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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County

Honorable G.D. Morgan, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

KEOKI KENTA HARRIS,

APPELLANT

APPELLATE CASE NO. 2024-001742

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1 State of South Carolina) Court of General Sessions
 2 County of Greenville) Thirteenth Judicial Circuit

3

4 State of South Carolina,) Transcript of Record
)
 5 vs.) 2023-GS-23-06520
) 2023-GS-23-06521
 6 Keoki Kenta Harris,) 2023-GS-23-06522
)
 7 Defendant.)

8

September 23, 2024
 Greenville, South Carolina

9

10 B E F O R E:

11 The Honorable G.D. Morgan, Jr., Judge; and a Jury

12

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

13

Meghan A. Gasser, Assistant Solicitor
 14 Andrew P. Miller, Assistant Solicitor
 On behalf of the State of South Carolina

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Sara E. Gorski, Esquire
 16 Rachel A. Kepley, Esquire
 On behalf of the Defendant

17

REPORTED BY:
 Stacy S. Johnson, RPR
 Circuit Court Reporter

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
C-1	Defendant's Recorded Statement	4	
S-1	Defendant's Recorded Statement	4	
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1 (The following proceedings were held Monday,
2 September 23, 2024, beginning at 1:18 PM.)

3 (Court's Exhibit No. 1 was marked for
4 identification.)

5 (State's Exhibit No. 1 through 5 were marked
6 for identification.)

7 BAILIFF: All rise. Court is now in session.
8 The Honorable Judge G.D. Morgan, Jr., presiding.

9 THE COURT: Good morning -- or good afternoon.
10 Please be seated.

11 All right. Everybody ready?

12 All right. We are on the record.

13 Have we got the indictments?

14 THE CLERK: Yes. Sorry.

15 THE COURT: All right. In the matter of the
16 State versus Keoki Kenta Harris.

17 All right. So I believe we've got some pre-trial
18 motions. So is there anything we need to take up
19 before we start with the motions? Any issue we need to
20 take up?

21 MR. MILLER: No, Your Honor. Just on one of the
22 indictments I believe there was an amended indictment
23 sent to the grand jury a few months ago. It just -- a
24 name was spelled incorrectly, so.

25 THE COURT: Yeah, I've got the amended

1 indictment. I've got an indictment for attempted
2 murder, an amended indictment for murder, and an
3 indictment for possession of a weapon during the
4 commission of a violent crime.

5 All right. Let me hear -- we'll hear from the
6 State first. What are your motions? Whoever wants to
7 go first?

8 MR. MILLER: We can start with -- the State did
9 file a couple of pre-trial motions; the first of which
10 is just basically the boilerplate third-party guilt
11 motion. I don't if the defense intends to enter
12 anything, but there were some, I think, fingerprints
13 that were clearly unaffiliated with anything to do with
14 this case, and the State would just ask that anything
15 that does not fall under or included in the test in
16 State v. Gregory be excluded from this trial.

17 THE COURT: Okay. Ms. Gorski or whoever?
18 Ms. Kepley?

19 MS. GORSKI: Good morning. Or good afternoon,
20 Your Honor. At this time there is no question of
21 third-party guilt and we're not seeking to go in that
22 direction.

23 THE COURT: Okay.

24 All right. We'll that should take care of that.
25 Of course, if it does come up and you intend to enter

1 introduce any evidence, we'll probably need to take
2 that up outside the jury, proffer it, and see what
3 we've got.

4 MS. GORSKI: Yes. Thank you, Your Honor.

5 THE COURT: All right.

6 MR. MILLER: The next motion the State filed is a
7 motion in limine to exclude evidence of a number of
8 different things. The first is the deceased victim,
9 Mr. Pone's criminal history. Your Honor, his criminal
10 history includes, I believe, some charges from when he
11 was about sixteen years old. They have no relation to
12 this case and do not fit under 404(b) under State v.
13 Boyd. That's 126 S.C. 300. Specific instances of
14 conduct are not admissible as to character evidence.
15 That was reiterated in State v. Franklin, and I have
16 copies of those, Your Honor, if you'd like them. The
17 only real purpose those things would be admitted in
18 this case would be to denigrate the deceased victim's
19 character to make the jury think less of them, which
20 would be impermissible use and fall well outside of
21 Rule 403, Your Honor.

22 THE COURT: All right. So this -- looking at
23 your motion, is to any -- Mr. Pone, P-O-N-E, is how you
24 pronounce it?

25 MR. MILLER: Yes, Your Honor.

1 THE COURT: Pone. Those two.

2 MR. MILLER: Those two. I will start with
3 addressing Mr. Pone's criminal history. He is the
4 deceased victim in this case.

5 THE COURT: All right. Let me hear from you on
6 him, the history -- he's got a prior criminal history?

7 MR. MILLER: Yes, Your Honor. He does, and as
8 well, it is quite old. I believe he had some armed
9 robberies from the time that he was around sixteen
10 years old. I don't know if the defense intends to
11 introduce those. The State would ask those be --

12 THE COURT: All right. Ms. Gorski, let me hear
13 about prior his -- the prior criminal history of the
14 victim in the case.

15 MS. GORSKI: Your Honor, the fact that we are not
16 at the point where we know yet Mr. Harris is actually
17 gonna take the stand; however, he does have firsthand
18 knowledge and if he for whatever reason it may be --
19 we're thinking ultimately would be a self-defense, if
20 that comes to be where we are headed, which it would be
21 an affirmative defense and we do have the right to do
22 that if Mr. Harris decides to go -- if he does take the
23 stand. It would be firsthand knowledge as there are
24 interfamilial relationships. These were not people who
25 did not know each other. So in precluding him from

1 saying that he knew or he was aware would really limit
2 him and his ability to not only testify, but be able to
3 explain how he knows.

4 THE COURT: Let me ask you this. What is -- so
5 when the victim was sixteen years old and what were the
6 incidents or crimes? Tell me what is the evidence that
7 potentially could be submitted.

8 MS. GORSKI: The propensity, Your Honor, in the
9 sense of knowing that, and it actually comes out in a
10 couple of body cams. It's not direct, but there is
11 certainly supposition to say oh, you just got out or
12 just been released or something of that wording, so
13 there are some hints and Mr. Harris knew he was the --
14 or he is the nephew of I guess -- I want to make sure I
15 get it right -- Mr. Clement and actually the cousin of
16 one of the witnesses for the State, who is Treva Young.
17 So there is definitely relationships that are spun, but
18 not evidence; however, with his personal knowledge of
19 them making it how he even recognizes and knows him, it
20 could very easily become part of how he is aware of how
21 maybe the conduct --

22 THE COURT: Okay. And so what is or what are the
23 incidents that would -- that you would potentially
24 submit as evidence? What are the incidents that he
25 knows of?

1 MS. GORSKI: The actual reason that he had not
2 been in the picture. He had just been released prior
3 to this. I can't tell you exactly, but it's a number
4 of weeks to months before this actually occurs. So
5 this was almost a reunification of seeing someone after
6 a long time knowing that they had already closed a case
7 that was armed robbery involving a gun, which is also
8 facts of our case, so there are some things that we can
9 parallel very easily, especially when Mr. Harris, if he
10 decides to take the stand, he's going to make light of
11 them and he's gonna make sure that he puts them out
12 there because that's what kind of makes some of the
13 tension that builds or self-defense and those are
14 really the seeds that he would lay if he takes the
15 stand, so we don't want to be precluded from that if
16 that's part of where he finds himself in a self-defense
17 position.

18 THE COURT: So when was the armed robbery?

19 MS. GORSKI: The armed robbery -- he was actually
20 convicted in 2011 and he served ten years.

21 THE COURT: All right. And then so -- so he --
22 and this happened on November the 1st of 2021?

23 MS. GORSKI: Yes. It was Halloween. Actually it
24 October 31st right at the change of November 1st.

25 THE COURT: All right. And so the incident

1 you're talking about that he got out was in 2011 and it
2 was an armed robbery?

3 MS. GORSKI: It was actually a number of armed
4 robberies. I believe it was through plea that his case
5 was resolved and I think it was four armed robberies
6 and they came to an agreement however they did and
7 that's where he ended up serving. So he actually went
8 into adulthood while he was incarcerated.

9 THE COURT: All right. Let me hear from the
10 State. So we've got an issue of an incident of
11 violence, even though it was ten years ago, but an
12 incident of violence. What -- what keeps that out on
13 his state of mind?

14 MR. MILLER: Your Honor, it sounds like they're
15 trying to use it as basically 403 character for
16 violence for the victim I guess is what they're trying
17 to get out with it and I think the case law is very
18 clear you cannot get into specific instances for
19 reputation of character --

20 THE COURT: Well, actually you can -- in certain
21 instances, as far as reputation and propensity
22 evidence, you know, the character of the victim under
23 404, 404(a), but now you can get in evidence of the
24 deceased's state of mind. That's State v. Brown, State
25 v. McCray. There's several cases that go back that

1 would allow testimony of a victim's state of mind
2 knowing that the victim may have committed a violent
3 act. Now it's got to be a violent act and it's got
4 either two things, as you-all know, it's got to be
5 either directed to the defendant himself or if it was
6 directed to others, it's got to be at least closely or
7 remotely in time. So they can -- it's not necessarily
8 to some degree of -- I mean, it is a 404 issue, but it
9 really goes to the State of mind of a defendant in a
10 case if there is an incident where the victim may have
11 had a violent crime.

12 The question is though, Ms. Gorski, it was
13 ten years ago when this occurred and it was an armed
14 robbery?

15 MS. GORSKI: Yes, Your Honor. However, the
16 recent release after the ten years is why it remains
17 something that is actually very fresh in Mr. Harris's
18 mind and the fact that they are now in a setting
19 where there's, again, a gun involved. There's also an
20 incident that happens prior that would lead Mr. Harris
21 to know that there's definitely some similarities,
22 so this trait or this personality or this type of
23 behavior, this type of conduct, is something that --

24 THE COURT: What is the incident that just
25 happened? You said there was something that had

1 recently happened?

2 MS. GORSKI: There was a fight, which really a
3 fight, unequal in the sense of there was two people
4 involved, both Mr. Pone and Mr. Clement, and it was
5 more of two on one against Mr. Harris. So this
6 kind of ties in exactly, him being freshly released,
7 with now -- I don't want to use the word "attacked",
8 but certainly there was -- Mr. Harris was not the
9 aggressor.

10 THE COURT: All right. So that incident that you
11 are talking about between Mr. Clement, Mr. Pone and the
12 defendant?

13 MS. GORSKI: Yes, Your Honor.

14 THE COURT: When did that occur?

15 MS. GORSKI: Just moments prior to actually the
16 shooting that took place within the same building just
17 outside in an attached parking garage.

18 THE COURT: Yes, sir.

19 MR. MILLER: There was an incident inside the
20 bar, sort of like a -- I would say basically a mutual
21 combat fight, but there were two individuals on one
22 side. It's broken up. The shooting occurs outside the
23 club between there's some testimony at some time around
24 I would say ten-ish minutes later, and the victims are
25 sitting in a car far away from the original incident

1 location and they were actually pulling out of the
2 parking garage leaving when the shooting occurs.

3 So I don't see any way where this previous
4 incident was connected. There were no firearms
5 involved in the fight whatsoever. There's no evidence
6 there were any firearms inside of the bar area when
7 this fight occurred. There's no evidence that either
8 of the victims had a firearm in the vehicle or at any
9 point in the night.

10 THE COURT: But the -- but there was a fight
11 between the -- was there a fight between the defendant
12 and the victims or --

13 MR. MILLER: Yes, Your Honor.

14 THE COURT: All right. So are you trying to keep
15 that out?

16 MR. MILLER: No, Your Honor.

17 THE COURT: Okay.

18 MR. MILLER: We can address that fronton.

19 THE COURT: Again, what I'm trying -- because
20 this is really a State v. Brown analysis, McCrary,
21 the two, three, four cases there. It's kind of where
22 you've got to analyze this -- or I've got to analyze
23 it, is if it goes to the state of mind, and that's why
24 I'm asking these questions of them as to when this
25 armed robbery took place, and it sounded like it was

1 ten years before. So that's what -- so you don't have
2 any disagreement if they try -- if he testifies and he
3 testifies about the prior fight or somebody testifies
4 about the prior fight in the bar?

5 MR. MILLER: Of course, Your Honor, we don't plan
6 to admit evidence of that ourselves.

7 THE COURT: What exactly is that the defendant --
8 Ms. Gorski, what are you potentially trying to put into
9 evidence? What exactly are you gonna try to put into
10 evidence?

11 MS. GORSKI: Allowing the fact that Mr. Harris
12 had already a state of heightened awareness and/or
13 where he's standing this is not only someone he knows,
14 he knows that he has just been released from prison for
15 a violent act that involved a firearm, and that puts
16 him in a position where he is aware of this and that is
17 part of where his thought process is coming from, where
18 his cognitive ability to even foreshadow anything else.
19 Whether he takes the stand I know is gonna really be
20 where this will be at issue, but it still remains that
21 if he needs to explain himself limiting that is really
22 limiting his ability to use self-defense at some point
23 if he does, if we choose to or not. He also does not
24 -- he does not have an unknown person. I mean, he
25 knows this person through the fact that she -- his

1 girlfriend is cousins with him. I mean, there's a --
2 there's a relationship.

3 MR. MILLER: Your Honor, the State would mostly
4 want to keep this out during our presentation of our
5 case.

6 THE COURT: Well, I was just getting ready to say
7 I'm gonna -- don't bring it up until you are getting
8 ready to put the evidence or whatever evidence it is
9 before the jury. Because I'm gonna need to hear
10 probably a little bit more testimony and just -- or
11 more argument on it. Arguably, it could possibly go in
12 on state of mind, but may not be. It's just I've got
13 to make a determination whether I think it's remote
14 enough and then I've got to make a 403 analysis after
15 that.

16 So I'm gonna instruct you not to bring it up to
17 the -- in front of the jury in opening or, you know,
18 not until you're ready to put it into evidence. And
19 when you're ready to do that, just let me know so we
20 can take it up. I just don't want it to get blurted
21 out and then you can't unring the bell, so just make
22 sure you let me know and then we'll handle it at that
23 time.

24 MS. GORSKI: Thank you very much.

25 Your Honor, I do want to make sure and to clarify

1 as you referred to opening, self-defense at all or
2 just --

3 THE COURT: No, just somebody that's talking
4 about this prior incident of these victims. The prior
5 with Mr. -- who is it? Mr. Pone?

6 MS. GORSKI: Pone.

7 THE COURT: Pone. If you not mention that in
8 opening argument.

9 MS. GORSKI: Very good. Thank you, Your Honor.

10 THE COURT: All right. The next one.

11 MR. MILLER: The next point in the same motion
12 the State filed is regarding the surviving victim's
13 criminal history. I don't know if it's gonna be
14 as contentious. I believe he doesn't have any
15 convictions that really fit within Rule 609.

16 MS. GORSKI: I think that's correct. We don't
17 have anything that we would -- the only thing that,
18 and I don't know if you would touch on that, the fact
19 that he does have those pending charges, Your Honor,
20 we would say that it does go to his credibility.

21 THE COURT: What rule of evidence though do you
22 get that in under? Credibility can under 608, 609. It
23 doesn't sound like it's 609. To get it in under 608,
24 it's got to be truthfulness or untruthfulness for any
25 witnesses. But that's for witnesses. I don't know how

1 you get in testimony about a victim. The only way you
2 can get it in is 608, 609, and that's if they're
3 testifying as a witness.

4 MS. GORSKI: Your Honor, then if would you allow
5 us just to keep that open if it were to --

6 THE COURT: I'll keep everything open.

7 MS. GORSKI: Okay.

8 MR. MILLER: Your Honor, we do plan on calling
9 him as a witness. I do know there are some instances
10 where people can be asked about pending charges if
11 they are usually cooperating co-defendants who've
12 worked out some sort of deal or something, but he
13 is not -- he's a victim in this case. Actually his
14 pending charges are being prosecuted by another agency
15 and we have absolutely nothing to do with that.
16 There's no --

17 THE COURT: What are the pending charges?

18 MS. GORSKI: Conspiracy.

19 MR. MILLER: There's one conspiracy and a couple
20 of, I believe, drug charges from the State grand jury's
21 office.

22 THE COURT: All right. So if he's gonna be a
23 witness, Ms. Gorski, you can impeach him, but it's
24 only under 608 and 609. Of course, it's got to be a
25 conviction for 609, so that's out unless he's been

1 convicted, and then I've got to make a balancing test
2 on that. So then you're left with 608 and that's only
3 as to truthfulness or untruthfulness and so pending
4 charges don't really fit under that.

5 MS. GORSKI: Your Honor, the only thing that
6 we would mention is we understand it is a different
7 agency, however, under the umbrella of Government,
8 that it does all come under one where it may not be
9 directly by the State itself or these particular
10 prosecutors, but we do see bias there only because as
11 he is testifying he also knows that he has something
12 pending. I understand there's nothing else that we
13 would be interested in or even explore or try to do
14 that, but we would like to raise for the record, as
15 well as if something else were to come up, I'd have
16 the ability to do so.

17 THE COURT: Now if it was a situation where he
18 was part of a deal with this particular case, I mean,
19 it's fair game if he testifies or somebody testifies
20 and they're, you know, getting some kind of deal out
21 of testifying in this case, then that's a different
22 situation. I don't -- what I'm hearing he has pending
23 charges with another agency and not really tied to this
24 case.

25 MS. GORSKI: It is not and we do concede that,

1 we're not remotely saying that it is, and then we
2 understand that and that actually is something we did
3 not explore independently just to find something. We
4 did want to bring up the generality of motivation and
5 bias just because as we also don't know if he's going
6 to testify. This is, again, if it comes up.

7 THE COURT: Okay. Mr. Miller, anything?

8 MR. MILLER: No, Your Honor. I'd just reiterate
9 he is a victim in this case. He is prosecuted by a
10 separate agency. In full candor, I have called that
11 agency once and left a message, did not talk to anyone,
12 to say we were going to speak to them in jail just
13 so they were aware of why the solicitor's office
14 wanted to talk to him, but that is the extent of any
15 communication.

16 THE COURT: Again, if there is some issue of
17 his -- if he's got some issue that he's been promised
18 or something to testify in this case to get a deal
19 somewhere else, I mean, that's a -- that is a different
20 issue. We'd have to address it.

21 So is there any potential evidence of where he's
22 getting a deal for testifying in this case?

23 MR. MILLER: From my perspective, Your Honor, we
24 have not discussed that with anyone and we do not plan
25 to discuss that with anyone.

1 THE COURT: All right. If there is something out
2 there, and obviously you've got to disclose that, but
3 unless there's something out there, I mean, it's not
4 admissible. Again, it's a witness. You can impeach
5 a witness on things and that's falls either under 608
6 or 609 for a witness. Of course, 608 is only related
7 to truthfulness or untruthfulness. 609's got to be a
8 conviction.

9 MS. GORSKI: Correct.

10 THE COURT: But, again, if it's a witness who's
11 getting a good deal or may get a good deal for
12 testifying in this trial, then that's a different
13 story if that's the situation, but it sounds like it's
14 not from what I'm hearing.

15 MR. MILLER: It is not, Your Honor.

16 THE COURT: Okay.

17 MS. GORSKI: And confirming that exploratory part
18 of it, we understand and actually, Your Honor, we
19 respect the State letting us know that there is nothing
20 outstanding or that they have not shared. We did not
21 get that impression either, nor did we mean to say that
22 we did.

23 THE COURT: Okay.

24 All right. Next motion.

25 MR. MILLER: I believe the -- I believe the next

1 motion in limine filed by the State is any reference or
2 evidence of potential gang affiliation or tattoos. I
3 don't believe that's at issue.

4 MS. GORSKI: No, we concur that is not what we
5 are -- we would not raise that.

6 THE COURT: All right.

7 MR. MILLER: And I don't know if the defense has
8 any issues, the final for the State would be a Jackson
9 v. Denno hearing.

10 THE COURT: All right.

11 MS. GASSER: Your Honor, may it please the Court?
12 I do apologize. I just think that we should take this
13 up now rather than later. As you said before, the
14 bell being unable to be unrung, there's been a lot of
15 talk of self-defense in pre-trial matters; however,
16 self-defense will only arise in this case if the
17 defendant chooses to take the stand, which is well
18 within his right to do so. However, I do believe that
19 it would be improper for defense counsel to either
20 ask about self-defense whether it be in voir dire or
21 mentioned in opening statements because there -- at
22 that point in time in the case there would be no
23 evidence as to self-defense on the record. Obviously
24 opening and closing statements are not evidence, but
25 like you said before, a bell could be potentially not

1 able to be unrung if they start talking self-defense --
2 self-defense in opening and then they don't put their
3 client up and there's no evidence of that.

4 There is a very specific headline in State v.
5 Jackson 384 S.C. 29, 681 S.E. 2d 17.

6 THE COURT: 384 S.C. 29?

7 MS. GASSER: Yes, Your Honor. And it says
8 that any act of the accused in violation of law and
9 reasonably calculated to produce the occasion amounts
10 to bringing on the difficulty and bars his right to
11 assert self-defense as a justification or excuse for a
12 homicide. That's quoting State v. Bryant 336 S.C. 340
13 from 1999. And it continues an accused provokes or
14 initiates an assault cannot claim self-defense unless
15 he both withdraws from the conflict and communicates
16 his withdrawal by words or acts to his adversary.
17 Again, quoting State v. Bryant.

18 THE COURT: Isn't that a matter of evidence?
19 Doesn't that relate to the evidence?

20 MS. GASSER: I do, Your Honor, but I'm saying
21 that the bell -- if they made their opening statement
22 as to -- and they put in a lot of evidence that is then
23 not substantiated through the defendant's actual --
24 because, again, he has the absolute right to choose
25 whether or not he wishes to testify all the way up

1 until the moment where Your Honor charges him with
2 that. I do think that the bell would be unable to be
3 backtracked if they spend their entire opening
4 statement talking about self-defense, and I think that
5 acts -- the State's position is that there's not going
6 to be sufficient evidence to, and we obviously will
7 talk about that if the defendant testifies and they
8 request a jury instruction, but we do not believe that
9 there is going to be sufficient evidence and it would
10 be barred under this case law. Thereupon, again, the
11 bell being potentially unable to be unrung.

12 THE COURT: All right. I've got some questions.
13 I'll come back to you. I want to hear from the
14 defendant first.

15 MS. GASSER: Yes, Your Honor.

16 MS. GORSKI: Your Honor, co-counsel will address
17 this point only because she's kind of geared to do
18 opening.

19 THE COURT: Okay.

20 MS. KEPLEY: Judge, I will say we're certainly
21 allowed to argue self-defense in our opening on voir
22 dire. Of course, we are. Ms. Gasser brings up some as
23 case law about whether or not we get the jury charge.
24 I think that's premature. We may get the charge or we
25 may not. I think she said the words "the bell cannot

1 be unrung" several times. Judge, if we make a bunch
2 of promises in our opening about being able to prove
3 self-defense and we don't provide any defense --

4 THE COURT: It comes back -- it may come back to
5 kill you.

6 MS. KEPLEY: I would imagine they would certainly
7 make a very big deal about that in their closing to
8 their advantage, Judge. It is a legal strategy we're
9 choosing and it's one that may not work out well for
10 us if our client choose not to testify.

11 THE COURT: Well, that was my question I was
12 gonna come back to Ms. Gasser, is in law school trial
13 ad don't ever get up in opening statement and tell them
14 what you're gonna do and prove and then you don't prove
15 it and you get crushed --

16 MS. GASSER: Yes, Your Honor. I was just trying
17 to keep the record clear if that's the route that they
18 wish to go. Obviously, yes, that is our strategy to
19 handle that in it closing argument. I just, again, do
20 think that if self-defense is essentially just talked
21 about impermissibly throughout this without them
22 placing in evidence on the record, we may need also a
23 limiting instruction, but we can cross that bridge at
24 the appropriate time.

25 THE COURT: Well, I'm looking here at State v.

1 Jackson. When you were citing this case, I wasn't
2 familiar with a case that said that you couldn't talk
3 about stuff. I just -- I think that is something to
4 talk about whether it should be charged or not, but,
5 I mean, that's the other classic. You-all can -- the
6 State, if they don't prove it, in closing argument
7 you-all can do a pretty good job of probably, you know,
8 talking to the jury about that.

9 MS. GASSER: Yes, Your Honor. And, of course,
10 the reason I only brought it up is just the language
11 bars his right to assert as defense counsel represents
12 his interests, essentially the entire trial being his
13 right to assertion, I think that's why I just wanted,
14 again, to clear the record and make the argument in
15 pre-trial matters. But we can, of course, come back
16 to that at the appropriate time.

17 THE COURT: All right. I'm gonna allow you to
18 talk about that.

19 MS. KEPLEY: Thank you, Judge.

20 THE COURT: All right. Anything else?

21 MR. MILLER: Your Honor, I believe we just have
22 the Jackson v. Denno regarding the defendant's
23 statement.

24 THE COURT: All right. I'll hear from you.

25 MS. GORSKI: Your Honor, at this time I believe

1 that we are -- we're ready to proceed. There is one
2 other thing that we would say. If we're gonna do the
3 Jackson, are we gonna take a time out and do that --
4 I know that it's not gonna be a long one and I just
5 wanted to see if that's still the case. We don't -- we
6 haven't found anything different. I think we talked
7 about it before.

8 MR. MILLER: Yes, Your Honor. I think -- I
9 believe we just have to on the record establish the
10 voluntariness and that Miranda was complied with. We
11 will be brief with it, but enough to put it on the
12 record.

13 THE COURT: All right.

14 MS. GORSKI: And we don't have a problem with
15 that. We do have a motion in limine, Your Honor --

16 THE COURT: Okay.

17 MS. GORSKI: -- at this time. I know that the
18 409 language is a little bit different, but we invoke
19 the rule -- the sequestration rule. A motion to
20 sequester.

21 THE COURT: All right. Any objection from the
22 State to sequestration? You can have any victim,
23 victim's family and the investigator.

24 MR. MILLER: Yes, Your Honor. The lead
25 investigator is here and some victims may want to be

1 a part of it. I don't believe they want to attend
2 the whole thing. Other than that, we don't have an
3 issue with that.

4 Do you have any objection to witnesses after
5 they're excused they can sit, after they've testified?

6 MS. GORSKI: After they're excused, no, but most
7 certainly --

8 THE COURT: I'll allow them stay in after they
9 testify.

10 MS. GORSKI: We just ask that there be no
11 communications, written, spoken, texted, phone calls,
12 any of that before their testimony, during their
13 testimony.

14 THE COURT: All right. That's a given. I mean,
15 no victim -- if somebody stays in here, they obviously
16 can't then go talk to a witness that's about to testify
17 or give any kind of information. They're certainly
18 allowed to stay in after they testify. They just can't
19 be talking to anybody else that's getting ready to
20 testify.

21 MS. GORSKI: Thank you. We appreciate the
22 clarity.

23 THE COURT: Okay.

24 MR. MILLER: And just to clarify, we do need
25 ourselves to talk to our witnesses for logistical

1 purposes.

2 MS. GORSKI: Understood.

3 THE COURT: Yeah.

4 All right. Jackson v. Denno.

5 MR. MILLER: Yes, Your Honor.

6 The State as far as the Jackson v. Denno hearing
7 would call Deputy -- or Investigator Payton Loyd.

8 (Whereupon, Payton Loyd was duly sworn by the
9 Clerk of Court.)

10 THE CLERK: Please state your name for the
11 record.

12 THE WITNESS: My name's Payton Loyd.

13 PAYTON LOYD,

14 having been duly sworn, testified as follows:

15 DIRECT EXAMINATION (In-Camera)

16 BY MR. MILLER:

17 Q. Where are you currently employed?

18 A. The Greenville City Police Department.

19 Q. And what is your current position there?

20 A. Violent crimes detective.

21 Q. All right. And in that capacity, did you speak with
22 the defendant on November 1, 2021?

23 A. Yes.

24 Q. Where was the defendant when that took place?

25 A. He was in the parking lot on the back side of the law

1 enforcement center, between that and the detention center.

2 Q. Around what time did that conversation take place
3 approximately?

4 A. I believe it was between 2 and 3AM if I remember
5 correctly.

6 Q. Okay. Did the defendant appear to have any issues
7 understanding what was happening?

8 A. No, sir.

9 Q. Did he appear to be under the influence of any drugs
10 or alcohol?

11 A. No, sir.

12 Q. Did he have any visible injuries or impairments?

13 A. He did not, no.

14 Q. Who was present when you questioned the defendant?

15 A. It was myself, the defendant and I believe one officer
16 that was -- had his body camera on.

17 Q. Okay. And where was that officer in relation to where
18 you and the defendant were speaking?

19 A. He was right next to me.

20 Q. How long did you speak with the defendant?

21 A. It was less than an hour.

22 Q. Did he ask for anything to eat or drink or access to
23 a phone?

24 A. No, sir.

25 Q. Were there any promises or threats made to the

1 defendant about the statement?

2 A. No, sir. There was not.

3 Q. Was the defendant in custody at the time of his
4 statement?

5 A. Yes.

6 Q. Did you provide him his Miranda warnings?

7 A. I did.

8 Q. And was he advised orally or in writing?

9 A. Orally.

10 Q. Did he appear to have any issues understanding his
11 Miranda warnings?

12 A. No, sir.

13 Q. Did he confirm he understood his right to remain
14 silent?

15 A. He did.

16 Q. Did he confirm he understood his right to an attorney?

17 A. He understood.

18 Q. Did he understand he had the opportunity to exercise
19 those rights at any time and stop talking?

20 A. Yes, he understood.

21 Q. At any point while you were speaking with him, did he
22 ask for an attorney?

23 A. No.

24 Q. Did he ever indicate that he wished to stop talking?

25 A. No, he didn't.

1 Q. Was this statement audio and video recorded?

2 A. Yes.

3 Q. Okay.

4 MR. MILLER: If I may approach quickly?

5 THE COURT: Yeah.

6 BY MR. MILLER:

7 Q. Detective, do you recognize --

8 A. To be clear, there was a part of -- at some point
9 in that conversation where he did not wish to speak any
10 further and the conversation had ended if that's what
11 you're asking?

12 Q. Yes. And when he indicated he wished to stop talking,
13 did the conversation cease?

14 A. It did, yes.

15 Q. Were there any other interviews conducted of the
16 defendant in this case?

17 A. No, sir.

18 Q. Okay. That item you're holding I believe is labeled
19 State's Exhibit 1. Do you recognize what that is?

20 A. I do.

21 Q. And what is it?

22 A. This is a disk containing the statement made by the
23 defendant to me in our interview.

24 Q. Okay. Was that the statement recorded by the officer
25 standing next to you?

1 A. Yes.

2 Q. Do you -- did you recognize yourself in this video?

3 A. Yes.

4 Q. Did you recognize your voice in this video?

5 A. Yes.

6 Q. Is it a true and accurate depiction of your brief
7 interview with the defendant?

8 A. Yes.

9 MR. MILLER: Your Honor, at this point we'd move
10 to admit that as, I guess, Court's Exhibit 1 as part
11 of the Jackson v. Denno.

12 THE COURT: Any objection from the defense?

13 MS. GORSKI: No, not at this time, Your Honor.

14 THE COURT: Court's Exhibit No. 1's admitted into
15 evidence as Court's Exhibit 1.

16 (Court's Exhibit No. 1, Defendant's Recorded
17 Statement, was admitted into evidence for pre-trial
18 purposes.)

19 BY MR. MILLER:

20 Q. And, Detective Loyd, throughout this process, was
21 there any indication that the defendant did not wish to
22 speak with you until the very end?

23 A. No.

24 MR. MILLER: Your Honor, I believe that's all the
25 questions the State has.

1 THE COURT: All right. Any cross?

2 MS. GORSKI: No cross, Your Honor.

3 THE COURT: All right. You may step down.

4 THE WITNESS: Thank you.

5 (Witness excused.)

6 MR. MILLER: Your Honor, that is the only witness
7 for purposes of the Jackson v. Denno hearing.

8 THE COURT: Okay. Anything from the defendant?

9 MS. GORSKI: Not at this time, Your Honor.

10 THE COURT: Thank you. I'll hear your argument
11 on the record.

12 MR. MILLER: Yes, Your Honor. It's clear in this
13 case that the defendant was spoken to for about an hour
14 after and a half after the incident briefly in a car
15 outside the law enforcement center. The defendant did
16 not have any indication of any impairments or not
17 understanding what was going on. He appeared to be
18 completely willing to talk to the officer. He was in
19 custody. He was provided his Miranda warnings and
20 indicated he understood those warnings. The officer
21 spoke with him for a brief amount of time I believe the
22 video there would show you. As soon as the defendant
23 indicated he wished to stop speaking, the interview
24 ceased and no further communication was had, and I
25 believe for those purposes the state -- the statement

1 of the defendant was voluntary and Miranda was properly
2 given in this case.

3 THE COURT: All right. Before I hear from the
4 defendant, does either party request that I view the
5 videotape?

6 MS. GORSKI: We do not, Your Honor.

7 THE COURT: All right. Let me hear from the
8 defendant.

9 MS. GORSKI: Your Honor, at this time we have
10 no objection. Obviously Mr. -- detective Loyd will
11 be available at trial and we will address a certain
12 number of things, but at this time there really is no
13 objection and we understand as well this disk is in.

14 THE COURT: All right. Hearing no objection
15 from the defense, I will enter it for the record and
16 make a finding based on -- I do find that he was in a
17 custodial interrogation, but he was given his Miranda
18 rights. From the testimony it doesn't appear that he
19 was coerced or threatened. No evidence that he was
20 pressured to give any statement. There's no evidence
21 he was promised any leniency or any threat of violence.
22 It looks like it was less than an hour. Testimony
23 revealed that he was not impaired. He did not ask for
24 anything to eat or drink. Testimony reveals that he
25 understood the questions being asked. Testimony also

1 revealed that he did not ask for an attorney. He did
2 not indicate and that he wanted to stop talking until
3 later in the interview and at that point the testimony
4 revealed that he did wish to stop talking and at that
5 point law enforcement quit asking him the questions.
6 The location was, I believe, apparently behind the law
7 enforcement center. It does not appear there was any
8 evidence of any mental or physical deficiency. Again,
9 no impairments, so there was no evidence he was
10 intoxicated.

11 So as you know, the Court's got to look at it
12 from a totality of the circumstances and the Court's
13 standard of review is preponderance of the evidence
14 and it's based on the perspective from the defendant.

15 So based on the testimony that's been provided,
16 I do find that the statement was voluntarily made.
17 Certainly the jury is has the final determination on
18 that if that becomes an issue in the case.

19 All right. Anything else from the State on that?

20 MR. MILLER: No, Your Honor. Nothing else.

21 THE COURT: Anything from the defendant on that?

22 MS. GORSKI: No, Your Honor.

23 THE COURT: Okay.

24 All right. Any other motions?

25 I do have for the jury on the board here. Have

1 you-all each looked at your own -- or each of your's
2 voir dire?

3 MR. MILLER: Yes, Your Honor. We don't object to
4 most of the defendant's. We do have a slight issue
5 with No. 12. Does any jury panel member have any
6 opinion of how self-defense should be applied when
7 raised on injuries resulting after a fight and are you
8 held accountable?

9 Your Honor, it appears to be a hypothetical
10 question. It is almost pre-trying the issues through
11 voir dire. I would say that that would be an
12 impermissible question. We also don't know at this
13 point whether self-defense will actually arise.

14 And I believe No. 4 and No. 9 are duplicative,
15 but I believe the defense is willing to strike No. 9.

16 MS. GORSKI: Yes.

17 THE COURT: Well, I've got a few issues.

18 No. 5. Have you or a family member ever had
19 any dealings with the State or local law enforcement
20 agencies where you were questioned about your
21 involvement or as a witness and how did you feel?
22 Were you treated fairly? Would that affect your
23 ability to be fair and impartial?

24 I'm not inclined to ask that. That is just --
25 that's just very broad. It doesn't -- we're getting

1 into sort of somewhat emotional, philosophical answers
2 or responses, so I'm just not inclined to ask that.

3 Also I'm fine with asking about the firearms, but
4 No. 10, Ms. Gorski, I mean, you're asking whether they
5 -- whether they consider themselves above average in
6 using a firearm. Again, we're kind of getting into,
7 you know, opinions on how they use firearms and I just
8 don't think that relates to being a fair and impartial
9 jury in how they handle their firearm. I'm just not
10 inclined to ask that. We can get -- we'd have a bunch
11 of people start talking about personal experiences and
12 well, I think I'm a pretty good shot; well, I don't
13 know if I am or not, and I just -- I'm not inclined to
14 ask that.

15 As far as No. 11, I will -- I'm not gonna ask it
16 that way. I ask it in my regular questions to them, if
17 anybody can be fair and impartial, if they have any
18 bias or prejudice against either the State or the
19 defendant. I think my regular questions encompass that
20 because, again, we're getting into sort of a somewhat
21 theoretical, philosophical, does anybody have any
22 strong feelings? I'm not sure how we -- you know, we
23 could get into some discussions about the jurors, about
24 their feelings. Again, I just -- I'm not inclined to
25 do that.

1 The next one, 12, is similar. Any opinions.
2 We're asking the jury on opinions on how self-defense
3 should be applied and that's really a legal issue that
4 -- for the Court and the jury to decide and I'm not
5 inclined to ask that either.

6 As is the same thing with 13. Does any member
7 feel particularly for or against using self-defense?
8 Again, I'm just not inclined to ask that.

9 Tell me about 14. What do you want to get there?
10 Asking them if they have a strong bias for or against
11 current laws that govern gun ownership and lawful use?
12 I'm not inclined to do that. I'll hear from you, but
13 we not having a debate with people, well, I think these
14 laws are good; well, I don't think they are, and this
15 person gets up and talks about the law and about guns,
16 and I just -- I don't think that's really tailored to
17 get a fair and impartial jury for this particular case,
18 so I'm not inclined to ask it, but I'll hear from you.

19 MS. GORSKI: Thank you. Really we're trying to
20 get to the fact that because there's a firearm involved
21 and there are definitely strong feelings both ways
22 about firearms in general, and I agree with Your Honor,
23 there are endless conversations and there's definitely
24 two sides, but in this particular case it would be
25 going back towards the fact that the firearm that is

1 involved ultimately -- you know, there's -- someone
2 dies, someone's injured, but, again, it would be
3 self-defense if that were to be the way -- the
4 affirmative defense we'd use; that the firearm use
5 itself is not -- we're trying to stay away from the
6 fact that someone who is overly cautious just as
7 someone who is overly avid about yes, absolutely, and
8 we're really just trying to make sure that there is not
9 any of that that would create the idea that someone is
10 such an advocate for it or such an advocate against it
11 that they would not be willing to listen to everything
12 and to formulate their own or use their own beliefs and
13 not be fair and impartial. That really was the only
14 goal.

15 THE COURT: And I understand. My concern --
16 I've got a couple of concerns, but one of them is it
17 is a very volatile issue. There are emotions on both
18 sides of that and I don't want to really be having the
19 courtroom a town hall for -- I mean, I can just --
20 people are very passionate about it and somebody stands
21 up and says I don't believe anybody should have guns
22 like we have, it's terrible, and that makes somebody --
23 somebody over here on this side gets real mad; well, I
24 think we should, and we're gonna -- you know, they can
25 start arguing. It's a passionate kind of thing and I

1 just don't think that's really a question to determine
2 whether they are -- can be fair and impartial in this
3 particular case on this particular alleged murder and
4 asking their -- people's opinions about our gun laws,
5 I just think that's just -- it gives me concerns, so
6 I'm just not gonna ask.

7 Your question is noted. I put it on the record
8 what your question is, so it's on the record, but I'm
9 not going to ask that.

10 So let me ask -- so that's the defendant's. Does
11 the defendant have any objections to the State's? And
12 I will probably ask those questions and maybe a couple
13 of the defendant's. I'll ask them in a group of
14 questions. I'll ask four or five questions and then
15 have them come up and speak. I'm not gonna ask or
16 have anybody discuss in front of everybody whether
17 they've been a victim or a witness in a violent crime
18 or anything like that. I'll have them brought up.

19 MS. GORSKI: And we would just ask -- actually,
20 Your Honor, if we could do that, if there is someone
21 that does become that avid for or against, if we could
22 have that opportunity to have that person step aside
23 and maybe share why because then maybe that's what they
24 will let us know and that's what we're trying to get
25 to.

1 THE COURT: All right. So noted.

2 All right. Any objections by the defendant to
3 the State's?

4 MS. GORSKI: No, Your Honor.

5 THE COURT: All right. Anything else from the
6 State or the defendant?

7 MR. MILLER: Nothing from the State, Your Honor.

8 MS. GORSKI: Nothing from defense.

9 THE COURT: All right. Are you-all ready to
10 bring the jury up?

11 MS. GORSKI: I'm sorry?

12 THE COURT: Are you ready for them to bring the
13 jury up?

14 MS. GORSKI: Yes, we are.

15 MR. MILLER: The State's ready, Your Honor.

16 THE COURT: Okay.

17 (Pause in proceedings.)

18 THE COURT: Just for the record, one -- I just
19 wanted to let you-all know, obviously it doesn't really
20 involve me in so much, Juror No. 16 was just a law
21 partner of mine years ago. I've been gone three and a
22 half years, so I just wanted to -- full disclosure.

23 MS. GASSER: I don't see a 16 on my list.

24 THE COURT: On the -- it's No. 95. Just as a
25 disclosure. I mean, it's -- obviously it's not -- I

1 just wanted to let you-all know.

2 MS. KEPLEY: Thank you, Your Honor.

3 BAILIFF: Are you ready, Your Honor?

4 THE COURT: Yes, sir.

5 (Whereupon, the jury panel enters the courtroom
6 at 2:17 PM.)

7 THE COURT: All right. Is that all?

8 BAILIFF: Yes.

9 THE COURT: All right. Good afternoon, ladies
10 and gentlemen. Again, we are now about to start the
11 case of State of South Carolina versus Keoki Kenta
12 Harris.

13 Mr. Harris, if you would please stand up and face
14 the jury, please, sir.

15 All right. Thank you, sir. You may sit down.

16 All right. Ladies and gentlemen, the defendant
17 in this case has been indicted. There are several
18 indictments. One indictment, an amended indictment,
19 for murder, which alleges it occurred on November 1st
20 of 2021, where the defendant is alleged to have
21 unlawfully and with malice aforethought killed Torri
22 Adaryl Pone.

23 Also there's -- the defendant has an indictment
24 for an attempted murder. It alleges on November 1,
25 2021, the defendant unlawfully with malice aforethought

1 and with the intent to kill attempt to kill Patrick --
2 intent and attempt to kill Patrick Clement.

3 And then an indictment for possession of a weapon
4 during the commission of a violent crime. It alleges
5 on November 1, 2021, the defendant did possess or
6 visibly display a handgun during the commission or
7 attempted commission of a violent crime; to wit,
8 murder.

9 Now, first of all, ladies and gentlemen, these
10 are only indictments. Indictments are not evidence.
11 Indictments are simply the means and the manner that
12 cases are brought to court and so they are not to be
13 considered whatsoever in this case. It's only -- your
14 decisions if you are on this jury will be based on the
15 evidence that's put forth on the witness stand and any
16 potential exhibits. So, again, these are simply the
17 indictments bringing this case before you.

18 Now is there any member of the jury panel that
19 has ever been related by blood or marriage to either
20 the defendant in this case or any of the two victims --
21 either of the two victims, Patrick Clement or Torri
22 Adaryl Pone? If so, please stand.

23 Is there any member of the jury panel who's ever
24 had any close personal or social relationship with
25 either the defendant or Patrick Clement or Torri Adaryl

1 Pone? If so, please stand.

2 The following is a list of potential witnesses in
3 this case. Christopher Pustizzi. Daniel Bellamy.
4 Nathan Stanton. Payton Loyd. Dr. Michael Ward. Toni
5 Godfrey. Darbi Harriman. Susan Malloy. Kara Bennick.
6 Patrick Clement. Treva Young. And Michael Young.

7 Now has anyone ever been related by blood or
8 marriage or have any personal or social relationship
9 with any of these witnesses or if you know any of these
10 witnesses? If so, please stand.

11 All right. I'll have the lawyers introduce
12 themselves starting with the State.

13 MR. MILLER: Andrew Miller with the Thirteenth
14 Circuit Solicitor's Office. With me is my colleague
15 Meghan Gasser and with us is Investigator -- or
16 Detective Payton Loyd, and our paralegal/investigator
17 Lisa Garris.

18 THE COURT: All right. Defendant.

19 MS. GORSKI: Good morning, ladies and gentlemen.
20 My name is Sara Gorski. I am co-counsel with Rachel
21 Kepley. We also have our investigator here, Jeb
22 McCall, and we have the pleasure of representing
23 Mr. Keoki Harris.

24 THE COURT: All right. Thank you.

25 All right. Ladies and gentlemen, has any member

1 of the jury panel ever been represented by any of these
2 lawyers or related by blood or marriage to any of these
3 lawyers or have a close personal or social relationship
4 or know any of these lawyers? If so, please stand.

5 All right. Is there any member of the jury panel
6 that was a member of the grand jury which issued the
7 indictments in this case? If so, please stand.

8 Is there any member of the jury panel or family
9 member or relative who is a member of or contributor
10 to any group which has as its primary concern the
11 promotion of law enforcement or victims' rights? And
12 these include MADD, Mothers Against Drunk Drivers,
13 CAV, which is Citizens Against Violent Crime. SADD,
14 which was at one time known as Students Against Drunk
15 Drivers. Those are some of the groups, but any group
16 associated with either law enforcement or crime
17 victims' rights? If so, please stand.

18 Is there any member of the jury panel related by
19 blood or marriage or a close personal friend of anyone
20 that's employed by the Thirteenth Solicitor's --
21 Thirteenth Circuit Solicitor's Office or anyone in the
22 Attorney General's Office? If so, please stand.

23 (Potential juror stands.)

24 THE COURT: Yes, ma'am. What's your number?

25 POTENTIAL JUROR: 53.

1 THE COURT: 53. All right.

2 POTENTIAL JUROR: Judge Simmons.

3 THE COURT: Judge Simmons. All right. And what
4 is your relation?

5 POTENTIAL JUROR: I'm his niece.

6 THE COURT: All right. Thank you.

7 Is there any member of the jury panel related by
8 blood or marriage or a close personal friend of anyone
9 that's employed by any state, local, Federal or
10 military law enforcement agency?

11 (Potential jurors stand.)

12 THE COURT: All right. If you would please
13 stand. And your number, ma'am, right here on the front
14 row?

15 POTENTIAL JUROR: 126.

16 THE COURT: Okay. Yes, ma'am.

17 POTENTIAL JUROR: My son is a sergeant with
18 Spartanburg County over the digital forensics unit.

19 THE COURT: All right. And the fact that your
20 son works over there in Spartanburg, can you set that
21 aside and view the evidence solely -- view the case
22 solely on the evidence and be fair and impartial to
23 both the State and the defendant?

24 POTENTIAL JUROR: Yes, sir.

25 THE COURT: All right. Thank you.

1 Yes, ma'am.

2 POTENTIAL JUROR: I'm Juror No. 160. My
3 brother-in-law works for Greenville city as a SWAT
4 officer.

5 THE COURT: All right. The fact that your
6 brother-in-law works there, could you set that aside
7 and view this case based solely on the evidence and be
8 fair and impartial to both the State and the defendant
9 in this case --

10 POTENTIAL JUROR: Absolutely.

11 THE COURT: Thank you.

12 Yes, ma'am. Your number?

13 POTENTIAL JUROR: 65.

14 THE COURT: All right.

15 POTENTIAL JUROR: As a former administrator of a
16 high school, I was close friends with the SRO's there
17 and then Jonathan Albright and David -- I'm sorry, the
18 two SRO's there. David Shelborne. Sorry.

19 THE COURT: All right. The fact that you had --
20 or knew some SRO officers there, could you decide this
21 case solely on the evidence and be fair and impartial
22 to both the State and defendant?

23 POTENTIAL JUROR: Yes.

24 THE COURT: Thank you.

25 All right. Has any member of the jury panel ever

1 been employed by any --

2 BAILIFF: Your Honor.

3 THE COURT: I'm sorry. You know, a lot of times
4 we just have everybody out there and I kind of forget
5 over here. I'm sorry. What's your number?

6 POTENTIAL JUROR: 219. My brother is a police
7 officer for Pickens county police.

8 THE COURT: All right. The fact that your
9 brother is an officer over there in Pickens, could you
10 set that aside and view the case solely on the evidence
11 and be fair and impartial to both parties?

12 POTENTIAL JUROR: Yes.

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

14 All right. Has any member of the jury panel ever
15 been employed by any state, local, Federal or military
16 law enforcement agency? If so, please stand.

17 (Potential jurors stand.)

18 THE COURT: All right. Your number?

19 POTENTIAL JUROR: 33.

20 THE COURT: Okay.

21 POTENTIAL JUROR: I worked with Greenville County
22 Sheriff's Office as a dispatcher.

23 THE COURT: You currently work there now?

24 POTENTIAL JUROR: No, sir.

25 THE COURT: Used to?

1 POTENTIAL JUROR: Yes.

2 THE COURT: Okay. The fact that you used to work
3 there, could you set that aside and be fair and
4 impartial to both the State and the defendant in this
5 case?

6 POTENTIAL JUROR: Yes.

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

8 Yes, sir. Your number?

9 POTENTIAL JUROR: I don't know if it counts, but
10 I was a safety investigator for the State Transport
11 Police.

12 THE COURT: All right. And what's your number,
13 please, sir?

14 POTENTIAL JUROR: I'm sorry. 40.

15 THE COURT: 40. All right. The fact that you
16 were a state investigator with the State Transport
17 Police, could you view this case solely on the evidence
18 and be fair and impartial to both the State app the
19 defendant?

20 POTENTIAL JUROR: Yes.

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

22 All right. Does any member of the jury panel
23 have any special training in the use of firearms? Any
24 special training in the use of the firearms. If so,
25 please stand.

1 (Potential juror stands.)

2 THE COURT: All right. Your number, please, sir.

3 POTENTIAL JUROR: 171.

4 THE COURT: All right. What training do you
5 have?

6 POTENTIAL JUROR: U.S. Army and qualified in
7 another organization. I have served in Beirut and
8 Pakistan.

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

10 Yes, ma'am. Your number.

11 POTENTIAL JUROR: 59. Concealed weapons permit.

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

13 Yes, sir. Your number.

14 POTENTIAL JUROR: Served in the Navy. Served in
15 Desert Storm in '90.

16 THE COURT: All right. And what is your number,
17 sir?

18 POTENTIAL JUROR: 35.

19 THE COURT: All right. Thank you.

20 Yes, sir. Your number.

21 POTENTIAL JUROR: 135. I served in the U.S. Air
22 Force in Operation Iraqi Freedom.

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

24 Yes, ma'am.

25 POTENTIAL JUROR: I'm 184. I've had personal

1 shooting lessons if that counts.

2 THE COURT: All right. Thank you.

3 Your number.

4 POTENTIAL JUROR: No. 12. I have my concealed
5 weapons permit.

6 THE COURT: Yes, ma'am. Your number.

7 POTENTIAL JUROR: 87. I had my CWP many years
8 ago that since lapsed.

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

10 All right. Has any member of the jury panel or
11 any relative or -- immediate relative ever supported,
12 belonged to or an active member of the National Rifle
13 Association? If so, please stand.

14 (Potential juror stands.)

15 THE COURT: All right. And, again, your number?

16 POTENTIAL JUROR: 12.

17 THE COURT: All right.

18 POTENTIAL JUROR: My grandfather was.

19 THE COURT: Your grandfather. Okay. Thank you.

20 Has any member of the jury panel ever served as a
21 juror in the state, Federal or local courts? If so,
22 please stand.

23 (Potential jurors stand.)

24 THE COURT: Yes, sir. Your number, please.

25 POTENTIAL JUROR: 95.

1 THE COURT: All right.

2 POTENTIAL JUROR: It's been many years, but I've
3 served as a circuit court juror.

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

5 Yes, ma'am.

6 POTENTIAL JUROR: 50. Twenty plus years ago I
7 was in, I think, magistrate court.

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

9 Yes, sir.

10 POTENTIAL JUROR: 121. I served as a juror
11 twenty-five years ago. I'm not sure if it was circuit.

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

13 All right. Ladies and gentlemen, I'm gonna ask a
14 series of questions and if you have a response to these
15 questions, what I'm gonna do is just ask that -- I'm
16 gonna have you come down and just speak to me privately
17 with the lawyers if you have responses to these
18 questions.

19 All right. Have you or any member of your family
20 -- and do this. Before you -- if there is anybody that
21 needs to stand up and respond to it, just wait until
22 I finish all the questions and then if anybody is
23 responding to it, then stand up.

24 All right. So the first question: Have you or
25 any member of your family or a close personal friend

1 been a victim of or a witness to a violent crime?

2 No. 2: Have you or any member of your family or
3 close personal friend been accused of a violent crime?

4 No. 3: Have you or any member of your family or
5 close personal friend been involved with law
6 enforcement or the legal system in any case of a
7 violent crime?

8 And No. 4: Do you have any personal, political
9 or religious beliefs or convictions that would make it
10 difficult for you to sit in judgment of another person?

11 So if there's anyone that has to respond to any
12 of those questions, please stand.

13 (Potential jurors stand.)

14 THE COURT: All right. Just have them line up
15 and start a line right through here.

16 Come on down, folks.

17 (The following proceedings were held outside the
18 hearing of the jury panel.)

19 THE COURT: Come on up here. What's your number?

20 POTENTIAL JUROR: 219.

21 THE COURT: 219. Yes, ma'am.

22 POTENTIAL JUROR: As a child I was sexually
23 assaulted.

24 THE COURT: The fact that that happened to you,
25 could you set that aside and view this case solely on

1 the evidence and be fair and impartial to both sides?

2 POTENTIAL JUROR: Yes.

3 THE COURT: Okay. Thank you very much.

4 What's your number?

5 POTENTIAL JUROR: 211.

6 THE COURT: 211. Okay. Yes, ma'am.

7 POTENTIAL JUROR: My boyfriend's dad was killed
8 with when a Maserati drove through the house and killed
9 him in 2009. It was all over the front page for a
10 while.

11 THE COURT: All right. Here in Greenville?

12 POTENTIAL JUROR: Yeah.

13 THE COURT: Okay. And that was your grandfather?

14 POTENTIAL JUROR: Boyfriend's dad.

15 THE COURT: Boyfriend's dad.

16 POTENTIAL JUROR: Father-in-law essentially.

17 THE COURT: Okay. The fact that that occurred,
18 could you sit that aside and be fair and impartial --

19 POTENTIAL JUROR: Probably not. My heart's
20 racing right now.

21 THE COURT: Okay. You couldn't be fair and
22 impartial?

23 POTENTIAL JUROR: My heart's -- no.

24 THE COURT: Okay. What juror are you, 211?

25 POTENTIAL JUROR: 211.

1 THE COURT: All right. I'm gonna excuse you from
2 this case. Now you're still on jury duty, okay?

3 That was Juror No. 211.

4 POTENTIAL JUROR: I'm 184.

5 THE COURT: 184. Come on up here.

6 POTENTIAL JUROR: So I was the victim of a
7 drive-by shooting. I think there's an attempted murder
8 charge filed with Greenville County, but it was 2012.

9 THE COURT: Okay. And I'm sorry, ma'am, but the
10 fact that that did occur, can you view this case based
11 solely on the evidence and set that aside --

12 POTENTIAL JUROR: I think so. Yes, sir.

13 THE COURT: -- and be fair and impartial to both
14 sides?

15 POTENTIAL JUROR: Yes, sir.

16 THE COURT: Thank you.

17 All right. What number are you?

18 POTENTIAL JUROR: I'm 160.

19 THE COURT: 160.

20 POTENTIAL JUROR: Yes.

21 THE COURT: Okay. Yes, ma'am.

22 POTENTIAL JUROR: When I was in the fifth grade
23 we were at a CVS off of East Butler Road and we
24 witnessed a stabbing, my mom and I, in the CVS.

25 THE COURT: Okay. How long ago was that?

1 POTENTIAL JUROR: Fifth grade.

2 THE COURT: Okay. That's not too long ago.

3 All right. The fact that that occurred, could
4 you set that aside and view this case based solely on
5 the evidence and be fair and impartial to both sides?

6 POTENTIAL JUROR: Yes.

7 THE COURT: Yes, sir. What's your number?

8 POTENTIAL JUROR: 175.

9 THE COURT: 175. All right, sir.

10 POTENTIAL JUROR: Okay. So I've had three people
11 in separate occurrences close to me be victims of a
12 violent crime or have been killed.

13 Do you want details of those or --

14 THE COURT: How long ago has it been?

15 POTENTIAL JUROR: The most recent was Mother's
16 Day 2020 when COVID started. Shared a wall with them
17 in a town home and he was killed.

18 THE COURT: All right. The fact that that
19 occurred and you're familiar with it, can you set that
20 aside and view this case based solely on the evidence
21 in this case and be fair and impartial to both sides?

22 POTENTIAL JUROR: Yes, sir.

23 THE COURT: Thank you, sir.

24 All right. What's your number?

25 POTENTIAL JUROR: 40.

1 THE COURT: 40. Yes, sir.

2 POTENTIAL JUROR: This was back in 1993. I had a
3 -- my brother, his girlfriend, committed suicide. And
4 I want to say about twelve years ago I had another
5 brother with a DUI.

6 THE COURT: DUI?

7 POTENTIAL JUROR: Yes, with I think it's called
8 bodily injury.

9 THE COURT: Uh-huh.

10 POTENTIAL JUROR: And that was it.

11 THE COURT: Okay. The fact that those had
12 occurred and are you're familiar with them, can you set
13 that aside and view the evidence in this case and make
14 a decision based solely on the evidence you hear and be
15 fair and impartial to both sides?

16 POTENTIAL JUROR: Absolutely.

17 THE COURT: All right. Thanks.

18 All right. What's your number?

19 POTENTIAL JUROR: 171.

20 About ten years ago a woman stole \$80,000 from my
21 company. At that time we had about fifty employees.
22 The solicitor's office --

23 THE COURT: Let me get you to --

24 POTENTIAL JUROR: I'm angry.

25 THE COURT: I know, but I'm not gonna let you do

1 that, okay? Talk to me.

2 POTENTIAL JUROR: The solicitor's -- the
3 solicitor's office had me arrested for exposing her
4 to herpes --

5 THE COURT: Speak a little bit lower.

6 POTENTIAL JUROR: -- which I don't have and they
7 arrested me. And I wanted to go to court with them
8 and they dropped the case before court, which is
9 disgraceful.

10 THE COURT: All right. I'm gonna excuse you from
11 this jury then. You're still on jury duty, but I'm
12 gonna excuse you from this jury, okay?

13 Yes, ma'am. What's your number?

14 POTENTIAL JUROR: 149.

15 THE COURT: 149.

16 POTENTIAL JUROR: My niece was the victim of a
17 domestic violence case that left her disfigured and
18 the person who did it is serving ten to fifteen years.

19 THE COURT: Okay. The fact that that occurred,
20 can you set that aside and view this case based solely
21 on the evidence in this case and be fair and impartial?

22 POTENTIAL JUROR: Yes.

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

24 Yes, sir. What's your number?

25 POTENTIAL JUROR: 29.

1 THE COURT: 29.

2 POTENTIAL JUROR: My son is currently
3 incarcerated in Greenville County and he is on
4 kidnapping and possible criminal sexual misconduct
5 with a minor. With the collection of evidence that
6 they done in that case, I don't know if I could be
7 impartial.

8 THE COURT: Okay. All right. Well, I'm gonna
9 excuse you from this case. And what's your number
10 again?

11 POTENTIAL JUROR: 29.

12 THE COURT: All right. What's your number?

13 POTENTIAL JUROR: 35.

14 THE COURT: 35. Okay. Yes, sir.

15 POTENTIAL JUROR: Yeah, I had a brother, an older
16 brother, that was convicted of a violent crime about
17 twenty years ago.

18 THE COURT: Okay. The fact that that occurred
19 back then, could you set that aside and view this case
20 based solely on the evidence and be fair and impartial
21 to both is parties?

22 POTENTIAL JUROR: Absolutely.

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

24 Yes, ma'am. What's your number?

25 POTENTIAL JUROR: 57.

1 THE COURT: 57. Okay.

2 POTENTIAL JUROR: I don't know if it counts at
3 all, I had a great, great aunt or something murdered
4 her mother. I didn't even know the woman, however,
5 we had -- my parents had a couple of poker rooms in
6 Greenville and my brother was held at gunpoint, my
7 mother at knifepoint, and my father at gunpoint. I
8 was never held.

9 THE COURT: All right. The fact that that
10 occurred, could you set that aside and view this case
11 based solely on the evidence and be fair and impartial?

12 POTENTIAL JUROR: Yes, sir.

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

14 (The following proceedings were held in open
15 court.)

16 THE COURT: All right. Ladies and gentlemen,
17 has any member of the jury panel heard of or formed
18 or expressed any opinion about any issue or matter
19 involved in this case? If so, please stand.

20 Is there any member of the jury panel who is
21 aware of any bias or prejudice towards either the
22 State or the defendant in this case? If so, please
23 stand.

24 Does any member of the jury panel know of any
25 reason whatsoever why he or she should not serve as

1 a juror in this case with particular emphasis being
2 placed on your ability to be fair and impartial to
3 both the State and the defendant in this case?

4 All right. Any additional voir dire from the
5 State?

6 MR. MILLER: Nothing from the State, Your Honor.

7 THE COURT: All right. Any additional voir dire
8 from the defendant?

9 MS. GORSKI: Not from the defense, Your Honor.

10 THE COURT: All right. Let's select our jury.

11 THE CLERK: Ladies and gentlemen, when I say your
12 name please stand and wait for further instruction.

13 Juror No. 149. Jennifer Needham.

14 (Whereupon, Jennifer Needham, a white female, was
15 called.)

16 THE CLERK: What says the State?

17 MR. MILLER: Please seat juror.

18 THE CLERK: What says the defendant?

19 MS. GORSKI: Please excuse this juror.

20 THE CLERK: Ma'am, you've been excused from this
21 case.

22 Juror No. 192. Christopher Smith.

23 (Whereupon, Christopher Smith, a white male, was
24 called.)

25 THE CLERK: What says the State?

1 MR. MILLER: Please seat the juror.

2 THE CLERK: What says the defendant?

3 MS. GORSKI: Please seat this juror.

4 THE CLERK: Sir, please gather your things and
5 have a seat in the jury box.

6 Juror No. 135. Nathaniel McLeod.

7 (Whereupon, Nathaniel McLeod, a white male, was
8 called.)

9 THE CLERK: What says the State?

10 MR. MILLER: Please seat the juror.

11 THE CLERK: What says the defendant?

12 MS. GORSKI: Please seat this juror.

13 THE CLERK: Sir, please have a seat in our jury
14 box.

15 Juror No. 184. Sharon Rutherford.

16 (Whereupon, Sharon Rutherford, a white female,
17 was called.)

18 THE CLERK: What says the State?

19 MR. MILLER: Please seat the juror.

20 THE CLERK: What says the defendant?

21 MS. GORSKI: Please excuse this juror.

22 THE CLERK: Ma'am, you may be seated. You've
23 been excused from this case.

24 Juror No. 196. Laurie Stang.

25 (Whereupon, Laurie Stang, a white female, was

1 called.)

2 THE CLERK: What says the State?

3 MR. MILLER: Please seat the juror.

4 THE CLERK: What says the defendant?

5 MS. GORSKI: Please excuse this juror.

6 THE CLERK: Ma'am, you may be seated. You've
7 been excused from this case.

8 Juror No. 88. Sabriy Griffith-Hernandez.

9 (Whereupon, Sabriy, a black female, was called.)

10 THE CLERK: What says the State?

11 MR. MILLER: Please seat the juror.

12 THE CLERK: What says the defendant?

13 MS. GORSKI: Please seat this juror.

14 THE CLERK: Ma'am, please gather your things and
15 have a seat in the jury box.

16 Juror No. 106. Shyann Jefferson.

17 (Whereupon, Shyann Jefferson, a white female, was
18 called.)

19 THE CLERK: What says the State?

20 MR. MILLER: Please seat the juror.

21 THE CLERK: What says the defendant?

22 MS. GORSKI: Please seat this juror.

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

25 Juror No. 145. David Morrow.

1 (Whereupon, David Morrow, a Mixed Race male, was
2 called.)

3 THE CLERK: What says the State?

4 MR. MILLER: Please seat the juror.

5 THE CLERK: What says the defendant?

6 MS. GORSKI: Please seat this juror.

7 THE CLERK: Sir, please have a seat in the jury
8 box.

9 Juror No. 209. Thomas Tyndall.

10 (Whereupon, Thomas Tyndall, a white male, was
11 called.)

12 THE CLERK: What says the State?

13 MR. MILLER: Please seat the juror.

14 THE CLERK: What says the defendant?

15 MS. GORSKI: Please seat this juror.

16 THE CLERK: Sir, please have a seat in the
17 jury box.

18 BAILIFF: If you'll just come down here.

19 Can we shift these jurors?

20 THE COURT: Yeah, let's -- if you-all can just
21 make some room for your fellow jurors there.

22 Thank you.

23 THE CLERK: Juror No. 59. Mary Davis.

24 (Whereupon, Mary Davis, a white female, was
25 called.)

1 THE CLERK: What says the State?

2 MR. MILLER: Please seat the juror.

3 THE CLERK: What says the defendant?

4 MS. GORSKI: Please excuse this juror.

5 THE CLERK: Ma'am, you may be seated. You've
6 been excused from this case.

7 Juror No. 213. Lori Dianne Weinstein.

8 (Whereupon, Lori Dianne Weinstein, a white
9 female, was called.)

10 THE CLERK: What says the State?

11 MR. MILLER: Please seat the juror.

12 THE CLERK: What says the defendant?

13 MS. GORSKI: Please excuse this juror.

14 THE CLERK: Ma'am, you may be seated. You've
15 been excused from this case.

16 Juror No. 163. Douglas Peterson.

17 (Whereupon, Douglas Peterson, a white male, was
18 called.)

19 THE CLERK: What says the State?

20 MR. MILLER: Please excuse the juror from this
21 case.

22 THE CLERK: Sir, you may be seated.

23 Juror No. 57. Andrea Czepiga.

24 (Whereupon, Andrea Czepiga, a white female, was
25 called.)

1 THE CLERK: What says the State?

2 MR. MILLER: Please seat the juror.

3 THE CLERK: What says the defendant?

4 MS. GORSKI: Please excuse this juror.

5 THE CLERK: Ma'am, you may be seated. You've
6 been excused from this case.)

7 Juror No. 175. Garrett Reed.

8 (Whereupon, Garrett Reed, a white male, was
9 called.)

10 THE CLERK: What says the State?

11 MR. MILLER: Please seat the juror.

12 THE CLERK: What says the defendant?

13 MS. GORSKI: Please seat this juror.

14 THE CLERK: Sir, please have a seat in the jury
15 box.

16 Juror No. 35. Jason Brown.

17 (Whereupon, Jason Brown, a black male, was
18 called.)

19 THE CLERK: What says the State?

20 MR. MILLER: Please seat the juror.

21 THE CLERK: What says the defendant?

22 MS. GORSKI: Please seat this juror.

23 THE CLERK: Sir, please have a seat in the
24 jury box.

25 Juror No. 95. Jason Hedlund.

1 (Whereupon, Jason Hedlund, a white male, was
2 called.)

3 THE CLERK: What says the State?

4 MR. MILLER: Please excuse the juror from this
5 case.

6 THE CLERK: Sir, you may be seated. You've been
7 excused from this case.

8 Juror No. 68 Karen Feeken.

9 (Whereupon, Karen Feeken, a white female, was
10 called.)

11 THE CLERK: What says the State?

12 MR. MILLER: Please seat the juror.

13 THE CLERK: What says the defendant?

14 MS. GORSKI: Please excuse this juror.

15 THE CLERK: Ma'am, you may be seated. You've
16 been excused from this case.

17 Juror No. 126. Selena Martin.

18 (Whereupon, Selena Martin, a white female, was
19 called.)

20 THE CLERK: What says the State?

21 MR. MILLER: Please seat the juror.

22 THE CLERK: What says the defendant?

23 MS. GORSKI: Please excuse this juror.

24 THE CLERK: Ma'am, you may be seated. You've
25 been excused from this case.

1 Juror No. 130. Jamarcus McCarroll.

2 (Whereupon, Jamarcus McCarroll, a black male, was
3 called.)

4 THE CLERK: What says the State?

5 MR. MILLER: Please seat the juror.

6 THE CLERK: What says the defendant?

7 MS. GORSKI: Please seat this juror.

8 THE CLERK: Sir, please have a seat in the
9 jury box.

10 Juror No. 121. Sylvester Lee.

11 (Whereupon, Sylvester Lee, an Asian male, was
12 called.)

13 THE CLERK: What says the State?

14 MR. MILLER: Please seat the juror.

15 THE CLERK: What says the defendant?

16 MS. GORSKI: Please seat this juror.

17 THE CLERK: Sir, please have a seat in the jury
18 box.

19 Jury No. 197. Robin Stelling.

20 (Whereupon, Robin Stelling, a white female, was
21 called.)

22 THE CLERK: What says the State?

23 MR. MILLER: Please seat the juror.

24 THE CLERK: What says the defendant?

25 MS. GORSKI: Please seat the juror.

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

2 Juror No. 12. Brynne Ashe.

3 (Whereupon, Brynne Ashe, a white female, was
4 called.)

5 THE CLERK: What says the State?

6 MR. MILLER: Please seat the juror.

7 THE CLERK: What says the defendant?

8 MS. GORSKI: Please seat the juror.

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

11 Juror No. 65. Regina Eudy.

12 (Whereupon, Regina Eudy, a white female, was
13 called.)

14 THE CLERK: What says the State?

15 MR. MILLER: Please seat the juror.

16 THE CLERK: What says the defendant?

17 MS. GORSKI: Please excuse this juror.

18 THE CLERK: Ma'am, you may be seated. You've
19 been excused from this case.

20 Juror No. 74. Sandra French.

21 (Whereupon, Sandra French, a white female, was
22 called.)

23 THE CLERK: What says the State?

24 MR. MILLER: Please seat the juror.

25 THE CLERK: What says the defendant?

1 MS. GORSKI: Please seat this juror.

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

4 Juror No. 183. John Roy.

5 (Whereupon, John Roy, a white male, was called.)

6 THE CLERK: What says the State?

7 MR. MILLER: Please seat the juror.

8 THE CLERK: What says the defendant?

9 MS. GORSKI: Please seat this juror.

10 THE CLERK: Sir, please have a seat in the jury
11 box.

12 THE COURT: All right. Any motions as to
13 selection of the jury from the State?

14 MR. MILLER: None from the State.

15 THE COURT: Any from the defendant?

16 MS. GORSKI: None from the defense.

17 THE COURT: Okay. Ladies and gentlemen, the rest
18 of you, I'm gonna excuse you and request that you go
19 back downstairs and Ms. Cheney will give you further
20 instructions.

21 Thank you.

22 (Whereupon, the jury panel was excused from the
23 courtroom.)

24 THE COURT: All right. Ladies and gentlemen, I'm
25 gonna excuse you just for a little bit and ask that

1 when you -- if you would go back to your jury room and
2 select a foreperson, and it's got to come from the
3 twelve of you. You two there are our alternates. You
4 potentially could serve and so we always need our
5 alternates, but as far as selecting the foreperson it
6 needs to come from the twelve of you.

7 Now the foreperson is simply the liaison between
8 me and you and the person who's selected doesn't have
9 any greater power in your voting, more voting rights or
10 power or anything like that. It's simply the person
11 that is sort of the liaison with me.

12 And so I'm gonna ask if you would please go back
13 there and discuss it and select who that person is and
14 then that person will sit in this first chair.
15 Mr. Cannon, will show you when you come back.

16 So I'm gonna excuse you for just a little bit and
17 I'm gonna have you come back and we'll swear you in and
18 we'll start the case.

19 Thank you.

20 (Whereupon, the jury retires to the jury room at
21 2:58 PM.)

22 THE COURT: All right. We'll take a little short
23 restroom break to give everybody an opportunity.

24 Is there anything we need to take up before we do
25 that?

1 MR. MILLER: No, Your Honor. I told our first
2 witness to be here around 2:30.

3 THE COURT: Okay.

4 MR. MILLER: So I'm sure we'll have him.

5 I do believe that his testimony may take a little
6 while, so he's the only one I told to have present
7 today. I don't know what time -- how long we're gonna
8 go today.

9 THE COURT: Okay.

10 All right. Why don't we just -- this will be
11 sort of our afternoon break. I'll give them fifteen,
12 twenty minutes or whatever and then we'll just go from
13 there.

14 You think he'll be the rest of the day maybe?

15 MR. MILLER: We have a good bit of questions for
16 him and there are a couple of videos and I'm assuming
17 defense is gonna have quite a bit of cross for this
18 first witness, so.

19 THE COURT: Okay.

20 MS. GORSKI: Who are you gonna call?

21 MR. MILLER: It's Officer Pustizzi.

22 MS. GORSKI: Okay. Your Honor, the only concern
23 that both Ms. Kepley and I have is just childcare. I
24 have a third grader and she's got a couple of them, so
25 we would just ask if it seems is as though it's gonna

1 run long, that we could address it so that we know to
2 call grandmothers and family.

3 THE COURT: Well, it sounds like today if you've
4 just got the one witness, so we can just do that one
5 witness and then adjourn for the day. And I assume
6 that will be -- I mean, it won't be two hours, will it?
7 More than two hours?

8 MR. MILLER: No, Your Honor. I expect our
9 testimony with him and the videos will take maybe
10 forty-five minutes to an hour I would think.

11 THE COURT: Okay.

12 MS. GORSKI: And we don't ask it out of any
13 concern, Your Honor, just --

14 THE COURT: Okay.

15 All right. Well, let's just take a break.

16 Let me see you-all up here off the record.

17 (Proceedings held at the bench; not reported.)

18 (Recess taken at 3:01 PM.)

19 (Back on the record at 3:18 PM.)

20 BAILIFF: All rise. Court's now in session. The
21 Honorable Judge G.D. Morgan presiding.

22 THE COURT: All right. Please be seated.

23 All right. Anything we need to take up before we
24 bring in the jury?

25 MR. MILLER: No, Your Honor.

1 THE COURT: Anything from the defendant?

2 MS. GORSKI: No, Your Honor.

3 THE COURT: Let's bring them in.

4 (Whereupon, the jury return to the courtroom at
5 3:21 PM.)

6 THE COURT: All right. Madam Forelady, you will
7 sit in that chair each time you-all come in.

8 All right. Let's please swear the jury in.

9 THE CLERK: Okay.

10 (Whereupon, the jury was duly sworn by the Clerk
11 of Court.)

12 THE CLERK: Please be seated.

13 THE COURT: Okay. Ladies and gentlemen, we are
14 about to start the case of the State versus Harris here
15 and now. I don't know if any of you have ever sat on
16 jury duty before, but I know you've watched a lot on
17 TV, I'm sure, and it is a lot different in the real
18 world. On TV, you see a case and starts at the
19 beginning and goes to trial and everything's over in
20 about an hour, and it's all over, and so I just want to
21 let you know it's a little bit different in the real
22 world, so be patient. Things move a little bit slower
23 than they do on TV, but the parties and myself ask for
24 your patience. I know that you will be very patient
25 and very attentive in this case.

1 This is a criminal case, and so as I told you a
2 little while ago, the defendant has been indicted under
3 these several indictments, but this is not evidence.
4 This is not proof of anything. They are simply the
5 manner in which these cases are brought to trial, so
6 they are not to be considered as anything or for
7 anything in your decision. The defendant is presumed
8 to be innocent this entire trial and up to your
9 deliberations and through a verdict.

10 The defendant has pled not guilty to these
11 charges and because the defendant has pled not guilty,
12 that means the State has the burden of proof. In a
13 criminal case in South Carolina, that burden of proof
14 is beyond a reasonable doubt.

15 Now the defendant does not have any burden. He
16 does not have to prove himself not guilty. That burden
17 is solely on the State. The defendant does not have
18 to testify. The defense does not have to put up any
19 evidence or any testimony because that burden rests
20 with the State.

21 Now we are getting ready to start the case and
22 the first thing that will happen is that the State,
23 because they've got the burden of proof, they go
24 first and they will give what's called an opening
25 statement. They will tell you what the facts are

1 -- what they believe the facts are in this case and
2 then the defendant will have the opportunity, if they
3 choose to do so, to give their opening statement and
4 the defendant will give you his version of what the
5 facts are in this case.

6 Once the opening statements are made by the
7 lawyers, then the State will put up their case and it
8 will either be testimony and/or exhibits, documents
9 that may be admitted into evidence. They have the --
10 as I said, because they've got the burden of proof they
11 go first and they have that obligation to prove the
12 defendant's guilt beyond a reasonable doubt in this
13 case.

14 Once they finish with their case, then the
15 defendant has the opportunity, if they want to, to put
16 forward their case. And as I said, they do not have to
17 because the State has the burden of proof in this case.

18 Now you and I have different roles in this case.
19 You are judges, but you are judges of the facts of this
20 case. You and you alone determine what the facts are
21 in this case and part of that determination is looking
22 at the witnesses and determining their credibility,
23 that simply means believability. And, again, that is
24 your responsibility and your job alone. You determine
25 what the facts are and part of that is determining the

1 credibility of the witness who may testify in this
2 case.

3 Now I've got a different role. I am not a judge
4 of the facts, I'm a judge of the law, and at the end of
5 the this case I will explain to you what that law is.

6 So once the State gives you their opening
7 statement and if the defendant does give an opening
8 statement, then the evidence is put forward. The next
9 thing that happens is that the lawyers will, again, get
10 back in front of you and give their closing argument at
11 the end of the case, and at that point is where my role
12 comes in.

13 As I just mentioned the law here, I'm the judge
14 of the law, and I will instruct you on what the law is
15 in this case. And if you have any preconceived ideas
16 as to what the law is or what the law should be and it
17 doesn't comport with what I tell you at the end of this
18 case, you are obligated by your oath to disregard your
19 thoughts what you think it is. The law is solely what
20 I instruct you at the end of this case.

21 Now there may be some times through the trial
22 where I have to excuse you. I may have to take up some
23 matters of law with the lawyers and I may need to
24 excuse you. Again, just be patient with us. That's
25 just how a trial works. There may be some things I

1 need to deal with outside your presence and so I do
2 need to excuse you.

3 Now there may be some times where I can just
4 bring them up to the bench and we can discuss it and
5 I'll keep you in here. We're not intentionally hiding
6 anything from you for any particular reason other than
7 I might can just decide something and hear them and
8 decide something right here without having to excuse
9 you. So it's not -- we're not being rude or anything
10 like that. It's just that I can maybe handle some
11 things up here and not have to send you out, but there
12 may be some times I've got to send you out. And I'll
13 try to keep you in the loop, try to keep you advised
14 of what we're doing as we go through the trial.

15 Now people who are on the jury often ask me if
16 they can take notes and my policy is I don't allow
17 taking notes, and I'll tell you why. It's kind like
18 when you're back in school and you're in the classroom
19 and you listen to what the teacher is trying to teach
20 you and you're trying to write something down and when
21 you're trying to write it down to make sure you've got
22 it right on your paper, you're not listening to what
23 is going on at the same time, and so I've always found
24 that the best thing is not to allow notes so this way
25 you get to focus in on the witness who's testifying

1 instead of being busy trying to write down and trying
2 to remember what they said just a few minutes ago.
3 So for that reason I just don't allow for notes to be
4 taken. I just think it's a better -- a better way to
5 handle it.

6 Now I'm going to -- as we try this case this
7 week, each time I'm gonna instruct you when I do
8 dismiss you, even if it's for a break, and that's not
9 to discuss this case. Do not discuss this case with
10 your fellow jurors at all. Even if you're standing
11 back there in the jury room or we're on a break or at
12 lunch or anything, please do not discuss this case at
13 all. Do not discuss what people are wearing or what
14 the lawyers are wearing or what the witnesses are
15 wearing or how they act, anything like that. Do not
16 discuss this case because it is a violation of a --
17 it's my order, I'm ordering you to do that, and it
18 would be a violation. And I'll just be honest with
19 you, you can get in real big trouble. So I know you
20 won't. I feel confident that you-all will abide by
21 that.

22 When you get home tonight, your friends and
23 family if they know you're on jury duty they're gonna
24 probably ask you to tell them about the case, what kind
25 of case are you on, tell me about it, my order goes for

1 that as well. Do not discuss the case with anybody no
2 matter how much they pester you. You just tell them
3 that the judge has ordered me not to do so and I'll
4 talk to you all about it after I get -- or after I'm
5 finished, I will talk with you about it, but until that
6 time do not discuss it with anybody.

7 Do not do any investigation on your own. Do
8 not Google anything. I know we've got the temptation
9 that just lives with us with that phone, but please
10 do not Google it or look up anything, and I mean --
11 and that goes for the names of anybody involved in
12 this case; the lawyers, any witnesses, anything. Do
13 not look it up. Especially the defendant. Do not
14 look up anything about this case until you are finished
15 -- have finished your deliberations and you've been
16 excused. After this case, you can look it up all
17 you want to then, but until then please do not look
18 up anything, do not discuss the case. Again, that
19 includes among yourselves. Going to lunch, you know,
20 sitting in the room, please don't discuss the case.

21 So with that I'll now recognize the State for
22 opening statement.

23 MS. GASSER: May it please the Court, Your Honor?

24 Keoki Harris was murdered. I mean -- excuse me.

25 Torri Pone was murdered by Keoki Harris and Patrick

1 Clement was attempted to be murdered by Keoki Harris on
2 Halloween night in 2021. This case is about the fear
3 and devastation that this defendant, Keoki Harris, left
4 in his wake.

5 You are going to hear from witnesses and you're
6 going to see evidence about how on Halloween of 2021
7 the defendant and the victims were in a fight over a
8 woman. They were at the Club Reign bar. You will
9 hear how they were separated by bar staff to avoid
10 any further violence. You will hear how the victims
11 left first. They were gone. You will hear how the
12 defendant then went to his vehicle calmly, retrieved a
13 firearm, calmly walked past two GPD officers who were
14 working a side job when they were off duty. Calmly
15 waved at them as he walked by, walked up the victims'
16 vehicle where they were leaving the parking garage
17 and shot into the car killing Torri Pone and striking
18 multiple times Patrick Clement, who luckily survived.

19 You will hear how these victims had no firearms.
20 The only person with a firearm that night is this
21 defendant, Keoki Harris. The defendant was calm and
22 cool in his execution. You will then hear how the
23 defendant was captured seconds after this shooting by
24 those same GPD officers that he waved at with the
25 murder weapon that forensically tested to all of the

1 projectiles and the casings. You will hear how he
2 was caught seconds after the shooting with that murder
3 weapon on his person.

4 My name is Megan Gasser and I, along with Andrew
5 Miller, we are assistant solicitors for the Greenville
6 County Solicitor's Office, and our job is to present
7 you with evidence that proves beyond a reasonable doubt
8 that Keoki Harris murdered Torri Pone and attempted to
9 murder Patrick Clement.

10 And you heard that from the judge. Beyond a
11 reasonable doubt. And Mr. Miller is going to talk to
12 you about that during his closing and the judge is
13 going to instruct you on the law what beyond a
14 reasonable doubt means, but throughout this trial I
15 want you to think about it. What does that mean beyond
16 a reasonable doubt? More simply put, what leaves you
17 firmly convinced? Beyond a reasonable doubt is not all
18 doubt. It's not that aliens flew down and committed
19 this murder and this attempted murder. It means that
20 you're firmly convinced, and we embrace that burden.

21 At this end of all the evidence the judge is
22 gonna talk to you about that and he's also gonna
23 instruct you on the law, but during this case I also,
24 in addition to what is reasonable doubt and what leaves
25 you firmly convinced, I want you to also think about

1 the elements of what's happening here.

2 Murder. Murder is the killing of another person
3 with malice aforethought. It's that Keoki Harris
4 murdered, killed, Torri Pone when he shot a gun at him
5 fatally hitting him.

6 Second, attempted murder is the specific intent
7 to kill another person. The defendant attempted to
8 kill Patrick Clement, the surviving witness when he
9 pointed a gun at him, pulled the trigger multiple times
10 and hit him multiple times.

11 And, finally, possession of a weapon during
12 commission of a violent crime. It's exactly what it
13 sounds like. It's right there in the title. That
14 murder and attempted murder are violent crimes and that
15 while committing them Keoki Harris had a firearm.

16 Throughout the course of this trial I want you to
17 keep your eyes and your ears open. The defense may try
18 to confuse or distract you with little rabbit holes
19 that they want to send you down because certain things
20 are gonna look really bad and that's because we have
21 eyewitnesses that saw this and that's because he was
22 captured seconds later with the murder weapon, but your
23 job, the most important job, is not to get lost in
24 those rabbit holes to try to distract or confuse from
25 what actually happened that night. Your job is to use

1 a clear head and common sense to come to the correct
2 verdict.

3 Remember through the course of this trial you are
4 gonna hear from lots of witnesses. Some of those
5 witnesses are what we call technical witnesses.
6 They're gonna be there to lay what's called foundations
7 for pieces of evidence. That's physical evidence that
8 you'll be able to take back in your jury room, you're
9 gonna be able to look at, listen to, review, deliberate
10 over. That's that physical evidence that you can hold.
11 But you're also gonna get evidence from this witness
12 stand through the course of testimony. That's what
13 people are saying, what they're telling you they saw,
14 felt, heard, witnessed. And you're also gonna get to
15 consider all of that in your deliberations.

16 And this is really important in this case.
17 You're gonna hear from eyewitnesses to the shooting.
18 You're gonna hear from one of those officers that the
19 defendant waved at as he calmly walked by and walked up
20 to the victims' car and shot at them and you're also
21 gonna hear from the surviving witness, Patrick Clement.
22 He's gonna tell you what he saw, what he felt and what
23 he heard.

24 I want to thank you for your time and your
25 patience this week. I'm sure this is not what you

1 either wanted to do or expected to do this week, but I
2 really want to thank you for your service because your
3 role is the most important and without you our system
4 fails. We wouldn't be able to do this without you
5 here. You are the sole finders of fact in this case
6 and your job, like I said, is the most important.
7 Please keep your eyes and ears open, use your clear
8 head and common sense and thoughtfully examine this
9 evidence, and at the end of this trial the State will
10 ask you to come to the correct verdict after hearing
11 all of the evidence, and that being that Keoki Harris
12 is guilty of murder, attempted murder and possession
13 of a weapon during a violent crime.

14 Thank you.

15 THE COURT: All right. The defense is
16 recognized.

17 MS. KEPLEY: May it please the Court?

18 THE COURT: Uh-huh.

19 MS. KEPLEY: This case is about what happens when
20 fear turns fatal. I want to take you back to that
21 night, that Halloween night that this happened, okay?
22 You're gonna hear that it's cold. It's dark. It's
23 about 1:30 in the morning. It's crowded. It's
24 Halloween. There's people inside the club, there's
25 people outside the club. There's police officers on

1 the scene as there normally is at these events because
2 fights tend to break out, and that's just what happened
3 that night.

4 You're gonna hear that Keoki Harris was attacked
5 inside the club that night. He was jumped by Patrick
6 Clement and Torri Pone. You will see it was a very
7 brutal attack. You will see chairs used as weapons.
8 You will see Torri Pone kick full force to Keoki's
9 head while he was on the ground. You will be concerned
10 perhaps as I was when you watch these videos that Keoki
11 didn't die that night.

12 You know, everyone was asked to leave. Patrick
13 and Torri leave first. Keoki waits inside the club.
14 But they don't leave is what you're gonna hear, they
15 wait inside of their car in that parking lot -- at the
16 entrance to the parking garage where someone would have
17 to go by if they wanted to leave or if they wanted to
18 get in that parking garage.

19 When Keoki comes out, you're gonna hear that he
20 walks up to them and you're gonna hear that he wanted
21 to talk. Words are exchanged that escalate into
22 seconds towards this violent encounter. In the heat
23 of the moment, in the flash of an instant, you're gonna
24 hear that Keoki Harris had an impossible choice to make
25 and he chose to do what he thought was the right thing.

1 He chose to protect himself.

2 I'm gonna caution you against any sort of quick
3 reaction to these charges, okay? The State is gonna
4 want you to believe, as you heard, that this is cut and
5 dried, open and shut. That Mr. Harris walked straight
6 up to the car of Patrick Clement and Torri Phone with
7 the intent to kill them in front of police no less and
8 that he executed that plan to kill without a second
9 thought.

10 But I want you to know there's gonna be a lot
11 more to that story than that. The truth is you will be
12 required to listen to all of the witnesses, take a look
13 at all of the evidence before making any determination,
14 and the reality is that if you follow the evidence here
15 you're gonna see that this case has two faces and two
16 sides. The reality is never quite as neat as the story
17 unfortunately and that the truth is gonna be bigger,
18 more complicated than the story the State wants you to
19 believe.

20 You're gonna hear that there were three shots at
21 close range, that these were not the sort of shots
22 someone would make if they were trying to kill someone.
23 Two shots in Patrick Clement's leg and one shot through
24 the top shoulder of Torri Pone. You might be surprised
25 to hear that one shot through the top of the shoulder

1 is all it takes for Mr. Pone to die. It seems very
2 unlikely. Unfortunately for everyone that night, that
3 shot to the shoulder travelled to his jugular vein and
4 you're gonna hear unexpectedly that causes death.

5 These shots seem unplanned, uncoordinated. The
6 types of shots someone might make if they're fighting
7 over a gun. The shots that might come from someone
8 firing wildly while they try and protect themselves.

9 You're gonna hear that Keoki Harris actually --
10 he did decide to talk to the police; that after the
11 shooting he walked up to police, cooperated with all
12 instructions. He never tried to run away. He told
13 them he didn't have anything to do with it. You'll
14 hear well, that wasn't true. The police knew that
15 wasn't true. But Keoki you're gonna hear was even
16 worried that police would not believe that this was
17 self-defense, would not believe that he felt reasonably
18 justified having to shoot that man, and I'm gonna ask
19 you to do what the police did not, okay?

20 I'm gonna ask you to take a close look at this
21 evidence because the police decided this was murder
22 in five minutes. You're gonna hear that Keoki, he's
23 in handcuffs in five minutes. They never really
24 investigated this case. They didn't think they had to;
25 getting statements, collecting forensic evidence. If

1 you already think you've got the right guy, what's the
2 point? And now I'm gonna challenge you to actually
3 look at this case with that open mind that police never
4 had.

5 I want to talk about reasonable doubt a little
6 bit, okay? At the end of this trial you're gonna have
7 to decide if the Government proved their case beyond a
8 reasonable doubt. It's the highest standard of proof
9 in any court of law and for very good reasons, but what
10 does that actually look like when you're hearing about
11 the evidence in this case? Now I want you to imagine
12 where we stand right now we're on a cliff, okay? And
13 in this instance over a very steep ravine, okay? Over
14 very sharp rocks. Very deep. There's another cliff,
15 okay, and that cliff is a guilty verdict and it's the
16 Government job to build you a bridge, okay, piece by
17 piece between those two cliffs and each little wooden
18 board, each nail, each piece of rope, that's a piece of
19 evidence, okay? And where does reasonable doubt come
20 into play? It's gonna come into play in three
21 different pieces, okay?

22 Reasonable doubt comes from the evidence itself.
23 Some things in the evidence are not gonna make sense
24 with the story they just told you. Things like the
25 fact that Torri Pone at the time he shot he had his

1 foot on the brake and he had his window rolled down
2 like someone might do if they wanted to talk to someone
3 outside the car.

4 The second place you're gonna find reasonable
5 doubt is contradicting statements. Some witnesses
6 are gonna say things that contradict each other,
7 okay? Some witnesses are likely gonna say things that
8 contradict the evidence itself.

9 Your third big bucket of reasonable doubt is a
10 big one. It's missing evidence, okay? We've got a lot
11 of missing nails and boards on this bridge.

12 I bet you thought when you heard that indictment
13 there's probably gonna be a lot of forensic evidence,
14 okay? You'll hear about maybe fingerprints, maybe
15 DNA. It's 2024. There's probably gonna be cell phone
16 footage, maybe there's surveillance footage that
17 captures the scene in detail. Maybe you would expect
18 to see some texts or calls exchanged between these
19 people that might give you incite to their state of
20 mind. The reality is we don't have any of it, okay?

21 Now please don't buy the notion the Government
22 tries to sell you that this isn't CSI, that that kind
23 of evidence just doesn't exist. It does. You should
24 absolutely expect to see some forensic evidence that
25 backs up their story, especially when the State is

1 trying to convict someone of murder.

2 You're gonna hear that they got the gun, but
3 there's gonna be some real question about where
4 that gun came from. Was it in Torri's car? Was it
5 something Keoki had on him when he walked up? Was
6 there a struggle over the gun with different people
7 touching the gun? There's not gonna be a good clear
8 answer to those questions because there was no DNA or
9 any fingerprints found on the grip, the trigger, the
10 trigger guard, the magazine. Nothing. No DNA to
11 suggest whose gun this was.

12 Now what about eyewitnesses, okay? You're gonna
13 see and hear about the fact that there were numerous
14 witnesses outside the club during this shooting. It
15 was crowded, somebody might remember, but the police
16 didn't interview a single one of them. Didn't see if
17 they had taken any video on their phones, didn't see
18 if anyone could tell who brought the gun out, didn't
19 bother to gather a crucial and abundant source of
20 evidence.

21 Keoki left outside the club you'll hear from at
22 least two other people. They didn't interview them
23 either. All these missing pieces and more, they're
24 gonna leave some holes in that bridge, okay? Some
25 loose boards, some missing nails, and when the time

1 comes for the State to ask you to step across it and
2 walk all the way to the other side, that hesitation
3 you feel before you step on it, that's what reasonable
4 doubt feels like. And if you keep an eye on all these
5 issues, and not just the evidence presented, but the
6 evidence that's missing, you will find at the end
7 of this road that Keoki Harris is innocent of these
8 charges, that the State will not be able to meet their
9 burden and that the only right thing to do, the only
10 fair thing to do, would be to find him not guilty.

11 Thank you.

12 THE COURT: All right. The State can call their
13 first witness.

14 MR. MILLER: Your Honor, we have a brief matter
15 we'd like to take outside the presence of the jury.

16 THE COURT: All right. Ladies and gentlemen, I'm
17 gonna just excuse you for a little bit. I'm gonna take
18 a matter up with the lawyers.

19 (Whereupon, the jury retire to the jury room at
20 3:48 PM.)

21 THE COURT: All right.

22 MR. MILLER: Your Honor, the problem is I didn't
23 even know about it, I didn't have time to follow up on
24 it really, but a member of the victim's family may have
25 overheard one of the jurors talk about how they know

1 the defendant from some previous encounter. I don't
2 know exactly the details of that.

3 THE COURT: So --

4 MS. GORSKI: I'm sorry, Your Honor. I didn't
5 understand.

6 THE COURT: Speak up a little bit. I couldn't
7 hear you. What did you say? Somebody heard -- hold
8 on just a minute. Let's go through the lawyer and
9 talk to him.

10 MS. GASSER: Your Honor, one of the victim's
11 family members saw the juror, No. 4, from the left in
12 the purple shirt seated in the front row, speak with
13 and make a hand gesture to one of the defendant's
14 family members in the hallway.

15 Obviously we would have grave concern that that
16 was not elicited -- or that that was not brought up
17 earlier.

18 THE COURT: All right. Any response from the
19 defendant? You said it's the forth --

20 MS. GASSER: The fourth juror from the left.

21 THE COURT: Male or female?

22 MR. MILLER: A male in a purple shirt I believe
23 is who they're referring to.

24 MS. GORSKI: What juror number?

25 THE CLERK: We don't have juror numbers.

1 THE COURT: I don't have any idea what number.

2 MR. MILLER: I believe it was Juror No. 35 from
3 my notes, Your Honor.

4 MS. GORSKI: Your Honor, just to clarify, the
5 family was not here during jury selection.

6 THE COURT: So, Mr. Miller, the -- or,
7 Ms. Gasser, this member of the victim's family saw
8 a juror just wave at someone?

9 MS. GASSER: When they were walking in for
10 selection, Your Honor, the bailiffs bring them up.
11 Because it's such a large group of people, they bring
12 them up through the courthouse hallways. I do know
13 that the defendant's family has been here since this
14 morning. The victim's family did arrive while we were
15 waiting for jury selection. She asserts that when the
16 jury pool was being brought in that that's when that
17 hand gesture -- it was a fist bump, Your Honor.

18 THE COURT: And the fist bump was between the
19 juror and a member of the defendant's family?

20 MS. GASSER: Can you stand up in the back?

21 Oh, someone stepped out, Your Honor.

22 Your Honor, there was somebody in the room that
23 just stepped out as we were talking about this. He may
24 have had a blue shirt on.

25 MS. GASSER: Yes. She said he was wearing a blue

1 shirt and a gentleman just exited clearly because we're
2 talking about this issue.

3 MS. GORSKI: I mean, that's a big assumption
4 there.

5 MS. GASSER: This is a -- this a big -- I mean,
6 this is a big deal.

7 MS. GORSKI: Well, I understand, but --

8 THE COURT: All right. What I'm gonna do is
9 I'm gonna bring out -- ma'am, do you think it's Juror
10 No. 35?

11 MS. GASSER: And obviously if he denies it, Your
12 Honor, we would ask that we pull the courthouse
13 security camera footage.

14 THE COURT: All right. If you would please bring
15 out Juror No. 35. That's Jason Brown.

16 (Whereupon, Juror No. 35 enters the courtroom.)

17 THE COURT: All right. Mr. Brown? It's come
18 to the attention that you may know someone from the
19 defendant's family.

20 JUROR NO. 35: I know one person. I don't see
21 him. I don't know if -- I didn't know that was his
22 family member, but also a guy that I work with.

23 THE COURT: And you don't see him in the
24 courtroom now?

25 JUROR NO. 35: No.

1 THE COURT: Okay. Now how do you know him?

2 JUROR NO. 35: The guy I work with or --

3 THE COURT: The guy that you saw here. Did you
4 fist bump him when you saw him?

5 JUROR NO. 35: I did. I did and when I came
6 in, I seen him because we used to do some business
7 together a couple of years ago, and then when I seen
8 him -- and then I got selected to the jury and seen
9 him back there, I felt that that probably was gonna be
10 an issue, especially with the guy that I work with on
11 third shift.

12 THE COURT: And you work with him on third shift?

13 JUROR NO. 35: Absolutely.

14 THE COURT: Okay. And at the time you didn't
15 know that he was involved in this at all?

16 JUROR: No. I've never seen the defendant or --
17 all I know is the guy that I work with and the guy that
18 I did the business with.

19 THE COURT: Okay.

20 All right. Well, let me ask you this. The fact
21 that you do know this individual that -- or you work
22 with him, now let me ask you this. Was it just a
23 working relationship or did you know him personally,
24 socially, anything like that?

25 JUROR NO. 35: No, just work environment. Never

1 met him before. When it comes to work, outside of
2 work, first time ever meeting him was when I got hired.

3 THE COURT: And how long ago was that? When are
4 we talking about?

5 JUROR NO. 35: Back in April.

6 THE COURT: April of this year?

7 JUROR NO. 35: Yes.

8 THE COURT: Okay. And that was the first time
9 you met him?

10 JUROR NO. 35: First time I ever met him.

11 THE COURT: And do you work on the same shift
12 together?

13 JUROR NO. 35: Yeah, different departments.

14 THE COURT: Different departments?

15 JUROR NO. 35: Yes.

16 THE COURT: How often do you see him during the
17 work shift?

18 JUROR NO. 35: Maybe once a night.

19 THE COURT: Once a night?

20 JUROR NO.35: Yeah.

21 THE COURT: And up until seeing him here, out
22 there, did you have any relationship with him or any
23 member of the family?

24 JUROR NO. 35: No. No. Like I said, I don't
25 know any Harrises or anything like that, so when I seen

1 him I was like okay, his last name is Harris, so I kind
2 of figured that they might be related because of the
3 T-shirt that he had on, so, yeah.

4 THE COURT: All right.

5 Okay. Well, I appreciate you letting me know.
6 I'll excuse you back there.

7 Well, let me ask you this. Considering that you
8 do know the gentleman, you met him in April and this
9 member -- he's a member potentially of the defendant's
10 family, could you still be fair and impartial to both
11 sides in this case?

12 JUROR NO. 35: I could, but I guess it's up
13 against the prosecution, what they would decide, how
14 they feel about it.

15 THE COURT: Well, let me ask you. How do you --
16 could you set that all aside and still be fair and
17 impartial to both the State and the defendant in the
18 case?

19 JUROR NO. 35: I could be.

20 THE COURT: You could be. Okay. You could set
21 aside, view the -- I mean, make a decision based solely
22 on the evidence?

23 JUROR NO. 35: I could.

24 THE COURT: Okay.

25 All right. Thank you, sir.

1 JUROR NO. 35: Uh-huh.

2 (Whereupon, Juror No. 35 returns to the jury
3 room.)

4 THE COURT: All right. Let me -- let me hear
5 from the State.

6 MS. GASSER: Yes, Your Honor.

7 We do ask that this juror be excused and that the
8 first alternate be sat, Your Honor. I do understand
9 that he said he could be fair and impartial, but that's
10 an incredibly uncomfortable, awkward position to be put
11 in when someone that he works with. Also he state that
12 they saw each other one time a day. I mean, that's
13 closer than I see some of my colleagues.

14 Additionally, Your Honor, he did say that it's up
15 against the prosecution. That sounds like we have a
16 wall to climb in his head in order to prove our case,
17 Your Honor. And while, yes, we always have a wall to
18 climb, the fact that he's even bringing that up I do
19 just think that this is -- to be safe, I do think that
20 he needs to be excused, Your Honor, to make sure that
21 this is a truly fair and impartial jury for both sides.

22 THE COURT: All right. Let me hear from the
23 defendant.

24 MS. KEPLEY: Judge, it sounds like this juror
25 does not know the defendant, which is why he didn't

1 disclose anything. He said he could be fair and
2 impartial. I think we should take him at his word.
3 I would certainly object to him being excused. It
4 sounds like this is a very tenuous, nebulous
5 relationship. He seems to have a somewhat small
6 working relationship with Mr. Harris's mother's
7 boyfriend, so there's degrees of a relationship. I
8 feel like there's enough separation that I don't think
9 it rises to any sort of bias.

10 THE COURT: What about that, Ms. Gasser? They
11 don't know -- I mean --

12 MS. GASSER: I mean, Your Honor, I assume that
13 this gentleman is gonna probably sit in the gallery
14 every single day behind the defendant. If we were
15 sitting in a similar position regarding the victim's
16 family, I know they would be asking for the same. I
17 know they would be asking if somebody knew someone in
18 the solicitor's office that they would say that that
19 person could not be fair and impartial. I believe that
20 there is a knowledge, it is a close enough relationship
21 that they felt the need to say -- you know, to dab, to
22 say hello to one another, to greet one another, and
23 how uncomfortable it could be for someone to go to work
24 and have to see that person if he ends up being on a
25 jury that convicts someone related to this man. I

1 think that that puts him in an incredibly difficult
2 situation. I think it makes him have to consider that
3 outside issue. You know, oh, man, like what -- you
4 know, it might be awkward now. I might see this guy.
5 I know this guy. He's gonna know that I'm on his
6 whatever -- mother's or girlfriend's son's murder
7 trial. I think that that's just an issue that he's now
8 gonna have in his head and that eliminates the ability
9 for him to be fair and impartial. Even if he says he
10 wants to be, I think that that's still something that's
11 gonna weigh on his mind; that he knows this guy and
12 that in some way the defendant means something enough
13 that this guy is sitting behind him at his murder
14 trial, I do think that that's just wholly inappropriate
15 and he needs to be excused and the whole reason why we
16 have alternates.

17 THE COURT: What about the fact that he doesn't
18 have any personal or social relationship with the
19 member -- the family member?

20 MS. GASSER: I mean, Your Honor, there are times
21 when we have to excuse jurors, again, who don't have
22 any personal or -- any personal relationship with
23 myself, but because they may know Mr. McCollum, who's
24 sitting behind us here, they would be excused because
25 they would know someone or have a relationship with

1 someone in the solicitor's office. So --

2 THE COURT: Well, that wouldn't necessary -- it's
3 not automatic. Just because they know somebody in the
4 solicitor's office, they're not automatically excused.
5 They would go through the same questions with them;
6 could they set it aside and be fair and impartial.

7 MS. GASSER: And, again, Your Honor, I think that
8 if this gentleman, again, is close enough to the
9 defendant that he is going to sit here and sit behind
10 him, I think that that shows a degree of closeness and
11 that this person -- that this juror having some kind of
12 relationship with this man, I just believe that it is
13 gonna weigh very heavily on his mind whether or not he
14 can convict this person's -- someone this person cares
15 about for murder, and that's not impartial. That's
16 something outside. That's something, you know, a
17 friendship. I just don't believe that there's any way
18 for him to be fully be impartial.

19 THE COURT: I don't think he said they had any
20 kind of friendship. He just said he's --

21 MS. GASSER: Well, coworkers.

22 THE COURT: He's a coworker. He sees him once a
23 night.

24 MS. GASSER: Additionally, he said they're third
25 shift, which could potentially have them working

1 together this week because we have lots of people on
2 jury service that go on and work their third shift
3 because that's after hours, Your Honor, for typical
4 workers.

5 THE COURT: Well, I don't recommend that. In
6 fact, I excused one last week that worked third shift
7 and couldn't hold her eyes open.

8 MS. GASSER: And I'm not saying that he's gonna
9 be too tired. I'm just saying that he did say that
10 they knew each other from third shift. I just -- this
11 is causing me great concern, Your Honor.

12 THE COURT: All right. Let me hear from the
13 defendant, Ms. Kepley. What about that? They work
14 together. They see each other every day.

15 MS. KEPLEY: I think you said it correct, Your
16 Honor, that that's not automatically a ground for
17 someone being excused. If my mother's husband were
18 on a jury, it certainly would maybe go to his bias, but
19 if that person said they could be fair and impartial,
20 as he said to you, judge, then they would certainly be
21 allowed on the jury. That's not a ground for automatic
22 excusal.

23 Again, I mean, he had no idea who Keoki Harris
24 is and he has -- Keoki Harris, again, has no biological
25 relation to this person we keep referring to as

1 relatives. I don't think they are actually relatives.
2 It sounds like it's just his mother's boyfriend and
3 is a sometimes coworker of that person. We would
4 certainly consent to any sort of order to him to have
5 no contact with any of his family's relations or --
6 that he knows of during this trial. I think that
7 would certainly be a good instruction to give him.

8 THE COURT: Well, let me ask you this. If you
9 had a normal -- let's just assume, say he stood up
10 during jury qualification and said I know a member
11 of their family, I work with this guy on third shift,
12 I see him it once a night, just in regular jury
13 qualification questions, you don't think he'd get an
14 automatic strike for cause for that, do you?

15 MS. KEPLEY: No, I don't think that would be an
16 automatic strike for cause.

17 THE COURT: So my question is you heard me in
18 voir dire of the jurors that if there was any kind of
19 -- they answered yes to some of these questions, my
20 next question was can you set that aside and be fair
21 and impartial to both parties in the case. Wouldn't
22 that -- again, assuming that situation arose in the
23 jury voir dire and the gentleman stood up and said I
24 don't know the defendant, but I know a guy in his
25 family, I saw him and I know we work at the same place,

1 again, you've agreed I think that that's not a strike
2 for cause and then I would follow up with that question
3 and if he said that he could set aside that knowledge
4 of that individual and be fair and impartial to both,
5 wouldn't that juror be qualified?

6 MS. KEPLEY: I think he would be qualified,
7 Judge.

8 MS. GASSER: May it please the Court?

9 MS. KEPLEY: And I think also part of it is the
10 fact that this relationship didn't even come up during
11 voir dire.

12 THE COURT: I'm asking you because I know it has
13 questions --

14 MS. KEPLEY: I think it speaks to how unconnected
15 this relationship is to Mr. Harris, the fact that it
16 didn't even come up during voir dire. He doesn't know
17 who Mr. Harris is.

18 THE COURT: I mean, Ms. Gasser, wouldn't that be,
19 you know, that question, if he could -- that would be
20 my question if he stood up during voir dire and said he
21 could be fair and impartial.

22 MS. GASSER: Your Honor, I believe that we still
23 would have used a strike on this juror. I think that
24 it's just too much of a relationship. We were not --
25 the State is also entitled to a fair and impartial jury

1 and he did not let the State know, even though he
2 stated that they both have the last name Harris and he
3 figured they may be related. That was his own words.
4 And he did not stand up and alert I don't know if
5 they're related, but I know a Harris. I mean, he
6 said I figured they might be related. That was his
7 own words here. And, again, Your Honor, I think
8 that him being brought out individually, questioned by
9 Your Honor, I think it's made this whole situation
10 potentially contentious, and his words were it's up
11 against the prosecution.

12 MS. KEPLEY: That's not -- I think that is a
13 misreading of his words, Judge. When he said it, he
14 thinks the decision is up to the prosecution. If I'm
15 wrong, I'm --

16 MS. GASSER: He said it's up against the
17 prosecution.

18 THE COURT: I don't think --

19 MS. KEPLEY: Because he --

20 THE COURT: All right. Now here's -- I don't
21 allow talking amongst each other. Address -- any issue
22 you've got to address it up here.

23 Now the issue that has been raised, and because
24 I hadn't heard it and I was waiting to hear that
25 argument if it would be made, is that the State said

1 had they known that they would have used a strike.

2 They had not argued that up until then and I was

3 waiting to see if they were gonna argue that.

4 But what about that, Ms. Kepley? If they

5 would have -- had they known that they did have the

6 relationship, that they would have used a strike? He

7 would not -- I would not have stricken him for cause

8 because I don't think grounds exist for cause unless he

9 had said in voir dire when he recognized that gentleman

10 that he would have stood up and said I can't be fair

11 and impartial. That's a different story.

12 But here if the State says that they could or

13 would have used a strike because of that knowledge,

14 does that make a difference?

15 MS. KEPLEY: I think it -- well, Judge, they

16 could have asked questions to get to that relationship.

17 They didn't. If they isn't ask questions to suss out

18 the nature of that relationship, then that's a problem

19 with their own questions they asked. That was an

20 option. They asked -- Your Honor asked the jury does

21 anyone know him or his family, he said no, he doesn't

22 know anyone in his family, he doesn't know him. This

23 person is not related to him. It is his mother's

24 boyfriend. I think that relationship is so separated

25 it didn't even come out in the questions they asked

1 that they can say in hindsight certainly they would
2 have used a strike, but I think that belies the reality
3 that they could have asked those questions and didn't,
4 Judge.

5 THE COURT: All right. Ms. Gasser.

6 MS. GASSER: And, yes, Your Honor. I do believe
7 that those questions were fairly phrased, Your Honor,
8 and given, again, this juror's own words, he figured
9 they might be related when he heard the last name
10 Harris, I mean, that's very concerning. That means
11 that at some -- when he was being asked those voir dire
12 questions he figured they may be related and he didn't
13 stand up. So it's not only the issue of that he didn't
14 stand up when he probably should have, which is what
15 Your Honor told the jurors that they based it under any
16 of those questions, so now I have an issue with this
17 juror's potential truthfulness.

18 THE COURT: Well, was any question asked? I
19 don't know if any question was asked along those lines.

20 MS. GASSER: I believe that there was a question
21 of personal or familial relationship with the
22 defendant.

23 THE COURT: With the defendant or the victim. It
24 wasn't asked does any -- does anyone have a close
25 personal relationship or know any members of the family

1 of the defendant and/or the victims, so really there
2 was no question asked that would have addressed whether
3 or not someone in the jury panel would have known a
4 member of the defendant's family.

5 MS. GASSER: Your Honor, I just think that him
6 admitting that he -- again, I wrote the specific quotes
7 down just because they were very concerning to the
8 State. That he figured they might be related. That
9 tells me that he was withholding that information and
10 then he gets called out and he knew what it was gonna
11 be about. Yeah, I figured they might be related. I
12 mean, that to me says that he was withholding that
13 information. And as the State, again, we are entitled
14 to a fair and impartial jury the same way the defendant
15 is.

16 And we have alternates. We have two alternates.
17 I do not -- I believe that there's too much -- there's
18 too much here that could be -- you know, he has to
19 consider that he knows this man, whether or not they
20 are friends or just coworkers or acquaintances, but now
21 he knows that someone that is important to this person
22 that he knows, he will sit in judgment of him, that
23 could weigh heavily on someone, that could impartially
24 cause someone to, again, consider that relationship,
25 whatever it may be, or acquaintanceship or working

1 relationship, and that could potentially put him in an
2 awkward position, it could put this gentleman in an
3 awkward position. And, again, he said that he figured
4 they might be related. I have concerns that he should
5 have spoken up at a certain point, that he himself --
6 that's really close to making -- sounds like he knew he
7 should have stood up.

8 And then, of course, I know they're gonna argue
9 against this, but he said up against the prosecution
10 and that is -- that was actually quoted. I wrote it
11 down specifically, starred it, because that is very
12 concerning to me. That in his mind that those were
13 the words that were said.

14 MS. KEPLEY: Judge, if I may respond?

15 THE COURT: Yes, ma'am.

16 MS. KEPLEY: There's some assumptions being made
17 here that are incorrect. This man's last name is
18 not Harris, his last name McKelvey, and I think the
19 fact that this juror doesn't even know his correct
20 last name probably speaks to the nature of their
21 relationship. He is not biologically related to
22 Mr. Harris, he is not related by blood or marriage
23 to Mr. Harris, and he has a different last name than
24 him.

25 I would also probably point out the fact that

1 Harris is a common last name and the fact that he may
2 think someone's last name is Harris would be enough
3 to assume that.

4 And that quote, up against the prosecution, I
5 think is purposely being taken out of context, Judge.
6 We all heard him say I think the decision should be up
7 to the prosecution. He was not saying that he thinks
8 the prosecution that has a more or less burden than
9 this they do, Judge.

10 THE COURT: Hold on just a minute.

11 Madam Court Reporter?

12 (Pause in proceedings for Judge Morgan to review
13 the record.)

14 THE COURT: When I asked could you be fair and
15 impartial to both sides in the case, his response was
16 I could, but I guess it's up against the prosecution,
17 what they would decide, how they feel about it.

18 I'll read that again. I asked him can you be
19 fair and impartial to both sides in the case. He said
20 I could, but I guess it's up against the prosecution,
21 what they would decide, how they feel about it.

22 MS. GASSER: And may it please the Court, Your
23 Honor? I was just made aware they were trying to flag
24 us down to let us know too that one of the victim's
25 family members sees the same juror at the Planet

1 Fitness gym she says very regularly and I believe he
2 has spoken with her as well. So I just -- I just think
3 that for both sides that this is an issue.

4 THE COURT: All right. Anything else from the
5 defendant before -- anything else you want to put on
6 the record?

7 MS. KEPLEY: I mean, if we're getting into who
8 goes to the gym with who, Judge, we're outside of voir
9 dire. We're outside of anything that would be stricken
10 for cause or a question, Judge. I would
11 ask that this juror remain.

12 THE COURT: All right.

13 MS. GASSER: And may it please the Court, Your
14 Honor? I'd just, again, like to iterate that had the
15 State known any of this connection that we would have
16 used a strike.

17 THE COURT: All right. Both of you made good
18 arguments, persuasive arguments, but I think it's a
19 matter of the juror does have some relationship with a
20 family member of the defendant, albeit at work, and
21 they did fist bump, and so there is -- and he did make
22 a comment of yeah, I figured that's who it was and
23 although I recognize the defense's argument that it's
24 a different name, it's not Harris and he may not know
25 him, but he does work with a family member of the

1 defendant, and I do think that is important.

2 Also it's the State's position that they would
3 have used a strike. As I have said, that it's not one
4 that I would have allowed anyone to strike for cause,
5 but the State has indicated that they would have struck
6 the juror because he did know a family member of the
7 defendant and I think that is a concern to me, that
8 there is that relationship. Plus the State would have
9 most likely -- well, I can't say most likely. The
10 argument is that the State could have used a strike and
11 they have indicated to the Court that they would have
12 used a strike for this individual, and as a reasonable
13 deduction that a member of the jury panel knows a
14 family member of the defendant, that is a reasonable
15 conclusion and deduction to arrive at, and so I --
16 based on those parameters I do find that it would pose
17 a problem to keep a gentleman on the jury and so I will
18 excuse that juror and we will move the -- one of the
19 alternates up.

20 Donna, if you would -- are we good?

21 So I'm gonna -- does anybody have any objection
22 to just me going out there and speaking to him in
23 the hallway? And I'll let -- before I do that, does
24 anybody want to put anything on the record that you
25 haven't already done?

1 noting where those were?

2 A. (Witness complies.)

3 Q. And during the hours they were open, which doors did
4 people enter through?

5 A. The main door with the front door was where patrol
6 vehicle was parked in front and you have the VIP doors was
7 behind it.

8 Q. Okay. So on the night in question, what was happening
9 generally at the club that night?

10 A. There was a Halloween party bash going on.

11 Q. Did you ever leave your vehicle while you-all were out
12 there working that night?

13 A. At times, yes.

14 Q. Okay. Around the time of this incident, where were
15 you sitting?

16 A. We were sitting in Officer Rocco's patrol vehicle.

17 Q. That night were you ever made -- well, prior to the
18 incident were you ever made aware of any fights or
19 incidents inside of the club that night?

20 A. No, prior to the incident we were not.

21 Q. On the night in question, did you ever see the
22 defendant, Mr. Harris?

23 A. We did, yes.

24 Q. When did you first see him?

25 A. When he passed our patrol vehicle and looked back at

1 us and he waved at us.

2 Q. Okay. When he passed the vehicle, which side of the
3 vehicle was he on?

4 A. He was on the passenger side of the vehicle.

5 Q. Okay. And where were you sitting?

6 A. In the passenger seat.

7 Q. When you said he waved, what was his demeanor like
8 during that time?

9 A. Calm, just normal. Like everybody else that was
10 leaving. Didn't really -- no cause for concern or
11 anything.

12 Q. Okay. When he walked past the vehicle, which exit
13 would he have had to come from the club?

14 A. The VIP exit, which would have been behind us.

15 Q. Did you notice any visible injuries on him at that
16 time?

17 A. I did not, no.

18 Q. Did he appear disheveled in any way?

19 A. Not to my recollection, no.

20 Q. Did you see where he went after he passed your
21 vehicle?

22 A. My recollection, the last I saw of him, was headed
23 straight in front of us and after that I did not see him
24 until later.

25 Q. Shortly after he walked by, what happened next?

1 A. He waved at us, he kept on walking. One of the owners
2 of the club walked out and said something to the effect
3 of keep an eye on that guy, at which point we exited our
4 vehicle and started walking in that direction.

5 Q. And how did he get your attention?

6 A. How what?

7 Q. How did he get your attention, the individual who came
8 out and told you that?

9 A. He was the one -- are you talking about in terms of
10 the club?

11 Q. Yes.

12 A. So he's one of the main owners that kind of oversees a
13 little bit of the security.

14 Q. Who was that individual?

15 A. His name was Big Mike. I don't know what his actual
16 name is.

17 Q. Okay. After that did you exit your vehicle?

18 A. We did, yes.

19 Q. And where did you go from there?

20 A. We walked in the general area that the defendant was
21 last seen by us.

22 Q. Okay. Can you just draw a little arrow maybe in blue
23 which direction you were walking?

24 A. (Witness complies.)

25 Q. And after you turned the corner of the building, what

1 did you see?

2 A. As we turned the corner of the building, we observed
3 toward the entry and exit way of the parking garage behind
4 the building there was a vehicle that was either slowing or
5 stopped in the middle of the roadway and there was the
6 defendant and a couple of other people near the vehicle.
7 The defendant was directly in front of the driver's side
8 door.

9 Q. Can you use maybe that black marker and draw a box
10 where that vehicle you saw stopped was?

11 A. (Witness complies.)

12 Q. And then maybe can you use that red one and put a mark
13 where the defendant was.

14 A. (Witness complies.)

15 Q. When you turned the corner and saw those individuals
16 and that vehicle, what was going through your mind?

17 A. First we thought there was gonna be a fight, started
18 calculating who was there and what we were -- assessing
19 what we were looking at.

20 Q. Did you hear any yelling or any kind of back and
21 forth?

22 A. I don't remember hearing anything up until the
23 gunshots started.

24 Q. So when you first saw the defendant, how was he
25 positioned in relation to that vehicle?

1 A. He was facing the vehicle, at which point we saw
2 the muzzle flashes, at which point we ducked behind two
3 vehicles on the side of the street.

4 Q. So you said there were some other individuals up
5 there. Where were they in relation to the defendant and
6 this vehicle?

7 A. They were further off to the side. The defendant was
8 directly in front of the vehicle, whereas they were more
9 towards the back, almost to the sidewalk.

10 Q. And when you saw the defendant, what part of the car
11 was he standing in front of?

12 A. In front of the driver door.

13 Q. Did you -- did you hear gunshots?

14 A. Yes, sir.

15 Q. Did you see the muzzle flashes?

16 A. Yes, sir.

17 Q. And where did those come from?

18 A. They came from the defendant, who was standing in
19 front of the driver's door of the vehicle.

20 Q. How clearly could you see the defendant?

21 A. Very clear.

22 Q. Approximately how many gunshots did you hear?

23 A. I don't remember. At this point it's been a couple of
24 years.

25 Q. Just a rough idea. Was it a lot or a couple?

1 A. The patrol vehicle.

2 Q. Okay. And this arrow?

3 A. That is the route that we took when we exited our
4 vehicle.

5 Q. Okay. And this circle right here, what is that?

6 A. That is roughly where we were when the shots rang out.

7 Q. Okay. And is that where your body camera footage also
8 cut on?

9 A. Yes.

10 Q. The red X, what is that?

11 A. That is the defendant.

12 Q. And this box right here?

13 A. The victim's vehicle.

14 Q. Okay. Now after the shooting did you ever lose sight
15 of the defendant?

16 A. No. I'm sorry. We did actually for like a quarter of
17 a second when we ducked behind the vehicle.

18 Q. And when was that? What happened during that quarter
19 of a second?

20 A. We ducked behind the vehicle, gunfire stopped, we
21 quickly jumped out from behind the vehicle and started
22 approaching, at which point we observed the defendant
23 turning back towards us.

24 Q. Did you see -- after you saw the muscle flashes come
25 from the defendant, did you see -- what did he do next?

1 A. His hand went to his waistband and he started walking
2 in our direction.

3 Q. He walked directly towards you or was he at an angle
4 or --

5 A. He was directly towards us and it appeared as if he
6 was trying to blend in with the other two subjects that
7 were walking towards us with their hands up.

8 Q. After this, did you find a firearm on the defendant's
9 person?

10 A. We did, yes.

11 Q. And where was that located?

12 A. It was in his waistband.

13 Q. And what did you do with it at that point?

14 A. Removed it from his waistband, took the magazine out,
15 racked chamber and at that point I threw it towards Officer
16 Rocco in order for me to go and talk to the victims.

17 Q. At that point did you recognize the defendant?

18 A. I did not, no.

19 Q. Did you recognize him earlier that night?

20 A. I did eventually later on realize he was the same
21 gentleman that had waved at us.

22 Q. Once the defendant was on the ground and the firearm
23 was cleared, what did you do next?

24 A. I ran up to the victims' vehicle and started assessing
25 what the damage was trying to render aid to the victims.

1 dab?

2 A No.

3 Q Okay. And did Torri and Keoki interact at any other
4 time other than that, again, initial contact?

5 A No.

6 Q All right. When you were in the bar that night was
7 there any kind of physical altercation?

8 A You mean the fight beforehand?

9 Q The fight.

10 A Yeah. Like when they got in a fight that was a
11 physical action but that was about it.

12 Q All right. Do you know how that fight started?

13 A No. I never could figure it out. When we were
14 standing there it was just like BB was right there but he
15 was telling me he was fixing to get ready to go home.
16 Because I had told him about, my cousin fixing to go home,
17 whatever. I am like, okay, cool. So next thing you know,
18 they came back probably about ten minutes later. I am
19 like, damn, what are you doing back. He was like, one of
20 these got to go. I am like, what you talking about, you
21 know. So that is when Keoki was trying to talk to Pat.
22 But BB wasn't letting Keoki talk to Pat period, you know.
23 So when he was, I got in the middle. I tried to get in
24 the middle of Keoki and Pat. So BB pushed me out of the
25 way. So when he pushed me out of the way that is when the

1 fight begin. And I was trying to break it up, I kept
2 grabbing his hoodie but everybody was recording, nobody
3 was helping me but, you know.

4 Q So just to clarify, you said that Keoki Harris was
5 trying to talk to Patrick Clement?

6 A Uh-huh. (Indicates yes.)

7 Q And that at a certain point you are trying to
8 separate them.

9 A I was trying to separate, well BB was trying to not
10 allow Keoki to talk to him. But I was trying to separate
11 BB and Keoki. Like I am telling Keoki, you know, move
12 back, you know, whatever. But then that is when I was
13 pushed out the way. So after I was pushed out the way
14 that is when I started grabbing his hoodie.

15 Q All right. And you said people were recording and
16 they weren't helping you?

17 A Right.

18 Q And were you able to actually watch a video of that
19 fight?

20 A Yeah.

21 Q Afterwards?

22 A Uh-huh. (Indicates yes.)

23 Q And was that located on a disk that you watched?

24 A Yeah, you showed it to me.

25 Q All right. I'm handing you what has been premarked

1 for identification purposes as State's Exhibit number 6.

2 Do you recognize what that is?

3 A Yes.

4 Q What is it?

5 A The video you showed me just now.

6 Q And did you sign and initial that video?

7 A I did.

8 Q Did you watch that video?

9 A I did.

10 Q And did you recognize what was on that video?

11 A Yeah.

12 Q Was it a fair and accurate depiction of the fight
13 that occurred inside Club Reign on the night of
14 October 31st, 2021 into the earlier morning hours of
15 November 1st, 2021?

16 A Right, yes.

17 MS. GASSER: Your Honor, at this time the State moves
18 to enter State's Exhibit number 6 into evidence.

19 THE COURT: All right, any objection?

20 MS. KEPLEY: No objection.

21 THE COURT: State's Exhibit 6 is admitted into
22 evidence without objection.

23 (Whereupon, State's Exhibit 6 was admitted into
24 evidence.)

25 MS. GASSER: Permission to publish State's Exhibit 6

1 to the jury, Your Honor?

2 THE COURT: You may.

3 Q While that is loading, when Mr. Harris was trying to
4 talk to Patrick Clement and BB or Torri Pone was trying to
5 keep him from talking were there voices raised?

6 A No. I mean you couldn't tell if it was voices raised
7 or not because there was music back there.

8 Q So they were just trying to have a civil conversation
9 or was this not a civil conversation?

10 A It was a civil conversation.

11 Q Okay. Ms. Young we're going to publish State's
12 exhibit number 6. And then after I'm going to ask you a
13 couple of questions about it. Okay?

14 A Okay.

15 MS. GASSER: Could we have the monitor switched over?
16 (Whereupon, State's Exhibit number 6 was published to
17 the jury.)

18 Q All right. So I'm going to bring us back to the
19 beginning of this video. Okay.

20 (Whereupon, the video was played.)

21 Q All right. Let's talk about who is in this video.
22 Who do we see in the gray hoodie with the red emblem on
23 their chest in the foreground in that video?

24 A Torri.

25 Q All right.

1 (Whereupon, the video was played.)

2 Q Who just entered the video on the left side of the
3 screen. I apologize. It is a female on the left side of
4 the screen. I might need to go a little further.

5 (Whereupon, the video was played.)

6 Q Who is that on the left side of the screen with the
7 red hair.

8 A Me.

9 Q Okay. And in the foreground of that video, in the
10 sweatshirt with the red circular emblem on the chest. Who
11 is that?

12 A Torri.

13 Q And by Torri, you mean Torri Pone?

14 A Uh-huh. (Indicates yes.)

15 Q Who is the gentleman with the black shirt, do you
16 know the gentleman for sure with the black shirt and the
17 red stripe on the side?

18 A No.

19 (Whereupon, the video was played.)

20 Q Okay. Who is the gentleman in the gray sweatshirt on
21 the left side of the screen with the black pants?

22 A Keoki.

23 Q And when you say, Keoki, you mean Keoki, the
24 Defendant, Keoki Harris?

25 A Right.

1 (Whereupon, the video played.)

2 Q All right. And who is fighting right there?

3 A Torri.

4 Q Torri Pone?

5 A Uh-huh. (Indicates yes.)

6 Q And who has the gray sweatshirt that was fighting
7 with him on the left side?

8 A What you mean, Torri and the legs that are up? Oh,
9 Keoki.

10 Q And by Keoki you mean Keoki Harris?

11 A Right.

12 Q And who is the gentleman in the blue hoodie?

13 A Pat.

14 Q And when you say, Pat, you mean Patrick Clement?

15 A Right.

16 (Whereupon, the video is played.)

17 Q And what are you doing here?

18 A Trying to pull BB, trying to pull Torri.

19 (Whereupon, the video is played.)

20 Q And what happens right here?

21 A Throws a chair.

22 Q And who did that chair hit?

23 A Keoki.

24 Q Now, is Keoki the gentleman in the blue hoodie or the
25 gray hoodie?

1 A Blue hoodie, I mean the gray sweatshirt, I mean gray
2 sweater.

3 Q So in this video the chair hit the person in the blue
4 hoodie?

5 A And it is Pat.

6 (Whereupon, the video played.)

7 Q All right. And when Torri Pone just struck the
8 person that is on top of the other person, is that person
9 Patrick Clement who he just struck?

10 A You keep pausing the video so I've not really seen
11 it.

12 Q Let's play it.

13 (Whereupon, the video was played.)

14 Q Were you able to see it then?

15 A That looks like Pat that he hit. It looked like
16 Patrick that he is hitting, on the top.

17 (Whereupon, the video is played.)

18 Q All right. Did this fight end at a certain point?

19 A It ended when my cousin came back there with the
20 security. They broke it up.

21 Q So security broke it up?

22 A Right.

23 Q And was everybody able to get up and walk away?

24 A Yeah.

25 Q All right. Was ambulances called?

1 A No.

2 Q Did anyone request ambulances to be called?

3 A I am not sure, I wasn't out there. I was in the back
4 bar.

5 Q But inside of the back bar, do you know?

6 A No.

7 Q And did you speak with Torri Pone after the fight?

8 A I spoke with him while Keoki and Patrick was still
9 locked up on the floor. I was like, get your ass out of
10 here and go home, bye. That was me, yeah.

11 Q And did he leave?

12 A Yeah, he left.

13 Q Did he leave by himself?

14 A Uh-huh. Yes, he left by himself.

15 Q Did Patrick Clement leave?

16 A He left after Mike and the security guard came and
17 broke them up, yeah.

18 Q Now, did Keoki Harris end up leaving?

19 A Yea. Well Mike sat Keoki on the couch for a little
20 minute. And Keoki was trying to tell him exactly what was
21 going on. And then he went out the door with Mike and the
22 security guard. And I locked the door back.

23 Q So just to be clear, Torri Pone left?

24 A Uh-huh.

25 Q Patrick Clement left?

1 A He left after they broke them up.

2 Q The fight was broken?

3 A Yeah. Unlocked them, they were kind of locked up.

4 So they had to break them up.

5 Q And so Patrick Clement left?

6 A Right.

7 Q And you said, Mike, and who is Mike?

8 A He is the owner of the club.

9 Q Is his nickname Big Mike?

10 A No. He doesn't have a nickname, his name is just
11 Mike. Yeah.

12 Q And so Mike, you said sat Keoki Harris on the couch
13 for a minute?

14 A Yeah. He sat on the couch, he was kind of out of
15 breath.

16 Q And so were you able to get a good look at Keoki?

17 A Yeah, got a good look at him.

18 Q Was he able to speak?

19 A Yeah. He was talking, he was like out of breath but
20 he was talking. His eyes were red, I guess, I don't know
21 if he had got hit or whatever but he had red on his eyes,
22 of the white part.

23 Q And when you said that he sat on a couch for a
24 minute. Approximately how long did he sit on that couch
25 for?

1 A He might have sat right there for about three minutes
2 because Mike was asking him a couple of questions. He was
3 like, yeah, they ganged me, they ganged me or whatever.

4 Q So after he sat down on that couch for a couple of
5 minutes you said that he walked out with Mike?

6 A Yeah. He walked out with Mike, he walked out with
7 Mike and the security guard.

8 Q And do you know what door he left out of?

9 A He went out the door where my car is normally parked
10 in, the side door.

11 Q The side door?

12 A Uh-huh. (Indicates yes.)

13 Q And you said that is kind of the VIP door?

14 A It is. It is like right there. Like the bar is
15 right here and the door is right there. Like you just
16 walk out of it.

17 Q Now, which door did Torri Pone exit out of?

18 A He went out the front. When I told him to leave he
19 went out, and so he had to go out the front where the
20 metal detector and all, he went out that way.

21 Q And which door did Patrick Clement leave?

22 A He went out the opposite way, so he didn't go out the
23 side door, he went out the front.

24 Q Now, after this incident, did you remain inside or
25 did you go outside and follow everybody?

1 A No. I locked the door, started cleaning up.

2 Q And were you, at any point in the evening after that,
3 did you speak to Torri Pone or Patrick Clement?

4 A After they left?

5 Q After they left.

6 A No.

7 Q And did you, at any point in that evening after, did
8 you speak to Keoki Harris?

9 A After it was over?

10 Q Yes.

11 A No.

12 Q Okay. Did you personally see any kind of shooting
13 that night?

14 A No, I was in the inside.

15 Q Okay. Were any guns presented during this fight
16 before or after this fight?

17 A No.

18 Q And that night, did you let Torri Pone in through the
19 VIP door at any time?

20 A No.

21 Q Did you let Patrick Clement in through the VIP door?

22 A Nobody came in through the VIP door. They all came
23 in through the front. So I see them when they get to the
24 back part.

25 Q Okay. And again, the front door had metal detectors?

1 A Right.

2 MS. GASSER: All right, I have no further questions
3 Please answer any that Defense Counsel may have.

4 THE COURT: All right, cross.

5 CROSS-EXAMINATION

6 By Ms. Kepley:

7 Q Good morning, Ms. Young.

8 A Hey.

9 Q I just want to re-go over a couple of things.

10 A Okay.

11 Q Just to be clear, you were working at the Club that
12 night, that is your main job. Right?

13 A Right.

14 Q And you are the only bar tender in that back part
15 area?

16 A Right.

17 Q And you were also dating Keoki Harris?

18 A Correct.

19 Q Would you agree it was a little more than dating?
20 You guys were --

21 A -- staying together, we stayed together. We had just
22 moved to Five Forks.

23 Q And Keoki was in the club that night.

24 A He was.

25 Q And that wasn't unusual, he would be --

1 A -- no, he comes all the time. Any time I work he
2 comes.

3 Q Does he usually come in the section that you are
4 working?

5 A Yeah. He will come back in the section where I am
6 working. But he walks around because he knows a lot of
7 people. So he will walk around, go smoke, come back.

8 Q And that night that Keoki came to visit you at work
9 was he alone or did he have any friends with him?

10 A I'm not sure because I was already at the back part.
11 But I did see him. I am not sure who he had with him.

12 Q Would you agree that it was a very busy night?

13 A Yeah, it was, Halloween.

14 Q And at some point, I guess we had a hard time nailing
15 down exactly when Torri came and Patrick Clement come to
16 the back bar too.

17 A Uh-huh. (Indicates yes.)

18 Q And we talked a little bit with the State about the
19 fact that you dated Pat in the past.

20 A Yeah, in the past, Uh-huh.

21 Q Would you agree with me that, it is safe to say that
22 Keoki and Pat do not like each other?

23 A No. I wouldn't say that. Uh-uh, (indicates no.)
24 They really don't know each other. But whenever they seen
25 each other it is never been like, oh, I don't like you or

1 whatever, whatever. They were fine, yeah. Never been
2 no --

3 Q Now, we just watched that video, I know this happened
4 a couple of years ago. But after re-watching that video,
5 Keoki didn't throw the first punch, did he?

6 A No.

7 Q That was Torri Pone that did that?

8 A Yeah. He pushed me out of the way.

9 Q And this wasn't a fair fight, was it?

10 A I mean it was two on one. I would think not.

11 Q And when you say it was two on one, it was Pat and BB
12 attacking Keoki?

13 A Right.

14 Q And when we saw, there was some confusion who had
15 what color sweatshirt. But what we saw on that video,
16 someone pinned in a corner and getting punched in a gray
17 sweater. That was Keoki being pinned in the corner
18 getting punched, right?

19 A Right, yeah.

20 Q And that was Keoki getting kicked in the head?

21 A Right.

22 Q And he was kicked in the head by Torri Pone?

23 A I an not sure who kicked him in the head but I know
24 he was kicked in the head and chairs and all of that.

25 Q And also, that was Torri Pone we saw picking up a bar

1 stool?

2 A Yeah.

3 Q And he took that bar stool and he slammed it into
4 Keoki, didn't he?

5 A Right.

6 Q He didn't do that just once, he did that twice?

7 A Probably was twice. I was trying to pull him.

8 Q And when you say you were trying to pull them, you
9 were trying to --

10 A -- I was trying to pull my cousin so he wouldn't get
11 in the altercation. So he could just kind of go.

12 Q You were trying to help Keoki?

13 A Yeah.

14 Q Would you agree, Keoki, he wasn't able to defend
15 himself very well during that night?

16 A No, no.

17 Q Because it wasn't a fair fight?

18 A No.

19 Q He was essentially jumped, ganged on, I think he
20 said, by Torri and BB?

21 A Right.

22 Q And I think you mentioned something about redness but
23 can you describe to us what sort of injuries Keoki had
24 after this fight?

25 A I just seen his eye over the white part was red, it

1 A -- the police officer, they called my phone.

2 Q Okay. And so you spoke with Detective Loyd, right?

3 A Uh-huh. (Indicates yes.)

4 Q And do you remember telling him that you, that this
5 fight, there were words exchanged about you?

6 A No, I didn't. I never told there were words
7 exchanged about me. I said, they had words, that is about
8 it. But it was no words that I could remember, whatever
9 they talked about. So they had no reason to have words,
10 they didn't know each other.

11 Q So you don't remember telling Detective Loyd that
12 there were words about Patrick loving you?

13 A No. I didn't tell, them loving me. I said Patrick
14 was trying to get back with me, that was it. But I didn't
15 say anything about loving, I don't know where you get that
16 from.

17 Q But that Patrick wanted to get back with you?

18 A Right.

19 Q And that exchanging the words was something to do
20 with Patrick wanting to get back with you?

21 A No. What I told him was, Patrick was holding my hand
22 talking. And I was like, boy, get your ass on. That was
23 about it. There was no loving. I never told him any of
24 that.

25 Q Okay. But again, he touched your hand that night?

1 it broke out?

2 A There was an announcement. DJ said security report
3 to the back bar.

4 Q And how quickly did you get to the back bar after
5 that announcement?

6 A Probably about 15 seconds.

7 Q What did you see when you turned that corner and
8 walked into that back bar?

9 A I saw Keoki and Pat, they were just kind of holding
10 on to each other.

11 Q When they were holding on to each other, did you see
12 any punches thrown, any strikes?

13 A No.

14 Q Did you see any sign of either of them having a
15 firearm or other weapon?

16 A No.

17 Q Okay. What did you do once you saw them locked up
18 like that?

19 A I grabbed Keoki, security grabbed Pat and we pulled
20 them apart. The security guard had Pat, escorted him to
21 the front entrance, the main entrance. And held Keoki in
22 the back for maybe five minutes or so.

23 Q Okay. Where was, did you see Torri Pone when you
24 walked in there?

25 A No.

1 almost.

2 Q Okay. So outside the club, did you, I guess, reunite
3 with your nephew and make your way to the car?

4 A Yes.

5 MS. GORSKI: Objection, Your Honor, leading.

6 THE COURT: Sustained.

7 Q Did you make your way to the car?

8 A Yes.

9 Q Once you got there what did you do next?

10 A Got in the car and left.

11 Q What seat were you in?

12 A Passenger.

13 Q And who was driving?

14 A My nephew.

15 Q Was anyone else in the car?

16 A No.

17 Q Did y'all have any firearms or anything in the car?

18 A No.

19 Q Can you speak up just a little bit?

20 A No.

21 Q As you pulled out of the garage, what did you see?

22 A A guy came running to the car with a gun, started
23 shooting.

24 Q As soon as you saw that person, did they already have
25 gun or was it later on?

1 A No, he had a gun coming towards the car.

2 Q Were words exchanged with this person?

3 A No.

4 Q Had you seen this person earlier that night?

5 A Yes.

6 Q Where did you see them?

7 A At, (inaudible).

8 Q Was that individual the Defendant, Mr. Harris?

9 A Yes.

10 Q Do you see him in the courtroom today?

11 A Yes.

12 Q Can you identify him by what he's wearing?

13 A Yes.

14 Q What is he wearing?

15 A A suit with a white shirt.

16 Q Okay.

17 MR. MILLER: Let the record reflect he's identified
18 the Defendant.

19 Q Did you, what stood out about him when you first saw
20 him come up to the car?

21 A I seen a guy coming with a gun.

22 Q Okay. At that point did you tell your nephew to do
23 anything or did you react in any way?

24 A Yeah. I told him to go --

25 THE COURT: Speak up a little bit, please, so they

1 can take it down.

2 A Saw the guy on wheels pulling out. I seen him once,
3 he stopped, he was like, when he stopped the guy started
4 shooting.

5 Q Okay. Did your nephew realize what was happening, to
6 the best your knowledge?

7 A About too late then.

8 Q Do you remember anything at all from after the
9 shooting, from that night?

10 A I remember waking up in the hospital.

11 Q How many times were you shot?

12 A Once in the left leg, twice the right and one in the
13 arm, right arm.

14 Q And what has that been like for you?

15 A Been different.

16 Q How long after this incident were you able to walk
17 again?

18 A About two months.

19 Q Do you still have issues with those injuries today?

20 A Yes.

21 Q What issues do you have?

22 A Swelling.

23 Q Swelling, you have any pain or other issues?

24 A No.

25 Q Okay.

1 of time between the car coming out and our arrival.

2 Officer Bellamy and I went to the passenger side and made
3 contact with the victim that had gunshot wounds.

4 Q And what did you first notice when you opened that
5 passenger door?

6 A The first thing I noticed is that both occupants of
7 the vehicle appeared to have been shot.

8 Q The passenger, what injuries did you see immediately
9 upon getting to him?

10 A So on my initial observation I saw that he had been
11 shot in at least one leg and in his arm.

12 Q Did you leave him in the vehicle or did you get him
13 out?

14 A So to fully understand the extent of his injuries, he
15 was removed from the vehicle and placed on the ground so
16 we could render aid.

17 Q What steps did you take to render aid?

18 A So we, I identified what he had. He was shot twice
19 in the right thigh. We applied a tourniquet to that. He
20 was also shot in the right forearm and we applied a
21 tourniquet to that as well. Another tourniquet, I believe
22 was applied to his other leg due to the gunshot there. He
23 started going into shock and loosing consciousness so we
24 place an emergency blanket on him, the basic first aid for
25 preventing shock, hyperthermia from setting in. And we

1 injuries, if any, did Torri Pone have?

2 A Mr. Pone had a gunshot wound which entered his left
3 upper back and terminated his course within the left
4 anterior neck.

5 Q And Dr. Ward, in anticipation of your trial testimony
6 today, did you create a diagram to help aid the jury in
7 understanding where on the body a gunshot wound was
8 located on the deceased?

9 A Yes, I did.

10 Q I'm now handing you what has been premarked for
11 identification purposes as State's Exhibit number 37. Do
12 you recognize that document?

13 A Yes, I do.

14 Q And how do you recognize it?

15 A It is a copy of the document that I prepared with the
16 gunshot wound to the back, labeled and recovered the
17 projectile also labeled.

18 Q And is it a fair and accurate depiction of the body
19 diagram that you created in preparation for this case?

20 A Yes, it is.

21 Q And has it been changed or altered in any way?

22 A No, ma'am.

23 MS. GASSER: Your Honor, at this time the State moves
24 to enter State's Exhibit number 37 to the jury, into
25 evidence, I apologize.

1 THE COURT: Any objection?

2 MS. KEPLEY: No objection.

3 THE COURT: All right. State's Exhibit 37 is
4 admitted into evidence without objection.

5 (Whereupon, State's Exhibit 37 was admitted into
6 evidence.)

7 MS. GASSER: Permission to publish to the jury, Your
8 Honor?

9 THE COURT: You may.

10 Q Dr. Ward, you testified too a few moments ago as to
11 the gunshot wound to Torri Pone. Can you please, using
12 this diagram, explain to the jury where that gunshot wound
13 was located?

14 A This gunshot wound is to the left upper back, this
15 region here where the circle is. This is roughly four
16 inches to the left of his midline and passage through the
17 skin and musculature of the left upper back. It hits the
18 left side of his fifth cervical vertebrae, one of the
19 bones that make up our vertebral column. It then
20 lacerates or cuts the left carotid artery which is a
21 vessel that takes the blood from our heart to the brain.
22 It also tears or lacerates the left side of his trachea
23 which is a tube that carries oxygen from our mouth to our
24 lungs. And it terminated its course within the
25 subcutaneous tissues of his left anterior neck where the X

1 is.

2 Q Was there any exit wound on Torri Pone?

3 A There was not.

4 Q Was a projectile located within the body?

5 A Yes, it was.

6 Q Who was it located by?

7 A By myself.

8 Q And did you remove that projectile from the body?

9 A Yes, I did.

10 Q Did you, what did you do with that projectile after
11 removing it?

12 A It was received into Officer Darbi Harriman of the
13 Greenville County Criminal Justice Department.

14 Q And what direction, if you can explain to the jury,
15 did this wound or this gunshot wound travel?

16 A Through Mr. Pone's body, it went from his back to his
17 front, from his left to his right and upward.

18 Q Through your training and experience is that
19 consistent with someone turning and possibly ducking?

20 A It could be, yes.

21 Q What injuries internally, if any, I believe you were
22 notating some. Can you explain to the jury any internal
23 injuries that Mr. Pone suffered?

24 A The bullet passed through musculature of the back.
25 It lacerated the carotid artery resulting in a great deal

1 of blood loss within the structures of the neck. It
2 lacerated the left side of his trachea which resulted in
3 blood from this lacerated artery getting into the airway
4 and being aspirated or breathed into the lungs, a term
5 called hemo-aspiration. So blood is now filling the
6 spaces of the lung and preventing air from being able to
7 go down that way.

8 Q And just for lay purposes for those of us who did not
9 go to medical school, when you say it was pulled down. So
10 every time he breathed he was pulling lung, he was pulling
11 blood down into his lungs?

12 A That is correct.

13 Q And you said that the carotid artery was severed, is
14 that what you just testified to?

15 A It was damaged, I don't think it was transected. It
16 was some cut.

17 Q And is damage to the carotid artery considered a
18 serious injury?

19 A Yes, it is.

20 Q And you may have touched on it earlier and do
21 apologize for just for clarification purposes, what does
22 the carotid artery, what purpose does it serve in the
23 body?

24 A There are two carotid arteries, there is one on the
25 right and one on the left. Each of them transport oxygen

1 blood from the heart to the brain; one to the left side of
2 the brain; one to the right side of the brain.

3 Q Earlier you also testified about something regarding
4 the jugular vein. Can you explain that further for the
5 jury?

6 A I apologize. The internal jugular vein on the left
7 was also damaged. The jugular vein is, takes blood from
8 the brain back to the heart. So on the left side was the
9 left carotid artery which was damaged and the left jugular
10 vein which was also damaged. So blood going up as well as
11 blood going down from the brain had an opportunity to exit
12 the vascular into the soft tissues of the neck.

13 Q And in your experience, based on the injuries that
14 Torri Pone incurred, would this have been an immediate
15 death?

16 A My understanding with Mr. Pone, it was not an
17 immediate death as he was transported to the hospital
18 where he later died.

19 Q And you testified too earlier that the purpose of an
20 autopsy is to determine the cause and manners of a
21 person's death, correct?

22 A That is correct.

23 Q I want to talk about, were there any other injuries
24 found on Torri Pone during your autopsy?

25 A Yes, there was.

1 bullets. And so I am able to use something that is known
2 as the comparison microscope and I can take these items
3 and look at them microscopically against each other and
4 compare them under that microscope in order to do a
5 comparative analysis.

6 Q And in this case did you do a comparative analysis on
7 any projectiles?

8 A I did.

9 Q And were you able to tell whether or now, how many
10 projectiles did you test?

11 A So I looked at two projectiles in this case.

12 Q And in those projectiles, did you, was one of those
13 projectiles that is in front of you? I believe it State's
14 Exhibit --

15 A 36.

16 Q 36?

17 A Yes.

18 Q And when you look at State's Exhibit number 36, were
19 you able to compare it to the firearm that is in front of
20 you?

21 A Yes. So I took those unfired cartridges and I had
22 test fired them in the gun. Then I took those bullets and
23 compared it to the bullet in State's Exhibit 36 under my
24 comparison.

25 Q And did you have any results after making those

1 examinations?

2 A I did.

3 Q What was your determination?

4 A That this gun fired the bullet MW1.

5 Q And were you able to, were you able to determine that
6 based on anything specific?

7 A Yes. So that is where the demonstrative would come
8 into play. So this diagram is kind of showing you what
9 happens in the barrel of a gun. So manufacturers decide
10 how many lands and grooves as you can see at the bottom of
11 this image are basically carved into the barrel. The
12 reason why you want rifling in your gun is for accuracy.
13 It is the same way a quarterback throws a football. He
14 wants to spiral on that football so he can hit his wide
15 receiver. You need a spiral when you are firing a gun so
16 that the bullet actually hits your target. With that we
17 have class marks. So you can see at the top it says
18 6R6L5R, so that is how many lands and grooves have been
19 carved into the barrel and which direction they twist. Do
20 they twist to the right or do they twist to the left, the
21 bullets. So on the very end you can see another category
22 and it is called polygonal. Polygonal is actually a very
23 different type of riffling. Instead of carving these
24 lands and grooves the manufacture takes something called a
25 mandrel. And they are going to basically put the steel

1 around the mandrel and pound into the shape of that
2 mandrel. So you are going to have a polygonal rifle
3 firearm if they do that technique. And in this case Glock
4 does polygonal rifling. So that is the technique that
5 they use on this gun to basically produce those marks that
6 I can compare in my examination.

7 Q And as to the three fired cartridge casings that are
8 in front of you, were you able to examine those casings in
9 relation to the firearm that is in front of you as well?

10 A Yes.

11 Q What did your examination conclude?

12 A So I first compared the three cartridge cases to each
13 to make sure that they were all fired by the same gun.
14 And one side determined that they were and then compared
15 them to the test fires from the Glock pistol and basically
16 came to the conclusion that this Glock pistol fired each
17 of the three cartridge cases.

18 Q And so just to be clear, again, for those of us that
19 don't do this every day. This gun fired the three
20 cartridge casings. So this gun fired these three
21 cartridge cases and also fired this projectile?

22 A Correct.

23 Q And that was after your examination of the
24 microscopic rifling?

25 A For the projectile.

1 Q For the projectile, excuse me.

2 A Yes I look at different marks for the cartridge
3 cases. So in this case I looked at an area that basically
4 occurs on that primer area we talked about earlier that
5 has all of those little chemical compositions. When this
6 gun is operating it is called recoil, the operation. So
7 if you can kind of look you can see that the barrel is
8 tilted or canted upwards. So when that barrel does that
9 it creates marks on the primer area of that cartridge
10 case. And those shearing marks are beautiful for firearms
11 examiner to make a comparison and identify the fired
12 cartridge cases to the evidence from the scene.

13 Q And again, just for clarification purposes, that gun
14 shot those three cartridge cases that came from that gun
15 and that projectile came from that gun?

16 A Yes, was fired by this gun.

17 MS. GASSER: I have no further questions. Please
18 answer any that Defense Counsel may have.

19 THE COURT: All right, cross.

20 MS. GORSKI: Your Honor, at this time, the Defense
21 does not have any questions for this witness.

22 THE COURT: All right. You may step down, thank you.

23 MS. GASSER: Your Honor may this witness be released
24 from her subpoena?

25 MS. GORSKI: No objection.

1 evidence without objection.

2 (Whereupon, State's 1 was published to the jury.)

3 Q Detective Loyd, was that the extent of your
4 conversations with the Defendant in this case?

5 A Yes.

6 Q Beginning there is a little tough to hear. How did
7 he say he came to leave the club that night?

8 A He said that a fight had broke out, he tried to break
9 it and that the bouncers told everybody to leave.

10 Q Did he say he knew the people who were in that fight?

11 A He said he didn't know them.

12 Q Did he say that he was a part of that fight?

13 A No. He denied being a part the fight, he was just
14 trying to break it up.

15 Q Did he affirmatively say, look at my face, I don't
16 have any injuries.

17 MS. GORSKI: Objection, leading.

18 THE COURT: Sustained.

19 Q Did he say he had any injuries?

20 A No.

21 Q Could you observe any injuries?

22 A No. We looked with the flashlight and there is no
23 injuries.

24 Q After he left the club where did the Defendant say he
25 went?

1 A To his car.

2 Q And did he say what that car was?

3 A Yes, a Chevy Tahoe.

4 Q And what did he do when he got to that Chevy Tahoe?

5 A He said he got in the car.

6 Q According to his story?

7 A Yeah. He told me that he had gotten into the car,
8 that he heard gunshots, people yelling BB, who he knew to
9 be his girlfriend's, Treva's younger nephew who is Torri
10 Pone. People yelling BB so he got out and went up the
11 hill towards where this was happening.

12 Q You say he had, this was before or after the shots
13 were fired?

14 A He said that he heard the shots while he was sitting
15 in his car.

16 Q And did he say how he came in possession of that
17 firearm?

18 A He did. He said that when he heard shots go off
19 while he was sitting in his car he got out and he walked
20 up towards the victim's car and then he found the gun on
21 the ground, and thought to himself that it was a free gun.
22 And so he stuck it in his pocket.

23 Q Now, in relation to that vehicle, was there a set of
24 keys on the Defendant's person?

25 A Yes.

1 go to the back bar.

2 Q Okay. So it is actually on your way to the back bar?

3 A Yes.

4 Q Okay. And I'm sorry, I am going to let you pick up
5 right there. So you pass the beer bar and what happens,
6 what do you see?

7 A When I passed the beer bar I see Treva, she was
8 standing and she was standing behind the bar. Patrick
9 Clement was in front of the bar like leaning over on the
10 bar. And I see her jerk a hand away and she was, like,
11 like was having a heated discussion. So I went back
12 there, I seen Treva, when she came to me I kind of wrapped
13 my arm around her neck, shoulder like. And I whispered, I
14 was telling her, what is going on.

15 Q Okay. Hang on a second. So, did she come out from
16 around the bar?

17 A Yes, ma'am.

18 Q Okay. And so she came over to you?

19 A Yes, sir.

20 Q So signaled over. And what, was she mad that you did
21 that, do you think she was mad?

22 A She wasn't mad at me.

23 Q Okay. Tell me then, at that point, pick up there
24 again, I just want to make sure.

25 A She came to me, I wrapped my arms around her to like,

1 you know, try to talk to her, ask her questions. So
2 someone, ask her something. And Pat Clement pulled her
3 arm, like I guess he was trying to pull her away from me.
4 But I really, I had her, so I just pulled her back to me
5 but I put her like behind me.

6 Q And how do you know, how do you know it is Patrick
7 Clement that did that?

8 A Because when I felt the tug, when I pulled her I felt
9 the tug and I see him, his arm, his hand, like her arm and
10 she was jerking away.

11 Q Okay. And what happened after that?

12 A As soon as she like, when I pulled her, like between
13 us, then Torri Pone came and jumped dead in the middle of
14 us.

15 Q When you say he jumped in, what do you mean by that?

16 A He just, as, when I pulled her and I was about to say
17 something to Patrick Clement, Pone just jumped in front of
18 me. And I am like trying to tell him, like, what's going
19 on.

20 Q Okay. Let's go back, one second. You were about to
21 say something to Patrick?

22 A Yes.

23 Q Okay. What is it that you were going the ask him?

24 A Like what's going on, the same thing I was going to
25 ask Treva. What is going on.

1 Q Okay. And then you said that Mr. Pone jumped in?

2 A Just jumped between us.

3 Q Do you know where he had been?

4 A I don't know where he had been. I didn't even see
5 him at the time. Like, I saw, when I saw Treva and I saw
6 that like she was having a heated discussion as I was
7 coming up, I was like, worried, like what is going on.
8 And like I said, when I went to ask her what was going on
9 that is when Pat grabbed her.

10 Q Okay. Were you surprised?

11 A Yes.

12 Q Did Mr. Pone, at that point when he jumps in as you
13 say, did he jump in physically with one arm, how do you
14 see him jumping in?

15 A He just jumped in the middle, he jumped between me
16 and Pat. He had a bottle of Remy Martin in his hand. He
17 sat the bottle down and so now he sat the bottle down, I
18 am like what is going on, like what is happening.

19 Q So are you, when that is happening do you see him put
20 the bottle down?

21 A Yes.

22 Q Are you near that bar area?

23 A Where I am is like, to get behind the bar there is a
24 flap door. So it is like, took place like right in front
25 of the flap door, at the end.

1 Q Okay. By the end of the bar.

2 A Yes.

3 Q Okay.

4 A It is really, like in the beginning, when you first
5 walk to the back bar area that is where the bar starts.

6 That is where the bartender, the flap and go behind the
7 bar.

8 Q Okay. And is that where we saw the video from social
9 media?

10 A Yes.

11 Q And tell me then, what happens at that point now, you
12 left off where he jumps between, catching you by surprise.
13 What happens next?

14 A So when he jumped between me and Pat, I look at BB.
15 I am like, Pone, and before I even know it he swung on me.

16 Q Okay. BB, who is BB?

17 A That is Torri Pone. That is BB, BB is Torri Pone's
18 nickname.

19 Q Okay. So if we hear BB that is just a nickname he
20 has?

21 A Yes.

22 Q Okay. And do you know why it's BB?

23 A I have no idea.

24 Q Is it just a nickname?

25 A Yes, ma'am.

1 Q Because we don't want any confusion that there is
2 anyone else, we are talking about the same person.

3 A I never knew his whole name until this incident. But
4 I always called him BB. Anytime I saw him or out anywhere
5 it was always BB.

6 Q Everyone else calls him that?

7 A Yes, ma'am.

8 Q Okay. And now I am going to take you, I didn't want
9 to interrupt but I wanted to make sure that BB is the same
10 person. You say he swung?

11 A Yes.

12 Q Okay. What does that mean?

13 A He took a swing at me, like.

14 Q Describe it.

15 A He just swung at me, kept swinging at me like you see
16 on the video. And I was trying to duck and, you know, get
17 him back off of me. And the next thing you know they
18 lynched me.

19 Q Okay. Break that down for us here. You said he
20 swung and he was swinging. Are you able to stay on your
21 feet?

22 A For a couple seconds I was.

23 Q And then?

24 A Like the floor is slippery, like people spilling
25 drinks so I was kind of slipping back trying to catch my

1 footing. Then it was just swinging, just on me, lynching
2 me.

3 Q Okay. Describe the swinging, did you feel a fist, a
4 hand. What did you feel, physically?

5 A I was just getting beat up. I was just getting beat
6 on from every direction. I couldn't, I couldn't even
7 swing back. I was just getting beat on.

8 Q Did you only feel that from one person, more people.
9 Tell me a little bit about what or who is around you at
10 that time?

11 A At one point the fight, they were beating me. I went
12 down to my knees. When I went down to my knees someone
13 grabbed me, like a chokehold, like this right here. So
14 now I am permanently, someone got me, chokehold.

15 Q Stay close to the microphone.

16 A So I was like permanently like bent over. Someone
17 had me in a chokehold. So while someone got me in a
18 chokehold, someone else was like hitting me, kicking me.

19 Q Do you remember who had you in a chokehold?

20 A Yes.

21 Q Who had you in the chokehold?

22 A Patrick Clement.

23 Q And then you said someone was beating on you?

24 A Yes.

25 Q Who is doing that and what does that mean?

1 A Just got hit in the head over and over and over, and
2 over and over.

3 Q And someone, do you know who that someone is?

4 A Yes, ma'am.

5 Q And who is that?

6 A Torri Pone.

7 Q And during that time, was it quickly, was it slow,
8 was it something that you saw people. Can you describe to
9 me a little bit more at that very moment, I know it is
10 difficult to see but what do you feel. Tell me about what
11 is going on around you.

12 A All I know is I was just getting beat on, beat on and
13 beat on and beat on, just seemed like it was going on and
14 on with nobody really breaking it up until, I guess, they
15 --

16 Q Did you have a chance to get up on your feet again?

17 A Yes, ma'am. When Mike Young and one of his bouncers
18 came and pulled, pulled Patrick Clement off of me.

19 Q Okay. And besides the, because it sounds you are
20 describing a lot of hands, anything else did you feel?

21 A I mean, I didn't know what was hitting me because I
22 was, like I was saying, bent over. But when I finally saw
23 the video, I saw that I was getting hit with stools and
24 over and over. I never knew what was like, was it a fist
25 or anything. All I just knew is I was just getting hit.

1 But I saw the video then, I see that I was getting hit.

2 Q Did you sustain injuries?

3 A Yes.

4 Q Okay. Can you tell me what those injuries were?

5 A Like as of now, my left eye, I been to the doctor
6 three times for my left eye. I have an abnormality in my
7 eye that was caused that night.

8 Q Okay. Those injuries, you didn't have them before?

9 A No, ma'am.

10 Q Okay. And that actual confrontation, the physical
11 part of it, I know that you couldn't see who, you told us
12 that. But did it stay in one location, do you know where
13 it started, where it ended? Can you give us an idea?

14 A From what I know it just generally started, it
15 started and ended in the back bar area, the beating did.

16 Q And when did it finally stop?

17 A I really don't know how long it was. But, I guess,
18 when they got tired.

19 Q Do you remember hearing anything like music still
20 going on, more people, anything that can kind of give us
21 an idea of what you could hear from where you were?

22 A I could hear a little music from the main bar but the
23 music in the back bar was over. Like Treva, she has her
24 own music going in the back bar. So she is not on the
25 same system as the main bar. So her music was over with.

1 But I could still hare music in the main bar.

2 Q Do you hear voices, without telling me anyone in
3 particular, but do you still, do you hear people, you hear
4 voices, yelling as to when you are there.

5 A I mean I could hear people yelling but I'm not, I am
6 not coherent of what they were saying. All I know is just
7 getting beaten, getting beaten, getting beaten.
8 Everything else was not registering around me but beating.

9 Q And when it is broken up, you said, you mentioned
10 Mike Young and a bouncer?

11 A Yes, ma'am.

12 Q Okay. How does it get broken up, who does what?

13 A Mike has me and the other dude was telling the other
14 bouncer, the other bouncer was telling Pat Clement, let me
15 go, let me go, let me go. So they let me go. I guess,
16 after he let me go I didn't see him. It was like, now it
17 was just me, Pat, Michael Young and the bouncer guy and
18 Treva.

19 Q Do you see Patrick Clement there?

20 A No, ma'am.

21 Q Do you see Torri Pone there?

22 A No, ma'am.

23 Q But the fighting has stopped?

24 A Yes.

25 Q Okay. And what does Mike Young or the bouncer, what

1 happens with you?

2 A First he sit me on the couch. And I went, like
3 explaining, I told them they jumped me, like ganged me.
4 And he was like, you still got, (inaudible.) I got
5 jumped.

6 Q Okay. How long are you sat, how long did you sit on
7 the couch?

8 A It was probably three to five minutes, I guess.

9 Q And why were you sitting on the couch?

10 A So I could catch my breath.

11 Q Okay. And that's just because of what had just
12 happened?

13 A Yes, ma'am.

14 Q And how are you feeling at that moment, do you
15 remember?

16 A Sore, my eye's throbbing.

17 Q What happens after, after those three five minutes
18 are up.

19 A Mike Young, well I had to leave. When Mike Young
20 says I have to leave. And Treva was like, why you kicking
21 him out for, he was the one that just got ganged. Really,
22 anybody get in a fight they have to leave.

23 Q Did you cooperate and leave?

24 A Yeah.

25 Q How did you leave?

1 A Through the back bar door. It has its own exit.

2 Q Okay. And that exit is not an entrance, is that
3 right?

4 A (Witness shakes head.)

5 Q And once you go out that door, what happens next?

6 A When I went out the door I turned right. It is like,
7 the building has a sidewalk. So I turned right and I
8 headed towards my car ahead of the sidewalk to my right.
9 As I got to my car two of my home boys came out the door
10 calling my name. When I turned around I see Brian
11 Richardson and Pete, (inaudible.)

12 Q They are your friends?

13 A My friends.

14 Q And so once you see them what happens after that?

15 A I'm over here. So they come to my car and they like,
16 oh, what happened, what happened? So as I am telling them
17 about, about to tell them the story, you know, like what
18 happened. I am hearing like Torri coming from the left.
19 So I was like, what is that. So I look up and I see Torri
20 Pone and Pat Clement.

21 Q Okay and when you see them, you see them and you said
22 you also heard. So is it then that you are hearing or is
23 it other people?

24 A I'm hearing them.

25 Q Okay.

1 A I don't know like, the exact words that is coming out
2 of their mouth but I am hearing them.

3 Q Okay. And what happens then?

4 A When I hear them I go to the car. I have no weapon,
5 I have no gun or anything. I went to the car, to their
6 car.

7 Q Why?

8 A I don't want nobody jump me. The main reason, the
9 only reason why I went to their car, I don't understand
10 it. Why y'all do this to me.

11 Q Were you going to their car because you wanted to
12 finish what was interrupted by the bouncer and Mr. Young?

13 A No. I didn't want to finish. For me to want to
14 finish that, it is a lose, lose. I just want to know why
15 they beat me. Like, for instance, before this night, me
16 and BB was okay, we was alright. Every time I saw BB he
17 was always greeting me. Every, anywhere I see him there
18 was always a greeting, everything was on good terms. So
19 for me, it is like, why do you do this. I just want to
20 know why.

21 Q Are you angry?

22 A No, I ain't angry. I am calm, I just want to
23 understand it. I want to know why y'all do this to me. I
24 am not mad.

25 Q And understanding the word you just used, how do you

1 get that understanding?

2 A Like by them telling me about it. That is how I get,
3 nobody tell me like.

4 Q You decide then to go towards their car?

5 A (The witness nods.)

6 Q And do you have in mind, what are you going to do
7 when you get there?

8 A The only thing I want to know is why did y'all do
9 this. I didn't go to that car with no means to, no smoke.
10 I didn't want no smoke, no problems. I just wanted to
11 know why. Why y'all did this.

12 Q What does that mean, no smoke?

13 A No more problems.

14 Q Okay. So it is just a reference to?

15 A Yes.

16 Q Okay. And you see both of them together?

17 A Both them sitting in the car.

18 Q Okay.

19 A Patrick Clement in the passenger seat. And Torri
20 Pone was in the driver's seat.

21 Q Okay. And you go walking towards the car?

22 A I go to, I go to their car on the driver's side. The
23 window was all the way down.

24 Q Okay. And you recognize the car, you recognize them.
25 How did you know it was them?

1 A I recognize them, I saw them.

2 Q Okay. And the car, they are in the car?

3 A Yeah.

4 Q Okay. And you go to the car alone or with anyone
5 else?

6 A I know, I know that two of my home boys, I didn't
7 think they was like following me. So in my mind I just, I
8 thought I was alone.

9 Q And when you actually go in that direction, you
10 arrive at the car. What happens?

11 A Well, I am asking, like I am looking at Pat. Like it
12 wasn't, what's up, why y'all did this to me. Y'all didn't
13 have to do me like that. And I was asking him. So he was
14 like, he like you know what it is. And I am saying
15 something like, what do you mean I know what it is. Why
16 y'all do this to me. So as I am asking him this, I notice
17 movement. And I seen BB and Torri Pone, he coming up with
18 a gun, like this.

19 Q What do you do then?

20 A I just panic, I panic. I panic, and it happens so
21 fast. Man, I just, when I seen that I just reached in and
22 wrestled over the gun.

23 Q This is Torri Pone we are talking about?

24 A Yes, ma'am.

25 Q You said you reached in, why did you reach in?

1 A Because I didn't think I had, I didn't think I had
2 time to run, I didn't think I had a chance.

3 Q Did you expect any of this?

4 A No, ma'am.

5 Q Was it your intention to go there and start something
6 that would go out of control?

7 A No, ma'am.

8 Q How were you feeling when you are, as you said,
9 struggling over this gun.

10 A I'm scared as hell. I am panicking. Everything is
11 going so fast, I am panic, like, I don't know how to
12 really explain panic. But I was just trying to get the
13 gun. It was going so fast.

14 Q Why were you trying to pull the gun?

15 A So I wouldn't get shot.

16 Q What happens within that. You said very fast when
17 you are struggling over the gun. How does, how does the
18 next part, what happens?

19 A I didn't even realize when I had the gun. Like, I
20 was saying everything was going so fast I am panic, I am
21 like scared as hell. I am like, I ain't never been in
22 this situation so I am trying to tussle with him. That is
23 when, you know, shots. I didn't even realize I had no
24 shot, anybody or anything.

25 Q And when you say shots, you mean shots from the same

1 gun?

2 A Yes, ma'am.

3 Q Is it loud?

4 A I mean, I guess so.

5 Q And tell me, after you hear these shots, what happens
6 next?

7 A After the shots, I just walk away from the car.

8 Q The gun had already gone off, do you know how many
9 times the gun had gone off?

10 A No, ma'am.

11 Q Did you hear how many times it went off?

12 A No.

13 Q Did you know if those shots went off in the car, out
14 of the car. Do you know where these shots went off?

15 A At the time I didn't even know where, I didn't even
16 know if the guy was shot. I just walked away from the
17 car.

18 Q When you walked away from the car, what did you do
19 next?

20 A I went down the hill. I put the gun in my back
21 pocket and I went down the hill. And I heard the police
22 saying, put your hands up, put your hands up so I put my
23 hands up.

24 Q I'm going to back up one second because you said you
25 went down the hill. Are we talking outside of the parking

1 garage or are you going down the parking, outside, you are
2 heading to the exit of the car garage?

3 A No. I am heading down the hill back towards my car.

4 Q Okay. And that means you have their car behind you
5 now?

6 A Yeah.

7 Q Describe their car, do you remember what kind of car
8 it was?

9 A I just remember from the like, pictures I've seen,
10 like the video. That is how I knew the car.

11 Q When you go down this hill, you are exiting the
12 parking garage. Where were you going to go? Where you
13 headed?

14 A Their car was on the exit, like exiting parked, like
15 they were exiting the parking lot but they was just parked
16 right there.

17 Q But not in a space or in --

18 A No. It wasn't in a space, it was like, like a
19 parking garage, parking, anywhere parking. You know, you
20 have the real smooth off road. It was just parked right
21 there at the curb.

22 Q Okay. And how are you feeling after this has just
23 happened and you are leaving?

24 A I don't know, I was feeling like scared really.
25 Scared, like still panicked, like I don't know how to

1 explain it.

2 Q What's the next thing that happens?

3 A Police was saying put your hands up, put your hands
4 up. So I put my hands up.

5 Q Did you see these police or did you just hear this or
6 how do you know that it is police?

7 A I see the police.

8 Q Okay. You see one officer, many officers?

9 A I see Officer Rocco, Rocco, Officer Rocco was closer
10 to me than Officer Pustizzi. Officer Pustizzi was like,
11 he was just coming around the corner from the front of the
12 club. That is where I saw him at.

13 Q Okay. And how do you know their names?

14 A Well, I know Rocco because Rocco, he is a regular. I
15 never knew Officer Pustizzi's name. But I knew Officer
16 Rocco's name.

17 Q You recognized him?

18 A Officer Rocco, yes.

19 Q And they are telling you to get down or put your
20 hands up.

21 A Yeah. Officer Rocco, I don't see Pustizzi. All I
22 see is Rocco. Officer Rocco got his gun pointed at me.
23 And he like, like he is saying, put your hands up, put
24 your hands up. So I put my hands up.

25 Q Okay. And then?

1 A Then I walked on to them and they said get down on
2 the ground. I got on the ground, laid there, they cuffed
3 me.

4 Q Where is the gun?

5 A It was in my back pocket. I had two phones and I had
6 the gun.

7 Q Did you have a gun when you walked up there?

8 A No, ma'am.

9 Q The gun that you say you put in your back pocket,
10 where did you get that gun from?

11 A Took it from Torri Pone in the struggle.

12 Q Did you ever see that gun before?

13 A No.

14 Q That struggle?

15 A No, ma'am.

16 Q Are you the owner of that gun?

17 A No, ma'am.

18 Q Where exactly did you put the gun?

19 A In my back pocket.

20 Q What happens then when you decide to follow their
21 commands, do you run, what do you do?

22 A When Officer Rocco told me to put my hands up, I put
23 my hands up. I followed every instruction he told me to.
24 I got to them, got on my knees and they told me to get on
25 my knees, lay flat on the ground. I laid flat on the

1 ground. That was it.

2 Q Okay. That gun is in your back pocket still?

3 A Yes.

4 Q And does it stay there?

5 A No. I am not sure but I think he told Officer
6 Pustizzi to grab the gun and make it safe or something
7 like that.

8 Q Is that what you hear or is that what you see?

9 A That is what I heard.

10 Q Okay. What are you feeling at that moment?

11 A Man, I know it ain't ending like this.

12 Q Is that what you had planned to happen?

13 A No, ma'am.

14 Q Are you still angry?

15 A No.

16 Q Are you angry at all?

17 A No.

18 Q How are you feeling at that moment?

19 A I just want the world, I just want Greenville to know
20 that. I didn't go to that car with a weapon. I didn't
21 have no gun. I'm trying, I just want to clear my name. I
22 want to get it out.

23 Q Had you ever seen that gun or Torri Pone with that
24 gun?

25 A I saw Torri Pone that night as he was pointing it at

1 Miranda? Did you understand them?

2 A I understand them. I don't know them, I can't quote
3 them but I understand. Like, you know, you have a right
4 to remain silent and, you know, all of that.

5 Q And you know that that is important?

6 A Yes.

7 Q Mr. Harris, after you were read Miranda, did you tell
8 them, I'm sorry, Detective Loyd what you have told us
9 today?

10 A No, ma'am. I lied to them.

11 Q You lied to a detective while you were sitting in the
12 back of a police car?

13 A Yes.

14 Q About something that had just happened?

15 A Yes.

16 Q Why?

17 A I didn't trust that police would believe the truth.
18 I didn't think that they would believe me. If I was to
19 come out and tell them the truth but, like, it had
20 happened in the club. I didn't think it was going to be
21 believed.

22 Q What happened in the club, happened before what
23 happened in the parking garage?

24 A Yes.

25 Q Did you make the decision to lie because of any

1 Q Could you have avoided the gun going off?

2 A I don't think so.

3 Q Okay. Is that a difficult question?

4 A It is because I don't even, like remember what really
5 was going on. I don't even remember it going off.

6 Q Did it scare you?

7 A I don't even remember it going off.

8 Q Well, you told us here today, is that the truth?

9 A Yes, ma'am.

10 Q Was that gun in your hands or in your pocket,
11 anywhere on you as you walked up to their car to talk?

12 A No, ma'am.

13 Q Did you know that Torri Pone had a gun in his car?

14 A No, ma'am.

15 Q And your only reason to go up to their car and I want
16 to make sure I understand, was to talk?

17 MR. MILLER: Objection, Your Honor, leading.

18 THE COURT: Sustained.

19 Q What was the only reason you walked up to their car?

20 A To ask them why they did, why they did this to me. I
21 just wanted to know why. I didn't go aggressively. I
22 didn't go stomping up there, I didn't go, I just wanted to
23 ask. Like, why did y'all did this to me.

24 Q Is that the truth?

25 A That's the truth.

1 Q Later on, when you walked on the corner there.

2 A Oh yes, yes.

3 Q You said is was leaning over the bar in some sense.

4 Did you then say you saw her jerk her hand away from him?

5 A Yes.

6 Q Okay. At that point you were a little angry, weren't
7 you?

8 A No.

9 Q You're weren't?

10 A No.

11 Q So Patrick is basically making moves on your
12 girlfriend and you weren't angry?

13 A No, I wasn't angry.

14 Q You testified a minute ago that you saw that and you
15 were about to say something. Is that correct?

16 A I saw, I went to Treva.

17 Q Okay. You said you put your arm around her. When
18 you went and did that, did you go behind the bar to do
19 that?

20 A No.

21 Q Where was she at that point?

22 A As I was getting to the back bar I saw her take her
23 hand from him. I waived for her to come here. And she
24 came from around the bar.

25 Q Okay. You said Torri Pone, so at that moment were

1 A No.

2 Q You don't think that was the cause of this fight?

3 A No.

4 Q You said you got all the way up to that car and you
5 said the window was all the way down. Is that correct?

6 A Correct.

7 Q Okay. Let me show you what's has been marked as
8 State's Exhibit 19. Is this the car you walked up to?

9 A Yes.

10 Q What position is that window in?

11 A Looks like half way up, half way down.

12 Q Did you watch Officer Pustizzi's body camera earlier
13 this week?

14 A Yes.

15 Q Did you see when he got to that car?

16 A Yes.

17 Q What position was that window in then?

18 A Same as it is now.

19 Q Okay. It is your testimony is that Torri Pone
20 pointed a gun at you through a window that was all the way
21 down?

22 A Correct.

23 Q Which hand did he use?

24 A He came up from with his right hand.

25 Q Right hand?

1 A Yes.

2 Q So he would have been turned fully towards you. He
3 would have had to basically come from this direction. If
4 I am sitting in the driver's seat, he would have had to
5 turn this way towards you, to use his right arm?

6 A He came up with his arm this way.

7 Q Okay. So he turned toward you and pointed his right
8 arm at you.

9 A He didn't turn his whole body toward me.

10 Q Not his whole body but, I mean, you can't really
11 reach that way. I mean, was the gun inside the car at
12 that point or was it outside the window?

13 A The gun was, is in the car. The window was all the
14 way down. He reached over his body to point at me.

15 Q Okay. So he pointed, you are saying he pointed, he
16 got it all the way out the window?

17 A The gun never extended, never came past the threshold
18 of the, never came down. Never came past the threshold,
19 never came past there.

20 Q So today you are saying that you saw him raise the
21 gun across his body like this and you reached this window?

22 A Yes. When I saw the gun come up and the more it got
23 to my face is when I have reached for it.

24 Q Okay.

25 A I reached in to try to get it out of his hand. Try

1 to struggle, get it away from him.

2 Q Okay. But you not, you were not, you were not shot
3 during this incident, were you?

4 A No, sir.

5 Q Your testimony is Torri Pone never pulled that
6 trigger, did he? If we believed that he had a gun?

7 A He never pulled the trigger.

8 Q Okay. When you look at that car, was there any
9 gunshot damage to the side of that car?

10 A No, sir.

11 Q Any damage to that window, whatsoever?

12 A No, sir.

13 Q So you testified that you wrestled the gun away from
14 him and the next thing you know there were shots?

15 A Yes.

16 Q When you wrestled the gun away from him, so you are
17 saying, did you get the gun completely away from him or
18 was it still kind of both of your hands. What are you
19 saying?

20 A We was tussling over a gun. The window was down and
21 we were tussling over the gun. I am not sure, if like, I
22 was in panic mode and I was just trying to wrestle the gun
23 out of his hand.

24 Q So it is your story --

25 A As soon as I got it out of his hands, it is like, it

1 went off, it just went off. A shot was fired, everything
2 happened so fast.

3 Q So your story is you wrestled away from him as he is
4 tussling, you got it away from him or you still tussling
5 with him? Which one is it?

6 A Everything was so panic. I don't even, I didn't even
7 realize I even had the gun until the gun went off. I
8 didn't realize I had it.

9 Q Either way, you acknowledge that once you had that
10 gun you shot it multiple times, correct?

11 A Everything was moving so fast, I didn't realize I
12 even had the gun. I don't know, like when the gun went
13 off. All I know is when I walked away from the car I got
14 the gun in my hand.

15 Q You heard, you know Patrick Clement was shot multiple
16 times, correct?

17 A Yes, sir.

18 Q You know that Torri Pone was shot, correct?

19 A Yes, sir.

20 Q You were in here for the testimony of Dr. Ward,
21 correct?

22 A Yes.

23 Q So you know that Torri Pone was shot in the back
24 shoulder correct?

25 A Yes, sir.

1 THE FORELADY: Yes, Your Honor.

2 THE COURT: If you would just hand it to the Bailiff
3 there, please.

4 All right, Madam Clerk, please publish the verdict.

5 THE CLERK: Your Honor, this is case number
6 2023-GS-23-06520, 2023-GS-23-06521, 2023-GS-23-06522. The
7 State of South Carolina versus Keoki Kenta Harris. As to
8 the charge of murder, we, the jury, unanimously find the
9 Defendant, Keoki Kenta Harris, guilty.

10 As to the charge of attempted murder, we, the jury,
11 unanimously find the Defendant, Keoki Kenta Harris,
12 guilty.

13 As to the charge of possession of a weapon during the
14 commission of a violent crime, we, the jury, unanimously
15 find the Defendant, Keoki Kenta Harris, guilty. Signed by
16 our foreperson.

17 Ladies and gentlemen, if this is the verdict you
18 reached in your deliberation room and this is still your
19 verdict now, please raise your right hand.

20 (Whereupon all members of the jury raised there right
21 hand.)

22 THE COURT: Before we excuse the jury, anything from
23 the State?

24 MR. MILLER: Nothing from the State, Your Honor.

25 THE COURT: Anything from the Defendant?

1 MS. GORSKI: (Shakes head.)

2 THE COURT: Is that a no?

3 MS. GORSKI: No.

4 THE COURT: All right, ladies and gentlemen you are
5 excused from your service. This week I want to thank you
6 for your service. I'm going to speak to you for just a
7 minute. So I am going to excuse you for a few minutes and
8 then I will let you go.

9 (WHEREUPON, the jury left the open court at
10 approximately 7:11 p.m.)

11 THE COURT: All right, I am going to speak to the
12 jury and then we will be out for sentencing.

13 (WHEREUPON, a short break was taken.)

14 THE COURT: All right, I recognize the State.

15 MR. MILLER: Your Honor, would you prefer us to come
16 forward?

17 THE COURT: You can stay where you are.

18 MR. MILLER: Yes, Your Honor. You heard all the
19 facts in this case, throughout this last three days. This
20 incident, the Defendant's multiple stories and you heard
21 the facts of the case. Judge, the Defendant's prior
22 record?

23 THE COURT: Let me hear it.

24 MR. MILLER: We have a State level, 1997, possession
25 with intent to distribute cocaine. Also a Federal

1 his testimony. We will make him aware of what happened
2 here today. I just want to make sure that the victim's
3 rights have complied with him as well.

4 THE COURT: All right.

5 All right. On the charge of murder under
6 2023-GS-23-06521. The sentence of the Court is that you
7 be confined to the Department of Corrections for a period
8 of 45 years.

9 Under the charge of attempted murder,
10 2023-GS-23-06520. The sentence of the Court is 30 years,
11 this is to run concurrent.

12 And under the charge of possession of a weapon during
13 the commission of a violent crime, 2023-GS-23-06522. The
14 sentence of the Court is five years. These are to run
15 concurrent. That is the sentence of the Court. We are
16 adjourned.

17 MS. GORSKI: Thank you very much, Your Honor.

18 *** END OF REQUESTED TRANSCRIPT OF RECORD ***
19
20
21
22
23
24
25

State vs. Keeki Kenta Harris
2023652306520,21,22
Greenville County Courthouse

RANDOM STRIKE SHEET

GUILTY
(as to all charges)

Judge Name:

Warr. Nos. 2021A2320603719,20,23

Sorted By Random Nbr

Trial Type: Criminal

Panel ID: MORGAN_9_23_

Description: MORGAN_9_23_

Trial

Courtroom: 101

NAME		JUROR	NBR	RACE	SEX	ST/PLTFF	5	10	DEF	CRT	REMARKS
1	D Needham, Jennifer M		149	W	F	()	()	(1)	()	()	
2	Smith, Christopher J 1		192	W	M	()	()	()	()	()	
3	Mcleod, Nathaniel D 2		135	W	M	()	()	()	()	()	
4	D Rutherford, Sharon L		184	W	F	()	()	(2)	()	()	
5	D Stang, Laurie K		196	W	F	()	()	(3)	()	()	
6	Griffith-hernandez, Sabriy 3		88	B	F	()	()	()	()	()	
7	Jefferson, Shyann M 4		106	W	F	()	()	()	()	()	
8	Morrow, David 5		145	M	M	()	()	()	()	()	
9	Tyndall, Thomas M 6		209	W	M	()	()	()	()	()	
10	D Davis, Mary B		59	W	F	()	()	(4)	()	()	
11	D Weinstein, Lori Dianne		213	W	F	()	()	(5)	()	()	
12	S Peterson, Douglas J		163	W	M	(1)	()	()	()	()	
13	D Gzepiga, Andrea D		57	W	F	()	()	(6)	()	()	
14	Reed, Garrett P 7		175	W	M	()	()	()	()	()	
15	Brown, Jason L 8*		35	B	M	()	()	()	()	()	* Dismissed due to knowing member sitting on def's side
16	S Hedlund, Jason R		95	W	M	(2)	()	()	()	()	
17	D Fecken, Karen R		68	W	F	()	()	(7)	()	()	
18	D Martin, Selena M		126	W	F	()	()	(8)	()	()	
19	Mccarroll, Jamarcus E 9		130	B	M	()	()	()	()	()	
20	Lee, Sylvester 10		121	A	M	()	()	()	()	()	
21	Stelling, Robin E 11 (FP)		197	W	F	()	()	()	()	()	
22	Ashe, Brynne M 12*		12	W	F	()	()	()	()	()	* Called in sick with a stomach virus
23	D Eudy, Regina L		65	W	F	()	()	(1)	()	()	
24	French, Sandra P A1 → moved to jury		74	W	F	()	()	()	()	()	
25	Roy, John T A2 → moved to jury		183	W	M	()	()	()	()	()	
26	Greenway, Paula		87	W	F	()	()	()	()	()	
27	Bankston, Erin E		15	W	F	()	()	()	()	()	
28	Frankfurter, Adrian		73	W	M	()	()	()	()	()	
29	Vanleeuwen, Kelly R		211	W	F	()	()	()	()	()	
30	Purcell, Jeffrey F		171	W	M	()	()	()	()	()	
31	Clark, Chris F		50	W	F	()	()	()	()	()	
32	Tobias, Andrew K Jr.		206	B	M	()	()	()	()	()	

Greenville County Courthouse

RANDOM STRIKE SHEET

Judge Name:

Sorted By Random Nbr

Trial Type: Criminal

Panel ID: MORGAN_9_23_

Description: MORGAN_9_23_

Courtroom: 101

Trial

33	Relanda, Morgan G	160	W	F	()	()	()	
34	Mayers, Billy M	129	W	M	()	()	()	
35	Sullivan, Jared L	200	B	M	()	()	()	
36	Boyd, Charles M	29	W	M	()	()	()	
37	Cade, Michael A	40	B	M	()	()	()	
38	Alvarez, Olarte Jovanni	9	H	M	()	()	()	
39	Figueroa, Rebecca	70	H	F	()	()	()	
40	Hudson, Sabina R	102	W	F	()	()	()	
41	Nalley, William M	148	W	M	()	()	()	
42	Brim, Barbara J	33	B	F	()	()	()	
43	Gamble, Zachary N	77	W	M	()	()	()	
44	Langdale, Andrew J	119	W	M	()	()	()	
45	Allen, Kimberly D	6	W	F	()	()	()	
46	Stephens, Maryann P	198	W	F	()	()	()	
47	Carlson, Scott K	44	W	M	()	()	()	
48	Cox, Lauren C	53	W	F	()	()	()	
49	Gosling, Janet L	85	W	F	()	()	()	
50	Wojack, Lauren P	219	W	F	()	()	()	

Total Number of Jurors: 50

** END OF REPORT **

WITNESSES

Greenville Police Department

11/1/2021

ARREST WARRANT NUMBER

2021A2320603720

ACTION OF GRAND JURY

TRUE BILL

Lion C. Johnson

Foreperson of Grand Jurors

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2023-GS-23-
TBP

006520

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

October

TERM 2023

THE STATE

VS.

KEOKI KENTA HARRIS

Indictment for

3410

ATTEMPTED MURDER

VIOLATION § 16-03-0029

RECEIVED

OCT 14 2024

SC Court of Appeals

I certify this and any
attachments to be complete,
exact, and true copy(s)
of the original document(s).

Lion C. Johnson
Clerk of Court C.P. & G.S.
Greenville, SC

Dated

12-9-24

10/31/23
Payton Loyd
Payton Loyd
Greenville
Police

981

ENTERED
ACCT.

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

INDICTMENT FOR
ATTEMPTED MURDER

At a Court of General Sessions, convened on

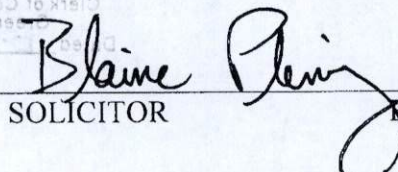
OCT 31 2023

the Grand Jurors of Greenville

County present upon their oath:

That KEOKI KENTA HARRIS did in Greenville County, on or about the 1st day of November, 2021, unlawfully, with malice aforethought, and with the intent to kill, attempt to kill Patrick Clement. This is in violation of § 16-03-0029 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.


SOLICITOR

BAR # 78406

WITNESSES

Greenville Police Department

11/1/2021

ARREST WARRANT NUMBER

2021A2320603719

ACTION OF GRAND JURY
TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

Amended Indictment
DOCKET NO. 2023-GS-23-6521
APM

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

August

TERM 2024

THE STATE

vs.

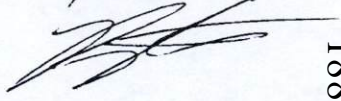
KEOKI KENTA HARRIS

Amended Indictment for

0116

MURDER

VIOLATION § 16-03-0010

8/6/24
Payton Loyd


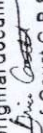
188

RECEIVED

OCT 14 2024

SC Court of Appeals

I certify this and any
attachments to be complete,
exact, and true copy(s)
of the original document(s).


Clerk of Court C. P. & G. S.
Greenville, SC

Dated 10-9-24

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

AMENDED INDICTMENT FOR
MURDER

AUG 06 2024

At a Court of General Sessions, convened on

the Grand Jurors of Greenville

County present upon their oath:

That KEOKI KENTA HARRIS did in Greenville County, on or about the 1st day of November, 2021, unlawfully and with malice aforethought kill TORRI ADARYL PONE by means of shooting him, and that TORRI ADARYL PONE died as a proximate result thereof. This is in violation of §16-03-0010 of the South Carolina Code of Laws (1976) as amended.

RECEIVED

OCT 14 2024

SC Court of Appeals

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

SOLICITOR

BAR # 102782

WITNESSES

Greenville Police Department

11/1/2021

ARREST WARRANT NUMBER

2021A2320603723

ACTION OF GRAND JURY

TRUE BILL

Rosa C. Johnson

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2023-GS-23-

TBP

006522

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

October

TERM 2023

THE STATE

vs.

KEOKI KENTA HARRIS

Indictment for

0549

POSSESSION OF A WEAPON DURING THE
COMMISSION OF A VIOLENT CRIME

VIOLATION § 16-23-0490

ENTERED
ACCT

10/31/23
Payton Lloyd

[Signature]

Greenville
Police

190

RECEIVED

OCT 14 2024

SC Court of Appeals

I certify this and any
attachments to be complete,
exact, and true copy(s)
of the original document(s).

[Signature]
Clerk of Court C.P. & G.S.
Greenville, SC

Dated 10-9-24

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

) INDICTMENT FOR
) **POSSESSION OF A WEAPON DURING THE COMMISSION OF A**
) **VIOLENT CRIME**

At a Court of General Sessions, convened on

OCT 31 2023

the Grand Jurors of Greenville

County present upon their oath:

That KEOKI KENTA HARRIS did in Greenville County, on or about the 1st day of November, 2021, possess or visibly display a handgun during the commission or attempted commission of a violent crime, to wit: Murder. This is in violation of §16-23-0490 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.

Blaine
 SOLICITOR

[Signature]
 BAR # 78406

CERTIFICATE OF COUNSEL FOR APPELLANT

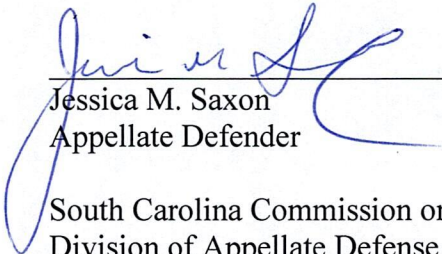
Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

RECEIVED

Aug 21 2026

SC Court of Appeals



Jessica M. Saxon
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 21st day of August, 2026.