

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

Dec 16 2024

SC Court of Appeals

APPEAL FROM ABBEVILLE COUNTY
Court of General Sessions
Frank R. Addy, Jr., Circuit Court Judge

Appellate Case No. 2023-001843

The State, ...Respondent,

v.

Kendrick Montrez Lee, ...Appellant.

Record on Appeal Volume I of II

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STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

STATE

VS.

KENDRICK MONTREZ LEE

AKA: KENDRICK MONTREZ LEERace: Black Sex: M Age: 41DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]City, State, Zip: Abbeville, SC 29620DL#* [REDACTED] SID# [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2021GS01-0214A/W#: 2020A0120100198Date of Offense: 10/06/2020S.C. Code §: 16-03-0029CDR Code #: 3410

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADSTO: Assault & Battery Of A High And Aggravated Nature NMT 20 yearsIn 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 ☐ § 17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. [REDACTED] (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature] 101119Micah E. Black, Deputy
Solicitor

SC Bar #

Defendant

Attorney for Defendant

66063

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of life imprisonment per 17-25-45 days/months/years/Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: ☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.
days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. KENDRICK MONTREZ LEE INDICTMENT/CASE#: 2021GS01-0214**SPECIAL CONDITIONS:**☐ **PTUP** after _____ months/years**And Other Terms Listed Below:**

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ **RESTITUTION** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$	Beginning	\$
§14-1-206 (Assessments 107.5%)			\$
§14-1-211 (A)(1)(Conv. Surcharge)		\$100	\$
§14-1-211 (A)(2)(DUI Surcharge)		\$100	\$100
§56-5-2995 (DUI Assessment)		\$12	\$
§56-1-286 (DUI Breath Test)		\$25	\$
§14-1-212 (Law Enforce. 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/ca	\$
3% to County (if paid in installments)		TBD	\$3.75
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees		\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund		TBD	\$
		TOTAL	\$128.75

Clerk of Court/Deputy Clerk:
Court Reporter:Shandal Boggs
Shanna Puckett, ClerkPresiding Judge:
Judge Code:
Sentence Date:2159
10-19-2023

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF ABBEVILLE

STATE

VS.

INDICTMENT/CASE#: 2021GS01-0215

TRAVIS ARNETT LEE

AKA: TRAVIS ARNETT LEE

Race: Black Sex: M Age: 46

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: Abbeville, SC 29620

DL#* [REDACTED] SID# [REDACTED]

A/W#: 2020A0120100199Date of Offense: 10/06/2020S.C. Code §: 16-03-0029CDR Code #: 3410

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADSTO: Assault & Battery Of A High And Aggravated Nature NMT 20 yearsIn 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 ☐ § 17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:

	101119		79903
Micah E. Black, Deputy Solicitor	SC Bar #	Defendant	Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 7 (seven) days/months/years/Time Served ☐ Youthful Offender Act not to exceed ___ years

and/or to 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*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDoc.201 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:☐ **PTUP** after _____ months/years**And Other Terms Listed Below:**

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ **RESTITUTION** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____	Beginning	\$ _____
§14-1-206 (Assessments 107.5%)			\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)		\$100	\$ 100
§14-1-211 (A)(2)(DUI Surcharge)		\$100	\$ _____
§56-5-2995 (DUI Assessment)		\$12	\$ _____
§56-1-286 (DUI Breath Test)		\$25	\$ _____
§14-1-212 (Law Enforce. 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 be paid to Clerk during probation and shall be collected before any other fees		\$500	\$ _____
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund		TBD	\$ _____
		TOTAL	\$ 128.75

Clerk of Court/Deputy Clerk:
Court Reporter:

Shandal Boogs
Shanna Puckett, DCP

Presiding Judge:
Judge Code:
Sentence Date:

Fulbright, J.
2159
10-19-23

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

COURT OF GENERAL SESSIONS
EIGHTH JUDICIAL CIRCUIT

Indictment Nos.: 2021-GS-01-214;

State of South Carolina

vs.

Kendrick Montrez Lee,

Defendant.

VERDICT FORM

1. We, the jury in the above captioned case, on the charge of Assault and Battery of a High and Aggravated Nature, unanimously find Kendrick Montrez Lee (forewoman shall initial one):

_____ Not Guilty (go to 2)

X *EAH* Guilty (sign verdict form)

2. We, the jury in the above captioned case, on the charge of Assault and Battery, First Degree, unanimously find Kendrick Montrez Lee (forewoman shall initial one):

_____ Not Guilty (go to 3)

_____ Guilty (sign verdict form)

3. We, the jury in the above captioned case, on the charge of Assault and Battery, Second Degree, unanimously find Kendrick Montrez Lee (forewoman shall initial one):

_____ Not Guilty (sign verdict form)

_____ Guilty (sign verdict form)

Elanor A. Wieters

Elanor A. Wieters, Forewoman

September 28, 2023
 Abbeville, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

COURT OF GENERAL SESSIONS
EIGHTH JUDICIAL CIRCUIT

Indictment Nos.: 2021-GS-01-215;

State of South Carolina

vs.

Travis Arnett Lee,

Defendant.

VERDICT FORM

1. We, the jury in the above captioned case, on the charge of Assault and Battery of a High and Aggravated Nature, unanimously find Travis A. Lee (forewoman shall initial one):

_____ Not Guilty (go to 2)

X ^{EAW} Guilty (sign verdict form)

2. We, the jury in the above captioned case, on the charge of Assault and Battery, First Degree, unanimously find Travis A. Lee (forewoman shall initial one):

_____ Not Guilty (go to 3)

_____ Guilty (sign verdict form)

3. We, the jury in the above captioned case, on the charge of Assault and Battery, Second Degree, unanimously find Travis A. Lee (forewoman shall initial one):

_____ Not Guilty (sign verdict form)

_____ Guilty (sign verdict form)

Elanor A. Wieters

Elanor A. Wieters, Forewoman

September 28, 2023
 Abbeville, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

) THE COURT OF GENERAL SESSIONS
) CASE NO. 2021-GS-01-214
)

STATE OF SOUTH CAROLINA,

vs.

KENDRICK MONTREZ LEE,

Defendant.

) ORDER DENYING MOTION FOR A
) NEW TRIAL AND
) RECONSIDERATION OF SENTENCE
)
)
)
)

Addy, J.

THIS MATTER IS BEFORE THE COURT on Defendant's motion for a new trial and reconsideration of the sentence imposed. At trial, Mr. Lee was represented by Charles Grose, Esq., and the State was represented by Deputy Solicitors Micah Black and Yates Brown. Having reviewed the grounds as laid out in Mr. Lee's motion, the Court finds as follows:

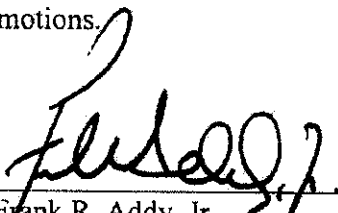
1. Concerning jury qualification and seating of the alternate juror, the Court reiterates its initial finding that the State exercised its peremptory challenge in a racially neutral manner. Although the Court would have allowed the prospective alternate juror to serve after the State withdrew their peremptory challenge to the prospective alternate, the Court found that, unbeknownst to all prior to jury selection, the alternate juror was extremely hard of hearing. Because of this obvious issue, the Court lacked the necessary assurance that the individual had, in fact, heard and responded appropriately to the Court's *voir dire* during jury qualification. Accordingly, as a matter of practical necessity, the Court excused the prospective alternate juror. The Court also notes that, concerning the issue raised in footnote 6, the Court made its strike sheet and detailed juror list a court's exhibit, so that information should be reflected in both the physical record and the transcript of the proceedings.
2. The Court stands by its opening remarks to the jury. As a practical matter, the use of the adjective "true" to modify the noun "facts" in the Court's instruction as to the role

of the jury adds little to the noun and does not rise to the level of instructing a jury to "seek the truth" per State v. Beaty, 423 S.C. 26, 813 S.E.2d 502 (2018). Put another way, even absent the use of the adjective, a jury would still understand that their role is to determine what the "true" facts are, because it would be quite nonsensical for a jury to believe that their duty is to determine what the "false" facts are.

3. Concerning the verdict form and request for a *King* instruction, the Court is satisfied that such an instruction was not warranted and that Mr. Lee was not prejudiced by the structure of the verdict form.
4. Regarding sentencing, the Court delayed sentencing for roughly two (2) weeks and did review the recorded statements of the victim, Mr. Hughey, prior to imposing sentence. However, by operation of law, the Court had no discretion in the sentence imposed regardless of Mr. Hughey's or his mother's request for leniency.

WHEREFORE, the Court denies Mr. Lee's motions.

IT IS SO ORDERED.


 Frank R. Addy, Jr.
 Circuit Court Judge
 Eighth Judicial Circuit

November 21, 2023
 Greenwood, South Carolina

STATE OF SOUTH CAROLINA
 COUNTY OF ABBEVILLE
 Filed 11/21 A.D. 2023
 at 2:25 o'clock P M
Shandai Boggs
 Clerk of Court

ARREST WARRANT

2020A0120100198

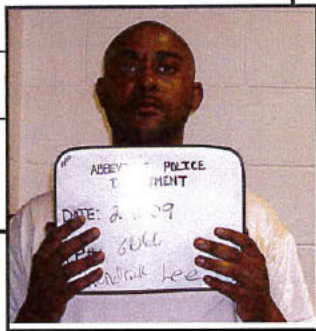
STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

ABBEVILLE

THE STATE

against



KENDRICK MONTREZ LEE

Address: [REDACTED]
ABBEVILLE SC 29620

Phone: [REDACTED] SSN: [REDACTED]

Sex: M Race: B Height: 5-8 Weight: 186

DL State: SC DL#: [REDACTED]

DOB: [REDACTED] Agency ORI#: SC0010100

Prosecuting Agency: ABBEVILLE POLICE DEPARTMENT

Prosecuting Officer: INV. D. BALCHIN

Offense: ATTEMPTED MURDER

Offense Code: 3410

Code/Ordinance Sec. 16-03-0029

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge

(L.S.)

Date: _____
Date Time

RETURN

A copy of this arrest warrant was delivered to
defendant KENDRICK MONTREZ LEE

on 10-12-20

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

MUNICIPAL COURT JUDGE

102 S. MAIN STREET

ABBEVILLE, SC 29620

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

ABBEVILLE

Personally appeared before me the affiant RICKY D BALCHIN

being duly sworn deposes and says that defendant KENDRICK MONTREZ LEE

did within this county and state on 10/06/2020 to 10/06/2020

State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of ABBEVILLE)

in the following particulars:

DESCRIPTION OF OFFENSE: 16-03-0029 / ATTEMPTED MURDER

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:ON 06 OCTOBER 2020 KENDRICK MONTREZ LEE ALONG WITH A CO-DEFENDANT DID WILLFULLY, KNOWINGLY, AND UNLAWFULLY, AND WITH
MALICE AFORETHOUGHT, ATTEMPT TO KILL THE VICTIM TOBIAS HUGHEY BY STRIKING HIM MULTIPLE TIMES IN THE HEAD AND UPPER BODY
AREA WITH A BLUNT OBJECT CAUSING SEVERE HEAD TRAUMA. THIS INCIDENT OCCURRED AT 1108 CAMBRIDGE ST WHICH IS LOCATED
WITHIN THE CITY LIMITS OF ABBEVILLE SC, BEING IN VIOLATION OF SOUTH CAROLINA CODE OF LAWS 16-3-0029. INFORMATION OBTAINED
FROM ABBEVILLE CITY POLICE DEPARTMENT CASE# 202001071/INV D. BALCHIN

Signature of Affiant

Affiant's Address 102 S MAIN ST

ABBEVILLE SC 29620

Affiant's Telephone (864) 366-5832

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER IN THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on 10/06/2020 defendant KENDRICK MONTREZ LEE

did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of ABBEVILLE) as set forth below:

DESCRIPTION OF OFFENSE: ASSAULT / ATTEMPTED MURDER

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
defendant and bring him or her before me forthwith to be dealt with according to the law. A copy of this Arrest Warrant shall be delivered
to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on 10/07/2020

Date

Time

(L.S.)

WILLIAM H. MCNEIL

Judge Code: 6665

Judge's Address 102 SOUTH MAIN ST

ABBEVILLE SC 29620

Judge's Telephone 864-366-5843

Issuing Court:

☐ Magistrate☒ Municipal☐ Circuit

Case: 202001071

DEFENDANT COPY

ARREST WARRANT

2020A0120100199

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

ABBEVILLE

THE STATE

against

TRAVIS ARNETT LEE

Address:
ABBEVILLE SC 29620Phone:
SSN:
M Race: B Height: 5-9 Weight: 200DL State: SC DL#:
DOB:
Agency ORI#: SC0010100

Prosecuting Agency: ABBEVILLE POLICE DEPARTMENT

Prosecuting Officer: INV. R.D. BALCHIN

Offense: ATTEMPTED MURDER

Offense Code: 3410

Code/Ordinance Sec. 16-03-0029

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge

(L.S.)

Date

Time

RETURN

A copy of this arrest warrant was delivered to
defendant TRAVIS ARNETT LEE

on 10-7-20

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO: REC 10/14/2020

MUNICIPAL COURT JUDGE

102 S. MAIN STREET
ABBEVILLE, SC 29620

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

ABBEVILLE

Personally appeared before me the affiant RICKY D BALCHIN

being duly sworn deposes and says that defendant TRAVIS ARNETT LEE

did within this county and state on 10/06/2020 to 10/06/2020

State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of ABBEVILLE

in the following particulars:

DESCRIPTION OF OFFENSE: 16-03-0029 / ATTEMPTED MURDER

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:ON 06 OCTOBER 2020 TRAVIS ARNETT LEE ALONG WITH A CO-DEFENDANT DID WILLFULLY, KNOWINGLY, AND UNLAWFULLY, AND WITH
MALICE AFORETHOUGHT, ATTEMPT TO KILL THE VICTIM TOBIAS HUGHEY BY STRIKING HIM MULTIPLE TIMES IN THE HEAD AND UPPER BODY
AREA WITH A BLUNT OBJECT CAUSING SEVERE HEAD TRAUMA. THIS INCIDENT OCCURRED AT 1108 CAMBRIDGE ST WHICH IS LOCATED
WITHIN THE CITY LIMITS OF ABBEVILLE SC, BEING IN VIOLATION OF SOUTH CAROLINA CODE OF LAWS 16-3-0029. INFORMATION OBTAINED
FROM ABBEVILLE CITY POLICE DEPARTMENT CASE# 202001071/INV D. BALCHIN

Signature of Affiant

Affiant's Address 102 S MAIN ST

ABBEVILLE SC 29620

Affiant's Telephone (864) 366-5832

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

ABBEVILLE

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER IN THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on 10/06/2020 defendant TRAVIS ARNETT LEE

did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of ABBEVILLE) as set forth below:

DESCRIPTION OF OFFENSE: ASSAULT / ATTEMPTED MURDER

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
defendant and bring him or her before me forthwith to be dealt with according to the law. A copy of this Arrest Warrant shall be delivered
to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on 10/07/2020

Date

Time

WILLIAM H. MCNEIL

Judge Code: 6665

Judge's Address 102 SOUTH MAIN ST

ABBEVILLE SC 29620

Judge's Telephone 864-366-5843

Issuing Court:

☐ Magistrate☒ Municipal☐ Circuit

Case: 202001071

ORIGINAL

WITNESSES

[Signature]

Abbeville Police Department

WARRANT NUMBER

2020A0120100198

[Signature]

[Signature]

Foreman of the Grand Jury

Date: 4-12-21

VERDICT

[Signature] **GUILTY** *[Signature]*
[Signature]

Foreman

9-28-2023

THE STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

COURT OF GENERAL SESSIONS

April Term, 2021

Indictment # 2021GS01-0214

THE STATE

vs.

KENDRICK MONTREZ LEE

INDICTMENT FOR

ASSAULT & BATTERY OF A HIGH AND

AGGRAVATED NATURE

SC Code: § 16-03-0600(B)(1)

CDR: 3411

I hereby waive presentment to the Grand Jury.

Defendant

Witness:

THE STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

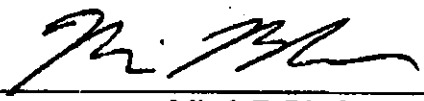
INDICTMENT FOR

**ASSAULT & BATTERY OF A HIGH AND
AGGRAVATED NATURE
§16-03-0600(B)(1)**

At a Court of General Sessions, convened on the 19th day of April, 2021, the Grand Jurors of Abbeville County present upon their oath:

The defendant, Kendrick Montrez Lee, did on or about October 6, 2020, in Abbeville County, South Carolina, unlawfully injure Tobias Hikeem Hughey and did accomplish that injury by means likely to produce death or great bodily injury or cause great bodily injury. All in violation of 16-03-0600(B)(1), Code of Laws of South Carolina, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.



Micah E. Black
Assistant Solicitor

THE STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

COURT OF GENERAL SESSIONS

April Term, 2021

Indictment # 2021GS01-0215

THE STATE

vs.

TRAVIS ARNETT LEE

INDICTMENT FOR

ASSAULT & BATTERY OF A HIGH AND

AGGRAVATED NATURE

SC Code: § 16-03-0600(B)(1)

CDR: 3411

I hereby waive presentment to the Grand Jury.

Defendant

Witness:

WITNESSES

[Signature]

Abbeville Police Department

WARRANT NUMBER

2020A0120100199

[Signature]

[Signature]

Foreman of the Grand Jury

Date: 4-13-21

VERDICT

[Signature] **ABHAN**

[Signature]

Foreman

9-28-2023

ENTERED

THE STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

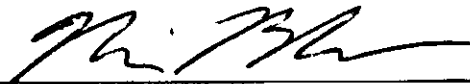
INDICTMENT FOR

**ASSAULT & BATTERY OF A HIGH AND
AGGRAVATED NATURE
§16-03-0600(B)(1)**

At a Court of General Sessions, convened on the 19th day of April, 2021, the Grand Jurors of Abbeville County present upon their oath:

The defendant, Travis Arnett Lee, did on or about October 6, 2020, in Abbeville County, South Carolina, unlawfully injure Tobias Hikeem Hughey and did accomplish that injury by means likely to produce death or great bodily injury or cause great bodily injury. All in violation of 16-03-0600(B)(1), Code of Laws of South Carolina, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.



Micah E. Black
Assistant Solicitor

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	
COUNTY OF ABBEVILLE	)	EIGHTH JUDICIAL CIRCUIT
State of South Carolina	)	
	)	Warrants:2020A0120100198
	)	
v.	)	
	)	NOTICE OF INTENT TO SEEK LIFE
Kendrick Montrez Lee	)	WITHOUT PAROLE
	)	

Pursuant to S.C. Code Ann. § 17-25-45 (H) and eg., James v. State, 372 S.C.287, 641 S.E.2d 899 (2007), the State of South Carolina hereby notifies Defendant Kendrick Montrez Lee and his counsel that he is charged with Attempted Murder and it intends to seek a sentence of life imprisonment without the possibility of parole. This crime is defined as “most serious” offense in S.C. Code Ann § 17-25-45 (C)(1).

On November 13, 2009 Kendrick Lee plead to Trafficking Crack Cocaine 10-28 grams in Abbeville, South Carolina. The offense date was May 13, 2008. This is classified as a “serious offense” under Section 17-25-45.

On November 13 2009, Kendrick Lee plead to Distribution of Marijuana with ½ mile proximity of a school or playground in Abbeville, South Carolina. The offense date was July 6, 2006. This is classified as a “serious offense” under Section 17-25-45.

The State further gives notice that, upon a conviction for attempted murder, or any lesser included offenses that classifies as a “serious” offense the State intends to seek a term of imprisonment for life without the possibility of parole pursuant to Section 17-25-45 (A).

Respectfully submitted,



Micah Black
Senior Assistant Solicitor
Eighth Judicial Circuit
P.O. Box 516
Greenwood, South Carolina 29648
(864) 366-5312 ext 2281

February 16, 2021
Abbeville SC

FILED
STATE OF
SOUTH CAROLINA
COUNTY OF ABBEVILLE
2021 FEB 16 AM 11:22

SHANDAL BOGGS
CLERK OF COURT

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	
COUNTY OF ABBEVILLE	)	EIGHTH JUDICIAL CIRCUIT
	)	
State of South Carolina	)	
	)	Indictment:2021GS01-0214
	)	
v.	)	
	)	AMENDED NOTICE OF INTENT TO SEEK
Kendrick Montrez Lee	)	LIFE WITHOUT PAROLE
	)	

Pursuant to S.C. Code Ann. § 17-25-45 (H) and eg., James v. State, 372 S.C.287, 641 S.E.2d 899 (2007), the State of South Carolina hereby notifies Defendant Kendrick Montrez Lee and his counsel that he is indicted with Assault and Battery of a High and Aggravated Nature, and it intends to seek a sentence of life imprisonment without the possibility of parole. This crime is defined as a “serious” offense in S.C. Code Ann § 17-25-45 (C)(2).

On November 13, 2009 Kendrick Lee plead to Trafficking Crack Cocaine 10-28 grams in Abbeville, South Carolina. The offense date was May 13, 2008. This is classified as a “serious offense” under Section 17-25-45.

On November 13 2009, Kendrick Lee plead to Distribution of Marijuana with ½ mile proximity of a school or playground in Abbeville, South Carolina. The offense date was July 6, 2006. This is classified as a “serious offense” under Section 17-25-45.

The State further gives notice that, upon a conviction for Assault and Battery of a High and Aggravated Nature, or any lesser included offenses that classifies as a “serious” offense the State intends to seek a term of imprisonment for life without the possibility of parole pursuant to Section 17-25-45 (A).

Respectfully submitted,



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Senior Assistant Solicitor
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(864) 366-5312 ext 2281

FILED
STATE OF
SOUTH CAROLINA
COUNTY OF ABBEVILLE
2023 AUG -9 AM 10:27

SHAN BOGGS
CLERK OF COURT

August 9, 2023
Abbeville SC

THE STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	FOR THE EIGHTH JUDICIAL CIRCUIT
COUNTY OF ABBEVILLE	)	
	)	Case No. 2020-A01-201-00198
THE STATE	)	
	)	
	)	Kendrick Lee's Motion for a New Trial
vs.	)	or, Alternatively, to Reconsider the Sentence
	)	
	)	
Kendrick Lee	)	
	)	
	)	

Kendrick Lee renews all motions made prior to and during his jury trial and, pursuant to Rule 29, SCRCrimP, moves this Court for an order granting him a new trial.¹ This motion is based on the following grounds. Alternatively, this Court should quash the notice of intent to seek life without parole and reconsider the sentence.

A. Jury qualification and selection.

Abbeville, South Carolina embraces its dark history of race relations. Even today, the City of Abbeville embraces the Civil War.

Abbeville has experienced many exciting and turbulent events. The city played a key role during the Civil War, and that legacy remains pristinely preserved. Abbeville is known the "Birthplace and Deathbed of the Confederacy." On what is now known as Secession Hill, the meeting which launched the state's secession from the Union took place on Nov. 22, 1860. Five years later in 1865, Jefferson Davis and his cabinet decided to dissolve the Confederacy at the Burt-Stark Mansion, a stately home right off from Abbeville's Historic Court Square.²

Of the 191 Racial Terror Lynchings documented by the Equal Justice Initiative as having

¹ The jurors returned the verdict on September 28, 2023, and this Court imposed sentence on October 19, 2023. This motion is timely pursuant to Rule 35, SCRCrimP.

² <https://www.abbevillecitysc.com/209/Abbevilles-History#:~:text=Abbeville%20is%20known%20the%20%22Birthplace,22%2C%201860.> (last viewed Oct. 27, 2023).

occurred in South Carolina, five occurred in Abbeville County.³ From July 2001 to February 2023, the South Carolina Chapter of the League of the South owned property on the square in Abbeville.⁴ According to the Southern Poverty Law Center, the League of the South is an Alabama based Neo-Confederate hate group.⁵

Against this backdrop, the State of South Carolina tried Kendrick Lee and his co-defendant, Travis Lee, in front of all-white jurors. During juror qualifications, Mr. Lee expressed his concerns about lack of diversity reflected by the jurors who appeared for jury duty.⁶ During the selections of jurors, the prosecution stuck the only black juror drawn for this case. Concerned about the negative appearance of all-white jurors sitting in judgement of two black men, this Court “strong-armed” the prosecution into accepting the sole black male drawn for service in this case. After great hesitation—the length of which is unlikely to be reflected in the typed transcript—the prosecutors reluctantly acquiesced to this Court’s pressure. Ultimately, this Court deemed the sole black juror selected for this case to be unqualified for service because of hearing issues, even though this Court never inquired with the juror whether his hearing issues could be accommodated.

Because of errors in qualifying and selecting jurors, this Court his court should order a new

³ <https://lynchinginamerica.eji.org/explore/south-carolina> (last viewed October 27, 2023). Of the 191 documented Racial Terror Lynchings, 37 occurred in the Eighth Judicial Circuit—the most of any judicial circuit in South Carolina. *Id.*

⁴ <https://qpublic.schneidercorp.com/Application.aspx?AppID=613&LayerID=10508&PageTypeID=4&PageID=4485&Q=2001389540&KeyValue=109-13-05-019> (last viewed Oct. 27, 2023).

⁵ <https://www.splcenter.org/hate-map?state=AL> (last viewed Oct. 27, 2023).

⁶ Mr. Lee requested this Court have the Clerk of Court print a list of the jurors, identifying the jurors race, who appeared for jury duty, the jurors who were qualified, and the jurors who remained after voir dire. This Court never ruled on this request. Mr. Lee renews this request and requests a ruling. Based on the software used by Court Administration, it is still possible for these lists to be generated and considered by this Court.

trial for the following three reasons:

1. Kendrick Lee timely moved for a continuance to a term of court when the pool of jurors actually appearing for service reflected a cross-section of the community.
2. The prosecution's violation of *Batson v. Kentucky*, 476 U.S. 79 (1986) and *State v. Stewart*, 413 S.C. 308, 314, 775 S.E.2d 416, 419 (Ct. App. 2015), when the prosecutors impermissibly relied on criminal history to strike the sole black juror while sitting white jurors with criminal records.
3. This Court failed to determine whether the sole black juror's hearing issues could be accommodated.

Racial discrimination in the administration of justice “strikes at the core concerns of the Fourteenth Amendment and at the fundamental values of our society and our legal system.” *Rose v. Mitchell*, 443 U.S. 545, 564 (1979). Because “the power of the State weighs most heavily upon the individual” in criminal cases, *McLaughlin v. Florida*, 379 U.S. 184, 192 (1964), “discrimination on the basis of race, odious in all respects, is especially pernicious.” in that context, *Rose*, 443 U.S. at 555; *see also Pena-Rodriquez v. Colorado*, 580 U.S. 206, 223 (2017) (quoting *Rose*, 443 U.S. at 555); *Buck v. Davis*, 580 U.S. 100, 124 (2017) (same). Therefore, in criminal cases, courts “must be especially sensitive to the policies of the Equal Protection Clause.” *McLaughlin*, 379 U.S. at 192.

This is nowhere more true than in jury selection. The jury's indispensable role as “a criminal defendant's fundamental protection of life and liberty against race or color prejudice,” *Pena-Rodriquez*, 580 U.S. at 223 (quoting *McCleskey v. Kemp*, 481 U.S. 279, 310 (1987)) (internal quotation marks omitted), means that racial discrimination in jury selection threatens the gravest of harms to criminal defendants. This reality, true in any criminal case, is especially pertinent in capital cases due to the “complete finality of the death sentence,” and the “unique opportunity for racial prejudice to operate but remain undetected.” *Turner v. Murray*, 476 U.S. 28, 35, 45 (1986).

Both the U.S. Supreme Court and the S.C. Supreme Court have repeatedly and consistently recognized prohibitions against racial discrimination in jury selection under *Batson* and its progeny are designed to serve multiple ends: “to protect the defendant’s right to a fair trial by a jury of the defendant’s peers, protect each venireperson’s right not to be excluded from jury service for discriminatory reasons, and preserve public confidence in the fairness of our system of justice.” *State v. Haigler*, 334 S.C. 623, 628–29, 515 S.E.2d 88, 90 (1999); *see also State v. Rayfield*, 369 S.C. 106, 112, 631 S.E.2d 244, 247 (S.C. 2006).

Prospective jurors who are excluded from serving on a jury because of their race are deprived of one of “the most substantial opportunit[ies] that most citizens have to participate in the democratic process.” *Flowers*, 139 S. Ct. at 2238 (“Other than voting, serving on a jury is the most substantial opportunity that most citizens have to participate in the democratic process.”); *see also Powers v. Ohio*, 499 U.S. 400, 407 (1991). Jury service provides citizens with an opportunity to participate in the legal system and enhances their regard and understanding of the legal system, the judiciary, and the jury system.⁷ Unlawful exclusion of citizens from jury duty, therefore, forsakes significant opportunities to strengthen and deepen our democracy.

Perhaps, most significantly, the harm from discrimination affecting the composition of the jury “destroys the appearance of justice and thereby casts doubt on the integrity of the judicial process.” *Rose*, 443 U.S. at 556; *Buck*, 580 U.S. at 124 (“[Such discrimination] injures not just the defendant, but ‘the law as an institution . . . the community at large, and . . . the democratic ideal reflected in the processes of our courts.’”) (quoting *Rose*, 443 U.S. at 556). Such doubt, in turn, undermines “public confidence” in the criminal justice system and fosters community suspicion that a verdict may not have been “given in accordance with the law by persons who are fair.”

⁷ See Shari Seidma Diamond, *What Jurors Think: Expectations and Reactions of Citizens Who Serve as Jurors*, In VERDICT: ASSESSING THE CIVIL JURY SYSTEM 285–86 (Robert E. Litaned.,1993).

Powers, 499 U.S. at 413; see also Foster, 578 U.S. at 523. In short, “[a]ctive discrimination by a prosecutor” during jury selection “invites cynicism respecting the jury’s neutrality and its obligations to adhere to the law,” and it “cannot be tolerated.” Powers, 499 U.S. at 412.

An all-White jury, especially in a trial where the defendant is Black and the victim is White, sustains cynicism about the jury’s neutrality. Justice Thomas, concurring in *Georgia v. McCollum*, 505 U.S. 42 (1992), highlighted how a jury’s racial composition affects perceptions of its fairness:

The public, in general, continues to believe that the makeup of juries can matter in certain instances. Consider, for example, how the press reports criminal trials. Major newspapers regularly note the number of Whites and blacks that sit on juries in important cases. Their editors and readers apparently recognize that conscious and unconscious prejudice persists in our society and that it may influence some juries. Common experience and common sense confirm this understanding.

Id. at 60 (footnote omitted).

This, it is imperative that court remain diligent in ferreting out racial discrimination in jury selection procedures. Failure to do so not only risks inflicting grave harm on not only the defendants and the citizens that are unlawfully excluded from jury duty, but also the community at large by undermining the public’s confidence in the criminal justice system and, therefore, weakening the foundations of our multiracial democracy.

B. Opening Remarks by the Court.

This Court should order a new trial because of the Court’s improper opening remarks to the jurors that violated *State v. Beaty*, 423 S.C. 26, 813 S.E.2d 502 (2018) and *State v. Daniels*, 401 S.C. 251, 737 S.E.2d 473 (2012). Mr. Lee objected to the remarks, moved for a mistrial, and renewed his motion for a mistrial after this Court’s inadequate curative instruction. These remarks were particularly prejudicial in this case where the jurors ultimately had lesser included offenses to consider.

C. Jury Instructions and Verdict Form.

Mr. Lee requested this Court provide an instruction pursuant to *State v. King*, regarding the juror's obligation to resolve any doubt between the greater and lesser offenses, in favor of the accused. 158 S.C. 251, 155 S.E. 409 (1930), *overruled by Brightman v. State*, 336 S.C. 348, 520 S.E.2d 614 (1999). Although *Brightman* overruled *King*, to the extent *King* mandated the instruction, *Brightman* did not prohibit the instruction. Here, the failure to give the *King* instruction was particularly prejudicial because of this Court's opening comments that violated *Beaty* and *Daniels* and because of the cascading verdict form utilized by the Court that reduced—even prohibited—the jurors from discussing the lesser-included offenses.

Additionally, Mr. Lee requested this Court structure the verdict form as follows:

- ___ Guilty of assault and battery of a high and aggravated nature.
- ___ Guilty of First-Degree Assault and Battery.
- ___ Guilty of Second-Degree Assault and Battery.
- ___ Not Guilty.

Structuring the verdict form in this matter would have mitigated this Court's error in the opening instructions and ensured the jurors gave due consideration the lesser included offenses. This Court should order a new trial.

D. Sentencing.

As pointed out by counsel for Travis Lee, the only people in the courtroom during sentencing who wanted the Lees to receive life sentences were the two prosecutors. Travis Lee sought to introduce recorded statements of Mr. Hughey regarding his desires that Travis Lee and Kendrick Lee not receive life sentences. This Court declined to receive the recorded statements but accepted those statements as true for the purpose of sentencing Travis Lee. This Court did not

consider those statements when sentencing Kendrick Lee. Kendrick Lee proffers those statements on a USB-Drive contemporaneously with this motion. Mr. Hughey's mother addressed this Court and opposed life sentences.

Kendrick Lee additionally requested the prosecutors withdraw the notice of intent to seek life without parole and allow this Court discretion in sentencing. The prosecutors never responded to this request.

Finally, Kendrick Lee objected to his conviction for distribution of marijuana being a predicate conviction for a life sentence enhancement. This objection was based on the due process clauses of the United States Constitution and South Carolina Constitution, the prohibition against cruel and unusual punishment under the United States Constitution, and the prohibition against cruel, unusual, or corporal punishment under the South Carolina Constitution. In making the objection, Mr. Lee pointed out that South Carolina has decriminalized marijuana and that marijuana one day likely will be legal throughout the United States.

For the foregoing reasons and for the reasons stated during sentencing, this Court should quash the notice of intent to seek life without parole and reconsider the sentence.

CONCLUSION

For the foregoing reasons, this Court should order a new trial. Alternatively, this Court should quash the notice of intent to seek life without parole and reconsider the sentence.

IT IS SO MOVED.

(signature on next page)

By s/E. Charles Grose, Jr.

E. Charles Grose, Jr.
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(864) 538-4405 (fax)
Email: charle@groselawfirm.com

Attorney for Kendrick Lee

October 30, 2023
Greenwood, South Carolina

FILED
STATE OF
SOUTH CAROLINA
COUNTY OF ABBEVILLE
2023 NOV -2 AM 11:55
SHANDAL BOGGS
CLERK OF COURT

STATE OF SOUTH CAROLINA) IN THE CIRCUIT COURT 8
COUNTY OF ABBEVILLE) DOCKET NOS. 2021-GS-01-00215
2021-GS-01-00214

STATE OF SOUTH CAROLINA,)
Plaintiff,)
versus)
TRAVIS A. LEE AND)
KENDRICK MONTREZ LEE)
Defendants.)

H E A R I N G

PRESENT: Travis A. Lee and Kendrick Montrez Lee
DATE: September 25, 2023
TIME: 2:48 p.m. - 5:04 p.m.
LOCATION: South Carolina Circuit Court 8
JUDGE: Frank R. Addy, Jr.
TRANSCRIBED BY: Jeanne Meldrim

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APPEARANCES:

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EXHIBITS

COURT'S EXHIBITS

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		Marked	Entered
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2	Document regarding juror 188	41	
3	Document regarding juror 191	41	
4	Document regarding juror 191		

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

1 THE COURT: At this point in time, we're going to
2 move forward with jury selection on the first case up for
3 trial. Solicitor, if you'll call the case, please.

4 MR. BLACK: Thank you, Your Honor. State versus
5 Kendrick Montrez Lee, indictment number 2021-GS-01-214.
6 Indictment for assault and battery of a high and
7 aggravated nature.

8 At a court of general sessions convened on the 19th
9 day of April 2021, the grand jury of the Abbeville County
10 present their oath. Defendant Kendrick Lee did on or
11 about October the 6th, 2020 in Abbeville County, South
12 Carolina, unlawfully injured Tobias Hykieem Hughey, and
13 did accomplish that injury by means likely to produce
14 death or great bodily injury, or cause great bodily
15 injury, all in violation of 16-3-600, South Carolina Code
16 of Laws, 1976 as amended.

17 Also indictment 2021-GS-01-215, the State of South
18 Carolina versus Travis Arnett Lee, for assault and
19 battery of a high and aggravated nature. The Court of
20 General Sessions convened on the 19th day of April 2021,
21 the grand jurors of Abbeville County presented on their
22 oath, the defendant Travis Arnett Lee did on or about
23 October 6, 2020, in Abbeville County, South Carolina,
24 unlawfully injury Tobias Hykieem Hughey. And did
25 accomplish that injury by means likely to produce death

1 or great bodily injury. All in violation of 16-3-600
2 Code of Laws of South Carolina 1976 as amended.

3 THE COURT: All right. Ladies and Gentlemen of the
4 jury panel, we're going to begin in a few moments with
5 jury selection on the case of The State South Carolina
6 versus Kendrick Lee and Travis Lee. And I've been
7 presented with two indictments. The charge Mr. Lee,
8 or --- Kendrick Lee and Travis Lee with the offense of
9 assault and battery of a high and aggravated nature.

10 I want to tell you at the outset, Ladies and
11 Gentlemen, that the fact that Mr. Lee --- Misters Lee are
12 charged in this indictments with this offense is not, of
13 course, proof of any of the allegations contained in the
14 indictments. These indictments are nothing more than
15 pieces of paper by which these cases are brought in the
16 Court.

17 In this case, Misters Lee have pled not guilty to
18 these charges and that plea putting the burden firmly on
19 The State to prove their guilt beyond a reasonable doubt.

20 And if you're selected as a juror in this case, it
21 will be your job to determine whether this State has met
22 this burden.

23 Now in this case, Ladies and Gentlemen, The State of
24 South Carolina is being represented by Micah Black and
25 Mr. Brown.

1 Gentleman, if you all care to introduce yourselves
2 to the jury panel please.

3 MR. BLACK: Thank you, Your Honor. Good afternoon.
4 My name is Micah Black. I'm a prosecutor with the Eighth
5 Circuit Solicitor's Office. I work primarily up here in
6 Abbeville County.

7 And assisting me with this case is Mr. Yates Brown,
8 who is also a prosecutor in our office.

9 We appreciate you guys being here.

10 THE COURT: Thank you. The defendants in this case,
11 Travis Lee is being represented by Mr. Jamison Tinsley.

12 Mr. Tinsley, care to introduce yourself and your
13 client to the jury panel, please.

14 MR. TINSLEY: Thank you, Your Honor. My name is
15 Jamison Tinsley. I practice law in the Tinsley & Tinsley
16 law firm in Greenwood, and it is my honor to represent
17 Travis Lee.

18 THE COURT: And in this case, Ladies and Gentlemen,
19 Kendrick Lee is being represented by Charles Grose.

20 Mr. Grose, would you care to introduce yourself and
21 your client, please.

22 MR. GROSE: Good afternoon. My name is Charles
23 Grose. I have a law firm in Greenwood, but I've been
24 representing people accused of crimes and in other
25 matters in Abbeville for well over 20 years.

1 It's my pleasure to represent Ken Lee who has pled
2 not guilty to these charges.

3 THE COURT: All right. Thank you, Mr. Grose. All
4 right. First question, Ladies and Gentlemen, is there
5 any member of the jury panel who is related by blood or
6 marriage, or has any close business or social
7 relationships, or is currently, or has previously been
8 represented by any of the attorneys involved in this
9 case? Anyone who is associated with, related to,
10 represented by any of the lawyers in this case, Mr.
11 Black, Mr. Brown, Mr. Grose, and Mr. Tinsley?

12 And yes, sir, your name, please.

13 THE JUROR: Mr. --- the Tinsley firm closed on a
14 house last year.

15 THE COURT: Okay.

16 THE JUROR: Don't know if that's relevant or not.

17 THE COURT: All right. Just --- just a real estate
18 closing? Did --- did Jamison handle it or did somebody
19 else?

20 THE JUROR: That would be Bill Tinsley ---

21 (Simultaneous speaking)

22 THE COURT: That would be Bill Tinsley. Okay.

23 Thank you for that information, sir. You can have a
24 seat. And what was your number again, please?

25 THE JUROR: 89.

1 THE COURT: 89. All right. Thank you for that
2 information. All right. No one else is standing.

3 Ladies and Gentlemen, you've been introduced to the
4 defendants in this case. The alleged victim in this
5 case, his name is Tobias Hykieem Hughey, H-U-G-H-E-Y.
6 Again, the alleged victim is his name is Tobias Hykieem
7 Hughey.

8 Is there any member of the jury panel who is related
9 by blood or marriage, or anyone who has any close
10 business or social relationships with either Tobias
11 Hughey, or the defendants in this case Travis Lee or
12 Kendrick Lee? Yes, please stand.

13 All right. No one is standing.

14 I'm going to read a list of potential witnesses in
15 this case and when I'm done reading this list, I'll ask
16 if there's any member related by blood or marriage to any
17 of these individuals, or anyone who has any close
18 business or social relationships with any of these
19 possible witnesses.

20 I don't anticipate that all of these will --- all
21 these people will testify, but these are simply the
22 potential witnesses in this case. Ricky Duane Balchin,
23 B-A-L-C-H-I-N, who used to be with the Abbeville Police
24 Department. Renee Guillebeax, Mitchell Hughey, John
25 Martin, also formerly with the police department. Brian

1 Singletary with the Abbeville Sheriff's Department.
2 Forest Crowe, C-R-O-W-E, also with the police department.
3 Ashlye Giles, G-I-L-E-S, who works at Abbeville 911.
4 Michael Floyd, Beatrice Tillman, Kiara, K-I-A-R-A
5 Debette, D-E-B-E-T-T-E, Eric Phillips, Miesha Cobb,
6 M-I-E-S-H-A, Cobb, C-O-B-B, James Smith. Dr. Kristen
7 Spoor with Prisma. Dr. Martin Andy Donlan, D-O-N-L-A-N,
8 also with Prisma. Brandon Johnson, with Abbeville EMS.
9 Richard Young with the McCormick County Sheriff's
10 Department. Heath Swink, S-W-I-N-K, with the police
11 department here in Abbeville. Steven Cogdill, also with
12 the police department. Nick Moore, Ray Taylor, Elizabeth
13 Webb, Yolanda Martinez, William Tyrone Brooks, Jr., and
14 Sammy London.

15 Is there any member of the jury panel who is related
16 by blood or marriage, or anyone who has any close
17 business or social relationships with any of those
18 potential witnesses? If so, please stand.

19 All right. And yes, sir. Your name, please.

20 THE JUROR: Kevin Allen (inaudible) I work closely
21 with them, you know (unintelligible) Abbeville.

22 THE COURT: Okay. And what was your juror number
23 again, sir?

24 THE JUROR: That was three.

25 THE COURT: Three. All right. If --- if Nick Moore

1 were to testify in this case, would the fact that you
2 work with him --- would that affect your ability to be
3 fair and impartial to both sides, The State and the
4 defense?

5 THE JUROR: (Inaudible).

6 THE COURT: All right. Very good, sir. Thank you.
7 You can have a seat.

8 No one else is standing. All right. Now, it's
9 alleged, Ladies and Gentlemen, that this assault took
10 place on October the 6th of 2020. And what was the name
11 of apartment complex, Solicitor, where it was alleged to
12 have taken place at?

13 MR. BLACK: Hickory Heights.

14 THE COURT: Hickory Heights. Okay. This assault is
15 alleged to have taken place at Hickory Heights
16 apartment --- apartment complex in the parking lot, on
17 October the 6th of 2020.

18 Is there any member of the jury panel who thinks
19 that they may know anything about these allegations or
20 has formed or expressed any opinion about these
21 allegations? If so, please stand. No one is standing.

22 All right. In the --- in this --- in this case,
23 Ladies and Gentlemen, Mistery Lee are charged with
24 assault and battery of a high and aggravated nature. Is
25 there anyone who would suspect that the defendants are

1 guilty of these crimes, simply because they are accused
2 of them? If so, please stand. All right. No one is
3 standing.

4 Ladies and Gentlemen, you will see --- you will hear
5 testimony, and you're also going to perhaps see some
6 evidence concerning a person who was assaulted.

7 Would hearing the testimony, or seeing the evidence
8 so affect you that you feel like you would not be able to
9 remain fair and impartial to all sides? Is there any
10 member of the jury panel who feels like they may react so
11 badly to the testimony or the evidence that's presented,
12 that you would lose your ability to be fair and impartial
13 to all concerned? If so, please stand. No one is
14 standing.

15 All right. Is there any member of the jury panel
16 who is close friends with or knows anybody who works
17 either at the Eighth Circuit Solicitor's Office, the
18 Tinsley & Tinsley firm, or the Charles Grose firm? Any
19 member of the jury panel who has a friend or close friend
20 or a family member who works at any of those offices? If
21 so, please stand.

22 Yes, sir, juror number three again.

23 THE JUROR: (Unintelligible) number three. My
24 brother actually works for the Solicitor's Office.

25 THE COURT: Okay. What's your brother's name?

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1 THE JUROR: Dale Allen.

2 THE COURT: Dale Allen? Okay.

3 THE JUROR: (Inaudible).

4 THE COURT: Right. Right. Okay. Mr. Allen is not
5 involved in this case as a witness or anything like that.
6 Would the fact that you have a family member who works at
7 the Solicitor's Office, would that affect your ability to
8 be fair to anyone?

9 THE JUROR: (Inaudible).

10 THE COURT: All right. You're quite certain?

11 THE JUROR: Yes, sir.

12 THE COURT: All right. Very good. Thank you.

13 And yes, ma'am, your name, please.

14 THE JUROR: (Inaudible) Solicitor's Office for my
15 daughter. (Inaudible).

16 THE COURT: Okay. So you know the --- your --- your
17 daughter is the victim of a homicide, ma'am?

18 THE JUROR: Uh-huh.

19 THE COURT: And do you recall your juror number,
20 please?

21 THE JUROR: One.

22 THE COURT: Juror number one. And is that case
23 still pending ma'am?

24 THE JUROR: (Inaudible).

25 THE COURT: Okay. When did this incident take

1 place, ma'am?

2 THE JUROR: 2021 in June, the 28th.

3 THE COURT: Okay. It took place Abbeville or in
4 Greenwood?

5 THE JUROR: (Inaudible).

6 THE COURT: In Greenwood? Okay. The fact that ---
7 the fact that your daughter was involved in this incident
8 and that they're representing you, is that going to
9 affect your ability to be fair?

10 THE JUROR: (Inaudible).

11 THE COURT: All right. Let --- y'all --- y'all
12 approach me down here real quick, if you could, please.

13 (Sidebar conference)

14 THE COURT: Okay. Ms. Adams, because that case is
15 still pending, I'm going to let you sit this case out.
16 Okay, ma'am? All right. You can stay where you are
17 though, just don't leave quite yet. Okay? But juror
18 number one won't serve.

19 All right. Ladies and Gentlemen, there's some
20 crimes that make people so angry that just because a
21 person is accused of that crime, people believe ---
22 somebody believes that he's guilty of the crime.

23 Is there any member of the jury panel who would
24 agree with that statement that some crimes are just so
25 horrible that the accusation is enough to make you think

1 that they're guilty? Is there any member of the jury
2 panel who would agree with that statement? If so, please
3 stand. No one is standing.

4 Is there any member of the jury panel, or a close
5 family member, who has ever been the victim of a violent
6 crime? That would include crimes like murder, attempted
7 murder, assault and battery of a high and aggravated
8 nature, things of that nature. Okay? Any member of the
9 jury panel who has ever been the victim of, or had a
10 close family member who was a victim of, or accused of
11 any sort of violent crime like murder, ABHAN, attempted
12 murder, things of that nature?

13 And if you need to respond, what I'll let you do is
14 come forward and speak with me down here. But first let
15 me see if that applies to anyone. If so, please stand.
16 All right. No one is standing.

17 Is there any member of the jury panel who is a
18 member of any organization or ever donated money to any
19 organization the primary purpose of which is the
20 promotion of law enforcement or victim's rights? Such
21 organizations would include things Mothers Against Drunk
22 Driving, the Sheriffs' Association, South Carolina Law
23 Enforcement Officers Association, things of that nature.
24 Any member of the jury panel a member of any of those
25 organizations, or to your to your knowledge has ever

1 donated money to any of those organizations? If so,
2 please stand. All right. No one is standing.

3 Is there any member of the jury panel who is related
4 to anyone who works for any law enforcement agency in the
5 Eighth Circuit? And the Eighth Circuit includes the
6 counties of Abbeville, Greenwood, Laurens, and Newberry.
7 Any member of the jury panel who is related to somebody
8 who works at a law enforcement agency in the Eighth
9 Circuit? If so, please stand.

10 And yes, ma'am, your name, please.

11 THE JUROR: Angelique Shaw. I --- one --- my
12 husband is a medical examiner for the County of
13 (inaudible) law enforcement.

14 THE COURT: Okay. Thank you. For the juror,
15 Abbeville County?

16 THE JUROR: (Inaudible).

17 THE COURT: Okay. Thank you for that information,
18 ma'am, you can have a seat.

19 And yes, ma'am, your name please, and number?

20 THE JUROR: (Inaudible).

21 THE COURT: Yes, ma'am.

22 THE JUROR: --- my husband is a (inaudible) for
23 Abbeville County.

24 THE COURT: Okay. Thank you very much for that
25 information, ma'am.

1 And yes, ma'am, your name please?

2 THE JUROR: (Unintelligible).

3 THE COURT: Game warden? All right. Thank you for
4 that information, ma'am.

5 All right. Is there any member of the jury panel
6 who has ever actively campaigned for, or made a political
7 contribution to either David Stumbo, our solicitor, or
8 Sheriff Ray Watson, sheriff here in Abbeville? Any
9 member of the jury panel who has ever actively campaigned
10 for or made a campaign contribution to either of those
11 campaigns? If so, please stand. All right. No one is
12 standing.

13 Now, Ladies and Gentlemen, sometimes testimony can
14 become emotional and I want to ask you that if a witness
15 were to cry or become visibly upset during their
16 testimony, would you be able --- is there any member of
17 the jury panel who would be unable to set aside any
18 emotion and sympathy, and make a decision based only on
19 the evidence? Any member of the jury panel who would be
20 so affected by an emotional reaction from a witness that
21 your ability to judge the evidence fairly and objectively
22 would be compromised? If so, please stand. No one
23 is --- no one is standing. All right.

24 Is there any member of the jury panel who has had
25 any formal or informal --- is there any member of the

1 jury panel who has had any kind of legal training? This
2 would be like law school, paralegal training, law
3 enforcement training, things of that sort of a nature.
4 Okay? Any member of the jury panel who has ever had any
5 kind ever official or professional, or informal law
6 enforcement training? If so, please stand.

7 And yes, sir, your name and number, please?

8 THE JUROR: (Unintelligible) I don't know my number.
9 (Unintelligible).

10 THE COURT: Okay. And when was that, sir?

11 THE JUROR: (Inaudible) 2000 --- 2000 ---

12 THE COURT: Long time ago? 23 years ago? All
13 right. Thank you for that information, sir. You can
14 have a seat.

15 All right. I'm always a little bit leery to ask
16 this question, but here goes: Is there any member of the
17 jury panel who just doesn't like lawyers? Particularly
18 lawyers who represent or prosecute people who are accused
19 of crime? Any member of the jury panel out there that
20 doesn't like lawyers and it would affect you? If so,
21 please stand. Thank goodness. All right. No one is
22 standing.

23 Is there any member --- is there any member of the
24 jury panel who has any deeply held moral or religious
25 beliefs, tenets of which would prevent you from serving

1 on a jury? If so, please stand. No one is standing.

2 Is there any member of the jury panel who knows of
3 any reason whatsoever why you cannot give both The State
4 of South Carolina and the defendants in this case, a fair
5 trial, judging the trial --- or judging the case based
6 only on the evidence and on the law as I instruct you?
7 Any reason whatsoever why you feel like you should sit
8 this out? If so, please stand. All right. No one is
9 standing.

10 I think I've hit most of the substantial voir dire,
11 anything else that anyone feels very strongly about from
12 The State?

13 MR. BLACK: Not from The State.

14 THE COURT: Anything from the defense?

15 THE JUROR: None from me, Your Honor.

16 THE COURT: Okay.

17 MR. GROSE: Number 8 and number 16.

18 THE COURT: Eight and sixteen. Oh. Okay. All
19 right. Is there --- Ladies and Gentlemen, is there any
20 member of the jury panel --- is there anything about your
21 individual home, or workplace, or someplace that you
22 spend a of time, that causes you to fear for your safety?
23 Any member of the jury panel who is scared of --- or
24 fears for their safety where they work or where they
25 live? If so, please stand. No one is standing.

1 Is there any member of the jury panel who would be
2 inclined to give more weight to the testimony that --- of
3 a law enforcement officer, simply because that witness is
4 a law enforcement officer? If so, please stand. No one
5 is standing.

6 Sorry I missed those. No additional voir dire, Mr.
7 Grose?

8 MR. GROSE: No, sir.

9 THE COURT: All right. Very good. The strikes will
10 be five and ten. I understand the defense is going to
11 use yours collectively. And we will --- we should have
12 enough for one alternate, and so we will pick one
13 alternate.

14 All right. Ladies and Gentlemen, the way that we do
15 this is in a moment, the clerk will call the names, or
16 individually call your name. When your name is called, I
17 need you just to stand up where you are and at that point
18 in time, The State will be given the opportunity to seat
19 you or to excuse you. And of course the defense will be
20 given that same opportunity. Okay? So if your name is
21 called, just stand where you are and if all the parties
22 agree, I'll ask you to come forward. If all the parties
23 agree on you, I'll ask you to come forward.

24 If for some reason one of the parties strikes you,
25 you can simply have a seat where you are.

1 Now Ladies and Gentlemen, I'm going to tell you what
2 I tell every jury: If --- if for some reason, one of the
3 lawyers asks that you not serve on this case, folks,
4 don't go taking it personal, okay? Don't get bent out of
5 shape. This is just people trying to do their jobs. All
6 right? So it is nothing personal. This is simply them
7 trying to do their job and their best to represent their
8 particular side in this case. All right?

9 MR. GROSE: Judge, may we approach?

10 THE COURT: Yeah, sure.

11 (Bench Conference)

12 THE COURT: For the record, the strikes are actually
13 ten and ten. Mr. Grose is making --- Mr. Grose's
14 objection is noted and will be placed on the record after
15 Jury Selection. But it was noted in this chambers, and
16 we shall proceed.

17 So strikes will be ten and ten, we should have ---
18 you got 25 already?

19 CLERK: (Inaudible).

20 THE COURT: You pulled for 35, can you pull --- pull
21 them all? Everybody left. Sorry. Just generate another
22 random one, I guess. Thanks. Good deal.

23 All right. Again, Ladies and Gentlemen, if your
24 name is called, simply stand where you are and at that
25 point The State and the defense will have an opportunity

1 to either seat you or to excuse you.

2 Madam Clerk, if you'll please give me a jury.

3 CLERK: Number one, Benjamin B. Claire (phonetic),
4 juror number 28. What say you for The State?

5 MR. BLACK: (Inaudible) State please present Mr.
6 Claire.

7 CLERK: What say you for the defense?

8 MR. TINSLEY: Please swear the juror.

9 CLERK: You may have a seat in the jury box.
10 Number 175, Steven A. Suber (phonetic). What say
11 you for The State?

12 MR. BLACK: Please present Mr. Suber.

13 CLERK: What say you for the defense?

14 MR. TINSLEY: Please swear the juror.

15 CLERK: You may have a seat in the jury box.

16 Number 196, John T. Wilson (phonetic). What say you
17 for The State?

18 MR. BLACK: Please present Mr. Wilson.

19 CLERK: What say you for the defense?

20 MR. TINSLEY: Please swear the juror.

21 CLERK: You may have a seat in the jury box.

22 Number 188, Carolyn G. Webb (phonetic). What say
23 you for The State?

24 MR. BLACK: Please present Ms. Webb.

25 CLERK: What say you for the defense?

1 MR. TINSLEY: Please swear the juror.

2 THE JUROR: You may have a seat in the jury box.

3 Number 120, Sally S. Mullet (phonetic).

4 What say you for The State?

5 MR. BLACK: Please present Ms. Mullet.

6 CLERK: What say you for the defense?

7 MR. TINSLEY: Please excuse the juror from the trial
8 of this case.

9 CLERK: You may have a seat.

10 Number 45, Jennifer M. Ellison (phonetic). What say
11 you for The State?

12 MR. BLACK: Please present Ms. Ellison.

13 CLERK: What say you for the defense?

14 MR. TINSLEY: Please swear the juror.

15 CLERK: You may have a seat in the jury box.

16 Number 162, Angelic M. Shaw (phonetic). What say
17 you for The State?

18 MR. BLACK: Please present Ms. Shaw.

19 CLERK: What say you for the defense?

20 MR. TINSLEY: Please excuse the juror from the trial
21 in this case.

22 CLERK: You may have a seat.

23 Number 156, Jasmine L. Sanders (phonetic). What say
24 you for The State?

25 MR. BLACK: Please present Ms. Sanders.

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1 CLERK: What say you for the defense?

2 MR. TINSLEY: Please swear the juror.

3 CLERK: You may have a seat in the jury box.

4 Number 132, Heath D. Parnell (phonetic). What say
5 you for The State?

6 MR. BLACK: Please present Mr. Parnell.

7 CLERK: What say you for the defense?

8 MR. TINSLEY: Please swear the juror.

9 CLERK: You may have a seat in the jury box.

10 Number 121, William C. Murphy. What say you for The
11 State?

12 MR. BLACK: Please present Mr. Murphy.

13 CLERK: What say you for the defense?

14 MR. TINSLEY: Please swear the juror.

15 CLERK: You may have a seat in the jury box.

16 Number 151, Marie L. Rodriguez (phonetic). What say
17 you for The State?

18 MR. BLACK: Please present Mr. --- Ms. Rodriguez.

19 CLERK: What say you for the defense?

20 MR. TINSLEY: Please and excuse the juror from the
21 trial in this case.

22 CLERK: You may have a seat.

23 Number 80, Brian E. Howell (phonetic). What say you
24 for The State?

25 MR. BLACK: Please excuse Mr. Howell.

Proceedings

1 CLERK: You may have a seat.

2 Number 186, Tanya L. Vermillion (phonetic). What
3 say you for The State?

4 MR. BLACK: Please excuse Ms. Vermillion.

5 CLERK: You may have a seat.

6 Number 193, Eleanor A. Witters (phonetic). What say
7 you for The State?

8 MR. BLACK: Please present Ms. Witters.

9 CLERK: What say you for the defense?

10 MR. TINSLEY: Please swear the juror.

11 CLERK: You may have a seat in the jury box.

12 Number 168, Beverly J. Smith (phonetic). What say
13 you for The State?

14 MR. BLACK: Please present Ms. Smith.

15 CLERK: What say you for the defense?

16 MR. TINSLEY: Please excuse the juror from the trial
17 of this case.

18 CLERK: You may have a seat.

19 Number three, Kevin W. Allen (phonetic). What say
20 you for The State?

21 MR. BLACK: Please present Mr. Allen.

22 CLERK: What say you for the defense?

23 MR. TINSLEY: Please excuse the juror from the trial
24 of this case.

25 CLERK: You may have a seat.

Proceedings

1 Number 89, Joshua A, Landers (phonetic). What say
2 you for The State?

3 MR. BLACK: Please excuse Mr. Landers.

4 CLERK: You may have a seat.

5 Number 54, Caitlin Garrity (phonetic). What say you
6 for The State?

7 MR. BLACK: Please excuse Ms. Garrity.

8 CLERK: You may have a seat.

9 Number 129, Gabrielle C. Parker. What say you for
10 The State?

11 MR. BLACK: Please present Ms. Parker.

12 CLERK: What say you for the defense?

13 MR. TINSLEY: Please excuse the juror from the trial
14 of this case.

15 CLERK: You may have a seat.

16 Number 157, Kim J. Susser (phonetic). What say you
17 for The State?

18 MR. BLACK: Please present Ms. Susser.

19 CLERK: What say you for the defense?

20 MR. TINSLEY: Please excuse the juror from the trial
21 of this case.

22 CLERK: You may have a seat.

23 Number 139, James D. Powell (phonetic). What say
24 you for The State?

25 MR. BLACK: Please present Mr. Powell.

1 CLERK: What say you for the defense?

2 MR. TINSLEY: Please swear the juror.

3 CLERK: You may have a seat in the jury box.

4 Number 47, Laura M. Falls (phonetic). What say you
5 for The State?

6 MR. BLACK: Please present Ms. Falls.

7 CLERK: What say you for the defense?

8 MR. TINSLEY: Please swear the juror.

9 CLERK: You may have a seat in the jury box.

10 Number 137, Tammy G. Poor (phonetic). What say you
11 for The State?

12 MR. BLACK: Please present Ms. Poor.

13 CLERK: What say you for the defense?

14 MR. TINSLEY: Please swear the juror.

15 CLERK: You may have a seat in the jury box.

16 Number 135, Kristen C. Phillips (phonetic).

17 THE COURT: Hold on. This will be the alternate, I
18 believe. One, two, three --- yeah. All right.

19 Alternate strikes will be one and two.

20 CLERK: Number 135. What say you for The State?

21 MR. BLACK: Please present Ms. Phillips.

22 CLERK: What say you for the defense?

23 MR. TINSLEY: Please excuse the juror from the trial
24 of this case.

25 CLERK: You may have a seat.

1 Number 82, Steven W. Hunter (phonetic). What say
2 you for The State?

3 MR. BLACK: Please present Mr. Hunter.

4 CLERK: What say you for the defense?

5 MR. TINSLEY: Please swear the juror.

6 CLERK: You may --- you may come up here and have a
7 seat beside the jury box.

8 THE COURT: And we'll go with one more alternate.

9 CLERK: One more? Number 191, Phillip L. Wharton
10 (phonetic). What say you for The State?

11 MR. BLACK: Please excuse Mr. Wharton.

12 CLERK: You may have a seat.

13 Number 38, Kenneth A. Davis (phonetic). What say
14 you for The State?

15 MR. BLACK: Please present Mr. Davis.

16 CLERK: What say you for the defense?

17 MR. TINSLEY: Please swear the juror.

18 CLERK: You may have a seat in the jury box.

19 THE COURT: All right. Any --- any issues
20 concerning selection of the jury from The State?

21 MR. BLACK: Not from The State.

22 THE COURT: All right. And aside from what was
23 mentioned in chambers, anything from the defense?

24 MR. TINSLEY: Yes, sir.

25 THE COURT: All right. Ladies and gentlemen of the

1 jury who were selected here, I'm going to ask that you
2 all adjourn for the back and to the jury room for just a
3 few moments. I need to take up a brief issue with the
4 attorneys involved in this. So they'll --- somebody will
5 show you where the --- he'll show you where to go to the
6 back to the jury room. Don't discuss the case yet. I'll
7 let you know when you --- when you can, but obviously,
8 it's not at this point in time. So don't talk about the
9 case.

10 Everyone else who was summoned for jury duty, I need
11 you to let me have the courtroom here for just a few
12 moments. So if you were summoned for jury duty, simply
13 step outside, don't go too far away, okay? This will
14 probably take about 10, 15 minutes. So don't go too far
15 away. I --- I'm going to --- I'm going to need you ---
16 get you back in here at some point and give you further
17 instructions. Okay? So if you were summoned for jury
18 duty, don't leave the courthouse, just get out of
19 courtroom for a moment. Thank you.

20 (Jury leaves the courtroom)

21 THE COURT: All right. Mr. Grose. I'm assuming
22 Batson on 191?

23 MR. GROSE: Yes, sir. And I --- I don't think this
24 should be viewed in isolation all of the matters that we
25 raised in chambers. Mr. Tinsley and I told you that we

1 were uncomfortable with how sort of the super majority of
2 white people and the lack of people of color in this jury
3 panel. And when I do a rough count of the --- the 200
4 people on the list that we were given, there was over 40
5 African Americans on that list. We ---

6 (Simultaneous speaking)

7 THE COURT: My --- my calculations is 41, based on
8 my --- my count that was being done admittedly while the
9 jury was being selected.

10 MR. GROSE: Okay. Well, I --- I --- I --- the list
11 will speak for itself. I thought it may have been 42 or
12 43, but regardless, that's a solid 20 percent. And just
13 looking at census data, you know, the county's roughly
14 25 percent African American population.

15 You know, I expressed in --- some concerns in
16 chambers, not so much about how the initial list is
17 generated, because while it may be slightly all from
18 census data, of course the list that we look at is the
19 voter registration, driver's license, and State IDs. But
20 I would suggest that it's probably going to be fairly
21 close. But the --- the 200 that were summoned is not
22 very different of any significance from the population of
23 the county.

24 The concern was is the follow up that's done and
25 people being lost during the whittling-down process. And

1 I think the clerks have the ability to print this
2 information. I would like to know the list of jurors who
3 actually arrived here today, so that we can see that
4 breakdown. I'd like to know how many juror --- the list
5 of jurors survived ---

6 (Simultaneous speaking)

7 THE COURT: I --- I already have that for you, Mr.
8 Grose. That was something else I was compiling while we
9 were selecting a juror. But of those who were sent a
10 notification and no response was received --- and I'm
11 just going by a rough breakdown on --- on my list,
12 but ---

13 MR. GROSE: I don't --- I don't want a rough
14 breakdown.

15 THE COURT: Well, I'm ---

16 MR. GROSE: I want --- what I want is ---

17 (Simultaneous speaking)

18 THE COURT: I --- I have jurors numbers 2, 8, 11,
19 20, 29, 52, 72, 73, 74, 77, 84, 85, 93, 96, 101, 105,
20 109, 117, 119, 138, 140, 143, 148, 153, 155, 170, 181,
21 184, and 190 were apparently sent notification of their
22 jury duty, but no response was received back from the
23 clerk because there's no detailed information on those
24 jurors.

25 Jurors one, 66, 100, 134, 191, all did come to

1 Court. Jurors 65, 116, and 179 were excused. And again,
2 all these numbers are merely African American jurors.
3 I'm not including any other racial minorities, because I
4 think there were a few Asian, and perhaps ---

5 MR. GROSE: I think there were.

6 THE COURT: --- Hispanic ---

7 MR. GROSE: There were.

8 THE COURT: --- on there, so I'm not including that.

9 And then African American jurors who returned their
10 juror information to the clerk but did not appear, those
11 are jurors 57, 107, 112, and 145. So I've got a total of
12 41 African American jurors by my count. Three were
13 excused by the Court for various reasons. Five showed
14 up, four returned juror information but didn't show, and
15 29 did not respond to the summons at all.

16 MR. GROSE: That --- that's a problem.

17 THE COURT: And the statistics, you said, 25 percent
18 generally speaking is ---

19 MR. GROSE: --- it --- it was 25 and a number
20 following the decimal. The --- the --- the --- the
21 problem is --- is not with the original list. The
22 problem is the fact that we have lost so many people.
23 And from --- from what you're reading, you're telling us
24 that we lost 29 out of 41, or over half of that number,
25 because they didn't return their summons. And so I need

1 to know what was done. You know, when I started doing
2 this, if people didn't return their summonses, the
3 sheriff's deputy went out and served it on them. And I
4 don't think that's happening anymore. It may be, but
5 I --- I never hear about it. And --- and --- and when
6 people have returned summons and then don't show up in
7 Court, when I started doing this, a deputy went down and
8 told them to come to court, and they had to explain
9 why --- why they weren't here.

10 My view of the pool, and --- and I could be wrong,
11 but my view of the pool was is that there was three
12 African Americans left after jury qualifications and voir
13 dire. Two were African American women, and one was an
14 African American male who The State struck, and the women
15 didn't get called.

16 Mr. Tinsley says that one was excused from this
17 case, so it was one woman and one male. So one would
18 still have been here. I know that the comment was made
19 in chambers when we originally raised this concern about
20 the jury not being a cross section. The --- the comment
21 was raised that that's the risk everybody takes when they
22 ask for a jury trial. And --- and maybe there is some
23 sort of risk in there, but we don't take a risk that the
24 system is not going to make certain that everybody who's
25 summoned is --- is --- we --- we --- we don't risk that

1 the system won't make sure that everybody who is actually
2 summoned actually attends. And --- and that's what's ---
3 appears to be happening here.

4 THE COURT: According to my count of my juror list,
5 95/96 Caucasian and the one Hispanic were apparently ---
6 that's the number who were received --- the total number
7 that received summonses and either didn't respond or
8 responded. Regardless of whether they responded to the
9 clerk, they did not appear here today. And obviously in
10 the margin of the detailed list, some were excused like
11 number 15, were excused for age. SU, I assume, means
12 just summoned; is that right, Madam Clerk?

13 CLERK: (Unintelligible).

14 THE COURT: SU just means summoned.

15 CLERK: Uh-huh.

16 THE COURT: What does NRS mean?

17 CLERK: Non resident.

18 THE COURT: Non resident. They moved. They
19 contacted you and told you ---

20 CLERK: Uh-huh.

21 THE COURT: --- they moved?

22 CLERK: Uh-huh.

23 THE COURT: Okay. So, like, eight would have been a
24 non-resident. What does UTL mean?

25 CLERK: Unable to locate.

1 THE COURT: Oh, UTL, unable to locate.

2 MR. GROSE: And what is done to try to locate people
3 who are --- are summoned and don't respond to the
4 summons? I think the record needs to show that.

5 CLERK: Usually I'll go over to the administrative
6 building, and have the auditor's office to check and see
7 what's the most updated address that they have.

8 MR. GROSE: Okay.

9 CLERK: And if they don't have anything other than
10 what we do, we run it back.

11 THE COURT: What does TO stand for?

12 CLERK: Transferred out.

13 THE COURT: Transferred out? Okay.

14 CLERK: Uh-huh.

15 THE COURT: Of I'm just trying to make sure I've got
16 all the ---

17 MR. GROSE: I guess the problem that I have ---
18 and --- and I think that the computer system the clerks
19 have has the ability to --- to print a list of people who
20 showed up, people who were left after qualifications, and
21 people who were left after voir dire. Statistically that
22 20 percent should have stayed constant throughout, but it
23 didn't.

24 THE COURT: I --- I understand. And that's why
25 where I was trying to go through the numbers myself, to

1 get some sense of this. But it --- apparently of the 200
2 summoned, almost half who didn't respond or were
3 transferred out, or age, or what have you, were
4 Caucasian. 41 percent, that --- that's little --- the
5 41 percent --- or sorry, 41 African American jurors would
6 have represented, I think you're right, maybe a little
7 above 20 percent. Right around 20 percent of the total
8 summoned. But back to the --- back to the point at hand,
9 and your objection is noted. But back to the point in
10 hand, solicitor, why did you strike juror 191?

11 MR. BLACK: He has a conviction for simple assault
12 and battery from 1985, a disorderly conduct from 1989,
13 looks like a --- well, it may be the same disorderly
14 conduct, or may be --- there's two of them, there's one
15 from January 17th of '89, and one from --- sorry ---
16 September the 15th of '89. So two disorderly conducts
17 and then in 2003 has criminal domestic violence third or
18 subsequent conviction. And again, that's from July of
19 20 --- or July of 2003.

20 THE COURT: Okay.

21 MR. GROSE: So 20 years was the most recent one?

22 MR. BLACK: July of 2003, yeah.

23 MR. GROSE: All right. At this point in order to be
24 able to respond to that, Your Honor, I need to see the
25 criminal histories that have been made available to the

1 Solicitor's Office and the Court. I know you may not
2 have them, but they did make them available to you so
3 that you could question people during qualifications.
4 'Cause we need to --- we need to go through all the
5 jurors that they passed on, and see if any of them have
6 criminal histories.

7 THE COURT: Okay. According to my list, that would
8 be --- well, can you provide all those to the ---

9 MR. BROWN: Yes, sir, Judge. They're over here.
10 The one person that was put on was juror 188, last name
11 is Webb (Background noise). Had one (unintelligible)
12 conduct, did not have the other assaults. We did strike
13 the white female, juror number 186. Had fraud checked on
14 her record.

15 THE COURT: Wait. 18 --- 186.

16 MR. BROWN: 186.

17 MR. BLACK: I think her last name was Vermillion.

18 THE COURT: Correct.

19 MR. GROSE: And when --- and when --- when was that
20 conviction?

21 MR. BROWN: '95.

22 MR. GROSE: (Unintelligible).

23 THE COURT: 186 the conviction was in 1995?

24 UNIDENTIFIED SPEAKER: (Unintelligible).

25 THE COURT: Sure.

1 (Attorneys searching for documents)

2 MR. GROSE: And while they're doing that, I also
3 want to know when the conviction for number 188 was.

4 THE COURT: I was going to ask that in a second.

5 MR. BLACK: 188, according to what Mr. Brown wrote
6 down, was 2012.

7 THE COURT: And do you have the date for 186's
8 fraudulent check?

9 MR. BLACK: What he wrote down on his sheet of paper
10 was 1995.

11 THE COURT: 1995?

12 MR. BLACK: We're trying to locate the actual
13 records.

14 THE COURT: Oh, okay.

15 MR. BLACK: The same ---

16 (Simultaneous speaking)

17 MR. GROSE: I think the actual criminal histories
18 need to be put into the record. Are y'all representing
19 that nobody else that you --- that was called that you
20 didn't strike had a criminal history of any kind?

21 MR. BROWN: Web was the only person that had a
22 criminal history.

23 THE COURT: All right. That was the only person
24 with a criminal history?

25 (Simultaneous speaking)

1 MR. BROWN: --- of the others were conducts, I
2 think, as well.

3 THE COURT: Okay. And but the ones that you ---

4 MR. BROWN: Which one?

5 MR. BLACK: Can I run to the restroom, Your Honor?
6 Can we take a brief break?

7 THE COURT: Sure. When we come back, my next
8 question will be relating to the ones that you did
9 strike, if any of those had criminal histories, if that
10 was the reason for your strike. But we will take a
11 break, because Mr. Black never asks for a break, so it
12 must be urgent. We will (unintelligible) for a few
13 moments. Okay. Back on the record as soon as he gets
14 back.

15 (Off the record 3:33 p.m. - 4:07 p.m.)

16 THE COURT: And just a few housekeeping matters to
17 clean up the record. Mr. Tinsley, I assume that you join
18 in Mr. Grose's motion?

19 MR. TINSLEY: You are correct, Your Honor.

20 THE COURT: All right. The record should also
21 reflect that when juror number three was called ---
22 no --- yes. No, it wasn't juror number three. Juror
23 number one, I believe. Stacy Adams, was that the one
24 that we had the sidebar about?

25 MR. GROSE: Yes, Your Honor.

1 THE COURT: Okay. When juror number one was called
2 we had a sidebar about Ms. Adams. Did she go by a
3 different name? I don't have her in my strike list.

4 CLERK: (Unintelligible).

5 THE COURT: Oh, that's right. I --- I did --- I
6 excused her before we ever did the jury selection.
7 That's right. That was not a for cause. Okay. I'm
8 sorry. I was think ---

9 (Simultaneous speaking)

10 MR. GROSE: Yeah, that was --- that was for cause,
11 and --- and I --- and we were in agreement with that.

12 THE COURT: Right.

13 MR. GROSE: And the reason was is because her, I
14 think, daughter is a decedent in a homicide case that's
15 gotten a lot of notoriety in Greenwood that's still
16 pending. And she never said that she would be fully ---
17 when you asked her if she equivocated about whether or
18 not she could be fair under those circumstances, that
19 could go either way or both ways. I don't know. But
20 it --- that's the way the system's supposed to identify
21 those people.

22 THE COURT: Right. And I just want the record to
23 reflect what the sidebar was about as it related to juror
24 number one, but that did take place prior to selection.
25 And her --- her daughter is a homicide victim in a case

1 that is currently pending in the Eighth Circuit being
2 prosecuted by Mr. Brown. And even Mr. Brown said that
3 he'd spoken with her a couple of times. And obviously it
4 was good to go ahead and excuse Ms. Adams. The --- what
5 was the third thing for the record? Okay. It will occur
6 to me in a moment.

7 Solicitor, have you made --- or have you provided
8 and will you be making ---

9 (Simultaneous speaking)

10 MR. GROSE: Four court exhibits, and I can put those
11 on the record.

12 THE COURT: Please, go ahead.

13 MR. GROSE: And these were marked by the Solicitor's
14 Office. One is Court's Exhibit number 1, and it's for
15 juror number 186.

16 (Court's Exhibit 1 Marked)

17 MR. GROSE: Now, the conviction shows as Tanya
18 Louise Mabrey (phonetic) but it appears that all the
19 identify is similar --- identical and that --- that was
20 probably her maiden name. And this was a juror that they
21 struck. And that conviction was in 1995.

22 Juror number 188, is Court's Exhibit number 2 and
23 that shows a public disorderly conduct from 2011.

24 (Court's Exhibit 2 marked)

25 MR. GROSE: And then exhibits 3 and 4 are two

1 printouts for juror number 191.

2 (Court's Exhibits 3 and 4 marked)

3 MR. GROSE: I would ask that the Court look at the
4 case of State versus Stewart, which is
5 413 SC 308, 775 S.E. 2nd 416. It was from 2015. And
6 certiorari was denied in 2016 in the Supreme Court. This
7 was a case that was reversed because The State used
8 criminal histories to justify striking certain jurors,
9 but also sat jurors that had criminal histories that were
10 deemed to be similarly situated.

11 And that's in fact what we have here. Because
12 looking at Court's Exhibits 3 and 4, those convictions
13 are from 1985, 1989, something else in 1989, which I
14 think they said was probably the same thing, and 2003.
15 The one with the most recent conviction is juror 188 from
16 2011, that they seated. And so these three jurors,
17 particularly under the Stewart case, are similarly
18 situated and obviously they struck an African American.

19 Now, the next thing that I want to turn to is ---
20 is --- I want ---

21 THE COURT: Before you go there, Mr. Grose,
22 we're --- I'd rather do this one by the numbers. I --- I
23 think that I need to get from them an explanation as to
24 how they differentiated between the ones that were struck
25 and their rationale for doing so before we move over

1 to ---

2 MR. GROSE: I think they already gave you that
3 rationale before we broke.

4 THE COURT: I --- I --- I don't believe they ---

5 (Simultaneous speaking)

6 THE COURT: --- have. And if they did, let me hear
7 it again. Can you --- can you distinguish the reasoning
8 behind your strikes for 188, 186, and 191, please.

9 MR. BLACK: Judge, with regards of 191, those you
10 have two assault and batteries on there. This case we
11 have assaults. And so that is --- that is the most
12 similarly situated to --- to our case. And that is the
13 reason why I struck on that.

14 (Simultaneous speaking)

15 MR. GROSE: Now, I thought you were saying ---

16 (Simultaneous speaking)

17 THE COURT: Let --- let --- let --- let me --- I
18 need to hear their --- I need to hear their entire
19 explanation.

20 MR. GROSE: Okay.

21 THE COURT: Please. So 191, the assaults, because
22 of the similarity between what's charged here?

23 MR. BLACK: Yes, sir.

24 THE COURT: Okay. Continue, please.

25 MR. BLACK: And quite frankly, a disorderly conduct,

1 that is really not what we're looking at in that one. As
2 you can see with --- with the other juror we sat, number
3 four, C. Webb, juror number 188, that's really not akin
4 to this case.

5 However, fraud check, you go back to --- to --- to
6 anything fraudulent like that you go into honesty. And
7 so that's one thing that always jumps out at me, if he's
8 got like fraud check or something of that nature, they're
9 more than likely going to be struck.

10 THE COURT: And you don't have any strikes left.

11 MR. BLACK: Yeah. Here, I had tried to strike ---
12 we also struck juror number 54, Garrity. Garrity did
13 come up earlier at a sidebar. She did say she was
14 unemployed. That's one thing that always kind of lights
15 a bell, if somebody's unemployed, to get able to work.
16 But she also --- that was one of the reasons why we
17 struck Garrity for that purpose.

18 Vermillion, just to be on the --- on the --- so
19 everybody's clear on that, I think ---

20 THE COURT: Garrity is spelled, G-A-R-R-I-T-Y.
21 Juror number 54, white female, 20 years of age.

22 MR. GROSE: And she said that she was --- wanted to
23 go to California to look for a job out there. And this
24 is jury service, and you ask her to stay. I mean, we're
25 not making anything about that. But to accuse her in

1 this economy of she had worked, being unemployed and
2 wanting to go to California to look for a job. I
3 think --- I --- I think that's a little disingenuous in
4 itself. But be that as it may.

5 MR. BLACK: We need to --- let's ask them the same
6 questions why they struck their people, but that's the
7 reason why we're doing that, is a lot of times --- I'm
8 not putting her down by saying she's unemployed, I'm just
9 saying one reason why we look at. It's --- well, and she
10 had a --- a flight on Wednesday. So if anything, we're
11 doing her a solid on that one. But the main thing on
12 that is the unemployment that we were looking at.

13 THE COURT: Okay. So I do --- I do think there's a
14 discrepancy or a difference between juror 188 and juror
15 191, and it's based off of he had two convictions for
16 assaults on his record, and the others do not. And
17 that's --- that's the difference here. It's not a
18 (unintelligible) conduct, it's the difference in the
19 assaults. Okay.

20 MR. BLACK: For what we're here for is two men ---
21 two men charged with assaulting somebody else.

22 THE COURT: All right. Mr. Grose, now I'll hear
23 from you, please.

24 MR. GROSE: The next thing that I need is, I need to
25 put some information --- they need to put some

1 information in the record with regard to their training
2 materials. I know from other cases that at least
3 historically, the solicitors have done trainings and have
4 published a desk book that at least implies --- it
5 doesn't outright instruct that you can strike African
6 Americans, but you just have to keep it under these list
7 of cases where courts have found that on appeal to be
8 satisfactory.

9 And I don't know what's currently being taught, but
10 I have viewed some of these materials in my
11 representation in --- in --- in one of capital cases.
12 And if that is, in fact, still being taught, then I think
13 that they need to put a copy of that desk book and any
14 other training materials that they have on jury selection
15 into the record for review.

16 MR. BLACK: Judge, I've never been taught that. I
17 don't think any prosecutor in this state teaches that.
18 So I don't --- I don't know where that comes from. I've
19 never been told that. I've been a prosecutor for
20 14 years, and that has never been taught.

21 MR. GROSE: And --- and then they --- they should
22 have no objection to put a copy of the desk book into the
23 record then.

24 MR. BLACK: I don't have the rights to that desk
25 book. The prosecution commission down in Columbia does.

1 I can't turn that over without the copyright. It's all
2 copyrighted, so I can't ---

3 MR. GROSE: Well, I think the ---

4 MR. BLACK: --- turn that over.

5 MR. GROSE: --- the fair use would --- would apply.
6 But he can certainly give you the copy of his book that
7 he was given, and let you do an in camera review of it.

8 THE COURT: Okay. I think that they may copy me as
9 well on it. And honestly I don't know that I've ever
10 really looked at it, but I think it's in CD-ROM form back
11 at my office. And of course, unfortunately, my computer
12 does not have the capacity to play a CD-ROM anymore.

13 MR. GROSE: I got a external hard drive I'd let you
14 borrow.

15 THE COURT: I appreciate the offer. I imagine that
16 we can figure out some way to --- it may very well be
17 copyrighted, but my --- my belief is that fair use would
18 apply at least to that section that relates to jury
19 selection. So perhaps in the coming days if that could
20 be made available to the Court and made a court's
21 exhibit. Let me hear about this specific case, Mr.
22 Grose, we're at step --- we're at step three. So ---

23 MR. GROSE: We're --- we're ---

24 THE COURT: Pretext is what the Court is --- would
25 be concerned with at this point.

1 MR. GROSE: Well, we were at step three, and we've
2 identified similarly situated jurors, one who was a white
3 juror that was seated, and one who was a black juror who
4 was excluded. And again, I would refer Your Honor to The
5 State versus Stewart. Do you need me to give you that
6 cite again?

7 THE COURT: No, I have it.

8 MR. GROSE: I mean, it --- it --- it --- it seems to
9 be on all fours with this situation. In fact, that and
10 The State was trying to justify why they struck certain
11 people with criminal histories and sat certain people
12 with criminal histories.

13 THE COURT: Okay. Solicitor, do you want to address
14 Stewart?

15 MR. GROSE: State versus Stewart, it's
16 413 SC 308, 775 S.E. 2nd 416. And Stewart, because it can
17 be spelled different ways, is S-T-E-W-A-R-T.

18 MR. BLACK: What was the question again?

19 THE COURT: Did you wish to address Stewart?

20 MR. BLACK: Well, I think --- I think the ones that
21 they didn't strike in that, there was --- I think the
22 jurors 33 and 101 in Stewart, they were all are charged
23 with some type of assault, it seemed like the ones that
24 weren't struck, or some were struck and the others
25 weren't struck. But they were all --- they all had some

1 type of assault. Yet, they null processed, I believe.

2 MR. GROSE: Well, and I've had, you know, public
3 disorderly conducts that involve assaults. I --- I don't
4 think they could stand up here and categorically say that
5 that didn't involve an assault.

6 THE COURT: Okay. Well ---

7 MR. BLACK: I just go based off what's on the
8 criminal history. And I don't have the --- the case
9 file. I just see a conviction for domestic violence and
10 assault and battery. And then I also have ---

11 MR. GROSE: And --- and the domestic violence could
12 not have involved any kind of bat --- a battery, and the
13 public disorderly conduct could have. I mean, if you're
14 just going by what it is is they're similarly situated,
15 and there's no way to distinguish them other than a
16 strike based on race.

17 THE COURT: Well, and just so that the record's
18 clear, I think you alluded to this momentarily, but when
19 you struck juror 188, that was the fourth juror called.
20 Three had been seated. And when you struck juror 186,
21 you had burned your first strike on the previous juror,
22 number 80. And then you exhausted your strikes.

23 MR. GROSE: No, they didn't exhaust their strikes.

24 THE COURT: Or, no, wait. You did not, because
25 yeah, State's three and four were with jurors 89 and 54.

1 They were 17th and 18th juror called.

2 MR. GROSE: And --- and --- and this is why we also
3 approached on a sidebar so that the record was clear that
4 they had ten strikes. And by my count they only used
5 four. And at the sidebar, I indicated I would like to
6 have two alternates if at all possible, and that perhaps
7 they needed to be very reserved in their strikes.

8 THE COURT: Well, and --- and --- and ---

9 MR. GROSE: --- they had six left.

10 THE COURT: Okay.

11 MR. GROSE: And ---

12 THE COURT: I --- at the same time I didn't know how
13 many y'all were going to use. Solicitor, was there
14 anything else you wanted to say concerning ---

15 MR. BLACK: Judge, I think ---

16 THE COURT: Yes.

17 MR. BLACK: --- looking at Stewart, I think
18 there --- there is a difference between Stewart and here
19 today in the --- in the fact pattern and what people are
20 charged with. I believe in Stewart, again, they --- one
21 juror had assault and battery with intent to kill that
22 was no pros. Another juror had a conviction for an
23 arrest for bad checks and simple assault.

24 So I think all of those in that case had some type
25 of assault conviction or a no pros, but it still showed

1 up on their criminal history.

2 THE COURT: Let me ask you this, because this was
3 done previously with --- with judges that I know. We ---
4 we are talking about an alternate. If we were to use an
5 alternate, they'd be selected at random. Does The State
6 object to the Court allowing Mr. Wharton instead of Mr.
7 Davis to serve as an alternate? Because if The State
8 does not object, then as I see it, the issue goes away.
9 And I'd simply replace Mr. Davis with Mr. Wharton.

10 MR. BLACK: What --- what number was Davis, Your
11 Honor?

12 THE COURT: Davis was the last one, 38.

13 MR. BLACK: 38.

14 THE COURT: Because I'm hearing that they would have
15 sat Mr. Wharton as the second alternate had you not
16 struck him.

17 MR. GROSE: That's correct.

18 THE COURT: And so problem goes away --- issue goes
19 away entirely if The State would be inclined to allow him
20 to sit. And I simply ask that questions not intending to
21 encourage you one way or another, but throw out that as a
22 possibility.

23 MR. BLACK: Well, Judge, we can have three
24 alternates.

25 MR. GROSE: No, it would be ---

1 THE COURT: We've got two.

2 MR. GROSE: --- two.

3 MR. BLACK: I --- it --- it --- if it's going to
4 make this case move ahead, that's fine with us. I
5 don't --- it, you know, nothing's based on race on this.
6 It's based on two prior convictions for assaults. And we
7 have two fellows here that are charged with assaults.

8 THE COURT: And I -- I agree with you, Solicitor, I
9 understand what you're telling me. As a practical
10 matter, I would prefer for juries to be racially
11 balanced, if for no other reason --- and I'm sure that we
12 all agree with this --- but if for no other reason than
13 perception. Okay? And obviously, it's always best to
14 have as wide a cross section of the community if at all
15 possible.

16 In this case I'm not finding that there was anything
17 nefarious with the selection of the jury by the clerk, or
18 the way it was generated. And I'll be making my --- I've
19 already written at the top of my detailed list --- the
20 Court's detailed list, it's in blue. I'll be making that
21 a part of the record as well as the Court's strike sheet
22 as soon as I've finished this.

23 But if the State has no serious objection to this,
24 and would be interested in the issue basically going
25 away. I'll simply have them come back in here and put

1 Mr. Wharton on and take Mr. Davis off.

2 MR. BLACK: And Judge, I'm kind of just thinking out
3 loud, but the other female that was sitting over here
4 that I don't think had a record that we --- we're not
5 opposed to her.

6 THE COURT: I --- I know. I'm --- I'm talking about
7 a solution to a problem and negating an appellate issue.

8 MR. BLACK: Yes, I understand.

9 THE COURT: And --- and please understand,
10 gentleman, I've worked with you both, and I --- I ---
11 I --- your character and your credibility are great with
12 this Court, and I do not believe for a moment that you
13 would be --- that you would be racist in your personal or
14 professional lives in any way, shape, or form, but the
15 record is what the record is.

16 And I used to work with Barbara Drayton, and she was
17 African American, and she worked at the Solicitor's
18 Office. And she always found it irritating when she and
19 I tried case --- cases together, that --- that Mr.
20 Tinsley's father might dare make a Batson motion with Ms.
21 Drayton being African American. But she took it
22 professionally. We good?

23 MR. BLACK: If it's going to make this case go
24 forward, I just want --- and I don't know how I could be
25 more clear on the record. I think there is a

1 distinguishable characteristic between these two and
2 Stewart.

3 THE COURT: I --- I --- I think there is too.

4 MR. BLACK: And quite frankly, there were seven
5 white folks that were struck by the defense. And ---

6 MR. GROSE: And for the record, we were not
7 presented with a single black folk --- black person, that
8 could have struck. That --- that is a hugely
9 disingenuous argument on their part.

10 THE COURT: I --- I --- I'm not inquiring of any
11 reasons for you --- the defense strikes. I --- I --- I'm
12 not going there. If The State objects or me --- or has a
13 problem, with me putting Mr. --- all that said, okay,
14 Solicitor, if --- if you got a problem with me putting
15 Wharton back on there, forget objection, but if you got a
16 problem, tell me and --- and I'll --- I --- I --- I'm
17 looking to preclude issues down the line.

18 MR. BLACK: Judge, just to get this case moving, it
19 is fine by us.

20 THE COURT: Good enough. Let's have the jury panel
21 come back in and bring them back in first --- well, yeah,
22 bring them back in first. Okay.

23 (Jury panel returns to courtroom)

24 THE COURT: Okay. We'll get back on the record.
25 Quick question, who --- where --- who is juror 191,

1 Phillip Wharton? Mr. Wharton, where are you?

2 THE JUROR: Me?

3 THE COURT: Yeah, Mr. Wharton. Hey, can you stand
4 up, please for me? All right. Mr. Wharton, you're going
5 to actually be the alternate. Okay? I'm going to put
6 you on as alternate. There was a mistake made in terms
7 of selection. Can you hear me okay?

8 THE JUROR: Huh?

9 THE COURT: Come down here. Can --- can you hear me
10 okay, Mr. Wharton?

11 THE JUROR: Yeah, I --- I could hear with one ear.

12 THE COURT: Okay. You can only hear out of one ear?
13 Okay. Can you hear me now?

14 THE JUROR: Yes.

15 THE COURT: Okay. Mr. Wharton, have you been able
16 to hear everything that's been going on in the courtroom?

17 THE JUROR: Some of it.

18 THE COURT: Some of it? Okay. Come a little ---
19 step around and --- Yates, give him a microphone so that
20 we can make sure this all gets down. Okay. You --- you
21 just stand right there, Mr. Wharton. Okay?

22 THE JUROR: Uh-huh.

23 THE COURT: You've been having trouble hearing, Mr.
24 Wharton?

25 THE JUROR: I got a growth in the ear.

Proceedings

1 THE COURT: A --- a what, sir?

2 THE JUROR: A growth.

3 THE COURT: A growth in your ear? And you only have
4 one good ear?

5 THE JUROR: I can hear, but not good at this.

6 THE COURT: Okay. Have you been able to hear
7 everything that I've been saying while this case has been
8 going on?

9 THE JUROR: Some of it.

10 THE COURT: Some of it? Okay.

11 THE JUROR: No, some. I reckon.

12 THE COURT: Some --- some you reckon? Okay. All
13 right. Just --- just have a seat, Mr. Wharton, and let
14 me ---

15 THE JUROR: Oh.

16 THE COURT: Let me see you all down here okay?

17 THE JUROR: I'm okay.

18 THE COURT: Yeah, you're just --- yeah, you're fine
19 there.

20 THE JUROR: I don't have done nothing wrong.

21 THE COURT: No. No. You're good. You're good.
22 You didn't do anything wrong, Mr. Wharton. Don't worry
23 about it. All right? Don't worry about it.

24 (Sidebar conference)

25 THE COURT: All right. Mr. Wharton, you rejoin ---

1 you rejoin the jury pool, okay, sir?

2 THE JUROR: Huh?

3 THE COURT: You can rejoin the jury pool. Okay, Mr.
4 Wharton? Just go ahead and sit out there. Okay?

5 THE JUROR: Oh, okay.

6 THE COURT: All right. Thank you, sir. Yes, sir.
7 All right. Ladies and Gentlemen of the jury panel, sorry
8 that took so long. Lawyers can't tell time. We're not
9 good at that. I thought it would take 15 minutes, it
10 took an hour. They're good for the week, solicitor?

11 MR. BLACK: Yes.

12 THE COURT: All right. Congratulations, you have
13 fulfilled your requirement of jury duty for the Court of
14 Common Pleas and the Court of General Sessions for the
15 next three years. All right? So if you get summoned by
16 your very nice clerk of Court for the --- this year, next
17 year, or 2025, you can let her know that in --- sorry,
18 September of 2023, you showed up here. She'll check her
19 records, you won't even have to appear. Okay? So three
20 years of getting out of juries free exemption. All
21 right?

22 So with that Ladies and Gentlemen, I'm not going to
23 keep you any further. Your checks are in the mail, 15
24 bucks?

25 CLERK: Uh-huh.

1 THE COURT: 15 whole dollars. Woo. All right.
2 Yeah. Lovely. Okay. With that, blow it, and I don't
3 know, get a six pack or something. Okay? Watch it over
4 this weekend's game with Clemson and --- and USC. I hope
5 you all have a wonderful --- wonderful week.

6 I do hope at some point in the future you have an
7 opportunity to serve on a jury. I've got --- I've had
8 friends who have --- who have served before and they've
9 actually found the --- the experience quite rewarding.

10 Because I'm employed within the walls of the
11 courthouse, I'll never get that chance. Okay? I'll
12 never have that opportunity in my life. But I hope that
13 at some point in time you do have a chance. Because I
14 think it was Churchill who said, aside from serving your
15 country in uniform during time of war, there's no greater
16 service that a citizen can give to their nation than to
17 serve on a jury. So I --- I agree with that and hope you
18 do have a chance in the future.

19 All right. If you get summoned for Magistrate's
20 Court, City Court, or Federal Court, the exemption
21 doesn't apply. It's only good in the Court of Common
22 Pleas or General Sessions. Make a mental note of that.
23 Enjoy your trip to California. Good luck on the job hunt
24 out there. And y'all have a wonderful week. Okay? Take
25 care of yourselves. You are excused. Thank you.

1 (Jury panel exits courtroom)

2 THE COURT: All right. The record will reflect that
3 in conversing with Mr. Wharton, I think it already
4 reflects that Mr. Wharton was extremely hard of hearing,
5 that did not come to the attention of the Court,
6 obviously, until the Court was toying with the idea, or
7 looking to put him on in order to --- to address the ---
8 the alleged Batson violation. He obviously remarked that
9 he only heard some of what was said during the course of
10 voir dire.

11 Mr. Grose did indicate that in other cases, judges
12 have made accommodations to people who are hard of
13 hearing. And I'm certainly open to such an accommodation
14 if feasible. But based on Mr. Wharton's difficulty
15 hearing me, and based upon the fact that I could not be
16 sure that he had heard all the voir dire, that he had
17 heard all the names of the witnesses called, that he had
18 been able to physically answer correctly, I went back on
19 my initial idea of sitting him as an alternate juror.

20 And the Court does find that the State's stated
21 reasons for excusing the jurors that they excused were
22 not pretext. There was no Batson violation, there was no
23 discrimination. The fact that juror 191 had previously
24 been convicted of several assaults as well as other
25 crimes and because this is an assault case as well, that

1 is a --- the Court finds that that is a racially neutral
2 reason to strike him.

3 And that the seating and --- or that the seating of
4 juror 188, that that was because she had that disorderly
5 conduct conviction that the strike against juror 191 was
6 not pretextual. It's an apples and oranges comparison in
7 this Court's mind.

8 And of course I've had a chance to consider the
9 credibility of the proponents of the strike. And do find
10 that there are reasons for excusing the jurors that they
11 excused. I do find that those were valid and not in
12 violation of Batson. Obviously fraudulent checks as we
13 used to describe it is a crime of moral turpitude and in
14 involves dishonesty. That's a different animal from a
15 simple disorderly conduct where maybe somebody's had a
16 little bit too much to drink. But obviously the
17 defendant's objection is noted.

18 And the Court wishes to note that as a practical
19 matter, juror 191 was --- may not be a --- may not have
20 been as deaf as a fence post, but he was darn --- darn
21 close. So there we go.

22 Mr. Tinsley and Mr. Grose, your objection is noted.
23 And I will still make my random strike sheet and detailed
24 list a part of the record. My intention is to bring the
25 jury out and release them until tomorrow morning at 9:00.

1 I'll have them report back to the grand jury room. And
2 maybe we can just put a few things on the record that we
3 had discussed in chambers, and then break for the day if
4 we --- if at all possible.

5 Okay, gentleman? Is that time frame okay with
6 everybody?

7 MR. GROSE: Yes, sir.

8 THE COURT: All right. Let --- excuse me. Let's
9 have the jury back, please.

10 (Jury returns to courtroom)

11 THE COURT: All right. Juror --- jurors are back.
12 Ladies and gentlemen of the jury, don't get too --- too
13 comfortable.

14 You're Mr. Davis and Mr. Hunter? Okay. Gentleman,
15 y'all are the alternates, you'll stay in those seats.
16 I'm going to appoint a foreperson tomorrow.

17 I apologize for keeping you back there so long, but
18 there was a --- a matter that needed the Court's
19 attention and it took much longer than I had anticipated.
20 That was my fault and was not the parties' fault.

21 I'm going to go ahead and let y'all go for the
22 evening because there's a few housekeeping matters that I
23 want to attend --- attend to involving this case. And
24 hopefully, that can help expedite the presentation of
25 this case in the coming days.

1 Ladies and Gentlemen, while you're on break, any
2 time that you're on break, you're going to hear me say
3 several times during the course of this trial, don't
4 discuss the case. Okay? That specifically goes for
5 tonight. And that should be a very easy thing for you
6 to --- for you to do, because you don't know anything
7 about this case. All right?

8 So this evening when you go home if your wife,
9 husband, significant other, whoever you share a room ---
10 roof with, if they ask, did you get picked on a jury?
11 You can say, yeah, I did get picked on a jury. If they
12 then ask you what kind of case is it? Say I really don't
13 know, because I haven't heard the first bit of evidence.

14 And understand that the reason that you're not
15 supposed to talk about this case, not even among
16 yourselves until it's all over with, the reason for that
17 is, Ladies and Gentlemen, you're the ones that are going
18 to be making this decision, not friends, family members,
19 not loved ones. Okay? It's your call to make and that
20 call cannot be influenced by anything that you hear
21 outside the courtroom, or any discussions that you may
22 have with the ones that you love. All right?

23 If you could, when you return tomorrow morning, come
24 back at about 9:30. Be back at 9:30. And simply report
25 to the grand jury room that is right out there in the

1 corner --- the grand jury room is still right out there
2 in the corner, right?

3 CLERK: Yes.

4 THE COURT: Okay. Big room right out there in the
5 corner. It's got some maps on the wall and a few things.
6 Should be very comfortable for you. Go there first in
7 the event that I'm still doing some pretrial stuff on
8 this.

9 Okay. I hope to get you back in here as soon as
10 possible, but just go to that room first, and that way
11 you won't have to walk through the courtroom and
12 interrupt us if we're still dealing with other issues.
13 All right?

14 I hope you have a pleasant night. Enjoy yourselves.
15 Be back tomorrow morning at 9:30, and don't talk about
16 the case with anyone. See you all in the morning. Thank
17 you. You're excused.

18 (Jury leaves courtroom)

19 THE COURT: All right. The jury is out. Solicitor,
20 we did discuss Bruton in chambers. We discussed the
21 initial videos of the officers who arrived. And I think
22 I've made my --- my point known as far as those are
23 concerned, or made my opinion known as far as preventing
24 any sort of hearsay information from those --- from those
25 videos of the responding officers. Are we good on that

1 or do we need to put anything else in the record?

2 MR. BLACK: I think as far as the responding
3 officers, I --- we can agree those to play those muted,
4 that's not an issue.

5 THE COURT: All right. The other interview Bruton,
6 are you going to be in a position or is your investigator
7 going to be able to edit that in such a way that we have
8 no concern about --- about any sort Bruton issues arising
9 during the ---

10 MR. GROSE: Oh, I don't think that you resolved
11 those issues, because I had objections to portions
12 they're wanting to play.

13 THE COURT: Okay. What --- what objections?

14 MR. GROSE: Well, the --- the interview ---
15 in-custody interview that was done at the police
16 department of the what they have state --- stated that
17 they want to play, is parts where Travis talks about the
18 reason that Tobias was assaulted was because Tobias had
19 broken into --- burglarized Ken's apartment. He refers
20 to him, I think, as my "nephew." He may refer to him
21 as --- as Ken, but, you know, they're going to turn
22 around and argue that that's some sort of --- of motive.

23 And, you know, if Travis doesn't testify, you know,
24 we're in a position where we don't get to cross-examine
25 him and confront him about why he would make those kinds

1 of statements. So I --- I think ---

2 THE COURT: The person whose home --- the person
3 whose apartment was broken into is related to the
4 defendant's how?

5 MR. GROSE: Well, it's my client.

6 THE COURT: Your client's apartment was broken into?

7 MR. GROSE: Right.

8 THE COURT: Oh, okay. I misunderstood you.
9 Then ---

10 MR. BLACK: I think it was a --- technically, it was
11 under the girlfriend's name, but I think Mr. Grose's
12 client stayed there quite a bit.

13 THE COURT: Okay. I --- I may have misunderstood
14 what I initially heard in --- in chambers. How do
15 you --- how do you plan on addresses that?

16 MR. BLACK: Judge, I don't necessarily think it
17 rises to the level of Bruton, and maybe the best thing to
18 do is to view the video. I know that Investigator Wilke
19 (phonetic) dropped off the disc by your office last week.
20 And I guess you haven't had a chance to look at it. But
21 it's really --- I think the video starts at 9:06:15. And
22 we planned on cutting it off at 9:09:45. So really we're
23 just playing the first three minutes.

24 And I guess the part that's in question is
25 Investigator Balchin asked a question to Mr. Travis Lee,

1 Mr. Tinsley's client, what was it over? And Travis Lee
2 said it was over a break-in. He said he broke into my
3 nephew's house.

4 Then the question was, who's your nephew? And he
5 responds, Kendrick Lee.

6 And he asked where was it at? He said in the
7 village, which is the Hickory Heights Apartments.

8 And then the next question was, was it reported?
9 The answer was, yes, the owner of the house reported it.
10 That --- that would be Myeshia Cox. And I believe he
11 says that's the girlfriend of Ken --- Ken Lee.

12 And then the next part is, it's Myeshia's apartment,
13 but he stays there with her is what Mr. Travis Lee said.

14 And then Investigator Balchin asked what was taken.
15 Travis Lee says, Tobias stole money and a PlayStation 4
16 and some other stuff.

17 And then there's a talk --- they're --- they're
18 talking about the cameras. And then at that point,
19 question is, you and Tobias were in the parking lot
20 talking and then all of a sudden you grabbed Tobias'
21 right arm. And then Mr. Travis Lee says yes, sir.

22 And then the next question is, where we --- before
23 the next question is where we plan on cutting it off.
24 And that question is: Why did you grab Tobias? And
25 that --- that says my nephew was looking for him. That

1 was Travis Lee's statement.

2 So we plan on cutting it off before that next
3 question.

4 THE COURT: Okay.

5 MR. BLACK: And so our position is, I guess just to
6 sum it up, is him talking about what this whole thing was
7 about doesn't rise to the level of Bruton.

8 (Simultaneous speaking)

9 MR. BLACK: Because he's not say --- he's saying ---
10 he's not stating that Ken Lee assaulted Tobias in any
11 way. He's not saying I --- you know, I watched him, or
12 I --- any --- any part of an assault, he's just saying
13 something about a break-in at this house.

14 THE COURT: Okay. If it's only three minutes, I may
15 need --- I think it --- if that's the only clip
16 that's --- the only portion of that clip that's being
17 objection --- objected to, I can --- I can maybe figure
18 out some way to get it played tonight or maybe I can just
19 look at it on your laptop tomorrow before we start.

20 You anticipated this testimony coming --- or this
21 video being played when?

22 MR. BLACK: Probably ---

23 THE COURT: Tomorrow or the next day? Or later?

24 MR. BLACK: --- a little bit later, maybe Tuesday,
25 or tomorrow afternoon.

1 THE COURT: Okay. And again ---

2 MR. BLACK: I'm still --- I'm still trying to work
3 on that.

4 THE COURT: Sure. And, again, Travis Lee says ---
5 does he ever use the word "we"? So ---

6 MR. BLACK: No, sir. In --- in fact, he never
7 implicates really Kendrick at all, other than the fact
8 that --- he says I don't know what he did. He --- he
9 never says, yeah, Kendrick was over there beating the
10 snot out of him. Nothing to that effect. He says, I
11 don't know what happened, I didn't see anything.

12 THE COURT: Okay. I don't know what happened. I
13 don't ---

14 MR. BLACK: But I --- I think we're getting --- I
15 think it gets into a little bit of gray area. That's why
16 we're wanting to stop it at this point. But him simply
17 identifying who lifted where and what was going on, I
18 don't think rises to the level of Bruton.

19 MR. GROSE: Well, I --- I --- I think they take us
20 for being gullible, Judge. Because they're going to
21 argue number one, that these people know each other, that
22 that's the --- the agreement, hands of one, hands of all
23 that --- that they're related. They're going to argue
24 that this is a motive. And they're going to argue not to
25 believe Travis when he says he doesn't know what Ken did

1 or didn't do. I --- I just ---

2 THE COURT: Well, that --- that wouldn't come in.

3 MR. GROSE: Huh?

4 MR. BLACK: I don't think that would come in.

5 MR. GROSE: Well, no, you're going to argue. You're
6 going to make that argument to the jury. But regardless
7 of whether --- you're going to make that argument to the
8 jury based on the little bit that comes in.

9 THE COURT: Well, it --- it depends --- I mean, as
10 far as motive, I don't know if you have other witnesses
11 that will be able to testify as to the fact that
12 Kendrick --- and I'm going to just use their first names
13 to make it clean, but do you have other witnesses that
14 were going to testified as to Kendrick's residency at
15 that apartment? Or was it solely based on the --- the
16 testimony of Travis that you were seeking to establish
17 that fact as far as motive is concerned?

18 MR. BLACK: I'm sorry, I --- can you ask the
19 question again?

20 THE COURT: And I --- I need to look at the video.
21 But did --- do you have other witnesses that you
22 anticipate establishing that Kendrick lived at that
23 apartment, independent of Travis?

24 MR. BLACK: I believe Mr. Hughey testified to that.

25 THE COURT: Okay.

1 MR. BLACK: And I --- so I believe several witnesses
2 that --- that live out there will be able to say that he
3 lived out there ---

4 THE COURT: Okay.

5 MR. BLACK: --- stayed out there quite a bit.

6 THE COURT: And --- and I --- Mr. Hughey is going to
7 identify these gentleman as being the ones who assaulted
8 him, I assume?

9 MR. BLACK: Yes, sir.

10 THE COURT: Okay.

11 MR. GROSE: The only difference of course is I get a
12 chance to cross-examine them ---

13 (Simultaneous speaking)

14 THE COURT: No, I --- and I get that. I get all
15 that. I'll --- let me look at the first three minutes
16 tomorrow morning. Okay? That'll only take me three
17 minutes and I can make a call based on that.

18 MR. BLACK: Yes, sir.

19 THE COURT: But it sounds like you're cutting it off
20 at about the right spot. I just want to make sure that
21 there's not any sort of, you know, "we," using the first
22 person plural that --- that could have an implication.
23 I --- I --- I want to just make sure exactly how he
24 describes how this went down.

25 MR. BLACK: Yes, sir.

1 THE COURT: Then we can take that from there.

2 MR. BLACK: And then the --- there is the other
3 video, but again, what we want to play is a pretty short
4 portion. The other video is when Mr. Travis Lee gets
5 arrested. Miranda's read kind of right off the --- right
6 off the (unintelligible). And then you skip forward
7 about another nine minutes, and he --- Travis Lee states
8 the only thing that you're going to get me with is this
9 right here. And then he touches Investigator Balchin's
10 arm, demonstrating a holding motion. And then the ---
11 the very next line, they're --- they're --- he says
12 something about Ken Lee will tell you I didn't do this or
13 something along those lines. Of course we wouldn't ---
14 we would not play that.

15 THE COURT: Okay.

16 MR. BLACK: We think that is a Bruton issue.

17 MR. GROSE: And I'm just going to state here as I
18 did in chambers that there's a very fine line between
19 them playing that and it mistakenly getting in front of
20 jury. And I want to take precautions, which is why I
21 suggested that they ought to have it edited. I want to
22 take precautions that it --- it doesn't come out
23 inadvertently.

24 THE COURT: No I --- I understand. And I'm assuming
25 if they don't edit it they're going to be very, very

1 careful about when it gets cut off and --- and they've
2 got that down to seconds on the tape.

3 In chambers, Mr. Tinsley, you indicated you did not
4 feel a Jackson v Denno was necessary as far as your
5 client's statements?

6 MR. GROSE: That's correct, Your Honor.

7 THE COURT: All right. You have another thought,
8 Mr. Brown?

9 MR. BLACK: I was just going to put that on the
10 record that he does not feel the need to Jackson v Denno.

11 THE COURT: Okay. Very good.

12 Your clients have been out on bond ever since all
13 this happened; is that correct?

14 MR. GROSE: Well, since early spring, roughly, of
15 2021.

16 THE COURT: All right.

17 MR. GROSE: So four or five months, maybe six in
18 jail, and they've been out ever since.

19 THE COURT: All right. Y'all haven't had any
20 reports of any issues connected with the defendant in
21 this case? Any threats? Any issues like that?

22 MR. BLACK: Not --- not directly. Some kind of
23 beating around the bush, but nobody's directly said that,
24 you know, these two guys said X, Y, and Z. Don't believe
25 so.

1 THE COURT: Okay. Well, and gentleman, I'm going to
2 let y'all stay out on bond. Okay? Don't contact Mr.
3 Hughey, don't have anybody else contact Mr. Hughey. Not
4 that you would do such a thing, but understand that if it
5 gets back to me that there was some effort made to
6 contact Mr. Hughey, or hurt him, or whatever, I can put
7 you right back in jail.

8 I'm hearing that you haven't gotten in trouble
9 again. Gentleman, I don't want to lock you up
10 unnecessarily; you hear what I'm saying? Okay? We good?
11 All right.

12 You have to be back here --- is --- is that okay,
13 Mr. Lee? You're not looking at me.

14 THE DEFENDANT: (Unintelligible).

15 THE COURT: Do we understand each other?

16 THE DEFENDANT: Oh, yes, sir.

17 THE COURT: All right.

18 MR. BLACK: Judge, I --- I did forget Mr. Ken Lee
19 actually got arrested maybe a month or two ago for a drug
20 charge, I believe.

21 THE COURT: All right. Well, he made bond on that?

22 MR. BLACK: Yes, sir.

23 THE COURT: All right. The --- the case will go on
24 tomorrow morning whether y'all are here or not. So be
25 sure you're here at 9:30. Your lawyers don't need to

1 defend an empty seat. Okay, gentleman?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: All right. Anything else for the
4 evening? No?

5 MR. BLACK: Not for us, Judge.

6 THE COURT: All right. Very good.

7 MR. GROSE: I just want to make sure that that ---
8 you have a chance to review that desk book before we
9 swear the jury.

10 THE COURT: Can you find me a --- can y'all find a
11 copy of that somewhere?

12 MR. BLACK: All I have is a 2015 desk book.

13 MR. GROSE: Well, I mean, that's --- that suits me
14 if that's ---

15 (Simultaneous speaking)

16 THE COURT: If you've got the 2015 ---

17 MR. GROSE: --- the one that they have.

18 THE COURT: --- I'll take the 2015. And just that
19 part on jury selection.

20 MR. BLACK: I'll try to see if I can get it printed
21 off.

22 THE COURT: That would be great. A hard copy would
23 be easier to make a part of the record, obviously. All
24 right.

25 MR. BLACK: Can we ---

1 THE COURT: Yes, sir.

2 MR. BLACK: I was thinking --- well, you know, just
3 kind of what we've been told, can we seal that? Can we
4 put the desk --- I mean obviously, you would look at it
5 and ---

6 THE COURT: I'll --- I'll look at it, I'll let them
7 look at it, and if you're really worried about
8 copyrights, I'll seal it and --- and the Appellate Court
9 can unseal it, but ---

10 (Simultaneous speaking)

11 MR. GROSE: --- I just say that the prosecution
12 coordination commission in this other litigation I'm
13 involved in couldn't figure out whether it was protected
14 by copyright or work product, which are the exact
15 opposite of each other. Copyright is protected when it's
16 public and work product is protected when it's not
17 public. So ---

18 THE COURT: They --- they've typically been sharing
19 it with me, so I ---

20 MR. GROSE: I ---

21 (Simultaneous speaking)

22 THE COURT: --- don't know that it would be work
23 product.

24 MR. GROSE: --- anything if they done that.

25 THE COURT: They --- they --- they share it with

Proceedings

1 most judges, I think.

2 MR. GROSE: Well ---

3 THE COURT: But out of an abundance of caution,
4 we'll take a look at it and we'll seal it. That's fair.
5 Have a good evening. See you all in the morning. Take
6 care.

7 MR. BLACK: Thank you, Your Honor.

8 (PROCEEDINGS CONCLUDED AT 5:04 P.M.)

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CERTIFICATE OF TRANSCRIBER

I, JEANNE MELDRIM, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of CIRCUIT COURT 8 for ABBEVILLE COUNTY, South Carolina, on the 25th Day of September, 2023.

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

January 12, 2024

A handwritten signature in black ink that reads "Jeanne Meldrim". The signature is written in a cursive, flowing style with a prominent dot above the 'i' in "Meldrim".

Jeanne Meldrim

Transcriber

STATE OF SOUTH CAROLINA) IN THE CIRCUIT COURT 8
COUNTY OF ABBEVILLE) DOCKET NO. 2021-GS-01-00215
2021-GS-01-00214

STATE OF SOUTH CAROLINA,)
Plaintiff,)
versus)
TRAVIS A. LEE AND)
KENDRICK MONTREZ LEE)
Defendant.)

H E A R I N G

PRESENT: Travis A. Lee and Kendrick Montrez Lee
DATE: September 26, 2023
TIME: 9:36 a.m. - 1:32 p.m.
LOCATION: South Carolina Circuit Court 8
JUDGE: Frank R. Addy, Jr.
TRANSCRIBED BY: Jeanne Meldrim

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EXHIBITS

STATE'S EXHIBITS

Number	Description	Marked	Entered
1	Video (not transcribed)	54	55
2	Photo	54	55
3	Photo	54	55
5	Video	65	66
6	Search form	78	79
7	Search form	76	78
8	T Lee interview (not transcribed)	4	77
10	Video	92	95
11	Video	92	95
12	Video	92	95
13	Video	92	95
14	Video	92	95
15	Video	92	95

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

1 THE COURT: I think Mr. Grose's client is coming up
2 at the moment. We have Mr. Tinsley's client here, but in
3 the interest of efficiency and time, I'm going to go
4 ahead and take a look at the video portion that the
5 solicitor wanted me to see and that the defense counsel
6 wanted me to see. And it can also be with a dry run for
7 when it's played for the jury.

8 What are we --- what --- which exhibit is this and
9 what am I looking at again, Mr. Black?

10 MR. BLACK: It hasn't been marked yet, but I can
11 mark it. You want me to mark it as a Court's exhibit or
12 State's?

13 THE COURT: State's probably.

14 MR. BLACK: We'll mark it as State's Number 8. And
15 this is an interview with Travis Lee at the Abbeville
16 Police Department.

17 (State's Exhibit 8 marked)

18 THE COURT: Okay.

19 (Video playing)

20 MR. BLACK: So that's where I plan on stopping it,
21 Judge Addy, that 9:09:45.

22 THE COURT: All right.

23 MR. BLACK: Because the next question is why he
24 grabbed Tobias. And he says my nephew was looking for
25 him.

1 THE COURT: Okay.

2 MR. BLACK: And then the dialogue kind of shifts to
3 not necessarily what he was doing, what Travis Lee was
4 doing, but kind of what they were doing together.

5 THE COURT: Okay. Is there any other portion of
6 this interview that you intend to play?

7 MR. BLACK: I don't think so. I think it kind of
8 just --- it starts getting intermingled and I think it
9 would be too tricky try to slice it up at that point.

10 THE COURT: Okay.

11 MR. BLACK: There is another portion of the --- the
12 video --- and I don't know if they have any objection to
13 that --- out on scene, but we ---

14 THE COURT: Out on ---

15 MR. BLACK: --- we can watch if --- if we need to.

16 THE COURT: Out on the scene?

17 MR. BLACK: When they arrested Mr. Travis Lee.

18 THE COURT: Okay. Is there any Bruton issue with
19 that?

20 MR. BLACK: I don't believe so.

21 MR. GROSE: Not --- not with the portions that they
22 said they were going to play. But you go a millisecond
23 past it, and we're going to be in mistrial
24 (unintelligible).

25 MR. BLACK: So we --- maybe it's just best to play

1 it just so everybody's aware of it.

2 THE COURT: Sure. Why don't we go ahead and do a
3 dry run on that as well. About how long is that video?

4 MR. BLACK: I'm going to --- literally, the
5 statement he makes is probably --- I'm not going to play
6 the whole video, I just want to play that one portion
7 which is 20 seconds or less.

8 THE COURT: Gotcha. Go ahead.

9 (Video playing)

10 MR. BLACK: I plan on playing the --- the Miranda
11 portion and then skip ahead, Your Honor.

12 THE COURT: Okay.

13 (Video playing)

14 THE COURT: And just so that the record's clear. It
15 appears the Miranda part starts at eight minutes ---
16 8:09:38. And then our portion that we're looking at now,
17 begins at 8:17:54.

18 MR. BLACK: Yes, sir, the comment is about to occur
19 at 18 --- 8:18:45.

20 (Video playing)

21 MR. BLACK: It's starting at 8:18:49 is when he says
22 something along the lines of Ken will tell you I didn't
23 hit it, or that's kind of what it sounds like to me. I'm
24 not entirely sure.

25 THE COURT: Ken will --- I couldn't quite make it

1 out. Say again what you think he says.

2 MR. BLACK: Maybe Ken will tell I didn't hit him or
3 something like that.

4 MR. GROSE: I thought you were stopping it before
5 that.

6 MR. BLACK: I --- I plan on stopping it at 18:49.

7 THE COURT: So we're not going to hear about Ken?

8 MR. BLACK: Correct.

9 MR. GROSE: I just want the record to reflect is
10 that this is the first time I've been in here with this
11 technology in the courtroom. And the solicitor's having
12 an awful time trying to get it to work. And I have
13 doubts that he's going to be able to pull this off in
14 front of the jury. If --- if what happened here in our
15 pretrial happens later on, I'm asking for a mistrial and
16 we'll be --- I --- I consider it prejudicial.

17 MR. BLACK: I ---

18 MR. GROSE: I don't --- I don't want them to try to
19 work into a mistrial situation and argue ---

20 (Simultaneous speaking)

21 THE COURT: Let --- let --- let's --- let's --- Mr.
22 Grose, let me --- let me --- let's do this.

23 (Simultaneous speaking)

24 MR. BLACK: Just so the record's clear, Judge, I
25 intentionally played that portion so that Your Honor

1 could hear it, just so to let you know why we were
2 stopping it.

3 THE COURT: Right, and I ---

4 MR. BLACK: I didn't ---

5 THE COURT: I assume as much. Let's go ahead and do
6 one more dry run and do it for me as if you were going to
7 do it for the jury ---

8 (Simultaneous speaking)

9 THE COURT: --- just so we make sure.

10 MR. BLACK: And --- and just so everybody knows, we
11 do have our IT guy here that's going to try to redact it.

12 THE COURT: Okay.

13 MR. BLACK: So I --- I think we're --- I think he's
14 going to be able to do it. I'm not 100 percent sure, but
15 we're going to give it a shot.

16 THE COURT: Sure. And obviously this isn't coming
17 in till later, so we got some time to try and make that
18 happen. And just I want to hear exactly what you
19 anticipate playing for the jury.

20 MR. BLACK: Do you want me to stop it exactly where
21 I ---

22 THE COURT: Precisely, yes.

23 MR. BLACK: Yes?

24 (Video playing)

25 THE COURT: Okay. And you're stopping at 8:18:49

1 where Travis Lee says I --- I did put my hands on him,
2 and then demonstrates with the officer that's wearing the
3 tactical vest. All right. That's --- I --- I don't ---
4 I don't see any Bruton issues with those clips.

5 MR. GROSE: I --- I've not been heard on The State's
6 (unintelligible).

7 THE COURT: On the what? I'm sorry.

8 MR. GROSE: On State's A.

9 THE COURT: Okay. Go ahead.

10 MR. GROSE: When --- when --- when --- when they're
11 in the portion when they start asking what was it over,
12 it was a break-in. My nephew Kendrick Lee, The Village,
13 the owner of the house reported it, that was Ms. Cobb.
14 And it talks about Kendrick being involved with Ms. Cobb
15 and --- and staying there. That portion definitely is
16 talking about Mr. Lee. And I could be wrong, they could
17 surprise me, but I suspect that they're going to argue to
18 this jury that that's a motive. And then they're going
19 to use Mr. Travis Lee's statements against Mr. Ken Lee.
20 And I don't think that portion is --- is admissible. It
21 should be redacted.

22 THE COURT: Solicitor, do you want to speak to that?

23 MR. BLACK: Judge I --- I --- I don't see how ---
24 how it's Bruton. He --- he doesn't say anything about
25 the beating that Mr. Ken Lee does on Tobias. He's just

1 asking kind of basic generic facts as to what was it
2 over; who was his nephew; where was this at; was it
3 reported? And then figuring out who Myeshia Cobb is,
4 what was taken. Those are all very basic questions that
5 Investigator Balchin asked. And he's not asking any kind
6 of questions about whether the beating occurred or
7 anything relating to the beating, just some background
8 information about kind of what was going on. So ---

9 THE COURT: So --- I'm helping you out. Okay.

10 MR. BLACK: I just don't think it rises to the level
11 of Bruton.

12 (Simultaneous speaking)

13 MR. GROSE: Am I hearing that they're saying that
14 they're not going to argue that this break-in is the
15 motive?

16 THE COURT: No, they're going to argue the
17 break-in's the motive, but let me ---

18 (Simultaneous speaking)

19 MR. GROSE: --- then --- then --- then, you know,
20 just limit it to the beating and not the motive, and ---
21 and that they're going to argue that it's a conspiracy.
22 They're going to argue hand of one, hands of all. And
23 the jury's going to know that Travis Lee from Ken Lee
24 who's sitting two chairs down from him in the courtroom.

25 THE COURT: May I ask that --- yes. You need a

1 break?

2 (Simultaneous speaking)

3 MR. GROSE: --- do that. I'll do ---

4 THE COURT: Hold on. Hold on. What? What's wrong?

5 UNIDENTIFIED SPEAKER: I don't have a microphone.

6 THE COURT: Your mic's not on. Okay. There we go.

7 MR. GROSE: At --- at --- at --- at this point ---

8 (Simultaneous speaking)

9 MR. GROSE: --- at --- at this point, if you're
10 inclined to let it in, I would move to sever the trial,
11 sever the codefendants.

12 THE COURT: May I ask this, solicitor, are you going
13 to have any other witnesses testify that Kendrick Lee and
14 Myeshia Cobb resided together, and that there was a
15 burglary at that residence?

16 MR. BLACK: I plan on having testimony that it was
17 never reported. I believe the property manager says that
18 she's aware of everything that goes out there and there
19 was never a report done. Abbeville City never received a
20 report about a burglary, 911 never got any calls about a
21 burglary at that residence.

22 As far as Myeshia Cobb living there, I believe that
23 several people would be able to testify to that, and
24 several people will testify that Kendrick Lee also stayed
25 out there a good bit even though technically his --- his

1 name wasn't on the lease or anything like that. He
2 was --- he was out there a good bit with Ms. Cobb.

3 THE COURT: And --- and you will have witnesses that
4 can testify that they were dating, or that they were in a
5 relationship of some kind?

6 MR. BLACK: Yes, sir.

7 MR. GROSE: And it sounds like he doesn't need this
8 portion of this video. As I said yesterday and I don't
9 mean to keep stating the obvious, but I kind of do at the
10 same time, I don't get to cross-examine Travis Lee, I get
11 to cross-examine all these other witnesses. I think he's
12 probably going to have Mr. Hughey testify that there
13 wasn't even a burglary. And, you know, if --- if --- you
14 know, it --- it sounds to me like his intent is to use
15 this video in State's Exhibit Number 8 against Kendrick
16 Lee more so than against Travis Lee. And so --- and ---
17 and he's got a right to do that. But I would move to
18 sever the trial and not have a joint trial to avoid this
19 problem. Either exclude it, or --- or --- or give us our
20 own trial.

21 MR. BLACK: And Judge, I --- you know, just I don't
22 want to muddy the waters anymore, but I think this
23 testimony's going to come out kind on the front end when
24 we're talking --- when I put up Tobias Hughey and Renee
25 Guillebeaux, Mr. Hughey's mother, because they both are

1 going to testify that they received phone calls from Mr.
2 Travis Lee about this alleged break-in that Tobias Hughey
3 had done, and that there was talk of them working it out
4 or something --- something along those lines. So I --- I
5 think it's going to come in regardless.

6 THE COURT: All right. Let --- let's handle it this
7 way if we could, you don't anticipate playing these till
8 this afternoon, right?

9 MR. BLACK: It would be later on. Yes, sir.

10 THE COURT: This morning or this afternoon?

11 MR. BLACK: This --- well, maybe later this
12 after --- probably this afternoon if it's 10:00. So ---

13 THE COURT: Okay. We'll put a pin in that and I'll
14 think about it. And let me just see how the testimony
15 develops. It could be that this is merely cumulative,
16 but we do have the jury here and I'd like to go ahead and
17 try and make some progress.

18 MR. GROSE: We --- we still have to finish with
19 the --- the jury issue and the --- the desk book.

20 THE COURT: Okay. It --- it occurred to me that in
21 light of the fact that --- and I assume you do have the
22 desk book?

23 MR. BLACK: I do have the desk book and also I have
24 the case. And this has already been reviewed by a
25 Circuit Court judge and by the Court of Appeals, State

1 versus Daise, D-A-I-S-E, cite 421 S.C. 442. I believe it
2 was Judge Geathers, and Judge Hill which is now Justice
3 Hill, discussed this. It was a case where Judge Mullen
4 was out of Beaufort County with the same issues were
5 coming up. It was a Batson motion. Defense asked for
6 the desk book --- the prosecution desk book. Judge
7 Mullen took it in camera, reviewed it, made a decision
8 that there was no --- no discussion or talk ---

9 MR. GROSE: Judge, my problem is ---

10 (Simultaneous speaking)

11 MR. BLACK: --- mentioned any --- impermissible ---
12 any impermissible reasons. The Court of Appeals took it
13 up and their opinion in this case, quote, similarly, our
14 review of the approximately 1,000 pages in Commission
15 material sealed for Appellate review revealed nothing
16 encouraging prosecutors to strike jurors for
17 impermissible reasons race-based or otherwise.

18 The documents included outlines, slide shows, and
19 hand-outs from various selections and training sessions,
20 many discussions Batson framework, and some do provide
21 general advice on how to evaluate jurors. However,
22 nothing in the submitted document suggests an intent to
23 help prosecutors racially discriminate. In fact,
24 materials contained statements that such as, quote, the
25 critical question is whether or not a juror can give

1 both --- the critical question is whether or not a juror
2 can give both The State and the defendant a fair trial.

3 And the repeated caution is, do not rely on
4 stereotypes and prejudice. The court --- again, that was
5 affirmed. So, Judge, I do have the jury selection
6 process turned out.

7 Do you also want to make an in camera review? But
8 the Court has reviewed the part previously, and has made
9 a determination in this case. So I'll pass forward the
10 case and think that would be and in camera review, and it
11 is a work product, as they discuss also.

12 THE COURT: Mr. ---

13 MR. GROSE: I don't see how it could be both work
14 product and --- and copyright. But they waived any work
15 product when they provided Your Honor a copy and the
16 other judges a copy. And I think it's fundamentally
17 unfair for them to be able to hide this information and
18 not let us make an argument and make a showing about it.

19 If this information is as sterile as they claim it
20 is, why not lay it on the table and let sunlight see it?
21 Why hide it? This is why the --- a lot of members of the
22 public distrust the government today.

23 THE COURT: All right. I --- well, let --- let ---
24 let's get --- let's get down to brass tacks and let's try
25 to ---

1 MR. GROSE: Well, I --- I think the bet --- the best
2 thing to do is --- and this is going to get --- and it's
3 maybe anticipating your next question, Judge, but you
4 already have ruled that this had made a finding of fact
5 that this jury does not represent a cross section of the
6 community. And that you would normally prefer that the
7 jury represent a cross section of the community.

8 You have also expressed some concerns about this
9 being an Appellate issue that's going to get this case
10 reversed because you encouraged them strongly to consent
11 to letting the juror be put on the jury panel.

12 I think the best thing to do is --- is to try this
13 case in front of a jury when we can have a fair cross
14 section. So at this time, I'm moving to quash this jury
15 and moving for a continuance.

16 THE COURT: All right. Mr. Grose, the --- the
17 comments that I made were made prior to me --- prior to
18 all of us learning that Phillip Warden was deaf. Okay.
19 And ---

20 MR. GROSE: Well, and --- and you --- and ---

21 (Simultaneous speaking)

22 THE COURT: Mr. Grose, let me finish talking ---

23 MR. GROSE: I'm sorry.

24 THE COURT: --- before you interrupt, please.

25 MR. GROSE: Yes, sir.

1 THE COURT: So the issue about the jury selection
2 procedure, I don't know that it's necessarily germane,
3 because Mr. Wharton in my estimation in my evaluation and
4 in my discretion couldn't hear. And if he couldn't hear
5 the voir dire that I posed to him, that creates a problem
6 if he were to become an alternate if the alternate that
7 he was going to be and he --- he would then be replaced
8 on the jury, and we lose a --- we lose a juror, and he
9 becomes a --- a member of the jury panel. And all of a
10 sudden he sees his best friend come up here and testify,
11 whose name was called out but he did not hear. So that
12 creates a very genuine issue.

13 So I'm not even sure that Batson is in play. It was
14 a random strike sheet. They came out in the order that
15 they came out. Would I have preferred about a better
16 cross section? Yes. But random is random. It's what
17 you get. It's what the lottery is about, it's what
18 drawing a jury is about. And I appreciate your motion,
19 but I'm not going to quash the jury panel. And I've
20 already ruled as far as the Batson issue is concerned.

21 I will read, if you wish me to, but I don't see any
22 reason to at this point because, again, I don't --- I did
23 not find that there was any racial motivation for the
24 strike. You didn't carry your burden in demonstrating
25 that.

1 And The State had a legitimate reason for excusing
2 juror number 26. And despite that legitimate reason,
3 juror number 26 couldn't serve as a practical matter,
4 because he was deaf as a fence post. So ---

5 MR. GROSE: I --- I disagree with deaf as a fence
6 post ---

7 (Simultaneous speaking)

8 THE COURT: Well, that's my ruling, you can disagree
9 as much as you want to. But he could not hear me when I
10 was talking to him, it was quite clear. The record will
11 reflect that he was not able to hear what was being
12 discussed or what was being talked about. And I could
13 not be assured --- it's a discretionary move on my part,
14 but I could not be assured that he had heard the voir
15 dire that I had put out there.

16 MR. GROSE: And --- and at the sidebar, you had
17 asked me about what kind of accommodations could be made
18 and --- and what I had experienced in another trial in
19 Spartanburg. And that included asking the juror what
20 circumstances would ensure that they would be able to
21 hear what was going on in the courtroom, allowing them to
22 pick where they wanted to sit so that they would have
23 that best opportunity. And where I think the abuse of
24 discretion comes into play is that you didn't even
25 entertain asking the juror about whether or not he could

1 be accommodated.

2 THE COURT: Mr. Grose, I --- I appreciate that. But
3 that would be like kicking a dead --- that would be like
4 kicking a flat tire. Okay? That was my evaluation of
5 him. And he could not hear. And even if I could
6 accommodate him on the jury, it still does not address
7 the issue with voir dire. And the questions that I posed
8 to the jury, including questions that you had asked me to
9 ask about affiliation with law enforcement and things of
10 that nature. So it could very well be that some of his
11 best friends are in law enforcement, and some of his best
12 friends are going to testify. And so that was my ruling.

13 And I appreciate your position, but I'm not quashing
14 the jury panel, and we will go forward. I will glance
15 through this real quick, and see if there's any point of
16 concern --- points of concern with pages 234 through 246
17 of the prosecutor's handbook. And then we will bring the
18 jury in. Well, actually, while we're on break, go ahead
19 and bring the jury into the jury room if y'all could.

20 And yes, sir, Mr. Tinsley?

21 MR. TINSLEY: Judge, I would move to sequester the
22 witnesses during this trial.

23 THE COURT: I typically do grant those motions.
24 You've got --- who you got?

25 MR. BLACK: I got Mr. Hughey and his mother, and

1 then several --- several officers.

2 THE COURT: Okay. Who's going to testify first for
3 y'all, do you think?

4 MR. BLACK: Brian Singleton (phonetic).

5 THE COURT: All right. If you could, I guess just
6 go ahead and sequester the other witnesses.

7 I guess Mr. Hughey is the victim and has a right to
8 be present. So if he's --- so that's not a problem. But
9 otherwise, sequester if you could, the other witnesses
10 who ---

11 (Simultaneous speaking)

12 MR. BLACK: Is his mom allowed to stay, or she's not
13 allowed to say?

14 THE COURT: Is she going to testify after? Yeah. I
15 guess he's going to testify first.

16 MR. BLACK: Yes, sir.

17 THE COURT: And then his mom?

18 MR. BLACK: Correct.

19 THE COURT: If his mom could just perhaps be come
20 but in the back and then after they testify, they can ---
21 they can stay in here if they wish.

22 MR. BLACK: Yes, sir. Thank you.

23 THE COURT: All right. Let me look through this
24 real quick, please.

25 MR. TINSLEY: I'm confused as to have one witness

1 just to not be sequestered and all the others half the
2 day. That doesn't --- other than obviously I understand
3 Mr. Hughey not being sequestered, but if mom's giving
4 testimony, why --- I don't understand why she's not
5 sequestered just like everybody else.

6 THE COURT: She --- she will be. And then after she
7 testifies she can participate, come in here.

8 MR. TINSLEY: Okay.

9 THE COURT: And be in the courtroom.

10 MR. TINSLEY: Oh, okay.

11 THE COURT: I may not ---

12 (Simultaneous speaking)

13 THE COURT: --- be clear enough on that, but yeah,
14 she'll --- she'll be in the back until her son testifies
15 and then she'll testify.

16 MR. TINSLEY: I understand, I gotcha.

17 THE COURT: No worries. No worries.

18 (Off the record 10:05 a.m. to 10:22 a.m.)

19 THE COURT: All right. We are back on the record.
20 Of course all defendants are present. Mr. Grose's client
21 I did not note, but he did come in when we were playing
22 one of the videos roughly 30 minutes ago or so.

23 The --- the Court's reviewed the jury selection
24 procedure in the bench book or in the book that's
25 provided to the prosecutors and I would agree with the

1 findings in State versus Daise, D-A-I-S-E that was cited
2 by the solicitor. Most of what I've reviewed --- well,
3 actually all of --- everything I've reviewed basically
4 just states what the law is. It is a statement of cases
5 that have been decided relating to Batson excerpts taken
6 from those specific cases, and it's essentially is a
7 statement or a synopsis of the law on Batson.

8 And I find nothing in it that is untoward, or
9 otherwise concerning as far as directing the
10 solicitor --- or instructing the solicitor on how to get
11 around Batson or things of that nature. It's basically a
12 statement of the case law. I'll seal it. I'll make it a
13 part of the record.

14 Mr. Tinsley obviously joins in Mr. Grose's motions,
15 all motions that Mr. Grose has made, including the ones
16 that were made this morning. And we are ready to
17 proceed, gentleman?

18 MR. GROSE: Can --- can I just, I guess, get sort of
19 an update? Because I'm only aware of four court exhibits
20 to this point. I think you had said you were going to
21 put some --- we should be up to seven now at least.

22 THE COURT: I --- and I think that's correct. I
23 need to hang onto --- I will make my random strike sheet
24 as well as the Court's detailed list a part of the record
25 at some point, but I need to get the addresses for the

1 juror letters that my secretary sends on the --- from
2 this list, and basically fax this to her or get this to
3 her at some point ---

4 MR. GROSE: Okay.

5 THE COURT: --- later today. But it'll be made a
6 part of the record. I --- I made a note to make sure
7 that that's --- that's part of it.

8 Has the defense --- have y'all decided among
9 yourselves who wants to, like, go first in terms of
10 opening and questioning witnesses and that kind of a
11 thing?

12 MR. TINSLEY: I think I'll be going first, Your
13 Honor.

14 THE COURT: That good with you.

15 MR. GROSE: Yes, sir.

16 THE COURT: All right. Very good. Nothing else,
17 let's have the jury, please.

18 (Jury enters courtroom)

19 THE COURT: All right. The record will reflect that
20 the jury is back and seated. Ladies and gentlemen of the
21 jury, good morning. Thank you for being on time. I saw
22 several of you come in as I was coming in. And I
23 appreciate you being here and being on time.

24 And I apologize for keeping you waiting, but there
25 were as I indicated yesterday, there was likely going to

1 be --- there would likely be additional housekeeping
2 matters that I needed to address this morning on the
3 record, and it took me a little bit longer to go through
4 those than I had anticipated. So please understand
5 that --- that I was the one keeping you waiting,
6 obviously not the parties, because we needed to work
7 through just a few things.

8 Before we begin the trial in earnest, okay, Ladies
9 and Gentlemen, we're about to begin the trial of the case
10 of The State of South Carolina versus Travis Lee and
11 Kendrick Lee.

12 And before we begin this trial, I want to let you
13 know that this trial's going to be a lot different from
14 what you've come to expect from seeing trials depicted on
15 TV or in the movies. From what we see in popular
16 culture, we often get the impression that trials are
17 filled with a lot of drama, a lot of emotion, a lot of
18 twists and turns and surprises. And understand I've been
19 doing this --- I've been practicing law for 30 years.
20 And sometimes that's the case, but more often than not,
21 Ladies and Gentlemen, you know, this is real life. And
22 real life is obviously different from what we see in the
23 movies. And it's obviously not as exciting as stuff in
24 the movies. Okay? I want to tell you that --- that this
25 isn't for anyone's entertainment. This trial isn't for

1 anyone's amusement like the moves or TV.

2 This case is very important to The State of South
3 Carolina and of course to the defendants who are involved
4 in this case. And I want to thank you going forward for
5 your willingness to serve as jurors in this case and
6 resolve this dispute between The State and Mistfers Lee.
7 Again, thank you Ladies and Gentlemen for your
8 willingness to do this, for your willingness to come in
9 here, pay attention to the test, listen to the attorneys
10 and listen to me as I rule or as I instruct you on the
11 law at the conclusion of the trial. Again, I do
12 appreciate your service here this week and I want to
13 thank you going forward for the services you're going to
14 give.

15 With that, I'm going to ask that you stand where you
16 are, just raise your right hand, and I'll let the clerk
17 of court administer your oath to you.

18 MR. GROSE: And Your Honor, this is subject to ---

19 THE COURT: Subject to your earlier objection.

20 (Jury sworn)

21 THE COURT: Now, Ladies and Gentlemen, the first
22 order of business for the Court is to appoint a
23 foreperson. And who is Eleanor Weiders (phonetic)? Ms.
24 Weiders, am I pronouncing your right --- last ---

25 THE JUROR: Weider.

1 THE COURT: Weiders.

2 THE JUROR: Weider.

3 THE COURT: Weider, sorry. Miss Weider, I'm going
4 to appoint you the foreperson. Okay. This job is not
5 that hard. Your primary responsibility is once --- once
6 the case is submitted to the jury as a whole, you'll help
7 preside over the deliberations and make sure everybody
8 has a chance to have their fair say. Okay? You're first
9 among equals and obviously your vote counts no more no
10 less than any other juror's vote.

11 When we reconvene after we take a break, if you
12 could have a seat in the chair that's occupied --- the
13 gentleman in --- by the gentleman in the blue shirt, the
14 blue striped shirt. The two alternates, if y'all could,
15 like I said yesterday, stay kind of where you guys are.
16 The rest of you, feel free to move about.

17 If at any point in time, Madam Forelady, you find
18 out that one of the jurors is having difficulty hearing.
19 Sometimes the seats on the front row are a little bit
20 better, a little bit easier to --- to hear.

21 And as far as that's concerned, if at any point in
22 time anyone should have any difficulty hearing what's
23 being said, simply raise your hand, wave at me, get the
24 lawyers' attention, or somebody's attention, and I'll ask
25 the witness to speak up. Okay? So if you can't hear, or

1 you're having difficulty hearing what's said, hand goes
2 up, I'll tell them to speak up.

3 Similarly, should you need a comfort break while the
4 case is going on, or while the trial is going on, just
5 wave at me, throw something at me, and I'll be happy to
6 give y'all a brief comfort break. Okay?

7 Now, Ladies and Gentlemen, what I now say to you is
8 intended to serve as an introduction to the trial of this
9 case. And these remarks are not an instruction on the
10 law. I'll instruct you at the --- on the law at the
11 conclusion of the trial before you begin your
12 deliberations. Again, this is just an explanation of the
13 process that we're going to use going forward so that you
14 can better understand or anticipate what's going to
15 happen.

16 Now, I notice that a couple of you have notebooks.
17 Taking notes is perfectly fine. I do allow you to take
18 notes, and when we have a break, if y'all --- if anybody
19 else wants to grab a notepad and a pen, that's fine. The
20 bailiff can --- can get those to you. Just a couple of
21 quick rules about note taking. First, please don't let
22 the taking the of notes distract you from any of the
23 testimony. Second, those notes are kind of your personal
24 private property. Any time we take a break, the bailiffs
25 will secure those and return your notepads to you after

1 we've reconvened. And at the conclusion of the trial, if
2 you do take any notes, please rip those notes out, stick
3 them in your pocket, take them home with you, toss them
4 in the garbage, whatever the case may be, but just don't
5 leave them here with us. Okay? At the conclusion of the
6 trial.

7 Now, Ladies and Gentlemen, in this case the
8 defendants are charged by indictments filed in this court
9 for the offense of assault and battery of a high and
10 aggravated nature. And I'll explain the elements of this
11 charge to you as a later point in time.

12 As I indicated yesterday, Ladies and Gentlemen,
13 these indictments are merely the means by which these
14 cases are brought into court. And they are not in any
15 sense of the word evidence of any of the allegations
16 contained in the indictments.

17 The defendants in this case have pled not guilty to
18 these charges, and that plea puts burden firmly on The
19 State to prove their guilt beyond a reasonable doubt. It
20 will be to you --- it will be up to you to determine
21 whether The State has met this burden.

22 Now, your purpose as jurors is it find and determine
23 the facts in this case. Understand that you're the sole
24 judges of the facts. So if at any time I make any
25 comment concerning the facts, you have to disregard that

1 comment, because the law does not permit me to have any
2 opinion about any of the facts in this case.

3 You're --- you're to determine the facts from the
4 testimony that you hear and the other evidence which is
5 produced during the course of the trial. It's up to you
6 to determine what inferences you feel can properly be
7 drawn from the evidence presented.

8 Now, it's especially important that you perform your
9 duty of determining the facts diligently and
10 conscientiously, because ordinarily there is no way to
11 correct an erroneous determination of facts by a trial
12 jury.

13 Now, the same law that makes you the judge of the
14 facts makes me the judge of the law. The law that's
15 given by the Court is the only law that you can consider.
16 You have to accept it and apply it even though you might
17 disagree with it.

18 Again, I'm not permitted to tell you what the facts
19 are and you're not allowed to disagree with me as to what
20 the law should be or ought be. Your --- your job is to
21 take the law as I give it to you, apply it to the facts
22 as you find them to be. And after doing that, you'll
23 render your verdict under the oath that you have just
24 taken.

25 Now again, until I advise you to begin your

1 deliberations, please don't discuss this case with
2 anyone. That includes friends, family members, even your
3 fellow jurors. You can only discuss the case once the
4 case has ended and once you've heard the arguments of
5 counsel, you've received my instruction on the law. Only
6 at that point may the jury begin their deliberations.

7 Understand that, Ladies and Gentlemen, that the
8 layout of the Abbeville Courthouse is a little bit
9 different from some of the other courthouses. I love
10 this courthouse and I love the ---the way it's designed.
11 And the acoustics are actually quite naturally perfect
12 here.

13 But in terms of coming and going from the
14 courthouse, very often it's --- it's difficult to avoid
15 having contact with the attorneys or the parties involved
16 in this case. So if you happen to see one of the lawyers
17 or some of the parties coming or going, and they don't
18 even say hello to you, understand that they're not being
19 rude to you, they're simply following my instruction to
20 have nothing to do with you while the case is going on.

21 All right? So if you happen to find yourself in a
22 bottleneck at the --- at the metal detector, and one of
23 parties or some of the lawyers are there and they're not
24 even saying hi to you, they're not being rude, they're
25 just following my instruction not to have any contact ---

1 contact with you while the case is going on.

2 The --- the reason for this is self-apparent. Okay?
3 If the other side were --- were to see you having a
4 conversation with one of the parties or some of the
5 lawyers, they could easily misinterpret that as an effort
6 at jury tampering. So the easiest way to keep that kind
7 of issue from even arising is just to say the jurors are
8 off limits while the case is going on.

9 Now, I don't anticipate that there's going to be any
10 media coverage in this case, Ladies and Gentlemen, but
11 please don't perform any kind of independent research.
12 Don't go Googling the parties' names, don't go trying to
13 find out more information about this case.

14 I don't know if there's anything out there on the
15 Web about this case or not. All right? But as you all
16 well know, a lot of the stuff out there on the Web is
17 garbage. All right? It's not reliable, it's not tested,
18 it's not screened by anything. And the rules of evidence
19 are designed to give you the best most reliable
20 information possible. All right? They've been developed
21 over hundreds of years. The Internet's relatively new,
22 and the rules of evidence are what we trust in order to
23 give juries the information that they need.

24 So trust what you hear here in court and please
25 don't undertake any kind of impartial and independent

1 research concerning this case or any of the parties
2 involved in this case.

3 Do keep an open mind, do not decide any issue in
4 this case until you've heard all the evidence and the
5 parties have made their closing arguments, and you've
6 received my instruction on the law.

7 Understand that it's your solemn responsibility to
8 determine the guilt or the innocence of the defendants.
9 And your verdict has to be based only on the evidence as
10 presented to you during the course of this trial and on
11 the law as I instruct you.

12 Now, in a moment, the attorneys will make their
13 opening statements to you. And I will tell you now that
14 of course what the lawyers say during their opening and
15 their closing, is not evidence. It's merely their
16 contention as to what will be proven or what has been
17 proven.

18 Even though it's not evidence, you should certainly
19 pay attention to the lawyers' openings, because it will
20 give you kind of an overview or a road map of what they
21 anticipate the issues being, or the --- the facts being
22 in this particular case.

23 Again, the evidence will be presented by the
24 testimony of sworn witnesses as well as any --- any
25 exhibits which are introduced during the course of the

1 trial.

2 Now, Ladies and Gentlemen, in most of the trials
3 that --- that I conduct, from time to time it's necessary
4 for the Court to take a break. A lawyer might say
5 something like Judge, we've got a matter of law for the
6 Court, or we need to take up something with the Court.
7 And sometimes during those breaks, or during those
8 rulings on issues of law, it's necessary for me to ask
9 you to leave the courtroom.

10 Understand that the reason I'm asking that you leave
11 the courtroom is that sometimes in ruling on those
12 issues, it's necessary for me to make a comment about
13 what the testimony has been or what evidence has been
14 introduced.

15 Because you're the sole judges of the facts, I don't
16 want any comment that I make about the testimony or the
17 evidence to have any effect on what you ultimately find
18 the true facts to be. That's why I ask that you leave
19 the courtroom so that I can have a candid discussion with
20 the attorneys out here on the record about what those
21 issues are, or what that legal issue is, and I can be
22 sure that anything that I say won't affect your ultimate
23 determination of the facts.

24 Of course, please don't speculate as to what I'm
25 saying or what my opinion is about the facts. Because

1 again, Ladies and Gentlemen, I'm not allowed to have any
2 opinion about the facts in this particular case.

3 Now, in determining what the true facts are, you'll
4 have to decide whether or not the testimony of the
5 witnesses is believable or not. Understand that it's my
6 job to rule whether certain testimony can be admitted.
7 But once the testimony is admitted, whether you believe
8 it is solely up to you.

9 In deciding whether to believe a witness, you have
10 the right to consider the interest of any witness, the
11 bias of any witnesses, the prejudice of any witness, and
12 the opportunity for the witness to have seen the things
13 about which they testify. And you can also consider the
14 way they act on the witness stand. You can consider
15 anything that's in the record in this case, which will
16 help you evaluate the testimony of the witnesses. That
17 means it's your duty to pay close attention to them,
18 listen to them, observe them, and of pay close attention
19 to the Court and everything that's going on during the
20 course of the trial.

21 Try to keep your thoughts from wandering. If you
22 give strict attention to everything that's going on, I
23 assure you at the conclusion of the trial you'll be in as
24 best a position as possible to render your verdict under
25 the oath that you have just taken, apply the facts of the

1 law as I give to you and thus render your verdict.

2 Now, at this point in time we'll proceed with
3 opening arguments, and the way we'll proceed is The State
4 will go first to be followed by Mr. Tinsley, and then Mr.
5 Grose. Okay. So at this point Solicitor Black, you're
6 recognized for your ---

7 MR. GROSE: Your Honor, we have a matter.

8 THE COURT: Okay. Let's speak over here real quick.

9 (Sidebar conference)

10 THE COURT: Ladies and Gentlemen, I want to correct
11 something --- emphasize something to you in my opening
12 instructions. Please understand The State has the burden
13 of proof in this case. The burden of proof in this case
14 is beyond a reasonable doubt. And I'm sure that the
15 attorneys are going to allude to that in a few moments in
16 their opening statements, and probably during their
17 closing arguments.

18 So please understand that at all points and times,
19 The State has the burden of proving the defendant's guilt
20 beyond a reasonable doubt.

21 And to the extent that I indicated to you that you
22 have an obligation to determine the true facts in this in
23 this case, please disregard those comments about the true
24 facts. Because sometimes Ladies and Gentlemen, there
25 simply is not enough evidence to determine what the true

1 facts are. If that were the case in this case, it would
2 be your obligation to return a verdict of not guilty.
3 And so sometimes again, Ladies and Gentlemen, it simply
4 is not possible to determine what the true facts are. If
5 that were to be the case your verdict should be not
6 guilty. We'll address this in greater detail during
7 closing argument.

8 But Ladies and Gentlemen, you should not engage in
9 any sort of speculation about the facts. And again, it
10 is not your obligation to determine what the true facts
11 are, but it is your obligation to attend --- or attention
12 to the witnesses, listen to the witnesses, and render a
13 verdict under the oath that you have just taken which the
14 clerk has administered.

15 So with that, Solicitor, if we may have your ---
16 your openings, please sir.

17 MR. GROSE: I just renew our motion inside bar.

18 THE COURT: Understand. Solicitor, you're
19 recognized for your opening, sir.

20 MR. BLACK: Please the Court.

21 THE COURT: Yes, sir.

22 MR. BLACK: October the 6th, 2020. Officers with
23 the Abbeville City Police Department responded about
24 7:45 p.m. to [REDACTED], in reference to an
25 individual that was unconscious, badly beaten, and

1 seizing.

2 When officers got there, they saw Tobias Hughey at
3 his mother's home laying on the couch, unconscious, blood
4 everywhere having the appearance of him badly beaten.

5 Law enforcement did what they always do in these
6 types of situations, they first clear the scene, making
7 sure everything's okay. Then they contact EMS. EMS was
8 already en route, but once the scene was cleared, it ---
9 and it just took a brief minute, EMS showed up. And the
10 scene was essentially turned over to EMS to try to save
11 Mr. Hughey's life.

12 Law enforcement, of course, couldn't really do
13 anything in that regard, that's EMS's EMTs' job. But
14 they begin their job to investigate what happened.
15 Several officers showed up to [REDACTED], but
16 after talking to several folks, they realized that this
17 didn't occur at [REDACTED], but it happened at The
18 Village, also known as the Hickory Heights Apartments in
19 the city of Abbeville.

20 So law enforcement responded over to those apartment
21 complexes and started their investigation. And when they
22 got over there, they really didn't know what was going
23 on, because this had happened sometime prior to when they
24 arrived at Mr. Hughey's mother's house.

25 They started talking to folks trying to figure out

1 what was going on, didn't really get anywhere. But
2 thankfully, those apartment complexes over there have
3 video surveillance cameras. And you're going to hear
4 about different buildings, there are different apartment
5 buildings. And you're going to hear law enforcement talk
6 about the [REDACTED] Building and the [REDACTED] Building and [REDACTED]
7 Building, and [REDACTED] Building, just kind of the layout of
8 the apartment collection.

9 But officers went to a couple different apartments
10 because well, they thought, well may --- maybe it could
11 have happened here, maybe it could have happened here.

12 But once they started look at this surveillance
13 video, they were able to determine that happened. And
14 what they were able to determine, what happened was that
15 Ken Lee and Travis Lee, two defendants in this case, were
16 involved with holding down and beating Tobias Hughey.
17 You're going to get to see those videos, you're going to
18 get to hear some testimony from some witnesses. And
19 that's what happened.

20 Tobias Hughey was airlifted from Abbeville to
21 Greenville. He stayed at Prisma Health --- now that's
22 what they call it, used to be Greenville Memorial --- for
23 about a month, including a week at Roger C. Peace,
24 fighting for his life.

25 He had bleeding on his brain. You're going to hear

1 testimony about that. You're going to hear about how his
2 organs failed, but miraculously, he survived. And then
3 he had to go to Roger C. Peace rehabilitative portion of
4 the hospital and learn how to do life again.

5 You're going to hear about the problems that he's
6 had since this beating. The problems that he's still
7 dealing with today based on this beating.

8 Now, you heard Judge Addy and you heard at the
9 outset of this trial that the two defendants are charged
10 with assault and battery of a high and aggravated nature.
11 And those --- the definition of assault and battery of a
12 high and aggravated nature is that it's great bodily
13 injury to another person results. Great bodily injury to
14 another person results, or the act is accomplished by
15 means likely to produce death or great bodily injury.

16 And tomorrow you're going to hear testimony from the
17 doctors who treated Mr. Hughey that saved his life. And
18 you're going to hear definitions more about what great
19 bodily injury is, what that entails.

20 You're also going to hear about hand of one, hand of
21 all, what that means. And we'll touch more on that when
22 I address you again at the close of this trial.

23 But keep all those kind of terms --- those legal
24 terms, if you will, in your head as this trial persists.

25 As you sit there, listen to testimony that comes

1 from the witness stand, watch these videos, observe these
2 pictures. And listen to what happened on October the 6th
3 of 2020. Because Ladies and Gentlemen, you are the
4 finders of the facts as to with what happened.

5 You also heard about the standard of proof and what
6 the standard of proof is. And if you've watched any kind
7 of legal shows or read any kind of legal dramas, you know
8 that in criminal cases in the United States, The State
9 has the burden to prove the case beyond a reasonable
10 doubt. And it's a burden that we as The State welcome.
11 We have to prove that these two gentleman committed
12 assault and battery of a high and aggravated nature
13 beyond a reasonable doubt.

14 That's not beyond all doubt, that's not beyond a
15 shadow of a doubt. That's not beyond every single doubt
16 that exists. But think of being firmly convinced of
17 something. At the close of this case, if you're firmly
18 convinced that those two guys did what we're saying that
19 they did, then we've met our burden. So think about that
20 as the trial persists.

21 And folks, after you hear all the evidence, after
22 you've listened to the testimony and the evidence is what
23 these folks are going to get --- get up here and testify
24 to, we're going to ask you to return the verdict of
25 guilty on assault and battery of a high and aggravated

1 nature against both Mr. Kendrick Lee and Mr. Travis Lee,
2 because that's what they did to Mr. Hughey on October
3 the 6th, 2020.

4 Thank you for being here.

5 THE COURT: All right. Thank you, Mr. Black. Mr.
6 Tinsley, you're recognized for your opening, sir.

7 MR. TINSLEY: May it please the Court.

8 THE COURT: Yes, sir.

9 MR. TINSLEY: Good morning Ladies and Gentlemen of
10 the jury. Holes in State's case, they can't have any of
11 those if they want to convict my client, Travis Lee.

12 Because the judge just talked to you little bit
13 about The State has the burden to prove its case beyond a
14 reasonable doubt, and he talked a lot about Mr. Hughey's
15 stay being lengthy down in Greenville Hospital, which is
16 not in dispute. The question is, what actually caused
17 Mr. Hughey to spend all that time in the hospital?

18 You can convict of assault and battery of a high and
19 aggravated nature, Solicitor Black just asked you to do,
20 they have to prove that my client's actions caused that.

21 And he left out a decent amount of what happened
22 that evening on October the 6th of 2020. And he left out
23 the fact --- he --- he --- he did mention that the police
24 came to his mother's house, which it raises a --- a
25 question right off the bat, why didn't he stay at the

1 scene and have EMS and law enforcement come right there
2 if he was beaten so badly by my client Travis Lee and
3 Kendrick Lee? That didn't happen.

4 And where he --- he --- he got up, walked around to
5 a couple different apartments, then his mother comes and
6 picks him up. Did she take him to the hospital? No, she
7 takes him to her apartment. There's all kind of
8 questions already there just didn't make sense.

9 And --- and that goes to can The State prove that my
10 client's action actually caused great bodily injury to
11 convict for assault and battery of a high and aggravated
12 nature as he just asked do. And they have the burden
13 beyond a reasonable doubt based off what you hear from
14 that witness stand and any --- anything that comes into
15 evidence.

16 So I ask you to look at everything through the prism
17 of your own common sense and hold The State to its
18 burden. And what is that burden, that burden of
19 reasonable doubt?

20 All right. Think about it has Lady Justice ---
21 blind Lady Justice holding the scales of justice.
22 Something comes in and the thing tilts in the State's
23 favor. Okay. And then comes in and it tilts against The
24 State on defense's favor, tilts back this way. The State
25 has to substantially have --- have the --- the facts that

1 come in --- the evidence comes in in its favor to convict
2 Travis Lee.

3 The reasonable doubt, that --- that may just ---
4 just tilt it ever so slightly. The first case I ever
5 tried as a lawyer was in this very courtroom in Civil
6 Court --- Common Pleas Court, against the late legendary
7 Marvin Watson. And I was representing the plaintiff.
8 All I had to do to win was --- was --- was prove my case
9 by what they call greater weight or the preponderance of
10 the evidence. I sent the tip of the scales ever so
11 slightly in my favor. The State has a much bigger burden
12 in this case. Solicitor Black asked to really tilt it in
13 his favor.

14 Another --- another standard we have in the law is
15 clear and convincing evidence. A Family Court judge
16 sitting where Judge Addy is, he finds that a --- that a
17 parent has neglected their child and whatnot, by clear
18 and convincing evidence which make the scale tilt a
19 pretty good darn way. He can take that parent's child
20 from them. The State has a much bigger burden than that
21 in this case.

22 Reasonable doubt is the highest burden we understand
23 and recognize in the law. And another way of thinking
24 about it is a football game. State has the ball, it's
25 not enough to just pick up a couple first downs. It's

1 not enough for them to just move it past mid-field. It's
2 not even enough for them to drive it all the way down the
3 field and settle for a field goal. They need to ---
4 they --- they've got to take it all the way down the
5 field, put in the end zone like Coach Nichol's Panthers.

6 So I --- you know, they --- they got to take it all
7 the way. They have holes in their case. Then I submit
8 to you that you must find my client, Travis Lee, not
9 guilty.

10 And as the Judge --- Solicitor Black mentioned the
11 term --- mentioned the problems Mr. Hughey's still
12 having. You don't hear a lot about the other problems
13 Mr. Hughey's still having that caused it. It had nothing
14 to do with --- with these allegations The State has made.
15 So keep your eyes on that and ears on that.

16 He mentioned the hand of one and the hand of all.
17 He's essentially alleging that Travis Lee and Kendrick
18 Lee had some big agreement to cause --- cause this ---
19 these --- this damage, these allegations they're making.
20 You've got to hold The State to its burden on something
21 like that. They have to produce evidence. They can't
22 just say it, because that's --- that's what their fear
23 is. It goes back to holes in the case.

24 The Judge will --- and as I said a minute ago, they
25 have to prove great bodily injury, which Solicitor Black

1 went over with you. They have to prove that Travis Lee
2 caused that and to convict him of assault and battery of
3 a high and aggravated nature. I submit to you there will
4 be too many holes for The State to establish that causal
5 link beyond a reasonable doubt. So on that charge, you
6 would need to find my client not guilty.

7 And then there's --- there's levels of assault and
8 battery down to first degree, second degree, third
9 degree. First degree is the next most serious. And
10 second degree is below first degree. And second degree
11 would require moderate bodily injury which we'll get ---
12 get into that definition as we go in the trial.

13 But once again, The State has to prove Travis Lee
14 caused these injuries. All The State's going to be able
15 to prove Travis Lee ever did is grab Mr. Hughey's arm
16 after Mr. Hughey came up to him in conversation. So I
17 submit to you, that's not assault and battery, period.

18 So I would ask that you find --- you look at all
19 this evidence that there is --- I --- I'd say across the
20 board not guilties for Travis Lee. And --- and if you
21 disagree with it then I would submit the evidence must
22 prove the lowest level of assault and battery.

23 So thanks for listening to me this morning and
24 thanks for paying attention to all this evidence. And as
25 I introduced myself yesterday, my name's Jamison Tinsley.

1 I work for Tinsley & Tinsley Law Firm. And my father
2 Robert Tinsley who was the public defender over here in
3 Greenwood back in the 90s.

4 And I just --- holes in the case. Hold The State to
5 its burden and push it all the way into the end zone, and
6 I submit to you the only verdict that you can return at
7 that point for Travis Lee would be not guilty. Thank
8 you.

9 THE COURT: Thank you, Mr. Tinsley. Mr. Grose,
10 you're recognized for your opening statement.

11 MR. GROSE: May it please the Court.

12 THE COURT: Yes, sir.

13 MR. GROSE: The judge said something that I thought
14 was pretty interesting in his opening remarks. He talked
15 about that what happens in the courtroom in a criminal
16 case is that we're --- we're resolving a dispute between
17 The State and the people on trial. In this case,
18 Kendrick Lee and Travis Lee.

19 On the surface, it might look like this is a dispute
20 between the --- the Lees and Tobias Hughey. But it's
21 really a dispute between the Lees and the government.
22 The government is the one who has the power to bring
23 criminal charges. The government is the one who has
24 control of criminal investigations. Mr. Black spent a
25 good bit of time talking about the investigation that

1 took place in this case.

2 The other thing that the judge talked about was
3 determining the facts and that The State has the burden
4 of proof beyond a reasonable doubt. As Mr. Tinsley
5 talked about, beyond a reasonable doubt is the highest
6 burden that we have in the law. And it goes not just to
7 what happened, but it goes to each and every one of the
8 elements of the crime.

9 Mr. Tinsley touched on the fact that there's
10 definitions that we're going to talk more about with
11 regards to serious bodily injury, and moderate bodily
12 injury. Sometimes it might be helpful if we have those
13 definitions instructed at the beginning of the case.
14 Because the Judge talked about this tried and true
15 process that we've been doing for decades. And so I
16 think at the end of the case you're going to hear some
17 talk about the distinctions between serious bodily injury
18 and moderate bodily injury.

19 I think one of the things that is important to talk
20 about, we make no mistake about it. I mean Mr. Hughey
21 was injured, Mr. Hughey went to the hospital. And, you
22 know, it might be natural to have some sympathy for him
23 because of those injuries. But when you look at it, and
24 you look at what Mr. Hughey has been doing since he's
25 gotten out of the hospital. When you look at that, I

1 think that what you're going to find at the end of this
2 case is is that Mr. Hughey, as much as you might dislike
3 the fact that he was injured, that he's recovered from
4 those injuries and he's gone back to the life that he was
5 living before.

6 Not all of that is good. And I imagine that you're
7 going to hear some about that and some of his stuff's
8 with criminal activity. That his injuries have not
9 forbidden him from being able to continue to commit
10 crimes in --- in this community.

11 So when you get to the end of the case, it's going
12 to be important to pay attention to what was proved what
13 was not proved. And whether or not The State has met
14 their burden beyond a reasonable doubt.

15 And they're simply not going to be able to meet that
16 burden with regard to serious bodily injury. And they
17 may not be able to meet that burden as Mr. Tinsley
18 pointed out, there's a lot of holes in this case.

19 And at the end of this trial, when I get a chance to
20 address you in the closing argument, I'm going to ask
21 that you hold The State to their burden of proof, not to
22 punish them, not to punish Mr. Hughey, but to just follow
23 this process that we follow in criminal trials, that
24 everybody is accused of a crime has the right to protect
25 himself. Thank you.

Direct exam Singleton

1 THE COURT: Thank you, Mr. Grose. Solicitor, if
2 you'll call your first witness, please.

3 MR. BLACK: Brian Singleton (phonetic).

4 BRIAN SINGLETON, HAVING BEEN DULY SWORN, TESTIFIED
5 AS FOLLOWS.

6 DIRECT EXAMINATION

7 BY MR. BLACK:

8 Q. Can you state your name for the record, please.

9 A. Brian Singleton.

10 Q. And Mr. Singleton where do you --- where do you work at?

11 A. I work at Abbeville County Sheriff Department
12 (unintelligible).

13 Q. You might need to speak up just a little bit.

14 A. I said I currently work for Abbeville County Sheriff
15 Department. At the time of the incident I worked for
16 Abbeville City Police Department.

17 Q. How long have you been in law enforcement?

18 A. Going on five years.

19 Q. And did you start out with Abbeville City?

20 A. Yes, sir.

21 Q. What year was that?

22 A. It was 2018.

23 Q. And when you were working for Abbeville City starting in
24 2018, what was your job?

25 A. Patrolman. Patrolman.

1 Q. Were you still doing that in 2020?

2 A. Yes.

3 Q. And just generally, what did you do as a patrolman?

4 A. I patrolled the area, responded to calls for
5 service.

6 Q. Okay. And on October the 6th of 2020, did you respond to
7 a call at [REDACTED]?

8 A. Yes, sir.

9 Q. And what was the purpose of that?

10 A. Assault.

11 Q. Okay. And when you got there, what did you --- I guess,
12 let me ask before we get into that, what kind of property is
13 this?

14 A. It's a residential.

15 Q. Okay. Do you know who lives there?

16 A. Yes, sir.

17 Q. Who lives there?

18 A. Renee Guillebeaux.

19 Q. And when you got there what did you find?

20 A. When I went inside of the residence, I found Tobias
21 Hughey on the couch unresponsive, lacerations on his
22 forehead.

23 Q. Lacerations on his forehead?

24 A. Yes, sir.

25 Q. So he was unconscious?

Direct exam Singleton

1 A. Yes, sir.

2 Q. What did you do when you observed this?

3 A. I cleared the scene, tried to render aide. At the
4 time, I was (unintelligible).

5 Q. Do you know about what time that you arrived?

6 A. 7:46.

7 Q. Okay. So that --- 7:46 p.m.?

8 A. Yes, sir.

9 Q. All right. And you've --- you've had a look at the ---
10 the CAD report that kind of gives a print off of when you get
11 notified ---

12 A. Uh-huh.

13 Q. --- and when you ---

14 A. Yes, sir.

15 Q. --- arrive?

16 A. Time of the dispatch was 7:43.

17 Q. So you got there relatively quickly?

18 A. Yes, sir.

19 Q. All right. Was there any other officers that also
20 responded to the scene that you can remember?

21 A. Yes, sir.

22 Q. Who?

23 A. Sergeant Forest Crowe.

24 Q. Okay. How --- do you know about how long it took for EMS
25 to get there?

Direct exam Singleton

1 A. I can't recall.

2 Q. All right. Were you inside the residence the whole time
3 with Mr. Hughey, or did you do something else after Forest
4 Crowe got there?

5 A. Yes, sir. Once Forest Crowe arrived on the scene, I
6 went outside to get information from the mother.

7 Q. Okay. So you talked to some of Mr. Hughey's family
8 members?

9 A. Yes, sir.

10 Q. Okay. And without telling me what they said, you did get
11 information from them?

12 A. Yes, sir.

13 Q. And is it standard practice to kind of communicate with
14 other officers who pass ---

15 A. Uh-huh.

16 Q. --- information along?

17 A. Yeah.

18 Q. Yes, sir? Okay. All right. Do you --- once Mr.
19 Hughey --- once EMS was dealing with him, do you know what
20 happened to him?

21 A. Yes, ma'am --- yes, sir. Sorry.

22 Q. Okay.

23 A. Yeah, I was speaking to him --- I was right to my
24 other officer that the mother advised me that ---

25 Q. Well hold on. Without saying what she said ---

Direct exam Singleton

1 A. Okay.

2 Q. I'm talking about in terms of Mr. Hughey, like, where he
3 went. Did once EMS and EMT got ahold of him, did they send
4 him to the hospital?

5 A. Yes, sir. Once they ---

6 Q. Okay.

7 A. --- got on it, yes, sir.

8 Q. And how was he sent be to the hospital?

9 A. EMS. By --- yeah.

10 Q. Did they Life Flight him out that you remember?

11 A. Yes, sir, they did.

12 Q. Did you assist with that anyway?

13 A. No, sir.

14 Q. Okay. You just stayed at [REDACTED] ?

15 A. Uh-huh.

16 Q. That's a yes for the ---

17 A. Yes, sir.

18 Q. --- record?

19 A. Yes, sir.

20 Q. Did you ever go to the --- to the Hickory Heights
21 Apartments?

22 A. No, sir.

23 Q. You did not?

24 A. No, sir.

25 Q. Well, just to clarify for the record, [REDACTED], is

Direct exam Singleton

1 that --- where is that at?

2 A. That's off of Meadow Drive.

3 Q. In what town is that in?

4 A. Abbeville City.

5 Q. Is that the county of Abbeville?

6 A. Yes, sir.

7 Q. I'm going to show you what's been marked --- well, were
8 you wearing a --- do you have body cameras?

9 A. Yes, sir.

10 Q. Were you wearing a body camera that night?

11 A. Yes, sir.

12 Q. Was your body camera activated?

13 A. Yes, sir.

14 Q. I'm going to show you what's been marked as State's
15 Number 1. May I approach, Your Honor?

16 (State's Exhibit 1, 2, 3 marked)

17 THE COURT: Please.

18 BY MR. BLACK:

19 Q. One, two, and three, can you identify these for the
20 record?

21 A. Yes, sir.

22 Q. What are these?

23 A. It's a picture of Mr. Hughey and my body camera
24 footage.

25 Q. Okay. So it's a still frame of your body camera?

Direct exam Singleton

1 A. Yes, sir.

2 Q. What's the condition?

3 A. Unconscious, non --- nonresponsive.

4 Q. That's how you found him ---

5 (Simultaneous speaking)

6 A. Yes, sir.

7 MR. BLACK: Your Honor, (unintelligible) State moves
8 one, two, and three, into evidence. And regarding
9 Exhibit Number 1, the parties have agreed to play back.

10 THE COURT: All right. No objection? Well, it's
11 subject to any prior objections, but the photos are two
12 and three, or one, two?

13 MR. BLACK: The photos are two and three.

14 THE COURT: The photos are two and three. No
15 objection to the photos and subject to earlier objections
16 on the video?

17 MR. GROSE: Correct.

18 THE COURT: All right. Those will be in evidence,
19 1, 2, and 3.

20 (State's Exhibits 1, 2 and 3 in evidence)

21 MR. BLACK: Your Honor, at this point The State
22 moves to play ---

23 THE COURT: Go right ahead.

24 (Technical difficulty)

25 (Video playing)

Direct exam Singleton

1 BY MR. BLACK:

2 Q. And Officer Singleton, as we're watching this video, the
3 video, I believe initially showed you inside the house?

4 A. Uh-huh.

5 Q. That's a yes?

6 A. Yes, sir. Yes, sir.

7 Q. Okay. And then who was the other officer that was also
8 depicted?

9 A. Forest Crowe.

10 Q. And you said he was the supervisor?

11 A. Yes, sir.

12 Q. Okay. And then you eventually came outside; is that
13 right?

14 A. Yes, sir.

15 Q. And what are you doing here?

16 A. Trying to get information on what happened.

17 Q. Okay. And who are you talking to?

18 A. Ms. Renee Guillebeaux.

19 Q. And who is that?

20 A. That's the mother of Tobias Hughey.

21 Q. The mother?

22 A. Yes, ma'am.

23 (Video playing)

24 (End of video)

25 MR. BLACK: That's all the questions that I have

Cross-exam Singleton

1 (unintelligible).

2 THE COURT: Mr. Tinsley.

3 MR. TINSLEY: Can we have just a moment to
4 (unintelligible).

5 THE COURT: Yes, certainly. There should be some.
6 Yeah. All right. Mr. Tinsley.

7 MR. TINSLEY: I thank you, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. TINSLEY:

10 Q. Officer Singleton, you don't believe any crime occurred
11 at [REDACTED]?

12 A. That's about right. Yes, sir.

13 Q. You know how long a gap there was between the incident
14 and when you arrived at [REDACTED]?

15 A. No, sir.

16 Q. You don't know what Mr. Hughey was doing during that
17 time?

18 A. No, sir.

19 Q. And do you have any further involvement in the
20 investigation beyond being there that night?

21 A. No, sir.

22 MR. TINSLEY: I don't have any further questions.

23 THE WITNESS: Okay.

24 MR. TINSLEY: Please answer any questions Mr. Grose
25 has.

1 THE COURT: Mr. Grose.

2 CROSS-EXAMINATION

3 BY MR. GROSE:

4 Q. I think you just testified that what we saw here was
5 essentially your only involvement in the investigation?

6 A. Yes, sir.

7 Q. All right. And so you don't know what Mr. Hughey was
8 doing earlier that day?

9 A. No, sir.

10 Q. You don't know anything about what happened to Mr. Hughey
11 to be in that condition?

12 A. No, sir.

13 Q. You don't know how he got from wherever it happened to
14 the location where you videoed him?

15 A. I do. Yes, sir.

16 Q. Huh?

17 A. Yes, sir.

18 Q. But not from your own knowledge?

19 A. No.

20 Q. Okay. And as I understand it, you're just here to talk
21 about your limited part of the investigation?

22 A. Yes, sir.

23 Q. And other officers had roles in the investigation?

24 A. Yes, ma'am.

25 Q. All right. Thank you.

1 THE COURT: Any redirect?

2 MR. BLACK: No, sir. Thank you for coming, you're
3 free to go.

4 THE COURT: Before we do that, I need a comfort
5 break. I'm sorry. I've pretty much been out here the
6 entire time. Ladies and Gentlemen, we're going to take a
7 brief comfort break for about 15 minutes. If any of you
8 need to pop outside have a cigarette or vape, or anything
9 like that just let the bailiff know, they'll be happy to
10 take you out. It's still legal. So don't discuss the
11 case though, and we'll back on the record in
12 approximately 15 minutes. All right. Thank you.
13 Adjourn to the back if you could.

14 (Off the record 11:28 a.m. 11:44 a.m.)

15 (Jury not present in courtroom)

16 THE COURT: Okay. We're back on the record. And
17 the record will reflect that defendants are present with
18 counsel.

19 Prior to opening statements the --- Mr. Grose
20 informed the Court and the record should reflect that he
21 had a matter for the Court. And basically in a sidebar,
22 he made --- he moved for a mistrial. Mr. Tinsley joined
23 in that motion and the basis for the mistrial was Mr.
24 Grose indicated that in the Court's opening remarks to
25 the jury, that the court twice referenced, quote, true

1 facts.

2 And Mr. Grose asserted that this was a violation of
3 the Beaty case out of Laurens --- I believe it was tried
4 there. And in that case the --- the Court is of course
5 familiar with that case. In that case, the Supreme Court
6 disapproved of the judge try --- I think it was Judge
7 Young --- his instruction, which was in accord with The
8 Chief Justices Commission on the Professionalism
9 instruction that's at the beginning of a lot of bench
10 books, where Judge Young essentially instructed the jury
11 pursuant to that first paragraph of the instruction that:
12 A trial is a fundamental part of our democracy, a search
13 for the truth in an effort to make sure that justice is
14 done between the parties for the court searching for the
15 truth and making sure that justice is done is often slow,
16 deliberate, et cetera.

17 The Court in my instructions --- or my opening
18 remarks to the jury, looking back and I may have
19 referenced true facts, and I will take Mr. Grose at his
20 word that --- that I did make such a reference. As a
21 preliminary matter, I feel that the Court's reference to
22 true facts is much different contextually than
23 instructing the jury that they must search for the truth.
24 I --- Mr. Grose did suggest a curative instruction at the
25 bench --- or at the sidebar rather, which the Court

1 incorporated part of that in the ad hoc instruction that
2 I gave to the jury prior to opening arguments after that
3 sidebar. But that was the gravamen of the sidebar that
4 took place prior to opening arguments. And I think I
5 have accurately reflected what was stated at the sidebar;
6 am I incorrect, Solicitor, or Mr. Tinsley, or Mr. Grose?

7 MR. BLACK: You correctly stated what you said in
8 the sidebar. And one thing we --- we didn't make
9 contemporaneous objection to your ad hoc instruction ---
10 curative instruction, but there was a portion that I may
11 have misunderstood what you said. I think you said,
12 disregard true facts if you --- disregard the true facts
13 or there are true facts, that you find him not guilty.
14 I --- I didn't quite follow that. Kind of a twist on the
15 words, I guess.

16 And I don't know really what you can do to cure that
17 now. A lot of times the jury, I think forgets what
18 happens --- was --- was said in that opening charge
19 anyways and that's kind of (unintelligible). That was a
20 somewhat interesting way to put --- disregard the true
21 facts.

22 THE COURT: And --- and what I was trying to do is
23 incorporate, I think, what Mr. Grose was asking me to do
24 by way of a curative instruction, that they should
25 disregard my reference to true facts.

1 You know, I --- I felt like it was appropriate just
2 out of an abundance of caution to go ahead and explain to
3 them that sometimes true facts --- the truth cannot be
4 known and when the truth cannot be known if that is the
5 case, then the verdict should be not guilty. And that
6 was kind the gravamen of what I was trying to get at with
7 the jury.

8 In the context of the Court's open remarks, I think
9 the word "true," as it is used to modify as an adjective
10 is its use to modify the noun, "facts," is probably
11 superfluous. It's the jury's job to determine the facts.
12 It's the jury's job to determine the true facts. It's
13 implicit that what they should --- what their verdict
14 should represent would be the actual facts.

15 So in many respects, I think that while searching
16 for the truth is clearly something the Court should
17 instruct a jury on, instructing them that their job is to
18 find the facts, or that it their job is to find the true
19 facts, I don't know that I could discern a great deal of
20 difference between that. But Mr. Grose, did I accurately
21 reflect the sidebar?

22 MR. GROSE: I --- I think you did. I --- I don't
23 know that the curative instruction was given exactly as
24 we had suggested. Certainly the elements were covered in
25 it. I do think you have overlooked portions of the Beaty

1 case. For instance, part of what they set out in that is
2 as part of the opinion charge is in determining what the
3 true facts are in this case you must decide whether or
4 not the testimony of a witness is believable. And then
5 it goes on after argument of counsel and the charge on
6 the law by me, he will then be in a position to determine
7 what the true facts are and apply those facts to the law,
8 and thus render a true and just verdict.

9 I don't know that you stated true and just verdict,
10 that was sort of part of, you know, the history, Daniels
11 case leading up to Beaty. And just for the record, Beaty
12 is spelled B-E-A-T-Y. And it's 423 S.C. 26813 S.E.2d
13 502. And I believe that was 2018 --- well, it was filed
14 twice. It was refiled on April 25th of 2018 and that's
15 the version that I'm quoting from. They didn't make a
16 contemporaneous objection to the curative instruction,
17 but the defense did.

18 After you gave that instruction, we renewed our ---
19 our motion. And, you know, part of the impetus of that
20 is as --- as you well know, and as you've stated in other
21 cases, you know, calling attention to things, you --- you
22 can't unring the bell. And then I think you can't unring
23 the bell. I disagree with my prosecutors on the other
24 side that jurors forget these opening instructions. I
25 think the law tells us that we are to presume that

1 they --- they heard those and followed those. And, you
2 know, to the extent I think we have an agreement that
3 there's some confusion that has resulted from the opening
4 remarks and the curative instruction. And so I would
5 renew the mistrial motion. All right. And of course it
6 goes without saying that Mr. Tinsley also joined in that
7 objection at all stages; I am correct, Mr. Tinsley?

8 MR. TINSLEY: Correct, Your Honor.

9 THE COURT: Very good. I appreciate your position.
10 I --- I don't know that a curative instruction was
11 necessarily required or even warranted the record
12 reflects what the instruction was. I came up with it
13 just off the top of my head, and I feel like what I said
14 was accurate. And of course I opened my remarks to the
15 jury this morning with an instruction that these remarks
16 are not an instruction on the law. I'll tell you about
17 the law later at the conclusion of the trial. But the
18 objections are noted and the motion for --- motions for
19 mistrial are denied.

20 You have the next witness here?

21 MR. BLACK: Yes, sir.

22 THE COURT: All right. Let's have the jury, please.

23 (Jury enters courtroom)

24 THE COURT: All right. Jury is back and seated.
25 Solicitor, if you'll call your next witness, please.

Proceedings

1 MR. BLACK: State calls Forest Crowe.

2 (Witness sworn)

3 FOREST CROWE, HAVING BEEN DULY SWORN, TESTIFIED AS
4 FOLLOWS.

5 DIRECT EXAMINATION

6 BY MR. BLACK:

7 Q. Could you state your name please, for the record.

8 A. Name's Forest Crowe.

9 Q. And where do you work at?

10 A. The City of Abbeville. The City of Abbeville Police
11 Department.

12 Q. How long --- how long have you worked there?

13 A. Around ten years.

14 Q. And were you working on October the 6, 2020?

15 A. I was.

16 Q. Did you respond to a call on [REDACTED] ?

17 A. I did.

18 Q. Were you wearing a body camera?

19 A. I was.

20 Q. Let me show you what's been marked as State's Exhibit 5
21 do you recognize this?

22 (State's Exhibit 5 marked)

23 A. I do.

24 Q. What is this?

25 A. That is my copy of the body camera footage from that

1 evening.

2 MR. BLACK: Your Honor, propose to place Number 5
3 into evidence.

4 THE COURT: All right. Subject to all prior
5 objections, and motions, and rulings.

6 MR. GROSE: And --- and I understand that it's just
7 the video ---

8 THE COURT: Correct.

9 MR. GROSE: --- not the audio that's being moved in.

10 THE COURT: Yes. That's my understanding as well.
11 All right. State's 5 is in evidence.

12 (State's Exhibit 5 entered)

13 MR. BLACK: And Mr. Brown is getting this thing
14 popped up. I'm going to have to get a few more
15 questions.

16 BY MR. BLACK:

17 Q. How long have you been with the Abbeville City Police
18 Department?

19 A. Around ten years.

20 Q. And what's your job?

21 A. My current job title is lieutenant of our uniform
22 patrol.

23 Q. And was that the same job you had back in 2020?

24 A. It was not. That was Sergeant Ober (phonetic) that
25 shift that night.

1 Q. Okay. How many people typically work on a shift?

2 A. Usually two. Two to three, usually.

3 Q. Two to three? And you got a call to [REDACTED]?

4 A. Yes.

5 Q. What was the nature of that call?

6 A. Nature of that call was a --- a male in --- in the
7 house unconscious in the living room.

8 Q. And I'm going to show you what's been marked as State's
9 Exhibit 5 entered. Do you recognize that as being a CAD
10 report?

11 A. That would be a CAD report.

12 Q. All right. I'm just going to leave that with you
13 (unintelligible).

14 MR. GROSE: Which --- which number?

15 THE COURT: Thank you.

16 BY MR. BLACK:

17 Q. Do you --- do you recognize that CAD report?

18 A. I do.

19 Q. Do you know what time the call came out for y'all to
20 respond?

21 A. We'd been dispatched at 19:40:46 - 7:40:46 p.m.
22 civilian time.

23 Q. Okay. And what time did you get there? It may be on the
24 second page.

25 A. I arrived on scene at 19:45:42. So 7:45:42 p.m.

1 Q. Were you the second one on scene from law enforcement?

2 A. I was second on scene, yes, sir.

3 Q. Okay. And what were you --- what did you see when you
4 got there?

5 A. As soon as I walked into the door, I observed
6 Patrolman Singleton in the living room. Looked to
7 left-hand side and seen from my personal knowledge Mr.
8 Hughey --- or Tobias, laying on the couch, he was
9 unconscious and had some clear --- very clear trauma to
10 his head. He had a very clear cut on his left eye, and
11 some other small cuts and stuff around his --- his arms.
12 And blood --- his shirt, pants and all was covered blood
13 as well.

14 Q. Okay. And we'll go ahead and start this video while
15 you --- while I ask you some additional questions.

16 (Video playing)

17 Q. And what was primarily your focus when you first walked
18 in?

19 A. So the problem I focused at this point is --- is the
20 clear --- the clear trauma that Mr. Tobias there has, and
21 get his --- his safety and his --- this person with EMS,
22 and get him the medical attention that he needs.

23 Q. And you get up to him pretty close. Is he --- is he
24 conscious?

25 A. He is not.

1 Q. Do you try to revive him?

2 A. He was still --- he was still breathing and
3 everything. He had some shallow breathing, was clearly
4 in unconscious state. So reviving him wasn't necessarily
5 necessary. But at that point just trying to see if he
6 can hear me, understand what's going on. And from there
7 get some gloves on and start to just rake around his body
8 from any other trauma that we can't see from him just
9 saying --- laying on the couch right there.

10 Q. Did you find anything?

11 A. We --- I did not.

12 Q. So the primary trauma that you saw was where?

13 A. To his head.

14 Q. To his head? Okay. And this is you right here trying to
15 feel around and figure out?

16 A. It is. At this point I'm trying to get towels and
17 stuff that was used to kind of help stop some of that
18 bleeding prior to us getting there.

19 Q. What kind of trauma to his head did you notice? Cuts?
20 Abrasions? What was it?

21 A. Very large --- very large abrasion to his left eye.
22 That was from some sort of obvious blunt force trauma
23 that wouldn't have been from a normal weapon or fist.

24 Q. Okay. How long did it take for EMS to get there? Or do
25 you know?

1 A. I was on the scene probably --- I'll say around
2 40 --- 40 minutes or so. 45 minutes or so.

3 Q. And then once EMS gets there, what do you do?

4 A. Once EMS gets in, as they're walking up, I just ---
5 I explain the same thing I'm doing here, what I've ---
6 I've seen and observed. You know, that I --- I told him
7 that I had already raked through his body to see if
8 there's any other trauma. Clear head trauma. And then
9 once they get in, just assist and aid them in getting him
10 on a --- on a backboard to a stretcher and to the
11 ambulance.

12 Q. And I think there's a close-up to him. What --- what ---
13 can you tell if there's any blood on his shirt, or couch, and
14 on the towels and whatnot?

15 A. Correct. So there's blood along his shirt, down his
16 pants legs here, and on that towel as well they used
17 to --- used to stop some of that bleeding.

18 Q. So that's not part of the clothing that he's wearing?
19 That's --- that's actual blood?

20 A. That is. Correct.

21 Q. And at this point, Officer Singleton, had he gone
22 outside, or was he still there with you?

23 A. He'd already stepped out --- back outside with
24 the --- everybody else on scene to kind of help control
25 that while I was in here trying to get some more

1 attention to Mr. Tobias.

2 Q. Do you know who this person was?

3 A. I don't.

4 Q. A family member of some sort?

5 A. I --- I assume it's a family member of some sort.

6 Q. And again, where is --- where is this address at again?

7 A. This address is at [REDACTED] off of Meadow
8 Drive in City of Abbeville --- of Abbeville.

9 Q. And what's going on right here?

10 A. So this is paramedics and EMS personnel arriving on
11 scene. And at that portion I'm just following behind
12 them, advising everything that I've seen, observed, and
13 what I've currently tried to --- to do to aid Mr. Tobias.

14 Q. And where did they end up taking Mr. Hughey?

15 A. So once we got him on the backboard here in a
16 minute, we'll transfer him from there to the stretcher
17 outside, put him back in the ambulance. And then the
18 current landing zone that we use within the city is ---
19 is the practice field at the hospital off of
20 (unintelligible) Road.

21 Q. So he was flown to the hospital?

22 A. He was. He was flown through either Life Flight ---
23 one of the two different flights from there to
24 Greenville.

25 Q. So where again?

1 A. He was flown to Greenville that --- that night.

2 Q. Did you ever go up to Greenville and follow up with
3 anything, or was that not your role?

4 A. That was not my role, it's passed investigators.
5 Once we all got to the landing zone and in the medevac
6 area, it was passed on to the investigators from there.

7 Q. Do you know what EMS is doing right here?

8 A. Yeah. At that point they're just doing what they
9 can do get him more stabilized. I believe they might
10 have been putting the neck --- a neck collar on to
11 stabilize his head right there before transferring him to
12 the backboard.

13 Q. Did Mr. Hughey ever say anything while you were on the
14 scene there?

15 A. He didn't. As I was saying, Sergeant Crowe with the
16 City, he would --- he would kind of --- I won't say,
17 respond, but he --- you could tell that he was --- at
18 least able to hear a little bit of what was going on in
19 the background. Because as I started to give aid to
20 his --- the trauma on his head. I start raking his body
21 and start to move around. And I was just yelling that
22 mainly so he knew that I --- I wasn't a bad guy or
23 anything. I was there to help him and not --- not there
24 for any other reason.

25 Q. But he never verbally ---

1 A. But he never really --- yeah, he never really
2 verbally responded. And it was more of a --- a grunt and
3 a moan. And like a gargle from a little bit of just the
4 trauma and everything.

5 Q. And here they're --- they're taking him out?

6 A. Correct.

7 Q. And they took his pants off; is that right?

8 A. Yes, they ended up either taking them off or cutting
9 them off. And usually that's --- that's always usually
10 done with anybody that has that amount of trauma. Again,
11 it's the same purpose I was doing with my hands
12 originally with gloves on to make sure there was no other
13 trauma or any broken --- other bones or anything like
14 that.

15 Q. So at this point they're loading him up on the ambulance?

16 A. Correct.

17 Q. And you assisted in helping get to the football field so
18 that he could be flighted out?

19 A. Correct. At this point there's other volunteer
20 firefighters as well already heading to the --- to that
21 area to start securing that area so that the bird can
22 land.

23 Q. Is that typically something that y'all are involved with
24 as well?

25 A. Yes.

1 Q. And who's the lady right there that you walk past and
2 were talking to briefly?

3 A. That --- that would be Tobias' mother, Renee.

4 Q. And y'all were keeping her in the loop as to just what
5 you knew at the time?

6 A. Yeah, to our best ability with what we knew. I
7 believe ---

8 Q. After you finished up with the --- helping them get to
9 the Life Flight to the hospital, what did you do? Did you go
10 anywhere else?

11 A. You talking about after we --- after I left here?
12 Or ---

13 Q. Well, after you left here, you went to the football
14 fields?

15 A. Correct. Yeah.

16 Q. Once he was flighted out, did you go anywhere else to
17 deal with this case?

18 A. I think we --- we left there and went to --- to The
19 Village and all --- to assist --- to assist with the
20 investigators.

21 Q. Okay. So when you got to the --- when you got The
22 Village, what apartment complex is that again?

23 A. [REDACTED], off [REDACTED] in the
24 City of Abbeville.

25 Q. And that's also in the City of Abbeville?

1 A. It is.

2 Q. And why did you go there?

3 A. That's where the initial --- the initial assault
4 occurred at.

5 Q. Where it occurred?

6 A. Yes, sir.

7 Q. When you got to that apartment complex who all was over
8 there with --- with the city?

9 A. We had most all the city investigators. Mr.
10 (Unintelligible) with the Solicitor's office and
11 every --- every road officer working that night.

12 Q. Okay. Do you know --- do you remember the officers'
13 names that were there?

14 A. Was Investigator Boshin, John Martin.

15 Q. John Martin?

16 A. Mr. Singleton, myself. And that's --- off the top
17 of my head, that's all I can remember.

18 Q. Okay. And when y'all went over there, I guess were you
19 trying to figure out exactly what went --- went on?

20 A. Correct. We were trying to find where the initial
21 assault happened, start to pull up any --- any of the
22 camera angles that could have picked up the assault. And
23 locate any apartments that were kind of getting thrown
24 around at the time.

25 Q. Okay. And so you said something about camera angles.

1 Did you have --- were you able to immediately look at cameras
2 and figure out exactly where it occurred right when it
3 happened? Or did y'all have to do a little bit of digging
4 first, I guess?

5 A. So yeah, at that time I didn't have direct access,
6 but the investigators did. So I think Mr. Balchin and
7 Mr. Martin, I think Mr. Wilke, started to gain access to
8 those on scene with laptops with their --- with Wi-Fi
9 capability, start pulling those up.

10 Q. Okay. In the meantime, were you trying to follow up at
11 different apartments that you thought may have been
12 potentially where this occurred?

13 A. Correct.

14 Q. Okay. Do you know --- do you remember what apartments
15 you went to?

16 A. The first apartment that we went to was [REDACTED].

17 Q. Apartment [REDACTED]? Okay. And who lived there?

18 A. Can't recall off the top of my head who lived there
19 without looking at the --- at the incident report.

20 Q. I'm going to show you what's been marked as State's
21 Exhibit 7. Do you recognize this?

22 (State's Exhibit 7 marked)

23 A. Yes, sir.

24 Q. What is this?

25 A. That's a departmental form for consent and search

1 premises.

2 Q. Okay. And then did you --- did you sign this?

3 A. I did.

4 Q. All right. Where is your signature at?

5 A. It's down here at the witness signature, below the
6 signature of the person who was asked for consent.

7 Q. Okay. Who was the person that asked for consent?

8 A. Michael Floyd was the person that we asked for
9 consent.

10 Q. What apartment was that again?

11 A. [REDACTED].

12 MR. BLACK: Your Honor, The State moves Number 7
13 into evidence.

14 THE COURT: No objection?

15 MR. GROSE: No objection.

16 MR. TINSLEY: No objection.

17 (State's Exhibit 7 entered)

18 THE COURT: State's 7 is in evidence.

19 BY MR. BLACK:

20 Q. So you went to Apartment [REDACTED]? To Michael Floyd's
21 apartment?

22 A. Correct.

23 Q. Do you remember seeing anything at Michael Floyd's
24 apartment that stuck out?

25 A. There was blood that was on the door. It was either

1 on the door handle are the door frame, or a combination
2 of both.

3 Q. Okay. And he gave you consent to look around the
4 apartment? He didn't give you guys any problems?

5 A. No, he did not.

6 Q. And he --- he answered your questions that you had for
7 him?

8 A. He did.

9 Q. That's a yes?

10 A. It is. Yes.

11 Q. Did he allow other officers to take photographs of his
12 apartment?

13 A. He did. He allowed Mr. Martin to photograph the
14 apartment.

15 Q. And again he answered all y'all's questions?

16 A. He did.

17 Q. All right. I'm going to show you what's been marked at
18 State's Number 6. Do you recognize this exhibit --- do you
19 recognize this?

20 (State's Exhibit 6 marked)

21 A. Again, yes. That's a consent and search premises.

22 Q. All right. And who --- whose signature is on the bottom?

23 A. My --- my signature's down there, the witness, and
24 Ms. Myeshia Cobb's signature is above that. And that's
25 who we asked for consent for her search of her apartment.

1 Q. And what apartment number was she in?

2 A. [REDACTED].

3 Q. All right. So you went to [REDACTED] and also [REDACTED]?

4 A. Correct.

5 Q. And again, the date on this was ---

6 A. It should have been the same date, 10/6.

7 Q. October 6th?

8 A. October 6th. Yes, sir. Yeah. October 6th.

9 Q. And y'all would have gotten to the apartment complex it
10 was already dark; is that right?

11 A. Correct.

12 Q. All right. State submits Number 6 into evidence.

13 THE COURT: No objection?

14 MR. TINSLEY: No objection.

15 THE COURT: State's 6 is in evidence.

16 (State's Exhibit 6 in evidence)

17 BY MR. BLACK:

18 Q. And y'all went to --- why did y'all go to that apartment
19 complex, or that actual apartment?

20 A. At --- at that point that was the apartment that
21 either Mr. Tobias had been in or a combination of the
22 Lees had been in. One of the Lees had been living or
23 been in as well, that may have been involved in the night
24 in question.

25 Q. Okay. And Ms. Cobb, the person who signed the consent to

1 search, she didn't give y'all in problems?

2 A. She did not.

3 Q. Allowing y'all to go inside?

4 A. She did not.

5 Q. And Investigator, did you step inside that apartment as
6 well?

7 A. I don't think I went in the [REDACTED].

8 Q. Okay. But she --- she allowed Investigator Martin to go
9 and take photographs and whatnot?

10 A. Correct.

11 Q. Okay. And you went to that apartment because you said
12 you thought may have --- it may have somehow been involved?

13 A. Again, yes. It was brought up at some point being
14 involved in --- in some correlation with the incident.

15 Q. Okay. And again, you said you didn't have access to the
16 cameras that night; is that right?

17 A. I did not.

18 Q. Okay. So other --- other investigators handled the
19 camera aspects ---

20 A. Correct.

21 Q. --- camera?

22 A. Correct.

23 Q. All right. And again the --- The Village --- I think
24 that's the name of what you call this apartment complex?

25 A. Correct. The Village is the --- the common street

1 name. It you --- if you --- I guess a way of putting it
2 is the street name that everybody uses for that
3 particular area.

4 Q. And which --- which actual apartment complex is this?

5 A. [REDACTED].

6 Q. And that's called Hickory Heights?

7 A. Hickory Heights Apartments.

8 Q. And that's in the City of Abbeville?

9 A. It is.

10 Q. Okay. And do you recognize Mr. Hughey anywhere?

11 A. I do. He's currently right there in the black
12 T-shirt in front of me.

13 (Simultaneous speaking)

14 Q. And that's the gentleman at [REDACTED] that you were
15 dealing with in your ---

16 A. Yes, sir. That is.

17 MR. BLACK: All right. Please answer any questions
18 that Mr. Tinsley has.

19 THE COURT: Mr. Tinsley.

20 CROSS-EXAMINATION

21 BY MR. TINSLEY:

22 Q. Lieutenant Crowe, it's about a five to ten-minute drive
23 from The Village to [REDACTED]?

24 A. I wouldn't say that long.

25 Q. How long is it?

1 A. Maybe --- maybe a minute, two minutes.

2 Q. Okay. What --- did you talk to anybody who witnessed
3 this --- what you've called an assault?

4 A. So I originally spoke with Ms. Renee, the mother of
5 Tobias, who originally called in the call. And while we
6 were dispatched to [REDACTED] in reference to an assault
7 that --- that had occurred at one point, and that he was
8 in the living room unconscious.

9 Q. She didn't witness --- witness this thing?

10 A. No, she directly did not witness it.

11 Q. Did you talk to anybody who did?

12 A. At the time, I did not.

13 Q. Okay.

14 A. My role was not that particular role.

15 Q. Okay. So your role was respond to the scene --- I mean,
16 I say the "scene," but you went to [REDACTED], which is where
17 Mr. Hughey was; is that correct?

18 A. Correct.

19 Q. All right. And then you helped see him off to the
20 flight?

21 A. Correct.

22 Q. And then you did go back to The Village to deal with the
23 searches?

24 A. Correct. Well, to deal --- to deal with the rest
25 of --- or to assist the investigators in --- in

1 investigating the assault that had occurred, correct.

2 Q. As part of that, did you talk to any eyewitnesses?

3 A. Again, they --- I didn't directly talk to any
4 eyewitnesses. I was there to fill out consent forms and
5 assist them in what they need me to assist with.

6 Q. Okay. Did you --- did you actually conduct these
7 searches, or did you just get the consent?

8 A. I got the consent, and I can recollect going
9 into --- and going to [REDACTED], I don't have any recollection
10 to my knowledge if I went directly in the apartment at
11 [REDACTED], but I was in the parking lot between both of the
12 buildings and assisting with the initial searches of
13 getting those consents.

14 Q. Okay. And [REDACTED] is Ms. Cobb's apartment?

15 A. Correct.

16 Q. All right. And nothing of the evidentiary value was in
17 there?

18 A. I cannot answer that. I don't know that to be a
19 fact off the top of my head.

20 Q. So you don't know one way or the other?

21 A. I don't know. Yeah.

22 Q. All right. And did I hear you testify that Mr. Hughey
23 had been in that apartment, or did I miss --- misunderstand
24 that?

25 A. They --- that my testimony that was that [REDACTED] came

1 up in particular to being involved in some correlation
2 with the initial assault, or why --- or some part of how
3 this happened. So...

4 Q. You --- you --- you just don't know what the link is?

5 A. Correct. Again, I didn't know at that time what
6 that link would have been.

7 Q. All right. Have you had --- have you touched this case
8 any since that night?

9 A. I have not.

10 Q. You don't know what Mr. Hughey did in between the time he
11 was what you keep calling "assaulted," and when you arrived at
12 [REDACTED] ?

13 A. I don't. Again, speaking to Ms. Renee that night,
14 that he was picked up from --- supposed to be picked up
15 from The Village [REDACTED], supposedly at
16 apartment [REDACTED] or the [REDACTED] building. And then confirmed it
17 was a [REDACTED] building. Upon getting there and seeing the
18 blood outside the apartment, and that's where he was
19 originally from.

20 Her words and everybody else words that was directly
21 involved that he was assaulted, went to that apartment,
22 that's where he was picked up by Ms. Renee, and a friend
23 of hers or whoever was with her, and went from there to
24 [REDACTED]. And we were called to [REDACTED]
25 originally, and this is where it all --- it all --- the

1 original incident as far as our eyes were concerned was

2 [REDACTED], because we were dispatched there first.

3 Q. Okay. And so you're relying on what --- what his mother
4 told you?

5 A. Originally, yes.

6 Q. Okay. And you mentioned something about other --- other
7 witnesses. But you said you didn't talk to any witnesses?

8 A. Again, I talked --- I talked to Ms. Renee, correct.

9 Q. Correct.

10 A. She was --- she was the complainant and the --- and
11 the person that reported this crime. So we --- we
12 originally talked to her. Correct.

13 Q. And she wasn't present at The Village?

14 A. She was not.

15 MR. TINSLEY: No further questions. Please answer
16 any questions Mr. Grose has.

17 THE COURT: Mr. Grose.

18 CROSS-EXAMINATION

19 BY MR. GROSE:

20 Q. If I understand your testimony correctly, you've been
21 with the Police department for ten years?

22 A. Roughly ten years, yes.

23 Q. All right. And as part of your job with the Police
24 department, you go through training?

25 A. Yes, sir.

1 Q. You enter the Police academy?

2 A. Yes, sir.

3 Q. Continuing legal training --- professional trainings?

4 A. Yes, sir.

5 Q. Okay. And your role initially is and still is a first
6 responder; is that right?

7 A. A --- yes.

8 Q. All right. Because I think you said that one of the
9 first things you wanted to do was to make sure that --- that
10 location on [REDACTED] was secure and that Mr. Hughey
11 got medical attention?

12 A. Correct.

13 Q. All right. So that was the first priority was doing
14 medical attention?

15 A. Correct.

16 Q. All right. And after that is when it turns to the
17 investigation?

18 A. Correct.

19 Q. At the time your role was not an investigator?

20 A. Correct.

21 Q. All right. Now, we saw some of your body-worn ---

22 THE COURT: Mr. Grose. I'm --- I'm sorry to
23 interrupt. Make that mic that --- that Mr. Black put
24 just in front of you --- I'm sorry about that. Have to
25 interrupt, go ahead.

1 BY MR. GROSE:

2 Q. We --- we saw some of your body-worn camera footage here;
3 is that right ---

4 A. Correct.

5 Q. -- that's what we played a ---

6 A. Correct.

7 Q. --- little while ago? Even though you were not actually
8 conducting the investigation, you were present during the
9 investigation at The Village apartments?

10 A. In some ways yes.

11 Q. Yes. Well, and --- and --- and you were there and ---
12 and --- and you had your body-worn camera on?

13 A. Correct.

14 Q. And you were documenting, for example, when these consent
15 to searches were signed?

16 A. Correct.

17 Q. And you were documenting some of the activities of the
18 other investigators that were there?

19 A. Correct.

20 Q. All right. And as I think I understood your testimony,
21 your last involvement in this case was October 6th of 2020.

22 A. Correct.

23 MR. GROSE: All right. Thank you.

24 THE COURT: No redirect?

25 MR. BLACK: No, sir.

Direct exam Webb

1 THE COURT: All right. Sir, thank you. You can
2 step down. You're free to go.

3 Call your next witness, please.

4 MR. BLACK: State calls Elizabeth Webb.

5 ELIZABETH WEBB, HAVING BEEN DULY SWORN, TESTIFIED AS
6 FOLLOWS.

7 DIRECT EXAMINATION

8 BY MR. BLACK:

9 Q. Could you state your name for the record, please.

10 A. Elizabeth Webb.

11 Q. And Ms. Webb where do you work at?

12 A. Abbeville Housing Authority.

13 Q. Abbeville Housing Authority?

14 A. Yes.

15 Q. All right. And back in October of 2020 --- October ---
16 first part of October 2020, were you working with the
17 Abbeville Housing Authority?

18 A. No, I was not.

19 Q. Where were you working at at that point?

20 A. Hickory Heights and Oakland Apartments.

21 Q. So you were working at Hickory Heights and Oakland. What
22 was your job?

23 A. I was the property manager in charge.

24 Q. Property manager in charge?

25 A. Uh-huh.

1 THE COURT: That's a yes?

2 THE WITNESS: Yes, sir.

3 BY MR. BLACK:

4 Q. And those apartments, are they owned by a private
5 company?

6 A. Yes, sir.

7 Q. Your role as at property manager, what did that entail?

8 A. Managing the property, accounts payable, receivable.

9 You know, any --- anything that had to do with the
10 property.

11 Q. Were you familiar with the tenants that were out there?

12 A. Yes, sir.

13 Q. How familiar were you with them?

14 A. Pretty good.

15 Q. Pretty familiar with them?

16 A. Yes, sir.

17 Q. Did you actually collect, like, rent checks from them or
18 was that done a different way?

19 A. Yes, sir. I did collect rents and issue utility
20 reimbursement checks if they needed it.

21 Q. Okay. What about if there was any kind of like --- if
22 the Police had to get involved with anything out there,
23 did --- were you aware of that?

24 A. Yes, sir.

25 Q. How --- how did you become aware of stuff that happened

1 out there at that complex?

2 A. Reports were made and then I also receive Police
3 reports.

4 Q. So you would --- so you would get Police reports from the
5 Police?

6 A. Yes, sir.

7 Q. And then, I guess did --- did the tenants also have to
8 report that to you, or --- how --- how did that work?

9 A. Yes, sir. Sometimes the tenants would report it and
10 sometimes they wouldn't.

11 Q. But either way, the Police would let you know?

12 A. Yes, sir.

13 Q. Okay. As the property manager, did you have any offices
14 out there on location?

15 A. Yes, sir.

16 Q. Okay. And where was that office at?

17 A. It was located on the property in between the 200
18 and 300 buildings at Hickory Heights Apartments.

19 Q. And were there other assistant managers, or were you the
20 only one?

21 A. I was the only person in the office. There was no
22 assistant manager.

23 Q. And y'all keep --- did y'all keep the office locked when
24 you were not there?

25 A. Yes, sir.

1 Q. All right. Did the apartment collection had --- did it
2 have a video surveillance station throughout the complex?

3 A. Yes, sir.

4 Q. And how was that stored?

5 A. I --- I had a office --- there was a office within
6 my office. And it was stored in that secondary office
7 within my office.

8 Q. How --- and was --- was that door --- did that door have
9 a key? Was it locked?

10 A. Yes, sir. That door was locked at all times.

11 Q. Who had access to it?

12 A. I did.

13 Q. Anybody else?

14 A. No, sir.

15 Q. So the security had a --- I guess, a server that was in
16 this office that only you had access he to?

17 A. Correct.

18 Q. Did you ever deal with enforcement in, you know,
19 assisting them in turning over different videos, surveillance
20 video from the apartment complex?

21 A. So I --- I'm kind of confused at your question.

22 Q. Did you ever deal with law enforcement with the security
23 with the surveillance video out there?

24 A. Yes, sir.

25 Q. And you would help, you would turn --- you would provide

1 it if they requested it?

2 A. Yes, sir.

3 Q. Okay. And these videos were basically kept in y'all's
4 normal course of business; is that right?

5 A. Yes, sir. On the server.

6 Q. And how long were they stored for typically?

7 A. I believe the IT guy who put them on said they run
8 like two weeks. I --- it could have been a month ---

9 MR. GROSE: Objection. Hearsay.

10 THE WITNESS: I don't know.

11 THE COURT: Sustained. Sustained. She doesn't ---
12 she's not certain.

13 MR. BLACK: Okay.

14 BY MR. BLACK:

15 Q. So you're --- you're not aware of how long ---

16 A. I don't --- I --- I couldn't tell you how long.

17 Q. Fair enough. Did you know that they would eventually
18 disappear over time though?

19 A. Yes.

20 Q. I'm going to show you what's been marked as State's 10
21 through 15. Do you recognize these items?

22 (State's Exhibits 10 through 15 marked)

23 A. Yes, sir.

24 Q. And how do you recognize those items?

25 A. I viewed these as the surveillance.

1 Q. From the apartment complex?

2 A. Yes, sir.

3 Q. And you --- did you initial your name and ---

4 A. I initialed and dated those.

5 Q. --- when you viewed these? Is on the bottom is that
6 your --- your initials and the date?

7 A. Yes, sir.

8 Q. And that's done for all these?

9 A. Yes, sir.

10 Q. Now, these are --- are these a fair and accurate
11 representation of the surveillance of the apartment complex?

12 A. Yes, sir.

13 Q. Did you can change or alter these videos in any way?

14 A. No, sir.

15 MR. BLACK: Your Honor, at this point The State
16 moves 10 through 15 in evidence, and we ask to publish to
17 the jury.

18 THE COURT: Any objections?

19 MR. GROSE: I have an objection.

20 (Sidebar conference)

21 THE COURT: Do you want to ask a few additional
22 questions, Mr. Black?

23 BY MR. BLACK:

24 Q. Ms. Web, these --- these videos --- these were from
25 October the 6th of 2020?

1 A. Yes, sir.

2 Q. Okay. And you --- you have viewed them?

3 A. Yes, sir.

4 Q. And they reflect what happened out at the --- that
5 apartment --- at your apartment complex that day?

6 A. Yes, sir.

7 Q. Okay. And again, I know I may have asked this question
8 already, the server is in a locked office inside of your
9 locked office; is that right?

10 A. Yes, sir.

11 Q. And only --- and you had access to it?

12 A. Correct. Yes, sir.

13 Q. And you're the only one that had a key?

14 A. Yes, sir.

15 Q. And did you give access to law enforcement to --- to
16 these videos? You gave them these videos, or you gave them
17 access to get the videos?

18 A. I ---

19 MR. GROSE: Objection. Leading.

20 THE COURT: Overruled.

21 THE WITNESS: I gave them access to get the videos,
22 yes.

23 MR. BLACK: Okay. Your Honor, at this point The
24 State moves 10 through 15 into evidence.

25 THE COURT: States 10 through 15 will be in

1 evidence.

2 (States Exhibits 10 through 15 entered).

3 MR. BLACK: And we ask to publish to the jury.

4 THE COURT: You may.

5 MR. GROSE: Just note our objection.

6 THE COURT: Objection is noted as to authentication.

7 And Mr. Tinsley joins in that objection as well.

8 MR. TINSLEY: Correct.

9 THE COURT: Which one are you playing now?

10 MR. BLACK: I think we're going to switch it up,
11 Your Honor. First we're --- we're playing is from
12 channel 18, which is State's Number 13.

13 THE COURT: Okay. And if you're advancing, just
14 tell me what mark you're advancing it to, please.

15 MR. BLACK: We're advancing it to the 11-minute
16 mark. We're playing from there. And I believe the
17 player is the GOM Player.

18 (Video playing)

19 MR. BLACK: We're going to stop this
20 (unintelligible) at 15 --- about 15:40.

21 THE COURT: 15:40. All right.

22 (Video playing)

23 MR. BLACK: The next one we're going to play is
24 State's 12.

25 THE COURT: Just tell me where you start and stop.

1 MR. BLACK: 14:28.

2 THE COURT: And you stopped at what point?

3 MR. BLACK: 20:30.

4 THE COURT: Thank you. 20:30.

5 MR. BLACK: This is States's Number 10, channel 17.

6 11:30 is when we're starting.

7 THE COURT: 11:30.

8 (Video playing)

9 MR. BLACK: We're going to stop this one at 18:55.

10 THE COURT: 18:55. And this is State's?

11 MR. BLACK: 11.

12 THE COURT: And we are still start --- what did ---
13 where did you start, or where is it at now? Just tell us
14 where it's at now, so I ---

15 MR. BLACK: About 5:15-ish is where we start.

16 (Video playing)

17 MR. BLACK: Stopping this one at 8:55.

18 THE COURT: 8:55.

19 MR. BLACK: Judge I may need just a second.

20 THE COURT: Approximately how much more footage do
21 you have that you anticipate playing?

22 MR. BLACK: I don't think it's a whole lot. Yeah, I
23 may --- maybe two more videos.

24 THE COURT: Right. I've you're --- I --- I assume
25 you're trying to figure out which exhibit you have cued

1 up to play and start playing.

2 MR. BLACK: Yes, sir. There's two. I think there's
3 a couple of channel 17s. We're trying to make sure we
4 got the right one.

5 THE COURT: Okay. Ladies and Gentlemen, adjourn to
6 the back. As soon as we finish with this witness, we
7 will be taking our lunch break. I start going downhill
8 pretty fast at 1:00. So as soon as we finish up with
9 here we'll take a lunch break. But adjourn to the back
10 and maybe there's some crackers there if you need
11 something to tide you over until we can grab something to
12 eat. Okay? Adjourn to the back and don't talk about the
13 case. Thanks. If you need to step down, that's fine.

14 (Off the record 1:02 p.m. - 1:16:11)

15 THE COURT: Ladies and gentlemen of the jury, sorry
16 I lied to you about the snacks. We'll see what we can
17 do. We'll see what we can do.

18 Solicitor, where are we?

19 MR. BLACK: Yes, Judge, we're actually about to play
20 State's 10, the previous tape of State's 10 was actually
21 14. So ---

22 THE COURT: Okay. The previous --- so channel 17
23 was actually State's 14?

24 MR. BLACK: That's right.

25 THE COURT: And you started State's 14 at 11:30,

1 ended it 18:55, according to my notes.

2 MR. BLACK: That's right.

3 THE COURT: And State's 10 is now cued up.

4 MR. BLACK: That's right.

5 THE COURT: Okay. Very good. And you're starting
6 playing at what point?

7 MR. BLACK: 15 minutes.

8 THE COURT: 15 minutes. Okay. Go ahead.

9 (Video playing)

10 MR. BLACK: This one stopped at 17:42.

11 THE COURT: 17:42.

12 MR. BLACK: And of course, we're admitting them in
13 their entirety, but just the relevant portions ---

14 THE COURT: Certainly. The last one will be State's
15 15?

16 MR. BLACK: Correct. Starting at 29:45.

17 THE COURT: 29:25.

18 MR. BLACK: 29:45.

19 THE COURT: Sorry, 29:45.

20 (Video playing)

21 MR. BLACK: I'm stopping it at 32.

22 THE COURT: Stopping it at 32.

23 BY MR. BLACK:

24 Q. Just one for question for you, Ms. Webb does this --- the
25 video surveillance out there at the apartment complex, did it

1 have any audio or anything like that?

2 A. No.

3 Q. Just video?

4 A. Just video.

5 MR. BLACK: All right. Thank you for answering our
6 questions.

7 THE COURT: Mr. Tinsley.

8 CROSS-EXAMINATION

9 BY MR. TINSLEY:

10 Q. Do you know Mr. Hughey?

11 A. Do I know him?

12 Q. Yes, ma'am.

13 A. I know of him.

14 Q. You know of him. Did he cause trouble over there at
15 Hickory Heights?

16 A. What do you mean, "trouble?"

17 Q. Did he cause any --- any trouble?

18 A. None that I'm aware of.

19 Q. Okay. And do you know my client Travis Lee?

20 A. No, I do not.

21 Q. Okay. He didn't live over there?

22 A. No, sir.

23 Q. All right. And you would agree with me that there are a
24 lot of people out there in the parking lot on these various
25 videos?

1 A. Yes, sir.

2 Q. Okay. Did you go --- were you working that night?

3 A. No, sir.

4 Q. Did you get called up there that night?

5 A. No, sir.

6 Q. So how would Police have got and access to the security
7 cameras that night?

8 A. They contacted me that the next morning.

9 Q. Okay. So --- so you're saying they didn't get access to
10 the cameras that night?

11 A. No, sir. The Police had access to the cameras.

12 Q. When?

13 A. Without --- they had access to the cameras without
14 me. In order to get video, they came to the server but
15 they could look at the video realtime just like I could.

16 Q. Okay. So you don't have to be in that locked area to see
17 the videos in real time?

18 A. Correct.

19 Q. Could they have seen anything from earlier that night
20 when they were in that ---

21 A. That, I don't know.

22 Q. Well, I mean, I'm just asking, is the only way --- say I
23 get --- say they got there an hour after the videos we're
24 watching. Is the only way they could have accessed an hour
25 earlier by getting into that locked area in your office?

1 A. No.

2 Q. So they --- so they could have looked at something from
3 earlier that evening without getting into the --- into your
4 locked area?

5 A. Correct.

6 Q. Okay. How would they have done that?

7 A. The Police --- to my understanding the agreement
8 with the Aspen Company (phonetic) and the Police
9 department. They had access to the cameras. They were
10 able to look at them during real time.

11 Q. Now, could they rewind and look at the cameras from an
12 hour earlier, or was it just ---

13 A. No, that I don't know. I'm not a IT person.

14 Q. Okay. All right. So are you aware of any way they could
15 have looked at video from earlier that night except through
16 your locked office?

17 A. No, I --- I am not aware.

18 Q. Okay.

19 MR. TINSLEY: I don't have any further questions.

20 Please answer any questions Mr. Grose has.

21 CROSS-EXAMINATION

22 BY MR. GROSE:

23 Q. So when --- when the --- it was the next day that you
24 give the Police copies of the --- the videos; is that right?

25 A. No, sir.

1 Q. Well, when did you give them to them?

2 A. I did not give them copies.

3 Q. All right. Well, these copies that are here today,
4 numbers 10 through --- State's Exhibits 10 through 15, where
5 did though come from?

6 A. So they had access to the server. The IT person who
7 we had a contract with at the time talked with them, gave
8 them --- they went through and did what they need to do.
9 I did not have ---

10 Q. So you --- you have no knowledge what the IT person gave
11 to the Police department?

12 A. So --- no, it wasn't --- the IT let them into the
13 computer to do --- because it was locked. There is a
14 password to get in. And then they were able to download
15 onto whatever device they had.

16 Q. But were --- were you there when the IT person unlocked
17 the server?

18 A. I cannot remember.

19 Q. Okay. Who --- who is the IT person?

20 A. That would have been Ray Taylor.

21 Q. All right. And where is Ray Taylor now?

22 A. I do not know.

23 Q. And were you there when the --- the videos were
24 downloaded for the Police department?

25 A. I had to have been, because there was no way to get

1 into the room.

2 Q. Okay. All right. And --- and --- but you're not the
3 ones who downloaded them?

4 A. Correct.

5 Q. All right. And when you say that you've gone back and
6 looked at --- at these, did you go back and look at everything
7 on there?

8 A. Everything on where?

9 Q. On --- on --- on each one of these DVD, State's Exhibits
10 10 through 15.

11 A. I don't understand what you're asking.

12 Q. Well, what I'm trying to say is, were you able to look at
13 those and compare them to what's on the server?

14 A. No, sir.

15 Q. And --- and you couldn't because server, it deletes it
16 after two weeks or some period of time; is that right?

17 A. Yes. Well, that's true.

18 Q. Okay. And from these six DVDs we've looked at today,
19 those aren't the only camera angles out there, are there?

20 A. That's correct.

21 Q. All right. And but the camera angles that you've looked
22 at today, or --- or that were played today, were the only ones
23 that the prosecution's asked you to --- to identify?

24 A. Correct.

25 Q. All right. And you've cooperated with law enforcement in

1 this investigation?

2 A. Yes, sir.

3 Q. And you've cooperated with the solicitor's office in this
4 investigation?

5 A. Yes, sir.

6 Q. But when Mr. Jones an investigator working on the case on
7 the defense side came to see you, you --- you wouldn't talk to
8 him would you? You --- you wouldn't talk to him, would you?

9 A. I --- I don't know who he is, but if questions were
10 asked of me, I had no comment.

11 Q. Okay. So you --- so you didn't answer his questions?

12 MR. GROSE: That's all I have.

13 THE COURT: Any redirect?

14 MR. BLACK: Just briefly.

15 REDIRECT EXAMINATION

16 BY MR. BLACK:

17 Q. Just briefly. Ms. Web, there weren't any cameras behind
18 the back of that --- behind the back of that building, I guess
19 it's Apartment Number --- the [REDACTED] building, the [REDACTED] building?

20 A. There were no cameras there.

21 Q. All right. So other cameras that you were talking about
22 with Mr. Grose, those were at different --- different
23 buildings throughout the complex?

24 A. Yes, sir.

25 Q. They were on further down, not in this particular area?

Proceedings

1 A. Yes, sir.

2 MR. BLACK: Okay. All right. Thank you.

3 THE COURT: All right. Nothing further. All right.
4 Ma'am, thank you very much for coming. You may step
5 down. And you're free to go.

6 THE WITNESS: All right. Thank you.

7 THE COURT: All right. Ladies and Gentlemen, we're
8 30 minutes behind on taking our lunch break, so if you
9 could --- let's say --- try to be back here around 2:30.
10 And hopefully, that'll give you enough to grab a bite.
11 If you happen to go to lunch with one of your fellow
12 jurors, that's perfectly fine, just don't discuss the
13 case. And if you're taking any notes, you can just leave
14 your notepad in the chairs where you are and the bailiffs
15 will secure those. Okay? So see you back around 2:30.
16 Thank you very much for your patience and attention.

17 (PROCEEDINGS CONCLUDED AT 1:32 P.M.)

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CERTIFICATE OF TRANSCRIBER

I, JEANNE MELDRIM, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of CIRCUIT COURT 8 for ABBEVILLE COUNTY, South Carolina, on the 26th day of September, 2023.

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

January 12, 2024

A handwritten signature in black ink that reads "Jeanne Meldrim". The signature is written in a cursive, flowing style with a prominent dot above the 'i' in "Meldrim".

Jeanne Meldrim

Transcriber

STATE OF SOUTH CAROLINA) IN THE CIRCUIT COURT 8
COUNTY OF ABBEVILLE) DOCKET NO. 2021-GS-01-00215
2021-GS-01-00214

STATE OF SOUTH CAROLINA,)
Plaintiff,)
versus)
TRAVIS A. LEE AND)
KENDRICK MONTREZ LEE)
Defendant.)

H E A R I N G

PRESENT: Travis A. Lee and Kendrick Montrez Lee
DATE: September 26, 2023
TIME: 3:15 p.m. - 5:10 p.m.
LOCATION: South Carolina Circuit Court 8
JUDGE: Frank R. Addy, Jr.
TRANSCRIBED BY: Jeanne Meldrim

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10 STATE'S EXHIBITS

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17

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

Proceedings

1 (Continued proceedings for September 26, 2023)

2 (Jury not present in courtroom)

3 THE COURT: The record should reflect of course that
4 we have a new court reporter.

5 And I did have a conversation with the attorneys in
6 chambers about the evidentiary Bruton issues as it
7 relates to Travis Lee's statement to law enforcement.
8 And I've instructed the solicitor on how to handle that
9 as it relates to the investigator, as well as the other
10 lay witnesses who are going to be testifying.

11 And we also addressed impeachment and other crimes.
12 And in --- in relation to the alleged victim in this
13 case. And I've indicated that he can be examined on the
14 strong arm and grand larceny convictions from 2016 as
15 well as the pending DV seconds, a pistol charge,
16 trespass, and forgery charges.

17 So those can be inquired into by defense. And I think
18 that pretty much has it. So I think we know ---

19 MR. GROSE: There was the other witness that they
20 brought up, his last name escapes me right now, but he
21 had a pending discharge ---

22 (Simultaneous speaking)

23 THE COURT: Right. That can be brought up too.

24 MR. TINSLEY: And --- and he also. We didn't get
25 into it in the back, but Mr. Floyd also had a

Proceedings

1 contributing to the delinquency of a minor in 2016; a
2 possession of controlled substance from 2018; and
3 shoplifting from 2018; and a cruelty to children from
4 2020. And looks like that cruelty to children was a
5 felony from what the rap sheet shows.

6 THE COURT: The controlled substance and
7 shoplifting, if they're 30-day and 6-month offenses ---

8 MR. GROSE: I --- I --- I won't argue that the
9 shoplifting goes to honesty and trustworthiness.

10 THE COURT: Okay.

11 MR. GROSE: The possession of a controlled
12 substance, you may be right. I'm not sure what he ---
13 what control --- you want tell what controlled substance
14 offense he pled to, or just that it was a possession?

15 THE COURT: And the cruelty was a ten-year offense
16 as opposed to the 30-day misdemeanor?

17 MR. BLACK: He pled --- no, no pled time --- to time
18 served. It looks like to cruelty to children, which is
19 typically viewed as a lesser and included to the ten-year
20 neglect charge.

21 MR. GROSE: Well, I'm just saying what it says on
22 this thing, it specifically says the word, "felony,"
23 right by --- across the page where it shows where he
24 pled.

25 THE COURT: Does it ---

Proceedings

1 MR. BLACK: It's not --- it's a 30-day offense.

2 MR. GROSE: I'm just ---

3 MR. BLACK: I see --- I see what you're saying.

4 THE COURT: Let --- let's do this, can we --- can we
5 get --- pull his record and see? Because I imagine it
6 was initially charged as a ---

7 MR. TINSLEY: Judge, I'm looking at it right now.
8 Neglect by a legal --- a legal custodian that would be
9 your ten-year felony. Below that, it says cruelty to
10 children. And --- and cruelty to children is a
11 conviction, 29 days credit for time served.

12 THE COURT: Let's just confirm if it was indicted as
13 a neglect of legal --- if it was indicted as a neglect.
14 That indictment will be downstairs, it will be very easy
15 for us to pull that and the sentencing sheet and just
16 verify that the charges --- the 30-day offense that he
17 pled to. And if that's the case, you don't get to use
18 that, but you can use the shoplifting.

19 MR. TINSLEY: What about the contributing to the
20 delinquency of a minor?

21 THE COURT: That's ---

22 MR. TINSLEY: Looks like.

23 THE COURT: --- that's a three-year offense, and I'm
24 assuming it's within the ten years?

25 MR. BLACK: It is.

Proceedings

1 THE COURT: That's fair game too.

2 All right. Let's have the jury, please.

3 (Jury enters courtroom)

4 THE COURT: Okay. The jury is back and seated.

5 Ladies and gentlemen of the jury, I actually have a
6 good reason for keeping y'all waiting this time. The
7 court reporter who was with us yesterday and today, she
8 had an episode this morning which was concerning. But
9 she was feeling better, and then just before she --- we
10 broke for lunch, she had another episode. And she's had
11 some recent cardiac issues. So they went ahead and went
12 to the --- the emergency room. Her husband came and got
13 her. And it was uncertain whether court administration
14 was going to be able get us --- get us another court
15 reporter.

16 But as luck would have it, Ms. Rapley who is now
17 joining us, who otherwise was supposed to have the day
18 off, got pressed into service. So --- yeah, exactly. So
19 Ms. Rapley is joining us in filling in for Ms. Tollan.

20 And I'm --- I'm sure Ms. Tollan will be fine, but we
21 are in a position now to of course proceed with the ---
22 with the trial.

23 It just took Ms. Rapley a little bit of time once she
24 got notice to get --- get over here.

25 Okay. So with that, Solicitor, if you'd care to

Proceedings

1 proceed and call your next witness, sir.

2 MR. BLACK: State calls Tobias Hughey.

3 (Witness sworn)

4 TOBIAS HUGHEY, HAVING BEEN DULY SWORN, TESTIFIED AS
5 FOLLOWS.

6 DIRECT EXAMINATION

7 BY MR. BLACK:

8 Q. Can you state your name, please.

9 A. Tobias Hughey. Tobias Hughey.

10 Q. And you probably have to speak loudly just so the jury
11 can --- can hear you. Okay?

12 A. Uh-huh.

13 Q. Start off, Mr. Hughey, you have --- you've been up to
14 general sessions, correct?

15 A. Yes, sir.

16 Q. You have a conviction for strong arm robbery and grand
17 larceny ---

18 A. Yes, sir.

19 Q. --- from 20 --- from 2016?

20 A. Yes, sir.

21 Q. Okay. And you have pending charges that are still
22 currently pending, correct?

23 A. Yes, sir.

24 Q. Do you know what those charges are off the top of your
25 head?

Direct exam Hughey

1 A. CDV, and possession of a firearm, and unlawful carry
2 firearm, and trespassing.

3 Q. Okay. So you have a domestic violence charge from 2020
4 that's still pending?

5 A. Yes, sir.

6 Q. And you have a forgery charge from 2021 that's pending?

7 A. Yes, sir.

8 Q. And a domestic violence second degree charge from 2023
9 that's pending?

10 A. Yes, sir.

11 Q. And then a trespassing and a carrying a pistol unlawfully
12 from May of 2023?

13 A. Yes, sir.

14 Q. And those are all still pending, correct?

15 A. Yes, sir.

16 Q. Have you been promised anything in --- you know, relation
17 to those charges for you to be here?

18 A. No, sir.

19 Q. Okay. All right. And you have a --- do you have an
20 attorney on those charges?

21 A. No, sir.

22 Q. You don't?

23 A. No. I supposed to be getting a public offender.

24 Q. You may have a public defender on some of them?

25 A. Yeah. Yes, sir.

Direct exam Hughey

1 Q. Okay. All right. Let's go back to October of 2020; do
2 you remember October of 2020?

3 A. Yes, sir.

4 Q. How old were you in October of 2020?

5 A. I was 20.

6 Q. You were ---

7 A. Yeah, I was 21. Yeah, I was 21.

8 Q. When were you born?

9 A. 1999.

10 Q. 1999?

11 A. Yes, sir.

12 Q. You born here in Abbeville?

13 A. Yes, sir.

14 Q. Where do you live?

15 A. Right now, I stay at [REDACTED].

16 Q. Okay. What about --- where were you living in 2020?

17 A. On [REDACTED].

18 Q. Were you --- who were you living with?

19 A. With my mother.

20 Q. All right. Did you have a girlfriend at the time?

21 A. Yes, sir.

22 Q. Who was your girlfriend?

23 A. Vonseco.

24 Q. Vonseco?

25 THE COURT: How do you spell that, sir?

Direct exam Hughey

1 THE WITNESS: V-O-N-S-E-C-O.

2 THE COURT: Thank you.

3 BY MR. BLACK:

4 Q. Is that a first name or a last name?

5 A. It's her first name.

6 Q. Do you know what her last name was?

7 A. Latimer.

8 Q. Latimer? Where was she living at?

9 A. She was staying in Hickory Heights.

10 Q. Is that also commonly referred to as The Village?

11 A. Yes, sir.

12 Q. Was she living there by herself, or was she living with
13 other people?

14 A. She --- I was staying there with her.

15 Q. So you --- you were back and forth at that point between
16 the apartment complex and your mom's house ---

17 A. Yes, sir.

18 Q. --- [REDACTED] ?

19 A. Yes, sir.

20 Q. Do you know the breakdown about how often you would stay
21 with your girlfriend and how often you'd stay with your mom?

22 A. About two months and two months. Yeah.

23 Q. Okay. So it would be long periods of time?

24 A. Yeah.

25 Q. All right. Did y'all --- did y'all have any kids or

Direct exam Hughey

1 anything?

2 A. Yes, sir.

3 Q. In 2020 ---

4 A. Right --- right now we got two.

5 Q. Okay. How old are your kids?

6 A. One of them is three and one of them is a year.

7 Q. Three and a year? So when was your three-year-old born?

8 A. In nine --- in 2020.

9 Q. In 2020?

10 A. Yes, sir.

11 Q. What --- what month; do you know?

12 A. July --- July --- July the 23rd --- 23rd.

13 Q. July 23, 2020?

14 A. Yeah. Uh-huh.

15 Q. Okay. So you had a COVID baby as well, Huh?

16 A. Yes, sir.

17 Q. All right. In October of 2020, do you know if you were
18 staying primarily out at The Village, or if you were primarily
19 stays out a [REDACTED]?

20 A. I was staying in --- The Village.

21 Q. You were staying in the village?

22 A. I was staying The Village.

23 Q. All right. The --- the folks that stay out in the ---
24 The Village, do you know a lot of those folks?

25 A. Yes, sir.

Direct exam Hughey

1 Q. You do?
2 A. Yes, sir.
3 Q. Pretty kind of close-knit community?
4 A. Yes, sir.
5 Q. Everybody kind of knows everybody?
6 A. Yes, sir.
7 Q. All right. So you know a Michael Shane Floyd?
8 A. Yes, sir.
9 Q. All right. How --- how did you know him?
10 A. We were real close friends.
11 Q. You were real close friends?
12 A. Yes, sir.
13 Q. Did y'all work together at one point as well?
14 A. Yes, sir. We worked at Gilmer's Roofing.
15 Q. Gilbert's roofing for a bit? And that's a yes?
16 A. Yes.
17 Q. Do you know where he lived at?
18 A. In --- in The Village in the [REDACTED] building.
19 Q. In the [REDACTED] building?
20 A. Yes, sir.
21 Q. All right. Did you know a Miesha Cobb?
22 A. Yes, sir.
23 Q. All right. Where does she live at?
24 A. She stayed in the [REDACTED] building.
25 Q. Do you know what apartment number she was in?

Direct exam Hughey

1 A. [REDACTED].

2 Q. [REDACTED]?

3 A. Yeah.

4 Q. All right. Do you know if she was in a relationship with
5 anybody?

6 A. Yes, sir.

7 Q. Who was she in a relationship with?

8 A. Ken.

9 Q. Ken who?

10 A. Ken Lee.

11 Q. Okay. They were --- were they married, or just
12 boyfriend-girlfriend, or do you know?

13 A. Boyfriend and girlfriend.

14 Q. Boyfriend and girlfriend? How long had they been
15 together?

16 A. About a year then.

17 Q. About a year?

18 A. Uh-huh.

19 Q. Okay. Do you know if they had any children or you may
20 not?

21 A. No.

22 Q. You don't --- you don't know?

23 A. I don't know.

24 Q. Okay. All right. So did --- did Ken Lee live out there?

25 A. Yes.

Direct exam Hughey

1 Q. Or did he stay out there?

2 A. He --- he was --- I guess he was staying there.

3 Q. Did you see him out at the --- the apartment complex?

4 A. Yes, sir.

5 Q. All right. How often did you see him?

6 A. Practically every day.

7 Q. Every day? And you'd see him around the [REDACTED] building?

8 A. Yes, sir.

9 Q. And for the jury, can you explain kind the --- the [REDACTED]
10 Building and [REDACTED] building, are they right next to each other?

11 Across from each other? How are they ---

12 A. They right across the street.

13 Q. So they're right across from each other?

14 A. Right across parking lot.

15 Q. All right. On October the 6th, were you at the apartment
16 complex that day?

17 A. Yes, sir.

18 Q. October 6, 2020?

19 A. Yes, sir.

20 Q. Do you remember that day?

21 A. Yes, sir.

22 Q. Did you --- tell --- tell the jury what happened in the
23 parking lot between the [REDACTED] building and the [REDACTED] building
24 that afternoon.

25 A. I was walking down --- down between the --- the

Direct exam Hughey

1 buildings. And Travis, he walked up to me. He was
2 talking about something that was missing from the
3 apartment. And by that time, I was --- having
4 conversation with him. I seen Ken, he was coming up the
5 park -- between the cars in the parking lot. And by the
6 time he got --- got to me, he hit me with table leg, or a
7 stick kind of object.

8 Q. All right. So you mentioned Travis. Let's go back and
9 kind of unpack that little bit. You mentioned Travis Lee; did
10 Travis Lee live out there?

11 A. No.

12 Q. He did not live out there?

13 A. No, sir. No, sir.

14 Q. Do you know where he lived?

15 A. No, sir.

16 Q. Okay. But you said you saw him?

17 A. Yes, sir.

18 Q. How do you know Travis Lee?

19 A. My mom and him used to be close friends.

20 Q. Okay. So they know each other from Abbeville?

21 A. Yes, sir.

22 Q. And Abbeville's kind of a small town ---

23 A. Yeah, small.

24 Q. --- small community? Everybody kind of knows everybody?

25 A. Yes, sir.

Direct exam Hughey

1 Q. All right. So you said you were walking across the
2 parking lot and Travis Lee approached you?

3 A. Yes, sir.

4 Q. What --- what did that conversation entail?

5 A. It was based on where --- where --- where was
6 something that was missing. I --- of Ken's apartment.

7 Q. Okay. So at that point, were --- was the conversation
8 cordial, or was it kind of rough?

9 A. No, it was --- it was violent.

10 Q. It was violent?

11 A. Yeah.

12 Q. In what way?

13 A. And him cursing where is it? And he was pulling on
14 me.

15 Q. What exactly was he saying?

16 A. He was, like, where's --- where's my shit? Where my
17 shit?

18 Q. Okay.

19 A. Yeah.

20 Q. And you said he was pulling on you?

21 A. Yeah.

22 Q. Where was he pulling on you at ---

23 A. I guess he was trying to get me back across the
24 parking lot.

25 Q. Okay. How long did --- how long was this interaction

Direct exam Hughey

1 that you --- you may not know exactly?

2 A. Not even --- not even a --- a minute.

3 Q. This was --- this was with Travis, correct?

4 A. Yeah.

5 Q. All right. So during the course of this minute, what are
6 you --- what are you saying back to Travis?

7 A. I don't know where it at.

8 Q. All right.

9 A. I don't know where is the stuff.

10 Q. All right. And during --- after this kind of brief
11 minute interaction, what do you see next?

12 A. I seen Ken coming up between the cars.

13 Q. Okay. And what is --- do you remember what Ken was
14 wearing?

15 A. Black and red.

16 Q. Black and red?

17 A. Yeah.

18 Q. Okay. Did he have a hat on or anything that you
19 remember?

20 A. Yes.

21 Q. He did?

22 A. Yeah, both of them had on a hat.

23 Q. Do you know what kind of hats they were?

24 A. It was a gray hat and I think it was a red and black
25 hat for Ken.

Direct exam Hughey

1 Q. Is that --- is that something they would typically wear?

2 A. Yes.

3 Q. Okay. And so when Ken showed up, where was he coming
4 from?

5 A. He was coming from the [REDACTED] building.

6 Q. He was coming from the [REDACTED] building?

7 A. Yes, sir.

8 Q. All right. Was he walking to you? Running to you?

9 A. He was --- he was speed walking to me.

10 Q. Speed walking to you?

11 A. Uh-huh.

12 Q. And he --- you said he had something in his hands?

13 A. Yes, sir.

14 Q. Do you know exactly what it was?

15 A. It was a wooden object.

16 Q. A wooden object?

17 A. Yes, sir.

18 Q. How long was it? How big was it?

19 A. It was about --- it was about -- I give it a foot
20 and a half.

21 Q. Foot and a half?

22 A. Yeah.

23 Q. Was it pretty thick or ---

24 A. Yes, sir.

25 Q. --- pretty thin?

Direct exam Hughey

1 A. It was --- it looked more like a table leg or a
2 chair leg, or something like that.

3 Q. Table leg or a chair leg?

4 A. Yes, sir.

5 Q. And it --- do you know for sure that it was wooden?

6 A. Yes, sir. I know for sure it was wood.

7 Q. Okay. And how do you know that?

8 A. It had the --- the marks of wood, like.

9 Q. Okay.

10 A. Yes, sir.

11 Q. Did you get --- did you have a close encounter with this
12 table leg?

13 A. Yes, sir.

14 Q. Do you know about how many times you had --- you were ---

15 A. I don't remember, because I was in and out.

16 Q. You were in and out? Do you know about how many swings
17 they --- they made on you?

18 A. About 20.

19 Q. About 20 swings?

20 A. Yes, sir.

21 Q. And where did it start at again?

22 A. It started right there in the --- between the
23 apartment building, [REDACTED] and the [REDACTED] --- I meant [REDACTED].

24 Q. And did it stay there or did it go somewhere else?

25 A. It went behind the [REDACTED] building.

Direct exam Hughey

1 Q. How did you get behind the [REDACTED] building?

2 A. They pulled me that way.

3 Q. Who did?

4 A. Travis and Ken.

5 Q. Okay. And Travis and Ken, you're alluding to these ---
6 to these gentleman. Do you see them here in the courtroom
7 today?

8 A. Yes, sir.

9 Q. Can you point them out for us, please? All right. And
10 which one is which? Can you describe what they're wearing?

11 A. That's Travis and that's Ken.

12 Q. So Travis is closer to the prosecutors time?

13 A. Yes, sir.

14 Q. And what is he wearing?

15 A. He's wearing green.

16 Q. Wearing a green suit?

17 A. Yes, sir.

18 Q. A track suit? All right. And what was he doing to you
19 again?

20 A. He was grabbing me. He was basically holding me.

21 Q. He was basically holding you?

22 A. Yes, sir.

23 Q. All right. And Ken is also here?

24 A. Yes, sir.

25 Q. Can you describe what he's wearing?

Direct exam Hughey

1 A. He's wearing a gray shirt.

2 Q. Gray shirt at the far side of the table?

3 A. Yes, sir.

4 MR. BLACK: Your Honor, at this point, let the
5 record reflect that the --- the victim has identified the
6 defendants.

7 THE COURT: The record shall so reflect.

8 And, sir, you might be easier to understand if you
9 kind of lost the gum. Okay? So there you go. No
10 worries. No worries.

11 BY MR. BLACK:

12 Q. So you said Travis was basically holding you ---

13 A. Yes, sir.

14 Q. All right. And --- and what was Ken doing?

15 A. He was hitting me.

16 Q. He was hitting you?

17 A. Yes, sir.

18 Q. Did Travis ever hit you?

19 A. Yeah, a couple times when I was on the ground.

20 Q. Did he hit you with anything, or did ---

21 A. No, he was just hitting me with his hand. Base ---
22 basically kicking me.

23 Q. He was hitting you with his what again?

24 A. With his hands and kicking me.

25 Q. Hands and kicking you?

Direct exam Hughey

1 A. Yes, sir.

2 Q. Okay. All right. What were you doing while they were
3 trying to --- to ---

4 A. I was trying to get away.

5 Q. You were trying to get away?

6 A. I was in and out of conscious. I was trying to get
7 away and I was in out of conscious.

8 Q. Were you trying to block them with your hands or anything
9 like that?

10 A. Yes, sir.

11 Q. Did you try to fight them back or anything?

12 A. No, I --- I was really just trying to get away.

13 Q. Trying to get away?

14 A. Yes, sir.

15 Q. And how were you trying to, I guess, block them?

16 A. Like with my arms.

17 Q. Okay. Were --- were you successful in blocking the
18 blows?

19 A. No, sir.

20 Q. Where did they hit you at?

21 A. Basically, in my head.

22 Q. In your head?

23 A. Mainly in my head.

24 Q. How many times?

25 A. About 20-something times.

Direct exam Hughey

1 Q. Okay. And that's a rough estimate, I guess?

2 A. Yes, sir.

3 Q. All right. And do you know about how long this whole
4 encounter occur --- lasted for?

5 A. Probably about five --- maybe three minutes.

6 Q. Five or three minutes?

7 A. Yes, sir.

8 Q. Did they eventually stop?

9 A. Yes, sir.

10 Q. And when they stopped, what happened?

11 A. They just left.

12 Q. They left?

13 A. Yes, sir.

14 Q. Were you --- were you still conscious with ---

15 A. No, I was --- I was --- I was conscious, but it was
16 just blurry.

17 Q. It was blurry?

18 A. Yes, sir.

19 Q. Were you bleeding pretty badly too?

20 A. Yes, sir.

21 Q. Did any particular part of your body hurt more or less
22 than the other part?

23 A. My head and my arm.

24 Q. Your head and your arm? Which arm was it?

25 A. It was my right arm.

Direct exam Hughey

- 1 Q. Your right arm?
- 2 A. Yes, sir.
- 3 Q. And your head?
- 4 A. Yes, sir.
- 5 Q. What part of your head?
- 6 A. It was all over.
- 7 Q. All over your head?
- 8 A. Yes, sir.
- 9 Q. Once they left, did you get up and also leave?
- 10 A. Yes, sir.
- 11 Q. Where did you go?
- 12 A. I went to Shane's house.
- 13 Q. Shane's house? Also Michael --- Michael Shane Floyd?
- 14 A. Yes.
- 15 Q. You call --- you call him Shane?
- 16 A. We call him Shane.
- 17 Q. And do you remember what apartment that is off the top of
- 18 your head?
- 19 A. That's --- that's [REDACTED].
- 20 Q. [REDACTED]. Okay. Once you got to Apartment [REDACTED], what did you
- 21 do?
- 22 A. I went in his apartment and I just started yelling.
- 23 Q. What were you yelling for?
- 24 A. I was in pain.
- 25 Q. Did you ask Mr. Floyd to call EMS or anything?

Direct exam Hughey

1 A. No. I was telling him, call my mom.

2 Q. Okay. And why is that?

3 A. Because I felt like I was going to die.

4 Q. Okay. Did you know that you had those outstanding
5 warrants at the time?

6 A. No, sir.

7 Q. You didn't know that?

8 A. No, sir.

9 Q. So you just wanted to see your mom?

10 A. Yeah, I wanted to see mom.

11 Q. And once you talked to your mom, did you also ask to see
12 any other members of your family?

13 A. And my baby, and my --- my baby's mom.

14 Q. Your baby and your baby's mom? And that's a yes?

15 A. Yes, sir.

16 Q. And why did you ask to see them?

17 A. I thought I was going to die.

18 Q. Thought you were going to die? Where did your mom take
19 you?

20 A. She took me to her house.

21 Q. She took you to her house?

22 A. Yeah, [REDACTED].

23 Q. [REDACTED]? And you --- again, you ask to go to the
24 hospital?

25 A. Uh-uh.

Direct exam Hughey

1 Q. Once you got to [REDACTED], what do you remember happening?

2 A. I was just --- that --- that by the time my son got
3 there and my baby mama, she was sitting on the couch
4 beside me, and she was trying to put towels and stuff on
5 me. And then I went out.

6 Q. Then you went out? So you don't remember much after
7 your --- your baby and your --- and your girlfriend got there?

8 A. Uh-huh.

9 Q. What's the next thing you remember?

10 A. I remember hearing the helicopter blade. I went in
11 the helicopter.

12 Q. Do you remember hearing the helicopter?

13 A. I remember hearing the helicopter.

14 Q. Do you remember seeing it at all?

15 A. No.

16 Q. What about the next kind of memory that you have the ---
17 I guess, waking up?

18 A. I was --- I woke up in the hospital.

19 Q. Do you know when that was?

20 A. I --- not what day. That was --- I can't remember.

21 Q. This happened on October the 6th, correct?

22 A. Yeah. It was like three days after. It was maybe
23 was --- no, it was maybe that night.

24 Q. Maybe that night?

25 A. It was maybe that night when I had woke up.

Direct exam Hughey

1 Q. How long were you in the hospital for?

2 A. I was in there for a month and like two weeks.

3 Q. A month and two weeks?

4 A. Yeah.

5 Q. Okay. What hospital were you at?

6 A. Roger C. Peace and I was --- first I was at
7 Greenville Memorial, they call it something now. They
8 got a new name for it now.

9 Q. Prisma?

10 THE COURT: Prisma.

11 THE WITNESS: Prisma.

12 BY MR. BLACK:

13 Q. Does that ring a bell?

14 A. Yes.

15 Q. But the big hospital in Greenville?

16 A. Yeah.

17 Q. So you were there for about a month, you said?

18 A. Yes, sir.

19 Q. And you were at Roger C. Peace, that's another portion of
20 that hospital for another week or so ---

21 A. Yeah.

22 Q. --- two weeks?

23 A. Yes, sir.

24 Q. What were you diagnosed with?

25 A. Brain injuries. And I had --- when I woke up, I

Direct exam Hughey

1 pulled a tube out my throat. So I had to really learn
2 how to speak again, get my voice box back right.

3 Q. So you pulled a tube out of your throat? That's probably
4 the --- is that how they intubated you?

5 A. Uh-huh.

6 Q. So you pulled that out?

7 A. I pulled that out when I woke up.

8 Q. Is that --- so the way you're talking now, is that how
9 you've always talked, or is that ---

10 A. No.

11 Q. --- something ---

12 A. I was a lot louder.

13 Q. You were a lot louder?

14 A. A lot louder.

15 Q. You had a deeper voice?

16 A. Yes, sir.

17 Q. But at this point, this is the way you talk?

18 A. This is way I talk now.

19 Q. Okay. So you had a brain injury, what was brain injury?

20 A. I had --- I can't really describe it.

21 Q. You're not real sure?

22 A. Not really sure. But I remember I had trauma to the
23 brain.

24 Q. Trauma to the brain?

25 A. Yeah.

Direct exam Hughey

1 Q. What about any other parts of your body? Did any other
2 parts of your body get hurt --- hurt pretty bad?

3 A. Yeah, my hip was out of place, my arm was broken, I
4 had gashes on my. Arm and that's basically what ---

5 Q. You said gashes on the arm?

6 A. Yes, sir.

7 Q. Broken arm?

8 A. Yes, sir.

9 Q. What part of your arm was broken?

10 A. My fibula bone.

11 Q. Fibula bone?

12 A. Yeah.

13 Q. What where at on your bone; can you show us?

14 A. The front side.

15 Q. Right here between your elbow and your forearm?

16 A. Yeah. Yes, sir.

17 Q. And your head --- you had to get some stitches or some
18 staples?

19 A. I had to get staples.

20 Q. How many did you get, do you know?

21 A. I --- I had got a bunch of staples.

22 Q. Where at on your head were they?

23 A. It was all over my head. I had --- if I get a --- I
24 got two in the back, I got one up top. I got these two,
25 and I had to get a surgery on my stomach. They had to

Direct exam Hughey

1 cut my stomach open where my kidney and my liver shut
2 down.

3 Q. So your kidneys and your liver has had some problems ---

4 A. Uh-huh.

5 Q. --- they did --- they did surgery on that?

6 A. Yes, sir.

7 Q. Was that right when you got to the hospital? Or, I mean,
8 you may not even remember.

9 A. No, I don't remember. I can't remember.

10 Q. The Village, this is the Hickory Heights Apartment; is
11 that right?

12 A. Yes, sir.

13 Q. And is that here in Abbeville City?

14 A. Yes, sir.

15 Q. Do you know the address off the top of your head?

16 A. [REDACTED].

17 Q. [REDACTED]? I'm going to show you what's been
18 marked as State's 13. You viewed this, correct?

19 A. Yes, sir.

20 (State's Exhibit 13 marked)

21 Q. And I'm starting it at 11:30 --- 38.

22 (Video playing)

23 Q. I'm going to come over here to this video. The person in
24 the red, who is that?

25 A. That's me.

Direct exam Hughey

1 Q. And this person right here, who is that?
2 A. That's Travis.
3 Q. Travis Lee?
4 A. Yes, sir.
5 Q. Do you know who the person is right here?
6 A. No. No idea.
7 Q. What are you and Travis Lee doing here?
8 A. We were talking about the stuff that got stolen.
9 Q. He grabbed you (unintelligible)?
10 A. No, sir. We were standing there talking.
11 (Video playing)
12 A. That's when he grabbed me.
13 Q. He grabbed you about here?
14 A. Yes, sir.
15 Q. 11:45?
16 A. Yes, sir.
17 (Simultaneous speaking)
18 A. Yes, sir.
19 Q. And what's he saying to you again?
20 A. He like where the stuff at? Where the stuff at?
21 Q. What are you telling him?
22 A. I --- I don't know.
23 Q. Did you take any of the stuff?
24 A. No, sir.
25 Q. Who's this gentleman just walking (unintelligible)?

Direct exam Hughey

1 A. That's Ken Lee.

2 Q. Do you see anything in his hand?

3 A. Yes, sir.

4 Q. Is it a wooden table leg?

5 A. Yes, sir.

6 Q. Is he saying anything to you as he's approaching?

7 A. He's where my stuff at? Where my stuff at?

8 Q. Saying the same thing?

9 A. Yes, sir. And that's when ---

10 Q. You're trying to get away?

11 A. Yes, sir.

12 Q. You get hit there?

13 A. No, sir.

14 Q. Is he doing it right there?

15 A. Yes, sir.

16 Q. And then they took you behind this apartment over here?

17 A. Yes, sir.

18 Q. What building is that?

19 A. Not offhand, I don't know.

20 Q. Is that the [REDACTED] building?

21 A. Yes, sir. Yes, sir. That is the [REDACTED] building,

22 because the [REDACTED] building's at the top. That's [REDACTED] sic,

23 yes, sir.

24 Q. And once this goes down after you get done, you run into

25 this apartment right here --- well, this --- this complex?

Direct exam Hughey

1 A. Yes, sir.

2 (Simultaneous speaking)

3 Q. --- side?

4 A. Yes, sir.

5 Q. Do you recognize anybody else in this video?

6 A. Yes, sir. I see Yolanda, her --- her Jeep doors is
7 open.

8 Q. This car right here?

9 A. Yes, sir.

10 (Video playing)

11 Q. Is this Travis Lee right here?

12 A. Yes, sir.

13 Q. Is that Ken Lee right there?

14 A. Yes, sir. Where?

15 Q. Did you see that?

16 A. No, sir.

17 THE COURT: I don't think he saw.

18 (Simultaneous speaking)

19 THE COURT: You may just want to rewind a little
20 bit.

21 BY MR. BLACK:

22 Q. (Inaudible) this area right here?

23 A. Yes, sir.

24 Q. That's the gentleman that (unintelligible) you?

25 A. Yes, sir.

Direct exam Hughey

1 Q. This building right here is [REDACTED]?

2 A. Yes, sir.

3 Q. (Unintelligible)?

4 A. Yes, sir.

5 Q. When Ken was asking where's my stuff, what did you say?

6 A. I really wasn't saying anything. I was just trying
7 to get away.

8 Q. You didn't say anything?

9 A. No, I wasn't saying nothing to them.

10 Q. Did --- did you (inaudible)?

11 A. No, sir.

12 Q. Did you take any of his girlfriend's stuff?

13 A. No, sir.

14 Q. Did you take any of his other family member's stuff?

15 A. No, sir.

16 Q. And again, I think you said you estimated this whole
17 thing lasting three to five minutes?

18 A. Hmm.

19 Q. That's a yes?

20 A. Yes, sir.

21 Q. Let me ask you this, do you remember Mr. Travis Lee or
22 Ken Lee trying to locate you a couple days prior to this?

23 A. Yes, sir.

24 Q. You do remember this?

25 A. I remember that. Because my mom got in contact with

Direct exam Hughey

1 me.

2 Q. Okay. What about --- were you ever at --- do you
3 remember being at Shane's house when maybe somebody was
4 looking for you?

5 A. Yes, sir.

6 Q. Okay. Tell me a little bit about that. When was that?

7 A. I --- it was like somebody was knocking on the door.
8 I don't remember what day it was. I think it was two
9 days or a day before.

10 Q. Okay.

11 A. And somebody knocked at the door and he was like
12 somebody at the door. I --- I just went in the back room
13 and hid.

14 Q. Okay. Do you know who was at the door?

15 A. It was --- I can't remember. I --- I --- like I
16 said, I went in the room, and --- and hid.

17 Q. Okay. Did the person come to the door more than one time
18 that you remember, or do you know?

19 A. I --- I --- I can't. I --- it was just that one
20 time I remember.

21 Q. Just that one time?

22 A. Yes, sir.

23 Q. Okay. You don't know who was at the door?

24 A. No, sir.

25 Q. That's a no?

Direct exam Hughey

1 A. No.

2 Q. And you may not know the answer to this, but do you know
3 about what time this occurred? What time this assault
4 occurred?

5 A. I don't remember that.

6 Q. Was it ---

7 A. It was like right before sun went down though.

8 Q. Okay. So it was daylight?

9 A. Yes, sir.

10 Q. As the sun was going down?

11 A. Yes, sir.

12 Q. Okay. Do you know how long you were at your mom's house
13 before EMS showed up?

14 A. I don't remember. I don't remember.

15 Q. Do you remember the cops getting there and EMS getting
16 there?

17 A. No. I was --- I was out.

18 Q. You were out?

19 A. I was out.

20 MR. BLACK: Okay. That's all the questions I have.
21 Please answer any questions that Mr. Grose and Mr.
22 Tinsley have.

23 THE COURT: Mr. Tinsley.

24 MR. TINSLEY: Thank you, Your Honor.

25 CROSS-EXAMINATION

Direct exam Hughey

1 BY MR. TINSLEY:

2 Q. You would agree with me that that that video shows you
3 approaching my client Travis Lee, correct?

4 A. No, sir.

5 Q. Oh, you didn't walk towards him?

6 A. No, he approached me.

7 Q. Oh, you were trying to get away from him?

8 A. Yes, sir.

9 Q. Is that --- is that what I'm hearing that you weren't ---
10 that you were moving the opposite direction?

11 A. Sir, I --- I was trying to figure out what was going
12 on, because I heard my mom's --- I heard from my mama
13 that they was looking for me.

14 Q. So you went looking for Travis Lee?

15 A. No, I didn't.

16 Q. Well, you were heading in his direction, correct?

17 A. No, I was headed towards another direction, towards
18 (unintelligible) apartment.

19 Q. Okay.

20 A. (Unintelligible).

21 Q. All right. Well, you would agree with me that that that
22 video shows the two of you just having a conversation?

23 A. No, sir. He was aggressively talking to me.

24 Q. He was aggressively talking to you. Okay. I heard you
25 testify that he said where's my stuff?

Cross-exam Hughey

1 A. Yes, sir.

2 Q. Wasn't his stuff, correct?

3 A. Yes, sir.

4 Q. Why would he call it his stuff when everyone knows it's
5 not his stuff?

6 A. Because it was basically the way it was put, and I
7 was --- he was --- it came out of his mouth.

8 Q. Okay. Now, what was the stuff?

9 A. I really don't know.

10 Q. Okay. But you did go into Ms. Cobb's house?

11 A. No, sir.

12 Q. Okay. I'm going to show you a statement that you wrote
13 on October 19, 2020. Would you read right where my thumb is,
14 please?

15 A. I --- I --- wasn't in Ms. Cobb's house. I don't
16 remember that.

17 Q. You don't remember writing that?

18 A. I don't remember it.

19 Q. Is that your signature down there?

20 A. I don't remember that.

21 Q. But is that your signature?

22 A. I don't remember that.

23 Q. Do you --- is that your signature or not?

24 A. No, sir. No, sir.

25 Q. It's not?

Cross-exam Hughey

1 A. Not my signature.

2 Q. Okay. Somebody else wrote this statement and signed your
3 named to it?

4 A. I don't remember that.

5 Q. Okay. And it doesn't mention --- you saw it. If you
6 need to look at it again, you can. But it doesn't mention
7 anything about Travis Lee hitting you, does it?

8 A. No, sir.

9 Q. All right. Now, I'm going to hand you another statement
10 from October 19, 2020. Time, 6:20 p.m. Would you read where
11 my thumb is there?

12 A. I was hit with a baseball bat --- I mean with a bat
13 by Ken Lee.

14 Q. Okay. And is that all --- do you remember writing that
15 statement on the same day?

16 A. Yes, sir. Yes, sir. No, sir. I remember that one,
17 but I don't remember the other one.

18 Q. Okay. And this statement, once again, doesn't mention
19 anything about getting hit by Travis Lee?

20 A. No, sir.

21 Q. Doesn't mention anything about getting kicked by Travis
22 Lee?

23 A. No, sir.

24 Q. Okay. And which was it? I heard you testifying about
25 hitting with the hands and about kicking from Travis Lee.

Cross-exam Hughey

1 Which --- which is it?

2 A. It was both. He hit me with my hand --- with his
3 hands and kicking me.

4 Q. Okay. Well, that wasn't important enough to tell the
5 police way back when was it?

6 A. When they had --- when I was at the hospital, they
7 got a report of it.

8 Q. Okay. Well, when you wrote --- wrote these two things
9 out, it wasn't important enough to mention, was it?

10 A. I --- I --- to be honest, I can't remember them.

11 Q. Okay. All right. And at some point, you accused someone
12 else of --- of kicking you, correct; do you remember that?

13 A. Yes, sir.

14 Q. Who was that?

15 A. Kicking me?

16 Q. Yeah. I'll --- I'll show you this statement as well.

17 A. Let me see it.

18 Q. This was dated October 28, 2020. You can read right
19 where my finger starts. Does it say Kiaire (phonetic) kicked
20 me in my ribs?

21 A. Yes, sir.

22 Q. That's what it says?

23 A. I don't remember that, sir.

24 Q. Is that your signature?

25 A. I don't remember that, sir. I don't remember that,

Cross-exam Hughey

1 sir.

2 Q. Do you know whether that's your signature or not?

3 A. I don't remember that, sir.

4 Q. Okay. So you just don't know?

5 A. When I was in the hospital, I wasn't able to write
6 anything.

7 Q. Okay.

8 A. That's when they got the reports.

9 MR. TINSLEY: I'm going to mark the --- each of
10 these three for identification for the record.

11 THE COURT: Sure.

12 MR. TINSLEY: This will be ---

13 THE COURT: Start --- start with --- do it
14 chronologically. The --- the hand --- the handwritten
15 one, 10/19/20, that can be Defendant's --- Defendant
16 Lee's --- well, Defendant Travis 1. And then the other
17 one on 19th, 2, and then 10/28/20 statement, 3.

18 (Exhibits Defendant Lee 1, 2 and 3 marked)

19 THE COURT: If you're not moving to introduce those
20 at this time, you can simply mark it --- if you don't
21 have a clean one. You got a clean one?

22 MR. TINSLEY: I don't have a clean one for number
23 three.

24 THE COURT: Okay. Let's --- just go ahead and mark
25 it and we'll substitute ---

Cross-exam Hughey

1 MR. TINSLEY: Okay.

2 THE COURT: --- a clean one later. Okay?

3 MR. TINSLEY: Okay.

4 BY MR. TINSLEY:

5 Q. And we didn't hear you testify about being kicked by
6 anybody named --- named Kiaire just a minute ago, did we?

7 A. No, sir.

8 Q. Did she kick you or not?

9 A. I --- I don't remember, sir.

10 Q. Okay. So you're just kind of guessing when you give all
11 these statements, right?

12 A. No, sir.

13 Q. Huh?

14 A. No, sir.

15 Q. Well, why are they always different?

16 A. Because I told you I was in and out.

17 Q. Okay. So you are just guessing?

18 A. No, sir. I seen those two faces.

19 Q. I understand you see those two faces, but there's a
20 lot --- lot of details you've testified about, right?

21 A. Yes, sir.

22 Q. Okay. And --- and you were in and out by your own
23 admission?

24 A. I said Kiaire, because Kiaire was around when it
25 happened. I seen her face too.

Cross-exam Hughey

1 Q. Okay. Did she kick you?

2 A. I --- it was --- so many punches, and kicking, I
3 don't know.

4 Q. Okay. But you said that she did, right? In that written
5 statement?

6 A. Yes, sir.

7 Q. But you just don't know; is that right?

8 A. Yes, sir.

9 Q. Okay. Now, you refused to go to the hospital that night;
10 is that right?

11 A. I didn't refuse. I --- because I wanted to see my
12 son.

13 Q. You wanted to see your son rather than go to the
14 hospital?

15 A. Yes, sir.

16 Q. Okay. You --- did you just not think you hurt that bad?

17 A. No, sir.

18 Q. Well, then why didn't you want to go to the hospital?

19 A. I thought I was going to die, man.

20 Q. Then why didn't you want help? You don't know?

21 A. No, sir.

22 Q. Okay. And you got up and walked to --- first to another
23 apartment before you went to Shane Floyd's right?

24 A. No, sir. No, sir. I went straight to Shane's
25 apartment.

Cross-exam Hughey

1 Q. Okay. You didn't --- you didn't --- you didn't stop by
2 Mr. Phillips' apartment.

3 A. No, I --- No, sir I --- by --- by the time I was in
4 and out, I was coming around the building. That's what I
5 remember, the [REDACTED] building.

6 Q. Okay. And you told Mr. Floyd not to call 911 ---

7 A. No, sir.

8 Q. --- 'cause you wanted to see your son?

9 A. Yes, sir.

10 Q. Really, it was because you were doing hard drugs, right?

11 A. No, sir.

12 Q. You didn't do any hard drugs that night?

13 A. No, sir.

14 Q. You don't do them?

15 A. No, sir.

16 Q. Never have?

17 A. Never have that. I have in my past.

18 Q. I'm talking about at this time --- time ---

19 (Simultaneous speaking)

20 A. No, sir.

21 Q. You --- you'd quit by then?

22 A. Yes, sir.

23 Q. Okay. You got out of the hospital, sound like
24 mid-November from what your testimony was?

25 A. Yes, sir.

Cross-exam Hughey

1 Q. All right. But December, you were stealing somebody's
2 shoes out of The Village Apartments while she was
3 incarcerated, right?

4 A. No. No.

5 Q. Let's see here. The granddaughter of Betty Utes, does
6 that ring a bell?

7 A. Betty Utes? No, sir.

8 Q. Okay. So you're just stealing from so many people you
9 can't keep it straight?

10 A. No, sir.

11 Q. Okay. Now, you would agree with me that you always had a
12 good relationship with Kendrick Lee?

13 A. I have.

14 Q. He's always looked after you, right?

15 A. Yes, sir.

16 Q. Okay. Kept you on --- tried to keep you on the straight
17 path?

18 A. That's prior before that.

19 Q. Okay. And you testified that you --- you don't have any
20 kind of deal in place with The State?

21 A. No, sir.

22 Q. But you're certainly hope --- hoping that this is going
23 to help you with your own problems, aren't you?

24 A. Just getting over it. Just getting this out of way,
25 because I don't want to deal with it anymore.

Cross-exam Hughey

1 Q. You want help on your criminal charges, don't you?

2 A. No, sir.

3 Q. Oh, you don't?

4 A. No, sir.

5 Q. Okay.

6 A. If I got to do a time I'll do the time.

7 Q. Okay. And do you remember speaking to Investigator
8 Stevie Jones who's seated over in the Grand Jury box with the
9 sunglasses, correct?

10 A. I don't remember that.

11 Q. You don't remember speaking to him twice?

12 A. No, sir.

13 Q. Okay. You don't remember calling him?

14 A. No, sir.

15 Q. Okay. Let me show you --- is your phone number 378-8996?

16 A. 878-99 ---

17 Q. 8996?

18 A. I had some of that phone to someone.

19 Q. But you did have that number at one time?

20 A. Yes, sir.

21 Q. Okay. And you would see that this shows missed calls
22 back in March? You just dispute that it shows that, or you
23 admit that it shows that, right?

24 A. I don't remember. I don't remember making those
25 calls.

Cross-exam Hughey

1 Q. Okay. You don't remember talking to Investigator Stevie
2 Jones?

3 A. No, sir.

4 Q. Okay. You don't remember making a comment that you were
5 in the wrong?

6 A. No, sir.

7 Q. Okay. Do you know where you --- so your mother picked
8 you rather than EMS that evening, correct?

9 A. Yes, sir. Yes, sir.

10 Q. Do you --- do you remember where?

11 A. Where my mother picked me up from?

12 Q. Yes.

13 A. From Shane's house.

14 Q. From --- okay. From --- actually from his apartment?

15 A. Yes, sir.

16 Q. Okay. Did she come in and get you, or were you already
17 out --- out?

18 A. No, sir. They came and got me.

19 Q. Okay. All right. Do you remember making a comment that
20 you wanted to --- both you and the Lees to be able to move on
21 with your lives?

22 A. No, sir.

23 Q. Okay. You just don't have no recollection of that?

24 A. No, sir.

25 MR. TINSLEY: Thank you, Mr. Hughey. Please answer

Cross-exam Hughey

1 any questions Mr. Grose has.

2 CROSS-EXAMINATION

3 BY MR. GROSE:

4 Q. Mr. Hughey, I just want to make sure I understand your
5 testimony about some of these documents. Okay? I'm going to
6 show you what was marked as Defendant's Exhibit Number 1. Do
7 you see that?

8 A. Yes, sir.

9 Q. All right. And you --- you're saying that that is not
10 your signature?

11 A. No, sir.

12 Q. That --- that is not your signature?

13 A. I don't remember. I don't remember.

14 Q. I'm not asking whether you remember, I'm asking you
15 whether or not that is your signature on Defendant's Exhibit
16 Number 1. And you're telling me it's not?

17 A. (Unintelligible).

18 Q. It is yours?

19 A. Yes, sir.

20 Q. Okay. All right. So we're getting somewhere. This is
21 your signature; is that right?

22 A. Yes, sir.

23 Q. All right. And this is the one that says, I had went
24 into the house?

25 A. Yes, sir.

Cross-exam Hughey

1 Q. And that is your handwriting?

2 A. I went to the house.

3 Q. Well, it says went in the house; you see that?

4 A. Yes, sir.

5 Q. That's your handwriting?

6 A. Yes, sir.

7 Q. And you don't remember --- you claim you don't remember
8 this?

9 A. No, sir.

10 Q. All right. But you would agree when you said, I had went
11 in the house, that is different than what you told the
12 prosecutors on direct examination? You would agree that's
13 different?

14 A. I --- I can't remember, sir.

15 Q. Are you saying you can't remember whether you went in the
16 house or you can't remember the testimony from earlier?

17 A. Sir, I remember me going up to the house. That's
18 the only thing I remember, 'cause like he said, me and
19 him was close. I was trying to figure what was going on.

20 Q. Okay. So you don't remember taking his stuff?

21 A. No, sir.

22 Q. Okay. All right. I'm going to show you what is
23 Defendant's Exhibit Number 2. Is that your signature, or is
24 that not your signature?

25 A. Yes, sir.

Cross-exam Hughey

1 Q. That is your signature?

2 A. Yes, sir.

3 Q. Okay. And this is the one that says that you were hit by
4 a bat?

5 A. Yes, sir.

6 Q. And that's different from a stick; is that right?

7 A. Yes, sir.

8 Q. Okay. And Defendant's Exhibit Number 3; is that your
9 signature, or is that not your signature?

10 A. That ain't my signature.

11 Q. That's not your signature?

12 A. That is not my signature.

13 Q. Okay. So you're sure that's not your signature?

14 A. No, sir.

15 Q. Okay. Well, this part up here, that is your name up
16 here, isn't it?

17 A. Yes, sir.

18 Q. And that is your date of birth there, yes?

19 A. Yes, sir.

20 Q. Is that your handwriting, the date of birth?

21 A. Yes, sir.

22 Q. Is that your handwriting where it's your name?

23 A. Yes, sir.

24 Q. And it says that you're 21 years old; is that right?

25 A. Yes, sir.

Cross-exam Hughey

1 Q. And that's how old you were at --- on --- on
2 October 28th?

3 A. Yeah.

4 Q. That's not you?

5 A. No.

6 Q. Okay. [REDACTED] that --- that was your address?

7 A. Yes, sir.

8 Q. Okay. And it says that you can read and write and you
9 completed the 10th grade?

10 A. Yes, sir.

11 Q. And that's true, you can read and write and you completed
12 the 10th grade?

13 A. Yes, sir.

14 Q. Okay. All right. And you're saying this isn't your
15 handwriting then?

16 A. No, sir.

17 Q. Okay. All right. On Defendant's Exhibit Number 2, you
18 see where it says that the person taking the statement was ---

19 A. Yes, sir.

20 Q. --- Investigator Balchin?

21 A. Yes, sir.

22 Q. You remember talking to Investigator Balchin?

23 A. Yes, sir.

24 Q. Okay. And once again, it's Investigator Balchin who took
25 the statement on Defendant's Exhibit Number 3?

Cross-exam Hughey

1 (Simultaneous speaking)

2 Q. You don't remember none of that?

3 A. (Unintelligible).

4 Q. Okay.

5 A. 'Cause I was 21 on that --- that one and I was 20 on
6 the other one.

7 Q. Okay. And you --- Defendant's Exhibit Number 3, that's
8 the one where it says that Kiaire kicked you; is that right?

9 A. I don't remember that, sir. I don't remember that,
10 sir. Don't remember that.

11 Q. Okay. And this is the one that says --- this is the one
12 that says that you went to Eric's house; is that right?

13 A. No, sir. No, sir.

14 Q. But it --- but it says that?

15 A. Yes, sir. Yes, sir.

16 Q. All right. And is that your handwriting where it
17 says ---

18 A. No, sir.

19 Q. --- I went there --- that's not your handing writing?

20 A. Not lying.

21 Q. Okay. So you do --- you deny everything about
22 Defendant's Exhibit Number 3?

23 A. Yes, sir. Yes, sir.

24 Q. Okay. Now, Mr. Tinsley asked you some questions about
25 hard drugs, do you remember that?

Cross-exam Hughey

1 A. Yes, sir.

2 Q. And you said that you had done hard drugs in the past?

3 A. Yes, sir, I have.

4 Q. All right. Can you tell me what hard drugs you did in
5 the past?

6 A. Methamphetamines. I was taking Adderall.

7 Q. I'm sorry?

8 A. I was taking Adderall.

9 Q. Adderall?

10 A. Yes, sir.

11 Q. And I thought you also said methamphetamine?

12 A. It --- it has it in there.

13 Q. Huh?

14 A. It has it in --- in --- in Adderall.

15 Q. Okay. So you just took Adderall, you never ---

16 A. No, sir.

17 Q. --- you consider Adderall a hard drug?

18 A. Yes, sir.

19 Q. All right. You've never taken meth off the street?

20 A. No, sir.

21 Q. You ever done the blue fentanyl pills?

22 A. No, sir.

23 Q. Okay. All right. You --- you have done marijuana?

24 A. Yes, sir.

25 Q. Okay. Now, you were asked a couple times about why you

Cross-exam Hughey

1 didn't go to the hospital?

2 A. Yes.

3 Q. And I believe the --- the answer that you're standing by
4 is that you didn't go to the hospital because you wanted to
5 see your son?

6 A. Yes, sir.

7 Q. All right. Do you recall telling your mother that you
8 didn't want to go the hospital because there was pending
9 warrants?

10 A. No, I --- No, sir.

11 Q. You don't her telling --- you don't remember telling her
12 that?

13 A. No. No, sir.

14 Q. Okay. Well, they --- they asked you about pending
15 warrants, and there was a --- a domestic violence charge that
16 had occurred before this incident in October of 2020; is that
17 right?

18 A. Yes, sir.

19 Q. And that --- the victim of that domestic violence charge
20 is your baby ---

21 A. Yes, sir.

22 Q. All right. So you're telling me (unintelligible) that on
23 October 6th of 2020 you didn't know that there was a pending
24 charge for domestic violence involving your baby mama?

25 A. I did not know.

Cross-exam Hughey

1 Q. All right. But that charge is still pending?

2 A. Yes, sir.

3 Q. Okay.

4 A. Because they haven't convicted me of the felony.

5 Q. Huh-uh.

6 A. And it was just like disagreement.

7 Q. All right. Now, at the same time on October 6, 2020,
8 there was charges pending involving your mother?

9 A. Yes, sir.

10 Q. Those were financial transaction card charges?

11 A. That --- that was --- that was the year before, no.

12 Q. Okay.

13 A. Yeah, that was the year before.

14 Q. All right. But those --- those --- those have been
15 dismissed?

16 A. Yes, sir.

17 Q. Okay. Those were dismissed after this case?

18 A. Yes, sir.

19 Q. Okay. All right. And so you're telling these jurors
20 that you weren't aware of the charges involving your mother on
21 October 6th, that --- that --- that was out there?

22 A. No, sir.

23 Q. All right. And you deny that you told your mother that
24 the reason you didn't go to the hospital was because of these
25 charges?

Cross-exam Hughey

1 A. No, sir. I --- I ---

2 Q. Okay. 'Cause you didn't want to get these warrants
3 served on you?

4 A. No, sir.

5 Q. Okay. All right. Now, I think they asked you about
6 what --- what --- what you have been convicted of ---

7 A. Yes, sir.

8 Q. In this courtroom, was a charge of strong arm robbery,
9 right?

10 A. That was years ago. That when was I was young.

11 Q. That was when you were young?

12 A. Yes, sir.

13 Q. But you agree that you were convicted of that?

14 A. Yes, sir. I was not there though.

15 Q. You were not there?

16 A. That's why they gave five years probation.

17 Q. All right. I'm sorry?

18 A. That's why they gave me five years of probation.

19 Q. Judge Addy gave you probation, didn't he?

20 A. Yes, sir.

21 Q. All right. And --- and at the same time that you got
22 convicted of strong arm robbery, you also got convicted of
23 grand larceny; is that right?

24 A. Yes, sir.

25 Q. Huh?

Cross-exam Hughey

1 A. Yes, sir.

2 Q. All right. And when you went in front of Judge Addy back
3 then, you --- you said that you were young, and that --- that
4 you were going do better and you weren't going to get in
5 trouble anymore?

6 A. Yes, sir.

7 Q. And that's why you got probation?

8 A. Yes, sir.

9 Q. All right. And we know that you had this in 2021, when
10 you weren't quite as young, you had this domestic violence,
11 it's still pending involving your baby mother?

12 A. That was a disagreement.

13 Q. A disagreement, but it's still pending?

14 A. Yes, sir.

15 Q. All right. And we know that you had the two charges
16 involving your mother that was dismissed?

17 A. Yes, sir.

18 Q. Right? All right. So when you told Judge Addy you were
19 going to do right not get in any trouble, you --- you got in
20 trouble again before October 2020; is that right? Well, the
21 domestic violence is still pending?

22 A. Yes, sir.

23 Q. Okay.

24 A. They haven't convicted me of that.

25 Q. Okay. Well, but you said earlier if you have to do time,

Cross-exam Hughey

1 you'll do time?

2 A. Yes, sir, I would.

3 Q. Okay.

4 A. That's a --- that's one of the other charges that I
5 got.

6 Q. Okay. Well, let's talk about those other charges that
7 you got. In March of 2021, you got arrested for forgery; is
8 that right?

9 A. Yes, sir.

10 Q. All right. And that forgery charge is still pending?

11 A. I --- I knew --- I don't remember that, 'cause ---
12 'cause only forgery I had was with my mama.

13 Q. Okay. All right. And that's different than the
14 financial transactions with your mama?

15 A. Yes, sir.

16 Q. All right. And if the --- the public records show that
17 that charge for forgery is still pending, you wouldn't dispute
18 that, would you?

19 A. I --- to be honest, I don't know.

20 Q. You don't know?

21 A. I don't know.

22 Q. All right. Well, in January of 2003, you got another
23 domestic violence charge?

24 A. What?

25 Q. Well, when --- when --- when the prosecutor was asking

Cross-exam Hughey

1 you these questions about the charges that were pending,
2 didn't have any problem remembering then.

3 A. No, the domestic violence in 2020, they got --- they
4 got --- they got dropped.

5 Q. Okay. Well, if --- if --- if this shows it's pending, do
6 you disagree with that?

7 A. No, sir.

8 Q. All right. Well, I'm asking about the --- the 2023, the
9 January 2023 domestic violence charge. That's ---

10 A. I only got one domestic violence charge.

11 Q. Okay.

12 A. I only got one.

13 Q. And if the public records show that you got two
14 pending ---

15 A. No.

16 Q. --- you --- you dispute that?

17 A. No. I dispute that.

18 Q. Okay. And then from May of 2003, you have a carrying a
19 pistol unlawfully ---

20 A. Yes, sir.

21 Q. --- and trespassing after warning?

22 A. Yes, sir.

23 Q. Okay. And those are still pending?

24 A. Yes, sir.

25 MR. GROSE: Your Honor, I have a matter of law to

Cross-exam Hughey

1 take up.

2 THE COURT: All right. Let's speak over here real
3 quick first.

4 (Sidebar conference)

5 THE COURT: Any more questions, Mr. Grose?

6 MR. GROSE: Sir, I'd like to get Mr. Hughey's court
7 file.

8 THE COURT: If the Solicitor doesn't fix it on cross
9 or on redirect, that'll be perfectly fine. But the ---
10 the records are publicly available. They can be accessed
11 and I'm assuming base --- if you're talking about what we
12 were talking about over to the side, I'll grant your
13 motion if he's not able to fix it on redirect.

14 MR. GROSE: Okay. I --- I want to see if they can
15 fix it. Then --- then I might have some follow-ups.

16 THE COURT: All right. Redirect?

17 REDIRECT EXAMINATION

18 BY MR. BLACK:

19 Q. Mr. Hughey, would you agree that you have two pending
20 domestic violence charges, one from 2020, and then one that
21 happened, I guess, in January of this year?

22 A. I don't recall. I don't recall.

23 Q. You don't --- you don't recall?

24 A. No, I'm sorry.

25 Q. If I --- if I told you that you --- that you had these

Redirect exam Hughey

1 pending charges, would you agree that they're still pending?

2 A. Yes, sir.

3 Q. Okay. You've answered a lot of the cross-examination
4 questions --- I --- I think a lot of your answers were I --- I
5 don't know, I don't remember; is there a reason why you don't
6 remember a lot of this?

7 A. Because I had a head trauma.

8 Q. Head trauma?

9 A. Yes, sir.

10 Q. Okay. Is that something that your doctors told you
11 about?

12 A. Yes, sir.

13 Q. Memory loss?

14 A. Yes, sir.

15 MR. GROSE: Objection to the hearsay.

16 THE COURT: Overruled.

17 BY MR. BLACK:

18 Q. When you were --- when you were assaulted, and you went
19 behind the buildings, I believe your testimony was that you
20 were going in and out of consciousness; is that right?

21 A. Yes, sir.

22 Q. Do you know when that exactly started?

23 A. When, like --- like the fourth or fifth hit across
24 the head.

25 Q. Okay. And when you would wake up, would you see things

Redirect exam Hughey

1 that were going on?

2 A. Yes, sir.

3 Q. And during the --- the course of this interaction while
4 you were going in and out of consciousness, did you see Kiaire
5 walk in the general area?

6 A. Yes, sir.

7 Q. Okay. And --- and when you --- when you were getting hit
8 and kicked, was it --- was there a lot of time between the
9 hitting and kicking, or it was kind of constant one after the
10 other?

11 A. It was one after the other.

12 Q. And were your eyes closed?

13 A. No, sir.

14 Q. I'm sorry?

15 A. I --- it was --- I was in and out.

16 Q. In and out?

17 A. Yeah.

18 Q. So your eyes would be closed, your eyes would be open?
19 Okay. And who was the main person that was hitting you?

20 A. Ken.

21 Q. Ken?

22 A. Yeah.

23 Q. And who else was hitting you and kicking you?

24 A. Travis.

25 Q. The defense was asking some questions relating what's

Redirect exam Hughey

1 been marked --- I don't think it's been admitted, The State's
2 1, 2, and 3 --- Defendant's Exhibits. I'm going to show you
3 what's been marked as State's 1. There's a date at the
4 bottom, do you --- do you see the date?

5 A. Uh-huh.

6 Q. What's the date?

7 A. 9/6/23.

8 THE COURT: You said, State's 1, but I think you're
9 referencing ---

10 BY MR. BLACK:

11 Q. I'm sorry, Defendant's 1.

12 A. Oh, you're talking about (unintelligible).

13 Q. Yes.

14 A. 19 October 2020.

15 Q. 19 October, 2020? And where were you at in --- on 19
16 October 2020?

17 A. I think I was still in the hospital.

18 Q. Okay. And on Defendant's Exhibit Number 2, what's the
19 date on that?

20 A. 19 October 2020.

21 Q. Okay. And where were you at again?

22 (Simultaneous speaking)

23 A. In the hospital.

24 Q. All right. And then what's the date on Defendant's ---
25 Defendant's Exhibit Number 3?

Re-cross exam Hughey

1 A. 28 October, 2020.

2 Q. Okay. And where were you at on October the 28th, 2020?

3 A. I can't remember. I think I was still in the
4 hospital.

5 MR. BLACK: You were still in the hospital? Okay.

6 That's all the questions I have.

7 THE COURT: Mr. Tinsley.

8 RECROSS-EXAMINATION

9 BY MR. TINSLEY:

10 Q. Police came multiple times to interview you while you in
11 the hospital?

12 A. Yes, sir.

13 Q. And you didn't tell them I can't remember what happened?

14 A. No, sir.

15 Q. You gave them these statements?

16 A. Yes, sir.

17 Q. Were you being truthful with them when you gave them
18 these statements?

19 A. Yes, sir, 'cause I couldn't remember some
20 (unintelligible).

21 Q. What was that last part you said?

22 A. I couldn't remember some of it.

23 Q. You --- you --- you could only remember some of it then,
24 or you can only remember some of it now?

25 A. I --- I can't --- like I --- like I --- like I said,

Re-cross exam Hughey

1 I got short term memory.

2 Q. Okay. So you get confused easily?

3 A. Yes, sir.

4 Q. So you fill in the gaps?

5 A. No, I don't fill in the gaps. I --- it's like some
6 of it I remember, and some of it I don't.

7 Q. So you're just guessing at the stuff you don't remember?

8 A. It --- like I said, some of it.

9 MR. TINSLEY: Okay. Some of it. No further
10 questions. Please answer any questions Mr. Grose asks.

11 RECROSS-EXAMINATION

12 BY MR. GROSE:

13 Q. When I was up here asking you questions, you said there
14 was only one domestic violence, then when Mr. Black got up
15 here, he asked you that --- if he told you there was two,
16 would you agree him ---

17 A. Yes.

18 Q. --- and you said --- and you said yes?

19 A. Yes.

20 Q. Is that right?

21 A. Yes, sir.

22 Q. All right. You and Mr. Black have met on a number of
23 occasions ---

24 A. Yes.

25 Q. Mr. Black is the one who's prosecuting you for those two

Re-cross exam Hughey

1 domestic violences?

2 A. Yes, sir.

3 Q. He's the one that's prosecuting you for the forgery?

4 A. Yes, sir.

5 Q. And --- and so you do now remember that the forgery is
6 still pending?

7 A. I --- I remember one of them.

8 Q. All right. Mr. Black is the one that's --- that's
9 prosecuting you for the carrying of pistol unlawfully and the
10 trespassing?

11 A. I don't know about that one.

12 Q. You don't know?

13 A. I don't know.

14 Q. Is --- is it Mr. Brown?

15 A. I don't know about that one either.

16 Q. But --- but --- but --- but you know you're being
17 prosecuted ---

18 A. Yes, sir.

19 Q. --- for that?

20 A. Yes, sir.

21 Q. And you said that if Mr. Black told you what your charges
22 were, you would trust him?

23 A. Yes, sir.

24 Q. And that's the person you're trusting to take care of
25 those charges, so you don't have to do anything jail time?

Re-cross exam Hughey

1 A. No, sir. Like I said, if I got to do the jail time,
2 I'll do it.

3 Q. Okay. Well, which ones of those charges are you going to
4 plead guilty to?

5 A. It don't matter. Whatever --- whatever my public
6 offender helps me out with.

7 Q. All right. But you plan on pleading guilty to some of
8 them?

9 A. (Unintelligible).

10 Q. Huh?

11 A. Until I talk to a public a offender.

12 Q. Okay. All right. Anyway, they asked you some questions
13 about your memory. What happened to you on October 6th, of
14 2020, that hasn't stopped you from getting a domestic violence
15 charge, has it?

16 A. Like I said, it was a disagreement.

17 Q. Okay. It --- it hadn't stopping you from getting ---
18 having a disagreement and being charged with it?

19 A. Yes, sir.

20 Q. It hadn't stopped you from getting a forgery charge?

21 A. I --- I --- I think that was before this.

22 Q. Okay. You don't --- you don't think that was March of
23 2021?

24 A. No, I --- no. I think that was before that.

25 Q. All right. And it hadn't stopped you from getting a

Re-cross exam Hughey

1 weapons charge?

2 A. I --- that's --- a weapon is to protect me after
3 what happened to me. I --- I got a right to protect
4 myself.

5 Q. All right. But --- but you were --- but you were --- but
6 you were --- you were carrying it unlawfully?

7 A. Yes, sir.

8 Q. Okay. And they asked you questions about your --- you're
9 not remembering things, but really a lot of the things that
10 you say you don't remember, they're uncomfortable to talk
11 about, right pending charges; is that right?

12 A. Right. Basically, both.

13 Q. That you're --- but they're uncomfortable to talk about?

14 A. All right.

15 Q. And --- and --- and it's convenient not to remember those
16 things so you don't have to talk about them?

17 And one final question, do you --- do you still deny talking
18 to ---

19 A. I don't remember.

20 Q. --- you don't remember talking to him?

21 A. I don't remember.

22 Q. If --- if --- if I told you that there's two videos of
23 you talking to him?

24 A. I don't remember.

25 Q. That wouldn't --- wouldn't change your mind?

Re-cross exam Hughey

1 A. I don't remember.

2 Q. Or --- or --- or do you not remember because the things
3 that you told him are not the things that you want to be
4 saying today?

5 A. I --- I don't remember.

6 MR. GROSE: That's all I have.

7 THE COURT: All right. No redirect? Re-redirect?

8 MR. BLACK: No, sir, Your Honor.

9 THE COURT: Sir, you can step down. Ladies and
10 Gentlemen, I --- I need a brief break myself. Solicitor,
11 do you have a witness that we can knock out in maybe 15,
12 30 minutes, somewhere in there after a break?

13 MR. BLACK: Maybe.

14 THE COURT: I'll take maybe. Go to the back. Don't
15 discuss the case, we'll be back on the record in a few
16 moments. Okay. I'm going to see where things stand.
17 All right.

18 (Jury leaves courtroom)

19 (Off the record 4:27 p.m. to 4:44 p.m.)

20 THE COURT: Let's have the jury, please.

21 (Jury enters courtroom)

22 THE COURT: Okay. The jury's back and seated.
23 Solicitor, if you'll call your next witness, please.

24 MR. BLACK: Thank you, Judge. State calls Eric
25 Phillips.

Direct exam Phillips

1 (Witness sworn)

2 ERIC PHILLIPS, HAVING BEEN DULY SWORN, TESTIFIED AS
3 FOLLOWS.

4 DIRECT EXAMINATION

5 BY MR. BLACK:

6 Q. Good afternoon Mr. Phillips.

7 A. How you doing?

8 Q. Mr. Phillips, what your first name?

9 A. Eric.

10 Q. Is it ER I C?

11 A. Yes, sir.

12 Q. Eric how old are you?

13 A. I'm 30 --- I'll be 37.

14 Q. 37?

15 A. Yes, sir.

16 Q. You live in Abbeville all your life?

17 A. Pretty much.

18 Q. Did you go to Abbeville schools?

19 A. Yes, sir.

20 Q. Did you graduate high school?

21 A. Yes, sir.

22 Q. Mr. Phillips, where do you live.

23 A. I live in [REDACTED], apartment [REDACTED]?

24 Q. That's hickory rights?

25 A. Yes, sir.

Direct exam Phillips

1 Q. Does that have another name people call it?

2 A. The Village.

3 Q. And you said the apartment you live in is in the [REDACTED]
4 building?

5 A. Yes, sir.

6 Q. What was number?

7 A. [REDACTED].

8 Q. If you're coming the parking lot and you have the [REDACTED]
9 building on your right; is that right?

10 A. Yes, sir.

11 Q. You got the [REDACTED] below it?

12 A. Yes, sir.

13 Q. Across the way is that the [REDACTED] building or the [REDACTED]
14 building?

15 A. Yes, sir.

16 Q. Okay. How long have you lived there?

17 A. I've been since 2018.

18 Q. 2018?

19 A. Yes, sir.

20 Q. And you keep to yourself; is that right?

21 A. Yes, sir.

22 Q. Do you remember October 6th of 2020?

23 A. Yes, sir, I believe I do.

24 Q. Were you living there at the [REDACTED] building?

25 A. Yes, sir.

Direct exam Phillips

1 Q. [REDACTED]?

2 A. Yes, sir.

3 Q. Who do you live there with?

4 A. It was --- I had my own place.

5 Q. Okay. At that time were you pretty confined to your
6 apartment?

7 A. Pretty much most of the time I do.

8 Q. Did you have a medical condition going on?

9 A. Yes, sir, I was on dialysis, and I going home chemo
10 dialysis.

11 Q. Chemo dialysis?

12 A. Yes, sir.

13 Q. And you were --- actually had a machine there in your
14 apartment; is that right?

15 A. Yes, sir.

16 Q. Last year, were you able to get a new kidney.

17 A. Yes, sir, I got a new kidney on September
18 the 20th --- November the 23rd.

19 Q. That's good. Mr. Phillips, October 6, 2020, do you
20 remember some commotion outside your window or outside your
21 apartment?

22 A. I do recall.

23 Q. What do you remember happening?

24 A. I came out on the porch when I accepted down on the
25 porch.

Direct exam Phillips

1 Q. Came out your door?

2 A. Yes, sir.

3 Q. And what made you come out your door?

4 A. I heard a loud commotion.

5 Q. Hollering?

6 A. Yes, sir.

7 Q. Once you came out on your porch, what did you see?

8 A. I --- I seen a vic being beaten.

9 Q. You saw who?

10 A. I seen a vic being beaten.

11 Q. But who?

12 A. By two guys.

13 Q. What was he being beaten by?

14 A. I believe it was a stick.

15 Q. And you saw this with your own eyes?

16 A. Yes, sir.

17 Q. How long did this go on?

18 A. About two to three minutes.

19 Q. From the --- from the time you heard the commotion
20 until ---

21 A. Yes, sir.

22 Q. You don't want to be here today, do you?

23 A. No, I don't.

24 Q. Why?

25 A. Some motion.

Direct exam Phillips

1 Q. Do you see the two men that were beating the guy in the
2 courtroom today?

3 A. Yes, I do.

4 Q. One wearing a green hoodie?

5 A. Yes, sir.

6 Q. Is the other wearing a gray shirt?

7 A. Yes, sir.

8 Q. Who was using the wooden --- or the stick?

9 A. It was the guy in the gray.

10 Q. The guy in the gray? What was the guy in the green
11 doing?

12 A. He was holding him.

13 Q. Holding him?

14 A. Yes, sir.

15 Q. Were they working together?

16 A. I believe so, sir.

17 Q. What was the guy that was being beaten, what was he
18 doing?

19 A. He was pleading stop.

20 Q. He was pleading for them to stop?

21 A. Yes, sir.

22 Q. Where were they hitting him?

23 A. (Unintelligible) going cross his head.

24 Q. Hitting across the head?

25 A. Yes, sir.

Direct exam Phillips

1 Q. Were these pretty big swings they were hitting at him?

2 A. Yes, sir.

3 Q. After they were finished beating him, what did they do?

4 A. They walked off.

5 Q. What did the guy that was being beaten do?

6 A. Walked over to my porch, and he drenched in blood.

7 Q. He walked over to your porch?

8 A. Yes, ma'am --- yes, sir.

9 Q. And what did you say? He was what?

10 A. He was drenched in blood coming down his face.

11 Q. What did he do when he came to your porch?

12 A. He was asking for help.

13 Q. Did you help him?

14 A. No, I didn't know how to react to it.

15 Q. Where did he go after he asked for help?

16 A. I believe to another neighbor's house.

17 Q. What did you do after he came to your door?

18 A. I stood there for a moment then I went back in my
19 home. And then about ten minutes later, his girlfriend
20 came by my house and I told her what was --- what had
21 occurred.

22 Q. Later on did an in investigator named Investigator
23 Balchin, did he come to your door?

24 A. Yes, he did.

25 Q. Did he ask you if you saw anything?

Direct exam Phillips

1 A. He did.

2 Q. What did you tell him?

3 A. I tell him --- I told him I didn't see anything.

4 Q. You are saying under oath that in fact you did see what
5 happened?

6 A. Yes, sir, I did see it.

7 MR. BLACK: Judge, I believe this will be state's
8 16. And I'll do state's 17 as well.

9 (States Exhibits 16 and 17 marked)

10 BY MR. BLACK:

11 Q. Mr. Phillips, I'm going to show you what's been marked as
12 State's ID 16 and State's 17. State's 16, who is that in that
13 photograph?

14 A. That's me.

15 Q. Is that you?

16 A. Yes, sir.

17 Q. What kind of shirt are you wearing?

18 A. A white tank top.

19 Q. And State's 17, this video is this your apartment complex
20 across the way?

21 A. Yes, sir.

22 Q. Is that you on that sidewalk?

23 A. Yes that's me emerging.

24 Q. With a white tank top?

25 A. Yes, sir.

Direct exam Phillips

1 Q. Where you can see all this going on?

2 A. Yes, sir.

3 MR. BLACK: Your Honor, I move state's 16 and 17
4 into evidence.

5 THE COURT: No objection?

6 MR. GROSE: No objection.

7 MR. TINSLEY: No objection, Your Honor.

8 THE COURT: All right. 16 and 17 are in.

9 (Exhibits 16 and 17 in evidence)

10 BY MR. BLACK:

11 Q. I want to play, this will be State's 14, I believe. And
12 it's beginning at 13:30. Mr. Phillips. If you'll just turn
13 your eyes to the video.

14 (Video playing)

15 Q. Mr. Phillips, is that you walking out on that porch?

16 A. Yes, sir.

17 Q. And did you at that time, again, get to witness what was
18 taking place?

19 A. I did.

20 THE COURT: And for the benefit of the record, Mr.
21 Phillips identified himself as the person in the white
22 T-shirt in the upper right hand corner of the video where
23 a building is just barely visible.

24 BY MR. BLACK:

25 Q. And Mr. Phillips, your apartment, that [REDACTED], [REDACTED] building,

Direct exam Phillips

1 in Hickory Heights, that's here in Abbeville City?

2 A. Yes, sir.

3 Q. Abbeville County, South Carolina?

4 A. Yes, sir.

5 MR. BLACK: No further questions.

6 MR. TINSLEY: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. TINSLEY:

9 Q. You never told the police this story, correct?

10 A. No, sir, I didn't.

11 Q. Okay. This is the first time you've told this story?

12 A. Yes, sir, it is.

13 Q. Okay. You told the police that night you stayed inside?

14 A. Yes, I did.

15 Q. Now you're saying you witness all this?

16 A. Yes.

17 Q. So you're saying you lied to the police?

18 A. I was sick. I was nervous.

19 Q. But you're telling the truth today all of a sudden, the
20 day of trial?

21 A. Yes, sir.

22 Q. Anybody put any pressure on you to this story?

23 A. No, sir.

24 Q. Nobody --- nobody threatened you with anything?

25 A. No, sir.

Cross-exam Phillips

1 Q. Okay. Anybody pay you any cash money?

2 A. No, sir.

3 Q. Okay. Now, you keep saying --- the testimony was they
4 kept me, then you testified that Mr. Lee --- Travis Lee, my
5 client held him, which is it?

6 A. He was holding on to him.

7 Q. All right. Where was he holding on to him?

8 A. By his arm.

9 Q. By his arm. Okay. And Mr. --- both --- both gentleman,
10 Mr. Hughey and Mr. Travis Lee were both standing?

11 A. Yes, sir.

12 Q. Okay.

13 A. Right at --- out that --- right there at that tree.

14 Q. Okay. So it was about like that even around back?

15 A. Yes, and he was trying to pull his self away from
16 him, but he wouldn't let him go.

17 Q. Okay. Did Travis Lee ever strike Mr. Hughey?

18 A. Not until they got off in the distance.

19 Q. What do you mean they got off in a distance?

20 A. Around from the camera view of the building, the
21 side of the building.

22 Q. Okay. But it --- but it --- well, was he holding him or
23 was he hitting him? Couldn't do both at the same time.

24 A. He drug him away to the side of building that's when
25 the beating started and kept pleading stop.

Cross-exam Phillips

1 Q. Okay. So you just testified that my client just held
2 him, didn't hit him. And now you're saying he did hit him.

3 A. Yeah.

4 Q. Okay. And you didn't bother calling 911?

5 A. No, at the moment, I didn't.

6 Q. Okay. So did you think Mr. Hughey just was not --- not
7 hurt that badly?

8 A. I did at the moment, but didn't know how to respond
9 to it.

10 Q. You wouldn't even let him in --- in --- in your apartment
11 when he came to your apartment?

12 A. No, sir, I didn't. He asked me for a towel.

13 Q. And you didn't even help him with that?

14 A. No, sir, I didn't.

15 Q. Okay. Anybody threaten you with 45 days if you didn't
16 come testify to this?

17 A. No, sir.

18 Q. Okay. No further questions.

19 THE COURT: Mr. Grose.

20 CROSS-EXAMINATION

21 BY MR. GROSE:

22 Q. You --- you talked with people in the prosecutor's office
23 last week, didn't you?

24 A. Yes, I did.

25 Q. And they sent you some text, didn't they?

Cross-exam Phillips

1 A. Yes.

2 Q. Mr. Wilke did?

3 A. Yes.

4 Q. And he --- they said that they were coming to talk to you
5 about next week?

6 A. Yes, sir. They did.

7 Q. That was last week?

8 A. Yes, sir.

9 Q. So they meant this week, today; is that right?

10 A. Yes.

11 Q. And they told you in those texts about this video, didn't
12 they?

13 A. Yes, sir.

14 Q. And they told you that they were going to subpoena you?

15 A. Yes.

16 Q. They, in fact, did subpoena you?

17 A. Yes, sir, I was.

18 Q. And there was a conversation about what would happen if
19 you didn't abide by the subpoena, wasn't there?

20 A. Yes, it was.

21 Q. And you may not have taken that as a threat, but that
22 meant that you could have gotten jail time?

23 A. Yes, sir.

24 Q. And that --- was that Mr. Wilke that told you that?

25 A. Yes, it was.

Cross-exam Phillips

1 Q. And is this Mr. Wilke sitting back here in the front row
2 in the blue and white shirt?

3 A. Yes, sir. It was.

4 MR. GROSE: Your Honor, I'd ask that the record
5 reflect that they identified the solicitor's
6 investigator.

7 THE COURT: It will reflect such.

8 BY MR. GROSE:

9 Q. And that is, in fact, a big reason as to why you're here
10 today, isn't it?

11 A. Yes, sir, I am.

12 Q. That you're under subpoena?

13 A. Yes, sir.

14 Q. And you don't want to get jail time?

15 A. No, sir.

16 Q. And did they mention the number 45 days?

17 A. Yes, sir. I was told that --- I wasn't told it from
18 here, but I was told it from downstairs when I came here
19 the first time ---

20 Q. Okay.

21 A. --- to speak with someone, I was.

22 Q. All right. Who --- who was it downstairs that told you
23 that?

24 A. At the office below.

25 Q. Below?

Cross-exam Phillips

1 A. Yes, sir.

2 Q. And if you walk in the front door is the office on the
3 left or the right?

4 A. Yes, sir.

5 Q. It's on the left?

6 A. Yes, sir.

7 Q. And is --- is the person that told you that in the office
8 downstairs; is that person in the courtroom today?

9 A. No. No, sir.

10 Q. Okay. What did --- what did --- do you know that
11 person's name?

12 A. No, I --- no, No, sir. I don't remember by their
13 name.

14 Q. Okay. Were they wearing a police uniform or ---

15 A. No, sir.

16 Q. --- business clothing?

17 A. Like business clothing.

18 Q. Business clothing? All right. So you understood that
19 you could get time if you didn't cooperate?

20 A. Yes, I did.

21 Q. And you have health issues ---

22 A. Yes, sir, I do.

23 Q. --- you don't --- that is --- there's a lot of reasons
24 why you wouldn't want to have time, but health issues is one
25 of them?

Cross-exam Phillips

1 A. Yes, sir.

2 Q. Okay. Do you know Mr. Hughey?

3 A. Yes, I do.

4 Q. Y'all are friends?

5 A. We had been friends in the past for over seven or
6 eight years.

7 Q. Okay. And I think after this was over, you said that you
8 saw him walking?

9 A. Him walking away and went towards the [REDACTED] building.

10 Q. Okay. And since this has happened, you've seen him
11 around again, haven't you?

12 A. I haven't see him lately.

13 Q. Okay. So you don't really know anything about his
14 medical treatment, do you?

15 A. We talk --- he had mentioned to me about where he
16 had --- he got a medical condition.

17 Q. Okay. All right. But you don't know what kind of
18 medical treatment ---

19 A. No, sir.

20 Q. --- he's gotten between say, January or December of 2000
21 [sic] and now, do you?

22 A. No, sir.

23 Q. Okay. And in your conversations with him, he's been the
24 same guy that you've --- you've known?

25 A. Yes, sir.

Redirect exam Phillips

1 Q. All right. And he --- he's still --- he's active?

2 A. Yes, sir.

3 Q. He does the same types of things that he used to do?

4 A. Not as I know of.

5 Q. You don't --- you don't --- you don't know one way other
6 the other?

7 A. No, sir.

8 Q. Okay. You --- not one way other the other?

9 A. No, sir. I don't.

10 Q. Because y'all, were more friends more before this
11 happened?

12 A. Yes, sir.

13 Q. Okay.

14 MR. GROSE: Beg the Court's indulgence.

15 THE COURT: Yes, sir.

16 MR. GROSE: That's all I have at this time, Your
17 Honor.

18 THE COURT: Any redirect?

19 MR. BLACK: Just briefly.

20 REDIRECT EXAMINATION

21 BY MR. BLACK:

22 Q. Mr. Phillips, when you talked to Investigator Balchin
23 that day, were you telling the truth to him about seeing it?

24 A. In the moment I --- the moment I was.

25 Q. At the moment you were?

Redirect exam Phillips

1 A. No, sir.

2 Q. And again, why weren't you telling the truth?

3 A. I had a lot going on. I had a lot of problems going
4 on at the time and going through a lot at the moment.

5 Q. You know last --- last week on Friday, you still didn't
6 want to cooperate, did you? Or you didn't want to say ---

7 A. Very nervous.

8 Q. --- what you saw; is that right?

9 A. I was very nervous.

10 Q. Were you promised any --- were you given cash or anything
11 to come up here?

12 A. No, sir.

13 Q. Were you threatened by anybody?

14 A. No, sir.

15 Q. In those photographs on that video, is that you standing
16 on that cement pad?

17 A. Yes, sir. That's me in the white tank top.

18 Q. Were you watching what happened?

19 A. Yes, I was standing there.

20 Q. And what you're saying in this courtroom today after
21 swearing a oath, is that what happened? Is that true?

22 A. Yes, sir.

23 MR. BLACK: No further questions.

24 THE COURT: Any re-cross, gentleman?

25

Re-cross exam Phillips

1 MR. TINSLEY: None. I don't have any questions,
2 Your Honor.

3 RE-CROSS-EXAMINATION

4 BY MR. GROSE:

5 Q. When they texted you on Thursday, they give you an idea
6 about what they wanted you to say, didn't they?

7 A. No, sir. They didn't right off.

8 Q. Well, they told you about the video?

9 A. Yes, they --- when they came to speak with me in my
10 home the other day.

11 Q. Uh-huh.

12 A. I asked for the viewing of videos. And they
13 presented the videos to me.

14 Q. All right. And they --- they talked to you about you
15 thought --- that they thought that you knew?

16 A. Yes, sir, they did.

17 Q. And you understood that if you didn't cooperate you could
18 get jail time?

19 A. Yes, sir.

20 MR. GROSE: Thank you.

21 THE COURT: Nothing else? All right. Sir, you can
22 step down. You're free to go. Take care.

23 THE WITNESS: Thank you.

24 THE COURT: All right. Ladies and Gentlemen, we've
25 made up a little bit of lost ground today. I'm going to

Re-cross exam Phillips

1 ask if you would --- we're go --- we'll go ahead and take
2 a break tonight. And please be back here at 9:30
3 tomorrow, and hopefully we can continue to make up a
4 little bit of lost ground.

5 All right. Enjoy your evening. Don't talk about the
6 case with anyone, and see you all tomorrow morning at
7 9:30. Have a good night.

8 (PROCEEDINGS CONCLUDED AT 5:10 P.M.)

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CERTIFICATE OF TRANSCRIBER

I, JEANNE MELDRIM, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of CIRCUIT COURT 8 for ABBEVILLE COUNTY, South Carolina, on the 26th day of September, 2023.

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

January 15, 2024

A handwritten signature in black ink that reads "Jeanne Meldrim". The signature is written in a cursive, flowing style with a prominent initial 'J'.

Jeanne Meldrim

Transcriber

STATE OF SOUTH CAROLINA) IN THE CIRCUIT COURT 8
COUNTY OF ABBEVILLE) DOCKET NO. 2021-GS-01-00215
2021-GS-01-00214

STATE OF SOUTH CAROLINA,)
Plaintiff,)
versus)
TRAVIS A. LEE AND)
KENDRICK MONTREZ LEE)
Defendant.)

H E A R I N G

PRESENT: Travis A. Lee and Kendrick Montrez Lee
DATE: September 27, 2023
TIME: 9:41 a.m. - 5:15 p.m.
LOCATION: South Carolina Circuit Court 8
JUDGE: Frank R. Addy, Jr.
TRANSCRIBED BY: Jeanne Meldrim

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

25

1 THE COURT: All right. We're back on the record.
2 And of course we are still in the trial of The State
3 versus Misters Lee. Solicitor, you do have your next
4 witness here?

5 MR. BLACK: I do, you're your Honor. And there was
6 one brief potential issue that we would need to discuss
7 regarding her --- Renee Guillebeaux's.

8 The next witness. And I think the defense may have
9 had a question about a charge that she had that was
10 potentially impeachable.

11 She was charged, it looks like, according to her rap
12 sheet with --- it's a possession of a schedule one
13 through five drugs, I believe. And according to the rap
14 sheet, it says conditional discharge.

15 And it's our position that that's a six months
16 defense and a conditional discharge. I --- I don't know
17 if she completed or if she did not complete it, but that
18 would be ineligible for her to be impeached on that.
19 That conviction looks like from 2018.

20 THE COURT: Gentleman, I --- that --- at first
21 blush, I would certainly agree with the solicitor,
22 but ---

23 MR. TINSLEY: Yeah, I don't --- I don't --- I don't
24 know that the crime itself on the face of it is. I mean
25 I think it becomes an issue about whether she was doing

1 drugs with her son based off his testimony yesterday.

2 THE COURT: You --- I think you're certainly at
3 liberty to ask her if she had been under the influence of
4 anything at the time of the events that would, of course
5 go to her perception --- ability to perceive. But
6 obviously, you're probably going to be stuck with her
7 answer.

8 Fine, let's have the jury, please.

9 (Jury enters courtroom)

10 THE COURT: All right. The jury is back and seated.

11 Ladies and Gentlemen, I trust you had a pleasant
12 evening last night. And of course we're still engaged in
13 the trial of this case, and The State's case-in-chief.
14 So Mr. Black, if you'll call your next witness, please.

15 MR. BLACK: Thank you, Your Honor. State calls
16 Renee Guillebeaux.

17 (Witness sworn)

18 RENEE GUILLEBEAUX, HAVING BEEN DULY SWORN, TESTIFIED AS
19 FOLLOWS.

20 DIRECT EXAMINATION

21 BY MR. BLACK:

22 Q. Can you state your name for the record, please.

23 A. My name is Renee Guillebeaux.

24 Q. And how do you spell your last name?

25 A. G-U-I-L-L-E-B-E-A-U-X.

1 Q. All right. You may have to talk up a little bit just so
2 everybody can hear you. These microphones don't --- I don't
3 think there's any kind of microphones that go throughout the
4 room. It's just so that the court reporter can hear
5 everything.

6 Ms. Guillebeaux, where do you live?

7 A. I live at [REDACTED], Abbeville, South
8 Carolina.

9 Q. In Abbeville?

10 A. Yes, sir.

11 Q. How long have you lived there?

12 A. I've been there for four years.

13 Q. How many?

14 A. Four now.

15 Q. Four? Did you live in Abbeville before that?

16 A. Yes, I've been here all my life.

17 Q. You were born and raised here?

18 A. Yes, sir.

19 Q. And how old are you now, Ms. Guillebeaux?

20 A. I'm 41.

21 Q. And how many children do you have?

22 A. I have three.

23 Q. Three? Can you tell us the names of your children?

24 A. My children name is Tobias, Mitchell (phonetic), and
25 Tyfabria.

1 Q. Tobias?

2 A. Tobias Hughey, sorry. Tobias Hughey, Mitchell
3 Hughey, and Tyfabria (unintelligible).

4 Q. Okay. And are those --- did --- are they boys --- boys?

5 A. Two boys and one girl.

6 Q. Two boys and one girl? The girl's a baby?

7 A. Yes, sir.

8 Q. Is Tobias the oldest?

9 A. Yes, sir.

10 Q. All right. And how --- how old is Tobias?

11 A. Tobias is 24.

12 Q. 24 right now?

13 A. Yes.

14 Q. All right. And Tobias --- when was he born? When was
15 his birthday?

16 A. 4/21/99.

17 Q. 4/21/99? And that's a yes?

18 A. Yes, sir.

19 Q. Back in 2020 --- October of 2020, do you remember that
20 date?

21 A. Yes, sir.

22 Q. How old would have Tobias been in October of 2020?

23 A. Let me calculate it back in my head. I'm sorry. He
24 had to been 20 --- 21 or 22.

25 Q. Okay. 21 or 22?

1 A. Yes.

2 Q. And was Tobias --- where was Tobias living back in
3 October of 2020; do you remember?

4 A. He was staying with me.

5 Q. He was staying with you?

6 A. Yes. He was going back and forth to his baby mama
7 house.

8 Q. And what's her name?

9 A. Marcy Golattamore (phonetic).

10 Q. Marcy Golattamore?

11 A. Yes.

12 Q. Do you know where she lived?

13 A. She stays in Greenwood now.

14 Q. She stays in Greenwood now?

15 A. Yes, sir.

16 Q. What about in 2020; where was she living?

17 A. She stayed at Hickory Heights Apartment.

18 Q. Hickory Heights Apartment?

19 A. Yes, sir.

20 Q. And that's here in Abbeville?

21 A. Yes, sir.

22 Q. Does it go --- does the Hickory Heights Apartment go by
23 the nickname The Village?

24 A. Yes, sir.

25 Q. Do you know --- do you know what number --- like what

1 building, and what apartment she was in?

2 A. I don't remember offhand, sir.

3 Q. Okay. But it was one of those buildings over there?

4 A. Yes, sir. It was back by the trash can as you go
5 in. And you going to make a left-hand turn as you go in
6 by the trash can.

7 Q. Okay. How often would Mr. Hughey stay over there with
8 her?

9 A. He stayed there pretty often, because his baby ---
10 his baby was just born.

11 Q. When was his baby born?

12 A. The baby --- I don't remember all my dates. I'm
13 sorry.

14 Q. That's fine.

15 A. I don't remember all my dates.

16 Q. But at that point he had a baby?

17 A. Yes, sir.

18 Q. So was he over there a good bit more once the baby was
19 born?

20 A. Yes, sir.

21 Q. Let's go back to the beginning of October --- well,
22 before we go --- before we get there, do you know Travis Lee?

23 A. Yes, sir. Know him good.

24 Q. Okay. And what about Kendrick Lee?

25 A. Yes, sir. Know him good.

1 Q. Did you go to school with one of the defendants?

2 A. Yes, sir. I went to school with Kendrick Lee.

3 Q. Kendrick Lee?

4 A. Yes, sir.

5 Q. Did y'all graduate together?

6 A. I didn't graduate.

7 Q. Okay. But were you all in the same class?

8 A. I don't think so. But we went to school together at
9 Wright Middle.

10 Q. At Wright Middle?

11 A. Yes, sir.

12 Q. Okay. So you remember him from middle school?

13 A. Yes, sir.

14 Q. And that was Ken, you said?

15 A. Yes.

16 Q. What about Travis?

17 A. Travis --- yeah. I know him for a long time too.

18 Q. Okay. So Abbeville's a small town, everybody kind of
19 knows everybody?

20 A. Yes, sir.

21 Q. So you've known them for quite a bit?

22 A. Yes, sir.

23 Q. All right. Going back to the beginning of October of
24 2020, did you ever have --- you had a phone conversation with
25 Travis Lee; is that right?

1 A. Yes, sir. I had a phone conversation with him
2 right --- couple hours --- may have been hours before the
3 incident happened.

4 Q. Okay. And he called you on --- on your --- like a
5 Facebook call or something? Is that what ---

6 A. Yes.

7 Q. Okay.

8 A. We talked through Facebook.

9 Q. How many times did you talk?

10 A. Only one time.

11 Q. Did you actually talk to him on the phone?

12 A. Yes, I actually talked to him.

13 Q. So the phone conversation, not a text or messenger-type
14 situation?

15 A. Voice to voice.

16 Q. Okay. And how long did that call last for?

17 A. It didn't last long.

18 Q. And during that call, Mr. Travis Lee told you that he was
19 look for Tobias ---

20 MR. GROSE: Leading. Leading.

21 MR. BLACK: Judge, this is what we talked about in
22 chambers.

23 THE COURT: Okay. Very good. Overruled.

24 BY MR. BLACK:

25 Q. Ms. Guillebeaux, this is --- this is conversation that

1 you had with Travis, that he was looking for --- that Travis
2 was looking for Tobias to confront him about an alleged
3 burglary that happened at Apartment [REDACTED] that belonged to
4 Miesha (phonetic) Cobb; is that right?

5 A. Yes, sir.

6 Q. Okay. And that was the extent of the conversation?

7 A. Yes, sir.

8 Q. And what did you tell Travis Lee about this case?

9 A. I told him it's been being cousins. I told him do
10 what he got to do. But I didn't allegedly tell them to
11 do what they did to my son.

12 Q. So you said they're cousins?

13 A. Yes.

14 Q. How --- first cousins? Second cousins? Third cousins?

15 A. They --- (unintelligible) because Mr. Kendrick Lee's
16 daddy is Tobias great grandmother's brother.

17 Q. Okay. So somewhere on down the line, they're somehow
18 related?

19 A. Yes, sir.

20 Q. Okay. So you told --- you told them to --- say that
21 again? To handle it?

22 A. I told them to do what they got to do as them being
23 cousins. But I didn't tell them to do what they did.

24 Q. What do you mean tell --- what do you mean by that?

25 A. As them being cousins, maybe go talk to him. You

1 might smack him around, handle him a little rough, but
2 not leave him dead. But they did.

3 Q. And what about calling the Police and let the Police know
4 if there's something going on?

5 A. I called the Police once I got Tobias. And took him
6 to my house. Before his --- when Travis called me about
7 anything, no, I didn't call the Police.

8 Q. Okay. All right. But when you were talking to Travis,
9 part of the, I guess the conversation that you said just
10 handle it, that could have also involved --- you know, let the
11 Police know something's going on?

12 A. Yeah.

13 MR. TINSLEY: Objection.

14 MR. GROSE: Leading.

15 THE WITNESS: Yeah.

16 THE COURT: That --- well, that is leading, but ---

17 MR. GROSE: I --- I --- and Judge, he just didn't
18 like the answer that she gave. And now he's trying to
19 suggest another answer. I move to strike.

20 THE COURT: Fair enough. Ladies and gentlemen of
21 the jury, you'll disregard that last answer.

22 And Solicitor, ask another question, please.

23 MR. BLACK: Yes, sir.

24 BY MR. BLACK:

25 Q. You mentioned something about getting Tobias; is that

1 right?

2 A. Uh-huh.

3 Q. Where did you get Tobias at?

4 A. I went and got him out of The Village.

5 Q. Do you know where ---

6 A. It was at Shane's apartment.

7 Q. Do you know where that is in The Village?

8 A. When you first come into The Village, you're going
9 to make a right-hand turn down by the first trash can.

10 He was in the first bottom apartment right there by the
11 trash can. The first apartment on the bottom.

12 Q. So all the way at the bottom down there?

13 A. Yes, sir.

14 Q. Do you know what building that is? Do you know what
15 building they ---

16 A. I don't remember offhand, sir.

17 Q. Fair enough. When you got there, he was at Shane's
18 apartment. Was he inside the building --- or inside the
19 apartment?

20 A. He --- he was inside of Shane's apartment.

21 Q. Okay. And where was he at in Shane's apartment?

22 A. He was sitting in the chair. Sitting straight up in
23 a chair.

24 Q. What did he look like when you saw him?

25 A. Horrible. Horrible.

1 Q. When you say, "horrible," what do you mean by that?

2 A. My son was leaking from his head.

3 Q. Leaking from his head?

4 A. Blood.

5 Q. Was there a lot of blood or just a little bit?

6 A. A lot. Lots of blood.

7 Q. Was there --- was there any other blood anywhere else?

8 A. Mr. Shane had gave him some towels to kind of wrap
9 his self up. But lots of blood was lost from my child in
10 that apartment. Thank God I got there in time.

11 Q. And was he --- I mean, was he screaming and hollering
12 too?

13 A. Yes, he was screaming.

14 Q. Okay. And was there anybody else with you that got ---
15 that was with you when you picked him up?

16 A. I don't recall, sir, because at that time I blanked
17 out worried about my son.

18 Q. You were --- you were pretty upset?

19 A. Yes.

20 Q. How long did it take you to get him from the apartment to
21 your vehicle?

22 A. It didn't take me long. It didn't take me long,
23 'cause I made him get up and come with me.

24 Q. Did you --- did you or Shane assist him getting out of
25 the chair into your car?

1 A. Yes.

2 Q. And where in the car was he sitting when you got him in
3 the car?

4 A. The car was right there down by the trash can right
5 there. It was parked right there in the parking lot.

6 Q. Did you put him in the front see seat, or the back seat,
7 or anything?

8 A. I put him in the front.

9 Q. Okay. And after you got him in the car, what did you do
10 next?

11 A. I took him to my home.

12 Q. Okay. And that's at [REDACTED] ?

13 A. Yes.

14 Q. How long does it take you to get from the apartment
15 complex to [REDACTED] ?

16 A. I --- I was speeding, so it probably didn't take me
17 no more than five minutes, 'cause I was speeding.

18 Q. You were speeding?

19 A. Yes.

20 Q. Did you ever consider taking him to the hospital?

21 A. No, I considered calling the Police and a ambulance.

22 Q. Okay. But --- but you took him home, right?

23 A. Yes, I did.

24 Q. When you got home, what --- where did Mr. Hughey ---
25 where did Tobias go?

1 A. We sat him on my couch --- my long couch in my house
2 in my living room. Which it was full of blood by the
3 time the officers and everybody got there.

4 Q. Talking about the couch?

5 A. Yes.

6 Q. And you eventually called 911?

7 A. Yes, I did.

8 Q. Do you know about what time that was?

9 A. I don't remember, sir. I don't remember. I don't
10 remember offhand.

11 Q. Do you remember about --- I guess if you would maybe
12 estimate, maybe I don't know. But when the --- from the time
13 you got home to the time you ended up calling 911, do you know
14 about how long that was?

15 A. Honestly, sir, I'm being honest with you. I don't
16 remember nothing, because I literally was blanked out,
17 and devastated about my child.

18 Q. It was --- it was dark at that point, though ---

19 A. Yes, it was dark.

20 Q. Did any of Mr. Hughey's --- Tobias's family, girlfriend,
21 or baby ever come over to your house to ---

22 A. Yes. Everybody came to my house. My daughter was
23 already at my location at that time when I got him there.

24 He was hollering for his baby, because he didn't
25 know was he going to make it or not. So we actually got

1 his baby there within that point in time and his baby
2 mother. My brother was there. I believe that was all
3 was there at that point in time.

4 Q. And then I guess at that point after they had all gotten
5 there, that's when you called 911?

6 A. Yes.

7 Q. Did his condition deteriorate when he was at your house?

8 A. Sir?

9 Q. Was his condition deteriorating at your house?

10 A. It was getting worse.

11 Q. Is that why you called?

12 A. Yes. He had started foaming out his mouth.

13 Q. Foaming out of his mouth?

14 A. Yes.

15 Q. Was he conscious or unconscious?

16 A. He was going out of conscious. He was going out.

17 Q. Okay. So that's when you called 911?

18 A. Yes.

19 Q. And law --- and law enforcement and the EMTs eventually
20 showed up; is that right?

21 A. Yes, sir. They did.

22 Q. So it --- it didn't take --- did it take them very long
23 to get there?

24 A. No, it didn't take them long they was there.

25 Q. Okay. And at that point what happened?

1 A. They got him and they took him to Abbeville High
2 School --- Abbeville High School. And then helicopter
3 had --- lift him to Greenville.

4 Q. Did you go over to the --- to the --- I guess the
5 football field when they airlifted him from?

6 A. No, I didn't. Not at that time. I stayed at my
7 house. But I ended up at the hospital that night in
8 Greenville.

9 Q. You ended up at the hospital that night in Greenville?

10 A. Yes.

11 Q. Do you know what time you got there?

12 A. I don't remember offhand. I don't remember. Like I
13 say, everything was just so devastating I don't remember
14 nothing but my child.

15 Q. And when you got to the hospital, were you allowed to go
16 back and see him, or was he kind of kept off in the back?

17 A. They let me go back there with him.

18 Q. Okay.

19 A. They let me go back there.

20 Q. Was that immediately or was that after --- after the
21 fact?

22 A. That was after the fact of what they had to do to
23 him, or whatever did then get me back there.

24 Q. Okay. Do you know how long you were --- how long were
25 you in the hospital --- did you stay --- did you stay up there

1 the whole time?

2 A. I stayed there the whole time. And then --- they
3 told us that we can go home and that they were going to
4 have to keep him all night.

5 Q. Okay. And did they keep him for longer than just a
6 night?

7 A. Oh, yes. He was there for a quite a while.

8 Q. Quite a while? Do you know how long that was?

9 A. For I think about a month.

10 Q. About a month?

11 A. Yes.

12 Q. And did you stay him with the whole time during that, or
13 were you back and forth?

14 A. I was back and forth every day.

15 Q. Do you know when --- when Mr. Hughey --- when Tobias was
16 eventually released from the hospital? Do you know --- do you
17 know that exact date off the top of your head? You may not.

18 A. I don't. I don't. And I'm being honest, I don't
19 remember the date, but it was after his rehab.

20 Q. So he had rehab?

21 A. Yes, he had rehab down there.

22 Q. Was that at the hospital, or after that?

23 A. At the rehab building down there by the hospital.

24 Q. And was that in Greenville?

25 A. Yes, in Greenville.

1 Q. Okay. And once Tobias was released from the hospital,
2 did he come stay with you, or did he go back to living with
3 his girlfriend?

4 A. He was staying with me and her. He was going back
5 and forth with both of us.

6 Q. Okay. Did you --- did you have to help him out in, you
7 know, kind of any --- every day functions when he got back?

8 A. Yes, we did.

9 Q. What did you help him out with?

10 A. I had to help him out like sometime get dressed
11 sometime. I had to help him out bathe sometime, because
12 he wasn't able to do it.

13 Q. What about --- I guess Tobias now versus what he was
14 before this, what --- what differences can you --- can you
15 see?

16 A. He don't remember things. He have a short-term
17 memory from --- after what they did to my son.

18 Q. Is that just every day kind of stuff?

19 A. Yes. He's --- like, he leave some grease on the
20 stove. He will forget it. He almost start my house on
21 fire because he forgot the grease was on the stove.

22 Q. Okay. You may have to repeat that again. Something
23 about grease and fire.

24 A. He --- he would --- he have left the grease on my
25 stove by accidentally, because he forgot it. He forgot

1 it. He actually forgot it. And I looked over there and
2 the grease was still on. And I was like, son, the grease
3 on. He forget things.

4 Q. So he was --- I guess he was cooking something?

5 A. Yes, he was cooking some chicken tenders.

6 Q. Okay. So there was grease, and I guess he forgot to turn
7 the --- something off?

8 A. Yes. Yes.

9 Q. Stove, or the oven, or something?

10 A. The stove.

11 Q. The stove. Okay.

12 A. With the hot (unintelligible) on it.

13 Q. So it's stuff like that?

14 A. Yes.

15 Q. What about --- what about his voice? Is that ---

16 A. His voice --- oh man. Oh man. My son don't talk
17 nothing near like he used to. Nothing.

18 Q. What did it sound like beforehand?

19 A. He had a good voice where he can yell to us and we
20 would be able to hear him clearly.

21 Q. So it's deeper? Kind of like a deeper voice?

22 A. Yes. Not as ragly. It's ragly. You could barely
23 hear him.

24 Q. And without getting to I guess, what you said, or did ---
25 did you talk to law enforcement when they showed up and ---

1 A. Yes, I did. I literally talked to the law
2 enforcement. I stayed in contact with law enforcement
3 the whole time that this had --- that what happened.

4 Q. Okay. All right. I think that's --- I think that's all
5 the questions I have. Please answer any questions that Mr.
6 Tinsley and Mr. Grose have.

7 THE COURT: Mr. Tinsley.

8 MR. TINSLEY: Thank you, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. TINSLEY:

11 Q. Ms. Guillebeaux, you testified that your son went back
12 and forth between staying you with at [REDACTED] and with his
13 girlfriend at The Village?

14 A. Yes.

15 Q. So he get in --- into something with one of you and you'd
16 put him out and he'd going stay with the other?

17 A. No, sir. He have a child there. That why he was
18 going back and forth.

19 Q. But he also got in trouble for domestic violence on her,
20 right?

21 A. I mean, I --- I have nothing to do with it, sir.
22 That --- I don't have nothing to do with it sir. That's
23 between him and his baby mother.

24 Q. Okay. And he got in trouble at your house for stealing
25 from you, didn't he?

1 A. It happened years ago, sir. My son had changed.

2 Q. 11 years ago. He would have been ---

3 (Simultaneous speaking)

4 (Technical difficulty)

5 A. I said that been years ago. He had changed. When
6 my baby had his son, he had changed.

7 Q. But he --- you talked to law enforcement that night about
8 having warrants on him; didn't you?

9 A. That was for all raps sir. Old ones. Them the one
10 current ones from the time.

11 (Technical difficulty).

12 A. --- and Kendrick Lee, and ---

13 (Technical difficulty)

14 Q. Okay. And you had to put him out for doing drugs?

15 A. No, I never put my son out for doing drugs.

16 Q. You're aware ---

17 A. Never.

18 Q. You're aware ---

19 A. We might have disagreements, but I never put my son
20 out for doing drugs.

21 Q. Y'all had disagreements about him doing drugs?

22 A. No, sir. Never.

23 Q. Are you aware that ---

24 A. We --- we are parent and child, we could talk.

25 Q. You're aware he had a drug problem?

1 A. I mean, everybody has drug problems. Everybody.
2 Everybody not perfect.

3 Q. What --- he was on meth?

4 A. I don't know what he was on.

5 Q. And Travis Lee, my client, is not related to your son
6 Tobias, is he?

7 A. Not completely. I don't think so. It's cause of
8 Kendrick Lee's daddy, is the one that's married. And
9 Kendrick Lee daddy is the one that's in the family of the
10 Lundian (phonetic) so I don't think that Travis Lee come
11 in 'cause he is a family member.

12 Q. Okay. And when would --- would look after his younger
13 relatives ---

14 (Simultaneous speaking)

15 A. I don't know what --- I don't know. I don't know
16 what --- what you coming at me with. I don't know
17 nothing about it.

18 Q. I'm just asking if Ken ---

19 A. I'm --- I'm just letting you know.

20 Q. You don't know whether --- what the relationship between
21 Ken ---

22 A. I know what the relationship between Ken and my
23 child is, yes.

24 (Simultaneous speaking)

25 A. That's through --- great mother and his --- great

1 grandmother and his dad.

2 Q. My question is whether Ken would look out for him?

3 A. Like I say, I don't know what could Ken do for him.

4 As far as what I seen he --- he left him for dead. So is
5 that looking after?

6 Q. Okay. Well, if you say, "left him for dead," you weren't
7 at the scene, right?

8 A. He did it.

9 Q. Were you at the scene?

10 A. I seen videos.

11 Q. Okay.

12 A. And I point him out.

13 Q. And did you see your son walk off from --- from that ---
14 (Simultaneous speaking)

15 A. I wasn't there at the scene, but I don't see.

16 (Technical difficulty) identify (technical difficulty).

17 Q. Your son got up and walked --- walked away, right?

18 A. On where? The video?

19 Q. Yes.

20 A. Well, on the video, what the video that I seen, I
21 didn't seen him walk away. I just seen when Kendrick Lee
22 swung the stick at him and when Travis Lee grabbed him by
23 his shirt.

24 Q. Okay. Okay. So you --- whatever law enforcement chose
25 to show you is all you know about what happened on that ---

1 (Simultaneous speaking)

2 A. That's all I know. And for what I heard from
3 witnesses ---

4 Q. Okay. And you told --- by your own testimony, you told
5 Travis Lee to do what he's got to do, right?

6 A. I mean they --- I mean if kids were beating his
7 cousin, I been knew Travis for years, I didn't think they
8 would leave my child for dead. Period. And
9 (unintelligible).

10 Q. Okay. So you --- you were fine with it getting physical?

11 A. I mean, long as it wasn't no dead stuff. I mean,
12 because I considered him as Kendrick, Travis. Travis Lee
13 knew me once again, Kendrick Lee knew me. I never would
14 think they would like my child for dead. Once again.

15 Q. Okay. No one --- who called you that night?

16 A. Beatrice Tim (phonetic). She told me to get to my
17 child.

18 Q. I didn't ask you what she told you. I'm asking who
19 called you?

20 A. Beatrice Tim gave me a call.

21 Q. Okay. Nobody else called you?

22 A. No. Didn't no one else 911. Didn't no one else try
23 to call me. They left him out there for dead.

24 Q. Okay. So you're the only person who called 911?

25 A. Yes, sir. And that's the only call that they got.

1 Q. You didn't call them till you got back home?

2 A. You're right.

3 Q. Okay. Your son refused to go to the hospital, didn't he?

4 A. I mean at that point in time, because he was
5 concerned and wanted to see his child.

6 Q. So he's left for dead, but you don't take him to the
7 hospital?

8 A. No. No.

9 Q. And you don't call 911 while you're driving?

10 A. No. I call them when I get to my house, because he
11 was more concerned about seeing his child. He was
12 devastated. He didn't know was he going to die right
13 then and there.

14 Q. So it was more important to see his child than to save
15 his life?

16 A. I mean, he wanted to see his child. I grant him
17 what he wanted to see.

18 Q. And you talked about helping him in his recovering. It
19 didn't take him long to resume his criminal activity?

20 A. Sir?

21 Q. Didn't take him long to resume his criminal activity, did
22 it?

23 A. I --- what you mean presume criminal activity? Get
24 in more trouble?

25 Q. Yeah.

1 A. I mean, whatever goes on with him in his life,
2 he's --- that's him.

3 Q. And you ---

4 A. I have no say so. That's my child, I just gave
5 birth.

6 Q. And he's --- and he's --- he has gotten into more trouble
7 since ---

8 A. I mean, that don't have nothing do with what they
9 did to him, though.

10 Q. But he --- but he did?

11 A. That don't have nothing to do with what they did to
12 him though. Once again.

13 Q. Looks like that is a yes. Now, and --- and --- and the
14 reason why you were fine with it getting physical is because
15 you knew that he --- that your son ---

16 (Simultaneous speaking)

17 A. No, I didn't ---

18 Q. --- was stealing?

19 A. --- no, I didn't know nothing about --- once again,
20 cross-examination (unintelligible) once again, at that
21 point in time, my son had change. He had a child in his
22 life. It wasn't about no stealing. It wasn't about
23 (unintelligible). That was his past history.

24 Q. Then why were you fine with --- with him getting smacked
25 around?

1 A. Because if they call me about the situation, and I'm
2 not saying exactly smack --- smack him around, you know,
3 jack him up. Or maybe they could have called the police.
4 I don't know. But they took him on they self and did
5 worser things. Worser.

6 (Technical difficulty)

7 A. Can you hear what I'm saying?

8 MR. GROSE: Objection. Your Honor. I have a matter
9 of law to take up.

10 (Sidebar conference)

11 THE COURT: Mr. Tinsley.

12 MR. TINSLEY: No further questions. Please answer
13 any questions Mr. Grose asks.

14 THE COURT: Mr. Grose.

15 CROSS-EXAMINATION

16 BY MR. GROSE:

17 Q. I think you just acknowledged that your son refused to go
18 the hospital?

19 A. I gave a answer to that. Once again, my son want to
20 see his son.

21 Q. Okay. I understand that's what you're saying, but do you
22 recall telling the Police that he didn't want to go to the
23 hospital because there was warrants that hadn't been served?

24 A. I mean, the warrants was for me. They was old.
25 So ---

1 Q. Okay.

2 A. --- I going to get them resolved.

3 Q. All right. So I hear you. But --- but you're --- I ---
4 you would agree with me that your son was aware that you had
5 taken out warrants on him?

6 A. He been knew that.

7 Q. Huh?

8 A. He been knew that. He been knew that.

9 Q. He did what?

10 A. He been advise about the warrants. He was --- it
11 wasn't no warrants actually, it was court dates.

12 Q. Well, you --- you had two warrants on Tobias for
13 financial ---

14 A. I didn't have two warrants, I had only one warrant.

15 Q. Okay. If the court records show that there was two
16 warrants for financial transaction card fraud, would you
17 dispute that?

18 A. They been disputed.

19 Q. Well, they've been dismissed?

20 A. Yes.

21 Q. All right. But what I'm trying to get at is on
22 October 6th of 2020, you had --- there was warrants that had
23 not been served yet?

24 A. I don't know had the warrants been served but I know
25 he had to come to court on that.

1 Q. Okay. And --- and you did tell the Police that when?

2 (Technical difficulty) he refused to go to the

3 hospital because there were those warrants out?

4 A. Yes. And that --- and that point in time, yes, I

5 did.

6 Q. You did tell the police?

7 A. I told the police at the --- at that point in time,

8 but ---

9 Q. Okay.

10 A. Y'all coming at me about the old warrants about my

11 child ---

12 (Simultaneous speaking)

13 Q. But these --- these weren't old warrants because they ---

14 they --- they happened before October 6th, but they --- they

15 weren't ---

16 A. They were about --- they was about a year old,

17 though, right? Okay.

18 Q. I don't know that they were a year old.

19 A. Okay.

20 Q. I --- I know that they were served after this incident.

21 I know that you told the police that you had warrants out on

22 him, right?

23 A. Yeah.

24 Q. And that he didn't want to go to the hospital ---

25 (Simultaneous speaking)

1 A. First of all, let me clarify this again. I don't
2 know that he had warrants, but I knew about one up for
3 me.

4 Q. All right. And that was for financial ---

5 A. That don't have nothing to do with what's going on.
6 I don't want to talk about that. I don't want to talk
7 about my son past with the financial or fraud with my
8 bank card. That was then. That didn't happen during the
9 point in time of this.

10 Q. Okay. Well, you --- you --- you --- you under --- you
11 understand that because you took the witness stand, you have
12 to answer questions?

13 A. Okay. Then I --- I answer them if I got to.

14 Q. And your son knew that you had taken out warrants on him?

15 A. He been knew that he had the warrants.

16 Q. Okay.

17 A. So what are you ---

18 Q. Well, yesterday he said he didn't know, but you're
19 saying ---

20 (Simultaneous speaking)

21 A. I mean, of course he don't remember things because
22 of what they did to him, short-term memory. Who would
23 remember? Who would remember, Mr. Grose?

24 Q. Well, let --- let --- let's talk about that. You said
25 that you had some disagreements with your son. Are you aware

1 that your son did drugs?

2 A. I never was aware of my son doing nothing but
3 marijuana. Of course everybody do marijuana, even your
4 clients do marijuana.

5 THE COURT: The jury disregard that part. Go ahead,
6 Mr. Grose.

7 BY MR. BLACK:

8 Q. Do you do marijuana?

9 A. Yes. Do your client do?

10 Q. When was the last time you did marijuana?

11 A. I ain't did none in two days. You want me to be
12 honest. When last time your client did?

13 THE COURT: You --- you can't ask questions.

14 THE WITNESS: I mean they gave me --- can we stop
15 the trial right quick? 'Cause give me --- Mr. Grose get
16 me frustrate.

17 THE COURT: Ma'am --- ma'am --- ma'am --- ma'am ---

18 (Simultaneous speaking)

19 MR. GROSE: Because I have a matter of law.

20 THE COURT: Mr. -- we'll hear it in the moment.

21 Ma'am ---

22 THE WITNESS: Yes, sir.

23 THE COURT: --- here's the deal, okay? You can't
24 talk about anything other than just answering his
25 questions.

1 THE WITNESS: Okay.

2 THE COURT: All right? The jury should disregard
3 any sort of other conversation or mention that he makes
4 about anything else, it's the answers to her questions
5 that are important, not questions that she asked Mr.
6 Grose. Because ma'am, you can't ask him questions.

7 THE WITNESS: Okay. I got you. Thank you.

8 THE COURT: Mr. Grose please go ahead.

9 BY MR. GROSE:

10 Q. Adderall, has your son ever used Adderall?

11 A. I never knew it. No, sir. Never knew anything
12 about Adderall.

13 Q. But do you know that now?

14 A. No, I don't. Still don't know it.

15 Q. Okay. You --- you --- you have put your son out of your
16 house before, haven't you?

17 A. Yeah, if he can't abide my rules, I'm going to put
18 him out. And he going to come right back home.

19 Q. And --- and one of the --- rules that he didn't abide was
20 stealing?

21 A. I mean that was past. Yes, past. I put them out in
22 the past, yes. Yes, during this time, I never put him
23 out.

24 (Simultaneous speaking)

25 A. He left on his own.

1 Q. And you put him out for stealing since October of 2020?

2 A. No.

3 Q. You deny that?

4 A. No. I never put him out. He --- he left on his
5 own.

6 Q. You --- you really don't know what your son's done or not
7 done ---

8 (Simultaneous speaking)

9 A. I don't hold my son hand. I don't walk with him
10 holding the hands.

11 Q. Okay.

12 A. He's a grown child, and I'm grown woman.

13 Q. All right. So you don't know what drugs he's done or
14 has ---

15 A. No.

16 Q. --- since October ---

17 A. No, sir. No, sir.

18 Q. Okay. Fair enough. Were you aware that he had a
19 domestic warrant out on him in October of 2020?

20 A. Yes, for his baby mother.

21 Q. Baby mother?

22 A. Yes.

23 Q. And --- and you're aware that since October 2020, he has
24 been arrested three times?

25 A. Yeah, for a firearm, and for maybe (unintelligible)

1 again, or whatever. Yes, I'm aware of all my son charge,
2 CDV.

3 Q. And --- and forgery?

4 A. And for forgery, no, he didn't have no forgery
5 from --- from the time for me.

6 Q. Well, not for why you, but somebody else?

7 A. He don't have forgery for nobody else as far as I
8 know.

9 Q. Well ---

10 A. As far as I know.

11 Q. If the solicitor is prosecuting him for that you wouldn't
12 disagree ---

13 (Simultaneous speaking)

14 A. When I found out what my son charges is then I --- I
15 know what they is from the solicitor, but until then, I
16 don't know what all his charges is and that was the
17 carrying firearm and for the CDV.

18 Q. All right. And --- and --- and carrying a firearm,
19 trespassing, where you're told not to be there?

20 A. Trespassing, yeah.

21 Q. Okay. So you --- you talked about his voice changing?

22 A. Yes.

23 Q. All right. Were you there when he pulled the tooth out
24 of his ---

25 A. No, but I notified by the doctors.

1 Q. You know that that happened?

2 A. Yes, I did. He woke up out of his anesthesia and
3 pulled the tooth out because he know --- didn't know
4 where he was.

5 (Simultaneous speaking)

6 Q. --- there, so you didn't see it?

7 A. The doctors told me everything.

8 Q. Okay. But you weren't there?

9 A. No. The doctors told me, once again.

10 Q. Okay.

11 A. I kept in contact with the doctors every day. I
12 went there every day.

13 Q. All right.

14 A. I drove back and forth every day.

15 Q. Now, you seem to know about what you want to know about
16 it, and not know about things that you don't want to know
17 about.

18 A. I mean, of course I don't know about --- once again,
19 I don't hold my son hand by he's a grown man. I don't
20 walk and hold his hand. I don't hold in there one of my
21 kid's hands.

22 Q. All right. And that's your point, your --- your son ---
23 your son's a grown man ---

24 A. Thank you.

25 Q. He --- he's --- he's a grown man and you testified to

1 this jury that you took care of him for a little while, came
2 back to the hospital.

3 A. Yes.

4 Q. All right. But you're not currently bathing him?

5 A. No.

6 Q. You're --- you're not currently cooking for him?

7 A. No, he try to cook on his own, but I prefer to cook
8 for him.

9 Q. Okay. Well --- well that --- that's what ---

10 (Simultaneous speaking)

11 A. --- because I don't want him burning down my place
12 or burning anybody else place.

13 Q. Okay. But he's able to cook for himself?

14 A. No, not exactly, because if he leave it on, he gonna
15 burn some down.

16 Q. Okay. He --- he did that once?

17 A. He cooking his stuff.

18 (Simultaneous speaking)

19 Q. Ma'am, he left the stove --- the grease on the stove one
20 time; is that right?

21 A. Yes, one time.

22 Q. And --- and you've probably done that before ---

23 (Simultaneous speaking)

24 Q. --- everybody does that sometimes, don't they?

25 A. He forget his court dates. He forget his court

1 dates. He forget his tie.

2 Q. Okay.

3 A. He forgets a lot of stuff, sir.

4 Q. Well, and again, you don't know how much drugs he's done?

5 A. Once again, all that I know about is marijuana.

6 Q. Okay. If --- if he mentioned meth and Adderall
7 yesterday, you wouldn't dispute that, would you?

8 A. I mean, I --- I wouldn't feel bad about him, because
9 that's my child. I accept it and keep on moving as a
10 mother.

11 Q. You realize that doing drugs, if they're not prescribed
12 for you, can be harmful?

13 (Simultaneous speaking)

14 A. I --- I know --- I know that is a fact.

15 Q. Okay. All right. Since this happened, your son's had
16 another baby?

17 A. Yes, of course.

18 Q. Okay. And he --- and he comes and goes from your house
19 when he wants to?

20 A. Yeah, that's my child. They allowed to come and
21 go ---

22 (Simultaneous speaking)

23 Q. I --- I understand. I understand. And the --- the time
24 that you were having to take care of him, that --- that's long
25 since ended?

1 A. Sir.

2 Q. The time that you had to take care of him, has long since
3 ended?

4 A. Since then?

5 Q. Since then. Yeah.

6 A. I mean, I --- I don't bathe him no more.

7 Q. Okay.

8 A. I may --- I ---

9 Q. When was --- when was --- when was the last time you
10 bathed him?

11 A. I --- bathed him would weeks prior from the time he
12 got out the hospital. I bathe him two weeks prior. I
13 cook for him every --- every day still just about. At
14 least he try to get in there and cook something.

15 Q. Okay. Last time you bathed him was when he was in the
16 hospital?

17 A. No, I bathed him when he came home.

18 Q. Two weeks after he came home?

19 A. Yes.

20 Q. Okay. I thought you said two weeks ---

21 A. No.

22 Q. --- before, but you meant two weeks after he came home?

23 A. Yes.

24 Q. So the last time you bathed him was in 2020?

25 A. Yes.

Cross-exam Guillebeaux

1 Q. Okay. All right.

2 MR. GROSE: Beg the Court's indulgence for a moment.

3 THE COURT: Yes, sir.

4 BY MR. GROSE:

5 Q. And --- and since this happened, your --- your son has
6 been employed, right?

7 A. He tried to work a little bit. He tried.

8 Q. He had a job at Bernstein?

9 A. Yes.

10 Q. And he got fired for stealing?

11 A. I don't know nothing about that.

12 Q. Okay.

13 A. I don't.

14 Q. Isn't that convenient.

15 A. Thank you.

16 MR. GROSE: That's all I have, Your Honor.

17 THE COURT: Redirect?

18 MR. BLACK: No, sir. No, sir, Your Honor.

19 THE COURT: All right. Ma'am, you can step down.

20 Thank you very much.

21 THE WITNESS: Thank you.

22 THE COURT: Call your next witness, please.

23 MR. BLACK: State calls Michael Shane Floyd.

24 (Witness sworn)

25 MICHAEL FLOYD, HAVING BEEN DULY SWORN, TESTIFIED AS

1 FOLLOWS.

2 DIRECT EXAMINATION

3 BY MR. BLACK:

4 Q. Can you state your name for the record please?

5 A. Michael Floyd.

6 Q. And your middle name is Shane?

7 A. Yes, sir.

8 Q. And you might have to speak up so that everybody in here
9 can hear you. Okay?

10 A. All right.

11 Q. You go by Shane?

12 A. Yes, sir.

13 Q. Mr. Floyd, you have a conviction from '16 for
14 contributing to the delinquency of a minor?

15 (Simultaneous speaking)

16 A. I do.

17 Q. You got probation for that?

18 A. I was.

19 Q. You --- you agree with that?

20 A. Yes, sir.

21 Q. Okay.

22 MR. GROSE: Your Honor, I --- I can't hear him.

23 THE WITNESS: Yes, sir.

24 THE COURT: I don't think that mic's working. Can
25 you just try to speak up. Yeah, that's all.

Direct exam Floyd

1 BY MR. BLACK:

2 Q. Mr. Floyd, this microphone is just recording everything
3 that we're saying, so it's not a real microphone to illuminate
4 your voice. Just try to speak up as loud as you can so
5 everybody can hear you.

6 Do you have a conviction for a shoplifting for --- in
7 2018?

8 A. Yes, sir.

9 Q. And you have a pending charge right now for discharging a
10 firearm into a dwelling?

11 A. Yes, sir.

12 Q. Okay. Mr. Floyd, where do you live?

13 A. [REDACTED] in Abbeville.

14 Q. You live in [REDACTED] in Abbeville? So you live here
15 in the City of Abbeville?

16 A. Yes, sir.

17 Q. What about back in 2020; where did you live?

18 A. Hickory Heights.

19 Q. Hickory Heights Apartments?

20 A. Yes, sir.

21 Q. What was your apartment building and number that you
22 lived in?

23 A. [REDACTED].

24 Q. [REDACTED]?

25 A. Uh-huh.

Direct exam Floyd

1 Q. And that's a yes?

2 A. Yes, sir.

3 Q. How long did you live there?

4 A. Approximately three years, I think.

5 Q. Three years or so?

6 A. Yes, sir.

7 Q. And when did you move out?

8 A. Four months ago.

9 Q. Four months ago? So back in October of 2020, were
10 you --- you were living there, correct?

11 A. Correct.

12 Q. Do you know Tobias Hughey?

13 A. I do.

14 Q. How do you know Tobias Hughey?

15 A. He used to come out and hang out with me. Play
16 games all the time.

17 Q. Where was that at?

18 A. Hickory Heights.

19 Q. At your apartment?

20 A. Yes, sir.

21 Q. Was he out there a good bit?

22 A. Oh, yeah.

23 Q. Did he live out there, or do you know?

24 A. As far as I know.

25 Q. As far as you knew, he lived out there?

Direct exam Floyd

1 A. Uh-huh.

2 Q. So you --- how often would you see him back in 2020?

3 A. Oh, every day, if not every other day.

4 Q. Okay. So y'all were --- y'all were pretty close at that
5 point?

6 A. Oh, yeah.

7 Q. Do you remember --- do you remember October the 6th of
8 2020?

9 A. I do.

10 Q. Do you remember Mr. Hughey coming to your apartment
11 sometime kind of later that evening?

12 A. I do.

13 Q. Tell us what happened when that occurred.

14 A. I was --- I was sitting there babysitting and my
15 door flew open. And he had blood all over him. He was
16 hollering.

17 Q. Who --- and whose baby were you looking after?

18 A. I was watching my friend Kenneth (phonetic).

19 Q. So it wasn't your baby that you were looking after?

20 A. No.

21 Q. What were you doing? Were you just in your living room?
22 What were you --- what were you doing?

23 A. I was sitting in the living room watching TV.
24 Watching cartoons with the baby.

25 Q. Did --- did Mr. Hughey, did he knock on the door or

Direct exam Floyd

1 anything? Or did he just opened the door and ---

2 A. No, he didn't knock. He just come in.

3 Q. Okay. And you said he was bloody?

4 A. Oh, yeah.

5 Q. Where was he bloody at?

6 A. All over his face and shoulder areas, I guess.

7 Q. Did you try to help him out?

8 A. I gave him a towel.

9 Q. You gave him a towel?

10 A. Uh-huh.

11 Q. And that's a yes?

12 A. Yes, sir.

13 THE COURT: Have to say yes.

14 BY MR. BLACK:

15 Q. Did the towel help soaking up the blood or anything like
16 that?

17 A. Oh, yeah. It was --- it was --- it had a lot of
18 blood on it.

19 Q. Did you --- did you offer him a chair to sit in or
20 something like that?

21 A. He sat down at my table and I went and got him a ---
22 a towel. I told him he needed to call a ambulance, and
23 he kept telling me no.

24 Q. Did --- did you call anybody for him?

25 A. I didn't get a chance to. His mom and brother come

1 to the door.

2 Q. How long --- how long did it take them to get there?

3 A. Ten minutes maybe, it seemed like.

4 Q. So pretty ---

5 (Simultaneous speaking)

6 A. --- minutes.

7 Q. Pretty short they showed up?

8 A. It seemed pretty fast.

9 Q. Did you offer Mr. Hughey a drink or anything like that
10 too?

11 A. I'm pretty sure I gave him something to drink, yeah.

12 Yes, sir.

13 Q. You said he was hollering ---

14 A. Uh-huh. Yes, sir.

15 Q. What do you mean by that?

16 A. Yes, sir.

17 Q. What do you mean by that?

18 A. He's coming (descriptive sound) my arm.

19 Q. Okay. Did you -- did you notice anything about his arm?

20 A. His arm was swelled up pretty good.

21 Q. Which arm was it, do you remember?

22 A. I think it was his right arm if I ain't mistaken.

23 Q. Where at on his arm was it swollen up pretty good.

24 A. Around the elbow.

25 Q. Around the elbow?

Direct exam Floyd

1 A. Yes, sir.

2 Q. Did you --- did you call anybody --- did you call your
3 wife or anybody --- any of your family members?

4 A. My wife was at work and I call her and give her a
5 heads up so she ain't come in and freak out when she saw
6 everything going on.

7 Q. Okay. How long did that conversation last?

8 A. Two, three minutes, if that.

9 Q. Did --- did you have like a video surveillance system in
10 your apartment?

11 A. I did.

12 Q. How --- how did that video surveillance system work?

13 A. It's just a --- it was just a old phone I had. I
14 got old phones I had set up in there for --- for people
15 stealing, you know. It was motion detected. When it
16 picked up motion, it started recording and ---

17 Q. So if the phone detected some kind of motion, it would
18 just record?

19 A. When my door flew open, yes, sir. It started
20 recording.

21 Q. And do you --- you got some surveillance from that phone
22 and provided it to law enforcement?

23 A. Yes, sir. They came and was going to take my phone
24 to get it.

25 Q. I want to show you what was marked as State's 15. Do you

Direct exam Floyd

1 recognize this?

2 (State's Exhibit 18 marked)

3 A. Yes, sir.

4 Q. Is your initial on there?

5 A. Yes, sir.

6 Q. Have you dated it?

7 A. Yes, sir.

8 Q. Have you viewed this?

9 A. Yes, sir.

10 Q. Is this a fair and accurate representation of the events
11 of Mr. Hughey coming into your apartment that that afternoon?

12 A. Yes, sir.

13 MR. BLACK: Your Honor, at this point State moves 18
14 into evidence. And request to publish to the jury.

15 THE COURT: Any --- any objections, gentleman?
16 None?

17 MR. TINSLEY: None, Your Honor.

18 MR. GROSE: No objection.

19 THE COURT: 18 is in evidence without objection.
20 And you may publish.

21 (State's Exhibit 18 admitted)

22 (Video playing)

23 MR. BLACK: Mr. Floyd, I'm going to back this up.
24 This video is right behind you.

25 BY MR. BLACK:

Direct exam Floyd

1 Q. What do you have in your hand right there?

2 A. I believe it's a machete.

3 Q. Why did you have a machete out?

4 A. I figured they were going to come finish the job.

5 Q. So is that for kind of your protection, I guess?

6 A. Yes, sir.

7 (Video playing)

8 BY MR. BLACK:

9 Q. Mr. Floyd, let's go back a couple days prior to October
10 the 6th, 2020. Did --- did anybody else come to your door a
11 couple days prior to this incident?

12 A. Yeah, that would be the day (unintelligible) asking
13 me to put a top out the door and talk to him.

14 Q. Okay. So do you know what --- what date this was?

15 A. I really couldn't say a date.

16 Q. Okay.

17 A. Honestly.

18 Q. Do you know about how many days it was before October
19 the 6th? Was it one day? Two days? Three days? Or you just
20 don't know?

21 A. I mean I --- from what I remember, it was probably
22 two days, think.

23 Q. So it wasn't like a month or ---

24 A. No.

25 Q. It was a --- within a couple days?

Direct exam Floyd

1 A. Yeah. It was within two, three, days.

2 Q. Okay. Do you know who came and talked to you?

3 A. Yes, sir. I mean, I don't know him, know him, but I
4 mean, I know who they are.

5 Q. Who came to talk to you?

6 A. That was the gentleman right on the left right
7 there, the first two times. And one --- it was both of
8 them the last time from what I --- from what I saw.

9 Q. Okay. And you're --- you're referencing somebody sitting
10 over here ---

11 A. Yes, sir.

12 Q. --- who is that? What are they wearing?

13 A. I mean, I guess, what is it? Orange, I guess. I
14 don't know. I'm colorblind, so you kinda gotta excuse me
15 on that.

16 Q. You're not colorblind. All right. Looks like there's
17 four ---

18 A. I am colorblind.

19 Q. --- four people at this table. Which --- which one is
20 it?

21 A. Two and four.

22 Q. Two and four. Okay. So they both came to your door?

23 A. The third time, yeah.

24 Q. The third time.

25 A. Uh-huh.

Direct exam Floyd

1 Q. Who came the first time?

2 A. Number two.

3 Q. Who came the second time?

4 A. Number two.

5 Q. Okay. And so let's just --- I guess, we'll call this
6 person number one, this person number two, this person number
7 three, and this person number four?

8 A. Correct.

9 Q. You've identified two and four?

10 A. Correct.

11 Q. Okay.

12 THE COURT: Two would be Travis Lee and four, of
13 course, for the record would be Kendrick Lee.

14 Q. And again, do you know what time these people came to
15 your door?

16 A. It was late. I mean somewhat late. It was at least
17 10:00, I'd say.

18 Q. Okay. But you're not exactly sure what time, but just it
19 was late one evening?

20 A. Yeah, I'm not really sure a time. My wife was in
21 the bed and sleeping, I remember that much. So I knew it
22 was pretty late.

23 Q. So your wife was in the --- in the bedroom asleep?

24 A. Yeah. She didn't get off till like 7:00, so it was
25 well after that.

Direct exam Floyd

1 Q. And what were you doing when they came to the door?

2 A. I was --- I was in there playing video games.

3 Q. You were playing ---

4 A. Playing Xbox.

5 Q. Was that in your living room, like right when you walk in
6 the door?

7 A. Yes, sir. I was playing the Xbox on the living
8 room.

9 Q. Were you sitting on the couch like you were in the ---
10 the previous videos?

11 A. Yes, sir.

12 Q. And what was nature of this --- did you talk to these
13 folks?

14 A. They just asked me --- told me that needed to talk
15 to --- we call him --- we call Tobias Tob. Said they
16 need to talk to Tob. I told them that he wasn't there.
17 And --- well, he left. About 15 ---

18 (Simultaneous speaking)

19 Q. Was that the first time?

20 A. Yes, sir.

21 Q. Okay. So they were looking for Tob, who's also ---
22 that's what you refer to as Tobias?

23 A. Yes, sir.

24 Q. And you told him that he wasn't there?

25 A. Correct.

Direct exam Floyd

1 Q. All right. But they did come back at any other times?

2 A. 15, 20 minutes later, I would say, he come knocking
3 on the door again. And said he knows he's in there,
4 to --- to put him out the door. I said, he's not in
5 here. Well when you see him, tell him to holler at me,
6 'cause he owes me some money, and I need it.

7 Q. Now who was --- who was this conversation with?

8 A. Number two.

9 Q. Number two? Okay. Number two sitting over here at this
10 table?

11 A. Yes, sir.

12 Q. And that's Travis Lee?

13 A. I guess. I mean, I don't know his --- I just --- I
14 just know him if I see him. You know.

15 Q. Right. Okay. So how long did that conversation last?

16 A. A minute.

17 Q. A minute?

18 A. Maybe two.

19 Q. All right. And so was there another time that they came
20 back?

21 A. They come back a third time a little while later.
22 And that's when he said he knows he's in here. He'd give
23 me \$100 to put him out the door.

24 Q. Who said that?

25 A. Number four.

1 Q. Number four said that?

2 A. I said, I wish I could, 'cause I can really use the
3 money. But he ain't here.

4 Q. So they offered --- so number four --- and that's the
5 gentleman number four at this table at the far end --- Mr.
6 Kendrick Lee?

7 A. Yes, sir.

8 Q. And he told you what again?

9 A. He'd give me \$100 to put him out the door.

10 Q. Did he demonstrate that he had the money?

11 A. Oh, he had the money.

12 Q. How do you know that?

13 A. I --- he show --- he counted out a hundred. He was
14 going to give me a hundred to put him out the door.

15 Q. He pulled on the \$100?

16 A. Oh, yeah.

17 Q. And so what was your response to that?

18 A. I said, I wish I could put him out the door, 'cause
19 I could really use that money. But he's not here.

20 Q. Was Tobias actually there?

21 A. Yes.

22 Q. Was he there the entire time?

23 A. Yes.

24 Q. Where was Tobias at?

25 A. In my kitchen.

Direct exam Floyd

1 Q. In your kitchen?

2 A. In the --- yes. Most of the --- I believe the first
3 time he was. The second time he might have been in the
4 bathroom.

5 Q. What about ---

6 (Simultaneous speaking)

7 Q. What about the third time?

8 A. I think he was in like the middle bedroom or
9 something that time.

10 Q. So was he --- was he hiding?

11 A. Oh, yeah.

12 Q. Could --- and maybe you don't know the answer to this
13 question, but could --- could he have heard what was going on?
14 Was the conversation pretty loud, or pretty quiet, or do you
15 remember?

16 A. I mean, they were --- they were calm. They wasn't
17 mean, or rude, or anything. It was just calm talking.
18 They probably didn't --- he probably couldn't hear them.

19 Q. Okay. And the conversations, they were pretty short?

20 A. Yes, sir.

21 Q. Did you demonstrate the last time that Tobias wasn't
22 here, did you, like, open the door so they could see inside,
23 or anything like that?

24 A. Yes, sir. The third time, I was getting a little
25 aggravated then 'cause my wife was in there sleeping and

Direct exam Floyd

1 I didn't want her to wake up. And so I opened my door up
2 all the way and was like look, you look all through the
3 apartment, there ain't nobody here. You know, it was
4 dark in there.

5 Q. Did you notice --- did any of them, either number two or
6 number four, either Mr. Lee, did anyone of them have anything
7 in their hands that you could tell?

8 A. I didn't see anything.

9 Q. You couldn't tell anything?

10 A. Huh-uh.

11 THE COURT: That's a no?

12 BY MR. BLACK:

13 Q. I'm going to show you what's been marked and already
14 admitted to State's Evidence --- State's 15. Do you recognize
15 this?

16 A. Yes, sir.

17 Q. It's your initials and date. Did you date this?

18 A. Yes, sir.

19 Q. So you viewed this?

20 A. Yes, sir.

21 Q. This is a depiction of when they showed up at your
22 apartment?

23 A. Yes, sir.

24 THE COURT: Just for the record, Solicitor, when did
25 you approximately start playing that? What timestamp?

Direct exam Floyd

1 MR. BLACK: About 29:15, I believe.

2 (Video playing)

3 BY MR. BLACK:

4 Q. I'm now going to direct your eyes, Mr. Floyd; do you see
5 that?

6 A. Yes, sir.

7 Q. Do you see anything in one of the gentleman's hands
8 (unintelligible)?

9 A. Yes, sir.

10 Q. What did you see?

11 A. It looked like a stick.

12 Q. Where --- where is he going right now?

13 A. He's going around the back of the apartment. I
14 never saw him that night at that time.

15 Q. At that time?

16 A. Uh-huh.

17 Q. Now, do you see a shadow right here? I don't know if you
18 can see that. Is that --- this --- this would be your
19 apartment, correct?

20 A. Yes, sir.

21 (Video playing)

22 Q. Shows 31:43 walking away. That conversation was about a
23 minute, maybe a little bit less at the door?

24 A. Uh-huh. They was brief.

25 Q. Who was that gentleman again, that you were talking to?

Direct exam Floyd

1 A. Number two.

2 Q. Number two over here?

3 A. Uh-huh.

4 Q. And that's yes?

5 A. Yes, sir.

6 MR. BLACK: That's all the questions I have. Please
7 answer any questions that Mr. Tinsley and Mr. Grose have.

8 THE COURT: Mr. Tinsley.

9 MR. TINSLEY: Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. TINSLEY:

12 Q. Mr. Floyd, you came over here last Friday to meet with
13 folks from the Solicitor's office about your testimony
14 today's, didn't you?

15 A. Yes, sir.

16 Q. And who did you meet with?

17 A. The gentleman right here who was just asking me the
18 questions.

19 Q. Okay. Solicitor Black?

20 A. Yes, sir.

21 Q. Just him?

22 A. Yes, sir.

23 Q. Okay. And you talk --- talked to him about Ken Lee and a
24 bald-headed guy coming to your apartment two or three days
25 earlier, didn't you?

Cross-exam Floyd

1 A. Yes, sir.

2 Q. Travis Lee have a bald head?

3 A. Not anymore.

4 Q. Oh, so you do know him and know what his hair was like a
5 few years ago?

6 A. I mean, I didn't know his name. I know who they
7 are.

8 Q. Oh, okay. Okay. So you --- so you're swearing under
9 oath he had a bald head back in October 2020?

10 A. I mean, best of my recollection, yeah.

11 Q. To the best of your recollection. Did he or didn't he?

12 A. I mean, that was a couple years ago, but ---

13 Q. Okay. So you're just kind of guessing at stuff?

14 A. No, I'm not guessing.

15 Q. And you never mentioned Travis Lee to the Solicitor by
16 name?

17 A. No, I don't know the name.

18 Q. But you did mention Ken Lee by name?

19 A. I've heard that a lot.

20 Q. Do you know --- do you know who Ken Lee is? You acted
21 like you didn't. You said number four a minute ago.

22 A. It was just easier to identify him in that way,
23 'cause I don't know the first gentleman's name.

24 Q. What does the first gentleman have to do with identifying
25 Ken Lee?

Cross-exam Floyd

1 A. Nothing I guess.

2 Q. Okay. So the first gentleman, my client, Travis Lee, you
3 referred to him as the bald-headed guy?

4 A. Right.

5 Q. Okay. Now, you didn't call 911 when Mr. Hughey came that
6 night?

7 A. I did not.

8 Q. So you didn't think his life was in danger?

9 A. I mean, I --- I assume he needed to go to the
10 hospital, but I didn't know his life was in danger, no.

11 Q. Okay. You assume he needed to go the hospital, but you
12 didn't call 911?

13 A. I didn't.

14 Q. You didn't offer to take him to the hospital?

15 A. I have no vehicle.

16 Q. Okay. Well, you do have a telephone, though?

17 A. I do.

18 Q. So you just figured somebody else's problem to call 911,
19 or you just didn't think he needed it?

20 A. Moments after that video stopped, his mom --- his
21 mother and brother showed up.

22 Q. Ten --- ten minutes is what you testified to?

23 A. Give or take.

24 Q. Okay. And in that ten minutes, you --- you didn't find
25 it necessary to call 911?

Cross-exam Floyd

1 A. I mean, I did, he kept asking me not to.

2 Q. Oh, why didn't he want you to call 911?

3 A. I have no idea.

4 Q. Y'all doing drugs over there?

5 A. No, sir.

6 Q. Okay. Y'all ever?

7 A. I mean, I smoked a little pot, I mean.

8 Q. With Mr. Hughey?

9 A. I mean may --- probably on occasion.

10 Q. Just pot?

11 A. Yes, sir.

12 Q. Nothing stronger?

13 A. No, sir.

14 Q. All right. Are you aware of Mr. Hughey --- Mr. Hughey
15 committing thefts over in that complex?

16 A. I am.

17 Q. How are you aware of that?

18 A. Word goes around pretty quick.

19 Q. Okay. Have you been involved in any of that?

20 A. No, sir.

21 Q. Okay. Have you seen any of the items he's gotten?

22 A. Not that I'm aware of.

23 Q. Okay. So he was known in the community as a thief?

24 A. I mean, in so --- I mean, you could put it that way,
25 I guess.

Cross-exam Floyd

1 Q. Okay. Have you ever had a conversation with Travis Lee?

2 A. Other than that night? No.

3 Q. Okay. And you're testifying here today and hoping you're
4 going to help yourself with your charge of firing a ---
5 discharging a firearm into a dwelling house, right?

6 A. I had not mentioned that at all.

7 Q. So you don't --- you don't expect this to help you on
8 that charge?

9 A. I didn't know. I didn't expect it to.

10 Q. You hope it does?

11 A. I really hadn't put the two together.

12 Q. Okay. Okay. And it is the same solicitor that's
13 prosecuting you, right?

14 A. Yeah, it is. It's a completely different incident.

15 Q. Okay. Okay.

16 MR. TINSLEY: No further questions. Please answer
17 any questions Mr. Grose has.

18 THE COURT: Mr. Grose.

19 MR. GROSE: Your Honor.

20 CROSS-EXAMINATION

21 BY MR. GROSE:

22 Q. All right. Mr. Floyd, I'm going to hand you what's in
23 evidence as State's Exhibit Number 7. Can you take a look at
24 that? All right. And that's a consent to search your
25 premises, your --- your apartment?

Cross-exam Floyd

1 A. Yes, sir.

2 Q. All right. And that was on --- after it was dark on
3 October the 6th?

4 A. Yes, sir.

5 Q. And the police came to your apartment; is that right?

6 A. Yes, sir.

7 Q. And you came outside?

8 A. Yes, sir.

9 Q. And they told you that they wanted to search your
10 apartment as part of the investigation?

11 A. Yes, sir, part of the investigation. They were
12 swabbing my door and ---

13 Q. All right. And they told you that there was two ways
14 that it could happen, right?

15 A. Uh-huh.

16 Q. Is that a yes?

17 A. Yes, sir.

18 Q. One way is you could consent, and they would just be
19 looking at the evidence involving Mr. Hughey?

20 A. Yes, sir.

21 Q. The other way was they could go get a search warrant?

22 A. Yes, sir.

23 Q. And then they were going to go through the whole
24 apartment?

25 A. Yes, sir.

1 Q. And they told you --- kind of reassured you that it was
2 okay to consent, 'cause they didn't care about whatever else
3 might be inside? They were just investigating Mr. Hughey's
4 situation?

5 A. I mean, I don't really remember them saying all
6 that.

7 Q. All right.

8 A. I just ---

9 Q. But --- but --- but they --- they did give you a choice?

10 A. Yes, sir.

11 Q. Okay. Now, when Mr. Tinsley was asking you his
12 questions, you said that Mr. Hughey was known in the community
13 as a thief?

14 A. Yes, sir.

15 Q. And that it was --- you weren't sure if you had ever seen
16 any of the items that he had sold?

17 A. I mean, he never brought anything to me and said
18 that ---

19 (Simultaneous speaking)

20 Q. --- he did --- he did bring things to you that day?

21 A. I mean, yeah, but ---

22 (Simultaneous speaking)

23 Q. --- shoes, electronics?

24 A. Yeah. Yeah, there'd be like some shoes and maybe a
25 phone here and there.

Cross-exam Floyd

1 Q. Okay. But he never said whether those things were stolen
2 or not?

3 A. No, sir.

4 Q. Okay. Now, when Mr. Tinsley was asking you questions,
5 you admitted to smoking marijuana?

6 A. Yes, sir.

7 Q. All right. What other drugs have you done?

8 A. I mean, I've done a lot of drugs ---

9 Q. Okay.

10 A. --- in my past.

11 Q. Well, let's --- let's --- what are those drugs?

12 A. I mean, I've smoked crack. I --- I've done meth,
13 I've done --- I mean, I dropped acid, I've --- I mean, I
14 did a lot of stuff.

15 Q. Okay. Have you ever done crack with Mr. Hughey?

16 A. No, sir.

17 Q. Have you ever done meth with Mr. Hughey?

18 A. No, sir.

19 Q. Are you aware of whether or not he does those drugs?

20 A. I --- I really don't know.

21 Q. He was at your house --- I think you said that he was at
22 your house almost every day for a period?

23 A. I mean, on and off. I mean, he might come over
24 every day for a week, and I might not see him for a week.

25 Q. Okay. All right. The --- the items that you saw --- saw

Cross-exam Floyd

1 the electronics, the phones, the shoes, those are things that
2 he's rumored to have been stealing; isn't that true?

3 A. I --- I --- the specific items, I can't say that for
4 sure, no.

5 Q. Okay. But that's what you heard on the street?

6 A. I mean, I've heard --- I heard him doing that.

7 Q. Yeah.

8 A. But I mean, obviously he's not going to bring it to
9 me and be like I just stole this from somebody.

10 Q. All right. And you said that it was Mr. Hughey who kept
11 asking you not to call 911?

12 A. Yes, sir.

13 MR. GROSE: Beg the Court's indulgence for a moment.

14 THE COURT: Yes, sir.

15 BY MR. GROSE:

16 Q. These --- these items that Mr. Hughey brought to your
17 apartment, did he pawn those or sell those?

18 A. I mean, whenever he would bring items over there,
19 yeah, we would trade or sell something.

20 Q. Okay. So Mr. Hughey brought electronics and shoes to
21 your apartment and you would trade things with him?

22 A. On occasion. I mean, I'd buy them or I'd trade him
23 something.

24 Q. Or were you going to sell them someplace?

25 A. No, I didn't just sell them.

Cross-exam Floyd

1 Q. Huh?

2 A. I wouldn't just sell it. If I had to go sell it,
3 there wasn't no point in buying.

4 Q. Okay. So --- so you would buy?

5 A. Usually, yeah.

6 Q. Okay.

7 A. Not everything. Uh-huh.

8 Q. I think the solicitor asked you about this. You have a
9 conviction for contributing to the delinquency of a minor?

10 A. Yes, sir.

11 Q. You --- when you went to court, you when in front of
12 Judge Hocker?

13 A. I don't remember the judge.

14 Q. You went in front of a judge in this courtroom?

15 A. Yes, sir.

16 Q. And you promised to stay out of trouble?

17 A. Yes, sir.

18 Q. And you got probation?

19 A. Yes, sir.

20 Q. And then after you promised to state out of trouble, you
21 got convicted for shoplifting?

22 A. Yes, sir.

23 Q. And now, you currently have a charge pending for
24 discharging a firearm into a dwelling?

25 A. Yes, sir.

Cross-exam Floyd

1 Q. All right. And I think you already told Mr. Tinsley that
2 Mr. Black here is prosecuting that case?

3 A. Yes, sir.

4 Q. All right. When I look on the public index, it doesn't
5 show that you have a lawyer?

6 A. I do not.

7 Q. You do not? But you're no stranger to the criminal
8 justice system?

9 A. No, I'm not.

10 Q. All right. And the reason that you don't have a lawyer
11 is because you know that Mr. Black can help you out with that;
12 isn't that right?

13 A. I don't have a lawyer because when that incident
14 occurred, I lost my --- I lost my place to live, and I
15 lost my job.

16 Q. Well, you can get a public defender, but you haven't even
17 done that?

18 A. It cost money. I don't have that.

19 Q. You can get a public defender, they'll --- they'll
20 appoint you a public defender and let you pay the \$40 later.
21 You aware of that?

22 A. Can't pay the \$40, if I don't have it.

23 Q. All right. But --- but --- that you could get it?

24 A. I lost my job and my home.

25 Q. But you could pay that later --- they --- they could let

Redirect exam Floyd

1 you pay that later. Have you --- have you gone to Mr. Black
2 and asked to go in front of a judge to get --- to --- so see
3 if they would appoint you a lawyer?

4 A. I haven't. I didn't know that --- I wasn't aware
5 that you could pay later.

6 Q. All right. But you know Mr. Black can take care of that
7 charge, don't you?

8 A. (No audible response)

9 MR. GROSE: Nothing further.

10 THE COURT: Any redirect?

11 MR. BLACK: May I have just a second, Your Honor?

12 REDIRECT EXAMINATION

13 BY MR. BLACK:

14 Q. Mr. Floyd, you came up here Friday for your --- looks
15 like your second appearance, your docket appearance; is
16 that --- that right?

17 A. Yes, sir.

18 Q. And you checked in with somebody that works in our
19 office, and they gave you a --- another sheet of paper to come
20 back to court?

21 A. Yes, sir.

22 MR. BLACK: Okay. That's all the questions I have.

23 MR. TINSLEY: I do have a re-cross on that.

24 THE COURT: Okay.

25 RE-CROSS-EXAMINATION

Re-cross exam Floyd

1 BY MR. TINSLEY:

2 Q. Is that when you were told to go meet with Solicitor
3 Black?

4 A. No. No, sir.

5 Q. So --- so --- so you --- you met with him the same day
6 then?

7 A. Yes, sir.

8 Q. And the two had nothing to do with each other?

9 A. No, sir.

10 MR. TINSLEY: Okay. No further questions.

11 THE COURT: All right. Sir, you can step down.

12 Thank you very much for coming.

13 All right. Ladies and Gentlemen, we're going to go
14 ahead and take our mid-morning break. And we'll be back
15 on the record in roughly 15 minutes.

16 Again, if anybody needs to step outside, just let
17 the bailiff know. They'll be happy to take you outside,
18 but don't talk about the case.

19 See you back here in about 15 minutes or so. Thank
20 you.

21 (Off the record 11:02 a.m. - 11:20 a.m.)

22 THE COURT: We are back on the record, and both
23 defendants are present with counsel. Solicitor, because
24 we took a break, I asked for you to get the name of Ms.
25 Guillebeaux daughter's --- or the spelling Ms.

1 Guillebeaux's daughter's name. Do you --- is she around
2 or ---

3 MR. BLACK: I have not seen her.

4 THE COURT: Mr. Hughey can probably give that to us.

5 MR. BLACK: This is the daughter. She's going to
6 state her name and spell it, Your Honor.

7 THE COURT: Okay.

8 MS. REID: Tyfabria Reid, T-Y-F-A-B-R-I-A, R-E-I-D.

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

10 Your next witness is here?

11 MR. BLACK: He is, Your Honor. And I plan on
12 putting several photographs and some other evidence in.
13 And think they may have an objection to a couple of the
14 photographs.

15 THE COURT: Okay. You're going to do that through
16 the next witness?

17 MR. BLACK: Yes, sir.

18 THE COURT: All right. And which ones are we okay
19 with, and which ones do we have issues with? Are there
20 any marked?

21 MR. BLACK: They're already marked.

22 THE COURT: Okay. Are these the photos I looked at
23 in chambers yesterday?

24 MR. GROSE: Yes, sir. With state's 45, 46, 47 ---
25 47, 48 --- 48. Okay. And 49. These are some of the

1 photos you looked at in chambers probably two photos you
2 instructed them not to use. And I'd commented that I
3 thought that some of these photos in State's 45 through
4 49 are --- are cumulative. That we don't need as ---
5 three pictures of his full body and two close-ups of his
6 head. I know they're going to say that it's not his full
7 body in two of them, but it's pretty doggone close to it.

8 Then Mr. Tinsley might have to help you with these,
9 but --- let's see.

10 MR. TINSLEY: Judge, just to respond to the couple
11 he said that we added that he said take out, these are
12 the two we asked to take out. So we pulled those, they
13 were in the back and not part of that pile.

14 MR. GROSE: And I wasn't --- you know, I wasn't
15 suggesting that. I'm sorry.

16 THE COURT: Right.

17 MR. GROSE: State's, I guess 30 and 31, 32, 37, we
18 don't see any relevance to. And are you --- the evidence
19 logs, State's 51, 50 --- 51, and 52, are you entering
20 those are or are you just going to refer to those?

21 MR. BLACK: I plan on entering them.

22 MR. GROSE: Again these --- these reference some of
23 items that were collected in the photographs I just
24 identified, that we don't think are --- are relevant.
25 But essentially what they're doing is in some of these

1 there's tree limbs and sticks. And there's one that had,
2 just, I guess, random like drink bottles or something
3 like that. I don't think that any of those were
4 relevant, and none of these items that we're objecting to
5 have been identified by Mr. Hughey or anyone else that
6 witnessed the alleged crime.

7 And so they would just be, I think, you know, if ---
8 if they're --- we don't think that they're relevant but
9 if you determine that they're relevant, I think under
10 Rule 403, they could have the tendency to confuse or
11 mislead the jury. So we move to excludes those.

12 THE COURT: All right. May I see 30, 31, 32, and
13 37?

14 MR. BLACK: I'll bring it all up here, Judge.

15 THE COURT: Thanks. Okay. As it relates to
16 Solicitor's it relates to their objection to 30, 31, 32,
17 and 37, do you want to speak to 30? Seems to depict just
18 a fallen dead tree limb. 31 another piece of wood --- or
19 two pieces of wood marked with K. 32, more brush and
20 tree limbs and some weeds. And then 37, a Uncle Ray's
21 potato chip box that has --- looks like a had Mountain
22 Dew and a plastic bottle with a blue top, and a large
23 black trash bag on top. For --- for what purpose were
24 you introducing those?

25 MR. BLACK: Well, the --- start with the Mountain

1 Dew can, that was a --- a can that I believe had blood
2 all over it. I believe that's a --- a drink that Mr.
3 Floyd had given to Tobias, and they --- they ended up
4 collecting it. They never sent it down for any testing
5 or anything, but they did collect it. It's part of
6 evidence, because they didn't --- they didn't quite ---

7 I --- I think and what you're going to hear is
8 Investigator Martin shows up, but he's kind of starting
9 to do the crime scene. You've got other investigators
10 trying to locate video, so they're trying to --- they're
11 doing the crime scene and trying to get the video stuff
12 kind of simultaneously. And they didn't know what they
13 had, so they started trying to collect what they had.

14 That kind of goes towards the pictures of the stick.
15 I --- I --- you know, they looked for the stick. So
16 they --- they took pictures of what they thought could
17 have been used, or may have not been used. I think once
18 they were able to clearly look at the video, that
19 determined that those obviously didn't match up. But
20 they didn't really know, I guess for sure at the time, so
21 they --- they took pictures.

22 And then the --- the picture marked J, I forget what
23 number that is, I believe they're --- the testimony's
24 going to be it looked like there's some blood on it. You
25 can look kind of closer to the J. It looks like there

1 may be some blood on it, but again, once they were able
2 to look at the video, and look at the stick, they
3 determined without that wasn't it.

4 But, again, they didn't really know at the time.
5 And I think inevitably, you know, juries want to see law
6 enforcement doing their job and trying to solve these
7 crimes. And if these pictures aren't admitted, so that
8 they can testify as to what they did in trying to do
9 their job, in trying to solve what happened, you know,
10 that's going to hamstring us because inevitably, you
11 know, in court, the defense gets up there and say law
12 enforcement do --- didn't do their job. They didn't do
13 their job. We --- I think if we admit these pictures
14 and, you know, have them showing the evidence, them
15 taking pictures and trying to figure out what's going on,
16 them trying to recover items of evidentiary value, I
17 think it --- it --- it shows that what --- that they were
18 doing their job. So that would be our position.

19 THE COURT: Okay.

20 MR. TINSLEY: Just, I would just respond that he can
21 testify to that without the photographs.

22 THE COURT: I --- I understand.

23 MR. GROSE: And --- and the record needs to reflect
24 that they've already had two police officers testify,
25 they've entered body cams, they've entered other things

1 that's --- that's, you know, been done in the
2 investigation. And I'm not going to stand up here and
3 argue to the jury that they didn't show you a photograph
4 that I asked to be excluded.

5 THE COURT: And I am correct that they never located
6 the actual table leg, chair leg or whatever it was that
7 was used in the assault allegedly?

8 MR. BLACK: No, sir, they never --- they never did.

9 THE COURT: Okay. And The State's purpose in
10 introducing 50, 51, and 52?

11 MR. BLACK: Which ones are those, Your Honor?

12 THE COURT: Those are the logs --- evidence logs.

13 MR. BLACK: Just to show that they collected certain
14 things and were trying to go about pretty much standard
15 operating procedure, and how they conduct an
16 investigation.

17 THE COURT: Okay. And just for the record, I know
18 we've discussed this in chambers, but State's 45 through
19 49, the photos of Mr. Hughey, The State feels that these
20 are probative because?

21 MR. BLACK: They show there's a subset of the
22 injuries that have been testified to and that will
23 continue to be testified to once the medical
24 professionals testify later this afternoon.

25 You know, he was in the hospital for, you know, a

1 month. And they --- I think these pictures were taken
2 the day after. So they're relatively fresh. There are
3 staples on the right side of the head, the left side of
4 the head. Shows obviously the broken arm that's wrapped
5 up and just the medical treatment in general that he is
6 receiving. And as --- as you pulled out these exhibits
7 in chambers, we can mark these just so the record's
8 clear. We did pull them out and we'll mark them as a
9 Court's exhibit. We pulled them out and kept them in the
10 break so we weren't --- we didn't have any other
11 pictures.

12 THE COURT: Okay. Go ahead and mark those as a
13 court's exhibit, if you could please.

14 (Court's Exhibits 5 and 6 marked)

15 MR. GROSE: Which numbers are those?

16 MR. BLACK: Five and six. Five and six.

17 MR. GROSE: Okay.

18 THE COURT: What are they?

19 MR. BLACK: Five and six.

20 THE COURT: Court's five and six.

21 MR. GROSE: And that just remind me we need to get
22 those other three Court exhibits marked and into the
23 record.

24 THE COURT: I --- I --- I will not forget to do
25 that. I promise. I've got a little sticky note up here

1 telling me to do it. Okay. As it relates to Court's 5
2 and six, I ask that those --- in --- in my opinion in
3 reviewing those, I think one only shows his hospital arm
4 band --- Mr. Hughey's hospital arm band. And the other
5 photo was actually duplicative if memory serves me, of
6 State's 45 and the photo that's been marked as a Court's
7 exhibit here a few moments ago was also grainier, or
8 fuzzier than State's 45.

9 The --- the --- as it relates to the motion, the ---
10 the Court finds that the probative value of State's 45
11 through 49 outweighs any prejudicial effect. Obviously
12 the physician's likely testify, hopefully this afternoon.
13 And it's the Court's belief that these photographs may
14 aid them in their testimony.

15 As far as 30, 31, 32, and 37, it's there is some
16 minor relevance and I'm assuming that there seems to be
17 an intelligent jury, they're not going to have an issue
18 with confusing the wooden stick, for example that was ---
19 or the sticks that were photographs for the actual item
20 that was described by the witnesses. Obviously, it's not
21 a table leg or a chair leg, and the Solicitor's point
22 that it shows a thorough investigation. That's a fair
23 point.

24 So I don't think there's a 403 problem or issue with
25 those. And for the same reason, I'll allow The State to

1 introduce 513 --- sorry, 50 through 52. Subject to
2 objection from both Mr. Grose and Mr. Tinsley.

3 MR. GROSE: I would just add that your --- your
4 ruling that the photographs of Mr. Hughey in the hospital
5 might assist the doctors when they testify later. That
6 is a fact that is not in the record yet.

7 You know, I had a trial earlier this year with The
8 State where they made similar representations about
9 photographs were going to be relied upon by experts, then
10 the experts ultimately never relied upon them. And so
11 perhaps the --- a way to handle that would be to let them
12 be identified now, but not put in unless the doctor
13 actually offers that testimony. You may be right, but
14 we --- we just haven't gotten to that point in the
15 record.

16 THE COURT: All right. Well, I --- I'm happy to
17 handle it that way if the Solicitor's comfortable doing
18 it that way. But at the very least, I mean they --- they
19 do corroborate Mr. Hughey's account of his injuries and
20 the account given by other witnesses. But if you're
21 comfortable handling it that way, probably six of one,
22 half dozen of the other.

23 MR. BLACK: It --- it's --- we can handle it that
24 way.

25 THE COURT: All right. Good enough. I'll hand

1 these exhibits back to you.

2 And you've got the next witness?

3 MR. BLACK: Yes, sir.

4 (Jury enters courtroom)

5 THE COURT: All right. The jury is back and seated.

6 Solicitor, if you will call your next witness, please.

7 MR. BLACK: State calls John Martin.

8 (Witness sworn)

9 JOHN MARTIN, HAVING BEEN DULY SWORN, TESTIFIED AS
10 FOLLOWS.

11 DIRECT EXAMINATION

12 BY MR. BLACK:

13 Q. Can you state your name for the record please.

14 A. John Martin.

15 Q. And Mr. Martin, where do you work?

16 A. I'm employed with the Abbeville County Coroner's
17 Office.

18 Q. And what's your title?

19 A. Deputy coroner.

20 Q. And how long have you been there?

21 A. About five months.

22 Q. Five months?

23 A. Yes, sir.

24 Q. Did you work in law enforcement prior to that?

25 A. Yes, sir, for 25 years.

Direct exam Martin

1 Q. 25 years?

2 A. Uh-huh.

3 Q. Did you work for Abbeville City at one point?

4 A. Yes, sir, I did.

5 Q. How long did you work for Abbeville City?

6 A. I was there for five years.

7 Q. Okay. And did you --- where did you work before
8 Abbeville City?

9 A. Anderson County Sheriff's Office.

10 Q. How long did you work for them?

11 A. For ten years.

12 Q. Okay. So you've been --- you retired from law
13 enforcement?

14 A. That's correct.

15 Q. All right. And when you were in Abbeville City, what was
16 your --- what was your role?

17 A. I initially started out as a patrol supervisor, and
18 then I transitioned to an investigator's position.

19 Q. And you --- when you retired you were an investigator?

20 A. Yes, sir.

21 Q. And did you also have another responsibility at the city?

22 A. Yes, sir I've handled crime scene, I handled
23 training, I handled evidence.

24 Q. Crime scene, evidence and training?

25 A. Yes, sir.

Direct exam Martin

1 Q. All right. And when did you retire?

2 A. January of 2022.

3 Q. Okay. So back in October of 2020, you were an
4 investigator with the city?

5 A. That's correct.

6 Q. Do you remember responding to The Village, Hickory
7 Heights Apartments on October the 6th of 2020?

8 A. Yes.

9 Q. Okay. And why did --- were you working at the time when
10 you got the call?

11 A. No, sir, I was off.

12 Q. All right. And what did you do when you get the call ---
13 when you got the call?

14 A. Initially, I responded to [REDACTED].

15 Q. All right. How long were you at [REDACTED]?

16 A. Maybe five minutes. I --- I wasn't over there for a
17 long time.

18 Q. When you got there had the --- the shift already
19 responded to that call?

20 A. Yes, sir.

21 Q. EMS had already responded to that call?

22 A. Yes, sir.

23 Q. What was the purpose of you going up there?

24 A. Just to see what information I could gather, because
25 there was a lot of stuff that undetermined at that time.

Direct exam Martin

1 Q. Based on the information that you gathered on that scene,
2 where did you go next?

3 A. Went to Hickory Heights Apartments, specifically to
4 the [REDACTED] building.

5 Q. Okay. And once you got to the apartment complex,
6 what --- what were you doing, what was your job?

7 A. To try to locate any physical evidence and document
8 it, collect it, it's basic crime scene duties.

9 Q. Okay. So --- so your job was try --- to try to handle
10 the crime scene out there?

11 A. Yes, sir.

12 Q. And I'm going to show you what's been marked as State's
13 19 through 44. Have you already looked at these photographs?

14 (State's Exhibits 19 through 44 marked)

15 A. Yes, sir.

16 Q. And are you familiar with these photographs?

17 A. I am.

18 Q. And what are those?

19 A. These are my scene photos from Hickory Heights
20 Apartments.

21 Q. Okay. And based on the investigation, you took photos at
22 certain spots around that apartment complex?

23 A. Yes, sir.

24 MR. BLACK: Your Honor, at this point, The State
25 moves Number 19 --- 19 through 44 into evidence.

Direct exam Martin

1 THE COURT: All right. 19 through 44 will be in
2 evidence subject to the objections to 30, 31, 32, and 37.

3 BY MR. BLACK:

4 Q. And I'm going to show you also what's been marked as
5 State's Number 53. Do you recognize this map?

6 (States's Exhibit 53 marked)

7 A. Yes, sir. I recognize the photograph.

8 Q. All right. And what is that of?

9 A. It appears to be an aerial photograph of the Hickory
10 Heights Apartment complex.

11 MR. BLACK: Your Honor, The State moves 53 into
12 evidence.

13 THE COURT: No objection?

14 MR. TINSLEY: No objection.

15 THE COURT: All right. State's 53 will be in
16 evidence without objection.

17 (State's Exhibit 53 in evidence)

18 BY MR. BLACK:

19 Q. And I'm going to turn this around.

20 MR. GROSE: Judge ---

21 (Simultaneous speaking)

22 THE COURT: All right. I'm sorry.

23 MR. GROSE: There's just multiple stickers on it,
24 and I wanted to ---

25 THE COURT: Okay.

Direct exam Martin

1 MR. GROSE: --- make sure.

2 THE COURT: We're good though?

3 MR. GROSE: We're good.

4 THE COURT: All right. State's 53 will be in
5 evidence then. Assuming it's properly labeled.

6 BY MR. BLACK:

7 Q. Investigator Martin, I've got this sitting right here.

8 A. Okay.

9 Q. You said this was the Hickory Heights apartment?

10 A. Yes, sir.

11 Q. All right. And what --- do you know what road this is
12 right here?

13 A. That is [REDACTED].

14 Q. And would you use [REDACTED] to enter the apartment
15 complex?

16 A. Yes, sir.

17 Q. All right. If you point out --- maybe you could describe
18 that night you went out to the jury about the area that you
19 responded to?

20 A. Initially, I responded to the [REDACTED] building,
21 specifically the back of the [REDACTED] building, which would be
22 this area right here.

23 Q. So if you were looking at this map, you would turn into
24 the apartment complex, would you take that --- you would take
25 that first right?

Direct exam Martin

1 A. Yes, sir.

2 Q. And that building is at the bottom of the hill kind of on
3 the right-hand side?

4 A. Yes.

5 Q. Is that fair?

6 A. That --- that is.

7 Q. So you responded to the [REDACTED] building?

8 A. That's right.

9 Q. Okay. And what did you do when you responded to the [REDACTED]
10 building?

11 A. There were two other officers already present. I
12 believe Lieutenant Ryan Davis was there and Sergeant
13 Forest Crowe. They --- I believe had already made
14 contact with the resident of Apartment [REDACTED], and had
15 spotted some items that they believed to be evidence
16 there.

17 We obtained a consent to search that apartment, and
18 were able to photograph outside and inside.

19 Q. So [REDACTED] is at the bottom here?

20 A. [REDACTED] would be the bottom if you were standing at this
21 fence looking at the back of this building, it was at the
22 bottom right-hand side apartment.

23 Q. And so were you able to go in and take photographs?

24 A. Yes, sir.

25 Q. Okay. You said there was a consent to search, so they

1 let you in and take photographs?

2 A. That's correct.

3 Q. And did you collect some evidence from that ---

4 A. I did. I collected swabs from the exterior door,
5 and from the inside. I believe there was a drink can
6 that had been given to Mr. Hughey by Mr. Floyd who
7 resides there. And I believe there was some paper towel
8 and maybe a COVID mask that I collected.

9 Q. Okay. And you would have collected that and done what
10 with it?

11 A. Each item that's collected is individually bagged
12 and then secured. Basically, what you would do would
13 photograph them, then I would mark with a exhibit marker,
14 take another photograph with it marked. And then I would
15 collect it and each thing goes into its separate
16 container.

17 Q. Okay. So you would collect and you also take it to be
18 stored with the police department?

19 A. Yes, later when I was finished with the
20 investigation, it would go to the police department and
21 go in secure storage.

22 Q. At this point, did you have any access to view any kind
23 of security tape or anything in the apartment complex?

24 A. I didn't personally, no.

25 Q. Did you view anything at this time when you were

1 photographing and collecting evidence?

2 A. As far as the videos?

3 Q. Viewing any kind of surveillance video?

4 A. I didn't. Information was relayed to me.

5 Q. But you never looked at anything ---

6 A. No, sir.

7 Q. You were just kind of like a ---

8 A. I'm just documenting what I can actually find and
9 see.

10 Q. Okay. Did you go to any other apartments out there at
11 the apartment complex?

12 A. Yes, sir. Next we went to apartment [REDACTED].

13 Q. Where is that?

14 A. This would be the [REDACTED] building. And [REDACTED] would be
15 the upstairs --- I believe it's the left-hand apartment.

16 Q. So again, base --- similar to [REDACTED] --- [REDACTED] was at the
17 bottom or top?

18 A. [REDACTED] would be at the bottom, same way [REDACTED] would be
19 at the bottom.

20 Q. Okay.

21 (Simultaneous speaking)

22 A. --- have five, six, seven, and eight on at least
23 that side.

24 Q. Gotcha. So this was upstairs basically right across the
25 way?

Direct exam Martin

1 A. Yes, sir.

2 Q. Okay. So you also went there as well?

3 A. That's correct.

4 Q. Did you get consent to search?

5 A. I --- yes, sir. We obtained consent to search from
6 Myeshia Cobb who resides there. She allowed us in. We
7 photographed the interior and exterior. Found no items.
8 We have the (unintelligible) there.

9 Q. Okay. And no items left in (unintelligible)?

10 A. No, sir.

11 Q. Okay. So but you did take some photographs?

12 A. That's correct.

13 Q. And --- and this is all kind of standard operating
14 procedure what you would do in an investigation?

15 A. Yes, sir.

16 Q. It's how you train to handle everything?

17 A. Yes, sir.

18 Q. And again, we've already admitted these photographs. And
19 these may be a little bit difficult to see. But I'm going to
20 show you what's been marked State's 19. Is this one of the
21 photographs you took when you arrived?

22 A. Yes, sir, it is.

23 Q. Can you tell what that is? (Unintelligible)?

24 A. That appears to be the grassy area between the 8 and
25  buildings taken from the sidewalk.

1 Q. Okay. And again, you took these photographs?

2 A. Yes, sir.

3 Q. State's 23, that's another photograph?

4 A. Yes, sir. That shows a little more of the back side
5 of the [REDACTED] building.

6 Q. Okay. State's 24.

7 A. That appears to be the back of the [REDACTED] and over
8 towards the [REDACTED] building taken from more towards the
9 woodline.

10 Q. So this would be [REDACTED] building?

11 A. Yes, sir.

12 Q. And the one in the distance would be the ---

13 A. The [REDACTED], yes, sir.

14 Q. State's 25, looks like another photograph of that?

15 A. Yes, sir. That appears to the back corner of the
16 [REDACTED] building. That would be the grassy area ---

17 Q. I'm sorry. This is State's 26.

18 A. That would be the grassy area between the [REDACTED]
19 building and the little, small treeline that runs
20 alongside [REDACTED].

21 Q. That's back behind the apartment complex?

22 A. To the --- to the side of ---

23 Q. To the side of ---

24 A. --- to the side of the building.

25 Q. Okay. Was there any video --- were you aware if there

1 was any video surveillance on the back side of this apartment?

2 A. Not that I'm aware of.

3 Q. State's 27.

4 A. That would be the same area, just showing the side
5 of the [REDACTED] building, shooting from front to back.

6 Q. Okay. Why did you take photographs back here?

7 A. At that time, there still was not a definite crime
8 scene located, so I was documenting the whole area.

9 Q. Okay. I'm going to show you what's been marked as
10 State's Number 28. What is this picture of?

11 A. It is a area of a reddish brown liquid that is
12 believed to be blood.

13 Q. Where was this taken at?

14 A. That was in the grassy area between the [REDACTED] and [REDACTED]
15 buildings.

16 Q. Okay. Did you do anything else with that other than just
17 take a photograph of it?

18 A. I believe that's all it was was just photographs.

19 Q. I'm going to show you what's been marked as state's
20 number 30 --- 30.

21 A. Yes, sir, that is a section of tree limb in that
22 same general area with a reddish brown stain on it.

23 Q. Okay. And while you were taking these photographs, were
24 you also communicating with other folks that were out there?

25 A. Yes, sir.

Direct exam Martin

1 Q. Other law enforcement officers?

2 A. Yes, sir.

3 Q. Who were you talking to?

4 A. Mostly Investigator Balchin.

5 Q. Okay. So you were communicating with him pretty
6 regularly?

7 A. Yes, sir.

8 Q. All right. And that --- and based on the communication
9 with him, that's why you were taking pictures of certain
10 things?

11 A. Yes, as we were finding evidence through there, yes,
12 sir.

13 Q. I'm going to show you closer up, State's 29 which, I
14 believe it's --- I believe it's a stick. Was there anything
15 on that stick that you can tell?

16 A. Yes, sir. There appears to be a reddish brown
17 liquid that I believe to be blood to the right of that
18 evidence marker.

19 Q. And that's the reason why you took a picture of it?

20 A. Yes, sir.

21 Q. Now, did you collect the stick?

22 A. I believe so. And if I can consult my list, I can
23 tell you for sure. I do have it. I've got a copy of it.

24 Q. I'll show you what's been marked as State's Number 50
25 through 52. You can just hold on to these.

Direct exam Martin

1 A. And that marker in question was?

2 Q. J.

3 A. Yes, sir, it was collected.

4 Q. Okay. And why did you collect it?

5 A. At that point, I was collecting any evidence that I
6 could find, because we still didn't know what contributed
7 to the case and what wouldn't. So anything that I could
8 find, I tried to collect.

9 Q. Okay. At this point, had you seen any video
10 surveillance?

11 A. No, sir. I had not.

12 Q. Did you end up eventually looking at video surveillance?

13 A. If I reviewed it, it was just little bits and pieces
14 of it. I've never seen the entire video.

15 Q. Okay. Was it ultimately determined that that stick
16 wasn't a stick involved?

17 A. That's correct.

18 Q. Okay. But at the time when you took pictures and
19 photographs, were you --- were you aware?

20 A. No, sir. I was not.

21 Q. Same thing with State's 31. Like another branch marked
22 as K?

23 A. Yes. And that was also collected.

24 Q. State's 32.

25 A. That was a broken section of a --- maybe a mop

Direct exam Martin

1 handle. It was not collected.

2 Q. It was not collected?

3 A. No.

4 Q. But you took a photograph of it?

5 A. I did.

6 Q. Okay. And why did you do that?

7 A. It was in the general area. It did not quite fit
8 with what --- there was no --- I didn't see any blood or
9 what appeared to be blood on it. It didn't appear to
10 have been used recently. Looked like it had been there
11 for a little bit, but I did snap a picture of it just to
12 because it was there.

13 Q. And this looks --- was it in the woods, or ---

14 A. That was in the wooded area.

15 Q. Okay. And --- and y'all, I guess, did you and other
16 officers kind of come to the area, look in the woods, looking
17 for anything that ---

18 A. Yes.

19 Q. --- looked like it may have been used?

20 A. Yes, sir. Both the grassy area behind the ---
21 between the apartments, to the side, and that woodline
22 from where the fence is that separates basically that
23 (unintelligible) properties, all the way up that woodline
24 to the entrance to the apartment complex.

25 Q. And you were looking for items, other officers were too?

Direct exam Martin

1 A. Yes, sir.

2 Q. How many officers was it?

3 A. I remember myself, Lieutenant Davis, Sergeant Crowe,
4 and I believe Investigator Young. So at least four.

5 Q. Okay. And how long did you look for?

6 A. I can't give you a specific time.

7 Q. But y'all were out there for a little --- a little bit?

8 A. Yes, sir.

9 Q. State's 33, and State's 34, I believe it's marked B.

10 A. Yes, sir. That is trash dumpster at the end of the
11 parking lot and in between the [REDACTED] and [REDACTED] buildings.
12 During the review of the video, Investigator Balchin had
13 observed someone lay that shirt on the dumpster, so
14 we --- we located it, photographed it, marked it,
15 photographed again and collected it.

16 Q. State's 35.

17 A. That's the exterior door of Apartment [REDACTED].

18 Q. Close up, 36.

19 A. Yes, sir. And that is like two areas of a brown-ish
20 liquid on the door.

21 Q. Okay. Did you swab that or anything?

22 A. I did swab it.

23 Q. Okay. And what did you do with it?

24 A. With the swabs?

25 Q. Yes, sir.

Direct exam Martin

1 A. They were collected, placed into evidence.

2 Q. And did you ever send that down for testing or anything
3 like that?

4 A. No, sir.

5 Q. Why --- why did I do that?

6 A. Based on the testimony from Mr. Floyd, and we
7 believe that to come from Mr. Hughey when he came looking
8 for help.

9 Q. Okay. And this is Mr. Floyd's apartment, correct?

10 A. That's correct.

11 Q. 37 was ---

12 A. That was a Mountain Dew can that Mr. Floyd had
13 identified that he had given to Mr. Hughey when he first
14 came.

15 Q. And you collected that as well?

16 A. I did.

17 Q. And you also went to the --- to the [REDACTED] building, which
18 is State's 39?

19 A. Yes, sir.

20 Q. And what did you do there?

21 A. That is where we had received consent to search Ms.
22 Cobb's apartment.

23 Q. Okay. Miesha Cobb?

24 A. Yes, sir.

25 Q. She gave you consent to search?

Direct exam Martin

1 A. Yes, sir.

2 Q. Did you find anything of evidentiary value there?

3 A. No, sir.

4 Q. And I'm going to show you State's 43. Might be difficult
5 to see. Here's 44. Do you know if that --- those items are?

6 A. That appears to be Ms. Guillebeaux's residence.

7 Q. Do you know what the address is?

8 A. [REDACTED].

9 Q. Okay. So photographs were taken at --- at her house as
10 well?

11 A. Yes, sir.

12 Q. And those would have been done after Mr. Hughey had been
13 taken out by EMTs and ---

14 A. Yes, sir.

15 Q. --- to the hospital? All right. So you took all these
16 photographs?

17 A. With the exception of those last two.

18 Q. Gotcha. And again, this is done kind of in the standard
19 operating procedure where you're dealing with crime scenes?

20 A. Yes, sir.

21 Q. And your holding in your hands, I believe, State's 50
22 through 52. Can you identify that for us?

23 A. Yes, sir. These are --- it's our standard police
24 department evidence sheets, where we would log in
25 evidence and change of custody.

1 Q. Did you start those chain of custody forms?

2 A. Yes, sir.

3 Q. Okay. And those were on certain items that --- that you
4 had collected?

5 A. That's correct.

6 Q. Okay. And that --- where were the --- where were the
7 items collected from? What location?

8 A. They are all from the apartment complex. There's a
9 separate sheet for each location. So there's one --- I
10 made one sheet for the grassy area between the [REDACTED] and [REDACTED]
11 buildings. I've got a separate sheet for Apartment [REDACTED].
12 And then I've got a third sheet for the item that was
13 collected at the dumpster.

14 Q. And all those items --- just kind of explain the process
15 of collecting evidence and how that's done with the police
16 department.

17 A. Okay. So when you locate an item of evidence
18 depending on what it is, generally, you're going to
19 photograph it in place. And then you're going to use a
20 marker, which you may have seen in some of the photos.
21 They're usually a --- a yellow flag with either a number
22 or a letter on them. You photograph it in place and then
23 depending on what your item is is how you're going to
24 package it. Some stuff would go in paper, some stuff
25 would go in plastic.

Direct exam Martin

1 The way I package evidence is each individual
2 thing --- I will have on latex gloves --- I pick it up,
3 place it in its package, mark it, seal it, change gloves,
4 go to my next item.

5 Q. And then once you --- you take these items, once you
6 collect them, what do you do with them?

7 A. They will go back to the police department. If it's
8 me personally at the time collecting it, we have a set of
9 secure lockers that evidence typically goes into that an
10 officer can bring in and place in that locker. And once
11 they close it, I'm the only one with a key to it. I
12 would take it from there and it would go to the secure
13 evidence room.

14 Typically my evidence would go directly into the big
15 evidence room. I would bypass the lockers because ---

16 (Simultaneous speaking)

17 Q. --- evidence ---

18 A. --- lock it (unintelligible) take it out, go to the
19 evidence room.

20 Q. So you were the evidence custodian at the time?

21 A. That's correct.

22 Q. Okay. At the time when you're collecting evidence, do
23 you typically know the value of it at the time?

24 A. Not always.

25 Q. Sometimes you do, sometimes you don't?

Direct exam Martin

1 A. Right.

2 Q. Okay. And so at this point, you're basically just kind
3 of abiding by protocols?

4 A. Yes, sir. I'm documenting as much as I can and
5 collecting anything that I can.

6 Q. Okay. And then after the fact, once the investigation
7 continues, you may or may not learn how important an item may
8 or may not be?

9 A. Correct.

10 Q. Okay. And so based on the continued process of this
11 vision, did y'all make a decision to send anything to SLED to
12 be tested further or anything like that?

13 A. No, sir. As far as I'm aware, nothing was sent to
14 SLED off of this.

15 Q. Okay. Are you --- and you're aware that there was video
16 surveillance out there at the apartment complex?

17 A. Yes, sir.

18 Q. And that would --- that would have been another officer
19 dealing with that?

20 A. That's correct.

21 Q. Okay. At this point, The State moves 50 and 50 --- 50
22 through 52 into evidence.

23 THE COURT: All right. Subject to the earlier
24 objections, they will be in evidence.

25 (State's Exhibits 50 through 52 in evidence)

Direct exam Martin

1 BY MR. BLACK:

2 Q. Did you --- as a part of your investigation, did you ever
3 go to the hospital to check on Tobias Hughey?

4 A. Yes, sir. Myself and investigator Ricky Young went
5 the following afternoon.

6 Q. So that would have been October the 7th?

7 A. Yes, sir.

8 Q. Okay. And what was the purpose of going up to the
9 hospital?

10 A. Just to get a update on his status and I had yet to
11 see him until that point. So I wanted to get some
12 photographs as well.

13 Q. And why did you want to take photographs?

14 A. Just to document his condition and his injuries.

15 Q. Okay. And I'm going to show you what's been marked for
16 identification purposes as 45 through 49. Do you recognize
17 these photographs?

18 (State's exhibits 45 through 49 marked)

19 A. Yes, sir.

20 Q. What are those photographs of?

21 A. These are Mr. Hughey in his hospital room at
22 Greenville Memorial, or Prisma, I think as it's called
23 now.

24 Q. And did you take those photographs?

25 A. I did.

Direct exam Martin

1 Q. What was his condition like when you got there?

2 A. I'm sorry.

3 Q. What was his condition like?

4 A. Per the information given to us from the medical
5 staff, he was still in critical condition. He was
6 obviously unable to speak with us. But outside of
7 that ---

8 Q. Where --- where --- where did you take those pictures at?
9 What part of the hospital? Do you remember?

10 A. I believe it was in ICU.

11 Q. ICU? Okay. And you said he couldn't talk. Why couldn't
12 he talk?

13 A. Well, he has the endotracheal tube in which --- and
14 I believe he was said dated.

15 Q. So he wasn't conscious?

16 A. No.

17 Q. All right. And what about --- did you notice any kind of
18 cuts or abrasions about his body?

19 A. Yes, sir. There was a couple of laceration to the
20 top of the head that had been stapled. Maybe a little
21 facial swelling, and his right arm is in a cast in this
22 photo.

23 Q. Okay. And again, you documented all that with your
24 photographs?

25 A. That's correct.

Direct exam Martin

1 Q. And again, these are 45 to 49, for identification
2 purposes at this point.

3 And again, this was is a --- you responded to [REDACTED]
4 [REDACTED]; is that in the City of Abbeville?

5 A. It is.

6 Q. And then you went to the Hickory Heights Apartments?

7 A. Yes, sir. That's the [REDACTED], and it
8 is within the city limits as well.

9 Q. City of Abbeville?

10 A. Yes, sir.

11 Q. It's also in the County of Abbeville?

12 A. Yes, sir.

13 MR. BLACK: All right. Please answer any questions
14 that Mr. Tinsley might have for you.

15 THE COURT: Mr. Tinsley.

16 CROSS-EXAMINATION

17 BY MR. TINSLEY:

18 Q. Deputy Coroner Martin, you --- you or the police
19 department never recovered the item that was alleged ---
20 allegedly used to hit Mr. Hughey?

21 A. No, sir. Not that I'm aware of.

22 Q. And you didn't test any of the --- the stuff that you
23 think was blood?

24 A. No, sir.

25 Q. Okay. Didn't collect any fingerprints on anything?

Cross-exam Martin

1 A. No, sir.

2 Q. No DNA testing of anything?

3 A. No, sir.

4 Q. And since you went up to Greenville and took those
5 pictures, have you had any update on Mr. Hughey's condition?

6 A. As far as me personally going back up and following
7 up, or ---

8 Q. Yeah. Yeah. Have you --- have you looked into his
9 condition any --- any further since then?

10 A. I believe I have probably gotten updates from
11 Investigator Balchin, because I know that he had went
12 back and done some interviews.

13 Q. Okay. And that was within --- while he was still at the
14 hospital?

15 A. Yes, sir.

16 Q. Anything since he got out?

17 A. No, sir.

18 MR. TINSLEY: I don't have any further questions.
19 Please answer any questions Mr. Grose has.

20 THE WITNESS: Yes, sir.

21 CROSS-EXAMINATION

22 BY MR. GROSE:

23 Q. Investigator, I just have a few quick questions ---

24 A. Okay.

25 Q. --- I think. As --- as I understand the way the police

1 work, and apply to this situation, the first thing was to ---
2 to get Mr. Hughey help?

3 A. Right.

4 Q. And then the next step was to start trying to investigate
5 what happened?

6 A. Yes, sir.

7 Q. All right. And I think you did talk to Ms. Guillebeaux
8 at her residence before you went to The Village?

9 A. Yes, sir, that's correct.

10 Q. Okay. And most of your time was spent at the --- The
11 Village?

12 A. Yes, sir.

13 Q. And I want to go back to something that the Solicitor
14 asked you about 'cause he asked you several questions about
15 the videos. And I understand that you may have only reviewed
16 parts of them. But --- and correct me if I'm wrong, but did I
17 understand you to say that that night the officers who were
18 looking at the surveillance videos, were relaying information
19 to you?

20 A. Yes, sir.

21 Q. Okay. That's what I thought you said, but I just wanted
22 to make sure I --- I heard that right.

23 So is it --- is it fair to say that at this point when
24 you're at the --- the --- the The Village apartments what your
25 role is to document what you see?

Cross-exam Martin

1 A. Yes, sir.

2 Q. Okay. And those are the pictures that we've talked about
3 here today?

4 A. Yes, sir.

5 Q. Okay. And then I guess you also document what's not
6 there too sometimes?

7 A. That is a fair statement. Yes, sir.

8 Q. Yeah. And the only time that you ever encountered Mr.
9 Hughey was on October 7th of 2020?

10 A. Yes, sir.

11 Q. You haven't encountered him since then?

12 A. Not that I'm --- not that I recall.

13 Q. Yeah. And I don't --- I don't have any reason to believe
14 that you have.

15 A. Right.

16 Q. But that's the only time that you checked in on him?

17 A. Yes, sir.

18 Q. Okay.

19 MR. GROSE: Beg the Court's indulgence for a moment.

20 Thank you Your Honor, that's all I have at this time.

21 THE COURT: Any redirect?

22 MR. BLACK: No, sir, Your Honor.

23 THE COURT: All right. Sir, you're free to go.

24 Thank you very much for coming.

25 Call your next witness, please.

Cross-exam Martin

1 MR. BLACK: State calls Steven Cogdill.

2 (Witness sworn)

3 STEVEN COGDILL, HAVING BEEN DULY SWORN, TESTIFIED AS
4 FOLLOWS.

5 DIRECT EXAMINATION

6 BY MR. BLACK:

7 Q. Can you state your name for the record, please?

8 A. Steven Cogdill.

9 Q. And Mr. Cogdill, where do you --- where do you work at?

10 A. Abbeville City Police Department.

11 Q. How long you been there?

12 A. Since 2018.

13 Q. 2018. And what roles have you had at the police
14 department?

15 A. Work on the road in patrol, narcotic investigations,
16 and now just criminal investigations.

17 Q. You're an investigator?

18 A. Yes, sir.

19 Q. Okay. When did you become an investigator?

20 A. I starting helping out with investigations probably
21 two, three years ago. Became a full-time investigator
22 somewhere around the beginning of last year.

23 Q. Okay. And so you've been doing for about a year now?

24 A. Yeah.

25 Q. All right. And October the 6th of 2020, were you

1 working?

2 A. I was not.

3 Q. Okay. So you --- did --- did you ever respond to the
4 Hickory Heights Apartments that --- that evening?

5 A. No, I did not.

6 Q. Or did you ever respond to [REDACTED] that evening?

7 A. I did not.

8 Q. Did you start working the next day?

9 A. I did.

10 Q. What time would have your shift began the next day?

11 A. 6:00 in the morning. I was on the road at the time.

12 Q. Okay. And did you go to an address at Adams Drive that
13 morning?

14 A. I did.

15 Q. Do you remember what that address was off the top of your
16 head?

17 A. No, not off the top of my head I don't.

18 Q. I'm going to show you what's been marked as --- just
19 going to give all this to you, 54, 55 and 56.

20 (States Exhibits 54, 55, 56 marked)

21 Q. Do you see that address anywhere on one of those forms?

22 A. Yes, sir, 116.

23 Q. And what was the purpose of going there?

24 A. To pick up a Mr. Travis Lee. He had a active arrest
25 warrant.

1 Q. Okay. So was Mr. --- was Mr. Lee arrested --- Travis Lee
2 arrested at that point?

3 A. He was.

4 Q. So you were involved in the process of arresting him the
5 next day?

6 A. I was.

7 Q. Did you know --- did you have really any idea other than
8 what other --- what other officers were telling you about what
9 happened the night before as to what was going on?

10 A. I did not.

11 Q. Okay. Had you --- you hadn't --- had you seen any video
12 or anything like that?

13 A. I had not.

14 Q. Okay. So you were there to arrest Mr. Travis Lee?

15 A. Right.

16 Q. Did he give you any problems?

17 A. No, not at all.

18 Q. Okay. Did you have a body camera that was being worn?

19 A. It was.

20 Q. It was activated?

21 A. It was.

22 Q. Have you viewed that body camera?

23 A. I have.

24 Q. Is it a fair and accurate representation of your
25 encounter with Mr. Lee?

1 A. It is.

2 Q. When Mr. Lee was picked up or when y'all got there, was
3 Miranda read to him?

4 A. It was. It was read to him on the front porch of
5 the residence by an Investigator Balchin.

6 Q. Okay. So Investigator Balchin, he works in your
7 department?

8 A. He did. Not --- he doesn't any longer, but he did.

9 Q. But --- but he was an investigator at the time?

10 A. Yes he was at the time.

11 Q. All right. He read the Miranda?

12 A. He did.

13 Q. Did --- did Mr. Travis Lee speak with you guys at that
14 point?

15 A. Yes, he did shortly thereafter. He was --- we were
16 conversating the whole time we were on scene, really.

17 Q. Okay. And was Mr. Lee --- was he threatened or anything?

18 A. Threatened?

19 Q. Threatened. Yes, sir.

20 A. No, sir.

21 Q. Coerced in any manner?

22 A. No, sir.

23 Q. He spoke freely to you?

24 A. Yes, sir.

25 Q. Okay. And again, was this captured on your ---

Direct exam Cogdill

1 conversation captured on your body camera?

2 A. Yes, sir. It was.

3 Q. And you've had a chance to review that?

4 A. I have.

5 MR. BLACK: Your Honor, at this point, The State
6 moves 54 into evidence, subject to the ---

7 THE COURT: Subject to all prior trial rulings, 54
8 will be in evidence.

9 (State's Exhibit 54 in evidence)

10 MR. BLACK: And you maybe can turn around. The TV
11 is behind you.

12 THE WITNESS: Okay.

13 (Video playing)

14 BY MR. BLACK:

15 Q. All right. Investigator Cogdill, just kind of walk us
16 through what was said. This video obviously has been cut up,
17 because you guys were out there for a little bit, right?

18 A. Yes, sir.

19 Q. All right. So the first part of the video is what again?

20 A. Investigator Balchin reading Mr. Travis Lee the
21 Miranda.

22 Q. All right. Is Mr. Travis Lee here?

23 A. He is.

24 Q. Can you point him out for us, please?

25 A. Yeah. He's sitting right there, second man.

1 Q. All right. In the yellow shirt?

2 A. Uh-huh.

3 Q. And that's a yes?

4 A. Yes.

5 Q. Okay. And so Miranda rights are read to Mr. Lee. At
6 that point, what are you --- what are you doing after they get
7 done reading Miranda rights? I guess the part that's not on
8 the video?

9 A. I'm getting a consent to search form. Mr. Lee had
10 gave us consent to search his vehicle that was parked in
11 the yard there for some clothing, that Investigator
12 Balchin was trying to obtain. So I did a consent search
13 form with Mr. Lee being that he gave us consent and I
14 retrieved from clothing out of the vehicle.

15 Q. All right. So I'm going to show you what's been marked
16 as State's 55 and 56.

17 A. Huh-uh.

18 Q. What is that?

19 A. This is a consent to search vehicle form where Mr.
20 Lee gave us consent to search his vehicle. It was a
21 Chevy Geo, red in color, with a plate number as well the
22 VIN, and where it was located. And it's listed on here
23 that we took one plastic Walmart bag containing clothing
24 out of the vehicle, as well as a white shirt and a brown
25 evidence bag containing clothing that's listed on the

Direct exam Cogdill

1 evidence sheet.

2 Q. So you would have started that evidence sheet as well
3 based on the items that you collected?

4 A. I did.

5 Q. And you --- what would you have done with those items
6 once you collected them?

7 A. Signed them over and turned them over to
8 Investigator Balchin.

9 MR. BLACK: Your Honor, at this point The State
10 moves the consent to search and the evidence sheet, which
11 I believe we marked as ---

12 THE COURT: 55.

13 MR. BLACK: --- 55 and 56 into evidence.

14 THE COURT: All right. Mr. Tinsley, any objection
15 to 55?

16 MR. TINSLEY: No, Your Honor.

17 THE COURT: All right. Any objection overall to 55
18 or 56 from anyone? All right. 55 and 56 are in
19 evidence.

20 (States Exhibits 55 and 56 in evidence).

21 BY MR. BLACK:

22 Q. And Investigator Cogdill, on the video, once the video
23 jumps after the Miranda's read, is that what you're filling
24 out, that consent to search of the vehicle?

25 A. Yes, sir.

1 Q. All right. And at the same time Mr. Lee is giving a ---
2 a statement to, I guess you and Investigator Balchin ---

3 A. Uh-huh.

4 Q. --- is that right?

5 A. Yes, sir.

6 Q. And what does he say? And I --- and just to be clear,
7 it's Travis Lee that's getting ---

8 MR. TINSLEY: Objection, Your Honor. It's the video
9 speaking for itself.

10 THE COURT: Overruled.

11 MR. BLACK: Okay.

12 BY MR. BLACK:

13 Q. And again what he says on the video is that he just
14 grabbed him?

15 A. Right.

16 Q. Okay.

17 A. Uh-huh.

18 Q. And does he demonstrate by grabbing Investigator
19 Balchin ---

20 (Simultaneous speaking)

21 A. He grabbed Investigator Balchin's arm.

22 Q. Okay. And that's depicted on the video?

23 A. It is.

24 Q. Now, you --- once --- once y'all finished up here at the
25 house, did Mr. Lee --- Travis Lee go back to the police

1 department with you guys?

2 A. He did.

3 Q. Did you guys also interview him as well?

4 A. We did.

5 Q. Okay. And who was in the interview when you talked to
6 him?

7 A. Myself, Investigator Balchin, and Mr. Travis Lee.

8 Q. Okay. And was --- were the Miranda rights read to him
9 again?

10 A. They were.

11 Q. Did he agree to speak with you as well?

12 A. He did.

13 Q. Did he --- did he tell you the same exact thing when you
14 were talking to him at the police department?

15 A. He did.

16 Q. All right. And he told you that all he did was hold
17 Tobias?

18 A. Correct.

19 Q. Okay.

20 MR. BLACK: And Judge, based on the prior ruling,
21 we'd like to go ahead and mark that as a Court's exhibit
22 at this point.

23 THE COURT: All right. That's 50 --- no.

24 MR. BLACK: It will be Court's 6 or 7.

25 THE COURT: Which is it, six or seven?

1 MR. BLACK: Seven.

2 THE COURT: Seven. Okay. Court's 7 has been
3 marked. Not in evidence at this point, of course.

4 MR. BLACK: Based on your rules.

5 THE COURT: Correct.

6 MR. BLACK: That's all the questions I have. Please
7 answer any questions that Mr. Tinsley and Mr. Grose have.

8 THE COURT: Mr. Tinsley.

9 CROSS-EXAMINATION

10 BY MR. TINSLEY:

11 Q. Travis Lee, my client, cooperated with you that day?

12 A. He did, sir.

13 Q. Okay. He --- he answered what questions you --- you had?

14 A. He did.

15 Q. Even though he didn't have to?

16 A. Right.

17 Q. Okay. And beyond your interaction with Travis Lee that
18 day, did you --- is it --- is that the extent of your
19 involvement in this case?

20 A. Yes, sir.

21 Q. Okay. And you collected some clothing items from his
22 automobile?

23 A. Yes, sir.

24 Q. Okay. And nothing covered in blood, anything like that?

25 A. No, sir. Not that I can recall.

1 MR. TINSLEY: Okay. No further questions. Please
2 answer any questions Mr. Grose has.

3 THE COURT: Any questions, Mr. Grose?

4 MR. GROSE: Yes, sir.

5 CROSS-EXAMINATION

6 BY MR. GROSE:

7 Q. Mr. Tinsley just asked that other than the interview with
8 Travis Lee, that you didn't have any other involvement in the
9 case. That's not quite right, is it?

10 A. No, sir. It is quite right.

11 Q. All right. Let me show you --- is that your supplemental
12 incident report?

13 A. It is.

14 Q. Can you take a look at that?

15 A. I can. I'm a slow reader, give me a second.

16 Q. No, take your time. If you need to blow it up, I can
17 enlarge it.

18 A. Okay.

19 Q. Does that refresh your memory?

20 A. It does.

21 Q. And what we're talking about is is Mr. Lee and I came to
22 the police department --- when I say, "Mr. Lee," Ken Lee ---

23 A. Uh-huh.

24 Q. --- and he turned himself in?

25 A. Yes, sir.

1 Q. And that was uneventful?

2 A. Yes, sir. I had even forgotten about it.

3 (Simultaneous speaking)

4 A. Yes, sir.

5 Q. Okay. And so I think it's fair to say that --- that
6 throughout this investigation you didn't have any contact with
7 Mr. Hughey?

8 A. No, sir.

9 MR. GROSE: Okay. Thank you.

10 THE WITNESS: Uh-huh.

11 THE COURT: No redirect?

12 MR. BLACK: No, sir.

13 THE COURT: All right. Sir, you can step down,
14 thank you very much.

15 THE WITNESS: Thank you, Your Honor. Do I need to
16 do something with these?

17 THE COURT: Yeah, hand them to the court reporter.

18 All right. Ladies and Gentlemen, I apologize. I
19 need to take a very, very, very brief break. We won't
20 give you a smoke break, but I need to attend to ---

21 (Simultaneous speaking)

22 MR. BLACK: Regarding schedule.

23 THE COURT: Okay. Hang tight.

24 (Off the record 12:22 p.m. - 12:23 p.m.)

25 THE COURT: All right. Ladies and Gentlemen, after

1 talking to the attorneys, I think it's --- it's probably
2 a good time to go ahead and take a lunch break. And I
3 think we're, knock on wood, back on schedule. So we'll
4 go ahead and break till 1:30. And if you would be back
5 in the jury room at 1:30. And we're going to address the
6 witness then.

7 And I do have a very, very brief five-minute Webex
8 civil matter that I have to do at 2:00. But that will
9 be --- it will not take long, assuming technology works
10 and everything goes right. So with that, enjoy your
11 lunch. Don't talk about the case. See y'all back at
12 1:30. And take care of things.

13 (Off the record 12:24 p.m. - 1:39 p.m.)

14 (Jury in the courtroom)

15 THE COURT: The jury's back and seated. Of course
16 the record will reflect that both Misters Lee are here.
17 Solicitor, if you'll call your next witness, please.

18 MR. BLACK: Thank you, Judge. State calls Brandon
19 Johnson.

20 (Witness sworn)

21 BRANDON JOHNSON, HAVING BEEN DULY SWORN, TESTIFIED AS
22 FOLLOWS.

23 DIRECT EXAMINATION

24 BY MR. BLACK:

25 Q. Good afternoon, Mr. Johnson.

Direct exam Johnson

1 A. Good afternoon.

2 Q. Mr. Johnson, where do you currently work?

3 A. I work for myself.

4 Q. And what do you do now?

5 A. I'm a electrical contractor.

6 Q. Prior to becoming an electrical contractor, where did you
7 previously work?

8 A. I worked up in Anderson on a ambulance for a little
9 bit, and then I worked here for about 16 years in
10 Abbeville.

11 Q. 16 years in Abbeville?

12 A. Yes, sir.

13 Q. And what was your role with Abbeville?

14 A. When I --- when I left here, I was a supervisor.

15 Q. Supervisor?

16 A. Paramedic supervisor.

17 Q. Paramedic supervisor?

18 A. Yes, sir.

19 Q. Is that --- is that what you were, a paramedic?

20 A. Yes, sir.

21 Q. What type of training or type of services do you provide
22 as a paramedic?

23 A. Just advanced life support in prehospital setting.

24 Q. Advanced life support in what?

25 A. In the prehospital ---

1 Q. In prehospital ---

2 (Simultaneous speaking)

3 Q. --- setting? And working with EM --- EMS, what does that
4 stand for? Is it emergency medical services?

5 A. Yes. Yes, sir.

6 Q. Okay. And back in 2020 on October 6, 2020, were you
7 still employed with Abbeville County EMS?

8 A. Yes, sir.

9 Q. Is in fact that --- was that your last day?

10 A. It was, yes, sir.

11 Q. Okay. Did you have the opportunity to respond to a call
12 at [REDACTED] --- [REDACTED] here in Abbeville?

13 A. Yes, sir.

14 Q. And were you actually working that day?

15 A. I was. Yes, sir. I was working at one of the
16 substations.

17 Q. One of the substations?

18 A. Yes, sir.

19 Q. Do you remember getting that call and then responding?

20 A. Yes, sir.

21 Q. When you got there were --- tell me --- tell me what EMTs
22 were there. Was --- was Billy Johnson there?

23 A. Yes, sir. He was the primary paramedic on the call.

24 Q. Who all is his --- what did he go by?

25 A. Mikey.

Direct exam Johnson

1 Q. Mikey? Now, is Mikey still with us today?

2 A. No, sir.

3 Q. He passed away?

4 A. Yes, sir.

5 Q. Okay. And then also who else was there?

6 A. That I remember, Cliff Stanley was the EMT with ---
7 he was Mikey's partner that day.

8 Q. Okay. And was a Billy Johnson there?

9 A. Yeah, that's Mikey. Yes, sir.

10 Q. Okay. Oh, yeah. That's Mikey. Now, when you arrived,
11 was Mr. Hughey --- Tobias Hughey, was he already in the back
12 of the EM --- EMS?

13 A. Yes, sir.

14 Q. When you arrived, what did you observe?

15 A. When I got there, they were parked on the side of
16 the street and we --- we pulled up, and I jumped in the
17 back of their truck. There was a large crowd around. I
18 don't remember --- I mean, it was police, fire, EMS
19 there, lots of folks --- safety folks there. And he was
20 in the back of the ambulance on the stretcher.
21 Probably --- I think he was immobilized to a spine board.

22 Q. He was on a spine board?

23 A. Yes, sir. I believe so.

24 Q. And what's the purpose of immobilizing someone and
25 putting him on the spine board?

1 A. Somebody with some kind of cervical injury or back
2 injury. Some kind of spine injury. Just kind of prevent
3 future injuries from movement.

4 Q. And while in back of the --- the EMS truck, did y'all
5 begin working on him?

6 A. Yes, sir. He --- Mikey had already started some ---
7 some things before I had --- before I arrived.

8 Q. Now, Mr. Hughey already been given Ativan?

9 A. I believe he had had --- according to the report, I
10 believe he had had some seizure-like activity before we
11 got there --- or before I got there. And it was treated
12 with some Ativan.

13 Q. And then when you got there --- and to be treated with
14 Ativan, was there an IO placed?

15 A. Yes, sir. I believe the way the report reads, it
16 was an IV. He --- he had a good IV and it got jerked out
17 because the patient was combative. And then he just
18 through quick access, he drilled an IO in his --- in his
19 tibia --- proximal tibia.

20 Q. And is --- an IO is that essentially a entry point where
21 you can put medication into somebody?

22 A. Yes, sir.

23 Q. And it's essentially is an anchor down so it can't be
24 easily removed?

25 A. Typically, yes, sir.

1 Q. Being combative, does that necessarily mean someone is
2 conscious, or what does that mean?

3 A. I mean, you know, you can be combative from lots of
4 things, one of them was a head injury. And someone with
5 a head injury could become combative.

6 Q. And here, did you notice there's --- did you notice
7 lacerations to his head?

8 A. I remember seeing some blood around. And like I
9 said Mikey done the primary assessment. So I --- I just
10 kind of got there and helped out where I could. I
11 remember seeing some blood kind of around his head in
12 that area.

13 Q. Okay. And the call was made to instead of transporting
14 Mr. Hughey by EMS to the hospital, what was done? What
15 was --- what call was made?

16 A. We --- we put him on a helicopter to go to the
17 trauma center.

18 Q. And why is that?

19 A. Typically we put those folks on a helicopter that
20 are seriously injured that need that level and care.

21 Q. And is that a quicker way to get them to the hospital?

22 A. It is. Yes, sir.

23 Q. And why would you fly him to Greenville Memorial or ---
24 or Prisma, rather than (unintelligible)?

25 A. They can handle the most serious --- more serious

1 trauma patients.

2 Q. Are they a level one trauma center?

3 A. They are. Yes, sir. Or they were at the time.

4 I --- I assume they still are.

5 Q. After he was loaded up in the EMS, where is the --- the
6 point where Prisma's helicopter lands? Where do y'all usually
7 take them, or take people in that condition?

8 A. To a landing zone. Whichever--- we have some ---
9 had some pre-set landing zones what was close to us. If
10 I --- if I remember right, we did the Abbeville Hospital
11 that night.

12 Q. And --- and that would have been a short ride from where
13 you were on [REDACTED]?

14 A. Yes, sir.

15 Q. While waiting on Life Flight to arrive, did Mr.
16 Hughey --- did his condition deteriorate?

17 A. Yes, sir, I mean, he was combative and unconscious
18 at the same time. He --- he was --- wasn't --- wasn't
19 able to respond to us or anything like that.

20 Q. At one point did he --- did his heart stop beating? Was
21 he pulseless?

22 A. I believe that was after the flight crew arrived.
23 We intubated him, RSI'd him and --- 'cause he --- he was
24 unconscious and combative and his respiratory rate was
25 kind of --- I think it was about ten. We only had to

Direct exam Johnson

1 make a decision it RSI him, and basically put him to
2 sleep to intubate him to take control of his breathing so
3 he could be perfused.

4 And then the helicopter, once they got there is, I
5 believe, when he --- according to the report after they
6 arrived, he became pulse --- pulseless. And they started
7 chest compressions.

8 Q. And when somebody becomes pulseless, what does that mean?

9 A. Means their heart stopped beating.

10 Q. And chest compressions are used to do what?

11 A. To attempt to --- there's some scientifics --- I've
12 been out of it for a while, but it essentially it changes
13 the interthoracic pressure to allow oxygenated blood to
14 still perfuse the organs.

15 Q. And ultimately hopefully get the heart beating again?

16 A. Hopefully it starts back. Yes, sir.

17 Q. So when a heart stops, his --- his heart stopped and CPR
18 was --- was done at this time?

19 A. Yes, sir. That's according to the report.

20 Q. You mentioned that his --- his breathing rate had gotten
21 ten --- ten --- how --- what's the scale of that? What does
22 ten mean?

23 A. Normal --- and this stuff changes pretty regular.

24 But when I was still a paramedic, the normal respiratory
25 rate was between 12 and 20. So that was below the normal

1 respiratory rate.

2 Q. And that's per what?

3 A. Some national guidelines.

4 Q. Okay. When you were there, did you also --- did y'all
5 put tube --- was he hooked up to tubes for his breathing
6 and ---

7 A. Yes, sir, we intubated and put a tube down his ---
8 in his trachea to --- to breathe for him and to bag him,
9 yes.

10 Q. Okay. And then sedated him. What's the purpose of
11 sedating somebody?

12 A. In to --- you talking to sedate him to intubate him?

13 Q. Yes.

14 A. Is that your question?

15 Q. Yes.

16 A. Typically, they have a intact gag reflection, and
17 they can't be intubated. So you --- essentially, you put
18 them to sleep and take that gag reflex away from them so
19 you can intubate them and control their breathing.

20 Q. And again, you --- paramedic for how many years?

21 A. Oh, some quick math. I've been a paramedic now for
22 about 15, 16 years.

23 Q. And Mr. Hughey's condition at that time, again, how would
24 you describe his condition at that time?

25 A. He's pretty sick. He was very --- if we call a

Direct exam Johnson

1 helicopter, he was --- he was very critical.

2 Q. And "critical" means what?

3 A. Life or death.

4 Q. If EMS not responded, had him there at the EMS and
5 waiting for Life Flight, do you believe ---

6 MR. GROSE: Objection. Speculation.

7 THE COURT: Let me have the question.

8 BY MR. BLACK:

9 Q. Do you believe your services that night, Mr. Hughey was
10 in fact life and death for Mr. Hughey?

11 A. Typically, if we're going to do that, that's a Life
12 Flight, fly them out intubate them and all that it's a
13 life-or-death situation.

14 Q. If EMS had arrived and done your services, in your
15 experience ---

16 MR. GROSE: This is a question I object to.

17 THE COURT: Finish the question. Had EMS not
18 arrived ---

19 BY MR. BLACK:

20 Q. Had EMS not arrived and conducted your services, would
21 your outcome be different?

22 THE COURT: All right. I'll sustain that objection.
23 I think you can reserve that for the physicians that are
24 going to testify later.

25 MR. BLACK: Gotcha. No further questions.

Direct exam Johnson

1 THE COURT: All right. Mr. Tinsley.

2 MR. TINSLEY: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. TINSLEY:

5 Q. Mr. Hughey was combative that night?

6 A. Yes, sir.

7 Q. And that's why the Ativan was administered?

8 A. I think --- the report reads that he received the
9 Ativan for some seizure-like activity.

10 Q. Okay. But he was combative?

11 A. He was combative is what it says.

12 Q. And you testified about a head injury being a possible
13 reason. Would hard drug use be a possible reason?

14 A. There's several reason it could be possible.

15 Q. And --- and hard drug use would be one of them?

16 A. It --- it should be. Yes, sir.

17 Q. Okay. And he was testifying about y'all coming in
18 because it a serious condition, is it better for EMS to be
19 called in sooner, or does it matter?

20 A. I don't understand what you're ---

21 Q. Say there's a traumatic incident ---

22 A. Yes, sir.

23 Q. Is it better EMS to be called as soon as possible or does
24 it matter if --- if it's 30 minutes later?

25 A. I would naturally say normal --- you know, as soon

cross-exam Johnson

1 as possible.

2 Q. Okay. Sooner the better?

3 A. Yes, sir.

4 Q. Okay. When someone suffers a traumatic injury, is it
5 better for them to be still or to move around till EMS gets
6 there?

7 A. I would guess be still. You know, as much as
8 possible.

9 Q. Yeah.

10 (Simultaneous speaking)

11 Q. So rather than moving around, it's better to let EMS come
12 in and take whatever actions and they control the movement?

13 A. Yeah. Yes, sir. Unless it's is a, you know, a
14 dangerous scene or something like that.

15 Q. Yes. Yes. But assuming the person's in no danger, it's
16 best to --- to leave them as still as possible until EMS
17 arrives?

18 A. Yes, sir.

19 MR. TINSLEY: Okay. I don't have any further
20 questions, please answer any questions Mr. Grose has.

21 CROSS-EXAMINATION

22 BY MR. GROSE:

23 Q. Is it fair to say that October 6th of 2020 was the only
24 time that you've had any interaction with Mr. Hughey?

25 A. Yes, I --- I would --- I would think so.

cross-exam Johnson

1 Q. All right. And so you're not familiar with his use of
2 drugs --- hard drugs prior to that date?

3 A. No, sir.

4 Q. All right. And you're not familiar with what his
5 condition has been since that day?

6 A. No, sir.

7 MR. GROSE: All right. Thank you.

8 THE COURT: Any redirect?

9 MR. BLACK: No, sir.

10 THE COURT: All right. Sir, can you step down,
11 thank you.

12 THE WITNESS: Thank you.

13 THE COURT: All right. Medical people next? All
14 right. Ladies and Gentlemen, we're going to go ahead and
15 take a break so that I can address that --- that Webex
16 civil matter. And if you need to pop outside, just let
17 the bailiff know. I'm not quite --- my secretary hasn't
18 texted me yet to tell me that --- that everybody's
19 assembled, but I anticipate they will be around 2:00, and
20 that should take five minutes.

21 So we'll be as ease. Don't talk about the case.
22 We'll be back on the record in a second. If you need to
23 pop outside, just let the bailiff know. Okay? Thank
24 you.

25 (Off the record 1:53 p.m. to 2:28 p.m.)

cross-exam Johnson

1 (Jury in courtroom)

2 THE COURT: Okay. We are back on the record and the
3 jury is present as are the defendants.

4 Ladies and Gentlemen of the jury, sorry for the
5 delay. One of the parties of that settlement was having
6 trouble logging on. Took a little bit longer than I
7 anticipated. Took five minutes once they were logged on,
8 but it just took them awhile to get --- get there.

9 So solicitor, if you will, call your next witness,
10 please.

11 MR. BLACK: Thank you, Judge. State calls Kristen
12 Spoor.

13 (Witness sworn)

14 KRISTEN SPOOR, HAVING BEEN DULY SWORN, TESTIFIED AS
15 FOLLOWS.

16 DIRECT EXAMINATION

17 BY MR. BLACK:

18 Q. Good afternoon Dr. Spoor.

19 A. Good afternoon.

20 Q. Dr. Spoor, can you state your name and spell it for the
21 court reporter?

22 A. Sure. Kristen Spoor, last name S, P as in Paul,
23 O-O-R.

24 Q. And Dr. Spoor, tell me little bit about yourself. Where
25 did you go to undergrad?

1 A. Johns Hopkins University.

2 Q. And where is that? Is that Maryland?

3 A. Baltimore, yeah.

4 Q. Okay. After you graduated from Johns Hopkins University,
5 where did you attend medical school?

6 A. Michigan State University.

7 Q. And how long is medical school?

8 A. Four years.

9 Q. After medical school what did you do after that? Did you
10 go to residency?

11 A. I did a general surgery residency.

12 Q. And where was that?

13 A. Ann Arbor, Michigan.

14 Q. After completing your residency, what did you do after
15 that?

16 A. I did a fellowship in trauma and critical care at
17 the University of Michigan.

18 Q. Trauma and critical care?

19 A. Yes, sir.

20 Q. Okay. Since your fellowship where are you currently
21 practicing medicine?

22 A. Greenville, Prisma Health.

23 Q. And how long have you been with Prisma Health?

24 A. Five years.

25 Q. So back on October 6th of 2020, were you employed at

Direct exam Spoor

1 Prisma Hospital?

2 A. Yes, sir.

3 Q. Okay. And were you in the ER?

4 A. I was. Yes.

5 Q. And specifically are you ER? Do you take --- what type
6 of patients do you normally?

7 A. I see a combination of trauma patients, general
8 surgery patients, and patients who are critically ill.

9 Q. And on this particular night, did you have the
10 opportunity to --- to see Mr. Tobias Hughey?

11 A. I did.

12 Q. Now, before we get into that, Dr. Spoor, are you --- part
13 of your being a doctor, are you required to attend and keep up
14 with continuing medical education?

15 A. Yes, sir.

16 Q. And, again, you've been practicing medicine for how long?

17 A. Since 2012 is when I graduated from medical school.

18 MR. BLACK: Your Honor, at this time, The State
19 offers Dr. Kristen Spoor as an expert in medicine,
20 particularly in emergency medicine, but particularly
21 critical care and trauma certainly.

22 THE COURT: All right. Any objection of voir dire?

23 MR. TINSLEY: No voir dire objection, Your Honor.

24 MR. GROSE: Same here.

25 THE COURT: Very good. Ladies and gentlemen of the

Direct exam Spoor

1 jury, the parties in this case agree that Dr. Spoor is an
2 expert in the field critical care, medicine, and trauma
3 surgery. And normally under the rules of court, a
4 witness can only testify as to something that they saw,
5 something they heard, smelled, something they observed
6 with one of their five senses. And normally witnesses
7 are not allowed to give opinion testimony. An exception
8 to this rule exists for expert witnesses. And in this
9 case, again, the parties agree that Dr. Spoor is an
10 expert in the field of critical care medicine and trauma
11 surgery. So she can give opinion testimony in that ---
12 in those areas that you may use as you deem appropriate.
13 Okay?

14 Solicitor, you may continue.

15 MR. BLACK: Thank you, Your Honor.

16 BY MR. BLACK:

17 Q. Dr. Spoor, again, on October 6, 2020, did you have the
18 opportunity to --- to treat Tobias Hughey?

19 A. Yes, sir.

20 Q. And how was he brought to Prisma?

21 A. He was brought, I believe, by Life Flight which is
22 an emergency unit that flies people who are critically
23 injured into the hospital.

24 Q. Critically injured, what does that mean?

25 A. So that means that they are found by the paramedics

1 in a state where they can either potentially not breathe,
2 that they have problems with their heart or their blood
3 pressure. They're not able to walk or move. It can be a
4 variety of things.

5 Q. And he was brought to Prisma via Life Flight?

6 A. Yes, sir.

7 Q. Prior to his arrival, and based on your notes, had Mr.
8 Hughey --- what was relayed to you when you got --- when he
9 was brought to you?

10 A. The paramedics told us through the report that they
11 tell us when they bring in a patient that the patient had
12 been assaulted.

13 Q. On his transfer from Abbeville to Greenville, or in that
14 process, anything significant during that?

15 A. The paramedics told us that he required CPR twice.
16 And they were able to get return of his heart ---
17 heartbeat, but he was on a very --- a medication to just
18 keep his heart beating in order to get him to the
19 hospital.

20 Q. And when somebody's heart beats, what is that?

21 A. So that is a sign of life. When it stops, it is a
22 sign of no longer living.

23 Q. And when a heart stops and you require CPR, you said it's
24 a sign of no longer living?

25 A. Correct.

1 Q. And you actually perform CPR, is that reviving somebody?

2 A. Yes, sir.

3 Q. What type of medication is used to, as you say, keep the
4 heart beating?

5 A. It's called epinephrine.

6 Q. And essentially what does that do?

7 A. Essentially it forces the blood to flow to the heart
8 and the heart to beat --- or attempt to beat.

9 Q. After Mr. Hughey was brought to you for your care --- or
10 to Prisma, what were your observations?

11 A. Oh, he was what we call in extremis, which means
12 that he was --- had a breathing tube in his mouth when he
13 came to us.

14 He was not able to communicate with us. He was not
15 moving his arms or his legs. He had not received any
16 medications that would cause him to not be able to do
17 those things.

18 And he was on an epinephrine drip which is pretty
19 rare for the paramedics to put on a patient. It's
20 usually only in the case where they've done CPR and
21 they're worried that the patient is going to lose their
22 heartbeat again while they're being transferred to the
23 hospital.

24 Q. And with some of these tubes or possibilities --- or to
25 administer those drugs or epinephrine, was an IO used to help?

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1 A. I don't recall.

2 Q. Okay. And what is an IO?

3 A. Basically, it's a long needle that's drilled into
4 someone's leg to give them an IV in an emergency
5 situation.

6 Q. Okay. Now, I want to show you what's been premarked
7 State's 45 through 49. Take a look at these and see if you
8 recognize.

9 A. Yes, sir.

10 Q. Is that Mr. Hughey?

11 A. Yes, sir.

12 Q. And is that his state, I believe on October 7th of 2020?

13 A. Yes.

14 Q. After you --- after you initially treated him?

15 A. Yes, sir.

16 Q. And wouldn't these photos --- would these photos help you
17 in your testimony of where his injuries were?

18 A. Yes, sir.

19 MR. BLACK: Your Honor, at this time. State moves
20 States 45 through 49 in evidence.

21 THE COURT: All right. Subject to all prior
22 objections and prior rulings, they will be in evidence.

23 (State's Exhibits 45 through 49 in evidence)

24 BY MR. BLACK:

25 Q. Now, Dr. Spoor, when he came in, what did you notice

1 about him? Where --- did you notice injuries?

2 A. We noticed that he was bleeding profusely from his
3 head, that was probably the first thing.

4 Q. And those injuries, what would you call those injuries?

5 A. Life threatening.

6 Q. And how so?

7 A. He had very large injuries to his scalp and his
8 forehead, and the scalp and forehead bleed a tremendous
9 amount. And if there's that much blood loss, it can put
10 you at risk for putting your heart stop beating.

11 Q. Let's say you work with him --- this microphone ---
12 (inaudible).

13 I'm going to show you State's 45. Mr. Hughey's head,
14 what do you notice? Or do you see some of those spots on his
15 head that's lacerated?

16 A. Yes, sir.

17 Q. And is this one to the --- be his mid-right part of his
18 scalp?

19 A. Yes, sir.

20 Q. And at this point have you used staples to help close
21 those injuries?

22 A. Yes.

23 Q. And again do you --- is there another one above his left
24 eye?

25 A. Yes, sir.

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1 Q. What do these tubes do?

2 A. The one in his mouth is called an endotracheal tube.
3 It goes down the patient's throat in order to help them
4 breathe if they cannot breathe on their own, or if they
5 are not alert enough to take breaths on their own.

6 Q. And in this case is it --- it was necessary? He could
7 not take breaths on his own?

8 A. Yes.

9 Q. And if he could not take breaths on his own, what would
10 happen?

11 A. If he did not have the breathing tube, he would die.

12 Q. State's 48. Again, is this another angle of the
13 lacerations above his left eye?

14 A. Yes, sir.

15 Q. Dr. Spoor, was there another laceration to the back of
16 his head that you recall?

17 A. I believe so.

18 Q. And before we move on to what's below the scalp, show you
19 what's been marked State's 46, Mr. Hughey's right arm. Did he
20 have injuries to his right arm?

21 A. He did.

22 Q. And what was that injury?

23 A. He had a fracture to his ulna, which is one of the
24 bones in your arm below your elbow.

25 Q. Right below your elbow?

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1 A. Yes, sir.

2 Q. State's 49. This photograph, does this basically capture
3 all of Mr. Hughey?

4 A. Yes, sir.

5 Q. What are these devices on his lower legs?

6 A. Those are called sequential compression devices, and
7 they're to help blood flow when someone is in an ICU bed
8 or stuck in a hospital bed.

9 Q. And why do you need those?

10 A. If the patient can't get up and move, there's a high
11 risk of them getting blood clots in their legs that can
12 go up to their brain or to the heart.

13 Q. And in this case, how long was Mr. Hughey confined to the
14 bed unconscious?

15 A. I don't recall, but I believe that over a week at
16 least.

17 Q. States's 47, his left arm, those --- a lot of necessary
18 IVs and ports to administer medication?

19 A. Yes, sir.

20 Q. Dr. Spoor, we --- we looked at his injuries to the --- to
21 his scalp, where the staples were located, what injuries were
22 below the skin?

23 A. He had what we call a subdural and an epidural
24 hematoma in his brain, which are large blood clots in
25 various parts of your brain.

1 Q. And did the subdural hematoma, did it cause a midline
2 shift?

3 A. Yes, sir.

4 Q. And what is a midline shift?

5 A. It is when there is enough blood pressing on the
6 brain that it squishes the brain to the other side of the
7 head where it's not supposed to be.

8 Q. And what potentially, or what happens when that ---
9 what --- what would happen in that ---

10 (Simultaneous speaking)

11 A. --- can have difficulty breathing, you can have
12 difficulty with your heart beating, you can die,
13 depending on how severe it is.

14 Q. Now, with those --- that trauma to Mr. Hughey's head, how
15 would you describe that trauma?

16 A. It appeared to be from something striking him or
17 what we call blunt force trauma.

18 Q. Does that type of trauma to Mr. Hughey's head occur by
19 hard drugs?

20 A. No, sir.

21 Q. And in this case, was there actually a drug panel done?

22 A. No, sir.

23 Q. Was alcohol tested in Mr. Hughey's system?

24 A. Yes, sir.

25 Q. And what was the result of that?

1 A. It was negative.

2 Q. Now, to go through --- due to the --- the trauma to Mr.
3 Hughey's head and the excessive bleeding, what impact --- how
4 would you --- how again did you describe his injury when he
5 came in?

6 A. Oh, I --- we described him as critically injured,
7 critically ill.

8 Q. And again, what does critically injure --- or critically
9 injured or ill mean?

10 A. So it is directly related to the risk of death. So
11 if someone is critically ill, they have a high risk of
12 having or proceeding to death.

13 Q. And with the loss of blood to Mr. Hughey from his head,
14 what impact did that have on his organs internally other than
15 his brain?

16 A. So when someone loses a lot of blood, what blood
17 does it is carries oxygen to all of our organs. So if we
18 don't have a lot of blood in our system because something
19 has happened to lose blood, we don't get enough oxygen,
20 and our organs start to shut down if we don't get oxygen
21 to them.

22 Q. And in this case did Mr. Hughey's kidneys and liver begin
23 shutting --- shutting down?

24 A. Yes, sir.

25 Q. And what was the cause of that?

1 A. We assume it was from blood loss, what we call
2 shock. Hemorrhagic shock. So if you lose a lot of blood
3 from something and you don't get blood to your organs
4 they will shut down.

5 Q. Did you write in your report specifically talking about
6 lactic acidosis?

7 A. Yes, sir.

8 Q. And is that result of ---

9 A. So that is when you have --- it can be from
10 different types of shock, but in particular when you lose
11 a lot of blood, or hemorrhagic shock, you don't have
12 enough oxygen in your body, and your body starts making
13 something called lactic acid because there's no oxygen.
14 And that's an indicator for something --- somebody being
15 critically ill.

16 Q. And when somebody has a head injury, or traumatic injury
17 to the head, can that make somebody agitated?

18 A. Yes, sir.

19 Q. And why is that?

20 A. It depends on the injury, but if there's compression
21 of the brain, if there's blood on the brain, if there's
22 any kind of injury to the brain itself, it can change the
23 way we interact with people. It can change how someone
24 deals with a certain situation. It can completely change
25 someone's personality. There's a lot of different

1 reasons, but the brain is very sensitive.

2 Q. By having these --- this blunt force trauma to the head,
3 where these major lacerations are on Mr. Hughey's head, would
4 it be reasonable to say that you might not think clearly after
5 being struck in the head like that?

6 A. Yes, sir.

7 Q. Might even lose reason?

8 A. Yes, sir.

9 Q. But ultimately not think clearly?

10 A. Yes, sir.

11 Q. Now, Mr. Hughey came ill October 6, 2020; is that right?

12 A. Correct.

13 Q. And kind of late in the evening?

14 A. Yes, sir.

15 Q. Throughout his stay there in Prisma, on different days
16 while he was in the ER from October 6th to October 8th, did he
17 experience --- was he always just on the mend, or did he have
18 a lot of bouts?

19 A. He did really poorly for a number of days in the
20 ICU. He had trouble with breathing. His lungs tried to
21 shut down. His liver shut down. He stopped making urine
22 because his kidneys started to shut down. He had another
23 event where his heartbeat stopped and received CPR.

24 Q. Was that on October 10th, 2020?

25 A. I don't recall, but I believe so. I'd have to look

1 at the record.

2 Q. Show you some of your notes to help you (inaudible).

3 A. Thank you. Yes, sir.

4 Q. So not only on October 6, 2020, did EMS and emergency
5 workers have to revive him through CPR, he was also required
6 to be revived four days later at Prisma?

7 A. Yes, sir.

8 Q. And again, when you revive somebody, what does that mean?

9 A. So CPR consists of us pushing on someone's chest,
10 usually breaking a few ribs and the breast bone in order
11 to try to get their heart to start to pump. It requires
12 putting a breathing tube in their mouth if they don't
13 already have one. And it requires giving medications
14 like epinephrine to try to stimulate the heart to pump.

15 Q. So if you're trying to start a heart to pump, what does
16 that mean?

17 A. That they're dead.

18 Q. While also in the hospital on 10/14, did --- did Mr.
19 Hughey --- was he tested or develop other issues such as
20 pneumonia?

21 A. I don't recall.

22 Q. Review your notes.

23 A. He did.

24 Q. What other symptoms or other health issues did he battle?

25 A. So the patient, he had what we call a traumatic

1 brain injury. He had injury to his liver, and his liver
2 attempted to shut down, which is called shock liver. He
3 had what we call acute pulmonary insufficiency where he
4 was not able to breathe without the assistance of a
5 ventilator for a number of days. And he had kidney
6 failure as well. And then he had the fracture to his
7 arm.

8 Q. When did Mr. Hughey begin making a turn for the better?

9 A. He was transferred out of the ICU to a regular
10 hospital room on the 19th of October. I don't recall
11 specifically, but if he was out of the ICU at that time,
12 that would mean that he was improving enough that he did
13 not require ICU level care anymore.

14 Q. And that was on October 19th?

15 A. Yes, sir.

16 Q. On October 14th, was Mr. Hughey still in a state --- did
17 he still have a tube in his throat?

18 A. I believe so.

19 Q. On October 14th? So he couldn't actually speak at that
20 time?

21 A. No, sir.

22 Q. Once on October 19th, once he started progressing --- his
23 health started progressing, what steps or measures were taken
24 to help him continue to progress?

25 A. So at that point, what we usually do is have the

1 physical therapist, the speech therapist, and the
2 occupational therapist start seeing the patient. They
3 get them up and try to walk them, try to teach them how
4 to do certain tasks that they may not be able to do
5 anymore because of their brain injury. Things like ---
6 can be like brushing your teeth, for example. A lot of
7 patients will have trouble with something as basic as
8 that. And then speech therapy, which helps them try to
9 relearn how to swallow if they have a significant brain
10 injury.

11 Q. But that was not --- you did not actually ---

12 A. No, sir.

13 Q. --- administer that? You would just order that or
14 help ---

15 A. Correct.

16 Q. --- set that up?

17 A. Yes.

18 Q. Now, Mr. Hughey was discharged from, I guess, the regular
19 hospital at Prisma. You said he was downgraded from ICU to
20 more of a --- a what kind of room after that?

21 A. We call it a regular hospital room is the best way
22 to describe it.

23 Q. And that would be been roughly what? October 19th?

24 A. I believe so based on that record.

25 Q. And so he came in on the 6th of October and stayed in ICU

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1 up until the 19th?

2 A. Yes, sir.

3 Q. And during that time, if you'd taken the --- the tubes
4 out of him or the --- or the medication, what would happen?

5 A. It's a high likelihood he would have died.

6 Q. But after he was put to the regular room, was he
7 discharged on October 29th from the regular hospital?

8 A. Yes, sir.

9 Q. And then after that he went to Roger C. Peace?

10 A. Yes, sir.

11 Q. For another about five days?

12 A. Correct.

13 MR. BLACK: No further questions. Please answer
14 anything that the defense might have for you.

15 THE COURT: Mr. Tinsley.

16 CROSS-EXAMINATION

17 BY MR. TINSLEY:

18 Q. Dr. Spoor, you testified that the --- I believe you
19 called it a midline shift was not --- it was caused by the
20 trauma rather than any drugs or anything else, right?

21 A. Yes, sir.

22 Q. Now, you testified a good deal about his problems are
23 recovery. Now, would long-term drug use or drug use period
24 affect someone's recovery at all?

25 A. Potentially. But this patient didn't have any

1 record of having drugs in our hospital system.

2 Q. No, y'all --- did you --- did you test him?

3 A. We don't have a record that I was able to find being
4 tested for drugs.

5 Q. Okay. So you just don't know?

6 A. Yes, sir.

7 Q. And have you had --- since he left Greenville Hospital,
8 have you had any further treatment of him?

9 A. No, sir.

10 Q. Okay. So you don't know what his long-term progress was?

11 A. No, sir.

12 Q. Okay. Would the amount of time from when the traumatic
13 injury occurred till when he got medical treatment, would that
14 affect his condition?

15 A. Yes.

16 Q. Okay. So the quicker he can receive medical treatment,
17 the better?

18 A. Correct.

19 Q. Okay. And as far as the injury itself, you said the
20 paramedics called it --- said it was an assault; do you have
21 any further information of your own beyond that?

22 A. No, sir. We only get what the paramedics tell us.

23 Q. Okay. And it was just that generic assault? Something
24 along those lines is what they told you?

25 A. They said he --- he was allegedly assaulted with a

1 baseball bat or a tree branch ---

2 Q. Okay.

3 A. --- based on the medical record.

4 MR. GROSE: That's all the questions I have. Please
5 an any questions Mr. Grose has.

6 CROSS-EXAMINATION

7 BY MR. GROSE:

8 Q. Doctor, if I understand what you're saying is you
9 reviewed medical records for Mr. Hughey before you came to
10 testify here today?

11 A. Yes, sir.

12 Q. All right. And I think you were asked questions about
13 his drug use?

14 A. Yes, sir.

15 Q. And you said that there was no records in the hospital of
16 having --- the hospital having done a drug test?

17 A. Correct.

18 Q. All right. But there are records to some extent of Mr.
19 Hughey's prior drug use are there?

20 A. I don't know that.

21 Q. All right. Does this look like one of the records that
22 you reviewed?

23 A. No, it does not.

24 Q. Okay. Does that look like a record for Mr. Hughey from
25 Prisma Hospital?

1 A. Yes, sir.

2 Q. Okay. Does that indicate in there that his past medical
3 history is significant for tobacco and hemp abuse?

4 A. Yes, sir.

5 Q. Hemp would be marijuana?

6 A. Not necessarily.

7 Q. Okay. 'Cause there are some forms of hemp that have
8 different amounts of cannabis in them right?

9 A. I --- I'm not a toxicologist, but my understanding
10 probably like everyone else in here is there's various
11 forms of hemp, and CBD and marijuana.

12 Q. So if the records say that his prior history is
13 significant for tobacco and hemp abuse and that's different
14 than marijuana. If we have information that Mr. Hughey smokes
15 marijuana on a regular basis, that would be something that
16 wasn't disclosed as part of his history?

17 A. Correct.

18 Q. All right. If we have history that he's abused Adderall,
19 that would be something that wasn't disclosed in his history?

20 A. Correct.

21 Q. If we have information that he has abused
22 methamphetamine, that was something that was not disclosed as
23 part of his ---

24 A. Correct.

25 Q. All right. And I guess this amount of --- length of stay

1 in the hospital is --- is lengthy by some comparisons, but in
2 the larger skew of life, it's temporary?

3 A. I'm sorry, I don't understand your question.

4 Q. Okay. Well, the --- the amount of time that he was in
5 the hospital ---

6 A. Uh-huh.

7 Q. --- in the larger scheme of things is temporary. It's
8 just a part of his --- while it might have been several weeks
9 or a month, it was a small fraction of his life?

10 A. He is --- if --- yes.

11 Q. Okay. And as I understand from what you told Mr. Tinsley
12 a minute ago that your only encounters with Mr. Hughey was
13 while he was at Prisma?

14 A. Yes, sir.

15 Q. All right. And so that would have been in October of
16 2020?

17 A. Uh-huh. Yes, sir.

18 Q. And that's almost three years ago, because to state the
19 obvious, we're almost through October of 2003?

20 A. Yes, sir.

21 Q. All right. And so in 2023, you've --- between October of
22 2020 and today, you've not reviewed any treatment records of
23 Mr. Hughey that occurred October '20 to September of '23?

24 A. I've --- just the records in regards to this
25 hospitalization.

1 Q. Right. Right. That's what I'm --- I'm ---

2 A. Correct.

3 Q. I'm trying to get a feel. So you don't have any
4 knowledge about any doctors that Mr. Hughey has seen or not
5 seen ---

6 A. Correct.

7 Q. --- since October of 2020?

8 A. Uh-huh. Correct.

9 Q. Is that right?

10 A. Correct.

11 Q. And you don't have any knowledge of any therapy that Mr.
12 Hughey has received since October '20?

13 A. Correct.

14 Q. Or not received?

15 A. Correct.

16 Q. All right. And so what you're here to assist us with
17 today is that brief period of time October 26th to --- I mean,
18 October 6th to October 29th when you're familiar with Mr.
19 Hughey's treatment?

20 A. Correct.

21 MR. GROSE: Okay. Beg the Court's indulgence for a
22 moment.

23 Thank you, Doctor. That's all the questions I
24 have ---

25 THE WITNESS: Thank you.

1 MR. GROSE: --- at this time.

2 MR. BLACK: Just a brief follow-up.

3 REDIRECT EXAMINATION

4 BY MR. BLACK:

5 Q. Mr. Grose has asked you about the length of time that
6 this was essentially a blip on the radar of his lifespan, this
7 amount of time in the hospital. Does the length of time that
8 he was in Prisma diminish the fact or diminish the great
9 bodily injury or the critical injuries that he had?

10 A. No, sir.

11 MR. GROSE: Object to the form --- object to the
12 question.

13 THE COURT: All right. Rephrase the question.

14 BY MR. BLACK:

15 Q. Does the length of the hospital stay diminish his
16 criminal injuries or the great bodily injury received ---

17 MR. GROSE: Your Honor, I --- I have a matter of law
18 to take up.

19 THE COURT: Let's just meet over here for a second.
20 (Sidebar conference)

21 THE COURT: Solicitor if you want to, rephrase the
22 question.

23 BY MR. BLACK:

24 Q. Does the length of the time in the hospital, does it
25 diminish his ---

1 MR. GROSE: Your Honor, objection, because that's
2 the same question.

3 (Simultaneous speaking)

4 MR. GROSE: --- sidebar you instructed that ---

5 THE COURT: --- I think he's asking a different
6 question. Let me hear the question in full. Go ahead,
7 solicitor.

8 BY MR. BLACK:

9 Q. Does the length of time in the hospital stay diminish his
10 injuries?

11 A. No, sir.

12 Q. And again, the time he came into the hospital, how many
13 times did --- was he revised?

14 A. At least four.

15 Q. Now, I want to read you a definition of great bodily
16 injury. Great bodily injury means bodily injury which causes
17 a substantial risk of death, or which causes serious permanent
18 disfigurement or protracted loss or impairment of the function
19 of a bodily member or organ.

20 Mr. Hughey's injuries, would you classify that under
21 great bodily injury?

22 A. Yes, sir.

23 Q. And when Mr. Hughey came in, the injuries to his head,
24 again, were those consistent with blunt force trauma?

25 A. Yes, sir.

1 MR. BLACK: No further questions.

2 THE COURT: Mr. Tinsley? Mr. Grose?

3 MR. GROSE: Thank you, Your Honor.

4 THE COURT: No, no questions Mr. Tinsley?

5 MR. TINSLEY: No questions, Your Honor.

6 RE-CROSS-EXAMINATION

7 BY MR. GROSE:

8 Q. I want to show you that definition that the Solicitor
9 just asked you about. Great bodily injury means bodily injury
10 which causes a substantial risk of death or which causes
11 permanent disfigurement. You don't know that he has any
12 permanent disfigurement, do you?

13 A. He had a substantial risk of death.

14 Q. But you don't ---

15 A. Is it an and/or, or is it --- does it have to be
16 both? Is that what you're asking?

17 Q. Well, do you know whether or not he had any permanent
18 disfigurement?

19 A. Well, he has lacerations to his head, so that would
20 be permanent disfigurement.

21 Q. Well, but you haven't seen him in three years?

22 A. It's impossible for scars, unless he had them
23 surgically lasered away, he will have those scars
24 forever.

25 Q. All right. Moderate bodily injury is physical injury

1 that involves prolonged loss of consciousness, which is what
2 he had?

3 A. Yes, sir.

4 Q. Or that causes temporary or moderate disfigurement, which
5 he had that?

6 A. Correct.

7 Q. Or a temporary loss of function of bodily member or
8 organ, or injury that requires medical treatment when the
9 treatment requires use of general, regional, or general
10 anesthetic. Is that correct?

11 A. Correct.

12 Q. And fracture and dislocation? He had fractures?

13 A. He did.

14 Q. Okay.

15 A. But he also --- his heart stopped beating multiple
16 times.

17 Q. But he --- he did not die?

18 A. He did die, and ---

19 Q. Well ---

20 A. --- and he received CPR and we were able to get his
21 pulse back. But if your heart stops, technically, you
22 are dead.

23 Q. Okay. But he was revived?

24 A. Yes, he was.

25 Q. Okay. And you have no idea about his condition today?

1 A. No, sir.

2 Q. All right. You have no idea about what activities he's
3 able to engage in today?

4 A. No, sir.

5 Q. Legal or illegal?

6 A. Correct.

7 Q. Did you meet with the prosecutors to prepare for your
8 testimony today?

9 A. No, sir.

10 Q. Did you talk to him on the phone?

11 A. Yes, sir.

12 Q. Okay. Have you ever met me before?

13 A. No, sir.

14 Q. Have you ever met Mr. Tinsley before?

15 A. No, sir.

16 MR. GROSE: That's all I have.

17 THE COURT: All right. No redirect? Or
18 re-redirect?

19 MR. BLACK: No.

20 THE COURT: All right. Ma'am, you can step down,
21 thank you very much for coming, Doctor.

22 Solicitor, your next witness.

23 MR. BLACK: Yes, sir. Judge, State calls Andy
24 Donlan.

25 (Witness sworn)

1 ANDY DONLAN, having been duly sworn, testified as
2 follows.

3 DIRECT EXAMINATION

4 BY MR. BLACK:

5 Q. Good afternoon Dr. Donlan.

6 A. Hello.

7 Q. Can you please state your name and spell it for your ---
8 for the record?

9 A. Martin Andrew Donlan III, M-A-R-T-I-N, A-N-D-R-E-W,
10 D-O-N-L-A-N.

11 Q. Doctor, a brief background, where did you go to college?

12 A. University of Notre Dame.

13 Q. And after that, where did you attend medical school?

14 A. Medical College of Virginia, Virginia Commonwealth
15 University Medical Center, it's referred to now.

16 Q. Okay. Could you say that one more time? I've had a
17 trouble hearing.

18 A. Medical college of Virginia. It's Now Virginia
19 Commonwealth University Medical Center.

20 Q. Okay. And where are you currently employed?

21 A. At Prisma Health, their Roger C. Peace, Greenville
22 Patient Hospital in Greenville, South Carolina.

23 Q. And how long have you been a medical doctor?

24 A. Since 2009. Finished my residency in 2013.

25 Q. Finished your residency in 2013?

Direct exam Donlan

1 A. '13. Yes.

2 Q. And primarily, at Roger C. Peace, what are your job ---
3 what's your job there?

4 A. I'm a physician, manage patients with multiple
5 different types of issues related to stroke, brain
6 injury, polytrauma from car accidents, falls, multiple
7 sclerosis. Really any type of deficit that impairs your
8 function or mental capability.

9 Q. And --- and you've been doing this since 2013?

10 A. Yes.

11 MR. BLACK: Judge, at this time, State offers Dr.
12 Andy Donlan as a expert in trauma, brain injury, and
13 management.

14 THE COURT: Trauma ---

15 MR. GROSE: No objection.

16 THE COURT: All right. Trauma, brain injury and ---

17 MR. BLACK: Management.

18 THE COURT: And management.

19 (Simultaneous speaking)

20 THE COURT: Patient management?

21 MR. BLACK: Yes, sir.

22 THE COURT: All right. Again, Ladies and Gentlemen,
23 as I explained with the previous physician, Dr. Spoor, in
24 this case the parties agree that Dr. --- is it Domlan or
25 Donlan?

Direct exam Donlan

1 MR. BLACK: Donlan.

2 THE COURT: Donlan. That Dr. Donlan is an expert in
3 the field of brain injury, trauma, and patient
4 management. So he can give opinion testimony. He's not
5 merely limited to what he observed with one of his five
6 senses. Okay? Solicitor, go ahead.

7 MR. BLACK: Thank you, Judge.

8 BY MR. BLACK:

9 Q. Dr. Donlan, did you have the opportunity to treat Mr.
10 Hughey back in October of 2020?

11 A. Yes.

12 Q. Okay. And Mr. Hughey was brought to Prisma Health on
13 October 6, 2020; does that ring a bell?

14 A. Right. I was not involved in his care at that time,
15 but later on yes.

16 Q. Okay. And then he was discharged from normal --- the
17 normal hospital on October 29th of 2020?

18 A. Yes.

19 Q. Is that correct? And then he transferred over to Roger
20 C. Peace?

21 A. Uh-huh. Yes, sir.

22 Q. What is --- what is the purpose of patients coming to
23 Roger C. Peace?

24 A. It's to get intensive multidisciplinary therapy,
25 physical therapy, occupational therapy, speech therapy,

Direct exam Donlan

1 psychology, recreational therapy, and then they're
2 closely monitored as they're still fairly medically
3 intense, and that they need to be seen by a physician on
4 a daily basis for management of various medications,
5 adjustment of those medications, and coordination of
6 overall care.

7 Q. Okay. And so Mr. Hughey came in on the 29th? I
8 believe --- it would it be helpful if you had your records?

9 A. Or --- yes.

10 Q. Now, Dr. Donlan, when somebody comes to Roger C. Peace,
11 is there an assessment plan?

12 A. Yes, for ---

13 (Simultaneous speaking)

14 A. --- every patient. Uh-huh.

15 Q. And in this case was there an assessment for him?

16 A. Yes, sir.

17 Q. And again, what --- what type of --- what is part of his
18 plan? What was part of his plan?

19 A. So it's --- it was management of medical issues
20 related to the head injury he sustained and medications
21 that he received to help with that recovery, management
22 of known deficits from it.

23 Other associated items like pain, blood loss,
24 electrolyte (unintelligible) from head injury and then
25 his functional deficits like his gait, transfers,

1 bathing, dressing grooming, feeding toileting, bathing.
2 And then speech production, over all cognition,
3 swallowing. Really any deficit he had whether it was
4 cognitive or physical. We would assess and manage, and
5 adjust that based upon his recovery.

6 Q. Okay. And in this case, did you go through that ---
7 through that therapy with Mr. Hughey?

8 A. Uh-huh. Yes.

9 THE COURT: That's a yes?

10 THE WITNESS: Yes, sir.

11 BY MR. BLACK:

12 Q. Now, Mr. Hughey came in to Roger C. Peace on the 29th;
13 when was he discharged?

14 A. I believe the 4th of November. Yes, the 4th of
15 November, 2020.

16 Q. And the therapy that he receives --- is this --- how long
17 during the day does that therapy last?

18 A. At least three hours. Between three to five hours,
19 but you have you to do at least three, otherwise you're
20 (unintelligible) come to that type of rehab facility.

21 Q. So you had to be a candidate to come to Roger C. Peace?

22 A. Yes, sir.

23 Q. What makes you a candidate?

24 A. You have to have a medical necessity, or that you
25 have a significant injury. And you would also have a

1 need to be seen by a physician on a daily basis. And
2 then also the ability to tolerate doing intensive
3 therapy, which is three hours at minimum a day, at least
4 five days a week, 15 hours per week minimum total.

5 And then your discharge location has to be to, you
6 know, a home, like, where you have good appropriate
7 support for your continuing recovery.

8 Q. Okay. And while he was in the care of Roger C. Peace,
9 did he recover, or ---

10 (Simultaneous speaking)

11 A. --- improve. Yes, he improved.

12 Q. And while he was there, was he still on medication?

13 A. Yes.

14 Q. In particular was it Keppra?

15 A. Keppra, yes that's one of several medications he was
16 on.

17 Q. What were the medications that he was on?

18 A. He was on Keppra for seizure prophylaxis. After a
19 head injury, you're at risk of sustaining seizure. So
20 it's typical to be put on that medication for a period of
21 time. I believe the plan with his was to follow up with
22 neurology on an outpatient basis to wean and then
23 discontinue that medication.

24 He was on propranolol and quetiapine which are for
25 management of mood ability, irritability, which is also

1 common after a head injury.

2 He has a medication called donepezil --- Aricept,
3 which was started to help his short-term memory recovery,
4 which he also had issues with from ---

5 (Simultaneous speaking)

6 Q. What --- what was that last one?

7 A. The brand name is --- no, brand name is Aricept,
8 donepezil, which ---

9 Q. And it's used for what?

10 A. Short-term memory recovery.

11 Q. Was that a problem for him?

12 A. Yes, sir.

13 THE COURT: And while we're on those, just so ---
14 because the court reporter probably can't spell what
15 those are ---

16 THE WITNESS: Sure.

17 THE COURT: --- because I --- I --- I can't spell
18 what they, she might be able to. Can you give us the
19 spelling of those medications, just for the record,
20 please.

21 MR. BLACK: Yes. Judge, I'll make sure I'll
22 follow-up ---

23 THE WITNESS: So he was ---

24 THE COURT: If you're --- if you're going to give us
25 the spellings then we're okay.

1 MR. BLACK: Well, if he wants to spell it now, but
2 we're going forward any more, I'll make sure ---

3 THE COURT: Yeah, that would be good. Yeah.
4 Doctor, if you don't mind.

5 THE WITNESS: Okay. So Keppra, is K-E-P-P-R-A.

6 BY MR. BLACK:

7 Q. And that's for what?

8 A. That's for seizure management. Propranolol is
9 P-R-O-P-R-A-N-O-L-O-L, that's for irritability.
10 Quetiapine, Q-U-E-T-I-A-P-I-N-E, is for irritability.

11 Donepezil, D-O-N-E-P-E-Z-I-L, is for short-term
12 memory deficit recovery.

13 And he was on another medication called Amantadine,
14 A-M-A-N-T-A-D-I-N-E, and that's for overall cognitive
15 recovery, arousal after an injury. And that would --- he
16 would have been on that for --- I don't have a --- or I
17 can't see in here, usually two months after you're
18 discharged, a gradual wean occurs over that time.

19 Q. And that was for what?

20 A. Initially, it's started on patients that have head
21 injury, for arousal to help them, 'cause they're usually
22 more lethargic, fatigued, not because of medication, but
23 because of head injury. So it helps arouse them,
24 improving their alertness during the day, and then it
25 also can help with overall cognitive recovery.

1 (Simultaneous speaking)

2 Q. After a traumatic brain injury like this is your brain
3 ever the same?

4 A. No. The cells definitely die from the injury
5 itself. Initially they're --- more cells are not
6 functioning than might be towards the end, because of
7 swelling from the trauma. And as that swelling within
8 his brain cells resolves sufficiently, then they would
9 start to work again, but the ones that die from the
10 trauma would --- they do not regenerate, do not come
11 back. They are permanently gone.

12 Q. They're permanently damaged?

13 A. Or gone. They die.

14 Q. Oh, they die. And your brain is what? What is that in
15 your body?

16 A. It's --- well, I mean, without it, we wouldn't be
17 able to do much of anything.

18 Q. Is that an organ?

19 A. Yes. Sorry.

20 Q. And if it dies, is that permanently impaired?

21 A. Yes.

22 Q. Permanently means for the rest of his life?

23 A. Uh-huh.

24 Q. Is that a yes?

25 A. Yes, sir.

1 Q. So there's the therapy at Roger C. Peace, you need
2 therapy after? Is that therapy mostly to help somebody cope
3 after?

4 A. It helps them learn to manage the new-found deficits
5 they have, how to cope, find workarounds to deal with the
6 deficits that won't recover entirely.

7 Q. So after this traumatic brain injury, Mr. Hughey never
8 will be the same as he was?

9 A. Yes.

10 Q. Due to the damage to his brain?

11 A. Right.

12 Q. Mr. Hughey, he was released on October 4th; is that
13 right?

14 A. I think it was ---

15 Q. From Roger C. Peace? All right. Not October 4th,
16 November 4th?

17 A. November 4th, yes, sir.

18 Q. November 4, 2020? And when somebody is released from
19 Roger C. Peace, is that --- is that they're able to function
20 or with --- will he still need help after that?

21 A. Potentially. I mean, I can't --- I --- at that
22 time, for sure, he need --- need to leave with continual
23 supervising assistance because his ability to manage
24 medications, finances, day-to-day activities was not ---
25 would not be safe for him to be independent, or left

1 alone.

2 Q. So he'd go home with a relative or somebody that would
3 take care of him?

4 A. Yes.

5 Q. After he was released, did Mr. Hughey ever come back to
6 see ---

7 A. Pardon?

8 Q. Did Mr. Hughey ever come back to see you?

9 A. He did not. He was scheduled to see a different
10 physician that's managing outpatients within our group at
11 that time.

12 Q. Okay. And do you know if he ever showed back up?

13 A. I --- I do not from what I have.

14 Q. Okay. But does not showing back up for any further
15 outpatient sessions, does that diminish the injuries and the
16 lasting effects of that traumatic brain injury?

17 (Simultaneous speaking)

18 Q. If I need to rephrase. Would going to those bring
19 back --- I think you've already answered that question.

20 A. No, I would potentially learn different ways to
21 accommodate, to cope with them, but they would not
22 improve his --- those cells would never come back as
23 they --- it's not possible.

24 MR. BLACK: No further questions.

25 THE COURT: Mr. Tinsley.

1 MR. TINSLEY: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. TINSLEY:

4 Q. Doctor, you don't have --- you don't know what his
5 specific brain condition was prior to this incident on October
6 the 6th of 2020, correct?

7 A. No.

8 Q. There was no baseline ---

9 (Simultaneous speaking)

10 A. Did not know him prior to that.

11 Q. There was no baseline that you could look at to see how
12 much of an effect this had on him? The --- the --- the
13 deficits? How big the deficits were?

14 A. Well, mean, imaging showed that there was bleeding,
15 death within cells, that --- so that would be different
16 from before. The cells were present prior to the injury,
17 and they were not afterwards, but that's --- that's all I
18 can really tell you.

19 Q. But you don't know the specifics of what was present?
20 Specifically how much --- what --- what was present and it was
21 gone afterwards, do you? Or do you?

22 A. I'm not sure I understand your question.

23 Q. Well, I mean, the question is, do you know what his
24 baseline, that you could compare --- all right. I'm looking
25 at this image, post-accident, compared to this image

1 pre-accident --- incident?

2 A. If there was an image beforehand, to compare to,
3 then no.

4 Q. Okay. So there --- there was no image prior?

5 A. Right. Right. So I cannot --- yeah, there was
6 definitely damage on the images that were done after his
7 injury that would know new impairments.

8 Q. Okay. But you just don't know how much --- well, you'd
9 have to have the old image to know specifically how much
10 damage was on the new one that wasn't present prior, correct?

11 A. I suppose, but if there's bleeding and evidence of
12 cell death on the new image, then you know that that was
13 present prior to the injury occurring. So that kind of
14 tells you what it --- what it looked like before.

15 Q. Okay. Kind of --- all right. Now, would long-term drug
16 use affect someone's mental capacity?

17 A. It can, yes.

18 Q. Okay. And he asked --- the Solicitor Brown asked you
19 about him not coming to this follow-up meeting, could that
20 affect how well he recovered and adapted in a negative manner?

21 A. Not going to the --- yeah, outpatient therapy
22 appointments, I think he did show up for his initial.
23 That would get --- he would not have had --- been able to
24 learn strategies that he --- to keep with his deficits
25 from an injury he --- had he gone to this he could have

1 learned. Yeah, you schedule these follow-ups to help a
2 patient, yes.

3 Q. If they don't follow through, then they don't get the
4 help?

5 A. Right.

6 Q. And I --- after the initial follow-up, Mr. Hughey didn't
7 come back?

8 A. As far as the records that I have seen state, yes.

9 MR. TINSLEY: Okay. I don't have any further
10 questions. Please answer any questions Mr. Grose has.

11 CROSS-EXAMINATION

12 BY MR. GROSE:

13 Q. Doctor, if I understand your testimony correctly, the
14 last time that you saw Mr. Hughey was in October of 2020?

15 A. November.

16 Q. Okay. November of 2020, my --- my mistake.

17 A. Yes.

18 Q. So it's been almost three years since you've seen him for
19 evaluation?

20 A. Yup, since November 4th of 2020, is the last time I
21 saw him.

22 Q. Okay. And he had follow-up visits scheduled, but he only
23 made one of those follow-up visits?

24 A. Well, that with outpatient therapists, that's ---

25 (Simultaneous speaking)

1 A. Yes.

2 Q. Okay. One --- you're aware of only one outpatient
3 therapy visit after you saw him November of 2020?

4 A. Correct.

5 Q. Okay. And as far as his condition in the almost three
6 years since then, you have no information about whether he has
7 any limitations in his daily living or not?

8 A. No, I have no information other than what I --- when
9 I saw him on the 4th of ---

10 Q. All right.

11 A. --- November.

12 MR. GROSE: Beg the Court's indulgence.

13 THE COURT: Yes, sir.

14 MR. GROSE: That's all I have. Thank you, Doctor.

15 THE COURT: Doctor, thank you very much for coming.
16 You're free to go. Take care.

17 THE WITNESS: Thank you, sir.

18 THE COURT: And maybe if those --- yeah, just give
19 those back to Mr. Brown.

20 All right. Ladies and Gentlemen, we're going to
21 take a brief break while I check with the attorneys about
22 logistics. If you need to pop outside, that's fine.
23 Don't discuss the case. We'll be back on the record,
24 hopefully about 10, 15 minutes. Okay. Thank you.

25 (Off the record 3:27 p.m. to 3:45 p.m.)

1 (Jury not present in courtroom)

2 THE COURT: All right. We're back on the record.
3 Just a few housekeeping matters. The --- the Court ---
4 the Court has placed the prosecution coordination
5 handbook for prosecutors, the excerpts that the solicitor
6 gave me, pages 234, through 246. I placed that in manila
7 envelope with directions that it be filed under seal, and
8 I've signed my name across the crease of the back and
9 sealed the envelope. So this will become the Court's
10 exhibit. I'm not sure what we're up to, but where are
11 we? Exhibits 8? 9? Okay. So this will be Court's 9.

12 (Court's Exhibit 9 marked and entered)

13 THE COURT: And that will be made a part of the
14 record. And Solicitor, you indicated that there was a
15 text exchange that you wanted to make part of the record
16 as well?

17 MR. BLACK: That's correct, Judge. Yesterday when
18 Eric Phillips was on the stand, I believe it was during
19 cross-examination by Mr. Grose, he referred to a text
20 message or a text thread between Chris Wilke,
21 investigator with our office, and Eric Phillips. I had
22 not seen that text thread until after the testimony was
23 over, but I have printed that out.

24 This will be Court's Exhibit Number 8. I just want
25 to put that in there to show the full extent of those

1 text messages and that it was nothing intimidating, no
2 promises, no nothing in that text thread. Just simply
3 the last line was it's not being a snitch, it's about
4 doing the right thing and coming up here. And a lot of
5 text between Eric Phillips and Mr. Wilke. Mr. Phillips
6 is actually saying okay, just keep in touch with me,
7 thank you. Can you get them to come tomorrow to see me?
8 I have heart problems, I have a kidney transplant, I have
9 other health --- it says health insurance, but I think he
10 means health issues. I'm not capable to testify in no
11 trill. I --- or, I think he means trial. Can y'all come
12 to see me? Can you come to see me tomorrow?

13 And Chris responds, I will check with him and see
14 and let you know. We have a lot going on. Mr. Phillips
15 says, okay, thank you so much. And then he says you came
16 by my house the day I was gone. And Mr. Wilke said we
17 did. And then Eric Phillips said what's up, buddy? And
18 Chris Wilke said, we were coming to talk to you about
19 next week. It's time someone is actually honest about
20 what they --- what they've seen. Tobias died several
21 times, but thankfully medical people were able to bring
22 him back.

23 I have video showing you --- you and James and Kira
24 watching Ken Lee beat him and with that --- with that
25 stick. And no one wants to admit it. Put yourself in

1 Tobias's shoes or his family's shoes. If it would have
2 been --- if it would have happened to you or one of your
3 family members, you would want people to tell what they
4 seen. It's not being a snitch, it's about doing the
5 right thing. And as Eric Phillips said, come see me
6 when --- come see me when y'all can.

7 And then he text again, when y'all coming? Mr.
8 Wilke said, I've got court tomorrow morning, I'll call
9 you when I'm done. He, okay, don't forget, bud. And
10 then Chris texted you at home? Did you decide what
11 you're going to do? And he said, not yet. And so ---

12 THE COURT: All right. That will be a Court's 8
13 just for the good of the order, I suppose.

14 (Court's Exhibit 8 marked)

15 MR. GROSE: So I thought said 9 was the ---

16 THE COURT: Mine is 9, and I think they had already
17 marked that one as 8 before I came out here.

18 MR. GROSE: Okay. All right. And we still have two
19 other exhibits from you regarding jury selection.

20 THE COURT: I --- I'm hanging onto them in the event
21 that we --- I need to hang on to the --- the strike sheet
22 that I have in the event that we lose a juror and I have
23 to appoint an alternate. And I --- I --- it --- the note
24 is still here, and I will not forget.

25 MR. GROSE: Okay. I --- I ---

Direct exam Balchin

1 THE COURT: Can we have the jury? Thank you.

2 (Jury enters courtroom)

3 THE COURT: I keep everything indefinitely anyway.

4 So even if I were to forget, it will be in a file folder
5 that we can easily access. So I got every piece of paper
6 from here.

7 Okay. And Ladies and gentlemen of the jury, the
8 jury is of course back and seated. And thank you for
9 your continued work on this case.

10 Solicitor, if you will call your next witness.

11 MR. BLACK: State calls Ricky Duane Balchin.

12 (Witness sworn)

13 RICKY DUANE BALCHIN, HAVING BEEN DULY SWORN, TESTIFIED AS
14 FOLLOWS.

15 DIRECT EXAMINATION

16 BY MR. BLACK:

17 Q. Can you state your name for the record please, sir?

18 A. Ricky Duane Balchin Jr.

19 Q. And can you spell your last name, please.

20 A. B as in Bravo, A-L-C-H-I-N.

21 Q. And Mr. Balchin where do you currently work?

22 A. I'm employed by TD Bank.

23 Q. TD Bank? And what's your job title?

24 A. I am an AML analyst. Anti-money laundering analyst.

25 Q. Anti-money laundering analyst?

Direct exam Balchin

1 A. Analyst.

2 Q. And when --- when did you start working for TD Bank?

3 A. June the 13th of this year.

4 Q. June 13th of 2023?

5 A. Yes, sir.

6 Q. So you've been doing this job for three or four months
7 now?

8 A. Yes, sir.

9 Q. All right. And before you started working at TD Bank,
10 where did you work?

11 A. Abbeville Police Department.

12 Q. How long were you employed with the Abbeville Police
13 Department?

14 A. I started in 2018. I think around May of 2018.

15 Q. And before you started working at the Abbeville Police
16 Department, did you also work in law enforcement prior to
17 that?

18 A. I did.

19 Q. Where did you work?

20 A. Abbeville Police Department and Greenwood Sheriff's
21 Office.

22 Q. Okay. So in total, how long --- how long were you a
23 police officer?

24 A. 16 years, I believe ---

25 Q. Okay.

1 A. --- was the total I --- that I had.

2 Q. And once --- when you just recently left, what was your
3 title at the Abbeville Police Department?

4 A. I was a lead investigator for the department.

5 Q. For the city?

6 A. Yes, sir.

7 Q. All right. And how long were you lead investigator for?

8 A. Roughly about 18 months.

9 Q. Okay.

10 A. Give or take.

11 Q. So back --- in October of 2020, were you still working as
12 an investigator for the city?

13 A. I was.

14 Q. Were you the lead investigator at the time, or was
15 somebody else the lead investigator?

16 A. We didn't have a lead investigator at that time. I
17 was just an investigator.

18 Q. Okay. Were you called out to investigate an assault that
19 occurred on October the 6th of 2020?

20 A. I was.

21 Q. And Mr. Hughey was the individual that was assaulted?

22 A. That is correct.

23 Q. Do you know about what time you got the call out that
24 day?

25 A. I remember it was almost dark. When I got out

Direct exam Balchin

1 there, the first place I went was to the --- the LZ ---
2 the landing zone, which was at Abbeville High School
3 Practice field.

4 Q. Okay. So at that point you --- first place you went was
5 to the landing zone. Was --- did you observe Mr. Hughey
6 there?

7 A. I did.

8 Q. Did --- were you able to get close enough to observe any
9 kind of injuries at that time, or were you just letting the
10 EMS personnel work on him?

11 A. EMS personnel were working on him at that time. I
12 remember them open up the back doors. And I spoke to Mr.
13 Crowe --- Sergeant Crowe with the police department at
14 the time. And they were doing chest compressions. I
15 could visibly see them doing chest compressions on his
16 chest when they opened the back doors up.

17 Q. And that was --- where was Mr. Hughey located?

18 A. He was laying on the stretcher in the back of the
19 ambulance.

20 Q. In the back of the ambulance?

21 A. Yes, sir.

22 Q. All right. So he hadn't gotten on the helicopter at that
23 point?

24 A. No, sir.

25 Q. Do you know how long it lasted --- these chest

Direct exam Balchin

1 compressions lasted; do you remember?

2 A. I don't. It was up until that point, I --- we
3 didn't --- I didn't real --- we didn't realize the
4 severity of it. I had just --- I got a call that there
5 was obviously an assault that had taken place in --- and
6 the LZ was set up. And then that kind of brought to
7 reality, hey, this is --- this is pretty bad.

8 Q. So at that point, after the --- well, did you --- did you
9 wait for Mr. Hughey to take off with the helicopter, or did
10 you go start investigating?

11 A. We started investigating. Medical personnel was in
12 control of that. So ---

13 Q. So where did you go after you left the landing zone area?

14 A. I went to [REDACTED].

15 Q. And where is [REDACTED]?

16 A. That's located within the city limits of Abbeville.
17 It's known as Hickory Heights Apartments or The Village.
18 It's referred to by ---

19 (Simultaneous speaking)

20 Q. Everybody?

21 A. Abbeville police.

22 Q. Everybody in Abbeville calls it The Village?

23 A. Yes, sir.

24 Q. Okay. And when you got to The Village, what did you do?

25 A. I was communicating with Mr. Martin --- investigator

1 Martin. He had been over to Ms. Guillebeaux's over
2 on --- at her address. I can't --- I don't know what her
3 exact --- on [REDACTED]. I don't know the exact the
4 address. So we --- I was getting --- getting
5 information --- trying to exchange information back and
6 forth to try to --- to pin down a crime scene of where
7 this allegedly occurred at.

8 Q. So when you first got to The Village, were you able to
9 determine the crime scene right off the bat, or did that take
10 some time?

11 A. It --- it --- it took quite a bit of time.

12 Q. And where is that?

13 A. We --- we knew which apartment he was picked up
14 from, but we didn't know exactly where the incident took
15 place.

16 Q. Okay. And were you able to ultimately determine where
17 the incident took place?

18 A. We were.

19 Q. And how did you do that?

20 A. They have video surveillance cameras at the complex.
21 There were multiple cameras, and we able to --- to view
22 that video footage and --- and determine where our crime
23 scene was at.

24 Q. Okay. How were you able to view the video surveillance?

25 A. We had access to the system. We could log on at the

1 police department. You know, from a laptop or desktop,
2 and we could see those cameras. We could not view them
3 live, but obviously after, you know, an incident had
4 taken place, certain cameras that were working, not
5 everything in the complex was working, but those that
6 were working, we could --- we could see that way.

7 Q. So that night you could go back and watch some of the
8 surveillance cameras from things that happened earlier that
9 evening?

10 A. That is correct.

11 Q. Okay. And so did you do that?

12 A. We did.

13 Q. All right. And did you --- you had access to --- to log
14 in, I guess and look at them?

15 A. I did.

16 Q. Okay. Did you have access to change or alter those
17 cameras in any way?

18 A. No.

19 Q. Did you change or alter those cameras in any way?

20 A. I did not.

21 Q. All right. So just generally, you know, I guess without
22 going into too much depth, we'll go through that just in
23 minute. But generally, what did you discover after looking at
24 the surveillance video?

25 A. We discovered that Ken Lee and --- and Travis Lee

1 were involved with an altercation with Tobias, without
2 getting into the details. And we could see it happen in
3 the parking lot exactly where it happened at, where it
4 transpired to, and obviously where it ended. We could
5 see, you know, where people dispersed to and --- and so
6 forth and so on.

7 Q. Okay. And so the --- the areas that you're referring to
8 where this occurred, I think it's been referred to for the
9 jury purpose ---

10 (Simultaneous speaking)

11 Q. State's 53, do you recognize this? Can you move that
12 Bible forward a little bit? Do you recognize this?

13 A. I do.

14 Q. And what is this?

15 A. This is an aerial view of [REDACTED].

16 Q. All right. The Village apartment complex?

17 A. It is.

18 Q. And just generally, can you point out to the jury where
19 you observed this incident start out?

20 A. Right here.

21 Q. And where --- ask you describe that area so the
22 record ---

23 A. So that this area right here is --- is [REDACTED]
24 [REDACTED]. This will be the entrance The Village. This is
25 the [REDACTED] building, the [REDACTED] building, the [REDACTED] building,

1 and this is the [REDACTED] building. And there were cameras
2 pointing in these directions. Up through here, there was
3 a camera on this building that was pointing in between
4 the [REDACTED] and [REDACTED] building, so it was able to capture pretty
5 much everything that happened.

6 Q. And the first camera that you referred to, what --- what
7 camera is that? Or where is that located? Where --- where
8 would that camera have been located?

9 A. It was --- would --- would be on, I guess, the ---
10 the corner or the end of the [REDACTED] building facing the ---
11 the parking lot towards the [REDACTED] building.

12 Q. Okay. Were there any other camera angles that y'all were
13 able to access?

14 A. There were. There was another camera, there's a
15 pole, that is in this playground area right here,
16 that --- that --- that looks this way. This was a closer
17 angle, but they both kind of see some of the sort of
18 the --- the same picture. There's a camera that was
19 pointing to --- to the back of the [REDACTED] building. There
20 was a camera pointing to the back of the [REDACTED] building,
21 and there's a camera that looks straight through the
22 parking lot that you can see that whole area right there.

23 Q. So based on those camera angles, were you able to get, I
24 guess, patch together kind of what happened?

25 A. We were.

1 Q. What about the back of the --- you said this was the [REDACTED]
2 building, this was the what building ---

3 A. [REDACTED] building.

4 Q. Was there a camera that --- that was in the back side of
5 these buildings, that showed anything from the back side of
6 those buildings?

7 A. Not at that time, there was not.

8 Q. Okay. So there --- there was not even a camera that was
9 operable back there?

10 A. No, sir.

11 Q. Okay.

12 A. No. Not at all.

13 Q. About how long did it take you to go through some of
14 these --- the footage?

15 A. A couple hours, if I remember correctly.

16 Q. Okay. Why did it take so long?

17 A. It's not a fast process to look at the videos.

18 We're a small department. Investigator Martin and I, we
19 were both, you know, working the crime scene at the same
20 time trying to figure out what happened. Evidence
21 preservation, we initially thought that it happened
22 inside of an apartment. We didn't, you know, pinpoint
23 exactly what happened until, obviously, we saw the video.
24 So --- and it takes quite a while. It's not just you can
25 pull it up live and it takes 15 minutes. It's a process.

1 Q. Okay. And what about on scene? Did you guys talk to
2 anybody out on scene?

3 A. Yes did.

4 Q. How many people did you talk to?

5 A. Three or four that night.

6 Q. Generally, would you describe these folks that you talked
7 to as helpful?

8 A. No.

9 Q. Okay. So again, it was a long --- kind of a long
10 drawn-out process just because of everything you were dealing
11 with?

12 A. Right.

13 Q. All right. And investigator Martin, his name has been
14 brought up, what was his primary role?

15 A. He's pretty much crime scene photography, crime
16 scene collection, those sort of things. He investigated
17 crimes as well. Again, we were a small department, but
18 his primary focus was crime scene.

19 Q. So he was really kind of in with the scene?

20 A. He was.

21 Q. Is that fair? And you were primarily dealing with trying
22 to look at the cameras and see if you could see anything?

23 A. Correct.

24 Q. Is that fair?

25 A. Yes, sir.

1 Q. All right. I believe that some of these exhibits already
2 have been entered as evidence. It would be good for some of
3 the camera angles --- let me start with State's 13. And
4 there's a screen behind you. And is you may have to get down
5 from the chair just so that the jury can see, and so that you
6 can see. So try to, I guess, make yourself comfortable.

7 (Simultaneous speaking)

8 BY MR. BLACK:

9 Q. And this is starting at 11 minutes. Were you able to
10 view this camera?

11 A. Yes, sir, I was.

12 (Video playing)

13 Q. And there's a black car over there on the right-hand
14 side. Do you see that? Somebody's getting in and out?

15 A. Yes, sir. I do.

16 Q. Do you recognize those folks over there?

17 A. I do.

18 Q. Based on your investigation, were you able to determine
19 who they were?

20 A. We were.

21 Q. And who were they?

22 A. The female is Kira Devette (phonetic) and the male
23 is Travis Lee.

24 Q. Okay. And now there's a gentleman in the red walking
25 down towards the bottom. Were you able to determine who that

1 was?

2 A. Yes, sir. I was.

3 Q. And who is that?

4 A. That's Mr. Tobias Hughey.

5 Q. All right. And I think the camera is about 12:10 at this
6 point, what's going on right here?

7 (Video playing)

8 A. Kira is taking some trash down and Travis is walking
9 up to talk to Tobias at this point.

10 Q. And was there any audio for this surveillance video?

11 A. There's --- there was no audio or anything in the
12 complex.

13 Q. It looks like they're in the parking lot between the [REDACTED],
14 [REDACTED], [REDACTED], and [REDACTED] building?

15 A. Yes, sir.

16 Q. Is that fair to say?

17 A. Yes, sir. It is.

18 Q. Now, does --- does it appear that Mr. Travis Lee is
19 holding Mr. Hughey at all? Or can you tell at this point?

20 A. From this angle, I can't tell. I don't think he's
21 holding onto him at this point.

22 Q. All right. You just saw somebody come from the
23 right-hand side; who is that?

24 A. The person in the red shorts and black shirt is Mr.
25 Ken Lee.

1 Q. You determined that from your investigation?

2 A. Yes, sir.

3 Q. Does it appear that he has anything?

4 A. He does. He has some type of a stick, wooden
5 object. It would --- it would appear by the video in
6 his --- in his right hand, as he's walking up.

7 Q. Now, at this point you saw Travis Lee, did --- could you
8 tell that he was holding him at that point?

9 A. Yes, you could.

10 Q. All right. And what's --- what's going on at this point?

11 A. Travis is grabbing Tobias, and Ken is coming back
12 with the --- the object, as he is moving to strike Mr.
13 Hughey.

14 Q. Now, is Mr. Hughey just standing there? Is he trying to
15 run away?

16 A. No, he's --- he's pulling, he's trying to get away.

17 Q. Okay. And this is minute 13:37. How many swings did you
18 see Mr. Ken Lee make at that point on the video from this
19 angle?

20 A. Two or three, from the time that he, you know, got
21 close enough to swing at him from --- I said three swings
22 in --- in --- in that frame.

23 Q. Okay. What about these other folks in the parking lot?
24 What are they doing?

25 A. They're just --- just out in the parking lot

1 watching what's going on.

2 Q. Okay.

3 A. To be honest, which is kind of ---

4 Q. Do you see about how many people there are? Can you
5 tell?

6 A. I mean, looking at the video, I mean five or six.

7 (Video playing)

8 Q. I'm at minute 15:01, did somebody pick something up right
9 there? Could tell what that was? Did you see that?

10 A. I believe that was the white sweater that
11 Mr. Lee --- Travis Lee initially had when he went up to
12 Tobias initially. Kira Devette picks it up, she's going
13 to her car now.

14 Q. Do you see Travis Lee at this point as well?

15 A. He is --- he's in the gray shorts, and --- and white
16 shirt.

17 Q. I'm going to direct your attention toward the bottom
18 right-hand side. Who is that gentleman who just walked
19 through at 5:34?

20 A. That'd be Mr. Ken Lee.

21 Q. And were you able to determine where he went from another
22 camera angle? Or do you --- do you remember?

23 A. I think he went back to the --- the [REDACTED] building,
24 but ultimately he walked out of the camera angles. I
25 don't believe he left in a vehicle.

1 Q. We're switching videos to State's 14.

2 (Video playing)

3 Q. Would this have been another camera angle that you
4 viewed?

5 A. It would be. This is the camera that was on the
6 side of the [REDACTED] building.

7 Q. This is looking at the parking lot back towards the [REDACTED]
8 building with a --- a view of the, I guess the [REDACTED] building is
9 slightly on the right-hand side?

10 A. It is. The [REDACTED] building is actually with [REDACTED] on the
11 roof.

12 Q. Okay.

13 THE COURT: I think you started playing at about
14 11:30?

15 MR. BLACK: Yes. It looks like I started playing at
16 11:30.

17 (Video playing)

18 BY MR. BLACK:

19 Q. Is there another basically just another angle what was
20 viewed on the last video?

21 A. It is.

22 Q. Can you see more clearly between the [REDACTED] and the [REDACTED]
23 building with this angle?

24 A. You can.

25 (Video playing)

1 Q. And I believe at 12:17 --- what happens at 12:17 in this
2 video?

3 A. Travis has ahold to Tobias' arm at this point.

4 Q. They --- they first make contact too, right?

5 A. Yes, sir.

6 (Video playing)

7 Q. And what do you see kind of at the top right hand --- or
8 the left-hand side at that point?

9 A. Let me say again Mr. Ken Lee with the black shirt
10 and red shorts approaching him with the --- the object in
11 right hand and he's --- he's going to swing at him a
12 couple of times.

13 Q. How many time --- see if you can count how many times you
14 see the swing. Maybe you can, maybe you can't, but try to see
15 how many swings you see.

16 (Video playing)

17 Q. And at this point are they behind the  building?

18 A. They are.

19 Q. Can you see anything at this point?

20 A. You cannot.

21 Q. And this is 13:55, I believe.

22 THE COURT: And it started at 13:30.

23 BY MR. BLACK:

24 Q. Tell me when you him come back in the frame.

25 (Video playing)

1 Q. Do you see somebody on the --- in the --- the [REDACTED]
2 building with a white shirt?

3 A. I do.

4 Q. Were you able to determine who that was?

5 A. That was Mr. Eric Phillips, I believe.

6 THE COURT: Timestamp roughly 14:29.

7 (Video playing)

8 BY MR. BLACK:

9 Q. Again, tell us when you see Mr. Travis Lee or Kendrick
10 Lee ---

11 (Simultaneous speaking)

12 A. You can see Ken --- Kendrick Lee just walk off just
13 now. Mr. Travis Lee and Ms. Devette are now off.

14 THE COURT: And it started at roughly 14:59.

15 (Video playing)

16 BY MR. BLACK:

17 Q. Do you see Mr. Hughey anywhere?

18 A. He just got up. He is headed to Mr. Eric Phillips'
19 apartment, I do believe.

20 Q. Now where is he going?

21 A. Back behind the [REDACTED] building. He's going to come
22 out on the back side and go to Apartment [REDACTED].

23 Q. And what about the top left hand corner, where do you ---
24 what do you see? Do you see Mr. --- somebody going that way?

25 A. Mr. Ken Lee is heading back behind the --- the [REDACTED]

1 building on the sidewalk. Mr. Travis Lee is over on the
2 other side of the burgundy car.

3 THE COURT: That started at roughly 15:40.

4 (Video playing)

5 BY MR. BLACK:

6 Q. And again for the record, this is playing in a GOM
7 Player.

8 Do you see somebody walking behind the [REDACTED] building?

9 A. Yes, Mr. Travis Lee.

10 Q. You were able to determine that for your investigation?

11 A. Yes, sir.

12 THE COURT: And that was at 16:33, roughly.

13 (Video playing)

14 BY MR. BLACK:

15 Q. Somebody else just come in front that you recognize
16 walking that way as well?

17 A. They did. That's Mr. Ken Lee just come back in the
18 frame from behind the [REDACTED] building, walking towards the
19 [REDACTED] building, same direction as Mr. Travis Lee.

20 Q. And this is about 17 minutes.

21 (Video playing)

22 Q. And what's that road behind the apartment complex? That
23 road that kind of loops around in the far background; can you
24 see that?

25 A. Yes, sir, that is Adams Drive.

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1 Q. Adams Drive?

2 A. Yes, sir.

3 Q. Do you see anybody walk you go down Adams Drive at this
4 point?

5 A. I can see three individuals on Adams Drive.

6 Q. And this is 18 --- roughly 18:40 of this video. Do you
7 know who those individuals were?

8 A. I can't identify those people on that street. I can
9 see there's three individuals, but I don't --- I couldn't
10 tell who they are by looking at this camera.

11 Q. At this camera? Okay.

12 A. Yeah.

13 Q. Travis Lee was ultimately arrested, correct? The next
14 day?

15 A. He was. Yes, sir.

16 Q. And where --- where was he arrested at?

17 A. I'm not sure the exact address without referring to
18 my notes. But it was on Adams Drive just around the
19 curve from where you see three individuals walking.

20 Q. Okay. 116; does that sound right?

21 A. Yes, sir. I believe it's correct.

22 Q. We'll go to State's 10 in just a minute. Started it at a
23 minute and 15. 15:05.

24 (Video playing)

25 Q. Where --- what is this camera depicting?

1 A. The back of the [REDACTED] building.

2 Q. All right. Who is walking into the frame right there?

3 A. Mr. Ken Lee.

4 Q. And this is at the time of 15:50; does he go inside the
5 [REDACTED] building?

6 A. He does not.

7 Q. Where does --- he's walking past that [REDACTED] building?

8 A. Yes, sir. He keeps on going to the [REDACTED] building.

9 Q. Did he have anything in his hands that you could tell?

10 A. No, sir. He didn't.

11 Q. Now, who is this individual that just entered the frame
12 here?

13 A. That's Mr. Tobias Hughey.

14 Q. Can you tell if any --- can you tell if he's bleeding or
15 anything from this?

16 A. Yeah. He's got blood all over his face ---

17 Q. And where did he go ---

18 A. --- and his arms.

19 Q. --- where did he go at this point?

20 A. He goes to Apartment [REDACTED].

21 Q. And this is at 15:42.

22 THE COURT: It was at 15:38 when he entered the
23 frame.

24 MR. BLACK: Enters the frame at 15:38. And it's
25 paused right now at 15:43.

1 BY MR. BLACK:
2 Q. And you ultimately went in that apartment, correct?
3 A. We did.
4 Q. Y'all got consent to search?
5 A. Yes, sir. We did.
6 Q. You talked to Michael Floyd --
7 A. Yes, sir.
8 Q. --- who lived there?
9 A. I did.
10 Q. And received a video from him as well?
11 A. We did. Yes, sir.
12 Q. We're going to keep playing it for a minute.
13 (Video playing)
14 Q. Who is this individual that just walked through at 16:30?
15 A. Mr. Travis Lee.
16 Q. And what's he doing?
17 A. He's going to walk down to the --- the fence, I ---
18 I believe. We'll have to watch the camera.
19 Q. What's he doing --- what about right here, what's he
20 doing? Just walking? He comes back around, doesn't he?
21 A. He does.
22 Q. And what --- did he bend over?
23 A. He did.
24 Q. Can you tell if he picked up anything from that?
25 A. I'm --- I can't tell. I mean, he bent over, but I

1 can't --- I couldn't say that he picked anything up.

2 Q. But he did bend over and come back towards the [REDACTED]
3 building?

4 A. He did.

5 Q. There's another individual. Do you know who this
6 individual was? And another one?

7 A. I'm not sure about the --- the one in the blue, but
8 the black and the red shorts is Mr. Ken Lee.

9 Q. And this is about 17:15 in the video. 17:10, 17:15. But
10 Ken Lee is the second individual?

11 A. Yes, sir.

12 Q. And do you know where they're going at this point?

13 A. I don't.

14 (Video playing)

15 A. You see a individual with a white shirt cut around
16 the fence. The fence kind of goes in right there and
17 there's a --- a path or a cut through, if you will, that
18 leads back to Adams Drive.

19 Q. So there's a fence that goes --- that kind of separates,
20 I guess, the apartment complex versus some of the yards on
21 Adams Drive?

22 A. That's correct.

23 Q. And to get over the fence, you have to kind of walk
24 towards the road and go around it?

25 A. Yes, sir.

1 THE COURT: You stop that video roughly 18:10.

2 BY MR. BLACK:

3 Q. I'm going to show State's 12, starting at 14:55. Where
4 is this camera angle pointing towards?

5 A. It's towards the back of the [REDACTED] building.

6 Q. And do you recognize the individual that's kind of in
7 front of the [REDACTED] building?

8 A. That's Mr. Travis Lee.

9 (Video playing)

10 Q. Now, the gentleman that just got up in the blue, where do
11 those stairs he was sitting on --- where do they lead up to?

12 A. They lead up to two top --- two top apartments on
13 the back side of that building.

14 Q. Okay. What --- do you know what those apartment numbers
15 are off the top your head?

16 A. I don't.

17 Q. Do you know who lives up in --- did y'all end up going
18 into one of those apartments?

19 A. We did. The top left. If you go up the stairs, the
20 top left apartment is the apartment that Mr. Lee --- Mr.
21 Ken Lee's girlfriend was renting.

22 Q. And do you remember her name?

23 A. Ms. Miesha Cobb.

24 Q. Miesha Cobb?

25 (Video playing)