

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Sumter County

Honorable Kristi F. Curtis, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RASHAD MONTRELL HARVIN,

APPELLANT

APPELLATE CASE NO. 2025-000123

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**[THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE'S EXHIBIT NO. 2 (AUDIO STATEMENT, DEFENDANT'S), STATE'S
EXHIBIT NO. 4 (BODY CAM, OFFICER SALMON'S), STATE'S EXHIBIT NO. 6 (911
CALLS (3)), STATE'S EXHIBIT NO. 37 (TK AND A&P VIDEOS), AND STATE'S
EXHIBITS NOS. 38-40 (A&P VIDEOS, ENHANCED VERSIONS)]**

STATE OF SOUTH CAROLINA) IN THE CIRCUIT COURT 15
COUNTY OF SUMTER) DOCKET No. 2020-GS-43-00840

THE STATE OF SOUTH CAROLINA,)
 Plaintiff,)
versus)
)
RASHAD MONTRELL HARVIN,)
 Defendant.)

H E A R I N G
BEFORE THE HONORABLE KRISTI F. CURTIS

DATE: MARCH 28 - 31, 2022.
TIME: 10:04 A.M.
LOCATION: South Carolina Circuit Court 15
TRANSCRIBED BY: Latasha Jefferson

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ALSO ATTENDING:

(None)

1 UNIDENTIFIED SPEAKER: I -- I -- I wasn't -- we just
2 heard shots -- I'm at the other store, but --

3 OPERATOR: Okay. Is anybody out there with you?

4 UNIDENTIFIED SPEAKER: Yes.

5 OPERATOR: Can I speak with him?

6 UNIDENTIFIED SPEAKER: Yes. He got (inaudible) and --

7 OPERATOR: Okay.

8 UNIDENTIFIED SPEAKER: -- trying to give him CPR and
9 everything.

10 OPERATOR: Right. 501 Beaumont Road at Coastal Mart?
11 Okay. We have the ambulance. You all didn't see any
12 description by any strange people?

13 UNIDENTIFIED SPEAKER: The people over there probably
14 tell you who did. (Inaudible).

15 OPERATOR: Okay -- okay -- okay. Thank you.

16 UNIDENTIFIED SPEAKER: Yes. (Inaudible).

17 (Audio stops at 10:59:36 a.m.)

18 MR. MEADORS: May it please the Court?

19 THE COURT: Yes, sir.

20 MR. MEADORS: Your Honor, at this time, the State of
21 South Carolina will call Officer James Salmon.

22 THE BAILIFF: Place your left hand on the Bible, raise
23 your right hand. State your name.

24 MR. SALMON: Corporal James Salmon.

25 CORPORAL JAMES EDWARDSON SALMON,

1 being duly sworn, testified as follows:

2 THE BAILIFF: Thank you, sir. Step around. State your
3 name for the record and spell your last name, please.

4 THE WITNESS: James Edwardson, S-A-L-M-O-N.

5 DIRECT EXAMINATION

6 BY MR. MEADORS:

7 Q. Good morning, Corporal. Good morning.

8 A. Good morning, sir.

9 Q. If you tell these folks about you where you're
10 from, your background, your training, and in particular your
11 training in law enforcement, please.

12 A. My name's James Salmon. I grew up in Maryland.
13 Been with the Sumter Police Department for about five years.
14 Started -- did a year in animal control before getting moved
15 over and trained as a class A police officer.

16 Q. And -- and what do you do here with Sumter Police
17 Department?

18 A. I'm on patrol on C-shift patrol.

19 Q. What does that mean?

20 A. The patrol units were -- we work 12-hour days
21 around the clock. C-shift is one of the four, A, B, C, and
22 D, are the four shifts that we have on patrol.

23 Q. And are you assigned to a certain part of the
24 city?

25 A. At the -- we are switched from time to time to --

1 so that everyone's familiar with every part of the city. At
2 this date and time in question, I was in region one, which is
3 the eastern side of the city. And I believe I was assigned
4 to the area in question, area two.

5 Q. And your role as a corporal in this region, what
6 do you do? Just on a call and wait for something to happen?

7 A. Yes, respond to calls for service is a main thing.
8 We check property we do proactive enforcement as well.
9 Traffic stops, in that nature.

10 Q. Now, on May 8, 2020, what was your (inaudible)
11 role with the Sumter Police Department?

12 A. I was a patrolman the Sumter Police Department.
13 And I remember that day it was a -- a -- a Friday. We do
14 rotations as we said. That's the first day of the rotation.
15 I would've just come on -- I was going to work Friday,
16 Saturday, Sunday. So it was the end of the day on the first
17 day of rotation.

18 Q. But what -- what -- what time do you get on?

19 A. We --

20 Q. What time did you get on the 8th of May of 2020?

21 A. We report at 5:45 in the morning for roll call and
22 our shift begins at 6:00 a.m., ends -- supposedly, at 6:00
23 p.m., depending on calls for service.

24 Q. So this was toward the end of your shift?

25 A. Yes -- yes, sir.

1 Q. Okay. Now, when you are responding to a scene,
2 what do you do if you're called? If you're called or you
3 hear over the radio to respond, what do you do, practically?

4 A. Three types of calls: Routine, urgent, and
5 emergent. In this type of situation --

6 Q. Routine, urgent?

7 A. Yes. Urgent and emergent.

8 Q. Okay.

9 A. In a -- a routine call, we're -- we're getting
10 there safely. You know, no lights, no, sirens. Urgent is a
11 little bit more expediency. In this case, it started out
12 urgent as the call came out. The initial call was, "Shot is
13 fired." Without any injuries or suspect at that point, it
14 was urgent for me to get there.

15 As soon as the second call came in where a victim was
16 identified, that somebody was shot, became an emergent call
17 where I responded with lights, blue lights and sirens
18 requesting the right of way from all citizens.

19 Q. And again, practically, once you're responding
20 emergent -- you're full blown. What do you do with your
21 vehicle, if anything?

22 A. My -- my first and foremost priority is to get
23 there safely. You know, everybody's safe, the citizens on
24 the road as well as myself. But blue lights changing sirens
25 near intersection is trying to gain attention of -- of

1 everyone around. I -- I'm -- air horn, just whatever I can
2 do to gain attention to get there as quickly and safely as
3 possible.

4 Q. And when you do that, is the -- is the video
5 activated --

6 A. Yes.

7 Q. -- on the car?

8 A. Yes, sir.

9 Q. That's what I should just asked you?

10 A. Yes, sir.

11 Q. Okay. Before we get to that tell the folks, these
12 ladies and gentlemen, when you got -- where'd you go? What
13 was the address?

14 A. It was 501 Boulevard Road.

15 Q. Okay. And that is the what?

16 A. A&P Coastal gas station.

17 Q. All right. That's in the city limits of Sumter?

18 A. Yes. In the city limits of Sumter.

19 Q. And is that in Sumter County?

20 A. It is within Sumter County, within the city limits
21 of Sumter -- City of Sumter.

22 Q. Tell those folks what you observed when you first
23 got there.

24 A. When I first got there, I pulled up on scene and
25 there was two gentlemen I observed right away. One, later

1 identified as Mr. Nixon. The other identified as I was
2 familiar with him as an employee of the A&P Coastal Mart. I
3 did not get his name. I believe he was the second 911 call
4 that was talking. Because I could hear my siren as I pulled
5 up and I could hear me talking to Mr. Nixon on the background
6 of the second 911 call.

7 Those two were standing in the forefront immediately
8 was trying to identify, because I as on the 911 call, I heard
9 that the victim was being transported, trying to identify
10 whether he had left the scene or where he was on the scene,
11 as well as trying to identify the suspect and any potential
12 danger ongoing.

13 Q. So this is real time? Real -- real?

14 A. Yes.

15 Q. And you did you know what to expect, but -- did
16 you -- you didn't know -- did you know what you were going to
17 find when you got to 501 Boulevard?

18 A. No, sir. What everybody just heard was the
19 entirety of the information I had as well.

20 Q. All right. You get there at A&P Coastal, what'd
21 you do?

22 A. First thing I asked about was the victim. And I
23 believe the -- the individual I was talking to stated that
24 they had just left in the black Ford Explorer. Knowing that
25 the victim is off scene, I put that on the radio so other

1 units can be looking for the black Ford Explorer. And then I
2 immediately turned my attention to the suspect asking them
3 about, "Who was he? What happened? Where'd he go?" You
4 know, "What kind of vehicle he was in?" Yeah, trying to
5 identify witnesses and suspect information.

6 Q. Okay. And as a part of that, did you talk to
7 folks that were at the scene when you got there?

8 A. Yes.

9 Q. All right. We've all seen crime scene tape. Did
10 you have an occasion to use any crime scene tape at 501
11 Boulevard?

12 A. I did. I applied to crime scene tape after a few
13 minutes to secure the scene to keep additional customers from
14 arriving and -- and just to make sure the public knew that
15 this was a crime scene.

16 Q. So prior to you arriving, do you have any idea who
17 came and went at the 501 before you got there?

18 A. No -- no, sir.

19 Q. Was there anything blocking traffic or cars from
20 coming into the parking lot prior to you getting there?

21 A. No, sir.

22 Q. All right. When you get out of your car on
23 May 8, 2020. And I see you got something right there. Did
24 you have one of these -- one of these body cameras back in --

25 A. Yes.

1 Q. -- back in --

2 A. Yes.

3 Q. All right. Tell us about that. How does that
4 work?

5 A. The body-worn camera is required with all
6 interactions with the -- the public by the Sumter Police
7 Department. I recall that day when I -- as soon as I got out
8 of my vehicle is when I activated it -- it carries a -- a
9 two-minute pre buffer. So once it's activated, the video
10 starts two minutes before that and they -- it -- it records
11 my last two minutes of the drive to 501 Boulevard.

12 Q. And is there a separate video in your car?

13 A. There is.

14 Q. Was there one that day?

15 A. There -- my -- my dash cam -- watch guard dash cam
16 video activates any time the blue lights are turned on. I'm
17 not that automatically uploads and it's by no effort of mine.
18 So I don't know anything about that video.

19 Q. Okay. Well, let me ask you this.

20 A. Sure.

21 Q. When did you activate -- when did you turn this
22 on?

23 A. I -- I -- as soon as I got out of the car is when
24 I double tap that and activated my body-worn camera.

25 Q. And what you say that the camera automatically

1 goes back two minutes before that?

2 A. Yes. There is a two-minute buffer to where it's
3 always recording and records over itself.

4 MR. MEADORS: And your Honor, we are now offering
5 State's 7, this is what we discussed yesterday and I think
6 played before, your Honor, then we stop at the time that we
7 all agreed we stopped. State's 7.

8 MR. BARNES: Without objection, your Honor.

9 THE COURT: Okay. It is admitted.

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

11 BY MR. MEADORS:

12 Q. And we looked at this yesterday. Does this
13 accurately or reflect what was on your body-worn camera or
14 what you filmed from your body-worn camera?

15 A. Yes.

16 MR. MEADORS: Your Honor, permission to publish that?

17 THE COURT: Yes, sir.

18 MR. MEADORS: And, your Honor, before we start, I guess

19 --

20 BY MR. MEADORS:

21 Q. Sam, is that you?

22 A. Yes.

23 (Video starts at 11:09:50 a.m.)

24 OFFICER SALMON: (Inaudible) on this.

25 UNIDENTIFIED SPEAKER: (Inaudible).

1 (Video stops at 11:10:10 a.m.)

2 BY MR. MEADORS:

3 Q. Corporal, this is from your body-worn camera?

4 A. Yes, sir.

5 (Video starts at 11:10:13 a.m.)

6 UNIDENTIFIED SPEAKER: (Inaudible) black Ford Explorer.

7 OFFICER SALMON: Victim just left in a Black Explorer
8 on 501 Boulevard right now. Okay. What's going on?

9 UNIDENTIFIED SPEAKER: They're leaving. There is one
10 guy that was running. He was running. He ran -- he ran --
11 he's running. He ran.

12 OFFICER SALMON: And then the other guy?

13 UNIDENTIFIED SPEAKER: The other guy, he's on the way
14 to the hospital. I don't know what the other guy
15 (inaudible).

16 OFFICER SALMON: There was two people shooting at each
17 other?

18 UNIDENTIFIED SPEAKER: Yeah.

19 OFFICER SALMON: Okay. And the other guy ran?

20 UNIDENTIFIED SPEAKER: (Inaudible).

21 OFFICER SALMON: Any clothes? Any --

22 UNIDENTIFIED SPEAKER: It's white (inaudible).

23 OFFICER SALMON: (Inaudible) one on one, 1075, the
24 suspect fled on foot southbound on Boulevard. Red
25 sweatpants, white hoodie. So where -- where did all the

1 (inaudible).

2 UNIDENTIFIED SPEAKER: Boulevard.

3 OFFICER SALMON: Where did he get shot at?

4 UNIDENTIFIED SPEAKER: (Inaudible) by the car.

5 OFFICER SALMON: Right. Is this his car?

6 UNIDENTIFIED SPEAKER: Yeah, I think that's his car.

7 OFFICER SALMON: Okay.

8 UNIDENTIFIED SPEAKER: I think. Yeah.

9 UNIDENTIFIED OFFICER: (Inaudible)?

10 OFFICER SALMON: That's what the witness stated. Yes.

11 UNIDENTIFIED OFFICER: (Inaudible)?

12 OFFICER SALMON: Okay. Straight down?

13 UNIDENTIFIED SPEAKER: Yeah.

14 OFFICER SALMON: Okay.

15 UNIDENTIFIED SPEAKER: (Inaudible).

16 OFFICER SALMON: I got another witness saying the same

17 thing. Red sweat pants, white sweatshirt. And was hauling,

18 running straight southbound on Boulevard.

19 UNIDENTIFIED OFFICER: (Inaudible) on radio?

20 OFFICER SALMON: Hey, can I get your name?

21 UNIDENTIFIED SPEAKER: Jamy.

22 OFFICER SALMON: Jamy?

23 UNIDENTIFIED SPEAKER: Yes.

24 OFFICER SALMON: He was on this side of the road?

25 UNIDENTIFIED SPEAKER: (Inaudible).

1 OFFICER SALMON: Okay.

2 UNIDENTIFIED SPEAKER: (Inaudible) just standing there.

3 (Inaudible). I don't know the other got hit or not.

4 OFFICER SALMON: Okay.

5 UNIDENTIFIED SPEAKER: (Inaudible).

6 OFFICER SALMON: Just straight down through there?

7 UNIDENTIFIED SPEAKER: I didn't see how far down

8 (inaudible).

9 OFFICER SALMON: And see they're saying through this
10 way. But you -- you -- you directly saw him?

11 UNIDENTIFIED SPEAKER: Yeah. Unless he strolled into
12 the wood -- wood.

13 OFFICER SALMON: Okay. Unless he cut through -- unless
14 he cut across over here to Hannah?

15 UNIDENTIFIED SPEAKER: Yeah.

16 OFFICER SALMON: Okay.

17 (Video stops at 11:15:35 a.m.)

18 BY MR. MEADORS:

19 Q. And Officer Salmon, at some point after this, did
20 you do the yellow tape?

21 A. Yes.

22 Q. Okay. And how far around did you go?

23 A. We did the front side on Boulevard and the
24 backside on Plowden Mill Road. The side on the access road
25 was blocked by police patrol vehicles.

1 Q. Say that one more time. That last part.

2 A. The side on the access road, the northern side was
3 blocked by police vehicles.

4 Q. And once you -- it is a crazy question, but when
5 does your job end? And -- and I -- I don't mean that though,
6 but I mean, do you turn the scene over to somebody else?

7 A. Yes. A supervisor arrived on scene shortly after
8 the end of that. And just made sure all the -- everything
9 was taking place directly. That's when he told me to -- the
10 supervisor took control of the scene and I went and put-up
11 crime scene tape and other activities took place.

12 Q. What -- how long did you stay at the scene?

13 A. It was an hour plus. It was well over an hour.

14 Q. And after you put the crime scene tape up, who all
15 can go inside the crime scene tape?

16 A. Only people who are authorized and who are signed
17 into the crime scene log.

18 MR. MEADORS: I beg Court's indulgence.

19 THE COURT: Yes, sir.

20 BY MR. MEADORS:

21 Q. Now, at some point, does Mr. Gainey leave, the
22 gentleman in the black truck?

23 A. Yes, sir -- yes, sir.

24 MR. MEADORS: That's all we have. Thank you.

25 THE COURT: Mr. Barnes?

1 MR. BARNES: Thank you, your Honor. May it please the
2 Court?

3 THE COURT: Yes, sir.

4 CROSS-EXAMINATION

5 BY MR. BARNES:

6 Q. Corporal Salmon, did you -- did you ever instruct
7 Mr. Gainey -- James Gainey to stay at the scene?

8 A. No, sir.

9 MR. BARNES: Okay. That's all I have, your Honor.

10 THE COURT: Anything further, Mr. Meadors?

11 MR. MEADORS: No, ma'am. Thank you.

12 THE COURT: Thank you, sir. You can step down.

13 THE WITNESS: Thank you.

14 MR. MEADORS: I call Officer Kearney. Now, just so the
15 jury -- that if your Honor's (inaudible) three request takes
16 -- just takes a second to be -- the witness to be here.
17 Sorry.

18 THE BAILIFF: Officer Kearney. Place your left hand on
19 the Bible, raise your right hand. State your name.

20 MR. KEARNEY: James J. Kearney, IV.

21 OFFICER JAMES J. KEARNEY, IV,

22 being duly sworn, testified as follows:

23 THE BAILIFF: Thank you so much. You can sit down.
24 State your name for the record and spell your last name,
25 please.

1 authorized to do so just pedestrians that have been viewing,
2 potential witnesses, potential suspects, anything --

3 Q. You just take a picture of anything?

4 A. Yes, sir.

5 Q. And the surrounding area and the area? Okay.
6 Keep going. And what road is this?

7 A. Boulevard Road.

8 Q. Now, in this picture we see placards four, what --
9 and what can you read those?

10 A. Appears to be one and two.

11 Q. Okay. Keep going. Now, whose car is this? And I
12 point this. Were you able to identify whose car this was?

13 A. The Cadillac is the victim's car.

14 Q. Okay. Keep going, please. And there again is
15 placard five?

16 A. Yes, sir.

17 Q. All right. Keep going. Well, let's start at
18 five. What is placard five?

19 A. It's a cartridge casing. 380, caliber.

20 MR. MEADORS: Your Honor, with the Defense present this
21 is evidence that sealed by SLED. We're now going to ask
22 Officer Kearney, if you could un -- open it in front of the
23 Court.

24 BY MR. MEADORS:

25 Q. Are you able to identify which one of these is

1 placard five?

2 A. Yes, sir.

3 Q. And which one of them --

4 MR. MEADORS: I beg Court's indulgence.

5 MR. BARNES: Mr. Meadors, what number is this?

6 MR. MEADORS: I'm going to bring them to you.

7 MR. BARNES: Okay. Thank you.

8 MR. MEADORS: Thank you, Judge. Judge, now we're
9 offering and without objection, State's 9, 10, 11, 12, and
10 13.

11 MR. BARNES: No objection.

12 THE COURT: Okay. They're admitted.

13 (State's Exhibits 9 through 13 admitted into evidence.)

14 BY MR. MEADORS:

15 Q. Let's go to placard five now, you said that was
16 what?

17 A. Three -- a 380-auto casing.

18 MR. MEADORS: And in the picture that we're now showing
19 to the ladies and gentlemen that shell casing is number five?
20 Now, State's 14 without objection.

21 THE COURT: Okay.

22 MR. BARNES: No objection.

23 THE COURT: It is admitted.

24 (State's Exhibit 14 admitted into evidence.)

25 THE WITNESS: Yes, sir.

1 BY MR. MEADORS:

2 Q. So Number 9 --

3 A. Yes, sir.

4 Q. -- is number five. And where was that found?

5 A. In the parking lot between the victim's vehicle
6 and the fuel pumps in the corner of the building.

7 Q. Okay. Keep going, please. Again, is that another
8 picture of placard five, the 380 shell casing?

9 A. Yes, sir.

10 Q. Okay. Keep going, please. Do you know what
11 number that is in the picture we're on?

12 A. Six.

13 Q. Okay. Keep going. Can you look at the items that
14 are left in front of you, Officer, and tell us which one is
15 placard six?

16 A. Yes, sir.

17 Q. Okay. And that's number 10?

18 A. Yes, sir.

19 Q. What is number 10?

20 A. It's a 380-auto casing.

21 Q. 380-auto casing?

22 A. Yes, sir. Fired.

23 MR. MEADORS: Your Honor, State's 15 without objection.

24 MR. BARNES: No objection.

25 THE COURT: It's admitted.

1 (State's Exhibit 15 admitted into evidence.)

2 BY MR. MEADORS:

3 Q. The State's 10, State's 15. Is that the same
4 shell casing?

5 A. Yes, sir.

6 Q. Okay. Investigator, if you please keep going.
7 Okay. And do all these depict the backside of A&P Coastal?

8 A. Yes, sir.

9 Q. Okay. And you took all these pictures?

10 A. I did, sir.

11 Q. Okay. Now what -- is this -- where is this at
12 A&P?

13 A. It's the -- the backside of the business kind of
14 facing toward the victim's vehicle. It's near placard six.

15 Q Okay. So that's -- is that the side of the store?

16 A. Correct, sir. The Boulevard side.

17 Q. Boulevard side? Okay. Go ahead. Okay. Yes, sir
18 -- yes, sir. Okay. Keep going. Now, did you determine, you
19 said this was the victim's car, Michael Wilson?

20 A. Yes, sir.

21 Q. Okay. Go ahead. Now, let's stop you right there.
22 Well, go one more, see if it's the next one. What's number
23 three? Placard three?

24 A. It's a fired 9mm casing.

25 MR. MEADORS: State's 16 without Objection, your Honor.

1 MR. BARNES: No objection.

2 THE COURT: It's admitted.

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

4 BY MR. MEADORS:

5 Q. So State's 11, 9mm is, was collected from this
6 placard, number three?

7 A. Yes, sir.

8 Q. Number three is this one is Number -- Number 16 is
9 Number 11?

10 A. Yes, sir.

11 Q. Okay. And do -- do you kind of shoot out and come
12 in when you're taking these pictures?

13 A. I do, sir.

14 Q. Why?

15 A. Just to -- well, one gives you a wider-angle view
16 of the scene in the proximity of the item. Two, other items
17 on the scene and then go in a little bit closer, try and get
18 a better picture of the evidence itself and then tied in
19 where you don't really see much of any of the scene, but the
20 -- the main focus is the piece of evidence.

21 Q. Well, let's focus on number one, next. In the
22 picture we have. What is that? And that's -- for the
23 record, the one -- number one placard. How do you say it?
24 Placard? Placard?

25 A. Placard, sir.

1 Q. I'll go with placard.

2 A. Okay.

3 Q. Number one placard. What is that?

4 A. It's a fired 9mm cartridge.

5 MR. MEADORS: Okay. My 17 -- your Honor, 17 and 18
6 without objection.

7 THE COURT: They're admitted.

8 MR. BARNES: No objection.

9 (State's Exhibits 17 and 18 admitted into evidence.)

10 BY MR. MEADORS:

11 Q. Let's start with number one. Is number one,
12 Number 12?

13 A. Yes, sir.

14 Q. Okay. And that is a 9mm casing?

15 A. Yes, sir.

16 MR. BARNES: Mr. Meadors, so picture number 12 -- or
17 State's Number 12 is a picture of number one? Okay. And
18 what's that number? What? Okay?

19 BY MR. MEADORS:

20 Q. What's number four? Placard?

21 A. A blood stain.

22 Q. And you took a picture of that and -- and -- and
23 put the card next to it to signify that blood stain?

24 A. Yes, sir.

25 Q. Okay. Please, the next one. What do we see

1 depicted in this picture in State's 8?

2 A. The evidence markers for 1, 2, 3, and 4.

3 Q. And what is number two?

4 A. It's a fired 9mm cartridge.

5 Q. Would that be the one that's in front of you?

6 A. Yes, sir.

7 MR. MEADORS: And what number is that? Placard.

8 Casing number? Yeah. Go ahead. Fine. I'll -- I'll -- I'll
9 match. 19 without objection.

10 MR. BARNES: No objection.

11 THE COURT: It's admitted.

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

13 BY MR. MEADORS:

14 Q. Does 19 depict State's 13, which is a 9mm shell
15 casing?

16 A. Yes, sir.

17 Q. And who collected these?

18 A. I did, sir.

19 Q. You actually collected?

20 A. Yes, sir.

21 Q. Okay. Mr. Daniel, if you'd please go forward. Do
22 you know anything about that glove?

23 A. No, sir.

24 Q. Okay. Keep going. And was Mr. Michael Wilson
25 there when you got there?

1 A. No, sir.

2 MR. MEADORS: I beg Court's indulgence. 20, 21, 22, 23
3 without objection.

4 MR. BARNES: No objection.

5 THE COURT: They're admitted.

6 (State's Exhibits 20 through 23 admitted into evidence.)

7 BY MR. MEADORS:

8 Q. Do you have an occasion to look at the car that
9 they've been identified as the victim's, Michael Wilson?

10 A. I did, sir.

11 Q. Okay. And did you show in State's 23. Is that
12 the car?

13 A. Yes, sir.

14 Q. And State's 21, did you look in the trunk?

15 A. Yes, sir.

16 Q. State's 22 and State's 23. Did you look in the
17 cooler?

18 A. I did, sir. Yes, sir.

19 Q. All right. And what was in the cooler?

20 A. Beer and ice.

21 MR. MEADORS: I beg Court's indulgence.

22 MR. BARNES: I think it might be number 10, John.

23 MR. MEADORS: Okay. State's 24 without objection.

24 (State's Exhibit 24 admitted into evidence.)

25 BY MR. MEADORS:

1 Q. And your role in this case, the State versus
2 Rashad Harvin was what?

3 A. This particular case? I responded to the hospital
4 and took photographs of victim and then I also did, I
5 processed a vehicle that was the -- or the witness's vehicle
6 actually. And then I processed some items in our lab at the
7 -- the police department. Sorry.

8 Q. Did you have an occasion to look at the victim's
9 clothes?

10 A. Yes, I did.

11 Q. And you said earlier you went to the hospital, is
12 that where you had that taken?

13 A. I collected the clothes from the hospital and then
14 brought them back to the lab at the PD, and analyzed them
15 there and took photographs.

16 MR. MEADORS: I beg the Court's indulgence. Your
17 Honor, 25, 26, 27, 28, 29, and 30 without objection.

18 MR. BARNES: No objection.

19 THE COURT: They're admitted.

20 (State's Exhibits 25 through 30 admitted into evidence.)

21 BY MR. MEADORS:

22 Q. Now, you've got a box in front of you. What's in
23 that box?

24 A. I see. Let's see. We have a great many things in
25 this box --

1 Q. Well, I'm just --

2 A. -- including --

3 Q. -- looking here to see if the victim's clothes --

4 A. Okay.

5 Q. -- are in front of you.

6 A. Yes. The victim's clothes are in here.

7 Q. Can you pick them out for us, please? Put them
8 down there.

9 A. Do we have some gloves? Oh, so these (inaudible).

10 Q. Okay. Let me -- let me -- what you saying? Let
11 me mark these (inaudible) out.

12 A. Okay.

13 MR. MEADORS: Your Honor, 31, 32, and 33. Without
14 objection.

15 MR. BARNES: No objection.

16 THE COURT: They are admitted.

17 (State's Exhibits 31 through 33 admitted into evidence.)

18 BY MR. MEADORS:

19 Q. Now -- thank you. What is 32 is?

20 A. 32 says that's his boxers and his pants.

21 Q. His being Michael Wilson?

22 A. Michael Wilson's. Correct.

23 Q. What's 33?

24 A. 33 is the shirt and the jacket that Mr. Wilson was
25 wearing.

1 Q. And there is a shirt and jacket in the picture we
2 entered a minute ago?

3 A. I'm sorry, what was that?

4 Q. Pictures you just entered a minute ago. That's
5 the same shirt and jacket?

6 A. Yes, sir.

7 Q. Okay. State's 25. Whose shirt is that?

8 A. That is Mr. Wilson's.

9 Q. Okay. State's 26?

10 A. Also Mr. Wilson's, same shirt. That's the
11 backside of the shirt.

12 Q. Can you see a bullet hole on the backside of the
13 shirt? Did you hear my question? I'm sorry.

14 A. Oh, me? Yes. I see holes. There are multiple
15 holes, but one appeared to be a bullet hole.

16 Q. Based on your opinion?

17 A. Based on the fact that there was blood surrounding
18 it and what I saw at the hospital as well.

19 Q. That was my next question. State's 27?

20 A. That's a closer view of the bullet hole in the
21 shirt.

22 Q. Of Mr. Wilson?

23 A. Yes.

24 Q. State's 28?

25 A. That is the coat that he was wearing. It's inside

1 out.

2 Q. And why is it inside out?

3 A. I'm sure when the ambulance crew met up with him,
4 they got his clothes off of him as quickly as they could.
5 And that was the easiest way, was just pulling it off inside
6 out. And --

7 Q. What does that.

8 A. -- being that it's biohazard and covered and dried
9 blood. I didn't want to turn it back right way.

10 Q. Okay. So what does that depict and -- where my
11 finger is on 28?

12 A. That is a blood stain with a tiny bullet hole in
13 there or a bullet hole.

14 Q. And State's 29?

15 A. That is a closer view of the blood stain with a
16 hole.

17 Q. And I think finally 30?

18 A. 30 is the same picture basically, but with a scale
19 around it to show the size of the hole.

20 Q. These (inaudible)?

21 A. These are -- that's the boxers and the pants,
22 anyway.

23 Q. Let me share what's been admitted as State's 31.
24 What is that?

25 A. That is a number of lottery tickets. When I

1 emptied the pockets of the coat, there was some lottery
2 tickets in there that had been recently purchased.

3 Q. And I guess I want to ask you; do you see a time
4 on here when these lottery tickets were purchased?

5 A. Yes, sir. They were purchased Friday, May 8th at
6 1700. So 5:00 in the afternoon.

7 Q. 5:00?

8 A. Yes, sir.

9 Q. On what day?

10 A. May 8th. On Friday. I believe that's an 8. Yes.

11 MR. MEADORS: I beg Court's indulgence. Thank you.
12 That's all.

13 THE COURT: Mr. Barnes?

14 MR. BARNES: I beg the Court's indulgence. One minute.
15 Your Honor, may we approach?

16 THE COURT: Sure.

17 (Bench conference at 12:08 p.m.)

18 THE COURT: Okay. Ladies, gentlemen, I'm going to take
19 up a brief issue of law. I'm going to ask if you please
20 return to the jury room. Please don't begin deliberating
21 yet.

22 (Jury exits at 12:11 p.m.)

23 THE COURT: Okay. Mr. Barnes?

24 MR. BARNES: Yes, ma'am, your Honor. As I indicated,
25 your Honor, at the sidebar, I'd like to ask the witness what

1 knife, like anything else, which wouldn't be admissible. And
2 it is extremely prejudicial to the State.

3 MR. BARNES: What -- and no question but his character.

4 MR. MEADORS: More than probative, there's no evidence
5 whatsoever that this was a drug deal gone bad or a robbery.
6 For the first time -- well, I mentioned previously that there
7 might be some prior threat, but nothing about drugs
8 whatsoever.

9 So he is clearly ping the State trying to put the jury
10 down on the path on something he thinks right. He's got
11 drugs in his pocket. He was going to play his numbers and
12 drink beer that weekend. He wasn't selling drugs. He wasn't
13 selling drugs in. And no evidence that the Defendant knew he
14 was selling drugs.

15 MR. BARNES: Well, no evidence --

16 MR. MEADORS: No evidence that relates any to what
17 happened at 501 Boulevard that day whatsoever.

18 MR. BARNES: I mean, that's just it. We don't know
19 what he was doing with those drugs if he was just going to
20 drink beer and play the numbers. But he had a pocket full of
21 crack. And as I recall, it was in small baggies, like one --
22 like a person who was looking to sell it would have it
23 divided up.

24 MR. MEADORS: Which has nothing to do with this case.

25 THE COURT: I'm going to allow it because I do think

1 that it at least may have some potential relevancy as to who
2 shot first and -- and why. The testimony -- or the statement
3 that the Defendant gave was that he shot in the air and then
4 this person started shooting at him. And so, I think it
5 would potentially have some relevance as to a motive why the
6 victim might have returned fire or been the first person to
7 shoot. So I'm going to allow it.

8 MR. MEADORS: Would that be any different if it was
9 child pornography?

10 THE COURT: Yeah, I think it would be very different if
11 it was child pornography.

12 MR. MEADORS: There's no evidence he knew he had drugs
13 and that we're not sure even offering his statement.

14 THE COURT: Again, my -- my feeling is that it could be
15 relevant as to the issue of if you have a lot of money in
16 your pocket and you hear a gunfire.

17 MR. MEADORS: I -- I agree with that. I don't disagree
18 with the money. I just wonder if your Honor could -- and I
19 won't say anything else, I know you ruled, but could wait to
20 maybe see if that comes out down the road. Because right now
21 it's just down to drugs. Does anything but cast dispersion
22 on the victim?

23 THE COURT: Well -- again, is -- this is -- in -- in my
24 opinion, it's different from character evidence in that --

25 MR. MEADORS: I understand, but it's still -- the

1 relevancy. Just no...

2 THE COURT: I understand the State's position. I'm
3 going to allow it at this point.

4 MR. MEADORS: Can I go back? Because I -- I'm
5 surprised and I would've brought it out. I'm -- I'm -- that
6 it came out. Can I go back and ask her now? Since he hadn't
7 started?

8 THE COURT: Sure. Anything else we -- before we bring
9 the jury back in?

10 MR. MEADORS: I beg the Court's indulgence. And your
11 Honor has weighed the presidential effect of this on the
12 State versus the probative value?

13 THE COURT: Yes, sir.

14 MR. MEADORS: Okay. Thank you. I -- I -- I'm -- I'm
15 -- I'm resting. I'll let him bring up. That's all.

16 THE COURT: Okay. We're -- we are ready for the jury.

17 (Jury enters at 12:22 p.m.)

18 THE BAILIFF: Jury is all seated, your Honor.

19 BY MR. MEADORS:

20 Q. In addition to, did you find some money on the
21 Defendant?

22 A. Yes, I did, at the hospital.

23 Q. Okay. Did you find what appeared to be some drugs
24 on the -- on the victim? Excuse me. Strike that. On the
25 victim? My apologize.

1 A. I met the victim as well.

2 Q. How did you find what appeared to be some victims
3 on -- appeared to be some drugs on the victim?

4 A. Yes, sir.

5 Q. And did that appear to be field tested, crack
6 cocaine?

7 A. I took it to the lab, and I did do a field test on
8 it, and it tested positive to be a cocaine type of substance.

9 Q. That didn't have anything to do with this case,
10 did it?

11 A. It was in the victim's pocket. As far as beyond
12 that, I don't know the details.

13 Q. Wasn't visible. It was in his coat pocket, right?

14 A. It was in his coat pocket. Yes, sir.

15 MR. MEADORS: That's all. Thank you.

16 CROSS-EXAMINATION

17 BY MR. BARNES:

18 Q. Thank you. Detective Sergeant Snapp?

19 A. Hello, sir.

20 Q. I'm Jack Barnes, by the way. How much -- did you
21 count the money?

22 A. I gave it to the coroner at the hospital to
23 provide to the family. I didn't -- I don't remember if I
24 counted it or not.

25 Q. Okay. Was it like a few bills? Was it like a

1 roll?

2 A I know I had a photo of it in my hospital pictures. It
3 might have been like folded. It'd have been like that big --

4 Q. Okay.

5 A. -- ish.

6 Q. Okay. And do you recall -- did you get a weight
7 on the -- the cocaine or crack cocaine?

8 A. I don't say that I weighed it, but it was a -- it
9 was a baggie that might have been as big around as -- like, 2
10 inches or so. But then within that one baggie was a bunch of
11 tiny baggies, and there was 23 of those.

12 Q. And you were not at the A&P Coastal Mart when the
13 shooting took place, were you?

14 A. I was not. No.

15 Q. And so, you don't know whether any of that was
16 visible to the Defendant or anybody else at the Coastal Mart?

17 A. I do not know that.

18 MR. BARNES: Okay. Thank you. That's all I have, your
19 Honor.

20 MR. MEADORS: That's all we have for this witness.

21 THE COURT: Thank you, ma'am. You can step down.

22 THE WITNESS: Thank you.

23 MR. MEADORS: Okay. I'm sorry. My bad. This is
24 State's 34, State's 35, your Honor, without objection. It's
25 agreed between the parties, these or the clothes the

1 THE COURT: -- on the record.

2 MR. BARNES: Well, we just didn't want to get in a
3 situation of bringing them in and all of a sudden had to take
4 them out. So we just -- that was our thinking too. But we
5 just wanted to make sure you were good with all that.

6 THE COURT: I'm good with that.

7 MR. BARNES: Okay.

8 THE COURT: Okay. Ready for the jury.

9 (Jury enters at 2:18 p.m.)

10 THE BAILIFF: Jury is all seated, your Honor.

11 THE COURT: Thank you. Okay. Mr. Meadors?

12 MR. MEADORS: May it please the Court? Bruce Bennett,
13 please.

14 THE BAILIFF: Okay. Place your left hand on the Bible,
15 raise your right hand. State your name.

16 MR. BENNETT: Bruce Bennett.

17 BRUCE BENNETT,

18 being duly sworn, testified as follows:

19 THE BAILIFF: Thank you so much, sir. Step around.
20 State your name for the record, and spell your last name,
21 please.

22 THE WITNESS: Bruce Bennett, B-E-N-N-E-T-T.

23 DIRECT EXAMINATION

24 BY MR. MEADORS:

25 Q. Mr. Bennett, tell us about yourself. Where are

1 you from?

2 A. I live in Summerton, South Carolina.

3 Q. How long have you been in Summerton?

4 A. 22 years.

5 Q. And what do you do.

6 A. Do alarm work. Camera work.

7 Q. Say the first part. What?

8 A. Alarm systems. Camera systems.

9 Q. And who do you work for?

10 A. Myself.

11 Q. What's the name of your company?

12 A. Sunbelt Security.

13 Q. And tell us a little bit about your background and

14 training in -- in security alarms and all that stuff.

15 A. Well, back in the 90s I went to work for a

16 company, West Tech Security, got bought out by Edison.

17 Edison got bought out by ADT and that's when I decided to go

18 out on my own in 1999.

19 Q. What were you doing for them?

20 A. Sales and installs.

21 Q. Of?

22 A. Security. Yes, sir.

23 Q. So that's when you started on your own?

24 A. 1999.

25 Q. All right. And it's your business road?

1 A. Yes, sir.

2 Q. And tell us specifically who do you furnish or
3 what type of businesses or is it household or what?

4 A. Businesses, residential. I just left CNA
5 construction out here. We're doing their cameras now. Then
6 I'll be headed back over there when I'm done.

7 Q. Now, did you install cameras at -- at T & K here
8 in Sumter?

9 A. Yes, sir. For the second time.

10 Q. For the second time?

11 A. Yes, sir. When Mr. Tommy bought it, we just added
12 cameras and added cameras and his -- after he died, his
13 daughter took it over and she decided to scrap everything and
14 do all new cameras.

15 Q. All right. What is T & K? What is that business?

16 A. They do environmental tank restoration, take up
17 tanks out of the ground and dig up the dirt that's around gas
18 pumps and refine it and clean it.

19 Q. What's the big -- the big picture? Enhanced. And
20 when did you install cameras for the second time?

21 A. About a month before this incident.

22 Q. Okay.

23 A. Yes, sir.

24 Q. And how many cameras did you install at -- and
25 I've got T K Tank Services here.

1 A. Yes, sir.

2 Q. Is that it?

3 A. Yes, sir.

4 Q. Okay.

5 A. There's approximately 23 cameras on that property.
6 A lot of them are inside and on the backside.

7 Q. And after this incident on May 8, 2020, did law
8 enforcement contact you about reviewing your cameras?

9 A. Actually, Ms. Casey did. She called me and said
10 she thought she may have that on her footage and...

11 Q. And who is Ms. Casey?

12 A. She was the owner at the time. That would be
13 Tommy -- Tommy's daughter. She took it over after he died.
14 But in the industry, as far as people looking at their
15 footage, a lot of times you could show them a hundred times
16 and they'll never remember. So I went over there and
17 reviewed it and that's when we put it on the disc because she
18 had -- I told her to contact the police department and then
19 they asked me to come over to put it on a disc.

20 Q. All right. Ms. Casey, last name?

21 A. Newman.

22 Q. Newman. Okay. I'm sorry. That's my -- and --

23 A. She has since sold the business.

24 Q. Okay. Is there a lifespan for these camera
25 pictures? I mean, how long does -- does the camera -- before

1 these particular cameras, how long do they record?

2 A. It's all record on -- on their own. They record
3 on motion. So whenever that hard drive is full, the new
4 takes the old off. So it's a continuous record. So if you
5 have, say, a convenience store, you're going to have a lot of
6 movement. It's going to eat the hard drive faster, so you
7 have to have a larger hard drive to hold it.

8 So -- unless you have it set for continuous record.
9 That's the only way you can rate it out. But on motion, I
10 mean, there's cameras at that site that don't hardly get
11 anything, especially on that backside of the building. It
12 never records. Because There's -- you know, unless somebody
13 goes out that back gate with a truck or something.

14 Q. So it's not recording, you don't need to reuse it,
15 it just stays there to fills up?

16 A. It just -- yeah, it just stays there. All the
17 cameras collect data on that hard drive, so there's only so
18 much hard drive on there. So it may take frame rates from
19 this camera and none from this one. So it's a total of
20 everything. But once it gets full, it'll start eating off
21 the old and put it on the new.

22 Q. And you mentioned the term -- they're called frame
23 rate. What is that?

24 A. Frame rate is the amount of speed that a
25 particular NVR or DVR can record an event. Back when I first

1 started in this business, all we had was analog cameras. And
2 those were filmed at frame rates were lines per resolution.
3 Now, you're into megapixels. Megapixel cameras take twice as
4 much data on a hard drive for every square inch. That's a
5 megapixel.

6 So you may have a one megapixel that's 1 million dots
7 in a square inch. These are five-megapixel cameras. So it
8 eases up the hard drive even faster. But it's harder to put
9 on a hard drive because there's so much data coming that a
10 normal frame rate for you walking through this room is going
11 to be about 18 to 20 frame rates per second.

12 So on a five megapixel camera, if you were walking from
13 that side of the room to this side of the room, you're going
14 to have a -- a gap in there. Because It can only catch so
15 much walking through an event. So that's where you're going
16 to get a little bit of break. So then you're going to have a
17 break if you have them set on motion. I mean, it -- it's
18 only going to be triggered for motion.

19 Q. And -- and what were these cameras that you had at
20 the T & K set them?

21 A. Well these are five-megapixel cameras and they're
22 set on motion.

23 Q. Okay. And I think I followed everything you just
24 said and I know the jury did. When you say it set on motion,
25 I know what that means. But practically what does that mean?

1 A. If it's sitting here filming this room, it's going
2 to film you walking and when you stop, it's going to record
3 for five more seconds. That's where they're set at. You
4 have a pre and a post five seconds when you're moving, it'll
5 go back and pick up five seconds prior to you moving and five
6 seconds after then it's going to cut off until you move
7 again. And then it's going to start recording again.

8 So if you're still, it's not going to record it. Back
9 in the VHC days, when you were looking at footage, you had to
10 look at everything. Now, you can go to that DVR and where
11 camera one is, you'll see little yellow dots where there's
12 movement and you can just watch those yellow dots. You don't
13 have to sit there and look at this room empty 24 hours a day,
14 you know, to -- to find something.

15 Q. So -- so the...

16 A. So on these cameras, the event in that parking lot
17 is not what triggered the recording because it was too far
18 away. The car is going up and down that road is what
19 triggered the recording.

20 Q. I promise you that was going to be my question.

21 A. Okay.

22 Q. It really was.

23 Q. So -- so the camera is activated by the movement

24 --

25 A. Of objects.

1 Q. -- of cars in this case.

2 A. Right.

3 Q. Not necessarily movement in the parking lot?

4 A. No. They were too far away.

5 Q. And can you -- is any way to determine -- well,
6 the gaps on -- not necessarily ever be the same, right?

7 A. No, sir. Never.

8 Q. Because it's movement?

9 A. Right.

10 Q. And is that standard in the business?

11 A. It -- unless I get a customer that wants to pay
12 high, high, high dollar for stuff, that's pretty much going
13 to be what happens. You can go in and -- and -- I could go
14 in and put a two-megapixel camera in that will record a
15 little bit more. And then if a five megapixel goes in, you
16 can go in and change that bit rate to bring it back down so
17 it'll record.

18 So I'm telling myself, why would I want to sell a
19 customer a five megapixel camera when a two megapixel camera
20 do the same thing when I have to bring it down? So I
21 explained that to them. It's going to have a little gap in
22 it, but it's nothing like it was in the analog days.

23 Q. And -- and that T & K is not a governmental
24 entity, are they?

25 A. No, sir.

1 Q. I mean, it's a private business?

2 A. Yes, sir.

3 Q. So these cameras belonged to Ms. Casey at the
4 time?

5 A. Right.

6 Q. Okay. And then her insistence -- or she said,
7 "Hey, you all might want to look at this?"

8 A. When she called me, she said, "I think my cameras
9 may have picked that up." And like I said, customers don't
10 get into, like, to look at footage because it's so complex.
11 Hayward Moore down in Manon owns two convenience stores. I
12 bet you in the last five years I've gone over there five or
13 six times to get footage for those guys because They just
14 won't take time to learn how to look at the footage or put it
15 on a disc. Customers just call me and I go out.

16 MR. MEADORS: Your Honor, marking what's State's 36
17 without objection. If I can approach, please?

18 (State's Exhibit 36 admitted into evidence.)

19 BY MR. MEADORS:

20 Q. If you -- you don't mind keeping your voice up,
21 just so court reporter and jury can see. What is State's 36,
22 please?

23 A. That would be the property in question here, T K
24 Tank Service

25 Q. Show the jury, if you can, where T K is.

1 A. This is their main building, parking lot, garage
2 out at back. And the cameras that were recording were on
3 this side of the building.

4 Q. And I -- and I have a little -- can you hold that
5 up for me?

6 A. Yes, sir.

7 Q. Just real quick.

8 A. It's better known as the old Pepsi plant, if you
9 all know what the Pepsi plant was.

10 Q. That's better. But you use this again and let me
11 get out of the way. Show the folks again.

12 A. This is the main building, warehouse. The DVR
13 sits about right here in that building. The MVR sits about
14 right there. This is the garage out back, and the cameras
15 that were in -- that we -- that were recording mainly
16 recorded this driveway going here and this gate right here.
17 So that was the two that picked up. That car would've
18 triggered the camera system.

19 Q. This car?

20 A. That car would've.

21 Q. Okay.

22 A. It's big enough.

23 Q. So if we see a -- of -- of the video and then it's
24 a gap of 4, 5, 6 seconds, that means there was nothing to
25 trigger the camera then?

1 A. Right. Unless these bushes right here are moving,
2 these bushes have been known to trigger it to -- to record.

3 Q. But nothing inside, a person would've -- could've
4 triggered it?

5 A. When I looked at the footage, it was not -- it was
6 -- I mean, that's where the spots were coming from. Just...

7 Q. And you're sure out of the 23, 22 -- strike that.
8 Two of the cameras are what showed --

9 A. Yes.

10 Q. -- the incident location we're all here about
11 today?

12 A. Right in here. Yes, sir.

13 Q. And did you turn those over to law enforcement?

14 A. Yes, sir.

15 Q. Okay. And -- you've been spending a little bit of
16 time with Investigator Daniel Caulfield?

17 A. Yes, sir.

18 Q. I appreciate that. And when you dispute me, it's
19 State's 31, you provided an --

20 UNIDENTIFIED SPEAKER: 37.

21 BY MR. MEADORS:

22 Q. State's 37. You've reviewed the cameras and the
23 videos with Investigator Caulfield, correct?

24 A. Right.

25 Q. From T & K?

1 A. Right.

2 Q. And do they accurately reflect what was on that
3 camera?

4 A. Yes, sir.

5 MR. MEADORS: Okay. Your Honor, this time State's 37,
6 the original copy of the video from T & K provided by Mr.
7 Bennett to law enforcement.

8 MR. BARNES: Your Honor, subject to my objection
9 yesterday, I have, I guess, no further objection than that.

10 THE COURT: It is admitted and you're protected for the
11 record. It's admitted over your objection.

12 MR. BARNES: Thank you.

13 (State's Exhibit 37 admitted into evidence.)

14 MR. MEADORS: Your Honor, I think that's all I have.
15 Thank you

16 THE COURT: Mr. Barnes?

17 MR. BARNES: I don't have any questions for
18 Mr. Bennett.

19 THE COURT: Okay. Mr. Bennett, you can step down.
20 Thank you, sir. Ladies and gentlemen, our witnesses are
21 sequestered, which just means that they're not in the
22 courtroom until they come in to testify, which is why we have
23 a little lapse in time here. We've just got to send one out
24 and bring the next one in.

25 MR. MEADORS: State will now call one Samuel Hall.

1 THE BAILIFF: Sir -- sir, the book is up there. Okay.
2 Place your left hand on the Bible and raise your right hand.
3 State your name.

4 MR. HALL: Samuel Hall.

5 SAMUEL HALL,

6 being duly sworn, testified as follows:

7 THE BAILIFF: Thank you so much. Step around. State
8 your name for the record and spell your last name, please.
9 Speaking to the mic.

10 THE WITNESS: My name is Samuel Hall. My last name is
11 spelled H-A-L-L.

12 DIRECT EXAMINATION

13 BY MR. MEADORS:

14 Q. Samuel Hall.

15 A. Yes, sir.

16 Q. Tell us about yourself. Where are you from?

17 A. I'm from Nashville, Tennessee. I'm an audio video
18 specialist at the Regional Organized Crime Information
19 Center. I have been an AV specialist since August of 2021.

20 Q. What kind of specialist?

21 A. An audio video specialist. I've worked 70 to 80
22 cases a -- as of this date. I've undergone multiple
23 trainings for the position including level one law
24 enforcement and emergency services video association
25 training, which is the -- the industry standard certification

1 for the position. And I graduated from Tennessee
2 Technological University in 2019 with a Bachelor's of Science
3 in Physics and Minor mathematics.

4 Q. And after you got out of there, what'd you do?

5 A. I worked at the Tennessee Bureau Investigation in
6 the records and firearms background check unit. And then I
7 moved on to the Regional Organized Crime Information Spinner
8 -- Center, where I worked as an intelligence specialist for a
9 year.

10 Q. For who?

11 A. For the Regional Organized Crime Information
12 Center.

13 Q. And what do you call that? Short. What's the --

14 A. R-O-C-I-C.

15 Q. ROCIC?

16 A. Yes, sir.

17 Q. And what do you do for ROCIC?

18 A. As an audio video specialist, I clarify and
19 restore audio and video for police departments and
20 investigative agencies making the audio, and video evidence
21 clear and easier for officers, investigators to understand
22 and tell what's going on in the videos.

23 Q. And is it easier for others to look at it too, and
24 see? Not necessarily law enforcement?

25 A. Yes, sir -- yes, sir. Anybody, sir.

1 Q. And are you -- are you -- are you changing the
2 content at all --

3 A. No, sir.

4 Q. -- of the video you're enhancing?

5 A. No, sir.

6 Q. So what are you doing to it?

7 A. I'm making color adjustments. I am correcting the
8 focus of the camera lens. I'm sharpening the picture. I'm
9 doing a lot of things similar to what you might do on your
10 own television set whenever you adjust the picture or the
11 color settings. I do a lot of processing of files, for
12 instance, converting files and restoring them to a better
13 quality than they originally given to me at.

14 Q. But is the content changed as a result of your
15 work?

16 A. No, sir. The content does not.

17 Q. And you've worked on over 70 plus cases, you said?

18 A. Yes, sir.

19 Q. And how do you all get involved? Does law
20 enforcement contact ROSIC or?

21 A. Law enforcement contacts R-O-C-I-C, and they put
22 in an audio video request. I -- I get in touch with the
23 officer, and he will tell me what kind of evidence he has,
24 what he is trying to get from that evidence. And once I
25 gather that information from them, I collect the evidence and

1 begin processing it.

2 Q. And are you also experienced in the audio field as
3 really -- as well as the video?

4 A. Yes, sir.

5 MR. MEADORS: And at this time, we offer Samuel Hall as
6 an expert field of audio and video analysis.

7 MR. BARNES: No objection.

8 THE COURT: Okay. Ladies and gentlemen, normally a
9 witness is permitted only to testify about things that they
10 observe, they -- they heard, they saw, they touched, but --
11 and -- and they're not usually allowed to give opinion
12 testimony. But an exception to that is someone that we
13 qualify as an expert witness that they've gained some kind of
14 expertise in a certain field by virtue of education or
15 experience, or some combination of the two.

16 Once they've been qualified as an expert, it means they
17 are permitted to give opinion testimony. I find this
18 gentleman is qualified to give you that opinion testimony in
19 the field of audio-visual enhancement or evaluation. You can
20 give that testimony whatever weight you feel it's entitled
21 to. Thank you.

22 BY MR. MEADORS:

23 Q. How do you do it?

24 A. I begin by importing the -- or uploading the video
25 evidence into a software program called Amped FIVE, which is

1 basically the industry standard software. And I follow a
2 process that is guided by the training I've gotten through
3 the main certifying body for audio video work. And I -- I
4 let that guide me into the color adjustments. I make the
5 refocusing of the camera lens and any other type of
6 clarifications I might undertake while I'm processing the
7 video.

8 Q. For our purposes. And did you in this case,
9 receive the original video, I'll call it for our purposes, of
10 -- of the scene we're in question about? Did you receive
11 that from law enforcement?

12 A. Yes, sir.

13 Q. Okay. And you started playing that and reviewing
14 it, correct?

15 A. Yes, sir.

16 Q. And then specifically, what did you do to enhance
17 it?

18 A. I adjusted the color. This was after converting
19 the video to a form I could use. I adjusted the color, I
20 sharpened the image, and then I corrected the focus of the
21 camera lens in order to make it less blurry. Then I removed
22 some background interference, and that was essentially the
23 extent. And I also corrected the frame rate, I believe.

24 Q. So what did you do -- how many cameras did you
25 deal with?

1 A. I dealt with, I believe, seven.

2 MR. MEADORS: And I beg the Court's indulgence.

3 BY MR. MEADORS:

4 Q. What does "remove background interference" mean?

5 A. Occasionally, there will be electrical
6 interference that is added to the video that tends to distort
7 it. I -- I use a filter, basically, to remove that and clean
8 the image up.

9 Q. And again, does that change the content?

10 A. No, sir. Most likely you would not notice it.

11 MR. MEADORS: I beg the Court's indulgence. Your
12 Honor, for the record, 37 has the original videos from A&P
13 and T & K, and I thought they were on separate ones, but I've
14 been corrected, not Investigator Caulfield. So 37 would
15 include both of those, which is without objection.

16 MR. BARNES: Well, it's subject to my objection from
17 yesterday.

18 MR. MEADORS: I'm sorry. I apologize.

19 THE COURT: Okay. I understand.

20 MR. MEADORS: Your Honor, we're now going to, I
21 believe, publish the T & K enhanced version and let you show
22 us what you did.

23 BY MR. MEADORS:

24 Q. Did you do that?

25 A. Yes, sir.

1 THE COURT: And has that been --

2 UNIDENTIFIED SPEAKER: That's Number 5.

3 THE COURT: -- marked. I know 37 was the -- the --

4 MR. MEADORS: It's Number 5, your Honor. I believe it
5 was marked for ID yesterday and we would now offer it, your
6 Honor.

7 MR. BARNES: And again, subject to my objection from
8 yesterday.

9 THE COURT: Yes, it is admitted. And you're protected,
10 for the record, Mr. Barnes.

11 (State's Exhibit 5 admitted into evidence.)

12 MR. MEADORS: Your Honor, I'm going to ask Investigator
13 Caulfield to publish this from the beginning.

14 THE COURT: I don't think his monitor is on. I don't
15 believe Mr. Hall's monitor is on.

16 THE BAILIFF: Oh, I'm sorry, your Honor.

17 (Video starts at 2:49:18 p.m.)

18 (Video stops at 2:50:03 p.m.)

19 BY MR. MEADORS:

20 Q. Are you familiar with this?

21 A. Yes, sir.

22 Q. And is this the enhanced -- this is after you have
23 analyzed the video and enhanced it?

24 A. Yes, sir.

25 (Video starts at 2:50:13 p.m.)

1 (Video stops at 2:53:09 p.m.)

2 BY MR. MEADORS:

3 Q. That was one of the angle -- camera views from
4 T & K. There was another camera view that you enhanced,
5 correct?

6 A. Correct, sir.

7 Q. Okay. We're going to publish that now. If you
8 keep looking at your monitor.

9 (Video starts at 2:53:18 p.m.)

10 (Video stops at 3:09:12 p.m.)

11 BY MR. MEADORS:

12 Q. Now, is that what you enhanced?

13 A. Yes, sir.

14 Q. I'm going to ask Investigator Caufield to just
15 play a brief portion of the original video that was sent to
16 you of that same camera angle, okay?

17 A. Yes, sir.

18 MR. MEADORS: And I believe that is State's 37, already
19 in evidence, your Honor.

20 (Video starts at 3:09:28 p.m.)

21 (Video stops at 3:10:26 p.m.)

22 BY MR. MEADORS:

23 Q. Mr. Hall, it's the video now, State's 37 I
24 believe, that's what you enhanced?

25 A. Yes, sir. This --

1 Q. Oh, we just watched the video, an enhanced version
2 of what we're looking at now?

3 A. Yes, sir. That's correct.

4 Q. So it's just like an up close view?

5 A. Essentially. Yes, sir.

6 Q. Okay. And it's clear?

7 A. Yes, sir.

8 Q. Did you change the content of all -- at all, of
9 what's on that video we're looking at now?

10 A. No, sir. What I did was resize the video, focus
11 it in -- on the scene, and adjust the color levels.

12 Q. And both of these videos are now in evidence. The
13 original you saw -- you saw initially, and then the advanced
14 version you sent back to law enforcement, correct?

15 A. Yes, sir. That's correct.

16 MR. MEADORS: That's good. Let's go back.

17 (Video starts at 3:11:10 p.m.)

18 (Video stops at 3:11:42 p.m.)

19 MR. MEADORS: Your Honor, this is 38, 39, and 40, the
20 enhanced A&P video. The original A&P video is already in, in
21 State's 37, along with the T & K originals. All right.

22 THE COURT: So, I'm sorry, tell me what 30 --

23 MR. MEADORS: 38, 39, and 40 without objection.

24 THE COURT: And these are?

25 MR. MEADORS: The enhanced video of the cameras from

1 A&P Coastal Mart.

2 THE COURT: Got you.

3 (State's Exhibits 38 through 40 admitted into evidence.)

4 MR. MEADORS: And again, for the record, 37 and the
5 original from A&P Coastal Mart: Three cameras, and the two
6 cameras from T & K.

7 BY MR. MEADORS:

8 Q. The cameras that you enhanced from A&P, they were
9 already closeup shots. Is that fair to say?

10 A. Yes, sir. They were.

11 Q. So these were just making it a little clearer?

12 A. They -- they're making them clear and increasing
13 the resolution by making the videos bigger.

14 Q. But again, the same -- the picture is the same?

15 A. Yes, sir.

16 Q. And was this another camera view from A&P Coastal
17 Mart?

18 A. Yes, sir. It was.

19 Q. And I believe there was one other camera angle
20 that you enhanced from A&P video, if I'm not mistaken?

21 A. Yes, sir. That's correct.

22 Q. Have you -- you ever been to A&P Coastal? You've
23 never been there in person?

24 A. No, sir. I've never been there in person.

25 (Video starts at 3:14:18 p.m.)

1 (Video stops at 3:27:05 p.m.)

2 BY MR. MEADORS:

3 Q. So those are the three cameras that you enhanced
4 from A&P?

5 A. Yes, sir.

6 Q. And you mentioned earlier, again, that you enhance
7 it. Did you say something about the timing you tried to work
8 on that or the format, did you say that earlier?

9 A. I changed the frame rate, sir, because if I recall
10 correctly, the timing was slowed down on the original videos.
11 So I corrected the frame rate by looking at -- essentially,
12 how many frames needed for one second to occur on the
13 timestamp. And I corrected that. So it would be -- it would
14 appear as it did in real time.

15 Q. And if this is a motion camera, you're still going
16 to have times where it's just skipping, correct?

17 A. Correct.

18 Q. Okay. You can't correct that, can you?

19 A. You cannot correct the -- the missing video.

20 Q. You can't put video there that isn't there?

21 A. I don't.

22 Q. Okay. I'm not saying you did, but you can't do
23 that? And you didn't do that in this case?

24 A. No, sir. That -- that evidence that -- that is
25 ire-recoverable. Because it -- it was -- it is never written

1 by the recording device.

2 Q. It's never recorded to start with?

3 A. Correct.

4 MR. MEADORS: Okay. I beg the Court's indulgence.

5 THE COURT: Uh-huh.

6 MR. MEADORS: Thank you.

7 MR. BARNES: Thank you. May it please the Court?

8 THE COURT: Yes, sir.

9 CROSS-EXAMINATION

10 BY MR. BARNES:

11 Q. Mr. Hall, my name is Jack Barnes and I represent
12 the Defendant in this case. Mr. Bennett, who was the witness
13 right before you testified that there generally are two kinds
14 of videos of continuous and a motion triggered or motion
15 sensitive camera. In this particular instance, those last
16 videos that we looked at, those were continuous videos,
17 correct?

18 A. I believe so.

19 Q. Okay. And the -- the two videos from across the
20 street, those were motion triggered?

21 A. It -- it appears they were.

22 Q. Okay. And that's why there are gaps in time and
23 you don't see certain things, correct?

24 A. Yes, sir.

25 Q. Okay. So -- I understand that you changed the

1 frame rate so that it would appear to be real time?

2 A. Correct.

3 Q. So then the video as enhanced from across the
4 street, the motion sensor ones -- well, let me start over.
5 Or the three -- the last three videos that we looked at, the
6 ones from the A&P, were those -- did you adjust the frame
7 rate on those two?

8 A. Yes, sir. I -- I did, because I merged them into
9 a multi-view video, and I needed to have the frame rates to
10 be the same for each of those in order to do that.

11 Q. Okay. So I assume two of them were adjusted so
12 that they matched the third, is that correct?

13 A. Correct. But the -- the original frame rates on
14 those would've been off by a -- a fraction of a second. They
15 -- they -- for all intents and purposes are the same, but
16 their number value is slightly different in the decimal
17 place, far off in the decimal place. But the computer still
18 needs you to set them to the same rate in order for this to
19 work.

20 Q. Okay. And -- and that's because in those
21 particular three videos they were continuous, right?

22 A. Correct.

23 Q. Okay. And with the motion trigger, the two from
24 across the street that we looked at, those were the ones that
25 you had to do -- would you agree with any substantial changes

1 to the frame rate to make it look real time?

2 A. I believe they were about 30 percent, one-third,
3 of real time speed, if I recall correctly.

4 Q. Okay. And so -- what -- what -- so -- so you've
5 essentially changed them so that the actual time in which
6 things are happening is no longer accurate, is that correct?

7 A. No, sir. That's not correct.

8 Q. Okay. Explain to me why it's not.

9 A. Because I've gone in and restored the image as it
10 actually happened by correcting something that -- a setting
11 that the camera has placed on it.

12 Q. Okay. But by doing that, you indicated to -- to
13 Mr. Meadors that you can't supply the missing information to
14 the videos even if you adjust to real time, correct?

15 A. Well, I was adjusting information that was already
16 there. I -- I -- there what I was explaining was that
17 there's no way to recover the -- the footage that the camera
18 doesn't record. As far as the correcting of the frame rate
19 goes, I was simply correcting a setting that the computer
20 system had been put on. So it would not be sped up or slowed
21 down, but it would give more accurate presentation of what
22 actually occurred at the scene.

23 Q. Okay. Well, when you actually look at this video
24 and you're watching it and you see those jumps in time and --
25 and you actually watch the camera, let's just say, for

1 example, you'll see it go 1, 2, 3, 4, 5, 10, 11, 12, 20. And
2 that's because in those gaps of time the camera's not
3 recording, correct?

4 A. Correct.

5 Q. So when you enhanced the video to put it in real
6 time, even with these gaps, it makes it appear that all this
7 stuff is sequential when it really is not sequential,
8 correct?

9 A. Correct. That's certain -- that's how it -- it is
10 originally recorded. It doesn't -- it doesn't pause the
11 video and lets you know that there's a gap there. It just
12 moves from what it finishes recording to what it then starts
13 recording without any time in between.

14 Q. So if this jury were to look at that video and
15 they were to see -- let's say, my client pointing a gun at
16 the victim in this case, and then there were -- there was a
17 gap in time of -- say, seven or eight seconds, even though it
18 appears when we pick the camera back up eight seconds later
19 that those things are happening back-to-back. We don't know
20 what happened in that eight seconds, do we?

21 A. Well, if the footage isn't there, it's not there
22 and you don't know what happened.

23 Q. So -- okay. We don't know what happened. Did you
24 have to make any kind of calculation of -- or is it even
25 possible to make a calculation of how much time is missing on

1 the video? Let's say -- let's say the video was on for one
2 hour, but it only is activated with motion. Is there any way
3 to calculate during that one -- or one hour period of time,
4 how much of it is not actually recorded? How many minutes of
5 that hour are not recorded?

6 A. Assuming the clock is set correctly, I suppose you
7 could essentially go in by hand and count the intervals and
8 then add them up.

9 Q. Okay.

10 A. If the clock is correct.

11 MR. BARNES: Okay -- okay. Thank you. That's all I
12 have.

13 RE-DIRECT EXAMINATION

14 BY MR. MEADORS:

15 Q. The picture that you enhanced, it's the same
16 picture that was on the original video you got, right?

17 A. Yes, sir.

18 Q. There's no question about that?

19 A. It -- it displays essentially the same thing other
20 than color adjustments and refocusing the camera lens and
21 sharpening.

22 Q. Same missing segments on the first one or still
23 missing on this?

24 A. Yes, sir.

25 MR. MEADORS: In the enhanced, you mentioned something

1 that they asked you to put three together and you provide...

2 I beg the Court's indulgence.

3 THE COURT: Yes, sir.

4 BY MR. MEADORS:

5 Q. But just for these. Mr. Barnes asked you about
6 from A&P cameras. You put all those three cameras on one
7 screen?

8 A. Yes, sir.

9 Q. That we provided that. Is that what he was asking
10 you about?

11 A. I believe so.

12 Q. All those you put -- kind of put in the same time
13 --

14 A. Right.

15 Q. -- so you can see three different cameras at the
16 same time?

17 A. Right. When I -- I was discussing changing the
18 frame rate. Yes, sir.

19 MR. MEADORS: That's all I have.

20 RE-CROSS EXAMINATION

21 BY MR. BARNES:

22 Q. I don't want to belabor this, but (inaudible).
23 With the three that you put together. You said basically
24 those were real time anyway, right?

25 A. Yes, sir.

1 Q. Okay. So those -- that's not really an issue with
2 regard to the timing of those because they're basically real
3 time and you had to make, I think you said, 0.0 something of
4 seconds or whatever, but they're basically real time because
5 it's a continuous video, correct?

6 A. Correct.

7 Q. But in fact, the enhanced videos of the ones from
8 T & K, you say they're the same except for increasing the
9 resolution and changing the color. But importantly, you also
10 changed the way it looks in terms of the time. So it's not
11 the same, is it? We haven't just tweaked the color; we've
12 actually changed what we're looking at?

13 A. You. You're referring to the change in the frame
14 rate?

15 Q. Yes, sir.

16 A. If you call -- if you'd like to label speeding up
17 or slowing something down changing it, then I -- I guess so.

18 MR. BARNES: Okay. That's all I have. Thank you.

19 MR. MEADORS: It is what it is though, right?

20 THE WITNESS: Well, the --

21 THE COURT: Okay. We've had direct, cross, re-
22 directed, re-cross. You can sit down, sir. Ladies and
23 gentlemen, let's take about 10 minutes, let -- since you've
24 been sitting watching video for a little while. I -- I know
25 I'd like to stretch my legs a little bit. Let's give about

1 10-minute break. Please don't begin discussing the case.

2 (Jury exits at 3:41 p.m.)

3 THE COURT: All right. Let's stand down a few minutes.

4 (Off the record at 3:41 p.m.)

5 (On the record at 3:53 p.m.)

6 THE COURT: We ready for the jury? Let's bring them
7 all in.

8 THE BAILIFF: Okay.

9 (Jury enters at 3:58 p.m.)

10 THE BAILIFF: Jury is all seated, your Honor.

11 THE COURT: Thank you. Mr. Meadors?

12 MR. MEADORS: Thank you. State will call Larry
13 Harrison.

14 THE COURT: Come on up, Mr. Harrison.

15 THE BAILIFF: Place your left hand on the Bible, raise
16 your right hand. State your name.

17 LARRY EDWARD HARRISON,

18 being duly sworn, testified as follows:

19 THE BAILIFF: Thank you. Step around, please. State
20 your name for the record and spell your last name, please.

21 THE WITNESS: Larry -- Larry Edward Harrison,
22 H-A-R-R-I-S-O-N.

23 DIRECT EXAMINATION

24 BY MR. MEADORS:

25 Q. Good afternoon, Mr. Harrison.

1 A. Afternoon.

2 Q. I just ask that you speak into that microphone.

3 So the court reporter and these ladies and gentlemen, this
4 jury, can --

5 A. Yes, sir.

6 Q. -- hear you well, sir. As I do with every
7 witness, tell these folks about yourself, Mr. Harrison, where
8 are you from?

9 A. I'm from Louisiana. I am, but I moved up here
10 about seven years ago off of the Boulevard. I went to East
11 Clarendon High School. I worked at Southern Clarendon for 33
12 years. I retired in 2010, and now I just do a -- I do lawn
13 service.

14 Q. So you're born and raised in Louisiana?

15 A. Yes, sir.

16 Q. Went to East Clarendon?

17 A. Yes, sir.

18 Q. About 1980, and did 33 years in what business?

19 A. Seven-quarter making paint, I did 20 making paint,
20 and 13 driving trucks.

21 Q. And you stopped that in 20- when?

22 A. Sir?

23 Q. When did you stop doing that?

24 A. I stopped doing that in 2010.

25 Q. And -- and you live off the Boulevard?

1 A. Yes, sir. Used to. Yes, sir.

2 Q. Do you have your favorite, they call them
3 convenience stores, but do you have your favorite convenience
4 stores?

5 A. Yes, sir.

6 Q. And in May of 2020, where was that?

7 A. A&P on the Boulevard. We call -- we called it
8 camp (ph) -- camp store.

9 Q. Why do we call it -- why do you call it "camp
10 store?"

11 A. Well, I had known it -- (inaudible) but I know
12 camp.

13 Q. Okay.

14 A. And we all had called it camp store.

15 Q. So if you go into the store to get some whatever,
16 that's where you're going?

17 A. Yes, sir.

18 Q. How many times a week would you go?

19 A. I was so through there probably about -- about --
20 most about six days because I stopped getting my gas and I
21 gas up there.

22 Q. That's your store?

23 A. Yes, sir.

24 Q. And you live near there today?

25 A. Yes, sir. I live right -- right down the street

1 on the Boulevard.

2 Q. Okay. And we'll take you back now, and -- through
3 some video in a minute to May 8, 2020. What we're all here
4 about today, Mr. Harrison.

5 A. Yes, sir.

6 Q. Do you remember this event?

7 A. Yes, sir.

8 Q. In May 8, 2020, do you know what you were doing
9 that day?

10 A. Yes, sir. I've been cutting grass that day and
11 after I get up, I stop at -- at camp store.

12 Q. What time was that?

13 A. Around 5:30 or 6:00 -- or 6:00. I'll stop and
14 cash my check.

15 Q. And let me ask you that. So A&P, camp store, they
16 cashed your check?

17 A. Yes, sir.

18 Q. They charge you something?

19 A. They charge a dollar, sometimes two or three,
20 depending on the amount.

21 Q. So you've been doing that for a while? Cashing a
22 check?

23 A. Yes, sir. I've cashed my check there for a while.

24 Q. And -- and do you have a -- you got your own
25 parking place, is it a place you usually park there?

1 A. Yes, sir.

2 Q. And where do you usually park?

3 A. I usually park -- because more time when I come, I
4 get gas, but that particular day I parked on the side. I
5 come in off of Plowden Mill.

6 Q. Okay. And what kind of vehicle were you in,
7 Mr. Harrison?

8 A. I've been in a black SUV.

9 Q. Is that your car?

10 A. Yes, sir.

11 Q. After you arrived at an A&P or Camps -- as you
12 know it, what'd you do?

13 A. After I arrived there, I saw Mike, and me and Mike
14 start talking because he had put some rim and duals on his
15 Cadillac.

16 Q. Say that again, about the rim?

17 A. I said Mike had put some rim and -- and some
18 square dual pipe on the back of his car because we -- me and
19 Mike, we been in the same car club.

20 Q. And what club is that?

21 A. It's a Rolls-Royce car club. We -- we just was
22 just -- just been getting it started.

23 Q. The club was a Cadillac club?

24 A. The Cadillac club. We renamed it Rolls-Royce.

25 Q. Look at State's -- what's been marked -- entered

1 as 23. Is that what you're talking about?

2 A. Yes. That's Mike's car.

3 Q. And that's Mike Wilson that we're here all about
4 today?

5 A. Yes.

6 Q. And you were discussing his car, his rims?

7 A. His rim. Yes, sir.

8 Q. So you knew Mike by name in sight?

9 A. Yes -- yes.

10 Q. And after you greeted him, what did you all do?

11 A. We started talking about the car, then I asked him
12 to cut my hair. So we -- so we walked in and Mike let me --
13 went first to cash my check because he's been playing his
14 lottery.

15 Q. Was he a barber?

16 A. Yes, he been a barber because he cut my hair.

17 Q. Where would he cut it? Did you have a shop?

18 A. He -- he had a shop but back during the pandemic,
19 so Mike walked -- came over to my -- to my house and cut it.

20 Q. Did you discuss with him about getting a haircut
21 that Friday, May 8th?

22 A. Yes. I planned one time that Saturday and got my
23 hair cut.

24 Q. So your plan was to see him the day after this to
25 get a haircut?

1 A. Yes, sir.

2 Q. Did you walk inside A&P with him or Camps with
3 him?

4 A. Yes, we walked in together.

5 Q. And you cashed your check?

6 A. Yes, sir.

7 Q. Did you get anything else?

8 A. No, sir. I -- I just cashed my check, and then me
9 and Mike were just talking.

10 Q. And did -- what did he -- you said he played his
11 card, the numbers, what -- did he do anything else?

12 A. Yes, sir. He played -- he played his number. He
13 played by \$8, the number, and he got a case of beer and a bag
14 of ice.

15 Q. And you were inside when he did that?

16 A. Yes, sir.

17 Q. What happened after that?

18 A. After that, we walked -- continued to walk back on
19 the outside to Mike's car.

20 Q. Then what happened?

21 A. Mike opened the trunk and I -- I dumped the beer
22 in the cooler and dumped the ice. I don't drink, so Mike
23 gave me a Gatorade, so we talked some more, and I told Mike
24 -- I gave him a fist bump, and I told him I would see him
25 Saturday.

1 Q. Okay. And what'd you do?

2 A. Then I -- I was standing there -- was to walk to
3 my truck. I've been turning the left go back on the
4 Boulevard. As I drove off, that's when I heard gunshot ring.

5 Q. And had you seen the other individual in the
6 parking lot prior to you leaving?

7 A. Yes -- yes.

8 Q. Can you describe that person?

9 A. That person had a red pair of sneakers, red and
10 white sneaker, red and white -- a red white shirt with a long
11 strap band -- a long strap band down the sleeve.

12 Q. Can you describe what that person was doing?

13 A. He been kind of pacing back and forth because as
14 I've been -- we've been cashing my check. He came to the
15 one-on-one time -- he ducked back and went -- startled over
16 by the gas pump off of the Boulevard.

17 Q. So you had noticed this individual before you
18 left?

19 A. Yes.

20 Q. What was the weather like?

21 A. It was sunny. It had been nice and warm.

22 Q. It was May 8, 2020?

23 A. Yes, sir.

24 Q. Did this individual -- what was he wearing?

25 A. He's wearing a red and white jump suit. A white

1 -- this -- the coat's been white with a red strap down on it.

2 Q. And was his face covered up?

3 A. No, sir. His face wasn't covered up.

4 Q. Then when you were leaving?

5 A. I was leaving, I saw him throw his hood on top of
6 his head. And was walking towards Mike.

7 Q. And which way were you going out on the Boulevard?

8 A. I would say I was going -- like, we facing here,
9 I've been making a left, going down the Boulevard back to --
10 I would say Lemira School. That Lemira School.

11 Q. Is that the way you'd go to your house?

12 A. That's the way I go home. Yes, sir.

13 Q. Okay. Now, we're now going to play State's 5
14 which includes camera angle 20 from T & K, just across A&P
15 also known as Camps. Is your monitor on, Mr. Harrison?

16 A. Yes, sir.

17 (Video starts at 4:06:24 p.m.)

18 (Video stops at 4:06:43 p.m.)

19 BY MR. MEADORS:

20 Q. If you look up at the top, you see 15:55:31. You
21 see that? This is for reference.

22 A. Yes, sir.

23 Q. You were already off -- you had already got your
24 paycheck? Was there to cash it, correct?

25 A. Yes, sir.

1 Q. And Mike had bought some lottery tickets, you
2 said?

3 A. Yes, sir.

4 (Video starts at 4:07:07 p.m.)

5 (Video stops at 4:07:34 p.m.)

6 BY MR. MEADORS:

7 Q. Okay. Got it. You see your truck coming in here?

8 A. Yes, sir.

9 Q. At 15:55:33?

10 A. Yes, sir.

11 Q. That's your -- you right there?

12 A. Yes, sir.

13 (Video starts at 4:08:10 p.m.)

14 (Video stops at 4:08:36 p.m.)

15 BY MR. MEADORS:

16 Q. Who was that walking toward the A&P?

17 A. Me and Mike.

18 Q. Okay. Go back with that, please. Just back to
19 when you -- when did you first see Mike?

20 A. When I first -- when I first pulled up, I saw him
21 walking from his car.

22 Q. Go back a little bit before.

23 (Video starts 4:08:54 p.m.)

24 BY MR. MEADORS:

25 Q. Okay. Stop. Is that you greeting Mike?

1 A. Yes, sir.

2 Q. Okay. Keep going. You all -- you pointed towards
3 your car there, you talking about the rim?

4 A. Talking about the rim.

5 Q. His car?

6 A. Yes, sir.

7 Q. Is that the two of you all going inside?

8 A. Yes, sir.

9 Q. Had you noticed the individual you described
10 earlier with the white top and red bottoms at this point?

11 A. Yes, sir. I bring the sides. The stall but --
12 yes, sir.

13 Q. Did you see that person depicted in here?

14 A. You could barely see him behind that pickup truck
15 back over there in the corner.

16 Q. Right there?

17 A. Yes, sir.

18 Q. What appeared to you he's doing?

19 A. He just been -- he just been standing around. He
20 wasn't saying nothing to nobody.

21 Q. (Inaudible)?

22 A. Probably we were cashing the check, and we were --
23 Mike probably paying his lottery.

24 Q. Describe his mood right now, Michael Wilson's.

25 A. Talking. We -- we talking, joking, you know,

1 teasing, having fun.

2 Q. Had you already moved your car?

3 A. No, sir. I didn't -- I didn't come out -- I
4 didn't come to move it.

5 Q. But prior just seeing you, you hadn't already
6 moved your car yet?

7 A. No, sir.

8 Q. Okay.

9 A. No, sir.

10 Q. Mr. Harrison, who's this fella right here?

11 A. Right there, I don't know that's -- who that fella
12 is. That -- the guy on that the air pump?

13 Q. Yes, sir.

14 A. That's the air pump.

15 Q. That 13 seconds. I want you to look at the front
16 door and see if you recognize yourself.

17 A. I guess that -- that's me coming out.

18 Q. Where's you?

19 A. Right there in -- in the -- right there at the
20 door.

21 Q. Talking to a fella?

22 A. Yeah. Talking -- I'm talking to a fella.

23 Q. Friday afternoon?

24 A. Friday afternoon. So that's me walking away and
25 now I go get ready to get in my truck to move my truck so the

1 young lady could park there.

2 MR. MEADORS: Explain that to us. Stop there real
3 quick.

4 (Video stops at 4:15:06 p.m.)

5 BY MR. MEADORS:

6 Q. You doing what now?

7 A. I came to move -- move my -- my vehicle out of the
8 way because the young lady that worked there, her -- loved to
9 parked right there where I parked hers.

10 Q. So you and hers space?

11 A. I mean, her space. Yes, sir.

12 Q. Okay. You were asked to move so she could go
13 park?

14 A. Yeah. Yes, sir.

15 MR. MEADORS: Keep on going.

16 (Video starts at 4:15:19 p.m.)

17 BY MR. MEADORS:

18 Q. Whose car is that, that's moving now, that she
19 moved over there?

20 A. That's the young lady waiting on her park.

21 Q. She's moving to where you are?

22 A. Yes, sir.

23 Q. Does she work there?

24 A. Works there. Yes, sir.

25 Q. She works. Who's that walking back across?

1 A. Me.

2 Q. Where are you going?

3 A. I'm going back inside the -- inside the store.

4 Q. Were you upset about anything, Mr. Harrison?

5 A. No, sir.

6 Q. Mr. Wilson? I'm sorry.

7 A. No, sir.

8 Q. So you're talking, everybody just enjoying a
9 Friday?

10 A. Just enjoying the Friday.

11 Q. The person you described earlier; you still see
12 him in there in the store?

13 A. Yes, sir.

14 MR. MEADORS: Let me stop you right here.

15 (Video stops at 4:17:27 p.m.)

16 BY MR. MEADORS:

17 Q. Who is this coming across back this way?

18 A. Across this way right here?

19 Q. Right there. Okay. Back. Okay. Is -- is this
20 you?

21 A. That's me right there.

22 (Video starts at 4:17:43 p.m.)

23 BY MR. MEADORS:

24 Q. Who was that walking there?

25 A. Me -- it'd be me and Mike.

1 MR. MEADORS: Just stop there, please.

2 (Video stops at 4:17:57 p.m.)

3 BY MR. MEADORS:

4 Q. Is this Mike?

5 A. That's Mike. Right. Yes, sir.

6 Q. Okay.

7 A. And I'm back -- back at -- about to come over
8 there to tell Mike.

9 Q. What's Mike carrying?

10 A. Him carrying a bag of ice and a case of beer.

11 Q. Brand?

12 A. Bud Light and a bag of ice.

13 (Video starts at 4:18:18 p.m.)

14 MR. MEADORS: Stop here -- right there.

15 (Video stops at 4:18:35 p.m.)

16 BY MR. MEADORS:

17 Q. Is this fellow, the same fellow you described
18 earlier in the white and red?

19 A. Yes.

20 Q. What did he do as you all walking over there?

21 A. He -- he -- he was standing away from us. He was
22 standing away from us.

23 Q. And he starts approaching that way as you all
24 waiting that way?

25 A. Yes.

1 MR. BARNES: Objection. Leading.

2 THE COURT: That's sustained.

3 BY MR. MEADORS:

4 Q. What did he do?

5 A. Just was standing there.

6 MR. MEADORS: Keep going.

7 (Video starts at 4:18:59 p.m.)

8 MR. MEADORS: Where -- stop right there.

9 (Video stops at 4:19:06 p.m.)

10 BY MR. MEADORS:

11 Q. Where did you go now? See that picture? Where
12 did you go?

13 A. Right there? We were at -- we're at Mike's trunk.
14 We had the trunk open, putting down -- putting the beer in
15 it.

16 Q. You actually see the beer and the ice?

17 A. Yes, sir.

18 (Video starts at 4:19:20 p.m.)

19 BY MR. MEADORS:

20 Q. (Inaudible) do?

21 A. Yes, sir.

22 MR. MEADORS: Okay. Keep going. Stop right there.

23 (Video stops at 4:19:45 p.m.)

24 BY MR. MEADORS:

25 Q. Did it appear something went up. What was that?

1 A. You -- breaking the ice on -- on -- on the dirt.

2 Q. Where did he put the ice?

3 A. He put ice on the ground.

4 Q. And where did you put it?

5 A. Then after he busted, then he be dumping in --
6 dumping it in the cooler.

7 Q. Okay. Had Mike had any crosswords with anybody up
8 to this point when you were with him?

9 A. No, sir.

10 Q. Had Mike -- that you're aware of, ever had any
11 words that day with that fella right there when you were
12 there?

13 A. No, sir.

14 (Video starts at 4:21:06 p.m.)

15 MR. MEADORS: Can you stop, please?

16 (Video stops at 4:21:20 p.m.)

17 BY MR. MEADORS:

18 Q. Who is this right here, leaving?

19 A. That's me leaving.

20 Q. Okay. And before we play the rest of it, you were
21 going, which way?

22 A. I'm get ready to turn onto the Boulevard and go
23 down to towards Lemira School. I would be a left from --
24 from what -- from -- from right there, I would be a left.

25 MR. MEADORS: Okay. Go ahead.

1 (Video starts at 4:21:48 p.m.)

2 BY MR. MEADORS:

3 Q. And does Michael appear to wave to you as he's
4 leaving?

5 A. Yes.

6 Q. You're leaving?

7 A. Yes.

8 Q. After you're leaving, what did you see or hear?

9 A. I hear -- I hear a gunshot. "Bow, bow, bow."

10 Q. And then what'd you do?

11 A. I went -- I couldn't turn around at the Boulevard.
12 I went a little bit further down, and then I make a U-turn
13 and come -- come back toward -- towards where I heard the
14 gunshot came from.

15 Q. Okay. And did you see Mike with a gun when you
16 were with him that day?

17 A. No, I didn't see Mike with a gun.

18 Q. So you come back and -- we see you coming back
19 here in a second.

20 A. Okay.

21 Q. Who is that right there? Just pulled in.

22 A. That's me.

23 Q. Okay. What did you find or when you came back?

24 A. When I -- when I came back up, I found Mike been
25 left -- left to his car.

1 Q. Say -- say -- I'm sorry, Mr. Harrison. Say that
2 one more time. You found Mike what?

3 A. I -- I found Mike left and going back towards his
4 car.

5 Q. Okay. And what did you do?

6 A. I went to grab him. I went -- I went to -- I went
7 to grab him to help him get -- he even wanted to drive. I
8 said, "No, Mike, you can't drive, you cannot drive." So then
9 some more guys and stuff come across the street. They help
10 me put him into my vehicle.

11 Q. Were you able to talk with Mike?

12 A. I've been talking to Mike, yes, sir.

13 Q. And what was he saying?

14 A. He said, "The guy shot me in the back. The
15 gentleman shot me in the back."

16 Q. Could you see any blood?

17 A. Yes. I even been breathing -- blood was coming
18 out. I (inaudible) he had on.

19 Q. And did somebody call 911 that you were aware of
20 Mr. Harrison?

21 A. Yes, and I -- by that time I think Danny, the
22 store owner, already had called dime lamp.

23 Q. And I'm not saying you did anything wrong, but why
24 didn't you all wait for the ambulance?

25 A. Because the -- the group of fellowmen standing

1 around said, "No, Mike might bleed to death." So they put --
2 put him in my car and I left and going to meet the -- him to
3 the hospital.

4 Q. You were trying to get in there quickly?

5 A. Yes, sir -- yes sir.

6 Q. And did a crowd -- I know this is still going.

7 Did the crowd kind of gather around Mike in his car?

8 A. Yes, a crowd gathered around.

9 Q. And did you see a gun at that point?

10 A. I saw some more gun, but some other people had the
11 gun.

12 Q. Did you see a gun on Mike?

13 A. I didn't see a gun on Mike.

14 Q. So other people that gathered there had guns?

15 A. Yes.

16 Q. And did you see the fella in the white that you'd
17 seen after that?

18 A. No, I didn't see him -- I did see him no more
19 after that.

20 Q. Did you make it to the hospital?

21 A. No, I stopped at there on the -- the Matching
22 Tower Bill on -- on Liberty. But that's why I met the --
23 once I crossed the railroad track, I met the police and the
24 ambulance.

25 Q. Say that? I'm sorry.

1 A. Once I crossed the railroad track, I met the
2 police and the ambulance and I flagged them down.

3 Q. And they kind of took Mike from there?

4 A. They took Mike from there.

5 Q. As you were leaving, after Mike waved goodbye to
6 you, did you see the other fellow at that point that was in
7 the white and red?

8 A. I saw him walking towards Mike as I've been
9 leaving.

10 Q. As you were leaving?

11 A. Yes, sir.

12 Q. And then how long after that did you hear the
13 gunshot?

14 A. About maybe three or four seconds. Then when I
15 heard the gunshot, the gunshot went off.

16 Q. Did you see that person with a gun?

17 A. Yes, sir.

18 Q. And when did you see that gun?

19 A. I saw the gun after I was done turn around coming
20 back to see what -- what -- what's been going on now when I
21 saw the guy running towards me with the white -- the white on
22 and the red jumper -- the red pants and the -- and the red
23 sneaker.

24 Q. And was he running down the side A&P?

25 A. He running down the side A&P. And then he turned

1 and went towards the blue house right there on the right. He
2 went down there towards the Mexican -- he turned and went
3 down towards the Mexican, through the woods that way.

4 Q. And is that a residence or a restaurant or where
5 are you talking?

6 A. That's a residence. See right there. What --
7 excuse me for saying that. See where the store at? Right
8 across the street.

9 Q. And I know you didn't mean anything bad about
10 that. So you just meant to where that household was?

11 A. Yes, sir.

12 Q. Okay. And -- and you said this individual, you
13 said had a -- had a hoodie on. When did he pull the hoodie
14 on?

15 A. As I -- as I've been turning the left to go down
16 the Boulevard, I saw him went towards Mike and he flipped --
17 that's when he flipped the hoodie up.

18 Q. Did Mike say anything to you from A&P or Kim's to
19 when the...

20 A. When -- when it happened? Yes.

21 Q. To -- to when -- when the ambulance met you?

22 A. Yes, he told me, don't leave him. He said,
23 "Larry, please stay with me." I -- I said, "Mike, I can't
24 sit, but I -- I'm going on, I'm holding your hand." I said,
25 "Mike, I'm trying the best I could to get you to the

1 hospital." He said, "Don't leave me Larry." I said, "Mike,
2 I'm trying my best." That's when I saw the police and
3 ambulance while I get to the railroad track and I waived them
4 down.

5 Q. Did you have Mike's keys?

6 A. Yes, sir. I had Mike Keys.

7 Q. And who did you end up giving those to?

8 A. To the -- the lady -- the lady that protected who
9 questioned me of -- after the incident happened.

10 Q. Did you all -- don't mean to see a bad way the
11 family. Was -- was Mike kind of a big fella?

12 A. Yes, sir. Mike --

13 Q. Have a hard time getting him in the car and out of
14 the car?

15 A. Yes, sir. I had -- I had a hard time.

16 Q. He was heavy?

17 A. He been heavy.

18 Q. When you were saying goodbye to Mike, was Mike
19 leaving as far as you knew?

20 A. Yes. He been leaving.

21 Q. And did you all have a time that you were going to
22 get the haircut the next day?

23 A. I told him right around 9:00 or so -- 9:00 or so.
24 Because it --

25 Q. That was your intent to get your hair cut?

1 A. Yes, sir.

2 Q. The next day?

3 A. The next day. Yes, sir.

4 (Video stops at 4:30:31 p.m.)

5 BY MR. MEADORS:

6 Q. Just a couple more questions. At any time when
7 you were there at the A & P or Kim's that day, did you see
8 Mike and the individual in the white and red have any
9 communication whatsoever together?

10 A. No, sir -- no, sir.

11 Q. One second, please. (Inaudible.) When -- when --
12 when Mike's waving to you and you're leaving, could you see
13 him waving to you?

14 A. Yes, sir.

15 Q. So his back would've been the A&P?

16 A. Yes.

17 Q. Okay. And did you give a statement to law
18 enforcement?

19 A. Yes, sir -- yes, sir.

20 Q. Just going to mark this for identification. Your
21 birthday 9/11?

22 A. 9/11.

23 Q. That's a good birthday. Your name's Larry Edward
24 Harrison?

25 A. Yes, sir.

1 Q. 9/11/62?

2 A. Yes, sir.

3 Q. All right. This a three-page statement. This is
4 a statement you gave on May 8, 2020?

5 A. Yes, sir.

6 Q. Okay. And did you sign each page?

7 A. Yes, sir.

8 MR. MEADORS: This is 41 for ID only.

9 (State's Exhibit 41 marked for identification.)

10 BY MR. MEADORS:

11 Q. Mr. Harrison, you said you don't drink. You had a
12 DUI conviction before?

13 A. Yes, sir.

14 Q. And I swear I ain't -- I'm not prime. Is that one
15 of the reasons you don't drink?

16 A. Yes, sir. I had one in 2015.

17 Q. And so, I'm required to ask you about that here
18 today based on what I have. So that is in your -- in your
19 record. And you also have, I think, a possession of a weapon
20 charge, correct?

21 A. Yes, sir.

22 MR. MEADORS: That's -- that's all I have. Thank you.

23 MR. BARNES: Thank you. May it please the Court?

24 THE COURT: Yes, sir.

25 CROSS-EXAMINATION

1 BY MR. BARNES:

2 Q. Mr. Harrison, my name is Jack Barnes, and I
3 represent Mr. Harvin. We just watched about 10 minutes of
4 that video, and my eyesight's not great, but it looked like
5 to me that that guy that you identified as the person that
6 shot Mr. Harvin had a hoodie on the absolute whole time.

7 A. I didn't say the whole time.

8 Q. Well, your testimony was that as you were driving
9 away, you saw him flip his hoodie on.

10 A. I flipped the hoodie -- I've been leaving, but
11 I've been to the store prior before that now.

12 Q. Right. But what I'm saying, in this video --

13 A. Yes, sir. In the video.

14 Q. -- when you and Mr. Wilson get out, walk into the
15 store and walk back out, the whole time that video's going
16 Mr. Harvin is standing in that parking lot and he's got his
17 white hoodie over his head?

18 A. No -- no sir.

19 Q. Okay. Well, then his very dark haired that he has
20 now must have been white at that time.

21 A. No, sir.

22 Q. Okay. We'll let the jury decide that.

23 MR. MEADORS: Your Honor, I object to his comment.

24 THE COURT: That's sustained.

25 MR. MEADORS: Thank you.

1 BY MR. BARNES:

2 Q. You do not know who shot first, do you?

3 A. No, sir.

4 Q. You do not know what -- if anything, Mr. Wilson
5 said to Mr. Harvin after you got in your car, do you?

6 A. Well, I got in the car, the -- the gentleman
7 wasn't over there because me and Mike been talking as I drove
8 away.

9 Q. But my question is this: Once you got in your
10 car, if they had a discussion across that parking lot, you
11 don't know it because you couldn't hear it, could you?

12 A. Yes, sir. You're right.

13 Q. Have you ever seen Mike Wilson with a gun on him
14 before?

15 A. No, sir.

16 Q. You actually only known Mike Wilson for about two
17 weeks, right?

18 A. No, I know him as long as I recently know his
19 name. But we sat in the Cadillac club, and he cut my hair.
20 So I really started knowing Mike.

21 Q. But you didn't know him well enough to know his
22 name until about two weeks before this?

23 A. Yes.

24 Q. You ever go to his house?

25 A. No. We all cut my hair out my house.

1 Q. You ever ride in the car with him anywhere?

2 A. No, sir.

3 MR. BARNES: I beg the Court's indulgence. One minute,
4 your Honor.

5 THE COURT: Uh-huh.

6 BY MR. BARNES:

7 Q. As you were driving away, did you see Mr. --
8 Mr. Wilson firing his gun back at -- or just firing his gun?

9 A. No, sir.

10 Q. Okay. Was that out of your vision?

11 A. I didn't see Mike with a gun.

12 Q. Okay. Well, I understand you didn't see him with
13 a gun beforehand, but did you see him firing a gun?

14 A. No, sir.

15 MR. BARNES: Okay. That's all I have, your Honor.

16 THE COURT: Any re-direct?

17 MR. MEADORS: No, ma'am.

18 THE COURT: Thank you, sir. You can step down.

19 THE WITNESS: Thank you.

20 MR. MEADORS: I just need a minute to get our last
21 witness?

22 THE COURT: Uh-huh.

23 THE BAILIFF: Place your left hand on the Bible, raise
24 your right hand. State your name.

25 MR. GAINEY: James Gainey.

1 JAMES GAINNEY,

2 being duly sworn, testified as follows:

3 THE BAILIFF: Thank you, sir. Step around. Watch your
4 step on the ramp. State your name for the record and spell
5 your last name, please. And speak into the mic.

6 THE WITNESS: James Gainey, G-A-I-N-E-Y.

7 DIRECT EXAMINATION

8 BY MR. MEADORS:

9 Q. Good afternoon, Mr. Gainey.

10 A. Aye.

11 Q. Tell these folks about James Gainey. Where are
12 you from?

13 A. Sumter. Always. Yep.

14 Q. Born and raised?

15 A. Yes, sir.

16 Q. All right. What do you do, Mr. Gainey?

17 A. Work at Builders FirstSource.

18 Q. And you've been there a while, haven't you?

19 A. 27, 28 years.

20 Q. And you enjoy that work?

21 A. Pretty much.

22 Q. Okay. And do you have a favorite -- favorite
23 place you go to a convenience store

24 A. Right down on the Boulevard.

25 Q. What do you call it?

1 A. I call it Danny's
2 Q. Danny's
3 A. Fellow that owns it.
4 Q. Okay. He owns it now, correct?
5 A. Right.
6 Q. Patel?
7 A. I said correct.
8 Q. Is his last name Patel?
9 A. I think so.
10 Q. May 8, 2020, Mr. Gainey, a Friday, were you
11 working that day?
12 A. Yes, sir.
13 Q. Okay. Where were you working
14 A. Builders FirstSource.
15 Q. What are your hours, what were your hours that
16 day?
17 A. Can't really remember. They change at time, but
18 most of the time I worked like 11:00 in the morning to 11:00
19 at night.
20 Q. All right. And how often would you go by Danny's?
21 A&P?
22 A. Three or four times a day on average.
23 Q. Okay. And is there something you usually get when
24 you get there? I don't mean to try, but you got a certain
25 soft drinker, something to eat, you get?

1 A. I usually get a Coca-Cola and a BC Powder.

2 Q. All right. And on May 8th do you remember
3 approximately what time of day it was?

4 A. The sun was out.

5 Q. Okay.

6 A. You know, it was that afternoon.

7 Q. Had you gotten off work the best you can remember?

8 A. It was like a break time.

9 Q. Okay. And do you have a usually a -- a spot you
10 usually pull in at the store?

11 A. Whatever's open.

12 Q. Okay.

13 A. You know.

14 Q. Tell the folks on May 8, 2020 you went and pulled
15 into Danny's, also known as A&P, also known as Kim's.
16 Where'd you park?

17 A. On this side of the air pump.

18 Q. All right.

19 A. You know, on the left side of the air pump out
20 from the pumps -- gas pumps.

21 Q. Were you in your car?

22 A. I was in a friend's truck.

23 Q. What kind of truck was it?

24 A. What was that? A white Chevrolet, white Toyota.

25 I -- I was painting it for him.

1 Q. Had you already finished it?

2 A. I'd already finished it. Yes, sir.

3 Q. You're sitting in your white, the white trunk
4 you've painted for your friend and what'd you do?

5 A. I looked down, I was counting out my money before
6 I went in the store, you know, to get my BC and Coke.

7 Q. Had you noticed anybody out in the parking lot
8 prior to that?

9 A. Well, there was a -- you know, a fella just
10 standing there when I first pulled up, you know, he was just
11 standing there looking off and I'm like, "I ain't going to
12 cuss," but I was like, you know, "What's he doing?"

13 So then I looked down to pull my money out of the
14 counter and while I was looking down I heard two, three
15 shots. Looked up and he was still standing there and I
16 looked over and the big fella, he was kind of doing like a
17 swagger back to his car. I don't know if he'd already been
18 shot or just trying to keep him getting shot or what, but he
19 went back to his car.

20 Q. So after the first several shots you heard, what
21 -- what direction were those shots going in?

22 A. Okay. Well, to the left toward that pump place,
23 you know.

24 Q. Is it T & K place?

25 A. Right. In that -- you know, we're -- in that

1 direction.

2 Q. And those were the first several shots you heard
3 going that way?

4 A. Yes, sir.

5 Q. And then you saw the big fella do what?

6 A. They -- trying -- going back to his car, but he
7 was kind of swaying like I don't, I don't know if he was
8 trying to keep him getting shot or if he'd already been shot
9 or what, but he was, you know, walking kind of funny.

10 Q. All right. You don't know any of these people do?

11 A. No, I have no -- nothing invested in any -- none
12 of this.

13 Q. And then after you saw the big fella going back to
14 his car swaying or whatever, what happened after that?

15 A. Well, he I guess he got his gun because then I --
16 he -- he shot back a couple times. Then the fella in the
17 white sweatshirt, he run to the other side of my Chev truck
18 and he shot again. So then, you know, I looked the other way
19 and he'd shoot back and I was toward the end of it right now.

20 Q. So you looked until you left when shots were
21 firing?

22 A. Right. I looked.

23 Q. And shots back to your right?

24 A. Then he shot back and looked back. Well, you
25 know, what you going do? And --

1 Q. So how far were you from the person in the -- the
2 -- the white? You described he was just standing there when
3 you first pulled in?

4 A. I still want to say eight to 10 feet when I first
5 -- when it pulled -- got to going.

6 Q. Was anything blocking your view there between that
7 -- you and that person?

8 A. No, sir.

9 Q. Did your truck get hit? Or your --

10 A. No.

11 Q. -- friend's -- friend's truck?

12 A. My friend's truck didn't. No, sir.

13 MR. MEADORS: Okay. What number is this, please?

14 Doesn't matter.

15 BY MR. MEADORS:

16 Q. Mr. Gainey, you seeing a video on up there,
17 please, sir?

18 A. Yes.

19 Q. All right.

20 (Video starts at 4:47:05 p.m.)

21 (Video stops at 4:49:49 p.m.)

22 BY MR. MEADORS:

23 Q. Mr. Gainey, in about 20 or 30 seconds, please see
24 if you see your truck?

25 A. I see it.

1 Q. That's your truck?

2 A. Yes, sir. That's the one I was driving?

3 Q. Yes, sir. And your testimony is, I believe you
4 saw shots go to your left, shots go to your right, and then
5 shots come back to you, correct?

6 A. Yes, sir. It was like he shot that way.
7 Eventually the other fella shot back. Then the one in the
8 white ran to the other side of my truck and, you know, they
9 shot again.

10 Q. And coming up here now, see if you see that here
11 in a minute. In a second. Well, 30 seconds.

12 (Video starts at 4:51:17 p.m.)

13 BY MR. MEADORS:

14 Q. And is that the same individual you saw shoot, the
15 first time?

16 A. Dressed the same. Yes, sir.

17 MR. MEADORS: Okay. Stop really quick.

18 (Video stops at 4:52:34 p.m.)

19 BY MR. MEADORS:

20 Q. Is that -- is that your truck pulling in into the
21 back?

22 A. Yes, sir. I believe so.

23 MR. MEADORS: Please. Okay. Go ahead.

24 (Video starts at 4:52:43 p.m.)

25 BY MR. MEADORS:

1 Q. Did you ever go inside and get your PC Powder?

2 A. When it was all over with.

3 Q. Did you stay in -- while they were putting Mr.
4 Wilson into Mr. Harrison's car?

5 A. Yes, sir. I was still there.

6 Q. Okay. Were a crowd of people over there?

7 A. There were -- I wouldn't call it a crowd. There
8 was a group of -- you know, more than three.

9 Q. Yes, sir.

10 A. I would say less than 10.

11 Q. Yes, sir. And -- and Mr. Gainey, we see you on
12 the body-worn camera. I don't think we need to show that
13 again. It's in evidence. But did you move your car before
14 the officer came there and asked you what you saw?

15 A. No, sir.

16 Q. Okay. So your car was still in the same position
17 it was then?

18 A. Yes, sir. When I -- when I moved it, when I left.

19 (Video stops at 4:54:20 p.m.)

20 MR. MEADORS: I beg the Court's indulgence.

21 THE COURT: Uh-huh.

22 BY MR. MEADORS:

23 Q. You still go to A&P?

24 A. Oh, yeah.

25 Q. And we see you on the camera. We saw you on the

1 body-worn camera. Did you -- you just left, right?

2 A. Sir?

3 Q. You left? I mean, did you ever --

4 A. As I talked to the officer, I just left. I
5 thought -- I didn't know I was supposed to hang around. I
6 went back to work.

7 Q. And you told him what you saw?

8 A. I told him what I saw.

9 Q. Okay.

10 A. When I got an opening, I left.

11 Q. And when you were contacted by -- in preparation
12 for this, you were under subpoena and you came today,
13 correct?

14 A. Yes, sir.

15 MR. MEADORS: I beg the Court's indulgence. Sorry, one
16 second.

17 BY MR. MEADORS:

18 Q. Did you hear the person in the white and the other
19 person say anything to each other prior to the shooting?

20 A. No, sir.

21 MR. MEADORS: Thank you. That's all.

22 CROSS-EXAMINATION

23 BY MR. BARNES:

24 Q. Mr. Gainey, when the first shots were fired, pow,
25 pow, pow, you were looking counting money, correct?

1 A. Correct.

2 MR. BARNES: Thank you. That's all I have.

3 THE COURT: Anything further?

4 MR. MEADORS: No, ma'am.

5 THE COURT: Thank you, sir. You can step down.

6 THE WITNESS: I can leave?

7 THE COURT: Yes, sir.

8 THE WITNESS: All right.

9 MR. MEADORS: Your Honor, want to break right now?

10 THE COURT: I think this is a good time for us to stop
11 for the day. We're going to try to follow up pretty close to
12 the same schedule tomorrow. If you'll please be back in the
13 building right about 9:20. My intention is for us to start
14 as close to 9:30 as we can. Please don't begin discussing
15 the case. Now you can go.

16 (Jury exits at 4:57 p.m.)

17 THE COURT: Okay. Anything before we adjourn?

18 MR. MEADORS: Nothing.

19 THE COURT: You all good for 9:30 tomorrow?

20 MR. BARNES: Yes, ma'am.

21 THE COURT: Okay. Have a good night.

22

23 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED AT

24 4:58 P.M.)

25

1 and to the Defendant, correct?

2 A. Yes.

3 Q. And did -- did you do that in this case?

4 A. Yes.

5 Q. Let's start and tell the ladies and gentlemen the
6 way you did it. What'd you do? And use your report if you
7 want to. What did you examine first?

8 A. I examined the cartridge cases first. I had two
9 different calibers. I had 380 auto and 9mm Luger caliber
10 cartridge cases.

11 Q. Okay. Well, let's start with the 380, but those
12 are Numbers 9, for our purposes today.

13 A. Right.

14 Q. Okay.

15 A. And 10.

16 Q. And 10. And number 9 and 10 are what?

17 A. They're 3 auto -- 380 auto caliber cartridge
18 cases. They're fired.

19 Q. Okay. So what do you first know about this when
20 you look at them? They're about the same caliber?

21 A. Yes.

22 Q. Okay. And -- and what do you do with them? What
23 did you do with them?

24 A. Okay. If I could refer to my notes? So I
25 documented that they were Winchester head stamps and that

1 A. Yes.

2 Q. These three, same extractors were loaded and
3 extracted from the same firearm?

4 A. Yes.

5 Q. Okay. Well, can you tell us then -- can you tell
6 us then, were these, 9 and 10, could they have been fired by
7 the firearm that fired 11, 12 and 13?

8 A. They were not fired due to differences in their
9 overall class characteristics. So their general
10 characteristics.

11 Q. So they were two different firearms that produced
12 these shell casings?

13 A. Correct.

14 Q. Now, did you get any other item of...

15 A. I received a fired bullet.

16 Q. I'm going to ask -- and then you ask for that. I
17 -- I -- I -- we can just do this. I think I'm going to show
18 you what's been entered as State's 43. Do you mind opening
19 it?

20 A. I can open it.

21 Q. Okay.

22 A. This is the fired -- this is the fired bullet I
23 examined in this case.

24 Q. Okay. And how do you know 43 that this is the
25 bullet you examined?

1 A. I wrote on the bottom with an electric pencil.
2 The case number, the item number in my initials. It's also
3 still heat sealed with my initials and the date.

4 Q. And -- and it's indicated in here, this bullet
5 came from where?

6 A. This came from. The Sumter County Coroner, Wilson
7 Michael R. Autopsy.

8 Q. Now, you've got this in your office, your
9 laboratory, Special Agent, State's -- and we'll put it back
10 in here, State's 43. What did you do with it?

11 A. Whenever we just get a single bullet or bullet
12 without a firearm, we document how we received it. Again, we
13 document how many lands and grooves are on it, what the
14 caliber is, what the direction of twist is, all the general
15 characteristics. And without a firearm, I have nothing to
16 compare it to. So I put it into a database which has all the
17 manufacturers that make firearms with those specifications
18 and it will give me a list of possible firearms.

19 Q. And -- and -- and based on your observation and
20 microscopically examined this item it's most consistent with
21 bullets loaded into what?

22 A. It is a 380-auto caliber bullet.

23 Q. And -- and you mentioned it could have been fired
24 -- what different type of firearms could have fired it?

25 A. There's a list of potential firearms based on his

1 THE COURT: Any objection? Mr. Barnes, any objection
2 to her being excused?

3 MR. BARNES: Sorry. No, ma'am.

4 THE COURT: Thank you, ma'am.

5 MR. MEADORS: I beg the Court's indulgence. Can I --
6 give me a second to go get my technology person? I might
7 need it for this.

8 THE COURT: Sure.

9 MR. MEADORS: State calls Natalie Kelly.

10 THE BAILIFF: Raise your right hand. State your name.

11 MS. KELLY: Natalie Kelly.

12 DETECTIVE STAFF SERGEANT NATALIE KELLY,
13 being duly sworn, testified as follows:

14 THE BAILIFF: Thank you.

15 THE COURT: It's fine. Just leave it there.

16 THE BAILIFF: State your name for the record and spell
17 your last name, please.

18 THE WITNESS: Natalie Kelly, K-E-L-L-Y.

19 RE-DIRECT EXAMINATION

20 BY MR. MEADORS:

21 Q. Good morning. Please tell me your rank.

22 A. Good morning. I am Sergeant Natalie Kelly.

23 Q. And your rank is what?

24 A. Staff Sergeant.

25 Q. And Sergeant, tell the folks about yourself, where

1 you're from? About where you're from, where you grew up,
2 your background, your training in law enforcement, please.

3 A. Good morning. I'm Staff Sergeant Natalie Kelly.
4 I grew up here in Sumter, South Carolina. I have about 22
5 years of law enforcement experience that was here with the
6 Sumter Police Department. I currently oversee the
7 Investigated Service Division, violent crimes, juvenile
8 division, and also food resource officers.

9 Q. What different positions have you held at Sumter
10 Police Department?

11 A. Oh, numerous. I've been a patrol officer. I've
12 been a school resource officer myself, and currently I
13 oversee the investigative division.

14 Q. And Sergeant, do you were you one of the lead
15 detectives in this case or the lead detective?

16 A. I was.

17 Q. And as the part and parcel of that, if you had the
18 occasion to, and did you have an occasion in this case to
19 talk to the Defendant, Rashad Harvin?

20 A. Yes, I did.

21 Q. And where was that?

22 A. That was at the Sumter Police Department. It was
23 the old department. This was currently during COVID season,
24 but we wasn't bringing in any defendants to the new
25 department. So we actually interviewed him at the old

1 department.

2 Q. Which is right here -- here or right beside the
3 library?

4 A. That's correct.

5 Q. Basically? Or next door to the library.

6 A. Hampton Street.

7 Q. And -- and where in that building did you talk
8 with the Defendant?

9 A. It was the one that we had set up.

10 Q. And who all was present in there?

11 A. It was myself and Lieutenant Kulick.

12 Q. And at this point -- obviously, the Defendant had
13 been developed as a suspect?

14 A. Yes, he was.

15 Q. And was he in custody?

16 A. He was in custody.

17 Q. Okay. Now, is there something you do or is
18 required before you talk to an individual who is a suspect or
19 in custody? Are there some rights that are given that
20 person?

21 A. Yes, that's correct. We -- they're given Miranda
22 rights.

23 Q. And did you have an occasion to read the Miranda
24 rights to Rashad Harvin on May 8, 2020?

25 A. Yes, I did.

1 Q. Right. And do you all have a form you use?

2 A. Yes.

3 Q. Okay. I'm going to show you what marked State's 3
4 at this point for ID. Do you recognize that?

5 A. Yes, I do.

6 Q. Okay. Now, you've got a copy of it on your -- all
7 right. I'm going to keep this from me, but is that the same
8 -- your copy is same as State 3 for ID?

9 A. Yes, it is.

10 Q. And at the top, what does, it say?

11 A. It says, "Sumter Police Department interview
12 form."

13 Q. Okay. Did you -- you said you did, so you read
14 him Miranda rights. How did you do it?

15 A. I brought out this form. I read, verbatim, from
16 this form to him. You want me to go over it?

17 Q. Please.

18 A. Okay. "So this is" --

19 Q. As you did it then.

20 A. Okay. "This is the Sumter Police Department
21 interview form. Before we ask you any questions, you must
22 understand your rights. You have the right to remain silent.
23 Anything you say can be used against you in court. You have
24 the right to talk to a lawyer for advice before we ask you
25 any questions. You have him or her present with you during

1 the questioning.

2 If you cannot afford a lawyer, one will be appointed
3 for you. Before we ask you any questions, if you wish, if
4 you decide to answer any questions now without a lawyer
5 present, you will still have the right to stop answering at
6 any time until you have -- until you've talked with a
7 lawyer."

8 At the bottom here is the waiver of rights. It says,
9 "Before any questioning, I will furnish the above statement
10 of my rights at 8:50 p.m. on 5/8/2020 at OLEC, which is a law
11 Enforcement Center by Officer Kelly of the Sumter Police
12 Department." And then at the bottom it says, "I have read or
13 have read to me the statement of my rights. I understand
14 what my rights are. I am willing to answer questions at this
15 time, without a lawyer present, no promises or threat have
16 been made to me and no pressure had been used against me."

17 Q. Now, during the reading of these rights, did the
18 Defendant appear, Sergeant, to you, to understand the rights?

19 A. Yes, he did.

20 Q. And did he indicate to you he understood them?

21 A. Yes, he did.

22 Q. How did he do that?

23 A. He -- he motioned his head like, "yes," he
24 understood.

25 Q. So like that?

1 A. That's correct.

2 Q. And when you were reading the waiver of rights the
3 statement you just read, I've read under I've read, have just
4 read to me, did he indicate to you that he understood that he
5 was waiving his rights?

6 A. Yes, he did.

7 Q. And how'd he do that?

8 A. He shook his head, yes.

9 Q. And then on State's for ID, you have something
10 that's written in by hand, what is that?

11 A. It's that -- states -- wanted to talk but did not
12 want to sign. Use head motion for, "yes."

13 Q. And underneath that are two signatures as
14 witnesses. Who are those?

15 A. That is myself and Lieutenant Kulick.

16 Q. Lieutenant Kulick who is sequestered outside?

17 A. That's correct.

18 Q. Did the -- Mr. Harvin appear to be under influence
19 of alcohol or drugs or any other intoxicate when you were
20 talking to him?

21 A. No, he did not.

22 Q. And did you threaten or coerce him or hold out any
23 hope or promise of reward in exchange for him talking to you?

24 A. No, I did not.

25 Q. Were you mean to him?

1 A. No.

2 Q. Were -- were his answers to you timely?

3 A. Yes, they were.

4 Q. Okay. And -- and you know what I mean by that?

5 A. Yeah.

6 Q. I mean, did he respond in a timely manner when you
7 asked the question?

8 A. Yes, he did.

9 Q. And were they subject matter appropriate?

10 A. Yes.

11 Q. Okay. And did that further indicate to you that
12 he understood what you were talking to him about?

13 A. Yes.

14 Q. Okay. Did you offer him any nourishment food or
15 ask him if he wanted to use the bathroom?

16 A. Yes. We offered him all that.

17 Q. And do you remember whether or not you gave him
18 any food or water or anything?

19 A. He had water.

20 Q. Was he handcuffed?

21 A. He was in the front.

22 Q. So it's you, Kulick, and Mr. Harvin?

23 A. That's correct.

24 Q. Now, we are in the page -- or did you memorialize
25 your conversation with the Defendant in any way? Was it

1 audio taped?

2 A. Yes, it's audio taped.

3 Q. Is it a tape -- an audio tape of your conversation
4 with the Defendant?

5 A. Yes, it is.

6 Q. Okay. And did -- and listen to me just question.
7 You advised him -- while you're giving this statement, did he
8 ever say, "I want a lawyer?"

9 A. He did not.

10 Q. And if he had, would you have provided?

11 A. Yes.

12 Q. And that came a point where he didn't want to talk
13 anymore?

14 A. He did

15 Q. And you all stopped?

16 A. That's correct.

17 MR. MEADORS: Okay. Are you ready? Your Honor, at
18 this time, -- I'm sorry, for the record, we'd offer State's
19 3, the Miranda form.

20 MR. BARNES: No objection.

21 MR. MEADORS: Without objection.

22 (State's Exhibit 3 admitted into evidence.)

23 THE COURT: State's 3 is the Miranda form?

24 MR. MEADORS: Yes, ma'am. Your Honor, we are -- I know
25 we've had a pretrial hearing Monday. We are proposing at

1 this time, and they're now offering the statement of the
2 Defendant, which would be State's -- State's 2 we're offering
3 this done.

4 THE COURT: Any objection, Mr. Barnes?

5 MR. BARNES: Can we approach your Honor?

6 THE COURT: Sure.

7 (Bench conference at 10:44 a.m.)

8 MR. MEADORS: I beg the Court's indulgence. Let me see
9 if I can find this.

10 THE COURT: Okay. State's Number 2 is admitted.

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

12 MR. MEADORS: Your Honor, we're going to -- we think
13 the volume is correct. If not, we'll stop it.

14 THE COURT: Okay.

15 MR. MEADORS: Now publishing the Defendant's statement,
16 Natalie Kelly and Irene Kulick.

17 THE COURT: Yes, sir.

18 (Audio starts at 10:45:02 a.m.)

19 DETECTIVE KELLY: This is a Sumter Police Department
20 interview form. Before we ask you any questions, you must
21 understand your rights. You have the right to remain silent.
22 Anything you say can be used against you in court. You have
23 the right to talk to a lawyer for advice before we ask you
24 any questions, and to have him or her with you during the
25 questioning. If you cannot afford a lawyer, one will be

1 appointed to you before we ask you any question, if you wish.
2 If you decide to answer any questions now without a lawyer
3 present, you will still have the right to stop answering at
4 any time until you have a lawyer present.

5 Before any questioning, I was furnished the above
6 statement of my rights at 8:50 p.m., on May the 8th, 2020.
7 So we're at the Old Law Enforcement Center and I am Officer
8 Kelly. And now here says, "I have lived or have led two
9 weeks in my life. I was there when my (inaudible). I'm
10 willing to ask some questions at this time, (inaudible). No
11 promises have been made to me and no pressure have been used
12 against me. And this is a true statement." I need you to
13 sign back. Thank you for your time.

14 (Audio stops at 10:46:12 a.m.)

15 BY MR. MEADORS:

16 Q. Did he indicate to you then that he understood
17 that?

18 A. Yes, he did.

19 Q. How did he did do it?

20 A. He said, "Uh-huh." Nodding his head.

21 MR. MEADORS: All right. Go ahead.

22 (Audio starts at 10:46:22 a.m.)

23 LIEUTENANT CULICK: Do you want to talk to us about
24 what happened at the Coastal Mart (inaudible)?

25 (Audio stops at 10:46:31 a.m.)

1 BY MR. MEADORS:

2 Q. And whose voice is that please?

3 A. That is Lieutenant Kulick.

4 Q. All right. Lieutenant -- were you in the room
5 with Lieutenant Kulick the whole time this was going on?

6 A. Yes, I was.

7 MR. MEADORS: All right.

8 (Audio starts at 10:46:41 a.m.)

9 MR. HARVIN: (Inaudible).

10 LIEUTENANT CULICK: Do you agree with your rights? You
11 understand that?

12 MR. HARVIN: No.

13 LIEUTENANT CULICK: No? And --

14 (Audio stops at 10:47:00 a.m.)

15 BY MR. MEADORS:

16 Q. Did he indicate then -- and I won't stop like this
17 all the way, but did indicate to you then there was a,
18 "Uh-uh." Was that when he nodded his head?

19 A. That's correct.

20 Q. When he was asking if he understood his rights?

21 A. That's correct.

22 MR. MEADORS: All right. Go ahead.

23 (Audio starts at 10:47:11 a.m.)

24 LIEUTENANT CULICK: That you don't have to talk to us
25 if you don't want to. We just want to talk to you about what

1 happened there tonight, at the Coastal Mart. So if you'd
2 like to talk to us, that's fine. If you'd like to have a
3 lawyer with you when you talk to us, that's fine too. It's
4 just telling you what your rights are. It also tells you
5 that if you start talking to us, that's fine. If you want to
6 quit talking to us, you can say, "I don't want talk anymore."

7 MR. HARVIN: What do you want to know?

8 LIEUTENANT CULICK: So if you are okay talking to us,
9 do you not want sign the form and just talk? Do you not want
10 to sign any paperwork? Okay.

11 (Audio stops at 10:47:58 a.m.)

12 BY MR. MEADORS:

13 Q. And -- and is he indicating -- how is he -- she
14 said, "So you don't want sign it?" How is he saying, "I
15 don't want to sign it?"

16 A. He said, "No. Uh-uh."

17 MR. MEADORS: Okay. All right. Go ahead.

18 (Audio starts at 10:48:06 a.m.)

19 LIEUTENANT CULICK: So do you go to the A&P Coastal
20 Mart? Do you go there?

21 MR. HARVIN: Uh-huh.

22 LIEUTENANT CULICK: Okay. Did you go there today?

23 MR. HARVIN: Uh-huh.

24 LIEUTENANT CULICK: What time did you go? Did you go
25 early or were you there in a while or just get there?

1 MR. HARVIN: Uh-huh.

2 LIEUTENANT CULICK: So you went to the A&P store today,
3 though? You don't know the time? Okay. What happened when
4 you were there at the A&P store?

5 MR. HARVIN: I -- I -- don't know. The guy shot in the
6 (inaudible) you know -- the guy started shooting back and I
7 shot back. That was it. I didn't know anybody hurt, so...
8 But I didn't know if I shoot him or not. That was it.

9 LIEUTENANT CULICK: Okay.

10 MR. HARVIN: That was it.

11 LIEUTENANT CULICK: Okay. So you accidentally shot in
12 the air?

13 MR. HARVIN: Yeah.

14 LIEUTENANT CULICK: You didn't really mean to shoot?

15 MR. HARVIN: No.

16 LIEUTENANT CULICK: Okay. What made you shoot in the
17 air?

18 MR. HARVIN: (Inaudible) he was trying to shoot me, so
19 I just -- I just shot back.

20 LIEUTENANT CULICK: Okay. Did you know who the guy
21 was?

22 MR. HARVIN: No.

23 (Audio stops at 10:49:44 a.m.)

24 BY MR. MEADORS:

25 Q. He was just asked, "Did you know who the guy was?"

1 And what did he say?

2 A. He said "No."

3 MR. MEADORS: Go ahead.

4 (Audio starts at 10:49:52 a.m.)

5 LIEUTENANT CULICK: Do you knew what they called him?
6 What'd the guy look like?

7 MR. HARVIN: He was some kind (inaudible).

8 LIEUTENANT CULICK: Had you seen the gun?

9 MR. HARVIN: Uh-uh.

10 LIEUTENANT CULICK: Did the -- can you tell me what the
11 guy's gun look like that he had?

12 MR. HARVIN: A hand gun.

13 LIEUTENANT CULICK: Just he had a handgun? Was it like
14 a shotgun or a rifle or just a -- a like a -- a regularized
15 handgun?

16 MR. HARVIN: Yeah.

17 LIEUTENANT CULICK: Okay. And did he have it on him or
18 did he get the gun from his car or from somebody else?

19 MR. HARVIN: Yeah, it was on him.

20 LIEUTENANT CULICK: Okay. So when you fired the gun in
21 the air, he thought that you were shooting at him? So he
22 pulled his gun and he started shooting at you? Did you get
23 hit? Did --

24 MR. HARVIN: No, I'm not.

25 LIEUTENANT CULICK: Okay. So he started shooting you

1 and so you shot back?

2 MR. HARVIN: Yes.

3 LIEUTENANT CULICK: Okay. And then what'd you do?

4 MR. HARVIN: Go home.

5 LIEUTENANT CULICK: Okay. Where is your home?

6 MR. HARVIN: To my -- my dad's house.

7 LIEUTENANT CULICK: █████ --

8 MR. HARVIN: King Street, at my dad's house.

9 LIEUTENANT CULICK: █████ King Street? Okay.

10 MR. HARVIN: No. (Inaudible) my house. █████ 3rd Avenue.

11 LIEUTENANT CULICK: █████ 3rd Avenue? Your grandma's

12 house? Does your grandma still live there?

13 MR. HARVIN: No.

14 LIEUTENANT CULICK: No? Okay. Did you go to your

15 grandma's house first? At home? █████?

16 MR. HARVIN: Yeah.

17 LIEUTENANT CULICK: I don't know the guy; they said his

18 name was Mike. Did you know Mike?

19 MR. HARVIN: Uh-uh.

20 LIEUTENANT CULICK: Had you ever seen him before?

21 MR. HARVIN: (Inaudible).

22 LIEUTENANT CULICK: Did Mike make you mad or say

23 anything to you?

24 (Audio starts at 10:52:38 a.m.)

25 BY MR. MEADORS:

1 Q. When you said, "Did you ever see him before?" Did
2 he indicate to know?

3 A. No.

4 MR. MEADORS: Go ahead.

5 (Audio starts at 10:52:56 a.m.)

6 LIEUTENANT CULICK: I don't know the guy; they said his
7 name was Mike. Did you know Mike? Had you ever seen him
8 before?

9 MR. HARVIN: (Inaudible).

10 LIEUTENANT CULICK: Did Mike make you mad or say
11 anything to you?

12 MR. HARVIN: Uh-uh.

13 LIEUTENANT CULICK: No?

14 MR. HARVIN: I just shot in the air -- I just
15 (inaudible).

16 LIEUTENANT CULICK: What kind of gun did you have?

17 MR. HARVIN: (Inaudible).

18 LIEUTENANT CULICK: Is it the kind of gun that you put
19 a clip in or is it the kind of like a revolver?

20 MR. HARVIN: (Inaudible).

21 LIEUTENANT CULICK: Did the -- did the shell casings
22 come out when they shoot it? Did the little stuff come out
23 here?

24 MR. HARVIN: Yeah.

25 LIEUTENANT CULICK: Yeah? Okay. Do you know if it was

1 9mm, 380, a 40 Cal or anything like that?

2 MR. HARVIN: I don't know about what it was.

3 LIEUTENANT CULICK: Okay. Have you had the gun at
4 home?

5 MR. HARVIN: Uh-huh.

6 LIEUTENANT CULICK: You got it from someone else?

7 MR. HARVIN: Uh-huh.

8 LIEUTENANT CULICK: Did you buy it? Where's the gun
9 now?

10 MR. HARVIN: I don't know (inaudible).

11 LIEUTENANT CULICK: When you left the store, did you
12 get rid of it or did you take it back home?

13 MR. HARVIN: I -- I threw it away.

14 LIEUTENANT CULICK: Okay. Do you know where you threw
15 it away at? So no kid or nobody else accidentally gets it?

16 MR. HARVIN: No. (Inaudible).

17 LIEUTENANT CULICK: So when you went home, you went to
18 your grandma's first and then your dad's?

19 MR. HARVIN: Yeah.

20 LIEUTENANT CULICK: Or did you go straight to your
21 dad's?

22 MR. HARVIN: Wen to my dad's house.

23 LIEUTENANT CULICK: Okay. What did you do with the
24 clothes you were wearing today when you went to the store?

25 MR. HARVIN: Took them off. Took them all off.

1 LIEUTENANT CULICK: You took them off?

2 MR. HARVIN: I (inaudible).

3 LIEUTENANT CULICK: Where'd you put on?

4 MR. HARVIN: (Inaudible) at my grandmother's house. I
5 don't know.

6 LIEUTENANT CULICK: Your grandma's house?

7 MR. HARVIN: Uh-huh.

8 LIEUTENANT CULICK: On 3rd Avenue? Okay. Can we go
9 there and get them?

10 MR. HARVIN: No.

11 LIEUTENANT CULICK: Do you care if we go back look or
12 get the clothes? What was the clothes that you were wearing?

13 MR. HARVIN: I don't know.

14 LIEUTENANT CULICK: Do you know the color of your pants
15 were?

16 MR. HARVIN: No.

17 LIEUTENANT CULICK: Were they red?

18 MR. HARVIN: They -- I had long trouser that was red.

19 LIEUTENANT CULICK: What did you have on your face?

20 MR. HARVIN: No.

21 LIEUTENANT CULICK: You didn't have something white
22 like across your face down here? Thought the video of the
23 store shows something on your face, like over your mouth and
24 like nose. Okay.

25 MR. HARVIN: No.

1 LIEUTENANT CULICK: No? Okay. Did you have something
2 on your head?

3 MR. HARVIN: No.

4 LIEUTENANT CULICK: No. Did you talk to anybody you
5 know at the store?

6 MR. HARVIN: Uh-uh.

7 (Audio stops at 10:57:14 a.m.)

8 BY MR. MEADORS:

9 Q. Did he say "No" to that?

10 A. He said, "Uh-uh." Meaning no.

11 MR. MEADORS: Go ahead.

12 (Audio starts at 10:57:20 a.m.)

13 LIEUTENANT CULICK: The guy when he came up, d you know
14 what car he got out of? You smiling. Is it the -- is it the
15 one with rims?

16 MR. HARVIN: I don't know. (Inaudible) what color it
17 was. I don't really know him. I know after the shooting;
18 the guy ran out of the store. So I ran. And I just shot
19 dead. He was, he kept -- started shooting at me. So I -- I
20 -- I ran about two times after it (inaudible) and he kept
21 shooting at me. You know, (inaudible).

22 LIEUTENANT CULICK: So if I knew what caliber gun you
23 had, then I could note that he shot more, you know, because I
24 don't know where his gun is, so I don't -- and you don't know
25 where your gun is? So I -- I need help with figuring out who

1 the shell casings are whose.

2 MR. HARVIN: I know (inaudible).

3 LIEUTENANT CULICK: Okay. Were you closer to the gas
4 tents or the Boulevard Road where were you closer to when
5 this accident by the (inaudible)?

6 MR. HARVIN: I was by the road. By the road, you know,
7 that kind of (inaudible).

8 LIEUTENANT CULICK: Okay. Did he -- what? I'm sorry.

9 MR. HARVIN: That was it. He -- he don't even know me.
10 I don't even know him.

11 (Audio stops at 10:58:47 a.m.)

12 BY MR. MEADORS:

13 Q. He said he doesn't even know him -- "I don't even
14 know him?"

15 A. That's correct.

16 MR. MEADORS: Go ahead.

17 (Audio starts at 10:58:50 a.m.)

18 MR. HARVIN: He (inaudible) he put out his gun. I
19 didn't even know I was in (inaudible), I just shot and that
20 was it.

21 LIEUTENANT CULICK: So did he say something when he
22 pulled out his gun? Did he, like, get away or -- like, say,
23 "Do you think you were?" Or -- or did he say anything?

24 MR. HARVIN: No. He just started shooting.

25 LIEUTENANT CULICK: Did he have the gun on his waist or

1 in his pants?

2 MR. HARVIN: There was so many on his waist.

3 LIEUTENANT CULICK: Okay. And so he started shooting
4 and that's when you shot back?

5 MR. HARVIN: I did. Yeah.

6 LIEUTENANT CULICK: So when you shot back, how many
7 times did you shoot?

8 MR. HARVIN: Just two.

9 LIEUTENANT CULICK: Two? Okay. And you just turned
10 around and ran?

11 MR. HARVIN: I didn't want to shoot back and ran. I
12 mean, I didn't know -- I didn't know his location. You know
13 that's the thing, you know, I don't know him.

14 LIEUTENANT CULICK: Yeah. How did you --

15 (Audio stops at 11:00:31 a.m.)

16 BY MR. MEADORS:

17 Q. Was that last thing you said? "I wouldn't -- I
18 even -- wouldn't even know him?"

19 A. I wouldn't even know him.

20 MR. MEADORS: Go ahead.

21 (Audio starts at 11:00:37 a.m.)

22 LIEUTENANT CULICK: -- find out that it -- that he
23 died?

24 MR. HARVIN: I went home (inaudible).

25 LIEUTENANT CULICK: So that's when you told your dad?

1 MR. HARVIN: No, I don't know if (inaudible).

2 LIEUTENANT CULICK: You told him to call the police?

3 MR. HARVIN: (Inaudible).

4 LIEUTENANT CULICK: Okay. You told your dad to call
5 them? Who's your uncle?

6 MR. HARVIN: I know I call him Uncle Bug (ph).

7 LIEUTENANT CULICK: Uncle Bug? Like, B-U-G. Bug? And
8 he was over there by your dad's house?

9 MR. HARVIN: No. His house.

10 LIEUTENANT CULICK: Oh, where does he live?

11 MR. HARVIN: (Inaudible).

12 LIEUTENANT CULICK: Okay. So he saw you when you were
13 over there changing or pulling?

14 MR. HARVIN: Yeah.

15 LIEUTENANT CULICK: Is the gun with your clothes?

16 MR. HARVIN: No.

17 LIEUTENANT CULICK: If -- if it is okay. Can -- could
18 you help us try to remember where it's at so we can get it?
19 And if you already said you fired it, you know, it just shows
20 that this is not going -- this is the one I fired. I mean,
21 you already said you shot it, you already said it was a 380,
22 you know?

23 MR. HARVIN: Right.

24 LIEUTENANT CULICK: So is there any way we could try to
25 get it?

1 MR. HARVIN: Yes, ma'am. It's just somewhere on
2 (inaudible).

3 LIEUTENANT CULICK: Is it in the house?

4 MR. HARVIN: No.

5 LIEUTENANT CULICK: No? Okay. Where is it? Like
6 outside or in the yard or somewhere else?

7 MR. HARVIN: It's in the yard, outside there.

8 LIEUTENANT CULICK: In the outside?

9 MR. HARVIN: Buried.

10 LIEUTENANT CULICK: Buried?

11 MR. HARVIN: Buried underground.

12 LIEUTENANT CULICK: Okay.

13 MR. HARVIN: Can't say anymore (inaudible)?

14 LIEUTENANT CULICK: Okay. You said you can't say
15 anything else. You don't want talk about the gun anymore or
16 you don't want to talk about the case?

17 MR. HARVIN: I don't want to talk about the gun
18 anymore.

19 LIEUTENANT CULICK: Just the gun? Okay. But you don't
20 still talk to us about the case?

21 MR. HARVIN: (Inaudible) know.

22 LIEUTENANT CULICK: Okay.

23 MR. HARVIN: Ask again, I don't know.

24 LIEUTENANT CULICK: Okay. Are you -- any questions you
25 got for us?

1 MR. HARVIN: I cannot recall.

2 LIEUTENANT CULICK: Did anybody else shoot at you
3 besides that gun?

4 MR. HARVIN: I don't -- I -- I (inaudible) you know.

5 LIEUTENANT CULICK: But you know he shot at you for
6 sure? Give me one second. You want some water?

7 MR. HARVIN: Yeah.

8 LIEUTENANT CULICK: Okay. Can you take a picture of
9 your first page (inaudible)? Okay. I'm sorry. I was
10 talking to Matt at the same time. He said that he buried the
11 gun in the backyard -- in the yard or (inaudible). I don't
12 know if it was in the back or just in the yard. He said it's
13 around there somewhere. He buried it. I don't know.
14 Listen, I'm telling you -- I'm telling you what I had. He
15 said he was through talking about that, so I'm telling you
16 what I heard, okay? So I'm sure there'd be some fresh blood.
17 That's all I've got. Thank you. I keep asking the question.
18 Sorry. I'm not -- how do you spell your first name?

19 MR. HARVIN: R-A-S-H-A-D.

20 LIEUTENANT CULICK: R-A-S-H-A-D?

21 MR. HARVIN: Right.

22 LIEUTENANT CULICK: And Harvin is your last name?

23 MR. HARVIN: Right.

24 LIEUTENANT CULICK: And what's your birthday?

25 MR. HARVIN: 11/25/1990.

1 LIEUTENANT CULICK: 11/25?

2 MR. HARVIN: 1990.

3 LIEUTENANT CULICK: Okay. I'm trying remember 25
4 because the girl was staying 20 -- or guy thought it was 27,
5 early November? Was it right now 25? The girl that was
6 doing her hands? Little sticky stone. Did you wash your
7 hands after you left there or shower or take a bath or
8 anything?

9 MR. HARVIN: (Inaudible).

10 LIEUTENANT CULICK: No? Okay. Did you -- did you talk
11 to your brothers or sister or anybody else other than your
12 uncle and dad?

13 MR. HARVIN: No.

14 LIEUTENANT CULICK: And what did you tell your uncle
15 happened when they said that your name was being called?

16 MR. HARVIN: I don't know what you're talking about. I
17 didn't tell nobody.

18 LIEUTENANT CULICK: And you didn't think you had that
19 time because you just shot (inaudible), right? Send them --
20 Sue, take the picture now, and then send to him and let him
21 show that, and then they can go print that. Do you
22 understand what I'm saying? We just need -- yeah, it's been
23 too long. I can't deal with this one. Hey, she's got to
24 take your picture. Okay? Because there's some people at the
25 store, I guess, they said they know you or whatever. So I'm

1 just checking to make sure that they know you. Do you have a
2 nickname that you go by?

3 MR. HARVIN: No.

4 LIEUTENANT CULICK: People ever call you anything?

5 MR. HARVIN: Rashad.

6 LIEUTENANT CULICK: (Inaudible). Did they -- I'm
7 sorry. Could've been -- I'm sorry. So do they call you, is
8 it, Fat Black? Do some people call you that?

9 MR. HARVIN: Yeah, sometimes. Can I have a tissue.

10 LIEUTENANT CULICK: Sorry. We're trying to do two
11 things at one time. People are contacting us here. I'm
12 right here. Yeah. Oh, you can't have your hand though. I'm
13 sorry. Your hand can be in front of you. Okay? I --

14 (Audio stops at 11:10:40 a.m.)

15 BY MR. MEADORS:

16 Q. Can you tell us what's going on right there?

17 A. We're trying to get a photograph of him to show to
18 some individual witnesses at the store.

19 MR. MEADORS: Thank you.

20 (Audio Starts at 11:10:47 a.m.)

21 LIEUTENANT CULICK: (Inaudible). Okay. So some people
22 do call you Fat Black? Had you been at the store very long
23 today before you fired the shot? Had you gone in or bought
24 anything or you just kind of was there hanging out or did you
25 get dropped off by somebody?

1 MR. HARVIN: (Inaudible) out.

2 LIEUTENANT CULICK: Okay. Did you --

3 (Audio stops at 11:12:05 a.m.)

4 BY MR. MEADORS:

5 Q. When he was asked, "Did you get dropped off out
6 there for a while?" What did he say? Or, "Did you get
7 dropped off?" What did he say?

8 A. He said that he was out there for a while. "No, I
9 was out there for a while."

10 Q. "No, I didn't get dropped off and I was out there
11 a while?"

12 A. That's correct.

13 MR. MEADORS: Okay. Go ahead.

14 (Audio Starts at 11:11:58 a.m.)

15 LIEUTENANT CULICK: -- walk there or did you get a
16 ride?

17 MR. HARVIN: I walked.

18 LIEUTENANT CULICK: Okay. You didn't get a ride in a
19 red car? I am just telling you what we was told. That's why
20 I'm asking you. If you don't want tell a who drove you,
21 that's fine. But is it true that you got a ride in a red
22 car?

23 MR. HARVIN: Yeah.

24 LIEUTENANT CULICK: Okay.

25 (Audio Stops at 11:12:29 a.m.)

1 BY MR. MEADORS:

2 Q. Did he say, "Yes," then?

3 A. He said, "Yeah."

4 MR. MEADORS: Okay.

5 (Audio Starts at 11:12:35 a.m.)

6 LIEUTENANT CULICK: Did anybody ask you to rob that
7 guy?

8 MR. HARVIN: Uh-uh.

9 LIEUTENANT CULICK: Were you trying to rob the guy?

10 MR. HARVIN: No.

11 LIEUTENANT CULICK: No? Okay. Because that's what
12 people were thinking. They were thinking that you was going
13 to rob him.

14 MR. HARVIN: To that moment.

15 LIEUTENANT CULICK: So...

16 MR. HARVIN: Works.

17 LIEUTENANT CULICK: You said you separate pallets?

18 MR. HARVIN: Yeah.

19 LIEUTENANT CULICK: Where do you separate pallets?

20 MR. HARVIN: Low Country Pallets.

21 LIEUTENANT CULICK: Okay. Did you have to work today?

22 MR. HARVIN: Just got off.

23 LIEUTENANT CULICK: So you got a ride from work and got
24 dropped off there?

25 MR. HARVIN: No.

1 LIEUTENANT CULICK: And did you have your gun with you
2 at work today? Did you just keep it on you or did someone
3 else?

4 MR. HARVIN: No. I don't keep it on. No.

5 LIEUTENANT CULICK: How'd you get your gun with you
6 today? Or was that someone else's gun?

7 MR. HARVIN: Huh?

8 LIEUTENANT CULICK: Did you take your gun with you to
9 work or did you go home first and --

10 MR. HARVIN: I went home.

11 LIEUTENANT CULICK: Okay. So your dad's on 3rd Avenue
12 house?

13 MR. HARVIN: I put it at my dad's house.

14 LIEUTENANT CULICK: Okay. And then from your dad's to
15 the store?

16 MR. HARVIN: Yeah.

17 LIEUTENANT CULICK: Got you. So you never planned on
18 robbing that guy?

19 MR. HARVIN: I don't know of robbing.

20 (Audio Stops at 11:14:50 a.m.)

21 BY MR. MEADORS:

22 Q. What did he say when she said that? "So You never
23 planned on robbing that guy? What was his answer?

24 A. "No, I don't even know him."

25 MR. MEADORS: Okay. Go ahead.

1 MR. BARNES: Your Honor, can we stop for a second? I
2 think the jury is perfectly capable of hearing the answer --

3 MR. MEADORS: Can we approach? He's going to...

4 (Bench conference at 11:14 a.m.)

5 (Audio starts at 11:17:40 a.m.)

6 LIEUTENANT CULICK: What -- what made that guy react to
7 you shooting the air, and not other people?

8 MR. HARVIN: It's a hard decision. I don't know
9 (inaudible).

10 LIEUTENANT CULICK: Okay.

11 MR. HARVIN: I did shoot and first shot. I just shot
12 the second time and I ran. I ran and then he kept shooting
13 (inaudible) and that was it. He got a shot, he kept on
14 shooting. I don't -- he kept shooting. I only shot one
15 time. I didn't know him at first. Anything else I knew, I
16 (inaudible).

17 LIEUTENANT CULICK: Okay. So when you said you were
18 close to him, were you as close as me and you? Because I
19 wasn't there looking at you. You know that because you were
20 seeing me at the store. But were you as close as us?

21 MR. HARVIN: No.

22 LIEUTENANT CULICK: Like if I was him, were you
23 standing as close when the gun was fired and that's why he
24 was upset and thought it was him -- with him.

25 MR. HARVIN: It wasn't even that close.

1 LIEUTENANT CULICK: He was that close? Okay. And
2 we're like -- we're like what? Three-, four-feet apart? You
3 stay at your grandma sometimes?

4 MR. HARVIN: Uh-huh.

5 LIEUTENANT CULICK: I'm sorry. My supervisor was
6 texting. I know I'm having the phone up, but she's -- looks
7 like she's texting. Did you -- maybe they -- were you ever
8 very close to the store off the Boulevard Road in the grass?

9 MR. HARVIN: Uh-huh.

10 LIEUTENANT CULICK: They were -- that that's what --
11 that's what my captain's asking. She's like there was some
12 people over near the Boulevard that said you was like in the
13 grass, looked like you was trying to hide something over
14 there? The gun?

15 MR. HARVIN: No, ma'am.

16 LIEUTENANT CULICK: What happened? So did you
17 actually, like, dig in the dirt or something to bury your
18 gun? Or just your hands? Just -- you already said you shot.
19 So it's not...

20 MR. HARVIN: I don't want to talk no more.

21 LIEUTENANT CULICK: Okay. Is that just about the gun
22 or the whole case? Because If you don't, then we'll stop
23 talking to you. I promise.

24 MR. HARVIN: Just the whole case.

25 (Audio stops at 11:23:45 a.m.)

1 BY MR. MEADORS:

2 Q. And I want on to take you back just shortly before
3 that, if you will. I'll ask Investigator Caufield --
4 Investigator Culick asked him if -- what made the guy react.
5 Could you listen to this?

6 A. Yes.

7 (Audio starts at 11:24:14 a.m.)

8 MR. HARVIN: I walked.

9 LIEUTENANT CULICK: Okay. You didn't get a ride in a
10 red car? I am just telling you what we was told. That's why
11 I'm asking you. If you don't want tell a who drove you,
12 that's fine. But is it true that you got a ride in a red
13 car?

14 MR. HARVIN: Yeah.

15 LIEUTENANT CULICK: Okay. Did anybody ask you to rob
16 that guy?

17 MR. HARVIN: Uh-uh.

18 LIEUTENANT CULICK: Were you trying to rob the guy?

19 MR. HARVIN: No.

20 LIEUTENANT CULICK: No? Okay. Because that's what
21 people were thinking. They were thinking that you was going
22 to rob him.

23 MR. HARVIN: To that moment.

24 LIEUTENANT CULICK: So...

25 MR. HARVIN: Works.

1 LIEUTENANT CULICK: You said you separate pallets.

2 MR. HARVIN: Yeah.

3 LIEUTENANT CULICK: When do you separate pallets?

4 MR. HARVIN: Low Country Pallets.

5 LIEUTENANT CULICK: Okay. Did you have to work today?

6 MR. HARVIN: Just got off.

7 LIEUTENANT CULICK: So you got a ride from work and got

8 dropped off there?

9 MR. HARVIN: No.

10 LIEUTENANT CULICK: And did you have your gun with you

11 at work today? Did you just keep it on you or did someone

12 else?

13 MR. HARVIN: No. I don't keep it on. No.

14 LIEUTENANT CULICK: How'd you get your gun with you

15 today? Or was that someone else's gun?

16 MR. HARVIN: Huh?

17 LIEUTENANT CULICK: Did you take your gun with you to

18 work or did you go home first and --

19 MR. HARVIN: I went home.

20 LIEUTENANT CULICK: Okay. So your dad's on 3rd Avenue

21 house?

22 MR. HARVIN: I put it at my dad's house.

23 LIEUTENANT CULICK: Okay. And then from your dad's to

24 the store?

25 MR. HARVIN: Yeah.

1 LIEUTENANT CULICK: Got you. So you never planned on
2 robbing that guy?

3 MR. HARVIN: I don't know of robbing.

4 LIEUTENANT CULICK: What -- what made that guy react to
5 you shooting the air, and not other people?

6 MR. HARVIN: It's a hard decision. I don't know
7 (inaudible).

8 LIEUTENANT CULICK: Okay.

9 MR. HARVIN: I did shoot and first shot. I just shot
10 the second time and I ran. I ran --

11 (Audio stops at 11:26:56 a.m.)

12 BY MR. MEADORS:

13 Q. What did he say there? "I shot the second time
14 and then I ran?"

15 A. "I just shot the second time and I ran."

16 MR. MEADORS: Go ahead.

17 (Audio starts at 11:27:03 a.m.)

18 MR. HARVIN: And then he kept shooting (inaudible) and
19 that was it. He got a shot, he kept on shooting. I don't --
20 he kept shooting. I only shot one time. I didn't know him
21 at first. Anything else I knew, I (inaudible).

22 (Audio stops at 11:27:17 a.m.)

23 BY MR. MEADORS:

24 Q. Prior to end when he asked you, "I don't talk
25 anymore." Any other time during that process, this interview

1 verbally or did he make motion that -- to you, "I'm don't
2 want to talk to you anymore?"

3 A. He said --

4 Q. Prior to this?

5 A. Prior to saying, "I don't want to talk anymore?"

6 Q. Prior to saying that -- during whole interview did
7 -- before, did he say, "I don't want to talk anymore?"

8 A. No, he did not.

9 Q. And prior to that, did he say, "I don't want to
10 talk anymore?

11 A. No, he never said that.

12 Q. If he had, would you have stopped if he said that?

13 A. Yes.

14 Q. Now, is the individual in the room that gave you
15 and Investigator Culick in the courtroom now?

16 A. Yes.

17 Q. Just on that audio. Is he here?

18 A. Yes, he's here.

19 Q. Would you point him out to the jury?

20 A. He's -- Mr. Harvin is sitting right over there by
21 his attorney, Mr. Barnes.

22 Q. Mr. Barnes?

23 A. That's correct.

24 Q. Okay. We have record so to reflect. And there
25 was something about his clothes and I think they're already

1 in evidence. Were his clothes -- clothes collected that he
2 was wearing that day?

3 A. Yes, it was.

4 Q. And I am going to show you what's marked State's
5 34 and 35. They're in State's 34 and 35. What's in these
6 documents -- in these paperbacks?

7 A. You want me to open them up?

8 Q. No, you don't have to, if you need to read it.

9 A. Okay. This one right here is a white hoodie and
10 this one is red sweatpants.

11 Q. So 35 is the white hoodie, and 34 is the red
12 sweatpants?

13 A. That's correct.

14 MR. MEADORS: Your Honor, at this time, I think this is
15 the appropriate time that it's been a stipulation between
16 Mr. Barnes and I.

17 BY MR. MEADORS:

18 Q. Can you confirm that the timestamp on the videos
19 had not been set forward or spring forward?

20 A. That's correct.

21 MR. MEADORS: And, your Honor, Mr. Barnes and I didn't
22 agree to that previously, that that was not an issue in this
23 case.

24 MR. BARNES: What are we talking about? This audio
25 tape right now?

1 MR. MEADORS: Yeah. (Inaudible).

2 MR. BARNES: Yes. Yes, ma'am. They -- they're an hour
3 off.

4 THE COURT: And those are on the videos that the jury
5 saw yesterday?

6 MR. BARNES: Yes, ma'am.

7 MR. MEADORS: They didn't stream full. I mean, just to
8 check. I beg Court's indulgence.

9 THE COURT: Uh-huh.

10 MR. MEADORS: One second. Thank you. That's all.

11 THE COURT: Before Mr. Barnes begins, let me just say
12 this, ladies and gentlemen. You've heard questions that the
13 State has asked this witness about what the Defendant says on
14 the tape or what the Defendant said that day. And I have
15 ruled that that is appropriate that they can ask her those
16 questions because she was there. But you'll have the tape
17 and ultimately, you'll decide with your own ears what his
18 statement was on the tape. Mr. Barnes?

19 RE-CROSS EXAMINATION

20 BY MR. BARNES:

21 Q. Hello, Sergeant Kelly.

22 A. Good morning, Mr. Barnes.

23 Q. At some point prior to the end of the video
24 recording, Mr. Harvin indicated that he no longer wanted to
25 talk about the gun, correct?

1 MR. MEADORS: Your Honor, I'm to object.

2 THE WITNESS: The audio recording?

3 MR. MEADORS: The fact that it's an audio, not a video.

4 MR. BARNES: I'm sorry.

5 MR. MEADORS: I think there's a video after.

6 MR. BARNES: Audio.

7 THE COURT: Sure.

8 BY MR. BARNES:

9 Q. Sometime prior to the end of that audio tape, he
10 indicated that he didn't want to talk about the gun anymore,
11 right?

12 A. That's correct.

13 Q. Why is it then that Detective -- or excuse me,
14 Lieutenant Culick, is that right?

15 A. Lieutenant Culick.

16 Q. Why did Lieutenant Culick then go on to ask him
17 there afterwards? "Where did you bury it? Is there fresh"
18 -- I mean, she went on and asked a series of multiple
19 questions right towards the end of the video about the gun.
20 He had already said he didn't want to -- to talk about the
21 gun anymore. Why did you all keep asking him questions about
22 the gun?

23 A. For clarity. That's just a part of our interview
24 tactics.

25 Q. Tactic. And there are clear -- very clearly are

1 tactics that law enforcement use to solicit answers, isn't
2 that correct?

3 A. In order to gain information. Yes, sir.

4 Q. To solicit answers. Is that correct?

5 A. To get information. Yes, sir.

6 Q. Okay. But he had already said -- I mean, we had
7 this big discussion about whether it was voluntary and did
8 you stop doing something when he asked you to stop doing it,
9 but in fact, you all didn't stop doing it when you asked him
10 to do it, did you? Because you kept on asking him questions
11 about the -- where -- about the gun after he said he didn't
12 want to talk about it anymore, isn't that correct?

13 A. That's correct.

14 Q. Okay. Why? You said you do -- you don't ask
15 questions about something once they said he don't want to
16 talk about it anymore, but you did. Why?

17 A. Well, he said he didn't want to talk about it
18 anymore. He didn't say he didn't want to talk anymore.

19 Q. Correct. The question was, "The gun or the whole
20 case?" And he initially said, "The gun," but then you go on
21 to a -- or not you, but you were there. But then yet you all
22 go on to ask questions about the gun.

23 A. That's correct.

24 Q. Even though he said he didn't want to?

25 A. That's correct.

1 Q. I think you indicated, early on in your testimony,
2 that he did not appear to be under the influence of drugs or
3 alcohol. You said that, correct?

4 A. That's correct.

5 Q. And that he didn't appear to be nervous or I'm not
6 sure what your exact word was. Describe his demeanor to us.

7 A. He was fine. He came in, he sat, he wanted to
8 talk. He seemed like he understood which he indicated that
9 he understood, but he didn't appear nervous at all.

10 Q. He didn't appear nervous, but he was not terribly
11 forthcoming with answers, was he?

12 A. Yeah. He -- he was.

13 Q. We never said "Yes," or "No". It was mostly,
14 "Uh-huh," and, "Uh-uh," correct?

15 A. Yes. Along with motion.

16 Q. Okay. Which we can't see on an audio, obviously.

17 A. That's correct.

18 Q. And let me ask you this, were you and Lieutenant
19 Culick both wearing body-worn cameras at that time?

20 A. No, we were not.

21 Q. Okay. Why didn't -- why -- why didn't you all
22 videotape this?

23 A. We didn't have the capabilities of doing it.

24 Q. Okay. And you -- you could -- do you have a
25 body-worn camera?

1 A. I have one now.

2 Q. Okay. You didn't have one then?

3 A. I don't believe I did.

4 Q. Okay. Well, obviously some people did because
5 we've seen body-worn camera, correct?

6 A. That's correct.

7 Q. Given the fact that his answers were not very
8 forthcoming in terms of verbal responses, "Yes," or "No," did
9 you not feel the need to actually videotape this so people
10 could see the nodding of the head?

11 A. No, we didn't have those capabilities there.

12 Q. Could you have gotten it?

13 A. I mean, what type video are you talking about --

14 Q. Well --

15 A. -- specifically?

16 Q. -- Lieutenant Culick was constantly on her phone.
17 We hear she's calling people; she's texting her supervisor.
18 Could she not have texted somebody and said, "Hey, he's not
19 being very forthcoming with these answers. We might need to
20 see the nodding of the head, how you all bring us a body-worn
21 camera?" Could you all have done that?

22 A. We could have done that, but that's not the way
23 that we conduct interviews.

24 Q. Okay. Well, what if nobody just says any -- they
25 don't say anything or never shake their head? How will we

1 know what they say?

2 A. I don't know.

3 Q. Do you all videotape interviews now?

4 A. Yes, we do.

5 Q. When -- when you first asked -- asked him if he un
6 or when Lieutenant Culick asked him if he understood his
7 rights, did he initially say, "I don't know?"

8 A. No, he said, "Uh-huh."

9 Q. No. He was -- he -- Mr. Harvin responded to
10 multiple questions saying that he did not know Mr. Wilson,
11 but you all never asked him if he'd ever seen him before, is
12 that correct?

13 A. We asked: Did he talk to anyone or did he seen
14 anybody the store that he know? I believe what the question
15 was to him. I have to go back and refer, but I believe that
16 what the question was, and he said no, but he did say he
17 didn't know him. That's correct.

18 Q. Okay. And -- and you could not know someone but
19 have seen them before, correct?

20 A. Yes, that's correct.

21 Q. What efforts were made to locate the gun?

22 A. We went out and we searched for it in the -- a
23 place that he told us where it was and we did not locate it.

24 Q. Okay. What -- and what did you all actually do?

25 A. We walked around the property. I want to say that

1 the metal detector was taken out there but we didn't locate
2 it.

3 Q. He was handcuffed in front or back?

4 A. At what time?

5 Q. Any time during the interview?

6 A. During the interview in the front.

7 Q. Okay. Did you all ever test his hands for gunshot
8 residue?

9 A. GSR was collected from his hands.

10 Q. Okay. Did we ever get any results?

11 A. No, we didn't.

12 Q. His clothes that were gathered, were they tested
13 for anything?

14 A. No, we didn't get anything off his clothing.

15 Q. You all never determined that -- that Mr. Harvin
16 was trying to rob Mr. Wilson, did you?

17 A. No.

18 MR. BARNES: I beg the Court's indulgence one minute,
19 your Honor.

20 BY MR. BARNES:

21 Q. Sergeant Kelly was -- were the gunshot residue
22 test from Mr. Harvin's hands, were they actually tested?
23 Were there any results?

24 A. We have no results on that.

25 Q. Were they tested?

1 A. No.

2 Q. Okay. So you collected them but didn't do
3 anything with them?

4 A. No -- no. That's correct.

5 Q. Okay. With regard to the search for the gun,
6 other than going out to the house, was there a search of the
7 inside of the house made?

8 A. No, he said it was on the outside buried.

9 Q. Okay. Was there a search warrant obtained for the
10 search?

11 A. No, it was -- the property is actually abandoned,
12 I believe. His grandma was deceased, so, no.

13 Q. Okay. So there wasn't anybody at the house and
14 you searched the outside?

15 A. That's correct.

16 Q. Okay. And was -- no -- but there was no -- you
17 didn't go in at all?

18 A. I did not go in. No, sir.

19 Q. Do you know if anybody went in?

20 A. No, sir. I don't know.

21 MR. BARNES: That's all I have. Thank you -- thank
22 you, Sergeant Kelly.

23 MR. MEADORS: No question.

24 THE COURT: Thank you, ma'am. You can step down.

25 Okay. Ladies and gentlemen, we're going to take about a

1 A. Yes.

2 Q. And were you the paramedic involved in this case
3 on May 8, 2020, involved in Michael Wilson?

4 A. I was backing up in an advanced truck because
5 there wasn't a paramedic on the first truck.

6 Q. So you answered my question. Okay. So you showed
7 up. Where did you meet up with -- how did you come in
8 contact with Mr. Wilson?

9 A. They -- the other crew had already arrived and we
10 pulled up and parked behind them and got out as they were
11 trying to get in the truck.

12 Q. And what did you do?

13 A. I was getting stuff out of the way and getting the
14 stretcher ready. He was a big guy and the guys were trying
15 to get him out.

16 Q. And did they -- and -- and do you know who --
17 where were you all? I mean, in --

18 A. We were in a field off of Liberty Street.

19 Q. Okay. And was there a POV, personal owned
20 vehicle, that Mr. Wilson was in?

21 A. Yeah, he was in a black vehicle and we -- they
22 couldn't get the doors open and the guy driving finally got
23 the doors open.

24 Q. And was -- was -- the Mr. Wilson put on a
25 stretcher?

1 A. Yes, he was.

2 Q. Okay. And when did you start examining or
3 treating him?

4 A. When we -- when they got him out, he was not
5 breathing and there was no pulse, and we started CPR on the
6 scene as we were going to the truck.

7 Q. Okay. And -- and you mean literally before you
8 got him in the truck, you were starting CPR?

9 A. Yes.

10 Q. Okay. And -- and I know we all know what CPR is,
11 but what is CPR?

12 A. Compressions. We were doing compressions.

13 Q. Okay. And did that continue once you got him in
14 the ambulance?

15 A. We got him in the truck. We started the -- I -- I
16 don't remember it all because it was a long time ago. The --

17 Q. Did you take notes to (inaudible) for situations
18 like this when you can come back and testify? I mean, was
19 that prepared as a result of your exam?

20 A. I've got to read it at work and then we don't get
21 to keep them because they got personal information.

22 Q. I understand. But did you prepare a report, Ms.
23 Pack, based on what you did that day?

24 A. Yes.

25 Q. Okay. And that's what you have when you need?

1 A. It goes to DHEC.

2 Q. Okay. And that's in every call you made?

3 A. Yes.

4 Q. Okay. So what did you do to Mr. Wilson?

5 A. We started CPR got him in the truck. We did get a
6 pulse back. It was very weak. He was not breathing; we were
7 breathing for him. We put an advanced airway. I put a --
8 well, my partner put an IO, which is a interosseous needle in
9 his leg to put fluids in. We did get a -- a low blood
10 pressure when we started fluids on him. We put him on the
11 cardiac monitor with the pads. So we did need to shock.
12 They were already on there and continued CPR with oxygen and
13 just got him to the hospital.

14 Q. And were you able to talk to him?

15 A. No. He was never conscious.

16 Q. And so, your job as a paramedic, you treat him as
17 best you can until you get to the emergency room?

18 A. Right.

19 Q. Okay. So his status when you got him to the
20 emergency room was what?

21 A. Critical.

22 Q. Okay. And he still -- did he still have a pulse?

23 A. I thought he had one when we were getting out of
24 the truck when we -- by the time we got him in there and on
25 the bed, they said no and CPR was being continued.

1 body in anatomical position, which means it's standing still
2 and upright. But for that bullet to traverse through the
3 body, he had to have been in a position for it to make that
4 travel. So either he is positioned in a bent-over position
5 or the gun is positioned in such a way that it -- the
6 projectile would travel in that direction.

7 Q. So the gun is either got -- be in a position where
8 it's traveled back and up or Mr. Wilson would have to have
9 been in a position for the bullet to enter eight-and-a-half
10 down, three-and -- two -- one-and-a-half to the right of
11 Midland and end up at his -- here, correct?

12 A. Correct.

13 Q. So would this be consistent with it?

14 A. Yes.

15 Q. Shot in the back and then ended up here?

16 A. Correct.

17 Q. That'd be consistent with your findings?

18 A. Yes.

19 Q. And would it be consistent with your findings that
20 his back was to the bullet?

21 A. Yes.

22 Q. Now, also we've entered -- or State entered
23 State's 42 in addition to any -- anything like the fragment
24 you find, do you take any other -- anything else from Mr.
25 Wilson's body turned over to law enforcement?

1 cause of the death of Michael Wilson?

2 A. Yes.

3 Q. Would you please tell the ladies and gentleman of
4 this jury what that is?

5 A. It was a gunshot wound to the back.

6 Q. How long could he have lived?

7 A. With an injury similar to what Mr. Wilson had? He
8 could have survived within minutes to an hour from the time
9 of the injury, and with additional treatment that was, you
10 know, early enough. It's possible that could have been
11 longer, but I couldn't really give you a specific time.

12 Q. Okay. Would -- would -- after receiving this
13 injury to the back -- to the back, would he have been able to
14 talk?

15 A. Yes.

16 Q. And what about walk after you got decision? Would
17 he have been able to walk around for a while?

18 A. It's possible. It depends a lot on a person's
19 pain tolerance.

20 Q. But it's possible that he could have walked around
21 after receiving the shot?

22 A. Yes.

23 Q. Are his lungs filling up with blood?

24 A. From the injury? The blood would be filling up
25 the space around his lungs and the blood would be seeping

1 BY MR. BARNES:

2 Q. Thank you, Ms. Nixon for being here. I know that
3 this is not really where you want to be and you are under
4 subpoena for me. Is that true?

5 A. Yes.

6 Q. Okay. But thank you for being here. Tell the
7 jury a little bit about yourself. Where you grew up, where
8 you live now, and what kind of work you do now.

9 A. I grew up in Sumter, still staying in Sumter,
10 working two jobs. That's basically it.

11 Q. Okay. Is one of the jobs that you work now at
12 A&P Coastal Mart?

13 A. Yes.

14 Q. And how long have you been working at A&P Coastal
15 Mart?

16 A. Me, about three or four years.

17 Q. Okay. Do you work there full-time?

18 A. No part-time.

19 Q. Okay. And what are your hours?

20 A. From 5:00 to close.

21 Q. And what time do you all close?

22 A. Between 9:30, 10:00.

23 Q. Okay. And you said you'd been there how long?

24 A. About three to four years.

25 Q. Okay. Ms. Nixon, do you know the Defendant,

1 Rashad Harvin?

2 A. Yes.

3 Q. And how do you know him?

4 A. Come inside the store.

5 Q. Okay. Does he come to the Coastal Mart
6 frequently?

7 A. Yes, sometimes.

8 Q. Okay. How about the victim, Mike Wilson, do you
9 know him?

10 A. Yes.

11 Q. And how do you know him?

12 A. Come inside the store.

13 Q. Okay. And did he come to the store frequently?

14 A. Yes.

15 Q. Okay. Did -- at any time while you've been
16 working at the Coastal Mart, did you ever -- and I'm talking
17 about before May 8, 2020, when the shooting occurred. Any
18 time prior to that, did you ever see Mr. Harvin and
19 Mr. Wilson interacting with one another?

20 A. No.

21 Q. Okay. Tell me -- did you -- were you working on
22 May 8, 2020 when the shooting of Mr. Wilson occurred?

23 A. Yes.

24 Q. Okay. Did you -- were you inside or outside?

25 A. Inside.

1 Q. Did you see any of the shooting?

2 A. No.

3 Q. Okay. Did you ever go outside?

4 A. After the fact.

5 Q. Okay. And was Mr. Wilson still at the scene at
6 the time?

7 A. Yes.

8 Q. Okay. Had there ever been an incident with
9 Mr. Wilson at the A&P Coastal Mart before this?

10 A. Yes.

11 Q. Okay. And do you remember how far before the
12 shooting it was?

13 A. Maybe a couple months ago before the shooting.

14 Q. Okay. And tell -- tell the jury what happened.

15 A. I know he just -- he was just loud, like always.
16 And then, I guess, it's like -- he just started, you know,
17 talking the way he talks and stuff like that and he end up
18 putting the gun out on somebody inside the store.

19 Q. So Mr. Wilson pulled a gun out and somebody inside
20 the store?

21 A. Yes.

22 Q. Did Mr. Wilson start that event?

23 A. He -- like I said, he was like loud talking and --
24 but pretty much, yes, he did. And they was trying to get him
25 out the door so he can go on by his business.

1 Q. So some people inside the store were trying to get
2 Mr. Wilson out the door?

3 A. Yes.

4 Q. Did -- you -- you said Mr. Wilson was being loud,
5 like always?

6 A. Yes.

7 Q. How did Mr. Wilson act in the store?

8 A. He didn't care. What came out of his mouth?
9 Disrespectful, cursing, don't matter what he said.

10 Q. So had you ever asked him to leave before because
11 of his language?

12 A. Yes.

13 Q. And the day that Mr. Wilson pulled out a gun and
14 someone in the store, do you know who it was that he pulled
15 it out on? I can't remember the guy's name.

16 Q. Okay. Was he a young guy, an old guy?

17 A. An older guy. Probably about 40.

18 Q. Okay. Older than Mr. Wilson or younger than
19 Mr. Wilson?

20 A. Younger than -- younger.

21 Q. And you saw Mr. Wilson's gun?

22 A. Yes, I did.

23 Q. Where did Mr. Wilson have his gun on him when you
24 saw it?

25 A. On his side.

1 Q. And did he actually pull it out?

2 A. Yes.

3 Q. Did he --

4 A. He pointed it.

5 Q. He pointed it at this man?

6 A. Yes.

7 Q. And did he -- what did the man do?

8 A. He basically told him if he going to shoot him,
9 shoot him.

10 MR. MEADORS: I'm going to object to hearsay.

11 THE COURT: That's sustained.

12 MR. MEADORS: That wasn't brought out in the proffer.

13 THE COURT: That's sustained.

14 BY MR. BARNES:

15 Q. Did Mr. Wilson eventually leave?

16 A. Yes.

17 Q. Okay. Thank you, Ms. Nixon. That's all I have.

18 Oh, one other thing. Do you know -- what did the gun look
19 like?

20 A. It's a black long gun.

21 Q. Did it have any other colors on it?

22 A. No.

23 Q. Okay.

24 A. I don't think so. It was black and long.

25 Q. Did -- do you know -- do you know what kind of gun

1 it was by chance?

2 A. I don't know. I know it was a black and long.

3 MR. BARNES: Okay. Okay. Thank you. That's all I
4 have, Ms. Nixon.

5 RE-CROSS EXAMINATION

6 BY MR. MEADORS:

7 Q. And you had testified earlier this morning.
8 That's the first time, and good morning.

9 A. Good morning.

10 Q. That's the only time you ever saw the victim with
11 a gun, correct?

12 A. Yes.

13 Q. And you said that ended peacefully?

14 A. Yes. He left.

15 Q. And he wasn't banned from the store?

16 A. No.

17 Q. And Ms. Nixon, let's go back to May 8th. You also
18 work in UniFirst, right?

19 A. Right.

20 Q. Okay. And you get work there until around 12:30,
21 then you go to A&P?

22 A. Yes.

23 Q. Usually work the evening shift?

24 A. At the store?

25 Q. At A&P?

1 Q. But -- I mean, isn't that what it says on line
2 four?

3 A. That's what it said.

4 Q. Okay. But you saw Mike out there, didn't you?

5 A. Yeah, when he was coming out the store.

6 Q. Okay. Will you keep that in front of you just in
7 case?

8 A. It's right here.

9 Q. Okay. You drove around and saw another customer?
10 People call him "Fat Black." Do you remember telling the
11 police that?

12 A. It was -- at that time, it was a lot of people
13 doing car wash and stuff. It was a lot of people outside at
14 the store.

15 Q. I understand that, but you remember telling the
16 police, "People call him "Fat Black." His last name is
17 Harvin and I don't know his first name?"

18 A. Okay.

19 Q. I'm not trying -- I'm just taking your statement.
20 That's --

21 A. I mean, that's the only time I see this statement
22 since that happened.

23 Q. Okay. I understand that. That's why I'm showing,
24 if you want to take a minute and read it, you can.

25 A. I need glasses.

1 Q. Okay. What -- what -- what's your thing? 20

2 --15?

3 A. 125. Reading glasses.

4 Q. Or use mine. Okay. Thank you, ma'am. You're
5 using the glasses.

6 A. Okay.

7 Q. Does that refresh your recollection?

8 A. Yeah.

9 Q. Okay. And you saw Fat Black or AKA Rashad Harvin
10 standing on the corner of the store near the air tank, did
11 you?

12 A. It was somebody on the stand on the corner.

13 Q. Okay. But you told law enforcement it was Fat
14 Black?

15 A. Yes. That's what they said at -- at the store.

16 Q. Okay.

17 A. That's what they told me.

18 Q. Well, that's what you told them?

19 A. Yes. But that's what I was going by was people
20 was saying outside after the shooting.

21 Q. And then Fat Black -- you said Flat black was
22 wearing some kind of red pants, white shirt and something
23 covered his face from his nose, right?

24 A. Correct -- correct.

25 Q. And that -- and that's you telling law

1 enforcement, right?

2 A. Yes, that's what I told them.

3 Q. Okay. And you remember you'd have -- you said
4 you'd never seen him wearing something over his face, so it
5 kind of threw you off. You remember that?

6 A. Correct.

7 Q. That was different from what he usually wore?

8 A. Correct.

9 Q. And it was hot out there then, wasn't it? This is
10 May 8th?

11 A. Yes.

12 Q. And we got a picture of you I'm going to show you
13 in a minute.

14 A. Okay.

15 Q. And you were wearing short sleeves, you remember?

16 A. I can't remember.

17 Q. I think you were.

18 A. I can't remember.

19 Q. It was a warm day?

20 A. I can't remember.

21 Q. And do you remember saying Fat Black normally
22 spoke to you but he didn't speak to you that day?

23 A. I was in the car, yes.

24 Q. Okay. But you remember saying -- telling law
25 enforcement that day?

1 evidence. Would you activate that?

2 MR. BARNES: What is this you're --

3 THE COURT: I need to know what you're about to -- tell
4 me what you're about to --

5 MR. MEADORS: I'm -- I'm trying to find the number.

6 THE COURT: Okay.

7 MR. MEADORS: That's fine.

8 THE COURT: If you tell me what you're looking for,
9 I'll tell you the number.

10 MR. MEADORS: The body-worn camera that came in from
11 Salmon.

12 THE COURT: Okay. Tell me --

13 MR. MEADORS: Number 7. Came in through the first
14 witness. It's Number 7.

15 THE COURT: You all approach just a minute.

16 (Bench conference at 11:08 a.m.)

17 BY MR. MEADORS:

18 Q. Do you remember saying he didn't need to shoot
19 that man?

20 A. I didn't say that.

21 Q. You didn't say that?

22 A. I don't remember that. This is State's 7.

23 (Video starts at 11:12:34 a.m.)

24 UNIDENTIFIED OFFICER: (Inaudible) on this?

25 MS. NIXON: (Inaudible) Explorer.

1 OFFICER SALMON: Victim just left in a Black Explorer
2 on Boulevard right now.

3 UNIDENTIFIED SPEAKER: What's going on?

4 OFFICER SALMON: Where are they leaving?

5 UNIDENTIFIED SPEAKER: There is -- one guy was running.
6 He was running. He ran -- he ran -- he running -- he ran.

7 OFFICER SALMON: And then the other guy?

8 UNIDENTIFIED SPEAKER: The other guy he's on the way to
9 the hospital, I don't know about the other guy --

10 OFFICER SALMON: It was two people shooting at each
11 other?

12 UNIDENTIFIED SPEAKER: Yeah.

13 OFFICER SALMON: And the other guy ran off?

14 UNIDENTIFIED SPEAKER: Yeah. (Inaudible).

15 OFFICER SALMON: Any -- any clothes? Any...

16 UNIDENTIFIED SPEAKER: There is (inaudible).

17 OFFICER SALMON: (Inaudible) be advised, one on one --

18 (Video stops at 11:13:56 a.m.)

19 BY MR. MEADORS:

20 Q. Was that you just saying, "He didn't have to shoot
21 that man?"

22 A. Yes.

23 Q. The incident you talked about earlier had nothing
24 to do with Rashad Harvin, did it?

25 A. What incident?

1 Q. Okay. Your height. But -- was he bigger than
2 Mr. Harvin?

3 A. Yes.

4 Q. Mr. Meadors played that part of the video where
5 you said, "He shouldn't have shot that man." But you don't
6 know that Mr. Harvin shot Mr. Wilson, do you?

7 A. No.

8 Q. That was just based on something you had heard?

9 A. Yes.

10 Q. You didn't see anything?

11 A. I didn't.

12 MR. BARNES: Thank you. That's all I have.

13 THE COURT: Anything else, Mr. Meadors?

14 MR. MEADORS: No.

15 THE COURT: Thank you. You can step down.

16 MR. BARNES: Can Ms. Nixon leave, please?

17 THE COURT: Any objection?

18 MR. MEADORS: No, ma'am.

19 THE COURT: Yes, ma'am. You're excused.

20 MR. MEADORS: Your Honor, I think that needs to come in
21 under the Defendant's exhibit. He offered it. So that's --
22 he wants to change it to his.

23 MR. BARNES: I was just asking her to refresh her
24 recollection with it. I -- I asked her what she told police
25 on that day. She couldn't remember. And I asked her, to

1 A. I'm from Sumter, South Carolina, originally. Born
2 and raised here. I work from home with a Global Solution
3 Company remotely, so... I this my first time working from
4 home, so it's almost a year.

5 Q. Okay. And are you a -- like a customer service
6 representative for this company?

7 A. Yes, sir.

8 Q. Okay. And you do that remotely from your home,
9 like a lot of people do?

10 A. Yes, sir.

11 Q. Where did you work before you took this job?

12 A. Family Dollar.

13 Q. And how long did you work at Family Dollar?

14 A. Three and a half years.

15 Q. And what was your job at Family Dollar?

16 A. Assistant Manager.

17 Q. Okay. Ms. Myers, do you know the Defendant,
18 Mr. Harvin?

19 A. Yes, sir.

20 Q. And how do you know him?

21 A. By coming in the store.

22 Q. Did he come into the store a lot?

23 A. Yes, sir.

24 Q. Approximately how much -- if you could remember,
25 how much did he come into the store?

1 A. At least two to three times a day or within those
2 two to three times within that week.

3 Q. Okay. So it was a -- it was a lot that he came
4 into the store?

5 A. Yes, sir.

6 Q. What about Mike Wilson, the victim in this case?
7 Did you know Mr. Wilson?

8 A. Yes, sir.

9 Q. And how did you know Mr. Wilson?

10 A. By coming in the store.

11 Q. And did he come in the store as much as
12 Mr. Harvin?

13 A. Frankly, but it'd be not so much, like, once a
14 blue moon, but he would always come there.

15 Q. Okay. Did you ever see Mr. Harvin and Mr. Wilson
16 interact with each other before the event that I'm getting
17 ready to ask you about?

18 A. No, sir.

19 Q. Okay. Did you hear about the shooting in this
20 case?

21 A. Yes, sir.

22 Q. And how did you find out about it?

23 A. From social media before I woke up from a nap to
24 go to work the next day.

25 Q. Okay. And you said, "The next day," what happened

1 on the previous day?

2 A. They both came to the store but at different
3 timings and -- can't remember exactly, you know, who came in
4 what first, but I know they was coming in different timings.
5 Looked up then I knew my line grew tremendously long. Rashad
6 was the first person at the counter. I don't know --
7 remember how the conflict transpired with them arguing, but
8 it was an argument in the store.

9 Rashad did knock some of the stuff off the counter --
10 on the counter, as in candy bars and stuff. I did ask him to
11 pick it up. He was nice to pick it up. Even though he was
12 upset and frustrated at the time. I rung him up, got him out
13 the store, checked to make sure he was off the property.
14 Then I rung everybody else up, got to Mike and rung him up as
15 well to make sure he was off the property, just so nothing
16 else could transpire outside in the parking lot.

17 Q. Okay. Do you know what prompted it?

18 A. No, sir.

19 Q. Do you know who started it?

20 A. No, sir.

21 Q. When you say that Mr. Harvin threw things off the
22 counter, what was -- what did -- what did you say threw off
23 the counter?

24 A. Just like candy bars, like push items don't --
25 that we sell for the month. And random stuff like M&M,

1 Snickers, stuff like that.

2 Q. And -- and why did he do that?

3 MR. MEADORS: Objection.

4 THE WITNESS: Just --

5 BY MR. BARNES:

6 Q. If you know.

7 A. I guess -- I don't, you know, due to the -- like
8 its heated argument wise. So I guess he just, you know, was
9 frustrated, just on the -- probably to help him out, I guess.
10 Can't say.

11 Q. Did -- did Mr. Harvin appear frustrated?

12 A. I mean, anybody would, because it's a -- you know,
13 altercation going on, so...

14 Q. What -- what about Mr. -- Mr. Wilson, did -- what
15 -- what was his demeanor like?

16 A. I'm not quite sure because he was at the end of
17 the line towards the cooler wise. My only main purpose at
18 that time was to -- you know, make sure the front counter
19 gets straightened back up because I just recovered it, and to
20 -- you know, I'm the only person in the store at the moment
21 and then -- especially the manager on duty. So my only
22 purpose just, you know, get to kind of straighten up -- get
23 him rung up and get him out the store because we did have
24 other customers in the store as well, so...

25 Q. Okay. You said the line was long. Do you

1 remember approximately how many people were in the line?

2 A. Estimated wise? I would say at least probably
3 nine, because it goes from the first -- first register
4 towards the coolers. So I would say at least about probably
5 nine, ten, because we still was doing social distance at that
6 time.

7 Q. Okay. Did you know anybody else in the line that
8 day?

9 A. Offhand? No, sir.

10 Q. Okay. You don't remember anybody else that was in
11 the line that day?

12 A. Nothing but Ms. Richburg (ph), but -- because
13 she's a frequent customer in the store too, but other than
14 that, I can't remember.

15 Q. And so, you knew -- you -- you knew a lady named
16 Ms. Richburg?

17 A. Yes, sir.

18 Q. Oh, okay. And you know her how?

19 A. Coming to the store. I just know everybody from
20 coming to the store because I've been working there so long.

21 Q. Okay. And she was there on the day that this
22 incident happened?

23 A. Yes, sir.

24 Q. Okay. And where was she in the line?

25 A. I can't exactly remember, but I know she was

1 somewhere mixed up, like a little bit probably in the front
2 or behind Mike.

3 Q. Okay. Did she do anything while this was going
4 on?

5 A. No, sir.

6 Q. Okay. And then Ms. -- Ms. -- then you said you
7 got Mr. Wilson out after that?

8 A. Yes, sir.

9 Q. Did you actually go out and look in the parking
10 lot to see if anybody was out there?

11 A. Yes, sir. I make sure he just makes sure he was
12 gone. I wasn't worried about nobody else but just so just
13 make sure those two individuals was gone so nothing else
14 could transpire. Because if so, that would've been on me.

15 Q. Right. And this was the day before the -- you
16 read about the shooting on. Was this the day before?

17 A. Yes, sir.

18 Q. Okay. And when you say "social media," was it on
19 Facebook or somewhere like that?

20 A. Facebook.

21 Q. Okay. And how do you remember that the incident
22 between the two of them was the day before?

23 A. Because I just closed the store that night -- so
24 -- I remember, because I was basically closing that whole
25 week straight. So I closed the store that night and then my

1 A. Yes, sir.

2 Q. Okay. And you don't know how the disagreement
3 started?

4 A. No, sir.

5 Q. You're not even sure what Mike Wilson's demeanor
6 was?

7 A. No, sir.

8 Q. But you are sure that Rashad Harvin was upset to
9 the point he knocked some stuff off the shelf, right?

10 A. Yes, sir.

11 Q. I mean, he literally took his arm and knocked
12 stuff off the shelf, didn't he?

13 A. I mean -- of course, he would do that because it
14 was an argument wise. But --

15 Q. You said, "Of course, he would do that?"

16 A. Not he wouldn't do that like any other time, but I
17 mean, despite the moment it is an argument going on, so...

18 Q. And he got angry and took some stuff off the
19 shelf?

20 A. Yes, sir.

21 Q. Okay. And you escorted Rashad Harvin out first,
22 right?

23 A. After I rung him up, I only did that to make sure
24 nothing was transpired.

25 Q. No. I'm just -- you took him out and then

1 Mr. Wilson waited in line until his turn to come up to pay?

2 A. Yes, sir.

3 Q. And he paid?

4 A. Yes, sir.

5 Q. You didn't have any trouble with him paying or did
6 he -- you don't remember if he paid by card, or cash, or?

7 A. Can't remember.

8 Q. But no incident once Mr. Harvin left with
9 Mr. Wilson, right?

10 A. No, sir.

11 Q. And then you walked him off the property?

12 A. Yes, sir.

13 Q. And you've never seen an altercation for them
14 before?

15 A. No, sir.

16 Q. And neither one of them had a gun?

17 A. No, sir.

18 Q. And you actually said that you've never seen
19 Mr. Wilson with a gun, correct?

20 A. No, sir.

21 Q. That's what you said earlier?

22 A. Yes, sir.

23 Q. I'm getting too fast, I apologize. But is it fair
24 to say -- and you say this was the day before the killing?

25 A. Yes, sir.

1 Q. And you're not sure what day that is?

2 A. No, sir.

3 Q. And at -- and at first when Mr. Barnes asked you
4 in the pretrial here, you weren't really sure at all when it
5 was, right? But then he asked you in relation to the killing
6 and you said, "Well, it was the day before." Right?

7 A. I just knew it was the day before because of how
8 it transpired.

9 Q. And that's when Mr. Harvin was angry, right?

10 A. Yes, sir.

11 Q. And you said you don't know who started?

12 A. No, sir.

13 MR. MEADORS: I beg the Court's indulgence.

14 THE COURT: Yes, sir.

15 BY MR. MEADORS:

16 Q. Give me a breath. Just one final question. You
17 didn't hear anybody threatening anybody, did you?

18 A. No, sir.

19 MR. MEADORS: That's all. Thank you.

20 RE-DIRECT EXAMINATION

21 BY MR. BARNES:

22 Q. Ms. Myers, I believe it was your testimony that
23 you didn't remember what they said?

24 A. Correct.

25 Q. So if somebody was threatening, you just don't

1 MR. BARNES: We call Rashad Harvin. Place your left
2 hand on the Bible.

3 THE BAILIFF: Left hand on the Bible, raise your right
4 hand. State your name.

5 MR. HARVIN: Rashad Harvin.

6 RASHAD MONTRELL HARVIN, DEFENDANT,
7 being duly sworn, testified as follows:

8 THE BAILIFF: Thank you much. (Inaudible). State your
9 name for the record and spell your last name, please.

10 THE WITNESS: My name is Rashad Harvin. The last name
11 is spelled H-A-R-V-I-N.

12 DIRECT EXAMINATION

13 BY MR. BARNES:

14 Q. Rashad, let me get you to pull your mic all the
15 way down so we can hear you. Are you nervous?

16 A. A little bit.

17 Q. Okay. Rashad, how old are you?

18 A. I'm 31.

19 Q. Okay. And where -- where were you born and where
20 did you grow up?

21 A. I was born in Sumter, South Carolina. I grew up
22 in Sumter, South Carolina.

23 Q. Okay. And so, you -- have you been in Sumter all
24 your life?

25 A. Yes, sir. I was back and forth in Sumter to

1 Maysville.

2 Q. Okay. But always in Sumter County, you live?

3 A. Yes, sir.

4 Q. Okay. Rashad, at the time that -- well, let's say
5 on May, 2020, were you working?

6 A. Yes, sir.

7 Q. Where were you working?

8 A. Well, I was working at Low Country Pallets for a
9 couple of months, and then I quit and went to Cedar Rapids,
10 Iowa, and got my CDLs.

11 Q. Okay. So you could be a truck driver?

12 A. Yes, sir.

13 Q. Did you -- did you ever drive a truck for anybody?

14 A. No, sir. When I was in Cedar Rapids, Iowa, and --
15 I got my CDLs, but then when I was about to go into
16 orientation to start working into the real world -- into the
17 real world, start working, driving trucks, they have found on
18 the federal -- found something on the federal and went -- and
19 looked at my records and they -- they had found some pending
20 charges, and then -- so I couldn't work, but I still had got
21 my CDLs and they sent me back home.

22 Q. I got you. And were the pending charges, these
23 charges that you're here for today?

24 A. I'm not sure.

25 Q. Okay. Let me ask you this, Rashad. Had you --

1 have you ever pled guilty to any charges in the past?

2 A. Yes, sir.

3 Q. Did you plead guilty to a couple of drug charges?

4 A. Yes, sir, I did.

5 Q. Okay. Do you recall when that was?

6 A. Well, I can't remember the dates.

7 Q. Was it -- was it 2013?

8 A. Yes, sir.

9 Q. Okay. So it's been -- it's been almost 10 years?

10 A. Yes, sir. It's been a while.

11 Q. Okay. Where -- where were you living at the time
12 of this shooting, Rashad?

13 A. Well, I was staying on 2 -- I was staying at 28th
14 Street at my papa's house. And I was back and forth from my
15 papa's house and to my grandma house on 3rd Avenue.

16 Q. All right. Let me ask you about the house on
17 3rd Avenue. Did your grandmother still live there?

18 A. No, sir.

19 Q. Was it -- was anybody living there?

20 A. I was --

21 Q. Other you when you were there?

22 A. I was laying my head there.

23 Q. Okay. Was there any electricity in the house?

24 A. Yes, sir.

25 Q. Was there water at the house?

1 A. No, sir.

2 Q. Okay. So you could turn the lights on, but you
3 couldn't really take a shower?

4 A. I couldn't -- I couldn't take a shower, but the
5 lights could have turned on, but I was going to my pop's
6 house and shower.

7 Q. Okay. Rashad, did you -- did you go through 12
8 years of school?

9 A. Yes, sir. I admitted to the 12, but I didn't
10 graduate because I caught a -- a charge.

11 Q. Okay. So you got into some trouble and that's
12 what kept you from graduating?

13 A. Yes, sir.

14 Q. Okay. And what was the trouble you got in?

15 A. I was hanging with some guys at the wrong time and
16 place, and -- and the cops had pulled us over for a busted
17 taillight and they had guns in the car. And -- and they had
18 charged me for possession of a weapon, and they had me on the
19 news. And then the principals had read it, and they read
20 about me and they said I couldn't be around the students at
21 the school. So that what happen.

22 Q. But you ended -- you -- nothing happened with that
23 charge?

24 A. No, sir.

25 Q. Did it?

1 A. No, sir.

2 Q. Okay. It was dismissed against you?

3 A. Yes, sir. It just made me sign the gun law.

4 Q. Okay. What -- what -- did it turn out that the
5 guns were the other guy's guns?

6 A. It was the other guy's guns, but it was the hand
7 -- on the handball. Nobody wasn't saying nothing.

8 Q. Got you. Mr. Harvin -- or Rashad, did you know
9 Mike Wilson?

10 A. No, sir.

11 Q. All right. Well, let me ask you this. When you
12 say -- when somebody asks you, "Do you know somebody," what
13 does that mean to you?

14 A. I don't know him. I never seen him. I never
15 conversated with him. I never -- I don't know him -- I don't
16 know him. I never raised up with him. I never played sports
17 with him. I never played anything with him. I don't know
18 him at all.

19 Q. Okay. Well, let me ask you this on May 8, 2020,
20 when this shooting happened, had you ever seen Mr. Harvin
21 before?

22 A. Mr. Harvin?

23 Q. I'm sorry, not Mr. Harvin. Mr. Wilson.

24 A. You said on May 8th?

25 Q. When -- when you were at the A&P and the shooting

1 happens had you ever seen him before that?

2 A. Before May 8th, I seen him maybe like a week
3 before he got at the Family Dollar store.

4 Q. Okay. Tell us what happened in the Family Dollar
5 store.

6 A. In Family Dollar store, I was getting off from
7 work from Low Country -- Low Country Pallets. And as I was
8 getting off from work, and I was walking to a Family Dollar
9 store, when I went to Family Dollar store, I was listening to
10 my music. It was so loud that I was minding my own business.
11 So when I went into the store, I didn't see -- I didn't see
12 Michael Wilson in there, so I was minding my own business.

13 So I got some candy to get for work tomorrow or get --
14 get some can for work so that I could have something to snack
15 on at work. So I went to the end of the line. I went to the
16 back of the line, but I was still minding my own business,
17 listening to my music or my iPhone just listening to my
18 music. It was so loud that I couldn't hear nothing.

19 So Sergeant Richardson, she was in front of me and I
20 just keep seeing everybody looking back at me. And I was
21 wondering why -- why -- why -- they was looking back at me,
22 and I was -- I was speaking to Richardson and the other
23 clients, but they didn't speak back. So I was still
24 listening to my music. So I ain't pay no attention.

25 Q. Did you ever take your earbuds out?

1 A. When they keep looking back, then I took them out
2 and they was like, somebody talking to you. I was like, "Who
3 talking to me?" And then Michael Wilson got out the front of
4 the line. He was at the cash register, he got out the front
5 of the line, and he started being aggressive with me, started
6 cussing me out, threatening me. I was like, "Who you talking
7 to?"

8 Q. All right. Hold on one second. And I know that
9 this is going to be some offensive language to some people,
10 but tell me what -- what Mr. Wilson was saying to you.

11 A. Can I -- can I curse?

12 Q. You just tell us what -- what Mr. Wilson was
13 saying to you.

14 A. He was like, "You pussy, motherfucker." And he
15 was like, "You pussy, motherfucker. Suck my dick." And --
16 and then he said that he would beat my ass. And I was like,
17 "Who you talking to?" I was like -- I was like, "Who you
18 talking to?" He was like, "I'm talking to you." I was like,
19 "You not talking to me." I punched him out. He was like,
20 "Punch in the mouth, punching in him out."

21 And then he come walking towards me and I was about to
22 hit him, and he reached for his gun. And I was like, "Dang,
23 you going to do me like that in the store?" And he was like,
24 "Fuck you nigga. Next time I see you -- next time I see you;
25 it is what it is. I'm going to -- I'm going to do what I got

1 to do." And I was like, "Dang, you going to do me like that
2 in the store?" So I had some French fries in my hand.

3 So I was scared and fearful for my life. I was scared
4 at the time. So I had some fries in my hand and I had some
5 candy and I threw it at him and tell him to get out the store
6 with the gun. That's what I threw, which was Natori Myers
7 said that I threw candy.

8 Q. Okay. All right. Now, Ms. -- you heard
9 Ms. Myers' testimony, and it was a little bit different than
10 yours. She had you at the front of the line and she had --

11 MR. MEADORS: Your Honor, objection to leading.

12 THE COURT: That's sustained.

13 BY MR. BARNES:

14 Q. Okay. Were you in the back of the line?

15 A. Yes, sir.

16 Q. Okay. And did you swipe anything off the counter?

17 A. No, sir.

18 Q. Okay. So the -- the items that you threw were
19 French fries and the candy you had in your hand. You were
20 buying for work the next day?

21 A. Yes, sir.

22 Q. Okay. Did Mr. Wilson end up leaving the store
23 then?

24 A. Yes, sir. When I threw the -- the food at him,
25 and he -- when he left out the store and he left and that's

1 when Natori was like, "You can't throw this in the store,
2 pick that stuff up." And I picked it up, and then that's
3 when I bought some M&M's from the counter, and I bought that
4 and then I left.

5 Q. Okay. When you left, did -- was Mr. Wilson in the
6 parking lot?

7 A. He was gone. I ain't know where -- where he was
8 at. I don't know where he was driving in. I just left and
9 went home.

10 Q. Okay. Did you ever see -- and you had never seen
11 Mr. Wilson before that, or had you?

12 A. No, sir. I be at work all the time.

13 Q. Okay. And after that -- that event in Family
14 Dollar, did you ever see Mr. Wilson again?

15 A. After Family Dollar's, I only had seen him at the
16 store -- at the A&P store. That's the only time I seen him.

17 Q. Okay. All right. Tell us this, when you -- when
18 you -- and that was May 8, 2020?

19 A. Yes, sir.

20 Q. Okay. Had you been working that day at Coastal --
21 at Low Country Pallets?

22 A. Yes, sir.

23 Q. What time did you get off work?

24 A. I was getting off around about 3:00 or 4:00. I --
25 about -- around about 3:00 or 4:00. Because We get off

1 earlier. I -- I don't know which day it was, but we got off
2 early.

3 Q. Did you go anywhere -- did you go straight to
4 A&P Coastal or did you go anywhere first?

5 A. No, when I got off, I -- I went home, changed my
6 clothes, shower, and then -- I was at my pop's house. I went
7 home, changed my clothes, and then I walked over to -- to
8 3rd Avenue where I raised up to. And I asked my -- I asked a
9 neighbor, which is, I called my auntie. I was like, "Can you
10 drop me off -- can you drop me off on the Boulevard?" She
11 was like, "Yeah." So I gave her like \$5 to drop me off, and
12 -- and she dropped me off on the Boulevard.

13 Q. Okay. And what were you wearing when she dropped
14 you off on the Boulevard?

15 A. I had some red ragged pants on, and I had my
16 hoodie on because it was raining that day.

17 Q. Did you have your hood up?

18 A. Yes, I had my hood on in the car because when I
19 got out, it -- it was raining, so I put my hood -- my hood
20 was already on. So I got out with my hood on.

21 Q. And did you keep your hood on the whole time?

22 A. Yes, sir. I kept my hood on because it -- it was
23 drizzling. I didn't want to get my hair wet.

24 Q. And you saw the video of the -- of the shooting
25 that we looked at that had been enhanced. Did you have a --

1 a hood on the whole time during that video?

2 A. Yes, sir.

3 Q. Okay. And we know that there are some gaps in
4 that video. You heard -- did you hear that?

5 A. Yes, sir.

6 Q. Okay. When you went to the A&P Coastal Mart, did
7 you have anything with you?

8 A. Yes, sir, I had. Which is my gun in my pocket,
9 and I had some weed in my pocket.

10 Q. And why were you going to the Coastal Mart,
11 Mr. Harvin?

12 A. That's why I sell my drugs to. And -- and I sell
13 my drugs in that area, period. Because I -- I raised it up
14 on the Boulevard ever since I was 13. And I went to school
15 from the Boulevard at Chestnut Oaks, and I was kind of
16 hardheaded with -- with my parents and my dad. Them -- they
17 were trying to keep me in school, but I used to walk to the
18 store and sell drugs and go to the projects in -- in Harmony
19 Court and sell drugs. And I be -- I sell drugs. I was
20 selling drugs at both of the stores at the time.

21 Q. Okay. And -- and then this day in question, you
22 were selling weed, is that what you were selling?

23 A. Yes, sir.

24 MR. BARNES: Okay. Now let me get you to -- I'm sorry,
25 your Honor.

1 THE COURT: That's all right.

2 MR. BARNES: Are you okay?

3 THE COURT: Uh-huh. Thank you.

4 BY MR. BARNES:

5 Q. Can you show me where the A&P Coastal Mart is on
6 this map?

7 A. It is right here.

8 Q. Okay. This? And when you talk about another
9 store, or were you talking about this store right here?

10 A. Yes, sir. That's Kim's store.

11 Q. Okay. That's Kim's store. And what's that store
12 called?

13 A. Both of them are -- both of those stores are Kim's
14 store.

15 Q. Okay. And -- and whoever Kim is, owns both of
16 them?

17 A. He sold that store to someone else and I think now
18 he owns this one now.

19 Q. Okay. And when you got there, where did you get
20 dropped -- okay. Where did you get dropped off in this side?
21 This is the Boulevard and this is Plowden Mill. Did you get
22 dropped off on the Boulevard side or the Plowden Mill side?

23 A. I got dropped off on the Boulevard side right
24 here. Right on the side of the store.

25 Q. Okay. And we saw you on the video hanging out

1 here and walking back and forth. What were you doing?

2 A. I was -- I was -- I was trying to make some money.

3 I was trying to sell my weed because -- like, a week before

4 that -- like a week before this happened, I was riding my

5 bicycle one late night coming from Harmony Court. And a

6 officer had stopped me, and -- and he pulled me over because

7 it -- it was a -- a curfew for the coronavirus. You had to

8 be in the house at 11:00. And then he pulled me over, so I

9 wouldn't stop. And then he hit me with his patrol car and --

10 he hit me with his patrol car and he searched me, and he

11 ended up finding some crack cocaine. And -- and I wanted to

12 do a lawsuit because --

13 MR. MEADORS: Objection, your Honor.

14 THE COURT: Sustained.

15 BY MR. BARNES:

16 Q. Well, let me ask you this. Did he find -- oh.

17 Did he find the crack cocaine on you?

18 A. No -- no, sir. He finds the cracked cocaine

19 inside my bicycle.

20 Q. Okay. What happened to your bicycle?

21 A. They took it to the impound.

22 Q. Okay. So were you trying to -- what is that what

23 you were trying to make money for to get a new bicycle?

24 A. No, sir. I was trying to make some money to get

25 an attorney for a lawsuit on the Sumter County Police

1 Department --

2 MR. MEADORS: Objection, your Honor.

3 THE COURT: That's sustained.

4 BY MR. BARNES:

5 Q. Well, let me ask you this. This -- this call --
6 this is Hannah Street right here, what's on Hannah Street?

7 A. That Hannah Street, that -- that leads into the
8 projects of Harmony Court.

9 Q. And Harmony Court is where you sold drugs
10 sometimes?

11 A. Yes, sir. That -- that's where normally a lot of
12 people come to because they -- they smoke weed. That's where
13 they come from to the store to get cigars. They have to come
14 to the store to get cigars.

15 Q. And what -- when they're coming to the store to
16 get cigars, they buy some weed from you too.

17 A. I let them know, "Hey, I got some weed, you want
18 to buy some?" They was like, "Yeah."

19 Q. Okay. So when you were walking back and forth
20 down here on this on the Boulevard -- on the video, it looked
21 like your back was to the gas pumps, which are right here.
22 Why were you looking that way?

23 A. I was right here, standing here for a while, and I
24 was looking at that store right there. I was analyzing -- I
25 was analyzing the -- the -- my surroundings to how my money

1 was going to come. Because I -- I was seeing if anybody I
2 knew at that store that smoked weed, and I was looking at
3 that little strip right here to see, was anybody was coming
4 towards to the store or going to that store to go to the
5 store to get cigars? And that order I was looking for. I
6 was looking for some people to come to that store or -- or
7 come from the projects.

8 Q. And it was raining while you were doing that?

9 A. Yes, sir. It was drizzling.

10 Q. Okay. And you had a hood on your head?

11 A. Yes, sir. I kept my hood on. I never took it
12 off.

13 Q. Did you see other people -- oh, let me ask you
14 this. How many times had you ever gone to that store to sell
15 weed before?

16 A. I went to that store thousands of times.

17 Q. Okay. And let me ask you this, Rashad. Did you
18 normally have a gun with you?

19 A. No, sir.

20 Q. Why did you have a gun with you this day?

21 A. For my protection.

22 Q. Who were you afraid of?

23 A. I've been threatened in Family Dollar stores, so I
24 was afraid because I do a lot of walking, and I was just
25 protecting myself, and I was -- I was scared and afraid, or I

1 didn't want nobody to hurt me any kind of way. And -- and
2 I'll be dead or something by me selling drugs or something.
3 I don't want nobody to get me or something like that.

4 Q. So before you were threatened by Mike Wilson in
5 the Family Dollar, you didn't carry your gun with you?

6 A. No, sir.

7 Q. Okay. Is there another project down this way that
8 you sometimes sold drugs to? And I'm -- I'm pointing in that
9 direction.

10 A. Down the Plowden Mill Road, is another project,
11 Falcon Crest, where I grew up at, where I was staying at.
12 That's another project, but it's trailer park -- it's a
13 trailer park in Falcon Crest. That's where a lot of other
14 people to hang out too. And they come walking from the
15 projects down that sidewalk right there, which you can see
16 the sidewalk. They come down that sidewalk and go to the
17 store and get cigars. And I wanted to go that way.

18 Q. Did -- did you ever walk down there that day?

19 A. I couldn't make it because Michael Wilson, and he
20 started threatening me.

21 Q. All right. Let -- let's slow down a little bit.
22 Did you -- did -- did you ever, did you ever see Michael
23 Wilson get out of his car?

24 A. No, sir. I -- I got dropped off. I didn't see
25 nothing at all.

1 Q. Okay. Did you ever see Mike Wilson go into the
2 store?

3 A. No, sir. I was looking across the street.

4 Q. Okay. And the video seems to show Mr. Wilson, you
5 know, walking to his car and then walking back, and then
6 walking back over. When he was walking there the first time
7 and coming back and walking back, did you see him then?

8 A. No, sir.

9 Q. Okay. The video seems to show you and Mr. Wilson
10 confront each other somewhere -- well, you tell me where you
11 all were --

12 MR. MEADORS: Your Honor, I object to that, and I
13 object to leading.

14 THE COURT: That's sustained.

15 BY MR. BARNES:

16 Q. Show me where you were when you all -- when you
17 finally saw Mr. Wilson.

18 A. I got out right here. I got dropped off right
19 here, and I started walking down display right here because I
20 couldn't see down the strip. I couldn't see down the strip,
21 but I only could have got the view of the store, but I
22 couldn't see who was coming from the projects.

23 So I walked about right here and I could have seen
24 straight down, and I heard something -- I heard somebody
25 saying something -- something. So when I turned around, he

1 was cussing me out and reaching for his gun, and I
2 accidentally shouting in the air, but I was scared and I was
3 afraid and I just had panic at -- I just had panic.

4 Q. Okay. So you turned -- you -- you heard something
5 behind you?

6 A. Yes, sir. I turned around. It was Michael Wilson
7 right there.

8 Q. And what was he saying to you?

9 A. "You pussy, motherfucker, didn't I tell -- you
10 pussy, motherfucker, didn't I tell you I'm going to kill
11 you?" And he reached for a gun.

12 Q. Did he -- did he -- where was his gun?

13 A. His gun was on the side.

14 Q. Okay. And when he went to reach for his gun, is
15 that when you shot in the air?

16 A. Yeah. He reached for his gun and had -- had his
17 gun in his hand and I shot in the air and ran and he was
18 shooting at me.

19 Q. Okay. So you shot in the air and then you turned
20 around and ran?

21 A. I ran behind the gas tank so he wouldn't hit me.

22 Q. What -- which gas tank?

23 A. The -- it is the first gas tank --

24 Q. Okay.

25 A. -- on the other side of that...

1 Q. So after you fired in the air, you ran over here?

2 A. Yes, sir. I ran behind the gas tank because
3 anywhere else I had would've run, he would've -- he would've
4 had killed me. And so, I went behind the gas tank to hide
5 and he was just, he kept firing at me.

6 Q. Okay. And after you were behind the gas tank,
7 where did you go?

8 A. Then I ran around the store, and -- but I seen him
9 ran this way on the other side of the store, so I thought he
10 was coming around to meet me on this side. And I ran back,
11 and I see Michael Wilson coming from the middle of the store.
12 I see him coming, and I shot and then he just kept shooting
13 at me, and I -- and I just ran through the bushes. I ran
14 through here.

15 Q. And is that -- when you say you shot then, is that
16 when we see you at the -- near the air pump shooting on the
17 video?

18 A. Yes, sir.

19 Q. Okay. When you -- did -- do you know, Rashad, if
20 anybody else had guns out there?

21 A. Not that I know of. I just know Michael Wilson
22 was shooting at me.

23 Q. Okay. And do you -- did you know if you hit
24 Michael Wilson?

25 A. I didn't know I hit him. I just was running and

1 shooting back.

2 Q. Okay.

3 A. So I --

4 Q. Was he shooting at you the whole time?

5 A. Yes, sir.

6 Q. Okay. When you -- when you saw him when you
7 turned around and -- when you heard somebody talking and you
8 turned around and saw him and he was cursing at you --

9 MR. MEADORS: Objection to leading.

10 THE COURT: So far, you're okay because he's already
11 testified to that, but generally that's sustained. Don't
12 lead him.

13 BY MR. BARNES:

14 Q. Did -- did you remember anything that had happened
15 in the past?

16 A. At that time, I was scared and I was afraid,
17 unwilling, feared for my life.

18 Q. Did you remember Mike Wilson threatening to shoot
19 you at Family Dollar?

20 A. I remember him, and he was -- he was more and more
21 aggressive.

22 Q. And did his aggression scare you?

23 A. Yes, sir. I was scared, and afraid, and I
24 panicked.

25 Q. And when you panicked, what did you do?

1 A. I probably shot in the air to -- to run -- so
2 everybody could run and get out. I -- I just ran.

3 Q. Did you want everybody to know you had a gun then?

4 A. No, sir. I didn't want everybody to know that I
5 had a gun, but I was trying to get out of the way. And...

6 Q. Was your mind going fast?

7 A. Yes, sir. I was scared.

8 Q. Did you even -- were -- were you even really
9 thinking about what you were doing then?

10 MR. MEADORS: Object to leading.

11 THE COURT: That's sustained.

12 THE WITNESS: It was -- it was very hard for me to
13 think because -- it was very hard for me to think.

14 BY MR. BARNES:

15 Q. Okay.

16 A. I just couldn't -- my mind was racing and I was
17 just shaking. I was scared.

18 Q. And after that, where did you go, Rashad?

19 A. I ran home.

20 Q. Did you run to your grandma's house or to your
21 daddy's house?

22 A. I ran to my grandma house.

23 Q. Your brother's house?

24 A. My grandma.

25 Q. Grandma?

1 A. Yes, sir.

2 Q. And that's the one that didn't have any water that
3 you just laid your head at sometimes, is that right?

4 A. Yes, sir.

5 Q. Okay. How far away is that from the A&P Coastal
6 Mart?

7 A. About 15 minutes away.

8 Q. 15 minutes running?

9 A. Yes, sir. Jogging.

10 Q. Did you -- at any time while you were running to
11 3rd Avenue -- that -- is that where it is? 3rd Avenue?

12 A. [REDACTED] 3rd Avenue. Yes, sir.

13 Q. Okay. When -- any time when you were running
14 there, did you stop and put the gun down anywhere?

15 A. No, sir.

16 Q. Okay. Where did you put the gun when you got to
17 3rd Avenue?

18 A. I went home and I buried it in the backyard in --
19 in the backyard, wooded area.

20 Q. Okay. And is that what you told -- did you tell
21 Sergeant Kelly and Lieutenant Culick that when they
22 interviewed you?

23 A. Yes, I told them of the best of my knowledge.

24 Q. Okay. The gun was kind of in a wooded area?

25 A. Yes, sir. In the backyard.

1 Q. Did they ever ask you to get in the car with them
2 and go show them where you buried the gun?

3 A. I don't know.

4 Q. Okay. When -- let's talk a little bit about the
5 interview with Detective Kelly and Detective Culick. Why
6 didn't you tell them that you had seen Michael Wilson in the
7 Family Dollar store and that he had threatened you?

8 A. Well, I was scared and I was afraid, I feared for
9 my life. I was overwhelmed.

10 Q. I'm sorry, what? You were what?

11 A. I was overwhelmed.

12 Q. Overwhelmed?

13 A. Yes, sir. And fear for my life. I never
14 experienced nothing like this in my life.

15 Q. You -- you had never been interviewed by a police
16 before like that?

17 A. No, sir. Okay. Me being -- me being a black --
18 me being a black man --

19 MR. MEADORS: Objection, your Honor.

20 THE COURT: That's sustained

21 THE WITNESS: Me being a black man --

22 BY MR. BARNES:

23 Q. No, you can't answer that.

24 A. All right.

25 Q. Were -- were you afraid during the interview?

1 A. Yes, sir.

2 Q. Okay. Did you feel like you had to give them
3 information?

4 A. Well, I feel like me -- as me being black and the
5 way I was raised up, I'd say, like, me growing up, we -- we
6 call -- we call it "snitching," and that would -- it -- that
7 would've -- would label me up of being a snitch. So me being
8 in front of the -- the cop. So I panicked. I had panicked
9 and I didn't have telling the cops what happened on my mind.
10 So that's why I didn't tell all alone.

11 Q. Okay. Well, let me ask you this: When you got to
12 your pop's house, your uncle was there or he came there
13 after?

14 A. My pop's brother was they was talking in the yard
15 and then I came across the field, and then my aunt -- my
16 pop's brother, he left. And...

17 Q. When did you find out that somebody was looking
18 for you?

19 A. Oh, that's when I had first went to my grandma
20 house, and my -- my mama brother, Jimbo (ph), he was on the
21 back porch and he was like, "Hey, I need to talk to you. I"
22 --

23 MR. MEADORS: Objection, hearsay.

24 THE COURT: That's sustained.

25 BY MR. BARNES:

1 Q. Okay. Who was it that ended up calling the cops?

2 A. My -- my father.

3 Q. Okay.

4 A. My pops.

5 Q. And did he talk when -- when you got home, did you
6 tell him what -- what -- what'd you tell your pops when you
7 got home?

8 A. I didn't tell him nothing because everybody had
9 known what was going on, and I didn't know I had killed
10 anybody. I was -- I was scared and panicking and afraid. So
11 he was like, "They said you killed somebody." I was like, "I
12 -- I didn't kill nobody." He was like, "We'll just call the
13 police."

14 MR. MEADORS: Objection, hearsay.

15 THE COURT: Sustained.

16 BY MR. BARNES:

17 Q. Did your father end up doing anything?

18 A. He called the cops.

19 Q. And were you okay with him -- did you tell him,
20 "Okay. Call the cops?"

21 A. Yeah, I was fine with that.

22 Q. Okay. And once the cops came to your house, did
23 they arrest you then?

24 A. Yes, sir.

25 Q. Okay. And that's when you went down to the

1 station with Detective Kelly and Detective Culick?

2 A. Yes, sir.

3 Q. Did -- who drove you down there? Did one of them
4 drive you?

5 A. The law enforcement.

6 Q. Okay. But was it Detective Kelly that drove you?

7 A. No, sir. It was -- I -- If I can remember it, was
8 Van Allen.

9 Q. Van Allen? Okay.

10 A. Yes, sir.

11 Q. Rashad, in your mind, is having seen someone
12 before the same as knowing them?

13 A. I don't get what you're saying. Would you say it
14 again?

15 Q. Okay. Well, you didn't tell the cops that you had
16 seen Mr. -- what was heard on the video, you did -- you never
17 told them during the interview that you had seen Mr. Wilson
18 before?

19 A. I don't know him.

20 Q. Okay. And you said you don't know him, but you
21 had seen him?

22 A. Yes, sir.

23 Q. Okay. And Ms. Myers came in and said she -- that
24 you had said, "No?"

25 A. Yes, sir.

1 Q. And do you agree with her about that?

2 MR. MEADORS: Objection to leading.

3 THE WITNESS: Yes, sir.

4 THE COURT: Sustained.

5 BY MR. BARNES:

6 Q. Rashad, did you mean to shoot Mike Wilson?

7 A. No, sir.

8 Q. Did you go to that store intending to shoot him?

9 A. No, sir.

10 Q. When you turned around and realized that he was
11 cursing at you, and -- and going for his gun, did you intend
12 --

13 MR. MEADORS: Objection, leading.

14 THE COURT: That's what he's testified to. Let me hear
15 the rest of your question.

16 BY MR. BARNES:

17 Q. Did you intend to shoot him then?

18 A. No, sir.

19 Q. Is that why you shot in the air?

20 A. I wanted to I wanted to get -- I wanted to get out
21 of harm's and go home.

22 Q. Okay. And then when you turned around and went to
23 the gas tank and then subsequently went to the air pump and
24 were shooting back at him, was he firing at you then?

25 A. Yes, he was more and more, more aggressive.

1 Q. Okay. Did you ever see Mike Wilson fall down on
2 the ground or anything like that?

3 A. No, sir. I was gone.

4 MR. BARNES: Okay. I beg Court's indulgence.

5 THE COURT: Uh-huh.

6 BY MR. BARNES:

7 Q. Rashad, how long had you been at the A&P Coastal
8 Mart that day when -- before the shooting took place?

9 A. When I got dropped off, I probably was there for
10 like, about 15, 20 minutes.

11 Q. Okay.

12 A. I'm not very sure.

13 Q. Okay. Rashad, at the A&P Coastal Mart that day,
14 did you ever see Larry Harrison, the man who came and
15 testified that he took Mr. Wilson halfway to the hospital?
16 Did you see him there at the Coastal Mart that day?

17 A. No, sir -- no, sir. I don't know him.

18 Q. Okay. What about Mr. Gainey, the man that was in
19 the white truck who came and testified, did you notice him
20 that day?

21 A. No, sir. I don't know him.

22 Q. Had you ever seen either one of them before?

23 A. No, sir.

24 MR. BARNES: Okay. I think that's all I have, your
25 Honor.

1 THE COURT: Okay. Mr. Meadors?

2 MR. MEADORS: Can we approach?

3 THE COURT: Sure.

4 (Bench conference at 12:58 p.m.)

5 CROSS-EXAMINATION

6 BY MR. MEADORS:

7 Q. Harvin, where did you get the gun from that you
8 had on May 8th?

9 A. I -- I -- I bought it from a -- a -- a smoker.

10 Q. Can you tell me who it is?

11 A. I don't know exactly what his name.

12 Q. And what type of gun was it?

13 A. It was 380.

14 Q. And -- and -- and what time that day did you get
15 the gun?

16 A. I'm not sure.

17 Q. You're not sure when you got it?

18 A. I don't know what time or what day, but I know I
19 bought it from someone.

20 Q. Okay. How long did you have the gun?

21 A. Probably about three years.

22 Q. Three years?

23 A. Yes, sir.

24 Q. You bought it somewhere in Sumter?

25 A. Yes, sir.

1 Q. How much did you pay for it?

2 A. I only paid about \$350 for it.

3 Q. And you weren't supposed to have a gun, were you?

4 A. No, sir.

5 Q. And because of your record, you're not supposed to
6 have a firearm?

7 A. I didn't know at the time.

8 Q. You didn't know you weren't supposed to have a gun
9 after you -- and you had two drug charges?

10 A. Well, I seen it as -- once I signed the gun law, I
11 have 12 years not to get in trouble, that I could have got a
12 gun and -- and get a concealed license, but I didn't -- never
13 did it.

14 Q. That's not true. You had been in trouble 12 years
15 then, was it?

16 A. It was 12 -- it been 12 years since.

17 Q. Since those convictions?

18 A. Since I -- since I got a gun.

19 Q. Since you got a gun, okay.

20 A. Yes, sir.

21 Q. You're not saying since these convictions, you --
22 you're not trying to say that, are you?

23 A. I don't know what you're saying, sir.

24 Q. Well, let me ask you, what are you saying? When
25 you -- why did you think you could get a gun back?

1 A. When I was -- when I was riding with them young --
2 them -- them guys in that car, and when I got caught with the
3 -- the -- the guns in the car with them, and when I -- when
4 the judge sentenced me -- well, when the judge had told me to
5 sign the gun law, and -- I think I did some research on it,
6 they say I have to not be getting any trouble for 12 years
7 and I would -- think I would be -- I -- I would be able to
8 get a gun.

9 Q. What year was that when you got stopped?
10 Everybody had guns in the car?

11 A. I'm not sure.

12 Q. Can you give me an idea?

13 A. Probably about 2009.

14 Q. How old were you?

15 A. Probably about 17.

16 Q. So you said that, "When the judge sentenced me,"
17 did he sentence you?

18 A. No, sir. He didn't sentence me. He just he just
19 made me sign the -- the gun law.

20 Q. And after that, you did get in trouble again,
21 right? With the drug charges.

22 A. I got in trouble 12 years after that.

23 Q. So after that, you knew you weren't supposed to
24 have a gun?

25 A. I know I'm not supposed to have a gun.

1 Q. And you said you had it three years prior to this
2 incident. And you're telling me for the three years, this is
3 the only time you carried it?

4 A. No, sir. That -- that's not the only time that I
5 carry it. I have carried it 4th of July.

6 Q. 4th of July?

7 A. Yes, sir.

8 Q. What -- what -- what was that about?

9 A. I -- I was -- I was shooting my gun at -- at a
10 tree.

11 Q. Where was that?

12 A. That was in my backyard

13 Q. On the 4th of July. Where do you live?

14 A. 3rd Avenue.

15 Q. Okay. And it's -- that's in the city?

16 A. Yes, sir.

17 Q. So you're shooting your gun in the city?

18 A. Yes, sir.

19 Q. But you've testified to Mr. Barnes that you -- I
20 mean, it's your testimony, I'm not -- your other job, you
21 sell drugs?

22 A. No, that wasn't a job. That is something that I
23 had wanted to do to get some money to pay my lawyer.

24 Q. Okay. And how long have you been doing that?

25 A. Time about the -- the -- the drugs?

1 Q. Yes, sir.

2 A. I had just started back doing that just to make
3 some fast money.

4 Q. When did you start that?

5 A. I don't know exact date.

6 Q. In relation to this incident.

7 A. When did I start back?

8 Q. Yes, sir.

9 A. May 8th.

10 Q. So May 8th you started selling drugs again?

11 A. Yes, sir.

12 Q. And how long prior to that had you been selling
13 drugs? When did you stop before you said you started back?

14 A. I stopped it when I started working.

15 Q. Okay. So on May 8th -- and I thought you said on
16 direct that you had customers and you were watching. So this
17 was the first time you'd started back dealing?

18 A. I was working.

19 Q. So to answer my question, you just started dealing
20 that day on May 8th?

21 A. Yes, sir.

22 Q. After a break?

23 A. Yes, sir.

24 Q. Why'd you start dealing that day?

25 A. Why did I start dealing that day?

1 Q. Yes, sir. You had got a job?

2 A. Because I -- see, I was on probation for some -- I
3 think for some drugs and -- and when I started working, the
4 probation in Columbia was taking half of my money out of my
5 check and I didn't really -- didn't have no money to come up
6 with a lawyer. And so the rest of my money went towards the
7 food and I didn't have no money, so I wanted to make some --
8 some fast money so I could help give my lawyer a thousand
9 dollars.

10 Q. You didn't need a lawyer on that day?

11 A. I need a lawyer as fast as possible.

12 Q. Oh, money (inaudible), did it? Did you know you
13 needed a lawyer because you knew what you were going to do to
14 Mike Wilson? Is that why you knew you needed a lawyer?

15 A. I needed a lawyer because Dan Allen, he had hit me
16 off the bicycle with his patrol car, and I wanted to file a
17 lawsuit on the Sumter County Police Department.

18 Q. So on May 8th is when you started selling drugs
19 again?

20 A. Yes, sir. I could have made -- if I -- if I stood
21 out there, I could have maybe made about a thousand dollars a
22 day.

23 Q. You are actually telling that today, because that
24 explains why you were at that scene and you're now trying to
25 say that's why you were there selling drugs?

1 MR. BARNES: Objection. That's not what his testimony
2 was.

3 THE COURT: I mean, I'm going to allow the question.

4 BY MR. MEADORS:

5 Q. That's what you're saying now, right?

6 A. I don't know what you're saying. What you said,
7 sir?

8 Q. Well, this is an excuse for you being at the
9 store, isn't it?

10 A. Selling drugs. Yes, sir.

11 Q. Sir?

12 A. Me being at the store selling drugs, that's why I
13 was -- that's why I was out there.

14 Q. So that gives you an explanation today to this
15 jury why you were at the store, right?

16 MR. BARNES: Asked and answered.

17 THE COURT: That's sustained.

18 BY MR. MEADORS:

19 Q. Where did you go when you got off of work?

20 A. I got off work, I went to my pop's house, got out
21 of my work clothes and put on my -- put on my -- the clothes
22 that I wear outside to go hanging out in my neighborhood and
23 -- pardon me. And then I went to my pop's house and then I
24 went over on 3rd Avenue.

25 Q. And where was the gun that -- whose house was the

1 gun in? I'm sorry.

2 A. It was at my pop's house in the -- in the book bag
3 down in the -- a cage. You know where the cage is? A -- a
4 closed cage? It is -- it's a bin. Closed bin.

5 Q. Okay.

6 A. And I had it inside of a book bag buried under a
7 -- a bunch of clothes.

8 Q. Why'd you have it buried?

9 A. Because I have a little sister and I don't want
10 her founding it.

11 Q. Did your pops know you had a gun there?

12 A. No, sir.

13 Q. And you got the gun and you headed down to the
14 Boulevard?

15 A. No, sir. I went to -- I went on 3rd Avenue.

16 Q. Why?

17 A. I went on 3rd Avenue because I wanted to get a
18 ride to the Boulevard because I didn't want to go back to the
19 Family Dollars no more because I was afraid that Michael
20 Wilson would be somewhere lurking around that area, and that
21 -- so I got off that side of town, and now -- I -- I just got
22 off that side of town and went on the Boulevard.

23 Q. What's the Family Dollar got to do with anything?
24 You said you were going to go sell drugs at A&P, May 8th.

25 A. Because I -- I go to the Family Dollar every day,

1 so I probably would have -- I probably would have stopped to
2 the Family Dollars, but that's why -- that's why I went on
3 the Boulevard.

4 Q. But you also went to sell drugs, you said this day
5 you started again selling drugs, May 8th, right?

6 A. Yes, sir.

7 Q. To make quick money for a lawyer?

8 A. Yes, sir.

9 Q. Have you sold drugs at Family Dollar?

10 A. No, sir.

11 Q. Who dropped you off at A&P?

12 A. It was this elderly lady -- this elderly lady.
13 She was probably in her 60s, probably older. She was
14 elderly.

15 Q. Mind telling me her name?

16 A. Her name was Berta Lee. And she's known as Bert.

17 Q. Does Bert know you had the gun on you?

18 A. No, sir.

19 Q. And did you have drugs on you?

20 A. Yes, sir.

21 Q. How much did you have?

22 A. I probably had at least about a ounce of weeds.

23 Q. And did you -- where'd you get it from?

24 A. I got it from somebody.

25 Q. Do you know who it was?

1 A. A guy from somebody from the streets. I don't --
2 I don't know their name.

3 Q. You don't know their name? But they cost -- they
4 didn't give it fronted, did he? I mean, you know what
5 fronted is?

6 A. Yeah.

7 Q. In fronted?

8 A. Yes.

9 Q. (Inaudible)?

10 A. Yes, sir.

11 Q. And you said you didn't have any money?

12 A. I had money.

13 Q. Okay. So how much did you pay for it?

14 A. Only about a hundred dollars.

15 Q. And how much were you going to sell it for?

16 A. Maybe about -- probably about -- about \$280 to
17 \$300.

18 Q. And how were you going to sell that package?

19 A. I was going to weigh it up on the scale.

20 Q. Did you have a scale with you?

21 A. Yes, sir.

22 Q. Where was the scale?

23 A. In my pocket.

24 Q. So you had a scale in your pocket?

25 A. Yes, sir.

1 Q. Where's the gun?

2 A. It was my hoodie pocket.

3 Q. In your what?

4 A. It was in my hoodie pocket.

5 Q. Hoodie pocket. So you got a scale. How big was
6 the scale?

7 A. It was little -- it's a little -- it's a little
8 hand scale.

9 Q. And how long were you at A&P that day?

10 A. Probably about 15 to 20 minutes.

11 Q. And you never sold anybody anything, did you?

12 A. Sir?

13 Q. You never sold anybody anything at A&P that day,
14 did you?

15 A. No, sir.

16 Q. And you're saying this incident in the Family
17 Dollar happened a week before?

18 A. I really can't remember, but I would say couple of
19 days.

20 Q. Okay. You said a week earlier. You remember
21 that?

22 A. I said a couple of days, I think.

23 Q. And when you left the Family Dollar Store, you
24 were angry, weren't you?

25 A. No, sir.

1 Q. You were not angry?

2 A. No, sir. Because I had to go to work the next
3 day.

4 Q. So you weren't angry at all?

5 A. No, sir.

6 Q. And you're saying that Ms. Myers took you out
7 first?

8 A. No, she didn't take me out.

9 Q. I thought you -- excuse me. Did you leave before
10 -- your testimony was you left before Mr. Wilson?

11 A. No, sir.

12 Q. That's not what you testified just a while ago,
13 did you?

14 A. I left last. Michael Wilson left first and I left
15 last because I had to pick up the French fries off the floor.

16 Q. Do you remember testifying earlier that you left
17 first?

18 A. No, sir.

19 MR. BARNES: Objection. That wasn't his testimony,
20 your Honor.

21 THE COURT: That's not my recollection either. But
22 ladies and gentlemen, you, you heard the testimony yourself,
23 so you can rely on your own recollection of what the
24 testimony was.

25 BY MR. MEADORS:

1 Q. "So victim left before you?" You don't remember
2 saying, "Yes," to that? That's my recollection in the -- in
3 the statement. You don't remember that?

4 A. That was Natori Myers said.

5 Q. And then you bought M&M's and left?

6 A. Yes, sir. I bought my M&M's and then I left.

7 Q. And did you see the -- Mr. Wilson in the parking
8 lot when you left? Do you remember Mr. Barnes asking you
9 that?

10 A. I -- I didn't see no Mr. Wilson. I don't -- I --
11 I don't know him. I didn't see him in the parking lot.

12 Q. You had never seen Mr. Wilson before that?

13 A. Before?

14 Q. Before what you said. Family Dollar. You've
15 never seen him before that?

16 A. No, sir.

17 Q. And you've never seen him after that until A&P?

18 A. Can you say that again?

19 Q. When's the next time you saw Mike Wilson after you
20 say you saw him at Family Dollar? When's the next time you
21 saw him?

22 A. I seen him in the Family Dollar. The next time I
23 seen Michael Wilson was at the A&P store.

24 Q. And you all didn't have any other bad blood?

25 A. No, sir.

1 Q. And you're saying -- did he have a gun in
2 Family Dollar according to you?

3 A. Yes, sir.

4 Q. And you're saying he pulled it out?

5 A. No, sir.

6 Q. He did not pull it out at Family Dollar?

7 A. No, sir, he reached for it.

8 MR. MEADORS: Now, let's go to -- this is camera 17 at
9 A&P.

10 (Video starts at 1:16:17 p.m.)

11 BY MR. MEADORS:

12 Q. You recognize that?

13 A. Yes, sir.

14 Q. And that red car, that's you getting out right
15 there, isn't it?

16 A. Yes, sir.

17 MR. MEADORS: Put that back in. I apologize a little
18 bit. Right there. Stop.

19 (Video stops at 1:16:34 p.m.)

20 BY MR. MEADORS:

21 Q. Was that you getting out that red car?

22 A. Yes, sir.

23 Q. Okay. And that's a little bit before 5:00,
24 correct? Or do you know what time it was? Do you remember?
25 Do you remember what time it was, Rashad?

1 A. No, sir.

2 (Video starts at 1:17:01 p.m.)

3 (Video stops at 1:17:10 p.m.)

4 BY MR. MEADORS:

5 Q. Mr. Harvin, you're just standing there, right?

6 A. Yes, sir.

7 Q. Did you ever go in the store?

8 A. No, sir.

9 Q. And you never sold any drugs either, did you?

10 A. No, sir.

11 Q. Did you not see anybody you thought might want
12 drugs?

13 A. I was looking.

14 Q. You ever motioned anybody to come buy some drugs?

15 A. Say that again?

16 Q. Did you ever motion to somebody or go try to find
17 somebody to buy drugs?

18 A. I was looking to -- I was looking to see if I see
19 anybody, but nobody was -- I didn't see nobody.

20 Q. And you were actually said you were looking down
21 -- let me ask you this real quick, this is 36. Do you
22 remember telling Mr. Barnes, where were you looking to, you
23 sold drugs at another store?

24 A. I was looking at the other store.

25 Q. So you were watching here?

1 A. Yes, sir.

2 Q. Why didn't you go over there if you're trying to
3 sell drugs?

4 A. I didn't see anybody coming from the projects and
5 I didn't see nobody car that I know pulling into the store at
6 the time.

7 Q. But you were down here selling for here?

8 A. If I seen somebody that I had known, I would've
9 walked over there.

10 Q. And this is closer to the project?

11 A. Yes, sir.

12 Q. I'd be easier to sell over here, wouldn't it?

13 A. It would be easier to sell at both, but at the gas
14 station.

15 Q. But this is not -- I mean, it's a little more
16 secluded than down here in the middle of the parking lot,
17 isn't it?

18 A. That -- the other store I was at, that -- that's
19 the gas station. So that's have -- that's have more -- more
20 traffic coming to that store.

21 Q. The A&P?

22 A. Yes, sir.

23 Q. Okay. That you started back selling this day on
24 May 8th?

25 A. Yes, sir.

1 Q. And why did you have your hoodie on?

2 A. Because it was drizzling or raining that day.

3 Q. Okay. Was it hot outside?

4 A. No, sir. It's been just -- the temperature was --
5 it wasn't hot or it wasn't cold, it was just -- it was just
6 raining that day.

7 (Video starts at 1:19:53 p.m.)

8 (Video stops at 1:20:21 p.m.)

9 BY MR. MEADORS:

10 Q. Now, stop right there. Are you moving up toward
11 front of -- away from the store at that point?

12 A. Yes, sir.

13 Q. Okay. Why are you doing that?

14 A. I am trying to get a better view to the projects.

15 Q. Okay. So this has got nothing to do with
16 Mr. Wilson at this point?

17 A. Not at all.

18 Q. Okay. You're trying to get a better view of the
19 projects from there?

20 A. Yes, sir.

21 MR. MEADORS: Okay. Keep going, please.

22 (Video starts at 1:20:49 p.m.)

23 MR. MEADORS: Now, you're looking back to your left.
24 Let's go to the next one.

25 (Video stops at 1:21:11 p.m.)

1 BY MR. MEADORS:

2 Q. You've been in here -- stupid question. You've
3 been here all week, you know the different Campbells that --
4 camera shots at A&P, don't you?

5 A. Yes, sir.

6 MR. MEADORS: Next one. Now, this is the other camera
7 angle number 20.

8 (Video starts at 1:21:30 p.m.)

9 (Video stops at 1:21:36 p.m.)

10 BY MR. MEADORS:

11 Q. You see yourself in here?

12 A. Yes, sir.

13 Q. Where are you?

14 A. I'm right there with the car leaving.

15 Q. Okay. And at this point, did you see Mike Wilson
16 and Mr. Harrison?

17 A. No, sir.

18 Q. Okay. So he is not a threat to you then, was he?

19 A. I wasn't paying him no attention, so I -- I
20 wouldn't know. I was looking across the street, but he
21 probably has seen me, though.

22 Q. Wait, you've got -- the man is dead, you killed
23 him -- the man is dead. How -- how -- how do you know he
24 probably would've seen you?

25 A. Because I'm -- I'm standing right there beside the

1 road with a hoodie on. I'm looking -- I'm -- look -- I'm
2 right -- I'm just sitting there on the side of the road
3 looking across the street.

4 Q. But he didn't come over and bother you, did he?

5 A. No, sir.

6 Q. He didn't say anything to you?

7 A. No, sir.

8 Q. You didn't say anything to him, did you?

9 A. No, I didn't know he was out there.

10 Q. And that's still you standing right here?

11 A. Yes, sir.

12 Q. Okay.

13 (Video starts at 1:23:02 p.m.)

14 (Video stops at 1:23:27 p.m.)

15 BY MR. MEADORS:

16 Q. You remember seeing the white truck pull in there
17 on the side?

18 A. No, sir. I -- I really don't remember none of
19 that other of that stuff that there going on that truck. No.

20 Q. Okay. And you didn't know Mr. Gainey at all, did
21 you?

22 A. No, sir.

23 Q. You don't know really -- you don't know
24 Mr. Harrison, do you?

25 A. No, sir.

1 (Video starts at 1:23:51 p.m.)

2 BY MR. MEADORS:

3 Q. And you're not selling drugs to anybody here, are
4 you? Right here? I'm saying you said you didn't sell any
5 drugs that day?

6 MR. BARNES: Objection, your Honor. He's asked that
7 question about four times now. Asked and answered.

8 THE COURT: I think he's asking this particular point
9 in the video, but that's sustained.

10 (Video stops at 1:24:50 p.m.)

11 BY MR. MEADORS:

12 Q. What you -- what are you thinking about right
13 here?

14 A. What?

15 Q. What are you thinking about?

16 A. Where at?

17 Q. Right now on the video?

18 A. You're talking about over there in -- on the other
19 side by the road?

20 Q. Yes, sir.

21 A. Thinking about some money.

22 Q. And -- and -- and do -- do you usually sell drugs
23 out in the middle of the -- where everybody can see you?

24 A. Well, if someone spot me and -- and -- and -- and
25 want to buy some, I would get out. I try to get out of the

1 camera way, you know, and -- and probably go somewhere and --
2 and sell it to them.

3 Q. And you say probably so, I mean, this was the
4 first day you'd started back, you said -- and I don't know
5 how long, but where would you go if you were going to sell it
6 to them?

7 A. Right now, if --

8 Q. No -- no. Back -- back then. Where were you
9 going?

10 A. Say back then?

11 Q. Yeah. On this day right here. If you'd sold
12 somebody, where would you have gone?

13 A. I would've hopped in the car with somebody. I
14 would've -- if somebody was driving, I would've hopped in the
15 car and sell it to them in the car.

16 Q. Were you still upset about your encounter at
17 Family Dollar on May 8th?

18 A. No, sir. I was working, I just getting off from
19 work.

20 Q. So you weren't thinking about that at all?

21 A. No, sir. I was just getting off from work, but me
22 -- me -- me selling drugs, I was just protecting myself at
23 all times.

24 Q. Say that last part. I just couldn't hear. You
25 were just what?

1 A. Me selling drugs, I just was protecting myself at
2 all times.

3 (Video starts at 1:26:49 p.m.)

4 BY MR. MEADORS:

5 Q. You said it was raining?

6 A. Yes, sir.

7 Q. Nobody else has got a hat on but you, do they?

8 A. Yes, sir. Because Everybody else was under the --
9 the shed. So I was --

10 Q. That fella's not under the shed.

11 A. Where at?

12 Q. Right there and just got in. That's Mr. Harrison,
13 isn't it?

14 A. Yes, sir.

15 Q. Were you trying to conceal your identity with your
16 hood over your head so Mr. Wilson wouldn't see you?

17 A. No, sir. It was -- it was a -- a corona time. It
18 was really something that I wore for the Corona and that
19 rain.

20 Q. The Corona and the rain?

21 A. Yes, sir. So basically, it was a -- a really a
22 Corona hoodie.

23 Q. Now, Mr. Harvin, watch this video with me now,
24 please, sir. That's Mr. Wilson walking back there. The
25 testimony has been -- and you start to move right at the same

1 time. Do you see that?

2 A. Yes, sir.

3 Q. Mr. Wilson is moving and you're moving?

4 A. Yes, sir.

5 MR. MEADORS: Stop there.

6 (Video stops at 1:29:58 p.m.)

7 BY MR. MEADORS:

8 Q. Do you see that?

9 A. Yes, sir. I see that.

10 Q. Okay. Why did you move when Mr. Wilson started
11 heading out (inaudible)?

12 A. I don't know.

13 Q. You don't know?

14 A. No, sir.

15 Q. Well, you didn't have a customer that you saw you
16 were trying to sell, did you?

17 A. The reason why I moved because I was trying to get
18 a better view to the projects.

19 Q. So at the exact same time Mr. Wilson comes out and
20 goes to the front, you decide you're going to move to get a
21 better view of the projects?

22 A. Yes, sir. Because I was standing in the -- I was
23 standing in one spot for amount of a long time, and so that
24 will make me -- that will make the police draw to me just
25 standing there looking suspicious. So I wanted to move to

1 get a better look to the projects.

2 Q. And that just happened to be the time Mr. Wilson's
3 going in front of you?

4 A. Yes, sir.

5 MR. MEADORS: Okay. Keep going.

6 (Video starts at 1:31:07 p.m.)

7 (Video stops at 1:31:15 p.m.)

8 BY MR. MEADORS:

9 Q. Okay. And stop right there. Where's the gun
10 right now?

11 A. It is in my hoodie.

12 Q. And where in your hoodie?

13 A. Right there. Where -- where my hand --

14 Q. Will you stand up and just show me if you -- where
15 you would've had it?

16 A. What was the question?

17 Q. Where was the gun in your hoodie?

18 A. The gun was -- you said show you where it was up
19 -- where it was?

20 Q. I'm sorry?

21 A. You said show you where it was?

22 Q. Yes, sir.

23 A. It was -- it was in my right side of my hoodie.

24 Q. And is your hand inside of your hoodie?

25 A. Yes, sir.

1 Q. So was your hand on your gun?

2 A. It was on the gun.

3 Q. Was it on the trigger?

4 A. No, sir.

5 Q. How were you holding it?

6 A. I just had my hand in my pocket.

7 Q. Well, you said it was on the gun.

8 A. I just stick mine -- I just stick my hand in my
9 pockets.

10 Q. Okay. What -- did you have the gun below your
11 hand?

12 A. It was underneath my arm hand. It was -- it was
13 underneath my hand.

14 Q. And how were you holding it?

15 A. Just had my hand laying on top of it.

16 Q. And what else was in your hoodie and your pants?

17 A. My left -- my left -- my left hoodie that was that
18 where the -- the drugs were.

19 Q. The what?

20 A. The drugs.

21 Q. Okay. What else did you have on you?

22 A. My iPhone.

23 Q. Okay. And what else?

24 A. And the scale.

25 Q. And where was the iPhone and the scale?

1 A. iPhone on the scale was in my pants pocket.

2 MR. MEADORS: Okay. Keep going.

3 (Video starts at 1:32:46 p.m.)

4 MR. MEADORS: Stop.

5 (Video stops at 1:32:53 p.m.)

6 BY MR. MEDAORS:

7 Q. Now, why did you keep walking that way then?

8 A. Which way?

9 Q. You just kept walking to the right on the picture.
10 Why did you start walking -- keep walking?

11 A. I was walking -- I was walking straight to the --
12 I'm walking straight down to the -- to the road to look a
13 better view to -- a better view to the projects.

14 Q. And Mr. Wilson, you said that -- your testimony is
15 that -- that he had threatened you previously?

16 A. Yes, I heard something. I turned around and I was
17 -- and I --

18 Q. Wait a minute. I'm just -- had he threatened --
19 your testimony is he threatened you previously?

20 A. Yes, sir.

21 Q. And you're now just a few feet from him, right?

22 A. What -- I'm -- I was -- I was -- yes, sir.

23 Q. Nothing blocking your view?

24 A. Sir.

25 Q. Nothing was blocking you right now. Nothing

1 blocking out your view of Mr. Wilson, was it?

2 A. I wasn't paying none of that attention.

3 Q. Can you see right now?

4 A. I see it -- I seen -- seen it -- I seen it now,
5 but I wasn't -- I was not paying that no attention.

6 Q. So at this point, you didn't know that was
7 Mr. Wilson?

8 A. No, sir.

9 Q. Okay. And he hadn't said anything to you up to
10 this point, has he?

11 A. Up to what point?

12 Q. Right here.

13 A. I can't remember.

14 Q. Well, I'm -- it's in -- I'd ask you to try to
15 remember. At this point of the video, you're pulling up,
16 you're now saying that you walked up to get a better view of
17 the -- of the -- of folks down the road for drugs. And at
18 this point, you hadn't -- Mr. Wilson had had no words,
19 correct?

20 A. I was walking to the -- to the road, sir.

21 Q. Exactly. But you hadn't -- you and Mr. Wilson had
22 said nothing to each other, had you?

23 A. When he was there?

24 Q. Yes, sir. Right there.

25 A. I didn't see him.

1 Q. So you had -- nobody -- he hadn't said anything to
2 you. You hadn't said anything to him?

3 A. I didn't -- I didn't know he was out there, sir.

4 MR. MEADORS: Keep going.

5 (Video starts at 1:34:58 p.m.)

6 (Video stops at 1:35:03 p.m.)

7 BY MR. MEADORS:

8 Q. Now, you're looking back to your left there. You
9 see that?

10 A. Yes, sir.

11 Q. Why were you looking back to your left? Stop.

12 A. Because -- because You have cars pulling in and I
13 -- and I was watching, see if anything was coming in or -- or
14 try to hit me or something. I don't know.

15 Q. Trying to what? Hit you?

16 A. Yeah. Because you have to watch up for cars
17 coming in.

18 Q. Were you looking back to see if there made any
19 witnesses were there?

20 A. No, sir.

21 Q. Okay. Well -- it is not funny, is it?

22 A. No, sir.

23 Q. Your hands on your gun? Your hand is on your gun
24 at this point, isn't it?

25 A. Yes, sir.

1 Q. And the fella you say is threatened you a week
2 before is a few feet from you, right?

3 A. Yes, sir.

4 Q. And you're approaching him, right?

5 A. I was minding my own business, sir.

6 MR. MEADORS: Keep going.

7 (Video starts at 1:35:51 p.m.)

8 (Video stops at 1:36:03 p.m.)

9 BY MR. MEADORS:

10 Q. Did you yell out at the folks across the street or
11 did you see -- you didn't see any customer, potential
12 customers, did you?

13 A. I didn't know them.

14 MR. MEADORS: Stop right here.

15 (Video stops at 1:36:12 p.m.)

16 BY MR. MEADORS:

17 Q. Now, at this point, are you telling this jury you
18 didn't see Mr. Harrison or the Defendant (sic) right here in
19 this picture right here?

20 A. I wasn't paying them attention, so no, I didn't
21 know they was there.

22 MR. MEADORS: Okay. Keep going, please.

23 (Video starts at 1:36:30 p.m.)

24 (Video stops at 1:36:34 p.m.)

25 BY MR. MEADORS:

1 Q. Did you see him putting ice in his cooler?

2 A. No, sir.

3 Q. Did you see him going back to take the bag of ice
4 and put it in the trash can?

5 A. No, sir.

6 MR. MEADORS: Keep going.

7 (Video starts at 1:36:46 p.m.)

8 MR. MEADORS: Stop.

9 (Video stops at 1:37:01 p.m.)

10 BY MR. MEADORS:

11 Q. Did you see Mr. Harrison's car drive off?

12 A. I see. I seen his -- I see the car now leaving.

13 Q. I -- I -- I understand it. Did you see it then?

14 A. No, sir. I wasn't paying that no attention.

15 Q. That's right in front of you, right?

16 A. Yes, sir.

17 MR. MEADORS: Keep going.

18 (Video starts at 1:37:18 p.m.)

19 BY MR. MEADORS:

20 Q. And you see Mr. Wil walking right by you there?

21 A. Yes, sir.

22 MR. MEADORS: Stop.

23 (Video stops at 1:37:25 p.m.)

24 BY MR. MEADORS:

25 Q. You do see him there?

1 A. I see him right now on the on the -- on the
2 screen. I see him walking by.

3 Q. Did you see him then on May 8th at that point?

4 A. He said something.

5 Q. Excuse me?

6 A. He said something to me.

7 Q. So you saw him at that point?

8 A. Yes, sir. He -- I turned around.

9 Q. And he's waving at Larry right here, isn't he?

10 A. He was talking to me, sir.

11 Q. Well, right here, his back is to you?

12 A. He's done threatened me, sir.

13 Q. So he'd already threatened you at this point?

14 A. Yes, sir. He already had his gun off, sir.

15 Q. When did that happen?

16 A. Like, right -- like right there somewhere, sir.

17 When I was down there at the --

18 Q. Let me come up at --

19 A. -- the corner.

20 Q. Sorry. Tell me again, sir.

21 A. When I was at the corner -- when I was at the
22 corner, he said something to me, and when I turned around, he
23 -- he already -- he already -- he already was threatening me.
24 He had his gun in his hand.

25 Q. When you were at the corner?

1 A. Yes, sir.

2 Q. So that was prior to this? Before this?

3 A. Yes, sir.

4 Q. Okay. What -- what did you do then?

5 A. What did I do?

6 Q. You said he threatened you before this moment,
7 what'd you do?

8 A. I panicked. I was --

9 Q. (Inaudible) like it.

10 A. -- I was -- I was scared.

11 Q. His back is to you right here, isn't it?

12 A. Yes, sir.

13 Q. And he's waving to his buddy leaving, you see
14 that, don't you? And you saw it that day, didn't you?

15 A. I don't see nothing right now, sir.

16 MR. MEADORS: Keep going, please.

17 (Video starts at 1:39:15 p.m.)

18 MR. MEADORS: Stop.

19 (Video stops at 1:39:18 p.m.)

20 BY MR. MEADORS:

21 Q. He's walking away from you right here, isn't he?
22 Look right there. You just -- go back, play that again,
23 please.

24 (Video stops at 1:39:29 p.m.)

25 MR. MEADORS: Stop.

1 (Video stops at 1:39:40 p.m.)

2 BY MR. MEADORS:

3 Q. He is walking away from you and you approach him
4 as he's walking away, don't you? Is that what -- that just
5 showed?

6 A. Yes, sir. I -- that -- that -- that's not what --
7 that -- that's not what happened, sir.

8 Q. What's on the video is not what happened?

9 A. That -- that didn't because I -- I -- I was there
10 and that I was in the middle of the parking lot, sir. I was
11 right there where I was at, sir. At -- at number five.

12 Q. And when you walked that video just showed us him
13 walking away. And it shows you moving in, though. Isn't
14 that what that just showed? Play it one more time.

15 (Video starts at 1:40:14 p.m.)

16 (Video stops at 1:40:21 p.m.)

17 MR. BARNES: Your Honor. He's answered this question
18 twice now. And the jury can see for themselves. Mr. Meadors
19 can make an argument, but this is asked and answer.

20 MR. MEADORS: I don't believe he has quite answered it,
21 your Honor.

22 THE COURT: Go ahead, Mr. Meadors.

23 MR. MEADORS: Thank you.

24 BY MR. MEADORS:

25 Q. Do you see yourself moving in as the victim is

1 walking away?

2 A. Can you -- can you play the -- can you --

3 MR. MEADORS: Go ahead.

4 THE WITNESS: Can you play it?

5 MR. MEADORS: Yes, sir.

6 (Video starts at 1:40:53 p.m.)

7 (Video stops at 1:41:07 p.m.)

8 BY MR. MEADORS:

9 Q. Now -- how many times did you shoot then right
10 there? How many times did you shoot?

11 A. I shot in the air one time.

12 Q. Say it again louder, please, sir?

13 A. I shot in the air one time.

14 Q. Okay. So this is somebody that you say has
15 threatened, you said you were afraid, and you approached them
16 and just shoot right behind them?

17 A. I didn't say that, sir.

18 Q. Well, you did.

19 A. I said, as I was walking, looking in -- looking at
20 the projects, he said something to me and -- and then -- and
21 then -- he was threatening me. I shot in the air, sir.

22 Q. So you shot in the air?

23 A. Yes, sir.

24 Q. Why did you shoot in the air?

25 A. He reached for his gun, sir.

1 Q. So you shoot in the air to warn him?

2 A. I was scared and afraid of my life, sir.

3 Q. Now, on your audio statement that you gave the
4 police -- I'm going to get to that in a second. At 2726, do
5 you remember telling the officers, "And I did -- I didn't --
6 and I didn't shoot him on the first shot. I just shot the
7 second time and I ran." Do you remember telling them that?

8 A. Of the best of my knowledge, I -- I was trying to
9 give them the everything I can from the best of my knowledge.
10 I was scared.

11 Q. "I didn't shoot him on the first shot, I shot -- I
12 just shot the second time and then I ran." So you told them
13 on May 8th you shot twice before you ran right here in this
14 picture. Do you remember telling them that?

15 A. Yes, sir.

16 Q. So you did shoot twice before you ran back?

17 A. I shot in the air, and then I went behind the tank
18 and shot again.

19 Q. No, sir. You shot again before you ran back to
20 the tank, is what you told them on May 8th?

21 MR. BARNES: Your Honor, I would object to that. The
22 jury heard that. This is Mr. Meadors' interpretation.

23 THE COURT: Ladies and gentlemen, you heard the -- the
24 testimony on your own and you'll -- you will have the
25 opportunity to hear it again if you so choose during your

1 deliberations.

2 MR. MEADORS: We'll offer the audio statement right now
3 just for that.

4 (Audio starts at 1:44:34 p.m.)

5 DETECTIVE KELLY: This is the Sumter Police Department
6 --

7 MR. HARVIN: I ran and that kept shooting. So just
8 shot back.

9 LIEUTENANT CULICK: So you shooting the air, and not
10 other people?

11 MR. HARVIN: (Inaudible) when they first shot, I just
12 shot back.

13 LIEUTENANT CULICK: So you shoot in the air, and not
14 other people? What -- what made that guy react to you
15 shooting the air, and not other people?

16 MR. HARVIN: I just -- I don't know. I was just
17 (inaudible).

18 LIEUTENANT CULICK: Okay.

19 MR. HARVIN: (Inaudible) the first shot, I just shot
20 the second time and I ran, and then (inaudible) shot back.
21 And that was it.

22 (Audio stops at 1:45:56 p.m.)

23 BY MR. MEADORS:

24 Q. "I just shot the second time and then I ran." Did
25 you hear that?

1 A. Yes, I hear it now.

2 Q. And then you went back after that and went behind
3 -- play that, please. Went behind A&P, do you remember that?

4 (Audio starts at 1:46:16 p.m.)

5 MR. MEADORS: No -- no. The camera.

6 (Audio stops at 1:46:28 p.m.)

7 (Video starts at 1:46:38 p.m.)

8 THE COURT: Mr. Meadors, ask your question before
9 you're impeaching him with another statement.

10 MR. MEADORS: All right. Trying to get through it.

11 BY MR. MEADORS:

12 Q. When did you shoot after you went behind the
13 building? The side of the building. When did you shoot
14 again?

15 A. When I -- when I was when trying to take recovery
16 behind the -- the gas pump.

17 Q. I -- I really didn't hear you. I'm not trying to
18 be difficult.

19 A. Can I have some water?

20 Q. Sure.

21 A. Pardon me.

22 Q. Would you please look at your monitor again? This
23 is the side camera of A&P.

24 (Video stops at 1:48:11 p.m.)

25 BY MR. MEADORS:

1 Q. And you go to the side and you looking back, and
2 then you're shooting. What -- what was the victim doing then
3 when you were shooting back?

4 A. He was -- when I went to go look, he was coming
5 and he was shooting at me.

6 Q. Well, you said at one point -- at that point you
7 said you thought he was going around the other side?

8 A. Yes, sir.

9 Q. How -- how could you see that?

10 A. Well, when I shot in the air, I ran and then I had
11 peeped -- I peeped and I see him going that way on the other
12 side.

13 Q. When you peeked around, you saw him going the
14 other way?

15 A. When I see him -- when I -- when I peeped -- when
16 I peeped, I see him going around the other way, then that's
17 when I ran.

18 Q. But that's when you came out and shot. Why would
19 you shoot that way if he was going the other way?

20 A. No, I peeked behind the -- the gas pump.

21 Q. And he wasn't over there the other side, was he?

22 A. Sir?

23 Q. He wasn't on the other side, was he?

24 A. Yeah. He was over there.

25 Q. And Mr. Harvin, why'd you leave? Why'd you leave

1 the scene after you -- and -- and let me just say. When --
2 you shot Michael Wilson in the back, didn't you?

3 A. I didn't know.

4 Q. Sir?

5 A. I didn't know.

6 Q. You didn't know?

7 A. No, sir.

8 Q. Well, on the scene when we, when you approach him
9 as he's waving to Larry, his back was to you, wasn't it?

10 A. On this -- on this video it is showing you that,
11 but no.

12 Q. Okay. On the video it's showing as you are
13 approaching, his back is to you, correct?

14 A. In the real world. No.

15 Q. Well, in the real-world video, that's when you
16 fired, wasn't it?

17 MR. BARNES: Objection, your Honor. It's already been
18 established this isn't a real-world video. It's not real
19 time. There's a lot of things we're not seeing this video.

20 THE COURT: That's sustained.

21 BY MR. MEADORS:

22 Q. When did you shoot him in the back?

23 A. I don't know.

24 Q. Could have been that first time when you were up
25 there, wasn't it? When you fired twice?

1 MR. BARNES: Objection, your Honor. He said he didn't
2 know. He said he didn't know.

3 THE COURT: I'm going to allow the question.

4 BY MR. MEADORS:

5 Q. Could have been, couldn't it? Let me just ask you
6 one thing: You intentionally fired the gun, didn't you?

7 A. It was accident, sir.

8 A. No, sir. Well, that's not the question: Did you
9 intentionally fire your gun?

10 MR. BARNES: Asked and answered, your Honor. He said
11 it -- "No." He said it was an accident.

12 MR. MEADORS: No, he didn't answer it.

13 THE COURT: I -- I'm going to allow the question.

14 BY MR. MEADORS:

15 Q. Did you intentionally fire your gun?

16 A. Intentionally? Can you explain "intentionally" to
17 me?

18 Q. Put your finger on the trigger and pull it. How
19 does that gun operate?

20 A. I squeezed the trigger.

21 Q. I'm sorry?

22 A. I pulled the trigger.

23 Q. Okay. And did you load it -- when did you load
24 it, by the way?

25 A. It always been loaded, sir.

1 Q. Always loaded?

2 A. Yes, sir.

3 Q. Is it ready to fire?

4 A. It's on safety, sir.

5 Q. Okay. So you had to take the safety off before
6 you fired it?

7 A. Yes, sir.

8 Q. When did you do that?

9 A. I can't remember, sir.

10 Q. You can't remember when you did the safety off?

11 A. No, sir.

12 Q. Well, do you keep the safety on the gun when it's
13 at the house? Because you don't want -- you said you keep it
14 away from the other people there. You keep the safety on at
15 home, right?

16 A. Yes, sir.

17 Q. So from the time you left, you got the A&P, when
18 did you take the safety off?

19 A. I can't remember, sir. I can't remember me taking
20 the safety off, but -- couldn't remember. It just -- it was
21 off the safety at the time, sir.

22 Q. And it had to be off to fire, right?

23 A. Sir?

24 Q. Safety had to be off or -- or it wouldn't have
25 fired?

1 A. Yes, sir.

2 Q. How many times do you think you shot him?

3 A. Four times.

4 Q. How many?

5 A. About four times.

6 Q. Three or four times?

7 A. About four times.

8 Q. And do you remember telling them that -- you
9 remember telling the officers, "I -- I just think I shot one
10 time. I mean, I don't even think I shot."

11 A. Yes, sir. I heard the video. What -- the -- the
12 -- the recording.

13 Q. Okay. But I -- and -- and let's get to that and
14 I'll finish up here. That -- that audio you voluntarily
15 talked to Sergeant Kelly and Investigator Culick, correct?

16 A. Yes, sir.

17 Q. Okay. And you -- you -- they read you your
18 Miranda rights?

19 A. Yes, sir.

20 Q. I mean, you understood Miranda -- your Miranda
21 rights, don't you? I mean, you're a smart guy.

22 A. I understand some of the things that they were
23 saying, but not all of it because -- you know, I have bad
24 memory sometimes. So I -- I have been taught in -- in -- in
25 special ed in school. So I understand some of it and some of

1 it I didn't understand.

2 Q. But you understand that you were agreeing to talk
3 with police, weren't you? Because you -- didn't you say,
4 "What you all wanted to know?"

5 A. Yes, sir. But I -- I -- I was scared and -- and
6 -- and afraid, so I was in panic mode. So right then and
7 there, I didn't have telling the police on my mind.

8 Q. But do you remember telling them, "What you all
9 want to know?"

10 A. Yes, sir.

11 Q. And do you remember telling you didn't even know
12 Big Mike?

13 A. Yes, sir.

14 Q. Never seen him?

15 A. Yes, sir.

16 Q. "Mike ever make you mad or say anything to you?"
17 "No, ma'am." You remember that? And --

18 A. I remember -- I heard it -- I heard it. She said
19 it in the video, but --

20 Q. The audio?

21 A. Yeah, in audio. But in real life, I really don't
22 pay attention -- I really can't pay attention in real life,
23 like --

24 Q. Well, real life, Mike is dead from a shot in the
25 back, isn't he? I mean, that's real as it gets, isn't it? I

1 mean, you ended his life.

2 MR. BARNES: Objection.

3 THE COURT: Mr. Meadors, move on, please.

4 MR. BARNES: That's what the jury has to confirm.

5 BY MR. MEADORS:

6 Q. You shot him, didn't you?

7 MR. BARNES: Objection.

8 THE COURT: Ask your next question, Mr. Meadors.

9 BY MR. MEADORS:

10 Q. And you told these officers you didn't even know
11 him and he'd never threatened you before, right? So why did
12 you flee?

13 A. He kept shooting at me, sir.

14 Q. And why did you change clothes?

15 A. I don't know.

16 Q. Sir?

17 A. I don't know.

18 Q. Why did you bury the gun?

19 A. I just buried it before nobody else won't get
20 their hands onto it and -- and find it.

21 MR. MEADORS: I beg the Court's indulgence.

22 BY MR. MEADORS:

23 Q. Weren't the police asking you where it was so they
24 could find it and so nobody else would get hurt?

25 A. Say that more time, sir?

1 Q. Didn't -- weren't they asking you so they could
2 find it so nobody would get hurt?

3 A. They had asked me and I -- I told them it was in
4 the backyard.

5 Q. And then you told them you didn't want to talk
6 about it no more?

7 A. Yes, sir.

8 Q. And then they didn't bring it up again until the
9 very end when her sergeant called her and said, "We're trying
10 to find it." Do you remember that?

11 A. Yes, sir.

12 Q. And this threat at Family Dollar, you never told
13 anybody else about that, did you?

14 A. No, sir.

15 Q. I mean, nobody?

16 A. I -- I didn't tell nobody, sir.

17 MR. MEADORS: Thank you. That's all.

18 THE COURT: Mr. Barnes?

19 MR. BARNES: No further questions, your Honor.

20 THE COURT: You can step down. Okay. Ladies and
21 gentlemen, you have lunch waiting on you. Well, let --
22 actually, let me get you all to approach really quick.

23 (Bench conference at 1:58 p.m.)

24 MR. MEADORS: Your Honor, the State rests -- I'm sorry,
25 I'm not the State. The Defendant rests.

1 THE COURT: Okay. All right. Ladies and gentlemen,
2 we're going to send you back to the jury room for your lunch.
3 We still will have closing arguments, and then I will give
4 you the instruction on the law, so please don't begin
5 discussing the case. Thanks.

6 (Jury exits 1:59 p.m.)

7 THE COURT: I know you all are probably hungry. But do
8 you want to talk about charges before we break or do you want
9 to eat and then talk about charges?

10 MR. MEADORS: Whatever Mr. Barnes wants to do.

11 MR. BARNES: I'm happy to do whatever your Honor wants
12 to do.

13 MR. MEADORS: Or the Judge.

14 THE COURT: Just didn't know if you need to be
15 contemplating what my charges are going to be whilst you're
16 eating.

17 MR. MEADORS: Could we do that? Give us and let's come
18 back and address it. Could you tell us what you're going do?

19 THE COURT: I'm sorry, you want me to tell you now or
20 you want me to let you eat first?

21 MR. MEADORS: Well, can you tell us and then we come
22 back and so we can be thinking about it?

23 THE COURT: Sure.

24 MR. MEADORS: Please.

25 THE COURT: So I think you have my --

1 MR. MEADORS: Can I sit down while you do this so I can
2 write, Judge?

3 THE COURT: Yeah, please. Absolutely. We're going to
4 be off the record for a few minutes. You all have my --
5 yeah, we're off the record.

6 (Off the record at 2:00 p.m.)

7 (On the record at 2:56 p.m.)

8 THE COURT: Okay. What shall we talk about?

9 MR. BARNES: I guess, your Honor, I -- I -- the first
10 thing with regard to the charge, I believe that I would like
11 involuntary manslaughter charged. And the reason being this:
12 As I think there's evidence from which the jury could decide
13 that after my client shot in the air, and as he was
14 retreating to the pump and then to the -- the air tank that
15 his shooting back or responding to Mr. -- was in response to
16 Mr. Wilson's gunfire. But that his shooting, you know,
17 across the gas station like that would -- could rise to the
18 level of recklessness.

19 THE COURT: So my charge that I've got on involuntary
20 says that, "The Defendant unintentionally killed the victim
21 without malice, but while engaged in an unlawful activity,
22 not naturally tending to cause death or great bodily harm."
23 And that doesn't seem to fit the facts that we've got here.
24 Because I mean, certainly shooting across a parking lot is
25 not -- I hate to use a double negative, but it's not

1 naturally -- it's not an unlawful activity, not naturally
2 tending to cause death or great bodily harm. I mean, it's an
3 inherently very dangerous activity that can very easily cause
4 death or great bodily harm.

5 MR. BARNES: Oh, I -- I read your charge to mean that
6 the unlawful activity was his being there selling drugs.

7 THE COURT: I guess I read the unlawful activity as,
8 "You're shooting across the parking lot, and you don't
9 necessarily intend to kill the person, but you are engaged in
10 an unlawful activity that would tend to cause death or great
11 bodily harm." Mr. Meadors, do you want to be heard, sir?

12 MR. MEADORS: Respectfully -- most respectfully don't
13 think it's appropriate for the reasons you said and plus the
14 unintentional, I mean, it's -- I was asking the question:
15 Intentional shooting. We just don't think the facts weren't
16 that charged in this case.

17 THE COURT: I think involuntary would be more that you
18 -- I guess, are waving a gun around and it accidentally
19 discharges, you know, and you're just trying to show it to
20 somebody. So I'm going to respectfully decline to charge
21 involuntary manslaughter.

22 MR. BARNES: Okay. Thank you, your Honor.

23 MR. MEADORS: But -- but, your Honor is charging -- are
24 you charging voluntary? We're not requesting none, but are
25 you requesting voluntary?

1 MR. BARNES: Yes.

2 THE COURT: Yeah, I think a charge on voluntary is
3 appropriate. Mr. Meadors, have you -- you've taken a look at
4 Mr. Barnes' proposed additions to the language?

5 MR. MEADORS: I have Judge. I guess starting with the
6 first, I -- I don't think it's the correct statement of law.
7 1, 2, 3, right above credibility of witnesses. I don't know
8 if he added where two references may be drawn.

9 THE COURT: Mr. Barnes, I have not seen that before.

10 MR. BARNES: Is that not the same as your similar -- I
11 -- I actually got that from the jury charge book. And I -- I
12 -- I read it to be similar to your earlier charge about --
13 about your giving the -- the -- the Defendant the benefit of
14 the doubt and find him not guilty under the reasonable --
15 reasonable doubt portion of your charge. Let me see if I can
16 find that.

17 THE COURT: Yes, sir. I can't. My computer won't let
18 me scroll through this document. I'll try closing out.

19 MR. BARNES: It is under the -- it's under covers, jury
20 instructions. "As the -- as part of a permissive inference
21 charge, the Defendant is entitled every inference in his or her
22 favor, which can be reasonably drawn where two inferences may
23 be drawn from the same fact, one consistent with a verdict of
24 guilty of murder, and one consistent with a verdict of not
25 guilty. Defendant is entitled to the inference, which is

1 consistent with a guilty, with a verdict of not guilty of
2 murder." And there's a slew of cases cited for that, but
3 I'll be candid, your Honor, I didn't bring them up here.

4 THE COURT: Well, the permissive inference cases would
5 be cases where the law says you may infer from, like, the
6 fact that you blew a certain amount. That's a permissive
7 inference that the person was under the influence. I don't
8 know that those would be applicable here.

9 MR. BARNES: Okay.

10 THE COURT: Mr. Meadors?

11 MR. MEADORS: Next, your Honor -- where's this copy?
12 No, just the -- the -- the definition of murder. I don't --
13 all due respect, think in this intentional act was
14 approximate cause of the death of the victim. I don't think
15 that's the law. I don't think that's a part of a charge.
16 It's not a part charge I've ever seen in the cases Mozon and
17 other theories that -- I just don't think that's a correct
18 statement, that the act was approximate cause. We have to
19 prove that the approximate cause of the death was what the
20 Defendant did. But I don't think specifically the act, and
21 we have to show it as an intention. No question about that.

22 THE COURT: I don't think it's a wrong statement of the
23 law, I think it's just kind of implied within that the
24 Defendant killed another person. It's implied within that,
25 that it was his act that caused the victim's death.

1 MR. MEADORS: And I like your Honor's charge. That's
2 what I've always seen. I would prefer to stay with we're on
3 a charge.

4 MR. BARNES: Okay.

5 MR. MEADORS: And I guess the same for voluntary
6 manslaughter. You just -- you put that in there too.

7 MR. BARNES: I mean, it -- it actually appeared in your
8 -- the approximate cause charge actually appeared in your
9 charge for involuntary manslaughter.

10 THE COURT: Yeah, I don't think it's incorrect. And I
11 -- I really don't have a problem with including it. I -- I
12 think certainly you've got to prove that what he did was the
13 cause of death. I mean, there's -- that's the whole reason
14 we had the pathologist testify.

15 MR. MEADORS: Judge, could I go back to one thing that
16 I -- under direct and circumstantial evidence? Last
17 paragraph. "After weighing all the evidence, if you're not
18 convinced of the guilt of the defendant, beyond a reasonable
19 doubt, you must find the defendant guilty." Could we ask for
20 the reciprocal? "If you are convinced, then you must find
21 him guilty, sort of like the reasonable doubt, just to have
22 both in there?

23 THE COURT: I'm sorry. You're under direct and
24 circumstantial?

25 MR. MEADORS: I'm sorry. Under -- yes, ma'am. Last

1 paragraph.

2 THE COURT: It's just -- I think I'm taking this
3 straight from that Logan language that several judges have
4 been overturned in a row here recently for not using the
5 Logan language. So I'm loathed to depart from it.

6 MR. MEADORS: Yes, ma'am.

7 THE COURT: I -- I am going to -- I'm not going to
8 choose the where the two -- I'm not going to charge the --
9 where the two inferences may be drawn additional language,
10 but I'm going to stick with the language that has been
11 approved consistently.

12 MR. MEADORS: Yes, ma'am.

13 MR. BARNES: So did you make a decision about the
14 approximate cause, your Honor?

15 THE COURT: Yeah. I'm fine to leave that in. I -- I
16 think that's a correct statement of the law. I think it's
17 almost inherent in when you say that the Defendant had to
18 have killed the person.

19 MR. BARNES: Okay. And then I guess the next part
20 would be involuntary manslaughter, which we're not charging.

21 THE COURT: No, sir.

22 MR. BARNES: And then -- I guess I wondered about the
23 mutual combat charge. I don't know that there's any facts
24 here that give rise to that.

25 THE COURT: I think we just included it -- you know,

1 prior to any testimony. Mr. Meadors, do you -- do you want
2 mutual combat in or you don't want that in?

3 MR. MEADORS: Is that in your current charge?

4 THE COURT: Yes, sir. It's in the self-defense. So
5 toward -- I'd say toward the end, but you've got murder,
6 you've got voluntary manslaughter, and then you -- and
7 possession of a weapon during a violent crime, then
8 self-defense, it's under the "without fault" prong.

9 MR. MEADORS: Yes, ma'am. I'm sorry. I got it.

10 THE COURT: And Mr. Barnes, you -- you're -- you do not
11 think mutual combat is appropriate. Is that what I
12 understand?

13 MR. BARNES: I -- I -- I just don't think there's any
14 evidence to support that.

15 MR. MEADORS: Well, your Honor included it in here.
16 Did your Honor think it was appropriate?

17 THE COURT: Well, that was before we heard any other
18 testimony, but...

19 MR. MEADORS: I -- I'd defer to Judge at this point. I
20 -- I'm over that. With the contemptuous language, your
21 Honor, while we're in, would that be appropriate for now?

22 THE COURT: Let me find it.

23 MR. MEADORS: It's right above the "mutual."

24 THE COURT: Okay. Got you. I don't think that would
25 -- that would have to mean that the Defendant engaged in

1 contemptuous language. I don't think there's any.

2 MR. BARNES: No, ma'am.

3 THE COURT: So I'm going to delete that at.

4 MR. MEADORS: Your Honor -- mutual combat that might be
5 here, Judge. I -- I don't know.

6 THE COURT: Yeah. I mean, if you follow the
7 Defendant's testimony, that he just shot up in the air and
8 the guy turned around and fired at him and they're firing at
9 one another, I think -- I think it probably does fit under
10 the Defendant's testimony.

11 MR. MEADORS: Okay. And -- and -- and I truly don't --
12 it's -- I don't know. I mean, I trust you, Judge. It's one
13 of those that I -- I don't know. I don't care.

14 THE COURT: Any other -- anything else? Any other
15 additions or exclusions?

16 MR. MEADORS: Can you give us one minute just -- before
17 you bring them out, and I don't have anything else.

18 THE COURT: I'm going to print out the -- Jack is going
19 to go print out the verdict form so you can take a look at
20 it.

21 MR. MEADORS: You know what? And I -- this mutual
22 combat, I don't know why it's bothering me. It must be a
23 mutual intent and willingness to fight. Do you think that's
24 there?

25 THE COURT: Well, they're engaged in a gun battle

1 across the parking lot.

2 MR. MEADORS: Yeah. But "willingness" is the word that
3 bothers me, I guess. I mean, I almost see mutual combat.
4 Yeah. Everybody's there. Everybody knows you got a gun and
5 we're going to start fighting. Almost. I know. It's not
6 that clear.

7 THE COURT: Well, I guess, you know, the Defendant's
8 testimony is he fired up in the air, and that the victim then
9 turned around and fired at him.

10 MR. MEADORS: I guess my question -- he withdraws and
11 tried in good faith to avoid further the conflict. I guess
12 that bothers me also. That's all. Thank you. Is there the
13 language out there -- I guess, this what bothers me beyond
14 this time, that if you start -- never mind.

15 MR. BARNES: I'm fine with the verdict form, your
16 Honor.

17 THE COURT: Okay. Mr. Meadors, how about the verdict
18 form?

19 MR. MEADORS: Oh, it's fine. Yes, ma'am. I'm sorry.

20 THE COURT: Okay. Anything else before we bring in the
21 jury?

22 MR. MEADORS: Nothing from the State.

23 MR. BARNES: Nothing from the Defense.

24 THE COURT: Can I get both attorneys to approach for
25 just a moment?

1 (Bench conference at 3:19 p.m.)

2 (Jury enters at 3:20 p.m.)

3 THE BAILIFF: Jury is all seated, your Honor.

4 THE COURT: Okay. Ladies and gentlemen, we're now
5 going to move into closing arguments. So Mr. Meadors will go
6 first and then Mr. Barnes, and then Mr. Meadors will have a
7 chance to reply. And I tell you all that. Because,
8 sometimes, when the last attorney sits down and the other one
9 starts to stand up again, we almost hear inaudible groan.

10 I want you to know what's coming ahead of time, okay?
11 And then I'm going to give you the instruction on the law
12 last. So just so you know what to expect, and then it'll be
13 time for you to deliberate. Thank you. Mr. Meadors?

14 MR. MEADORS: Who -- who is the Foreperson? May it
15 please the Court?

16 THE COURT: If you'll raise your hand, I'm sorry. I
17 don't remember your name.

18 JUROR NUMBER 76: Deborah Hurd.

19 THE COURT: Ms. Hurd.

20 (State's closing starts at 3:21 p.m.)

21 MR. MEADORS: May it please the Court? Mr. Barnes --

22 MR. BARNES: Yes, sir.

23 MR. MEADORS: -- Madam Forelady, ladies and gentlemen
24 of the jury, good afternoon. First and foremost, I want to
25 thank you all for being here. And I mean that. Thank you

1 for being here. Thank you for your attention. I'm not a
2 jury watcher, I didn't stare at you, but when I did look
3 over, I could tell that you were paying attention and
4 listening, and that's all any of us can ask you -- ask of
5 you. So thank you.

6 This part of the trial is called "The Closing
7 Arguments." I hate the name of it because an argument
8 assumes we can talk back and forth and you can ask me
9 questions and I can ask you. That's not it. But it allows
10 us to give you our view on what the evidence is and the
11 reasonable inferences of that evidence. As your Honor said,
12 I'm going to speak, Mr. Barnes will speak and then I'll be --
13 become -- be able to come back to him for a limited reply
14 after he speaks. But thank you all for being here.

15 As her Honor will tell you. And after we finish,
16 she'll charge you on the law and you'll take that law along
17 with the facts that you find are true here and see if the
18 State has met its burden of finding the Defendant guilty, or
19 if we have not guilty. So beyond a reasonable doubt, her
20 Honor is going to charge you. And that's the burden we must
21 show to you, you, that the Defendant is guilty beyond a
22 reasonable doubt. Not beyond all doubt, not beyond a
23 fanciful doubt. We don't have to prove beyond all doubt.
24 You could never do that. But beyond a reasonable doubt.

25 And I think the Judge will charge you. If you're

1 firmly convinced the Defendant's guilty, you must find him
2 guilty. If you aren't firmly convinced, you must find him
3 not guilty. It's pure, it's clear. And that's the same
4 burden that's on the State here in Sumter County courthouse
5 and every other courthouse in the country that's trying the
6 case today. And that's what you must decide. Has the State
7 proven the Defendant guilty beyond a reasonable doubt?

8 I'm going to do it a little differently and I'm going
9 to try to be a little shorter than I usually am. I'm going
10 to show you a little bit of the videos. I'm not going to
11 show you all of them. You'll have them to go back if you
12 need them. So I'm just going to show bits -- short bits and
13 pieces of them to explain some things, but I'm of -- just a
14 few of them. You'll have them back there and can look at
15 them if you want to, as well as the audio tape or any other
16 pieces of the evidence you want to look at.

17 First, I want to go over the law of murder. Murder is
18 the intentional, the unlawful killing of another individual
19 with malice aforethought. A meanness, a evilness, a
20 wickedness one person shows to another. As I said, my
21 opening, it can be expressed or it can be inferred from the
22 circumstances of the case. Shooting someone in the back we
23 submit to you is evidence of malice. I'm allowed to argue
24 shooting a firearm at somebody is evidence of malice.

25 An evilness, a wickedness one person chose to other,

1 shooting a person when they aren't looking. But it's a
2 malicious killing of another with malice aforethought. And
3 then we must prove that he died as approximate cause thereof,
4 that Mr. Wilson died as approximate cause of the bullet that
5 Mr. Harvin put in his back. That's murder.

6 Now, the Judge has also decided that you're going to be
7 able -- and I want to be crystal clear right now,
8 respectfully, the State is not saying they think this is a
9 appropriate, but it's my job and my boss Solicitor Finney
10 would fire me if I didn't do it. And I must cover it. You
11 are also going to be able to consider a lesser included
12 offense of voluntary manslaughter.

13 What's voluntary manslaughter? We don't have degrees
14 of murder in this state. Some states do. We have murder,
15 voluntary manslaughter. Voluntary manslaughter is a killing
16 of another in a sudden heat of passion with sufficient legal
17 provocation. And that passion has not cooled if under those
18 circumstances -- well, let -- let me just say this:
19 Volunteer manslaughter is like when somebody loses rational
20 thought, they lose control. It's almost an irresistible
21 impulse.

22 So if they lose control of themselves or their thoughts
23 for a moment. And in that case, the law doesn't say, "You
24 justified in killing somebody," but it says under those
25 circumstances you made, depending on the facts, be able -- be

1 guilty of voluntary manslaughter and not murder. We are
2 respectfully to submit this is a burden, but you're going to
3 be able to consider voluntary manslaughter, sudden heat of
4 passion. You're so angry you can't control yourself. You've
5 lost control.

6 And then that must be at the same time with a
7 sufficient legal provocation. Words alone aren't enough --
8 words alone aren't enough words. And hostile acts may be
9 under the circumstances, but the heat of passion and the
10 sufficient legal provocation must exist at the same time.

11 Well, what's sufficient legal provocation? Classic
12 example, I hope it didn't happen to any of us. We come home
13 and we find our spouse in the bed with somebody else.
14 Classic example, you're so upset, you're so angry that you
15 lose control for a minute and you reach out and kill
16 somebody. You kill that person.

17 In that incident, the law says, "Well, you -- you can't
18 just kill somebody." But under those type -- sufficient
19 legal provocation, okay, may not be a murder, but it might be
20 a voluntary manslaughter. You're so angry and thrown, you've
21 got a reason. It's not a legal reason to kill somebody. But
22 those have to exist at the same time. Heat of passion,
23 sufficient legal provocation.

24 Then the law goes on to say, it's beautiful law, that
25 passion can't cool. Let's say I caught my wife cheating

1 yesterday and I didn't kill her, didn't kill whoever's with
2 her. Oh, God that's not true. And I didn't do anything, and
3 I got to thinking about it and got to thinking about it. And
4 I go home tonight and I kill her or I kill him. Law says,
5 "Whoa, whoa, whoa. Uh-uh. You had time to think about it."
6 It's not in the heat of passion. Yeah, it might be
7 sufficient legal provocation, but that's got to be at the
8 time you caught them.

9 That's just an example. They must exist at the same
10 time. If you've cooled down, you've had time to reflect.
11 It's not voluntary manslaughter folks, that's murder. And we
12 submit to you, that's what's in this case, murder. I submit
13 there's no provocation in this case whatsoever. And I'm
14 going to briefly go through that. Murder, voluntary
15 manslaughter. You're going to have the right to you. Don't
16 you love it? That's you all's decision. You'll get to the
17 side.

18 Now, the Judge is also going to charge you all on
19 what's called self-defense. It's the affirmative defense.
20 If -- if four elements are established, the State must
21 disprove self-defense by a reasonable doubt. If you all find
22 this is a case of self-defense, you'll find him not guilty.
23 Now, self-defense, the way I was taught and the way I've been
24 doing it for 34 years, doing these cases just like a -- it's
25 like a chair. All four of these legs of this chair must

1 exist for the Defendant to be entitled to self-defense. This
2 chair has got to be like this.

3 First prong of the chair is that the Defendant must be
4 without fault in bringing on the difficulty. Well, folks,
5 that leg is gone, we submit. That's gone. All four of them
6 got to exist. The Defendant, in this case, brought on the
7 difficulty. He was the difficulty. He's the one that came
8 there, we submit, with the intent of taking care of
9 Mr. Wilson.

10 So for self-defense, you got to be without fault. He's
11 the person that came -- he's the person that came there with
12 the firearm. We submit self-defense is over there. That'll
13 be up to you. But if you find that Defendant brought on the
14 difficulty, self-defense doesn't apply, and we respectfully
15 submit that it doesn't reply, just don't apply on the first
16 prong, the first leg of the chair.

17 Second, it must be shown that Defendant was in imminent
18 fear of suffering, serious bodily injury or death. Imminent
19 fear, suffering serious bodily injury or death. And then he
20 acted -- had to act the way he did to save his life.
21 Imminent fear. If there wasn't imminent fear, which there
22 wasn't, we submit, then the Defendant's believe for
23 self-defense must be that he believed he was in imminent fear
24 of suffering serious bodily injury or death.

25 Even if he wasn't, he must believe that. And the

1 belief must be reasonable, and a reasonable person would
2 believe that. We submit there wasn't imminent danger. So
3 the second prong is not there, the second leg. And that the
4 belief, if there was avenue to that, is not reasonable.

5 And the final thing that must be established and that
6 the State must disprove beyond a reasonable doubt for the
7 Defendant to be entitled to self-defense, is that the
8 Defendant was without fault -- excuse me, that the Defendant
9 did have no other means of avoiding danger -- to avoid --
10 avoiding the danger than to act as he is -- act as he did.
11 The duty to retreat, the duty to leave. The Defendant's the
12 one that came there. He came there with the idea of what he
13 was going to do, we submit. He could have left any time.
14 Any time.

15 So listen to his Honor's charge. We submit
16 self-defense is not appropriate in this case. And we
17 respectfully ask that you find -- it's up to you, ladies and
18 gentlemen. It's up to you. There's also a part of
19 self-defense called "mutual combat" that goes to one of the
20 prongs. And your Honor will charge you. I beg Court's
21 indulgence.

22 "If the Defendant voluntarily participated -- voluntary
23 participated, in mutual combat for purposes -- purposes other
24 than protection, the killing of the victim would not be
25 self-defense. It's true even if during the combat the

1 Defendant feared death or seriously injury. However, if the
2 killing -- before the killing is committed, the Defendant
3 withdraws and tried in good faith to avoid the further
4 conflict. And either by word or act makes the fact known to
5 the victim he would be without fault in bringing on the
6 difficulty."

7 This is just the first problem, by the way, which the
8 Defendant came in with a gun and brought on the difficulty.
9 But I got to go over this with you. For mutual combat, there
10 must be a mutual intent or -- and willingness to fight. This
11 intent may be shown by the acts and conduct of the parties
12 and the circumstances surrounding the combat. It must be
13 shown that both parties were armed.

14 Ladies and gentlemen, that brings me into where I want
15 to start. This is an intent case as any I've ever
16 prosecuted. An intent case. We have to prove intent on
17 behalf of the Defendant. You can't open his mind or his
18 brain. Dr. Phillips can do that when she does autopsies on
19 folks, but they're dead then. But we can't open somebody's
20 mind when they're living and look at their intent. So the
21 law says you confer the intent from their actions, and their
22 conduct.

23 What are the intent of parties in this case? And I'm
24 just going to show you a little bit of this, but on camera
25 17, shortly before 5:00, you're going to see -- everybody got

1 the monitors on? I'm sorry. You're going to see -- you are
2 going to see the victim pull in, and then you're going to see
3 the Defendant dropped off with the red car. And then you're
4 going to see Larry Harrison pull around. A few of the
5 parties that are a part of this intent.

6 (Video starts at 3:34:28 p.m.)

7 MR. MEADORS: What's Mr. Wilson's intent that day?
8 What did he do? You know what he did? Saw his buddy, Larry.
9 They talked about the Cadillac club and his rims. Well,
10 that's okay. He went and played his numbers. That's all
11 right. And he bought some beer. Go back, please. He bought
12 some beer. It's Friday, it's 5:00. Look at that lottery
13 ticket. It says 5:01. Thank God it's Friday. Thank God
14 it's Friday for everybody except Michael Wilson.

15 But what was his intent? His intent to go to the
16 store, lays his numbers, get his lottery tickets, get some
17 beer, and go enjoy the weekend. There's no dispute that's
18 what Michael Wilson did, and what he wanted to do. And go
19 back there and pass that picture of the -- I don't know, I
20 love it when I first saw it pass that picture around of that
21 I -- I'm not condoning drinking, I'm not saying that, but
22 pass that picture around or that cooler with the ice that
23 hadn't even melted.

24 It's got fresh ice on some beer, but hadn't melted.
25 What do you think his intent is? He's not looking for

1 trouble. He's looking to enjoy the weekend and he comes back
2 from the store and he comes outside talking to Larry. And by
3 the way, on the way in, he talks to Felicia. Felicia who
4 said, "You play your numbers, Mike." "Yeah, I played them."

5 Felicia testified that she had seen the Defendant. The
6 Defendant there before said he was wearing a hoodie. You --
7 didn't used to see him at. He usually speaks to him. He
8 didn't speak to him at this time. "I thought that was
9 unusual. I thought that was unusual." Felicia, who said,
10 "He didn't deserve killing." You all see that? Come back,
11 look at that again. He didn't deserve killing. That boy
12 didn't need to be shot. Those were her words.

13 The same person who said she saw a few months earlier
14 of somebody saw him in the store, saw him loud sometime. Be
15 loud and be rude. Not a reason to blow you -- get blown
16 away. Saw him with the gun. Defendant -- victim wasn't
17 there, had nothing to do with the victim. She's talking to
18 him. Didn't call the police. Has nothing to do with this
19 case. Nothing to do with this case. So he's walking back
20 with Larry -- not even looking. Are we there yet? Let's
21 stop right here.

22 (Video stops at 3:37:47 p.m.).

23 MR. MEADORS: And what do you have here? You're
24 looking at it in front of you. You've got the Defendant
25 who's standing out in the parking lot. The Judge is also

1 going to charge you on credibility believability.

2 Credibility, believability. You can believe all of what a
3 witness says. You can believe part of what a witness says.
4 You can watch their demeanor. You can watch their -- watch
5 their body language when they testify.

6 You, 13 -- you, 12, that finally go back, decide what's
7 credible and believable in this case. That's you all's role.
8 You decide what the truth is and once you decide what the
9 truth is, you apply it to the law the Judge gives you and you
10 come back with a verdict. Credibility, believability,
11 intent. "Well, Mr. Harvin, what were you doing here?" "I
12 was selling drugs." "Why were you standing back here by
13 A&P?" "Well, I was trying to watch up, see if I had
14 customers there. I was trying to see here. We had customers
15 never sold any."

16 While on cross, "Well, when did you start selling drugs
17 again?" "Well, that day." "May 8th? The same day you put a
18 bullet in the back of Michael Wilson?" That's a reason we
19 should respectfully submit, he's trying to tell you all,
20 "That's why I was there. I was there selling drugs. That's
21 my defense. That's why I was there. That's why I had a
22 gun." "When did you start selling?"

23 "Well that day, I started selling again that day."

24 "How long have you had your gun?" "Three years. I don't
25 know where I got it, sold it to me. I hadn't really had it

1 out before. Except that day." That day? Credible?
2 Believable? That's for you all to decide. He's trying to
3 explain to you why he's out there with the gun. Okay. Go
4 ahead.

5 (Video starts at 3:39:30 p.m.)

6 MR. MEADORS: He says, got his hood on. Because It's
7 raining and coronavirus. No one else has a hat on. We
8 submit to you and we ask that you find he's got it on so he
9 can't be recognized. Now, stop right here.

10 (Video stops at 3:39:41 p.m.)

11 MR. MEADORS: You see, Mr. -- you all, please look at
12 this. Mr. Wilson's gone back and taken his bag of ice to the
13 trash can, comes back. Mr. Larry is fixing to drive off.
14 And what's the Defendant do? Keep going.

15 (Video starts at 3:40:04 p.m.)

16 MR. MEADORS: Stop.

17 (Video starts at 3:40:08 p.m.)

18 MR. MEADORS: He starts moving toward Mr. Wilson. He
19 starts moving toward Mr. Wilson as his friend, and witness,
20 is taking off. "But why are you doing that then?" "Well, I
21 thought I saw a customer down there. I'm looking to where I
22 can see if there are more customers I can sell." At the same
23 time that Mr. Harrison's leaving. Well, there won't be
24 witnesses. And he's starting going in.

25 And I don't mean to be melodramatic. He's going in for

1 a kill. It's like a prey. They're waiting in time to
2 pounce. Watch his body language. Watch what he moves.
3 Watch when he goes in. Go ahead.

4 (Video starts at 3:40:37 p.m.)

5 (Video stops at 3:40:49 p.m.)

6 MR. MEADORS: Well, Larry waives goodbye. The
7 Defendant shoots. The Defendant shoots again. Now, when
8 you're shot at, unprovoked, as we submit this shows, the
9 witnesses show, that video shows you can defend yourself.
10 You know who's entitled to self-defense in this case?
11 Michael Wilson. I wish he'd been successful. I wish he had
12 been successful, Michael Wilson.

13 Michael Wilson shouldn't be dead. He should have been
14 home that weekend looking to see if he won the lottery,
15 drinking beer, and relaxing. That was his intent. He wasn't
16 provoking anybody. He wasn't looking for trouble. He was
17 looking to enjoy the weekend. And as he's coming out of that
18 store, little did he know he was a dead man walking there.
19 Ain't no question about it. He was a dead man walking.

20 He wanted to play the lottery. He didn't want to be
21 measured for a coffin. But as he's coming out, you know, who
22 knew he was going to be killed? He knew. He knew. And he
23 starts approaching. What's going on in his mind? He's
24 approaching then witnesses leaving, Michael is by himself.
25 He's approaching. And then he gets up on him. And I asked

1 him up here, "Was his -- his back was to you then, wasn't
2 he?" "Well, I" -- his back is to him. How do we know that?
3 Because the bullet is in the back. He's waving goodbye.
4 He's waving the man, Harrison. Is that provoking?

5 No evidence on there they had any conversation before.
6 None. None. None. And then he strikes. Now, he didn't
7 want to admit it up here. I said, "Well, you shot again,
8 didn't you before you ran back to the side?" "Well, no, I
9 don't think you did." "Well, yes, you did." And then we
10 went and played the tape. "And no, I -- I don't shoot at" --
11 it's a great question by the officers. "Well, what made that
12 guy react to your shooting in the air, and not other people?"

13 Well, think about it. You got a guy that supposedly
14 you're worried about and you're threatened and you're worried
15 he's going to kill you? So you going to approach him and get
16 close to him and try fire a warning shot? Does that make any
17 sense? "Okay. I know you might kill me. I'm worried about
18 it to go up and fire a shot." Does that make any sense? So
19 what did he tell the officers? "And I -- I don't shoot him
20 on the first shot. I just shot the second time and I ran."
21 And that's before he ran down to the side.

22 And you know what, ladies and gentlemen? And I said,
23 "Did you hear it?" You heard he said, "I heard it then." He
24 said it back on May 8th. Didn't want to remember it. "I
25 heard it." "So you shot twice?" Why is that important?

1 Well, that's kind of what James Gainey said. What -- think
2 about James Gainey. You can't make this stuff up. That's
3 why I love this job. James Gainey -- everybody's got to the
4 convenience store. I got my convenience store. You all may
5 have.

6 James Gainey go to that convenience store --
7 convenience store to get something to drink at a BC Powder.
8 And lo and behold, little did he didn't know when he pulled
9 in, they should have had a sign there that said, "Eyewitness
10 parking." Because, gosh, he pulled into a daggum shooting.
11 You can't make that up. And he comes and pulls in, doesn't
12 know anybody in this case. And he's sitting there and he
13 says, "I pulled up" -- I don't know if you all remember it.
14 And this fella just stands, "What's that guy just standing
15 there?" You all remember when he said that? He said, "He
16 just standing there." It's kind of unusual.

17 Looks -- cashes his money, and then I see the smaller
18 fella, boom, boom, boom. Any doubt about that? No, sir.
19 Well, then what happened? He comes running back this way and
20 folks, I -- I -- I'm not smart enough and I couldn't do it.
21 But -- but think about this. "Mr. Gainey, what does he say
22 after this first shot?" He said, "Well, the guy kind of
23 walks back to his car. I don't know if he's (inaudible) was
24 having trouble." Well, he'd been shot in the back then. Is
25 that not pure? Can you make that up? A man who just drives

1 in doesn't know anybody, sees a small guy, shoot, sees the
2 other guy going back to his car?

3 It's not beyond a reasonable doubt, that's beyond all
4 doubt, we submit. That's up to you all. He walks back to
5 the car. What does he do? He gets his gun, which he has a
6 right to do after being provided -- fired upon unprovoked.
7 And then he goes back and he shoots again. Well then, we see
8 Mr. Gainey.

9 Do you remember him testifying to that? "I see shots
10 coming back this way." Then you see on the tape, and I don't
11 need to play it again. You all can see it and you'll have
12 it. The Defendant goes back looking around that side, comes
13 back and fires again.

14 "Well, how many times did you fire?" "Four." Thought
15 he said three, he said four. And the reason that's
16 important? Credibility, believability. You look at the
17 inconsistent things, folks say, and that just shows they're
18 not credible. I'd say I don't mean his bad, but -- and I
19 don't mean to be bad. He shot him in the back, and he tells
20 the officers on the same statement, "I just shot back and
21 then -- and then that was it. He kept on shooting. I didn't
22 -- I don't think I shot, you know, because I was just -- I
23 just shot one time. I don't even think I shot. If I did, it
24 was an accident."

25 No, sir. No -- no, ma'am. Let's be honest there.

1 What does Larry do? He puts him up, tries to take him to the
2 hospital. Well, what about Larry? What about Larry? Larry
3 Harrison. "Well, Larry, what happened? What kind of mood
4 was he in?" "He's fine." Intent. Pair the intent of the
5 victim and the Defendant. "What did he do?" "We were
6 talking, had some beer, put ice on it. Talking about the
7 Cadillac Club." "What else?" "He's going to give me a
8 haircut tomorrow." Think about that.

9 I wish to God Michael Wilson had given -- I wish the
10 goodness Michael Wilson had given Larry Harrison a haircut
11 the next day. He cancelled that appointment forever.
12 Forever and ever and ever because he was angry. We don't
13 have to prove motive; we don't have to prove premeditation.
14 That's not the law on this day. And I don't know if he was
15 threatened or not at Dollar General. But if -- and again,
16 it's different. And I may have mixed up and I apologize to
17 everybody if I did, it may have mixed up Ms. Myers saying
18 that one went out first than the other, but he mixed it up
19 too. He got wrong for what Ms. Myers said.

20 But nothing -- Ms. Myers said, "No, I didn't see any
21 threats. I didn't see any threats. I didn't hear any
22 threats. I didn't see any guns." First time we heard about
23 that? Today, two years later. Two years later, he says,
24 "Yeah, he -- he had a gun." Nobody else, Ms. Myers didn't
25 say that. Who got mad that day? Who got mad that day at

1 Dollar General? He did. I didn't even do that earlier. I
2 promise you I didn't plan that. He got mad and threw stuff
3 off the shelf. He was angry, he was upset. And that's why
4 he got back at Michael Witness -- Wilson.

5 You know, sometime early in my career, I learned that
6 you -- sometimes questions are just questions. You can
7 answer everything. The State doesn't have to, but just
8 because they're questions, doesn't mean they're reasonable
9 doubts. In -- in an almost, in this case, makes it even
10 worse. If he was angry about an encounter at Dollar General.
11 He says it's a week before, she said a day before. You going
12 to kill somebody on that?

13 We submit he knew he was at the store. And he says,
14 "I've never seen him before." But he's dropped off that day.
15 And if you believe that he started selling drugs again on May
16 8th. And if you believe he just walked over there when Mike
17 was by himself and Larry was leaving, and then he decided,
18 "Oh, I'm going to shoot." "Well, I didn't shoot well, I shot
19 once. Okay. I heard that I shot twice in the back."

20 "Doctor, where would he have had to been to receive
21 this shot?" "Well, he couldn't have been facing who shot
22 him." He could not have been facing who shot him. And
23 what'd she do? I asked her to put that sticker on my back.
24 I'm asking Ms. Bell to do it right now. What else showed it?
25 It was in his back and he wasn't facing him? The angle of

1 the bullet. He's waving. He's going to his car, he gets
2 shot. "Would this be consistent with it?" "Yes, sir." It
3 ends up up here. Shot him in the back. Is that malicious?
4 Is that hostility? Ill-will for somebody. Because you may
5 have gotten in an argument in Dollar General. "I'm going to
6 take him out."

7 Is that a malicious killing? Is that a volunteer
8 manslaughter killing? Or is that not guilty? That's up to
9 you all. That's up to you all. We submit this as malicious
10 as you can do. And then at the end, I submit that he was
11 shot right up the first and the doctor said he could live for
12 a while. He obviously was talking, told Larry, "Don't leave
13 me." "Could move around after he shot?" She said, "Yeah,
14 you can do that as long as you're filling up with blood."

15 Approximate cause -- the approximate cause of his death
16 is that bullet. Malice. Go back -- I don't know what number
17 it is. Go back and pass that bullet around. Every one of
18 you touch it. Touch that bullet, that came from Michael
19 Wilson. That's a malicious killing in the back. There's a
20 wind in his back. Messed his lungs up. Go back there and
21 pass it around. Is that malice?

22 Larry is leaving. What does Larry say? "I'm leaving."
23 He's saying goodbye. He was in a good mood. "As soon as I
24 leave, I hear the shots. I hear the shot." "Any bad blood
25 between Michael and -- and Rashad Harvin that time?" "No. I

1 didn't hear anybody yelling to anybody." I -- I think he
2 said they weren't even arguing at the end. He tries to say,
3 "Well, he said something to me we're going back." I don't
4 see it on the video. That's up to you all.

5 But then he shoots and then we have those few seconds
6 afterwards. We don't have. I called the fellow, Bruce
7 Bennett from T & K, come in and explain that this motion
8 detected. That's not a reasonable doubt. It's not a
9 reasonable doubt when you got the first shot, and then you
10 got the second shot, which he's now admitted to. And Gainey
11 said he heard, "Pow, pow, pow." And he's admitted to
12 shooting four times.

13 And how do we get that video? I think her name was
14 Ms. Cash. She's told Bruce Bennett, "Call law enforcement.
15 We may have -- may have gotten that on the cameras." Thank
16 God she called. And then all the videos from A&P just show
17 the intent of him waiting. He's lying in wait. He's lying
18 in wait. With your hand? I was going to put it on. When I
19 was younger. I'd have put that video. Excuse me. And I
20 ought to do it now.

21 But he's sitting there with his hand on his gun. First
22 time, "Well, I just started drugs back today." If you all
23 believe that, let him go. "Yeah, that's why I was there.
24 That's why I have a gun. Didn't sell to anybody. Now, I'm
25 trying to sell down there a good bit." "Why are you back

1 here?" "Well -- hell, that's just -- I can see everybody
2 down there." It makes no sense.

3 He's standing out there waiting for Michael Wilson got
4 his hand on his gun. He sees Michael Wilson move out of the
5 store and he starts to move up. They get closer, he's moving
6 up. He's moving in for the kill in the back. That's what
7 this case is. And that's up to you all. Look at the
8 clothes. Here's the shirt. Look at the shirt, look at the
9 hole in the back. There's no question about it. And then go
10 look at -- see State's 8.

11 And -- and -- and I think Mr. Barnes said some -- and I
12 don't disagree with him, shell casings can be moved around.
13 And all we know the two of them, the Defendant fired, got
14 moved, got picked up, got kicked around. But go back here
15 and look. Number 5 was a 380. This is all in State's 8, in
16 the evidence. 6, a 380. And if you go back and look, here's
17 Number 5, where the Defendant's shooting at the victim.

18 And then the victim after being fired, defunct comes
19 back. There's the other shell casings there. I don't know
20 where they are. He admitted to shooting four times, admitted
21 to shooting two up here before he ran back. Finally,
22 admitted to it when he heard himself on the tape. Go back,
23 listen to it again if anybody didn't hear.

24 So law enforcement comes in. You all may not believe
25 it. I've moved you a lot faster than used to do. Law

1 enforcement gets involved. The Judge will tell you that your
2 responsibility and your decision -- not responsibility,
3 decide if the statement was freely and voluntarily given.
4 That's up to you all. You must decide if they advised him of
5 his rights. Did he understand his rights? And was it a free
6 voluntary statement without hope or reward, coercion?

7 "Do you understand the questions? Did you have a
8 trouble communicating?" You heard the testimony; you heard
9 the audio. We submit to you that is as freely and voluntary
10 and general interrogation as you'll get. And they did stop
11 talking about the gun at first when he is talked to, and
12 towards the end of the interview. And if you wanted to go
13 listen to it again, there's a call that comes back from
14 Culick's boss. "So we're trying to find it." She said,
15 "Well" -- and asked her one more time at the end, "Where's
16 the gun?" And shortly after that, he said, "I don't want to
17 talk anymore."

18 They weren't sitting there berating him about that.
19 And she did quit talking about the gun when he asked until
20 the end -- end when a supervisor called back again. They're
21 trying to find that gun. "And why did you bury the gun? Why
22 did you leave? Why did you change clothes? Why did you
23 flee?" That's what guilty folks do. "I did something wrong.
24 I'm leaving. I'm changing my clothes. I'm hiding the
25 instrument I use to shoot him in the back."

1 "Well, what else do you do?" "I don't even know him."
2 His credibility, believability. And all these things, folks,
3 that's why you can't believe anything he says. "I didn't
4 even know the man. I'd never had a beef with him at all."
5 And I -- and on today, I talked to one of my coworkers at
6 lunch (inaudible). He says -- when asked -- well, why didn't
7 Mr. Barnes ask him? "Why didn't you say who it was?" You
8 never reported the threat.

9 "Why didn't you tell the police the same day, 'This
10 person was threatening me and I had to shoot him'?" "Well,
11 in my world, when I'm brought up," -- and he's being charged
12 with murder, "you don't snitch." Well, he is today under his
13 definition. Are you kidding me? You would threaten you had
14 a gun pulled on you. Somebody says it and you don't tell law
15 enforcement a few hours later, "Man, I had to do it. I had
16 to do it." "No?" "I don't know. I don't even know the guy.
17 I just" -- think about this. "I just shot up in the air."

18 Does that make any sense? "I just shot up in the air."
19 And now especially it doesn't make any more sense when he
20 comes back two years later says, "Well, I was threatened.
21 That's why I had a gun. Well, no, I had a gun. Because I
22 was selling -- selling drugs for the first time this day in a
23 long time. And I had it for protection, although I didn't
24 sell any that day. But yeah, he did threaten me and that's
25 why I had it."

1 As he's moving to leave in his car with the beer fixing
2 the ice, no provocation whatsoever out of the victim. None.
3 We respectfully submit. Folks, I give one thank you.
4 Mr. Barnes is going to come up here in a minute. Please give
5 him your undivided attention that you have me, and then I
6 come back after that. And I promise you I'll be brief, I
7 promise. But thank you for being here.

8 (Defense's closing starts at 3:59 p.m.)

9 MR. BARNES: Your Honor --

10 THE COURT: Yes, sir.

11 MR. BARNES: -- Mr. Meadors, Mr. Tomlin, ladies and
12 gentlemen of the jury, on behalf of Rashad Harvin, my client,
13 I want to thank you all. I don't know about you all, but I'm
14 tired. I know you all probably are too. It's been a long
15 week. But it's been an important week. It's the most
16 important week of Rashad Harvin's life. When I finished law
17 school, I clerked for a judge like these gentlemen up here
18 doing with Judge Curtis now, and my judge used to tell jurors
19 that, "Serving on jury duty is the second most important
20 civic function after voting that you can do."

21 I wonder myself sometimes, if it's not the first most
22 important civic duty. We do have the best system of justice
23 in the world, but it only functions because of people like
24 you all. People who sit here for four days and listen to a
25 lot of things, and to who make a decision about people's

1 lives like my client, Rashad Harvin.

2 Now, when I gave my opening arguments, I told you all
3 that some of this case was not going to be pretty, and I was
4 right. I dare say that you all are probably not very
5 familiar with the world of drugs and guns, and it's not
6 pretty. But my client is not on trial today for selling
7 marijuana. He's not on trial for unlawfully possessing a
8 gun. Because the only way you can find him guilty of
9 possessing a firearm during the commission of a crime is for
10 you to find him first guilty of the crime.

11 But Mr. Meadors wanted to make a big deal about, you
12 know, "Oh, you knew you couldn't have a gun. You know, you
13 weren't supposed to have a gun. You signed some gun law."
14 Okay? He wasn't supposed to have a gun. But you know what
15 the law says? The law says that even people who are not
16 supposed to -- by law, have guns can use a gun and can use
17 deadly force to defend themselves. And thank heavens for
18 that. Otherwise, every felon walking around is subject to
19 having a gun pulled on them and being killed without being
20 able to defend themselves.

21 So don't be distracted by his smoke. And I know it's
22 hard to take the whole issue of drugs and him selling
23 marijuana on the street out there out of your mind. But he's
24 not here for that. And I don't know what you want to make of
25 that information, but it doesn't make him guilty of murder

1 and it doesn't make him guilty of involuntary manslaughter.
2 I mean, you know, Mr. Wilson was no saint. In addition to
3 beer and ice, he had a bag full of crack cocaine divided
4 neatly up into 23 bags.

5 So he might have been planning on having a good time
6 drinking beer over the weekend, but he's probably thinking
7 about having a good time doing something else too. I don't
8 know how many of you've served on jury duty your -- before,
9 but you've certainly all seen crime shows on TV. I feel
10 like, in my house, Law and Order is on constant loop on my
11 TV. My wife loves it and I come home from work and Law and
12 Order is playing. I've said, "Please, can I have some news?
13 I can't take this. This is what I do all day. Don't make me
14 come home and listen to it now."

15 But the reality is, this isn't like Law and Order. Law
16 and Order, their writers are clever and they wrap everything
17 up with a big bow at the end of the hour. At -- all cop
18 shows do. We solve the mystery. We answer all the
19 questions. We naturally want to know -- just as human
20 beings, we naturally want to know the answers to our
21 questions. We want to wrap everything up in a bow. That's
22 just our natural inclination as humans. But we don't have to
23 do that here.

24 Mr. Meadors told you we don't have to answer all the
25 questions. We can just not know some things. And maybe

1 that's frustrating, but we can't know everything. So you're
2 not here to solve a mystery. You're not here to wrap
3 everything up in a pretty dope -- bow, but you're not even
4 really here to find the truth necessarily. What you're here
5 to decide -- and please keep this in mind, your job is to
6 decide whether the State has proven their case beyond a
7 reasonable doubt.

8 Now, let me repeat that. We're not here solving
9 mysteries. We're not here wrapping things up in bows. We're
10 not looking for the truth. We're not trying to find the
11 answer to the questions. Your sole responsibility is to
12 determine whether the State has proven their case beyond a
13 reasonable doubt. Please keep that in mind. Don't go
14 searching for answers that don't need to be answered. Or --
15 and you know what? We may never know who killed Mr. Wilson
16 because we know that my client wasn't the only person out
17 there with a gun. There were other guns.

18 Mr. Harrison saw them. Ms. Nixon saw them. There were
19 a lot of people milling around out there. There are a lot of
20 cars coming and going. You saw them on the video. There's a
21 lot of people there. That's a busy store. Even their expert
22 couldn't say that the bullet came from a 38. She said it
23 could have come from 22 different guns.

24 She did not know one who put that bullet, the bullet
25 that Mr. Meadors wants you all to all feel. Yeah, I want you

1 to feel it too. And I want you to remember why you're
2 feeling it. That we do not know if that is the bullet that
3 came out of the gun that Mr. Harvin was holding and firing.
4 We do not know that. Is that reasonable doubt? You bet it
5 is reasonable doubt.

6 Before I start getting into the facts, I -- I want to
7 just touch on a few issues with regard to the law. And
8 Mr. Meadors said it, the Judge has said it, I'm going to say
9 it. The law is not what I say it is. It's not what
10 Mr. Meadors told you it is. It's what Judge Curtis is going
11 to charge you the law is. But I want you to think about --
12 I'm going to tell you a few things I want you to think about
13 when you're listening to me talk about the facts and then
14 when you're in the jury room analyzing the facts.

15 The first thing is that my client was innocent when we
16 started this trial, and as he sits here today, he is still
17 innocent. He does not become guilty when you walk in the
18 door of that jury room. He does not become guilty until you
19 render a verdict and find him guilty. He's charged? Yes.
20 If a charging document and indictment somehow made everybody
21 guilty, we certainly wouldn't have spent four days with you
22 all. But it doesn't. And that's why we're here. It means
23 really nothing other than that's the document that brought
24 him to court. He's innocent right now.

25 As I said, the Judge is going to charge you on

1 reasonable doubt. And she's going to probably tell you --
2 because this is not the first time I've been in her
3 courtroom, that you have to find that my client, Rashad
4 Harvin, is guilty of the two charges beyond a reasonable
5 doubt, and that the State has to prove that. And we don't
6 have to prove anything. We do not have to prove anything.
7 The burden is solely on the State.

8 "Reasonable doubt," I don't really think it's a
9 confusing issue. The Judge will probably charge you that.
10 Reasonable doubt is something that makes people pause. We've
11 all had those moments in our lives where we hear something
12 and we go, "Hmm," it makes us pause. That's reasonable
13 doubt. So when you're listening to these facts and when
14 you're thinking about this case, are there things that make
15 you go, "Hmm?" I think there might have been a song about
16 that.

17 But if -- when you're listening and thinking about and
18 talking amongst yourselves in the jury room about the
19 evidence in this case, and something makes you pause and go,
20 "Hmm," that's reasonable doubt. And you have to resolve that
21 in favor of my client. Please only decide the case based on
22 what you've heard and what you infer from those things. You
23 all are all smart people, I'm sure. You bring knowledge and
24 life experiences and common sense and all of those things to
25 your service as jurors. And I'm not asking you to disrupt

1 any of that.

2 But like this video that Mr. Meadors loves to play,
3 there are gaps in it, significant gaps in it. And as
4 Mr. Hallman said, "Those gaps cannot be filled in because it
5 wasn't being videoed. There's nothing to fill in." So he
6 can make the video pretty, he can make it have better color
7 and he can make it not be blurry. And he can even -- you all
8 saw the original and then you saw the enhanced version. I
9 mean, it was like going from here to across the street to
10 just right up on it. Pretty impressive technology.

11 But what he can't do is fill in the gaps of what
12 happened while that video wasn't being taken. And
13 importantly, there is a seven or eight-second gap right at --
14 on the video right after Mr. Harvin and Mr. Wilson meet each
15 other face-to-face. We do not know what happened in that
16 eight seconds. And the only person who has supplied any
17 information about what happened in that eight seconds is my
18 client. There's no other testimony about that. And my
19 client has said that he -- after shooting in the air, was
20 then shot at and he fired again.

21 When it comes to circumstantial evidence, that's the
22 kind of evidence that you have to sort of piece together to
23 come up with a conclusion. It has to make sense. The
24 conclusion you ultimately reach has to make sense. We can't
25 just piece things together and conclude something that is not

1 reasonable or doesn't make sense.

2 And the other thing is, if you can't link those chains
3 -- those chain of events together and make a -- is there
4 anything along the way when you take those facts? Is -- do
5 one of those facts make you go, "Hmm?" Does the combination
6 together go, "Huh, God, I -- I'm just not really sure that
7 that makes sense." That's a reasonable doubt.

8 Our memories are not perfect. You've heard testimony
9 from people up here that have -- who were at the same event.
10 Now, granted it was a couple years ago at this point, but
11 Lord knows my memory is getting worse every day. But even
12 when I was younger, I didn't always remember things the way
13 that other people did. If you've ever seen any of those
14 studies where people say, "What did you see?" And then you
15 ask 20 people, you get 20 different answers.

16 The other thing is that memory is often affected by
17 nervousness, stress, lots of different factors. So just keep
18 that in mind. Don't be too hard on any of the witnesses,
19 frankly, not just my client, because our memories aren't
20 perfect. They're human beings. They're doing the best they
21 can. But sometimes people just don't tell the truth either.

22 And -- you know, we all have our baggage and we bring
23 baggage to wherever we are in life at any given time. My
24 client has some baggage. But the fact that he admitted to
25 having pled guilty to selling drugs 10 plus -- 10 -- 10 years

1 ago, that doesn't make him guilty of murder of Mr. Wilson.
2 It just doesn't. You may include something about it. Maybe
3 you just don't like him because He sells drugs. And I get
4 that. But that doesn't make him a murderer. It does not
5 make him a murderer. If we all got judged based on something
6 we're doing now, based on things that happened in our past,
7 it would be a really scary world.

8 Now, the Judge is going to also talk about -- talk to
9 you about my client's statement And the need for it to be
10 voluntary. And let's go ahead and talk about that statement
11 a little bit. Detective Kelly, who is my friend and we have
12 a good working relationship, and I think she's great law
13 enforcement officer, but you can't tell me that Mr. Harvin
14 wasn't nervous in that room. Anybody would be.

15 Detective Kelly made it sound like, "Oh, he's cool as a
16 cucumber. He's fine. He didn't -- you know, he voluntarily
17 said all this." Really? It was like pulling teeth out of
18 him to get him to respond to questions. It was painful to
19 listen to at certain points. Detective Culick, who you
20 didn't actually hear testify, but who was the one asking
21 questions on there. She would sometimes answer two -- ask
22 two and three questions in a row before he got any -- gave
23 them any kind of response. And then at best it was a,
24 "Uh-huh." Or a, "Uh-uh."

25 Well, for one thing, I had an awful hard time

1 discerning the difference between "Uh-huh" and "Uh-uh" on the
2 video. Excuse me, the audio. That's very, very hard. But
3 if he was -- if he was all fine and dandy, why didn't he
4 testify more forth -- more freely and forthcoming? He was
5 there because he had to be. Granted, he didn't have to talk
6 to him. And honestly, I wish he hadn't.

7 But the reality is he didn't say anything different
8 then than he said today. He just filled in some of the
9 missing parts that he didn't tell them because he was
10 handcuffed and under arrest, and had two detectives leering
11 at him across the table. And he was -- and he knew that he
12 was being recorded. He didn't sign that paper. I'm not
13 saying it's voluntary, but there's a lot of reasons why he
14 didn't answer all of those questions.

15 Not the least of which they were asking him to provide
16 information about other crimes. "Where'd you get the gun
17 from?" This, that, and the other. I mean, he didn't want to
18 have to do that. He didn't want to have to do it here today.
19 But he is under oath. He was not under oath then. And he
20 swore when he took the stand to tell the truth and nothing
21 but the truth, so help him God. And Lord knows if he was
22 going to get up there and take the stand and come up with
23 alibis and reasons for why he did something, do you think
24 that he would come here and tell you that he went there to
25 sell weed? Goodness.

1 He would tell you that he went there to meet his
2 girlfriend, and that he kept looking up down the street to
3 find out where his girl -- where his girlfriend was. But he
4 didn't, ladies and gentlemen, he fell on the sword and told
5 you exactly why he was there. He was there selling weed. He
6 had sold weed there before. He knew that was a good place
7 for him to make money.

8 Why would he -- why would he let you all think he was
9 selling weed? I mean, there are about a hundred -- if you
10 made a list of a hundred reasons why you were there and you
11 really wanted to concoct a story, I dare say that you went
12 there to sell weed would not make the top 100. Why did he
13 tell you that? Because it's the truth. So in order for you
14 to find my client guilty of murder, you have to find that he
15 intentionally killed Mr. Wilson with malice aforethought.
16 And that the killing was the approximate cause.

17 Now, let me start at the end first, and I've already
18 talked on this a little bit, and I'm not going to belabor at
19 this point, but proximate cause means that bullet that came
20 from the gun that Mr. Harvin was shooting is the bullet that
21 was pulled out of Mr. Wilson's.

22 I submit to you that in order for you to determine
23 that, you will have to guess, that you will have to fill in
24 the gaps with things that weren't on the video and pluck it
25 out of thin air. Even their expert -- with 17 years of

1 experience, could not say that the three, 380, bullets were
2 fired from the same gun.

3 The one -- or shell -- the shell casings and the
4 bullet, the one bullet could have come from 22 other guns.
5 "The shell casings had been in the same gun," she said. But
6 she could not prove that they were fired by the same gun. So
7 there is no proximate cause. You can just start it in work
8 your way back. There's no proximate cause. End of story.
9 "Not guilty." Does that -- does that question about whether
10 that bullet was the bullet he fired, make you go, "Hmm?" If
11 it makes you go, "Hmm," that's reasonable doubt. And my
12 client is not guilty of murder.

13 Now, I support the law. If he was so angry with
14 Mr. Wilson and he went there to kill Mr. Wilson, why in the
15 Sam Hill would he wander around for 20 minutes? At some
16 point when he shot the gun in the air, he was literally from
17 here to that wall from Mr. Wilson. If he had wanted to kill
18 him, there was his chance. But -- and Mr. Meadors wants to
19 make -- make a big deal about he waited for Mr. Harrison to
20 drive off. Well, my goodness, there aren't -- well, there
21 are a few cars in here, but when you saw on the video, there
22 were all kind of cars there.

23 I think -- and I was -- I was trying to count while he
24 was playing the video, there were -- looked like there were
25 about seven cars at the gas pumps. "Oh, he didn't want any

1 witnesses. That's why he waited for Mr. Harrison to leave."

2 Well, what about these seven people pumping gas? I mean,
3 they're from here to that wall from him. Those are
4 witnesses, ladies and gentlemen.

5 If he wanted to get rid of Mr. Wilson, I dare say that
6 he wouldn't have done it at the A&P Coastal Mart, which is a
7 very busy store on the Boulevard. You saw it yourself. You
8 saw all that traffic. You saw that the -- the camera from
9 across the street was constantly going off because cars were
10 passing by and this, that and the other. It's not as though
11 he was in some secluded place.

12 If he wanted to take Mr. Wilson out, I dare say he
13 would've followed him somewhere where nobody was looking and
14 put a bullet in him then. But we don't know that that was
15 his bullet. And we certainly don't think that it made sense
16 for him to -- you know, be waiting for Mr. Harrison to leave.
17 That simply doesn't make sense. Not with all those other
18 people around. If Mr. Harrison had left and there was nobody
19 left at the gas station, okay, maybe, but that just doesn't
20 fly.

21 So they've got to find the -- the approximate cause.
22 They got to find intent. They got to find malice
23 aforethought. If my client was so evil and depraved to want
24 to kill Mr. Wilson, why did he wander around for 20 minutes?
25 Just go ahead and do it. Be done. He wasn't depraved. He

1 didn't know Mr. Wilson was there. It doesn't make sense
2 otherwise. I mean, really, he's just going to wander around
3 for 20 minutes trying to, you know, decide, "Oh, am I evil
4 enough now let me do it now."

5 20 minutes of walking around, "Finally, I've got the
6 evilness up, I'm going to do it." That doesn't make sense.
7 And yes, firing into a parking lot could probably be
8 considered evil if you weren't being shot at. We know he was
9 shot at. We saw Mr. Wilson shooting the gun very
10 aggressively standing like that at the -- Judge is also going
11 to charge you on voluntary manslaughter. That just means
12 that somebody killed somebody in the heat of passion, not
13 with this malice aforethought.

14 Again, if he's so hot and bothered and passionate about
15 killing him, why does he wander around very casually for 20
16 minutes? He didn't go there to kill Mr. Wilson and he wasn't
17 so deranged at that point that he tried to kill Mr. Wilson.
18 He shot in the air. "Man, you threatened me. I'm telling
19 you I got a gun, back off." But he didn't back off. He kept
20 coming at my client, and my client defended himself and he
21 has the right to do that. And it is tragic that Mr. Wilson
22 is dead. It's tragic.

23 My client didn't want him dead. My client didn't even
24 know he killed him. My client didn't even know if he had hit
25 anything. But you can't find him guilty of something that he

1 didn't intend to do, and that he didn't have any choice but
2 to do because he -- it was either kill or be killed at that
3 point.

4 Self-defense. Mr. Meadors touched on the four elements
5 of that. But let's talk a little bit about the first one,
6 which is that my client had the right to be there. That he
7 wasn't there. He didn't go to the store to, you know, he
8 wasn't there to stir up trouble. Again, the testimony was my
9 client is a quiet guy never bothered anybody. Let's compare
10 that to Mr. Wilson, who we know had already pulled the gun on
11 somebody unprovoked in the store before this -- a couple of
12 months before this.

13 This is a man who resorts to violence with a gun. He's
14 proven it. Ms. Nixon said, "Everybody knows Mike. He's
15 rude, he's disrespectful." That's who he is. So he set this
16 in motion, not necessarily that day, but either the day
17 before, if you believe Ms. Myers' memory is right, or a week
18 or so before, if you believe my client's memory about it is
19 right about the confrontation.

20 Okay. The facts of that confrontation vary a little
21 bit. She didn't hear what was said. My client has told you
22 what he said -- what Mr. Wilson said to him and what his
23 response was. He admitted like Ms. Myers said to throwing
24 his French fries. She thought it was candy from the counter.
25 He says it was the French fries that he bought on the way

1 there. If we have to decide who started that fight, because
2 she'd know and you don't believe my client, if I was a
3 betting man, I would say that it was Mr. Wilson because that
4 seemed to be his MO.

5 Just -- who goes to stores and just is rude and
6 disrespectful, and causes confrontation and pulls guns out on
7 people in stores? Mr. Wilson. That's what kind of people
8 do. So in addition to my client having the right to be
9 there, because as I've said, there's just no evidence that he
10 was there to -- to kill Mr. Wilson. That's that. I mean --
11 again, he's going to linger around there for 20 minutes. I'm
12 not going to belabor that. But in secondly, we have to prove
13 that my client was in imminent danger.

14 Well, you saw the video he was shooting at the man --
15 I'm sorry Mr. Wilson was shooting at Mr. Harvin. What we can
16 - you know, Mr. Meadors likes to talk, "Oh, look, his back is
17 to him here, he's" -- you know, I don't have great eyesight.
18 I'm 56. My eyes not as good as they used to be. But I dare
19 say that Mr. Wilson looked like a black blob on that video,
20 which is not great. Even the enhanced. I couldn't tell
21 whether his back was to him or not. I mean, he's got an
22 all-black coat clothes, his skin is black, his hair is black.
23 And Mr. Meadors is going to try to talk you into thinking
24 that his back was to him. But that would be up to you all to
25 view that video.

1 The other thing while I'm talking about this that I
2 want to remind you is Mr. Meadors keeps wanting to pluck out
3 this, "Oh, he said he shot twice." But what they cut off on
4 that video was the immediate follow up. She asked another
5 quick question, and then he went right into explaining about
6 the second shot. Read everything in its context. Don't let
7 him pluck out a little statement or question and convince you
8 that that's what the truth is. Listen to the whole thing.
9 Listen to it in context.

10 So third, my client has to have no other option to
11 avoid the danger, but he ran behind the pump, he said, but
12 Mr. Wilson was still coming. And so, then he ran to the air
13 tank, looked -- because he thought he had seen him go that
14 way. So he looked around the corner, this was in that video,
15 came back, looked, saw he was coming in. That's when he
16 fired the two more shots. The man's still shooting at him.

17 Now, I give you, it's disarming or -- or it's alarming
18 to see that video of my client firing those two shots. But
19 what we don't know from that video is what Mr. Wilson was
20 doing. My client said he was shooting; we know he fired a
21 lot because we can see that. And then finally that my client
22 has to stop shooting once the danger is passed, when he left.

23 So our first witness was Corporal Salmon. You know, he
24 was the first one at the scene. I would ask you if you look
25 at his video to notice that his windshield wipers were on, it

1 was raining, and my client wasn't the only one wearing a hat.
2 Ms. Nixon was wearing like a shower cap in that video too
3 when she -- when she came out and said, "Oh, that he
4 shouldn't have shot that man." Or whatever she said, which
5 she didn't know because she said she didn't see anything. So
6 she doesn't know who shot who.

7 That was just something she was saying, "Probably in
8 the heat of the moment, we all do that." But she had on a
9 hat. But Corporal Salmon's windshield wipers were going.
10 And the other thing, "Oh, it was a nice warm sunny day
11 according to Larry Harrison." Well, Mr. Wilson had on a
12 jacket too, because they went through lots of panes to tell
13 you about the jacket and the shirt that he had on.

14 So it's not so unusual that my client had a hoodie, he
15 had stuff on -- on him, might not be stuff you like, but he
16 needed those hoodie pockets. And who when they wear a hoodie
17 doesn't walk around with their hands in the pockets. That's
18 why I like a hoodie. Because I got somewhere to put my
19 hands. And you know what, if I had a gun in my hoodie pocket
20 and I put my hands on there, my hands would be on the gun.

21 The other thing that -- and with all due respect to
22 Detective Kelly: Why didn't officer Corporal Salmon when he
23 got there locked down the scene? My goodness, he let
24 Mr. Gainey leave without saying, "Hey, man, you need to sit
25 here. You're a witness. You need to stay here." There --

1 we got people going everywhere, running around doing this,
2 that and the other. He should have said, "Everybody freeze
3 right now."

4 The -- the victim was no longer there. We didn't have
5 to take care of anybody who had been shot at that point. He
6 should have said, "Everybody freeze where you are. I'm
7 putting tape up. I need you all to stay here until I can get
8 back up so we can talk to all of you and ask you what you
9 saw." Because there was a lot of people out there. Instead,
10 people drive off. My -- Mr. Gainey drove off. He was never
11 told he needed to stay.

12 And, you know, I'm not saying that that really tells us
13 anything, but think about what it could have told us. We
14 might have found Mr. Wilson's gun, which we don't have, and
15 it's all bad that my client buried his gun. Well, if he had
16 the right to defend himself there, it didn't matter what he
17 did with the gun. He was scared. Of course, he was scared.
18 He didn't know what might come of all of this.

19 But just because he buried the gun, if you decide he
20 got a right to defend himself, it doesn't matter what he did
21 with the gun. But we don't have Mr. Wilson's gun either.
22 Where did -- did Larry Harrison have it? Did anybody search
23 Larry Harrison's car? No.

24 Mr. Gainey. Mr. Gainey is a nice man. He doesn't know
25 my client. He apparently didn't know Mr. Wilson either. So

1 he really doesn't have a dog in the fight. But let's not
2 forget when he heard, "Pow, pow, pow," which incidentally is
3 three. My client at -- if you believe Mr. Meadors version of
4 it, my client only shot twice and he hears, "Pow, pow, pow."
5 That's three. He's counting his money.

6 I said, "When you were counting your money and when --
7 when you heard 'pow, pow, pow,' you were counting your money,
8 right? Looking down." Well, I don't think he has eyes in
9 the top of his head. Then he wants to say, "Well, then I saw
10 the other fella shooting at him." Well, how didn't he know
11 -- how he -- did he not know that that was the other fella
12 continuing to shoot? Because when he heard "Pow, pow, pow,"
13 he doesn't know whether it came from.

14 Now, Mr. Meadors wants to say, "Oh, he saw bullets
15 going this way and he saw bullets going that way and then he
16 saw bullets going that way." Or he heard it or something.
17 He did not see my client shoot. He never ever, ever said
18 that. He never said it. He did not see my client shoot
19 first. Mr. Gainey is right here, they're over here. How can
20 he tell whether that bullet was going pew, this way and pew,
21 that way, and then pew, this way?

22 That was Mr. Meadors walking him down the primrose
23 path. And I should have been quicker and I should have
24 objected to it because that wasn't his testimony. It never
25 was in his statement. What he said was, "I heard pow, pow,

1 pow. I looked up, I saw the other fella shooting at him and
2 then this -- this fella," -- meaning my client, "started
3 shooting back." But again, he didn't know what fella was
4 shooting first because he was counting his money when he
5 heard that pow, pow, pow. Hmm. Does that make you go,
6 "Hmm?"

7 Mr. Gainey is not a bad guy. He wanted to be helpful.
8 I -- I do. I think he was trying to be helpful, but like a
9 lot of us, we sort of, maybe, go a little bit farther than we
10 should when we don't really know. Because he doesn't have
11 eyes on the top of his head and he couldn't -- could not have
12 known who shot first unless he has some kind of bionic
13 earring. And he can tell from way over here who's shooting
14 first over here. That makes me go, "Hmm."

15 Amanda Snapp. She was the next witness and she was the
16 one that went to the hospital. You know, it's interesting
17 she didn't know how much money was there. She didn't even
18 have the money on her roll. She apparently gave it to
19 coroner, who then gave it to the family. You know, I -- I
20 don't know. I -- again, it's just something about the
21 investigation is just a little awkward to me. Why wasn't
22 that money in evidence? She's is the one that bound the
23 drugs, which you didn't hear about it first. So what else
24 did she maybe find that we didn't know about? The money
25 wasn't there. I don't know. Makes me go, "Hmm."

1 Bruce Bennett was next. He talked about setting up the
2 videos at the site, and he also confirmed that there were
3 gaps in the video. They were not real time. I cannot stress
4 to you how important this is because Mr. Meadors wants to
5 make you think you're just watching something that's just
6 continuous and it all makes sense. It doesn't. I submit to
7 you that it has some value -- some value, but it can't
8 possibly tell you who shot first. You can't even tell which
9 way people are facing.

10 Samuel Hall was next. Again, we've already talked
11 about him. I'm not going to go back into that. He just made
12 it pretty, he can't fill in gaps. You can't fill in gaps.
13 Mr. Harrison was next. Again, he was a very nice guy, but he
14 didn't see -- unless he has eyes in the back of his head as
15 he's driving off waving, he doesn't -- he can't tell who's
16 shooting. Goodness, he's going off down the road.

17 He saw my client running away and shooting, but he
18 doesn't know if he was running away and shooting because he
19 was getting shot at. Because at this point, Mr. Wilson is
20 behind him. He doesn't know what's going on. He didn't
21 hear, but he also didn't say it didn't happen about the
22 argument because he doesn't know.

23 Well, I've already discussed, you know, they want my
24 client to look like some kind of creeper out there with the
25 hood. You know, he was doing what he had done before, and --

1 you know, again, if he told me that he started selling drugs
2 just that day, the first thing I would've thought was, my
3 gosh, that is a terrible fact for me. Why in the world would
4 I want you to say that? Because that sounds so coincidental
5 to be fabricated. I mean, honestly, I sort of feel like my
6 client told was so truthful to it that it --

7 MR. MEADORS: Objection, your Honor.

8 THE COURT: That's sustained.

9 MR. BARNES: I'll move on. Mr. Harrison also tried to
10 say that Mr. Wilson was all in the joking mood and all that.
11 But what we do know is that Mr. Wilson goes off like that. I
12 think it's pretty clear that neither one of them had seen
13 each other. Although my client said he might've seen him, he
14 doesn't know because he was minding his own business. But
15 when he did see him, he did the exact same thing then that he
16 did to my client in the Family Dollar. He called him
17 horrible names and went for his gun.

18 And if anybody was there to finish the job, it was
19 Mr. Wilson because he said, "I told you next time I see you,
20 I'm going to f you up." or whatever the word was. And he
21 tried. He went for his gun. The gun that everybody knew he
22 kept right there. The gun that he had brandished in the A&P
23 two months before. So who -- whose story makes more sense?

24 Doctor: The doctor, she -- you know, she concluded that
25 the bullet -- the -- you know, the bullet had gone through

1 his back. I think that's pretty obvious. But guess what?
2 We don't -- she didn't know whether he was bent over or
3 whether it was the angle of the gun. She doesn't know any of
4 that. She said she couldn't have, didn't have an opinion
5 about that.

6 She also doesn't know if when he was retreating like
7 this, or I guess it would be like this since it was on this
8 side, if he was firing back as he was going to the top of the
9 store up here where we see him on the video firing
10 aggressively at my client like this up here. Whether --
11 while he was traveling up there to do that and turning back
12 and shooting at my client, that's when he got shot in the
13 back.

14 There is zero evidence -- zero evidence that this man
15 was simply walking away from my client and my client shot him
16 in the back. There are a lot of explanations for how that
17 bullet might have entered his back and where he was at that
18 point in time. She just came up with two and couldn't
19 conclude anything about him.

20 I've already discussed Agent Eichenmiller, the fact
21 that she makes no conclusions about what gun they came from
22 and we don't have his gun. And why don't we have his gun?
23 Seems like to me that would've been a very, very important
24 thing. I would've wanted that gun. I would have asked
25 Mr. -- they asked if they could go get his clothes. Why

1 didn't they ask, "Hey, can we take you back to 3rd Avenue and
2 let you show us where the gun is?" Instead, look for fresh
3 dirt. That gun could have answered a lot of questions. But,
4 hmm, we don't have it. And that's important because they got
5 to prove that bullet came from my client's gun.

6 As I get ready to close, ladies and gentlemen, I do
7 want to remind you of something again. My client is not on
8 trial for selling drugs. He's not on trial for having been
9 convicted of selling drugs. He's not, he's just not. No one
10 likes drugs, but the fact that he was selling drugs doesn't
11 make him a murderer. And I don't know how you could possibly
12 make that leap, "Oh, he's a bad guy. So he must have been a
13 murderer." Please don't do that.

14 And he -- he's not on trial for not being able to have
15 a gun. I've already discussed that. So I think I've pretty
16 much gone through all the evidence for you to consider. And
17 I've raised some questions for you. I hope I've made you go,
18 "Hmm." Because That's what I want to do. Because That's
19 what I think you have to do. I -- I submit you have to ask
20 -- ask those questions, and when they make you go, "Hmm," the
21 Judge is going to instruct you that you have to find my
22 client not guilty.

23 I realize it's a tough -- tough job. I actually have
24 jury duty next Wednesday, myself, not here in Sumter, but in
25 federal court in Columbia. Never been in jury duty. I dare

1 say I will not get picked for a jury. Although I would love
2 to, because I would love to be in the jury room and just get
3 a sense of how it works sometimes. But I trust you all, and
4 I trust the process, and I trust you to give my client a fair
5 shake. And I trust you not to convict him of things he's not
6 charged for because you think he might not be a bad guy or
7 boy Scout.

8 And I trust you to use your common sense about what you
9 think really could have happened, and what makes sense, and
10 why if my client was going to kill this man, he would try to
11 do it in open in the middle of a store with people milling
12 around and driving in and out. And I really, really do
13 believe that once you consider all of those things, that
14 you're going to have that reasonable doubt. And I hate that
15 you might not be able to solve all the problems, but again,
16 that's not why you're here. You're here to answer the
17 question about whether there's reasonable doubts. Thank you.

18 THE COURT: Mr. Meadors?

19 (State's rebuttal starts at 4:50 p.m.)

20 MR. MEADORS: Good thing this ain't a rape case to put
21 the victim on trial. That's kind of funny you just said,
22 "Don't judge my client on the fact he's selling drugs."
23 That's kind of what he's doing with the victim. Trying to
24 get you all to say one or two incidents. "He's a bad fella.
25 This must have happened." And who brought up the fact of

1 selling drugs there? We didn't. He brought that up and he
2 says, "Well, who would think of -- why would somebody do
3 that?"

4 Somebody who's got explained why he had a gun there and
5 he give you all an explanation of why he had a gun there,
6 which he didn't tell law enforcement. That's why -- and I'm
7 not asking you, I would never ask you to say he's more likely
8 to have done this because he's got a prior record. I
9 wouldn't do that. That'd be like saying something about
10 that's not the way the law. The law is you can consider that
11 or his credibility.

12 Judge will tell you that. And that's all I'm going to
13 ask you to do. Consider about his credibility. He's given
14 us examples of credibility all throughout, talking with the
15 officers and talking here today. And he says to the
16 officers, he said -- and he talks about the statement, "It
17 was like pulling teeth." He -- he actually said, you know,
18 "Why didn't he tell more to the officers?" Because he
19 couldn't explain shooting somebody in the back.

20 "Why didn't he -- they asked him to take him out to
21 where the gun was." Well, they tried to get him to say where
22 the gun was and then he said, "I -- well, I don't want to
23 talk about it anymore." And then at the end after somebody
24 called in the interview, he said, "I'm not talking anymore."
25 And she said, "You mean about the gun or the -- or the case?"

1 He said, "The whole thing." That's a smoke screen. They
2 tried to find the gun.

3 I don't know why he didn't tell them more. And then he
4 says, "Well, there's nothing really different today he said."
5 Are you kidding me? Today he says, "I knew the guy, he
6 threatened me before. He threatened me that day." He'd
7 never said that before. Nothing different from the daytime
8 before. That's what you say back on May 8th. You heard the
9 tape. Did they threaten him? Did they coerce him? They
10 gave him water. Are you kidding me? "He didn't say anything
11 different." He said everything different two years later.

12 He gave a reason to why he shot somebody in the back
13 and a reason to why I'd have a gun there. Credibility,
14 believability. He's the one that brought up the drugs, not
15 us. And he said, "We want you to think." He brought it up
16 as a reason to explain this. And I started that day, May
17 day, selling drugs back to get some money. Why? You didn't
18 need a -- you didn't need a lawyer. He knew what he was
19 going to do that day, and he awaited, and he approached, and
20 he shot.

21 And he talks about that face-to-face meeting they had.
22 There's no face-to-face meeting on there. He said, "The only
23 person you heard testify about that was the Defendant."
24 Yeah. Because Mike is dead, so he can't get up and say
25 whatever he wants to, but that video, there's no face-to-

1 face. And what's the evidence that he shot first? You see
2 the shot first. You see Gainey who says, "Yeah, I saw it. I
3 looked down, then I heard the shots. Yeah, it was the little
4 fella," his testimony, "he shot. Then the other fella shot
5 back."

6 And he's -- the video says he shot. He says he shot
7 first, to the police. He says -- he's tried to say, "I shot
8 in the air, a warning shot." Which makes no sense. If
9 somebody is threatening, you going to go up and shoot a
10 warning shot to warn them? That makes no sense if you're
11 really scared. So he said, and Mr. Gainey corroborated it.
12 "Yeah, I was right there. I got a dog in this fight. That
13 little fella. Yeah, he shot: Bang, bang, bang."

14 He's admitted. He shot four times, then comes back.
15 Then that fella, yes, shoots and then he shoots back. You
16 can't create reasonable doubt and then try to get you all --
17 that's what he's doing, respectfully. He didn't leave you
18 common sense at the door. We've got to prove beyond a
19 reasonable doubt, but the attributes you've had your whole
20 life, you bring in here and you'll bring them back there.

21 James Salmon did testify, put the tape up. That whole
22 tape we offered as much as we had agreed to offer the rest of
23 the tape you see him putting it up. He testified I put that
24 tape up. It wasn't on the rest of the tape because we had
25 agreed to stop the tape there, but he testified to it. The

1 tape was up. "It could have been another bullet." He said,
2 "No, ma'am. No, sir."

3 The only person that -- that fired was the Defendant
4 and the victim. We know that because of the man you ain't
5 got a dog in the fight. That's all he said. He saw them
6 shot, those two people. And don't take out of context. He
7 talks about Agent Eichenmiller, Michelle Eichenmiller. Yeah.
8 They're two-380s -- two -- three-9mm. Yeah. I can't say
9 that they were fired by the same gun, could have been.
10 That's because of the -- the condition they were in. They
11 had definitely been in a gun, the same gun, before.

12 They'd been in the same gun before because of the
13 extraction marks. That's good evidence. That's
14 circumstantial evidence. No, I can't say because of the
15 marks that they were fired, but I can tell you they were in
16 the same gun. That's great circumstantial evidence. The
17 same three -- the same two shell casings had been in the same
18 gun because of the extractor.

19 And he admitted finally: "I shot a 380." Don't forget
20 that. That's on the table. "Yeah, I had a 380." And that's
21 what she said was taken out of the bottom. She can never
22 know where it came from. She's not on the scene. There's
23 never been a testimony in 34 years where I've had somebody a
24 -- a pathologist and somebody say -- they're not out there.
25 That's not their job. They're pure. They're going to come

1 in and say, "Here's what I found." He was there for nine
2 minutes waiting, waited until Mr. Wilson started to leave,
3 waiting till Larry to leave, and that's when he approached,
4 and that's when he shot.

5 You all know the case. Oh, the gun. What happened to
6 Mr. Wilson's gun? I don't know. Beyond each and every doubt
7 in this world. I tell you he didn't try to hide or to moot
8 it, Mr. Wilson. He sure didn't, did he? I don't know what
9 happened to it. It's not a reasonable doubt. I don't know
10 what happened to his gun. I don't know what happened to his
11 gun. Yeah, I wish we did have. I wish he had turned it
12 over. But he didn't.

13 Like he changed clothes and went home and said, "I
14 don't even know the man. I never had a beef with the man."
15 Two years later, "I did." "I don't get caught up on selling
16 drugs and that facade." Well, this -- who would do that?
17 Well, somebody's trying to explain a murder.

18 Final thing I want to say is presumption of innocence.
19 Mr. Barnes brought it up, the Judge is going to charge it.
20 It's the most beautiful thing in this law. Everybody is
21 presumed innocent unless and until you, the jury, decide the
22 State has met this burden beyond reasonable doubt. And when
23 you go back to that jury room and you start deciding what
24 this case is about, what the truth is, it's like a robe or --
25 or a blanket. And I too, thanked all them. I'm going to

1 THE COURT: Okay. Ladies and gentlemen, before we
2 begin the charges, I just want to check and see if you all
3 need a short break. If you're good to go, I'll continue on.
4 I just want to make sure nobody needs a break before we go
5 forward.

6 Okay. Ladies and gentlemen, you've heard all the
7 testimony and the evidence in this case and it's now my duty
8 to instruct you on the law that applies. The indictment in
9 this case charges the Defendant with murder and possession of
10 a weapon during the commission of a violent crime.

11 I remind you that the fact that the Defendant was
12 arrested, charged, and indicted in this case is not evidence
13 and cannot be considered by you as evidence of guilt, nor
14 does it create any presumption, or inference of guilt. This
15 document is simply the formal written instrument which
16 contains the charges made against the Defendant. It's the
17 formal document by which this case is brought into court.

18 The indictment in this case alleges several different
19 offenses against the Defendant. The charges are murder and
20 possession of a weapon during the commission of a violent
21 crime. Each indictment contains a separate and distinct
22 offense. You must decide each offense separately on the
23 evidence and the law applicable to it uninfluenced by your
24 decision as to any other indictment.

25 The Defendant may be convicted or acquitted on any or

1 all of the offenses charged. You'll be asked to write a
2 separate verdict of guilty or not guilty for each offense.
3 The Defendant has pled "not guilty" to this indictment and
4 that plea puts the burden on the State to prove the Defendant
5 guilty.

6 A person charged with committing a criminal offense in
7 South Carolina is never required to prove himself innocent.
8 I charge you that it is an important rule of law that the
9 Defendant in a criminal trial, no matter what the seriousness
10 of the charge may be, will always be presumed to be innocent
11 of the crime for which the indictment was issued unless guilt
12 has been proven by evidence satisfying you of that guilt
13 beyond a reasonable doubt.

14 This presumption of innocence does not end when you
15 begin your deliberations, but it accompanies the Defendant
16 throughout the trial unless you reach a verdict of guilt
17 based on evidence satisfying you of that guilt beyond a
18 reasonable doubt.

19 This presumption of innocence is not mere legal theory.
20 It's not just a legal phrase. It is a substantial right to
21 which every defendant is entitled, unless you, the jury, are
22 satisfied from the evidence of the Defendant's guilt beyond a
23 reasonable doubt. What is a reasonable doubt in the law?
24 It's the kind of doubt for which you can give a reason. It's
25 also described as the kind of doubt that would cause a

1 reasonable person to hesitate to act.

2 Proof beyond a reasonable doubt is proof that leaves
3 you firmly convinced of the Defendant's guilt. There are
4 very few things in this world that we know with absolute
5 certainty, and in criminal cases the law does not require
6 proof that overcomes every possible doubt. If, based on your
7 consideration of the evidence, you are firmly convinced that
8 the Defendant is guilty of the crime charge, you must find
9 the Defendant guilty. If, on the other hand, you think there
10 is a real possibility that the Defendant is not guilty, you
11 must give the Defendant the benefit of the doubt and find him
12 not guilty.

13 I remind you that during this trial you and I have
14 separate duties to perform. As the trial judge, it's my
15 responsibility to preside over the trial of this case and I
16 also have the duty to rule on the admissibility of evidence
17 offered during the trial. You are to consider only the
18 competent evidence before you. You are to consider only the
19 testimony which has been presented from the witness stand,
20 the exhibits which have been made a part of the record in
21 this case. I have the -- and any stipulations that the
22 parties have read into the record.

23 I have the additional duty to charge you the law
24 applicable to this case, and as the presiding judge, I'm the
25 sole judge of the law of the case. It's your duty as jurors

1 to accept and apply the law as I now state it to you. If you
2 already had any idea as to what the law is or what the law
3 ought to be and it does not agree with what I now tell you
4 the law is, you must abandon your previous idea because
5 you're sworn to accept the law and apply the law exactly as I
6 state it to you.

7 In every case tried before a jury, the jury becomes the
8 sole and exclusive judges of the facts of the case. A trial
9 judge cannot comment on the facts or make any statement to
10 you about the facts in a case. Since you, the jury, are the
11 sole judge of the facts of the case, you're not to infer from
12 what I've said during the progress of this trial in ruling on
13 the admissibility of evidence, or otherwise, or anything that
14 I say now during the course of this instruction that I have
15 any opinion about the facts in this case.

16 The law does not allow me to have any opinion about the
17 facts. This is a matter solely for you, the jury to
18 determine. As jurors, it's your duty to determine the effect
19 value, weight, and truth of the evidence presented during
20 this trial.

21 There are two types of evidence that are presented
22 during the course of a trial. There's direct evidence and
23 there's circumstantial evidence. Direct evidence proves the
24 existence of a fact and does not require deduction. Direct
25 evidence is the testimony of a person who claims to have

1 actual knowledge of a fact, such as an eyewitness.

2 Circumstantial evidence is proof of a chain of facts
3 and circumstances indicating the existence of a fact. Crimes
4 may be proven by circumstantial evidence. The law makes no
5 distinction between the weight or value to be given to either
6 direct or circumstantial evidence, nor is a greater degree of
7 certainty required of circumstantial evidence than of direct
8 evidence. You should weigh all of the evidence in this case.

9 However, to the extent the State relies on
10 circumstantial evidence, all of the circumstances must be
11 consistent with each other, and when taken together point
12 conclusively to the guilt of the accused beyond a reasonable
13 doubt. If these circumstances merely portray the Defendant's
14 behavior as suspicious, the proof has failed.

15 After weighing all the evidence, if you're not
16 convinced of the guilt of the Defendant beyond a reasonable
17 doubt, you must find the Defendant not guilty. The State has
18 the burden of proving the Defendant guilty beyond a
19 reasonable doubt and this burden rests with the State
20 regardless of whether the State relies on direct evidence,
21 circumstantial evidence, or some combination of the two.

22 Now, necessarily, you must determine the credibility of
23 the witnesses who have testified, and credibility simply
24 means believability. It becomes your duty as jurors to
25 analyze and evaluate the evidence and determine which

1 evidence convinces you of its truth. In determining the
2 believability of the witnesses who have testified, you can
3 believe one witness over several or several witnesses over
4 one.

5 You may believe a part of the testimony of a witness
6 and reject the remaining part of the testimony of that same
7 witness. You may believe the testimony of a witness in its
8 entirety or you may reject the testimony of a witness in its
9 entirety. You can consider whether any witness is exhibited
10 to you -- any motive, any interest, bias, prejudice. You can
11 consider the appearance and manner of the witness while on
12 the witness stand. You can consider anything that's in the
13 record that will help you evaluate the testimony of the
14 witnesses.

15 A person who has a past criminal record is competent to
16 testify during a trial. A past criminal record does not
17 affect the ability of that witness to testify, and the past
18 record may only be considered by you, if at all, in
19 determining the witness's believability. Again, remember,
20 you're the sole judges of the facts in the case and of the
21 believability of any all of the witnesses.

22 You've heard evidence that the Defendant was convicted
23 of a crime other than the one for which the Defendant is now
24 on trial. This evidence may be considered by you if you
25 conclude it's true only in deciding whether the Defendant's

1 testimony is believable, and for no other purpose. You must
2 not consider the Defendant's prior record as evidence of the
3 Defendant's guilt of the charge we are trying today.

4 A statement alleged to have been made by the Defendant
5 has been admitted into evidence in this case. While the
6 Court has determined that the statement is admissible, I
7 instruct you that you make the ultimate decision of whether
8 or not the Defendant made the statement.

9 If the Defendant did make the statement, you must
10 determine whether it was voluntarily and of his own free
11 will. This means that the statement was not caused by
12 pressure force, fear, threats, coercion, intimidation, or by
13 hope or a promise of leniency or a reward of any kind. In
14 determining whether the statement was voluntary, you should
15 consider both the characteristics of the Defendant and the
16 details of the questioning.

17 Some of the factors you may consider are the age of the
18 Defendant, the Defendant's education or lack of education,
19 the Defendant's mental ability or capacity, the Defendant's
20 IQ or intelligence, the Defendant's background and
21 environment, the place, and length of detention, if any. The
22 nature of the questioning and the advice or lack thereof to
23 the Defendant of his constitutional rights. Including, but
24 not limited to, the right to remain silent that any statement
25 could be used against him in a court of law.

1 The right to have a lawyer present that if he could not
2 afford a lawyer, a lawyer would be appointed to represent him
3 without cost, and that he could stop making a statement at
4 any time. You must carefully consider all of the surrounding
5 circumstances before you give any weight to an alleged
6 statement.

7 The State has the burden of proving beyond a reasonable
8 doubt that the statement was voluntary. If you determine it
9 was, you may give the statement any further consideration
10 that you deemed proper. You must decide what weight, if any,
11 should be given to the alleged statement. If you determine
12 that the alleged statement was not the free and voluntary
13 statement of the Defendant, you should not consider the
14 statement at all.

15 The rules of evidence, ordinarily, do not permit
16 witnesses to testify to opinions or conclusions. An
17 exception to this rule exists for witnesses we call expert
18 witnesses. A witness who by education and experience has
19 become expert in some art, science, profession, or calling
20 may state an opinion as to relevant and material matter in
21 which the witness claims to be an expert, and may also state
22 the reasons for the opinion.

23 In this case, you've heard expert testimony in the
24 fields of forensic pathology and firearms analysis. You
25 should consider any expert opinion received in evidence in

1 this case, and like any other evidence, give it the weight
2 you think it deserves. If you decide that the opinion of an
3 expert witness is not based on sufficient education and --
4 and experience, or if you conclude that the reasons given in
5 support of the opinion are not sound or that the opinion is
6 outweighed by other evidence, you may disregard the opinion
7 entirely.

8 An expert witness's testimony is to be given no greater
9 weight than that of other witnesses simply because the
10 witness is an expert. Further, you are not required to
11 accept an expert's opinion even though it's not contradicted.

12 The Defendant is charged with murder and the State must
13 therefore prove beyond a reasonable doubt that the Defendant
14 killed another person with malice aforethought and this
15 intentional act was the approximate cause of the death of the
16 victim. Malice is hatred ill will or hostility toward
17 another person. It's the intentional doing of a wrongful act
18 without just cause or excuse and with an evil intent to
19 inflict an injury.

20 Malice aforethought does not require that the malice
21 exists for any particular time before the act is committed,
22 but malice must exist in the mind of the Defendant just
23 before and at the time the act is committed. Therefore,
24 there must be a combination of the previous evil intent and
25 the act.

1 Malice aforethought may be expressed or inferred and
2 these terms "express" and "inferred" do not mean different
3 kinds of malice, but merely the manner in which malice is
4 shown to exist. That is either by direct evidence or by
5 inference from facts and circumstances which are proved.

6 If you find that the State has failed to prove beyond a
7 reasonable doubt that the Defendant committed murder, you may
8 consider whether the State has proved, beyond a reasonable
9 doubt, that the Defendant committed voluntary manslaughter.
10 To prove voluntary manslaughter, the State must prove beyond
11 a reasonable doubt that the Defendant took the life of
12 another in the sudden heat of passion based on sufficient
13 legal provocation, and this intentional act was the
14 approximate cause of the death of the victim. Both heat of
15 passion and sufficient legal provocation must be present at
16 the time of the killing to constitute voluntary manslaughter.

17 Sudden heat of passion may -- for a time, affect a
18 person's self-control and temporarily disturb a person's
19 reason. The sudden heat of passion must be the type that
20 would make an ordinary person unable to coolly reflect on his
21 actions and would produce an uncontrollable impulse to do
22 violence. Sufficient legal provocation must be the type that
23 would make a person of ordinary reason and caution become
24 enraged and to lose control temporarily.

25 The provocation needed for voluntary manslaughter, must

1 come from some act of or related to the victim. Words alone,
2 however vulgar or insulting, are not enough to be legal
3 provocation. Where death is caused by the use of a deadly
4 weapon, the words must be accompanied by some overt
5 threatening act which could have produced the heat of
6 passion.

7 The exercise of a legal right, no matter how offensive
8 it is to another, is never sufficient legal provocation for
9 voluntary manslaughter. If the heat of passion had cooled or
10 if there was enough time between the provocation, if any, and
11 the killing for the -- for the passion of a reasonable person
12 to cool, the killing would not be voluntary manslaughter.

13 In deciding whether a reasonable person would've had
14 enough time to cool off, you should consider all the
15 circumstances surrounding the killing. You may consider the
16 nature of the provocation, if any, the Defendant's mental and
17 physical state and the circumstances and relationships
18 between the parties.

19 The Defendant is also charged with possession of a
20 weapon during the commission of -- or attempt to commit a
21 violent crime. The State must prove beyond a reasonable
22 doubt that the Defendant was in possession of a firearm or
23 visibly displayed what appeared to be a firearm during the
24 commission of a violent crime. A firearm means any machine,
25 gun, automatic rifle, revolver, pistol, or any weapon which

1 will/or is designed to or maybe readily converted to expel a
2 projectile.

3 In order to find the Defendant guilty of possession of
4 a weapon during the commission of a violent crime, you must
5 first find the Defendant guilty of either committing a
6 violent crime or attempting to commit a violent crime. Both
7 murder and voluntary manslaughter are classified as crimes of
8 violence under our South Carolina Code of Laws. The State
9 must prove beyond a reasonable doubt that the weapon
10 furthered or advanced or helped in the commission of the
11 crime.

12 The Defendant has raised the Defense of self-defense.
13 Self-Defense is a complete defense, and if it's established,
14 you must find the Defendant "not guilty." The State has the
15 burden of disproving self-defense by proof beyond a
16 reasonable doubt. If you have a reasonable doubt of the
17 Defendant's guilt after considering all the evidence,
18 including the evidence of self-defense, then you must find
19 the Defendant not guilty.

20 On the other hand, if you have no reasonable doubt of
21 the Defendant's guilt, after considering all of the evidence,
22 including the evidence of self-defense, then you must find
23 the Defendant guilty.

24 The following elements are required to establish
25 self-defense. First, the Defendant must be without fault in

1 bringing on the difficulty. If the Defendant's conduct was
2 the type which was reasonably calculated to and did provoke a
3 deadly assault, the Defendant would be at fault in bringing
4 on the difficulty. It would not be entitled to an acquittal
5 based on self-defense.

6 If the Defendant voluntarily participated in mutual
7 combat for purposes, other than protection, the killing of
8 the victim would not be self-defense. This is true, even if
9 during the combat, the Defendant feared death or serious
10 bodily injury.

11 However, if before the killing is committed, the
12 Defendant withdraws and tries in good faith to avoid further
13 conflict, and either by word or act makes that fact known to
14 the victim, he would be without fault in bringing on the
15 difficulty. For mutual combat, there must be a mutual intent
16 and willingness to fight. This intent may be shown by the
17 acts and conduct of the parties, and the circumstances
18 surrounding the combat. In addition, it must be shown that
19 both parties were armed with a deadly weapon.

20 The second element of self-defense is that the
21 Defendant was actually in imminent danger of death or serious
22 bodily injury, or that the Defendant actually believed he was
23 in imminent danger of death or serious bodily injury. If the
24 Defendant was actually in imminent danger, it must be shown
25 that the circumstances would've warrant -- warranted a person

1 of ordinary firmness and courage to strike the fatal blow to
2 prevent death or serious bodily harm.

3 If the Defendant believed he was in imminent death or
4 danger of death or symbol -- serious bodily injury, it must
5 be shown that a reasonably prudent person of ordinary
6 firmness and courage would've had the same belief. In
7 deciding whether the Defendant actually was or believed he
8 was in imminent danger of death or serious bodily injury, you
9 should consider all the facts and circumstances surrounding
10 the crime, including the physical condition and
11 characteristics of the Defendant and the victim.

12 The Defendant does not have to show that he was
13 actually in danger. It's enough that if the Defendant
14 believed he was in imminent danger and a reasonably prudent
15 person, of ordinary firmness and courage, would've had the
16 same belief. The Defendant has the right to act on
17 appearances, even though the Defendant's beliefs may have
18 been mistaken. It is for you to decide whether the
19 Defendant's fear of imminent -- excuse me, immediate danger
20 of death or serious bodily injury was reasonable and would've
21 been felt by an ordinary person in the same situation.

22 Words accompanied by hostile acts may, depending on the
23 circumstances, establish self-defense. Evidence of prior
24 difficulties between the Defendant and the victim may be
25 considered in deciding whether a threat existed, whether the

1 Defendant had a reason to believe a threat existed, and how
2 serious that threat was. The relative sizes, ages, and
3 weights of the Defendant and the victim may be considered in
4 deciding the apparent or actual need for force in
5 self-defense, and the amount of force that was needed.

6 The reputation of the victim as a violent person may be
7 considered in deciding whether there was a need for force,
8 whether the Defendant had reason to believe there was a need
9 for force, and whether deadly force was a reasonable -- was
10 reasonably necessary.

11 Prior instances of violence by the victim may be
12 considered in deciding whether the Defendant actually
13 believed he was in imminent danger of death or serious bodily
14 injury or was actually in imminent danger. Threats made by
15 the victim may be considered in determining whether the
16 Defendant actually was or believed he was in imminent danger.

17 The final element of self-defense is that the Defendant
18 had no other probable way to avoid the danger of death or
19 serious bodily injury than to act, as the Defendant did in
20 this particular instance. The Defendant had no duty to --
21 duty to retreat. If by doing so the danger of being killed
22 or suffering serious bodily injury would increase.

23 A -- a person cannot be required to make an exact
24 calculation as to the degree or amount of force which may be
25 needed to avoid death or serious bodily harm. Therefore, in

1 self-defense, the Defendant has the right to use the force
2 needed to avoid death or serious bodily harm. The force used
3 in self-defense does not have to be limited to the degree or
4 amount of force used by the victim.

5 The Defendant has to -- the right to use so much force
6 as appeared to be necessary for complete self-protection, and
7 which a person of ordinary reason and firmness would've
8 believed to be needed to prevent death or serious bodily
9 harm. If the Defendant is justified in defending himself or
10 others and in firing the first shot, then the Defendant is
11 also justified in continuing to shoot until it's apparent
12 that the danger of death or serious bodily injury has
13 completely ended.

14 Ladies and gentlemen, I'm going to send you back with
15 two verdict forms. The first verdict form applies to the
16 charge of murder, and you'll see it's just the caption at the
17 top and it states, "As to the charge of murder we, the jury,
18 unanimously find the Defendant" -- and you have the choices
19 of "guilty" or "not guilty." Please don't read anything into
20 the order in which the two choices appear. One's got to come
21 first, and one's got to come second.

22 If you find the Defendant guilty, it instructs you that
23 you'll stop deliberating. If you find the Defendant not
24 guilty, then you'll continue to question two: "As to the
25 charge of voluntary manslaughter, we, the jury, unanimously

1 find the Defendant" -- and again, you'll choose either
2 "guilty" or "not guilty." And then Ms. Hurd, you'll sign
3 once the jury has reached a unanimous verdict on behalf of
4 the panel.

5 As to the charge or possession of the weapon during the
6 commission of a violent crime, you'll have a similar verdict
7 form that states, "We, the jury, unanimously find the
8 Defendant" -- and it gives you the choices again, of "guilty"
9 or "not guilty." And it instructs you that, "You may only
10 find the Defendant guilty of this offense if you have also
11 found him guilty of either murder or voluntary manslaughter."
12 Again, you'll sign at the bottom and you'll date. The
13 verdict of the jury must be unanimous. Any additions or
14 exceptions before we dismiss the jury?

15 MR. MEADORS: No, ma'am.

16 MR. BARNES: None.

17 THE COURT: Are all 12 jurors okay to continue
18 deliberations or to begin deliberations. Okay. Then I'm
19 going to ask our alternate juror, Mr. Washington, if you'll
20 just remain in the courtroom while I dismiss the others, we
21 will bring the exhibits back to you along with the verdict
22 form, and then you'll be good to start your deliberations.
23 Thank you.

24 (Jury exits at 5:21 p.m.)

25 THE COURT: Mr. Washington, I just wanted to get the

1 chance to thank you, sir, for your service before we dismiss
2 you. It's a thankless task to be an alternate where you have
3 to sit and listen and listen and then when it's time that you
4 finally get to say something, and we just cut you loose. But
5 you see, we -- how we had to use one of the alternates very
6 early on in the trial and that's not completely unusual.
7 Sometimes you don't realize you know somebody with the case
8 until you get in here. We -- sometimes we have folks who get
9 sick or somebody in their family gets sick.

10 So it gives all the parties a lot of comfort to know
11 that we have these alternates so we don't get halfway through
12 a case and -- and all this work that's gone into it, and then
13 we have to start all over from scratch. So you have done us
14 a huge service by being here this week. You are free to go
15 and we thank you.

16 If I can ask if you all will just come up and make sure
17 we have all the exhibits to go back and nothing that
18 shouldn't go back.

19 (Bench conference at 5:23 p.m.)

20 THE COURT: Okay. We have a note from the jury and it
21 states, "May we have the written transcript of the
22 Defendant's testimony at the police station?" And I think
23 the State prepared a transcript, but I don't know that it's
24 an official transcript. I think that's just what you all
25 prepared to aid you in your case. But tell me what you

1 think.

2 MR. BARNES: I -- I would say no. Only because I've
3 never seen it. I -- I've heard Mr. Meadors read from it, but
4 -- I mean -- I -- I mean, I think the response is there is no
5 written transcript other than a document prepared by the
6 State for their own purposes, but it's not...

7 MR. MEADORS: I don't know if I want that to go that
8 far. Just say that -- I mean...

9 THE COURT: I -- what I propose is that we tell them
10 there is no official written transcript other than what the
11 parties have jotted down from what they heard on the tape or
12 what they've prepared in -- based on their hearing of the
13 tape and that the -- I can offer them the recording, but not
14 a written transcript.

15 MR. BARNES: Okay. I'm fine with that.

16 THE COURT: Just as soon as they bring him in, we'll
17 bring the jury back in. We just have a note from the jury.

18 THE BAILIFF: That's not -- that's not, your Honor.

19 (Jury enters at 5:51 p.m.)

20 THE BAILIFF: Jury is all seated, your Honor.

21 THE COURT: Thank you. Okay. Ladies and gentlemen, I
22 have your note that states, "May we have the written
23 transcript of the Defendant's testimony at the police
24 station?" We do not have an official transcript other than
25 what the parties just prepared by listening to the tape, and

1 making their own notes as to what they heard on the audio
2 recording.

3 The only thing I can really offer you is the actual
4 audio recording. If you want to listen to it then we can
5 make that available to you, and I'll let you all discuss and
6 you can let us know if you would like to listen to it. All
7 right. Thank you.

8 (Jury exits at 5:52 p.m.)

9 THE COURT: And you may want to just keep him up here
10 for a minute and let's see if we immediately get.

11 MR. MEADORS: I'm just going in my office real quick.
12 I'll be right back.

13 THE COURT: Yes, sir.

14 (Attorney exits at 5:52 p.m.)

15 THE BAILIFF: (Inaudible) will come back when we
16 retire?

17 THE COURT: My guess is we'll know in just a few
18 minutes.

19 THE BAILIFF: Yes -- yes, ma'am.

20 THE COURT: If they come right back out and say,
21 "Yeah." Or -- only because the only way I know to do is
22 bring them back out --

23 THE BAILIFF: Understood.

24 THE COURT: -- here and play it in open court, so...

25 THE BAILIFF: All right.

1 THE COURT: But I hate for you all to transport him all
2 the way down then just have to bring him all the way up. So
3 maybe just give it a couple minutes.

4 (Off the record at 5:53 p.m.)

5 (On the record at 7:02 p.m.)

6 THE COURT: Okay. We're back on the record. I have a
7 note from the jury that states, "We need the legal
8 explanation of the difference of murder and voluntary
9 manslaughter." So I would propose to basically reread them
10 the charge on murder and voluntary manslaughter.

11 MR. BARNES: Yes, ma'am.

12 THE COURT: Any objections?

13 MR. MEADORS: No, ma'am.

14 THE COURT: Okay.

15 (Jury enters at 7:03 p.m.)

16 THE BAILIFF: Your Honor, the jury is all present.

17 THE COURT: Okay. Ladies and gentlemen, I have your
18 note asking for the legal explanation of the difference of
19 murder and voluntary manslaughter. So I'm going to give you
20 the charge on murder and voluntary manslaughter. The
21 Defendant is charged with murder. The State must prove,
22 beyond a reasonable doubt, that the Defendant killed another
23 person with malice of forethought, and this intentional act
24 was the approximate cause of the death of the victim.

25 Malice is hatred, ill will, or hostility toward another

1 person. It is the intentional doing of a wrongful act
2 without just cause or excuse, and with an evil intent to
3 inflict an injury. Malice aforethought does not require that
4 malice exists for any particular time before the act is
5 committed, but malice must exist in the mind of the Defendant
6 just before and at the time the act is committed. Therefore,
7 there must be a combination of the previous evil intent and
8 the act.

9 Malice aforethought may be expressed or inferred.
10 These terms "express" and "inferred" do not mean different
11 kinds of malice, but merely the manner in which malice may be
12 shown to exist. That is either by direct evidence or by
13 inference from the facts and circumstances which are proved.

14 Voluntary manslaughter. The State must prove, beyond a
15 reasonable doubt, that the Defendant took the life of another
16 in the sudden heat of passion based on sufficient legal
17 provocation. And this intentional act was approximate cause
18 of the death of the victim. Both heat of passion and
19 sufficient legal provocation must be present at the time of
20 the killing to constitute voluntary manslaughter.

21 Sudden heat of passion may for a time affect a person's
22 self-control and temporarily disturb a person's reason. The
23 sudden heat of passion must be the type that would make an
24 ordinary person unable to coolly reflect on his actions and
25 would produce an uncontrollable impulse to do violence.

1 Sufficient legal provocation must be the type that would make
2 a person, of ordinary reason and caution, become enraged and
3 to lose control temporarily. The provocation needed for
4 voluntary manslaughter must come from some act of or related
5 to the victim.

6 Words alone, however vulgar -- vulgar or insulting, are
7 not enough to be legal provocation. Where death is caused by
8 the use of a deadly weapon, the words must be accompanied by
9 some overt-threatening act which could have produced the heat
10 of passion. The exercise of a legal right, no matter how
11 offensive it is to another, is never sufficient legal
12 provocation for voluntary manslaughter.

13 If the heat of passion had cooled or if there was
14 enough time between the provocation, if any, and the killing
15 for the passion of a reasonable person to cool the killing
16 would not be voluntary manslaughter.

17 In deciding whether a reasonable person would've had
18 enough time to cool off, you should consider all the
19 circumstances surrounding the killing. You may consider the
20 nature of the provocation, if any, the defendant's mental and
21 physical state and the circumstances and relationships
22 between the parties. Any objections or additions from the
23 State?

24 MR. MEADORS: No, ma'am.

25 THE COURT: Mr. Barnes?

1 MR. BARNES: No, ma'am.

2 THE COURT: Okay. Ladies and gentlemen, thank you.

3 (Jury exits at 7:07 p.m.)

4 (Jury enters at 7:48 p.m.)

5 THE BAILIFF: Your Honor, the jury's all present.

6 THE COURT: Okay. And I understand you've reached a
7 verdict.

8 JUROR NUMBER 76: Yes, your Honor.

9 THE COURT: If you would grab the verdict form for me,
10 please. Okay. I have the jury's verdict and it states, "As
11 to the charge of murder we, the jury, unanimously find the
12 Defendant guilty." "As to the charge of possession of a
13 weapon during the commission of a violent crime we, the jury,
14 find the Defendant guilty." Ladies and gentlemen, is this
15 your verdict?

16 JURORS: Yes, your Honor.

17 THE COURT: Anything further from the State or the
18 Defendant?

19 MR. MEADORS: Nothing from the State. Thank you.

20 MR. BARNES: Could I ask you to poll the jury, please,
21 your Honor?

22 THE COURT: Yes, sir. Can you please poll the jury?

23 THE BAILIFF: May it please the Court, your Honor?

24 THE COURT: Yes, sir.

25 THE BAILIFF: Ladies and gentlemen of the jury panel, I

1 will ask you -- I'll ask you two questions. All I need is a,
2 "Yes," or "No" answer. Juror Number 53, Barry Golson. Is
3 this your verdict and still your verdict?

4 JUROR NUMBER 53: Yes, sir.

5 THE BAILIFF: Juror Number 76, Deborah Hurd. Is this
6 your verdict and still your verdict?

7 JUROR NUMBER 76: Yes.

8 THE BAILIFF: Juror Number 7, Wells Keyon Anderson. Is
9 this your verdict and still your verdict?

10 JUROR NUMBER 7: Yes.

11 THE BAILIFF: Juror Number 14, William P. Bowers, Jr.
12 Is this your verdict and still your verdict?

13 JUROR NUMBER 14: Yes, sir.

14 THE BAILIFF: Juror Number 107, Jonas Mullins. Is this
15 your verdict and still your verdict?

16 JUROR NUMBER 107: Yes, sir.

17 THE BAILIFF: Juror Number 5, Robert L. Anderson. Is
18 this your verdict and still your verdict? Juror Number 5,
19 Robert L. Anderson. Is this your verdict and still your
20 verdict?

21 JUROR NUMBER 5: Yes.

22 THE BAILIFF: Juror Number 32, Margaret Dancy. Is this
23 your verdict and still your verdict?

24 JUROR NUMBER 32: Yes.

25 THE BAILIFF: Juror Number 11, Austin W. Barnes. Is

1 this your verdict and still your verdict?

2 JUROR NUMBER 11: Yes, sir.

3 THE BAILIFF: Juror Number 106, McKinley A. Nash. Is
4 this your verdict and still your verdict? I need an answer.

5 JUROR NUMBER 106: Yes, sir.

6 THE BAILIFF: Juror Number 71, Tammy C. Hodge. Is this
7 your verdict and still your verdict?

8 JUROR NUMBER 71: Yes.

9 THE BAILIFF: Juror Number 139, Elizabeth H. Shannon.
10 Is this your verdict and still your verdict?

11 JUROR NUMBER 139: Yes, sir.

12 THE BAILIFF: Juror Number 31, Amber R. Daley. Is this
13 your verdict and still your verdict?

14 JUROR NUMBER 31: Yes, sir.

15 THE BAILIFF: Your Honor, jurors have been polled.

16 THE COURT: Thank you. Anything further?

17 MR. BARNES: No, ma'am.

18 MR. MEADORS: No, ma'am.

19 THE COURT: Ladies and gentlemen, I want to thank you
20 very much. Jury service is never easy, and this week has
21 certainly not been an easy trial, and we appreciate your
22 diligence. We appreciate it. Obviously, you have given this
23 a -- a good bit of thought and deliberation. This is an
24 exemption for three years. We're going to escort you.

25 If you'll follow Mr. Tomlin, he's going to escort you.

1 If you need a note for work or anything like that, we can get
2 that for you as well. Again, thank you so much.

3 (Jury exits at 7:52 p.m.)

4 THE COURT: Okay. Just want to hear from you all on
5 sentencing. Do you need -- do you need a few minutes?

6 MR. MEADORS: I need to go print it. It'll just take
7 two minutes.

8 THE COURT: Okay.

9 MR. MEADORS: Thank you.

10 THE COURT: Mr. Barnes, if you want to look at the
11 verdict forms, it's on.

12 MR. BARNES: No, ma'am.

13 THE COURT: Okay. So do you want to give me the
14 sentencing chance?

15 UNIDENTIFIED SPEAKER: Oh, I'm sorry, ma'am. I think I
16 mean (inaudible). I apologize. It's all right?
17 Mr. Meadors?

18 MR. MEADORS: May it please the Court? Just for the
19 record, I'd like to thank Natalie Kelly of the Sumter Police
20 Department, Danny Caulfield, Ms. Sonia, victim advocate,
21 Ms. Christabel, Margaret Potts is here, the mother of the
22 victim, with (inaudible), sister. In fact, Margaret Hill
23 too. Judge, I think the mother wants to briefly address you.

24 You want to go up here? Can you go right here? Just
25 say your name and spell your name.

1 MS. POTTS: Yes.

2 MR. MEADORS: You can face this.

3 MS. POTTS: My name is Margaret Potts. P-O-T-T-S, last
4 name Potts. I just want to thank each and every one of you
5 all for your hard work and diligence that gave justice to my
6 son, Michael Wilson. And I love him so much. And his life
7 was taken away from him way too short, and he didn't deserve
8 that. And anyone who knew him, knew he didn't deserve it
9 because he was a kind person.

10 Whatever they say, you know, he still was a loving
11 person and he gave -- he would help anybody and I love him.
12 And I'm just trying to get through it the best I can. I just
13 -- I'm just so thankful that justice was served for him. I
14 appreciate each and every one of you all, and I thank you.

15 THE COURT: Thank you, Ms. Potts.

16 MR. MEADORS: You Honor, you have the Defendant's
17 record. Want to publicly, and for the record, thank the jury
18 for the verdict. We think it was the correct verdict for a
19 shot in the back of this Defendant. I think that's all we
20 have. Thank you.

21 THE COURT: Mr. Barnes?

22 MR. BARNES: Do you want us to come to the podium?

23 THE COURT: That's fine.

24 MR. BARNES: Come on up. Do you want to say something,
25 Mr. Harvin? I think Mr. Harvin wants to -- to say something

1 and we're obviously disappointed, but we respect the system
2 and understand that that's the jury's verdict. Whether we
3 agree with it or not doesn't really matter at this point.

4 I would just point out, your Honor, that other than
5 this, Mr. Harvin didn't have -- other than the drug charges
6 that are a decade or so old -- or a decade old there, I -- I
7 think there are few little misdemeanor, public disorderly
8 conduct or something like that, but he doesn't have any
9 history of violence. And I think he certainly is remorseful
10 about the events of that day. And if he'd like to say
11 something, I'd give this -- the opportunity for him to say
12 something.

13 THE COURT: Sure.

14 MR. HARVIN: Your Honor, all I wanted to say, I just
15 want to apologize to his family. I apologize.

16 THE COURT: Okay. Thank you. There are certainly no
17 winners in this case. I'm so sorry for Michael's family, and
18 I know it's hard for you all to be here all week. But I hope
19 that this at least gives you all a little bit of closure that
20 you've got this behind you. But I thank you for being here
21 every day. I know it takes a toll. You know, I'm scratching
22 my head because Mr. Harvin, you don't have a history of
23 violence and I still don't know that I understand what in the
24 world happened that day.

25 I mean, I've watched the video and I've listened to the

1 testimony, just like everybody else, and it seems like this
2 was a really senseless end to Mr. Wilson's life and really a
3 senseless tragic circumstance for your life, sir. And I -- I
4 can't explain it. But I'm going to give you a sentence of 30
5 years. On the possession of a weapon during a violent crime,
6 the sentence is five years, and I'm going to allow you to do
7 that concurrent for a total sentence of 30 years.

8 MR. BARNES: Thank you, your Honor.

9 THE COURT: Good luck to you, sir.

10 MR. BARNES: Thank You.

11

12 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED AT

13 8:05 P.M.)

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WITNESSES

Robert D. Beckford, Jr. - Sumter Police Department

Tod Sims - Sumter Police Department

DOCKET NO. 2020-GS-43-0840

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

October

TERM

2020

THE STATE

vs.

RASHAD MONTRELL HARVIN

ARREST WARRANT NUMBER

2020A4320100344

2020A4320100345

Indictment for

Murder / Possession of a Firearm during
the commission of a Violent Crime

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

Ernest A. Finney III

ERNEST A. FINNEY, III, SOLICITOR

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SUMTER)

INDICTMENT FOR

Murder/Possession of a Firarm during the
 commission of a Violent Crime

At a Court of General Sessions, convened on October 29, 2020 the Grand Jurors of
 SUMTER County present upon their oath:

COUNT ONE - MURDER

That Rashad Montrell Harvin did in Sumter County, on or about May 8, 2020, willfully, feloniously, and
 intentionally kill the victim, Michael Wilson, with malice aforethought, either express or implied, by means of
 shooting the victim with a handgun, and the victim did die as a proximate result thereof, in violation of Section 16-
 03-0010, S. C. Code of Laws, 1976, as amended.

COUNT TWO – POSSESSION OF A FIREARM DURING A VIOLENT CRIME

That Rashad Montrell Harvin did in Sumter County, on or about May 8, 2020, possess a firearm, or visibly display
 what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a
 violent crime, in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made
 and provided.

Solicitor

Ernest A. Finney III

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



W. Chandler Norville
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

RECEIVED

May 08 2026

SC Court of Appeals

This 8th day of May, 2026.