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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Berkeley County

Honorable Dale E. Slambrook, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAMES C. MCDANIEL,

APPELLANT

APPELLATE CASE NO 2025-001738

RECORD ON APPEAL

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THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:

STATE'S EXHIBIT NO. 1 (VIDEO)

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STATE OF SOUTH CAROLINA)
) IN THE COURT OF
COUNTY OF BERKELEY) GENERAL SESSIONS

THE STATE,)
Plaintiffs,)
Vs.) CASE NO. 2024GS0802453
JAMES C. MCDANIEL,)
Defendant.)

AUGUST 19, 2025
MONCKS CORNER, SOUTH CAROLINA

HONORABLE DALE E. VAN SLAMBROOK, JUDGE

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

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REGISTERED PROFESSIONAL REPORTER

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Ms. Morris		23		31
COREY CLEVELAND				
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THE COURT: This is the matter of James McDaniel. This is a hearing this morning; is that correct?

MS. MORRIS: That's correct, Your Honor. It's the Defendant's Motion for Immunity From Prosecution Under the Protection of Persons and Property Act. The Defendant is represented by Lisa Gay and her cocounsel, Sarah Norton. The State -- on behalf of the State, Kawohi Morris, along with my cocounsel, Kayla Donato.

THE COURT: All right. And is the Defense ready to go forward?

MS. GAY: Yes, sir, we are. This is Sarah Norton. She's with me as you recall.

THE COURT: All right. And, Ms. Morris, is the State ready to proceed?

MS. MORRIS: Yes, Your Honor.

THE COURT: Okay. I will be happy to hear from you. This is your motion, Ms. Gay?

MS. GAY: Yes, sir. So, Your Honor, at this time, this is a situation where my client is charged with attempted murder. He is charged with firing and shooting two individuals, and we believe that he is eligible for immunity under South Carolina Section 16-11-440.

Your Honor, we would -- this is opening statements. We believe that he was in imminent danger of losing his life and that the circumstances warranted that he, as a reasonable person, had a right to use deadly force to strike a blow. We don't have any fatalities in this case, Your Honor. We obviously do have some injuries. And we believe that there was no other probable means of avoiding the danger, and so we assert that he should receive immunity under the act and the charges should be dismissed.

THE COURT: All right. Thank you. Does the State wish to make any opening statement?

MS. MORRIS: No, Your Honor.

THE COURT: All right. I'll be happy to hear from you, Ms. Gay. You're going to call a witness?

MS. GAY: We can call my client, Your Honor. He could be our witness, that would be fine. I think it might be easier --

THE COURT: It is completely up to you, Ms. Gay. It is your motion, so whatever you want to present, I will be happy to hear it.

MS. GAY: I would like to use -- she has -- we've stipulated that we could use a video

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that's on a clip, Your Honor. If I'm bringing that into this hearing to start, I would just like to bring that clip in initially. I think that's the best thing to do in this case, Your Honor.

THE COURT: Okay. I understand that y'all have gotten together and got everything hooked up and ready to go. I appreciate that.

MS. MORRIS: Yes, Your Honor. We've already stipulated to State's Exhibits 1, 2, 3, and 4, but Ms. Gay is going to be admitting --

MS. GAY: I guess 1, 2, 3, and 4 is fine. We just want to get them into the record, Your Honor, for the review before witnesses start talking.

MS. MORRIS: And the video would be State's Exhibit 1.

MS. GAY: And there's three pictures, Your Honor. Which at this time, I'd like to move to admit these three pictures, 2, 3, and 4.

THE COURT: Let's start with the video. So 1 is the video; is that right?

MS. MORRIS: That's correct.

THE COURT: Okay. And then what are the photographs? What are those?

MS. MORRIS: And then State's Exhibit 2

is an aerial view of St. Stephens, Berkeley County.

State's Exhibit 3 is a zoomed-in view of St. Stephens. It's zooming in at the bar which is the incident location.

And then State's Exhibit 4 is a photograph of the victim Jared Cleveland's vehicle.

THE COURT: Okay. And those are all marked as 1, 2, 3, and 4, and there's no objection to the entry of any of those documents; is that right?

MS. GAY: Yes, sir. So, sir, as we start this, they have these pictures on their computer. So if we could just show all three of the pictures before we show the video.

(WHEREUPON, State's Exhibit Nos. 1 through 4 were marked and entered.)

THE COURT: I will leave it to y'all on how y'all want to present it. I'm happy to look at anything that y'all want to present.

MS. MORRIS: This is State's Exhibit 2. State's Exhibit 3. State's Exhibit 4. State's Exhibit 1 is the video and it's about to be played, yes.

(WHEREUPON, playing the video.)

MS. GAY: Okay. Your Honor, I would

call Mr. James McDaniel.

JAMES MCDANIEL,

being first duly sworn, was examined and testified as follows:

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

MR. MCDANIEL: James McDaniel. McDaniel, M-C-D-A-N-I-E-L.

DIRECT EXAMINATION

BY MS. GAY:

Q. All right. Mr. McDaniel, you know, we're here today for your Stand Your Ground hearing. I'm going to ask them to play this video one more time because it's so short. And just -- we're going to do it one more time.

(Playing the video.)

While we're watching the video, the white car is the car that belongs to the gentleman here. Which one are you? Let's talk about this. Tell the judge which one you are?

A. Right there with the gray hoodie on.

Q. Gray hoodie. Okay. You're the guy in the gray hoodie. All right. So these people, that man has a gun. Do you see that gun?

A. Yes, ma'am.

Q. Okay. And do you see him shooting that gun?

A. Yes, ma'am.

Q. Okay. So the person who ran away, that's you in the gray hoodie; right?

A. Yes, ma'am.

Q. Okay. So just one more time. So now that we know who the people are, we're gonna -- so you're going to tell us in a minute what was going through your head. But you're the man in the gray hoodie right there. Okay. And you're just walking around. And that guy goes to his car, what do you see him do?

A. He reaches under the seat to grab a gun.

Q. Okay. Now, at that point in time, had you shot at him?

A. No, ma'am.

Q. Okay. So now the man is on the ground and that guy is shooting back, the other gentleman; correct?

A. Yes, ma'am.

Q. All right. So --

MS. GAY: That's good. Thank you.

Q. So explain to the judge what was going

on with this situation. You were at a place and I think --

MS. GAY: Can y'all put up No. 2, please?

A. We were at the sports bar --

MS. GAY: This is the overall St. Stephen's area. So the next one, maybe it's 3.

Q. So this is No. 3. Can you describe to the judge what this is?

A. The sports bar.

Q. Okay. So I'm going to go up to the screen a little bit and do some pointing here.

So this is the sports bar area, the big place?

A. No, that's the store next to it. The sports bar is the one with the star on it.

Q. This one. Okay. Now, in this situation, where would cars park? Would they park on this -- we'll call this A or B?

A. On the side and on the front, A and B.

Q. Okay. So on the night that this all went down, was your car -- were you standing in the A area in that side or in the B area?

A. I was standing, like, right in front of the club, like, B.

Q. Okay. And the B area --

A. There's a ramp that goes up and I was standing right on the side of the ramp.

Q. And that would be considered the door?

A. Yes, ma'am.

Q. The entryway?

A. Yes, ma'am.

Q. Okay. So were you entering the club at the time that this was happening or existing the club?

A. I had already exited the club. Basically, what happened was, we was in there shooting pool.

Q. Who is "we"?

A. Me and some friends from out-of-town. It was two guys that had a funeral the day before, childhood friends. And the next day, the family was leaving out-of-state, so we went to the sports bar to have some drinks and play some pool.

Q. Okay. So what time of day or night was this?

A. I think it was between like 9 and 11.

Q. Okay. Somewhere between 9 and 11 you were inside the bar?

A. Yes, ma'am.

Q. Okay. So -- and tell the judge what happened next.

A. All right. While the guys --

Q. Were these people, the people that were involved in this with you, were they inside the bar also?

A. They came after. Yes, ma'am.

Q. They came after you came?

A. Yes, ma'am.

Q. All right. But they were inside the bar at some point in time with you?

A. Yes, ma'am.

Q. Was there any kind of beef going on?

A. None at all.

Q. Okay. So what happened next?

A. While we shooting pool, it was another guy with them. I don't know his name. I know him when I see him. But, basically, what it was, is the third guy that was with them was shooting pool against one of the guys that I came with. I basically asked the guy where he's from. Because I don't know a lot of faces of these young guys that be's at the sports bar. So asked him where he from. He said he from St. Stephen and made a little conversation. And I know that these two

brothers that was with him, they was standing on the side of the pool table.

Q. Okay. Then what happened?

A. After I spoke to his brother then I went to approach these other two brothers to speak to them just to start a conversation. And upon approaching these two brothers, one of them start reaching in his waistband like he was about to grab a gun and he kept saying --

Q. This is inside the bar?

A. Yes, ma'am, inside the bar.

Q. Yes.

A. And one of the brothers reach in his waistband and started reaching, like, he pulling out a gun.

Q. Did you see a gun?

A. I know he was reaching in his waistband. I didn't see the gun, but he kept reaching in his waistband.

Q. So you believed that he had a gun?

A. Yes, ma'am.

Q. All right. So you believed he had a gun and y'all are having a conversation, so then what happened?

MS. GAY: Y'all can leave that picture

up if you don't mind.

A. He kept saying, do you know me? Do you know me? And I put my hands up to say it's not like that. And then a whole bunch of guys got in between us. The family members here, he's one of the guys that got in between us also. So after they break it up, I walked outside.

Q. Okay. So you're coming out the front towards that B area down that ramp?

A. Yes, ma'am.

Q. Okay. And so we see stuff going on. And so what happens while you're walking out the ramp or did it all start happening while you were on the ramp or after you had already walked off the ramp?

A. I was standing on the side of the ramp. The ramp is, like, for wheelchairs and I was standing on the side of the ramp.

Q. Okay. And then what happened?

A. Then a moment later, the two brothers came out. One of them walked past me and said I'm going to get my gun.

Q. So you heard one of them say, "I'm going to get my gun"?

A. Yes, ma'am.

Q. All right. And then what happened?

A. So I tried to basically, like, inside the club, I tried to disengage, like, putting my hand up. But once he said he was going to get his gun, I try to walk away from the crowd and hoping I can talk to him just to let him know it wasn't that serious.

Q. Okay. So you acknowledge that you were continuing to talk to them after you were walking out the club?

A. Yes, ma'am.

Q. Okay. And then what happened?

A. That's when he went toward his car.

Q. Okay. And we see that on the video?

A. Yes, ma'am.

Q. That he's walking towards his car.

A. I see him reaching over, like, he's going under his seat and then he pointed a gun at me and that's when I rushed him and he started firing a gun.

Q. Okay. So let's back that up. Okay. So we see on the video that he reaches down and he comes out with a gun?

A. Yes, ma'am.

Q. That you saw?

A. Yes, ma'am.

Q. And when you say, you rushed him, that means you went towards him?

A. Yes, ma'am.

Q. And had a physical encounter with him?

A. Yes, ma'am.

Q. While he was holding this gun?

A. Yes, ma'am.

Q. Okay. And so then what happened?

A. I was shot in my left leg once and then when he shoot --

Q. By him?

A. Yes, ma'am.

Q. Okay.

A. While he's firing the gun, I just pointed a gun towards the air that's when you see like both our hands --

Q. A gun that you had?

A. No, his gun.

Q. His gun. Okay. So you never had a gun?

A. Yes, ma'am.

Q. You did?

A. Yes, ma'am.

Q. Okay. Tell the judge about that. We

need to know. So he's bending down and he gets his gun and he points it at you?

A. Yes, ma'am.

Q. And then you said you rushed him?

A. Yes, ma'am.

Q. And then you got shot by his gun in the leg?

A. Yes, ma'am.

Q. Okay. And then what did you do?

A. So while we're still struggling over the gun, I mean, the gun's in the air and he's still firing. I mean, at the time, I didn't know they took video footage, but, I mean, it clearly shows that both these brothers went to two different cars to get guns, basically, to cause bodily harm with me with these guns. So I didn't -- like I said, I didn't know it at the time, but his brother was approaching me from behind with a gun.

Q. Okay.

A. So while we're tussling over a gun, his brother got shot. My back was turned to his brother. I had no knowledge that his brother was even behind us.

Q. So you have no idea how his brother got

shot?

A. No, ma'am.

Q. You acknowledge that you were struggling with the gun with the taller brother that was the one that didn't get shot, laying on the ground?

A. Yes, ma'am.

Q. All right. And so after that, after you've been shot in the leg and you're struggling with the gun and it's up in the air, you said you have no idea how the man that fell on the ground got shot?

A. Yes, ma'am.

Q. What is your idea of that? What do you think? You were there, what do you think?

A. I mean, his brother gun -- he got shot by his brother's gun.

Q. That's what you believe is that the brother's gun went off and some kind of discharge and hit the guy that landed on the ground?

A. Yes, ma'am.

Q. Okay. So you're testimony to the judge today is that you didn't actually shoot anybody?

A. Yes, ma'am.

Q. That you got shot?

A. I got shot.

Q. And that it's the gun of the alleged -- one of the alleged victims that did the shooting of the brother that landed on the ground?

A. Yes, ma'am.

Q. And is there anything else more that you want -- what happened afterwards? We see the video.

A. Well, I tried to disengage -- when I went to disengage and ran off, he fired at me and I got shot in my right leg. So by that time, that's when I pulled out the weapon that I had and shot back while I was running off. And I found out later that he got grazed in his ear.

Q. He got grazed in his ear from possibly the shots that you shot back at?

A. Yes, ma'am.

Q. That was after the man was already on the ground?

A. Yes, ma'am.

Q. Okay.

MS. GAY: So I would like you to play 1, one more time.

(Playing the video.)

Can you turn off the light, please?

Q. So while they're technical difficulting, so when we watch this video, initially, when everybody's walking down, there's a clump of people, including you, that are right there in front of their car, the white car?

A. Yes, ma'am.

Q. Okay. You're right there. Did you have a gun out at that occasion when you're standing near the bottom of the ramp in front of the white car?

A. No, ma'am.

Q. No. Okay. So we see in the video, a man with a gun, maybe two men with a gun, and did you -- when we -- at the point of the video which is important, when we see the gun kind of go up like this, and then the other man sort of coming around you, did you have a gun out at that time?

A. No, ma'am.

Q. Okay. So when we watch in this video, we're going to talk about -- here we go. I want you to go now, just use the word "now" when you actually recall pulling your gun out.

(Playing the video.)

So we're seeing a car back up, so now we can see a group of people behind it. Okay.

Now, that guy is going to his car. I don't see any gun in your hand. Do you see a gun in your hand?

A. No, ma'am.

Q. Okay. So we've got two guys at the car now, one of them has now pulled out a gun; right? That's a gun. And you're over there trying to rush him. And then --

A. Right there when I was running off.

Q. I'm going to point. So sometime when you're behind this car right in here?

A. Right before.

Q. Is when you say you pulled out your gun?

A. Right before I got between those cars.

Q. Okay.

MS. GAY: Can you do it one more time, please?

(Playing the video.)

Q. So there's a lot happening behind this car right now, that's where kind of the argument is; right, as this car is backing up? We got this going on here. Man is going to his car -- two men are going to the car. You do not have a gun; correct?

A. Yes, ma'am.

Q. Okay. And then -- all right. That's when you get shot in the leg; right?

A. For the first time, yes, ma'am.

Q. For the first time. Okay.

A. I pulled the gun right there.

Q. And then you said as you went behind this black car is when you pulled out your gun and shot back and that's when you think his ear got grazed?

A. Yes, ma'am.

Q. And your testimony to the judge today is that you -- your back was turned and that you did not shoot the man on the ground?

A. Yes, ma'am.

Q. That you acknowledge that you did shoot at this person -- the other man and him while you were running away?

A. Yes, ma'am, after I got shot the second time.

Q. But for sure, they were already shooting at you in your testimony?

A. Yes, ma'am.

Q. Okay.

MS. GAY: Hold on one second, Your Honor. I have no further questions for

Mr. McDaniel.

THE COURT: Does the State wish to cross-examine?

MS. MORRIS: Yes, Your Honor.

CROSS-EXAMINATION

BY MS. MORRIS:

Q. So on the night of January 14, 2024, you were at this sports bar; correct?

A. Yes, ma'am.

Q. At 3856 Byrnes Drive in St. Steven?

A. Yes, ma'am.

Q. And that is you on the video in that gray hoodie; correct?

A. Yes, ma'am.

Q. And you had a gun on you during this video?

A. Yes, ma'am.

Q. And you had a gun on you while you were inside the bar?

A. Yes, ma'am.

Q. Did you drive to the bar that night?

A. Yes, ma'am.

Q. What kind of car do you drive?

A. My father's Mercedes-Benz.

Q. Is that Mercedes-Benz in this video

here?

A. I don't see it, but they have it in the Rule 5 in the pictures.

Q. In the pictures. Okay.

MS. MORRIS: Actually, State's Exhibit 3, please.

Q. We're going to put up that map from earlier. And if you -- so was it parked in this area?

A. Yes, ma'am.

Q. Okay. Is it closer to the right or the left side?

A. Closer to the right.

Q. And what color is the Mercedes-Benz?

A. Gray.

Q. Gray. So you did not leave your gun in the car, you had it on you the whole time you were at the bar?

A. Yes, ma'am.

Q. Including outside?

A. (No response.)

MS. MORRIS: State's Exhibit 1.

Q. You testified quite a few times this morning that you just tried to disengage; right?

A. Yes, ma'am.

Q. Just tried to disengage from Jared and Jarod Cleveland, the two victims in this case that we can see on the video; correct?

A. Yes, ma'am.

Q. Okay.

MS. MORRIS: Go ahead and play the video.

(Playing the video.)

Please pause the video.

Q. You said that you came in a gray Mercedes-Benz; correct?

A. Yes, ma'am.

Q. So this vehicle is not your vehicle; correct?

A. Yes, ma'am.

MS. MORRIS: Go ahead and continue to play it.

Q. And now here you are coming to this vehicle?

A. Yes, ma'am.

Q. Is this you trying to disengage?

A. That's me walking towards him trying to talk to him.

Q. Okay. Talk to him about what?

A. About letting them know that he don't

have to get his gun.

MS. MORRIS: Continue to play.

Q. How many times did you fire your gun?

A. Maybe three or four times.

Q. What kind of gun do you have?

A. It was a .40 caliber.

Q. And after this incident you called 9-1-1; correct?

A. Yes, ma'am.

Q. And officers found you at your home at [redacted] Russellville Road; correct?

A. Yes, ma'am.

Q. But you did not have a firearm on you at that time; correct?

A. No, ma'am.

Q. What did you do with the firearm?

A. I must have dropped it when I was running.

MS. MORRIS: Beg the Court's indulgence.

Start the video over again. We're going to replay State's Exhibit 1.

(Playing the video.)

Would you pause the video, please?

Q. So earlier you testified that Jared

who's at his vehicle right now, pointed the gun at you?

A. Yes, ma'am.

Q. Is he pointing the gun right now?

A. He's reaching under the seat to get the gun out.

MS. MORRIS: Go ahead and continue.

Q. Tell us when he points the gun at you.

A. As soon as he starts standing up.

MS. MORRIS: Nothing further from the State, Your Honor.

THE COURT: Anything further from the Defense?

MS. GAY: One moment, Your Honor. Okay. So we're going to replay 1 one more time and I'm going to ask you to stop it at a certain place, okay. Stop.

REDIRECT EXAMINATION

BY MS. GAY:

Q. So at this point right now, you think and believe that this man is actually and going to be pulling a gun from his car; right?

A. Yes, ma'am.

Q. Okay. We know he does because we see that. So that is what your thoughts in your head

are right now that this guy is going to get a gun based on some other stuff that was going on; correct?

A. He told me he was going to get his gun.

Q. He told you he was going to get his gun and he's doing that; right?

A. Yes, ma'am.

Q. Okay.

MS. GAY: Go forward a little bit. Stop. Back it up just a tiny bit. Stop.

Q. That's you in that -- where we can see gray right here; correct?

A. Yes, ma'am.

Q. Okay. Do you have a gun in your hand in that video?

A. No, ma'am.

Q. Okay. Now we know that you have a gun on your person, but there's no gun in your hand; correct?

A. Yes, ma'am.

MS. GAY: Okay. Go ahead. Stop. Just a little past, but it's okay.

Q. Did you see and did you pull out a gun between your walk in from where we just talked about it right up to where this guy was, did you at

any point pull out gun?

A. No, ma'am.

Q. Okay.

MS. GAY: Go ahead.

Q. So you're kind of tussling with him. And --

MS. GAY: Stop.

Q. That thing that's up here, that's a gun; right?

A. Yes, ma'am.

Q. That's the gun you believed he was going to point at you and potentially shoot you with?

A. Yes, ma'am.

Q. Matter of fact, you believed that he was going to shoot you?

A. By that time I was already shot once in my leg.

Q. Okay. So by this time on this video that gun had already shot you in the leg?

A. Yes, ma'am.

Q. Left leg you said?

A. Left leg first.

Q. Okay. And so definitely believe that there was imminent belief that he may kill you?

A. Yes, ma'am.

Q. Okay.

MS. GAY: Go ahead.

Q. Did you think you had any choice at that point but to try to get away from him?

A. No, ma'am.

Q. Okay.

MS. GAY: Stop. So back it up just a tiny bit. That's good.

Q. Okay. That is a man with his outstretched hand with a gun, I think we just saw a flash bang at the end of that gun; right?

A. Yes, ma'am.

Q. And you said that's when he shot you in the right leg?

A. Yes, ma'am.

Q. So now you've been shot by this man and that gun twice?

A. Yes, ma'am.

Q. In your left leg and your right leg; right?

A. Yes, ma'am.

Q. Okay. And you said that at no time did you ever -- you didn't start shooting your gun until you were behind this black car right here?

A. Yes, ma'am.

Q. At that -- at him who had already shot you in the leg again?

A. Yes, ma'am.

Q. Okay. Because you believed he was going to kill you?

A. Yes, ma'am.

Q. Okay. And you said that this gentleman on the ground right here you never shot him?

A. No, ma'am.

Q. Because he's already on the ground by the time you ran away; right?

A. Yes, ma'am.

MS. GAY: Hold on, Your Honor. I have no further questions for this witness, Your Honor.

MS. MORRIS: Briefly recross, Your Honor.

THE COURT: Recross?

MS. MORRIS: Thank you.

RECROSS-EXAMINATION

BY MS. MORRIS:

Q. So you said that you got shot while you were at the vehicle in which leg?

A. In my left leg.

Q. In your left leg?

A. Yes, ma'am.

Q. And then you got shot again as --

A. In my right leg when I was running off.

Q. But when officers found you at [redacted] Russellville Road, you just had one gunshot wound?

A. At the time, I didn't know I was shot in my left leg. When they cut my pants off in the ambulance that's when they found the other gunshot.

Q. Okay. Also, Ms. Gay was talking about how we could see the muzzle flashes from here. But when you were saying the first time that you got shot at the vehicle, I didn't see a muzzle flash, did you?

A. The whole time the gun was in the air, the gun was going off. It wasn't flashing then either.

Q. Oh, so there was gunfire going off in the air as well?

A. The whole time while it was in the air.

MS. MORRIS: Nothing further from the State, Your Honor.

THE COURT: You can step down, Mr. McDaniel.

MS. GAY: Your Honor, that's all we have for our case and then, you know, obviously you

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have to look at this and watch it as many times as we just did.

THE COURT: Okay. Yeah, I need access to the video. Can y'all forward that to me by email so I can look at it?

MS. MORRIS: Your Honor, I provided a hardcopy of the brief that included a DVD of it.

THE COURT: I don't think I have access to the DVD, at least at this moment.

MS. MORRIS: Okay.

THE COURT: If you can send it to me by email.

MS. MORRIS: Sure. Or would you prefer the USB? Or maybe IT doesn't allow that, I don't know.

THE COURT: USB will be fine.

MS. MORRIS: Okay.

THE COURT: All right. So -- and I've read your brief -- or read the State's brief. Ms. Gay, do you have anything further that you wanted to share?

MS. GAY: Yes. So, Your Honor, as my client testified, he was in imminent danger of losing his life. We definitely see firearms, bullets in the direction of him as he's running

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away. Now, what he says, Your Honor, as we've talked about is that there was a struggle at the car and that he was shot in the first leg. And we can see the gun, everything is there. He says I was -- you can see on the video that he doesn't have any guns pulled out -- he has no gun pulled out when he goes over and talks to him. As he's running, you still don't see a gun. What you do is he says when he gets behind the car he shoots back. He says that's when he believes the gentleman was shot in his ear. But he believed for sure that he was in imminent danger of losing his life.

So even if he was actually in imminent danger based on what we see, he is being shot at. Not only has he been shot during the altercation or whatever was going on at the car, but he also was shot again as he's running away as he told the Court when he got in the ambulance they took off his clothes and found out he had two bullet holes in him. So this is not just belief that there's imminent danger, there's actual imminent danger.

What I think the standard here is the reasonable man standard, Your Honor, about what a reasonable man would think. I think that what the Solicitor is emphasizing somehow is it was illegal

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for him to have had a gun. Yes, that is true. He did go into a bar with a gun on him. He did not use that gun in the bar. He did not use that gun until after he was actually in imminent danger of losing his life because he is being shot at.

So the circumstances would warrant a reasonable person to strike and use the deadly force, Your Honor. The argument would be, is there any other probable means of avoiding the danger at that time? He told you, Your Honor, that he was trying to talk to the man. The man had told him that he was going to go get his gun. He then went to the car to say, yo, this isn't necessary. He does not have a gun pulled out or a gun even visible at all when he's this far away, very close to the victim in the video, Your Honor. We have the opportunity to see exactly what happened in realtime because this is the video. And he is trying to have -- he's trying to, as he said, pushup on him and say this isn't necessary when all of this happens.

He does not do anything to create this, Your Honor. This man had already announced that he was going to go get a gun. He had already reached into his car and pulled a gun out, I guess, from

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under the seat or somewhere, and the struggle that ensued with the gun was brought on by the victim, Your Honor, in the case. He says and what he testified to you, is that his back was turned when the other man was shot. He did not shoot him. He did not have a gun out at the time. When he's running away, you do not see a gun.

And he seems, in his opinion, he believes that somehow in the mist of the firing, the shots that were fired, while the man who's the victim had the gun, shot his brother is what he believes. Whether or not a jury would believe that or not, Your Honor, we'd have to see.

But what is happening now is whether or not he was able to use force that was deadly in response in terms of him being shot at and being shot by the man that had the gun. He ended up getting shot twice by him, so this is actual imminent danger, and a reasonable person would in fact have used deadly force.

THE COURT: Revisit the no other means of avoiding the retreat. Tell me why there wasn't any other -- why there wasn't a retreat? How do you get past that element?

MS. GAY: Well, I think that when this

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-- okay. So we know, from the video, we know that the man, the victim, went to his car, reached in to get the gun. We know my client, as he told you, rushed up next to him to try to say, hey, this isn't necessary. Did not have a gun in his hand. Specifically, you do not see him as he's walking up to the victim, you do not see him armed, Your Honor, with a gun.

So what happens is, the whole shebang that happened there, he said -- he testified that he -- that the gun was going off as they're doing whatever they're doing, the gun is going off where the victim is trying to shoot him and then he is -- he can't avoid what the victim is doing. The victim is the one who's creating the danger, Your Honor. And so he isn't the one who created the danger, so he used all probable means of getting away.

I think that if he had run away and the victim had stopped shooting at him and just attended to his brother and just -- that was, you know, hey, he's running away. There's been a man on the ground now. The victim puts the gun down. Tends to his brother. But what in fact happened which he had no means to avoid, is that this man

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continued to shoot him and did in fact hit him a second time as he was running away.

So you see in the video that the victim is armed, his gun is firing in the direction of Mr. McDaniel. Mr. McDaniel has no probable means of avoiding the danger because he's getting shot at and was in fact shot as he was running past the car. So in his mind, what he believes he has to do to save himself is to shoot back, Your Honor. And he believes that he has no probable means of avoiding that danger because the man was continuing to shoot him.

I think it would if he would shoot you or shoot at you, you know, there's a possibility that they may not hit you. You can jump in behind a car. You can do something like that. What happened in the case when Mr. McDaniel was running away is he was shot again. So the bullet did in fact hit him again and he believed at that time that he could be killed and so he started shooting back in hopes of avoiding of having him not shoot him anymore. You know, if he's going to shoot back because he is thinking if I defend myself and shoot back, this man may stop shooting or whatever happens, he at least doesn't believe the guy is

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going to kill him.

MS. NORTON: In the process of retreating is when he was actually wounded and was at the time aware of having been wounded. So that is when that kicked into gear and he returned fire.

MS. GAY: Right. He's only returning fire. Because he believes the man won't stop shooting at him. And the man actually hits him again during the course of the event.

THE COURT: But isn't there some dispute relative to the first shots, and the other victim, the one that ends up on the ground as to who shot him; isn't there a dispute at to that?

MS. GAY: My client would say there's a dispute, yes. Of course, my -- the Solicitor says that he is the one who shot him. So part of the situation, Your Honor --

THE COURT: He, you're saying Mr. McDaniel?

MS. GAY: My client, Mr. McDaniel. My client shot him. But what's interesting, Your Honor, is that when we're watching all of this in realtime, my client is walking up to him with his hands down by his side. I had him identify himself as the man with the gray right in here and he's

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walking over there. You don't see a gun. The struggle that happened between him and the other gentleman and the gun involved and all that, he's -- the man is trying to shoot him and does shoot him.

See, I think that what is really the issue here is that we have a case where this is not a possible belief of imminent danger. This is reality. This man is shot in the leg by the gentleman, by the victim, Mr. Cleveland. He's shot in the leg during this. He -- you see his hands, he doesn't have a gun. They claim he pulled out a gun and starts shooting the brother and all this, he doesn't have a gun in his hands. He's only inches away from this man when this is happening.

What ends up happening is that Mr. Cleveland who has the gun is -- shoots him. Does in fact shoot him. There isn't a situation where this is, like, some bullets are being fired and we don't know what could have happened. He in fact shoots my client. Gets his gun and shoots my client.

And so as this is happening and my client runs away, again, you do not see a gun in Mr. McDaniel's hand. So how does this gentleman

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get shot on the ground here is obviously a dispute. My client says is that if the gun is going off and he's trying to keep the man from killing him, then, you know, that's what happened is that that's the gun who hit his brother.

And so I think the problem is that he is as he's running away is only shooting back because he is getting shot at again and is hit for a second time. So does he -- if we talk about is there no other means to avoid the danger of what happened with Mr. Cleveland that's on the ground, he is fighting for his life at that point. The man is trying to kill him. He shot him in the leg. He's trying to get the gun in a position to be able to kill him. To shoot him. For him to die.

I mean, if we say, well, you know, he didn't really mean to shoot him and, you know, he didn't shoot himself in the leg, Your Honor. So if we say, oh, well, he didn't mean to kill him. He only shot him in the leg. Well, at this point in order for him to have any type of self-defense argument or anything, my client has to be trying to shoot him which he's not. He doesn't even have a gun on him at that time. You don't see that in the pictures. He has a gun on him, but you don't see

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that in the pictures. He doesn't have it pulled out at that point.

And so I think that the reality is, is that he and Mr. Cleveland start struggling and the gun goes off, and he gets hit which puts it at a actual imminent danger. He's trying to get away from him. He's trying -- if he had just run away and Mr. Cleveland had not continued to shoot at him, we would probably have a completely different story with what happened with Mr. McDaniel. But Mr. McDaniel has no other probable means of avoiding the danger when he's being shot at by this guy who's already hit him once.

THE COURT: Thank you, Ms. Gay.

MS. GAY: Thank you.

THE COURT: All right. And nothing further from the Defense; is that right?

MS. GAY: No, sir.

THE COURT: All right. And the State's not presenting anything other than the exhibits; is that right?

MS. MORRIS: Oh, no, Your Honor, we are fully prepared. We have four witnesses to present today.

THE COURT: And I misunderstood then.

The State's ready to present any testimony or witnesses or further evidence. I thought that was just ended with the visual. I will be happy to hear from you.

MS. MORRIS: Your Honor, would you like me to respond to what Ms. Gay has --

THE COURT: No. I was allowing her to argue thinking that we were closing. But we are not, and that was my misunderstanding, but I do thank you her for sharing her theory on the matter thus far. And then it will help me understand whatever testimony, whatever further testimony is presented. So I will be happy to hear from you.

MS. MORRIS: Thank you, Your Honor.

MS. DONATO: State calls Corey Cleveland.

COREY CLEVELAND,

being first duly sworn, was examined and testified as follows:

THE CLERK: Please be seated. State your full name and spell your last name for the record.

MR. CLEVELAND: Corey Cleveland, C-L-E-V-E-L-A-N-D.

DIRECT EXAMINATION

BY MS. DONATO:

Q. Thank you, Mr. Cleveland. How old are you, Mr. Cleveland?

A. Forty-nine.

Q. Where do you work?

A. Mechanic. Self-employed.

Q. Okay. Where are you from?

A. St. Stephen.

Q. Okay. Are you related to Jared and Jarod Cleveland?

A. Yes.

Q. How are you related to them?

A. Third and second cousin.

Q. Do you remember where you were the evening of January 14, 2024?

A. Yes.

Q. What did you do that day?

A. We were at my cousin's house. They had a little family get-together.

Q. Who all was present at that gathering?

A. It was me, Jared, Jarod, his dad, and some other family members.

Q. Any other cousins?

A. Uh-huh.

Q. Where did you go after that

get-together at the house?

A. We went to the sports bar in St. Stephen.

Q. Do you know the address?

A. No, not offhand.

Q. What was it called?

A. It's called D's and G's now.

Q. Would that be the 3856 Brynes Drive in St. Stephen?

A. Yes, ma'am.

Q. So why did you go there?

A. We wanted to shoot some pool.

Q. So who all went to go shoot pool?

A. Me, Jarod, and Jared.

Q. Anybody else?

A. Drey.

Q. And Drey -- how is Drey related to you?

A. He's related to them.

Q. Oh, okay. So you get to the bar, what's the vibe at the bar like?

A. Everything was good.

Q. Okay. Did you get to shoot pool?

A. No. We was waiting.

Q. You were waiting to shoot pool?

A. Yeah, we all was waiting.

Q. Did you see this Defendant, James McDaniel, in the bar that night?

A. Uh-huh.

Q. Had you met him before?

A. Yes.

Q. Okay. So you know of him?

A. Uh-huh.

MS. SPIRES: I need you to say, yes or no, please.

A. Yes.

Q. Can you describe his demeanor that night? How did he seem to you?

A. Everything was all right. Because I really wasn't paying no attention to him until he approached Jarod.

Q. Okay. You saw him approach Jarod?

A. Uh-huh.

Q. What happened after that?

A. I approached James and I was, like, what's going on? He was, like, I was trying to figure out who this young guy is. I said, well, that's my little cousin, he don't know nothing about you and you don't know him. And so I saw he was getting kind of agitated, so I walk him outside. And I told him I was, like, yo, man,

that's my little cousin. He don't know you. We ain't came out here for that. Like, man, just get in your car and go. You know, what I'm saying?

Q. So you're trying to calm him down?

A. Yeah.

Q. He was agitated?

A. Yeah.

Q. Was Jarod agitated?

A. No, Jarod was, like, really ready to go home now because he didn't come out there for that.

Q. He came to shoot pool?

A. Yeah.

Q. Were you outside when the shots were fired?

A. Yeah.

Q. Okay. Did you see Jared or Jarod have a gun that night? Did they come to the bar with a gun?

A. No.

Q. Did you see the Defendant with a gun in his hand?

A. Yeah.

Q. Okay. I'm going to show you what's been admitted as State's Exhibit 1. I'm going to ask you if you can point out your cousins and the

Defendant and yourself on this video if you could. You can step down.

MS. DONATO: Judge, permission for him to step down?

THE COURT: Certainly.

MS. GAY: I've got to get somewhere so I can see because this is a strange angle.

(Playing the video.)

Q. Can you see the Defendant in this screenshot?

A. Not really.

MS. DONATO: Can you keep playing it? Pause it.

Q. Can you see where you are?

A. Yeah, I'm standing right there.

Q. You're this tall person right here?

A. Uh-huh.

Q. Okay. Could you tell where --

THE COURT: Mr. Cleveland, step back a little bit so I can see. I couldn't quite see. Show me again.

(WHEREUPON, the witness is pointing.)

THE COURT: All right. Thank you.

MS. DONATO: You can keep playing it.

Q. And do you recognize Jared and Jarod in

this video?

A. Yeah.

Q. Could you point them out?

A. That's Jarod. That's Jared.

Q. At the car is Jared and this falling on the ground is Jarod?

A. Uh-huh.

Q. And this is the Defendant running away?

A. No, I think that was me.

MS. DONATO: Back it up.

A. Go ahead.

Q. So that's you?

A. Yeah, that's me walking away. And that's those two.

Q. And then that's the Defendant --

A. That's James.

Q. -- that's James running away?

A. Yeah.

Q. Thank you. So you said you were hanging out -- you can have a seat. Thank you. You said -- so you were hanging out with Jared and Jarod all night beforehand and at the bar?

A. (Nodded.)

Q. How did both of them seem that day?

A. We all was just having fun. Our normal

weekdays -- weekends.

Q. Okay. The vibe was good? Everyone was happy?

A. Yeah.

Q. And then you kind of touched on this, but how did James McDaniel seem that night?

A. He was kind of, like -- he was, like, kind of antsy.

Q. Antsy?

A. Antsy.

Q. Gotcha. Okay. Thank you. Please answer any questions from Defense.

THE COURT: Ms. Gay?

MS. GAY: One moment. I have no questions for this witness, Your Honor.

THE COURT: All right. Mr. Cleveland, you can step down. Thank you.

MS. MORRIS: Your Honor, can Mr. Cleveland be excused until trial next week?

THE COURT: All right. Any objection to excusing this witness from this hearing?

MS. NORTON: No objection.

THE COURT: Without objection. Yes?

MS. MORRIS: The State calls Jared Cleveland.

JARED CLEVELAND,

being first duly sworn, was examined and testified as follows:

THE CLERK: Please be seated. State your full name and spell your last name for the record.

MR. CLEVELAND: Jared Cleveland, C-L-E-V-E-L-A-N-D.

DIRECT EXAMINATION

BY MS. MORRIS:

Q. Good morning, Mr. Cleveland?

A. Good morning.

Q. Where do you live?

A. St. Stephen.

Q. Have you lived there all your life?

A. Yes, ma'am.

Q. Let's go straight to January 14, 2024. You ended up going to 3856 Byrnes Drive in St. Stephen; correct?

A. Yes, ma'am.

Q. And that's the bar known as G&D's?

A. Yes, ma'am.

Q. How did you get to that bar?

A. I drove the white car.

Q. Okay. And was that your personal

vehicle?

A. Yes, ma'am.

Q. Okay.

MS. MORRIS: State's Exhibit 4, please.

Q. State's Exhibit 4, is this your vehicle?

A. Yes, ma'am.

Q. Once you arrived at the bar, did you know people that were in the bar?

A. I knew a few.

Q. Who went to the bar with you?

A. I came -- I drove by myself. My brother and my cousin came in separate vehicles.

Q. And your brother is Jarod Cleveland?

A. Yes, ma'am.

Q. And your cousin is Dreyeon Gaillard?

A. (Nodded.)

Q. Did you also see your cousin Corey Cleveland there?

A. Yes, he was there too.

Q. Did you have a gun on you when you went into the bar?

A. No, ma'am.

Q. Where was your gun located?

A. In my vehicle.

MS. MORRIS: Can you please publish State's Exhibit 3. And, Your Honor, could Mr. Cleveland step down off the witness stand?

THE COURT: Certainly.

Q. Mr. Cleveland, if you could point to the bar on this map?

A. Right there.

Q. Okay. And where did you park?

A. Right in this area.

Q. Okay. Thank you. You can go ahead and sit back down.

So once you parked, what did you do?

A. Me and my cousins and my brother, we went inside -- well, me and my cousin was shooting pool, actually. We got to shoot pool. After a while, I asked him, I was, like, where is Jarod because I didn't notice, like, he was on the wall where he was at, so I asked them where he was. They said, we don't know. So something just told me to go outside.

After I went outside, I saw James and my brother was, like, face-to-face or whatever. So I went up to him and told him, I was, like, chill out. That's my brother. And Corey was right beside them or whatever. So I was, like -- we was

about to leave after a while. And then I was going to my car. The other guy basically came behind me and he had a gun. So you look at the video, you can see me, I grabbed his hand with the gun because the gun was at my head. I grabbed him and I started reaching for my gun at the same time. That's when the gun went off and hit me in my ear. And then that's when I started firing back and I looked and I seen my brother was on the ground.

Q. So in the video, the gun that we're actually seeing is the Defendant's gun --

A. Yes, ma'am.

Q. -- is that right?

A. Yes.

Q. Okay. And that was the Defendant that came up from behind you when you went to your vehicle?

A. Yes.

Q. Okay. Now, before you went to the vehicle, did the Defendant show you anything?

A. Yes.

Q. What did he show you?

A. When I went up to him, he lifted his right side up and showed me a gun and smiled.

Q. And how did you feel when he showed you

his gun?

A. Threatened for my life.

Q. So what -- after you were struggling with the Defendant's gun, and then the gun went off and hit you in the ear --

A. Yes, ma'am.

Q. -- what happened next?

A. And once -- basically, once the gun went off, I kind of, like, dropped. Then I grabbed mine and saw him running backwards shooting. He was shooting once he was running, if you look at the video, and I started shooting back. And he just trying to run, he was, like, going in a zigzag motion. But I know I hit him once or twice because he started, like, straightening up. I got a glimpse when he was running.

Q. Okay.

MS. MORRIS: And why don't we go ahead and publish State's Exhibit 1.

Q. And we'll let you come off the witness stand.

MS. MORRIS: Go ahead and play.

Q. And if you want to come down off the witness stand, Jared.

(Mr. Cleveland complied.)

So this white vehicle here, is that your vehicle?

A. Yes, ma'am.

MS. MORRIS: If you could pause it right there.

Q. Can you point out your brother Jarod?

A. Jarod has the short pants on.

Q. Right here?

A. Yes.

Q. Okay. And can you point out you?

A. So you, like --

Q. Okay. We can go a little bit further.

MS. MORRIS: Okay. Pause it.

A. This is me. That's my brother.

Q. This is you?

A. That's my brother. That's the other guy. That's Corey.

Q. The Defendant's right here?

A. Yes.

Q. And then Corey is the tall guy?

A. Yes, ma'am.

Q. Okay.

MS. MORRIS: Go ahead and continue playing it. Pause.

Q. And so --

MS. GAY: I've to get around you. It's a bad position.

Q. -- what's going on right here?

A. Basically, once -- basically, I was, believe this or not, but I felt like something, like, was over my body. Like, it got hot. So when I looked back, I saw the gun. And I grabbed him, like, this right here and I was trying to reach for mine. And, basically, me struggling and trying to get -- to grab my gun at the same time, it hit me in my ear and shot inside the cluster and then that's when the shoots and stuff fired off.

Q. So the shot went inside your car?

A. Yes, ma'am.

Q. Okay.

MS. MORRIS: You can go ahead and continue playing.

A. See the fire.

Q. And you were pointing out the muzzle flashes that we saw from the Defendant's gun; correct?

A. Yes, ma'am.

Q. Okay. Thank you. You can go ahead and sit back down. And you stated that you had been shot in the ear?

A. Yes, ma'am.

Q. Did you have any other injuries?

A. I mean, just the headaches and trauma, that's it. But, yeah.

Q. Understandable.

MS. MORRIS: Nothing further from the State.

THE COURT: All right. Cross-examination?

MS. GAY: Yes, sir.

CROSS-EXAMINATION

BY MS. GAY:

Q. So we have seen this video a bunch of times now this morning. And in that video, when you go -- okay, you claim, and your testimony is, that you came out and my client and your brother were having some kind of little argument; correct? Right? You have to speak, yes or no?

A. Yes, ma'am.

Q. Okay. So we saw in the video, and I think that your brother was talking to this other gentleman who testified, that's one of your distant cousins?

A. Right.

Q. Okay. And so what ends up happening in

the video, is that you don't just walk over to your car, get in the door, your brother follows, y'all get in the car and leave. That is not what happens; right?

A. Well, my brother drove a separate vehicle.

Q. Oh, your brother drove a separate vehicle. Okay. So if you are walking to your car, you didn't just get in your car and shut the door and crank it to leave?

A. Everyone gets in the car different.

Q. Okay. Well, we night need to back it up.

MS. GAY: Can y'all do this one more time, please?

Q. And so we're going to watch.

MS. GAY: I'll tell you when to stop.

Q. So you're saying that this discussion is going on behind -- in front of that car that's pulling out?

A. Yes.

Q. Okay. And then you, that's you right there.

MS. GAY: Stop.

Q. And you're approaching your car?

A. Yes.

Q. Okay. Now, so this man right here, this guy with the gray right in here, that's Mr. McDaniel, my client; correct?

A. Yes, ma'am.

Q. Okay. And so let's look close. Do you see any firearms in his hands at this time?

A. Not at that point.

Q. Okay. So then --

MS. GAY: Do it just a little bit more.

Q. You open the door.

MS. GAY: Okay. Stop. Go a little further down. Stop.

Q. Now, isn't it true that you had a gun either under the seat or somewhere right within arm's reach of that door?

A. Well, I kept my gun in my vehicle.

Q. Right. Okay. So your gun is in your vehicle at this point. And you're not putting your backside into the car, you're actually putting your hands or arms down into your car because you're leaning over. That's true; right? We're watching it right there?

A. Right.

Q. Okay.

MS. GAY: Keep going.

Q. Okay. That's my client coming over to talk to you right there exactly; right? That's what happened?

A. No, he didn't talk to me.

Q. The man in the gray shirt walked over to you?

A. Yes.

Q. Okay. All right. And in this video, we see him, this is his backside that we see in the video; right?

A. (Nodded.)

Q. Okay.

MS. GAY: Stop.

Q. Okay. So your testimony is that this gun belonged to my client, not you?

A. Yes, ma'am.

Q. That's your testimony. Okay.

MS. GAY: Go ahead.

Q. All right. So you're taller than he is, aren't you? Mr. McDaniel? In life, you're pretty tall? What? 6-2? 6-3?

A. 6-1, 6.

Q. Six feet, 6-1. Okay. And so in the course of all this, your brother is on the ground?

A. Yes.

Q. And you're saying that you believe that Mr. McDaniel starting shooting back sometime around the front part of the car? You testified on direct that you saw some kind of flash?

A. Yes.

Q. Okay. But isn't it true, of course, that you're shooting and firing in the direction of where he went?

A. I was.

Q. Okay.

MS. GAY: Let's take that again. Just go forward. Is that finished?

MS. MORRIS: Yes.

Q. Okay. Right before this part happens, we've seen this video several times, you're actually standing there in a stance, is the word I think they used, pointing the gun in the direction of where my client Mr. McDaniel's ran?

A. Yes, ma'am.

Q. And you know you shot him in the leg twice?

A. Yes, ma'am.

MS. GAY: I have no further questions, Your Honor. Thank you.

THE COURT: Redirect?

MS. MORRIS: Brief redirect, Your Honor.

REDIRECT EXAMINATION

BY MS. MORRIS:

Q. Did you shoot the Defendant, James McDaniel, in the leg at your vehicle?

A. No, ma'am.

Q. You shot him while he was running away?

A. Running, yes.

Q. And do you have a concealed weapons permit?

A. Yes, ma'am.

Q. And you had a concealed weapons permit on the night of January 14, 2024?

A. Yes, ma'am.

Q. And just to clarify. The Defendant began shooting you at the vehicle; correct?

A. Yes.

Q. That's when you got clipped in the ear; correct?

A. Yes, ma'am.

Q. Thank you.

MS. MORRIS: No further questions from the State.

THE COURT: Any recross?

MS. GAY: No, sir.

THE COURT: Okay. All right. You can step down.

MS. MORRIS: The State calls Jarod Cleveland. Your Honor, Jarod Cleveland is in a wheelchair. Would it be okay if he just comes right here?

THE COURT: Absolutely. That will be fine.

JAROD CLEVELAND,

being first duly sworn, was examined and testified as follows:

THE CLERK: Thank you. Please state your full name and spell your last name for the record.

MR. CLEVELAND: Jarod Cleveland, C-L-E-V-E-L-A-N-D.

DIRECT EXAMINATION

BY MS. MORRIS:

Q. Mr. Cleveland, where do you live?

A. St. Stephen.

Q. Let's go straight to January 14, 2024. You went to the bar at 3856 Byrnes Drive in St. Stephen; correct?

A. Yes.

Q. And that's known as G&D's; is that correct?

A. Yes.

Q. How did you get to the bar?

A. I drove.

MS. GAY: Can I suggestion one thing because it's just a little easier. Can I turn you around a little bit? Do you mind if I turn him so we can see him?

MS. MORRIS: As long as he's okay with that.

MS. GAY: Are you okay with that? Yeah, if you could just go that way so we can kind of see you that would be easier. Thank you.

Q. Mr. Cleveland, how did you get to the bar that night?

A. I drove.

Q. What kind of vehicle do you drive?

A. A Chevy Silverado 1500.

Q. Who was with you in the vehicle?

A. My cousin, Dreyeon.

Q. How many times have you been to that bar?

A. I can't count.

Q. So you've been there quite a few times?

A. Yeah.

Q. Okay. So once you arrived at the bar, what did you do?

A. Well, me and my cousin, Dreyeon, walked in. I wasn't in there for, like, five minutes. This guy just walked up to me and he goes, like, hey, I heard you be watching people. I was, like, I don't even know you. Like, get up out my face or whatever. So my cousin grabbed him and walked him outside.

Q. And when you say, your cousin, was that Corey Cleveland that walked him outside?

A. Yes.

Q. Okay.

A. He walked him outside or whatever. And, like, I was trying to think about what was going on, so I walked outside. As soon as I walked outside down the ramp, this guy walked up to me and slapped me. I was, like, oh, man.

Q. And that was the Defendant that slapped you?

A. Yes.

Q. Okay.

A. So when he did that, I went to my

truck. I got my gun. When I got my gun, I walked back over to where him and my cousin was at. And we was just talking or whatever, and my cousin -- me and my brother came outside, and that was -- it just happened from there. It was, like, everything just happened fast. Like, he shot me in my back. It's a 40-caliber bullet in my back.

Q. So there was a 40-caliber bullet that was taken out of your back?

A. It's in my back.

Q. It's in your back?

A. Yeah.

Q. Did you -- after you got your firearm, did you show it to the Defendant?

A. You said after I got -- no. Not then.

Q. Where did you put the gun on your person?

A. It was in my jacket pocket.

MS. MORRIS: Just start over State's Exhibit 1, please.

Q. So this is State's Exhibit 1.

MS. MORRIS: Go ahead and pause, please.

Q. And this is you right here?

A. Yes.

Q. And you're standing?

A. Yes.

Q. But you're not standing today?

A. No.

Q. Is that because of the bullet from this incident?

A. Yep.

Q. Okay.

MS. MORRIS: You can go ahead and continue.

Q. So we've already heard testimony that's your brother going to his vehicle?

A. Yes.

MS. MORRIS: Go ahead and pause it.

Q. So you're right here. What are you doing at this point?

MS. GAY: I cannot see.

MS. MORRIS: Sorry.

MS. GAY: It's okay. I just need to get in a position I can see.

A. That's my cousin, Corey, right there beside me.

Q. Okay.

MS. MORRIS: Go ahead and continue. Okay. Pause.

Q. What are you doing now?

A. Going over there towards the car to try to protect my brother from what was about to happen.

Q. And how did you protect your brother? What did you do?

A. I hit him with my gun.

MS. GAY: You did what?

A. I hit him with my gun.

MS. GAY: Hit him with what?

MS. MORRIS: His gun.

Q. Where did you hit him with your gun?

A. In his face.

Q. Okay.

MS. MORRIS: Go ahead and continue.

Q. So you hit him with your gun?

A. Yeah.

Q. Did you shoot your gun?

A. No, not at all.

Q. Did you shoot your gun at anytime that day?

A. No, I didn't get to. I didn't want to end up shooting my brother from him being there.

MS. MORRIS: Nothing further from the State.

MS. GAY: One moment, Your Honor. I have no questions for this witness, Your Honor.

THE COURT: All right. You can step back. Thank you.

MS. MORRIS: The State calls Detective Nehemiah Read.

NEHEMIAH READ,

being first duly sworn, was examined and testified as follows:

THE CLERK: Please be seated. State your full name for the record and spell your last name.

MR. READ: My name is Nehemiah Read. The spelling of my first name is N-E-H-E-M-I-A-H. Last name Read, R-E-A-D.

Q. Thank you, Detective Read. Where do you work?

A. Berkeley County Sheriff's Office.

Q. Did you work at the Berkeley County Sheriff's Office in January of 2024?

A. Yes.

Q. What was your position at Berkeley County Sheriff's Office at that time?

A. I worked in CID, Criminal Investigation Division, detective.

Q. What was your role in the investigation of the shooting that happened on January 14, 2024, in St. Stephen?

A. Well, it was -- at that time, I was the on-call detective. I was notified by my lieutenant, that would be Lieutenant Milks, and informed that a shooting took place at a bar in the St. Stephen area of Berkeley County. Part of my role and responsibility is to investigate all avenues and, you know, determine what took place.

Q. And as part of that investigation, you obtained this video evidence; correct?

A. Correct.

Q. How were you able to identify the different parties involved in this video?

A. My first initial response was to try the hospital where I was told that there were two victims from the scene that took place at the bar at the -- in the ER getting aid rendered to them. They were later identified as Jarod Cleveland and James McDaniel. The clothing that they were wearing, I obtained that clothing and they was ultimately placed into evidence. That information coincided with the video that was obtained as far as determining who was who.

Q. And based on watching the video, what did you determine?

A. Based on watching the video, the information that was collected previously from different witnesses at the -- for the shooting, that -- the identified Defendant, Mr. James McDaniel, who was wearing the gray hoodie that was previously stated in prior testimony, was the aggressor in the situation in this incident.

It was stated from Jared Cleveland that while he was entering his vehicle that Mr. McDaniel approached him aggressively. And while his head was down leaning forward into the vehicle that Mr. McDaniel attempted to shoot him in the head.

MS. MORRIS: Please publish State's Exhibit 3.

Q. We're going to go to that aerial view, the zoomed-in view of the bar. And if you could please step down off the witness stand. Could you please point to the bar on this map?

A. It's listed with the star, the 3856 Byrnes Drive.

Q. Okay. Can you describe the surroundings of the bar?

A. The surroundings are there's no

obstruction that separate any of the other properties around. There's no fencing. It's a dirt road as seen here. There's no fencing in front of the business, the gas station. This continues down on to Gordon Street where additionally there's no fencing or any obstructions for travel or traverse on that in those areas.

Q. Okay. Thank you. You can go ahead and sit back down. After your investigation, what criminal charges did you obtain arrest warrants for?

A. I obtained attempted murder times two for both brothers as well as possession of weapon during the commission of a violent crime for both victims as well as possession by an individual previously convicted of a violent crime.

Q. Why did you charge the possession of a weapon by a person convicted of a violent crime?

A. Due to his previous conviction for the -- give me one second.

Q. Accessory before the fact?

A. Accessory before the fact of armed robbery, yes.

Q. Thank you.

MS. MORRIS: No further questions from

the State.

THE COURT: All right. Any cross-examination?

MS. GAY: Well, the only thing that I want to ask, Your Honor.

CROSS-EXAMINATION

BY MS. GAY:

Q. So this was brought out already. But in this case, the actual person who called 9-1-1 is my client?

A. Correct.

Q. So -- and I think that the detective came to his house where he was -- had gunshot wounds?

A. Can you repeat that?

Q. Were you the detective that came to his house?

A. I was not.

Q. Okay. A detective came to his acres and called the police officer, came to his house and they called EMS because he had been -- had gunshot wounds also?

A. I can't testify to that. I know that -- I don't know. I know that he called 9-1-1.

Q. Are you aware that he was shot multiple

times during this incident?

A. I was aware because I arrived at the hospital and seen that -- at the time that I had first contact with him, I was only aware of one gunshot wound to his leg.

Q. Okay. But you're aware after this incident, this hearing, that he's actually been shot, had two, that's what he said?

A. Based off of what he stated. Whether that's true or not, that's not for me to say. I was only witness to one gunshot wound.

Q. Okay.

MS. GAY: I have no further questions, Your Honor.

THE COURT: All right. Any redirect?

MS. MORRIS: No redirect, Your Honor.

THE COURT: All right. You can step down, Detective Read.

DETECTIVE READ: Thank you, Your Honor.

THE COURT: Anything further from the State?

MS. MORRIS: Just my argument, Your Honor.

THE COURT: I will be happy to hear from you.

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MS. MORRIS: Thank you, Your Honor. First, the Defendant must establish all the requirements of self-defense. This means the Defendant may seek immunity from prosecution under the act by demonstrating the elements of self-defense to the satisfaction of the trial court by a preponderance of the evidence. That's *State V. Curry*.

Where immunity claims under this theory, the court stated in *Curry*, a valid case of self-defense must exist and the trial court must necessarily consider the elements of self-defense in determining the Defendant's entitlement to the act's immunity. If the trial court finds that a defendant has met their burden, immunity is granted thereby precluding prosecution. But the State would assert that the Defendant hasn't even met self-defense.

South Carolina follows the common law self-defense. In order to establish a claim of self-defense, a defendant must show that he was without fault in bringing on the difficulty, that he must have actually believed he was in imminent danger of losing his life or sustaining serious bodily injury, or that he was actually in such

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imminent danger, and that if his defense is based on the actual belief of imminent danger, a reasonably prudent man of ordinary firmness, and courage would entertain the same belief. And if his defense is based on his being in actual and imminent danger, that the circumstances must be such as would warrant a man of ordinary prudence, firmness, and courage to strike the fatal blow in order to save himself from serious bodily harm or losing his own life.

And the last element, there must have been no other probable means of avoiding the danger of losing his own life or sustaining serious bodily injury unless the defendant was on his own premises in which case no duty to retreat is imposed. That is *State v. Hendrix*.

This exemption to the fourth element known as the Castle Doctrine which allows for a person who is attacked without fault on his part, on his own premises, the right in establishing his claim of self-defense, to also claim immunity from the law of retreat. And that is *State v. Gordon*.

If the court finds that self-defense has not been established and specifically the elements of reasonable fear or the duty to retreat,

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the court should then determine if Section 16-11-440(a) and/or (c) -- I'm sorry. South Carolina Code Section 16-11-440(a) and/or (c) of the act are applicable. The court must determine if there is a presumption under Section 16-11-440(a), that would replace reasonable fear and/or if the requirements of Section 16-ll-440(c) are met to replace the duty to retreat.

So State will start with self-defense. We would assert that the Defendant was not without fault in bringing on the difficulty. Jared Cleveland testified today that the Defendant showed him his firearm. Also, the Defendant is prohibited --

MS. GAY: That was not testified to.

MS. MORRIS: Yes. Jared said that he --

MS. GAY: Saw a gun, never said where or when.

THE COURT: Ms. Gay, it's an argument. I'll let you address it.

MS. GAY: Sorry.

MS. MORRIS: Jared Cleveland took the stand, he said that the Defendant lifted up his

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shirt and showed him the gun in his waistband. The Defendant is prohibited from possessing a firearm due to his June 12, 2009 conviction for accessory before the fact to a violent crime which was armed robbery. And the Defendant chose to approach Jared Cleveland from behind with his firearm and pinning Jared against the car door.

The Defendant would have you believe that Jared said, I'm going to go to my car and get my gun and he wanted to go to Jared's car and talk about this. So Defendant has not met the first element of self-defense.

As to the second element, the Defendant must have actually believed he was in imminent danger of losing his life or sustaining serious bodily injury or he was actually in such imminent danger. Now, the Defendant wants to take that assessment all the way to the point where he has already brought on the difficulty. He has brought the fight to Jared's car and now he wants to say, I'm in imminent danger. But the State would assert, that assessment comes before he brings on the difficulty himself.

So if he believed that he was in imminent danger when what he said that -- and this

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is just what the Defendant said that Jared said he was going to go to his car and get a gun, he had the ability to avoid that danger. Instead, he decides he wants to talk to Jared at Jared's vehicle.

As to the third element of self-defense. If his defense is based upon his believe of imminent danger, a reasonably prudent man or ordinary firmness, and courage would have entertained the same belief. If the Defendant actually was in imminent danger, the circumstances were such as would warrant a man of ordinary prudence, firmness, and courage to strike the fatal blow in order to save himself from serious bodily harm or losing his own life.

A reasonably prudent person would not believe that his life was in danger when the victim, Jared Cleveland, is walking to his vehicle. Jarod Cleveland, he's just standing up. Just talking. He's not showing his firearm. And Jared was walking in the opposite direction of the Defendant towards his car. The Defendant's the one that walks to Jared's car.

As to the fourth element, the Defendant had no other probable means of avoiding the danger

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of losing his own life or sustaining serious bodily injury than to act as he did in this particular instance. The Defendant was unrestricted in his ability to remove himself from the parking lot where the victims were located.

Detective Read took the stand and testified that there were no fences, there were no other barriers or obstacles that would prevent him from leaving the bar in that immediate area. The Defendant's the one that chose to approach Jared Cleveland who is standing several feet away. And the parking lot is also located between two gas stations that were easily accessible as was testified by Detective Read.

The Defendant cannot prove self-defense because he was not trying to defend himself. The State only has to disprove one of the elements of self-defense for the whole defense to fail. And in this case, the State was able to disprove all the elements of self-defense.

The surveillance video shows this Defendant engaged the victims. The Defendant confronts the victims with a deadly weapon and uses it. The Defendant, if he was actually threatened, should have retreated. The victims acted in

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self-defense to the imminent danger brought on by the Defendant. Because the Defendant has failed to prove self-defense by a preponderance of the evidenced, an analysis of the Protection of Persons and Property Act, Sections A and C are necessary.

So for Section 16-11-440(a), reasonable fear presumption. Against whom the deadly force is used is in the process of unlawfully and forcefully entering or has unlawfully and forcibly entered a dwelling, residence, or occupied vehicle, or if he removes or is attempting to remove another person against his will, a dwelling, residence, or occupied vehicle, and who uses deadly force knows or has reason to believe that an unlawful and forcible entry or unlawful and forcible act is occurring or has occurred.

While in the parking lot, the Defendant and victims were both in the place they had a lawful right to be. But the Defendant no longer possessed the lawful right when he was at Jared's -- Jared Cleveland's vehicle. The vehicle was occupied by Jared. That's Jared's vehicle. Jared has the right to stand his ground, meet force with force. The State would assert that if the Defendant were dead today, Jared would have been

justified in shooting him because Jared was at his vehicle.

The Defendant was the one who engaged Jared with deadly force at Jared's vehicle. And only Jared possessed the lawful right to a presumption of reasonable fear because he was at his vehicle. And furthermore, translating that to also Jarod Cleveland, Jarod was coming to the defense of his brother. So accordingly, the Defendant is not entitled to immunity under this section.

So next, the Court must look to Section 16-11-440(c) which states, where the defendant has not proved the duty to retreat elements by a preponderance of the evidence, the court should then consider Section 16-11-440(c), because this would excuse his duty to retreat if applicable. It is applicable because that provision was enacted to extend the protections of the Castle Doctrine to, and I quote, other places he has a right to be which is *State v. Scott*.

So as to no duty to retreat, a person who is not engaged in an unlawful activity and who is attacked in another place where he has a right to be, including but not limited to, his place of

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business, has no duty to retreat and has the right to stand his ground and meet force with force including deadly force. If he reasonably believes it is necessary to prevent death or great bodily injury to himself or another person or to prevent the commission of a violent crime as defined in Section 16-160. And that is *State v. Glenn*.

The Defendant and the victims both had the right to be in the parking lot, but the Defendant did not have the right to be in the victim's vehicle which is where the struggle occurred. And that's where the first shot went off that hit Jared in his ear.

The Defendant was also engaged in an unlawful activity. Not just the fact that he had a firearm in a bar, but because he is prohibited from possessing a firearm due to his June 12, 2009 conviction for accessory before the fact to a felony -- or, I'm sorry, to a violent crime.

The Defendant cannot prove reasonable presumption of fear and no duty to retreat under the act because both he and the victims had that lawful right to be in the parking lot at the bar. However, when Jared Cleveland went to his vehicle, only Jared continued to have to lawful right of

being in a place where he is allowed to be. The Defendant no longer had that right. And the Defendant was also engaged in that unlawful activity which takes away his right to stand his ground. And because the Defendant is not entitled to the protections, he cannot claim immunity from prosecution.

The State respectfully asks the Court to deny the Defendant's motion and find that he is ineligible for statutory immunity for the following reasons:

The Defendant does not qualify for immunity under the act because he does not satisfy the four elements of self-defense. The facts do not fit any of the relief provided under the act to presume a reasonable fear under Section 16-11-440(a). And the facts do not support replacing the Defendant's duty to retreat under Section 16-11-440(c).

The Defendant cannot claim immunity under the act because self-defense cannot be proven. None of the presumptions of reasonable fear apply and the shooting was not necessary to prevent death or great bodily injury to himself or another person or to prevent the commission of a

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violent crime as defined in 16-1-60.

Accordingly, the Defendant is not entitled to statutory immunity and the State is legally entitled to proceed with the prosecution of the Defendant for two counts of attempted murder, two counts of possession of a weapon during the commission of a violent crime, and one count of possession of a firearm by a person convicted of a violent crime.

Nothing further from the State, Your Honor.

THE COURT: All right. Thank you, Ms. Morris. Ms. Gay?

MS. GAY: I believe Ms. Norton is going to respond to some of this. Real quick, Your Honor. I will just tell you, there's -- I understand that she is making a leap that he is somehow, the Castle Doctrine for her victim, because he's -- the car becomes the Castle. However, he never gets into the car. He reaches into the car and the altercation or whatever, have the argument happened outside of the car. So I would just like to say that. But we are going to address the part about the gun and Ms. Norton is going to address it.

THE COURT: All right. Thank you, Ms. Gay. Ms. Norton?

MS. NORTON: Thank you, Your Honor. May it please the Court. Just to follow-up on the State's reference to the Code Section 16-11-440(c), no duty to retreat engage in lawful activity in a place one has the right to be. Now, two parts to that.

Again, the State stated that the Defendant lost his -- that protections when he was in the car. But again, nobody's testified that anyone was in Jared Cleveland's vehicle. They all testified that they were by, next to, at. At most, Mr. Jared Cleveland reached into the vehicle at some point, but again, nobody was within the vehicle's confines, so that does not apply.

With regard to the lawful activity. Court's have held that simply possessing a firearm when one is prohibited from such, does not negate the protections of immunity and the Protection of Persons and Property Act because it is not the proximate cause of the incident and only if the possession of a weapon is the proximate cause of the incident, the underlying incident, are those protections lost.

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Now, simply being in possession of a weapon which he did later pull and return fire, wasn't what caused the incident. It was, you know, our prospective, you know, the testimony has shown that the purported victims opened fire first and initiated the struggle. But regardless, it wasn't simply Mr. -- our Defendant's possession of that weapon didn't lead to the incident, so that does not in fact take away the immunity protection.

THE COURT: All right.

MS. GAY: I think that's --

MS. NORTON: There was no unlawful activity alleged on my client's behalf.

MS. GAY: Other than the shootings. So, Your Honor, I think we've talked a lot about this today and we know that you will have to review all of this. This case is scheduled for trial on Monday. I do believe I was told that you're the trial judge for Monday, so we will be anxiously awaiting your ruling on this matter so that we all know what we're doing on Monday. But I think that, you know, my client has told you what happened. Obviously, we have conflicting versions of the facts and we would just ask you to please grant immunity in this case.

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THE COURT: All right. Thank you, Ms. Gay. All right. And I am going to review the video again, and I will review the statute as well as the elements of self-defense and interplay with the statutory with extensions or protections that go along with that to determine the applicability. I will issue a ruling relatively quickly. I'll let y'all know the preliminary ruling that will be followed up with a substantive order so that y'all can have that as well.

MS. GAY: Thank you, Your Honor.

MS. MORRIS: Thank you, Your Honor.

THE COURT: Thank you.

MS. MORRIS: I just have one -- it's more of a housekeeping issue for next week. We will have some pretrial motions for next week, so if immunity is not granted, if Your Honor does have time this week, we could do any pretrial later this week if you're available.

MS. GAY: I'll be here on Thursday.

MS. MORRIS: Just an option for you, Judge.

THE COURT: Those are motions by the State, I presume?

MS. MORRIS: Yes. I'm not sure if Ms.

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Gay has any motions.

MS. GAY: I'm going to be here on Thursday afternoon doing things in this courthouse. So in the afternoon after about 3 o'clock.

THE COURT: All right. Any objection to y'all sharing those motions with me in advance?

MS. GAY: Yes, sir.

MS. MORRIS: Absolutely, Your Honor.

THE COURT: Do that. And, of course, you will share those with Ms. Gay and then we'll try and address those and hopefully in advance if we need to.

MS. GAY: Okay. Thank you, Your Honor.

THE COURT: No, thank y'all.

- - -END OF REQUESTED TRANSCRIPT OF RECORD- - -

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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF BERKELEY)

I, KATHERINE A. SPIRES, Registered Professional Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Berkeley County, South Carolina, on the 19th of August, 2025.

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

February 26, 2026

s/Katherine A. Spires
Katherine A. Spires
Registered Professional Reporter

State of South Carolina	)	
	)	In the Circuit Court
County Of Berkeley	)	
The State,	)	
	)	
	)	
	)	
vs.	)	C/A #: 2024-GS-08-024571
	)	
James Cirearm McDaniel,	)	
	)	
Defendant.	)	
	)	

Charleston County Courthouse
August 25-27, 2026

TRANSCRIPT OF HEARING

B E F O R E

The Honorable Dale Van Slambrook

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EXHIBITS

Plaintiff's Exhibits 1-68 were marked prior to trial starting (Exhibit Sheets attached)

Court's Exhibits 1, 2 and 8 were marked prior (Exhibit Sheets attached)

THE COURT: Good morning everyone. Y'all go ahead and have a seat. Madam court reporter are you ready?

COURT REPORTER: I am, Your Honor.

THE COURT: Madam Clerk, are you ready?

COURT REPORTER: Yes, sir.

THE COURT: All right. Ladies and Gentlemen, my name is Dale Van Slambrook. I am a circuit court judge, resident circuit court judge for Berkeley County. I am a resident of Berkeley County just like all of you. I want to start off the week by saying thank you, thank y'all for coming out. It is impossible for the criminal justice to operate without willing citizens to come forward and potentially serve as jurors. Even if a person isn't selected as a juror it is still important and essential for that person to be there so that there is are enough folks to have a proper jury pool.

I know y'all weren't real excited when y'all got your invitation to come see me this morning but like I said I want to thank you all for that and acknowledge that it is an inconvenience, but it is part of our criminal, the foundation actually of our criminal justice system to act as a juror in this matter. And I know that during the initial stage of the roll call, y'all met some of the folks involved. You met our clerk of court. Down here is the court reporter. She takes down every word

that is said so from time to time, you may hear me say, is that a yes or speak up so that she can hear, or if she raises her hand, that means she can't hear. The parties are here, other folks in the courtroom. We have security and we have bailiffs. Bailiffs are the contact person for y'all. If y'all have some question, you have some need, some concern or an emergency you reach out to one of them. The bailiffs are the folks who get things done and work in conjunction with security and with the clerk of court. The purpose now, after the roll call, is to determine your qualifications and your eligibility to serve as jurors. It's done in several stages. The first was the roll call, which y'all already went through. It was done by the clerk that initial information has been provided to the attorneys who will have cases this week. The next step is the qualification process to determine if you're qualified to sit as a juror this week. And Madam Clerk, did we swear the jury?

MADAM CLERK: Yes, Your Honor.

THE COURT: Okay. All right. So all the questions that y'all answered before were under oath, and any questions that I ask you now continue to be under oath.

Ladies and gentlemen, these questions determine your qualifications to serve as jurors. The state law requires that I ask these questions, and quite frankly, some of

these questions are very personal, and if you do not want to stand and disclose the information openly in the presence of your fellow jurors, I understand and appreciate that. If your answer is in the affirmative and you don't feel like coming forward, I'm going to give you an opportunity at the end to come forward and respond to any of those questions that you might not have felt comfortable standing up in front of everyone else. After each question, if any juror needs to respond, I'm going to ask you to stand. And as I said, if you do not want to stand but come forward at the later time that is fine. I'll give you a chance to come forward and do that. Just make that mental note that you will need to come forward later. I would rather you, out of an abundance of caution, ask about a question, than to assume one way or the other. The initial questions well and let me back up. It's essential, for the purposes of the process, for the attorneys, for the state, for the court that we get accurate and correct information. If you don't understand the question, you let me know. If you think it applies to you you stand up and you say, I think it applies. If it doesn't, well, we'll discuss that. I'd rather err on the side of caution.

First question is, is there any member of the jury panel that is not a citizen of the United States? If so,

please stand and seeing none. And that's me saying seeing none, so the court reporter can take it down, because you can't take down that nobody stood up. It's not just for me to hear myself talk.

Is there any member of the jury panel that is not a resident and a citizen of Berkeley County, South Carolina? If so, please stand. And seeing none.

Is there any member of the jury panel that is unable to read, write, speak or understand the English language? If so, please stand. And that question sometimes doesn't make any sense. You figure, if the person can't understand the English language how are they going to know what the question is? And I understand and appreciate that. I had somebody, I think it was in Charleston, come forward and say he was there with his wife, and she could not understand. He was basically an interpreter for her. So I appreciated him coming forward on that.

Is there any member of the jury panel that has less than a sixth grade education or its equivalent? If so, please stand. And seeing none.

Is there any member of the jury panel who is unable, because of mental or physical infirmities to render efficient jury service? For example, does any member of the jury panel have a medical condition that would

prevent you from serving on a jury this week? Typically, the court is going to run an hour, hour and a half before a break, possibly two hours, and we're going to start at 9:30 usually, and end at 5:30. If any of those concern you as far as your ability ... Yes, sir. And what's your juror number?

JUROR 204: 204 sir.

THE COURT: 204 and how does that apply to you?

JUROR 204: I was in the hospital last night taking medications right now, so not exactly with it.

THE COURT: Not exactly with it. Okay. And do you think that would prevent you from serving this week?

JUROR 204: I would be happy to take a deferral if that's an option.

THE COURT: Okay, all right. Tell me your name or it's 201 or 202?

JUROR 204: 204, sir.

THE COURT: 204?

JUROR 204: Yes, Your Honor.

THE COURT: All right. I misheard. Thank you. All right. All right, I'm going to get you to sit for a minute. I'm going to make a note on that. All right. Is there any member of the jury panel that has been convicted of by guilty plea or trial in a state or federal court of a crime punishable by imprisonment for

more than one year and your civil rights have not been restored by pardon or amnesty. And punishable by more than one year means that you could have received a sentence of more than one year, regardless of what that sentence may actually have been. Yes, sir. What's your juror number?

JUROR 54: 54.

THE COURT: I'm sorry?

JUROR 54: 54.

THE COURT: 54. All right. How does that apply to you?

JUROR 54: I was in this courtroom about a month and a half ago and I plead guilty to possession of methamphetamine.

THE COURT: All right. And what was the sentence on that?

JUROR 54: You gave me time served, sir.

THE COURT: Time served. All right. I'm not sure if that was --- that was more likely subject to a punishment of more than one year. Is that correct?

JUROR 54: That’s correct.

MADAM CLERK: That’s correct, Your Honor.

THE COURT: Okay, all right. All right. Thank you. We are going to excuse you from jury service this week. Okay?

JUROR 54: Yes sir.

THE COURT: All right. Thank you. All right. Sometimes I can't see very well, and some people stand up in the back and I'll miss them. So if I miss you, don't hesitate to speak right up. All right. Is there any member of the jury panel that is a Clerk or a deputy clerk of court, Constable, Sheriff, or other commissioned law enforcement officer, probate judge, county commissioner, magistrate or other county officer or employed within the walls of any courthouse? If so, please stand. And seeing none.

Is there any member of the jury panel who has previously served on jury duty in circuit court, not city court or Magistrates Court, or even federal court during this calendar year? If so, please stand. And seeing none.

Has any member of the jury panel served as a member of the Berkeley County Grand Jury during the last several years. If so, please stand. And seeing none.

All right. I'm going to move forward to what's called the exemptions. State law provides that there are several exemptions to jury service. An exemption means, that does not mean that you are not qualified to serve, it simply means that you have the right to say, I choose not to serve. Those of you who are 65 years of age or older may be exempted from jury service. Those of you 65

years of age or older represent a pool of tremendous talent for jury service, and I would urge you to serve this week if you are inclined to do so, but if you wish to be exempted, you may certainly choose to do so. Is there any member of the jury panel who is 65 years of age or older who wishes to be exempted from jury service this week? If so, please stand. And seeing none.

Another exemption concerns prior jury service. No person is required to serve as a juror more often than once every three calendar years. Therefore, if any member of the jury panel has served on jury duty during the last two calendar years. You may be exempt from service this week if you choose to be exempted. Please note the exemption does not apply if your service was in Magistrates Court, City Court or Federal Court. If you believe that exemption applies to you, please stand. And seeing none. And persons who and I believe I'd already covered grand jurors.

The next exemption deals with those of you who have small children. Listen very carefully to this exemption, it has several parts, all of which must apply to you to be exempted on this basis. You may be exempted from jury service, if you have a small child or small children under the age of seven years, you have legal custody of your child or children, and you have the principal care

custody and control of your child or children, and you're unable to make arrangements for the adequate care of your child or children while performing jury duty. If all of these requirements apply to you, then you may be exempted on this basis. If this exemption applies to you, or you believe it applies to you and you wish to be exempted, please stand at this time. And seeing none.

Next question involves those of you who may be attending school at this time or working in some capacity with a school. If this exemption applies to you and you wish to be exempted, we'll transfer your service to another term at a time which will not conflict with your school responsibilities, which is code for during your vacation.

Is there any member of the jury panel who is a full time student, school teacher, school crossing guard, school bus driver, or serves in any other school related function who is unable to serve on jury duty this week as a result of that school involvement? If so, please stand. And seeing none.

Is there any member of the jury panel who is employed with the Department of Corrections at a penitentiary and would like to be exempted? If so, please stand. And seeing none. Is there any member of the jury panel who performed services for a business, commercial

or agricultural enterprise, for which their service is so essential to the operation of the enterprise that if you were required to perform jury duty, the enterprise would have to close or stop functioning while that jury service was being performed? And if so, and if you wish to be exempted, please stand. And seeing none.

Ladies and gentlemen, that concludes the statutory list of qualifications and exemptions for jury service. It may be that you are qualified and that no exemption applies to you, but jury service this week would constitute an extreme hardship on you for some particular reason, I cannot permanently excuse you, excuse a qualified juror from jury service, but under extreme and compelling circumstances I may excuse a juror from this term of court and transfer the juror to another term of court, particularly jurors who have not been previously transferred. Please understand that general inconvenience is not a sufficient reason to transfer you to another term, to qualify or to justify a transfer to another term. Service this week must constitute an extreme hardship to you. If that applies to you and you wish to make a request for such a transfer or change in jury service, please stand. See I almost missed you. What's your juror number?

JUROR 128: 128.

THE COURT: I'm sorry?

JUROR 128: 128.

THE COURT: 128.

JUROR 128: Yes sir.

THE COURT: And what's going on with you?

JUROR 128: I just had my grandfather passed away Saturday, we're going through the whole process and all that, and having the service on Wednesday.

THE COURT: Having service on Wednesday. All right. Well, certainly for that we're going to transfer you. My condolences for lost of your grandfather.

JUROR 128: Thank you, sir.

THE COURT: All right. So can we give him the next term?

MADAM CLERK: October 20 or October 27th?

JUROR 128: They both work for me. Y'all tell me.

MADAM CLERK: October 27th.

THE COURT: 10/27 we got you.

JUROR 128: Thank you, sir.

THE COURT: All right. Thank you, sir.

MADAM CLERK: You'll receive a letter.

THE COURT: All right. Ladies Gentlemen, one more. Yes sir, what's your number?

JUROR 110: Juror number 110.

THE COURT: 110?

JUROR 110: Yes, sir.

THE COURT: All right, and how does that apply to you?

JUROR 110: I own my own business, small business a 24 hour road side to 18 wheelers and I have to close down to be on the jury.

THE COURT: Are you the only one there?

JUROR 110: Yes sir. I run it all.

THE COURT: Okay, I'm sorry? Okay. All right. All right. And your juror number 110?

JUROR 110: Yes sir.

THE COURT: All right, I'm asked you to sit for a minute. Okay?

JUROR 110: Yes, sir.

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

JUROR 179: 179. I am scheduled to have surgery on Wednesday.

THE COURT: All right. Well, that that certainly constitutes a hardship there. Let's transfer you. Okay, we don't want you here, and you should be in surgery. Okay. Can we put her down for the 10/20 as well?

MADAM CLERK: Yes, Your Honor.

THE COURT: All right, we're going to excuse you, and we're going to put you down for 10/20 you'll get another

notice. Okay. All right. Yes, sir?

JUROR 154: Juror 154, I am self employed. I own my own landscaping business and I have no employees. Just me, myself and I.

THE COURT: All right, what's the name of your company?

JUROR 154: KTR Landscaping.

THE COURT: Okay. All right. All right. You are 154 is that right?

JUROR 154: Yes sir.

THE COURT: Okay. All right. Sit tight for a minute for me. Okay?

JUROR 154: Yes sir.

THE COURT: All right, yes?

JUROR 123: I am juror number 1-2-3. I would like to speak to you afterwards.

THE COURT: Okay, all right, and I was going to get to that, but thank you for reminding me. I'll get you to come up in a minute. Okay?

JUROR 123: All right. Thank you.

THE COURT: Yes, ma'am. All right.

JUROR 33: Yeah I will need to speak to you afterwards.

THE COURT: Okay.

MADAM CLERK: Number?

JUROR 33: Number 33.

THE COURT: Okay, what was the number again?

JUROR 33: 33.

THE COURT: 33?

JUROR 33: Yes sir.

THE COURT: Okay, all right. All right. Yes, ma'am?

JUROR 139: My number 139. This is my last week of employment before I am laid off. I have an interview on Wednesday at 4:00. I just want to know if I will be excused from 4:00-5:00 on Wednesday?

THE COURT: All right, we can protect you for that day. Okay?

JUROR 139: Thank you.

THE COURT: And what was your number again?

JUROR 139: 139.

THE COURT: 139. Okay, all right. I'm going to ask you to come forward. Now, make a line up here. One of these folks will help you come up one at a time for any of the jurors who wanted to come up and share any information or discuss any of the potential exemptions. All set?

JUROR 33: My English is not good. That's one of my concerns. I'm not sure if I can understand the terminology. Well, that's one thing. I don't feel confident. But the other thing is, I'm taking full time

care of my grandson. They just moved here from Tennessee, and my daughter was working full time as a physical therapy assistant, and my son in law just started a new job as a manager. I'm with the baby. She could just take a day off today to stay with him. I don't know if I can do whole. If you can transfer me I will appreciate it.

THE COURT: Okay, I think your English is pretty darn good.

JUROR 33: Well it's good but not the best.

THE COURT: Okay. Ms. Dacheva we're going to transfer you. I'll asked you to sit for now.

JUROR 33: Sure.

THE COURT: And we'll get with you on the on the date later.

MADAM CLERK: Juror 65.

THE COURT: And you are Mr. Hanson?

JUROR 65: Yes, Your Honor.

THE COURT: Yes sir.

JUROR 65: So me and my mother's child. We're the only ones that can watch my one year old. We don't have any family or help here in South Carolina. And I'm not working. I'm unemployed right now, and I'm not working, and she works, and she works from her house, and so if I have jury duty for the week, she wouldn't be able to work. She'd have to watch the child the whole week.

THE COURT: So the child's under seven?

JUROR 65: Right. But we don't have an official custody because that was part of the, you know, the verbiage.

THE COURT: You got care of the child?

JUROR 65: Correct.

THE COURT: Right now?

JUROR 65: Right. But we don't have, we don't have anything in writing. We just work out, you know, an arrangement, you know, we just talk and work things out.

THE COURT: And the requirement says, if necessary, an affidavit could be signed by you, saying that that's all true and correct. Would you be willing to sign that?

JUROR 65: Yes, sir.

THE COURT: Okay, all right.

JUROR 65: I just didn't know, because it said, thing about custody, and thing about it.

THE COURT: Custody meaning the looser term rather than the official term, but that's why I'm glad you asked about it.

JUROR 65: Yes sir.

THE COURT: But I think what we're going to do is we should be able to transfer you.

JUROR 65: Okay.

THE COURT: I'm have the clerk get you the transfer

date on that. Okay?

JUROR 65: Yes, sir.

THE COURT: Because circumstances will change, and by the time the next date comes around, then you'll be a good juror. Okay.

JUROR 65: Yes sir.

THE COURT: All right.

JUROR 65: Thank you sir.

THE COURT: Just sit tight for now. Okay.

MADAM CLERK: Juror 155.

JUROR 155: Yes, I was accused of assault and battery third degree. I haven't been back to Dorchester County.

THE COURT: So those charges are pending?

JUROR 155: Pending. Yeah, I had called and asked, but they said that does not disqualify. I mean, I would love to be on the panel here, but, but I have the video showing everything. It's not true.

THE COURT: Okay, but pending ...

JUROR 155: Pending, Dorchester County.

THE COURT: ... Assault and battery charge. Okay, well, that does not exclude you.

JUROR 155: Okay, well good.

THE COURT: So, okay.

JUROR 155: Thank you.

THE COURT: All right, yes, ma'am.

MADAM CLERK: Juror 123.

THE COURT: How are you?

JUROR 123: Good. This is my first time doing jury duty. I'm real shy.

THE COURT: That's okay.

JUROR 123: Due to the fact that, you know I am, my mama had to come and drop me off, because she also, she's a school bus driver, and you just kind of wondered, like, if I could get, like, if I could get like another time, not a day, like a transfer if that's possible, and to have to let my job know that, hey, I'm about to do jury duty.

THE COURT: Where are you working?

JUROR 123: At Lowe's, Mount Pleasant.

THE COURT: Okay, let's, let's do this. Let's keep you this week. We're going to pick one jury today. Okay, if you're not on the jury, then you're fine.

JUROR 123: Okay.

THE COURT: They may pick another one later in the week. Okay, so let's keep you.

JUROR 123: Okay.

THE COURT: All right. Thank you.

MADAM CLERK: Juror 58.

THE COURT: All right Ms. Grant. Good morning Ms. Grant.

JUROR 58: Good morning. I have anxiety, really bad anxiety, acute anxiety and nerve problems. I'm not sure if it would affect it or not. I take Chlorpromazine for my nerves, and they consider it like a controlled substance, but I have prescription for it. So I wasn't sure.

THE COURT: Do you think that would interfere with your ability?

JUROR 58: I have it really really bad, like it kind of, I'm not saying override my judgment, but that's why it's acute, I guess.

THE COURT: Okay, all right. Well, usually there's a condition that we're that somebody has a concern about that let me know and we can accommodate you. Okay?

JUROR 58: Okay.

THE COURT: Okay.

MADAM CLERK: Juror 84.

THE COURT: All right Ms. Jones.

JUROR 84: My concern is I just reentered the country on Saturday after being in Dominican Republic eight days and not feeling well. And I drove here on Sunday to be here this week, because I work out of state, even though I live here, so my concern is just not feeling well after being out of the country. And so we're planning on going to the doctor today, because we've been sick since

Wednesday.

THE COURT: Oh goodness.

JUROR 84: I would be happy to transfer.

MADAM CLERK: Your Honor, she's been transferred once.

JUROR 84: Yeah, I've been transferred once I wanted to show up because ...

THE COURT: Okay.

JUROR 84: ... I think the last time I had just started my contract.

THE COURT: So when is the doctor's appointment?

JUROR 84: I'm gonna just go to the doctor today because, like I said, I just got here yesterday. So.

THE COURT: Okay, all right. Usually I'm reluctant to transfer somebody more than once.

JUROR 84: Yeah, I mean, and, I mean, I'm willing to serve. I just --- what my concern is the fact that I know that I'm still sick. And I mean sick, like diarrhea, nausea, and, like I said, if I --- if it was just like a normal trip, fine, but being out of the country, I'm not sure.

THE COURT: Okay, I'm probably going to transfer you to another term, but I'll ask you to sit for now. Okay.

JUROR 84: Okay.

THE COURT: All right?

JUROR 84: Yeah.

THE COURT: Okay, anybody else? Last call. All right. Thank y'all. Ladies and gentlemen you're now qualified. I just some general guidelines, Madam Clerk probably already shared some of this stuff with you. Basically turn off any cell phone devices, either keep them in the vehicle, or if you're selected for jury duty, they will be taken from you, put in a secure spot while you're serving, and you can retrieve them, of course, during the lunch breaks or after the end of the day. It is important that any member of the jury panel or a member of a jury not have any contact with parties, witnesses or potential witnesses, lawyers that may come before the court this week, you can understand that even an innocent conversation with a witness or an attorney may be misunderstood or misinterpreted. If that happens, and I'm giving instructions to the attorneys, as well as all the parties and the witnesses in these cases that come before us not to talk to any of the juror members. So if you get on the elevator with somebody who doesn't talk to you, they're not being rude they're just following my instructions. Okay? And I'm asking you to do the same, as far as not reaching out or talking to any of them, because I don't want anything or anyone else to misunderstand what might be just polite conversation. I'm

going to ask you, if you are either serving as a juror or coming back to be potentially selected on our second case, please be on time, whatever time that we suggest. As far as returning, I'm asking you to be at the jury room or in the jury qualification room or in the courtroom at that time. It would not be fair for either other jurors or the court or the attorneys or the parties to have to wait if one juror or several jurors chose not to be timely. There will be emergency contact information available that you can share or get a hold of the clerk's office if some emergency arises that prevents you from coming back in. You can reach out by telephone. I think I've already said the general operating hours. Generally courts going to start at 9:30 for the jury running till five or 5:30 each day. Any further instructions Madam Clerk?

MADAM CLERK: No, Your Honor.

THE COURT: General instructions?

MADAM CLERK: No, Your Honor.

THE COURT: Okay, thank you. All right, all right. So ladies and gentlemen, you're now qualified in this matter and we are going to go forward with what's called Voir Dire in the matter, which is generally to review whether you are eligible to serve in the case that is before us. Do we have the indictments?

MADAM CLERK: Yes, Your Honor.

THE COURT: Did I mix it in with my paperwork? I may have mixed it in.

MADAM CLERK: I'll let you borrow mine, Your Honor.

THE COURT: Thank you. Okay. All right. So we are on the record regarding the State versus James C. McDaniel, is the state ready to proceed?

MS. MORRIS: Yes, Your Honor.

THE COURT: All right, and is the defense ready to proceed?

MS. GAY: Yes, sir we are.

THE COURT: All right. All right. Madam solicitor, I'm going to ask you to call your case.

MS. MORRIS: The state calls James C. McDaniel.

THE COURT: Thank you, Ladies and Gentlemen of the jury what I have with me is a number of indictments in my hand. These are the copies of the actual indictments. They are not proof. They are not evidence. They are simply the document that gives this court the authority in the case. They are allegations, and as I indicated, they are not proof. I'm going to read these indictments.

Indictment under docket number 2024-GS-08-02453, indicates that in Berkeley County, South Carolina on or about January 14, 2024 the defendant, James C. McDaniel did possess a firearm or did visibly display what

appeared to be a firearm, or did visibly display a knife during the commission of or attempted commission of a violent crime. To wit, attempted murder in violation of South Carolina code section 16-23-490.

Under indictment 2024-GS-08-02454, it indicates that in Berkeley County, South Carolina, on or about January 14, 2024 the defendant, James C. McDaniel, did possess a firearm, or did visibly display what appeared to be a firearm, or did visibly display a knife during the commission of or attempted commission of a violent crime, to wit, attempted murder in violation of South Carolina code section 16-23-490.

As to indictment 2024-GS-08-2455, that in Berkeley County, South Carolina on or about January 14, 2024 the defendant, James C. McDaniel did with intent to kill and malice aforethought attempt to kill Jarod Cleveland. This is in violation of South Carolina code section 16-3-29 of the South Carolina Code of Laws.

Under case 2024-GS-08-02456, that in Berkeley County, South Carolina, on or about January 14, 2024 the defendant, James C. McDaniel, did with intent to kill and malice aforethought attempt to kill Jared Lamar Cleveland. This is in violation of South Carolina code section 16-3-29.

As to 2024-GS-08-02457, that in Berkeley County,

South Carolina, on or about January 14, 2024 defendant, James C. McDaniel, having previously been convicted of a violent crime, as defined in South Carolina code section 16-1-60 that is classified as a felony, did possess a firearm or ammunition in violation of South Carolina code section 16-23-500 of the South Carolina Code of Laws. The defendant pled not guilty to each and every one of these indictments and requested a jury trial.

So I'm going to ask you questions that are specific to this case, typically asking if you know the parties, if you know the attorneys, if you know about the case, or if you've heard anything about the case through any means whatsoever. As I've indicated before responding to any of these questions, it's essential and critical that you provide truthful answers, and again, I would ask you to err on the side of caution in responding to these. And I remind you again that you have been put under oath and sworn to tell the truth in responding to all of these questions. And some of the questions sometimes sound like they're repeating one another and sometimes they are, sometimes there's slight variations with a different nuance to the question. It's not meant to be repetitive or as a trick, it's merely to make sure that the question is being asked as fully and completely as possible, to allow for as much information as possible to be shared

with the parties prior to the jury selection process.

Is there any member of the jury panel who has a close personal or social relationship with the defendant, James C. McDaniel? If so, please stand. All right. I'm going to ask the state to have each of the solicitors who will be working on the case stand up, identify themselves, and anybody else who is with them at their table, and then will follow that with a request for the same from the defendant.

MS. MORRIS: Your Honor, do you want us to also introduce or go through all of the attorneys in our office?

THE COURT: Yes, please.

MS. MORRIS: Absolutely. My name is Kwohikikapulani Morris. I am assistant solicitor in the Ninth Circuit solicitor's office. My name is Kayla Donato and I'm am an attorney with the ninth circuit solicitor's office. In our office, we have Scarlett Wilson, who is the Ninth Circuit solicitor. She's over in Charleston and Berkeley Counties. And in the Berkeley County Office, we have Deputy Solicitor Ann Williams, Senior Assistant solicitor Wilton McGee, and then the assistant solicitors are Alex Myers, Ben Dennis, Adam Farr, John Newton,, who is right here, Camilla Sas, Olivia Lynch, John Marria, Victoria Wolfen, Marie Lerch, who's right here, Samantha Aldrich,

Nicholas Young, Rachel Janowski, Michelle Hart, Laura Newberry and Michael Stewart.

THE COURT: All right. All right. Is there any member of the jury panel who is related by blood or marriage or has some close personal relationship or social relationship with any member of the Ninth Circuit solicitor's office or their employees? If so, please stand. And seeing none. All right, Ms. Gay.

MS. GAY: Thank you, Your Honor. My name is Melissa Gay. I am a member of the private bar in this community. My office is actually in Mount Pleasant. I have the pleasure of representing James McDaniel. There will also be another young lady who is another attorney. Her name is Sarah Norton. She may come in and out to help me during this process. She's just not here this morning. Thank you.

THE COURT: All right. Is there any member of the jury panel that either has a close personal or social relationship or related by blood or marriage to Ms. Gay or anyone in her office and or the defendant in this matter? If so, please stand. And seeing none.

All right. I'm going to read a list of the potential witnesses in this matter. It is likely that all of them will not be called, but I'm going to ask you to listen carefully to all of the witnesses names, and then at the

conclusion of reading all of them, I'll ask you to stand up at that point in time. So, if you first hear the name, don't stand up immediately. Wait until I finish with the entire list. The proposed witness list is as follows, Jared, and that's spelled, J-A-R-E-D Cleveland, Jarod Cleveland, which is spelled J-A-R-O-D Cleveland, Dreyeon Gaillard, Corey Cleveland, Ronnie Russell, Hannah Reed, Andrew Gonzalez, Terry Boroff, Lamar Alsbrook, Samuel Jasper, Christopher Gilbreath, Nehemiah Reed, Kevin McGowan, Kim Milks, Julian Czeisperger, Dylan Vardon, Abdulrahman Tarik, Gavin Brewer, Jeffrey Day, Robert Bailey, Michael Lockliear, Carolyn Harrelson, Hailey Gardner, James Green, Linda Hill, Katie Schuler. Is there any member of the jury panel who is related by blood or marriage or has a close personal or social relationship with any of those potential witnesses that I call? If so, please stand. And seeing none.

Is there any member of the jury panel who has formed or expressed any opinion about any issue or matter involved in this case? If so, please stand. And seeing none.

Is there any member of the jury panel who is aware of any bias or prejudice toward either the defendant, Mr. McDaniel or the state in this case? If so, please stand. And seeing none.

Is there any member of the jury panel who is a member of or contributor to any group which has as its primary concern the promotion of law enforcement or victims rights? And those groups would include, but not be limited to MADD, SADD or CAVE. If so, please stand. And seeing none.

Is there any member of the jury panel that knows of any reason whatsoever that he or she should not serve, other than what we've already covered, that should not serve as a juror in this case, with particular emphasis being placed on your ability to be fair and impartial to both the defendant and to the state. If so, please stand. And seeing none.

COURT REPORTER: One is standing, Your Honor.

THE COURT: I'm sorry I missed you. Yes, Ma'am, what's your number?

JUROR 93: Number 93. It's actually to the previous question. SADD, is that Students Against Drunk Driving?

THE COURT: Yes.

JUROR 93: Just to be clear. In high school, which was like 30 years ago, I was a member of our SADD club. I was like the treasurer or something.

THE COURT: Okay, all right. Would that previous connection or relationship with that organization affect your ability to render a fair and impartial service in

this case?

JUROR 93: I don't think so.

THE COURT: Okay, all right. Thank you, ma'am. Is there any member of the jury panel or any member of your family or close friends ever been prosecuted by the Ninth Circuit Solicitor's Office? If so, please stand. And seeing none.

Is there any member of the jury panel, your family or close personal friends ever been represented by Ms. Melissa Gay? If so, please stand. And seeing none.

Is there any member of the jury panel who has previously served as a witness in a civil or a criminal case? If so, please stand. And yes, ma'am, what's your juror?

JUROR 92: 92.

THE COURT: Number 92 is this criminal or civil?

JUROR 92: Criminal.

THE COURT: Criminal, all right, and you served as a witness?

JUROR 92: I was the victim, so yes.

THE COURT: Okay. All right, and would that previous situation or involvement with the judicial system, would that affect your ability to render a fair and impartial service in this matter?

JUROR 92: It may given the violent circumstance so

...

THE COURT: Okay. All right. Thank you, ma'am. All right. Is there any member of the jury panel or a family member, your family member or close personal friend ever been incarcerated or currently incarcerated? If so, please stand. Yes, sir. What's your jury number?

JUROR 125: 125.

THE COURT: 125. And this is a family member?

JUROR 125: Yes.

THE COURT: Okay. And would that situation regarding that family member having been incarcerated, would that affect your ability to render fair and impartial service in this matter?

JUROR 125: No, Your Honor.

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

JUROR 200: Juror 200.

THE COURT: 200. Yes, sir. Family member? You or a family member?

JUROR 200: It's a brother-in-law, ex brother-in-law.

THE COURT: Okay, all right. Would that affect your ability to render fair and impartial service in this matter?

JUROR 200: No, Your Honor.

THE COURT: Okay. Yes, ma'am, your number?

JUROR 147: 147. Family member.

THE COURT: Family member. And are they currently incarcerated or had been incarcerated?

JUROR 147: Had been.

THE COURT: Had been. And would that affect your ability to render fair and impartial service?

JUROR 147: No sir.

THE COURT: Okay, thank you, ma'am. Have you or any member of your family or close personal friends ever been arrested by the Berkeley County Sheriff's Office? If so, please stand. Okay. All right, yes sir, what's your number?

JUROR 52: 52.

THE COURT: Is that you or somebody else?

JUROR 52: Me.

THE COURT: You. All right. And would that prior involvement with the Berkeley County Sheriff's Office affect your ability to render fair and impartial service in this case?

JUROR 52: No.

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

JUROR 163: Juror 163.

THE COURT: Juror 163. You or somebody else?

JUROR 163: My son.

THE COURT: I'm sorry?

JUROR 163: My son.

THE COURT: Your son, and would that affect your ability to render fair and impartial service in this matter?

JUROR 163: No sir.

THE COURT: Okay. Yes, ma'am?

JUROR 58: 58.

THE COURT: 58. And you or somebody else?

JUROR 58: Somebody else, a family member.

THE COURT: A family member. All right, will that affect your ability to render fair and impartial service?

JUROR 58: No.

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

JUROR 32: 32.

THE COURT: 32. You or a family member?

JUROR 32: Me.

THE COURT: You? All right, and would that affect your ability to render fair and impartial service?

JUROR 32: No.

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

JUROR 73: Juror 73, family member.

THE COURT: Would that affect your ability?

JUROR 73: No, sir.

THE COURT: Thank you sir. Yes, sir?

JUROR 110: Juror 110.

THE COURT: I'm sorry.

JUROR 110: Juror 110.

THE COURT: 110 I thought so. You or somebody else?

JUROR 110: Me.

THE COURT: You? Would that affect your ability to render fair and impartial service?

JUROR 110: No.

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

MS. MORRIS: Your Honor, my indulgence the gentleman in the blue shirt. What was his number?

THE COURT: 73 right?

JUROR 73: Ryan Hill.

THE COURT: 73?

JUROR 73: Yes.

THE COURT: Okay, all right, yes sir?

JUROR 127: 127.

THE COURT: 127. All right, you or somebody else?

JUROR 127: Me.

THE COURT: You. Would that affect your ability to render fair and impartial service in this case?

JUROR 127: I don't think so.

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

JUROR 127: Thank you.

THE COURT: Yes sir?

JUROR 13: 13.

THE COURT: You or somebody else?

JUROR 13: Myself.

THE COURT: Self. Would that affect your ability to render fair and impartial service in this case?

JUROR 13: No sir.

THE COURT: All right, thank you, sir. All right, yes sir?

JUROR 178: 178.

THE COURT: 178. You or somebody else?

JUROR 178: Both.

THE COURT: Both? Okay, all right. Would that affect your ability to render fair and impartial service?

JUROR 178: No sir.

THE COURT: Okay. All right, thank you, sir. Did I miss anybody? All right, okay. Is there any member of the jury panel or their close personal friends or family been the victim of a violent crime? If so, please stand. Yes, sir, you're 73?

JUROR 73: Yes sir, juror 73 family member.

THE COURT: All right, and would that affect your ability to render fair and impartial service in this case?

JUROR 73: I don't think so.

THE COURT: Okay, thank you, sir. Yes, sir?

JUROR 36: Juror 96, family member. 96.

THE COURT: 96?

JUROR 36: 36, I'm sorry.

THE COURT: 36, okay. Family member?

JUROR 36: Family member.

THE COURT: And would that affect your ability to render fair and impartial service?

JUROR 36: No.

THE COURT: Okay. All right, yes, ma'am?

JUROR 163: Juror 163 and family member.

THE COURT: All right, and you said it was 6-3?

JUROR 163: 1-6-3.

THE COURT: 1-6-3, got it. Family member. And would that affect your ability in this matter?

JUROR 163: Probably not.

THE COURT: Okay. Thank you, ma'am. Yes, sir and yours again?

JUROR 32: 32.

THE COURT: 32.

JUROR 32: Me.

THE COURT: And you, all right. And would that affect your ability to render fair and impartial service in this case?

JUROR 32: No sir.

THE COURT: Thank you sir. Yes, sir?

JUROR 125: 125.

THE COURT: 125. That's you or somebody else?

JUROR 125: Myself.

THE COURT: Self. All right. Would that affect your ability in this matter?

JUROR 125: No sir.

THE COURT: Okay, thank you sir. Yes, ma'am?

JUROR 62: 62, family member.

THE COURT: And would that affect your ability to render fair and impartial service here?

JUROR 62: I don't think so.

THE COURT: Don’t think so? Okay, thank you. Any members of the jury panel, members of the National Rifle Association or the NRA, if so, please stand. Your juror number?

JUROR 52: 52.

THE COURT: Same question. Would your membership in that organization affect your ability to render fair and impartial service?

JUROR 52: No sir.

THE COURT: All right. And yours again?

JUROR 73: 73.

THE COURT: 73, same question. Would that affect your ability?

JUROR 73: No sir.

THE COURT: Okay, sir?

JUROR 36: 36. No.

THE COURT: 36 okay. All right.

JUROR 171: 171.

THE COURT: 171.

JUROR 171: Yes.

THE COURT: You think it would affect your ability?

JUROR 171: Yes sir.

THE COURT: Okay, that's 171. All right. Thank you, sir. Ma'am?

JUROR 93: 93.

THE COURT: 93 and would that affect your ability to render fair and impartial service?

JUROR 93: No.

THE COURT: Okay. All right, do any of the members of the jury panel or their close personal friends or family live in the area of 3856 Byrnes Drive in St. Stephen's, which is in Berkeley County, South Carolina? If so, please stand. Excuse me. Yes, ma'am, your juror number again?

JUROR 58: 58.

THE COURT: 58. Okay, all right, thank you, ma'am.

JUROR 87: I'm not sure how close I am but I live in Pineville like 5 minutes from the town of St. Stephens.

THE COURT: Okay. All right, and what's your juror number?

JUROR 87: 87.

THE COURT: Okay. Any further voir dire from the state?

MS. MORRIS: None from the State, Your Honor.

THE COURT: Any further Voir Dire from the defense?

MS. GAY: Yes, sir. I would ask you to please ask number eight.

THE COURT: And I will explain when we have an opportunity off the record or not off the record, but on the record outside the presence of the jury while I'm declining to ask that one. All right. And I'll ask you to make sure and present to the court reporter, a copy of the proposed voir dire and make it a court's exhibit so it can be properly reflected in our record. Okay? All right. Other than that, anything else?

MS. GAY: No sir.

THE COURT: Okay. All right, and the state said nothing further?

MS. MORRIS: That's correct, Your Honor.

THE COURT: Okay, all right, so do we need a minute? I'm sorry, five and five. Okay, I'm sorry. We're gonna have two alternates?

MS. MORRIS: Yes, please Your Honor.

THE COURT: Two alternates. While y'all do that, you want to give them give them a break. They've been at it for a little while. You want to give them a break? Okay.

How long do we need, 15?

CLERK: 10.

THE COURT: 10 minutes. All right. I've got it looks like two minutes till 12:00. Let's take a break for about 12 minutes. The next step has to be accomplished, and I'll explain that when we get back in. So let's take a quick break, 10 minutes, we'll be back in we'll start at 12: 10, thank y'all.

(Break in proceeding)

(Back on 12:13 PM)

THE COURT: State, ready to proceed?

MS. MORRIS: The State is ready, Your Honor.

THE COURT: Is the defense, ready to proceed?

MS. GAY: Yes sir.

THE COURT: All right, Ladies and Gentlemen of the jury, what's going to happen next is all of those qualified jurors that we have been put on a randomized list, so basically taken out of order as if it's being drawn from a hat and the names will be called, your jury number will be called and you will be instructed by the clerk to step forward. You'll stand up here in front of the state, and the defendant will face the rest of the jury panel, and then the state will have the option of excusing you or going forward, and then the defense will have the opportunity to seat or excuse you, and we will

go through that process until we have 12 jurors for our first case, as well as two alternates. Madam Clerk, you ready to proceed?

MADAM CLERK: Yes, Your Honor.

THE COURT: Okay. All right.

MADAM CLERK: Ladies and gentlemen, of the jury, when I call your name and your number, please bring all of your possessions with you and stand in front of the table the bailiff will show you. Face the gallery. And if I say, seat the juror, the bailiff will tell you where to go. If I say, excuse the juror, you'll go back to your seat. Okay?

Juror number 36 Joseph Deleon. What sayeth the state?

MS. MORRIS: Please present this juror.

MADAM CLERK: What sayeth the defense?

MS. GAY: One moment please. Please excuse the juror from the trial of this case.

MADAM CLERK: Excuse the jury. Juror number 57 Guillermo Gonzalez. What sayeth the state?

MS. MORRIS: Please present this juror.

MADAM CLERK: What sayeth the defense?

MS. GAY: Please seat the juror for the trial of this case.

MADAM CLERK: Please seat the juror. Juror number

161, Donald Smith, Jr. What sayeth the state?

MS. MORRIS: Please present this juror.

MADAM CLERK: What sayeth the defense?

MS. GAY: Please seat the juror for the trial of this case.

MADAM CLERK: Seat the Juror. Juror number 13, Christopher Blackmon. What sayeth the state?

MS. MORRIS: Please excuse this juror.

MADAM CLERK: Please excuse this juror. Juror number 93 Nicole Kramer. What sayeth the state?

MS. MORRIS: Please present this juror.

MADAM CLERK: What sayeth the defense?

MS. GAY: One moment please. Please excuse this juror from the trial in this case.

MADAM CLERK: Please excuse the juror. Juror number 11, Robert Bedore. What sayeth the state?

MS. MORRIS: Please present the juror.

MADAM CLERK: What sayeth the defense?

MS. GAY: One moment please. Please excuse the juror from the trial in this case.

MADAM CLERK: Excuse the juror. Juror number 18 Travis Bowker. What sayeth the state?

MS. MORRIS: Please present this juror.

MADAM CLERK: What sayeth the defense?

MS. GAY: Please seat the jury for trial in this

case.

MADAM CLERK: Seat the juror. Juror number 38 Leah Domok. What sayeth the state?

MS. MORRIS: Please present this juror.

MADAM CLERK: What sayeth the defense?

MS. GAY: Please seat the juror for the trial in this case.

MADAM CLERK: Excuse the juror.

MS. MORRIS: She said seat.

MADAM CLERK: Oh I'm so sorry. Juror number 111, Michelle McCoy. What sayeth the state?

MS. MORRIS: Please present this juror.

MADAM CLERK: What sayeth the defense?

MS. GAY: Please seat the juror for the trial in this case.

MADAM CLERK: Seat the juror. Juror number 39 Teresa Downey. What sayeth the state?

MS. MORRIS: Please present this juror.

MADAM CLERK: What sayeth the defense?

MS. GAY: Please seat the juror for the trial of this case.

MADAM CLERK: Seat the juror. Juror number 32, William Conyers.

MS. MORRIS: Please excuse this juror.

MADAM CLERK: Excuse the juror. Juror number 73 Ryan

Hill.

MS. GAY: Your Honor, may we approach?

THE COURT: All right, this juror is excused from the trial of this case.

MADAM CLERK: Excuse the juror. Juror number 171, Albert Stone, the third. What sayeth the state?

MS. MORRIS: Beg the Court's indulgence. Please excuse this juror.

MADAM CLERK: Juror number 160, Cienna Smith, what sayeth the state?

MS. MORRIS: Please present this juror.

MADAM CLERK: What sayeth the defense?

MS. GAY: Please seat the juror for the trial in this case.

MADAM CLERK: Seat the juror. Juror number 96 Barbara Lentz. What sayeth the state?

MS. MORRIS: Please present this juror.

MADAM CLERK: What sayeth the defense?

MS. GAY: One moment please. Please seat the juror for the trial in this case.

MADAM CLERK: Seat the juror. Juror number 23 Courtney Brown.

MS. MORRIS: What's the number again?

MADAM CLERK: 23. What sayeth the state?

MS. MORRIS: Present this juror.

MADAM CLERK: What sayeth the defense?

MS. GAY: One moment, please. Please seat the juror for the trial in this case.

MADAM CLERK: Seat the juror. Juror number 115, Gerd Merling. What sayeth the state?

MS. MORRIS: Please present this juror.

MADAM CLERK: What sayeth the defense?

MS. GAY: One moment please. Please seat the juror for the trial in this case.

MADAM CLERK: Seat the juror. Juror number 189, Karen Vidamo. What sayeth the state?

MS. MORRIS: Please present this juror.

MADAM CLERK: What sayeth the defense?

MS. GAY: One moment please. Please seat the juror for the trial in this case.

MADAM CLERK: Seat the juror. Juror number 184, Samantha Unterbrink. What sayeth the state?

MS. MORRIS: Please present this juror.

MADAM CLERK: What sayeth the defense?

MS. GAY: One moment please.

THE COURT: What number was that? What number juror?

MADAM CLERK: Your Honor we have seated 11.

THE COURT: Seated 11. Okay.

MS. GAY: Please excuse the juror from the trial in this case.

MADAM CLERK: Excuse the juror. Juror number 92 Jeannine Korby. What sayeth the state?

MS. MORRIS: Please present this juror.

MADAM CLERK: What sayeth the defense?

MS. GAY: Please excuse the juror from the trial of this case.

MADAM CLERK: The defense has exhausted all of it's strikes.

MADAM CLERK: Juror number 68 Christopher Harrington. What sayeth the state?

MS. MORRIS: Please present this juror.

MADAM CLERK: Any cause for challenge from the defense?

MS. GAY: No.

MADAM CLERK: Thank you. Please seat the juror. For the first alternate strikes are one and two.

MADAM CLERK: Juror number 147, Carleigh Roberts. What sayeth the state?

MS. MORRIS: Please excuse this juror.

MADAM CLERK: Excuse the juror. Juror number 52 Shannon Gaskins. Any cause for challenge from the state?

MS. MORRIS: No cause for challenge from the state.

MADAM CLERK: What sayeth the defense?

MS. GAY: One moment please. Please excuse the juror from the trial of this case.

MADAM CLERK: Excuse the juror. Juror number 178, Robert Timm. Any calls for challenge from the state?

MS. MORRIS: None from the state.

MADAM CLERK: What sayeth the defense?

MS. GAY: Please seat the juror for the trial of this case.

MADAM CLERK: Please seat the juror. Alternate, number two, juror number 44 Sheila Faulk. What sayeth the state?

MS. MORRIS: I have no cause for challenge.

MADAM CLERK: You have one strike. It's your second alternate.

MS. MORRIS: Oh, I see. My apologies. Please present this juror.

MADAM CLERK: What sayeth the defense?

MS. GAY: Please seat this juror for the trial of this case.

MADAM CLERK: Seat the juror.

THE COURT: All right, we have our jury?

MADAM CLERK: Yes, Your Honor. We have the jury.

THE COURT: Okay, all right, ladies and gentlemen of our jury venire you were not selected for the first case that we have. However, good news is there's at least one other case that we're going to try to reach this week that we will not select the jury for that case today. We

will begin the jury selection process on that case at the conclusion of the present case, at the time this current case is concluded. So I am going to excuse you here in a minute with the instructions to call in, because y'all have the call in number after six o'clock tonight to find out instructions as to when you're supposed to return or when you're supposed to to call back in. Any further instructions, they've got all the numbers and everything, right?

MADAM CLERK: Correct.

THE COURT: Okay, all right, so y'all are excused. Y'all are free to go.

(Panel excused)

THE COURT: I meant to ask earlier if there was any objection to the process or anything else I need to take up outside the jury.

MS. MORRIS: No objection.

MS. GAY: No objection.

THE COURT: I should have said that before, and thank you all for that. Okay.

All right, Ladies and Gentlemen, you are our jury for our first case. The last two folks that were chosen, Juror 92 I'm sorry, Juror 178, and 44 y'all will be the alternates. And the foreperson I'm going to appoint is our first, the first juror selected, Mr. Gonzalez is that

you? Okay, so you don't get paid anything extra. Okay. All right. You're just a foreperson either contact, and I have instructions for you as we as we go along. I'm asked you to sit first seat. I've asked two alternates to sit in the two right behind that, and the rest of y'all can sit wherever you want during this process. So as I indicated as it relates to the rest of the panel until we select the next case. As far as y'all are concerned, what I'm going to do, and just give me a few minutes, I'm going to release y'all for today. The reason I'm release y'all for the day is there are matters that have to be taken up outside the presence of the jury, motions and things like that, and I'm going to address all of those and work on the case while y'all are not here. I'm not taking a break. Lawyers aren't taking a break.

So my instructions, initial instructions to you, as of today, I'm going to give you some more tomorrow, are number one, don't talk about the case. The natural inclination is you're going to go home, your spouse, your significant other, is going to say, what's going on? What are you doing? And your answer is, I can't tell you. The judge told me not to talk about it. I will talk to you all you want when this case is over. You're not supposed to talk about it, because what would happen is it would be a natural inclination to talk about it, and that might

lead to what we would call premature deliberations. You're not supposed to deliberate on the case until you've received all of the evidence and the instruction on the law from me. You haven't heard any evidence yet. There's nothing for you to consider. I wouldn't want any conversation that you have with anybody else to potentially influence your decision and your role in this case. So in addition to that, don't look at it on the newspaper. Don't look up stuff. Don't Google somebody's name. Don't look up the name of the lawyers, any of those things that people have a natural inclination to do. I'm instructing you not to do because it would potentially interfere with your ability to listen to the evidence here.

All the evidence that you're going to receive this week is going to come from the witness stand or things that are introduced into evidence for you all to consider, the only law you're supposed to consider is law that I would charge you on at the end of the case. We have specific roles, and I'll talk about that as well.

The way I like to think about it is you leave here today and you come back tomorrow at 9:30 you shouldn't know anything more about the case tomorrow than what you know right now. Okay? So anything further from the state before we release them?

MS. MORRIS: Nothing from the State, Your Honor.

THE COURT: From the defense?

MS. GAY: No, Your Honor.

THE COURT: All right. Any further instructions I need to share, Madam Clerk?

MADAM CLERK: No, Your Honor.

THE COURT: Okay. So be in the jury room at 9:30 I'm going to instruct the lawyers to be here at nine o'clock for any pre-trial matters, anything like that, we're going to try and take care of. If I'm not calling you out at 9:30 that means we're working on the case. I'm not out here drinking coffee, or we're not delaying this thing because it's important for us, it's important for y'all, and I'm not going to waste my jury's time. Okay? So y'all are going to go back this way to the jury room. Get some instructions. They'll tell you where to go, where to park, all that kind of stuff. Okay, all right, so y'all have a pleasant evening. And y'all rise for the jury.

(Jury excused for today)

THE COURT: All right, y'all can be seated. All right, anything else regarding the jury that we need to address at this moment?

MS. MORRIS: Nothing from the state, Your Honor.

THE COURT: From the defense?

MS. GAY: Only that I had asked you to ask that one voir dire question. I did make this a court's exhibit the voir dire, written voir dire, about the if anybody had any special feelings about incidents involving guns.

THE COURT: And I appreciate that. And I did request or ask most, if not all of them, and I think an appropriate fashion on that one. I think that was too broad as far as the wording on it. I think when you start talking about feelings and so forth like that, it subjects the situation and injects too much into it, which would probably require follow up questions to get the court to explain what feelings are. And I'm not sure what your definition of feelings is, and I wouldn't want their definition of feelings to interfere with or lead to some misunderstanding between you and what the juror might be thinking of. So I did give that consideration in advance to that, and that was my rationale and justification for excluding that one from the voir dire. Anything else regarding voir dire?

MS. GAY: No sir.

THE COURT: Anything else? Okay, all right, so let's we've got motions that y'all need to bring before me, and to clarify anything in advance is, let's come, let's meet back here at 2:30. We'll reconvene at 2:30 and address all pre-trial matters this afternoon. Okay?

MS. MORRIS: Thank you, Your Honor,.

MS. GAY: Thank you, Your Honor.

THE COURT: All right, thank y'all.

(Court Break 12:39)

(Back on 2:30 PM)

THE COURT: Madam court reporter, are you ready?

COURT REPORTER: Yes, Your Honor.

THE COURT: Madam Clerk, you ready?

MADAM CLERK: Yes sir.

THE COURT: Okay, all right. State ready?

MS. MORRIS: Yes, Your Honor.

THE COURT: All right. Defense ready?

MS. GAY: Yes sir.

THE COURT: All right. I understand from the documents that y'all presented to me that we have a number of pre-trial motions that we need to address. The first one was the information, or, I guess, a request regarding the prior conviction of the violent offense. I'll be happy to hear from the state on that.

MS. MORRIS: Your Honor I believe we have worked it out.

THE COURT: Excellent.

MS. MORRIS: I have redacted the offense portion of the sentencing sheet along with the sentence that was given. I've shown it to Ms. Gay and we're in agreement, I

believe, we're in agreement that that's okay.

MS. GAY: Your Honor, if you don't mind, I'm going to sit. My foot, I have this foot problem it hurts to stand.

THE COURT: I understand. But no, that's fine.

MS. GAY: So she took --- we took the sentencing sheets that have the box checked for violent and most serious, and took out the stuff, and that's what we decided that would be good for both of us.

THE COURT: Okay, so how will that come in? You'll, you'll offer that, or by stipulation, I guess, without objection is that it. State's exhibit, without objection?

MS. GAY: I really --- I don't have a problem stipulating for it. If that's what we need to do to do it. She had, I think Linda ...

MS. MORRIS: Yes, Linda Hill. I plan on calling her to introduce that exhibit.

THE COURT: Okay.

MS. MORRIS: And enter it into evidence.

MS. GAY: Which is not really necessary if I stipulate but of course that's her choice. I'm not going to object.

THE COURT: Okay, no, I'll let, I'll let the state present it any way they want to, but I'll anticipate no objection from that. So that cures what could have been

an issue there. Okay, all right.

MS. MORRIS: Thank you, Your Honor.

THE COURT: Well, very good. All right.

MS. GAY: So that sort of resolves the motion in limine. However, if my client chooses to testify, which is what we were talking about, that we would just, I think that the solicitor indicated that she would not, you wouldn't be asking him questions if, I meant if I said to him have you been convicted of a violent crime? Yes. You're not going to ask any other questions.

MS. MORRIS: That's correct.

THE COURT: All right, so it's not going to go beyond the scope of that if Mr. McDaniel chooses to testify? Okay.

MS. GAY: Yes sir.

THE COURT: Okay, all right.

MS. GAY: Obviously I have a motion to sequester, Your Honor, for all the different people. I don't know who's in the room now, but this would be a motion that I'd ask you to grant for all the people. I know the victims are allowed to stay in the room and lead agencies are allowed to stay in the room. I would imagine there are some we need to keep in the hall.

THE COURT: I agree the victim certainly should stay. Lead investigator stay, I understand that. Any of the

other witnesses ...

MS. MORRIS: I just have my investigator, in the office. He’s not on the witnesses, though, Tom Austin, if he can be in the courtroom to help with ...

THE COURT: He's not, he's not anticipating to testify.

MS. MORRIS: No sir, he’s not.

THE COURT: All right, well, then that shouldn't be a problem.

MS. MORRIS: And then once witnesses they testified and they've been excused can they then sit in the court room?

THE COURT: Absolutely. I don't see anything wrong with that.

MS. GAY: I have no problem with that.

THE COURT: Okay.

MS. GAY: Assuming that they're not going to be called again, Your Honor.

THE COURT: Well, I'm not going to dictate again, I'm not going to dictate how the state tries the tries the case so, but I do think that once they're released, it's appropriate for them to stay if they wish. All right. So we'll sequester all of the witnesses, with the exception of the two victims, which are certainly entitled to stay, as well as the lead investigator. Okay, all right, what

else? There was information that y'all discussed or wanted to discuss regarding statements made by the defendant. Is that right?

MS. GAY: Yes, sir, that's complicated, because I also filed a motion in limine to determine the admissibility of any statements of my client. So this ... I was confused, and I was confused about how this would be played out. I just talked to Julie Shivers, who said this came up in a case that she had also. So my client met with the police at some point, and normally in a case, even if they may or may not want to admit that statement, we have a motion in limine, *Jackson vs. Denno* situation to determine the admissibility of the statement. She mentioned in your chambers that she wasn't planning on admitting the statement. However, when we were talking further, I said, well, if my client testifies, I firmly believe he should be able to, you know, to flesh out and document his defense in full. So if he wants to say to the jury, you know, I met with the police and I told him I got shot by the other guy, or whatever he wants to say that that's something that should be allowed as his version of the, if you want to call it res judicata you want to call it grace, just die of what happened. And so she said, well, if he does that, and it's different to the statement, I would be cross

examining him on the statement. And I said, yeah, but the statement that you already told me that you're not going to admit you don't want to be doing a *Jackson v. Denno* on, because even if she's going to bring it up in cross there still has to be a Jackson v. Denno. So I think that that's what we should do, is have a Jackson v. Denno hearing about the fact that he did, in fact, meet with the police and they did, in fact, get words exchanged in terms of determining whether that was, you know, constitutional or not, and then the fact that she wants to try to say that, to limit my --- I understand this business about how it's supposed to be self serving hearsay. The problem is, is that if it's a document, and my client wanted to testify and have a copy of his video or a copy of some written statement that he had, I can understand that, but to to limit my client's testimony about his own life and what happened on the day that this incident occurred, and what happened next, and all that, I find, you know, I don't see how we do that. Because, I mean, just because it's --- it's okay --- so he's not a party opponent, because the state isn't calling it to say that it's a statement from a party opponent, and to do that legal analysis, it's the man himself saying that this is what happened in my own life that I was, you know, approached by the police. He is the one that called

911, if you recall, you know, the police came. I talked to the police. I told him that I'd been shot. These are not self serving hearsay statements. They're factual to the facts of what happened.

THE COURT: All right. So the anticipated testimony is from the defendant would include information that number one, I called 911, I talked to the police. Is that right?

MS. GAY: Yes. He talked to the police.

THE COURT: Okay, along those lines, and I know we're talking in general terms. All right. And as a part of cross examination from the state, what's the state anticipate doing?

MS. MORRIS: Well if he --- The state has no problem with the defendant taking the stand, telling the story, but if that story is inconsistent with what he told --- the state does not plan on going into the statement that he made to law enforcement, but if he says something that is inconsistent with that statement he made to law enforcement, then the state believes they can, that they could impeach him on it. So we're not looking at it from a *Jackson v. Denno* standpoint of whether that statement was made while in custody or voluntarily, we're looking at it from an impeachment standpoint.

MS. GAY: But if you're impeaching him ...

THE COURT: Wait, wait, wait. But you're using the statement or statement or words from him for the purposes of impeachment. You would have a officer testify that's not what he said, or something to that effect.

MS. MORRIS: I would impeach him with the recorded statement that we have.

THE COURT: All right. So from the defense standpoint, you're talking about a *Jackson v. Denno* hearing to predicate the admissibility, or potential admissibility of a statement, or use of the statement, even, is there any question that it's not voluntary?

MS. GAY: Any question? I mean, I don't think that that's, I mean, I don't think, Your Honor, I can stipulate to that.

THE COURT: I mean, the purpose of the Jackson V. Denno hearing is to determine, I guess, amongst other things, was he in custody, was it voluntary statement. Did it invoke the need for the Miranda warnings, or the totality of the voluntariness of the statement, are you saying that if you disagree that it's voluntary, then you might very well be right, and *Jackson v. Denno* hearing, is we can have that.

MS. GAY: In 35 years of doing this, Your Honor, I've actually never had, ever in any trial which I have had plenty of them, a statement made to my client that was

admitted in a trial or a jury, where there wasn't at least a showing by the state that it was, in fact, voluntary. So I think ...

THE COURT: Well, that's why, that's why I asked, is it your contention that it wasn't voluntary?

MS. GAY: It's my contention that we need to discuss that beforehand in a situation outside the presence of the jury to determine, I mean, I don't think I could, as me as the lawyer could say, oh, this is voluntary. I think that you as the judge has to be the one that says that. So, I requested a hearing.

THE COURT: Okay.

MS. GAY: Now, the way Julie said that they handled it in her case, I think that she was told it was like they said that he could say, her client said, I talked to the police, I told him what happened, or something like that, you know. In this case, because of the fact that there's this --- because his original statement may have been different than his statement that he testified, like I said, she's saying that she wants to impeach him with it. But I think we definitely have to determine the voluntariness of it, no matter what. I can't just disagree.

THE COURT: And that was my question. Obviously, if you said no it was completely voluntary then we wouldn't

need the hearing. If there's an issue or a question, or you're requesting a ruling on it, then I will rule on it. We can do that, all right.

MS. GAY: I don't think any of it takes very long.

THE COURT: All right. All right. So we'll circle back to that. Let's see if there's anything else we can take care of before we get to get to that. Something about expunged or sealed records?

MS. MORRIS: Yes, Your Honor, I have two witnesses that will be testifying that when I run their criminal history, expunged offenses still show up on it, and so I don't want defense to be able to elicit any testimony regarding ...

THE COURT: I guess first question, why are they still showing up? They're expunged.

MS. MORRIS: I do not know, Your Honor.

MS. GAY: Who are these people?

MS. MORRIS: One is Dreyon Gaillard.

THE COURT: If they're expunged. They're expunged. I would have to see the document so I could say, yes, I've looked at this and they are, in fact, expunged. I'm taking your word for it, because I believe you, but I would think I would need to see that.

MS. MORRIS: Okay.

THE COURT: So why don't you share that information

with Ms. Gay and share it with me, and if it's been expunged, if there's not some question to it then in all likelihood I'll say that no, she can't use that for the purposes of impeachment.

MS. MORRIS: It does say non conviction.

MS. GAY: Well a non conviction is not a conviction anyway.

MS. MORRIS: I just want to make sure it was I just want to make sure.

THE COURT: So it's identified as a non conviction?

MS. MORRIS: It is identified as a non conviction on his criminal history. It's just not --- it's still contained on here.

THE COURT: Yeah, that doesn't make much sense, I guess, but I'm not in charge of that, so, okay.

MS. MORRIS: I just want to make sure that does not come up in any way.

THE COURT: All right.

MS. MORRIS: And then the other one, is for ther one is for one of the victims, Jared. There were some events that happened after the shooting, and the state would request an order precluding any testimony, eliciting any testimony regarding the events that occurred after the shooting, which resulted in this arrest of Jared Cleveland, which was later dismissed and expunged.

MS. GAY: That's the man who's acting out at the scene when he gets arrested? The one who was arrested at the scene?

MS. MORRIS: Yes after the shooting.

MS. GAY: I don't think on the video he says that ...

THE COURT: Let me make sure I understand this. One of the victims had a post shooting arrest?

MS. MORRIS: That's correct.

THE COURT: For this incident, or for some other incident?

MS. MORRIS: It was --- law enforcement, Berkeley County Sheriff's Office actually arrests four people that evening for obstruction of justice. So what happens is, after the shooting they're trying to close off the crime scene and as family members are learning about this event they're coming on to the crime scene they're becoming very upset because Jerod Cleveland is on the ground paralyzed. They're not sure what's going to happen to him. So when they cross over the crime scene, law enforcement confronts them, and ends up arresting four family --- four family members, including one being the victim, Jared Cleveland and the state would like to ask for an order, precluding any testimony eliciting --- well for the defense trying to elicit any testimony regarding that. The state believes that's not relevant and it could

mislead the jury, confuse the jury as to what the issue are because this happen after the fact.

THE COURT: All right. Does the defense anticipate trying to get some of that information in? We're not talking about the expungement we've moved to the victim charge post shooting. What's ...

MS. GAY: I think there's a statement from one of the officers, Your Honor, who says, is he going to the EMS, you know, he got hit in the ear. And they say he --- well, he's a suspect. I think they're saying he's a suspect to this charge, not the one that's the one she's talking about. And that ...

THE COURT: Are you anticipating if this --- if the victim who was arrested testifies, do you anticipate trying to cross examine him or use for impeachment purposes this charge?

MS. GAY: No.

THE COURT: Okay. Well, that eliminates that.

MS. MORRIS: I just want to be clear. I'm sorry, Your Honor. So, Ms. Gay is not going to try to elicit any testimony of what happened after the shooting?

THE COURT: I think that's what she just said.

MS. GAY: After the shooting. It's not him getting arrested for the obstruction. There's some other things after the shooting that maybe are referred to by the

police officers and things like that that. I mean, I can't --- I'm not going to accept the fact that I can't say anything that happened after the shooting. I'm just not going to ask him whether he got arrested for obstruction. You know, if there's any of that video that you show, I assume you're not going to --— it would show ...

THE COURT: My understanding is the state's request to limit the testimony is as to the arrest of the victim for a presumed offense at the scene.

MS. MORRIS: That’s correct.

THE COURT: Not information ...

MS. MORRIS: No investigation.

THE COURT: ... Not discussion, not investigation. And the initial response, I thought Ms. Gay was, no, I'm not going to ask that witness if he testifies or other witnesses about that charge, but you anticipate, rightfully so, being able to ask questions surrounding the entire situation. Is that correct?

MS. GAY: Yes.

THE COURT: Okay.

MS. MORRIS: Thank you.

THE COURT: All right. All right. Third party guilt?

MS. GAY: Your Honor, this is complicated, because in --- you saw the facts from our previous motion hearing

and my client, in his defense, and that's what he testified to, says that he isn't the person who pulled the trigger, if you want to call it, intentionally hit, intentionally shot either of these victims. So that's his defense. And so to try to argue that he is not allowed to say that the gun you know discharged without him intentionally doing it, because it might infer that someone else was responsible, that completely limits his ability to present his defense. I mean, I'm not gonna, I mean, so I guess ...

THE COURT: If his defense is I'm not responsible for the bullet that caused the injury or injuries that someone else did that that's certainly a third party guilt. But I think that certainly sounds like it's within the realm of appropriate testimony.

MS. GAY: That's what I say. That it's in the realm of appropriate testimony.

THE COURT: I'm agreeing with you. Okay, but where it's a fantasy defense, but no there's certainly a scenario under these circumstances that there could have been another shooter and I think that the testimony relative to third party guilt wouldn't necessarily be excluded. I will not rule on that completely. I'll be happy to hear from you when the testimony develops, because right now I don't have real testimony in front of

me. If there's real testimony in front of me that sounds like I think it's going to sound then I will probably be ruling that it's aloud, but I'm reserving the final ruling on that one, and I'll let you put that objection on the record as appropriate.

MS. MORRIS: Yes, Your Honor.

THE COURT: Okay.

MS. GAY: I think it makes a difference in the opening argument though. Because of how --- what I'm going to be able to say, Your Honor.

THE COURT: No you can, what I'm saying now is I'm anticipating allowing it in, if the ...

MS. GAY: Okay.

THE COURT: ... testimony doesn't support it, well, then that's going to be the problem for you and your situation with the jury.

MS. GAY: Yes sir. Thank you.

THE COURT: Okay.

MS. MORRIS: Your Honor, the state's main point is we don't want some like phantom person that just shows up. We understand what she's talking about that the defense is, Hey, Jared shot Jarod you know, this is where the gunfire is, and we're okay with --- the state's fine with that being the defendant statement. We just don't want it to be like and then there's this fourth person that's the

actual shooter in all of this. And the reason I'm going there is because in that statement he makes to law enforcement, he originally says that I didn't have anything to do with it, and I just got hit by this errant bullet. That's why ...

MS. GAY: I mean, he's already testified ...

THE COURT: Wait, wait, wait. And I think it does present a scenario where there can be testimony about third party guilt. But I'll leave it to you all to present whatever information you want relative to the to the opening statements, and, of course, the testimony, and if it goes too far afield, you're certainly entitled to object to any --- well, at any point in time, relative to any inference of third party guilt, you can object. But I think I'm kind of giving a little bit of an idea of where I'm headed with it, but I'm not ruling, and you will have to preserve the record by any objection, of course.

MS. MORRIS: Yes, Your Honor. Thank you.

THE COURT: Okay. All right. And then was there a question about chain of custody?

MS. MORRIS: Yes, Your Honor. And I believe we may have worked it out.

THE COURT: Good.

MS. MORRIS: So we have the ballistics evidence in

this case. So Kevin McGowan is the crime scene investigator at the scene. He's the one that collects the shell casings from the scene, as well as the two guns. So we will be having him testify. From there he puts it into Berkeley County Sheriff's Office evidence, the evidence custodian, or one of the evidence custodians there, Michael Locklear, he's the one that takes that evidence to SLED. While it's at SLED, it then gets transferred to Carolyn Harrelson, who then transfers it to Hailey Gardner, I believe is her name. And then it goes to James Green, who is the ballistic analyst. He will testify that when he received the evidence it was not tampered with if it was sealed. And so what the state would like to do is eliminate the chain witnesses. So we will have Kevin McGowan testify to what he collected at the scene, and then eliminate Michael Locklear, Carolyn Harrelson and Hailey Gardner, and then have James Green, the ballistics analyst, complete it from there. And I believe I have no objection from Ms. Gay, but I'll let her speak.

THE COURT: Ms. Gay?

MS. GAY: So I recently had this trial, and Charleston it was a murder case, and they talked about fungible versus non fungible evidence. And I don't think that there's really I think what we ultimately decided in

that situation is that these bullets and casings are things, are not really things that can be messed up. You know, if the seals are still done. So I don't have a problem. I will agree to stipulate to what she said in terms of who collected it. And then, you know, I don't know, maybe we do one, or maybe not one, but when it gets to the place where it's tested and that person comes to testify, there's really nothing they can do to them. They just stay in plastic in packages that are taped up the whole time. So I don't have a problem if we shorten the chain.

THE COURT: Okay, all right. And yes, I think that's consistent with the law that the chain has to be established, but doesn't have to be, does not require the testimony from every single person is not involved in some significant way in the handling of the evidence or in a situation where it could be tampered with or destroyed. Okay. All right, all right. So back to the *Jackson v. Denno*. I'll be happy to hear from you.

MS. MORRIS: Your Honor, if I could just have a minute to bring up the *Jackson v. Denno* motions. The state calls detective Nehemiah Read.

MADAM CLERK: Raise your right hand. Do you swear or affirm the testimony you shall give this court in the matter of this case to be the truth, the whole truth and

nothing but the truth so help you God?

MR. READ: Yes ma'am.

MADAM CLERK: Thank you, you may be seated. Please state your full name for the record and spell your last name.

MR. READ: Nehemiah Read, R-E-A-D.

Mr. Nehemiah Read - Direct Examination by Ms. Morris

Q. Detective Read, where are you currently employed?

A. Berkeley County Sheriff's Office.

Q. What was your position on January 14?

A. I was the investigator detective.

Q. And what are your duties as an investigator, Detective?

A. To collect any information, any evidence specific to the incident in question.

Q. During that time, did you have an opportunity to be involved in the investigation of the shooting that happened at 3856 Burns Drive in St Stephen Berkeley County?

A. Yes.

Q. Did that investigation lead to an arrest on the suspect?

A. Yes, it did.

Q. Who was that suspect?

A. James Cirearm McDaniel.

Q. And what charge was James McDaniel charged with?
A. Attempted murder times two for Jared and Jarod Cleveland, as well as possession of a weapon during the commission of a violent crime, as well as accessory after the fact.
Q. Was it possession of a weapon by a person convicted of a violent crime?
A. Convicted of a violent crime, yes.
Q. Before the arrest of the defendant, did you meet with him for the purposes of conducting an interview?
A. Yes.
Q. What day did you meet with him?
A. That would be on January 15th.
Q. So the day after the shooting?
A. Yes ma'am.
Q. Where did you meet with him?
A. At Trident hospital.
Q. Why did you meet with him at Trident hospital?
A. Because that's where he was being treated for due to his injury that he sustained, a gun shot wound, that was the room that he was in or that's where he was located, excuse me.
Q. So these are different circumstances than you're used to since he's in a hospital, do you know if he was able to use the bathroom before you interview him?

A. I was not aware.
Q. Did he ask to use the restroom when you interviewed him?
A. He did not.
Q. Did he require any drink during the interview?
A. He did not.
Q. Did he request anything else besides using the restroom or a drink during the interview?
A. He did not.
Q. Was there anyone else conducting the interview with you?
A. Yes, there was.
Q. And who was that person?
A. Terry Boroff, detective.
Q. Did you record this interview?
A. Yes, ma'am.
Q. How did you record the interview?
A. With a body worn camera.
Q. Do you record all of your witness interviews?
A. Yes.
Q. So it's not unusual for you to record interviews with other people?
A. Correct.
Q. In this particular case, did you record all of the interviews you conducted with witnesses?

A. I don't recall.
Q. To the best of your recollection?
A. To the best of my recollection, yes.
Q. During the interview, did he ever say, did the defendant ever say that he did not want to speak with you?
A. He did not.
Q. Was he cooperative and helpful?
A. Yes.
Q. Did you read the defendant his Miranda rights?
A. I did.
Q. And how did you read him his Miranda rights?
A. I read them each question out loud, as well as the document as a portion with the individual initials that shows that they understand each portion of the Miranda.
Q. And so this is a form that you go through with the defendant. Is that correct?
A. Correct. It's issued by the Berkeley County Sheriff's Office, standard form.
Q. And you just testified that as you go through each sentence on that form he initials it?
A. Yes, ma'am.
MS. MORRIS: Your Honor, permission to approach the witness?
THE COURT: Yes.

MS. MORRIS: I have already shown defense counsel what the state is marking as states exhibit 66 for pre trial purposes only. Sorry, Your Honor.

Q. Detective Read, I'm handing you what's been marked for identification purposes as State's exhibit 66 for pretrial purposes only. Do you recognize this?

A. Yes, ma'am.

Q. And how do you recognize it?

A. It's the document that I used when I provided it to defendant McDaniel.

Q. And what is located on this document?

A. Mr. McDaniel's initials as well as signature indicating that he understood everything in the document as well as him stating he would like to provide information.

Q. And is this document a true and accurate representation fo the document you provided to the defendant on January 15th, 2025?

A. Yes ma'am.

MS. MORRIS: At this time the state moves to admit states exhibit 66 for pretrial purposes only into evidence.

THE COURT: That was five-six, 56?

MS. MORRIS: 66, I'm sorry.

THE COURT: 66. Any objection?

MS. GAY: No, that's the statement form.

MS. MORRIS: Miranda statement.

THE COURT: Without objection.

(State's Number 66 admitted)

Q. So the start of your interview, you provided the defendant with this Miranda warnings, correct?

A. Correct.

Q. And he initialed and signed that he understood those warnings?

A. Correct.

Q. Is he in custody at this time?

A. He's not.

Q. So he's not handcuffed to the hospital bed at all?

A. He's not arrested, correct.

Q. Did he understand that he could leave at any time, from a law enforcement standpoint?

A. Yes.

Q. From a hospital standpoint, whether or not they discharge him or not, you don't know?

A. Correct.

Q. But from a law enforcement standpoint, he is able to leave at any time?

A. Correct.

Q. And during that statement on January 15, 2024, what statements did he provide to you and Detective Boroff?

A. Statements, basically, he stated the purpose of why he was there, that an altercation that took place inside the bar as well as outside of the bar, and what he did after, after the altercation that took place and where he went.

Q. And what did he say occurred?

A. He stated that there was arguing altercation had happened inside the bar. Once he left the bar, altercation continued outside. Then multiple gunshots were heard. Then the defendant stated that he ran from the scene, stated that he sustained a gunshot wound while running away. Also I asked if he had any involvement in the incident, and the individual said no, that he did not.

Q. And this individual is the defendant McDaniel?

A. Yes ma'am.

MS. MORRIS: At this time, the state would like to play the defendant's statement made to law enforcement hospital. I believe Ms. Gay has no objection.

MS. GAY: I have no objection.

THE COURT: All right. Without objection.

MS. MORRIS: So we will make that state's exhibit 67. Your Honor, this whole statement is about 27 minutes.

THE COURT: All right.

(State's Exhibit Number 57 was admitted -Video)/(Video Played)

Q. Detective Read, while you were speaking to Mr. McDaniel, did he appear to be under the influence of drugs or alcohol to the extent that it would impair his ability to understand him?

A. No, he did not.

Q. Did the defendant appear to have any physical or mental disability that would have impaired his ability to understand what was being said and asked?

A. No he did not.

Q. What was the approximate length of the conversation with the defendant that we just watched?

A. Approximately 18 minutes.

Q. Did you promise the defendant anything in return for making this statement?

A. I did not.

Q. Did you coerce the defendant into making a statement with any threats or any actions?

A. I did not.

Q. To the best of your knowledge, was the defendant's statement freely and voluntarily given?

A. It was.

Q. And as to the Miranda warnings that you mentioned at

the beginning of this video, how did the defendant acknowledge that he understood advisement of each warning?

A. By initialing each section of the form.

Q. Did he give any sort of verbal indication as well?

A. Yes, he said yes that he understood.

Q. Did the defendant appear to have the ability to understand written and spoken English?

A. Yes, he did.

Q. Did the defendant's answers to questions appear rational, or was he so emotional that you had concerns regarding his ability to understand the warnings and waive his rights?

A. Rational.

Q. Did the defendant mention an attorney at any time during the question?

A. He did not.

Q. Did the defendant at any time during the questioning change his mind and asked to stop because he wanted an attorney?

A. He did not.

MS. MORRIS: No further questions from the state.

THE COURT: All right, thank you. Any cross examination?

MS. GAY: Just a few questions, Your Honor.

Mr. Nehemiah Read - Cross Examination by Ms. Gay

Q. So we just watched the video, and when you got there this man was hooked up to tubes in the hospital, right?

A. I didn't see any tubes in there.

Q. Well, he was in hospital bed?

A. Yes ma'am.

Q. And he was under the care of doctors?

A. Yes ma'am.

Q. And arguably under medication of some sort?

A. I'm not aware of what medications he may or may not have been on.

Q. Well, when you saw the man laying in the hospital bed, did you ask him what medications he was on?

A. I did not.

Q. So for all you know, he was on some type of morphine or something but you didn't ask that?

A. I did not ask if he was on any medications.

Q. Okay, so in terms of what was being said, you said that, and we watched it, you said that he's verbally answering these questions and signing the document, but did he --- it seem to me kind of like he's nodding off every now and then. Was he, you know, were there periods of time during this interview where he seemed to be, I think at one point, he's kind of staring in space is maybe the best way to say it.

A. No he did not.
Q. Seemed to you to be engaged in the conversation?
A. He did.
Q. And did he tell you that he wanted to know if he could take charges out on the people who shot him?
A. Can you repeat that question, please?
Q. Did he ask you whether he could take charges out on the person or people who shot him?
A. I don't believe so. I don't recall.
Q. You don't recall.
MS. GAY: Hold on, one moment Your Honor.
Q. All right, so he wants me to ask about a second interview time where you may have talked to him at the jail. Did you go back to the jail to talk to him?
A. I don't recall.
Q. You don't recall coming to the jail?
A. This was a long time ago I don't recall.
Q. Okay. Do you recall taking him, picking him up from the jail and taking him to the sheriff's department, sheriff's office?
A. I honestly, I don't recall.
Q. He wants me to ask it one more time. Do you recall talking to his brother and his brother asking you to come to the jail to talk to him?
A. Honestly, I don't recall.

THE COURT: Any further cross?

MS. GAY: Not with this witness, no. Thank you,.

THE COURT: All right, any redirect?

MS. MORRIS: No redirect, Your Honor.

THE COURT: All right. You can step down. Thank you.

MS. MORRIS: There's nothing further from the state, Your Honor, unless you'd like to hear arguments.

THE COURT: Certainly I'll be happy to hear from you.

MS. MORRIS: Your Honor, the state does not plan on introducing that statement. The only purpose that the state would use that statement for is to impeach the defendant if he talks about that he spoke to law enforcement, and he gives a different account of what he said to law enforcement then we would impeach him on that. But for the sake of the Jackson V. Denno hearing, the state would assert that this was a voluntary statement. He was not in custody, therefore Miranda is not required, but Miranda was read to him anyway, and even though he's in the hospital, it's still a voluntary statement that he made. Detective Read testified that the defendant understood he went through his Miranda warnings on that document with him, where he initialed and signed, stating that he understood at no point during the interview did he ask for an attorney. He also was not denied use of the restroom or being able to drink water

or anything that the defendant may require for his comfort. As far as being in the hospital and potentially under some sort of medication, there is case law. There's a case *State vs. White* that's 311 SC 289, 1993. This is a court of appeals case in South Carolina. It was a felony DUI case where the victim died and the defendant made statements while intoxicated at the hospital, he was under medication, and the trial court found that both the statements that he made to law enforcement were voluntary in light of the totality of the circumstances, notwithstanding medication and restraint in this particular case the defendant was restrained, that's not the case here. And the facts that that court took into consideration was the timing. Unfortunately, we don't know when the defendant received medication or if he did receive medication, but that the defendant did give concise answers to questions which he did in this case, and the court noted that the fact that he had been under medication and strapped to his bed was at best, only a circumstance the trial court was to consider in determining voluntariness. It was not the end all be all in that case. And the evidence presented here today state's exhibit 67, for pretrial purposes only, in that interview it was clear that the defendant was not under the influence, he was not intoxicated he's answering

questions provided by the detective. He's not slurring his words, and so that the state would say that the defendant was not in custody. He was given his Miranda warnings, and the statement is voluntary and, therefore, if the state does intend to introduce it, which at this point the state does not, that the state would be allowed to do so.

THE COURT: All right, thank you. Ms. Gay?

MS. GAY: Well, Your Honor, I think the man is staring off in space and in la la land obviously on some type of medicine. I think that the fact that the officer never asked him what or even any of the attendees that might have been there, that were medical professionals, what type of medication he is on before he starts interviewing him. He also definitely is acting as if you know, Mr. McDaniel is a victim in the case, as opposed to a defendant. I mean, he does give him his Miranda warnings, but he basically, after that, says, well, I'm sorry this happened to you. I'll find out what happened to you, and I don't think it's voluntary statement.

THE COURT: Okay. All right. Thank you. I've had the opportunity to review, obviously the video as well as the live testimony of the officer who was there, who took the statement. It doesn't appear to be excessively long, of long duration. I agree he is not in

custody. The Miranda warnings, I think, only go to enhance the voluntary nature of the of the of the statement, although they weren't necessary, they were provided, they were initialed. That gave me a, I guess, a starting point as to his ability to understand what was going on, despite the fact that he was in the hospital and possibly under some medication, that he still retained enough ability to be cognizant of his surroundings and of the nature of the circumstances as well as the questions that were being asked to him. It wasn't --- as I said before, he wasn't in custody it wasn't excessively long. He was asked questions, although it was implied that he was a victim, there was more questions about --- concerns about the injury, not necessarily anything that would be construed as a misrepresentation. It was not --- he wasn't denied any information. He wasn't denied the ability to stop the interrogation or questions when he was in interrogation, no excessive, repeated nature of the questions that were asked, no offers of leniency, nothing that would be appear coercive in any way. I do think that, based upon my review of the information and the testimony presented the totality the circumstances, indicates that the defendant's will was not overboard at this time the statement was freely and voluntarily and knowingly made,

and therefore would not be prohibited under the *Jackson vs. Denno* standard, at any point in time when the statement might be offered for whatever purpose which will be determined as we try the case I will allow the admission at that time, subject to whatever appropriate admission or authentication standards are necessary. So anything further as to this matter?

MS. GAY: No sir.

THE COURT: Okay, all right, anything else we need to cover, pre trial?

MS. MORRIS: I think that's it, at least for the State, Your Honor.

THE COURT: Okay, anything else pre trial, Ms. Gay?

MS. GAY: Thank you, Your Honor. So we're finished for the day, right?

THE COURT: We are done for the day. If y'all please be here at nine. Just a couple of reminders before we start. If y'all have the exhibits, y'all get together, pre mark them. Make sure that anything can be stipulated to will be stipulated to. If there's electronic devices, the ELMO or the computer or the screen make sure that those are all working. Is there going to be any weapons in evidence?

MS. MORRIS: There are, two firearms.

THE COURT: All right. And I can assure the jury that

all of the appropriate safety standards and requirements under the rules of the court and the courthouse are being met. Is that right?

MS. MORRIS: Yes, Your Honor.

MS. GAY: They don't take them out of the box.

THE COURT: Okay, okay,

MS. MORRIS: Berkeley County Sheriff's Office requires a safety mechanism when they're brought in.

THE COURT: Okay.

MS. MORRIS: We're just going to provide them to two witnesses, Kevin McGowan and then James Green.

THE COURT: Okay, all right. Well, yeah, I'm going to advise the jury that we will have weapons involved and give them that assurance as well that all the safety factors are being are being met in this. All right. And if there's any demonstrative evidence, photographs, items, weapons, certainly you understand the restrictions relative to the use for demonstrative purposes, and anything that has not yet been entered into evidence should not be used during the opening statement.

MS. MORRIS: Yes, Your Honor.

THE COURT: Understand, Ms. Gay?

MS. GAY: Yes sir.

THE COURT: Okay, anything else I have not covered, anything else I need to cover that y'all can think of?

MS. GAY: Not that I can think of.

THE COURT: Okay, all right, good deal. I will see you all in the morning at nine. Thank you all.

MS. MORRIS: Thank you.

(Day Two AM Begins)

THE COURT: Before we bring our jury back, there may be some questions. Is that, right?

MS. MORRIS: Yes, Your Honor. First I would just like, well, Ms. Gay's not here.

THE COURT: Okay.

MS. MORRIS: She just ran to the restroom.

THE COURT: I'm sorry I didn't even notice I wasn't looking out enough, apparently.

MS. MORRIS: But when she comes back, definitely, we have some questions.

THE COURT: We will wait for her. That's probably a good idea. Good morning, Ms. Gay.

MS. GAY: I take medicine. So I'm going to have to administer medicine in just a minute.

THE COURT: I'm sorry say that again for me.

MS. GAY: I take medicine. Before we actually bring the jury in I need to step out and take medicine, but I can talk now. So Your Honor, we remember my client yesterday was talking about how he was --- this other occasion where he went and met with the sheriff's

department and we were talking about whether or not there was going to be another statement from him. Well, there is actually another video recorded statement. I don't think it's not voluntary, but it was something that my client and I discussed, and we wanted to let you know that I don't think it's something that's one of these third party hearsay issues. It's a situation where he asked, after his arrest, he asked to be brought to the Sheriff's Department. He comes to the Sheriff's Department, he tells them that he wants to take out charges on the people. They ask him if he wants to make a statement about the facts, and he asks for a lawyer. And they do Mirandize him in the course of the conversation. In his testimony, he would just testify that he went there after his arrest, and he told him he wanted to prosecute the guys. And you know he said that he didn't, he didn't give any statement on the facts. So I don't think, like I said, I don't think it's one of these other kind of cases where there's third party hearsay statements. I don't think that they would --- if she thinks she would need to cross examine him on that video, then we might need to do a *Jackson v. Denno*. This is something she and I talked about, she sent me something over the evening for us to talk about. But I don't think --- do you intend to impeach him on that statement?

MS. MORRIS: He doesn't give any statement.

MS. GAY: Right.

MS. MORRIS: He just gets Mirandized and says, I want an attorney that he doesn't want to talk me. So, to me he makes no statement.

MS. GAY: Right? That's what --- but I want to just put it on the record that ...

THE COURT: Is that what you want to present to the jury?

MS. GAY: Well, I don't want the video in, and I just ...

THE COURT: The state's not asking for it in. Is that right?

MS. MORRIS: That's correct.

THE COURT: Okay. Then it doesn't appear to be any statement or testimony that was non testimonial in nature from the sounds of it. So I'm not sure that we would treat it and have to worry about the *Jackson v. Denno* concerns and exercising his right to counsel certainly should not come in in that regard.

MS. GAY: Well, he just is going to ...

THE COURT: I'm not sure what you're asking for. What are you asking for?

MS. GAY: I'm not asking for anything, Your Honor. I'm just putting on the record at this point that I don't

think it's an involuntary statement like some of this other --- like that other one was, but I also know that he's going to testify about the encounter, because he kept talking about it yesterday. He's going to testify about the encounter at the sheriff's department and what he asked of them about and I just didn't want her to, all of a sudden say, she wanted to cross examine him with the video. I mean, you know, impeach him with the video. We're just making a record while we're trying to figure it out.

THE COURT: If he says something that's different than what's on the on the video, then she might very well have that opportunity.

MS. GAY: I don't think he's going to Your Honor. We discussed that.

THE COURT: We have to play that one as it goes along, it's not necessarily a statement it's a video, a preservation of the circumstance, just like the video of the incident. If they can testify and properly authenticate it and introduce it and it's contradictory then ...

MS. GAY: I don't think so. I just need to step out one second.

MS. MORRIS: As far as stipulations to the evidence, Your Honor, I give you and your clerk, as well as the

court reporter and Ms. Gay the state's exhibit list. It lists states exhibit one through 67 however, we have stipulated to admitting one through 65. 66 and 67 are just what came in yesterday for identification purposes, only, for pre trial purposes, so I just put that on the list, but it's actually for trial will be states exhibits one through 65 admitted without objection.

THE COURT: Is that right, Ms. Gay?

MS. GAY: Yes.

THE COURT: Thank you all for that. Okay, those with one through 65?

MS. MORRIS: Yes.

THE COURT: Without objection, those have been marked, and we have made those available for the court reporter?

MS. MORRIS: They've all been marked, and I definitely can just put them right up here on the exhibit table. They're just in this binder for organizational purposes.

THE COURT: Court reporter you need anything with those?

MADAM COURT REPORTER: That's fine. I'll just give them afterwards, Your Honor.

THE COURT: Okay. All right.

MS. MORRIS: And then the only other thing Your Honor

is going back to the to the third party guilt. And I do think we're all in agreement with it. I just don't want defense in opening statements or try to elicit testimony that this was some phantom fourth person that we don't know about, that's the person in the hoodie. So she can say what she will of the victims, I just don't want there to be this phantom fourth person that all of a sudden comes out and there's no evidence of it.

THE COURT: We'll just have to deal with that as it comes up. There's a circumstance for third party guilt where I can see testimony in that regard would be appropriate. But I'll leave it to you to object as you as you feel necessary.

MS. MORRIS: Okay, yes, Your Honor. All right, all right. You need a minute?

MS. GAY: Yes.

THE COURT: Okay, otherwise, ready to go?

MS. GAY: Yes.

MS. MORRIS: Yes, sir.

THE COURT: Okay. All right.

(Court break)

THE COURT: Defense ready to bring the jury in?

MS. GAY: Yes. Sara Norton is with me today, Your Honor, I don't know if you recall, I told the jury she would be I don't know if anybody knows her.

THE COURT: Yes, I know Ms. Norton. Good morning, Ms. Norton. Let's bring our jury in. And well, one second. I'm going to request that you all stand every time jury comes in, every time the jury leaves, out of respect for the jury and as to any kind of preliminary remarks, let's not do any speaking objections. If there's discussions, or any kind of discussion with the court, direct the questions and answers to me, rather than to each other in that regard. Okay?

MS. MORRIS: Yes, Your Honor.

THE COURT: I know y'all are aware of all that and not a real concern, but I always say it before the trial starts. Okay. Thank you.

MADAM CLERK: Jury's coming in.

THE COURT: All right, y'all may be seated. Thank you. Good morning ladies and gentlemen. We are ready to start the case of the state of South Carolina versus James C. McDaniel. I will have the clerk of court put under oath as to this case.

MADAM CLERK: Ladies and gentlemen of the jury, please stand and raise your right hand to be sworn. You shall, well and truly try and true deliverance make between the state of South Carolina and the defendant at the bar, whom you shall have in charge and a true verdict rendered according to the evidence so help you, God. If

you accept the oath, please indicate by saying, I do.

Jury: I do.

MADAM CLERK: You may take your seat.

THE COURT: Thank you, ladies and gentlemen. Before we begin the trial, I want to tell you that this trial is probably going to be different from what you might expect. Many people do not have a chance to attend actual court sessions, as you are doing now. And you may think from watching television movies or reading books that trials are always full of high drama, intense action and riveting circumstances. All of those things may be true at times, this trial is not for entertainment. It is a fundamental part of our democracy and effort to make sure that justice is done between the parties before the Court. Justice is often slow, deliberate and repetitive, the opposite from what you may be seeing on television, in books or in movies, the courtroom is a place of honor, dedicated to the protection and preservation of citizens rights through what many have called the greatest justice system ever created. The attorneys appearing before you are advocates for the parties that they represent. But first and foremost, they are officers of the court. They are sworn to uphold the integrity and fairness of our judicial system and to help you in the search for truth. You should expect them to be professional, competent and

ethical in the representation of their clients interests. Remember that you have taken, just taken an oath to try the case and reach a fair and just verdict. You are also expected to be professional, reasonable and ethical. I want to thank you for accepting this important responsibility of jury service and your contribution today to our justice system. What I say now is meant to serve as basically an introduction to the trial. These remarks are not charged on the law of this case. I'll instruct you on the law of the case at the end of the trial, before you begin to or before you retire to decide the case. Before the trial begins, I just want to explain some of the procedure that will follow so that you better understand what is happening, that we will allow you to take notes. There will be pads made available to you. You can take notes during the trial case, but remember that some people are better note takers than others. Jurors, notes should not be given any greater weight than your recollection or the recollection of another juror. The recollections of individual jurors should not be considered as reliable as notes taken by any other juror. I also warn you that when you're taking notes, you may not notice body language of a witness, which could be used by you in deciding the witnesses credibility. And those notes are notes for you alone. You have been

selected as fair and impartial jurors whose purpose is to find and determine the facts. You are the sole judges of the facts. If at any time I make a comment regarding facts, you must disregard. You are to determined the facts from the testimony you hear and any other evidence that is presented and admitted into evidence, you should not be influenced by any opinions or statements you may have heard outside the court. Know it's especially important that you perform your duty of determining the facts diligently and conscientiously, because ordinarily, there's no way to correct an erroneous determination the facts by a juror. When you comply with your oath to impartially determine the facts of this case, you will have fulfilled your duty as jurors, and no one will have the right to criticize your verdict. On the other hand, with equal emphasis, the same law that makes you the judges of the facts, makes me the judge of the law. The law as given by the court is the only law that you may consider. You must accept and follow it, even though you may disagree with it. I cannot tell you what the facts are, and you cannot disagree with me about what the law is or what the law should be. Your job is to take the law as I give it to you and apply it to the facts as you find them from the testimony of the witnesses and any other evidence that is admitted or presented. And after doing

that, you will render your verdict, a just verdict, under the solemn oath that you just took as jurors. And so I advise you to begin your deliberations, you must not discuss this case with anyone, including your fellow jurors, friends, family members, anyone involved in the case. This includes discussions, face to face, telephone, email, text, blogs, any other method of communication. You may not use the computer, cell phone or any other electronic device with communication capabilities anytime, while in the courtroom or during deliberations, during the breaks or meals or overnight if necessary. You may, of course, use those devices. However, you may not and should not, at any time, use those devices to get or send any information about the case, including, as I mentioned yesterday, information about a party, witness and attorney, court officer, news accounts, anything at all about the case or any research regarding any of the topics that are raised in deciding this case. During the trial, you should not read, listen to, watch or view any news reports about this case. This includes anything, maybe in newspapers, internet, radio or television. You must not consider anything that you have read or heard about the case outside the courtroom, whether before, during or after or before, during the trial. After the case is submitted to you, you must discuss it only in the

jury room with your fellow jurors. The attorneys and parties in this case, as I indicated to yesterday, they've been advised they're not to talk to you at all, so if you see anyone involved with the case, they don't even say hello, they're not being unfriendly they're just following my instructions. It's important for you to keep an open mind and not decide any issue in the case until all of the evidence has been presented and the parties have made their closing arguments, and I've instructed you on the law. In just a moment, the attorney for the state will make what's called an opening statement. The attorney will explain to you what the issues are, or at least what that attorney thinks the issues are in this case. The attorney for the defendant will also make an opening statement. What the attorneys tell you during opening statements is not evidence in this case. It's only their contention as to what the issues are. The evidence in this case will be presented to you by testimony from sworn witnesses, from the witness stand, and any exhibits that may be introduced. From time to time during the trial, you may hear one of the lawyers say something like, Your Honor, I believe a question of law, or there's a matter of law that we need to discuss with you. Or Your Honor, may we approach the bench, or sometimes I, myself, might find it necessary to excuse

you from the courtroom for a short while so the attorneys and I can discuss a matter of law. The reason for this is because you are the judges of the facts in this case. And sometimes when I'm discussing matters of law with the attorneys, it may be necessary for me to make some comment on the facts in connection with ruling whether or not a particular law applies. I'm not supposed to tell you what I think facts are, so I will excuse you from the courtroom while these discussions take place, so you will not be influenced by anything I may say or do in connection with facts. And determine what the facts are in this case, you must decide whether or not the testimony of witnesses are believable, it will be my responsibility to rule as a matter of law as to whether certain testimony is admissible at all or not. But once the testimony is admitted, whether or not you believe it is solely for you. To determine deciding whether to believe the witness, you have the right to consider whether the witness has an interest in the result, whether the witness is prejudiced for either the state or to the defendant, the opportunity the witness had to see or hear the matters which the witness may testify, and the way that the witness acts on the witness stand. You have a right to consider anything that is in the record that will help you evaluate the testimony of the

witnesses. That means it's your duty to pay attention. Pay close attention to the witnesses, observe the witnesses, listen to the witnesses and to the court. Don't let your thoughts wander, but pay attention to the testimony so at the end of the trial, you will be able to determine what the true facts are, to apply the law as I've given it to you, and render a true verdict. There is a list, and there has been evidence that has been stipulated to, and stipulations, that it is admissible and that will be presented to you in due time. Some of the items of the evidence can include firearms. I can tell you that there is a protocol involving the safety of firearms. The firearms are presented to you, usually with locks. They are certainly --- they're unloaded, they're checked beforehand, and there's a protocol that's followed by the law enforcement officers in the courthouse regarding any such items, to include firearms. If there are ammunition in any fashion, the ammunition and the firearms are never in the same location, same time. If a jury has a firearm they want to look at they can look at it. They need to look at the ammunition at a different time. I say this because I want you to have a certain comfort level and the safety that is put into the process with which this information is presented to you, to minimize and essentially eliminate

any danger associated with the presentation of such evidence. Mr. Foreman, your added duty will be to preside in the jury room and be the jury's spokesperson here in the court that will include the signature on the verdict form, but I will give you further instructions to explain that at the appropriate time. In order to preserve everyone's rights, I'm going to ask parties, if they object to anything that I said. Are there any exceptions to anything that's been said by the state?

MS. MORRIS: None from the state, Your Honor.

THE COURT: Anything from the defense?

MS. GAY: No sir.

THE COURT: All right, we're ready to begin the trial. State ready to proceed?

MS. MORRIS: We are, Your Honor.

THE COURT: The defense ready to proceed?

MS. GAY: Yes, sir. If you recall, we were going to maybe let me sit in the chair during the opening just because I have this leg problem.

THE COURT: Yes, I recall that and absolutely, and that is, Ladies and Gentlemen of the jury not any disrespect. It's a matter that we've discussed beforehand, and I've allowed. So, yes, we'll hear from the state.

MS. DONATO: Thank you, Your Honor. May it

please the Court. Ladies and gentlemen of the jury, good morning. Our victims in this case, are two brothers named Jared and Jarod Cleveland. A fun night out with family turned into a tragedy that would forever change the lives of Jared and Jarod Cleveland, because of the actions of this defendant, James McDaniel. Jared had to watch as his brother Jarod collapsed beside him, shot in the back, paralyzed from the chest down, he will never walk again. My name is Kayla Donato. My co counsel is Kawohikukapulani Morris. We represent the state of South Carolina for the ninth Judicial Circuit, and we serve with the pleasure of the elected solicitor Scarlet Wilson.

January, 14, 2024 these two brothers that I told you about decide to go out and have a fun night playing pool. They go out to 3856 Burns Drive in St. Stephen, which is where they live, go hang out and have a fun time with family. When these brothers arrive at the bar, neither of them are armed. The defendant, however, is already at the bar and he was already armed. They did not know each other. These brothers had never met this man in their lives. Didn't know each other. You're going to hear from Jarod. He's going to testify that this defendant got into an argument with him. This made him nervous. He went to his truck and he armed himself. You're going to hear from

Jared who is also going to testify that this defendant flashed his gun at him. You're also going to watch surveillance footage of the shooting. You're going to see Jared go to his own vehicle. Jared goes to Jared's car. You're going to watch as a defendant follows him, comes right up behind him. Jared turns around. They struggle over the defendant's gun. Jerod seeing his brother in a struggle with this stranger, comes over to help. He takes his gun out. Does he shoot the defendant? No. He hits him in the face with his gun to get him off his brother. The defendant shoots Jared in the ear at this point, close call for Jared. They separate. Jared manages to grab his gun from in his car that he's at. Returns fire. The defendant gets shot in the leg. Jerod standing right next to his brother, he doesn't shoot at all. He turns, tries to run, gets shot in the back, drops. You're going to witness Jerod's last moments of being able to walk. And what does he do in those last moments? He's trying to save his brother. Because of this defendant's actions, he was charged with two counts of attempted murder, two counts of possession of a weapon during the commission of a violent crime, and possession of a weapon by a person convicted of a violent crime.

So the judge is going to talk to you about the law at the end of this trial, I'm just briefly going to talk

to you about the elements of each of these charges. So attempted murder, this is attempting to kill another with malice aforethought. So what's malice? Hatred, ill will, hostility. Malice can develop in a second. It doesn't have to be premeditated or anything. He starts with two counts of possession of a weapon during the commission of a violent crime, the elements of this are the defendant committed a violent crime, and at the time of this violent crime, the defendant is in possession of a firearm. So there are some crimes in South Carolina that are classified as violent offenses. Attempted murder is considered a violent offense. Then possession of a firearm by a person convicted of a violent crime. He's charged with one count of this. So this is possessing a firearm by a person convicted of a violent crime. And violent crimes are defined in SC code section 16 1 60. Like I stated before, there are certain crimes in South Carolina that are classified as violent offenses. So you're charged with this if you're possessing a firearm and you have previously been convicted of a violent crime. So reasonable doubt. So as the state, we have the burden of proving the defendant's guilt beyond a reasonable doubt. So what does that mean? It's not beyond any doubt. It's not beyond all doubt. It's beyond a reasonable doubt. There are very few things in life that

we know with an absolute certainty. The law does not require that we prove his guilt to you. Beyond that, it's just, if you are firmly convinced of this defendant's guilt, then we have done our jobs.

You have brought with you everything that you need to decide the facts of this case, you are the fact finders. You have brought with you your intelligence, your common sense and your life experiences, very valuable. Don't get distracted by the facts of this case. The facts are simple. You're going to see what happened. There's a video on it. You're going to see Jared go to Jared's vehicle. The defendant follows him. Comes right upon him. They struggle over the defendant's gun. Jared gets shot in the ear. Jerod gets shot the back and is paralyzed. Simple. Don't get distracted. Now at the end of this case. We will have proved to you the defendant's guilt beyond a reasonable doubt, and we would ask that at the end of this trial, you find the defendant guilty on all charges. Thank you so much for your time.

THE COURT: Ms. Gay.

MS. GAY: So the judge mentioned that I get to sit in chair because I have a problem with my leg. And so if you are looking at me and saying, oh, you know, this is a lawyer that has problem with her leg, please don't let it reflect on my client, because it has nothing to do with

him, just has to do with me. So just is easier if I talk sitting down. So, all welcome, thank you for joining us in this process. This is the most important day in James McDaniel's life. He has chosen you as his jury of his peers, as you know from the process last time yesterday of how we got to this way, there were certain jurors that were struck and certain jurors that are seated which are y'all. So Mr. McDaniel went to great effort to find a jury that he believes is going to be the jury of his peers and who will fairly look at the facts as presented and see it the way he sees it, which is that he is not guilty of these charges. As this judge mentioned to you yesterday, he is having a jury trial, not guilty. And so what does it take in this country to convict a person at a jury trial? Well, all defendants are cloaked in the, in what they call the cloak of innocence, which means it's just like everybody else in this room, Mr. McDaniel is innocent. He has a coat around him that says, I'm innocent, and that coat cannot be removed unless the Solicitor's Office proves to you, the jury, that he is guilty of these charges, what they call beyond a reasonable doubt. So the solicitor said, you know, this is, you know, it's not the absence of any doubt. It's firmly convinced. It's a hesitate to act. The judge is going to ultimately describe to you what the law is on

all these things that we're talking about. So whatever she said, whatever I say, ultimately, at the end of this case, he's going to do something called charge you on the law and explain to you like the rules and parameters are the law in South Carolina for you to apply these facts that you're going to see.

So a jury is used in cases where there's a factual dispute. And what is a factual dispute? Well, the solicitor thinks one thing, and my client thinks another. So, you know, the solicitors, these lawyers that were here, they weren't present. But this my client, Mr. McDaniel, was so he was present. And ultimately he doesn't believe that, after you hear all the evidence in this case, he knows that you will find him not guilty, because what they say, these lawyers are saying isn't what happened, and maybe even what the victims in this case say isn't what happened. But in this case, we have the benefit of having a movie, a little video, of what did happen. And this is great because we get to show you this video and a few other videos and things for you to decide what you think happened. Because when we look at it, whether it's the lawyers or me or the victims or my client, we have different ways of seeing it. And so ultimately, it will be your choice to decide what the facts are in this case. So as the finders of fact, which

is what the judge calls it, your decision about what happened in the facts will always prevail. You will always be the finders of the facts in this case. He's the --- the judge is a finder of the law. And as he said, there'll be times when we may, you know, do different things in the courtroom that are legal, and we'll be doing all that as we get to the point where at the end of this situation, we're going to ask you guys to decide what you think in this video.

So what this video shows is that, as the solicitor said, there's bar, and it's in St. Stephen's. It's on little dirt road, and it's a place where people go, you know, local area, and all the people in this case were there in this bar. And so as these people are coming out of the bar, they get into, like, some kind of argument. And so the argument turns into a situation where guns are involved. And so what we see in the video, and I mean this, if I'm saying something that you don't see eventually, I mean, obviously it's up to you what you see. But what I see in the video is that, you know the guys, they're coming out and they're talking, and then a man, who's the victim, in this case, victim Jared, comes out, and he's really tall, and he is leaning over into his car to get his gun. That is the purpose. That's not a surprise. It won't be like did that happen or not. He is

reaching into his car to get a gun, and my client comes up behind him because he's concerned that, you know this gun is going to be used against him. He comes up behind him, and there's a struggle at the car. During the struggle at the car, the question will be, you know, whose gun is involved? What's happening, who's shooting who? But it's kind of like muddled up. So ultimately, you're going to have to decide what happens. Our position is, is that my client did not have his gun out at that time, and that any injuries that occurred right there at the car occurred because of his gun. And so at the man who's reaching down that you can see to actually get his gun, actually see, at some point, his arm, we believe, like with the gun up there with another arm doing this. All this is on the video. There's a movie of this. You will be able to see it. So what you also see is that the second young man comes up, and he gets behind all of them. So now there's three people in the fray, and as he's right there behind all of them, he drops to the ground, and he is now, unfortunately, as the solicitor said, paralyzed, and has had, you know, life changing injuries. But so my client alleges, and then believes that you will find that he is not the person who shot those guys, that the gun that was involved was not his at that point. So and then factually, what you'll see in the

video is that my client is running away. Now, at the point of the car, my client gets shot in the leg. That's a fact not going to be disputed by anybody. He gets shot himself in the leg, in that mix of all these people. And then as he's running away and shooting because he believes his life is being threatened, he is also shot again. And there'll be, you know, guns in this case, there'll be casings in this case, there'll be all these different things that are associated with the shooting. This all happens very quickly. It's on this video, as I said, the solicitor has one view of it, and I have different my client. I have a different view of it, and ultimately, it will be your choice as to what really happened here. But so as my client sits there, cloaked in innocence, there's there's not a way that the judge will instruct you with the law that says that unless you find that the state has proven beyond a reasonable doubt, which would be like you hesitate to act to convict him. You he is cannot be found guilty. And so his whole case today, is imploring you, the jury, to understand that he didn't shoot these people, that in the course of it all, the gun went off, and the gun went off in a way that he didn't intend it, and it wasn't even his gun, and that he should not be guilty of these charges.

So we really appreciate your attention. And one of

the things that the solicitor said was that you bring everything to the table that you have, and ultimately bring your common sense. You are people who, in your own life, have lots of different life experiences, and we believe that after you see all of this, because fortunately, in this case, as I said, we have a movie of it. After you receive all of --- you see all this, we believe that you will find James McDaniel not guilty.

THE COURT: Thank you, Ms. Gay. Solicitor ready to call your first witness?

MS. DONATO: Yes, Your Honor. The state calls Corey Cleveland.

MADAM CLERK: Raise your right hand. Do you solemnly swear the testimony you should give the court in the trial of this case shall be the truth, the whole truth, nothing but the truth shall help you God.

MR. CLEVELAND: Yes.

MADAM CLERK: You may be seated please. Please state your full name for the record, and spell your last name.

MR. CLEVELAND: Corey Cleveland, C-L-E-V-E-L-A-N-D.

MADAM CLERK: If you would pull that microphone to you.

Mr. Corey Cleveland - Direct Examination by Ms. Donato_

Q. Good morning, Mr. Cleveland. You don't want to be here today, do you?

A. No, ma'am.
Q. You are here because we subpoenaed you to be here?
A. Yes, ma'am.
Q. All right. We appreciate you being here. How old are you?
A. 49.
Q. Where do you work?
A. I'm a mechanic.
Q. All right. Where are you from?
A. St. Stephens.
Q. Did you grow up there?
A. Yes ma'am.
Q. Are you related to the victim in this case, Jared and Jarod Cleveland?
A. Yes ma'am.
Q. How are you related to them?
A. Third cousin.
Q. Okay. Do you remember where you were on the evening of January 14, 2024?
A. Yes ma'am.
Q. What were you doing that day?
A. We was at a family get together at Jared and Jarod dad house.
Q. Who was we? Who all was there?
A. Me, Jared, Jarod, and dad and some other family

members.

Q. You're at a get together?

A. Yes, ma'am.

Q. Eating food?

A. Yeah.

Q. Having a good time. Where did you go after this get together?

A. We went to the local sports bar in St. Stephens.

Q. Why did you go to this sports bar?

A. Shoot a couple games of pool.

Q. You wanted to play some pool. So who all went to go play pool?

A. Me, Jared, Jarod, and another family member.

Q. Who was the other family member?

A. Drey.

Q. So you Drey, Jared and Jerod went to go play pool.

A. Yes.

Q. Okay. And do you know where this pool hall is?

A. A little town called St. Stephens.

Q. Okay, so you get there, do you see the defendant, James McDaniel, in the bar that night?

A. I didn't see him right off hand.

Q. But you saw him that night in the bar

A. Yeah.

Q. And had you met James McDaniel before?

A. Yes.
Q. About how long had you known James McDaniel?
A. I known him since he was a little kid.
Q. Since he was a little kid, you've known him?
A. Yeah.
Q. Okay, so a long time. Could you please point him out in the courtroom for the jury and describe what he's wearing for the court reporter?
A. He's wearing a plaid shirt, no tie.
Q. Thank you.
MS. DONATO: For the record, the witness has identified the defendant.
Q. What is his demeanor that night? How was he acting?
A. Just being him. He was out in the club, just everybody, just having fun.
Q. Was the defendant intoxicated?
A. Everybody was.
Q. Okay. Did he seem happy? Did he seem agitated? What did he seem like to you?
A. He looked a little agitated that night.
Q. He looked a little agitated that night. So you were there with your cousins, Jared and Jarod. Did you see either of them have a gun on them?
A. No.
Q. Did you see James have a gun on him?

A. Yes.
Q. So you said he seemed a little agitated. What were your interactions with him?
A. I was like telling him to calm down. Walking outside to see what was going on. I walked him to his car.
Q. Were you trying to get him to go?
A. Yeah, I just trying to get him to leave.
Q. Okay. Did he leave?
A. No.
Q. What did you see happen after that?
A. That's when I saw a gun. When I saw the gun, that was a wrap for me, I mean. I did enough talking, so I didn't want to bother with that anymore.
Q. Did you witness the shooting?
A. Some of it, but not all of it.
Q. What did you do when the shots started going off?
A. I started running.
Q. Started running?
A. Yeah.
Q. You were scared?
A. Oh yeah.
Q. How did Jared and Jarod seem that night?
A. Well, they was calm.
Q. Calm?
A. Yeah, they was calm when we got there. We didn't

came up there for no trouble or anything like that.
Q. They were there to play cool with you guys?
A. Yeah.
Q. And how did James McDaniel seem that night?
A. He was agitated about something, whatever he had going on.
Q. Agitated. Gotcha.
MS. DONATO: We're now going to publish what's been previously admitted as states's one. If you could get the lights.
Q. Now there's a laser pointer right in front of you, Corey. If you can, go ahead and grab that, and if you could, while the video is playing, if you could point out the people in the video that you recognize.
(Video Played)
Q. We can play it again.
A. That's Jared.
Q. That's Jared.
MS. DONATO: Keep playing. Pause it.
Q. Can you see yourself in this video?
A. Yeah.
Q. You're that tall guy right there?
A. Yeah.
Q. Okay.
MS. DONATO: Keep playing.

A. That's James.

Q. That’s James.

A. That’s Jared --- I mean Jarod. Yeah that's Jarod.

Q. That’s Jarod that falls to the ground?

A. Yeah.

Q. Thank you.

MS. DONATO: Please answer any questions from defense.

THE COURT: Cross examination?

MS. GAY: No questions for this witness, Your Honor.

THE COURT: Any objection to this witness being excused?

MS. DONATO: No Judge.

MS. GAY: No, Your Honor.

THE COURT: You can step down, you are excused. You’re welcome to say if you wish. State can call its next witness.

MS. DONATO: The state calls Ronnie Russell.

MADAM CLERK: Please raise your right hand. Do you swear or affirm the testimony you should give the court in the trial of this case shall be the truth, the whole truth, and nothing but the truth so help you God?

MR. RUSSELL: I do.

MADAM CLERK: Please state your full name for the record and spell your last name.

MR. RUSSELL: Corporal Ronnie Russell. Last name R-U-S-S-E-L-L.

Mr. Ronnie Russell - Direct Examination by Ms. Donato_

Q. Thank you. You said corporal?

A. Yes ma'am.

Q. Thank you. Good morning, Corporal Russell.

A. Good morning.

Q. Where are you currently employed?

A. The Berkeley County Sheriff's Office.

Q. What is your position there? And how long have you been employed there?

A. I'm currently assigned to the canine unit. First morning, January of 2019.

Q. Please describe your education and training.

A. High school diploma, completed the South Carolina criminal justice Academy, and then I continue further training related to law enforcement as well as canine schools and all that stuff.

Q. What are your present duties?

A. So right now with the canine unit, I'm currently assigned to be proactive in our downtown when we need to be called in to help patrol or neighboring agencies for narcotics, tracking criminals, things of that nature.

Q. Where were you employed January of 2024?

A. The sheriff's office.

Q. What was your position at that time?
A. That time I was assigned a patrol with a collateral duty of canine. I had a bloodhound assigned to me at that time.
Q. How long have you been employed in that capacity?
A. Probably about a year and a half leading up to that with the Bloodhound.
Q. And what were the duties of your position at that time?
A. So I was assigned to the North District patrol, and then with the canine for the Bloodhound, I would answer calls for tracking missing kids, elderly or criminals, if somebody needed it. So that would take me away from the North District.
Q. Okay. Were you on duty and working during the evening of January 14, 2024?
A. I was.
Q. And what capacity were you working that day?
A. So I was working in capacity to patrol, patrolling the whole North District from cross Bonneau, St Stephen's all the way up to Jamestown.
Q. So you frequently patrolled that area?
A. Absolutely.
Q. Did you observe anything of note while patrolling that evening?

A. Yeah, came across the gunfire in a parking lot.
Q. Do you recall where that was?
A. Trying to think of the exact address, but it was in the town limits of St. Stephen's small, little building.
Q. If I showed you a copy of your report, would that refresh your recollection?
A. It would.
Q. May I approach?
THE COURT: Yes.
Q. Does that refresh your recollection?
A. It does.
Q. What is the address that you observed that shootout?
A. 3856 Byrnes Drive, St Stephen's.
Q. And is that in Berkeley County?
A. It is.
Q. About what time was it when you observed this?
A. Roughly about 10:30.
Q. PM?
A. P.M.
Q. Okay. So you come upon an active shootout, what did you do?
A. So when I recognized it wasn't fireworks, it was actually gunfire, I retreated from my patrol vehicle, actually leaving it in the highway to approach the gunfire, to see what was going on, and that's when I made

contact with the individual holding a firearm.
Q. Okay, so you made contact with an individual holding a firearm. What happened next?
A. I began giving the commands to him. I did observe that the firearm, the slide was locked to the rear that could indicate either he didn't have any more bullets or that the gun had malfunctioned.
Q. Did you eventually learn the identity of that person?
A. I did.
Q. And who was that person?
A. That was Jared.
Q. Jared Cleveland?
A. Yes.
Q. Okay, so you approach Jared Cleveland, what do you observe?
A. So I could observe, obviously, the firearm. He had some blood on his face. He just constantly was saying, my brother was shot. At that point, I'm still looking for another person involved in that. But I began just like, hey, I need to figure out where this guy is, what are we doing and trying to get to get him to put the firearm down.
Q. Did he put the firearm down?
A. He did. He said it on the back of a white sedan.

Q. Did you take custody of that firearm?
A. So when I could, I secured that firearm and immediately put it back in my in my patrol vehicle, on my floorboard.
Q. Did Jared seem upset about this firearm being taken? Was he concerned?
A. I don't even think he noticed that I took it. He was just more concerned that his brother was hurt, and every time I tried to ask a question about something, he was just more concerned with his brother at the time.
Q. So you said he had blood on him. Where was the blood on him?
A. So the blood was coming from his ear.
Q. Okay, what did you observe about his ear?
A. It had a perfectly round hole through his ear, indicating a handgun caliber round, or roughly the shape of.
Q. So you stated he picked up his firearm, and what did you --- who did you turn it over to?
A. Later on, turned it over to forensics when they got there and the scene was controlled.
Q. Okay.
MS. DONATO: Permission to publish state's 1?
THE COURT: The video. Any objection?
MS. GAY: Well, there are relevance on some level,

because I don't think that this officer was present when this happened. So maybe can, I guess he can identify people when he go there but he wasn't there when it happened.

THE COURT: What's the relevance?

MS. DONATO: He testified that he observed it happened. He's going to testify and point out in the video his vehicle.

THE COURT: All right. I'll allow it.

Q. If you could turn around and point with that laser pointer in front of you, when you can see your vehicle into the frame.

A. How do you use the button on this thing? I don't use this very often.

Q. The top button.

A. Sorry. Here we go. We got it.

Q. Thank you.

A. Right, there's my vehicle.

Q. Thank you. What other involvement did you have with this case?

A. Once we got to the scene kind of died down, we then moved to conduct the track. So I switched gears into helping run cover for one of our other canine handlers at the time. The reason why we wanted, at the time to do the track was because we still didn't know everybody who

was outstanding, or if there's any more people injured by stray bullets, or anything like that.

Q. When you got to the scene and spoke with the victims, did they indicate who had shot them?

A. I don't recall at the time ...

MS. GAY: Objection, hearsay.

THE COURT: What was the question?

MS. DONATO: When he got to the scene, did the victims indicate who had shot them?

THE COURT: Basis of the objection?

MS. GAY: Hearsay, Your Honor.

THE COURT: Response? How is it admissible?

MS. DONATO: I mean he arrived, and it's excited utterances by the victims about what happened. He's investigating the shooting. The shootout.

THE COURT: All right. I'll allow it.

MS. DONATO: Thank you Judge.

Q. Did the victims indicate who shot him?

A. Yeah, at the time, I think all I had was a black male that had ran off into the woods.

Q. Into the woods. Okay. So on the track that you did, what did you observe?

A. So along the track at certain point, we then started observing blood on the sidewalk as we were tracking along, pretty fresh blood, obviously it hadn't dried up,

and continued on down the sidewalk, along the track, and of course, as a covered FBI indicated that to to my dog handler, Corporal or PFC Jasper, and basically let him know that we're on a good trial, and keep his head up.

Q. Did you end up finding anyone?

A. We did not. We ended up coming to a residence on Russellville Road.

Q. Okay. Did you learn anything?

A. Yeah, so we later discovered that's where assistant deputies that actually located a black male with blood.

Q. Where the track ended?

A. Where the track ended. Yes.

Q. Understood.

MS. DONATO: Nothing further. Thank you. Please answer any questions from defense.

THE COURT: Ms. Gay any cross examination?

MS. GAY: One moment, Your Honor.

THE COURT: Certainly.

Mr. Ronnie Russell - Cross Examination by Ms. Gay

Q. So the solicitor asked you the question, which about the victims and what they said. And you told you answered the question on direct that they said a black male ran into the woods?

A. Yes.

Q. So they did not give you an identity of that person?

A. I cannot recall it at this time.
Q. Is it in your police report? Would you like to ...
A. I can look back, I don't believe at this time I had a --- during the time of that incident, I don't believe -- I don't believe I had a name.
Q. So no name was given at the time by the people that were victims, alleged victims?
A. No.
Q. In that video that you said that this is my car, so we see, because we just watched it, and it's like a van or something. You were driving a larger car?
A. I was driving a SUV, a Tahoe.
Q. So when we see it, and we'll end up watching that video many times during this trial, but it's actually while the shooting is occurring you're driving past hearing sounds and then coming into the parking lot?
A. Correct.
Q. Okay.
MS. GAY: I have no further questions, Your Honor.
THE COURT: All right. Any redirect?
MS. DONATO: No Judge.
THE COURT: Any objection to excusing this witness?
MS. DONATO: No Judge.
MS. GAY: No, Your Honor.
THE COURT: All right you can step down. You are

excused. Thank you. You can stay if you wish. State can call its next witness.

MS. DONATO: State called Dreyeon Gaillard.

MADAM CLERK: Please raise your right hand. Do you solemnly swear or affirm the testimony you shall give the court in the trial of this case shall be the truth, the whole truth, nothing but the truth so help you God?

MR. GAILLARD: Yes ma'am.

MADAM CLERK: You may be seated. Please state your full name for the record and spell your last name.

MR. GAILLARD: Dreyeon Gilliard. G-I-L-L-I-A-R-D.

Mr. Dreyeon Gaillard - Direct Examination by Ms. Donato_

Q. Good morning, Mr. Gilliard.

A. Good morning.

Q. How old are you?

A. 26.

Q. Where do you work?

A. I'm unemployed right now.

Q. Unemployed, yes.

Q. What was your last position?

A. At Century Aluminum.

Q. Where are you from?

A. St. Stephen.

Q. Did you grow up there?

A. Yes ma'am.

Q. Are you related to the victims in this case, Jared and Jarod Cleveland?
A. Yes ma'am?
Q. How are you related?
A. First cousins.
Q. Do you remember what you were doing January 14, 2024?
A. Yes, ma'am.
Q. Tell the jury what you were doing that day.
A. Earlier that day, we have we normally like all hang out on the weekends. Later on that day, we went go shoot pool. And after we shoot pool that's how everything escalated.
Q. Okay, so you were hanging out beforehand?
A. Yes, ma'am.
Q. Where were you hanging out?
A. Oh, we was at on my uncle's house and Jared's house.
Q. And what were you doing?
A. We were just like cooking on the grill.
Q. Grilling out?
A. Yes.
Q. With family?
A. Yes.
Q. And then you said you went to go shoot pool?
A. Yes.

Q. Where did you go play pool?
A. At a bar called G's and Ques.
Q. And that's in St. Stephen?
A. Yes.
Q. So who all went to go play pool?
A. It was me, Corey, Jared and Jarod.
Q. So you get there, do you end up playing pool?
A. Yes, me and Jared did.
Q. You and Jared did okay. So walk us through what happened after you and Jared are playing pool.
A. He realized that Jarod wasn't in there. So in the middle of the game, he stopped went outside to check on Jerod. Then I started shooting pool with someone else. Then I realized both of them wasn't there, that's when I went to the door, and it was like, that wasn't firecrackers outside. So when I went outside, like all I heard was Jared just screaming. Then I looked behind his car. That's when I saw Jarod was on the ground, and then that's when I went to him, and, like, I tried to do aid, because I was in the military.
Q. Okay, so you come outside and you see your cousins, you said Jared was screaming and Jarod was ...
A. On the ground, like on the driver side of his car.
Q. Did you observe Jared have any injuries?
A. Not at first, until after we got locked up, and I

called home, and my mom told me he was at the hospital.
Q. Did you see James McDaniel that night?
A. I didn't see him.
Q. Had you ever met him before?
A. No, ma'am.
MS. DONATO: Permission to publish state's one?
THE COURT: Any objection?
MS. GAY: Relevance, Your Honor. He already said that he was not present when it happened, and he came up afterwards and saw the guy on the ground. We've already seen it multiple times already. He specifically said he did not see the shooting.
THE COURT: So how's the video relevant to this?
MS. MORRIS: We don't need to publish it, Judge.
THE COURT: All right.
Q. How did Jared and Jarod seem that night before the incident?
A. Oh, we was all good. Like, there was good also, like just laughing and joking, we all was good.
Q. Did Jared or Jarod have a gun on them when they went to the bar?
A. Oh no, ma'am.
Q. Thank you.
MS. DONATO: Nothing further from the state. Please answer any questions from defense.

THE COURT: Any cross examination?

MS. GAY: No questions, Your Honor.

THE COURT: Any objection to excusing this witness?

MS. GAY: No.

THE COURT: All right, Mr. Gaillard, you're excused and released from your subpoena. You can stay if you wish.

MR. GAILLARD: Yes sir.

THE COURT: Thank you. Is the state ready to call its next witness?

MS. MORRIS: Yes, Your Honor, state calls Jared Cleveland.

MADAM CLERK: Please raise your right hand. Do you solemnly swear from the testimony you shall give the court in the trial of this case shall be the truth, the whole truth, nothing but the truth so help you, God?

MR. CLEVELAND: Yes ma'am.

MADAM CLERK: You may be seated. Please state your full name for the record and spell your last name.

MR. CLEVELAND: Jared Cleveland, C-L-E-V-E--L-A-N-D.

Mr. Jared Cleveland - Direct Examination by Ms. Morris_

Q. Mr. Cleveland, you may need to bring that microphone just a little closer to you. Okay. Thank you. Mr. Cleveland, where do you live?

A. St. Stephen.

Q. Have you lived there all your life?
A. Yes, ma'am.
Q. What do you do for a living?
A. Carpentry. I do carpenter work at the naval base.
MS. GAY: I can't hear him. I'm sorry.
A. I do carpenter work at the naval base in Goose Creek, South Carolina.
Q. And what did you have to do to get that job at the Navy Base?
A. Well, you have to have background check and have to have certification ...
Q. Let's go to January 14, 2024, what did you do that day?
A. Basically, on the weekends me and my cousins and Jarod get together and just chill out and have fun. That's about it.
Q. And where did you chill and have fun?
A. At the house, at my pop's house.
Q. At your pop's house. And who was at your dad's house?
A. My dad, me and my brother, Corey and Dreyon.
Q. Mr. Cleveland, you may have to lean into the just like how I'm having to lean into this. Thank you.
A. Me, my brother, Dreyeon, my dad, Corey.
Q. And your brother is Jarod. Is that correct?
A. Yes ma'am.

Q. Jarod, he's your brother. Is he older or younger?
A. He’s older.
Q. Older brother. What's your relationship like with him?
A. We talk every day. Real close.
Q. And how about Dreyeon, who is he?
A. We’re cousins.
Q. Cousins. So your relationship with him is very close as well.
A. Yes.
Q. How about with Corey?
A. He's a close cousin too.
Q. Where did you end up going after your dad's house on January 14, 2024?
A. We decided we wanted to shoot pool so we went to the bar in St. Stephens.
Q. How did you get to the bar?
A. I drove my white car.
Q. And was that your personal vehicle?
A. Yes, ma'am.
Q. How long did you have that vehicle?
A. For a little while.
Q. How often would you drive that vehicle?
A. Maybe every day or every other day.
MS. MORRIS: At this time, the state wishes to

publish what's already been admitted into evidence as states exhibit four.

THE COURT: Any objections?

MS. GAY: No.

Q. Mr. Cleveland, if you could just turn around and tell us, what are we looking at in states exhibit four.

A. It's a 2024 Chevy Cruise.

Q. And this is your vehicle?

A. Yes ma'am.

Q. Do you still own this vehicle today?

A. I do not.

Q. Why do you no longer own this vehicle?

A. It brings back bad memories.

Q. Who was with you in your vehicle that night?

A. I was by myself.

Q. How many times had you been to that bar, G's and D's?

A. I've been there multiple times.

Q. When you go to that bar, do you usually know everyone in it?

A. No, not really.

Q. Why do you like to go there something?

A. Just to shoot pool and have fun. It's something to do.

Q. Is there security at the bar?

A. Not all the time.

Q. But sometimes there is security?
A. Yes ma'am.
Q. If this security is there, what do they do to ensure patron safety?
A. They have like a little wand and then they'll pat you down.
Q. What are they looking for?
A. Weapons.
Q. So there is no security on January 14, 2024?
A. No ma'am.
Q. Did you have a gun on you when you went into the bar?
A. No ma'am.
MS. MORRIS: At this time, the state would like to publish what's already been admitted into evidence as states exhibit three.
THE COURT: Any objection.
MS. GAY: Give me a second to see what it is. No. Okay.
Q. Okay. This is exhibit three. Could you please point to where the bar is on this map?
A. At the top, in the little L.
Q. You actually have a pointer in front of you. I believe you have to press the top button. Okay, thank you. And could you point to where you parked when you got to the bar.

A. Right in this area.
Q. Okay. Thank you.
MS. MORRIS: You can go ahead and take down the exhibit. Thank you.
Q. Once parked, what did you do?
A. Once we parked, we all went inside. Me and my cousin Drey started shooting a game of pool. After a while, I noticed that my brother was gone. So asked Drey, I was like, where Jarod at. I didn't notice that he wasn't beside us no more. So I throw the pool table on the stick on the table, and then I walked outside, I remember seeing the other guy and my brother face to face. So I went up to him. I was like, that's my brother. Like, calm down, whatever. So all he did was his right side. He did lift his shirt and showed me his gun, and he smiled at me. So I got my keys, I went to my car, and then I thought soon I was like, going inside my car, all I felt like something hot over me. So I heard --- look and I saw the gun, and I heard him --- grab him, and I was fighting. I was trying to get my gun out of the car, and then that's when I didn't know my brother was behind me, but the gun went off and hit me in my ear. It was just, yeah.
Q. So I know that was a lot for you to go through. Just now I'm just going to ask some clarifying questions. So you said that y'all first got there and y'all went inside.

Who are the people that went inside?

A. Me, Corey, my brother and Dreyeon.

Q. And then you came outside and you said you saw him arguing with your brother?

A. Yes ma'am.

Q. Who are you referring to when you say him?

A. The guy right there.

Q. The defendant, James McDaniel?

A. Yeah.

Q. And then you also said that he lifted up the right side of his shirt and showed his gun to you and smiled ...

A. Yes ma'am.

Q. ... at you? How did that make you feel?

A. Threatened. I don't even know him so I don't know why he did that.

Q. And you said that you don't even know him?

A. Not at all.

Q. Had you ever seen him before?

A. No ma'am.

Q. Did you know his name?

A. No.

Q. At the time on January 14, 2024, even though you didn't know who this person was, do you remember what they were wearing?

A. He had a black and grey hoodie on at that time. It

was real dark but he had a black and grey hoodie on.
Q. At this time the state wishes to publish what's already been admitted into evidence as states exhibit five and six. We'll start with state's exhibit five.
THE COURT: Any objection?
MS. GAY: No I don't object.
THE COURT: Five and six.
Q. All right. Is this the this is states exhibit five. What are we looking at?
A. That's his hoodie.
Q. And state's exhibit six?
A. That's what gym he was wearing.
MS. MORRIS: All right. We can take down those exhibits.
Q. So while you were you said you went into the bar with Jarod, Drey and Corey, when you're outside in the parking lot, who's out there?
A. Me, my brother, Corey and that guy.
Q. So you, Jarod, Corey and the defendant, James McDaniel. You also said that the gun went off and hit you in the ear?
A. Yes ma'am.
Q. Whose gun went off?
A. His gun went off. So when we came to the car, he had a gun almost to my head, so I heard him, I turned around

so fast he was fighting for his gun. And then when I was trying to grab for mine in the car, the gun went off and went inside my cluster in my car, basically like speedometer. It shot straight through that. It hit me in my ear. I guess my adrenaline was rushing, rushing so much I didn't even know I got hit until the blood started just draining.

Q. I'm sorry you said the blood was ...

A. Dripping down so much.

Q. So it's the defendant's gun that shoots you in the ear and then also goes into your speedometer?

A. Yes ma'am.

Q. In your vehicle. Do you recall what the gun looked like?

A. It was black and it had a little red thing on it. He had it in his pants, I couldn't see it.

Q. So you saw the first time when he flashed it to you?

A. Yes ma'am that's correct.

Q. Okay, where was your gun located, inside the vehicle?

A. Between my seat and where the gear shift is at sitting behind the seat.

Q. Okay. Now the constitutional carry laws were not enacted in South Carolina until March of 2024 this occurred January of 2024. Were you carrying that gun legally inside your vehicle?

A. I have my CWP.
Q. You have a concealed weapons permit?
A. Yes ma'am.
Q. What kind of gun do you have?
A. Nine millimeter, G2.
Q. Nine millimeter G2?
A. Yeah.
Q. All right.
MS. MORRIS: At this time, the state would like to publish what's been previously admitted into evidence that states exhibit seven.
THE COURT: Any objection?
MS. GAY: No.
Q. What is this a picture of?
A. That's my gun.
Q. Okay, thank you.
MS. MORRIS: We can take down the picture that exhibit. Thank you.
Q. So going back to the shooting after his gun went off and hit you in the ear. Then what happened?
A. He was trying to run, and he was shooting backwards and I opened fire to him once he was running. He was like running in a zigzag pattern. Like running back and forth or something.
Q. And you were shooting back at him?

A. Yes ma'am.
Q. Why were you shooting back at him?
A. He shot me and shot my brother so I was trying to defend us.
Q. And do you know if you hit the defendant?
A. I knew --- I know it hit him because he started like limping, basically like moving different I didn't know where.
Q. Okay.
MS. MORRIS: At this time, the state would like to publish what's already been admitted into evidence of states exhibit one.
MS. GAY: No.
THE COURT: Without any objection.
Q. Now before we start playing the video. Could you please point out your vehicle? That white Chevy Cruze?
A. Yes ma'am.
Q. That we saw the picture earlier in states exhibit four?
A. Yes.
Q. So we'll continue at state's exhibit one.
(Video Played)
Q. If we could pause it right there. Okay, can you point out who the different people are?
A. That's Corey, that's my brother. Could you let it

play a little more?
Q. Okay, we're gonna play a little more.
A. That's him and that's the other guy.
Q. Okay, that's the defendant, James McDaniel?
A. Yes ma'am.
Q. Okay.
A. That's us fighting. That's his gun right there.
Q. All right.
MS. MORRIS: We can take down that exhibit. Thank you.
Q. What injuries did you sustain from the shooting?
A. I was wondering why it's of mentally wise still go do it again, like something we have to live with. Like my family we don't know what's going to happen. It's a lot to think about.
Q. Did you have to go to the hospital to receive treatment?
A. Yes, ma'am.
Q. What treatment did you receive?
A. I know they cleaned it up and basically wrapped my whole head around.
Q. They had to clean the wound to your ear.
A. Yes, ma'am.
Q. What physical issues do you have since the shooting?
A. Like, sometimes I just --- I space out sometimes. My

wife will, like, have to tap me, like, get right, or whatever, you know, like my son, he always, I can't clean my ear like I used to. I have to go to ENT and they have to suck stuff out of my ear because it gets moisture. It's just a lot.

Q. So why can't --- Why do you have to go to the ENT? Why can't you do that?

A. Well, my ear hole is kind of messed up. They don't want me to actually stick nothing down there, just like from your gun going off. It messed up my ear drum.

Q. So you have to go to the ENT. Any other things that happened with you since the shooting? Like ringing in the ears or anything like?

A. Yes I get ringing and sharp pain.

Q. And do you have any permanent scarring from the shooting?

A. Yes ma'am.

Q. In your ear like right on the side of your ear?

A. Yes ma'am.

MS. MORRIS: Your Honor, could we please have this witness step down and show the scar in his ear to the jury?

THE COURT: All right.

MS. GAY: I don't object to that, Your Honor.

THE COURT: All right.

Q. Thank you, Mr. Cleveland.

MS. MORRIS: Beg the Court's indulgence. No further questions from the state.

THE COURT: Any cross examination?

MS. GAY: Yes, Your Honor.

Mr. Jared Cleveland - Cross Examination by Ms. Gay

Q. All right. So when we were seeing the picture of exhibit one, the video, and you showed the red line of your car, was your brother's car in that picture?

A. Yes.

Q. You think so.

MS. GAY: Can we put up one please just the beginning?

A. Right there.

Q. That's your brother's car.

A. Yes.

Q. Is it like a two tone?

A. It's a truck, yes.

Q. Okay, all right.

MS. GAY: And can you just fast? Keep it off minute, Can you just go forward a minute? I'll tell you when to stop. Okay, stop.

Q. So the guy with the orange top, that's your brother, colored top?

A. Can you play it a little more?

Q. Okay.
A. Yes.
Q. Okay and then point to --- use the pointer and tell me where you are.
A. I think that’s me right there.
Q. That's you?
A. Yes.
Q. Okay. So at this moment in time, Mr. Gaillard and my client and your brother are what, 10 feet away from each other?
A. At that time, yes.
Q. Okay, you're right. This, this is the only picture we're looking at. So this 10 feet away. Okay. Thank you.
MS. GAY: Go ahead, please.
Q. And then you're walking to the car stop. So at the time that you're about ready to open your door, Mr. McDaniel is the man, my client's the one in the gray hoodie area, right? Can you point to him? Yes, and he's still standing there, maybe closer, a little bit closer to your brother now, five or six feet away?
A. Yeah.
Q. Okay, and you're about ready to open your door.
MS. GAY: Okay. So go ahead. Thank you.
Q. You're in the car reaching.
MS. GAY: Stop.

Q. So at that time, you're telling the jury that you are reaching for a gun that's within your seat and the gear shifter, and your testimony was that you have a CWP. That's what you're doing, right there is reaching for that gun?

A. No ma'am.

Q. You're not reaching for the gun.

A. No.

Q. That's what you testified, that you opened your door to go get your gun?

A. I never said that.

Q. Okay, all right, so, but that gun you testified is in the console area between your seat and the gear shifter, that's where your gun is?

A. Right.

Q. Okay.

MS. GAY: Go ahead. Please stop.

Q. Okay. So, now Mr. McDaniel, my client, has walked up behind you?

A. Yes.

Q. Okay, and your brother is the one in the shorts?

A. Yes.

Q. Can you put a pointer on him, please? So he's walking towards his car is what you're saying?

A. I don't know let the video play.

MS. GAY: Okay, all right. Keep going please. Just stop.

Q. Okay. So for sure, in that video, there is a gun that we see somewhere up there with somebody's hand is holding it right? That's a gun?

A. Yes.

Q. Okay, and it's your testimony that that's Mr. McDaniel's arm, not yours?

A. Yes.

Q. Okay. And then your brother, who's this guy in shorts, he is coming closer to y'all now he's eight feet away from y'all, coming in your direction?

A. Yeah.

Q. Okay, so do you ever see anybody if we need to back it up just a little bit. Do you ever see your brother walking towards his truck?

A. No.

Q. Okay.

MS. GAY: So go ahead. Right, stop.

Q. Okay. So in this video, the man in the shorts, who's your brother, is now you're all like sandwiched together in the doorway. You're in the front part, my clients behind you, and now your brother's behind him.

A. Yes.

Q. Okay. Do you have any idea at what point in time Mr.

McDaniel's leg gets shot right there during that mayhem? Do you know? Do you recall, you said you saw him limping but do you have any idea?

A. He didn't get shot right there?

Q. Okay so it's your position that he did not get shot around the car?

A. That's when I got shot.

Q. Understand that. Understand. And you said that you do not believe he got shot.

A. He didn't.

Q. You don't really know, because it's not his --- You're not the guy who got shot in the leg, you're the guy who got shot in the ear, right?

A. Yes.

Q. Okay, but so the brother, he is behind Mr. McDaniel at this time. Okay, please go ahead. Okay, now he falls just that fast.

MS. GAY: Okay, so we might need to back it up just a little bit. All right, wait a minute. We need to back it up. Can you back it up some to where they're all sort of jumbled together again? Is that possible. Stop. Wait.

Q. Okay, so suffice it to say the jury is going to be looking at this themselves, that at this point, your brother is about to drop because he's now been shot.

A. Right.

Q. Right. Okay, so your brother is going to be dropping on the ground in just a few minutes --- seconds here, milliseconds, and you are in a stance position, shooting at Mr. McDaniel when that happens.

MS. GAY: Can we go forward. Stop.

Q. So there, see. So can I hold a pointer a minute? So I'm not technical either, yeah, but top down. Maybe it's better for you to do it you seem to have, might have touched there. Okay, so can you? Can you put the red dot on that right above your head? You're the tallest man in the deal. There's your head. Okay, so that thing right here stretching out is your arm with the gun. Correct?

A. Yes.

Q. Correct. Your brother has dropped on the ground, and you are not, at that moment, going to tend to him. You're actually, at that moment, stancing to shoot at Mr. McDaniel. That's what's happening, right there, right?

A. Yes.

Q. Okay, okay.

MS. GAY: Go ahead.

Q. You get out of your car, even out of the doorway, and shoot some more. We've passed that point, but there's been more shots. So while you're standing behind the door, you're shooting at him, and then you come out from around the door and shoot some more before you tend to your

brother on the ground.
A. No, all my rounds were out by the time I moved from the door.
Q. So you said that while you're behind the door, all your gun is, I think the officer testified that your gun was out of bullets?
A. Exactly.
Q. Okay, if out of bullets means how many goes in your clip?
A. 12.
Q. So you shot 12 times?
A. I think it was maybe eight. I don't think it was fully loaded.
Q. So maybe eight times while you were standing there at Mr. McDaniel, my client?
A. Yes.
Q. And you know for a fact that at some point he got hit in the leg?
A. Yes ma'am.
Q. Because you said you believe that he was limping?
A. Yes.
Q. Okay. And then that's when you went to go talk to your brother on the ground?
A. Yes.
MS. GAY: One moment, Your Honor. I think I have no

further questions for this witness, Your Honor.

THE COURT: All right. Any redirect?

MS. MORRIS: No redirect, Your Honor.

THE COURT: All right you can step down. Thank you. Is the state ready to call it's next witness?

MS. GAY: Your Honor, could we maybe take a short comfort break?

THE COURT: That's a good idea. I should have thought of that myself. Thank you. Alright, ladies gentlemen, we'll take a short break and again same admonishment before don't start talking about the case yet. We'll have you back out here in a few minutes. Okay? Thank y'all.

THE COURT: All right, anything to take up outside the presence of the jury?

MS. MORRIS: Nothing from the state, Your Honor.

MS. GAY: No, Your Honor.

THE COURT: All right. We'll shoot for that 11:15. Okay.

MS. GAY: Thank you.

MS. MORRIS: Thank you, Your Honor.

(Off the record)

(Back on the record)

THE COURT: All right, thank y'all. Is the state ready to bring the jury in?

MS. MORRIS: Yes, Your Honor.

THE COURT: Is the Defense ready?

MS. GAY: Yes sir.

THE COURT: All right, all jurors ready. Bring them on in.

(Jury enters courtroom 11:19 AM)

THE COURT: All right y'all may be seated, thank you. The state ready to proceed. All right. Call your next witness.

MS. DONATO: The state calls Samuel Jasper.

MADAM CLERK: Please raise your right hand. Do you solemnly swear or affirm the testimony you shall give the court in the trial in this case shall be the truth, the whole truth, and nothing but the truth so help you God?

MR. JASPER: Yes ma'am.

MADAM CLERK: You may be seated. Please state your full name for the record and spell your last name.

MR. JASPER: Samuel M. Jasper, the third last name, J-A-S-P-E-R.

Mr. Samuel Jasper - Direct Examination by Ms. Donato

Q. Thank you. Corporal Jasper, Deputy Jasper?

A. Just Deputy Jasper.

Q. Deputy Jasper, where are you currently employed?

A. Berkeley County Sheriff's Office.

Q. What is your position there? And how long have you been employed there?

A. So I started in June of 21 started on patrol. Then I went to the K9 in November of 2022.

Q. So you were employed there during January of 2024?

A. Yes, ma'am.

Q. What was your position at that time?

A. Canine.

Q. Canine, and how long had you been in the canine unit at that point?

A. Two years.

Q. Please describe for the jury your education, training and experience.

A. So I graduated from the West Virginia State Police Academy, and West Virginia in 2018. I went to a smaller Police Department. I was on uniform patrol. At that time I became canine there, done that for a couple years, went to the Sheriff's Office. Was canine there also then I moved here. Worked patrol here for about a year, and then I went to Canine, and I'm still in canine as of right now.

Q. Do you have any specialized training and certifications in the use of a canine?

A. I do so NAPWDA certified at the time I was NAPWDA certified. Brew. And then now I have a bloodhound, and I'm also certified with her as well through NAPWDA, which says North American Police Work Dog Association.

Q. Please describe the process by which you get

certified.
A. Okay, so with Brute, which he was a Belgian Malibu German Sheppard mix. We do article searches, tracking. We do all kinds of narcotic sniffs, as far as some outdoor area, indoor area, cars, inside cars, tracking trailing. And light work, which apprehension work.
Q. So does the canine himself also get certified?
A. Yes.
Q. Please describe your training with Brute as it applies specifically to him being utilized for tracking.
A. So without going into like scientific detail, so he tracks fresh human odor. That's what he's trained to do. Also, when we track on fresh human odor, on tracking, he also does articles as we're tracking. So without getting scientific, there's a little many, many counts of hours you have to do tracking and Brute had 1000s of hours tracking.
Q. When you use Brute for that purpose, can you describe sort of the process from start to finish?
A. Okay, so when I, when I get on to a scene, I do everything the exact same. First, go see what we what we have, see what charges we have, a last known area where the suspect was or was claimed to. I then see a description of the suspect, as far as in height, weight, age, approximate age, last seen wearing. And then, then go

to my car, retrieve canine breed from the car. I put a 20 foot lead on his flat collar, which is this collar that goes around his neck. I go to the last known where the suspect was. I put him as a down. And then do three plus K9 warnings as far as in Berkeley County Sheriff's Office canine unit, make yourself known. If not my dog will find you and bite you. I do this three plus times. Then take her 20 foot lead, put it on his tracking harness. At that point, I give his track command, which was suit him. And then we begin the track.

Q. Okay, so the training and certification you mentioned is that a one time process, or do you have to repeat it?

A. So you have to get that done every year?

Q. Every year?

A. Every year.

Q. So in working with canine Brute in the field, how many times were you paired with him and utilized him for tracking?

A. Hundreds.

Q. Hundreds. What are the duties of your position now?

A. So now I handle a bloodhound for missing, endangered victims. She does, if we don't have a bite dog say they're off duty, I will also track for that. So she pretty much tracks for anything, but my main job is for missing and endangered people, kids that run away, victims that have

dementia, medical problems, suicidal people. That's her main function.

Q. Gotcha. Were you working the day of January 14, 2024?

A. Yes.

Q. And what capacity were you working that day?

So I was, let's see North lights, one uniform patrol. Also I was with I was to that patrol. I could go south and north, though, for dog calls. So canine.

Q. Okay, well, working that day where you called the 3856 Byrnes Drive in St. Stephen?

A. Yes.

Q. Is that in Berkeley County?

A. Yes.

Q. Did you respond to that location?

A. Yes, I did.

Q. Please describe what you observed when you arrived.

A. So as I was on my way there, which took, I think, approximately five to eight minutes, because I was in the Bonneau area, so I was pretty close. I heard on our radio dispatch there was a shooting. Another one of our officers was already on scene, so I was on the way. So when I got there, as you tell us, pretty hectic because of what was happening. At that point, I was trying to figure out what I needed to do as a dog handler to see it and to do all my steps to see if a suspect is at large, if he's armed, his

height, weight, approximate age, what he's last seen wearing, and where he was last headed to, if he did flee.

Q. Had the suspect been found at that point?

A. I did not know that the suspect had got found. I learned later on that he got picked up by a BCSO deputy. I do know that he called in saying that he was shot, but I have no idea where. At that point I retrieved brute and did a canine track to see if we could locate him.

Q. Okay, please describe to the jury how you did that track.

A. So I'll start from the beginning.

Q. So would it help to have a map?

A. Yeah, if you have one so I can ...

MS. DONATO: Permission to publish, states three?

MS. GAY: No objection.

THE COURT: Without objection.

MS. DONATO: Sorry, State's two.

Q. Okay, where is the incident location on this map? And there's a laser pointer in front of you. Buttons at the top.

A. Right there.

Q. That's the incident location?

A. Yes.

Q. 3856?

A. Yes.

Q. Okay.

A. So ...

Q. Yes, continue.

A. So he was last seen in this area, right here. I started with track here, after I gave my warnings and had to do what I need to do with him that I explained he went through here at this point, he showed a negative this way, so there was not any fresh human odor this way, canine breed without getting technical --- So he was a bracket tracker. So what that means is the scent comb. So if you take a piece of dirt and you throw it, the odor kind of goes in the air, and it gets wider and wider and wider. So at that point, we had a fresh track, because it was kind of damp, if I remember correctly so the odor stays and the vegetarian tastes just the ground, because it was, there was a grass area right here. So we came through here, he showed a negative here, which means there was no human error here. And through here, went through here, we came in contact with a bystander Brute didn't pay any attention to him, because he knew what he was tracking at that point. So we made contact with him. He had nothing to do with it. We kept on going. And then let's see where --- we went through here showed a negative and then I know we went on to the sidewalk. At the sidewalk, it was about 300 yards in, there was a big puddle of blood, at that point,

I knew that we was on the right track, and he also knew that we was on the right track, because if you think about it, a canine smells 33 times greater than a human, 40% of their brain is all too scent. At that point, I knew that the suspect had stood there for a minute because of the puddle of blood. So at that time Brute's behavior. And what I mean is behavior is so when he was on the right track, his tail looked like a flag, his hair also stood up, breathing change. It kind of sounds like a little pig, you know, because he's really trying to get that scent in his mind at that point. So he threw a negative to the right on the sidewalk. We went to the left. Blood trail, blood trail, blood trail. At that time, we came to an intersection through a negative to the left, through a negative Street. And then at that time we went right, and at that time, then he had a there's a big puddle of blood there as well. I did my 360 which what I've done is a patrol route. So I had a 20 foot lead. I would do a 15 foot out. I would do 15 foot side to side on a 3/6 angle to make sure I didn't miss anything, he didn't miss anything as far as the human error. At that point, I called the track, I then found out that he was picked up at that location, and if I'm not mistaken that was near his house. And then put canine Brute back in my patrol vehicle, and then I was done.

Q. Do you remember where on this map the track ended?

A. Sorry, I don't have my glasses.

MS. DONATO: Beg the Court's indulgence.

Q. If I showed you a copy of your report would that refresh your recollection?

A. Yes, I think so. I can't see.

MS. DONATO: May I approach?

THE COURT: Yes.

Q. You can get it closer if you need to.

A. Right there.

Q. Right there on Russell road?

A. Yeah.

Q. Okay. Thank you so much. Please answer any questions from the defense.

THE COURT: Any cross examination?

MS. GAY: I have no questions for this witness.

THE COURT: No cross examination. You can step down. You're excused if you wish.

MR. JASPER: Yes, Your Honor.

THE COURT: State may call it's next witness.

MS. DONATO: State calls Kevin McGowan.

MADAM CLERK: Please raise your right hand. Do you solemnly swear, from the testimony you shall give the court in the trial in this case, will be the truth, the whole truth, and nothing but the truth so help you God?

MR. MCGOWAN: I do.

MADAM CLERK: You may be seated. Please state your full name for the record and spell your last name.

MR. MCGOWAN: Kevin McGowan, M-C-G-O-W-A-N.

Mr. Kevin McGowan - Direct Examination by Ms. Donato_

Q. Thank you. Please tell the jury what your occupation is.

A. I'm currently a corporal with the Berkeley County Sheriff's Office working in the forensic unit.

Q. What is your title in the forensics unit?

A. Just forensic technician.

Q. Forensic technician?

A. Yes ma'am.

Q. What are your current responsibilities?

A. We take care of all the evidence that comes through the sheriff's office. We respond to major scenes, process the scene and assist detectives in their investigation.

Q. Have you received any special training to be a forensic technician?

A. Yes, ma'am, numerous various schools over the years, shooting construction, crime scene reconstruction, fibers, blood stain analysis.

Q. How long have you been in law enforcement?

A. This September will be 44 years civilian.

Q. Congratulations.

A. Thank you.
Q. Besides Berkeley County Sheriff's Office, are there any other agencies that you've worked for?
A. Yes, ma'am. I started with the United States Air Force, security police. Then I went to the city of Charleston Police Department. Retired as a sergeant almost 30 years. Did five years up at the Charleston County Aviation Authority police, which is a fancy name for the airport police. Did a year and a half as an investigator here and almost 10 years with Berkeley County.
Q. Okay, were you working January 14, 2024?
A. Yes ma'am.
Q. Did you have an opportunity to respond to the scene at 3856 Byrnes Drive in St. Stephen?
A. Yes ma'am.
Q. Is that in Berkeley County?
A. Yes ma'am.
Q. What was the reason for responding to that location?
A. I would advise there was a shooting in a parking lot.
Q. What do you typically do when you respond to a scene?
A. Usually I try to get with the first deputy on scene, do a walk through, give me an idea what we're looking for. Once I get that, I'll start taking overall photographs, start marking evidence that I believe is necessary, and then check with the detectives when they get there.

Q. What did you observe when you arrived this scene?
A. It was a parking area, grass, dirt lot on an L shaped building right next to a convenience store, gas station. There were several cars in the parking lot. One of them had been hit several times with bullets. There was a gun on the ground, several fire casings on the ground. There was some bloody clothing in the parking lot where the convenience store was.
Q. What did you do to process this scene?
A. Basically just take overall photographs before we do any markers, and then go through with the markers and take photographs and close ups and then collect the evidence.
Q. Collect the evidence?
A. Yes ma'am.
Q. Where was most of the evidence centered around?
A. It was centered around the vehicle that had been struck by bullets.
Q. What did you locate from the scene?
A. There were several fire casings, a gun, believe it was a Taurus. It was on the ground. There was a projectile on the rear trunk area where the windshield comes down. It was kind of stuck down there and the clothing.
MS. DONATO: Judge, at this time we're going to show the witness the firearms, but the deputies need to handle them to make sure they are safe.

THE COURT: Please.

MS. DONATO: May I approach the witness, Judge?

THE COURT: Yes.

Q. These are now safe, showing you what's been marked and admitted states 43 and 44. Are these the two firearms that you recovered from the scene?

A. Yes ma'am.

MS. DONATO: May I approach, Judge.

THE COURT: Yes.

Q. I'm now handing you what's been admitted as exhibit 45 which contains exhibits 46 through 62. Are these the cases that you collected from the scene?

A. Yes ma'am.

Q. All right thank you. Did you prepare anything after you processed the scene?

A. Just my written report and a diagram.

Q. A diagram of the scene?

A. Yes, ma'am.

Q. You also said you took photos of the scene?

A. Yes, ma'am.

Q. Permission to publish states 13 through 19, 34, 35, 38 and 40?

THE COURT: What was the last one again?

MS. DONATO: 34, 35, 38 and 40.

THE COURT: Any objection?

MS. GAY: No.

THE COURT: Without objection.

Q. All right, I'm going to show you some of the photos you took, if you could kind of look at these photos and tell the jury about what is in each of these photos and why you took the photo, what's important.

A. It's just the overall photograph of the vehicle that was struck. This there's a firearm there that was left by one of the deputies to mark it. You notice these little they're glow sticks the first responding deputies. They put little glow sticks next to some of the cartridge cases to make it easier to find bullet hole here, here, and you can't see it here, but in the rear windshield.

Q. Thank you. State's 14.

A. That's just from the back end, showing the markers that we use to mark each piece of evidence in relation to the vehicle.

Q. States 15?

A. Just close up to the markers.

Q. Which markers?

A. This is one and two.

Q. State's 16?

A. Three, four, five, six, seven, eight, nine and ten.

Q. State's 17?

A. 17, I believe was the phone on the car.

Q. Oh, no, just this.
A. I'm sorry, six, seven, eight, nine and ten.
Q. All right. State's 18?
A. Let's see 14, 13, 12, that should be 11 and 10.
Q. And what view are we seeing here?
A. This is kind of standing on the driver's side of the vehicle, to the rear, looking at the building where the nightclub is a little bar area.
Q. State's 19?
A. This is the opposite way, looking back towards the vehicle and number 11 and 12.
Q. All right. State's 34? What about here?
A. This is the rear windshield showing the bullet strikes one and two. You can tell the direction of the bullet, probably the same bullet came through here, struck here, and came out this way.
Q. All right. State's 35?
A. That's on the driver's side, rear passenger. Bullet strike here and here and then again on the rear windshield.
Q. State's 38?
MS. DONATO: Beg the Court's indulgence, Your Honor. Permission to publish state's 39, Judge?
THE COURT: Any objections?
MS. GAY: No.

THE COURT: Without objection.

Q. State’s 39 what are we looking at here?

A. That is in the dashboard where the odometer and it’s a bullet strike.

Q. All right. States, 40?

A. That's the projectile. This is the rear windshield, initially the strikes, the bullet holes.

Q. Thank you so much. So you stated that you prepared a scene drawing?

A. Yes, ma'am.

MS. DONATO: Permission to publish State’s 42?

THE COURT: Any objection?

MS. GAY: No.

THE COURT: Without objection.

MS. DONATO: Permission to approach?

THE COURT: Yes.

Q. I’m handing you what's been admitted as state’s 42. You can look over it while you're looking at what the jury's looking at. So what is this?

A. Okay, this is just an overhead view of the scene. This is the building, the parking area where the convenience store is. That's the vehicle with the bullet strikes. Most of the photographs through the other vehicles that were in the lot, and these were all the markers that I have photographed.

Q. If we can zoom in a little bit, if you could just go through for the jury and tell them what each marker is marking and point it out on the sketch, please.
A. Yes ma'am. All right, so one, two and three are nine millimeter. Number four is a 40 --- Smith and Wesson, 40 caliber right there. Five is a nine millimeter. Number six and seven are 40 calibers. Number eight is the Taurus G3 nine millimeter pistol. 9, 10, 11, 12, 13 and 14 --- 14, those are all 40 calibers. 15, here is the clothing that belongs to Mr. McDaniels. 16 is a cell phone that was on top of the hood. I believe it was placed there by one of the deputies. And 17 is the projectile that was found in the rear windshield on the outside.
Q. Okay, and just one more time. Number seven, could you point out where that is?
A. Right there.
Q. Right there. And what is that?
A. That is a 40 caliber.
Q. 40 caliber?
A. Yes ma'am.
Q. So you left the scene, and then did you return to the scene?
A. Yes, ma'am, we had a vehicle towed to our impound lot for a search warrant, and then there was another search warrant on a residence that they wanted to check, and I

had to respond over there. Then I went back to the scene.
Q. Did you locate anything else not shown in these photos upon returning to the scene?
A. Yes, ma'am. Do you have my report. I'm sorry I didn't bring a copy, but I think there was three nine millimeter casings.
Q. That's correct.
A. A knit cap and a sandal.
Q. Correct. And did you take photos of these?
A. No, ma'am.
Q. But you did recover them and enter them into evidence?
A. Yes ma'am.
Q. Were gunshot residue kits done in this case?
A. Yes, ma'am, they were submitted in evidence.
Q. Who were they done on?
A. I'd have to check my report.
MS. DONATO: Permission to approach?
THE COURT: Yes.
A. Gunshot residue kit was done on Mr. McDaniel and another one on Jared Cleveland.
Q. Anybody else?
A. I don't believe so that's the only two I see unless I'm missing it.
Q. Were these GSR kits tested at SLED?

A. To my knowledge, no.
Q. And why were they not tested?
A. SLED policy is they don't do GSR kits from people that were involved in the possession of a firearm or to handle firearms. They just don't have the manpower or the time to do them all.
Q. So if your agency knows that SLED won't test it, why would you take it?
A. It's our policy and we take it in case, you know they change their mind later on down the road or their policy changes.
Q. Thank you so much. No further questions. Please answer any questions from defense.
A. Yes, ma'am.
THE COURT: Cross examination?
MS. GAY: Yes sir.

Mr. Kevin McGowan - Cross Examination by Ms. Gay

Q. Okay, so how do you do, sir? I'm Melisa Gay.
A. Good and yourself?
Q. So I'm going to ...
MS. GAY: We showed this picture already? This is in evidence?
MS. DONATO: It's in evidence.
MS. GAY: Okay, so Your Honor, may I approach the witness and show him the picture?

THE COURT: Yes.

MS. GAY: Thank you.

Q. This is State's exhibit number 65 and so can you identify that for the jury, please?

A. It's marker number seven.

Q. Marker number seven. Okay, so they're going to try to see if they can put marker number seven on the screen. There it is marker number seven. So you did --- there was stuff done, a police report, supplemental reports that you created as part of this case?

A. Yes ma'am.

Q. And if you need to see your supplemental report, I can refresh your recollection. But in this supplemental report that was created at the time or near the time of the incident, that marker number seven was actually identified as a nine millimeter, if you'd like for me to show you a document to refresh your recollection.

A. No, I'm looking at it right here.

Q. Okay, so that that's what's in that document, right? That that number seven was identified as a nine millimeter?

A. That's what I have written down here. I'd have to look at the actual ...

MS. GAY: Okay, so if we could have the diagram, please.

MS. MORRIS: This is State's exhibit number 42.

MS. GAY: State's exhibit number 42, Your Honor, is the diagram.

Q. Okay, so I'm going to get a little closer to you, because I don't see very well. All right, so these little things are all numbered?

A. Yes ma'am.

Q. The yellow flags?

A. Yes ma'am.

Q. And so would you agree with me that that number seven is up there, right by the driver's front driving wheel? See that number seven?

A. Yeah it's in the general area.

Q. Okay. And so when you testified, you said that I'm kind of all of these ones over here to the left, one, two, three, four ...

A. Right.

Q. ... 17, 13. Those are all 40s, 40 calibers, correct?

A. Yes ma'am.

Q. Okay, and so and then the ones that were in the --- in between the car and those bullet casings, they're pretty much 40s, too. I'm gonna get close up these guys right here. They're 40s, right?

A. Number six, seven, nine, 10, 11, 12, 13, 14 ...

Q. But then again ...

A. ... And four.
Q. ... we just determined that seven is was identified as a nine millimeter, not a 40 in the notes that were done initially?
A. May have been too much cutting and pasting on my part.
Q. Understand, so then you said that these were these ones right here near the back, those are, and some of those in the front even are nine millimeters?
A. Yes.
Q. Okay, so nine millimeters, there's a Taurus nine millimeter taken in evidence in this case, correct?
A. Yes ma'am.
Q. So a Taurus nine millimeter shoots a nine millimeter bullet, obviously?
A. Correct.
Q. And so these casings that are right around the car itself are shot likely from that Taurus nine millimeter. It's at least a nine millimeter. It's a Taurus nine millimeter right?
A. Nine millimeter casings on the ground in the nine millimeter there, but I don't know if that particular gun shot.
Q. I understand, but there but number seven for sure in the notes that were initially done on this, said it was a

nine millimeter?

A. Yes.

MS. GAY: Hold on, Your Honor, I may not have any more. I have no further questions, Your Honor.

THE COURT: All right. Any redirect?

MS. DONATO: No further questions.

THE COURT: All right, you can step down. Any objection on excusing this witness?

MS. GAY: No, Your Honor.

MS. DONATO: None from the state.

THE COURT: You're excused. All right state ready to call it's next witness?

MS. MORRIS: Yes the state calls Jarod Cleveland.

MADAM CLERK: Please raise your right hand. Place your left hand on the Bible. Do you solemnly swear or affirm the testimony you should give the court in the trial in this case shall be the truth, the whole truth, nothing but the truth so help you God?

MR. CLEVELAND: Yes.

MADAM CLERK: Please state your full name for the record and spell your last name.

MR. CLEVELAND: Jarod Cleveland, C-L-E-V-E-L-A-N-D.

Mr. Jarod Cleveland - Direct Examination by Ms. Morris

Q. Good afternoon, Mr. Cleveland. Where do you live?

A. St. Stephens.

MS. GAY: Can you ask him to speak louder? It's hard to hear him.

Q. If you could move the microphone a little bit closer to you.

A. St. Stephens.

Q. Thank you. And did you grow up in St. Stephens as well?

A. Yes.

Q. What do you do for a living?

A. I used to do landscaping. I just started a job at Volvo. That's about it.

Q. You said that you used to do that. When did you stop doing that?

A. After this incident.

Q. So before January 14, 2024 you did landscaping and you worked at Volvo?

A. Yes.

Q. Correct. I think this is going to state the obvious. But are you currently paralyzed?

A. Yes.

Q. What parts of your body are paralyzed?

A. From my chest down.

Q. How long have you been paralyzed?

A. Since January 14, 2024.

Q. Let's go to that date, January 14, 2024. What did you

do that day?

A. I was at home first and then I went to my dad house. We was doing the normal things that we used to do, like chill out, you know just stuff like that. My cousin Corey came over there and he asked us if we want to go play pool. We went to the bar in St. Stephens, and we've been there like five or 10 minutes, this guy walked up to me and asked me, I'd be watching people. I was like, what are you talking about? Then my cousin Corey grabbed him and walked him outside and I guess talking to him and I walked outside, down the ramp and dude walked up to me and slap me. So that's when I went to my car in my truck, and get my gun. And that's how everything worked out. My brother came outside. That's how the shooting and everything started.

Q. So I know that was a lot for you to go through and tell I'm just gonna ask some more clarifying questions for you. So first I want to go back to your dad's house. Who all is there?

A. It was me, my dad, brother and Drey.

Q. So you, your brother, who is Jared?

A. Uh-huh (affirmative response).

Q. Was there anyone else there?

A. Corey came there after for a little bit.

Q. And then who went to the bar?

A. Drey ride with me. My brother drive his own car. So we met each other out there.

Q. Okay, so you drove with Drey, your brother drove his own car, and Corey drove by himself. Is that correct?

A. Yes.

Q. Okay.

MS. MORRIS: At this time, the state wishes to publish what's already been admitted into evidence as states exhibit 12.

THE COURT: All right. What is that?

MS. MORRIS: It's the victim's vehicle.

THE COURT: All right any objection?

MS. GAY: No objection.

THE COURT: Without objection.

Q. So we have state’s exhibit 12 on the screen. I'm not going to ask you to turn around. I actually have a copy of it that I'll be able to show you. Could you tell the jury what this is a photograph of?

A. My truck.

MS. MORRIS: Thank you, and my apologies Your Honor, I forgot to ask permission to approach the witness.

THE COURT: That's all right.

Q. So we just saw your vehicle. You said that Drey was in your vehicle with you. How many times have you been to that bar?

A. Multiple times. I can't count it.
Q. When you usually go to the bar do you usually know everyone in it?
A. It depends, sometimes.
Q. Why do you like to go there?
A. Just to relax.
Q. Did you have a gun on you when you went into the bar?
A. No.
Q. Because you testified earlier that you went out after the defendant slapped you ...
A. Yeah.
Q. ... that's when you went to your vehicle to get a gun?
A. Yeah.
MS. MORRIS: Your Honor, at this time, the state wishes to publish what's already been admitted into evidence as state's exhibit three.
THE COURT: Any objections?
MS. GAY: No objections.
THE COURT: Without objection.
MS. MORRIS: Permission to approach the witness Your Honor?
THE COURT: Certainly.
Q. So this is state's exhibit three. What is this a view of?

A. Of the building.
Q. The building of the bar?
A. Yes.
Q. And I'm going to have you point for me on this map, and then I'll point with this laser pointer for everyone else. Where did you park your vehicle?
A. On the side.
Q. So right there. Okay, thank you. What were you wearing that night?
A. My work jacket and some short pants.
MS. MORRIS: At this time the state wishes to publish what's already been admitted into evidence as state's exhibit eight through 10.
THE COURT: All right. Any objection?
MS. GAY: No.
THE COURT: All right, without objection State's 8-10.

MS. MORRIS: Permission to approach the witness?
THE COURT: Yes.
Q. All right, going to publish State's exhibit eight.
A. Yes this is my jacket.
Q. State's exhibit nine?
A. My shirt.
Q. And state's exhibit 10?
A. My pants.

Q. Thank you. So you said you testified earlier that the defendant slapped you.
A. Yes.
Q. Did you say anything to him after he slapped you?
A. No.
Q. Do you know this person that slapped you?
A. Never seen him a day in my life.
Q. You'd never seen him a day in your life. And in response to him slapping you, you testified that you went to your vehicle and got your gun?
A. Yes.
Q. Why did you decide to do that?
A. In case I needed it to defend myself.
Q. And when you went to your vehicle and you got your gun, what did you do with your gun?
A. I put it in my jacket pocket.
Q. Did you take it out of your jacket pocket?
A. Uh-uh (negative response).
MS. MORRIS: At this time the state wishes to publish state's exhibit one.
THE COURT: Any objection?
MS. GAY: No, Your Honor.
THE COURT: All right.
Q. And Jarod, my apologies, I am going to ask you to turn around and view the video. I'm sorry. I know it's

difficult. And I'm going to hand this. You can go ahead and play it.

MS. MORRIS: Okay, could you please pause state's exhibit one?

Q. Could you take the laser pointer and show where your vehicle is, and could you also show where your brother's vehicle is? Thank you.

MS. MORRIS: Continue. Okay, please pause.

Q. Could you point out where you are? And are you wearing the same clothing that was in state's exhibits eight through 10 that I showed you earlier?

A. Yes.

Q. Could you please point out your brother?

A. You might have to go some more.

Q. Might have to go somewhere. Okay, we'll play it some more.

A. Right there.

Q. Okay. Anyone else that you recognize in this video?

A. Yes. That's Corey right there. That's the other guy.

Q. That's the defendant?

A. Yes.

Q. Okay. Thank you.

MS. MORRIS: Continue to play. Thank you. You can take down the exhibit.

Q. Jarod, if you could please turn back around for us.

So in this video, we could see that at some point you go to your brother, walk us through what's happening.

A. When I walked over there, they was tasseling with his gun. I grabbed my gun. I didn't want to shoot because I didn't want to hit my brother, so I hit him with my gun. When I hit him with my gun, that's when the gun went off, hit her brother in the ear, and they started shooting at each other, and I got shot in my back.

Q. So you stated that you hit him with your gun. How did you hit him?

A. In the face with my gun.

Q. But you did not discharge your firearm at any time?

A. No.

Q. And you've been paralyzed since this incident?

A. Yes.

Q. And after being shot, you were sent to the hospital, correct?

A. Yes.

Q. Where exactly on your body were you shot?

A. In back, in my shoulder blade.

Q. In your shoulder blade? How long were you in the hospital before you were discharged?

A. Probably like four months.

Q. Four months?

A. I think so.

Q. Did you undergo any surgeries?
A. Yes.
Q. Do you remember what those surgeries were?
A. I had a trach, I had a G-tube, I had tubes in my side. That's it.
Q. And after you're discharged from the hospital, what is your rehabilitation entailed?
A. What do you mean by that?
Q. What do you like? Do you have to do any regular rehabilitation?
A. Yeah go to therapy.
Q. How often do you do that?
A. Two times a week.
Q. And after about a year and a half at this point, you're still paralyzed?
A. Yes.
MS. MORRIS: Beg the court's indulgence.
Q. So you were shot with a bullet. Was that bullet ever taken out of you?
A. No. It's still in my spine.
Q. It’s still in your spine?
A. Yes.
Q. Do you know why they did not remove the bullet?
A. Because they can’t get it. I guess they were scared they were going to hurt me or something.

Q. Hurt you further?

A. Yes.

MS. MORRIS: No further questions from the State.

THE COURT: Any cross examination?

MS. GAY: One moment, Your Honor. I have no questions for Mr. Cleveland.

THE COURT: All right. Thank you. All right. You can come down. Stay ready to call its next witness.

MS. MORRIS: Let me make sure that she's here. The state calls Linda Hill, Your Honor.

MS. GAY: Your Honor, can we have a little conference with you for just a second about our lunch schedule and who we're going to call?

(Counsel approaches bench without court reporter)

MADAM CLERK: Please raise your right hand. Do you solely swear or affirm the testimony you shall give the court the trial of this case shall be the truth, the whole truth, nothing but the truth so help you God?

MS. HILL: I do.

MADAM CLERK: You may be seated.

MS. HILL: Linda Hill, H-I-L-L.

Ms. Linda Hill - Direct Examination by Ms. Morris

Q. Good afternoon Ms. Hill.

A. Good afternoon.

Q. What is your occupation?

A. General Sessions, supervisor.
Q. And where are you currently employed?
A. Berkeley County Clerk of Court.
Q. How long have you been at the clerk of court's office?
A. Soon be 23 years.
Q. That's wonderful. What are some of the functions of the clerk report?
A. We're the records keeper. So we keep all the paperwork. We do all the filing.
Q. Can you summarize your duties in the office?
A. Just about everything, overseeing, meeting customers, that kind of stuff.
Q. Is part of your duties, maintaining all of the court records?
A. Yes, it is.
Q. And when someone is convicted of a crime in Berkeley County, does the clerk of court handle the record keeping for that conviction?
A. Yes, we do.
Q. Are these records of convictions kept in the ordinary course of business at the Clerk of Court's office?
A. Yes, ma'am.
Q. And you're familiar with these records, correct?
A. Yes, ma'am.

Q. I'm going to show you what's already been admitted into evidence as states exhibit 64.

MS. MORRIS: Permission to approach the witness, Your Honor?

THE COURT: Yes. 64.

MS. MORRIS: 64. The copy that I'm handing to Ms. Hill right now is states exhibit 64 for ID purposes only. The one that is admitted into evidence is a redacted version of that.

Q. But on this particular copy, do you recognize it?

A. Yes, ma'am.

Q. And can you describe what that document is?

A. It's a sentencing sheet.

Q. And is it a certified copy of this sentencing sheet?

A. Yes it is.

Q. How can you tell it's a certified copy?

A. Because it says certified, true copy of record in the court and it's Clerk of Court signed by Ms. Dupree.

Q. Now Ms. Hill I'm going to trade with you. If you could give me back state’s exhibit 64 for ID purposes only. I'm going to hand you state’s exhibit 64 which is the redacted version. On that sentencing sheet, what is the name of the defendant?

A. James C. McDaniel.

Q. Okay, and you can see that we have redacted the

charge, the conviction out, but underneath that area is the box for violent crime checked?

A. Yes, it is.

Q. And when would someone check that box?

A. Well, I assume it's done before it gets to us, it would before it goes to court.

Q. And is it to indicate that the crime that they're pleading guilty to, or they've been convicted of, is a violent crime?

A. Yes ma'am.

Q. As defined by section 16-1-60?

MS. GAY: Your Honor, I would object. I think that's beyond the scope of her knowledge.

MS. MORRIS: Okay, that's fine. I will withdraw the question.

THE COURT: Okay.

Q. And what is --- what is the date of the conviction?

A. June the 12th, 2009.

Q. Thank you.

MS. MORRIS: Beg the Court's indulgence. No further questions from the state.

THE COURT: Any cross examination?

MS. GAY: No, no cross examination Your Honor.

THE COURT: All right Ms. Hill you can please step down. You're free to go.

MS. HILL: Thank you.

THE COURT: My understanding is that the next witness will take up a significant amount of time. Is that right?

MS. MORRIS: I think it'd be longer than we would like. I'm sure everyone is hungry at this point.

THE COURT: All right s what we'll do is we will take our lunch break now. It is 12:25, let's get back in here at 1:45. That'll give us a little bit more than an hour and 15 minutes to 1:45 lunch break now from 12:25 to 1:45. I'll let y'all go to lunch and ask you to be back in the jury room at 1:45.

(Jury excused for lunch 12:25)

THE COURT: Okay. All right. Y'all can be seated. Anything from the state?

MS. MORRIS: Nothing, Your Honor.

THE COURT: Anything from the defense?

MS. GAY: No sir.

THE COURT: Okay, all right, alert me if there's anything that comes up before the jury comes back at 1:45 and we'll try and address that before we can start with them at 1:45.

MS. MORRIS: Okay, thank you, Your Honor.

THE COURT: Thank you.

(Back on 1:55 PM)

THE COURT: All right, state ready to proceed, ready

to bring the jury back in?

MS. MORRIS: Yes, Your Honor.

THE COURT: All right, the defense ready?

MS. GAY: Yes sir.

THE COURT: All right, bring the jury back in.

MADAM CLERK: Jury coming in.

(Jury enters courtroom)

THE COURT: Y'all can be seated. Thank you. All right, the state ready to proceed?

MS. DONATO: Yes Judge.

THE COURT: The defense ready to proceed?

MS. GAY: Yes sir.

THE COURT: All right. You can call your next witness.

MS. DONATO: The state calls James Green.

MADAM CLERK: Please raise your right hand. Do you solemnly swear or affirm the testimony you should give the court in the trial of this case shall be the truth, the whole truth, nothing but the truth, so help you Go?

MR. GREEN: Yes, ma'am.

MADAM CLERK: You may be seated. Please state your full name for the record and spell your last name.

MR. GREEN: James Green, G-R-E-E-N.

Mr. James Green - Direct Examination by Ms. Donato

Q. Good afternoon, Mr. Green.

A. Good afternoon.

Q. What is your occupation?
A. I'm a forensic firearms examiner employed by the South Carolina Law Enforcement Division, commonly referred to as SLED.
Q. How long have you worked at SLED?
A. Since June of 2005 so a little over 20 years.
Q. What are your responsibilities at SLED?
A. We examine firearms and firearm related evidence to evaluate whether the firearms fired cartridge cases and or bullets that were collected at crime scenes.
Q. How long have you performed firearm analysis or identification?
A. Since I started at SLED.
Q. So what does firearm analysis or identification consist of?
A. We evaluate the markings left on fired bullets and fired cartridge cases as a result of being fired. Each firearm will leave distinctive markings or patterns on a fire bullet or a fired cartridge case that is unique to that particular firearm.
Q. Thank you. What is your educational background?
A. I have a bachelor's and a master's in Charleston Southern University, and then when I was hired at SLED. I started the SLED firearm and tool mark course of instruction, about a three to three and a half year course

instruction, studying under court qualified firearms examiners in an apprentice type fashion, learning to do what I do now.

Q. Are you authorized or certified by SLED to perform firearm analysis?

A. Yes, ma'am.

Q. Have you ever been qualified in court as an expert in firearm analysis?

A. Yes ma'am.

Q. About how many times?

A. I believe it's 137 times that includes both state and federal courts.

Q. Thank you so much.

MS. DONATO: Judge at this time, the state moves to have Mr. Green declared the expert in the field of firearm identification.

MS. GAY: No objection, Your honor.

THE COURT: All right so qualify as an expert in the field of firearm analysis.

MS. DONATO: Thank you Judge.

Q. Could you describe the process of examining firearms and projectiles?

A. When we're examining projectiles, it's a little different than when we're looking at cartridge cases. When we're looking at cartridge cases, you look at the base or

the head of it, and it tells you the caliber, and it tells you who makes it so you know that cartridge cases are nine millimeter Luger or 40 S and W or whatever. When we're looking at bullets, or what some people call projectiles or slugs, it's a little different. We look at what we call the OPCs, which are the observable physical characteristics, that's the diameter at the base, the weight and how it looks. And that will give us the nominal caliber, nominal means like 900 Luger, three Magma, whatever we could do it that way. And when we have a firearm to compare with a projectile or bullet, we'll examine the firearm first and make sure it's safe to fire. I like my fingers, I like my eyes. Don't want a catastrophic failure, so make sure it's safe to fire. Then we'll test fire that firearm to get test bullets and test cartridge cases that we know were fired by that gun beyond any shadow of a doubt, because we fired them ourselves. There's nothing else on the floor. The range is clean, so any cartridge cases we collect, or any bullets we collect out of the water tank were fired by that firearm. Then we will use our comparison microscope, which is a two microscopes connected by a single optical bridge that lets us look at those two objects simultaneously. Because what we're really looking for are tiny scratches, and we can use different angles of lighting to reveal those

scratches, to make shadows or things brighter. We'll compare the tests bullets with each other, make sure the guns marking consistently. Compare the test cartridge case with each other, make sure they're marking consistently. And then we will compare any tests from firearms submitted to the evidence in the case to arrive at our conclusions.

Q. Thank you. How is evidence received at SLED?

A. In the new lab, which we moved into about three years ago now there are evidence lockers, and the submitting agency will come in and they'll have a locker assigned to them. They'll put the evidence in there. Our evidence control custodians or technicians will remove the evidence and the packaging that it was put in the lockers from. They'll log it into our system. Even though the submitting agency has their own case number it will get an individual SLED laboratory number, and it follows the evidence through whatever department it goes through throughout the lab, and each individual item will get its own individual SLED item number. That way, you can follow chain of custody from the minute it walks into the door, gets logged in to whatever analyst or examiner it goes to, until it's returned to the submitting agency.

Q. Thank you.

MS. DONATO: Your Honor, may I approach?

THE COURT: Yes.

Q. I'm handing you what's been previously admitted as state's 43. Is this a firearm that you examined in this case?

A. Yes, ma'am state's exhibit 43 is the pistol I examined, the SLED, item two.

MS. DONATO: May I approach?

THE COURT: Yes.

Q. I'm handing you state's exhibit 44. Did you also receive an exam in this firearm?

A. Yes, ma'am, see exhibit 44 is the pistol I examined as SLED item one.

Q. I'm now handing you exhibit 45 which contains exhibits 46 through 62. Are these also items that you received and examined for this case?

A. Let me go through them real quick.

Q. Sure.

A. Yes, ma'am, state's exhibit 45 contains the fired cartridge cases and fired bullets I examined in this case.

Q. Thank you so much. Did you analyze these items?

A. Yes, ma'am.

Q. Did you prepare a report of your analysis?

A. Yes, ma'am, I did.

MS. DONATO: Your Honor, may I approach?

THE COURT: Yes.

Q. I'm handing you what's been marked for identification

purposes as state's 68. Do you recognize this?
A. Yes, ma'am, state's 68 is the report that I issued in this case.
Q. It's a report that you created for this case after analyzing these items?
A. Yes, ma'am.
MS. DONATO: Your Honor at this time we'd like to admit state's 68 into evidence.
MS. GAY: No objection, Your Honor.
THE COURT: Without objection.
(State's Exhibit 68 was admitted)
Q. All right, if we could go through each item that you analyzed. So state's 44 and SLED'S one, would you tell the jury what that is please?
A. Yes ma'am, the pistol I examined SLED item one was a Taurus model PT 111, Millennium E2 semiautomatic pistol. A 9mm Luger caliber serial number EJP06234, and the pistol was submitted with a magazine.
Q. State's 43 and SLED's two. What is that?
A. SLED item two was a Taurus model G3, semi automatic pistol also a 9 million Luger caliber serial number, AC8099413, and that came with a magazine and seven unfired nine millimeter Luger caliber cartridges.
Q. Thank you State's 46 and SLED's three?
A. SLED three, item three was a fired 9 million Luger

caliber cartridge case.
Q. State's 47 and SLED's four?
A. That was also a fired 9mm Luger calibr cartridge case.
Q. State's 48 SLED's five?
A. Fired nine millimeter Luger caliber cartridge case.
Q. State's 49 and SLED's six?
A. That was a fired 40 S and W caliber cartridge case.
Q. Okay. State's 50 and SLED's seven?
A. That was a fired nine millimeter Luger caliber cartridge case.
Q. State's 51 and SLED's eight.
A. A fired nine millimeter Luger caliber cartridge case.
Q. State's 52 SLED's nine?
A. A fired nine millimeter Luger caliber cartridge case.
Q. State's 53 SLED's 10?
A. A fired 40 s and w caliber, cartridge case.
Q. State's 54 SLED's 11?
A. A fired 40 s and w caliber, cartridge case.
Q. State's 55 and SLED's 12?
A. A fired 40 s and w caliber, cartridge case.
Q. State's 56 and SLED's 13?
A. A fired 40 s and w caliber, cartridge case.
Q. State's 57 SLED's 14?
A. A fired 40 s and w caliber Cartridge case.

Q. State's 58 SLED'S 15?
A. A fired 40 s and w caliber cartridge case.
Q. State's 60 SLED's 16?
A. A fired nine millimeter Luger caliber cartridge case.

Q. State's 61 and SLED's 17?
A. A fired nine millimeter Luger caliber cartridge case.
Q. State's 62 SLED's 18?
A. A fired nine millimeter Luger caliber cartridge case.
Q. State's 59 and SLED's 19?
A. A fired bullet.
Q. All right. So what did you do with item one, the Taurus model one EMG to state's 44, what analysis did you do for that gun?
A. I examined the pistol to make sure it was in working order and the safeties were functioning properly, and then I test fired it to get test specimens to compare against the evidence cartridge cases in bulk.
Q. And what were your conclusions about that?
A. The pistol was in working order. And I'm sorry, what state's exhibit was that 44?
A. 44, yes.
Q. The state exhibit 44 pistol fired all of the 9 million Luger caliber cartridge cases I examined.
Q. Fired all of the nine millimeter?

A. Yes ma'am.
Q. Okay. And then states 43 and sled item two. What did you What was your analysis on that?
A. I examined it to make sure it was safe. Safeties were functioning. It was working order. And then I test fired to get test specimens to compare against the evidence. And that pistol sled, item two, did not fire anything in this case?
Q. Did not fire anything?
A. No ma'am.
Q. Okay. So all of the nine millimeter ammo was fired by state's item one, state's 44 none of the ammo was fired by item two, state's 43 and what about the 40 caliber ammo?
A. The fired 40 S and W caliber cartridge case I examined were all fired by the same firearm. However, they were not fired by either the two pistols I examined.
Q. So you did not have the gun that fired 40 Smith and Wesson?
A. Correct. The two firearms I examined were not the source of those 40 color cartridge cases, so I did not examine that firearm.
Q. So the item number 19, which was exhibit 59 tell us about that.
A. Once I weighed, state's, exhibit 59 was the fired bullet. Once I weighed it, took the diamond or the base,

and looked at its OPCs, of those observable physical characteristics, I concluded that that bullet was most consistent with bullets loaded into some 40 S and W and or 10 millimeter auto caliber cartridges. The reason why we say 40 and or 10 is because both of those two cartridges, which are very distinct, very different calibers. They use the same diameter bullet. So unless we match a bullet from one of those two, two particular firearms, we can't tell you which caliber it is. It's either 40 and or 10. So just based on that caliber alone, it's too big to be fired by either the two pistols I examined. So the bullet was not fired by those two pistols. The FBI, in accordance with the Association of Fire and tool mark examiners or, AFTE, put together a database of firearms that we can search based on class characteristics, caliber, number of lanes and grooves, direction of twist and the width of those lanes and grooves, which the lanes and grooves just make up the rifling in the barrel that makes the bullet spin. We take that information the GRC, what we call the caliber, number, lanes and grooves, direction twist with lane grooves, put those into that searchable database, and it spits out or returns in the search possible firearms that could have fired those bullets, or that bullet or those projectiles, sometimes we get a list of 88 different manufacturers and or origins. Sometimes, in instances like

this, we get back one, the only current manufacturer we know of that makes firearms with rifling characteristics like those on that bullet is Smith and Wesson for both 40 S and W and 10 millimeter auto calibers.

Q. Thank you so much.

MS. MORRIS: Beg the Court's indulgence.

Q. Thank you so much. Please answer any questions defense may have.

THE COURT: Any cross examination?

MS. GAY: I have no questions for this witness, Your Honor.

THE COURT: All right, you can step down. Thank you. State ready to call its next witness?

MS. MORRIS: We are and Your Honor, could we also excuse Mr. Green?

THE COURT: Certainly, you are excused Mr. Green, you're welcome to stay if you wish.

MS. MORRIS: The state calls Nehemiah Read.

MADAM CLERK: Do you solemnly swear or affirm the testimony should give the court in the trial in this case to be the truth, the whole truth, nothing but the truth so help you God?

MR. READ: Yes, I do.

MADAM CLERK: Please state your full name for the record and spell your last name.

MR. READ: Nehemiah Read, last name is R-E-A-D.

Mr. Nehemiah Read - Direct Examination by Ms. Morris:

Q. Good afternoon Detective Read, where do you work?

A. Berkeley County Sheriff's Office.

Q. How long have you worked at the Berkeley County Sheriff's Office?

A. In total, approximately 15 years.

Q. What do you do at the Berkeley County Sheriff's Office?

A. I'm a detective in the Criminal Investigations Division.

Q. Were you working there in January of 2024?

A. Yes.

Q. What was your position at Berkeley County Sheriff's Office at that time?

A. Detective.

Q. What were your duties as a detective?

A. To collect any and all evidence pertaining to the case in question, interview witnesses, potential witnesses, suspects.

Q. And as part of your duties to also take all of the evidence that you're ...

A. Yes, when available ...

Q. ... and analyzing them?

A. Yes.

Q. What was your role in the investigation of the shooting that happened on January 14 of 2024 in St. Stephen's?

A. Yes, I was the on call detective. I was contacted by my supervisor who directed me, or first informed me that a shooting took place at the location of bar in the St. Stephen area Berkeley County. At that time, I was tasked with going to Trinity hospital to speak with two of the individuals who had sustained gunshot wounds. So responding to the hospital.

Q. Why did you respond to the hospital and not the actual scene of the shooting?

A. At the time that I was contacted, there were sufficient elite personnel on scene, so I wasn't needed there.

Q. What did you learn upon arrival at Trident hospital?

A. Once I arrived, I was met by my lieutenant as well, I was directed to two individuals who were in emergency rooms being rendered aid for gunshot wounds that they had sustained.

Q. And who were those individuals?

A. Jarod Cleveland and James McDaniel.

Q. What information did you gain about Jarod Cleveland and the reason he was at the hospital?

A. What I --- the information I was given was that Jarod

Cleveland had sustained a gunshot wound to his back.
Q. What information did you gain about James McDaniel and the reason he was at the hospital?
A. He sustained a gunshot wound to his lower leg.
Q. What else did you do at the hospital?
A. I also collected, it's called GSR gun residue kit from both James, excuse me, James McDaniel, as well as Jarod Cleveland. I also collected their clothing for evidence or evidentiary purposes.
Q. Were you able to speak with Jarod Cleveland at the hospital?
A. I was not.
Q. Why were you not able to speak with him?
A. Due to his medical state, the medical personnel they were providing aid to him, he was unresponsive and unable to make a statement.
Q. Were you able to speak with James McDaniel at the hospital?
A. I was not.
Q. He was being prepped for Emergency, emergency surgery for his injury to his leg.
Q. After your investigation at the hospital, what did you do next?
A. So after that, I went back to the office to start reviewing body cam footage. That's footage of responding

deputies to the scene as well as kind of get an idea of, you know what took place, being that I wasn't able to speak with either individual hospital. I also spoke with Jared Cleveland.

Q. And what information did you learn from Jared?

A. Jared Cleveland provided his account of what took place at the bar, as well as the clothing that he and his brother and James McDaniel was wearing, as well that, you know, that he sustained a gunshot moon to his ear. That's the information I gathered, that I learned.

Q. Earlier you testified that you had collected clothing from the hospital?

A. I did.

Q. From both Jarod Cleveland and James McDaniel?

A. Yes, ma'am.

Q. So when Jared is informing you of the different clothing that people were wearing, did you recall seeing that?

A. Yes, the information that was collected by Jared Cleveland coincided with the clothing that I retrieved from the hospital from the two individuals identified as Jarod Cleveland and James McDaniel at the hospital.

MS. MORRIS: Your Honor, at this time, the State wishes to publish what's been previously admitted into evidence as state's exhibit five and six and eight through

10.

MS. GAY: Can you just tell me what that is?

MS. MORRIS: The clothing. Defendant's clothing.

THE COURT: Any objection?

MS. GAY: No sir.

THE COURT: All right, without objection.

MS. MORRIS: Let's publish State's exhibit five.

Q. And Detective Read, if you could just please turn around and tell us what this clothing is, what this exhibit is, rather.

A. This is a picture of James McDaniel's hoodie that he was wearing at the time incident.

Q. And is this the clothing that you collected from the hospital?

A. Yes, it was.

MS. MORRIS: State's exhibit six, please.

Q. And what are we looking at here?

A. Those are the pants, the jeans that were collected from hospital.

Q. From James McDaniel?

A. From James McDaniel, correct

MS. MORRIS: State's exhibit eight, please.

Q. What are we looking at in this?

A. This is Jarod Cleveland's jacket that was collected at the hospital.

MS. MORRIS: State's exhibit nine, please.

A. This is a T shirt that belonged to Jarod Cleveland that was retrieved from the hospital.

MR. MORRIS: And state's exhibit 10, please.

A. These shorts belonged to Jarod Cleveland, which was also collected at the hospital.

Q. Thank you. What else did you do in your investigation?

A. After collecting the --- speaking with Jared Cleveland and other information that I had obtained, it was believed that James McDaniel his direction to travel after the incident, as well as canine tracks as well, we hadn't located the firearm that was used. I returned back to the incident location attempt to find the firearm that was used, using the previously information, collected information from the canine track, as well as other things you know, seeing that that direction of travel, that was that he took, there's a drainage ditch. Possibly, I thought maybe that the firearm could have been thrown in there. So attempt to locate it. Unfortunately, wasn't able to find it.

Q. Whose firearm are you attempting to locate?

A. The firearm that James McDaniel used.

Q. Because the firearms by Jared and Jarod Cleveland are already in evidence?

A. Yes, ma'am.
Q. Did your investigation lead you to any video evidence?
A. Yes, it did.
Q. And what video evidence is this?
A. This is evidence that was collected from surveillance from a gas station called the Corner Stop, which is right adjacent to the instant location.
Q. And what does this video evidence show?
A. The video shows the one, previously described our information that was collected from Jared Cleveland, as far as the description of clothing, as well as the clothing that was recovered at the hospital, those individuals that were on the video. So I was able to identify all parties as well as it showed a shooting take place. I also observed an individual wearing the gray and colored hoodie that was identified as James McDaniel, aggressing on to individual who was identified as Jared Cleveland.
Q. Was there anything of significance that you observed when you watch the video?
A. Yes, the individual identified, I identified as James McDaniel, at one point as he was walking towards Jared Cleveland's vehicle, it appeared as though he retrieved an object, an item, from his waistline, and aggressed onto

Jared Cleveland.

MS. MORRIS: Your Honor, at this time, the state wishes to publish states exhibit one that's already been admitted into evidence.

THE COURT: Any objection?

MS. GAY: No.

THE COURT: Without objection.

Q. Detective Read, if you could turn around and with that laser pointer, if you could point out for us at that moment where you were describing the defendant's actions?

A. This is defendant McDaniel. He's manipulating something in his hand right there. His elbow pulls up. He retrieves an item. Right there. You can see the firearm.

MS. GAY: Your Honor, I would object. I think this is speculation at this point, he's giving his own opinion of what this video is, and this jury gets to decide what they think of this video. This is all speculation on his part.

THE COURT: All right. Y'all come forward.

(Counsel approaches bench without court reporter)

MS. GAY: Your Honor this time I would make a motion to strike. I made my objection Your Honor, and I'll let you rule. But in the event that you rule with what I say, I would move to strike this responses from the record.

THE COURT: And I have taken into consideration the objection, nature of the objection as explained, and will

strike the previous response from the witness and instruct the jury to disregard the previous question and the previous answer.

MS. GAY: Thank you, Your Honor.

THE COURT: You may proceed. Thank you.

MS. MORRIS: Thank you, Your Honor.

Q: Okay, we'll go ahead and take down state's exhibit one. Was there other surveillance video that you obtained during your investigation?

A. Yes, there was.

Q. What other surveillance video did you obtain?

A. It was also from the same convenience store near the back portion of the business, but it directed towards the incident location.

Q. It was just a different angle of the camera?

A. Yes, ma'am.

Q. And without providing any opinion as to what you're seeing. What did you observe in that video?

A. Yes, I observed an individual match in the description clothing as James McDaniel exit the bar. I observed the individual standing near the back of the bar, and pull something I observed out of his waistline, some darkened --- darkened color object that I observed to be potentially a firearm, place it back in his waistline. The video also shows when Jarod Cleveland arrives to the bar

in his truck. The video also shows Mr. McDaniel leave the bar at a second point in time. It also shows directly after the incident the shooting take place. It shows an individual matching description clothing, fleeing the scene running.

Q. Does it also show at one point, Jarod Cleveland returning to his vehicle?

A. Yes, it does. It shows Mr. Cleveland returning to his truck. It does.

Q. And what does he do when he returns to his --- or what does it up here that he's doing when he returns to his truck?

A. Retrieves a firearm.

MS. MORRIS: All right, at this time, the state would like to publish what's already been admitted into evidence as state's exhibit 63.

THE COURT: All right, any objection?

MS. GAY: No, Your Honor.

THE COURT: All right, without objection.

Q. So we're going to publish state's exhibit 63. The first section is going to be from 15 seconds to a minute, 57 seconds, and before we start, once the video comes up before we start it, Detective Read, I'm going to have you tell everyone the date and time that's at the bottom.

A. Yes, ma'am.

Q. And actually, I'm sorry, there are two dates and times. Could you explain why that is?

A. This time is the time that the video was being recorded by, if I recall, a secondary device, this time down here is the recording from the store itself.

Q. So the correct time is the one that's where the play button is?

A. Correct.

Q. In the middle?

A. That’s the correct time.

Q. And once that plays, I imagine you'll be able to see it and be able to tell us the time?

A. Yes, ma'am.

Q. Okay.

A. Time is 21:01 which is military time converted, is 9:01. The date is going to be January, 14, 2024. At that point in time prior to that it appears as it appeared, as though Mr. McDaniel ...

MS. GAY: I would make my same objection at this point, I think that the jury can determine what they see in that but for him to speculate as to what he believes it is, or make a statement.

THE COURT: I’ll sustain the objection on the same ground.

MS. GAY: Thank you, Your Honor.

THE COURT: This calls for speculation.

MS. GAY: And anything he said that we moved to strike it may have been related to that.

Q. Now we're going to play from 55 minutes 51 seconds to 56 minutes and three seconds.

Ms. Gay: Can you give the exact time on that one?

MS. MORRIS: Yes.

Q. Are you able to see the time at the bottom there Detective Read?

A. I am not. It's 21:57:03 seconds, which conversion that's 9:57.

Q. And what did you observe in that portion?

A. If you could rewind it just a bit? That's Jarod Cleveland's vehicle, his truck.

Q. Now we're going to move to one hour three minutes, 55 seconds, to one hour five minutes and three seconds, and when it comes up, it starts playing again. I'll have you give the time Detective.

A. Time is 22:04 converted, that's 10:04. Based on the description, this is James McDaniel.

Q. Okay, now we're going to go to one hour, 28 minutes and 17 seconds to the end of the video, and when it starts again. Detective Read, I'll have you tell the jury what the time is.

A. Time is 22:29 which is 10:29 PM.

Q. And who is that?
A. That is Jarod Cleveland.
Q. What did we just observe?
A. That was the individual identified as, excuse me, James McDaniel fleeing the scene just based off of the description of clothing.
Q. Thank you.
MS. MORRIS: Beg the court's indulgence.
Q. So after completing your investigation, what did you decide to do?
A. After collecting all information, I charged James McDaniel for attempted murder times two that would be for both Jared and Jarod Cleveland, as well as possession of weapons of commission of a violent crime times two for both individuals and as well as possession of a firearm by a person convicted of a violent offense.
Q. Thank you.
MS. MORRIS: No further questions from the state.
THE COURT: Any cross examination.
MS. GAY: I'm sorry. I have no further questions for this witness, Your Honor.
THE COURT: You may step down. Thank you.
MR. READ: Thank you, Your Honor.
THE COURT: All right. State ready to call it's next witness?

MS. MORRIS: At this time, the state rest.

THE COURT: All right, ladies and gentlemen, I have a matter of law to take up, so I ask you all to step back to the jury room. We will attend to it as quickly, as efficiently as we can. Same admonition, don't talk about the case just yet. Okay? Thank you. Y'all may be seated. Thank you.

(Jury excused from the courtroom)

THE COURT: Ms. Gay?

MS. GAY: Thank you, Your Honor. At this time, I would make a motion for directed verdict on behalf of my client. Even in the light that is favorable to the state, Your Honor, I do not believe that they've met the elements to charge him with all these offences, Your Honor. Of note with regard to the assault against Jarod ...

THE COURT: Assault or attempted murder?

MS. GAY: ... Attempted murder charge against Jarod, the shooting of Mr. Jarod Cleveland, Your Honor, there's from the video that we see that the jury will be considering and the testimony there is no testimony that my client actually shot or intentionally shot this particular victim, Your Honor. There's a struggle, we can see that there's a struggle everything at that point, even the placement of the 40s and things like that, indicate

that the gun that my client is shooting at that time is as he's running away. He's already been shot in the leg. He has already had, you know, he's already been the victim of a gunshot, Your Honor. Everything he's doing at that point is in defense of himself, and we believe in self defense, Your Honor. With regard to Jared, Your Honor, one of the piece of evidence in this case is his brother says that while they were struggling, that he slammed a gun in my client's face. And that's when the gun went off, that he said, hit Jarod in the ear, and ultimately, when the gun is going off and potentially hitting him, and at that time, as I said, my clients already been shot in the leg. By some, I mean, it was obviously not a gun that was --- that Jared had, but by Jarod's gun, he's being shot in the leg at that point, and the mayhem that comes from him being slammed in the face with the butt of a gun is what is going on here. None of this is intentional acts. They have not --- The state has not been able to prove any intent to actually choose to try to harm these people. And for the purposes of the intent of charge of intent to kill. With regard to the gun charge, Your Honor, I know that he is a person convicted of a violent charge. I know that, and he did have a gun that day, so I will leave that up to you, of course, Your Honor. But I do believe that, based on the evidence that’s presented to this jury, that

there's not enough evidence to take the case from this point beyond and the directed verdict should be granted.

THE COURT: Thank you, Ms. Gay, I have to hear from the state.

MS. MORRIS: Thank you Your Honor. As Ms. Gay said, or excuse me, actually I don't think you said that. The burden of proof is viewed in the light most favorable to the state. The judge shall consider only the existence or non existence of the evidence and not its weight. Any direct evidence or any substantial circumstantial evidence reasonably tending to prove the guilt of the accused is submitted to the jury. Circumstantial evidence gains its strength from its combination with other evidence, and all the circumstantial evidence presented in the case must be considered together.

In this case, the state presented the date of January 14, 2024. The state identified the defendant, James McDaniel, through witnesses. Jarod Cleveland remembered what the defendant was wearing. He knew he shot the defendant. Corey Cleveland testified that he knows who James McDaniel is. He's known him since they were kids, or since he was a kid. The canine track also goes to the spot where the defendant was found by deputies. The venue is Berkeley County. We had multiple witnesses testify that 3856 Byrnes Drive in St. Stephen is here in Berkeley

County. And then as to the elements of the different crimes, attempted murder as it pertains to Jared and Jarod Cleveland.

THE COURT: Break those two apart for me?

MS. MORRIS: You want me to analyze them separately?

THE COURT: Yes, please.

MS. MORRIS: Absolutely. So the defendant with the intent to kill did attempt to kill another person with malice aforethought. As to the defendant's intent to kill with Jared, he flashed him his gun. He went Jared went to his vehicle, he rushed him at his vehicle, and if the state believes that the defendant did pull out a firearm at that time, Jared testified that he could feel the defendant there, and he put his hand up and held the defendant's hand up with his hand, and the defendant had a gun in his hand, and he saw the gun, and he described it as a dark gun that had a red dot on it. And they struggled, and the defendant fired that firearm, and it hit Jared in the ear, and it also went into the speedometer of Jared's vehicle. The ballistics analyst James Green, he identified a 40 caliber shell casing that even though we now know that the scene sketch by Kevin McGowan, it was labeled incorrectly. We did have ballistics analysts get up and accurately identify each of these shell casings, and we know that one of those shell

casings, the 40 caliber that the defendant had, was at the vehicle, Jared's vehicle. And Jared's gunshot wound to his ear just a few centimeters from his head could have died. Corey also testified that James McDaniel was agitated and, yeah, and that he had to calm the defendant down. And he tried, and he was not successful. And then with Jarod Cleveland, he slapped Jarod originally ...

THE COURT: Let's back up.

MS. MORRIS: Sure.

THE COURT: On Jared. Malice, specific intent, kill the person. And third one attempt to kill the person. As how does that relate? Not the third element of the attempted murder charge. How does that? What evidence is there as to Jared, if there was the attempt by this defendant to kill that person, Jared?

MS. MORRIS: We have the evidence that we have in the video. We can see in the video that he goes to the victim, the malice, that hatred, ill will, hostility, the intentional doing of a wrong act without just cause or excuse. He goes to the victims ...

THE COURT: How does that go to attempt to kill that person Mr. Jared?

MS. MORRIS: He tried to shoot him in the head. He hit his ear, but he tried to shoot him in the head. As soon as he went to the vehicle.

THE COURT: Was it as a result of the struggle?

MS. MORRIS: He already had his gun out. Jared testified that the defendant already had his gun out, and he had to put his hand there was a struggle, because Jared is fighting for his life.

THE COURT: All right, I interrupted you. Go ahead.

MS. MORRIS: No, no. My apologies, Your Honor. Do you want me to move on to Jarod?

THE COURT: Yes, please.

MS. MORRIS: Okay, and then as to Jarod, it started off with the defendant slapping him in his in the face. Jarod felt threatened, so he did go to his vehicle. He got his gun. They come back. That's where that video starts, where Jared then goes to his vehicle. So the defendant first tries to kill Jared, Jarod comes to his aid, and in doing so, yes, he hits him over --- he hits him in the face with the gun, because he's coming to the defense of his brother. The defendant, in response to that attempts to kill Jarod Cleveland.

THE COURT: So where is it you got what appears to be some evidence of the malice on the part of the defendant relative to Jarod with the testimony about the slap. Where is the defendant's specific intent to kill a person? What evidence is there of that?

MS. MORRIS: When he when he first goes to the vehicle

and pulls out his gun, that's his intention that he's about to kill and then he discharges that firearm.

THE COURT: Which he are we talking about?

MS. MORRIS: To Jared. That's, that's the initial attempted murder.

THE COURT: I'm talking about Jared, attempted murder as Jarod with specific intent to Jarod.

MS. MORRIS: To Jarod, he formed that specific intent right after he got ...

THE COURT: What evidence is there of any specific intent to kill?

MS. MORRIS: Because he's shooting at him, and that's in the video. We can see the muzzle flashes, and he is shooting at Jarod. He hits him in the back.

THE COURT: I saw the muzzle flashes from Jared shooting toward the defendant.

MS. MORRIS: And there are also muzzle flashes from the defendant.

THE COURT: So you're saying that the video shows more than one muzzle flash, and at least one of them directed from the defendant toward Jarod?

MS. MORRIS: Yes, there were multiple, multiple shots from the defendant towards Jarod.

THE COURT: But only one shell casing?

MS. MORRIS: There's only one shell casing at the

Chevy Cruze. There's multiple shell casings, and Kevin McGowan testified to it as he's running away, like while he's ...

THE COURT: So the shooting is this specific intent as a result of the shooting, immediately adjoining or immediately next to the vehicle, or as it's running away, or both?

MS. MORRIS: It is. It is both Your Honor, because it is, as you can see from the video, this all happened so quickly, but he had intent to kill Jared Cleveland and Jarod Cleveland, and we can see from the shell casings at the scene. Yes, there's lots of nine millimeters. Jared testified that he unloaded his firearm. But there's also the 40, caliber. There's one, two, three, four, five, six, seven, seven 40 caliber shell casings at the scene, along with the projectile from the windshield. That was a 40 caliber projectile that James Green testified to. He said it could be 40 caliber or 10 millimeter. And then we could also see the photograph. Kevin McGowan said the photographs, there is that one picture where you could see that the projectile had entered in one side and came out the other, and he said that was going in a right trajectory. So that's from the defendant shooting towards the two victims ...

THE COURT: It seems that the gunshot injured Jarod

was before the defendant may have ran away.

MS. MORRIS: Could you repeat that, Your Honor?

THE COURT: It appears that the gunshot that injured Gerard occurred before the defendant ran away?

MS. MORRIS: Yes, because we can see him fleeing behind Jarod's vehicle. But we can see when Jared and Jarod, they're somewhat close in proximity, that first muzzle flash comes from the defendant, and it's towards. It is at, it is aimed at Jarod. It hits him and he goes down right away.

THE COURT: So that's where you're saying that the attempt to kill as to Jarod?

MS. MORRIS: That's correct.

THE COURT: The first one.

MS. MORRIS: That's correct.

THE COURT: Let me revert back and jump back to Jared. Where is that? Where is the evidence of attempt to kill is separate from that gunshot that you just described relative to Jarod?

MS. MORRIS: So the one for Jared that intent starts as he's coming to the vehicle. He takes the gun out right away, and that's when Jared ...

THE COURT: Where's the attempt to kill Jared?

MS. MORRIS: Well, I would argue that he attempted to kill him there. Jared stopped him for a short bit, and

then he was able to discharge the firearm and hit Jared in the ear. And that would be another intent to kill him. He wasn't successful the first time because Jared struggled with him, but then he was, he attempted to kill him again.

THE COURT: This is an attempt whether it's successful.

MS. MORRIS: That's correct.

THE COURT: All right.

MS. GAY: May I respond, Your Honor?

THE COURT: Hold on a minute but absolutely. I want to hear from you. Okay, anything further from the from the state?

MS. MORRIS: As far as the possession of a weapon during the commission of a violent crime. The defendant or the defendant committed a violent crime, attempted murder on both Jared and Jarod. The defendant was in possession of a firearm. We can see that through the muzzle flashes. And as far as the possession of a weapon by a person convicted of a violent crime, the defendant was in possession of a firearm. We had Ms. Linda Hill, take the stand and testify to the sentencing sheet we kept in that part that it was a violent crime, even though it's redacted as to what the crime actually is. And so therefore the state has presented sufficient direct and

substantial circumstantial evidence to submit all charges to the jury.

THE COURT: All right Thank you. Ms. Gay I would be happy to hear from you.

MS. GAY: Thank you, Your Honor. With regard to the violent crime, I understand that's the case, Your Honor. With regard to possession of the weapon during commission on violent crime, there's a number of things that we would be asking to charge the jury, other than attempted murder. Some of them are violent. Some of them are not. But that, I think, would be part of what the jury decides, Your Honor. The charges about attempted murder, as the courts have said, it has to be specific intent to commit, you know, to want to be killing them. I mean, layman's terms, they have to want to kill the person. So what we have, and this is, again, the solicitor is, you know, making her assertion of the facts as to what she believes the jury may decide or may not decide. But if we looking at the light most favorable, I don't believe that they've established the specific intent to kill. And this is why this man, both of these witnesses that we've had so far are saying that a struggle ensued. And when we see, I gotta lean on the table, when we see this situation, and we see what's going on in this video, what happens as they're all mashed up together, all three of them in that

car door is very, very difficult to see. So that incident and those that --- all that --- that's going on is subject to lots of interpretation, and is not only subject to the interpretation that my client is putting a gun to somebody's head to try to shoot them. She specifically said, well, it's obvious that he's trying to kill him because he's shooting him. Her own witness, her own witness, Jared said that when he hit, you know, pushed him in the face, hit him in the face with the butt of his gun, that's when his gun, James McDaniel's gun, went off, which meant that James McDaniel's gun didn't go off in his version of the facts before that, at that point there was a struggle. You see a very tall, in my opinion, arm with a gun that we can see in the video, and it's being held up. My position is that that is, in fact, Jared's gun, Your Honor, not my client's gun, but understand that there's allegedly a casing on the ground. The jury will have to decide what caliber it is. But so what we have is two people having a physical argument of some sort, not involving sticking a gun to somebody's head and saying, I want to kill you. I have malice for you, and I'm going to shoot you right now. That is not what's happening. What's happening is these two people are physically, are physically having some type of struggle, and then her own witness says, I hit him in the face with the gun and

that's when his gun went off. That is not an intentional act, Your Honor. That is an act of maybe surprise, or some type of maybe, you know, his hand manipulates the gun at that point and possibly the trigger gets pulled. That is not an intentional act to shoot somebody in the face at that point. And he said, that's when the bullet hit my brother's ear. So that is an accident almost, you know, some kind of like that, that just happened as a part of this struggle that they're having. Now what ends up happening is Jared says, Well, he was shooting backwards, and that's when he hit my brother. So, okay, so when we see --- we don't see Mr. McDaniel shooting backwards. We don't see him with a gun doing this number, trying to shoot at the man that's behind him who's just hit him in the face with a gun. What happens is, in all this mayhem, somehow Jared gets shot, and he's on, as you pointed out, Your Honor, he is on the ground before my client goes and is starting to run away, and is potentially shooting at the person who just shot him in the leg and the person who's got, you know, all kinds of nine millimeter bullets casings spread out all over, because he said he unloaded his gun. He said it could have been eight shots. He said it could have been 12 shots, but he is unloading his gun in the direction of James McDaniel, who has already been shot in the leg, and so he is, Mr. McDaniel is running

away, in his opinion, protecting himself from being killed by this person who's shooting at him. That the gentleman, Mr. Jared Cleveland, is already on the ground. He's already been hit by some bullet. There's only one casing that's supposed to be a 40. There's a bunch of casings around there. They're supposed to be nine millimeters. So there is absolutely no testimony in this case whatsoever that says that my client intentionally tried to shoot Jared Wilson at all, Jared Cleveland at all, or tried to kill him. You know, just the fact that there may have been a bullet that was probably not even his that hit him as Mr. McDaniel is backing up and trying to get away in the video, his back is to the victim the entire time he's --- his back is to Jerod Cleveland the entire time while Mr. Cleveland is dropping on the ground, he's trying to get away, but his back is always towards him, and so there is no evidence whatsoever that he intended to kill Jarod at the time that this bullet was supposed to, you know, it did graze his ear. Jared --- a bullet grazed his ear, based on Jarod's statement that as he hit him in the face, the gun went off. And there's no evidence whatsoever that he had any malicious intent, or any malice or any intent to kill the other brother, Your Honor, while he's got his back to him with --- the and as I said, Jared testified, well, I think he was shooting backwards while he was

shooting at my brother from --- in backwards. That's not real. That's not consistent with what could have even happened here. There was not even a casing that matches anything like that. So I would argue that there's not been --- that you should grant directed verdict, Your Honor.

THE COURT: Okay. Thank you very much.

MS. GAY: We were curious, since it is three o'clock and that now I have to talk to my client about testifying and all those things are, could we maybe start in the morning, or do you want to go through this afternoon?

THE COURT: Let's talk about the directed verdict first, and then we'll discuss schedule. How's that? As to the attempted murder. And I don't have the indictment number that corresponds with it might be the 2456, as to the attempted murder regarding Jared Cleveland. I think that is correct. I have reviewed all the elements, and under the standard that I think properly set forth, I have to look at all the evidence in the light most favorable to the state, any evidence standard, any evidence not the most persuasive or not the best or not the only evidence, but any evidence under that standard, I'm going to have to deny it as to all of the charges, specifically as to the attempted murder, and I appreciate y'all going through the elements. As to the malice regarding Jared. There are words. There appears to have been some bad blood. The

weapon that was exhibited, there's a loaded weapon. There's a loaded weapon. There's testimony that is being held pretty much to his --- to his head. There's circumstantial evidence to support the specific intent to kill by firing or having a deadly weapon, a drawn deadly weapon during this, whatever it was tussle that they were having next to the vehicle, as to the attempt to kill, there was a firing of the weapon in close proximity to that, to the head, as part of that while they were apparently in very close contact, if not in contact, which certainly would be considered, or could be considered evidence of attempt to kill that person.

As to Jarod, that's a little bit different as to the malice. I think that clearly there's some evidence there. There's a slap demonstrating some ill will, specific intent to kill that person. There's not much there. There's the firing of the weapon in close proximity, whether it was accidental or not. I think there's contrary testimony as to whether it was accidental or it was specifically as a part of an intentional act by a defendant and the attempt to kill that person, whether that was well beside the car or as he's running away, that could still be possibly interpreted and provide some evidence to the jury that there was an attempt to kill that person, which would have been not only Jared, but

Jarod, even while he's running away. So I think I have to deny the motion for directed verdict. Thank you all for that.

As the weapons charges, certainly there's evidence that some evidence that he was in possession during each of these scenarios, and if the jury concludes that he has found guilty of those, sufficient evidence to support the charge relative to the possession of weaponry and commission of violent crime, and as to the possession highly based upon the conviction, there is evidence that has been presented, certainly as to the prior conviction and as to the possession of truth support and provide some evidence of charge. I will deny the motions for directed verdict on those grounds.

Now we'll shift gears to that. Is the defense ready to go forward, number one. Number two, is the defendant planning on testifying?

MS. GAY: Well, Your Honor, since late in the afternoon, what I would ask is the opportunity for us to start in the morning, and that way I could have a good conversation with my client. That would be more than just a few minutes. I don't know if you want to do that or not, but that would be what I would ask tomorrow.

MS. MORRIS: No objection.

MS. GAY: As you know, from the Stand Your Ground

hearing, Your Honor, if my client does choose to testify, it's not going to take very long in terms of the time frame, so I don't think it's going to significantly delay the process of arguing and charging.

THE COURT: All right, well, I do think that I probably need to share with Mr. McDaniel his rights to testify or not testify now. I'll do that now. I think that's appropriate to do that now, given the time to consider that, and then we can probably do as suggested. So Mr. McDaniel go ahead and stand up for me. At this time, I'm going to explain to you certain of your rights. If you do not understand anything that I say, please let me know if you want me to further explain anything in more detail, then please let me know that as well. Do you understand?

MR. MCDANIEL: Yes sir.

THE COURT: Okay, all right, we need to put you under oath. Okay, so raise your right hand. You swear or, affirm, to tell the truth, the whole truth and nothing but the truth?

MR. MCDANIEL: Yes sir.

THE COURT: Thank you sir. All right, we have reached the stage of the trial where you may present your defense. You have the right to claim the protections given to you by the Fifth Amendment of the Constitution of the United

States. This amendment states, in part, no person shall be compelled in any criminal case to be a witness against himself. This means that you cannot be required to testify in this case, you have the right to testify on your own personal behalf. However, no one can make you testify. It's a personal right, and no one can waive this right except you. If you decide to testify, you'll be subject to the same rules that govern other witnesses, you may be examined, cross examined, examined on any relevant issue in this case. In addition, if you have any conviction involving dishonesty, false statement or other crimes punishable by more than one year, and this court determines that the value of admitting the evidence, or that evidence outweighs its prejudicial effect to you, the solicitor will be able to introduce your record, to attack your credibility. If you decide to testify, this decision on your part must be freely and voluntarily and intelligently made with knowledge of the protections given to you by the Fifth Amendment and the consequences of your decision to testify. If you decide not to testify, I will instruct the jurors that they cannot give the fact that you did not testify any consideration whatsoever, that there's to be absolutely no prejudice to you because you did not testify is left entirely up to you whether or not to testify. You may talk to your attorney, and I would

suggest that you do that, and probably let you do that overnight. Talk to your attorney, your family, friends, or anyone else you wish to consult, but the final decision will be left entirely up to you. Okay, so you understand what I've explained to you?

MR. MCDANIEL: Yes sir.

THE COURT: You have any questions about what I've explained to you that you want to address to me?

MR. MCDANIEL: No sir.

THE COURT: Okay, all right, and as suggested by Ms. Gay, I'm going to wait until the morning to get your final answer on that. All right?

MR. MCDANIEL: Yes sir.

THE COURT: So feel free to continue to consult with her. I will ask you in the morning, first thing my question will be, do you wish to testify? Okay?

MR. MCDANIEL: Yes sir.

THE COURT: Anything further from the state in that regard?

MS. MORRIS: No, Your Honor.

THE COURT: Anything further from the defense in that regard?

MS. GAY: No, sir.

THE COURT: You can sit Mr. McDaniel. All right so scheduling purposes, we will be in here and ready to go at

9:30 and we'll ask Mr. McDaniel about testifying. If he testifies, we'll go forward with that. If not, then we'll go immediately from there and we'll have a charge conference. I'm going to have my law clerk email to you a suggested charge, as well as a verdict form for your consideration this afternoon. So if we go forward directly with the charge conference tomorrow, or when we do it, you will have it in hand, and you can give voice to either your agreement or disagreement, and we will iron out what we need to do as far as the charges go. Okay?

MS. GAY: One thing I would say is that I kind of think he's leaning towards testifying just, of course, but, and I believe we'll be able to establish some more facts, and in terms of whether or not you are going to choose to charge self defense or not, to get those facts in.

THE COURT: At this point, I have not made a decision in my draft. What is your position regarding lesser included offenses?

MS. GAY: Well, I believe it's even based on our conversation during our directed verdict motion that we should have an ABHAN as a lesser included. I don't think there's anything less than that that we could do based on injuries and things, but I would ask you to consider the ABHAN for both of these people, assault and battery high

and aggravated nature.

THE COURT: State's position?

MS. MORRIS: I have no objection to that.

THE COURT: Okay, so the only one that we question right now would be self defense.

MS. GAY: Yes, sir.

THE COURT: Okay.

MS. GAY: And I understand the need, that you need more facts.

THE COURT: I'm sorry?

MS. GAY: I understand the need, that you need more facts. I'm working on that.

THE COURT: Okay, all right. All right. Anything further?

MS. GAY: No sir.

MS. MORRIS: None from the State, Your Honor.

THE COURT: What I'm going to do is ask that the jury to come back in and tell them that we'll be making a recess for the day and starting again tomorrow at 9:30 and we'll proceed at that time.

MS. GAY: Yes sir.

MS. MORRIS: Thank you, Your Honor.

THE COURT: Let's bring the jury back in.

(Jury enters courtroom)

THE COURT: Y'all be seated please. Thank you.

Ladies and Gentlemen, we have some matters of law that we need to address on this. By the time we would be able to restart, it would be later into the day, so I'm going to call a recess now. It 3:15. We should have everything in order to be able to proceed forward. I'm going to excuse you now actually and ask you to be back just like you were this morning. I appreciate y'all, everybody being on time. Be back at 9:30 and we will start as close to that as absolutely possible. Okay. Same admonition I've shared with you throughout, do not discuss case, don't do anything into it, and we'll go forward tomorrow morning. Thank you all.

(Jury excused for today 3:20)

THE COURT: You may be seated. And I told them to be here at 9:30. I want y'all ready to go at 9:30. Please be here before then nine and 9:15 so that we can address any issues. At that time when y'all get here, double check to make sure all the evidence, everything in there will be ready to go back to the jury at the appropriate time. So I'll ask you to double check that so we won't have to --- to make sure that's done as we move forward later. Okay?

MS. MORRIS: Thank you.

THE COURT: All right. No, thank you all.

(End of Day 2)

(Day 3 AM)

THE COURT: All right. Is the state ready?

MS. MORRIS: Your Honor, would you like to discuss the jury charges and the verdict form at a later time or do you want me to bring that up now?

THE COURT: I will circle back to that.

MS. MORRIS: Okay. The state's ready then.

THE COURT: Okay.

MS. GAY: I need to find Sarah.

THE COURT: Pardon me?

MS. GAY: I need to find Sarah. She's right behind me. She's maybe gone to the bathroom. I'll go look really quick.

THE COURT: I was expecting everybody to be here at 9:15, it's 9:30.

MS. GAY: We were here, Your Honor, at 9:00. They wouldn't open the door but we got here at 9:10.

THE COURT: Good. Is the defense ready?

MS. GAY: Yes, sir.

THE COURT: Okay. All right. First question is, does the defendant intend to testify?

MS. GAY: Yes.

THE COURT: Okay, all right. Did you all get a copy of the charge by email or the proposed charge? State?

MS. MORRIS: Yes, Your Honor.

MS. GAY: Yes, Your Honor.

THE COURT: Okay, and you got a copy of it Ms. Gay?

MS. GAY: Yes.

THE COURT: Okay. Are you working on your phone?

MS. GAY: No.

THE COURT: It's hard to talk to you if you're looking at your phone.

MS. GAY: I'm right here, just writing something for him.

THE COURT: Like I said --- All right. So let's focus. All right. So as to the charge, let me hear from the state any objections, exceptions, suggestions or changes?

MS. MORRIS: Your Honor on the verdict form and on the charge form, what's listed is possession of a firearm or ammunition by a person convicted of certain crimes, and that's the new verbiage under CDR-3434 this occurred before the constitutional carry laws and before it was changed the ...

THE COURT: So it needs the language from the statute before if that changed?

MS. MORRIS: That's correct.

THE COURT: That doesn't change essentially, the essence of the charge, is that right?

MS. MORRIS: That's correct. Well, it does change it in the sense that now it --- because it says it's unlawful

for a person who has been convicted of a crime punishable by a maximum term of imprisonment of more than one year to possess a firearm for ammunition within the state. The previous one is a person convicted of a violent crime.

THE COURT: Right.

MS. MORRIS: Yes.

THE COURT: Okay, yeah, I think you're right. That was --- we're trying to keep the most current one in there, and didn't realize the overlap. Okay, yeah, I think you're right. That needs to be --- the wording on it will change in that regard. Anything else as the verdict form?

MS. MORRIS: No, I think the verdict form is absolutely written as it pertains to that they are first to consider attempted murder, and then if they find the defendant not guilty on that, then they go to assault and battery of a high aggravated nature. So I think everything besides that is very good.

THE COURT: Okay, how about the charge?

MS. MORRIS: This state has no problem with the charges, Your Honor.

THE COURT: All right, and how about the defense, Ms. Gay?

MS. GAY: So we've looked at it, Your Honor, and I don't think that we have any challenges to the --- except for the fact that we do believe that after my client

testifies, we're going to again reiterate our desire for a self defense charge.

THE COURT: Okay. And that was my understanding. That was my understanding as well, and I've got a copy of, I guess, the form self defense charge in front of me, which I'll have in review as the testimony presents itself, and we'll return to that.

MS. GAY: Yes, sir.

THE COURT: Okay, good. State ready to proceed, bring the jury back in?

MS. MORRIS: Yes, Your Honor.

THE COURT: All right. Defense ready?

MS. GAY: Yes.

THE COURT: Okay, bring the jury back in.

MADAM CLERK: Jury entering.

(Jury enters courtroom 9:32 AM)

THE COURT: Good morning, everyone. Y'all can sit thank you. The state ready to proceed?

MS. MORRIS: Yes, Your Honor.

THE COURT: Defense ready to proceed?

MS. GAY: Yes, sir.

THE COURT: All right. Does the defense wish to present case?

MS. GAY: Yes, sir. I'd like to call James McDaniel.

THE COURT: All right. Come on up.

MADAM CLERK: Please, place your left hand on the Bible and raise your right hand. Do you solemnly swear or affirm the testimony you shall give the court in the trial of this case shall be the truth, the whole truth, and nothing but the truth so help you God?

MR. MCDANIEL: Yes ma'am I do.

MADAM CLERK: Thank you. You may be seated.

MS. GAY: Good morning. Mr. McDaniel.

MADAM CLERK: State your full name for the record and spell your last name.

MR. MCDANIEL: James McDaniel. M-C-D-A-N-I-E-L.

Mr. James McDaniel - Direct Examination by Ms. Gay:

Q. Mr. McDaniel, can you tell the jury a little bit about yourself? How old are you?

A. 42.

Q. 42 and do you have kids?

A. Yes, ma'am.

Q. How old are they?

A. My oldest is 23, my youngest is two, and my stepson is four.

Q. Okay, 23 and two. So what type of employment did you do?

A. Construction?

Q. What new construction? Remodeling?

A. Basically like a brick work.

Q. Oh, okay. So you know why we're here, and you know what's going on here today, and you've been sitting through the trial. I'm going to show you state's exhibit one again. We're going to go through it just once, really quick, and then after that, we're going to break it down a little bit. Okay?

A. Yes, ma'am.

Q. Okay.

MS. GAY: Okay. I don't know where the red pointer is?

Okay, here's this thing. If you can figure out how to use it, that's great. I'm not good at that.

Q. So we see in this video, confrontation that went down between you and the Cleveland brothers, right?

A. Yes ma'am.

MS. MORRIS: Your Honor, objection.

THE COURT: I'm sorry?

MS. MORRIS: Objection. Leading.

THE COURT: Don't lead.

MS. GAY: I'm just laying the foundation for it.

Q. So we'd like to talk --- I'd like to talk to you a little bit about what happened before this happened that day that you were at the bar in St. Stephen's. Can you tell the jury what time you got there?

A. I'm not sure, probably like nine, 9:30 that night.

Q. Okay. And during the course of your evening there, had you been drinking?
A. Yes, ma'am.
Q. And what else were you doing?
A. Shooting pool.
Q. And can you tell the jury a little bit about when you started --- what your communication is, what happened then with these guys?
A. All right, well, leading up to the incident, basically having a ...
Q. If you don't mind speaking loud enough, it's a really big room.
A. Well, one of my friends was shooting pool with one of the --- one of the guys that testified.
Q. Which one?
A. I think his name was Trey or Drey or something like that.
Q. Okay.
A. So basically, what happened is I was just making small conversation with a lot of brothers around because I don't know the majority of these guys that be at the bar. So I asked him, was he from around St Stephen area. He said, Yeah, he knew a couple of my brothers, and we had a little conversation. Then the two guys that was on side of the pool table, Jared and Jarod, they came with him. So I

was on the way to make contact with these brothers, basically just to speak to them and try to get to know who they were. And before, on my way trying to contact these brothers, one of them started reaching in his waistband and reaching for a gun and basically saying, do you know me? Do you know me? Basically what he testified to. I walked up to him and I said something about dude, or he heard, well, I said --- he basically, what he said is I heard he be watching people. And that's not me. I never did that in my life. I mean, I have a son these guys age, my son is these guys age, and what they're basically trying to do is make me seem like I'm some monster.

Q. Okay, let's just back up to what it is that was with the facts.

A. Yes ma'am.

Q. So, are you saying to the jury that you said something like that or that you did not say something like that?

A. I didn't say that. No, ma'am.

Q. Okay, so then what happened?

A. So after he started conversation, basically reaching his waistband, saying, Do you know me? Do you know me?

Q. So which person, which one of the Cleveland's Did you believe said that to you?

A. The one that's in the wheelchair.

Q. Okay, so that would be Jarod?
A. I'm not sure.
Q. All right, so that gentleman said to you something and showed you something in his waistband?
A. Yes, ma'am.
Q. Okay. So then what happened?
A. I put my hands up and told him, it ain't got to be like that. Then a whole bunch of people got in the middle of it.
Q. A bunch of people got in the middle. Are we still inside the bar at this point?
A. Yes ma'am.
Q. Okay, and so when the whole bunch of people got in the middle of it what happened?
A. Basically, to break it up.
Q. Had you been aggressive towards him?
A. No, ma'am.
Q. So everything that was going on at that point was verbal?
A. Yes ma'am.
Q. Okay. And so you're still inside the bar. And what happened as y'all --- what happened next?
A. I walked outside.
Q. So you walked outside. Did somebody else escort you outside?

A. No, ma'am.
Q. Okay. So when we see the video, which of one again, can you describe sort of what the --- where the door is and how that works, what we see in that video?
A. Yes ma'am, the door is ...
MS. GAY: You want to show, just turn it on and then just stop it on and stop it.
Q. Okay. Can you describe, if you want to try to use that pointer?
A. Door is in this area right here. It's not in the picture, but it's right in this area. This is the front door right here, which is not used all the time, side door right here, with the ramp right here.
Q. Okay, so you would have come out of that door?
A. Yes, ma'am.
Q. All right, when you came outside at that door, who was outside?
A. I don't recall who was out there, but none of the brothers was out there at that time.
Q. Okay, so when you exited, they were not out there yet?
A. No, ma'am.
MS. GAY: Okay, so can you roll it just a little bit, please.
Q. Okay, there's some people standing there.

MS. GAY: Alright. Stop.

Q. Can you describe and tell us do you see yourself in that?

A. Yes, ma'am.

Q. Where?

A. When the truck moves, I'll be able to see more clear.

MS. GAY: Can you want to go forward a little bit, please. Okay, stop.

A. Standing right here behind these two guys.

Q. Okay, who are those two guys?

A. This is Corey Cleveland, and one of the guys that testified on them yesterday.

Q. Okay, the tall one?

A. Yes, ma'am.

Q. And then you?

A. I'm staying on the other side.

Q. Okay, does it look like there's just two of you, or does it look like there's three?

A. There's three of us, but it don't look like two right now.

MS. GAY: Okay, go ahead. Can you like go a little further? Okay, stop.

A. That’s me right there.

Q. All right, that's you. And then who's the man in the

orange?

A. This is the brother that's in the wheelchair.

Q. Okay, Jared. And then who's this other person, way off to the left here?

A. This is his brother.

Q. Okay, so at this point, the brothers come outside from that door also?

A. Yes, ma'am.

Q. Jared?

A. Yes ma'am.

Q. Okay, so when you're in that, how about how far away, feet wise, are you from Jarod, the man in the orange?

A. Maybe two to maybe three to four feet.

Q. Three to four feet. Okay, so at any point during this portion of the video, are you showing anybody a gun?

A. No, ma'am.

Q. Okay. And, at this point in the video, are you slapping Jared?

A. No, ma'am. I never touched him.

Q. So when you say never touched him ...

MS. GAY: I'd like you to go back just a minute, please. Okay, keep going. I think we're going forward instead of back. I wanted to go back. All right, that's good. We can start there.

Q. What's up, did you slap Jared there?
A. This is the brother that said I slapped him over here by the door.
Q. I understand.
A. I never touched him.
Q. I see that at this point when he's getting closer to you. Did you slap him then?
A. No ma'am he said, soon as he came out, he testified, soon as he came out, I slapped him.
Q. I understand that. I understand where you are and I understand where he is. I'm asking you a direct question. Did you slap him when he came up to you?
A. No ma'am, I never touched him.
MS. GAY: Okay, go ahead, please. Okay, stop.
Q. Okay. This is Jared, who's the brother over here, he has --- he come up to you and talk to you any at all at the point where this is in the video?
A. No, he's not saying anything. Basically, me and Corey, right there, me and Corey people speaking.
Q. Okay, and then you're three, four feet away from Jared, and you haven't slapped him or never slapped him?
A. Never touched him.
Q. Okay, all right. Can you go forward, please? Okay, so stop. Do you have any idea in your head what was going on right this second, as Jared was walking to his car?

A. His brother basically told me he was going to get his gun.
Q. He told you that, as he was standing over there on the other side?
A. He said that.
Q. Okay, so he told you that.
MS. GAY: All right, go ahead. Stop.
Q. So you are coming towards Jared at this point, tell the jury what's going through your head at the point where you're walking towards Jared at this point.
A. What is on my mind is I'm basically ...
Q. But you got to talk clearly.
A. What is on my mind is I'm really trying to talk to him so he could not go get his gun. I mean, a lot of stuff that I do is motivational speaking, prison reform. I'm in all type of groups that deal with young guys of his age and younger and older. So I mean, I have, I have a lot of, I have a lot of communication skills when it comes to speaking with guys.
Q. So what was your intent in walking over towards Jared at this point?
A. Hoping I can talk him down from getting his gun. I wasn't running after him. I wasn't walking towards him. Towards him, rushing me. I was walking to him, trying to talk to him.

Q. Okay, so had you been in any kind of argument whatsoever and said any type of words to Jared?
A. We had no words at all.
Q. No words. Okay, and at this point in time, right that minute, are you holding a gun, like where we could see it in your hands?
A. No, ma'am.
Q. Okay, alright, but you have a gun on you at this point, right?
A. Yes ma'am.
Q. That's true, yeah. And so, and you were inside the bar with a gun on you?
A. Yes ma'am.
Q. Okay. So we're going to walk you through some more and keep going. Okay, so stop. So at that point, when you see Jared reaching down into his car, what was, what were your thoughts?
A. When he came back up, he had a gun in his hand.
Q. And you saw it?
A. Yes ma'am.
Q. Okay. When he came back up, as you were walking towards the car, you see that gun?
A. Yes ma'am.
Q. Okay. Had you pulled a gun out at that time?
A. No ma'am.

Q. Okay.

MS. GAY: Go ahead. Okay stop.

Q. So now we see, if you'll, if you'll do the pointer, the man whose head we see, who is that?

A. I'm not sure the name.

Q. You want to back up just a little.

A. I'm not sure if his name is Jared or Jarod. I don't know.

Q. Jared this. We're talking about Jared. So the Cleveland brother is ...

A. Yes ma'am.

Q. Stop. Okay, show me your head.

A. Right here.

Q. And show me his head.

A. Right here.

Q. Okay, so that that's Jared Cleveland.

A. He's coming up like he's standing up now.

Q. He's trying to stand up. Okay. And you've seen the gun?

A. He's got the gun in his hand actually pointed at me at this moment.

Q. Okay. And do you have any idea what kind of gun it was?

A. No, ma'am.

Q. Well what it looked like?

A. It's all black.
Q. All black. Okay.
MS. GAY: And so --- keep on going.
Q. Oh, let's talk heads again.
MS. GAY: Stop.
Q. Where's your head?
A. Right here.
Q. Okay, now you're kind of shorter than him, right?
A. Yes, ma'am.
Q. He's taller than you. Okay, so we see another head. Point that one out.
A. Right here.
Q. Okay, and what's that thing right next to his head?
A. His gun.
Q. Exactly.
A. It’s in his hand.
Q. Okay, so it's a hand, right?
A. Yes ma’am.
Q. And what did you see in that hand?
A. A gun.
Q. Okay.
MS. GAY: Go for it a little bit, please. Okay. Stop.

Q. So that hand right there, whose hand is it?
A. That’s his hand, his arm.

Q. Okay. And he has what in it?
A. A gun.
Q. All right. And so this right here behind there's another person with kind of shorts on. Can you put the red dot on that? So this is who?
A. The brother.
Q. Jared?
A. Yes ma'am.
Q. Okay, so now, what is Jared? What was your understanding of what Jared was doing right there?
A. I never seen I never seen him. I didn't even know he was behind me. I didn't even know he hit me with a gun until he said it himself. I didn't know nothing about none of that.
Q. Alright, so what we're going to see here in a minute is sort of a bunch of people. And do you recall when you got shot in the leg?
A. When he was coming up with his gun, I got shot then.
Q. So before this you have already been shot in the leg?
A. When his gun --- when his hand is in the air, his gun is going off the whole time, but you can't see a flash.
Q. Okay. So it was your understanding and belief that as he pulled the gun, as y'all were struggling and he

pulled the gun up that's when it hit you in the leg?
A. Yes, ma'am.
Q. Okay. And so at any point at this time, had you --- had you drawn your weapon to him?
A. No ma'am.
Q. Okay, so you did not approach him with the gun in your hand?
A. No ma'am.
Q. Okay, so we're going to keep watching here for a minute.
MS. GAY: Stop, stop.
A. So now, do we see that arm with the gun again?
A. No ma'am.
Q. We still see it? No, so we anticipate that it's been put down?
A. Yes, ma'am.
Q. Do you recall whether it was still firing?
A. It was firing from the time he had it up. I'm not sure at that point if it was still firing. I know the whole time it was in the air it was going off.
Q. Okay, and so now we see the man in shorts. He's still standing up?
A. Yes, ma'am.
Q. Okay. All right. Let's walk ---
MS. GAY: Let's go forward. Okay. Do --- stop.

Q. Okay. Now take the pointer and show me Jared's head. Right around there. Okay. Now where are you?
A. Right here, running off.
Q. Okay, and you're shooting right at that point, probably?
A. I think I went up another couple feet before I shot back.
Q. Okay. All right. So --- and you admit, at this point, to the jury that at that point you pulled your weapon out and was firing?
A. Yes, ma'am.
Q. And why were you firing?
A. Because I was in fear for my life.
Q. Okay, because you had been?
A. I was shot twice.
Q. Okay. And so by Jared?
A. Yes ma'am.
Q. At the car?
A. Yes ma'am.
Q. Okay. And then, so do you see --- Where do you see Jarod? What's happening over here with him?
A. He's in a falling down motion.
Q. Okay, so you're aware that he got shot. So what is your assumption at this point about him falling down?
A. I mean, now I know he got shot, but at the time I

didn't know he was shot.
Q. Right. Okay, so did you ever intentionally pull your weapon and shoot Jared?
A. No, ma'am.
Q. Did you ever even have knowledge that your gun at any point could have been pointed in the direction of Jared?
A. No ma'am.
Q. Did you ever intentionally try to harm Jared?
A. No, ma'am.
Q. Okay, so let's go forward. Okay, stop. So at this point, let's talk about where the parties are again. Where is Jarod at this point?
A. If I'm not mistaken this is Jarod.
Q. Yes. And do you see an arm? Can we still see his gun?
A. I mean, I seen the muzzle flashing on the gun a second ago, right before he stopped it.
Q. Okay.
MS. GAY: Can we go back a little bit? Maybe some more.
A. That's his arm right here.
Q. Yeah, well, yeah, okay, so what did you see? I mean, you were there, and this is happening to you. So what were you seeing at this point?

A. I mean, while I was running off, I could hear the gunfire.
Q. Okay. Could you see the gun in his hand?
A. I mean, I only look back once when I --- when I try to shoot, and keep on running.
Q. What did you see when you looked back?
A. He had a gun in his hand firing at me.
Q. Okay. And all right. So where is Jared at this point?
A. On the ground.
Q. Okay. And okay. And you're, let's you went off to the left between the cars?
A. Yes, ma'am.
Q. Okay.
MS. GAY: Keep going.
Q. All right, so Mr. McDaniel, when you were in, as we talked about it, at the time that you went up to Jared, was your gun out?
A. No ma'am.
Q. Did you ever point it at him?
A. No ma'am.
Q. Did you ever confront him with a gun?
A. No ma'am.
Q. Did you ever shoot him intentionally?
A. No ma'am.

Q. Did you ever shoot him unintentionally?
A. Which one you say, Jared or Jarod?
Q. Jarod, the guy by the car.
A. Well, I shot at him, but I didn't intentionally I shot to get away.
Q. Now you're aware that in this case, there's this, there's an allegation that the 40 caliber is by the door, and that's a fact. There's an allegation of that. While you're with Jared, the guy by the door, your testimony is, is that you didn't shoot till after you got shot in the leg?
A. Yes ma'am.
Q. And your testimony was you were struggling when all the bullets were going off?
A. Yes, ma'am.
Q. And those bullets were from Jared's gun, the nine millimeter?
A. Yes ma'am.
Q. And then I think your testimony was that you did not even know that Jarod was behind you?
A. I didn't.
Q. And you didn't know that he hit you in the face or hit you with the gun until he testified to that?
A. Yes ma'am.
Q. How fast did all this happen?

A. In the blink of an eye.
Q. And then, if you were --- if Jared is falling on the ground, did you point your gun at him?
A. No, ma'am.
Q. Did you ever pull the trigger and fire at him?
A. No ma'am.
Q. Do you have any idea how he was shot?
A. Had to been from his brother's gun during the tussle.
Q. So your position was, is all those nine millimeter shells on the ground and all those bangs and pops that you heard were from Jared's gun?
A. Yes ma'am.
Q. So when you were --- back to just real fast about when you were inside the bar, did you ever have a real fight with these people?
A. I never seen these guys before this night, and I never had any words with these guys before. Like I said upon approaching him that's when he started reaching his waistband like he was grabbing a gun saying, do you know me? Do you know me?
Q. Did you ever show a gun to either of these people?
A. I never showed a gun to anybody.
Q. Not in your waistband?
A. No ma'am.

Q. And you so ...

MS. GAY: Your Honor. I want to talk to my co-counsel for just a second.

THE COURT: Certainly. I'll take this moment to alert you. The clerk came up to me and spoke to me for a moment. There is apparently a leak in the building over the evening, and they're trying to fix it, so from time to time, there's going to be some construction sounds to it. And she asked if I was concerned about that. I said, No, I think we'll be able to go on gone through if it gets bad, then we may take a pause, but just what we heard so far. I think we'll be fine. Okay.

Q. So Mr. McDaniel your testimony is --- the question I have is, did you intentionally fire your gun at Jared?

A. No, ma'am.

Q. No, intentionally fire it at all at him?

A. No ma'am.

Q. So you did shoot the bullet in that direction at some point, can you explain to the jury why you did that is maybe the better question.

A. I was afraid that I was going to get killed.

Q. Okay, and you were afraid you were going to get killed, why?

A. Because he was shooting at me, basically.

Q. And you also had already been injured?

A. Yes ma'am.
Q. And you'd already been shot?
A. Yes ma'am.
Q. You said, in two legs?
A. Yes ma'am.
Q. And with regard to your firing after the fact, after the shooting of you, Jared was already on the ground when all this was happening, right?
A. Yes ma'am.
Q. So I mean, as you said, you didn't intentionally ever shoot at him?
A. Yes ma'am.
MS. GAY: One moment.
Q. Jarod is the one on the ground. You didn't intentionally shoot at him because he was already on the ground by the time you had run away from Jared?
A. Yes ma'am.
Q. I'm sorry. I'm getting all my Js confused. I apologize. Okay, so this is the quite, the very last question I'm going to ask you is, you know what you're charged with, and you know that to try to kill somebody, or intentionally try to kill somebody, that you have to be aiming at parts of their body to try to kill them. Did you ever aim at --- was there any point where you were aiming the guy, particularly at the person, or were you

just shooting in response?
A. I was shooting trying to get away.
Q. So you weren't shooting at them, per se?
A. No ma'am.
Q. You were shooting in response to being shot at?
A. Yes ma'am.
MS. GAY: I have no further questions, Your Honor.
THE COURT: All right. Any cross examination?
MS. MORRIS: Yes, Your Honor.

Mr. James McDaniel - Cross Examination by Ms. Morris_

Q. Good morning, Mr. McDaniel.
A. Good morning.
Q. So as you testified, you are in the shooting video?
A. Yes ma'am.
Q. And that's you in the gray hoodie?
A. Yes ma'am.
Q. And you're also wearing a gray beanie hat in that video?
A. Yes ma'am, I believe so.
Q. And you were drinking at the bar that night?
A. Yes ma'am.
Q. And you had a gun on you during this incident?
A. Yes, ma'am.
Q. You had a gun on you while you were at the bar that night?

A. Yes ma’am.
Q. It was a 40 caliber gun, correct?
A. Yes ma’am.
Q. Part of your testimony today is that you were just trying to make conversation with the young men in the bar, right?
A. That's what I was doing.
Q. And while you were trying to talk to one of the brothers, which is Jarod, that he kept reaching into his waistband, right?
A. Both of the brothers were together.
Q. But it was Jarod who kept reaching into his waist. Jarod is the one that's paralyzed.
A. Okay, yes ma’am.
Q. Jared is the one with the ear.
A. All right.
Q. But he didn't have a gun on him, did he?
A. I don't know if he had a gun or not. He was reaching in his waistband like he had a gun. He kept screaming. Do you know me? Do you know me?
Q. Because he testified that he got it later, after you slapped him, isn't that, right?
A. No, ma'am, I never touched him.
Q. And then you said you heard one of the brothers say while he was out there. I'm going to get my gun?

A. Yes ma'am.
Q. And so what you did is you decided that you wanted to go and talk to him?
A. Exactly.
Q. Because he wanted to go get his gun?
A. Yes ma'am.
Q. Because you have done this --- you do motivational speaking, and that was the time for you to have a motivational talk with this young man who just threatened you and said he was going to get his gun. Is that right?
A. Yes ma'am.
Q. Because you wanted to let him know that this wasn't serious. Your intention was to just calm him down. That's why you followed him to his car?
A. It wasn't that serious.
Q. And your testimony was that you just wanted to talk to him, so you followed him to his car, right?
A. I walked behind him, yes ma'am.
Q. But that's not what we see on the video is it?
A. That's what we see on the video.
Q. You rushed at him, at his car.
A. You don't see me rushing him on the video.
Q. That's what we see on the video.
A. I walked behind him politely. I wasn't rushing. I walked and then when he pulled out his gun, that's when I

rushed him.

MS. MORRIS: Let's play state's exhibit one, please.

Q. So according to your testimony, Jared just said, I'm going to get my gun?

A. And that's me walking peacefully. I'm not I'm not running behind him.

Q. And now here you come up quick, right there?

A. I'm still walking.

Q. He also testified that you didn't get your gun out and start shooting until you were by the cars on the left side. Isn't that right?

A. Until I started running off.

Q. But yet we see muzzle flashes coming from your gun near Jared's car. Isn't that right?

A. No ma'am.

Q. And then you also testified --- you testified at one point that you were shooting back, and that's how Jared got his ear grace?

A. That's what I thought at the time. Yes ma'am.

Q. But we know that's not true.

A. Because he could've got shot by his own gun.

Q. You think Jared shot himself in his ear?

A. During the tussle over the gun.

Q. Oh, your gun was not recovered by law enforcement, was it?

A. No ma'am.
Q. Your 40 caliber gun? And that's because you dropped it. Isn't that correct?
A. On my way running.
Q. You dropped it somewhere between the bar and your home at [redacted] Russellville Road.
A. Yes ma'am.
Q. But you didn't tell law enforcement you had a gun when you called 911, right?
A. They never asked me.
Q. You didn't think it was important to tell law enforcement you had a gun when they rendered aid to you. Did you?
A. No, ma'am.
Q. And you didn't tell the detectives about the gun when they talked to you the next day, did you?
A. No ma'am.
MS. GAY: Your Honor, I would object.
THE COURT: Basis?
MS. GAY: Well, I think we've had a conversation about that. Is this a matter of law we need to discuss?
(Counsel approaches bench without court reporter)
Q. Mr. McDaniel, did you talk to law enforcement on January 15, 2024, correct?
A. Yes, ma'am.

Q. And that was the day after this shooting, correct?
A. Yes, ma'am.
Q. And you remember making statements to Detective Read on that date?
A. Yes, ma'am, I do.
MS. MORRIS: Beg the Court's indulgence.
Q. And at that time, you told them ...
MS. GAY: Your Honor, I would object that I think she has to ask the question and get an answer.
THE COURT: Yeah, you have to ask him the question not that way. That's not the way to get to it.
Q. When detectives asked you, what happened on January 15th, 2024, what did you say?
A. Well, to be honest with you, I lied to him because I just came home from doing a lengthy prison sentence, and I knew I knew what it was gonna lead to. So I tell him I didn't know what happened. But after that, I called for a second interview. I got my brother to contact them and when he came to get me from the Berkeley County jailhouse, he took me to the sheriff's office. I signed my Miranda rights, and then I asked him, will this statement be able to get me to press charges on the brothers that shot me too? I mean, your way of looking at it, and you basically looking at what happened to these brothers, but you don't care about what happened to me.

I'm a victim too. I got shot twice. I could have died that night, but you're looking over all that. Nobody's been charged for shooting me. I'm the only one on trial here for trying to protect my own life from being murdered, and that's what's going on. I mean, you don't care nothing about me and my life. Those guys could have killed me that night if I didn't react, my life was in danger. I didn't I didn't throw the first blow. I didn't start none of this. This is what came to me. And if I didn't do exactly what I did, I would have died. That's just, that's just point blank what happened?

Q. They started --- Jared shot at you because you came to his vehicle. Isn't that right?

A. Don't they have laws and stipulations when it comes to these carry permits with these guns. If somebody get an argument, can they just come out and run to the gun and corner somebody just start shooting at him? What about another brother? ...

Q. Jared's in his car.

A. Both of these brothers don't even have gun permits, but none of them was shot. The other guy would never charge with a gun. Nobody else was charged with a crime. Period. I'm the only one on trial here for my life, for protecting my own life. I'm the only one. Nobody was charged with a gun. Nobody was charged with shooting me,

attempting to kill me, or none of that, but I'm the one. I'm the only one here.

Q. They're trying to protect themselves because you're trying to kill them.

A. I never slap nobody. There are multiple cameras on this, on this door, from different angles. You can't show me on a camera where I brandish a gun or I lifted my sweater to show them a gun. You can't show me on these cameras where I slap him, and there's multiple different cameras from different angles. You can't show me none of this. You're basically just taking their words and running with it. That's what you're doing.

Q. They went there to have fun. They left their guns in the car ...

A. The same thing I did.

Q. ... You had your gun on you the whole time.

A. Same thing I did. Went there to have fun.

Q. But you made sure you had your gun on you the whole time?

A. The only thing I’m guilty of his having a gun in my possession. I'm not guilty of trying to attempt to kill no one. Only thing I'm guilty of is trying to protect my life and not dying at night. What was I supposed to do? Who was that? What if that was your son? Your father? Your grandchild in my position, what would you want him

to do? What any man would, with common sense, would do? Fight for their life.

Q. Mr. McDaniel I'm the one asking the questions.

A. I'm just stating my facts.

Q. And you're going to answer them.

A. I'm stating my facts.

Q. You're not going to ask me questions

A. I'm stating my facts.

Q. So the question I next have for you is that you stated that you have no idea how Jarod was shot and paralyzed, right?

A. If that's the one in the wheelchair. Yes, ma'am.

Q. Yes, he's the one in the wheelchair. Jared is the one with the ear that got shot. You stated that you believed his brother shot him?

A. Yes, ma'am.

Q. His brother at his car decided to go pew pew and shoot him. Is that your testimony?

A. That's what happened.

Q. No, his brother got up, Jared, and is defending himself because you are trying to kill him?

A. When he stood up on his car, he already had his gun pointed at me. He shot --- after he shot me in my left leg the first time. And all this on medical records from Trident. I got him at the Berkeley County jailhouse right

here, the same records that I'm still taking medicine for to this day, for pain and other things. But that's what happened. He shot me in my left leg. We started tussling over the gun. I pushed the gun towards the air. It's firing the whole time. It's way more than eight or nine rounds that he claimed that he shot off. It's way more than that. So that's what happened. His brother --- His brother came up from behind. I never had any knowledge that his brother was coming from behind. I never knew that. If I didn't see the video footage, I never knew his brother went to get a gun until I seen it on the video footage. I never knew he slapped me in my face with a gun until it's right here on the video footage ...

Q. Well, the video footage ...

A. So you got one brother with a gun in his hand, and another one slapped me my face from behind, but I'm not supposed to protect my life. I'm supposed to stay there and die.

Q. You're the one that brought on the difficulty.

A. I didn't bring on nothing.

Q. You're the one that started it.

A. I didn’t start nothing.

Q. Isn’t that right?

A. No ma’am.

Q. And you knew --- you said you didn't know that Jared

had hit you in the face with the gun?
A. I didn't.
Q. You did because you pushed him. And we can see that in the video, can't we?
A. Show the video where I pushed him.
Q. All right.
MS. MORRIS: State's Exhibit one.
A. How can I push a man when my back was toward him the whole time, my back was toward him the whole time. How can I push him?
A. You can push him with your arm. Can't you?
Q. My back is toward him the whole time. I had no knowledge that he was even behind me.
Q. And then this is a perfect screenshot, right here. Your body is faced towards the vehicle and the victims. You're in attack mode right now, aren't you?
A. That's because we're tussling over his gun.
Q. You are facing towards them. You are not running in retreat at this point. You are still trying to attack them, aren't you?
A. I'm facing the brother right here that got the gun.
Q. That's right, trying to finish what you started. You're trying to kill him?
A. I'm trying to stop him from killing me.
Q. And make sure they --- make sure to Jarod's dead

too?

A. If that's what you want to call it.

Q. You testified earlier that you did lie to law enforcement on January 15, 2024, right?

A. Yes ma'am.

Q. And now you're telling a different story today?

A. Because can't lie from the truth there's a camera.

Q. That's right. You changed your story ...

A. You can't change it from the video.

Q. ... Because now we have real hard evidence. Isn't that right?

A. You can't change what's on the video.

MS. MORRIS: Nothing further from the state.

THE COURT: Any redirect?

Mr. James McDaniel - Redirect Examination by Ms. Gay_

Q. Mr. McDaniel, I know you got very upset during this testimony, and if there's something else you want to share with the jury, feel free. But the question that the solicitor asked you, which I think is extremely important is, did you push?

A. No, ma'am.

Q. Did you push him?

A. Like I told her, I didn't even know he was behind me.

Q. Okay, so when you went --- we watched number one

again, and they'll be watching number one. There was that point where you're backing up, and you said that your focus at that time was on who?

A. The brother at the car.

Q. Okay, so did you even have in your head any idea what was going on with Jared?

A. No, ma'am.

Q. Jarod, excuse me, all right, so what --- So I think that what you had said to the solicitor is that you believed that they were trying to kill you and that you were protecting yourself at that point?

A. I'd been threatened on the inside of the sports bar. And when he came out in the second time, when he said he's going to get the gun, that's second time I was threatened. So that's twice in a matter of minutes.

Q. Okay. And you said that you mentioned specifically that there were videos and different things, and that you never knew that the young man went to get a gun?

A. I didn't know that until after the fact when I seen it on the video.

Q. Okay, and then you never, you said that there's nothing on the video ever that you see or that you did where you actually slapped this guy in the face?

A. You never seemed me slapping on in the face or seen me pull up my sweaters to show some kind of gun.

Q. And the solicitor said to you that you had started this, and what's your response to that?
A. I tell her, no, I didn't I mean, and the Rule five is basically ...
Q. Just talk about what happened. Don't talk about any paperwork or Rule five, just in the event itself. Did you bring this on yourself?
A. No ma'am.
Q. Did you start this?
A. No ma'am.
Q. Did you instigate these people coming after you?
A. No, ma'am, but basically, the brother that said I walked up to him and said he heard I've been watching people. I mean, this is the same brother that wrote a statement saying that he don't even recall seeing me in the sport's bar that night.
Q. Well, I understand that, sir, but he testified at this trial that he did see you and that y'all had some conflict?
A. Yes, ma'am.
Q. Did you --- is it your testimony to this jury that that conflict was something that you intentionally did?
A. No ma'am.
Q. Or that you believed you were following up on when you went outside to go talk to the boy at the car?

A. No ma'am. I went outside to get away from him.
Q. You went outside to get away from him, but then tell the jury again why you believed you went over to the car to talk to --- to have contact with him?
A. We could have squashed the whole whatever it was. It couldn't have been beef because I've never seen these guys before my life.
MS. GAY: Hold on one moment, Your Honor.
Q. So last thing do you believe that you brought on the conflict here?
A. No, ma'am.
MS. GAY: I have no further questions, Your Honor.
THE COURT: Any recross?
MS. MORRIS: Beg the Court's indulgences. No, Your Honor.
THE COURT: All right. You step down. Thank you. Anything further from the defense?
MS. GAY: No. The defense rest, Your Honor.
THE COURT: Okay, the defense rest. All right, ladies and gentlemen, we've reached a point where I'm going to take up some matters of law with the parties on that shall step back to the jury room. Thank you.
(Jury break)
THE COURT: All right. Y'all can be seated. And we had a sidebar regarding the objection about the questions

that surrounded --- could be considered statements made by the defendant to law enforcement, and essentially my ruling in that matter was that the state needed to follow the requirements under 613 basically asked the witness about the statements, specifically about the statement, the answer to the statement, and if the statement was true or untrue and then confront them or, I guess, theoretically, confront them with the statement when the testimony continued the defendant, in response, admitted to the statement being untrue, and that obviated the need for any presentation of the statement. And I know the state didn't offer it, but I just want to clarify where we were on that on that sidebar, and it essentially resolved itself.

All right. So as to the charge for self defense, any objection from the state?

MS. MORRIS: Yes, Your Honor.

THE COURT: Basis?

MS. MORRIS: My basis. There's a case State v. Williams, that's 427 SC 246, year 2019, and it states the trial court must charge the jury on law applicable to the jury's deliberations, the trial court is required to charge only the current and correct law of South Carolina, and the law to be charged must be determined from the evidence presented at trial. And in State v

Dickey, 394 SC 491 499, 2011 it sets forth the reasoning for this. In some cases, the jury must be charged that criminal liability for cases such as homicide may be excused under the doctrine of self defense. The law requires this self defense charge. However, only when there is evidence in the record that supports the right of the defendant to use deadly force and to enable trial courts to determine when the evidence does support that right, and thus when the law of self defense must be charged to the jury. This Court has listed the four elements that must be present, which we have talked previously at stand your ground --- at the Stand your ground hearing, you know the defendant is not without fault with bringing on the difficulty that he was in actual fear of imminent danger, that a reasonable person would have been in such fear, and that there was no other probable means of avoiding the danger, and if there is no evidence to support the existence of any one element, the trial court must not charge self defense to the jury. Whether there is any evidence to support each element is a question of law, and that is State v Williams, 427 SC 246, 249, 2019 especially when it comes to the first and fourth element, not without difficulty in bringing on the difficulty. Not, excuse me, not without fault for bringing on the difficulty. The defendant is with fault.

He goes to Jared's vehicle. And he can say whatever he wants about it being a motivational speaking time, he's going there to to fight him, to kill him. And then lastly, there are other means of avoiding the danger. He was able to run away at the end, which shows that he could have run away in the beginning if he truly felt threatened. So since he's not able to meet those two, and the law is if there is no evidence to support the existence of any one element, therefore self defense should not be charged to the jury.

MS. GAY: Is it my turn now?

THE COURT: All right. Anything further from the State?

MS. MORRIS: Nothing further from the State.

THE COURT: Okay, Ms. Gay.

MS. GAY: Okay, Your Honor. We've spent three days getting to the point where the solicitor will finally acknowledge that maybe there's some other version of the facts as presented in this trial by my client. If we didn't have a defense that we put up or my client hadn’t testified, everything she said might be maybe true, but the reality is she can't just ignore the fact that my client just testified to a completely different scenario than what her victims have testified to, which is supported in many ways by the evidence in this case. So

when I, you know, as I broke down that video, and it was maybe the best time that I saw and we talked about where everybody's heads are and things like that, the gun that's in the air it definitely belongs to the head that's taller because you can actually see the arm attached to it go up. So that is Jared's gun. Jared, that's right, gun, yeah. Jared's gun, so he is definitely already armed. You can't see my client having his firearm out at that point. And what my client testified to is he's already been shot in the leg by the time that arm --- as the arm is going up, he's getting shot in the leg. So he's already been shot. This man has, as we saw in the evidence, many casings of nine millimeters all over the place, his gun ...

THE COURT: Let's do this. Let's address whether there's any testimony as to the four elements of the self defense that you're asking.

MS. GAY: Okay. So the first one would be whether or not he was at fault in the bringing on the difficulty. He testified that he did not bring on the difficulty. Testified that he did not slap the other brother. He testified that he did not have any type of physical altercation with them. He did not bring on the difficulty. This man already had a gun out when he went over to try to talk to him, as he said, without any type

of aggression. Or, you know, she said he rushed him. I don't believe that's true either. It's not in the video. But he did go over there, he did talk to them, and he was shot in the leg. So at that point, Your Honor, the first element, if we if we say there's evidence to say that he did not have fault in bringing on the difficulty. Secondly, would it reasonably what he --- was he in imminent danger. A person who has been shot is, in fact, in imminent danger of losing his life and having serious bodily injury. If this man had stopped shooting his gun at that point, then potentially we could say that my client did get shot, but after that, he was no longer in imminent danger of losing his life. But as we see in the video, the man is continuing to shoot at him even as he's running away, so he is, in fact in imminent danger. If the defense is based upon the belief of imminent danger or a reasonable prudent man of ordinary firmness and courage would have entertained the same belief, I think, that anybody who's been shot in the leg and has someone actively shooting at them. Again, I think it would have been different if he'd shot him in the leg, and that had been the end of it, but he shot him in the leg and continued to shoot at him for many more shots, Your Honor. So I think a reasonably prudent man would, of course, have with ordinary firmness and courage, would

have entertained the same belief, Your Honor. And if, as it says about actually was in imminent danger, or just perceived it, no, he was actually in imminent danger because he already been shot. By the time he's running away and shooting the gun that we see in the video, he's already sustained an injury and continued to have shots fired at him, Your Honor. The defendant had no other probable means of avoiding the danger or losing his own life. At that point, again, sir, if the victim had stopped shooting, he would no longer have had a probable means of avoiding the danger of losing his life. But as he specifically testified, he believed he was shooting back to try to protect himself because they were trying to kill him. He was actively --- had been shot, actively being shot at to try to kill him, and he did not perceive that there was any other probable means of avoiding the danger of losing his own life. He specifically testified that he believed they were going to kill him, and that the man who he didn't even know about the other brother at that point, but he believed that the brother with the gun was shooting him, had shot him already, was trying to kill him. It's apparent from the video that you see the man pointing the gun directly in the direction of where James McDaniel is coming from. He's in a stance where he's got the gun out. He's shooting in the direction of

my client, trying to hit him. And so I do believe we have done the elements, Your Honor. The State v Williams says, as she said, that we should only charge things that apply, and we should only charge things that have that are applicable under the law under the circumstances as presented in the trial. This is the case under that case under Dickey. We have elements that we've put forth to establish that we should get a self defense charge. And you know, there are other cases. Your Honor, there's a case of State versus Michael Smith. It is a 2018 case, you said, I need the site just to put it in. We'll get to that, Your Honor. But it's, it says that, you know, Smith presented evidence. He acted in self defense, therefore jury charged to that effect must be given. So if we remove my client's version of the facts completely. We have, you know, we have Ms. Morris's version, and she says we shouldn't get self defense. With my clients testimony presented in this trial to this jury, we have, I believe, established the four elements of self defense, and Your Honor, if we get that, I believe there was some --- didn't you tell me there was a charge that said that if you get a self defense charge, that maybe they have to probably provide express malice. Did you tell me that? I think there's something about that, if we do get this charge right, that malice changes a little bit.

THE COURT: I'll need to hear about that. As to the self defense charge, I do think it's appropriate there is testimony. And I think we're in the situation similar to directed verdict. Is there any evidence to support any of those elements? There is testimony from the defendant. He's was without fault based upon his version that he did testify that he considered himself in imminent danger, as well as the fact that he was being fired upon, or there was a gun being present, or gun being pulled out and thereafter being shot, which did reasonably conclude that a reasonable man would assume or conclude the same. As to the no other way to avoid the danger that's a little cloudy on that. I think that is --- obviously there's some testimony to that. He considered there's no other way to avoid the danger the way that the situation unfolded. So there's at least some evidence to that. So I do think it's appropriate to charge the self defense charge. If there's if there's some other element as to additional charge in addition to what you've already presented, what I'm anticipating now is the proposed charge as presented to you, adding the self defense, tell me if there's some other charge or definition or requirement as to malice that you want to include. And I want to hear from that, and hear about that.

MS. GAY: Sarah's the legal mind, Your Honor, so

she's going to help me figure that out.

THE COURT: Well, we need to figure that out real quick.

MS. GAY: We will, Your Honor. Also, before I forget Your Honor, I need to renew my motion for directed verdict at this point, at this end of my case, and the end of their case, I also, I guess I need to rest on the record. I guess I could --- How do we have? How best to do that? Do I do that now? Do I wait till I rest?

THE COURT: I thought you'd rested it already.

MS. GAY: I did. Did I need to? I said I didn't have any more. So, yeah. So I'm just renewing my motion for direct verdict. I tend to forget things sometimes at the end of trial.

THE COURT: And thank you for reminding me I want to miss anything. No, I'm going to deny the motion for the grounds previously stated in response to the motion for the directed verdict. So I will deny, respectfully deny that motion for the renewed motion.

MS. GAY: Your Honor, can we take break for a second?

THE COURT: Yes. Let's take about 10 minute break. Y’all put your heads together.

MS. GAY: She’s working on it.

THE COURT: If there's anything in addition to what we've already discussed that you want to add. Okay?

MS. GAY: All right, thanks.

THE COURT: We'll be back in about 10 minutes.

(There was a court break)

MS. GAY: You gave us the charges, Your Honor, you included the part in there about failure to testify. I don't know if you want to cross that out.

THE COURT: I will cross that out. That was on me. I was focusing on the other stuff. And yes, you're exactly right. And the verdict form, I think they'll have a copy of that. You're okay with that and the self defense was inserted in there. Y'all have had a chance take a look at that. Any objections or exceptions to the self defense part as written subject to the earlier objections from the state, of course? Anything from the defense?

MS. GAY: No, Your Honor.

MS. MORRIS: Your Honor, I just want to make sure it's clear with self defense, because it does say the state has the burden of disproving self defense by proof beyond a reasonable doubt. Self defense fails if the state disproves, beyond a reasonable doubt, one of the elements of self defense and ...

THE COURT: What page are you on?

MS. MORRIS: ... Page 10. I just don't think that's that's clear. Like if there was something that would

say, and if it and if like, and if all four elements are established, you must find the defendant.

MS. GAY: I think that I know that it's affirmative defense, Your Honor, and certainly it's our burden to do all that but if you say, if you have a reasonable doubt of defendant's guilt after considering all the evidence, including evidence of self defense that you don't want to burden, shift in something you know that, and that's a word that we throw out there, is like something that's important. And so I think that what you're saying, you're still putting in this charge, you're still putting the onus on the state, Your Honor to, as you say, disprove self defense. Because if they, if they're disproving one element or all the elements, you're disproving self defense. Sarah's doing a search on the phone here, so we just need to know.

THE COURT: The state, the state has the burden disproving self defense by proof beyond a reasonable doubt. And that's certainly a correct statement. How are you suggesting that that be followed? I'm not sure if I'm understanding exactly what you're saying.

MS. MORRIS: I'm just concerned that the jury understands that self defense fails once the state has disproven just one element.

MS. GAY: But if there's more elements, and if

they're disproving one of those elements, then they're not proving any of it is. That's what I'm saying.

MS. MORRIS: I just want to make sure that the jury understands that.

THE COURT: And what alternate language or additional language would you suggest?

MS. MORRIS: I was just thinking that where it says the first line, the defendant has raised the defense of self defense. I'm sorry. Second line. Self defense is a complete defense, and if it is established, so here would be, if all four elements are established, could we make that change?

THE COURT: And if all four elements are established ...

MS. MORRIS: You must find the defendant not guilty.

MS. GAY: Well, I mean, I understand your point. I would say that the first was fine, but I'm gonna object to add any additional instructions.

THE COURT: If all of the elements are established.

MS. GAY: Okay.

THE COURT: There's a blend on two of the elements, and sometimes it's referred to three, sometimes it's four.

MS. MORRIS: That's true.

THE COURT: Instead of using a number I'm saying.

I'll add if all of the elements, self defense is a complete defense, and if all the elements are established you must find the defendant not guilty. Any objection to that Ms. Gay?

MS. GAY: No.

THE COURT: From the state?

MS. MORRIS: No. Thank you, Your Honor.

THE COURT: Okay, so we've got, the verdict form. All right. It is not my intention, and I change my mind from time to time, I'm not going to send back a copy of the charge to the jury. If there's any questions about the charge, then we'll have to recharge them based on whatever that question might be. In past occasion, I have sent back the charge, and I think I'm becoming more of the belief that it renders more confusion for the jury to have it back there with them, rather than providing clarification, which I initially had thought so I'm not planning on sending it back. Okay?

MS. GAY: Okay.

MS. MORRIS: Yes, Your Honor.

THE COURT: Are y'all ready closing?

MS. MORRIS: State's ready, Your Honor.

THE COURT: Defense ready?

MS. GAY: Yes.

THE COURT: Yes?

MS. GAY: Yes.

THE COURT: Okay.

MS. GAY: Standing up is a little difficult but I'll sit in the chair for this one.

THE COURT: Okay, you're certainly welcome to sit in chair. I understand and appreciate that. Let's bring our jury back in.

MADAM CLERK: Jury's coming in.

(Jury enters courtroom)

THE COURT: All right, you can all be seated. Thank you. All right, ladies and gentlemen, the state has rested and the defense has rested, and we're at the point in time in the trial where the attorneys make arguments to you. The state care to go forward?

MS. MORRIS: Yes, Your Honor.

THE COURT: Defense ready?

MS. GAY: Yes, sir.

THE COURT: Thank you. Let's hear from the state.

MS. MORRIS: Ms. Gay, Ms. Norton. May it please the court. Members of the jury, you have the most important role in our judicial system. You are the fact finders, and you will determine the results of this case. Thank you so much for your attention these past two days, I know there's been a lot of evidence presented. You've heard a lot of testimony, and now's the time where I'm

going to put it all together for you.

This is a case of senseless violence, violence brought about by the defendant, James McDaniel, and because of that violence, Jared and Jarod Cleveland, their lives are forever changed. You got to hear from Jared and Jarod. They are close, and they're close with their family too. They talk every day. They talk with their cousin Drey every day too. They hang out with their cousin Corey, and they said the usual weekend thing to do is they go to Jared's Dad's house and they grill out, they relax, they let loose. And on January 14, 2024 they were doing what they normally do, really, at Pop's house. And then they decided, let's go play some pool at G's and D's. They've done that many times before. This time would be different, because this time, the defendant was there, and he was there the whole time with his gun. You heard him say that, he was there the whole time with his gun, a gun he shouldn't be in possession of, because he's been convicted of a violent crime before.

You've heard a lot of different testimony, and it was broken up in pieces, because everyone is giving what they know. So I'm just going to give you a brief overview of what happened, and then we're going to go into the evidence that was presented. So like we talked about, the boys with their cousins went to the bar. They left their

guns in the vehicle because they just want to play some pool, have some fun, relax. And while they're there, the defendant tries to pick a fight with Jarod. He says, I hear you be watching people. And then slaps him in the face. Jarod is like, I am going to my car. I feel threatened. I'm going to get my gun. Jared, Jarod's brother. He's looking for him. Where's my brother? He goes outside. The defendant lifts up his hoodie, flashes his firearm at Jared and smiles. Jared feels threatened. Jared goes to his car, and that's where we see the video, where the defendant goes to Jared's car. Jared is going to his own car. That's Jared's car. That's where --- that's Jared's property, his safe haven, the defendant goes to him. And then Jared says that the defendant had a gun. He is fighting for his life, struggling for that gun. And then Jarod, the big brother sees what's going on, comes over, hits the defendant in the face with the firearm, with his firearm, because he didn't want to shoot his brother. He didn't shoot that firearm. Wanted to get the defendant off his brother. And then the defendant shoots, drawn in the back, paralyzing him. You saw him. He had to --- he couldn't even get in the witness stand. He had to be in his wheelchair down here. He also hit Jared in the ear.

Now, the judge is going to instruct you on the law,

Kayla gave you a preview of that law yesterday in her PowerPoint, because she wanted you to know what you're looking for when you're considering the testimony and the evidence. But now you've seen it, so now I'm going to show you how the evidence fits the crime. Let's start with the first one, possession of a weapon by a person convicted of a violent crime. The defendant is convicted of a violent crime, and the defendant is in possession of a firearm. Those are the two elements of that crime. As to the first element, the defendant is convicted of a violent crime. He was convicted of that crime in June of 2009. You heard from our deputy clerk of court, Linda Hill, and she described the sentencing sheet for you, and she talked about the seal from the clerk of court. The original has a raised seal, but for the protection of the defendant and his privacy, we needed to provide a redacted version, because here social security number, driver's license, so we redacted some version, you won't have the sealed, the raised seal on your version, but you'll be able to see the stamp. But the most important part is that right here, the sentencing sheet is checked that whatever that charge was a violent crime. And then we can see the date down here, June, 12th, 2009.

As to the second element, defendant in possession of a firearm. We can see the defendant with a firearm in the

view in the video, and he admits to having a 40 caliber firearm in that video at the bar the whole time. So he is in possession of a weapon. And he's a person convicted of a violent crime.

As to attempted murder, attempting to kill another with malice aforethought. Remember, Kayla told you that malice can be formed in an instant. Malice is hatred, ill will. The defendant attempted to kill Jared at Jared's vehicle, he attempted to kill Jarod, and he had a 40 caliber firearm that he used to try to kill them. Now, what evidence did we show you that shows the defendant's intent to kill. Let's start with Jared. Jared said that the defendant flashed him the firearm in his waistband. The defendant approaches Jared with his gun. So here's a cropped up version. You're going to see Jared go to his vehicle, and there's the defendant, and he's doing something right there. I would assert to you, that's his firearm, and that's when he's pulling it out. But you will have this video in evidence, you will be able to watch it as many times as you need to, so that you understand what's going on. And when the defendant gets to where Jared is at his vehicle, the defendant's not trying to give him some motivational speech, the defendant's trying to kill him, and Jared is fighting for his life. He was on the witness stand, and he said he

could feel the defendant behind him, and he had to reach up with his hand and grab his hand because that firearm was there. And then they struggled. You heard a lot about this struggle. The reason they're struggling is because Jared is fighting for his life, because of the defendant. The defendant is trying to kill him. He's fighting for his life, and he gets shot in the ear. And when he gets shot in the ear, that bullet also goes into the dashboard of Jared's vehicle.

As to Jarod, first the defendant slaps Jarod in the face. And remember at this point, Corey says that the defendant he's agitated. He's drinking. He's intoxicated. He had to calm him down, and he told him, let's go out, let's go. Let's go out to your car because of the way the defendant was behaving. He's trying to start fights. Jarod testifies that when he saw his brother in trouble, he went to his brother's aid, and he took out the firearm that was in his pocket, in his jacket, and he hit the defendant in the face with the firearm to protect his brother, and then the defendant pushes Jarod and then shoots Jarod in the back. Now, push. We had some confusion when the defendant was on the stand. Push doesn't necessarily have to be a push. It can be a push. It can be a push. Like, get off me. That's what I mean when I say push. I don't mean taking two hands and

pushing someone off. I mean just trying to get someone off. And we can see that, here's a still shot. I know it's not the best quality, but we can see that those are Jarod's shorts, and he is leaning. So that's what I mean when I say push, pushing him off to the side. That causes Jarod to lean, and then defendant attacks. That's the first muzzle flash of a whole incident. About 28 seconds into the video, that's the first muzzle flash. It's coming from the defendant towards Jarod. He intended to kill Jarod. Look at that stance. He's standing like this. His legs spread. He's facing the vehicle. He's facing Jared and Jarod. He's in attack mode. And then, before the defendant starts running away, he shot multiple rounds. He got on the witness stand and told you he didn't start shooting rounds until he was at the vehicles on the side. But the physical evidence says otherwise, and the video, you can see his muzzle flashes while he's in proximity to Jared's vehicle. Here he is. He's a little closer to the vehicles now, still in that attack mode. He is facing them. Legs are spread, facing them, still trying to kill them. And these bullet holes here, I remember Kevin McGowan said, this one skipped over and then the projectile was lodged in the windshield. The defendant would have you believe that Jared was the one that shot his brother Jarod and paralyzed him. Okay, so

let's imagine I'm Jared. This is my car. My brother's back here. Defendant's right here. I am going to go pew pew and hit my brother. I try to defend myself from the attack that is coming from the defendant. And the video always shows Jared protecting himself. Does not show him shooting his own brother. That is ludicrous, and these bullet holes prove it's coming from that direction, from where the defendant is.

There was some confusion that I do want to clear up in the scene sketch. Kevin McGowan had that markers six and seven were 40 caliber shell casings when they are in fact, nine millimeter. So when James Green took the stand, he was the ballistics expert from SLED, we had his report entered in as evidence, and we can see marker six, nine millimeter. Marker seven, nine millimeter. So during your deliberations, if you're looking at the scene sketch, I would then compare it to James Green's report. If you're looking for particular marker numbers, and they are right here. Marker one, marker two. These right here are the numbers that SLED assigns to the evidence. And these markers correspond with the photographs in the scene photos. So marker 10, marker nine, these are both the 40 caliber shell casings. We did not publish these zoomed in photographs to you during the trial, but they are in evidence, so you would be able to see a more

zoomed in view of the shell casings, if you so desire. And then this one right here is a nine millimeter. And up here, this is Jarod's gun. So we have a 40 caliber, 40 caliber in close proximity to Jared's vehicle. And then the yellow circles here, those are also the 40 calibers. So we actually have 1,2,3, that are in close proximity to the vehicle. That doesn't necessarily mean that's where the shots came from. Because firearms, they eject, they expel the projectile, but it's within the vicinity. And then these are all 40 caliber coming off the ramp. And here's another view. This is from the ramp. You can see this is Jarod's vehicle here, Jared's vehicle and all the ones. So we have one, two, three, four 40 Caliber. One, two, three over here. So a total of seven 40 caliber three, which are in close proximity to Jared's vehicle. Inconsistent with what the defendant said. He said he didn't start shooting though he was over here. Also, Kevin McGowan testified that this is the projectile that came in here and traveled this way. So it's traveling towards the vehicle that's from the defendant, especially since we know that that projectile that was found in the windshield, James Green, the ballistics analyst from SLED, he said that that projectile, it was damaged, but he can tell that it came from a 40 caliber weapon, or 10 millimeter, not a nine millimeter. That's not from Jared

shooting backwards, or whatever the defendant would have you believe. So that's the intent to kill when it comes to attempted murder. And he did it with malice aforethought, and he formed that malice I would assert while he was in the bar, but definitely when he went to Jared at his vehicle, and definitely when he felt Jarod hit him in the face, and then he pushed him and then went to shoot him, that's when he formed that intent to kill that malice.

Now the judge is also going to charge you on assault and battery of a high and aggravated nature. It is a lesser included offense of attempted murder. The state believes they have proven that we have proven beyond a reasonable doubt, attempted murder for both Jared and Jarod Cleveland, this is the lesser included assault and battery of a high and aggravated nature. I will go through it, but I'm just going to let you know when you're back in your deliberation room how you should consider both the charges. You don't consider them together. First, you consider attempted murder, and if unanimously you believe the state has proven beyond a reasonable doubt that they have proven attempted murder as to Jared, you'll also do each victim separately. So first you'll do attempted murder as to Jared. If it's guilty, you don't even consider assault and battery a

high and aggravated nature, if unanimously you believe it's not guilty, then you start your analysis for assault and battery of a high and aggravated nature, and that is unlawfully injures another person, and either great bodily injury results or the act is accomplished by means likely to produce death or great bodily injury. So great bodily injury does not have to result just that there be an injury, and the circumstances regarding the act is likely to produce death or great bodily injury. So if we look at those elements, defendant injured, Jerry Cleveland, you were able to see the scar in his ear. It's amazing that you're still able to see the scar. I just think of the ear and like a piercing, for instance, if you leave your earring out for two weeks, it's difficult to get your earring back in. So he has had a year and a half to heal that, and we can still see that scar. The defendant injured, Jarod Cleveland, and with Jarod, he definitely sustained great bodily injury. He can no longer walk. He's paralyzed from the chest down, and firing a gun is likely to produce death or great bodily injury. So as to both Jared and Jarod, the state has proven beyond a reasonable doubt, assault and battery of a high aggravated nature. But once again, this state believes we have proven beyond a reasonable doubt attempted murder for both Jared and Jarod Cleveland.

Possession of a weapon during the commission of a violent crime. The defendant commits a violent crime, and at the time of this violent crime, the defendant was in possession of a firearm. So the defendant the victim says the defendant had both victims say the defendant had a firearm. We see the defendant with the firearm in the video, and the defendant admits to having a 40 caliber firearm. Both attempted murder and assault and battery of a high and aggravated nature are violent crimes. So in commission of these crimes, we should remember the state believes we've proven beyond a reasonable doubt attempted murder, the defendant is also guilty of possession of a weapon during the commission of that violent crime.

The judge is also going to instruct you on self defense. There are four elements of self defense. The defendant is without fault in bringing on the difficulty. The defendant actually believed he was in imminent danger of losing his life or sustaining serious bodily injury. A reasonably prudent person of ordinary firmness and courage would have entertained the same belief, and the defendant had no other probable means of avoiding the danger. When it comes to self defense, the state must disprove self defense by a preponderance of the evidence. I'm sorry, the state has to disprove self defense beyond a reasonable doubt. To disprove self defense, the state

does not have to disprove each and every element of self defense. We only have to disprove one of them. For self defense to fail, and I want you to think of it like a table. A table only stands up because of the four legs supporting it. Once you damage or kick out one of those legs, the table falls. Right? So the state just has to disprove one of these elements, and self defense fails. So the first one defendant not without fault in bringing on the difficulty. Well, Jared is going to Jared's car, and the defendant follows him. He brings on the difficulty. The state has already disproven the first element, and that's not to mention the fact that he was being belligerent in the bar, he slapped Jarod. He told Jarod, I know you be watching people. He wants to say he was trying to start up conversations with people. Wanted to talk to them with a gun on him the whole time he's inside the bar. And with that, he shouldn't have a firearm. He is --- it is unlawful for him to be in possession of one. He brings on the difficulty. He provokes this interaction. So when it comes to the defendant without fault in bringing on the difficulty, took out one of those legs. Tables already fallen. But let's go through the other elements. Defendant actually believed he was in imminent danger of losing his life or sustaining serious bodily injury. The defendant wants you

to believe that you should do that analysis. After he brings on the difficulty, after he goes to Jared with his gun, and Jared is fighting for his life. He wants to now be protected by self defense when he's the one that started it. So maybe he did believe he was in imminent danger at that point, but the analysis should start before he brings on the difficulty. So when they're just standing there in the parking lot, is it reasonable for him to actually believe he's in fear of losing his life? They're standing there. No one's flashing their gun at him. So as to the second leg, kicked out, toppled over. The third element of self defense, a reasonably prudent person of ordinary firmness and courage would have entertained the same belief. Once what I just talked about, you saw the video, they're just standing around. Well, that was the last time that Jarod was standing and the third leg table still toppled over. And the fourth one, no other means of avoiding the danger. So here is the bar, G's and D's. Jared was probably parked about here. Jarod about here, you can see lots of vehicles, and when the shooting ended, we could see the defendant run off this way. If fact, he ran off to his home. There's nothing getting in his way. There's no fences getting in his way. In fact, this is the Corner Stop where the video came from. He could have gone there, if he felt like he

was in danger, could have gone back in the bar. Could have gone over here another gas station up there. And one thing I didn't notice until today, the defendant took the stand and said, that's a door right there. And I remember that this guy was like in the background, so I cut the video a little bit. Look he is going to walk in that door. So many opportunities, so many ways, he could have retreated and avoid the danger that he thought he was in. That's his testimony. He's the one that brought on the danger. He's the one that tried to kill Jared and Jarod Cleveland. So that's to the fourth one, the table's completely flat now. The state has disproven all the elements of self defense beyond a reasonable doubt, but remember, the state only needs to disprove one of those elements, and self defense fails. Just remember the table analogy.

At the beginning of the trial, Ms. Gay came up to you and she talked about the defendant being cloaked in this cape of innocence, and the defendant in a criminal trial will always be presumed innocent until his guilt has been proven by evidence shown that he is guilty beyond a reasonable doubt, and this is how we've done it. The first piece of dirt that I'm going to throw on the defendant's cloak of innocence, he slapped Jarod in the face. Next piece of dirt, he is armed at the time he's at

the bar. He's armed before Jarod and Jared even get there. He rushed Jared at Jared's vehicle, and then he tried to tell you, he didn't pull the gun out until he was in between the cars. But you've seen evidence to the contrary, the video and the physical evidence he's lying about that. And then he said, I may have shot Jared in the car --- or in the ear when I was between the cars over here, so far away. It was a I didn't mean to, but I hit Jared. No, no. Jared told you he has to get fluid drain from his ear now, and he has ringing in his ears, which makes sense because he was shot at close range, another lie from the defendant, and that he did not --- he also did not tell law enforcement that he had a gun. He calls them, I need help. I've been shot. I need aid, not up front about it at all. And so they never recovered it. We know it's 40 caliber, but James Green told you that he was not able to analyze and determine that this firearm fired those 40 caliber shell casings. He was able to do it for Jared's gun, because Jared handed over his gun to law enforcement, and they were able to match those nine millimeter shell casings at the scene to Jared's gun, and there were no shell casings at the scene that came from Jarod's gun because Jarod did not discharge his firearm, and he originally lied to law enforcement. Now he wants to tell this new story. Oh, I was there, and I

was in fear for my life. But originally he told law enforcement he had nothing to do with this. But when faced with the evidence, once he knew that they had video evidence of him, then he changes his story. And lastly, now that cloak is filthy, he just keeps attacking them, and you see it in the video. I was able to provide you with some screenshots that show him constantly in that attack mode after he's at the vehicle with Jared. After he shoots Jared in the ear, he's still shooting back. He's still attacking. He's still trying to kill them. The defendant's actions, the defendant's lies, they prove his guilt. Jared and Jarod, they're brothers, they're protectors, and they will never be the same. That night, they saved each other's lives. The defendant wanted to kill them. They came to each other's aid. Now, Jared's hearing and his ear will never be the same. Jarod will never walk.

The state has proven its case through the evidence beyond a reasonable doubt, and now I ask you to find the defendant guilty of attempted murder on Jerry Cleveland, guilty of attempted murder on Jarod Cleveland, guilty of two counts of possession of a weapon during the commission of a violent crime and guilty of possession of a firearm by a person convicted of a violent crime. Thank you so much for your time.

THE COURT: Ms. Gay.

MS. GAY: Thank you, Your Honor. I'm going to resort back to the chair for this, Your Honor. How are y'all. We are almost finished with this process and we appreciate all of your attention and focus on what's going on here, a couple of things about this process. Now we've come to the end of it. In the beginning, both of us explained to you that you are the most important part of this process, as we did as I explained in the beginning. You know, I said my client had pled not guilty, and you saw him testify. And then the solicitor obviously has a presentation and a belief of what she believes occurred, and her people, her injured parties, victims, testify. But ultimately, it's up to y'all. So as I sat and listened to the closing and I have listened to what Ms. Morris said about her interpretation of all of this or what --- as I tell you what my interpretation of it may be, neither one of us are, you know, we weren't there. We don't know. We're not parties to what happened. So ultimately, what we say is, I wouldn't say irrelevant, because that's not what I mean, but it's, it's not what we're here for. We're here for y'all to determine, after you go back and watch that video, how many times did we watch that video? But how many times y'all are going to watch it? How many it takes for y'all to decide. There's

some things that are really important about the evidence in this case? So the two Cleveland brothers, you know, they testified, and they said what they believe happened. And then my client, Mr. McDaniel testified, said what he believed happen, and ultimately you're going to decide, you know, the fate of Mr. McDaniel.

What was interesting about Mr. McDaniel's testimony is that he said, why am I the only one charged? You know, why am I the one who, how come they wouldn't charge the people, the person who shot me? And that's real. That's real because that's what's really going on here. Factually, we can come back in now and try to say, oh, well, there was all this intent in his head. And you know, he's bad guy and he should be convicted of all this. But what was happening that night is my client was getting shot, he actually got shot. So when we talk about all the different possibilities and the options in this verdict forms and the instructions that the judge is going to give you, this is a man who's been shot in the leg, and ultimately got shot in both legs as this was going on. So when the solicitor stands up here and, you know, says, well, he, you know, he was fighting for his life and all that. The person who'd been shot at that point was my client, and he'd been shot by her guy. He'd been shot by Mr. Cleveland. So the reactions and the

decisions that James McDaniel was making at the time was by a person who'd been shot in the leg and was trying to figure out what to do next. And the decisions he was making were about the fact that he believed that he was imminently in danger of his life right that second, and that a reasonably prudent person would have believed that too, because that's the truth. And he said on the stand, imagine if this was your son or whatever. This guy had been shot in the leg. So what's interesting is, is that when you look at the video, there's, okay --- So just want to tell you that there's things that match up what people say and there's things that don't match up what people say on both sides, and that's the truth. And so the physical evidence of this case, the things that we call facts beyond change. Facts beyond change are the pieces of evidence that that we can't make up. The position of the casings, the video itself. These are things that we cannot --- I mean, like I said in the beginning, there's a movie of it so, you know. And what's really interesting is that she showed you some things --- I have to stand up I can't do this sitting down. If I get tired, I'll sit back down. But she showed you some things that – there's a lot more pictures that have been admitted into this case that were not presented during the trial. And you all see a lot of this, lot more

pictures of the scene. And what's interesting is the casing that kind of becomes the most important casing is number seven, the placement of number seven. And number seven is a nine millimeter. And if you're a door and doors open, kind of like this, that nine millimeter is right there, right there, where Jared Cleveland, Jarod Cleveland, was standing the tall guy. He was standing right there. And he's the one that got hit in the ear, and he's the one whose car got a bullet we don't know what kind got a bullet shot through this speedometer. So that is --- but the casing that's the closest to that location where those two events occurred is a nine millimeter. Now granted shortly right outside of the door, you start seeing some 40s, and you start seeing some 40s, as my client says that he was running away and trying to figure out how to protect himself. So it's what's really can we do one, please? Are you gonna play one? Thanks. Okay, so I'm just gonna really just kind of go through it till we get to the point where I think we should stop. Okay, stop, stop. Now, this man in the orange, he has told us that my client slapped him in the face. There is no point on this video whatsoever where he's been slapped in the face. Now I will attest to you that as a young black male who's been slapped in the face by somebody, he is not going to just turn around and walk

to his car and come back. He's going to have some type of reaction, some type of assault, some type of pushing, shoving, something that we do not see on this video at all. So this young man right here has said, I got slapped in the face. My client testified that that never happened. So up to you to decide the credibility of these people and what you believe to be the truth. But my position is, my client's position is he'd never slap that guy, that there was never a physical assault ever against this young man. So keep going. Okay, and so stop. So that all these people that are out here right now, my client, the cousin, the young man that just passed, the guy in the orange that just passed, none of these people are having some big bad moment. None of these people are up in each other's faces. None of these people are bringing any form of aggression towards each other at all. They're just standing out there talking, and that's what his cousin, the cousin Mr. Cleveland said is that he was just talking to Mr. McDaniel when everybody sort of walked up on it and then keep going. Okay, stop. So that man, who's the guy we now know on the left, Jarod, he comes up and he's going to go to his car. And so when he goes to his car, whether he told my client, who sit and testify to you that he had said I'm gonna go get my gun, or whether my client believed there was something weird going on and

felt threatened by him. So it ends up that there's no physical contact between anybody at this point. Keep on going. So he goes over and he gets in his car. Now, stop. Now, now he's getting in his car. Jared, in the orange shirt, is not getting --- he's not following behind any of this. He's not following around my client. They're not having --- he and Mr. McDaniel are not having any conflicts. They're all just standing out there in the parking lot. While this gentleman right here has admitted that he's going to his car and that he has a gun inside his car, and he says that it's beside the seat and the gear shift, and he's leaning into his car. He is not attempting to get inside his car. He's leaning into his car. Okay, go ahead. All right. So my client, who's testified to you that he felt like there was a problem, so he's going to go over and talk to him. Said, gave you testimony --- just stop for a minute. Gave you testimony that he had had some life experiences. He has a child around the same age that he wanted to talk to him. He felt like things had kind of gotten out of, you know, some kind of weird direction, and he wanted to have a conversation with him. There is no point in that video, from the time he walks over there to that that he shows any weapon whatsoever, keep in mind that right there, where they're standing, right in that spot, is item

number seven. That's a nine millimeter right there. Okay, so I want you to go back a little bit further, please. Well, okay, so this is the whole case, really what started all this you see that gun in the air right there. You can watch on your own. That gun is from the hand of Mr. Cleveland, as he's bringing it up. And he's bringing up because he is --- that guy is taller than my client. Logistically, he is a taller man than my client, and that gun that is up there in the air belongs to Mr. Cleveland, does not belong to my client, but my client testified to you that by the time they're struggling with that gun and he's trying to keep it off, he has already been shot in the leg. He's already been shot in the leg by the nine millimeter casing that drops on the ground right there, right where that occurs. That is this whole case. Because the question then becomes, did my client then have the right to shoot back and then, you know, feel as if he's in imminent danger of his life and defend himself? And is this a self defense case? Or, as the solicitor says, is my client shooting the guy with his gun in the ear in that moment. Because that moment starts all of this. That moment decides who is right, who is wrong, and what happens next. And so what happens is that tall man is got his hand up in the air with his gun as my little short defendant, who is, if you recall, he did the red mark on

where his head is, he's shorter than him. That is not his arm. Okay. So if that is not his arm, Mr. Cleveland lied on the stand and said I was fighting with Mr. McDaniel over his gun. And once any of these people on some level, don't tell the truth, then it's up to you to decide the credibility of what happens next and what they say next, because everybody's trying to protect themselves in law. So she's told you all these things that my client lied about, and he admitted on the stand that he had lied to the police because he had a reason and he felt fear. He admitted on the stand some other things about what he may or may not have done, but ultimately, Mr. Cleveland says that that is James McDaniel's gun. And if that is James McDaniels gun, certain things happen one way. And if that is not Mr. McDaniel's gun, it happens a different way. So what happens now is, is that he's now struggling. He's been shot in the leg already. So as the judge charges the jury and says, what is a reasonable person's belief about self defense and things like that. He's already been shot. This isn't a situation where he's trying to run away from somebody who's shooting at him. He has already been shot by this man. Okay, go ahead. Okay, so now the brother comes up. Now we know. Stop, stop, please. We know the brother has got a gun. We know that the guy, if you can kind of see it, sort of right next to his shorts.

We saw it earlier where he went to his car to go get it. He didn't go get his car to go get it between the time he was standing right there in the yellow outfit to the time he walked up. That isn't real. He had already gone to get that gun. So his testimony about then I went to go get my gun, because I saw my brother was having a problem. Is not real. That is not real testimony, cannot be real, based on this video. So what ends up happening is that guy comes up behind Mr. McDaniels, and he has a gun, and he admits and says that he slammed the gun in my client's face. So my man has now been shot in the leg by one brother. He's had another brother slam a gun into his face and the testimony from him said, well, I think that's when the gun started going off. Okay, so was that Mr. McDaniel's gun was that some more of those eight or nine or 10, or how many ever they were nine millimeters that are all over the place by the car, because that's what's real. This is what's real, the nine millimeter casings that present the position of all this stuff that's facts beyond change. What isn't facts beyond change is what people say from the stand to try to justify what they did next or what happened. And I understand that could apply to my client, but it applies to the victims also. They are telling you things that cannot be real, cannot be real. So what ends up happening

is that young man gets shot. Now I want you to look really closely, because at all times during the time that he's dropping on the ground, my client's back is to him. So who shot him? You know, there's only so many 40s out there, and there's a whole bunch of nine millimeters. So my client testified to you that he never intentionally shot anyone, that he never intentionally shot Jarod because they were struggling for the gun. Jared specifically said I hit him in the face, and that's when his gun went off. That is certainly not an intentional act by my client, and then my client said, I didn't even know he was there. I'm getting away. I've been shot in the leg. I'm trying to get away. I never even knew that guy was behind me until I saw the video. There is no way, in this case, no way, that he can be convicted of intent, of an intent, to kill anybody. He didn't even know the guy was standing there. He certainly didn't have any specific intent to try to shoot him. He wasn't even aware he was there. So when the man drops on the ground, go ahead. He drops. Hey, he's gone. He's shot. All right. Now stop. This gentleman. Mr. Jarod, no. Jared scares me. The tall one he it's the E's and the A's that are getting to me. He is then dancing and shooting in the direction of my client. Yes, my client is shooting back, but my client had been shot. He did not create the

conflict. He did not go over there to have some kind of like shoot out with him. He went over there because he's testified to you that he went over there to talk to him to see if he could figure out a way to talk to him, and that young man pulled his gun. It's up in the air. He's the one who shot my client in the leg. He's the one --- I don't know how his I mean, it's just there's nine millimeters everywhere. So I think what's interesting in this case, and the judge is going to instruct you, is that there's certain things that are really important. One of them is credibility of a witness, and it becomes very important, because you are the jurors, you have to check the testimony of the people, what they said on the stand, with what the physical evidence is, and that's when you'll realize that these two victims are not telling you the truth. Now things happen. As Mr. McDaniel said, this happened in a blink of an eye. It happened very quickly. And so all of this, fortunately, we get to see, but we don't get to now decide, oh, well, this was, this is what they were thinking, or this is what they were doing. We see it. You guys got to decide what you think and whether or not, you know, one of the things that the judge is going to instruct you about intent is that you have to you can't just, you don't know what's in his head other than what he tells you, but you have to

decide what you believe to be the facts on this one, and you have to decide the credibility of the witnesses. Because there was no slap, there was no I went to go get my gun after I saw there was a problem with my brother. There was no, you know, you know, somehow he shot me or, and I think he shot me, because we don't even see it. The man testified that he didn't even know the guy was back there. He was trying to get away, to protect himself, because he'd been shot. And he also got shot again, twice, you know, once in one leg by the car, and another leg as he was running away. He called 911, because he'd been hurt, and he ended up in a hospital because and he said to you that he had asked to speak to the sheriff's department so that he could find out why these people weren't being charged for shooting him. That's --- he had been shot. He was a victim. So one of the other things that they're going to talk about as when we talk about attempted murder, the judge will instruct you that there has to be malice. What is malice? And what the judge is going to say is that malice is defined as hatred or ill will. There was no hatred or ill will towards these people. And you know, the solicitor tries to tell you that he had malice in the bar. These people were not beefing when they came out to the point where it would lead to some type of death they were having, you know,

they were talking my client was talking to their cousin. You know, they were talking to each other. There is absolutely no malice at all that was ever in this case. If you take the position that malice is instantaneous, or something like that, Mr. McDaniel told you that he was struggling to keep that gun from shooting him again. Once again, that's the issue in the case, he had already been shot in the leg, whether you know Mr. Cleveland intended to shoot him or not, I think, you know, I don't know. He's not being charged, but my client didn't intend to shoot Mr. Cleveland. He's struggling with a gun to try to keep himself from being shot again. So the statements prove, beyond a reasonable doubt, that the defendant had the specific intent to kill a person. There's no specific intent here, when you really start breaking it down and the judge talks about what specific intent is, you know, we all know what specific intent is. You choose to punch somebody or, you know, it can be inferred from circumstances, but these circumstances are not such that a specific intent to kill should be inferred. He it says specific intent to kill is necessary to convict the defendant for attempted murder. There's no specific intent. So then we have these other things to talk about. One of them is the assault and battery with high and aggravated nature. And the solicitor described it as a

lesser included and it means that if you don't find malice, that you believe that he intentionally shot the man or the other men, that you could convict him of assault and battery of a high and aggravated nature. And you know that's going to be an option on your verdict sheet. But what really is going on here, and this is what the judge, and I --- the judge is also going to instruct you, is the law of self defense. So the law of self defense is a complete defense. It's a complete defense. Like, if you find that my client, Mr. McDaniel's, acted in self defense, he's basically not guilty is what happens. It says that you must find the defendant not guilty. The state has the burden of disproving self defense beyond a reasonable doubt. So based on the fact that we've asserted self defense, and the judge is going to charge self defense, you have to basically prove, they have to prove beyond a reasonable doubt that it's not, that is the best way to say it. And so there's a couple of elements. She talked about them, you know, you're going to get hear this from the judge, but one of them is without fault. And you know, the solicitor wants you to believe that my client somehow instigated all this, and that, you know, the car is like the guy's house, and that he should have never gone over and confronted him and some things like that. Okay, so people go up and talk to

people in parking lots all the time. You know something's going wrong. You think there's an issue. It is not bizarre or unusual to have somebody go over and say, hey, man, let's just kind of calm down. What's the problem here? My client sees a gun. That man has reached in. He's not getting in his car. He's reaching into his car, and he is bringing a gun. Because once again, number seven, nine millimeter on the ground, right there. Okay, so when my client sees that gun, he starts going into, oh, no, what do I do next mode. So he is struggling with that gun. He didn't create the problem. He didn't slap anybody in the face. He didn't have arguments in the bar that would have led to a problem in the parking lot, because it didn't lead to a problem in the parking lot. He is sitting there confronted by the fact that this man has a gun on him now, and he is struggling with it, and he gets shot. See, once again, if he doesn't get shot, we don't have the same scenario play out, but he gets shot in the leg by Mr. Cleveland's gun right there in the car right that minute while this is all happening. So he never brings this. He doesn't have any fault. He didn't bring this on. Mr. Cleveland had a gun that shot him in the leg. That is facts beyond change. He's not making it up. We're not making it, you know, this is not a stretch. Facts beyond change is that a nine millimeter shot him in

the leg, imminent danger. The second element of self defense is the defendant was actually in imminent danger of death or serious bodily injury, or that the defendant actually believed it. Okay. Let's jump ahead. He's been shot. He has had imminent danger. He has had serious bodily injury. This has occurred. He doesn't even have to reasonably believe that it could occur. It occurred. He was shot. So that is the second element that is met in this case. Third, right to act on appearances. The defendant does not have to show that he was actually in danger. It is enough if the defendant believed he was in imminent danger, and a reasonably prudent person of ordinary firmness and courage would have had the same belief. The defendant has a right to act on appearances, even though the defendant's belief may have been mistaken, his belief wasn't mistaken. What did I say 15th time he had already been shot. This is real imminent danger. It says no other way to avoid danger. Okay, the final element of self defense is the defendant had no other probable way to avoid the danger of death or serious violent injury than to act as the defendant did in this particular instance. Okay, if the Clevelands, Mr. Cleveland is such a nice guy and he's so, oh, I didn't mean to do this. I didn't start this. I didn't have a gun and all that stuff. Why is he shooting at my client?

Okay, because he's --- my client is shooting. Yes, he is. He's shooting at him after he's already been shot, but he continues to shoot. There's, what, a bunch many, nine millimeters on the ground. So my client testified to you that at that time he believed his life was in danger, and he believed that if he didn't shoot back or try to figure out a way to defend himself, he was going to be killed. Okay, so he has imminent danger of death. He believes he's going to be killed. He has already been shot, and the man right there in the car, you see it, you can go ahead. Well, I guess we need to go back a little bit more. So that man, what you see, it's kind of blurry here, but you see his arms going out. And so my clients, what, 10 feet from him at this point, he is like, they're all just mayhem at this point. And that Mr. Cleveland has got his gun, and he's just shooting and shooting and shooting and his nine millimeters are going all over the place. And you know, Mr. McDaniel, as he testified to you, is shooting back because he believes he's going to die if he doesn't. Now, is any of this good? No, this is not good. None of this is good. But, you know, all this is just horribly unfortunate, and that there were just, yes. But the problem is, is that my client had no other choice in his in his testimony to you and his circumstances that day, but to believe that if he didn't

shoot at him that the guy may kill him. He's already been hit one. He's already been shot. He gets shot again in his other leg, and he's gone. He's called 911, he's gone to the hospital, he's been shot all that, and he gets arrested, and he gets charged with all this. What he told you on the stand was that he knew he had a gun, and that's true. He did. He had a gun, and he, you know, he has a record, shouldn't have the gun, and that's the truth and so --- but the person who started this. If you recall the way this all really went down is that a very tall man whose arm is above his head, which means it's really tall, way up here, above his head, has a gun that by the time it gets up there to the top of by his ear up there, it has already shot Mr. McDaniel in the leg. That gun, as it was struggled with and pulled up, has already shot him, and that nine millimeters on the ground right there in the doorway.

I think that at the end of this case, I believe, and my client does, that you will find that he acted in self defense, and that you will find him --- that this is a complete bar for prosecution, and that is what we believe is evidence in this case.

THE COURT: Thank you, Ms. Gay. State?

MS. MORRIS: Yes, Your Honor. Thank you. Don't let the defense distract you from what's really going on

here. There's a lot of talk about the defendant being in danger, being in fear, and we kind of already talked about that when I was going through the self defense analysis. Let's do that same analysis for Jared. Jared is going to his vehicle. He's not bringing on the difficulty. He's going to his car. Defendant brings on the difficulty. And he felt like he was in imminent danger of losing his life. And a reasonable person would have felt that way. Someone --- as you're going to your car, someone that had been previously threatening you, that had flashed you a gun and smiled at you, comes up from behind you, you see the gun from behind you. You feel like you're in imminent danger, a reasonable person would feel that way, and he has no other means of escaping that danger while he's in his vehicle, the driver's side, and then the door, and the defendant is right there, pinning him in there. The defendant brings on the difficulty, and then he wants to cry about it. He goes to the victim's car, and then wants to cry when the victim's trying to protect himself, and then cry when his brother Jarod comes to aid him. Now, there are some --- So Jared was justified in his defense. He was justified with his shooting. Jarod was justified as well. He's coming to the aid of his brother. He's defending others.

Now, there are some facts that I felt were misstated

by the defense. The one was when she said that Jarod testified that he saw his brother in trouble and went to his vehicle and then came back. That's not what Jarod testified to. Jarod said that he got slapped in the face while he's inside the bar with the defendant, and he went to his vehicle to get his gun. And the state actually provided you with that evidence. It's exhibit 63 it was the black and white video. And just before the shooting occurs, you see Jarod go to his vehicle, and he walks back, and he puts his gun in his jacket, his jacket pocket, just as he described, and then right at that moment it goes into this shooting video. That's the timeline of that. So that's incorrect. And also she said that Jared said that he was going to his car to get a gun. That's what the defendant said, that Jared said. Jared did not say that. He said he didn't say anything to the defendant, the defendant just flashed his gun so he went to his car. There's also the defendant saying he got shot in the leg. As soon as Jerod comes out of the car. He goes the car. Jared shoots him in the leg, and then they struggle. That does not make any sense to me. That's not what the video shows. There's no muzzle flash. He did get shot in the leg, but it was when Jared was returning fire. There's also, you know, it's Jared that's pointing the gun in the air. Jared that's pointing the gun at him

at the car. Jared testified that that's the defendant. The defendant testified that that's Jared, I submit to you that that doesn't even matter. It does not matter whose gun is up in the air, because Jared had the right to defend himself, the defendant brought on the difficulty.

Ms. Gay also brought up the placement amount of the marker seven, nine millimeter shell casing right next to the door of the vehicle. Remember, firearms they eject. It's not necessarily where it is, and there's a lot going on, there's lots of nine millimeter shell casings. There's also 40 caliber shell casings at the scene, three of them in proximity to the vehicle. And as to malice, hatred, ill will, he wants you to believe that he just went into that gun he wants --- or the bar, excuse me, he went to that bar, he just wanted to start a little conversation with these young boys with his gun on him the whole time. Boys left the guns in their --- in their vehicles, they're just there to have a good time. They're not there for any trouble. The defendant is there for trouble. Slaps Jarod, flashes his gun at Jared. That's hatred, that's ill will. And then Jared is going to his car, and he follows him and takes the gun out. I really want you to watch that video. When he's walking. It's difficult for me to do it in my suit, but pretend I have

a hoodie on like he did. That's what I see when I watch the video, reaching in, pulling something out.

This is just senseless violence brought on by the defendant. And now Jared and Jarod, forever changed, forever injured. Don't let defense distract you. Only one person could defend themselves, two, excuse me, Jared and Jarod. Defendant brought on the difficulty he cannot cry about it, about Jared and Jarod defending themselves after. So I ask you to return a verdict of guilty on all charges. Thank you so much for your time.

THE COURT: Thank you Ms. Morris.

MS. GAY: Your Honor, could Ms. Norton leave she needs to go do something?

THE COURT: Certainly. All right. Ladies and gentlemen, I remind you that during this trial, you and I have had certain different and distinct duties to perform. As the trial judge, it's my responsibility to preside over the trial in this case. I have the duty to rule on the admissibility of the evidence offered during this trial. You are to consider only the competent evidence before you. If there's any testimony that I've ordered stricken from the record in this case, during the trial, you must disregard that testimony. You are to consider only the testimony which has been presented from the witness stand, any exhibits that have been made part

of the record and any stipulations of counsel. I have the additional duty to charge you as to the law applicable to this case. As a presiding judge, I am the sole Judge of the law in this case. It's your duty, as jurors, to accept and apply the law as I now state it to you. If you already have any idea as to what the law is or what the law ought to be, that does not agree with what I now tell you what the law is, you must abandon those ideas, because you're sworn to accept the law exactly as I state it to you.

Jurors are the sole judges of the facts. The trial judge cannot intimate, state, comment on or make any statement to a trial jury about the facts in the case. Since you, the jury are the sole judge of the facts in this case you are not to infer from what I may have said or done during this trial, or in ruling on any admissibility of evidence or otherwise or anything that was done during the course of the trial, or this instruction that I have any opinion as to the facts of this case, the law does not allow me to have an opinion about the facts in this case, this is a matter solely for you the jury, to determine. As jurors, it's your duty to determine the effect, the value, the weight and the truth of the evidence presented during this trial. I remind you that the fact that the defendant was arrested, charged

and indicted in this case is not evidence and cannot be considered by you as evidence of guilt in this case, nor does it create any presumption or inference of guilt. Indictment was simply a formal written instrument which contained the charges made against the defendant. It's just a formal document by which this case is brought before the court. The indictments in this case alleged five different offenses against the defendant. The charge in indictment 2024-GS-08-02455 is attempted murder as to Jarod Cleveland, as to 24-GS-08-02456 the charge is attempted murder as to Jared Cleveland, the charge in indictment 2024-GS-08-02454 is possession of a weapon during the commission of violent crime. The charge in indictment, 2024-GS-08-02453 is possession of a weapon during the commission of a violent crime. The charge in indictment 2024-GS-08-02457 is weapons and or possession of a firearm or ammunition by a person convicted of certain crimes.

Presumption of innocence, the defendant is pled guilty to these indictments, and that plea puts the burden on the state to prove the defendant guilty beyond a reasonable doubt. Person charged with committing a criminal offense in South Carolina is never required to prove himself or herself innocent. It is an important rule of law of this country that the defendant in a

criminal trial is always presumed to be innocent of the crime for which he is indicted, unless and until his guilt has been proven by evidence satisfying you that that guilt is beyond a reasonable doubt. Presumption of innocence is not a mere legal theory, it is not just a legal phrase, it is a substantial constitutional right to which every defendant is entitled. This presumption of innocence accompanies the defendant from the time he is charged throughout the trial, unless and until you as a jury, reach a verdict of guilty based upon the evidence satisfying you of that guilt beyond a reasonable doubt.

The state, as I indicated, has a burden of proving defendant guilty beyond a reasonable doubt. Some of you may have served or may be familiar with civil cases. In civil cases, you may have been told that it is only necessary to prove a fact is more likely true than not true, such as by the greater weight or preponderance of the evidence. In criminal cases, the state's proof must be more powerful than that. It must be beyond a reasonable doubt. Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. Reasonable doubt has also been defined as the kind of doubt that would cause a reasonable person to hesitate to act. There are few things in this world that we know with absolute certainty, and in criminal cases, the law

does not require proof that overcomes every possible doubt. If based upon your consideration of the evidence, you're firmly convinced that the defendant is guilty of the crime charged, you must find the defendant guilty. If, on the other hand, you think there is a real possibility that the defendant is not guilty, you must give the defendant the benefit of a doubt and find him not guilty.

There are two types of evidence which are generally presented during a trial, direct evidence and circumstantial evidence. Direct evidence is a testimony of a person who claims to have actual knowledge of a fact, such as an eyewitness. Circumstantial evidence is proof of a chain of facts and circumstances indicating the existence of a fact. Crimes may be proven by circumstantial evidence. The law makes no distinction between the weight or value given to either direct or circumstantial evidence. However, to the extent the state relies on circumstantial evidence, all circumstances must be consistent with each other, and when taken together, point conclusively to the guilt of the accused beyond a reasonable doubt. If these circumstances merely portray the defendant's behavior as suspicious, the proof has failed. The state has the burden of proving the defendant guilty beyond a reasonable doubt. This burden rests with

the state, regardless of whether the state relies on direct evidence, circumstantial evidence, or some combination of the two. You must determine the credibility of witnesses who have testified in this case. Credibility simply means believability. It's your duty, as jurors to analyze and to evaluate the evidence and determine which evidence convinces you of its truth. In determining the believability of witnesses who have testified in this case, you may believe one witness over several witnesses, or several witnesses over one witness. You may believe part of the testimony of a witness and reject the remaining part of the testimony of that same witness. You may believe a testimony of a witness in its entirety, or reject the testimony of that witness in its entirety. You may believe a part of the testimony of a witness and reject the remaining part of that same witness. If you reject part, you may still accept the remainder of that witness's testimony, you may consider whether a witness has exhibited to you any interest, bias, prejudice or other motive in this case. You may also consider the appearance and the manner of the witness while on the witness stand. You're not bound to decide the case based upon the number of witnesses each side produces. Ordinarily, people may not testify as to their opinion about something in court. An exception is

made for expert witnesses. They're experts because of their experience or education or specialized training in some area, they may give their opinion and state their reasons for their opinions. You can give an expert's testimony as much weight or as little weight as you think it deserves, if you do not think it is based on sufficient education or experience or training, or you conclude that the expert's opinion is not sound or outweighed by other evidence, you may disregard that expert's opinion in its entirety. You're not compelled to blindly accept an expert's opinion. You have the right to consider the testimony in the light of all the circumstances and give it such weight, if any, that you think it is entitled to.

The defendant is charged with two separate counts of attempted murder. In order to prove this crime, the state must prove the defendant attempted to kill another person with malice aforethought. Malice is defined as hatred or ill will. The state must prove beyond a reasonable doubt that the defendant had the specific intent to kill a person. In order to prove this offense, the state must prove beyond a reasonable doubt the defendant attempted to kill that person. A specific intent to kill is necessary to convict the defendant for attempted murder. Intent means intending the result which actually

occurred, not accidentally or involuntarily. Intent may be shown by acts and conduct of the defendant or other circumstances from which you may naturally and reasonably infer intent. Intent may be inferred when it is demonstrated that the defendant voluntarily and willfully commits an act the natural tendency of which is to destroy or harm another person. In order to establish criminal liability, criminal intent is required. Criminal intent must be proven beyond a reasonable doubt. Criminal intent is always a matter which must be determined by the jury from the circumstances surrounding the situation. There is no way to prove intent to a mathematical certainty. There's no way medical science can dissect a human's brain and determine that what that person had in mind. So the law says that criminal intent may be inferred from the circumstances shown to have existed. This is how you make a determination of whether or not that element requiring intent was present. It's not necessary to establish intent by direct or positive evidence, but intent may be established by inference in the same way that any other fact taking into consideration by the parties and all the facts and circumstances of the case, criminal intent is a mental state, a conscious wrongdoing. It is up to you to determine what the defendant intended to do based upon

the circumstances shown to have existed.

As to the element of attempted murder, an attempt is an effort to accomplish a crime which does not succeed. An attempt includes a specific intent to do a particular criminal act, along with an act falling short of the act intended. The state must show more than mere preparation and intent. There must be some overt act committed in the effort to commit the crime. If the state has failed to prove to you beyond a reasonable doubt that the defendant was guilty of attempted murder, you may consider whether the state has proved beyond a reasonable doubt that the defendant is guilty of the lesser included offense of assault and battery of a high and aggravated nature, as to either or both of the attempted murder counts. A person commits the offense of assault and battery of a high and aggravated nature, if the person unlawfully injures another person and great bodily injury to another person results or the act is accomplished by means likely to produce death or great bodily injury. Assault and battery of high and aggravated nature, is a lesser inclusive offense of attempted murder.

The defendant is also charged with two counts, two separate counts, of possession of a weapon during commission of or attempt to commit a violent crime. The state must prove beyond a reasonable doubt that the

defendant was in possession of a firearm or visibly displayed what appeared to be a firearm during the commission of a violent crime. Firearm means, machine gun, automatic rifle, revolver, pistol, any weapon which is designed to or readily converted to expel a projectile. In order to find the defendant guilty of possession of a weapon during the commission of a violent crime, you must first find the defendant guilty of either committing a violent crime or attempting to commit a violent crime. Attempted murder is a violent crime. Assault and battery of a high and aggravated nature is a violent crime. The state must prove beyond a reasonable doubt that the weapon furthered advanced or helped in the commission of the crime. It is also unlawful for a person who has been convicted of a crime punishable by the maximum term of imprisonment of more than one year to possess a firearm or ammunition in this state.

The defendant has raised the defense of self defense. Self defense is a complete defense. If all the elements are established you must find the defendant not guilty. The state has the burden of disproving self defense by proof beyond a reasonable doubt. If you have a reasonable doubt of the defendant's guilt after considering all the evidence, including the evidence of self defense, then you must find the defendant not

guilty. On the other hand, if you have no reasonable doubt of the defendant's guilt after considering all of the evidence, the following elements are required to establish self defense without fault. First, the defendant must be without fault in bringing upon the difficulty. If the defendant's conduct was a type which was reasonably calculated to and did provoke an assault, while the defendant would be at fault in bringing on the difficulty and would not be entitled to an acquittal based upon self defense.

The second element of self defense is that the defendant was actually in imminent danger of death or serious bodily injury, or the defendant actually believed he was in imminent danger of death or serious bodily injury. If the defendant was actually in imminent danger, it must be shown that the circumstances would have warranted a person of ordinary firmness and courage to strike with a fatal blow or to prevent death or serious bodily injury. If the defendant believed he was in imminent danger of death or serious bodily injury, it may be shown that a reasonably prudent person of ordinary firmness and courage would have had the same belief. In deciding whether the defendant actually was or believed he was in imminent danger of death or serious bodily injury, you should consider all of the facts and

circumstances surrounding the crime, including the physical condition and characteristics of the defendant and the victim. The defendant does not have to show that he was actually in danger, it is enough that the defendant believed he was in imminent danger, and a reasonably prudent person of ordinary firmness and courage would have that same belief. The defendant has the right to act upon appearances, even though the defendant's beliefs may have been mistaken. It is for you to decide whether the defendant's fear of imminent danger or death or serious bodily injury was reasonable and would have been felt by an ordinary person in the same situation. Relative sizes, ages and weights of a defendant and the victim or victims may be considered in deciding the apparent or actual need for force in self defense, and the amount of force needed. Threats made by the victim may be considered in determining whether the defendant was or believed he was in imminent danger. The final element of self defense is that the defendant had no other probable way to avoid the danger of death or serious bodily injury than to act as the defendant did in this particular instance. The defendant had no duty to retreat, if by doing so, the danger of being killed or suffering serious bodily injury would increase.

The possible jury verdicts in this matter are as

follows:

Guilty or Not Guilty of Attempted Murder of Jarod Cleveland.

Guilty or Not Guilty of Attempted Murder of Jared Cleveland.

If not guilty of attempted murder of Jarod Cleveland, then guilty or not guilty of the lesser included offense of assault and battery of a high and aggravated nature of Jarod Cleveland,.

If not guilty of attempted murder as to Jared Cleveland, then guilty or not guilty of the lesser included offense of assault and battery of a high and aggravated nature as to Jared Cleveland.

Guilty or Not Guilty of possession of a weapon during the commission of a violent crime as to Jarod Cleveland.

Guilty or Not Guilty of possession of a weapon during the commission of a violent crime as to Jared Cleveland; and,

Guilty or Not Guilty of possession of a weapon by a person convicted of certain crimes.

There is no significance, whatsoever, in the order in which I stated the possible verdicts. It's simply that I must have stated one before the other. A verdict in this case cannot be based upon sympathy, passion,

prejudice or emotion or some other consideration not found in the evidence. Ladies and gentlemen, your verdict must be unanimous.

Mr. Foreperson, when the jury agrees on the verdict, you will fill out the verdict form, and you'll sign your name, and I'll show you that form in a moment. Then you'll knock on the jury room door, inform the bailiff that you've reached the verdict. At that time we will receive you back into the courtroom, I would ask the foreperson if they reached a verdict, and you will turn that verdict form over to the bailiff or to the clerk.

I'm going to ask you now to return to your jury room, but do not yet begin your deliberations until you are told to do so by the clerk or the bailiff. There are matters which I must discuss and address with the attorneys before you begin your deliberations. Your signal to begin deliberations when and I'm going to touch base on this verdict form again, when the verdict form is sent back and the evidence is sent back to you, that is your signal to begin. The alternate jurors will continue back with you until the verdict form and the evidence is turned over to you in the jury room. At that time, the alternate jurors would be excused, and we'll bring them back out here.

Mr. Foreman, the verdict form that I have has state

of South Carolina versus James C. McDaniel. It has the indictment numbers. It has as to Jared Cleveland. It has the attempted murder. Not Guilty. Guilty. It has basically an explanation that if you find guilty, move on past the lesser included offense. If you find not guilty, you move to a lesser included offense. It should flow relatively smoothly from that. Each one must be marked as instructed. Ultimately, you would sign the back as where it is indicated. If you have any questions that you want to pose to the court, I'm going to ask you not to write on the verdict form. Use one of the pads, make a note to it, give it to the bailiff, and if I'm allowed to, I will address or respond to that question, if you have such questions, but that'll be your additional responsibility. I remind you that when you go back to the jury room and you begin deliberations, it should only be while all 12 are there. If someone is taking a comfort break, wait for them. Don't discuss the case until all are present all at the same time. All right, so I'm gonna send you all back there, hopefully this one time with that last ammunition, don't start yet. We'll send the information back as quickly as I've addressed these questions that I may have out here. All right. Thank you.

(Jury excused from courtroom)

THE COURT: All right, y'all can sit, thank you. Any

objections on charge from the state?

MS. MORRIS: Yes, Your Honor. As to indictment, 2024-GS-08-2457 it should actually be possession of a firearm by a person convicted of a violent crime.

THE COURT: You looking at the verdict form or the charges?

MS. MORRIS: I'm looking at the charges. So page three, and then also page 10.

THE COURT: I thought I cured that. If I didn't, I apologize. Page three?

MS. MORRIS: Yes.

THE COURT: Are you looking at the charge or you looking at the ...

MS. MORRIS: Well, as far as the charge itself, which is on page 10.

THE COURT: Ten, okay.

MS. MORRIS: Yes, so the title is correct, commission of violent crime. But then the description says convicted of a crime punishable by maximum term of imprisonment of more than one year. And at that time, January, 2024 ...

THE COURT: You're right. I confused it and thought I fixed it. Apparently I did not. All right, so you want to, you want to recharge with the proper language.

MS. MORRIS: Yes, Your Honor, especially since that's what the indictment says.

THE COURT: Okay, all right, well, let me read from the indictment then and see if I can get it straight this time.

MS. MORRIS: Thank you, Your Honor.

THE COURT: I thought I was getting it straight, but did not. Let me make sure I got it. I got it correct and properly identified, properly captioning on the verdict form, but just the definition as to the charge is incorrect?

MS. MORRIS: That's correct, Your Honor.

THE COURT: So the charge should be. It is unlawful for a person having previously been convicted of a violent crime as defined by South code section 16-1-60, to possess a fire arm or ammunition.

MS. MORRIS: Yes, Your Honor.

THE COURT: Okay. All right. I will try and make sure that I do that properly. How about from the defense?

MS. GAY: Well, Your Honor. I know that this is going to sound weird, but we might have to check the record, but, and I'm obviously a little bit nuts sometimes, but I actually believe that you said the defendant has pled guilty on page three when you were reading presumption of innocence, I'm pretty sure you said pled guilty.

THE COURT: I said he pled guilty?

MS. GAY: Yes, I'm pretty sure that's what you said

instead of pled not guilty. And we could check to make sure.

THE COURT: Yeah let's check. I certainly don't want to, don't want to imply that. I wouldn't have heard myself say that. If I stumbled over my words. Let's check.

MADAM COURT REPORTER: Judge I'll have to go back and find that. It was ...

MS. GAY: It was right, when he starts talking about presumption of innocence. It comes right after this part where she said that he gave the, you know, called the charge out the wrong way, so it's right in that same area.

MADAM COURT REPORTER: Okay. It's gonna take me a few minutes, Your Honor.

MS. GAY: While you're doing that, Your Honor, can we just, can I go use the restroom real quick?

THE COURT: Sure.

MS. GAY: I didn't dream it. I don't think.

THE COURT: Okay. Thank you. Any luck. Ms. Morris, were you able to help her out?

MS. MORRIS: She's looking at it right now, so she has it.

THE COURT: Excellent.

MADAM COURT REPORTER: Your Honor, you said as to

presumption of innocence, the defendant has pled. Do you want to hear it?

THE COURT: No, I believe you.

MADAM COURT REPORTER: Let me listen to it one more time. Let me make sure.

THE COURT: All right. Well, I will --- goodness I'll try and fix that.

MADAM COURT REPORTER: Yes, I listened to it again.

THE COURT: Whereabouts was that?

MADAM COURT REPORTER: It was the very first one right here.

THE COURT: All right Ms. Gay, you heard very well.

MS. GAY: Thank you.

THE COURT: I apologize for tripping over my tongue on that in that regard. I'm going to bring the jury back out in a moment, I'm going to tell them that I'm thankful that y'all pointed out that I may have said the defendant pled guilty, that that was not my intention. My intention was to say that the defendant had pled not guilty to the indictments, and I want to clarify the definition of one of the weapons charges and --- where is it? And indicate that as to the defendant, he was charged under 16-23-500, possession of a weapon during commission of a violent crime. That's the right caption, right? And it is --- and under that statute, is unlawful for a person having been

previously convicted of a violent crime to possess a fire arm or ammunition within the state. And then send them back. Okay, just so we're clear, that's the weapons possession is the last one.

MS. MORRIS: Oh, and it says as to a violent crime or possession of weapons convicted of a violent crime.

THE COURT: Yeah.

MS. MORRIS: Okay.

THE COURT: The change in the statute tripped us up and I apologize for that.

MS. MORRIS: That’s okay Judge. It can be fixed.

THE COURT: All right. Y'all look at the wording on the last one is that, should that be amended to say violent offense rather than certain crimes, because we mixed and matched up on that?

MS. MORRIS: What page is that? Is that page 10?

THE COURT: Three on the verdict form.

MS. GAY: I say violent offense.

THE COURT: That says in the body, but it doesn't say it in the caption.

MS. MORRIS: You're talking about the verdict form?

THE COURT: Verdict form. We got it right on the body, but not in the all caps description or caption.

MS. GAY: Yeah, we should say violent crime.

THE COURT: Should say violent crime, agree?

MS. MORRIS: I don't think I have --- that's ...

MS. GAY: It's this, it's a verdict form he had it as certain crimes.

MS. MORRIS: Yes, yes.

THE COURT: For the same crime.

MS. MORRIS: I'm sorry.

THE COURT: Okay, so let's do this while he's fixing that. Bring them out. I can charge them while we're printing that, and then, since it's in hand, by then, they'll be back and send it all back.

MS. GAY: Because I'm diabetic and I just say need some crackers, what will be our lunch plan?

THE COURT: I'm gonna give them the corrective charge. Send them back as soon as we get the reprint on the verdict form, send it all back with the evidence, and then y'all can go to lunch.

MS. GAY: So sometimes what we do is we just say lunch is going to be until blank, and then we can go get some lunch, or they have a question, or whatever.

THE COURT: As soon as we deal with them, yeah, we'll release it for an hour or so, and that's fine, even if they come back. In the meantime, we're not going to reconvene until after that point in time.

MS. GAY: Perfect.

THE COURT: Okay, that's fair enough. Thank you.

Let's bring our jury back in.

MADAM CLERK: Jury's coming in.

THE COURT: All right, y'all can be seated. Thank you, ladies and gentlemen of the jury, part of the reason we take that break is to have the parties double check to make sure that there wasn't anything that was misstated. I think that was pointed out to me, and I, in fact, went back and listened to the recording and had the court reporter check it, because part of my charge I indicated, or was supposed to indicate, the defendant has pled not guilty to these indictments. That was pointed out to me that I may have said he pled guilty to these indictments. I said, I don't think I said that. Had to read it back. And in fact, I said pled guilty. And so I am correcting that. My charge is that the defendant has pled not guilty to these indictments. I believe you all probably presumed that, and may not have noticed when I tripped over my word, but I wanted to clarify that. Also, when I was presenting to you the definition of one of the charges under South Carolina code 16-23-500 the proper name of it is possession of a weapon during the commission of a violent crime. I wanted to clarify the definition as to a violation statute. It is unlawful for a person having been previously convicted of a violent crime to possess a firearm or ammunition within the state. I may have used

the wrong word when I presented that one, so I wanted to make sure and correct that. All right. I'm going to send you all back again. I told you it was one more time. Unfortunately, one more time without any deliberation yet. I will make sure that I have the verdict form prepared properly, and I'll send that and the evidence back, and we'll release our alternate jurors here in a few moments. Okay?

MS. GAY: Your Honor, may we approach for just one second?

(Counsel approaches bench without court reporter)

THE COURT: And once again, I misread. Can't read my own writing. The caption is, possession of a weapon by a person convicted of a violent crime. The body of that violation, as I've indicated, it is unlawful for a person having been previously convicted of a violent crime to possess a firearm or ammunition within this state. And that is the charge as identified under seven on the verdict, is that correct?

MS. MORRIS: Yes, Your Honor.

MS. GAY: Yes, sir.

THE COURT: Thank y'all. I want to make sure we're squared away, so I'm gonna release y'all back to the jury room. Okay?

(Jury excused from the courtroom)

THE COURT: All right y'all can be seated. We got all the evidence to go back?

MS. MORRIS: Yes, Your Honor, we can double check it.

THE COURT: Double check it. There's our verdict form. I'll take another look at that. Make sure I didn't miss anything. Are we prepared to send back?

MS. MORRIS: Yeah, you want to alternate?

THE COURT: Yeah, back with the first one and bring the alternates out for me.

(Court break)

THE COURT: All right. Good afternoon. How are y'all doing?

(Alternates were excused for the week)

(Lunch break)

(Back on)

THE COURT: Thank y'all. You can have a seat. We have a question. Madam court reporter you all set?

MADAM COURT REPORTER: Yes sir.

THE COURT: We have a question from the jury. It's got the date on it 8/27/26. Can I see the police report and then signed, I'm not quite sure what it says but I'm presuming it's the foreperson. So what's the state's position regarding response, if any?

MS. MORRIS: The response should be that's not in evidence, that it's hearsay, and that should not be

considered as part of their deliberations.

THE COURT: The defense?

MS. GAY: Your Honor, the way I've heard it said is, you have everything in the room that you can have to deliberate on, as opposed to making any comment on it being anything, just you have everything in the room that you can deliberate on.

THE COURT: The language that I started with was the jury may only consider the evidence that was submitted during the trial of this case. Any objection to that?

MS. MORRIS: No objection, Your Honor.

THE COURT: I'm sure there's more artful language than that, but I think it says basically the same that y'all are telling me.

MS. GAY: Well, you could say the jury may only consider the exhibits that have been ...

THE COURT: No they're allowed to consider testimony as well ...

MS. GAY: Yeah, you're right.

THE COURT: And so forth. Thought about that too.

MS. GAY: All right. I understand.

THE COURT: Just generalize by putting the evidence on there. So I'm going to write that on there. I'll follow with my name. Will mark it as a court's exhibit ...

MADAM COURT REPORTER: Number two, Your Honor.

THE COURT: Number two. Okay, and send that back to them.

MS. GAY: Thank you.

THE COURT: Thank y'all for being on hand. All right. We will adjourn until we hear from them again.

(Off the record) (Back on the record 4:46 PM)

BAILIFF: The court is back in session.

THE COURT: Y'all can be seated, thank you. We have everyone. I understand that we have a verdict. Is that right?

MADAM CLERK: Yes, Your Honor.

THE COURT: All right. Okay let's bring the jury back in.

MADAM CLERK: Your Honor there is one in the restroom.

THE COURT: Okay. We will certainly wait for them.

MADAM CLERK: Jury's coming in.

(Jury enters courtroom)

THE COURT: We have all the jurors. Y'all can be seated. Thank you. All right. Mr. Foreman, did the jury reason a verdict?

MR. FOREMAN: Yes, we did.

THE COURT: Okay if you would hand it over to the clerk for me. Thank you.

MADAM CLERK: You're welcome.

THE COURT: Mr. Foreman could you step up here? I want to make sure I understand exactly what this is, and I may get you to do this in ink too, it looks you did it in pencil. I'm not sure if they gave you a pen or not.

(Mr. Foreman approaches bench without court reporter)

THE COURT: Thank you sir.

MR. FOREPERSON: You're welcome.

MADAM CLERK: State of South Carolina versus James C. McDaniel. As to Jared Cleveland. Indictment number 2024-GS-08-02456, as to the offense of attempted murder. We the jury unanimously find the defendant guilty.

As to indictment number 2024-GS-08-02454, as to the offense of possession of a weapon during the commission of a violent crime, we the jury unanimously find the defendant guilty.

As to Jarod Cleveland, indictment number 2024-GS-08-02455, as to the offense of attempted murder, we the jury unanimously find the defendant not guilty.

As to the lesser included offense of assault and battery of a high and aggravated nature, we the jury unanimously find the defendant guilty.

Possession of a weapon during the commission of a violent crime 2024-GS-08-02453, we the jury unanimously find the defendant guilty.

Unlawful possession of a firearm by a person convicted of a violent offense. 2024-GS-08-02457, we the jury unanimously found the defendant guilty. Signed by the foreperson.

Ladies and Gentlemen of the jury, if this is your verdict, please signify it by raising your right hand at this time. Let it reflect that all jurors raised their right hand.

THE COURT: Thank you. Y'all can put your hands down. Any further polling of the jury by the state?

MS. MORRIS: No, Your Honor.

THE COURT: Any further polling of the jury by the defense?

MS. GAY: Yes, sir.

THE COURT: All right, Madam Clerk.

MADAM CLERK: Juror number 57 is this your verdict?

JUROR 57: Yes.

MADAM CLERK: Is this still your verdict?

JUROR 57: Can you repeat that.

MADAM CLERK: Is this your verdict?

JUROR 57: Yes.

MADAM CLERK: Is this still your verdict?

JUROR 57: Yes.

MADAM CLERK: Juror number 161, is this your verdict?

JUROR 161: Yes.

MADAM CLERK: Is this still your verdict?

JUROR 161: Yes ma'am.

MADAM CLERK: Juror number 18, is this your verdict?

JUROR 18: Yes.

MADAM CLERK: Is this still your verdict?

JUROR 18: Yes, ma'am.

MADAM CLERK: Juror number 38 is this your verdict?

JUROR 38: Yes.

MADAM CLERK: Is this still your verdict?

JUROR 38: Yes.

MADAM CLERK: Juror number 111 is this your verdict?

JUROR 111: Yes.

MADAM CLERK: Is this still your verdict?

JUROR 111: Yes.

MADAM CLERK: Juror number 39 is this your verdict

JUROR 39: Yes.

MADAM CLERK: Is this still your verdict?

JUROR 39: Yes.

MADAM CLERK: Juror number 160 is this your verdict?

JUROR 160: Yes.

MADAM CLERK: Is this still your verdict?

JUROR 160: Yes.

MADAM CLERK: Juror number 96 is this your verdict?

JUROR 96: Yes.

MADAM CLERK: Is this still your verdict?

JUROR 96: Yes.

MADAM CLERK: Juror number 23 is this your verdict?

JUROR 23: Yes.

MADAM CLERK: Is this still your verdict?

JUROR 23: Yes.

MADAM CLERK: Juror number 115 is this your verdict?

JUROR 115: Yes.

MADAM CLERK: Is this still your verdict?

JUROR 115: Yes.

MADAM CLERK: Juror number 189 is this your verdict?

JUROR 189: Yes.

MADAM CLERK: Is this still your verdict?

JUROR 189: Yes.

MADAM CLERK: Juror number 68 is this your verdict?

JUROR 68: Yes.

MADAM CLERK: Is this still your verdict?

JUROR 68: Yes.

MADAM CLERK: The jury has been polled, and the verdict stands.

THE COURT: All right. Anything further for this jury, from the defense?

MS. GAY: No sir.

THE COURT: From the state?

MS. MORRIS: No, Your Honor.

THE COURT: All right. All right. Ladies and

gentlemen --- any objection to dismissing or releasing the jury? From the state?

MS. MORRIS: No objection from the state.

THE COURT: From the defense?

MS. GAY: No.

THE COURT: All right. Ladies and gentlemen of the jury, I started out the week by thanking y'all for serving. I'll end the end your week, as your service has concluded for this case, and there will be no further cases this week, so you have no further possible service for this week. And I would end that with a thank you again for your service, your attention. I watched very carefully. Y'all paid attention. You were here on time. You were diligent in your actions and your attention to the case, and I thank you for that. That's all I could ever ask for from a juror, is to be as attentive and timely as y'all were. Thank all for that. So I'm going to release you here in a moment, back to the jury room. My final instruction is that from time to time, people will reach out to you and want to know information. You can talk about the case now, you talk to anybody you wish. If someone reaches out to you, whether it's from the media or an attorney or somebody like that, they may just be asking questions. You can talk to them if you wish. If you do not wish to talk to them, do not talk to them. You

want to talk to them a little bit and stop talking to them, do exactly that. If they persist in any way in bothering you regarding this case, you let the courthouse know, and I will take care of that. Okay, so y'all are released, I'm going to send you back to your jury room. Okay. The paperwork was signed in pencil, I'm going to have him resign it in pen. As well as the indictments. Y'all can sit. And has the Solicitor's Office prepared the appropriate sentencing orders?

MS. MORRIS: Yes, they're on their way up.

THE COURT: Okay, all right, we're going to be at ease for a few minutes. I'm going to touch base with the jury and then I will be back out.

MS. MORRIS: Thank you, Your Honor.

(There was a court break)

THE COURT: Thank you. Did you get everything squared away on the paperwork?

MS. MORRIS: Yes, Your Honor.

THE COURT: And do you have the copies of the sentencing order for me?

MS. MORRIS: I do, Your Honor. May I approach?

THE COURT: Please.

MS. MORRIS: And I believe I have put the correct charge with the correct indictment.

THE COURT: All right. I'll be happy to hear from

the state regarding sentencing.

MS. GAY: Your Honor, I need to to make a judgment notwithstanding the verdict on behalf of my client in light of all the previous motions of directed verdict and the one after the states, everybody closed to reassert my motions on his behalf.

THE COURT: I appreciate that, and I should have addressed that earlier, but now on the original basis for denying the motion for direct verdict and the subsequent motion or denial of the motion for the --- all the earlier motions for renewal I'll deny that motion for outstanding verdict for those same reasons. There's certainly evidence that was presented to this jury to allow them to reach the conclusions that they did. There doesn't appear to be any evidence of any sympathy, passion, prejudice, or any improper influence that would have affected their ability to render this verdict, at least nothing that is apparent at all. So I think it was within the realm the possibilities for them to reach the conclusions which they did and I'll deny the motion.

MS. GAY: Your Honor, I don't know if I should have, honestly, I don't know if I should have asserted some type of objection to your decision about the immunity. That was a separate thing, but we did start this case because we lost that one. If there's some need for me to

include all that in this moment now, I would also do that.

THE COURT: To the extent that you are renewing your request for the immunity which was previously denied, I'll deny that renewed request on your part, for the same reasons and rationale set forth in my written order from last time.

MS. GAY: All right, thank you, Your Honor.

THE COURT: I'll hear from the state regarding sentencing.

MS. MORRIS: Thank you, Your Honor. I'm going to start off by just going through the defendant's criminal history. He has a 2001 unlawful carrying of a weapon, 2003 strong armed robbery, possession with intent to distribute schedule one through three substance, burglary, third degree, first offense, 2005 possession of marijuana, 2009 accessory before the fact to armed robbery and 2023 possession of marijuana.

The victims, Your Honor, we saw them in this courtroom since Monday, Jared and Jarod Cleveland. Unfortunately, they did have to leave. They have young children that they had to tend to. But they did want me to speak on their behalf, and they want the maximum sentence for the defendant, James McDaniel. Their life is forever changed. Jarod will never walk again. He can

never play with his son. I met his son on numerous occasions because as we were preparing for this trial, assistant solicitor Kayla Donato and I had to go to his home, because it's difficult for him, for him to come here and actually be here for the trial, it's so difficult. And so to see his --- see him not be able to play with his young child, that it has absolutely changed his life. He had just recently started a job at Global and he was still --- he had his own business as a landscaper. He can't do any of those things now. On the video, we didn't point it out to the jury or even in the immunity hearing, but in the video, there is a sign on the passenger side door of his vehicle, and that's his landscaping business, so he's advertising on the side. He can no longer do that.

For Jared, he's dealt with a lot of nightmares. It's really affected him and his wife. He's constantly scared. He has to go to the ENT frequently to get the fluid drained out of his ear, and he has ringing frequently in his ear from being shot at such close range. So these are two people that have just had so much of their lives changed, physically, emotionally and for senseless violence. They went there to have fun, like they did on so many different occasions, and this defendant inserted himself into their fun, and now has changed their lives

forever.

You've already heard the facts of this case, Your Honor. You've seen at the Stand Your Ground past few days of testimony so you know what happened. I just wanted you to know the impact that it's had on the victims and the state requests the maximum sentence of 30 years. Also, just want to mention that the possession of a weapon during the commission of a violent crime that does carry a mandatory five year sentence, which can run either consecutively or concurrently, at the discretion of Your Honor, and we would leave that in your discretion. Nothing further from the state.

THE COURT: All right. And you said both the victims were not available to share anything?

MS. MORRIS: To be here today, that's correct.

THE COURT: Nothing further?

MS. MORRIS: Nothing further the state.

THE COURT: All right. Ms. Gay I'll be happy to hear from you.

MS. GAY: Thank you, Your Honor. This has been a long three days. You have heard my client tell you what had happened to him. I realized that the jury has, you know, made a decision. I think it's great that they chose not to convict him of an intentional shoot or attempt to murder the young man in the wheelchair because, as he

testified, he didn't even know it was there. So I think that all of this is just a horrible set of facts that all got put in motion and just unfortunately guns are things that young men involved here all had guns. Everybody got guns, Your Honor. Terrible situation.

He is 42 years old, as he told you, he has a 23 year old, and he has a two year old. So he has --- sort of, he was trying to start a second life after he'd gotten out of prison the last time, Your Honor. He told you that he had been working construction jobs. In the courtroom with us has been one of his brothers. Another one of his brothers has been here most of the time, Your Honor. He has significant family support. And we would ask you to please be as lenient as you can be under the circumstances. I would ask you to please not consider a maximum sentence on either of these charges. I think that this was, we've all seen the video, Your Honor. So you know, I know that the jury has made a decision about this, but I would just ask you to be as lenient as possible.

Would either of y'all like to say anything on behalf of your brother? Okay. His brother would like to speak, Your Honor.

THE COURT: Certainly.

MS. GAY: There is no way that you understand what

his name is. So I can provide it to the court reporter, Your Honor, but it's got a bunch of different parts, so I'll be happy to explain to her what the name is after he speaks.

THE COURT: All right.

MR. SELASSIE: Good evening. First, I'd like to say that James is hard working. James is a hard working and responsible person. I couldn't foresee this happening and I can't explain what you know what triggered this conflict. I can't explain it. I don't know. I wasn't there. I know he does a lot of counseling with younger people, and that may have been his aim that night, but it was taken --- It was misunderstood and because of, I guess, emotions or whatever, in the heated and then that environment maybe it was understood because of that environment. I don't know. But I would appreciate, on behalf of the family and his family and his children, etc, we would appreciate that you consider as much leniency as you can possibly apply. I don't believe this is the end. I know that he'll go and he'll get things together, and he'll turn it back around, and we still look for good things, great things to come from James. So that's about it.

THE COURT: Thank you, sir. Yes sir.

MS. GAY: Just identify yourself for the record.

MR. BAILEY: Mr. Bailey.

THE COURT: I'll be happy to hear from you.

MR. BAILEY: Well, I lived in Charlotte at the moment, but my brother was on the phone with me when this whole idea was going to him, and he was the truck that was leaving out when it happened. He was trying to stop it, and he said he saw the guys go for their guns. That's when he got out of there. He was scared. And my whole thing is, if those guys were scared and you had a chance to make it to your car, why would you go get a gun instead of just leaving, but for you to come back and hit him in his head and do all of that that was uncalled for, and that's how it went down. He said, by time he got to the highway and to the media, guns was going off, and I grew up with him. That's my brother. He's two years under me, so I already know his mindset. Like he came home, he was doing good. We had lost my mother, like a few months before he got home, so we was dealing with that situation still, and all of this occurred. But, I mean, he had the whole family riding for him, but everybody was just out of state, on the West Coast, other places. So they couldn't make it.

THE COURT: Thank you, sir.

MS. GAY: He just wants to say one more thing, Your Honor.

THE COURT: I'm sorry?

MR. SELASSIE: Yeah. He's been through quite a bit of stuff. He's been through quite a bit. My brother, he reminded me that he'd been through a lot of stuff in his life. I mean, yeah, and the main one was, you know, my mom passed just before he had an opportunity to get out. So I know that probably had him a little depressed and a lot of things. Yeah, he's been through a lot of things, and he has two children that he has responsibility for, plus some other younger children with his fiancé, and she would have been here. I think she would have been she would have had a lot to say, had she been able to make it to here but the distance for her, and it's been quite a while, you know, it's been about almost two years that he's been in the county jail dealing with this situation, and that has taken a toll on his family, you know. So I just wanted to mention a few of those things. But his father, he's dealing with health issues, you know, I mean serious health issues like heart and kidney. I mean, there's a lot of things that's going on. His father, mom passed. You know I would like to say, I don't know what happened to these young black men, because all who were involved were young black men, you know, but I know that my whole family's attitude and pretty much behavior toward that kind of conflict, you know? I mean, that's

just something that we really, really, really frown against. They were supposed to find a way to talk that out, or go and have somebody intervene, etc. You know, I don't know what happened. I wasn't there. But James brought up the issue of self defense once the situation turned and again, you know what the evidence is in, etc, he never pulled out a weapon until the other people had pulled it out. According to the film. I wasn't there, but, and, you know, I guess these, those arguments, etc, have been dealt with and may have, may get a chance to be dealt with again if he's able to make it back to court and appeal or post conviction or whatever. But we still look for good things. We still look for great things from James. So on behalf of our families, the Bailey's, McKelvey's, McDaniel's, Aiken, you know, all of our families, we appreciate all the consideration that you've shown thus far, and we appreciate it if we could get a little more consideration and obedience. And I think that's it.

THE COURT: Thank you.

MR. SELASSIE: We appreciate y'all.

THE COURT: Thank you.

MR. SELASSIE: Keep your head up.

THE COURT: Anything further Ms. Gay?

MS. GAY: No, Your Honor.

THE COURT: Mr. McDaniel, would you want to share anything?

MR. MCDANIEL: Beside the obvious, I mean, like I said early none of this was done by intention, and everything happened in a blink of an eye and if I could do it different I would, but I can't. So whether or not it's --- I just want to get back to my family and my kids. I'm sorry all this happened.

THE COURT: Thank you, Mr. McDaniel. Y'all can sit. What's the amount of time served?

MS. GAY: From the date of the arrest, Your Honor, I think it's ...

THE COURT: Can y'all calculate that for me?

MS. GAY: Yes, sir.

MS. MORRIS: Your Honor, the total time served is 530 days.

THE COURT: 530 days?

MS. MORRIS: That's correct.

THE COURT: Thank you. All right. Mr. McDaniel, I did have the opportunity, of course, to hear the testimony this week in this matter. And I agree some of the comments that I think even your brother said that there's the guns out there is what's tearing things apart. Obviously, you were restricted, should not of had the gun with you. That may have been what kind of allowed

all this stuff to happen. I was impressed with what you indicated before when you did have to serve time that you were trying to serve as a mentor to other young men in similar circumstances. I'm hopeful that despite this significant setback, that you'll continue along that path. You understand?

MR. MCDANIEL: Yes sir.

THE COURT: All right. As to 2024-GS-08-02454, possession of the weapon during the commission of a violent crime, the sentence of the court is five years with credit for the time served. As to the attempted murder indictment 2024-GS-08-02456, the sentence of the court is 15 years with credit for the time served. As to the possession of firearm by person convicted of certain crimes of first offense 2024-GS-08-02457, the sentence of the court is five years with credit for the time served. As to the Assault and Battery high and aggravated nature, indictment 2024-GS-08-02455, the sentence of the court is 15 years with credit for the time served. And as to indictment, 2024-GS-08-02453, possession of a weapon during the commission of a violent crime, the sentence of the court is five years with credit for the time served. These are all to be served concurrently. Good luck to you, Mr. McDaniel.

MR. MCDANIEL: Thank you, Your honor.

MS. MORRIS: Your Honor, I am so sorry. With all this confusion with the possession of a weapon by a person convicted of a violent crime. I then handed you a sentencing sheet that said convicted of certain crimes, so I need to correct that.

THE COURT: So you did the same thing that I was trying to do ...

MS. MORRIS: Yes.

THE COURT: All right. So ...

MS. MORRIS: So I will get you another.

THE COURT: Which indictment number is that?

MS. MORRIS: That is for indictment number 2024-GS-08-2457 and my apologies that ...

THE COURT: Bring that to me now and I will dispose of this before I leave the bench.

MS. GAY: Thank you, Your Honor. Thank you very much.

THE COURT: Thank you. I thank y'all for vigorously trying this case. I appreciate it.

STATE OF SOUTH CAROLINA)
) CERTIFICATE
COUNTY OF BERKELEY)

Be it known that I, the undersigned Melissa R. Singletary, Certified Verbatim Reporter, for the State of South Carolina, do hereby certify that the foregoing transcript represents a true, accurate and complete transcript of record of the testimony and evidence introduced in during this testimony of the captioned case, before the Circuit Court for Berkeley County, South Carolina, so given March August 25-27, 2026 to the best of my skill and ability;

That I am not related to nor an employee of any of the parties hereto, nor a relative or employee of any attorney or counsel employed by the parties hereto, nor interested in the outcome of this action.

IN WITNESS WHEREOF I have here unto set my hand this 30th of March, 2026.

Melissa R. Singletary

Melissa R. Singletary, CVR
Certified Verbatim Reporter

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF BERKELEY	)	CASE NO. 2024GS0802457;
		2024GS0802456
The State of South Carolina	)	
	)	
Plaintiff	)	
v.	)	ORDER
	)	
James McDaniel	)	
Defendant	)	
	)	

RECEIVED
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SC Court of Appeals

FILED
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LEAH GUERRY DUPREE
CLERK OF COURT
BERKELEY COUNTY, SC

This matter was before the Court on August 19, 2025, on Defendant's Motion for Immunity. Attorney Melisa Gay was present on behalf of Defendant James McDaniel. Attorney Kawohi Morris was present on behalf of the State of South Carolina. The Court weighed all of evidence and arguments of Counsel that were presented to the Court. For the reasons stated below, the Court **DENIES** Defendant's Motion.[1]

Defendant claims his use of deadly force against Victim(s), was lawful under S.C. Code 16-11-410, the Protection of Persons and Property Act (the Act). Although the order of events is disputed between the parties, Defendant and Victim initially had contact inside a bar. Credible evidence shows Defendant displayed a gun to Victim(s) in a menacing manner. When and where that act occurred is less clear to this Court. Defendant admits to illegally possessing the firearm. All parties then moved to the parking lot and Victims admit they went to their cars to retrieve their own firearms, to respond to Defendant's show of force.

[1] Any findings of fact and any conclusions of law stated herein are solely for the purpose of ruling on this Motion.

As shown by surveillance video, one Victim goes to his car and Defendant follows. A struggle ensued at Victim's car resulting in an exchange of gunfire between Victim(s) and Defendant. Defendant and at least two Victims were stuck by bullets in the exchange. Again, the parties dispute who initiated the gunfire and how the exchange unfolded.

LAW

A defendant's entitlement to immunity from prosecution under the Protection of Persons and Property Act must be decided pretrial using a preponderance of the evidence standard. *State v. Duncan*, 392 S.C. 404, 410-11, 709 S.E.2d 662, 665 (2011). The Legislature adopted the Act based on the premise that "no person or victim of crime should be required to surrender his personal safety to a criminal, nor should a person or victim be required to needlessly retreat in the face of intrusion or attack." S.C. Code Ann. § 16-11-420(E).

Specifically, the immunity section of the Act provides:

> "A person who uses deadly force as permitted by the provisions of this article *or another applicable provision of law* is justified in using deadly force and is immune from criminal prosecution and civil action for the use of deadly force . . . *S.C. Code Ann.* § 16-11-450(A) (2015).
>
> *State v. Glenn*, 429 S.C. 108, 117, 838 S.E.2d 491, 496 (2019).

The Court has acknowledged that "another applicable provision of law" includes the common law of self-defense. *State v. Scott*, 424 S.C. 463, 473, 819 S.E.2d 116, 120 (2018). This means a defendant may seek immunity from prosecution under the Act by "demonstrating the elements of self-defense to the satisfaction of the trial court by the preponderance of the evidence." *State v. Curry*, 406 S.C. at 372, 752 S.E.2d at 267 (2013). For immunity claims under this theory, the court stated in *Curry* that, "a valid case of self-defense must exist, and the trial court must necessarily consider the elements of self-defense in determining a defendant's entitlement to the Act's immunity." *Id.* at 371, 752 S.E.2d at 266. Accordingly, a trial court should first consider whether the defendant has

proved the elements of self-defense by a preponderance of the evidence. *Glenn*, at 117–18, 838 S.E.2d at 496.

There are four elements a defendant must establish to justify the use of deadly force under the common law of self-defense. *First*, the defendant must be without fault in bringing on the difficulty. *Second*, the defendant must have actually believed he was in imminent danger of losing his life or sustaining serious bodily injury, or he actually was in such imminent danger. *Third*, if his defense is based upon his belief of imminent danger, a reasonably prudent man of ordinary firmness and courage would have entertained the same belief. If the defendant actually was in imminent danger, the circumstances must be such as would warrant a man of ordinary prudence, firmness and courage to strike the fatal blow in order to save himself from serious bodily harm or losing his own life. *Fourth*, the defendant had no other probable means of avoiding the danger of losing his own life or sustaining serious bodily injury than to act as he did in this particular instance. *State v. Dickey*, 394 S.C. 491, 499, 716 S.E.2d 97, 101 (2011).

If the defendant has failed to meet the elements of reasonable fear or the duty to retreat, the court should then determine whether section 16-11-440(A) or (C) is applicable. *Glenn*, at 117–18, 838 S.E.2d at 496. Section 16-11-440(A) may, under appropriate facts, replace the reasonable fear element of self-defense by providing a presumption that the person's fear was reasonable under certain circumstances. A person is presumed to have a reasonable fear of imminent peril of death or great bodily injury to himself or another person when using deadly force that is intended or likely to cause death or great bodily injury to another person if the person -

> "(1) against whom the deadly force is used is in the process of unlawfully and forcefully entering, or has unlawfully and forcibly entered a dwelling, residence, or occupied vehicle, or if he removes or is attempting to remove another person against his will from the dwelling, residence, or occupied vehicle; and (2) who uses deadly force knows or has reason to believe that an unlawful and forcible entry or unlawful and forcible act is occurring or has occurred."
>
> *S.C. Code Ann.* § 16-11-440(A) (2015). *Id.* at 118, 838 S.E.2d at 496.

Further, in cases where the defendant has not proved the duty to retreat element by a preponderance of the evidence, the court must then consider whether section 16-11-440(C) is applicable because that provision was enacted to extend the protections of the Castle Doctrine to " '[ ]other place[s] where he has a right to be.' " *State v. Scott*, 424 S.C. at 475, 819 S.E.2d at 121 (quoting S.C. Code Ann. § 16-11-440(C)). The section provides:

> "A person who is not engaged in an unlawful activity and *who is attacked in another place where he has a right to be*, including, but not limited to, his place of business, has *no duty to retreat* and has the right to stand his ground and meet force with force, including deadly force, if he reasonably believes it is necessary to prevent death or great bodily injury to himself or another person or to prevent the commission of a violent crime as defined in Section 16-1-60."

S.C. Code Ann. § 16-11-440(C) (2015). *Glenn*, at 118–19, 838 S.E.2d at 496–97.

DISCUSSION

Defendant failed to establish by a preponderance of the evidence the common law elements of self-defense, as required by the Act to justify his use of deadly force.

1- Defendant is not without fault based on illegally possessing a firearm in a bar. Fault is additionally established in Defendant following Victim to his car, which the Court finds to be a provocation to one or both of the victims.

2- The evidence did not establish Defendant actually believed he was in imminent danger, nor did the evidence establish he had the right to that belief when he set in motion the events detailed above. That chain of events, set off by Defendant, caused the deadly use of force at Victim's car. The point at which the physical altercation ensued at the victim's car is not the proper point in time to evaluate imminent danger for purposes of establishing self-defense. Imminent danger would need to be shown earlier to provide Defendant protection.

3- A reasonably prudent man of ordinary firmness and courage would not have felt justified at striking the potentially fatal blow on victim(s), at any point earlier than where Defendant caused the escalation at victim's car.

4- Defendant had ample means of retreat which would have extinguished any need for deadly force prior to the confrontation at Victim's car, which the Court finds was instigated by Defendant.

While a showing under Section 16-11-440(A) can overcome Defendant's lack of reasonable fear, sufficient facts do not exist in this case to make use of this presumption. The facts do not implicate the application of this section as there are no allegations of forceable or unlawful entry, which are needed to make "A" applicable.

Additionally, Section 16-11-440(C) can replace a duty to retreat, but is not applicable to Defendant because he has not shown by a preponderance of the evidence that his activity was lawful. Among the unlawful acts, Defendant illegally possessed a firearm in a bar, brandished a firearm in a threatening manner, and attacked Victim when Victim approached his car.

CONCLUSION

For the reasons above, Defendant has failed to show by a preponderance of the evidence that he was entitled by the Act to use deadly force against Victim(s). Based on that finding this Court DENIES Defendant's Motion for Immunity.

AND IT IS SO ORDERED!

#2781

Dale E VanSlambrook

KLASM/0411894

WITNESSES

Berkeley County Sheriff's Office

AGENCY CASE NUMBER

2024-01000425

ARREST WARRANT NUMBER

2024A0810200116

DATE OF ARREST

03/18/2024

ACTION OF GRAND JURY

True Bill

6/12/24

Foreperson of Grand Jury *Date:*

VERDICT

Guilty

8-27-25

Foreperson of Petit Jury *Date:*

DOCKET NO. 2024-GS-08-02453

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

JUNE TERM 2024

THE STATE

VS.

JAMES C MCDANIEL
B/M DOB: [redacted]-1982

Indictment for

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

SC Code: § 16-23-0490
CDR Code: 0549

FILED
24 JUN 12 PM 4:19
LEAH GUERRY DUPREE
CLERK OF COURT
BERKELEY COUNTY, SC

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

INDICTMENT

At a Court of General Sessions, convened June 2024, the Grand Jurors of Berkeley County present upon their oath:

Possession Of A Weapon During The Commission Of A Violent Crime

That in Berkeley County, South Carolina, on or about January 14, 2024, the Defendant, James C Mcdaniel, did possess a firearm or did visibly display what appeared to be a firearm or did visibly display a knife during the commission of or attempted commission of a violent crime, to wit: Attempted Murder; in violation of Section 16-23-490, Code of Laws of South Carolina, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Kawohi Morris

KAWOHI MORRIS
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA **SENTENCE ORDER** **IN THE COURT OF GENERAL SESSIONS**

COUNTY OF BERKELEY) INDICTMENT/CE#: **2024-GS-08-02453**

) **AW#: 2024A0810200116**

STATE vs.) Date of Offense: **01/14/2024**

James C McDaniel) S.C Code§: **16-23-0490**

AKA: **James Cirem Mcdaniels, James Mcdaniel** SSN: [redacted]) CDR Code #: **0549**

RACE: **B** SEX: **M** DOB: [redacted]**/1982**) Range of Offense: **Possession Of A Weapon During The Commission Of A Violent Crime (5 Years)**

In disposition of the above indictment comes now the Defendant who was CONVICTED OF ☒ or ☐ PLEADS

TO: **Possession Of A Weapon During The Commission Of A Violent Crime** Range of Offense Pled: **(5 Years)**

In violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ MANDATORY GPS (CSC w/minor 1st or CSC w/minor 3rd) ☐ § 17-25-45

The charge is: ☒ As indicted ☐ Lesser Included Offense ☐ Defendant Waives Presentment to Grand Jury

The plea is: ☐ w/o Rec/Negotiations ☐ Negotiated _____ ☐ Recommendation _____

/s Kawohi Morris	**104449**	**/s Melisa White Gay**	**63773**
Solicitor	SC Bar #	Attorney for Defendant	SC Bar #

The Defendant is committed to the ☒ SCDC ☐ **County Detention Center** ☐ **Home Incarceration Program**

for a determinate term of 5 ~~days/months/years/Time Served~~ ☐ YOA NTE _____ years and/or shall pay a fine of $ _____; provided that upon the service of _____ days/months/years/Time Served and or payment of $ _____ plus costs and assessments as applicable* ; balance is suspended with **probation** for _____months/years

and subject to SCDPPPS standard conditions of probation, which are incorporated by reference.

The sentence shall run ☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2024-GS-08-02456, 02454, 02455, 02457

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDC

530 days/~~months~~ ☐ To include time spent on monitored house arrest prior to trial and sentencing

FILED

AUG 27 2025

CASE NO.

LEAH GUERRY DUPREE
CLERK OF COURT
BERKELEY COUNTY, SC

SPECIAL CONDITIONS:

☐ **PTUP** _____

☐ No Contact with Victim ☐ Domestic Violence Intervention Program ☐ Hold for Inpatient Treatment

☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ SAC/MHC if necessary

☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135

☐ Other: _____

_____

	Restitution	$
☐ **RESTITUTION See Separate Order (20% per S.C. Code §24-21-490(B))**	FINE:	$
§14-1-206 (Assessments 107.5%)		$
§14-1-211 (A)(1) Conv. Surcharge) Fine/Costs and Assessments are to be paid to the Clerk	$100	$100
§14-1-211 (A)(2)(DUI Surcharge) of Court within _____ days/months	$100	$
§56-5-1995 (DUI Assessment)	$12	$
§56-1-286 (DUI Breath Test)	$25	$
§14-1-212 (Law Enforcement Funding)	$25	$25
§14-1-213 (Drug Court Surcharge)	$150	$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	$41	$
§50-21-114 (BUI Breath Test Fee)	$50	$
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$
3% to County (if paid in installments)	TBD	$3.75
☐ Appointed PD or appointed other counsel. Proviso requires $500 to be paid to Clerk during probation and shall be collected before any other fees	$500	$
☐ §17-3-45(B) Unpaid Application Fee to be paid to the Public Defender Fund	$40	$
	TOTAL	$128.75

/s J. Gibson
Clerk of Court/Deputy Clerk

Melissa Singletary 2781
Court Reporter Judge Code

8/27/25
Sentence Date

Presiding Judge

SCCA217B
01/27/2025

KLASM/0411894

WITNESSES

Rodney V

Berkeley County Sheriff's Office

AGENCY CASE NUMBER

2024-01000425

ARREST WARRANT NUMBER

2024A0810200117

DATE OF ARREST

03/18/2024

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury — *Date:* 6/12/24

VERDICT

GUILTY

Foreperson of Petit Jury — *Date:* 8-27-25

DOCKET NO. 2024-GS-08-02454

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

JUNE TERM 2024

THE STATE

VS.

JAMES C MCDANIEL
B/M DOB: [redacted]-1982

Indictment for

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

SC Code: § 16-23-0490
CDR Code: 0549

FILED
24 JUN 12 PM 4:19
LEAH GUERRY DUPREE
CLERK OF COURT
BERKELEY COUNTY, SC

478

JTA

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

INDICTMENT

At a Court of General Sessions, convened June 2024, the Grand Jurors of Berkeley County present upon their oath:

Possession Of A Weapon During The Commission Of A Violent Crime

That in Berkeley County, South Carolina, on or about January 14, 2024, the Defendant, James C Mcdaniel, did possess a firearm or did visibly display what appeared to be a firearm or did visibly display a knife during the commission of or attempted commission of a violent crime, to wit: Attempted Murder; in violation of Section 16-23-490, Code of Laws of South Carolina, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Kawohi Morris

KAWOHI MORRIS
ASSISTANT SOLICITOR

480

STATE OF SOUTH CAROLINA **SENTENCE ORDER** **IN THE COURT OF GENERAL SESSIONS**

COUNTY OF BERKELEY) INDICTMENT/CASE#: **2024-GS-08-02454**

) AW#: **2024A0810200117**

STATE vs.) Date of Offense: **01/14/2024**

James C McDaniel) S.C Code§: **16-23-0490**

AKA: **James Cirem Mcdaniels, James Mcdaniel** SSN: [redacted]) CDR Code #: **0549**

RACE: **B** SEX: **M** DOB: [redacted]**/1982**) Range of Offense: **Possession Of A Weapon During The Commission Of A Violent Crime (5 Years)**

In disposition of the above indictment comes now the Defendant who was CONVICTED OF ☒ or ☐ PLEADS

TO: **Possession Of A Weapon During The Commission Of A Violent Crime** Range of Offense Pled: **(5 Years)**

In violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ MANDATORY GPS (CSC w/minor 1st or CSC w/minor 3rd) ☐ § 17-25-45

The charge is: ☒ As indicted ☐ Lesser Included Offense ☐ Defendant Waives Presentment to Grand Jury

The plea is: ☐ w/o Rec/Negotiations ☐ Negotiated _____ ☐ Recommendation _____

/s Kawohi Morris	**104449**	**/s Melisa White Gay**	**63773**
Solicitor	SC Bar #	Attorney for Defendant	SC Bar #

The Defendant is committed to the ☒ **SCDC** ☐ **County Detention Center** ☐ **Home Incarceration Program**

for a determinate term of 5 days/months/years/Time Served ☐ YOA NTE _____ years and/or shall pay a fine of $ _____; provided that upon the service of _____ days/months/years/Time Served and or payment of $ _____ plus costs and assessments as applicable* ; balance is suspended with **probation** for _____months/years

and subject to SCDPPPS standard conditions of probation, which are incorporated by reference.

The sentence shall run ☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2024-GS-08-02456, ~~[illegible]~~ 02455, 02453, 02457

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDC 530 days/months ☐ To include time spent on monitored house arrest prior to trial and sentencing

FILED
AUG 27 2025
CASE NO
LEAH GUERRY DUPREE
CLERK OF COURT
BERKELEY COUNTY, SC

SPECIAL CONDITIONS:

☐ **PTUP** _____

☐ No Contact with Victim ☐ Domestic Violence Intervention Program ☐ Hold for Inpatient Treatment

☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ SAC/MHC if necessary

☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135

☐ Other: _____

☐ **RESTITUTION See Separate Order (20% per S.C. Code §24-21-490(B))**

Fine/Costs and Assessments are to be paid to the Clerk of Court within _____ days/months

Restitution		$
FINE:		$
§14-1-206 (Assessments 107.5%)		$
§14-1-211 (A)(1) Conv. Surcharge)	$100	$100
§14-1-211 (A)(2)(DUI Surcharge)	$100	$
§56-5-1995 (DUI Assessment)	$12	$
§56-1-286 (DUI Breath Test)	$25	$
§14-1-212 (Law Enforcement Funding)	$25	$25
§14-1-213 (Drug Court Surcharge)	$150	$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	$41	$
§50-21-114 (BUI Breath Test Fee)	$50	$
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$
3% to County (if paid in installments)	TBD	$3.75
☐ Appointed PD or appointed other counsel. Proviso requires $500 to be paid to Clerk during probation and shall be collected before any other fees	$500	$
☐ §17-3-45(B) Unpaid Application Fee to be paid to the Public Defender Fund	$40	$
	TOTAL	$128.75

/s J. Gibson
Clerk of Court/Deputy Clerk

Melissa Singletary 2781
Court Reporter Judge Code

8/27/25
Sentence Date

Presiding Judge

SCCA217B
01/27/2025

KLASM/0411894

WITNESSES

Lindsay C

Berkeley County Sheriff's Office

AGENCY CASE NUMBER

2024-01000425

ARREST WARRANT NUMBER

2024A0810200118

DATE OF ARREST

03/18/2024

ACTION OF GRAND JURY

True Bill

[signature] 6/17/24

Foreperson of Grand Jury *Date:*

VERDICT

NOT GUILTY

[signature] 8-27-25

Foreperson of Petit Jury *Date:*

Guilty of a lesser included offense (AHAN) per verdict form. [signature]

DOCKET NO. 2024-GS-08-02455

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

JUNE TERM 2024

THE STATE

VS.

JAMES C MCDANIEL
B/M DOB: [redacted]-1982

Indictment for

ATTEMPTED MURDER

SC Code: § 16-03-0029
CDR Code: 3410

FILED
24 JUN 12 PM 4:19
LEAH GUERRY DUPREE
CLERK OF COURT
BERKELEY COUNTY, SC

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

INDICTMENT

At a Court of General Sessions, convened June 2024, the Grand Jurors of Berkeley County present upon their oath:

Attempted Murder

That in Berkeley County, South Carolina, on or about January 14, 2024, the Defendant, James C Mcdaniel, did, with intent to kill and malice aforethought, attempt to kill Jarod Cleveland. This is in violation of Section 16-3-29 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.

KAWOHI MORRIS
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA **SENTENCE ORDER** **IN THE COURT OF GENERAL SESSIONS**

COUNTY OF BERKELEY) INDICTMENT/CE#: **2024-GS-08-02455**

) **AW#: 2024A0810200118**

STATE vs.) Date of Offense: **01/14/2024**

James C McDaniel) S.C Code§: **16-03-0029**

AKA: **James Cirem Mcdaniels, James Mcdaniel** SSN: [redacted]) CDR Code #: **3410**

RACE: **B** SEX: **M** DOB: [redacted]/1982) Range of Offense: **Attempted Murder (NMT 30 years)**

In disposition of the above indictment comes now the Defendant who was CONVICTED OF ☒ or ☐ PLEADS

TO: **Assault & Battery Of A High And Aggravated Nature** Range of Offense Pled: **(NMT 20 years)**

In violation of § 16-03-0600(B)(1) of the S.C. Code of Laws, bearing CDR Code # 3411

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ MANDATORY GPS (CSC w/minor 1st or CSC w/minor 3rd) ☐ § 17-25-45

The charge is: ☐ As indicted ☒ Lesser Included Offense ☐ Defendant Waives Presentment to Grand Jury

The plea is: ☐ w/o Rec/Negotiations ☐ Negotiated _____ ☐ Recommendation _____

/s Kawohi Morris	104449	/s Melisa White Gay	63773
Solicitor	SC Bar #	Attorney for Defendant	SC Bar #

The Defendant is committed to the ☒ **SCDC** ☐ **County Detention Center** ☐ **Home Incarceration Program**

for a determinate term of 15 ~~days/months~~/years/~~Time Served~~ ☐ YOA NTE _____ years and/or shall pay a fine of $ _____; provided that upon the service of _____ days/months/years/Time Served and or payment of $ _____ plus costs and assessments as applicable* ; balance is suspended with **probation** for _____months/years

and subject to SCDPPPS standard conditions of probation, which are incorporated by reference.

The sentence shall run ☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2024-GS-08-02456, 02454, 02453, 02457

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDC 530 ~~days/months~~ ☐ To include time spent on monitored house arrest prior to trial and sentencing

SPECIAL CONDITIONS:

FILED JG

AUG 27 2025

CASE NO

LEAH GUERRY DUPREE CLERK OF COURT BERKELEY COUNTY, SC

☐ **PTUP** _____

☐ No Contact with Victim ☐ Domestic Violence Intervention Program ☐ Hold for Inpatient Treatment

☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ SAC/MHC if necessary

☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135

☐ Other: _____

		Restitution	$
☐ **RESTITUTION See Separate Order (20% per S.C. Code §24-21-490(B))**		FINE:	$
§14-1-206 (Assessments 107.5%)			$
§14-1-211 (A)(1) Conv. Surcharge)	Fine/Costs and Assessments are to be paid to the Clerk	$100	$100
§14-1-211 (A)(2)(DUI Surcharge)	of Court within _____ days/months	$100	$
§56-5-1995 (DUI Assessment)		$12	$
§56-1-286 (DUI Breath Test)		$25	$
§14-1-212 (Law Enforcement Funding)		$25	$25
§14-1-213 (Drug Court Surcharge)		$150	$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)		$41	$
§50-21-114 (BUI Breath Test Fee)		$50	$
§56-5-2942(J) (Vehicle Assessment)		$40/ea	$
3% to County (if paid in installments)		TBD	$3.75
☐ Appointed PD or appointed other counsel. Proviso requires $500 to be paid to Clerk during probation and shall be collected before any other fees		$500	$
☐ §17-3-45(B) Unpaid Application Fee to be paid to the Public Defender Fund		$40	$
		TOTAL	$128.75

/s J. Gibson
Clerk of Court/Deputy Clerk

Melissa Singletary 2781
Court Reporter Judge Code

8/27/25
Sentence Date

Presiding Judge

SCCA217B
01/27/2025

KLASM/0411894

WITNESSES

Rodney V

Berkeley County Sheriff's Office

AGENCY CASE NUMBER

2024-01000425

ARREST WARRANT NUMBER

2024A0810200119

DATE OF ARREST

03/18/2024

ACTION OF GRAND JURY

True Bill

[signature] 6/12/24

Foreperson of Grand Jury *Date:*

VERDICT

GUILTY

[signature] 8-27-25

Foreperson of Petit Jury *Date:*

DOCKET NO. 2024-GS-08-02456

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

JUNE TERM 2024

THE STATE

VS.

JAMES C MCDANIEL
B/M DOB: [redacted]-1982

Indictment for

ATTEMPTED MURDER

SC Code: § 16-03-0029
CDR Code: 3410

FILED
JUN 12 PM 4:19
AH GUERRY DUPREE
CLERK OF COURT
BERKELEY COUNTY, SC

484

J14

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

INDICTMENT

At a Court of General Sessions, convened June 2024, the Grand Jurors of Berkeley County present upon their oath:

Attempted Murder

That in Berkeley County, South Carolina, on or about January 14, 2024, the Defendant, James C Mcdaniel, did, with intent to kill and malice aforethought, attempt to kill Jared Lamar Cleveland. This is in violation of Section 16-3-29 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.

Kawohi Morris

KAWOHI MORRIS
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA **SENTENCE ORDER** **IN THE COURT OF GENERAL SESSIONS**

COUNTY OF BERKELEY) INDICTMENT/E#: **2024-GS-08-02456**

) **AW#: 2024A0810200119**

STATE vs.) Date of Offense: **01/14/2024**

James C McDaniel) S.C Code§: **16-03-0029**

AKA: **James Cirem Mcdaniels, James Mcdaniel** SSN: [redacted]) CDR Code #: **3410**

RACE: **B** SEX: **M** DOB: [redacted]**/1982**) Range of Offense: **Attempted Murder (NMT 30 years)**

In disposition of the above indictment comes now the Defendant who was CONVICTED OF ☒ or ☐ PLEADS

TO: **Attempted Murder** Range of Offense Pled: **(NMT 30 years)**

In violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ MANDATORY GPS (CSC w/minor 1st or CSC w/minor 3rd) ☐ § 17-25-45

The charge is: ☒ As indicted ☐ Lesser Included Offense ☐ Defendant Waives Presentment to Grand Jury

The plea is: ☐ w/o Rec/Negotiations ☐ Negotiated _____ ☐ Recommendation _____

/s Kawohi Morris	104449	/s Melisa White Gay	63773
Solicitor	SC Bar #	Attorney for Defendant	SC Bar #

The Defendant is committed to the ☒ SCDC ☐ County Detention Center ☐ Home Incarceration Program

for a determinate term of 15 ~~days/months/years/Time Served~~ ☐ YOA NTE _____ years and/or shall pay a fine of $ _____; provided that upon the service of _____ days/months/years/Time Served and or payment of $ _____ plus costs and assessments as applicable* ; balance is suspended with **probation** for _____months/years

and subject to SCDPPPS standard conditions of probation, which are incorporated by reference.

The sentence shall run ☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2024-GS-08-02454, 02453, 02455, 02457

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDC 530 days/~~months~~ ☐ To include time spent on monitored house arrest prior to trial and sentencing

SPECIAL CONDITIONS:

FILED

AUG 27 2025

☐ **PTUP** _____

☐ No Contact with Victim ☐ Domestic Violence Intervention Program ☐ Hold for Inpatient Treatment

☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ SAC/MHC if necessary

☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135

☐ Other: _____

CASE NO

LEAH GUERRY DUPREE CLERK OF COURT, BERKELEY COUNTY, SC

☐ **RESTITUTION See Separate Order (20% per S.C. Code §24-21-490(B))**

Fine/Costs and Assessments are to be paid to the Clerk of Court within _____ days/months

Restitution		$
FINE:		$
§14-1-206 (Assessments 107.5%)		$
§14-1-211 (A)(1) Conv. Surcharge)	$100	$100
§14-1-211 (A)(2)(DUI Surcharge)	$100	$
§56-5-1995 (DUI Assessment)	$12	$
§56-1-286 (DUI Breath Test)	$25	$
§14-1-212 (Law Enforcement Funding)	$25	$25
§14-1-213 (Drug Court Surcharge)	$150	$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	$41	$
§50-21-114 (BUI Breath Test Fee)	$50	$
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$
3% to County (if paid in installments)	TBD	$3.75
☐ Appointed PD or appointed other counsel. Proviso requires $500 to be paid to Clerk during probation and shall be collected before any other fees	$500	$
☐ §17-3-45(B) Unpaid Application Fee to be paid to the Public Defender Fund	$40	$
	TOTAL	$128.75

/s J. Gibson
Clerk of Court/Deputy Clerk

Melissa Singletary 2781
Court Reporter Judge Code

8/27/25
Sentence Date

Presiding Judge

SCCA217B
01/27/2025

KLASM/0411894

WITNESSES

Rodney V

Berkeley County Sheriff's Office

AGENCY CASE NUMBER

2024-01000425

ARREST WARRANT NUMBER

2024A0810200120

DATE OF ARREST

03/18/2024

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury — *Date:* 6/12/24

VERDICT

GUILTY

Foreperson of Petit Jury — *Date:* 8-27-25

DOCKET NO. 2024-GS-08-02457

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

JUNE TERM 2024

THE STATE

VS.

JAMES C MCDANIEL
B/M DOB: [redacted]-1982

Indictment for

WEAPONS / POSSESSION OF FIREARM OR AMMUNITION BY PERSON CONVICTED OF CERTAIN CRIMES -- FIRST OFFENSE

SC Code: § 16-23-0500(A)
CDR Code: 3434

FILED
2024 JUN 12 PM 4:19
ANGUERRY DUPREE
CLERK OF COURT
BERKELEY COUNTY, SC

487

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

INDICTMENT

At a Court of General Sessions, convened June 2024, the Grand Jurors of Berkeley County present upon their oath:

Weapons / Possession of Firearm or Ammunition by person convicted of certain crimes -- First Offense

That in Berkeley County, South Carolina, on or about January 14, 2024, the Defendant, James C Mcdaniel, having previously been convicted of a violent crime as defined in SC Code Section 16-1-60 that is classified as a felony, did possess a firearm or ammunition in violation of Section 16-23-500 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.

Kawohi Morris

KAWOHI MORRIS
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA **SENTENCE ORDER** **IN THE COURT OF GENERAL SESSIONS**

COUNTY OF BERKELEY) INDICTMENT/CASE#: **2024-GS-08-02457**

) **AW#: 2024A0810200120**

STATE vs.) Date of Offense: **01/14/2024**

James C McDaniel) S.C Code§: **16-23-0500(A)**

AKA: **James Cirem Mcdaniels, James Mcdaniel** SSN: [redacted]) CDR Code #: **3434**

RACE: **B** SEX: **M** DOB: 1[redacted]/1982) Range of Offense: **Weapons / Possession of Firearm or Ammunition by person convicted of a Violent Crime (NMT 5 years &/or NMT $2,000)**

In disposition of the above indictment comes now the Defendant who was CONVICTED OF ☒ or ☐ PLEADS

TO: **Weapons / Possession of Firearm or Ammunition by person convicted of Violent Crime** Range of Offense Pled: **(NMT 5 years &/or NMT $2,000)**

In violation of § 16-23-0500(A) of the S.C. Code of Laws, bearing CDR Code # 3434

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ MANDATORY GPS (CSC w/minor 1st or CSC w/minor 3rd) ☐ § 17-25-45

The charge is: ☒ As indicted ☐ Lesser Included Offense ☐ Defendant Waives Presentment to Grand Jury

The plea is: ☐ w/o Rec/Negotiations ☐ Negotiated _____ ☐ Recommendation _____

/s Kawohi Morris	104449	/s Melisa White Gay	63773
Solicitor	SC Bar #	Attorney for Defendant	SC Bar #

The Defendant is committed to the ☒ **SCDC** ☐ **County Detention Center** ☐ **Home Incarceration Program**

for a determinate term of 5 ~~days/months~~/years/~~Time Served~~ ☐ YOA NTE _____ years and/or shall pay a fine of $ _____; provided that upon the service of _____ days/months/years/Time Served and or payment of $ _____ plus costs and assessments as applicable* ; balance is suspended with **probation** for _____months/years

and subject to SCDPPPS standard conditions of probation, which are incorporated by reference.

The sentence shall run ☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2024-GS-08-02455, 02456, 02454, 02453

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDC 530 days ~~months~~ ☐ To include time spent on monitored house arrest prior to trial and sentencing

FILED

SPECIAL CONDITIONS:

☐ **PTUP** _____

☐ No Contact with Victim ☐ Domestic Violence Intervention Program ☐ Hold for Inpatient Treatment AUG 27 2025

☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ SAC/MHC if necessary

☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135

☐ Other: _____

CASE NO
LEAH GUERRY DUPREE
CLERK OF COURT
BERKELEY COUNTY, SC

☐ **RESTITUTION See Separate Order (20% per S.C. Code §24-21-490(B))**

Fine/Costs and Assessments are to be paid to the Clerk of Court within _____ days/months

Restitution		$
FINE:		$
§14-1-206 (Assessments 107.5%)		$
§14-1-211 (A)(1) Conv. Surcharge)	$100	$100
§14-1-211 (A)(2)(DUI Surcharge)	$100	$
§56-5-1995 (DUI Assessment)	$12	$
§56-1-286 (DUI Breath Test)	$25	$
§14-1-212 (Law Enforcement Funding)	$25	$25
§14-1-213 (Drug Court Surcharge)	$150	$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	$41	$
§50-21-114 (BUI Breath Test Fee)	$50	$
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$
3% to County (if paid in installments)	TBD	$3.75
☐ Appointed PD or appointed other counsel. Proviso requires $500 to be paid to Clerk during probation and shall be collected before any other fees	$500	$
☐ §17-3-45(B) Unpaid Application Fee to be paid to the Public Defender Fund	$40	$
	TOTAL	$128.75

/s J. Gibson
Clerk of Court/Deputy Clerk

Melissa Singletary 2781
Court Reporter Judge Code

8/27/25
Sentence Date

Presiding Judge

SCCA217B
01/27/2025

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

RECEIVED
Sep 01 2026
SC Court of Appeals

Gary H. Johnson
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 31st day of August, 2026.