VOLUME I OF II

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED
Apr 15 2025
SC Court of Appeals

APPEAL FROM SUMTER COUNTY
Court of General Sessions

R. Kirk Griffin, Circuit Court Judge

Appellate Case No. 2023-001586

The State of South Carolina, Respondent,

v.

Diontrae Travon Epps, Appellant.

RECORD ON APPEAL

Dayne C. Phillips, Esq.

SC Bar No. 77712
Price Benowitz LLP
1614 Taylor Street, Suite D
Columbia, SC 29201
(803) 807-0234

ATTORNEY FOR APPELLANT

Alan Wilson
Attorney General

Donald J. Zelenka
Deputy Attorney General

Melody J. Brown
Senior Assistant Deputy Attorney General

PO Box 11549
Columbia, SC 29211
(803) 734-6305

Earnest A. Finney III
Solicitor, Third Judicial Circuit
215 N. Harvin St.
Sumter, SC 29150

ATTORNEYS FOR RESPONDENT

PAGES 1 – 500

INDEX

INDEX i

PRE-TRIAL TRANSCRIPT 1
DATED AUGUST 14, 2023

JURY SELECTION 4

MOTION FOR A CONTINUANCE GRANTED 48

TRIAL TRANSCRIPT 51
DATED SEPTEMBER 25-29, 2023

JURY SELECTION 56

PRE-TRIAL MOTIONS 107

IN-CAMERA TESTIMONY

CAMERON BLAZER
Direct Examination by Mr. Kent 119
Cross Examination by Mr. Corbett 138
Redirect Examination by Mr. Kent 154

BENJAMIN GARNER
Direct Examination by Mr. Kent 158
Cross Examination by Mr. Finney 173
Redirect Examination by Mr. Kent 178

CAMERON BLAZER
Direct Examination by Mr. Kent 180

SUMMER ROBERTS
Direct Examination by Mr. Kent 185

JOHN MEADORS
Direct Examination by Mr. Finney 200
Cross Examination by Mr. Kent 209

WILLIE MCFADDEN
Direct Examination by Mr. Finney 217
Cross Examination by Mr. Kent 221

LEWIS WARR
Direct Examination by Mr. Kent 240
Cross Examination by Mr. Finney 243
Redirect Examination by Mr. Kent 248
Recross Examination by Mr. Finney 250

ARKELL EAGLIN
Direct Examination by Mr. Finney 275
Cross Examination by Mr. Kent 284

WILLIE MCFADDEN
Direct Examination by Mr. Corbett 289
Cross Examination by Mr. Kent 294
Redirect Examination by Mr. Corbett 315
Recross Examination by Mr. Kent 327

IRENE CULICK
Direct Examination by Mr. Corbett 336
Cross Examination by Mr. Kent 347

OPENING STATEMENT BY MR. FINNEY 367

OPENING STATEMENT BY MR. KENT 370

TESTIMONY

TIMOTHY SCARBOUGH
Direct Examination by Mr. Finney 377
Cross Examination by Mr. Kent 409
Redirect Examination by Mr. Finney 417
Recross Examination by Mr. Kent 419
Redirect Examination by Mr. Finney 420

NICHOLAS BATALIS
Direct Examination by Mr. Finney 421
Cross Examination by Mr. Kent 430
Redirect Examination by Mr. Finney 436
Recross Examination by Mr. Kent 436

SHIRLENE SKIPPER
Direct Examination by Mr. Corbett 443
Cross Examination by Mr. Kent 450

AMANDA SNAPP
Direct Examination by Mr. Corbett 456
Cross Examination by Mr. Kent 481

BRIAN MATULA
Direct Examination by Mr. Corbett 496
Cross Examination by Mr. Kent 505

JAMES KEARNEY
Direct Examination by Mr. Corbett 516
Cross Examination by Mr. Kent 520

PAUL GREER
Direct Examination by Mr. Corbett 524
Cross Examination by Mr. Kent 546
Redirect Examination by Mr. Corbett....554

IRENE CULICK
Direct Examination by Mr. Corbett 558
Cross Examination by Mr. Kent 587
Redirect Examination by Mr. Corbett....609

NICOLE MCCRAY
Direct Examination by Mr. Corbett 618

ARKELL EAGLIN
Direct Examination by Mr. Finney 623
Cross Examination by Mr. Kent 631

WILLIE MCFADDEN
Direct Examination by Mr. Finney 636
Cross Examination by Mr. Kent 675
Redirect Examination by Mr. Finney....713
Direct Examination by Mr. Finney 728

KENNETH LEE KINSEY
Direct Examination by Mr. Kent 730
Cross Examination by Mr. Finney 774
Redirect Examination by Mr. Kent 795

MOTION FOR DIRECTED VERDICT AND RENEWAL OF ALL PRETRIAL MOTIONS 804

COURT'S RULING 807

CLOSING ARGUMENT BY MR. FINNEY 822

CLOSING ARGUMENT BY MR. KENT 838

REBUTTAL CLOSING ARGUMENT BY MR. FINNEY 860

MOTION FOR MISTRIAL 862

COURT'S RULING 865

CHARGE OF THE COURT 868

VERDICT 902

SENTENCING 906

STATE'S EXHIBIT NO. 2 (INTERVIEW NOTES) 913

COURT'S EXHIBIT NO. 1 (WITNESS STATEMENT) 916

COURT'S EXHIBIT NO. 2 (D. EPPS INTERVIEW NOTES) 920

COURT'S EXHIBIT NO. 3 (302 FORM) 922

COURT'S EXHIBIT NO. 4 (DISCOVERY LIST) 925

INDICTMENTS AND SENTENCING SHEETS 934

NOTICE OF APPEAL 940

CERTIFICATE OF COUNSEL 942

THE FOLLOWING EXHIBITS ARE ON FILE WITH THE SUMTER COUNTY CLERK OF COURT'S OFFICE:
STATE'S EXHIBIT NO. 1 (FACEBOOK LIVE CD)

STATE OF SOUTH CAROLINA) SOUTH CAROLINA CIRCUIT COURT 3
COUNTY OF SUMTER) DOCKET NO. 2020-GS-43-0622

STATE OF SOUTH CAROLINA,)
Plaintiff,)
versus)
)
TREVON EPPS,)
Defendant.)

H E A R I N G
BEFORE THE HONORABLE R. KIRK GRIFFIN

DATE: August 14, 2023
TIME: 11:38 a.m.
LOCATION: South Carolina Circuit Court 3

TRANSCRIBED BY: Natasha Barrientos

LEGAL EAGLE
Post Office Box 5682
Greenville, South Carolina 29606
864-467-1373
depos@legaleagleinc.com

2

APPEARANCES:

JASON CORBIT, ESQUIRE
EARNEST FINNEY, ESQUIRE
Third Circuit Solicitor's Office
215 North Harvin
Sumter, South Carolina 29150

Attorneys for the Plaintiff,

SHAUN KENT, ESQUIRE
JACK FURSE, ESQUIRE
Kent Law Firm, LLC
PO Box 117
Manning, South Carolina 29102-1292

Attorneys for the Defendant.

3

INDEX

Proceedings..... 4
Certificate of Transcriber..... 50

EXHIBITS

(None marked)

(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

4

THE CLERK: Thank you, Judge. Please be seated.

THE COURT: All right. Jurors number 2 and number 73, could you please stand for me? All right. Juror number 2 is Mr. Andrews. You had something that needed to be brought to the Court's attention.

JUROR NUMBER 2: Yes. I have a 1-year-old, no one (inaudible) have to babysitter for, and I need to get there too right now, so other person can go to work.

THE COURT: All right. Thank you, sir. Juror 73, Mr. Haas (ph)?

JUROR NUMBER 73: Yeah, have a medical problem that hasn't been confirmed yet. I -- I'm not sure if I can sit through (inaudible).

THE COURT: All right. You -- you have to -- we -- we got these fans running in an attempt to get this room a little bit cooler. You're going to have to speak up for us, sir.

JUROR NUMBER 73: I have a medical problem that hasn't been diagnosed yet. I'm not sure if I'd be able to sit through all the -- the ---

THE COURT: All right. I understand. Do -- do you have a follow-up appointment scheduled or anything of that nature?

JUROR NUMBER 73: It's on the 25th.

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

5

Mr. Andrews, you can -- you can go because you have the child under 1. Mr. Haas, I think we can work around any issues that that may arise. If you need to take a break -- if you're selected on a jury and you need to take a break, we can -- we can work around that, but you need to stay with us. All right. I'll recognize -- the solicitor call case.

THE CLERK: Your Honor, may I please the Court.

THE COURT: Yes, sir.

THE CLERK: Your Honor, at this time, the State would call the case of a State of South Carolina versus Deandre Trevon Epps, true bill of indictment, 2020-GS-43-622, alleging under Count 1, murder and under Count 2, possession of a weapon during the commission of a violent crime.

Jason Corbit and Ernest Finney on behalf of the State. Your Honor, the Defendant is present in the courtroom with his attorneys, Shaun Kent and Jack First (ph), Your Honor, if I may, I will hand up the original indictment as well as a list of the State's potential witnesses.

THE COURT: All right. Ladies and gentlemen of the jury, we are about to begin the jury selection of the case of the State of South Carolina versus Deandre Trevon Epps, before the Court on indictment number 2020-GS-43-0622.

Now, ladies and gentlemen, before we begin the jury selection process, I'm going to read the counts in the indictment to you and instruct you that the indictment is the

6

formal charging document, which brings this case into Court. And it is merely the allegations against the Defendant. And I'm going to read it to you just to give you a sense of what is alleged to have occurred in this matter. So please listen closely.

Count 1 of this indictment states that Deandre Trevon Epps did in Summer County on or about September 8, 2019, willfully, felonious, and intentionally did kill the victim, Michael Rogers with malice of forethought either expressed or implied by means of shooting the victim with a handgun and the victim did die as approximate result thereof in violation of Section 16-23-10 of the South Carolina Code of Laws.

Count 2 is possession of a weapon during the commission of a violent crime. That count states that Deandre Trevon Epps did in Sumter County on or about September 8, 2019, possess a firearm or visibly display what appeared to be a firearm or visibly displayed a knife during the commission of -- or attempted commission of a violent crime in violation of Section 16-23-490 of the South Carolina Code of Laws.

Again, these counts in the indictments are mere allegations at this point, and I read them to you to give you a sense of what is an issue in this case. Now, before we get started there are more questions I need to ask you. Again, if any of these questions apply to you, please stand and give us your name and number, and then wait for follow up

7

questions from the Court. I just followed the same procedure we used earlier this morning.

Is any member of the jury panel related by blood or marriage to Deandre -- Deandre -- Deandre Trevon Epps? If so, please stand. And Mr. Epps, if you would stand and face the jury panel. Okay. All right, that's fine. I'm sorry, Mr. Epps, I did not see your situation.

Is any member of the jury panel related by blood or marriage to the victim in this case, Michael Rogers?

Does any member of the jury panel have a close personal social or business relationship with Deandre Trevon Epps?

UNKNOWN MALE: Your Honor, may we approach?

THE COURT: Yes. Hold tight, sir. All right, Mr. Haas, if you'd come forward, sir. All right. Ladies and gentlemen, the attorneys in this case for the State are Ernest A. Finney III, also known as, and probably better known as Chip Finney.

MR. FINNEY: Good morning.

THE COURT: And Jason Corbit. Attorneys for the Defense are Shaun Kent ---

MR. KENT: How are you?

THE COURT: Jack First ---

MR. FIRST: Good morning.

THE COURT: --- And Scott Robinson. And the question as to all of these attorneys -- well, they're multiple

8

questions, but they're all the same. Has any member of the jury panel ever been represented by any of the attorneys involved in this case, their law firms, or in any fashion have you ever been represented or are you currently being represented by any of these attorneys? If so, please stand.

And does any member of the jury panel have any close personal, social, or business relationship with any of these attorneys?

All right, folks, the next question deals with the witnesses who may potentially testify in this case. And I'm going to read a list of names to you, and there may be some overlap. You may hear a name more than once, but the -- the directions as to this are the same. If you are related by blood or marriage or have any close personal, social, or business relationship with any of these potential witnesses, please stand. And if you hear -- if you hear a name called out twice, that's I've been submitted two -- two lists. And there -- there are lots of names on it, so frankly, it would be difficult to coordinate into one coherent list. So if you hear a name twice, don't -- don't read anything into that. But again, if any of these witnesses, if you are related by blood or marriage or have a close personal social or business relationship with any of them, please stand.

Detective Lieutenant Natalie Porter, Sumter Police Department. Michael Austin, Sumter Police Department. Staff

9

Sergeant Amanda Snapp, Sumter Police Department. Sergeant James Kearney IV, Sumter Police Department. Detective Willie McFadden, Sumter Police Department. Detective Lieutenant --- that's -- that's okay. You just -- you can -- I'm going through the list. Just you can just remain standing if you will.

All right. Detective Lieutenant Irene Culick, Sumter Police Department. Dan Buck, Sumter Police Department. James Alsbrook. Detective Jeffrey Hansen, Sumter Police Department. Detective Jamie Brunson, Sumter Police Department. Detective Staff Sergeant John Melton, Sumter Police Department. Deputy Thomas West, Sumter County Sheriff's Office. Charlene Skipper, 911 Director. Special Agent Paul Greer, South Carolina Law Enforcement Division.

Special Agent Tyler Starkey, SLED. Special Agent Kelly A. Bugden, SLED. Special agent, Doris Yarborough, SLED. Dr. Nicholas Batalis. Timothy Scarborough, Tyrell Billups. Michael Lucas. Jaquell Meyers. Elwy Williams (ph). Kellan (ph). Linda McDowell. Tyrick Shannon (ph). Sheldon Benjamin. Joshua Christmas. Brandon Abrams, Tyrick Archie (ph). Brad Ben and Hailey. Cheyenne Brown. Algie Cham (ph). Devonte Wilson. Perry Van Buren.

Tory Schrock Shire (ph). Chelsea Rogers. Juanita Robinson. Rashen Rich (ph). Lorente Porter. Eric Phillips. Rodriguez Lewis. Christopher Fordham. Kendall Dowell.

10

Christopher Hodge. Shannon Isaac. Daja Jackson. Ayday Lancaster (ph). Durbin Lancaster. Romero Davis. Jordan Dennis. Gabrielle Meyers. Trinity George. Sarah Barwick. Nadifa Brown (ph). Demetrius McDonald. Linda McDonald.

Jovanna Meyers. Rakia Meyers (ph). Dayron Mickens (ph). Saheed Mahmood (ph). Leon Brown. Tyrick Archie (ph). Sarah Barwick. Brad Ben and Hailey. Sheldon Benjamin. Tyrell Billups. Tyreek Billups. James Bracy. Tibia Brewer. Cheyenne Brown (ph). Leon Brown. Nadifa Brown. India Brunson (ph). Mitchell Calhoun. Brett Carter. Elijah Cham. John Christmas. Romero Davis. Shakina Davis. Jordan Dennis. Kendall Dowell. Christopher Fordham. Brandon Glisen. Bernardo Hardy. Akeem Hickman.

Christopher Hodge. Dasia Jackson. Archie James. Courtney Jenkins. Barbara Jenkins. Corey Kemp. Desmond Kennedy. Durbin Lancaster (ph). Tojohnna Laws (ph). Rodney Lewis. Rodriguez Lewis. Wilbur Lewis. Michael Lucas. Randy Maple. Anthony Major. Jay McBride. Kelvin McCoy. Demetrius McDonald. Linda McDonald. Keantey McGee (ph). Detron Jamar Meakins (ph). Jovanna Meyers. Jaquell Meyers. Rakiro Meyers (ph). Ian Nathaniel. Kenneth Perry. Lorente Porter.

Kenneth Kinzie. Earl Pearson Jr. Antoine Pugh. Rashen Rich (ph). Juanita Robinson (ph). Chelsea Rogers. Ija Rose (ph). Timothy Scarborough Jr. Jarod Screven. Tyrick

11

Shannon. Tory Shropshire. Shrod Smith (ph). Amanda Teal (ph). Jalana Westin (ph). Melissa Tracy (ph). Perry Van Buren (ph). Vincent Wheeler. Elwy Williams (ph). Devonte Wilson. Jerry Wilson. Emeny Witherspoon (ph). Ria Wilson (ph). Marsha Wright. Sean Wright.

MR. KENT: Judge, if -- I'm sorry if I may, the Court would also announce the name Brian Matula (ph).

THE COURT: Brian Matula.

MR. KENT: And I just have one of my investigator, Peter Surette.

THE COURT: And Peter Surette. All right, folks. When I recognize you, just please start with your name and juror number, and then I may have some follow-up questions for you.

I'm going to start on my left against the wall, ma'am?

JUROR NUMBER 131: Juror 131.

THE COURT: All right, and what's your name?

JUROR NUMBER 131: (Inaudible).

THE COURT: All right. And who is -- which witness did you recognize on those lists?

JUROR NUMBER 131: Irene Culick.

THE COURT: All right. And without going into any detail, just tell me how you know Irene Culick.

JUROR NUMBER 131: Just a family friend.

THE COURT: A family friend. All right. Would the fact that you -- that Irene Culick is a family friend of

12

yours or that impact your ability to be fair and impartial to both the State and the Defense in the trial of this case?

JUROR NUMBER 131: No, sir.

THE COURT: You can set aside that relationship and base your verdict solely upon the evidence you heard from within this courtroom?

JUROR NUMBER 131: Yes, sir.

THE COURT: All right. Thank you, ma'am. You can have a seat.

All right, sir, your number?

JUROR NUMBER 154: 154. (Inaudible).

THE COURT: All right, sir. Which witness did you know, sir?

JUROR NUMBER 154: It was a couple. Sergeant (inaudible), married to the family.

THE COURT: Okay. Hold on a second. All right. And who else?

JUROR NUMBER 154: Michael Lucas.

THE COURT REPORTER: Who?

JUROR NUMBER 154: Michael Lucas.

THE COURT: Michael Lucas. And without going into details, what's the nature of that relationship?

JUROR NUMBER 154: A friend.

THE COURT: Sir?

JUROR NUMBER 154: Friend.

13

THE COURT: A friend?

JUROR NUMBER 154: Uh-uh.

THE COURT: All right. Mr. Slater, the fact that you know these witnesses would that impact your ability to be fair and impartial to both the State and the Defense in the trial of this case?

JUROR NUMBER 154: I ---

THE COURT: Sir?

JUROR NUMBER 154: I -- I hope not. I don't know, because I do know them.

THE COURT: All right. All right. I made a note of that. Thank you, sir. Have a seat.

Yes, ma'am. On the front row?

JUROR NUMBER 81: Juror 81, Carolyn Hodge.

THE COURT: All right, Ms. Hodge?

JUROR NUMBER 81: Brian Matula. Just professionally.

THE COURT: Okay. All right. With the fact that you interact with Mr. Matula professionally, would that impact your ability to be fair and impartial to the State and the Defense in the trial of this case?

JUROR NUMBER 81: No, sir.

THE COURT: You can set aside that relationship and base your verdict solely upon the evidence and testimony which was presented from within this courtroom.

JUROR NUMBER 81: Yes, sir.

THE COURT: All right. Thank you, ma'am. Yes, ma'am. In the back?

JUROR NUMBER 132: (Inaudible) 132.

THE COURT: You're 132?

JUROR NUMBER 132: Yes.

THE COURT: All right. Ms. Palmer, which witness do you -- potential witness, do you know?

JUROR NUMBER 132: (Inaudible) and I know some other two.

THE COURT: Okay.

JUROR NUMBER 132: I work with her and a family ---

THE COURT: And that would be -- that would be the alleged victim's mother, is that?

JUROR NUMBER 132: Yes.

THE COURT: Okay. And you said Kellan?

JUROR NUMBER 132: Yes, that is correct.

THE COURT: All right. Based upon these relationships, ma'am, would you be able to be fair and impartial to both the State and the Defense in the trial of this case?

JUROR NUMBER 132: (Inaudible).

THE COURT: Ma'am?

JUROR NUMBER 132: (Inaudible).

THE COURT: All right. Thank you, ma'am. Have a seat. Yes, sir. On the front row?

JUROR NUMBER 154: 140. Don (inaudible).

15

THE COURT: All right, sir. Which witness did you recognize?

JUROR NUMBER 140: Mr. Van Buren.

THE COURT: Perry Van Buren?

JUROR NUMBER 140: Yeah. Perry -- you said Perry, right?

THE COURT: Yep.

JUROR NUMBER 140: Yes, sir.

THE COURT: Okay. Is he a friend of yours? Family? What's ---

JUROR NUMBER 140: On my family. On my mother's side family.

THE COURT: Okay. All right. Well, the fact that you have a relation to this potential witness, would that impact your ability to be fair and impartial to both the State and the Defense in the trial of this case?

JUROR NUMBER 140: No, sir.

THE COURT: All right. You can set aside that relationship and base your verdict solely upon the evidence testimony that you heard from within this courtroom?

JUROR NUMBER 140: Yes, sir.

THE COURT: All right. Thank you, sir. You can have a seat?

I'm go all the way to the wall over here, sir.

JUROR NUMBER 122: Jury 122. Joshua Bernard. I

16

noticed two names.

THE COURT: Okay.

JUROR NUMBER 122: Sarah Barwick, longtime family friend, and Christopher Hodge, also a longtime family friend.

THE COURT: All right. Well, the fact that you are family friends with these two potential witnesses, would that impact your ability to be fair and impartial to the State and the Defense in the trial of this case?

JUROR NUMBER 122: Try for it not to.

THE COURT: All right. Could you set aside those relationships and base your verdict solely upon the evidence which was presented to you for within this courthouse?

JUROR NUMBER 122: I try.

THE COURT: All right, sir. Have a seat. Thank you.

Yes, ma'am. In the white top?

JUROR NUMBER 35: Demetrius -- oh, Martha Davis (ph).

Juror number 35.

THE COURT: Okay.

JUROR NUMBER 35: Demetrius McDonald and Linda McDonald. I work with Linda. My whole (inaudible) international paper for 25 years. Demetrius is -- is her son. I'm thinking (inaudible).

THE COURT: Okay, let me stop you right there. With the fact that you have relationships with these potential witnesses, would that impact your ability to be fair and

17

impartial to the State and the Defense in the trial of this case?

JUROR NUMBER 35: No.

THE COURT: All right. Thank you, ma'am.

JUROR NUMBER 82: Juror number 82, Katrina Hodge.

THE COURT: Okay.

JUROR NUMBER 82: Irene Culick. They were professional.

THE COURT: All right. With the fact that, you know Detective Culick professionally, would that impact your ability to be fair and impartial to the State and the Defense in the trial of this case?

JUROR NUMBER 82: No, sir.

THE COURT: All right. Thank you, ma'am. You can have a seat.

JUROR NUMBER 78: Juror 78.

THE COURT: Okay.

JUROR NUMBER 78: I know Barbara Jenkins and the Courtney Jenkins.

THE COURT: All right. What's the nature -- what's the -- without going into the details, what's the nature of that relationship -- those relationships?

JUROR NUMBER 78: Family friend.

THE COURT: Okay. With the fact that you are family friends with these potential witnesses, would that impact

your ability to be fair and impartial to the State and the Defense and the trial of this case?

JUROR NUMBER 78: No, sir.

THE COURT: All right. And you can set aside those relationships and base your verdict solely upon the evidence you were presented from within this courtroom?

JUROR NUMBER 78: Yes.

THE COURT: All right. Thank you, ma'am. Yes, sir?

JUROR NUMBER 178: 178, Michael Williams. I'm attended to Natalie Porter marriage.

THE COURT: All right, give me that -- that witness's name again?

JUROR NUMBER 178: 178, Michael Williams.

THE COURT: No, the -- the witness that you know.

JUROR NUMBER 178: Oh, Natalie Porter, detective.

THE COURT: Okay. All right. The fact that you're related to Detective Porter by marriage, would that impact your ability to be fair and impartial to both the State and the Defense in the trial of this case?

JUROR NUMBER 178: Yes, sir.

THE COURT: All right. Sir, you can have a seat.

JUROR NUMBER 90: Juror 90.

THE COURT: Okay.

JUROR NUMBER 90: I know the mother (inaudible).

THE COURT: You're Mr. Jackson?

19

JUROR NUMBER 90: Yes, sir.

THE COURT: And you know the mother of the alleged victim in this case; is that correct?

JUROR NUMBER 90: Yes, sir.

THE COURT: All right. The fact that you know her, would that impact your ability to be fair and impartial to the State and the Defendant in the trial of this case?

JUROR NUMBER 90: No, sir.

THE COURT: All right. Thank you. You can have a seat. Let me see the attorney's --- all right, ladies and gentlemen, have you -- any of your close friends or relatives been the victim of a violent crime?

All right, folks, before you say anything else, just give me your name and number and -- and then answer the direct questions I ask.

Okay? Ma'am, what's your name and number? That's fine. If she wants to come forward, she can. Have you a relative or close friend, are you presently or in the past ever been a member of a federal, State, county, city, or military police department? If so, please stand.

JUROR NUMBER 135: You said family, sir?

THE COURT: Yes, sir.

JUROR NUMBER 135: Yes. 135, (inaudible). My -- my daughter is a medical in charge, Sumter Sheriff (inaudible).

THE COURT: And give me your number -- 135?

20

JUROR NUMBER 135: 135.

THE COURT: 135?

JUROR NUMBER 135: Yes, sir.

THE COURT: All right. That's Mr. Parmenter (ph). All right. Thank you, sir. You can have a seat.

JUROR NUMBER 172: Your Honor? You said if we're related to him, sir?

THE COURT: Yes.

JUROR NUMBER 172: My brother-in-Law works for the Sheriff Department.

THE COURT: Okay. What's your name?

JUROR NUMBER 172: Jason (inaudible).

THE COURT: And what's your number?

JUROR NUMBER 172: 172.

THE COURT: 172?

JUROR NUMBER 172: Yes.

THE COURT: All right. Thank you, sir. You can have a seat?

JUROR NUMBER 9: Jury number 9, Kirk Deck. My brother -- brother-in-Law work for the city of (inaudible).

THE COURT: Okay. And who is that?

JUROR NUMBER 9: Officer (inaudible).

THE COURT: Okay.

JUROR NUMBER 9: James (inaudible).

THE COURT: All right. Thank you, sir. You can have a

21

seat.

Yes, sir?

JUROR NUMBER 140: Number 140. (Inaudible). And relation to Wendell Walker (ph)? He's a correctional officer in Columbia.

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

Yes, sir.

JUROR NUMBER 153: Juror number 53. William Campbell. I have a nephew who is state trooper over South Carolina Highway Patrol.

THE COURT: Okay. All right. Thank you sir.

Is any member of the jury panel related by blood or marriage or close personal friends or social or business relations with any of the prosecutors who work in the Sumter County Solicitor's Office?

Is any member of the jury panel a member of or financial contributor to organizations which promote law enforcement such as the South Carolina Troopers Association, South Carolina Law Enforcement, Officers Association, County Sheriff's Association's, Fraternal Order of Police, any entity like that? Member of or contributor to?

JUROR NUMBER 60: Your Honor, the Sheriff's Department.

THE COURT: All right, Mr. Stingle (ph), what's your number?

JUROR NUMBER 60: 160.

22

THE COURT: All right.

JUROR NUMBER 60: That's the Sheriff Associate.

THE COURT: All right. Thank you, sir.

JUROR NUMBER 82: Your Honor?

THE COURT: Yes, ma'am?

JUROR NUMBER 82: I hope I'm not standing incorrectly. Number 82 Katrina Hodge.

THE COURT: Okay.

JUROR NUMBER 82: We have a cousin that is a South Carolina State -- excuse me -- works for the Sheriff's Department. He works for South Carolina. Yeah, Sheriff's Department (inaudible).

THE COURT: Here in Sumter or ---

JUROR NUMBER 82: Yes.

THE COURT: Okay. And what's his name?

JUROR NUMBER 82: DK Floyd (ph).

THE COURT: Okay. I think he's actually now with the city.

UNKNOWN MALE: He with the city.

JUROR NUMBER 82: Okay.

THE COURT: He's not on the witness list in this case?

UNKNOWN MALE: No.

JUROR NUMBER 82: No.

THE COURT: All right. All right, ma'am, you can have a seat. Thank you.

23

Has any member of the jury panel appeared as a witness for the prosecution or Defense in any trial in the past? Please stand.

Do you or any member of your immediate family have any training in law -- law enforcement or criminal justice? If so, please stand. All right, sir, in the short sleeve shirt, what's your number?

JUROR NUMBER 148: 148.

THE COURT: All right. Is it you or a family member?

JUROR NUMBER 148: Family member.

THE COURT: Okay. And without going into the detail, what's -- what field is the training in?

JUROR NUMBER 148: State police.

THE COURT: State police. Is that in South Carolina or somewhere else?

JUROR NUMBER 148: South Carolina, sir.

THE COURT: Okay. What -- where is that in South Carolina?

JUROR NUMBER 148: I'm pretty sure he was in the Columbia area.

THE COURT: Okay. All right. And that's a family member?

JUROR NUMBER 154: Yes, sir, family.

THE COURT: All right. You can have a seat. Thank you, sir.

24

Yes, sir. Behind him?

JUROR NUMBER 86: Juror 86. I was a formerly a State constable and transferred over to the Department of Natural Resources where I worked with them for a while. I'm currently not doing that.

THE COURT: Okay. And you're Mr. Hudson?

JUROR NUMBER 86: Yes, sir.

THE COURT: All right. Thank you, sir.

Yes, sir. Against the wall?

JUROR NUMBER 60: Juror 60. Allen Geel (ph). 21 years ago I was in the department of corrections.

THE COURT: All right. Thank you, sir. You can have a seat.

Yes, sir. Against the wall?

JUROR NUMBER 162: My -- I'm number 162. My Mother-in-law works for a lawyer.

THE COURT: Okay. Is that here in town or somewhere else?

JUROR NUMBER 162: It's here in town.

THE COURT: Okay. Do you mind sharing that lawyer's name?

JUROR NUMBER 162: I'm afraid. I don't know who it is.

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

Has any member of the jury panel ever testified as an expert witness of any kind? If so, please stand.

25

Has any member of the jury panel or any member of your immediate family ever been accused of a crime? If so, please stand.

UNKNOWN JUROR: Repeat the question.

THE COURT: Have -- have you or any member of your immediate family ever been accused of a crime?

All right. Again, I -- wait, don't go into any details until I instruct you. Ma'am, what's your number again?

JUROR NUMBER 28: Number 28.

THE COURT: All right. And ---

JUROR NUMBER 28: I rather not discuss it (inaudible).

THE COURT: Okay. All right. You can come forward or -- okay. We don't need that. We don't -- we just.

JUROR NUMBER 28: Okay.

THE COURT: You can have a seat, ma'am. Thank you.

Yes, ma'am, in the white.

JUROR NUMBER 25: Number 25.

THE COURT: Okay.

JUROR NUMBER 25: (Inaudible).

THE COURT: Okay. All right. That's fine. The -- the lawyers have the information they need.

All right. Have you or any member of your immediate family been a victim of a crime in the last five years? If so, please stand. Yes, sir. You were juror number 122?

JUROR NUMBER 122: Yes, sir.

26

THE COURT: All right. Just tell me what type of crime it was. Don't go into any further detail.

JUROR NUMBER 122: It's hard to shoot it out, I guess (Inaudible) say. My -- basically my car was shot.

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

Yes, ma'am?

JUROR NUMBER 35: A hit and run.

THE COURT: Okay. And you're 135? That's your number, ma'am?

JUROR NUMBER 35: 35.

THE COURT: 35?

JUROR NUMBER 35: Yes.

THE COURT: Okay. Have you -- any member of the jury panel ever been a patron of the Hop In gas station and convenience store located at 1083 Broad Street, here in the city of Sumter?

All right, folks. Does any member of the jury panel know anything whatsoever from any source, whether it be television, newspaper, social media, about this case, which is alleged to have occurred on September the 8th, 2019 at the Hop In Gas Station convenience store located at 1083 Broad Street? All right, ma'am, what's your number?

JUROR NUMBER 78: 78.

THE COURT: All right, ma'am, if you can come forward please.

27

Has any member of the jury panel formed or expressed an opinion about any issue or matter involved in this case? Is any member of the jury panel aware of any bias or prejudice towards either the State or the Defendant in this case?

Does any member of the jury panel know of any reason whatsoever why he or she should not serve as a juror in this case, with particular emphasis being placed on your ability to be fair and impartial to both the State and the Defense?

All right, ladies and gentlemen, those conclude the list of questions that I'm going to ask prior to the jury selection process. I will now recognize -- Mr. Campbell you come forward, select the jury.

THE CLERK: Yes, sir. (Inaudible).

THE COURT: And folks, what we're going to do now the computer is going to create a list of names ---

THE CLERK: I'm sorry, judge. I don't know if you told us who you were excusing.

THE COURT: Oh, I thought -- yep.

THE CLERK: I am sorry, Judge.

THE COURT: That's okay.

All right, folks, what's going to happen now is a random -- a list that'll have your names on it, and it'll be numbered at random. And that's the way we produce the list for a jury trial. Back in the old days, each courthouse would've a big drum in the courtroom and each juror's name

28

would be put in these little capsules. And the law required that either a child or a blind person rotate the drum. And that's how jurors' names were selected for jury service. I guess you could say we've evolved and now the computer does all that random stuff for us. But sometimes it takes a few moments for that list to be generated.

So once it's generated, Mister -- your elected -- the clerk of court will have some further instructions for you and he will call out the list of names that will be selected for the jury. And the strikes will be 5 and 10, two alternates.

THE CLERK: May I please the Court, Your Honor?

THE COURT: Yes, sir.

THE CLERK: Ladies and gentlemen, if your name is called, please come forward to the podium. Turn around and face the double doors on to the back wall and please bring with you any of your personal belongings. Juror number 79, Michael Hill, Jr. What says the State?

MR. FINNEY: Present the juror please.

THE CLERK: What says the Defendant?

MR. KENT: Please swear Mr. Hill.

THE CLERK: Mr. Hill, please have a seat in the Jury box to my left.

Juror number 130, Tyrell Nolan. What says the State?

MR. FINNEY: Please swear the jury.

29

THE CLERK: What says Defendant?

MR. KENT: Please present Mr. Nolan.

THE CLERK: Please have a seat in the jury box.

Juror number 120. Tracy Miller.

MR. KENT: 120?

THE CLERK: 120. What says the State?

MR. FINNEY: Please present the juror.

THE CLERK: What says the Defendant?

MR. KENT: Please excuse Ms. Miller from the trial of this case.

THE CLERK: Please return to your seat, ma'am. You've been excused from this trial. Juror number 45, Penny Fleming. What says the State?

MR. FINNEY: Please present the juror.

THE CLERK: What says the Defendant.

MR. KENT: Please excuse Ms. Fleming from the trial of this case.

THE CLERK: Please return to your seat, ma'am. You've been excused from this trial.

Juror number 10, Cory Blair. What says the State?

MR. FINNEY: Please excuse the juror from this trial.

THE CLERK: Please return to your seat. You've been excused from this case. Juror number 148, Hunter Russell. What says the State?

MR. FINNEY: Please present the juror.

30

THE CLERK: What says the Defendant?

MR. KENT: Please swear Mr. Frost.

THE CLERK: Please have a seat in the jury box, sir. That's right.

Juror number 110, Emma Linton. What says the State?

MR. FINNEY: Please present the juror.

THE CLERK: What says the Defendant.

MR. KENT: Please swear Ms. Linton.

THE CLERK: Please have a seat in the jury box, ma'am.

Juror number 122, Joshua Menard. What says the State?

MR. FINNEY: Beg the Court's indulgence?

THE COURT: Yes, sir.

MR. FINNEY: Please present the juror.

THE CLERK: What's says Defendant?

MR. KENT: Please excuse Mr. Menard from the trial of this case.

THE CLERK: Please return to your seat. You've been excused from this trial. Juror number 5, Tower Barman (ph). What says the State.

MR. FINNEY: Please present the juror.

THE CLERK: What says the Defendant?

MR. KENT: I don't want to butcher it. Bartman or Bartman?

JUROR NUMBER 5: Barman.

MR. KENT: Bartman. Please present Ms. Barman.

31

THE CLERK: Thank you, sir. Please have a seat in the jury box.

Juror number 172, Jason Troutman. What says the State?

MR. FINNEY: Please present the juror.

THE CLERK: What says the Defendant.

MR. KENT: Please excuse Mr. Troutman from the trial.

THE CLERK: Please return to your seat, sir. You've been excused from this trial.

Juror number 92, Corina Jasper (ph). What says State?

MR. FINNEY: Please present to juror.

THE CLERK: What says the Defendant?

MR. KENT: Please swear Mr. Jasper.

THE CLERK: Please have a seat in the jury box, ma'am.

Juror number 53, William Gamble. What says the State?

MR. FINNEY: Please present the juror.

THE CLERK: What says the Defendant?

MR. FINNEY: Please excuse Mr. Gamble from the trial of this case.

THE CLERK: Please return to your seat, sir. You've been excused from this trial.

Juror number 77, Sheena Henry. What says the State?

MR. FINNEY: Please present the juror.

THE CLERK: What says the Defendant?

MR. KENT: Please swear Ms. Henry.

THE CLERK: Please have a seat in the jury box, ma'am.

32

Juror number 90, Kirk Jackson. What says the State?

MR. FINNEY: Please present the juror.

THE CLERK: What says the Defendant?

MR. KENT: Please excuse Mr. Jackson from the trial of this case.

THE CLERK: Please return to your seat, sir. You've been excused from this trial.

Juror number 93, Phillip Jenkins. What says of the State?

MR. FINNEY: Please excuse the juror of this trial.

THE CLERK: Please return to your seat, sir. You've been excused from this trial.

Juror number 68, Janelle Gunner (ph). What says the State?

MR. FINNEY: Please excuse the juror from this trial.

THE CLERK: Please return to your seat, ma'am. You've been excused from this trial.

Juror number 187, Roland Potter (ph). What says the State?

MR. FINNEY: Please present the juror.

THE CLERK: What says the Defendant?

MR. KENT: Potter?

JUROR NUMBER 187: Yes.

MR. KENT: Please present Mr. Potter.

THE CLERK: Please have a seat in the jury box.

33

Juror number 18, Reginald Brown. What says the State?

MR. FINNEY: Please present the juror.

THE CLERK: What says the Defendant.

MR. KENT: Beg the Court's indulge for one moment, Your Honor.

Please swear Mr. Brown.

THE CLERK: Please have a seat in the jury box, sir.

Juror number 78, Rashida Hightower Ramsey. What says the State?

MR. FINNEY: Please excuse the juror from this trial.

THE CLERK: Please return to your seat, ma'am. You've been excused from this trial.

Juror number 35, Martha Davis. What says the State?

MR. FINNEY: Please present the juror.

THE CLERK: What says the Defendant?

MR. KENT: Please swear Ms. Davis.

THE CLERK: Please have a seat in the jury box, ma'am.

Juror number 155, Ivy Smith. What says the State?

MR. FINNEY: Please present the juror.

THE CLERK: What says the Defendant?

MR. KENT: Juror 155, Mr. Campbell?

THE CLERK: That's correct.

MR. KENT: Please excuse Ms. Smith from the trial of this case.

THE CLERK: Please return to your seat, ma'am. You've

34

been excused from this trial.

Juror number 19, Santana Brunson. What says the State?

MR. FINNEY: Please present the juror.

THE CLERK: What says Defendant?

MR. KENT: Please swear Ms. Brunson.

THE CLERK: Please have a seat in the jury box, ma'am.

Juror number 160, William Stengel (ph). What says the State?

MR. FINNEY: Please present the juror.

THE CLERK: What says the Defendant?

MR. KENT: Please excuse Mr. Stengel from the trial of this case.

THE CLERK: Please return to your seat. You've been excused from this trial.

Juror number 51, Vanessa Gale Yard (ph). What says the State?

MR. FINNEY: Please present the juror.

THE CLERK: What says the Defendant?

MR. KENT: Please swear Ms. Gale Yard.

THE CLERK: Please have a seat in the jury box, ma'am.

Juror number 65, Charles Grant.

MR. KENT: What was the number again? I'm sorry, I was talking.

THE CLERK: Sure. 65.

MR. KENT: Thank you, sir.

35

THE CLERK: Yes, sir. What says the State?

MR. FINNEY: Please present the juror.

THE CLERK: What says the Defendant?

MR. KENT: Please swear Mr. Grant.

THE CLERK: Please have a seat in the jury box, sir.

Juror number 86, James Hudson Jr. What says the State?

MR. FINNEY: Please present the juror.

THE CLERK: What says the Defendant?

MR. KENT: Please excuse Mr. Hudson from the trial of this case.

THE CLERK: Please return to your seat, sir. You've been excused from this case.

Juror number of 28, Tiffany Kramer. What says the State?

MR. FINNEY: Please excuse the juror from this trial.

THE CLERK: Please return to your seat, ma'am. You've been excused from this trial.

Juror number 81, Carolyn Hodge (ph). What says the State?

MR. FINNEY: Please present the juror.

THE CLERK: What says Defendant.

MR. KENT: Please swear Ms. Hodge.

THE COURT: All right. Ladies and gentlemen proceeded in the jury box. You 14 individuals will be the jury in this case and we've got some preliminary remarks. I'm going to

36

let you go here in a few minutes. It's lunchtime and it's likely that we will have matters that will take up the ballots of the day. So we wouldn't need you until tomorrow morning. So we are going to start the trial of this case in earnest tomorrow morning at 9:30. So if you'd be in your jury room at 9:15, we'll -- we'll get going as close to 9:30 as possible.

Just a few instructions. You haven't heard anything about this case other than what the allegations are. So when you leave here, don't do any research about this case. Don't talk with about -- anybody about this case. Don't talk amongst yourselves about this case. When you're back there in that jury room, you can talk about anything you want to, you can -- hope that the air conditioner's going to start working better in here. That probably would be helpful to all of us. But don't talk about the case because you haven't heard any of the facts. You haven't heard any testimony, haven't seen any evidence, and the evidence has to come from this witness stand and from the exhibits which are admitted.

So please don't discuss it with anyone when you get home tonight. I can almost assure you it's going to happen. Your spouse, significant other, child, whoever lives with you, is going to say, Well, what'd you do today? And they're going to be curious and about all you need to say is, I got selected to -- to be on the jury. And that's really all you

37

need to say. Okay? Again, don't do any research by any means whatsoever. That includes internet, Facebook, any other form of social media. The bailiff will show you to your jury room. That's where you'll report in the morning. And if you'll be here at 9:15, we'll get started as close to 9:30 as we can. Thank you very much.

All right.

MR. FINNEY: The State has no objection to the seating of this jury.

MR. FINNEY: And I gave you a signal, Judge.

THE COURT: Yeah --- I could see by you all's body language that the -- the jury was -- was sufficient. So I appreciate you putting that on the record, Mr. Finney.

MR. FINNEY: Thank you.

THE COURT: All right, ladies and gentlemen, who -- those of you that remain in the gallery, obviously you were not selected to serve as a juror in this particular case, but the week's not over. You may have a chance at some point in -- towards the middle, maybe to the end of this week.

So I've got some instructions for all of you. You were given a telephone number that is the Sumter County Clerk Courts juror call in system. After 6:00 today, it will have a message on the machine. It will tell you one of three things. It will tell you either to call back at some later time, to report back to the Courthouse at a later time, or

38

that you have been excused for the week. Obviously, as the week goes on, the odds increase that you'll hear that last message. It will just be a recording. So if you don't like what it tells you, you can argue with it, but it's not going to argue back.

That way we don't have to come -- have you come and report every morning and every afternoon to see whether your services will be needed for that day. So call that number and there will be -- it'll be updated every day after 6:00, depending on what the message is. So if this case concludes and there's still time left in the week, you may -- may end up serving on a jury yet, but you are free to go for today if you would call that number. And we hope to see you back at some point later in the week.

We have -- I know we have some other matters that need to be brought before the Court. Mr. Finney, this afternoon, what time do we want to reconvene in this case?

MR. FINNEY: In this case at 2:30, I would request, Your Honor?

THE COURT: All right.

(Off the record.)

THE CLERK: Mr. Kent.

MR. KENT: Thank you, Your Honor. May it please Court?

THE COURT: Yes, sir.

MR. KENT: After we broke for jury selection, I

39

requested an ex parte conversation with the Court. As you are aware, I asked the solicitor, as well as Mr. Corbit, would they be objected to the ex parte conversation. During that time I stated that if the Court felt that it was necessary after our conversation, they would allow Mr. Corbit and Mr. Finney to be -- I'm sorry, Solicitor Finney, I apologize -- Solicitor Finney to be a part of the conversation. Myself, Mr. Furs, came back to Chambers and we discussed the following information with you.

As I mentioned, while preparing for trial, I received a phone call last night from a fellow attorney un tangentially related to this case. The fellow attorney provided me some information about potential exculpatory information that may have been garnered from the federal government. I told that fellow attorney to dig into the information a little more thoroughly because I did not feel comfortable simply relaying that information to the Court. This was late last evening at approximately 11:00.

We selected the jury, Your Honor. Myself and Mr. Furs received a text message at approximately 12:04 -- at exactly 1240 telling us that the information that we had -- that I had garnered from this attorney last evening was accurate. We broke for lunch. I then instructed or asked Jack Furs, my associate, to contact the AUSA who was referenced about potential exculpatory information that was not provided to

40

the Defense.

I made it clear to the Court that there was no allegation whatsoever against Solicitor Finney or Jason Corbit. They had nothing to do whatsoever with the allegations that were brought forth to us. But it was suggested that the AUSA provided potential exculpatory information to a solicitor concerning a potential self-defense allegation by a witness who is potentially not -- not potentially was in federal custody.

This information was written and triggered and what is commonly referred to a 302 or a DA6, which was in information from this witness, was on both of our witness lists. The AUSA said they attempted to give this information to the then solicitor and the then solicitor ---

THE COURT: Then assistant solicitor, not Solicitor Finney.

MR. KENT: --- assistant solicitor. Thank you. Then assistant solicitor, based upon our -- the conversations -- I'm trying to decide the proper way to say -- chose not to accept the information translation. They did not want to hear it. I think the quote from the AUSA was the solicitor -- then -- then assistant solicitor informed them that this information would be hurtful to their case and they did not want to have this information. The potential self-defense information was never given over to our office whatsoever.

41

We didn't have conversation to talk about that.

After that point in time, myself and Mr. Furs, again, Mr. Furs talked to the AUSA; we had the conversation with the Court. Candidly, Your Honor, I went back and forth on whether or not it was necessary to turn this information in. I felt an abundance of caution that I needed to at least have an ex parte conversation with the Court to tell them about this information.

I informed the Court that we still would be willing and ready and wanted to go forward with trial today. We had a conversation again in chambers. At this point in time, the Court decided in an abundance of caution because there was questions about exculpatory information that the solicitor's office would have a right to be party of that conversation. Not contact -- not commenting on the veracity of the information.

Solicitor Finney and Solicitor Corbit correctly and properly thought that this would be information that needed to be vetted out and more detail. I'll let them go through that; their position. I'm trying to correct -- and I think that is everything about that bit of information of what I provided to the Court, what was given to the Court, the conversation we had. Mr. Furs is here if you wanted to hear the conversations, because he is the one who had the conversation with the AUSA.

42

But long and short to make it very simple, the information given to the Court is that federal government potentially was in possession of exculpatory information that a then solicitor on this case refused to accept or acknowledge, so that it would not have to be provided to the Defense.

THE COURT: Thank you, Mr. Kent. Mr. Finney? Mr. Corbit?

MR. FINNEY: Your Honor. Please, I only rise to say that based on the information that you were given and that you judiciously shared with us, we feel like a continuance would be the only proper thing to -- to do at this point, so that these matters can be investigated. Obviously the information that was given to the Court today would be of some assistance to Mr. Epps and his lawyer, if it pans out. So I would think that they would join in whatever Motion for Continuance to be made because it may have substantive benefit to them if in fact this checks out. If it doesn't check checkout, then we'll -- we'll all in this courtroom know where we are and what we're doing.

And so we would ask the Court to -- to consider granting a motion and allowing us to come back. Hopefully, the next term of Court, 30 days from now, we will be prepared to go forward in full as we were today.

THE COURT: All right. Thank you, Mr. Finney. Mr.

43

Kent? Brief response to the Motion for Continuance.

MR. KENT: Judge, can -- we would not join in the motion. I've spent the entirety of the weekend preparing for this case. Very little sleep, shall we say. Coming Back for the mountains catching the flight back. So we are ready -- ready to go forward on. Mr. Epps, and I appreciate what the Court's, I mean, the solicitor's concerns are, but I can assure you we are prepared and ready to go forward. Before you rule on the continuance motion, though, I had some other things that I wanted to put on the record, but as far as that, we would've ---

THE COURT: Okay.

MR. KENT: --- we're ready to go forward.

THE COURT: All right. And you can go ahead and -- and put the other matters on the record.

MR. KENT: And Judge, one of -- or two things. One, if the Court did choose to go forward with a continuance, which of course we'd be opposed to, my understanding, the solicitor's office would say that this case would be tried within 30 days, 30 to 45 days ---

THE COURT: Well, I -- I think ---

MR. KENT: September 25th.

THE COURT: To be -- to be clear, the -- the next trial term begins September 25th. So I don't want to put a -- a arbitrary number on it when we have -- when we know the --

44

the exact date of the next trial term.

MR. KENT: And the reason -- I'm sorry, I probably should have lived with this -- we are not going to be making a motion for bond until we get to that point in time. Because candidly, if the case is coming up within the next 30 or 40 days, doing the bond issues and so forth to bond for 30 days doesn't do him any good. However, we reserve the right if the case is not called within expeditious fashion to come back in front of the Court for a bond hearing.

Number two, Your Honor, one of the other concerns we have is, as you are aware, one of the motions, we are going to do this afternoon concerned discovery issues. And I'll make this very quick. I told you I'd argue this and it'll be very simple and very quick. Your Honor, on last week, again, I was in the mountains. We had downloaded all of the discovery, which is voluminous that we had received from the solicitor's office. My assistant, Summer Roberts, is here. She did an affidavit that she had taken all the discovery, and this is a 4-year-old case. So we've gone back and forth with the solicitor's office. We were given disc, we were given videos, and we were given a bunch of information.

While I was in mountains, I asked my associate, Mr. Furs, and Summer just to go over to confirm what discovery had been given. Candidly, after they went over there, I -- I can't even go through the litany of information that was

45

missing. We had a phone conference with you on Friday to go over the issues. You told me you would allow me to place it on the record. Thankfully, Summer and Jack spent the whole weekend downloading and getting me almost all the information, which was 911 calls, SLED reports, SLED charts. I -- I can't count how many pictures. It was just a lot of information to go through. And I spent the entire weekend going through it. Going through it with Mr. Epps, coming back. So we went through all of that information.

And so I was not going to make an objection for the introduction of that evidence. However, there was one Facebook video that was given to us on Friday morning. I had a couple of -- these issues, of course, can wait until depending on what you're going to decide, but given the new chief administrative order, my concern is that this case was placed on the trial docket and ready to go. And my understanding is it is assumed that all discovery is going to be provided at the time that the case is on the trial docket and called for trial. That Facebook video was not given until Friday.

Candidly, looking at the Facebook video, it is a clip from a Facebook live. We believe that there is some information missing from the video that we wouldn't have had time to go look for. It is a clip that somebody has clipped portions of it, so it would probably violate the rule of

46

completeness. It's not an entirety of the video, but because we're not going through it all because of what you may do, the only one I'm concerned with today is the discovery issue, that it was not provided by Friday.

And my fear is that the State, by asking for a continuance, then come September 25th, can say, Well, we had it provided in plenty of time. So I'd like this to be a snapshot that the discovery, no matter what was not provided, was on the docket and not provided to the Friday before trial. That's my strongest argument. The rest of them can wait depending on what the Court.

THE COURT: All right.

MR. KENT: Thank you, sir.

MR. COURT: Well your -- your objection and motion with regard to discovery is noted. I'm not going to rule on that motion here today because I think the continuous motion is -- is the more pressing motion at this time. And I'll be the trial judge the week of September 25. So all of these matters which have been brought before the Court will -- will remain fresh in my mind as the time passes. So I probably let the -- or at least given some insight -- insight into what my decision's going to be.

First, what I want to say for everybody that's not a lawyer in this case that's listening and wondering what's going on. Folks, the number one role of the Court and the

47

judicial system is to make sure that justice is done between the parties. The situation that's arisen here today is unusual, to say the least. Given the nature of the information which has been brought before the Court the way it was brought to the Court's attention, and how the parties should necessarily respond to this situation.

That being said since this issue does involve potentially exculpatory information and because all we know right now are that there are allegations that these things were done, I think justice requires this case be continued to afford the parties and opportunity to investigate these issues to determine whether any of this information is valid. And if so, what are the appropriate steps to take after the investigation is done.

So I certainly don't want to continue the case, but I feel that justice requires, and it is my obligation as the trial judge to continue this case to the week of September 25th. That should give the parties an adequate amount of time to address these concerns, which have been raised here today. And I understand the Defense is not moving for bond. They are reserving the right to renew a bond motion if the case is not tried during the week of September 25. And I, you know, for what it's worth it, that is preserved. But this -- this case in -- in its present stance, this case can't go forward given these issues which have been brought

48

before the Court.

And I certainly find no fault with either party with regard to the way this information was brought before the Court or any party's response. But to ensure Mr. Epps is right to a fair trial and to ensure that the Court is doing whatever the Court can do to ensure that justice is done, I'm going to grant the State's Motion for Continuance set this case for trial the week of September 25th.

MR. FINNEY: Your Honor, please, may I just ask about the jury? I would like to ask the Court to instruct the clerk that the message going on tonight at 6:00 would be for the jury to call back between 11:00 and 12:00. It'll give us a chance to update our schedule and maybe select somebody at 2:30 tomorrow.

THE COURT: All right. That'll be -- I think that's a -- an appropriate way to deal with the -- with the ballots of the panel. I don't know if the clerk -- Mr. Campbell, if you could -- would be successful in -- in contacting the -- the jurors that were selected on this case. You know, some of them may -- may report tomorrow morning.

THE CLERK: (Inaudible) Number. I'll get them.

THE COURT: All right. All right, that'll be the message. And folks, I -- I appreciate everyone's patience as we work through these issues here this afternoon and we'll see what tomorrow holds. Thank you all very much.

49

MR. FINNEY: Thank you, Your Honor.

MR. KENT: Thank you, Judge.

(THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED AT 3:59 P.M.)

50

CERTIFICATE OF TRANSCRIBER

I, NATASHA BARRIENTOS, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 3 of Sumter County, South Carolina, on the 14th Day of August, 2023.

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

December 18, 2023

Natasha Barrientos

Transcriber

STATE OF SOUTH CAROLINA	)	
	)	GENERAL SESSIONS COURT
COUNTY OF SUMTER	)	2022-GS-43-0622
	)	
	)	
	)	
	)	
	)	
STATE OF SOUTH CAROLINA,	)	
PLAINTIFF,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
DIONTRAE TREVON EPPS,	)	
DEFENDANT.	)	
_____	)	

September 25-29, 2023
Sumter, South Carolina

B E F O R E:

THE HONORABLE R. KIRK GRIFFIN, JUDGE.

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

JASON CORBETT, ESQ.
ERNEST FINNEY, ESQ.
Attorney for the Plaintiff

SHAUN KENT, ESQ.
JACK FURSE, ESQ.
Attorney for the Defendant

Proceedings Recorded by DCRP
Transcribed by Penny M. Johnson

I N D E X

(PW) - Denotes Plaintiff's Witness
(DW) - Denotes Defense Witness

Page No.

Monday, September 25, 2023

(DW) CAMERON BLAZER (IC):
Direct Examination by Mr. Kent..... 69
Cross-Examination by Mr. Corbett..... 88
Redirect Examination by Mr. Kent..... 104

(DW) BEN GARNER (IC):
Direct Examination by Mr. Kent..... 108
Cross-Examination by Mr. Finney..... 123
Redirect Examination by Mr. Kent..... 128

(DW) CAMERON BLAZER (IC):
Direct Examination by Mr. Kent..... 130

(DW) SUMMER ROBERTS (IC):
Direct Examination by Mr. Kent..... 135

(PW) JOHN MEADORS (IC):
Direct Examination by Mr. Finney..... 150
Cross-Examination by Mr. Kent..... 159

(PW) WILLIE MCFADDEN (IC):
Direct Examination by Mr. Finney..... 167
Cross-Examination by Mr. Kent..... 171

Tuesday, September 26, 2023

(DW) LEWIS WARE (IC):
Direct Examination by Mr. Kent..... 190
Cross-Examination by Mr. Finney..... 193
Redirect Examination by Mr. Kent..... 198
Recross-Examination by Mr. Finney..... 200

(PW) ARKELL EAGLIN (IC):
Direct Examination by Mr. Finney..... 225
Cross-Examination by Mr. Kent..... 234

(PW) WILLIE MCFADDEN (IC):
Direct Examination by Mr. Corbett..... 239
Cross-Examination by Mr. Kent..... 244

Motions

I N D E X

(PW) - Denotes Plaintiff's Witness
(DW) - Denotes Defense Witness

Page No.

(PW) WILLIE MCFADDEN (IC):
Direct Examination by Mr. Corbett..... 265
Cross-Examination by Mr. Kent..... 277

(PW) IRENE CULICK (IC):
Direct Examination by Mr. Corbett..... 286
Cross-Examination by Mr. Kent..... 297

Opening Statement by Mr. Finney..... 317
Opening Statement by Mr. Kent..... 320

(PW) TIMOTHY SCARBOUGH:
Direct Examination by Mr. Finney..... 327
Cross-Examination by Mr. Kent..... 359
Redirect Examination by Mr. Finney..... 367
Recross-Examination by Mr. Kent..... 369
Further Redirect Examination by Mr. Finney.. 369

(PW) NICHOLAS BATALIS:
Direct Examination by Mr. Finney..... 371
Cross-Examination by Mr. Kent..... 380
Redirect Examination by Mr. Finney..... 386
Recross-Examination by Mr. Kent..... 386

Wednesday, September 27, 2023

(PW) SHIRLENE SKIPPER:
Direct Examination by Mr. Corbett..... 393
Cross-Examination by Mr. Kent..... 400

(PW) AMANDA SNAPP:
Direct Examination by Mr. Corbett..... 406
Cross-Examination by Mr. Kent..... 431

(PW) BRIAN MATULA:
Direct Examination by Mr. Corbett..... 446
Cross-Examination by Mr. Kent..... 454

(PW) JAMES KEARNEY:
Direct Examination by Mr. Corbett..... 466
Cross-Examination by Mr. Kent..... 470

I N D E X

(PW) - Denotes Plaintiff's Witness
(DW) - Denotes Defense Witness

	Page No.
(PW) PAUL GREER:	
Direct Examination by Mr. Corbett.....	474
Cross-Examination by Mr. Kent.....	496
Redirect Examination by Mr. Corbett.....	504
(PW) IRENE CULICK:	
Direct Examination by Mr. Corbett.....	508
Cross-Examination by Mr. Kent.....	537
Redirect Examination by Mr. Corbett.....	559
Thursday, September 28, 2023	
(PW) NICOLE MCCRAY:	
Direct Examination by Mr. Corbett.....	568
(PW) ARKELL EAGLIN:	
Direct Examination by Mr. Finney.....	572
Cross-Examination by Mr. Kent.....	581
(PW) WILLIE MCFADDEN:	
Direct Examination by Mr. Finney.....	586
Cross-Examination by Mr. Kent.....	625
Redirect Examination by Mr. Finney.....	663
(PW) WILLIE MCFADDEN:	
Direct Examination by Mr. Finney.....	678
(DW) KENNETH LEE KINSEY:	
Direct Examination by Mr. Kent.....	679
Cross-Examination by Mr. Finney.....	724
Redirect Examination by Mr. Kent.....	745
Friday, September 29, 2023	
Closing Argument by Mr. Finney.....	772
Closing Argument by Mr. Kent.....	788
Rebuttal Closing Argument by Mr. Finney.....	810
Charge on the Law.....	818

E X H I B I T S

NO.	DESCRIPTION	ID.	EVD.
	(State's Exhibits)		
1	Facebook Live CD	225	580
2	Interview Notes	242	
3	Interview Form 9/15/2019	266	515
4	Epps Interview Notes 9/15/2019	271	
5	Sunoco Videos CD	340	357
6	Cellphone Video CD	359	359
7	X-Ray of Michael Rodgers' chest		373
8	Photograph of Victim		373
9	Photograph of Victim		373
10	Photograph of Bullet 9/10/2019		373
11	Pathologist Diagram 9/12/2019		373
12	911 Calls CD		392
13	Scene Diagram	406	495
14	Aerial View of Crime Scene	406	406
15	Photographs from Crime Scene/CD	407	408
16	Security Footage from Tuomey/CD	448	454
17	Photograph of Taurus Pistol	459	465
18	Photograph of Taurus Pistol	459	465
19	Photograph of Taurus Pistol	459	465
20	Photograph of Rodger's Bullet #1	459	465
21	Photograph of Rodger's Bullet #2	459	465
22	Consent for DNA Sample (Epps)		625
	(Court's Exhibits)		
1	Witness Statement	88	
2	D. Epps' Interview Notes	101	
3	302 Form	135	
4	Discovery List	137	
5	Stipulation	861	
6	Jury Question	861	

All Exhibits were retained by the Clerk of Court for Sumter County.

P R O C E E D I N G S

(WHEREUPON, the jury panel was sworn.)

(WHEREUPON, roll call was conducted.)

THE CLERK: Ladies and gentlemen, that's phase one of the jury qualifications. We'll give you a ten-minute break. Let's make it 25 till the hour on that clock. There are restrooms at the end of the hallway, then we'll get ready for Judge Griffin to transition up here. Thank you and we'll see you back in about 10 to 12 minutes.

(WHEREUPON, a break was taken.)

THE BAILIFF: Come to order, all rise.

THE COURT: Thank you, folks. Please be seated.

THE BAILIFF: The Honorable Judge Griffin presiding. Good morning, Your Honor.

THE COURT: Good morning.

Good morning, ladies and gentlemen. My name is Kirk Griffin. I'm a circuit judge from right here in Sumter County. It is my pleasure to be at home with you this week for this term of General Sessions Court.

As you've probably already figured out, the jury selection process is done in several stages. You have just been through the roll call portion of the proceedings. Now, as the presiding circuit judge, it is my duty to ask you a list of questions that deal with your qualifications to serve as jurors this week.

So the instructions that I have for you with regard to the questions I'm about to ask are the same for all of them. If you feel that any of these questions apply to you, I want you to, please, stand if you are able and then we are going to ask you your name and juror number. I may have some followup questions to ask you based upon your responses.

I just want to instruct you to only answer the questions that you are asked directly because some of this information may be sensitive information that you don't want to share with your fellow jurors and I am aware of that. So if there's anything that you would rather be brought up to me in a semi-private setting, we can bring you up to Madam Court Reporter here in front of me and take those questions as privately as we can.

So, again, these first 11 or so questions deal with your qualifications to serve as jurors here this week. If any of these questions apply to you, please, stand.

Is there any member of the jury panel who is less than 18 years of age?

(There was no response.)

THE COURT: Is there any member of the jury panel who is not a citizen of the United States of America?

(There was no response.)

THE COURT: Is there any member of the jury panel who is not a citizen and resident of Sumter County, South

Carolina? If so, please, stand.

All right, sir, what's your number?

POTENTIAL JUROR: 96.

THE COURT: Sir, you're not a resident of Sumter County?

POTENTIAL JUROR: No, sir. I live in Anderson, South Carolina.

THE COURT: Okay. When did you move to Anderson?

POTENTIAL JUROR: About ten months ago.

THE COURT: I'm assuming you haven't changed your driver's license information or any of that stuff yet?

POTENTIAL JUROR: No, sir, not yet.

THE COURT: Well, you need to take care of that because the driver's license database is one of the sources they use to pull juror information. So the State still sees you as a resident of Sumter County, but if you are living in Anderson, you are not qualified to serve as a juror in Sumter County, so I'm going to excuse you at this time. You're free to go.

POTENTIAL JUROR: Yes, sir.

THE COURT: Is there any member of the jury panel who is unable to read, write, speak or understand the English language? If so, please, stand.

(There was no response.)

THE COURT: Is there any member of the jury panel who

has less than a sixth grade education or its equivalent? If so, please, stand.

(There was no response.)

THE COURT: Is there any member of the jury panel who because of a mental or physical problem feels that they would be unable to perform jury service here this week?

(There was no response.)

THE COURT: The next question deals with individuals who may have been convicted of a crime in the past. It's a little bit confusing, so I want you to listen closely to me.

Is there any member of the jury panel who has been convicted of a crime in federal or state court and that crime was punishable by imprisonment for more than one year and you have not had our civil rights restored by pardon or amnesty? Now, that doesn't mean you did any time in jail whatsoever, it deals with the crime and the conviction and how much the crime could have possibly carried. If that applies to you or if you believe it applies to you, please, stand.

If y'all will bring them up one at a time and announce their numbers for me.

THE BAILIFF: Juror No. 112.

THE COURT: Yes, sir.

POTENTIAL JUROR: I was convicted of grand larceny, multiple counts in 1987, malicious injury to real property

as well.

THE COURT: What county was that?

POTENTIAL JUROR: Sumter.

THE COURT: What was your sentence?

POTENTIAL JUROR: 90 days, evaluation at Kirkland, 90 days shock probation.

THE COURT: I'm going to excuse you.

THE BAILIFF: Juror No. 103.

THE COURT: I see that you've got multiple convictions from a long, long time ago; is that correct?

POTENTIAL JUROR: Yes, sir.

THE COURT: Based upon the record I've been given by the Solicitor, grand larceny, housebreaking, arson. I'm going to excuse you.

THE BAILIFF: Juror No. 179.

THE COURT: Okay, Mr. Wilson, what's your situation?

POTENTIAL JUROR: Domestic dispute.

THE COURT: It sounds like a magistrate court. You would be qualified, but I appreciate you bringing that to our attention. You can go back and be seated.

THE BAILIFF: Juror 117.

(WHEREUPON, discussion with Juror No. 117, the Court and the attorneys was held.)

THE COURT: Is there any member of the jury panel who is a clerk or deputy clerk of court, constable, sheriff or

other commissioned law enforcement officer, probate judge, county commissioner, magistrate or other county officer or any person who is employed within the walls of any courthouse? If so, please, stand.

(There was no response.)

THE COURT: Is there any member of the jury panel who has performed jury duty in a court of record during this calender year? And this means circuit court, not city court, summary court or magistrate's court. So if you performed jury duty in Sumter County, it would have been within this building. If there's anyone that that applies to, please, stand.

(There was no response.)

THE COURT: Is there any member of the jury panel who has served as a member of the Sumter County Grand Jury during the past several years? If so, please, stand.

(There was no response.)

THE COURT: All right, folks, that concludes the list of qualification questions. The following questions deal with exemptions. And exemptions differ a little from qualification questions in that if you are exempt from jury service, you, essentially, are qualified to serve as a juror, but you can be exempted from service if you so choose.

And the first question is a good example of that. The

first exemption question is are there any members of the jury panel who are age 65 years of age or older? Now, if you're 65, you can claim that exemption, but we from time to time have folks who have reached their 65th birthday who choose to remain and serve as jurors. So that's a good example of how this exemption could apply to you, but you could choose to serve if you wanted to. And the Court will not hold it against you if you exercise the exemption, but it's, essentially, up to you.

So the first person who stood was this young lady in front of me.

POTENTIAL JUROR: May I speak, Your Honor?

THE COURT: What's your number?

POTENTIAL JUROR: Number 53.

THE COURT: Yes, ma'am.

POTENTIAL JUROR: I elect to serve. I'm 66 years old, but I want to serve because I feel like it's my duty and it's a good process. I do have a question about electronic devices, though.

THE COURT: Hold on one second, we'll come back to that at the end, okay?

POTENTIAL JUROR: Okay.

THE COURT: So you're going to stay with us, I appreciate that.

Yes, sir.

POTENTIAL JUROR: 33, I'm 69 years of age.

THE COURT: Okay. 33, that's Mr. Davis, Larry Davis. Mr. Davis, it's up to you.

POTENTIAL JUROR: Thank you, sir.

THE COURT: All right. Those two answers perfectly show the choice on one hand and then the choice on the other. It's always good when real life follows what I say is going to happen. So that was good, that was a good example.

All right. Here's another -- the next question is another question that deals with prior jury service. No one is required to serve as a juror more than once every three years. That, again, does not apply to magistrate's court or city court. So if you've served as a juror in circuit court here in Sumter County this year or the two preceding years, please, stand.

(There was no response.)

THE COURT: The next question deals with those of you who may have small children. And this exemption has several parts and all of the parts must apply for the exemption to apply.

So is there any member of the jury panel who has a small child or small children under the age of seven, you have legal custody of that child or those children, you have the principle care, custody and control of the child or

children and you are unable to make arrangements for adequate of that child or those children while performing jury duty? If so, please, stand.

Yes, ma'am, on the front in the gray?

POTENTIAL JUROR: Number 77.

THE COURT: Ms. Johnson, what's your situation?

POTENTIAL JUROR: I do have two small children, seven and three years old. I didn't know if you needed to know that. I can make arrangements, but I do have two small children.

THE COURT: Okay. I appreciate that. Thank you very much.

Yes, ma'am.

POTENTIAL JUROR: 101. I work from home, so my kids don't go to, like, after-school daycare or anything. And I don't have anybody to get them off the bus in the afternoons.

THE COURT: How old are they?

POTENTIAL JUROR: Nine and four.

THE COURT: All right. Thank you, ma'am. I've made a note of that. I'll come back to you later.

Yes, ma'am.

POTENTIAL JUROR: 13.

THE COURT: And what's your situation?

POTENTIAL JUROR: My daughter is four and I don't have

anybody to get her off the bus.

THE COURT: Okay. Have a seat. I'll come back to you. Thank you.

Is there any member of the jury panel who is a caregiver of someone who is age 65 years of age or older? If so, please, stand.

POTENTIAL JUROR: Number 168.

THE COURT: What's your situation?

POTENTIAL JUROR: I'm a caregiver for my mother. She's 82 years old. And it's very difficult to leave her alone.

THE COURT: Ma'am, is that your primary -- do you have a job other than that?

POTENTIAL JUROR: Yes, sir.

THE COURT: Without going into too much detail, what's your normal working shift for your job?

POTENTIAL JUROR: For my full-time job, it's 4:00 to 12:00.

THE COURT: In the evening?

POTENTIAL JUROR: Yes. I take care of her from 8:00 to 3:00.

THE COURT: Okay. Thank you, ma'am. I'll come back to you.

The next exemption deals with those of you who may be either a full-time student or employed at a school. There is an exemption for that, but before I read the question,

just, please, know that if you meet this exemption, the best I can do is transfer you to another term when school may not be in session. So sometimes we have people answer the question and then when they find out they're going to get transferred, they say they'll just go ahead and stay. And I'm not trying to twist your arm, I just want you to have full information of what the remedy is for this exemption before you answer the question.

So if there's any member of the jury panel who is a full-time student, school teacher, school crossing guard, school bus driver or serves in any school-related function and you're unable to serve this week because of that school involvement? If so, please, stand.

Yes, ma'am.

POTENTIAL JUROR: Number 132.

THE COURT: Okay. What's your situation?

POTENTIAL JUROR: I'm currently a substitute at Crestwood High School.

THE COURT: Okay. Do you want to exercise your exemption to be transferred to another term that might not interfere with your work schedule?

POTENTIAL JUROR: Yes, sir.

THE COURT: All right. Just have a seat, I'll come back to you.

Is there any member of the jury panel who performs

services for a business, commercial or agricultural enterprise and your services are so essential to the operation of that enterprise that the enterprise would close or cease to function if you were required to perform jury duty? If so, please, stand.

(There was no response.)

THE COURT: Is there any member of the jury panel who is employed as a guard with the Department of Corrections at a penitentiary? If so, please, stand.

(There was no response.)

THE COURT: That brings me to my last question and this deals with those of you who have a situation going on in your life that makes this week about the worst week you could have been selected to serve as a potential juror. This is the extreme hardship exemption and it is just like it sounds. Extreme hardship is not general inconvenience. We realize that all of you are here at some level of disruption to your daily schedule and that's not what I'm talking about. I'm talking about situations where if you were required to serve as a juror this particular week, it would cause extreme hardship.

The examples I give are usually someone may have a medical procedure, a surgery of some type that's scheduled at some point in the week and postponing that would require them some hardship or if you have a prepaid trip, either

vacation or business, something like that, something that occurs this particular week that would make this week terrible for you to have to serve as a juror.

So if there's anyone who believes they have that type of situation going on, now is the time.

Yes, sir, what's your number?

POTENTIAL JUROR: Juror Number 11.

THE COURT: All right. Do you feel comfortable discussing the situation from there or you want to come forward?

POTENTIAL JUROR: I'm fine.

THE COURT: Okay. What you got going on?

POTENTIAL JUROR: My girlfriend is scheduled to have a baby on Thursday, a C-section.

THE COURT: That's another situation that -- that's a good example of something that would meet extreme hardship. A scheduled C-section certainly meets that goal. You said your number was 11?

POTENTIAL JUROR: Yes, sir.

THE COURT: All right, sir.

POTENTIAL JUROR: 149.

THE COURT: Yes, sir, what's your situation?

POTENTIAL JUROR: Sir, I work at Thompson's. I'm on 24/7 call.

THE COURT: You said you work where?

POTENTIAL JUROR: Thompson's.

THE COURT: And you are 149?

POTENTIAL JUROR: Yes, sir.

THE COURT: You can have a seat, sir. Thank you.

All right. Based upon the answers to the questions that I have asked, in addition to those jurors that have already been excused, I'm going to excuse the following jurors: Juror Number 101, Juror Number 13, Juror 168, Juror 132, Juror 11 and Juror 149.

Ma'am, do you need to bring something to my attention?

POTENTIAL JUROR: Yes, sir. I'm Juror 118.

(WHEREUPON, Juror Number 118 approaches the bench for bench conference with Court and attorneys.)

(WHEREUPON, Juror Number 146 approaches the bench for bench conference with Court and attorneys.)

THE COURT: Ladies and gentlemen, those of you who remain in the panel, you are now qualified to serve as jurors. We've been through two of the three stages that we're going to cover today.

The next stage is the actual jury selection process. I have some matters that I need to take up with the attorneys before we begin that, so we'll be at ease for a few moments. You can stay right where you are or you can get up and move around. It's 11:20 by my watch, so you need to be back in place at 11:35. We'll be in recess until 11:35.

Ma'am, the lady that wanted to speak with me about the electronic device, come on up front, please.

(WHEREUPON, a short break was taken.)

THE COURT: Be seated, folks. Thank you.

MR. KENT: Judge, may we approach real quick?

(WHEREUPON, a bench conference was held.)

THE COURT: Is the State ready?

MR. CORBETT: The State's ready, Your Honor.

THE COURT: Mr. Corbett.

MR. CORBETT: Your Honor, may it please the Court?

THE COURT: Yes, sir.

MR. CORBETT: At this time, the State would call the case of the State of South Carolina vs. Diontrae Trevon Epps, indictment 2020-GS-43-622. Mr. Epps is before the Court on a true billed indictment alleging murder and possession of a weapon during the commission of a violent crime. He's present in the courtroom with his attorney, Shaun Kent.

Your Honor, if I may, I will hand up the original indictment and a list of the State's potential witnesses.

THE COURT: Yes, sir, Mr. Corbett. Thank you.

Ladies and gentlemen of the jury panel, we are about to begin the trial of the State of South Carolina vs. Diontrae Trevon Epps. Before we do that, there are several questions that I must ask you before we select the jury who will serve

in this case.

Now, ladies and gentlemen, the State has handed up to me the indictment in this case, which is the formal document which brings this case into court. The indictment contains the charges against the Defendant in this case. Ladies and gentlemen, it's important that you know right off the bat that the indictment is not evidence in this case. It's merely the allegations against the Defendant and the document which brings this case into court.

The indictment states in count one, which is murder, that Diontrae Trevon Epps did in Sumter County on or about September 8th, 2019, willfully, feloniously and intentionally kill the victim, Michael Rodgers, with malice aforethought, either expressed or implied, by means of shooting the victim with a handgun and the victim did die as a proximate result thereof in violation of South Carolina Code Section 16-3-110.

Count two is possession of a weapon during the commission of a violent crime. The indictment states that Diontrae Trevon Epps did in Sumter County on or about September 8th, 2019, 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 16-23-490 of the South Carolina Code of Laws.

Again, ladies and gentlemen, those charges contained in the indictment are not evidence. They are the allegations against the Defendant that bring this case into court.

So, ladies and gentlemen, again, as you've done earlier this morning, if any of these questions apply to you, I'm going to ask you to stand if you're able and give us your juror number. I may have some followup questions. It's important that you only answer the questions that you are asked.

Is any member of the jury panel related by blood or marriage or have a close personal or social relationship with the Defendant in this case, Diontrae Trevon Epps?

(There was no response.)

THE COURT: Is any member of the jury panel related by blood or marriage or have a close personal or social relationship with the alleged victim in this case, Michael Rodgers? If so, please, stand.

(There was no response.)

THE COURT: The following is a list of witnesses who may testify in this case. Again, the question is the same, are you related by blood or marriage or do you have a close personal, social or business relationship with any of these particular witnesses. When you hear a name, if it applies to you, please, stand and then I will come to you after the list has concluded. So listen closely.

Detective Lieutenant Natalie Porter, Sumter Police Department; Michael Austin, Sumter Police Department; Staff Sergeant Amanda Snapp, Sumter Police Department; Sergeant James Kearney, Sumter Police Department; Detective Willie McFadden, Sumter Police Department; Detective Lieutenant Irene Culick, Sumter Police Department; Dan Buck, Sumter Police Department; James Allsbrook; Detective Jeffrey Hansen, Sumter Police Department; Detective Jamie Brunson, Sumter Police Department; Detective Staff Sergeant John Melton, Sumter Police Department; Deputy Thomas West, Sumter County Sheriff's Office; Shirlene Skipper, 911 director; Special Agent Paul Greer, South Carolina Law Enforcement Division; Special Agent Tyler Sturkie, South Carolina Law Enforcement Division; Special Agent Kelly A. Bugden, South Carolina Law Enforcement Division; Special Agent Doris Yarborough, South Carolina Law Enforcement Division; Dr. Nicholas Batalis, pathologist; Timothy Scarbough; Tyrell Billups; Michael Lucas; Joquell Myers; Ellquin Williams; Arkell Eaglin; Linda McDow; Tyre'k Shannon; Sheldon Benjamin; Joshua Christmas; Brandon Abrams; Tyrek Archie; Brad Benenhaley; Cheyenne Brown; Alhagi Cham; Devante Wilson; Perry Vanburen; Torey Shropshire; Chelsea Rogers; Monita Robinson; Risheen Rich; Lerontae Porter; Eric Phillips; Rodriquez Lewis; Christopher Fordham; Kendall Dow; Christopher Hodge; Shannon Isaac; Dasia Jackson; Ayinde

Lancaster; Dervin Lancaster; Romero Davis; Jordan Dennis; Gabrielle Myers; Trinity George; Sarah Barwick; Nadifah Brown; Demetrius McDonald; Linda McDonald; Javonna Myers; Ra'Kier Myers; Datron Mickens; Sahid Mahmood; Leon Brown; Brian Matula; Nicole McCray; David Hicks; Cameron Blazer; Leon Brown; Ben Garner; Joquell Myers; Kenneth Kinsey; Pete Surrette.

If you're related by blood or marriage or have a close personal, social or business relationship with any of those potential witnesses, please, stand.

Sir, on the front row?

POTENTIAL JUROR: Juror Number 67, Your Honor.

THE COURT: Sir, which witness -- or how does that question apply to you?

POTENTIAL JUROR: I work with some of these police officers everyday.

THE COURT: Would the fact that you have worked with them from a business standpoint, would that impact your ability to be fair and impartial to the State and the Defendant in the trial of this case?

POTENTIAL JUROR: No, sir.

THE COURT: You can set aside those relationships and base your verdict solely upon the evidence which was presented to you within this courtroom?

POTENTIAL JUROR: Yes, sir.

THE COURT: All right. Thank you, sir. You can have a seat.

Yes, sir, what's your number?

POTENTIAL JUROR: 75.

THE COURT: How does that apply to you, sir?

POTENTIAL JUROR: I believe I employ one of the names and a few of the other people on a social basis.

THE COURT: Can you give me the names of the witnesses that you believe you have these relationships with?

POTENTIAL JUROR: Gabrielle Myers, Cheyenne Brown and Tyrell Billups.

THE COURT: The fact that you know these potential witnesses through business or in a social context, would that impact your ability to be fair and impartial to the State and the Defendant in the trial of this case?

POTENTIAL JUROR: No, sir.

THE COURT: You can set aside those relationships and base your verdict solely upon the evidence which was presented to you from the witness stand?

POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, sir. You can have a seat.

Yes, sir, in the back?

POTENTIAL JUROR: Yes, sir, I know one of the officers --

THE COURT: Give me your number first.

POTENTIAL JUROR: 37.

THE COURT: All right, sir, which officer is that?

POTENTIAL JUROR: Mr. Dan Buck.

THE COURT: And would you say the nature of your relationship is social, familial, how is that, business?

POTENTIAL JUROR: We're neighbors and we, also, worked on an HOA committee as well.

THE COURT: Okay. All right. Would the fact that you have this relationship with Dan Buck impact your ability to be fair and impartial to the State and the Defendant in the trial of this case?

POTENTIAL JUROR: Not at all.

THE COURT: You could set aside that relationship and base your verdict solely upon the evidence that was presented to you from the witness stand?

POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you. You can have a seat.

(Pause.)

THE COURT: Apparently, there was a little bit of a mixup with regard to the instructions I gave before we took a break, so that's going to necessitate us backing up a few steps and going over the things which have been presented to the jury again.

So, ladies and gentlemen of the jury, the case before the Court is indictment number 2020-GS-43-0622, State of

South Carolina vs. Diontrae Trevon Epps. The Defendant is before the Court on a two-count indictment, count one being murder, count two being possession of a weapon during the commission of a violent crime.

Count one states that Diontrae Trevon Epps did in Sumter County on or about September 8th, 2019, willfully, feloniously and intentionally kill the victim, Michael Rodgers, with malice aforethought, either expressed 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 16-3-10 of the South Carolina Code of Laws.

Count two, possession of a weapon during the commission of a violent crime, states that Diontrae Trevon Epps did in Sumter County on or about September 8th, 2019, 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 16-23-490 of the South Carolina Code of Laws.

Ladies and gentlemen, again, the indictment is the formal charging document which brings this case before the Court. The allegations included within the indictment are not evidence, they are merely the allegations against the Defendant in this case.

Is there any member of the jury panel who is related by

blood or marriage or has a close personal, social or business relationship with the Defendant in this case, Diontrae Trevon Epps? If so, please, stand.

(There was no response.)

THE COURT: Is there any member of the jury panel who is related by blood or marriage or has a close personal, social or business relationship with the alleged victim in this case, Michael Rodgers? If so, please, stand.

(There was no response.)

THE COURT: The following is a list of witnesses who may testify in this case. If you have a close personal, social or business relationship with any of these witnesses or if you are related by blood or marriage to any of these witnesses, please, stand. If you've already stood upon my asking this question, you don't have to stand again. I believe there were three folks who responded in the affirmative the first time this was done.

So listen closely. Detective Lieutenant Natalie Porter, Sumter Police Department; Michael Austin, Sumter Police Department; Staff Sergeant Amanda Snapp, Sumter Police Department; Sergeant James Kearney, Sumter Police Department; Detective Willie McFadden, Sumter Police Department; Detective Lieutenant Irene Culick, Sumter Police Department; Dan Buck, Sumter Police Department; James Allsbrook; Detective Jeffrey Hansen, Sumter Police

Department; Detective Jamie Brunson, Sumter Police Department; Detective Staff Sergeant John Melton, Sumter Police Department; Deputy Thomas West, Sumter County Sheriff's Office; Shirlene Skipper, 911 director; Special Agent Paul S. Greer, South Carolina Law Enforcement Division; Special Agent Tyler Sturkie, South Carolina Law Enforcement Division; Special Agent Kelly A. Bugden, South Carolina Law Enforcement Division; Special Agent Doris Yarborough, South Carolina Law Enforcement Division; Dr. Nicholas Batalis; Timothy Scarbough; Tyrell Billups; Michael Lucas; Joquell Myers; Ellquin Williams; Arkell Eaglin; Linda McDow; Tyre'k Shannon; Sheldon Benjamin; Joshua Christmas; Brandon Abrams; Tyrek Archie; Brad Benenhaley; Cheyenne Brown; Alhagi Cham; Devante Wilson; Perry Vanburen; Torey Shropshire; Chelsea Rodgers; Monita Robinson; Risheen Rich; Lerontae Porter; Eric Phillips; Rodriques Lewis; Christopher Fordham; Kendall Dow; Christopher Hodge; Shannon Isaac; Dasia Jackson; Ayinde Lancaster; Dervin Lancaster; Romero Davis; Jordan Dennis; Gabrielle Myers; Trinity George; Sarah Barwick; Nadifah Brown; Demetrius McDonald; Linda McDonald; Javonna Myers; Ra'Kier Myers; Datron Mickens; Sahid Mahmood; Leon Brown; Brian Matula; Nicole McCray; David Hicks; Cameron Blazer; Ben Garner; Joquell Myers; Kenneth Kinsey and Pete Surette.

So if you're related by blood or marriage or have a

close personal, social or business relationship with any of these witnesses, please, stand.

(There was no response.)

THE COURT: Ladies and gentlemen, now, I'm going to recognize the attorneys who will appear before you in this case. I'll start with the State.

Mr. Finney, if you'd introduce yourself and anybody else who will be assisting you in the trial of this case.

MR. FINNEY: Thank you, Your Honor.

Good morning, ladies and gentlemen. My name is Chip Finney. I'm honored to serve as your solicitor here in Sumter County. Helping me with this case will be Assistant Solicitor Jason Corbett.

THE COURT: Mr. Kent.

MR. KENT: Thank you so much, Judge.

How are y'all doing? My name is Shaun Kent. I've been practicing law in Manning, South Carolina for the last 20 plus years. Assisting me is a dear friend out of Charleston (undiscernible), if you'll stand up. We, also, have an associate that you'll see named Jack Furse.

THE COURT: Is any member of the jury panel related by blood or marriage or have a close personal, social or business relationship with any of these attorneys or any of the staff members listed who will be assisting in this case? If so, please, stand.

(There was no response.)

THE COURT: Is any member of the jury panel currently being represented by these attorneys now or have you formerly been represented by any of these attorneys in the past? If so, please, stand.

(There was no response.)

THE COURT: All right. Ladies and gentlemen, again, I'm about to ask a further list -- or a list of questions that will require, potentially, some more information from you than a yes or no. It is important that, at least, initially, you stand, give us your number and wait for any followup questions. There may be situations which arise which require me to bring you up to the front and answer those questions further in a semi-private setting.

So these following questions, if they apply to you, just, please, stand, wait for me to ask for your number and name and then we will ask any followup questions that may be necessary.

Ladies and gentlemen of the jury panel, have you or any members of your immediate family or close friends been the victim of a crime? If so, please, stand.

Ma'am, on the front row?

POTENTIAL JUROR: Juror Number 167.

THE COURT: Okay. Was it you or a family member?

POTENTIAL JUROR: A family member.

THE COURT: Without going into any of the details, tell me what type of crime it was.

POTENTIAL JUROR: Murder.

THE COURT: Did that happen here in Sumter or somewhere else?

POTENTIAL JUROR: Another state.

THE COURT: And you said family member, correct?

POTENTIAL JUROR: My husband's cousin.

THE COURT: Okay. The fact that that situation has occurred within your immediate family, would that impact your ability to be fair and impartial to the State and the Defense in this particular case?

POTENTIAL JUROR: No, sir.

THE COURT: You could set aside your personal experiences and base your verdict solely upon the evidence which was presented to you within this courtroom?

POTENTIAL JUROR: Yes, sir.

THE COURT: All right. Thank you, ma'am.

POTENTIAL JUROR: A close friend.

THE COURT: What's your number?

POTENTIAL JUROR: 122.

THE COURT: And you said it was a close friend. Without going into the specifics, tell me what type of crime it was.

POTENTIAL JUROR: Burglary.

THE COURT: Burglary. Did that happen here in Sumter or somewhere else?

POTENTIAL JUROR: In Sumter.

THE COURT: How long ago?

POTENTIAL JUROR: It's been years ago.

THE COURT: The fact that you've had a close friend be the victim of a burglary, would that impact your ability to be fair and impartial to the State and the Defendant in the trial of this case?

POTENTIAL JUROR: No.

THE COURT: You could set aside your personal experience and base your verdict solely upon the evidence which was presented to you from within this courtroom?

POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you. You can have a seat.

Ma'am, in the back in the light blue.

POTENTIAL JUROR: Juror Number 42, Your Honor.

THE COURT: Okay. Was it you or a family member, close friend?

POTENTIAL JUROR: My uncle.

THE COURT: Say that again. I'm sorry.

POTENTIAL JUROR: My uncle was murdered about eight years ago, unsolved.

THE COURT: Okay.

POTENTIAL JUROR: In the Dazell (ph) area.

THE COURT: The fact that you've had that situation arise in your family, would that impact your ability to be fair and impartial to the State and the Defense in the trial of this case?

POTENTIAL JUROR: None whatsoever, sir.

THE COURT: Okay. You can set aside your personal experience and base your verdict solely upon the evidence which was presented to you from within this courtroom?

POTENTIAL JUROR: Certainly.

THE COURT: Thank you, ma'am. You can have a seat. Yes, ma'am.

POTENTIAL JUROR: Juror Number 91, family member.

THE COURT: Okay. What type of case?

POTENTIAL JUROR: Sexual assault.

THE COURT: All right. The fact that you've had a family member be a victim, would that impact your ability to be fair and impartial to the State and the Defense in the trial of this particular case?

POTENTIAL JUROR: No, sir.

THE COURT: All right. You can set aside your personal experience and base your verdict solely upon the evidence which was presented to you from within the courtroom?

POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, ma'am. You can have a seat. Yes, ma'am.

POTENTIAL JUROR: Juror 42, and I have two family members.

THE COURT: Here in Sumter?

POTENTIAL JUROR: One was in Sumter and one was in Ohio.

THE COURT: Without going into any details, would your family situation impact your ability to be fair and impartial to the State and the Defendant in the trial of this case?

POTENTIAL JUROR: No, sir.

THE COURT: You could set aside your personal experience and base your verdict solely upon the evidence which was presented to you from within the courtroom?

POTENTIAL JUROR: Yes, sir.

MR. CORBETT: Judge, I'm sorry, could we confirm that number, please?

THE COURT: I thought she said 42.

THE CLERK: It was 44.

THE COURT: Hold on now. She said 42. I don't see a -- did you say 24 or 34?

THE CLERK: 44.

THE COURT: For the record, that's Juror Number 44.

Yes, sir, in the back?

POTENTIAL JUROR: Juror Number 73. I had a car stolen in Savannah about a year ago.

THE COURT: And you said Juror 73?

POTENTIAL JUROR: Yes, sir.

THE COURT: The fact that you have been the victim of a crime, would that impact your ability to be fair and impartial to the State and the Defense in the trial of this particular case?

POTENTIAL JUROR: No, Your Honor.

THE COURT: You could set aside your personal experience and base your verdict solely upon the evidence which was presented to you from the witness stand?

POTENTIAL JUROR: Yes, sir.

THE COURT: All right. Thank you, sir.

Has any member of the jury panel or a relative or a close friend presently or in the past ever been a member of a federal, state, county, city or military police department? If so, please, stand.

All right, sir, your number?

POTENTIAL JUROR: Juror 161.

THE COURT: And was it you or a family member?

POTENTIAL JUROR: Family member.

THE COURT: Okay.

POTENTIAL JUROR: My father is retired from Sumter County Sheriff's Department.

THE COURT: Okay. And how long ago did he retire?

POTENTIAL JUROR: It was, I believe, 1979.

THE COURT: Okay.

Any followup questions?

MR. KENT: I missed the number, I apologize, Judge.

THE COURT: Give us your number again, sir.

POTENTIAL JUROR: 161.

THE COURT: All right.

Ma'am, against the wall.

POTENTIAL JUROR: 122. My mother and my father, they're both -- well, my father is retired military and my mother served 15 years in the military. And then -- what ws the other question?

THE COURT: Whether anybody has been employed -- basically, if you or a family member have been employed in law enforcement in any way?

POTENTIAL JUROR: Well, my mother, she was a police officer in the military.

THE COURT: Okay. That's what we're getting at. And you're Juror Number 122?

POTENTIAL JUROR: Yes, sir.

THE COURT: Thank you, ma'am. You can have a seat.

Yes, ma'am, in the pink.

POTENTIAL JUROR: Juror Number 130. My brother-in-law is special forces.

THE COURT: Okay. Thank you, ma'am. You can have a seat.

Yes, ma'am, in the yellow.

POTENTIAL JUROR: 150. I have two brothers, one is stationed in Fort Bragg, MP, and I have one that's at Fort Stewart, MP as well.

THE COURT: Thank you. You can have a seat.

Yes, ma'am.

POTENTIAL JUROR: Juror 77. My mother is a retired correctional officer for the State of New York and my father is retired (undiscernible).

THE COURT: Thank you. You can have a seat.

Yes, sir.

POTENTIAL JUROR: 144. My mother-in-law is assistant director at a federal prison.

THE COURT: In what state?

POTENTIAL JUROR: She lives in D.C.

THE COURT: Thank you, sir.

MR. KENT: What number was that, Judge?

THE COURT: Give us number again, sir. I think you said 114?

POTENTIAL JUROR: That's correct.

THE COURT: Yes, sir.

POTENTIAL JUROR: Juror 86, my son is retired as a military officer.

THE COURT: Okay. What branch was he in?

POTENTIAL JUROR: Air Force.

THE COURT: All right. Thank you, sir.

Yes, sir.

POTENTIAL JUROR: Number 37, my father is a retired police officer, detective, district attorney in Waco, Texas, security loss prevention.

THE COURT: Thank you, sir.

Are you as a juror related by blood or marriage, social acquaintance or have any contact whatsoever with the prosecutors in the Sumter County Solicitor's Office or any employee of the Kent Law Firm in Manning? If so, please, stand.

MR. KENT: Judge, may we call out the names of the attorneys in the Solicitor's Office?

THE COURT: Yes, sir.

MR. FINNEY: Your Honor, we have four attorneys in the Sumter Solicitor's Office. That would be Bronwyn McElveen, Jason Corbett, Margaret McClurkin Held and myself, Ernest Finney.

THE COURT: All right.

Mr. Kent, you've listed all the members of your firm? You and Mr. Furse?

MR. KENT: And Debbie Bordeaux.

THE COURT: Okay.

Is there any member of the jury panel who is a member of or financial contributor to a police booster

organization, honorary law enforcement organization or similar group? These may include the South Carolina Trooper's Association, South Carolina Law Enforcement Officers Association, a county sheriff's association or the Fraternal Order of Police. If so, please, stand.

(There was no response.)

THE COURT: Has any member of the jury panel ever appeared as a witness for the prosecution or a witness for the defense in any trial? If so, please, stand.

(There was no response.)

THE COURT: Does any member of the jury panel or any member of your immediate family have any training in law enforcement or criminal justice? If so, please, stand. There may be some overlap in these answers.

Juror 122.

POTENTIAL JUROR: My mother.

THE COURT: Thank you. You can have seat.

Yes, ma'am.

POTENTIAL JUROR: Juror 167. My father volunteers at the high school and works with the state guard.

THE COURT: In what state?

POTENTIAL JUROR: South Carolina.

THE COURT: Thank you, ma'am.

POTENTIAL JUROR: Juror Number 130, my mother-in-law.

POTENTIAL JUROR: Juror 77, my mother-in-law.

POTENTIAL JUROR: My mother-in-law in D.C.

THE COURT: That's 114?

POTENTIAL JUROR: Yes, sir.

POTENTIAL JUROR: 86, my son.

THE COURT: Thank you, sir.

Yes, ma'am, in the back.

POTENTIAL JUROR: Juror 118, my cousin in D.C.

THE COURT: Okay.

POTENTIAL JUROR: Juror 73, (indiscernible) U.S. Department of Justice (indiscernible).

THE COURT: Okay.

POTENTIAL JUROR: Juror 37, my father and I, also, have a cousin that's a sheriff in Mississippi.

THE COURT: Okay. Thank you, sir.

POTENTIAL JUROR: Excuse me, I forgot to mention, I have an uncle in D.C. that's a retired D.C. cop.

THE COURT: Okay. Thank you, ma'am.

POTENTIAL JUROR: I forgot something as well. For me, I've had training as a sexual assault nurse.

THE COURT: Okay. Thank you for bringing that to our attention. That was Juror Number?

POTENTIAL JUROR: 167.

THE COURT: All right. Thank you.

Yes, ma'am, in the back.

POTENTIAL JUROR: 91.

THE COURT: 91?

POTENTIAL JUROR: 91, sir, yes. I have a cousin who works with the Department of Corrections.

THE COURT: Thank you.

Has any member of the jury panel ever testified in a case as an expert witness? If so, please, stand.

(There was no response.)

THE COURT: Has any member of the jury panel or any member of your immediate family, that means people that live in the house with you, ever been accused of a crime? If so, please, stand.

POTENTIAL JUROR: Juror 118.

THE COURT: Why don't we have these folks come up.

(WHEREUPON, potential jurors approach the bench.)

THE BAILIFF: Juror 118.

(WHEREUPON, a discussion was held by the Court with Juror No. 118 with attorneys present.)

THE BAILIFF: Juror Number 73.

(WHEREUPON, a discussion was held by the Court with Juror Number 73 with attorneys present.)

THE BAILIFF: Juror Number 8.

(WHEREUPON, a discussion was held by the Court with Juror Number 8 with attorneys present.)

THE BAILIFF: Juror 176.

(WHEREUPON, a discussion was held by the Court with

Juror Number 176 with attorneys present.)

THE BAILIFF: Juror 121.

(WHEREUPON, a discussion was held by the Court with Juror Number 121 with attorneys present.)

THE BAILIFF: Juror Number 91.

(WHEREUPON, a discussion was held by the Court with Juror Number 91 with attorneys present.)

THE COURT: All right. Ladies and gentlemen, I read to you the allegations in this case. I realize they aren't particularly detailed, but do you as a juror know anything, heard anything, seen or read anything about this case from any source whatsoever? That would include television, newspaper, social media, any information about this particular case from any source whatsoever. If so, please, stand.

(There was no response.)

THE COURT: Ladies and gentlemen, have you ever been a patron of the Hop-In gas station and convenience store, which is located at 1083 Broad Street here in Sumter?

(There was no response.)

THE COURT: Has any member of the jury panel formed or expressed an opinion about any issue or matter involved in this case? If so, please, stand.

(There was no response.)

THE COURT: Is there any member of the jury panel who

is aware of any bias or prejudice towards either the State or the Defendant in this case?

(There was no response.)

THE COURT: Does any member of the jury panel know of any reason whatsoever why he or she should not serve as a juror in this case with particular emphasis being placed on your ability to be fair and impartial to both the State and the Defendant?

(There was no response.)

THE COURT: All right. Any other questions required from the State?

MR. CORBETT: None from the State?

THE COURT: Anything from the Defendant?

MR. KENT: Nothing on behalf of Mr. Epps.

THE COURT: All right.

Mr. Clerk, if you would prepare the list, please.

THE CLERK: Yes, sir, Your Honor.

THE COURT: Ladies and gentlemen, what's going to happen now is the clerk's office is going to prepare a random list that will include some of your names, that will be the list from which this jury is selected. It is done by computer so as to be totally random based upon the questions that have been asked this morning. So if you'll give us a few moments, once the list is prepared, I will turn it over to your elected clerk of court, Mr. Jamie Campbell.

THE CLERK: Thank you, Your Honor.

(Pause.)

THE CLERK: May it please the Court, Your Honor.

THE COURT: Yes, sir, the strikes will be five and ten and two alternates.

THE CLERK: Ladies and gentlemen, if your name is called, please, come to the podium, turn around and face the back wall. Please bring with you any of your personal belongings.

Juror Number 47, Melissa Geddings.

(Juror Number 47, a white female, comes forward.)

THE CLERK: What says the State?

MR. FINNEY: Please present the juror.

THE CLERK: What says the Defendant?

MR. KENT: Please swear Ms. Geddings.

THE CLERK: Ma'am, please, have a seat in the jury box.

Juror Number 67, Terrence Heyward.

(Juror Number 67, a black male, comes forward.)

THE CLERK: What says the State?

MR. FINNEY: Please present the juror.

THE CLERK: What says the Defendant?

MR. KENT: Please excuse Mr. Heyward from the trial of this case.

THE CLERK: Please return to your seat, sir. You've been excused from this trial.

Juror Number 177, Eldre Wilson.
(Juror Number 177, a black male, comes forward.)
THE CLERK: What says the State?
MR. FINNEY: Please present the juror.
THE CLERK: What says the Defendant?
MR. KENT: Please swear Mr. Wilson.
THE CLERK: Please have a seat in the jury box.
Juror Number 84, Lila Lovin.
(Juror Number 84, a white female, comes forward.)
THE CLERK: What says the State?
MR. FINNEY: Please present the juror.
THE CLERK: What says the Defendant?
MR. KENT: Please swear Ms. Lovin.
THE CLERK: Please have a seat in the jury box.
Juror Number 8, Amanda Bell.
(Juror Number 8, a white female, comes forward.)
THE CLERK: What says the State?
MR. FINNEY: Please present the juror.
THE CLERK: What says the Defendant?
MR. KENT: Please swear Ms. Bell.
THE CLERK: Please have a seat in the jury box.
Juror Number 176, Debra Wilson.
(Juror Number 176, a black female, comes forward.)
THE CLERK: What says the State?
MR. FINNEY: Please present the juror.

THE CLERK: What says the Defendant?

MR. KENT: Please swear Ms. Wilson.

THE CLERK: Please have a seat in the jury box.

Juror Number 54, Iasha Graham.

(Juror Number 54, a black female, comes forward.)

THE CLERK: What says the State?

MR. FINNEY: Please excuse the juror from this trial.

THE CLERK: You've been excused from this trial. You may return to your seat.

Juror Number 161, Gary Wannamaker.

(Juror Number 161, a white male, comes forward.)

THE CLERK: What says the State?

MR. FINNEY: Please present the juror.

THE CLERK: What says the Defendant?

MR. KENT: Please excuse Mr. Wannamaker from the trial of this case.

THE CLERK: Please return to your seat. You've been excused from this trial.

Juror Number 53, Anne Goodson.

(Juror Number 53, a white female, comes forward.)

THE CLERK: What says the State?

MR. FINNEY: Please present the juror.

THE CLERK: What says the Defendant?

MR. KENT: Please excuse Ms. Goodson from the trial of this case.

THE CLERK: Please return to your seat, ma'am. You've been excused from this trial.

Juror Number 123, James Richardson.

(Juror Number 123, a white male, comes forward.)

THE CLERK: What says the State?

MR. FINNEY: Please present the juror.

THE CLERK: What says the Defendant?

MR. KENT: Please excuse Mr. Richardson from the trial of this case.

THE CLERK: Please return to your seat, sir. You've been excused from this trial.

Juror Number 45, Benjamin Gaertner.

(Juror Number 45, a white male, comes forward.)

THE CLERK: What says the State?

MR. FINNEY: Please present the juror.

THE CLERK: What says the Defendant?

MR. KENT: Please excuse Mr. Gaertner from the trial of this case.

THE CLERK: Please return to your seat, sir. You've been excused from this trial.

Juror Number 81, Roger Koppa.

(Juror Number 81, a white male, comes forward.)

THE CLERK: What says the State?

MR. FINNEY: Please present the juror.

THE CLERK: What says the Defendant?

MR. KENT: Please excuse Mr. Koppa from the trial of this case.

THE CLERK: Please return to your seat. You've been excused from this trial.

Juror Number 3, Nilsia Anderson.

(Juror Number 3, a black female, comes forward.)

THE CLERK: What says the State?

MR. FINNEY: Please present the juror.

THE CLERK: What says the Defendant?

MR. KENT: Please swear Ms. Anderson.

THE CLERK: Please have a seat in the jury box.

Juror Number 97, McKenzie Morris.

(Juror Number 97, a white male, comes forward.)

THE CLERK: What says the State?

MR. FINNEY: Please present the juror.

THE CLERK: What says the Defendant?

MR. KENT: Beg the Court's indulgence for one moment, Your Honor.

THE COURT: Yes, sir.

(Pause.)

MR. KENT: Please swear Mr. Morris.

THE CLERK: Please have a seat in the jury box.

Juror Number 82, Ashley Krueger.

(Juror Number 82, a white female, comes forward.)

THE CLERK: What says the State?

MR. FINNEY: Please present the juror.
THE CLERK: What says the Defendant?
MR. KENT: Please swear Ms. Krueger.
THE CLERK: Please have a seat in the jury box.
Juror Number 75, Sadiq Jenkins.
(Juror Number 75, a black male, comes forward.)
THE CLERK: What says the State?
MR. FINNEY: Please excuse Mr. Jenkins from this trial.
THE CLERK: Please return to your seat, sir. You've been excused from this trial.
Juror Number 91, Katrinia McFadden.
(Juror Number 91, a black female, comes forward.)
THE CLERK: What says the State?
MR. FINNEY: Please present the juror.
THE CLERK: What says the Defendant?
MR. KENT: Please swear Ms. McFadden.
THE CLERK: Please have a seat in the jury box, ma'am.
Juror Number 130, Staci Schaller.
(Juror Number 130, a white female, comes forward.)
THE CLERK: What says the State?
MR. FINNEY: Please present the juror.
THE CLERK: What says the Defendant?
MR. KENT: Please swear Ms. Schaller.
THE CLERK: Please have a seat in the jury box, ma'am.
Juror Number 19, Daisy Brown.

(Juror Number 19, a black female, comes forward.)
THE CLERK: What says the State?
MR. FINNEY: Please excuse the juror from this trial.
THE CLERK: Please return to your seat, ma'am. You've been excused from this trial.
Juror Number 178, Erynn Wilson.
(Juror Number 178, a white female, comes forward.)
THE CLERK: What says the State?
MR. FINNEY: Please present the juror.
THE CLERK: What says the Defendant?
MR. KENT: Please excuse Ms. Wilson from the trial of this case.
THE CLERK: Please return to your seat, ma'am. You've been excused from this trial.
Juror Number 49, Crystal Gibbons.
(Juror Number 49, a white female, comes forward.)
THE CLERK: What says the State?
MR. FINNEY: Please present the juror.
THE CLERK: What says the Defendant?
MR. KENT: Please swear Ms. Gibbons.
THE CLERK: Please have a seat in the jury box, ma'am.
Juror Number 110, James Player.
(Juror Number 110, a white male, comes forward.)
THE CLERK: What says the State?
MR. FINNEY: Please present the juror.

THE CLERK: What says the Defendant?

MR. KENT: Please excuse Mr. Player from the trial of this case.

THE CLERK: Return to your seat, sir. You've been excused from this trial.

Juror Number 137, Allison Sibley.

(Juror Number 137, a white female, comes forward.)

THE CLERK: What says the State?

MR. FINNEY: Please present the juror.

THE CLERK: What says the Defendant?

MR. KENT: Please excuse Ms. Sibley from the trial of this case.

THE CLERK: Please return to your seat, ma'am. You've been excused from this trial.

Juror Number 87, Wendy McClearn.

(Juror Number 87, a white female, comes forward.)

THE CLERK: What says the State?

MR. FINNEY: Please present the juror.

THE CLERK: What says the Defendant?

MR. KENT: Beg the Court's indulgence.

(Pause.)

MR. KENT: Please swear Ms. McClearn.

THE CLERK: Please have a seat in the jury box.

Juror Number 46, Douglas Gant.

(Juror Number 46, a white male, comes forward.)

THE CLERK: What says the State?
MR. FINNEY: Please present the juror.
THE CLERK: What says the Defendant?
MR. KENT: Please excuse Mr. Gant from the trial of this case.
THE CLERK: Please return to your seat, sir. You've been excused from this trial.
Juror Number 118, Stefanie Reed.
(Juror Number 118, a black female, comes forward.)
THE CLERK: What says the State?
MR. FINNEY: Please excuse the juror from this trial.
THE CLERK: Please return to your seat, ma'am. You've been excused from this trial.
Juror Number 29, Branden Cooper.
(Juror Number 29, a black male, comes forward.)
THE CLERK: What says the State?
MR. FINNEY: Please present the juror.
THE CLERK: What says the Defendant?
MR. KENT: Please swear Mr. Cooper.
THE CLERK: Please have a seat in the jury box, sir.
Juror Number 121, Shirley Rembert.
(Juror Number 121, a black female, comes forward.)
THE CLERK: What says the State?
MR. FINNEY: Please present the juror.
THE CLERK: What says the Defendant?

MR. KENT: Please swear Ms. Rembert.

THE CLERK: Please have a seat in the jury box, ma'am.

Your Honor, the jury has been selected.

THE COURT: All right.

Ladies and gentlemen, those of you who are seated in the jury box, you have been selected as the jury who will hear this case. I am well aware it is lunchtime, so I'm going to send you to your jury room just so you can be familiar with where it is because we have some matters to take up this afternoon that pertain to this trial that do not require your presence. So we're going to start this trial tomorrow morning at 9:30 a.m. If you would be here just a few moments before 9:30, we'll proceed at that time.

I've got to give you some instructions before I let you go for the day. All you know about this case is what you've heard from when the indictment was read to you. And as I told you earlier, the indictment is just the allegations against this Defendant. So don't discuss this case amongst yourselves because you don't know much about it at all at this point. Don't discuss it with anybody else. Don't do any research about any issue which may appear in this case by any means whatsoever, that's computer, social media, anything. Your verdict must come from the evidence that you hear from this witness stand to my left. So don't discuss this case amongst yourselves or with anybody else.

Folks, we will see you back tomorrow morning. When you get to the jury room, you can talk about anything in the world. You can talk about football. You can talk about the fact that, at least, right now, it feels like fall might be in the air, but I'm still expecting it to hit 90 again at some point. We generally do. But you can talk about anything but this case because, like I said, it's important that your knowledge come from this witness stand.

You are free to go for the balance of the day. We will see you tomorrow morning a little bit before 9:30. The bailiff will show you your jury room where you will report in the morning. So you can go now. Thank you very much.

(WHEREUPON, the jury exits the courtroom at 1:07 p.m.)

THE COURT: All right. Ladies and gentlemen, those of you who remain in the gallery, you were not selected to serve as a juror in this case, so I'm going to be able to here in a moment or two let you go, but I need to give you some instructions as well.

You were given a call back number in your juror information that I want you to call back tonight after six o'clock. That message will contain one of three things. It will tell either to come back at some point in the future, it will tell you to call back at some point in the future and the last possible message is that you are excused for the week.

Now, obviously, as we get closer to Friday, the odds increase that that last message will be the message that's on the machine, but this call-in system keeps you from having to report back to the courthouse every morning and every afternoon to find out what your jury service may entail. So this will give you a better ability to go about your normal business. If you're not required to be in the courtroom, you can go about your normal day. If you are told to report back, it's important that you follow the instructions on the machine precisely and that you are here when required to be in person and on time.

Call back after six o'clock tonight and you will receive further instructions. Hopefully, we will get a chance to try another case. You may get picked at some point later in the week, but you are free to go. You are excused for the balance of the day and ordered to call back after six o'clock tonight. Thank you very much.

(WHEREUPON, the jury panel exits the courtroom at 1:09 p.m.)

THE COURT: Folks, before we adjourn, I just want it noted for the record, attorneys for the State and attorneys for the Defense indicated to me that after the jury was selected that there would be no motions with regard to the selection process or the jury as impaneled, so I just wanted to make that clear for the record.

I know the pretrial matters are supposed to start at two o'clock. It will be likely be closer to 2:15 given the fact that I had to read voir dire questions more than once. So if everyone would be in place at 2:15.

Mr. Epps' status is he is detained. 2:15. Thank y'all.

(WHEREUPON, a lunch break was taken.)

THE COURT: Folks, what do we have this afternoon?

MR. CORBETT: Your Honor, if I may on behalf of the State. The State alleges that the Defendant, Mr. Epps, gave a statement to officers in two parts, I guess, is the best way of saying it, at his residence and, again, when being transported to the detention center.

The first interview was attended by Detective McFadden and Detective Culick. The second interview -- or part two of it was when Detective McFadden was transporting the Defendant to the detention center. So we believe --

MR. FINNEY: May we approach?

THE COURT: Yes, sir.

(WHEREUPON, a bench conference was held.)

THE COURT: All right, folks. Assistant Solicitor Corbett had to step out for a moment, so we're going to be at ease in the case of the State vs. Epps for a few moments.

(WHEREUPON, a short break was taken.)

THE COURT: Mr. Kent.

MR. KENT: Thank you, Your Honor. May it please the Court?

THE COURT: Yes, sir.

MR. KENT: By way of background, as you are aware, we are here on State of South Carolina vs. Diontrae Epps. This case was originally scheduled to be tried in the middle of August. During that period of time, some matters came up, the State of South Carolina requested a continuance after we had picked and placed a jury.

Before I go any further, Your Honor, at some point, I think, during that week, we had picked a jury, the State of South Carolina requested a continuance. I sent an e-mail request to the Court as well as to the Solicitor requesting that we keep the same jury, one, for expediency sake, two, because, candidly, myself and Mr. Epps as well as Mr. Furse, who selected the jury with me, very much enjoyed our jury. We liked the jury that we had. We thought there was potential for prejudice that we were not allowed to keep that jury since it was not us requesting the continuance. I didn't get a response from the Court or the Solicitor.

At this point in time, just because I had made that request, of course, I know it's been denied, but I would like just something on the record, if we will, that I made that request to keep the jury I had. We enjoyed the jury, preferred the jury and prefer it to the jury we have now.

THE COURT: And I'll note that for the record, but I think that issue, certainly, would be a discretionary one for the Court and I just didn't believe keeping that same jury was feasible given the nature of the way the events unfolded last month. That is protected for the record.

MR. KENT: Thank you, Judge.

Next, Judge, as you're aware, just so we can get into the gravamen of what happened, at this point in time on behalf of Mr. Epps, we will be bringing a motion to dismiss this murder case by way of a motion for prosecutorial misconduct. We brought this up part and parcel originally.

So by way of background, Judge, what happened, this case is about four years old. The allegations happened from 2019. Since that point in time, Mr. Epps has had several bond hearings. All of the bond hearings were all denied. During the bond hearings, the State of South Carolina informed several different judges that not only were they ready for trial, they were ready to try this case and we had all discovery.

As I explained to the Court at one point in time, I took my entire file to go meet with another client up in the mountains the week before trial was scheduled to begin. I took my entire file thinking that I had full, unfettered discovery. Out of an abundance of caution, my associate, Jack Furse, and his assistant, I informed them that since I

was out of state, just in the best interest of caution what they needed to go do was go to the solicitor's office and just review the file to see if we were missing anything. I did not believe that we had been missing anything based upon the affirmations from the solicitor's office on several bond hearings that we had everything necessary for trial.

Ms. Roberts and Mr. Furse went to the solicitor's office, met with Assistant Solicitor Jason Corbett. Upon meeting with them, they called me and, candidly, Your Honor -- I will give this to the Court. I'm handing the Court a copy of discovery that we first received on May 27th, 2020. As you can see, that covers right around six pages. Then if you notice, we received secondary discovery on Tuesday, June 9th, 2020.

Then, Judge, what started this matter is on Friday, August 11th, 2023, you will notice pretty close to 500 things of evidence that we recovered from the solicitor's office. I'm not going to give it to you in total, but I would ask that you make this list a Court's Exhibit for down the road. This was discovery that was received on August 11th, 2023.

At that point in time, I requested a phone conference from the mountains. Solicitor Finney, Mr. Corbett, Jack Furse all got on the phone call. We had a phone conference with Your Honor. I explained to the Court my concerns about

the discovery, the lateness in the disclosure, the concerns that I had that this may be an intentional action. My concerns that all of the information that's being turned over. We discussed the discovery order that had been put in place by the State of South Carolina, that, you know, discovery is presumed to be turned over once the case is called for trial, once the case is on the trial docket.

Thereafter, Your Honor, after we had this conversation about all of the discovery, you gave me permission to look through all of it to see if I would be ready for trial. I told the Court that if my office was able to get everything downloaded into our system so I could work on it in the mountains, I still would be ready. The Court very candidly, as well as Solicitor Finney said would I be wanting a continuance if I wasn't able to comport. I was able to go through all the discovery over the weekend with my office. I was fine to go is what I told the Court. So I was prepared and ready to go on that Monday.

Your Honor, then, as I explained to the Court, I received -- I didn't receive, I made a phone call to Cameron Blazer, who is the chief deputy -- not the chief deputy, who is the public defender in Charleston, South Carolina. I received a phone call from her. She will testify about our phone call. I won't go into much detail because she will testify. But I went through it as I would with other

criminal defense attorney. We talked about the case in detail.

And at that point in time as I was going through the case, she seemed to know facts about our case. She asked me at that point in time had something been disclosed to me. I was a little befuddled. I was like, What are you talking about? She told me about a conversation that she had had with the Assistant U.S. Attorney Benjamin Garner.

She told me about a time that she was in private practice before becoming a public defender and representing an individual by the name of Billups. And that Billups, who was her client, had potentially given information which would help towards my defense of self-defense.

One of the conversations that I was having with Attorney Blazer was the fact that the solicitor's office was under, what I believe, the mistaken belief that the victim in this case by the name of Mike Rodgers did not have a firearm on the day in question and that he only pulled a firearm only after Mr. Epps swung or shot at him first.

That has always been the allegation, is that on the night in question, Diontrae Epps swung, threw a punch at Mike Rodgers. After swinging on Mike Rodgers, it was then alleged Diontrae Epps pulled a firearm, shot several times. And then after he shot and only after he shot, the allegations are that Mike Rodgers then pulled out a firearm

and fired at that point in time.

When I told Ms. Blazer this specific conversation, that's when she said you might want to talk to U.S. Attorney because I know Mr. Billups told them something completely different. And she told me about a conversation she had recalled with Assistant U.S. Attorney and John Meadors, who was then the solicitor on the case.

Concerned about the conversation, we went back and forth. Candidly, at that point in time, I said, Cameron, I cannot take simply what you're saying as word because I have not talked to Assistant U.S. Attorney Ben Garner. That happened all Sunday night. We went back and forth on these conversations. I told her we'll contact -- because I needed it firsthand.

We then contacted -- the very next morning, as you'll remember, we picked the jury, we selected a jury. During that jury selection process, the attorney from my office, Jack Furse, I had him call Mr. Garner to see if that conversation actually had occurred. Mr. Furse came back and told me the conversation had occurred, told me that in full detail.

At that point in time, Your Honor, we had already selected a jury. I requested from the Court as well as the Solicitor an ex parte conversation because, candidly, I didn't know how to handle the situation. I came to the

back. I had an ex parte conversation with the Court. I told the Court I did not necessarily want to utilize a continuance because I didn't want to change anything, the strategy in my case and I was afraid that a continuance would do nothing more than hurt Mr. Epps' case and I was still prepared to go forward.

The Court, in abundance of caution, because there was a question of potential exculpatory information withheld said it was necessary to inform the solicitor's office of our conversation. Solicitor Finney as well as Mr. Corbett were brought into the room. You told them of the conversation. We then came back and placed it on the record, however, did not utilize any names.

After placing these conversations on the record, the solicitor's office requested a continuance, again, over my objection. Judge, I have not been told what had been achieved, what they'd done, who they'd talked to during the time period when they asked for the continuance. I don't know what they did. I don't know if they looked into it or anything of that nature. I had heard that they have discussed this case with the United States Attorney's Office. I cannot verify that. I think that conversation is exculpatory.

Thereafter, Your Honor, what makes this even more interesting is after we got done with this conversation, we

got done with court and, of course, we start preparing for trial some more, we then started to receive more discovery. So the case would have already been concluded, would have already been over and then more discovery was turned over. So the case would have been concluded and the solicitor's office gave us more discovery.

Three things in concern, one -- and I'll let them correct if I'm wrong. I received the Billups 302, which, as we mentioned, was the federal investigative information. That's not as much of a concern because that's one of the things we were talking about that should have been turned over. We received a disc on Tuesday, August 20th, 2023, with the Billups interview on it. What we were informed by the solicitor's office is this disc was in the file, it just was not labeled. The concern, of course, at that situation is my office went to meet with the solicitor's office the Friday before trial, why was it not turned over at that point in time?

Your Honor, the most concerning is on Friday, September 1st, 2023, I received files from the solicitor's office with several anonymous tips -- I received a file that contained anonymous tips.

May I approach, Your Honor?

THE COURT: Yes, sir.

MR. KENT: This was only given to me after the case

should have already been done for trial. And they call these anonymous tips. They have phone numbers. They have names, pertinent information. There is information in there that would have been exculpatory that talks about Mike Rodgers having a gun out there on that date. Mike Rodgers possibly jumping around. Mike Rodgers possibly starting this situation. This was all turned over after. This would have been information that we would have looked at and utilized. I'm concerned that this was turned after the last trial would have happened.

When Mr. Furse asked about the information, I requested the metadata. I requested the information on all these quote, unquote anonymous tips. I was told it didn't exist. My question is did it exist four years ago? It doesn't exist today. I've been getting a lot of information to be able to followup on this potential exculpatory information, these anonymous tips with the numbers. I didn't get anything else, who made these phone calls, who had these calls, anything of that nature.

Then, Your Honor, on Monday, September 12th -- let me rephrase, Monday, September 18th, 2023, I received a diagram that was created by the medical examiner, Nick Batalis, dated September 12th, 2023, which is, also, after the other trial would have been scheduled. I'm still getting discovery that's being created after, that's being turned

over at this point in time for preparation of trial. As you can imagine, I got this on this past Monday for a trial to start today.

So what it is is a continuance of failure to give discovery in a timely fashion. There have been Facebooks videos that we're going to address and discuss that have been turned at a late hour, late notice. All of this information is being turned over late and complete opposite regulations of Brady violations.

Your Honor, at this point in time, I'd like to call three witnesses to go through what I've just stated to the Court. After I call those witnesses, I'd like the solicitor's office, candidly, to talk about the continuance. They requested a continuance, what was done during the continuance period. I think we have a right to know because, as I mentioned, one of my concerns was I liked the jury. If they say we requested a continuance and didn't do anything, I want to know. If they say we requested a continuance and we found exculpatory information and didn't tell you, I want to know. If they say we requested a continuance and talked to the United States Attorney's Office, I want to know why I wasn't told of that conversation.

I know it is a strong allegation, Your Honor, to make a motion for prosecutorial misconduct. I'll hand you a copy

of our motion. The motion, basically, details, what I have discussed with you. The question is, the first question for the Court has got to be has a Brady violation actually occurred?

Your Honor, the determination of exculpatory evidence should not be left to the purview of the solicitor's office to determine if I'm going to utilize the information or not. But in this unique situation, there's not -- it doesn't take anyone to see that this is a potential self-defense case. And the fact that the solicitor's office as recently as the Friday before we are scheduled to go for the first trial was making an argument that there is no self-defense because your client pulled the gun first and then, possibly, can only change that theory after I was forced to put this information hurts Mr. Epps.

That's one of the reasons why the prejudice does exist there. Because if they now change their strategy and say hey, by the way, we believe that Mr. Rodgers had a firearm, but that was not what they were going to argue to that jury some time ago. I can put Mr. Furse on the stand because they made it very clear that their theory was Mr. Rodgers only ever pulled a firearm after Mr. Epps fired first.

All that being said, Your Honor, at this point in time, I'd like to put my first witness up.

THE COURT: All right. I'll certainly give the State a

chance to respond with any argument after any and all witnesses are called.

Unless you want to respond now?

MR. FINNEY: Nothing now, Your Honor.

THE COURT: All right.

Yes, sir, Mr. Kent.

MR. KENT: Your Honor, at this point in time, we'd call Cameron Blazer.

CAMERON BLAZER,

after being duly sworn, testified as follows:

THE CLERK: State your name for the record and spell your last name, please.

THE WITNESS: Cameron Jane Blazer, B-L-A-Z-E-R.

DIRECT EXAMINATION

BY MR. KENT:

Q Ms. Blazer, do we know each other?

A We do.

Q You would consider us friends?

A Yes.

Q We have tried cases together?

A Yes.

Q Tried cases in this courtroom together?

A Yes.

Q You have heard my colloquy to the Court?

A Yes.

Q I'm going to try to get you off the stand as quickly as possible. Did you represent Mr. Billups, Tyrell Billups?
A I did.
Q Can you tell the Court about that representation?
A Yes.
Q Without violating any attorney/client privilege?
A Yes. I represented Mr. Billups, who was originally charged with State crimes based on a search warrant from Sumter County. And that search warrant resulted in the seizure of a significant amount of Fentanyl.

By virtue of the fact that we did not have a Fentanyl trafficking statute at that time, it was, obviously, likely to be a federal matter and the case was referred to me because my experience was predominantly at that time handling federal criminal matters because I had been a federal public defender and in private practice, handled a lot of federal matters.

Q You heard my allegation about our conversation on the Sunday before I was going to trial?
A I did.
Q Can you explain to the Court about that conversation?
A Yes. So I think it's fair to say that because we had tried cases together and we are friends, we talk about cases, not just the cases we try together, but the cases we are trying separately and we have those conversations

regularly. And on that Sunday, I recall you telling me that you were going to trial the next day in Sumter on a murder. And I said, Oh, tell me about it.

And my recollection is that it was pretty much immediate that you told me you were representing a person accused of murder in the Sunoco shooting. And I said, Whoa, whoa, whoa, whoa, that's the case that my client gave a statement about.

And I think you may not have recalled it at the time, but sometime very far in the past, there had been a discussion between you and me about the fact that I had a client who had given some information about that case. And the circumstance of that conversation was that I had learned when my client was giving information about the Sunoco shooting that you were representing one of the shooters. And I learned that because I asked the federal agent who's representing the shooter.

Q Who was the federal agent?

A Kevin Conroy.

Q And before we go any further, because we're in the state system, we can't necessarily assume everybody understands, so can you explain about your client giving information?

A Sure. So, yeah, I mean, there's a lot of back story here and I'll try to make it fast. Mr. Billups had not been

federally indicted, but in anticipation thereof was doing what he could, as many federal defendants who are not going to trial do, which is sharing what they know about their own misconduct and the misconduct of others.

This was, actually, a situation that went on for quite some time, several years. Because Mr. Billups got in trouble while he was out on bond, so we, actually, had to go back and try to earn a little bit more credit. And we were --

At the point at which the Sunoco matter came up, we had been -- this was, at least, our third time -- my third time coming to Sumter to meet with various parties related to his criminal activity. And I did not know that the Sunoco matter was going to be a topic of conversation that day because I didn't know anything about the Sunoco matter at that time.

Q Who was in the room when you were having this conversation or do you remember?

A I was there, my client was there, Mr. Conroy was there, a representative of Sumter Sheriff's Department was there in April of 2022. And it's important to know there were two different days. There was an April date toward the end of April and there was a May date around the beginning of May. I don't remember the exact dates.

In the April meeting, we were sitting around having

discussed some things totally unrelated to the Sunoco shooting and the agent -- I believe it was the agent who asked the question. I've obviously not gone back and listened to the recording that I now know exist, but my recollection is that the agent kind of shifted gears rather suddenly and turned to my client and said what do you know about the Sunoco, or something to that effect. I don't remember his exact words. He said, you know, were you there? My client said, Yes. He said, Did you have a gun? Yes. Did you have -- did you shoot your gun?

And at this point, if you've ever done a federal proffer, you know that your client can be in a whole lot of trouble because there's one thing that's not protected. You're king for a day. You can tell anybody anything, except about acts of extreme violence.

So at that point, I think I'm sort of a little concerned, like, are we about to accuse my client of being responsible for the shooting of another person. I don't remember exactly how I put it, but I clearly was concerned. Somehow in the exchange, I was satisfied that that was not what they believed about my client. And they asked him again, Did you shoot your gun? And he said, Yes, I did. I shot it in the air. And they said, Did you see who shot Killa Mike? And he said -- or did you see the shooting? And he said, Yes.

And they proceeded to ask him questions about that. And he described -- and, again, I do not remember all the details, but my recollection is that he described, I think it was Mr. Epps approaching the person known as Killa Mike and having some sort of discussion/fisticuffs, and then his description of the event was that Killa Mike pulled a gun. And I believe what he said is that Killa Mike tried to shoot Mr. Epps, but his gun jammed.

And sometime around that point, I can't help but remember that Mr. Conroy, the agent, who is not a particularly jovial guy, looked like he was a kid on Christmas and he said -- and I don't know that my client was in the room at this time. I don't remember, obviously, exactly what he said, but he said something to the effect of, like, nobody has told us all of this yet. We've got all these video accounts, but we've never had anybody tell us all of this. And he said, And it matches what's on the video. So that was in the April meeting.

Q By the way, was this all being recorded?

A I now -- from hearing you tell the Court, I think it was. I now recall it. It's, actually, pretty rare that these are recorded because, generally, the feds don't like to make recordings, so if it was recorded, I think it must have been recorded by somebody on the State side, but I don't remember.

What I do remember is that when we left there, I was very pleased for my client because I felt like this was a very good development for him. It was important that we earn as much credit as we could at this point because, candidly, we had a very, very difficult judge we were going to go in front of and I knew that I needed to earn all the credit I could on the front end from the U.S. Attorney because that was all I was ever going to get. And so --

Q Cameron, let me stop you there.

A I'm sorry.

Q When you say credit, you were trying to get his sentence lowered?

A I was trying to reduce his exposure to federal prison time.

Q If the federal government did not find his information valuable, would they have reduced his sentence?

A No, because in the federal system, if you -- you can cooperate all day and if they think you're a liar or if they think your information isn't helpful, it's sort of like well, you've just spent that penny for no purpose. You have to demonstrate substantial assistance in the investigation or prosection of another, that's the language in the proffer and in Rule 35 and Section 5K 1.1 of the federal rules -- I'm sorry, of the federal sentencing guidelines.

Q Rule 5K and 35 --

A They're the same thing.
Q Is how we get a reduction in the federal system?
A That's right. And you can get one of those on the front end at your initial sentencing or you can get one later because you do other stuff, but we were going for the 5K. And, in fact, in this case, what we were really going for was a negotiated sentence under Rule 11 that would, essentially, lock my federal judge into a cap that was satisfactory to me because I did not think he would give me a particularly beneficial reduction in sentence.

So that's what happens in the April meeting. And when I left there, not long after I left, I think I was on 95, I called Benjamin Garner, who was the U.S. Attorney on the case and I said, You need to talk to Kevin Conroy. I think he was very happy with Rell today. And he said, Oh, I already heard from him, you're right, he's very happy.

Q You used the word Rell, who is that?
A Tyrell Billups.
Q That's what you call him?
A Yeah.
Q That's his street name?
A Yeah, that's his nickname. And he said, Yeah, he's very, very happy. So I was pleased --
Q I'm going to interrupt you again, I'm sorry.
A That's okay.

Q You said Kevin Conroy was pleased, why did that matter if the agent was pleased?

A Because the agent has to believe your client and has to believe that what your client is telling him is useful.

So I don't remember if it was in that conversation or shortly thereafter we discussed that we needed to go back and rehash what we had done at the end of April one more time because Sumter PD had not been in the room.

So there were some e-mails that went back and forth with regard to scheduling because we needed to pick a day for me to come back to Sumter and for them to come to the sheriff's office to go through this one more time. And it was specifically so that Summer -- I keep saying Summerville, so that Sumter PD could be there.

Q Did another meeting happen?

A Another meeting did happen. I do not recall who from Sumter PD was present. What I do recall is that I was irritated that day because when I arrived, the Sumter PD person hadn't arrived and I was told that they were scrambling to send someone because they got -- I don't know what happened, but they didn't send the right person. And I was very irritated because, of course, we had scheduled this around them. So that's why that's memorable to me.

And so we went through it again. And that may be the one that's recorded as opposed to the first one, I don't

recall. Maybe they were both recorded, but if it was only one, I think it was probably that one. Again, we went through it. Tyrell told the same story. They probed farther into, you know, what motive he might have to -- you know, was he trying to protect Mr. Epps, was it mad at Killa Mike? And he was like I'm older than these people. That is not -- I don't care about any of that. That's not -- I just -- you asked me and I told you.

In fact, I think it was in the first meeting in April, at some point, Mr. Conroy turned to Tyrell and said -- I think it was Mr. Conroy, turned to Tyrell and said, Why didn't you ever tell anybody this before? This is April or May of 2022. And he said, Nobody asked. That was his answer.

But he was -- they were very satisfied that he had been forthcoming and comprehensive in what he had told them about what he saw that night. And he -- you know, there were other people out there. I never have seen all the video, but it was certainly described in pretty substantial detail during those meetings, so I have a pretty -- I wouldn't say I have a clear picture, but I have a detailed idea of what happened that night.

Q As a result, did your client receive his 5K, his 35 or did he get any consideration into his exposure?

A Yes. So it's important to know that -- I don't

remember if it was in the April or in the May meeting, but part of gaining credit is -- there's credit for the things that you say and then there's credit for the things that you do. And I wanted to know, was he going to have to come testify? Because it's a daunting thing to do if you're -- I mean, I'm not terribly daunted today, but it's pretty daunting if you are a person in his situation.

And so at some point, I asked who's representing Epps? And they told me it was you. And that is why I made a phone call to you and asked is your case going to trial any time soon. Because if my client was going to be called to testify, that was going to be very valuable to him, but I, also, knew that it needed to be soon because my federal judge was not going to wait forever.

So you and I had a conversation in which I asked you, you know, is your case going to trial? And you said eh, this case isn't going to trial. And I was deflated by that. And you told me, if I recall correctly, that it wasn't going to trial because you had a good defense because -- and because the solicitor in the case was a really good guy and was going to come to the same -- you were confident he was going to come to same conclusion you were.

Q You would agree it was a very innocuous conversation, we didn't get into full details?

A Yeah, we did not talk about the details other -- I

think that I probably -- I feel certain that in some way I indicated that my client's testimony could, potentially, be beneficial to you, but you didn't even -- my recollection is in somewhat classic Shaun Kent fashion, you were focused on the defense you had and you were like I don't -- that does not matter to me because I have a defense.

Q Correct.

A And, also, because you said it's going to work out. So I reported that back to Mr. Garner and he -- my opinion of Mr. Garner is a very high opinion. I have a very high opinion of him. And in keeping with that high opinion, he said, Well, I'm going to call the solicitor, too, just to make sure because I don't want your client to not get the credit and I, also, don't want him to have to come back from the federal custody because of the fact that we had arrived at a decision about a kind of plea agreement that would really not entitle him to any more credit after he went to court.

So sometime after that May meeting, I believe -- well, I know that he called the solicitor in -- who was then the solicitor in the case --

Q Do you know the solicitor's name?

A I do. At the time, it was John Meadors. And I know that he called him because he called me immediately after having spoken to him and he was rattled.

MR. CORBETT: Your Honor, I'm going to object to this witness testifying as to what the Assistant U.S. Attorney said.

THE WITNESS: I don't think I said what he said.

THE COURT: We'll see what her answer is.

BY MR. KENT:

Q You said you recalled he was rattled?

A He was rattled.

Q What do you mean by that?

A Without saying what he said, he conveyed to me concern that he had shared with Mr. Meadors --

MR. CORBETT: Your Honor, I believe that is saying what somebody said.

THE COURT: I understand the point you're trying to make, Mr. Kent, but that's kind of run around hearsay.

Rephrase your question.

MR. KENT: I might need to recall, depending on what happens with Mr. Garner because you understand what had to be necessary --

THE COURT: Right.

MR. KENT: -- because this would be a present sense impression. I think that's probably what is happening that it seemed like a present sense impression before the witness is able to testify.

BY MR. KENT:

Q But you did have a conversation with Mr. Garner?
A I did.
Q How long did the conversation last?
A A matter of minutes, but not more -- probably not less than five, not more than ten, if I had to guess. And the outcome of that conversation was that we agreed that we would not delay the case on the basis of the information that we had both obtained, me from you and him from Mr. Meadors.
Q And I'm not sure, did your client eventually get the reduction?
A He did. And as I recall -- I did not get a transcript of that hearing because we did not appeal it and, generally, in federal court, I don't get a transcript unless I'm filing an appeal, but my recollection is that Mr. Garner specifically noted for the record my client's participation in the investigation of the Sunoco shootout.

And that's important because some U.S. Attorneys misunderstand what the proffer rules mean. And the proffer rules don't say that you have to result in the conviction of somebody. You don't have to result in some life sentence, you have to have materially assisted, substantially assisted any investigation or prosecution of another.

So, although at that time, we did not have any information to suggest that the prosecution had -- that he

had certainly not been called as a witness and I didn't even know if this case was still open at that time, but he did mention it on the record, this -- he mentioned other things, but he did mention --

Q He specifically mentioned this on the record?

A That is my recollection.

Q Cameron, how long have you been practicing law?

A I guess, 16, 17.

Q You've been doing federal work and state work, but it's all criminal defense work?

A Yes, exclusively, almost exclusively criminal defense since 2008.

Q And you were elected, nominated as the public defender in Charleston County?

A I'm the Ninth Circuit Public Defender for Charleston and Berkeley.

Q Cameron, you are familiar and understand what exculpatory information is?

A I hope so, yes.

Q What is exculpatory information in evidence?

A Any information that would tend to disprove an allegation against a person.

Q You understand and (indiscernible) discuss with Ben Garner this potential allegation statement from Mr. Billups?

A Yes.

Q Would be considered exculpatory?
A Yes.
Q And you believe it would need to be turned over?
A Yes.
Q You believe it would need to be turned over by the solicitor's office?
A Yes.
Q Would you expect that information to have been turned over?
A Yes.
Q Cameron, when we had this conversation, was I concerned?
A Yes and no. You were concerned. You were concerned that you did not want a continuance, you wanted to move forward. You were, also, concerned that if you -- and we batted it back and forth because you're a more confident trial lawyer than I am and I felt like it was -- you know, you had to risk the possibility of a continuance and you were wrestling with that. You knew that you should have received this information based on what I told you, but you, also, didn't want to slow down what you were doing.
Q Did I discuss with you the possibility that by bringing this information up, it would hurt Mr. Epps?
A You did, yes. We, actually, argued because I told you you had to bring this to the attention of the Court and you

didn't want to at first.
Q I think my specific quote was I was worried about prejudice to Mr. Epps?
A Yes, and I told you I'm worried about if you lose what your PCR looks like.
Q And I want you to discuss that because that was an actual conversation. What did you mean by that and what did we discuss?
A I meant that by that time, you knew the existence of a 302, a federal report of investigation, that should exist and that as far as I'm concerned was absolutely known to the solicitor, who was then prosecuting the case sometime around May of '22 and that had in my opinion been withheld intentionally from you.
Q (Undiscernible)?
A An unredacted copy?
Q An unredacted copy. I know the solicitor has a copy, but is that the 302 by Mr. Billups?
A It appears to be. I have to tell you, because we were moving as quickly as we were to court, I don't know that I ever saw his 302. But this looks like a 302 and I see his name and I see facts that I recall.
Q Will you do me a favor and take your time and glance through it and see if there's any reference whatsoever to the shooting that we've talked about in the 302?

A Yes. Do you know which date this 302 is? Just out of curiosity. It says it's 4/25/2022. I don't know, but sometimes the 302s summarize more than one conversation, but it's certainly been -- this would have been drafted right after the first conversation that we had about Sunoco.

Q Cameron, would it be easier if I give you --

A I mean, I've read most of what's important to your matter already.

Q So you were able to look at it?

A Yes.

Q So in the 302 -- again, what is a 302?

A A 302 is just a form 302, which is just the FBI's form for reports of investigation.

Q So in the 302, it specifically talks about the shooting that you just testified to?

A In substantial detail, yes.

Q Again, I asked you a question about exculpatory, would you believe this 302 would be exculpatory?

A Absolutely.

Q Do you remember ever speaking to AUSA Garner about turning over the 302 to the solicitor's office or helping them get it or anything of that nature?

A I do.

Q That was a specific conversation?

A That was a specific conversation around the same time

that he had had a conversation with Mr. Meadors.
Q Cameron, you are here under subpoena; is that correct?
A I am.
Q You were served with a valid subpoena?
A I was.
Q Are you testifying because we are friends?
A No.
Q Are you testifying to facts as you remember them?
A Yes.
Q Have you been promised or threatened or forced to plead guilty -- to testify?
A I would have to be forced to plead guilty, but no, I have not been forced or threatened or coerced in any way to testify.
Q Have I manipulated or suggested or told you any way to testify whatsoever?
A No. And where I felt you missed something in your presentation to the Court, I filled it in.
Q Is there anything you would like while you're on the stand added to your testimony to help the Court with rendering a decision?
A No.
Q Have I given you an opportunity to answer all of my questions?
A Yes.

Q And based upon that, do you have anything else to add?
A Not that won't elicit a hearsay objection.
MR. KENT: Your Honor, based upon that, I would pass the witness, but would reserve the right to recall just in case there's a present sense impression requirement when the next witness testifies.
THE COURT: All right. Mr. Finney, Mr. Corbett.
MR. CORBETT: Judge, do you prefer this as a Court's Exhibit or State's?
THE COURT: It's a Court's Exhibit for now.
(WHEREUPON, Court's Exhibit No. 1 was marked for identification only.)

CROSS-EXAMINATION

BY MR. CORBETT:
Q Ms. Blazer, good afternoon.
A Good afternoon.
Q How are you today?
A I'm fine. Thanks.
Q I'm going to show you what's been marked as Court's Exhibit No. 1 and ask if you could look at that for a moment, please.
A All right. I can identify it by what it purports to be, but it's not something I've seen before.
Q What does that purport to be?
A It purports to be a witness statement by Tyrell

Billups.
Q And if you would, take just a moment and read over that.
(Witness reads document.)
A All right.
Q And you said before the date?
A I can't tell if that's a seven or a nine 25/2019.
Q Either a seven or a nine?
A I think it's nine looking at the second page.
Q That purports to be a statement of Tyrell Billups; is that correct?
A It does, yes.
Q Is it fair to say that that statement is substantially different from the statement provided to the FBI?
A In certain material respects, yes.
Q If you would, please, on the second page about midway down, and kind of in the middle of the paragraph, it says, Trae started walking?
A Uh-huh.
Q Would you pick up there for us and read the next couple of sentences?
A Sure. Trae started walking towards where the action was towards the door. I was talking to Jay and I heard all the commotion, but I'm still not paying it any attention. I hear a girl named Manny say they about to fight. That is

when I hear gunshots and I hauled ass. A lot of shots were fired. I didn't see anybody shooting guns. I ran and was chilling until the gunshots stopped. I ran toward Wendy's and chilled on the side of the store. Nobody was with me. I didn't see nobody in the Wendy's parking lot.

When the shoots [sic] stopped, I was running back across the parking lot to my car. I did not pay attention to who was out there, I was just worried about getting to my car. I saw Killa Mike laying on the ground in front of the store and a dude coming out of the store. As he is coming out store, I see a silver car coming and I heard one gunshot. I got in my car and Rock came running from the Rite-Aid side of the store and knocked on my window and asked for a ride. I gave him a ride to Windsor City --

I'm sorry, were you stopping me?

Q Yes. Thank you so much.

A Sure.

Q Ms. Blazer, just for a little bit of context -- and that purports to be the statement of Tyrell Billups, which is substantially different from the one he gave the FBI, correct?

A Specifically, it is different with regard to his claims when he spoke with the FBI of having seen Killa Mike pull a handgun.

Q And when he had -- I believe you had referenced he told

the FBI folks, nobody ever asked him?
A Uh-huh.
Q But, obviously, in this statement, he's describing the event?
A And I should be clear, he -- after he said nobody ever asked me, they said you gave a statement. They talked to you before. He said, Yeah, but they just asked me was I there and what did I want to say.
Q But what he wanted to say was, I didn't see anybody shooting any guns?
A Yeah.
Q So if the Sumter Police Department took this statement from Mr. Billups on September 25, 2019, that is what they would have known about his knowledge of the events that night?
A As of September of 2019, yes.
Q Okay.
A But they were in the room when he gave the later statement.
Q Now, you indicated that you attended an interview with the FBI?
A Several.
Q Do you recall the date of that or would the document help you?
A I want to say it was April 22nd and May 6th. And I

only can say that because I did check my calendar before I came here, but then the numbers are still numbers, so I could be slightly inaccurate about that.

Q I'm going to show you what purports to be a Federal Bureau of Investigation document FD-302. And I will confess to you that I'm not very familiar with FBI documents, but -- and, also, I will relay that this one does have some redactions?

A Uh-huh. Is there something you want me to read?

Q If you would, please, what's the date of that statement?

A It appears to be the -- the 302 was drafted the 25th, but he was interviewed on April 21st, 2022. And that is the interview where Sumter Police were not present.

Q Now, I believe you indicated there was a followup statement?

A Yes.

Q What was the date of that?

A I believe May 6th, give or take a day or two.

Q Of 2022?

A Yes, sir.

Q And I believe that you described that interview was that you came back for an interview and Sumter PD was scrambling to send somebody and they didn't send the right person?

A Yes. We had scheduled an interview that day based on the availability of Sumter Police and then when I arrived, they did not have the right -- they did not have anyone there. And I said, Why are we doing this? The whole point was for Sumter PD to be here. And they got somebody to come. I cannot recall for you his name, but I recall that he was not terribly familiar with this case. To be clear, I think everybody in law enforcement -- what I've learned, everyone in law enforcement in Sumter County is aware of the case, but in terms of the details of the case, he did not seem to be knowledgeable.

Q And you indicated that sometime shortly thereafter, you and Mr. Kent had a phone conversation?

A We did.

Q Do you remember the approximate timeframe of that?

A No. It would have been some time -- it could have been anywhere between April 21st and June. It likely was close to the May 6th interview, but I -- I talk to Mr. Kent. We are friends. Things run together. I don't have it in my calendar the way I have these other things in my calendar. But based on why I would have spoken to him about it, it had to be relatively close in time to the May incident.

Q Now, at that point in time, you were representing Tyrell Billups?

A Yes.

Q He had made two statements to law enforcement?
A He had made more than that, but two as it relates to this matter.
Q Okay. And you became aware that Mr. Kent was representing Diontrae Epps?
A Yes, because I asked. And I asked because it's often -- talk to anybody who works in the federal system and who is involved with proffers, you need to know who's on the other side because you're going to pick up the phone and try to figure out. And we're all going to be cagey with each other. I'm going to tell you what I want you to know and you're going to tell me what you want me to know, but we're trying to figure out do I have something here. And so that's why I called him.
Q But I believe your testimony was that you stated that you told Mr. Kent that your client had favorable information?
A I think that that's how I described it. My recollection is that he did not seem to be focused on what I was saying, which if you know Shaun, you've had that happen, because he was focused on the fact that it didn't matter because his case was going to resolve. Because he knew why I was asking. He knew I was asking because I was looking for a benefit and he was saying you ain't getting it because I'm going to resolve my case.

Q So he was aware of Mr. Billups existence?
A Yes.
Q And he was aware Mr. Billups had favorable information?
A If he was listening to me, he was vaguely aware of that, yes.
Q Now, Mr. Billups, your client, was he, ultimately, convicted in federal court?
A He pled guilty in federal court to drug distribution. Actually, you know what, let me be -- I'm not sure. I have to think -- I would have to go back and look. We may have, actually, pled him to a federal firearms violation instead for the purposes of capping his exposure, so I don't want to misspeak. It was either a drug trafficking offense. I, actually, think the more that I -- now that I'm thinking about it that what we did was plead him to a firearm in relation to this evening.
Q Was there any point in time that you recall that Mr. Billups -- and I'll use the colloquial phrase, got sideways with the federal people --
A Yes.
Q -- and lost some of his benefits?
A He was at risk of losing all of his benefit because he had been on bond, he had been doing well and then he was not doing well. And he got caught with drugs again, so he was rearrested. He had been out on bond and he was rearrested

and remained in custody. I wish I could tell you when he got rearrested. I think it was in the summer of 2021, but I don't -- I didn't check that in my calendar. So he was in custody for a pretty extended period of time before we went back to court in federal court.

Q So the statement that he gave in April of 2022 and then I believe you testified you believe to be a recorded statement in May of 2022 he gave so that he could get some benefit?

A Absolutely.

Q And then subsequent to that time, he got in trouble again?

A No, no, no. He had gotten in trouble before, long before his statements about this.

Q So when he first got in trouble with the federal folks, did he cooperate initially to get out on bond?

A Yeah, I mean, his bond was certainly -- his bond was consented to by your office because he was, actually, held on State charges. I don't recall who was handling his case at that time. I don't think it was Mr. Meadors, but I don't remember. I know I dealt with Ms. McElveen at some point. But he was, actually -- he had never been federally indicted until much, much later. He was out on State bonds when these things happened, but he had entered into a federal proffer that played a role in his bond.

Q After that proffer, did he get arrested again?
A After his first proffer, yes.
Q So there's more than one proffer?
A So there's a proffer letter, which is the agreement to provide full and truthful information to the government, including your own misconduct. And that proffer requires a person to be of good behavior. So by -- so he enters into that agreement. He does what they ask him to do. He gives them the information that they ask him to give them and he does the things they ask him to do and then he messes up. So he has, in effect, broken his proffer. That's the colloquial term that we would use to say he's messed up. He broke his proffer.

But after he was taken back into custody, we reached out again to the government and said I know we've lost all that credit because he broke the proffer, but there's new stuff, not stuff he didn't tell you before, but new information that we'd like to share, can we try? And you can always try. I didn't know if it would be effective, but we reengaged with the government.

It doesn't really matter for this purpose, but there was a change of agents. My original agent got sent to South America. There were a lot of things that happened that meant that we kind of started over. My recollection is that the first time we met again with anyone, the only person in

the room was Earl Bradley. Maybe there was a second person in the room, but Earl was the person who conducted that next meeting after Tyrell had been arrested the second time.

Q Now, let me ask you a little bit about your opinion concerning the nature of this information. The statement that was provided in the FBI report and then, also, to the extent you recall, you said you believed that to be exculpatory; is that correct?

A Yes.

Q So if that became known, that would be something that should be turned over to the defense?

A Yes.

Q Now, if you're representing a client and exculpatory information becomes known, why would you not want to use that? And I guess my question is, wouldn't that subject me to collateral attack?

A I think you're asking if you could --

Q I'm sorry --

A Yeah, I'm not sure I know what --

Q I'll rephrase. If you're defending a client and you become aware of exculpatory information and you do not use it or seek it out, that could potentially subject you to a collateral attack in the form of a PCR; is that correct?

A Sure.

Q And, perhaps, some other type of appeal, but,

certainly, a PCR?
A Uh-huh.
Q So that's something you would want?
A Yes.
Q And would you agree with me that if the Court becomes aware of some exculpatory information, one of the remedies available to it is to continue a matter?
A That is the bane of every defense lawyer's existence, is that the general remedy of Brady violations is to give the government more time to be less terrible.
MR. CORBETT: One moment, please.
(Pause.)
BY MR. CORBETT:
Q Ms. Blazer, if I may, what's been previously marked as Court's Exhibit No. 1, the statement of Tyrell Billups dated September 25 of 2019?
A Yes, sir.
Q At the time you were negotiating a proffer or attempting to secure a better sentence for your client, did you know about that statement?
A I knew that Mr. Billups had spoken to authorities because, as you noted, they asked him why didn't you tell this before and he said nobody asked and he confirmed when he was pressed on that that he had spoken to authorities. So I knew he had spoken. I did not know of the existence of

the signed statement. I don't believe this was ever part of the federal discovery because it was not actually what he was charged with.

It's possible in the 10,000 or so pages of federal discovery, this was contained in it, but we had so early on moved past was he guilty or not guilty and toward a resolution that it's possible it was contained in my discovery and I never saw it.

Q Do you know if the federal authorities with whom you were negotiating the proffer possessed that document?

A I don't know.

Q Okay. Would that document be important for them in terms of gauging your client's credibility?

A I think so. I mean, I think what, again, is common in proffer situations is that the federal authorities are often confronted with a statement like this, the 2019 statement, that is at odds with the statement like this, the 2022 statement.

There are a variety of things that happen to establish whether or not they believe the 2022 version or the 2019 version and how pleased they are with the person. There's just a lot of different factors that go into play, but it is rare in my experience, not unheard of, but rare that a person first speaks to law enforcement and nothing ever changes.

(Pause.)

THE WITNESS: While you're waiting, it just occurs to me one of the things that I know was important when I was speaking to Mr. Conroy about why he believed Tyrell in 2022 --

BY MR. CORBETT:

Q I'm sorry, ma'am, if you don't mind, I'm going to continue with questions.

A Sure, yeah.

(WHEREUPON, Court's Exhibit No. 2 was marked for identification only.)

BY MR. CORBETT:

Q I'm going to show what's been marked as Court's Exhibit No. 2 and ask you just to take a moment and look at that. That is what purports to be interview notes from Diontrae Epps?

A Yes, sir.

Q If you would just take a moment with that.

A You want me to read the whole thing?

Q Yes, ma'am, if you would, please.

(Witness reviews document.)

A All right.

Q What is the date of this document?

A September 15th, 2019.

Q If you would, please, where it says Epps?

A Just start reading?
Q Yes, please.
A Epps then heard a commotion and saw a group of people near the front corner arguing. Epps heard a shot and took off running. He said, I was hit, didn't see who did what. Epps went on to say, My leg was jumping, so he pulled his body behind a red Sentra. Epps said that he remembers laying so long because of all the gunshots. He said there was choppers and all kinds of guns going off --

MR. KENT: Judge, can I ask where we're going with this? This is Diontrae Epps' statement that she's reading that she didn't take, that's not her client, that she's never seen.

MR. CORBETT: Your Honor, we were trying to establish the statement of Epps and Billups, both indicating that neither one indicated who was doing what or who was firing.

THE COURT: Okay.

THE WITNESS: Do you want me to keep reading?

BY MR. CORBETT:
Q Yes, ma'am, please.

MR. KENT: Judge, I'll stipulate to that. I just don't understand how we're getting this through this witness.

THE COURT: I understand, but there's no jury here. I need the full flavor of it. But if you'll stipulate to --

MR. KENT: What he just said, yeah, they gave

statements. I mean, you can have the statements. I mean, there's no jury here. There's statements in there that they said things different and they gave different statements at different points in time.

BY MR. CORBETT:

Q Ma'am, if you would read, please, the next paragraph.

A Just the whole next paragraph?

Q Just that first --

A When asked if someone was shooting at him, Epps responded, I don't know who shot me. When asked if he had a problem with Killa Mike, Epps stated that he made a comment on Facebook after Killa Mike was jumped in the club, but went on to say that didn't have nothing to do with it. Epps then stated, They were already shooting when I got out. He was in the car texting with a girl when he heard shots, got out and hauled ass. Epps was asked if he heard anything that was said and he stated, Heard north side money. I jumped out, that's it. I don't know nothing else.

Q And the first sentence on the next one, please.

A Okay. Epps was asked if he had a gun or fired a gun. He stated he did not fire a gun.

Q Thank you very much.

MR. CORBETT: Thank you, Ms. Blazer.

THE WITNESS: Thank you.

THE COURT: Redirect?

MR. KENT: Yes, sir, Your Honor.

REDIRECT EXAMINATION

BY MR. KENT:

Q Cameron, if I'm understanding the questions from the State of South Carolina properly about exculpatory information, let's make this simple, whose duty is it to turn over exculpatory information?

A The State's.

Q Is it the defense attorney's duty to go and look for it and investigate and find it?

A No. In fact, you and I had a case where that went to the Supreme Court.

Q So this allegation that something happened, you've got to go dig for it, PCR, any of that, is that truthful whatsoever?

A The independent duty of a defense lawyer is what it is, but it doesn't in any way obviate the duty of the State. You know, you asked me before if this is exculpatory. On its face, the information contained in the 302, you don't have to believe it, is exculpatory. On its face, it is contradictory to the original statement, but the fact that it's contradictory does nothing to absolve the State of its obligation to turn over the second statement.

Q And that was going to be my next question, the allegation is it's a different statement. You said you've

been doing this a long time, how often do criminal defense clients give opposite statements?
A Endlessly.
Q How many times does law enforcement meet with somebody where they get different statements until they finally get what they want?
A Very frequently.
Q And how many times have you met with clients and they give you different versions of the truth until we get to the very end?
A Very often.
Q Does any of that change what's exculpatory and what's not exculpatory?
A Not under the rules or the governing law.
Q There seems to be an allegation as long as you get exculpatory evidence at some point in time it's okay. How do you feel about that?
A Well, I don't like it and I don't know that what I like is the law of the United States of America or the State of South Carolina, but I think that what I know is that this statement, the statement of Tyrell Billups from April of 2022, which I have reason to believe the State was aware of long before my conversation with you in August, should have been turned over to you when they became aware of it.
Q Has anybody reached out to you from the State of South

Carolina to discuss or talk to Tyrell Billups, talk to you, talk to him, anything of that nature?

A If they reached out to him, I don't know about it. They have not reached out to me to ask me.

Q Since the point in time when the continuance was requested to go and investigate this case in more detail, was there any information of anybody reaching out to you to talk to Tyrell Billups?

A No. And I believe I would know if they had reached out to him without me because I'm -- his aunt has me like a bat signal. She would have called me.

Q And, finally, there gets some confusion because a lot of us don't do federal work, but there is a benefit if a client testifies in trial?

A Yes.

Q And I think that's what some of the confusion is, you need to know if a client is going to talk or not. Can you explain that?

A Yeah.

Q Because I think we glossed over it a little bit.

A Yeah, it's really important. I'm sitting in this courtroom and I can see all the people in the gallery. There are people in this gallery who may aligned with your sign or with the State's side or they may be neutral observers, but any time a person who is accused of one crime

tries to gain a benefit in sentencing by testifying against another person for that other person's misconduct, the potential benefit is as substantial as it is because the potential risk is as grave as it is.

This was a shootout involving people who had a dispute over an alleged disc track. And if you are willing, if you are brave enough to come into court and to testify on either side under oath about something that happened that people don't really want to talk about, the benefit that you are entitled to is substantially greater at sentencing in federal court because of the risk that you face.

Q So when you come to a defense attorney as a defense attorney and say, hey, is your guy going to trial? I need to know so I can get an added benefit and you're told no, what does that mean?

A It means move on, I'm not getting that benefit.

Q You're not getting that benefit. Hey, give me some exculpatory information or don't, there's not going to be a trial?

A Right. And while I have a vague recollection of having -- I think that I indicated to you that my -- I think I did, that my client's information might be helpful to you, I was not willing to tell you what it was --

Q And that's the next thing, and we gloss over this, you are still protected by attorney/client privilege on what you

can tell me specifically as to what your client will testify to?

A Well, when I'm talking to you on that phone call, yeah, I'm not telling you anything that doesn't benefit my client.

Q Exactly.

MR. KENT: Thank you. That's all the questions I have.

THE COURT: Anything else from the State?

THE SOLICITOR: No, Your Honor.

MR. KENT: Your Honor, at this point in time, we would call Assistant U.S. Attorney Ben Garner.

BENJAMIN GARNER,

after being duly sworn, testifies as follows:

THE CLERK: State your name for the record, spelling your last name.

THE WITNESS: Benjamin Neal Garner, G-A-R-N-E-R.

DIRECT EXAMINATION

BY MR. KENT:

Q Mr. Garner, how are you doing today?

A Doing well, thank you.

Q I'm going to try to cut to the chase as quickly as possible. Where are you employed?

A I'm employed at the United States Attorney's Office in Columbia.

Q Can you tell the Court a little bit about what that is and what y'all do and what is your role?

A Sure. So I am employed in the criminal division as an Assistant United States Attorney. We prosecute criminal offenses that occur throughout the district of South Carolina. I currently serve as a deputy criminal chief over the narcotics and violent crime section. I've been doing that for just over a year now.

I've been at the United States Attorney's Office for -- my nine-year anniversary was last Thursday, so just over nine years. The vast majority has been dedicated to prosecuting organized crime and drug cases.

Q You were here as a result of a subpoena?

A I am.

Q You were served a subpoena from my office?

A I was.

Q I want to go a little bit into the background so we can understand why this gentleman is here.

A Sure.

Q When we gave you the subpoena, it is not as simple as giving someone a subpoena and you showing up for court; is that correct?

A That is correct.

Q As a matter of fact, we served the subpoena and I have a bevy of e-mail that went back and forth between myself, you and some other individuals; is that fair?

A It is fair.

Q Can you explain to the Court what goes into actually getting Ben Garner on the stand?

A Sure. So this is a new process for me as well. There are federal regulations in place whenever a federal agent or federal attorney is compelled to testify in a case in which the federal government is not a party. That's referred to as the Touhy regulations. I'm not well versed in the Touhy regulations. We do have our civil chief here who is responsible for making sure that our office complies with those regulations when one of our employees or a different federal agent is subpoenaed or compelled to testify in a case in which the federal government is not a party.

Q And you would agree that we sent, I think I counted 15 e-mails back and forth to make sure we could understand one, that you have permission to testify and the scope of what you'd be allowed to testify to?

A That sounds about right.

Q And we have to make sure that we do not ask any questions that goes outside of the scope of what we discussed in the letters and the e-mails that went back and forth?

A That's my understanding, yes.

Q As a matter of fact, we had to get permission from Washington, D.C. or Department of Justice, DOJ, to get permission for you to testify?

A Yes, the decision was made in consultation with the Department of Justice, yes.
Q As a matter of fact, you, actually, have an attorney here today?
A Correct.
Q Who is your attorney?
A Will Jordan. He is the chief of the civil division.
Q And Mr. Jordan is here to protect your interest and the Department of Justice's interest and make sure we're not getting into the wrong thing; is that fair?
A Correct. He's seated in the jury box.
Q So that being said, have you understood when we sent you the subpoena the scope of what we were requesting?
A Based on the correspondence that you sent, yes.
Q What is your understanding of what we were requesting?
A Requesting information in connection with a conversation that I had with Mr. Meadors concerning information that was supplied during the course of a federal prosecution of a defendant that I was prosecuting.
Q Explain to me the interplay between federal and state when it comes to prosecution? Does that usually happen?
A Sometimes it does. We'll have defendants that are charged federally that are, also, facing State charges. So we do see that with some degree of regularity.
Q Before you, there was testimony concerning proffers and

credit for testimony, 5Ks and 35, can you explain a little bit to the Court in very general terms about getting credit for cooperation and proffers and so forth?

A Okay. So individuals that we prosecute sometimes elect to enter into what's called a proffer agreement, that's an agreement -- basically, the terms are that they agreed to be completely truthful with federal, state and local law enforcement about all criminal activity about which they have knowledge. That is not technically a cooperation plea agreement, it's just a proffer agreement where they agree to sit down with law enforcement and provide information about criminal activity about which they acknowledge. Typically, they're implicating themselves. In return, the federal government agrees so long as they are completely truthful not to use their statements against them in any State or federal proceeding.

Q Are you familiar with the term discovery and exculpatory evidence?

A I am.

Q What is your understanding of those terms?

A Discovery is information that law enforcement has collected during the course of its investigation that is turned over to the defendant through his defense counsel. And exculpatory evidence would tend to lead towards the innocence of a defendant who's facing criminal charges. It

can, also, be information that is impeaching on other government witnesses as well.

Q As a result and your role prosecuting for the United States Government, did you ever come into contact with an individual by the name of Tyrell Billups?

A I did.

Q How did you come in contact with him? Was that an individual you prosecuted?

A Yes, Mr. Billups was one of many defendants I was prosecuting based off a drug, gang affiliation operating predominantly around the Sumter area. He was one of, I believe, between 30 and 35 defendants who I was prosecuting.

Q When you prosecute and look into those individuals, do they, ultimately, plead guilty and cooperate?

A In this case, all, ultimately, pled guilty, not all agreed to cooperate.

Q Did Mr. Billups agree to cooperate to the best of your knowledge?

A He did.

Q And tell me what that entailed and what happened.

A So my recollection is he entered into a proffer agreement, which I just discussed, and he was debriefed on more than one occasion with law enforcement. By law enforcement, I mean an FBI agent was present. I believe a DEA, Drug Enforcement Administration, agent was present and

I believe someone with Sumter City Police Department was present during, at least, one of the many interviews that he met with law enforcement.

Q And that was Kevin Conroy, the FBI agent?

A Correct. And I was not at any of those two briefings.

Q That was going to be my next question, were you at any of those meetings?

A I was not.

Q How was the information relayed to you?

A So in the context of an FBI agent, following a debriefing, the agent will summarize the information that was provided during the course of the debriefing and for purposes of the FBI, it's referred to as a -- the document is referred to as a 302. It memorializes the statement that the cooperating defendant provided to law enforcement. That is then considered discovery, that is provided to defense counsel.

Q How do you make the determination that somebody is credible and their information is useful and you want to utilize the information?

MR. JORDAN: I'm going to object. So the record is clear, I'm Will Jordan. I'm the civil chief of the U.S. Attorney's Office for South Carolina. I understand some background might be important to understand the context here. The scope of Mr. Garner's testimony as permitted by

our office under the relevant two allegations was related to the substance of his conversation with John Meadors about the interview that took place of Mr. Billups.

So I'm going to object to going outside those bounds. I understand some context might be necessary, but I think we're getting beyond what the approved testimony is.

THE COURT: Sustained.

BY MR. KENT:

Q Understanding what was just objected to, we're going to move directly on to -- I'm still going to talk about Billups, but as a result of the prosecution of Mr. Billups on the federal level, did you ever -- and after receiving your 302, would you have had to contact the state law agency and if so, why?

A I wouldn't necessarily assume that just because I become in possession of a 302 documenting a defendant's information that was provided that I would have an obligation necessarily to relay that to a state prosecutor. That's the question I think you're asking. Particularly, if knowing that a state investigative agency was involved in the interview.

Q In this situation, did you have a specific conversation with a state law agency in response to Mr. Billups' 302 and his interview?

A I did.

Q Who was that with?
A That was with Mr. Meadors.
Q That is John Meadors?
A Correct.
Q Can you tell the Court about that specific conversation, which is the reason you have been subpoenaed and called to testify?
A Yes. So Ms. Blazer, who represented Mr. Billups during the course of the federal prosecution and I were in the course of negotiating the resolution to Mr. Billups' case or for Mr. Billups' case. She had an idea of the appropriate resolution she wanted, so part of my analysis at that point was to determine the cooperation information that Mr. Billups had provided to the government and evaluate what I believed would be the appropriate resolution and consideration of other codefendants and any disparities they would have.
Q Just go over the full --
A Oh, in that vein, while discussing the appropriate resolution, I learned of information that Mr. Billups had provided in connection to what was referred to me as the Sunoco murder trial. And at that point, I reached out to the solicitor's office here to determine who the solicitor was prosecuting that case so I could get in touch with him and have a conversation to determine how the State had used

that information in reaching a resolution. At that time, I did not know if it was still pending, where negotiations were between the government as well as defense counsel, so that's why I reached out to who I now know is Mr. Meadors.

Q Keep going.

A So I telephoned Mr. Meadors and gave him a summary of the information that Mr. Billups had provided just as it pertained to the Sunoco murder case. As I indicated, I didn't read for him word for word what was contained in the 302, I just described the information. I indicated that based upon my review of the information contained in the 302, I believed it could contribute to a self-defense claim and indicated the high nature of that I believed that Mr. Billups indicated that he witnessed the shooting and that the victim had pulled a firearm first and attempted to fire that firearm, at which point, the defendant in the Sunoco murder case discharged his weapon. That was the information I provided to Mr. Meadors.

Q And then what happened?

A Mr. Meadors indicated -- he made a statement to me, he said, Who are you? I thought you were calling to help me and this doesn't help me. I then offered to provide him with the 302 containing the statement that Billups had provided during the course of his debriefing with law enforcement.

Q Did he ask for that 302?
A No. He indicated -- like I said, I offered to provide it to him. He indicated that he would reach out to his investigators.
Q To the best of your knowledge, did that ever happen? Meaning, the 302 information you asked would it be turned over, or you would give him the 302 or he would get the 302?
MR. FINNEY: I just want to object. If the witness knows whether the 302 was sent to Mr. Meadors from his office, he can ask the question. If he doesn't know that, he would be speculating.
MR. KENT: Hence the word to the best of your knowledge.
THE COURT: If he knows whether it was sent, he can answer the question.
MR. KENT: Hence --
THE COURT: I understand. I'm just making it clear. He can answer to his knowledge.
Go ahead, sir.
THE WITNESS: Based on what I know now, it was not sent.
BY MR. KENT:
Q Did you have any other contact with Mr. Meadors after that phone call in which he said who are you, I thought you were trying to help me?

A No. I have had no further contact with -- that's the first and only conversation I have had with Mr. Meadors.
Q As a result of that conversation, what did you do?
A Soon after that conversation, I would have reached out to Ms. Blazer who was representing Mr. Billups and what really contributed to me reaching out to Mr. Meadors to inform her of how I viewed the cooperation that Mr. Billups provided, confirmed for her that Mr. Billups by definition hadn't assisted in the State prosecution by virtue of the fact that Mr. Meadors indicated he wasn't aware of it. And she indicated that she wanted to move forward with the resolution to Mr. Billups' case.
Q And he was not aware until you had provided that information?
A That is correct.
Q Did you have any other contact with Mr. Meadors or Ms. Blazer as a result of that conversation?
A Certainly not with Mr. Meadors. Ms. Blazer and I would have had, I believe, multiple conversations in connection with Mr. Billups' cooperation and my evaluation of the cooperation --
Q You can stop right there. Did you have any other conversations with the solicitor's office as a result of the information that you just discussed about Mr. Meadors?
A Not until August of this year.

Q So you did have conversations?
A In August of this year, yes.
Q How many?
A I believe it was one telephone call, maybe two, and I would say I sent maybe one or two e-mail correspondences.
Q Were they substantially similar to the testimony you just offered about information you provided to Mr. Meadors?
A Yes.
Q And you sent an e-mail with evidence substantially similar to the information you just provided about Mr. Meadors?
A The e-mail was to provide the solicitor's office with the 302, the document memorializing Mr. Billups' cooperation. The e-mail was to include that particular 302 as well as any other document memorializing Mr. Billups' cooperation.
Q Say that again, I'm sorry.
A Sure. The e-mail that I sent to the solicitor's office in August of this year included the 302 that Mr. Billups provided wherein the statement he gave in connection with the Sunoco murder case as well as another interview that I don't believe had any information related to the Sunoco murder case. There were two debriefings, one of which was related to the Sunoco murder case, one of which wasn't.
Q Was that information requested or did you just send

that based upon conversations with my office? I'm trying to figure out why you would just send that?
A No, so the phone call preceding that, the agreement, and I can't remember if they requested it or I volunteered, but the agreement was as soon as this phone call is over, as soon as I can get my hands on that information, I will send it directly to you.
Q The substance of that phone call with the solicitor's office, was it memorialized or written down or anything of that nature? Who was on the phone call, I guess, is my first question?
A It was Mr. Finney, Jason --
Q Corbett?
A Yes, thank you. And myself.
Q Is that the only phone conversation you had with them? Was there another one with Jane Felder (ph)?
A Jane had -- my understanding is that Jane had an independent conversation with Mr. Finney on the way to court, at which point, she directed him to reach out to me. I believe she has had another conversation with him as well, but I'm not positive.
Q And those would all be about Meadors' statement, who are you or why are you calling me?
A Correct.
Q Asking questions about exculpatory, would you believe

those conversations are exculpatory?

MR. JORDAN: Your Honor --

MR. KENT: I'll scratch that question.

BY MR. KENT:

Q Has your office discussed this case in detail -- don't get into the discussions, but have y'all discussed this case in detail about what you can testify to and so forth?

A In terms of the subject matter I can testify to, yes.

Q I'm about to get an objection. Were you concerned about the testimony or the statement from Mr. Meadors?

MR. JORDAN: Objection, that's beyond the scope of the authorization.

MR. KENT: That's beyond the scope of his authorization. I looked at it when I said it.

THE COURT: All right.

MR. KENT: Beg the Court's indulgence.

THE COURT: Yes, sir.

(Pause.)

BY MR. KENT:

Q Ben, have you testified about all of the conversations and all of the statements in response to this case that you have made or you have had?

A I believe I have testified about -- I don't think I'm forgetting any conversation that I would have had -- certainly, not one I would have had with Mr. Meadors. To

the best of my recollection, there was one and only one conversation with Mr. Meadors.

Q I guess the question is, wasn't there a time when you specifically stated you were gravely concerned --

MR. FINNEY: Objection.

MR. JORDAN: I'm going to object to beyond the scope as well.

THE COURT: Sustained.

BY MR. KENT:

Q Have I given you the opportunity to answer all of my questions?

A You have.

Q Based upon the questions I've asked, is there anything you want to add that would help to your testimony or anything you want to add that would help the Court in its decision?

A I don't believe so.

MR. KENT: Thank you so much. Answer any questions the solicitor may have.

THE COURT: Mr. Finney.

CROSS-EXAMINATION

BY MR. FINNEY:

Q Mr. Garner, good afternoon.

A Good afternoon.

Q My name is Chip Finney. We've never had the pleasure

of meeting. Welcome to Sumter.
A Thank you.
Q There are two areas I want to talk about. Do you know what Mr. Billups pled guilty to and was sentenced to prison for?
A Yes.
Q What was it?
A He pled guilty to being a felon in possession of a firearm and received 120 months term of imprisonment followed by a three-year term of supervised release.
Q And was that negotiated with the AUSA's office?
A It was with me.
Q And was that gun that he was charged with relative to the Sumter Hop-In Sunoco murder?
A I believe it was.
Q Did he, also, have gun charges pending?
A He did.
Q So those gun charges were dismissed?
A Correct, through negotiations.
Q I understand. And so his testimony about the Hop-In helped him get a good deal because he avoided additional charges?
MR. JORDAN: Objection, Your Honor, we're beyond the scope of authorized testimony --
MR. FINNEY: I'll withdraw the question.

THE COURT: All right.
BY MR. FINNEY:
Q Were you aware when you talked to Mr. Meadors that Mr. Billups had given a statement to local authorities regarding the shooting at the Hop-In?
A I was not.
Q You've never seen it?
A Not to my recollection.
Q And you don't know whether it conflicts or supports the statement that he gave in the 302?
A To my recollection, I had not seen the prior statement.
Q The contact with John Meadors was not automatic. You don't reach out to the state prosecutor's office. You happened to do it in this case because you thought it would be helpful?
A Correct.
Q And Mr. Meadors, I'm making notes as you testified, you gave him a summary of the 302 and Mr. Meadors said after learning that there might be a self-defense issue raised in the 302 and that the victim, Mike Rodgers, pulled the gun -- first, I think -- is that what the 302 said, that he pulled the gun first?
A Yes. I don't know names, but my recollection is that the victim pulled the firearm first.
Q Based on the 302?

A Correct.
Q And then he said something to the effect of, Who are you? I thought you called to help me. I will get the info from local law enforcement?
A He said, based upon my recollection, Who are you? I thought you were calling to help. This doesn't help, this hurts.
Q Okay.
A And then I asked him if -- at some point during my conversation with Mr. Meadors, I asked him and volunteered to provide him with the 302 that I had summarized for him, at which point, he indicated he did not want me to send it, that he would retrieve the document from who I believed to be his local law enforcement investigators.
Q And was there any other substance to the conversation? Did he seem upset or angry?
MR. JORDAN: I'm going to object to anything about Mr. Garner's impression of Mr. Meadors as the substance of the call is limited to Mr. Garner's authorized scope.
BY MR. FINNEY:
Q Well, let me say this, I'm trying to get -- words have more than one meaning sometimes. So the phone call that you had with John Meadors, which was not requested, when you called him and gave him this information, he had a reaction. Did you feel that the reaction was negative, that he was

upset with you?

MR. JORDAN: Same objection, exceeding the scope of authorized testimony.

MR. FINNEY: I understand.

BY MR. FINNEY:

Q Were you aware at the time you gave him the information in the 302 that local law enforcement and the FBI and maybe somebody from Mr. Billups' lawyer's office was at this interview or both of the interviews that we talked about, April and May?

A Based upon my review of the 302, I'm aware that an FBI agent was present, an investigator from Sumter Police Department was present and Ms. Blazer, who represented Mr. Billups, was present. I'm not sure if anyone else was present.

Q And when you hung up the phone with Mr. Meadors, you were aware that he was going to reach out to local law enforcement to followup on the information that you had given him?

A I'm aware that's what he told me, yes.

Q And when you had the opportunity to talk to my office in August of 2023, last month, you and I talked -- first time we ever met, talked on the phone?

A Correct.

Q You supplied me the 302 information electronically?

A Correct.
Q And have there been any other conversations between you and me regarding this case?
A I don't believe so.
MR. FINNEY: Thank you, sir.

REDIRECT EXAMINATION

BY MR. KENT:
Q I want to make sure I get the quote correct. Who are you? I thought you were trying to help me. This hurts?
A Who are you? I thought you were trying to help me. This doesn't help me, this hurts me.
Q This doesn't help me, this hurts. I don't want to get into your impressions, so don't answer. But you did make a contemporaneous phone call very quickly with Ms. Blazer?
A I did.
Q And Ms. Blazer, whatever emotions or whatever you discussed, you would have discussed that with Ms. Blazer?
MR. JORDAN: It's not about -- I'm confused by the question.
BY MR. KENT:
Q I'm not talking about how you feel. I'm not talking about your impressions from somebody else. But you did have a contemporaneous conversation very quickly with Ms. Blazer?
A It was immediately after.
Q Immediately after?

A Yes.
Q She could testify to your present sense impression and how you were after the conversation with Mr. Meadors?
MR. JORDAN: Now, I am going to object to that as beyond the scope. I think it's asking him to buy into her impressions.
BY MR. KENT:
Q No, I'm just asking, you had a conversation with her?
A Yes.
Q And she -- whatever she can testify to is are her impressions of you?
A I called immediately after the telephone call.
Q And you recalled the conversation with her?
A Yes.
MR. KENT: That's all I have. It's like a law school exam.
THE COURT: Thank you, sir. You can step down.
Folks, we're going to take a brief recess.
MR. KENT: Judge, I'd like -- I see no purpose recalling AUSA Garner. I know they're probably ready to go. If for any reason I need him later, I will contact --
THE COURT: The subpoena was for the entire week, but I understand we're limited by the scope.
MR. KENT: You understand?
THE COURT: Yes, I understand.

THE COURT: All right, folks, we're going to take about ten minutes.

(WHEREUPON, a short break was taken.)

THE COURT: Yes, sir.

MR. KENT: I would recall Cameron Blazer.

THE COURT: All right.

CAMERON BLAZER,

after previously been sworn, testified as follows:

DIRECT EXAMINATION

BY MR. KENT:

Q I'm calling you specifically in response to testimony given by AUSA Ben Garner?

A Okay.

Q Mr. Garner testified that he called you immediately after the phone call with John Meadors?

A That is what he told me.

Q Do you remember that phone call? Do you remember talking to him?

A I do.

Q How long have you known AUSA Garner?

A Probably three or four years.

Q Do you know his personality?

A Yes.

Q Have you talked to him personally as well as professionally?

A I have.
Q Do you know when he's happy, mad, sad? Can you tell his emotions?
A Yes, I mean --
MR. FINNEY: Objection, Your Honor, calls for speculation.
THE COURT: I think she said she knows that, so she's not speculating. So that's overruled.
BY MR. KENT:
Q So you know him personally?
A Yes, we have talked not only about work, but about personal things.
Q And that being said, can you describe his temperament and how he was when you talked to him on the conversation after he talked to John Meadors? His personality, his temperament? Was he happy, sad, angry?
A I just want to make sure --
MR. FINNEY: Your Honor, I object to this question.
MR. KENT: Present sense impression, Your Honor.
THE COURT: I think you can ask her any specific characteristics she observed.
BY MR. KENT:
Q Ms. Blazer, do you need me to repeat the question?
A Yes, I wasn't sure if you were asking me generally about his personality or that day, so if you would, just

restate the question for me.
Q That day, was there anything specific based on your knowledge of AUSA Garner personally and professionally --
A Yes.
Q -- that you remember about the way he acted as a result of the conversation with Solicitor John Meadors?
A Yes.
Q What was that?
A I would say that he was -- the colloquial term I would use is rattled, which is not his norm.
Q What do you mean by that, that is not his norm?
A He's a very --
MR. FINNEY: Objection, Your Honor.
THE COURT: What's the basis?
MR. FINNEY: Again, calls for speculation. We're having this witness attempt to describe these personality traits.
MR. KENT: What we're trying to do is get to the basis of the truth --
THE COURT: Well, I think if she can talk about how his demeanor is normally versus how it was that day, I think that's fair game.
MR. KENT: I think that's what she is doing.
THE COURT: Okay.
BY MR. KENT:

Q With the Court's description on how you can testify, can you testify to that?
A Yes, I would say that Mr. Garner is generally -- my perception of him is that he is very easy to deal with, very easygoing, very congenial. And he was distressed when he called me.
Q Distressed about what?
A Distressed about his phone call with Mr. Meadors.
Q Did he express to you the statement that John told him, Who are you? I thought you were trying to help me. This doesn't help me, this hurts?
A He did.
MR. FINNEY: Objection, Your Honor.
THE COURT: Mr. Kent, you believe this is a present sense impression?
MR. KENT: Yes. It was immediately and was during the stress of the situation. She knows him personally. She knows the details of the conversation. The witness directly testified as to it. What's even more interesting is the solicitor's office elicited the same information and the same testimony out of AUSA Garner. The only reason he was not allowed to testify to it is because the federal government didn't want to get into that point. I directly asked AUSA Garner if he had conversations with Ms. Blazer --
THE COURT: Well, the presence sense impression is a

statement describing or explaining the event or condition made while the declarant was perceiving the event or condition. I think you've made your point. I mean, the fact -- she doesn't need to reiterate what Mr. Garner said. She said he was upset. I -- the point's made.

BY MR. KENT:

Q Did he, also, express to you that he was deeply concerned?

A Yes.

MR. KENT: Thank you.

THE COURT: All right. Anything --

BY MR. KENT:

Q Did he use the word gravely concerned?

A I don't recall that word. He was excited and concerned. I remember thinking -- saying and thinking to him that he was a little naive because he asked me does this kind of thing happen --

MR. FINNEY: Objection, Your Honor.

THE COURT: Okay.

MR. KENT: No more questions.

THE COURT: No more questions.

Anything in response?

MR. FINNEY: No, sir.

THE COURT: Ms. Blazer, you can step down.

MR. KENT: I ask that she be released from her

subpoena. She's got kind of a big docket.

THE COURT: I'm sure she's got other things she'd rather be doing. So she is released.

THE WITNESS: Thank you.

THE COURT: All right. Mr. Kent.

MR. KENT: Your Honor, at this point in time, I'd call Summer Roberts.

THE COURT: Ms. Roberts, please, come forward.

SUMMER ROBERTS,

after being duly sworn, testified as follows:

THE CLERK: State your name for the record and spell your last name, please.

THE WITNESS: Summer Roberts, R-O-B-E-R-T-S.

MR. KENT: Your Honor, before we begin, during some of the testimony from some of the last witnesses, we talked about 302 for Tyrell Billups. At this point in time, out of an abundance, I would like to mark this 302 for identification purposes or as a Court's Exhibit.

THE COURT: Just as a Court's Exhibit for purposes of this hearing. It's certainly relevant.

That will be Court's next.

(WHEREUPON, Court's Exhibit No. 3 was marked for identification.)

DIRECT EXAMINATION

BY MR. KENT:

Q Will you state your name for the record, please?
A Summer Roberts.
Q Summer, where do you work?
A The Kent Law Firm.
Q And what do you do for us?
A I'm a paralegal at Kent Law Firm.
Q You're, also, our trial paralegal?
A Yes, that's correct.
Q As a trial paralegal, what are your responsibilities?
A Getting all of the discovery together and putting together our trial notebooks and prepping for trial.
Q You've heard and you've been in here during the course of this information and I don't have a lot of questions for you. You heard me talk about yourself and Mr. Furse coming to the solicitor's office and getting this stuff?
A That's correct.
Q Can you tell us what happened with you and Jack, what y'all did?
A Myself and Jack came up here on Friday before the original trial to go through the solicitor's file to make sure we weren't missing any discovery. And it was brought to our attention that we were missing a good bit.
MR. KENT: I'd like to mark this, also, as a Court's Exhibit for purposes of this hearing. I think I've already given you a copy of the discovery list, Your Honor.

THE COURT: You have.

MR. KENT: I gave a copy to the solicitor's office as well.

(WHEREUPON, Court's Exhibit No. 4 was marked for identification.)

BY MR. KENT:

Q Summer, I'm going to show you Court's Exhibit No. 4. Do you recognize that?

A Yes, I do.

Q It's actually a document you created?

A Yes, it is.

Q Can you tell why you created it and when you created it?

A I created this yesterday. It is a list of all the discovery received and when we received it.

Q Summer, have you had an opportunity to look through that list?

A Yes, sir.

Q Did you compare and look at the dates on that list?

A Yes.

Q And you went through that list with Mr. Furse?

A Yes.

Q As well as myself?

A Correct.

Q And you looked through the discovery that's checked?

A Uh-huh.
Q Would you say that list is correct on when our office received the discovery?
A I believe so.
Q Do you believe that list is correct on the later dates in which discovery was received?
A Yes.
Q So first, I want to talk about everything from discovery received Wednesday, May 27th, 2020?
A Okay.
Q How many pages is that, can you tell the Court?
A Seven pages.
Q As a result of receiving discovery, you have been with our office before as we prepare a legal defense for trial?
A Uh-huh.
Q Is that a yes?
A Yes.
Q You have attended numerous trials and prepared for numerous trials?
A That's correct.
Q Would you agree with me that one of the things we do is when we get the discovery, we go through and have a discovery evidence trial strategy meeting?
A Correct.
Q Would you agree that we determine trial strategy based

upon that?
A That's correct.
Q Would you agree with me that when I left the State of South Carolina the week before trial, we had had that trial discovery strategy meeting?
A Yes, we had.
Q And we came up with our strategy for trial?
A Yes.
Q After that point in time, tell me about the conversation I had with you and Mr. Furse about going to the solicitor's office and getting discovery -- or not getting discovery, but why were y'all going?
A We were going to just look through their file to see if we were missing anything.
Q And what happened?
A We found out that we were missing several photos, documents. We were missing discovery.
Q And you went through -- before you went to their office, did you go through our file to make sure we had everything that they told they had sent?
A Yes.
Q When you had the conversation with the solicitor's office, did they acknowledge that they had not given us this information?
A Yes.

Q Is that a yes?
A Yes.
Q How much information was it?
A We were missing --
Q You can count through the pages.
A Oh, goodness. We were missing, at least, two pages of stuff.
Q Two pages of discovery or just two pages --
A Sorry, two pages of discovery worth of things. I mean, we were missing thousands of photos, lieutenant reports.
Q SLED reports?
A SLED reports, DNA reports.
Q Were you given all that information?
A We were given it that day, yes.
Q And during that weekend, did you work to get everything uploaded to our system?
A I did.
Q What is the name of our system?
A We use CLEO and Trial Pack (ph).
Q Did yourself and Mr. Furse and Ms. Goff (ph) work to get it all in so I could look at it over the weekend to be prepared for trial?
A Yes, we did.
Q After that point in time, did we receive any more discovery?

A We have.
Q What else did we receive?
A We have received -- I know for a fact we received a body diagram. We received Tyrell Billups' 302, a CD with his interview. There were anonymous tips that we received and a couple crime scene sketches.
Q You mentioned a body diagram. Are you aware of the date we received that?
A I believe we were sent it on the 18th.
Q And that would have been --
A Of September of this year.
Q September 18th, we received that?
A Yes.
Q And what about that Tyrell Billups' CD and Tyrell Billups' 302?
A I can't recall the date off the top of my head, but referring back to my notes, it was August 21st of this year.
Q Anything else after?
A We, also, received the anonymous tip information that you all discussed on September 1st of this year.
Q Summer, talking about the meeting that we had to go over and get ready for trial, new discovery kept coming in so we had to keep having meetings?
A Yes.
Q As a trial paralegal, how difficult is it and

prejudicial to prepare a meeting with a client to prepare for trial?

A It's very important.

Q After every time we recover stuff, is it required to go visit with the client and go over it with him again?

A Yes, we would.

Q We had consulted and talked to experts on this case?

A Yes.

Q At extended costs?

A Yes.

Q And those costs and expert opinions, would they not consistently change?

A Yes, we kept having to supplement.

Q Why were we supplementing?

A Because we kept getting new discovery.

Q Summer, I want to make sure it's clear, you are responsible for the discovery at Kent Law Firm?

A Yes.

Q You are one of the paralegals?

A One of the paralegals, yes.

Q And is your testimony substantially similar to the information that you got and when you got it?

A Yes, sir.

Q And one of the things that we have is when the solicitor's office sends us what's called a Rule 5 sheet.

Do you have know what that is?
A Yes, I do.
Q What is that?
A It is called a Rule 5 sheet. It has all of the discovery that they have turned over to us.
Q And that's one of the --
A At that time.
Q And that's one of the things that you would go over?
A Yes.
Q And when you went through that, all the stuff from August and so forth was not in there?
A It was not.
Q When you went to the solicitor's office, did they express concern or any explanation on why that information was not turned over?
A They did seem very concerned.
Q They were concerned?
A Yes.
Q There was not a question of we may have had it, though? Was there any question that it was not turned over?
A Not to my knowledge.
Q Talking about the Tyrell Billups' 302 and the CD, were you ever explained where that came from and why they were turned over later?
A I believe they stumbled upon it in their file.

Q The CD?
A Yes.
Q That it was in the file somewhere?
A Yes.
Q And then when you and Jack went to the office in August and you were shown the file with all the information, were you concerned about the CD and the anonymous tips on that day?
A Yes, when we found out that they had them.
Q Did they ever explain where those anonymous tips came from or anything of that nature?
A I'm not sure off the top of my head.
Q Did you have the opportunity to read through the anonymous tips? Don't you read through the discovery as well?
A Yes, we read it as it comes in.
Q So one of your responsibilities is to read through all the discovery?
A Yes, sir.
Q And in reading through the discovery, did you, also, notice new defenses that possibly could come up?
A Yes.
Q Which took us to another angle?
A Yes.
Q Thank you, Summer. Have I given you an opportunity to

answer all of my questions?
A You have.
Q Is there anything you want to add to your testimony or anything that I've tricked you or anything of that nature?
A No, sir.
MR. KENT: Thank you. Answer any questions the solicitor may have.
MR. FINNEY: Nothing, Your Honor.
THE COURT: Thank you, ma'am. You may step down.
MR. KENT: That would be the extent of my -- actually, let me make sure.
(Pause.)
MR. KENT: Your Honor, that would be the extent of what we would present for the motion. I know the Solicitor hasn't had an opportunity to respond to anything I have said.
THE COURT: Well, certainly, need to give the State an opportunity to present any witnesses they may have.
MR. FINNEY: Well, quite frankly, Your Honor, I might take this opportunity to ask the Court to consider whether or not the standard had been met for relief that Mr. Kent is seeking. My understanding is he has to prove -- there has to be a bad faith showing that the State intentionally and willfully withheld information or that the police withheld information for a case to be dismissed.

I understand that Mr. Kent has shown some information that leads the Court to believe that certain information was not turned over in a timely fashion. However, obviously, we probably need to call a witness to establish certain dates and times.

As far as this case is concerned, State vs. Epps, the Court should be aware that there were other people charged in the Hop-In shooting investigation and that discovery was going out and the trial did happen in a coordinated effort to move the parties that had been charged.

One of the things I think this Court would be aware of should you need additional testimony is that one of the prosecutors, Mr. Meadors, who was integral in preparing the first trial in the Hop-In investigation, was no longer in the office by December of '22, just a short time after the first defendant was convicted.

There is law that we believe says that when the police fails to turn over evidence to either party, the extraordinary remedy of dismissal should only be granted when the authorities act intentionally and in bad faith. Even if the Court agreed that recklessness in failing to preserve evidence could be sustained, the record here contained no proof that the investigation was a product of more than mere negligence. That's State vs. Reaves, 414 S.C. 118. We believe that the standard that the Court would

need to hear is bad faith. To grant the motion that Mr. Kent has made has not been met by the three witnesses.

We do believe that there has been an effort to turn over everything as soon as we discovered it. There has been a change in the prosecutor that was assigned to the Hop-In cases. Mr. Corbett did assist on the first Hop-In case. He took over the lead with Mr. Meadors left. Now, I am assisting him in getting Mr. Epps to trial.

We have provided every document that we think we were entitled to provide over a month ago. Certainly, there may have been one or two things. The chart that the doctor provided, it was provided by the doctor to us and we turned it over as soon as possible.

We don't believe that the Court should grant it because there's been on prejudice. We're starting this case tomorrow morning. Mr. Kent will have had everything for a substantial amount of time.

What a lot of the witnesses that testified today didn't know is that Tyrell Billups probably never saw the video that the jury in this case is going to see. And the video in this case is clear that Mr. Epps was at the Hop-In, that he did not react to Mr. Rodgers. He initiated the punch. He initiated the pulling of the weapon and the shooting of his weapon at Mr. Rodger. And I don't think Mr. Billups has anything to know about that and I don't think he was aware

of that. Mr. Billups had his own mountain that he was trying to climb. He had already given one statement and said I don't know anything about this at all. And now, he's in federal trouble trying to reach out and get a deal.

The characterization that Mr. Meadors took information from the AUSA and said something to the effect of "that doesn't help me" is only a characterization. It does not mean and it has not been shown that Mr. Meadors didn't turn around at that time when he received that information and provide that information to the defendant that he was working on. Joquell Myers is the name of that case, and that information was turned over. Mr. Corbett taking up the case of Mr. Epps found out once he got his hands on the file that certain information like that needed to be turned, that 302, and it was as soon as we found it out.

THE COURT: Let me ask this question, there's been talk of a disc that contained -- was that made in relation to the creation of the 302 or what --

MR. FINNEY: My understanding is that the 302 was provided by the FBI agent after the interview.

THE COURT: Right.

MR. FINNEY: But what happened was a local Sumter County investigator was brought in to go to that interview and he recorded it.

THE COURT: That's the May --

MR. FINNEY: That's the second one.

THE COURT: Right.

MR. FINNEY: The May '22 interview was recorded. That officer put it on a disc and put it in the case file and that's what Mr. Meadors called and found out was available and turned over to the defense team that was working the Joquell Myers case. When Mr. Meadors left the office, he did not know that we needed to turn that same disc over on the Epps case. That's where the disconnect happened. When Mr. Corbett found out that the disc had not been turned over, we turned it over. And as soon as I got the 302 in written form, we provided that.

Your Honor, we stand ready to call Mr. Meadors as a witness if you feel like you need to talk to him. We stand ready to call Investigator Willie McFadden to talk about the disc and how that came about. But the witnesses are correct, she was -- this lady was here looking for somebody who was connected with the case. There was nobody connected to the case. The guy that was sent in happened to come with a recorder and he recorded it and, therein, started the chain you've heard about.

THE COURT: All right.

MR. FINNEY: Thank the Court for its time.

THE COURT: Mr. Finney, I'll defer to your judgment on whether you want to call any witnesses or not. I don't feel

like it's the Court's role to suggest any course of conduct in response to or in making a motion. So if the State is satisfied with what's been presented.

MR. FINNEY: Well, I guess I was making a directed verdict motion, basically.

THE COURT: Right.

MR. FINNEY: If the Court feels like it's not proper at this time to make a ruling on the issue, then I would like to call a witness.

THE COURT: All right, Mr. Finney, call any witness you see fit.

MR. FINNEY: I call John Meadors.

THE COURT: All right.

JOHN MEADORS,

after being duly sworn, testified as follows:

THE CLERK: Thank you. Have a seat. State your name for the record, spelling your last name, please.

THE WITNESS: John Meadors, M-E-A-D-O-R-S.

DIRECT EXAMINATION

BY MR. FINNEY:

Q Good afternoon, sir.

A Good afternoon, Solicitor.

Q Mr. Meadors, how long did you work for the Third Circuit Solicitor's Office?

A I believe it was 11 and a half years, sir.

Q And when did you leave employment at the Third Circuit?
A Officially, I think December 19th of 2022.
Q And what was the last case you tried for the Third Circuit, if you remember?
A I, actually, tried a city case --
Q For the solicitor's office?
A Okay, prior to that, I believe it was a drug trial. I can't remember the defendant's name right now.
Q Did you try the case of Joquell Myers?
A Yes, sir, that was a case before that one I had tried.
Q Was it related to the Hop-In shooting in Sumter in 2019?
A Yes, sir, it was.
Q And did you handle the process of getting paperwork, discovery ready and turned over to the defense team in that case?
A Along with the help of Daniel Caufield (ph) and Ms. Onette, yes, sir.
Q All right.
A Ms. Onette Weeks, excuse me.
Q All right. At the time that you left the solicitor's office in 2019 --
A '22.
Q -- were you in charge of getting ready the State vs. Epps case that Mr. Kent is involved with?

A No, sir.
Q Do you know what the state of the discovery was at that time in terms of the Epps case?
A No, sir.
Q All right. Did you receive a phone call from Assistant U.S. Attorney in Charleston, I believe, in reference to the Hop-In case and a man named Tyrell Billups?
A I received a phone call, I thought it was from Columbia, it may have been Charleston, but --
Q I'm sorry, it may have been Columbia.
A From a U.S. Attorney. I don't, at the time, remember the name he was calling about, but, yes, I did receive a call from a U.S. Attorney, yes, sir.
Q Do you know U.S. Attorney Garner?
A I have met him today for the first time. I did not know him before that.
Q Would you tell the Court the recollections you have from conversation you had with the AUSA Garner regarding Mr. Tyrell Billups?
A And, again, the name Tyrell Billups, I didn't really remember at the time, but I think he had called me, Mr. Garner, and said he had some potential information on the Hop-In case. He said, I don't know, to the effect this may or may not help you. And he mentioned a name, which I don't remember. And I remember saying, Well, that's inconsistent

with what's on the video. Have you seen the video? And I don't think he had.

I'm not familiar with 302s, but he may have said he had a 302 or a statement, I'm not sure. And I said okay -- I asked him to please look at the video before y'all interview anybody anymore and probably was a little frustrated, quite frankly. He said, I think, do you want the statement? And I said, I'll get it through our locals. I'll get it through Mr. McFadden. Because I didn't know who was out there, who was interviewing who involved in the Hop-In case. Apparently, some of the federal authorities were interviewing people. But I said I would get that statement through the local law enforcement.

Q At any time, was Mr. Billups, Tyrell Billups charged in any way in the Hop-In matter in 2019?

A Not that I remember. It seemed like there was a statement from a Billups prior to that, but I don't think so, no, sir.

Q When you got the call from Mr. Garner, was it a long detailed call or a short, professional call?

A I think it was short. It was shorter, yes, sir.

Q All right. And I believe I heard you say just now that you might have felt frustrated or upset about it?

A Not upset, but anytime if your case is going on and somebody comes in and you find out about a statement, not

frustrated, but I said well, okay -- I just asked him to please look at the video. I didn't know how many interviews were going on. And I said we would get discovery through my local person, which is McFadden. Because he had told me that some of the local law enforcement agents were with the federal agents when they interviewed him.

Q Did you reach out to Mr. McFadden, the investigator in Sumter County?

A I talked to him several times about this. Then prior to the co-defendant, Joquell Myers, going to trial, I asked Danny Caufield and Mr. McFadden if they'd please get -- I said, I think the feds have been interviewing folks, please, get everything we've got from the feds. They got some tapes and all that were delivered over to Joquell Myers' attorneys, which I think included the information that had been conveyed to us by Mr. Garner.

I never listened to it, never looked at it. It was not relevant to that trial and the information they provided was inconsistent with what I knew about the case. But prior to Joquell Myers' trial, we did get it or I requested we get it and turn it over to Mr. Myers' attorney.

Q To your knowledge, did you ever use Mr. Billups as a witness?

A I do not believe so.

Q Did the defense in the Joquell Myers' case use Mr.

Billups as a witness?
A I do not think so, sir.
Q In your review of the video, was there good video that was used? As a result of the Hop-In shooting, was there video available for the State to use?
A Yes, sir.
Q And did you use it?
A Yes, sir.
Q Did you ever tell Mr. Garner to send you -- did you request the 302 be sent to you?
A I think I told him I would get it through our local folks who were working with them, that's what I told him. He may have said do you want it and I said I'll get it through our local folks. I'll get it that way.
Q To your knowledge, did you make an effort through your investigating team or the local sheriff's investigator to get whatever information he was calling you about?
A It was around the solicitor's conference time, I can't remember, and we were preparing for it. At some point, I think prior to that, I'm not sure, but in that time period, about a year ago, actually, I asked Danny Caufield with your office and our office to get with Investigator McFadden and get all the interviews there were that had been conducted with the federal authorities, whatever they were, let's get them and put them on a disc or whatever and let's turn them

over.

Q Did you have any motivation not to turn over the 302 information to any of the defendants that would have requested it and been entitled to it?

A No, sir. Joquell Myers' attorneys, Mr. Warr and Mr. Young, had filed a speedy trial motion. We were going with that in trying to -- he was incarcerated. So, obviously, the discovery was going to them. Throughout the process, I think we were given -- I, also, asked -- I said, Let's get it to Shaun Kent, also, as we're going through those last few months. So that was the intent to do that.

On this specific, no, at that point, that evidence was going straight to Mr. Young or Mr. Warr to my knowledge. It was in our possession then. We didn't use it. So no, it was not the intent not to give that to somebody else. I mean, it really would make no sense. It really didn't even hurt us. Exculpatory, clearly, they were entitled to it, but there was no reason that would have been intentionally withheld. I mean, it just wouldn't make any sense to do that.

So at that time, the case we were going against was Joquell Myers and that's what we were trying to get any potential federal interview -- which we didn't know -- I remembered that conversation, I guess, and that's why I said go out there and get what they got. And that's what was

turned over.

MR. FINNEY: Beg the Court's indulgence.

THE COURT: Yes, sir.

(Pause.)

BY MR. FINNEY:

Q Did you at any time intentionally withhold exculpatory information from the defense lawyers that were representing Mr. Epps?

A No, sir, I would not do that. Actually, during the Joquell Myers' case, Shaun Kent was actually representing one of our victims in addition to representing Mr. Epps, a Michael Lucas. And during that trial, we were having a conversation with Mr. Kent, I think you were involved, also, about getting Mr. Lucas to testify. We talked to him. We talked about his father. We talked to his father, also. All working together on the case against the witness that we were going to call in Joquell Meyers. So we were having a conversation with Mr. Kent about that. Clearly, I had no reason to withhold anything from him.

Again, the speedy trial motion was with Mr. Young and Mr. Myers. And that's who this, I guess, if you will, the information that was turned over went to him at first. I may have assumed it went to Shaun at that point, I don't know, Shaun Kent. But no, we were working there together on that case. There, clearly, would be no intent and there was

no intent on my part to withhold any exculpatory. I've never done that in my career and I would not do that.

Q How long have you been a --

A 34, 35 years.

Q You know what bad faith is?

A Yes, sir.

Q And withholding information that is exculpatory from the defense, is that a sign of bad faith?

A If that's intentionally done and you knew it and you don't turn it over and that was your plan, potentially, I don't know. But I've never done that and would not do that.

Q In your 30 years you've been a prosecutor, have you ever had a case where you've been able to turn over every piece of discovery in a timely fashion and not have to call someone on the defense team at the last minute and say hey, I've got something here I don't think you've got, here's a copy coming to you?

A That happens a lot and it happened over my 35 years a lot where there has been last minute discovery. I've never, ever had an issue with an attorney. I always had attorneys, quite frankly, call me if there was something. But in this case, it clearly was in my mind gotten from McFadden, turned over. Of course, all due respect, I wasn't here when this second process went through. I think it was in our possession, may not have known it was in our possession at

that point. But there was no reason and I, clearly, would not withhold that from defense counsel. I'm quite really surprised Shaun Kent didn't call me and just ask me about it.

MR. FINNEY: Mr. Meadors, thank you for being here today.

I pass the witness, Your Honor.

CROSS-EXAMINATION

BY MR. KENT:

Q Mr. Meadors, AUSA Garner e-mailed a statement to you. Do you remember (undiscernible)?

A Sure.

Q You said that conversation left you frustrated?

A I was a little bit frustrated they interviewed witnesses I didn't know about, a little bit, yes, sir.

Q And frustrated, you were talking about interviewing witnesses and things on your case?

A On the State's case, yeah, but that's not unusual. I've been frustrated. I'm sure you have in your line of work.

Q AUSA Garner discussed the fact that y'all had this conversation, he did not mention that you stated, whatever you said about inconsistent with the video?

A I'm not following you.

Q You stated that when you were talking to the AUSA and

he told you about the conversation, you said, Well, that's inconsistent with my video evidence?

A I remember saying that, I do, yes. And I remember asking him, Have you looked at the video?

Q And he made the statement that you stated, Who are you? I thought you were trying to help me. This doesn't help me, this hurts. Do you remember that conversation?

A I don't remember that exactly, but that may be the frustration I was talking about. I don't know if he called and said this statement and I said well, that's -- that kind of corroborates my thing about the video, that I would have told him that this was inconsistent with the video. But I never -- that may be the frustration that he got from what I said, but, yes.

Q And if that statement is attributed to you, you can understand how the federal government would attribute that negatively from a prosecutor? Who are you? I thought you were trying to help me. This doesn't help me, this hurts?

A I don't remember saying who are you. I just don't remember specially saying that. That's not something I would usually say. I remember being frustrated with him and saying this is inconsistent with the video, but I understand, thank you. And at that point, he said, Do you want me to send it to you? I said, I'll get it through our locals. Thank you. That's what happened, Shaun. That's

just the way it was.
Q Going back to my question, you understand if that statement is attributable to you how the federal government could take that statement as negatively?
A I can't say how the federal government would take anything, but yeah, just talking person to person -- say the statement again.
Q Who are you? I thought you were trying to help me. This doesn't help me, this hurts.
A The first part doesn't sound like me, the way I talk. I can say the statement is inconsistent with what I've said. Yeah, it probably hurts the case, I may have said that, but I don't know that my intent was -- like I said, I was frustrated a little bit, but it had nothing to do with -- intentionally, I would never withhold anything. And I specifically told him I'll get it from the locals, who, apparently, were working with him. And I think we, ultimately, did do that.
Q And Attorney General Meadors, absent that conversation, since you've been gone so long, it would be unfair to ask you questions about what happened with the discovery, correct, because you didn't do the discovery, you were gone?
A Oh, after I left, clearly, I wasn't involved in it.
Q It would be unfair to ask you -- or maybe I will, do you know if you got 302s from Officer McFadden, Agent

McFadden?

A What I knew was -- my understanding was we got an interview from whoever was the liaison with the Sumter Police Department that was working with the feds that had interviewed Mr. Billups and the sum and substance of what was in the 302 was in that audio recording that whoever from the Sumter Police Department had made. It's my understanding that was on there. And that information we got is what I told Mr. Garner I'd do, I'll get it from the locals. And we did that through Caufield and McFadden. And that was, I think, in our possession whether we knew it or not and that's what I understood went to Mr. Warr and Mr. Young.

And then after I left -- I know I tried to talk to y'all a couple of times about maybe resolving it before I left, we didn't do that. After I left, the next time I saw you was down in Walterboro when you came and hugged me and said you're going to do a great job in this closing. That meant a lot to me, the day before I closed. And then the next time I saw either one of you was Mr. First at the Carolina Cup at the Palmetto State tent and he came up and hugged me and said some nice things.

So other than that, as far as answering you -- as far as discovery from that point, whether you got it, I don't know. It's my understanding you got it a couple -- a month

or so ago when the case was continued, so you had it -- I don't know if Mr. Billups is on your witness list or not, but I know you had it then. But I never, would not intentionally withhold anything.

Q Do you know if it was turned over, the 302? When you got it, was it turned over to Mr. Epps?

A I don't know. I know the substance of it -- if I could answer --

Q Just answer the question.

A My answer is I know the substance of what was in the 302, it's my understanding, was in the audio recording, which said the same thing the 302 said. So that was turned over to Mr. Myers. Whether you got that prior to the continuance, I don't know.

Q You don't know?

A Yeah, I don't know.

Q And that's what I was saying to you originally, there's a lot of questions you can't --

A Yeah, because I wasn't -- but then I understood you got it then at that hearing. But I have not done anything intentionally and I wish you would have just called me, quite frankly.

Q I should have called you, but how would I call you to talk about information I don't have?

A No, when you found out about it, just call me. I

didn't know about it.

Q You're saying that you wish our office would have called you to ask --

A No, I didn't, I said I wish --

Q -- about something we don't know about?

A No, when you found out about it and we can say this had happened, that's what I'm saying. And it was, actually, during the Michael Lucas trial when you were representing Mr. Lucas and Mr. Epps and somebody else, too --

Q You're trying to make subtle jabs --

A I'm not, but what I'm saying during that conversation, you said you'd be my lawyer --

THE COURT: Mr. Kent, hold on. We can't all talk at the same time.

MR. KENT: Well, Judge, it's very clear what he's trying to do. He keeps trying to make these little subtle jabs and so forth. If I ask a question, then he can --

THE WITNESS: I'm trying to say we could communicate back and forth --

THE COURT: One person at the time.

Ask a direct question, let him answer it. If you believe it's nonresponsive, you can bring that to my attention. But it's impossible for this lady to do her job if more than one person is speaking at a time.

THE WITNESS: And, Judge, my direct response to his

question about --

MR. KENT: Judge, he's a witness, not a lawyer right now.

THE COURT: Ask a question, Mr. Kent.

Mr. Meadors, I promise I'll give you an opportunity to explain your answer.

BY MR. KENT:

Q John, with the exception -- I'm sorry, Attorney General Meadors, with the exception of the beginning of the statement, Who are you -- you don't believe you spoke in those terms to AUSA Garner, Who are you? I thought you were trying to help me. This doesn't help me, this hurt. You're not denying saying all of that statement, just you don't remember saying anything such as, Who are you?

A No, I'm not admitting to those exact words at all. No, I'm saying I was frustrated. I said, Yeah, this may not help the case. It's inconsistent with the video. I remember being frustrated and I remember saying yes, I'll get it from the locals. Yes.

And the question that he asked earlier about why would you expect me to call him is what I was trying to respond to, Judge. And it was during the conversation with Michael Lucas and his dad when he said if I was in trouble, you'd be my lawyer. If you were in trouble, you'd be my lawyer. And that's why I said yeah, I thought you would have called me

after that conversation. I'm just shocked with the relationship we had that you'd do that.

BY MR. KENT:

Q Anything else, John? If you want to talk, talk.

A Yeah, I'm really surprised. This isn't the way my grandfather practiced and I'm surprised you're doing this.

Q I'm not your grandfather.

THE COURT: Let's ask direct questions --

MR. KENT: Judge, I'm trying and for some reason, he wants to testify.

THE COURT: Well, anything else you want to say is not necessarily a focused question. So let's remember the purpose of this hearing. If you've got any more questions, let's ask them.

MR. KENT: No, I don't. I don't need to hear that rambling.

MR. FINNEY: Nothing further, Your Honor.

THE COURT: You can step down.

Mr. Finney.

MR. FINNEY: If it please, Your Honor, just a few questions for Detective Willie McFadden.

THE COURT: All right. Detective McFadden, please, come forward, sir.

WILLIE MCFADDEN,

after being duly sworn, testified as follows:

THE CLERK: Have a seat, please. State your name for the record and spell your last name.

THE WITNESS: Willie McFadden, M-C-F-A-D-D-E-N.

DIRECT EXAMINATION

BY MR. FINNEY:

Q Detective, where do you work?

A At Sumter Police Department.

Q How long have you been there?

A Since 2014.

Q And are you in charge of major crimes investigations?

A I work under violent crimes, yes, sir.

Q Do you have lead role in the Hop-In shooting investigation?

A That is correct.

Q That happened in September of 2019, I believe?

A That's correct.

Q Have you been working the case since that time?

A Yes, sir.

Q Do you recognize the name Tyrell Billups?

A Yes, sir.

Q Was he charged in any way in any events that took place in 2019 at the Hop-In?

A I don't believe so.

Q And as a result of working the case, did you have occasion to charge Joquell Myers?

A That is correct.
Q Did you have occasion to charge Diontrae Epps?
A That is correct.
Q And those are separate cases, but they occurred on the same night?
A That is correct.
Q There was more than one victim that night of gunshot?
A Yes, sir.
Q Did the Joquell Myers case go to trial last year in September of '22?
A Yes, sir.
Q Did you testify in it?
A I did.
Q Did you help get the solicitor's office ready in terms of the reports, photographs, everything that was done?
A Yes, sir.
Q Are you doing the same thing this week, getting the solicitor's office ready for the Epps' case?
A That is correct.
Q Did you have occasion to know that Tyrell Billups was talking to federal authorities about his role in what he was doing in Sumter County that led to him getting arrested?
A Not until recently, last month, I believe, whenever they had the hearing.
Q Did you ever go to either one of the two interviews

with the FBI agent and the local Sumter County people when he was talking and giving information?
A No, sir.
Q Did you happen to learn that an officer on your team went to a May 2022 interview with Tyrell Billups? I think his name is Roberson?
A Michael Roberson.
Q Did you send him to that interview?
A I think the department sent him because I was unavailable at that time.
Q Do you know if Mr. Roberson recorded the interview that he went to with Mr. Billups?
A Yes, he did.
Q And how did you learn that?
A He provided a disc with the recording.
Q And that disc went where?
A It went with the case file.
Q Did anybody from the solicitor's office contact you to get a copy of that disc before the Joquell Myers' trial?
A I believe Investigator Caufield came over to the police department and got a copy of the disc or I even brought it over. We've been back and forth.
Q So that disc was provided to Joquell Myers' lawyer?
A That's correct.
Q Did you know whether or not that disc was provided to

the team Mr. Kent represents?
A I do not know.
Q But that disc was made available back in 2022?
A That is correct, yes, sir.
Q So if it wasn't provided to Mr. Kent until last month, do you know any reason that it would have been intentionally withheld?
A No, sir.
Q Do you know if Mr. -- were you working on the Epps' case last year in 2022? It was still an open case, right?
A Yes, sir.
Q Do you know who was assigned the case in 2022?
A I still was assigned to the case.
Q From the solicitor's office?
A That was Solicitor John Meadors.
Q And did Mr. Meadors leave the office at some point after the Joquell Myers' case?
A That is correct.
Q He doesn't practice law in the Third Circuit any longer?
A Not to my knowledge.
Q And who have you been working with in terms of the solicitor's office on the Epps' case for the last several months?
A With Assistant Solicitor Jason Corbett along with you.

MR. FINNEY: Nothing further. Answer any questions Mr. Kent has.

CROSS-EXAMINATION

BY MR. KENT:

Q Investigator, how are you doing?

A I'm good.

Q I called you investigator --

A It's fine, investigator, detective, it's all the same.

Q You've been sitting in here, so you understand I'm going to go over all these questions?

A Yes, sir.

Q The Tyrell Billups 302, you heard of it? John Meadors up on the stand just now saying he told you to get the 302 or something of that nature and y'all had a conversation about it? Did y'all ever have a conversation about a 302?

A I don't know about the 302 specifically, but in reference to the recording that our detective went to to record, I -- I don't know anything about 302, to be honest with you.

Q Did you ever have a conversation with John Meadors about -- you heard him testify just now?

A Correct.

Q And he testified that he talked to you?

A That's correct, yes, sir.

Q Do you remember that conversation?

A We had a conversation, but I don't think it was in reference to a 302, I think it was in reference to the recording.
Q In reference to the recording?
A Yes, sir.
Q And not the 302?
A Yes, sir.
Q Did he ever come to you and say go get the 302?
A Not to me directly, no, sir.
Q You understand why I'm asking that?
A Yes, sir.
Q It was I talked to Willie McFadden, Investigator McFadden --
A He did, yes, sir.
Q That's not correct, is it?
A What isn't correct?
Q He didn't get a 302 from you?
A No, he didn't get a 302 from me.
Q What local would have had a 302? Not the recorded conversation, what local would have had the 302?
A I can only assume.
Q You said he had to get it from you, that's not possible. You wouldn't have had access to a 302?
A No, sir.
Q So the allegation or this thought that I went to

Investigator McFadden and told him to get the 302 so we could provide it, you would not have had access to the 302?
A No, sir.
Q You're the federal liaison in your department? Don't they usually have federal liaisons that would have gotten these 302s or something of that nature?
A Yes, sir.
Q So through the course of the file, there isn't a 302 or anything in the file that you would have had?
A No, sir, not me.
Q Did you and John Meadors discuss Mr. Epps' case?
A Not in detail, no, sir.
Q Because you testified?
A Yes, sir.
Q Did you discuss the fact that there may be a self-defense angle? Meaning from Mr. Billups?
A No, sir, we didn't discuss that.
Q Did he ever discuss the fact that Mr. Billups provided information that could be inconsistent with our theory of the case?
A I'm sorry, I can't hardly hear.
Q Nobody can't hear me. Did Mr. Meadors ever discuss with you that there was information that Tyrell Billups gave that is potentially inconsistent with our theory of the case?

A I don't remember that conversation.
Q You don't remember that conversation?
A No, sir.
Q So you don't remember if there was a conversation that the federal government has called me about some potential inconsistent information?
A So the federal government -- what was the question?
Q Do you remember if John Meadors told you that the federal government had recently contacted him --
A No, sir.
Q Not at all?
A No, sir.
Q So there wasn't a conversation where Mr. Meadors said the federal government is looking into this case, I'm upset they're interviewing witnesses?
A No, sir. I was advised by another detective that the federal government was looking at this case.
Q And that was not John Meadors, who just testified on the stand?
A That's correct.
Q And that was not John Meadors that had a conversation with you about get this 302, get this information and bring it back, that was from a different detective?
A That is correct.
Q And you testified in the Joquell Myers' case, correct?

A Yes, sir.
Q You provided the Tyrell Billups CD to Joquell Myers' attorney; is that correct?
A I provided it to the solicitor's office and they provided everything to Joquell Myers' attorney.
Q Are you sure? Do you have personal knowledge of that or you're just assuming?
A No, whenever I get the disc, I put it with the case file. And I know for a fact that Daniel called me, Daniel Caufield, the investigator with the solicitor's office, we both been back and forth with each other providing copies and making the whole case file to provide to his attorney. So I know for a fact that they would have had it.
Q And they keep bringing up Joquell Myers', that's a different case from this case today?
A That is correct, yes, sir.
Q You have no concern about what Joquell Myers' got?
A No, sir.
Q Do you know that Shaun Kent got the Tyrell Billups CD?
A I do not know.
Q Okay. And we talked about providing and putting this stuff together and putting it on disc and giving it to me, that, you don't know about?
A I do not.
Q And this is Mr. Epps' trial, not Joquell Myers?

A That's correct.
Q This had nothing to do with Joquell Myers?
A No, sir.
Q Was a 302 given to Joquell Myers' attorneys?
A I don't know.
Q You don't know?
A No, sir.
MR. KENT: Beg the Court's indulgence.
(Pause.)
BY MR. KENT:
Q When you prepare with the solicitor's office for a trial, do you go over trial strategy and defenses? Or do they prepare for testifying and going through the videos and things of that nature?
A Yeah, we try to review everything for trial, yes, sir.
Q I'm not getting into your strategies for this trial. Talking about the Joquell Myers, did y'all go through the video?
A Yes, sir.
Q And y'all talked about the video?
A Yes, sir.
Q Was it ever discussed that somebody potentially said that Mike Rodgers had a gun?
A I don't remember -- well, from the video, you can see that he did drop a gun.

Q And during trial, weren't you specifically questioned by Joquell Myers' attorney over whether or not Mike Rodgers had a gun and fired first?
A I'm sorry?
Q I'll get up closer. Do you remember being questioned by Joquell Myers' attorney about whether or not Mike Rodgers had a gun and, actually, fired first? If you don't remember, you don't remember.
A I don't remember. I can't remember if he asked me about it or not.
Q If the United States of America had come to you and provided information that they believed that Mike Rodgers had a gun, if, I know you don't know this information, would y'all have tried to enhance the video, look at the video and see if you could prove or disprove what the United States of America was saying?
A We did that.
Q You did enhance it?
A Yeah.
Q Was that enhanced video provided?
A I believe so. I believe a copy of the enhanced and the original were both provided.
Q And you were here when the United States of America, when Cameron Blazer testified that the United States of America said they looked at the video and there was some

allegation that they saw Mike Rodgers with a gun --

MR. FINNEY: I object to that.

MR. KENT: I'm just asking if he heard.

MR. FINNEY: I object to that. That's not the characterization of what the witness said. She didn't say anything about looking at the video --

MR. KENT: And he can say --

THE COURT: Hold on. Hold on.

MR. FINNEY: This lawyer is asking the question --

MR. KENT: His name is Shaun Kent.

MR. FINNEY: Shaun Kent is asking for the witness to say something that Ms. Blazer never said about looking at a video. Ms. Blazer never said anything about that.

MR. KENT: Yes, she did, but, Judge, the question is if this witness remembers it. If he doesn't, he doesn't. That was the question. And I think he said he doesn't.

THE WITNESS: I don't recall.

MR. KENT: There you go.

THE COURT: All right. Redirect, Mr. Finney?

MR. FINNEY: Nothing, Your Honor.

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

MR. FINNEY: That's all we have, Your Honor.

THE COURT: I'll give each side the opportunity to give me a brief summary or closing argument as to the issue

that's before the Court.

MR. KENT: Mr. Furse is here, I'll let him make the argument, Your Honor.

MR. FURSE: Thank you, Your Honor. May it please the Court?

THE COURT: Yes, sir.

MR. FURSE: Your Honor, we are here on a motion to dismiss the State's case based on Brady violations and prosecutorial misconduct. And, Your Honor, the law in South Carolina on Brady and what makes a Brady violation was stated very eloquently in the State vs. Gibson case from 1999.

Your Honor, the elements that were stated in that case are these four elements, Your Honor: That for a claim of Brady to be successful, the defendant must show that the evidence was favorable to the accused, that it was in possession of or known to the prosecution, that it was suppressed by the prosecution and that it was material to guilt or punishment. Your Honor, I would submit to you today that all four of those elements have been met by the testimony that has been provided to the Court to this point.

Your Honor, clearly, the evidence in question, which is the statement of Tyrell Billups that was made to federal agents as well as local agents that the alleged victim was armed and presented a firearm prior to the alleged shooting

is clearly and unequivocally favorable to our client, to the Defendant, Diontrae Epps, and it does, certainly, support a self-defense argument. There's no question that that evidence would be favorable to the Defendant. That that statement was made to federal prosecutors would be, certainly, favorable to Mr. Epps.

Your Honor, the next prong is it was in the possession of or known to the prosecution. And, Your Honor, clearly, this prong is met through the testimony of Assistant United States Attorney Ben Garner, who stated that he received the 302, the cooperation document, that he read that document, that he called the solicitor's office and spoke to Assistant Solicitor John Meadors and provided that information to him. And, frankly, the testimony of Mr. Garner would be that Mr. Meadors was not receptive of that information, that he did not want to hear it because it harmed his case.

Further, Mr. Garner, AUSA Garner offered to provide a written summary of that statement known as a FBI 302. That offer was refused by the State of South Carolina, by the Third Circuit Solicitor's Office. It was refused. And it was stated that he would get it on his own. The statement -- the testimony of Mr. Garner, I believe, was Mr. Meadors responded to that statement with, Who are you? What are you doing? I thought you were going to help me, this hurts us. This hurts my case. Your Honor, clearly, the State had

possession of it or knew that it existed, Your Honor, and may have willfully tried to avoid gaining possession of it, Your Honor.

Number three, it was suppressed by the prosecution. Your Honor, our office, this Defendant did not receive the exculpatory, the favorable information until the Defense brought it to the Court's attention after we gained knowledge of it. Your Honor, if that conversation had not happened, we never would have found out about this information, we never would have gotten it. It was clearly, undoubtedly completely suppressed by the State, Your Honor.

And, finally, the fourth prong was that it was material to guilt or punishment. And, Your Honor, in this case, Mr. Epps stands trial for murder, Your Honor. And as we all know, one of the biggest and most important defenses to a murder case is that of self-defense. And that is exactly what Mr. Billups, what his statement offered, was self-defense.

Your Honor, Mr. Billups told prosecutors he was an eyewitness to the actual shooting, that he saw it and that the alleged victim armed himself, pointed and presented a firearm at Mr. Epps prior to Mr. Epps presenting a firearm himself. Your Honor, that is about as material to the case as it can possibly be. So I would submit to the Court that the fourth prong has, also, been met.

Your Honor, the court in Goodson states that intentional -- whether or not it's intentional doesn't factor into a Brady violation, Your Honor, but in this case, we would argue that there was intent. Based on the conversation between Mr. Garner and Mr. Meadors, Your Honor, it's hard to interpret that other than the State didn't want the information. The State claimed the information was harmful to them. The State was offered to be given the information by the federal government, Your Honor, and they refused that invitation. And guess what, we never got it. So it's hard to come up with another explanation as to why we never received it other than intent, Your Honor.

And based on that, we do believe that this is prosecutorial misconduct. We do believe that this is, certainly, a Brady violation. Your Honor, the only remedy that provides any sort of benefit or any remedy that, actually, acts as what the word remedy means is a dismissal. A continuance of this matter does the Defendant, Mr. Epps, absolutely no good as he remains incarcerated. One of the other options of a remedy is to recuse the solicitor's office. That does Mr. Epps no good as he remains incarcerated awaiting trial. Your Honor, the only remedy that provides any benefit to Mr. Epps is a dismissal of the charges he's facing.

Your Honor, that's the only remedy that provides any

sort of sanction whatsoever because anything to deter this type of behavior in the future, Your Honor, is dismissal. Your Honor, that is the remedy we are seeking today respectfully. It's been contentious, but it's important. And, Your Honor, we do respect your time. Thank you.

THE COURT: Thank you, Mr. Furse.

Mr. Finney.

MR. FINNEY: If it please the Court, Your Honor? I'll be brief.

The Brady violation and the four factors that Mr. Furse has just gone over are not met here. Mr. Kent, Attorney Shaun Kent told you in the beginning that he would have gone to trial in August without this evidence, so having it labeled as favorable when he didn't need it to proceed to trial is now a sham argument.

It is not favorable when you have conflicting statements given by the same guy who was in trouble that night and gave statements to law enforcement. Then got into more trouble and he came back later to give the feds an additional story that wasn't based on video. It, certainly, is not supported by the video and is not supported by the first statement he gave that he claimed he didn't know anything about anything.

No question that we as the State had possession of the evidence because our police department had it. We turned it

over to the case that filed a speedy trial motion so that we could meet our obligations there. There's no showing that we tried to keep this information from anybody else. It's just a matter of a lot of information being shared and didn't get shared completely to Mr. Kent and his team. As soon as we discovered that, we shared it.

It would be amazing to me to say that the State intentionally suppressed evidence when we were the ones who accepted their invitation to come to our office and sit down before the trial and look at all the evidence that had been disclosed or not disclosed so that we could make it right. That is our job. We do that all the time. And we're glad to sit down with Mr. Kent and his team any time they think they have something that's missing.

The young lady from his office says there were two pages of stuff missing. On those two pages, there were, she says, thousands of photographs. There were pictures. There was a doctor's diagram. All of this information would have been something that, you know, pretty easily could have been sent over if we knew that he hadn't received it. Some of the stuff was not received by us until we got it and we turned it over when we got it.

So there's no question we had possession of it and there's no question that as soon as we discovered that we had it that we turned it over like we did in the Myers'

case.

Suppression requires an intentional deliberate act. There's no evidence in this case whatsoever that the solicitor's office intentionally or deliberately withheld any information. Yes, we may have been negligent in turning things over because we have multiple defendants in this case and we were operating under an order that required us to do either the speedy trial first or the oldest case first and that's why we've been trying to push it out. Apparently, some of this stuff did not get pushed out, but it certainly did not meet the level and there's no proof of intentional or deliberate suppression.

Was it material to the case? Well, that's going to be up to a jury to decide. And I believe Your Honor can decide the materiality of this 302, which is based on a recorded statement, which was turned over and now, they've had both of these for over 30 days, that the materiality of having had the second statement given by Billups after the statement he gave to the officers at the end of September when the shooting occurred is going to be an issue for the jury. The materiality of it has nothing to do with whether we turned it over or not. It has to do with whether the jury is going to believe it. And they've had time to process it and get it ready for the jury.

We think that the motion for prosecutorial misconduct

failed because Mr. Meadors was a valued employee. He's been an experienced prosecutor and as far as we know, he's never had problems with turning over evidence when it was required under Rule 5.

He has told us that he didn't like the information that he was being given from the federal that day on the phone call because it didn't match with what he already knew in the case on video. So that was the only reason he may have felt some disgust about it because he had worked the case and was aware of the status of the case. And here's a guy saying something to the feds and the feds haven't checked it out. His own lawyer hadn't even read the statement that he gave -- her client gave to the State. The federal prosecutor hadn't read it. Nobody had seen the video.

Anyway, we are doing the best we can to push this stuff out. We understand that we don't always make A's, but we do very well in getting it out in a timely fashion. Mr. Kent didn't want to join the motion in August when we made the motion for a continuance. He wanted to go to trial. We thought it was best to get everything cleared up and try to get it ready so that this week, today we could go to trial and we're ready.

We thank the Court for its time.

THE COURT: Folks, obviously, this is an important decision because what the Defense is asking me to do,

obviously, could impact whether this case will go forward. So because of that and because there is case law that exist and I'm aware of it, but haven't read it all, I'm going to take this matter under advisement overnight and I will decide this particular motion first thing tomorrow morning. Based on whatever I decide, we will either proceed with the remaining pretrial motions or if my decision is favorable to the Defense, then those motions would be moot.

But I'm going to take this matter under advisement to give it a thorough consideration and to read the case law that exist on this issue.

So we will reconvene tomorrow morning at 9:30 and I'll give you my decision then.

MR. KENT: Judge, just for the record, I understand the argument by both parties, please, understand that not just the statement, we, also, are complaining about the delayed discovery, also.

THE COURT: I understand.

MR. KENT: Okay, with the anonymous tips and the other stuff and the stuff we just got this week.

THE COURT: All right. Thank y'all very much.

(WHEREUPON, Court was adjourned for the day.)

TUESDAY, SEPTEMBER 26, 2023

THE COURT: Good morning. I know we've got some --

MR. KENT: We're waiting on the Solicitor.

THE COURT: Okay.

MR. KENT: And Judge, I have one matter before you make a decision.

THE COURT: Okay.

MR. FINNEY: Good morning, Your Honor.

THE COURT: Good morning.

All right. I understand we've got some technical issues we need to work through, but I figured we could use our time on some other matters.

Mr. Kent.

MR. KENT: Thank you, Your Honor. I know we were in the process of the Court going to render a decision on a prosecutorial misconduct motion. At the conclusion of the prosecutorial conduction motion, as you are aware, the solicitor's office called former Assistant Solicitor John Meadors. He testified. The Solicitor made some arguments about the discovery as well as the video. Specifically, the argument was we specifically gave the video to Mr. Myers' former attorneys.

Officer McFadden, also, testified, so we contacted those attorneys and I'd like for the limited purpose based on what we found out last night to call him, Mr. Warr, who is representing Mr. Myers, specifically, in reply to what the solicitor's office put on and what they argued to the Court yesterday about disclosing discovery to Mr. Myers'

current attorneys.

MR. FINNEY: Your Honor, may we approach?

THE COURT: Yes, sir.

(WHEREUPON, a bench conference was held.)

THE COURT: We're going to be at ease for a few moments.

(WHEREUPON, a short break was taken.)

MR. FINNEY: We don't have any records in the file that we can see right now showing a date and time. So I called Mr. Meadors on the phone just now and asked him is he available to come and testify. And he said he would be if -- you know, obviously, he's in Columbia.

The situation as I understand it is that once the recordings were produced by law enforcement, given to our investigator, they were given to Mr. Meadors and he hand delivered them to a trailer at the Warr Law Firm on a weekend, like, a Saturday, he thinks and told Mr. Warr that the disc would be there for him to pick up.

So I guess the best thing for me to do at this point is if you're going to allow Mr. Warr to testify, let me hear his testimony, let me cross-examine and we can make a determination at that time whether Mr. Meadors needs to come in or not. But Mr. Meadors is going to be the one who, actually, took the disc over to the Warr Law Firm.

THE COURT: All right. Let's go ahead and let Mr. Kent

call Mr. Warr and we'll proceed that way.

THE CLERK: Place your left hand on the Bible and raise your right hand, sir.

THE WITNESS: Lewis Hartwell Warr.

LEWIS WARR,

after being duly sworn, testified as follows:

THE CLERK: State your name for the record and spell your last name, please.

THE WITNESS: Lewis Hartwell Warr, W-A-R-R.

DIRECT EXAMINATION

BY MR. KENT:

Q Mr. Warr, who are you?

A I'm an attorney here in Sumter and I was lead counsel in the Joquell Myers trial.

Q You have not been in this courtroom for the entire hearing, correct?

A That's correct.

Q I'm going to get right to the chase. Approximately, when was the Joquell Myers' case tried?

A September of 2022.

Q And I have contacted you because there was some testimony yesterday about the discovery you received in the Joquell Myers trial?

A That's correct.

Q And, actually, you were contacted by my associate, Jack

Furse?
A That's correct.
Q During that questioning and talking to you where he explained to you there was testimony that you had recovered or received a disc of an audio or some audio disc of an individual by the name of Tyrell Billups. First, are you aware of the name Tyrell Billups?
A I am.
Q Why are you aware of that name?
A Because he was a person that was interviewed by the Sumter Police Department in 2019 in connection to the Joquell Myers' trial and the shooting at the Hop-In gas station that occurred.
Q Did we ask you to look through your discovery and see if you had recovered any information from the State of South Carolina or the Sumter Police Department in reference to testimony that Joquell Myers possibly gave to the federal government or anything of that nature?
A You mean Tyrell Billups?
Q Tyrell Billups, yes, sir.
A Yes, you did.
Q And what did you find?
A I looked for a recording of the interview that you asked me about with the federal government. We do not have any recording of any interview with the federal government

that Mr. Billups gave. The only interview we were provided in discovery was from September of 2019 with Sergeant Culick at the Sumter Police Department. And that was in September of 2019.

I scoured my files. I looked at every single disc that was provided, every download on the computer and looked at every single video and interview from that trial and there was no interviews from any time later than -- I think 2020 was the last interview, maybe. The only interview I have with Tyrell Billups was that 2019 interview.

Q You're not aware of any as alleged by Solicitor John Meadors, Detective McFadden and Solicitor Finney that they gave you this discovery? You did not receive separate audio discovery regarding Tyrell Billups from a federal interview?

A That's correct, I did not receive it.

Q Did you receive separate discovery from John Meadors directly on Tyrell Billups?

A Not on Tyrell Billups. The discovery I did receive included that 2019 interview of Tyrell Billups, but that was the only interview.

Q And I've read the transcript and listened to cross-examination, would you have utilized the information from the federal government on Tyrell Billups during the cross-examination? Would it have been helpful?

A Absolutely.

Q As a matter of fact, when I read the cross-examination, you specifically went through whether or not Mike Rodgers had a firearm; is that correct?
A That's correct.
Q So would the Tyrell Billups interview have been helpful to you?
A I still have not heard it, but from my understanding of what happened in the federal interview, it would have been extremely helpful.
Q And you would have utilized it during the trial?
A Absolutely.
Q So without equivocation, there's no way you had it?
A Absolutely, I did not have it.
Q And any assertion otherwise is patently false?
A I agree.

MR. KENT: Thank you so much.

MR. FINNEY: May it please the Court, Your Honor.

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. FINNEY:

Q Good morning, Mr. Warr.
A Good morning.
Q Mr. Warr, do you have a recollection of having a conversation with Solicitor Meadors about him bringing over some discs prior to the Joquell Myers' trial?

A I absolutely remember that and I remember him delivering the discs and I received the discs.
Q Were you talking to him -- in other words, did he leave them in a trailer or did he put them in your hands?
A It was on a Friday afternoon, I believe. We had closed at one o'clock and he was coming by later. I think it was Friday afternoon. We were closed at the time he came by and I told him to place them in -- we've got a little cargo trailer, storage trailer behind the -- I told him to set them inside the door and I would get them when I came into the office.
Q And when did you retrieve the discs?
A It was either -- depends on if it was a Friday or not, but either the next day, if it was a weekday, or if it was a Friday, I got them the following Monday. But I did receive them.
Q Do you remember whether they were paper exhibits or discs --
A They were discs. They were discs and they contained digital discovery. And I do believe there was the standard supplemental disclosure form with them telling me what they were. And I looked at those very discs this morning and the 2022 interview is not on those discs.
Q So you never heard the 2022 interview?
A I have not.

Q And if the 2022 interview purports to say that your client -- excuse me, Mr. Billups saw certain things that night at the Hop-In involving Mr. Epps, you don't know if any of that information that Mr. Billups gave to the federal authorities has anything to do with Joquell Myers?
A I don't know that a hundred percent, but from what I've been told, it would have had an impact on the trial because the State --
Q Who told you that? Who told you it would have had an impact on the trial?
A Well, nobody said it would in --
Q Excuse me, that's what you just said.
A I -- excuse me, from what I was told that was said on the tape, it would have had an impact on my trial because of the fact the State alleged that Mr. -- that the fight between Trae Epps and Michael Rodgers that Mr. Rodgers was not the aggressor in that altercation, that Mr. Epps fired first, that would have went to rebuttal against that.
Q But you didn't have anything to do with Mr. Epps defense or preparation for trial, you were representing Joquell Myers?
A That's correct.
Q And Joquell Myers was not charged with killing Michael Rodgers?
A That's correct.

Q And Joquell Myers was charged with shooting at a red car driven by a man name Lucas?
A I'm sorry?
Q Joquell Myers was charged with attempted murder for shooting at a red car driven by a man named Lucas?
A That is correct.
Q That's what you prepared for and that is what the trial was about?
A Well, there was, also, a murder trial, the alleged murder of Dee Black.
Q And Dee Black wasn't in anything that Tyrell Billups said to the federal authorities?
A Well, I don't know that, I haven't heard the tape.
Q Well, you've had people tell you what Billups said?
A Yes.
Q And nothing had to do with Joquell Myers in the Billups' statement?
A I don't think his name was mentioned in particular.
Q Now, do you know --
A But it would have went to the State's theory of mutual combat combatting that.
Q You do know that Mr. Billups gave a statement to the law enforcement authorities, I think you said in 2019?
A That's correct.
Q Have you read that statement?

A I have read it and have listened to it.
Q And does it say in large part that I didn't see anything, I don't know who was shooting, I just ran, don't know anything about it?
A That's correct, that's what the 2019 statement was.
Q So if you had both statements, there would be a conflict in what Mr. Billups said to the State authorities and the federal authorities?
A That's my understanding.
Q Now, you said that you went and checked your file this morning and the recorded statement by Billups was not provided to you, but you --
A The 2022 recording.
Q That's the one I'm talking about. If it was placed on a digital disc, have you reviewed those digital discs in preparation for your testimony this morning?
A I have.
Q Do you remember how many there were?
A The exact number of recordings?
Q That Mr. Meadors put in your trailer, the exact number of discs that was put in your trailer?
A I believe at that time -- now, I reviewed every disc that was in the file. We had multiple because there was several supplemental disclosures. That particular day, I don't remember the exactly number of discs it was that

particular day. In total, we have probably five or six discs that came from that trial. I want to say that particular day -- this is very fuzzy, but I believe it was two or three disks.

MR. FINNEY: May I have a moment, Your Honor?

THE COURT: Yes, sir.

(Pause.)

MR. FINNEY: Your Honor, I think that's all. Thank you very much.

THE COURT: All right.

REDIRECT EXAMINATION

BY MR. KENT:

Q They asked you questions about supplemental discovery in the actual written form?

A Yes, sir.

Q So you got a supplemental form that would have said discs and what's on these discs?

A I did.

Q On that discs, does it mention Tyrell Billups?

A It does not, not the 2022 interview.

Q And then additionally, the solicitor was asking you about, basically, why would you have been concerned about Mr. Epps as you were going through the CDs, you remember that question?

A I do.

Q Would you agree with me, for some reason, your trial had a lot to do with Mr. Epps?
A It did, because the State used the theory of mutual combat and Mr. Epps and Mr. Rodgers' altercation precipitated that combat that they alleged gave rise to mutual combat.
Q So the cross-examination of individuals about Mr. Epps and Mr. Rodgers' interaction was vital to the defense?
A Absolutely.
Q So you would have been looking for information to help with that?
A Absolutely.
Q So this wasn't one of those situations where you were focused just on Joquell Myers. Joquell Myers' situation in your case interloped with Mr. Rodgers and Mr. Epps?
A It did.
Q And let's make this -- you didn't get the discovery?
A I did not.
Q And if there was an allegation from the stand yesterday that they directly gave you discovery, that's not true?
A That is not true.
Q If an officer testified to it, if a solicitor testified to it, if the solicitor testified to it, you did not get the Billups discovery?
A I did not get the Billups discovery from 2022.

MR. KENT: Thank you.

MR. FINNEY: If it please the Court, Your Honor?

THE COURT: Yes, sir.

RECROSS-EXAMINATION

BY MR. FINNEY:

Q Mr. Warr, Attorney Warr, did you, also, as part of the preparation of Myers' case see a video from the store that night, maybe several videos from the store that night that showed your client, also, showing Mr. Epps, also, showing Mike Rodgers and all of that was given to you and all of that was shown to the jury?

A Yes, I did receive the security feeds from the store that night.

Q So you had an adequate opportunity to prepare whatever defense you had in light of the discovery that was sent with the video, store video and the statement that Mr. Billups gave to the law enforcement here in Sumter County?

Let me just ask it this way, did the video show anything that helped you in your defense of Joquell Myers show that there wasn't a mutual combat between Mr. Epps and Rodgers? Did the video show Rodgers starting the fight? Did the video show Rodgers swinging a punch and pulling a gun on Mr. Epps?

A It did show Mr. Rodgers pulling a gun on Mr. Epps.

Q Did it show him swinging on Mr. Epps?

A I do not recall Mr. Rodgers swinging a punch.
Q And do you recall Mr. Epps swinging a punch?
A I do.
Q And then pulling a gun?
A Yes, after --
Q On the video?
A Yes, after Michael Rodgers pulled his.
Q On video?
A On video.
Q And do you remember Mr. Epps giving a statement to law enforcement that he didn't know anything about it, he was sleeping in the car, texting his girlfriend in the car?
A I do not recall his statement in particular. I did not review it for this morning's testimony.

MR. FINNEY: Nothing further.

THE COURT: Thank you, Mr. Warr. You can step down.

MR. KENT: Permission that he be excused, Your Honor. He wasn't under subpoena, but ask he be excused and not be required to testify again.

THE COURT: He's excused.

MR. KENT: Thank you, Your Honor.

MR. FINNEY: Thank you, Your Honor.

MR. KENT: Your Honor, thank you for allowing me to call that additional witness. That's all I would have on that issue.

THE COURT: Anything from the State to followup on this issue?

MR. FINNEY: No, sir.

THE COURT: All right, folks, the matter before the Court, we're all aware, it's been alleged there's a Brady violation and/or prosecutorial misconduct which caused the Brady violation.

The law in South Carolina with regard to Brady violations sets out a four-factor test for Brady violations. And the law states that a Brady violation occurs when evidence at issue is favorable to the accused, number one. Number two, in possession of or known to the prosecution. Suppressed by the prosecution, that's number three. And number four, material to the Defendant's guilt or punishment.

In looking at the factors, number one, favorable to the accused, obviously, in this case, we've got a statement from this witness, Mr. Billups, a statement from 2019, which was produced straight away. And then a subsequent statement to the federal government in the form of the federal 302 and the interview, which was recorded that he gave here in Sumter.

Based on what I've heard, the testimony in this case, those interviews, the 2019 interview and the subsequent interview in connection with Mr. Billups' federal charges

are opposite. The 2019 interview says I didn't see anything, so that's neutral at best. The more recent interview does cast some -- well, it, at least, could be considered exculpatory given what the contents have been conveyed to me.

So the first prong, I don't think there's any question that -- you know, not saying whether the statement is true or what weight it would hold, but it could be considered favorable to the accused, so I think it is Brady material in the possession of or known to the prosecution. I think both sides would concede that it was, at least, known to the prosecution given the fact that a representative of the Sumter Police Department was at the interview, at least, at the interview that was recorded when Mr. Billups was brought to Sumter.

Suppressed by the prosecution. In this case, the word suppressed, I guess, you could construe that it was suppressed at some point in time, but, ultimately, it was provided to the Defense in the form of the 302 and the recorded statement that was given here in Sumter in 2022.

So that brings us to number four, material to the Defendant's guilt or punishment. And a violation is material when there is reasonable probability that had the evidence been disclosed to the Defense, the result of the proceeding would have been different. In other words, the

government's evidentiary suppression is so serious as to undermine the confidence in the trial's outcome. Brady information applies to both impeachment and exculpatory evidence. And whether the prosecution acted in good faith or bad faith is irrelevant in determining whether a Brady violation occurred.

Folks, in this case, this case is a little different than the other reported cases that I've read. Just for the record, I was quoting from State vs. Durant, that is 430 S.C. 98, 844 S.E.2d 49. And Durant quotes Gibson V. State, which is 334 S.C. 515 and 514 S.E.2d 320. And I believe Gibson is the seminal case on this type of issue.

So that brings us to the materiality component. This situation is different because the Defense has the evidence in his head, adequate time to review the evidence and make a determination as to whether they will seek to use the evidence at trial. I'm quoting from State vs. Kennerly, 331 S.C. 442, 503 S.E.2d 214. In Kennerly, it says under the Brady disclosure rule, information is not deemed material if the Defense discovers the information in time to adequately use it at trial.

Obviously, in this case, the discovery process was messy and the records that were kept when discovery was produced were potentially -- I guess one could view them as deficient, but, ultimately, the Defense has the information.

And I understand it got the information on the eve of the first time this case was called for trial and that the Defense was in a unique position given how the evidence was discovered, but, ultimately, they have the evidence and they could use -- they can do with that evidence whatever they see fit.

So, Mr. Kent, I'm going to respectfully deny your motion to dismiss because the materiality prong of the four-part test has not been met when applying the facts of this situation under the framework of State vs. Durant and State vs. Kennerly.

As far as prosecutorial misconduct, you know, I think Mr. Finney stated it yesterday -- and, really, whether it was intentional or inadvertent really isn't a factor to consider in the Brady context, but from a prosecutorial misconduct, I think negligent was the word that was used by Mr. Finney yesterday. And I'm not casting any aspersions on anybody. I think negligent is a word that would adequately describe this. I think sloppy is likely another -- because when any items of evidence are transmitted to the Defense, there ought to be an accompanying document which states what is presented, in what format and by whom. If those things are done properly, situations like this are less likely to arise.

So I don't think this rises to the level of a due

process violation, which would require dismissal of this charge, so I will respectfully deny the motion to dismiss and I will note your objection for the record, Mr. Kent.

MR. KENT: Thank you, Judge. May I make a request for a finding as to the credibility of the witnesses who testified?

THE COURT: I'll say there's obvious discrepancies in Mr. Meadors' memory of these transactions and Mr. Warr's memory of these transactions. I think both witnesses that testified on this issue, neither of their memories were a hundred percent accurate. Mr. Warr couldn't remember exactly how these things went down either. So they have different recollections of the way this discovery was transmitted. I don't think there's been conclusive proof -- at least, not in my mind conclusive proof that one side was more credible than the other.

MR. KENT: And the other witnesses presented by Mr. Epps, meaning AUSA Ben Garner and, also, Cameron Blazer from yesterday.

THE COURT: Well --

MR. KENT: I'm just requesting a finding for the record, Judge.

THE COURT: Well, I think the State conceded that the items that Ms. Blazer and AUSA Garner testified to occurred. And then Mr. Meadors' statement that we'll get this

information through law enforcement would, at least, in regards to the recorded audio statement of Mr. Billups, that absolutely happened, so that lends credibility to his statement.

You know, obviously, I wasn't there when Mr. Garner and Mr. Meadors had this phone conversation, so I can't make a determination as to the whole -- to the issue about whatever Mr. Meadors said to Mr. Garner with regard to this 302 issue. I mean, it sounded like an off-handed comment that, perhaps, Mr. Meadors in hindsight would have rather not made, but I believe based upon what has been presented to me in terms of getting the information through law enforcement -- ordinarily, the way discovery is produced, it goes through law enforcement, which, in turn, provides it to the solicitor's office, which, in turn, provides it to the Defense if it is either subject to Rule 5 or Brady.

Like I said, Mr. Kent, I think the State concedes that -- obviously, the 302 exist, obviously, Mr. Garner made a phone call. Mr. Meadors admitted receiving the phone call. So, I mean, the record will show what these witnesses testified to. I'm not going to step out on the limb saying I believe this witness was being untruthful. I think there's been things that have been proven true by the fact that the witnesses testified similarly about these issues. So the record will speak for itself.

MR. KENT: Thank you, Your Honor.

THE COURT: All right. What can we do -- I know the jury is going to be here in a few moments. I know we have some more pretrial matters to go over.

MR. FINNEY: Yes, Your Honor, we have two witnesses, two law enforcement witnesses on a Jackson V. Denno statement by Mr. Epps to them back in 2019. There were two interviews and both officers are available for the Jackson V. Denno. I don't know how long it will take, but I would imagine, at least, 30 minutes for each one.

We, also, have a young lady by the name of Arkell Eaglin, who's the girlfriend of Mr. Mike Rodgers. She is here to testify and validate the time of a Facebook video showing Mr. Epps in a hotel room making a, I guess you would call it a TikTok video directed at Mr. Mike Rodgers and making comments that we believe goes to the motive that Mr. Epps used to shoot and kill Mr. Rodgers a month later after the video was made. That will, at least, take 30 minutes or more as well.

So those are the three we would need to have time to do outside the presence of the jury.

THE COURT: Anything further from the Defense in terms of pretrial motions, Mr. Kent?

MR. KENT: Yes, Your Honor. I'll do these real quick --

MR. FINNEY: Excuse me, before I turn --

THE COURT: I'm sorry, Mr. Finney. I thought you had turned it --

MR. FINNEY: I thought I was finished, but there is a Mr. Scarbough here, also. Mr. Scarbough will validate the Hop-In store video of him being present and seeing and talking to Mike Epps --

THE COURT: Mike Rodgers or --

MR. FINNEY: Trae Epps, I'm sorry. Before Trae Epps took a swing at Mike Rodgers and pulled a gun and shot Mike Rodgers. So I don't know if that video needs to be --

THE COURT: Authenticated?

MR. FINNEY: -- authenticated, but we, also, have Mr. Scarbough downstairs, so that would be a fourth witness that would be necessary.

THE COURT: All right.

MR. KENT: I'm going to try to go through some of these quick that I would need before our jury came in. I gave Solicitor Corbett one potential motion, but, I guess, the first thing is a Lyle analysis, what prior, or if any prior bad act evidence the State of South Carolina will be seeking to introduce against Mr. Epps if there's any that exist, if there's any gang activity or anything they would seek to introduce, that we could address that.

Given there's no notice requirement of prior bad act

evidence, however, the trial has been called, I think we're entitled to know if they intend on utilizing any prior bad act in opening or through any of their first couple of witnesses.

MR. CORBETT: Your Honor, may it please the Court?

THE COURT: Yes, sir.

MR. CORBETT: Mr. Kent did provide me with a motion yesterday concerning excluding any type of reference, mentioning the Defendant being a part of a gang. Judge, I'm not sure at this point in time the Court can make that decision.

And I based that largely on this, if there's any pretrial matters that involve the video that's been mentioned already, what I will call the Facebook Live video from the hotel room, what the State is going to allege is that Mr. Epps appears on that video, sort of makes up a song about the victim. The State alleges that there's -- in that video, the Defendant makes statements like, I'm going to send the goons for you. There was testimony in a trial of a co-defendant dealing with the same parties that that group of individuals would refer to themselves as the Mayes-Villians.

So, Judge, that motion is out there. It does tie back into Lyle, but I think for the Court to be able to make that determination, you will probably have to see that hotel

video.

MR. KENT: And I understand that, but there's no other prior bad act. So it doesn't sound like he's trying to make this a gang trial, that there might be some tangental information that may come in that he can't avoid if a video comes in. I'm trying to make sure there's no -- we're trying to bring in any prior bad acts.

THE COURT: Like prior assaults or prior --

MR. KENT: Assaults or he's done this to somebody else.

MR. FINNEY: Judge, if I may --

MR. KENT: How about this, Your Honor, I'd ask that if any prior bad act evidence is going to be utilized by the State, before it is done, they allow that to be proffered so I can make a proper objection.

THE COURT: And that absolutely -- you know, I've always thought that if any evidence is going to be offered under Lyle 404 that it needs to be proffered because how can I make a valid comparison between the prior acts and what is alleged in the current case. So if anything like that comes up, just give me the heads up. We'll do it outside the presence of the jury --

MR. KENT: That's all I'd request.

THE COURT: -- and cover it that way.

MR. CORBETT: And Judge, I will notify Mr. Kent. I believe he already has these, but there are statements from

some witnesses. And in those written statements, it does make reference to gangs, but I believe that we can deal with that.

MR. KENT: I think that can be dealt with.

THE COURT: Well, I mean, I think those written statements would likely only come in if there's any inconsistencies in their trial testimony to their written statements.

MR. KENT: I understand this is not going to be a gang trial.

THE COURT: Okay.

MR. KENT: I think we all agree with that; is that fair?

MR. CORBETT: That's fair.

MR. KENT: Your Honor, next -- and I'm sure you are probably familiar with this situation. It's a shooting, of course, that happened in September, late September of 2019. I think, if I'm not mistaken, two or three individuals were killed, some individuals were shot. We would make a separate motion to exclude, Your Honor, any mention of those other crimes or shooting or anything of that nature. Long and short, Your Honor, any other crimes from anyone else not related to Mr. Epps.

As you're aware, there was a separate trial with Joquell Myers in which he was found of something unrelated

to Mr. Epps, different person, different individuals. An individual by the name of Greg Middleton was killed out there on the scene. The video is going to show what it shows, I can understand that, but what I don't want this to do is to turn into a collateral trial with somebody who's not associated with this or the State of South Carolina saying this was an awful night, a bunch of people were killed out there that day, which has nothing to do with us because that turns into a separate, unrelated trial. That would not even qualify as a prior bad act, that would be just superfluous information.

And I don't know if that's intent to try to get in other people were killed out there, let me tell you this because under a res gestae type of analysis, it has to be inextricably intertwined to a full and necessary presentation of the case to necessarily show the guilt of the Defendant. And the question is can we try the case without the mention of other people were shot out there? And you know this case, they easily can. The argument I've always had is if you need that superfluous information to prove your case, then you don't have a case to begin with.

MR. FINNY: Your Honor, I think Mr. Kent just made the argument that I am making and would make before the Court, that it is up to the jury to have the ability to see the events that night and to understand. I'm, certainly, not

going to try to say that Mr. Trae Epps was responsible for all of the crimes that may have been committed that night, but I do think that for the res gestae to be fully established and so the jury can know not only what he did, but who he was with and what was going on around him that --

You know, Mr. Corbett and I have looked at these videos and there's about seven seconds of video that kind of tells the whole story between these two men, the Defendant and the victim. There is other things going on afterwards and not very much before.

But yes, we have a video that runs probably two minutes, three minutes. We have another video that was shot by a bystander, a young lady, that would allow the jury the hear the number of shots fired that night. And that is important because we have a demonstrative exhibit showing shell casings that were located and the position of the shell casings that were located by law enforcement so that the jury has a good understanding.

No, we're not going to try to hide the fact that Mr. Rodgers didn't have a gun or that Mr. Rodgers didn't fire his gun or that Mr. Epps is on video shooting a gun and where the location of those shell casings were relative to those two men. So we need to be able to explain this to the jury so that they can have a full understanding. But we're not trying to say that Mr. Epps is responsible for

everything that happened that night.

THE COURT: Yeah, I think the specifics of other people who were shot are probably not included within the res gestae, but the fact that there were multiple weapons fired and there was a lot going on. And if it's reflected in these videos, I think that's fine, but, you know, evidence which says well, Joquell Myers was charged with shooting the victim in that case or anything like that, you know, I think -- I don't think the video -- assuming that the video is admissible and authenticated and all the foundation stuff, I don't think that I would limit the video. Having not seen it yet, I'm a little bit flying blind, but videos are what they are.

Mr. Corbett, you --

MR. CORBETT: If I may?

THE COURT: Yeah.

MR. FINNEY: Your Honor, I think Mr. Kent, obviously, is going to have the right to object to anything he thinks is being brought in by witnesses, that is if the video comes in. So the State's position is that the first hotel video that Mr. Epps makes, which is called the Facebook Live video, has in it references to sending the Goons at you, Killa Mike. And those references tie into the fact that some of those people in that first video are in the second video and they are seen shoot. So it's kind of inextricably

linked, but we're not trying to do anything but show what happened that night.

THE COURT: Right.

MR. FINNEY: So we think we can abide by the Court's ruling, but we do need to tell the whole story.

THE COURT: And just for the record, evidence is admissible under the res gestae theory when it furnishes part of the context as necessary to a full presentation of the case or it is so intimately connected with an explanatory of the crime charged and is so much a part of the setting of the case that proof is appropriate to complete the story of the crime. That's State v. King, 344 S.C. 504, 514 S.E.2d 578 and State v. McGee, 408 S.C. 278, 758 S.E.2d 730.

So it sounds to me that the State is going to try to present the full picture, Mr. Kent.

MR. KENT: I'm not saying we're going to stop their video or anything --

THE COURT: Right, right, right.

MR. KENT: I don't want them to say and that's where someone was killed and that's what happened and he was charged with murder and he was charged with this and then try to turn this -- I don't want this to turn into this is a gang trial.

THE COURT: I think y'all are on similar paths the way

y'all are thinking about this. I would just say if you have an objection that you believe something is going outside of the level of connectivity required by res gestae, just object and we'll deal with it.

MR. KENT: And do you want to hear -- and I don't know if they plan on mentioning the Facebook video. Do you want us to make our motion on the Facebook video now?

THE COURT: Yeah, I think if there's any legitimate question regarding foundation or admissibility, I think that needs to be done.

MR. FINNEY: If Your Honor please, since Mr. Kent is going into the third motion this morning, may I ask the Court to consider releasing the jury until 2:00 or 2:30?

THE COURT: That was my next question. I think that's probably our best course of action. And I would suggest rather than clearing this courtroom and bringing the jury in, just having Mr. Campbell, as the Clerk of Court, step to the jury room and advise them to be back at two o'clock.

(WHEREUPON, an off-the-record discussion between the Court and Clerk ensued.)

THE COURT: Mr. Finney, Mr. Kent, Mr. Campbell, in his capacity as Clerk of Court, has advised me that two jurors have brought up issues that need to be addressed with regard to, potentially -- upon further reflection, they may know one or more of the listed witnesses. So I think I'm going

to have to question these jurors as to who the witness is, what the connection is and whether they can be fair and impartial. So I think we probably need to do that with those two before we excuse the jury for later in the afternoon.

So bring them in one at a time. Start with Ms. Lovin.

And for the record, it's Juror Number 84, Lila Lovin, and Juror Number 130, Staci Schaller.

(WHEREUPON, Juror Number 84 enters courtroom.)

THE CLERK: Judge, this is Ms. Lovin.

THE COURT: Ms. Lovin, it was brought to my attention by the clerk's office that you may have some knowledge with regard to one of the witnesses that was read out yesterday; is that correct?

JUROR NUMBER 84: Yes, sir, I'm not for sure that that's who it is, but I've had a friend around that same timeframe that was shot at a store. I don't remember exactly which store it was, so I did not want to know the person and be one of the jurors.

THE COURT: What's the name of the person?

JUROR NUMBER 84: I only know him by his nickname.

THE COURT: What is that?

JUROR NUMBER 84: Foole.

THE COURT: Fully?

JUROR NUMBER 84: Foole, F-O-O-L-E.

THE COURT: And you say this person was shot?
JUROR NUMBER 84: Yes, sir.
THE COURT: And do you know where this thing occurred?
JUROR NUMBER 84: It happened at a store.
THE COURT: Do you have anymore information other than --
JUROR NUMBER 84: It was on Broad Street.
THE COURT: Do you know about when it happened?
JUROR NUMBER 84: No, sir. It's been a few years.
THE COURT: All right. Would the fact that you've had a friend be shot at a store, would that impact your ability to be fair and impartial to the State and the Defendant in this particular trial?
JUROR NUMBER 84: No, sir.
THE COURT: You can set aside your personal experience and base your verdict solely upon the evidence and testimony that you are presented from within this courtroom?
JUROR NUMBER 84: Yes, sir.
THE COURT: Okay. You can go back. Thank you, ma'am.
JUROR NUMBER 84: Thank you.
(WHEREUPON, Juror Number 84 exits the courtroom.)
THE CLERK: Are you ready for the next one?
THE COURT: Yeah, 130.
(WHEREUPON, Juror Number 130 enters the courtroom.)
THE COURT: All right, Ms. Schaller, you brought up a

question or concern to the clerk of court's office?

JUROR NUMBER 130: Yes.

THE COURT: What is the nature of your concern?

JUROR NUMBER 130: I think I may know one of the names that's listed as a witness or someone that's testifying.

THE COURT: What name is that?

JUROR NUMBER 130: Trinity George.

THE COURT: And how do you know this individual?

JUROR NUMBER 130: It was probably about eight years ago, but we rode the school bus together. I think we're about the same age. And, I guess, through mutual friends.

THE COURT: Do you have a close personal, social or business relationship with this potential witness?

JUROR NUMBER 130: No, but I wouldn't say the relationship between us is good, necessarily.

THE COURT: Okay. Would the fact that you've had this prior -- I'm trying to think of a word to appropriately describe it. This interaction, would that impact your ability to be fair and impartial to the State and the Defendant in this particular trial?

JUROR NUMBER 130: No.

THE COURT: You could set aside your prior experience and base your verdict solely upon the evidence and testimony which was presented to you from within the courtroom?

JUROR NUMBER 130: Yes.

THE COURT: All right. Thank you, ma'am. You can go back.

(WHEREUPON, Juror Number 130 exits the courtroom.)

THE COURT: Any response from either party to my questioning of these two jurors?

MR. FINNEY: Nothing from the State, Your Honor.

THE COURT: Mr. Kent?

MR. KENT: You want a response or --

THE COURT: Well, I'm --

MR. KENT: Because I do have one.

THE COURT: Well, I guess I'm anticipating the potential that -- well, you tell me what's on your mind and we'll go from there.

MR. KENT: I'm fairly positive the nickname she gave is the nickname of an individual who was shot on the date in question, Christopher Fordham, who is one of the individuals who was shot there, who my office has represented in the past just in the spirit of complete disclosure.

Two, I'm very concerned that the Court directly asked that entire panel did they know or have any friends or close family members who had been the victim of a violent crime and it would be one thing if no one answered, but multiple people answered, so that concerns me as well.

So I'm putting those two things before I -- and based upon that, the Solicitor may have some questions or inquiry,

but I'm fairly, I'm not saying definitively, but I'm fairly positive the nickname she gave is the nickname of an individual who was shot out there, who I have represented in the past.

MR. FINNEY: The only thing I would say for the record, Your Honor, is that we did not name Chris Fordham as being a witness or a defendant tied to this case and the juror did not know to tell the Court that name. She only knows the guy by his street name. I think we're going to be able to stay clear of any reference to Mr. Fordham being shot that night in our presentation.

MR. KENT: Judge, while they're discussing that, I think my bigger concern is if I am correct and that is Mr. Fordham and the Solicitor is correct, that means that this person has individual knowledge of the area and knows an individual who was possibly shot out there. That's just my concern, this person might, actually, have individual knowledge. Because if the name wasn't mentioned, it's even more of a concern. And this is a guy who possibly represented Mr. Fordham, she said it was her friend.

MR. FINNEY: So just for the record, Chris Fordham is on the State's witness list. His name was called out yesterday, so, apparently, she doesn't know him by that name. But in all honesty, it might be to ask Mr. Kent to let's get some more information from the juror. Because if

she hasn't seen the guy in the last couple of years, she doesn't know his real government name and she only knows that somebody that she knows as Foole was shot, I don't think we have a problem.

MR. KENT: Your Honor, I would have had one strike remaining. This individual just gave information that if you look at the people who I struck, I struck individuals for this specific reason. As a matter of fact, I save strikes, as my team will tell you, I can tell you specifically Juror 167 had mentioned that she had two individuals who were family members that were killed in a murder. And anyone of that nature is one of the reasons I was specifically saving those strikes.

This would be considered material. I, actually, had this exact situation with Judge King in which a juror did not disclose potential materiality and was later placed upon the jury. It's the same thing they're going through with the Murdaugh situation right now, that same rule that the defense was allowed to come back and say a juror who was put on the jury who had material potential information was not allowed to be struck.

The analysis is whether or not the defense would have had a strike at the time that this juror was called up, I can assure we used nine of our ten, so, clearly, I would have had an extra strike and would have -- and if you look

at my rationale, I have my strike sheet that I can make as evidence to the Court that I utilize strikes on individuals who are victims of violent crimes or had criminal situations or something of that nature. And had I known -- candidly, had I known or the State known this person possibly was a friend of somebody who was shot out there, I guarantee both of us probably would have used a strike.

So my position is, this juror, just out of an abundance of caution, just getting this information and the lateness of disclosure should be struck.

THE COURT: Well, I'm going to -- since we're going to excuse them, I'm going to think about this issue before they come back. Given that it's 1:21 now, I suggest that they be advised to come back at 2:30.

THE CLERK: Yes, sir.

MR. FINNEY: Just for the record, Your Honor, may the State inquire, neither one of those ladies were alternates, they were both --

THE COURT: They're both primary jurors.

MR. FINNEY: Thank you, Your Honor.

THE COURT: Ms. Lovin was the third juror seated and Ms. Schaller was the tenth juror seated.

MR. FINNEY: Thank you, Your Honor.

THE COURT: While Mr. Campbell is excusing the jury until 2:30, I think we can go ahead and take up some of

these pretrial motions.

MR. FINNEY: We'd like to call Ms. Arkell Eaglin to authenticate the Facebook Live video.

THE COURT: Okay.

MR. FINNEY: And I need to get my man to do the technical stuff. We'll be ready in two minutes.

THE COURT: All right.

MR. FINNEY: If Your Honor please, we have a disc we'd like to mark as State's Exhibit 1.

(WHEREUPON, State's Exhibit No. 1 was marked for identification.)

MR. FINNEY: Your Honor, I call Arkell Eaglin.

ARKELL EAGLIN,

after being duly sworn, testified as follows:

THE CLERK: State your name for the record and spell your last name, please.

THE WITNESS: Arkell Eaglin, E-A-G-L-I-N.

DIRECT EXAMINATION

BY MR. FINNEY:

Q Good morning, Ms. Eaglin.

A Good morning.

Q Where do you live, please, ma'am?

A Sumter, South Carolina.

Q Have you been there all your life?

A Yes.

Q All right. And may I ask a little bit about your background, are you high school trained?
A Yes.
Q And what do you do for a living?
A Caregiver.
Q How long have you done that?
A Ten years.
Q Tell the Court, did you know Mr. Michael Rodgers?
A Yes.
Q How did you know him?
A He was my boyfriend.
Q How long did you all date each other?
A Five years.
Q And during that time, were you living together at any point?
A Yes.
Q Where did you live together, in what city?
A Sumter.
Q How long did you live together?
A Four years.
Q Now, you have testified previously in a trial of the State vs. Joquell Myers?
A Yes.
Q And you were asked questions by the solicitor's office at that time regarding a Facebook Live video?

A Yes.
Q Do you remember seeing the video?
A Yes.
Q And I'm going to play it for you again today. Tell us a little bit of the background, how you came to see that video and did you have occasion to see it with your boyfriend, Mike Rodgers?
A Yes. We were going to the beach, actually --
Q Who was going to the beach?
A Me and Mike.
Q You and Mike.
A And it happened prior to it. But I saw it on Facebook and he didn't see it. And we were just talking about it and he was just telling me, basically, like, he was just over it. It was something that didn't have anything to do with him and, you know, he was just not with it.
Q Did Mike Rodgers have a nickname in the streets?
A Yes.
Q What was it?
A Killa Mike.
Q Killa Mike?
A Uh-huh.
Q And do you know how they spelled Killa?
A K-I-L-L-A.
Q K-I-L-L-A, Mike, M-I-K-E?

A Uh-huh.
Q Did you know him for four or five years by that nickname?
A Uh-huh.
Q Okay. And do you know how he got the nickname?
A No.
Q When you were on the way to the beach -- what was the purpose of you going to the beach with Mike?
A They had -- a couple of guys had jumped him in the club.
Q Were you there?
A I wasn't.
Q So as a result of being jumped in the club, what happened to Mike?
A He got passed out. He got passed out. He had a bloodshot eye. He was kind of bruised up in his face.
Q And those were the things that you saw after he came home from the club?
A Yes.
Q And in relation to going to the beach, when did the fight at the club happen in relation to going to the beach?
A Couple of weeks, couple of weeks prior.
Q Why did you go to the beach?
A For his birthday.
Q When was his birthday?

A [redacted].

Q [redacted]. Are we talking about going to the beach in what year?

A 2019.

Q Now, how can you remember -- so the Judge knows, how can you remember going to the beach in relationship to the case we're here for today in terms of the Hop-In shooting?

A With everything that was going on during that time, it was a lot. It was, like, periodically, months, weeks, days, but it was just something going on constantly every other week maybe.

Q And when you say something going on, are you referring to some type of trouble?

A Yes.

Q Involving Mike?

A Yes.

Q And you're not a witness to any of that?

A No.

Q You can't say who caused the trouble or who was involved in the trouble?

A No.

Q But the trouble involved Mike?

A Yes.

Q Now, let's go back to the video. When you first saw the video, was it after the fight at the club or before the

fight at the club?
A After.
Q Was it before or after you went to the beach?
A Before.
Q So before his birthday, you had seen the video?
A Uh-huh, yes.
Q Did you see the video with Mike?
A Yes.
Q Did you show it to him?
A I showed it to him.
Q So both of you seen it?
A Yes.
Q Did you talk to him about it?
A Yes.
Q Did you give him any advice about --
MR. KENT: Object to the leading, Your Honor.
THE COURT: Sustained.
BY MR. FINNEY:
Q Did you give him any advice after you had seen the video?
MR. KENT: Object to the leading, Your Honor.
THE WITNESS: Yes.
THE COURT: That doesn't suggest the answer. She can yes or no and then explain it.
BY MR. FINNEY:

Q Did you give him advice?
A I did.
Q What was the advice?
A To just stay away and stay inside, stay inside and stay out of the way.
Q Okay. After you came back from the beach and the birthday trip, did you have occasion to see the video again?
A I did.
Q All right. And did you have occasion on the night of the shooting, I believe it was September 8th, 2019, did you have occasion to know that Mike had gone out to the Hop-In that night?
A Yes.
Q Did you know the guy in the video who was singing in the video? The Facebook Live video, did you know who that was?
A No.
Q All right. Did you know -- was there more than one guy in the video?
A It was.
Q And the guy that was making the video, that was doing the singing in the video, did you learn -- after you had seen the video once or twice, did you learn who he was?
A Yes.
Q What name did you learn?

A Trae, that was the name that I learned. It was Trae. Come to find out, it was Traequan, Traeshaun Epps.

Q Do you know Mr. Epps?

A I don't.

Q You saw the video more than one time?

A Yes.

Q Do you see the man who was in the video singing in the courtroom today?

A Yes.

Q Where is he?

A Right here.

Q Do you know his name to be Mr. Epps?

A Yes.

MR. FINNEY: At this time, I'd like to play State's Exhibit No. 1 for the Court.

(WHEREUPON, State's Exhibit No. 1 was published for the Court.)

BY MR. FINNEY:

Q Ms. Eaglin, the man who was singing in the video is the man you see in court today?

A Yes.

Q And you know him as Mr. Epps?

A Yes.

Q Do you know how Facebook videos work?

A Yes.

Q In other words, how did you get to see it?
A On a Live. Someone, actually, sent it to me.
Q All right. Do you know who it was who sent it to you?
A I don't remember exactly who it was because it was several of them. Several people sent me the same thing, video.
Q Do you have to be part of Facebook to be able to see these videos?
A Yes.
Q And you are part of Facebook?
A Uh-huh, I am.
Q Do you know how these videos get put on the internet?
A You have to be a Facebook user and someone has to go live on Facebook in order to make it.
Q Just for the record, Mike's birthday was [redacted]
A Yes.
Q And you are aware that he was killed a month later, September the 7th or September the 8th?
A September the 9th.
Q September the 9th.
A His birthday is [redacted].
Q His birthday is [redacted]?
A Yeah, and he got killed September the 8th.
Q A month later?

A Yes.

MR. FINNEY: Beg the Court's indulgence.

THE COURT: Yes, sir.

(Pause.)

BY MR. FINNEY:

Q Ms. Eaglin, I don't know if you need me to play it again, but you tell me if you need to see it again. But there were more than one -- more than Mr. Epps in this Facebook video?

A Yes.

Q And did you know any of the other men that were in that video?

A No.

MR. FINNEY: Thank you, ma'am. Answer any questions Mr. Kent may have.

CROSS-EXAMINATION

BY MR. KENT:

Q Ms. Eaglin, how are you?

A How you doing?

Q We know each other, don't we?

A We do.

Q Okay. I thought so. I don't have a lot of questions for you. Do me a favor, Madam Court Reporter is taking down every word we're saying, make sure you speak up, you're very soft-spoken. Speak loud and clear so she can take down

every word.
A Got you.
Q And I'll give you plenty of opportunity to answer my question if you'll give me plenty of opportunity to ask it.
A Go ahead.
Q We can't argue with one another and she can't take down when we're arguing, so let's give each other time to answer. Fair enough?
A Uh-huh.
Q Make sure you use yes and no because she can't take down heads and shakes?
A Yes.
Q Ms. Eaglin, I want to make sure I'm clear on this because I think you said two different things. I just want to make sure I'm clear. I know you saw the Facebook video on Facebook Live, did you say you weren't sure if Mike Rodgers had seen it or did you not show it to him?
A No, he didn't see it at all at that point. I saw it and I showed it to him. That's how he saw it.
Q You saw it Live or you saw it on Facebook Live?
A Facebook Live. You can share it with other people.
Q Got you. So you didn't see it live, as in as it was happening? Sometimes we get confused on the word.
A No, I didn't see it as it was happening, no.
Q You understand why I say that because when people are

on Facebook Live, it doesn't mean, in fact, live as they --
A It was that day. It was that day.
Q When you shared it with Mr. Rodgers, do you remember what day that was?
A I don't.
Q And I want to make sure we're clear, you did not make the video?
A Huh-uh, I did not.
Q You do not know who made the video?
A I do not.
Q You cannot testify to the authenticity of who made it or when it was made because you weren't there?
A No.
Q You do not know the individuals in the video?
A I do not.
Q You do not have personal knowledge of any of the individuals in the video?
A No.
Q And what we have seen -- and you're familiar with Facebook Lives?
A Uh-huh.
Q When that video starts, it immediately has 54 followers. Did you notice that at the top of it?
A I did. That part, yeah. It was more to that video.
Q Correct. So there's more to that video that we haven't

seen?
A Yeah, a lot more.
Q There's got to be a lot more, right? That's just a clip of it?
A Uh-huh.
Q So what we think -- and we don't know who created this, but this is just a clip of the full Facebook video?
A Yes.
Q So there's some out there that we need to see?
A I don't know. I don't know how many more it was. When that video was going on, it was a multiple of videos going on at that same time.
Q But that's not the start of the video?
A No, that's probably in the middle of a many of videos. It wasn't just that video. It was that video and several more.
Q Several more. But that's just a clip of what we have?
A Yeah.
Q If you would have been watching at that point in time, would we have seen your name come up or, possibly, if you would have made a comment as somebody who was watching?
A No. If I was on the Live, you would have, but I could have been on Facebook and saw the Live and you would have not even known that I was looking at it.
Q Got you. So let me finish, you didn't create the

video?
A No.
Q You weren't there when the video was created?
A No.
Q You don't know the people in the video?
A No.
Q You don't have personal knowledge of the people in the video?
A No.
Q And that is not the complete video?
A No.
MR. KENT: Thank you. That's all the questions I have.
THE COURT: Any redirect?
MR. FINNEY: No, nothing further.
THE COURT: Ma'am, you can step down. Thank you.
MR. FINNEY: We have another witness, but not on this issue. It would be on a statement given by Mr. Epps. I'm sorry, Mr. Willie McFadden will have some information about that video as part of the investigation. Mr. McFadden will be called to talk about a statement taken from Mr. Epps and about the Facebook video.
THE COURT: All right. Well, let's just deal with one issue at a time. Let's deal with the video matter first and then Detective McFadden can be recalled with regard to any Jackson V. Denno matter. So let's deal with the video so we

can keep these matters separate.

MR. CORBETT: Willie McFadden, please, Your Honor.

THE COURT: Detective McFadden, please, come forward, sir.

WILLIE MCFADDEN,

after being duly sworn, testified as follows:

THE CLERK: Please have a seat. State your name for the record and spell your last name, please.

THE WITNESS: Willie McFadden, M-C-F-A-D-D-E-N.

DIRECT EXAMINATION

BY MR. CORBETT:

Q Detective McFadden, good morning.

A Good morning.

Q Tell us, by whom are you employed?

A Sumter Police Department.

Q And Detective McFadden, were you present in the courtroom a few moments ago when what has been introduced as State's Exhibit 1, a video shot from what appears to be a hotel room was shown?

A Yes, sir.

Q Prior to today, had you seen that video?

A Yes, sir.

Q You are the detective who has been working what I would call the Hop-In shooting?

A Yes, sir.

Q As part of that investigation, you've had contact with a number of the parties; is that correct?
A Yes, sir.
Q You, actually, participated in a number of interviews, et cetera?
A That is correct.
Q Did you have occasion shortly after the shooting at the Hop-In to interview who I would call Trae Epps, the Defendant?
A Yes, sir.
Q So you've seen him personally?
A Yes, sir.
Q The video that we have seen in the courtroom just a little bit ago, did you recognize the individual who was singing the song and doing most of the talking?
A Yes, sir.
Q And who do you know that person to be?
A Diontrae Epps.
Q And that's the Defendant present in the courtroom?
A That is correct.
Q Did you recognize anybody else in that video?
A Yes, I did.
Q Who else did you recognize?
A Jay McBride. He is now deceased, though. Also, Joquell Myers.

Q Jay McBride and Joquell Myers?
A Uh-huh.
Q In the investigation of the Hop-In case, did you have any occasion to see or come into contact with either of them?
A Yes, sir.
Q Based on your review of video surveillance from the Hop-In, who else could you tell was present at the Hop-In that night?
A Jay McBride and Joquell Myers.
Q Did you have occasion to see when a car left the Hop-In what appeared to be the same car then arrived at Tuomey Hospital some time later?
A That is correct.
Q Who did you -- were you able to recognize any individuals getting out of the car at the hospital?
A Yes, sir.
Q Who was that?
A That was Jay McBride, Diontrae Epps, Ellquin Williams -- it was a total of five all together. It was Sheldon Benjamin, also, known as Polo, and there was one more individual. Joquell Myers, Jay McBride, Sheldon Benjamin, Ellquin Williams and one more.
Q Now, a moment ago, you said Trae Epps?
A Yeah, Diontrae Epps.

Q So that's the --
A That's a total of five. Okay.
MR. CORBETT: That's all the questions that I have. Thank you.
THE WITNESS: Yes, sir.
MR. CORBETT: Judge, I'm sorry. One moment, please.
(Pause.)
BY MR. CORBETT:
Q I'm sorry, Detective McFadden, I just need to touch on a couple other things, if I may.
THE COURT: If it's going to be offered, you can change it to a State's.
MR. CORBETT: Yes, sir.
(WHEREUPON, State's Exhibit No. 2 was marked for identification.)
BY MR. CORBETT:
Q Now, Detective McFadden, I'm going to show you what's been marked as State's Exhibit No. 2. Do you recognize that document?
A Yes, I do.
Q What is that document?
A These are notes from the interviews with Diontrae Epps.
Q And with regard to the notes regarding the interview of Diontrae Epps, is there a reference to a Facebook video in those notes?

A Yes, it is.
Q What's the reference to the Facebook video?
A When asked if someone was shooting at him, Epps responded, I don't know who shot me. When asked if he had a problem with Killa Mike, Epps stated that he made a comment on Facebook after Killa Mike was jumped in a club, but went on to say that he didn't -- that didn't have nothing to do with it.
Q Now, did you become aware of that video during the investigation of the Hop-In shooting?
A That is correct.
Q How did you become aware of it?
A The video was sent to me by family.
Q So it was out there for quite a few different people to see?
A That is correct.
Q And that was sent to you?
A Yes, sir.
Q Detective McFadden, I'm sorry, I failed to ask you about State's Exhibit No. 2, which you referred to as interview notes. What was the date of that?
A The date of the incident was 9/8/2019, September 8th, 2019.
Q The date of the interview?
A The date of the interview was Sunday, September 15,

2019.

Q Okay.

MR. CORBETT: Thank you. Please answer anything Mr. Kent may have.

THE COURT: Mr. Kent.

CROSS-EXAMINATION

BY MR. KENT:

Q Detective, I'm not going to go through all the pleasantries, we know each other and we've been doing this a couple of days. You remember testifying in Joquell Myers' case about this Facebook video?

A Yes, sir.

Q And during that testimony, they asked you about when you got the video?

A Yes, sir.

Q And do you remember testifying that it was sent anonymously?

A I don't remember. I don't recall.

Q Would you be surprised if that was your testimony, that the video was sent to you anonymously, not from a family member?

A It could have been sent anonymously through a family member.

Q But you understand that's different, correct?

A Yes.

Q I'm going to show you your testimony.
A Yes, sir.
Q From the State of South Carolina. And before you read this, I need to get a copy of this to the solicitor's office.
A Yes, sir.
Q I'm going to have you start where I've got you tabbed on Page 13 and 14. I've got to get them a copy, but do you see where I've got you tabbed to start?
A Yes, sir.
(Pause.)
BY MR. KENT:
Q Have you had an opportunity to read it?
A Yes, I'm reading it.
Q I'm not going to interrupt you while you're reading.
(Pause.)
THE WITNESS: Yes, sir.
BY MR. KENT:
Q I'm going to take that from you. You've read 13 to the top part of 14 as well?
A No, I just read the first page.
Q Just let me know when you're done.
(Pause.)
THE WITNESS: Yes.
BY MR. KENT:

Q Backing up, I asked you if you remembered testifying in the trial of Joquell Myers, do you remember?
A Yes, sir.
Q And I asked you directly about receiving the Facebook video?
A That is correct.
Q And I asked you about questions from the then Solicitor Meadors about receiving the video?
A From Meadors?
Q John Meadors was asking you questions at the time?
A Oh, yes, sir.
Q And you were asked questions about how you received the video?
A Yes, sir.
Q And I know a few moments ago when you were asked from the solicitor today, you said, I got it from family members?
A Yeah, anonymously through family members.
Q And as I read this, I want to respond, the question, Line 20: How did you get this video, this Facebook video? Answer?
A It was sent to us anonymously.
Q Well, just read so we have the exact words. Answer on A was?
A It was --
Q Question, Live video?

A It was sent to us anonymously.
Q Okay. And I said I couldn't understand the last word you said, and you said?
A Anonymous.
Q Twice?
A Anonymous, yes, sir.
Q And then on 14, Okay, it was sent to you anonymously? Answer?
A Yes, sir.
Q Question: When does that happen sometimes? Folks in the community will send you evidence in an ongoing investigation. Your answer?
A That is correct.
Q There's no reference about family members or specificity of who actually sent the video, correct?
A That is correct, not in that statement of Joquell Myers, no, sir.
Q This isn't a statement, this is your testimony in front of --
A Yeah, my statement, yes, sir, that's correct.
Q And in front of the jury and Joquell Myers when asked about the Facebook video, you informed the Court that we had no clue where this video came from?
A No, we just said anonymous, yes, sir.
Q Today, do you know who the video came from or is it

still anonymous?
A No, it was sent anonymous through a family member.
Q So do you know who sent the video?
A No, sir, I don't know who the family member is.
Q And I'm not trying to trick you. I just want to make sure I clarify.
A Yes, sir.
Q We can't put a witness on the stand today to say this is where this video came from?
A Not at all.
Q And you heard the testimony a little bit earlier from Ms. Eaglin, you were in the courtroom, that there's a longer video out there somewhere, but we don't have it?
A Yes, sir.
Q And you would agree with me that what we do have is a snippet of the longer video?
A That is correct.
Q And in our file, we don't have a subpoena to Facebook?
A No, sir.
Q We don't have contact with Facebook?
A No, sir.
Q Where we tried to get the longer entirety of the video?
A What's the question?
Q We don't have the longer video? We don't have anywhere where we tried to attempt to get the longer video?

A No, sir.
Q And the family member who anonymously sent it, would it be family members of the victim, Mike Rodgers?
A That is correct.
Q So that's the person who gave you the clip, the video with this part in it?
A I don't recall who it was.
MR. KENT: Thank you. That's all the questions I have.
THE COURT: Anything further from the State?
MR. CORBETT: Nothing further.
THE COURT: Detective, you can step down.
MR. FINNEY: That's the information we wanted to present to the Court on the video. We have additional stuff about the statement.
THE COURT: Right. Right. Right. Right.
Let me hear argument with regard to the admissibility of this particular video from the State.
MR. FINNEY: If Your Honor please, we feel that the video is contemporaneous to the act that he is charged with in the indictment. It happened 30 days -- the video was seen by Ms. Eaglin and she testified as to Mr. Mike Rodgers within 30 days of his death.
It is a -- the video kind of speaks for itself in terms of the taunting and the unfriendliness of the tone as portrayed in the video by Mr. Epps. Mr. Epps is with

associates. They are talking about a man they know as Killa Mike. They reference him many times. He is the main part of the song that is being sung and they are threatening not only to send the goons, but to redo his car and himself.

These threats, we think, are basis of motive to show Mr. Epps' mental status and his feelings towards Mr. Rodgers, which we think transpired at the Hop-In that next month, 30 days later that led to not only Mr. Epps swinging, physically attacking Mr. Rodgers, but, also, pulling a gun out and shooting him, all of which has been captured on video. This is very germane to his relationship and feelings towards Mr. Rodgers and the actions that he took on September the 8th.

Let me go ahead and just argue before Mr. Kent does that the completeness, the relevancy of this two-minute video is totally on point to the charge of murder. The 45 minutes or whatever Attorney Shaun Kent thinks may have been in the other part of the video, we don't have any connection to say that it was relevant in any way. We don't think it's necessary for the Court to be looking at something that's not important in the case before the Court today.

We have no way, as far as I can tell, that Mr. Kent knows how long the video actually is. I think there's something like about 55 people looking at it. I don't know how long it will take 55 people to post that they're on

there looking at it. We don't have any information, we never received any information so that we could share about the other part of the video. We're only talking about the relevant portion when Mr. Epps is talking about Mr. Rodgers directly and making threats towards Mr. Rodgers.

Thank you, Your Honor.

THE COURT: Mr. Kent.

MR. KENT: Thank you, Your Honor.

I'm always fascinated when solicitors tell me what is not important to my case. I have a right to present a defense. And in the right to present a defense, I kind of like to be the one who decides what's important to the defense. I always get nervous when a solicitor stands up and says we don't believe that other stuff would be important. That's why we've been here for a day and a half arguing about discovery and issues because of the solicitor's office deciding what's important and what's material to me defending Mr. Epps. That becomes a problem.

Your Honor, when we started this back on August 14th when we were supposed to have the trial, I was very specific that this video was going to come up and I wanted the Court to hold the date in issue from that date to this date for this specific reason. That's the first part of the argument of what I gave you. We have a discovery disclosure order in South Carolina and the discovery disclosure order gives the

solicitor's office specific detail of when there's supposed to be (undiscernible) videos.

In this unique situation, they're supposed to disclose enough of the case to be placed on the trial docket for it to be ready for trial. It's under Rule 112(e) of South Carolina Rules of Criminal Procedure. And it's, also, in a new docketing order, 2023-00806, which comes in on how we handle Facebook disclosure videos. That was the first part of our argument of what I gave to you, Your Honor, and what I asked for back on August 14th.

The lateness of the disclosure of the video by the solicitor's office violates the disclosure order and one of the reasons why, this situation is why the State of South Carolina has taken over cases from the solicitor's office. Once you put that case on the docket, you are attesting to the Court as well as to the defense we have properly given you all the discovery so you can properly prepare your case. They didn't do it. That was my argument. I said I want this ruling set back on that date on August 14th so they can't come in -- which they keep saying throughout this last two days, oh, he had 30 days, what's the big deal? The big deal is there's an order that specifically says you can't do that.

So then we go one step further, the video can't be authenticated. It just can't. During the last trial -- and

I've scoured that transcript, it was very interesting, Judge Curtis was the judge who heard it. And the first question she asked is, no one is arguing about authentication? For some reason, I don't know why, they didn't have the authentication. The video can't be authenticated. And I can give the Court the transcript. Several times, Judge Curtis said y'all aren't arguing authentication?

The reason that I ask and I don't understand why they believe calling Ms. Eaglin allows them to authenticate the video. Getting videos and getting evidence in and getting testimony in, the Court has said a condition precedent to introducing video evidence, phone evidence, phone information is authentication. A person with independent knowledge of something what they propose it to be must testify and say this is what I think it is, meaning I have personal knowledge of the people in the video, I have personal knowledge of people who shot the video, I think it's that person.

Once they create that condition precedent, what ends up happening is it gets to the defense -- what almost always happens and the easiest way to describe it is phone records. Somebody says I didn't send that person that text message. Someone then says well, you know what, I know JuJu. This is the phone that I associate with JuJu and JuJu usually sends me text messages. That's the condition precedent.

No one can get up there and say this is what I associate with Diontrae Epps for authentication. Mr. Eaglin cannot be the person to authenticate because one, wasn't there when it was made, knows absolutely nobody in the video and when shown the video by an outside source, didn't see it herself, she can't authenticate the video of it herself. If she could, then, literally, they don't need her. If she's allowed to authenticate it, they can call anyone from out in the street, show them the video and say did you see it, okay, go ahead and authenticate. That's not the condition precedent.

And, finally, Your Honor, the rule of completeness becomes very important. Rule 106 of the Rules of Evidence, we're entitled to a complete presentation of what happened. You can't just take a snippet of something, a small piece of it and say all right, Shaun, this is what you have to argue with. They have a right to contact Facebook. They have a right to get Facebook subpoenaed. They have this information. Simply, as far as I'm concerned, opens up the ability to then contact and get the full video.

Why is the full video important? I don't know, but that's the problem. I don't know what I don't know. Meaning, perhaps, earlier in the video -- and, again, I don't know because I haven't seen it, but, perhaps, earlier in the video, Mike Rodgers is making a comment on the video.

Perhaps, earlier in the video, they say something completely unrelated. I don't know. But there's a rule of completeness for a reason that we're allowed to have everything, not snippets.

If they're allowed to do this, I want you to think about it, what we can start doing is, let's just take a snippet of this video and give it to the Defendant, not the whole thing, only the topic of what we want to cross-examine on. I'm entitled to use that same brush and res gestae analysis and intertwine everything that possibly happened.

Your Honor, nobody in the video will be called to testify, nobody. So now we have a confrontation clause problem and a possible hearsay problem. From the last trial when I was able to read the transcript, one of the things that they were trying to do is they were trying to interpret the video. Hey, what are they doing here? Are these gang signs? Are these gunshots? What do they mean by it? So they were interpreting what these people were saying.

And the solicitor tried to do it today. He said send his goons, that means they were trying to set it up and this is the reason. There's no one going to testify to this. This is assumptions from law enforcement and from the solicitor. I can't cross-examine those people. One individual is dead. One individual has already been convicted and is not going to testify unless we choose to

call him. And then there's Mr. Epps.

So there's a confrontation clause problem of the people inside of the video that I can't cross-examine them and the solicitor's office would then have unfettered access to put a witness on the stand to say we believe these are gang signs and activity, not asserting probative value, but purely prejudice to prejudice Mr. Epps to say you guys are out there doing gang related activity and this is why you guys are trying to scare and shock Mr. Rodgers.

It's a problem, Judge, and that's why I've got such a problem with it. That's why I had such a problem way back in the day on Facebook video. We have a huge confrontation clause issue. We have a discovery issue that we had to begin with and the video is not complete.

And, Judge, the State's analysis is we believe this video ties into the shooting and is the motive as such with no witness to testify to that. So that means their officer would be the one who says we believe this is the motive. A motive is not a requirement. It's not an element. So for them to say we need this to prove motive, motive is not a requirement, but to prove motive, we're going to put an officer on the stand to say this is what we believe the motive to be.

The prejudice is rampant. It is replete throughout the entirety of the case. Allowing this snippet -- and I won't

call it a whole video, I'll call it a snippet of the video is prejudice to Mr. Epps.

Finally, Your Honor, the temporal aspect, the solicitor made a comment that it's contemporaneous. It's not. Contemporaneous means at the same time. It's, at least, 30 days prior that they saw it. Let's be clear, because they said I didn't watch it live. Contemporaneously would be we saw it in September 2019. We saw it in August, but we can't say when the video was created because the Facebook Live (undiscernible). No testimony has been offered about when it was created. It was offered on when it was seen and it wasn't seen live, it was Facebook Live.

Thank you, Judge.

MR. FINNEY: May it please the Court?

THE COURT: Yes, sir.

MR. FINNEY: I would just say for the record, Your Honor, that not only does the Facebook Live video have the motive, but it, also, has the malice. And I believe these issues are for jury determination. Certainly, the argument that Mr. Kent made is a great argument for closing argument. It, also, has to be made now because that's what he's doing as an advocate for his client, but he is not forestalled by not saying that to the jury so that the jury can make the determination of whether this evidence is competent to be weighed on the issue of malice as well as motive. Motive is

not something we have to prove, but it is something that is germane to the issue of taking someone else's life. And these threats and these statements are germane to that argument.

I don't understand how there's been no showing of the length of the full video that he claims it was longer than the two minutes that we showed to the Court or that the relevancy of the other part to this case in particular, whatever they talked about, whatever they said before doesn't really have anything to do as far as we know with Mike Rodgers and Trae Epps.

I think, Your Honor, that the prior adjudication by Judge Curtis was based on her feeling that she needed to know that this video was made before the shooting and that it was made by people who were involved in the shooting. And those determinations were justified in terms of the evidence that she heard and that's why she allowed it to be previewed to the jury and used in the case.

Because not only -- as you will remember, the video stars Mr. Epps, we contend, but Mr. Joquell Myers was the one in the background who was on trial at that time and she determined that it was important for the jury to weigh whether Mr. Myers was actively a part of the threats and the communication that we're coming to get you as soon as we can. She did make that determination.

The authentication was not based on knowing who was holding the camera, but on whether or not it was shot and made before the shooting and that determination was made and it was made on the fact that the man in the video -- at that point, we were talking about Joquell Myers -- was involved in conduct that was relative to the charges that he was facing, murder and attempted murder, and that the jury should weigh that evidence and decide it at that time.

Thank you, Your Honor.

THE COURT: All right. There are multiple issues that have to be covered in the analysis of this video and I'll start with authentication.

Authentication is governed by Rule 901 of the South Carolina Rules of Evidence. Evidence must be authenticated or identified in order to be admissible. A witness with knowledge may authenticate evidence by testifying that a matter is what it is claimed to be. The authentication standard is not high and a party need not rule out any possibility the evidence is not authentic.

So in this case, we've got the testimony of Ms. Eaglin, who, regardless of whether she knew any of these individuals in the video, she testified that it was a Facebook Live video, that she was a member of Facebook and in order to receive this video -- that she received this video, regardless of who sent it to her as a Facebook Live video.

So she's identified what it is, what she believes it to be based upon the fact that it came from Facebook Live.

Then coupled with Detective McFadden's identification of the parties in the video and, specifically, Epps' statement where he referenced the video, all of those things taken together show that this video is authentic viewing it under the lens that the State just only has to show all witnesses who can testify that the matter is what it is claimed to be. So I think the authentication standard has been met.

The statement does contain an admission according to the rules, I'm looking at 801(d)(2), admission by party opponent. Mr. Epps has been identified in the video and, I guess, his admissions are subject to interpretation. It will be up to the jury to determine what meaning and weight to give to the statements which could be viewed as threatening towards Killa Mike.

I agree with you, Mr. Kent, any explanation as to what the other individuals are doing, I don't know that those are -- I think your confrontation clause argument on what the people who aren't Mr. Epps, I think that is an appropriate argument and any efforts to explain what they're doing, absent some personal knowledge -- I mean, these folks, if they don't testify, they can't be cross-examined, so -- but I'm focusing on the statements that are attributed to Mr.

Epps.

The completeness argument, Mr. Kent --

And someone correct me if I'm wrong, but this portion of the video is all the State has in its possession; is that correct?

MR. FINNEY: That is correct.

THE COURT: So 106, South Carolina Rules of Evidence 106 is the evidence rule which deals with completeness and it states, When a writing or recorded statement or part thereof is introduced by a party, an adverse party may require the introduction at the time of any other part or any other writing or recorded statement which ought in fairness to be considered contemporaneously with it.

If the State were in possession of the entire video and they had selected this minute and 40 seconds to be presented, I certainly think the remainder of it would be fair game, but the State is only in possession of what it has.

Mr. Kent, obviously, you can make that point to the jury. I think that goes to the weight of this evidence, not its admissibility.

And, finally, we've spent the last day and a half dealing with discovery matters. I think the analysis for -- this is obviously Rule 5 material, not exculpatory material, but the analysis is the same. The Defense is in possession

of it. They've had it -- I understand that Mr. Kent -- I note that he requested that -- the first time this case was called in August, I believe, August 14th, that he had made a motion regarding the late disclosure of this evidence at that time, but I think all things considered, the analysis is the same.

So that's a long way of me saying that I think the video has been authenticated. It is admissible in my mind and I will note your objection for the record, Mr. Kent.

MR. KENT: Judge, so I want to make sure it's clear, the State will not be permitted to interpret or analyze the video, they can just proffer and play the video for the jury?

THE COURT: Well, I think they can potentially -- I guess, potentially, they could -- if someone has personal knowledge of the contents of what Mr. Epps said, I think there's potential that they could maybe explain some of the things he's saying. My ruling about the things the other people were doing is based on confrontation clause arguments and hearsay arguments.

So, I guess, my direction to you, Mr. Kent, if you feel like a question is asked that is outside the bounds of my ruling, just object at that time and we'll deal with it then. But the interpreting what the other folks are doing, I think this is admissible against Mr. Epps because it is --

under 801(d), I think is the rule I just cited, because it's not hearsay, because it's a statement against his interest or admission by a party.

MR. KENT: Then, Your Honor, based upon your ruling, I would request that the video be edited out of any of the actions of any of his codefendants. There's a codefendant -- not a codefendant, anybody else in that video. There's one what looks to be he's appearing to make a gun sign, another sign. I would request based upon the Court's ruling that that not even be placed in front of the jury, those actions of other individuals in the video based upon the Court's ruling. Because that still would be going to the jury because it would be testimonial in nature.

THE COURT: Well, I remember from law school, this is all hearsay and confrontation clause. A gesture is not a statement and I just -- I don't see how -- absent some explanation -- for example, if the witness said look at what this individual is doing, he's making gun signs, that means that they're -- you know, that shows their intent.

I just don't think a gesture is a statement and, therefore, I don't know how something that's not a statement can be viewed as testimonial, so I'm going to -- the video can be played. Any explanation is only limited to anything that Mr. Epps said.

MR. KENT: Anything that somebody has knowledge of what

Mr. Epps has said, correct?

THE COURT: Right, exactly. I don't think any actions of the other people, they're not statements, so, therefore, can't be testimony.

MR. KENT: I want to make it clear, they can't loosely interpret what Mr. Epps is saying? They must have background --

THE COURT: Right. Right. You know, it's been said that the video speaks for itself and that's -- I think that's fundamentally the reason that it's admissible. If someone has independent knowledge of something said in the video that goes to explain, that may be admissible. We'll just have to deal with that when it comes.

MR. KENT: Yes, sir, Your Honor.

THE COURT: So that leaves us with the Denno issues?

MR. FINNEY: That's correct. Two statements given by Mr. Epps to two different detectives.

THE COURT: Okay.

MR. FINNEY: Your Honor, may it please the Court?

THE COURT: Yes, sir.

MR. FINNEY: The State would call Detective McFadden.

THE COURT: Detective McFadden, please, come forward and you are still under oath.

WILLIE MCFADDEN,

having previously been sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CORBETT:

Q Detective McFadden, good afternoon.

A Good afternoon.

Q Detective McFadden, did you have occasion -- I'm sorry, let me back up a little bit. By whom are you employed?

A Sumter Police Department.

Q And were you employed by the Sumter Police Department in September of 2019?

A That is correct.

Q Were you at that time a detective with the Sumter Police Department?

A Yes, sir.

Q And were you working on the investigation of what I will call the Hop-In shooting?

A Yes, sir.

Q As a result of that investigation, did you have occasion to interview Mr. Epps, the Defendant here today?

A Yes.

Q If you would, please, tell me, where did this interview take place?

A It took place at [redacted] in the City of Sumter, State of South Carolina.

Q And what was the date of the statement?

A It was on Sunday, September 15th, 2019.

Q Now, the [redacted] address that you referenced, is that the police headquarters or anything of that nature?
A No, that's his mother's address.
Q That's Mr. Epps' mother's address?
A That's correct.
Q Who was present for this statement?
A It was me and Staff Sergeant Culick.
Q Okay. And was Mr. Epps present?
A And Mr. Epps, yes, sir.
Q Was anyone else present?
A Not in the room while we was talking to him.
Q Now, at the time that you and Detective Culick approached Mr. Epps about a statement, at that point in time, was he in custody?
A No, sir.
Q Did you advise him of what is commonly called his Miranda rights?
A That is correct.
Q Is there any paperwork which reflects that?
A Yes, sir.
Q Do you have that with you?
A Yes, sir.
(WHEREUPON, State's Exhibit No. 3 was marked for identification.)
BY MR. CORBETT:

Q I'm going to show you what's been marked for identification as State's No. 3 and ask if you can identify that?
A Yes, this is Sumter Police Department interview form. This is the form that we read to individuals that may be involved in a particular crime.
Q Was that form read to Mr. Epps?
A Yes, sir.
Q Was it signed by Mr. Epps?
A That is correct.
Q Who witnessed it?
A Me and Staff Sergeant Culick.
Q Okay. And what is the date of that advisement form?
A It's on September 15, 2019.
Q And if you would, please, just read this form for us.
A It is the Sumter Police Department interview form. It states, Before we ask you any questions, you must understand your rights. You have the right to remain silent. Anything you say could be used against you in court. You have the right to talk to a lawyer for advice before we ask you any questions and to have him/her with you during the questioning. If you cannot afford a lawyer, one will be appointed for you before any questions if you wish. And if you decide to answer any questions now without a lawyer present, you will still have the right to stop answering at

any time until you talk with a lawyer.

And then it's the waiver of rights. It says, Before any questioning, I was furnished the above statements of my rights at 3:56 p.m. on September 15, 2019 at [redacted] by Officer Staff Sergeant Culick of the Sumter Police Department. I have read or had read to me the statements of my rights. I understand what my rights are. I'm willing to answer questions at this time without a lawyer present. No promises or threats have been made to me and no pressure has been used against me.

Then it says signed, it says Diontrae Epps, date 9/15/2019 at 3:57 p.m. And then at the bottom, it has witnesses, myself and Staff Sergeant Culick signed as a witness.

Q And you were present for that?

A That is correct.

Q And you indicated that this took place at the home of Mr. Epps' mother?

A That's correct.

Q And can you describe for me just briefly the room that it took place in?

A It was a bedroom.

Q A bedroom there at the house?

A Yeah, he was laying down.

Q Now, you indicated he was laying down. Was there

anything out of the ordinary about his physical condition?
A He just got released from the hospital because he did have a gunshot wound.
Q Now, with regard to his ability, did he appear to be under the influence of anything?
A No, sir.
Q Did his answers make sense in terms of the questions that you were asking?
A Yes, sir.
Q Were they appropriate as to the context of what was going on?
A That's correct.
Q Did at any point in time you feel like he did not understand the questioning or the circumstances of the interview?
A Not at all.
Q Was he able to give you clear and cogent answers?
A Yes, sir.
Q Was there anything about Mr. Epps that made you question his mental capacity, whether he had the ability to give a statement?
A No, sir.
Q Did he seem to have any type of learning disabilities or mental disabilities or anything of that nature?
A Not at all.

Q Do you remember about what time of day the interview took place?
A Just reviewing the paper here, it says 3:57 when we read him the rights.
Q So 3:57 in the afternoon?
A Correct.
Q Almost four o'clock?
A Yes, sir.
Q Do you recall about how long you were there?
A Maybe 20 minutes, approximately 20 minutes, around that time.
Q So this wasn't a lengthy interview?
A No, sir.
Q Now, upon arrival, did you and/or if you heard Detective Culick say anything, were any type of promises made, threats made, assurances, guarantees, anything told to Mr. Epps in order to get him to testify?
A No, sir.
Q For example, if you tell us this, we'll do this for you, anything of that nature?
A No, sir, not at all.
Q And was Mr. Epps informed that you were there asking questions about the shooting at the Hop-In?
A That is correct.
Q Did Mr. Epps' answers to the questions appear rational

and responsive to what you and Detective Culick were asking?
A Yes, they did.
Q And at the time that that document was signed by Mr. Epps, did he agree to talk with you and Detective Culick?
A Yes.
Q At any point in time during the interview did he ask for an attorney?
A No, sir.
Q Now, Detective McFadden, I want to make sure we understand it correctly. I'm going to show you what's been marked as State's Exhibit No. 2. Did Mr. Epps actually write out a statement?
A No, sir.
Q How was the substance of the statement recorded?
A We took notes on it.
Q You say we, you're referring to?
A Me and Staff Sergeant Culick.
Q You and Detective Culick were taking notes?
A Yes, sir.
Q And in conjunction therewith, did you type a document reflecting those notes?
A Yes, sir.
(WHEREUPON, State's Exhibit No. 4 was marked for identification.)
Q Can you review that and tell me if you can identify it?

A It's the interview notes from the September 15, 2019, me and Detective Staff Sergeant Culick interview Diontrae Epps.

Q Is the content of No. 4, State's No. 4 included in State's No. 2?

A That's correct.

Q Now, I want to be careful because I want you to compare State's No. 4 with State's No. 2?

A That's correct. I just transferred everything over to State's No. 2.

Q State's No. 2 is longer; is that correct?

A That is correct.

Q And we're going to talk about a subsequent statement from Mr. Epps in just a moment. I just want to make sure that's clear. You had prepared notes from the September 15th interview?

A That's correct.

Q And that's reflected in State's No. 4?

A That's correct.

Q Then there was some additional statements that you, also, typed notes on which you included the content from State's No. 4 onto State's No. 2?

A That's correct. On September 17th, 2019, there was an additional interview -- well, not an interview, statements that was made by Diontrae Epps.

Q So you talked to us a little bit about the September 15th statement and that concluded, I believe you indicated, after 20 to 30 minutes. Did you and Detective Culick leave at that time?
A Yes, sir.
Q Now, between September 15th and September 17th, did the circumstances change such that you had contact with Mr. Epps again?
A Yes.
Q Tell us about that, please.
A After further investigation into the Sunoco homicides, we did obtain a warrant for Diontrae Epps' arrest.
Q And was Mr. Epps taken into custody subsequent to that?
A Yes, he was.
Q What date was he taken into custody?
A That was on September 17th, 2019.
Q And where did that take place?
A At the Sumter Police Department.
Q Do your notes reflect that day as well?
A That is correct.
Q And which document are you referring to?
A To State's Exhibit No. 2.
Q How is it that Mr. Epps came to be at the police department on September 17th?
A He came in, I believe, to fill out some paperwork. I

guess, he was trying to get some kind of compensation for being shot. He walked through the front door. He walked to the interview room and that's when myself and Detective Sergeant Culick advised him that we did have a murder arrest warrant for him.

Q Okay. And I believe the notes indicate that you had, also, requested a DNA sample?

A That is correct.

Q Now, tell me about what happened after he was advised that you had a warrant for his arrest?

A It was stated that he didn't want to talk and that he was ready to go. I, then -- myself and Culick, that's when we then advised him that he was being charged with the murder of Michael Rodgers, the incident that happened on September 8th, 2019, at the Hop-In gas station.

After that, the warrant was read to him and Epps continuously said that -- he continuously said, I never had a gun, I never shot no gun, I never shot anybody. And continued to repeat it over and over. Epps, also, stated that he never --

Q Let me ask you this, was this in response to an interview?

A No, sir. I never asked him any questions. He just made the statement after we read the warrants to him.

Q Okay.

A Epps, also, stated that he never punched Rodgers. Epps was, also, stating y'all don't have me on no video. Epps was advised that he wasn't on the girl's video, but he was on the video from the Sunoco store. And that's when he started pouring down sweating.

Epps then stated, I did swing on him. And then Epps stated that Killa Mike then pull out a gun and he took off running. Epps stated he saw other people shooting while he was running, but he isn't going to tell the names. Epps stated he doesn't know who shot him or who shot Killa Mike.

Epps stated he could call his mom -- he asked if he could call his mom and talk to her. Epps talked with his mother and after speaking with her, Epps stated if his girlfriend could come talk to him. Epps' girlfriend that was in the lobby of the police department was allowed to speak with him. Epps was given a copy of his murder warrant. Before walking outside, Epps, also, stated that I did swing on Killa Mike. Epps demonstrated how Killa Mike was coming up to him aggressively and did like a chest bump to him. Then Epps stated that's why he swung on Killa Mike.

When Epps was about to be put in my patrol -- not my patrol vehicle, it's my issued vehicle from the Sumter Police Department, Epps requested to speak to me alone before being transported. Epps sat down in my vehicle. Epps stated that he would take a polygraph to prove that he

didn't have a gun, that he didn't shoot a gun and that he never shot nobody. I advised Epps that we are not going to give him a polygraph when we know for a fact that is not true and that law enforcement knows that he did have a gun and he did fire a gun.

Epps then stated to Detective McFadden, all right, this is what really happened. And requested for what he was about to say to stay between me and him. Epps then stated that Killa Mike walked up to him all fast and aggressive, so he did swing on Killa Mike. Epps then stated Killa Mike then pulled out a gun. Epps then stated that he turned around to run and that as he was turning around, he did pull out a gun -- he said -- I'm sorry, Epps stated that he was turning around and running away. He shot a gun behind him. He motioned how he was shooting a gun behind him. Epps stated I was like this in motion and showed how he was firing a gun that night with a gun behind his back.

Epps then asked, Can I still get a murder charge for that? I advised him, Yes. And Epps stated that he was ready to go to jail and asked to call his mom again. I called his mother and put him on speaker phone while Epps was being transported to Sumter County Detention Center. Epps' mother told him not to talk to anyone without an attorney. Epps asked his mother to call Attorney Shaun Kent. Epps then stated to his mother, Mom, I didn't shoot

nobody. I didn't kill nobody.
Q And you indicated this was not actually a formal interview?
A No, sir.
Q So what do you mean by that?
A When he said he didn't want to talk and he was ready to be transported to jail, I was already in the process of getting him ready to be transported.
Q And then that's when he made these statements?
A That's when he made the statements, yes, sir.
Q And when he requested an attorney, was any other interview conducted?
A No, sir. His mother -- well, he asked his mother to call Attorney Shaun Kent, but he still never requested formally to me.
Q Now, State's No. 2 that we were just looking at, that includes the September 17th portion as well?
A That is correct.
Q And who typed the statement?
A I typed the statement.
MR. CORBETT: Detective McFadden, please, answer any questions Mr. Kent may have.
THE WITNESS: Yes, sir.
THE COURT: Mr. Kent.

CROSS-EXAMINATION

BY MR. KENT:

Q I don't have a lot, Detective. You called this a statement, but you would agree with me it doesn't fall within the usual rules of statements that we have, meaning it's not signed?

A It's not signed, no, sir.

Q I wasn't trying to trick you, but it doesn't fall under the usual statement rules, fair enough?

A It's a statement that he just gave. It wasn't signed. It's just a statement a person made.

Q Usually, what ends up happening when we get a statement from someone who is a suspect or a defendant, we either allow them to write it themselves or y'all write it?

A Correct.

Q And then allow them to review it?

A Correct.

Q Or read it to them?

A Correct.

Q And there's some points on there that is this true and correct and accurate and things of that nature?

A Yes, sir.

Q And then we have them sign it?

A Yes, sir.

Q And that did not happen in this situation?

A No, sir.

Q And there's been questions -- and I know this was four years ago, but even four years ago, there's always questions about body cams and things of that nature?
A Yes, sir.
Q You or Detective Culick did not have body camera at that point in time?
A Not when we interviewed him. We are assigned body cameras, but not when we interviewed him. We didn't have one on us.
Q You did not have one on you?
A No, sir.
Q Did you have an iPhone with you or anything that could have recorded the interview?
A Yes, we had our phones with us.
Q But that interview of September 15th was not recorded?
A No, sir.
Q Do we know what medication Mr. Epps would have been on because, of course, he had been shot?
A No, I don't know what medication he was on.
Q But you would agree with me he had been shot?
A Yes, sir, he had.
Q Shot in the spine, basically?
A In the abdomen area.
Q But, anyway, he got shot?
A Yes, sir.

Q And you're not aware of what medications he was on?
A No, sir.
Q What medications he was on that day?
A No, sir.
Q As I understand, the solicitor asked you about his composure and how he handled, but we don't know what medication or pain medication he would have been utilizing?
A No, sir.
Q That was not a question you asked him?
A No, sir.
Q And I understand that after that interview -- or before that interview, you read him your Miranda rights?
A Before the interview, we read them.
Q On the 15th?
A On the 15th, that's correct.
Q But at no other point in time was he ever read his Miranda rights after the 15th?
A No, sir.
Q And when he came down to law enforcement -- I'm not trying to trick you. When he came to law enforcement on the 17th, y'all didn't call him?
A No, sir.
Q You did not tell him to come show up?
A No, sir.
Q He just happened to come to the police station?

A Yes, sir.
Q Because he wanted to fill out a statement because he had been shot?
A No, he was applying for victim --
Q Coming down for something personal?
A Yes, sir.
Q I mean, at that point in time, you and the Detective Culick had realized y'all already had a warrant outstanding for his arrest?
A Yes, sir.
Q Did y'all take him into a separate room to talk to him?
A Into an interview room, yes, sir.
Q And during when you took him into that separate interview room, did you re-Mirandize him?
A No, sir.
Q Did you tell him that he had the right to remain silent or anything of that nature?
A No, sir.
Q Did you tell him he did not have to talk to law enforcement and advised him not to talk to law enforcement?
A No, sir.
Q The interview room at the Sumter Police Department, are they not able to record?
A They are now. At that time, we didn't have recording devices. It's a new police department. At that time, we

didn't have recording devices in our room.
Q Was there any device or anything in Sumter Police Department that you could have gone and gotten?
A Not for that interview room, no, sir.
Q But he didn't have to go into the interview room. You could have taken him some place else, correct?
A Correct, yes, sir.
Q And what we're trusting is your notes as to what happened, correct? We have to trust your notes from four years ago as to any references from Mr. Epps?
A Yes, they were notes that after we talked to him were immediately put on paper.
Q He was not given an opportunity to review the notes to make sure they were accurate and depicted what he actually said?
A No, sir.
Q And, again, on the second date, September 17th, 2023 [sic], you don't know what medications he was under?
A No, sir.
Q What pain he was under?
A No, sir.
Q Or what doctor care he was under?
A No, sir.
Q And the notes of September 17th, 2023 [sic], wouldn't have been anything, as you said, he said something about I

don't want to talk to y'all or something of that nature?
A That's correct.
Q Did you ever get clear on what that was, what he said, how did he say it? Was it addressed in your notes?
A So after collecting DNA from Epps, Detective McFadden and Staff Sergeant Culick told Epps we needed to talk to him more. Epps stated he didn't want to talk and he was ready to go. He was just saying, I don't want to talk no more, I'm just ready to go. He was, like, trying to get out of there.
Q And y'all collected DNA?
A Correct, first.
Q Did you tell him that he was now a suspect or anything of that nature before you asked for DNA?
A No, sir. We just told him that we wanted to compare it to the blood that was collected from the scene of the Sunoco.
Q You specifically had a conversation and said I wanted to talk to you some more?
A We asked him, Can we talk to you some more, yes, sir, and he said, I don't want to talk no more.
Q And did not (undiscernible)?
A No, sir.
Q At that point in time, you did not have him sign it?
A No, sir.

Q Is there a reason why?
A Because he said he didn't want to talk. He was ready to go. I was getting him processed to transport him down to Sumter County Detention Center, so there was no reason to read him his Miranda rights if he wasn't going to say anything.
Q But he did end up talking to y'all according to your notes?
A He ended up talking to me.
Q But still was not Mirandized?
A Correct.
MR. KENT: Beg the Court's indulgence one moment, Your Honor.
THE COURT: Yes, sir.
BY MR. KENT:
Q When he came in and y'all asked for the DNA or blood sample, why wasn't he given Miranda rights at that point in time?
A We just asked him for his consent to compare it to the blood that we got from the Hop-In and Sunoco gas station. We was asking for consent and he gave us consent. If he wanted to talk, then we would have Mirandized him.
Q But he was going to be arrested that day no matter what? He was not going to be free to leave the police station?

A That's correct.
Q So he was arrested?
A Yes, sir, he was arrested.
Q Meaning, the second he walked into the police station, whatever he was doing, he was not walking out of there?
A That's correct.
Q And it's safe to assume when we were looking for the blood in the DNA sample, we were looking for incriminating -- oh, I'm sorry. When we had him come into the police station for blood and DNA sample, we were looking for incrimination?
A We just asked for a DNA sample, not blood work.
Q But we were looking for DNA because we were looking for stuff to incriminate him and tie him to the scene?
A Not just that, we were just looking at any evidence we could get to place him on the scene and, also, looking for the shooter that shot him.
Q And you already had the warrant?
A That's correct, we had the warrant already, yes, sir.
MR. KENT: No further questions.
THE COURT: Mr. Corbett.
MR. CORBETT: No further questions of Detective McFadden.
MR. KENT: Can we take a quick restroom break?
THE COURT: Yes. We'll be in recess until one o'clock.

(WHEREUPON, a short break was taken.)

THE COURT: Mr. Corbett.

MR. CORBETT: Yes, sir, Your Honor. At this time, the State -- I'm sorry, Judge, are you ready for me to call the next witness?

THE COURT: I'm ready.

MR. CORBETT: Detective Irene Culick.

THE COURT: All right.

MR. CORBETT: And I'm sorry, Judge, Retired Detective Irene Culick.

THE COURT: Understood.

THE CLERK: Please your left hand on the Bible, raise your right hand and state your name, please.

THE WITNESS: It's Irene Culick.

IRENE CULICK,

after being duly sworn, testified as follows:

THE CLERK: Thank you. State your name for the record and spell your last name, please.

THE WITNESS: It's Irene Culick, C-U-L-I-C-K.

DIRECT EXAMINATION

BY MR. CORBETT:

Q If I may refer to you as Detective Culick?

A That is fine.

Q Tell us your current employment status.

A I am retired as of this summer.

Q Retired from where?
A The Sumter Police Department.
Q And I believe you just mentioned that's been recently?
A Yes, since July 25th, this summer.
Q Prior to your retirement, you were with the Sumter Police Department?
A Correct.
Q How long?
A Over 25 years.
Q So it's safe to say that back in 2019, you were with the Sumter Police Department?
A Yes.
Q And which division were you assigned to?
A The investigative services division.
Q Now, do you recall Sumter Police Department investigating a shooting that took place, some people refer to it as Sunoco station, some refer to it as the Hop-In on Broad Street?
A Yes, I do.
Q So you're familiar with that investigation?
A Yes.
Q Did you have occasion to, at least, in some part participate in that investigation?
A Yes, I did.
Q If I may, I'm going to show you what's been marked as

State's No. 4 and ask if you can identify that?
A Yes. These are interview notes that I typed up after we conducted an interview with Diontrae Epps at his home.
Q And you say at his home, what was that location?
A This was at [redacted] in Sumter. And it was on September the 15th, 2019.
Q And who was present for that questioning?
A That was myself, it was Detective Willie McFadden, Epps was present, his mother was there and his girlfriend was there.
Q When you say his girlfriend and his mother was there?
A At the residence when we were there.
Q Okay. If I may, I'm going to next ask you to refer to what has been marked for identification as State's No. 3 and ask if you can identify that?
A Yes, this is one of the forms that we use at the Sumter Police Department when we're going to interview somebody in reference to an incident that's occurred. This is one that we had with us that day and we read this off to Mr. Epps before talking to him about the incident that happened at Sunoco.
Q And were you present when Detective McFadden read that document?
A I was there. I read the document.
Q You read the document to Mr. Epps?

A I did.
Q Okay. And is it fair to say that that's what we may refer to as an advisement of rights or a Miranda form?
A Yes.
Q Were you present in the courtroom when Detective McFadden read it some probably 15 minutes ago?
A I was.
Q Does that form relate to the defendant what their Constitutional rights are regarding being questioned?
A Yes.
Q And that's what's contained on that form; is that correct?
A That's correct.
Q You read that form to Mr. Epps?
A Line by line.
Q And did Mr. Epps sign that form?
A Yes, he did.
Q Was his signature witnessed?
A Yes.
Q By who?
A Myself and Detective McFadden.
Q And what was the date that that advisement of rights was completed?
A It was on September the 15th, 2019, at 3:57 p.m. is when it was completed.

Q Now, when y'all arrived at the residence, could you tell us what type of room Mr. Epps was in?
A Well, he wasn't there when we first arrived. We had to wait a few minutes and then he showed up with a girlfriend. His mother was there. And he got out the car and came inside. He was walking slowly from his injury. We talked for a few minutes with his mother. She understood that we wanted to talk with him about the incident, everything that had happened at the Sunoco. And she said that we could use, I believe it was her bedroom that we used to conduct the interview in. So we all went to that -- when I say we all, it was me, Epps and Detective McFadden that went into the room together.
Q Now, at the time the advisement of rights form was signed as well as the interview took place, did you have occasion to personally observe Mr. Epps?
A I did.
Q Was there anything about his appearance, demeanor, attitude that would suggest that he was under the influence of anything?
A No, there was not.
Q Was there any indication that there was any type of mental or physical infirmity that would prohibit him from being able to voluntarily and knowingly talk with you?
A No. He spoke with us. His words were not slurred. He

answered our questions. He was intelligent. He was cooperative.

Q So there's nothing that caused you any concern about his ability to speak with you?

A No.

Q Do you recall about how long the interview lasted?

A Maybe 30 minutes, half an hour, maybe a little more. We talked about other things not related to this, about just him getting a puppy. We talked about just other things. We talked to his mother afterwards. So we were there probably longer than a half an hour, but the interview maybe half an hour, I would say.

Q Sure. Was there any point in time during the interview that Mr. Epps seemed in distress or needed a break, needed food or water or anything of that nature?

A No, he was fine. When we went in the room, he sat down on the bed and he was sitting up talking to us, but in a position where he could be comfortable with the injuries that he was still healing from.

Q Now, at the time of the questioning, did you or if you heard Detective McFadden say anything to the effect of making any type of promises, assurances or guarantees of what Mr. Epps would face or not face in exchange for his statement?

A We did not.

Q Did either of you make any threats toward Mr. Epps?
A No.
Q Was Mr. Epps told why you were there to ask him questions?
A Yes.
Q He knew it was about the Hop-In?
A Yes, that's correct.
Q Did not only the substance of his answers, but sort of the tone and the tenor of his answers, did they seem okay? Did they make sense as to the time and place and circumstances?
A Yes, he was able to answer all the questions. He didn't hesitate. He answered what we asked. Things he didn't want to answer, he told us he didn't want to answer and we moved on to other questions.
Q At any point during that interview, did he ask to stop the questioning or did he ask for an attorney?
A No, he didn't.
Q To the best of your knowledge, was his statement freely and voluntarily given to you and Detective McFadden?
A Yes.
Q Now, you indicated that there's some notes there that reflect this statement; is that correct?
A That's correct.
Q And that's State's Exhibit No. 4?

A Yes.
Q Okay. Were those then transferred over and added to on State's No. 2?
A That's correct. I sent these notes to Detective McFadden, who was the detective assigned to this case.
Q And to the best of your information, do those notes accurately reflect the substance of the questioning?
A Yes, they do.
MR. CORBETT: One moment, please, Your Honor.
(Pause.)
BY MR. CORBETT:
Q Now, Detective Culick, I'm going to ask you to refer to State's No. 2, please?
A Yes, sir.
Q We know about your presence on the 15th of September, 2019, correct?
A That's correct.
Q Now, there's some additional statements made referenced in State's No. 2; is that correct?
A Yes.
Q Were you present for any of that?
A I was present for some of this.
Q Okay, for some of it. If you would, please, tell us about on September 17th, how is it that you came into contact with Mr. Epps?

A When we were at his mother's residence on the 15th, that Sunday, we talked about victims assistance, they could fill out the forms. His mother was worried about the hospital bills and things like that and insurance. So I told her if they would come down, that I would get a victim's advocate to fill out the forms and send it in in reference to those to see if he's eligible for any type of assistance.

And so Mr. Epps did come down to the law enforcement center on Tuesday, the 17th. I was present at that time. He spoke with one of the victim's advocates, Ms. Ruth Fowler, who filled out the forms. Then, myself and Detective McFadden, also, got consent from him to get an DNA sample of his to compare to any blood or items that might be on scene that matches his DNA, and he consented to that.

And then after that, we asked to talk with him some more about the case and that's when he stated he didn't want to talk, he was ready to go. And that's when Detective McFadden told him we had a warrant for him for his arrest for the shooting incident at the Sunoco. And Detective McFadden read him the warrant. And that's when Epps made several comments after the warrant was read before being transported.

Q Now, at that time, did you ask him any questions?

A I did not.

Q Okay. So these were contemporaneous statements?
A Yes.
Q Okay. So it wasn't, technically, another interview?
A No, it wasn't.
Q And State's No. 2, do the notes there reflect the comments being made by Mr. Epps?
A That I was present for, yes. I was not in the vehicle when he asked to speak to Detective McFadden.
Q Okay. With regard to State's No. 2, is there some delineation in there where you were no longer present? Like, is there a paragraph where we can stop?
A On Page 3 of 3, about not quite halfway down, it states, When Epps was about to be put in Detective McFadden's vehicle to be transported, he requested to speak to Detective McFadden alone before being transported. I was not there for that portion.
Q So sort of the second half of Page 3, you were not present?
A That's correct.
Q Okay. With regards to statements made by Mr. Epps there in State's No. 2, to the best of your knowledge, was that information accurately referenced in -- the notations accurately reflect what was said by Mr. Epps?
A Yes. Yes, it is.
Q Was there anything in that process in terms of

promises, threats or anything else said to Mr. Epps in order to get him to make these statements?

A There was not.

Q Was he, actually, being questioned at that point?

A No, he was not.

Q On that Tuesday that he came to the police department himself, did he appear to be under the influence or unable to understand what was going on?

A No, he appeared the same as he did Sunday. He was able to walk, but slowly due to his injuries, but his words were not slurred. He understood the questions. He answered right away, intelligent. After the warrant was read and he was just stating over and over, you know, that he didn't have a gun, he never shot a gun, never shot anybody, when he learned that the video was the Sunoco, he just started sweating. That was another thing I noticed, he started sweating a lot.

Q Was there anything about the September 17th statements that made you think they were anything other than freely and voluntary?

A They were freely and voluntarily made by Epps. He was not asked.

MR. CORBETT: Please answer any questions Mr. Kent may have.

THE WITNESS: Thank you.

CROSS-EXAMINATION

BY MR. KENT:

Q Do I have to call you Retired Detective?

A Whatever you'd like.

Q The victim advocate calls about his injuries, do you remember how many times he was called to come down to the police station? I'm talking about on the 17th?

A I think he was given a time that he could come down and meet with them and they would be available.

Q Were y'all expecting him -- that's what I'm trying to get, did you know he was coming? Like, were you expecting him to come?

A We were expecting him to come. Not the time, just -- I think there was like a block, you know, you can come Tuesday morning and she would be in and available.

Q And just to ask the question, did you ever call him or his family to tell him to come down or was the only time you told him was on the 15th? Do you understand my question?

A I think we did talk about coming down on that Tuesday.

Q Was that on the 15th or was that after that?

A We talked on the 15th about him coming down, so I'm not sure if I called or the victim's advocate called and said when they're available.

Q I guess my question is, when we had warrants, was he notified to come down to meet with the victim's advocate or

do you know? We didn't have warrants on the 15th?
A We didn't. And we talked about it on the 15th. So when he came on the 17th, we did have the warrants in hand, Detective McFadden did. And so, yes, he was going to -- he was going to be told about those and if he wanted to, then we were going to talk some more about that.
Q But before he had any contact with anybody on the 17th -- you didn't get warrants drafted when he showed up?
A No. I would have to look at the date of the warrant.
Q Is it a safe assumption you would have had warrants based upon -- you were in here during Detective McFadden's testimony, is it a safe assumption we would have already had warrants when he came?
A Probably, yes.
Q And we weren't out actively looking for him from the warrants?
A No. He was cooperative and gave no indication that he wouldn't come down.
Q In the first statement, you indicated that there was some stuff he refused or would not -- I don't want to say refused, would not talk about. Do you remember that statement from when the solicitor asked you, there was some things he just didn't want to talk about, so we moved on?
A Yes. He refused to name other people that were out there or others that might have a gun, things like that. He

was just not going to -- and he made it clear, he just told us, I'm not going to tell on other people.

Q And Miranda was read on the 15th?

A Yes.

Q But Miranda was not read on the 17th?

A That's correct.

Q And when he came on the 17th, you were getting DNA from him?

A That's right.

Q And you were getting DNA after we had already had our warrants, presumably?

A Oh, yes, yes.

Q And we knew he was going to be charged and arrested and not free to go on the 17th?

A Yes, we did.

Q And he never signed any statements whatsoever?

A No, we didn't ask him to. We didn't bring computers to his house and try to do printers -- to his mom's. So on the 17th, if he wanted to talk, then we would have asked can we do a statement and type up one.

MR. KENT: That's all the questions I have.

THE COURT: Any redirect, Mr. Corbett?

MR. CORBETT: Nothing on redirect, Your Honor.

THE COURT: All right. You can step down.

MR. CORBETT: Your Honor, that's all the State has with

regard to the Jackson V. Denno hearing.

THE COURT: All right. Mr. Kent, any --

MR. KENT: You want --

THE COURT: Well, I mean, certainly, the Solicitor can --

Mr. Corbett, you can put any argument you have on why these statements should be admitted if you feel the need.

MR. CORBETT: Judge, I just want to make sure the Defense didn't --

THE COURT: I'm sorry. I'm sorry. It's getting close to lunchtime.

Does the Defense want to call any witnesses?

MR. KENT: No, Your Honor, we do not.

THE COURT: All right.

MR. CORBETT: Your Honor, with regard to the statements made by Mr. Epps, we believe the State has shown that the statements were freely and voluntarily given. Your Honor, the statement on the 15th, he was provided Miranda rights. The notes were taken by the detectives at that time. They discussed the location, the time, his physical condition. It appeared to them that it was freely and voluntary.

Then on the 15th, the statement that he made at the police station --

THE COURT: You mean on the 17th, Mr. Corbett?

MR. CORBETT: I'm sorry, Judge, on the 17th, officers

testified that it was not in response to questioning. Upon being advised that he was being placed under arrest, he made a number of contemporaneous statements. At the time of his transport, he then indicated that he wanted to speak to Detective McFadden alone. And throughout that testimony, it was consistent that he did not appear to be under the influence, that he was not threatened or coerced or promised anything and that all indications were that the statements were freely and voluntarily made.

THE COURT: So on the 17th, at some point, he was in custody, but it's the State's contention that he was not being interrogated?

MR. CORBETT: That is correct.

THE COURT: All right. Mr. Kent.

MR. KENT: Thank you, Your Honor, may it please the Court. As an officer of the court, I don't think I have a valid challenge to the events on the 15th. I think there's some cross-examination fodder for in front of the jury of things that I brought out, however, I simply would have a difficult argument to argue freely and voluntariness based upon their Miranda and so forth.

That being said, if we trigger and forward to the 17th, I would have an argument. There might be a question of whether or not I'd want the statements in, but for purposes of the hearing, it's pretty clear that the officers had him

come to the station. The trigger for Miranda is not whether or not you're actually being interrogated, it's words and/or actions likely to elicit an incriminating response.

He was told to come down to meet with the victim's advocate. The officer testified he was under arrest. He was not free to go. We already had warrants for him. Getting the DNA samples, to me, is words and/or actions likely to elicit an incriminating response since it is being utilized to try to actually convict or prosecute and help with their case.

So I think at that point in time, even from that simple point, I think officers are required or should have given Miranda rights. I think an abundance of caution when we then say we want to talk to you a little bit further and take him into a room, he's entitled to Miranda rights. Miranda is not given to him at all. There's no form on this matter.

So putting that together, the fact that these are actions seeking to elicit an incriminating response, they know that he is coming to the station. They used the victim's advocate ploy to say we need you to come and show up at this point in time. They already have a warrant for him. They know he is not free to go, so by definition, he is under arrest. So for that reason, Your Honor, for this hearing, we would make a motion to suppress the statements

on the date of September 17th.

THE COURT: Mr. Corbett, let me hear from you limited to the September 17th statement.

MR. CORBETT: Judge, the fact is that he was Mirandized on the 15th. We know that for a fact. When he came in on the 17th, he consensually gave a sample. He was asked if he wanted to talk. He said, I'm ready to go. At that point, he was advised there were warrants for his arrest. From that point forward, he was not interrogated. He was making statements.

So from that perspective, we don't feel like there's any type of violation of Miranda, particularly in light of the fact that he had already been Mirandized two days before that. So based on that, we believe the statements are valid.

THE COURT: And Jackson V. Denno requires the Court to analyze whether the statements were made voluntarily by the Defendant. The September 15th questions, the Defense has conceded there's not a good faith argument to argue that those were not voluntary. So I'll focus on the 17th.

The evidence before me is that he came down voluntarily to fill out victim's forms. He voluntarily gave this DNA sample. Once the warrants were served, he initiated contact with Detective McFadden. He made statements that were not elicited by law enforcement. His statements were not

subject to any interrogation. So I feel like they are, certainly, not violative of any Miranda standard and there's nothing that I see that makes them involuntary.

Now, Mr. Kent, obviously, you can ask that same line of questions in front of the jury, but for purposes of this hearing, the statements on the 15th and 17th are voluntary and, specifically, the statements on the 17th were not due to interrogation.

So for the Jackson V. Denno standard, I think the statements are voluntary. And whether the State chooses to admit those statements in its case in chief, we'll figure that out this afternoon.

Is there any other pretrial matter other than dealing with the juror issue when they come back?

MR. KENT: Just the juror issue, Your Honor, is what I would think.

THE COURT: I believe I will remember it, but if I get ahead of myself this afternoon in my desire to get this case started, y'all remind me. But I'm going to think about that over the next hour in further detail and I will decide whether to keep --

And for the record, it was Juror -- I said this again, but I just wanted to make it clear, Juror 84, Ms. Lovin, is the juror that I'm, at least, somewhat concerned about based upon her answers to my questions, based upon the totality of

the circumstances with regard to her.

Now, Ms. Schaller, I don't see any reason to question her any further nor any reason to question her ability to be a fair and impartial juror. So my decision will be limited whether to keep Juror 84 on the jury or to replace her with an alternate.

We will be in recess in this matter until 2:30.

(WHEREUPON, a lunch break was taken.)

THE COURT: Folks, before we get started and bring the jury in, we need to deal with the matter of Juror Number 84. I've given it consideration and given the nature of her responses to my questions this morning, given the fact that other potential jurors were stricken by the Defense who answered questions similarly to the responses given by Juror 84 this morning, I am going to remove her from the primary jury and we're going to activate one of the alternates. The law requires that to be done at random.

So I have put the numbers and names of the two alternate jurors on slips of paper. I'll put them in this cup because I don't have a hat and I'm going to have Mr. Tomlin pick one of these numbers. I'm certain in a criminal case, it has to be done at random. In a civil case, it would be done in the order they were selected.

Mr. Tomlin, if you'll pick one.

All right. Juror Number 121, Shirley Rembert, will be

promoted from alternate to primary juror.

So I need to bring Ms. Lovin in and excuse her before we bring the rest of the jury in. So bring Juror Number 84 in.

THE BAILIFF: Yes, sir.

MR. KENT: While we're getting her, can I put something on the record real quick?

THE COURT: Yes.

MR. KENT: Judge, we made a lot of motions at the beginning of trial. Do you want me to renew my motions contemporaneously with the issues as they come in or am I protected with all the pretrial motions? You understand? Some judges want -- am I protected or do I need to keep renewing them as the matters come up for anything that we ruled on?

THE COURT: I think anything that wasn't explicitly ruled on, like, the specific things about the video, if there's something objectionable, obviously, those need to be remade, but, you know, obviously, the discovery matter that we spent copious amounts of time on, that has, obviously, been made and ruled on and protected for the record. Probably need to remake the Denno objection.

MR. KENT: Yes, sir.

THE COURT: Anything else specific you're worried about?

MR. KENT: The biggest thing is I don't like to interrupt while someone is doing their opening statement, things of that nature.

THE COURT: Certainly, for the opening statement purposes, you know, I'm going to tell the jury what is said is not evidence in opening, but yeah, those -- if anything in the opening statements pertains to any of these issues we've dealt with pretrial, certainly, those are protected. As we call witnesses, out of an abundance of caution, it would probably be a good idea to renew any motions as they happen.

MR. KENT: Thank you, Your Honor, I'll renew them contemporaneous. Thank you, sir.

THE COURT: And before we bring the jury in, I want to just kind of make a statement. I expect everybody in the gallery will be calm and quiet as the case is going on. So if there's any disruptions in the gallery -- and I guess this is more directed at court staff and bailiffs than anybody else, if I'm being bothered by something that's going on, I promise I will call that out.

So if someone is sitting there peacefully, not making any noise, minding their own business, watching the trial and a bailiff or court staff is bothered by what they're doing, as long as it's not bothering me, I don't want this trial interrupted or any noise made that is unnecessary. If

something is disruptive, I promise I can handle that situation. So that's just food for thought.

Bring Ms. Lovin in, please.

(WHEREUPON, Juror Number 84 enters courtroom.)

THE COURT: Ms. Lovin, first all, let me say you did the right thing by bringing this matter to our attention with your situation. So based upon your answers to my questions this morning, I think it's necessary to remove you as a juror. Again, you're not in any trouble. You did the right thing by bringing this matter to the Court's attention. But because you may have some knowledge about this situation that you didn't consider yesterday when we were doing the jury qualification and voir dire, I think it's incumbent upon me as the trial judge to excuse you as a juror in this case.

So you are free to go for the rest of the day. I want you to call the number that you were given in your jury information yesterday. That will have a message after six o'clock tonight to tell you what your future holds. So you are still in the jury panel, you just can't serve on this particular case. Do you understand that?

JUROR NUMBER 84: Yes, Your Honor.

THE COURT: So you are free to go. Thank you very much.

JUROR NUMBER 84: Thank you.

THE COURT: Otherwise, are we ready for the jury?

MR. FINNEY: Yes, Your Honor.

MR. KENT: Ready on behalf of Mr. Epps, Your Honor.

THE COURT: All right. Bring us the jury, please.

(WHEREUPON, the jury enters the courtroom at 2:54 p.m.)

THE BAILIFF: The jurors are seated, Your Honor.

THE COURT: Thank you, sir.

Ladies and gentlemen of the jury, thank you for your patience that you've shown today and yesterday. I promise you we have been diligently working with matters that did not require your presence here, so I appreciate you being flexible and returning to the court when called.

Before we get started, first, could Juror Number 121, can you raise your hand, please?

(Juror Number 121 raises hand.)

THE COURT: All right. Ms. Rembert, yesterday, you were selected as an alternate juror in this case. For reasons that really don't matter to you as jurors, I've had to exclude one of the primary 12 jurors. So Ms. Rembert, you are now a primary juror instead of an alternate. So you will participate in this case and deliberate at the end of the trial once the evidence has all been presented. But you are now a primary juror instead of an alternate, okay?

JUROR NUMBER 121: Yes, sir.

THE COURT: Mr. Tomlin, if you could swear the jury for

us, please.

(WHEREUPON, the jury was sworn.)

THE COURT: Thank you, Mr. Tomlin.

Ladies and gentlemen, give me your attention briefly. I've got some preliminary remarks before we get started. Again, we are about to begin the case of the State of South Carolina vs. Diontrae Trevon Epps. And before we begin this trial, I want to tell you that this trial will probably be different from what you might expect.

Many people do not have the chance to attend actual court sessions as you are doing now and may think from watching television or movies or reading in books that trials are always full of high drama, intense action and riveting circumstances. While all of these things may be true at times, this trial is not for our entertainment. It is a fundamental part of our democracy. Trials are often slow, deliberate and repetitive, the opposite of what you may have seen on television or in movies or read in books.

This courtroom is a place of honor dedicated to the protection and preservation of citizens' rights through what many have called the greatest justice system ever created. The attorneys appearing before you are advocates for the parties they represent, but, first and foremost, they are officers of the court sworn to uphold the integrity and fairness of our judicial system. You should expect them to

be professional, competent and ethical in the representation of their client's interest. Remember that you have taken an oath to try this case and reach a fair verdict and you are, also, expected to be professional, reasonable and ethical.

Thank you for accepting the important responsibility of jury service and for your contribution today to our justice system.

What I will now say is intended to serve as an introduction to the trial of this case. These remarks are not a charge on the law in this case. I will instruct you on the law applicable to this case at the end of the trial before you retire to consider your verdict. This is merely an explanation of the procedure that we will follow in this trial so that you may better understand what may be happening.

The Defendant is charged by an indictment filed in this court with the crimes of murder and possession of a weapon during the commission of a violent crime. The elements of these charges will be explained to you later. The indictment is simply the charging document by which the case is brought into court and is not in any sense evidence of any of the allegations it contains.

The Defendant has pled not guilty to this indictment. The State, therefore, has the burden of proving each of the elements of the indictment beyond a reasonable doubt and it

will be your duty, ladies and gentlemen, to decide whether the State has met that burden.

Your purpose as jurors is to find and determine the facts. You are the sole judge of the facts. If at any time, I make any comment regarding the facts, you must disregard it. You are to determine the facts from the testimony you hear and the other evidence introduced in court. It is up to you to determine the inferences which you feel may properly be drawn from the evidence. It is especially important that you perform your duty of determining the facts diligently and conscientiously because, ordinarily, there is no way to correct an erroneous determination of the facts by the jury.

On the other hand and with equal emphasis, the same law that makes you the judges of the facts makes me the judge of the law. The law as given by the Court is the only law you may consider. You must accept and follow it even though you may disagree with it. I cannot tell you what the facts are and you cannot disagree with me about what is or what the law ought to be.

Your job is to take the law as I give it to you and apply it to the facts as you find them from the testimony of the witnesses and any other evidence that is introduced. After doing that, you will render a verdict under a solemn oath that you just took as jurors.

Until I advise you to begin your deliberations, you must not discuss this case with anyone, including your fellow jurors, friends, family members and anyone involved in the case. This includes discussions face-to-face and those by telephone, e-mail, texts, blogs or any other method of communication. You cannot use any electronic device with communication capacities at any time while in this courtroom or during your deliberations. During your breaks for meals or overnight, you may use these devices, however, you may not at any time use these devices to get or send information about the case. And this includes information about a party, a witness, an attorney or court officer, news accounts about the case, research on any topics raised, any topics you may think would be helpful in deciding the case or any testimony presented by any witness.

During the trial, do not read, listen to or watch any news reports about this case. This includes anything that may be in newspapers or on the internet, radio or television. You may not consider anything you may have read or heard about the case outside the courtroom, whether before or during the trial.

After the case is submitted to you, you must discuss it only in the jury room with your fellow jurors. The attorneys and parties in this case have been advised that they are not to talk to you at all. So if you see anyone

involved in this case and they don't even say hello to you, they're not being unfriendly, they're just following the Court's instructions.

It is important that you keep an open mind and not decide any issue in the case until all of the evidence has been presented, the parties have made their closing arguments and I have instructed you on the law in this case. It is your solemn responsibility to determine the guilt or innocence of the Defendant and your verdict must be based solely on the evidence as it is presented to you in this trial and on the law as I instruct you during and at the close of the trial.

In just a moment, the Solicitor will make what is called an opening statement in which the Solicitor will explain to you the issues in this case or, at least, what the Solicitor thinks the issues are in this case. The attorney for the Defendant may, also, make an opening statement, although, he is not required to do so.

What the attorneys tell you during their opening statements is not evidence in this case. It is only their contention as to what the issues are. The evidence in this case will be presented to you by testimony of sworn witnesses from this witness stand and/or any exhibits that may be introduced into evidence.

From time to time during the trial, you may hear one of

the lawyers say something like, Your Honor, I believe we have a question of law or a matter of law to discuss with you or, Your Honor, may we approach the bench. Or sometimes, I, myself, might find it necessary to excuse you from the courtroom for a short while so the attorneys and I can discuss a matter of law. The reason for this is because you are the judges of the facts in the case and sometimes when I am discussing matters of law with the attorneys, it may be necessary for me to make some comment as to the facts in connection with ruling on whether or not a particular law applies. I am not supposed to tell you what I think the facts are, so I will excuse you from the courtroom while these discussions take place so that in no way will you be influenced by anything I might say or do in connection with the facts.

In determining what the facts are in this case, you must decide whether or not the testimony of the witnesses is believable. It will be my responsibility to rule as a matter of law as to whether certain testimony is admissible at all or not, but once the testimony is admitted, whether or not you believe it is solely for you to determine.

In deciding whether to believe a witness, you have the right to consider the interest of any witness, the bias of any witness, the prejudice of any witness, the opportunity for the witness to have seen the matters and things about

which the witness may testify and the way the witness acts on the witness stand. You have a right to consider anything that is in the record that will help you evaluate the testimony of the witnesses.

That means that it is your duty to pay close attention to these witnesses, to observe the witnesses, to listen to the witnesses and to pay close attention to the attorneys and to the Court. Don't let your thoughts wander, but give strict attention to the testimony in this case so that at the end of all the testimony, after arguments of counsel and the charge on the law by the Court, you will then be in a position to determine what the facts are and to apply the law to those facts and thus render a verdict.

Now, ladies and gentlemen, we are about to get started, but in order to preserve everyone's rights, I will give the parties an opportunity to object to anything I have said.

Any exceptions to anything I have said to the jury from the State?

MR. FINNEY: Nothing from the State, Your Honor.

THE COURT: Anything by the Defendant?

MR. KENT: Nothing on behalf of Mr. Epps, Your Honor.

THE COURT: We will now begin the trial.

Mr. Finney.

MR. FINNEY: May it please the Court, Your Honor.

THE COURT: Yes, sir.

MR. FINNEY: Mr. Kent.

MR. KENT: Solicitor.

OPENING STATEMENT BY MR. FINNEY:

MR. FINNEY: Ladies and gentlemen, good afternoon. Thank you for being here and being willing to serve.

I have been a lawyer in this community all my life. I graduated from high school here, been practicing in the courtrooms here. I have always been honored to come before you and bring cases before you, whether I was a defense lawyer like Mr. Kent in my earlier years, or as your Solicitor.

This is a very serious case. This is a very serious duty that you've undertaken. You stood up just now and said we, I, as a juror will well and truly try this case. It's not about who we like. It's not about how somebody looks. It's about the facts.

I'm not going to talk long today because I learned a long time ago, it's kind of like a TV show, you will stay more focused on what your job is here if you get the information piece by piece by piece. Use your common sense.

A man named Mike Rodgers was killed in September of 2019 in Sumter County on Broad Street. You're going to see video. You're going to hear witnesses that were there that night. You're going to see the police investigation report and what they found out. It was a horrible situation. From

the time Mike Rodgers arrived there that night at a few minutes before one o'clock in the morning until about 1:05 in the morning when the police got there, those five, six, seven minutes, it was terror.

That's why I take this job seriously and that's why I have brought this case and signed this indictment charging that young man for taking Mike Rodgers' life premeditatedly and illegally. Murder. He, also, used a handgun. And when you commit murder with a weapon, that is another charge, possession of a weapon during a violent crime. Those are the two charges you will consider over the next few days.

The reason I do this job is not just for Mike Rodgers because he's not going to be here to tell you what happened to him, but I'm going to do it for his mama, Patricia Hilton Gray, and her family members who have been missing him for four years. Four years.

So yes, that young man is going to get his day in court. And yes, that young man is going to get every rule and regulation that the law will afford him. He's got the best lawyers. He's got the best investigators. He's got a fine judge who's not going to let anything get into your ears or eyes that shouldn't be there.

But at the end of it all, when you consider everything that's going to be shown to you piece by piece and picture by picture and statement by statement, you're going to see

that there was an illegal act committed of murder with a weapon that was needless, and he has a consequence to pay.

Don't concern yourself with sentencing. Don't concern yourself with anything but weighing the evidence. Be concerned with is there proof of who, what, when and where? Everyone of those questions is going to be answered for you. The only thing I cannot tell you is why. For the life of me, I can't tell you why. And you won't have an answer for that either, I bet. But we'll know who did it, we'll know when they did it, where they did it, but we won't know why.

Keep your mind open. As I asked you before, use your common sense. There's going to be a fight between the two sides. We're not here to love on each other or make compromises. He's going to do his job and I'm going to do mine. We're not going to get along for a few days, but after this is over, we've been doing this a long time, we're going to be all right. That's his job and that's my job.

I'm not here to punish anybody. I'm not here to reward anybody. I am here to present the evidence and that evidence will clearly show and I think it will convince you because that is the test, you have to be convinced, firmly convinced, the Judge is going to tell you, that Diontrae Epps shot and killed Mike Rodgers September of 2019 and it was illegal and unnecessary. And when you have heard the evidence and you can render that verdict of guilt, you will

have done what the oath said you must do, to well and truly try this case.

Thank you.

THE COURT: Thank you, Mr. Finney.

Mr. Kent.

MR. KENT: Thank you, Your Honor. May it please the Court.

THE COURT: Yes, sir.

MR. KENT: Solicitor.

MR. FINNEY: Thank you, sir.

OPENING STATEMENT BY MR. KENT:

MR. KENT: I have been married now since 2017 to a woman who absolutely cannot cook. Please don't tell her that. Since we have been together, my mom has given her many recipes to help with her lack of ability to cook. So my wife has all the recipes and has tried everything in her power to make dishes that I would enjoy. So the other night when we got back home, I went and tried her lasagna. There was absolutely no seasoning whatsoever. None. She couldn't understand when I tasted it and the awful look I had on my face to pretend I absolutely enjoyed, which I did not. And so she looked at me and she said, Do you love it? And I made a comment, Something's missing. (Indiscernible), but something was missing.

And when something's missing, even though you're

following a recipe, following details, following what you think you should have and something's missing, you can never get the exact what you want. If something is missing, you can't the whole story. If something is missing, you can't taste what you're supposed to taste.

So when we're looking at things, what we want is a full presentation of the facts. We want full details because when we have full details, we can make a determination of was that actually lasagna or just some really stale stew my wife had made.

The Solicitor told you a very cursory view of what happened back in September 2019. There was an old radio show that I used to listen to by a guy named Paul Harvey. An old radio station some you know, some of you don't know who I'm talking about. But he used to have this radio station and he would tell this story, like the Solicitor just told, he would tell this story about you know what happened, you know what's going on. And Paul had this cool voice that I do not have. And he would say, you know the quote, now, you're going to hear what? The rest of the story. And that's what we're going to talk about right now, the rest of the story.

So this is September 2019. You're going to see a bunch of videos. You're going to see a video of a bunch of videos. I'm not even going to hide that. I don't want to

hide what's going on because you're going to see it. You're going to see it at a gas station. It happened, it was all over Sumter. It was all over everywhere. There was a gas station. There were people out there. People had guns and it is stupid. It is ridiculous. It was a bunch of morons. It was a bunch of idiots. And one of the idiots is right there and I represent him.

And these idiots, these individuals, these people who were sitting there at the gas station in September of 2019, they're talking back and forth. They're fighting with each other. They're arguing with each other and a fight starts. A fights starts between two people, Diontrae Epps and a fellow named Mike Rodgers. The rest of the story.

There's going to be a question over what that fight started. And I'm going to try to get you that information. The rest of the story. And there's going to be a question on the video as to what happened to begin this entire fight. The rest of the story. There's going to be a question of whether or not the victim in this case had a firearm. There's going to be a question of whether or not the victim pulled a firearm and shot Diontrae Epps, who's currently in a wheelchair. There's going to be a question as to what happened at that point. Did Diontrae Epps swing, which I'm telling you he did. And did he fire a gun? I'm telling you he did. And then the question becomes what happened next?

The rest of the story. The question for you, the jury, as you're sitting there watching all these videos and watching the stuff that just happened, what happened?

Ladies and gentlemen, I can tell you right now this would be an absolutely tremendous -- I've been doing this for 25 years. It would be a lock, stock self-defense case. We can sit in front of you and say Mike Rodgers pulled a firearm and he shot Diontrae Epps after seeing Diontrae Epps. Diontrae Epps fired back because he had gotten shot. Now, he's in a wheelchair for the rest of his life. It would be an amazing self-defense case, but it is not.

Why is it not a self-defense case? The rest of the story. He didn't do it. It can't be self-defense if you're not the one who shot the person. The rest of the story.

You're going to hear, you're going to see, you're going to see the video and you're going to see it in full detail. And when you watch the full detail and listen to what's a medical examiner when they talk to you about what happened that day, you're going to know a couple of things. And the Solicitor is right about that, you're going to know, 100 percent know Trae Epps was shooting, but he didn't shoot Mike Rodgers. He didn't shoot him. Did he shoot a gun? Absolutely. Did he shoot Mr. Rodgers? He did not. And that's not going to be close. It will be easy to show.

Like I said, so we can argue self-defense and he had

the right to defend himself and it would be a great self-defense case, it really would, but, candidly, he didn't shoot him. And that's what I want you to be looking for and listening for in evidence.

You're going to hear evidence that the State of South Carolina is required to give us what's called discovery. Give us evidence. Give us everything to help us prove our case to you. What is discovery? Discovery is everything. Unlike in the old Matlock days where all of a sudden people start confessing on the stand, we're supposed to know everything before people get into this courtroom. It's called discovery. You're going to hear how the State of South Carolina for some reason was late in getting discovery. Why would it take the State of South Carolina a long time in a four-year-old case to get the evidence that can show what happened back in September? The rest of the story. Because something is missing. It doesn't go the narrative.

And so what I challenge you to do is not easy. The video is not good. It's just an awful video with a bunch of mad folks doing stupid stuff. Remember when you were asked to raise your hands? What you raised your hand to do is say we're going to listen to the evidence. We're going to put our prejudice aside, we're going to put our opinions aside. And we're going to put them aside and require the State of

South Carolina to meet their burden. And their burden is we are going to prove this case to you beyond a reasonable doubt, beyond all doubt. We're going to leave you firmly convinced that he was the person that shot. The only thing you're going to be convinced of is they're making an assumption.

I'm going to end with you with what, basically, happened. You're going to see -- we're going to assume for argument's sake you're what is the front of the gas station, so looking out this way is Broad Street. Y'all are familiar with Sumter. You know where Broad Street is, the Hop-In, there's a Wendy's right next to it. There's an Eckerds on the other side. You know what I'm talking about. And then there's -- Broad Street is right in front.

So as you know, this is the front of the gas station. This would be the right side and this would be the left side of the gas station. The parking lot is all in front. And this would be where the gas pumps are.

So what the evidence is going to end up showing is a fight started right around here. You're going to end up seeing -- you'll see, you'll see Diontrae Epps throw a punch. And we'll end up showing you Mike Rodgers fired. And then you're going to see Diontrae Epps firing like this falling away. But what you're going to see that's very interesting, and this is what I really want you to pay

attention to in the video, you're going to see Mike Rodgers running. You're going to see him running and then you'll see him go down. It is so important to focus on what I just told you about, so important. The rest of the story.

It's so important for you to look at the exact times. It's so important for you to compare times of shooting. It's so important for you to compare angles. Because if they're looking to convict a person and say you intentionally killed somebody, you better know (indiscernible). The rest of the story.

So I don't know how long we're going to be here. We're going to try our best not to bore you. We're going to try to give things in full, unadulterated detail so you can understand exactly what happened. Sometimes I can be long-winded and I might be because I've got somebody's life in my hands. So I'm going to do whatever is absolutely necessary to show you the rest of the story. I might even add a little seasoning to it.

Thank y'all so much.

MR. FINNEY: If it please the Court, Your Honor, we would call Mr. Timothy Scarbough as our first witness.

THE COURT: All right.

THE CLERK: Place your left hand on the Bible, raise your right hand and state your name.

THE WITNESS: Timothy Scarbough.

TIMOTHY SCARBOUGH,

after being duly sworn, testified as follows:

THE CLERK: State your name for the record, spelling your last name.

THE WITNESS: Timothy Scarbough, S-C-A-R-B-O-U-G-H.

DIRECT EXAMINATION

BY MR. FINNEY:

Q Good afternoon, sir.

A Good afternoon.

Q Would you kind of sit close to the microphone because I want the jury to hear what you got to say?

A All right.

Q Tell us where you live, sir. Do you live in Sumter County?

A Yes, sir.

Q Are you a Sumter person? Have you been here most of your life?

A Yeah.

Q What do you do for a living?

A I build bridges and I clean machines for poultry processing.

Q And those two jobs are separate?

A Yeah.

Q One with bridge building and one with the poultry?

A Yeah.

Q How long you been doing those jobs?
A Five years on one and about a year on the bridge.
Q Can I ask how old you are?
A 32.
Q You have been asked to testify in the trial involving the death of a friend of yours; is that correct?
A Cousin, yeah.
Q Your cousin?
A Uh-huh.
Q Mike Rodgers?
A Uh-huh.
Q How long did you know Mike?
A All my life.
Q Y'all were little together and came up together?
A Yeah.
Q So how were you related to him?
A His auntie is my mama auntie.
Q Okay. And you know his mama and his family?
A I mean, his mother is my mama auntie.
Q So how about school, did you graduate high school?
A No, I graduated dual ed.
Q How about Mike, do you know if he graduated?
A I'm not sure. I'm not sure.
Q Were you a little older or a little younger than Mike?
A Little younger.

Q The evening of September the 9th, 2019, did you have occasion to be with Mike at that time?
A Yeah.
Q And where were you all -- what were y'all doing that evening?
A Going to a party for my -- from what I recall, we was going to a party.
Q Where was the party located?
A S&B.
Q Tell the ladies and gentlemen what S&B is.
A It's like a little get-together spot.
Q Where is it located?
A On Broad Street.
Q And can you tell us what's in the area of that S&B Club in terms of what -- what's across the street from it?
A Sunoco.
Q Sunoco. Is that, also, called the Hop-In?
A Yes.
Q Have you heard that gas station called the Hop-In?
A I don't really hear people use it like that, but, yeah.
Q But you call it Sunoco?
A Yeah.
Q And it's a gas station?
A Yeah.
Q Is it right across the street from this little place

called S&B?
A Yeah.
Q Did you, actually, go to the S&B and go inside and have a party?
A No.
Q Why not?
A Because of the incident.
Q So you were -- first of all, let me ask you this, did you know whose car you were in that night?
A Yeah, I was in Michael's car.
Q Michael?
A Lucas, I think that's his name.
Q Is he a family member or friend?
A A friend.
Q So was Michael Lucas just driving his car?
A Yeah.
Q Who else was in the car with you and Michael Lucas?
A Me, Michael and Mike and Little Archie.
Q All right. So how many people were in the car?
A Four.
Q And did they pick you up first or last or how?
A We met up at Mike house.
Q Mike who?
A Lucas.
Q That's the guy who had the car?

A Who was driving, yeah.
Q So you met up at his house, did you stay there for a while?
A No, by the time I get there and by the time Killa show up, which is Mike name, we call him Killa, by the time he showed up, they were ready to go.
Q Okay. So let's get that straight for the jury, too, because there's some names in this case. Mike Rodgers, who's your cousin?
A Yeah.
Q Who got killed that night?
A Yeah.
Q His nickname is what?
A Killa.
Q And have you called him that all of his life?
A No.
Q When did y'all start calling him Killa?
A I don't know. When I got a teenager, they was calling him that, so I just started calling him that.
Q And a teenager, would that have been --
A About 17.
Q About 17 years old?
A Uh-huh.
Q So you and Mike Rodgers and a guy named Archie and the driver, Mike Lucas, all got in the car and left his house?

A Uh-huh.
Q Going to a club?
A Yeah.
Q But you never got to the club?
A No. I think he wanted to get some cigars or something before he went in there, I don't know. I really don't know how we ended up over there.
Q So there was really no plan to go to the Sunoco?
A No, not for me.
Q And who wanted to get cigars, if you remember?
A I think Mike did, plus, there been a crowd over there, which from the back seat, you couldn't tell what was going on.
Q All right. So the car pulled into the gas station?
A Uh-huh.
Q So the car pulled into the gas station?
A Uh-huh.
Q And as far as you know, nobody had planned to go there?
A Huh-uh.
Q All right. Do you know what time of night it is?
A I can't really recall, probably about 12:00, 12:00ish.
Q Midnight?
A Midnight.
Q Or?
A Or probably a little earlier, I don't know.

Q You're not sure?
A No, I don't know.
Q When you got to the gas station, describe it to the jury. Was it quiet, everybody quiet?
A It was like a typical club night, there was people outside, but, like, mother fuckers had -- excuse my language, people had, like, guns out this night in particular, though.
Q Okay. Do you remember the weather that particular night?
A It was a good night. It wasn't raining.
Q A lot of people out there?
A A lot of people out.
Q And what were they doing out there?
A Like, partying, chilling.
Q Was there music?
A Well, no. People bumping music in their car, but no music out there.
Q So when the car got to the gas station, did you get out?
A Yeah.
Q Mike Rodgers -- well, first of all, let me ask you this, where were you sitting in the car?
A In the back driver's side.
Q Did the car have four doors or two doors?

A Four-door.
Q All right. So you got out your door?
A Uh-huh.
Q Did anybody else you see get out of the car?
A Well, I know I jumped out the car and everybody who been in the car, except Rollo, I don't think Rollo got out the car.
Q So now, you mentioned the name Rollo, tell me who that is.
A That's Michael Lucas, I think that his name.
Q He was the driver?
A Yeah.
Q You don't think he got out?
A I don't think he got out.
Q All right. You got out, Michael Rodgers got out and Archie got out?
A Uh-huh.
Q What were y'all doing when y'all got out the car?
A When I got out the car, I had an altercation with somebody who I had a prior engagement with where we had a scuffle. And they was having guns in their hands and I confronted them about it.
Q All right. At the time that you got out the car and confronted this guy, did you know his name?
A I don't know his real name. They call him Beans.

Q All right. Did you see Beans with a gun?
A No, not at first, no.
Q And did you go over and talk to him about anything that particular night?
A No, because people he was with had guns and by the time I got, like, in front of him, he done grabbed a gun by then.
Q So Beans and his friends had guns?
A Yeah.
Q Why did you go over there if you saw they had guns?
A Because where we from, we -- I mean, they had them out and we done pulled up and I know it had been a big problem with me and him, so if we going to do something, we can shoot the ones -- like my cousin, D Black said, that's another person, he be like, they ain't want to shoot the ones --
Q What you mean when you say shoot the ones?
A We could fight it out with hands, like fistfight, yeah.
Q So you were going to talk to this guy named Beans about whether he had a problem?
A Yeah.
Q Did he have a problem?
A I don't think he did.
Q Did y'all have a fistfight?
A We didn't have a fistfight.
Q Did you get shot?

A No.
Q Did you have a gun?
A No.
Q At any time that night on Broad Street did you have a gun?
A No.
Q Did you fire a gun?
A No.
Q Now, you have been called as a witness because you were in a video that was taken at the Sunoco station; is that correct?
A Correct.
Q Have you seen that video?
A Yeah.
Q Have you been able to identify yourself in that video?
A Yeah.
Q And have you been able to see that that is the night that the shooting went down?
A Yeah.
Q Now, let's just go a little bit further. After you got out and spoke to Beans, was that on the front of the store, that area?
A If you coming from Broad Street, at the front right side of the store.
Q The front right side?

A Yeah.
Q If this is the front of the store here, this jury box, the front right side of the store would be this way?
A Yeah.
Q All right. Now, where did Mike Lucas park the car?
A That's something I can't really say because once I got out the car and so much going on, I lost track of Mike.
Q All right.
A And that's why I say I didn't even know if he got out the car or not.
Q So do you know if the car was parked at the front of the store, like, the gas pumps or somewhere else --
A When I got out, the car still like this, like when we turn in. So if he had to park, he probably parked back, I don't know. I can't tell you. I never saw it parked.
Q So after you got out the car, did you go and see where your friend, your cousin, Mike Rodgers, was?
A No. When I got out the car, I got into an altercation with Beans.
Q Right.
A And then I looked to the left and I saw Trae.
Q All right, now, hold on, you said you were on the right side of the store?
A Yeah.
Q With Beans?

A Yeah.
Q And you say you saw Trae?
A I looked to the left and then I saw Trae.
Q Over to the other side?
A To the other side.
Q Now, when you say Trae, who are you talking about?
A Trae Epps.
Q This young man right here?
A Yeah.
Q You know him?
A Yeah.
Q And his name is what?
A Trae Epps.
Q So you saw him that night?
A Yeah.
Q Did you go and have a conversation with him?
A Yeah, tried to, like, to diffuse it because I'm hearing things --

MR. KENT: Objection, Your Honor. May we approach?

THE COURT: Yes.

(WHEREUPON, a bench conference was held in the presence of the jury, but outside the hearing of the jury.)

BY MR. FINNEY:
Q So I want you to look at your screen that's in front of you.

A Uh-huh.
Q And tell me if you recognize what you see on that screen?
A (No response.)
Q Do you recognize any of the cars that's on this video that you can see now?
A Yeah.
Q What do you recognize?
A The Charger.
Q What color is the Charger?
A Red.
Q And where is it in the screen now?
A It's in the front of the screen, like, in front of the store.
Q And what is the Charger doing?
A Look like he backing up.
Q Is that the car you were in that night with Mike Rodgers?
A Yeah.
Q And does it look like the red car parked itself? Can you tell the Judge and jury where the red car parked itself?
A Backed up in front of the store.
Q In front of the store?
A Yeah.
Q And you were in that car?

A Not when it backed up, but, yeah.
Q When it backed up, where were you?
A Already out having an altercation.
Q And you rode to the Sunoco in that car?
A Yeah.
Q And you rode there with Mike Rodgers?
A Yeah.
Q All right. Let's go a little bit further --

MR. KENT: Judge, how about this, are we going to move this thing? It might make it -- in an abundance of caution, do we, actually, have an exhibit number? Are we going to introduce this?

MR. FINNEY: I believe there's going to be several exhibit numbers because each camera that we use would be a separate exhibit.

MR. KENT: I'm just trying to make things easier.

I'm sorry, may we approach?

THE COURT: Yes.

(WHEREUPON, a bench conference was held in the presence of the jury, but outside the hearing of the jury.)

(WHEREUPON, State's Exhibit No. 5 was marked for identification.)

MR. KENT: Your Honor, my understanding is the State of South Carolina has Sunoco video 5 for identification at this point in time. I understand through this witness, they will

need to publish. I discussed that with Mr. Epps and explained to him his rights and we have no objection.

THE COURT: So that needs to be marked as State's 5?

MR. KENT: And State's 5 has several videos of different angles from the Sunoco I think they intend on not using directly from 5. They have separate copies on their computer that they'll be playing for the jury.

THE COURT: Okay.

MR. KENT: Thank you, Your Honor.

THE COURT: So for the record, the contents of State's 5 can be published to the jury.

BY MR. FINNEY:

Q At the top of your screen, Mr. Scarbough, do you see a camera number? Does it say a camera number at the top of your screen?

A Right here?

Q At the top of your screen on the left?

A I see some numbers up there.

Q Can you see what that number says?

A It says something CH01.

Q 01, that's camera one. If we call that camera one, would you say that camera one is showing the parking lot of the Sunoco?

A Yeah.

Q Now, the camera would be where on the building?

A It look like the left side of the building.
Q And what do you see in the frame in the distance? Do you see some cars?
A Yeah.
Q What else do you see?
A People.
Q And where is Broad Street?
A Right there, like, in front of the store.
Q Okay, but where? Can you tell me, is it to the left, to the right or at the back of the picture?
A In front of the picture that I'm looking at.
THE COURT: I believe if he touches that, I believe it will make a mark.
BY MR. FINNEY:
Q Can you put a circle -- take your finger and put a circle where you think Broad Street is?
A (The witness complies.)
Q Is that circle red?
A Yeah.
Q And that's where the Broad Street area of Sumter would be?
A Yeah.
Q And the red car that's on the right side of that screen, is that the car you were riding in?
A Yeah.

Q And when the video starts, and it's going now, what happens to the car, the red car?
A It backs in a park.
Q And does the car park there and you get out? Or you said you already got out?
A Yeah, we already out at that point.
Q All right. And this is an accurate representation of the parking lot when you got there as far as how many cars were there, how many people were there, the lighting, all of that looks like the Sunoco?
A Yeah.
Q All right. When you got out of the car and you say you went and talked to the first guy, you left that area and did you walk then to another area where you saw Trae Epps?
A Yeah.
Q All right. And can you tell us from looking at that picture there whether you would be moving from left to right or right to left or top to bottom on that screen you're looking at?
A I moved from left to right.
Q All right.
MR. FINNEY: Do we have the video that we can show Mr. Scarbough of him in the parking lot?
MR. KENT: I would appreciate it if you guys when going through the video, since they're in front of the jury, if

you would black the screen and then pick up what you need.
BY MR. FINNEY:
Q What camera angle is being shown now, sir, on the top of your screen?
A Camera 12.
Q All right. And is this, also, something that you recognize from the Hop-In that night in September?
A Yes.
Q And what side of the building is the camera looking at now?
A The right side -- well, the left side, but the right side on this screen.
Q All right. So it's looking -- the camera is pointed to which side of the building, the right or the left?
A It look like the left side of the building.
Q All right, the left side. And did you go over to the left side?
A Yeah.
Q All right. And would you be able to recognize yourself walking in this video as the video is moving? If you see yourself, please --
A I would be able to recognize myself, yeah.
Q -- tell us.
(Video is played.)
Q Do you know some of these people in the video?

A Yeah, like, Beans is right there.
Q Beans was the guy that you -- in the white hat?
A The one I had an altercation with. He had on, like, a polo shirt, look like, or something like that.
Q Is that the man you're saying in the white hat there?
A No.
Q Oh.
A He done went back that way.
Q Oh, he went by, all right?
A Yeah. In this video, you'll see me coming across the screen up there, though.
Q All right. If you see yourself moving in the video, tell us when you see yourself.
(Video is continued to be played.)
A Look like me right there.
Q All right. I'm going to need you to point yourself out so the jury can see which one --
THE COURT: He can make a mark.
Q Yes, make a mark on the screen by putting a circle around you if you see yourself.
A (The witness complied.)
Q That's you?
A Uh-huh.
Q How can you recognize yourself there?
A My chain.

Q What kind of chain did you have on?
A A Last Supper chain.
Q Is it small or large?
A Large.
Q What is it made out of?
A Gold.
Q Metal?
A Gold.
Q And is that you wearing that chain that night?
A Yeah.
Q Now, look at the time stamp on the bottom of that screen there, what does it say?
A 11:39.
Q And so just from the time stamp, that's about the time you see yourself on camera?
A Yeah.
Q What do you do after this? Look at the video. We're going to run the video.
(Video is continued to be played.)
Q Is that you still right there in front of the store?
A Yeah.
Q Talking with other people?
A Uh-huh.
(Video is continued to be played.)
Q Is that you there?

A Yeah.
Q All right. And now, you've moved away from the front of the store?
A Yeah.
Q Do you see yourself moving now?
A Well, it look like it got a little darker on my end.
Q Camera's not good?
A Uh-huh.
Q Is this about the time you say you saw Trae Epps?
A Yeah.
Q And where did you go to see him? Can you put a circle on the screen? Where was he?
A (The witness complies.)
Q Over in that area?
A Yeah.
Q All right. When you went over to see Trae Epps -- this is somebody you knew?
A Uh-huh.
Q What did you say to him or do with him?
A I told him what we got going on over here ain't got nothing to do with you and whatever out here, I don't know nothing about that. He was like, Yeah, you good, but by the time he say that, Killa be walking up behind me.
Q And that would be Mike Rodgers?
A It would be Mike Rodgers.

Q And can you see that on the video? Let's let the video run.

(Video is continued to be played.)

Q Do you see yourself talking to Trae Epps on this video as we're looking at it run? If you see yourself or if you see Trae Epps, put a circle around the two of you?

A I'm standing right there.

Q Do you see Mike, your cousin, in this video at this time?

A No.

Q Okay.

(Video is continued to be played.)

Q Do you see anybody out there fighting? Do you see any guns in this video?

A No. That go me right there walking over there.

Q And you're walking towards?

A Trae.

Q Trae Epps?

A Uh-huh.

Q All right. Let the video run. This is 11:41:21.

(Video is continued to be played.)

Q Have you gotten there with him yet?

A Yeah.

Q Both of y'all together?

A Yeah.

Q Put a circle around y'all?
A (The witness complies.)
Q All right. Do you see Mike Rodgers in this picture?
A No.
MR. FINNEY: Go ahead. Let it run.
(Video is continued to be played.)
MR. FINNEY: All right. Stop.
Q What did you just circle?
A When Michael Rodgers was walking behind me and Trae punch him or something.
Q So the man in the white shirt where you've got the red circle, who is that?
A Trae.
Q And who swung the punch?
A Trae.
Q With which hand did he swing the punch?
A Look like the left.
Q Left hand?
A Uh-huh.
Q And who was he swinging on?
A Killa.
Q Who is?
A Michael Rodgers.
Q All right. And did Michael Rodgers throw a punch as far as you could see?

A No.
Q Did you ever see Michael Rodgers approach Trae Epps and take a swing at him?
A No.
Q All right. Now, after the video shows the swing, what did you see or hear next?
A Trae upped the gun and shoot.
Q Who did?
A Trae.
Q After he took a swing with his left hand, what did he do?
A He upped the gun in his right and shoot.
Q And look at the video. Do you see Trae Epps firing the weapon?
A Yeah.
Q Did you see Trae Epps fire the weapon more than one time?
A No, I can't say that because I was gone. I done ran.
Q Tell the ladies and gentlemen where you ran to. On the screen, can you put a mark as to where you were running?
A Towards Broad.
Q Out towards Broad?
A Yeah, by Wendy's.
Q Why were you running?
A Because they was shooting and there was so many

gunshots.
Q At the time that you saw Trae Epps swing with his left hand, was there any firing going on at that time?
A No.
Q Who was the first person you saw with a gun that night? When I say --
A Yeah, I was about to say because there was a lot of guns out there.
Q Who was shooting the gun first?
A Trae.
Q And after he started shooting, did you see Mike Rodgers shoot?
A No.
Q And after the shots started firing, what did you do?
A Ran.
Q And did you run to Broad Street?
A Yeah.
Q Did you get all the way to Broad Street?
A I crossed Broad Street to the Mexican restaurant. I think that what it is.
Q All right. When you got to the Mexican restaurant across Broad, you were away from the gas station?
A Yeah.
Q What did you do then?
A Called somebody -- waved somebody down to give me a

ride.
Q And did you catch a ride?
A Yeah.
Q With a friend or a person?
A Yeah.
Q And where did they take you?
A To get my car from Michael's house.
Q And Michael, you're talking about the fellow who was driving the red car?
A Yeah, Lucas.
Q Tell the ladies and gentlemen what camera that is. What does it say at the top?
A Camera 12.
Q What's the time on the bottom there?
A 11:49 -- I mean, 11:41:59.
Q Now, look closely at the left side of the screen. Can you see a vehicle on the left side of the screen?
A Yeah.
Q Can you tell what kind of vehicle that is?
A A Charger.
Q Is that the Charger you were in when you came?
A Yeah.
Q So the red Charger that brought you was still there after the shots were fired?
A Yeah.

Q Did you see the red Charger leave that night?
A No.
Q You had already left?
A Yeah.
Q Did you know that Mike Rodgers had been shot when you left?
A No.
Q Did you know that Trae Epps had been shot when you left?
A No.
Q All right.
MR. FINNEY: Beg the Court's indulgence. I think there's another video.
THE COURT: Yes, sir.
(Pause.)
BY MR. FINNEY:
Q Mr. Scarbough, look at the screen and tell me what the camera number on this one is.
THE COURT: It has not pulled up yet, Mr. Finney.
MR. FINNEY: I'm sorry. It will be up in a minute.
THE COURT: And Mr. Finney, I know you're standing there for a reason, but I think because you're so close to the witness, his voice is kind of low. We just need to make sure these microphones pick up what he's saying.
BY MR. FINNEY:

Q All right. Mr. Scarbough, keep your voice up, please, so people in the back can hear you.
A All right.
Q What does the screen show the camera number is?
A Camera 16.
Q All right. And can you tell where this camera would be located?
A It look like right above the right-hand side.
Q All right, sir. And what is it looking down at?
A Couple vehicles.
MR. FINNEY: Let the camera roll.
(Video is continued to be played.)
BY MR. FINNEY:
Q Tell us if you see anything in the video that you recognize?
A I see Rollo backing up right there.
Q So tell the ladies and gentlemen, who is that?
A Rollo, Michael Lucas.
Q Is that the red car you came in?
A Yeah.
Q And it's backing into the spot?
A Uh-huh.
Q All right. Is that the spot the car was parked in when you heard the shots?
A I'm assuming so.

Q All right.
MR. FINNEY: Now, let the camera roll a little further.
Q If you see yourself in the video, please, tell us.
(Video is continued to be played.)
Q Again, the people in the video, do you know these people?
A No.
Q Is anybody fighting?
A No.
Q Is anybody carrying guns?
A No.
(Video is continued to be played.)
THE WITNESS: I know that guy.
BY MR. FINNEY:
Q And is the red car still parked on the left side of this camera angle?
A Yeah.
Q All right.
(Video is continued to be played.)
Q Do you see anybody you recognize in this frame?
A That look like Killa Mike right there.
Q That's Michael Rodgers?
A Uh-huh.
Q All right. And he's -- where is he located in terms of where he's kind of hanging out at?

A By Mike car.
Q At the red car?
A Uh-huh.
Q And if you see yourself, let us know.
(Video is continued to be played.)
Q You went over to the left side to talk to Trae?
A Yeah.
(Video is continued to be played.)
MR. FINNEY: Stop it right there.
Q Do you see yourself in that picture?
A No.
MR. FINNEY: Let it roll on.
(Video is continued to be played.)
BY MR. FINNEY:
Q Can you tell what's happening now?
A Yeah, they shooting and them girls running.
Q Is that video an accurate representation of how the parking lot looked before the fight and after the shots were fired?
A Yes.
Q All right.
MR. FINNEY: Your Honor, we would move it into evidence so the jury can see it.
MR. KENT: Still have my authentication objection and whoever, actually, took that cell phone video needs to be

here to testify.

THE COURT: Subject to Mr. Kent's objection and pursuant to State vs. Gray, 438 S.C. 130, 882 S.E.2d 469, I'm going to admit the item over Defense's objection.

(WHEREUPON, State's Exhibit No. 5 was admitted into evidence.)

MR. FINNEY: Judge, may counsel and I approach?

THE COURT: Yes.

(WHEREUPON, a bench conference was held in the presence of the jury, but outside the hearing of the jury.)

MR. FINNEY: Thank you, Your Honor.

Q All right. Mr. Scarbough, there's a video now from a cell phone and I wanted to know if you could identify that this is from the same night where you were going over to talk to Trae and do you see anybody in this video that you recognize at this point?

(Video is played.)

MR. KENT: Your Honor, I think we've gone past the scope.

MR. FINNEY: That's fine.

BY MR. FINNEY:

Q Is that the way it sounded out there that night when you heard the shots?

A Yeah.

Q And when the other people on this video started

running, is that what you were doing as well?

A Yeah.

MR. FINNEY: Beg the Court's indulgence.

THE COURT: Yes, sir.

(Pause.)

MR. FINNEY: Your Honor, may we approach?

THE COURT: Yes, sir.

(WHEREUPON, a bench conference was held in the presence of the jury, but outside the hearing of the jury.)

MR. FINNEY: Your Honor, that's all the State has for this witness. Thank you very much.

THE COURT: Ladies and gentlemen, before we proceed with cross-examination, it's probably a good idea for us all to take a brief recess. I'm going to send you to your jury room for just a few moments, probably six or seven minutes. Well, let's say we'll be back at 4:40.

So if you'd go to your jury room. Don't begin your deliberations, don't discuss the case amongst yourselves or with anybody else. Don't do any research about any issue which has been raised so far and we'll get you back out in a few minutes. Thank you.

(WHEREUPON, the jury exits the courtroom at 4:33 p.m.)

THE COURT: We'll be in recess for a few moments.

Mr. Scarbough, you can step down from the stand, but don't discuss your testimony with the State or the Defense

or anybody.

MR. FINNEY: Your Honor, we've talked to Mr. Kent. We have a sticker on No. 6, we're going to transfer it to a disc that only has that cell phone on it. We're going to take this disc back because it has other cell phones on it.

MR. KENT: No objection, Your Honor. We understand.

THE COURT: All right.

You can step down, sir.

(WHEREUPON, State's Exhibit No. 6 was admitted into evidence.)

(WHEREUPON, a short recess was taken.)

(WHEREUPON, the jury enters the courtroom at 4:45 p.m.)

THE BAILIFF: The jurors are seated.

THE COURT: All right. Mr. Kent.

CROSS-EXAMINATION

BY MR. KENT:

Q Mr. Scarbough, how are you?

A Hey, how are you?

Q We don't know each other, do we?

A No, I doubt it.

Q Couple rules before we begin, okay?

A Uh-huh.

Q This lady right here is taking down every word that you're saying. I know sometimes you can be soft-spoken.

A Yeah.

Q Make sure she can take down every word you're saying and make sure we say yes and no and we don't shake our heads.

A I got you.

Q Number two, I don't think we're going to argue, but we can't talk over one another.

A I'm not fixing to try to talk over you or argue with you, that's your job.

Q And we just did it. And finally, just make sure you speak loud and clear so she can take down every word.

A I got you. I understand.

Q Do you mind if I call you Timothy?

A Yeah, no problem.

Q Timothy, if I speak too fast, and I do that sometimes, and you don't understand my question --

A I will let you know.

Q And I'll repeat it.

A All right.

Q Fair enough?

A That's good.

Q And, Timothy, I promise you, I don't have a lot of questions. The biggest thing is, and I want to be very specific about this, you have testified formerly under oath about this matter?

A Yeah.

Q And you remember that? I don't want to get into it, but you testified formerly under oath about this matter?
A All right. All right.
Q Is that a yes?
A It depends on the matter.
Q On what you just testified to, about the shooting --
A Oh, yeah, yeah, yeah, that's correct.
Q You remember doing that?
A Yeah.
Q And you remember being asked questions by the State of South Carolina and some other lawyers?
A Yes, sir.
Q I'm going to show you, Mr. Scarbough, a transcript of your testimony from back when you testified back about this matter. Does that ring a bell?
A Yeah.
Q Timothy, during questioning, you were asked some specific questions about what you saw?
A Yeah.
Q You remember that?
A Yeah.
Q And you answered a question -- I'm going to ask the question and see if you remember the answer. You got me? The question was, And at that time period, you were over here behind these people you said. And what was your

answer?
A Behind what people?
Q I'm reading the question. What was your answer right there starting on Line 6?
A At that time, I been already behind him.
Q Keep reading, read the whole thing, read the whole answer?
A I couldn't really get up close to see Killa Mike at that time. I didn't see him swing on Killa Mike.
Q Is that the whole statement, everything? Read it all.
A Oh. I didn't see him swing on Killa Mike. I backed up real fast like something was wrong -- or like something was going on, but by the time I got to them -- that ain't right.
Q That's what you testified to, correct?
A No.
Q That is not your sworn testimony under oath in front of the jury?
A I'm not saying, but that ain't what I -- I don't recall saying this. Maybe somebody -- because even when I went to the police station and gave you the statement that I said, they misinterpreted what I said then, so that could have been something like that. Nobody proof it. But I don't recall saying I couldn't get to him or I didn't see him because from day one, I've been saying what I've been saying and that I'm telling you now.

Q And you agree I've given you a copy of the transcript --

A I agree you gave me a copy of something that I don't recall saying.

Q And that was your sworn testimony under oath in front of a jury stating that you did not see -- I mean, I didn't --

A No, I did not say that because I seen the swing and the whole blow from the start. When you see the video, you'll see the way I break it down, it went exactly that way.

Q But you agree I didn't make that up?

A Somebody did.

Q Some court reporter --

A People make mistakes, mistakes happen, misprints.

Q And then let's go on with some of these misprints on Page 96.

A Yeah.

Q Question: Okay. So at the time, after Killa Mike was punched by Trae, you could not see him? What was the answer that the court reporter said that you gave?

A At the time when Killa Mike got punched by Trae, I couldn't see him.

Q Couldn't?

A I couldn't see him, that what you saying, but I don't recall saying that.

Q And then question: Okay. So you couldn't have seen if he pulled the gun first? Your answer was what?
A I couldn't have seen it.
Q I couldn't have seen it?
A Yeah.
Q Question: You couldn't have seen it?
A Yeah.
Q And if we turn to Page 97, and at the top it says, Timothy Scarbough, your testimony?
A Yeah.
Q From a certified court reporter?
A Yeah.
Q And it says, Did you see Trae Epps get hit? Your answer?
A No.
Q Read your answer.
A I ain't stay that long. You didn't stay long enough to see Trae get hit? No.
Q Question: And you could not see Killa Mike at the time? Answer?
A Couldn't see Killa Mike at the time.
Q Couldn't see Killa Mike at the time?
A Yeah.
Q And I understand you disagree with the words that the court reporter typed on this piece of paper?

A Yeah. Because what you talking about wasn't even about Trae. If you talking about earlier testimony from some other case, other trial.
Q You disagree with the court reporter --
A I disagree with the way she put it in there.
Q A certified court reporter, who's charged with --
A I mean, sir, I'm not going -- yeah, I'm not about to argue with you.
Q But you would agree with me that what we just read said you didn't see anything?
A No, I don't agree with that.
Q With what we just read?
A Did you read the police report? Did you read my statements? Did you see the video.
Q I'll ask the questions. The very specific question was, what we just read to the jury just now, is that what that says --
A And I said --
Q I'll ask the question --
A You won't let me answer it.
Q We're not going to ask questions back and forth.
A I didn't, I said you won't let me answer it.
Q Mr. Scarbough, how about this, I will let you say whatever you want to say, just let me ask the question and then you can answer?

A Okay, we can do it that way.
Q What we just read to the jury?
A Uh-huh.
Q Just now?
A Uh-huh.
Q That you just read word for word?
A Uh-huh.
Q Would you agree that says you did not see anything?
A I will agree that said I didn't see anything.
Q You would agree that that is a transcript of when you testified prior?
A I can say yeah, but I disagree with what it's interpreting.
Q Mr. Rodgers, Mike Rodgers is your cousin?
A Yes, sir.
Q That is your family?
A Uh-huh.
Q And as a matter of fact, you, also, know Mr. Epps?
A Yeah.
Q There's a question that y'all share a baby momma? I'm not going to get too much into --
A Yeah, please, not because that's personal on his behalf.
Q I understand that and I apologize, but y'all do know each other?

A Yeah.
Q And, finally, you looked at the video and the solicitor showed you a time for when he said that Mr. Rodgers was shot --
A Yeah.
Q -- and I think you agree the time was 11:41 and 54 seconds?
A Yeah.
Q You remember that specific time?
A Yeah, yeah. I, actually, recall me giving a later time, but I guess under duress, I couldn't remember as far as the time when it happened. I think I probably said a later time, but that's probably common in a case like this.

MR. KENT: Thank you, Mr. Scarbough.

THE COURT: Redirect, Mr. Finney?

MR. FINNEY: One moment, Your Honor.

THE COURT: Yes, sir.

(Pause.)

REDIRECT EXAMINATION

BY MR. FINNEY:
Q When you were speaking to Mr. Kent just now, you referred to a statement that you gave to the police?
A Uh-huh.
Q Can I show you a document and ask if you can identify the document?

A Yeah.
Q What is that?
A That's the statement.
Q How many pages is it?
A Two pages.
Q And is your signature on it?
A Yeah.
Q What is the date on it, please, sir?
A The ninth month, 10th day, the year 2019.
Q You talked to the police the day after Killa Mike was shot?
A Yeah.
Q Did you tell them in that statement that you saw the swing?
A Yeah.
Q Did you tell them in the statement that you saw Trae Epps pull a gun and shoot?
A Yeah.
Q Was there any doubt in your mind the day after when you talked to the police?
A No.
Q Is there any doubt in your mind when you saw the video today in this courtroom about who swung --
A Who initiate, yeah, ain't no doubt in my mind.
Q And when you testified at the last time when Mr. Kent

was talking about the testimony and he got the transcript, did you tell the jury at that time the same thing you're telling this jury?

A Yeah.

Q Who swung?

A Trae.

Q Who shot?

A Trae.

Q Did you see Killa Mike swing?

A No.

Q Did he shoot?

A No.

MR. FINNEY: Nothing further.

RECROSS-EXAMINATION

BY MR. KENT:

Q When you gave the statement to law enforcement they were just asking about, did you put your hand on the Bible and swear to tell the truth, the whole truth and nothing but the truth or did you just give a statement?

A I just gave a statement.

Q When you came and testified in front of the jury the last time, did you put your hand on the Bible and swear to tell the truth, the whole truth and nothing but the truth?

A Yes, sir.

Q And then they asked you questions?

A Yeah.

FURTHER REDIRECT EXAMINATION

BY MR. FINNEY:

Q And did you put your hand on the Bible today and swear to tell the truth to this jury?

A Yes, I did.

Q Did you tell the truth to this jury?

A Yes, I did --

MR. KENT: Improper bolstering there.

MR. FINNEY: Nothing further.

MR. KENT: I'd move that to be stricken.

THE COURT: The objection is sustained and will be stricken from the record.

MR. FINNEY: Nothing further from this witness.

THE COURT: Thank you, Mr. Scarbough. You can step down.

MR. FINNEY: I call Dr. Batalis. Your Honor, this should be the last witness of the day.

THE COURT: All right. Thank you, Mr. Finney.

THE CLERK: Raise your right hand and state your name.

THE WITNESS: Dr. Nicholas Batalis.

NICHOLAS BATALIS, M.D.,

after being duly sworn, testified as follows:

THE CLERK: Thank you. Please have a seat. State your name for the record and spell your last name, please.

THE WITNESS: My name is Nicholas Ike Batalis, B-A-T-A-L-I-S.

MR. KENT: Your Honor, in an abundance of caution and because of how well we know Dr. Batalis, we will stipulate to his area of expertise and stipulate that he's a duly qualified expert in the State of South Carolina.

THE COURT: All right.

MR. FINNEY: Thank you, Mr. Kent.

DIRECT EXAMINATION

BY MR. FINNEY:

Q Dr. Batalis, good afternoon.

A Good afternoon.

Q Welcome back to Sumter.

A Thank you.

Q Tell the ladies and gentlemen where you work, please, sir.

A I work at the Medical University of South Carolina down in Charleston.

Q And what do you do there?

A I'm employed there as a professor in the Department of Pathology and Laboratory Medicine, specifically, as a forensic pathologist.

Q And what does a forensic pathologist do, sir?

A Sure. So pathology is a field of medicine that deals with the study and diagnosis of disease. A general

pathologist would be one to look at something a surgeon took out to determine if it's cancer or not. We, also, receive in the clinical laboratory if you have any blood work drawn. Forensic pathology is a subspeciality, so some additional training on that, but it involves the legal aspects of medicine, particularly evaluating injuries and performing autopsies to determine a cause and manner of death.

Q Dr. Batalis, did you on September the 10th, 2019, about 11 o'clock in the morning perform an autopsy on one Michael Rodgers?

A Yes, I did.

Q Was Mr. Rodgers brought to you from the coroner's office in Sumter?

A Yes.

Q And is it your practice to go through a procedure before you start the autopsy?

A Yes.

Q Did you perform that procedure on this occasion?

A Yes, I did.

Q Did you take pictures during the autopsy?

A Yes, I did.

Q And is that standard procedure?

A Yes.

Q All right, sir. In an effort to give the jury exactly what you found, you wrote a report?

A I did.
Q All right. And what in your report did you determine the cause of death of Mr. Rodgers was?
A The cause of death in this case was a gunshot wound to trunk.
Q All right. And when you say the trunk, would you just point out the area you're referring to?
A So the trunk could be anywhere chest and back. Specifically, this one was one that entered the right side of the chest.
Q So I want to show you what's been marked State's Exhibit No. 8.
MR. FINNEY: I believe Mr. Kent has seen them. They've been marked and I don't believe he has any objection.
THE COURT: State's 8 through what, Mr. Finney?
MR. FINNEY: It will be 8 through 10 -- excuse me, 11, Your Honor.
THE COURT: Let's make absolutely certain.
MR. KENT: We've had an opportunity to review with Mr. Epps. We've looked at State's 7, State's 8, State's 9, State's 10 and 11 and it will be admitted without objection.
THE COURT: All right. State's 7 through 11 are admitted without objection.
(WHEREUPON, State's Exhibit Nos. 7 through 11 admitted into evidence.)

BY MR. FINNEY:

Q Dr. Batalis, I want to show you what's been marked as State's No. 8. You just testified there was a gunshot wound to the trunk?

A Yes.

Q Is that an accurate representation -- did you take this picture?

A Yes, I did.

Q And is this an accurate representation of the entrance wound of a gunshot to Mr. Rodgers' body?

A Yes, it is.

Q And tell the ladies and gentlemen of the jury based on your examination what happened once the bullet went into Mr. Rodgers.

A Sure. So, again, as you mentioned, State's Exhibit 8 depicts the gunshot entrance wound of a gunshot on the right side of the chest. After perforating or going through the skin on the right side of the chest, that bullet then went through the chest wall between two of the ribs, passed through the right lung, then passed through the spine before, ultimately, exiting the body. As a result of this, massive bleeding occurred due to the lung injury.

Q And would you consider that to be a fatal gunshot wound?

A Yes.

Q Did Mr. Rodgers, also, have another gunshot wound to his body?
A He did.
Q Would you tell the ladies and gentlemen where that was?
A The other gunshot wound in this case was on the upper right side of the back, kind of between the neck and the back of your shoulder.
Q And did that gunshot wound on the upper right side exit the body or did it stay in the body?
A It was a penetrating wound, meaning that it did stay in the body.
Q And did you recover a projectile from Mr. Rodgers' body that is associated with the upper right-hand gunshot?
A Yes, I did.
Q Let me show you what's been marked as State's No. 9 and ask what does that show in that photograph?
A So State's Exhibit 9 is a photograph of the decedent's back. There are two findings here. At the top of the picture where I have a ruler with a case number unique to this case, there is a gunshot entrance wound that we're talking about now, the second gunshot entrance wound. Also, kind of the lower middle aspect of the picture, there is the exit wound that corresponds with the entrance wound on the chest that we just talked about.
Q And that would be No. 9 describing those injuries?

A Yes.
Q And let me ask you, did you remove a projectile from Mr. Rodgers' body and turn it over to the Sumter County coroner?
A I did.
Q And is that accurately reflected in that photograph, which is State's Exhibit No. 10?
A Yes, it is. And as a point of clarification, at the conclusion of the autopsy, we transport it to a representative of the police department not the coroner.
Q I'm mistaken. That photograph of the projectile removed from Mr. Rodgers' body was taken by you?
A Yes, it was.
Q All right, sir. Let me ask you to tell the ladies and gentlemen what you see in State's Exhibit No. 7.
A Sure. So State's Exhibit No. 7 is a chest x-ray of the body. In cases like this with gunshots, we'll take x-rays to help us identify bullets or any other jacketing that may be left behind. In this case, we can see there's a marker near the right shoulder, an aura that shows it's the right side of the body. And then just beneath that, there's a cylindrical or kind of rounded object that is the bullet that we just showed in State's Exhibit 10.
Q So the x-ray photograph, State's Exhibit 7, is an x-ray showing the bullet in Mr. Rodgers' body?

A Correct.
Q And State's Exhibit 10 is the bullet once you have removed it from the body?
A Correct.
Q And the bullet was turned over to local law enforcement here in Sumter?
A Yes.
Q Finally, Doctor, did you prepare a diagram showing the entrance wounds and exit wounds on Mr. Rodgers' body?
A Yes, I did.
Q And have you seen that diagram before? Is it marked now as State's Exhibit 11?
A It is. And it's a reproduction of the diagram that appears just as when I created it.
Q And this diagram would be standard for most all the autopsies that you perform if you might have a gunshot injury?
A Yes. We perform a body diagram during each of our cases that tends to have a lot of notes and scribbles, including tattoos and scrapes and lots of minor things. These diagrams are prepared for trials such as this to really show the major injuries in a more clear fashion.
Q And on State's Exhibit 11, you have marked -- I know you don't know which one the body received first, but you have marked one as gunshot wound number one?

A Correct.
Q And where did that enter the body of Mr. Rodgers?
A Yes, gunshot wound number one was the first one we described on the right side of the chest near the armpit. And as referenced -- when I say gunshot wound number one and two, I don't know which one happened first, it's just as I'm describing the body, the first one I see to describe, that's why it was determined number one.
Q And gunshot wound number two enters the back right area of Mr. Rodgers and stayed in the body?
A Correct. Entered back here, traveled kind of sideways and downward and recovered from the right side.
Q And, Doctor, would either of those gunshot wounds have been fatal or only the first one?
A Only the first -- gunshot wound number one would be independently fatal. Gunshot wound number two, it's a minor blood vessel, so there would be some bleeding associated with it. It, also, grazed and fractured one of the ribs, so it didn't help anything, but that would not be immediately fatal. Potentially, you could get an infection and days or weeks down the line, but in this case, that gunshot wound number one would have been the fatal shot.
Q In the examination and preparation for this case, did you have a chance to see a Sunoco gas station video of Mr. Rodgers in the parking lot area in a confrontation and then

falling to the concrete some seconds later?
A Yes, I did.
Q Did you have occasion to watch the video from the standpoint of looking to see if Mr. Rodgers was in a position during that video with the confrontation of Mr. Epps to be shot by Mr. Epps?
A Yes, I did.
Q And do you have an opinion to a reasonable degree of medical certainty that Mr. Rodgers was in a position when he was confronted in close proximity to Mr. Epps to have been shot by Mr. Epps and received the injury that you described as gunshot wound number one?
A Yes, I believe the pathway of the injuries in this decedent would be consistent with the relationship that they were in the video.
MR. FINNEY: Doctor, thank you for coming. Answer any questions the Defense has.
THE COURT: Mr. Kent.
MR. KENT: Do you want to in an abundance of caution, I know I stipulated to his expertise, do you want to -- I don't know if he's been offered as an expert, but I stipulated to his expertise. Do you want to tell us anything more about him being an expert or explain to the jury?
THE COURT: I can do that.

Ladies and gentlemen, normally, a person cannot give opinion testimony. Normally, when a person testifies, they must testify as to what they either saw, heard or sensed by smell of something of that nature. However, there is an exception when someone is qualified because of education or experience, they are permitted to give their opinion in certain areas -- and I don't know why we're getting all this feedback. They are permitted to give their opinion in certain areas if the Court qualifies them that way.

This witness through stipulation of Mr. Kent was qualified in the area of forensic pathology to give opinion testimony in that area, but that does not mean you must accept the opinion. It is evidence for you to use in any way you see fit and give it the weight and credibility you believe is appropriate.

CROSS-EXAMINATION

BY MR. KENT:

Q Dr. Batalis, how are you doing?

A Good.

Q We know each other?

A Yeah, go back a little bit.

Q Personally and professionally?

A Correct.

Q I think you were in my Fantasy Football league for a while?

A Yep. I don't think I was ever paid out, I don't think I probably won, though.
Q I don't have a lot of questions. I want to go through a little background since you have been stipulated as an expert.
A Sure.
Q You had talked about manner and causes of death, but we didn't really get into that too much. Difference in manners and causes of death; is that fair?
A Yes.
Q Would you explain to the jury -- I think there's five manners of death?
A Depends on where you are, but, yeah, typically, five what we call more permanent manners of death.
Q And they are what?
A Sure. When we talk about determining -- I guess I'll take a step back if you don't mind. So we talk about cause of death and manner of death, they're two different things. Cause of death simply put is why a person is dead. Is it a heart attack? Is it a gunshot wound? It is a stab wound? Manner of death refers to how that cause of death came about.
So when we're determining this, we have five or six different choices, depending on where we practice. One would be natural, so this would be aging or just natural

disease process that leads to the death. One would be accident. Typically, drug overdose, car accidents where there's an unintentional death. The third one would be suicide, where one takes an action to intentionally end one's own life. There's homicide, which is a death at the hands of another individual. And then if we can't really fit it into any of those four categories, the fifth one that we would use would be undetermined, which would mean this doesn't quite fit into one of those other four main categories.

Q And you're level of expertise is in pathology, correct?

A Yes.

Q It's not crime scene reconstruction or video analysis or anything like that, it's pathology?

A As part of the fellowship training, we do get some exposure to crime scene and such, but it's not the major focus.

Q It's not the major stuff, it's pathology?

A Correct.

Q You're the expert. So when we -- I want to make sure we explain it to the jury. When you get the autopsy and draw a picture -- I want to make sure I'm getting this right, you look at the body in a pronated position?

A Correct, you would be in a kind of anatomical position just as you're standing there.

Q And we don't make the determination of where the body was at the time of when it was shot or deceased or anything, we look at it in an anatomical position?
A Correct. When I'm describing the pathway the bullet travels through the body, it would be in an anatomical position, basically, stating how the gun would have related to the body when it was fired. But there's different positions the body could be in.
Q We talked about two different gunshots and two different injuries, one entering the front and one entering the back, correct? One entry on the right side?
A Yeah, front or side. It was kind of more in the armpit area, but, yeah, in the front or the right side and then the upper back.
Q Do you have -- and I know the autopsy talks about, do you have an angle in your autopsy about gunshot wound?
A A general pathway. I don't have a specific numerical angle, but you could give a description based on the measurements of the wounds and such.
Q Can you give me a general angle from the mid-center of the head or something like that? Could you explain to the jury?
A Sure. So which gunshot do you want me to do?
Q Gunshot wound, the fatal shot.
A Okay. So gunshot wound number one, again, enters the

right side of the chest, again, in the area of the armpit. It's going to exit the spine right in the middle, about an inch below where it comes in.

Q [Indiscernible]?

A Pretty good right where we are there, the top of the pointer. So this bullet would be traveling from his right, the decedent's right armpit, traveling from his right to his left.

Q Am I going the right way, right to left this way?

A Correct. Also, moving a little bit from front to back because, again, this bullet entered near the armpit and exited the back, and then just a little bit downward. So it entered 17 inches below the top of the head and exited 18 inches below.

Q So if it's downward, pointing this way a little bit?

A Could I use the rod, it may be easier?

Q Yeah. You're the expert.

A So for gunshot wound number one, we're looking at an angle about like that. So it entered the right side of the chest, a little bit downward and headed towards his back.

Q And the other wound, number two?

A Yes.

Q Can you do the same thing with number two while you're down?

A Sure. Just let me refer to my report right here. So

this entered somewhere near the --

THE COURT: Let's do it this way. The jurors on the far end can't see, so let's get in the middle of the room so everyone can see.

THE WITNESS: The entrance wound as you saw in the photograph is somewhere around here. We recovered the bullet from kind of near where that first entrance wound was. So this is going to be coming from his left to right, so kind of flipping the way the last one was. A little bit more downward and then traveling from back to front. So in some ways traveling in the opposite direction that the gunshot wound number one was traveling.

Q Okay. Dr. Batalis, one of my concerns is, why was this chart created a week ago? You understand what I'm saying? This is a four-year-old case, would you agree with me there?

A It's not uncommon for solicitors to reach out in advance of the trial. Again, we don't prepare these cleaned-up diagrams as part of the general autopsy. I can show you the diagram, but it has much more scribbles and stuff that I think are kind of distracting. So I would say this is usually pretty typical. As they're gearing up for trial, they'll reach out to ask about preparing a diagram.

Q Any more Fantasy Football?

A No, I'm out of it for now.

MR. KENT: That's all the questions I have for Dr.

Batalis, Judge.

MR. FINNEY: May it please the Court?

THE COURT: Yes, sir.

REDIRECT EXAMINATION

BY MR. FINNEY:

Q Dr. Batalis, since you cannot tell -- since you were not there the night Mr. Rodgers got killed and didn't see him take the injuries, did you see him on the video at the Sunoco station in a situation where he was in movement from the time he started backing up until the time he went to the ground? Did you see that movement of his body?

A Most of it. I know there were a couple different camera angles, but could see initially and then I think it flipped to where you could see him taking his final steps and then collapsing to the ground.

Q Was it a short distance from the confrontation -- where this confrontation began, it was a short distance to where the body went to the ground and he could no longer move?

A Correct.

MR. FINNEY: Thank you, sir.

RECROSS-EXAMINATION

BY MR. KENT:

Q And just quick followup, I want to make sure.

And I apologize for any disrespect to the family.

That fatal shot hit the spine?

A Correct.
Q And that would have been -- like, when the spine is severed, that's when someone would go down immediately?
A It depends if the spinal cord is through-and-through transected, if you will, where it's absolutely cut in half. In this case, it was damaged, but not truly transected, so you could still have some movement, but you wouldn't be able to last for minutes or hours or that sort of thing. But taking a few steps, a couple seconds of movement would be reasonable.

MR. KENT: Thank you, Doctor.

MR. FINNEY: Thank you, Your Honor.

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

THE WITNESS: Thank you, your Honor.

MR. FINNEY: We ask that he be excused.

THE COURT: He may be excused.

MR. FINNEY: Your Honor, we'd like to take a break for the rest of the day.

THE COURT: All right. Ladies and gentlemen of the jury, I'm going to give you my standard instruction. Any time you leave the courtroom, you're going to hear me say this and you'll probably be able to repeat it word-for-word by the time this case is over. Do not begin your deliberations. Do not discuss this case amongst yourselves or with anybody else. Don't do any research about any issue

which has been raised. Don't do any research about any writings, whether they would have been in newspapers, internet or anything whatsoever. Again, the evidence must come from the witness stand.

When you get home tonight, your spouse, significant other, child is probably going to be very interested in what you did today. You don't need to discuss it with them because discussion leads to questions, which leads to opinions and that can't happen. So don't discuss the case.

We will see you back tomorrow morning at 9:30 and I promise you we will start if not right at 9:30, very close. There won't be any prolonged waiting tomorrow morning. So if you'll be here a little bit ahead of 9:30, we'll get started as close to 9:30 as we can. I hope you have a pleasant evening. Thank you.

(WHEREUPON, the jury exits the courtroom at 5:18 p.m.)

THE COURT: Folks, out of an abundance of caution, as we're leaving tonight, let's go ahead and let one side of the courtroom leave first. Let's let the victim's family and/or friends and representatives leave the courtroom first and then Mr. Epps' family and friends can leave after that. Not that I'm necessarily worried about anything happening, this is just a good way to do things and make sure order is maintained.

(WHEREUPON, Court was adjourned for the day.)

WEDNESDAY, SEPTEMBER 27, 2023

THE COURT: Mr. Kent.

MR. KENT: Thank you, Your Honor. May it please the Court. Your Honor, you walked into the courtroom at about 9:35. At, literally, at 9:35 and 36 seconds, I received a text message from members of the bar that a dear friend of myself and Mr. Finney's had passed. I'm still receiving calls about that right now. Stanley Myers, who has an office downtown Sumter.

As you can imagine, it hit me very hard. The Court granted me a small break. Because of the emotionality of, of course, just finding out about that, we came back in and I talked to Mr. Epps. I can assure you as an officer of the court I am prepared and ready to still go. I do not need a continuance or any additional breaks. I've explained that to Mr. Epps. He candidly asked me if I was good to go and I told him I was.

If at any point in time, I feel as though I am not doing my due diligence as his attorney, I will let the Court know and let Mr. Finney know. If another court is reading this right now, I feel as though that I am ready and properly prepared to go forward.

THE COURT: Mr. Finney, anything to add to that, sir?

MR. FINNEY: No, sir. I'm deeply sad for the loss of a colleague. And Mr. Kent and I talked and I believe he is

ready to go. He has declined to take a ten-minute break, so we've gathered ourselves and I think we're ready to go.

THE COURT: Well, certainly, any time we receive tragic news like this -- I have handled cases against Mr. Myers. He has appeared in front of me since I've become a judge. It's certainly understandable that it would cause an emotional response, but, certainly, Mr. Kent seems to have regained his composure. I have no doubt that he is ready to proceed and will be able to move forward and provide his usual standard of excellent representation for his client.

With that being said, if at any time anyone needs to take a recess for any reason whatsoever, just let me know and we'll proceed accordingly.

MR. KENT: Thank you, Your Honor.

MR. FINNEY: Yes, sir.

THE COURT: Thank you.

MR. KENT: Judge, out of an abundance of caution, would you feel comfortable questioning Mr. Epps if he's fine with my mental status going forward? You understand? I'm thinking --

THE COURT: I understand.

Mr. Epps, raise your right hand for me, sir.

DIONTRAE TREVON EPPS,

after being duly sworn, testified as follows:

THE COURT: I'm not going to ask you anything about the

case. This is all about what has occurred here this morning. Obviously, Mr. Kent received news that hit him hard. Do you have any issue with him going forward given the fact that he has regained his composure here this morning?

THE DEFENDANT: No, sir.

THE COURT: All right. And understanding that he did react emotionally, do you feel comfortable with proceeding with this trial given what's transpired this morning?

THE DEFENDANT: As long as he's prepared, I'm ready.

THE COURT: All right. Thank you, sir.

MR. KENT: Thank you, Your Honor.

THE COURT: Yes, sir. Thank you, Mr. Kent.

MR. CORBETT: Your Honor, I believe we have resolved the technical difficulty. On your monitor, there should be a screen showing a graph. This graph represents 911 calls received on the night in question. The State intends to call Shirlene Skipper, the 911 director, to authenticate these recordings and then play them for the jury.

THE COURT: All right. I just want to make sure. At bench conference, you stated you were going to stipulate to the 911 calls and allows these in without objection. Is that --

MR. KENT: Your Honor, we have listened to the 911 calls. My client has heard the 911 calls. I've explained

to him he is not referenced in the 911 calls, so in cue with his representation, there is no rationale to challenge the 911 calls, so for that rationale, we would stipulate they can place them in without objection.

THE COURT: All right.

MR. KENT: If I can just know the number of what exhibit they will be.

MR. CORBETT: Your Honor, this will be State's No. 12.

THE COURT: Okay. State's No. 12 will be admitted without objection.

(WHEREUPON, State's Exhibit No. 12 was admitted into evidence.)

THE COURT: Are we ready for the jury, folks?

MR. CORBETT: The State is ready, Your Honor.

THE COURT: Mr. Kent, are you ready for the jury?

MR. KENT: Ready, Your Honor.

THE COURT: All right. Bring them in, please.

(WHEREUPON, the jury enters the courtroom at 9:59 a.m.)

THE BAILIFF: The jurors are all seated, Your Honor.

THE COURT: Thank you, sir.

Ladies and gentlemen of the jury, we will begin this morning with the resumption of the State's case. Before we get started, I need to read to you what is known in the law as a stipulation. And a stipulation is just an item of fact that the State and the Defense have agreed upon.

And the stipulation in this case reads as follows: The parties hereby agree and stipulate that the shooting incident took place on Sunday, September 8th, 2019, at approximately 1:02 a.m.

The State may call its next witness.

MR. CORBETT: Thank you, Your Honor. The State would call Shirlene Skipper.

THE CLERK: Place your left hand on the Bible and state your name.

THE WITNESS: Shirlene Skipper.

SHIRLENE SKIPPER,

after being duly sworn, testified as follows:

THE CLERK: Have a seat, ma'am. State your name for the record and spell your last name, please.

THE WITNESS: Shirlene Skipper, S-K-I-P-P-E-R.

DIRECT EXAMINATION

BY MR. CORBETT:

Q Good morning, Ms. Skipper.

A Good morning.

Q And Ms. Skipper, by whom are you employed?

A City of Sumter.

Q And what is your job with the City of Sumter?

A I'm the director of the 911 emergency center.

Q Now, when we say 911 emergency center, just tell us a little bit about what that is and what y'all do.

A When customers or anybody in our public should dial 911 for a fire truck, ambulance, police, sheriff's office, animal control, it's answered by one of my dispatchers.
Q Okay. So you're the director of that department?
A Yes.
Q Now, when operators receive 911 calls, are those recorded?
A Yes.
Q And are those recordings maintained in your office?
A Yes, they are.
Q Now, in connection with this case, did our office request that you go back to the date of September 8th, 2019, and pull any particular 911 calls related to what I refer to as the Hop-In or Sunoco shooting?
A Yes, sir, you did.
Q And do you have your screen there available in front of you?
A Yes, sir, I do.
Q Now, here on the screen, it appears that we're looking at a graph of some type; is that correct?
A It is correct.
Q All right. Did you create that?
A Actually, it's a piece of software that I use for recording everything that goes on in the 911 center.
Q So that came from your office?

A Yes, it did.
Q Tell us generally -- or tell us what we're seeing represented on that screen before you.
A At the top of the screen, you'll see the word Nice, that's the name of the software company that we use. It's common in public safety to use this company for recording 911 telephone traffic as well as radio traffic. The top is just your normal cursory tool bar, fast forward, back up, that kind of thing. Then as you see on the left, the abbreviation Op 1, Op 6, Op 6, those are positions actually in the room.

We have ten positions in our current center. The bars that you see to the right represent traffic or a recording of some kind that is there. You'll see a time stamp. And the graph that's at the bottom is actually the same you're seeing at the top, it's just presented vertically instead of lateral.

Q So there's more than one operator on duty, is that what we can see?
A Yes.
Q Now, let me ask you, because, for example, if we can just start with what's on the screen, we see on what I would call the far left, a blue line?
A Yes, sir.
Q Does that represent a 911 call?

A Yes, sir, it does.
Q As we move across, we see some additional lines that appear to be shaded more gray or black?
A Yes.
Q Do those, also, represent 911 calls?
A Yes. It just means that -- the blue just means that you're cued up on that particular one. If you started listening, that's the one that you would be listening to.
Q Now, let me ask this if I may because on some of these, it looks like the graphs overlay -- excuse me, the lines overlay with each other?
A Correct. You've got operators answering telephone calls that are coming in simultaneously.
Q Okay. So an operator could be on one line with an individual calling in --
A Correct.
Q -- someone could be calling in regarding the same matter --
A Yes.
Q -- and they would overlap?
A We have multiple telephone lines in our center.
Q If I may, I'm going to direct your attention to the one there that's already in blue. And that was a call received at the 911 center?
A Yes, sir.

Q And what was the date?
A The date is displayed as 9/8, the year 2019.
Q And the time?
A It would have been 1:00 a.m. and 18 seconds.
MR. FINNEY: Beg the Court's indulgence. We're going to plug it into the podium and see if maybe we have a bad cable here.
THE COURT: All right.
(Pause.)
BY MR. CORBETT:
Q Now, Ms. Skipper, my apologies. But you just indicated there was a call that came in on September 8th, 2019, at 1:00 a.m. and 18 seconds?
A Yes, sir.
Q And you pulled calls related to the Sunoco case, correct?
A Correct.
Q What is the next call that came in?
A At 1:03.
Q 1:03 a.m.?
A Yes, sir.
Q Well, let me stop and ask you for just a moment, do you know how many different calls came in related to the Hop-In shooting?
A The initial shooting, there was nine different phone

calls.
Q Okay.
A There was two more phone calls after that.
Q Very well. Okay. So you indicated you had a call at 1:00 a.m. and 18 seconds, then you had another call at, I believe you indicated 1:03?
A There was, actually, two on top of each other answered by two separate operators at 1:03.
Q Okay. And the next one?
A Then we had three more that came in at 1:04 and a few seconds apart from each other, but they were answered by three different people.
Q Okay. Now, if I could ask you just to look at the screen for a moment because I believe I'm following along with you.
A Yes, sir.
Q And I believe if you touch that screen, it will, actually, make a mark on it. So if you would just touch the line where you're referring to at 1:03.
A (Witness complies.) Okay. I'm touching, but it's not -- it's okay.
Q If you could make a squiggly there with your fingers and see if that will pick up.
A (Witness complies.)
Q I believe there's a stylus button there you can press.

If you could show us the 1:03.
A (Witness complies.)
Q There we go. So the red dot on the left?
A Yes.
Q And then you indicated there was another call that came in over that?
A Uh-huh.
Q At 1:03. Then it looks like -- I don't want to speak for you. What's the next one that shows up?
A I have two that came in at 1:03, and then we have three that are documented at 1:04 each, but different seconds.
Q Okay. And then what do we have next?
A Then you have 1:05 two times and then 1:07.
Q And, for example, there in the appears to be about the 1:05 block, there's a longer line?
A Yes, sir, it means you were on the telephone longer.
Q And then there's a line to meet that one?
A Correct.
Q So another call came in while one operator was already on the line?
A Correct.
Q And then we move over to -- I'm sorry, at about 1:07, it appears that a short call overlapped?
A Yes.
Q And then what's next on there?

A 1:07 is the time that it stops at the actual incident location. I have two more phone calls that came in related to that location, but they were giving other information about the shooting.

Q And what time were those?

A At 1:10 and 1:17.

Q We're going to scroll a little bit to the right because I think -- so there, we see -- you indicated another one came in concerning this matter at -- approximately what time is that?

A You have one at 1:10 and then the final one was at 1:17.

Q At 1:17. And to the best of your knowledge, those dates and times where the calls come in are accurate?

A Yes, sir.

Q That's maintained from the 911 system?

A Yes, sir, it is.

MR. CORBETT: Ms. Skipper, thank you very much. Please answer any questions Mr. Kent may have.

MR. KENT: And Your Honor, for the record, I understand the technical difficulties, we have no objection if the State needs to play the 911 calls at a later point in time when they can get that figured out.

THE COURT: Thank you, Mr. Kent.

CROSS-EXAMINATION

BY MR. KENT:
Q How are you doing?
A Good.
Q I don't have a lot of questions, I just need to make sure I understand this technology.
A Okay.
Q You're charged with keeping all the 911 calls as they come in?
A Yes, sir.
Q And sometimes when someone calls 911, it bounces to different towers --
A It does.
Q Does that happen here, also? Can you explain that? I get confused.
A It depends on where a person is. In the county jurisdictions, you can be closer to Clarendon County and you might bounce off of a tower and it's directed into that closer, what we call 911 center or public safety answering point. If Clarendon County was to receive one of ours, they would immediately identify it as being a Sumter call, immediately transfer it to us and let us know hey, Sumter, this is Clarendon, I've got a call. And we do the same exact same thing for them. Lee County, it happens if you get close in that Rembert area, you might bounce into Lee County. If you get on the east side down I-95, you might

bounce into Florence.
Q And I'm not saying that has anything to do with this, it's just for my clarification.
A Correct.
Q The times of the specific calls, when that call comes in, does that mean the person who called was right there on scene necessarily or calling about something that happened on scene?
A It could be both. It could be calling as a witness to something that they just observed happened or they could, actually, be a victim of something that's going on. Maybe need an ambulance and it's for your grandmother and you're there on scene with her or you're traveling because she's called you and said hey, I need you to come. I need an ambulance to come and get me.
Q And does the computer system itself put these into their blocks, like, these are all phone calls about this specific incident, like a key word, a buzz word --
A No, sir.
Q How do we know that these are about this specific incident? And I'm not trying to trick you.
A No, I understand what you're saying. Somebody like me that's considered a subject matter expert would go back and listen to these and play them, listen to them and make that determination at that time that yes, this is related to the

shooting that happened out on Broad Street.
Q So, unfortunately, does that mean you've got to go through all the 911 calls that came through on that date?
A Not only 911, any of the non-emergency lines. People will sometimes call the non-emergency number instead of 911.
Q And so you would get all the phone calls from that specific date, put them in database and then give it to the solicitor's office?
A In a 12-hour period on day shift, our 911 center here in Sumter would probably field over 800 emergency and non-emergency telephone calls in a 12-hour shift.
Q And the temporal aspect as well as the time, they don't show you videos from the crime scene or anything of that nature. You're just, basically, the gatekeeper?
A Right.
Q You get the information, you put it on a disc, give it to the solicitor's office?
A Correct.
Q So you wouldn't know anything about the crime scene, what happened, who's involved or anything of that nature, just what's on the disc?
A No, sir. Just the telephone call that starts it.
Q And, of course, I've known you for some time and I think you're very good at what you do, so, please, don't take this next question --

A I'm not, go ahead.
Q Is there some human error possibility sometimes? Like, could you miss some calls? Is that possible?
A We could possibly miss a phone call that came in ten or 15 minutes after the initial incident. Those are discovered later. Sometimes when you or your counterparts are working a case and you develop a witness and the witness says well, I did call. It might have been 30 minutes after, but I did call. And I have the ability to take that person's telephone number and I can say you made that phone call on that day, what phone did you use? What was the cell phone number that you used to call and I'll go back and search for that phone call.
Q And, finally, how long do these calls last? That wasn't a good question. How long do y'all save them?
A Right now, my server has everything from 2016 through today.
Q Wow. That's a big old server.
A Yeah.
Q So y'all just save everything and if someone needed a call from 2016, '17, '18, you could retrieve it.
A Correct.
MR. KENT: That's all the questions I have. Thank you.
MR. CORBETT: Nothing on redirect, Your Honor.
THE COURT: Ms. Skipper, thank you. You can step down.

THE WITNESS: Thank you.
MR. CORBETT: Your Honor, may Ms. Skipper be excused?
THE COURT: Yes, sir.
MR. KENT: No objection, Your Honor.
MR. CORBETT: Your Honor, the State would call Amanda Snapp.
THE COURT: Ms. Snapp, please, come forward.
THE CLERK: Place your left hand on the Bible, raise your right hand and state your name, please.
THE WITNESS: Amanda Sue Snapp.

AMANDA SUE SNAPP,

after being duly sworn, testified as follows:

THE CLERK: Thank you. Please have a seat.
MR. CORBETT: Your Honor, may Mr. Kent and I approach just briefly?
THE COURT: Yes.
(WHEREUPON, a bench conference was held in the presence of the jury, but outside the hearing of the jury.)
THE CLERK: State your name for the record and spell your last name, please.
THE WITNESS: Amanda Sue Snapp, S-N-A-P-P.
MR. CORBETT: Judge, I believe we've resolved the matter. I have two larger-sized demonstrative exhibits. If we could mark these.
MR. CORBETT: Judge, what the State would describe as a

color coded crime scene diagram as State's No. 13 for ID. Also, State's No. 14 described as an aerial overhead photograph.

THE COURT: And that's for ID as well?

MR. CORBETT: Your Honor, we would offer it if there's no objection.

MR. KENT: No, Judge.

THE COURT: 14 is admitted.

(WHEREUPON, State's Exhibit No. 13 was marked for identification purposes.)

(WHEREUPON, State's Exhibit No. 14 was marked for identification and admitted into evidence.)

DIRECT EXAMINATION

BY MR. CORBETT:

Q Detective Snapp, good morning.

A Good morning.

Q By whom are you employed?

A I work for the Sumter Police Department.

Q And how long have you worked with the Sumter Police Department?

A A little over 11 years.

Q So you were with the Sumter Police Department back on September 8th, 2019?

A Yes, I was.

Q And what is your job or title or position at the Sumter

Police Department?
A I am a crime scene investigator, forensics detective. It's kind of interchangeable. Basically, I'm the staff sergeant of the division over the forensics section.
Q And Detective Snapp, in connection in what I've been referring to as the Hop-In or the Sunoco shooting on September 8th, did you have occasion to be called out to that scene?
A Yes, I was.
Q And have you had a chance to review some of the information you gathered on that night in question?
A Yes, I have.
Q When you arrived on scene, do you recall if it was daylight or still dark?
A It was nighttime.
Q And I'm going to hopefully not have a technical issue and I'm going to see if we can't bring up some photographs.
MR. KENT: Jason, can you show me what -- are the photographs already in evidence?
MR. CORBETT: I'm sorry.
MR. KENT: Before we publish them. I just want to make sure what we're --
(WHEREUPON, State's Exhibit No. 15 was marked for identification.)
MR. CORBETT: Your Honor, State's No. 15 is a CD

containing photographs from the Hop-In.

MR. KENT: Your Honor, for the record, State's Exhibit No. 15, I do believe is a CD of pictures taken by Detective Snapp. We have no objection.

THE COURT: So State's 15 admitted without objection.

MR. KENT: Yes, sir, it shows the item --

THE COURT: Right. Right. Right.

(WHEREUPON, State's Exhibit No. 15 was admitted into evidence.)

BY MR. CORBETT:

Q Now, Detective Snapp, tell us what this is, please.

A This image is what we refer to a photo placard. So whenever we go on a scene, we first take a photo of this kind of document that shows the case number, the date, the time, the location and the type of crime that we're responding to, as well as the individual who took the photos.

Q Now, back to that placard, does it show the date?

A Yes.

Q And what date does it show?

A It says September 8th, 2019.

Q And does it show the time that you arrived?

A Yes, this was the time that I started taking the photos. I probably would have gotten there ten to 15 minutes prior to that just to get familiar with the scene

and talk to officers that were there and find out what exactly we were dealing with at that time. But I started taking the photos at 1:56 in the morning.

Q Now, when you get ready to take photographs, do you have a particular flow that you like to employ?

A I do. Photos on a crime scene, you want them to tell a story of what you believe happened at that scene, so it's good to take them in order. In this kind of scene where you'll see there's lots of pictures, lots of area, it was a very large magnitude kind of scene, it's important to try to keep things in order, but sometimes just based on the flow of the scene, how things happened, they might get a little out of order. But this is mainly just a really big parking lot that you'll see with a lot of different pieces of evidence.

Q Now, Detective Snapp, if I could, before we get too far into the photographs --

MR. CORBETT: Your Honor, may the witness step down?

THE COURT: She may. Just make sure she keeps her voice up and maybe point one of the rail microphones towards her.

BY MR. CORBETT:

Q Now, Detective Snapp, in preparation for today's testimony, we, actually, went through and prepared a series of photographs; is that correct?

A Yes, it is.
Q Photographs that you took?
A Correct.
Q But they were, actually, a lot of photographs that you took that night?
A Very many photographs.
Q So not every single one of them is on the disc that we've been talking about?
A No. I would have had hundreds of photographs. We'd be here all day.
Q So now, with regard to this chart, tell us, if you would, please -- first of all, who created this chart?
A So when we were on scene, like I said, there was a lot of evidence, a lot of surface area, so I had several team members assist me in creating some sketches. So this sketch here is based off of all of our hand drawn sketches that we did on the scene. And, actually, when I did these sketches, I broke the scene up into some quadrants.

So on my individual ones, there are four, I believe, different scene sketches. So I, basically, created just a cross-section and put one here, here, here and here, for example. These numbers are showing you the numbers of all of the evidence markers that you will see in the photos.
Q Now, so you created this based off the compilation of hand drawn sketches?

A Yes.
Q Now, let me -- I'm going to ask you to look at this and tell me if you can identify this?
A So is everybody familiar with Broad Street in Sumter? So if you're on Broad Street, this is Wesmark on this side. Back this way would be the mall. You can't see it in the photos, but the mall would be back here. This is the Wendy's and then this is what used to be a Rite-Aid. And this right here in 1083 Broad Street, which is the Sunoco Hop-In station. It's just a roof view, but you can see, this is the store and this is the awning over the fuel pumps.
Q Now, based on what you observed in this picture, is it the same -- based on what we see in this photo, is it the same as what we see in 2019?
A Yes, it's essentially the same.
Q So this would be the Wendy's?
A Correct.
Q And do you by any chance know what any of these are?
A This one is a club, I can't remember it's name because it changes. That's [indiscernible] possibly. And then this is that little shopping center. There's a tattoo shop, a furniture store maybe, a cell phone place.
Q Now, the items that we see here that are numbers, in particular, I want to go ahead and ask about the ones that

they --

MR. KENT: Can we approach?

(WHEREUPON, a bench conference was held in the presence of the jury, but outside the hearing of the jury.)

BY MR. CORBETT:

Q Now, Detective Snapp, if I may ask you, so you created this chart based on the compilation of crime scene diagrams that night; is that correct?

A Yes.

Q And then across the bottom, you have some additional information; is that correct?

A Yes.

Q And that information is provided by SLED?

A Correct.

Q The State Law Enforcement Division?

A Yes.

Q So that's a little bit different area, but you did include it based on what was provided to you by the State Law Enforcement Division?

A Correct.

Q Okay. And we noticed that there's some slashes here, a number slash and then another number. Just briefly tell us what that's about.

A So when you look at this chart, you'll notice there's a lot of numbers, which once you see the photos, it will make

more sense. For example, 36, slash, 86, 36 is going to be the yellow marker that you'll see in the photos. 86 is the number that SLED, the State Law Enforcement Division, attached to that particular piece of evidence. So this is just a way to create a visual for you all to kind of understand which items we had at the scene and which number they correlated when SLED did their testing on the cartridge cases or projectiles.

Down at the bottom is a list of firearm types with their correlated numbers. So, for example, this little -- the colors, actually, mean something, too. So this is light blue, goes with this particular firearm. So look at this, these are all fired cartridge casings that were fired from that particular weapon based on their testing.

Q Now, with regard to this chart -- and this is to some extent, also, reflected in your photographs; is that correct?

A That's right.

Q So across the bottom here, do those numbers represent fired shell casings?

A Correct, those are fired cartridge casings.

Q Okay. Now, I know this may not be exactly your field, but when we say fired cartridge case, can you just briefly tell us what you're looking at?

A So all weapons, a gun, rifle, all use different

bullets. Bullets are officially called cartridges. So a cartridge case is what's left behind after the bullet is fired out of it. The bullet, it's kind of rounded at the top, so the bullet part will fire out and then the cartridge casing ejects out of the weapon and lands on the ground. When we say fired cartridge case, that's what we're talking about.

Q So you made an effort to locate fired cartridge casings?

A Yes.

Q Is that correct?

A Yes. Which not all of these items are fired cartridge cases, some are other items.

Q Now, some of the items up here that aren't listed across the bottom, they could constitute clothing --

A So the black, mostly all the black -- just the single numbered ones, it could be a shoe, it could be a blood spot, could be a cigarette butt, various items that you find in a parking lot at a gas station.

Q I believe that night there was, perhaps, a hat?

A A hat.

Q A broken bottle?

A Broken bottles, clothing items.

Q So you've got a tendency to mark it even if it's not exactly clear what relation it has --

A That's correct. Because we don't know what happened at the scene before we got there. So we don't know what items were there beforehand or they were left by victims or witnesses. So we'll mark everything that looks like it might be associated. We'll collect a lot of things that sometimes don't, actually, relate to the crime, but it's better to have it than to not have it. Once you leave that scene, you can't have it anymore. So sometimes they become relevant, sometimes, they just become things.

Q If I could ask you to return to the stand, please.

A (Witness complies.)

MR. KENT: Your Honor, for the record, the State was just going through with Witness Snapp State's Exhibit 13. They were able to put that exhibit on the shelves in front of us so Mr. Epps was able to see what was being testified to by the witness.

THE COURT: Thank you, Mr. Kent.

BY MR. CORBETT:

Q We're going to take you through a few photographs and just have you comment on those, please, ma'am. And let's do this if we could because I think we need to kind of agree on what's left and what's right. What perspective would you prefer that we use in terms of location?

A We'll say that we're standing on Broad Street looking at the gas station. So from this view, this would be

standing on Broad Street in this particular photo. So if we say left, that's going to be to the left of the S and right will be right of -- at the end of Sunoco.

Q For purposes of this diagram, would Broad Street be here at the bottom?

A Yes.

Q Okay. If you would, please, just describe what this picture is, what you're doing in this?

A Okay. So when I first arrived on the scene, there was lots of vehicles. There was numerous police officers. There were various people around. This particular image is showing facing from Broad Street, the Sunoco station. You see the white Ford truck in front of it. There's some other vehicles in the images and, also, the crime scene tape was put up around the fuel pumps.

My first initial photos, when I do photos, I try to do kind of a full 360 of where I am and just get all the angles as an overview. So we like to do overall shots, midrange shots and then close-up shots. So this is an overall looking back down Broad Street towards the mall just showing those vehicles, police cars, EMS that was still on scene and the Sunoco sign that I believe is still there today.

Q Now, let me just -- so from this picture, we would, basically, be standing kind of out on Broad Street?

A Yes.

Q Looking slightly back up Broad Street, what I would generally call back toward downtown?
A Correct, yes.
Q For example, we see the McDonald's in the background?
A Right.
Q So that gives us some --
A Super 8, Walgreens is down in that direction. So at this point, I've gone into the crime scene a little farther, seeing ambulance, EMS workers, various patrol officers that are there, the particular car that was left behind. You can see some highway patrol officers up there towards the store a little further. And that again, is looking from the Broad Street perspective.

Basically, turning my body to the left and facing the store from that same angle, we see another car that's sitting at the fuel pumps, maybe starting to see pieces of evidence that might be in the view of that section.

This particular angle, I had stepped to the other side of that vehicle facing back towards the Wendy's. So you see the Wendy's back there in the distance.

Q And I don't mean to belabor the point, but would the Wendy's be about over from my side of the chart?
A Yes.
Q Okay.
A This one, I'm standing to the left of the fuel pumps,

but between the walkway or the grassy strip between the store and the Wendy's looking towards the back. There's a big strand of trees behind the Sunoco store, and that's facing that direction towards the trees in this photo. And I'm turning just slightly to the right.

Q So we see the building in this picture?

A Yes, that's the Sunoco station or Hop-In.

Q Could you tell me which corner of the building we're looking at?

A That's going to be the front left corner.

Q Here?

A Yes, sir.

Q Okay. Thank you.

A And I'm continuing to turn more towards the right, seeing the front windows of the store.

Q On the picture that you have before you, there is a -- to the left of the front door, there appears to be a white cage. Do you recollect what that is?

A The cage is a propane cage. I think that's what you mean.

Q Propane exchange?

A Yes. Yes.

Q And, also, there to the right of the propane tanks, the yellow posts, do you see those?

A Yes, I do.

Q And those are some type of traffic protection devices?
A Right. Probably put there so that people can't drive their car into the propane tank, I would imagine. They just guard the area.
This photo, we can see the front door of the store. And then to the right of the door is a vehicle with the doors open. I believe it's a Nissan.
Q That car was on scene when you arrived?
A Yes, it was. And then we've gone to the far right side of the building to come back and look towards the left to get a full front shot of the carnage there and on the front of the building.
Q Which side of the store are you standing on for this photograph?
A I am on the right side of the store.
Q In this area?
A Correct, yes.
This one, I had taken a step towards the fuel pumps, still in that same relative area on the right just to see what's all in front of the store between the fuel pumps and the store front.
Q And what's the business in the background?
A That is the Wendy's that you see behind it.
This is another image, roughly, the same standing place, just looking back towards the building a little more

to the right.

Q Now, Detective Snapp, if I may, I'm going to have Mr. Caufield zoom in a little bit. There's an item in the foreground?

A Uh-huh.

Q Are you able to tell what that is?

A That is a handgun.

Q And did you, ultimately, collect that?

A Yes, it was collected.

Q Now, here, what do we see in this photograph?

A So you're seeing the number eight evidence marker, so the yellow and black with the little rulers on it, that is an evidence marker. So that's number eight with one of the fired cartridge cases that would be on the ground.

Q Now, when you say number eight with the fired cartridge, would that be represented by this number eight here?

A Yes, that would be that one.

Q And are you able to tell us anything about that fired cartridge casing? For example, is it identifiable as to caliber or anything?

A The head stamp on it would tell you what the caliber was.

Q Do you recall which one that belongs to -- I'm sorry, which caliber that is?

A By referring to my notes, I can say that that one was a nine millimeter.
Q Okay. Now, tell us what we're looking at in this picture, please.
A This particular photo is taken from beside the fuel pumps. That would be between the right most one and the middle one closest to the building. So those rectangles, those long rectangles are representing the fuel pumps.
Q So we see ten, nine, eight and seven?
A Correct, yes.
Q In that pictures?
A Yes. And I mentioned earlier about doing the distance shot, midrange and close-up. This is more of the midrange to closer-type views. And that is going to be cartridge case number ten.
Q And cartridge case number ten, do you know the caliber of that one?
A That one is a nine millimeter.
Q And is this a wider view, just from a different perspective?
A Yes. So you see those same item markers, just looking at it from a different angle.
Q Which ones do we see there?
A I can see nine, ten, eight.
Q And what do we see here?

A This is item number 14. This was a firearm, a gun that was notated as item number 14, but item number five as the SLED item number.
Q And it's referenced on the chart here?
A Yes.
Q Are you able to see where I'm pointing on the chart okay?
A Roughly.
Q Okay. This one is a little bit darker in its exposure?
A Yes. This one is showing you 31, 32, 35 and some others in the background, 30 -- oh, okay, so we're looking from the store on this one back towards the fuel pumps.
Q So 31, 32, 35 in this area?
A Yes. This view is from relatively the center point of the front of the store looking towards the left front corner, just showing you the array of markers that were put out showing different pieces of evidence.
Q We're going to zoom in on the left side of the store there a little bit. Are you able to see any of those numbers?
A Yes.
Q What numbers are we looking at here?
A Looks like we have 46, 47, 48, 49, 50 through -- I can't see them all specifically. 59, 58, 57.
Q On your diagram represented in this area here?

A Yes, that would be in that section.
Q Is this a little bit wider shot?
A This is a wider view showing you that full corner with all those different evidence markers that were set out.
Q And when you say the corner -- and, again, I'm sorry I'm trying to be so specific, which side of the store are we looking at?
A The left front corner.
Q Over in this area?
A Yes.
Q And if you would, I do want to pause here for just a moment. If I could have you step over.
A (Witness complies.)
Q If you would, take a moment to orient yourself to this over here. Do you remember the Hop-in location here?
A Yes.
Q When we say the left side, this is that paint area that extends beyond the front edge of the building?
A It is.
Q So in this particular photograph or on this picture -- and I know this is a little awkward because I can't put you in two places at once, but I'm going to have you look at this photograph, this sign there with 24, can you tell approximately where that would be located on the building here?

A On the open 24/7?
Q Yes, ma'am.
A That is this corner, this left corner.
Q So then the background of the picture, we're looking back into this corner?
A Right.
Q Very good. Thank you. This is the wider view that we've been talking about?
A What, 33 and 34?
Q Yes, ma'am.
A Those two are to the left of the left most fuel pump, I believe. Or are they in the middle? I can't tell.
Q I believe this is 33 here; is that correct?
A Yes. Sorry, I had to review my own note.
Q And 34, back in the direction of Broad Street?
A Yes.
Q Now, item number 30, what is that item?
A Number 30 is a fired cartridge case. According to my notes, it says it's a nine millimeter cartridge case.
Q And it's represented out in this area on the chart?
A Yes, it's in front of that fuel pump area.
Q And by the way, I know this gets a little bit tedious, but I want to make sure we touch on this particular category. So what do we see here?
A So 33 was to the left of that center fuel pump. And

33, according to my notes, is, also, a nine millimeter.
Q This shot, we're able to see item 36; is that correct?
A Yes.
Q And represented on your chart here?
A Yes.
Q And what is that?
A 36 is going to be another nine millimeter fired cartridge case.
Q That's a close-up of it?
A Yes, that would be a close-up of it.
Q And this one, do we see items 42 and 45?
A Yes, 42 and 45.
Q Represented here between these fuel pumps?
A Yes.
Q And tell us what 42 is, please?
A So 42 is a fired cartridge case and that is a nine millimeter.
Q Okay.
A 45 is, also, a fired cartridge case, also, a nine millimeter.
Q Tell us what we're looking at here.
A So this view, it's, again, looking at that left front corner of the Sunoco store.
Q And item 46, that's represented here on your diagram?
A Yes.

Q And I will try to move a little faster. What is item 46?
A 46 is a fired cartridge case and it is a nine millimeter.
Q Item 47?
A 47 is a little closer to the store. That one is a fired cartridge case and, also, a nine millimeter.
Q Represented here on your chart?
A Yes.
Q 48?
A 48 is in that same vicinity, fired cartridge case, also, a nine millimeter.
Q What item are we looking at here?
A This is number 50, which was nearby to 48 and 49.
Q Represented here on your chart?
A Yes. Also, a nine millimeter.
Q This is a little bit wider view; is that correct?
A A little wider, a little closer to the sidewalk in front of the store. So you have 52, 53, 54, 55, 56 and 58.
Q And, again, that's represented here in this area?
A Yes, those are all in that section. So yeah, 54, which is a fired cartridge case, a nine millimeter.
Q And 54 is represented here?
A Yes. 55 would have been right nearby to 54, also, a nine millimeter fired cartridge case.

Q Represented here?
A Yes. 56 is a little closer to the edge of the building, but still in that same quadrant of space. Also, a nine millimeter fired cartridge case.
Q And the next item?
A 58 is kind of a different angle. The cartridge case is sitting on the head stamp, so it's looking up, so you just see the hollow circle there. But if it was laying on its side, it would look like the other ones, but that is, also, a fired cartridge case, nine millimeter and it was in that same left corner.
Q Here?
A Yes. 59, another right nearby, also, nine millimeter fired cartridge case.
Q Represented here in this blue numbering?
A Yes, those ones are blue. So that just shows you how close together all those particular ones we just went through in reference to each other are. They're all in that same little area in front of the corner.
Q We, also, see 60 in this picture?
A Oh, yeah, 60. 60 is in there. 60 is, also, a nine millimeter fired cartridge case. That's just a closer view of it. 62 is noting the Bulls hat that is to the left. 63 is a fired cartridge case, a nine millimeter.
Q And that's represented in this area?

A Yes.
Q Again, we see multiple placards in this picture?
A That's correct. But you, also, see the corner of the curb, so it kind of orients. It's a little more to show that we're on the corner edge of that left side. 66 --
Q Is 66 represented in this number here on the diagram?
A Yes, it's going to be up that way.
Q What is 66?
A 66 is a fired cartridge case and it is a nine millimeter. These evidence markers are more into that pavement section that's to the left side of the store, so it's not really on the corner, it's more up ahead a little bit more.
Q So we see 67, 68 and 69 in this picture?
A Yes.
Q Represented in this area?
A That's correct.
Q And what are those items?
A The three of these are going to be cartridge cases, fired cartridge cases, all nine millimeters. So 67, 68 and 69 are all fired cartridge cases.
Q Which number do we see in this picture?
A So I have 73, which is the shoe. 72 is going to be a fired cartridge case, which is a nine millimeter. The ones in the background, 96, 67, 68 and 71, so 96, I have as being

a cigarette blunt. 67 is going to be a fired cartridge case, nine millimeter and 68 is, also, a fired cartridge case from a nine millimeter.

Q We're now looking at which number?

A 72 is similar area to those other ones that we just saw. That one is, also, a fired cartridge case and that one is, also, a nine millimeter.

Q And then 89 is represented here in this back area?

A Yes, that is 89. 89 is going to be a fired cartridge case, also, a nine millimeter.

Q Now, Detective Snapp, if I may, I had you mostly focused on red, blue and orange in this particular set of photographs?

A Yes.

Q There were other shell casings, empty shell casings, fired cartridge cases out there as well; is that correct?

A Yes, there were.

Q And are those represented in these other colors?

A They are, yes.

Q So we had some fired cartridge casings that were in green, a purple, a light blue, a bluish-green, a black and then, also, more of a pink color?

A Correct.

Q And then there's some other numbers on here primarily in black that represented the other items you were talking

about, such as a shoe, a hat, glass, items of that nature?
A That's correct.
MR. CORBETT: Judge, may we request a brief recess?
THE COURT: Y'all approach real quick.
(WHEREUPON, a bench conference was held in the presence of the jury, but outside the hearing of the jury.)
BY MR. CORBETT:
Q Detective Snapp, you were not, actually, there at the time of the incident?
A No, I was not.
Q So you arrived sometime in the 1:40 range?
A Correct.
Q Thereabouts?
A Yes.
Q And what you did was gathered, basically, what we see reflected on this chart?
A Yes.
Q Now, there are -- for example, you're not able to testify who did what of these cartridge casings at what time?
A I cannot, no.
MR. CORBETT: Detective Snapp, thank you very much.
THE WITNESS: You're welcome.
THE COURT: Ladies and gentlemen, we've been in the courtroom about an hour and 15 minutes, probably a good time

to take a break. So I'm going to send you to your jury room with the instruction don't begin your deliberations. Don't discuss the case amongst yourselves or with anybody else. Don't do any research about any issue which may have been raised in this trial. We'll be in recess until 11:30. If you would go to your jury room, please.

(WHEREUPON, the jury exits the courtroom at 11:15 a.m.)

THE COURT: Detective Snapp, you can step down. Don't discuss your testimony with anyone.

THE WITNESS: Okay.

THE COURT: We'll be in recess until 11:30.

(WHEREUPON, a short break was taken.)

THE COURT: Folks, are we ready for the jury?

MR. KENT: Yes, sir.

THE COURT: Bring us the jury, please.

(WHEREUPON, the jury enters the courtroom at 11:46 a.m.)

THE BAILIFF: The jury is seated, Your Honor.

THE COURT: Mr. Kent, cross-examination.

MR. KENT: Thank you, Judge. May it please the Court.

CROSS-EXAMINATION

BY MR. KENT:

Q How are you?

A I'm good. How are you?

Q I don't believe we've ever met?

A I don't think so.
Q How long have you been with us?
A Nine years.
Q I'm Shawn Kent, how are you?
A I'm good. Nice to meet you.
Q What is your title?
A I am detective staff sergeant.
Q So sergeant, detective?
A Either one is fine.
Q Sergeant, of course, we've never had the opportunity to meet and I've never had the opportunity to question you in front of a jury?
A That's correct.
Q Madam court reporter is taking down every word that you say, so let's make sure when we speak, we give affirmative answers, yeses and nos and things of that nature. She can't down shakes and nods.
A Yes, sir.
Q And number two, and I don't anticipate this happening, but we can't talk over one another. So if we start arguing with one another, you argue first and then I'll argue second so she can take down what we say?
A Okay.
Q And number three, most importantly, sometimes I speak way too fast and if for any reason I do and you don't

understand my question, you can certainly ask me to repeat it and I'll repeat it.

A Okay.

Q Is that fair?

A That is.

Q I don't have that many questions, I just want to make sure I understand everything. I know the solicitor was asking you questions about guns and projectiles and bullets and all of these other things, correct?

A Yes, sir.

Q And I think you made it clear you're not an expert in guns and bullets and projectiles, but you understand a certain amount of knowledge?

A Yes, I do.

Q And when we are talking about projectiles, we're talking about the fact when somebody fires a firearm, a projectile, you would agree with me, is ejected?

A That is correct.

Q And when it is ejected, I think we'll have someone else talk about that, it's, basically, a mini explosion? A gunshot is a mini explosion, would you agree with me there?

A That could be said, yes.

Q And when that mini explosion happens, some elements come out, lead, barium and antimony come back and they get on the hand of somebody who fires a firearm?

A Yes.
Q And that's what's called gunshot residue?
A Correct.
Q That's how we can tell if someone has fired or recently handled or been around a firearm?
A Yes.
Q And the things that we have learned, so we understand when y'all testify, one of the things that you do in your training is you're trained at the South Carolina Criminal Justice Academy?
A Yes.
Q At the Criminal Justice Academy, what they do is they take officers through training, correct?
A Correct.
Q They teach you how to be officers?
A Yes.
Q They go through report writing?
A Yes.
Q They go through investigations?
A Yes.
Q They go through meeting with witnesses?
A Yes.
Q And they go through collecting evidence on crime scenes?
A Correct.

Q And they do all these things so we can become good officers so when we testify, we can testify to the juries accurately?
A Yes.
Q And then, also, while we're officers, we go through continuing education?
A That's correct.
Q We go through training?
A Yes.
Q You've got a pretty good department. Y'all go all over the country training to become better officers?
A We do.
Q And our goal is to make sure we get a snapshot for a jury of what happened back in September of 2019?
A Correct.
Q And the reason we have to try to give a snapshot of what happened in September of 2019 is that was a long time ago?
A It was a long time ago.
Q Our memories are fallible, would you agree with me there?
A Very true.
Q You've been doing this a long time. We don't count on our officers memorizing everything, would you agree with me there?

A Yes.
Q How many cases do you think you average a year?
A I don't really even know, maybe 70 or so. I go to all different kinds of crime scenes, so I go to a lot.
Q We take these pictures and we put little tabs on them so that when you're coming to testify to a jury, you don't have to rely on your memory, you rely on what's in the pictures and so forth?
A Correct.
Q Because we can't -- you agree, we can't go rewrite history. We can't go reinvestigate history from four years ago?
A No.
Q And we can't go and reinvestigate witnesses from four years ago?
A We can talk to witnesses.
Q It's hard to -- the same way your memory is fallible, the same way witnesses' memories are fallible?
A Correct.
Q So one of the things that we look at doing when we talk to you about crimes, we want to investigate a crime scene, accident and incident as close to the incident as possible?
A Yes.
Q Because of memories again, correct?
A Correct.

Q And I know you did not investigate the scene as in talking and interviewing people?
A No, I did not.
Q But you have a serviceable knowledge of talking and interviewing from what you've learned at the Criminal Justice Academy, South Carolina Law Enforcement Division, you know about interviewing and talking to witnesses?
A Yes.
Q And, again, we want to talk to those individuals as close to the scene as seemingly possible?
A Yes.
Q Because you take all these pictures and take snapshots of everything that happened and you give them to somebody else, correct?
A Yes, I do.
Q So what we do is we take all the evidence that we have and we carry it on to, like, Detective McFadden or something like him and say do with it what you will, go investigate, this is just what we saw happen out there that day?
A Right.
Q Fair enough?
A Yes.
Q And then when you were talking to the solicitor, he showed you the pictures you created, this big old thing with all of these expended cartridges that came out of firearms?

A Yes.
Q And we're not alleging these all came out of one firearm?
A No.
Q Multiple firearms were fired?
A That's correct.
Q And I can't -- without making you guess, it's safe to assume that multiple firearms were fired by multiple different people?
A I would think so, yes.
Q You don't know this for a fact, but common sense, nine years of being a sergeant, multiple individuals are firing multiple different firearms from multiple different angles?
A Yes.
Q And so one of the things -- you should have told me I had it upside down. We know multiple individuals from multiple different angles were firing multiple types of firearms?
A Yes.
Q Now, one of the things you were talking about and you mentioned nine millimeter a lot?
A Yes.
Q Which is a lot of nine millimeter shell casings in these pictures?
A Yes, sir.

Q But when we talk about nine millimeter shell casings, that's the specific type when you fire, that shell casing pops out?
A Correct.
Q We have different type of firearms that [indiscernible]?
A That's true -- well, that fall out.
Q That fly out?
A Right.
Q Because all these -- I'm glad you said that. Some stay in the gun, some pop out of the gun?
A Yes.
Q Like, a revolver?
A Correct.
Q A Colt revolver, some other type of revolver, shell casings stay inside?
A Yes.
Q So even though we have all of this, this is just what we found?
A Correct, yes.
Q And you're not sitting there telling the jury these are the only things that were fired that day. You don't know?
A I don't know.
Q All you can tell the jury is a snapshot of what I found that day?

A That's correct.
Q And the other thing we talk about when we talk about shell casings when we fire a firearm, you're just saying where you found the shell casings, correct?
A That is true, yes.
Q We're not saying that this is where someone must have been standing when they fired a firearm?
A Not necessarily.
Q Because, of course, just common sense, they are roundish, shell casings, right?
A Yes, they're circular.
Q So when they hit, they can run?
A They can.
Q In all different directions?
A Yes.
Q And in your experience dealing with this, you've been in situations where shell casings can move long distances, short distances or stay specifically where the firearm was fired?
A That's true.
Q Also, what makes a determination on firearms if the shooter is left-handed or right-handed depends on which way the projectile -- the casing will eject; is that fair?
A Well, the casing is going to come out of one side of the firearm regardless, really.

Q Correct. I'm sorry, what angle it comes out of it?
A Okay.
Q Is that a fair statement? Can you explain that? Did that make sense what I just said?
A When you fire a firearm, the cartridge is going to eject out a specific direction based on the make of the firearm and how it is created, like, it goes a specific way. So if you're holding it left-handed -- if you're holding it with both hands like you should be, but a lot of times that doesn't happen. So it could go one way, it could go another.
Q And I understand and I want to make sure we're clear to the jury, we are not testifying where I found projectiles is where any person shooting was standing, that's just where I found the projectiles?
A Yes.
Q You are not making testimony or opinion as to what happened, you're saying this is what I found in September, this is just what I took pictures of?
A Yes.
Q And when I took these little yellow placards, all I'm telling y'all is that's where something was found?
A That is correct.
Q And at a scene -- you agree with me, we have both have seen a lot of crime scenes?

A Yes.
Q And in a crime scene, sometimes individuals are running and they can kick stuff around?
A They can, yes.
Q And if there's a lot of people running from a crime scene, a lot of things can be kicked around?
A Things have the ability to move, yes.
Q And that's one of the things -- you've done this a long time, one of the things we hate is a contaminated crime scene; is that not correct?
A Oh, definitely.
Q Could you explain to the jury what a contaminated crime scene is?
A A contaminated crime scene would be when other people have moved things, tampered with evidence, left things, picked up things, removed other things. Any way that somebody tampers with a crime scene would be contamination.
Q And now looking -- and I just want to make sure I'm clear. I repeat myself, so I apologize. Looking at this snapshot of the pictures you took on that day, can you make any opinion other than the fact that this is where I found casings?
A No. That's where I found the items.
Q Can you make any opinion on how many firearms were found that day? I'm sorry, how many firearms were shot that

day?
A We have the ones that -- so SLED examined all of the cartridge cases that we submitted. They determined the ones that they could conclusively say came from one specific firearm or another, but then there were, also, others that they were inconclusive on. It is possible other ones could have been fired.
Q So we just don't know, we just know this is what we found?
A That's what was there at the scene.
Q There's a lot of numbers that I just simply don't understand. I'm just going to pick one for example. 15109, you see where my finger is right there?
A Yes.
Q What is that?
A 15, number 15 -- so number 15 on my chart that I have written is that that was a 40 caliber cartridge case.
Q And that's just where we ended up finding it?
A Yes.
Q And then I want to make sure I get oriented. I've got State's Exhibit 14, this map?
A Yes.
Q If I were to lay this down right here, I just want to make sure I understand, and I say this jury box is the -- we assume this jury box is the front of the Hop-In gas station,

if the jury is walking out, if they kept walking from this map, would they be walking towards Broad Street?
A No.
Q So is this not the Hop-In gas station right here?
A Yes, it is, sorry. Yes.
Q So you understand my question now?
A I was disoriented a little bit.
Q So you understand what I'm saying, so from the map laying down on the ground, State's Exhibit No. 14, if the jury is right here, this is the front of the gas station?
A Yes.
Q Where I'm standing to the left by the map, where I'm standing on the left side of the jury box, this is the side, if you will, of the Hop-In gas station?
A Okay, left side.
Q And where you're standing right now would be Wendy's?
A Okay.
Q I'm asking am I right?
A Yes. Yes.
Q And when I go over to the solicitor's table, this would be the Rite-Aid?
A Correct.
Q Correct?
A Yes.
Q And then if I'm over here standing where I am right

now, this is Broad Street?
A Yes.
Q So when you're not testifying later, I will orient the jury that way, that follows the map if I lay it down that way?
A That would be a decent representation.
Q That would be a decent representation to show it later to make it make sense?
A Yes.
Q Bullets fly straight, right? They don't curve?
A They go straight.
Q Okay.
A Unless impacted by another force.
Q But for the most part, they go straight?
A Go straight, yes. Not like the Matrix.
Q Yeah, not like the Matrix. They don't have curved bullets or anything like that. Sergeant, did I give you the opportunity to answer all of my questions?
A Yes.
Q Have I cut you off or anything like that?
A No.
Q Based upon the questions that I've asked, is there anything you want to add to your testimony or supplement your testimony?
A I think we've covered it. I think we're good.

MR. KENT: Sergeant, thank you for your time.

THE WITNESS: Thank you, sir.

THE COURT: Mr. Corbett?

MR. CORBETT: I have no redirect, Your Honor.

THE COURT: Detective Snapp, you can step down. Thank you.

MR. CORBETT: Your Honor, the State would call Brian Matula.

THE COURT: All right.

THE CLERK: Place your left hand on the Bible, raise your right hand and state your name.

THE WITNESS: Brian Matula.

BRIAN MATULA,

after being duly sworn, testified as follows:

THE CLERK: State your name and spell your last name.

THE WITNESS: Brian Matula, M-A-T-U-L-A.

DIRECT EXAMINATION

BY MR. CORBETT:

Q Mr. Matula, good morning.

A Good morning.

Q I'm sorry, good afternoon. How are you doing today?

A I'm good. Thank you.

Q Bear with me just one moment.

(Pause.)

Q Mr. Matula, by whom are you employed?

A Prisma Health Tuomey.
Q And when you say Prisma Health Tuomey, that's what a lot of us of a certain age know as Tuomey Hospital?
A That's correct.
Q And how long have you been with Tuomey Hospital?
A A little over 24 years.
Q And what did you do at -- is it okay if I call it Tuomey Hospital?
A That's fine. I'm the security manager for the hospital.
Q And if you would, just briefly tell us what that means.
A In short, just, basically, manage the day-to-day operations of the security department.
Q And were you working for Tuomey Hospital back in September of 2019?
A I was.
Q And do you recall an occasion where the Sumter Police Department requested surveillance videos from Tuomey Hospital?
A I do.
Q Okay. Would that fall within your duties?
A It would, yes.
Q Do you recall the date they were requested?
A I believe it was on the 11th of September.
Q And did you have occasion to turn some video over to

Tuomey?
A I'm sorry?
Q Did you have occasion to actually turn some video over to Tuomey Hos -- I'm sorry, to the Sumter Police Department?
A I did.
Q And I don't want to play the entire video, but, at least, a portion which you can see?
A Okay.
(WHEREUPON, State's Exhibit No. 16 was marked for identification.)
MR. CORBETT: And, Your Honor, this is marked for identification as State's No. 16.
MR. KENT: You're not publishing it yet, correct?
MR. CORBETT: No.
Judge, we're --
MR. KENT: This is just for his identification.
THE COURT: Let's make sure -- if it's not being published yet, his monitor needs to be turned so only he can see it.
BY MR. CORBETT:
Q Are you able to see what's on the screen?
A I am.
Q Can you identify for us what that is?
A That is the back hallway of the emergency room right outside of the trauma rooms.

Q Mr. Matula, I'm going to need you to speak up for me just a little bit, please.
A I'm sorry. That's the back hallway of the emergency room adjacent to the trauma rooms.
Q And does that contain a date on it?
A It does.
Q Does it, also, have a time?
A It does.
Q Now, let me pause here for just a moment and ask you, have you had occasion to come to the solicitor's office and view this material prior to today?
A I have.
Q So you, actually, had a chance to go through a couple of different camera angles?
A Correct.
Q And we'll switch from this camera angle to another one. Do you recognize any of the employees in that picture?
A I do. The nurse that is standing in the doorway is David Hicks. I believe he was the charge nurse that evening.
Q And I'm sorry, just so I can make sure we're specifying, that's the back hallway behind the emergency units?
A It's the back hallway of the emergency room and that nursing station is directly across from the trauma room.

Q Now, again, referring to State's Exhibit No. 16, are you able to identify which camera view we're looking at here?
A Yes, that's the entrance to the emergency room.
Q The emergency room entrance?
A Yes.
Q And does this contain a date?
A It does.
Q And what is that date?
A 9/8/2019.
Q Does it, also, contain a time?
A It does.
Q What time is showing there?
A It is showing 12:30:18.
Q We're now looking at a third camera view. Can you tell us what this is, please?
A That is inside the emergency room waiting area.
Q What is the date of this?
A 9/8/2019.
Q Does it, also, contain a time?
A It does, 12:32:39.
Q Now, these are camera footage that in your capacity as security director you provided to the Sumter Police Department; is that correct?
A Correct.