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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Jennifer B. McCoy, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

KENNETH MILLER, JR.,

APPELLANT

APPELLATE CASE NO. 2025-001219

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23 (PHOTOGRAPH), AND STATE’S EXHIBIT NO. 24 (PHOTOGRAPH).**

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON
IN THE COURT OF GENERAL SESSIONS
DOCKET NO.: 2025-GS-10-01383; 2024-GS-10-04795;
2024-GS-10-01402

STATE OF SOUTH CAROLINA,

PLAINTIFF,

VS.

KENNETH MILLER, JR.,

DEFENDANT.

H E A R I N G

BEFORE THE HONORABLE JENNIFER B. MCCOY

DATE: JUNE 9 - 12, 2025
LOCATION: NINTH JUDICIAL CIRCUIT
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24 (THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL
25 IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

1 THE COURT: Juanita Dukes, Chante Dukes. I don't
2 know. Let me see if I have anything that I can't
3 pronounce. Somebody say Your Honor?

4 MS. FORD: Yeah.

5 THE COURT: You need me?

6 MS. FORD: Oh, I do. Oh, sorry. There is an
7 indictment issue.

8 THE COURT: Okay.

9 MS. FORD: The possession of a weapon during a
10 crime of violence is indicted for the attempted murder
11 that he was originally charged with.

12 THE COURT: Wait a minute. Okay. I'm sorry.
13 Okay. Possession of a weapon during the commission of a
14 violent crime was indicted along with ABHAN. And what's
15 your issue? They were indicted at separate times.

16 MS. FORD: No. So, initially he was arrested for
17 attempted murder.

18 THE COURT: Okay.

19 MS. FORD: Indicted -- indicted for attempted
20 murder and possession of a weapon during a crime of
21 violence being attempted murder. The State later chose
22 to indict him for ABHAN.

23 THE COURT: Instead of attempted murder?

24 MS. FORD: Yes, Your Honor.

25 THE COURT: Okay.

1 MS. FORD: So, they did a whole new indictment.
2 And at that time they indicted him for the additional
3 charge of possession of a weapon by someone previously
4 convicted of PWID. But they did not re-indict him for
5 possession of a weapon during a crime of violence.

6 THE COURT: Okay.

7 MS. FORD: So that indictment before you is the old
8 one that went along with the attempted murder charge.
9 So, we would ask for that motion -- that indictment to
10 be quashed since it was indicted along with the
11 attempted murder charge. And that's what the jury heard
12 the facts for.

13 THE COURT: Okay.

14 MS. FORD: So that's what we would argue, Your
15 Honor.

16 THE COURT: You want which one quashed?

17 MS. FORD: The possession of a weapon during a
18 crime of violence.

19 THE COURT: Got it.

20 MS. FORD: Because it was indicted -- the language
21 of it says attempted murder and it was indicted when he
22 was indicted for the attempted murder charge.

23 MS. KNOX: Judge, if I may respond? Instead of
24 quashing that indictment, we would ask for an amendment
25 because ABHAN is lesser included and it's still a

1 violent crime. Instead of having to quash it all
2 together, we would just ask Your Honor to amend that
3 before reading that to the jury.

4 THE COURT: What's he being tried for?

5 MS. KNOX: ABHAN.

6 THE COURT: They're doing something else.

7 MS. KNOX: He's being tried for ---

8 THE COURT: What's he being tried for?

9 MS. KNOX: --- assault and battery of a high and
10 aggravated nature.

11 THE COURT: And what else?

12 MS. KNOX: And possession of a weapon during a
13 violent crime.

14 THE COURT: Okay.

15 MS. KNOX: And possession of a weapon by a person
16 convicted of PWID.

17 THE COURT: Okay. And you're asking me to look at
18 the violent crime possession charge and amend it?

19 MS. KNOX: And amend it to ---

20 THE COURT: Because it does say attempted murder.

21 MS. KNOX: Exactly. And so instead of quashing it,
22 we would just ask Your Honor to amend that.

23 THE COURT: Why didn't you re-indict that one too?

24 MS. KNOX: Your Honor? It was a lesser included,
25 so we just -- yeah.

1 THE COURT: Just didn't? Okay. Okay. They want
2 to amend this forward without (inaudible).

3 MS. FORD: Well, we would still ask for the motion
4 -- the indictment to be quashed because when he was
5 indicted, it was just for a completely different charge.

6 THE COURT: But ABHAN is a lesser of an attempted
7 murder; is that right?

8 MS. FORD: It is, Your Honor. I believe so.

9 THE COURT: And it is still a violent crime?

10 MS. FORD: It is. They both are violent. I -- I
11 do not contest that.

12 THE COURT: Okay. All right. Hi, how are you?

13 MR. BROWN: I'm good. How are you?

14 THE COURT: Good. Where's your client?

15 MS. FORD: He's in lockup. We're waiting for him.

16 UNIDENTIFIED MALE SPEAKER: We're just processing
17 Mr. Blakeney.

18 THE COURT: I got you.

19 UNIDENTIFIED MALE SPEAKER: And then we'll bring
20 him up.

21 THE COURT: I hear you. Well, you want me to wait
22 to rule until he's in the room?

23 MS. FORD: Yes, ma'am. That's probably best.

24 THE COURT: Okay. We'll do that. Okay. Y'all be
25 seated.

1 MS. KOZIK: Yeah. Judge, while we're talking about
2 indictments, there is one other issue. While the State
3 did re-indict or indict Mr. Miller for the possession of
4 a weapon by someone convicted of PWID charge at the
5 grand jury, since he was already locked up, I don't
6 believe he's been formally served with and booked on
7 that charge.

8 So we have -- we have it here today. It's on the
9 trial docket. The Defense counsel has had plenty of
10 notice of this charge going forward, but we just need to
11 do it, serve him formally today and have him arraigned
12 on that charge as well.

13 THE COURT: On this other gun charge?

14 MS. KOZIK: The possession of a weapon by someone
15 convicted of PWID.

16 THE COURT: Okay.

17 MS. FORD: And that -- that actually brings up part
18 of the brief I sent last week. It did mention I was
19 moving to sever that charge, so I think that probably
20 doesn't need to be heard before the jury hears about it.
21 In -- in that case, he was indicted for that charge
22 about a year or so after the fact, after he was
23 arrested.

24 My argument would just be the fact that he has a
25 prior acquittal on his record -- would never, in a

1 million years, come in of itself in an ABHAN trial. It
2 doesn't relate to it honestly. It's a prior bad act.
3 It's far removed. And so this is just a backdoor way
4 for the Solicitor to get in the fact that he has a prior
5 record, and we just think that it's more prejudicial or
6 it causes a lot of prejudice.

7 We understand that they have to prove that
8 basically the ABHAN, more or less, to prove that charge,
9 so we do recognize that. He's not found with an
10 additional gun, if that helps to clarify.

11 THE COURT: Okay.

12 MS. FORD: A gun is not recovered from his person
13 or from his home, so there's no gun that the police
14 found on him, or about him, or around him. He's just
15 charged with it because the nature of the charge is
16 that, the allegation is that he shot someone, so
17 therefore a gun would have had to have been used.

18 THE COURT: Okay. And that action took place on or
19 about January 4, 2024, right? Allegedly. The actual
20 crime that we're here for?

21 MS. KNOX: That's correct.

22 THE COURT: And then why did he just decided to
23 tack on another charge?

24 MS. KNOX: Just based on his record, Your Honor,
25 and the facts of this case.

1 THE COURT: In March of 2025? Sorry, what ma'am?

2 MS. KNOX: Yeah, just based on the facts of this
3 case and his prior record, that he was prohibited from
4 handling a firearm, in addition to the possession of a
5 weapon during a violent crime, and we thought it was
6 appropriate at that time to tack on the PWID charge as
7 well.

8 THE COURT: Okay. And he's never been served with
9 that? Is that what you said?

10 MS. KOZIK: Not -- not formally since he was in
11 jail. He -- Defense counsel has had notice of it.
12 We've given Defense counsel the indictment. The
13 indictment itself has been on, or this has been on the
14 docket, so they've had plenty of notice that this
15 indictment exists. It's going forward, but as far as
16 our investigator formally serving the document on him
17 and having him booked in on that charge, that is what
18 hasn't happened, but can be easily remedied for trial.

19 THE COURT: Okay. A little unorthodox.

20 MS. KOZIK: Agreed. But then ---

21 THE COURT: Is it necessary? I mean, I don't
22 really, why are we -- I mean, he's going to trial. It
23 carries a lot of time. Why are we tacking on an extra
24 gun charge, in the 11th hour? What's the strategy
25 there?

1 MS. KNOX: The State just decided a couple months
2 ago and after the bond hearing, and based on the
3 discussions with the victim and the facts of the case,
4 that because he was prohibited based on a prior record
5 charge, that he was prohibited from possessing a
6 firearm. And the facts of this case show that he was in
7 possession of a firearm and he shot his 84-year-old
8 great aunt, and so we just thought at that time it was
9 appropriate to tack on that charge just based on his
10 prior record.

11 THE COURT: Okay. Good. All right. Is the jury
12 outside? Where's my jury? I don't have any bailiffs in
13 the room. Do we have any idea like when, because I
14 could use like five minutes. Can we pass that along to
15 somebody?

16 UNIDENTIFIED MALE SPEAKER: They're going to bring
17 up the next defendant, so you've got five minutes.

18 THE COURT: Okay. I'll take a look at this thing.
19 All right. Anything else I need to ...?

20 MS. KOZIK: Just quickly, Judge.

21 THE COURT: Before the jury comes in, yeah.

22 MS. KOZIK: Just on -- on the motion to sever,
23 which I think is slightly different than why the State
24 indicted it, but we don't believe severing this charge
25 would be appropriate at this point since it does arise

1 in the same chain of circumstances that we were already
2 trying in this case. Same witnesses, same evidence.

3 THE COURT: Okay.

4 MS. KOZIK: And we believe we can cure it with a
5 curative instruction and a stipulation, so it's not
6 overly prejudicial to the Defendant.

7 THE COURT: Okay.

8 MS. KOZIK: That's all from the State.

9 THE COURT: Okay. All right. I'll take a -- I'll
10 take a look at it for a few minutes. We'll be at ease
11 for a few minutes. Sounds like they're shuffling them
12 around.

13 MS. KOZIK: Thank you, Judge.

14 MS. FORD: Thank you.

15 (OFF THE RECORD)

16 THE COURT: Please be seated. All right.

17 Mr. Kenneth Miller, Jr., is that your name?

18 MR. MILLER: Yes, ma'am.

19 THE COURT: Welcome. We are here for the trial of
20 your case. I understand that there is a charge the
21 State is proceeding on against you that was never
22 formally presented to you or served on you once it was
23 indicted by the grand jury back in March of this year.
24 That is possession of a firearm by a person convicted of
25 a -- possession with intent to distribute,

1 manufacturing, distribution, or trafficking of a
2 controlled substance under South Carolina Code
3 44-53-379.

4 Your attorney has asked that I sever that charge or
5 separate it from your other charges that you're on trial
6 for. The State is asking that we be able to go forward
7 and include that charge in this trial as well since it
8 arises out of the same set of facts and circumstances as
9 the other two charges. Anything else you'll need to put
10 on the record at this time?

11 MS. KNOX: No, Judge.

12 MS. FORD: No, Your Honor.

13 THE COURT: Okay. So, I've reviewed what I believe
14 is the applicable law. I will allow them to go forward
15 on that charge. However, Mr. Miller, I do need to
16 formally arraign you on that charge and you need to be
17 served with notice about, their investigators here for
18 that purpose. I will allow her to serve that on you at
19 this time.

20 All right. So, Mr. Miller, this indictment states
21 that in Charleston County, on or about January 4th of
22 2024, the defendant, Kenneth Miller, Jr., having
23 previously been convicted of possession with intent to
24 distribute crack cocaine, a controlled substance, did
25 possess a firearm or ammunition in violation of

1 44-53-3793(A) of the South Carolina Code of Laws as
2 amended. Mr. Miller, how do you plead to that charge?
3 Guilty or not guilty?

4 MR. MILLER: Not guilty.

5 THE COURT: All right. You have rendered a plea of
6 not guilty, which then places upon the State the burden
7 of proving your guilt beyond a reasonable doubt to the
8 jury and they will make every effort, I'm sure, to do
9 that during the course of this trial.

10 Ms. Ford, you also moved to -- I'm sorry. You
11 brought to the court's attention the fact that the
12 possession of a weapon during the commission of a
13 violent crime indictment still reflects that he was
14 charged with attempted murder when, in fact, that charge
15 has now been dismissed and the State is going forward on
16 the lesser assault and battery of a high and aggravated
17 nature. So, that indictment will need to be amended as
18 such as well. Will you be doing that today?

19 MS. KNOX: Yes, Your Honor.

20 THE COURT: Okay. Anything else on that issue?

21 MS. FORD: Your Honor, it is my position that it
22 should be quashed since it was just indicted for a
23 completely different charge at a different time, but we
24 would ask if it's going to be amended, if it -- I don't
25 know if there could be whiteout or something. I just

1 don't want the jury to see attempted murder because I
2 think since that -- hearing that, seeing that does
3 escalate it. It just elevates the charge, and so we do
4 not -- we think it would be prejudicial for the jury to
5 hear or to see attempted murder on the indictment.

6 THE COURT: Yeah, I mean, I would agree. It needs
7 to be stricken in some way, shape, or form. Are we
8 going to -- how are you going to get that amended?

9 MS. KNOX: Whatever Your Honor, thinks is most
10 appropriate. I'm happy to have it whited out, or
11 striked, or however you think we should proceed on that,
12 but I do agree with Ms. Ford about that.

13 THE COURT: Well, obviously it needs to be
14 reflected -- I mean, amended to reflect the charges
15 going forward on, which is the ABHAN. So, I'll talk to
16 the clerks. I'm not sure if we're allowed a whiteout on
17 an indictment. I would say no. I think you've got to
18 do a whole new one.

19 MS. KNOX: Okay.

20 THE COURT: You need to go ahead and get that
21 printed off, and I think it's amended and then attached
22 to this one, and then what will, in effect, happen is
23 that we would just not allow this prior one to go back
24 to the jury. And nothing that says attempted murder
25 would go in front of the jury.

1 MS. FORD: Yes.

2 THE COURT: Okay?

3 MS. KNOX: Thank you, Judge.

4 THE COURT: That's how we'll handle that; okay?

5 All right. Anything else before the jury comes in?

6 MS. KNOX: Judge, we are objecting to one of the
7 Defendant's voire dire questions.

8 THE COURT: All right. Hang on. We'll be getting
9 theirs. All right. Hold on. All right. State's
10 witness list, Defense's witness list, Defense's voire
11 dire. All right. Go ahead. I'm with you.

12 MS. KNOX: Question number 10. Are you or any
13 member of your family, close personal friends, members
14 of law enforcement organizations? That question, we
15 don't believe that it's relevant to the case at hand.

16 THE COURT: Okay.

17 MS. KNOX: I think it's just an extra question that
18 does not need to be included in voire dire.

19 THE COURT: All right. Any other objections or
20 exceptions to the Defense voire dire from the State?

21 MS. KNOX: No, Judge.

22 THE COURT: Okay. How about Ms. Ford? Do you all
23 want to respond to the extent necessary? And if you
24 have any exceptions or objections to the State's voire
25 dire, we'll hear that as well.

1 MS. FORD: Thank you, Your Honor. This is a
2 question I've always asked. It involves any type of law
3 enforcement or citizen right or victim rights type of
4 group.

5 THE COURT: I'm going to ask it. It's actually
6 part of our standard textbook, so I have no problem
7 asking it. All right.

8 MS. FORD: Okay. Thank you, Your Honor.

9 THE COURT: Anything else? Do you have any
10 exceptions or objections to the State's voire dire?

11 MS. FORD: No, Your Honor. I do not.

12 THE COURT: Okay. Great. Y'all ready for them to
13 come on in? I know they're chomping at the bit out
14 there in the hallway.

15 MS. KNOX: One additional matter about the -- the
16 charge that he was just served the indictment on. We
17 want to make sure that he's not going to be booked and
18 have a bond placed on that charge. And it's for the
19 purposes of the booking sheet for the investigator.

20 THE COURT: He's in custody now, is he not?

21 MS. KNOX: Correct. Yes.

22 THE COURT: Great.

23 UNIDENTIFIED FEMALE SPEAKER: I know the jail
24 usually go there. It needs to be so they don't put him
25 through basically an additional bond hearing. I just

1 need to know something.

2 THE COURT: It's going to be -- it's just going to
3 be -- to be -- how do they do it? Concurring with his
4 other bonds or whatever the language is. I'm not going
5 to order any additional bond. He'll basically be PR'd
6 on that new one.

7 UNIDENTIFIED FEMALE SPEAKER: Perfect. I just want
8 to make sure it's noted so that you're aware of that.

9 THE COURT: Yes. Okay.

10 MS. KNOX: Thank you, Judge.

11 THE COURT: Great. Anything else?

12 MS. KNOX: No, Your Honor.

13 THE COURT: Okay. I think we can finally bring
14 them in. Thank you very much. We'll do a head count
15 this time to make sure we've got everybody. And I'll
16 try to help in that capacity as well. All right.
17 Everybody, come on in. Make yourselves at home.

18 (Jury enters the courtroom)

19 THE BAILIFF: Forty-two, Your Honor.

20 THE COURT: Excellent. Thank you very much.
21 Ladies and gentlemen, welcome. Once again, my name is
22 Jennifer McCoy. I know everybody's getting hungry. We
23 are going to go through this next jury selection process
24 as efficiently as possible while ensuring everybody's
25 rights.

1 Ladies and gentlemen, the case that we are now
2 selecting a jury for is the State of South Carolina
3 versus Kenneth Miller, Jr. Mr. Miller has been charged
4 with indictments, and those are just pieces of paper.
5 It's not evidence. They're just pieces of paper through
6 which charges are brought to the court. Those
7 indictments charge Mr. Kenneth Miller, Jr. with the
8 following: assault and battery of a high and aggravated
9 nature, possession of a weapon during the commission of
10 a violent crime, and possession of a firearm by a person
11 who is not allowed to possess a firearm by law.

12 As we begin the jury selection process for this
13 case, I'm going to ask, first of all, if anybody on the
14 jury panel is related by blood or marriage or has any
15 close personal or social relationship with Mr. Kenneth
16 Miller, Jr.? If so, please stand. I find none.

17 I will also remind you, ladies and gentlemen, you
18 are still under oath, pursuant to the oath you took
19 earlier this morning downstairs. With that, now I'm
20 going to ask the attorneys on both sides of this case to
21 stand and introduce themselves. To tell you who they
22 are and who they work for, and then we'll have some
23 follow-up questions after that, beginning with the
24 State.

25 MS. KNOX: All right. Good afternoon. My name is

CERTIFICATE OF TRANSCRIBER

I, Jennifer Jaeger, 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 9 of Charleston County, South Carolina, on the 9th day of June, 2025.

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

Jennifer Jaeger

Jennifer Jaeger, Reporter

Notary Public for S.C.

Commission Expires: 10/28/2032

1 CONTINUATION OF PROCEEDING -- JUNE 10, 2025

2 MS. KOZIK: Two motions where I think it's just
3 legal argument between each side that if the jury comes
4 back we could easily sit down and leave.

5 THE COURT: Okay.

6 MS. KOZIK: So, instead of having a witness --
7 putting a witness up right now and ---

8 THE COURT: Yeah. Fine with me.

9 MS. KOZIK: --- you know. So, if we wanted to
10 start on any of those items, the State's happy to do so.

11 THE COURT: It's fine with me, however y'all
12 proceed. Mr. Miller, welcome. How are you?

13 THE DEFENDANT: Fine. How are you, Judge?

14 THE COURT: Fine. We're going to handle some
15 pretrial motions this afternoon. I have another jury
16 from the case before yours out deliberating, so at some
17 point in time if they tell me they have a verdict or
18 another note we might have to move y'all out of the
19 courtroom and bring those other people back in and
20 handle it. We'll just do the best we can; all right?

21 THE DEFENDANT: All right.

22 THE COURT: Okay. Happy to entertain these motions
23 in any fashion. I'll take that.

24 MS. KNOX: Yes, Judge. The first thing that we
25 wanted to address on the record is it relates to the

1 Defendant's recent mental comp exam. There were some
2 questions to that end as it relates to our discussions
3 with family members that I had relayed to counsel and I
4 can just let her speak to those findings in the exam
5 that Mr. Miller underwent recently.

6 THE COURT: Okay. Okay. Ms. Ford, has he been
7 evaluated during the pendency of these charges?

8 MS. FORD: Yes, Your Honor. I had Dr. Mulbury's
9 exam, but really I only did so because the State kept
10 asking about it, not because I personally had concerns.

11 THE COURT: Okay.

12 MS. FORD: While there are some things that I will
13 not go into, the things that my client has said that did
14 create some confusion that made me think, well, maybe
15 there's something more there. From what my client
16 thought, and he does communicate with me. He's never
17 indicated anything to me that I felt rise to the level
18 of psychosis or anything of that nature.

19 Again, some things that I wasn't quite sure about,
20 but on the -- on face value, nothing that I could say
21 has any kind of threshold. But I did have Dr. Mulbury
22 see him since the State kept bringing it up and there
23 were no records for him to review. I did, at the
24 beginning of my case, request any possible DMH records.
25 My client, you know, told me he had never been, you

1 know, a patient of that -- of theirs, but he willingly
2 agreed to sign a release form and they had no record of
3 him.

4 It's my understanding that some of the State's
5 concern is, I think, my client's mother. She had
6 indicated at some point that when he was in prison,
7 which was 20 years ago for the drug charge that he's
8 partly -- he's charged with the gun charge that relates
9 to that case. And that's the only time he's been in
10 prison, Your Honor. And apparently somebody had said
11 something to her then, but it sounds like a personality
12 disorder, not anything of a more significant psychiatric
13 nature. But Dr. Mulbury did write a letter to me, so
14 I've not provided that to the State because I didn't
15 think that was relevant since we're not trying to argue
16 he's not competent.

17 THE COURT: Yeah.

18 MS. FORD: But he, let's see -- reviewing it. And
19 he just said he was very specific, might be referring to
20 my client, that he did not have a history of mental
21 illness and indicated that the family's concerns might
22 reflect his in-depth charge. He was calm and
23 cooperative. He did not manifest any symptoms to
24 suggest disturbed mood or thought, fully oriented, had
25 good attention, memory, and the ability to abstract a

1 good execution function.

2 It's my opinion, meaning Dr. Mulbury's, to a
3 reasonable degree of medical certainty that Mr. Miller
4 was competent to stand trial on the date of his
5 evaluation.

6 THE COURT: Okay. And you said you haven't had any
7 concerns regarding his competency; is that correct?

8 MS. FORD: No, Your Honor, other than, again,
9 there's a few things which I cannot get into because of
10 ---

11 THE COURT: Sure.

12 MS. FORD: --- attorney-client.

13 THE COURT: Has he been able to assist you in his
14 defense?

15 MS. FORD: Yes.

16 THE COURT: Appropriately?

17 MS. FORD: Yes.

18 THE COURT: Okay. All right. Sounds like that's
19 been addressed on the record then. Anything else?

20 MS. KOZIK: I think the only things before we bring
21 in any witnesses are the Defense's motion to suppress.
22 I think they also have the GSR findings. I believe they
23 also have a motion related to Officer Winn, who's the
24 first responder's body-worn camera. I think they have
25 four or three objections. Well, it's a hearsay

1 objection.

2 THE COURT: Do y'all have any more motions? The
3 State? Any motion?

4 MS. KNOX: The State doesn't have any motions at
5 this time except for just addressing some pre-trial
6 matters before we open tomorrow.

7 THE COURT: Okay. All right. Ms. Ford, well I'm
8 happy to hear from you.

9 MS. FORD: Thank you, Your Honor. As far as the
10 body-worn camera, the State did earlier today send over
11 an alternative. I do so object. This is -- they
12 instead of playing the about five-minute portion they
13 previously mentioned to me of the responding officers
14 arrival to the scene and when he spoke to Ms. Dukes,
15 they proposed cutting that down to closer to two minutes
16 and only showing or playing the audio and in that way
17 that would avoid the blood on scene.

18 However, we still do have concerns. My notes from
19 listening to that portion, it includes the officer
20 knocking on the door. You can clearly hear all the
21 sirens in the background. You know, he enters and asks
22 what happened. She said, "My nephew came here. I don't
23 know why. I don't know why he did this."

24 During this video, she's saying, (sound effect).
25 There's another officer you can hear come in and is

1 saying, "Grab the kit."

2 THE COURT: Grab the kit?

3 MS. FORD: Yes, the medical kit.

4 THE COURT: The medical kit? Okay.

5 MS. FORD: The medical kit.

6 THE COURT: Uh-huh.

7 MS. FORD: Ms. Dukes says that Mr. Miller walked
8 out the door after he shot her. He was talking to me
9 like talking, I'm talking to you. What's his name?
10 Kenneth Miller. The other officer who has the kit says,
11 he says, "It's going to hurt", which I have concern with
12 that, and she's saying (sound effect), essentially.

13 And then you can hear her daughter, who is
14 paralyzed, banging on the wall because officers are
15 like, "Is somebody here?" And she just says, "Yes, my
16 daughter's here, but she's paralyzed." I believe she
17 had a stroke previously, but she's coherent. Maybe she
18 just cannot walk.

19 THE COURT: She was like in another room or
20 something?

21 MS. FORD: Yes. She was in the back room. And
22 then the officer, Officer Winn, he says something, you
23 know, he just explains to dispatch that it looks like a
24 gunshot went into the right leg.

25 THE COURT: You hear the officer say that?

1 MS. FORD: Yes.

2 THE COURT: So, you want to suppress the videos?

3 MS. FORD: Yes, my argument would be, first of all,
4 we think it's inflammatory, more prejudicial than
5 probative because of them applying, you know, basically
6 you can hear from the kid, and this is going to hurt,
7 and her saying (sound effect). You can hear them
8 performing the medical, basically, medical type of
9 procedure. And they're really, they're just putting a
10 tourniquet on her leg, but they're describing that in
11 the video.

12 Also, she does explain what happened. We
13 understand that, you know, there are certain hearsay
14 exceptions. However, ultimately, between this, the 911
15 call, her testifying, the State's told me they intend to
16 put up her daughter because she -- before calling the
17 police, called numerous family members first.

18 THE COURT: Okay. Uh-huh.

19 MS. FORD: So, the State is trying to put up
20 numerous ways in which she says that she was shot, and
21 she was shot by my client, and we think that it's
22 cumulative, that it ultimately, all of this and other
23 things are bolstering her testimony. And again, this in
24 particular is more prejudicial than probative and
25 inflammatory because it goes to the medical attention

1 that she's receiving. So that would be our argument
2 here, Your Honor.

3 THE COURT: All right. I'm going to need copies of
4 both of the videos. I have to make -- I mean, I have to
5 make a ruling, and we'll have to mark them as court
6 exhibits. So, you just need to put them in some --
7 either a DVD or something that the court can have as a
8 court exhibit.

9 (Court's Exhibit No. 1 marked for identification.)

10 MS. KOZIK: I believe we have those present for you
11 right now.

12 THE COURT: Okay.

13 MS. KOZIK: Yeah, do you want me to play them for
14 you now, or do you just want to take them back and
15 decide on it?

16 THE COURT: How long are they? One's two minutes,
17 one's five; is that right?

18 MS. KOZIK: Yes. We'll end up only playing, I
19 think, the two-minute clip, so we have the -- yeah,
20 two-minute video clip and then a two-minute audio clip
21 of the exact same thing.

22 THE COURT: One's just audio?

23 MS. KOZIK: Correct. The State's proposed fix to
24 the potentially, any prejudicial nature. So, just to
25 again describe what it is. It's the officer walking in,

1 the victim is sitting on the ground. She has a gunshot
2 wound to the leg. He's kind of assessing the situation.
3 Him and another officer apply tourniquet, and he's
4 calling out to dispatch what's going on. So, that's
5 kind of what's happening. There is some blood on her
6 leg coming out of it.

7 To potentially alleviate any concern about jurors
8 being squeamish, the State's proposed solution to the
9 problem is to again only play the audio of what's
10 happening and then introduce a limited number of
11 screenshots from the same video that would show, kind of
12 to help orient the jury to the crime scene itself. We
13 sent those to the Defense counsel as well.

14 To address the Defense's other issues on what else
15 is happening in the video, yes, you can hear the victim,
16 Ms. Juanita Dukes, saying (sound effect) as a tourniquet
17 was being applied. We don't believe that is more
18 prejudicial than probative.

19 Again, it is to some degree, at all, crime is
20 prejudicial in some respects. She was shot. It was
21 what happened. It's not -- she's not screaming in it.
22 She's saying (sound effect). I would say she's taking
23 the fact that she got shot at point blank range in the
24 knee fairly well. Again, we'll -- we can either play it
25 for you or give it to you to take back into chambers.

1 THE COURT: I just need to know what you're putting
2 in because I have three different things. Now, there
3 was originally a five-minute video with the whole kit
4 and (indiscernible), blood and all.

5 MS. KOZIK: Right.

6 THE COURT: And then you proposed a two-minute
7 video.

8 MS. KOZIK: A two-minute audio only.

9 THE COURT: Okay. So, the two-minute proposal --
10 I'm sorry, then it's audio only with screenshots?

11 MS. KOZIK: Yes. Yes, Judge.

12 THE COURT: Okay. And that's -- so, what is it
13 that you want to get in? Which one?

14 MS. KOZIK: We -- we would like to get in the audio
15 only and the screenshots.

16 THE COURT: That's what -- so I only need to look
17 at that one.

18 MS. KOZIK: Okay.

19 THE COURT: I don't even need to make a ruling on
20 the other one if you're not trying to get it in.

21 MS. KOZIK: Yes. So, that's our proposal on that.

22 THE COURT: Yeah. Let's go ahead and queue it up.
23 Let's do it. Two minutes.

24 MS. KOZIK: Can you bring me a -- real quick?

25 THE COURT: I have a screenshot. It's like printed

1 picture.

2 MS. KOZIK: Yes, Judge. Do you need to change the
3 input or anything?

4 THE COURT: And does he have on like a DVD or
5 something somewhere?

6 MS. KNOX: Yeah, he does. This is the 13th and
7 15th, and then this is 16th and 17th.

8 THE COURT: These are all just screenshots?

9 MS. KNOX: Yes.

10 THE COURT: Okay.

11 (VIDEO PLAYING) (Inaudible)

12 (VIDEO STOPS PLAYING)

13 THE COURT: Okay. Thanks. So, the screenshots --
14 I didn't count it, I'm sorry.

15 MS. KOZIK: There are three -- there are five total
16 screenshots, three are kind of, of the victim and the
17 scene, and then two are of the shell casing that were
18 found by that same officer there.

19 THE COURT: Okay. So, Ms. Ford down there just
20 seeking to get in that audio clip and those five
21 screenshots. So now that we know that. Same -- same
22 argument essentially?

23 MS. FORD: Yes, Your Honor. When I went over --
24 initially, when I went over my understanding of the
25 content, that was just based on that two-minute video.

1 THE COURT: Okay.

2 MS. FORD: So, I do agree, just hearing them do the
3 tourniquet, her screaming out in pain, basically, we
4 would argue hearsay. We do understand there are hearsay
5 exceptions, but essentially this is the victim's
6 statement, other than a couple of more things she gave
7 to -- information she gave when she was in the
8 ambulance. This is the extent of her statement that to
9 my knowledge, like she did not -- further, she later
10 made an identification of my client, but no effort was
11 made to get like a more detailed statement.

12 Typically, a victim's statement would not just be
13 played to the jury other than in a case with a child
14 victim in those types of situations. We just feel like
15 this is basically playing the victim's testimony to the
16 jury in another way that's more inflammatory. It is
17 cumulative and it is bolstering, and because of the
18 medical stuff and the screaming and you can hear the
19 sirens. We're concerned about that.

20 I do have some specific concerns about the pictures
21 as well. And some of it may just depend, I'm not
22 certain totally from some of them, I can make
23 assumptions about their intent in putting it in. But so
24 the one that stood out was with the bullet, with the
25 officer holding it, because you can clearly see a pool

1 of blood on the ground, and just I don't -- and you
2 later see where he found the bullet, I think that could
3 be more relevant. You know, this is where I found the
4 bullet. But I don't see how showing him hold it when
5 it's in evidence, how that helps, what that shows or
6 proves when you're considering that there's a pool of
7 blood basically obvious on the ground. It just seems
8 like it'd be more prejudicial than probative in that
9 particular case.

10 And then there also is a screenshot of the victim
11 on the ground, and you can just -- you can still see
12 some blood on the ground even though it doesn't -- it
13 doesn't -- it's not as obvious of a pool of blood as you
14 can see with the bullet being held. And on that one, I
15 don't, from her position, I don't know how that shows
16 the layout of the room so well, so I just -- and the
17 State could probably elaborate. I don't know if the
18 relevance would outweigh the prejudicial effect.

19 So, again that's what I meant that I'm not sure of
20 the State's intent. So, those are the pictures from
21 what I could see that I noticed blood or obvious blood,
22 so that's why I would object to. Those especially, just
23 because I don't think the relevance is strong enough
24 unless the State can, you know, elaborate, and then I'm
25 just double checking these. Otherwise, I don't see

1 anything that stands out.

2 THE COURT: Okay.

3 MS. FORD: I mean, there is -- I do, the one with
4 the bullet on the ground where he finds the bullet.
5 There does look to be some medical stuff to the left of
6 it with a big stain of blood, so I do have a concern
7 about that as well. It's not as bad as the pool of
8 blood though, but, so I just wanted to state that.

9 THE COURT: Okay.

10 MS. KOZIK: Your Honor, to address the hearsay
11 issue first. So, I know Ms. Ford mentioned an exception
12 to hearsay. But in this case, the victim's statements
13 themselves are actually not hearsay under 801(d)(1)(C),
14 which says the statement is not hearsay, the declarant
15 is testifying at trial, the subject to cross, and the
16 statement is one of identification for the person
17 perceiving -- after perceiving the person.

18 So, again, this is a statement of identification.
19 She's tell -- telling the officer that my nephew shot
20 me, his name is Kenneth Miller, what he's wearing. It's
21 what she's communicating to the officer immediately upon
22 -- sorry. I'm just pausing to see if there's a jury
23 update.

24 THE COURT: We got a note or something? Thank you.
25 Give us one second. So, we're ready to receive the jury

1 back in.

2 MS. KOZIK: Okay.

3 THE COURT: I know -- as soon as we get started.

4 MS. KOZIK: Yep.

5 THE COURT: All right. So y'all, we just got to
6 get the other folks in here, and we'll bring you right
7 back in here soon, Mr. Miller.

8 (OFF THE RECORD)

9 THE COURT: All right. Ms. Kozik, I think you were
10 talking last?

11 MS. KOZIK: Yes. I believe we were talking about
12 the alleged hearsay that's on the body-worn camera. So,
13 again, the State's position is it's not hearsay under
14 801(d)(1). Also under 801(d)(1)(E), it's not hearsay
15 because it's a consistent statement. Now, I don't know
16 the Defense's -- what the Defense's action would be
17 until we start testimony.

18 But to the extent that the Defense is going to
19 question the victim, Ms. Juanita Dukes, about her
20 memory, about whether she's making any of this up for
21 any reason, her motivation, that sort of thing. It's
22 going to all -- all of her statements to police would
23 also not be hearsay under (d)(1)(B) because it's a
24 consistent statement used to rebut any implied or
25 fabrication.

1 Additionally, it falls under -- even if it is
2 hearsay, it falls under two exceptions to hearsay, both
3 present and impression. And excited utterance Ms. Dukes
4 had just been shot, and, again, I believe she's handling
5 it fairly well, but all of it is happening in real time.
6 And while she's still under the extreme stress of being
7 shot, her statements are, therefore, reliable in that
8 sort of sense, and should, therefore, be an exception to
9 hearsay, which they should then be allowed.

10 It falls on the State's position that it wouldn't
11 be keynoted as evidence, again, because, again, we'll
12 have to see how the evidence sort of plays out, but to
13 the extent that the Defense is eliciting any kind of
14 testimony about how she's mistaken, how she is
15 inconsistent. This sort of testimony from Ms. Dukes,
16 it's not bolstering, it's just corroborative, just like
17 any other evidence.

18 As to the photos or the screenshots from the same
19 body camera. Judge, do you want to see those again? I
20 know you saw them briefly, but ---

21 THE COURT: Yeah, what were they -- I don't need to
22 see them again. What were they labeled, ma'am, for the
23 record?

24 MS. KOZIK: They were labeled -- they're labeled
25 State's 13 through 17.

1 THE COURT: Okay.

2 MS. KOZIK: I can give them to the court.

3 THE COURT: I just need, like, an extra copy ---

4 MS. KOZIK: Yeah.

5 THE COURT: --- of the recordings of it for
6 pretrial purposes later.

7 MS. KOZIK: Okay. That's fine. We can -- we can
8 give these to the court reporter. You can consider
9 them. I'll print more later.

10 THE COURT: Okay.

11 MS. KOZIK: And just for the record, we did also
12 provide the court reporter a DVD of that audio we
13 listened to earlier as a court's exhibit.

14 THE COURT: Okay. These will be marked
15 collectively as Court's 2.

16 (Court's Exhibit No. 2 marked for identification.)

17 MS. KOZIK: So, as to, I believe Ms. Ford's general
18 objection is to the prejudicial nature of the blood
19 that's seen in the photographs. The brief intermission
20 gave me a chance to do some research, hopefully save
21 your clerk's some time this -- this evening, but several
22 courts -- appellate courts in South Carolina, have
23 looked at this exact issue and determined that while
24 blood evidence, pictures of blood, any kind of blood on
25 evidence may be prejudicial, it's not unduly so.

1 Specifically, in one case, State versus Chase,
2 which is unpublished, Court -- Court of Appeals decision
3 2011, West Law 117-34321 from 2011. The State was going
4 forward on a domestic violence of a high and average
5 nature, similar to this case, where the State has to
6 prove great bodily injury, or serious bodily injury.
7 And the court in that case ruled that the prejudice
8 associated with the blood evidence, while it does exist
9 to some nature, really any evidence of a crime is going
10 to be prejudicial in some nature, but it's not unduly --
11 or -- or not unduly prejudicial. And it goes to the
12 State's burden of having to prove that there is a
13 serious injury that occurs. It corroborates, in that
14 case, just like this one, it will corroborate the
15 surgeon's testimony about the serious nature of the
16 crime.

17 And again, if you look at those photos, we did our
18 best to make sure that there was not anything overly
19 prejudicial related to the blood scene -- the blood in
20 the crime scene, but at the same time, it is essentially
21 a generic crime scene from a violent crime. There is
22 going to be some blood in some nature. Most of the ones
23 that Ms. Ford was talking about, where there might be a
24 pool of blood, there's not a body in a pool of blood.
25 The one of Ms. Duke's on the floor, you can barely see

1 any blood related to the actual wound.

2 And again, to some degree, blood will be
3 prejudicial, but it's just not unduly. So, the State
4 believes that those pictures should be admissible. Oh,
5 and then just as it relates to, I think she was
6 concerned about the one where the officer is holding the
7 bullet.

8 THE COURT: Shell casing.

9 MS. KOZIK: Or the shell casing, excuse me. The
10 photos chosen, again, are to orient the jury as to the
11 crime scene, where the door is, where the victim was,
12 where the bullet was found. And in that particular
13 picture, you can see the couch where the bullet was
14 found, where -- and then orient how far away that couch
15 is from the position of the victim.

16 And again, it's the point of that is to, if we're
17 not showing the body camera, so that they can actually
18 see in real time how close everything is, this should be
19 the next.

20 THE COURT: I thought maybe it was to show the
21 caliber or something.

22 MS. KOZIK: We do have the actual shell casing.
23 We'll enter that and the caliber as well. But really
24 it's more, that particular photo was for, kind of you
25 can see essentially the door, the victim, the couch that

1 was found under, in relation to where the officer is
2 standing.

3 THE COURT: Okay.

4 MS. FORD: So, Your Honor, just to -- just because
5 we're talking about that. There's two pictures of the
6 shell casing, one's of the couch. One is on the floor,
7 one is in his hand.

8 THE COURT: Yes.

9 MS. FORD: So, the one in his hand is the one that
10 I particularly object to ---

11 THE COURT: Yeah.

12 MS. FORD: --- because that's the one with the
13 blood, the pool. But in that case, and just to make
14 sure I'm looking at the same thing, I don't see the
15 couch. I basically just see him and the door, like the
16 front door is open, but you can't see the rest of the
17 room at all. And so other than the ground basically and
18 part of a rug.

19 So that is why in that picture in particular I
20 pointed out I wasn't sure how it was really relevant,
21 other than showing the shell casing, which they're going
22 to show in the other picture if that comes in, and they
23 have that as evidence. So, based on that pool of blood,
24 it just seems like it causes more prejudice -- prejudice
25 than it is. It shows there's anything relevant in there

1 because he's just holding it.

2 THE COURT: Okay. Well, let's talk about -- all
3 right. Do you want to finish up anything on the
4 pictures and the audio?

5 MS. KOZIK: Nothing further from the State on
6 either of those issues.

7 THE COURT: Okay. I'll -- I'll take a look at
8 everything and issue a ruling in the morning on that.
9 And what's the next matter, Ms. Ford?

10 MS. FORD: Thank you. If I may briefly address a
11 couple of other things from the State's argument.

12 THE COURT: Okay. Sure.

13 MS. FORD: And I thought I kind of interjected,
14 it's only because the picture I was looking at, it
15 didn't seem to match what was being described and so I
16 was trying to make sure. But just in this case, the
17 jury, it's going to be obvious the victim gave my
18 client's name from the beginning because that's why he
19 was arrested. So, we're certainly not going to say she
20 -- later -- at a later point said his name. She said it
21 the day of. That's going to be quite evident from all
22 the evidence.

23 So, for the State to argue that just in case I
24 bring up an issue with her naming my client, that she
25 should be able to go ahead and put in this what would

1 otherwise be inadmissible evidence, that just doesn't
2 make sense. I think the appropriate thing would be
3 after the victim testifies, if they feel I've raised
4 something in a certain way, then they could go through
5 the impeachment process, or with Officer Winn and ask
6 him basically at that point, did she say something
7 consistent. It just doesn't -- doesn't make sense to me
8 to go ahead and assume there's going to be that issue
9 when it's quite evident his name was given from the
10 beginning.

11 So, even if I challenge her credibility or
12 something of that nature, I'm not going to say that she
13 made up his name at a later date.

14 THE COURT: Okay.

15 MS. FORD: So I would just particularly, I wanted
16 to address that, Your Honor. And some of the case law
17 the State cited, I don't think obviously blood is just
18 per se into evidence. It's obviously still up to Your
19 Honor based on the evidence, the totality, if it's more
20 prejudicial than probative. And I think I've addressed
21 why I think it's more prejudicial than probative. And I
22 don't think the blood helps prove their case at all.

23 Obviously, she was shot. They're going to have a
24 doctor testify that there was a bullet and her knee
25 replacement that had to be replaced. I -- I don't see

1 how showing blood helps prove their case at all, Your
2 Honor. And again, more prejudicial than probative. So,
3 that is -- that would just be my argument from going
4 against the State's arguments.

5 THE COURT: All right. Got it. All right. So,
6 let's track along then with your trial brief. Is there
7 any other motions? But I want you to be able to present
8 them in whatever order you'd like.

9 MS. FORD: Yes, ma'am. So ---

10 THE COURT: Or other issues, motions.

11 MS. FORD: So, there is the gunshot residue. In
12 this case, after my client was arrested, he was arrested
13 around 12:30. So the call went out around 11:10-ish,
14 give or take, in the morning. He was arrested at 12:30,
15 was taken to the police station. He was interviewed.

16 At the end of his interview, they wanted to swab
17 him for any possible gunshot residue. He agreed on the
18 condition that he -- he wanted to watch the execution of
19 the search warrant at his house. They said, "No", so he
20 said, "Well, okay, well, then I'm not going, I don't
21 agree to this." And so they forcibly, more or less,
22 took swabs. Those swabs did end up coming back as
23 positive for gunshot residue. So that's the background
24 there.

25 In this case, the State -- the police, obtained

1 several search warrants. They took his phone into
2 evidence, and they got a search warrant for that, and
3 certainly had a search warrant for the phone records.
4 They got a search warrant for the house to include the
5 car.

6 THE COURT: Which house? His house?

7 MS. FORD: His house.

8 THE COURT: Okay.

9 MS. FORD: So, the victim's house was not searched
10 other than, I think, just when the officer looked around
11 and recovered the shell casing. So, they -- they got
12 other search warrants. He was clearly in their custody.
13 He was handcuffed. He was in the interrogation room.

14 My argument would be -- there's actually not a lot
15 of case law on this, in South Carolina in particular.
16 But a lot of courts, they intend to have allowed it, we
17 understand it, without a search warrant. But our
18 argument basically, we would point out that South
19 Carolina has a more stringent privacy, based on our
20 privacy protections, based on our constitution, Your
21 Honor.

22 And so we would argue, in particular since South
23 Carolina doesn't specifically seem to have, from what I
24 could see, any kind of clear law on this. There's an
25 unpublished case, and but it looked like in that case

1 there was a search warrant. They kind of mentioned they
2 didn't think a search warrant would be needed, but
3 ultimately they were like, there was a search warrant.

4 THE COURT: I see.

5 MS. FORD: The Bland case, that's unpublished, but
6 I just mean from my search, unless I, maybe it would
7 have come up in a different way, but I didn't see much
8 in South Carolina. And I don't think the State's brief
9 contained anything about South Carolina in particular.

10 But we would just argue that, you know, Article
11 One, Section 10 of the State constitution, it does, the
12 courts in this state, in particular Weaver is one case,
13 they have found state courts may afford more expansive
14 rights under State constitutional provisions than the
15 rights which are conferred in the federal constitution.
16 The court may interpret the state protection against
17 unreasonable searches and seizures in such a way to
18 provide greater protection from the federal
19 constitution.

20 And so we are arguing in this case that while, yes,
21 gunshot residue can go away, it doesn't just
22 disintegrate into thin air. It has to be actively
23 transferred or washed away or something of that nature.
24 So, it's not going to just go poof at a certain point.

25 At this time, you know, the police didn't even try

1 to take a baseline of what he had been doing as far as
2 like washing his hands. At one point, I think they even
3 sent him to the bathroom. They changed the handcuffs
4 and then they leave the room for a while and then come
5 back before he starts the interview.

6 But he was completely in their control and custody,
7 Your Honor. And so we just think in light of that, they
8 easily could have gotten a search warrant. They are,
9 you know, the police station in North Charleston is very
10 conveniently located to judges. So, they could have
11 easily gotten a search warrant and they chose not to.
12 My client made it very clear he was not consenting.
13 Again, he would have if they had allowed what he asked
14 for, but it was very clear from the video he was not
15 consenting to them taking it.

16 So, we would just argue that in light of that, this
17 evidence should be suppressed based on a violation of
18 his right to be free of unreasonable searches and
19 seizures, his right to privacy in South Carolina. Thank
20 you.

21 THE COURT: Sure. All right. Does the State want
22 to respond?

23 MS. KOZIK: Yes. The State would just respond that
24 while the police in this case did take -- did get
25 gunshot residue or do the gunshot residue test on

1 Mr. Miller without his consent and without a warrant, it
2 falls under the other exceptions to the -- to meeting a
3 warrant. It falls under both the search incident to
4 arrest exception as well as the exclusion circumstance
5 exception.

6 As Ms. Ford has pointed out, she is not contesting
7 that Mr. Miller was in the lawful custody of North
8 Charleston Police. And -- and courts have held that
9 once they're in custody, the police have the right to
10 collect evidence from the Defendant's person. And in
11 this case, we believe that that extends to the GSR as a
12 minimally invasive test that involves just running
13 essentially what I understand to be like a sticky pad
14 almost over their hands. And it's -- it's not like a
15 buccal swab where it's going to invade their mouth, et
16 cetera.

17 So, again, it's a minimally invasive test, such
18 that it would fall under the search incident to arrest
19 exception. It would also fall under the circumstance
20 exception because, as Ms. Ford detailed, GSR does
21 deteriorate rather quickly. In fact, one of our SLED
22 experts will testify that they will not even process a
23 GSR kit after about six hours. They're questionable
24 after four, but they have a hard deadline after six. I
25 believe it was about two-and-a-half hours after his

1 arrest that the gun -- that the law enforcement
2 conducted the GSR test on Mr. Miller.

3 THE COURT: How many? Two?

4 MS. KOZIK: About two-and-a-half.

5 THE COURT: Two-and-a-half. Okay.

6 MS. KOZIK: And as he sat in the interview room,
7 anything he touched could potentially rub that evidence
8 off, which would lead to, again, deteriorating the
9 evidence. And especially once Mr. Miller became
10 combative, he kind of refused to let officers touch his
11 hands. He was pulling away. So, that could have led
12 them to believe that he would have done any -- really
13 anything to destroy the evidence on his hands.

14 And as Ms. Ford alluded to, there isn't a federal
15 case law that is directly on point, whereas there might
16 not be anything at the state. In US v. Simmons, which
17 is 380 Federal Appendix 23, Fourth Circuit from 2010.
18 The Fourth Circuit held that there was no search warrant
19 needed for a GSR kit conducted during a lawful custodial
20 arrest, again, because it was very minimally invasive.
21 And they decided that under both the extended
22 circumstance and the law -- the search incident to
23 arrest doctrine.

24 There's also the Fifth Circuit case on point, and
25 both cite a Supreme Court case that allowed law

1 enforcement to take fingernail clippings of a defendant
2 in custody. And I think it's important to note that in
3 all of those cases, the Defendant was not swabbed for
4 GSR on scene. He was, just like in this case, he was
5 taken to the police precinct before the test was done.
6 And so therefore, this case is consistent with those.

7 As to Ms. Ford's point about the South Carolina
8 courts being more conservative on privacy issues. I
9 don't believe -- I don't believe there's any case law
10 that I've seen, at least as it relates to the South
11 Carolina State court, being more conservative as it
12 relates to Fourth Amendment protection.

13 Again, I can't say that I researched the issue at
14 length, but to my knowledge, I -- I don't know of any
15 case law, and Ms. Ford certainly hasn't cited any as
16 well. So, I don't believe that South Carolina law would
17 be different than federal law on the issue. And while
18 obviously the Fourth Circuit's not binding. I think
19 it's highly persuasive in this case.

20 THE COURT: Okay. All right. Ms. Ford, do you
21 want to reply at all of them?

22 MS. FORD: And actually, the -- just to point out
23 that the privacy section that I was talking about, it --
24 it is specifically the search and seizure part of the
25 constitution, so I do believe it applies to the Fourth

1 Amendment. It doesn't -- we're not wildly inconsistent
2 with federal law necessarily on those matters, but I
3 would just argue that we do have more specific privacy
4 rights in the state based on our constitution and case
5 law. So I just wanted to make that clear.

6 But and just to -- just to make sure it's clear,
7 because the State mentioned that I seem to say
8 disintegrated, it's my understanding it doesn't
9 disappear. It can, from normal wear and tear basically,
10 cleaning, wiping, transferring, it goes away, but it
11 does not just disappear because of time. That is my
12 understanding based on talking to the expert.

13 THE COURT: Okay. That makes sense. All right.
14 All right. So, no testimony really necessary for the
15 court's consideration of that matter. I guess I'll have
16 to necessarily take that under advisement. Who is your
17 officer that did the GSR kit?

18 MS. KNOX: Detective Charity Steinbrunner. She's
19 also here today for the Denno and the Biggers hearing.

20 THE COURT: Okay. All right.

21 MS. KOZIK: Would you like us to ask her questions
22 as it relates to this issue?

23 THE COURT: I can't tell you what you have to do.

24 MS. KOZIK: Okay.

25 THE COURT: Okay. All right. So, what else do we

1 have to talk about this? GSR, you made a motion to
2 sever the charges. I think I ruled on that.

3 MS. FORD: Yes, Your Honor.

4 THE COURT: Denied that motion. But so that leaves
5 us with a statement he gave under interrogation at the
6 police station regarding potential for a Denno hearing,
7 and then, of course, this one photo shown to the victim
8 in the ---

9 MS. KNOX: Additionally ---

10 THE COURT: Biggers hearing; is that right?

11 MS. KNOX: Judge, if I may. I think Ms. Ford
12 brought up a different hearsay issue that I would like
13 to address during pre-trials rather than as it comes up
14 in real time tomorrow, and that relates to the testimony
15 of Chante Dukes, the victim's daughter. If this is a
16 good time to address that, I'd be happy to do so.

17 THE COURT: Okay. What did Ms. Ford bring up with
18 Ms. Dukes? You just said -- I don't know if I know
19 about that yet. Okay.

20 MS. FORD: So, the State, on their witness list,
21 they include the victim's daughter, Chante.

22 THE COURT: This is not the paralyzed individual.

23 MS. FORD: Correct.

24 THE COURT: Somebody else. Okay.

25 MS. FORD: Yes, Your Honor.

1 THE COURT: All right.

2 MS. FORD: And today, earlier, I asked them why
3 they were intending to call her, and they told me it was
4 twofold. One, is because before the victim called 911,
5 she apparently called, it sounds like, three different
6 people in her family.

7 THE COURT: Okay.

8 MS. FORD: One was the daughter.

9 THE COURT: Okay.

10 MS. FORD: And so she said to her daughter that
11 Boo, which is the nickname for my client, that Boo shot
12 her. So, it's my understanding the State wants to get
13 that in. Basically, under the same premise that they
14 want to get in the body cam footage, that this was done
15 immediately afterwards while she was still experiencing
16 everything.

17 THE COURT: Okay.

18 MS. FORD: My argument would be the same. Again, I
19 think this shows the cumulative impact that I'm worried
20 about and the bolstering issue. But, again, the State
21 basically, what they would want is for the victim to
22 testify, the 911 call to basically, which are the
23 victim's words, to confirm that, for her daughter to
24 testify about this, and then for Officer Winn to testify
25 about this, do all the same thing.

1 And so those are four different ways they're trying
2 to get in the same information. So, we just think
3 definitely there's cumulative issues there and
4 bolstering. And so we would object based on the same
5 reason.

6 THE COURT: All right.

7 MS. FORD: In addition, the other reason they want
8 to put her up, it's my understanding, is to talk about
9 the impact of the that the family experienced from the
10 mother being shot. I certainly don't think it's
11 appropriate for them to go into any kind of emotional
12 impact. But I also would object to her just testifying
13 because I think the doctor's going to testify, the
14 victim's certainly going to testify.

15 By having the daughter testify further on something
16 the victim can, it just is basically, we believe, meant
17 to prejudice my client by just showing, even if it's not
18 specifically referred to as emotions. And it's just
19 about the physical stuff, trying to basically make the
20 jury feel sorry for the victim and her family, which we
21 don't think should be allowed.

22 It's certainly more prejudicial than probative.
23 And would presumably be cumulative and bolstering to the
24 victim's testimony because I don't know why she wouldn't
25 testify to that.

1 THE COURT: Okay.

2 MS. KNOX: Judge, to respond to that, as it relates
3 first to the cumulative matter. This was the second
4 utterance that it was the Defendant who had shot her.
5 Although that this statement was made multiple times,
6 this was one of the first times it was ever said.
7 Ms. Dukes, or the victim in this case, Ms. Dukes, is
8 extremely close with her daughter and chose to call her
9 daughter before calling 911 for reasons that we will
10 discuss during trial. But it's not bolstering, it's
11 more probative to the truthfulness of this victim, who
12 is now almost 85.

13 And again, like my co-counsel said, we don't know
14 what the Defense is going to do here, but if it does
15 come up a memory issue or anything to indicate that our
16 victim might be mistaken or lying, that would just be
17 probative that in the seconds after she was shot. This
18 was one of the first times that she said the Defendant's
19 name.

20 Additionally, as Your Honor is probably aware, that
21 this falls under three different hearsay exceptions. It
22 not only falls under the present sense impression, it
23 also falls under the excited -- excited utterance
24 exception, as well as the then existing mental,
25 emotional, and physical condition.

1 As I just stated, this call was made in real time,
2 seconds after, and the call itself only lasted but 10
3 seconds. The call consisted of simply, who shot me,
4 come help. And that's exactly what Ms. Chante Dukes
5 did, and the purpose of her testimony is not just this
6 911 call, but she was very much a part of that day. She
7 responded to the scene at the same time that Ms. Dukes
8 was being taken to the hospital. She was at the
9 hospital, and she has been with Ms. Dukes every single
10 day since that shooting. She also knows the Defendant
11 personally.

12 She has known the Defendant her entire life. They
13 are cousins, they are related by family, and she will
14 also testify that the Defendant goes by Boo, and he has
15 gone by Boo his entire life. And that is something that
16 the Defendant disputes in his interview, is that he does
17 not have nicknames. So if that is something the Defense
18 gets into, that would be another reason for Chante's
19 testimony.

20 Aside from what Mary said about the impact, not so
21 much the impact, but the great bodily injury aspect, and
22 the prolonged impairment, and how the shooting not only
23 impacted her right knee, but there's many things that
24 had happened after that that support the element of
25 great bodily injury and the prolonged impairment.

1 And so we believe that Chante's testimony is more
2 probative than prejudicial. It falls under the hearsay
3 exceptions. It's not bolstering, it's not cumulative,
4 and we believe that's necessary. Thank you.

5 THE COURT: I'll just take it as it comes. Make
6 sure I issue a ruling at the time; okay?

7 MS. FORD: Thank you, Your Honor.

8 THE COURT: Sure. All right. That leaves us with
9 Denno and Biggers; right?

10 MS. KNOX: Yes, Your Honor.

11 THE COURT: All right. Who do we have here?

12 MS. STEINBRUNNER: Detective Steinbrunner, North
13 Charleston.

14 THE COURT: Nice to meet you. How are you?

15 MS. STEINBRUNNER: Pretty good. How are you?

16 THE COURT: Good. We'll get you sworn in. Can you
17 come swear in this witness in? They didn't even call
18 her. She just came on in.

19 MS. KNOX: They called her and went right away.

20 THE COURT: That's why they got cues, little things
21 and what. It's fine. You can do whatever you want.

22 THE CLERK: Please raise your right hand.

23 CHARITY STEINBRUNNER,
24 having been duly sworn, testifies as follows:

25 THE CLERK: Please be seated. Please state your

1 full name, spelling your last name so you're getting
2 into the microphone for the record.

3 THE WITNESS: Charity Steinbrunner,
4 S-t-e-i-n-b-r-u-n-n-e-r.

5 THE COURT: Yeah. We got to move the microphone,
6 y'all. Don't get started yet.

7 MS. KNOX: Ready for you, Judge?

8 THE COURT: As soon as she sits down.

9 **D I R E C T E X A M I N A T I O N**

10 **BY MS. KNOX:**

11 Q. Good afternoon, Detective. Let's start off by saying
12 where you were employed and in what capacity.

13 A. I'm a detective with North Charleston.

14 Q. And how long have you been a detective at North
15 Charleston?

16 A. Almost five years.

17 Q. And what was your role before detective?

18 A. I worked in patrol.

19 Q. Okay. And were you employed with North Charleston
20 Police Department on January 4th of 2024?

21 A. Yes, ma'am.

22 Q. And in what capacity?

23 A. I was a detective.

24 Q. Detective. And were you involved in the investigation
25 of Kenneth Miller, Jr.?

- 1 A. Yes, ma'am.
- 2 Q. And what was your role in that investigation generally?
- 3 A. To identify the possible suspect and make an arrest.
- 4 Q. Okay. And was the Defendant in this case interviewed?
- 5 A. Yes, ma'am.
- 6 Q. And who was he interviewed by?
- 7 A. Myself.
- 8 Q. And when was he interviewed?
- 9 A. On January 4th around 1:00 A.M. or 1:00 P.M., sorry.
- 10 Q. Okay. And where did this interview take place?
- 11 A. City hall.
- 12 Q. And can you just kind of describe the room that the
- 13 Defendant's interview took place in?
- 14 A. Yes. It's a small interview room. So there's a table.
- 15 At the time, I think it had maybe four chairs. So
- 16 that's centered in the room.
- 17 Q. And are these interviews recorded?
- 18 A. They are.
- 19 Q. And was this interview in particular recorded?
- 20 A. It was.
- 21 Q. And for purposes -- purposes of interrogation, was this
- 22 Defendant in custody?
- 23 A. Yes.
- 24 Q. Had he been arrested earlier that day?
- 25 A. Yes.

1 Q. And when you met with him, he was in custody and
2 arrested before you interviewed him?

3 A. Yes.

4 Q. Okay. Detective, did you advise this Defendant of his
5 constitutional rights pursuant to Miranda before
6 questioning him about anything related to this crime?

7 A. Yes, ma'am.

8 Q. And how did you advise him of his Miranda?

9 A. So, we have a form that we read with the Defendant, and
10 so I read that out loud to him.

11 Q. Okay. And did this Defendant appear to be under the
12 influence of any drug or alcohol when you were providing
13 him with his Miranda?

14 A. No, ma'am.

15 Q. Did you inquire about his education level before you
16 gave him the Miranda?

17 A. I did.

18 Q. And do you recall what his response to that was?

19 A. I believe he said he completed 10th grade but was able
20 to obtain a GED online.

21 Q. And did you read Miranda in one go, or did you read them
22 in components?

23 A. In segments. So, one sentence at a time to make sure he
24 understood, and asked if he understood each line.

25 Q. Just to restate that, did you ask the Defendant each

1 time if he understood his Miranda rights?

2 A. I did.

3 Q. Okay. And did you -- did the Defendant appear, even
4 though he said he understood them, that he did not
5 understand them, or he was having trouble understanding
6 those rights?

7 A. He did not appear like he did not understand.

8 Q. Okay. Was this Defendant presented with the advisement
9 of rights form?

10 A. Yes, ma'am.

11 Q. And did he sign that form?

12 A. He did.

13 Q. Okay. I'm going to show the witness the advisement of
14 rights form. Is that the form that ---

15 A. Yes, ma'am. That is the form that I give to Mr. Miller.

16 Q. And can you count how many times he initialed that form?

17 A. Five initials.

18 Q. And did he provide his signature on that form?

19 A. Yes, ma'am, on two spots.

20 Q. Okay. Did this Defendant appear rational and responsive
21 when you were providing Miranda and throughout the
22 interview, or did he appear emotional to the point where
23 you had concerns about his ability to understand those
24 warnings?

25 A. He seemed like he understood.

1 Q. Okay. And how long was that interview in total?

2 A. Maybe an hour.

3 Q. Okay. And did the Defendant ever ask to leave that room
4 at any point?

5 A. No.

6 Q. Okay. And did the Defendant ever change his mind and
7 ask to stop questioning before you provided Miranda?

8 A. Before? No.

9 Q. What about after?

10 A. After, yes. He did.

11 Q. Based on the questions that I just gave you and based on
12 this interview that you conducted, is it your opinion
13 that the Defendant's testimony was -- or excuse me, the
14 Defendant's advisement and signature on this form was
15 voluntary?

16 A. Yes.

17 Q. Was it given freely?

18 A. Yes.

19 Q. Do you think it was given intelligently?

20 A. I do.

21 Q. Was there any coercion, or promises, or anything to that
22 extent in the moments before he signed this form?

23 A. No, ma'am.

24 Q. Okay. And just one last question, when you were
25 advising Miranda in the minutes before and certainly

1 after, what was the tone of that interview?

2 A. I would say it was pretty lighthearted. We were getting
3 to know each other.

4 Q. Okay. So, you would say it was friendly?

5 A. Yes.

6 MS. KNOX: Okay. I don't have any other questions
7 for the purposes of the Denno.

8 THE COURT: Okay. Ms. Ford, do you want to cross
9 this witness just to the voluntariliness of the
10 statement?

11 MS. FORD: Just a few questions.

12 C R O S S E X A M I N A T I O N

13 BY MS. FORD:

14 Q. I have a few questions. At the beginning of the
15 interview, another male officer actually is the one who
16 is searching this person and moving his handcuffs
17 around?

18 A. (No verbal response)

19 Q. Is that a yes?

20 A. Yes, ma'am.

21 Q. And then you all leave the room all three of you. Was
22 he being -- was he going to the bathroom or why did he
23 leave the room?

24 A. I believe he was going to the bathroom.

25 Q. So, when you came back, you were the one who interviewed

1 him?

2 A. Yes, ma'am.

3 Q. And the State asked you about a few questions you asked.
4 The family, at this point, you had talked to several
5 members of the family?

6 A. Yes, ma'am.

7 Q. And they indicated they thought maybe there were some
8 mental health issues?

9 A. Yes, ma'am.

10 Q. The victim had indicated that, I think she said snatch,
11 and I'm not sure how much she ---

12 A. I did not talk to the victim.

13 Q. I'm sorry, I couldn't hear your answer.

14 A. I did not speak with the victim.

15 Q. Okay. But you talked to several other family members on
16 the phone?

17 A. I talked to his sister, yes.

18 Q. And there was some indication that they thought he had
19 mental health issues?

20 A. Yes.

21 Q. When you met with him, you didn't ask him about any of
22 those things, though?

23 A. I did not ask about mental health, no.

24 Q. Okay. So, even though you had reason to believe from
25 the family, you didn't pursue checking into his mental

1 status?

2 A. I did not ask about his mental health.

3 Q. And the State asked you a lot of questions about how he
4 seemed intelligent or things along that -- that nature.

5 He seemed like he understood. That is just your take on
6 that; correct?

7 A. That's my opinion.

8 Q. So, there's no way for you to know what he may have
9 thought about what you were telling him?

10 A. Right.

11 Q. And there were certain points the State was asking you
12 that the interview was light. Is that how you described
13 it?

14 A. I would say it was pretty light considering the moment.
15 Like, it wasn't a, considering the topic of giving
16 Miranda, it wasn't a serious, angry conversation or
17 aggressive at all.

18 Q. Well, he denied that he shot Ms. Dukes; correct?

19 A. He did.

20 Q. And at one point, you tried to insist that his car was
21 there?

22 A. Yes.

23 Q. You indicated that you knew it was there pretty much?

24 A. Yes.

25 Q. And that's actually not true?

1 A. It's -- it's on Verkada, within the area. (Inaudible)
2 that cameras.

3 Q. Well, you had no confirmation that it was his car.

4 A. It appears to be a similar car he was seen driving later
5 on.

6 Q. So, you are trying to tell -- get him to tell you
7 something based on your speculation at that point;
8 correct?

9 A. Correct.

10 Q. Even though you were stating it as a fact?

11 A. You could say that. Yes, ma'am.

12 Q. So, when you were trying to insist on those things,
13 there were times that he would give them to you;
14 correct?

15 A. He would say he was not there.

16 MS. FORD: I beg the court's indulgence.

17 THE COURT: Uh-huh.

18 MS. FORD: I have no further questions, Your Honor.

19 THE COURT: All right. Any follow-up questions for
20 this witness?

21 MS. KNOX: I beg the court's indulgence.

22 THE COURT: Sure.

23 **R E D I R E C T E X A M I N A T I O N**

24 **BY MS. KNOX:**

25 Q. Detective, the questions about the car, that was after

1 you provided the Miranda?

2 A. Yes, ma'am.

3 Q. And I wanted just to point to one of the things I
4 brought up when I was asking you before Ms. Ford came up
5 here. I asked you whether he changed his mind about
6 talking to police. Did you continue questioning him
7 after that?

8 A. No.

9 Q. Okay. And -- I beg the court's indulgence. My only
10 remaining question is, as it relates to Denno and
11 providing Miranda, did this Defendant seem lucid when
12 you were speaking with him?

13 A. He did.

14 Q. Did it appear to you that he may have any mental health
15 indication at all?

16 A. No.

17 Q. And are you required to ask him that for purposes of
18 Miranda?

19 A. No.

20 MS. KNOX: Thank you. That's all.

21 THE COURT: Did you mark a piece to her Miranda, or
22 is there something?

23 MS. KNOX: We don't plan on having this as an
24 evidence or an exhibit, but this is the form that
25 Mr. Miller had initialed and signed.

1 THE COURT: Did you show it to her earlier?

2 MS. KNOX: Okay.

3 THE COURT: Then we need to mark that as an exhibit
4 for this motion hearing.

5 MS. KNOX: Okay.

6 THE COURT: Just to be on the record.

7 (Court's Exhibit No. 3 marked for identification.)

8 MS. KNOX: Okay.

9 THE COURT: And then the actual statement, where is
10 it?

11 MS. KNOX: We have that on our desk for Your Honor.

12 THE COURT: That'll be another court exhibit for
13 this motion hearing.

14 MS. FORD: And, Your Honor, my understanding is
15 that they're not intending to play the whole thing.

16 THE COURT: Oh, yeah.

17 MS. FORD: So they're only playing a few segments.

18 THE COURT: Well, let's ask them what they're going
19 to show.

20 MS. FORD: Yes, Your Honor.

21 THE COURT: They'll guess it.

22 MS. KNOX: So, it's ---

23 THE COURT: Okay. That's the first. The form will
24 be court's -- where we are now? I don't where we are.
25 Three. The video will be Court's 4 for this hearing.

1 All right. And then what are you going to show?

2 (Court's Exhibit No. 4 marked for identification.)

3 MS. KNOX: Okay. So, this is just the Miranda.
4 It's Court's Exhibit 4. It's only the detective
5 advising of Miranda and the time of his arrest. Excuse
6 me.

7 THE COURT: They're all separate?

8 MS. KNOX: Well, we're not planning to introduce
9 the video can be Mirandized during this trial. What we
10 do plan to introduce are three separate segments that
11 are about 30 seconds long. One of them relates to the
12 Defendant denying that he, saying that he had a rental
13 vehicle and that no one else had driven that vehicle
14 except for him.

15 THE COURT: Okay.

16 MS. KNOX: The other two relate to firearms. In
17 one of the segments, he says he does not own a gun. He
18 has not been around a gun. He did not, had not been
19 around a gun that day.

20 THE COURT: Okay.

21 MS. KNOX: And then he, right before the gunshot
22 residue was taken, he was asked, have you fired a
23 firearm? Have you been around anyone who has fired a
24 firearm? To which the Defendant says, no. And then, of
25 course, we have the GSR kit from SLED. And so the only

1 purpose really for that is to elicit that, those
2 statements from the Defendant.

3 THE COURT: So you, instead of playing his whole
4 statement, you got three different CDs. Let me just
5 make sure I understand. Of just portions.

6 MS. KNOX: Correct.

7 THE COURT: Thirty-second clips.

8 MS. KNOX: We think these are the most relevant.
9 As Mary is talking about cumulative and I think to be
10 able to elicit what we want to elicit, it doesn't need
11 to be the entire interview. Of course, some would
12 object to that, but we just think that this is the most
13 relevant part to this case, is those statements made.

14 THE COURT: That each of them separated on a
15 different disc. Okay.

16 MS. KNOX: Correct. We also are happy to put each
17 statement on a single disc, not separated. That's an
18 easier way to go about it.

19 THE COURT: We'll take a thousand discs. It's up
20 to you. Okay. All right. So, if that's what you're
21 intending to introduce, just hand those up to me.

22 MS. KNOX: Okay.

23 THE COURT: Ms. Ford, have you seen these?

24 MS. FORD: Yes, ma'am.

25 THE COURT: I'm sure you've seen the whole thing.

1 I guess what I'm asking is have you seen them out of
2 context?

3 MS. FORD: Yes, ma'am. The State did send me the
4 clips.

5 THE COURT: Okay.

6 MS. FORD: Specifically, one thing I object to is,
7 I believe it's the portion about the car, and it goes to
8 the questions I was asking Detective Steinbrunner. She,
9 and it's in the clip, she basically says, your car was
10 there, and we would object to that coming in because
11 that is not true. There was a surveillance video. I
12 mean, the State would ultimately argue it's true, but
13 the way she presented it to my client, I think that
14 would suggest to the jury that it is indeed his car.

15 THE COURT: If it's not played in full context or
16 just at all?

17 MS. FORD: Just at all. So basically, there is
18 surveillance from the neighborhood of what looks to be a
19 black 4Runner driving across the street. You cannot get
20 a -- there's not a license plate or anything of that
21 nature. So, the State is assuming this was his car, but
22 because there's no license plate, I don't think they can
23 definitively say it is his car.

24 Now, of course, they are going to argue it's his
25 car. We understand that they're going to argue that,

1 but we just think that coming from the detective,
2 speaking as if your car is there, we think it suggests
3 something that is not true that could be. Actually, I
4 think it's a big piece of evidence in this case. If it,
5 you know, she's saying your car was there, when, in
6 fact, it's really a car that looks to be your car was
7 there. I think that's a huge difference in a case like
8 this.

9 THE COURT: Okay. So you want?

10 MS. FORD: That part redacted.

11 THE COURT: That part redacted. How about the rest
12 of it?

13 MS. FORD: The rest of it.

14 THE COURT: It is your argument that's the
15 remainder of the statements.

16 MS. FORD: Right. I didn't see ---

17 THE COURT: And to voluntariness, I guess?

18 MS. FORD: Yes, Your Honor.

19 THE COURT: And actually, before we get that far, I
20 should have already asked you, did your client want to
21 testify to the voluntariness of this statement?

22 MS. FORD: No, Your Honor.

23 THE COURT: Okay. All right. Is that true, sir?

24 MS. FORD: It's just the voluntariness of the
25 statement. Yes, he says he does. He -- yes, Your

1 Honor, we're not -- he does not want to testify.

2 THE COURT: Okay. Is that right, Mr. Miller?

3 THE DEFENDANT: Did I give the consent to talk?

4 THE COURT: You don't want to testify right now as
5 to the voluntariness of your statement; is that correct?

6 THE DEFENDANT: Hold on. I don't understand what
7 you're saying.

8 THE COURT: I said -- that's an odd question. I
9 have to ask you, though, if you want to testify right
10 now as to whether or not the statement you gave to the
11 police was voluntarily made; okay? You can talk to your
12 lawyer one more minute about that.

13 THE DEFENDANT: If I gave the sentence, give her
14 the information?

15 THE COURT: Talk to Mary. Talk to Ms. Ford about
16 that one more minute.

17 MS. KNOX: Judge, while they're discussing ---

18 MS. FORD: He said he's good. He does not need to
19 testify.

20 THE COURT: All right. Is that right?

21 THE DEFENDANT: Yeah. I still testify in the
22 trial; right?

23 THE COURT: This is not -- correct. You could
24 testify later if you want to still. That's true. Okay.
25 All right. Ms. Ford, sorry. I just had to go through

1 that. Now, I want you to be able to fully delineate the
2 arguments you have regarding his statement at this point
3 in time. I'm happy to hear from you.

4 MS. FORD: Yes, Your Honor.

5 THE COURT: Okay.

6 MS. FORD: Like I said in my brief, he does not
7 give a confession or anything of that nature, so there
8 is not anything wildly objectionable other than what I
9 pointed out as far as I do think it is misleading to the
10 jury about the detective saying with conviction,
11 basically, that it is your car. As if it's a fact. And
12 so we would object to that part coming in.

13 THE COURT: Okay.

14 MS. FORD: Other than that, we don't think there's
15 anything wildly objectional -- objectionable. We can't
16 say in good faith that it was against his will, so we're
17 not going to argue that. We don't have a basis
18 necessarily to argue that, I don't believe.

19 THE COURT: Okay. All right. Now, Ms. Knox.
20 Narrowing her argument down considerably to basically
21 that one question about the car.

22 MS. KNOX: Your Honor, Ms. Ford is welcome to cross
23 examine the detective as it relates to that. And -- and
24 we also are open to having a jury instruction regarding
25 the fact that what the detective says in that interview

1 is not fact. I think there's multiple ways to address
2 that matter rather than have it excluded entirely. As I
3 just stated, she is welcome to get up there and cross
4 examine her on that fact.

5 THE COURT: Now, which of those four CDs that you
6 just gave me ---

7 MS. KNOX: Three.

8 THE COURT: --- is on it?

9 MS. KNOX: Four. Excuse me.

10 THE COURT: Which one is this particular statement
11 on about the car?

12 MS. KNOX: It should be Court's Exhibit 5.
13 (Court's Exhibit No. 5 is marked for identification.)

14 THE COURT: Okay. We can play that.

15 MS. KNOX: Do you want us to play that right now
16 for you?

17 THE COURT: Yeah, sure.

18 (VIDEO PLAYING) (Inaudible)

19 (VIDEO STOPS PLAYING)

20 THE COURT: Okay. That's a little hard to hear,
21 but she said something along the lines of what ---

22 MS. KNOX: She states ---

23 THE COURT: --- car?

24 MS. KNOX: --- your car was in the area, why was
25 your car in the area? That is the extent of what Ms.

1 Ford is ---

2 THE COURT: Okay.

3 MS. KNOX: --- saying is impermissible.

4 THE COURT: Okay. And then he comes back and says
5 it was in the shop; is that right?

6 MS. FORD: So he -- his car was in the shop. He
7 would -- he had been in an accident.

8 THE COURT: Oh, it must be his other car.

9 MS. FORD: So this was a rent. So that is
10 clarified in the interview. He's like, my car's in the
11 shop. And then it was clarified. And he actually said,
12 yes, I'm the only person that drives this car. He had
13 only had it a couple of days.

14 THE COURT: I got it. Okay. So, when he said the
15 car was in the shop, that's not him. He's talking about
16 a different car than the one that she's talking about.
17 She saw the video.

18 MS. FORD: Yes, ma'am. He's not trying to claim
19 that, oh, my car was in the shop. His car literally was
20 in the shop. He had a rental.

21 THE COURT: Got it. Okay. All right. Yes.
22 Sometimes when you start chopping up these things, it
23 gets a little confusing to those of us who are seeing it
24 for the first time. So, it's something to keep in mind
25 as you're presenting these things. Okay. All right.

1 Well, take this into consideration. Anything else for
2 purposes of the Denno?

3 MS. FORD: No, Your Honor.

4 THE COURT: Okay. And that takes us then to the
5 last motion for the Defense in their pretrial brief,
6 which is that regarding the photo shown to the victim of
7 the Defendant. Is that right, Ms. Ford?

8 MS. FORD: Yes, Your Honor.

9 THE COURT: I'm happy to hear from you on that.
10 I'm assuming you're going to want to publish some
11 testimony from the same investigator; is that right?
12 Was she the one that did it?

13 MS. FORD: Yes, Your Honor.

14 THE COURT: All right. Okay.

15 MS. FORD: And the victim.

16 THE COURT: Go ahead. Is she present?

17 MS. KNOX: She is.

18 THE COURT: All right. Well, can we start with her
19 and then do the victim?

20 MS. FORD: Yes, Your Honor.

21 THE COURT: Okay. All right. All right.

22 Detective, they're going to kind of switch gears and
23 talk about something else. I'll just remind you that
24 you're still under oath; okay?

25 THE WITNESS: Yes, ma'am.

1 THE COURT: Thank you.

2 CHARITY STEINBRUNNER,

3 having been duly sworn, testifies as follows:

4 **D I R E C T E X A M I N A T I O N**

5 **BY MS. KNOX:**

6 Q. Detective, who conducted the ID or out-of-court ID to
7 the victim?

8 A. I did.

9 Q. And how long after the shooting was it taken?

10 A. It was on, I believe, January 16th.

11 Q. And where was this taken?

12 A. At her residence, [REDACTED] Easton.

13 Q. At the victim's residence?

14 A. Yes, ma'am.

15 Q. And who was present during this identification?

16 A. Myself, Detective, Matt Reeds, and the victim.

17 Q. Was there any additional family members of the victim
18 present?

19 A. Not that I'm aware of.

20 Q. Was your body cam on during this interaction?

21 A. It was.

22 Q. And how long in total was this interaction?

23 A. Less than three minutes.

24 Q. Less than three minutes. What was the victim's demeanor
25 or state before you presented her with the ID form?

1 A. Other than the fact that she was injured and trying to
2 walk around and move to the front door in some pain, she
3 seemed fine.

4 Q. Okay. And what type of photo was shown?

5 A. It was a single photo pulled from the Defendant's South
6 Carolina driver's license.

7 Q. From his DMV record?

8 A. Yes.

9 Q. And what was said, if anything -- or excuse me, sorry.
10 How quickly did Ms. Dukes make this identification?

11 A. Immediately.

12 Q. And did she confirm this identification after?

13 A. Yes.

14 Q. And if anything, after this identification, did the
15 witness and victim say?

16 A. She said, that's him, that's the person that shot me, my
17 nephew, Kenneth Miller.

18 Q. And did she point to this picture?

19 A. I'm not sure. I don't know.

20 Q. Okay. Detective, did you follow procedure as it relates
21 to presenting Ms. Dukes with this single photo ID?

22 A. Yes.

23 Q. And why did you present only one single photo ID?

24 A. Because I was aware that she knew this person. It
25 wasn't a stranger to her. Somebody she's known for many

1 years.

2 Q. Did you ever tell the witness who to identify?

3 A. No.

4 Q. Did you ever give any indication, either verbal or
5 non-verbal, of who that person in the photo was?

6 A. No.

7 Q. Did anyone else in the room interfere with her
8 identification of the subject?

9 A. No.

10 Q. Did you say anything after that ID was made that
11 reinforced that identification?

12 A. No.

13 Q. How confident were you in her ability to identify
14 Mr. Miller?

15 MS. FORD: Objection. Speculation.

16 THE COURT: Sustained. You can just rephrase
17 (inaudible).

18 BY MS. KNOX:

19 Q. Did you have any doubt of that victim's identification
20 that day?

21 A. No.

22 Q. And do you believe that witness's identification was
23 reliable?

24 A. Yes.

25 MS. FORD: I would object for vouching. You know,

1 it's pretrial, but ---

2 THE COURT: Yeah. I mean, yeah. Overrule for the
3 purposes of this hearing. Okay.

4 MS. KNOX: I beg the court's indulgence.

5 THE COURT: Sure.

6 MS. KNOX: Judge, if you haven't realized already,
7 this is my first trial.

8 THE COURT: Okay.

9 MS. KNOX: I'm going to show the detective the
10 single photo ID. We can mark this as a court's exhibit.
11 I'm not sure what number we're on.

12 THE COURT: I don't know. They all -- they all go
13 over there, though. That's why we're doing first trial
14 stuff. Go ahead and pick those up that you gave to the
15 court's -- court reporter over there. They all -- they
16 all -- they don't want to do it. She does. Okay. All
17 right. And then Maria can, once she sees all that, she
18 can tell us. She's got to label these first. Give her
19 a minute. How do you know what order these go in? You
20 put them in order, okay?

21 (Court's Exhibit No. 6 is marked for identification.)

22 MS. KNOX: Permission to proceed?

23 THE COURT: Yeah. Okay.

24 BY MS. KNOX:

25 Q. Detective, what am I showing you right now?

1 A. This is the single photo lineup that I showed the
2 victim.

3 Q. And do you see the victim's signature on that photo?

4 A. I do.

5 Q. And is that a fair and accurate depiction of the
6 Defendant's driver's license DMV photo?

7 A. Yes, it is.

8 MS. KNOX: Okay. I beg the court's indulgence.

9 THE COURT: Yeah.

10 BY MS. KNOX:

11 Q. And Detective, whenever you show this photo, did the
12 victim identify this person?

13 A. Yes.

14 Q. And who did she identify him as?

15 A. Kenneth Miller.

16 MS. KNOX: All right. No further questions for
17 this witness.

18 THE COURT: Okay. Ms. Ford, any questions
19 regarding this issue?

20 C R O S S E X A M I N A T I O N

21 **BY MS. FORD:**

22 Q. So when you had -- when you showed this picture to
23 Ms. Dukes, this was a few weeks after the incident;
24 correct?

25 A. Yes.

1 Q. And you had actually tried to -- you had been trying to
2 reach her, but there was no answer?

3 A. I don't remember if there was no answer or maybe a
4 family member answered said that she was busy.

5 Q. On this day you went to her house and she actually
6 didn't know you were coming?

7 A. Yes, she did not.

8 Q. And she asked if you could come back another time?

9 A. Yes.

10 Q. Because it wasn't the best time for her.

11 A. Right.

12 Q. So, you had another person with you, another ---

13 A. Detective.

14 Q. --- detective? And he said, "Oh, we just want you to do
15 this ID"; correct?

16 A. He asked her if she would be willing to look at a photo
17 and she said, "Yes".

18 Q. Okay. And so you showed her this photo?

19 A. Yes.

20 Q. And at this point Kenneth had already been arrested.

21 A. Yes.

22 Q. He was -- he had actually already been incarcerated for
23 several weeks.

24 A. Yes.

25 Q. So you -- you were the person who took his interview

1 weeks earlier; correct?

2 A. Yes.

3 Q. So, obviously, you knew that at the time when you met
4 with Ms Dukes.

5 A. Yes.

6 Q. And so you would not be called a blind -- you were not
7 blind; correct?

8 A. Correct.

9 Q. And typically with identifications, you stated earlier
10 that you were following policy regarding people who were
11 known; is that correct?

12 A. Right.

13 Q. Typically, the best policy when you do general
14 identification is you show six photos; correct?

15 A. If it is a unknown, not a established relationship, I
16 would do a six-pack photo lineup and I would not do it
17 myself unless I was the only person available to do it.

18 Q. Okay. And so that's what I -- going back to what I
19 referred to as blind, I forget the terminology
20 necessarily, but you typically, it's best practice to
21 have somebody I'm not involved in the case who doesn't
22 know the details, show it to pictures; correct?

23 A. If I was doing a six-foot pack photo lineup. Yes.

24 Q. And the point of that is so that the police don't
25 suggest something to the person that being

1 (indiscernible)

2 A. Right. Yes, ma'am.

3 Q. Because throughout your work, you're aware that there
4 are certain things that you may do, police may do either
5 intentionally or unintentionally to suggest (inaudible);
6 correct?

7 A. Yes, that it's possible. Yes.

8 Q. And so sometimes even though it may be all there is,
9 it's not necessarily ideal to have a single person show
10 up?

11 A. One more time. What are you asking me? I'm sorry.
12 You're asking me if sometimes it's not good to do a
13 single-photo lineup. Is that what you asked? I'm
14 sorry.

15 Q. It's not ideal to only present one person to
16 (indiscernible)

17 A. If -- if, again, if they did not have a longstanding
18 relationship, then I would not have done a single photo
19 lineup. But because she's known him many, many years, a
20 single photo to me was an okay thing to do.

21 Q. But in general, so if someone does not supposedly know
22 the person, you recognize that just showing them one
23 person would definitely be not ---

24 A. Yes.

25 Q. --- okay.

1 A. Yes, ma'am.

2 Q. Because the single photo does suggest this is the
3 person.

4 A. Right. You could say that.

5 Q. And another thing you typically do with identification,
6 the people who don't supposedly know the person you,
7 when you administer a lineup, you also give instructions
8 that the person may not even be ---

9 A. Correct.

10 Q. --- in this line up.

11 A. Correct.

12 Q. And in this case, when you did the line or the, you
13 showed the picture, there was no kind of instruction.

14 A. There was not. And I didn't tell her what the photo of
15 the person was going to be. So, it could have been --
16 it wasn't suggested whether this was a defendant, a
17 witness, a family member. I could have been showing her
18 a picture of anything. So, it wasn't suggested that
19 this was the defendant or a suspect in anything.

20 Q. Let me ask you, why did you show her -- why did you go
21 to get her identify picture weeks after an arrest has
22 been made?

23 A. Just to say that we had done it.

24 Q. Just to say you have done it?

25 A. Yes.

1 Q. And again, this was the -- you had your body cam turned
2 on?

3 A. I did.

4 Q. And it was only a few minutes ---

5 A. Less than three.

6 Q. --- before from the time you were outside waiting to get
7 in.

8 A. I think the total clip was three minutes. Right.

9 Q. And that includes waiting for someone.

10 A. I think so. I'm not sure.

11 Q. So it was pretty rushed, the whole thing?

12 A. I wouldn't say rushed. I think it was just, we were in
13 and out. She did not want to have a formal interview at
14 that time or an interview. And it was just looking at a
15 photo.

16 MS. FORD: Okay. I beg the court's indulgence? I
17 have no further questions.

18 THE COURT: Okay. Any other questions for this
19 witness? Is the body-worn camera going to be something
20 that's submitted to me for consideration?

21 MS. KNOX: Judge, can you repeat that? Sorry.

22 THE COURT: The body-worn camera footage, is that
23 something you're going to give to me for consideration?

24 MS. KNOX: Happy to do so.

25 THE COURT: All right.

1 MS. KNOX: I just have a couple of further
2 follow-up questions.

3 THE COURT: Yeah.

4 MS. KNOX: If that's okay?

5 THE COURT: Sure.

6 **R E D I R E C T E X A M I N A T I O N**

7 **BY MS. KNOX:**

8 Q. You were just asked about why you went to the house
9 several weeks after the incident. Did Ms. Dukes go to
10 the hospital?

11 A. She did.

12 Q. Did she undergo surgery?

13 A. She did.

14 Q. Do you remember how many days that surgery was?

15 A. I'm not -- I don't remember off-hand.

16 Q. Okay. Did you call her after that surgery to schedule a
17 time to come speak with her?

18 A. I think I called her the week prior. I want to say this
19 was maybe on Monday, and I called her that Friday to
20 say, asking if that would be a good time, if that was
21 enough recovery time.

22 Q. But to your knowledge, she was in the hospital after she
23 had extensive surgery?

24 A. Yes.

25 MS. KNOX: I beg the court's indulgence.

1 THE COURT: Yeah.

2 MS. KNOX: Judge, just to address something that
3 was put further to the body cam. We had only been made
4 aware of it yesterday. We gave it to Defense counsel as
5 soon as we got it, so we agreed we weren't going to use
6 it at trial.

7 THE COURT: Okay.

8 MS. KNOX: But if you would like to see it, we can
9 quickly burn a CD for it. It gets two minutes long.

10 THE COURT: If you're not using it, and I mean, I'm
11 here to satisfied.

12 MS. KNOX: Okay.

13 THE COURT: She's obviously here to testify?

14 MS. KNOX: Yes.

15 THE COURT: All right. Any other questions for
16 this witness?

17 MS. KNOX: No further questions for this witness.

18 THE COURT: Any from you?

19 MS. FORD: No, Your Honor.

20 THE COURT: Okay. You can step down and call the
21 victim next.

22 MS. KNOX: Yes.

23 THE COURT: Okay.

24 MS. KNOX: Judge, would you mind if I made the
25 arguments before the testimony of this victim?

1 THE COURT: Nope. Just kidding.

2 MS. KNOX: Still learning.

3 THE COURT: I like the enthusiasm. Got to wait
4 until all the testimony is reviewed. So, what I need is
5 a check to eight. Somehow got back to your table.

6 MS. KNOX: Yes, ma'am.

7 THE COURT: Thank you.

8 MS. KNOX: And State calls Juanita Dukes.

9 THE COURT: Juanita Dukes. All right.

10 MS. KOZIK: Judge, I did want to just check with
11 something very quickly. Ms. Dukes's daughter, Chante
12 Dukes, who was also on our witness list, was wondering
13 if she could sit in during this portion of the hearing.
14 I don't know if Defense counsel has made a sequestration
15 motion or has asked to sequester the witnesses. So, I
16 just wanted to know (inaudible).

17 THE COURT: Hey, Ms. Dukes, come on up. Take your
18 time. No rush. Nice to meet you. My name is Jennifer
19 McCoy. How are you doing?

20 MS. J. DUKES: I'm doing good, thank you.

21 THE COURT: All right. All right. Ms. Ford, would
22 you like to sequester the witnesses?

23 MS. FORD: Yes, Your Honor. I did include that in
24 my brief. So, typically I'd ask, other than my
25 investigator, who I don't intend to call, I just always

1 put them on just in case something random comes up.

2 THE COURT: Okay. Yeah. So I'll grant that. And
3 so we'll have to have you sit out in the hallway. I
4 don't anticipate it being too much longer that we will
5 sequester the witnesses; okay?

6 MS. KNOX: Okay.

7 THE COURT: Even for this purpose; okay?

8 MS. KNOX: Thank you, Judge.

9 THE COURT: Yeah. So you've got to sit outside.

10 Is Ms. Steinbrunner as well, or? No, she should be
11 able to stay, a case agent.

12 THE COURT: Everybody's got to go out in the
13 hallway. The case agent, is she your case agent?

14 MS. KOZIK: Detective Steinbrunner is our case
15 agent.

16 THE COURT: I don't know who anybody is. Y'all
17 better tell me. Don't assume I know anybody. Okay.

18 MS. KOZIK: Chante Dukes has been told to stay
19 outside.

20 THE COURT: Oh, she's already outside.

21 MS. KOZIK: Yes. I just wanted to reassure her.

22 THE COURT: Okay. All right. Okay. Has she been
23 sworn in?

24 THE CLERK: No, not yet.

25 THE COURT: All right. She can stay seated. It's

1 really fine. Okay. All right.

2 JUANITA DUKES,

3 having been duly sworn, testifies as follows:

4 THE CLERK: Please be seated. Now, please state
5 your full name into the microphone, spelling your last
6 name for the record.

7 THE WITNESS: My name is Juanita Dukes, D-u-k-e-s.

8 **D I R E C T E X A M I N A T I O N**

9 **BY MS. KNOX:**

10 Q. All right. Good afternoon, Ms. Dukes.

11 A. Good afternoon.

12 Q. Let's first start off by telling the court, how old are
13 you?

14 A. I'll be six -- I'll be 86 years old, [REDACTED], this
15 year.

16 Q. Okay. And have you ever testified in court before
17 today?

18 A. No, I haven't.

19 Q. Okay. We're going to get more into the details at
20 trial, but just very briefly, do you remember what
21 happened to you on January 4th of 2024?

22 A. My nephew shot me in my left right knee.

23 Q. Okay. The -- and you were at your home residence when
24 this happened?

25 A. Yes.

1 Q. And was it in the daytime or was it the evening time?

2 A. It was 10 o'clock in the morning.

3 Q. And how would you describe the lighting in your home?

4 A. Bright.

5 Q. Bright. Were you on any medications that morning?

6 A. No.

7 Q. And did you have a conversation with the Defendant that
8 day?

9 A. Yes.

10 Q. During this entire interaction, what was your line of
11 sight? And I can say, or rephrase it, were you looking
12 directly at the Defendant during this incident?

13 A. Yes.

14 Q. And how long have you known the Defendant?

15 A. All of his life.

16 Q. All of his life?

17 A. (No verbal response)

18 Q. Ms. Dukes, how long were you in the hospital after your
19 surgery?

20 A. After my surgery, about two weeks.

21 Q. Can you repeat that?

22 A. About a week.

23 Q. About a week?

24 A. (No verbal response)

25 Q. And do you remember law enforcement coming to your home

1 the following week after your procedure?

2 A. Yes, I do.

3 Q. And was anyone else present at your home?

4 A. My daughter, but she's -- but she's not able to get out
5 of bed and things anyway.

6 Q. Okay. Do you remember the detective showing you a
7 photograph?

8 A. Yes.

9 Q. And did you recognize that person in the photograph?

10 A. Yes.

11 Q. And how long did it take you to identify that person in
12 that photograph?

13 A. Right away.

14 Q. Right away? And how confident were you in that
15 identification?

16 A. Very.

17 Q. Did you have any hesitation before you identified him?

18 A. No.

19 Q. Did you say what that person's name was when you
20 identified him?

21 A. Yes.

22 Q. Did you say whether that person had any nicknames?

23 A. Yes.

24 MS. KNOX: I beg the court's indulgence. That's
25 all we have for Ms. Dukes, Your Honor.

1 THE COURT: All right. Ms. Ford.

2 C R O S S E X A M I N A T I O N

3 **BY MS. FORD:**

4 Q. Ms. Dukes, you testified that you've known Kenneth his
5 whole life?

6 A. Yes.

7 Q. Well, he had not really been around the family much in
8 the years leading up to this incident; correct?

9 A. Not that much.

10 Q. So, it had been quite some time since you had seen him
11 last?

12 A. No.

13 Q. When did you last see him?

14 A. Thanksgiving dinner.

15 Q. Who all was there?

16 A. The whole family, most of my family, and her family, the
17 whole family.

18 Q. Okay. So, that was over a month prior?

19 A. Yes.

20 Q. So, before that, though, he was never really coming
21 around?

22 A. He used to come around, like, maybe every three or four
23 months, he would stop by the house to ask me how I'm
24 doing. He would -- I would see him.

25 Q. But he's not someone that you would see every day?

- 1 A. No. I would see him every day.
- 2 Q. And you wouldn't talk to him every day or anything?
- 3 A. No.
- 4 Q. You lived in North Charleston at this time?
- 5 A. Yes.
- 6 Q. He lived in Goose Creek?
- 7 A. Yes.
- 8 Q. This day, how did the person come into the home method?
- 9 A. Through the back door.
- 10 Q. The back door? And was there a conversation between the
- 11 two of you?
- 12 A. When he came in, I was walking out of the bathroom, and
- 13 he came in the hallway, and I saw him, and I said, "Oh,
- 14 hi, Boo." Yeah.
- 15 Q. Okay. So, he came in on his own?
- 16 A. Yes.
- 17 Q. So, you didn't know he was there until you came out of
- 18 the bathroom?
- 19 A. Until I came out of the bathroom and he was in the
- 20 hallway.
- 21 Q. And what did he say when you asked him what he was doing
- 22 there?
- 23 A. He said, "Hi, Aunt Juanita, how you doing?"
- 24 Q. So, how long would you say he was there?
- 25 A. Long enough to shoot me.

1 Q. Well, how long, 10 minutes, two minutes, 30 minutes?

2 A. Longer than that. I'd say about 10 minutes or more.

3 Q. So, are you saying you had a conversation with him for
4 10 minutes?

5 A. Walking down the hallway, no, walking down the hallway,
6 going from my bedroom to the dining room to the living
7 room, and then in the den, and we stopped right there.
8 He wasn't talking to me as we were walking, he was just
9 saying, I was doing most of the talking, so I asked him
10 how he was doing, because I was glad to see him. And I
11 said, "Hi, Boo, how you doing?" We were talking, just
12 normal talking, as we walked around to go to the hallway
13 into the den.

14 Q. So, the two of you were walking through the house
15 together?

16 A. Yes.

17 Q. So, you weren't facing one another then?

18 A. He was walking through the -- walking down the hallway.
19 He had his arm around my waist as we walked down to the
20 den.

21 Q. And none of this you told the police before?

22 A. None, I told the police, yes.

23 Q. So, you talked to police when they came to your house;
24 correct?

25 A. Yes.

1 Q. And so, you never told them any of that?

2 A. No.

3 Q. And when Detective Steinbrunner came to your house and
4 was calling you, you never told her any of that either?

5 A. Talked to who? Who's that? Talked to who?

6 Q. Detective -- Detective Steinbrunner?

7 A. Uh-huh.

8 Q. So, she's the officer who came to your house? Remember
9 when you were testifying about pointing out the
10 photograph?

11 A. Yes.

12 Q. She had called you on the phone before that as well?

13 A. I remember.

14 Q. You never told her any of that as well?

15 A. She never asked me anything about this as well. The
16 only time she asked me was when they came to the house.
17 And I was talking to the prosecutor about this. I don't
18 remember talking to anybody about how he was walking
19 through the hallway and none of that. No, I don't
20 remember that. I don't remember.

21 Q. Okay. So, you don't remember what you told the police?

22 A. I remember I told the police that -- that Kenneth Miller
23 shot me, yes. I remember that.

24 Q. You did say that?

25 A. Yes.

1 Q. Now, before you called the police that day, you called
2 several family members?

3 A. Yes. I was on the phone talking to his mother. I was
4 talking to his mother and I thought, he's (inaudible), I
5 gave her the phone because she wanted to talk to him.
6 And when I got shot, when he shot me, I called Ethel
7 first, that's his mother. And I said, "Boo shot me in
8 my knee." Then I called my daughter and I said, "Boo
9 shot me in my knee." I called my son and I told him the
10 same thing. Then I called 911 and I told them what
11 happened, where I was and what happened.

12 Q. Okay. So, by the time you called 911, they were
13 interested in you giving a description of who shot you?

14 A. Yes.

15 Q. And you told them the guy, you thought he was wearing a
16 burgundy shirt?

17 A. Burgundy shirt and khaki pants.

18 Q. Okay. And you did not know his age?

19 A. His age?

20 Q. Correct.

21 A. At the time, I don't know if I mentioned his age or
22 nothing. I don't know if they asked me about his age.
23 They didn't ask me about his age. I told them, "My darn
24 nephew shot me."

25 Q. You didn't give them the description of his hairstyle?

- 1 A. They didn't ask me about his hairstyle.
- 2 Q. Well, they -- they wanted to know a description, though?
- 3 A. Only been there, I told them, I said -- I called them, I
- 4 said, "I live -- my name is Juanita Dukes. I live [REDACTED]
- 5 Easton Street, North Charleston, South Carolina. My
- 6 darn nephew just shot me." That's what I told 911.
- 7 Q. Okay. So, you gave the name, but there wasn't really a
- 8 description of what the person looked like other than a
- 9 burgundy shirt and khaki pants; correct?
- 10 A. When they asked me about the burgundy shirt and khaki
- 11 pants, I remember twice I said, "Kenneth Miller shot
- 12 me." I said that twice. "Kenneth Miller shot me."
- 13 Q. Now, you're wearing glasses today. Were you wearing
- 14 glasses that day?
- 15 A. No.
- 16 Q. Okay. Why weren't you wearing your glasses?
- 17 A. Because I just got up in the morning. I don't wear
- 18 glasses as soon as I get up out of bed.
- 19 Q. Okay. Well, I mean, my eyes are really bad. How bad
- 20 are your eyes? Are they not bad? How bad are they?
- 21 A. Bad enough for me to wear glasses.
- 22 Q. And for distance or reading or both?
- 23 A. For both.
- 24 Q. And how long have you been wearing glasses?
- 25 A. Since I was about 40.

1 Q. So over 40 years?

2 A. Yes.

3 Q. Do you know how long after the person left? Since you
4 made, you know, a few calls in that time period, how
5 long was it before you called police after the person
6 left the house?

7 A. Called the police? I called 911. They were the last
8 person that I called. I told them who I called. I
9 called Ethel, my sister. I called my daughter. I
10 called my son. Then I called 911.

11 Q. Right. So, do you know how long did it take you to get
12 through those three calls first?

13 A. How long it took me?

14 Q. Yeah.

15 A. I don't remember how long it took. The only thing I
16 know is I called them. I don't know how long it took.
17 It didn't take that long because as soon as I got off
18 the phone to call the 911, the police officer was
19 walking into my back door. I told him that the door --
20 come through the back door because the front door was
21 locked. When he came in, he came in and put a
22 tourniquet around my knee.

23 Q. Okay.

24 A. I don't know how long that took. I was shot. I don't
25 take time to find out how long it took me to call or

1 anything like that.

2 Q. Okay. But you're not sure of how long the person was at
3 your house that day?

4 A. Can't be that long. From walking from my bedroom to my
5 living -- to my living room, my dining room, and then to
6 the den. It don't take that long. I'll say about 10
7 minutes, give or take.

8 Q. And most of that time, he -- the person was to your
9 side?

10 A. Yes, until he walked to the door.

11 Q. And that person was wearing a burgundy shirt?

12 A. Yes.

13 Q. And what was the hairstyle that day?

14 A. His hairstyle? In cornrows.

15 Q. Can you recall what other clothing items he had on?

16 A. Khaki pants.

17 Q. Anything else?

18 A. No. I didn't see what kind of shoes he had on, no. I
19 didn't pay attention.

20 MS. FORD: I beg the court's indulgence.

21 THE COURT: Sure.

22 BY MS. FORD:

23 Q. You testified earlier that you were not on any
24 medication that day?

25 A. No, I didn't take any medicine that day.

1 Q. But were you supposed to be on any medication that day?

2 A. I just left the doctor that Tuesday, and he took me off
3 my blood pressure medication and my diabetes medication.
4 And my blood pressure medication.

5 Q. So he took you ---

6 A. Off my blood pressure medicine and my diabetes medicine.

7 Q. Okay. So, you just went cold turkey off of these meds?

8 A. When? Yes.

9 Q. Okay. How long had you been taking them?

10 A. I've been taking them for about -- about 10 or 15 years.
11 I was taking my blood pressure medicine and my diabetes
12 medication. But I can explain. I go to the doctor
13 every three months. And then after he took -- took the
14 tests and whatever, that's when it went back to him. He
15 didn't take me off the medication because I guess he
16 knew then that I didn't need them anymore.

17 Q. So, you'd only gone off them about two days prior? Is
18 that what you're ---

19 A. (No verbal response)

20 Q. It was only about two days prior; is that correct?

21 A. Yes.

22 Q. And you testified that the lighting was bright in your
23 house. And I know it was daytime, but did you have any
24 lights on the house? Or just it was light from the
25 windows, from outside?

1 A. I had lights from all the windows and I had lights from
2 the light coming through the house because I was just
3 getting up. And my son left and the light was on all
4 through the house in the living room and in the den. I
5 had lights.

6 Q. Okay. Did you say you had just gotten up?

7 A. Not too long, yes. About 10 o'clock, yes.

8 Q. How close -- I know you described that he was to your
9 side kind of walking with you through the house a good
10 bit of the time. But when he was facing you, how close
11 was he to you?

12 A. Right from here (indicating). I was standing here and
13 he walked over to the door. So, from here to about to
14 the beginning of that desk.

15 Q. Which desk?

16 A. Right here (indicating). You want me to describe what I
17 was doing? You want me to get up?

18 Q. What were you doing? You're saying from this desk?

19 A. I'm saying I was like right here is where I was walking,
20 this is where the den starts right here. And you had to
21 walk maybe not a few feet to about right there to where
22 the door was. The entrance door was coming out the
23 house where the door was. He was -- that's when he
24 walk, he left me there and he walked over to the door.

25 Q. Okay. So, he wasn't right in front of you then?

1 A. No, I was right here, yeah, he was in front of me.

2 Q. But how far? Closer -- closer than I am to you, or?

3 A. Closer. About right there.

4 Q. About right there?

5 A. Yes.

6 THE COURT: All right. Let it reflect that's about
7 five to five-and-a-half feet maybe.

8 MS. FORD: Thank you.

9 BY MS. FORD:

10 Q. And you were not expecting Kenneth to come over that
11 day; correct?

12 A. No.

13 Q. So, he had not called you to tell you he was coming
14 over?

15 A. No.

16 MS. FORD: No further questions.

17 THE COURT: Any redirects for this witness?

18 MS. KNOX: Just a couple.

19 R E D I R E C T E X A M I N A T I O N

20 BY MS. KNOX:

21 Q. Ms. Dukes, after you were shot, did you feel the need to
22 describe what Kenneth Miller looked like to dispatch?

23 A. No.

24 Q. Did the person who shot you speak to you?

25 A. Yes.

1 Q. And do you know your nephew's voice?

2 A. Yes.

3 Q. And do you call anyone else "Boo"?

4 A. No.

5 MS. KNOX: That's all. Thank you.

6 THE COURT: All right. Ms. Ford, anything else at
7 this time?

8 MS. FORD: No, Your Honor.

9 THE COURT: Okay. Ms. Dukes, she can come off the
10 stand and have a seat back in the -- out in the hallway
11 with the family members. While she's walking out, does
12 the State have any other witnesses they wish to call?

13 MS. KNOX: No witnesses for the Biggers' hearing.
14 Just some arguments to make.

15 THE COURT: Ms. Ford, do you have any witnesses you
16 wish to call?

17 MS. FORD: No, Your Honor.

18 THE COURT: All right. All right. I have to hear
19 from you all. I guess I'll hear from Ms. Ford first.

20 MS. FORD: Thank you, Your Honor. We think the
21 showing of the one picture is inherently suggestive. We
22 understand that their procedure is just that -- well, we
23 think they know the person and that's all we do. But
24 that's under the assumption that the person's correct in
25 identifying the person, saying that they know that

1 person.

2 Typically, they would not have an officer who knew
3 the case, especially not an officer who knew and who had
4 personally met with and talked to the person they're
5 trying to get ID'd. So, we do think that the one person
6 ID is inherently suggestive. It also was done -- the
7 whole process of the officer even being outside the door
8 waiting to be let in and being finished with the ID only
9 was like, as the officer testified, maybe three minutes.

10 The witness did not even want to do the -- she
11 didn't want to talk to police that day, but then when
12 they're like, "Oh, it's just this one thing", she agreed
13 to do it. So, they didn't give any kind of instruction.
14 So it was a very rushed thing just because the victim
15 was not --had not known they were coming. So we do --
16 we do think it's inherently suggestive, Your Honor.

17 As far as the identification, while she does
18 testify that my client is her nephew, whom she's known
19 her whole life, she acknowledges that he's not someone
20 she would see on a regular basis, maybe a handful of
21 times a year. It doesn't sound like they have any
22 relationship where they're talking to one another. She
23 had no reason to think, like there wasn't a message from
24 my client saying I'm on my way over or a call
25 beforehand.

1 She -- specifically, she testifies to two things
2 that I found concerning about her ability to identify my
3 client. First of all, she says that she was not wearing
4 her glasses, which she does typically need and had been
5 wearing for over 40 years. So, we do find that of
6 concern.

7 And then in addition, she was not on medicine, but
8 she had literally just gone cold turkey off medicine she
9 had been taking for a decade plus, two days prior. So,
10 we have that and the fact that she had just woken up not
11 that long previously. She seemed a little uncertain of
12 how long the person was there. Ultimately, she said
13 maybe 10 minutes, but she did not. Most of the time, it
14 sounds like the person was walking to her side.

15 She testified that when she was looking straight at
16 him, he was maybe about five feet away from her. And
17 because of not wearing glasses, that's why we bring that
18 up, that could have caused issues in the ability to
19 identify my client. She did not give much of a
20 description at the time.

21 Two, when she called 911, she essentially, you
22 know, just said she didn't really know his age. The
23 black male, she said burgundy shirt. My client was not
24 wearing a burgundy shirt, as you'll see if you watch the
25 interview clips. He was wearing a black shirt, no

1 burgundy shirt was recovered. So, we just think all of
2 that together, we think that the -- her identification
3 should not be allowed in.

4 THE COURT: All right.

5 MS. KNOX: Thank you, Judge. The purpose of this
6 Denno hearing is where the Defendant and the Defense has
7 to prove by preponderance of evidence that this ID was
8 impermissibly suggestive and that the witness's ID is
9 otherwise unreliable.

10 In Ms. Ford's brief, she states that because the
11 detective who had prior knowledge of this case and had
12 someone in custody, this was a factor in this ID being
13 impermissibly suggestive. I would say that just because
14 a detective on this case knew the facts before this
15 formal ID does not mean that, but instead reliability is
16 the central factor to be discussed.

17 Courts have ruled that reliability is the linchpin
18 in determining admissibility and that reliability is
19 determined by the facts. There are several factors, and
20 I'm not going to go over them all, but I'll briefly just
21 state that the Defendant is the victim's nephew. She
22 has known him for over 40 years. She has personal
23 knowledge of the Defendant. She had seen him several
24 times before, most recently from Thanksgiving, only five
25 weeks prior.

1 And courts have ruled that where a witnesses --
2 where a witness knows the accused, the show-up ID
3 procedure that could normally be considered unduly
4 suggestive is merely conformatory in those
5 circumstances.

6 To directly address something in Ms. Ford's brief,
7 she states that the single photo ID was done several
8 weeks later. That is not the case, Judge. It only
9 happened nine days later.

10 And as for the witness's ability to clearly view
11 the Defendant, the shooting -- the shooting occurred
12 around 11 A.M. She was the only one inside that home,
13 aside from her daughter that's confined to that one
14 bedroom. In the minutes leading up to the shooting,
15 Ms. Dukes and the Defendant were engaged in a
16 conversation. He had his arm around her when he walked
17 her from the bedroom area to the den, and then they
18 faced each other. He was directly in her line of sight.
19 They had a conversation in those moments when he was
20 directly in her line of sight.

21 As for the certainty aspect of reliability,
22 Ms. Dukes was taken off medication the morning before
23 the shooting, and I feel like saying quitting meds cold
24 turkey is misconstruing the fact that a doctor gave her
25 a clean bill of health to be off those medications. And

1 to this day, as far as certainty is concerned, she has
2 never changed her identification. She has been certain
3 that Kenneth Miller was the person who shot her.

4 Just a couple other points as it relates to her
5 prompt and consistent ID. Ms. Duke -- Ms. Dukes called
6 three family members, and she told every single one of
7 them that Boo had shot her. She told the 911 dispatch
8 that her nephew had shot her. She told the first
9 responder twice that Kenneth Miller had shot her. She
10 identified Kenneth Miller in that ID procedure
11 afterwards. And to this day, she has never waivered in
12 that identification. She has remained steadfast and
13 consistent in that identification.

14 And then just the last point as to the witness's
15 prior knowledge of his identity. Although Ms. Dukes has
16 other nephews, there is only one that goes by Boo. The
17 Defendant has been called Boo his entire life. And
18 additionally, the Defendant has actually lived with
19 Ms. Dukes at that home when he was a teenager. But
20 although this was 20 years ago, she knows her nephew.
21 That is her family member. She knows his voice. She
22 knows what he looks like. And she's watched him grow up
23 for his entire life.

24 And because courts provide that reliability is the
25 central issue, and that reliability is determined on the

1 facts, those are the facts as presented, and her ID is
2 reliable, and the procedure was not unduly suggestive.
3 And under the totality of the circumstances, we ask for
4 those reasons that you deny the Defendant's motion to
5 suppress that ID.

6 THE COURT: Okay. All right. Well, I do think the
7 ID process was unduly suggestive. However, that takes
8 me to the next step in my analysis, which is whether the
9 ID -- out-of-court ID was so reliable that still no
10 substantial likelihood of misidentification exists,
11 which I do find, based on the fact that this was a
12 family member, a relative, a nephew she testified she
13 knew. This happened in the morning in bright light.
14 She obviously had a good line of vision on this
15 gentleman. She had spent several minutes, at least 10
16 minutes, according to her testimony in the house. So
17 it's not like it was a quick in and out. I'm not sure
18 who I saw. I mean, this is somebody she testified she
19 had a conversation with. She knew him. There's no
20 doubt that she knew who he was.

21 You know, obviously, she right away was very
22 confident and no hesitation in the picking out of the --
23 of the photo once shown because it was, in fact, her
24 nephew who she knew. And even though maybe, I don't
25 know, there's something about some testimony was

1 elicited about not seeing him as much, she still
2 testified she'd just seen him on Thanksgiving. She saw
3 him every three or four months. You know, again, they
4 were having a conversation. She knew this person. So I
5 don't -- I don't find that even though the process of
6 the photo may have been suggestive, I still think that
7 the identification is so reliable that I will allow it
8 to come in to court during the trial.

9 So just to go over and hit the factors, some of
10 these that go into my analysis, again, the opportunity
11 for her to have seen him, discussed that both in length
12 of time and proximity, the witness's degree of
13 attention. Obviously, again, she was holding a
14 conversation with him. There weren't like she didn't
15 testify there were, you know, 100 people in her house or
16 anything like that. I mean, she was just talking to
17 Scott, who she identified as a defendant or nephew. The
18 accuracy of her prior description, I think, you know,
19 she gave an accurate description of him. She might have
20 gotten the shirt color wrong, but apart from that, I
21 think everything else was accurate because she knew who
22 he was.

23 Level of certainty demonstrated, again, was very
24 high with her. And then the amount of time between the
25 crime and the confrontation, you know, nine days or

1 whatever it was, certainly it didn't take so long that
2 she would have forgotten or there would be some issue
3 there. So, you know, she was in the hospital. I
4 understand why they couldn't go show this to her right
5 away or talk to her right away and bring her ID. So
6 that said, over the Defense's objection, I will allow
7 the ID in during the trial.

8 The other rulings on these issues that I have not
9 made, I'll take a look at and just issue first thing in
10 the morning when we get started. The jury's has been
11 told to be here at 9:30. So, we'll start then and have
12 your witnesses ready; okay? All right. See you all in
13 the morning.

14 MS. KNOX: Thank you, Judge.

15 THE COURT: Hang on. It's okay. Thanks. Oh, I'm
16 back in. If you're not sure, we just do it. I don't
17 play this. I can't backtrack it. So, let's just put it
18 on the record; okay?

19 MS. KOZIK: This is as it relates to yesterday you
20 instructed us to redo the indictment for the special
21 department during the commission of a violent crime.

22 THE COURT: Did you amend that indictment to
23 reflect the correct charge?

24 MS. KOZIK: Yes. We have done that. I -- I wanted
25 to ask you, more so the clerk, what you would like --

1 the procedure that you would like us to follow to get
2 that to you and to file it. We just need to know.

3 THE COURT: We probably need to talk to James about
4 that. I don't think this rookie clerk over here is
5 going to be able to answer that question. But
6 typically, I believe they staple it to the initial one.

7 MS. KOZIK: Okay.

8 THE COURT: And then have you signed it already? I
9 have the originals in my hand.

10 MS. KOZIK: It is signed.

11 THE COURT: Has the Solicitor already signed the
12 indictment? All right. Just show it to Ms. Ford and
13 make sure it matches the charge to which he's charged.
14 I'll just put the ABHAN instead of attempted murder.
15 Just a lesser clue included.

16 So, for the record, she's talking about indictment
17 2024-GS-10-04795 for possession of a weapon during the
18 commission of a violent crime. Can you hand it up to
19 me? The original indictment stated that in Charleston
20 County, South Carolina on or about January 4, 2024, the
21 Defendant, Kenneth Miller, Jr., did possess a firearm or
22 did visibly display what appeared to be a firearm or did
23 visibly display a knife during the commission of or
24 attempted commission of a violent crime to wit:
25 attempted murder. The amended indictment says to wit:

1 assault and battery of a high and aggravated nature.

2 It still cites the same code that it violates,
3 which would be 16-23-490. It's just been amended to
4 replace the corresponding charge since the State later
5 true billed him for assault and battery of a high and
6 aggravated nature. And I will allow that to be
7 amendment as I stated yesterday. I believe, to answer
8 your question of what actually happens. I believe that
9 they will staple these together. We'll confirm that
10 tomorrow morning with the clerk's office. But all of
11 these indictments remain on the bench until that time;
12 okay? All right.

13 MS. FORD: Thank you.

14 THE COURT: Thanks.

15 MS. KNOX: Thank you, Judge.

16 THE COURT: See you all in the morning.

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24 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED AT

25 5:20 P.M.)

CERTIFICATE OF TRANSCRIBER

I, Jennifer Jaeger, 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 9 of Charleston County, South Carolina, on the 10th day of June, 2025.

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

Jennifer Jaeger

Jennifer Jaeger, Reporter

Notary Public for S.C.

Commission Expires: 10/28/2032

1 CONTINUATION OF PROCEEDINGS - JUNE 11, 2025

2 MS. KOZIK: Before the jury comes in, I think it
3 may be a small matter of law. I think we could
4 proactively take up before the jury comes in. Let's
5 discuss a little bit about the board about that. So, if
6 you want to hear it now, you can.

7 THE COURT: Sure. I'm trying to figure out what's
8 the buzz going on back there. Okay. Sure. Go ahead,
9 Ms. Kozik. Happy to hear from you.

10 MS. KOZIK: So, yesterday, during pretrial,
11 Ms. Ford was questioning the victim, Juanita Dukes,
12 about her medications.

13 THE COURT: Okay.

14 MS. KOZIK: And I believe that line of questioning
15 goes to, you know, her perception, how she perceived
16 things. And I think Ms. Ford is entirely within her
17 rights to ask her about -- Ms. Dukes, specifically about
18 her medications. What she was on, what she was not on,
19 and how she believed it affected or didn't affect her.
20 But I do think it would be improper for her to suggest
21 to the jury. I don't know if she plans on doing an
22 opening, which is why I'm bringing it up now.

23 I think it would be improper for her to suggest to
24 the jury, just because she went off, say, a blood
25 pressure medication, that it would affect her

1 perception, unless she plans on bringing a doctor to
2 testify to that fact and how going off of a medication
3 may or may not affect a patient. I think it assumes
4 facts that wouldn't otherwise be in evidence.

5 THE COURT: Okay.

6 MS. KOZIK: It would be improper to suggest to the
7 jury. So, I discussed that with Ms. Ford, but I just
8 wanted to make that motion before we talked to the jury.

9 THE COURT: Okay. All right. Well, we'll have to
10 just see what happens. Object at the appropriate time,
11 if and when it comes up.

12 MS. KOZIK: Okay.

13 THE COURT: All right. WJ, what was the message
14 from the alternate?

15 THE CLERK: What happened is he didn't call the
16 jury line and that he was supposed to call back.

17 THE COURT: Oh, so he just didn't listen to the
18 instruction about Judge McCoy's panel. He listened to
19 the rest of the message that said call back after six?

20 THE CLERK: It seems like that. It seems like he's
21 not even on his way.

22 THE COURT: Not even on his way? Well, I'm going
23 to go forward with that, and I'll just move, I'll draw
24 an alternate. Any objection to that?

25 MS. KOZIK: No objection.

1 THE COURT: State? Any from the Defense?

2 MS. FORD: No, Your Honor.

3 THE COURT: Okay. So, what we'll do at this time,
4 then, is let me get my juror list. And, WJ, I never
5 got, like, the final list. Do you have one of those you
6 can print out for me, or? Don't worry about it. We'll
7 go with this. So our alternates -- don't worry about
8 it. I got it. It's fine. We'll use the chart. Yeah,
9 that's what I mean. Thanks.

10 All right. Our alternates are 159, which I'm
11 writing on this piece of paper, and 21. Okay. I need
12 an empty cup or something. Caitlin, you got anything
13 around here? That'll work. Okay. Thanks.

14 All right. So, I'm going to put both of them in
15 the box, and -- make sure they don't stick to the box.
16 All right. Mix them up. All right. My law clerk's
17 going to draw a number out. Thank you. She drew 21.
18 Twenty-one will move over to our main body of the jury.
19 Okay. Twenty-one. That was the second one in order.
20 Alternates chosen. All right. Number 21 will be moved
21 over to the main body. One hundred sixty-nine will be
22 replaced with 21. All right. That's done.

23 Now, we need to go back over a few things from
24 yesterday. Stick together here. All right. I made a
25 ruling on the Biggers matter. As to the GSR, based on

1 the case law reviewed, I'm going to allow that evidence,
2 so your suppression motion is denied.

3 On the body-worn camera footage issue, which ended
4 up now being the two-minute audio and the screenshots, I
5 certainly don't find any of those to be overly
6 prejudicial. I think that the probative value, you
7 know, would outweigh it, even on the one where they're
8 holding up the bullet and it reflects the type of shell
9 casing or whatever, I guess it was, rather.

10 And I think the small pool of blood in the
11 background is really -- really minimal. It's certainly
12 not focused on in the picture. I don't -- I don't find
13 it to be overly prejudicial at all. Gosh, these are
14 pretty vanilla pictures compared to most, so I certainly
15 don't think any of them rise to the level that they
16 would need to be suppressed for prejudice to the
17 Defendant, or even edited further. I frankly edited it
18 further than I think was necessary at all, but that's
19 what the State chose to do, so that's we do -- that's
20 what they decided to submit, is the way that they
21 narrowed it down to the two-minute audio and just the
22 screenshots.

23 So, that takes us to the Denno matter regarding the
24 statements he made. I don't have any problem with any
25 of those statements. You know, I don't think they

1 violate any of the tenets that would give rise to them
2 being involuntary or anything of the like. I think, you
3 know, certainly they were voluntarily given. He was
4 obviously read his rights. Nothing about the statements
5 appear that they were not freely and voluntarily made
6 under the rights that he had pursuant to Miranda. I
7 don't find them to have been made under threat or duress
8 or coercion or any promises made or anything of the
9 like. Certainly, he seemed to be of sound mind and body
10 at the time he made the statements, so I don't have any
11 issue with those coming in as well.

12 Again, I don't -- I don't, you know, the State can
13 put it in however they want to try their case. They've
14 elected to have three very short snippets. Certainly,
15 you know, Ms. Ford, if there are other snippets of the
16 interview you want to put in to provide more context,
17 you certainly would have the opportunity to do so as
18 well; okay?

19 So with that, I think that's everything I needed to
20 highlight. I have a roll to go on. Is there anything
21 else I'm missing? Anything else from the State or the
22 Defense before the jury comes in?

23 MS. FORD: Your Honor, just specifically about the
24 statements you're allowing in, just because I don't
25 think you -- I believe from your -- your comments that

1 you found that it was okay to just specifically the part
2 about the detective telling him, we have your car on
3 video.

4 THE COURT: Right. And, you know, I -- I listened
5 back to that question several times. I don't find that
6 to have been overly coercive or even overly suggestive.
7 I mean, certainly, that falls within the line of
8 interrogation tactics that our courts have deemed
9 allowable in, you know, eliciting information.

10 Now, certainly, though, you know, that's something
11 that's sort of part of that instruction that the jury
12 gets at the end, that they can make considerations and
13 -- and whether or not, you know, they believe the
14 statements were made under threat or coercion. So,
15 certainly, it could be argument. You could certainly
16 argue that to the jury. I have no issue with that. But
17 in terms of admissibility at this point, I don't find
18 that it rises to the level of not being admissible at
19 trial. Okay.

20 MS. FORD: Well, that part, I don't -- It's the
21 detective statements. So, I'm not saying that my
22 client's will was overborne in that situation.

23 THE COURT: Right.

24 MS. FORD: I'm arguing that it's the detective,
25 basically, testifying, misleadingly, telling my client,

1 we have your car on video when the fact, the truth, is
2 they have a car that looks like it could be his car, but
3 the way she's saying it, it suggests that they have
4 evidence that definitively it is his, which is
5 misleading.

6 THE COURT: Okay. I mean, again, like, I think
7 that's something that she could certainly ask her on the
8 cross and I anticipate that she will on cross
9 examination, but I don't think that that renders that
10 portion of video itself inadmissible, just to be clear.
11 Yeah. Thank you. All right. What else? Anything else
12 before we begin?

13 MS. KNOX: Just briefly, Judge, about scheduling.
14 We plan to introduce chain of custody. Those witnesses
15 are in Columbia, South Carolina. Today, I believe there
16 are seven witnesses before we intend to introduce chain
17 of custody. I didn't know if you had any indication of
18 whether we should wait to call them tomorrow morning to
19 give them ample notice to come down from Columbia, or if
20 you had any idea of how you wanted to go about that, if
21 any?

22 THE COURT: I really can't. I'm not trying to be
23 difficult. Y'all -- y'all run the train. I'm just
24 here. To call balls and strikes. Okay? I can't tell
25 you what to do with your witnesses or when to get them

1 ready; okay? That's directly your job. All right.

2 Anybody else before we begin?

3 MS. FORD: No, Your Honor.

4 THE COURT: Okay. We'll bring in the jury then.

5 Thank you, Mr. Hall. If you're asking me how late at
6 night I go, I don't go past 5 typically, which is what I
7 said Monday; is that fair?

8 MS. KNOX: Yes.

9 THE COURT: All right.

10 MS. FORD: Your Honor, there is the witness
11 question, the daughter. I don't remember. The State
12 was going to have her testify that the victim called her
13 and said, Boo shot me. And then also they wanted her to
14 testify as to care and everything. From my reading of
15 her medical records, it looks like it was another
16 daughter who was the primary one that they were calling.

17 THE COURT: I think I just said yesterday that
18 we're going to take that up when she's called and when
19 the line of questioning begins. And if we have to
20 excuse the jury, we certainly will. But until we get to
21 that point, I just can't.

22 MS. FORD: Okay.

23 THE COURT: I'm sorry. But I did hear you. You
24 did make that clear.

25 MS. FORD: Thank you.

1 THE COURT: Okay. Oh, and I didn't tell y'all, I
2 don't think, but they have this jury like at the total
3 opposite end of the hallway. So just know it's going to
4 always be these like long waits whenever they're coming
5 back and forth. Welcome back, Ms. Brown. If you need a
6 break or anything, just let us know; okay?

7 MR. BROWN: I appreciate it.

8 (Jury enters the courtroom)

9 THE COURT: Come on in. Y'all can have a seat,
10 jurors. Thank you so much.

11 THE BAILIFF: All jurors are present, Your Honor.

12 THE COURT: All right. Thank you very much.
13 Everybody can be seated. Welcome, ladies and gentlemen.
14 Good morning. Thanks for being on time this morning.
15 We will get started here briefly.

16 Juror number 21. Where's 21? Oh, yeah. You can
17 have a seat. You will now be moved over to the main
18 body of the jury; okay? So, you are no longer an
19 alternate. We can play musical chairs later. Or he
20 might have to switch now. But while we always select
21 two alternates. Okay.

22 So, with that said, we will get started, ladies and
23 gentlemen. Good to see you again. My name's Jennifer
24 McCoy. I'm the judge in this case. I'm not the most
25 important person in this room. However, is the person

1 seated to my right. And that is the court reporter.
2 She is taking down every word that is said during the
3 trial of this case and making a record.

4 To my immediate left is my law clerk, Ms. Simmons.
5 She is doing a one-year rotation clerkship with me this
6 year. She does research for me in all sorts of
7 different things, communication with attorneys and all
8 sorts of stuff. So she'll be in and out of the
9 courtroom if you see her get up and, you know, move
10 around and leave and come back during the trial. That's
11 normal. She's just doing some things for me. I've got
12 all sorts of things going on at all times.

13 You've already met your bailiffs, of course.
14 They're your ambassadors to the court. If you need to
15 get me a message or anything like that, or you have a
16 problem, let them know first. And then they'll get the
17 message to me or whoever can best handle your situation
18 that you have arisen, if something arises for you; okay?

19 Of course, you've got some sheriff's deputies in
20 the courtroom. They're not in their police officer
21 uniforms. They're wearing coats and ties, but they are
22 sheriff's office deputies. Charleston County Sheriff's
23 Office has jurisdiction over this Charleston County
24 Courthouse. They'll come in and out. They'll talk on
25 their little headpieces like this from time to time.

1 They change shifts and move around different courtrooms
2 in the building. All that's normal and part of what
3 they do all the time. So don't be alarmed if you see
4 them coming in and out or switching places or talking to
5 each other or anything like that; okay?

6 Of course, you've got lots of folks in the
7 courtroom. Some of them might be interested in the
8 outcome of the trial. Some of them are just members of
9 the public. Some of them have recently graduated law
10 school, and they have to come watch a certain number of
11 trials before they are released out into the wild on
12 their own to try cases. So, don't try to associate any
13 meeting with who's sitting where and who's in and out of
14 the courtroom. It's just a public building. You
15 yourselves can come in at any time you want and watch
16 court if you felt like it, okay?

17 We will talk in just a minute about the attorneys
18 at the tables. You met them during the jury
19 qualifications as well as the party. They will
20 introduce -- or I will introduce them to you again here
21 momentarily, and then we will begin opening statements
22 in the case.

23 The State or Solicitor's office sits closest to the
24 jury because they bear the burden of proof in this case,
25 and that's how you know who sits where and the Defense

1 sits at the other table, okay, because they do not bear
2 the burden of proof. We're going to talk a little bit
3 more about that momentarily, but I just kind of wanted
4 to give you an overview of the courtroom and who all is
5 in here and what's going on because we know you all
6 don't get to see this like we do every day; okay?

7 Before we begin the trial, I'm going to tell you
8 that this is going to be a little bit different than
9 what you might expect. Many people don't have the
10 chance to attend court like you're doing today, and so
11 they might think from reading John Grisham novels or
12 watching Law and Order that the courtroom is always full
13 of riveting circumstances and exciting things. That can
14 be true from time-to-time.

15 However, it's my job to remind you that this trial
16 is not for your entertainment. This is a serious matter
17 between the State and the Defendant, and we expect you
18 to take it seriously and be ethical in exercising your
19 duties as jurors.

20 This is the case of the state of South Carolina
21 versus Kenneth Miller, Jr. At this time, I'm going to
22 ask the Clerk of Court to have you rise and swear you in
23 for the trial of this case; all right? Yes, sir.

24 THE CLERK: Will the Defendant please stand?
25 Ladies and gentlemen of the jury, please stand and raise

1 your right hand to be sworn in.

2 (Jury is sworn in.)

3 THE CLERK: If you have accepted this oath, please
4 be seated. If you have not accepted this oath, please
5 remain standing. Let the records reflect that all
6 jurors have been seated.

7 THE COURT: Thank you so much, and you may be
8 seated as well. Thank you. Ladies and gentlemen, what
9 I will now say is intended to serve as an introduction
10 to the trial of this case. These remarks are not a
11 charge on the law. That's going to come at the very end
12 of the trial, okay? I will instruct you on the law at
13 the very end right before you retire to consider your
14 verdict. What I'm going to tell you right now is just
15 sort of another explanation of the procedure that's
16 going to follow during the course of the trial so that
17 you kind of have an idea of the order of things that you
18 can expect to see; okay?

19 All right. Ladies and gentlemen, the Defendant is
20 charged in indictments, and once again, as I explained
21 Monday, indictments are just pieces of paper through
22 which charges are brought to court. They are not
23 evidenced in any way, shape, or form; okay? And those
24 indictments charge Kenneth Miller, Jr. with assault and
25 battery of a high and aggravated nature, possession of a

1 weapon during the commission of a violent crime, and
2 possession of a firearm by a person prohibited by law.

3 It's going to be your duty, ladies and gentlemen,
4 to decide whether the State meets their burden of
5 proving each of the elements of these indictments beyond
6 a reasonable doubt. Your purpose as jurors is to find
7 and determine the facts of the case that is presented
8 during the trial. You are the sole judges of the facts.
9 You are to determine the facts from the testimony that
10 is elicited from the witness stand right there, from
11 people who are placed under oath, as well as any other
12 documents or evidence that are introduced during the
13 course of the trial. It is up to you to determine the
14 inferences which you feel may be properly drawn from the
15 evidence.

16 On the other hand, and with equal emphasis, the
17 same law that makes you the judges of the facts makes me
18 the judge of the law. The law as given by the court is
19 the only law you may consider. You must accept and
20 apply it even if you disagree with the law. I cannot
21 tell you what the facts are, and you cannot disagree
22 with me about what the law is or should be. Your job
23 will be to take the law as I give it to you and apply it
24 to the facts as you find them from the testimony of the
25 witnesses and any other evidence that is introduced

1 during the course of the trial.

2 After doing that, you will retire to your jury room
3 and reach a verdict under the oath that you just took as
4 jurors. Until I advise you to begin your deliberations,
5 you must not discuss this case with anybody, including
6 your friends, your family members at night, or anybody
7 else, and certainly not with each other; okay? This
8 would include any discussions face-to-face, of course,
9 by phone, email, text, social media, or any other method
10 of communication. We're not obviously going to let you
11 use your cell phones while you are here in the courtroom
12 or even during the breaks, but you will have them during
13 your lunch breaks and, of course, you'll have them with
14 you overnight.

15 It's my job to tell you not to do any independent
16 research into the things that are brought up during the
17 course of this trial; okay? That would be improper; all
18 right? I'm also going to advise you that you're not to
19 talk to these attorneys at any time during the course of
20 this trial or any of the witnesses that have testified
21 or may testify; okay? What that means is basically you
22 might see them out in the hallway. It's a relatively
23 small block here that we're getting lunch in and all
24 that kind of stuff around. So if you see them and they
25 walk away, just understand they're not being rude.

1 They're just following my instructions because they know
2 they're not allowed to talk to you or have any
3 interactions with you whatsoever; all right?

4 During this trial, please don't try to look up,
5 read, listen to, or watch any news reports about the
6 case. I don't anticipate media being in the courtroom
7 during the course of this trial. I have not had any
8 media requests. Nonetheless, if there was something to
9 come on the news, obviously, you can't consider that and
10 I would instruct you that you would need to change the
11 channel or leave the room, okay, if something like that
12 came up in the news during the course of this trial.

13 After the case is submitted to you, you can discuss
14 it only in the jury room with your fellow jurors all
15 present. The attorneys and parties, once again, have
16 been advised they are not to talk to you. It's
17 important that you keep an open mind during the course
18 of this trial, ladies and gentlemen, and do not decide
19 any issue until all of the evidence has been presented
20 and the parties have made their closing arguments and I
21 have instructed you on the law.

22 It's your solemn responsibility to determine the
23 guilt or innocence of the Defendant and your verdict
24 must be based solely on the evidence as it is presented
25 to you in this trial and on the law that I will instruct

1 you at the end.

2 In just a moment, the Solicitor will make what is
3 called an opening statement in which the Solicitor will
4 explain to you the issues in the case or at least what
5 the Solicitor thinks the issues in the case are. The
6 attorney for the Defendant may also make an opening
7 statement, although she's not required to do so.

8 Now, what these attorneys tell you in their opening
9 statements is not evidence in the case. It is only
10 their contention as to what the issues are. The
11 evidence in the case will be presented to you by the
12 testimony of sworn witnesses from the witness stand and
13 any exhibits that might be introduced into evidence.

14 Now, from time to time during the trial, you might
15 see one of these attorneys stand up and object to
16 something the other attorney is trying to do. That's
17 perfectly normal and that's their job. That's their way
18 of calling my attention to a ruling that I need to make,
19 okay, just like in sports. I'm kind of like the referee
20 and I just have to make a call one way or the other and
21 move on. I don't want you to hold their objections or
22 their standing up against them or their clients; all
23 right?

24 From time-to-time, additionally, it might be
25 necessary for me to excuse you all from the courtroom

1 because I've got to make some rulings of law that make
2 it necessary for us to discuss the facts in the case;
3 all right? So, again, it's totally normal for me to
4 have to excuse you all. Our biggest complaint is that
5 we have to take too many breaks during the trial from
6 the jury. So, you know, just bear with us. We try to
7 be as efficient as possible, but from time to time it's
8 going to happen; okay? So just understand that's
9 totally normal.

10 In determining and evaluating the evidence in this
11 case, you're going to have to decide whether or not the
12 testimony of the witnesses on that witness stand is
13 believable, ladies and gentlemen. It's going to be my
14 responsibility to rule as to whether certain testimony
15 can come in at all or not. But once that's admitted,
16 whether or not you believe it is entirely for you to
17 determine.

18 In deciding whether to believe a witness, you have
19 the right to consider the interest of the witnesses who
20 testify, the bias of the witnesses, the prejudice of
21 them, the opportunity for these witnesses to have seen
22 the matters and the things about which they testify and
23 the way they act on the witness stand. You have a right
24 to consider anything in the record that would help you
25 evaluate the testimony of the witnesses. That means

1 it's your duty to pay close attention to them, observe
2 them, listen to the witnesses, and pay close attention
3 to the attorneys and the court. After the arguments of
4 counsel and the charge in the law by the court, you will
5 then be in a position to determine the facts of the
6 case, apply the law to those facts, and render a
7 verdict.

8 I will -- before the end of the trial, I will
9 appoint a foreperson to be the -- the person who just
10 signs the verdict form at the end for the jury. That
11 foreperson won't have any greater weight of a vote than
12 anybody else. It just simply means that they're the one
13 that signs the verdict form at the end, and that's all
14 their job would be.

15 All right. Now, as I stated at the outset, the
16 State bears the burden of proof in these cases, and that
17 burden of proof is beyond a reasonable doubt as to all
18 the elements of the charges. That burden remains on the
19 State all the way throughout this trial.

20 All right. With that said, we will then begin to
21 pass out notebooks and pens. I'm going to have the
22 Clerk of Court do that at this time. I will give the
23 attorneys an opportunity to object to anything I have
24 said during this brief opening to the jury. Any
25 objections from the State?

1 MS. KNOX: No objections, Your Honor.

2 THE COURT: Any from the Defense?

3 MS. FORD: No, Your Honor.

4 THE COURT: All right. As soon as these notebooks
5 and pens are passed out, after that, we'll do openings;
6 okay? All right. Everybody got one if they want one?
7 All right. Happy to hear from the State.

8 MS. KOZIK: May it please the court. Ladies and
9 gentlemen of the jury, this is a case about a senseless
10 act of violence committed against an elderly woman, and
11 not just any elderly woman. The defendant, Kenneth
12 Miller's own aunt.

13 On January 4th, 2024, the Defendant walked into his
14 then 84-year-old aunt's house and for no clear or
15 discernible reason, shot her in the knee.

16 But this is not just a family matter. This is a
17 serious crime for which the Defendant needs to be held
18 accountable because it has drastically affected the
19 victim in this case, Ms. Juanita Dukes, and her entire
20 life span. So, let's talk about Ms. Juanita Dukes, the
21 victim in this case, because that's what this trial is
22 really about.

23 Ms. Dukes is now almost 86 years old. She lived in
24 Charleston her whole life. She has a big family that
25 she's very close to. She talks to them all of the time.

1 In fact, you'll hear about how on the day of this
2 incident, she was on the phone with her sister, the
3 Defendant's mother, at the time. She is a very
4 independent 86-year-old, or now nearly -- excuse me, at
5 the time, she was 84. She was very independent before
6 this incident. She could walk around her own house.
7 She lived alone. She cooked. She cleaned for herself.
8 She drove to the grocery. But that all unfortunately
9 changed on January 4, 2024.

10 On that morning, she woke up, got herself some
11 coffee, started getting ready for the day. And when she
12 came out of the bathroom, she saw that her nephew, the
13 Defendant, had come into her house, which is not
14 strange. She had an open-door policy with her family.
15 She hadn't seen him for a few weeks, but she had seen
16 him around, I think, at Thanksgiving dinner. So a few
17 weeks prior to that day.

18 And when she noticed him, she mentioned to his
19 mother, "Oh, Boo is here." Boo is what his family, the
20 Defendant's family, called him. And then she engaged in
21 a brief conversation with her nephew. He greeted her.
22 "Hi, Anita." They talked, and he led her down the hall
23 to a den. And that's when his demeanor changed. He
24 started talking about things that weren't really making
25 sense.

1 He asked her to open a door. And you'll see some
2 pictures of the crime scene. There were doors there,
3 but the area that they were standing in front of, there
4 wasn't a door. The house had been remodeled a few
5 times, and the Defendant had lived with Ms. Dukes many,
6 many years ago prior to the house remodel.

7 But Ms. Dukes was confused. She didn't know what
8 it meant for a door. And it was at that point the
9 Defendant pulled out a gun. And Ms. Dukes, you'll meet
10 her, she's fairly sassy, told -- told the Defendant, put
11 the gun away. You're not going to shoot me. And much
12 to her surprise, the Defendant shot her in the knee.
13 Without a word, he walked out the door as Ms. Dukes fell
14 to the ground in pain.

15 She did the only thing she could think to do in
16 that moment, and called her sister back, told her who
17 shot her. Then she called her daughter and her son,
18 said the same thing. Then she realized she hadn't
19 called 911, so she did. And she told them the same
20 thing, "My nephew shot me." The police arrived shortly
21 thereafter. She told them the same thing. "My nephew,
22 Kenneth Miller, shot me." She's been remarkably
23 consistent this entire case.

24 About a week later, when the detectives came to see
25 her again, again, showed her a picture of the Defendant,

1 and she identified him, "That's my nephew, Kenneth
2 Miller, who shot me." She has been consistent this
3 entire time.

4 But the good thing about this case is that we don't
5 have to take Ms. Dukes' word for it completely. You're
6 also going to see some evidence of a video surveillance
7 from the area about a block away from Ms. Dukes' house.
8 And you'll see that in the moments before the 911 call
9 is placed, while Ms. Dukes is frantically on the phone
10 with family members, you'll see a black SUV drive away
11 from Ms. Dukes' house. There's not a lot of other cars
12 -- there are no other cars in that video, it's just that
13 one black car.

14 And you will also hear testimony about how that
15 day, the Defendant was driving a rental black Toyota
16 4Runner, a black SUV. You'll hear evidence about how
17 the SUV in that video is consistent with a Toyota
18 4Runner. And the Defendant told police, later in an
19 interview, that he was the only one driving that 4Runner
20 that day.

21 You're also going to hear from the Defendant from
22 that interview, that he told police that he didn't own
23 one. He didn't have one. And importantly, that he had
24 not shot a gun that day. However, when detectives tried
25 to get -- to collect a GSR, or a gunshot residue kit

1 from his hands, he got angry. He refused. He didn't
2 want them to take that test.

3 And you're going to hear from a South Carolina law
4 enforcement division, SLED expert, about how when she
5 tested that gunshot residue kit, there were indeed
6 traces of gunshot residue on the Defendant's hands that
7 day.

8 You're also going to hear from Ms. Dukes' doctor,
9 Dr. Reid. He is going to tell you about how Ms. Dukes
10 got shot in her right knee. And something special about
11 her right knee is she had knee replacement surgery
12 prior. And remarkably, the bullet got lodged precisely
13 in the plastic component of the knee replacement
14 surgery.

15 However, he's also going to tell you about how that
16 same bullet tore her tendon, broke it off of the bone it
17 attaches to, such that it required surgery for him to
18 repair that knee. She then had -- was instructed not to
19 bend that knee, not to use that knee, for many months
20 while she recovered. You'll talk about -- you'll hear
21 about her recovery process and how the mobility in her
22 knee and her leg has been impaired since that day.

23 Ladies and gentlemen, this is not a case of
24 mistaken identity. It is not a in a moment. This is
25 not a family matter. It's a serious crime that the

1 Defendant needs to be held accountable for. The
2 Defendant has been charged, as Judge McCoy mentioned,
3 with assault and battery of a high and aggravated
4 nature, possession of a weapon during the commission of
5 a violent crime, and possession of a firearm by a
6 prohibited person.

7 After all of the evidence that comes in today and
8 tomorrow, my co-counsel Kasey Knox is going to come for
9 you and ask you to render the only verdict that the
10 evidence you're going to hear supports, that the
11 Defendant is guilty as charged. Thank you.

12 THE COURT: Ms. Ford.

13 MS. FORD: Thank you, Your Honor. So it just
14 doesn't make sense. It's easy to take someone, what
15 they say at face value, to think it's that easy. To not
16 ask questions. To not investigate. To not look for
17 alternative explanations. To not try to rule out
18 alternative explanations. That is what led to Kenneth
19 Miller being arrested in January of 2024. But in a
20 trial, it's about going a lot deeper. To, in fact, ask
21 questions -- ask questions. To look at alternative
22 explanations. To look at what was done and what wasn't
23 done, either intentionally or through negligence.

24 Juanita -- Juanita Dukes says that Kenneth Miller
25 came to her home and shot her. But again, this just

1 doesn't make sense. Kenneth was a family member, but he
2 really hadn't been around all that much in a good while,
3 many years at that point. On this day, January 4th of
4 2024, Juanita had just woken up basically. She hadn't
5 even had a chance to put on her eyeglasses yet. She
6 lived at a home in North Charleston with her daughter.
7 So her daughter was there that day in her room. She
8 says that she came out of her room and saw a male who
9 she claims is Kenneth. Now, she's saying that out of
10 nowhere, he just decides to shoot her. But again, this
11 doesn't make sense.

12 Police -- she does give his name that day. That's
13 not in dispute. Because shortly after 911 is called,
14 police go to Kenneth's home in North -- Goose Creek.
15 They arrest him at his home. And of course, as part of
16 their job, they do look for evidence at that point.
17 There's nothing on his person. There's nothing in his
18 home. There's nothing in his car. Importantly, no gun
19 is ever found on or around in any vicinity to Kenneth
20 Miller.

21 The State has talked about a car that was near
22 Juanita's house that day. But, in fact, that car, no
23 one can say that that was Kenneth's car. Despite all of
24 the many, many cameras in North Charleston and Goose
25 Creek, there is no camera that shows a license plate

1 connecting that car to Kenneth Miller. He had a rental
2 at the time. It wasn't a South Carolina plate. So it
3 would have been more easily able to be discovered
4 probably. But again, the car in that video that the
5 State mentioned, there is no evidence that that car
6 belonged to Kenneth. And there's no evidence that he
7 was in North Charleston that day in January.

8 Now, when he's arrested, numerous officers are at
9 his house. They, of course, handcuff him. Most people
10 are aware that police are obviously going to do that.
11 They take him to the station in North Charleston. And
12 in North Charleston, again, he encounters numerous
13 officers. There's a male officer who moves -- removes
14 his handcuffs and moves them from the back to the front.
15 There's Detective Steinbrunner, who you'll hear testify
16 in this case. And she's the one who interviews him.
17 He's very cooperative, and he adamantly denies he shot
18 his aunt.

19 And despite what the State told you, that he
20 refused to cooperate when they were trying to basically
21 swab his hands, he readily agreed to do it. He just
22 said, "All I want is to watch the search warrant being
23 executed at my house." Repeatedly, he asked them over
24 and over, and they said, "No." And they don't do that,
25 that's fine. But the fact is, he readily agreed to

1 cooperate with them, but he just said, "All I want to do
2 is watch the search warrant of my house to make sure
3 that there's no funny business", essentially. So it's
4 incredibly misleading to say that he refused.

5 In this case, this is essentially Juanita saying he
6 did something to her, that he shot her. But in reality,
7 there's no evidence that doesn't have an alternative
8 explanation to corroborate what she is saying that he
9 did. And again, in a trial, we do have to look deeper,
10 and we do have to look at alternatives.

11 Kenneth told police that day, in addition to
12 adamantly denying he had shot his aunt. He says, "I was
13 at the speedway, please check with my neighbors. My
14 neighbors, basically, I guess they're busybodies, they
15 pay attention." Police don't go back and do any of
16 that. Kenneth was arrested because the police didn't
17 want to take the extra steps that day. Because it was
18 easy to take Juanita at her word. It's understandable.
19 But in this trial, we would ask you to look deeper. The
20 State has to prove to you that Kenneth Miller is guilty
21 beyond a reasonable doubt. That is an extraordinarily
22 high burden.

23 Basically, would a reasonable person hesitate to
24 act? And in this case, we do think a reasonable person
25 would hesitate to act. Once you consider the big

1 picture, and you consider all the things left out,
2 consider all the things that have changed, consider all
3 the things that weren't done, we think, and we would ask
4 you ultimately to find Kenneth Miller not guilty. And
5 we'd ask you to find him not guilty because he did not
6 do what he's accused of. Thank you.

7 THE COURT: All right. Thank you so much. State,
8 you may call your first witness.

9 MS. KNOX: The State calls Juanita Dukes.

10 JUANITA DUKES,
11 having been duly sworn, testifies as follows:

12 THE CLERK: Please be seated. Now, please state
13 your full name into the microphone, spelling your last
14 name for the record.

15 THE WITNESS: Juanita Dukes, D-u-k-e-s.

16 THE COURT: Ms. Dukes, can you kind of make that
17 thing get closer, kind of like I just did? Or you can
18 move it, too. You can move this thing. There you go.
19 Perfect. All right. Please proceed.

20 **D I R E C T E X A M I N A T I O N**

21 **BY MS. KNOX:**

22 Q. Good morning, Ms. Dukes.

23 A. Good morning.

24 Q. Ms. Dukes, why are you here today?

25 A. I'm here to testify against my nephew about a shooting

1 that happened to me.

2 Q. Okay. Ms. Dukes, where do you live?

3 A. I live at [REDACTED] Easton Street in North Charleston, South
4 Carolina.

5 Q. And how long have you lived there?

6 A. In this house, about 61 years.

7 Q. Ms. Dukes, are you active in your community or your
8 church or any social groups?

9 A. Yes, I do. I go to church. Like, we have Bible study
10 and go to prayer.

11 Q. And back in 2024, can you describe what your daily
12 routine was?

13 A. Well, I got up, and my sister called me, and we was on
14 the phone.

15 Q. Before the incident, just your general routine before
16 January 4th.

17 A. Oh, what I usually -- okay. What I usually do, get up
18 in the morning, do what I need to do, get up and go get
19 a drink of coffee, sit down, watch TV. And if I need to
20 go to the store, get in my car, go to the store, do
21 anything I need to do.

22 Q. Okay. Ms. Dukes, do you know the defendant, Kenneth
23 Miller, Jr.?

24 A. Yes, he's my nephew.

25 Q. And how are you related to him?

- 1 A. My nephew.
- 2 Q. He's your nephew. And how long have you known your
3 nephew?
- 4 A. Oh, all his life.
- 5 Q. Okay. Would you say you watched Mr. Miller grow up?
- 6 A. Yes, in some way.
- 7 Q. And does your family call Mr. Miller by a different
8 name?
- 9 A. Yes.
- 10 Q. And what is that name?
- 11 A. Boo.
- 12 Q. And how long have you called him Boo?
- 13 A. All his life.
- 14 Q. Is there any other family member that you call Boo?
- 15 A. No.
- 16 Q. Ms. Dukes, is Boo here in the courtroom today?
- 17 A. Yes, he is.
- 18 Q. Can you please point him out for the jury and describe
19 what he is wearing?
- 20 A. He's sitting over at the table right there. He has on a
21 green and white shirt.
- 22 Q. Thank you. Can you tell me a little bit about your
23 relationship with Boo before this incident on January
24 4th?
- 25 A. Every now and then, maybe like two or three months,

1 maybe longer, he'll come by sometimes, house, and, you
2 know, just ask me, can I come by to see how you're
3 doing? And, you know, that's about it. I don't see him
4 every day.

5 Q. To clarify, how often would you see him before this
6 incident?

7 A. Maybe like four or five months in between time.

8 Q. Okay. And does Boo know where you live?

9 A. Yes, he does.

10 Q. Has he been to your house before?

11 A. Many, many times.

12 Q. Okay. And when was the last time that you personally
13 saw him before this incident?

14 A. Thanksgiving dinner at his mother's house.

15 Q. Okay. Ms. Dukes, I'm going to ask you a couple
16 questions about the day before January 4th of 2024, so
17 January 3rd of 2024. Did you have any appointments that
18 day?

19 A. I had a doctor appointment.

20 Q. And what happened at that doctor's appointment?

21 A. He took me off my medication. I didn't take no high
22 blood pressure medicine, no sugar, diabetes medicine
23 anymore.

24 Q. To clarify, he took you off your medication?

25 A. Yes.

1 Q. And those medications were -- can you repeat that?

2 A. Diabetes and high pressure -- high blood pressure
3 medication.

4 Q. Okay. And why did he take you off those medications?

5 A. I was doing good, he said.

6 Q. You were doing good? Okay. Were you on any medications
7 that morning of January 4th?

8 A. I didn't take -- no, I didn't take any.

9 Q. Okay. Let's talk a little bit about your memory in
10 general. Before this incident, how would you describe
11 your memory?

12 A. How do I?

13 Q. How would you describe your memory?

14 A. Good.

15 Q. Good? Did you ever have any issues remembering things
16 before January 4th of 2024?

17 A. Not no more than normal.

18 Q. Okay. Have you ever been diagnosed with any
19 memory-related condition such as Alzheimer's or
20 dementia?

21 A. No.

22 Q. Have you ever had problems identifying family members?

23 A. No.

24 Q. Have you ---

25 MS. FORD: Objection. Your Honor, this line of

1 question is just bolstering.

2 THE COURT: I would sustain that objection if you
3 need to move on to a different line of question.

4 BY MS. KNOX:

5 Q. Okay. Just a couple more questions about your health
6 aside from your memory. Do you normally wear glasses?

7 A. Sometimes when reading, I need it for reading mostly.

8 Q. Okay. Were you wearing glasses the morning of January
9 4th?

10 A. No.

11 Q. Why not?

12 A. I didn't need them.

13 Q. Okay. How come -- how far can you see without your
14 glasses?

15 A. I can see all the way to that sign, the exit sign right
16 there.

17 Q. But without your glasses, how far?

18 A. Without my glasses? I can see that sign without my
19 glasses also.

20 Q. Okay. All right. I'm going to move to January 4th of
21 2024. Was anyone else at your home that morning?

22 A. My daughter, yes.

23 Q. And who is your daughter?

24 A. Tasha Dukes.

25 Q. And tell me a little bit about Tasha.

- 1 A. Tasha is in bed. She can't move. She can't walk unless
2 for assistance. She had surgery and after that, she was
3 unable to walk.
- 4 Q. Is Tasha disabled?
- 5 A. Yes.
- 6 Q. Can Tasha leave her room on her own?
- 7 A. No, she can't.
- 8 Q. And what part of the house is Tasha's room?
- 9 A. Tasha's house's room is right next to mine or right
10 across.
- 11 Q. Okay. And I want to ask you a couple of questions about
12 your house in general. How would you describe the size
13 of your house?
- 14 A. It's pretty big.
- 15 Q. It's pretty big? Does your house have windows?
- 16 A. Yes.
- 17 Q. Does your house get natural light?
- 18 A. Yes.
- 19 Q. And did you have the lights on in your house that
20 morning?
- 21 A. In the den.
- 22 Q. In the den? Ms. Dukes, do you normally keep your doors
23 locked or unlocked?
- 24 A. Unlocked.
- 25 Q. And why is that?

1 A. The relationship we have in the neighborhood, I don't
2 ever lock my doors. They knew I could just walk in and
3 walk out if they wanted.

4 Q. Before this incident, did you feel like you lived in a
5 safe neighborhood?

6 A. Yes.

7 Q. Okay. Now, Ms. Dukes, were you on the phone with anyone
8 that morning of January 4th of 2024?

9 A. Yes.

10 Q. And who were you on the phone with?

11 A. My sister, Ethel.

12 Q. And how is Ethel related to the Defendant?

13 A. Her -- his mother.

14 Q. Just to clarify, Ethel is the Defendant's mother?

15 A. Yes.

16 Q. Okay. Who walked in when you were on the phone with
17 Ethel?

18 A. Boo.

19 Q. Boo? Did you say anything to Ethel on the phone at that
20 point?

21 A. Yes.

22 Q. What did you say?

23 A. I said, "Oh, Ethel will ---"

24 MS. FORD: Objection. Hearsay.

25 THE COURT: Sustained.

1 BY MS. KNOX:

2 Q. Okay. The person who walked into your house, can you
3 describe what he looked like?

4 A. Yes. Boo, he came in. He's sitting over there.
5 Otherwise, he was wearing a braid at the time he was
6 here. He didn't have a haircut. And tall, brown skin.

7 Q. Just to clarify, do you remember what his hairstyle was
8 that day?

9 A. Yes, cornrows.

10 Q. Cornrows? Okay. Did Boo say anything to you when he
11 walked inside your home that day?

12 A. He said, "Hi, Aunt Nita, how you doing?"

13 Q. Did you recognize his voice?

14 A. Yes.

15 Q. Were you expecting Boo to come over to your house?

16 A. No.

17 Q. Were you scared when you saw him?

18 A. No.

19 Q. How did he enter your home?

20 A. Through the den door.

21 Q. Okay. And where were you in location with your home
22 when he came in?

23 A. In the hallway going towards the den.

24 Q. How did he seem when he first walked in? What was his
25 mood like?

1 A. Normal.

2 Q. Normal? Did he touch you at all?

3 A. Yes.

4 Q. Can you please describe to the jury how?

5 A. He was walking towards the den. He put his arm around
6 my waist as we walked towards the den.

7 Q. When he put his arm around your waist, was it in a
8 friendly manner or a more fearful way?

9 A. It was a friendly manner.

10 Q. Friendly? Okay. In what area of the house did the two
11 of you walk to?

12 A. The den.

13 Q. To the den? Did you two have a conversation while you
14 both were in the den?

15 A. No. Were -- yes.

16 Q. Just to clarify, you two were speaking to each other
17 while ---

18 A. Speaking to each other in a normal way, you know.

19 Q. Okay. And how close were you when you were having that
20 conversation?

21 A. Quite close, side by side as we were walking down.

22 Q. Were you facing him?

23 A. Yes.

24 Q. And were you looking right at him during this brief
25 conversation?

1 A. Yes.

2 Q. Now, I want you to describe to the jury essentially what
3 happened in that conversation and how the conversation
4 changed.

5 A. As we were walking there, he walked away from me and
6 walked towards the den door and he asked me to open the
7 door. I said, "What door?" There was no door there
8 anymore. So he said, "Open that door." I said,
9 "There's no door there anymore. Boo, you know the house
10 has been changed around and you see Tasha in that room
11 there and you know there's a room on that side. There's
12 no door leading to that door -- leading to that door
13 anymore." He said, "Well, I'm going to shoot you." So
14 I looked down and I saw the gun on the side. I said,
15 "Boy, put that gun back in your pocket." He said, "No,
16 I'm going to shoot you." Then he shot me and walked out
17 of the door.

18 Q. Just to clarify a couple of things, Ms. Dukes. Were you
19 confused when he was asking you about this door?

20 A. At the time, yes.

21 Q. At the time. And how would you describe his tone when
22 he was asking you about this door?

23 A. It changed. It didn't sound like his voice.

24 Q. What did it sound like?

25 A. Like a monster, like somebody said, he said, open that

1 door. That's what he said.

2 Q. Were you scared of him then?

3 A. I was confused, yes.

4 Q. Confused. Did you see Boo holding a gun?

5 A. I saw when he had the gun. When I looked down, the gun

6 was on his side.

7 Q. And how did you know it was a gun?

8 A. It was silver and I know a gun when I see it.

9 Q. So you have seen a firearm beforehand?

10 A. Many times on TV.

11 Q. Do you know what a gun looks like?

12 A. Yes.

13 Q. Okay. Do you remember the color of this gun?

14 A. It was silver.

15 Q. It was silver?

16 A. Uh-huh.

17 Q. And before he shot you, what did he do with that gun?

18 A. Before he shot me?

19 Q. Yes.

20 A. He placed it on his side and pointed it down at my knee.

21 Q. Did he show you that gun?

22 A. He didn't show me. I saw it when I looked down there.

23 When I looked, and I saw the gun on the side.

24 Q. Okay. And then what happened?

25 A. He told me that he shot me.

1 Q. He shot you. Ms. Dukes, were you facing Boo when he
2 shot you?

3 A. He was at the den door and I was standing up in the
4 doorway. Yes.

5 Q. Did you see his face before he shot you?

6 A. Yes.

7 Q. Ms. Dukes, what happened to your body when he shot you?

8 A. I fell down to the floor.

9 Q. And where did Boo go after this?

10 A. Out the door.

11 Q. After Boo had left, who did you first call?

12 A. His mother, Ethel.

13 Q. And what did you tell Ethel?

14 MS. FORD: Objection. Hearsay.

15 THE COURT: Overrule as to what she told Ethel.

16 And after that would be hearsay. Go ahead. So you can
17 answer the question.

18 BY MS. KNOX:

19 A. I said, "Ethel, Boo shot -- Boo just shot me in my
20 knee."

21 Q. Okay. And who did you call after Ethel?

22 A. My daughter, Chante.

23 Q. And what did you say to Chante?

24 A. Chante, "Boo just shot me in my knee."

25 Q. And aside from Ethel and Chante, and -- did you call any

1 other family that day?

2 A. Yes, I called my son.

3 Q. And what did you tell your son?

4 A. "Boo just shot me in my knee."

5 Q. Okay. Ms. Dukes, did you eventually call 911?

6 A. Yes.

7 Q. Why did you not call 911 first?

8 A. Oh, no, it just was instinct. I just called, as my mind
9 told me to do. That's what I did.

10 Q. To clarify, you said it was your instinct to call family
11 first?

12 A. Yes.

13 Q. But you eventually -- did you eventually call 911?

14 A. Yes.

15 MS. KNOX: Okay. At this time, Your Honor, I'm
16 going to show the Defense what has been previously
17 marked as State's Exhibit No. 1.

18 THE COURT: Okay.

19 MS. KNOX: Your Honor, may I approach the witness?

20 THE COURT: Oh, sure.

21 MS. KNOX: All right. For the record, I am showing
22 Ms. Dukes what has been marked as State's Exhibit No. 1.

23 THE COURT: Okay.

24 BY MS. KNOX:

25 Q. Ms. Dukes, do you recognize this CD?

1 A. Yes.

2 Q. And what do you recognize it as?

3 A. As my -- my testimony.

4 Q. Is this ---

5 A. Of the 911.

6 Q. Of your 911 call?

7 A. Yes.

8 Q. And have you had the chance to listen to this 911 call
9 before today?

10 A. I heard it in the -- in the Solicitor's office.

11 Q. Okay. And how do you know that this is the 911 call?

12 A. My initials are on there.

13 Q. Your initials are on here?

14 A. Uh-huh.

15 Q. And when you listened to this, was it a fair and
16 accurate reporting of your 911 call?

17 A. Yes.

18 MS. KNOX: Your Honor, at this time, the State
19 moves and offer the 911 recording ---

20 THE COURT: Okay.

21 MS. KNOX: --- for admission into evidence.

22 THE COURT: Any objections?

23 MS. FORD: I just would object based on hearsay and
24 bolstering.

25 THE COURT: Okay. As to those objections, I'll

1 admit the 911 call. How long was the 911 call? You can
2 play it right now as well, or?

3 MS. KNOX: We're planning to do that, Judge.

4 THE COURT: Okay.

5 MS. KNOX: It's about two minutes.

6 THE COURT: Okay. All right. Let's see. Can I
7 see y'all off the bench real quick?

8 MS. KNOX: Yeah.

9 THE COURT: Just for a second.

10 (Off the Record Bench conference)

11 THE COURT: Okay. Thanks. Over the Defense's
12 objection, I'll admit it, and you can publish it at this
13 time. Do you need a cue or dot for something?

14 (State's Exhibit No. 1 is admitted into evidence.)

15 MS. KNOX: My co-counsel would love to do that.

16 THE COURT: Okay.

17 (AUDIO PLAYING) (Inaudible)

18 (AUDIO STOPS PLAYING)

19 BY MS. KNOX:

20 Q. Ms. Dukes, was that your voice on that 911 call?

21 A. Yes.

22 Q. Did you tell dispatch that you knew who did -- who shot
23 you?

24 A. Yes.

25 Q. Ms. Dukes, did police arrive while you were on that 911

1 call?

2 A. They came in -- they came in after I called 911.

3 Q. If you don't mind, Ms. Dukes ---

4 A. They came in after I called 911.

5 Q. Okay. Did you identify who shot you to the police that
6 came to your home to help you?

7 A. Yes.

8 Q. And who -- who did you say shot you?

9 A. Kenneth Miller.

10 Q. And how many times did you tell them that?

11 A. Twice.

12 Q. Were you ever confused about who shot you in that
13 moment?

14 A. No.

15 Q. Okay. I just have a couple more questions, and then we
16 can wrap this up. Do you remember how long you were in
17 the hospital after you were shot?

18 A. After I got shot, about a couple -- few days.

19 Q. A couple days? And do you remember law enforcement
20 coming to your home after you left the hospital?

21 A. Yes.

22 Q. Do you remember law enforcement showing you a photograph
23 of a person?

24 A. Yes.

25 Q. Did you recognize the person in that photograph?

1 A. Yes.

2 Q. And who did you recognize it as?

3 A. Kenneth Miller.

4 Q. How long did it take you to identify that person as
5 Kenneth Miller?

6 A. Right away.

7 Q. Right away. How confident were you in that
8 identification in that moment?

9 A. Very.

10 Q. Did you have any hesitation when you pointed him out?

11 A. No.

12 Q. Ms. Dukes, have you maintained since January 4th of 2024
13 that Kenneth Miller is the person who shot you?

14 A. Yes.

15 Q. Have you ever considered that Kenneth Miller was not the
16 shooter?

17 A. No.

18 Q. Do you have any reason to lie about who shot you?

19 A. No.

20 Q. Now, Ms. Dukes, do you see the person who shot you in
21 the courtroom today?

22 A. Yes.

23 Q. And can you please point him out for the jury? And can
24 you describe something about him that he's wearing?

25 A. He's wearing a white shirt, but he's had his hair cut.

1 He doesn't have cornrows anymore.

2 MS. KNOX: Okay. I have -- beg court's indulgence.

3 THE COURT: Yeah.

4 BY MS. KNOX:

5 Q. Please let the record reflect that Ms. Dukes pointed to
6 the Defendant as the person who shot her. And I have
7 one last question. It's kind of a silly question,
8 Ms. Dukes, but is your house located in Charleston
9 County?

10 A. Yes.

11 MS. KNOX: Okay. I have no further questions for
12 this witness at this time.

13 THE COURT: All right. Ms. Ford, your witness.

14 MS. FORD: Thank you, Your Honor.

15 C R O S S E X A M I N A T I O N

16 **BY MS. FORD:**

17 Q. Hi, Ms. Dukes.

18 A. Hi.

19 Q. So, Ms. Dukes, today you're wearing eyeglasses?

20 A. Yes.

21 Q. And earlier today you testified that you just need them
22 for reading.

23 A. Mostly, yes.

24 Q. Okay. Well, you testified a little yesterday; correct?

25 A. Yes.

1 Q. And yesterday you said you needed them for reading and
2 distance?

3 A. Distance?

4 Q. Yeah.

5 A. No, I did not say distance.

6 Q. Yesterday you said both.

7 A. No, I said you asked me about my glasses, and I told you
8 I don't wear glasses when I first get up in the morning.
9 And I didn't need glasses when I -- when I start walking
10 through the house or whatever. I didn't need my
11 glasses.

12 Q. Okay. But you do wear your glasses when you go out?

13 A. Yes.

14 Q. Like today?

15 A. Yes.

16 Q. And you do need glasses for distance?

17 A. I guess.

18 Q. Yes?

19 A. For distance?

20 Q. Yes.

21 A. All depend how far it is. Not right there. At a far,
22 far distance, maybe.

23 Q. Okay.

24 A. I could see you.

25 Q. Well, you're wearing your glasses right now?

- 1 A. Yes.
- 2 Q. Okay.
- 3 A. I could see you without them.
- 4 Q. Well, yeah, you can -- you can see my person?
- 5 A. Yes.
- 6 Q. But yesterday you said your glasses are for reading and
7 distance.
- 8 A. I don't remember.
- 9 Q. You don't remember yesterday?
- 10 A. No. I don't remember what you said about the glasses,
11 because I didn't know you asked me all those specific
12 questions about glasses yesterday.
- 13 Q. And you've been wearing those glasses for over 40 years?
- 14 A. Yes.
- 15 Q. So, you need a prescription for the glasses?
- 16 A. Yes.
- 17 Q. And at this time on January 4th, you weren't wearing
18 them because you had just woken up; correct?
- 19 A. That's a yes.
- 20 Q. Now, you told us a little about your daughter who lives
21 with you. Is her name Tasha? And you testified earlier
22 her room is right across from yours?
- 23 A. Yes.
- 24 Q. And when you came across the man in your room, you came
25 out of the bathroom?

- 1 A. Yes.
- 2 Q. And that was the bathroom between your room and ---
- 3 A. And Tasha.
- 4 Q. --- Tasha's?
- 5 A. Yes.
- 6 Q. Okay. So the man approached you right out there, right
- 7 by the rooms; correct?
- 8 A. In the hallway.
- 9 Q. Okay. So that was in that area between your room and
- 10 Tasha's room?
- 11 A. Yes.
- 12 Q. Now, Tasha, she can't walk, but she -- she's fine
- 13 cognitively; correct?
- 14 A. Yes.
- 15 Q. Okay. And this day when you called, you told us how you
- 16 called several family members first.
- 17 A. Yes.
- 18 Q. You didn't call your daughter Tasha?
- 19 A. No.
- 20 Q. Okay. At some point, though, when the police came, they
- 21 went to talk to her because she was banging on the wall?
- 22 A. No. They went -- they went to her because I asked him
- 23 would he go in the room and tell my daughter what
- 24 happened.
- 25 Q. Okay. Well, she was banging on something, so they asked

1 if somebody else was there?

2 A. I don't remember her banging on anything.

3 Q. Okay. But you didn't -- she wasn't one of the people
4 you called before calling the police; correct?

5 A. No.

6 Q. And she does have a phone back in her room?

7 A. Yes.

8 Q. So, before you called police, you called three different
9 people?

10 A. Yes.

11 Q. So that would have taken some time to call three
12 different people; correct?

13 A. And my phone, my family members are already in there.
14 All I do is punch buttons, and the number and name come
15 up. And all I do is punch the button, and it came up.
16 And they're like mostly alphabetical.

17 Q. Okay. But there still had to be time to call the three
18 people; correct?

19 A. Yes.

20 Q. You talked a little in your testimony about your
21 medication? So just -- was it a day prior or two days
22 prior that you went to the doctor?

23 A. Two days. I went to the med on the second, and I got
24 shot on the fourth.

25 Q. Okay. So, you're telling us the doctor told you it was

1 okay to go off your diabetes medicine?

2 A. And my pressure medicine.

3 Q. Okay. So, both medicines?

4 A. Right.

5 Q. And you had been taking those medicines for about 15
6 years?

7 A. Yes.

8 Q. And I know that you're telling us you didn't need it,
9 but when you -- after you were shot, you received a lot
10 of medical care; correct?

11 A. Yes.

12 Q. And there was a nurse who followed up with you a lot?

13 A. Yes.

14 Q. She'd call about once a month, the nurse? Yes?

15 A. Yes.

16 Q. And she would ask you -- she was always asking you about
17 your blood pressure medicine.

18 MS. KNOX: Objection, Your Honor. Hearsay.

19 MS. FORD: Medical treatment.

20 THE COURT: Overruled.

21 BY MS. FORD:

22 Q. So just there were, she was concerned about the blood
23 pressure, making sure it was under control, correct?

24 MS. KNOX: Objection.

25 THE COURT: Sustained. Speculation of what her

1 concern was. I'm sure she didn't answer what the
2 nurse's concern was, but you can ask her the general
3 contents of the conversation that she recalls. Go
4 ahead. Rephrase the question.

5 BY MS. FORD:

6 Q. Well, anyway, you did not -- you made it clear that you
7 were trying not to go back on that medicine; correct?

8 A. Yes.

9 Q. So, the medicine you had been taking for about 15 years,
10 you had just stopped about two days prior?

11 A. They were low-dose medication. I weren't like no full
12 blown out medication. They were like monitored
13 medicine, keeping my pressure and my sugar in control.

14 Q. Okay. So, today you gave us a bit of a description, and
15 we heard on the 911 call, the person you saw in your
16 house had a burgundy shirt on?

17 A. Yes.

18 Q. And that's the main description you gave initially;
19 correct?

20 A. Yes.

21 Q. You actually never told anybody until I asked yesterday
22 about the cornrows; correct?

23 A. Yes.

24 Q. And the solicitor, Ms. Knox, she asked you about the
25 detective coming to show you a picture ---

1 A. Yes.

2 Q. --- a week or two later; correct?

3 A. Yes.

4 Q. And she showed you a picture of Kenneth.

5 A. Yes.

6 Q. And in that picture he has cornrows.

7 A. Yes.

8 Q. So, you did see that picture shortly after the shooting
9 of Kenneth with cornrows.

10 A. I saw that -- I saw the cornrow on his head in November
11 when I went to the Thanksgiving dinner.

12 Q. Okay. But the day, January 4th, or any time after that
13 until yesterday, you never told anyone that the person
14 in your house had cornrows; correct?

15 A. No.

16 THE COURT: I couldn't hear the answer. I'm sorry.

17 THE WITNESS: No.

18 THE COURT: Okay.

19 BY MS. FORD:

20 Q. So you -- that day, of course you were in pain, but the
21 people on scene, the police, they wanted to find out as
22 much as they could; correct?

23 A. (No verbal response)

24 Q. And so you told them what happened; correct?

25 A. (No verbal response)

1 Q. Today you told us that the person asked you about a
2 door?

3 A. The person -- who the person? Boo?

4 Q. The person who shot you, yes.

5 A. Boo, yes.

6 Q. The person -- so, okay. But you didn't mention a bag.

7 A. Did I?

8 Q. When you testified today, you did not mention a bag.

9 A. No.

10 Q. Okay. But you did, I think you can hear it on the 911
11 call, you told people initially the person demanded some
12 type of bag.

13 A. Did they ask me about a bag then? Did they?

14 Q. Well, no, at the time, you -- you did tell them that
15 this person demanded a bag; correct?

16 A. Yes.

17 Q. So, you did tell police that initially; correct?

18 A. I don't remember everything I told the police at the
19 time. I was in pain.

20 Q. Okay. Well, it's on the 911 call.

21 A. I think it's -- I wasn't even listening.

22 Q. Okay. Well, regardless, you did not testify today there
23 was anything about a bag?

24 A. No.

25 Q. Okay. But initially there, you told people he demanded

1 some type of bag?

2 A. The people -- who? Like who?

3 Q. The cops.

4 A. I don't remember.

5 Q. So, today, you told us that this person came in and

6 introduced himself as Boo. Said, "Hey, it's Boo."

7 A. No, I didn't say he introduced himself. He didn't have

8 to introduce himself to me. I know who it was who

9 walked in the door. It was my nephew. I've known him

10 all my life.

11 Q. Did the person say his name?

12 A. No.

13 Q. Maybe I -- maybe I misheard.

14 A. You must have said -- no, he didn't say his name. He

15 didn't have to say his name.

16 Q. Okay.

17 A. I knew who he was.

18 Q. So the talk about Boo, that's just what you call

19 Kenneth?

20 A. That's what I call Kenneth, Boo.

21 Q. Okay. But the day this happened, just to clarify, when

22 the person was in the house, he never said, it's Kenneth

23 or it's Boo?

24 A. No.

25 Q. Okay. I just wanted to make sure that was clear. And

1 my understanding -- so to go back to what happened, this
2 man approaches you at the bathroom in between your door
3 and Tasha's door; correct?

4 A. (No verbal response)

5 THE COURT: You should answer yes and no.

6 THE WITNESS: Yes.

7 THE COURT: Again, it was hard.

8 THE WITNESS: Yes.

9 MS. FORD: Thank you, Judge.

10 BY MS. FORD:

11 Q. So the two of you walked through the house.

12 A. Yes.

13 Q. With the man by your side.

14 A. Yes.

15 Q. At some point, you are able to look face on to this man;
16 correct?

17 A. Yes.

18 Q. And this man, really the closest he was to you was about
19 five feet away when you were looking directly at him?

20 A. Yes. He walked on the side. Yes.

21 Q. Okay. And that's with you not wearing glasses?

22 A. Yes.

23 Q. So, I want to go to afterwards, okay? Afterwards, you
24 got the knee replacement; correct?

25 A. Yes

1 Q. And we talked a little earlier that a nurse would
2 follow up with you, usually once a month; correct?

3 A. Yes.

4 Q. And you had a few follow-up appointments with the
5 doctors?

6 A. Every three months.

7 Q. And the surgery actually went pretty well; correct?

8 A. Yes.

9 Q. And one issue that you had, not really a medical issue,
10 but you -- as you testified earlier, you -- you like to
11 be on your feet a lot?

12 A. Yes.

13 Q. So you were overdoing it a good bit?

14 A. When?

15 Q. When you were trying to heal.

16 A. I did well. I did good.

17 Q. So people like your daughters would get on you about
18 overdoing it?

19 A. Yes. Family members. Yes.

20 Q. Okay. Because you were still able to walk around?

21 A. With help.

22 Q. You were able to still live independently?

23 A. As far as yes, not no. I'll say yes.

24 Q. Okay. And so sometimes your daughter would come over to
25 help with the cooking and stuff to make sure you're

1 eating healthy; correct?

2 A. She would come over every day.

3 Q. But you would also, you would do your own cooking and

4 own cleaning?

5 A. After I got shot. With assistance.

6 Q. Okay. I'm talking about the months following.

7 A. With assistance gradually.

8 Q. So other than, you had some back pain from a prior

9 issue; correct?

10 A. Yes.

11 Q. But other than that, your knee actually -- when you'd go

12 to your appointment, you would tell everybody you were

13 doing pretty well?

14 A. I was in pain every day with my knee. I'm still in

15 pain.

16 Q. Okay. But you would tell the doctors that you were

17 doing pretty well; correct?

18 A. Doing pretty well, yeah.

19 Q. And that you were able to get around decently?

20 A. With a cane or a walker.

21 Q. Okay. Well, sometimes you'd get in trouble because you

22 wouldn't use your walker.

23 A. Well, yeah, I did.

24 Q. Okay. So, you needed a walker for more long distance,

25 correct?

1 A. A long distance with a walker.

2 Q. And more if you were doing something out of the
3 ordinary.

4 A. Cane.

5 Q. Now, Kenneth, he -- you told us he would only come
6 around like maybe a couple of times a year at this point
7 in life?

8 A. Yeah.

9 Q. Okay. So, this particular day, you did not receive a
10 phone call from Kenneth saying I'm coming over?

11 A. No.

12 Q. You did not receive a text message from Kenneth saying
13 he was coming over?

14 A. No.

15 Q. So, you had no expectation of Kenneth being there that
16 day?

17 A. No.

18 MS. FORD: I beg the court's indulgence.

19 THE COURT: Okay.

20 BY MS. FORD:

21 Q. So just a few more questions. So just to clarify with
22 the bag that the person demanded, you told this to the
23 -- when you were in the ambulance; correct? Do you
24 recall that?

25 A. About the bag and the ambulance? No. I don't remember

1 if I said anything to anybody in the ambulance. No.

2 Q. Okay. So you don't recall telling them what happened,
3 talking to police when you were in the ambulance?

4 A. No. When police talked to me in the ambulance.

5 Q. Okay. You did have to be taken to the hospital in an
6 ambulance?

7 A. Yeah, but police officers weren't in the ambulance with
8 me.

9 Q. Okay.

10 A. The only people who was attending me was in the
11 ambulance.

12 Q. Okay. After this day, you did have further
13 conversations with the police; correct?

14 A. (No verbal response)

15 Q. So you told us that Detective Steinbrunner, she came to
16 your home and showed you the picture; right?

17 A. (No verbal response)

18 Q. Okay.

19 THE COURT: Answer yes or no.

20 BY MS. FORD:

21 A. Yes. I'm sorry. Yes.

22 Q. And you also talked to her on the phone prior to that?

23 A. I don't remember.

24 Q. Okay. And when you talked to her, you didn't give her a
25 lot of details about what happened that day either?

1 A. No, she didn't ask me.

2 Q. Okay. So, a lot of what you're saying today, you never
3 told police initially?

4 A. I never told the police what he did?

5 Q. Well, I'm talking about the surrounding details. You
6 told police that Kenneth shot you?

7 A. Yes.

8 Q. But you didn't really give them any details other than
9 the bag?

10 A. No. I don't remember.

11 Q. You don't remember?

12 MS. FORD: Your Honor, I have no further questions
13 for this witness. Thank you, Ms. Dukes.

14 THE COURT: Any other questions or redirect?

15 MS. KNOX: Yes, Judge.

16 **R E D I R E C T E X A M I N A T I O N**

17 **BY MS. KNOX:**

18 Q. Ms. Dukes.

19 A. Yes.

20 Q. Would you say this experience was traumatizing?

21 A. Yes, it is. Still is.

22 Q. Ms. Dukes, could you think clearly after you had been
23 shot?

24 A. Yes.

25 Q. Were you in pain after you were shot?

1 A. Yes.

2 Q. I'm going to address a couple things that Ms. Ford
3 brought up on cross, starting with Tasha. Can Tasha
4 leave her room on her own?

5 A. No.

6 Q. Would Tasha have been able to help you?

7 A. No.

8 Q. Ms. Dukes, how long were those phone calls to family
9 before you called 911?

10 A. I'd say right away because I had the phone, like, you
11 know, I could just punch the numbers and call, so it
12 didn't take that long.

13 Q. Would you say seconds or minutes?

14 A. Minutes.

15 Q. Okay. Ms. Dukes, did -- aside from describing the
16 Defendant from wearing a burgundy shirt, did you give
17 any other description of his clothing?

18 A. Yes.

19 Q. And what was that description?

20 A. Burgundy shirt, khaki pants.

21 Q. Khaki pants. Ms. Dukes, were you asked about the
22 Defendant's hairstyle the day that you were shot?

23 A. No.

24 Q. Ms. Dukes, did the person who came into your house
25 address you as Aunt Nita?

1 A. Yes.

2 Q. Ms. Dukes, Ms. Ford was asking you about your eyesight
3 without your glasses. Do you mind taking your glasses
4 off? I want you to tell me how far the Defendant was in
5 your den before you were shot. You can tell me to stop
6 whenever I get to the point where I can do that; okay?

7 A. Right here.

8 Q. Right here?

9 A. (No verbal response)

10 Q. And can you see clearly? Can you see me clearly without
11 your glasses?

12 A. Yes.

13 Q. Ms. Dukes, did you use a walker before you were shot?

14 A. No.

15 Q. Did you use a cane before you were shot?

16 A. No.

17 Q. Ms. Dukes, are you able to easily recognize members of
18 your family?

19 A. Yes.

20 Q. And finally, Ms. Dukes, do you know why you were shot?

21 A. No.

22 MS. KNOX: Okay. I have no further questions for
23 Ms. Dukes at this time.

24 THE COURT: Any recross?

25 MS. FORD: Yes, Your Honor.

1 R E C R O S S E X A M I N A T I O N

2 **BY MS. FORD:**3 Q. So, Ms. Dukes, you testified that this person called you
4 Aunt Nita. Nita?

5 A. Aunt Nita.

6 Q. Aunt Nita?

7 A. (No verbal response)

8 Q. And you never -- that's one of those things that you
9 never told police when they saw you that day; correct?

10 A. They didn't ask me that.

11 Q. Okay.

12 A. No.

13 Q. And when Detective Steinbrunner, when she followed up
14 with you the following week, you never told her that
15 either?

16 A. No.

17 Q. Okay. So, you're just telling us that today in court?

18 A. Telling you what? Explain it for me, please. I don't
19 understand what you're saying.

20 Q. So, this person in your home ---

21 A. Yes.

22 Q. You're telling us he called you Aunt Anta or Aunt Nita?

23 A. Yes.

24 Q. And you never told police or anyone that before today?

25 A. Nobody asked me.

1 MS. FORD: Okay. No further questions.

2 THE COURT: Okay. All right. Ma'am, you are free
3 to step down from the witness stand. You can have a
4 seat in the gallery or anywhere else you're comfortable.
5 Can you help her with that, sir? Thanks so much. I did
6 a little help, but I can't. All right.

7 THE WITNESS: Thank you.

8 THE COURT: All right. Is your next witness ready?
9 Who is that?

10 MS. KOZIK: Yes, Judge. Our next witness is going
11 to be Dr. Kristoff Reid.

12 THE COURT: Okay. We'll take a quick break, and at
13 this time, ladies and gentlemen, we'll be at ease for
14 about five or ten minutes. You all can take a
15 five-minute break, and we'll come back for the next
16 witness. Thank you very much.

17 (Jury exits the courtroom)

18 (OFF THE RECORD)

19 THE COURT: All right. All set. Ready to go. I
20 think everybody's had an opportunity to use the restroom
21 and all that in the back, so we will proceed. Is the
22 next witness ready? You are? Y'all can be seated, and
23 we'll have the jury come on back. So probably we'll,
24 you said, which witness is this?

25 MS. KOZIK: This is the doctor ---

1 THE COURT: Treating doctor.

2 MS. KOZIK: Yeah, and then we, depending on how
3 long that takes, we also have Chante Dukes, which we
4 believe will be a quick witness. I don't know how you
5 want to schedule the lunch break.

6 THE COURT: All right. We'll see. Just kind of
7 where we are after Dr. Reid and make that lunch call.

8 (Jury enters the courtroom)

9 THE COURT: All right, jury can be seated. Y'all
10 can come on out and make yourselves comfortable. All
11 right. Thank you so much.

12 THE BAILIFF: Jury is all present.

13 THE COURT: Excellent. Everybody can be seated,
14 and then State can call your next witness.

15 The State calls Dr. Kristoff Reid.

16 THE COURT: All right. Dr. Reid can be brought in.

17 KRISTOFF REWI REID,

18 having been duly sworn, testifies as follows:

19 THE CLERK: Please be seated. Please state your
20 full name into the microphone, spelling your last name
21 mildly and clearly for the record.

22 THE WITNESS: Sure. Kristoff Rewi Reid R-e-i-d.

23 **D I R E C T E X A M I N A T I O N**

24 **BY MS. KOZIK:**

25 Q. Good -- good morning, Dr. Reid. Thanks for coming in.

1 Can you tell the jury where you work?

2 A. Sure. I work at the Medical University of South
3 Carolina.

4 Q. And what do you do there?

5 A. I'm an orthopedic trauma surgeon.

6 Q. How long have you been with MUSC?

7 A. Eleven years.

8 Q. Can you explain to the jury in just layman's terms
9 10,000 foot view what it means to be an orthopedic
10 trauma surgeon?

11 A. Sure. I'm an orthopedic surgeon. We specialize in the
12 treatment of people with broken bones.

13 Q. Okay. And what kind of training do you need to become
14 an orthopedic surgeon?

15 A. So we -- we go through, you know, undergraduate
16 education, medical school, residency, and usually
17 fellowship.

18 Q. Where did you attend your -- where did you attend
19 undergrad?

20 A. United States Military Academy at West Point.

21 Q. And when did you graduate?

22 A. Nineteen-ninety-eight.

23 Q. Where did you attend medical school?

24 A. Washington University in St. Louis.

25 Q. When did you graduate there?

- 1 A. Two thousand seven.
- 2 Q. And where did you attend residency?
- 3 A. Johns Hopkins Hospital.
- 4 Q. What was your residency in?
- 5 A. Orthopedic surgery.
- 6 Q. How -- about how long is that residency?
- 7 A. Five years.
- 8 Q. Did you do a fellowship?
- 9 A. I did. I did an orthopedic trauma fellowship at Duke.
- 10 Q. And when did you complete that?
- 11 A. Two thousand thirteen.
- 12 Q. Are you board certified?
- 13 A. I am.
- 14 Q. In what?
- 15 A. Orthopedic surgery.
- 16 Q. Do you teach?
- 17 A. I do. I teach our residents and I teach for a national
- 18 trauma organization.
- 19 Q. Okay. When you say our residents, what do you mean?
- 20 A. Sorry, the residents in the orthopedic surgery program
- 21 at MUSC.
- 22 Q. Do you do any continuing education or research?
- 23 A. Yeah, we have I think an active research program in
- 24 orthopedic trauma outcomes.
- 25 Q. Are you a member of any professional member

1 organizations?

2 A. Yes. The American Academy of Orthopedic Surgeons,
3 American Orthopedic Association, the Orthopedic Trauma
4 Association, and some regional societies as well.

5 MS. KOZIK: At this time, the State moves to enter
6 Dr. Reid as an expert in orthopedic surgery.

7 THE COURT: Any objection to his qualifications in
8 those areas?

9 MS. FORD: No, Your Honor.

10 THE COURT: Okay. All right. Ladies and
11 gentlemen, normally, folks cannot give opinions during
12 the course of a trial. Normally people from the witness
13 stand can only testify of the things that they've heard
14 or seen. But we make an exception for folks that are
15 deemed an expert in some field or science.

16 Dr. Reid will be allowed to deliver expert opinions
17 in the area of orthopedic and orthopedic surgery. Of
18 course, you don't have to accept his opinions. It's
19 just information for you to use in any way that you see
20 fit. Please proceed.

21 BY MS. KOZIK:

22 Q. Dr. Reid, did you ever have a patient named Juanita
23 Dukes?

24 A. I have, yes.

25 Q. Can you explain the circumstances in which she became

1 your patient?

2 A. Sure. I was the orthopedic surgeon covering orthopedic
3 trauma call at MUSC when she came to the emergency
4 department after a ballistic injury to her knee.

5 Q. When was that?

6 A. January 4th, I believe is the day she came to the ER.

7 Q. What year?

8 A. Two thousand twenty-four, sorry.

9 Q. About -- how old was Ms. Dukes at the time?

10 A. I'm sorry, I don't recall.

11 Q. Okay. Would you characterize her as elderly?

12 A. I would say she qualifies a geriatric patient or an
13 elderly patient, yes.

14 Q. What kind of injury did you say she presented to the ER
15 with?

16 A. I said a ballistic injury, which is how we refer to an
17 injury where a projectile has struck the bone. Try to
18 not get overly specific about what kind of projectile it
19 was.

20 Q. By projectile, do you mean bullet?

21 A. But in this case, it was a bullet.

22 Q. Okay. And it was -- where was the gunshot wound or
23 where's the projectile?

24 A. So the injury was -- the injury was to her knee and the
25 bullet was lodged in her total knee, which is a knee

1 replacement.

2 Q. Okay. Well, we'll get to that in just a moment. Is it
3 her left knee, right knee?

4 A. It's her right knee.

5 Q. What is your experience with elderly patients?

6 A. I would say they form a significant part of our
7 practice.

8 Q. And what's your experience with gunshot wounds?

9 A. I'd say we -- we treat them regularly.

10 Q. In your experience, can you explain potential risks and
11 consequences of an elderly person sustaining a gunshot
12 wound in your practice?

13 A. Sure. I guess generally, you know, an elderly patient
14 or a geriatric patient has a couple of factors that
15 alter their response to being injured. They generally
16 have a little less fitness overall. So they have a
17 little more difficulty with dealing with blood loss
18 primarily. They also have often comorbidities or other
19 medical problems, which again makes it a little harder
20 to deal with trauma.

21 Q. Okay. And specifically as it relates to your practice,
22 what is the bone density like of an elderly patient?

23 A. Generally, geriatric patients have lower bone density
24 than younger patients.

25 Q. Can that affect healing or their -- how does that affect

1 healing?

2 A. Yeah, sorry. It's -- so, bone density doesn't affect it
3 as much as really just age-related changes do slow
4 rehabilitation after injury in a fracture patient.

5 Q. Okay. So let's get back to Ms. Dukes specifically. You
6 mentioned something called a total knee. Can you
7 describe or can you explain again general terms? What
8 is a total knee?

9 A. Sure. A total knee is -- it's an operation that
10 orthopedic surgeons generally do for -- for arthritis of
11 the knee or, you know, intractable knee pain and what it
12 involves is putting a piece of metal on both sides of
13 the knee with a piece of smooth plastic in between let
14 the knee move smoothly.

15 Q. Okay. Even -- back a little further. Can you explain
16 to the jury the general kind of anatomy of the knee?
17 What are we looking at? What's being replaced with that
18 total?

19 A. Sure. So with the total knee you have, you know, the
20 knee has kind of two pieces that move the femur and the
21 tibia kind of articulate, or slide on each other and
22 both ends of that are covered with cartilage and in
23 arthritis that cartilage is worn down or become more
24 bone like which causes pain because you no longer have a
25 nice smooth surface to move.

1 So, with the total knee replacement, what you'll do
2 is you take off basically the pieces of bone right under
3 cartilage on the end of the femur and the top of the
4 tibia which are the two bones to form the knee and
5 sometimes the patella to kind of take all the things
6 that might be rough out of the knee and replace them
7 with a smooth metal or plastic surface.

8 Q. Okay. And prior to you seeing Ms. Dukes in January of
9 2024 had she had that operation done?

10 A. She had, yes.

11 Q. To prepare for Ms. Duke's surgery, what did you do?

12 A. Right. So, we I mean, the most important thing is that
13 we kind of looked at her x-rays assess where what
14 injuries she had, and we had to contact the manufacturer
15 of her total knee replacement to make sure we had
16 replacement parts needed -- or replacement parts
17 available in case we needed to take any of those out and
18 put new ones in.

19 Q. Okay. Could you see the bullet or projectile on those
20 x-rays?

21 A. Yes.

22 Q. Where was it?

23 A. It was lodged in -- roughly lodged in the plastic piece
24 of the total knee.

25 Q. Had you seen this happen before?

1 A. No.

2 Q. Other than the bullet being lodged in that plastic piece
3 of her knee replacement, can you describe to the jury
4 the injuries to Ms. Duke's knee?

5 A. Sure. So, as the bullet entered the knee, appeared to
6 have disrupted or broken the bottom of the patella kind
7 of right where it attaches to the patella tendon. Now,
8 you can see boney fragments on the x-ray suggest to
9 that.

10 Q. Okay. And what happened to the tendon?

11 A. So, the tendon -- because the tendons attached to the
12 bottom patella, if there's a break at the bottom
13 patella, then, you know, some oral, you know, in her
14 particular case part of the tendon was no longer
15 properly attached to the bottom patella.

16 Q. When did you perform surgery on Ms. Dukes?

17 A. The next day, I think, January 5th, 2024.

18 Q. Can you describe the surgery that you performed on her?

19 A. Sure. So, we -- we opened up the knee in kind of the
20 standard fashion that lets us look at all the parts of
21 the knee we'd need to examine to make sure it's still in
22 good order. We cleaned out any small pieces of bone.
23 We took out any metal fragments that were potentially in
24 the knee joint. And then we examined the called the
25 poly, the plastic piece. That is a smooth articulating

1 surface and the bullet was kind of wedged between piece
2 of metal top of the tibia where it attaches and the
3 plastic itself.

4 We assessed whether we thought that the tibial base
5 plate was in appropriate alignment or loose which it was
6 not. And then we removed the plastic piece with the
7 bullet in it and re-examined the top of the tibia the
8 base plate to make sure that the locking mechanism that
9 holds plastic in place was intact which it appeared to
10 be.

11 So, after removing that and washing it up to make
12 sure no small pieces that could potentially cause wear
13 in the future. We got a new piece of plastic the same
14 size the old one and put it back in place. We then
15 looked at the patella tendon which was partially injured
16 as, you know, the bullet didn't take the whole bottom of
17 the patella off. I took part of the bottom of the
18 patella off and that meant that part of the patella
19 tendon was no longer attached. So since the piece of
20 bone was too small to fix together, we used a special
21 suture to attach The remnant of that patella tendon to
22 the bone.

23 Q. About how long did this surgery take?

24 A. I'd say it was roughly about an hour-and-a-half. I
25 haven't checked my records directly though.

1 Q. Okay. And this might seem like a silly question for
2 what you just described, but was Ms. Dukes under
3 anesthesia at the time?

4 A. She was.

5 Q. What are some of the risks with a surgery like this?

6 A. Right. So there are, you know, a wide variety of
7 possible complications, but the most likely ones I think
8 are, you know, potential to re-rupture the tendon
9 because it was injured and repaired. But certainly I
10 could kind of be re-disrupted which is you know a
11 problem would require more surgery.

12 The possibility that there was something with the
13 total knee that was no longer actually correctly aligned
14 even though it looked good on x-ray and in person. So
15 potentially a need for revision of the total knee if she
16 came back and the knee just wasn't working right
17 anymore.

18 And then probably the one that would be the worst
19 complication would be that if the knee itself got
20 infected from having an injury in a foreign body. And
21 if the knee were to become infected then it require at
22 least one more surgery.

23 Q. So, you mentioned earlier that during surgery you
24 removed some debris from the total knee; right?

25 A. Yeah.

1 Q. Okay. Or it was at least removed at your direction
2 while you were in the operating room?

3 A. Right.

4 Q. Does the hospital have a procedure for handling that?

5 A. Right. So I guess specifically you're talking probably
6 about the bullet in the poly, yes. So, we -- we, the
7 hospital has a procedure to my understanding is a
8 procedure to ensure there's appropriate chain of
9 custody. So, our nurses will turn it over to a hospital
10 security who then do something with it.

11 Q. Okay. But you did see the bullet when you ---

12 A. Yes, I did.

13 Q. --- took it out? Okay. Let the record reflect I'm
14 showing the Defense, State's Exhibit No. 9. Permission
15 to approach?

16 THE COURT: Sure.

17 BY MS. KOZIK:

18 Q. Dr. Reid, I'm handing you State's Exhibit No. 9. Do you
19 recognize that?

20 A. Yes. This is a specimen cup like we use in the hospital
21 with the patient's label from surgery on it. This is a
22 little hard to see, but I certainly believe that it
23 probably contains the bullet that was used, that we
24 removed from her knee.

25 Q. And to your knowledge, would it be potentially the same

1 condition when you removed it?

2 A. Yes.

3 MS. KOZIK: At this time, State moves State's
4 Exhibit No. 9 into evidence.

5 THE COURT: Any objection, State's No. 9?

6 MS. FORD: No, Your Honor.

7 THE COURT: No objection. It will be admitted.

8 (State's Exhibit No. 9 is admitted into evidence.)

9 Q. Did you take any pictures during or immediately after
10 the surgery?

11 A. Yes, we did.

12 Q. Why?

13 A. I mean, it's a very unusual case and kind of I think we
14 thought it'd be appropriate to kind of document this for
15 future learning and education about this fairly unusual
16 problem. So, you know, we later on talked to Ms. Dukes
17 about whether we could use these pictures to submit a
18 case report.

19 Q. Okay. Let the record reflect, I'm showing the Defense
20 State's Exhibit No. 10.

21 MS. FORD: Your Honor, we would object based on 403
22 because it's on the gloves.

23 THE COURT: Okay. If you can hand it up to me real
24 quick. All right. Objection overruled. I will allow
25 it over the Defense's objection.

1 BY MS. KOZIK:

2 Q. Dr. Reid, I'm handing you what is marked as State's
3 Exhibit No. 10.

4 A. Yes.

5 Q. Do you recognize that?

6 A. Yes, that's one of the pictures that we took.

7 Q. Is it a fair and accurate combination for those
8 pictures?

9 A. Yes.

10 MS. KOZIK: At this time, State moves State's
11 Exhibit No. 10 into evidence.

12 THE COURT: Yeah. I admitted it over the objection
13 from the Defense.

14 (State's Exhibit No. 10 is admitted into evidence.)

15 MS. KOZIK: Permission to publish.

16 THE COURT: Uh-huh.

17 BY MS. KOZIK:

18 Q. Dr. Reid, can you tell the jury what we're looking at
19 here?

20 A. Sure. So this is a view from the front of the of the
21 poly of the piece of plastic that provides a smooth
22 surface for the knee to move and you can see along the
23 bottom there's kind of a ridge or a dent in the bullet.
24 That's kind of a lock part of the locking mechanism that
25 holds plastic in place.

1 Q. Okay. You should be able to draw on that if you wanted
2 to point that out.

3 A. Sure. I mean, so you can see kind of along here there's
4 a ridge where the locking mechanism is or the front half
5 of the locking mechanism. This right here is the top
6 kind of the little divots that the knee rotates in. And
7 then there's a little fragment of displaced plastic from
8 where the bullet entered.

9 Q. Dr. Reid, what does recovery from surgery like this look
10 like particularly for someone of Ms. Dukes' age?

11 A. Sure. So I think, you know, the primary injury that
12 she's recovered from in this case is really the -- the
13 disruption and repair of the patella tendon which is
14 kind of pretty crucial to the knee moving is what helps
15 you straighten your leg. So, what we do with these
16 patients generally is that they're not allowed to move
17 their knee for about six weeks. And then we let them
18 gradually start bending them 20 degrees a week for next
19 six weeks until they get to their full motion. And in
20 about three months we take the brace off and let them
21 kind of move their knee as they tolerate.

22 Q. So, to be clear, you instructed Ms. Dukes not to bend
23 her knee?

24 A. Correct. She wasn't able to -- she was not she was
25 instructed not to bend her knee for six weeks.

1 Q. Did you see Ms. Dukes after that six weeks?

2 A. Yes. We saw her back at about three months after injury
3 and about eight months after injury and I saw her one
4 final time about a year after injury.

5 Q. Okay. About three months, can you describe the progress
6 of her knee healing?

7 A. Sure. So, you know, her wound had healed. She was, you
8 know, out of the brace. She was moving her knee Her
9 range of motion was about zero to 90 or 100 degrees so a
10 little bit past -- past right angle. She was still
11 using a walker or cane to get around.

12 Q. You talked a little bit about the degrees that a knee
13 can bend. Can you talk to the jury about what was
14 considered normal?

15 A. Sure. So I mean, you know, normal I would say we're at
16 135 -- 145 degrees. So, you know, I mean, 90 degrees --
17 is this draw still? Maybe yes, I guess, it won't drop
18 there. That's fine. Whatever.

19 Q. Can you just describe?

20 A. Yeah. Fine. I mean, you know about 90 degrees like
21 this Which that's good enough to go upstairs. It's good
22 enough to sit in a chair. It's not I mean, I think
23 hopefully for all of you. It's, you know, not what
24 you've got right now for your maximum motion I think
25 most people moved about 135 degrees gives you pretty

1 close to full range of motion.

2 Q. And to be clear, when you saw her at about three months
3 out. She was about 100?

4 A. About 100.

5 Q. Okay. And she was walking with a walker when you saw
6 her?

7 A. That's my recollection.

8 Q. Maybe we touch on this a little earlier, but is recovery
9 from this type of surgery harder for an elderly patient
10 as compared to a younger patient?

11 A. Yeah, I think in general recovery from -- from a
12 fracture and injury is tougher as we get older. Older
13 patients tend to take a little bit longer with rehab,
14 take a little longer therapy to kind of get back to
15 their baseline.

16 Q. Okay. When you saw her after say that three months it
17 was her knee function fully restored?

18 A. So, I think with a range of motion of zero to 100
19 degrees, I would say that is not that -- it's not what I
20 would expect full restoration be to be fair. I don't
21 have documentation of how much her knee was bending
22 before, you know, before this all happened, but I would
23 say that was acceptable, but not great.

24 Q. Might an injury or surgery from this sort of injury
25 result in residual pain for Ms. Dukes going forward?

1 A. It certainly could.

2 Q. If Ms. Dukes had not had that knee replacement surgery,
3 had not had that metal or the plastic piece where the
4 bullet was lodged, in your opinion, what could have
5 happened to that leg?

6 A. Right. So, it certainly it could have -- it could have
7 -- could have passed through tibia kind of unimpeded and
8 Potentially even not required surgery. It could have
9 led to a fracture of the top of the tibia that would
10 require, you know, surgery to put the tibia back
11 together. And, you know, potentially could have, you
12 know, damaged the structures which lie behind the knee
13 which include the arteries that feed the lower leg.

14 Q. And if it had damaged the structures that had like the
15 arteries behind the knee what might have happened in
16 that case?

17 A. Right. So, you know, again, it does -- it does vary,
18 but, you know, could require, you know, potentially
19 could require surgery for vascular surgeons to repair
20 it, could have led to substantial bleeding, could have
21 been irreparable potentially or repaired with
22 complications.

23 Q. In that case could have led to the loss of that leg?

24 A. I think it is fair to say that an injury to the vessels
25 behind the knee could lead to a loss of the leg.

1 Q. In your opinion, did Ms. Dukes's injury result in a
2 protracted loss or impaired function of her knee or leg?

3 A. I think you -- I think -- yes.

4 MS. FORD: Objection. She's asking for a legal
5 basis of the legal definition.

6 THE COURT: I'm sorry. Can you come up?

7 (Bench conference)

8 THE COURT: Thanks. All right. She's going to
9 rephrase it.

10 BY MS. KOZIK:

11 Q. Dr. Reid, in your opinion, can you explain how this
12 injury has affected the function or use of Ms. Dukes's
13 knee?

14 A. Sure. So, kind of as we talked about earlier, she was,
15 you know, she was locked up in a brace for the first six
16 weeks and had a brace of some sort for the first three
17 months. She didn't have full motion of the leg then.
18 And when I saw her at eight months, she was still using
19 a cane or a walker for support.

20 MS. KOZIK: No further questions.

21 THE COURT: Okay. Any follow up questions for this
22 -- cross of the witness for the Defense?

23 MS. FORD: Yes, Your Honor.

24 THE COURT: All right.

25 C R O S S E X A M I N A T I O N

1 **BY MS. FORD:**

2 Q. So, the actual -- before you did the surgery, I guess,
3 you maybe diagnosed it, there was a fracture; is that
4 correct?

5 A. Yes. So, I mean, there's a fracture, you know, which
6 acted like an avulsion of the patella. I mean, yes,
7 there's a fracture the primary result of fracture was a
8 Disruption of or a tear of patella tendon as it was
9 attached to the bottom of the patella.

10 Q. Which you as part of the surgery had to treat that;
11 correct?

12 A. Correct.

13 Q. And you performed surgery on January 5th?

14 A. That's correct.

15 Q. And then she was released on January 7th?

16 A. I don't -- I don't recall what her discharge date was.

17 Q. Does that sound about right?

18 A. It sounds about right. It sounds appropriate.

19 Q. Now, the actual surgery itself, you explained a little
20 to us. There were basically no complications with the
21 surgery other than poly swabs; correct?

22 A. Let's say correct.

23 Q. Okay. And the knee was stable after the poly swab?

24 A. The knee was -- the knee was stable. Yes.

25 Q. Okay. The poly swab is just ---

- 1 A. The poly swab that you had, so it's a polyethylene. The
2 plastic is polyethylene so we called it poly.
- 3 Q. And it was recommended that weak bearing as tolerated?
- 4 A. Correct, in an immobilizer.
- 5 Q. Okay.
- 6 A. So -- so with -- with the brace on. So, we, you know,
7 she could, you know, with -- with patella tendon, if you
8 -- if your leg is totally straight, it doesn't take much
9 load.
- 10 Q. And it was recommended that she do physical therapy?
- 11 A. Correct.
- 12 Q. When you talked about a few times that you followed up
13 with her, whenever you met with her, she felt like she
14 was doing okay?
- 15 A. Yeah. I believe that's what I said in my notes.
- 16 Q. In particular, you noted that she was doing well
17 overall?
- 18 A. Correct.
- 19 Q. The pain was controlled?
- 20 A. Correct.
- 21 Q. The wounds had healed well?
- 22 A. Correct.
- 23 Q. She never needed a follow-up surgery; correct?
- 24 A. That is correct.
- 25 Q. Even though, occasionally, there would be some pain at

1 the surgery site, but she indicated she was still able
2 to walk through it?

3 A. I mean, I, you know, I don't have my notes, you know, in
4 front of me. But my understanding is she was getting
5 around appropriately.

6 Q. Okay. And even though she -- when she would see you,
7 she had a walker or cane. You don't know that she was
8 necessarily using those things when she wasn't at the
9 doctor.

10 A. We document -- we document, you know, kind of what we're
11 told.

12 Q. I'm sorry?

13 A. So, we document, you know, if we say, "Hey, how are you
14 doing? You get around at home with a walker or cane"
15 and say, "I'm using a walker or cane." That's, you
16 know, that's what we document.

17 Q. And you saw her a few times following the surgery;
18 correct?

19 A. Correct.

20 Q. But through the MUSC, she was seeing other doctors.

21 A. I -- I don't know.

22 Q. Okay. There was a nurse checking in with her. Was that
23 through you or someone?

24 A. I don't know.

25 Q. Okay. Is that something that would typically be done?

1 A. I mean, I guess I need a little more information about,
2 you know, what the purpose of check-in was or who the
3 nurse was. But, you know, certainly some practices have
4 people who call. We don't, in orthopedics, typically,
5 have somebody calls in and check on people.

6 MS. FORD: I beg the court's indulgence.

7 THE COURT: Uh-huh.

8 BY MS. FORD:

9 Q. So, an RN named Cherylyn Arigo (phonetic), does that
10 sound familiar?

11 A. It does not, but we have a lot of people.

12 Q. Okay. So you're not familiar with all of the nurses?

13 A. I'm not.

14 MS. FORD: I have no further questions.

15 THE COURT: All right. Any redirect?

16 MS. KOZIK: No redirect. This witness can be
17 excused.

18 THE COURT: All right. Nothing for me. You are
19 free to go.

20 THE WITNESS: Thank you.

21 THE COURT: Thank you, sir. All right. State,
22 call your next witness.

23 MS. KNOX: State call Chante Dukes.

24 THE COURT: Okay.

25 TREANDA CHANTE DUKES,

1 having been duly sworn, testifies as follows:

2 THE CLERK: Please be seated. Please state your
3 full name into the microphone, spelling your last name
4 clearly for the record.

5 THE WITNESS: Treanda Chante Dukes, D-u-k-e-s.

6 **D I R E C T E X A M I N A T I O N**

7 **BY MS. KNOX:**

8 Q. Good morning, Ms. Dukes.

9 A. Good morning.

10 Q. Let's start off by telling the jury who you are and
11 where you live.

12 A. I'm Juanita Dukes's daughter. I live at [REDACTED] Dutton
13 Avenue in North Charleston.

14 Q. And since the events of January 4th of 2024, how often
15 are you with Ms. Dukes?

16 A. Mostly daily.

17 Q. How would you describe Mrs. -- Ms. Dukes' independence
18 before the shooting?

19 A. My mom was still driving, still cooking, still cleaning
20 our home, which is well over 2,000 square feet. She was
21 driving to get her groceries. She was going to get her
22 nails done. She did pretty much everything on her own.

23 Q. And how would you describe Ms. Dukes's independence
24 after the shooting?

25 A. I am ---

1 MS. FORD: Object based on the pretrial.

2 THE COURT: Okay. Objection, I mean, maybe just
3 wait a little more foundation before we come into -- can
4 we do that?

5 MS. FORD: Okay.

6 THE COURT: Can y'all please approach?

7 (Bench conference)

8 THE COURT: Okay. All right. Got it.

9 BY MS. KNOX:

10 Q. Okay. Ms. Dukes, we're going to talk a little bit about
11 everything as it relates to before the shooting. You
12 just testified that about her independence beforehand.

13 A. Yes.

14 Q. Talk to me a little bit more about that, starting with
15 how far away do you live from Ms. Dukes?

16 A. It's actually eight miles. It's seven-and-a-half miles.

17 Q. Seven-and-a-half miles?

18 A. Yes, ma'am.

19 Q. And how often were you with Ms. Dukes before the
20 shooting?

21 A. Mainly we would go -- I would be with her maybe two,
22 three days a week. We'd go grocery shopping and -- and
23 clothes shopping and stuff on Saturdays. We'd go to the
24 mall, to the grocery store, to Walmart. Just all day,
25 spending out and about.

1 Q. When you -- when you two did those things, did she use a
2 walker?

3 A. No.

4 Q. And/or did she use ---

5 A. No.

6 Q. --- a cane?

7 A. No.

8 THE COURT: Try to wait until she finishes the
9 question before you answer.

10 THE WITNESS: Yes, ma'am.

11 THE COURT: Because this young lady has to take
12 down everything; okay?

13 THE WITNESS: Okay.

14 THE COURT: Thank you, ma'am.

15 BY MS. KNOX:

16 Q. How would you describe Ms. Dukes's ability to do things
17 on her own before the shooting? I know you just
18 testified about her independence, but kind of talk to me
19 a little bit more about that.

20 A. She would drive herself to church on Sundays. She would
21 drive to Bible study on Wednesdays. She would drive to
22 the grocery store. She cleaned her house. She did
23 laundry. She cleaned -- she cooked every day. She did
24 everything on her own.

25 Q. And to your knowledge, talk to me a little bit about

1 Ms. Dukes' hygiene before the shooting.

2 A. She was able to -- she wore regular clothes. She was

3 ---

4 Q. Was she able to shower on her own?

5 A. Able to shower on her own. Able to -- she was able to

6 do everything on her own.

7 Q. Was Ms. Dukes able to go to the bathroom on her own?

8 A. Yes.

9 Q. Did Ms. Dukes go -- how often did Ms. Dukes go to
10 doctor's appointments before January 4th?

11 A. Every three months.

12 Q. And did you attend those doctor's appointments with her?

13 A. Yes.

14 MS. KNOX: Okay. I beg the court's indulgence.

15 THE COURT: Uh-huh.

16 BY MS. KNOX:

17 Q. And Ms. Dukes, everything that you just testified as to
18 it relates before the shooting is based on your personal
19 knowledge?

20 A. Yes.

21 Q. Is it based on everything that you have witnessed
22 yourself?

23 A. Yes.

24 Q. Okay. Now, I would like to ask you, what is Ms. Dukes's
25 independence like -- or I guess I can start by saying,

1 how often are you with Ms. Dukes since this incident
2 happened?

3 A. Pretty much daily.

4 Q. Daily. Is it just in the morning or the evening or kind
5 of describe that a little bit more?

6 A. I usually come to her in the morning and stay with her
7 until my brother gets home in the evenings.

8 Q. How -- what do you two do together?

9 A. Mainly sit around and watch TV. I cook dinner for both
10 home, both her house and my house. Usually I'll cook
11 dinner for both houses. And then when my brother gets
12 home from work, I go home.

13 Q. Do you drive Ms. Dukes places now?

14 A. I take her everywhere she goes.

15 Q. Do you still attend doctor's appointments with
16 Ms. Dukes?

17 A. Every appointment with her, yes.

18 Q. Every appointment?

19 A. And I stay with her in the hospital because she's been
20 in the hospital a lot since last year.

21 Q. Talk to me a little bit about Ms. Dukes's hygiene after
22 the incident.

23 A. When she came home from the hospital, she was ---

24 MS. FORD: Objection. Relevance. I don't think
25 this goes to the elements.

1 THE COURT: Overruled. I think it does, but as to
2 the loss of use, I'm assuming; is that right?

3 BY MS. KNOX:

4 Q. Okay. You can continue.

5 A. When she came home, she was unable to -- her mobility
6 was pretty much shot. She couldn't get up and walk. We
7 tried using the bedside toilet. That didn't work. And
8 so I had to make the decision to put her in adult
9 diapers. She was upset with me for a while, but I had
10 to explain this is what we have to do because changing
11 the bed and changing you and having to get you up and
12 looking at you cry because you can't get to the
13 bathroom, it was too hard. So for seven months, she was
14 in adult diapers.

15 Q. Okay. Does Ms. Dukes now use a walker?

16 A. Yes.

17 Q. Okay. Did Ms. Dukes have any other physical health
18 impact after, aside from the surgery?

19 A. Frequent falls. She's fallen, I want to say, four
20 times. Been in an emergency room three times since this
21 incident. The last time was on the 22nd of January.
22 She fell and fractured her leg and had to have her knee
23 replaced again. The other leg, had to have the knee
24 replaced in that leg as well. So she's had two knee
25 replacements in the last year.

1 So, her question to me is always, am I going to be
2 able to walk like I used to before? And I told her, the
3 fact that you can walk, I'm thankful for that. I can't
4 promise you you're going to ever be able to not use that
5 walker. But from where it is now, it doesn't look like
6 -- doesn't look like she's going to be able to move away
7 from needing assistance with help, assistance walking.

8 MS. KNOX: All right. I beg the court's
9 indulgence.

10 THE COURT: Okay.

11 BY MS. KNOX:

12 Q. Ms. Dukes, do you know Kenneth Miller?

13 A. Yes.

14 Q. How do you know him?

15 A. He's my first cousin.

16 Q. And how long have you known him?

17 A. His entire life.

18 Q. Were you two ever close growing up?

19 MS. FORD: Objection. Relevance.

20 THE COURT: Overruled.

21 BY MS. KNOX:

22 A. He and my nephew who I raised -- my sister passed away
23 when I was a teenager. And I was raising her son, so
24 him and my nephew are really close. So, he would spend
25 the weekends with me at my home with my family.

- 1 Q. Does the Defendant have any nicknames?
- 2 A. Yeah, we call him Boo.
- 3 Q. And who calls him Boo?
- 4 A. Everybody.
- 5 Q. How long have they -- have people called him Boo?
- 6 A. I've never heard -- I've never known anybody not to call
- 7 him Boo.
- 8 Q. Do you have any other family members that also go by
- 9 Boo?
- 10 A. No.
- 11 Q. Ms. Dukes, how many nephews does the victim have?
- 12 A. I think it's nine of them.
- 13 Q. Nine nephews?
- 14 A. Yes.
- 15 Q. Is Boo distinct from these nephews?
- 16 A. Yes.
- 17 Q. How?
- 18 A. Besides BJ, he's the tallest.
- 19 Q. To clarify, Boo is the tallest nephew?
- 20 A. Yeah.
- 21 Q. How else is he distinct?
- 22 A. He usually -- most of them wear their hair in regular
- 23 cuts or they have dreads. He usually wears cornrows and
- 24 his complexion was always lighter than most of the boys,
- 25 so ---

1 Q. Okay. Does Boo resemble any other family member?

2 A. Boo looks like his dad.

3 Q. Okay. Is his dad still around?

4 A. Yes. Well, he lives in Columbia, but he's still around.
5 Except his father's dark skin.

6 Q. Okay. Ms. Dukes, is Boo in the courtroom here today?

7 A. Yes, he is.

8 Q. Can you please point him out for the jury and describe
9 what he's wearing?

10 A. He's wearing a -- looks like a powder blue with jeans.
11 I can't see that far without my glasses. So ---

12 Q. Okay. Ms. Dukes, did you receive any calls on the
13 morning of January 4th of 2024?

14 A. Yes, I did.

15 Q. Who was that call from?

16 A. My mom.

17 Q. Do you remember what time you received that call?

18 A. It was in between 10 and 11 in the morning.

19 Q. Do you remember how long that call was?

20 A. It wasn't long at all. It was maybe less than a minute.

21 Q. Less than a minute?

22 A. Yes.

23 Q. Ms. Dukes, can you tell me about that phone call?

24 A. She called me and she was crying and screaming.

25 MS. FORD: Objection. Just my prior objection,

1 especially because of the nature.

2 THE COURT: All right. I'll allow it at this point
3 in time. I'll allow it. If I need her to stop, I'll
4 have her stop. You can go ahead and begin answering the
5 question.

6 BY MS. KNOX:

7 Q. The question was, can you tell me about that phone call?

8 A. She called me and she started screaming into the phone.
9 And she said to me, Boo shot me. Get here now. I need
10 you to get here now. I said, "Mom, what?" She said,
11 "Boo shot me. Come now."

12 Q. And what did you do?

13 A. Jumped in the car and came to her.

14 MS. KNOX: I have no further questions for this
15 witness.

16 THE COURT: Okay. All right. Any cross
17 examination for this witness?

18 MS. FORD: Yes, Your Honor.

19 THE COURT: Okay.

20 **C R O S S E X A M I N A T I O N**

21 **BY MS. FORD:**

22 Q. Hello.

23 A. Hello.

24 Q. You told us how you would help your mom with her medical
25 appointments?

1 A. Yes.

2 Q. As part of her medical care, she had a nurse regularly
3 checking on her?

4 A. No.

5 Q. So, she had a nurse, Cherilyn Arigo, who would call her?

6 A. On the phone, yes.

7 Q. And sometimes, you would actually talk to her instead or
8 in addition to?

9 A. Yes.

10 Q. And you would always tell her that your mom was doing
11 well?

12 A. Yes.

13 Q. Because she was calling to see how she was doing after
14 the knee surgery?

15 A. No, she actually started calling after she had back
16 surgery.

17 Q. Well, she started calling in February of 2024.

18 A. A nurse has been calling her since after she had back
19 surgery three years ago.

20 Q. Okay. So, you mean, sorry, the back surgery was before
21 the knee surgery?

22 A. Yes.

23 Q. Okay. So, she had a nurse checking on her since?

24 A. Yes.

25 Q. Before the knee surgery? Okay. And at some point, you

1 would say that you had to encourage your mom to use her
2 walker for safety?

3 A. Yes.

4 Q. Because a lot of times, fair to say, your mom's stubborn
5 -- can be stubborn?

6 A. Yes.

7 Q. And wouldn't want to use the walker?

8 A. Absolutely.

9 Q. So, she would be walking around without the use of the
10 walker. And she was, you told us how she would go to
11 the house, that she was still living at the house by
12 herself with your other sister?

13 A. And my brother.

14 Q. And she was able to cook and clean on her own?

15 A. My mother started back cooking after right before
16 Thanksgiving of last year. Before that, I was cooking
17 all of their meals. I was cooking breakfast and lunch
18 for her and Tasha. Right before Thanksgiving is when
19 she started demanding that she could do it herself.

20 Q. So, you were cooking to make sure she was eating
21 healthy?

22 A. No, I was cooking because she couldn't do it herself.

23 Q. Okay. So, you're claiming that she wasn't cooking and
24 cleaning during this time?

25 A. Up until Thanksgiving, I was doing most of the cooking

1 for the household if I didn't buy food. And my cousin
2 Ayana, who is Kim's sister, would also help me with
3 bringing in meals. And so, between the two of us, we
4 brought the meals, all of their meals, every day.

5 Q. So, in August of 2023, you told the nurse, she has so
6 much energy and I can't even keep up with her.

7 A. Is that in August of 2023?

8 Q. I'm sorry, 2024.

9 A. I don't recall that conversation. I recall telling her,
10 Mama doesn't listen and she will get up and move around.
11 But she was not cooking up until that point. She
12 started -- she cooked the first meal in the month of
13 November. I know that for a fact because me and her
14 were arguing about her cooking because she said she
15 could do it herself. But up until that point, I was
16 bringing her dinner or Ayana was. Because I was taking
17 care of my mother and my daughter who was -- who was
18 dying in hospice up until June of last year.

19 Q. Okay. Your mom, though, it's fair to say that she was
20 trying to do things on her own?

21 A. She was trying to do things on her own.

22 Q. And you're the one who had to encourage her to use a
23 walker?

24 A. Yes.

25 Q. And a lot of her issues last year, she was having issues

1 with her back; correct?

2 A. She had the issues with her back since it's been going
3 on. That was an ongoing situation for over 10 years.
4 But the issues with her -- fracturing her leg after that
5 surgery because she had -- she had seizures during --
6 during her stay in the hospital. My mom's aged almost
7 20 years in the last year.

8 Q. Okay. I understand, but a lot of the health issues last
9 year, they were because of her back?

10 MS. KNOX: Objection.

11 BY MS. FORD:

12 A. No, they weren't.

13 Q. All right.

14 A. A lot of the issues she had were because of the injuries
15 she received from the shooting.

16 Q. So you deny -- you're saying she didn't have any back
17 issues?

18 A. I'm not saying that at all. I just told you she had
19 back surgery. So, of course, she had back. She had
20 spondylosis in her back, which means she has narrowing
21 of the lower spine. So she had surgery for that and she
22 was recuperating from that.

23 Q. Okay. But in addition to going to Dr. Reid, Dr. Reid's
24 the surgeon who did the knee replacement; correct?

25 A. Yes.

1 Q. She was also going to a doctor for the back surgery.

2 A. Not at that point. She had already stopped going to the
3 doctor for her back surgery. After they did the
4 surgery, she need -- she did two follow-ups and that was
5 the end of that. And then she went -- she goes to
6 Dr. Matheson every three months.

7 Q. For her back?

8 A. No. He's her primary care physician. She goes for all
9 of her medical needs.

10 MS. FORD: Okay. I beg the court's indulgence.

11 THE COURT: Go on.

12 MS. FORD: No further questions.

13 THE COURT: All right. Any redirect for this
14 witness?

15 MS. KNOX: Yes, Judge. Just briefly.

16 THE COURT: Sure.

17 **R E D I R E C T E X A M I N A T I O N**

18 **BY MS. KNOX:**

19 Q. Ms. Ford mentioned Tasha. How are you related to Tasha?

20 A. That's my sister.

21 Q. And tell me about your sister.

22 A. Tasha had two hip replacements and she had a cancerous
23 growth on one of her legs. So she's been bed-ridden
24 since March of 2022.

25 Q. Can Tasha move on her own?

- 1 A. No.
- 2 Q. Is Tasha able to assist with the victim's care?
- 3 A. No.
- 4 Q. Okay.
- 5 A. Tasha has -- Ayana comes in every day and takes care of
- 6 Tasha. And his other sister, Tashanda, was doing it
- 7 before Ayana was. So Tasha needs care as well. So
- 8 she's not able to help with anything. As far as getting
- 9 out of bed, someone has to help her get into her
- 10 wheelchair to get her out in and out of her room. So
- 11 she can't do anything on her own.
- 12 Q. And to just clarify, where does Tasha live?
- 13 A. In the home with my mom.
- 14 Q. Okay. And she currently lives there?
- 15 A. Yes.
- 16 Q. And she lived there back in 2024?
- 17 A. Yes.
- 18 Q. Okay. Do you take your mom to physical therapy?
- 19 A. Yes.
- 20 Q. Is that related to her back or to her knee?
- 21 A. Her knee.
- 22 Q. Her knee? Okay. And just one last question as it
- 23 pertains to what Ms. Ford was asking you. Even though
- 24 your mom is trying to do things on her own, can she?
- 25 A. She can to a certain extent. She gets tired really

1 easily. And that's where the falling comes from.
2 She'll push herself past where she should and end up on
3 the floor. And so my brother will help her. I get
4 phone calls, mom is on the floor, and I had to go. My
5 brother will have to go pick her up. Or she's out in
6 the yard trying to tend to her flowers and the neighbors
7 are having to help her get up. She falls.

8 Q. Did she used to fall ---

9 A. No.

10 Q. --- like this before 2024?

11 A. No. No.

12 Q. So just to clarify, these incidents of her falling have
13 only started happening since she was shot?

14 A. Yes.

15 MS. FORD: Your Honor, this is outside of the
16 scope. I didn't ask about falling.

17 THE COURT: I'll allow it. Leading to -- I'll
18 allow it. Anything else?

19 MS. KNOX: I have no further questions. Thank you,
20 Ms. Dukes.

21 THE COURT: Recross?

22 MS. FORD: I beg the court's indulgence.

23 **R E C R O S S E X A M I N A T I O N**

24 **BY MS. FORD:**

25 Q. So you talked about her physical therapy. She actually

1 had a difficult time doing physical therapy after the
2 surgery because of her back?

3 A. Yes.

4 MS. FORD: No further questions?

5 THE COURT: All right. Okay. Ms. Dukes, you are
6 free to step down. You can sit wherever you are most
7 comfortable. And it's about 12:30, ladies and
8 gentlemen, so we'll take a lunch break at this time.
9 I'm going to ask you to be back at two o'clock, okay?
10 Thank you so much. Please don't discuss the case.

11 (Jury exits the courtroom)

12 THE COURT: All right. Thank you. Just so I can
13 kind of track along, who do you think you're going to
14 call this afternoon to get back?

15 MS. KNOX: For this afternoon, we have Officer
16 Winn, who is the responding officer. We have Joshua
17 Ranck, who is the technology coordinator. We have
18 Christopher Cestare, who is from the Fusion Center.

19 THE COURT: Okay.

20 MS. KNOX: And then we have Annie Boyd from
21 Enterprise.

22 THE COURT: Okay. All right. Okay. That sounds
23 like that will fill up three hours. Don't you think?
24 Is that in terms of your SLED people? I'm just trying
25 to help you coordinate. I would probably guess it would

1 be tomorrow.

2 MS. KNOX: I would -- I would -- I would assume
3 because also after Annie Boyd, it's Ms. Steinbrunner,
4 and that's a pretty long testimony.

5 THE COURT: I think it's safe to say they can hold
6 off until tomorrow. I'm just trying to help you figure
7 that out; okay?

8 MS. KNOX: Thank you, Judge.

9 THE COURT: All righty. We'll be at ease as well
10 until two o'clock.

11 MS. KNOX: Thank you, Judge.

12 (OFF THE RECORD)

13 THE COURT: You got that next witness ready?

14 MS. KNOX: Yes, Judge.

15 THE COURT: Great. You can bring the jury in then.

16 MS. FORD: Wait, Judge. Your Honor?

17 THE COURT: Uh-huh.

18 MS. FORD: Do you have something I just wanted to
19 bring to the court's attention?

20 THE COURT: Okay.

21 MS. FORD: So Mr. Walters, when he was in here this
22 morning, he informed me that he does recognize one of
23 the jurors.

24 THE COURT: Okay.

25 MS. FORD: And he works occasionally at the

1 synagogue and apparently one of the jurors is the wife
2 of the former rabbi from several years back and he does
3 still see her at the synagogue and he worked at Bar
4 Mitzvah recently. He doesn't think she would have known
5 his name. He actually didn't recognize her name because
6 he knew her by her married name.

7 THE COURT: Okay.

8 MS. FORD: And she switched her name. But he, I do
9 not plan on having him testify. I just put my
10 investigator on just in case something weird happens.
11 But he's not -- I'm not intending to call him. But I
12 wanted to bring that to the court's attention.

13 THE COURT: All right. Do you want me to bring the
14 juror on the board here? The juror on her knowledge of
15 Tommy Walters?

16 MS. KOZIK: Yes. I think if you could just ask her
17 if she can still be fair and impartial, that would
18 satisfy the State.

19 THE COURT: So which juror is it? Do you know her
20 number?

21 MS. FORD: Yes, Your Honor. It's juror number 22,
22 Ellen Brandwein. Brandwein?

23 THE COURT: Twenty-two.

24 MS. FORD: Yes, ma'am.

25 THE COURT: All right. Can you bring 22? Was

1 there something else you were saying?

2 MS. KOZIK: I just forgot to put down.

3 THE COURT: Oh, that's fine. It's hard to find 12
4 or 14 people in Charleston County where one doesn't know
5 Tommy Walters. So it's a tough, tough thing to do.
6 Hey, you're not in any trouble. Don't worry. We just
7 had something brought to our attention. We had somebody
8 realize that they think that they actually know you, but
9 you probably didn't know their name when I called her
10 out. His name's Tommy or Thomas Walters, and he, I
11 think, has worked in some capacity at the synagogue and
12 might have known you. Could he stand up? Mr. Walters,
13 could you stand, please, for me? Anyway, you might not
14 know his name. You might just know his face, or you
15 might not even know his face. You might have no idea
16 who he is, but we're just making sure. Do you know him?

17 JUROR NUMBER 22: He probably knows my ex-husband.

18 THE COURT: Okay.

19 JUROR NUMBER 22: But I don't recognize him. I'm
20 sorry.

21 THE COURT: No -- no, that's fine. This is all
22 just, again, a matter of violence and caution. It
23 certainly sounds like they don't know. I'm not sure if
24 he's going to testify or not, but if he did, would you
25 still be able to be fair and impartial to both of them?

1 JUROR NUMBER 22: Absolutely.

2 THE COURT: Okay.

3 JUROR NUMBER 22: My husband has nothing to do with
4 that or anything. I think I have nothing to do with
5 that.

6 THE COURT: Got you. Okay. Enough said. That's
7 all. We just had to double-check and make sure that was
8 all clear and clean for the record. So that's fine. We
9 can take her back in with the group, and then we can
10 bring everybody back.

11 JUROR NUMBER 22: Can I tell them I've been in
12 trouble?

13 THE COURT: No, don't do that. Don't discuss that
14 with anybody else.

15 JUROR NUMBER 22: Okay. Thank you.

16 THE COURT: Thank you. All right. Do you all have
17 any motions with respect to the jurors' responses to the
18 court's questions? Anything from the State?

19 MS. KOZIK: No. The State's satisfied.

20 THE COURT: Okay. Anything else from the Defense?

21 MS. FORD: No, Your Honor.

22 THE COURT: Then we'll bring them back. All right.
23 Well, we'll just wait. We'll let you get them all down
24 the hallway.

25 (Jury enters the courtroom)

1 THE BAILIFF: All jurors in place, Your Honor.

2 THE COURT: Okay. Excellent. Everybody can be
3 seated. Thank you very much. State, call your next
4 witness.

5 MS. KOZIK: The State calls Officer John Winn.

6 THE COURT: All right.

7 JOHN WINN,

8 having been duly sworn, testifies as follows:

9 THE CLERK: Please be seated. Now, please state
10 your full name into the microphone, spelling your last
11 name clearly for the record.

12 THE WITNESS: John Winn, last name W-i-n-n.

13 **D I R E C T E X A M I N A T I O N**

14 **BY MS. KOZIK:**

15 Q. Good afternoon, Officer Winn. Can you tell the jury
16 where you're currently employed?

17 A. I'm currently with North Charleston Police Department.

18 Q. And what is your title there?

19 A. I'm a patrol officer.

20 Q. Okay. How long have you been doing that?

21 A. Six years now.

22 Q. On January 4th, 2024, was that your title as well?

23 A. Yes, ma'am.

24 Q. Can you explain to the jury a little bit about your
25 duties as a patrol officer?

1 A. As a patrol officer, we patrol certain zones that we get
2 assigned to, answer any calls and do any proactive
3 activities like traffic stops or get out with people and
4 speak with them and help anybody that needs anything.

5 Q. What do you mean by answering calls?

6 A. So any calls for service that come in through dispatch,
7 911 calls or anything of that nature.

8 Q. On January 4th, 2024, did you respond to a scene at 2411
9 Easton Street in North -- North Charleston?

10 A. Yes, ma'am.

11 Q. Is that in Charleston County?

12 A. Charleston County, yes.

13 Q. Why were you dispatched there?

14 A. I was dispatched there for a shooting and a disturbance.

15 Q. Do you remember about what time you arrived?

16 A. It was around 11 -- 11 A.M.

17 Q. Can you walk the jury through what happened when you
18 first arrived, walking up? I'll stop you there.

19 A. As soon as I first arrived on scene, I was finding the
20 correct door to get into that residence. I found the
21 side door where the victim was laying on the floor by
22 the door as soon as I opened it. And then we began
23 rendering aid as soon as we saw her on the floor.

24 Q. Okay. How far away from the door would you say the
25 victim was sitting?

1 A. A foot or two from the front door.

2 Q. Okay. Can you describe her condition?

3 A. She was obviously in pain. She had been shot in her
4 right knee, and but she was still coherent and able to
5 speak with me.

6 Q. Did you render any aid to the victim?

7 A. Yes, I placed a tourniquet on her knee.

8 Q. What does that involve?

9 A. So that involves basically, a tourniquet just stops the
10 blood -- the bleeding of any wound as long as you put it
11 right above it.

12 Q. Okay. And why did you do that?

13 A. That is per policy how we're taught to respond to any
14 shooting scenes that involve.

15 Q. Was she bleeding out of her knee at the time?

16 A. Yes, ma'am.

17 Q. Are you issued a body-worn camera as part of your
18 duties?

19 A. Yes, ma'am.

20 Q. Is it department policy to wear an activated body-worn
21 camera when responding to calls for service?

22 A. Yes, ma'am.

23 Q. Does your body-worn camera record audio and video?

24 A. Yep.

25 Q. How -- how is the body camera -- how do you wear your

1 body camera?

2 A. Directly on my chest right here (indicating). That's
3 where the magnet holds it so that we can see the whole
4 scene.

5 Q. And how is the body camera footage stored by North
6 Charleston Police Department?

7 A. By North Charleston, it's at first stored on the body
8 camera itself. And then once it's downloaded, it goes
9 to the cloud that Motorola provides for us.

10 Q. And did you activate your body camera when you arrived
11 at the scene on January 4th, 2024?

12 A. I did.

13 Q. Have you had a chance to review or at least audio
14 footage of that day?

15 A. I have.

16 MS. KOZIK: Let the record reflect, I'm showing
17 Defense, State's Exhibit No. 2. Judge, may I approach?

18 THE COURT: Yeah.

19 BY MS. KOZIK:

20 Q. Officer Winn, do you -- I'm handing you a footage marked
21 as State's No. 2. What is that?

22 A. This is a copy of my body camera. I have audio only of
23 that body camera.

24 Q. How do you know that?

25 A. I signed it this morning and saw it or listened to it as

1 well.

2 Q. So it's a fair and accurate copy of the audio of your
3 body camera from that day?

4 A. Yes, ma'am.

5 MS. KOZIK: At this time, State moves State's
6 Exhibit No. 2 into evidence.

7 THE COURT: Any objection to two?

8 MS. FORD: Your Honor, I object on my -- based on
9 my prior objection, bolstering, hearsay, cumulative and
10 403.

11 THE COURT: Okay. Objections tallied, re-raised.
12 If I'm willing to stand, that'll be admitted over
13 Defense objection. This is State's No. 2, you say?
14 (State's Exhibit No. 2 is admitted into evidence.)

15 MS. KOZIK: State's 2. Permission to publish.

16 THE COURT: Okay. Sure.

17 MS. KOZIK: I beg the court's indulgence.

18 (VIDEO PLAYING) (Inaudible)

19 (VIDEO STOPS PLAYING)

20 BY MS. KOZIK:

21 Q. Okay. Let's talk about some of what just happened in
22 that you described it a little bit earlier, but when you
23 were talking about -- when you were saying something
24 like put it -- put it on, what were you talking about?

25 A. The tourniquet. We were sliding it up -- up her, above

1 her knee, so that we can start twisting it and stopping
2 the bleeding.

3 Q. And just to be clear, again, your body cam has a visual
4 function, but was there a lot -- is that right?

5 A. Yes.

6 Q. As you were attending to her wound, was there a lot of
7 blood coming out of her leg?

8 A. There was a small amount, but in order to be safe, we
9 usually place it on there anyway.

10 Q. Okay. And did Ms. Dukes, did she identify who had shot
11 her?

12 A. Yes. At first she said her nephew, and then I asked her
13 for a name and she advised Kenneth Miller twice.

14 Q. And what did you do with that information?

15 A. With that information, I relayed it to dispatch so that
16 it would be on the CAD notes for us later to keep all
17 the information.

18 Q. Let the record reflect I'm showing Defense State's No.
19 13 through 17. Permission to approach. Officer Winn,
20 I'm handing you what's been marked as State's No. 13 to
21 17. You look through those real quick, and if you
22 recognize those?

23 A. Yes, ma'am.

24 Q. What are those?

25 A. So, the first few photos are of the victim on the ground

1 and us rendering aid.

2 Q. What -- where -- what captured those images?

3 A. My body camera captured those images.

4 Q. Are they a fair and accurate copies of -- of the
5 screenshots of your body camera?

6 A. Yes, ma'am.

7 MS. KOZIK: At this time, State moves Exhibits No.
8 13 through 17 into evidence.

9 THE COURT: Okay.

10 MS. FORD: Your Honor, I just object based on my
11 prior objection, especially with regard to number 17
12 based on relevance and 403.

13 THE COURT: Okay. And I'll overrule those
14 objections. Once again, my ruling stands, I'll allow
15 them all to be admitted. All right.

16 (State's Exhibits No. 13 through 17 admitted into evidence.)

17 MS. KOZIK: Permission to publish to the jury.

18 BY MS. KOZIK:

19 Q. Officer Winn, I'm showing you the State's Exhibit No.
20 13. Can you describe what we're looking at in this
21 picture?

22 A. In this picture is when I first come in through the
23 front door or through the side door and the victim's
24 laying there on the floor right in front of the side
25 door.

1 Q. So right when you enter the door, the victim's on ---

2 A. Directly on my left frame.

3 Q. This is State's Exhibit No. 14. What are we looking at
4 in this picture?

5 A. So, in this picture, this is a box of medical supplies
6 that every unit has to carry per policy, so that we can
7 render aid whenever needed.

8 Q. And do you see the victim?

9 A. Yes. The victim is still in the same spot.

10 Q. So, as you were describing it earlier, when you came in,
11 the victim's on your left, so the door is on her
12 right-hand side?

13 A. Yeah. The door is just off-frame on her right-hand side
14 right there.

15 Q. Is it before or after you put the tourniquet on her leg?

16 A. It looks like it is right after.

17 Q. Okay. This is State's Exhibit No. 15. Can you describe
18 what we're looking at in this picture?

19 A. In this picture, this is after I walked to the back room
20 and located another party in the back room that was
21 bedridden and paralyzed and unable to move. So ---

22 Q. So is it fair to say this is you coming back to the
23 scene?

24 A. Yes, ma'am. This is me returning back to the front room
25 where we were just at.

1 Q. Can you -- you should be able to kind of write on the
2 screen in front of you. Can you just mark that during
3 the front door?

4 A. So the front door is right here next to that officer.
5 You can see it still propped open. That's where I came
6 in for the house.

7 Q. Were you able to locate a shell casing while you were on
8 the scene that day?

9 A. I was. Yes.

10 Q. Where -- where did you locate a shell casing?

11 A. I was feet away from the victim in the same room right
12 next to the couch.

13 Q. Showing you State's Exhibit No. 16. What are we looking
14 at in State Exhibit No. 16?

15 A. That is the shell casing that was located in the same
16 room just feet away from the victim.

17 Q. And is this before you even touched it?

18 A. Correct.

19 Q. State's Exhibit No. 17. What are we looking at in this
20 photo?

21 A. In this photo, I put on gloves -- I had gloves on, so I
22 lifted the casing after taking a picture of it and --
23 and checking the round size for it.

24 Q. And in this photo, were you able to see the couch that
25 you found the shell casing underneath?

1 A. It's off to the right hand side on the right.

2 Q. We're going to go back to State's Exhibit No. 15 for a
3 minute. Can you circle for the jury? Are you able --
4 are you able to see the couch that you found the shell
5 casing underneath in this photo?

6 A. Yes, ma'am.

7 Q. Can you circle that couch for the jury? What did you do
8 with the shell casing when you collected it?

9 A. Once I collected it, I placed it into an evidence bag,
10 sealed it, initialed it, and dated it. And then once we
11 cleared the scene, submitted it into evidence.

12 Q. Let the record reflect, I'm showing Defense, State's
13 Exhibit No. 3. So what I'm handing you is State's
14 Exhibit No. 3. Do you recognize that?

15 A. Yes, ma'am.

16 Q. What is it?

17 A. It is the evidence bag and label that I placed in
18 evidence for the shell casing.

19 Q. Is the shell casing itself in the same condition a lot
20 of time you saw it?

21 A. Yes, ma'am.

22 MS. KOZIK: At this time, State moves State's
23 Exhibit No. 3 into evidence.

24 THE COURT: Any objection to State's No. 3?

25 MS. FORD: No, Your Honor.

1 All right. Admitted with no objection.

2 (State's Exhibit No. 3 is admitted into evidence.)

3 BY MS. KOZIK:

4 Q. Okay. I'm giving you State's Exhibit No. 3 back. Can
5 you tell the jury what caliber -- what size caliber that
6 casing is?

7 A. A 40-caliber.

8 Q. And how do you know that?

9 A. Experience and I checked the casing before I placed it
10 into the secure bag.

11 Q. It's -- in your experience and in this case -- is the
12 shell, the size of the shell casing on the head of the
13 casing?

14 A. Yes, ma'am.

15 Q. While inside the home, did you make contact with anyone
16 else?

17 A. Yes, I made contact with another party in the back room.

18 Q. Who was that?

19 A. She was a family member of the victim. She was
20 unfortunately bedridden and paralyzed at the time. So
21 she was unable to move or do anything.

22 Q. Okay. What was the purpose of trying to find someone
23 else in the house?

24 A. So, we heard the knocking on the door and we wanted to
25 make sure the rest of the residents was secure and to

1 make sure no one else had been hurt as well.

2 Q. So, other than Ms. Dukes and her daughter in the back
3 room, was there anyone else in the house?

4 A. No, ma'am.

5 Q. What else did you do -- what else, if anything, did you
6 do on scene that day?

7 A. After that, we just secured the scene and that was it
8 pretty much.

9 Q. Okay. What do you mean by secure the scene?

10 A. We made sure no one else comes inside while we're on
11 scene and dealing with the victim and make sure there's
12 nothing else that we need to collect or anything of that
13 nature inside the residence.

14 Q. Okay. So, did you look around for any ---

15 A. Yes, ma'am. There's nothing else to locate for.

16 Q. Were you still present at the house when the -- when
17 Ms. Dukes was taken away by an ambulance?

18 A. Yes, ma'am.

19 Q. About how long would you say you stayed on scene?

20 A. Probably approximately 30 or so minutes.

21 Q. And you didn't find any other evidence of the scene?

22 A. No, ma'am.

23 MS. KOZIK: No further questions at this time.

24 THE COURT: Okay. Cross exam?

25 MS. FORD: Thank you, Your Honor.

1 C R O S S E X A M I N A T I O N

2 BY MS. FORD:

3 Q. So, on the audio of your body cam -- body-worn camera,
4 we can hear the knocking on the -- the wall. So that's
5 something that you could hear at that time?

6 A. Yes, ma'am.

7 Q. And it was a little surprising to hear that?

8 A. A bit, yeah.

9 Q. So, at that point you learned that there was another
10 person in the house?

11 A. Yes, ma'am.

12 Q. So, after that segment ends, you actually go ahead to go
13 see to the other person?

14 A. Yes, ma'am.

15 Q. So, you walk through the house and go find the other
16 Ms. Dukes, does she know?

17 A. Yes, ma'am.

18 Q. And you go to her room. And when you go to her room,
19 her bedroom, her door's open so you can just walk right
20 in.

21 A. (No verbal response)

22 THE COURT: Try to say yes or no, if you can.

23 BY MS. FORD:

24 A. Yes, ma'am.

25 Q. So, she wants to know what's going on, of course.

1 A. Yes, ma'am.

2 Q. Part of your job as an officer, you told us how you
3 looked for any possible evidence; correct?

4 A. Yes, ma'am.

5 Q. So, part of your job is also to look for any possible
6 witnesses?

7 A. Yes, ma'am.

8 Q. To see if anyone on the scene may have heard or seen
9 anything?

10 A. Yes, ma'am.

11 Q. So after talking to Tasha, there is no, nothing of help
12 regarding Ms. Dukes; correct?

13 A. No, ma'am.

14 Q. There's no indication she hadn't heard anything?

15 A. Correct.

16 MS. KOZIK: Objection.

17 THE COURT: Overruled.

18 BY MS. FORD:

19 A. At that time, she was in the back room, her TV was
20 playing and she advised she hadn't heard anything.

21 Q. So she was not able to walk, but she was otherwise
22 cognitively -- her cognitive function was fine; correct?

23 A. I believe so.

24 Q. And you showed us, we saw this shell casing that you
25 found on the ground?

1 A. Yes, ma'am.

2 Q. You did not submit that shell casing to be processed;
3 correct?

4 A. No, ma'am.

5 Q. If sometimes there are scientists, flood or whatever,
6 you can process something like that to see if there's
7 any additional evidence that can be found?

8 A. They can, yes, if it's not burned off when the ground
9 gets fired.

10 Q. But in this case, you did not submit it for any kind of
11 fingerprinting or DNA?

12 A. No, ma'am.

13 Q. In the home, we saw a picture, you were wearing gloves?

14 A. Yes, ma'am.

15 Q. So, when you're at a crime scene, it can be important to
16 wear gloves at times?

17 A. Yes, ma'am.

18 Q. And that's partially so you don't contaminate anything?

19 A. That and the blood, yes.

20 Q. Because with evidence, a lot of things can be moved
21 around?

22 A. Yes, ma'am.

23 Q. Or transferred easily?

24 A. Yes, ma'am.

25 Q. Without people even knowing it?

- 1 A. Yes, ma'am.
- 2 Q. So that's one of the reasons you wear gloves?
- 3 A. Yes, ma'am.
- 4 Q. Now, we heard a little of your conversation with
- 5 Ms. Dukes, Juanita Dukes. She never gave a description
- 6 of the person. She said it was Kenneth Miller, but she
- 7 never gave a description. Is that fair to say?
- 8 A. She gave a clothing description, but she didn't give a
- 9 physical description. But she did say it was her nephew
- 10 and Kenneth Miller.
- 11 Q. And you, we already went over how at one point you
- 12 walked away to talk to Shia. So you were walking about
- 13 the house and outside. Is that fair to say?
- 14 A. Just in the house. I stayed with the victim until she
- 15 was taken out by EMS.
- 16 Q. Okay. So, when Ms. Dukes was taken to EMS, you were
- 17 outside with her at that point?
- 18 A. Yes, ma'am.
- 19 Q. And at that point, when she was being treated by EMS,
- 20 she did indicate that there was demand for a bag for the
- 21 shooting?
- 22 A. Yes, ma'am.
- 23 Q. After Ms. Dukes left in the -- the ambulance, you
- 24 actually stayed on scene for a bit?
- 25 A. Yes, ma'am.

1 Q. And one of the things you did was look at the
2 surrounding houses to see if there was any possible wing
3 surveillance?

4 A. Yes, ma'am.

5 Q. But at that point, you didn't get an answer from
6 anybody?

7 A. Yes, ma'am.

8 Q. So you never followed up on that by going back to that
9 area later; correct?

10 A. Yes, and the detectives usually handle going further
11 back.

12 Q. But that's something that you did not do?

13 A. No, ma'am.

14 Q. And you -- Ms. Dukes told you it was Kenneth Miller, but
15 you did not see Kenneth Miller at that house that day?

16 A. No, ma'am.

17 MS. FORD: I beg the court's indulgence. I have no
18 further questions, Your Honor.

19 THE COURT: Okay. All right. Any redirect for
20 this witness?

21 MS. KOZIK: Just briefly.

22 **R E D I R E C T E X A M I N A T I O N**

23 **BY MS. KOZIK:**

24 Q. Is it part of your job of duties as a patrol officer to,
25 after you submit something into evidence, to request it

1 to be processed further?

2 A. Not a shell casing, no, ma'am. Usually, evidence does a
3 check with other shell casings when they fire them
4 themselves.

5 Q. That's not your job?

6 A. No, ma'am.

7 Q. Okay. And when you found the shell casing, again, that
8 photo we saw, that was where you originally saw it the
9 first time?

10 A. Yes, ma'am. We take a picture before we lift it up or
11 at least record it on the camera before picking it up.

12 Q. And Ms. -- Ms. Dukes gave a description of the clothing?

13 A. Yes, ma'am.

14 Q. Why didn't you ask her for any further description of
15 the suspect after you learned his name and clothing that
16 he was wearing?

17 A. So, as soon as, pretty much shortly after she gave me
18 the clothing description, she said it was Kenneth
19 Miller. And she was cognizant and able to speak with
20 us, so ---

21 Q. Did you believe that gave you enough to go on to the
22 first suspect?

23 A. Yes, ma'am.

24 MS. FORD: Objection. Vouching?

25 THE COURT: Overruled.

1 MS. KOZIK: Nothing further.

2 THE COURT: Anything else?

3 MS. FORD: No, Your Honor.

4 THE COURT: Okay. All right. You can step down.
5 Thank you, sir. Great job. State, you can call your
6 next witness.

7 MS. KOZIK: This State would call Sergeant Joshua
8 Rank.

9 THE COURT: All right.

10 JOSHUA RANCK,

11 having been duly sworn, testifies as follows:

12 THE CLERK: Please be seated. Now, please state
13 your full name into the microphone, spelling your last
14 name clearly for the record.

15 THE WITNESS: My name is Joshua Ranck. Last name
16 is spelled R-a-n-c-k.

17 **D I R E C T E X A M I N A T I O N**

18 **BY MS. KOZIK:**

19 Q. Good afternoon. Can you tell the jury where you work?

20 A. I work for the City of North Charleston Police
21 Department.

22 Q. And what's your job title?

23 A. I am a sergeant, but my job description is I'm the
24 technology coordinator for the agency.

25 Q. Okay. Can you describe to the jury what your duties are

1 as technology coordinator?

2 A. My job is to implement and research new technology for
3 the police department as well as manage all technology
4 and vehicles for the police department currently in use.

5 Q. As part of your duties as technology coordinator, are
6 you in charge of police cameras in North Charleston?

7 A. I am.

8 Q. Are they called -- what are they called?

9 A. Referring to the surveillance cameras?

10 Q. Yes.

11 A. The system is called Verkada.

12 THE COURT: How do you spell that?

13 BY MS. KOZIK:

14 A. It's V-e-r-k-a-d-a.

15 Q. Are they -- are the cameras themselves, you answered
16 Verkada platform. Is the camera themselves referred to
17 as city asset cameras?

18 A. Sometimes that's what they're referring to, yes.

19 Q. And what are city asset cameras?

20 A. The cameras are boxes strategically placed across the
21 city. It's a box containing four cameras. The
22 manufacturer of the cameras and the platform is Verkada.
23 They make their own cameras and the camera feed feeds to
24 their service.

25 Q. Okay. Is it -- can you describe where these cameras are

1 placed around North Charleston?

2 A. The majority of the cameras are at major intersections
3 throughout the city, some within neighborhoods, on
4 telephone poles, or traffic light poles.

5 Q. How is it decided where they're located?

6 A. Crime analysts utilize crime data to determine crime
7 patterns and where cameras would be most beneficial to
8 our agency. Once we use that data, we then place the
9 cameras mainly to capture the ingress and egress from
10 different locations based on crime.

11 Q. When were these cameras implemented in North Charleston?

12 A. This particular brand of camera was in place in
13 September of 2018.

14 Q. Did you -- were you technology coordinator at the time?

15 A. I was.

16 Q. Describe to me how the cameras capture footage and how
17 it comes back to North Charleston.

18 A. Okay. The cameras are attached in a box as described
19 earlier. Inside the box is a power supply and a
20 cellular modem. The video streams live from that
21 cellular modem to Verkada's web-based platform. The
22 video is then accessed via the web portal on a computer
23 at the police department. And then it also stores 30
24 days of data -- 30 days of video from that camera.
25 Camera footage can be archived in order to save that

- 1 data past the 30-day retention date.
- 2 Q. So what happens after the 30 days?
- 3 A. If it was not archived, it's deleted or overwritten.
- 4 Q. And what happens if it was archived?
- 5 A. If it's archived, it lives in that web platform in
- 6 infinity until it's either deleted manually.
- 7 Q. You said that the footage from those cameras is sent
- 8 back to North Charleston Police Department via the
- 9 internet; is that right?
- 10 A. That's correct.
- 11 Q. And it lives on the Verkada training -- Verkada
- 12 platform?
- 13 A. Yes, ma'am.
- 14 Q. Have you received training on that platform?
- 15 A. I did.
- 16 Q. Are you familiar with it?
- 17 A. Yes, I am.
- 18 Q. Do you use it regularly?
- 19 A. Very often.
- 20 Q. Who can -- who has access to that platform?
- 21 A. Anybody of the rank of sergeant or better. Our agency
- 22 has access automatically, but we also provide access to
- 23 investigators, whether it be the detective division or
- 24 traffic unit, for example, because they use them for
- 25 hit-and-runs and other investigations. We also have

1 partners at other agencies that we've allowed access to
2 it.

3 Q. Okay. So, can any of those people choose to archive a
4 video?

5 A. Not anybody. There's different permission levels. Some
6 allow them to just view only, and some allow the archive
7 capabilities.

8 Q. Is there a log of who accesses it?

9 A. Within the Verkada platform, there is an audit log that
10 displays any information that occurred within that
11 platform, whether it's just somebody's login information
12 or any video or live stream they began to watch, I can
13 see all of that.

14 Q. Okay. Within the Verkada platform, can the videos be
15 changed by the users?

16 A. They cannot be edited or altered at all within that
17 platform.

18 Q. Do the videos have metadata attached to them that would
19 indicate, say, the location of the camera?

20 A. They do.

21 Q. Do the -- does the video have time stamps associated
22 with it?

23 A. It does. It has date and time stamp.

24 Q. Have you ever known that date and time to be inaccurate?

25 A. I have not.

1 Q. Okay. Is there a city asset camera at Dover Street and
2 Baker Avenue in North Charleston?

3 A. There is.

4 Q. Let the record reflect, I'm showing the Defense, State's
5 Exhibit No. 6. I'm showing you State's Exhibit No. 6.
6 Do you recognize that?

7 A. I do.

8 Q. What is that?

9 A. This is a DVD. It's labeled with the manufacturer's
10 information as well as handwritten the case that we are
11 currently discussing. That is city footage and it has
12 my initials and date on it.

13 Q. Were you able to view this footage before coming in
14 today?

15 A. Yes.

16 Q. Is that why your initials are on it?

17 A. That is correct.

18 Q. And when you viewed this footage, were you also able to
19 view footage from the incident in question on the North
20 Charleston's Verkada platform?

21 A. I did. I did. I viewed that video from the archive in
22 Verkata's web platform as well as from that disk. It's
23 the same video.

24 Q. So, it's a fair and accurate copy of that video?

25 A. It is.

1 MS. KOZIK: At this time, State moves State's
2 Exhibit No. 6 into evidence.

3 THE COURT: All right. Objection to State's No. 6?

4 MS. FORD: This is the clip. No objection.

5 THE COURT: All right. No objection to State's No.
6 6. To be admitted.

7 (State's Exhibit No. 6 is admitted into evidence.)

8 MS. KOZIK: Permission to publish?

9 (VIDEO PLAYING)

10 (VIDEO STOPS PLAYING)

11 BY MS. KOZIK:

12 Q. Sergeant Ranck, we just viewed that camera footage on
13 State's Exhibit No. 6. Is there a time stamp on that
14 camera footage?

15 A. Yes, ma'am. In the upper left-hand corner, you'll see
16 the date, Thursday, January 4, 2024. Underneath is the
17 time that the video begins, which is 11:08 A.M. and zero
18 seconds. It then lists that its camera is Baker & Dover
19 CV-41E, which is the model of the camera. And then it's
20 also labeled as a site, Baker & Dover, underneath that.

21 Q. Let the record reflect, I'm showing the Defense State's
22 Exhibit No. 7. And handing you State's Exhibit No. 7.
23 What is that?

24 A. This is a still shot from the video that we just watched
25 at approximately, I believe it's about 21-ish seconds

1 into the video. This is a still shot from that.

2 Q. Is it a fair and copy of what we just watched?

3 A. It is.

4 MS. KOZIK: At this time, the State moves State's
5 Exhibit No. 7 into evidence.

6 THE COURT: Any objection to State's Exhibit No. 7?

7 MS. FORD: No, Your Honor.

8 THE COURT: All right. Admitted with no objection.

9 (State's Exhibit No. 7 is admitted into evidence.)

10 MS. KOZIK: Permission to publish to the jury?

11 BY MS. KOZIK:

12 Q. I'm showing you State's Exhibit No. 7. Is this a zoomed
13 -- what are we looking here?

14 A. This is the same camera view but zoomed in. I'm not
15 sure what street that is. It's been a long time since
16 I've been in that neighborhood. But it's either Baker
17 or Dover.

18 Q. So it's a zoomed-in -- zoomed-in frame?

19 A. Correct. So you'll see the full -- the full -- in the
20 upper left-hand corner, is the full view of the camera.
21 And the majority of the frame is where a user has zoomed
22 in on the video to get a closer view of a smaller
23 portion of the entire frame.

24 Q. Approximately, how far can one of you camera see?

25 A. So it's only digital zoom, meaning it's only zooming in

1 on the frame. The zoom-in feature allows you to see
2 something bigger, but you sacrifice clarity at the same
3 time when you do zoom.

4 Q. And in State's Exhibit No. 7, you see a black SUV
5 crossing the road; right?

6 A. That is correct.

7 MS. KOZIK: All right. That's all of the questions
8 I have for you. Please answer any questions from the
9 Defense.

10 THE WITNESS: Yes, ma'am.

11 **C R O S S E X A M I N A T I O N**

12 **BY MS. FORD:**

13 Q. Hello.

14 A. Good morning.

15 Q. Just briefly. This is the camera footage we saw. That
16 is not the only camera in North Charleston; right?

17 A. That's correct.

18 Q. In North Charleston, there are currently 556 cameras?

19 A. Yes, ma'am.

20 Q. And it is common for a variety of cities to have their
21 own cameras; correct?

22 A. That's correct.

23 Q. So, places other than North Charleston, we've all told
24 that we have cameras?

25 A. I would assume so, yes.

1 MS. FORD: No further questions.

2 THE WITNESS: Okay.

3 THE COURT: Anything else from the State for this
4 witness?

5 MS. KOZIK: Nothing else for this witness.

6 THE COURT: Okay. All right. Thank you, sir. You
7 can be excused. You're free to go.

8 THE WITNESS: Thank you, ma'am.

9 THE COURT: All right. State, you can call your
10 next witness.

11 MS. KOZIK: Your Honor, before we call the next
12 witness, can we approach really quickly?

13 THE COURT: Sure.

14 (Off the Record Bench conference)

15 THE COURT: All right. So the next witness again
16 is who?

17 MS. KOZIK: The State would like to call
18 Christopher Cestare.

19 THE COURT: Cestare. You're going to go all the
20 way up, sir. It's all right.

21 CHRISTOPHER PETER CESTARE,

22 having been duly sworn, testifies as follows:

23 THE CLERK: Please be seated. Please state your
24 full name into the microphone, spelling your last name
25 clearly for the record.

1 THE WITNESS: My full name is Christopher Peter
2 Cestare. Last name is spelled C-e-s-t-a-r-e.

3 D I R E C T E X A M I N A T I O N

4 **BY MS. KOZIK:**

5 Q. Where do you work?

6 A. I work for the South Carolina Law Enforcement Division.

7 Q. What -- what's your job title there?

8 A. I'm a special agent.

9 Q. What unit do you work for at SLED?

10 A. I work for the Vehicle Crimes Unit.

11 Q. And how long have you worked there?

12 A. Just shy of seven years. August will be seven full
13 years.

14 Q. Okay. Can you describe your job duties in that role?

15 A. Sure. We are tasked with investigating a variety of
16 crimes, from identification and title fraud at the South
17 Carolina Department of Motor Vehicles, motor vehicle
18 thefts, theft rings, identifying vehicles, whether it be
19 in person on surveillance footage, completely burned
20 vehicles in a situation like an arson or anything like
21 that, chop-shop investigations, and salvage and scrap
22 yard investigations.

23 Q. Is it fair to say that you're looking at cars a lot?

24 A. All the time. I look at cars all day long.

25 Q. Okay. As part of your job, I think you mentioned you're

1 sometimes asked to identify, make and models of cars on
2 surveillance footage; is that right?

3 A. Yes, ma'am.

4 Q. About how often are you asked to do that?

5 A. If I had to put a number on it, probably at least twice
6 a week.

7 Q. What kind of training and experience do you have in
8 identifying vehicles from surveillance footage?

9 A. A lot of it does come just from work experience, being
10 tasked with these things and having to go about the best
11 practice of trying to get these cars identified. Part
12 of the training that I attend every year, there's an
13 annual vehicle crime seminar that's put on by the
14 Southeast Chapter of the International Association of
15 Auto Theft Investigators.

16 During that training, they'll bring in various
17 manufacturers. I was actually just there at this year's
18 training last week, and they had both General Motors
19 there and Ford. They go over various security feature
20 updates, let you go hands-on with a vehicle that they
21 bring in for demonstration purposes. And a lot of that
22 is just to give us an idea of any kind of changes on the
23 inside or outside of these vehicles, just to help
24 sharpen our skills when we're looking at these cars.

25 Q. And what quality of surveillance footage do you

1 encounter when you're asked to identify a car -- a type
2 of car via surveillance footage?

3 A. We've had everything from only being able to see
4 headlights in a blurry nighttime photo to as crystal
5 clear and perfect of a photo that you've ever wanted to
6 see.

7 Q. Have you ever had to identify a vehicle even when the
8 license plate or if you have full vehicle details are
9 not present?

10 A. Yes.

11 Q. Have you ever had to identify a vehicle from a great
12 distance such as an entire block away?

13 A. I'm sorry. Can you repeat that?

14 Q. Do you need some water? Do you have one up there?

15 A. I have one right here.

16 Q. Okay. Have you ever had to identify a vehicle from a
17 great distance such as a block away?

18 A. Yes.

19 Q. Have you ever had to identify a vehicle from just one
20 side of the car?

21 A. Yes.

22 Q. Can you walk us through just generally the process that
23 you go about when you identify a type of car when you
24 receive requests to do so?

25 A. Sure. Whether we receive a photograph or a video,

1 whatever kind of content that we receive from the
2 requesting agency, we'll look at the vehicle that is in
3 question and just using sort of best practices from
4 everyday driving and everything else, we'll formulate an
5 opinion on what we think that car may be and then
6 utilize other tools such as used car sales websites or
7 vehicle journaling databases to bring up a bunch of
8 comparison pictures that we can do like side-by-side
9 examinations with these cars to try to find the right
10 angle that best suits what we're looking at in the video
11 or the photographs. Then we compare very specific
12 details on the car to try to narrow down exactly what it
13 may be.

14 Q. What kind of databases might you use to look at other
15 comparison cars?

16 A. So, one that I use fairly regularly is Cars.com. A lot
17 of people like to do shopping for used cars on there. I
18 like to do research for cars. The reason why I like
19 that website is because it's completely public domain.
20 Anybody can access it and they take great pictures of
21 cars. You can normally get a complete 360-degree view
22 of the outside of a vehicle. They also take really good
23 interior pictures. So depending on exactly what we're
24 tasked with identifying, that can be a huge tool.

25 And then there's another good public website called

1 AutoEvolution, which is more of a journaling-type
2 website, but they also do the same thing. They
3 photograph these vehicles really well and they'll also
4 break it down to specific changes down to -- from
5 cosmetic down to the technical aspects of it where
6 they'll tell you the difference in the individual
7 generations of those vehicles and like when they may
8 have had a specific facelift, when certain parts
9 changed, and they have like very good photos of the
10 ranges of years of each of those generations as well.

11 Q. I apologize if you've already said this, but do you use
12 any manufacturer's information?

13 A. From time to time, yes. Most of the time for like
14 parts. If I'm trying to narrow down a specific thing
15 like say wheels or rims on a vehicle or headlights,
16 taillights, anything that you can find, an OEM or
17 original equipment manufacturer product to try to help
18 narrow that search down because a lot of these vehicles
19 have parts that are specifically made for them so that
20 they look different.

21 Just for instance, the difference between your
22 Hondas and your Acuras because they're manufactured by
23 the same parent company, but they want to make their
24 cars look different. One's more luxury, one's a little
25 bit more laid-back. So a lot of them have parts that

1 will help make their vehicle pop, so to speak.

2 Q. Okay, I think you said OEM. What is -- what is that?

3 A. Original Equipment Manufacturer. It just means parts
4 that were made by the manufacturer for that specific
5 vehicle.

6 Q. Do you know what the Flock database is?

7 A. Yes.

8 Q. What is that?

9 A. Flock is an automated license plate recognition
10 database. It can be used to search for vehicles either
11 if you know a specific license plate that you're trying
12 to find on any of these shared cameras in the Flock
13 network, or you can use it to search for just a specific
14 make, model, type of car. It has a lot of various
15 search features that you can use.

16 Q. Okay. Do you ever utilize the Flock database when
17 you're trying to identify a car from surveillance?

18 A. Fairly frequently, yes.

19 Q. Why do you do that?

20 A. Sometimes it can work out depending on the time when a
21 crime takes place. You may be able to find a very
22 specific make, model, and year range vehicle that
23 matches the suspect vehicle that we're trying to
24 identify.

25 In certain cases, we've narrowed it down to maybe

1 call it luck or happenstance, but we've actually located
2 the specific vehicle we were looking for, or sometimes I
3 might just use it to find vehicles that are in the area
4 that could be a vehicle of interest, ones that match the
5 vehicle that I'm looking for in the surveillance footage
6 or photographs that are provided to us. And then I
7 would take those screen shots from the Flock network and
8 provide it to whatever requesting agency asked for them
9 just to give them an opinion on a furtherance of what I
10 may think that vehicle is.

11 Q. Okay. What specific traits do you look for in a vehicle
12 when you are trying to identify a make and model?

13 A. A couple of the big things that I look for are, does it
14 have a roof rack on top of it, things that you can strap
15 cargo down to. What the specific details look like on
16 the headlights of the vehicle, on the brake lights. Do
17 the brake lights wrap around from the rear of the
18 vehicle to the side of the vehicle because not all brake
19 lights do. The rugged texture of certain wheel wells.
20 Some body style vehicles have them jut out a little bit.
21 It provides a little bit more room for wheels and tires
22 on a car to allow for more off-road type driving
23 experiences. Whether or not a vehicle may have the step
24 plates to get up into a car depending on how tall the
25 vehicle may be.

1 Individual window cutout shapes. A lot of
2 manufacturers will shape their windows differently and
3 it could be the smallest detail from the back of a
4 window going like toward the rear of the vehicle facing
5 down or it could be facing up. Manufacturers are very
6 specific with their cars like that so that's another
7 good way to be able to tell things apart.

8 Let's see. I mentioned this just before as well
9 but like wheels on a vehicle. Certain manufacturers
10 will make wheels that only go on that vehicle and they
11 also only go on a certain year range of that same
12 vehicle as well so that can also help narrow some of
13 these things down.

14 Q. Okay. Are you able to identify specific model years of
15 a vehicle?

16 A. Maybe not necessarily the exact year, but we can do a
17 range of years for a vehicle.

18 Q. How do you determine the range of years of the vehicle?

19 A. A lot of that is generational when the manufacturer
20 gives these vehicles a facelift, they -- they look
21 completely different so from say 2012 to 2013, the
22 manufacturer may change what their vehicle looks like,
23 try to modernize it, whatever you may want to call it,
24 reshape the vehicle and when they do that then you know
25 any time going forward the vehicle is going to look

1 different. So, if you have two different looking
2 vehicles that are the same make and model, they're
3 likely from a different generation and those generations
4 have a year range. So, we use the generational year
5 range to come up with that type of information.

6 Q. Okay. You -- you said earlier that you attend some
7 trainings on vehicles where maybe some manufacturers
8 aren't present. Do you ever -- have you ever led
9 trainings or anything on generally the subject?

10 A. So about three or so years ago I actually did start an
11 organization called the South Carolina Auto Theft
12 Intelligence Council, SCADIC for short because it's a
13 mouthful. Every quarter since then I've hosted no-cost
14 training for in-state, out-of-state, private sector
15 partners within law enforcement and special
16 investigative units like insurance companies and
17 whatnot. I will host that in the various regions of
18 South Carolina to try to allow a different crowd to come
19 in and we cover all various topics within like the realm
20 of vehicle crimes and auto theft.

21 Q. Okay. Now, all of the kind of methods that you just
22 described of how you go about identifying cars from
23 surveillance photos, are these the same type of methods
24 that other individuals in your field use to identify
25 cars from surveillance footage?

1 A. To the best of my knowledge, yes.

2 MS. KOZIK: At this time, the State offers this
3 witness as an expert in automobile identification.

4 THE COURT: Okay. Ms. Ford, do you want to
5 question the witness on his qualifications?

6 MS. FORD: Yes, Your Honor.

7 THE COURT: Okay.

8 BY MS. FORD:

9 Q. Hello. Have you been qualified as an expert before in
10 court?

11 A. I have not.

12 Q. And you told us that at certain trainings, you may have
13 a car manufacturer come and show you their cars;
14 correct?

15 A. Yes, ma'am.

16 Q. But you've never worked at a dealership?

17 A. No, I haven't worked at a car dealership.

18 Q. And these trainings, they just bring the cars for y'all
19 to look at. You're not actually going to the car
20 factories to study these cars or anything like that?

21 A. That's correct.

22 Q. And when you have identified cars, is there any type of
23 peer review? I don't know if that term necessarily
24 applies, or if you know what I'm referring to when I say
25 peer review.

1 A. Like, am I working with other agents that do the similar
2 type of investigations that I do to come up with the
3 same vehicle kind of thing?

4 Q. Yes.

5 A. So, if other people are available, yes. We will bounce
6 it back and forth off of one another and see if we can
7 come to an agreement if we're having difficulty
8 identifying a car by ourselves.

9 Q. When you have identified cars, typically, I imagine
10 there's no way for you to know, to find out if you are
11 accurate in your identification?

12 A. Only if the agency follows up with us and tells us at
13 that point that, like, yes, that was the car that we
14 were looking for.

15 Q. And but you, in your training, it sounds like it's
16 mostly just from your years of work in this field, doing
17 your own research on the websites you mentioned earlier,
18 things like that; correct? And just whatever cases are
19 given to you?

20 A. Between that and just years of experience driving on the
21 road, being a very observant driver, and trying to pay
22 attention to the vehicles that I'm around because of the
23 field of work that I'm in.

24 Q. But in -- in the trainings you've been to, do y'all ever
25 have any type of testing, I guess you could say, where

1 you try to identify cars and somebody who, the teacher,
2 or whoever you want to describe this person, would
3 basically test y'all to see if you're correct in
4 identifying cars?

5 A. Not in a specific training scenario, no. But more along
6 the lines of, like, when we went through field training
7 and all that kind of things with our training officer,
8 that was something that they would sort of test us with
9 to see if we were capable at that point to be able to do
10 that on our own without them present. Just to know that
11 we're fully capable of working by ourselves.

12 Q. But there's no formal type of training that you've had
13 in identifying cars; correct?

14 A. That's correct.

15 Q. And mostly when you're identifying cars, you really have
16 no way of knowing if you are accurate? Meaning through
17 confirmation?

18 A. Unless they confirm that our opinion that we gave to
19 them was accurate, then that is correct.

20 MS. FORD: I have no further questions.

21 THE COURT: Okay. Ladies and gentlemen, at this
22 time I'm going to excuse you for a few minutes, because
23 I have some things to discuss with these attorneys
24 outside your presence. We'll bring you back
25 momentarily. Thank you very much.

1 (Jury exits the courtroom)

2 THE COURT: Okay. I'm happy to hear any argument
3 as to the defendant's -- the witness' ability to testify
4 as an expert in the area of auto theft.

5 MS. KOZIK: Automobile identification.

6 THE COURT: Automobile identification, excuse me.
7 Automobile identification. All right, Ms. Ford.

8 MS. FORD: Thank you, Your Honor. We do not
9 believe this witness should be qualified as an expert.
10 While he has been working in this general field for a
11 while now, as you've heard, he's never testified as an
12 expert. Of course, there always has to be a first. But
13 in this particular field, we're concerned that there's
14 basically no way that he has ever been tested. It's
15 just sort of, he'll hear a story maybe that sounds like
16 he got the right call, made the right call.

17 But in this supposed expertise, it's just, it
18 sounds like more of a helpful tool as opposed to
19 something that can be categorized as a -- as an
20 expertise. Just because, again, there's just no
21 testing, no formal training. It's just a lot of it
22 sounds like his own initiative in looking on these
23 websites, doing the best he can. We just don't think it
24 meets the threshold.

25 THE COURT: Ms. Kozik?

1 MS. KOZIK: Yes, ma'am. Your Honor, under Rule
2 702, in order for an expert to be qualified as a
3 witness, they don't need to have any kind of specific
4 test or scientific knowledge. A lot of it can come from
5 on-the-job training. The issue is based on the Defense
6 -- or the witness's experience, which as you've heard,
7 can testify. He has vast experience in understanding,
8 or viewing cars, viewing the different makes and models
9 and uniqueness of different types of cars. He's asked
10 to identify cars for law enforcement agencies one to two
11 times a week.

12 Again, he's a special agent at SLED and he's been
13 there for seven years in this unit. His entire job is
14 looking at cars all day, every day, from footage and
15 comparing it to other cars to help law enforcement
16 identify vehicles.

17 Again, he's mentioned that he has specific
18 knowledge. He has updates from manufacturers at
19 training. He own -- he has his own organization where
20 he hosts training for others. He's discussed how other
21 individuals, other special agents in the SLED office,
22 follow the same methods that he does in doing these
23 sorts of identifications. And so that would make his
24 testimony reliable.

25 And again, you don't -- in order for someone to be

1 qualified as an expert, it doesn't have to be this very
2 technical, specialized field where they're tested. That
3 would go purely to weight that the jury can give him,
4 and they've heard Ms. Ford's cross of him. It would go
5 to weight, not admissibility of him as an expert. They
6 are free to believe him or not believe him, based on
7 their own decision on what to give the weight of the
8 evidence.

9 Because again, the issue is just, will his
10 testimony, and based on his specific specialized
11 training and specialized knowledge, will it assist the
12 trier of fact to understand the evidence? We believe
13 that it would in this case, based on his extensive prior
14 background. And if the court will give me a little bit
15 of leeway here. I don't mean to cite this as precedent
16 in any way, but this is the exact scenario in the
17 comedic, but legally correct 1992 classic, My Cousin
18 Vinny, where Joe Pesci calls his girlfriend as an expert
19 in automobile identification, where she does not have
20 any kind of specialized knowledge, but knows a lot about
21 cars, knows how they work, et cetera.

22 Again, it's just -- it's comedic, but legally
23 correct, in that, again, you don't need any kind of
24 specific testing, education, qualifications. It's
25 really just that knowledge that's above and beyond what

1 a normal juror might have.

2 And it's clear from his extensive testimony, he has
3 that kind of experience. His methods are used by other
4 individuals in the field, and therefore reliable, and we
5 believe that his experience would help the jury in
6 understanding the evidence in this case. And helping
7 them determine the issue of fact about, is the car that
8 we see in the footage at least similar to the type of
9 car that the Defendant was driving at the time?

10 THE COURT: Okay. Well, the Court is less
11 concerned with Hollywood and more concerned with our
12 state jurisprudence. I'm mostly concerned with State
13 versus Chavis, which is 412 South Carolina 101, 771
14 Southeast 2nd, 336, 2015 case. Of course, got to talk
15 about scientific versus non-scientific experts. This
16 falls into the non-scientific category, and while
17 there's no formulaic approach for determining the
18 foundational requirements, qualifications, and
19 reliability, evidence of mere procedural consistency is
20 not enough in South Carolina.

21 And I think, too, what Ms. Ford was trying to
22 elicit from him, which we couldn't really quite ever get
23 from him, is the fact that there is no -- there is no
24 evidence demonstrating that he's able to draw reliable
25 results from these procedures. And that's really

1 critical.

2 So, respectfully, I'm not going to allow him to be
3 qualified in this particular field today. I don't think
4 he possesses the requisite training by his own
5 admission. I don't find him looking things up on
6 Cars.com to be sufficient to warrant the finding of his
7 being an expert in testifying in that field in this
8 court.

9 So, respectfully, we'll take a break at this time.
10 I'll let you decide. I don't know if he had specific
11 involvement in this case. Obviously, he can still
12 testify about that, but he can't give opinions. Okay?

13 MS. KOZIK: Just to clarify, just kind of to
14 balance before we take a break. Could this witness
15 testify that he knows specifics about what a Toyota
16 4Runner looks like? Can he testify about the specifics
17 about that? If he has personal knowledge of that, he's
18 not giving an opinion. Can he discuss that?

19 THE COURT: I guess he could. I mean, I guess he
20 just can't opine that one car is the other. I'm not
21 really sure exactly what you're trying to get out of
22 him. His involvement in the case, it's hard for me to
23 tell you.

24 MS. KOZIK: Okay.

25 THE COURT: He can't reach an opinion. He can't

1 give an opinion.

2 MS. KOZIK: Okay.

3 THE COURT: He can testify to his personal --
4 personal information.

5 MS. KOZIK: Okay. He can view the screen shot that
6 is already in evidence. So again ---

7 THE COURT: Did he work this case?

8 MS. KOZIK: Afterwards, yes. He reviewed the
9 screen shot in this case and he did opine to the
10 detective in the case. Without getting into that actual
11 opinion, again, based on his observations and
12 involvement in the case, I would like him to describe
13 what he sees in the picture and to characterize as a
14 Toyota 4Runner without giving an ultimate opinion on the
15 issue.

16 THE COURT: All right. What exactly are you going
17 to have him say? Is it a Toyota 4Runner?

18 MS. KOZIK: No. I would like to show him the
19 photo, have him describe what he sees in the photo, and
20 then, I guess, ask him if he can describe the -- the --
21 I guess, I can't think of the word or what, essentially,
22 a 4Runner looks like and what another similar cars look
23 like.

24 THE COURT: So, you just want him to ---

25 MS. KOZIK: Describe the characteristics of his

1 Toyota 4Runner.

2 THE COURT: Look at the picture and tell you what
3 he sees?

4 MS. KOZIK: Yes, ma'am.

5 THE COURT: All right. Ms. Ford?

6 MS. FORD: Your Honor, I would object because I
7 think the jury's already seen a picture of this car.
8 They've seen the video. As a lay witness, I don't -- if
9 he testifies, basically, I think the suggestion, even if
10 he's not qualified as an expert, is that he's an expert
11 stating that this is a Toyota 4Runner.

12 I think the jury, my understanding of the State, at
13 least, is going to try to put in a picture of the car
14 that was at my client's house, and they're going to have
15 the Enterprise lady come and say that he had rented a
16 Toyota 4Runner. I just think to have this witness say,
17 basically, go into a Toyota 4Runner, I mean, I think
18 it's clearly just trying to get around putting in
19 supposed expert information, testimony without
20 qualifying him.

21 THE COURT: I'm really confused as to why we need
22 an expert to look at a picture and say, "Yeah, that's a
23 4Runner."

24 MS. KOZIK: It's that photo that we keep. It's
25 Exhibit No. 7. It's a blurry photo.

1 THE COURT: That's the one you wanted to show?

2 MS. KOZIK: Yes, Your Honor.

3 THE COURT: All right. Let me take a look at it,
4 and we'll take a break, and I'll come back. All right.
5 Thank you, ma'am. Okay. We'll be at ease for a few
6 minutes. Take off. You can leave the witness stand,
7 take a break.

8 THE WITNESS: Okay. Thank you, ma'am.

9 (OFF THE RECORD)

10 THE COURT: All right. State Exhibit No. 7. I
11 took a minute to look at during the break. Yeah, it's
12 just that, I guess, zoomed-in shot of the black Toyota
13 4Runner. Give that back to you. I don't, you know, I
14 think if he were, I checked it to make sure, like, he
15 can't read the word Toyota or 4Runner. Apart from that,
16 I mean, I think anything he did to identify it does to
17 identify that.

18 Given the role you told me he has would be an
19 expert opinion. I don't see why you need an expert to
20 identify that vehicle as looking like a black Toyota
21 4Runner. So, I think that's where we have a break in
22 communication on this issue. I don't -- I think, you
23 know, if you're an expert to testify just from his
24 experience as a driver on the road that we all have --
25 that we all have sort of a base knowledge of vehicle

1 make and model. So, I would have no problem with
2 somebody just saying, "Yeah, that looks like a black
3 Toyota 4Runner." I certainly don't need an expert to
4 give you that opinion. We all drive on the road.

5 So I'm not -- I'm not real clear on how he adds to
6 your case at this point in time, or it really seems like
7 anything you ask him is just going to be pretty common
8 sense questions. I don't know why I need to be an
9 expert, but if you want to ask him a question about the
10 vehicle, I guess that's all right. I have no problem
11 with it. He's just not going to be deemed an expert. I
12 don't think it takes an expert to show you what they
13 believe to be a black Toyota 4Runner. Okay.

14 MS. KOZIK: So then could he testify that he
15 believes what's in that photo is a black 4Runner?

16 THE COURT: Of course. Yeah, why not? Y'all good?
17 Bring the jury back in.

18 (Jury enters the courtroom)

19 THE COURT: Welcome back. Y'all come on in. All
20 right. Thank you so much. Everybody can be seated.
21 All right. The State can proceed.

22 BY MS. KOZIK:

23 Q. Mr. Cestare, I'm handing you or showing you State's
24 Exhibit No. 7. Have you seen that picture before?

25 A. Yes, I have.

1 Q. What kind of car do you see in that photo?

2 A. I see a Toyota 4Runner.

3 Q. Why do you say that?

4 A. There are some distinctive features that 4Runners have
5 that give them that unique appearance to separate them
6 from other vehicles. The ---

7 MS. FORD: And your Honor, I think we're going
8 into the ---

9 THE COURT: I agree.

10 MS. KOZIK: No further questions.

11 THE COURT: All right. Any cross examination for
12 this witness from the Defense?

13 MS. FORD: Yes, Your Honor.

14 **C R O S S E X A M I N A T I O N**

15 **BY MS. FORD:**

16 Q. So, you testified earlier that you had seen that photo
17 before?

18 A. That's correct.

19 Q. And someone who works for SLED sent you that picture
20 initially?

21 A. Yes.

22 Q. And the person who sent it to you, they indicated that
23 they thought it was a Toyota 4Runner?

24 THE COURT: I couldn't hear the question.

25 BY MS. FORD:

1 Q. They indicated to you that they thought it was a Toyota
2 4Runner?

3 A. That is correct. Yes, ma'am.

4 Q. So, before you made that identification, someone else
5 had already told you that that's what they thought?

6 A. That's correct.

7 Q. And when you gave the indication that you thought it was
8 a Toyota 4Runner as well, you had indicated, and not 100
9 percent positive, that they appeared to be the OEM
10 wheels for your 2014 to 2024 4Runner; correct?

11 A. That's correct.

12 Q. So, that's a 10-year time frame?

13 A. Yes, for the generation of that vehicle.

14 Q. And you indicated you were not 100 percent positive?

15 A. On the wheels, yes.

16 Q. And you testified earlier about the Flock cameras?

17 A. Yes.

18 Q. And you have access to those?

19 A. I do.

20 Q. And for this case, you were just given a limited amount
21 of information?

22 A. Correct.

23 Q. But you knew that North Charleston was asking for
24 assistance?

25 A. Yes.

1 Q. And after a search, you did not find any Toyota 4Runner
2 with an out-of-state license plate on the days that you
3 looked?

4 A. I didn't have the information about an out-of-state
5 license plate.

6 Q. But you were looking for a 4Runner?

7 A. All I was looking for was a Toyota 4Runner that matched
8 that 2014 to 2024 body style.

9 Q. And you found one, but it was a state one -- a state
10 license plate?

11 A. A South Carolina license plate.

12 Q. Yes.

13 MS. FORD: I beg the court's indulgence.

14 THE COURT: Okay.

15 MS. FORD: I have another question.

16 THE COURT: All right. Any redirect?

17 MS. KOZIK: Just briefly.

18 **R E D I R E C T E X A M I N A T I O N**

19 **BY MS. KOZIK:**

20 Q. Did North Charleston Police Department tell you or
21 anyone else with a slide to your knowledge what kind of
22 car they thought was in the photo?

23 MS. FORD: Objection. Speculation.

24 THE COURT: Say the question again.

25 MS. KOZIK: Did North Charleston tell him to

1 acknowledge him or the other person involved in the case
2 what kind of car they were looking at?

3 THE COURT: Overruled as an objection. You can
4 answer.

5 BY MS. KOZIK:

6 A. No, they did not. I was specifically told that North
7 Charleston did not tell us what they thought the vehicle
8 was.

9 MS. FORD: Objection. Hearsay.

10 THE COURT: All right. That would be hearsay. I
11 think he just needed to answer the question. All right.
12 Ladies and gentlemen, strike the last portion of the
13 answer after "No." Okay.

14 BY MS. KOZIK:

15 Q. Were you given precise information about the location of
16 the crime in this case?

17 A. No.

18 Q. So you didn't check for specific Flock cameras near the
19 specific location in this case?

20 A. No.

21 MS. KOZIK: No further questions?

22 THE COURT: Okay. Any recross?

23 MS. FORD: No, Your Honor.

24 THE COURT: Okay. All right. You can step down.
25 Thank you so much. Appreciate it. Have a good day.

1 You're free to go. All right. Who's State's next
2 witness?

3 MS. KNOX: The State calls Annie Boyd.

4 ANNIE BOYD,

5 having been duly sworn, testifies as follows:

6 THE CLERK: Please be seated. Now, please state
7 your full name into the microphone, spelling your last
8 name for the record.

9 THE WITNESS: Okay. My name is Annie Boyd,
10 B-o-y-d.

11 **D I R E C T E X A M I N A T I O N**

12 **BY MS. KNOX:**

13 Q. Good afternoon, Ms. Boyd. Let's start off by telling
14 the jury, where do you work?

15 A. I work at Enterprise Rent-A-Car.

16 Q. And what is your job title there?

17 A. My title is Risk specialist service manager.

18 Q. Do your -- what do your duties entail at Enterprise?

19 A. We work with local law enforcement on investigations,
20 fraud prevention, audit branches, things like that.

21 Q. Is part of your duty to provide documentation responsive
22 to law enforcement requests?

23 A. Yes.

24 Q. Okay. As part of your duties, are you familiar with
25 Enterprise rental agreements?

1 A. Yes.

2 Q. Okay. Does Enterprise keep copies of signed rental
3 agreements?

4 A. Yes.

5 Q. Where are those copies stored?

6 A. We have an online program called OnBase.

7 Q. Once they are in OnBase, can these copies or these
8 agreements be changed in any way?

9 A. No.

10 Q. Can these agreements be altered in any way?

11 A. No.

12 Q. Ms. Boyd, did you pull an Enterprise agreement record
13 for law enforcement as it relates to this case?

14 A. Yes, I did.

15 Q. And generally, how would you go about providing such an
16 agreement to law enforcement when they request one?

17 A. Log into OnBase and you can look it up by the rental
18 agreement, by the VIN number, by the license plate
19 number or the customer's name.

20 MS. KNOX: Okay. At this time, I'm going to show
21 the Defense what's been marked as State's Exhibit No. 8.

22 THE COURT: All right.

23 MS. KNOX: May I approach the witness?

24 THE COURT: Yeah.

25 MS. KNOX: I'm showing the witness what has been

1 marked as State's Exhibit No. 8.

2 BY MS. KNOX:

3 Q. Ms. Boyd, what is this?

4 A. This is an Enterprise rental agreement.

5 Q. How do you know that?

6 A. I'm very familiar with these.

7 Q. Okay. Is this the type of documentation that Enterprise
8 keeps and maintains in the regular course of business?

9 A. Yes.

10 Q. Okay. Did Enterprise keep and maintain this document in
11 particular in the regular course of business?

12 A. Yes.

13 Q. Is this a fair and accurate copy of an Enterprise rental
14 agreement from January 2nd to January 4th of 2024?

15 A. Yes.

16 MS. KNOX: At this time, Your Honor, the State
17 moves State's Exhibit No. 8 and to evidence.

18 Any objection to State Exhibit 8?

19 No, Your Honor.

20 All right. No objection, will be admitted.

21 (State's Exhibit No. 8 is admitted into evidence.)

22 MS. KNOX: Permission to publish to the jury.

23 BY MS. KNOX:

24 Q. Ms. Boyd, what is this?

25 A. This is an Enterprise rental agreement.

1 Q. And I think you can touch that screen.

2 A. Okay.

3 Q. Would you mind pointing out the renter on this document?

4 A. It's right up here (indicating).

5 Q. And what does that say?

6 A. Kenneth Miller.

7 Q. And when -- will you circle the date that this car was
8 rented?

9 A. Yes.

10 Q. And, can you tell the jury what those dates are?

11 A. January 2nd, 2024 at 10:30 A.M. to Thursday, January
12 4th, 2024 at 11:30 P.M.

13 Q. But can you circle the type of vehicle that this
14 agreement is for?

15 A. Okay.

16 Q. And can you read that for the jury?

17 A. 2021 Toyota 4Runner.

18 Q. And what is that license plate?

19 A. It's super blurry and I can't see it.

20 THE COURT: Can you blow it up on there?

21 MS. KNOX: It's a little blurry.

22 THE WITNESS: It's right here.

23 THE COURT: Okay. Oh, good. Help her out. Help
24 her with that, will you? There you go.

25 THE WITNESS: Yeah, that's better.

1 BY MS. KNOX:

2 Q. All right. What is that license plate right there?

3 A. Okay. It's an Illinois license plate, FP133526.

4 Q. Is this the one of the vehicles that you rented out at
5 Enterprise?

6 A. Yes.

7 Q. Can you -- can you -- can you circle that? Ms. Boyd,
8 will you circle where the prevented signs or initials of
9 the agreement?

10 A. Yep. So right here and right here (indicating).

11 Q. All right. And I'm going to complete the agreement.
12 And then, can you circle where he signed his name? And
13 on this document, are there any listed authorized
14 drivers?

15 A. There are no other listed drivers.

16 MS. KNOX: I beg the court's indulgence. Thank you
17 for your patience. I have no further questions for this
18 witness.

19 THE COURT: All right. Any cross examination for
20 this witness?

21 C R O S S E X A M I N A T I O N

22 **BY MS. FORD:**

23 Q. So, Kenneth Miller is the person who rented this
24 vehicle?

25 A. Correct.

1 Q. But the bill was actually being sent to Progressive
2 Insurance Company?

3 A. Correct.

4 Q. Okay. So this was through an insurance claim presumably
5 then?

6 A. Correct.

7 Q. And this car has a -- an Illinois license plate?

8 A. Yep.

9 MS. FORD: I beg the court's indulgence. I have no
10 further questions.

11 THE COURT: All right. Any follow-up for this
12 witness?

13 MS. KNOX: No follow-up for this witness.

14 THE COURT: Thank you, ma'am. You're free to go.

15 THE WITNESS: Thank you.

16 THE COURT: All right. State, call your next
17 witness.

18 MS. KNOX: I beg the court's indulgence, Judge.

19 THE COURT: Sure.

20 MS. KNOX: I just need to speak with the Defense
21 and also before you.

22 THE COURT: Okay. Yeah.

23 (Bench conference)

24 MS. KNOX: The State calls the case agent,
25 Detective Charity Steinbrunner.

1 THE COURT: All right. And if we need to break it
2 up, you know, that's fine, we can.

3 CHARITY STEINBRUNNER,
4 having been duly sworn, testifies as follows:

5 THE CLERK: Please be seated. Now, please state
6 your full name into the microphone, spelling your last
7 name for the record.

8 THE WITNESS: Charity Steinbrunner,
9 S-t-e-i-n-b-r-u-n-n-e-r.

10 DIRECT EXAMINATION

11 **BY MS. KOZIK:**

12 Q. Good afternoon, Detective. Can you please tell the jury
13 who you are and where you are currently employed?

14 A. I am a detective with the City of North Charleston
15 Police Department.

16 Q. And how long have you been in law enforcement?

17 A. I have been in law enforcement for almost 20 years.

18 Q. What was your role before detective?

19 A. I was on patrol. So I was a patrol officer.

20 Q. Okay. What was your role on January 4th of 2024?

21 A. A detective in the person's unit.

22 Q. Were you involved in the investigation as it relates to
23 this case?

24 A. Yes, ma'am.

25 Q. And how were you involved?

1 A. The call for service went out to patrol officers. We
2 were available to respond from City Hall, so I left and
3 went to the scene.

4 Q. Do you recall what time this call for service came to
5 you?

6 A. I believe it came out around 11:12 A.M. on January 4th,
7 and I was there maybe at 11:30 A.M.

8 Q. And were you the case agent as it relates to responding
9 to this scene?

10 A. Yes.

11 Q. And as a case agent, are you responsible for this
12 investigation?

13 A. I am.

14 Q. And what are you responsible for as case agent?

15 A. So I would pretty much gather information from other
16 officers or other people involved in the investigation
17 and also kind of direct what needs to be done as far as
18 identifying possible suspects and witnesses.

19 Q. Are you responsible for anything involving search
20 warrants?

21 A. I am.

22 Q. Were you the only case agent as it relates to the course
23 of this investigation?

24 A. Yes.

25 Q. Aside from you, who else was involved primarily in this

1 investigation?

2 A. It was pretty much me. I did have assistance from other
3 detectives at North Charleston.

4 Q. Okay. As it relates to the other officers involved in
5 this investigation, who do they report back to about the
6 information that they obtain?

7 A. So, as the case agent, the information would come back
8 to me.

9 Q. Why is that?

10 A. Because I'm overall responsible for gathering all that
11 information and doing search warrants and identifying
12 suspects. So it's important for the case agent to have
13 all that knowledge.

14 Q. When did you first respond to the scene?

15 A. It was on the January 4th, approximately at 11:30 A.M.

16 Q. And where did you respond to?

17 A. [REDACTED] Easton Street, North Charleston.

18 Q. About what time did you get there?

19 A. 11:30 A.M.

20 Q. 11:30. Is that in Charleston County?

21 A. It is.

22 Q. And are you generally familiar with the area that you
23 were dispatched to?

24 A. I am.

25 Q. About how many times have you been to this general area?

1 A. Prior to being in investigations, that was the area I
2 patrolled on a normal basis for maybe about eight --
3 nine years.

4 MS. KNOX: Judge, at this time, I'm going to show
5 Defense what has been previously marked as State's
6 Exhibit No. 12.

7 THE COURT: Okay.

8 MS. KNOX: Permission to approach the witness?

9 BY MS. KNOX:

10 Q. Detective, what am I showing you right now?

11 A. You are showing me a map of the area where this incident
12 took place.

13 Q. And what was that area?

14 A. [REDACTED] Easton Street.

15 Q. And how do you know that this map is of that facility?

16 A. I've seen it before. I've been in the area. I'm
17 familiar with it.

18 Q. Is this a fair and accurate depiction of the area that
19 you responded to on January 4, 2024?

20 A. I would say it is.

21 MS. KNOX: Your Honor, at this time, the State
22 moves to admit State's Exhibit No. 12 into evidence.

23 THE COURT: All right. Any objection to State's
24 No. 12?

25 MS. FORD: No, Your Honor.

1 THE COURT: All right. All right. Admitted with
2 no objection.

3 (State's Exhibit No. 12 is admitted into evidence.)

4 MS. KNOX: Permission to publish for the jury?

5 THE COURT: Yes, ma'am.

6 BY MS. KNOX:

7 Q. Detective, will you please point out the address that
8 you responded to? You can just circle it. Can you
9 please circle the intersection on this map that you are
10 familiar with, where the city camera was located? And
11 to your knowledge, what angle does the city camera
12 capture?

13 A. It should cover all four inner -- sorry. All four
14 different directions from that center point. So down
15 Dover both ways and Baker both ways.

16 Q. Can you point to circle where the city asset camera is?

17 A. Yes, ma'am.

18 Q. Did you receive footage from the city asset camera?

19 A. I did.

20 Q. And what was that footage of?

21 A. A black SUV crossing over Easton -- Easton Street across
22 Baker shortly after the reported incident.

23 Q. Can you draw an arrow of the direction that the car was
24 traveling in this vehicle?

25 A. Yes.

1 Q. Detective, was the victim in this case still at the
2 scene when you arrived?

3 A. I believe she had been already transported by EMS by the
4 time I got there.

5 Q. And who did you speak with when you first arrived?

6 A. Officers that were on the scene, Officer Winn.

7 Q. And what was the purpose of speaking to Officer Winn?

8 A. To obtain information that he may have already gathered
9 about the victim and also any potential suspects or
10 witnesses.

11 Q. And what type of information did you receive?

12 A. He advised me that Ms. Dukes had been shot in the left
13 knee and that she stated that it was her nephew, Kenneth
14 Miller.

15 MS. FORD: Objection. Hearsay.

16 THE COURT: I'll allow it.

17 BY MS. KNOX:

18 Q. Were you advised of who the suspect was in this case?

19 A. Yes.

20 Q. And who was that suspect?

21 A. Kenneth Miller.

22 Q. And why was he that suspect?

23 A. Because that's who the victim named as the suspect.

24 Q. What did you learn about this suspect?

25 A. That he was her nephew.

1 MS. FORD: Objection. Hearsay.

2 THE COURT: Sustained. Maybe you can lay a little
3 bit of foundation. Or maybe rephrase it.

4 BY MS. KNOX:

5 Q. Were you -- did you receive information of the suspect's
6 description?

7 A. Yes.

8 Q. What was the suspect's description that you received?

9 A. That this was a known person to her, a nephew, and that
10 he was wearing khaki pants and possibly a burgundy
11 shirt.

12 Q. Did you speak with any of the victim's family members
13 when you were at the scene?

14 A. I did.

15 Q. Did you -- were you advised at that time of anything as
16 it relates to the suspect's vehicle?

17 A. I was ---

18 MS. FORD: Objection. Hearsay.

19 MS. KNOX: I would say it's not hearsay. It's not
20 for the truth of the matter. It's based on her
21 investigation as the case agent. She takes the
22 information that she's given and that's how she conducts
23 her investigation.

24 THE COURT: Okay. I'll overrule it at this time.
25 I'm sorry. Go ahead.

1 BY MS. KNOX:

2 A. I received information from the sister of Mr. Miller
3 that he was possibly driving a rental vehicle, an SUV.

4 Q. Why was he driving a rental vehicle?

5 A. He had recently been in a vehicle accident.

6 Q. Okay. After you received this information, what did you
7 do next?

8 A. We learned of his address in Goose Creek. I forwarded
9 that information to our ILP unit which is our
10 Intelligence Led Policing that apprehends people in
11 these situations and they set up surveillance in the
12 Goose Creek location.

13 Q. Okay. And as it relates to any surveillance, did you
14 receive any relevant footage from that?

15 A. I'm sorry. As far as the surveillance video, Verkada?

16 Q. The Verkada, yes.

17 A. The city asset cameras, that Dover camera, our crime
18 analysis unit was able to provide me a still shot of a
19 black SUV that was seen moving before the dispatch call
20 for service just before.

21 Q. After you learned of this black SUV and after you saw
22 this footage, what did you do with that information?

23 A. I provided it to an officer over the ILP unit who set up
24 surveillance at the Goose Creek location.

25 Q. Okay. And just to back up a little bit, how did you

1 determine the suspect's address in this case?

2 A. South Carolina DMV.

3 Q. And what was the suspect's address?

4 A. It's [REDACTED] Turnbury Street, Goose Creek.

5 Q. As a result of this investigation, was the suspect
6 arrested in this case?

7 A. He was. The units in the Goose Creek location observed
8 him at his residence after he had exited a black SUV
9 Toyota 4Runner and took him into custody.

10 MS. FORD: Objection, that's hearsay.

11 THE COURT: I'll allow it. Go ahead.

12 BY MS. KNOX:

13 Q. Can you repeat -- restate your answer, please?

14 A. Yes. The units that were doing surveillance in the
15 Goose Creek location located him as he pulled into the
16 address in Goose Creek, his address, exiting a black
17 Toyota 4Runner.

18 Q. About what time was he arrested?

19 A. This was approximately 12:30 P.M.

20 Q. And how long was that after Ms. Dukes had been shot?

21 A. She was shot roughly around 11:08 P.M. and taken into
22 custody at 12:30 P.M., so just over an hour -- hour and
23 a half.

24 Q. Did you draft any search warrants for this case?

25 A. I did. I did a search warrant for the residence and the

1 black Toyota 4Runner that was at the residence.

2 MS. KNOX: Okay. At this time, Judge, I'm showing
3 Defense what has been previously marked as State's
4 Exhibit No. 23.

5 THE COURT: Okay.

6 MS. KNOX: May I approach this witness?

7 BY MS. KNOX:

8 Q. Do you recognize this photograph?

9 A. I do.

10 Q. What do you recognize it as?

11 A. This is crime scene photos taken from the search
12 warrant. This would be the address of Mr. Miller, the
13 [REDACTED] Turnbury and Goose Creek. And also the black Toyota
14 ---

15 MS. FORD: An objection. Your Honor, this witness
16 was not present, did not take this photo, was not
17 present when it was taken, so we don't know if this is a
18 pertinent witness.

19 THE COURT: Okay. Maybe you can solve that by
20 asking one or two more questions about her knowledge of
21 the photo.

22 BY MS. KNOX:

23 Q. What address is this?

24 A. [REDACTED] Turnbury Street, Goose Creek, South Carolina.

25 Q. Was that the address you included in your search

1 warrant?

2 A. It is.

3 Q. And what vehicle is in this picture?

4 A. It's a black Toyota 4 Runner.

5 Q. And is that the vehicle that you included in your search
6 warrant?

7 A. Yes, ma'am.

8 Q. Is that a -- is that photo from the search warrant a
9 fair and accurate depiction of the Defendant's home
10 address?

11 A. Yes, ma'am.

12 Q. Is it a fair and accurate depiction of the car that you
13 listed in your search warrant?

14 A. It is.

15 MS. KNOX: At this time, the State moves to enter
16 Exhibit No. 23 into evidence.

17 THE COURT: Okay. Any objection to 23?

18 MS. FORD: Yes, Your Honor. We don't know how this
19 witness can say it's fair and accurate since she wasn't
20 there and the time has not been established when it was
21 taken.

22 THE COURT: All right. If you could just ask her a
23 couple questions. Number one, what capacity was the
24 photo taken and how does she have knowledge of the photo
25 and how did it come to her?

1 BY MS. KNOX:

2 Q. Okay. How was this photograph taken?

3 A. So this was taken by our crime scene unit who responds
4 to any time we do a search warrant at a residence or a
5 vehicle, they respond and take photos of those items.

6 Q. And have you reviewed these photos?

7 A. I have. As a case agent I would review the crime scene
8 photos.

9 Q. And have you reviewed this photo in particular?

10 A. I have.

11 THE COURT: All right. I'll admit it over
12 objection by Defense. All right.

13 (State's Exhibit No. 23 is admitted into evidence.)

14 MS. KNOX: Permission to publish to the jury.

15 THE COURT: Yes, ma'am.

16 BY MS. KNOX:

17 Q. All right. Detective, what are we looking at in this
18 photo?

19 A. So we're looking at [REDACTED] Turnbury Road in Goose Creek,
20 Mr. Miller's address, and also the black Toyota 4Runner.

21 MS. KNOX: I beg the court's indulgence.

22 THE COURT: Okay.

23 BY MS. KNOX:

24 Q. Detective, was there a firearm located at this address?

25 A. There was not.

1 Q. Is that uncommon?

2 A. It is not uncommon to not find firearms during search
3 warrants.

4 Q. Okay. And in your personal experience as 20 years of
5 law enforcement, can you kind of touch on why this is
6 not uncommon?

7 A. It's not uncommon because from the time we have about an
8 hour-and-a-half that the suspect left the incident
9 location to being found by law enforcement. So the
10 firearm could have been discarded anywhere along the way
11 or placed somewhere else at a family member's house or
12 anything could have happened to that firearm between
13 that time.

14 Q. Detective, did you investigate who the owner of that
15 vehicle was in the Defendants driveway?

16 A. Yes, ma'am.

17 Q. And what did you learn about that ownership?

18 A. That it was an Enterprise rental vehicle.

19 Q. And who rented that vehicle?

20 A. Kenneth Miller.

21 Q. Detective, was the Defendant interviewed in this case?

22 A. He was.

23 Q. And who interviewed him?

24 A. I did.

25 Q. And where did this interview take place?

1 A. It took place, he was brought back to me at city hall,
2 North Charleston City Hall.

3 Q. And what was he wearing in this interview?

4 A. He was wearing a black T-shirt and khaki pants.

5 Q. And what was, if you remember, what did his hair look
6 like?

7 A. It was kind of, I don't know the technical term, but it
8 was kind of an -- a braided style.

9 Q. Did you read Mr. Miller his Miranda rights before you
10 questioned him?

11 A. I did.

12 Q. Did Mr. Miller agree to waive his Miranda before you
13 questioned him?

14 A. He did.

15 Q. What did Mr. Miller say about the car he was driving
16 that day?

17 A. That he was the only one that drove that vehicle.

18 Q. And to clarify, this vehicle we're talking about is the
19 Toyota 4Runner?

20 A. Correct.

21 Q. Did Mr. Miller say anything about shooting his aunt?

22 A. He said he did not shoot his aunt.

23 Q. Did he say where he was? Did he say whether or not he
24 was in the area of his aunt's house?

25 A. No. He said he was in Goose Creek at his residence and

1 he had just come back from the gas station.

2 Q. Did Mr. Miller admit to being in possession of a firearm
3 that day?

4 A. He did not.

5 Q. Did Mr. Miller say whether he owned a firearm?

6 A. No. He said he did not own any firearms, had not shot a
7 weapon that day.

8 Q. My next question was, did he say anything about firing a
9 gun that day?

10 A. No. He said he did not shoot a gun that day.

11 Q. Okay. Detective, did you conduct a gunshot residue test
12 on the Defendant in this case?

13 A. I did.

14 Q. And just talk to me briefly about what a -- what GSR is
15 and what a gunshot residue test is.

16 A. So a GSR kit is a sealed kit that would detect or remove
17 particles from gunshot residue. So that can only be
18 found or located on an item, if a gunshot was within
19 proximity, so your hands are closing. So there are two
20 little cylinders that are secured. And there's a little
21 sticky pad on the end of each cylinder. And you would
22 gently press into the skin to remove those particles.
23 And then it's sealed back up and then sent off to SLED.

24 Q. Are there instructions provided as it relates to
25 performing a gunshot residue test?

1 A. Yes.

2 Q. And you might have just touched on it, but can you
3 describe briefly how this kind of test is conducted?

4 A. Yes. Again, it comes in a sealed envelope with these
5 two small cylinders and the instructions and gloves that
6 are secured also in its own like, so they're not
7 tampered with or anything. You put gloves on. You
8 remove the cylinder. Each one is marked left or right
9 for your left hand or right hand. And you press that
10 sticky pad into the hands. And then you put it back on.
11 The cover for that, you seal it into this envelope. And
12 then it's a piece of evidence tape. I secure it with
13 that. And then I initial it to say that I'm the one
14 that secured it.

15 Q. Have you conducted a gunshot residue test prior to this?

16 A. I have.

17 Q. About how many times?

18 A. Thirty -- 40 times.

19 Q. And what procedure do you follow to ensure that this
20 test is conducted in a way that would not contaminate
21 evidence?

22 A. You make sure that, obviously, you're gloved up and you
23 use the materials that are provided in this secured
24 envelope. When I'm done with it, I immediately secure
25 that, tape it up, and then it's placed into evidence.

1 Q. How did Mr. Miller react when you told him that you
2 would be conducting a gunshot residue test on him?

3 A. He did not want me to do a GSR kit on him.

4 Q. Can you expand on that a little bit more?

5 A. So he, while I'm attempting to do it, I had to have
6 assistance. And he would move his hands from me, making
7 it kind of difficult to retrieve the material if there
8 was going to be any on his hands.

9 Q. Did Mr. Miller -- excuse me, did Mr. Miller try and pull
10 his hands away from you?

11 A. He did.

12 Q. Did Mr. Miller try to physically move away from you?

13 A. He did.

14 Q. How many officers did it take to get this test conducted
15 on Mr. Miller?

16 A. So we had two other detectives that were side by side.
17 And then I was attempting to grab his hands to conduct
18 the test.

19 Q. Were you able to complete this gunshot residue test?

20 A. I did.

21 Q. And what did you do with this test after it was taken?

22 A. So again, I secured it into the envelope that it comes
23 in. I put a piece of evidence tape over it to secure it
24 and initial it. And then that is placed into evidence,
25 which is a secure area that only evidence personnel

1 wants it to put in either a locked locker or what we
2 call a drop box, where we can just drop evidence. Only
3 certain people have access to those areas.

4 Q. Is this area secured at your department?

5 A. It is.

6 Q. And I think you just said it, but how many people have
7 access to this location?

8 A. So law enforcement officers have access into the room
9 itself to drop off evidence. Then there are lockers.
10 And this drop box, I'm telling you that once evidence is
11 placed into those areas, only evidence personnel have
12 access to retrieve those items to place in their secure
13 area.

14 Q. At this time, I am showing Defense what has been
15 previously marked as State's Exhibit No. 11. Permission
16 to approach this witness? Detective, what is this?

17 A. So this would be the envelope that the test kit comes
18 in. And inside is what feels like the little summaries
19 that I'm telling you about.

20 Q. And did you store it simply in that white envelope, or
21 was it in the second one?

22 A. Yes. So I would store it in just this envelope into our
23 evidence.

24 Q. And how do you recognize that?

25 A. This is my handwriting on here, and then the tape that

1 is on here, that is my initials.

2 Q. And is this the gunshot residue kit that you conducted
3 on this turnout?

4 A. It is.

5 MS. KNOX: At this time, State moves to enter
6 State's Exhibit No. 11 into evidence.

7 THE COURT: Objection to 11?

8 MS. FORD: Your Honor, I object based on my prior
9 motion.

10 THE COURT: Okay. That's renewed timely. My
11 ruling stands. I'll admit that over the Defense's
12 objection.

13 (State's Exhibit No. 11 is admitted into evidence.)

14 BY MS. KNOX:

15 Q. Detective, are you familiar with the booking process
16 after a suspect is arrested?

17 A. Yes, ma'am.

18 Q. And what does that booking process entail?

19 A. So it is a form that would go to whatever detention
20 center the person is going to be going to, and it has
21 their personal information, their name, date of birth,
22 height and weight, social, that kind of information.

23 Q. Before you were a detective and when you were patrol,
24 did you participate in booking processes for suspects?

25 A. Yes. Anytime somebody is placed under arrest, a booking

1 form is filled out.

2 Q. And can you talk to me about the booking form? What is
3 that?

4 A. Just like what I said, it has the case number and the
5 identifying information of the person that's being
6 charged, and also the charges that he's going to jail
7 on.

8 Q. Are photographs taken during the booking process?

9 A. That's not something I would take pictures of, but once
10 they're booked into a detention center, the detention
11 center would take photos of the person.

12 Q. Were there photographs taken of the Defendant during his
13 booking process?

14 A. Should have been, yes, ma'am.

15 Q. Okay. I am now showing what has been previously marked
16 as State's Exhibit No. 24. Permission to publish to the
17 jury. What is this a photo of?

18 A. This is a side profile of Mr. Miller.

19 Q. When was this photo taken?

20 A. January 4th at approximately 2:45 P.M.

21 Q. Is that the day that Ms. Juanita was shot?

22 A. It is.

23 Q. Is this a fair and accurate depiction of the Defendant's
24 booking photo that day?

25 A. Yes, ma'am.

1 Q. And have you reviewed this booking photo before today?

2 A. Yes.

3 MS. KNOX: At this time, State would move State's
4 Exhibit No. 24 into evidence.

5 THE COURT: Any objection to 24?

6 MS. FORD: No, Your Honor.

7 THE COURT: All right. Without objection, it is
8 admitted and published.

9 (State's Exhibit No. 24 is admitted into evidence.)

10 BY MS. KNOX:

11 Q. Detective, who is in this photograph?

12 A. That's going to be Mr. Miller.

13 Q. And can you describe his hairstyle?

14 A. Again, I don't know the technical term, but it would be
15 in a braided style.

16 Q. And is this what the Defendant looked like the day that
17 you were interviewing him?

18 A. Yes, ma'am.

19 Q. Okay. And just to clarify, how long after the shooting
20 did you interview him?

21 A. So he was taken into custody about 12:30 P.M., and I
22 believe the interview started right at one P.M.

23 Q. After the Defendant was booked into Al Cannon, did you
24 reach out to the victim in this case?

25 A. I did.

1 Q. And when did you make contact with this victim?

2 A. I believe I finally got her on the phone the 14th, and
3 then we had talked about meeting on the 16th to do an
4 interview with her.

5 Q. What did you learn about the victim's health when you
6 were attempting to make contact with her?

7 A. That she had to have surgery and that she was recovering
8 from the surgery.

9 Q. Did you go to the victim's home to further your
10 investigation?

11 A. I did. On January 16th, I went to her residence.

12 Q. And what did you do at this residence?

13 A. I wanted to sit down and talk with her. She did not
14 want to speak at that time, but another detective asked
15 her if she'd be willing to look at a photograph, and she
16 said she would, and she looked at a photo for me.

17 Q. And what type of photograph was this?

18 A. So this was a single photo of the Defendant.

19 Q. And what photograph of the Defendant was it?

20 A. It was from his South Carolina driver's license photo.

21 Q. And what did you ask her about this photograph?

22 A. I showed her the photo, and I asked her who it was. She
23 stated that was the person that shot her, her nephew,
24 Kenneth Miller.

25 MS. FORD: Objection. Hearsay, and bolstering.

1 THE COURT: Overruled.

2 BY MS. KNOX:

3 Q. How quickly did Ms. Miller -- or excuse me. How quickly
4 did Ms. Dukes identify that person in the photograph?

5 A. Immediately.

6 Q. Did she have any hesitation when she identified that
7 person as the person who shot her?

8 A. She did not.

9 Q. And in your experience as case agent and detective, did
10 you believe this identification to be reliable?

11 MS. FORD: Objection.

12 THE COURT: That's sustained. Don't answer that
13 question.

14 MS. KNOX: I beg the court's indulgence.

15 THE COURT: Uh-huh.

16 BY MS. KNOX:

17 Q. I'm showing Defense, what has been marked as State's
18 Exhibit No. 22. Permission to approach the witness?
19 What did I just hand you?

20 A. This is the single photo that I showed Ms. Dukes.

21 Q. How do you know that?

22 A. Because I made it, and also her signature is on it.

23 Q. And is this a fair and accurate representation of the
24 photograph that you showed Ms. Dukes?

25 A. It is.

1 Q. And did she sign that photograph?

2 A. She did.

3 Q. And did she indicate who that person was on the
4 photograph?

5 A. She did. Kenneth Miller.

6 MS. KNOX: At this time, Judge, the State would
7 like to move State's Exhibit No. 22 into evidence and
8 publish to the jury.

9 THE COURT: Okay. Same objection pretrial?

10 MS. FORD: Yes. And again, I would argue it's
11 bolstering and hearsay.

12 THE COURT: Okay. Over those objections, I'll
13 admit it.

14 (State's Exhibit No. 22 is admitted into evidence.)

15 BY MS. KNOX:

16 Q. Okay. Who is in this photograph?

17 A. Kenneth Miller.

18 Q. And who was this photograph signed by?

19 A. Juanita Dukes.

20 Q. And who did she identify, Mr. Miller asked?

21 A. The person that shot her.

22 Q. I'm going to ask you a couple questions about Flock
23 cameras. Are you familiar with what Flock cameras are?

24 A. Yes.

25 Q. Can you briefly describe what that is?

1 A. So, it is a system throughout the area that will read
2 license plates and vehicles in the area.

3 Q. Are you familiar with where the Flock cameras are
4 located in North Charleston?

5 A. I do not know where every single one of them is, no.

6 Q. But you knew the vicinity of the crime scene?

7 A. I do.

8 Q. Okay. Detective, why -- did you ever consider any other
9 suspects in this case?

10 A. I was never given any other leads to suggest any other
11 person was responsible for this.

12 Q. Why not?

13 A. Because Mr. Miller is the shooter.

14 MS. FORD: Objection, Your Honor.

15 THE COURT: Overruled.

16 MS. KNOX: If you were -- I beg the court's
17 indulgence.

18 THE COURT: Okay.

19 BY MS. KNOX:

20 Q. I'm just going to backtrack a little bit.

21 A. Okay.

22 Q. Did you pull Flock cameras as it relates to this
23 investigation?

24 A. I think there was a check of them, but I don't think
25 there was any war runners that I'm aware of in the path

1 that we believe he may have taken.

2 MS. KNOX: Okay. I have no further questions for
3 this witness at this time.

4 THE COURT: Okay.

5 MS. FORD: Thank you, Your Honor.

6 THE COURT: Yes, ma'am.

7 **C R O S S E X A M I N A T I O N**

8 **BY MS. FORD:**

9 Q. So, Detective Steinbrunner, you told us you did go to
10 Ms. Duke's house the day of the shooting?

11 A. I did.

12 Q. And you were inside of the house.

13 A. I did.

14 Q. So, you went throughout the house and you talked to
15 several people who were there on scene at that time.

16 A. Yes, ma'am.

17 Q. And when you were in the house, you were not wearing
18 gloves?

19 A. No.

20 Q. You ended up ultimately interviewing Kenneth at the
21 police station; correct?

22 A. Yes, ma'am.

23 Q. And before the interview started, there was a male
24 detective there who helped pat Kenneth down; correct?

25 A. Yes, ma'am.

1 Q. And he also removed his handcuffs from the back to the
2 front; correct?

3 A. Yes, ma'am.

4 Q. Because it's more comfortable when someone's being
5 interviewed to have their handcuffs removed; correct?

6 A. Yes.

7 Q. So, before Kenneth came to the station, he had been
8 arrested in Goose Creek?

9 A. Yes, ma'am.

10 Q. And numerous officers were on scene when Kenneth was
11 arrested?

12 A. Yes, ma'am.

13 Q. At least seven?

14 A. I couldn't tell you how many were there.

15 Q. And when he was arrested in Goose Creek, he was taken
16 into custody; correct?

17 A. Yes, ma'am.

18 Q. So, he would have been handcuffed before he was put into
19 the police vehicle?

20 A. Yes, ma'am.

21 Q. Now, during your interview, when you were talking to
22 him, and at some point you asked him about performing
23 the gunshot residue test; correct?

24 A. Yes, ma'am.

25 Q. And he testified today that he refused?

1 A. He did not want the test to be taken.

2 Q. But he was very clear, there was a conditional
3 agreement. He said numerous times, you can do it, I
4 just want to watch the search of my house?

5 A. He did say that, yes, ma'am.

6 Q. Many times throughout the interview he said that;
7 correct?

8 A. Yes, ma'am.

9 Q. So, he did agree just if that condition was met?

10 A. Which that condition could not be met.

11 Q. Right, but he would -- he indicated he would agree if he
12 could do that?

13 A. If he could be at the house during the search warrant,
14 he agreed to do it.

15 Q. Now, during this interview, his hands had not been
16 placed in baggies; correct?

17 A. Correct.

18 Q. And to your knowledge, his hands had never been placed
19 in baggies?

20 A. Correct.

21 Q. And sometimes that is done, the police will put people's
22 hands in baggies; correct?

23 A. Correct.

24 Q. That would be to preserve possible gunshot residue?

25 A. Right.

- 1 Q. So, gunshot residue, sometimes it can be time sensitive?
- 2 A. Yes, ma'am.
- 3 Q. Because it can be wiped away; correct?
- 4 A. Yes, ma'am.
- 5 Q. It can be transferred to a variety of different places
- 6 or items; correct?
- 7 A. That is possible. Yes, ma'am.
- 8 Q. Before you started the interview, that detective we
- 9 mentioned earlier, after he searched him and changed the
- 10 handcuffs, the three of you left the room; correct?
- 11 A. Yes.
- 12 Q. So, then Mr. Miller could go to that room?
- 13 A. Yes.
- 14 Q. So, you came back; correct?
- 15 A. Yes, ma'am.
- 16 Q. And just you interviewed him at that point?
- 17 A. Yes, ma'am.
- 18 Q. Now, I want to talk about when you actually took the GSR
- 19 or when you performed that test?
- 20 A. Yes.
- 21 Q. So, at this point, you had invited two additional male
- 22 detectives to help you; correct?
- 23 A. Yes, ma'am.
- 24 Q. So, these are two in addition to that first one who
- 25 helped at the beginning?

- 1 A. Yes, ma'am.
- 2 Q. And one of them actually tried to talk to Kenneth and
3 get him to agree?
- 4 A. Yes.
- 5 Q. And again, Kenneth was like, "You can do it. I just
6 want to watch the search warrants"; correct?
- 7 A. Yes.
- 8 Q. Those -- when you decided to actually perform -- do the
9 test, those two gentlemen, they did, they held him at
10 some point; correct?
- 11 A. Yes.
- 12 Q. And you actually, you were removing his handcuffs?
- 13 A. Yes.
- 14 Q. You were changing them around?
- 15 A. Yes.
- 16 Q. So, again, you were trying to move them from the front
17 to the back at this point?
- 18 A. Yes, ma'am.
- 19 Q. So that you could more easily perform the test?
- 20 A. Yes.
- 21 Q. So, at this point, you do not have gloves on?
- 22 A. I believe you're right.
- 23 Q. So, after you do that, you have the kit and you only put
24 those gloves on when you're executing the actual test.
25 You are right. And during this, when you're trying to

1 take swabs, you're literally going through the three
2 minutes trying to get the best place on Kenneth's hands;
3 correct?

4 A. Yes, ma'am.

5 Q. So you're touching all kinds of places while you're
6 doing this?

7 A. I would not say I was touching all over the place, but I
8 am trying to secure his hand. And like I said, that
9 sticky pad, trying to get it on his hand without
10 touching anything else.

11 Q. And that's is what the difficulty was because he was
12 pulling away?

13 A. Yes, ma'am.

14 Q. But ultimately, you were able to get to his hands?

15 A. Yes, ma'am.

16 Q. Now, you told us about some search warrants that were
17 executed. No gun was found?

18 A. No, ma'am.

19 Q. No gun was found on Kenneth.

20 A. No, ma'am.

21 Q. No gun was found in his car.

22 A. No.

23 Q. No gun was found in his house.

24 A. No.

25 Q. There also was not a burgundy shirt that was recovered.

- 1 A. No.
- 2 Q. So there was no burgundy shirt in his car?
- 3 A. Yeah, he was wearing a dark shirt, though.
- 4 Q. A black shirt?
- 5 A. Yes.
- 6 Q. Ultimately, no evidence was gathered from the house or
- 7 the car; correct?
- 8 A. Not related to this, no.
- 9 Q. And you did take Kenneth's phone into evidence?
- 10 A. Yes.
- 11 Q. And you got a search warrant for his phone records?
- 12 A. Yes.
- 13 Q. So you did get those search warrants as well?
- 14 A. Yes.
- 15 Q. You did not get a search warrant for Ms. Duke's phone,
- 16 though; correct?
- 17 A. I did not.
- 18 Q. And you did not get a search warrant for Ms. Duke's
- 19 house?
- 20 A. No.
- 21 Q. So look for any other possible evidence besides that
- 22 shell casing?
- 23 A. That is correct.
- 24 Q. We're going back to Kenneth's interview, you'd mentioned
- 25 this in your earlier testimony, but Kenneth did tell

1 you, I had been at the gas station before coming home;
2 correct?

3 A. Yes.

4 Q. And he specifically mentioned the Speedway in Goose
5 Creek?

6 A. Yes.

7 Q. But you made no attempt to try to look for any
8 surveillance at the gas station?

9 A. I did reach out to Speedway.

10 Q. This year?

11 A. Yes. Oh, well, I don't remember exactly the date of
12 when I attempted, but I had attempted.

13 Q. It was recent, though?

14 A. I think so.

15 Q. Okay. Well, as a detective, you know that gas stations
16 only keep surveillance for a limited amount of time.

17 A. It's different depending on what gas station, but that
18 is usually, yes, within seven days -- 30 days, that is
19 correct.

20 Q. And in this case, you only looked for the Speedway
21 surveillance after the solicitors on the gas station?

22 A. Yes.

23 Q. Okay. And again, that was just recent?

24 A. I believe so, yes.

25 Q. So a year or so after the fact?

1 A. It could have been.

2 Q. Now, he also, during the interview, he referred you to
3 his neighbors several times?

4 A. I don't recall him referring me to a neighbor.

5 Q. Well, no one specific, but on two different occasions,
6 he said, why don't you check with my neighbors? They
7 may know when I came and left and how long I was gone;
8 correct?

9 A. I'm not sure, but if that's what you're saying, then
10 yes.

11 Q. Okay. Well, you never went and tried to talk to his
12 neighbors?

13 A. No, I did not.

14 Q. And you also never went and tried to talk to Juanita's
15 neighbors?

16 A. We talked, there were some on scene when we were first
17 there.

18 Q. You never, there was possible ring camera footage from
19 neighbors, you never went back to try to see if you
20 could recover any of that?

21 A. I did not.

22 Q. Okay. And there were neighbors outside milling about,
23 is that basically what you're saying?

24 A. Yes, ma'am.

25 Q. And there have been family members who have come on

1 scene?

2 A. Yes, ma'am.

3 Q. But you never made an active effort, basically, to talk
4 to the neighbors, to ask what they did?

5 A. I did not go back to re-interview anybody, no.

6 Q. Because through your investigation, Juanita, there was
7 never an indication that the shooter left in a car?

8 A. Well, I think we have Verkada video showing that shortly
9 before the call came in that a black SUV is seen leaving
10 the area. So that would be my indication of the suspect
11 leaving in that vehicle.

12 Q. Okay. Well, a lot of people live in that neighborhood?

13 A. You're right.

14 Q. Okay. And Juanita never said she saw anyone get into an
15 SUV?

16 A. No.

17 Q. And a neighbor never indicated that anyone was seen
18 leaving Juanita's and getting into the SUV; correct?

19 A. Correct.

20 Q. Now, Kenneth, and I'm sorry, I'm jumping around a bit,
21 but he was arrested in Goose Creek?

22 A. Yes, ma'am.

23 Q. And as a neighboring city, they often cooperate with
24 North Charleston?

25 A. Yes, ma'am.

- 1 Q. In search warrants, for example?
- 2 A. Yes, ma'am.
- 3 Q. As y'all would with them.
- 4 A. Yes, ma'am.
- 5 Q. And at no point did you ever look for any type of video
- 6 surveillance in Goose Creek?
- 7 A. I did not.
- 8 Q. The photo, the State asked you about the meeting you had
- 9 with Ms. Dukes a week or two later when you showed her
- 10 the photo?
- 11 A. Yes, ma'am.
- 12 Q. Okay. And we saw that photo, and in that photo, you can
- 13 see Kenneth, his little braids, peeking out; correct?
- 14 On State's Exhibit No. 22?
- 15 A. You can see -- yes.
- 16 Q. Okay. So in that photo, it's not a side view, but he
- 17 also has the braids in his hair.
- 18 A. It appears to. Yes, ma'am.
- 19 Q. Now, you had indicated that she didn't really want to
- 20 talk at that time?
- 21 A. Correct.
- 22 Q. But she was cooperating?
- 23 A. Yes, she was.
- 24 Q. She just -- you stopped by unexpectedly?
- 25 A. Yes.

- 1 Q. You had talked to her on the phone prior to that?
- 2 A. Yes, the week prior, and she did not answer my call that
- 3 morning.
- 4 Q. Okay. Well, you had told her you were going to try to
- 5 come by at some point?
- 6 A. Yes.
- 7 Q. Then this morning, I believe it was January 16th?
- 8 A. Yes.
- 9 Q. You called, and she didn't answer?
- 10 A. Correct.
- 11 Q. So you just went over?
- 12 A. Yes.
- 13 Q. And she just said, "Hey, can you maybe come back another
- 14 time?"
- 15 A. Yes.
- 16 Q. You had another detective with you?
- 17 A. Yes.
- 18 Q. And he interjected, "We just want you to basically
- 19 identify this person", more or less?
- 20 A. She said, "Can you look at a photo?"
- 21 Q. Yes. And so that's when Juanita was able to look at
- 22 that photo?
- 23 A. Yes, ma'am.
- 24 Q. But she never indicated, I don't ever want to talk to
- 25 you?

1 A. No.

2 Q. That day just, it was unexpected; correct?

3 A. Yes.

4 Q. And she had just asked for you to come back, correct?

5 A. Yes.

6 Q. But you never did?

7 A. I did not.

8 Q. And just to be clear, the identification you testified
9 to earlier that you were given, or the description, was
10 burgundy shirt, khaki pants; correct?

11 A. Yes. Yes, ma'am.

12 Q. But there was never a description given about cornrows?

13 A. No.

14 Q. That came up yesterday?

15 A. Yes.

16 Q. And so the picture that the Solicitor showed you from
17 the jail, when you testified, you have seen that
18 earlier, that was just, they got a last night?

19 A. I could -- I've possibly seen it before they showed me,
20 because I've looked at the case file, but I mean,
21 obviously that photo -- that particular photo they
22 showed me, yes. That was shown to me yesterday.

23 MS. FORD: I beg the court's indulgence.

24 THE COURT: Yes.

25 BY MS. FORD:

1 Q. Just, when you talked to Kenneth, you talked about that
2 a bit already, but he was very clear that he was denying
3 that he shot Juanita Dukes; correct?

4 A. Yes.

5 MS. FORD: No further questions.

6 THE COURT: Any redirect?

7 MS. KNOX: Yes, Your Honor.

8 **R E D I R E C T E X A M I N A T I O N**

9 **BY MS. KNOX:**

10 Q. There's a couple things I want to clarify with you. I'm
11 going to start with the -- the fact that you were in a
12 car accident, out-of-court identification when you met
13 with Ms. Dukes. Did you follow procedure as it relates
14 to presenting Ms. Dukes with that single photo ID of the
15 Defendant?

16 A. Yes.

17 Q. Did you ever tell Ms. Dukes who to identify?

18 A. No.

19 Q. Did you ever give any indication, either verbal or
20 non-verbal, of who the suspect was?

21 A. No.

22 Q. Did anyone else interfere with Ms. Dukes' identification
23 of that subject?

24 A. No.

25 Q. How confident were you in Ms. Dukes' ability ---

1 MS. FORD: Objection. Vouching.

2 THE COURT: Sustained.

3 BY MS. KNOX:

4 Q. Aside from the out-of-court identification, let's talk a
5 little bit more about that interview. You testified
6 that the Defendant went to the bathroom?

7 A. Yes.

8 Q. To your knowledge, can gunshot residue disintegrate if
9 someone washes their hands?

10 A. Yes.

11 Q. Detective, did you shoot a gun that day?

12 A. No.

13 Q. To your knowledge, did the other two officers that
14 assisted you with that ---

15 MS. FORD: Objection. Speculation.

16 THE COURT: She has personal knowledge. She can
17 state if she may or may not. You can -- she may answer
18 your question. Finish your question first.

19 BY MS. KNOX:

20 Q. To your knowledge, did the other two officers that
21 assisted you in taking that GSR from the Defendant shoot
22 a gun that day?

23 A. No. And I would say, I believe the time frame that we
24 could do the test, it's within three hours. And again,
25 that has to be closely approximated to a gun being

1 fired.

2 Q. Detective, aside from that dark-colored shirt, what type
3 of pants was the Defendant wearing when you interviewed
4 him?

5 A. Khaki.

6 Q. You were asked on cross about the Defendant's address in
7 Goose Creek. How far is the Defendant's home from the
8 victim's home?

9 A. Depending on traffic, 20 to 30 minutes.

10 Q. And on that Verkada camera, at the time of that
11 shooting, did you see any other vehicles leaving the
12 victim's address?

13 A. No.

14 Q. And why did you not get a search warrant for Ms. Dukes'
15 home?

16 A. One, the evidence was all in that room where she was at
17 when officers arrived on scene. There was a single
18 shell casing that was located and that had already been
19 picked up by the officer that initially responded.

20 Q. Why did you not interview anyone else in this case?

21 A. I believed I had the suspect and ---

22 MS. FORD: I mean, objection. Just giving her
23 opinion and --

24 THE COURT: Yeah, I mean, that really kind of calls
25 for bolstering answers. Maybe you could rephrase it.

1 BY MS. KOZIK;

2 Q. Were there any other suspects in this case?

3 A. No.

4 MS. KNOX: I beg the court's indulgence.

5 THE COURT: Yeah.

6 MS. KNOX: I have no further questions for this
7 witness.

8 THE COURT: All right. Any recross?

9 MS. FORD: Yes, Your Honor, briefly.

10 **R E C R O S S E X A M I N A T I O N**

11 **BY MS. FORD:**

12 Q. You had not fired a gun that day, but you were in the
13 house where a gun had been fired?

14 A. Yes.

15 Q. Okay. And you were not wearing gloves?

16 A. Correct.

17 Q. And as we've discussed before, gunshot residue can be
18 moved around from item to item, person, whoever?

19 A. You're right.

20 MS. FORD: No further questions.

21 THE COURT: All righty. Thank you, Detective. You
22 can have a seat back wherever you'd like or where it's
23 comfortable. And so, if I could see the attorneys just
24 real quick at the bench to help me schedule. So that
25 would be great.

1 (Bench conference)

2 THE COURT: All right. All right. Ladies and
3 gentlemen, so we'll cut out a few minutes early today.
4 It is about quarter of five anyway. We'll see you back
5 here again tomorrow morning at 9:30. And once again,
6 I'm looking toward possibly finishing tomorrow,
7 potentially Friday morning, but possibly tomorrow, just
8 for your information. All right. Thank you very much.

9 (Jury exits the courtroom)

10 THE COURT: Very good. All right. So, we'll break
11 as well for the day if y'all want to send us any
12 proposed charges this afternoon that would be great
13 certainly take a look at that sounds like we're kind of
14 winding down this possibility of closing charges
15 tomorrow so be prepared for that dependent on, you know,
16 determinations from the Defense and we'll see y'all back
17 in the morning.

18 MS. KNOX: Thank you, Judge.

19 MS. FORD: Thank you, Your Honor.

20 MS. KOZIK: What time you want to start tomorrow?

21 THE COURT: 9:30 will be fine. Again, I might be
22 in here a couple minutes before that if you need
23 anything; okay?

24 MS. KNOX: Okay. Thank you.

25

1 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED AT
2 4:45 P.M.)
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CERTIFICATE OF TRANSCRIBER

I, Jennifer Jaeger, 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 9 of Charleston County, South Carolina, on the 11th day of June, 2025.

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

Jennifer Jaeger
Jennifer Jaeger, Reporter
Notary Public for S.C.
Commission Expires: 10/28/2032

1 CONTINUATION OF PROCEEDINGS - JUNE 12, 2025

2 THE COURT: Okay. Y'all ready for the jury to come
3 on in?

4 MS. KNOX: Yes, ma'am.

5 THE COURT: Perfect. You can bring them in. Thank
6 you.

7 (Jury enters the courtroom)

8 THE COURT: Welcome back, y'all can have a seat.
9 Thank you so much. Everybody can be seated.

10 THE BAILIFF: All jurors present.

11 THE COURT: Thank you. All right. State, call
12 your next witness.

13 MS. KOZIK: The State calls Lieutenant Michael
14 Morgan.

15 THE COURT: All right. Morgan.

16 MICHAEL TODD MORGAN,
17 having been duly sworn, testifies as follows:

18 THE CLERK: Please be seated. Now, please state
19 your full name into the microphone, spelling your last
20 name for the record.

21 THE WITNESS: It's Michael Todd Morgan, and the
22 last name is M-o-r-g-a-n.

23 **D I R E C T E X A M I N A T I O N**

24 **BY MS. KOZIK:**

25 Q. Good morning. Where -- can you tell the jury where you

1 work?

2 A. North Charleston Police Department.

3 Q. And what is your title?

4 A. Lieutenant.

5 Q. As part of your duties as a lieutenant, what do you
6 supervise?

7 A. Currently I'm temporarily over our north, south, and
8 central watch commander bureau, but I'm technically
9 assigned to the evidence -- property evidence room.

10 Q. Did you -- as part of your duties, do you supervise
11 North Charleston evidence?

12 A. Yes, I do. In evidence custodian over property
13 evidence.

14 Q. Were you doing that in January of 2024?

15 A. I was.

16 Q. Can you just tell the jury what the purpose of having an
17 evidence control room is?

18 A. It's to maintain control and custody over evidence items
19 that are submitted to our evidence room, as well as
20 safekeeping and found property that officers take in
21 from the streets.

22 Q. Who has access to the evidence room?

23 A. Currently, there are five evidence technicians. An
24 evidence sergeant, myself, and there's one other person,
25 which is the watch -- or the detective captain.

1 Q. Are all of those individuals trained to keep evidence
2 secure?

3 A. The five evidence technicians, myself, and the evidence
4 sergeant have been trained with the evidence procedures.
5 The detective bureau captain has not. He has access to,
6 as a backup, essentially.

7 Q. Can you just describe the security features of the
8 evidence room?

9 A. The evidence room has an intake room where officers can
10 enter in and prepare their evidence, package it,
11 document where it's going. Then they have the ability
12 to either put it into a locker or a drop box. And once
13 it's into one of those items, nobody except the evidence
14 technicians can retrieve it. And we can retrieve it
15 from the inside of the evidence room, which is
16 controlled by a deadbolt as well as proximity card
17 reader.

18 Q. The proximity card reader, is that a badge access?

19 A. Yes, a tap -- tap access. There's also security cameras
20 throughout the intake room as well as the interior of
21 the evidence room.

22 Q. Okay. After a detective or officer submits evidence
23 through those lockers, like you were talking about, what
24 are the techs in the evidence room trained to do with
25 it?

1 A. They will do intake on it. As they're doing intake,
2 they will quality check it to make sure that everything
3 is documented properly, signatures are where they need
4 to be, items are sealed properly, dated and initialed on
5 the evidence seals. They will then, depending on what
6 the item is, whether it's safekeeping, found property,
7 or a high-value item, which is money, guns, drugs, and
8 jewelry, those items are actually secured into an
9 additional security location. Those items are locked
10 not just within the evidence room, but those are locked
11 within another secure area, either a lock or a cabinet
12 or a safe.

13 Q. Does North Charleston Police Department keep track of
14 who handles evidence once it's been submitted to the
15 evidence room?

16 A. Yes, that would be documented not only in our electronic
17 system as well as on a paper chain of custody.

18 Q. Okay. Can you explain what a chain of custody is?

19 A. It's essentially documenting what the item is that it
20 was submitted and why it was submitted as far as the
21 property classification, whether it's evidence,
22 safekeeping, or found property. It also tracks the
23 chain of -- of who has had possession of that item since
24 it was submitted to the evidence room.

25 Q. And why is that important?

1 A. It maintains control and ensures that the item is
2 documented as far as who has had possession of it, if
3 anything had changed on it, whether it had gone to a
4 lab, so either SLED or Richland County is the other
5 place to be used from time to time. It documents where
6 it's been and what days it was submitted and to who.

7 Q. Have you reviewed the chain of custody for the GSR kit
8 in this case?

9 A. I have.

10 MS. KOZIK: I'm showing what State the marked for
11 identification purposes only, State's Exhibit No. 25.
12 (State's Exhibit No. 25 is marked for identification.)

13 THE COURT: Okay.

14 BY MS. KOZIK:

15 Q. I'm showing you what's, again, for identification
16 purposes only, State's Exhibit No. 25. What is that?

17 A. This is a copy of the chain of custody for the gunshot
18 residue kit.

19 Q. I'm also showing you what's already been marked or
20 entered into evidence as State's No. 11.

21 A. Thank you.

22 Q. Does that State's 11 refer to the gunshot residue kit?

23 A. It is.

24 Q. Who submitted State's 11 into evidence?

25 A. Steinbrunner.

1 Q. And who received that evidence for North Charleston
2 Police Department?

3 A. One of my evidence technicians, Chameika.

4 MS. FORD: Objection. This is hearsay.

5 THE COURT: Overruled. He's already testified. He
6 oversaw the evidence department will allow him to
7 testify. The people that worked under him. Go ahead.

8 BY MS. KOZIK:

9 Q. And after the evidence technician logged in, what
10 happened to the evidence?

11 A. She placed it into a general sessions box, number 621.

12 Q. Based on the chain of custody, what happened next?

13 A. The item was submitted to SLED by one of my evidence
14 technicians, Ms. Wilder, on August 28, 2024.

15 Q. Does the -- does Ms. Wilder, based on your knowledge of
16 her working underneath you, does she typically transport
17 items to SLED?

18 A. She's the primary technician who takes items to SLED.

19 MS. KOZIK: Okay. No further questions at this
20 time. Please answer any questions.

21 C R O S S E X A M I N A T I O N

22 BY MS. FORD:

23 Q. Lieutenant Morgan, you didn't have anything -- other
24 than testifying today, you didn't have anything to do
25 with -- with this piece of evidence; correct?

1 A. No. I didn't have anything as far as handling this
2 item, no.

3 Q. And you read us some names from a document, but you have
4 no idea what they actually did, other than signing the
5 names list.

6 A. I -- I know what they did with it, because they reported
7 on the chain of custody what they had processed it into
8 and where it went.

9 Q. But they signed their name, so they didn't write a
10 report or something like that; correct?

11 A. No. On the chain of custody, there's a purpose box, or
12 field, and it tells me that the first technician placed
13 it in General Sessions Box 621. The second time it was
14 touched by one of the evidence techs, it was delivered
15 to SLED, and then the third time, the evidence
16 technician picked it up, and then she assigned it to box
17 735 in the General Sessions area.

18 Q. Right. But you have no idea, like you didn't watch them
19 do this; correct?

20 A. I would not have.

21 Q. Right. And other than signing their names and making
22 notations, there's no actual documentation of what and
23 how they did something?

24 A. How they did it, or where they assigned it to?

25 Q. Correct. How they did it. They didn't know -- there's

1 no sentence for it, like there's no description?

2 A. No, they don't write reports on that. That's what our
3 chain of custody is for.

4 Q. Okay. But you don't know how long they may have even
5 had these items before placing them where they did?

6 A. Yeah. On the chain of custody in the first place,
7 Chameika received the item and she placed it into a
8 General Sessions box on the 8th in 2024.

9 Q. So that's a date?

10 A. Correct.

11 Q. And not a time?

12 A. No. We don't record the time on the paper chain, but on
13 our electronic chains, it would show the time that it
14 was actually assigned to the location.

15 Q. But again, you weren't actually there to do any of this
16 yourself?

17 A. No. We've received so many items that one technician
18 couldn't possibly handle everything.

19 Q. Okay. And you did not observe it yourself?

20 a. I did not.

21 MS. FORD: No further questions.

22 THE COURT: All right. Any redirect for this
23 witness?

24 MS. KOZIK: No redirect.

25 THE COURT: Okay. Thank you, sir.

1 THE WITNESS: Thank you.

2 THE COURT: You're free to go. All right. State,
3 call your next witness.

4 MS. KOZIK: The State calls Christine Dadabo.

5 THE COURT: All right.

6 CHRISTINE DADABO,
7 having been duly sworn, testifies as follows:

8 THE CLERK: Please be seated.

9 THE WITNESS: Thank you.

10 THE CLERK: Please state your full name into the
11 microphone, spelling your last name for the court's
12 record.

13 THE WITNESS: Christine Dadabo, D-a-d-a-b-o.

14 **D I R E C T E X A M I N A T I O N**

15 **BY MS. KOZIK:**

16 Q. Good morning, Ms. Dadabo. Where do you work?

17 A. I work for the South Carolina Law Enforcement Division,
18 typically known as SLED.

19 Q. How long have you worked there in total?

20 A. Three years.

21 Q. What's your current job title?

22 A. My current job title is Administrative Coordinator for
23 Investigative Services.

24 Q. And in August of 2024, what was your role?

25 A. I was a forensic technician in evidence control.

1 Q. Can you describe generally the role of a forensic
2 technician in evidence control?

3 A. Sure. So in evidence control, we are responsible for
4 taking in evidence from law enforcement agencies all
5 over the state of South Carolina. When they bring
6 evidence to us, our job is to make sure that that
7 evidence is being submitted to us to SLED laboratory
8 standards. Those standards are that all evidence is
9 sealed, dated, and initialed.

10 And then it is also accompanied by what we call a
11 pre-log or a packing slip. You'll hear it referred to
12 both ways. We check to make sure that the information
13 that is on the evidence matches the information that is
14 on that packing slip.

15 If everything looks good, we go ahead and we log it
16 in, where it then receives a unique barcode label that
17 has a lab number on it. And that's what starts the
18 electronic chain of custody, and then that evidence can
19 be distributed throughout the laboratory.

20 Q. Generally speaking, if you received a piece of evidence
21 that was not up to SLED standards, like you just
22 described them, what would you do with it?

23 A. If we received evidence that wasn't to SLED standards,
24 the first thing that we would do is bring it to a
25 supervisor's attention. If it was sealed, dated, maybe

1 not initialed, or sealed, initialed, maybe not dated.
2 Again, we would bring that to a supervisor's attention.
3 We would bring that piece of evidence to laboratory
4 standards. We would adhere our own piece of evidence
5 tape on it. We would date it and initial it.

6 And then as we were logging that piece of evidence
7 in, we would make a remark that the evidence was
8 received properly, sealed, initialed, but not dated.
9 Evidence was brought to laboratory standards. We would
10 initial and date that remark within the login process,
11 which would ultimately appear on the submission receipt
12 in the comment section.

13 Q. So, if there's no remark, what is it?

14 A. So, if there's no remarks in the comment section, that
15 means that the evidence was received to laboratory
16 standards.

17 Q. Can you describe the SLED evidence room -- evidence
18 control room generally and the security around that?

19 A. Sure. So, it's a very large room. And there are aisles
20 -- sorry. There are aisles full of shelves. These
21 aisles have their letters, A through, I think we go
22 through D if I remember correctly. And then each shelf
23 itself has a number. So something could be on A1. It
24 could be on F15. But each shelf has, again, a barcode
25 label.

1 So anytime we do anything, we're either scanning it
2 out of our custody to an intake shelf. So if I scanned
3 it to A1, it would show on the chain of custody that it
4 went from Christine to evidence room intake A1.

5 There are certain shelves that can get locked down
6 at night, which follow CALEA standards. So anything
7 that are drugs and firearms, those get locked down.
8 Those shelves get closed. They get locked. The doors
9 also get locked. So it's a highly secured evidence
10 room. It's under constant surveillance. There is an
11 alarm system and very, very limited access as to who can
12 get in there.

13 Q. Who has access to the lock -- the specific lockdown part
14 that you were talking about for drugs and guns? But
15 overall, who has access to the evidence room?

16 A. So evidence control, our workspaces, our desks, that is
17 also a controlled locked area. So, the only people that
18 have key card access, meaning these (indicating), would
19 be the evidence control technicians, the supervisor,
20 lieutenant, captain, and major. No one else in the lab
21 has the ability to get into our work area.

22 Q. Okay. Can you describe the process of -- or the types
23 of ways that SLED could receive evidence from a local
24 law enforcement agency?

25 A. Sure. There's two ways that we will take evidence in

1 from a law enforcement agency. One way that they can
2 submit their evidence is through the secured lockers
3 that we have that sit right outside of our desk area.
4 So they'll put their evidence in. They lock it. It's
5 two-sided, so we can pull the evidence from our side.
6 The other way is to submit it directly to an evidence
7 technician.

8 Q. Okay. And so after it is logged into evidence through
9 the process you described earlier, can you explain the
10 process of checking it out of -- out from where it's put
11 originally and kind of just how that works?

12 A. Sure. So again, I'm going to refer back to this unique
13 barcode label that we have in this lab number. So,
14 evidence has a unique barcode label, and so do we. We
15 are assigned a unique barcode label that is specific to
16 myself, Christine. So, when evidence is in the evidence
17 room and now an analyst wants to test it, I have to go
18 into that room, I have to scan my barcode, and then I
19 scan the piece of evidence.

20 Now, I've taken that evidence and I've put it into
21 my custody. And then when the analyst comes down to the
22 window to receive the item, I then scan their barcode,
23 which is unique to that person. I scan the piece of
24 evidence, and now that piece of evidence is in that
25 person's custody.

1 So again, these barcodes are used so that there is
2 an electronic chain of custody and you can always see
3 where that piece of evidence traveled throughout the
4 lab, because sometimes they go to more than one place.
5 Sometimes they can go to the DNA department first, and
6 then they can go to the trace department next. So we
7 always have to be able to track where that piece of
8 evidence was and who was in possession of that evidence,
9 and these barcode labels are what allow us to be able to
10 do that.

11 Q. And in your experience, is that the process that other
12 -- any other forensic technician would follow?

13 A. We all have the same standard that we have to follow,
14 yes.

15 Q. And while you're transporting this evidence, do forensic
16 techs ever open the evidence?

17 A. No.

18 Q. Okay. In this case, did you review the chain of custody
19 for the GSR kit submitted to SLED in August of 2024?

20 A. Yes.

21 Q. Can you explain -- showing you what's been marked as
22 State's Exhibit No. 11. What is that? Is that the GSR
23 kit?

24 A. Yes.

25 Q. How do you know that?

1 A. They wrote GSR on it.

2 Q. Can you describe how you know it went to SLED? Can you
3 describe anything related to SLED on that package or the
4 inner package?

5 A. Yes. So, these are standard GSR kit envelopes that GSR
6 kits come in. Most of the outside agencies will
7 actually obtain these from us. We will supply them to
8 the law enforcement agencies. This particular agency
9 put a description on there. Everything was sealed,
10 dated, initialed, and it also says gunshot residue. So
11 ---

12 Q. So you said earlier you reviewed the chain of custody.
13 I'm showing the Defense that's been marked for
14 identification only, State's No. 26. What is that?

15 A. This is the electronic chain of custody.

16 Q. Can you describe who -- who submitted the evidence we
17 just went over to from North Charleston to SLED?

18 A. It looks like Natalia Wilder.

19 Q. Can you explain your role in the chain?

20 A. So, some days in evidence control are busier than
21 others, and there's just more evidence that we receive
22 in a day than we are actually able to process in a day.
23 So, sometimes we have to take evidence, and we have to
24 put it into the locked, secured evidence room overnight,
25 and then we can log it in the next day.

1 My role was at the end of the day, again, to show
2 part of the chain of custody was to stamp that pre-log,
3 that it was going to be put into storage. I initial it.
4 I date it. I put the time, and then how that evidence
5 was received, whether it came through a locker or
6 whether it came, what we call hand-delivered, which
7 would be her giving it directly to an evidence
8 technician.

9 Q. So, did you put that evidence in the secured evidence
10 room?

11 A. I did.

12 Q. Okay. And who is the forensic tech at SLED who logged
13 everything in?

14 A. So the next morning it was ---

15 MS. FORD: Objection. Just based on hearsay and
16 outside of her own personal knowledge.

17 THE COURT: Just lay a little bit of foundation,
18 and you ask him a question about how she -- can she tell
19 and then ask the question.

20 MS. FORD: Okay.

21 THE COURT: Okay.

22 BY MS. KOZIK:

23 Q. How -- how do you know what else happened? What -- what
24 happened to the evidence after you touched it?

25 A. From the electronic chain of custody.

1 Q. Okay. So, what happened to the evidence after?

2 A. So on the electronic chain of custody ---

3 MS. FORD: Your Honor, objection. Just based on
4 the saying.

5 THE COURT: Okay. Overruled. You can answer.

6 BY MS. KOZIK:

7 A. So the electronic chain of custody shows that it was
8 delivered by North Charleston PD, that I am the one that
9 stored it in the evidence room for overnight storage.
10 Madison Willis, another evidence technician, the
11 following day is the one that actually logged it in.

12 Q. And then where did it go?

13 A. From there she put it into -- she put it back into the
14 secured evidence control room on intake shelf N12.

15 Q. Was it ever checked back out?

16 A. It was checked back out by evidence technician Caleigh
17 Soto, who was retrieving it for Lieutenant Jennifer
18 Nates, who requested it so that it could be analyzed.

19 MS. KOZIK: Okay. No further questions at this
20 time. Please answer any questions from the Defense.

21 C R O S S E X A M I N A T I O N

22 BY MS. FORD:

23 Q. Okay. You told us that if a piece of evidence didn't
24 seem up to standards that you would report that?

25 A. Yes. I'm sorry, yes.

1 Q. And but up to standards means that it's sealed; correct?

2 A. Sealed, dated, and initialed.

3 Q. Okay. So, you don't actually know, though, when it gets
4 to you, what may have been done with it before it was
5 sealed, signed, and dated; correct?

6 A. No.

7 Q. And in this case, you are the person who took this item
8 from Ms. Wilder at North Charleston; is that correct?

9 A. No. I stored it in the evidence room at the end of the
10 workday.

11 Q. Okay. And you told us about a few other people who were
12 involved, and your knowledge of what they did is just
13 based on this log that you've been referring to;
14 correct?

15 A. The chain of custody, yes.

16 Q. But you weren't actually present when they did any of
17 this activity; correct?

18 A. No, ma'am.

19 Q. And other than this log, which includes when they
20 scanned in something, apparently, in the time; is that
21 correct? You don't know what they may have actually
22 done with this piece of evidence?

23 A. I'm not quite sure what you're asking.

24 Q. I mean, you -- from this log, you have the times that
25 they scanned something in; correct?

1 A. Correct.

2 Q. But other than that, there's no further notations of
3 what they may have done, other than who they gave it to?

4 A. I guess I'm still not completely. I apologize. I don't
5 really completely understand what you're asking. The
6 chain of custody shows that it was in the evidence room
7 on shelf N12. That's where it stayed until it was
8 scanned into Caleigh's custody, so that she could scan
9 it to Jennifer Nate's custody, so that it could be
10 analyzed. So -- so, in that time frame, it's always in
11 a secured, locked down portion of evidence control.

12 Q. But you weren't present when that was being done?

13 A. No.

14 Q. Okay. And other than this chain, they didn't write a
15 report, for example, describing what they may have done?

16 A. The chain of custody explains what they did.

17 Q. Well, it's just names and dates and times; correct?

18 A. Right. That's what would -- yes.

19 Q. Yes. That's all I'm asking.

20 A. Yes.

21 MS. FORD: Okay. No further questions.

22 THE WITNESS: All right. Thank you.

23 THE COURT: Any redirect for this witness?

24 MS. KOZIK: No redirect.

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

1 You're free to go.

2 THE WITNESS: Thank you.

3 THE COURT: Okay. State, call your next witness.

4 MS. KNOX: State calls Jennifer Nate.

5 JENNIFER NATES,

6 having been duly sworn, testifies as follows:

7 THE CLERK: Please be seated. Now, please state
8 your full name into the microphone, spelling your last
9 name clearly.

10 THE WITNESS: Jennifer Nates, N-a-t-e-s.

11 **D I R E C T E X A M I N A T I O N**

12 **BY MS. KNOX:**

13 Q. Good morning, Ms. Nate.

14 A. Good morning.

15 Q. Where are you currently employed?

16 A. I'm employed by the South Carolina Law Enforcement
17 Division in the trace evidence section of the forensic
18 laboratory.

19 Q. And how long have you worked in the trace evidence
20 department?

21 A. I have been at SLED for 28 years, and I've been in trace
22 evidence for 27 years.

23 Q. Can you talk to me a little bit about your training and
24 experience in this department?

25 A. I started the department after I trained. I was

1 originally hired in the drug analysis department. I
2 completed their training program, completed the police
3 academy, and started accepting case work there. There
4 was an opening in trace evidence, which was the
5 department I had interned in my senior year of college.
6 So that was where I wanted to work. I requested a
7 transfer, and I then transferred into trace evidence.

8 I began training under the lieutenant and the
9 senior analyst in that department in all of the
10 different areas of trace evidence, which include gunshot
11 residue, fire debris, tape, paint, fibers, explosives,
12 physical fit, bleach analysis, and bank dye analysis.

13 Each of those sections, I had to complete a
14 training program and then show that I was competent in
15 that area by performing a competency test. Once I
16 completed each area, I then began taking case work in
17 that area while I trained in the remainder.

18 At this point, I am the lieutenant of the
19 department, so I provide training to the new analysts
20 that are incoming in those areas.

21 Q. Okay. In January of 2024 specifically, what was your
22 role and in what department?

23 A. In 2024, I was the lieutenant of the department, which
24 basically means I'm the supervisor. I'm responsible for
25 just the day-to-day activities of the department,

1 approving leave, approving time, monitoring case work,
2 doing technical reviews of cases, performing case work.
3 I'm actually assigned cases, and also just doing
4 whatever needs to be done in the department to maintain
5 the case flow.

6 Q. Okay. And did you see a GSR kit as it relates to this
7 case?

8 A. I did.

9 Q. And who did you receive it from?

10 A. In this case, I received the GSR kit from Caleigh Soto
11 in the evidence control department.

12 Q. And in what condition did you see this GSR kit in?

13 A. When I received it, it was sealed properly and initialed
14 by the person who had placed it in that packaging.

15 Q. Can you tell me a little bit about the protocol you
16 follow as it relates to this specific GSR kit, as it
17 relates to ensuring that this GSR kit was not tampered
18 with and just kind of your protocol about that?

19 A. Okay. In this case, I was performing one of the duties
20 of the technician in our department, but at that time,
21 the technician had been promoted, so we did not have a
22 technician. So I was performing the intake of the GSR
23 kit in addition to another senior analyst who was also
24 performing that.

25 So what would happen is I would request the

1 evidence from our Evidence Control Department. They
2 would then pull the cases I requested off of the secure
3 shelf in that area. I then go downstairs. I'm on the
4 third floor. They're on the first floor. I would go
5 downstairs and physically transfer the evidence to
6 myself and in the computer. So there's an electronic
7 chain of custody and the transfer to myself.

8 I then take the evidence up into the trace
9 department. I will either prep it or process it at that
10 time, or I will electronically transfer it into a secure
11 storage location in our department. In this case, I
12 brought it upstairs and then put it into a file area and
13 then pulled it out on the 19th of September, 2024.

14 So, when I take the evidence out, I have one case
15 open at a time. We have a room in our lab that's used
16 for GSR processing exclusively. There are no firearms
17 allowed in that area. No guns, no ammunition, anything
18 associated with a firearm. We do not process in that
19 room. It's specifically for clothing and GSR kits. So
20 I will put down paper on the table. Clean -- it's
21 called butcher paper. It's like a white roll of paper
22 just to catch anything that might be on the evidence. I
23 look at the evidence, verify that it's sealed, it's
24 initialed, and it's in proper order.

25 I then will open the evidence, take out what is

1 called a GSR information form. I, then go into our LIMS
2 system and verify that this is a GSR kit, that there
3 will be information on it. I verify that the
4 information on the kit on the information form matches
5 what is on the submission documents to make sure that --
6 that kit is actually for that case and that the names
7 match.

8 So once I verify that, I open it up, I look at the
9 time of collection and the time of the incident to
10 verify that it was collected within six hours of the
11 incident. That means we can proceed with the analysis.
12 I document all of this on an inventory sheet. I
13 document the name, the collection, the time between the
14 collection and the incident. I then verify that it was
15 sealed and initialed. I document all of that, and then
16 I will label the items of evidence that are in the kit.

17 So each of the kits will contain these particle
18 lifts. So I'll receive two of these in most of the
19 kits. I just verify that this isn't smashed, that it's
20 sealed, that there's nothing odd with this particle
21 container. I then put a sticker on it with the
22 laboratory number it was assigned, the item number, the
23 date, and my initials.

24 I then put everything back into the kit. I seal
25 it, and then I transfer it to a secure location where

1 then the analyst, either myself or another analyst, will
2 take cases from that group to proceed with analysis.

3 Q. And everything you just discussed, did you apply that to
4 this specific GSR kit?

5 A. I did.

6 Q. And just to clarify, you verified and documented your
7 inventory as it relates to this specific GSR kit?

8 A. I did.

9 Q. And you personally verified that this specific GSR kit
10 was untampered with before you opened it?

11 A. I did. It was sealed and initialed when I received it.

12 MS. KNOX: Okay. I beg the court's indulgence. I
13 have no further questions for this witness.

14 THE COURT: Okay.

15 **C R O S S E X A M I N A T I O N**

16 **BY MS. FORD:**

17 Q. You told us that you make sure that the evidence is kept
18 in a room without any other firearms?

19 A. Yes.

20 Q. And that's because you don't want to risk the
21 possibility of any kind of contamination?

22 A. It's not kept in that room. That's the room we process
23 in, and then there are actual secure locations within
24 that room. We place it into after processing that we
25 will take the cases from. But it is to prevent

1 contamination from possibly having a firearm around that
2 evidence when we process it.

3 Q. Okay. Because you don't want to risk any kind of
4 residue from any other item?

5 A. Correct. We're just trying to minimize any potential
6 contamination that might occur.

7 Q. And at that point, is it restricted who can be in that
8 room?

9 A. It is.

10 Q. To who?

11 A. Right now we have a sign on the door that no one can
12 enter that room that has a firearm on their person.
13 It's restricted to personnel in our department.

14 MS. FORD: No further questions.

15 MS. KNOX: No further questions from the State
16 either.

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

18 THE WITNESS: Thank you.

19 THE COURT: You're free to go as well. Just leave
20 whatever evidence, if you have any evidence or exhibits,
21 just leave it here. All right. Thank you, ma'am.

22 MS. KNOX: State will call its next witness. State
23 calls Megan Fletcher.

24 THE COURT: Okay.

25 MEGAN FLETCHER,

1 having been duly sworn, testifies as follows:

2 THE CLERK: Please be seated. Now, please state
3 your full name into the microphone, spelling your last
4 name clearly for the record.

5 THE WITNESS: It's Megan Fletcher, F-l-e-t-c-h-e-r.

6 **D I R E C T E X A M I N A T I O N**

7 **BY MS. KNOX:**

8 Q. Good morning, Ms. Fletcher.

9 A. Good morning.

10 Q. Where do you work and in what capacity?

11 A. I work at the South Carolina Law Enforcement Division in
12 the forensic services laboratory in the trace evidence
13 department as a forensic scientist.

14 Q. And how long have you worked in that position?

15 A. About 17 and a half years.

16 Q. And can you tell the jury what it means to be a forensic
17 chemist?

18 A. So, a forensic chemist in the trace evidence department
19 will analyze various types of evidence, including fire
20 debris, fibers, glass, paint, tape, as well as gunshot
21 primer residue.

22 Q. And what is your educational background, including
23 undergraduate and graduate, and just as it relates to
24 forensic chemistry in general?

25 A. So, I have my bachelor's degree in biochemistry and

1 English from Chatham College. I also have my master's
2 in forensic science from Marshall University, with an
3 emphasis in computer forensics and forensic chemistry.
4 Once I graduated from Marshall, I obtained my employment
5 with SLED in the trace evidence department and began my
6 training as a gunshot primer residue analyst within that
7 department.

8 And for my gunshot primer residue training, it was
9 about a year-long training program. In that time, I had
10 to undergo practical, written, and oral examinations
11 that consisted of the theory of gunshot primer residue
12 and how it's produced, as well as the instrumentation
13 that is used to analyze that type of evidence. I then
14 continued training in the other disciplines within trace
15 evidence.

16 Q. If you could guess about how many years of training have
17 you received as it relates specifically to forensic
18 chemistry and gunshot residue analysis?

19 A. So, specifically for gunshot primer residue, the
20 training program was about a year-long training program.

21 Q. Okay. And have you ever previously been qualified and
22 testified as an expert in gunshot residue analysis?

23 A. Yes, I have.

24 Q. How many times?

25 A. It's about 80 times.

1 MS. KNOX: At this time, Judge, the State would
2 move to qualify Ms. Fletcher as an expert in forensic
3 chemistry and specializing in GSR analysis.

4 THE COURT: Any objection to her qualifications in
5 those areas?

6 MS. FORD: No, Your Honor.

7 THE COURT: Okay. All right. Ladies and
8 gentlemen, once again, sometimes we make an exception
9 for witnesses to make opinion testimony. When they are
10 determined to be an expert in some area or field, she
11 will be able to deliver opinions and GSR analysis to
12 you. You don't have to accept those opinions. It's
13 just information for you to use in any way that you see
14 fit. Please proceed.

15 MS. KNOX: Thank you, Judge.

16 BY MS. KNOX:

17 Q. Ms. Fletcher, can you describe to the jury what gunshot
18 residue is and how it can be found on a person's hands?

19 A. Sure. So, gunshot residue is everything that comes out
20 of a gun when it's fired. That's the smoke, soot, fire,
21 flames, fragments of bullet, burned and unburned
22 propellant, as well as something called gunshot primer
23 residue.

24 And gunshot primer residue are microscopic molten
25 particles that are formed from the primer component of a

1 cartridge case. And those microscopic particles are
2 composed of the elements lead, barium, and antimony.
3 You can get it on your person from being in the vicinity
4 to the discharge of a firearm, which includes shooting,
5 or from coming into contact with something that has
6 gunshot primer residue on it, such as a gun or your
7 clothing after shooting a gun.

8 Q. Okay. Can you talk to me a little bit about the
9 uniqueness as it relates to those elements that you just
10 described present in GSR?

11 A. So, when lead, barium, and antimony are found in
12 combination with one another in a microscopic molten
13 particle, we consider those characteristic of primer
14 residue. And we consider those characteristic as
15 opposed to anything else in the world because we are
16 eliminating other sources based on elemental
17 composition.

18 For instance, brake pads may have lead, barium, and
19 antimony in them, but they don't have a molten
20 composition and they contain high amounts of iron. Or
21 the primer residue from an airbag residue may have a
22 molten appearance, but it would have high amounts of
23 cobalt or zirconium. So, if elements like cobalt,
24 zirconium, iron, or irregular morphology are present, we
25 would exclude those as being characteristic of primer

1 residue.

2 So when I report characteristic -- particles
3 characteristic of primer residue, I am confident that
4 those particles came from the discharge of a firearm.

5 Q. And just to clarify that, those elements that you
6 specifically analyzed as it pertains to a GSR test,
7 those can only come from a firearm?

8 A. When they are in combination with one another in a
9 microscopic molten particle, lead, barium, and antimony
10 are considered characteristic of a gunshot primer
11 residue particle.

12 Q. And once you receive a GSR kit in the lab, what do you
13 do with it?

14 A. So, it's inventoried by an analyst or a technician
15 within our department. It's then analyzed by a scanning
16 electron microscope. It's a very powerful microscope
17 that uses electrons instead of light to be able to see
18 this particle. And the reason we need to use electrons
19 instead of light is because these particles are so small
20 that you could fit anywhere between 10 and 100 on the
21 diameter of a human hair, the width of a human hair.
22 So, we're looking at very small particles. That
23 instrument is also paired with an energy dispersive
24 x-ray detector, which allows us to determine that lead,
25 barium, and antimony are present in a singular particle.

1 Q. Okay. Ms. Fletcher, how long does gunshot residue
2 typically stay on someone's hands?

3 A. So, for a living person, after they shoot a gun, it will
4 stay on their hands for up to six hours.

5 Q. And does your lab not receive GSR kits if it was not
6 within that time frame?

7 A. We will receive GSR kits beyond six hours, but we will
8 not analyze GSR kits if they are collected beyond six
9 hours.

10 Q. And why not?

11 A. It's because gunshot primer residue particles are so
12 easily removed from your hands that your normal activity
13 will simply remove them and transfer them to other
14 objects. So, if I shoot a gun, I put the gun down, I'm
15 immediately starting to transfer and remove those
16 particles from my hands. From touching other objects
17 like a steering wheel, wiping my hands on my pants,
18 putting my hands in my pockets, all just normal
19 activities like sweating, washing my hands, all of those
20 activities are going to remove or transfer those
21 particles. So, for that reason, the particles have a
22 limited time that they're able to be on the hands. And
23 that time frame is really about four to six hours.

24 Q. So, if someone still had GSR on their hands, despite
25 those factors that you just said, washing your hands,

1 putting them in your pockets, what does that tell you
2 about that person's exposure to a fire gun?

3 A. So, that tells me that within six hours of that GSR kit
4 being collected, that they were either in the vicinity
5 to the discharge of a firearm, which includes shooting,
6 or came into contact with an object that has gunshot
7 primer residue on it, like a gun or clothing that may
8 have gunshot primer residue on it.

9 Q. Okay. And Ms. Fletcher, did you conduct a GSR analysis
10 as it relates specifically to the present case?

11 A. I did.

12 Q. Okay. And the time, do you remember what the time frame
13 was that this specific GSR kit was taken?

14 A. May I refer to my notes?

15 Q. Of course.

16 A. This GSR kit was collected two hours and 33 minutes from
17 the time of the reported incident.

18 Q. Okay. And who did you receive that kit from?

19 A. I received the GSR kit, I believe, from, yes, it was
20 located within our secure trace evidence storage area.
21 My lieutenant -- Lieutenant Jennifer Nates, would have
22 inventoried the GSR kit, put it in a secure storage
23 location, and I retrieved it from there.

24 Q. And what condition or packaging was this specific kit
25 in?

1 A. It was in a typical GSR kit envelope. Jennifer would
2 have -- Lieutenant Nates would have sealed the outer
3 container and initialed and dated that, but everything
4 was intact.

5 Q. And did you have any indication that this particular
6 sample was either tampered with or contaminated?

7 A. No, ma'am. I did not.

8 MS. KNOX: Okay. Your Honor, at this time, I'm
9 going to show the Defense and the witness what's been
10 marked as State's Exhibit No. 11.

11 THE COURT: Okay.

12 BY MS. KNOX:

13 Q. Do you recognize this?

14 A. Do you want me to open it?

15 Q. If you want to, yeah.

16 A. I do recognize this item.

17 Q. And what do you recognize it as?

18 A. I recognize this as SLED laboratory number L24-14698,
19 item Number one, based on the yellow barcode sticker
20 that is on the outer container. I recognize it based
21 upon my initials and the date in which I opened this
22 container, my initials and date on the SLED evidence
23 tape in which I resealed this outer container.

24 I also recognize this as a GSR kit collected from
25 Kenneth Miller. I recognize it based on the yellow

1 barcode sticker with our laboratory number and item
2 number one and my initials and date in which I opened it
3 and my initials and date on the evidence tape in which I
4 sealed it.

5 Q. And is that packaging in substantially the same
6 condition as it was when you received it?

7 A. The GSR kit itself is.

8 Q. Okay. Great. Just a couple more questions for you,
9 Ms. Fletcher, and I'll take that. Ms. Fletcher, is this
10 testing or methodology generally accepted and considered
11 reliable in your field?

12 A. Yes. The process of analyzing gunshot residue kits or
13 gunshot primer residue evidence using a scanning
14 electron microscope is the standard procedure that is
15 used throughout the world for that type of analysis.

16 Q. And is that the methodology that you used as it pertains
17 to this specific GSR kit?

18 A. Yes, it is.

19 Q. Okay. And were you able to confirm the presence of
20 gunshot residue ---

21 MS. FORD: Objection. Your Honor, based on my
22 prior motion and also I believe the chain has not been
23 established because the witnesses testified that some of
24 them did not have direct knowledge.

25 THE COURT: Okay. Overruled. I found that a

1 substantial change has been established, and I'll allow
2 her to answer the question. Go ahead.

3 BY MS. KNOX:

4 Q. In this particular GSR kit, who was this kit taken from?

5 A. It was collected from a Kenneth Miller.

6 Q. And what did you find in your analysis?

7 A. If I may read my results?

8 Q. Of course.

9 Q. "The one GSR kit from Kenneth Miller, Jr. Particles
10 characteristic of gunshot primer residue were found. In
11 general, particles characteristic of gunshot primer
12 residue are microscopic, molten particles that contain
13 the elements lead, barium, and antimony. Gunshot primer
14 residue can come from discharging a firearm, being in
15 the vicinity to the discharge of a firearm, or coming
16 into contact with a surface that has gunshot primer
17 residue on it."

18 Q. And just to clarify, you were able to confirm that the
19 presence of GSR was found on this Defendant's hand?

20 A. The presence of particles of gunshot primer residue,
21 characteristics of gunshot primer residue were present
22 on the GSR kit.

23 MS. KNOX: I have no further questions for this
24 witness.

25 THE COURT: All right.

1 MS. KNOX: Thank you, Ms. Fletcher.

2 C R O S S E X A M I N A T I O N

3 **BY MS. FORD:**

4 Q. Hi.

5 A. Hi.

6 Q. So, when you're looking for possible gunshot residue,
7 you're looking for the elements of lead, barinium -- or
8 barium, and antimony,;correct?

9 A. That's correct, in a singular particle.

10 Q. But you're also looking or checking to see if there are
11 other elements present so that you could rule out
12 alternative possibilities; correct?

13 A. That's correct, yes.

14 Q. So, earlier, I believe you mentioned the possibility of
15 lead that you look for to rule out residue from brakes;
16 is that correct?

17 A. Iron.

18 Q. Iron.

19 A. High amounts of iron.

20 Q. Okay. So, part of your job is to make sure or look for
21 a possible alternative.

22 A. My job is to confirm the presence of gunshot primer
23 residue or confirm that there is no gunshot primer
24 residue on it.

25 Q. And part of that is to try to rule out other

1 possibilities?

2 A. I'm just making a determination whether the -- the
3 particles that I have on the GSR kit are considered
4 characteristic of gunshot primer residue or not.

5 Q. But if there was the additional presence of iron, as we
6 discussed, then you would note that it's possible that
7 this is not gunshot residue?

8 A. Yes, and then I would not -- I wouldn't confirm it as a
9 particle characteristic of gunshot primer residue in
10 that case.

11 Q. Okay. Now, you spoke a bit about someone may have
12 gunshot residue on them if they shot a gun?

13 A. That's correct.

14 Q. It could be if they were shot?

15 A. That's correct.

16 Q. It could be if they were in the vicinity of the
17 shooting?

18 A. Yes.

19 Q. And it could be if they came into contact with an object
20 that residue was left on?

21 A. That's correct.

22 Q. Because gunshot residue, you told us how it typically
23 goes away over time?

24 A. Yes.

25 Q. And a lot of it is basically from wear and tear. Is

1 that fair to say?

2 A. It's from just being so easily transferred from one
3 object to another.

4 Q. So, it doesn't just disappear necessarily?

5 A. Correct. These are heavy metal particles, so they're
6 not disappearing into the atmosphere. They're just
7 being transferred from one object to another.

8 Q. Okay. So, they can be, for example, transferred to
9 another person?

10 A. That's correct.

11 Q. Or transferred to another object?

12 A. Yes.

13 Q. And earlier the State asked you if there was gunshot
14 residue on Mr. Miller's hand, and you stated, well,
15 there was gunshot residue on the kit, or I'm not sure
16 how you phrased it.

17 A. So it was in the GSR kit, so those are the samples
18 collected from the hands. One would have been -- one
19 particle lift would have been from the right hand, and
20 one would have been from the left hand.

21 Q. You were not present in this case when that kit was
22 actually executed; correct?

23 A. That's correct.

24 Q. So, you are just analyzing what the police submitted to
25 SLED?

1 A. That's correct.

2 Q. I beg the court's indulgence. And gunshot residue can
3 be transferred to another person by touching them;
4 correct?

5 A. That's correct.

6 MS. FORD: No further question.

7 MS. KNOX: I have no further questions at this
8 time.

9 THE COURT: All right. You're free to go. Thank
10 you, ma'am.

11 THE WITNESS: Thank you.

12 THE COURT: Have a safe trip back. State, do you
13 have any other witnesses that wish to call at this time?

14 MS. KOZIK: Not at this time, but can we approach
15 briefly?

16 THE COURT: Yes. You know what we'll do is just
17 take our morning break at this time anyway. Ladies and
18 gentlemen, I'll excuse you as well. We'll see you back
19 here in about 10 -- 10 or 15 minutes. Thank you very
20 much.

21 (Jury exits the courtroom)

22 THE COURT: Okay. Do you need to discuss whether
23 you're going to call a member of the Clerk of Court's
24 office or offer a stipulation as to this prior?

25 MS. KOZIK: Correct. The State and the Defendant

1 have discussed a stipulation ---

2 THE COURT: Okay.

3 --- as it relates to Mr. -- per Defendant's prior
4 conviction.

5 THE COURT: Has it already been drafted?

6 MS. KOZIK: Yes, it has already been drafted and
7 marked for evidence. It's based on the same language as
8 I think the one you used earlier.

9 THE COURT: Okay.

10 MS. KOZIK: So, again, it's hard to see this.

11 THE COURT: I just want to see it again. That's
12 fine.

13 MS. KOZIK: Okay.

14 THE COURT: I'll let you read it out when we get
15 back.

16 MS. KOZIK: Okay.

17 THE COURT: I don't know if you have any other
18 witnesses. Okay. We'll do that. We'll all take a
19 break. How's that for about 10 minutes? Everybody
20 okay?

21 MS. KOZIK: Okay.

22 THE COURT: See you back in a little while. Of
23 course, Ms. Ford, when we kind of get to that point,
24 obviously -- hold on, Mr. Miller, I don't want to leave
25 quite yet, where we will be -- I will be discussing with

1 your client whether he wishes to testify, and I'll be
2 advising him of his rights regarding that as well on the
3 record, so if you could just also make sure that he
4 understands, you and Mr. Brown, that we'll be going
5 through that colloquy with him; okay?

6 MS. FORD: Yes, Your Honor. Can I talk to him?

7 THE COURT: Thank you.

8 MS. FORD: Can I talk to him with you?

9 THE COURT: I need him to be able to do that, if
10 that's okay. You're in this 10 or 15-minute break. Is
11 that all right? Thank you. Perfect. All right.

12 (OFF THE RECORD)

13 THE COURT: Okay. Please be seated. All right.
14 So, our plan will be to bring the jury back in. Of
15 course, you'll be able to enter your stipulation, and
16 then at that point, I guess you'll just let me know that
17 you're going to rest, and then we'll excuse the jury
18 again and take up any motions at that time and bring
19 them back in. So, when we excuse them the next time,
20 it'll be pretty quick, so that's why I just wanted
21 everybody to be kind of ready. When we excuse them
22 again, of course, Ms. Ford, you can discuss with your
23 client whether or not you wish to testify. I just
24 wanted to give you all kind of an idea of what the plan
25 is, okay? Anything else before the jury comes back in?

1 MS. KNOX: Nothing from the State.

2 THE COURT: Okay. Great.

3 MS. FORD: Oh, Your Honor?

4 THE COURT: I'm sorry. Yes, ma'am?

5 MS. FORD: I believe, and I think that Solicitor
6 and I discussed this, that when the stipulation is read,
7 I don't know if there can be an instruction that it's
8 not to be considered the fact that he has a prior
9 conviction.

10 THE COURT: I'll just discussed that at the very
11 end.

12 MS. FORD: Okay.

13 THE COURT: That is absolutely part of my jury
14 charge.

15 MS. FORD: Okay.

16 THE COURT: Yes.

17 MS. FORD: I know this is coming in a little in a
18 different way than typically.

19 THE COURT: Right.

20 MS. FORD: It's not about, you know, it's not for
21 impeachment purposes.

22 THE COURT: It's not an enhancement or an
23 impeachment.

24 MS. FORD: It's an element.

25 THE COURT: Right. That is not charge during -- I

1 only charge during, it during the closing charge. Do
2 you want it charged at the same time that they read it
3 too? I can.

4 MS. FORD: I think so.

5 THE COURT: It doesn't bother me either way. I
6 just have to have that request, but if you want me to, I
7 don't have a problem with that. It's basically a
8 two-sentence. Here, I'll retrieve it right now. Give
9 me one of those. Let's see. There's that.

10 So, my charge is as follows. "The parties have
11 stipulated that the Defendant was convicted of a crime
12 or crimes other than the one for which the Defendant is
13 now on trial. This evidence may only be considered by
14 you on the question of prior conviction and for no other
15 reason and no other purpose. You may give this evidence
16 the weight and value, if any, which you found it should
17 have on the sole issue of prior conviction. You must
18 not consider the evidence of the commission of another
19 offense as proof of the Defendant's guilt of the current
20 charge we are trying today."

21 I think it would be appropriate if I'm going to
22 read it during this portion to just read the first two
23 sentences of that. The last two sentences are really
24 contemplating how they will use it in their
25 deliberations versus how it's presented at trial.

1 So, in other words, I would be reading, "The
2 parties have stipulated that the Defendant was convicted
3 of a crime other than the one for which he is now on
4 trial. This evidence may only be considered by you on
5 the question of prior conviction and for no other reason
6 and no other purpose." Would that be sufficient for you
7 or do you want the rest of it read on too? Regarding
8 the weight and value, if any.

9 Well, I don't know the part about the weight and
10 value. Could you read the second sentence again? I'm
11 sorry.

12 "The parties have stipulated that the Defendant was
13 convicted of a crime or crimes other than the one for
14 which he is now on trial." That's why I don't -- I
15 would, I guess, if you want me to read it after they
16 read the stipulation then, or do you want me to read the
17 stipulation and read this in conjunction with it? I
18 could do that as well, so it's not so disjointed maybe.
19 Do you have it? Can I just read it real quick? I know
20 I just have it a couple of days ago. I need to think of
21 a way to make it flow a little more smoothly. Here we
22 go.

23 Typically, when I have a stipulation come in of any
24 sort, I say, ladies and gentlemen, the parties have
25 agreed to a stipulation which will now be read into the

1 record by the State in this case.

2 MS. FORD: Okay.

3 THE COURT: The stipulation is an agreement between
4 the parties that is, so that you will not have to make a
5 finding as to a particular aspect of a charge. And then
6 the stipulation is read into the record and that's
7 usually all I do.

8 MS. FORD: Yes, Judge.

9 THE COURT: Now, if you want me to read in some of
10 this other stuff that they're going to get charged on at
11 the end, I can. I don't have a problem doing that.
12 It's just up to you.

13 MS. FORD: Yes, Your Honor.

14 THE COURT: I could say this evidence may only be
15 considered by you on the question of prior conviction
16 for no other reason and no other purpose.

17 MS. FORD: The reason -- and the reason I'd ask you
18 to re-read that, this can only be considered for the
19 purpose of prior conviction. Would it be to prove an
20 element of one of the charges? Is that -- just not
21 having something ---

22 THE COURT: Yes, because where I read this, it's
23 directly behind the charge of possession of a firearm.

24 MS. FORD: Okay. That's what I meant. That's why
25 I was a little not confused.

1 THE COURT: I'm sorry. Yes, Ms. Ford. Yes, and
2 I'm sorry. I'm reading you my charge out of context, so
3 it is, yes, excuse me. It is read directly after that
4 prior charge of possession of a weapon by a prohibited
5 person by law.

6 MS. FORD: Okay.

7 THE COURT: And then it goes straight into that,
8 that they've stipulated that he has a prior conviction.

9 MS. FORD: Okay. Then, yes, I would request it, I
10 think.

11 THE COURT: Okay. I think that makes sense. So
12 I'll just add that extra sentence here. I'm sorry.
13 I'll get this back to you. Thank you. All right. So,
14 got that cleared up. Anything else? Any other requests
15 before the jury comes in? State indicated no already.
16 Do you have anything else, Ms. Ford?

17 MS. FORD: No, as far as, are you talking about
18 jury instructions?

19 THE COURT: Not yet.

20 MS. FORD: Okay.

21 THE COURT: Yeah.

22 MS. FORD: Not at this point.

23 THE COURT: The stipulation, I guess, and then
24 we'll let them close and we'll excuse them and we'll
25 take up motion for that time; okay?

1 MS. FORD: Yes, ma'am.

2 THE COURT: Okay. We can bring you in. How about
3 if my clerk emails y'all the charge? Would that be
4 helpful?

5 MS. FORD: Yes, ma'am.

6 THE COURT: Okay. And obviously, it's a draft at
7 this point as we are not finished with the trial.

8 MS. FORD: Yes, ma'am.

9 THE COURT: I understand that. Some things might
10 not apply yet.

11 MS. FORD: The jury's down the hall, so ---

12 THE COURT: Yeah. It takes a little while to get
13 here. It takes a little while. It's a little awkward.
14 Happens to everybody. Send the verdict form, too.
15 Again, it's just a draft. Okay.

16 (Jury enters the courtroom)

17 THE COURT: All right. Thank you, ladies and
18 gentlemen. Y'all can all be seated. Thank you so much.
19 Great. Excellent.

20 THE BAILIFF: All jurors present, Your Honor.

21 THE COURT: Thank you so much. Everybody can be
22 seated at this time. State, may call its next witness.

23 MS. KOZIK: The State doesn't have any further
24 witnesses, but we do have one stipulation between the
25 parties. Read into the record.

1 THE COURT: Okay. Ladies and gentlemen, a
2 stipulation is an agreement amongst the jury when they
3 make an agreement as to an element of a charge. It is
4 read into the record occasionally as a stipulation,
5 which will also be entered as a piece of evidence in the
6 trial. At this time, the attorney for the state will
7 read the stipulation into the record, and then I will
8 instruct you briefly after that. Go ahead.

9 MS. KOZIK: As State's Exhibit 21, the State and
10 Defense stipulates that the defendant, Kenneth Miller,
11 Jr., has a qualifying prior conviction for a prohibitive
12 controlled substance from October 2005.

13 THE COURT: Ladies and -- sorry. Go ahead.

14 MS. KOZIK: The stipulation fulfills the element of
15 prior conviction with relation to unlawful possession of
16 a firearm by a prohibited person charged.

17 THE COURT: All right. Ladies and gentlemen, the
18 parties have stipulated that the Defendant was convicted
19 of a crime other than the one for which the Defendant is
20 now on trial. This evidence may only be considered by
21 you on the question of prior conviction, and for no
22 other reason and no other purpose. You may give it the
23 weight and value if any that you think it deserves on
24 the sole issue of prior conviction at the appropriate
25 time.

1 You must not consider any evidence of the
2 commission of another offense as proof of the
3 Defendant's guilt of the current charge we are trying
4 today. And I will repeat that instruction once again at
5 the end of the trial. All right. Thank you very much.
6 Does the State have any other witnesses they wish to
7 call at this time?

8 MS. KNOX: There are no other witnesses the State
9 will call at this time.

10 THE COURT: All right. Ladies and gentlemen, the
11 State has rested. I know it seems silly, but at this
12 time it's necessary that I excuse you from the courtroom
13 once again to take up some issues with these attorneys,
14 and then we will, this first break will be significantly
15 shorter than the last break, so we'll see you back here
16 momentarily; okay? Thank you very much.

17 (Jury exits the courtroom)

18 THE COURT: All right. All right. The State has
19 now rested. I'm happy to entertain any motions from the
20 State or the Defense at this time.

21 MS. FORD: Thank you, Your Honor. At this time, we
22 would just renew all of our prior motions. Now, that
23 you've had, of course, an opportunity to hear all of the
24 witnesses, I think especially the cumulative nature is
25 more apparent at this point, but we would renew all of

1 the prior motions, and we would ask for a directed
2 verdict.

3 While we understand that the victim did identify my
4 client as the shooter, there's certainly no other
5 witness. There's no forensic -- actual forensic
6 evidence tying him to either the scene or to North
7 Charleston. He did not make a confession or anything of
8 that nature, and so we would ask for a directed verdict.
9 I think the gun charges go along, of course, with the
10 ABHAN.

11 THE COURT: Okay. All right. State will respond.

12 MS. KOZIK: Yes. The -- the State requested the
13 Court to deny the Defense's motion looking at the
14 evidence of the light most favorable to the parties.
15 The State in this case -- there's sufficient evidence
16 that all elements of the crime that the Defendant has
17 been charged with have been met such that it's
18 sufficient to submit all charges to the jury.

19 First, related to the ABHAN. Again, the elements
20 are unlawfully injuring another, causing great bodily
21 harm or accompanied by means likely to produce death or
22 great bodily harm, and that great bodily harm includes
23 serious permanent disfigurement or protracted loss or
24 inherent or function of a body part.

25 There's been testimony directly from the victim who

1 said that she was able to identify the Defendant as the
2 shooter. She discussed -- not that credibility is
3 something that the court should be looking at this point
4 in time, but she was able to see, interact with him,
5 touch him, talk to him, and so she identified him as the
6 shooter.

7 There's also evidence that the type of car that he
8 was driving was seen leaving the scene immediately prior
9 to the 911 call without any other cars in the area.

10 On the video, there's also evidence that there was
11 gunshot residue on his hand within two and a half hours
12 of the shooting. All of that is evidence that would
13 probably be submitted to the jury to determine whether
14 or not the gunshot -- was the Defendant who was
15 unlawfully injured and the victim in this case.

16 Also, we heard testimony from the doctor as well as
17 the victim's daughter about the effects, the
18 long-lasting protracted loss and impairment of
19 Ms. Dukes's knee following the shot in the knee. She
20 was -- her leg was immobilized for at least six weeks to
21 three months. The function has never fully returned to
22 it as far as how far it was able to bend. She was
23 unable to do things. She was unable to do things -- she
24 was unable to bend it so she couldn't get out of bed and
25 it drastically affected her mobility. Again, I believe

1 that this sufficient to submit to the jury on the issue
2 of great bodily injury.

3 Then again, the two gun charges. Possession of a
4 weapon during possession of a violent crime, obviously
5 ABHAN is a violent crime and to shoot the victim. He
6 had to possess the gun to take the second charge and the
7 State has -- the State and Defense has stipulated to the
8 element of the prior view of conviction.

9 So the Defense -- or the State has met all of the
10 elements such that the charges should all be submitted
11 to the jury and the Court shall deny the Defense's
12 motion.

13 THE COURT: Okay. All right. The Court
14 respectfully denies the direct verdict motion. There is
15 evidence that's been submitted through testimony,
16 certainly by the victim herself and that's really what
17 this case comes down to.

18 So respectfully, this motion again is denied and we
19 will move forward to the next phase of the trial where
20 the Defense may present witnesses if they choose and in
21 that vein, Ms. Ford, Mr. Brown, have you had enough time
22 to discuss with your client whether he wishes to
23 testify?

24 MS. FORD: Your Honor, yes, we have met with him
25 several times about it including last night and today

1 during the break and Mr. Miller has indicated that he
2 does want to testify -- that he does.

3 THE COURT: He wants to testify?

4 MS. FORD: Yes, Your Honor.

5 THE COURT: Okay. Well, nonetheless, I'm going to
6 give him his rights so that I can make sure that's
7 delineated clearly on the record. So Mr. Miller, at
8 this time, I would like for you to stand if you are
9 able. Okay. I'm going to read you certain rights that
10 you have regarding your right to testify. I understand
11 that you want to testify but nonetheless, I need to read
12 you some of these rights that go along with that; okay?

13 THE DEFENDANT: Yes.

14 THE COURT: All right. Mr. Miller, if you don't
15 understand anything I say, will you let me know?

16 THE DEFENDANT: Yes.

17 THE COURT: All right. If you want me to explain
18 anything in more detail, will you let that -- will you
19 let me know as well?

20 THE DEFENDANT: Yes.

21 THE COURT: All right. We have now reached the
22 stage of the trial where you may present your defense
23 and you have the right to claim the protections given to
24 you by the Fifth Amendment of our Constitution and that
25 says in part that no person shall be compelled to

1 testify against himself in trial and this means that you
2 cannot be required to testify in this case. I
3 understand you may want to, but you are certainly not
4 required to do so. Do you understand that?

5 THE DEFENDANT: Yes.

6 THE COURT: You do have the right to testify,
7 however, no one can make you testify. This is your
8 right and no one can do this but you. Do you understand
9 that?

10 THE DEFENDANT: Yes.

11 THE COURT: If you decide to testify, you will be
12 subject to the same rules that govern other witnesses
13 and you may be examined and cross examined on any issue
14 in this case.

15 Additionally, if you have any convictions involving
16 dishonesty or false statement or for crimes that were
17 punishable by imprisonment for more than a year and I
18 determined that the probative value of admitting that
19 evidence would outweigh any prejudicial effect to you,
20 the Solicitor would be able to introduce your prior
21 record to attack your credibility. Do you understand
22 that?

23 THE DEFENDANT: Yes.

24 THE COURT: If you decide to testify, this decision
25 on your part must be freely made with knowledge of these

1 protections to you by the Fifth Amendment that I've just
2 told you about and the consequences of your decision to
3 testify.

4 If you decided not to testify, I would instruct the
5 jurors that they cannot give that fact any consideration
6 whatsoever and that there would be no prejudice to you
7 because you did not testify. It's obviously left
8 entirely up to you whether or not you testify. You can
9 talk with your attorneys some more, any family members
10 or friends or anybody else, but that final decision is
11 left entirely up to you, Mr. Miller. Do you understand
12 that?

13 THE DEFENDANT: Yes.

14 THE COURT: Okay. Do you understand everything
15 I've explained to you?

16 THE DEFENDANT: Yes.

17 THE COURT: Do you have any questions about what
18 I've just explained to you?

19 THE DEFENDANT: No.

20 THE COURT: All right. Do you want any more time
21 to talk with your lawyers ---

22 THE DEFENDANT: No.

23 THE COURT: --- about whether or not you should
24 testify?

25 THE DEFENDANT: No.

1 THE COURT: Okay. Do you want to talk with any
2 family members at this time?

3 THE DEFENDANT: No.

4 THE COURT: Do you want to testify?

5 THE DEFENDANT: Yes.

6 THE COURT: Okay. All right. Thank you very much.

7 MS. KNOX: Judge, I would just say obviously I
8 don't know what this testimony will entail, but I
9 believe we have not been provided with anything as it
10 relates to an alibi defense. I think by law we need 10
11 days notice for that, and the State has not received
12 anything to that extent. So I would just ask if that is
13 something that the defendant intends or the Defense
14 intends to bring up that it not be allowed because per
15 law we are to have 10 days notice and we have not.

16 THE COURT: Okay. If it comes up, we'll certainly
17 take it up at the appropriate time.

18 MS. FORD: Your Honor, my client gave a statement
19 to police. His testimony is essentially consistent with
20 that, so there's not anything further than that.

21 THE COURT: Okay. All right. Okay. Well, let's
22 see. Any other things we can take up before we bring
23 the jury right back in? Are you ready to proceed?

24 MS. FORD: Yes, Your Honor.

25 THE COURT: Okay. Great. We can bring them in.

1 Thank you.

2 (Jury enters the courtroom)

3 THE COURT: All right. Welcome back. Everybody
4 can be seated. Thank you very much. Ladies and
5 gentlemen of the jury. All right. Everybody can be at
6 ease as well in the courtroom. Thank you very much.

7 THE BAILIFF: All jurors present.

8 THE COURT: All right. Ladies and gentlemen,
9 before you left, the state rested, and now I will ask
10 the Defense if they wish to call any witnesses. Does
11 the Defense have any witnesses they wish to call?

12 MS. FORD: Yes, Your Honor. At this time, we would
13 call Kenneth Miller to the stand.

14 THE COURT: All right. Mr. Miller, come on up.
15 The Clerk will swear you in, sir.

16 KENNETH MILLER, JR,
17 having been duly sworn, testifies as follows:

18 THE CLERK: Please be seated. Now, please state
19 your full name into the microphone, spelling your last
20 name for the record.

21 THE WITNESS: Kenneth Miller, M-i-l-l-e-r.

22 THE COURT: You may proceed.

23 MS. FORD: Thank you, Your Honor.

24 **D I R E C T E X A M I N A T I O N**

25 **BY MS. FORD:**

- 1 Q. Kenneth, did you shoot Juanita Duke?
- 2 A. No.
- 3 Q. Were you at her house on January 4th, 2024?
- 4 A. No.
- 5 Q. Were you in North Charleston on January 4th, 2024?
- 6 A. No.
- 7 Q. Did you demand some type of a bag from her?
- 8 A. No.
- 9 Q. Where were you living in January 2024?
- 10 A. At [REDACTED] Turnbury Road, Goose Creek, South Carolina.
- 11 Q. And is that the house we saw a picture of earlier in
- 12 this trial?
- 13 A. Yes, ma'am.
- 14 Q. Did you live alone?
- 15 A. Yes, ma'am.
- 16 Q. Just a few minutes ago, I heard, do you have a prior
- 17 drug conviction on your record?
- 18 A. Yes, ma'am.
- 19 Q. Is that the charge from 20 years ago?
- 20 A. Yes, ma'am.
- 21 Q. In 2005? Going back to January 24th, at some point,
- 22 were you arrested?
- 23 A. Yes, I was.
- 24 Q. Where were you arrested?
- 25 A. At my home.

1 Q. Do you know how many officers were there?

2 A. About 10 of them, something like that.

3 Q. At that time, were you told what you were being arrested
4 for?

5 A. No, they told me later at the City Hall place.

6 Q. So where -- when they took you from your home, where
7 were you taken?

8 A. City Hall, I believe that's where they took me.

9 Q. Did you agree to talk to Detective Steinbrunner?

10 A. Yes, I did.

11 Q. And were you asked about this day?

12 A. Yes.

13 Q. And at that point, were -- when you were talking to her,
14 were you aware that they were accusing you of shooting
15 Ms. Dukes?

16 A. No, not until she told me that.

17 Q. And at any point, did you refer her to your neighbors?

18 A. Yes, I did.

19 Q. Why did you do that?

20 A. Because they were out in the yards when the cops and
21 stuff were there.

22 Q. Okay.

23 A. They were outside when I was leaving, so I assumed they
24 were there before. And when I came back from the gas
25 station, it was inside the yards and stuff, too.

1 Q. Okay. And when you were talking to Detective
2 Steinbrunner, did you deny, or did you tell her that you
3 shot Juanita?

4 A. Yes, I didn't do it.

5 Q. And we've talked, or we've heard about this GSR kit that
6 was done. Did you agree to let her take the samples
7 from your hands?

8 A. Yeah, I said she could have, if she let me watch them
9 search my home and vehicle and stuff.

10 Q. And why did you say -- why was that an issue for you?

11 A. Because there wasn't anything in my home, I didn't do
12 nothing wrong, so I wanted to make sure nothing was -- I
13 mean, they said they wouldn't say if they find anything
14 or anything in there, because there was nothing to find.
15 So I just wanted to supervise it, to be honest with you.

16 Q. If they had let you watch it, would you -- would you
17 have agreed to let them take the swab?

18 A. Yeah, I told her that.

19 Q. Okay. So, did you make that clear to them?

20 A. Yes.

21 Q. I beg the court's indulgence. Kenneth, do you know who
22 shot Juanita Dukes?

23 A. No.

24 Q. Was it you?

25 A. No.

1 MS. FORD: I have no further questions.

2 THE COURT: Okay. Any cross examination from the
3 State?

4 MS. KNOX: Yes.

5 C R O S S E X A M I N A T I O N

6 BY MS. KNOX:

7 Q. Good morning, Mr. Miller.

8 A. How are you doing?

9 Q. I'm good. How are you doing?

10 A. I'm good.

11 Q. Okay. So, you live in Goose Creek; correct?

12 A. Yes.

13 Q. And that's about 22-ish minutes from your Aunt Juanita's
14 house?

15 A. Yes, it is.

16 Q. Okay. And so that leaves about one full hour where you
17 were totally unaccounted for before you were arrested;
18 correct?

19 A. Yes.

20 Q. Okay. And is that when you hid the gun?

21 A. No.

22 Q. Okay. And did you say that you wanted to search -- you
23 wanted to watch law enforcement search your home because
24 you were worried that they were going to find that
25 firearm?

1 A. No, because I knew nothing was in there to worry about.
2 I was making sure of that.

3 Q. Okay. But you didn't give the name of your neighbors to
4 law enforcement; right?

5 A. No.

6 Q. And is that because you don't know your neighbors
7 personally, or why did you not provide the names of
8 people to vouch for your whereabouts?

9 A. Because I didn't thought it was relevant. I mean, they
10 were in the yard. They were watching and viewing. So
11 that's why I said, I don't know.

12 Q. You didn't -- you just said you don't think it was
13 relevant to have your neighbors vouch for your
14 whereabouts ---

15 A. No. She said ---

16 Q. --- for this time you were accused for?

17 A. She said if anybody who could have seen me leaving or
18 whatever, I said, "You can ask my neighbors."

19 Q. And you did not give the names of those neighbors?

20 A. No, but I mean my neighbors. That's self explanatory.

21 Q. You have a bunch of neighbors, don't you?

22 A. That's what I'm saying, but they were out in the yard.

23 Q. Okay. Mr. Miller, you go by Boo; right?

24 A. I mean, yeah.

25 Q. And your mom, Ethel, actually called you Baby Boo from

1 the second that you were born; correct?

2 A. No.

3 Q. Okay. But you have a tattoo of a ghost on your forearm;

4 correct?

5 A. Yes.

6 Q. Okay. And you have other cousins or male nephew, or

7 Ms. Dukes has other male nephews; right?

8 A. Yeah.

9 Q. And would you say that you're the tallest of those

10 nephews?

11 A. No. I don't know.

12 Q. Okay.

13 A. I don't think I can answer that.

14 Q. Okay. Mr. Miller, you know where your Auntie Nita

15 lives; right?

16 A. I knew -- I do know Juanita Dukes lived there.

17 Q. Okay.

18 A. Yes.

19 Q. And you've been to her home before?

20 A. Yes. I never denied that.

21 Q. Yeah, of course. And you were actually at her home a

22 few days before the shooting; correct?

23 A. No.

24 Q. You weren't with Douglas, your other nephew?

25 A. No.

1 Q. Okay.

2 A. No, I'm not being smart, but ---

3 Q. Okay.

4 A. I've got surveillance; right?

5 Q. We have surveillance of a vehicle.

6 THE COURT: I'm sorry. I've got to stop. I've
7 just got to interject that he can't -- he can't ask and
8 he can't answer, so let's just make sure. Question,
9 answer. All right. Go ahead.

10 THE WITNESS: Oh, yeah. I mean -- oh, sorry.

11 THE COURT: That's okay.

12 BY MS. KNOX:

13 Q. It's okay.

14 A. Yeah, I wasn't there, though.

15 Q. Okay. And so your testimony is that you weren't at
16 Ms. Dukes's home in the days leading up to the shooting?

17 A. No. I mean, I would have, because I would have said you
18 could check to see if I was leaving there or anything
19 like y'all said y'all did.

20 Q. You didn't ask other family members where Ms. Dukes was
21 on Tuesday before the shooting?

22 A. No.

23 Q. And you didn't ask your family members where Ms. Dukes
24 was the Wednesday before the shooting?

25 A. No.

1 Q. Mr. Miller, you rented a black SUV from Enterprise;
2 correct?

3 A. Yes.

4 Q. And that's because you were in a car accident in the
5 days before?

6 A. Yes. My car was in the shop.

7 Q. Okay. And that vehicle that you rented was a black
8 Toyota 4Runner?

9 A. Yes.

10 Q. Okay. And your -- you testified, or in your interview,
11 you stated that no one else had driven that vehicle that
12 day; correct?

13 A. No, they didn't. Yes, correct.

14 Q. Is that correct? Okay.

15 MS. KNOX: May I beg the court's indulgence?

16 THE COURT: Sure.

17 BY MS. KNOX:

18 Q. Mr. Miller, were you ever looking for a backpack?

19 A. No.

20 Q. You have no idea what I mean when I say a backpack?

21 A. No.

22 Q. But you lived at Auntie Nita's house when you were a
23 teenager; correct?

24 A. No.

25 Q. You did not lived at Auntie Nita's house when you were a

1 teenager?

2 A. No.

3 Q. You did not lived at [REDACTED] Easton Street when you were
4 around 16 years old?

5 A. I never lived there.

6 Q. You didn't lived there with your mom, Ethel Nelson when
7 you were 16 years old?

8 A. No.

9 Q. Okay. And it's your testimony that you -- or in your
10 interview that you had not been around a firearm on
11 January 4th of 2024?

12 A. Correct.

13 Q. And that you weren't around anyone else that had been
14 around a firearm that day?

15 A. No, except the police.

16 Q. And that you did not yourself fire a gun that day;
17 correct?

18 A. No.

19 Q. Okay. Do you own a silver gun; Mr. Miller?

20 A. No.

21 MS. KNOX: Okay. I have no further questions for
22 this witness.

23 THE COURT: Okay. All right. Any redirect.

24 MS. FORD: I beg the court's indulgence?

25 THE COURT: Sure.

1 R E D I R E C T E X A M I N A T I O N

2 BY MS. FORD:

3 Q. Kenneth, briefly, when Detective Steinbrunner
4 interviewed you and you referred her to your neighbors,
5 did she ask for their names?

6 A. No.

7 MS. FORD: No further questions.

8 THE COURT: Okay. All right. We're going to
9 recross we'll read this out.

10 MS. KNOX: No, Judge.

11 THE COURT: Okay. All right. Sir, you can have a
12 seat back at your counsel's table. Thank you very much.
13 All right. Ms. Ford, any other witnesses from the
14 Defense?

15 MS. FORD: No, Your Honor. At this time the
16 Defense rests.

17 THE COURT: Okay. All right. Ladies and
18 gentlemen, once again I will excuse you from the
19 courtroom. At this time what I'm going to do is
20 actually go ahead and let you break for lunch because
21 it's about 11:45 and I would just ask that you return,
22 let's see, at 1:30 and we will resume at that time.

23 We are nearing the end of this case. So it does,
24 in fact, look like we will finish today. Of course,
25 part of that is up to you all, but it looks like we will

1 at least finish the evidence portion of the trial today.
2 So, we will see you back at 1:30. Once again, please do
3 not discuss the case yet.

4 (Jury exits the courtroom)

5 THE COURT: Okay. All right. Happy for the
6 parties to renew any prior objections made during the
7 trial or any motions at this time at this stage. I'm
8 happy to take up as well. Anything from the State? You
9 want to renew all your objections during the course of
10 the trial?

11 MS. KOZIK: Yeah, renew all those objections.

12 THE COURT: Okay.

13 MS. FORD: No.

14 THE COURT: All right.

15 MS. FORD: Oh, I do the same, Your Honor.

16 THE COURT: Ms. Ford, okay. Same for both sides,
17 renew timely and prior ruling stands and then, Ms. Ford,
18 you want to renew your directed verdict motion at this
19 time as well?

20 MS. FORD: Yes. Yes, Your Honor.

21 THE COURT: Okay. Renewed, even in light of the
22 testimony given by Mr. Miller, my ruling stands.
23 Certainly, I think that's a question for the jury to
24 entertain on all elements of these charges. So, we will
25 let them make that decision here shortly and we will

1 come back as well from the break. My clerk emailed you
2 all the draft charge. I think we left the intent
3 portion out. You know, as I said, it's a draft. She's
4 going to email that section to you, I believe of course
5 added as well. We'll take a look at it over the lunch
6 break and we'll come back for closings and the charge.
7 And she sent the verdict -- did you send the verdict?
8 She sent the verdict form as well, you'll ultimately get
9 that. Anything else?

10 MS. KOZIK: Judge?

11 THE COURT: Yeah.

12 MS. KOZIK: Judge, yes, briefly. Based on at least
13 one of the questions asked on cross testimony, the State
14 would like -- would like to call a rebuttal witness.

15 THE COURT: Okay.

16 MS. KOZIK: Potentially, we just need to see if we
17 can get that together, but I think we could do it within
18 a few minutes. So, if you could give us a brief recess
19 to figure that out.

20 THE COURT: Yeah, I mean, if you do, we'll do that
21 at 1:30, obviously.

22 MS. KOZIK: Okay. Great.

23 THE COURT: Yeah. I already turned the jury loose
24 for lunch.

25 MS. KOZIK: Yeah.

1 THE COURT: That's fine. Just think about it and
2 let us know when we come back. I'll see everybody at
3 1:30. Thank you.

4 (OFF THE RECORD)

5 THE COURT: Thank you. Please be seated. All
6 right. Would you all decide on behalf of the State
7 you're going to call a rebuttal witness?

8 MS. KNOX: We will not be calling any rebuttal
9 witness.

10 THE COURT: You're not going to call any? Okay.

11 MS. KNOX: No, Your Honor.

12 THE COURT: All right. Well, let's take a moment
13 then to talk about the charge. All right. Okay. Let's
14 see. I'm happy to hear from the State first on the
15 objections and exceptions to the charge adopted earlier
16 from the court. I think there's some sentence follow up
17 just said he requested to be added on to the intent
18 part.

19 MS. KOZIK: Yes, the only request that the State
20 has about additions to the jury instructions was in the
21 criminal intent part to add that the State does not have
22 to prove the Defendant acted with malice. That's the
23 person to State versus Fennell 340 S.C 266, 2000 and I
24 can note that that's in the criminal intent part.

25 THE COURT: Okay. Ms. Ford, do you want to reply

1 on that?

2 MS. FORD: No, I'm sorry, I don't. I must have
3 missed it. I didn't see an email from the Solicitor.

4 MS. KOZIK: It was minutes ago.

5 MS. FORD: Okay. Okay. So let me take a look at
6 that.

7 THE COURT: Take a minute. Do you have access to
8 your email in here?

9 MS. FORD: I think I'm not receiving the emails
10 yet.

11 THE COURT: While she's looking at that email,
12 somebody, are you here from CPD? He's here from CPD.
13 You're here from CPD? I think you are. Let's be at
14 ease for a minute.

15 (OFF THE RECORD)

16 THE COURT: All right. The only addition to the
17 charges the State would like to include is in the
18 criminal intent portion of sentence stating, "The State
19 does not have to prove the Defendant acted with malice."
20 They reference State v. Fennell, 340 S.C. 266 from 2000.
21 I don't have an issue charging. Certainly, malice is
22 an element of these charges, so I don't have a problem
23 adding it to the intent portion of the charge by saying,
24 the State does not have to prove the Defendant acted
25 with malice, nor is the State required to prove motive,

1 although the presence or absence of this evidence of
2 motive may be considered in making your determinations
3 in this case. Okay. That's okay. Let's just not do
4 that again. All right. So, I don't know. I'm going to
5 assume you object to that, but I think this case law
6 states, I can say it. Certainly, it's not improper.
7 It's not -- it's not an incorrect statement of law.
8 And, you know, malice, obviously is not an element of
9 this -- of these crimes that he's charged with, so ---

10 MS. FORD: Yes, Your Honor.

11 THE COURT: I have no problem just adding that
12 simple phrase to my intent section. So, that was all we
13 got from the State. Now, Ms. Ford, you sent a request
14 as well to charge assault and battery second; Is that
15 right?

16 MS. FORD: Yes, Your Honor. And that's just based
17 on the definition of moderate bodily injury includes
18 surgery with anesthesia. And there's the use of the
19 word fracture, which the doctor testified there was a
20 fracture. And we understand there's -- we think the
21 protracted loss versus the temporary loss, that's
22 defined in the moderate bodily injury. We think that
23 should be a jury question. So, that's why we would ask
24 for the A and B second charge.

25 THE COURT: All right. Well, let me hear from the

1 State on that.

2 MS. KOZIK: Yeah, the State objects to including
3 that. I believe the doctor's testimony included not
4 only that there was a fracture, that she went under
5 anesthesia, but also that the tendon was almost entirely
6 ripped off due to that fracture in her knee, which
7 required extensive surgery to put back together. They
8 also had to replace a large portion of her total knee,
9 which is the prosthetic knee replacement.

10 And the doctor also testified that had that
11 prosthetic knee not been replaced, it could have
12 resulted in her losing that leg, if the blood vessels
13 had been damaged by the gunshot wound.

14 And again, great bodily injury is the protracted
15 loss of impairment function of the -- of the leg, which
16 I think the doctor's testimony goes to and is not
17 consistent with the AB second moderate bodily injury.

18 And under ABHAN, it's only really true that the
19 injury is caused by being likely to produce death or
20 great bodily injury. I think the doctor's testimony,
21 which is uncontroverted by the Defense, satisfies that
22 element. And again, she was shot. A gun is a deadly
23 weapon. And again, I think that would only satisfy the
24 ABHAN element, as opposed to an AB second moderate
25 bodily injury.

1 THE COURT: Well, and then they have the whole
2 matter of an A and B first, which also contemplates.

3 MS. KOZIK: Yeah.

4 THE COURT: And that whole gun aspect of things;
5 right? Of course, with an A and B first, you still have
6 the great bodily injury. What's the difference? Let's
7 talk about that for a minute. ABHAN and AB first, from
8 an ABHAN and A and B first. A and B, I mean, I can read
9 the statute. We can talk about it. But I mean, it's
10 basically in an ABHAN, which is what he's charged with,
11 he's got unlawfully injured another and great bodily
12 injury for, you know, results, or the act is
13 accomplished by means likely to produce death or great
14 bodily injury.

15 Obviously, with the gun here, that's what we have.
16 And then under subsection (C)(1), a person commits
17 defensive assault matter in the first degree if they
18 unlawfully injure another person. And then go down to
19 subsection (B)(1), offers or attempts to injure another
20 with the present ability to do so, and the act is
21 accomplished by means likely to produce -- likely to
22 produce death or great bodily injury. I think that
23 would be the subsections that apply to this present
24 case.

25 The first is a little broader than ABHAN. But, so

1 you don't want an A and B second charge because you're
2 basically saying that there's no -- no way a reasonable
3 inference could be drawn that this is a moderate bodily
4 -- bodily injury, is that essentially what you're
5 telling me, based on the doctor's testimony?

6 MS. KOZIK: Yes.

7 THE COURT: Okay. All right. Ms. Ford?

8 MS. FORD: Yes, Your Honor. So, my understanding
9 of first degree is that generally there wouldn't -- it
10 means there's not great bodily injury, but that there
11 could have been.

12 THE COURT: Right.

13 MS. FORD: So, I guess that -- that would apply in
14 this case too, then I would ask for that. But that's my
15 understanding that that's the distinction. So, it does
16 become difficult to look through the charges. So, but
17 we would argue because of the definition of moderate
18 bodily injury, which I have, I think you have to read
19 them both together, serious bodily and moderate in order
20 to just, you know, to, for the big picture, basically,
21 just to understand why the other charge should be
22 charged. We do think there's a possibility that a
23 reasonable jury conclude -- could include that there's
24 only moderate bodily injury.

25 THE COURT: Okay. Moderate bodily injury means

1 physical injury that involves prolonged loss of
2 consciousness or that causes temporary, or moderate
3 disfigurement, or temporary loss of the function of the
4 bodily member of organ, or injury that requires medical
5 treatment when the treatment requires the use of
6 regional, or general anesthesia, or injury that results
7 in a fracture or dislocation.

8 Moderate bodily injury does not include one-time
9 treatment and subsequent observations such as scratches,
10 cuts, abrasions, bruises, splinters, or any other minor
11 injuries that don't ordinarily require extensive medical
12 care. That will take it down to the third obviously,
13 which we're not discussing.

14 So, all right. You know, you had sought to, you
15 asked the doctor this leading question, which I'll
16 sustain the objection to because I don't think he can
17 reach a legal conclusion. I think this is truly a
18 question for the jury and, you know, I think to save the
19 issue on appeal, I mean, and given the case law, you
20 know, there is any evidence that would give even some
21 reasonable inference to the charge.

22 The case law says to find in favor of the Defense
23 and charge it. So, I'm going to charge it, but I'm also
24 going to charge it first because I don't think it's
25 proper to skip first degree, which means we're going to

1 be in here for a very long afternoon. The jury charge
2 will be quite long, so everybody can buckle up for that.

3 It also means I'm going to need another minute --
4 take a few minutes to add all this language in the
5 charge. So, apart from that request, Ms. Ford, what
6 else?

7 MS. FORD: I have nothing else, Your Honor.

8 THE COURT: Okay. All right. Well, if that's the
9 case, we'll just be working on that while you're doing
10 your closing. Obviously, Defense -- the Defendant
11 testified, which then gives the State the right to rebut
12 Defendant closing argument at the end. Who will be
13 closing on behalf of the State?

14 MS. KNOX: I will, Judge.

15 THE COURT: Okay. And on behalf of Defense,
16 Ms. Ford?

17 MS. FORD: I will, Your Honor.

18 THE COURT: You as well? Okay. I didn't know
19 Mr. Brown was going to come in. Doubtful to call it
20 today? Okay. All right.

21 MR. BROWN: (Inaudible)

22 THE COURT: Okay. All right. Well, anything else
23 from either of y'all? Of course, the verdict form will
24 reflect this change as well, a little bit longer as
25 well, but we'll get that taken care of. Anything else?

1 We're bringing the jury back in.

2 MS. KNOX: Nothing further from the State.

3 THE COURT: Okay. Y'all set? Y'all ready to go?
4 Okay. We can bring them in. Thank you.

5 (Jury enters the courtroom)

6 THE BAILIFF: All jurors present, Your Honor.

7 THE COURT: Thank you very much. Everybody can be
8 seated. All right. Ladies and gentlemen, welcome back.
9 We are now entering the final phase of the trial in
10 which the attorneys will give you their closing
11 arguments. The attorneys for the State will open with
12 those, and then the attorney for the Defense may also
13 give a closing argument, and then the attorney for the
14 State will be able to, at the very end, rebut any
15 argument the Defense attorney made during their closing
16 argument.

17 So, after those are finished, I will then charge
18 you on the law that applies to the case, and then we
19 will then release you back to your jury room to begin
20 deliberating. Once again, do not begin deliberations
21 until you are told to do so.

22 And once again, what these attorneys tell you in
23 their closing argument is not evidence. It is their
24 contention as to what the evidence is, but please keep
25 in mind that what they say is not evidence. With that,

1 I will turn it over to the State. Yes, ma'am.

2 MS. KNOX: Thank you, Judge. Good afternoon.

3 Ladies and gentlemen, for the past day-and-a-half, the
4 State has brought you 12 witnesses that have testified
5 to the evidence in this case. And I want to start off
6 by saying that what Ms. Ford said in her opening
7 statement to you yesterday is absolutely correct. This
8 does not make sense at all. This was a senseless act of
9 violence when the Defendant shot his elderly aunt in her
10 kneecap on January 4th of 2024. But he did. And the
11 State has introduced evidence and testimony and pulled
12 hard facts that can prove this beyond a reasonable
13 doubt. So, let's go back over some of those facts and
14 talk about the evidence in this case.

15 It is a fact that Ms. Juanita Dukes was shot. A
16 shell casing was recovered at the crime scene and a
17 bullet was removed from her prosthetic knee. It is a
18 fact that Ms. Juanita Dukes suffered great bodily
19 injury. You heard testimony from Dr. Reid that this
20 bullet tore through Ms. Dukes's tendon. It fractured
21 the bone in her kneecap. She underwent extensive
22 surgery for three days at the hospital and only by sheer
23 luck did this bullet lodge itself directly in that
24 couple-inch plastic part of her prosthetic knee.

25 It is a fact that this event has not only

1 traumatized Ms. Dukes but has traumatized her entire
2 family. Ms. Dukes's mobility and her sense of
3 independence will never be the same. You heard her
4 daughter testify that her mother can no longer do the
5 things that she used to do before the shooting took
6 place. That her mother would cry because she could not
7 go to the bathroom on her own and take care of herself.
8 And it is a fact that now she uses a walker and a cane,
9 something that she has never had to do before this
10 incident. It is a fact that this incident has
11 drastically changed their lives.

12 It is a fact that a black SUV matching the
13 description of the vehicle that the Defendant rented
14 from Enterprise was captured on that specific Verkada
15 camera, the one that's only a block away from
16 Ms. Dukes's home on the corner of Baker and Dover in the
17 seconds after the shooting. And as I just said, it was
18 a fact that this SUV matches the black SUV that the
19 Defendant had rented from Enterprise. And it is also a
20 fact that the Defendant stated in his interview that
21 there was no one else driving that vehicle that day.
22 And it is a fact that the Defendant was seen driving
23 this vehicle after the shooting on January 4th of 2024,
24 right before he was arrested. So, let's talk a little
25 bit about the arrest for a second and the facts of that.

1 Ladies and gentlemen, it is a fact that the
2 Defendant lives around 22 minutes from Ms. Dukes's
3 address. It is a fact that he was arrested about an
4 hour and a half after that shooting. So if you do a
5 little bit of math there, that leaves about a full hour
6 where the Defendant is completely unaccounted for. And
7 a lot could have happened in that hour time frame.

8 As it relates to the Defendant's interview, let's
9 go over some of the things that he said and that he
10 testified just hours ago. In the Defendant's interview,
11 he testified that he does not own a gun, that he had not
12 been around a gun that day, and he certainly had not
13 been around a gun that had been fired and that he did
14 not fire a gun that day. So, let's talk about the facts
15 and the science as it relates to that.

16 This morning, you heard forensic chemist and expert
17 Megan Fletcher testify that GSR becomes present on
18 someone's hands after a gun has been fired. It comes
19 from the gunpowder or the explosive reaction from
20 discharging a firearm. And Ms. Fletcher testified of
21 all the reasons why this GSR can be present and you can
22 review her testimony when you go back to delivery. But
23 in this case, Defense wants you to believe that the
24 presence of GSR found on the Defendant is a result of
25 some secondary transfer or contamination issue. But do

1 not let that fool you and do not let that distract you.

2 This GSR kit was performed following procedure.

3 The detective that took this kit was wearing gloves and
4 she testified that she had not fired a gun that day.

5 This GSR kit was analyzed by forensic scientists and
6 technicians and chemists who do not have a dog in this
7 fight. They don't know the Defendant. They don't know
8 Ms. Dukes. They know nothing about this case. Their
9 only job is to take evidence as it is given to them and
10 analyze it and provide a result. And the result that
11 this expert came to was that there was, in fact, GSR
12 residue present on the Defendant's hands only hours
13 after Ms. Dukes was shot.

14 And when the Defendant was asked to submit to a
15 gunshot residue test in this case in his interview, you
16 heard testimony that he actively refused. He was
17 uncooperative. It took three officers to do this simple
18 procedure where you just swab his hands. Takes about a
19 minute, if not less.

20 Think about why the Defendant refused this test.
21 Why did he not cooperate? He refused and he did not
22 cooperate because he knew what those results were going
23 to show. He knew that he had gunshot residue on his
24 hands because only a few hours earlier the Defendant had
25 handled a gun when he shot Ms. Dukes, his 84-year-old

1 aunt. And he did not want to submit to that GSR because
2 he knew that there was going to be GSR present on his
3 hands. And there was.

4 Let's talk a little bit about Ms. Dukes and her
5 testimony to you. From the very moment Ms. Dukes was
6 shot, she has been unwavering and consistent of the
7 identification that her nephew had been the person who
8 had shot her that day. She has said it over and over
9 and over and over, not only to you under oath, but to
10 law enforcement for 524 days.

11 Ms. Dukes called three family members in the
12 seconds after she was shot. She called her sister and
13 said, "Boo had shot me, come quick." She called her
14 daughter and said, "Boo had shot me, come quick." And
15 she called her son and also said, "Boo shot me, come
16 quick." Ms. Dukes told 911 that she knows who shot her.
17 It was her doggone nephew. And that it was the
18 Defendant.

19 She also told responding officer, Officer Winn,
20 when he asked her, who shot you? And this time she said
21 the defendant's name, Kenneth Miller. And then when the
22 officer asked her again, can you repeat that? She said,
23 "Kenneth Miller." She did not hesitate.

24 And then finally, even after extensive surgery, and
25 nine days later, admittedly Ms. Dukes did not want to

1 talk about this incident again, but she agreed to
2 identify formally who that shooter was. And once again,
3 ladies and gentlemen, she identified her nephew, the
4 Defendant, Boo, as the person who shot her.

5 Believe her. Because Defense counsel wants you to
6 believe that Ms. Dukes is mistaken. And that someone
7 else is responsible for this crime. And it must have
8 been someone else, whether that be due to Ms. Dukes's
9 age, or whether that be to her memory, or because
10 Ms. Dukes wasn't wearing her glasses that morning that
11 she was shot.

12 Defense counsel wants you to believe that Ms. Dukes
13 cannot recognize a family member who she has known for
14 42 years, standing five feet in front of her. That is
15 what does not make sense. Ms. Dukes knows what the
16 Defendant looks like. She knows his face. She knows
17 his complexion. She knows his height. She knows the
18 way that he walks. She knows the way that she talks.
19 She knows his voice.

20 And Defense counsel wants you to believe that not
21 only can Ms. Dukes not identify her family member
22 standing right in front of her, but that when Boo came
23 into her house and said, "Hi, Auntie Nita", that she
24 could not recognize her own nephew's voice. That's
25 absurd. That's a distraction.

1 And even more so, Ms. Dukes told you that Boo would
2 come over to her house every three or four months before
3 the shooting, and that she had just seen him merely five
4 weeks prior at Thanksgiving dinner.

5 Ms. Dukes spoke to and saw the person who shot her
6 in the months and the weeks before she was shot. And
7 she spoke to and saw the person who shot her on January
8 4th of 2024. And she has told you over and over and
9 over again who that person was, and that is the
10 defendant, Kenneth Miller, who goes by Boo, who has gone
11 by Boo his entire life, whose family refers to him only
12 as Boo.

13 Believe her. As it relates to the charges that the
14 Defendant is currently sitting trial. One of those
15 charges is assault and battery of a high and aggravated
16 nature, which is a statutorily violent crime in the
17 state of South Carolina. And the judge will instruct
18 you on that law when you go back to deliberate.

19 But briefly, the State must prove to you that there
20 was an unlawful injury that was accompanied by the means
21 likely to produce great bodily injury and death. And
22 the State has proven that to you throughout this trial
23 beyond a reasonable doubt. But what's really important
24 as it relates to the elements of this crime is the
25 element that the State does not need to prove to you.

1 And that is the reason why this happened.

2 You may have heard discussion about a door or a
3 backpack, but those things don't matter. They really do
4 not matter. They are not required to be shown or proved
5 to you as it relates to these crimes. The State does
6 not need to prove a reason for why this happened or a
7 motive or why this crime occurred. So do not let the
8 why of it all distract you because again, this was
9 senseless. It does not make sense. The why of all of
10 this, the why this happened, it doesn't make sense. And
11 we don't need to tell you why or prove that to you
12 because that is simply not an element of the crime that
13 he is charged with.

14 As it relates to the two weapons charges that the
15 Defendant is charged with, the first being possession of
16 a weapon during the commission of a violent crime. As I
17 just stated, ABHAN or assault and battery of a high and
18 aggravated nature is a statutorily violent crime in
19 South Carolina. And there does not need to be a gun
20 recovered for you to find the Defendant guilty of this
21 charge.

22 Ms. Dukes told you that she saw a gun. Not only
23 did she see a gun, but she knows the color of this gun.
24 She said that she saw a silver gun. She knows what a
25 gun looks like. She has seen a gun before. There was a

1 shell casing recovered at the scene and a bullet removed
2 from her kneecap. And there was GSR, gunshot residue
3 present on the Defendant's hands mere hours after she
4 was shot.

5 In addition, the Defendant is also charged with
6 possession of a weapon by a person who is prohibited by
7 law. And you heard that the Defendant has a conviction
8 that makes him prohibited from possessing a firearm.
9 This Defendant knows that he was prohibited from
10 possessing a firearm, but this did not stop him from
11 having a gun and discharging that gun to his elderly
12 aunt on January 4th of 2024. And although there was no
13 gun recovered in this case, again, there doesn't need to
14 be. Every other piece of evidence points to the same
15 person. And that is Boo. That is the Defendant.

16 Finally, ladies and gentlemen, this has never been
17 a who-dun-it case. It never has been, and it never will
18 be. Even after this trial concludes, this will never be
19 a who-dun-it case because we know who did it.

20 And again, it does not make sense. None of this
21 has made sense and it never will, but it doesn't have to
22 make sense because the evidence and the testimony that
23 has been provided to you in this trial speak for itself.
24 And because the State has proved to you beyond a
25 reasonable doubt that this Defendant is guilty of the

1 crimes that he is charged with.

2 And so when you go back to delivery, all the State
3 is asking you to do is to believe Ms. Dukes, believe her
4 testimony, and hold this Defendant accountable for the
5 senseless act of violence.

6 The State asks you to find the Defendant guilty of
7 assault and battery of a high and aggravated nature. We
8 ask you to find the Defendant guilty of possession of a
9 weapon during the commission of a violent crime. And we
10 ask you to find him guilty of a person, possession of a
11 weapon by a person who is prohibited by law from
12 possessing one. Thank you.

13 THE COURT: Okay. Ms. Ford, I am happy to hear
14 from you.

15 MS. FORD: Thank you. At the beginning of this
16 trial, I told you that it was easy for some people to
17 just take things at face value, to not ask questions, to
18 not consider other possible leads. And when you heard
19 from the case agent, Detective Steinbrunner, it's very
20 clear that that is what was done in this case, the case
21 against Kenneth Miller.

22 No one is disputing that Ms. Dukes was shot. No
23 one is disputing that after she was shot, she told
24 police from the beginning that she believed that it was
25 Kenneth Miller who she called Boo. No one's disputing

1 that's what she said. But just because she said it, it
2 doesn't make it true.

3 Detective Steinbrunner refused to even consider the
4 possibility that something may have happened. That
5 Juanita, a person she had not even met yet at the time
6 Kenneth was arrested, that maybe, just maybe, she had
7 been mistaken that she had gotten it wrong. Because
8 Juanita Dukes was wrong that day. At the end of the
9 day, things just don't make sense.

10 And Ms. Knox is right that they don't have to prove
11 a motive or why this happened. However, that doesn't
12 mean that that is irrelevant. It is very relevant
13 because it goes to helping you use your common sense,
14 which the judge will tell you about when she charges you
15 later, in determining the credibility of witnesses, in
16 determining what makes sense, in determining criminal
17 intent. In this case, there is absolutely no indication
18 that there was any kind of bad blood between Juanita
19 Dukes and Kenneth Miller.

20 And also, ultimately, there's plenty of reason to
21 question the credibility of Ms. Dukes. And it's not
22 because she's making some active decision to lie, to
23 falsely accuse Kenneth of doing this. That's not what
24 we're saying. But if you look at everything, including
25 what she said then, what she's saying now, it just

1 doesn't add up. And there are a lot of holes.

2 Now, the Solicitor at the beginning, in the
3 opening, she described Juanita as, I think her word was
4 sassy. I think it was probably evident on the stand
5 that she's someone who tries to maybe minimize her
6 shortcomings. And that's fair. But I think you could
7 see she readily admitted, no, I don't like to use my
8 walker. Her daughter testified, "Oh, she has to use her
9 walker and I have to remind her to use her walker."

10 Her daughter said, she wasn't supposed to cook and
11 clean. Juanita said, "Yeah, I was cooking and I was
12 cleaning." Juanita is an active lady. It's fair. She
13 doesn't let things, you know, she tries to make the best
14 of situations. But she doesn't like to acknowledge
15 shortcomings. And how we know that is that when I asked
16 her about her glasses, she had previously said, "Oh,
17 these glasses, they're only for reading."

18 But when I questioned her, I reminded her that just
19 the day before, she had told the court that her glasses
20 were actually for reading and for distance. So, she
21 tried to hide that. She tried to minimize that because
22 she knew from being questioned the day before that that
23 was an issue. She tried to minimize her issues with
24 that sight.

25 She had just woken up that morning. She hadn't put

1 her glasses on. I know I wear contacts. I wear glasses
2 when I don't have my contacts on. And when I wake up, I
3 do the same. I don't put my glasses on right away. I
4 could walk around the house. But my eyes are horrible.
5 And I certainly can't distinguish people or things. I
6 can walk around fine, but my eyes are horrible. And I
7 don't know exactly her eyesight, of course. But when
8 the Solicitor had her take off her glasses and say she
9 could see her, there was no -- we have no way of knowing
10 what she actually could have seen specifically. But
11 again, we do know she tried to hide that she needed
12 glasses for distances.

13 We were told that she's really, she only would see
14 Kenneth a couple of times a year. I believe her
15 testimony was every five or six months. Okay. So on
16 this day, we also -- we also heard that her doors were
17 always open. She didn't keep them locked. That people
18 would come and go. She's been living at this house for
19 many, many, many years. So probably this was widely --
20 widely known in the neighborhood that Juanita Dukes, she
21 always has her door open. It's very possible that
22 somebody tried to take advantage of that.

23 She told us that a man came in. She didn't have --
24 she wasn't expecting anybody. She specifically said she
25 was not expecting Kenneth. There was no indication that

1 he was coming over. And she claims that this man had
2 cornrows. Now, she never said that earlier. This week
3 was the first time she ever said that. He had cornrows.
4 And yes, she knew from prior, previously seeing Kenneth
5 and from the photos she was shown of Kenneth that she
6 told you about and that Detective Steinbrunner told you
7 about, that he had corn rows in that picture. But maybe
8 she thought it was Kenneth because of the cornrows.

9 Now, she claims he called her auntie. But she
10 never said that before. When she talked to police, that
11 never came up. What we do know is that certain things
12 she did tell police, certain things that actually seem
13 like they could be pretty big, she doesn't recall those
14 things at all. So why would she remember this specific
15 thing about auntie?

16 She's just, again, I'm not saying she's
17 specifically trying to lie, but she's going back. And
18 as we all do when we're trying to remember things, we
19 try to just think of things to put things together of
20 how it must have happened. But she never told anyone
21 that before, that this person called her auntie.

22 Now, what was different? What are the things she
23 couldn't remember? Now, when she testified, she didn't
24 mention anything about a bag. When I asked her, didn't
25 you tell police that the man demanded some type of bag?

1 She didn't say, "Oh yeah, that's right, I do recall
2 that." She denied it. She's like, "No, where's that
3 from?"

4 But you heard from Officer Winn. After this
5 happened, when he was on scene, when she was being seen
6 by EMS, she told them, yeah, he asked for this bag.
7 There's absolutely no reason to think that Officer Winn
8 would have made that up. So why didn't she remember
9 this bag? That seems pretty important. That supposedly
10 before this happened, someone demanded a bag.

11 And then we have her daughter, Tasha. So, when she
12 testified, I asked her, "Oh, wasn't Tasha banging on the
13 wall?" And she's like, "What are you talking about?"
14 So again, it's not that she was like, "Oh yeah, I do
15 recall that." She said she acted completely surprised
16 and denied it. But we know that did happen because we
17 could hear on Officer Winn's body cam that Tasha, you
18 could definitely hear her knocking on the wall. And he
19 also testified that he went back and he talked to her.
20 So again, Juanita doesn't remember those pretty
21 memorable things.

22 So, also in this trial, she's told us that the man
23 approached her when she came out of the bathroom. Okay.
24 So the bathroom, she described where it was in the
25 house. The bathroom is between her room and Tasha's

1 room. She told us that the two rooms are across from
2 one another. She said the man approached her then,
3 supposedly that's when he said, "Hi, Auntie." And then
4 he walked her through the house by her side.

5 Well, you heard from Officer Winn that when -- that
6 when he went to speak to Tasha, her bedroom door was
7 open. And we heard from multiple people that it would
8 have been possible for her to have opened that. So even
9 though her bedroom door was open and supposedly Kenneth,
10 whom Tasha knows, approached Juanita right outside, she
11 didn't hear anything. She didn't hear Kenneth --
12 nothing. Again, this story just doesn't make sense.

13 All of these go to paint the picture. Not that
14 Juanita's trying to lie, but that things just don't add
15 up. And the truth of the matter is that she doesn't
16 remember things clearly. And it's very possible that
17 she could have mistaken someone for Kenneth, someone who
18 she only saw a couple of times a year, but a couple of
19 times a year at this point. This makes no sense.

20 And again, the State doesn't have to prove to you
21 why this happened, but it is a very important
22 consideration in determining what is believable and what
23 is reasonable and what is reasonable doubt. There's
24 absolutely nothing tying Kenneth Miller to North
25 Charleston that day, despite the many, many tools that

1 the police have access to.

2 The most the State has to show that Kenneth was in
3 North Charleston is the surveillance footage of a car.
4 Now, they believe it's a Toyota 4Runner, but there's
5 nothing to say, even if it was a 4Runner, that that car
6 belonged to Kenneth. What we know is that Juanita never
7 said that the man who shot her ran to an SUV outside.
8 Nobody says the shooter got in an SUV. There's no
9 neighbor, there's no ring camera footage showing someone
10 run to an SUV. For all we know, this person could have
11 left on foot. And we also know this camera just has
12 that one angle right there, there are different paths
13 around Juanita's neighborhood. We have no reason to
14 necessarily think that the person who shot Juanita even
15 went in that direction.

16 The police, they took his phone into evidence that
17 day. You heard that they got a search warrant for his
18 phone records. No evidence that anything in his phone
19 ties him to North Charleston that day or to this crime.
20 You heard from Sergeant Ranck of North Charleston.
21 There are 586 cameras in North Charleston, 586. And on
22 top of that, you heard about the Flock cameras. So
23 there are a lot of cameras. And yet on none of those
24 cameras, they could not find Kenneth Miller's 4Runner.
25 They couldn't find it because it wasn't there.

1 You heard from Agent Cestare, Special Agent
2 Cestare, that he looked and he only found a 4Runner with
3 a local license plate. Kenneth, who was renting his car
4 due to the recent accident, he had an Illinois license
5 plate. That car, Kenneth's car, was not in North
6 Charleston that day. There was a 22-minute drive, as
7 the Solicitor told you. I believe Detective
8 Steinbrunner may have testified, depending on traffic,
9 20 to 30 minutes. That's a long way. You're telling me
10 nowhere during that time frame, either in North
11 Charleston or Goose Creek, there couldn't have been a
12 camera that could have picked up Kenneth's car if
13 Kenneth's car really was driving from Juanita's house to
14 Goose Creek. It's not there because it didn't happen.

15 And when Agent Cestare, he basically kind of
16 indicated he thought maybe it was a 4Runner, but he gave
17 a 10-year range that it could have been a 4Runner in
18 anywhere in the 10-year range, and he said he couldn't
19 be 100 percent sure. So that's it. That's the
20 connection to North Charleston.

21 So what else do we know? Well, Juanita, one of the
22 things that she did say at the beginning, and she's
23 remained consistent on, is that the man was wearing
24 khaki pants and a burgundy shirt. So, both are fairly
25 common colors. Black or burgundy, not as common as some

1 other colors, but it certainly can be, it's not unusual.
2 Khaki pants are very common. So, Kenneth was wearing,
3 he did have some khaki colored pants, but he had a black
4 shirt on. So, there was no burgundy shirt recovered
5 from his car, no burgundy shirt recovered from his
6 house. He was wearing black. And while people could
7 easily confuse colors, generally it goes in the
8 direction of, oh, there's a dark color, it's probably
9 black. You go in that direction. You make black as the
10 default. Probably you wouldn't see black and think, oh,
11 maybe it's burgundy. Just usually doesn't work that
12 way.

13 We also know there was no gun. There was no gun on
14 Kenneth. There was no gun in Kenneth's car. There was
15 no gun in Kenneth's house. And while the State made a
16 big deal about, oh, he could have done something with
17 it. Well, the police, sure, they didn't make any effort
18 to even go the path that he would have had to have gone
19 if he had been at one of his house to look to see if a
20 gun had been thrown. They didn't do anything to locate
21 this gun. They couldn't find a gun because Kenneth
22 didn't have a gun.

23 So in this case, we also have the GSR. Now,
24 Ms. Fletcher, she testified that from the kit she was
25 given, she did find GSR. But what else did she testify

1 to? So police don't even bother to look for GSR if it's
2 been more than six hours. Not because that's a magical
3 number, but because based basically on wear and tear,
4 people wash their hands and they do all sorts of things.
5 It's really just pointless to try to get anything after
6 that long. The GSR just doesn't magically go away. A
7 GSR can easily go away, though, from washing, from going
8 to the bathroom like Kenneth did long before his hands
9 were tested. And it can be transferred. You heard from
10 multiple people, Detective Steinbrunner even admitted it
11 can be transferred. When the Solicitor tried to get
12 Ms. Fletcher to basically say that because gunshot
13 residue was on Kenneth's hands, well, that means he shot
14 a gun, that's not true.

15 Actually, Ms. Fletcher was very clear on that. If
16 you have a gunshot residue now, it could mean that he
17 shot a gun. It could mean that you were shot. It could
18 have meant that you were in the vicinity of a gun when
19 it was fired. Or it could have been from transfer.
20 Gunshot residue can easily transfer from person to
21 person, from person to object, from object to person.
22 It's picked up.

23 In fact, you heard from the people from SLED when
24 they have -- they have their lab where they do the
25 testing. They don't allow firearms in the lab at all.

1 Not only that, they don't allow people in that room if
2 they've been anywhere near a gun. Not necessarily a gun
3 that's been fired, but just a gun. Because they're
4 super sensitive about, or they can be very sensitive,
5 and they don't want to take any risk in any kind of
6 contamination.

7 So, what do we know about what was going on with
8 Kenneth that morning and that afternoon? Well, Kenneth
9 was in Goose Creek when he was arrested at his home.
10 Numerous officers were there. I believe he said he
11 thought 10 officers were there. He was arrested.
12 Obviously, he was handcuffed. So, you've got, that's at
13 least one officer who was touching his hand area. He
14 goes to the police station to be interviewed.

15 You heard from Detective Steinbrunner. There was
16 initially, before the interview, there was a male
17 detective who not only patted him down, but who
18 specifically took his handcuffs from the back to the
19 front. Then she told us that she, by the way, to
20 acknowledge, she was not wearing gloves when she was at
21 the crime scene. She was literally in the area where
22 someone had been shot, which she was not wearing gloves.

23 And she told us how before she did the GSR kit, she
24 did not have gloves on and she uncuffed him from the
25 front and then moved his hands to the back so he could

1 be handcuffed to the back. She never put on gloves
2 until the moment she actually tried to do -- to take the
3 GSR sample.

4 So, we know for certain that there were at least
5 three officers who were handling his hands in this
6 handcuffing process. And then we have the other two
7 male detectives who were there helping Detective
8 Steinbrunner get the kit done. They're all four in this
9 close quarters and she's doing her best. This was not a
10 clean swab. She's doing her best trying to get to his
11 hands.

12 Now, the State will initially -- actually Detective
13 Steinbrunner, okay, when she testified about taking this
14 GSR, she told you all, "Oh yeah, he wouldn't cooperate.
15 He refused. I had to get these other officers in." But
16 she left out the rest of the story. So, when I
17 questioned her, she readily admitted it's not a dispute.
18 Well, no, actually he did agree. He is just
19 conditional. He said, "I'll let you take it. But I
20 just want to watch the search warrant being done."

21 Now, I brought that out not to say, oh, the police
22 did something bad by not letting him do that. That's
23 not the point. Kenneth isn't in law enforcement.
24 Kenneth isn't an attorney. He just wants to be able to
25 watch the search warrant being executed to make sure

1 there's no funny business. And he made it clear, it
2 came up multiple times, I have no problem cooperating.
3 I just need -- I just want to watch this thing being
4 done.

5 So, for the Detective Steinbrunner to leave that
6 out, and then for Ms. Knox to leave that out, which she
7 just spoke to you a few minutes ago, to just completely
8 ignore that and to make it seem like he just wouldn't
9 cooperate and he must have, it must be because he was
10 trying to hide something that is misleading and unfair
11 and just goes to the point that they're not even willing
12 to consider anything else.

13 Ultimately, GSR being found in that kit, through
14 that kit, that does not mean it's because Kenneth Miller
15 fired a gun. It means it's because he was in the
16 vicinity of gunshot residue, which could have come from
17 all sorts of methods his way, including from all of
18 those officers.

19 Kenneth also, he tried to tell them what they could
20 try to do and they just ignored it. No, we're not even
21 going to bother. We got the guy. We don't care. When
22 Kenneth was interviewed, he told them, yeah, I just came
23 from the Speedway. Did they bother to report? Nobody
24 did it. Detective Steinbrunner tried to act like she
25 did, but when I questioned her, it was clear, because

1 she only tried to hear a leader who obviously was gone
2 after the solicitors mentioned it. She didn't bother.
3 Maybe that would have helped establish a timeline --
4 timeline of some sort.

5 He told her multiple occasions, why don't you go
6 talk to my neighbors? They would know, you know, maybe
7 when I came and went. She didn't bother to try. She
8 had her mind made up and refused to consider anything
9 else. Kenneth was nothing and no one to them, but he's
10 here today to assert his innocence. He got on that
11 stand and just like he told Detective Steinbrunner, he
12 told you, "I did not shoot my aunt. Don't know who did,
13 don't know what's going on, but I didn't do it."

14 In this case, would a reasonable person hesitate?
15 Based on Juanita Duke's credibility, again, not saying
16 she's lying, but there's just a lot of issues going on
17 there. Would a person -- reasonable person hesitate
18 based on the fact that this whole thing just makes no
19 sense about why Kenneth would shoot his aunt based on
20 absolutely no reason given? None of that makes sense.
21 A reasonable person would hesitate to act.

22 And the State has not proven that Kenneth is guilty
23 beyond a reasonable doubt, which is a very high burden.
24 They haven't proven it and they can't prove it because
25 Kenneth did not shoot Juanita. He's not guilty and we

1 would ask for that to end. Thank you.

2 MS. KNOX: I'm just going to address a couple of
3 things in Ms. Ford's closing to you. Starting with,
4 Ms. Dukes did not get this wrong. This is not a result
5 of a botched investigation. The detective in this case
6 believed her when she identified the Defendant.

7 MS. FORD: Objection. Vouching.

8 THE COURT: Overruled.

9 MS. KNOX: This is not the result of a botched
10 investigation. The detective in this case believed her
11 when she identified the shooter. There were no other
12 suspects to be investigated because there didn't need to
13 be.

14 And regarding that investigation in general,
15 Defense counsel keeps bringing up these Flock cameras
16 that were not canvassed and checked, over 500 cameras.
17 This is because Detective Steinbrunner testified that
18 there were no flat cameras on the Defendant's most
19 direct route home.

20 As it relates to Ms. Ford's testimony -- or excuse
21 me, her closing, that two other officers and
22 Ms. Steinbrunner were touching the Defendant's hands
23 when he was getting that GSR kit taken. Detective
24 testified that she had not shot a gun. Those two other
25 officers, to the best of her knowledge, had not shot a

1 gun. And again, feel free to review Ms. Fletcher's
2 testimony and you can be the deciding factor in that.

3 As it relates to the Defendant being adamant about
4 watching that search warrant being executed at his house
5 is the same reason why he was so uncooperative with that
6 GSR kit. And that's because he was so worried about
7 what was going to be found. He wanted to watch that
8 search warrant to make sure that he kept that gun hidden
9 and that it would not be found.

10 And Defense's job is to simply distract you. It's
11 to poke holes in the state's theory and the victim's
12 testimony. It's to confuse you. But the evidence here
13 is clear as day. And Defense counsel wants you to
14 believe that Ms. Dukes has been lying for 524 days
15 because she had -- is stubborn, that she cannot
16 recognize a family member standing five feet in front of
17 her face, and that she does not recognize her own
18 nephew's voice. And to that, I would just say, that's
19 offensive.

20 Ms. Dukes is reliable. She is credible. And she
21 is absolutely traumatized not only from being shot, but
22 from getting up on that stand and testifying in front of
23 a room full of strangers about the worst day of her
24 life. That is traumatizing. And when you are
25 traumatized, you forget details as it relates to what

1 happened to you. But she did not forget the one thing
2 that matters, and that is the person who shot her. She
3 may have forgotten small details, but that is simply
4 because she is traumatized, as she should be. There is
5 no reason why her family member walked into her home
6 that day and shot her in her kneecap.

7 Before you go back to deliberate, I'll just leave
8 you with one more thought. And that is to think about
9 what motive is there for Ms. Dukes to lie to you and to
10 lie to law enforcement? What does that benefit her? If
11 anything, this entire thing has torn that family apart.
12 Ms. Dukes's closest person in her life, aside from her
13 daughter, is Ethel Nelson.

14 MS. FORD: Objection. Not in evidence.

15 THE COURT: I'll allow it. I was already informed
16 this isn't evidence, this is just argument. Go ahead.

17 MS. KNOX: Aside from Chante Dukes, her daughter,
18 the closest person in Ms. Dukes's life is Ethel Nelson.
19 That is the Defendant's mother. Why would she frame her
20 sister's son for this crime if it did not happen? Why
21 would she come up here and testify in front of you if
22 that did not happen? This, as I just said, has torn
23 this family apart. It has not been easy for anyone in
24 this family. So, why would she be so adamant and
25 consistent that Boo shot her if that was not the truth?

1 It's because it is the truth. There's -- there's no
2 other suspect. There is no other truth to be found.
3 Ms. Dukes did not lie to you. She did not lie to law
4 enforcement. She told the truth. Believe her.

5 The Defendant, on January 4th of 2024, walked into
6 Ms. Dukes's home around 10 A.M. He said, "Hi, Auntie
7 Nita", a voice that Ms. Dukes recognized. They stood
8 face to face in front of each other and he shot her in
9 her knee. She saw the gun, she described the color of
10 it. She would not lie about that and she did not lie
11 about that because that is what happened. That is the
12 truth.

13 And so the State is simply asking you, when you go
14 back to deliberate, to think about that and simply use
15 your common sense and believe her. Believe her
16 testimony and be her voice. And render the only ---

17 MS. FORD: Objection.

18 THE COURT: Sustained. Go ahead.

19 MS. KNOX: We just ask you to render the only
20 appropriate verdict in that case and that is to hold
21 this Defendant accountable for shooting his elderly
22 aunt.

23 And to just simply address what Ms. Ford also said,
24 that the Defendant denied being the shooter. Of course
25 he denied being the shooter. Why would he admit that

1 he, a grown 42-year-old man, purposely shot his elderly
2 aunt in his knee? That's embarrassing. Why would
3 anyone admit to that?

4 The State is asking you to hold him accountable.
5 The State is asking you to deliberate and find him
6 guilty of assault and battery of a high and aggravated
7 nature. Find him guilty of possession of a weapon
8 during the commission of a violent crime and find him
9 guilty of possession of a weapon by a prohibited person.
10 Thank you.

11 THE COURT: All right. Thank you so much. We will
12 move on to the last phase of the trial. Ladies and
13 gentlemen, during this trial, you and I have had certain
14 duties to perform as the trial judge. It's been my
15 responsibility to preside over the trial of this case.
16 I've also had the duty to rule in the admissibility of
17 the evidence which has been offered during the course of
18 this trial. You are to consider only the evidence
19 before you.

20 If there were any testimony or stricken from the
21 record in this case during this trial, you must
22 disregard that testimony. You are to consider only the
23 testimony which has been presented from the witness
24 stand and any exhibits which have been made a part of
25 the record in this case as well as any stipulations of

1 counsel. I have the additional duty to charge you the
2 law that applies to this case.

3 As the presiding judge, I'm the sole judge of the
4 law in this case and it's your duty as jurors to accept
5 it and apply it as I now state it to you. If you
6 already think you have an idea as to what the law is or
7 what it should be and it doesn't agree with what I tell
8 you the law is, you must abandon that idea because you
9 are sworn to apply the law and accept it exactly as I
10 state it to you. You will notice I am reading this
11 portion and that is so I give you the law accurately.

12 In every case tried in this court before, a jury
13 becomes the sole and exclusive judge of the facts in a
14 case. A trial judge cannot comment on or make any
15 statement to a jury about the facts in a case.

16 Since you, the jury, are the sole judge of the
17 facts in this case, do not think from anything I have
18 said during the course of this trial or from my ruling
19 that I have any opinion about the facts in this case. I
20 can assure you I do not. This is a matter solely for
21 you, the jury, to determine as jurors, it is your duty
22 to determine the effect, the value, the weight, and the
23 evidence presented during this trial.

24 Now, at the outset of the trial, I told you I was
25 going to appoint a foreman. The foreman in my trial is

1 always the person sitting in that seat right there, so
2 tell me, yep, don't look behind you, it's you. What's
3 your jury number?

4 JUROR NUMBER 88: Eighty-eight.

5 THE COURT: Eighty-eight. You won't have any
6 greater weight of a vote than anybody else. It simply
7 means you'll be the one to sign the form at the end;
8 okay?

9 Now, ladies and gentlemen, as the sole fact
10 finders, you should have listened closely to the
11 evidence presented during the trial. Now, weighing the
12 evidence is entirely a mental process. You must weigh
13 the evidence using your good judgment and your common
14 sense.

15 Ladies and gentlemen, cases can be presented, or
16 evidence can be presented, in one of two ways, direct
17 evidence or indirect evidence, which we also call
18 circumstantial evidence.

19 Direct evidence is when someone comes in and
20 testifies to the commission of a crime that they
21 perceived through their own senses. For example, if the
22 witness saw someone commit a crime.

23 Indirect evidence or circumstantial evidence is
24 when someone testifies to different events that
25 occurred, and when you link them all up, they point to

1 the commission of a crime.

2 One or both methods can be used to present a case.
3 Crimes may be proven by circumstantial evidence. The
4 law makes absolutely no distinction between the weight
5 or value to be give -- to be given to either direct or
6 circumstantial evidence, nor is a greater degree of
7 certainty required of circumstantial evidence than of
8 direct evidence.

9 However, to the extent the State relies on
10 circumstantial evidence, all of those circumstances must
11 be consistent with each other, and when taken together,
12 point conclusively to the guilt of the accused beyond a
13 reasonable doubt. If these circumstances merely portray
14 the Defendant's behavior as suspicious, the proof is
15 failed.

16 The State has the burden of proving the Defendant
17 guilty beyond a reasonable doubt. This burden rests
18 with the State, regardless of whether the State relies
19 on direct evidence, circumstantial evidence, or some
20 combination of the two. The evidence you are to
21 consider consists of the testimony of the witnesses from
22 that witness stand and any exhibits that have been
23 offered and received during the trial.

24 Objections and rulings and matters that may have
25 been excluded from the record are not to be considered

1 by you in any fashion. If it appears to you that I have
2 made any comments about the case during this trial, you
3 must disregard that.

4 Also, and I'm going to remind you that the remarks
5 of the attorneys are not evidence. Their statements and
6 arguments are intended to help you understand the
7 evidence and apply the law, but you should disregard any
8 remark, statement, or argument which is not supported by
9 the evidence or the law as given to you by the Court.

10 So, how do you decide the facts of a case? You
11 simply do it through the exercise of your good judgment,
12 the application of your common sense, your sense of
13 logic and reason, and your everyday experiences in life.
14 Every day in your lives, you judge credibility. You
15 make decisions every day with regard to whether people
16 are believable, persuasive, convincing, or not. You do
17 the same thing as a juror.

18 In deciding believability, you might consider what
19 was the manner and the appearance of the witness who
20 testified. Was he or she straightforward or hesitant in
21 answering? Was the testimony of the witness consistent
22 or was it inconsistent? How did the witness come to
23 know the facts that he or she testified to? Or what was
24 their ability to know these facts? Is there some reason
25 a witness would want to give testimony that would help

1 or hurt one side or the other? In other words, was the
2 witness biased or prejudiced?

3 In determining the question of credibility or
4 believability of the witnesses, you may believe one
5 witness is over several or several witnesses over one.
6 You may believe part of the testimony of a witness and
7 reject the remaining part of the testimony of that same
8 witness. You might believe the testimony of a witness
9 in its entirety or reject the testimony of a witness in
10 its entirety. You are to consider all the evidence in
11 this case and determine what you believe to be the facts
12 of this dispute.

13 If you believe there has been evidence presented
14 that witnesses have made prior statements which are not
15 consistent with the witness's present testimony, you may
16 use this evidence to decide whether to believe the
17 witness. You may also use evidence of the earlier
18 contradictory statements to determine the truth of those
19 statements. It's up to you to decide whether to believe
20 the earlier statements or the testimony at trial.

21 If a witness is shown to have knowingly testified
22 untruthfully concerning any material matter, you may
23 consider this in determining whether to trust the
24 witness's testimony as to other matters. You may reject
25 all testimony of that witness or give all or part of the

1 testimony the weight that you think it deserves.

2 As I stated during the trial, the rules of evidence
3 ordinarily don't permit witnesses to testify to opinions
4 or conclusions. Now, we have an exception to this rule
5 that exists for witnesses we call expert witnesses. A
6 witness who, by education and experience, has become an
7 expert in some art or science may state an opinion as to
8 the relevant and material matter in which the witness
9 claims to be an expert in. They can also state the
10 reasons for that opinion. You should consider any
11 expert opinion received in the evidence, and like any
12 other evidence. Give it the weight you think it
13 deserves.

14 If you decide the opinion of an expert is not based
15 on education or experience that's sufficient, or if you
16 conclude the reasons given in support of the opinion are
17 not sound or that the opinion is outweighed by other
18 evidence, you can disregard that opinion entirely. An
19 expert witness's testimony is to be given no greater
20 weight than that of any other witness, simply because
21 that witness is an expert. Furthermore, you are not
22 required to accept an expert's opinion, even if it is
23 uncontradicted.

24 An issue in this case is the identification of the
25 Defendant as the person who committed the crime charged.

1 The State has a burden of proving identity beyond a
2 reasonable doubt. You must be satisfied beyond a
3 reasonable doubt of the accuracy of the identification
4 of the Defendant before you may convict the Defendant.

5 Identification testimony is an expression of belief
6 or impression by a witness. You must determine the
7 accuracy of the identification of the Defendant. You
8 must consider the believability of each identification
9 witness in the same way as any other witness. You may
10 consider whether the witness had an adequate opportunity
11 to observe the offender at the time of the offense.
12 This will be affected by things like how long or short a
13 time was available, how far or close the witness was,
14 the lighting conditions, and whether the witness had the
15 chance to see or know the person in the past.

16 Once again, I instruct you that burden of proof is
17 on the State, and this extends to every element of the
18 crime charge, and this specifically includes the burden
19 of proving beyond a reasonable doubt the identity of the
20 Defendant as the -- as the person who committed the
21 crime. If, after examining the testimony, you have a
22 reasonable doubt as to the accuracy of the
23 identification, you must find the Defendant not guilty.

24 Now, when I use the word Defendant, I refer to
25 Mr. Kenneth Miller, Jr. The Defendant here has been

1 accused in what we call indictments. Those, as I
2 explained at the outset, are just pieces of paper on
3 which accusations against defendants are placed.

4 Indictments are not evidence in the case. The
5 indictments in this case allege several different
6 offenses against the Defendant. The charges are assault
7 and battery of a high and aggravated nature, possession
8 of a weapon during the commission of a violent crime,
9 and possession of a weapon by a person prohibited by
10 law. You must decide each charge separately on the
11 evidence and the law that applies to it, uninfluenced by
12 your decision as to any other charge. You will be asked
13 to write a separate verdict of guilty or not guilty for
14 each indictment.

15 Now, to these indictments, the Defendant has
16 rendered a plea of not guilty, which then places upon
17 the State the burden of proving beyond a reasonable
18 doubt that the Defendant is guilty.

19 In this state and in this country, a person who is
20 accused of a criminal offense is never required to come
21 in and prove himself or herself innocent. This
22 principle of law is called the presumption of innocence.
23 Each of you is required under our law and by your oath
24 to actively presume that the Defendant is not guilty.

25 The presumption of innocence is maintained at all

1 times throughout the trial of this case and is only
2 removed when if the State brings in enough evidence to
3 persuade you beyond a reasonable doubt that the
4 Defendant is guilty.

5 So what is reasonable doubt? A reasonable doubt is
6 a doubt that makes an honest, sincere, conscientious
7 juror hesitate to act. Proof beyond a reasonable doubt
8 is proof that leaves you firmly convinced of the
9 Defendant's guilt. There are very few things in this
10 world that we know with absolute certainty, and in
11 criminal cases, the law does not require proof that
12 overcomes every possible doubt.

13 If, based on your consideration of the evidence,
14 you are firmly convinced that the Defendant is guilty of
15 the crime charged, you must find him guilty. If, on the
16 other hand, you think there is a real possibility that
17 he is not guilty, you must give him the benefit of the
18 doubt and find him not guilty.

19 Now, I have the additional duty to charge you the
20 law that applies to the case and to the indictments
21 that's charged. As the presiding judge, I am the sole
22 judge of the law in this case and it's your duty as
23 jurors to accept it and apply it as I now state it to
24 you. As I've already told you, you are to determine the
25 facts as we call them in the case.

1 When it comes to the law, though, you have to
2 accept the following legal principles as I now give them
3 to you. You obviously can't change the law. You just
4 take the law as I give it to you, you find the facts as
5 you see them, and then you apply the law to those facts
6 and that's how you reach a verdict.

7 The Defendant has been charged with assault and
8 battery of a high and aggravated nature. A person
9 commits the offense of assault and battery of a high and
10 aggravated nature if the person unlawfully injures
11 another person and great bodily injury -- injury to
12 another person results or the act is accomplished by
13 means likely to produce death or great bodily injury.

14 Great bodily injury means bodily injury which
15 causes a substantial risk of death, or which causes
16 serious permanent disfigurement or protracted loss, or
17 impairment of the function of a bodily member, or organ.

18 An assault is the intentional creation of a
19 reasonable fear of imminent bodily harm. It is not
20 necessary that the attempted injury or harm actually
21 takes place. For example, if I walk up to you and when
22 we are within arm's reach, I draw back to hit you,
23 that's an assault.

24 A battery is the unlawful touching of another
25 person by a person who has committed the assault. An

1 unlawful touching can be caused by a part of the accused
2 body or any object the accused puts in motion. A
3 battery is the completion of the assault by using or
4 applying force to another person, however slight, in a
5 rude, angry, or resentful manner without legal
6 justification for doing so. Using my earlier example,
7 if I carry through the assault by hitting you, then
8 that's a battery.

9 Criminal intent is a necessary element of a -- of a
10 person who commits the offense of a crime of assault and
11 battery of a high and aggravated nature, and that must
12 be proven by the State beyond a reasonable doubt.

13 Criminal intent is always a matter that must be
14 determined by the jury from the circumstances
15 surrounding the situation, so the law states that
16 criminal intent may be inferred from the circumstances
17 shown to have existed. This is how the jury makes a
18 determination of whether or not the element requiring an
19 intent is present.

20 The State does not have to prove the Defendant
21 acted with malice, nor is the State required to prove
22 motive, although the presence or absence of this
23 evidence may be considered in making your determinations
24 in this case.

25 Criminal intent is a state of mind that operates

1 jointly with an act in the commission of a crime.

2 Intent includes those consequences which A, represent
3 the very purpose for which the act is done, or B, are
4 known to be substantially certain to result, regardless
5 of desire.

6 Criminal intent is a mental state, a conscious
7 wrongdoing, so it's up to you, the jury, to determine
8 what the Defendant intended to do based on the
9 circumstances shown to have existed. I tell you the
10 State must prove criminal intent as it must prove every
11 other element beyond a reasonable doubt.

12 Now, if you find the State has failed to prove
13 beyond a reasonable doubt the Defendant is guilty of
14 assault and battery of a high and aggravated nature, you
15 may consider whether the State has proven the Defendant
16 is guilty of assault and battery in the first degree.

17 A person commits the offense of assault and battery
18 in the first degree if the person unlawfully offers or
19 attempts to injure another person with the present
20 ability to do so, and the act is accomplished by means
21 likely to produce death or great bodily injury or occur
22 during the commission of a robbery, burglary, kidnaping,
23 or theft.

24 Great bodily injury means bodily injury which
25 causes a substantial risk of death or which causes

1 serious permanent disfigurement or protracted loss or
2 impairment of the function of a bodily member or organ.
3 If you find the State has failed to prove beyond a
4 reasonable doubt the Defendant is guilty of assault and
5 battery in the first degree, you may consider whether
6 the State has proven the Defendant is guilty of assault
7 and battery in the second degree.

8 A person commits the offense of assault and battery
9 in the second degree if the person unlawfully injures
10 another person or offers or attempts to injure another
11 with the present ability to do so, and moderate bodily
12 injury to another person results, or moderate bodily
13 injury to another person could have resulted.

14 Moderate bodily injury simply means physical injury
15 that involves prolonged loss of consciousness, or that
16 causes temporary, or moderate disfigurement or temporary
17 loss of the function of a bodily member, or organ, or
18 injury that requires medical treatment when the
19 treatment requires the use of regional, or general
20 anesthesia, or injury that results in a fracture, or
21 dislocation.

22 The Defendant is charged with possession of a
23 weapon during the commission of or attempt to commit a
24 violent crime. The State must prove beyond a reasonable
25 doubt that the Defendant was in possession of a firearm

1 or visibly displayed what appeared to be a firearm
2 during the commission of a violent crime. A firearm
3 means any machine gun, automatic rifle, revolver,
4 pistol, or any weapon which will, is designed to, or may
5 be readily converted to expel a projectile.

6 In order to find the Defendant guilty of possession
7 of a weapon during the commission of a violent crime,
8 you must first find the Defendant guilty of either
9 committing a violent crime or attempting to commit a
10 violent crime. Assault and battery of a high and
11 aggravated nature is a violent crime. The State must
12 prove beyond a reasonable doubt that the weapon further
13 advanced or helped in the commission of that crime.

14 Finally, the Defendant is charged with possession
15 of a firearm or ammunition by a person prohibited by
16 law. In order to prove the crime, the State must prove
17 beyond a reasonable doubt that the Defendant has been
18 convicted of a prior crime which prohibits him from
19 possessing a firearm and that the Defendant was in
20 possession of a firearm or ammunition within the state.

21 The parties have stipulated that the Defendant was
22 convicted of a crime other than the one for which the
23 Defendant is now on trial. This evidence may be
24 considered by you only on the question of prior
25 conviction and for no other reason and no other purpose.

1 You may give this evidence the weight and value, if any,
2 which you find it should have on the sole issue of prior
3 conviction. You must not consider evidence of the
4 commission of another offense as proof of the
5 Defendant's guilt of the current charge we are trying
6 today.

7 To prove possession, the State must prove beyond a
8 reasonable doubt that the Defendant had both the power
9 and intent to control the disposition or use of the gun
10 in question. Possession may be either actual or
11 constructive. Actual possession means the gun was in
12 actual physical custody of the Defendant. Constructive
13 possession means the Defendant had dominion and control
14 or the right to exercise dominion and control over
15 either the gun or the property on which the gun was
16 found.

17 Ladies and gentlemen, you are not partisans or
18 advocates for the state of South Carolina or this
19 Defendant. You do not serve as jurors to reward friends
20 or punish enemies. You have been selected by both the
21 State and this Defendant as fair and impartial jurors.
22 It is your duty, then, to determine the facts in this
23 case, giving to this Defendant the benefit of every
24 reasonable doubt. Then, to the facts which you
25 determine, you take and apply the law which I just gave

1 you and thus arrive at a verdict.

2 When you have accomplished this and written your
3 verdict, you will have satisfied your oath as jurors and
4 you will have discharged your duty to this state, to
5 Mr. Miller, and to the court. Your verdict must be
6 unanimous, meaning all 12 of you must agree.

7 Mr. Foreperson, when the jury agrees on the
8 verdict, you will indicate by checking the line next to
9 the appropriate verdict and signing your name as
10 foreperson. You will then knock on the jury room door
11 and inform the bailiff that you have reached a verdict.
12 At that time, we will receive you back into the
13 courtroom.

14 I'm going to show you what is the verdict form.
15 Okay. You will have this back there in your jury room
16 with you. The first question says, and these are in no
17 particular order, but they say, we, the jury, in the
18 above-captioned case on the charge of assault and
19 battery of a high and aggravated nature unanimously find
20 Kenneth Miller, Jr. either not guilty or guilty, checked
21 by one or the other. If you checked not guilty, as the
22 sheet tells you, you're going to skip question two,
23 which asks you regarding the possession of a weapon
24 during the commission of a violent crime.

25 As I indicated to you, that would only come into

1 play if you do find guilty on the assault and battery of
2 a high and aggravated nature. Otherwise, you will skip
3 it and go to the next question as the sheet will tell
4 you, it will give you the instructions on there, okay?

5 On the third question, it says, we, the jury, in
6 the above-captioned case on the charge of assault and
7 battery in the first degree unanimously find Kenneth
8 Miller, Jr., and you can check guilty or not guilty, but
9 you would only answer three if you did not answer one,
10 and again, that is listed on the form.

11 Same for question number four. We, the jury, in
12 the above-captioned case on the charge of assault and
13 battery in the second degree unanimously find Kenneth
14 Miller, Jr. not guilty or guilty, and again, you don't
15 fill that out if you filled out either one or three at
16 that point. Again, the sheet will tell you that, okay?

17 And then finally, no matter what your verdicts of
18 one through four are, you will answer number five, which
19 says, we, the jury, in the above-captioned case on the
20 charge of possession of a firearm or ammunition by a
21 person prohibited by law unanimously find Kenneth
22 Miller, Jr., and you select either not guilty or guilty,
23 and there's the blank for the form to sign, okay?

24 Again, the instructions are on the piece of paper,
25 all right? Okay. I will now release you back to your

1 jury room, but do not yet begin deliberating until you
2 are told to do so by the bailiffs. We will have the
3 evidence taken back to the room as well as the verdict
4 form before you begin deliberating, okay? Thank you
5 very much.

6 (Jury exits the courtroom)

7 THE COURT: All right. Any exceptions or
8 objections to the charge as read from the State?

9 MS. KNOX: None from the State.

10 THE COURT: Any from the Defense?

11 MS. FORD: One moment, Your Honor.

12 THE COURT: All right.

13 MS. FORD: No, Your Honor.

14 THE COURT: Okay. All right. Well, if you could
15 all just review the evidence for me. I'll hand that in
16 the verdict form to the bailiffs, and then they will,
17 for the jury, they can begin.

18 (OFF THE RECORD)

19 THE COURT: We received a note, I believe from the
20 jury. Who has the note? Court reporter on the line?
21 That's great. Good mark. Court's 1. All right. It
22 says -- I'll wait with bringing Mr. Miller in here.
23 Sorry about that. Thanks. Sorry about that. It's time
24 to move. They didn't look this way. Okay. All right.
25 The jury sent a note. Marked Court's 1. "We would like

1 the written definitions of the different degrees of
2 assault and battery, specifically the difference between
3 a high and aggravated nature, first degree and second
4 degree. Thank you."

5 So, I have a clean copy. I'm happy to submit to
6 them or take other suggestions from the attorneys. Of
7 the whole charge, not the just one portion.

8 MS. KNOX: We don't have any objection to that.

9 MS. FORD: I don't either, Your Honor.

10 THE COURT: Okay. Well, this is it. So, I have my
11 clerk print fresh copy that was read by me verbatim.
12 I'll mark it later, not with a sticker on it, they don't
13 have anything that says Court's 2, just for the record;
14 okay?

15 MS. FORD: Yes, Your Honor.

16 THE COURT: All right. And then we'll just have
17 the bailiff or whoever. Do we have a bailiff? Yeah.
18 I'll meet you in the hallway. Will you just hand them
19 this back as a note?

20 THE BAILIFF: Okay.

21 THE COURT: Okay. And then we'll be back at ease.
22 Thank y'all.

23 (OFF THE RECORD)

24 THE COURT: This is just a note for, it's marked as
25 Court's 3, and Juror 193 only asked to use his phone to

1 notify his ride at the time frame. So, it wasn't much
2 to do about nothing, but I can't do anything without
3 everybody's permission. I would just advise the bailiff
4 upon receipt of the note that they could, in fact, let
5 him use the phone and they would just make sure, once
6 the juror steps out, that they all stop deliberating,
7 they don't deliberate without everybody in the room, and
8 that somebody would be nearby when he's on his phone to
9 make sure he's not using it to look up anything on the
10 Internet or anything of that nature; okay? So, they
11 would advise that, and they are, to my knowledge,
12 letting him do that; okay? All good.

13 MS. FORD: Thank you.

14 THE COURT: They did order dinner. Even after they
15 were told it would take a couple hours.

16 MS. KNOX: They did?

17 THE COURT: They did order dinner. Just so you
18 know. Okay. When was it? Ten minutes -- 15 minutes
19 ago? About 15 minutes. After being told it would take
20 at least two hours to get here.

21 MS. FORD: Okay.

22 (OFF THE RECORD)

23 THE COURT: Now, let's get everybody in here,
24 including the Defendant, please. Mr. Miller, we
25 understand the jury's reached a verdict, so we'll bring

1 them in here. You can go ahead and bring them in, sir.
2 Thank you very much. Ms. Ford, you can have a seat for
3 now, and when they open the door, you can rise.

4 Just to remind the folks in the courtroom, this has
5 been a long couple of days for everybody. I know
6 there's a lot at stake with this jury verdict for lots
7 of folks here. I just want to remind you all that this
8 courtroom's a place of decorum, and this isn't the time.

9 If you think you're not going to be able to contain
10 your emotions, whatever the verdict is, you just need to
11 step out of the hallway. Okay, at that time; okay? So,
12 we don't have any outbursts in the courtroom. Okay.
13 Everybody? Thank y'all.

14 (Jury enters the courtroom)

15 THE COURT: Okay. Thank y'all very much. And
16 jury, you can all have a seat. Thanks so much.

17 THE BAILIFF: All jurors present, Your Honor.

18 THE COURT: All right. Thank you. Everybody can
19 be seated at this time. And Mr. Foreman, I understand
20 the jury reach the verdict; is that correct?

21 MR. FOREPERSON: Yes, ma'am.

22 THE COURT: Okay. We pass that piece of paper to a
23 bailiff who will then pass it to me. Thank you, sir.
24 All right. I'm going to review it for completion. All
25 right. I find there is no inconsistent verdict

1 contained within the verdict form, so I will now pass it
2 to the Clerk of Court for publication. Defendant shall
3 rise.

4 THE CLERK: State of South Carolina versus Kenneth
5 Miller. Docket numbers 2025-GS-10-01383,
6 2024-GS-10-04795, 2025-GS-10-01402. We the jury in the
7 above-captioned case on the charge of assault and
8 battery of a high aggravated -- high and aggravated
9 nature unanimously find Kenneth Miller, Jr. guilty.

10 We the jury in the above-captioned case charged
11 with possession of a weapon during the commission of a
12 violent crime find the Defendant guilty.

13 And then, signed -- sorry. Possession of firearm
14 or ammunition by a person prohibited by law find the
15 Defendant guilty. Signed by the foreperson dated
16 June 12, 2025.

17 THE COURT: All right. Mr. Foreman, is that the
18 jury verdict?

19 MR. FOREPERSON: Yes, ma'am.

20 THE COURT: Okay. Any post-verdict motions before
21 I release the jury from the State?

22 MS. KNOX: No -- no, Your Honor.

23 THE COURT: Any from the Defense?

24 MS. FORD: We would ask for the jury to be polled.

25 THE COURT: To be polled?

1 MS. FORD: Yes, ma'am.

2 THE COURT: Okay. Ladies and gentlemen, the jury
3 poll is simply a mechanism through which the Clerk of
4 Court will call each of your juror numbers. They'll ask
5 if that represents your verdict and if that still
6 represents your verdict. Again, they'll just go by your
7 juror number. You don't need to stand up or anything
8 like that during this process; okay? All right. And so
9 go ahead.

10 THE CLERK: Jury number 88. Is this your verdict?

11 JUROR NUMBER 88: Yes.

12 THE CLERK: Is it still your verdict? Is it still
13 your verdict?

14 JUROR NUMBER 88: Yes, ma'am. Yes, sir.

15 THE CLERK: Juror number 39. Is this your verdict?

16 JUROR NUMBER 39: Yes.

17 THE CLERK: Is it still your verdict?

18 JUROR NUMBER 39: Yes.

19 THE CLERK: Juror number 285. Is this your
20 verdict?

21 JUROR NUMBER 285: Yes.

22 THE CLERK: Is it still your verdict?

23 JUROR NUMBER 285: Yes.

24 THE CLERK: Juror 137. Is this your verdict?

25 JUROR NUMBER 37: Yes.

1 THE CLERK: Is it still your verdict?
2 JUROR NUMBER 37: Yes.
3 THE CLERK: Jury 94. Is this your verdict?
4 JUROR NUMBER 94: Yes.
5 THE CLERK: Is it still your verdict?
6 JUROR NUMBER 94: Yes.
7 THE CLERK: Jury 226. Is this your verdict?
8 JUROR NUMBER 226: Yes.
9 THE CLERK: Is it still your verdict?
10 JUROR NUMBER 226: Yes.
11 THE CLERK: Jury 247. Is this your verdict?
12 JUROR NUMBER 247: Yes.
13 THE CLERK: Is it still your verdict?
14 JUROR NUMBER 247: Yes.
15 THE CLERK: Jury 22.
16 JUROR NUMBER 22: Yes.
17 THE CLERK: Is this your verdict?
18 JUROR NUMBER 22: Yes.
19 THE CLERK: Is it still your verdict?
20 JUROR NUMBER 22: Yes.
21 THE CLERK: Jury 160. Is this your verdict?
22 JUROR NUMBER 160: Yes.
23 THE CLERK: Is it still your verdict?
24 JUROR NUMBER 160: Yes.
25 THE CLERK: Juror 193. Is this your verdict?

1 JUROR NUMBER 193: Yes.

2 THE CLERK: Is it still your verdict?

3 JUROR NUMBER 193: Yes.

4 THE CLERK: Juror 44. Is this your verdict?

5 JUROR NUMBER 44: Yes.

6 THE CLERK: Is it still your verdict?

7 JUROR NUMBER 44: Yes.

8 THE CLERK: Juror 21. Is this your verdict?

9 JUROR NUMBER 21: Yes.

10 THE CLERK: Is it still your verdict?

11 JUROR NUMBER 21: Yes.

12 THE CLERK: Your Honor, the jury has been polled.

13 The verdict stands.

14 THE COURT: All right. Thank you very much. Any
15 other motions before I release the jury from the
16 Defense?

17 MS. FORD: No, Your Honor.

18 THE COURT: Okay. Ladies and gentlemen, I
19 appreciate your time and attention this week. I make a
20 point never to comment on a jury's verdict, but I will
21 tell you how much we appreciate your attention and your
22 time again this week, your promptness. All that helped
23 this process go smoother, and we certainly do appreciate
24 that.

25 The next phase of what's going to happen is the

1 sentencing, and that's my job. So, you are welcome to
2 stay if you'd like. You certainly are free to go at
3 this time, though, and we are cognizant of the late
4 hour, and so we certainly understand if you want to
5 leave, you can do so at any time. You have fulfilled
6 your duties as jurors, and we no -- we no longer need
7 you to remain in the courtroom. Again, we do appreciate
8 your time and your promptness this week.

9 All right. With that, we will turn it over to the
10 State. I do need three sentencing sheets, please.

11 MS. KOZIK: Yes, Judge.

12 THE COURT: Those on the way are on their way.
13 Okay.

14 (Jury exits the courtroom)

15 THE COURT: All right. I've received three
16 sentencing sheets to correspond with the three charges
17 the Defendant was convicted by the jury for. I will
18 begin the sentencing phase by hearing from the
19 Solicitor's office and obviously any victims who want to
20 speak.

21 MS. KNOX: Judge, I'll start off by relaying the
22 Defendant's prior record.

23 THE COURT: Okay.

24 MS. KNOX: It's fairly short. There's a 2005
25 manufacturing, distributing crack cocaine first, as well

1 as a possession with intent to distribute near a school
2 zone and a 2007 seatbelt violation. We have spoken with
3 the victim's family in great length about what their
4 expectations were and, you know, how they felt that the
5 sentencing phase should go. And they indicated that
6 they would like to see this Defendant be incarcerated
7 for the rest of Ms. Dukes's natural life. And so I -- I
8 would say that based on the statutory minimums and the
9 ranges, I would ask for a range of 10 to 15 years for
10 the three charges.

11 THE COURT: Okay. Was there ever an offer made in
12 this case at all?

13 MS. KNOX: There was an offer, Judge. I offered --
14 it was -- it was indicted as attempted murder and in
15 possession of a weapon during commission of a violent
16 crime. I offered assault and battery of a high and
17 aggravated -- excuse me. Assault and battery of a high
18 and aggravated nature, as well as possession of a weapon
19 during commission of a violent crime. And I gave no
20 recommendation.

21 THE COURT: Just as a 0-20?

22 MS. KNOX: Correct.

23 THE COURT: Okay. And then did the victim want to
24 speak? I mean, obviously, Ms. Duke's testified, but I'm
25 happy to hear from her. Or the daughters that are with

1 her, I don't know. Anybody? This is the time. I'm
2 happy to hear from you. Just tell me your name before
3 you speak, please.

4 MS. C. DUKES: Chante Dukes, and I'm Ms. Dukes's
5 daughter.

6 THE COURT: Yes, ma'am.

7 MS. C. DUKES: I don't understand this, but I want
8 you to understand at least to give a shoulder to some
9 kind of person. There was no mercy shown, then or
10 today. And my mom is still suffering, and I pray for
11 her safety. And I want her to feel safe in her own home
12 again. That's all I ask. And as long as he's free,
13 that will never happen.

14 THE COURT: Okay.

15 MS. C. DUKES: I just thank you. I thank you.
16 Thank you all for what you did for my mom. But, you
17 know, I pray for my mom's safety.

18 THE COURT: Thank you. I appreciate you being
19 here. Yes, ma'am. Did you want to? Okay. Anybody
20 else? Ms. Dukes, are you testifying, obviously? This
21 is a hard -- hard matter for everybody involved, I
22 understand. I wish I could say this is the first time
23 something like this has come into my courtroom, but it's
24 not. And I understand it's difficult for all sides when
25 this type of thing divides families. So, all right.

1 Anything else from the State before I switch it over to
2 the Defense?

3 MS. KNOX: I would just also ask Your Honor to take
4 into consideration what this family, especially
5 Ms. Dukes, has had to go through as it relates to this
6 trial and preparing for that and testifying as well as
7 her daughter. I would just ask you to take the fact
8 that we went to trial on these charges into
9 consideration.

10 THE COURT: Yeah. Okay. Of course, the Court can
11 never hold anybody -- hold it against anybody for taking
12 a case to trial. The State always has to be ready to
13 take every case to trial, even those that they, you
14 know, work out through a plea. Even those that get
15 convictions on those must be prepared to take a trial.
16 So, but I appreciate that. All right. I'll switch it
17 over to the Defense.

18 MS. FORD: Thank you, Your Honor. Kenneth has been
19 in jail for the past year-and-a-half, almost 526 days.
20 As you heard, he has a very minimal record. He had
21 gotten into some trouble with drug things in his youth,
22 but since then he had the seatbelt violation and no
23 charge of violence on his record. We understand this is
24 an odd case and that it doesn't really make sense. I
25 think both sides agree to that. I will say that he's --

1 Kenneth is joined here today by his mom and sister.

2 As you heard at the beginning of this case, the
3 State had had concerns because the family had expressed
4 concerns about Kenneth's mental health. As I informed
5 you, he doesn't have a history with DMH and there was
6 nothing obvious, certainly not any psychosis that was
7 observed, nothing like that. But I do think, and a lot
8 of times, Kenneth, he certainly would communicate with
9 me. We didn't have an issue communicating, but there
10 were certain things that he kept close to himself and he
11 just didn't want to talk about, he didn't want to
12 explain.

13 And I will say, I do think Kenneth has felt some
14 dissociation with his family. Honestly, I don't know if
15 he feels hurt by them or betrayed by them, by something
16 in the past, not this incident. But it's clear that
17 there was something where he just felt isolated in some
18 way. That may not have been anything they did, or maybe
19 it was just something that was going on, but to me it
20 was clear that there was something there.

21 But he -- and I will point out too, when I talked
22 to his mom who's here, Ms. Nelson, one thing she had
23 kind of pointed out after he was arrested and she was
24 trying to take care of his home, get things together.
25 She had found a book on grieving, and I think there had

1 been another family member who had died. And I think
2 there are some issues there, and in some ways I just
3 think maybe there was some hopelessness and just giving
4 up. But, you know, this is an odd situation. We would
5 ask you to consider his lack of a history. We
6 understand certainly this is difficult for all parties.
7 I think his mom, Ms. Nelson, does want to speak to the
8 Court, Your Honor.

9 THE COURT: Sure. I'm happy to hear from you.
10 Tell me your first and last name for the record.

11 MS. NELSON: My name is Ethel Nelson. I'm speaking
12 on my son's behalf. Kenneth has some issues with
13 certain things. He worked for a period of time. He
14 bought a home. He stayed to himself because it was me
15 only. Everything went good for him.

16 Kenneth lost his job, and things started turning,
17 and I don't know where, but Kenneth is not a bad person.
18 He needs help, and I asked the Court to try to get him
19 help instead of, you know, sending him to a long period
20 of time while he's back there. If you can get him help,
21 that's what he needs. Because he's not -- he's not a
22 violent person, and he may have snapped it for some
23 reason, but I know he lost his job, and he has a home.
24 He has a car. He has everything just functioning just
25 like a normal person, and I don't know what happened in

1 the past, but something happened, and it caused him to
2 snap.

3 And I just asked the Court to try to get him help,
4 and he doesn't need to be put away for life. He doesn't
5 need that. You know, it put a dent in our family.
6 We're a real close family, and we, you know, we don't --
7 we don't -- we don't, you know, we don't want to take
8 him out. We want to get him help if we can.

9 THE COURT: Okay.

10 MS. NELSON: And I just asked the Court to have
11 mercy to my boy.

12 THE COURT: Okay. All right. Thanks for being
13 here. I don't know. I guess, it's always a little odd
14 before conviction. I don't know if Mr. Miller wants to
15 speak. He's welcome to. Or if you want to talk to him
16 a minute about that.

17 MS. FORD: He does not care to speak, Your Honor.

18 THE COURT: Okay. Okay. Anything else from the
19 Defense at this time?

20 MS. FORD: No, Your Honor.

21 THE COURT: Okay. All right. Well, as I
22 reiterated earlier, this is a sad -- a sad situation,
23 obviously, all around. Obviously, I'm thankful that
24 Ms. Dukes, you know, her injuries, while they were
25 serious, that they weren't worst-case serious, and that,

1 you know, this wasn't a different outcome for her that
2 day. I'm certainly thankful for that because it easily
3 could have been.

4 You know, Mr. Miller, you know, I don't know -- I
5 don't know what happened that day in terms of what could
6 have led up to this, but the jury has -- has spoken
7 through their verdict, and so I'm going to honor that
8 and sentence you in accordance with what the State has
9 requested based on their knowledge of the case and based
10 on, you know, what I've heard in the courtroom for the
11 last couple of days.

12 The sentence on the two gun charges will be five
13 years concurrent, and on the leading charge, which is
14 assault and battery of a high and aggravated nature, the
15 sentence will be 15 years. You'll get credit for 526
16 days toward those concurrent sentences.

17 And certainly, I hope you'll take advantage of
18 everything that they have to offer in SCDC and certainly
19 you'll still have plenty of life on the backside to
20 live; okay? So keep that in mind. I hope you can build
21 up some good time credits and that type of thing in jail
22 or whatever -- whatever can help you make good use of
23 your time there, and you'll still have some life to live
24 when you get out, and hopefully we won't see you back in
25 here; okay, sir?

CERTIFICATE OF TRANSCRIBER

I, Jennifer Jaeger, 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 9 of Charleston County, South Carolina, on the 12 day of June, 2025.

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

Jennifer Jaeger

Jennifer Jaeger, Reporter

Notary Public for S.C.

Commission Expires: 10/28/2032



Rental Agreement Summary
RA#: 300MKX
Renter: KENNETH MILLER
PROGRESSIVE INS-OH CCU
Billing Cycle: CALENDAR DAY

Dates & Times

Pick up

Tuesday, January 2, 2024 10:30 AM
Start Charges:
Tuesday, January 2, 2024 10:30 AM

Location

8734 RIVERS AVE
NOT AN AIRPORT
LOCATION
NORTH CHARLESTON,
SC 29406-9211
(843) 572-8807

Anticipated Return

Thursday, January 4, 2024 11:30 PM
8734 RIVERS AVE
NOT AN AIRPORT
LOCATION
NORTH CHARLESTON,
SC 29406-9211
(843) 572-8807

Vehicle

2021 TOYO 4RUN 36C4 BLACK License:
IL FP133526
VIN: JTEMU5JR9M5864064 Vehicle: 7TP5B8
Pickup: 01/02/2024 @ 10:30 AM ODO:64779Fuel:7/16

Vehicle Condition:

rearBumper
alignment:
leftRearDoor
scratch:
windshield
chip: chip in center of windshield
rightRearDoor
alignment: passagner door pannel loose

Summary of Charges

Estimated Bill-To

PROGRESSIVE INS-OH CCU
Reference: 23-6049728

Pays:100.0% \$40.00 / Day \$1200.0 MAX / Rental

Charges	Price/Unit	Total
TIME & DISTANCE 1/2/24-1/4/24	\$32.34 / Day	\$97.01
VEHICLE LICENSE FEE	\$2.88 / Day	\$8.63
RENTAL CAR USER FEE (5%)	5%	\$4.85

SALES TAX (9%) 9% \$9.51

Subtotal (\$120.00)

Estimated Renter Charges

Charges	Price/Unit	Total
TIME & DISTANCE 1/2/24-1/4/24	\$4.65 / Day	\$13.96
NO CHARGE DISTANCE 1/2/24-1/4/24	\$0.00 / Mile	\$0.00
REFUELING CHARGE	\$4.06 / Gallons	\$0.00

Optional Protections Accepted

No optional protections accepted.

Optional Protections Declined

PERSONAL EFFECTS COVERAGE	@ \$7.50 / Day	\$0.00
CDW	@ \$15.99 / Day	\$0.00
SLP	@ \$13.00 / Day	\$0.00
RAP	@ \$6.99 / Day	\$0.00

Renter Acknowledgement of Accepted and Declined Protections

I acknowledge that I have accepted or declined protections as indicated above.

K M

Taxes and Fees

VEHICLE LICENSE FEE	\$0.41 / Day	\$1.24
RENTAL CAR USER FEE (5%)	5%	\$0.69
SALES TAX (9%)	9%	\$1.37
Total Estimated Charge:		\$17.26

Payments:

VISA *****3320 Sale (\$67.26)

Renter Acknowledgement of Charges

I acknowledge that I have reviewed and agree to all Estimated Renter Charges and fees listed on Summary of Charges and further agree to pay for final charges in accordance with the Additional Terms and Conditions of this Contract.

K M

Owner: ENTERPRISE LEASING COMPANY - SOUTHEAST, LLC

Additional Drivers

No Additional Drivers are authorized to drive the vehicle with the exception of the drivers listed below.
(Additional driver names listed here if applicable)



Please keep this Rental Agreement Summary with you in the vehicle during the rental.

Local Addenda

OPTIONAL PRODUCTS NOTICE: WE OFFER FOR AN ADDITIONAL CHARGE THE FOLLOWING OPTIONAL PRODUCTS: DAMAGE WAIVER (WHICH MAY ALSO BE KNOWN AS LOSS DAMAGE WAIVER OR COLLISION DAMAGE WAIVER); PERSONAL EFFECTS COVERAGE; SUPPLEMENTAL LIABILITY PROTECTION AND ROADSIDE ASSISTANCE PROTECTION. BEFORE DECIDING TO PURCHASE ANY OF THESE PRODUCTS, YOU MAY WISH TO DETERMINE WHETHER YOUR PERSONAL INSURANCE, CREDIT CARD OR OTHER COVERAGE PROVIDES YOU PROTECTION DURING THE RENTAL PERIOD. THE PURCHASE OF ANY OF THESE PRODUCTS IS NOT REQUIRED TO RENT VEHICLE.

RENTER ACKNOWLEDGEMENT OF LOCAL ADDENDA

Km

TERMS AND CONDITIONS

[Click to view Additional Terms and Conditions](#)

FORM# 26.53.SC-JK_MY23

RENTER ACKNOWLEDGEMENT OF THE ENTIRE CONTRACT

I, THE "RENTER" BY SIGNING BELOW, HAVE READ AND AGREE TO THE TERMS AND CONDITIONS IN THE ADDITIONAL TERMS AND CONDITIONS, WHICH ARE INCORPORATED BY REFERENCE AS IF FULLY SET FORTH HEREIN, AND THE RENTAL AGREEMENT SUMMARY (COLLECTIVELY, THE ADDITIONAL TERMS AND CONDITIONS AND THE RENTAL AGREEMENT SUMMARY ARE THE "CONTRACT"). BY SIGNING BELOW, I AM AUTHORIZING OWNER TO CHARGE TO THE CREDIT CARD(S) AND/OR DEBIT CARD(S) THAT I HAVE PROVIDED TO OWNER ALL AMOUNTS OWED BY ME UNDER THIS CONTRACT FOR ADVANCE DEPOSITS, INCREMENTAL AUTHORIZATIONS/DEPOSITS, AND OR ANY OTHER AMOUNTS OWED BY ME, AS WELL AS PAYMENTS REFUSED BY A THIRD PARTY TO WHOM BILLING WAS DIRECTED. I ALSO AUTHORIZE OWNER TO RE-INITIATE ANY CHARGE TO MY CARD(S) THAT IS DISHONORED FOR ANY REASON. I CERTIFY THAT THE DRIVER'S LICENSE(S) PRESENTED IS CURRENTLY VALID AND IS NOT SUSPENDED, EXPIRED, REVOKED, CANCELLED OR SURRENDERED. I FURTHER ACKNOWLEDGE AND CONSENT TO THE TERMS AND CONDITIONS SET FORTH IN THE PARAGRAPH WITH THE HEADING "DISPUTE RESOLUTION PROVISION- MANDATORY ARBITRATION AGREEMENT" IN THE ADDITIONAL TERMS AND CONDITIONS. BY SIGNING BELOW RENTER AGREES

TO OWNER'S COLLECTION OF INFORMATION ABOUT RENTER'S USE OF VEHICLE AND TEXTING & CALLING TERMS. SEE PARAGRAPHS WITH THE HEADINGS TEXT & CALL AND OWNER'S COLLECTION AND USE OF VEHICLE DATA: RENTER'S USE OF VEHICLES NAVIGATION AND INFOTAINMENT SYSTEMS AND VEHICLE MANUFACTURER APPS IN THE ADDITIONAL TERMS AND CONDITIONS.

Km



300MKX

Additional Terms and Conditions of the Contract electronically accepted on 1/2/24 at 10:35 AM

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

IN THE COURT OF GENERAL SESSIONS

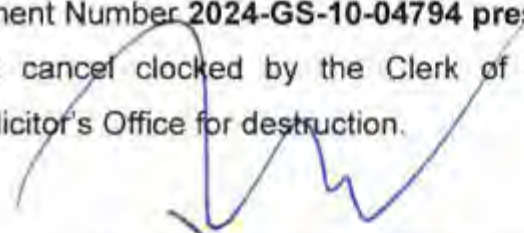
NINTH JUDICIAL CIRCUIT

IN RE:

CANCEL CLOCK TRUE BILLED
INDICTMENT NUMBERDefendant: **Kenneth Miller, Jr.****ORDER**Warrant No. **2024A1010200110**
Indictment # **2024-GS-10-04794**

It appears that Warrant Number **2024A1010200110** was inadvertently presented to the **October 2024** Grand Jury and True Billed as Indictment Number **2024-GS-10-04794**. Now upon motion of the Solicitor's Office for the Ninth Judicial Circuit, it is hereby

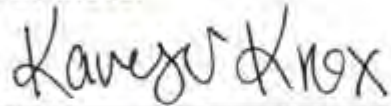
ORDERED that True Billed Indictment Number **2024-GS-10-04794** presented to **October 2024 Grand Jury**, should be cancel clocked by the Clerk of Court for Charleston County and returned to the Solicitor's Office for destruction.


 Court of General Sessions
 Ninth Judicial Circuit

Charleston, South Carolina

4/7, 2025

I so move:



Assistant Solicitor, Ninth Judicial Circuit

 2025 APR -7 PM 4:15
 JULIE J. ARMSTRONG
 CLERK OF COURT
 BY 

FILED

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

) IN THE COURT OF GENERAL SESSIONS
) FOR THE NINTH JUDICIAL CIRCUIT
)
)

Indictments: 2025-GS-10-01383; 2025-GS-10-01402;
2024-GS-10-04795

STATE OF SOUTH CAROLINA

) Warrants: 2024A1010200110, 11
) Charges: ABHAN, P/ Weapon During the
) Commission of a Crime of Violence, P/ Firearm by a
) Person Convicted of PWID of a Controlled Substance

vs.

DEFENDANT'S TRIAL BRIEF

KENNETH MILLER,

Defendant

TO: THE HONORABLE JENNIFER B. McCOY

STATEMENT OF THE CASE

Police received a call about a shooting on January 4, 2024. Upon arriving at [REDACTED] Easton Street in North Charleston, South Carolina, police came across Juanita Dukes, who appeared to have a gunshot wound in the area of her knee. She indicated that her family member Kenneth Miller shot her. Her daughter was in a back room and indicated she did not hear the shooting or an altercation of any kind. Police went to the Defendant's residence in Goose Creek, South Carolina, and arrested him for Attempted Murder and Possession of a Weapon During the Commission of a Violent Crime.

Police searched Defendant's house and car and found nothing of evidentiary value. Police never recovered a firearm. Police interviewed Defendant at the police station, and he denied shooting Ms. Dukes or being at her house. They took swabs from his person to look for possible gunshot residue. Defendant indicated that he was willing to comply with the taking of the swabs, but only if he could observe the execution of the search warrant of his residence. Police declined and took the swabs without his permission. Ultimately, SLED analyzed the swabs and have indicated that suspected gunshot residue was found.

A detective assigned to the case met with Ms. Dukes several weeks later and showed her a single photograph, one of Kenneth Miller. Ms. Dukes identified this single photograph as being the person who shot her.

While Defendant was initially indicted for Attempted Murder on October 08, 2024, the State later chose to instead indict him for Assault and Battery of a High and Aggravated Nature (ABHAN), which was done on March 11, 2025. He was indicted for Possession of a Weapon During the Commission of a Violent Crime on October 8, 2024. The State also indicted him for an additional charge, of Possession of a Firearm by a Person Convicted of Possession With Intent to Distribute a Controlled Substance (Crack Cocaine), on March 11, 2025, based on a drug conviction from 2005.

I. PRE-TRIAL MATTERS

A. Motion to Sequester the Witnesses

B. *Jackson v. Denno* Hearing

While Defendant did not confess to shooting Ms. Dukes, police did interrogate him at the police station after arresting him. If the State intends to present any of his statements at trial, Defendant is requesting a *Jackson v. Denno* hearing.

C. *Neil v. Biggers* Hearing

Ms. Dukes identified Defendant as being the person who shot her. A detective with direct knowledge of the case and of the person already arrested showed her a single photo, of Defendant, and Ms. Dukes confirmed he was the shooter at that time. While Ms. Dukes knows Kenneth Miller, she had not seen him in some time and Defendant is requesting a hearing to determine the reliability of the identification. *See State v. Liverman*, 398 S.C. 130, 727 S.E.2d 422 (2012).

D. Motion to Sever the Charges

More than a year after his arrest, after he rejected an offer, the State indicted Defendant for Possession of a Firearm by a Person Convicted of PWID (etc.) of a Controlled Substance. Defendant is requesting that this charge be severed from the trial of the ABHAN and the other Weapons charge. The fact that Defendant has a conviction for a drug offense from twenty years ago would not be allowed in a trial for an ABHAN. For the jury to hear that he is a convicted felon is not relevant and would be highly prejudicial. The State should not be allowed to present this information to a jury through an alternative way, through presentment of an additional charge, because it will unfairly prejudice the jury against Mr. Miller, violating his right to a fair trial.

E. Suppression of Gunshot Residue Testing

Police gathered swabs from Defendant while he was being interrogated at the police station. He clearly did not give them permission to take anything from his person. Police did not have a search warrant to take anything from Defendant's person. Instead, they only had search warrants for his residence and phone. They could have included his person, but they chose not to do that. He was in their custody and under their observation and control, so there was opportunity to get a search warrant before any possible residue could have been destroyed.

F. Objection to Body-worn Camera Footage

It is Defendant's understanding that the State possibility intends to play portions of body-worn camera footage showing the responding officer's contact with Ms. Dukes. This video includes her statements about what happened, her screaming out in pain, and depictions of her actively bleeding and a pool of blood.

Defendant is objecting to this video being shown to the jury. It includes hearsay statements and will bolster the Victim's testimony. In addition, due to the blood and expressions of pain, it is more prejudicial than probative of anything relevant to the State proving its case, and it should therefore be excluded under Rule 403 of the South Carolina Rules of Evidence.

II. DEFENDANT'S WITNESS LIST

- 1) Thomas Walters (Charleston County Public Defender's Office)

2) Detective Charity Steinbrunner

3) Officer John Winn

III. DEFENDANT'S REQUESTED VOIR DIRE

1. Are you a former law enforcement employee, or are any members of your immediate families or close personal friends employed by law enforcement agencies? Would this affect your ability to be fair and impartial?
2. Are you, or are any members of your immediate families or close personal friends, related to, or a personal friend or acquaintance of, anyone employed by the Ninth Circuit Solicitor's Office?
3. Have you or any of your relatives or close friends been the victim of a violent crime, including but not limited to violence within the family?
4. Do you have any particular opinions or feelings about the crimes of Assault & Battery of a High & Aggravated Nature and Unlawful Possession of a Firearm that would impact your ability to serve on a jury for a Defendant who is charged with these crimes?
5. Has any member of the jury panel read or heard anything about this case?
6. Has any member of the jury panel formed an opinion concerning the guilt or innocence of Mr. Miller?
7. Are you aware of any reason whatsoever why you could not be fair and impartial to the Defendant or the State?
8. Have you ever served on a jury before? If so, did this prior jury service in any way affect the way you would view/judge this particular case?
9. Do you take care of, including through work, your personal life, or volunteer work, anyone over the age of 65 years old? Would this affect your ability to be fair and impartial in a case in which a person over the age of 65 years old is alleged to have been injured by another person?
10. Are you, or are any members of your families or close personal friends, members of victims' rights or law enforcement organizations such as Citizens Against Violent Crime (C.A.V.E.),

People Against Rape (P.A.R.), Mothers Against Drunk Driving (M.A.D.D.), Persons Empowered to Save Teens (P.E.S.T.), any community watch program, any domestic violence program, or any other like organization? If so, would this affect your ability to be fair and impartial in the current case?

IV. Defendant's Requested Jury Charge

1) Identification

Respectfully submitted,



Mary A. Ford, #73776
Attorney for Kenneth Miller
101 Meeting Street, 5th Floor
Charleston, SC 29401

Charleston, South Carolina

Dated: 6/5, 2025

FILED
2025 JUN 23 PM 2:45
JULIE J. AMOS, CLERK OF COURT
RY lt

485

ARREST WARRANT

2024A1010200110

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Charleston

THE STATE

against

Kenneth Miller

Address: Turnbury Rd

Goose Creek, SC 29445-4041

Phone: SSN:
 Sex: M Race: B Height: 6 Weight: 185
 DL State: SC DL #:
 DOB: Agency ORI #: SC0100800

Prosecuting Agency: North Charleston Police Department

Prosecuting Officer: Charity L Steinbrunner - S00873

Offense: Assault / Attempted Murder

Offense Code: 3410

Code/Ordinance Sec: 16-03-0029

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
Charleston County Judicial Center
100 Broad Street, Suite 106
Charleston, SC 29401

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Charleston

Personally appeared before me the affiant Charity L Steinbrunner who being duly sworn deposes and says that defendant Kenneth Miller did within this county and state on or about 1/4/2024 violate the criminal laws of the State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Charleston) in the following particulars:

DESCRIPTION OF OFFENSE: Assault / Attempted Murder

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

SEE ATTACHED AFFIDAVIT

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Charleston

Affiant's Address 2500 City Hall Lane
North Charleston, SC 29406-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 1/4/2024 defendant Kenneth Miller did violate the criminal laws of the State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Charleston) as set forth below:

DESCRIPTION OF OFFENSE: Assault / Attempted Murder

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

on 1/5/2024

Signature of Issuing Judge
Amanda Haselden

Judge Code: 7412

(L.S.)

Judge's Address 3831 Leeds Avenue, Suite 200
North Charleston, SC 29405-

Judge's Telephone (843)746-9822

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

AFFIDAVIT

Judge Haddad

Name: _____
Address: _____

on 1/5/2024

Telephone: _____

Type and Amount: NO bond.

Name: _____
Address: _____

Name of Surety: _____

Telephone: _____

PRELIMINARY HEARING held by

Judge _____

Name: _____
Address: _____

on _____

Telephone: _____

Defendant Attorney: _____

Name: _____
Address: _____

Decision: _____

Telephone: _____

DISPOSITION before

Judge _____

Name: _____
Address: _____

on _____

Telephone: _____

by _____
(indicate jury trial, bench trial, plea, nol. pros., etc.)

Name: _____
Address: _____

Disposition: _____

Telephone: _____

Sentence: _____

Name: _____
Address: _____

JURORS

Telephone: _____

Name: _____
Address: _____

Telephone: _____



FILED
2024 JAN 12 PM 12:55
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON
CITY OF NORTH CHARLESTON

AFFIDAVIT
OCA#2024000381
Det. Steinbrunner

Personally appeared before me, a family court judge of this County, one J.E. ROBERTS who first being duly sworn, deposes and says that:

Kenneth Miller

did within this County and State on January 4, 2024 violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE
Attempted Murder
VIOLATION OF SECTION
16-3-29

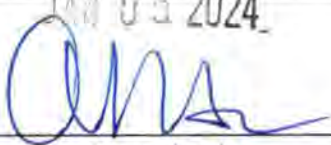
The affiant states there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

That on January 4, 2024, at approximately 11:10 AM while at [REDACTED] Easton St, which is located in the City of North Charleston, Charleston County and State of South Carolina, the above-named defendant, **Kenneth Miller**, committed the offense of **Attempted Murder** in violation of section **16-3-29** of the South Carolina State Code of Laws of 1976 as amended. In that the defendant, while armed with a firearm and with malice aforethought did shoot at the victim **Juanita Dukes**.

Facts to establish the aforesaid are that on January 4, 2024 at approximately 11:11 am, officers with the North Charleston Police Department were dispatched to reports of a shooting at [REDACTED] Easton St. Upon arrival, officers located the victim suffering from a gunshot wound to the left leg. The victim advised patrol officers that the defendant arrived at her residence and accused her of having a bag that belonged to him, shot her, and then fled the area. One shot was fired and one silver S&W 40 cal spent shell casing was located by patrol in the living room of the residence where the victim was located. Family advised that the defendant was driving an rental vehicle and that it was possibly a grey SUV. Shortly after the shooting, North Charleston city asset cameras capture a black Toyota 4Runner leaving off Easton St around the time of the shooting. North Charleston ILP and Goose Creek Police department made contact with the defendant at his residence in Goose Creek. The vehicle parked in the driveway was a black Toyota 4Runner bearing Illinois tag FP133526 and VIN JTEMU5JR9M5864064. It is similar to the one observed on city asset cameras.

Detective Steinbrunner, Detective Miller, and the victim are witnesses are witnesses to prove the same. All this done against the law, peace and dignity of the City of North Charleston and the State of South Carolina.

Sworn to and Subscribed before me
this 05 day of JAN, 2024.


Signature of Judge



(AFFIANT)

Address: 2500 City Hall Ln
N. Charleston, SC 29406
Phone: 843-740-2859

ARREST WARRANT

2024A1010200111

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Charleston

THE STATE

against

Kenneth Miller

Address: Turnbury Rd

Goose Creek, SC 29445-4041

Phone: SSN: [REDACTED]

Sex: M Race: B Height: 6 Weight: 185

DL State: SC DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: SC0100800

Prosecuting Agency: North Charleston Police Department

Prosecuting Officer: Charity L Steinbrunner - S00873

Offense: Weapons / Poss. weapon during violent crime, if
not also sentenced to life without parole or death

Offense Code: 0549

Code/Ordinance Sec: 16-23-0490

This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant
on

Signature of Constable/Law Enforcement Officer

488 RETURN WARRANT TO:

General Sessions
Charleston County Judicial Center
100 Broad Street, Suite 106
Charleston, SC 29401

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Charleston

Personally appeared before me the affiant Charity L Steinbrunner who
being duly sworn deposes and says that defendant Kenneth Miller
did within this county and state on or about 1/4/2024 violate the criminal laws of the
State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Charleston)
in the following particulars:

DESCRIPTION OF OFFENSE: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

SEE ATTACHED AFFIDAVIT

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Charleston

Affiant's Address 2500 City Hall Lane
North Charleston, SC 29406-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 1/4/2024 defendant Kenneth Miller
did violate the criminal laws of the State of South Carolina (or ordinance of
☒ County/ ☐ Municipality of Charleston) as set forth below:

DESCRIPTION OF OFFENSE: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable
Sworn to and subscribed before meon 1/5/2024Signature of Issuing Judge
Amanda HaseldenJudge Code: 7412

(L.S.)

Judge's Address 3831 Leeds Avenue, Suite 200
North Charleston, SC 29405-Judge's Telephone (843)746-9822Issuing Court ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

AFFIDAVIT

BAIL set by

Judge

on

Type and Amount:

Name of Surety:

PRELIMINARY HEARING held by

Judge

on

Defendant Attorney:

Decision:

DISPOSITION before

Judge

on

by

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition:

Sentence:

JURORS

WITNESSES

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

CODEFENDANTS



FILED
2024 JAN 12 PM 12:55
JULIE J. ARMSTRONG
CLERK OF COURT
BY

**STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON
CITY OF NORTH CHARLESTON**

**AFFIDAVIT
OCA#2024000381
Det. Steinbrunner**

Personally appeared before me, a magistrate of this County, one
sworn, deposes and says that

J.E. ROBERTS, who first being duly

Kenneth Miller

did within this County and State on the 24th day of January 2024, violate the criminal laws of the State of South Carolina in the following particulars:

**DESCRIPTION OF OFFENSE
POSSESSION OF A FIREARM DURING COMMISSION OF A VIOLENT CRIME
VIOLATION OF SECTION 16-23-490**

The affiant states there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

That on January 4, 2024 approximately 11:10 AM, while at [REDACTED] Easton St, located in the City of North Charleston, County of Charleston, State of South Carolina, the defendant; **Kenneth Miller** did commit the offense of **POSSESSION OF A FIREARM DURING COMMISSION OF A VIOLENT CRIME, in violation of section 16-23-490** of the South Carolina Code of Laws of 1976, as amended. In that the defendant did knowingly and unlawfully, commit the offense of attempted murder while armed with a firearm.

Facts to establish the aforesaid are that on January 4, 2024 at approximately 11:11 am, officers with the North Charleston Police Department were dispatched to reports of a shooting at [REDACTED] Easton St. Upon arrival, officers located the victim suffering from a gunshot wound to the left leg. The victim advised patrol officers that the defendant arrived at her residence and accused her of having a bag that belonged to him, shot her, and then fled the area. One shot was fired and one silver S&W 40 cal spent shell casing was located by patrol in the living room of the residence where the victim was located. Family advised that the defendant was driving an rental vehicle and that it was possibly a grey SUV. Shortly after the shooting, North Charleston city asset cameras capture a black Toyota 4Runner leaving off Easton St around the time of the shooting. North Charleston ILP and Goose Creek Police department made contact with the defendant at his residence in Goose Creek. The vehicle parked in the driveway was a black Toyota 4Runner bearing Illinois tag FP133526 and VIN JTEMU5JR9M5864064. It is similar to the one observed on city asset cameras.

Detective Steinbrunner, Detective Miller, and the victim are witnesses are witnesses to prove the same. All this done against the law, peace and dignity of the City of North Charleston and the State of South Carolina.

Sworn to and subscribed before me
This 24 day of JAN 05 2024.

[Signature]
Signature of Judge

[Signature]
(AFFIANT)
Address: 2500 City Hall Ln.,
North Charleston S.C. 29406
Phone: 843-554-5700

KERK/0409188
WITNESSES

North Charleston Police Department

C. Ross

AGENCY CASE NUMBER

2024-000381

ARREST WARRANT NUMBER

2024A1010200111

DATE OF ARREST

01/04/2024

ACTION OF GRAND JURY

TRUE BILL

Mill Z OCT 08 2024

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2024-GS-10-04795

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

OCTOBER TERM 2024

THE STATE

VS.

KENNETH MILLER, JR

B/M DOB: [REDACTED]

Indictment for

POSSESSION OF A WEAPON DURING
THE COMMISSION OF A VIOLENT
CRIME

SC Code: § 16-23-0490

CDR Code: 0549

FILED

10/22/2024 8:43:38 AM

JULIE J. ARMSTRONG

CLERK OF COURT

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

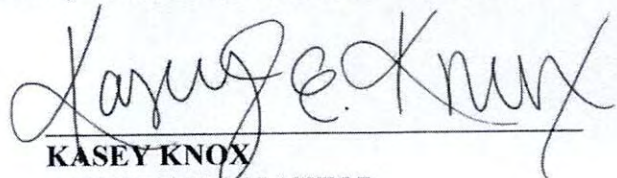
INDICTMENT

At a Court of General Sessions, convened October 2024, the Grand Jurors of Charleston County present upon their oath:

Possession Of A Weapon During The Commission Of A Violent Crime

That in Charleston County, South Carolina, on or about January 4, 2024, the Defendant, Kenneth Miller Jr, did possess a firearm or did visibly display what appeared to be a firearm or did visibly display a knife during the commission of or attempted commission of a violent crime, to wit: Attempted Murder; in violation of Section 16-23-490, Code of Laws of South Carolina, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


KASEY KNOX
ASSISTANT SOLICITOR

KERK/0409188
WITNESSES

North Charleston Police Department

[Signature] / *Demelle Cockram*

AGENCY CASE NUMBER

2024-000381

ARREST WARRANT NUMBER

2024A1010200110

DATE OF ARREST

01/04/2024

ACTION OF GRAND JURY

TRUE BILL

[Signature]
Foreperson of Grand Jury

MAR 11 2025

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2025-GS-10-01383

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

MARCH TERM 2025

THE STATE

VS.

KENNETH MILLER, JR
B/M DOB: [REDACTED]

Indictment for

**ASSAULT & BATTERY OF A HIGH AND
AGGRAVATED NATURE**

SC Code: § 16-03-0600(B)(1)
CDR Code: 3411

FILED

APR - 7 2025

JULIE J. ARMSTRONG
CLERK, C.P. & G.S.

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

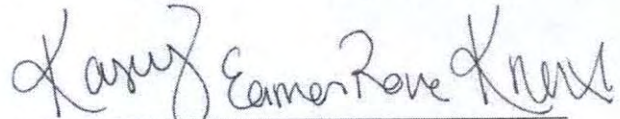
INDICTMENT

At a Court of General Sessions, convened March 2025, the Grand Jurors of Charleston County present upon their oath:

Assault & Battery Of A High And Aggravated Nature

That in Charleston County , South Carolina on or about January 4, 2024, the Defendant, Kenneth Miller Jr, did commit an unlawful act of injury upon the victim, Juanita White Dukes, and as a result, the victim suffered great bodily injury or the act was accomplished by means likely to produce death or great bodily injury, in violation of Section 16-3-600(B)(1) of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



KASEY KNOX
ASSISTANT SOLICITOR

KERK/0409188
WITNESSES

North Charleston Police Department

Dan I. Ackrum, Danielle

AGENCY CASE NUMBER

2024-000381

ARREST WARRANT NUMBER

2025-GS-10-01402

DATE OF ARREST

01/04/2024

ACTION OF GRAND JURY

TRUE BILL

Laura Lloyd MAR 11 2025
Foreperson of Grand Jury Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2025-GS-10-01402

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

MARCH TERM 2025

THE STATE

VS.

KENNETH MILLER, JR

B/M DOB: [REDACTED]

Indictment for

FIREARMS / POSS. OF FIREARM OR
AMMUNITION BY PERSON CONVICTED
OF PWID, MANUFACTURING, DISTR.,
OR TRAFFICKING CONTROLLED
SUBSTANCE

SC Code: § 44-53-0379(A)

CDR Code: 4088

FILED

3/28/2025 2:39:47 PM

JULIE J. ARMSTRONG

CLERK OF COURT

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

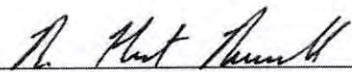
INDICTMENT

At a Court of General Sessions, convened March 2025, the Grand Jurors of Charleston County present upon their oath:

Firearms / Poss. of firearm or ammunition by person convicted of PWID, manufacturing, distr., or trafficking controlled substance

That in Charleston County, South Carolina, on or about January 4, 2024, the defendant, Kenneth Miller Jr, having previously been convicted of Possession with Intent to Distribute Crack Cocaine, a controlled substance, did possess a firearm or ammunition in violation of Section 44-53-379(A) of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


For **KASEY KNOX**
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

SENTENCE ORDER

IN THE COURT OF GENERAL SESSIONS

STATE vs.

Kenneth Miller, Jr

AKA:

SSN: [REDACTED]

RACE: BSEX: M

DOB: [REDACTED]

) INDICTMENT/CASE#: 2024-GS-10-04795) AW#: 2024A1010200111) Date of Offense: 01/04/2024) S.C Code§: 16-23-0490) CDR Code #: 0549) Range of Offense: Possession Of A Weapon During The Commission Of A Violent Crime (5 Years)In disposition of the above indictment comes now the Defendant who was CONVICTED OF ☒ or ☐ PLEADSTO: Possession of a Weapon during the Commission of a Violent CrimeRange of Offense Pled: 5 YearsIn violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549
☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ MANDATORY GPS ☐ § 17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)
The charge is: ☐ As indicted ☐ Lesser Included Offense ☐ Defendant Waives Presentment to Grand JuryThe plea is: ☐ w/o Rec/Negotiations ☐ Negotiated ☐ Recommendation/s Kasey Knox106633/s Mary Alison Ford73776

Solicitor

SC Bar #

Attorney for Defendant

SC Bar #

The Defendant is committed to the ☒ SCDC ☐ County Detention Center ☐ Home Incarceration Program
for a determinate term of 5 days/months/years/Time Served ☐ YOANTE _____ years and/or shall pay a fine
of \$ _____; provided that upon the service of _____ days/months/years/Time Served and or payment
of \$ _____ plus costs and assessments as applicable*; balance is suspended with **probation** for _____ months/years
and subject to SCDPPPS standard conditions of probation, which are incorporated by reference.

The sentence shall run ☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDC526 days/months ☐ To include time spent on monitored house arrest prior to trial and sentencing

SPECIAL CONDITIONS:

☐ PTUP _____☐ No Contact with Victim ☐ Domestic Violence Intervention Program☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135☐ Other: _____☐ Hold for Inpatient Treatment☐ SAC/MHC if necessary☐ RESTITUTION See Separate Order (20% per S.C. Code §24-21-490(B))

§14-1-206 (Assessments 107.5%)

§14-1-211 (A)(1) Conv. Surcharge)

§14-1-211 (A)(2)(DUI Surcharge)

§56-5-1995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

§14-1-212 (Law Enforcement Funding)

§14-1-213 (Drug Court Surcharge)

§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)

§50-21-114 (BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

☐ Appointed PD or appointed other counsel. Proviso requires \$500 to be paid to Clerk during probation and shall be collected before any other fees☐ §17-3-45(B) Unpaid Application Fee to be paid to the Public Defender Fund

Restitution \$ _____

FINE: \$ _____

\$ _____

\$ 100.00

\$ _____

\$ _____

\$ _____

\$ 25.00

\$ _____

\$ _____

\$ _____

\$ _____

\$ 3.75

\$ _____

\$ _____

TOTAL \$ 128.75/s [Signature]
Clerk of Court/Deputy Clerk

Court Reporter

Judge Code

6/12/25
Sentence Date[Signature]
Presiding Judge

SCCA217B

01/27/2025

01/27/2025

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

SENTENCE ORDER

IN THE COURT OF GENERAL SESSIONS

STATE vs.

Kenneth Miller, Jr

AKA:

SSN: [REDACTED]

RACE: BSEX: M

DOB: [REDACTED]

) INDICTMENT/CASE#: 2025-GS-10-01402) AW#: 2025-GS-10-01402) Date of Offense: 01/04/2024) S.C. Code§: 44-53-0379(A)) CDR Code #: 4088) Range of Offense: Firearms / Poss. of firearm or ammunition by person convicted of PWID, manufacturing, distr., or trafficking controlled substance (I)In disposition of the above indictment comes now the Defendant who was CONVICTED OF ☒ or ☐ PLEADSTO: Possession of a Firearm by Person Convicted of PWIDRange of Offense Pled: NMT 5 yearsIn violation of § 44-53-0379(A) of the S.C. Code of Laws, bearing CDR Code # 4088☐ NON-VIOLENT☐ VIOLENT☐ SERIOUS☐ MOST SERIOUS☐ MANDATORY GPS☐ § 17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☐ As indicted☐ Lesser Included Offense☐ Defendant Waives Presentment to Grand JuryThe plea is: ☐ w/o Rec/Negotiations ☐ Negotiated☐ Recommendation/s/ Kasey Knox106633/s/ Mary Alison Ford73776

Solicitor

SC Bar #

Attorney for Defendant

SC Bar #

The Defendant is committed to the ☒ SCDC ☐ County Detention Center ☐ Home Incarceration Programfor a determinate term of 5 days/months/years/Time Served ☐ YOANTE years and/or shall pay a fineof \$; provided that upon the service of days/months/years/Time Served and or paymentof \$ plus costs and assessments as applicable*; balance is suspended with **probation** for months/years

and subject to SCDPPPS standard conditions of probation, which are incorporated by reference.

The sentence shall run ☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: ☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDC526 days/months ☐ To include time spent on monitored house arrest prior to trial and sentencing

SPECIAL CONDITIONS:

☐ PTUP☐ No Contact with Victim☐ Domestic Violence Intervention Program☐ Hold for Inpatient Treatment☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430☐ SAC/MHC if necessary☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135☐ Other: ☐ RESTITUTION See Separate Order (20% per S.C. Code §24-21-490(B))

§14-1-206 (Assessments 107.5%)

§14-1-211 (A)(1) Conv. Surcharge)

§14-1-211 (A)(2)(DUI Surcharge)

§56-5-1995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

§14-1-212 (Law Enforcement Funding)

§14-1-213 (Drug Court Surcharge)

§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)

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3% to County (if paid in installments)

☐ Appointed PD or appointed other counsel. Proviso requires \$500 to be paid to Clerk during probation and shall be collected before any other fees☐ §17-3-45(B) Unpaid Application Fee to be paid to the Public Defender Fund

Restitution

FINE:

\$

\$

\$

\$100

\$ 100.00

\$100

\$

\$12

\$

\$25

\$

\$25

\$ 25.00

\$150

\$

\$41

\$

\$50

\$

\$40/ea

\$

TBD

\$ 3.75

\$500

\$

\$40

\$

TOTAL

\$ 128.75/s/ [Signature]
Clerk of Court/Deputy ClerkSCRP
Court Reporter

Judge Code

6/12/25
Sentence Date[Signature]
Presiding Judge

SCCA217B

01/27/2025

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Lara M. Caudy
Senior Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 11th day of August, 2026.

RECEIVED

Aug 11 2026

SC Court of Appeals