?
- 23 A. To this day, yes.
- 24 Q. Did a live bullet enter your flesh and did you have to
- 25 have emergency surgery to take it out?

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1 A. No.

2 Q. After you got hit, it was your testimony earlier that you
3 fired back hoping they would stop?

4 A. Yes.

5 Q. How many times did you fire?

6 A. I would say like three, four times.

7 Q. Three or four times. Okay. I stopped it right before
8 you got hit at 4:09:52 am. This is right before you got hit.
9 The security guard with the -- well, you thought it was a
10 rifle, the security guard with the shotgun, is he directly
11 behind you?

12 A. I can't see him.

13 Q. Was he in front of you?

14 A. No.

15 Q. Was he to your right side?

16 A. My right side, ---

17 Q. Was he ---

18 A. --- no.

19 Q. --- even with you to your right side?

20 A. No, not ---

21 Q. Okay. Was he ---

22 A. --- on the picture, no.

23 Q. Okay. Was he in back of you?

24 A. Yes, he was behind me.

25 Q. The security guard with the shotgun was behind you,

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1 correct?

2 A. All of them -- well, two -- it was two or three of them
3 behind me.

4 Q. You see this white mouse right here that I'm circling?

5 A. Yes.

6 Q. Do you know who that is?

7 A. I don't see nobody right there.

8 Q. Okay. Well, let me play it. You see him right there?

9 A. Yes.

10 Q. Do you know that that's the person that you shot right
11 here?

12 A. No, I -- I don't know.

13 Q. You don't know who you shot?

14 A. It was three people behind me.

15 Q. Okay.

16 A. And all of them had guns at that point.

17 Q. Okay. But I'm asking a very specific question. This
18 security guard right here to the side, do you know that that's
19 who you shot?

20 A. No, I don't know.

21 Q. Do you know his name?

22 A. No.

23 Q. Do you know how many times you shot him?

24 A. No.

25 Q. Did you know that the security guard behind you with the

WILLIAM McKINNEY - CROSS-EXAMINATION BY MR. POLSINELLO

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1 shotgun, when you turned around and fired, do you know you
2 didn't hit him?

3 A. No, I didn't know that.

4 Q. You didn't know that?

5 A. (Negative nod).

6 Q. This case is over two years old, right? This incident is
7 over two years old?

8 A. Yes.

9 Q. And you don't know who you shot, who got shot?

10 A. I know who got shot, yes. Now I do.

11 Q. Okay. Do you know his name?

12 A. Monieque Green.

13 Q. Okay. So you do know his name?

14 A. I mean, now I know from the paperwork, yeah.

15 Q. Okay. After the shooting do you see yourself running
16 away?

17 A. Yes.

18 Q. Why'd you run away?

19 A. To keep from getting shot some more.

20 Q. Okay. After you got shot the first or second time did
21 you keep getting hit?

22 A. After the first, second time?

23 Q. After the second time did you keep getting hit with
24 rounds?

25 A. No. I was being shot at, though.

WILLIAM McKINNEY - CROSS-EXAMINATION BY MR. POLSINELLO

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1 Q. Once the incident was over were you -- were you fired
2 upon by other people?

3 A. Yes.

4 Q. Okay. When you were running away right here, it's your
5 testimony people were still firing guns at you?

6 A. Yes, they was still firing.

7 Q. On this incident date, July 4 of 2020, were you the club
8 owner?

9 A. No.

10 Q. Were you employed there?

11 A. No.

12 Q. When you got out of your truck with the gun in your
13 pocket, what type of gun was it?

14 A. A 9 millimeter.

15 Q. Who was the maker? What's the brand?

16 A. I don't know.

17 Q. You don't know the model?

18 A. No.

19 Q. What color was it?

20 A. Black.

21 Q. Black? How many rounds could it carry?

22 A. I'm not sure.

23 Q. Where'd you get it?

24 A. Not sure.

25 Q. Did you buy it lawfully at a lawful store?

WILLIAM McKINNEY - CROSS-EXAMINATION BY MR. POLSINELLO

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- 1 A. No.
- 2 Q. Who sold it to you?
- 3 A. I -- I don't recall.
- 4 Q. Did you obtain it illegally?
- 5 A. No.
- 6 Q. Prior to this early morning shooting, was this your first
- 7 time being involved in a shooting in a club in Greenville
- 8 County?
- 9 A. Involved in one?
- 10 Q. Um-hum (affirmative).
- 11 A. No.
- 12 Q. So this wasn't your first time in a club shooting?
- 13 A. No.
- 14 Q. How many times have you been involved in a club shooting
- 15 in your life before this?
- 16 A. I don't recall.
- 17 Q. Was it more than one?
- 18 A. Maybe.
- 19 Q. Was it more than two?
- 20 A. No, I don't think so.
- 21 Q. So only two club shootings in your lifetime?
- 22 A. Two, yeah.
- 23 Q. Two's your answer?
- 24 A. Yes.
- 25 **MR. POLSINELLO:** Your Honor, could we -- I'm sorry.

WILLIAM McKINNEY - CROSS-EXAMINATION BY MR. POLSINELLO

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1 We're good.

2 Q. Mr. McKinney, I'm about to show you State's exhibit 1.

3 A. Okay.

4 Q. For purposes of this hearing.

5 (Pause)

6 Q. Okay. I'm showing you State's exhibit 1. It's an
7 indictment number 2005-GS-23-001687, State versus William
8 Lykis McKinney, charged with assault and battery, intent to
9 kill, and possession of a weapon during a violent crime,
10 incident date being March 27th, 2004 in Greenville County.
11 That you unlawfully and with malice, express or implied,
12 committed assault and battery upon Lee Wonex. Does this look
13 familiar to you?

14 A. Yes.

15 Q. This indictment? This is part of the indictment, the
16 sentencing sheet, in which -- is it true that on February 4th,
17 2006, the State right here, February 14th, that you pled
18 guilty to assault and battery with intent to kill and that you
19 signed this guilty plea sheet or pled guilty?

20 A. Yes.

21 Q. So knowing you did this, signed this in 2006, you went to
22 Club Dolce on July 4th, 2020, arrived at the club with a
23 weapon -- with a gun in your pocket? You knew that, correct?

24 A. Yes.

25 Q. Okay. Did you know that that conviction prevented you

WILLIAM McKINNEY - CROSS-EXAMINATION BY MR. POLSINELLO

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- 1 from lawfully owning a gun?
- 2 A. No.
- 3 Q. Didn't know that?
- 4 A. (No response).
- 5 Q. No attorney ever explained that to you?
- 6 A. No.
- 7 Q. Your attorney at that plea didn't explain the
- 8 ramifications of that?
- 9 A. No.
- 10 Q. Okay. Mr. McKinney, we see on the video around 4:10 am
- 11 you run away, correct?
- 12 A. You haven't pulled the video back up for me to see.
- 13 Q. You don't remember running away?
- 14 A. Yes, I remember running away.
- 15 Q. Okay. Good. So you remember running away from the
- 16 scene. What did you do? What -- exact moments after the
- 17 shooting, please explain where you went and what you did.
- 18 A. I ran and jumped the fence.
- 19 Q. Okay. What fence?
- 20 A. The fence behind the Chinese restaurant.
- 21 Q. Okay. Did your shirt get caught on it?
- 22 A. Yes.
- 23 Q. Okay. Is that because it had barbed wiring?
- 24 A. Yes.
- 25 Q. Okay. And when you jumped the fence, where did you go?

WILLIAM McKINNEY - CROSS-EXAMINATION BY MR. POLSINELLO

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- 1 A. To the adjacent parking lot.
- 2 Q. Okay. And when you arrived at that adjacent parking lot,
- 3 what did you do?
- 4 A. I went in the road. I was actually trying to find some
- 5 help.
- 6 Q. Okay. And so what happened after that?
- 7 A. A car pulled up.
- 8 Q. What type of car?
- 9 A. I don't recall.
- 10 Q. If I said it was a blue BMW SUV type of car, will that
- 11 sound familiar?
- 12 A. Yes.
- 13 Q. So you flagged that car down?
- 14 A. No.
- 15 Q. Why'd it stop?
- 16 A. Because they knew me.
- 17 Q. Okay. So you knew the driver?
- 18 A. No, I did not know the driver.
- 19 Q. You just said he knew me.
- 20 A. His passenger knew me.
- 21 Q. Who was the passenger?
- 22 A. Kevin Dunham.
- 23 Q. Okay. So he was the passenger in the blue BMW?
- 24 A. Yes.
- 25 Q. Who was driving?

WILLIAM McKINNEY - CROSS-EXAMINATION BY MR. POLSINELLO

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- 1 A. I don't know the driver.
- 2 Q. And you got in that car?
- 3 A. Yes.
- 4 Q. Okay. I'm going to show you State's exhibit 2.
- 5 (Pause)
- 6 **MR. POLSINELLO:** Excuse me. Bear with me one sec.
- 7 (Whereupon the video, State's exhibit 2, was played)
- 8 Q. Okay. Mr. McKinney, can you see this in-car video right
- 9 now?
- 10 A. Yes.
- 11 Q. Okay. That SUV right here, do you recognize this
- 12 vehicle?
- 13 A. Yes.
- 14 Q. Is this the vehicle that you jumped in?
- 15 A. Yes.
- 16 Q. With Kevin Dunham?
- 17 A. Yes.
- 18 Q. Okay. Where are you in this vehicle? Where are you
- 19 positioned?
- 20 A. In the back passenger.
- 21 Q. Okay. At this moment could you hear the flashing blue
- 22 lights?
- 23 A. No. I actually was in the car injured and couldn't
- 24 really move.
- 25 Q. Were you laying down?

WILLIAM McKINNEY - CROSS-EXAMINATION BY MR. POLSINELLO

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1 **MADAM COURT REPORTER:** I need you to pause the video when
2 you're asking questions.

3 **MR. POLSINELLO:** Yes, ma'am. I'm sorry.

4 Q. What was the conversation going on right now inside the
5 vehicle?

6 A. I was saying stop the car, let me out.

7 Q. You said that?

8 A. Yes.

9 Q. So it's your testimony today that you asked the driver to
10 stop and let you out?

11 A. Yes.

12 Q. Why would you ask the driver to stop and let you out?

13 A. Because he was reckless driving. I just wanted to stop
14 and talk to the officers and explain what happened to me.

15 Q. You just wanted to talk to the officers and explain what
16 happened to you?

17 A. I wanted to get some medical attention. I wanted to stop
18 -- he was driving reckless, as you see.

19 Q. Okay. Mr. McKinney, it was just your testimony just
20 before that you asked the driver to stop, you wanted to get
21 out and speak with officers, correct?

22 A. Yes. Yes.

23 Q. Why do you continue to run away from officers?

24 A. Because they had guns pointed at us, too, right?

25 Q. Well, you're claiming self-defense, correct?

WILLIAM McKINNEY - CROSS-EXAMINATION BY MR. POLSINELLO

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- 1 A. Yes.
- 2 Q. You have nothing to hide, correct?
- 3 A. No, I don't.
- 4 Q. You have nothing to run away from because you're in self-
- 5 defense, correct?
- 6 A. Yes.
- 7 Q. You're injured, you want medical treatment, correct?
- 8 A. Yes.
- 9 Q. Well, why continue to run?
- 10 A. Actually at this point, I really was delusional right
- 11 here. You can, I mean, you can tell.
- 12 Q. You were delusional?
- 13 A. Yes. I had -- the adrenaline, I guess, just adrenaline.
- 14 Q. Where's the gun?
- 15 A. I don't -- I don't even remember.
- 16 Q. Well, you could remember firing back at the security
- 17 guards, right?
- 18 A. Yes.
- 19 Q. And we saw you run away?
- 20 A. Yes.
- 21 Q. And you don't know where the gun is?
- 22 A. No.
- 23 Q. Did you give it to the driver?
- 24 A. I don't recall.
- 25 Q. Did you throw it in the woods when you were running?

WILLIAM McKINNEY - CROSS-EXAMINATION BY MR. POLSINELLO

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1 A. I don't recall.

2 Q. Did you throw it out the window while you were driving
3 away?

4 A. I don't recall.

5 Q. Before you arrived at the club at 4 am it was your
6 testimony that you were with your friend at some house in
7 Greenville County, correct?

8 A. Yes.

9 Q. If you stayed there, would this have ever have happened?

10 A. If I stayed there?

11 Q. If you stayed where you were, at your friend's house,
12 that you can't give us the name or the address, that's where
13 you were, if you stayed there would this shooting have ever
14 happened?

15 A. Clearly, no.

16 Q. Okay. Let's forget about that. Even if you went to the
17 club and didn't have the gun in your pocket, would this have
18 happened?

19 A. Yes, it still would have happened.

20 Q. Why would it have happened?

21 A. Because they just shot me for nothing.

22 Q. Okay. If they received information that you arrived at
23 the club with a gun, would that surprise you?

24 A. Say that again.

25 Q. If the security guards and the club received information

WILLIAM McKINNEY - CROSS-EXAMINATION BY MR. POLSINELLO

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1 that you were arriving at the club and had a gun in your

2 possession, would that surprise you to hear?

3 A. Yes.

4 Q. You'd be surprised to hear that?

5 A. Yes.

6 Q. Did you have a beef with anyone that night?

7 A. No.

8 Q. Were you going to the club with a gun looking to settle a
9 score?

10 A. No.

11 Q. You weren't seeking any individual out?

12 A. No.

13 Q. There wasn't a fight earlier in the club between you and
14 another patron?

15 A. No.

16 Q. Because, remember, it was your testimony around 3 am you
17 were at the club on a motorcycle, correct?

18 A. Yes.

19 Q. So you were at the club before?

20 A. Yes.

21 Q. Never got in a fight?

22 A. No.

23 Q. With anyone?

24 A. Uh-uh (Negative).

25 Q. Never had any beef?

WILLIAM McKINNEY - CROSS-EXAMINATION BY MR. POLSINELLO

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1 A. No.

2 Q. But you went home or went to your friend's place and came
3 back in your truck with a gun?

4 A. I went to park my motorcycle because I was drinking. I
5 have a Harley Davidson ---

6 Q. Oh, so you were drinking and driving that night?

7 A. I -- we started drinking up there, yes.

8 Q. You were drinking and driving that night?

9 A. At the club, we was drinking.

10 Q. And then after you drank you got on your motorcycle and
11 left?

12 A. I took my motorcycle home.

13 Q. Okay. Mr. McKinney, I'm showing you State's exhibit 3.

14 (Whereupon the video, State's exhibit 3, was played)

15 **MR. BOATWRIGHT:** Judge, I'm going to object to this.

16 **THE COURT:** Hold on. What's your objection?

17 **MR. BOATWRIGHT:** There's no witness here to testify as to
18 this conversation. He's just putting in a video.

19 **MR. POLSINELLO:** It's no different than all the other
20 videos we've played here. Your Honor, South Carolina Rules of
21 Evidence 104, this is a pretrial hearing matter. The Rules of
22 Evidence don't apply. Your Honor is certainly allowed to hear
23 witness interviews.

24 **MR. BOATWRIGHT:** I mean, I agree ---

25 **MR. POLSINELLO:** Even if the witness is not here.

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1 **MR. BOATWRIGHT:** But there's no witness here. And he's
2 just putting this person up here.

3 **THE COURT:** I'm going to allow it. I'm going to allow
4 it. I think Rule 104 permits it.

5 **Cross-examination by Mr. Polsinello Continued:**

6 Q. Mr. McKinney, do you recognize this individual in this
7 video in the orange suit?

8 A. Yes.

9 Q. What's his name?

10 A. I don't know his name.

11 Q. Okay. How do you recognize him?

12 A. He was in jail with me.

13 Q. Okay. So he -- for this charge that you're currently
14 incarcerated, he at one time was in jail with you?

15 A. That's the only time I know him is being in jail.

16 Q. Was he your cellmate?

17 A. He was in the dorm I was in.

18 Q. Dorm?

19 A. Yes.

20 Q. What dorm was that?

21 A. I've been in several dorms. I don't remember exactly
22 which dorm he was in with me.

23 Q. I'm going to play this for you.

24 A. All right.

25 Q. Let me ask you a question. Was this guy with you at the

WILLIAM McKINNEY - CROSS-EXAMINATION BY MR. POLSINELLO

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1 club that night?

2 A. No.

3 Q. Did you ever see him at the club that night?

4 A. No.

5 (Whereupon the video, State's exhibit 3, was played)

6 Q. Okay. Mr. McKinney, so the individual, the man in the
7 orange jumpsuit who just stated all that, we know he wasn't at
8 the club that night, he wasn't with you, ---

9 A. Um-hum (affirmative).

10 Q. --- correct?

11 A. You right.

12 Q. You're not friends with him?

13 A. No.

14 Q. You said he was in your dorm room, ---

15 A. Yes.

16 Q. --- right? So how would he know all that if you didn't
17 tell him that?

18 A. Because he seen my paperwork.

19 Q. What paperwork?

20 A. My motion.

21 Q. He was very -- very specific details?

22 A. No, it was not.

23 Q. He just stated -- that showed in the video, how would he
24 know to articulate those details without -- if you didn't tell
25 him?

WILLIAM McKINNEY - CROSS-EXAMINATION BY MR. POLSINELLO

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1 A. He didn't say -- he didn't even say it right. But, no,
2 he didn't -- you could tell he was lying.

3 Q. Who told him all that information ---

4 A. He ---

5 Q. --- if you didn't?

6 A. He read some of it and he tried -- I guess he tried to
7 piece some together, but it ---

8 Q. What did ---

9 A. --- didn't come together?

10 Q. --- he read?

11 A. My motion.

12 Q. Did you voluntarily give him your motion?

13 A. Yes, he was right there with me.

14 Q. Why did you give him your legal paperwork?

15 A. Because I had nothing to hide.

16 Q. Do you give all the inmates your personal legal
17 paperwork?

18 A. I have nothing to hide.

19 Q. But specifically, why give it to him?

20 A. Because he -- he said he do some -- he do law work, he
21 know law work.

22 Q. He told you that?

23 A. Yeah.

24 Q. Okay. I'm going to show you State's exhibit 4. Okay.

25 Is this you, sir, on this in-car camera?

WILLIAM McKINNEY - CROSS-EXAMINATION BY MR. POLSINELLO

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1 A. Yes.

2 Q. Okay. So this is you after you were subdued and
3 apprehended on the ground and placed in cuffs, they put you in
4 this car?

5 A. Yes.

6 MR. POLSINELLO: Could we turn up the volume, please?

7 THE COURT: That's the loudest ---

8 MR. POLSINELLO: Okay. Thank you, Judge.

9 (Whereupon the video, State's exhibit 4, was played)

10 Q. All right. Mr. McKinney, did you just hear on that video
11 when the officer informed you that someone has just been shot?
12 Did you hear -- did you hear yourself say, "y'all ain't caught
13 him yet?" Did you hear that?

14 A. Play that again.

15 Q. When you say, y'all ain't caught him, who are you
16 referring to?

17 A. I don't know. I was just losing it right there. I was
18 out of it.

19 Q. Okay. So we all know the shooting occurred by now. It's
20 your testimony you didn't know you shot anyone?

21 A. You asking me that?

22 Q. Yes.

23 A. Did I know I shot anyone?

24 Q. Yes.

25 A. No.

WILLIAM McKINNEY - CROSS-EXAMINATION BY MR. POLSINELLO

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- 1 Q. Okay. But you knew you got shot, right?
- 2 A. Yes.
- 3 Q. But yet you asked who got shot?
- 4 A. Yes.
- 5 Q. Are you trying to throw law enforcement off the trail?
- 6 A. No. He told me someone got shot.
- 7 Q. Yeah, you had -- and you had asked who got shot. You
- 8 didn't tell them that you got shot?
- 9 A. They knew I was shot.
- 10 Q. Okay. Lastly, I'm going to show you State's exhibit 5.
- 11 This is indictment 2020 -- 12-GS-23-000668. You see your name
- 12 there?
- 13 A. Yes.
- 14 Q. Right here?
- 15 A. Yes.
- 16 Q. Charged with murder?
- 17 A. Yes.
- 18 Q. Do you recognize this indictment?
- 19 A. Yes.
- 20 Q. For the shooting and killing of Raheem Robinson on August
- 21 6th, 2012 in Greenville County, correct?
- 22 A. Yes.
- 23 Q. Right here the sentencing sheet that you signed and pled
- 24 guilty to, you see this blue check mark right here?
- 25 A. Yes.

WILLIAM McKINNEY - REDIRECT EXAMINATION BY MR. BOATWRIGHT

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1 Q. Okay. Can you read that?

2 A. Yes.

3 Q. Okay. And so by signing this plea sheet, clearly it
4 states pursuant to 18 U.S.C. section 922 it's unlawful for a
5 person convicted of a violation of this section to ship,
6 transport, possess or receive a firearm, correct?

7 A. Yes.

8 Q. And you signed this sentencing sheet and pled guilty to
9 involuntary manslaughter on October 9th, 2014, correct?
10 There's the date.

11 A. My signature is up under there, but ---

12 Q. There's your signature right there.

13 A. Yeah, I see my signature at the top.

14 Q. Thank you.

15 MR. POLSINELLO: No further questions, Your Honor.

16 THE COURT: Anything on redirect?

17 MR. BOATWRIGHT: Briefly, Your Honor.

18 **Redirect Examination by Mr. Boatwright:**

19 Q. Really quick, William, the jail house snitch video we
20 just watched, did you hear him say that you didn't give him a
21 chance to say anything, you just turned around and shot?

22 A. Yes.

23 Q. You also heard him say that you shot first, correct?

24 A. Yes.

25 Q. But we've seen the video evidence, ---

WILLIAM McKINNEY - REDIRECT EXAMINATION BY MR. BOATWRIGHT

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1 A. He lied.

2 Q. Did you shoot first?

3 A. No.

4 Q. Is it uncommon to talk to other jail people about your
5 case?

6 A. No, everyone does it.

7 Q. Okay. And is it uncommon for a jail house snitch to then
8 try and come forward with evidence ---

9 A. They always ---

10 Q. --- so they can get a better deal?

11 A. Yes.

12 Q. Okay. All right. Then he also said you circled the
13 parking lot one time, but we saw on video you circled it at
14 least twice, correct?

15 A. Yes.

16 Q. So he wasn't accurate in what he was saying?

17 A. No.

18 Q. All right. Now, the -- you were circling the parking lot
19 from four all the way up until like 4:09 before you got out of
20 the parking lot, right?

21 A. Yes.

22 Q. Did you ever see anybody leaving the club?

23 A. No.

24 Q. But the club was closed?

25 A. It closes when everybody leave.

WILLIAM McKINNEY - REDIRECT EXAMINATION BY MR. BOATWRIGHT

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1 Q. What do you do at this club?

2 A. Just -- just mingling, eating, drinking.

3 Q. Do people drink in the parking lot?

4 A. Yes, because the club -- they don't serve alcohol. They
5 can't serve alcohol.

6 MR. BOATWRIGHT: No further questions, Your Honor.

7 THE COURT: All right. Sir, -- anything on re-cross?
8 No?

9 MR. POLSINELLO: No further questions, Your Honor.

10 THE COURT: All right. Sir, you can step down. Who's
11 your next witness? You want ---

12 MR. BOATWRIGHT: Defense would call ---

13 THE COURT: --- to take a break?

14 MR. BOATWRIGHT: --- Jewell ---

15 THE COURT: All right. Let's take -- we're going to take
16 about a 15 minute break.

17 MR. POLSINELLO: Is that 15, Your Honor?

18 THE COURT: Fifteen.

19 MR. POLSINELLO: Fifty?

20 THE COURT: Fifteen.

21 MR. POLSINELLO: Fifteen, okay. I'm sorry.

22 THE COURT: That's all right.

23 MR. POLSINELLO: The acoustics.

24 MR. BOATWRIGHT: Thank you, Judge.

25 THE COURT: All right.

JEWELL SIMPSON - DIRECT EXAMINATION BY MR. BOATWRIGHT

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1 (Whereupon court was in recess at 12:03 pm)

2 (Whereupon court reconvened at 12:26 pm)

3 **THE COURT:** All right. Who's your next witness, Mr.

4 Boatwright?

5 **MR. BOATWRIGHT:** Thank you, Judge. Defense would call

6 Jewell Simpson.

7 **THE COURT:** Jewell Simpson. Sir, raise your right hand.

8 Put your left hand on the Bible and raise your right. You

9 swear or affirm the testimony you'll render today in this

10 proceeding to be the truth?

11 **MR. SIMPSON:** Yes, sir.

12 **THE COURT:** What's your name?

13 **MR. SIMPSON:** Jewell M. Simpson.

14 **THE COURT:** J-e-w-e-l-l S-i-m-p-s-o-n?

15 **MR. SIMPSON:** Yes, sir.

16 **THE COURT:** All right. Have a seat in the witness box.

17 And make sure you speak into that microphone and speak loud

18 enough so not only I can hear you, but both the attorneys as

19 well as the court reporter can hear you.

20 **MR. SIMPSON:** Yes, sir.

21 **THE COURT:** All right. Your witness, counsel, when

22 you're ready.

23 **MR. BOATWRIGHT:** Thank you, Judge. May it please the

24 Court?

25 **THE COURT:** Yes, sir.

JEWELL SIMPSON - DIRECT EXAMINATION BY MR. BOATWRIGHT

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1 Direct Examination by Mr. Boatwright:

2 Q. Jewell, you've been in court this morning, correct?

3 A. Yes, sir.

4 Q. You saw all the videos that were played?

5 A. Yes, sir.

6 Q. On July 4th, 2020 were you at Club Dolce?

7 A. Yes. Well, I was outside in the parking lot on the
8 Chinese restaurant -- on the right side of the Club Dolce.

9 Q. Okay. Were you in that group of people that William
10 McKinney was talking with?

11 A. Yes, sir.

12 Q. Which car was yours?

13 A. The red car.

14 Q. What were y'all doing?

15 A. Just talking and trying to find some girls to get up with
16 and just waiting for the club to close. It wasn't closed yet,
17 so just waiting for some girls to come by and just -- just
18 chillin.

19 Q. What happened when y'all were standing around talking and
20 William showed up?

21 A. When he walked up, we spoke for a little while. Then I
22 heard somebody say, don't turn around or something. And when
23 I turned around, that's when I seen the security guards coming
24 with the guns, so I kind of backed up.

25 And that's when William started walking away. And they

JEWELL SIMPSON - DIRECT EXAMINATION BY MR. BOATWRIGHT

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1 shot. And that's when I started ducking. When I heard the
2 first shot, I started getting down.

3 Q. Okay. Did you hear the security guards say anything to
4 William?

5 A. I mean, I don't -- like, I had my music on, and it's kind
6 of loud. So I don't know if they was talking to William, but
7 I heard them saying something. But everybody was talking and
8 stuff. So when I looked and I seen them with the gun, that's
9 when I started backing up. And that's when they shot, and I
10 ducked behind a car and stuff.

11 Q. Okay. You heard -- you said you heard them say
12 something?

13 A. Yeah.

14 Q. Do you remember what you heard them saying?

15 A. I mean, I heard them say you, hey. I don't know exactly
16 what they said, but everybody was like looking at them because
17 we didn't know exactly -- they didn't say no name. They just
18 was yelling something.

19 Q. Okay.

20 A. So we all looked towards them.

21 Q. Now, before the security guards showed up in that group,
22 was William McKinney -- was he arguing with anybody?

23 A. No. All of us was right there talking. Like we all
24 friends. Like we all know each other.

25 Q. He wasn't trying to fight anybody?

JEWELL SIMPSON - DIRECT EXAMINATION BY MR. BOATWRIGHT

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1 A. Oh, no, sir.

2 Q. Were you aware that William McKinney had been there
3 earlier that night?

4 A. No, I wasn't aware of that. I was -- I got there
5 probably around about 3:30, 3:45. So I didn't see him til I
6 seen him right then.

7 Q. So you got there at 3:30, 3:45-ish?

8 A. I think I got there before -- before that happened. I
9 got there a little time before that happened.

10 Q. Okay. When William McKinney walked up to your group did
11 he have a gun in his hand?

12 A. Oh, no.

13 Q. Did he have a gun in his waistband?

14 A. I didn't see it. I didn't see a gun nowhere.

15 Q. You couldn't see a gun on him?

16 A. Not on him, no, sir.

17 Q. When the security guards approached and William McKinney
18 started walking away, did he pull his gun out?

19 A. No, sir. I actually looked towards the security guards
20 because they was yelling like so loud, but I didn't see no gun
21 nowhere.

22 MR. BOATWRIGHT: No further questions at this time.

23 THE COURT: Cross-examination.

24 MR. POLSINELLO: May it please the Court?

25 THE COURT: Yes, sir.

JEWELL SIMPSON - CROSS-EXAMINATION BY MR. POLSINELLO

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1 **Cross-examination by Mr. Polsinello:**

2 Q. I'm Derek Polsinello with the State. Mr. Simpson, so
3 it's your testimony now you were at the club when this
4 shooting happened?

5 A. Yes, sir.

6 Q. Okay. Did you see the shooting unfold?

7 A. All I seen was William walking away, and I heard the
8 shot. And I just started hearing more shots after that, so I
9 ducked down.

10 Q. Okay.

11 A. Because, like I said, when they started talking, that's
12 when I looked towards them and William started walking off. I
13 did see the gun -- they had the gun up.

14 Q. What's the first thing you remember -- when the shooting
15 stopped, what did you do?

16 A. Got down behind my car.

17 Q. And then what?

18 A. And then left.

19 Q. You got out of there?

20 A. Yeah.

21 Q. Okay. In terms of the actual shooting, firing by both
22 sides, you didn't see that?

23 A. I mean, I seen them say, hey, and they shot, but it was
24 kind of like walking away from us. So I couldn't really ---

25 Q. Okay.

JEWELL SIMPSON - CROSS-EXAMINATION BY MR. POLSINELLO

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1 A. --- just like see.

2 Q. Exactly.

3 A. Yeah.

4 Q. I'm being very specific when I ask this question.

5 A. Okay.

6 Q. In terms of the exchange of gunfire by both parties, you
7 did not observe that, did you?

8 A. I seen the security guard with the shotgun shoot first.

9 Q. Okay. But you just said you were ducked down behind the
10 car.

11 A. After he shot, that's -- after the gunshot, that make you
12 duck down if you ---

13 Q. Okay.

14 A. --- ever been around gunfire.

15 Q. So you saw the security guard shoot first, correct?

16 A. Yes, sir.

17 Q. And then you ducked down behind your car?

18 A. Yes, sir.

19 Q. And you did not see the shooting after that, correct?

20 A. No, sir. I had -- I had my head down after that.

21 Q. Okay. When this was over, when the Defendant was
22 arrested, did you hear about it in the streets?

23 A. Not really 'cause I caught COVID that night, actually.

24 So I was sick for like two weeks. So I didn't hear about it
25 until kind of afterwards.

JEWELL SIMPSON - CROSS-EXAMINATION BY MR. POLSINELLO

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1 Q. Is Mr. McKinney your friend?

2 A. I mean, I know him, yes, sir.

3 Q. He's a friend?

4 A. Yes, we know each other. I've known him for a while,
5 yes.

6 Q. Okay. How long have you known him?

7 A. Probably for about 20 years.

8 Q. That's a long time, isn't it, ---

9 A. Yes.

10 Q. --- 20 years?

11 A. Yes.

12 Q. Okay. After this happened you never chose to follow up
13 to see what happened to him?

14 A. After I got well, I just asked around about what
15 happened, but ...

16 Q. So asking around did you learn that he was arrested for
17 this incident?

18 A. Yes.

19 Q. Okay. Did you ever approach law enforcement to give a
20 statement?

21 A. No.

22 Q. Why not?

23 A. Because I'm pretty sure they -- they had everything they
24 needed. It was so many people out there. I didn't think, I
25 mean, I'm pretty sure somebody told ...

JEWELL SIMPSON - CROSS-EXAMINATION BY MR. POLSINELLO

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- 1 Q. Okay. That's a big assumption, isn't it?
- 2 A. Not -- no.
- 3 Q. Well, Mr. McKinney's your friend, correct?
- 4 A. (Affirmative nod).
- 5 Q. You're here today testifying on his behalf, correct?
- 6 A. Yes.
- 7 Q. He's claiming self-defense, correct?
- 8 A. Yes.
- 9 Q. You were there and saw the beginning of the shooting,
- 10 correct?
- 11 A. Yes.
- 12 Q. And even before what transpired, correct?
- 13 A. Yes.
- 14 Q. So you never thought it was a right decision -- it would
- 15 be the right decision to approach law enforcement to give your
- 16 side?
- 17 A. No.
- 18 Q. So today is the first time on public record in open court
- 19 that you're telling what happened?
- 20 A. Yes.
- 21 Q. From your point of view?
- 22 A. Yes.
- 23 Q. Have you ever been convicted of giving false information
- 24 to police?
- 25 A. Yes.

JEWELL SIMPSON - CROSS-EXAMINATION BY MR. POLSINELLO

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1 Q. And do you remember what year that was?

2 A. Not really what year it was, but I remember.

3 Q. If I told you it was 2006 would that sound correct?

4 A. Yes.

5 Q. That you were convicted of giving false information to
6 police?

7 A. Yes.

8 Q. Have you ever been convicted of carrying an unlawful
9 weapon?

10 A. Yes.

11 Q. Do you remember what year?

12 A. No, can't remember what year.

13 Q. If I told you it was 2007, would that sound familiar?

14 A. Yes.

15 Q. Have you ever been convicted of pointing and presenting a
16 firearm at a person?

17 A. No.

18 Q. You've never been convicted of that?

19 A. No. I -- actually it was pointing or presenting a
20 firearm. The judge said it was a gray area, so I wasn't
21 convicted of that.

22 Q. You weren't convicted?

23 A. No.

24 Q. Okay. Do you know what perjury is?

25 A. Yes.

JEWELL SIMPSON - REDIRECT EXAMINATION BY MR. BOATWRIGHT

95

1 Q. What's perjury?

2 A. Lying under oath.

3 Q. Um-hum (affirmative). And so it's your testimony today
4 that you've never been convicted of pointing and presenting a
5 firearm at a person?

6 A. Again, it got dropped from point and -- it was pointing
7 -- they changed the charge up, so it's not -- no.

8 Q. Okay. Have you ever done any federal prison time?

9 A. Yes.

10 Q. When?

11 A. From 2010 to 2018.

12 Q. For what?

13 A. Conspiracy.

14 Q. Okay. What else?

15 A. Unlawful -- well, I meant conspiracy and a firearm.

16 Q. Okay. What about selling cocaine? Was that part of the
17 charge ---

18 A. That was part of the conspiracy.

19 Q. Okay. You pled guilty to those charges and did federal
20 time?

21 A. Yes.

22 Q. Okay. Thank you.

23 MR. POLSINELLO: No further questions.

24 MR. BOATWRIGHT: Very briefly, Your Honor.

25 **Redirect Examination by Mr. Boatwright:**

JEWELL SIMPSON - REDIRECT EXAMINATION BY MR. BOATWRIGHT

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1 Q. Did the police, or any investigator or any solicitor ever
2 come and talk to you and ask you what happened?

3 A. No.

4 Q. Thank you.

5 **MR. BOATWRIGHT:** No further questions.

6 **THE COURT:** Anything else?

7 **MR. POLSINELLO:** (Negative nod).

8 **THE COURT:** Sir, you can step down.

9 **MR. POLSINELLO:** No further questions, Your Honor.

10 **THE COURT:** All right. Who's your next witness, Mr.
11 Boatwright?

12 **MR. BOATWRIGHT:** It'll be Officer Isaac McKenzie.
13 Correction, Your Honor, Deputy Isaac McKenzie.

14 **THE COURT:** All right. Mr. McKenzie, would you raise
15 your right hand. Do you swear or affirm the testimony you'll
16 render in this proceeding today will be the truth?

17 **MR. McKENZIE:** I do.

18 **THE COURT:** All right. Have a seat. And speak into that
19 microphone. Speak loud enough so that everybody can hear you.

20 **MR. McKENZIE:** Yes, sir.

21 **THE COURT:** All right. Mr. Boatwright, whenever you're
22 ready.

23 **MR. BOATWRIGHT:** Thank you, Judge. May it please the
24 Court?

25 **THE COURT:** Um-hum (affirmative).

ISAAC McKENZIE - DIRECT EXAMINATION BY MR. BOATWRIGHT

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1 Direct Examination by Mr. Boatwright:

2 Q. Deputy McKenzie, you were involved in an investigation of
3 this shooting that took place on July 4th, 2020, correct?

4 A. I responded to the incident location.

5 Q. All right. When you responded did you talk to
6 eyewitnesses that were on the scene?

7 A. Not all of them, but I talked to a few.

8 Q. Okay. Do you remember talking with a Javaris Barksdale?

9 A. I believe so.

10 Q. And can you tell me what Javaris Barksdale told you
11 happened?

12 A. The witness that I spoke to, Javaris Barksdale, he
13 advised that he witnessed the end of the altercation, went
14 into the rear of the establishment. Barksdale stated one of
15 the establishment security guards, along with the victim,
16 approached the subject, stated, get your hands out of your
17 pocket, stop reaching in your pocket.

18 Barksdale stated while security officer gave loud, verbal
19 commands he continued towards the subject with what he
20 believed to be a bean-bag shotgun. Barksdale stated he
21 believed the security officer fired two shots before the
22 subject discharged his firearm. Barksdale stated he observed
23 a black male wearing a white tank top discharge a firearm
24 several times in the direction of the victim.

25 Q. That's fine there. All right. So just to -- just to

ISAAC McKENZIE - CROSS-EXAMINATION BY MR. POLSINELLO

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1 clarify, Barksdale told you that security guards approached
2 William McKinney and said, take your hands out of your
3 pockets?

4 A. Yes.

5 Q. Then stop reaching in your pocket?

6 A. That's what he told me.

7 Q. He did not tell you that he heard them say, put down the
8 firearm?

9 A. Not that I can remember.

10 Q. He did not tell you that he heard him say, drop the gun?

11 A. Not that I can remember.

12 Q. He did not tell you that he heard him say, William
13 McKinney?

14 A. Not that I can remember.

15 Q. And then, lastly, he told you that the security guard
16 shot first?

17 A. Yeah, I believe that's what he said.

18 Q. He said the security guard actually shot twice, correct?

19 A. According to my report, yes, sir.

20 Q. All right. Thank you very much.

21 **MR. BOATWRIGHT:** No further questions.

22 **THE COURT:** All right.

23 **Cross-examination by Mr. Polsinello:**

24 Q. Deputy McKenzie, your involvement in this case, did you
25 ever see the security footage?

ISAAC McKENZIE - CROSS-EXAMINATION BY MR. POLSINELLO

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1 A. No.

2 Q. Okay. So at the time that you spoke to eyewitness
3 Barksdale, you didn't see him in the security video?

4 A. No, sir.

5 Q. Did you ever talk to Investigator Tracy King ---

6 A. No, sir.

7 Q. --- about what happened on the video?

8 A. No, sir.

9 Q. Did you ever see the police chase, and the body cameras
10 or in-cars of the police chase of this Defendant?

11 A. No, sir.

12 Q. Okay. So is it fair to say that your involvement in this
13 case was fairly limited in terms of arriving on-scene and
14 talking to a couple of witnesses in this case?

15 A. Yeah, everybody plays a role, and I played my role.

16 Q. Yep.

17 A. Arrived on-scene.

18 Q. Do you have your report in front of you?

19 A. Yes, sir.

20 Q. Page 2, second paragraph. So per your report, witness
21 Barksdale told you, "the victim approached the subject and
22 stated, get your hands out of your pocket and stop reaching in
23 your pockets", is that correct?

24 A. Yes, sir.

25 Q. Thank you.

SHAWN CUTTING - DIRECT EXAMINATION BY MR. BOATWRIGHT

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1 **MR. POLSINELLO:** No further questions.

2 **THE COURT:** Anything else, Mr. Boatwright?

3 **MR. BOATWRIGHT:** No, Your Honor.

4 **THE COURT:** All right. You can step down. Thank you,
5 sir.

6 A. Thank you.

7 **THE COURT:** All right. Who's your next witness?

8 **MR. BOATWRIGHT:** Defense would all Detective Cutting.

9 **THE COURT:** All right.

10 **MR. BOATWRIGHT:** Shawn Cutting, Your Honor.

11 **THE COURT:** Come on up. Sir, place your left hand on the
12 Bible, raise your right. Do you swear or affirm that the
13 testimony you'll render today in this proceeding will be the
14 truth?

15 **MR. CUTTING:** Yes, sir.

16 **THE COURT:** All right. Have a seat. What's your full
17 name?

18 **MR. CUTTING:** Shawn Cutting.

19 **THE COURT:** Shawn, that's S-h-w-n?

20 **MR. CUTTING:** S-h-a-w-n.

21 **THE COURT:** All right.

22 **MR. CUTTING:** C-u-t-t-i-n-g.

23 **THE COURT:** C-u-t -- okay. Thank you, sir. Yes, sir.

24 **Direct Examination by Mr. Boatwright:**

25 Q. Good afternoon, Investigator Cutting. You were involved

SHAWN CUTTING - DIRECT EXAMINATION BY MR. BOATWRIGHT

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1 in this investigation of the shooting on July 4th, 2020
2 involving William McKinney?

3 A. Briefly, yes.

4 Q. And that involvement involved you interviewing the
5 security guards, correct?

6 A. Correct.

7 Q. Did you also interview -- in those interviews did you go
8 over any of the -- the other written statements or other
9 statements from other witnesses?

10 A. I didn't have any involvement in the case other than
11 those two.

12 Q. Just interviewing ---

13 A. Those interviews.

14 Q. Okay. So I'm going to talk with you about your interview
15 with Carlos Jenkins. So Carlos Jenkins in this situation, he
16 is the security guard carrying the shotgun, correct?

17 A. I believe so. I don't recall, to be the honest truth.

18 Q. Have you reviewed his written statement in preparation
19 for today?

20 A. Briefly.

21 Q. Okay. Just to make it a little easier, that is his
22 statement, correct?

23 A. Yes, sir.

24 Q. What did Carlos Jenkins say happened on that night?

25 A. You want me to just read his statement?

SHAWN CUTTING - DIRECT EXAMINATION BY MR. BOATWRIGHT

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1 Q. That's fine.

2 A. Is that what you're asking?

3 Q. Yeah, that's fine.

4 A. I, Carlos Jenkins, was working security at Club Dolce in
5 Greenville, South Carolina ---

6 **THE COURT:** Okay. Hold on a second. You're reading it
7 to yourself. The court reporter has to hear you, so you've
8 got to ---

9 A. Oh, okay.

10 **THE COURT:** You've got to ---

11 A. Sorry.

12 **THE COURT:** --- keep your voice up. All right.

13 A. I'll start over.

14 **THE COURT:** All right.

15 A. I, Carlos Jenkins, was working security at Club Dolce in
16 Greenville, South Carolina. Around closing a young lady came
17 to me and let me know, keep an eye on -- I believe he was
18 trying to say silver, it's misspelled, pickup truck because
19 his beefing with someone in the partying -- parking lot. So
20 myself and Green started over there after seeing the guy
21 circle around the club three times.

22 I came up behind him and asked him to let me see his
23 hands multiple times. At that time he removed a black handgun
24 out of his right pocket. I fired two rubber rounds from my 12
25 gauge shotgun, and started firing at me and Green. I got

SHAWN CUTTING - DIRECT EXAMINATION BY MR. BOATWRIGHT

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1 behind a car and returned fire with a Glock 21 .45. Then --
2 then he ran and jumped over the fence.

3 Q. So Carlos Jenkins told you and wrote a statement that he
4 decided to approach William McKinney because a female told him
5 to be on the look-out for him?

6 A. Yes, I believe so.

7 Q. Okay. So he didn't say that they approached McKinney
8 because McKinney had been in an altercation earlier that
9 night?

10 A. I don't recall.

11 Q. Well, you just read his statement. Was it in his
12 statement?

13 A. May I re-read it?

14 Q. Yeah.

15 A. Restate your question for me.

16 Q. He did not say that the reason he approached William
17 McKinney was because William McKinney had been in an
18 altercation in the club earlier that night?

19 A. No, I don't -- that's correct.

20 Q. And he did not say that the reason they approached
21 William McKinney was because William McKinney flashed a gun to
22 Monieque Green?

23 A. Correct.

24 Q. So the only reason that he says they approached William
25 McKinney was because a random female told them, be on the

SHAWN CUTTING - DIRECT EXAMINATION BY MR. BOATWRIGHT

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1 look-out for this guy, he's beefing with somebody?

2 A. I believe that's correct.

3 Q. All right. He then says that he told William McKinney,
4 take your hands out of your pockets?

5 A. Correct.

6 Q. And that when William McKinney took his hands out of his
7 pockets he had a firearm?

8 A. Correct.

9 Q. In your interview did y'all talk -- do you recall talking
10 to Carlos Jenkins about his certification to carry that
11 firearm?

12 A. When I re-watched the interview for this hearing, yes.

13 Q. Was he -- was Carlos Jenkins certified to be a licensed
14 armed security guard?

15 A. I don't recall. As I'm sitting here, I don't recall what
16 he said.

17 Q. All right. So when you talked to Carlos Jenkins in that
18 interview room, in that video you watched to refresh your
19 memory for it, Lamar James was with him, correct?

20 A. Correct.

21 Q. And y'all talked to both of them at the same time?

22 A. Correct.

23 Q. In the same room?

24 A. Correct.

25 Q. All right. So did Lamar James -- I'm going to give you

SHAWN CUTTING - DIRECT EXAMINATION BY MR. BOATWRIGHT

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1 his statement. It's got your name on the top. And it says
2 Lamar James, James. Is that -- did you write that statement
3 or did he write that statement?

4 A. This isn't -- isn't his statement. This is just my notes
5 from the interview.

6 Q. Okay. So that's your notes from the interview?

7 A. Yes.

8 Q. Awesome. So have you reviewed those notes recently?

9 A. I did.

10 Q. Okay. What did Lamar James say happened?

11 A. Took cover during the shooting. He had a vehicle backing
12 up, so he was trying not to get run over. He saw Green had
13 been shot, so he went over to render aid. He saw the suspect
14 jump over a fence. He ---

15 Q. Okay. I'm going -- I'm going to stop you right there
16 real quick. I want you to back up further. What does Lamar
17 James say is the reason they approached William McKinney?

18 A. I'm not seeing it. Are you able to point it out?

19 Q. It's right here in the beginning.

20 (Whereupon Mr. Boatwright approached the witness)

21 A. So repeat your question for me.

22 Q. So what is Lamar -- what does Lamar James say started off
23 the incident?

24 A. He didn't start off the incident.

25 Q. No, I mean, what does he say started it?

SHAWN CUTTING - DIRECT EXAMINATION BY MR. BOATWRIGHT

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- 1 A. Jenkins ...
- 2 Q. Okay. Lamar James told y'all that a female came up and
3 told Jenkins, watch out for this guy?
- 4 A. A female told Jenkins about a guy that pulled into the
5 parking lot in a gray Ford F-350 dually.
- 6 Q. Okay. To watch out for him, correct?
- 7 A. Yes. This guy was feuding with another guy that was at
8 -- was at the club. Female stressed to watch him because he
9 was going to shoot somebody.
- 10 Q. All right. And then what does he say happened after
11 that?
- 12 A. He circled the parking lot three times and got out.
13 Suspect was engaged by Jenkins just before -- I can't -- I
14 can't read that particular word, but just before -- just
15 before reaching the crowd.
- 16 Q. Okay. So he says they engaged William McKinney before he
17 made it to the crowd of people, correct?
- 18 A. Correct.
- 19 Q. You saw the videos today, correct?
- 20 A. Yes.
- 21 Q. And William McKinney was clearly in the crowd, that group
22 of people, when the security guards approached him, was he
23 not?
- 24 A. I believe so, yes.
- 25 Q. Okay. We're going to go from right here. So he -- Lamar

SHAWN CUTTING - DIRECT EXAMINATION BY MR. BOATWRIGHT

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1 James then goes on to say that Jenkins told William McKinney,
2 take your hands out your pockets?

3 A. Correct.

4 Q. What's he say after that?

5 A. He pulled his hand from a pocket and pulled out a black
6 semi-auto pistol.

7 Q. Okay. And what did he say that he did with the pistol
8 once he pulled it out of his pocket?

9 A. Suspect pulled into a shooting position in front of him,
10 meaning both hands together.

11 Q. Okay. So he says that William McKinney pulled his gun
12 and put both hands on the gun and was pointing it?

13 A. Correct.

14 Q. Okay. So he then says -- he then goes on to say, if you
15 don't recall, just tell me and I'll get this back to you, but
16 he then goes on to say that he was told several times to drop
17 the gun?

18 A. Yes.

19 Q. And once he refused, that is when Jenkins fired, shooting
20 William McKinney?

21 A. Correct.

22 Q. All right. You didn't -- you did not do Monieque Green,
23 correct?

24 A. Correct.

25 Q. Statement?

SHAWN CUTTING - DIRECT EXAMINATION BY MR. BOATWRIGHT

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1 A. Correct.

2 Q. All right. Have you seen his statement?

3 A. No.

4 **MR. POLSINELLO:** Your Honor, I'm going to object to what
5 Defense attorney's going to offer. He's offering the victim's
6 statement. We have the investigator here who interviewed this
7 victim that can answer any questions that Mr. Boatwright has.

8 **MR. BOATWRIGHT:** Judge, ---

9 **MR. POLSINELLO:** Investigator Cutting did not interview
10 the victim.

11 **MR. BOATWRIGHT:** I didn't know the investigator was here,
12 Judge.

13 **THE COURT:** Well, I think -- that's the proper vehicle,
14 not ---

15 **MR. BOATWRIGHT:** Okay. If he's here, I'm perfectly fine
16 with questioning him on it, Judge.

17 **THE COURT:** All right. And let me just ask you this.
18 Earlier you had three exhibits that you had marked for
19 identification. You never introduced them. So I want to make
20 sure the record's clear. You didn't introduce those
21 documents, so you don't intend to do that? I'm just asking
22 you.

23 **MR. BOATWRIGHT:** At this time -- at this time I do not
24 currently intend to introduce them into evidence. I was just
25 using them for identification purposes.

SHAWN CUTTING - CROSS-EXAMINATION BY MR. POLSINELLO

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1 **THE COURT:** All right. And I think, Mr. Polsinello, you
2 had one that I think you did introduce or you did -- did you
3 introduce it for purposes of identification or did you
4 introduce it?

5 **MR. POLSINELLO:** We introduced them as exhibits.

6 **THE COURT:** Okay.

7 **MR. POLSINELLO:** There were six of them. And whenever
8 the next break is, we'll -- we'll pre-mark them and put them
9 in for ---

10 **THE COURT:** Yeah. Just wanted to make sure the record's
11 clean. Okay. Very good. Go ahead, Mr. Boatwright.

12 **MR. BOATWRIGHT:** That is -- that's it. No further
13 questions.

14 **THE COURT:** All right. Yes, sir.

15 **Cross-examination by Mr. Polsinello:**

16 Q. Investigator Cutting, is it fair to say that your
17 involvement in this case was limited?

18 A. Very fair to say.

19 Q. Okay. Right after the shooting occurred at this incident
20 location did you ever arrive on-scene?

21 A. No, sir.

22 Q. You never -- in terms of interviewing these witnesses,
23 Carlos Jenkins and Ulysses Lamar James, they were brought to
24 the LEC where you were?

25 A. That's correct?

SHAWN CUTTING - CROSS-EXAMINATION BY MR. POLSINELLO

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1 A. Okay. So your involvement merely was taking their
2 statements, correct?

3 A. That is correct.

4 Q. Did you ever see this -- before today did you ever review
5 the surveillance video to try and match it up to what the
6 witnesses said?

7 A. Surveillance video to what?

8 Q. Of the shooting?

9 A. No, sir.

10 Q. Okay. So in terms of what these witnesses said, you
11 don't know if that was the truth or not, correct?

12 A. Correct.

13 Q. At the time when you took their statements?

14 A. That's correct.

15 Q. Your job was just to merely take their statements and
16 record it, correct?

17 A. That's correct.

18 Q. Thank you.

19 **MR. POLSINELLO:** No further questions.

20 **THE COURT:** All right. Anything on redirect?

21 **MR. BOATWRIGHT:** No, Your Honor.

22 **THE COURT:** All right. You can step down. All right.

23 What we're going to do now is it's about approaching 1:00.

24 We're going to take a lunch break. And we'll reconvene at

25 2:30, okay?

BRYAN THRELKELD - DIRECT EXAMINATION BY MR. BOATWRIGHT

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1 **MR. POLSINELLO:** Yes, Your Honor.

2 **MR. BOATWRIGHT:** Thank you, Your Honor.

3 **THE COURT:** All right. You can leave all your items in
4 the courtroom if you so desire.

5 (Whereupon court was in recess at 12:54 pm)

6 (Whereupon State's exhibits 1 - 6 were marked for
7 identification)

8 (Whereupon court reconvened at 2:41 pm)

9 **THE COURT:** All right. Mr. Boatwright, you can call your
10 next witness.

11 **MR. BOATWRIGHT:** Thank you, Judge. May it please the
12 Court?

13 **THE COURT:** Yes, sir.

14 **MR. BOATWRIGHT:** Defense calls Investigator Bryan
15 Threlkeld.

16 **THE COURT:** Place your left hand on the Bible and raise
17 your right. You swear or affirm that the testimony that
18 you'll render in this proceeding will be the truth?

19 **MR. THRELKELD:** I do.

20 **THE COURT:** Your name?

21 **MR. THRELKELD:** Bryan Threlkeld.

22 **THE COURT:** Spell your last name.

23 **MR. THRELKELD:** T-h-r-e-l-k-e-l-d.

24 **THE COURT:** All right. Thank you, sir. Yes, sir.

25 **MR. BOATWRIGHT:** Thank you. May it please the Court?

BRYAN THRELKELD - DIRECT EXAMINATION BY MR. BOATWRIGHT

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1 Direct Examination by Mr. Boatwright:

2 Q. Were you involved in this case -- were you involved in
3 the shooting on July 4th, 2020?

4 A. I assisted Investigator Cutting in interviewing three
5 people.

6 Q. And one of the people you interviewed was Carlos Jenkins,
7 correct?

8 A. That's correct.

9 Q. Do you recall Carlos Jenkins telling you in that
10 interview what had happened that night?

11 A. I do.

12 Q. All right. Did Carlos Jenkins tell you that there were
13 some altercations in the club that night?

14 A. No. He did not say that.

15 (Whereupon Mr. Boatwright approached the witness)

16 A. Well, it says they were -- minor stuff that would be in a
17 club, but not -- not involving ...

18 Q. William McKinney?

19 A. Correct.

20 Q. Okay. So he said there were altercations, but nothing
21 involving William McKinney?

22 A. Correct.

23 Q. All right. So he then went on to tell you about the
24 altercation that happened with William McKinney, correct?

25 A. Yes.

BRYAN THRELKELD - DIRECT EXAMINATION BY MR. BOATWRIGHT

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1 Q. All right. And he told you that he approached William
2 McKinney and told him to pull his hands out of his pockets?

3 A. Not at first -- at first, yes. He said he had been
4 approached by a female that said Mr. McKinney had a -- well,
5 he didn't say Mr. McKinney, just pointed his vehicle out and
6 said he's got a gun, and he's here to do whatever.

7 Q. Okay. And then -- so then they approached?

8 A. They approached. And he said he had his hands in his
9 pocket. At least one of his hands was in his pocket.

10 Q. All right.

11 A. And so he asked him to take his hand out of his pocket.

12 Q. All right. And then once he told William to do that,
13 what happened next?

14 A. He took his hands out of the pocket, and he had a gun in
15 his hand.

16 Q. Did he tell him to put down the gun or anything?

17 A. He said he did, I believe. Let's see. Yes. He said he
18 ordered him to drop the weapon, and he refused.

19 Q. What did he do once William McKinney refused to put down
20 the weapon?

21 A. He said after -- after McKinney turned around he fired a
22 less than lethal rubber ball round from his shotgun.

23 Q. All right. Do you know where he shot William McKinney
24 at?

25 A. I do not.

BRYAN THRELKELD - CROSS-EXAMINATION BY MR. POLSINELLO

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1 Q. In talking with Jenkins did Jenkins tell you if he knew
2 who William McKinney was?

3 A. I believe there -- I can't remember if it was Jenkins or
4 James, but somebody said a bartender was familiar with him,
5 that they were, in fact, going fishing the following day.

6 Q. Okay. But at the time of the incident he did not ---

7 A. They didn't -- they didn't know who he was, no.

8 Q. They didn't know that he was a convicted felon?

9 A. No.

10 Q. They didn't know that he was illegally in possession of a
11 firearm?

12 A. I don't reckon. I mean, I don't know what they knew
13 about him.

14 Q. He didn't tell you that they knew that?

15 A. Correct.

16 Q. And he also didn't tell you that they saw a gun anytime
17 before he pulled his hand out of his pocket?

18 A. Not before.

19 Q. Thank you.

20 MR. BOATWRIGHT: No further questions.

21 THE COURT: Cross-examination.

22 **Cross-examination by Mr. Polsinello:**

23 Q. Investigator Threlkeld, so your involvement in this case
24 was limited? Is that fair to say?

25 A. Just to those three interviews.

ALVIN TRACY KING - DIRECT EXAMINATION BY MR. BOATWRIGHT

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1 Q. So you didn't respond to the scene?

2 A. No.

3 Q. Where the shooting occurred?

4 A. No, I did not.

5 Q. You didn't review the surveillance video to confirm what
6 these witnesses told you, if it matched the video?

7 A. First time I saw it was today.

8 Q. Okay. So in terms of what the witnesses said, you don't
9 know if it's truth or not other than from what you saw on the
10 video today?

11 A. Correct. They just answered the questions.

12 Q. Okay. Thank you.

13 MR. POLSINELLO: No further questions.

14 THE COURT: Anything on redirect?

15 MR. BOATWRIGHT: No, Your Honor.

16 THE COURT: All right, sir, you can step down.

17 Appreciate it. Any other witnesses, Mr. Boatwright?

18 MR. BOATWRIGHT: Yes, Judge. Lastly, Defense would call
19 Investigator King. Retired Investigator King.

20 THE COURT: All right. Place your left hand on the Bible
21 and raise your right. Do you swear or affirm the testimony
22 you'll render in this matter to be the truth?

23 MR. KING: Yes, sir.

24 THE COURT: All right. Have a seat. You're Alvin King?

25 MR. KING: Yes, sir. Alvin Tracy King.

ALVIN TRACY KING - DIRECT EXAMINATION BY MR. BOATWRIGHT

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1 THE COURT: All right.

2 Direct Examination by Mr. Boatwright:

3 Q. Good afternoon, Mr. King. You were the lead investigator

4 ---

5 A. Yes, sir.

6 Q. --- involving the shooting? All right. So as the lead

7 investigator one of the people that you took a witness

8 statement from was Monieque Green, correct?

9 A. Yes, sir.

10 Q. And Monieque Green was the person that was shot by

11 William McKinney, correct?

12 A. That's correct.

13 Q. So my first question for you about Monieque Green, was

14 Monieque Green a SLED --- licensed SLED armed security guard

15 ---

16 A. No, sir.

17 Q. --- on the date of this incident?

18 A. No, sir.

19 Q. He was not?

20 A. No, sir.

21 Q. But he was armed, correct?

22 A. That's correct.

23 Q. All right. So he was illegally in possession of a

24 firearm? He was illegally carrying the weapon?

25 A. But he was -- he was armed at the time.

ALVIN TRACY KING - DIRECT EXAMINATION BY MR. BOATWRIGHT

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1 Q. Which would be illegal if he's not licensed, correct?

2 A. It could be construed as that, yes.

3 Q. All right. So I'd like to talk with you about Monieque's
4 statement.

5 A. Okay.

6 Q. All right. So Monieque -- have you read his statement
7 here recently?

8 A. I glanced over it, but, no.

9 Q. Let me just give it to you. And if you can, what we can
10 do is you can just go ahead and read that for us.

11 A. Okay. This was taken on 9/3 of 2020. It says, I,
12 Monieque Green, was patrolling the club parking lot with Lamar
13 James when a young lady approached Lamar and myself about a
14 guy that had pulled in a parking lot of the club in a pickup
15 truck. She told us that he was a known troublemaker and to
16 keep an eye on him.

17 I observed him driving around the parking lot a few
18 times. He stopped his truck in the parking lot blocking all
19 traffic from passing. So I told him he needs to move the
20 truck so cars can leave. He got mad and stated that he was
21 not blocking the road. I told him to move again.

22 And then he stated -- or started to move the truck. He
23 lifted up a gun near his face, showing me that he had a gun
24 and stated I was not the only one with a gun. And he drove
25 off and parked his truck.

ALVIN TRACY KING - DIRECT EXAMINATION BY MR. BOATWRIGHT

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1 Said, I asked Lamar did he see what -- what he did and
2 stated, yeah. Said, I called Carlos on the radio and told him
3 what had happened. Said, I watched as he moved around the
4 parking lot talking to different groups of people. And he --
5 he started walking to the back of the parking lot.

6 Carlos regrouped with me and Lamar. I pointed him out to
7 Carlos, and we started approaching him. Carlos started giving
8 him commands to get on the ground and to keep his hands out of
9 his pockets. He refused and started to reach in his pocket.
10 That's when Carlos shot him one time in the back with a bean-
11 bag round.

12 After he was hit with the bean-bag round, he started
13 ducking behind cars. I tried to cut him off. And as I was
14 coming around a car, I seen him standing with a gun in his
15 hand and he started shooting in my area.

16 Says, I returned two shots before I ended up on the
17 ground from being shot. As I was laying on the ground I could
18 hear a few more shots, but didn't know where they was coming
19 from. And the police arrived. They told -- they told him
20 which way he ran off to. And EMS arrived to assist me.

21 Q. All right. So Monieque says that the young lady came up
22 and told him and Lamar to keep an eye on William McKinney?

23 A. On the guy in the truck.

24 Q. But Carlos Jenkins said that the woman came up to him?

25 A. That's correct.

ALVIN TRACY KING - DIRECT EXAMINATION BY MR. BOATWRIGHT

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1 Q. And Lamar James never mentioned being with Monieque Green
2 and a woman coming up and telling them, keep an eye on him,
3 showing a gun?

4 A. No, he didn't.

5 Q. So between these three security guards, they're all three
6 saying a little different stuff, right?

7 A. They are.

8 Q. Okay. Now, Monieque was shot. He was the victim,
9 correct?

10 A. That's correct.

11 Q. And he says that Carlos Jenkins shot William McKinney in
12 the back for not taking his hands out of his pockets?

13 A. From his -- from what he observed, yes, that's what he
14 said.

15 Q. So he did not see William McKinney pull a gun?

16 A. No.

17 Q. He saw Carlos Jenkins shoot William McKinney in the back?

18 A. That's correct.

19 Q. Lamar James and Jenkins, they were interviewed together,
20 correct?

21 A. Yes.

22 Q. And Lamar James did not give a written statement, did he?

23 A. No, he did not.

24 Q. All right. So based on your investigation, what we've
25 been able to gather, is that they approached William McKinney

ALVIN TRACY KING - DIRECT EXAMINATION BY MR. BOATWRIGHT

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- 1 from behind, correct?
- 2 A. That's correct.
- 3 Q. And this is in a parking lot, crowd of people around,
- 4 correct?
- 5 A. That's correct.
- 6 Q. And William McKinney is walking away from armed men,
- 7 correct?
- 8 A. He's walking away from security guards, yes.
- 9 Q. And these security guards all say different reasons for
- 10 why they're approaching him?
- 11 A. Somewhat, yes.
- 12 Q. Monieque Green says he showed me a gun, said you ain't
- 13 the only one with a gun, and that's the reason he said
- 14 something to Carlos, correct?
- 15 A. That's correct.
- 16 Q. And Carlos says that he was just told by a young lady,
- 17 keep an eye on him. That was his only reason for saying he
- 18 was approaching him, correct?
- 19 A. Well, keep an eye on him, he had a beef with somebody or
- 20 something along those lines, yes.
- 21 Q. He didn't say nothing about William McKinney showing
- 22 Monieque Green a gun?
- 23 A. No.
- 24 Q. He didn't say anything about William McKinney illegally
- 25 possessing a gun?

ALVIN TRACY KING - DIRECT EXAMINATION BY MR. BOATWRIGHT

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1 A. No.

2 Q. Now, in your investigation did you look up what a SLED --
3 a SLED armed security guard would be required to do if they
4 witnessed a crime or suspected a crime?

5 A. It's been later on, and I can't recall everything that
6 I've reviewed, no.

7 Q. Would it surprise you to learn that their policies say
8 that they're supposed to call the police before they do
9 anything?

10 A. Not at all.

11 Q. Seems pretty reasonable, right?

12 A. Um-hum (affirmative).

13 Q. Did Carlos Jenkins, Lamar James or Monieque Green call
14 the police before the shooting?

15 A. To my knowledge, no.

16 Q. I'm going to show you what's been previously marked as
17 Defense exhibits 1, 2 and 3. And we'll start with Defense
18 exhibit 3. So that's been identified as Club Dolce, Dolce.

19 A. Um-hum (affirmative).

20 Q. Do you recognize that?

21 A. I do.

22 Q. All right. A SLED security guard hired and contracted to
23 be an armed security guard at Club Dolce, they're only hired
24 to protect Club Dolce, correct?

25 A. I would say that that in general is correct.

ALVIN TRACY KING - DIRECT EXAMINATION BY MR. BOATWRIGHT

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1 Q. Okay. All right. Now you see the property lines that
2 are on that map, correct?

3 A. I do.

4 Q. All right. And that -- based on the video footage that
5 we've seen, it is fair to say that William McKinney parked his
6 truck in the parking lot of the Chinese restaurant, not Club
7 Dolce, correct?

8 A. Well, the Chinese restaurant that used to be there that
9 wasn't operative at the time, but, yes.

10 Q. Okay. And it'd also be fair to say based upon that
11 property line running down the side of those buildings and
12 based on the video footage that William McKinney was standing
13 in a parking lot that would have belonged to the Chinese
14 restaurant that was not operational, correct?

15 A. That's correct.

16 Q. These are pictures taken of William McKinney on the night
17 of this shooting, correct?

18 A. Um-hum (affirmative).

19 Q. All right. In those shooting -- in those pictures can
20 you tell where he'd been shot?

21 A. Well, and I've been privy to the additional ---

22 Q. Yeah.

23 A. But, yes.

24 Q. Okay.

25 A. Yes.

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1 Q. Thank you.

2 MR. BOATWRIGHT: Defense would move into evidence State
3 -- Defense exhibits 1, 2 and 3, Your Honor.

4 THE COURT: Any objection?

5 MR. POLSINELLO: No objection.

6 THE COURT: All right. So entered without objection.

7 (Whereupon Defendant's exhibits 1, 2 and 3 were admitted
8 into evidence)

9 Q. All right. So if a SLED security guard is only allowed
10 to protect the property that they're contracted to protect,
11 then that would mean that they have no arrest powers or
12 anything else outside of that property, correct?

13 A. Again, it depends on the -- I guess you'd say the
14 definition of what you're characterizing, but, yes.

15 Q. Now, is it -- in your opinion if William McKinney is
16 walking away, just has his hands in his pockets and gets shot,
17 wouldn't it be reasonable for him to think his life's on the
18 line?

19 A. Well, based on -- based on the statements from witnesses
20 and based on, obviously, the video footage, you've got
21 security personnel trying to approach him, trying to make
22 contact with him, and he's actually walking away from them,
23 and he's admitted himself he was trying to get away from them.

24 Q. Um-hum (affirmative).

25 A. So what -- what I would view or what I would think a

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1 reasonable person would view as reasonable would be to stop
2 and, okay, what you want? You know, what's the problem?
3 What's the issue? If I'm not -- if I'm not doing anything
4 wrong, and I've got security approaching me in the same
5 manner, I'm going to stop and ask them, what do you need?
6 What's the problem?

7 Q. Okay.

8 A. So if you want to view it in what a reasonable person
9 would view or what a reasonable person's actions you would
10 believe should be would have been to stop and address the
11 issue with security.

12 Q. Okay. Not based on that, though. You're also assuming
13 that, one, you can recognize and tell that that is security,
14 correct?

15 A. Absolutely. Which your -- the Defendant has already
16 testified ---

17 Q. He said he didn't know they were security ---

18 A. --- that -- he said he did not know, however, he'd
19 already made contact with them. So he's already had contact
20 with security when the one security officer stopped him and
21 told him he needed to move his truck.

22 Q. Okay.

23 A. He was impeding traffic. He was impeding the flow of
24 traffic. So he's already made contact with security.

25 Q. Well, ---

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1 A. That he recognized as security.

2 Q. Okay. And that would be specifically Monieque Green,
3 correct?

4 A. That's correct. Prior to -- prior to the incident
5 occurring.

6 Q. Now was Monieque Green carrying a shotgun during that
7 incident?

8 A. I would have to review -- but I don't think Monieque
9 Green was carrying a shotgun. I'm not -- I'm not sure.

10 Q. Only Carlos Jenkins was carrying a shotgun?

11 A. Right.

12 Q. Okay. So Monieque Green didn't have a shotgun?

13 A. Correct.

14 Q. So his encounter with Monieque Green was with,
15 essentially what he believed at that time, an unarmed man?

16 A. Well, I mean, you could infer that due to the nature of
17 the club, the history of the club, that security at that
18 location will be armed.

19 Q. Okay.

20 A. So ---

21 Q. All right. So you brought up the history of the club.
22 What do you mean? There's a lot of shootings there?

23 A. There have been issues out there.

24 Q. In fact, Carlos Jenkins actually talked to you about
25 people with guns at this club, didn't he?

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1 A. That, I don't -- I don't recall. I may have -- he may
2 have, but I don't recall that.

3 Q. Okay. So in his interview when y'all were talking he
4 told you -- you'd asked him, you know, why the shotgun with
5 the rubber bullets? He was like, well, I didn't -- I didn't
6 want to kill him.

7 A. Right.

8 Q. We've got people out there with guns all the time.

9 A. Right.

10 Q. So it's very common for people out there to have a gun?

11 A. I wouldn't doubt that.

12 Q. Okay. And it's not illegal to just have a gun? Just in
13 general, it's not illegal to possess a gun?

14 A. It depends on their background and it depends on ---

15 Q. If they're licensed or not?

16 A. But if you're in -- and if you're in a club and -- of
17 course, everybody calls it -- some people call it a
18 restaurant, some people call it a club. But for what the --
19 the patrons was actually using that location for and bringing
20 their own alcohol, ---

21 Q. Um-hum (affirmative).

22 A. --- you know, marijuana, drugs at the scene, which is not
23 uncommon, ---

24 Q. Um-hum (affirmative).

25 A. --- I would -- I would say that firearms should not be

ALVIN TRACY KING - DIRECT EXAMINATION BY MR. BOATWRIGHT

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- 1 there, period.
- 2 Q. Well, ---
- 3 A. But ---
- 4 Q. But it wouldn't be illegal? I could go ---
- 5 A. Again, ---
- 6 Q. If that club was open, I ---
- 7 A. --- it would depend -- again, it would depend on their
- 8 background, ---
- 9 Q. Yeah.
- 10 A. --- as far as ---
- 11 Q. I get that.
- 12 A. --- being illegal.
- 13 Q. But just having a gun there is not illegal? For example,
- 14 I have a CWP. If that club was operational today, I could go
- 15 to that club with my CWP and it wouldn't be illegal?
- 16 A. I don't -- I think that's frowned upon. I don't think
- 17 that's ---
- 18 Q. No, no. I'm not asking if it's frowned upon, if it's --
- 19 I'm asking if it's legal? Now it wouldn't be illegal to carry
- 20 a concealed weapon if I had a license to carry that concealed
- 21 weapon to a parking lot of a club, correct?
- 22 A. That's correct.
- 23 Q. Okay. So it's not illegal?
- 24 A. Right.
- 25 Q. All right. So even if they knew that William McKinney

ALVIN TRACY KING - DIRECT EXAMINATION BY MR. BOATWRIGHT

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1 had a gun, they didn't know that what he would -- having that
2 gun was illegal?

3 A. No. But ---

4 Q. Okay. So let's get back to just the basics of it.

5 A. Okay.

6 Q. As you said, reasonable person. Let's just cut it and
7 call it what it is. I'm a security guard at a club. I come
8 up to you. You have no idea why. You're in a group with
9 people talking. I'm walking at you with a shotgun. You start
10 walking away. I shoot you in the back. You following so far?

11 A. I'm following you, yes.

12 Q. All right. Should you be arrested?

13 A. If it was as you stated, ...

14 Q. Then, no, correct?

15 A. I would say, no.

16 Q. All right. So we're on the same page there. So when we
17 break this down to the basics, I mean, we just look at the
18 evidence, not what Carlos Jenkins wants to say happened, which
19 contradicts what Monieque Green says happened, which
20 contradicts what Lamar James says happened, if we just look at
21 the physical evidence, the video footage, we see William
22 McKinney walking away, correct?

23 A. You can put it that way, yes.

24 Q. And you see William McKinney get shot?

25 A. Um-hum (affirmative).

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1 Q. And the physical evidence on William McKinney's body
2 shows that he was shot in the back?

3 A. That's correct. On the left, I believe, the left side.

4 Q. The left side. All right. So just the physical evidence
5 that we have, he's walking away and he's shot in the back. So
6 the only thing that really determined that you had to look at
7 in this investigation was why did this shooting happen, right?

8 A. Um-hum (affirmative).

9 Q. So let's talk about the why it happened. Based on your
10 investigation, based on all these different statements, what's
11 the one reason -- why did they approach William McKinney?

12 A. Everything that came out during the course of the
13 investigation, basically the fact that William McKinney was at
14 the club through statements, through these guys and the
15 unknown female who came up and approached them that Mr.
16 McKinney had a beef with somebody there. Obviously, he left
17 the club on a motorcycle, returned to the club in his truck
18 after retrieving a firearm ---

19 Q. Well, hold on now. Where ---

20 **MR. POLSINELLO:** Your Honor, let the witness ---

21 **THE COURT:** Let him -- let him ---

22 **MR. POLSINELLO:** --- finish his answer -- question in
23 full.

24 **THE COURT:** Let him answer the question, Mr. Boatwright.
25 Go ahead, sir.

ALVIN TRACY KING - DIRECT EXAMINATION BY MR. BOATWRIGHT

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1 A. Okay. And then he returns to the scene. And, again,
2 through the testimony -- or not testimony, but the statements
3 we obtained through witnesses, and you look at the video, he
4 drives around the club.

5 Q. Um-hum (affirmative).

6 A. Which a reasonable person could state or believe that
7 he's looking for somebody, which would be consistent with
8 having a beef with somebody prior to leaving the incident
9 location. He comes back to the location, he's armed now, he's
10 going around the building. He goes parks his vehicle, gets
11 out.

12 And he even admitted himself that there was somebody -- a
13 female present that, whether or not she was accurate or not,
14 she approached security, told them they need to look -- watch
15 him because he had a beef with somebody. And then they go to
16 approach him.

17 Q. So, again, my question was why exactly did they approach
18 him?

19 A. To get him off the property.

20 Q. To get him off the property?

21 A. That's correct.

22 Q. But you just testified ten minutes ago that he wasn't on
23 their property.

24 A. You're drawing the lines with the property, ---

25 Q. I mean, that's ---

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1 A. --- okay?

2 Q. --- the way property works ---

3 A. And I get that. But by the same token, if I'm a security
4 guard and I've got an armed individual, somebody claiming that
5 this person's armed, ---

6 Q. Um-hum (affirmative).

7 A. --- arrives on the scene, then, yeah, I'm going to -- I'm
8 going to try to approach that person. I'm going to try to get
9 that person to leave.

10 Q. You ---

11 A. Because you're -- you're drawing a line as far as the
12 property line, ---

13 Q. Yes.

14 A. --- but you're not drawing a line as far as where
15 everybody's congregating, where everybody's moved to.

16 Q. I mean, I understand a desire to do that, but SLED
17 specifically outlines in its policies that you cannot do that.
18 You're contracted to protect this one property, you must stay
19 on that property. Your arrest power, your security guard
20 powers are only and limited specifically to that property.

21 So as you already testified, he wasn't on that property.
22 And the reason they approached him was to get him off their
23 property. Based on your investigation, they had no reason to
24 approach him because he wasn't on their property, correct?
25 That logic follows, right?

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1 A. Not necessarily. Not if you've got somebody that you're
2 -- you've been told has a firearm. And then you've got one
3 security officer who physically saw the firearm, stated that
4 he saw the firearm, I would -- I would recommend that you get
5 that person out of -- off the property and keep people out of
6 harm's way.

7 Q. All right. So let's talk about -- a little bit about
8 your answer you just gave. What piece of evidence did you use
9 in your investigation to determine that William McKinney left
10 the club and retrieved a firearm? Because I didn't see that
11 in any of his statements.

12 A. Right.

13 Q. So what -- how did you find that out?

14 A. Well, he's on a motorcycle. He ---

15 Q. You can't carry a gun ---

16 A. He leaves on his motorcycle.

17 Q. Okay.

18 A. Okay?

19 Q. Uh-huh (affirmative).

20 A. Why would he leave the club -- he's got a beef with
21 somebody, ---

22 Q. Allegedly.

23 A. Allegedly.

24 Q. Okay.

25 A. He's got a beef with somebody, he's got his shorts on,

ALVIN TRACY KING - DIRECT EXAMINATION BY MR. BOATWRIGHT

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- 1 he's on a motorcycle.
- 2 Q. Okay. So you're assuming ---
- 3 A. Where's the -- that's correct, I'm assuming. That's
- 4 correct.
- 5 Q. Okay. That firearm could have been in his pocket, right?
- 6 Now, he was wearing basketball shorts ---
- 7 A. Could have -- yeah.
- 8 Q. Where was the firearm when Carlos Jenkins ---
- 9 A. In his right -- right front pocket.
- 10 Q. And what was he wearing?
- 11 A. Basketball shorts.
- 12 Q. And what was he wearing when he rode his motorcycle?
- 13 A. (No response).
- 14 Q. They said basketball shorts ---
- 15 A. Probably basketball shorts, correct.
- 16 Q. So it was very possible that that firearm was already in
- 17 his pocket, correct?
- 18 A. It's possible.
- 19 Q. There's not a shred of evidence, as a matter of fact,
- 20 that you looked at or saw or anybody told you or anything that
- 21 he retrieved a firearm when he left?
- 22 A. That's correct.
- 23 Q. Okay. So we can't say that he left to go get a gun
- 24 because we don't know that, right?
- 25 A. (No response).

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1 Q. We know he left. And he testified earlier. You were
2 here when he testified earlier, right?

3 A. Yes, sir.

4 Q. All right. So you heard him testify that the reason he
5 left was because he'd been drinking and he was on the
6 motorcycle?

7 A. Right.

8 Q. And wanted to get a car?

9 A. Which doesn't make sense, but, yes, sir.

10 Q. That's what he did, though, right?

11 A. (Affirmative nod).

12 Q. All right. So now let's look at the three statements
13 because you had to determine probable cause to make the arrest
14 of him. All right. You had to look at it and say, you know
15 what, I think there's enough to arrest him. So you looked at
16 Carlos Jenkins. Carlos Jenkins never once told you that
17 Monieque, Monieque Green mentioned William McKinney showing
18 him a gun, did he?

19 A. No, sir.

20 Q. Lamar James never once said that, did he?

21 A. No, sir.

22 Q. The only person that says that is Monieque Green?

23 A. That's correct.

24 Q. And Monieque Green says that when that happened, Lamar
25 James was standing beside him, right?

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- 1 A. That's correct.
- 2 Q. But Lamar James doesn't mention it to you?
- 3 A. I didn't interview Lamar James. But, no.
- 4 Q. Carlos Jenkins didn't mention that his employee, Monieque
5 Green, mentioned it to him?
- 6 A. No, sir.
- 7 Q. All right. So now let's go back to just some of the
8 reasonable stuff we were talking about, the firearms. You
9 were talking about it was reasonable to stop because
10 somebody's coming at you. If you're just walking down the
11 street and someone illegally carrying a firearm comes at you
12 and tells you to stop, are you going to stop?
- 13 A. Depends on the manner they're carrying the firearm.
- 14 Q. So you might just walk away, right? You see somebody
15 with a gun, ---
- 16 A. Well, I'm going to be armed as well. So it depends,
17 again, in what manner they're carrying a firearm.
- 18 Q. So you'd be armed ---
- 19 A. So ...
- 20 Q. All right. So if you're armed, let's say that you decide
21 to walk away because you're trying to avoid it. You're like,
22 I don't know what these people want, but I'm going to avoid it
23 because I don't want no issues. So you're trying to walk
24 away. If they shoot you in the back, what you going to do?
- 25 A. It depends -- depends on what condition I'm in. But,

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1 again, that's ---

2 **MR. POLSINELLO:** Your Honor, I'm going to object to this
3 line of questioning. It's overly suggestive. It's personal
4 as to what the investigator would do. He hasn't been charged
5 with this crime. He's not on trial. The Defense attorney is
6 asking personal questions of how the witness would act in a
7 scenario, and it's improper ---

8 **THE COURT:** I'm going -- I'm going to sustain the
9 objection. I think -- just rephrase your question. I really
10 think that you're going a little bit too far in trying to get
11 his opinion as to what he would do.

12 **MR. BOATWRIGHT:** Yes, Your Honor. So I will rephrase it.

13 **Direct Examination by Mr. Boatwright Continued:**

14 Q. Instead of you doing it, a reasonable -- what would a
15 reasonable person, in your opinion, what would they do?
16 They've just been shot in the back.

17 A. Again, it would depend on the totality of what occurred.

18 Q. Now, what do you think a reasonable person would do if
19 after being shot in the back, they return fire, they run away
20 and cops are chasing them?

21 A. Can you rephrase the question?

22 Q. I'll withdraw ---

23 **MR. POLSINELLO:** Your Honor, I'm going to object. This
24 is outside the scope for the purpose of this hearing. These
25 are hypothetical scenarios of what this witness would do or a

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1 reasonable person. We're here merely tailored for purposes of
2 the statute and if immunity should be granted

3 **MR. BOATWRIGHT:** Judge, it goes toward the reasonableness
4 of his actions, which also goes to the probable cause, which
5 the statute clearly states that law enforcement must have
6 probable cause to even make the arrest once self -- once
7 acting in self-defense. So it goes towards the elements that
8 the Court must consider in a proximate cause analysis to grant
9 my client immunity.

10 **MR. POLSINELLO:** And in terms of the reasonable standard,
11 it's my understanding that would be for Your Honor to consider
12 when you make your ruling, not for the witness to talk about
13 what a reasonable person or what he would do if he were in the
14 Defendant's shoes.

15 **MR. BOATWRIGHT:** The investigator would have to use that
16 same standard to determine if he was going to make the arrest,
17 Your Honor.

18 **THE COURT:** He would have to use the standard if he were
19 in the ---

20 **MR. BOATWRIGHT:** He would have ---

21 **THE COURT:** --- Defendant's shoes?

22 **MR. BOATWRIGHT:** --- to use the standard outlined in the
23 case law in order to make the arrest. This is reasonable fear
24 -- the self-defense elements; That he was without fault, that
25 he acted -- his fear was reasonable, that his actions were

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1 reasonable and that he had no other means ---

2 **THE COURT:** All right. I'm going to allow you to ask the
3 question, then move on.

4 **MR. BOATWRIGHT:** Thank you, Judge.

5 **Direct Examination by Mr. Boatwright Continued:**

6 Q. All right. So lastly in this area, William McKinney was
7 walking away when they shot him, correct?

8 A. Again, he was basically failing to comply with their
9 orders. But, yes, he was walking away.

10 Q. All right. These are not police officers, are they?

11 A. No.

12 Q. All right. So they -- their orders is really just
13 somebody telling him something?

14 A. Well, when it comes to Carlos, who was, in fact, SLED
15 certified, they -- he pretty much at that point -- like I
16 say, he should have listened. He should have stopped -- had
17 he stopped, and had he listened and left the property, this
18 would have never occurred.

19 Q. But he wasn't on the property as you ---

20 A. So ---

21 Q. --- testified to. So any commands that Monieque Green
22 gave him would not be commands that he would have to follow,
23 correct?

24 A. Again, if he's -- if he's there -- if they believed, and
25 as Mr. Green stated, to be armed and Mr. Green knew he was

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1 armed per his statement, you're talking about an armed
2 individual they're trying to separate from the crowd, trying
3 to get him off the property.

4 Q. All right.

5 A. The property, whether it's the adjacent property where
6 everybody's at, which they obviously use both sides of the
7 property to actually park and mingle. So ...

8 Q. But, again, just to clarify, because you keep trying to
9 mingle it together. He wasn't on the property of Club Dolce?

10 A. As one would look at the property lines, no.

11 Q. Okay. All right. Now, in your investigation you
12 considered evidence that's presented to you, witness
13 statements, video evidence, stuff like that, right?

14 A. Um-hum (affirmative).

15 Q. So you had to consider the fact that Carlos Jenkins
16 contradicts Monieque Green, correct?

17 A. That's correct.

18 Q. And those are both contradicted by Lamar James, correct?

19 A. That's correct.

20 Q. All right. Now you had officers that went to talk to
21 other eyewitnesses, independent eyewitnesses that had nothing
22 to do with the investigation or with the incident, correct?

23 A. Correct.

24 Q. One of those was Keisha Dogan?

25 A. Um-hum (affirmative).

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1 Q. One of those was Javaris Barksdale?

2 A. Um-hum (affirmative).

3 Q. Both of those witnesses said William McKinney was walking
4 away, they said take your hands out of your pockets, they shot
5 him, correct?

6 A. Again, it's ---

7 Q. No, I'm just asking simply what they said. It's not a
8 trick question or anything. Just ---

9 A. No, I mean, she -- it's like Dogan, they pretty much said
10 I heard someone say show me your hands three times, then heard
11 gunshots and saw subject run.

12 Q. Okay. And then Javaris Barksdale said that he heard --
13 he saw security approach from behind, said get your hands out
14 of your pockets, stop reaching in your pocket, continued
15 walking towards him, and then shot him, right?

16 A. That's correct.

17 Q. So the independent witnesses all say -- and the evidence
18 from being shot in the back shows he was walking away. The
19 video shows he's walking clearly in a different direction than
20 Carlos Jenkins and Monieque Green, correct?

21 A. That's correct.

22 Q. Okay.

23 **MR. BOATWRIGHT:** No further questions at this time, Your
24 Honor.

25 **MR. POLSINELLO:** May it please the Court?

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1 THE COURT: Yes, sir.

2 MR. POLSINELLO: Derek Polsinello for the State.

3 Cross-examination by Mr. Polsinello:

4 Q. Mr. King, so at the time of this incident date, it was
5 July 4th, 2020, 1705 White Horse Road, is that correct?

6 A. Yes, sir.

7 Q. Was that in Greenville County?

8 A. Yes, sir.

9 Q. Okay. That was formerly Club Dolce?

10 A. That's correct.

11 Q. At that time you were employed with the sheriff's office?

12 A. Yes, sir.

13 Q. How many years were you employed there?

14 A. 2020 -- 25 years.

15 Q. Okay. And you were an investigator at that time?

16 A. Yes, sir.

17 Q. And when did you retire or leave?

18 A. March of 2022.

19 Q. Was that ---

20 A. I retired.

21 Q. Was that under good circumstances?

22 A. Yes, sir.

23 Q. Okay. And where are you currently employed?

24 A. Enchanted Construction.

25 Q. Okay. I'm going to show you Defense exhibit 3. He

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1 already showed you this map. So it's your understanding this
2 is a general photo of the incident location, correct?

3 A. That's correct. It looks like a -- maybe a Google ---

4 Q. Okay.

5 A. Yes, sir.

6 Q. Right here at the bottom of this screen does it state
7 that this map is not a land survey?

8 A. That's correct.

9 Q. Okay. Are you an expert in property lines and
10 development in Greenville County?

11 A. No, sir.

12 Q. Can you absolutely state if the Defendant, and the
13 witnesses and victim, where they were standing, if, in fact,
14 they were either on the property line or off? Can you
15 definitively say one way or another?

16 A. No, sir.

17 Q. Do you work for Greenville County property and are you
18 familiar with property lines such as here?

19 A. No, sir.

20 Q. So the fact that the Defense attorney wants you to make a
21 statement as to whether or not these witnesses are within a
22 property line, you don't know, do you?

23 A. No, sir. Just -- again, that answer was just going off
24 of this image.

25 Q. Okay. In determining making your charges, when you

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1 investigated this case, did you find out that the Defendant
2 was a convicted violent felon?

3 A. Yes, sir.

4 Q. Were you aware -- did you run his rap sheet?

5 A. Yes, sir.

6 Q. Did you see an ABWIK conviction from 2006?

7 A. Yes, sir.

8 Q. Okay. And at that time it was a serious violent felony?

9 A. Yes, sir.

10 Q. Okay. So in your investigation you knew that?

11 A. Yes, sir.

12 Q. And clearly it was our testimony that we heard today the
13 Defendant was at the club at one time, sounds like around
14 three am possibly, he was on a motorcycle, and he left the
15 club, correct?

16 A. Yes, sir.

17 Q. And through your investigation you obtained CC TV footage
18 of this shooting, correct?

19 A. Yes, sir.

20 Q. And it's what we saw today?

21 A. That's correct.

22 Q. And clearly on that footage at 3:59 am in the front of
23 the parking lot you don't see the Defendant's truck there, do
24 you?

25 A. No, sir.

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1 Q. Okay. And so at 4:01 am on the side of the club, is that
2 when you first see the Defendant's truck ---

3 A. Yes, sir.

4 Q. --- on camera? Okay. And we saw him lap around multiple
5 times?

6 A. That's correct.

7 Q. Do you recall the part at 4:05 am when the Defendant's in
8 his truck and he stops on the side, clogging up traffic?

9 A. Yes, sir.

10 Q. Okay. Do you recall today the Defendant testifying that
11 he made contact with the victim, Monieque Green?

12 A. That's correct.

13 Q. Okay. In Monieque Green's statement, that Defense
14 counsel just went over with you, is it true that the victim,
15 Monieque Green, stated and told you that the Defendant during
16 that encounter flashed a gun -- his gun at Monieque Green and
17 said you're not the only one with a gun?

18 A. That's correct.

19 Q. When talking about reasonable person standard, Defense
20 attorney wanted to get into that, knowing a person is arriving
21 at a club when it's closing, flashes a gun at security, is it
22 reasonable for security to coordinate and keep eyes on him
23 when he parks his car and getting out and going, he just
24 flashed a gun?

25 A. Yes, sir.

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1 Q. Wouldn't that give these three security guards -- and put
2 them on alert that, hey, William McKinney's here, he just
3 arrived with a gun?

4 A. Yes, sir.

5 Q. Okay. And, also, we heard there was a female witness
6 earlier who approached one of our witnesses and advised them
7 of her concern that McKinney, the Defendant, is coming here to
8 start a beef, is that correct?

9 A. That's correct.

10 Q. You learned that upon your investigation?

11 A. Yes, sir.

12 Q. Okay. So based on all that, is it fair to say the
13 Defendant, when he -- the moment he gets out of that truck,
14 he's acting unlawfully?

15 A. That's correct.

16 Q. By being in possession of the weapon, correct?

17 **MR. BOATWRIGHT:** Objection, Judge. I'm going to object.
18 He's asking him to make a determination that is for the Court
19 to determine.

20 **MR. POLSINELLO:** Your Honor, as a former law enforcement
21 officer he's allowed to testify if the law's been broken.

22 **THE COURT:** I'm going to allow -- I'm going to allow the
23 question. Overruled.

24 Q. Mr. King, the mere fact the Defendant arrives -- when you
25 were investigating the case and making the basis for the

ALVIN TRACY KING - CROSS-EXAMINATION BY MR. POLSINELLO

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1 charges, you knew the Defendant arrived to the club with a
2 gun, correct?

3 A. That's correct.

4 Q. He's a convicted violent felon?

5 A. Yes, sir.

6 Q. Did that play a part in your decision in making the
7 charges?

8 A. It did.

9 Q. Okay.

10 A. Yes.

11 Q. And, also, we know he was acting unlawfully -- throughout
12 your investigation was there any evidence that he had a valid
13 CWP on him at the time?

14 A. No, sir.

15 Q. He couldn't have a CWP at the time because of his prior
16 convictions, correct?

17 A. That's correct.

18 Q. Okay. Was all of that thought of before you decided to
19 make the charges?

20 A. Yes, sir.

21 Q. Okay. Throughout your investigation did you find any
22 evidence that the Defendant owned the business? Was he the
23 owner?

24 A. No, sir.

25 Q. Was there any evidence that he worked there or was an

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1 employee?

2 A. Never. No, sir.

3 Q. Okay. This place, formerly Club Dolce, that's not a
4 dwelling, is it?

5 A. No, sir.

6 Q. Through your experience as a law enforcement officer,
7 that club was problematic in Greenville County?

8 A. Yes, sir.

9 Q. A lot of crime occurred there?

10 A. Yes, sir.

11 Q. So when you responded there, when you heard there was a
12 shooting there, you knew the club, and what type of club it
13 was, and the general activity that happens there, correct?

14 A. Yes, sir.

15 Q. Throughout your investigation did you ever find out what
16 time the club closed?

17 A. It was reported that the club closes at four am.

18 Q. Okay. So it's your understanding, based on your
19 investigation, the club closes at four am?

20 A. Yes, sir.

21 Q. And on video do we see the Defendant arrive, and park and
22 get out after that?

23 A. That's correct. Yes, sir.

24 Q. I'm approaching you with what's been previously marked as
25 State's exhibit 6. Do you recognize that disk?

ALVIN TRACY KING - CROSS-EXAMINATION BY MR. POLSINELLO

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1 A. Yes, sir.

2 Q. Is that disk the CC T -- video footage -- video from the
3 incident?

4 A. Yes, sir.

5 Q. That we reviewed today?

6 A. It is.

7 Q. And you were here today when that was reviewed?

8 A. Yes, sir.

9 Q. And prior to today you had a chance to review a copy of
10 that?

11 A. Yes, sir.

12 Q. Okay.

13 **MR. POLSINELLO:** Your Honor, the State moves to present
14 this into evidence as State's exhibit 6.

15 **THE COURT:** Any objection?

16 **MR. BOATWRIGHT:** None, Your Honor.

17 **THE COURT:** All right. So admitted as State's number 6
18 without objection.

19 (Whereupon State's exhibit 6 was admitted into evidence)

20 Q. Okay. Mr. King, I'm handing you what's been previously
21 marked as State's exhibit 1. Take a look at that and let me
22 know when you're done.

23 (Pause)

24 A. (Affirmative nod).

25 Q. You recognize that indictment?

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1 A. Yes, sir.

2 Q. Okay. Does this indictment -- to be a true and accurate
3 copy?

4 A. Yes, sir.

5 Q. Okay.

6 MR. POLSINELLO: Your Honor, let the record reflect that
7 Mr. King has identified what's been previously marked as
8 State's exhibit 1. It's the assault and battery with intent
9 to kill indictment that we've already seen and discussed
10 today.

11 THE COURT: All right.

12 MR. POLSINELLO: State moves into evidence as State's
13 exhibit 1.

14 MR. BOATWRIGHT: None, Your Honor.

15 THE COURT: So entered as State's exhibit number 1
16 without objection.

17 (Whereupon State's exhibit 1 was admitted into evidence)

18 Q. Mr. King, I'm showing you what's been previously marked
19 as State's exhibit 5. Take a look and let me know when you're
20 done.

21 (Pause)

22 Q. Do you recognize that indictment?

23 A. Yes, sir.

24 Q. Is that the murder indictment and conviction for the
25 Defendant?

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1 A. That's correct.

2 Q. From 2012 that we referenced already today?

3 A. Yes, sir.

4 MR. POLSINELLO: Your Honor, the State moves into
5 evidence as State's exhibit 5.

6 THE COURT: Any objection?

7 MR. BOATWRIGHT: No, Your Honor.

8 THE COURT: So entered as State's number 5 without
9 objection.

10 (Whereupon State's exhibit 5 was admitted into evidence)

11 Q. Okay. I'm showing you what's been previously marked as
12 State's exhibit 2. It's entitled the in-car camera for Deputy
13 Brooks. That was the police chase that we saw today. Were
14 you here present?

15 A. Yes, sir.

16 Q. And you saw the video?

17 A. Yes, sir.

18 Q. And you've seen this before?

19 A. Absolutely.

20 Q. Is it a true and accurate copy?

21 A. Yes, sir.

22 MR. POLSINELLO: Your Honor, the State moves to submit as
23 State's exhibit 2.

24 THE COURT: Any objection?

25 MR. BOATWRIGHT: No, Your Honor.

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1 **THE COURT:** So entered without objection, State's number
2 2.

3 (Whereupon State's exhibit 2 was admitted into evidence)

4 Q. Mr. King, I'm showing you what's been previously marked
5 as State's exhibit 3. Its entitled the Dwight Little
6 interview. Okay. This is the interview that was played today
7 that Investigator Sparkman interviewed this inmate. Were you
8 here today?

9 A. Yes, sir.

10 Q. Watching that interview?

11 A. Yes, sir.

12 Q. And you -- made aware of this interview and you saw a
13 copy before?

14 A. Yes, sir.

15 Q. Okay.

16 **MR. POLSINELLO:** Your Honor, the State moves to submit
17 this into evidence as State's exhibit 3.

18 **THE COURT:** Any objection?

19 **MR. BOATWRIGHT:** No, Your Honor.

20 **THE COURT:** State's number 3 is so entered without
21 objection.

22 (Whereupon State's exhibit 3 was admitted into evidence)

23 Q. And, lastly, I'm showing you State's exhibit 4. It's
24 entitled in-car Pittman back. Do you recognize this disk?

25 A. Yes, sir.

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1 Q. Were you here today in court when this was played? It
2 was Deputy Pittman's rear in-car camera where the Defendant
3 was in custody?

4 A. Yes, sir.

5 Q. In which he made statements?

6 A. Yes, sir.

7 Q. And you've viewed this before?

8 A. I've seen it before, yes, sir.

9 Q. Okay.

10 **MR. POLSINELLO:** Your Honor, the State moves to submit
11 this into evidence as State's exhibit 4.

12 **MR. BOATWRIGHT:** No objections, Your Honor.

13 **THE COURT:** Number 4 is so entered without objection.

14 (Whereupon State's exhibit 4 was admitted into evidence)

15 Q. Investigator King, were you here when Jewell Simpson --
16 I'm sorry, Mr. King, when Jewell Simpson testified on the
17 stand?

18 A. Yes, sir.

19 Q. The Defendant's friend who was allegedly there at the
20 club?

21 A. Yes.

22 Q. Through the course of your investigation did the name
23 Jewell Simpson ever come across your desk or information?

24 A. No, sir.

25 Q. Had this Jewell Simpson come forward wanting to give a

ALVIN TRACY KING - CROSS-EXAMINATION BY MR. POLSINELLO

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1 witness statement and had -- from his perspective, would you
2 have entertained that?

3 A. Absolutely.

4 Q. And an interview would have been conducted?

5 A. Yes, sir.

6 Q. That did not happen, did it?

7 A. No, sir.

8 Q. It's your understanding that Jewell Simpson and his
9 statement, the first time it was heard or given was today in
10 court?

11 A. That's correct.

12 Q. Okay. Do you know the victim, Monieque Green, do you
13 know how many times he got shot?

14 A. I believe he was shot three times.

15 Q. And was he rushed to the ER?

16 A. He was, emergency surgery.

17 Q. He had emergency surgery?

18 A. That's correct.

19 Q. Okay. Do you remember what caliber of bullets he was
20 shot with?

21 A. I do not recall right off the top of my head, no.

22 Q. Okay. Through your investigation did you ever learn or
23 did it ever come to light that this Defendant was shot with
24 live ammunition?

25 A. No, sir.

ALVIN TRACY KING - CROSS-EXAMINATION BY MR. POLSINELLO

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1 Q. We all know Carlos Jenkins had the shotgun and it was
2 some type of ballistic ball, correct?

3 A. That's correct.

4 Q. Okay. Did you observe -- have a chance to observe those
5 balls?

6 A. I think there was one that was recovered at the scene,
7 maybe.

8 Q. Okay. Do you know what type of material it was?

9 A. It was like a hard plastic.

10 Q. So it was not a live round, was it?

11 A. No, sir.

12 Q. Do you know how long it took the victim to recover from
13 his injuries?

14 A. Took quite a while. He had the emergency surgery or the
15 exploratory surgery initially that night. And I believe on
16 July the 20th he had a second surgery to remove a projectile.
17 And I know it took quite a while. But I was eventually able
18 to actually interview him in person.

19 Q. So right after the shooting, the morning after, even the
20 day after, were you ever able to interview the victim?

21 A. No.

22 Q. Okay. And why is that?

23 A. No. Again, he was sedated and had just -- just been in
24 surgery. So there was a lot of logistics as far as medical-
25 wise that prevented that.

ALVIN TRACY KING - CROSS-EXAMINATION BY MR. POLSINELLO

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1 Q. I'm sure this wasn't your first type of case with these
2 type of facts or injuries, correct?

3 A. Correct.

4 Q. And it's not uncommon -- it's understood why a victim
5 can't be interviewed right away, right after the incident
6 happens?

7 A. That's correct.

8 Q. If they've experienced traumatic or serious bodily
9 injury?

10 A. right.

11 Q. So is it fair to say that he needed to heal, time needed
12 to go by, he needed to heal before you could interview him?

13 A. That's correct.

14 Q. But you did interview the victim at the law enforcement
15 center?

16 A. I did.

17 Q. Okay.

18 A. I did.

19 Q. And part of that is the written statement that you read
20 today?

21 A. Yes.

22 Q. Did you ever personally interview Carlos Jenkins or
23 Ulysses Lamar James?

24 A. No.

25 Q. Okay. In making -- based on your investigation and

ALVIN TRACY KING - CROSS-EXAMINATION BY MR. POLSINELLO

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1 making the case and charges you reviewed Investigator Cutting
2 and Threlkeld's interview with those witnesses?

3 A. Yes.

4 Q. That was part of the probable cause in making the
5 charges?

6 A. Yes.

7 Q. Among all the other evidence you had?

8 A. Correct.

9 Q. Was a gun -- was the Defendant's gun ever recovered in
10 this case?

11 A. No.

12 Q. So we know he had a gun when he shot, correct?

13 A. That's correct.

14 Q. And on video we saw him run, correct?

15 A. That's correct.

16 Q. And it was his statement today that he hopped over a
17 barbed wire fence, correct?

18 A. Correct.

19 Q. Did you find any evidence of that?

20 A. Yes, sir.

21 Q. And what was that?

22 A. The forensics technician actually found a piece of his --
23 the white tank top that he had on. There was like a -- almost
24 a perfect square that was ripped out that was actually on the
25 barbed wire ---

ALVIN TRACY KING - CROSS-EXAMINATION BY MR. POLSINELLO

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1 Q. Okay.

2 A. --- that he had crossed.

3 Q. Okay. The morning -- the early morning after this were
4 there any efforts made by the sheriff's office to find that
5 gun?

6 A. Yes, sir.

7 Q. Okay. What were they?

8 A. We -- I mean, we had a K-9 out doing article searches.
9 We looked -- we tried to look on top of buildings around that
10 area. There was -- there was a few buildings in the direction
11 of travel after crossing the wooden fence and the barbed wire
12 fence that we checked, but we didn't locate anything.

13 Q. So it appears multiple statements were given in this case
14 whether it was from the victim, Carlos Jenkins, Ulysses Lamar,
15 Keisha Dogan, that other gentleman's name -- bear with me one
16 sec, that Deputy McKenzie came across, his name was Jarvis
17 [sic] Barksdale, ---

18 A. Right.

19 Q. But all these people gave statements of what they saw,
20 correct?

21 A. Yes.

22 Q. Is it your understanding based on your investigation that
23 in all these statements it was consistent that they heard
24 security give multiple commands for the Defendant to take his
25 hands out of his pocket?

ALVIN TRACY KING - REDIRECT EXAMINATION BY MR. BOATWRIGHT

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1 A. Yes.

2 Q. So multiple witnesses said that?

3 A. That's correct.

4 Q. And today we heard the Defendant had his hands in his
5 pocket, correct?

6 A. That's correct.

7 Q. And we know he had a gun in his pocket, correct?

8 A. That's correct.

9 Q. Did you ever find out the intention of the security
10 officers? Did they want to shoot him or did they want to
11 engage in a gunfight that night?

12 A. No.

13 Q. Okay. What was their purpose in approaching him?

14 A. To get him off the property. To save -- basically
15 prevent any problems from occurring.

16 Q. Thank you.

17 MR. POLSINELLO: No further questions.

18 THE COURT: Anything on redirect?

19 MR. BOATWRIGHT: Yes, Judge. May it please the Court?

20 THE COURT: All right.

21 **Redirect Examination by Mr. Boatwright:**

22 Q. Mr. King, I want to talk to you about the investigation
23 stuff, all right?

24 A. Yes, sir.

25 Q. The solicitor just asked you if you would have taken

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1 Jewell Simpson's statement had he come forward and you said
2 yes, correct?

3 A. Yes, sir.

4 Q. All right. And Officer McKenzie says that he spoke with
5 another witness, Akeema Edgerton (ph.). She said she would be
6 willing to give a written statement, but advised she was
7 unable to wait. And she'd be willing to provide a written
8 statement at a later time. Did y'all reach out to her and get
9 a written statement?

10 A. No, sir.

11 Q. So somebody that wanted to give a written statement, but
12 y'all didn't take a statement from them?

13 A. I don't -- I can't recall the specifics on that. But,
14 no.

15 Q. All right. And then because you're investigating this
16 entire incident, the fact that they're SLED certified would be
17 an issue that you would have to look into, correct? To make
18 sure that they're acting lawfully so that if they're saying
19 that their commands are lawful, that they're giving commands,
20 does someone have to answer them, respond to them? You would
21 have to look into that, correct?

22 A. That would be a separate -- separate type of incident.
23 It still wouldn't negate the actions of the Defendant.

24 Q. Okay. But in order for you to know if Carlos Jenkins was
25 giving lawful orders, you would have had to have looked into

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1 his SLED certifications, correct?

2 A. Correct.

3 Q. Because he can't just -- I can't just walk up to anybody
4 on the street and say get down? And ---

5 A. Right.

6 Q. --- they don't have to listen to me?

7 A. Right.

8 Q. All right. Are you aware that under South Carolina Code
9 40 1830, which is the regulations provided for security
10 officers, that it says that they are not allowed -- private
11 security officers are prohibited from possessing or using
12 rifles or shotguns in connection with private security unless
13 specifically approved in writing by SLED? Were you aware of
14 that?

15 A. (Affirmative nod).

16 Q. You are?

17 A. Uh-huh (affirmative).

18 Q. Did they provide you the writing approved by SLED in your
19 investigation?

20 A. No, sir.

21 Q. Okay. So it's fair to say that he would be in violation
22 of the policies for carrying a shotgun if he didn't have that
23 written permission, correct?

24 A. I would say it's fair. It's possible.

25 Q. That entire statute goes on to talk about training

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1 requirements that SLED agents are supposed to have as well.

2 Did you look up Carlos Jenkins' training certificates to see
3 if he had met SLED certified training requirements?

4 A. No, sir.

5 Q. All right. So we have no way of knowing if Carlos
6 Jenkins saying get your hands out of your pockets was actually
7 a lawful order or not, do we?

8 A. I would say that I did make contact with SLED. I would
9 say that they confirmed that he -- he is certified through
10 SLED. And I would say that they are lawful.

11 Q. Did you get anything -- any proof to show that he was up
12 to date on his training as required under the statute?

13 A. I made contact with Pam Crowe at SLED, ---

14 Q. Okay.

15 A. --- and she confirmed to me that Carlos Jenkins was
16 current at the time of this incident, yes.

17 Q. Did you get any documentation to prove that? Did you
18 notate it in your investigation anywhere?

19 A. It was in my notes later on. That was obviously later
20 on. It wasn't early on in the investigation, but, yes.

21 Q. All right. Now, lastly, when Carlos Jenkins approached
22 William McKinney he did not know William McKinney had a
23 firearm in his pocket, did he?

24 A. Again, that would -- that would ...

25 Q. Based on ---

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1 A. I couldn't -- I couldn't really say what he knew at the
2 time other than the fact that he was doing what we all would
3 do, you know, get your hands out of your pockets.

4 Q. I'll rephrase the question for you.

5 A. Okay.

6 Q. Did Carlos Jenkins tell you that he knew William McKinney
7 had a weapon on him?

8 A. No.

9 Q. Did Carlos Jenkins ever tell you that he knew William
10 McKinney had a weapon?

11 A. Not directly, no.

12 Q. Okay. Now, there was a previous encounter before Carlos
13 Jenkins shot William McKinney, and that was when he was at the
14 truck, correct?

15 A. That's correct.

16 Q. And Monieque Green could have told William McKinney right
17 then and there, you need to leave the property? Right?

18 A. Very well could have, yes.

19 Q. Could have, but he didn't, did he?

20 A. He didn't say he did.

21 **MR. BOATWRIGHT:** No further questions.

22 **THE COURT:** Anything else?

23 **MR. POLSINELLO:** Briefly, Your Honor.

24 **Recross-examination by Mr. Polsinello:**

25 Q. Mr. King, when you reviewed all the evidence before

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1 making your charges, did your investigation -- you had all the
2 witness statements and you reviewed surveillance footage,
3 correct?

4 A. Yes, sir.

5 Q. In exploring -- so we know Carlos Jenkins was SLED
6 certified at the time of the shooting, correct?

7 A. That's correct.

8 Q. Even if he wasn't SLED certified, we know he was SLED
9 certified, even if he wasn't would that have been a factor in
10 your determination to make the charges and to seek warrants
11 out on this Defendant for what he did?

12 A. No, sir.

13 Q. Does that in any way -- of your understanding of the law
14 at the time, would that in any way affect or negate the
15 Defendant's conduct?

16 A. Absolutely not.

17 Q. Thank you.

18 **MR. POLSINELLO:** No further questions.

19 **THE COURT:** All right. Nothing further -- you can step
20 down.

21 A. Thank you, sir.

22 **THE COURT:** Anything else on behalf of the Defendant, Mr.
23 Boatwright?

24 **MR. BOATWRIGHT:** No, Judge. At this time the Defense
25 rests.

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1 **THE COURT:** All right. Mr. Polsinello, anything?

2 **MR. POLSINELLO:** Your Honor, the State rests. We're not
3 calling any witnesses.

4 **THE COURT:** All right. Okay. I'll be glad to hear some
5 closing statements from either side.

6 **MR. BOATWRIGHT:** Thank you, Judge. May it please the
7 Court?

8 **THE COURT:** Um-hum (affirmative).

9 **MR. BOATWRIGHT:** Judge, this immunity hearing really --
10 really boils down to two things, as the State's been pointing
11 out, the location of the incident and the unlawful activity of
12 Mr. William McKinney unlawfully carrying a firearm.

13 As we've talked about this morning in State v. Glenn, the
14 Supreme Court of the United States discussed this Act. And
15 they said that it'd be ridiculous to construe this statute to
16 say that you can only get immunity if it's at your house,
17 place of business, or your car, that there should not be a
18 geographical restriction on the immunity. And that in order,
19 accordingly, courts must determine through a proximate cause
20 analysis if the location of the incident is the cause of the
21 shooting, meaning the shooting happened because William
22 McKinney was where he was at.

23 The same thing is said for the unlawful activity of
24 carrying a firearm. Again, the Supreme Court in 2019 said
25 that a proximate cause analysis must be applied to the

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1 unlawful activity element.

2 They quote other Supreme Court cases like State v.
3 Burriss and State v. Goodson saying that a person can be
4 acting lawfully even when in unlawful possession of a firearm.
5 The courts go on to talk about that what must be looked at is
6 at the time of the shooting, everything else aside, if the
7 defendant had the right to arm himself in self-defense.

8 Now, under the statute in applying those analyses the
9 Defense has the burden by a preponderance of the evidence.
10 Once we've asserted self-defense the burden then shifts to the
11 State, and the State has the burden to disprove these elements
12 beyond a reasonable doubt.

13 Here, we've alleged self-defense. The State has to prove
14 beyond a reasonable doubt that simply because William McKinney
15 was at this club is the reason this shooting happened. And
16 they can't prove that. Him being there wasn't him being at a
17 drug deal. It wasn't him being at a robbery. It was him
18 being in a parking lot of a Chinese restaurant.

19 And when we look at the unlawful activity element, simply
20 carrying a firearm, luckily for Mr. McKinney, he was carrying
21 a firearm. Because if he wasn't, he'd probably be dead. He
22 was shot in the back for walking away with his hands in his
23 pockets.

24 And as the Court pointed out this morning, sometimes
25 we've got to use common sense. Common sense says you can't

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1 shoot a man in the back for walking away. You also can't
2 shoot a man in the back for having his hands in his pockets.
3 That's exactly what happened here.

4 Carlos Jenkins didn't like that William McKinney had his
5 hands in his pockets and wasn't listening to him, so he shot
6 him in the back. Then he had to figure out what he needs to
7 say to cover up what he did, which is why he says multiple
8 different things, tells different officers that, one, he told
9 William McKinney to put down the gun, William McKinney pulled
10 out a gun. Tells another officer that he just told William to
11 pull his hands out of his pockets. Don't even get a statement
12 from Lamar James.

13 And Monieque Green, the victim, he says that William
14 McKinney didn't have the gun, William McKinney had his hands
15 in his pockets. So Carlos Jenkins is scrambling, trying to
16 figure out what he can say so that he doesn't get arrested,
17 which is what should have happened in this case.

18 So, Judge, underneath the statute State v. Glenn goes on
19 to say another way that we are entitled to immunity is by
20 meeting the elements of self-defense. In State v. Glenn, the
21 Supreme Court says that in alleging self-defense we must show
22 he was without fault in bringing on the incident, he was in
23 fear of imminent or death -- imminent bodily injury --
24 imminent death or serious bodily injury, his fear was
25 reasonable and he had no other means to escape.

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1 Here, we had William McKinney simply hanging out with a
2 group of people talking. He didn't do nothing wrong. He
3 didn't cuss out these guards and start a fight with them.
4 Nothing along those lines. He was hanging out in a group of a
5 crowd of people. Walks away from some armed security guards.

6 He gets shot in the back. He's fearing his life is on
7 the line. He testified on the stand his back -- he felt like
8 his back was getting torn apart. He's been shot from behind.
9 That fear was reasonable. And he had no other way to avoid
10 this incident. He had done everything in his power to avoid
11 this incident.

12 What more could he have done than to walk away? That's
13 it. That's his option. Walk away. That's what he did, and
14 he got shot in the back for it.

15 Now, the State's going to say, well, he was with fault,
16 because he showed Monieque Green this gun and said, you ain't
17 the only one with a gun. Now, let's assume for the purposes
18 of this argument that that is true. Let's assume that the
19 State has proved that element and that that is true. There's
20 no ifs, ands or buts about it.

21 The State in State v. -- the Supreme Court in State v.
22 Bryant says that after commencing an assault an aggressor who
23 withdraws in good faith from the conflict and announces in
24 some way to his adversary his intention to retire, he has
25 restored his right to self-defense. So even if William

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1 McKinney was at fault in showing that gun, he restored his
2 right to act in self-defense by doing exactly what that
3 security guard told him to do, go park somewhere else.

4 Not only did he go park somewhere else, he went and
5 parked in a different parking lot. He then went and hung out
6 with his group of friends. He completely disengaged from the
7 security guards. Withdrew from it. Showed them by his
8 actions he didn't want no drama, no confrontation.

9 When they tried to start approaching again, he walked
10 away, further showing his desire to withdraw from any
11 confrontation. Therefore, he is entitled to act in self-
12 defense in that moment when Carlos Jenkins pulls his gun and
13 shoots him in the back. So under self-defense, just under
14 self-defense theory alone, he's entitled to immunity.
15 However, again, State v. Glenn says even if using self-defense
16 theory, the Supreme Court says if one has a duty to retreat,
17 the subsection (c) applies of 16 11 440. Subsection (c) is
18 the section that says that you must not be acting unlawfully.
19 Subsection (c) says that you must not be engaged in an
20 unlawful activity.

21 That section, if we get to that section and have to apply
22 that section, that is where we must apply the proximate cause
23 analysis and the State must prove beyond a reasonable doubt
24 that because William McKinney possessed a firearm, simply
25 because he possessed that firearm is the reason this shooting

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1 happened. The State cannot meet that burden. They have not
2 met that burden.

3 And they can't meet that burden because they can't even
4 prove through their own witnesses that they actually knew he
5 had a gun. Only one person said that they -- that he showed
6 them a gun. But at the time they approached him and at the
7 time they told him to take his hands out of his pockets, they
8 didn't know he had a gun on him. That even if he did have a
9 gun, they didn't know that it was illegal. He was walking
10 away.

11 And the big issue and the common sense issue in this case
12 is simple. William McKinney was walking away from armed men
13 who were making commands that as the witnesses testified to,
14 some people heard, some people didn't, they didn't identify
15 who they were speaking to, they were just basically yelling
16 into a crowd, pull your hands out of your pockets. And
17 because he walked away with his hands in his pockets, he was
18 shot in the back. After being shot in the back, he was
19 arrested and charged with attempted murder.

20 Now, I can see that he is a felon in possession of a
21 firearm. And I can see he can be charged with that. No ifs,
22 ands or buts about it. He can be charged with it. We'd plead
23 guilty to it. That's not a problem. We agree. That's not
24 the issue. The issue is whether he was entitled to act in
25 self-defense. And if he was, then he is immune from

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1 prosecution for the attempted murder of Monieque Green.

2 The State tried to point out that Monieque Green wasn't
3 even the one that shot him. He didn't know who shot him. He
4 was shot from behind. And he turns around and he sees two
5 armed men pointing guns at him. He returned fire. Those
6 actions are reasonable.

7 Judge, I'd ask the Court to apply the law the Supreme
8 Court has passed down following State v. Glenn, State v.
9 Burriss, State v. Bryant, State v. Slater. Apply the
10 proximate cause, apply the self-defense and then come to the
11 conclusion that William McKinney is immune from prosecution
12 because he was doing nothing wrong but walking away with his
13 hands in his pockets. Thank you.

14 **THE COURT:** All right. Thank you, Mr. Boatwright.

15 **MR. POLSINELLO:** May it please the Court?

16 **THE COURT:** Uh-huh (affirmative).

17 **MR. POLSINELLO:** Derek Polsinello for the State. Your
18 Honor, we're all aware of today's purposes for this hearing.
19 It is very narrow, it's a very specific issue. Does the
20 Defendant qualify for immunity under South Carolina statute 16
21 11 410? Does he qualify for immunity? Does he meet certain
22 elements under this statute?

23 Now, I know Defense counsel wanted to try this case as if
24 it were a mini trial today, but for purposes of closing, I'm
25 not going to talk about as if we were in trial in the closing.

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1 I'm specifically going to talk about why this Defendant, on
2 its face, why it's absolutely obvious he is barred from
3 immunity under the statute.

4 Your Honor, I've handed Defense counsel this case law
5 that I referenced earlier this morning. I've given them all
6 copies. I can give Your Honor the same copies. This is the
7 exact same case law which I referenced this morning, and I'll
8 give it to you right now.

9 **THE COURT:** All right.

10 **MR. POLSINELLO:** Your Honor, so Defense counsel, the big
11 cases he brings in, one is State v. Burriss. Your Honor, when
12 you look at that, the defendant was convicted of murder. And
13 he contended the trial court erred in refusing to instruct the
14 jury regarding the law of accident and involuntary
15 manslaughter.

16 **THE COURT:** Um-hum (affirmative).

17 **MR. POLSINELLO:** That case had nothing to do with the
18 immunity hearing, 16 11 410 and how it was conducted. So the
19 fact that he brings up self-defense in this case, it's not
20 relevant to purposes in addressing does the Defendant qualify
21 for immunity today. That's State v. Burriss.

22 He brings up State v. Glenn, Supreme Court of South
23 Carolina, not U.S. Supreme Court. That's a 2019 case, Your
24 Honor. And, again, the circuit court on remand ordered -- was
25 to conduct a new immediate hearing because in its oral ruling

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1 from the bench the trial court did not address the elements of
2 the common law of self-defense, thereby making appellate
3 review of these issues.

4 Your Honor, in Glenn the shooting happened at a home, an
5 apartment. And it goes to earlier what I said. When you look
6 at the plain language of 16 11 410 the legislative intent, the
7 spirit of this law, why does it exist? Why did the
8 Legislature create it?

9 Your Honor, look at 16 11 420 (b). Quote, the General
10 Assembly finds that it is proper for law-abiding citizens to
11 protect themselves, their families, and others from intruders
12 and attackers without fear of prosecution.

13 Your Honor, we know this Defendant was not law-abiding in
14 this case. He wasn't protecting his family. He wasn't in his
15 dwelling. There was no intruder. He wasn't in his vehicle.
16 That's the spirit of this law, Your Honor, is for -- the
17 Assembly provided protection for law-abiding citizens who are
18 acting lawfully and who get approached, you know, in an
19 unlawful manner and have to stand and defend themselves.

20 So when we look at State v. Glenn and we have to address
21 the self-defense elements when assessing whether or not he
22 qualifies for immunity, Your Honor, obviously, self-defense,
23 that's a jury charge at a trial. That's something -- that a
24 charge would be given to a jury. That's something for a jury
25 to decide. However, Glenn directs us to look at it and

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1 address it. Okay.

2 Jackson v. State, the Supreme Court of South Carolina,
3 355 S.C. 568. Your Honor, that's a Supreme Court case from
4 2003. It's still valid. It's a good case that addresses the
5 four elements. If a defense raises self-defense, four
6 elements he must prove. All four. Not three of the four.
7 Not two of the four. He must meet all four to have a valid
8 self-defense argument.

9 And in that whole -- the headnote on page -- headnote 3,
10 Your Honor, in Jackson v. State, the first element you look at
11 self-defense was was the defendant without fault in bringing
12 on the difficulty? Your Honor, we all know he was at fault,
13 this Defendant, in bringing on the difficulty in this case
14 because he came back to the club with a gun. He knew he's a
15 convicted felon. He knew he wasn't supposed to be in
16 possession of it. We saw in his prior convictions, yet he
17 arrives to a club when it's closing with his gun.

18 We heard from him he was there earlier that night on a
19 motorcycle, and he left. Had he stayed where he was, arguably
20 this would have never have occurred. So by that natural
21 consequence he brought all this on himself when he decided to
22 return to the club with a gun. And that's what Jackson v.
23 State wants us to focus on, was he without fault in bringing
24 on the difficulty? It's the State's position he absolutely
25 was at fault.

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1 Also, Your Honor, if you look at element 3 in the self-
2 defense test, that the defendant had no means of avoiding the
3 danger. It's the same argument, Your Honor. He absolutely
4 had means of avoiding the danger.

5 One, he could have stayed home where he was. Or, two, he
6 could have come to the club without a gun. And then, three,
7 Your Honor, another way he could have avoided the danger, when
8 security was approaching him and giving him multiple commands
9 to take his hands out of his pockets, he didn't.

10 We've heard the Defendant on the stand say his hands were
11 in his pocket, and the gun was in his pocket. Your Honor, our
12 security guards knew that. And he was a threat because of the
13 information they received. He was a potential danger because
14 of prior information they had on him. And they knew he had a
15 gun.

16 Monieque Green's statement was when he parked at 4:05
17 clogging up the traffic that he flashed the gun at Monieque
18 Green stating, you're not the only one with a gun. What more
19 reason do you need to alert your security personnel that this
20 guy has a gun? We have to have eyes on him. And that's
21 exactly what they did, Your Honor.

22 And we see it on the CC TV. The Defendant parks at 4:06,
23 he gets out. By this time the security knows he has a gun.
24 And we see them follow him. They had absolute -- by all
25 means, to put eyes on him and to give him commands like they

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1 did multiple times from multiple witness statements we have.

2 So it goes to the point that there are so many reasons
3 how this could have all been avoided, and it's the Defendant's
4 own conduct. It's his own choices that he made that brought
5 all this on.

6 And when you apply that to the law, that's why immunity
7 shouldn't be granted. That's why the self-defense claim
8 falls.

9 Your Honor, one case that I want to point out that I gave
10 to you is State v. Williams, Supreme Court of South Carolina,
11 427 S.C. 246, 2019 case. Your Honor, in that case the
12 defendant in addressing the self-defense statute and the four
13 elements the court specifically noted the defendant's act of
14 intentionally bringing a gun, unlawfully possessed pistol to
15 an illegal transaction was in violation of the law. And that
16 a reasonable -- and it was reasonably calculated to produce
17 violence, and, thus, the defendant's act barred his right to
18 assert self-defense as an excuse for a homicide at trial.

19 Your Honor, in that case, State v. Williams, if you go to
20 -- if you go to page 3 of 7, it's Justice Few's opinion, his
21 last sentence, we find the defendant was at fault in bringing
22 on the violence. He made a conscious choice to take his
23 loaded pistol with him.

24 So that's what the courts are looking at when assessing
25 self-defense in these types of environments. What is the

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1 defendant doing? Is he acting unlawfully? Is he bringing
2 this on him? Could he have avoided all this danger?

3 And we all know in this case all the answers to that is,
4 yes, it could have been avoided. Yes, he was acting
5 unlawfully. We know his prior convictions. We know why he
6 shouldn't have been in possession of a weapon. Yet, he chose
7 to come to that club. He could have stayed where he went.

8 Briefly, Your Honor, again, looking at the spirit of 16
9 11 410, your dwelling, inside a vehicle or your place of
10 business. We know the Defendant doesn't meet those standards.

11 And we go to subsection (c), 16 11 440 subsection (c) and
12 you'll see that our Legislature again hones, focuses on was
13 the person engaging in an unlawful activity or not? Were they
14 lawfully acting? And so we know the answer to that in this
15 case, obviously, is he was acting unlawfully. And that's what
16 bars him among many reasons, from immunity. That's the
17 State's position, Your Honor.

18 And the case law that I handed you, Your Honor, is State
19 v. Curry, State v. Cervantes-Pavon, State v. Scott, State v.
20 Duncan, State v. Manning and State v. Glenn. In all of those
21 instances, Your Honor, they occurred in an apartment, the
22 defendant's place of work where he was an employee, a home or
23 someone's dwelling.

24 So, again, in assessing whether or not immunity should be
25 granted, look at the environments, look at where the courts

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1 are deciding whether or not whether this immunity should be
2 granted in all of those places. And rightfully so because
3 it's laid out in the statute.

4 A club is not, Your Honor. A bar -- if the General
5 Assembly wanted to afford this protection in a private club or
6 let's just say a sporting event, a stadium, they would have
7 put that in there just as they did for a dwelling, vehicle,
8 place of business.

9 And to further that point, Your Honor, I remind the Court
10 of Gilchrist v. State, Supreme Court of South Carolina, 2005.
11 Your Honor, to quote the court the petitioner was indicted for
12 murder and he was convicted of voluntary manslaughter for the
13 fatal shooting of a 23 year old. The petitioner/defendant
14 claimed self-defense. It occurred inside a dance club in
15 McCormick County after a verbal confrontation in the parking
16 lot. Very similar to this case, Your Honor. Parking
17 lot/dance club.

18 And if Your Honor looks on page 4 of that case, "In any
19 event, we take this opportunity to overrule the analysis in
20 State v. Marlowe elevating a club to the possessory status of
21 a home or place of business. This expansion of the immunity-
22 from-retreat doctrine is not good public policy, especially in
23 the contemporary context of private clubs."

24 Your Honor, it's the State's position that this case
25 helps guide us to the proper ruling in this case. And that's

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1 immunity should not be granted. And the State respectfully
2 asks the Court to deny Defense attorney's motion.

3 **THE COURT:** All right. Thank you, counsel.

4 I find that the Court does have jurisdiction of the
5 parties as well as the subject matter of this action. The
6 Court also heard the testimony of witnesses from both -- or
7 any witnesses that were presented either from the Defense or
8 from the State. And I don't think the State presented any
9 witnesses, my understanding.

10 But I also find that typically in every case where it
11 applies, the South Carolina Stand your Ground Law replaces
12 self-defense law in South Carolina. If you look specifically
13 at the statute, and I'm going -- and I know counsel referenced
14 16-11-410, and that's -- the Legislature at that time
15 designated this particular statute and called it the
16 Protection of Persons and Property Act.

17 But I'm going to go specifically to section 16 11 440
18 subsection (c). And in that particular section of the statute
19 it says a person who is not engaged in unlawful activity and
20 who is attacked at another place where he has a right to be,
21 including, but not limited to, his business has no duty to
22 retreat and has a right to stand his ground and meet force
23 with force, including deadly force.

24 And, of course, that no duty to retreat, that
25 specifically takes that -- that provision takes that language

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1 out of the old self-defense requirement. So in this
2 particular provision there's no duty to retreat.

3 Let me finish it. And that person has a right to stand
4 his ground and meet force with force, including deadly force.
5 If he reasonably believes it is necessary to prevent death or
6 great bodily injury to himself or another person or to prevent
7 the commission of a violent crime as defined in section 16-1-
8 80 [sic].

9 After listening to the testimony of both sides, the Court
10 is inclined to make the following finding; The Court finds
11 that the Defendant has not proven self-defense by a
12 preponderance of the evidence. The Court would, therefore,
13 deny him immunity and would not dismiss the current charge
14 pending against him. That'll be the ruling of the Court.

15 **MR. POLSINELLO:** Thank you, Your Honor. Your Honor,
16 would you like the State to prepare an order for you?

17 **THE COURT:** Yes. I was going to ask you, Mr. Polsinello.
18 If you can prepare an order and send a copy to Mr. Boatwright
19 before you send it to me.

20 **MR. POLSINELLO:** Yes, Your Honor. Is it okay if I get
21 that to you tomorrow?

22 **THE COURT:** That'll be fine or Monday. It doesn't
23 matter. Okay.

24 **MR. POLSINELLO:** I'll have it to you, Your Honor, and Mr.
25 Boatwright tomorrow.

5 (End of Requested Transcript of Record)

Certificate of Reporter

I, the undersigned, Susan W. Hudgins, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Circuit Court for Greenville County, South Carolina, on the 5th day of January 2023.

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

February 24, 2023

s/Susan W. Hudgins

Circuit Court Reporter

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

STATE OF SOUTH CAROLINA,

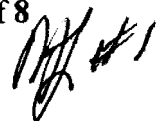
v.

WILLIAM LYKAS MCKINNEY,
DefendantIN THE COURT OF GENERAL SESSIONS
THIRTEENTH JUDICIAL CIRCUITINDICTMENT: 2021GS2303551
2020GS2305244A**ORDER DENYING IMMUNITY**

THIS MATTER came before the Court on January 5, 2023, for a hearing on the Defendant's Motion for Immunity and Dismissal pursuant to S.C. Code § 16-11-410, *et seq.*, more commonly known as the South Carolina Protection of Persons and Property Act. The Defendant, William Lykas McKinney (hereinafter "defendant"), was present and represented by defense counsel Ashaley Boatwright. Assistant Solicitor Derek Polsinello appeared on behalf of the State. The hearing proceeded and the Defense called witnesses and introduced evidence. The State did not call any witnesses, presented evidence, and entered State's exhibits through defense witness Tracy Alvin King, formerly with the Greenville County Sheriff's Office, who was the law enforcement investigator in this case. At the conclusion of the hearing, the Court heard oral argument by counsel for each side regarding the common law elements of self-defense and statutory immunity pursuant to S.C. Code § 16-11-410, *et seq.*, with case law for each side. After considering the testimony presented and the arguments of counsel, the Court found that the Defendant failed to prove by a preponderance of the evidence that he is entitled to immunity pursuant to S.C. Code § 16-11-410, *et seq.*, for the reasons set forth below. Based on the testimony and evidence presented by both sides during the hearing, and after weighing the credibility of all witnesses, the Court finds that the facts as set forth herein have been established by a preponderance of the evidence.

FACTS

During the early morning on July 4, 2020, sometime before 4:00 AM EST at 1705 White Horse Road in Greenville County, SC (formerly Club Dolce – hereinafter "club"), defendant was at this club as a patron. Defendant did not own the club, was not an employee at the club, and



 23 JAN 9 PM 1:40
 Paul Hokenberry 2023-01-09

the club was not a dwelling. Club Dolce was a private nightclub in Greenville County. The defendant testified that at some point after 3AM, and before 4AM, he left the club on his motorcycle, and drove to a friend's house in Greenville County. Sometime before 4AM, the defendant left his friend's house, and drove back to the club, as it was closing, arriving back at the Club around 4:00AM in his silver/grey Ford 450 pickup truck. On CCTV video, the defendant is clearly seen, and he admitted, to driving back to the club around 4AM, circling the club in his truck, allegedly looking for a parking spot. From 4AM until 4:06AM, the defendant is seen on CCTV continuously circling the club. According to the State's evidence, theory, and witness statements, the defendant got into a verbal argument with an unknown patron earlier that night at the club, left the club on his motorcycle, came back to the club in his truck with a gun in his possession, looking to settle "beef" with someone. According to the State's evidence and witness statement, around 4:05 AM while circling the club in his pickup truck, the defendant flashed a gun at club security officer/victim Monieque Green, and stated "*you are not the only one with a gun.*" Due to this action by the defendant, coupled with the information that club security allegedly had about this defendant coming back to the club with a gun to settle "beef" with someone, this caused club security to be on alert, and to keep eyes on the defendant, as it was club security's intention to deescalate any potential act of violence or aggression that could potentially unfold as a result of the defendant being in possession of a gun. The defendant testified, admitted, and acknowledged, and the State presented evidence, which clearly showed that prior to this July 4, 2020 shooting, this defendant was a convicted violent felon pursuant to South Carolina and Federal Law. In 2006, the defendant pled guilty to Assault Battery with Intent to Kill in Greenville County. Likewise, in 2012, the defendant pled guilty to involuntary manslaughter. The defendant admitted on the witnesses stand, and the State presented evidence, showing that when arriving to the club around 4:00 AM, and when he parked and got out of his truck around 4:06 AM, this defendant had a 9mm loaded gun concealed in his pocket. Therefore, this defendant was a convicted violent felon, unlawfully in possession of a weapon, when he arrived at the club around 4AM, and when he got out of his truck around 4:06 AM. These facts are undisputed.

On CCTV video, the defendant is seen walking to a group of individuals around 4:07 AM, with his hands in and/or near his short pockets. Having been tipped off by other club patrons, it is the State's theory that club security intended to approach this defendant, escort him

away from the individuals and to his truck, as the club was closing at 4:00 AM, knowing this defendant had a handgun in his pocket and was looking to settle "beef" with someone. Around 4:09AM, on CCTV video, club security is seen escorting this defendant away from the group of individuals that the defendant was congregating with. Club security personnel, Carlos Jenkins, had a shotgun pointed towards the ground, approached the defendant, and asked him to disperse. While club security was escorting the defendant away from the group, this defendant had his hands in his short pockets. The defendant testified that his hands were in his pockets, and this was also according to multiple State witnesses. Carlos Jenkins and club security personnel allegedly gave multiple orders for the defendant to take his hands out of his pocket, knowing that the defendant had a gun in his pockets and allegedly, according to the State, was looking to settle "beef" with someone. According to the State, multiple commands were given to the defendant to take his hands out of his pockets. The defendant did not comply. The State's evidence/theory shows that Carlos Jenkins and/or other club security personal thought that this defendant was clutching his gun in his shorts pocket, and was going to take it out. That is when Carlos Jenkins raised his shotgun, and fired a ballistic/rubber round from the shotgun into the back of the defendant, so as to neutralize any threat and prevent any act of violence at the hands of this defendant. After getting hit by the ballistic rubber bullet, the defendant testified, and is seen on CCTV, taking his gun out of his pocket, turning around, and firing multiple shots at club security personnel. It is undisputed that when firing his 9mm gun, the defendant did not hit Carlos Jenkins, but *instead* hit victim security guard Monieque Green, who was to the right of the defendant. Victim Monique Green was hit three (3) times in the torso by the defendant's gunfire. Carlos Jenkins did not get hit by any live round, and neither did the defendant nor any club patron. After the shooting, the defendant is seeing running away from the scene, and admitted on the stand to jumping a barbed wire fence, and then getting into a blue BMW SUV, in which the Blue BMW SUV led police on a high speed chase/pursuit, which lasted several minutes, and ultimately ended in a dead end of a trailer park, in which this defendant is seen on in-car camera getting out of the Blue BMW SUV, and running/continuing to flee/evade law enforcement. The defendant was subsequently apprehended and subdued to the ground. Victim Monieque Green was rushed to the emergency room where he underwent emergency surgery, and suffered serious bodily injury, requiring multiple surgeries.

ANALYSIS

A defendant's entitlement to immunity from prosecution under the Protection of Persons and Property Act must be decided pretrial using a preponderance of the evidence standard. State v. Duncan, 392 S.C. 404, 410-11, 709 S.E.2d 662, 665 (2011). The Protection of Persons and Property Act essentially codified two common law doctrines: the Castle Doctrine and Stand Your Ground. See S.C. Code Ann. § 16-11-440. Subsection (A) of 16-11-440 addresses the common law Castle Doctrine and provides that:

(A) A person is presumed to have a reasonable fear of imminent peril of death or great bodily injury to himself or another person when using deadly force that is intended or likely to cause death or great bodily injury to another person if the person:

- (1) against whom the deadly force is used is in the process of unlawfully and forcefully entering, or has unlawfully and forcibly entered a dwelling, residence, or occupied vehicle, or if he removes or is attempting to remove another person against his will from the dwelling, residence, or occupied vehicle; and
- (2) who uses deadly force knows or has reason to believe that an unlawful and forcible entry or unlawful and forcible act is occurring or has occurred.

Subsection (B) sets forth circumstances under which Subsection (A) would not apply, to wit:

(B) The presumption provided in subsection (A) does not apply if the person:

- (1) against whom the deadly force is used has the right to be in or is a lawful resident of the dwelling, residence, or occupied vehicle including, but not limited to, an owner, lessee, or titleholder...
- and;
- (3) who uses deadly force is engaged in an unlawful activity or is using the dwelling, residence, or occupied vehicle to further an unlawful activity;

Testimony presented at the hearing conclusively established that this shooting occurred outside Club Dolce, in a parking lot, on CCTV video. Therefore, it did not occur in a dwelling, or inside an occupied vehicle. Likewise, it is undisputed that the defendant did not own the club, and was not an employee at the club, therefore the shooting did not occur at the defendant's

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place of business, bringing the defendant into section 16-11-440 (B)(3). Accordingly, the Court finds the elements of S.C. Code §16-11-420, and S.C. Code § 16-11-440(A) and (B), inapplicable to the factual circumstances of this case, and Defendant's claim of immunity is then properly sought and moved under S.C. Code § 16-11-440(C). Subsection (C) provides that:

(C) A person who is not engaged in an unlawful activity and who is attacked in another place where he has a right to be, including, but not limited to, his place of business, has no duty to retreat and has the right to stand his ground and meet force with force, including deadly force, if he reasonably believes it is necessary to prevent death or great bodily injury to himself or another person or to prevent the commission of a violent crime as defined in Section 16-1-60.

In 2013, the South Carolina Supreme Court held in Curry that "consistent with the Castle Doctrine and the text of the Act, a valid case of self-defense must exist, and the trial court must necessarily consider the elements of self-defense in determining a defendant's entitlement to the Act's immunity...this includes all elements of self-defense, save the duty to retreat." State v. Curry, 406 S.C. 364, 371, 752 S.E.2d 263, 266 (2013). Accordingly, the Court's analysis of Defendant's claim of immunity under Subsection (C) must also include an analysis of the four common law elements of self-defense. The four elements of self-defense are stated as follows;

First, the defendant must be without fault in bringing on the difficulty. Second, the defendant must have actually believed he was in imminent danger of losing his life or sustaining serious bodily injury, or he actually was in such imminent danger. Third, if his defense is based upon his belief of imminent danger, a reasonably prudent man of ordinary firmness and courage would have entertained the same belief. If the defendant actually was in imminent danger, the circumstances were such as would warrant a man of ordinary prudence, firmness and courage to strike the fatal blow in order to save himself from serious bodily harm or losing his own life. Fourth, the defendant had no other probable means of avoiding the danger of losing his own life or sustaining serious bodily injury than to act as he did in this particular instance. State v. Dickey, 394 S.C. 491, 499, 716 S.E.2d 97, 101 (2011).

As to S.C. Code § 16-11-440(C), this Court finds that the defendant was engaged in an unlawful activity, thus barring the defendant from immunity under this section, for the following reasons;

- (1) the defendant admitted, and the State presented evidence, showing that in 2006, the defendant pled guilty to Assault Battery with Intent to Kill (ABWIK), which is considered a most serious and violent offense pursuant to S.C. Code § 17-25-45(C)(1),

and S.C. Code § 16-1-60. This conviction bars the defendant from possessing any firearm in the future. Likewise, the defendant admitted, and the State presented evidence showing that in 2012, the defendant pled guilty to involuntary manslaughter, in which the defendant's signed sentencing sheet clearly stated "*Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 to ship, transport, possess, or received a firearm or ammunition.*" The defendant signed this sentencing sheet and confirmed this at the hearing. This conviction also bars the defendant from possessing any firearm in the future. It is undisputed that on July 4, 2020, around 4 AM, this defendant, having the prior convictions as described above, arrived to Club Dolce, in possession of a firearm, thereby engaging in an unlawful activity. The defendant was acting unlawfully by arriving to the club, with a gun, knowing he was a convicted felon who was barred from possessing a firearm; and

- (2) the defendant admitted on the stand that he did not have a valid concealed weapons permit at the time he arrived at the club with his gun concealed in his short pockets. The State presented evidence confirming that there was no evidence this defendant had a valid concealed weapons permit at the time of this shooting. Therefore, the defendant was engaged in an *additional* unlawful activity, by being in possession of a concealed weapon in a public place, without possessing a valid concealed weapons permit at the time. For these reasons stated above, the Court finds that this defendant was engaged in an unlawful activity pursuant to S.C. Code § 16-11-440(C), thus barring him from immunity under this section.

Having established that this defendant was engaged in an unlawful activity pursuant to S.C. Code § 16-11-440(C), this Court then must address the common law self-defense claim which was asserted by the defendant under his claim for immunity under S.C. Code § 16-11-410, and pursuant to State v. Dickey, 394 S.C. 491, 499, 716 S.E.2d 97, 101 (2011).

First, the defendant must show that he was without fault in brining on the difficulty to himself. The defendant admitted on the stand, and the State presented evidence, confirming that at one point in the early morning before 4:00 AM, the defendant was at the club, left the club on a motorcycle, went to a friend's residence in Greenville County, and then the defendant chose to

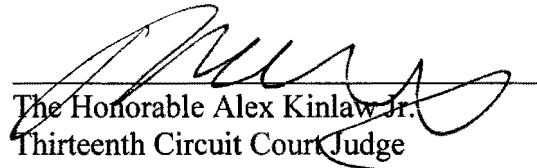
get in his truck, and drive back to the club, with a gun in his possession. Reasonably, had the defendant chose to stay at his friend's residence, or, had the defendant even chose to come back to the club, without the gun in his pocket, this shooting arguably likely would have never happened, and thereby could have been prevented by the defendant. According to State witnesses, the defendant flashed his gun at club security personnel around 4:05 AM, and club security personnel received information that this defendant was coming back to the club, with a gun, looking to settle some type of score with someone. Therefore, it is reasonable to conclude that the defendant's own decisions and actions that early morning were a direct consequence of the events unfolding, and that the defendant was at fault in brining on the difficulty upon himself.

Under the self-defense analysis as described in State v. Dickey, 394 S.C. 491, 499, 716 S.E.2d 97, 101 (2011), the Defendant must also show that he had no other probable or alternative means of avoiding the danger. The same analysis that is firstly described above, in analyzing whether or not the defendant was at fault in bringing this difficulty upon himself, can also be applied in this fourth prong of the self-defense analysis. Meaning, again, this defendant did have other probable or alternative means of avoiding the danger, in that; (1) he could have chosen to stay home after initially leaving the club; or (2) even had he come back to the club, not bring a gun with him and unlawfully conceal it in his pocket, which he was not lawfully able to possess a gun in the first place given his prior criminal convictions. The defendant could have avoided the danger merely by choosing to do (1) or (2) as described above.

Based on the factual findings and legal analysis set forth herein, the Court finds that the Defendant failed to prove the fourth element of self-defense by a preponderance of the evidence. Moreover, under S.C. Code § 16-11-440(C), the Defendant failed to establish by a preponderance of the evidence that he reasonably believed it was necessary to use deadly force to prevent death or great bodily injury to himself or to prevent the commission of a violent crime as defined in S.C. Code § 16-1-60.

THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED that Defendant is not entitled to immunity under the Protection of Persons and Property Act §§ 16-11-410, and S.C. Code § 16-11-440 (A) and (C). Accordingly, the Defendant's Motion for Immunity and Dismissal pursuant to the Protection of Persons and Property Act, S.C. Code § 16-11-410, *et seq*, is hereby DENIED.

IT IS SO ORDERED.


The Honorable Alex Kinlaw Jr.
Thirteenth Circuit Court Judge

Greenville, South Carolina

Date: 1/9/23

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	2021-GS-23-03551
COUNTY OF GREENVILLE	)	2020-GS-23-05244A
	)	
	)	
	)	
STATE OF SOUTH CAROLINA,	)	
PLAINTIFF,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
WILLIAM MCKINNEY,	)	
DEFENDANT.	)	
	)	

October 16, 17, 18, 19, 2023
Greenville, South Carolina

B E F O R E:

THE HONORABLE ALEX KINLAW, JR., JUDGE

A P P E A R A N C E S:

DEREK FRANCIS POLSINELLO, ESQ.
Attorney for the Plaintiff

ASHALEY CHRISHTON BOATWRIGHT, ESQ.
WILLIAM ROBERT HELLAMS, ESQ.
Attorneys for the Defendant

CHERYL A. SMITH
Circuit Court Reporter

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1 role.

2 And so please, ma'am and please, sir, do not begin
3 any deliberations in your mind. All I want you to do now,
4 and I think the State wants you to do this, the defendant
5 wants you to do this, is to listen and pay attention.
6 Typically, sometimes I allow note-taking in cases. I'm
7 not going to do that here. I want you to pay attention.
8 And so if you do that, I think both sides would be most
9 appreciative.

10 So unless there's anything else from the State or the
11 defense, I'm going to let you move into opening
12 statements.

13 And I will tell you this. I've known this solicitor
14 for a minute, and I may mess his name up 20,000 times, so
15 don't hold that against me. I've not mastered how to
16 pronounce his last name. Polsinello.

17 MR. POLSINELLO: Polsinello.

18 THE COURT: Polsinello. Okay. Go ahead, Counsel.

19 MR. POLSINELLO: May it please the court. Good
20 afternoon, Your Honor.

21 THE COURT: Yes sir.

22 OPENING STATEMENTS

23 MR. POLSINELLO: Good afternoon, ladies and gentlemen
24 of the jury.

25 Why would a person leave a nightclub, go to wherever

1 they are, and bring back a gun to a nightclub? What's
2 their motive for doing that? Why would they do that? Why
3 would they leave the nightclub and come back with a gun?

4 The second question I want you to ask yourself, the
5 same person coming back to the club with a gun, why would
6 they flash it at a security officer? Why would they take
7 it out and flash it? What is their motive behind doing
8 that? What's their intent?

9 And thirdly, this same person that has the gun in
10 their pockets and security knows this and is tipped off
11 and this person is given multiple commands to take your
12 hands out of your pockets, take your hands out of your
13 pockets, why won't the person just do this? Why wouldn't
14 that person take their hands out of their pockets? Why
15 would they clutch on their gun?

16 These questions are critical in this case. And as
17 this trial unfolds this week, you're going to understand
18 why these questions are critical and the answers to them.
19 And the evidence that you're going to see should explain
20 all that.

21 Again, my name is Derek Polsinello. I'm representing
22 the State, the people in this county, and the victim in
23 this case, Monieque Greene. This is a violent case,
24 ladies and gentlemen. And what you're going to see, our
25 victim was shot by this defendant not once, not twice, but

1 three times, nearly costing the victim's life in this
2 case. And he's here this week to tell you his story, what
3 he observed and what he endured.

4 As you're aware now, this is a shooting, a shooting
5 in a nightclub parking lot in the early morning hours on
6 July 4, 2020. So it's been about 1,196 days since this
7 incident. The shooting occurred outside in the club
8 parking lot right around 4 a.m., 4:10 a.m., in which this
9 defendant, as you're going to see the evidence shows,
10 violently fired upon the victim, nearly killing
11 Mr. Greene. That's what this case is about.

12 As His Honor has already told you, the defendant is
13 on trial for one charge of attempted murder, one charge of
14 possession of a weapon during the commission of a violent
15 crime, and another charge of possession of a weapon by a
16 person convicted of a felony. Now, towards the end of
17 this trial, I'll explain the law. His Honor is going to
18 explain the law at the end, and what His Honor says,
19 that's the law. But the State will sum up the law as best
20 as we can to you in light of the evidence and show you
21 how, based on the evidence, all of the elements for these
22 charges has been met beyond a reasonable doubt. It will
23 leave you firmly convinced of what happened that early
24 morning at the hands of this defendant and what happened
25 to Mr. Greene.

1 Now, you're going to hear and you're going to see as
2 the trial unfolds that at one point there was a security
3 guard who approached this defendant knowing he had a gun
4 in his possession. And again, this defendant was given
5 multiple commands to take his hands out of his pockets,
6 and he wouldn't. And as he started to take his hands out
7 of his pockets clutching on his gun, that's when a
8 security guard decided to fire a nonlethal round, a
9 nonlive ammunition round, a plastic ball into this
10 defendant's lower back with the intention to disarm the
11 defendant, to get him away from the crowd, to get the gun
12 away from the defendant. That was the intention.
13 Fortunately, it became much, much more violent by the
14 defendant taking out his gun and not shooting -- not
15 shooting the security guard who shot him with a plastic
16 ball, the defendant did not shoot that security guard.
17 You're going to see how the defendant turned and fired
18 upon the victim three times as the victim was standing
19 there.

20 His Honor mentioned the standard of proof that the
21 State has to prove in this case is beyond a reasonable
22 doubt. And at the end of the trial, I'll touch on that,
23 what that is, and His Honor will instruct you on that.
24 But it's that type of doubt which leaves you firmly
25 convinced, firmly convinced of what happened.

1 His Honor alluded to a cloak of innocence around the
2 defendant's shoulders at this point. All criminal
3 defendants in this country, innocent until proven guilty
4 beyond a reasonable doubt by a jury of their peers. I'm
5 sure you've heard that. Well, ladies and gentlemen, the
6 evidence in this case, when it comes in, that evidence
7 cuts off that cloak one by one, strand by strand. And
8 that cloak can come off when a person has committed a
9 crime and the evidence shows it.

10 This is not a question of if the defendant committed
11 this crime. The State's position, you're going to see the
12 defendant committed this crime. It's not a question of if
13 he did it or how. But the State wants to ask you, ladies
14 and gentlemen, please consider this, is the defendant
15 justified in doing this? Should he be excused from his
16 conduct, what he did to the victim? Should he be excused?
17 And again, it's all based on the evidence.

18 Three questions. Well, in the beginning there were
19 three questions that I proposed to you all to consider why
20 would this person do this. There's three critical
21 questions in this case among others, but three critical
22 that the State wants you to ask yourself as this trial
23 goes on every single day. The first question, was the
24 defendant at fault in bringing on this difficulty to
25 himself? Was the defendant at fault in bringing on this

1 difficulty to himself? The question matters because it
2 goes to the law at the end of this case that I'll have
3 another opportunity to sum up. And the State is here
4 confidently telling you, based on the evidence, yes, he
5 was at fault. And it matters. And I'll explain that at
6 the other opportunity I have to speak with you.

7 The second question, was there no other way for the
8 defendant to avoid this danger? Was there no possible
9 other way for the defendant to avoid this danger? And the
10 State is up here telling you, based on the evidence that's
11 going to come in and you're going to see, yes, this
12 absolutely could have been avoided by the defendant. It
13 could have been avoided. And that matters based on the
14 law which we'll sum up, again, at the end of the trial.

15 The third, final question I want you to ask yourself
16 is would a reasonably prudent person of ordinary firmness
17 and courage, a law-abiding citizen, if you will, would
18 they have entertained the same beliefs as this defendant
19 that early morning? Would they have done the same actions
20 as this defendant and entertained the same thought
21 process? The State is up here telling you confidently no.
22 A reasonably prudent person of ordinary firmness and
23 courage, a law-abiding citizen, would not have entertained
24 the same belief that these actions that you're going to
25 see based on the evidence. They're critical in this case,

1 and towards the end of this trial you're going to see why.

2 Briefly, the evidence, there's two types of evidence
3 generally: direct evidence, circumstantial evidence. At
4 the end of this trial, His Honor is going to give you an
5 instruction on evidence, direct and circumstantial, what
6 that means. Briefly, an example of direct evidence could
7 be on video, the crime being committed on video, direct
8 evidence. Circumstantial evidence can be oral testimony
9 from witnesses that come from the stand or that you
10 hear.

11 Direct evidence and circumstantial evidence, you can
12 consider it all. You consider it all. It should be given
13 the same weight. But throughout this trial, as the days
14 pass, with the evidence, you will see exactly what
15 happened on the early morning on July 4, 2020.

16 Lastly, I want to thank you the jurors for your
17 service and commitment today. Earlier in the jury
18 qualification room, His Honor expressed to you the
19 importance that y'all have in today's -- in this week's
20 proceeding. And it's true. Because if you think about
21 it, the criminal justice system cannot function without
22 you. It can't function without you. The defendant is
23 afforded certain rights under the Constitution. Everyone
24 is presumed innocent, absolutely, until a jury of his
25 peers find him guilty in a court of law. And that's why

1 we're here this week to determine that. By being here,
2 the State is acknowledging you're away from your job,
3 you're away from your families, obviously not getting --
4 it's a sacrifice. But it matters because true justice --
5 true justice cannot happen without you and your attention
6 to this matter and consideration of everything. So again,
7 on behalf of the State, thank you. Thank you all for
8 being here. And towards the end of this trial, I'll have
9 another opportunity to address you all, talk one more
10 time, sum everything up. And I look forward to that
11 opportunity.

12 Thank you.

13 THE COURT: All right. I thank you, Counsel.

14 Yes, sir, Mr. Hellams.

15 MR. HELLAMS: May it please the Court, Your Honor.

16 THE COURT: Yes, sir.

17 MR. HELLAMS: Ladies and gentlemen of the jury, you
18 just heard from Mr. Polsinello what the State's theory of
19 the case is. I'm going to get into my theory of what this
20 case is all about here in just a second.

21 But first, I want to thank you, too. Okay. I know
22 it's cliché. He just got through thanking you. But I
23 want to thank you because you're here with me in my very
24 first trial. And I want to tell y'all that not because I
25 expect anything in return, any special favor other than I

1 need a little bit of grace. So if I get up here and I
2 stutter or I mumble or I mispronounce some words or
3 something, put that on me. Don't put that on
4 Mr. McKinney, okay? Because if I look scared and nervous,
5 rest assured it is because I am. Okay. And any
6 reasonable person would be scared, a little bit nervous in
7 the same situation that I'm in. And it might be
8 reasonable for me to run right out this door right now to
9 get away from this. But the deal is, I put myself in this
10 position. I accepted this responsibility to come in here
11 and talk to you guys this week about William McKinney.
12 And that's the difference between me and Mr. McKinney.

13 July 4, 2020, Mr. McKinney was at Club Dolce here in
14 Greenville County. He parks his vehicle, he's walking to
15 a crowd, going to meet some friends, going to talk to some
16 women. And as he's walking across the parking lot, one of
17 the people he's walking up says, hey, man, there's some
18 folks behind you coming, and they got guns. And he looks
19 over his shoulder and he sees three people coming in his
20 direction. One of them has a shotgun slung across their
21 chest. They're wearing all black. And so he's like I
22 want no part of this. I don't want any part of this
23 whatsoever. And so he just tries to walk away from the
24 situation.

25 Now, the allegations are that at some point somebody

1 was behind him saying, "Take your hands out of your
2 pockets." But he kept walking. He kept his hands in his
3 pockets. They told him one time, two times, three times,
4 "Take your hands out of your pocket. Take your hands out
5 of your pocket. Take your hands out of your pocket." And
6 then what happened when he didn't take his hands out of
7 his pocket? Raised the shotgun, kaboom.

8 Okay. Now, they call it a nonlethal round. But
9 let's be honest. These rounds are actually called less
10 lethal. It doesn't mean nonlethal. It doesn't mean they
11 won't kill or they can't kill. They're less lethal.

12 Okay. He gets shot once in the back, and it staggers
13 him. He keeps walking. He gets shot a second time in his
14 back and it nearly knocks him to his knees. And at that
15 point in time, as the evidence is going to show, because
16 we've got video of the whole thing, he retrieves a firearm
17 from his pocket and returns fire as he is fleeing, trying
18 to remove himself from this situation. Okay. He runs, he
19 jumps the fence.

20 Would any reasonable person be scared in that
21 position? I think that's a reasonable belief, right?
22 Would a reasonable person react the same way in that? Was
23 there an opportunity to avoid this? Did he take it? He
24 was walking away, right?

25 Well, let's talk about what the evidence is going to

1 show, okay? So law enforcement arrives on scene. And
2 when they get on scene, you're going to see lots of
3 different videos from the club, in-car cameras, body
4 cameras. The place was swarming with deputies. It was
5 also swarming with people. And as the deputies arrive,
6 they start to secure the scene.

7 Now, what is the purpose of securing this scene?
8 It's to protect the crime scene, right? Prevent anybody
9 in there from leaving till they can be identified, and to
10 protect the evidence, right? You're going to see videos
11 before law enforcement arrived, like 50, 60, who knows how
12 many people in the parking lot. And out of that they
13 identify six witnesses, three of which were the security
14 guards involved in this situation. Okay. And we're going
15 to talk about all this in turn real quick. I'm not going
16 to belabor all these points.

17 Okay. So they secure this scene, and they manage to
18 rope three witnesses in other than the three security
19 guards that were involved in this. They leave them inside
20 the scene. They never separate them. At one point you'll
21 see one of the witnesses drive a car across the crime
22 scene. And they're oh, oh, oh, stop. Stop. Okay. They
23 don't separate the three security guards.

24 Okay. You've got Carlos Jenkins that took the shot
25 with the shotgun. They get a story from Carlos. Carlos

1 says he's out on patrol. Some woman comes up to him. We
2 don't know who this woman is. Don't know what she looks
3 like. No idea how old she is, what she's wearing. And
4 she says, "Hey, you need to keep an eye on that guy. He's
5 a troublemaker." And so Carlos goes to confront him.

6 And Carlos's story is that as he's walking across the
7 parking lot to confront him, which is all on video, that
8 he's walking with a gun by his side. When Carlos gets up
9 behind him, he says, "Drop the gun. Drop the gun." And
10 William McKinney goes in the middle of the parking lot
11 facing away from him, and that's when he decides to shoot
12 him in the back not once, but twice.

13 Now, he also says that when he gives that third
14 command to drop the gun, that William here starts to turn
15 around, and he shoots him twice with these rubber bullets
16 but somehow strikes him in the back both times.

17 Okay. Now, he didn't ask you to be thinking about
18 these questions, be thinking about the evidence. I want
19 you to keep that in the front of your mind. He shot him
20 twice in the back while he's allegedly turning around.
21 And then he drops the shotgun and starts firing with a
22 handgun as he's returning fire.

23 Now, we've got Lamar James, it's another security
24 guard, says he's walking around. And the woman comes up
25 to him and tells him, "See that guy right there? He's a

1 troublemaker. Keep your eyes on him." And he radios
2 Carlos and tells Carlos about it. And they get together,
3 and they're going to go approach him.

4 But Lamar James says the whole time his hands are in
5 his pocket and that Carlos is telling him, "Get your hands
6 out of your pocket. Get your hands out of your pocket.
7 Get your hands out of your pocket." And then he, too,
8 says Carlos shoots him twice in the back. But he doesn't
9 say anything about a gun being presented until after the
10 fact. He doesn't say he's turning around. He says he's
11 walking away. Gets shot in the back twice.

12 Now, the interesting thing is Carlos, well, he
13 doesn't say anything about Lamar telling him that.
14 Nothing whatsoever. Never comes up in their conversation
15 with law enforcement.

16 Then you've got Monieque Greene who says that when he
17 arrived at the club in his truck, he circles the parking
18 lot three times. And you're going to hear about the three
19 times circling the parking lot probably more times than
20 this. Okay. But he says he circles it three times and at
21 one point he stops and he's blocking traffic. And he,
22 Monieque Greene, goes over and says, "Hey, man, you need
23 to move your truck out of traffic," right?

24 And he says, "I'm not" -- William says, "I'm not
25 blocking traffic."

1 He said, "Move your truck out of traffic."

2 "You ain't the only one with a gun out here."

3 Now, again, think about the things that make sense
4 and the questions that you have. You have an armed
5 security guard and a man's waving a gun at him, and then
6 he lets him drive off and park and get out and walk into a
7 crowd of people. And allegedly he tells Carlos about
8 that, and they all go together to handle this situation.

9 Oh, I'm sorry. Let me back up. I told you I was a
10 little bit nervous. He says Lamar's standing right there
11 with him. And he says, "Did you see that?"

12 And Lamar said, "Yeah. I saw it." But Lamar doesn't
13 mention that, and Carlos doesn't mention that.

14 None of these three people, these three security
15 guards, notify law enforcement that they've got a
16 potential armed person who's waved a gun at another
17 security guard before this incident happened. They don't
18 call for any kind of help, no backup. Right.

19 But now let's talk about these three independent
20 witnesses. Okay. Because this whole incident happened
21 over here. Security guards, everybody is here, right? So
22 across the parking lot, you go from a different angle, and
23 we've got Natasha Dogan and Javaris Barksdale that are
24 talking across the parking lot. And they see William
25 cutting between some cars with three large guys, one with

1 a shotgun coming right behind him. He's walking, trying
2 to get away. And they're saying, "Get your hands out of
3 your pocket. Get your hands out of your pocket." They
4 say it three times. And then, as you already know, they
5 shoot him twice in the back, and then he returns fire and
6 flees the scene to remove himself from that situation.

7 And then on the other side of the parking lot, you
8 have Ms. Edgerton. And what is she seeing here? The same
9 thing. But her story is discounted. All three
10 independent witnesses' stories are discounted. All three
11 independent witnesses who hear the same story are
12 discounted in favor of the three security guard who have
13 conflicting stories.

14 So I'm going to end with this. Like I said, I don't
15 want to talk you to death. I want you to think about the
16 evidence we've got. I want you to think about the
17 evidence that you don't have. And I want you to really
18 keep your mind on the conflicts in the evidence. And if
19 you do all that, you will see that this was self-defense
20 and that Mr. McKinney had no other choice.

21 Thank you for your time.

22 THE COURT: All right. Thank you, Counsel.

23 The State's ready to call its first witness?

24 MR. POLSINELLO: Yes, Your Honor. The State calls
25 Sarah Young to the stand.

1 THE COURT: All right.

2 THE CLERK: Ms. Young, please place your left hand on
3 the Bible and raise your right hand.

4 WHEREUPON,

5 SARAH YOUNG

6 After having been duly sworn, testified as follows:

7 THE CLERK: Thank you. Please take a seat and state
8 your name for the record.

9 THE WITNESS: Sarah Young.

10 DIRECT EXAMINATION

11 BY MR. POLSINELLO:

12 Q Ms. Young, are you currently employed?

13 A Yes.

14 Q With whom?

15 A The Greenville County Sheriff's Office.

16 Q How long have you been employed there?

17 A One year.

18 Q One year?

19 A Uh-huh.

20 Q What's your title?

21 A I am the 9-1-1 tape research analyst.

22 Q Tape research analyst?

23 A Uh-huh.

24 THE COURT: Make sure you say "yes" or "no."

25 THE WITNESS: Yes.

1 BY MR. POLSINELLO:

2 Q And what are your duties and responsibilities as the
3 tape research analyst?

4 A I fulfill tape requests for officers and the
5 solicitor's office.

6 Q So in your capacity, are you familiar with
7 maintaining and receiving 9-1-1 calls?

8 A Yes.

9 Q Are 9-1-1 calls kept in the course of regular
10 conducted business activity where you work?

11 A Yes.

12 Q Is it a regular practice to keep, maintain and store
13 these 9-1-1 calls?

14 A Yes.

15 Q Do you have personal access to these 9-1-1 calls?

16 A Yes.

17 Q Do you have the authority to maintain and oversee the
18 9-1-1 calls?

19 A Yes.

20 Q Do you record and make copies of 9-1-1 calls?

21 A Yes.

22 Q Ma'am, I'm approaching you with what's been
23 previously marked as State's Exhibit 1. Do you recognize
24 this disc?

25 A Yes.

1 Q Is that your initials on the disc?

2 A Yes.

3 Q And your date?

4 A Yes.

5 Q Does this reflect the date that you reviewed the
6 9-1-1 calls in this case?

7 A Yes.

8 Q Is this disc a copy of the 9-1-1 calls as it relates
9 to this case?

10 A Yes.

11 Q Have you listened to these calls in its entirety
12 before?

13 A Yes.

14 Q To the best of your knowledge, is this a true and
15 accurate copy of the 9-1-1 calls as it relates to this
16 case?

17 A Yes.

18 MR. POLSINELLO: Your Honor, pursuant to South
19 Carolina Rules of Evidence 901 and 8036, the State moves
20 to submit this into evidence as State's Exhibit 1.

21 THE COURT: Any objection?

22 MR. BOATWRIGHT: No, Your Honor.

23 THE COURT: All right. So entered as State's Exhibit
24 Number 1 without objection.

25 ///

1 (WHEREUPON, State's Exhibit Number 1 was admitted into
2 evidence.)

3 MR. POLSINELLO: Your Honor, permission to publish
4 and play for the jury.

5 THE COURT: All right. Any objection to that,
6 Counsel?

7 MR. BOATWRIGHT: No, Your Honor.

8 THE COURT: All right.

9 (WHEREUPON, State's Exhibit Number 1, a video, was played
10 in open court.)

11 MR. POLSINELLO: Thank you, Ms. Young.

12 No further questions, Your Honor.

13 THE COURT: Cross-examination.

14 MR. BOATWRIGHT: Nothing from defense, Your Honor.

15 THE COURT: All right. Ma'am, you can step down.

16 Can this witness be excused? Any objection?

17 MR. POLSINELLO: No objection from the State.

18 THE COURT: All right. Ma'am, you're free to go.
19 Thank you so much.

20 All right. Call your next witness.

21 MR. POLSINELLO: Your Honor, the next witness, the
22 State calls Investigator Walter Bryson.

23 THE CLERK: Please place your left hand on the Bible
24 and raise your right hand.

25 WHEREUPON,

1 WALTER BRYSON

2 After having been duly sworn, testified as follows:

3 THE CLERK: Thank you. Please take a seat and state
4 your name for the record.

5 THE WITNESS: Walter Bryson.

6 DIRECT EXAMINATION

7 BY MR. POLSINELLO:

8 Q Investigator Bryson, are you currently employed?

9 A I am.

10 Q With whom?

11 A The Greenville County Sheriff's Office.

12 Q How long have you been employed there?

13 A Seven and a half years.

14 Q What's your current title?

15 A A homicide investigator.

16 Q Were you employed with the Greenville County
17 Sheriff's Office on July 4, 2020?

18 A I was.

19 Q What was your title at that time?

20 A I was a Deputy II, a patrol unit.

21 Q And what were you doing early that night around
22 4 a.m.?

23 A Around 4 a.m. I was hopefully getting ready to go
24 home. But that -- things changed.

25 Q You were coming off of a shift?

1 A Correct. I was working the mid-shift, which is 2:00
2 to 2:00. So supposed to clear 2 a.m., but that did not go
3 as planned.

4 Q And did you respond to the incident location in this
5 case?

6 A I did.

7 Q Is that 1705 White Horse Road?

8 A Correct.

9 Q And that's in Greenville County?

10 A It is.

11 Q And at the time, that was Club Dolce?

12 A Correct.

13 Q Okay. What is Club Dolce?

14 A Now it is a blank canvas because they've torn it
15 down. But it was formerly a nightclub attached to another
16 nightclub and a restaurant.

17 Q Okay. Now, when you arrived on scene, did you have
18 your in-car camera activated?

19 A I did.

20 Q Investigator Bryson, I'm approaching you with what's
21 been previously marked as State's Exhibit 92. It's a USB
22 drive. Do you recognize this USB drive?

23 A I do.

24 Q To the best of your knowledge, is this a true and
25 accurate copy of your in-car camera when you responded to

1 the scene that night?

2 A It is.

3 Q And you personally viewed this before?

4 A I have, yes.

5 MR. POLSINELLO: Your Honor, pursuant to South
6 Carolina Rule of Evidence 901, the State moves to submit
7 this into evidence as State's Exhibit 92.

8 THE COURT: Any objection?

9 MR. BOATWRIGHT: No, Your Honor.

10 THE COURT: All right. So entered without
11 objection.

12 (WHEREUPON, State's Exhibit Number 92 was admitted into
13 evidence.)

14 MR. POLSINELLO: Your Honor, permission to publish
15 and play for the jury.

16 THE COURT: Any objection?

17 MR. BOATWRIGHT: No, Your Honor.

18 THE COURT: All right.

19 (WHEREUPON, State's Exhibit Number 92, a video, was played
20 in open court.)

21 BY MR. POLSINELLO:

22 Q Okay. Investigator Bryson, so did you receive a call
23 at this moment?

24 A I believe it was right around the time that I got to
25 the red light the official call was given.

1 (WHEREUPON, State's Exhibit Number 92, a video, continues
2 to play in open court.)

3 BY MR. POLSINELLO:

4 Q I'm stopping the video at 36 seconds.

5 So clearly, you activated your blue lights?

6 A Correct. When I got to that first red light, that
7 right turn, that 30-second gap would have been the
8 activation of the blue lights.

9 Q And what was the call that you received over the
10 radio in response? What was the code for it?

11 A 10-49 bravo victim, which is a shooting victim for
12 Greenville County using our 10 codes.

13 (WHEREUPON, State's Exhibit Number 92, a video, continues
14 to play in open court.)

15 BY MR. POLSINELLO:

16 Q Investigator Bryson, did you have your body camera on
17 that night?

18 A I did.

19 Q Was it activated?

20 A It was.

21 Q And it captured your actions when you arrived on the
22 scene?

23 A Correct.

24 Q I'm approaching you with what's been previously
25 marked as State's Exhibit 93. Do you recognize this USB?

1 A I do.

2 Q Is this, to the best of your knowledge, a true and
3 accurate copy of your body camera from this early morning?

4 A It is.

5 Q Have you had a chance to review this before?

6 A I have.

7 Q Is your initials on it?

8 A Yes, it is.

9 MR. POLSINELLO: Your Honor, pursuant to South
10 Carolina Rule of Evidence 901, the State moves to submit
11 this into evidence as State's Exhibit 93.

12 THE COURT: Any objection?

13 MR. BOATWRIGHT: No, Your Honor.

14 THE COURT: All right. So entered without
15 objection.

16 (WHEREUPON, State's Exhibit Number 93 was admitted into
17 evidence.)

18 MR. POLSINELLO: Permission to publish and play for
19 the jury.

20 THE COURT: Any objection?

21 MR. BOATWRIGHT: No, Your Honor.

22 THE COURT: All right.

23 BY MR. POLSINELLO:

24 Q So Investigator Bryson, were you one of the first
25 officers to arrive on scene?

1 A I was the first deputy to arrive on scene, yes.

2 Q The first?

3 A The first, correct.

4 (WHEREUPON, State's Exhibit 93, a video, was played in
5 open court.)

6 BY MR. POLSINELLO:

7 Q All right. Investigator Bryson, I'm going to back it
8 up to when you initially responded to the scene. Pausing.
9 What time does your body cam say up here, the time stamp?

10 A 04:14 and 4 seconds.

11 Q So would that be around 4:14 a.m.?

12 A Correct.

13 Q And this is dated July 4, 2020?

14 A Correct.

15 Q Okay. When you first arrived on scene, you were
16 alone, correct?

17 A That's correct.

18 Q In terms of law enforcement presence, you didn't have
19 any backup with you.

20 A Correct. I was the only deputy there.

21 Q When you responded on scene, did you know where the
22 suspect shooter was at the time?

23 A No. Not at that time. With the limited amount of
24 information we received from dispatch, the only thing we
25 knew, that there was a gunshot victim. It was unknown who

1 or where the shooter was, how many there were, or if there
2 were even more victims. We only knew the one.

3 Q You stated on your body camera, "Suspect Code 1 over
4 fence." What does "Code 1" mean?

5 A So I got there and I'm talking to the secondary
6 bodyguard who's giving me information. I'm asking, you
7 know, what happened, where'd he go, things like that. And
8 when we clarify that I was talking about the shooter, not
9 the victim, he stated that he jumped over the fence. So
10 in our 10 code language for me to advise other units, I'm
11 telling them that he went -- he left the scene jumping
12 over the fence. And I gave the road name of Linda Avenue,
13 which would be the next road over from where the club was.
14 So I'm giving them a direction of travel so that units
15 responding could go to that direction.

16 Q And your body camera, when you're in the back of the
17 club surveilling the scene, we see all of a sudden you
18 take off. You start running. What prompted you to do
19 that?

20 A I noticed that the security guards that were on scene
21 that had been helping the victim with rendering aid
22 started to move to the opposite side of the building from
23 where we were. And at that time I heard them yell that
24 he's running this way. Just based upon the circumstances
25 from where they were headed and where they had told me

1 that the suspect had fled the scene, I had only reason to
2 believe that they were talking about the suspect. So at
3 that time when I, for lack of better terms, put two and
4 two together, I ran to where they were running to in order
5 to see if they were indeed talking about the suspect and
6 then to give chase if need be.

7 Q Okay. So it's your opinion that your body camera,
8 and you talk about this BMW, you saw the shooter get in
9 the BMW?

10 A Correct. It's hard to tell due to the lighting and
11 kind of the nature of how the buildings were set up. From
12 my point of view, as soon as I rounded the corner, from
13 the backside of the club where I initially responded to, I
14 could see the suspect matching the exact clothing
15 description running down Cartee Avenue, which was now the
16 street parallel to where we were. And when I noticed that
17 it matched the physical description of what they had
18 given, I ensured that I made -- to the best of my
19 knowledge made out where he was going. And then I saw
20 him. The BP gas station that's back there, it was a very
21 well-lit parking lot, so at that point, I could definitely
22 see who he was and what was going on. And I saw him get
23 into a black dark green-bluish BMW X3.

24 Q When he got into that BMW, was the BMW fully stopped
25 or was it slowly going and the suspect jumped in?

1 A We could call it a rolling stop. Yeah. It had been
2 traveling through the parking lot, and it was kind of
3 slowly rolling up to what would be the intersection of the
4 gas station and Cartee Avenue. The door, passenger door
5 came open, and he hopped into the -- the passenger's seat,
6 front passenger's seat.

7 Q On your body camera, when you're walking back, out of
8 breath for good reasons, around 3 minutes and 44 seconds,
9 you state, quote, 10-0. He does have a 10-49, end quote.
10 What does that mean, 10-49?

11 A Again, so using our 10 code language, a 10-49 is a
12 gun, 10-0 is to use caution. I relayed that out of the
13 radio as the deputies that were pursuing the suspect
14 vehicle were advising that they were about to get to a
15 dead-end road, which for us usually means that the
16 suspect's going to "bush-bond," or get out of the car, or
17 puts him in a situation to have to fight or do something
18 along those lines.

19 So I'm advising them that I saw that he had a gun.
20 And during the portion of me rounding the building of the
21 club and him getting into the BMW, I saw a firearm in his
22 hands. So at this point I'm letting them know just, based
23 upon the fact that we have a gunshot victim, the suspect
24 that they've given a description of I've seen with a
25 weapon, it's within reason to believe that he could

1 potentially use that to harm my partners. So I'm going to
2 advise them in order to avoid that.

3 Q So the suspect jumping into the BMW, it's on your
4 body camera, you saw him holding a gun.

5 A Correct.

6 Q And you radioed that in.

7 A Correct.

8 Q When you first arrive in the back parking lot and you
9 see the victim lying in this pool of blood, how come you
10 didn't render first aid right away?

11 A Due to what we've already spoken on, I was the only
12 deputy on scene. And without proper backup, I'm there by
13 myself. Like I said, the biggest thing being limited
14 amount of information.

15 We get calls from dispatch with the littlest amount
16 of information possible. And that's only to be
17 interpreted by the deputy as soon as they arrive on scene.
18 And due to the nature of where I responded to it being a
19 club, known to be crowded, known to be frequented by gang
20 members and people that are not so kind to law
21 enforcement, I'm having to, you know, potentially, you
22 know, fight for my own life.

23 So at that point, it's unfortunate that I can't
24 render aid. That's what we're -- you know, that's what
25 we're there to do. But his other security guards were

1 there to kind of make sure that he was getting the aid
2 that he needed at that time. And for the purpose of doing
3 what I needed to do in order to ensure that I didn't get
4 hurt and that nobody else got hurt, I was on the defense
5 rather than the offense at that point. I'm trying to just
6 make sure that nobody else gets hurt while I'm there.

7 Q If you could have rendered aid, if it was safe for
8 you to do that, would you have rendered aid?

9 A Absolutely.

10 MR. POLSINELLO: Thank you. No further questions.

11 THE COURT: Cross-examination.

12 CROSS EXAMINATION

13 BY MR. HELLAMS:

14 Q Good afternoon, Investigator Bryson.

15 Now, you were the first unit to arrive on scene,
16 correct?

17 A Correct.

18 Q And you pulled in, and you kind of blocked off the
19 driveway where you come in?

20 A Correct.

21 Q And there was a car right there getting ready to
22 leave?

23 A There was.

24 Q Okay. And they said they couldn't get around you and
25 you said, "You can get around me"?

1 A I did.

2 Q Did you get any kind of license plate information,
3 turn your body cam to get any information from that
4 vehicle?

5 A I did not. Again, at that time I'm only worried
6 about my surroundings.

7 Q Okay. Did you ask them what happened?

8 A No, I did not.

9 Q Did you ask them if they knew where the alleged
10 shooter was since you were concerned about your safety?

11 A I did not due to the fact that we received the call
12 from security dispatch, therefore, I'm going to get my
13 information from security when I get on scene.

14 Q Okay. Did you ask security what happened?

15 A I did.

16 Q Before you took off, you asked them?

17 A That initial conversation I had with them about where
18 did the shooter go, where are they at, what happened,
19 those things, that initial conversation is what I'm
20 gathering as well as what I'm looking at. I'm seeing the
21 victim. I'm seeing that he's clearly been shot. And I'm
22 dealing with the fact that I'm having to maintain a
23 defensive position in order to not get compromised myself.
24 So at that point I'm also out of my ear listening to what
25 the security officers' radios were saying and listening to

1 what they're audibly saying to each other while rendering
2 aid to their partner.

3 Q Okay. And then you went around the corner when they
4 took off running because -- just following them? Is that
5 what I understood? You assumed that the shooter was that
6 way?

7 A Audibly I heard them say, "He's running this way."
8 But based upon the circumstances and the nature of what
9 had occurred, it was within reason to believe that they
10 were talking about the shooter due to their excited nature
11 of, you know, leaving their partner and running around the
12 building with their weapons drawn. I had to believe that
13 they were chasing the suspect.

14 Q Okay. And when you came around, you said that the
15 vehicle -- try this again. When you came around the front
16 side of the building, you said you saw what you believed
17 to be the suspect running across the BP parking lot which
18 was well lit?

19 A The vehicle that the suspect eventually got into was
20 coming across the parking lot. I was already watching the
21 suspect come down the road towards the vehicle. And at
22 that point, because he was wearing a white shirt, it was
23 -- at that time of night due to the lighting, I could
24 still see the white shirt. At that point, I maintained my
25 visual on him until he got into the vehicle.

1 Q And the vehicle was in the BP parking lot that you
2 described as well lit?

3 A Correct.

4 Q And at what point did you see him with a gun?

5 A During the initial point where I rounded the corner
6 of the building and I could see him running up the
7 roadway, from that point, security officers were already
8 manipulating flashlights and things like that. And with
9 the use of their flashlights, streetlights, and the
10 lighting of the BP parking lot, I could clearly see that
11 he had -- he had a firearm in his hand.

12 Q Okay. And this person just shot a security guard,
13 has a firearm in their hand and you -- how far away were
14 you?

15 A To the best of my knowledge, I'd say a hundred yards,
16 75 to a hundred yards.

17 Q Okay. So that's too far for you to engage him with a
18 handgun, correct?

19 A If a threat was deemed at that point, it would be
20 necessary for me to take action, I would have. But
21 without any type of threat being towards me directly, I'm
22 not going to take the risk of doing that at that distance,
23 no.

24 Q Okay. So you were able to identify a handgun in his
25 hand from 75 to a hundred yards away based on their

1 flashlights, the security guards' flashlights shining on
2 him?

3 A The combined lighting of their flashlights, the
4 street lamps that were up and the lighting of the BP
5 parking lot that would have been to the side of the
6 suspect at that time, yes.

7 Q Okay. And speaking of the BP parking lot, you said
8 it was well lit.

9 A Correct.

10 Q But you couldn't tell the difference between whether
11 it was black, dark green or a bluish color BMW?

12 A With the fact that I'm running and due to the fact
13 that the time that I have the vehicle description was as
14 it was in motion, it's hard for me to necessarily give a
15 perfect description. I went with black just because that
16 was the easiest thing to relay to units that are right
17 there on top of me. But I'm a car guy and I kind of know
18 the difference. It could be seen as a dark blue or green
19 mix.

20 Q No. I'm just making sure we get all our bases
21 covered. That's all.

22 A I've got you.

23 Q And then you ran down the street after the -- quite
24 impressive, by the way. That was a very good sprint. But
25 you chased after the vehicle, and it gets away from you

1 because you're on foot and they're in a vehicle,
2 correct?

3 A Correct.

4 Q And then you turn around and you go back to Club
5 Dolce?

6 A Correct.

7 Q And when you returned, did you render any kind of
8 medical aid to Mr. Greene?

9 A I did not. At that point in time over the radio, I
10 relayed -- we call it 10-41 bravo, which is the last you
11 can get before calling broken arrow.

12 Q Right.

13 A I said that due to the nature of the call and then
14 the fact that as I'm walking back to the club, I can see a
15 crowd forming and things of that nature. Caught vehicles
16 leaving.

17 Q Right.

18 A I'm still by myself because everybody else is now
19 involved in this pursuit. So no. I'm still at this point
20 in a defensive position trying to make sure that at this
21 point nobody else gets harmed, the scene is preserved and
22 we can maintain what we have until more deputies can get
23 there to assist.

24 MR. HELLAMS: Okay. One moment to confer, Your
25 Honor.

1 THE COURT: Yes.

2 MR. HELLAMS: No further questions. Thank you.

3 THE COURT: Any redirect?

4 MR. POLSINELLO: Nothing from the State, Your
5 Honor.

6 THE COURT: All right. Sir, you can step down.

7 All right. Can this witness be excused?

8 MR. POLSINELLO: Yes, Your Honor.

9 THE COURT: Any objection?

10 MR. BOATWRIGHT: No, Your Honor.

11 THE COURT: All right. Who's your next witness.

12 MR. POLSINELLO: It's a very brief witness, Your
13 Honor.

14 THE COURT: Okay. We'll take it.

15 MR. POLSINELLO: Your Honor, the next witness, the
16 State calls -- one moment, Your Honor. Excuse me. Master
17 Deputy Jason Brooks.

18 THE CLERK: Please place your left hand on the Bible
19 and raise your right hand.

20 WHEREUPON,

21 JASON BROOKS

22 After having been duly sworn, testified as follows:

23 THE CLERK: Thank you. Please take a seat and state
24 your name for the record.

25 THE WITNESS: Master Deputy Jason Brooks.

DIRECT EXAMINATION

BY MR. POLSINELLO:

Q Mr. Brooks, are you currently employed?

A Yes, sir.

Q With whom?

A Greenville County Sheriff's Office.

Q How long have you been employed there?

A A little over seven years.

Q Were you employed with the sheriff's office around July 4, 2020?

A Yes, sir.

Q What was your current title then?

A Deputy II.

Q And what were you doing that early morning before you became involved in this case? Shortly before, what were you doing?

A Just patrolling, but stopped at a QT to use the facilities and get a drink.

Q So you were working night shift ---

A Yes, sir.

Q --- early morning shift?

A Yes, sir.

Q What time did your shift end?

A A little after 7:00.

Q So around 4 a.m. you were getting -- you were at a

1 gas station just getting something to drink or eat?

2 A Yes, sir.

3 Q How did you first become involved in this case?

4 A I just heard that there was a call for the incident
5 location. I can't remember the -- it was a club on White
6 Horse Road. There was a call for service out there. And
7 deputies were -- or I arrived on scene, and you can hear
8 it on the radio. And then I guess he -- the deputy that
9 was out there called a foot pursuit, and then we just
10 jumped in the car, me and another deputy, and then had
11 started heading over to that location.

12 Q Okay. So there was a police chase in a vehicle in
13 this case?

14 A Yes.

15 Q Okay. And were you driving the car?

16 A Yes.

17 Q So you responded in reference to a suspect, a getaway
18 car?

19 A I was already on there. But on the way there, I had
20 jumped -- he -- that knowledge that he jumped in a car and
21 was leaving the scene. And when I had -- I was driving
22 down Bruce Road to get to -- which is in Greenville -- to
23 get to the incident location, came out to a red light on
24 Bruce Road and White Horse. I made a right. And then as
25 I was heading I believe it's north, I seen the car

1 southbound. So I got behind it. Went over the median,
2 got behind it and then activated my blue lights, tried to
3 initiate a traffic stop.

4 Q Was your in-car camera working at this time?

5 A Yes, yes.

6 Q I'm approaching you with what's been previously
7 marked as State's Exhibit 96. Do you recognize this USB?

8 A Yes, sir.

9 Q To the best of your knowledge, is this a copy of your
10 in-car video from early morning, this police chase?

11 A Yes, sir.

12 Q To the best of your knowledge, this is a true and
13 accurate copy?

14 A Yes, sir.

15 MR. POLSINELLO: Your Honor, pursuant to South
16 Carolina Rule 901, the State moves to submit this into
17 evidence as State's Exhibit 96.

18 THE COURT: Any objection?

19 MR. BOATWRIGHT: No, Your Honor.

20 THE COURT: All right. So entered without objection.
21 (WHEREUPON, State's Exhibit Number 96 was admitted into
22 evidence.)

23 MR. POLSINELLO: Your Honor, permission to publish
24 and play for the jury.

25 THE COURT: Any objection?

1 MR. BOATWRIGHT: No, Your Honor.

2 THE COURT: All right.

3 (WHEREUPON, State's Exhibit Number 96, a video, was played
4 in open court.)

5 BY MR. POLSINELLO:

6 Q Master Deputy Brooks, is that you tackling the
7 suspect?

8 A Yes, sir.

9 Q Is that the defendant in this case sitting at the
10 table?

11 A Yes, sir.

12 Q Had he come out of that car with his hands up
13 complying, would you have tackled him?

14 A No, sir.

15 Q In your opinion -- so you're in the driver's seat
16 right here?

17 A Yes, sir.

18 Q What's your thought process going on?

19 A That he's trying to run. We were going to chase him
20 on foot.

21 Q So what does your training tell you to do in these
22 situations?

23 A To go after him.

24 Q Okay. And so clearly here we stopped at forty five,
25 forty five, in your opinion, what's he doing?

1 A He's trying to look for somewhere to run and escape.

2 Q In the trailer right there?

3 A Yes.

4 Q The method that you used to take him down, were you
5 trained in that method?

6 A Just as far as like to get him into custody, yeah.

7 Q Yeah.

8 A As far as like running, no. Not the run into him
9 like that. It's just trying to get him down.

10 Q And again, had he got out of the car and complied,
11 you wouldn't have felt the need to take him down?

12 A Oh, no. Not at all.

13 Q When the pursuit begins, you say over the radio that
14 you're going down Dixie. What that?

15 A That's the street that he made the right turn down.
16 Because you give out -- whenever we do as we call the
17 vehicle pursuits, we give out streets that we're on,
18 turning down, weather condition, traffic, speeds.

19 Q Did you know that there were two other individuals in
20 the car when you took him down?

21 A I knew that there was a driver, and that was it at
22 the time. That's when I took him down. Yeah. Because
23 whenever we stopped and you see him run out in the
24 passenger -- the driver runs out. Didn't know that there
25 was a front passenger, though.

1 Q Okay. And what location is this right now? Do you
2 know what location that is?

3 A I know it's somewhere down off of White Horse Road
4 towards southern -- the southern part of Greenville.

5 Q Do you know the name of this area?

6 A Dixie Estates.

7 Q What's Dixie Estates?

8 A That's a group of trailer homes.

9 Q To your knowledge, do you have any information that
10 the defendant lived at that home?

11 A No. Not at all. I have no idea.

12 Q When you were taking him on the ground, was he still
13 resisting?

14 A Yeah. And then when he hit the ground, he stopped.

15 Q After your involvement in apprehending the defendant,
16 did you assist in any other way in this case?

17 A Yes. I actually helped out to go -- K-9 was on
18 scene, and we tried to track for -- to locate the driver.

19 Q Were you successful in locating that driver?

20 A No, sir. No, sir.

21 Q I just want to play for you the driver escaping.

22 (WHEREUPON, State's Exhibit Number 96, a video, continues
23 to play in open court.)

24 BY MR. POLSINELLO:

25 Q Okay. I'm stopping at 45 minutes, 49 seconds. This

1 driver right here wearing all black ---

2 A Yes, sir.

3 Q --- you guys were unsuccessful even after the use of
4 K-9s ---

5 A Yes, sir.

6 Q --- trying to track him down?

7 A Yes, sir.

8 Q Did you ever receive any information to your
9 knowledge of who that could be?

10 A No.

11 MR. POLSINELLO: Thank you. No further questions.

12 THE COURT: Cross-examination.

13 MR. BOATWRIGHT: Briefly, Your Honor.

14 CROSS EXAMINATION

15 BY MR. BOATWRIGHT:

16 Q Good afternoon, Master Deputy.

17 A Good afternoon.

18 Q Make sure I saw that correctly, was that driver using
19 his turn signal?

20 A Yes, sir.

21 Q William, my client, where was he at in this car?

22 A The back passenger's back seat.

23 Q Back passenger's side?

24 A Yes, sir.

25 MR. BOATWRIGHT: Thank you. No further questions.

1 THE COURT: Anything on redirect based upon that?

2 MR. POLSINELLO: Nothing from the State, Your Honor.

3 THE COURT: All right. You can step down.

4 This officer, can he be excused?

5 MR. POLSINELLO: Fine with the State, Your Honor.

6 THE COURT: Any objection?

7 MR. BOATWRIGHT: No, Your Honor.

8 THE COURT: All right. You may be excused.

9 Appreciate it.

10 All right. Ladies and gentlemen of the jury, what
11 we're going to do today is we're going to break for the
12 day. I know you've had a pretty long day. So we're going
13 to stop for right now.

14 I would like you in your jury room tomorrow morning
15 no later than 10:00, okay? 10:00 tomorrow morning.

16 Please, ma'am, please, sir, do not talk about the
17 case to no one. If someone approaches you asking you
18 about what you did today and they were persistent about
19 it, you let me know. But please, ma'am, don't talk to
20 anybody.

21 Okay. I'll see you tomorrow morning at 10:00. Take
22 care. Have a good evening.

23 (WHEREUPON, the jury exits the courtroom at 4:49 PM.)

24 THE COURT: All right. Gentlemen, anything that we
25 need to cover before we adjourn for today?

1 MR. POLSINELLO: Nothing from the State, Your Honor.

2 MR. BOATWRIGHT: No, Your Honor.

3 THE COURT: All right. We'll reconvene at 10:00
4 tomorrow morning.

5 MR. BOATWRIGHT: Thank you, Judge.

6 (WHEREUPON, proceedings recessed at 4:50 PM.)

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1 Tuesday, October 17, 2023

2 (WHEREUPON, proceedings reconvened at 10:18 AM.)

3 THE COURT: Let's go on the record, Madam Court
4 Reporter. This is State vs. William L. McKinney. Counsel
5 for the State as well as counsel for the defendant is
6 present. The defendant is also present.

7 Gentlemen, is there anything that the Court needs to
8 address before we bring the jury in and resume the trial?

9 MR. POLSINELLO: Nothing from the State, Your Honor.

10 MR. BOATWRIGHT: No, Your Honor.

11 THE COURT: All right. Bring the jury in.

12 (WHEREUPON, the jury entered the courtroom at 10:20 AM.)

13 THE COURT: Good morning. Okay.

14 The State's ready to proceed?

15 MR. POLSINELLO: Yes, Your Honor.

16 THE COURT: All right. The State can call its next
17 witness.

18 MR. POLSINELLO: May it please the Court. Your
19 Honor, the State calls Tracy King to the stand.

20 THE CLERK: Please place your left hand on the Bible
21 and raise your right hand.

22 WHEREUPON,

23 TRACY KING

24 After having been duly sworn, testified as follows:

25 THE CLERK: Thank you. Please take a seat and state

1 your name for the record.

2 THE WITNESS: Alvin Tracy King.

3 DIRECT EXAMINATION

4 BY MR. POLSINELLO:

5 Q Are you currently employed?

6 A Yes, sir.

7 Q With whom?

8 A I work for Enchanted Construction Company.

9 Q Were you ever employed with the Greenville County
10 Sheriff's Office?

11 A Yes, sir.

12 Q When was your start date?

13 A Start date was in May of 1995.

14 Q And you're retired now?

15 A Yes, sir. I retired March the 18th of 2022. Last
16 year.

17 Q How many years was that?

18 A Two months shy of 27 years.

19 Q And when you retired, what was your title?

20 A I was an investigator in the Homicide Unit.

21 Q Were you employed with the sheriff's office on
22 July 4, 2020?

23 A Yes, sir.

24 Q Is that the incident date in this case?

25 A It is.

1 Q What was your title at the time?

2 A I was an investigator of homicide.

3 Q July 4, 2020, around 4 a.m., what were you doing that
4 early morning?

5 A I was actually -- I was on call that week, on-call
6 status. And I was actually out on an unrelated case
7 already.

8 Q So you were working in your job capacity?

9 A That's correct.

10 Q And how did you first become involved in this case?

11 A I had actually heard the initial radio call for
12 service. A call came out shots fired and a gunshot victim
13 at 1705 White Horse Road which is located within
14 Greenville County. And it was Club Dolce -- or Dolce.

15 Q Were you familiar with Club Dolce?

16 A Yes, sir.

17 Q Why were you familiar with it?

18 A Worked previous cases out there and cases after this,
19 this incident.

20 Q At the time what was Club Dolce?

21 A It was basically a club, gathering place that had
22 extended hours past what normal clubs had.

23 Q Do you know what time you arrived on scene?

24 A I arrived on the scene approximately 4:50 a.m.

25 Q And by that time when you arrived on scene, was the

1 victim still at the scene?

2 A The victim had already been transported from the
3 scene. There was -- of course, at that point in time when
4 I arrived on scene, we actually had two separate scenes
5 due to the vehicle chase that was involved. And, of
6 course, I was monitoring radio traffic and heard this.

7 Q So when you arrived on the scene, the victim was not
8 there. And from yesterday's testimony you saw the
9 defendant was a couple miles down the road at another
10 scene at Dixie Estates; is that correct?

11 A That's correct.

12 Q So when you arrived on scene, you didn't encounter
13 the defendant at all.

14 A No. I did not encounter the defendant nor the
15 victim, neither one.

16 Q So when you arrived on scene, what were your general
17 duties and responsibilities?

18 A Basically, to gather as much information as I could
19 from what was being reported. I spoke to the sergeant
20 initially that was on scene which basically gave me the
21 layout of the -- how everything had occurred, basically
22 what they had, what they had marked.

23 That's one of the things that the uniform patrol
24 officers do when they first arrive on scene is they try to
25 establish if there's any evidence or anything once the

1 victim is secured and transported. So you'll see that
2 they marked shell casing with business cards, whatever
3 they have. But it was basically trying to gather the
4 facts and piece things together.

5 Q And upon your investigation, what did you learn what
6 happened? What was the general idea of your understanding
7 of what happened?

8 A Initially, through the course of the initial
9 investigation, I learned that there was three security
10 guards that had approached a subject, and that they had
11 attempted to stop that subject and then shots were fired.

12 Q Okay. Did you look to see if there was surveillance
13 video that captured the shooting?

14 A I did. And again, from previous dealings with this
15 location, I was aware that there were surveillance videos
16 active. But until I went -- was able to go inside and
17 actually view it, I wasn't sure as far as the angles or
18 where the cameras were located.

19 Q Were you able to obtain surveillance video of the
20 shooting?

21 A The following week. Yes, sir.

22 Q Mr. King, I'm approaching you with what's been
23 previously marked as State's Exhibit 2, this USB device.
24 Do you recognize this USB?

25 A Yes, sir.

1 Q Are those your initials on it?

2 A Those are my initials, yes, sir.

3 Q To your understanding, is this a true and accurate
4 copy of the surveillance video from the club that early
5 morning capturing the shooting?

6 A It is.

7 Q You reviewed this before?

8 A I have.

9 MR. POLSINELLO: Your Honor, pursuant to South
10 Carolina Rule of Evidence 901, the State moves to submit
11 this into evidence as State's Exhibit 2.

12 THE COURT: All right. Any objection?

13 MR. BOATWRIGHT: No, Your Honor.

14 THE COURT: All right. So admitted, State's
15 Number 2.

16 (WHEREUPON, State's Exhibit Number 2 was admitted into
17 evidence.)

18 MR. POLSINELLO: Your Honor, permission to publish
19 and play for the jury.

20 THE COURT: Any objection?

21 MR. BOATWRIGHT: No, your honor.

22 THE COURT: All right.

23 (WHEREUPON, the following examination occurred while
24 State's Exhibit Number 2, a video, was played in open
25 court.)

1 BY MR. POLSINELLO:

2 Q Mr. King, I'm going to play the surveillance video
3 for you now. Bear with me one second.

4 Okay. Mr. King, do you see the time stamp up here
5 (indicating) that I'm circling with my mouse?

6 A I do. 0:3:59:59 a.m.

7 Q Right here (indicating) where I'm circling the mouse
8 in this vacant parking spot, do you notice any truck
9 there?

10 A No, sir.

11 Q That's empty, that space right now?

12 A That's correct. Empty space.

13 Q So does this surveillance video capture before the
14 shooting?

15 A Yes, sir.

16 Q What's going on in the club before the shooting?

17 A It appears that you've got patrons that are actually
18 leaving the club. It's my understanding that the club
19 closed at 4 a.m.

20 Q Okay. The next clip I'm showing you is the rear
21 angle of the club. Is it your understanding that this
22 captures the rear parking lot?

23 A Yes, sir.

24 Q Or a side of the rear parking lot?

25 A It is angled. That camera, I believe, is on the

1 northwest corner of the building, and it covers the length
2 of the building facing I believe it would be southwest.

3 Q Okay. Mr. King, I'm stopping the video at 4 a.m.,
4 36 seconds. This gray Ford, it looks like a 450, pretty
5 big super duty truck right here, is this the defendant's
6 truck?

7 A Yes, sir.

8 Q Is it your understanding, based on your
9 investigation, that the defendant is the driver of this
10 truck right here?

11 A That's correct.

12 Q So right here at this moment, is this the first time
13 you see the defendant on camera at the scene?

14 A Yes, sir.

15 Q Before the shooting?

16 A Yes, sir.

17 Q So he clearly doesn't park anywhere here
18 (indicating), does he?

19 A No, sir. He -- he -- as the video will show, he made
20 several circles around the building, stopping several
21 times.

22 Q Okay. I'm showing you another angle of the club. Do
23 you see where it says 4:01 a.m., 48 seconds?

24 A Yes sir.

25 Q Is this another angle of the side of the club?

1 A Yes, sir. That is a separate camera that is actually
2 on the southeast corner of the building itself.

3 Q So this is the defendant right here stopped --
4 stopped right here (indicating)?

5 A Yes, sir. And I believe, if you let it play forward
6 a little bit, you can actually -- I think it's clear
7 enough, it might be the next video, it's actually clear
8 enough to actually see the defendant in the vehicle.

9 Q And he hasn't parked his car yet, has he?

10 A No, sir. No, sir.

11 Q Okay. It is now 4:02 a.m. Do you see that?

12 A Yes, sir.

13 Q And do you see the defendant start driving again in
14 his truck?

15 A Yes, sir. That right there, if you stop it, if you
16 back it up just a little bit, you can actually see a clear
17 image of the defendant right there inside the vehicle.

18 Q What type of shirt is he wearing?

19 A It's a white undershirt. Some people refer to it as
20 a wife beater type undergarment.

21 Q Okay. Mr. King, I'm showing you the front angle of
22 the club again. It's around -- do you see this time stamp
23 right here?

24 A Yes, sir. 04:02:31 a.m.

25 Q Where I've circled my mouse here (indicating), is

1 this the front nose of the truck?

2 A Yes, sir.

3 Q So is it fair to say he's already circled the club
4 once?

5 A That's correct.

6 Q And he's coming back around again at 4:02 a.m.?

7 A Yes, sir.

8 Q Mr. King, do you see a lot of available parking spots
9 right here?

10 A Yes, sir. I was going to -- Your Honor, if I can
11 stand up -- I was going to point out, there is -- there is
12 multiple empty parking spots here (indicating). And also,
13 the entry to this property, there's only one entry and one
14 exit to the property.

15 Q So back here (indicating) towards White -- is this
16 White Horse Road?

17 A Yes, sir. This (indicating) -- this is White Horse
18 Road, and this is the actual front of the club. The image
19 that we saw from the southeast corner of the building
20 where you saw the front of the truck and him stop where
21 the group had gathered and the other building is actually
22 to the right right here (indicating).

23 Q So back here where I'm circling with my mouse
24 (indicating), does it appear that these are open spots
25 where he could have parked?

1 A Yes, sir. There's open spots here, there's open
2 spots directly in front of the club and in the middle
3 (indicating throughout).

4 Q Okay. So right now at 4:02 a.m., 43 seconds, he's
5 driving in front of the club what appears to be circling
6 again?

7 A Yes, sir.

8 Q Around 4:03 a.m., 13 seconds, does it appear to be
9 stopped in front of the club?

10 A Yes, sir. That's the back of the dually truck, yes,
11 sir.

12 Q Now he's creeping forward again?

13 A That's correct.

14 Q So now I'm showing you a time stamp of 4:04 and
15 47 seconds. You see him, the defendant, circling back to
16 the side of the club?

17 A That's correct, from the rear going towards the front
18 of the club in the direction of White Horse Road.

19 Q Showing you time stamp 4:05 a.m., around 13 seconds.

20 A Yes, sir.

21 Q Does it appear the defendant has stopped?

22 A The vehicle has stopped. That's correct. It was at
23 this point through interviewing Victim Greene in this case
24 that he was one of the security guards on scene. He
25 stated that as you can see the cars, you've got one car

1 coming here (indicating), you've got more cars coming
2 behind. He stopped the defendant. Well, actually, the
3 defendant stopped his vehicle, in essence blocking the
4 traffic. And he approached the defendant. And that's
5 where Mr. Greene actually advised him he needed to move
6 his vehicle.

7 Q Because the defendant was blocking traffic?

8 A That's correct.

9 Q So about right here (indicating) would be the
10 interaction between the defendant and the victim in this
11 case?

12 A That's correct.

13 Q And the victim in this case is Monieque Greene?

14 A Monieque Greene, that's correct.

15 Q He's here today in the courtroom?

16 A Yes, sir. He's seated right back there (indicating).

17 Q And it's your understanding at the time he was a
18 security guard providing security for the club that night?

19 A That's correct.

20 Q So eventually, around 4:05:36 a.m., you see the
21 defendant start moving his car after he stopped for a
22 while?

23 A Yes, sir.

24 Q There's a lot of traffic going back and forth right
25 now, isn't there?

1 A Yes, sir.

2 Q Actually, there's a lot of people outside, right?

3 A That's correct. The patrons were obviously using
4 both sides of the road. They get them parked right beside
5 the club, you've got them parked across from the club, and
6 they're also parked behind that structure to the rear.

7 Q Now I'm showing you time stamp 4:06 a.m., 20 seconds.

8 A Yes sir.

9 Q Up here in the top corner where I'm circling my mouse
10 (indicating), initially, at 3:59 a.m., this parking space
11 was empty, correct?

12 A That's correct. Yes, sir.

13 Q And now at 4:06 a.m., that's the defendant's truck?

14 A That's correct.

15 Q And so he parked there.

16 A He did.

17 Q And you can see -- can you see him getting out of the
18 driver's seat right there?

19 A That's correct.

20 Q What's he doing right now, Mr. King?

21 A He's favoring his right side. He's got his hand in
22 his right pocket.

23 Q Okay. And this is the white undershirt that you're
24 talking about, referencing?

25 A That's correct.

1 Q And what's he wearing below?

2 A He's got black athletic or basketball type shorts on.

3 Q Now I'm showing you time stamp 4:07 a.m., and it's
4 slowly going to turn into 4:08 a.m. The defendant's still
5 at the front congregating?

6 A Yes.

7 Q Do you know who he's talking with?

8 A I do not.

9 Q Through your investigation, were you ever able to
10 identify who he may have been talking with here?

11 A No, sir.

12 Q Did any of these people who he was talking with, did
13 they ever voluntarily approach law enforcement and give a
14 statement?

15 A No, sir. No.

16 Q Did they ever cooperate?

17 A To my knowledge, no.

18 Q Had any of these individuals voluntarily came to you
19 with information, would you have spoken to them ---

20 A Absolutely.

21 Q --- if they remained on scene?

22 A Had they remained on scene, had we been able to
23 identify them and go out and find them at a later date,
24 yes.

25 Q So now it's around 4:08 a.m., 30 seconds. The

1 defendant's still in the front, correct?

2 A Yes, sir.

3 Q Talking to some unidentified individuals?

4 A That's correct.

5 Q Okay. I'm stopping at 4:08 a.m.; 38 seconds. These
6 two individuals here, who are they?

7 A That's the security guards.

8 Q Okay.

9 A That is Carlos. This (indicating) is Carlos, and
10 this (indicating) is Mr. Jennings.

11 Q I'm going to back this up a little bit. 4:08 a.m.,
12 45 seconds, do we see the defendant start walking towards
13 the side of the club?

14 A Yes.

15 Q And does it appear that these two security guards are
16 following him?

17 A It does.

18 Q This security guard right here (indicating) was
19 Carlos Jenkins?

20 A Carlos Jenkins, that's correct.

21 Q He's armed with a shotgun right now?

22 A He is.

23 Q Right here (indicating), is that shotgun pointed at
24 the defendant ---

25 A No, sir.

1 Q --- or is it pointed down at the ground?

2 A The weapon was pointed down.

3 There goes the defendant.

4 Q I'm showing you an angle view of the side of the
5 club. The time stamp is 4:09 a.m., 4 seconds. Is this
6 the first time -- is this the defendant right here
7 (indicating) ---

8 A Yes, sir.

9 Q --- that I'm circling ---

10 A Yes, sir.

11 Q --- in this white undershirt and black basketball
12 shorts?

13 A Uh-huh. And you can see right there (indicating)
14 he's got his hand clutched against the right pocket.

15 Q So his left hand appears to be swinging?

16 A Yes, sir.

17 Q And it appears that the right hand is firmly behind
18 -- on the side in his pocket?

19 A That's correct. Right there.

20 Q What's the defendant doing now?

21 A He was basically interacting with some of the
22 gentlemen that was on the side of the building walking
23 away from the security guards as they were approaching.

24 Q Okay. So I stopped the video at 4:09, 23 seconds.
25 So the defendant is in this group right now, correct?

1 A That's correct.

2 Q And right here, what are we about to see?

3 A You'll see Carlos and the victim, Mr. Greene,
4 approaching.

5 Q Okay. I'm going to stop, back up. Who's this right
6 here (indicating)?

7 A That is Mr. Green.

8 Q The victim in the case?

9 A The victim in the case. And to the left of him is
10 Carlos Jenkins.

11 Q Does that shotgun appear to be pointed at the
12 defendant at any time?

13 A No, sir. The shotgun is still pointed in a downward
14 direction.

15 Q Do you see Mr. Greene holding any weapon in his hand
16 at this point?

17 A No, sir.

18 Q Is Mr. Greene pointing a gun at the defendant at this
19 point?

20 A He is not. No one is.

21 Q The time stamp on this clip that I'm showing you is
22 4:09 a.m., 37 seconds. Is this right before the shooting?

23 A It is. And if you back it up, if you'll start back
24 at the beginning, right here (indicating) you can see the
25 two security guards, and you can see the defendant who

1 appears to be facing or looking in that direction.

2 Q So I stopped at 4:09, 40 seconds a.m.

3 A Yes, sir.

4 Q Is this the defendant right here (indicating)?

5 A This (indicating) is the defendant still clutching,
6 favoring that right side.

7 And as you just saw, he turned. If you back it up
8 just a little bit, right here (indicating), he clearly
9 turned and looked directly at Carlos Jenkins right there.

10 Q The defendant?

11 A Yes, sir. Right there (indicating.) And again, he
12 did it a second time right there (indicating). First and
13 second.

14 Q At any point in this moment right now that I stopped,
15 do you see any of the security guards point any weapons at
16 the defendant?

17 A No, sir. And you can actually see the weapon still
18 pointed down. You see Carlos's elbow. You can see the
19 shotgun is still pointed down.

20 Q At any moment now, stopping at 4:09:43 seconds, does
21 the defendant ever take his hands out of his pocket,
22 Mr. King?

23 A No, sir.

24 Q Does he ever take his hands out of his pocket like
25 this (gesturing)?

1 A No, sir.

2 Q And Mr. King, who is this right here (indicating)?

3 A That is Mr. James.

4 Q And is he another security guard?

5 A He is.

6 Q So is this right before the shooting?

7 A Yes. Right there. That was the first you just saw.

8 This is Mr. James retreating. Mr. Greene is over here
9 (indicating).

10 Q I'm going to back it up. Okay. I'm stopping at
11 4:09:47 seconds. Is this our victim right here
12 (indicating)?

13 A Yes, sir. That's Mr. Greene.

14 Q Carlos with the shotgun is right here (indicating)?

15 A Yes, sir. Directly behind the defendant.

16 Q Was the defendant shot with a live round?

17 A No, sir. He was shot with what's classified or is
18 known as a less-lethal rubber or plastic bullet. Of
19 course, in law enforcement we classify it as an
20 intermediate weapon.

21 Q But it was not a live round or ammunition that the
22 defendant was hit with.

23 A No.

24 Q So right now, I'm stopping at 4:09:48 seconds, you
25 see security guard Carlos raise his shotgun, correct?

1 A Yes, sir.

2 Q And what's your understanding of what transpired
3 right at this moment?

4 A At this moment Carlos stated that he saw the butt of
5 the firearm, and at that point he engaged, which puts the
6 defendant still at an angle from Mr. Jenkins, okay, which
7 resulted in Mr. Jenkins hitting, striking the defendant in
8 the lower section of the back or in the back region with
9 the less-lethal munitions.

10 Q So our victim, Mr. Monieque Greene, it seems like
11 he's taking refuge over here (indicating), correct?

12 A Correct. He's at pretty much a 90 degree angle away
13 from where Mr. Carlos is, Carlos Jenkins and the
14 defendant.

15 Q So this, our victim is right here (indicating) right
16 now while the shooting is happening?

17 A Correct.

18 Q Okay. So the shooting is taking place here now where
19 my mouse is. And essentially, Carlos Jenkins is right
20 behind the defendant, correct?

21 A Correct. However, you see the flashes, and now the
22 defendant running.

23 Q Now it's 4:10 and 5 seconds. This is the defendant
24 running?

25 A That's the defendant fleeing the scene. But if you

1 back it up, stop it right here, where you saw the muzzle
2 flashes coming from, they were directed in this direction,
3 in the direction of the victim, Mr. Greene. So you've got
4 Carlos Jenkins engaging the defendant.. However, the
5 defendant comes around this vehicle to the rear of the
6 vehicle and engaged the victim, Mr. Greene, at a 90 degree
7 angle away from where the interactions occurred.

8 Q Mr. King, was there any evidence that Mr. Greene
9 fired first at the defendant?

10 A None.

11 Q So who fired first at the defendant?

12 A That would be Carlos Jenkins.

13 Q And do you know how many times the victim got hit?

14 A Three times.

15 Q Three times?

16 A Yes, sir.

17 Q Do you know what caliber of bullet it was?

18 A 9 millimeter.

19 Q Our victim got hit three times with three
20 9 millimeter bullets?

21 A That's correct.

22 Q Okay. I'm bringing it back before the shooting,
23 4:09:40 seconds a.m. Mr. King, there's quite a lot of
24 individuals here, correct, congregating?

25 A Yes, sir.

1 Q Did any of these individuals remain on the scene and
2 want to cooperate and give a statement to law enforcement?

3 A No, sir. As we saw yesterday with the in-car footage
4 of the first deputy that arrived on scene, if you recall
5 that, the parking lot looked nothing like it does at the
6 time of the shooting.

7 Q Mr. King, had any of these individuals right here
8 (indicating), it looks like there's a lot of them, anyone
9 in this parking lot wanted to remain and give a statement,
10 would you have taken it?

11 A Absolutely.

12 Q You would have listened to anyone who would have
13 approached law enforcement that night, allow them to
14 cooperate?

15 A I would have.

16 Q This (indicating) is a security guard right here.
17 Did he engage the suspect at all?

18 A He did not.

19 Q When I say "suspect," I mean the defendant, the
20 shooter?

21 A That's correct. No, he hadn't. As you saw, when
22 Carlos engages the defendant, you'll actually watch him
23 retreat back towards White Horse Road. And it's not until
24 the shooting stops that you'll see him come around on the
25 grass section beside the building itself going back toward

1 -- that's him retreating. You can see the defendant
2 running off at the top of the screen, shooting stopped,
3 and then he goes up.

4 Q Mr. King, was there any evidence of this security
5 guard firing his weapon at the defendant at all?

6 A None at all.

7 Q Mr. King, I'm showing you the shooting unfolding
8 again, 4:09:55 seconds a.m. After security guard Carlos
9 Jenkins fires the less-lethal ballistic pellet from his
10 shotgun, we see the defendant clearly fire, correct?

11 A That's correct.

12 Q Did any of the other security guard officers take out
13 their sidearms and fire back in self-defense?

14 A That was one. That would be Mr. Greene, Victim
15 Greene, the one that was actually struck three times.

16 Q So your investigation and the evidence reveals that
17 after the defendant starts firing, Mr. Greene took out his
18 sidearm and fired back in self-defense?

19 A That's correct.

20 Q And would that have been after Mr. Greene got hit?

21 A Yes sir.

22 Q Do you know what caliber Mr. Greene was carrying?

23 A Mr. Greene was carrying a 40 caliber. I believe it
24 was a Smith & Wesson.

25 Q After security guard Carlos Jenkins fires that

1 less-lethal shotgun round, did security guard Carlos
2 Jenkins have a sidearm on him?

3 A He did. He -- he dropped the intermediate weapon and
4 went to his sidearm which was a 45 caliber handgun.

5 Q And does the investigation and evidence reveal that
6 Carlos Jenkins fired rounds from his 45 caliber handgun?

7 A Carlos Jenkins also fired five rounds.

8 Q Okay. Now, when all this gunfire is going off, other
9 than the victim, Mr. Greene, did anyone else get hit by
10 live rounds to your understanding?

11 A To my understanding there were no other individuals
12 struck by any type of fire.

13 Q Was there any evidence of the defendant ever being
14 struck by a live bullet?

15 A No.

16 Q A 40 caliber round bullet?

17 A No, sir.

18 Q A 45 caliber round bullet?

19 A No, sir.

20 Q So it appears the only one successful in hitting
21 anyone in this case was the defendant firing a
22 9 millimeter handgun and hitting the victim three times,
23 correct?

24 A That's correct.

25 Q And as you stated earlier, right at this moment

1 around 4:10 a.m. and 5 seconds, we see the defendant as
2 you stated fleeing the scene?

3 A Yes, sir.

4 Q So the defendant did not remain on scene?

5 A No, sir.

6 Q You see individuals here at 4:10 a.m. get in their
7 cars and leave?

8 A Yes, sir. This is -- that's pretty common.

9 Q It's pretty common after what?

10 A When -- through my experience when we have shootings
11 of this nature, nightclubs, it doesn't necessarily have to
12 be a nightclub, but at 4 a.m., 4 in the morning,
13 everybody's ready to go home. Various reasons. Some
14 people are intoxicated. There may be subjects out there
15 that may have warrants on them. There may be subjects out
16 there that just don't like the police. But it's not -- I
17 found it through my experience not to be uncommon, not to
18 have people busting our door down wanting to give a
19 statement or willing to be a witness in these type cases.

20 Q I'm going to show you another angle. It looks like
21 the back angle of a parking lot.

22 A That's -- that's the rear of the club itself, yes,
23 sir.

24 Q I'm going to fast-forward to the shooting.

25 A It will be on the top left of the video.

1 Q Right here is where you can see the back angle of the
2 shooting?

3 A Yes, sir.

4 Q And what time stamp is this right here?

5 A 4:09 -- 04:09:43 a.m.

6 Q And this is right before the shooting?

7 A Yes, sir.

8 Q I'm going to play it.

9 A There's the defendant, and you saw the muzzle flash.

10 Q And that's him running away?

11 A Yes, sir.

12 Q I'm going to back up.

13 So when the defendant is firing as we see, our victim
14 would be over here (indicating), correct?

15 A That's correct.

16 Q And as you stated earlier, based on the
17 investigation, your evidence, it was almost a near
18 90 degree angle between the defendant's position and where
19 our victim was?

20 A That's correct.

21 Q And so the victim was not directly behind the
22 defendant, was he?

23 A No, no. And you can see prior to the events
24 unfolding, you can see where the victim, Monique Greene,
25 actually moved to the left as Carlos Jenkins was

1 initiating contact with the defendant.

2 Q And the last clip I'm going to show you is around
3 4:12 a.m. So the shooting's already happened, correct?

4 A Yes, sir.

5 Q It's been about two minutes since the shooting?

6 A It has. If you'll look to the top right, you'll see
7 the patrons exiting the location.

8 Q Okay. Up here (indicating) in the top we see blue
9 lights. This is that first Greenville County sheriff's
10 officer arriving at the scene?

11 A Right there. Yes, sir.

12 Q And the time stamp is 4:12:49 seconds a.m.?

13 A Yes, sir.

14 Q Roughly about two minutes after the shooting,
15 correct?

16 A Yes, sir.

17 (End of video playback of State's Exhibit Number 2.)

18 BY MR. POLSINELLO:

19 Q Were photos taken of the crime scene?

20 A Multiple photos were secured by forensics.

21 Q Were you at the crime scene when the photos were
22 taken?

23 A I was.

24 Q Mr. King, I'm handing you up what's been previously
25 marked as State's Exhibits 3 through 89. 3 through 89.

1 Please take a moment and look at all those and let me know
2 when you're done.

3 A (Reviews exhibits.)

4 Q Mr. King, do you recognize these photos?

5 A I do.

6 Q Are these photos photos from this case and your
7 understanding of the crime scene that were taken?

8 A Yes, sir.

9 Q You had a chance to review these photos before?

10 A I have.

11 Q To your knowledge these photos are a true and
12 accurate copy of the photos taken in this case?

13 A Yes, sir.

14 MR. POLSINELLO: Your Honor, pursuant to South
15 Carolina Rule of Evidence 901, the State moves to submit
16 State's Exhibits 3 through 89 into evidence.

17 THE COURT: All right. Any objection?

18 MR. BOATWRIGHT: Objection. Foundation, Your Honor.
19 The witness isn't the one who took the photos and he
20 doesn't -- he didn't say anything about how he actually
21 recognized them.

22 THE COURT: All right. Ladies and gentlemen, I'm
23 going to send you back to your jury room just for a
24 minute. This will be a perfect opportunity to stretch
25 your legs, get a drink of water or what have you. I'll

1 have you back in here in about five minutes.

2 Mr. Foreperson, you make sure there's no discussion
3 about the case among each other or with anyone.

4 All right. Get you back in here in just a minute.
5 Follow the bailiff.

6 (WHEREUPON, the jury exits the courtroom at 11:06 AM.)

7 THE COURT: Was this objection lodged at the
8 stand-your-ground hearing? I'm assuming you introduced
9 the same documents, right?

10 MR. POLSINELLO: We didn't -- I don't ---

11 THE COURT: We didn't get that far?

12 MR. POLSINELLO: We went over some of these photos,
13 Your Honor. Not all of them.

14 Your Honor, pursuant to 901, the witness has
15 self-authenticated them. The proponent merely has to
16 claim what it is to be. There's no requirement that the
17 actual person who took the photos has to be the one to
18 authenticate it. That's not the law, Your Honor.
19 Mr. King is the chief investigating officer. He's
20 reviewed all the photos for their accuracy. He's
21 testified that he's reviewed these before. So pursuant to
22 901, the proponent merely claims what it is to be. This
23 is no different than any other case like this.

24 THE COURT: All right. Look at 901, Mr. Boatwright.
25 The general provision I think is really applicable here.

1 It says (as read), "The requirement of authentication or
2 identification as a condition precedent to admissibility
3 is satisfied by evidence sufficient to support a finding
4 that the matter in question is what it purports and claims
5 to be." That's the first paragraph in 901. And it gives
6 some illustrations under that.

7 MR. BOATWRIGHT: Yes, Judge.

8 Judge, I mean, I argue that the photos are equivalent
9 to a video recording, and someone can't just put in the
10 video recording by saying, "I've seen that video." He
11 can't say for sure that these photos are a fair and
12 accurate representation if he's not the one that took
13 them. He wasn't there at the time that they were taken
14 -- that they were taken. Officer Minwegen was the
15 forensic officer that Investigator King instructed to take
16 photos.

17 THE COURT: I don't know, Counsel, whether you can
18 use the analogy of a video recording, but I'm glad to hear
19 from you. I think the rule is pretty clear in terms of
20 the admissibility issue.

21 MR. POLSINELLO: Your Honor, Mr. King's already
22 testified he was there when Forensics Officer Minwegen
23 took the photos. He stated that moments ago.

24 Again, Your Honor, if you look at 901(b)(1),
25 Testimony of Witness with Knowledge, "Testimony that a

1 matter is what it is claimed to be."

2 THE COURT: Right.

3 MR. POLSINELLO: I would ask the defense attorney to
4 show the case law, show the rule that says anyone who
5 takes a photo is the only person that can get it in. The
6 analogy that he used about the video, we already have
7 video in. He didn't object to that. Mr. King testified.
8 So it's along the same lines. 901 is a very low burden
9 and threshold.

10 THE COURT: So let me just ask you this question,
11 Mr. Boatwright. So if the investigator was there -- and
12 let's just use this scenario. The investigator was there,
13 and he's standing right next to the gentleman who's taking
14 the picture. He can't -- I mean, he's standing right next
15 to the person who's taking the picture. You're telling
16 this court that he can't come in and say that's the
17 picture that was taken and he's standing right next ---

18 MR. BOATWRIGHT: No, Your Honor.

19 THE COURT: --- to the person who's taking the
20 picture?

21 MR. BOATWRIGHT: No, Your Honor. If he's standing
22 there and he's looking at it and the picture's taken ---

23 THE COURT: But he was on the scene.

24 MR. BOATWRIGHT: But he wasn't looking at -- he
25 didn't go around and look at every picture that she took.

1 He didn't go and look at every single little thing and
2 then go back and look at the pictures and verify that it
3 is accurate representation.

4 To the State's point that we didn't object to videos,
5 just because I don't object to one thing that may be
6 objectionable does not mean I can't object to something
7 else that is objectionable. We're objecting to this
8 because we feel that Officer Minwegen needs to be the
9 officer that puts these photos into evidence, not
10 Investigator King.

11 THE COURT: So how do you look at 901(b)(1) counsel
12 just referenced to testimony of a witness with knowledge?
13 This is a witness who was at the scene who has knowledge,
14 testimony that a matter is what is claimed. This is a
15 person who was at the scene who has knowledge. I'm
16 looking at 901(b)(1).

17 MR. BOATWRIGHT: One second, Your Honor.

18 THE COURT: I'm in the rule. I'm in the rule.

19 MR. BOATWRIGHT: Again, Judge, I think it goes to his
20 knowledge. If he wasn't there specifically looking at the
21 item that a picture was being taken of, then he doesn't
22 have knowledge of that item. If I take a picture right
23 now, Your Honor, if I go out in the hallway and I take a
24 picture of something that I have in my pocket and I bring
25 it in here and show it to him and say, "What is this?"

1 just because he can recognize that it's a pen in my pocket
2 doesn't mean that he can authenticate that it's a fair and
3 accurate representation of the picture I took in the
4 hallway.

5 THE COURT: But if he's out there with you and you
6 took the picture ---

7 MR. BOATWRIGHT: But if he's out there with me and
8 seeing it happen, then yes, Your Honor, he can do that.

9 THE COURT: But this officer was on the scene.

10 MR. BOATWRIGHT: He was on the scene, but this is a
11 very big scene. And he was not beside Officer Minwegen
12 when she was doing this. He instructed her go do this, go
13 take pictures of all the evidence. She went and did her
14 forensics and her photos. He continued talking with other
15 officers and continued his investigation. So he was not
16 with her and beside her looking at what she was taking a
17 picture of.

18 MR. POLSINELLO: Respectfully, Your Honor, that's not
19 required under law. That's not the standard.

20 THE COURT: I'm going to make a finding,
21 Mr. Boatwright, that this particular witness is well
22 within the rule. 901(b)(1) specifically talks about the
23 testimony of a witness with knowledge. The Court makes a
24 finding that this witness was on the scene, this witness
25 had knowledge, and this witness is in a position to

1 testify that the evidence is what it claims to be. So I
2 think rule 901(b)(1) certainly covers that. So I'm going
3 to deny your motion in that regard. But, of course, I've
4 noted it for the record ---

5 MR. BOATWRIGHT: Yes, Judge.

6 THE COURT: --- and allow you to renew it as we go
7 through the course of the trial.

8 MR. BOATWRIGHT: Thank you, Judge.

9 THE COURT: Okay. All right. Okay. Let's bring
10 them back.

11 (WHEREUPON, the jury entered the courtroom at 11:14 AM.)

12 THE COURT: Okay. All right. Counsel?

13 MR. POLSINELLO: May it please the Court. Your
14 Honor, pursuant to Your Honor's ruling just now, the State
15 moves to submit State's Exhibits 3 through 89 into
16 evidence.

17 THE COURT: All right. And it is so admitted subject
18 to defense counsel's objection.

19 (WHEREUPON, State's Exhibit Numbers 3 through 89 were
20 admitted into evidence.)

21 MR. BOATWRIGHT: Thank you, Your Honor.

22 MR. POLSINELLO: Your Honor, permission to publish
23 the photos for the jury.

24 THE COURT: All right. And I'm assuming counsel
25 lodges the same objection, and the Court will allow

1 publication subject to the objection.

2 MR. BOATWRIGHT: Yes, Your Honor. Thank you.

3 BY MR. POLSINELLO:

4 Q Mr. King, I'm going to go over some photos with you.

5 Mr. King, does this reflect the overhead bird's eye view
6 of the crime scene?

7 A It does.

8 Q I'm going to use my blue pen here. What I'm pointing
9 to, this building, is this (indicating) Club Dolce?

10 A That is.

11 Q What I'm pointing to right here where it says
12 "defendant's truck," was this (indicating) where he parked
13 around 4:06 a.m.?

14 A It is.

15 Q Okay. And this (indicating) is White Horse Road?

16 A Yes, sir.

17 Q This blue circle right here (indicating) that states
18 "Lamar James," this is that security guard that retreated?

19 A Yes, sir. That we just saw on the video.

20 Q Okay. And this blue circle right here (indicating)
21 that states "Carlos Jenkins," zoom in, does that indicate
22 roughly where Carlos Jenkins was standing with the shotgun
23 when he felt he had to fire at the defendant?

24 A It is a rough estimate based off the video, yes, sir.

25 Q Again, and all this is rough estimate.

1 A That's correct.

2 Q Okay. This red X right here (indicating) signifying
3 the defendant, that would be him when his back was to
4 Carlos Jenkins?

5 A That's correct.

6 Q Okay. This green circle here (indicating) stating
7 "Victim Greene," this indicates where our victim was at
8 the time of the shooting?

9 A Monique Greene, correct.

10 Q And so this is generally a fair and accurate
11 representation of the orientation where everyone was when
12 the shooting unfolded, correct?

13 A This -- this is an image that was put together by
14 myself and Sergeant Dan Kelly.

15 Q Okay. These red arrows here (indicating), what does
16 that indicate?

17 A That indicates the direction of flight that the
18 defendant took following the shooting.

19 Q And let the record reflect I just referenced State's
20 Exhibit 3.

21 Mr. King, I'm showing you State's Exhibit 4. What
22 does this indicate?

23 A This too is another image that was put together by
24 myself and Sergeant Dan Kelly in our TSU unit, which I
25 believe he's retired also now. But this indicates, this

1 is an overview looking down on the location. And based
2 off both physical evidence and what was there by the
3 initial deputy that arrived on scene, this is the flight
4 path that the defendant took.

5 Q Okay. So yesterday you were in court present for
6 everyone's testimony, correct?

7 A Yes, sir.

8 Q And so on the body cameras, when we see the defendant
9 flee, when we heard Investigator Bryson talk about how he
10 ran towards White Horse Road, saw a suspect jump into a
11 BMW, take off, that would indicate this area here
12 (indicating)?

13 A That would. And the gas station that had ample
14 amount of lighting is directly below or at -- down below
15 where the arrow is actually facing, so, of course, right
16 in the direction of White Horse Road right there
17 (indicating).

18 Q So when we saw Investigator Bryson's body camera, him
19 running down the road trying to chase the suspect, the
20 BMW, it would have been this (indicating) path?

21 A Yes, sir. It was in that direction, yes, sir.

22 Q So it's thought when the defendant -- we've seen the
23 surveillance video after the shooting, he runs. What's
24 this (indicating) area here?

25 A That is the -- there's actually a fence there. And

1 that's actually the back side of the club formerly known
2 as Club Lavish next door.

3 Q And through your investigation and evidence, it's
4 believed that the defendant took this path and then hopped
5 in that BMW somewhere around here (indicating)?

6 A Yes, sir.

7 Q And then obviously, we saw the police chase, nearly
8 two minutes going to the Dixie Estates and end at a dead
9 end?

10 A Correct. It turned down Dixie Circle off of White
11 Horse Road and then took a left into Dixie Estates.

12 Q And let the record reflect that was State's Exhibit 4
13 that Mr. King was referencing.

14 I'm showing you what's been entered in as State's
15 Exhibit 5. So this is the front of Dolce?

16 A Yes, sir. That's an overview of the parking lot.

17 Q And you can see the sign right there, Dolce?

18 A Yes, sir.

19 Q I'm showing you what's been entered in as State's
20 Exhibit 6. Is this the defendant in this case?

21 A That is an image of Mr. McKinney, the defendant, yes,
22 sir.

23 Q And on the security footage, the suspect in the white
24 shirt, black basketball shorts, hand in his pockets and
25 see the shooting unfold, that's this defendant?

1 A That's the defendant, yes.

2 Q Showing you State's Exhibit 7. Right here
3 (indicating), is this that gray-grayish Ford F-450 that
4 was circling the club?

5 A That -- that is the dually, yes, sir.

6 Q And where he parked at 4:06 a.m.?

7 A Correct.

8 Q So when he fled the scene, obviously, his car
9 remained there?

10 A Yes, sir. He actually fled the scene towards the
11 rear of the buildings. And I believe that's where some of
12 the witnesses and maybe the deputy that saw him at the
13 front, that first or the second image you showed, the
14 flight path which is what would have brought him back up
15 to the fence line in the direction of his truck. But once
16 again, he turned and fled that scene.

17 Q Was there any evidence of any weapons or guns in the
18 defendant's truck?

19 A We actually sealed the vehicle and towed the vehicle
20 and conducted a search warrant on it at a later date. And
21 to my knowledge, my recollection, we did forensic process
22 and photographs.

23 Q Was there any evidence of any weapons in the truck?

24 A No, sir.

25 Q I'm showing you State's Exhibit 9. What is this?

1 A This -- like we were talking about earlier, you can
2 see the business cards that I talked about earlier.
3 You've got the business cards where the deputies that
4 initially marked where the shell casings were. And then
5 you've got the placards which were placed for
6 identification purposes by the forensics officer. And
7 that basically depicts where the shell casings were
8 located.

9 Q Showing you State's Exhibit 10, so is this a rear
10 view of the crime scene?

11 A It is. That's basically facing towards -- it's
12 towards the back of the building itself, and it's actually
13 facing towards White Horse Road.

14 Q So is this where the defendant would have been
15 standing right around here (indicating)?

16 A Yes. That's the -- this (indicating) would have been
17 Carlos, and then off to the right, which we don't see in
18 this image, was where Mr. Greene is at, and then this
19 (indicating) would have been the defendants.

20 Q I'm going to show you State's Exhibit 11. That might
21 be a view.

22 A Yes. Again, this is where Carlos was positioned as
23 you can see through the video. This is the defendants,
24 and this is where Monieque Greene, the victim in this
25 case, was located, which basically, it gives you a better

1 angle of the flight path by the defendant. And then the
2 way he turned, like I stated, pretty much is a 90 degree
3 angle and opened fire on the victim (indicating
4 throughout).

5 Q So clearly, this (indicating) is where the victim was
6 standing ---

7 A That's correct.

8 Q --- when he was hit. Clearly, he's not behind the
9 defendant here, is he?

10 A No, sir.

11 Q Carlos is behind here, correct?

12 A That's correct.

13 Q I'm showing you State's Exhibit 13. This is that
14 same sort of 90 degree angle you were talking about,
15 correct?

16 A Yes, sir. That basically gives you the spread or the
17 difference between Carlos and Mr. Greene.

18 Q I'm showing you State's Exhibit 14. So forensic
19 evidence marking 1, these would be shell casings for who?

20 A I believe these were from Mr. Carlos Jenkins.

21 Q And what caliber were those?

22 A Those were 45.

23 Q Showing you State's Exhibit 16, forensics' Item 1
24 close up, that would be the 45 shell casing?

25 A That's correct.

1 Q I'm showing you State's Exhibit 22. What are these
2 two items in here (indicating)?

3 A Okay. This (indicating) is the shotgun shell from
4 the shotgun itself that was used by Carlos Jenkins. And
5 then this (indicating) image, that is of the hard plastic
6 projectile.

7 Q So Item Number 7 marked in this photo, that orange
8 ball, that's the less-lethal round that the defendant got
9 hit with in the back?

10 A That's correct.

11 Q That's what security guards Carlos Jenkins fired
12 first in his back?

13 A Yes, sir.

14 Q Did the defendant ever get hit in the head with that?

15 A No sir. No.

16 Q Did he ever get hit in the face?

17 A He did not.

18 Q It was primarily on his lower back?

19 A Lower back. That's correct.

20 Q Showing you State's Exhibit 23, Evidence Item 8
21 marked. What is that?

22 A Again, that's the -- that's an image of the less
23 lethal, that hard plastic projectile.

24 Q I'm showing you State's Exhibit 24, forensics'
25 Number 9. What is that?

1 A Okay. This (indicating), I don't know how many
2 people are familiar with shotguns, but this is what's
3 called the wadding in the shotgun. So you've got the --
4 you've got the shell, you've got the primer, you've got
5 the powder, then you've got the wadding, then you've got
6 the projectile that sits in front of that in the casing
7 itself.

8 Q Okay. I'm showing you State's Exhibit 25. And what
9 does this indicate?

10 A Again, that's the shell casings that were located and
11 marked by both deputies and also by forensics. And if I'm
12 not mistaken, these are the images -- these (indicating)
13 are the images that were captured, other shell casings
14 that were fired by the defendant.

15 Q So these would be the 9 millimeter shell casings?

16 A That's correct.

17 Q And how many were found at the scene?

18 A There were six shell casings for 9 millimeter.

19 Q I'm showing you State's Exhibit 26 close up. This
20 would be that 9 millimeter spent shell casing?

21 A Yes, sir.

22 Q Showing you State's Exhibit 27. And this is towards
23 the back end of the parking lot. Is this where the
24 defendant would have been and where he -- generally when
25 he fired?

1 A Correct.

2 Q I'm showing you State's Exhibit 35. What does this
3 indicate?

4 A This indicates, this has both the shell casings from
5 the 40 caliber that were fired by the victim, Monieque
6 Greene. This also shows this flashlight. I believe this
7 section was his vest. This is the area where he was
8 actually at when EMS arrived and actually cut a lot of
9 this stuff and took a lot of this stuff off of him, off of
10 his person to be able to transport and treat him
11 (indicating throughout).

12 Q How many 40 cal. shell casings were found in this
13 area?

14 A There was five 40 caliber shell casings.

15 Q I'm showing you State's Exhibit 43.

16 A That -- again, that's a closer image of what we just
17 saw. And again, Monieque Greene's vest. You've got his
18 pepper spray, cuffs, keys, magazine, the items that was
19 left behind after he was transported.

20 Q So this right here (indicating) what I'm referencing
21 to you, this blue vest, is that what they call a
22 bullet-proof vest?

23 A Yes, sir. That's a -- that's a panel from the --
24 from the vest itself.

25 Q And obviously, it didn't protect the victim, did it?

1 A No, sir.

2 Q And what is this (indicating) right here?

3 A That -- the other portion of the vest. And I believe
4 that's (indicating) his jacket.

5 Q Is it clothing that they had to cut off?

6 A That's correct.

7 Q I'm showing you State's Exhibit 46. This is from a
8 different angle, from the back side of the club where the
9 victim would have been when he got shot?

10 A That's right.

11 Q So based on the evidence, the positioning of all the
12 caliber shell casings, the video we've seen, we know the
13 victim was here (indicating) when he got shot, Carlos was
14 around here (indicating), correct?

15 A Yes, sir.

16 Q And the defendant would have been up around here
17 (indicating)?

18 A Right up -- right up in this (indicating) area just
19 below where I'm standing there in the image. He would
20 have been in this area. Carlos, defendant and Mr. Greene.

21 Q So when we're talking about the angle, near 90 degree
22 angle, it's this (indicating) general triangle area,
23 correct?

24 A That's correct.

25 Q And from this (indicating) positioning to here

1 (indicating) ---

2 A Yes.

3 Q --- in which clearly the victim was nowhere near
4 Carlos nor behind him, correct?

5 A Correct.

6 MR. BOATWRIGHT: Objection, Judge. Counsel
7 testifying.

8 THE COURT: Just rephrase your question.

9 BY MR. POLSINELLO:

10 Q Clearly, the victim is not near Carlos Jenkins,
11 correct?

12 A With the -- again, using the triangulation of where
13 the evidence was at and the video itself, it was pretty
14 obvious that the defendant, had he perceived a threat, did
15 not engage that threat. The defendant turned his
16 attention 90 degrees away from where the possibly
17 perceived threat was coming from.

18 Q Was there any evidence of the victim firing first at
19 the defendant?

20 A None.

21 Q Did the defendant ever get hit with a 40 caliber
22 shell casing?

23 A None. No.

24 Q Forensics Officer Minwegen in her report, she
25 references CM-20. I'm showing you State's Exhibit 40.

1 Would this be CM-20?

2 A Yes, sir. And that's -- it's basically the CM's her
3 initials, and then the 20, of course, is the placard.
4 They've got numerous placards that they utilize for
5 different scenes. And the CM, like I said, is her
6 initials, Crystal Minwegen, and the 20 indicates the
7 placard or item number.

8 Q In her report she references that CM-20 is a swab of
9 blood collected from the ground. Clearly, in this photo
10 State's Exhibit 40 is CM-20, a swab of blood?

11 A No, sir.

12 Q This is actually a 40 caliber spent shell casing?

13 A That's a 40 caliber spent shell casing.

14 Q So was that just a mere misidentification in her
15 report?

16 A After reviewing it and going over, it appears that
17 she basically inverted. She's got the Item 21 listed as
18 -- the Item 21 description listed for Item 20. And then
19 if you look at the report, Item 20 is actually giving you
20 the description of the 21 item.

21 Q In any way, that mis-paper, misidentification, does
22 that affect the physical evidence on the scene?

23 A Absolutely not.

24 Q Does that change this CM-20 being a 40 caliber spent
25 shell casing?

1 A It does not change the fact that CM-20 is a shell
2 casing and CM-21 is a swab of blood.

3 Q Now I'm showing you State's Exhibit 41. In her
4 forensics report, Forensics Officer Minwegen states that
5 CM-21 is a cartridge casing headstamp RP.40, S&W.
6 Clearly, that is not a spent shell casing right there, is
7 it?

8 A That is correct. Again, through the images, it's
9 painfully obvious that she basically inverted the
10 description of the items.

11 Q In any way does that change any of the physical
12 evidence in this case?

13 A It changes the physical evidence in no way.

14 Q I'm showing you State's Exhibit 47. This would be
15 the defendant's truck, correct?

16 A That's correct. That's the rear -- rear image of the
17 defendant's vehicle.

18 Q And that's the same truck that we saw circling
19 multiple times on the surveillance video, correct?

20 A That's correct.

21 Q The truck that parked under the lamppost, front
22 parking around 4:06 a.m.

23 A Yes, sir. That's the truck that the defendant was
24 operating that night.

25 Q Showing you State's Exhibit 51, what does this

1 indicate?

2 A That is actually an image of the back side of Club
3 Lavish which is directly next door to Dolce. And the
4 building is in between the two. I think that building at
5 one time was a restaurant that's in between the two.

6 Q Is there barbed wire on this fence right here
7 (indicating)?

8 A Yes, sir.

9 Q I'm showing you State's Exhibit 52. What is that on
10 the ground right there (indicating)?

11 A This -- this (indicating) is a piece of cloth that
12 obviously, when we had daylight, we were able to go back
13 and try to retrace the path that the defendant took. We
14 did that for numerous reasons: trying to find evidence.
15 We were trying to find the firearm. But this was a piece
16 of cloth that appeared to match the shirt that the
17 defendant had on.

18 Q And that would have been torn off by the barbed wire
19 when he's hopping it?

20 A That's correct.

21 Q Showing you State's Exhibit 6, we've already talked
22 about it. That generally would reflect where that piece
23 of cloth ripped from the shirt as he was hopping the
24 barbed wire fence?

25 A If you'll -- if you'll go up a little bit, it would

1 have been -- it could have been here (indicating). That
2 is very possible.

3 Q Showing you State's Exhibit 54.

4 A Again, this (indicating) is a piece of cloth that was
5 on that fence. There's actual -- I don't know if this
6 utilizes a storage building or what behind Club Lavish
7 which is next door -- or was next door. But this is
8 another piece of cloth consistent with the material of the
9 shirt that the defendant was wearing.

10 Q Showing you State's Exhibit 58, you saw this on
11 Deputy Brooks's body cam the other day.

12 A Yes, sir.

13 Q But this is the defendant getting out of this BMW?

14 A Yes, sir. That's a still image shot of it.

15 Q I'm showing you State's Exhibit 59, again, Deputy
16 Brooks's in-car camera. That's the defendant right there
17 (indicating) fleeing?

18 A On the right. Yes, sir.

19 Q Through your investigation, was there any evidence
20 that that was the defendant's residence?

21 A No, sir. Absolutely none.

22 Q Through your investigation, was there any evidence
23 that the defendant owned Club Dolce?

24 A No, sir.

25 Q Or was the manager there?

1 A No. He was not a manager there, no.

2 Q Was he an employee there?

3 A No.

4 Q Showing you State's Exhibit 60. Now, we've already
5 reviewed the live -- the video of all of this, but this is
6 just to confirm at 4 a.m. on the incident date in
7 question, the defendant was not parked yet, was he?

8 A That's correct. He was not.

9 Q I'm showing you State's Exhibit 74. That's the
10 defendant circled in red?

11 A Yes, sir.

12 Q And that's (indicating) his right hand that appears
13 to be in his pocket?

14 A Due to the fact that that image is a little bit
15 grainy, he has either got his hand in his pocket or he has
16 got his hand pressed against his pocket. But it does
17 appear that his hand is actually in the pocket, yes.

18 Q I'm showing you State's Exhibit 75. This is right
19 before the shooting, 4:09:28 a.m. So who I'm referencing
20 here (indicating) with my pen, this would be the victim?

21 A That's Monieque Greene, and then to his immediate
22 left is Carlos Jenkins.

23 Q Showing you State's Exhibit 76.

24 A That's an image of the defendant still with his right
25 hand in his pocket or pressed against his front pocket.

1 Q Does it appear his head's turned around right there?

2 A It does.

3 Q Now, right from this angle in relation to where the
4 truck is parked, we know this is the back of the club,
5 correct?

6 A That's correct.

7 Q We know this (indicating) is where the defendant
8 fled? This (indicating) way?

9 A The defendant fled in the direction towards the rear
10 (indicating) of the Club Lavish next door.

11 Q So where would his truck have been parked at this
12 moment?

13 A His truck would have been in the opposite direction.
14 Because this is the direction facing White Horse and the
15 front parking lot. This would have been the direction --
16 his truck would have actually been down in this area
17 (indicating throughout).

18 Q So is the defendant walking away from his truck?

19 A He's walking away from the truck, walking away from
20 security.

21 Q I'm showing you State's Exhibit 79. So this M, that
22 represents our victim, Monieque Greene?

23 A This is Monieque Greene, this is Mr. James, this
24 would be Carlos Jenkins and the defendant would be right
25 here (indicating throughout).

1 Q Showing you State's Exhibit 81.

2 A That is a still image of muzzle flash.

3 Q From the defendant?

4 A From the defendant.

5 Q Showing you State's Exhibit 82 with a time stamp of
6 4:10 a.m., is that another muzzle flash?

7 A Another muzzle -- muzzle flash from the defendant.
8 Carlos, again, is over here, and the victim, and this
9 would be looking at the opposite angle of the 90 degree.
10 Monieque Greene is to the left (indicating throughout).

11 Q I'm showing you State's Exhibit 83.

12 A That is a still image of the defendant fleeing the
13 scene.

14 Q Showing you State's Exhibit 84.

15 A That is an image of Mr. Greene.

16 Q Lying down on the ground after he got shot?

17 A After he was -- after he was hit.

18 Q Showing you State's Exhibit 85.

19 A Yes. That's an image of the defendant.

20 Q So this is during the shooting?

21 A Yes, sir.

22 Q I'm showing you State's Exhibit 86.

23 A That is another image of the defendant during the
24 shooting. And this is from the still image from the
25 camera on the back side of the building. The camera is

1 located on the northwest corner of the building.

2 Q I'm showing you State's Exhibit 87.

3 A That's a -- this (indicating) is the defendant, and
4 this (indicating) is a muzzle flash, again, during the
5 shooting.

6 Q And lastly, I'm showing you State's Exhibit 89.

7 A That is a still image from the same camera on the
8 northeast corner of the building. And that is the image
9 of the defendant fleeing the scene.

10 Q Mr. King, I am presenting to you State's Exhibit
11 previously marked 91. Do you see that right there?

12 A I do.

13 Q What's the label of this item?

14 A Black and red Adidas shorts.

15 Q Do you recognize these shorts?

16 A I do.

17 Q Are these the same shorts that the defendant was
18 wearing in these images in the videos?

19 A Those are the shorts that the defendant was wearing
20 during the morning of this incident. And he actually wore
21 those to -- when he was transported over to the jail. And
22 I had assistance from Investigator Sparkman who actually
23 went and responded to the jail for me on my behalf and
24 seized those shorts. We actually attempted to locate and
25 seize the shirt; however, to my knowledge, due to the fact

1 that there was a biohazard with the blood on it, the jail
2 discarded the shirt.

3 MR. POLSINELLO: Your Honor, pursuant to South
4 Carolina Rule of Evidence 901, the State moves to submit
5 State's Exhibit 91 into evidence.

6 THE COURT: Any objection?

7 MR. BOATWRIGHT: No objection, Your Honor.

8 THE COURT: All right. So entered without objection,
9 State's Number 91.

10 (WHEREUPON, State's Exhibit Number 91 was admitted into
11 evidence.)

12 BY MR. POLSINELLO:

13 Q Mr. King, do you see on the bottom of these shorts
14 the fraying and tearing?

15 A Yes, sir.

16 Q Where the bottom white band would be ---

17 A Yes, sir.

18 Q --- is missing a piece?

19 A It is.

20 Q So I'm showing you State's Exhibit 56 again.

21 A Yes, sir.

22 Q So that piece right there could have come from his
23 shorts and not necessarily his shirt, correct?

24 A Due to the hemline or the stitching, those could have
25 definitely come from the lower section of those shorts.

1 Q When he was hopping the fence?

2 A Correct.

3 Q Mr. King, I just want to confirm something with you
4 with State's Exhibit 91. These black basketball shorts
5 with the red stripe, do you see pockets right there?

6 A Yes sir.

7 Q So these shorts have pockets?

8 A They do.

9 Q Now, earlier you stated you arrived approximately, to
10 your best guess, you said around -- you said 4:51 a.m.?

11 A Yes, sir. 4:50, 4:51, ten minutes till five a.m.,
12 somewhere in that time frame.

13 Q So when you arrived, the defendant was in the back of
14 Deputy Pittman's car, correct?

15 A At a different location, yes.

16 Q Do you know how much time went into the investigation
17 until the defendant was officially notified that he was
18 arrested?

19 A It was over an hour, maybe an hour 40 minutes, hour
20 and 45 minutes, something along that -- something like
21 that.

22 Q So this whole time while the defendant is in the back
23 of that patrol vehicle, you're investigating the crime
24 scene at Dolce, correct?

25 A That's correct. I'm actually at the scene trying to

1 piece everything together.

2 Q When the defendant was in the back of the vehicle
3 this whole time, 4:50 a.m., 5 a.m., and you're
4 investigating the scene, was he arrested at that point?

5 A He was a -- at that point in time he was a person of
6 interest, and he was actually detained.

7 Q Did the defendant himself have wounds on him?

8 A He did. That was one of the things that I called and
9 asked to check on. As I was -- as I got the information
10 as far as what occurred, that was one of the things that I
11 asked the deputies on scene.

12 Q So is it fair to say that it took a lot of manpower
13 coordinating who did what, what happened, trying to put
14 the pieces together?

15 A That is fair. And not only that, we also had people
16 calling -- calling into dispatch after the fact who were
17 actually at the club, and their vehicles were actually
18 struck by gunfire. So they were calling that their
19 vehicles were damaged. And we pretty much had the same
20 statement or story from all of them. They were at the
21 club when the incident took place. Some of them admitted
22 that they saw somebody on the ground, somebody was hit,
23 but nobody saw what happened. So we had -- we had
24 deputies at two different locations, at Club Dolce itself,
25 the location where the vehicle finally stopped, and we had

1 deputies respond to different locations to meet these
2 people as well.

3 Q Did a Jewel [phonetic] Simpson ever approach you at
4 the scene or thereafter?

5 A No, sir.

6 Q A person named Jewel Simpson never came forward to
7 law enforcement wanting to give a statement?

8 A To my knowledge, no.

9 Q Had this person remained on scene and wanted to
10 cooperate or give you a statement, would you have talked
11 to him?

12 A I would have.

13 Q And does that go to anyone who wanted to remain on
14 scene?

15 A That would have been anyone, right.

16 Q In terms of where this shooting occurred -- so bear
17 with me one moment while I bring up State's Exhibit 3.
18 I'm referencing State's Exhibit 3. We know this
19 (indicating) is Club Dolce, correct?

20 A Yes, sir.

21 Q And this (indicating) is what establishment?

22 A That at some point was a -- some sort of restaurant.

23 Q Okay. And obviously, from the evidence, everything
24 that's in evidence, what we've seen, the forensic markings
25 in this case, the photos, we have a general idea of where

1 everyone was positioned when this occurred, correct?

2 A That's correct.

3 Q In terms of property lines of these two business,
4 whether or not this shooting occurred on this (indicating)
5 property or this (indicating) property, would that
6 affected your decision to charge in this case?

7 A In -- in as far as the charge itself and the
8 incident, how it unfolded, the property line is
9 irrelevant.

10 Q To your understanding did you make the charge for
11 attempted murder?

12 A I did.

13 Q Based on your understanding of the law, is there a
14 defense, an exception if this shooting occurred over here
15 (indicating) on this property line, would it have
16 mattered?

17 A In my understanding of the law and the way that the
18 law is written, again, property line, that's irrelevant
19 due to the fact that we're -- this all unfolded at 4 a.m.
20 in the morning, the fact that had this building been an
21 operational business or restaurant, it would have been
22 closed at 4 a.m. And as the video shows, the patrons of
23 this club utilized the parking lot. So the property line,
24 as far as the charge and the crime itself, is irrelevant.

25 Q And just to confirm, Mr. King, both of these lines

1 are in Greenville County, correct?

2 A That's correct.

3 Q Both of these properties.

4 Was there gunshot residue in this case?

5 A There was.

6 Q What is gunshot residue?

7 A Basically, gunshot residue is where we have forensics
8 come out, anytime you handle a firearm that's been fired
9 or if you fire a firearm, there's going to be gunshot
10 residue that transfers from the firearm itself to your
11 hands. One way as explained to me when I was actually ---

12 MR. BOATWRIGHT: Objection, Judge. May we approach?

13 THE COURT: What's the nature of the objection?

14 MR. BOATWRIGHT: This is getting into testimony that
15 requires an expert to be able to divulge into, and it's
16 also hearsay.

17 MR. POLSINELLO: Your Honor, he's an investigator,
18 homicide investigator.

19 THE COURT: I'm going to -- I'm going to see where
20 the answer goes. Go ahead.

21 THE WITNESS: Basically, anytime you fire a firearm
22 or you handle a firearm that's been fired, you pick up the
23 what we call GSR, gunshot residue. And as I stated, one
24 way was -- I mean, I carried a firearm right at 27 years
25 with the sheriff's office. I fired that weapon multiple

1 times for qualifications. And there were several days
2 that I would walk around having GSR on my hands. It's
3 pretty obvious.

4 But GSR is basically material that's left on your
5 person or on your hands after firing a firearm.

6 BY MR. POLSINELLO:

7 Q Was gunshot residue found on the defendant in this
8 case?

9 A It was.

10 Q Was that a surprise to you at all?

11 A No.

12 Q And why is that?

13 A Again, due to the fact that we had witnesses, we've
14 got video, and that was one of the things I requested
15 fairly early. Again, like I stated, I was out on an
16 unrelated call and I heard the radio traffic and the fact
17 that they had stopped a vehicle that fled from them that
18 had fled the scene, and I requested that GSR be conducted
19 on the subjects that were in that vehicle.

20 Q Okay. The other subject in that vehicle, were you
21 here yesterday when Investigator Brooks testified?

22 A I was.

23 Q And there were other passengers in that vehicle, in
24 that blue BMW that ended -- the chase in the dead end in
25 Dixie Estates, correct?

1 A Yes, sir.

2 Q That driver of that vehicle that we see get out that
3 was wearing all black, was he ever identified in this
4 case?

5 A He was not.

6 Q Were there ever any leads to identify who that person
7 could have been?

8 A I believe at one point there was a nickname that was
9 provided. But again, due to the statements by the victim
10 and the people on scene and the video, I had no reason to
11 believe that he was directly related to or involved in
12 this case.

13 Q Do you recall that nickname?

14 A Something slim. I know "slim" was part of it.

15 Q So obviously, we heard yesterday's testimony K-9s
16 were deployed in this case, correct?

17 A That's correct.

18 Q And what was the purpose of those K-9s being
19 deployed?

20 A Trying to locate the driver of the vehicle.

21 Q The K-9s were unsuccessful in doing that?

22 A That's correct.

23 Q Now, in Deputy Brooks's body camera, we saw another
24 passenger wearing a white shirt, long blue jeans get out
25 with his hands up and immediately get on the ground,

1 correct?

2 A Yes, sir.

3 Q Do you know the name of that passenger?

4 A I believe that was Kevin Dunham.

5 Q Based on your investigation, was he involved in this
6 case?

7 A Based on the investigation and, again, on the video,
8 no, he was not.

9 Q So on the video we clearly see the defendant in the
10 white undershirt, black basketball shorts fire at the
11 victim, hitting the victim, correct?

12 A That's correct.

13 Q Do we ever see Kevin Dunham firing at all on video?

14 A I don't even see Kevin Dunham on video. I mean, we
15 see -- the video shows the defendant arriving at the
16 incident location, circling the building, then parking,
17 then exiting the vehicle. He goes, makes contact with a
18 group of guys, then he makes contact with a second group
19 of guys. During the course of that, I didn't see him with
20 anyone else other than walking up to and making contact
21 with them.

22 Q Was GSR found on Kevin Dunham in this case?

23 A It was.

24 Q What's a reasonable explanation how GSR could be
25 found on Kevin Dunham?

1 MR. BOATWRIGHT: Objection, Your Honor. Same as
2 before. This gets into expert testimony.

3 MR. POLSINELLO: Your Honor, he's well-qualified to
4 testify on GSR. We're not asking about ---

5 THE COURT: All right. Ladies and gentlemen of the
6 jury, I'm going to send you to your jury room for about
7 five minutes and I'll bring you back. Please, ma'am,
8 please, sir, don't talk about the case to each other and
9 I'll bring you back in here shortly, within a couple of
10 minutes or so.

11 (WHEREUPON, the jury exits the courtroom at 12:06 PM.)

12 THE COURT: All right. Mr. Boatwright, I think the
13 first objection you made regarding this witness testifying
14 as an expert, and I think that was when he started talking
15 about GSR initially.

16 MR. BOATWRIGHT: Yes, Judge.

17 THE COURT: And one of the reason that the Court
18 allowed that answer was because he was able to give his
19 opinion since he was familiar with GSR as it related to
20 him personally, so I allowed that.

21 Now, the nature of your objection this time is what?

22 MR. BOATWRIGHT: It would be the same thing, Judge.
23 This is getting into expert testimony on how GSR particles
24 move from one surface to another surface and different
25 ways that that can happen. In order to -- I believe in

1 order to talk about that, you need to be qualified as an
2 expert in GSR.

3 THE COURT: All right. Was that going to be the
4 proffered question?

5 MR. POLSINELLO: We were just going to ask for a
6 reasonable explanation how it could have -- we know that
7 Kevin Durham was not the shooter. He testified that GSR
8 was on Kevin Dunham, so there's a logical follow-up
9 question, well, how could it have been on? Based on
10 Investigator King's career in law enforcement, over
11 20 years homicide investigator, we've heard his
12 familiarity with firearms. He's testified how he got GSR
13 on him himself.

14 THE COURT: Personally.

15 MR. POLSINELLO: He did that here, Your Honor.

16 THE COURT: Right.

17 MR. POLSINELLO: He did that here in live testimony,
18 meaning when he trained with firearms, he stated, and he
19 shoots, it can get on him. That's what we're just merely
20 asking based on his life experiences, knowledge in this
21 area. We're not asking to explain the scientific
22 possibilities of the transfer of substances or getting
23 into scientific explanations of how it can transfer or
24 what materials and all that.

25 THE COURT: I understand that. I think counsel's

1 concern was that your question was going to be asked of
2 this particular witness how can GSR transfer from a weapon
3 to the human skin. Am I right? Am I on the same street?
4 Is that what you're asking?

5 MR. BOATWRIGHT: Yes. We're on the same page, Judge.
6 Yes. He's asking the witness how GSR could have possible
7 got on Kevin Dunham if he's not the shooter.

8 And, Judge, just to respond to the State, they're
9 trying to utilize this witness as an expert without
10 qualifying him as an expert. You can use life experiences
11 to qualify a witness as an expert. They have not done
12 that. We have not heard this witness testify as to any
13 training, any classes, anything that he has taken about
14 GSR to be able to talk about GSR and how it actually
15 operates. So if they wanted to classify him as an expert
16 witness, they could have disclosed that under the rules of
17 discovery and qualify him as an expert to do this, but
18 they didn't do that.

19 MR. POLSINELLO: Your Honor, we're not intending to
20 qualify him as an expert. Again, when you do that, the
21 expert talks about the chemistry, the physics and the
22 chemistry behind GSR.

23 THE COURT: I think the only thing that this witness
24 can testify as to he had GSR residue on himself. I don't
25 think he can -- I think when you go beyond that, Counsel,

1 I think counsel's objection does have some validity.
2 Because if you're going to get into the science of GSR and
3 how it's transferred from a weapon to the skin, I think
4 you've got to have some degree of expertise to talk about
5 that. So I think counsel's objection regarding the
6 imposition of an expert witness in that regard I think has
7 some validity.

8 However, I think that this witness can talk about his
9 personal experience of GSR and how he had GSR, but when he
10 gets into talking about how it's transferred, then I think
11 that counsel's objection does have some validity and I
12 think that you would have to either -- and this witness
13 hasn't been qualified as an expert in that regard.

14 So, you know, I want to be very, very careful in
15 making sure that nothing comes in through the back door of
16 a witness who does not have the expertise in which to give
17 an opinion. You've got to -- the courts want to be real
18 careful in this regard, particularly in this case.

19 So I think that you can proffer the questions that
20 you're going to ask this witness, but I think that defense
21 counsel's objection does have some validity if you're
22 going to go outside the scope of what's personal to him.

23 MR. POLSINELLO: Yes, Your Honor.

24 THE COURT: So in that regard, you want to hear --
25 Mr. Boatwright, you want to hear what the proffered

1 question is that counsel's going to ask going forward
2 before we ---

3 MR. BOATWRIGHT: If he intends to still get into it.

4 THE COURT: Do you still intend to get into it?

5 MR. POLSINELLO: We're going to move on, Your Honor.

6 THE COURT: You're going to move on. All right.

7 Okay. That's fine.

8 Now, logistically, let me just tell you what -- how
9 much -- keep in mind when I ask these questions throughout
10 the trial, it is not to be interpreted in any way that I'm
11 asking you to move forward in any expeditious fashion.
12 The only thing I'm asking these questions is so I can get
13 a gauge on how to navigate the jury. So my question is,
14 how much longer do you think, Mr. Polsinello, that you're
15 going to be on direct examination? I mean, you can take
16 as long as you like. I'm here all week and here all next
17 week and the week after that and the week after that. I'm
18 sitting here.

19 MR. POLSINELLO: I would say 20 minutes, Your Honor.

20 THE COURT: 20 minutes. Okay.

21 MR. POLSINELLO: I hope to be done in 20 minutes.

22 THE COURT: All right. So that puts us about 12:30,
23 40, 12:40. I think your cross-examination probably is
24 going to be real extensive; is that correct?

25 MR. BOATWRIGHT: Yes, Your Honor.

1 THE COURT: All right. So what I'm going to do is
2 I'm going to allow -- let Mr. Polsinello finish his direct
3 examination, then we're going to probably in all
4 likelihood break for lunch. Investigator King knows the
5 routine. He can't go have lunch with the solicitor and
6 everybody else. He knows he can't do that, so I don't
7 even need to tell him that because he knows that.

8 THE WITNESS: Yes, sir.

9 THE COURT: All right. So we're going to follow that
10 pattern; is that okay?

11 MR. BOATWRIGHT: Works for me, Judge.

12 THE COURT: Are we okay doing that?

13 MR. POLSINELLO: Yes, Your Honor.

14 THE COURT: All right. Bring the jury back.

15 (WHEREUPON, the jury entered the courtroom at 12:14 PM.)

16 THE COURT: Yes, sir.

17 BY MR. POLSINELLO:

18 Q Mr. King, at any time during this night, did the
19 owner of this club ever come up to you and want to
20 cooperate?

21 A No, sir. To my knowledge the owner was not present.

22 Q The manager of the club?

23 A I spoke to the manager briefly and I actually saw the
24 video.

25 Q Okay. Once charges were made and filed in this case,

1 you're the one that sought the warrants, correct?

2 A That's correct.

3 Q After that, did the owner of this club ever come
4 forward and want to help law enforcement or talk about
5 what happened?

6 A No, sir.

7 Q Had they have done that, would you have entertained
8 that?

9 A Absolutely.

10 Q Mr. King, the security company that provided security
11 that night that Carlos Jenkins was working for, what was
12 the name of that security company?

13 A I do not have that in front of me, but I do believe
14 it was Carolina.

15 Q Okay. If you reviewed a writing to refresh your
16 memory of what that security company's name was, would
17 that help refresh your memory?

18 A Yes, sir.

19 Q Okay. One moment, please.

20 Take a look at this writing, if this refreshes your
21 memory. And again, what is the name of the security
22 company that was providing security that night?

23 A South Carolina Security Services, LLC.

24 Q Can you state that name one more time?

25 A South Carolina Security Services, LLC.

1 Q And that's who Carlos Jenkins was working for that
2 night?

3 A That's correct.

4 Q Now, for a security company, an LLC to provide
5 security to a private club such as Dolce in Greenville
6 County, do they have to be SLED certified?

7 A The company has to provide the club with that
8 information, yes.

9 Q What does SLED stand for?

10 A State Law Enforcement Division.

11 Q And why does a company have to be SLED certified?

12 A Primarily to make sure that certain rules are adhered
13 to.

14 Q Does the law require a private security company to be
15 SLED certified in order to provide security?

16 A They do.

17 Q Based on your investigation, South Carolina Security
18 Services, LLC, were they SLED certified when this incident
19 happened?

20 A They were.

21 Q Based on your investigation, was Carlos Jenkins, the
22 security guard with the shotgun who fired first, was he
23 SLED certified?

24 A He was SLED certified.

25 Q And you checked up and followed on this?

1 A That's correct.

2 Q And you confirmed all this?

3 A I did.

4 Q Was the victim, Monieque Greene, who got shot three
5 times by this defendant in the video, was Monieque Greene,
6 the victim, SLED certified?

7 A He was not.

8 Q The other security guard who took cover and
9 retreated, who never engaged the defendant that we saw on
10 video, Mr. James, was he SLED certified?

11 A Mr. James was not SLED certified.

12 Q Okay. What are the consequences of performing and
13 not being SLED certified?

14 A It's a misdemeanor charge. They can be charged for
15 not having their certification.

16 Q Did you discover all of this after charges were made?

17 A After the fact, yes.

18 Q How did you know this, that the victim was not SLED
19 certified at the time of the shooting or Mr. James, who we
20 see never engaging the defendant retreating, would that
21 have factored in your decision to make charges in this
22 case or not?

23 A Absolutely not.

24 Q And why not?

25 A The fact of whether or not Mr. Greene or Mr. James

1 was SLED certified at the time of this incident had no
2 bearing on the unlawful, illegal actions that the
3 defendant took.

4 Q And just to confirm, the security company itself and
5 Carlos Jenkins, they were SLED certified, correct?

6 A That's correct. The security company itself was
7 certified. Carlos Jenkins, the one that initiated contact
8 with the defendant, was certified.

9 Q And because of that, is it your understanding under
10 the law that that security company was allowed to provide
11 security for the club that night?

12 A That the way it's written, the way I understand it,
13 yes.

14 Q Okay. And that whoever owns this club, they hired
15 the security company to perform these duties and provide
16 security, correct?

17 A That's correct.

18 Q Now, under this law that allows these private
19 security companies to provide security this night, what
20 are their general duties and responsibilities? Under the
21 law, what can the security company do?

22 A Under the law, they basically -- their duties include
23 watching over, protecting or defending people or property
24 against intrusion, damage, injury or loss. It
25 specifically includes but is not limited to the following

1 authorities or responsibilities (reviews document): to
2 allow or refuse access to property or certain areas of
3 property; detect, prevent or report injury by an
4 authorized persons; observe for and react ---

5 MR. BOATWRIGHT: Objection, Your Honor. The witness
6 is reading from some document. I'm not sure what that
7 document is.

8 MR. POLSINELLO: Your Honor, he's a former law
9 enforcement officer testifying to his understanding of the
10 law.

11 THE COURT: All right. Has a copy of this document
12 been provided to counsel that he's reading from?

13 MR. POLSINELLO: Those are his documents, Your Honor.

14 THE WITNESS: These are my notes, Judge.

15 THE COURT: You need to see them?

16 MR. BOATWRIGHT: Not only do I want to see them,
17 Judge, but I don't think that the witness can read from
18 his notes. He has to testify from his personal knowledge
19 and his memory.

20 MR. POLSINELLO: Your Honor, a witness ---

21 THE COURT: All right. Hold on. Hold on. Hold on.

22 Investigator King, those are your notes, prepared
23 documents you brought to court?

24 THE WITNESS: Yes, sir. These are my notes.

25 THE COURT: Did you provide those -- was that

1 provided to the State? What you're reading from, was that
2 provided to the State?

3 THE WITNESS: I think he has a copy of it.

4 THE COURT: I don't want to know what you think. I'm
5 asking you, did you provide that to the State?

6 THE WITNESS: But I didn't. No, sir.

7 THE COURT: All right. I'm not going to allow him to
8 read anything that wasn't provided to both sides, anything
9 -- that was the whole purpose of discovery. So I'm not
10 going to let you do that unless it was provided to both
11 sides.

12 MR. BOATWRIGHT: Thank you, Judge.

13 BY MR. POLSINELLO:

14 Q Mr. King, under your understanding of the law, are
15 these SLED-certified security companies allowed to provide
16 security and protection to the patrons?

17 A Persons, places, react to dangerous situations, yes.

18 Q Does the law and does the security business allow
19 arrest powers?

20 A They do.

21 Q And does it allow these security companies to respond
22 to emergencies?

23 A Absolutely.

24 Q And to react?

25 A React to and respond to emergencies, yes.

1 MR. POLSINELLO: Your Honor, at this time the State
2 has no further questions for Mr. King.

3 THE COURT: All right. Ladies and gentlemen of the
4 jury, what we're going to do right now, it is about 12:23.
5 We're going to break for lunch, and I need you to report
6 back to your jury room at 2:00.

7 Please, ma'am, please, sir, do not talk about the
8 case to each other. And I'll see you at 2:00 in your jury
9 room.

10 (WHEREUPON, the jury exits the courtroom at 12:24 PM.)

11 THE COURT: All right. Anything we need to discuss
12 before we break for lunch? I think Officer King knows the
13 rules. I don't need to tell him.

14 Anything, Mr. Boatwright?

15 MR. BOATWRIGHT: No, Your Honor.

16 MR. POLSINELLO: Nothing from the State, Your Honor.

17 THE COURT: Okay. All right. We'll stand adjourned
18 until about 2:00.

19 MR. BOATWRIGHT: Thank you, Judge.

20 (WHEREUPON, a recess was taken at 12:25 PM.)

21 THE COURT: Okay. Let's go back on the record in the
22 interest of the State vs. William L. McKinney. All
23 parties are present. And Investigator King is still under
24 oath and has assumed the witness seat.

25 Anything before we bring the jury back?

1 MR. POLSINELLO: Nothing from the State.

2 THE COURT: All right. Anything, Mr. Boatwright?

3 MR. BOATWRIGHT: No, Your Honor.

4 THE COURT: All right. Bring them back.

5 (WHEREUPON, the jury entered the courtroom at 2:19 PM.)

6 THE COURT: All right. We're back on the record.

7 Mr. Boatwright, cross-examination.

8 MR. BOATWRIGHT: Thank you, Your Honor. May it
9 please the Court.

10 THE COURT: Yes, sir.

11 CROSS EXAMINATION

12 BY MR. BOATWRIGHT:

13 Q Good afternoon, Mr. King.

14 A Good afternoon, sir.

15 Q There's a lot, so I figured we'll just jump into it.

16 Let's talk about Officer Minwegen's report. You
17 reviewed that report?

18 A Yes, sir.

19 Q All right. You included that report in your
20 investigation to determine what to do, correct?

21 A Somewhat, yes.

22 Q And in that report, Officer Minwegen puts that the
23 victim, Monieque Greene, is the one that fired the beanbag
24 gun?

25 A She may have.

1 Q So not Carlos Jenkins carrying the shotgun, but
2 Monieque Greene.

3 A That may be what she understood at the time, yes.

4 Q All right. Now, let's just go into the property at
5 issue. You testified on direct that the property lines
6 wouldn't matter to you.

7 A That's correct.

8 Q So as a SLED security guard, based on your knowledge
9 of that and what that entails, they are contracted to
10 protect a specific property, correct?

11 A They are. Well, it depends. Not only property but
12 also personnel.

13 Q So South Carolina Security Services had three
14 employed armed guards, correct?

15 A Yes, sir.

16 Q And they were working at Club Dolce.

17 A That's correct.

18 Q So their job is to protect Club Dolce.

19 A I would say Club Dolce. I would say the parking
20 area. I'd say anywhere that the people attending Club
21 Dolce would be lingering or parking or ---

22 Q Did you look into the SLED manual and what SLED
23 says about what the security guards can and can't
24 protect?

25 A Yes. And again, it goes through -- it's not like

1 they're just a night watchman protecting property. So ---

2 Q Let's say the gas station ---

3 MR. POLSINELLO: Your Honor, let the witness answer
4 his question.

5 THE COURT: Let him please answer.

6 Are you finished?

7 THE WITNESS: I can continue, but . . .

8 BY MR. BOATWRIGHT:

9 Q You were done?

10 A I'm done at this -- yes, sir.

11 Q Okay. Thank you.

12 So let's say the gas station where William McKinney
13 was seen jumping into the BMW ---

14 A Yes, sir.

15 Q --- would the armed security guards be able to go in
16 and protect that property?

17 A I would say no.

18 Q Okay. Because it's too far away from Club Dolce?

19 A I would say, again, their primary responsibility
20 would be Club Dolce and the patrons of Club Dolce.

21 Q What if somebody parked in the gas station parking
22 lot to walk to Club Dolce?

23 A I wouldn't think so, no.

24 Q Okay. So if we're going to narrow it down, then we
25 can narrow it down by property, right?

1 A Well, I would say proximity.

2 Q So in that situation then, property lines would
3 matter.

4 A To a certain extent.

5 Q So if a SLED security guard is allowed to defend this
6 property right here but they can't defend this property
7 over here, that means they don't have the same powers over
8 here, correct (indicating throughout)?

9 A That's possible.

10 Q So over here (indicating) they can arrest you. You
11 said they have arrest powers.

12 A That's correct.

13 Q They can arrest you if you're over here (indicating)?

14 A Uh-huh.

15 Q If you're over here (indicating), they cannot arrest
16 you.

17 A Again, it would depend. But I would say no.

18 Q All right. Now, and just to verify what those arrest
19 powers that they do have over here, did any security guard
20 ever tell William McKinney, "You're under arrest"?

21 A Not to my knowledge, no.

22 Q So in looking at the two different areas, if I'm over
23 here (indicating) and a SLED security guard tells me to
24 pull my hands out of my pockets, they don't have no
25 authority, do they?

1 A No. You're referring to the gas station.

2 Q Just in two different areas, whatever areas they are,
3 an area that the SLED security guard does not have the
4 right or the power to exercise their normal authority.

5 A If they don't have -- if they don't have the right or
6 the power to be in that location to exercise their
7 authority, then no.

8 Q So then in this situation, it would become very
9 important to determine if the SLED security guard had
10 authority in the Chinese restaurant's parking lot, would
11 it not?

12 A Well, again, that parking lot was being utilized by
13 the patrons of the club. It was 4 a.m. in the morning.
14 And to my knowledge, that Chinese restaurant had not been
15 in business for quite a while.

16 Q All right. But regardless ---

17 A And there's only one way into that property as you
18 saw on the video. And you've got cones basically
19 dictating the travel, the route of travel for the
20 customers coming onto the property.

21 Q Regardless if that property's open for business or
22 not, that doesn't change SLED security guard's authority
23 to exercise their power over it, does it?

24 A Again, you've got patrons of the club for which they
25 were hired to protect. They're parking and utilizing

1 those parking spaces, and they're actually in that general
2 area. So . . .

3 Q So back to the question. Then you would agree that
4 whether or not the SLED security guards had authority to
5 act in that area would become very important in this case,
6 would it not?

7 A Somewhat.

8 Q Did you reach out to SLED and find out if they had
9 authority to act in that property? Is that a "no"?

10 A No, sir.

11 Q So even though that was a very important part, you
12 just didn't do it.

13 A Again, as far as property lines goes, the fact that
14 it's 4 a.m., the fact that that business was not
15 operational, and the fact that that parking lot was being
16 utilized by patrons of the club, again, that fell -- to me
17 that fell under their responsibility as far as the
18 personnel protection.

19 Q You could have verified that by calling SLED,
20 couldn't you?

21 A To me at that point in time it was not . . .

22 Q I mean, it's just a -- could you have verified ---

23 A I could have, yes. I could have.

24 Q But you didn't do that, did you?

25 A No, no.

1 Q So you don't know for sure that Monieque Greene,
2 Carlos Jenkins and Lamar James had the authority to even
3 be talking to William McKinney in that parking lot?

4 A Again -- again, as I understand the way that it's
5 written as far as their responsibilities and the fact that
6 everything originated from that club, yes, they did.

7 Q Who did you verify that with?

8 A That is through -- again, through the way the statute
9 is written.

10 Q And who did you verify that with? Are you a SLED
11 employee?

12 A It's the way that the law is written.

13 Q Are you a SLED employee?

14 A No, sir, I'm not.

15 Q Do you issue the SLED armed security guard licenses?

16 A I do not.

17 Q So the best person to find out from would have been a
18 SLED employee, correct?

19 A Or the law, the way the law is written for them.

20 Q And you was there to enforce the law.

21 A Yes, sir.

22 Q So let's talk about those laws that you were going to
23 enforce.

24 A Okay.

25 Q Monieque Greene was acting as an armed security guard

1 on that night, was he not?

2 A Yes, sir.

3 Q Illegally, wasn't it? It was against the law for him
4 to be doing it, wasn't it?

5 A It was.

6 Q Did you arrest him?

7 A No, sir.

8 Q Did you charge him?

9 A No, sir.

10 Q He was also carrying a concealed weapon that night.
11 Did you see if he had a concealed weapons permit?

12 A It was not a concealed weapon, but he had a firearm.
13 It was -- he had a firearm on his side.

14 Q Was South Carolina an open-carry state at that time?

15 A No, sir.

16 Q Oh, so that's illegal too, huh? Did you arrest him?

17 A No, sir.

18 Q Did you charge him?

19 A No, sir.

20 Q So you just choose which laws you're going to
21 enforce?

22 A No, sir.

23 Q Well, it seems like it, don't it?

24 A No, sir.

25 Q You chose to apply the law as you read it under the

1 security guards, and you chose to ignore the law as it
2 applied to the security guards.

3 A No, sir. That's not accurate.

4 Q You allowed the security guards to walk around open
5 carry illegally.

6 A I didn't hire them and I didn't put them in that
7 position. No, sir.

8 Q You didn't charge them.

9 A I didn't allow, so . . .

10 No, sir. I did not charge them.

11 Q You didn't charge Lamar James.

12 A No, sir. I did not -- did not charge Lamar James.

13 Q You didn't charge Carlos Jenkins.

14 A No, sir, I did not.

15 Q Now, Carlos Jenkins, he was carrying a shotgun,
16 correct?

17 A That's correct.

18 Q How do you know he was the one with the shotgun?

19 A Because he's on -- he's on camera.

20 Q How did you identify him on that camera?

21 A Through statements and, obviously, through the other
22 security guards. You can -- you can tell by their
23 physical build, their physical makeup.

24 Q Did you ever sit him down and show him the video and
25 say, "Show me where you are"?

1 A No, sir.

2 Q So let's talk about you identifying him on camera.
3 You showed us the video where two of the security guards
4 were walking towards William McKinney's truck?

5 A Yes, sir.

6 Q And you testified that that was Carlos Jenkins and
7 Lamar James walking towards the truck.

8 A That's correct.

9 Q Now, you talked to Carlos Jenkins about this
10 incident, correct?

11 A I believe Investigator Cutting interviewed him, and I
12 did at some point talk to him as well.

13 Q And you would have reviewed any statements he made,
14 right?

15 A Yes, sir.

16 Q And Carlos Jenkins, he actually told y'all that it
17 was him and Greene that started approaching William
18 McKinney, didn't he?

19 A I believe so, yes, sir.

20 Q So not him and Lamar.

21 A No. Lamar was back a little ways.

22 Q And Monieque Greene told y'all that him and Lamar
23 were the two that were together, right?

24 A At some point, yes.

25 Q Monieque also told y'all that he sent Lamar and Lamar

1 only to go towards William McKinney's truck, right?

2 A I believe so. But that would have been at the very
3 initial phase in the parking lot.

4 Q So just based on their statements alone, it seems
5 like they're all kind of saying they were in different
6 places; fair enough?

7 A Not necessarily, no.

8 Q No?

9 A No.

10 Q Well, Jenkins said he was -- first he said he
11 wasn't with Lamar, than he said he was -- or he wasn't
12 with anybody, and then he said he was with Greene,
13 correct?

14 A Carlos?

15 Q Yes.

16 A That's when they were approaching the defendant.

17 Q All right. We'll narrow it down even more just to
18 make it simpler. Carlos Jenkins told you -- said to y'all
19 that a woman approached him.

20 MR. POLSINELLO: Your Honor, I'm going to object.
21 This is hearsay. The witness that they're talking about
22 has not been called to testify, and he's asking statements
23 that another witness made.

24 THE COURT: I'm going to sustain that objection.
25 Rephrase your question.

1 BY MR. BOATWRIGHT:

2 Q Through your investigation, you learned that Carlos
3 Jenkins was claiming that he was with -- he was by himself
4 when a woman approached him, correct?

5 A If I remember that correct, yes.

6 Q And through that same investigation, you learned that
7 Monieque Greene says that him and Lamar were together when
8 William McKinney flashed him a gun.

9 A I know that Monieque Greene stated that when he
10 approached the vehicle when it was stopped, when it was
11 stopped in traffic, that he stated that the defendant
12 flashed a firearm at him, showed him and said -- stated he
13 wasn't the only one with a gun.

14 And I'm going to be honest. I don't recall him
15 stating that Lamar was with him. He may have. I'm not
16 saying that he didn't.

17 Q Do you recall him saying, "I leaned over and said,
18 'Did you see that'"?

19 A He may have.

20 Q All right. So just from that alone, you then learned
21 in your investigation from Lamar that he said he was with
22 Carlos or that he was with Carlos when ---

23 MR. POLSINELLO: Objection, Your Honor. Hearsay. A
24 statement from a witness that's not here testifying.

25 MR. BOATWRIGHT: Judge, it's still the effect on the

1 listener. I'm not offering this for the truth of the
2 matter asserted, just the effect it had on his
3 investigation.

4 THE COURT: I'm going to sustain his objection as
5 hearsay. I don't view it as being an exception.

6 BY MR. BOATWRIGHT:

7 Q So through your investigation, you learned that Lamar
8 James was claiming to have been with Carlos Jenkins when
9 the woman approached, correct?

10 A I believe so, yes.

11 Q All right. So just that by itself, from that part of
12 your investigation, you're able to determine that you've
13 got conflicting stories, right?

14 A Somewhat.

15 Q So to clarify, did you sit down and talk with him and
16 say, "Hey, where are you at on this video? Let's clarify
17 what's going on"?

18 A I don't believe so, no.

19 Q Did you ever sit down with Monieque Greene and ask
20 him to show you where he was at on the video?

21 A On the video, no.

22 Q Did you ever sit down with Lamar James and ask him
23 where he was at?

24 A I did not.

25 Q Now let's talk about just the investigation overall.

1 You said in your direct that nobody, no witnesses stayed
2 to talk with y'all, right?

3 A Correct.

4 Q And if people had came to you voluntarily, you would
5 have gladly talked to them.

6 A Absolutely.

7 Q Does the name Keyma Edgerton ring a bell to you?

8 A It does not.

9 Q Do you recall her giving a written statement?

10 A I do not.

11 Q Do you recall Officer Norris interviewing her at the
12 scene?

13 A At the scene, yes, yes.

14 Q And she said she had to go.

15 MR. POLSINELLO: Objection, Your Honor. Hearsay.
16 Stating a statement from a witness who's not here
17 testifying.

18 MR. BOATWRIGHT: Again, Judge ---

19 THE COURT: All right. Ladies and gentlemen of the
20 jury, I'm going to send you back to your jury room for
21 just a minute.

22 Mr. Foreperson, make sure there's no conversation
23 about the case among each other. And I'll bring you back
24 in here shortly. This might be a good time to take a
25 bathroom break.

1 (WHEREUPON, the jury exits the courtroom at 2:34 PM.)

2 THE COURT: All right, gentlemen. Let's deal with
3 these hearsay objections. Obviously, Mr. Boatwright, the
4 first one I think I sustained counsel's objection. I
5 thought it was hearsay and I still do.

6 The second one I think I also sustained counsel's
7 objection.

8 And then the third one, counsel objected and you said
9 this -- which prompted me to send the jury out. You said
10 you were not offering it to ---

11 MR. BOATWRIGHT: We're not offering it for ---

12 THE COURT: All right. So what are you offering it
13 for? What exception are you offering it for?

14 MR. BOATWRIGHT: Your Honor, under hearsay, hearsay
15 statement is an out-of-court statement offered for the
16 truth of the matter asserted.

17 THE COURT: I know what hearsay -- I'm interested in
18 the exception that you're asserting.

19 MR. BOATWRIGHT: If it's not for the truth, then it's
20 not hearsay. Our argument and the reason I'm asking this
21 question is because it goes to effect on the listener.
22 This witness testified on direct that any witness that
23 wanted to give a statement they would have talked to.
24 Keyma Edgerton told them she wanted to give a statement.
25 They did not talk to her.

1 THE COURT: Which exception does that fall under?

2 MR. BOATWRIGHT: Effect on the listener, Your Honor.

3 THE COURT: That's an exception?

4 MR. BOATWRIGHT: No. That it is -- when it is not
5 hearsay and I'm not offering it for the truth. I'm
6 offering it for the effect, the effect that it had on him
7 and his investigation.

8 THE COURT: Which means it has to be an exception.

9 MR. BOATWRIGHT: Only if it's hearsay, Your Honor.
10 But it's not hearsay because it's not offered for the
11 truth. The rule for hearsay is clear, and it says that
12 hearsay is an out-of-court statement. So it has to be a
13 statement made out of court.

14 THE COURT: Yeah.

15 MR. BOATWRIGHT: And it has to be specifically
16 offered for the truth of the matter asserted.

17 THE COURT: So if it's not, what is it offered for?

18 MR. BOATWRIGHT: For the effect to show what her
19 statement caused him to do.

20 THE COURT: So it has to be an exception to the
21 hearsay rule.

22 MR. BOATWRIGHT: Exceptions to hearsay, Your Honor,
23 are this statement is hearsay and now we have an exception
24 that says we can still let it in for the jury to hear.

25 THE COURT: So you're creating another exception.

1 MR. BOATWRIGHT: No. This is not an exception,
2 Judge. This is -- this is -- this is not hearsay.
3 Hearsay rule does not apply to this because it is effect
4 on the listener. Hearsay exceptions only apply when the
5 statement is hearsay. So if I'm offering the statement to
6 say that it is true that Keyma Edgerton told you that she
7 wanted to file a report, and I'm offering that
8 specifically to prove that she wanted to do that, then you
9 can say that's hearsay. I'm not offering it for that.
10 I'm offering it to show and to impeach this witness
11 because he said he would talk to everybody that was
12 willing to give a statement. The witness was willing to
13 give a statement, and they didn't talk to her. This
14 directly impeaches his credibility. He testified to it on
15 direct. He opened the door by testifying on direct that
16 they would have talked to anybody that volunteered. And
17 because I'm not offering it for its truth, I'm offering it
18 to show how it affected the investigator and his
19 investigation. It is not hearsay. There is no hearsay
20 exception to apply because it is not hearsay.

21 MR. POLSINELLO: Your Honor, clearly, Mr. Boatwright
22 is asking the witness isn't it true that Keyma Edgerton
23 said. So that is a third party. It's an out-of-court
24 statement. Because if she made any statements, it was at
25 the scene of the crime, so it's an out-of-court statement.

1 And he's trying to use it to prove the truth of whatever
2 he's pursuing. He is not -- defense attorney has failed
3 to cite an exception under 803. So it is hearsay, what
4 he's trying to get in. It is hearsay by the plain meaning
5 of the definition, and he's not -- there's all exceptions
6 803(1), 803(2), 803(3), and he's failing to cite an
7 exception that allows this inquiry.

8 MR. BOATWRIGHT: Judge, it's not hearsay to have an
9 exception. I have to be offering it for the truth and
10 then I would need an exception. But I'm not offering it
11 for the truth that Keyma Edgerton wanted to give a
12 statement. I'm offering it to show and to impeach this
13 witness that he did not talk to every witness that was
14 willing to give a statement.

15 THE COURT: Under what circumstances, Mr. Boatwright,
16 if you adopt -- what you're saying is that every time that
17 you assert that John Doe told Sally Doe, you can always
18 utilize that argument that you're making that you're not
19 offering it -- it's not hearsay. It's just for the effect
20 on the listener. And that's -- you can do that in every
21 case, every instance if that's the case.

22 MR. BOATWRIGHT: No, Judge. It has to -- the
23 statement actually has to have an effect, so that
24 effect ---

25 THE COURT: Who determines that? Who determines the

1 effect?

2 MR. BOATWRIGHT: The actions of the person that's
3 offering the statement. So he heard the statement or came
4 across that statement, his actions would be that effect.
5 And his actions here was to not ---

6 THE COURT: How do you know that, though?

7 MR. BOATWRIGHT: Because he didn't get a statement or
8 talk to Keyma Edgerton.

9 THE COURT: And that -- his actions determine what
10 effect?

11 MR. BOATWRIGHT: That's his action is that he didn't
12 talk to her. He saw that and chose not to interview her
13 and investigate her.

14 And yes, I would agree with Your Honor that if I want
15 a hearsay statement to come in, I can utilize it for --
16 not for the truth and get that hearsay statement in. What
17 that means is I can't argue it to the jury in closing, but
18 you heard so-and-so said X, because now I'm arguing it for
19 the truth. But if I say you heard Investigator King say
20 that he would interview anybody that wanted to talk to
21 him, but yet we know a witness wanted to talk to him and
22 he didn't say it -- he didn't interview them, I'm not
23 arguing the hearsay statement for the truth. I'm arguing
24 the effect.

25 THE COURT: This is a third-party statement.

1 MR. BOATWRIGHT: It is, Judge. But a hearsay
2 statement doesn't ---

3 THE COURT: And your argument is that there's no
4 exception under the hearsay rule that covers what you're
5 saying because it's not hearsay.

6 MR. BOATWRIGHT: Because it's not hearsay, Judge.
7 And there is no requirement in hearsay that it be a
8 third-party statement either. It can be -- it could be
9 his own statement if it's an out-of-court statement
10 because that is the requirement. So it's an out-of-court
11 statement and offered for the truth of the matter
12 asserted.

13 So they have to -- the State's argument has to be
14 that this is for the truth of the matter asserted, and I'm
15 telling Your Honor that it's not. I'm not going to use
16 this in closing for the truth. I'm simply using this to
17 show that Investigator King did not investigate -- or did
18 not interview a witness.

19 THE COURT: You got any follow-up, Counsel?

20 MR. POLSINELLO: Briefly, Your Honor.

21 Your Honor, in every criminal trial, the truth is
22 always relevant. The truth or a lie is always in play at
23 every single minute. So it is for the truth. And that's
24 an issue of fact for the jury to decide in terms of what
25 is true or not. It's a different argument Mr. Boatwright

1 is spinning right now, but I don't think there's any way
2 around it. He's taking a third-party, Keyma Edgerton, who
3 is not present, who has not testified, and is asking the
4 witness on the stand, who is not the declarant of these
5 statements, what she said. That's hearsay when you apply
6 it to the plain meeting. So therefore, what's the
7 exception? He's failing to cite an exception, and he
8 believes as an exception that this truth -- I don't know
9 how he spun it, but it's not the law. It's not in the
10 rules of evidence, Your Honor. And if something is the
11 truth or a lie, that's for the jury to decide, not for
12 defense counsel to decide if it's true or not.

13 THE COURT: Your argument, Mr. Boatwright, is very
14 unique, and that's what causes me ---

15 MR. BOATWRIGHT: I've got some case law for you,
16 Judge.

17 THE COURT: You've got some case law ---

18 MR. BOATWRIGHT: I've got some case.

19 THE COURT: --- that supports what you just said.

20 MR. BOATWRIGHT: My cocounsel just helped me out.

21 THE COURT: All right. Give me the case.

22 MR. BOATWRIGHT: The case is R&G Construction,
23 Incorporated ---

24 THE COURT: Give me a cite, too.

25 MR. BOATWRIGHT: --- vs. Lowcountry Regional

1 Transportation Authority, 343 S.C. 424, 439; 540 S.E.2d
2 113, 121, Court of Appeals 2000. And that says ---

3 THE COURT: You need to cite it again.

4 MR. BOATWRIGHT: --- a statement that is not offered
5 to prove the truth of the ---

6 THE COURT: Hold on. I need my clerk to look that
7 case up. Give me the cite.

8 MR. BOATWRIGHT: It's R&G C-O-N-S-T, Construction
9 Incorporated vs. Lowcountry Regional Transportation
10 Authority, 343 Supreme Court 424, 439.

11 And that case says a statement that is not offered to
12 prove the truth of the matter asserted should not be
13 excluded as hearsay. This is the effect-on-the-listener
14 argument, Judge. It's an argument that I was taught in
15 law school.

16 THE COURT: What was the underlying facts in that
17 case?

18 MR. BOATWRIGHT: That book does not tell me the
19 underlying facts, Judge. But regardless of the facts, it
20 stands for the proposition that it is not offered for the
21 truth, it should not be excluded under hearsay.

22 THE COURT: Hold on. Let me take a look at it.

23 MR. BOATWRIGHT: Yes, Your Honor.

24 (Pause in proceedings.)

25 THE COURT: Is that one of the bullet points that was

1 on a specific page of that case?

2 MR. BOATWRIGHT: Looks like it should be on page 424,
3 Your Honor. 439.

4 THE COURT: Well, you know, we're still on the
5 record, but I'm looking at where you read that. Yeah,
6 that statement that's in this case is true. It says (as
7 read), "A statement that is not offered to prove the truth
8 of the matter asserted should not be excluded as hearsay,"
9 but what's the other part of that? If it's not excluded
10 as hearsay, then it has to be an exception.

11 MR. BOATWRIGHT: No, Judge. It has to be hearsay to
12 have an exception. And it is not hearsay because it's not
13 offered for the truth. That is a specific requirement of
14 the hearsay.

15 THE COURT: You're looking at this case? You saw it?
16 You've got a comment?

17 MR. POLSINELLO: Your Honor, we haven't been provided
18 a copy of this case.

19 MR. BOATWRIGHT: We just found it in the book, Judge.
20 We don't have a copy of it.

21 MR. POLSINELLO: Your Honor, if you're going to cite
22 case law and reference it and try to make a correlation of
23 how it applies or doesn't apply ---

24 THE COURT: This is not a criminal case. This is
25 apparently a construction company case from the

1 Lowcountry.

2 MR. BOATWRIGHT: Yes, Judge. But the rules of
3 evidence still apply.

4 THE COURT: Well, tell me -- since you cited this
5 case, tell me the -- give me a synopsis of the facts in
6 the case that triggered this particular bullet point. You
7 haven't read the case.

8 MR. BOATWRIGHT: I have not read the case, Your
9 Honor.

10 THE COURT: You've just got your partner over there
11 to find a bullet point to throw at the Court. Tell me
12 what the case is about. You're citing it. You're citing
13 the case. Tell me what the case is about. You don't get
14 up and cite cases you don't know what it's about.

15 MR. BOATWRIGHT: Judge, the facts of the case -- of
16 that particular case are irrelevant. It is the simple
17 proposition that the Supreme Court has stated that a
18 statement that is not offered ---

19 THE COURT: This is relevant if I ask you to tell me
20 what the case is about.

21 MR. BOATWRIGHT: I don't -- I don't know, Your Honor.
22 I haven't read the case. I looked in my book, and it
23 tells me a case that says exactly what I'm arguing which
24 is that a statement not offered for the truth cannot be
25 excluded ---

1 THE COURT: So I don't get to know -- I don't get to
2 be told what the facts of the case are by counsel who
3 cited -- who stood up and cited the case?

4 MR. BOATWRIGHT: I can tell you about it, Judge, but
5 I need some time to read it.

6 But as far as the cite, the whole purpose of that
7 cite is for that one specific sentence, which is the
8 Supreme Court said ---

9 THE COURT: I'm not going to make a ruling based on
10 one specific sentence unless you tell me -- every case,
11 Counsel, that I've read in all the years I've been doing
12 this, every case the facts dictate the Court's ruling a
13 certain way. And I need to know what the facts were.

14 MR. BOATWRIGHT: Can we have a five-minute recess,
15 Your Honor, so I can read the case?

16 THE COURT: Well, you cited it. I mean, I thought
17 you knew what the case was.

18 MR. BOATWRIGHT: I've never read the case, Judge. It
19 simply was handed to me as a Supreme Court case where the
20 Supreme Court specifically says the same argument that I
21 have made which is binding precedent that says you cannot
22 suppress a statement for as hearsay if it is not offered
23 for the truth. The facts of that hearsay statement are
24 not at issue and not relevant to the same ruling of if it
25 is not offered for the truth, you can't exclude it.

1 THE COURT: All right. Mr. Polsinello, I'll be glad
2 to let you respond. I mean, he cited this case. I'm
3 looking at it. Because of the seriousness of the case --
4 of the current case, the incident case, I'm inclined to
5 give a five-minute recess for both of you to look at the
6 case and give me your thoughts before I make a ruling. I
7 think that's a fair thing to do.

8 MR. POLSINELLO: Yes, Your Honor.

9 THE COURT: All right. Mr. Boatwright, I'll give you
10 five minutes to read the case, I'll give opposing counsel
11 the same thing, and then you can make whatever remaining
12 arguments.

13 And, Mr. King, if you need a break from sitting up
14 there for the next five minutes, I'll be more than happy
15 to give you that.

16 THE WITNESS: I'm good.

17 THE COURT: Your good? Okay.

18 (WHEREUPON, a recess is taken at 2:50 PM.)

19 THE COURT: And I think that in the case of State vs.
20 -- let me get that cite. It was an unpublished opinion, I
21 think, State vs. Jordan that talked about that same case.
22 But I'll be glad to hear from you, Mr. Boatwright.

23 MR. BOATWRIGHT: Yes, Your Honor. So that case is a
24 case about a contract dispute. It then cites Hawkins vs.
25 Pathology Associates. And that is where it is referring

1 to a statement that is not offered to prove the truth of
2 the matter asserted should not be excluded as hearsay. In
3 Hawkins vs. Pathology Associates, the Court allowed
4 admissions of letters, cards and video because it was
5 offered to show a close familial bond, not of the truth of
6 the matter asserted in the statements. Here we are
7 offering this statement to show the effect on the listener
8 that he did not do what he claimed he would do on direct
9 examination, which is get an interview with that witness
10 and get a statement from him.

11 THE COURT: And see, that's why the facts were
12 significant because the facts in that case is
13 significantly different than the facts in this case as it
14 relates to the hearsay issue.

15 What do you say, Mr. Polsinello?

16 MR. POLSINELLO: Your Honor, the State would just
17 confirm Your Honor's analysis what you just said. This
18 R&G Construction, it's a civil lawsuit alleging a breach
19 of contract for the removal of underground fuel tanks both
20 these companies got in dispute. And in this case, Your
21 Honor, the Court of Appeals focuses on principal agent
22 relationship under civil law in business. They're
23 focusing on apparent authority, when an agent has apparent
24 authority to act on behalf of a principal.

25 The Court may have cited that general hearsay law,

1 but I'm not seeing how the facts in that case are relevant
2 to this, what the correlation is. Just citing this case
3 is -- has got to have more than that.

4 THE COURT: And to move this along, at the end of the
5 day, all the appellate courts, Mr. Boatwright, all the
6 appellate courts has indicated time and time again that
7 the admissibility of evidence is within the trial court's
8 discretion at the end of the day.

9 MR. BOATWRIGHT: Yes, Judge. And this case further
10 supports that assertion, and it just gives guidance saying
11 that the statement should not be excluded when it's not
12 offered for the truth.

13 THE COURT: All right. Well, I'm going to use my
14 discretion and disagree with you. And if I'm wrong, then
15 the appellate courts need to tell me that. But I'm going
16 to disagree with you on this one.

17 MR. BOATWRIGHT: Thank you, Judge.

18 THE COURT: Okay. All right. So we understand going
19 forward with the testimony of Investigator King that any
20 statements made by this third party, obviously, to cut off
21 Mr. Polsinello's objections, obviously he's going to
22 object as to hearsay, so we've got to move past that. You
23 understand that's what we're doing?

24 MR. BOATWRIGHT: Yes, Judge.

25 THE COURT: Okay. All right. Bring the jury back.

1 (WHEREUPON, the jury entered the courtroom at 3:01 PM.)

2 THE COURT: Mr. Boatwright.

3 MR. BOATWRIGHT: Thank you, Your Honor.

4 BY MR. BOATWRIGHT:

5 Q Just to go back to where we were. Investigation is
6 part of your job, correct?

7 A Yes, sir.

8 Q And in that investigation, that includes identifying
9 witnesses.

10 A Yes, sir.

11 Q Getting statements of witnesses?

12 A Yes, sir.

13 Q And on your direct examination, you testified that if
14 anybody wanted to give you a statement, you would take
15 one, correct?

16 A Yes, sir.

17 Q Was there anybody in this case who wanted to give a
18 statement that you didn't get a statement from?

19 A I believe there was one that identified herself as
20 being intoxicated that night and said that she had to go,
21 she didn't have time to stay.

22 Q So there was one witness that was identified that
23 nobody got a statement from?

24 A That's correct.

25 Q Now, when you interviewed the witnesses, did you

1 separate the security guards?

2 A Again, I wasn't -- I didn't conduct the interview at
3 the Law Enforcement Center of Lamar and the second one.
4 So -- but to my understanding, they had them in a room at
5 the same time.

6 Q So they were together for their interview?

7 A Correct.

8 Q And in investigations, it's important to separate
9 witnesses, is it not?

10 A Sometimes.

11 Q So that witness can't talk about their story and get
12 their story straight?

13 A Sometimes, again.

14 Q Now, you said -- again, you said you would get a
15 statement from everybody willing to give one, correct?

16 A Yes, sir.

17 Q Did you get a statement from Lamar James?

18 A That was through Investigators Thrillkill [phonetic]
19 and Cutting, and I do not believe they took a statement
20 from him.

21 Q So now we have two witnesses that we know of that no
22 statement was taken?

23 A That's correct.

24 Q And the witnesses that you did talk to that we
25 identified, let's go with Keisha Dogan. Did anybody ever

1 ask Keisha Dogan, "You know anybody else out here? Can
2 you identify any other witnesses for us"?

3 A I do not know. I didn't take her statement.

4 Q Do you know if any of your officers asked anybody out
5 there if they could identify anybody else that was out
6 there?

7 A I know -- again, like I stated, when some of the
8 calls started coming in and deputies were responding to
9 the reports of the cars being damaged, they were asked.
10 And a lot of the people were stating, the majority -- I'd
11 say all of them stated that they either didn't see the
12 shooting or they saw the victim laying on the ground,
13 something along those -- that effect.

14 Q And that the witnesses that actually gave statements,
15 nobody asked them, "Do you know anybody else out here"?

16 A I have no idea if that question was asked or not.

17 Q There was a lot of people in that parking lot when
18 the shooting happened, wasn't there?

19 A Oh, yeah.

20 Q And y'all's investigation was only able to secure
21 four written statements?

22 A That's correct.

23 Q All right. So Carlos Jenkins was SLED certified at
24 the time of the shooting, right?

25 A Yes, sir.

1 Q But he was carrying a shotgun.

2 A That's correct.

3 Q Is he allowed to do that?

4 A I believe that has come up after the investigation.
5 But I don't -- I don't believe that he was certified with
6 that weapon.

7 Q But y'all didn't find -- you said that was after the
8 investigation when y'all found that out?

9 A Correct.

10 Q All right. We saw a picture. It was State's
11 Exhibit 11. All right. So I'm going to point so that you
12 can see where I'm talking about. This area right here
13 (indicating), that is where Monieque Greene was at,
14 correct?

15 A That's correct.

16 Q And these (indicating) yellow cones, card placard
17 things, they're identifying shell casings?

18 A Shell casings and evidence.

19 Q Same thing for right here (indicating). Shell
20 casings?

21 A Yes, sir. Uh-huh.

22 Q And this (indicating) is where William McKinney was
23 at.

24 A That general area, yes, sir.

25 Q And Monieque Greene over here, how many times did he

1 shoot at William McKinney?

2 A Five times.

3 Q How many times did William McKinney shoot at Monieque
4 Greene?

5 A I'm going to state that he was hit -- that he
6 actually fired we know 100 percent three times due to the
7 fact that the victim was struck three times. And then
8 there was three more rounds that were 9 millimeter that
9 were recovered.

10 Q So he fired a total of six rounds.

11 A Yes, sir.

12 Q But we only know for sure that three of them were at
13 Monieque?

14 A 100 percent correct..

15 Q And you testified that there was no evidence that
16 Monieque Greene shot at William McKinney first.

17 A Say that one more time?

18 Q You testified on direct there was no evidence that
19 Monieque Greene shot at William McKinney first?

20 A That's correct.

21 Q The only evidence you have that William McKinney shot
22 at Monieque Greene first is Monieque Greene's statement?

23 A No, sir.

24 Q What other evidence did you have?

25 A The evidence at the scene.

1 Q What evidence?

2 A The fact that there were vehicles that were in that
3 -- they're not in that image, but they were parked along
4 that fence line where the defendant -- the direction the
5 defendant ran that were struck by gunfire that would
6 indicate that both Carlos and the victim fired in that
7 direction.

8 Q So just to make sure I'm getting what you're saying
9 correct, you can tell that William McKinney shot first
10 because there was a car with a bullet hole in it?

11 A No, sir.

12 Q That's what you just said.

13 A It's on video as well.

14 Q In the video, you can see exactly which way William
15 McKinney is pointing?

16 A You could for the first several shots, yes, sir.

17 Q And which way was he shooting in the first couple
18 shots?

19 A In the direction of Mr. Greene.

20 Q The direction of Mr. Greene, not in the direction of
21 Carlos Jenkins?

22 A That's correct.

23 Q Any other evidence that you used to come to that
24 determination?

25 A Primarily the physical evidence with the vehicles

1 being struck and the video.

2 Q I've just got to ask, how is the video -- how is the
3 vehicle being struck by a bullet tell you who shot first?

4 A Well, again, like I said, along with the video,
5 coupled with the video.

6 Q Yeah. But even with the video ---

7 A It gives you the direction, and the video shows where
8 the location of the victim, it gives the location of the
9 defendant.

10 Q Does it tell you what time the bullet was shot?

11 A No.

12 Q The hole in the car, it doesn't tell you this bullet
13 was shot at 4:09:15.

14 A No. But what it does tell me is that the defendant
15 was fleeing when Mr. Greene fired in self-defense back.
16 That's what that tells me.

17 Q Because he shot a car.

18 A Because of the location of the car and the location
19 that the defendant was running.

20 Q So because William McKinney was fleeing the scene and
21 shooting back and hit a car, your testimony is that you
22 know that he shot at Monieque Greene first and Monieque
23 Greene then shot back?

24 A No, sir.

25 Q Isn't that what you just said?

1 A No, sir.

2 Q Please clarify.

3 A What I'm telling you is the video clearly shows
4 Carlos engaging the defendant. Then it clearly shows the
5 defendant firing at Mr. Greene, the victim, and then it
6 shows the path that the defendant is leaving the scene
7 which is the location of the vehicles that were struck by
8 gunfire. In other words, the vehicles were at the back of
9 the parking lot the direction that the defendant is
10 traveling which gives me the timeframe of where you see
11 the defendant open fire on video, then you see his
12 location change which is in the direction of the vehicles
13 which were struck by gunfire by the victim.

14 Q All right. Let's move forward. Let's move back a
15 little bit, actually. In the videos we watched William
16 McKinney walking away with his hand in his pocket,
17 correct?

18 A That's correct.

19 Q And we see William McKinney look over his shoulder at
20 armed men, correct?

21 A At the security guards multiple times, yes.

22 Q Only one of which was actually legally acting as a
23 security guard, correct?

24 A That's correct.

25 Q All right. So he looks back multiple times. So he

1 saw more than one security guard, right?

2 A That's correct.

3 Q We see him continuing to walk, hand in his pocket,
4 and then we see Carlos Jenkins shoot him in the back,
5 right?

6 A Well, we're seeing from our view. We're not seeing
7 from Carlos Jenkins's view. Yes.

8 Q Okay. So he shot twice in the back, correct?

9 A That's correct.

10 Q Then we see him pull -- return fire, run, continue
11 returning fire, right?

12 A That's correct.

13 Q All right. And it seems as if y'all were saying --
14 on your direct you were saying that it was okay to shoot
15 at Carlos because Carlos shot him first, because Carlos
16 then shot him?

17 A No, sir. No, sir.

18 Q So he couldn't shoot at Carlos, period, end of story,
19 even if Carlos just shot him in the back.

20 A No, sir, he couldn't.

21 Q So you're saying that that is illegal.

22 A It was illegal for him to be on the property with a
23 firearm, period.

24 Q Did anybody tell him to leave the property?

25 A They were working on that. They were trying to get

1 him to -- to approach him to get his hands out of his
2 pocket.

3 Q Did anybody tell him to leave the property?

4 A They were working -- they were approaching him to
5 make contact with him ---

6 Q It's a simple question.

7 A --- due to the information they had.

8 Q It's a simple question, Mr. King. Yes or no, did
9 anybody tell him to leave the property?

10 A Again, they were approaching him with that goal, yes.

11 MR. POLSINELLO: Your Honor, badgering the witness.
12 Mr. King has clearly answered the question multiple times.

13 THE COURT: I'm going to allow the question, Counsel.
14 Go ahead. Ask him the question again.

15 MR. BOATWRIGHT: Thank you, Judge.

16 BY MR. BOATWRIGHT:

17 Q So just to clarify, again, did the security guards
18 ever tell Mr. McKinney to leave the property?

19 A They didn't have that chance.

20 Q Do we even know what property William McKinney was
21 on?

22 A Again, as I've testified to, that's irrelevant as far
23 as this is concerned.

24 Q But if the security guards didn't have authority to
25 tell him to leave the property, it would be relevant.

1 A Again, that argument to me is irrelevant.

2 Q So let's talk about nonlethal rounds for a second.

3 We'll come back to it. Let's talk about nonlethal rounds
4 for a second.

5 You used to be a police officer, correct?

6 A Yes, sir.

7 Q If you're walking down the street as a police officer
8 and I walk up and I shoot you with a nonlethal round in
9 the back, is that legal?

10 A It would depend on the circumstances.

11 Q So I'm allowed potentially to just walk up and shoot
12 somebody in the back?

13 A It would depend on the circumstances.

14 Q Please tell me circumstances where that's okay.

15 A To try to disarm someone using less than lethal
16 force. In other words, you're trying to use the less
17 means necessary.

18 Q Doesn't your training dictate that if it's not a
19 threat, then you don't engage?

20 A Put in those terms, that's correct.

21 Q Okay. And that's -- actually, you were here. You
22 heard one of your officers testified, it was Officer
23 Bryson, he actually saw William McKinney with a gun and he
24 didn't engage him, did he?

25 A No, sir, he did not.

1 Q And that was because William was not a threat?

2 A At that time he was fleeing the scene.

3 Q So fleeing the scene makes you not a threat.

4 A Again, that was also the distance. There was a lot
5 of variables involved in that, so I can't testify as to
6 what that deputy perceived or his actions.

7 Q But what you just said was he was fleeing the scene,
8 right?

9 A That's correct.

10 Q When he's walking away from security guards, isn't
11 that fleeing the scene?

12 A Not necessarily, because he's going the opposite
13 direction. No.

14 Q If I'm walking away from you, am I a threat to you?

15 A No, sir.

16 Q So William McKinney was not a threat to these
17 illegally armed bouncers and one illegally armed security
18 guard?

19 A William McKinney, at the night and the time that this
20 occurred, had already displayed a firearm. Through the
21 investigation, he had already displayed a firearm to one
22 of the security guards. And the security guards were
23 aware that he was armed, and obviously was not supposed to
24 be armed. And you'll hear testimony as far as why Carlos
25 took the actions he took.

1 Q Okay. Did Carlos Jenkins know that William McKinney
2 was armed?

3 A Again, through his testimony, he will be able to
4 answer that question for you. But yes.

5 Q Based on your investigation, you were able to
6 determine that Carlos Jenkins knew at the time that
7 William McKinney was armed.

8 A At that time they were approaching him, yes, sir.

9 Q What led you to make that conclusion?

10 A That information was provided to me through
11 Mr. Greene, Monieque Greene.

12 Q Okay. So I'm asking you about Carlos Jenkins, not
13 about what Monieque Greene knew.

14 A Right. .

15 Q Monieque Greene, you know that Monieque Greene said
16 he knew he had a gun ---

17 A Yes, sir.

18 Q --- in the parking lot earlier in the day ---

19 A Yes, sir.

20 Q --- before he parked his truck.

21 A And Carlos Jenkins states and will state that he saw
22 the butt of the weapon.

23 Q At the time that he shot.

24 A At the time that he shot.

25 Q But when he first approached him, he didn't know he

1 had a weapon on him, did he?

2 A He had reason to believe. I mean, he was favoring
3 his right pocket.

4 Q So walking around favoring your right pocket is
5 reason to believe I have a gun in it?

6 A You've got to put yourself in that environment.

7 Q Just right now do you think I have a gun in my right
8 pocket?

9 A No, sir.

10 Q I'm favoring my right pocket.

11 A I have no reason to believe it at this point.

12 Q They knew -- based on your evidence, they knew -- you
13 knew and they knew that there was a gun inside William
14 McKinney's truck, correct?

15 A Yes.

16 Q Once he got out of the truck, there is no evidence
17 that anybody saw, or heard for that matter, that he had a
18 gun on him, is there?

19 A No, sir.

20 Q So when they were approaching him, they didn't know
21 he had a gun on him.

22 A They didn't know it, but they knew he had one in the
23 truck.

24 Q Okay. But they also knew, based on your
25 investigation, that there was a lot of people out there

1 with guns.

2 A More than likely.

3 Q Did they shoot them in the back?

4 A No, sir.

5 Q All right. About the law, let's talk about just the
6 law in general. If I shoot someone with a less-lethal
7 round, does the law require you to charge me a lower
8 charge if you're going to charge me? Like would you only
9 charge me with assault and battery third degree if I shoot
10 someone with a less-lethal round because it is a
11 less-lethal round?

12 A Again, it would depend on the circumstances.

13 Q We saw the pictures of William McKinney when he was
14 in the back of the police car, right?

15 A Yes, sir.

16 Q He was bleeding, correct?

17 A Yes, sir.

18 Q Did you see his back where he was shot?

19 A I didn't physically myself go to that scene and see
20 that, no.

21 Q Have you ever been shot with a less-lethal round?

22 A Other than "sims" training, no.

23 Q When Carlos Jenkins shot William McKinney with a
24 less-lethal round, did he say, "I'm shooting you with a
25 less-lethal round," and then shoot him?

1 A No knowledge of that, no.

2 Q So when William McKinney got shot, he had no reason
3 to know that this was a less-lethal round.

4 A Well, again, it could have all been prevented.

5 Q Completely agree.

6 A But no.

7 Q So basic law stuff still, it's illegal to shoot
8 someone without justification, correct?

9 A That's correct.

10 Q And that legal justification, there's a few different
11 ways that you can get that, correct?

12 A Yes, sir.

13 Q One of those justifications is to protect people,
14 right?

15 A That's correct.

16 Q In immediate harm?

17 A Yes, sir.

18 Q Protect yourself in immediate harm, correct?

19 A Yes, sir.

20 Q Again, if I'm walking away from you, hand in my
21 pocket, are you in immediate harm?

22 A No, sir.

23 Q So it's illegal to shoot me in the back.

24 A Yes, sir. I would say yes.

25 Q And then I am allowed, once that happens, to act in

1 self-defense, am I not?

2 A Again, depending on circumstances. I'd say yes.

3 Q Since you shot me, my self-defense, I can shoot you
4 back, right?

5 A I'd say yes.

6 MR. BOATWRIGHT: Moment to confer, Your Honor.

7 No further questions, Your Honor.

8 THE COURT: Redirect?

9 MR. POLSINELLO: Yes, Your Honor. The State has a
10 follow-up.

11 THE COURT: Yes, sir.

12 REDIRECT EXAMINATION

13 BY MR. POLSINELLO:

14 Q I'm trying to work the projector there.

15 Mr. King, I'm showing you State's Exhibit 11.

16 Mr. King, are you an expert in zoning ordinances and
17 property lines in Greenville County?

18 A No, sir.

19 Q Would you have any idea of where these property lines
20 are or end?

21 A No, sir. No way.

22 Q Is it fair to say that Dolce, this building right
23 here (indicating), this parking lot, it extends back here
24 (indicating)?

25 A Yes, sir.

1 Q And that these two buildings are close?

2 A Extremely close. Yes, sir. They were.

3 Q And we've seen the shooting unfold on video. We know
4 the defendant likely was somewhere over here (indicating),
5 right?

6 A Yes, sir. And you've got to account for the shells
7 being fired out of the firearm as well. But yes, sir.

8 Q So when shells are fired out of a firearm, they can
9 pop off and fly off?

10 A Yes, sir.

11 Q Okay. So it's possible that the defendant was over
12 here (indicating) somewhere?

13 A Yes, sir, it is.

14 Q And then the shell casings fly off here (indicating)?

15 A That's correct.

16 Q And we know Carlos was somewhere here (indicating),
17 right?

18 A Probably more to the -- he was in that general area,
19 but he could have been back -- could have been back a
20 little bit and to the right.

21 Q So it is possible that when the shooting occurred,
22 everyone was on Club Dolce's property line, correct?

23 A That is possible, yes.

24 Q The fact that the victim, when he was over here when
25 the victim was shot, if he was on this property line,

1 under the law, on your standing when you made the charging
2 decisions, the fact that the victim was here, this was on
3 this business's property line, would you have not charged
4 the defendant based on your investigation and the evidence
5 that you saw (indicating throughout)?

6 A That would have made no difference.

7 Q And again, you can't say for certain where these
8 property lines are.

9 A No, sir.

10 Q Even if the shooting trickled over into the other
11 property line, does that negate the defendant's conduct
12 that we've seen on the video?

13 A No, sir. It does not negate the criminal actions
14 made by the defendant, no.

15 Q Defense counsel asked you and said, "Isn't it true
16 you didn't charge Carlos Jenkins?" And you didn't charge
17 Carlos Jenkins, did you?

18 A I did not, no.

19 Q Did you have any reason to charge Carlos Jenkins?

20 A I did not. And again, that was something that, due
21 to the circumstances, due to the fact that we had one of
22 the security guards that was shot three times, it was
23 numerous factors involved in that. And I was not the only
24 one involved in that decision.

25 Q Wasn't it your testimony earlier today that you

1 researched the company South Carolina Security Services,
2 LLC, and they were, in fact, SLED certified at the time of
3 the shooting, correct?

4 A That's correct. That company was, in fact, certified
5 through SLED as was Carlos Jenkins.

6 Q And to be SLED certified to perform the security
7 duties, does the company have to meet many requirements
8 under SLED?

9 A They do. They have a lot of guidelines and a lot of
10 things they've got to accomplish prior to being able to
11 get that license.

12 Q Would SLED just give out the security license freely,
13 willy-nilly?

14 A No.

15 Q You have to do a lot of things to receive a security
16 license. Do you?

17 A That's correct.

18 Q And this company had a valid one on the night in --
19 early morning in question, correct?

20 A Of July -- yes, sir. July 4, 2020.

21 Q And you also testified that Carlos Jenkins, the one
22 with the shotgun, he was SLED certified at the time of the
23 shooting?

24 A He was. He was.

25 Q So would there be any reason to charge him?

1 A No, sir.

2 Q Mr. King, when you arrived on scene around 4:50 a.m.,
3 we know the victim was transported to the ER, correct?

4 A That's correct. He was already gone.

5 Q Was it practical and reasonable for you to interview
6 the victim at that time?

7 A No, sir. That -- that would have been impossible.

8 Q Under these sort of circumstances, when is it
9 reasonable to interview the victim?

10 A As early as it's -- as possible for the victims and
11 as long as they are willing and able to do so. We try not
12 to -- with this case this gentleman had multiple
13 surgeries, a lot of medication that's involved. So I gave
14 him plenty of time to -- to move or pass that prior to
15 making contact with him. He actually drove up to the Law
16 Enforcement Center when I sat down with him.

17 Q So you eventually did sit down with the victim and
18 interviewed him.

19 A Mr. Greene, yes, sir.

20 Q Do you remember the date of that interview?

21 A I want to say it was either August or September.

22 Q If I showed you a recorded recollection, a prior
23 written recording to refresh your memory of when the
24 interview ---

25 A Yes.

1 Q --- would that help refresh your memory?

2 A Yes, sir.

3 Q Take a look at this document. Let me know when
4 you're done with it.

5 A (Reviews document.)

6 Q What was the date in which you interviewed the victim
7 in this case?

8 A That was on September the 3rd of 2020.

9 Q So that's almost two months out from the time of the
10 shooting, correct?

11 A One day shy. Yes, sir.

12 Q So it took that long for the victim to recover and
13 heal, to be able to get the health to come and interview
14 with you.

15 A That's correct. Yes, sir.

16 Q Did the victim provide a statement?

17 A He did.

18 Q A written statement?

19 A Yes, sir.

20 Q Based on your meeting with the victim, what you
21 learned, did that corroborate everything that you already
22 learned in the case?

23 A It did.

24 Q Carlos Jenkins and Ulysses Lamar James were
25 interviewed at the Law Enforcement Center, weren't they?

1 A Yes, sir.

2 Q And you learned now they were interviewed by other
3 investigators.

4 A Yes, sir.

5 Q You couldn't -- you were working the scene that early
6 morning, correct?

7 A That's correct.

8 Q You had a lot of responsibility, correct?

9 A Yes, sir.

10 Q You were figuring everything out, putting evidence
11 together.

12 A I was.

13 Q Was it feasible and practical for you yourself to
14 leave the scene of the crime and go interview Carlos and
15 Ulysses Lamar James?

16 A No, sir. This is a common practice that we have is
17 to call other investigators in to assist.

18 Q It's a common practice in such cases.

19 A Yes, sir.

20 Q And so Carlos and Ulysses Lamar James did give
21 statements in this case, didn't they?

22 A Carlos gave a written statement, and I believe that
23 Lamar's and Carlos's together was mostly through video.

24 Q So it was video recorded.

25 A That's correct.

1 Q With audio and sound.

2 A With audio. Yes, sir.

3 Q So wouldn't that be a statement, a verbal statement?

4 A That's correct.

5 Q So they did give statements, didn't they?

6 A They did.

7 Q And based on your understanding and investigation,
8 their statements corroborate what you already knew and
9 what the evidence showed?

10 A That's correct.

11 Q Did it more so or less corroborate the victim's
12 statement?

13 A Yes, sir.

14 Q Okay. Let's talk about Investigator Bryson's body
15 camera. He testified yesterday. You saw Investigator
16 Bryson leave. He was the first officer to arrive on
17 scene. We saw that. He sees, he gets information that
18 the defendant is fleeing, and you see Officer Bryson make
19 that incredible sprint down the road chasing after the
20 BMW, right?

21 A Yes, sir.

22 Q And we heard Investigator Bryson's statement that he
23 saw the defendant holding ---

24 MR. BOATWRIGHT: Objection, Your Honor. Leading and
25 counsel testifying.

1 MR. POLSINELLO: The evidence is already in, Your
2 Honor. He's testifying to ---

3 THE COURT: I understand that, Counsel. Don't --
4 don't lead him. But go ahead. I'll let you continue.

5 BY MR. POLSINELLO:

6 Q Mr. King, was Investigator Bryson engaging the
7 defendant at one point?

8 A He was.

9 Q How was he engaging the defendant?

10 A Through a foot chase.

11 Q And in law enforcement, when you engage a suspect or
12 someone who you think has committed a crime, is that
13 because they've presented a threat?

14 A At some point, yes, sir.

15 Q Is it because it's believed that they committed a
16 crime? Is that why we engage suspects?

17 A That's correct.

18 Q And this defendant was being engaged and pursued by
19 law enforcement, wasn't he?

20 A That's correct.

21 Q And he tried to flee.

22 A He did.

23 Q Defense counsel was up here earlier and was walking
24 through a scenario, asking you legal justification of when
25 it is okay, based on your training and experience of law

1 enforcement, when to engage someone, when to use
2 less-lethal force or lethal force. Defense counsel gave
3 an example right here in court saying, "I'm not a threat
4 to you," with his hand in his pocket. We saw him do that,
5 correct?

6 A Yes, sir.

7 Q Would he have a gun on him right now? Was there any
8 reason to believe he would have a gun on him?

9 A No, sir.

10 Q Did he have to pass through courthouse security?

11 A He did.

12 Q If we're out at a nightclub just like this and you're
13 working security, or someone who's authorized to work
14 security has information that someone is illegally in
15 possession of a weapon and you see that person ---

16 MR. BOATWRIGHT: ` Objection, Judge. Facts not in
17 evidence.

18 MR. POLSINELLO: Your Honor, he asked this witness
19 about this exact scenario.

20 THE COURT: You opened the door so I'm going to let
21 him get into the scenario.

22 Go ahead, Counsel.

23 BY MR. POLSINELLO:

24 Q Again, Mr. King, you're providing security or as a
25 law enforcement officer, if you have reason to believe

1 someone's illegally carrying a weapon on them, are you
2 allowed to approach them and ask them to disarm them?

3 A I am.

4 Q If that person is not obeying commands and you see
5 that person, you see that gun, could that under
6 circumstances, specific facts, give the officer or
7 security officer authority and reason to believe to disarm
8 him?

9 A Absolutely.

10 Q That is necessary to disarm that person.

11 A That is correct.

12 MR. POLSINELLO: No further questions.

13 THE COURT: Recross?

14 MR. BOATWRIGHT: Briefly, Your Honor.

15 RE CROSS EXAMINATION

16 BY MR. BOATWRIGHT:

17 Q Are you familiar with the South Carolina law
18 governing security licenses issued from SLED?

19 A It's been a while. Vaguely, yes.

20 Q Would it refresh your memory if you saw it?

21 A Yes, sir.

22 Q All right. Specifically, I'd like you to look at
23 Section 40-18-80, which is right here, starred. Just read
24 that to refresh your memory and look up at me when it's
25 refreshed.

1 A (Reviews document) Yes, sir.

2 Q All right. So the law says that -- in that law that
3 you just read, wouldn't a security guard still have to be
4 licensed even if the company is licensed?

5 A Yes, sir.

6 Q And Monieque Greene was not licensed, was he?

7 A No, sir.

8 Q And neither was Lamar James.

9 A No, sir.

10 Q As far as the property lines go, you could have found
11 out where those property lines were at, could you have
12 not?

13 A At some point, yes, sir.

14 MR. BOATWRIGHT: Thank you. No further questions.

15 THE COURT: All right.

16 MR. POLSINELLO: No further questions from the State.

17 THE COURT: All right. You can step down.

18 THE WITNESS: Thank you, Judge.

19 THE COURT: Since he's the lead investigator, do you
20 want him to remain? Is that my understanding of both
21 sides?

22 MR. POLSINELLO: Yes, Your Honor.

23 MR. BOATWRIGHT: Yes, Your Honor.

24 THE COURT: Okay. All right. State's ready to call
25 its next witness?

1 MR. POLSINELLO: Yes, Your Honor.

2 THE COURT: All right.

3 MR. POLSINELLO: The State calls Investigator
4 Brogden.

5 THE CLERK: Please place your left hand on the Bible
6 and raise your right hand.

7 WHEREUPON,

8 ANDREW BROGDEN

9 After having been duly sworn, testified as follows:

10 THE CLERK: Thank you. Please take a seat and state
11 your name for the record.

12 THE WITNESS: Investigator Andrew Brogden.

13 DIRECT EXAMINATION

14 BY MR. POLSINELLO:

15 Q Investigator Brogden, are you currently employed?

16 A Yes.

17 Q With whom?

18 A The Greenville County Sheriff's Office.

19 Q How long have you been employed there?

20 A Approximately six years.

21 Q What's your current title?

22 A Investigator with the Specialized Investigations
23 Division.

24 Q Were you employed with the sheriff's office around
25 July 4, 2020?

1 A I was.

2 Q What was your title at that time?

3 A I was a deputy on Uniform Patrol.

4 Q Around July 4, 2020, around 4 a.m., do you recall
5 what you were doing?

6 A I was signing in for patrol, just standard patrol
7 duties. I can't recall exactly which beat I was in at the
8 time. But standard patrol, I believe, on the west side.

9 Q So you were working that night ---

10 A Correct.

11 Q --- at 4 a.m.

12 A Yes.

13 Q What time would your shift end?

14 A That particular shift would run from 7 p.m. till
15 7 a.m., so it would be 7 a.m.

16 Q How did you first become involved in this case?

17 A We received a call for a disturbance at the club.

18 Q When you say "club," would that be Club Dolce?

19 A Yes.

20 Q On White Horse Road?

21 A Yes, sir.

22 Q That was 1705 White Horse Road?

23 A Yes.

24 Q In Greenville County?

25 A Yes, sir.

1 Q And you responded to the scene?

2 A I did.

3 Q What was the reason or code for your response?

4 A If I recall correctly, it was for shots fired, like a
5 shooting in progress.

6 Q And when you responded, what's the first thing you
7 observed?

8 A There was a lot of activity in the parking lot, if I
9 remember correctly. My main duties were just to try to
10 get there, get a lot -- secure the scene and, you know,
11 secure any witnesses or anything that might be in the
12 parking lot.

13 Q Was your body-worn camera activated that night?

14 A It was.

15 Q That early morning?

16 A Yes. Yes, it was.

17 Q I'm approaching you with what's been previously
18 marked as State's Exhibit 94. Take a look at this USB.

19 A Okay.

20 Q Do you recognize this USB?

21 A I do.

22 Q Are those your initials on it?

23 A It is.

24 Q To the best of your knowledge, is this a true and
25 accurate copy of your body-worn camera that early morning?

1 A It is.

2 Q You've had a chance to review this?

3 A I have.

4 MR. POLSINELLO: Your Honor, pursuant to South
5 Carolina Rule of Evidence 901, the State moves to submit
6 this into evidence as State's Exhibit 94.

7 THE COURT: Any objection?

8 MR. HELLAMS: No objection, Your Honor.

9 THE COURT: All right. So entered as State's
10 Number 94.

11 (WHEREUPON, State's Exhibit Number 94 was admitted into
12 evidence.)

13 MR. POLSINELLO: Your Honor, permission to publish
14 and play for the jury.

15 THE COURT: Any objection to that?

16 MR. HELLAMS: No objection, Your Honor.

17 (WHEREUPON, State's Exhibit Number 94, a video, was played
18 in open court.)

19 BY MR. POLSINELLO:

20 Q Investigator Brogden, you just said, "It's kind of
21 sneaky. Keep your eyes out." What do you mean by that?

22 A So quick correct. I think what I said is in this
23 type of scene, keep your eyes out.

24 Q You are correct. Excuse me.

25 A Yes. As you probably saw on the body-cam footage,

1 there was somebody that was driving my vehicle. I was in
2 the passenger's seat. I had a trainee with me that shift.
3 And so as part of the field training thing, we were
4 responding to a shots call. So at that point, we didn't
5 know exactly -- didn't have a full -- we saw one person on
6 the ground. We don't know if there might be another
7 shooter so I'm just telling him, you know, hey, keep your
8 head on the swivel, know what's going on around you.

9 Q Is that because you knew that the shooter wasn't in
10 custody yet?

11 A I can't recall exactly. I know at some point during
12 this call there was other deputies that had possibly
13 followed a vehicle that was possibly involved, but I can't
14 recall exactly if I had knowledge of that at this point.
15 But I do know that -- if -- to say that, hey, keep your
16 eyes out, we didn't know what all was in play at this
17 time.

18 (WHEREUPON, State's Exhibit Number 94, a video, continues
19 to play in open court.)

20 MR. HELLAMS: Objection, Your Honor. This is all
21 hearsay.

22 MR. POLSINELLO: This is already in evidence. And
23 there's exceptions. Nontestimonial.

24 THE COURT: All right. Ladies and gentlemen of the
25 jury, I'm going to send you back to your jury room for

1 just a few minutes, two or three minutes. Please, ma'am,
2 please, sir, don't talk about the case to each other.
3 Bring you back shortly.

4 (WHEREUPON, the jury exits the courtroom at 3:45 PM.)

5 THE COURT: All right. Let me hear the objection.

6 MR. HELLAMS: Your Honor, I apologize. Obviously,
7 the jury just left. But I withdraw my objection. My
8 apologies.

9 THE COURT: All right. The reason I did not want to
10 get into an extended colloquy in front of the jury, so I
11 didn't know where this was going. I knew that was already
12 in evidence, but, you know, you're trying your cases so
13 I'm not getting involved in that.

14 Go ahead.

15 MR. HELLAMS: Thank you, Your Honor.

16 MR. POLSINELLO: Full transparency. I appreciate the
17 defense counsel's detraction on that. But there's going
18 to be other body cameras with similar footage, similar
19 incident. So as long as they're withdrawing it now and we
20 know going forward it's the same thing.

21 MR. HELLAMS: To the extent of this witness and this
22 body cam, that's the only thing that I can withdraw at
23 this time because we're obviously handling different
24 witnesses, Your Honor. But I withdraw my part.

25 (Pause in proceedings.)

1 MR. BOATWRIGHT: We will have no objections to any
2 other videos, Judge.

3 THE COURT: All right. And that statement was made
4 on the record, right?

5 MR. BOATWRIGHT: Yes, Judge. I will not be objecting
6 to any other body-worn camera videos.

7 THE COURT: All right. Bring the jury back.

8 (WHEREUPON, the jury entered the courtroom at 3:49 PM.)

9 THE COURT: All right.

10 BY MR. POLSINELLO:

11 Q Investigator Brogden, I'm going to continue.

12 (WHEREUPON, State's Exhibit Number 94, a video, continues
13 to play in open court.)

14 BY MR. POLSINELLO:

15 Q Okay. Investigator Brogden, so this is you
16 responding to the scene. And can you see this time stamp
17 right here (indicating)?

18 A Yes.

19 Q What time does that say?

20 A It says 04:28 and 47 seconds on July 4, 2020.

21 Q That would be a.m.?

22 A Correct.

23 Q So clearly, when you responded to the scene, one of
24 the first things you did was approach these three
25 individuals, correct?

1 A Correct.

2 Q Okay. Did you have any other involvement in this
3 case?

4 A No. Other than responding to the hospital shortly
5 after this to complete a victim form for the victim.

6 Q So did you collect any evidence?

7 A No.

8 Q Did you talk to the defendant?

9 A No.

10 Q Did you talk to any security guards that were at the
11 scene?

12 A No.

13 Q Is it fair to say your presence was there to provide
14 support, backup to your partners?

15 A Support, scene security, yes.

16 Q And clearly, engaging with anyone that wanted to
17 cooperate?

18 A Right. Any potential witnesses, identifying them and
19 getting them ready for any follow-on that other deputies
20 that work the case might have.

21 Q Other than these three individuals here, did any
22 other third parties voluntarily come up to you and want to
23 give a statement saying what happened?

24 A Not that I recall, no.

25 Q And so it was your testimony earlier that you went to

1 the hospital to follow up with the victim?

2 A Correct.

3 Q Were you trying to get a statement from him?

4 A No. It's common practice that we record the victim's
5 information and stuff on what the sheriff's office calls a
6 victim form and get that victim a copy of that. I was
7 unable to even really meet with the victim. He was in the
8 operating room. And so I completed one on his behalf and
9 left a copy with his property at the hospital.

10 Q And is a nurse responsible for getting that to the
11 victim?

12 A I would imagine so. I don't know about their
13 policies.

14 Q But you weren't able to get a statement from the
15 victim ---

16 A No.

17 Q --- due to the emergency nature of the surgery?

18 A Correct.

19 Q And after you left the hospital, what was your
20 involvement in this case after that?

21 A None.

22 Q None?

23 A None.

24 Q You went home or you clocked out?

25 A Right. I can't remember exactly, but I may have had

1 other calls that I answered. But I didn't have any
2 further involvement in this case.

3 MR. POLSINELLO: Thank you, Investigator. No further
4 questions.

5 THE COURT: Cross-examination.

6 MR. HELLAMS: Yes, sir.

7 CROSS EXAMINATION

8 BY MR. HELLAMS:

9 Q Investigator Brogden, how are you doing today?

10 A Very well. How are you?

11 Q It's been a minute since I've seen you.

12 A Yes, sir.

13 Q Got a few questions about this video.

14 A Okay.

15 (WHEREUPON, the following testimony occurred as State's
16 Exhibit Number 94 was played in open court.)

17 BY MR. HELLAMS:

18 Q Now, this is your trainee driving here, correct?

19 A Correct.

20 Q That's an Alpha 40-A on your report?

21 A Yes, yes.

22 Q Okay. What was his name?

23 A Blake Wolfe.

24 Q Okay. And he was a new recruit at that time?

25 A Correct.

1 Q So are you normally an FTO, field training officer?

2 A At this time I was, yes.

3 Q Okay. All right. And you previously testified that
4 you had -- let's stop this right here for a second.

5 So some of your responsibilities were to secure the
6 scene and locate witnesses, correct?

7 A Correct.

8 Q Did you have any other duties on this particular
9 scene?

10 A Not at this particular scene, no.

11 Q Okay. So this is you arriving, getting out of the
12 car. This is Bryson that just ran down the street, right?

13 A I believe so. It's very quick, but that did look
14 like him, yes.

15 Q Well, you saw him chasing the BMW. He was quick. So
16 let me back it up just a smidgen.

17 A Yes. That is Deputy Walter Bryson.

18 Q Okay. Sorry to stop this so many times. But you
19 asked him, "Are you okay"?

20 A Correct.

21 Q And what was that in reference to?

22 A Just there had been -- we had responded to the scene
23 of a shots fired, just kind of a typical thing. I didn't
24 know exactly what involvement any other deputies had
25 before I got there. Just check on welfare of my battle

1 buddy when I got on scene, my beat partner.

2 Q Okay. Did you know that he was the one running down
3 the street chasing the vehicle? Did you hear that on the
4 radio?

5 A As I testified earlier, I knew that there were
6 individuals that had ran down the -- and -- but I can't
7 recall exactly if I knew exactly that he was the one at
8 that time.

9 Q So it's a pretty safe assumption, based on that radio
10 traffic, that the suspect shooter was gone from the scene?

11 A As best I can recall.

12 Q Okay. Now, this person laying on the ground here,
13 can you see him on the big screen there?

14 A Yes.

15 Q That's Mr. Greene?

16 A The presumed victim, yes.

17 Q Okay. There were several deputies around him?

18 A Yes.

19 Q Can you tell if he's conscious and alert at this
20 point?

21 A From the video or from my recollection?

22 Q From your recollection.

23 A I did not -- I saw that there was adequate deputies
24 around him at the time, so I did not go up to do any
25 assessment of him. That is why I instructed my partner,

1 my trainee that we were now going to start keeping an eye
2 out for scene security. I didn't do any involvement with
3 him.

4 Q Okay. So we're at a minute in right now, though,
5 right? Roughly 52 seconds?

6 A Roughly from the time I started my body cam footage,
7 yes.

8 Q Right. Okay. So we're 52 seconds into your camera.
9 Do you see EMS on the scene?

10 A Not in the video, no.

11 Q Okay. Do you know who that deputy is putting gloves
12 on that just walked out of the club?

13 A Yes. That's Neil Norris.

14 Q Now, that car you just notice drive off ---

15 A Correct.

16 Q --- I know you weren't in here earlier, but we heard
17 there's one way in and one way out.

18 A Okay.

19 Q Is that correct to your knowledge?

20 A I -- I couldn't testify to that because it has been a
21 moment since I've been over to that nightclub and it's
22 been a moment since this scene. I can't remember exactly
23 what was shut down at that point as far as units on scene.

24 Q Okay. You had a walkie-talkie radio, whatever you
25 guys call it, right?

1 A Correct.

2 Q And part of your job is to secure the scene.

3 A Okay.

4 Q Now, I'm working on the assumption that there's one
5 entrance because that's what I've heard.

6 A Okay.

7 Q You just watched that vehicle pulling off. Did
8 anybody secure the entrance to come in and out of the
9 club, like the actual entrance to the street?

10 A I can't testify to that. I don't know.

11 Q Okay. But you can testify that you could have
12 radioed, hey, there's a car coming around. Stop that car.
13 There could be some witnesses in it?

14 A I could have.

15 Q Okay. Do you know whose vehicle that is?

16 A I do not.

17 Q So you're just running that way because you weren't
18 sure what was going on? A lot of people were running that
19 way?

20 A Right. As I testified earlier, a scene like this,
21 there's a lot of activity. These scenes are always very
22 dynamic and so there must have been something going on
23 over that way that caused me to head that way at that
24 point.

25 Q Could there have been evidence possibly on the ground

1 where you just ran through? Could have been manipulated
2 or moved or anything?

3 A I couldn't -- I can't testify whether or not there
4 was evidence there or not and I can't speak to the
5 possibility of evidence.

6 Q Okay. But it's fair to say that when you were
7 running, you weren't shining your light on the ground
8 looking for shell casings, rubber balls, anything like
9 that, right? You were trying to get to whatever you were
10 getting to?

11 A Correct.

12 Q Okay. That's Deputy Norris in front of you?

13 A Yes.

14 Q You're here to secure the scene. Do we know who
15 those folks are?

16 A I did not make interaction with those folks.

17 Q Okay. Do you know if anyone else did?

18 A I do not.

19 Q Could they be potential witnesses?

20 A I can't testify to that.

21 Q You can't testify to whether they could or could not
22 be?

23 A Right.

24 Q Not whether they were, but could they be?

25 A I would say it's a possibility.

1 Q Okay.

2 A There's no way to know because I never got in contact
3 with them.

4 Q Okay. I'm sorry. I'm not trying to play this all
5 out, but I'm not as good as skipping as some folks.

6 A No worries.

7 Q So this tape is intended to help protect the scene?

8 A Correct.

9 Q Keep people behind that tape?

10 Do we know -- you see out there by -- way out of the
11 parking lot, that truck.

12 A The one just over the hood?

13 Q Under the light. Do we know who that is standing
14 underneath that?

15 A I do not.

16 Q Okay. You didn't identify him?

17 A I did not.

18 Q Okay. You're not sure if anybody else did?

19 A I'm not sure.

20 Q Okay. We're about three minutes into your video now.
21 Do you see EMS on the scene yet?

22 A I do not see them, no. I know just it might have
23 been 30 seconds ago, I'm not -- exact time, but you heard
24 a deputy radio that we're clear for 10-51.

25 Q Right.

1 A So that is when prior to that in a scene like this
2 EMS is not going to come on scene.

3 Q Right. They were going to stage for their safety
4 somewhere else away.

5 A Right. So that would -- so now that they're clear,
6 you should -- I would imagine they should be showing up
7 here shortly.

8 Q And what have you done to determine that this scene
9 is now safe for them to arrive?

10 A Once you get on scene, I don't -- I can't speak to
11 anything I particularly have done, but it's just an idea
12 of getting enough law enforcement on scene to make sure
13 that the scene is no longer -- to the best of your ability
14 no longer volatile. So I can't speak specifically because
15 I did not clear them just for this scene.

16 Q But typically, you would wait until you determine the
17 scene -- someone, not you specifically, but someone
18 determined that the scene was no longer volatile, as you
19 said?

20 A Correct.

21 Q Okay. And then it would be safe for them to come in?

22 A Presumably.

23 Q We know who that was with the camouflage pants.

24 A I do not know.

25 Q We'll back that up.

1 That's some kind of yellow writing on the black polo
2 shirt or something?

3 A Right. I cannot identify him from this, and I don't
4 recall from -- from that day who that was.

5 Q Okay. So he walked by and talked to you and you
6 didn't identify him?

7 A Not -- no.

8 Q Okay. Now, earlier, when we saw that car, it had not
9 moved to that point, right? Feel like it was a little bit
10 back along that container?

11 A Right.

12 Q So we're securing the scene, protecting evidence, but
13 we're going to let a car drive through the middle of it;
14 is that a fair assessment of that?

15 A As you can see, I wasn't facing the car when it
16 moved, so I have no control over what that car did.

17 Q But presumably, there were other deputies that could
18 have.

19 A Presumably.

20 Q Okay. And we know that this lady was on -- well, we
21 will know in a minute. But she walks across the parking
22 lot? Somebody should maybe stop her before she walked
23 across the scene, would that be reasonable? Maybe not
24 manipulate stuff? Not move around?

25 A I don't understand the question.

1 Q Okay. We'll get there.

2 A Okay.

3 Q The car's parked now. We see her walking back across
4 the scene.

5 A Okay.

6 Q Should she have maybe been contained in one place?

7 A It's ---

8 Q Is she a potential witness?

9 A Yes. She's a potential witness.

10 The idea of being -- we've got a contained scene at
11 this point. Is that the question, that she was a
12 potential witness?

13 Q I mean, she was a potential witness.

14 A Right.

15 Q You said you have a contained scene.

16 A Okay.

17 Q But you don't know where all the evidence is, right?

18 A Not at this point.

19 Q You've not located any evidence at this point that
20 I've seen. Have you seen ---

21 A I have not, no.

22 Q Okay. So if we don't know where all the evidence is,
23 do we think she's going to move through the scene with the
24 same care that you do?

25 A Probably not to expect that of her.

1 Q Right. So it's possible she'd contaminate the scene,
2 move evidence, kick evidence inadvertently, on purpose,
3 whatever. Manipulate it in some way, right?

4 A You could say it's possible. I don't know what her
5 intentions were on this scene.

6 Q No. I don't know what her intentions were.

7 A Right.

8 Q I'm just saying it's possible.

9 A Okay.

10 Q Right?

11 A Allegedly so. Presumably.

12 Q Okay. Well, you don't want your scene manipulated in
13 any way, right? You want it to be as close to how it was
14 as it can be, right?

15 A Right. And as I've testified, you know, there's a
16 certain -- I think the word I used was "volatile."
17 There's a certain amount of movement. Everything that
18 always happens on these scenes, you try to limited it as
19 best you can. But at the end of the day, until you're
20 able to identify all witnesses, you're not going to be
21 able to lock everything down all the time.

22 Q Right. I agree. But volatility-wise, you said it's
23 safe for EMS to come in when it's no longer volatile,
24 right?

25 A We're getting there, yes.

1 Q Okay. I'm just making sure.

2 You're an investigator now, right?

3 A Correct.

4 Q And you use evidence on the scene to draw inferences
5 and figure out what's going on. The evidence can tell you
6 a lot of things, right?

7 A Correct.

8 Q And if that evidence is not the way it was, it might
9 tell you something different than what actually happened.
10 Is that possible, evidence been manipulated? moved?

11 A You would do your best to try to figure out what
12 might have acted upon that evidence.

13 Q Okay. The question was, if it's moved, it's not
14 where it originally was, the inferences you draw are going
15 to be different than they would have been if the evidence
16 was in the place where it began, correct?

17 A I'm confused. Are you asking me about a possible
18 situation? Because, I mean, we're working in hypothetical
19 -- a hypothetical crime scene where hypothetical evidence
20 might have been moved.

21 Q No. We're working in this crime scene right here.
22 If there is evidence that she stepped on and moved and it
23 is no longer where it originally was ---

24 A Okay.

25 Q --- would that lead you to a different conclusion

1 than if the evidence was never moved?

2 A I'm not going to say it's not impossible, but I'm not
3 the investigator that worked this scene.

4 Q Not the question I asked you, sir. I'm not trying to
5 be gruff.

6 A I understand.

7 Q Yes or no, if the evidence starts here (indicating),
8 moves here (indicating), would your conclusion be
9 different about what happened? Could your conclusion be
10 different ---

11 A Okay. I'll take "could." I can't answer to yes or
12 no. But could, possibly.

13 Q Okay. That's good enough for me. Thank you. Let's
14 move on.

15 Now we're in 4 minutes and 30 seconds I see an
16 ambulance pulling up now?

17 A Yep.

18 Q Who is this in this SUV?

19 A So ---

20 Q It appears to be some sort of sheriff's office
21 employee.

22 A Yes. That's Sergeant -- goodness, gracious.

23 Q Maybe we'll get closer with this picture.

24 A Yeah. I believe that's one of the sergeants, the
25 east side sergeant.

1 Q So you've been on scene for about five and a half, a
2 little over five and a half minutes. I know that says
3 6:10, but you were still in the car initially, right?

4 A Okay.

5 Q And you've kind of just walked around. We're just
6 now getting to the point of going and talking to some
7 witnesses?

8 A Okay.

9 Q EMS just arrived on scene; is that right?

10 A Correct.

11 Q It looks like they were just making patient contact?

12 A Right.

13 Q Okay. And there were at least two officers there
14 before you; is that right? Bryson and Norris?

15 A Yes. I remember seeing them on my body-cam footage
16 as I got out of the car. But I don't know as far as like
17 when we all arrived on scene. I can't give you like a
18 time frame.

19 Q I'm real close to wrapping this up. I'm not trying
20 to drag it. I apologize.

21 Now, these are the three witnesses you identified
22 from across the parking lot, right? Potential witnesses?

23 A Correct.

24 Q Okay. And this is your trainee Wolfe speaking with
25 him?

1 A Correct.

2 Q Okay. And what's he doing right here?

3 A Right now he's getting his notepad out. He's
4 starting to collect drivers licenses or IDs to get their
5 information.

6 Q Okay. And from your recollection, do you know who
7 these people are?

8 A I cannot name them off the top of my head, no.

9 Q Okay. Do you have a copy of your report with you
10 today?

11 A I didn't bring one with me.

12 Q Okay. So now this, what they're talking on the
13 camera right now, I mean, they're not necessarily talking
14 directly towards you, but that's basically a verbal
15 statement, right?

16 A At this point I have not asked them any questions, so
17 I would rather -- if we were to ---

18 MR. POLSINELLO: Excuse me, Your Honor. We can't
19 hear the witness. We've got to press pause so we can hear
20 the witness's statement.

21 THE WITNESS: They are speaking, but I have not asked
22 them any specific questions. I don't know if I would
23 label it necessarily as a verbal statement more so as
24 excited utterances at this point because they're talking
25 about the incident out away from any questioning --

1 official questioning by law enforcement. We just asked
2 them for information at this point as far as like their
3 information.

4 Q Okay. And so what were they excitedly uttering
5 there?

6 A I mean, you heard them talking about, you know, the
7 shooting that took place, they heard shots fired, they
8 started running different places, about the incident that
9 occurred that we got called out for.

10 Q Okay. So these potential witnesses, if they don't
11 give you their information, they're interfering with an
12 investigation?

13 A If they have pertinent information to an ongoing
14 investigation that they witnessed, they could be seen as
15 interfering.

16 Q Okay. The car that drove off at the beginning, could
17 they have been charged with interfering with an
18 investigation?

19 A I can't speak to that car, who was in it or anything
20 because I wasn't there when that car started driving. I
21 didn't have the ability to stop that car.

22 Q There's the car coming around the end of the
23 building. Could you have done that? We need to stop
24 them. They might have seen something?

25 A Presumably.

1 Q You could have done that, correct?

2 A Okay.

3 Q You could have stopped that guy in the camouflage
4 pants with the black shirt and the writing on it, got his
5 information? He walked right by you, talked directly to
6 you. Could he have possibly had information?

7 A Well, I know he was already -- because if you see --
8 if you -- when you asked about the other law enforcement
9 in an SUV, he was already speaking with one of those.

10 When you get on a scene like this, it's the idea of
11 everybody helps everybody. So my particular job once we
12 got to this point was dealing with these three
13 individuals. I can't speak to what all of my battle
14 buddies and beat partners were doing on scene.

15 Q But he wasn't talking to him when he walked past you
16 because that's where he was going towards, right?

17 A Toward where that deputy was, whoever it was.

18 Q Okay. So he wasn't necessarily interacting with him
19 at that point, right?

20 A I don't know where he was walking toward. Can't
21 testify to that.

22 Q So you basically collected all of their information
23 -- or your partner's collected all of their information at
24 this point, correct?

25 A Correct.

1 Q I told you I wasn't as good as scrubbing around at
2 something. Give me one second. We're almost done.

3 So you know that they have information at this point,
4 right?

5 A Correct.

6 Q And it sounds like they're questioning why they're
7 having to stay, right?

8 A Yes.

9 Q And you tell them you have to wait until an
10 investigator gets there. Is that basically what you just
11 said?

12 A I believe I told them we have to wait to see if an
13 investigator is coming out, something. I can't remember
14 my exact words, but I said -- you're welcome to play it
15 back, but letting them know, hey, an investigator might
16 want to come out and talk with them.

17 Q Okay. Do you have the ability to take a written
18 statement on patrol?

19 A I do.

20 Q Okay. Do y'all routinely take written statements on
21 patrol?

22 A If it's a case that is not going to be left active,
23 it's a case that's going to be handled on the road,
24 typically, it was more routine and policy to take a
25 written statement if it was going to result in charges

1 right away that you were going to be making, i.e., it was
2 going to be you investigating the case. However, if the
3 case was going to be handled by someone else, i.e., an
4 investigator, it was routine to allow the investigator to
5 take the statement.

6 Q Okay. So it's routine to let the investigator take
7 the statement?

8 A Correct.

9 Q In that specific set of circumstances that you've
10 just laid out.

11 A If the investigator's going to be handling the case,
12 then yes, you leave it to them to take their own
13 statements.

14 Q So you couldn't take her statement right then because
15 you had too much going on, correct?

16 A That's what I said, yes.

17 (End of video playback of State's Exhibit Number 94.)

18 BY MR. HELLAMS:

19 Q Okay. Why do you turn your body mic off?

20 A At this point, under policy at this point, if it was
21 allowed to mute body cams, it wasn't prohibited, and we
22 were not discussing anything pertinent to the case.

23 Q So you had too much to do for this case, but you
24 weren't doing it right then?

25 A When I said "we," I meant collectively as a sheriff's

1 office on that case.

2 As I've said, investigators in a situation like this
3 are going to be getting involved. And so there's not an
4 investigator on scene right now, so it's not necessarily
5 whether I could -- me personally could take her statement.
6 We do not have an investigator on scene yet. Sometimes
7 investigators come out to the scene, sometimes they prefer
8 to have the people transported to give statements at the
9 LEC. There was still a lot that was needing to be figured
10 out on this particular scene and how it was going to be
11 worked, thus, we were waiting on an investigator.

12 Q Okay. So there was nothing else productive you could
13 have been doing for the case other than standing around
14 talking, dipping?

15 A At this point it's keeping an eye on those witnesses.
16 They've already expressed a desire to leave, make sure
17 they don't. You know, continue scene security at this
18 point, making sure -- you saw us shining lights on the
19 ground. That's when you start continuing scene security,
20 any type of possible evidence preservation that might be
21 there, once again, waiting on investigators, forensics.
22 There's still a lot that's coming to a scene like this.

23 Q Okay. So 13 and a half minutes in we start worrying
24 about preserving evidence?

25 A Well, prior to EMS getting there, primary goal in a

1 case like this is the life of that person that's on the
2 ground.

3 Q Okay. Did anybody give him any medical treatment?

4 A I don't know. I can't testify to that. I know once
5 EMS got there, they presumably did. But I can't testify
6 to any deputies' actions.

7 Q Now, you said keeping an eye on the witnesses. Could
8 you watch them out of the back of your head while you were
9 standing there talking?

10 A Well, I was also standing there talking to -- it went
11 away -- to my beat partner at one point. So the idea is
12 he's watching one way while I'm watching the other and
13 then maybe we swap. It's not something that you sit there
14 and stare at them constantly. You've just got an eye on
15 them at all time between you and your beat partners.

16 Q So the answer is no?

17 A Could I see out of the back of my head? Yeah. The
18 answer is no to that.

19 MR. HELLAMS: All right. I have nothing further.
20 Thank you.

21 MR. POLSINELLO: No further questions from the State,
22 Your Honor.

23 THE COURT: All right. Sir, you can step down.

24 THE WITNESS: Thank you.

25 THE COURT: Can this witness be excused?

1 MR. POLSINELLO: Yes, Your Honor.

2 THE COURT: What's the brevity of the State's next
3 witness?

4 MR. POLSINELLO: I believe, Your Honor, one officer.
5 We could be out of here hopefully by 5:00; a little before
6 5:00. This officer shouldn't take long.

7 THE COURT: The word that came out of your mouth,
8 Counsel, that caused me much stress is "hopefully."

9 MR. POLSINELLO: Your Honor, I'm forgetting the
10 defense's opportunity to cross-examine. I know the State
11 will be done with this witness within 20 minutes.

12 THE COURT: All right. Since I'm in charge, I'll
13 make the decision.

14 Ladies and gentlemen of the jury, we're going to
15 adjourn for the day. I'm going to send you home.

16 MR. POLSINELLO: Excuse me, Your Honor. May I
17 approach? An issue just came up.

18 THE COURT: Oh, yeah.

19 MR. POLSINELLO: May I approach with defense counsel?

20 THE COURT: Yeah.

21 (WHEREUPON, a bench conference was held off the record.)

22 THE COURT: Ladies and gentlemen of the jury, believe
23 it or not, the judge gets fatigued, too. You know,
24 fatigue sets in on me as well. So I've decided that we
25 are going to adjourn for the day, and we're going to

1 resume tomorrow morning at 10:00. I want everybody to go
2 have a good night's sleep. And please, ma'am, please,
3 sir, don't talk about the case to each other, and then
4 I'll see you tomorrow morning at 10:00. Y'all have a good
5 evening.

6 (WHEREUPON, the jury exits the courtroom at 4:31 PM.)

7 THE COURT: All right. Gentlemen, anything we need
8 to discuss before we adjourn tomorrow morning? We resume
9 tomorrow morning at 10:00.

10 MR. POLSINELLO: Nothing from the State, Your Honor.

11 THE COURT: Anything from defense?

12 MR. BOATWRIGHT: No, Your Honor.

13 THE COURT: All right. Y'all have a good evening.

14 (WHEREUPON, proceedings recessed at 4:31 PM.)
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1 Wednesday, October 18, 2023

2 (WHEREUPON, proceedings reconvened at 10:24 AM.)

3 THE COURT: Let's go on the record, State vs. William

4 McKinney.

5 Mr. McKinney, how are you doing, sir?

6 DEFENDANT McKINNEY: I'm all right.

7 THE COURT: You're doing good?

8 DEFENDANT McKINNEY: Yeah.

9 THE COURT: All right. Okay. Anything that we need

10 to address before we bring the jury back? Any

11 housekeeping matters or anything of that nature?

12 MR. POLSINELLO: One issue from the State, Your

13 Honor. Good morning.

14 THE COURT: Yes, sir.

15 MR. POLSINELLO: There's two unidentified individuals

16 sitting on the defendant's side. We just want them to

17 identify themselves and make sure they're not planned

18 witnesses in this case.

19 THE COURT: All right. Do you know them,

20 Mr. Boatwright?

21 MR. BOATWRIGHT: Yes, Judge. They are cousins of

22 Mr. McKinney. They are not witnesses.

23 THE COURT: All right. I'll give them the same

24 admonition that I gave everybody else. You can sit, but

25 you can't do anything, you can't make any facial

1 expressions or cause any disruption of any kind. If you
2 do, then I'm going to have you exit the courtroom; do you
3 understand that?

4 UNIDENTIFIED SPEAKER: Yes, sir.

5 THE COURT: Okay. All right. And that's for anybody
6 else who did not hear my instructions before.

7 Okay. Anything else before we get started?

8 MR. POLSINELLO: Nothing from the State, Your Honor.

9 MR. BOATWRIGHT: Nothing from the defense.

10 THE COURT: All right. Okay. Bring them in.

11 (WHEREUPON, the jury entered the courtroom at 10:27 AM.)

12 THE COURT: All right. Good morning. It looks like
13 everybody is ready, bright-eyed, bushy-tailed, ready to
14 go. I see it on your face.

15 All right. Mr. Polsinello.

16 MR. POLSINELLO: May it please the Court. Your
17 Honor, the State calls Master Deputy Neal Norris to the
18 stand.

19 THE COURT: All right.

20 THE CLERK: If you can come to the Bible, please.
21 Please place your left hand on the Bible and raise your
22 right hand.

23 WHEREUPON,

24 NEAL NORRIS

25 After having been duly sworn, testified as follows:

1 THE CLERK: Thank you. Please take a seat and state
2 your name for the record.

3 THE WITNESS: My name is Neal Norris.

4 DIRECT EXAMINATION

5 BY MR. POLSINELLO:

6 Q Deputy Norris, are you currently employed?

7 A Yes, sir.

8 Q With whom?

9 A Greenville County Sheriff's Office.

10 Q How long have you been employed there?

11 A About four and a half years.

12 Q Were you employed with the Greenville County
13 Sheriff's Office around July 4, 2020?

14 A Yes, sir.

15 Q What was your current title at the time?

16 A Deputy II.

17 Q On July 4, 2020, around 4 a.m., what were you doing
18 around that time?

19 A Working Uniform Patrol.

20 Q And what does that entail?

21 A Patrolling Greenville County as a sheriff's deputy.

22 Q Do you recall where you were patrolling around that
23 time and date, what road?

24 A I believe I was around Grove Road.

25 Q Okay. How did you first become involved in this

1 case?

2 A A deputy responded to a call I believe at the
3 incident location and called for emergency assistance, and
4 I responded to assist.

5 Q So over the radio you responded to an emergency call?

6 A Correct.

7 Q Was that at Club Dolce?

8 A Yes, sir.

9 Q Off of White Horse Road?

10 A Yes, sir.

11 Q When you first got there, what did you observe?

12 A To my best recollection, I observed a security guard
13 on the ground and people running around.

14 Q Okay. Was your body-worn camera activated at the
15 time?

16 A Yes, sir.

17 Q I'm showing you what's been previously marked as
18 State's Exhibit 95. Take a look at this USB device. Do
19 you recognize this?

20 A Yes, sir.

21 Q Is that your initials?

22 A It is.

23 Q To the best of your knowledge, is this a true and
24 accurate copy of your body-worn camera from this early
25 morning?

1 A Yes, sir.

2 Q You've had a chance to review this?

3 A Yes, sir.

4 MR. POLSINELLO: Your Honor, pursuant to South
5 Carolina Rule of Evidence 901, the State moves to submit
6 this into evidence as State's Exhibit 95.

7 THE COURT: All right. Any objection?

8 MR. HELLAMS: No, Your Honor.

9 THE COURT: All right. So entered as State's Exhibit
10 Number 95 without objection.

11 (WHEREUPON, State's Exhibit Number 95 was admitted into
12 evidence.)

13 MR. POLSINELLO: Your Honor, permission to publish
14 and play for the jury.

15 THE COURT: Any objection?

16 MR. HELLAMS: No objection, Your Honor.

17 THE COURT: All right.

18 (WHEREUPON, State's Exhibit Number 95, a video, is played
19 in open court.)

20 BY MR. POLSINELLO:

21 Q Deputy Norris, clearly, you're providing first aid
22 medical aid, correct?

23 A Yes, sir.

24 Q That was your initial reaction to do that?

25 A Yes, sir.

1 Q Clearly, the ambulance, EMS hasn't arrived on scene
2 yet?

3 A Correct.

4 Q Did you receive proper training to handle emergency
5 situations like this?

6 A Yes, sir.

7 (WHEREUPON, State's Exhibit Number 95, a video, continues
8 to play in open court.)

9 BY MR. POLSINELLO:

10 Q Master Deputy Norris, in the video at time stamp
11 4 a.m. 28 minutes around 20 seconds, we just saw a
12 security guard hand you a gun, correct?

13 A Yes, sir.

14 Q Actually, you can see the butt end of the gun right
15 there, correct?

16 A Yes, sir.

17 Q What's your understanding what caliber of gun was
18 that?

19 A I believe it was a 40 caliber.

20 Q Did you write an incident report in this case?

21 A I wrote a supplemental report.

22 Q In your supplemental report, did you state that the
23 gun that you received and confiscated, initially you put a
24 9 millimeter from the victim?

25 A Correct.

1 Q Was that incorrect?

2 A Yes, sir.

3 Q Okay. So was that just merely a clerical
4 misidentification?

5 A Yes, sir.

6 Q Because the gun that you just received was a
7 40 caliber gun?

8 A Yes, sir.

9 Q Do you know whose gun that's believed to be?

10 A The victim's.

11 (WHEREUPON, State's Exhibit Number 95, a video, continues
12 to play in open court.)

13 BY MR. POLSINELLO:

14 Q Master Deputy Norris, did you eventually take a
15 statement from this lady wearing a black bra? Did you
16 take a statement from her?

17 A Yes, sir.

18 Q Is that a written statement?

19 A Yes, sir.

20 Q Essentially, what she just told you, said in this
21 body camera, does it corroborate her written statement?

22 A Yes, sir.

23 Q And you were there present when she gave that
24 statement?

25 A Yes, sir.

1 Q Other than what we see on your body camera, did you
2 have any other involvement or interaction in this case?

3 A I don't believe so.

4 Q Did you ever touch any evidence on scene, collect any
5 evidence other than that 40 caliber gun?

6 A No, sir.

7 Q Did you ever have any interaction with this defendant
8 in this case?

9 A No, sir.

10 MR. POLSINELLO: Thank you. No further questions.

11 THE COURT: Cross-examination.

12 CROSS EXAMINATION

13 BY MR. HELLAMS:

14 Q Good morning, Mr. Norris. How are you doing today?

15 A Doing good. How are you?

16 Q Or Deputy Norris. My apologies.

17 A All good.

18 Q Did you get some sleep?

19 A I did.

20 Q Good.

21 How long had you been a deputy at the point this
22 occurred?

23 A Maybe a little under two years.

24 Q Okay. Do you remember your academy training ---

25 A Yes, sir.

1 Q --- pretty well? Do you remember going to the
2 academy at all?

3 A Yes, sir.

4 Q Did you take any legal courses in the academy?

5 A What the academy offers.

6 Q Right. That's what I'm saying. You took basic law
7 enforcement training, and that includes some legal aspect
8 to it, correct?

9 A Yes, sir.

10 Q Did they cover how to get out-of-court statements
11 into court, like excited utterances, dying declarations?
12 Either of those ring a bell to you?

13 A The terms do, yes, sir.

14 Q Okay. Do you know what a dying declaration is?

15 A I believe so as far as like a common sense.

16 Q Okay. Do you know what an excited utterance is?

17 A Yes, sir.

18 Q So as we saw in the video, around five minutes into
19 it is the first time you walk up to Mr. Greene, Monieque
20 Greene. I can pull the video 'up if you would like. At
21 that point in time, was he conscious, alert and
22 oriented?

23 A Yes, sir.

24 Q He was? He was able to talk?

25 A Yes, sir.

1 Q Okay. And you stay there and you talk to him until
2 about seven minutes and 15 seconds into the video.

3 A Yes.

4 Q Did you ask him any questions at that point as to
5 what happened?

6 A (No answer.)

7 Q Would you like for me to -- I'll be more than happy
8 to ---

9 A Sure.

10 Q --- replay the video for you.

11 A Sure.

12 (WHEREUPON, State's Exhibit Number 95, a video, is played
13 in open court.)

14 BY MR. HELLAMS:

15 Q So in that roughly two-minute interaction, did you
16 ask him what happened to him?

17 A I asked him how he was feeling and if he had a weapon
18 on him.

19 Q Did you ask the events leading up to this? Did you
20 ask anything about the events leading up to him getting
21 shot?

22 A I didn't hear myself ask anything like that.

23 Q Okay. So no?

24 A No.

25 Q Okay. Now, you indicated earlier you got some

1 medical training at some point? You said you were able to
2 appropriately handle these emergency situations?

3 A To an extent.

4 Q Okay. Gunshot wound? Serious -- serious injuries?

5 A Yes, sir.

6 Q Potential for someone to die?

7 A Yes, sir.

8 Q Okay. So did you know that Mr. Greene was going to
9 survive his injuries?

10 A No, sir.

11 Q Okay. So if we -- rather if you had not taken a
12 statement and he had died, his version of events would
13 have forever been lost?

14 A Maybe.

15 Q We would not know his point of view what happened,
16 correct, if he had been transported and he did not make it
17 if you didn't get a statement? This may be the only
18 opportunity to get one, correct?

19 A Correct.

20 Q Okay. But if he had given you a statement, it could
21 have come -- and subsequently died, subject to the judge
22 allowing it, it would have been considered an excited
23 utterance, correct, or a dying declaration?

24 A Could be.

25 Q Okay.

1 (WHEREUPON, State's Exhibit Number 95, a video, continues
2 to play in open court.)

3 BY MR. HELLAMS:

4 Q Do you know who this gentleman is? Did you ever
5 identify him?

6 A No, sir.

7 Q Okay. Take a look at the vest he's wearing. It says
8 "K-9." Did he have a K-9?

9 A I don't believe so.

10 Q He's not a law enforcement officer, correct?

11 A No.

12 Q Okay. Do you see anything else interesting about his
13 vest?

14 A He has what appears to be a rifle magazine.

15 Q Okay. Did you notice any AR-15s, 223s, 5.56, M-4s,
16 any other names for that type of weapon?

17 A No, sir.

18 Q Do you think there's any reason for him to be
19 carrying those around?

20 A He might have one somewhere else.

21 Q Okay. Look a little above that K-9 badge.

22 A Uh-huh.

23 Q What is that on his vest?

24 A It looks like a camera from the video.

25 Q Okay. Did you make any efforts to see if there was

1 body-worn camera from this gentleman?

2 A No.

3 Q You did not? Okay.

4 He's not a law enforcement officer, though, right?

5 A No.

6 Q Potential witness?

7 A Potential witness.

8 Q Potential participant in the crime?

9 A Could be.

10 Q Okay. Had a camera. Nobody -- you didn't collect
11 any evidence of that camera?

12 A No, sir.

13 Q Okay.

14 (WHEREUPON, State's Exhibit Number 95, a video, continues
15 to play in open court.)

16 BY MR. HELLAMS:

17 Q This is you putting the firearm in your trunk; is
18 that correct?

19 A Yes, sir.

20 Q And as Mr. Polsinello indicated already, you wrote in
21 your report that it was a Smith & Wesson 9 millimeter,
22 correct?

23 A Yes, sir.

24 Q But, in fact, it was Smith & Wesson ---

25 A 40.

1 Q Okay. And you're attributing that to a small
2 clerical error?

3 A Yes, sir.

4 Q Did you make any observations of the gun when you
5 took it to begin with? Like did you look to see what you
6 were taking?

7 A I don't recall.

8 Q Okay.

9 (WHEREUPON, State's Exhibit Number 95, a video, continues
10 to play in open court.)

11 BY MR. HELLAMS:

12 Q Did you determine what was old and new?

13 A I don't recall.

14 Q Did you determine if there had been a shooting there
15 previously that evening?

16 A I don't recall.

17 (WHEREUPON, State's Exhibit Number 95, a video, continues
18 to play in open court.)

19 BY MR. HELLAMS:

20 Q When you walked over and spoke to these people, did
21 anybody direct you to go and take a statement from them?

22 A I don't recall.

23 Q You don't recall?

24 A Somebody told me to go talk to them or not? I may
25 have done it on my own. Somebody may have told me to.

1 Q So you had the freedom to do it on your own?

2 A Yes, sir.

3 Q Okay. You can take a statement without someone
4 directing you?

5 A Yes, sir.

6 Q Okay. Now, you had multiple body-worn camera videos
7 that you uploaded that evening, correct, from that evening
8 -- or morning, rather?

9 A Yes, sir.

10 Q And earlier you said you had no involvement with any
11 other persons, no other statements, didn't touch any
12 evidence; is that correct?

13 A Yes, sir.

14 (WHEREUPON, State's Exhibit Number 95, a video, continues
15 to play in open court.)

16 BY MR. HELLAMS:

17 Q Want to ask you before we get too far, there's no
18 audio on this because when you first turn your camera on,
19 it takes about 30 seconds for the audio to cycle; is that
20 correct?

21 A Correct.

22 Q Do you know who these people are?

23 A I do not.

24 (WHEREUPON, State's Exhibit Number 95, a video, continues
25 to play in open court.)

1 BY MR. HELLAMS:

2 Q Do you know who these people are now?

3 A I do not.

4 Q You don't know their names, but do you have any idea
5 who they are, what they do?

6 A No, sir.

7 Q Would you like to watch the rest of this?

8 A Sure.

9 Q Okay. Let me ask you a question before I play this.
10 If you were on duty and involved in an officer-involved
11 shooting, two or three officers involved, would you --
12 internal affairs or somebody would interview you, correct?

13 A Correct.

14 Q Would all of the officers involved in that shooting
15 be allowed to sit together and give their statements in
16 front of each other?

17 A No, sir.

18 Q Okay.

19 (WHEREUPON, State's Exhibit Number 95, a video, continues
20 to play in open court.)

21 BY MR. HELLAMS:

22 Q This man just told you that he was involved in this
23 shooting, correct?

24 A Yes, sir.

25 Q He's got another gentleman standing next to him that

1 you're not sure who he is, correct?

2 A Yes, sir.

3 Q And then you walk off to go and talk to some other
4 people and just leave them?

5 A Yes, sir.

6 Q Is that correct? Okay. Just curious.

7 (WHEREUPON, State's Exhibit Number 95, a video, continues
8 to play in open court.)

9 BY MR. HELLAMS:

10 Q So we're asking some more questions of these guys,
11 correct? Or you're asking some more questions of these
12 gentlemen, correct?

13 A Yes, sir.

14 Q Would it have been prudent to ask that other guy who
15 he was and if he was involved before you continued talking
16 to this man about the events that transpired that night?

17 A Could have been.

18 Q Okay. And that would be because if they were both
19 involved, you wouldn't want their stories to be influenced
20 by one another, right?

21 A Could be.

22 (WHEREUPON, State's Exhibit Number 95, a video, continues
23 to play in open court.)

24 BY MR. HELLAMS:

25 Q Did you ever determine who that female was that told

1 BY MR. HELLAMS:

2 Q Can you tell me what building this is here?

3 A No, sir.

4 Q Okay. Let me back it up a little bit farther so you
5 can get a better idea.

6 (WHEREUPON, State's Exhibit Number 95, a video, continues
7 to play in open court.)

8 BY MR. HELLAMS:

9 Q Does that help you identify it at all?

10 A A little.

11 Q Would it be fair to say that there was a closed down
12 Fuji restaurant next door to Club Dolce?

13 A I don't recall.

14 Q You don't know? You don't know if there's a Chinese
15 restaurant or a Japanese restaurant next door?

16 A No, sir.

17 Q Did y'all answer a lot of calls at that location, at
18 Club Dolce?

19 A I'd never been there before.

20 Q Never? Okay.

21 (WHEREUPON, State's Exhibit Number 95, a video, continues
22 to play in open court.)

23 BY MR. HELLAMS:

24 Q In that video where it pans, was that the victim or
25 Mr. Greene's clothing laying on the ground that we saw?

1 A Yes, sir.

2 Q That was the gentleman who was shot.

3 So this (indicating) is the building that was
4 directly behind him?

5 A Yes, sir.

6 Q Okay.

7 (WHEREUPON, State's Exhibit Number 95, a video, continues
8 to play in open court.)

9 BY MR. HELLAMS:

10 Q It's kind of hard to see from these pictures. What
11 is this (indicating)? What did you find in here pointing
12 out to Officer Minwegen?

13 A A hole in the wall.

14 Q Any type of hole in the wall?

15 A It could have been caused from the shooting.

16 Q Right. Well, I mean, there could be holes in a lot
17 of -- a lot of different kind of holes in the wall,
18 right?

19 A Yes, sir.

20 Q And you wouldn't call a forensic technician over to
21 put their little rod thingy, which she tells you is a
22 trajectory rod, into a hole that you thought was gnawed by
23 a squirrel, right?

24 A That would be correct.

25 Q Right. So what did you think it was?

1 A Probably thought it was a bullet hole.

2 Q Okay. To your knowledge, was a trajectory rod ever
3 placed in that hole?

4 A I have no idea.

5 Q Okay. To your knowledge, was a projectile, any
6 attempt to recover a projectile from that hole made?

7 A I have no idea.

8 Q Okay.

9 (WHEREUPON, State's Exhibit Number 95, a video, continues
10 to play in open court.)

11 BY MR. HELLAMS:

12 Q In this video, is this where you go to take a
13 statement from this lady?

14 A Could be.

15 Q Okay.

16 (WHEREUPON, State's Exhibit Number 95, a video, continues
17 to play in open court.)

18 BY MR. HELLAMS:

19 Q Do you know who that fit gentleman is behind her?

20 A I do not.

21 Q Did you identify him?

22 A I don't recall.

23 (WHEREUPON, State's Exhibit Number 95, a video, continues
24 to play in open court.)

25 BY MR. HELLAMS:

1 Q Do you know who that gentleman is?

2 A No, sir.

3 Q So you didn't identify him either.

4 A I don't recall.

5 (WHEREUPON, State's Exhibit Number 95, a video, continues
6 to play in open court.)

7 BY MR. HELLAMS:

8 Q Now, Ms. Duncan is the lady you spoke to earlier in
9 the parking lot with no shirt on, correct?

10 A I guess so.

11 Q Well, I mean, we just watched the video a little
12 while ago.

13 A I don't remember her name.

14 Q She just told it to you in this video.

15 A Okay.

16 (WHEREUPON, State's Exhibit Number 95, a video, continues
17 to play in open court.)

18 BY MR. HELLAMS:

19 Q And there's no audio right now. This is not because
20 you turned your recorder off, correct?

21 A It could have been because I just turned it on, I
22 guess. I don't know.

23 Q Okay. Does the State sometimes redact identifying
24 information from this video or are you aware of that?

25 A I have no clue.

1 Q Okay. I'm just pointing out that you didn't turn
2 your sound off.

3 A Yes, sir.

4 Q Okay.

5 (WHEREUPON, State's Exhibit Number 95, a video, continues
6 to play in open court.)

7 BY MR. HELLAMS:

8 Q Is this statement consistent with the statement that
9 she gave you earlier in the parking lot?

10 A I don't recall.

11 Q You don't recall?

12 A No, sir.

13 Q Did you not just testify that her statement was
14 consistent when Mr. Polsinello asked you if the statements
15 were consistent?

16 A I guess so.

17 Q Okay. Did anyone direct you to take this statement?

18 A I don't recall.

19 MR. HELLAMS: One moment to confer, Your Honor.

20 THE COURT: Yes, sir.

21 MR. HELLAMS: I have nothing further for Deputy
22 Norris.

23 THE COURT: Redirect, Mr. Polsinello?

24 MR. POLSINELLO: Briefly, Your Honor.

25 ///

REDIRECT EXAMINATION

BY MR. POLSINELLO:

Q Master Deputy Norris, we saw on your body cam when you arrived you initially put on the medical gloves, correct?

A Yes, sir.

Q And defense counsel just asked you and essentially insinuated why you didn't take a statement from the victim when you were wearing those medical gloves. And the question the State is asking you, at that time were you more concerned about the victim's medical condition and tending to him or are you more concerned about getting an official statement from him?

A The victim's condition.

Q Was it reasonable and practical under the circumstances of the bleeding that he was experiencing to get an official statement from him?

A No.

Q Was it your understanding that another officer would do that at another time?

A Yes, sir.

MR. POLSINELLO: No further questions.

THE COURT: Anything on recross?

MR. HELLAMS: Recross, Your Honor?

THE COURT: Yeah.

RECROSS EXAMINATION

BY MR. HELLAMS:

Q So you were more concerned with providing medical treatment than asking him what happened to him?

A Yes, 'sir.

Q I'm not going to force everybody to watch the video again, but other than cutting his shirt off and asking him if he was light-headed, can you tell me what medical treatment you provided to him?

A I checked for injuries.

Q I'm sorry?

A I checked for injuries.

Q Okay. You checked for injuries.

A Yes, sir.

Q Is that medical treatment?

A Yes. It's the beginning of it.

Q So looking for some holes that other people told you where they were at is medical treatment.

A Yes.

Q And it took you all those minutes to determine that he had three holes in his body?

A I believe so.

Q Yet you applied no pressure, no dressings, no CAT tourniquets which you guys carry, nothing, correct?

A Correct.

1 MR. HELLAMS: Nothing further, Your Honor.

2 THE COURT: All right. Sir, you can step down.

3 THE WITNESS: Thank you.

4 THE COURT: All right. Is this witness excused?

5 MR. POLSINELLO: Yes, Your Honor.

6 THE COURT: All right. Any objection?

7 MR. BOATWRIGHT: No, Your Honor.

8 THE COURT: All right. Sir, you're free to go.

9 THE WITNESS: Thank you, sir.

10 THE COURT: All right. State can call its next
11 witness.

12 MR. POLSINELLO: Your Honor, the State calls Deputy
13 Pittman.

14 THE CLERK: Please come to the Bible. And please
15 place your left hand on the Bible and raise your right
16 hand.

17 WHEREUPON,

18 CHRISTOPHER PITTMAN

19 After having been duly sworn, testified as follows:

20 THE CLERK: Thank you. Please take a seat and state
21 your name for the record.

22 THE WITNESS: Deputy Chris Pittman.

23 DIRECT EXAMINATION

24 BY MR. POLSINELLO:

25 Q Deputy Pittman, are you currently employed?

1 A Yes, sir.

2 Q With whom?

3 A The Greenville County Sheriff's Office.

4 Q How long have you been employed there?

5 A A little over five and a half years, going on six.

6 Q Were you employed with the sheriff's office around
7 the early morning on July 4, 2020?

8 A Yes, sir.

9 Q What was your title at that time?

10 A Deputy on Adam platoon.

11 Q Were you working that early morning?

12 A Yes, sir, I was.

13 Q What time was your shift ending?

14 A Seven.

15 Q 7 a.m.?

16 A Yes, sir.

17 Q So around July 4, 2020, around 4 a.m., where were
18 you? What were you doing?

19 A We were answering calls for service in Greenville
20 County. That's our typical standard. It's just pretty
21 much cruise around, patrol the area until we get a call
22 for service.

23 Q Did you get a call for service in this case?

24 A Yes, sir.

25 Q Do you recall what that call was?

1 A It was a shooting, stated that somebody had been
2 shot, and we were running lights and sirens to the area.
3 And that's when I arrived in the area and Deputy Brooks
4 began a pursuit for a potential suspect that was involved.

5 Q When you say you arrived to the area, would that be
6 the Dixie Estates area?

7 A Yes, sir. Before I was on White Horse Road, and
8 Deputy Brooks took a right. And I followed in the stack,
9 and we ended up going to Dixie Estates.

10 Q Did you have a body-worn camera at that time?

11 A Yes, sir.

12 Q Was it activated?

13 A I believe so. Yes, sir.

14 Q I'm handing you what's been previously marked as
15 State's Exhibit 97. Do you recognize this USB device?

16 A Yes, sir.

17 Q Are those your initials?

18 A Yes, sir.

19 Q To your knowledge, is this a true and accurate copy
20 of your body-worn camera from this early morning?

21 A Yes, sir.

22 Q Have you had a chance to review this?

23 A Yes, sir.

24 MR. POLSINELLO: Your Honor, pursuant to South
25 Carolina Rule of Evidence 901, the State moves to submit

1 this into evidence as State's Exhibit 97.

2 THE COURT: Any objection?

3 MR. BOATWRIGHT: No, Your Honor.

4 THE COURT: All right. It's in without objection.

5 (WHEREUPON, State's Exhibit Number 97 was admitted into
6 evidence.)

7 MR. POLSINELLO: Your Honor, permission to publish
8 and play for the jury.

9 THE COURT: Any objection?

10 MR. BOATWRIGHT: No, Your Honor.

11 (WHEREUPON, State's Exhibit Number 97, a video, was played
12 in open court.)

13 MR. POLSINELLO: Excuse me, Your Honor. Can we turn
14 up the volume a little?

15 (WHEREUPON, State's Exhibit Number 97, a video, continued
16 to play in open court.)

17 BY MR. POLSINELLO:

18 Q Deputy Pittman, what's the defendant saying right
19 there?

20 A He's itching.

21 Q Itching?

22 A Yes, sir.

23 Q And that defendant in this videos is the defendant
24 sitting here?

25 A Correct.

1 (WHEREUPON, State's Exhibit Number 97, a video, continued
2 to play in open court.)

3 BY MR. POLSINELLO:

4 Q Deputy Pittman, at this moment, was this defendant
5 under arrest?

6 A No, sir.

7 Q What was he considered?

8 A He was detained. He was potentially a suspect in a
9 shooting.

10 Q Did you notice injuries on him?

11 A Yes, sir, I did.

12 Q Were you certain he was a suspect? Could he have
13 been a victim?

14 A He could also have been a victim. Yes, sir.

15 Q So right now you're investigating what's happening,
16 correct?

17 A Correct.

18 Q And obviously, the shooting took place miles away at
19 the club, correct?

20 A Correct.

21 Q So in terms of putting things together, would you be
22 receiving information from other officers?

23 A Yes, sir.

24 Q In helping you determine if you had the correct
25 shooter or not?

1 A That's correct.

2 Q But at this moment, you did not know that?

3 A That's correct.

4 (WHEREUPON, State's Exhibit Number 97, a video, continued
5 to play in open court.)

6 BY MR. POLSINELLO:

7 Q Why is it important for someone to sit up?

8 A So they can breathe and clear their airway. If
9 they're lying flat ---

10 THE COURT: Excuse me one second. Who's that
11 gentleman at the door taking pictures? Bring him in here.
12 Get that guy in here.

13 Sir, I need you to give your phone to the deputy --
14 to the deputy. All right. And I need you not be in the
15 courtroom. Exit the courtroom, sir.

16 Go ahead.

17 BY MR. POLSINELLO:

18 Q Deputy Pittman, why is it important for someone
19 cuffed to sit up?

20 A So they can breathe, maintain a clear airway.

21 Q So you were concerned about that for the defendant?

22 A Yes, sir.

23 Q Making sure he wasn't lying down?

24 A That's correct.

25 (WHEREUPON, State's Exhibit Number 97, a video, continued

1 to play in open court.)

2 BY MR. POLSINELLO:

3 Q So what's the defendant asking for?

4 A If I can turn the air conditioning on.

5 Q Was the AC on?

6 A Yes, sir.

7 Q You were trying to give him as much air as possible?

8 A Yes, sir.

9 (WHEREUPON, State's Exhibit Number 97, a video, continued
10 to play in open court.)

11 BY MR. POLSINELLO:

12 Q Deputy Pittman, was your in-car camera turned on for
13 this incident?

14 A Yes, sir.

15 Q The video in-car camera facing the back?

16 A Yes, sir.

17 Q I'm approaching you with what's been previously
18 marked as State's Exhibit 98. Do you recognize this USB
19 device?

20 A Yes, sir.

21 Q Are those your initials on it?

22 A Yes, sir.

23 Q To the best of your knowledge, is this a true and
24 accurate copy of the rear in-car video camera from the
25 incident early in the morning in this case?

1 A Yes, sir.

2 Q Have you had a chance to review this?

3 A Yes, sir.

4 MR. POLSINELLO: Your Honor, pursuant to South
5 Carolina Rule of Evidence 901, the State moves to submit
6 this into evidence as State's Exhibit 98.

7 THE COURT: Any objection?

8 MR. BOATWRIGHT: No objection.

9 THE COURT: All right. So entered as State's
10 Number 98 without objection.

11 (WHEREUPON, State's Exhibit Number 98 was admitted into
12 evidence.)

13 MR. POLSINELLO: Permission to publish and play for
14 the jury.

15 THE COURT: Any objection?

16 MR. BOATWRIGHT: No, Your Honor.

17 THE COURT: All right.

18 (WHEREUPON, States Exhibit Number 98, a video, was played
19 in open court.)

20 BY MR. POLSINELLO:

21 Q Right there, Deputy Pittman, did you put the window
22 down for him?

23 A Yes, sir.

24 Q That's him thanking you?

25 A Yes, sir.

1 (WHEREUPON, State's Exhibit Number 98, a video, continued
2 to play in open court.)

3 BY MR. POLSINELLO:

4 Q Is that law enforcement giving him water?

5 A Yes, sir.

6 (WHEREUPON, State's Exhibit Number 98, a video, continued
7 to play in open court.)

8 BY MR. POLSINELLO:

9 Q Was that another time when he was given water?

10 A Yes, sir.

11 (WHEREUPON, State's Exhibit Number 98, a video, continued
12 to play in open court.)

13 BY MR. POLSINELLO:

14 Q Deputy Pittman, who's he calling for?

15 A Deputies.

16 Q Cutlow?

17 A Cuzzo.

18 Q He's saying Cuzzo?

19 A Yes, sir.

20 (WHEREUPON, State's Exhibit Number 98, a video, continued
21 to play in open court.)

22 BY MR. POLSINELLO:

23 Q Did the defendant just ask you where the car is where
24 he just was in?

25 A Yes, sir.

1 Q Where was the car that he was in?

2 A Yes, sir.

3 Q Is he referring to the BMW?

4 A Yes, sir.

5 (WHEREUPON, State's Exhibit Number 98, a video, continued
6 to play in open court.)

7 BY MR. POLSINELLO:

8 Q Was that the defendant just asking you y'all didn't
9 caught him yet?

10 A Yes, sir.

11 Q And that's after you told him someone got shot?

12 A Yes, sir.

13 (WHEREUPON, State's Exhibit Number 98, a video, continued
14 to play in open court.)

15 BY MR. POLSINELLO:

16 Q Did the defendant just state to you, "Be happy we was
17 just getting on through"?

18 A Yes, sir.

19 (WHEREUPON, State's Exhibit Number 98, a video, continued
20 to play in open court.)

21 BY MR. POLSINELLO:

22 Q Did the defendant just ask you who got shot?

23 A Yes, sir.

24 (WHEREUPON, State's Exhibit Number 98, a video, continued
25 to play in open court.)

1 BY MR. POLSINELLO:

2 Q So right here, what's the purpose of taking him out
3 of the car, using your flashlight and looking at his back?

4 A To look at his injuries. When I placed him in
5 handcuffs, I noticed that he had some what appeared to be
6 beanbag rounds, and that's what I was looking to make sure
7 that he was okay and that he didn't need medical
8 attention.

9 Q So at this moment when you're looking for these
10 injuries, is that also because you received information
11 relating to you having to look for that?

12 A Yes, sir.

13 Q So you -- law enforcement, you were still
14 investigating the case, connecting the dots, if you will.

15 A That's correct.

16 (WHEREUPON, State's Exhibit Number 98, a video, continued
17 to play in open court.)

18 BY MR. POLSINELLO:

19 Q Did you ever find a 9 millimeter gun on his
20 possession?

21 A I did not. No, sir.

22 (WHEREUPON, State's Exhibit Number 98, a video, continued
23 to play in open court.)

24 BY MR. POLSINELLO:

25 Q So what are you doing there?

1 A Forensics is taking pictures of his injuries and of
2 him.

3 Q At this time, were you confident that you had the
4 right shooter?

5 A Yes, sir.

6 Q And that's because of information that you received?

7 A That's correct.

8 (WHEREUPON, State's Exhibit Number 98, a video, continued
9 to play in open court.)

10 BY MR. POLSINELLO:

11 Q Okay. So was that you just now advising him that he
12 was under arrest for attempted murder?

13 A Yes, sir, it was.

14 Q So it took all that time to work the case, to connect
15 the dots, to receive information from the shooting scene
16 and the investigation that you did confirming the injuries
17 that he had on him.

18 A That's correct.

19 Q Did you transport this defendant to the LEC?

20 A Yes, sir.

21 Q Before you did that, did you ask him for medical
22 attention?

23 A Yes, sir.

24 Q Did you ask this defendant if he wanted medical
25 attention?

1 A Yes, sir.

2 Q Did he refuse medical attention?

3 A Yes, sir.

4 Q If he wanted to go to the hospital, would you have
5 taken him to the hospital?

6 A Yes, sir.

7 Q So with the injuries that you noted on his back, he
8 did not want medical treatment?

9 A That's correct.

10 Q Did you observe any projectiles penetrating in his
11 body at the time?

12 A No, sir.

13 Q And even when you got to the Law Enforcement Center
14 and you were booking him in, did he ask for medical
15 attention?

16 A No, sir.

17 MR. POLSINELLO: Thank you. No further questions.

18 THE COURT: All right. Before we do
19 cross-examination, ladies and gentlemen of the jury, I'm
20 going to send you back to your jury room for a break.
21 We're not going to do lunch right this second. I need you
22 to not talk to each other, and I'll bring you back in here
23 in just a second.

24 (WHEREUPON, the jury exits the courtroom at 11:55 AM.)

25 THE COURT: Officer, I need that gentleman who I sent

1 out. If he's out there, bring him in here.

2 THE DEPUTY: Yes, sir. I've got his name.

3 THE COURT: You've got his name?

4 (Pause in proceedings.)

5 THE COURT: All right. Sir, stand right there. What
6 is your name?

7 MR. BROCKMAN: Daniel Brockman.

8 THE COURT: Daniel Brockman.

9 MR. BROCKMAN: Yes, sir.

10 THE COURT: All right. I observed you at the door
11 taking pictures of this proceeding, did I not?

12 MR. BROCKMAN: Yeah.

13 THE COURT: Why were you taking pictures of this
14 proceeding?

15 MR. BROCKMAN: I was out there on the phone.

16 THE COURT: That's not my question. Why were you
17 taking pictures of what was going on in this courtroom?

18 MR. BROCKMAN: I snapped one.

19 THE COURT: You what?

20 MR. BROCKMAN: I was on FaceTime and I was showing my
21 girlfriend where I was at while I was on FaceTime.

22 THE COURT: Why did you have the camera pointed
23 inside this courtroom? You were on the outside.

24 MR. BROCKMAN: No.

25 THE COURT: So you're telling me -- let me ask you

1 this question. Are you telling me that there are no
2 pictures of this proceeding on this phone?

3 MR. BROCKMAN: Yes, it is.

4 THE COURT: Well, that's what I was just asking you.

5 MR. BROCKMAN: But what I was saying, I was -- I was
6 showing my girlfriend where I was at. She didn't ---

7 THE COURT: Why did she need to know that?

8 MR. BROCKMAN: I guess I'm not trustworthy enough.
9 She don't believe me.

10 THE COURT: Sir, it's a difficult time me believing
11 you. I saw you taking pictures of this proceeding.

12 MR. BROCKMAN: Yeah. I was ---

13 THE COURT: You still haven't answered my question.
14 Why was it important for you to take a picture of what was
15 going on in this courtroom?

16 MR. BROCKMAN: I was showing my girlfriend where I
17 was at. That's simply it. That's all.

18 THE COURT: Do you know this defendant?

19 MR. BROCKMAN: Yes.

20 THE COURT: How do you know him?

21 MR. BROCKMAN: We grew up together.

22 THE COURT: All right. And were you in the courtroom
23 previously?

24 MR. BROCKMAN: No, sir.

25 THE COURT: You've never been in this courtroom.

1 MR. BROCKMAN: No, sir.

2 THE COURT: All right. Well, you're not going to get
3 this phone back because you were taking pictures of this
4 proceeding. I watched you on several occasions.

5 MR. BROCKMAN: The people that was outside ---

6 THE COURT: What people?

7 MR. BROCKMAN: The officers and stuff, they heard me
8 on the phone with the girl on FaceTime.

9 THE COURT: That's not what I'm asking you. I saw
10 you take pictures of what was happening in here.

11 MR. BROCKMAN: Right. They seen ---

12 THE COURT: What were you going to do with the
13 pictures?

14 MR. BROCKMAN: I was just showing her where I was at.

15 THE COURT: You could have told her on the phone
16 where you were. You were at the courthouse in Greenville.
17 Why did you have to take a picture to show her? That
18 doesn't even make any sense, Mr. -- what's your last name?

19 MR. BROCKMAN: Brockman.

20 THE COURT: Mr. Brockman, that makes absolutely no
21 sense.

22 MR. BROCKMAN: No. I'm just saying ---

23 THE COURT: All I'm saying is you need to tell the
24 truth because I'm getting ready to tell these officers to
25 do something in just a minute.

1 MR. BROCKMAN: It was just -- simply just, hey, I
2 don't believe you. I was just like I'm going to send you
3 a picture. It's simply it. It's simply it.

4 THE COURT: Well, I'm going to turn this phone over
5 to you. You can get a statement from this gentleman, but
6 I'm not believing at all what he's telling me. He was
7 taking pictures of this proceeding. I don't know for what
8 purpose. And he is related in some form or fashion to
9 this defendant, and that's impermissible. You had the
10 camera placed against the glass taking pictures of what
11 was going on here. Specifically, you were pointing the
12 camera at me because that's the only thing you can see
13 from where you were standing. So when you figure out to
14 tell the truth about why you were taking pictures of this
15 proceeding, then that's what I need to hear. Not what you
16 just told me.

17 MR. BROCKMAN: Can I show you?

18 THE COURT: I know what's on your phone. I'm going
19 to let the officer look through the phone and see what you
20 were taking pictures of.

21 MR. BROCKMAN: Yeah. I can show him.

22 THE COURT: And my picture is on that phone.

23 MR. BROCKMAN: No, sir. Just him.

24 THE COURT: Why were you taking pictures of him?

25 MR. BROCKMAN: I was simply showing my girlfriend

1 where I was at.

2 THE COURT: Why couldn't you -- here again, why can't
3 you just tell her where you were?

4 Let me see the pictures he was taking.

5 Take your hands out of your pocket.

6 THE DEPUTY: Two pictures it looks like, Your Honor.

7 THE COURT: All right. You've got two pictures on
8 your phone and both of them are pictures of me.

9 MR. BROCKMAN: They were pointed at him.

10 THE COURT: I'm going to decide later on what to do
11 with your phone. I'm not going to do that right now.

12 MR. BROCKMAN: I understand.

13 THE COURT: You understand that?

14 MR. BROCKMAN: Yes, sir.

15 THE COURT: And I'm not going to let you in this
16 proceeding. Do you understand that?

17 MR. BROCKMAN: Yes, sir.

18 THE COURT: All right. And if you show up at that
19 door like you did before, then I'm going to instruct these
20 officers to place you under some detention. Do you
21 understand that?

22 MR. BROCKMAN: Yes, sir.

23 THE COURT: But you cannot, under any circumstances,
24 take pictures of this proceeding because I have no idea
25 what you're going to do with them.

1 MR. BROCKMAN: I understand. I respect -- I just
2 want to tell you I respect the law. And everybody who's
3 standing out there, they'll tell you exactly -- they even
4 heard the girl on the phone and everything.

5 THE COURT: But you took a picture.

6 MR. BROCKMAN: Huh?

7 THE COURT: But you took a picture.

8 MR. BROCKMAN: Yeah. But they heard a girl like
9 saying like, "Hey, man."

10 THE COURT: First of all, you said it was FaceTime.
11 The next time you said you took a picture.

12 MR. BROCKMAN: I was on the -- the officers was right
13 beside me.

14 THE COURT: I don't care. You're not allowed to take
15 pictures of this proceeding. You're not allowed to take
16 any videos of this proceeding. Do you understand that?

17 MR. BROCKMAN: Yes, sir.

18 THE COURT: And I'll decide later -- I'll instruct
19 the officer later on what to do with your phone. I
20 haven't made a decision yet.

21 MR. BROCKMAN: Yes, sir.

22 THE COURT: Do you understand that?

23 MR. BROCKMAN: Yes, sir.

24 THE COURT: But you're not allowed in this courtroom.

25 MR. BROCKMAN: All right.

1 THE COURT: You understand that?

2 MR. BROCKMAN: Yes, sir.

3 THE COURT: Okay. Go outside.

4 Okay. Mr. Boatwright, since he is familiar with your
5 client, is this one of your witnesses or have you seen
6 this individual before?

7 MR. BOATWRIGHT: No, Your Honor.

8 THE COURT: You know anything about him?

9 MR. BOATWRIGHT: No, Your Honor. Never spoke with
10 him. I don't know anything about him. Didn't -- couldn't
11 tell you anything. Just as surprised as you are.

12 THE COURT: All right. Anything else before we bring
13 the jury back? I'm sorry. I forgot. I need to give our
14 court reporter a break. I'll give her about a five-,
15 seven-minute break and then we'll jump back in. About a
16 ten-minute break.

17 MR. BOATWRIGHT: Thank you, Judge.

18 (WHEREUPON, a recess is taken at 12:03 PM.)

19 MR. POLSINELLO: Your Honor, during the break, we ran
20 Mr. Brockman's NCIC. We ran Mr. Brockman's NCIC,
21 confirmed that that phone and that gentlemen, this is his
22 NCIC. I think it provides some clarity -- it may provide
23 clarity for the Court. We've given a copy to defense
24 counsel.

25 (Pause in proceedings.)

1 THE COURT: This is a significant record.

2 MR. POLSINELLO: Yes, Your Honor.

3 Your Honor, the State just has a concern. What was
4 the motive? What was the intent? I know Your Honor tried
5 to ask him, but I don't think the genuine answer came out.
6 And I know the connection to the defendant, it's
7 concerning, Your Honor, by the State, for everyone in this
8 courtroom.

9 THE COURT: Yes. It's concerning. And I don't think
10 that -- in my view, I don't think he was being truthful.

11 I need to turn it over to you guys to find out what's
12 going on. Because this is a pretty lengthy record, and
13 there are some offenses in here: unlawful use of
14 telephone. About three or four offenses in here. But I'm
15 concerned as to why he was at that door taking pictures.

16 THE DEPUTY: Do you want us to take him into custody
17 for you?

18 THE COURT: Until we can figure out what's going on
19 with him, yeah. And let me know what you come up with.

20 Okay. All right. Anything before we get started?

21 MR. POLSINELLO: Nothing from the State, Your Honor.

22 MR. BOATWRIGHT: No, Your Honor.

23 THE COURT: Bring them in.

24 (WHEREUPON, the jury entered the courtroom at 12:23 PM.)

25 THE COURT: Yes, sir, Mr. Boatwright.

1 MR. BOATWRIGHT: Thank you, Judge.

2 CROSS EXAMINATION

3 BY MR. BOATWRIGHT:

4 Q Officer Pittman, just to clarify a few things.
5 Whenever you encountered William, you noticed that he had
6 gunshot wounds to his back?

7 A It was -- it wasn't gunshots. No, sir.

8 Q It's not gunshots?

9 A No, sir.

10 Q What was it?

11 A It's beanbag rounds.

12 Q How did the beanbag round hit him?

13 A Through a firearm.

14 Q So it was shot out of a firearm?

15 A Yes, sir. But it -- yeah.

16 Q Does that make it a gunshot?

17 A You could say so.

18 Q Now, when you noticed -- you made a report in this
19 case, right?

20 A Yes, sir.

21 Q All right. And in your report you put that you could
22 tell it was from some type of projectile.

23 A Uh-huh.

24 Q You didn't say it was a beanbag round, did you?

25 A No, sir.

1 Q All right. In fact, he wasn't hit with a beanbag
2 round, was he?

3 A That's what it looks like based on my training and
4 experience.

5 Q In your investigation, did you learn that he was
6 actually hit with a rubber ballistic bullet?

7 A No, sir.

8 Q In your report, you also had mentioned that you
9 called the EMS to the scene?

10 A Yes.

11 Q So EMS came to the scene to see William?

12 A Yes. But he declined.

13 Q While he was talking to EMS ---

14 A Yes.

15 Q --- he declined. All right. So his injuries were
16 bad enough that you went ahead and called EMS.

17 A Yes.

18 MR. BOATWRIGHT: Thank you. No further questions.

19 THE COURT: Anything else?

20 MR. POLSINELLO: No further questions.

21 THE COURT: All right. Sir, you can step down.

22 Can this witness be excused?

23 MR. POLSINELLO: Yes, Your Honor.

24 MR. BOATWRIGHT: No objections, Judge.

25 THE COURT: All right. Sir, you can be excused.

1 You can call your next witness.

2 MR. POLSINELLO: Your Honor, the State calls Crystal
3 Minwegen.

4 THE CLERK: Please place your left hand on the Bible
5 and raise your right hand.

6 WHEREUPON,

7 CRYSTAL MINWEGEN

8 After having been duly sworn, testified as follows:

9 THE CLERK: Thank you. Please take a seat and state
10 your name for the record.

11 THE WITNESS: Crystal Minwegen.

12 DIRECT EXAMINATION

13 BY MR. POLSINELLO:

14 Q Ma'am, how do you pronounce your last name?

15 A Minwegen.

16 Q Minwegen.

17 Ms. Minwegen, are you currently employed?

18 A Yes.

19 Q With whom?

20 A Greenville County Department of Public Safety within
21 the Crime Scene Unit.

22 Q How long have you been employed with them?

23 A About seven years.

24 Q What's your current title?

25 A Sergeant.

1 Q What is your job description? What are your duties
2 and job responsibilities?

3 A As a sergeant I usually talk about day-to-day
4 activities, who's going to take what call if there's any
5 higher priority call, search warrant, autopsies, I approve
6 reports from the technicians, I conduct field assessments,
7 employee evaluations while also responding to my own crime
8 scenes where I document the scene, collect, preserve items
9 of evidence.

10 Q So is that considered forensics?

11 A Yes.

12 Q And how many years have you been doing forensics?

13 A Here I've been doing it seven years.

14 Q Do you have prior experience?

15 A I do have prior experience.

16 Q From where?

17 A When I first graduated college, I got a job with a
18 government contractor for the FBI. And we worked in a lab
19 where we took apart and improvised explosive devices and
20 found fingerprints to match them back to the builder of
21 the bomb.

22 Q So when you respond to crime scenes such as a
23 shooting, shell casings and evidence, what generally do
24 you have to do when you arrive on scene?

25 A When I arrive on scene, I usually get the initial

1 information of what happened. And then from there I take
2 photographs of the scene as it was when I arrived.

3 Q Do you collect evidence?

4 A Yes.

5 Q Shell casings?

6 A Yes.

7 Q Take swabs for DNA?

8 A Yes.

9 Q Do you talk to law enforcement officers on scene?

10 A Yes.

11 Q Do you receive information from them?

12 A Yes.

13 Q Helping you understand what just happened?

14 A Yes.

15 Q Did you do that in this case?

16 A Yes.

17 Q Were you employed around July 4, 2020?

18 A Yes.

19 Q In your same capacity?

20 A I was a field training officer at this time when I
21 responded to the scene.

22 Q Was this around 5 a.m. when you responded?

23 A Yes.

24 Q When you first got to the scene, what do you recall?

25 A I recall talking to Deputy Norris. And he kind of

1 explained what the background of the scene was. And
2 Investigator King shortly arrived on scene.

3 Q The crime scene we're talking about, is that
4 1705 White Horse Road?

5 A Yes.

6 Q And that was formerly Club Dolce?

7 A Yes.

8 Q And that's in Greenville County?

9 A Yes.

10 Q Did you notice shell casings when you arrived on
11 scene?

12 A Multiple.

13 Q Did you notice blood, pools of blood?

14 A Yes.

15 Q Did you take photos of the crime scene?

16 A Yes, I did.

17 MR. POLSINELLO: Can we switch over to the projector,
18 please.

19 THE COURT: Counsel, I hate to interrupt. The young
20 lady in the red, who is she?

21 UNIDENTIFIED SPEAKER: I'm with Greenville County
22 Forensics watching my sergeant testify.

23 MR. BOATWRIGHT: She's not with us, Judge.

24 THE COURT: Okay.

25 MR. POLSINELLO: She's not a state witness, Your

1 Honor.

2 THE COURT: All right. I just wanted to make sure
3 the sequestration was being followed.

4 MR. POLSINELLO: Yes, Your Honor.

5 THE COURT: All right.

6 BY MR. POLSINELLO:

7 Q Ms. Minwegen, I'm showing you what's been previously
8 marked as State's Exhibit 8. Is this a crime scene you
9 responded to?

10 A Yes.

11 Q I'm showing you State's Exhibit 9. Does this look
12 familiar?

13 A Yes, it does.

14 Q Are those shell casings that were marked?

15 A Yes.

16 Q And that you inspected?

17 A Yes.

18 Q I'm showing you State's Exhibit 11. This is a photo
19 from the back end of the club. Are you familiar with this
20 photo?

21 A Yes.

22 Q So you worked this crime scene?

23 A Yes.

24 Q In working the crime scene, so you inspected all
25 these yellow cones that have numbers and pieces of

1 evidence? You inspected them?

2 A Yes.

3 Q And you filled out a report indicating that?

4 A Yes.

5 Q Do you have a copy of your report with you?

6 A I do.

7 Q On your report you stated that the victim fired his
8 work-issued beanbag rifle at the time the suspect during
9 the incident. When you wrote that, were you 100 percent
10 certain that it was the victim who fired the beanbag?

11 A When I arrived on scene, that is the information that
12 was given to me. I just document the scene as it was.
13 Like if somebody fired a different firearm than what was
14 previously stated, I have no idea. I didn't talk to any
15 of the actual witnesses that were there.

16 Q If you found out that someone else actually fired the
17 beanbag gun and not the victim, would that surprise you to
18 hear?

19 A No.

20 Q So would that be sort of a scrivener's error, a
21 clerical error on your report?

22 A Most likely, yes.

23 Q In any way does that affect the physical evidence in
24 this case?

25 A It shouldn't.

1 Q Does that affect -- would that affect any of the
2 shell casings that you collected?

3 A No.

4 Q Okay. I'm handing you what's been previously marked
5 as State's Exhibits 99, 100, 101, 102 and 103. Can you
6 please open these and inspect them and let me know when
7 you're done.

8 A (Witness complies) I'm all done.

9 Q Do you recognize those shell casings?

10 A Yes.

11 Q Are those the five 45 caliber shell casings that you
12 observed at this crime scene?

13 A Yes.

14 Q Did you collect those?

15 A Yes.

16 Q And you placed them into P&E?

17 A Yes.

18 MR. POLSINELLO: Your Honor, pursuant to South
19 Carolina Rules of Evidence 901, the State moves to submit
20 into evidence State's Exhibits 99, 100, 101, 102 and 103.

21 THE COURT: Any objection?

22 MR. BOATWRIGHT: No, Your Honor.

23 THE COURT: All right. In without objection.

24 (WHEREUPON, State's Exhibit Numbers 99 through 103 were
25 admitted into evidence.)

1 BY MR. POLSINELLO:

2 Q Ms. Minwegen, I'm showing you what's been previously
3 marked as State's Exhibit 9. So these five 45 caliber
4 shell casings would be reflected in this photo here with
5 these cones 1 through 5?

6 A Yes.

7 Q I'm showing you what's been previously marked as
8 State's Exhibits 104, 105, 106 and 107. Please open these
9 bags, take a look and let me know when you're done.

10 A (Witness complies) I'm all done.

11 Q Okay. Do you recognize those items?

12 A Yes.

13 Q CM-6 is the 12 gauge shell from the shotgun, the
14 ball?

15 A Yeah. It is a shotgun shell.

16 Q Okay. CM-7 is the plastic ball?

17 A Yeah. The little rubber ball.

18 Q CM-8, another rubber ball?

19 A Yes.

20 Q And then CM-9 is the shotgun wadding?

21 A Yes.

22 Q And you collected this from this crime scene?

23 A Yes.

24 MR. POLSINELLO: Your Honor, pursuant to South
25 Carolina Rule of Evidence 901, the State moves to submit

THE COURT: Any objection?

MR. BOATWRIGHT: No, Your Honor.

THE COURT: All right. In without objection.

(WHEREUPON, State's Exhibit Numbers 104 through 107 were
admitted into evidence.)

BY MR. POLSINELLO:

Q I'm showing you State's Exhibit 20. So this is where the balls would be that you collected?

A The numbers are -- the one that says Number 6 on it, that was the shotgun shell, and then Number 7 was the rubber ball and Number 8 was a rubber ball.

Q I'm showing you State's Exhibit 22. So there's one rubber ball, correct?

A Yes.

Q And then State's Exhibit 23, there's the other one?

A Yes.

Q I'm handing you what's been previously marked as State's Exhibit 108, 109, 110, 111, 112 and 113. Please open these up, inspect and let me know when you're done.

A (Witness complies.)

Q Are you familiar with those items?

A Yes.

Q Are those the six 9 millimeter shell casings that you found at the crime scene?

1 A Yes.

2 Q You collected those?

3 A Yes.

4 Q And put them into evidence?

5 A Yes.

6 MR. POLSINELLO: Your Honor, pursuant to South
7 Carolina Rule of Evidence 901, the State moves into
8 evidence State's Exhibits 108, 109, 110, 111, 112 and 113.

9 THE COURT: All right. Any objection?

10 MR. BOATWRIGHT: No, Your Honor.

11 THE COURT: All right. State's Exhibit Number 108
12 through 113 is so admitted without objection.

13 (WHEREUPON, State's Exhibit Numbers 108 through 113 were
14 admitted into evidence.)

15 BY MR. POLSINELLO:

16 Q Ms. Minwegen, I'm showing you State's Exhibit 25,
17 this photo. Does that depict the six 9 millimeter shell
18 casings that you found at the crime scene?

19 A Yes. I tried to circle them with reflective chalk to
20 be able to see where their exact locations are because it
21 is kind of hard to see it at night.

22 Q Here's a better look, State's Exhibit 29. Does that
23 look accurate?

24 A Yes.

25 Q I'm handing you what's been previously marked as

1 State's Exhibits 114, 115, 116 and 117. Please open these
2 up, inspect and let me know when you're done.

3 A (Witness complies) I'm all done.

4 Q Okay. Are those the five 40 caliber shell casings
5 that you collected from the scene?

6 A There's four.

7 Q There's four there. That's correct. So there's four
8 40 caliber shell casings right there, correct?

9 A Yes.

10 Q And you collected from this crime scene?

11 A Yes.

12 Q And you put into Property and Evidence?

13 A Yes.

14 MR. POLSINELLO: Your Honor, pursuant to South
15 Carolina Rule of Evidence 901, the State moves to submit
16 State's Exhibits 114, 115, 116 and 117 into evidence.

17 THE COURT: All right. Any objection?

18 MR. BOATWRIGHT: No, Your Honor.

19 THE COURT: All right. So entered without objection.
20 (WHEREUPON, State's Exhibit Numbers 114 through 117 were
21 admitted into evidence.)

22 BY MR. POLSINELLO:

23 Q I'm showing you State's Exhibit 35. Does this photo
24 depict where you collected those four 40 caliber shell
25 casings?

1 A Yes.

2 Q I'm presenting you what's been previously marked as
3 State's Exhibits 119 and 123. Please open those, inspect
4 and let me know when you're done.

5 A (Witness complies) Do you want me to open this and
6 show you that it's blood?

7 Q No, ma'am. Not State's Exhibit 123. Just that one.
8 Are you done?

9 A Yes.

10 Q So Item CM-21 that's marked on here but it's State's
11 Exhibit 119, is this really a 40 caliber shell casing?

12 A Yes, it is.

13 Q Okay. And what's marked as CM-20, State's
14 Exhibit 123, this is just really a swab of blood?

15 A Yes.

16 Q And you collected this from the scene?

17 A Yes.

18 Q And put it in Property and Evidence?

19 A Yes.

20 MR. POLSINELLO: Your Honor, pursuant to South
21 Carolina Rule of Evidence 901, the State moves to submit
22 into evidence State's Exhibit 119 and 123.

23 THE COURT: Any objection?

24 MR. BOATWRIGHT: No, Your Honor.

25 THE COURT: All right. So in without objection.

1 (WHEREUPON, State's Exhibit Numbers 119 and 123 were
2 admitted into evidence.)

3 BY MR. POLSINELLO:

4 Q Ms. Minwegen, so in your report you initially state
5 that CM-20, which is already in evidence here, you state
6 that CM-20 right here is a 40 caliber shell casing; is
7 that correct?

8 A That's correct.

9 Q So that was incorrect in your report that it was a
10 40 caliber shell casing?

11 A Correct.

12 Q Because it really is a swab of blood, correct?

13 A Correct.

14 Q And would you just call that as a misidentification
15 on paper?

16 A Yes.

17 Q In any way does that affect the physical evidence at
18 the scene?

19 A No. It was still collected.

20 Q Okay. And likewise, CM-21, in your report you stated
21 that it was a cartridge casing headstamp 40 caliber Smith
22 & Wesson; is that correct?

23 A CM-21 in my report, yes, that's what I put in my
24 report.

25 Q So I'm showing you State's Exhibit 40. So CM-20 we

1 know is a spent 40 caliber shell casing, correct?

2 A Correct.

3 Q And it's not a swab of blood.

4 A Correct. I made it a point to circle all the
5 cartridge casing with that reflective chalk.

6 Q Okay. I'm showing you State's Exhibit 41. So CM-21,
7 clearly this is not a spent 40 caliber cartridge casing,
8 is it?

9 A No. It looks like two specs of an unknown -- I don't
10 know if it was plastic or just a stain in the road
11 or . . .

12 Q Okay. So these were just flip-flopped in your
13 report?

14 A Correct.

15 Q And in any way does that affect, again, the physical
16 evidence of what the items actually are?

17 A No.

18 Q I'm handing you what's been previously marked as
19 State's Exhibit 120. That's your P&E Item CM-20L. Please
20 open this, take a look and let me know when you're done.

21 A (Witness complies) May I hold it up?

22 Q Yes, ma'am.

23 Do you recognize that item?

24 A Yes. It's ---

25 Q Collecting it from the scene?

1 A Yes.

2 Q And you put this in Property and Evidence?

3 A Yes.

4 MR. POLSINELLO: Your Honor, pursuant to South
5 Carolina Rule of Evidence 901, the State submits into
6 evidence State's Exhibit 120.

7 THE COURT: Any objection?

8 MR. BOATWRIGHT: No, Your Honor.

9 THE COURT: All right. In without objection, State's
10 Number 120.

11 (WHEREUPON, State's Exhibit Number 120 was admitted into
12 evidence.)

13 BY MR. POLSINELLO:

14 Q I'm handing you what's been previously marked as
15 State's Exhibit 121. That's item CM-20K. Please open
16 that up, inspect and let me know when you're done.

17 A (Witness complies) I think that's the back of the
18 shirt.

19 Q You collected that from the crime scene?

20 A Yes.

21 Q And you put it into Property and Evidence?

22 A Yes.

23 Q Do you see like a sheriff's symbol on the sleeve of
24 that shirt?

25 A Yes.

1 Q Could you show that to the jury?

2 A (Witness complies) It had been displayed on the front
3 of the shirt, and then this is the back of the shirt.

4 MR. POLSINELLO: Thank you.

5 Your Honor, pursuant to South Carolina Rule of
6 Evidence 901, the State moves to submit into evidence
7 State's Exhibit 121.

8 THE COURT: Any objection?

9 MR. BOATWRIGHT: No, Your Honor.

10 THE COURT: So admitted without objection.

11 (WHEREUPON, State's Exhibit Number 121 was admitted into
12 evidence.)

13 BY MR. POLSINELLO:

14 Q Ma'am, I'm handing you what's been previously marked
15 as State's Exhibit 122, Item CM-23. Please open it,
16 inspect and let me know when you're done.

17 A (Witness complies.)

18 Q What are those items, ma'am? What do you have them
19 labeled as?

20 A They're a cut piece of white cloth collected from a
21 fence.

22 Q And you collected those?

23 A Yes.

24 Q And put it in Property and Evidence?

25 A Yes.

1 MR. POLSINELLO: Your Honor, pursuant to South
2 Carolina Rule of Evidence 901, the State moves to submit
3 into evidence State's Exhibit 122.

4 THE COURT: Any objection?

5 MR. BOATWRIGHT: No, Your Honor.

6 THE COURT: All right. Admitted without objection.

7 (WHEREUPON, State's Exhibit Number 122 was admitted into
8 evidence.)

9 BY MR. POLSINELLO:

10 Q Ma'am, I'm presenting to you what's been previously
11 marked as State's Exhibit 118, Item CM-20D1. Please open
12 it, inspect and let me know when you're done.

13 A (Witness complies) I'm all done.

14 Q Do you recognize that item?

15 A Yes.

16 Q What is it?

17 A It is a copper projectile that I removed from the
18 vest that I collected on scene.

19 Q So that's a bullet fragment?

20 A Yes. This is an actual full projectile.

21 Q You collected this and put it in Property and
22 Evidence?

23 A Correct.

24 MR. POLSINELLO: Your Honor, pursuant to South
25 Carolina Rule of Evidence 901, the State moves to submit

1 into evidence State's Exhibit 118.

2 THE COURT: Any objection?

3 MR. BOATWRIGHT: No, Your Honor.

4 THE COURT: So admitted without objection.

5 (WHEREUPON, State's Exhibit Number 118 was admitted into
6 evidence.)

7 BY MR. POLSINELLO:

8 Q Ms. Minwegen, how long were you out on scene for?

9 A A few hours.

10 Q So it took that long to thoroughly collect all the
11 evidence?

12 A Yes.

13 Q Do you know what time you left?

14 A My report says I left around 7:30 a.m.

15 Q When you are on scene, in your report did you notice
16 a Ford F450?

17 A Yes.

18 Q Do you have that tag number?

19 A In my report I do.

20 Q Okay. What is that number?

21 A (Reviews document) South Carolina Papa 683894 is the
22 South Carolina license plate, P-683894.

23 Q I'm showing you State's Exhibit 50. Would that be
24 the same license plate number?

25 A Yes.

1 Q I'm showing you State's Exhibit 47. That would be
2 the truck that you got it off?

3 A Yes.

4 Q Other than collecting the evidence and placing it in
5 P&E, did you have any other involvement in this case?

6 A I only responded to the scene.

7 Q Did you ever do any follow-ups after?

8 A No, I did not.

9 Q Did you talk to any witnesses in this case?

10 A Not -- if I did, I didn't ask them any questions.

11 Q Okay. So in your report, if you make any
12 observations or if you have any statements that witnesses
13 made, you would have heard that from someone else?

14 A Correct.

15 Q Because you didn't personally talk to these
16 witnesses.

17 A No, I did not.

18 Q In preparing your forensics report, is it necessary
19 to describe to your belief the incident, how it folded
20 [sic] and what happened?

21 A I put in my report what it was advised to me.

22 Q Okay. So you're told this information.

23 A Correct.

24 Q And then you put it in your report.

25 A Correct.

1 Q And that's information relating to what crime
2 occurred or what could have occurred.

3 A Correct.

4 MR. POLSINELLO: Thank you. No further questions.

5 THE COURT: Cross-examination.

6 MR. BOATWRIGHT: Yes, Your Honor. Thank you. May it
7 please the Court.

8 CROSS EXAMINATION

9 BY MR. BOATWRIGHT:

10 Q Officer Minwegen?

11 A Yes. I know. It's a weird one.

12 Q All right. So in your report you said it was advised
13 that the victim had the shotgun and discharged the
14 shotgun, correct?

15 A That is what I have in my report, yes.

16 Q And that information was given to you by Officer
17 Norris?

18 A Roughly. I mean, there was a lot of people on scene.
19 He was the main person I made contact with, but . . .

20 Q Okay. So potentially, either way, some other officer
21 told you that.

22 A Yes.

23 Q All right. This is a lot of evidence that you
24 gathered and collected, isn't it?

25 A Yes.

1 Q You've got 15, 16 shell casings?

2 A Roughly.

3 Q There were other shell casings in that parking lot
4 that you didn't collect, though, weren't there?

5 A I would've to look back at my photos.

6 Q In your investigation, did any other officer tell you
7 that those are old shell casings, don't worry about those
8 ones?

9 A I don't remember.

10 Q Did you collect every shell casing on the ground that
11 you saw?

12 A That I saw. I wouldn't purposely leave that there
13 because you don't know what's old at that time and what's
14 new.

15 Q So if you saw it, you would have collected it.

16 A Yes.

17 Q All right. And you're a forensics officer, correct?

18 A Correct.

19 Q In your forensics training and experience, do you
20 learn how to use a trajectory rod?

21 A Yes.

22 Q And the purpose of that is so that you can see the
23 path that the bullet took?

24 A Correct.

25 Q Did you ever learn how to determine the distance

1 fired between an impact and a shell casing or anything
2 like that?

3 A The distance?

4 Q Yeah.

5 A No. We just do, I guess, flight path.

6 Q Just flight path. Okay.

7 In your training and experience, do you learn about
8 the ejection of shell casings from the gun?

9 A I mean, we've gone over it. We do -- in our field
10 training, we go to our firearms lab where they do explain
11 that.

12 Q All right. So if you found a bullet hole, would you
13 put a trajectory rod through it?

14 A Yes.

15 Q Did Officer Norris in this case tell you, hey, you
16 can put your little rod in this little hole right here?

17 A I'm -- I would have to go back and look at his video.

18 Q Do you recall using your trajectory rod in this case?

19 A I don't -- did not use a trajectory rod.

20 Q But if you had saw the hole and then pointed out the
21 bullet hole, you would have used the trajectory rod?

22 A If I determine it to be an actual projectile hole
23 where I could have utilized the rod, yes.

24 Q All right. And in your collection of evidence in
25 this case, would it be important that the crime scene was

1 preserved and secured before you got there and collected
2 the evidence?

3 A Yes.

4 Q So part of that, based on your experience and
5 training, would be not having civilians drive cars through
6 the crime scene?

7 A I mean, they're not supposed to do that, but . . .

8 Q What about civilians walking around through the crime
9 scene?

10 A They're not supposed to do that either.

11 Q What about people involved in the shooting walking
12 around through the crime scene?

13 A Shouldn't do that either.

14 Q I'm going to show you what's been marked as State's
15 Exhibit 22. What's in this photo?

16 A Two pieces of evidence. It looks like a shotgun
17 shell casing and a rubber ball.

18 Q How far apart would you say those two items were from
19 each other?

20 A Without a ruler in there I'm not able to determine
21 that.

22 Q Is it safe to say no more than a couple feet?

23 A Yes.

24 Q So the shotgun shell casing is pretty much in line
25 with the rubber ball.

1 A It appears that way, yes.

2 Q So in your collection of evidence at the scene, you
3 said if you know of evidence you would collect it,
4 correct?

5 A Correct.

6 Q Did you collect the shotgun that was shot in this
7 case?

8 A I did not.

9 Q That's evidence, isn't it?

10 A Yes.

11 Q You didn't collect it?

12 A No.

13 Q Did you ask anybody about it?

14 A Yes.

15 Q What were you told?

16 A Just to take photographs of it.

17 Q And then lastly, in your direct examination, you said
18 that putting in your report that Monieque Greene, the
19 victim, had the shotgun you would classify as a
20 scrivener's error. But you said that information was
21 given to you by another officer on the scene, correct?

22 A Correct.

23 Q So that's not an error that is in your report.
24 That's what you were actually told?

25 A It was what I was told. I mean, I wasn't there so I

1 don't know who had the shotgun at that point in time.

2 Q Yes. I get that. But an officer on the scene told
3 you that Monieque Greene, the victim, had the shotgun,
4 correct?

5 A Yes. The -- yes. The victim is what I have in my
6 report.

7 Q And it being in your report is not an error. You
8 didn't accidentally write that even though nobody told you
9 that.

10 A Yes. That's what was advised to me at the time.

11 MR. BOATWRIGHT: Thank you. No further questions.

12 THE COURT: All right. Anything?

13 MR. POLSINELLO: Nothing from the State, Your Honor.

14 THE COURT: All right. Ma'am, you can step down.

15 This officer excused?

16 MR. POLSINELLO: Yes, Your Honor.

17 THE COURT: All right. Who's your next witness? You
18 need a moment?

19 MR. POLSINELLO: We have a doctor -- doctors, Your
20 Honor.

21 THE COURT: It's going to be rather lengthy?

22 MR. POLSINELLO: It will be lengthy, yes.

23 THE COURT: Rather lengthy. Okay.

24 All right. Ladies and gentlemen of the jury, what
25 we're going to do is we're going to -- I anticipated

1 sending you to lunch about 1:30, but I'm not going to.
2 We're going to do that a little early. I think the next
3 witness is going to take a little while, so I want you to
4 get some lunch. So I'm going to send you to lunch. I
5 have a matter to take up around 2:30 so you're going to
6 really have a rather long lunch. So I want you back in
7 your jury room no later than 2:50. 2:50.

8 All right. So please, ma'am, please, sir, don't talk
9 about the case with anyone while you're at lunch, okay?
10 Take care.

11 (WHEREUPON, the jury exits the courtroom at 1:11 PM.)

12 THE COURT: All right. Okay. We're going to
13 reconvene probably around 3:00. I'm going to try to be
14 close -- right at 3:00 when I get back in there okay?

15 All right. Anything further before we break for
16 lunch? Anything?

17 MR. POLSINELLO: Nothing from the State, Your Honor.

18 THE COURT: All right. Okay.

19 (WHEREUPON, a recess is taken at 1:12 PM.)

20 THE COURT: All right. Is it BoBo?

21 MR. BROCKMAN: Brockman.

22 THE COURT: Brockman. All right. Mr. Brockman, I've
23 been advised that -- of course, when I had you in here
24 earlier, you told me about what you did with the phone,
25 who you were sending it to and that. Is that still what

1 your story is?

2 MR. BROCKMAN: Yes. It's in a text message.

3 THE COURT: Okay. Who did you send that photo to?

4 MR. BROCKMAN: Y'all moved so quick when you came and
5 got me, it was just like I was just standing there. And
6 you can tell she was texting, like you cheated on me. And
7 I just simply took it. I didn't mean no disrespect at
8 nobody.

9 THE COURT: Wait a minute. She said you cheated on
10 her. What does that got to do with anything?

11 MR. BROCKMAN: Like meaning like ---

12 THE COURT: With you standing up there taking a
13 picture, connect the dots.

14 MR. BROCKMAN: She was just wanting me to identify
15 where I was, and I was just simply -- that's all. It
16 wasn't that serious.

17 THE COURT: Okay. I ain't your man.

18 MR. BROCKMAN: Sir?

19 THE COURT: I ain't your man.

20 MR. BROCKMAN: Oh, I'm sorry.

21 THE COURT: Today I'm the judge.

22 MR. BROCKMAN: I've been saying yes, sir, no, sir.

23 THE COURT: Let me say this to you. Who did you send
24 -- the pictures you took, who did you send them to?

25 MR. BROCKMAN: I didn't even have a chance to send

1 it. I just took the picture.

2 THE COURT: Okay. Because the pictures have been
3 deleted from your phone. Do you understand that?

4 MR. BROCKMAN: Yes, sir.

5 THE COURT: Okay. But let me explain this to you
6 because I want you to be clear, very clear. If any of
7 those pictures or whatever you took is found to be on any
8 social media post by anybody, the only person I'm going to
9 bring back in here is you. Do you understand that?

10 MR. BROCKMAN: Uh-huh.

11 THE COURT: Sir?

12 MR. BROCKMAN: Yes, sir.

13 THE COURT: Okay. And when you come back, you're
14 going to go to jail. I'll just tell you before you even
15 come back, if that's found -- so if you hadn't said -- you
16 said you haven't sent it to nobody, that's fine. But if
17 you have, you'd better make sure you contact whoever you
18 sent that to, because if it shows up and it's brought to
19 my attention, I'm bringing you right there, and there
20 ain't going to be no question about what's going to
21 happen. Am I clear?

22 MR. BROCKMAN: Yes, sir.

23 THE COURT: You understand that?

24 MR. BROCKMAN: Yes, sir.

25 THE COURT: Any part of that you don't understand?

1 MR. BROCKMAN: No, sir.

2 THE COURT: Okay. So you understand that social
3 media is a magnanimous animal. You know, you put it out
4 there, somebody's going to show it. So you know what
5 you did. So if you're standing up here lying to me, it
6 will come back and you'll be back. Do you understand
7 that?

8 MR. BROCKMAN: Yes, sir.

9 THE COURT: Okay. You got any questions?

10 MR. BROCKMAN: No, sir. Not at all.

11 THE COURT: Okay. All right. I'm going to give you
12 your phone and I'm going to let you go, but you understood
13 what the rules are.

14 MR. BROCKMAN: Yes, sir.

15 THE COURT: Any question? Anything?

16 You know what I didn't hear come out of your mouth?

17 MR. BROCKMAN: Huh?

18 THE COURT: Huh. You know what I didn't hear come
19 out of your mouth? I didn't hear you at any point say
20 you're sorry about what you did or you apologize.

21 MR. BROCKMAN: I'm sorry. I said it before I ---

22 THE COURT: Well, I heard it now.

23 MR. BROCKMAN: I'm very sorry. Again, I just want to
24 say that I was very cooperative the first time, this time.
25 And I won't -- I don't have no problem.

1 THE COURT: I just thought maybe I didn't -- I didn't
2 hear that you said you were sorry come out of your mouth.
3 Do you understand that?

4 Okay. I'm going to let you go. Go. But you're not
5 -- you can't come in here.

6 MR. BROCKMAN: All right.

7 THE COURT: All right. Okay.

8 (WHEREUPON, a recess is taken at 2:55 PM.)

9 THE COURT: Okay. Anything else before we bring the
10 jury back?

11 MR. BOATWRIGHT: Nothing from defense, Your Honor.

12 MR. POLSINELLO: Nothing from the State Your Honor.

13 THE COURT: Okay. All right. Bring them back in.

14 (WHEREUPON, the jury entered the courtroom at 2:58 PM.)

15 THE COURT: All right. I was close to that time.
16 Very close, very close.

17 Okay. Mr. Polsinello?

18 MR. POLSINELLO: May it please the Court.

19 THE COURT: Yes, sir.

20 MR. POLSINELLO: Your Honor, the State calls Dr. John
21 Rinkliff to the stand.

22 THE COURT: Okay.

23 THE CLERK: Please place your left hand on the Bible
24 and raise your right hand.

25 ///

1 WHEREUPON,

2 JOHN RINKLIFF

3 After having been duly sworn, testified as follows:

4 THE CLERK: Thank you. Please take a seat and state
5 your name for the record.

6 THE WITNESS: My name is John Rinkliff.

7 DIRECT EXAMINATION

8 BY MR. POLSINELLO:

9 Q Dr. Rinkliff, are you currently employed?

10 A I am currently employed, yes, sir.

11 Q With whom?

12 A Prisma Health.

13 Q What's your current title?

14 A Surgeon, staff surgeon at Prisma Health.

15 Q What do you specialize in?

16 A I have two areas of expertise. One area is general
17 and acute-care trauma surgery, and then the other is
18 breast cancer surgery.

19 Q Where did you graduate medical school?

20 A University of South Carolina School of Medicine in
21 Columbia.

22 Q What year did you graduate from that medical school?

23 A 1992.

24 Q How many years have you been a practicing doctor?

25 A Since 1997.

1 Q How many cases do you do a month?

2 A I average probably anywhere from 40 to 60 cases a
3 month.

4 Q With acute-care trauma surgery, you obviously have to
5 do trauma surgery?

6 A That is correct.

7 Q About how many operations do you do a month?

8 A I take call three to four nights a month and then
9 spend a week every three months in the trauma service. So
10 it will vary from -- anywhere from eight to 12 cases a
11 month, I would suspect.

12 Q And how many years have you been doing this?

13 A Since 1997, so that is 28 years, 24 years.

14 Q Doing this type of work for 28 years, that many
15 operations in a month, it is reasonable and fair to say
16 that you've done close to 2,000 ER surgeries in your
17 lifetime?

18 A That would be correct. That would be a good
19 estimate, yes, sir.

20 Q And, again, I'm sorry, I was talking over you. The
21 question is that would be close to 2,000 ER surgeries
22 throughout your experience?

23 A That would be correct.

24 Q And you also stated that you also specialize in
25 breast cancer surgery?

1 A Yes, sir.

2 Q And treatment?

3 A Yes, sir.

4 Q What does acute-care trauma surgery entail? What do
5 you have to do in that department?

6 A So Greenville Memorial Hospital is one of the state's
7 four Level I trauma centers. The requirements are that
8 they have an in-house surgeon, so we have to be in the
9 hospital when we're on call. And we can be called to the
10 emergency room or within the hospital for a very large
11 amount of cases. Acute-care surgery would be more like if
12 you came in with a gallbladder that was inflamed or a
13 perforated stomach or perforated colon, we operate and
14 take care of those patients.

15 The other half of that type of surgery is the trauma
16 surgery. So we are on call for the severe traumas that
17 come through the emergency room. Those traumas typically
18 come into what we call the trauma bay. And we are
19 notified by our paging system that a trauma patient is
20 inbound, and we come in and take care of those patients as
21 opposed to an emergency room physician. And that can be
22 car wrecks, shootings, stabbings, falls. Anything that is
23 trauma related.

24 Q Would a gunshot wound be considered severe trauma
25 related?

1 A Yes, sir.

2 Q And with these severe trauma surgeries, is there any
3 way you can describe what they generally entail or is it
4 just different case by case?

5 A It's different case by case. We receive a
6 notification from EMS that a patient's inbound. We're
7 given kind of the mechanism, gunshot wound to whatever
8 part of the body, or a car wreck, what speed, what they're
9 complaining of. So it's always varied.

10 Q With these severe trauma surgeries, what you and your
11 fellow doctors are doing are essentially savings people's
12 lives?

13 A That's what we attempt to do, yes.

14 Q Have you treated gunshot wound cases before?

15 A Yes, sir.

16 Q Is this your first case where you ever treated a
17 gunshot victim?

18 A No, sir.

19 Q About how many cases have you treated gunshot wounds,
20 would you say?

21 A Greenville has changed since 1997. It used to be
22 probably 20 percent of our traumas were either shooting or
23 stabbing victims and the rest were falls or motor vehicle
24 accidents. Now it's right around 40 percent. 40-plus
25 percent are violent shootings, stabbings, assaults.

1 Q Are you talking ---

2 A Of our activations, not operations.

3 Q So in a given year, your involvement in this type of
4 surgeries, are we talking in the hundreds?

5 A So I take call three nights to four nights a month,
6 and half or almost half of those calls, so we're talking
7 50 to 100 patients a year that are assault, stabbing or
8 shootings.

9 MR. POLSINELLO: Your Honor, at this time, pursuant
10 to South Carolina Rule of Evidence 702 and 705, the State
11 is moving to qualify Dr. John Rinkliff as an expert in
12 acute-care trauma surgery.

13 THE COURT: All right. Any objection?

14 MR. BOATWRIGHT: No, Your Honor.

15 THE COURT: All right. He's so qualified in that
16 area of expertise.

17 BY MR. POLSINELLO:

18 Q Dr. Rinkliff, have you ever testified in court
19 before?

20 A Yes, sir.

21 Q How many times?

22 A Probably eight times, five to eight times.

23 Q In this particular case, were you working in the
24 trauma bay at GHS on July 4, 2020, around 5 a.m.?

25 A Yes, sir.

1 Q What time did your shift end that day?

2 A Our shifts typically, officially end at 7 a.m.,
3 however, we still have to round, see the patients that are
4 in the hospital. So I typically leave the hospital after
5 a shift like that around 9:00 or 10:00 in the morning.

6 Q So on this early morning on July 4, 2020, 5 a.m., it
7 would be towards the end of your shift?

8 A That is correct.

9 Q Did you receive and treat a patient Monique Greene?

10 A I did.

11 Q Is that how you first became involved in this case?

12 A Yes, sir.

13 Q And when you received the victim, Monique Greene,
14 was it your understanding that it was a multiple GSW case?

15 A My -- I have not been able to go back and actually
16 look at the page on my phone, but if I were to guess how
17 the page came across my phone, it would have been a
18 Level I trauma alert, gunshot wound, multiple, and it
19 would have given vital signs.

20 Q GSW, that stands for gunshot wound?

21 A That is correct.

22 Q Are there medical records in this case associated
23 with the victim and the procedure that you performed?

24 A Yes, there are.

25 Q Did you type your notes in those records?

1 A I -- myself and my residents that are training
2 surgeons under me have documented the care of this
3 patient.

4 Q And you stated that this -- when you received the
5 patient, victim Monieque Greene, it was a trauma level
6 score of 1?

7 A Yes, sir.

8 Q What does that mean?

9 A So there are three levels of trauma alerts.
10 Level III is the lowest acuity. The trauma surgeons do
11 not respond to those. The ER physicians typically take
12 care of those patients. And then there is Level II and
13 Level I traumas. Level I is based on the mechanism and
14 the vital signs of the patient. To give you an idea, when
15 we have our criteria set up so as an attending physician,
16 I have to respond within 30 minutes of a Level II trauma.
17 If it's a Level I trauma, I have to be present within the
18 trauma bay within 10 minutes.

19 Q Is it fair to say that with a trauma level score of
20 1, are we talking about life and death here?

21 A That is correct.

22 Q And so timing and urgency to act, is that an
23 important factor in saving someone's life?

24 A That is correct.

25 Q What is a left ballistic -- and excuse me if I'm

1 mispronouncing this. Please correct me. What is a left
2 ballistic acetabular fracture with a retained bullet and
3 fragment?

4 A So that would be indicating that there is a bullet or
5 a bullet fragment within the hip socket. Our orthopedic
6 specialists are the ones that manage that. We identify
7 the problem. We take care of what we take care of, intra
8 abdominal injuries, chest injuries, and then other
9 injuries we will bring in consultants to help us manage
10 that. And then a hip injury, a hip socket injury is one
11 where we would call an orthopedic surgeon in.

12 Q Was that the injury that was classified in this case?

13 A What you just read out loud is an orthopedic hip
14 bone, hip socket injury.

15 Q When you received the victim, the patient, what did
16 you notice in terms of the injuries? What did it look
17 like?

18 A According to the records that I've been able to
19 review, he had multiple injuries or entrance wounds, exit
20 wounds from bullets in his extremities as well as in the
21 lower abdomen.

22 Q So was there a right upper extremity wound?

23 A From my recollection of the records, yes, sir.

24 Q Does that mean a gunshot wound?

25 A That's correct. An entrance or an exit wound. It's

1 very difficult to ascertain that.

2 Q Was that wound through and through?

3 A Again, it's hard to ascertain that, but our suspicion
4 would be that would be our best guess.

5 Q And then you stated there was a left upper extremity
6 wound?

7 A Yeah. I believe that's what the records indicate.
8 Yes, sir.

9 Q Was that through and through as well?

10 A Again, that's our supposition as there was not -- the
11 way we come to that conclusion is typically, we will x-ray
12 those. And if there's no bullets in those areas, we're
13 assuming those are through and through wounds with the
14 bullet coming in and going out and the bullet no longer in
15 that area.

16 Q But you did find a bullet lodged in the victim in
17 this case, didn't you?

18 A That's correct.

19 Q And where was that bullet lodged?

20 A In the hip socket.

21 Q Were you able to extract that bullet out then and
22 there that early morning?

23 A I don't do that, number one. It's an orthopedic.
24 It's kind of a secondary thing that typically will be
25 addressed down the road. The things that I address are

1 life-threatening injuries.

2 And what concerned me that day was that he had an
3 entrance in his lower abdomen, a bullet entrance. And one
4 cannot tell what kind of injuries you have. And that's
5 what we had to ascertain very quickly.

6 Q Looking at your notes, the bullet traversed through
7 the bladder and then lodged in his hip socket as you just
8 stated, correct?

9 A That is correct. That's what we found at the time of
10 surgery.

11 Q When a bullet traverses through a bladder, what does
12 that entail?

13 A So a bullet is a high-velocity object. And it
14 entered through the skin, the subcutaneous tissue, and
15 entered the abdominal cavity, went through the bladder
16 which is an organ that collects urine before you pass
17 urine, and then it went across the lower pelvis and
18 entered the hip socket region. And that's where the
19 bullet stopped.

20 Q Was there internal bleeding in this case?

21 A There was some bleeding from the -- to the two
22 injuries from the bladder. There was some bleeding from
23 the bladder itself. There was also bleeding in the deep
24 pelvis region where it went through muscle and ended up in
25 the hip socket.

1 Q Was there external bleeding from the wounds?

2 A There was a little bit of blood coming out of the
3 wound.

4 Q What are the potential consequences to a gunshot
5 wound to the bladder?

6 A So the bladder can -- obviously, the bladder is
7 leaking urine at that point and it can leak into the
8 abdominal cavity. And that's not a place where God
9 designed urine to be and can cause severe infection and
10 significant problems down the road if it's not fixed.

11 Q If not fixed or treated, could that be
12 life-threatening?

13 A Absolutely.

14 Q How so?

15 A He could become what we call septic, which is a
16 severe infection that can cause permanent defect or death.

17 Q Can you just describe the physical actions that you
18 took to perform this emergency surgery? What did you
19 physically do?

20 A The patient was brought emergently up to the
21 operating room and underwent a general anesthetic by our
22 anesthesia department. And at that time we didn't know
23 what injuries he had sustained. And that's why it's
24 called an exploratory laparotomy. We're opening the
25 abdomen to ascertain what injuries occurred and then what

1 needs to be fixed.

2 So once the patient's asleep, we cleanse the
3 abdominal cavity, open it up sharply with knives and then
4 explore. We go looking inside. We look at all the
5 intestines. We look at the big blood vessels in the
6 pelvis that could be injured. We look at the bladder. We
7 look at everything in that area and then we ascertain what
8 injuries are there and how we're going to fix them.

9 Q And then what did you physically do in response to
10 the wounds? What did you have to do?

11 A Okay. So what we did at that point, we did identify
12 that the bladder was injured. There's different ways that
13 these can be addressed and fixed. A urologist is a
14 surgeon that specializes in surgeries of the urinary
15 system. So we called the urologist in to help us look at
16 this wound and determine did this need to be fixed with
17 sutures or could it be fixed with just a catheter put in
18 the bladder to keep the bladder -- think of the bladder
19 like a balloon and we're going to keep that balloon
20 completely decompressed so that those wounds, those holes
21 can be -- heal on their own.

22 Q And so is that what you did in this case?

23 A That is correct.

24 Q And in terms of the gunshot wounds, the multiple
25 gunshot wounds, how are those addressed and treated for?

1 A The -- are you referring to the upper extremity
2 wounds?

3 Q Yes, sir.

4 A Okay. So the upper extremity wounds, typically,
5 while the patient is asleep, we wash those out and then
6 bandage them, dress them and keep clean dressings on those
7 and let those heal up.

8 Q In terms of the bullet fragment that was lodged in
9 the victim's hip, was it your decision with your
10 colleagues to let that bullet remain in there at that
11 time?

12 A All right. So the way we address that is we will ask
13 our orthopedic colleagues to come in. They'll look at the
14 X-rays that have been done, and they will tell us this is
15 something that needs to be worked on right now or this is
16 something that needs to be addressed down the road. And
17 our colleagues that morning said that this is something
18 that they would follow and figure out how to fix later on.
19 It did not need to be addressed at the time of my surgery.

20 Q What are the reasons why? What are the factors or
21 reasons involved in deciding not to extract that bullet?

22 A Again, that's out of my area of expertise. But my
23 observation over the last couple of decades is that
24 anything that an orthopedic injury that's involving the
25 hip, they want to do this in a very sterile fashion, even

1 more sterile than what I'm doing at the time of an
2 expiration. They want to kind of have that separate
3 because if that hip joint becomes infected, it is a
4 disaster. So they kind of want to manage it on their own
5 at a separate operation.

6 Q When you were done performing surgery or during the
7 surgery or shortly after, was there a Foley catheter put
8 in place for the victim?

9 A That was after conferring with our urologic surgeons
10 that one of the treatments, as I mentioned, was a
11 decompression of the bladder's leaking. The bladder
12 decompressed like a balloon that's deflated. And that
13 will help those holes heal up.

14 And so yes, a Foley catheter, which is a rubber tube
15 that is inserted in the penis and goes up into the
16 bladder, is inserted. And that disallows the urine to
17 continuously flow out instead of being collected in the
18 bladder.

19 Q Do you know how long the victim had that in place?

20 A According to the records I reviewed, as the patient
21 followed up with the urologist for this, it was around, I
22 believe, six to eight weeks, which is the normal course of
23 that. So he was discharged from the hospital with a
24 catheter in place that collected in a bag that you keep
25 strapped to your leg.

1 Q Okay. Doctor, last question. In your expert medical
2 opinion, on this early morning, was it necessary for you
3 to evaluate and to treat the victim, Monieque Greene, to
4 save his life?

5 A Yes, sir.

6 MR. POLSINELLO: Thank you, Doctor. No further
7 questions.

8 THE COURT: Cross-examination.

9 MR. BOATWRIGHT: No questions, Your Honor.

10 THE COURT: All right. Sir, you can step down.
11 Thank you so much for coming.

12 Can this witness be excused?

13 MR. POLSINELLO: Yes, Your Honor.

14 THE COURT: Any objection?

15 MR. BOATWRIGHT: No, Your Honor.

16 THE COURT: All right. You're free to go.

17 THE WITNESS: Thank you, sir.

18 THE COURT: Take care.

19 THE WITNESS: Have a good day.

20 THE COURT: All right. State's ready to call its
21 next witness?

22 MR. POLSINELLO: Yes, Your Honor. The State calls
23 Dr. Jason Folk.

24 THE CLERK: Please place your left hand on the Bible
25 and raise your right hand.

1 WHEREUPON,

2 JASON FOLK

3 After having been duly sworn, testified as follows:

4 THE CLERK: Thank you. Please take a seat and state
5 your name for the record.

6 THE WITNESS: Jason William Folk.

7 DIRECT EXAMINATION

8 BY MR. POLSINELLO:

9 Q Dr. Folk, are you currently employed?

10 A Yes.

11 Q With whom?

12 A Prisma Health.

13 Q What is your current title?

14 A I guess assistant professor of orthopedic surgery at
15 Prisma Health.

16 Q Where did you graduate medical school?

17 A University of Texas Southwestern in Dallas.

18 Q What year was that?

19 A Goodness. '96.

20 Q How many years have you been practicing as a doctor?

21 A 27.

22 Q Do you specialize in any areas?

23 A Primarily, my practice has been whittled down to
24 primarily hip arthroscopy and sports medicine. I still do
25 some knees.