

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of General Sessions

Heath P. Taylor, Circuit Court Judge

Appellate Case No. 2025-000484

RECEIVED

Oct 12 2026

SC Court of Appeals

THE STATE,

Respondent,

v.

JAQUAN LEON KING,

Appellant.

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

**STATE’S EXHIBIT NO. 4 (911 CALLS); STATE’S EXHIBIT NO. 16 (COLOR PHOTOGRAPH); STATE’S EXHIBITS NO. 21-22 (COLOR PHOTOGRAPHS);
DEFENSE EXHIBIT NO. 33 (911 CALLS)**

1 sometime in 2024?

2 A. Correct.

3 Q. Okay. And was that in -- that was in person or
4 -- or via Zoom?

5 A. It was here.

6 Q. It was in person?

7 A. Correct.

8 Q. Okay. And that was with Ms. Taylor and some
9 other people?

10 A. It was.

11 Q. Okay. And they asked you in July or June of 2024
12 if you remember what started the argument? Do you recall
13 telling them that you did not remember?

14 A. I don't recall what I said.

15 Q. Okay. On that 2024 statement, is when you
16 discuss being -- the -- the shooter being aggressive,
17 cussing, his demeanor was menacing, and you felt like you
18 were in danger, right?

19 A. Yep, I remember that.

20 Q. You remember saying that?

21 A. I remember saying that.

22 Q. Okay. And when you said that to the solicitor's
23 office and they were taking notes -- that's the people that
24 came with you, were -- were in the room that day, right?

25 A. They were.

1 Q. Okay. They were all in the same room with you
2 then?

3 A. They were.

4 Q. Okay. All right. Now I want to go back again to
5 -- so the -- y'all were there for dinner -- we're back at
6 Tsubaki. You got -- what time did you get there? Don't
7 remember?

8 A. Maybe 9:00. I don't remember.

9 Q. Okay. And you -- what do you recall about the
10 bill being paid?

11 A. Like I said to Stephanie, we were buying food,
12 buying shots, buying Sake. Some people were saying, you
13 know, my turn to buy shots. They would buy shots for
14 everybody. It was split. There was a lot of people there,
15 so it was split between a couple of people.

16 Q. Okay. So -- so that -- and that's what I'm --
17 I'm seeking clarification on. So did y'all get more than
18 one bill, or you got one bill for \$267 and then you split
19 it amongst?

20 A. I don't remember that.

21 Q. You don't recall?

22 A. No.

23 Q. Do you recall turning over a receipt?

24 A. I don't remember turning over a receipt either.

25 Q. Okay. You don't recall turning over a receipt?

1 A. No.

2 Q. All right. You -- again, I'm sorry, I keep
3 jumping back and forth, but now I'm going to go back to the
4 evening of August 21st. Okay. Or excuse me, August 1st of
5 2021. And I'm asking just a few more questions. The
6 officer asked you what the person that shot was wearing,
7 and do you recall giving him a response?

8 A. I do not.

9 Q. Okay. You describe -- do you recall telling that
10 officer on August 1st, 2021, that you think that they had a
11 gray Mustang or something? Do you remember what car?

12 A. I do not.

13 Q. What car?

14 A. I do not.

15 MS. ZMROCZEK: Okay. Your Honor, at this time I
16 believe I've covered all of the questions in Defense
17 23, and I would so like to move it into evidence.

18 THE COURT: Approach.

19 (A sidebar conversation was held between the Court and
20 Counsels.)

21 BY MS. ZMROCZEK:

22 Q. And, Ms. Reyes, these questions that I've been
23 asking you about the questions and answers from the officer
24 from August 1st, 2021, is that the video that we just
25 reviewed when the jury was out?

1 A. Correct.

2 MS. ZMROCZEK: Now, Your Honor, I would like to
3 publish.

4 (A sidebar conversation was held between the Court and
5 Counsels.)

6 BY MS. ZMROCZEK:

7 Q. So, Ms. Reyes, the video that we watched from the
8 -- outside the present of the jury, did you see yourself in
9 that video?

10 A. I did.

11 Q. Did you make those statements?

12 A. I don't recall making them statements, but I saw
13 them in the video.

14 MS. ZMROCZEK: Thank you, Your Honor, at this
15 time I would like to move and publish Defense 23.

16 MR. SCOTT: Your Honor, I'm sorry, at this point,
17 but I'll refer to Rule 613 that deals with prior
18 statements of witnesses, specifically subsection B,
19 which deals with extrinsic evidence regarding prior
20 use of --

21 THE COURT: All right. Hold on for a second.
22 Y'all approach again.

23 BY MS. ZMROCZEK:

24 Q. Ms. Reyes, on August 1st, 2021, at 2:30 a.m.,
25 going into 2:31 a.m., did you say to the officer, my son

1 got in a fight while we were leaving with some guys and one
2 of them was about 6 feet?

3 A. I do not recall.

4 Q. You do not recall?

5 A. Not speaking with the officer that night. No.

6 Q. Okay. Do you deny saying it?

7 A. I don't recall saying it. I can't tell you that
8 I said or I didn't say it because I don't remember.

9 THE COURT: Please approach one more time.

10 (A sidebar discussion was held.)

11 BY MS. ZMROCZEK:

12 Q. Ms. Reyes, did you see yourself on the video
13 saying to the officer, my son got into a fight while we
14 were leaving with some guys?

15 A. Yes.

16 Q. Okay. Did you see yourself on the video saying
17 one of them was about 6 feet?

18 A. Yes.

19 Q. Did you say to the officer on August 1st, 2021,
20 at 2:31 in the morning that he had dreads?

21 A. Yes.

22 Q. Did you say they were both black?

23 A. Yes.

24 Q. Did you say one of them may be about 5'12"?

25 A. Yes.

1 Q. Did you say, and all of a sudden we just heard
2 some shots?

3 A. Yes.

4 Q. And that was in response to the officer asking
5 what happened?

6 A. Yes.

7 Q. And then you said -- did you say my sister and
8 son got shot?

9 A. Yes.

10 Q. Did you say my son got shot?

11 A. Yes.

12 Q. I don't know what -- when he asked you what
13 happened, did you say to him, I don't know what happened; I
14 don't know?

15 A. Yes.

16 Q. Okay. When asked what he was wearing, did you
17 say he was wearing a white shirt?

18 A. Yes.

19 Q. Did he -- did you ask -- when he asked -- or did
20 you go on to say, I was trying to break up the fight?

21 A. Yes.

22 Q. Okay. And then did you say I think they had a
23 gray mustang or something?

24 A. Yes.

25 Q. Okay. So that -- that statement was 8/1/21 at

1 2:30 in the morning, right?

2 A. Yes.

3 Q. Less than 20 minutes after the shooting?

4 A. Correct.

5 Q. Okay. When you would agree with me that you want
6 to find the people that did it?

7 A. Correct.

8 Q. And these officers are asking you very specific
9 questions?

10 A. Correct.

11 Q. And you tell them you don't know what happened?

12 A. Correct.

13 Q. I want to talk about the Facebook post. Okay.
14 You get this picture and it gets reposted to your Facebook?

15 A. I posted it on Facebook.

16 Q. You posted it to your Facebook?

17 A. I did.

18 Q. And when you posted it on your Facebook, somebody
19 sent you a message?

20 A. Correct.

21 Q. Right?

22 A. Correct.

23 Q. And that message was telling you where the
24 vehicle was located?

25 A. Correct.

1 Q. Who sent you that message?

2 A. A friend.

3 Q. And are you going to tell us the name of that
4 friend?

5 A. I am not.

6 Q. Okay. Who told that friend?

7 A. Someone she knew.

8 Q. Okay. So --

9 A. A friend of hers.

10 Q. And we're not going to get that person's name
11 either?

12 A. We're not.

13 Q. Okay. And so what we know is that they tell you
14 that on August 1st at 10:00 p.m., you call 911 to say, I
15 know where the car is?

16 A. Correct.

17 Q. Okay. When -- you would agree with me that the
18 information, as fresh in your mind, is -- is important to
19 get out to the police?

20 A. It is. But when you suffer a traumatic
21 experience, things might get confusing.

22 Q. Things might get confusing, right?

23 A. Correct.

24 Q. And -- and you don't know what you could be
25 confusing, right?

1 A. No, I don't.

2 Q. Okay.

3 A. But I know the face of the person that shot my
4 sister and my son.

5 Q. Right. And you saw a lot of people in and
6 outside of Tsubaki that evening?

7 A. I did.

8 Q. How many -- you were there for several, several
9 hours?

10 A. I was.

11 Q. Okay. Did you ever get a business card --

12 A. No.

13 Q. -- handed to you? Never -- never got one of
14 those?

15 A. No.

16 Q. Don't know who that was?

17 A. No.

18 Q. Okay. And you -- and you can't remember where
19 cars were parked or where you were, but -- but again, you
20 remember that face, right?

21 A. I do.

22 Q. Okay. You love your family very much?

23 A. Of course I do.

24 Q. You were very angry?

25 A. I was.

1 Q. Okay. You told -- you told Nelson on August 1st,
2 2021, at 2:50 in the morning, we're going to get these?

3 A. Yeah. I heard it on the --

4 Q. Right?

5 A. Yeah, I heard it.

6 Q. Okay. And you said multiple?

7 A. I did.

8 Q. Okay. And that was the most recent testimony --
9 or that was the most -- the first time that somebody had
10 talked to you? Just less than 20 minutes after this
11 happened, right?

12 A. I'm guessing.

13 MS. ZMROCZEK: Okay. Okay. Beg the Court's
14 indulgence.

15 BY MS. ZMROCZEK:

16 Q. I am going to show you what's been marked for ID
17 Defense 24 And ask if you recognize this receipt.

18 A. I don't.

19 MS. ZMROCZEK: Okay. Your Honor, those are all
20 the questions I have.

21 THE COURT: Very good. Anything on a brief
22 redirect?

23 REDIRECT EXAMINATION

24 BY MS. TAYLOR:

25 Q. Let's just kind of clear up something. So she

1 talked a lot about, you know, you gave statements that a
2 couple of minutes where police get there on the scene, to
3 police on August 3rd came to our office, you gave two
4 statements. Now, when you came and met with solicitor's
5 office, Nicole, your victim advocate was present, right?

6 A. Um-hum (affirmative).

7 Q. And when you came, there were about five or six
8 of your family members that came with you, right?

9 A. It was a few of us, that I remember.

10 Q. Okay. Y'all often ride places together?

11 A. We do.

12 Q. Now, when we met with you, do you recall that the
13 rest of them sitting somewhere else?

14 A. I don't remember.

15 Q. Is it possible that they weren't sitting with
16 you?

17 A. It's possible.

18 Q. Okay. So let's talk about, well, the things she
19 just put up. I believe that was -- she was talking about
20 your statement on the body-worn camera a few minutes after
21 the shooting. And you told police a few minutes after the
22 shooting, one guy was 6 feet?

23 A. Yes, ma'am.

24 Q. And that guy had dreads?

25 A. Correct.

1 Q. And he was wearing a white shirt?

2 A. Correct.

3 Q. And he got into a gray vehicle?

4 A. Correct.

5 Q. Now, were you focused on the make and the model
6 of the vehicle at that time?

7 A. I was not.

8 Q. What were you focused on?

9 A. My son and my sister.

10 Q. Okay. Now, in your written statement -- now, you
11 testified that you were walking to the car -- walking
12 through the park lot to get the car?

13 A. Correct.

14 Q. And I guess the rest of your family were still
15 kind of up near the restaurant area?

16 A. Correct.

17 Q. Were you actually able to hear what started that
18 argument?

19 A. I didn't. I don't --

20 Q. Okay. So when she asked you in your statement
21 about what started the argument and how close you were and
22 stuff like that, that information was based on what?

23 A. What I had heard.

24 Q. Okay. Because you were in the park -- like
25 walking to the car?

1 A. Correct.

2 Q. Okay. But the part in your statement when you
3 described the guy your son was arguing with, was that based
4 on you coming back to the argument?

5 A. Correct.

6 Q. And you described him as short dreads, chunky
7 black guy?

8 A. Correct.

9 Q. Okay. Now, she -- she kept asking you about you
10 were mad, you were angry, you want to get those
11 motherfuckers, what you said on the --

12 A. That is what I said.

13 Q. And those motherfuckers -- that motherfucker shot
14 your son and your --

15 A. correct.

16 Q. -- sister?

17 A. Correct.

18 Q. Okay. And she asked you about how many guns you
19 saw, right?

20 A. Uh-huh.

21 Q. And I believe you said in your statement you saw
22 -- you remember a guy dropping the gun?

23 A. Correct.

24 Q. Did you ever see Jaquan King drop the gun?

25 A. No.

1 Q. Okay. How many people did you actually see shoot
2 a gun that night?

3 A. One.

4 Q. Okay. And who was that person?

5 A. Jaquan King.

6 Q. And who did you see Jaquan King shoot?

7 A. My sister.

8 Q. And who else did you see him shoot?

9 A. I didn't see him shoot Jacob, but I know -- I
10 knew after I looked up that Jacob was shot. So he was the
11 one with the gun in his hand, so he shot Jacob.

12 Q. You were the -- he was the only person you saw
13 shoot the gun?

14 A. Correct.

15 Q. Okay. So on August 3rd, you went to Richland
16 County, you picked Jaquan King's photo out of the lineup?

17 A. I did.

18 Q. As the shooter?

19 A. Correct.

20 Q. Today, you stood in here in court before the jury
21 --

22 A. correct.

23 Q. -- in front of Jaquan King --

24 A. Correct.

25 Q. -- and you identified him as the shooter?

1 A. Yes, ma'am.

2 Q. Was there any doubt in your mind on August 3rd,
3 and was -- is there any doubt in your mind today that
4 Jaquan King was the person you saw shoot your sister?

5 A. No, ma'am.

6 THE COURT: Anything else?

7 RECROSS EXAMINATION

8 BY MS. ZMROCZEK:

9 Q. August 1st, 2021, never told anybody about facial
10 hair?

11 A. I don't recall. No.

12 Q. August 3rd, 2021, never told anybody about facial
13 hair?

14 A. I don't recall saying --

15 Q. Never have described facial hair?

16 A. I don't recall seeing it. No.

17 Q. What?

18 A. I do not recall seeing it.

19 Q. Okay. Person that you picked out, facial hair?

20 A. Correct.

21 MS. ZMROCZEK: No further questions, Your Honor.

22 THE COURT: Anything else?

23 MS. TAYLOR: No, Your Honor.

24 THE COURT: All right. Ladies and gentlemen,
25 we're gonna break for today. I'm going to ask you all

1 to be back here about the same time tomorrow morning.
2 We'll try to get started up around 9 o'clock. Again,
3 please don't discuss the case amongst yourselves or
4 with anybody, don't do any outside research or
5 anything like that. And we'll be back tomorrow
6 morning. Y'all have a good evening.

7 (The jury exits the courtroom.)

8 THE COURT: Anything from the State before we
9 break for the evening?

10 MS. TAYLOR: I don't think we have anything.

11 MS. ZMROCZEK: I do, Your Honor. I -- well, I
12 know that my client's father needs to get back to
13 work. He's been here every day. They anticipated
14 calling him today. Obviously they didn't, but, Your
15 Honor, I think that we probably addressed -- I'm not
16 quite sure what they want to ask him, but I think
17 there's going to probably be a relevance issue.

18 So if that's something that we can address now or
19 if -- or if they think they can get to it in the
20 morning, then I just make sure he's here in the
21 morning. I just don't want the jury to have wait, is
22 my issue since we're here.

23 MR. SCOTT: Oh, sorry. Yes, Your Honor. He -- a
24 number of reasons, he's linked to the defendant. The
25 defendant was at his house, we believe, when law

1 enforcement went to his house to locate the car. He
2 would associate the car with his son being the owner.
3 And then would say it was his daughter-in-law's who's
4 another subpoenaed witness.

5 So unless Mr. King would stipulate that that car
6 was one that he operated then we're gonna need his
7 father to testify that. And we have him on body cam
8 doing all that.

9 MS. ZMROCZEK: And, Your Honor, and that's why I
10 asked. I mean, a -- just to correct one thing, the
11 Defendant was not at his house when the police went
12 there because the -- they let them go through his
13 whole house. But, Your Honor, if they're only calling
14 his father to stipulate that he drove that vehicle, is
15 that --

16 MR. SCOTT: That he and his daughter were the
17 owners operating of that vehicle.

18 MS. ZMROCZEK: Well, she was the owner and that
19 he was a permissive user.

20 MR. SCOTT: Well, he -- they asked who the car
21 belonged to. At first he said his son.

22 MS. ZMROCZEK: And then he said his daughter.

23 MR. SCOTT: And then quickly said, my
24 daughter-in-law. And then equivocated a bit on --
25 it's pretty clear that the son drove it. And -- we

1 can stipulate to that and the fact that he's from New
2 York.

3 MS. ZMROCZEK: And that we're not gonna stipulate
4 to.

5 MR. SCOTT: You don't want to stipulate to that?

6 MS. ZMROCZEK: No.

7 MR. SCOTT: Okay.

8 THE COURT: All right. We'll get him at first
9 thing tomorrow morning at 9 o'clock.

10 MS. ZMROCZEK: Okay. Thank you.

11

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25 (The court was adjourned for the day.)

CERTIFICATE

I, THE UNDERSIGNED BRANDI J. BERRY, CERTIFIED COURT REPORTER FOR THE FIFTH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE CIRCUIT COURT FOR RICHLAND COUNTY, SOUTH CAROLINA, ON THE 28TH DAY OF FEBRUARY, 2025.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST IN ANY PARTY HERETO.

/S/Brandi J. Berry, CVR

COLUMBIA, SOUTH CAROLINA

JANUARY 8TH, 2026

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF RICHLAND	)	
	)	
STATE OF SOUTH CAROLINA	)	2022-GS-40-00069
	)	2022-GS-40-00070
vs	)	2022-GS-40-00071
	)	
JAQUAN LEON KING,	)	
	)	
<u>DEFENDANT.</u>	)	

February 26, 2025
Columbia, South Carolina

VOLUME III of V

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B E F O R E:

The Honorable Heath P. Taylor, Judge

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

ON BEHALF OF THE STATE:	Stephanie Taylor, ESQ.
	Nicholas Fowler, ESQ.
	Dale Scott, ESQ.
	Assistant Solicitors

ON BEHALF OF THE DEFENDANT:	Aimee Zmroczek, ESQ.
	Attorney At Law
	Brian Setree, Investigator
	Caroline Burns, Law Clerk

Brandi J. Berry,
Judicial Circuit Court Reporter

I N D E X

(SW) - STATE'S WITNESS (DW) - DENOTES DEFENSE WITNESS

DIRECT CROSS REDIRECT RECROSS

(SW)DEVIN PATE.....527,558,583,590

(SW) JACK KING.....592,604,609

(SW) INVESTIGATOR KOVALCHEK...610,618

(SW)KRISTIN POLIS.....622,631

(SW) TAIMA JORDAN.....638

(SW)JOHN BARRON.....640,648,656

(SW) MICHAEL FITZGERALD...661,674

(SW) CLAY SHORT.....675,714,773,779

(SW) KEVIN McCULLOUGH.....781

CERTIFICATE 785

E X H I B I T S

<u>STATE'S</u>	<u>PG</u>	<u>ADMITTED</u>
4 911 CALL.....	543	X
3 LINEUP AFFIDAVIT.....	550	X
34 LINEUP.....	588	X
27 CAR PRINT.....	613	X
23 PHOTO	614	X
35-43 DNA SWABS.....	615	X
21,22 CAR ITEMS.....	616	X
44 BUCCAL SWAB.....	638	X
30 MARRIAGE LICENSE.....	683	X

1	32	SC DMV RECORD.....693	X
2	31	MARRIAGE LICENSE.....696	X
3	29	DOCUMENT.....782	X
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1 (WEDNESDAY, FEBRUARY 26, 2025; COLUMBIA, SC,
2 RICHLAND COUNTY, IN OPEN COURT.)

3 THE COURT: All right. We ready to bring in the
4 Jury? All right. Bring us Jury, please, sir.

5 (The jury enters the courtroom.)

6 THE BAILIFF: The jury is present and seated,
7 Your Honor.

8 THE COURT: All right. Good morning ladies and
9 gentlemen.

10 JURY: Good morning.

11 THE COURT: All right. Ms. Taylor, call your
12 next witness.

13 MADAM CLERK: Please, raise your right hand.

14 **DEVIN PATE,**

15 A witness herein, having been first duly sworn, was
16 examined and testified as follows:

17 MADAM CLERK: Thank you. Please go and seat on
18 the witness stand and state your full name for the
19 record.

20 THE WITNESS: Devin Pate.

21 DIRECT EXAMINATION

22 BY MS. TAYLOR:

23 Q. All right, Mr. Pate, how old are you?

24 A. Thirty-two.

25 Q. And what type of work do you do?

1 A. Home security.

2 Q. And are you from Columbia?

3 A. No. I'm from Washington DC.

4 Q. Okay. How long have you lived in Washington DC?

5 A. About 10 years.

6 Q. And did you witness the incident that we're here
7 for today?

8 A. Yes. I did.

9 Q. And let's talk a little bit about earlier that
10 night. Were you inside Tsubaki that night?

11 A. I was.

12 Q. Okay. And what type of place is Tsubaki?

13 A. Tsubaki is a karaoke bar that serve food and
14 drinks.

15 Q. And had you ever been there before?

16 A. Yes.

17 Q. Okay. Would you consider yourself a regular?

18 A. Yes.

19 Q. While you were inside Tsubaki that night, did you
20 meet some people that you didn't know before?

21 A. I did.

22 Q. And what kind of -- who were those people?

23 A. It was the -- the family that we are here for
24 today.

25 Q. And when you met them earlier that night, did you

1 learn that they were related to each other?

2 A. Throughout the evening I met a couple of them and
3 knew that they were related, but through time I ended up
4 learning more of them. And that's -- as in, through time
5 -- as in, after that night I ended up getting to know all
6 the family members.

7 Q. Okay. And at the time you met them, like, were
8 you a hundred percent sure who was the mom versus who was
9 the aunt versus the nephew versus the son at that point?

10 A. Not necessarily.

11 Q. Okay. And were you a hundred percent sure
12 everyone's name that night?

13 A. No.

14 Q. Okay. But you said later you learned their
15 names?

16 A. Right.

17 Q. All right. And that night, specifically, did you
18 end up interacting with Jacob, Yolanda, and the rest of
19 their family?

20 A. Not -- I can't say I specifically ended up
21 interacting with Jacob. Yolanda definitely -- I did -- I
22 did briefly, I believe, end up speaking to Jacob, but I do
23 know that Yolanda is the one who ended up, you know,
24 inviting me to join them with -- as other witnesses stated
25 about going to Waffle House afterwards.

1 Q. Okay. And while you were inside Tsubaki did you
2 drink any alcohol?

3 A. No. I did not.

4 Q. And at some point that night was Tsubaki about to
5 close?

6 A. Yes, ma'am.

7 Q. And around what time was that?

8 A. Around two o'clock.

9 Q. And you just said that you were invited to the
10 Waffle House. Were -- were those your plans after leaving
11 Tsubaki?

12 A. Well, that -- that was my plan once they invited
13 me, yes.

14 Q. Okay. So let's talk about when you first walk
15 out of Tsubaki to leave.

16 A. Okay.

17 Q. Do you remember who you walked out with?

18 A. I believe I may have been with Yolanda. If -- if
19 I didn't, like, specifically, walk out with them, I was,
20 like, within, like, steps of them, you know. Either way I
21 was like right behind them or right in front of them. So
22 it -- we were pretty much exiting at around the same time.

23 Q. And while you were walking out, did you see a
24 group of men outside?

25 MS. ZMROCZEK: Objection, Your Honor. Leading.

1 BY MS. TAYLOR:

2 Q. While you were walking out was there anyone else
3 outside that you saw?

4 A. Yes.

5 Q. And describe kind of who you saw outside?

6 A. I saw Mr. King and his associates.

7 Q. Okay. And where were they standing?

8 A. Right outside the door.

9 Q. Okay. And what did you see them doing?

10 A. They were -- one of them was trying to flirt with
11 Ms. Yolanda.

12 Q. Okay. Was Jaquan King that guy?

13 A. No.

14 Q. Okay. And about how many men did you see in this
15 room?

16 A. Four.

17 Q. All right. And had you seen any of them inside
18 Tsubaki?

19 A. I -- I don't recall actually seeing them go
20 inside.

21 Q. Okay. And you said you saw one of them flirting
22 with her?

23 A. Correct.

24 Q. Okay. And how did -- how did Yolanda receive
25 those advances? Like how did she react to those?

1 A. They were -- they were racially -- they were
2 racial slurs. It -- by racial slurs, what I mean was the
3 gentleman had tried, I guess, making a pass at her. And
4 when she said that she was good, you know, he said
5 something along the lines of, "What? You don't like
6 tacos?"

7 Q. Okay. And would you describe that as a
8 disrespectful comment?

9 A. Definitely.

10 Q. Okay. And at some point did you see Jacob come
11 outside?

12 A. Yes.

13 Q. Okay. And did you see him have any interactions
14 with Yolanda around when they made those comments?

15 A. Yes. He had noticed that she was noticeably
16 upset.

17 Q. Mm-hmm (affirmatively).

18 Okay. And at some point are those four men still
19 there on the side -- kind of, in front when Jacob comes
20 outside?

21 A. Yes.

22 Q. Okay. And did you see any interactions with
23 Jacob and those guys at that point?

24 A. No.

25 Q. Okay. And at some point, did you see that group

1 of four men go anywhere else?

2 A. Yes. They ended up going towards the parking
3 lot, but that was after Jacob had -- basically he had asked
4 Ms. Yolanda what's going on. And that's when Yolanda --
5 Ms. Yolanda had stated, you know, "People are just, you
6 know, acting stupid, let's go."

7 Q. Mm-hmm(affirmatively).

8 A. And, you know, Jacob was like, "No. What's going
9 on?"

10 Q. Mm-hmm (affirmatively). And so then you see them
11 -- the group -- the four men moves to the parking lot?

12 A. Right.

13 Q. Okay. And at some point, while they're in the
14 parking lot, do you see Jacob become involved in the
15 argument with anyone?

16 A. Yes.

17 Q. Okay. And who was he arguing -- arguing with at
18 this point compared to like the first situation where you
19 saw these guys trying to throw him out?

20 A. Well, again, he wasn't arguing with anybody
21 initially. When they started making their way to the
22 parking lot, the person that Jacob was arguing with was the
23 same one who tried making the pass to Ms. Yolanda.

24 Q. Okay. And at some point do you see Jacob start
25 arguing with Jaquan King?

1 A. That was, I believe, after Jaquan King had went
2 to go get the gun.

3 Q. Okay. So was this part -- was the argument with
4 Jacob and Jaquan, where was this happening? Like in the
5 area or parking?

6 A. Oh, I'm sorry. Am I supposed to be waiting for a
7 picture to come up or --

8 Q. Yeah. It's going to come up. I'm just asking
9 you, like, does this happen by the front door or somewhere
10 else? Parking lot? Where?

11 A. Parking lot.

12 Q. All right. Looking at State's Number 5, can you,
13 kind of, describe where you see Jacob and Jaquan arguing in
14 the parking lot?

15 A. It was about within those first couple of spaces.
16 Pretty much where the handicap -- those two handicap spaces
17 are. It was somewhere within those four spaces. The two
18 handicap spaces and the two spaces that are right next to
19 them.

20 Q. Okay. And you said you saw Jaquan go to his car?

21 A. Correct.

22 Q. Do you remember kind of where his car was parked
23 in this area?

24 A. Yes. It was parked either way in that first or
25 second row, and it was about the third or fourth space

1 over.

2 Q. Okay. Now, when you see Jacob and Jaquan
3 arguing, describe how they were physically positioned
4 towards each other while they were arguing?

5 A. When they were arguing, that is when Ms. Yolanda
6 -- so they were facing each other, there was a good bit of
7 distance between them. Put it this way, Mr. King's back
8 was basically to Inakaya and Tsubaki. Ms. Yolanda was
9 right in front of him trying to de-escalate the situation
10 once she saw that he had a gun.

11 Q. Okay.

12 A. Which she had already been trying to de-escalate
13 --

14 MS. ZMROCZEK: Objection, Your Honor. He -- I'm
15 objecting to what he's testifying that other people
16 saw.

17 THE COURT: Overruled.

18 BY MS. TAYLOR:

19 Q. Keep going.

20 A. Okay. Okay. So again, Mr. King's back was
21 towards Inakaya Tsubaki. Ms. Yolanda was in front of him,
22 and Jacob was probably about a good 10 to 15 feet back
23 behind Ms. Yolanda facing Mr. King. So Mr. King and Jacob
24 are facing each other with a good bit. About 15 feet to --
25 12 to 15 feet in between them.

1 Q. Okay. Now, kind of where were you standing in
2 this photo when the argument was happening?

3 A. I was standing right where they -- I was within a
4 couple of feet of them because when I saw obviously the gun
5 and the situation being escalated, I -- I was very close.
6 I was within a couple of feet, probably two to three feet
7 of Mr. King and Ms. Yolanda.

8 Q. Okay. So let's, kind of, go back a little bit
9 when we talked about when you saw him going to the car to
10 get the gun. And he comes back already after you saw him
11 go to the car?

12 A. Right.

13 Q. Okay. And when he comes back, did you observe
14 him doing or saying anything?

15 A. Yes.

16 Q. Okay.

17 A. What I observed was the same thing pretty much as
18 the other witnesses who had observed where, you know, he
19 had said something again along the lines of like get --
20 like something about -- talking about Jacob, like "Get him
21 before I shoot him" or something like that.

22 Q. Okay.

23 A. Right.

24 Q. Do you remember whether he said anything to you
25 while he was coming back?

1 A. He said something to me after he shot him.

2 Q. Okay. So -- so let's back up to when he was
3 coming from the car. You saw the gun? Where was the gun?

4 A. Yes. When I saw the gun the first time it was in
5 his hand.

6 Q. Okay. And did you see him do anything with the
7 gun when he was coming back?

8 A. I don't recall seeing him do anything with the
9 gun, not necessarily. Not until the moment that he ended
10 up shooting him.

11 Q. Okay. All right. So you talked about how close
12 you were. So when you saw the gun in his hand?

13 A. Right.

14 Q. Can -- do you know what color it was?

15 A. Not -- I -- I can't pinpoint it. I know that it
16 was -- you know, it wasn't anything out of the ordinary.
17 It was no, you know, colorful gun. It -- it was, you know,
18 either way, you know, black, gray, silver, there wasn't,
19 you know, any colorful gun like purple, pink, green,
20 anything like that.

21 Q. Okay. Now you see him and Jacob arguing in the
22 parking lot after he gets gun?

23 A. Right.

24 Q. Okay. So physically, I'm going to walk up and
25 you tell me when to stop when I get to as close as you were

1 to Jaquan and Jacob. So tell me when to stop (walking).

2 A. About right there.

3 Q. Okay. So about three feet?

4 A. Right.

5 Q. Okay. So you're about three feet to Jaquan King
6 and Jacob when they were arguing.

7 A. To Jaquan King, again, Jacob is about 12 to 15
8 feet back.

9 Q. Okay. So you're three feet to Jaquan King when
10 he has the gun in his hand?

11 A. Right. And Yolanda is standing -- Ms. Yolanda is
12 standing right in front of him. So I'm within two, three
13 feet of both of them.

14 Q. Okay. And can you describe how, like, well lit
15 this area was when you saw this?

16 A. It was pretty decently lit as you can see that
17 large light pole. It lights up the parking lot to a decent
18 amount.

19 Q. Okay. Were you able to see people's faces?

20 A. Yes.

21 Q. Okay. Now, when you saw Jaquan King in the
22 argument with the gun, describe his demeanor. Like, how
23 was he acting and presenting himself when he came back to
24 argue?

25 A. I would say aggressive.

1 Q. Okay. And when you saw him with a gun in his
2 hand, how did that kind of change the energies of the
3 argument at that point?

4 A. It definitely, I believe, escalated, you know,
5 Jacob's anger at that point. You know, seeing that there
6 was also a gun because they were already arguing and so,
7 you know, he saw there was a gun and, you know, that
8 obviously made it a very threatening situation. And as for
9 myself, obviously, like, it did -- it did startle me at --
10 the moment that I did realize that he had a gun in his
11 hand.

12 Q. Okay. And prior to him br -- come back with his
13 gun, was it just a verbal argument?

14 A. Yes.

15 Q. Okay. So you said that Jacob and the man are
16 facing each other, Yolanda's, like, in between them. At
17 some point did you see Jaquan King do something that
18 surprised you?

19 A. Yes.

20 Q. And what did you see him do?

21 A. I saw him put the gun to Ms. Yolanda's chest and
22 shoot, and then reach over her shoulder and shoot Jacob.

23 Q. Okay. And how many times did you see him shoot
24 Jacob?

25 A. I can't -- I can't say that I recall. I believe

1 it was two, but I can't guarantee it.

2 Q. Okay. And what -- do you remember what part of
3 Jacob's body he shot?

4 A. I can't guarantee. I believe it was the leg and
5 -- I know the leg. I -- I can't -- I can't recall the
6 other spot, but I know that it was the leg.

7 Q. Okay. Now, at any point during this argument,
8 when did you ever see Jacob pull out a weapon?

9 A. I didn't.

10 Q. Okay. And after you saw Jaquan King shoot
11 Yolanda and Jacob, you -- did you see where he went
12 afterwards?

13 A. Back to the car.

14 Q. Okay. Did he walk? Did he run? How did he go
15 back to the car?

16 A. They all scattered back to the car quickly.

17 Q. And when you say "they all," who were -- who was
18 the they you're referring to?

19 A. The other three gentlemen he was with.

20 Q. And are -- are those the same people you saw
21 outside? The four group?

22 A. Yes.

23 Q. Okay. And did you physically look at the car
24 that he left in?

25 A. I did.

1 Q. Okay. Do you remember what seat Jaquan King got
2 in when they got in the car?

3 A. I can't guarantee. It was -- it was the front, I
4 can't guarantee if it was the driver or the passenger seat.

5 Q. Okay. You saw him get in front of the car?

6 A. Definitely.

7 Q. All right. And describe the color, the make, and
8 the model of the car you saw Jaquan King get in.

9 A. It was a gray Ford and -- yeah. It was a gray
10 Ford.

11 Q. Do you know what the model was?

12 A. I can't guarantee it. I'm honestly a Chevy man.
13 I don't like Ford.

14 Q. Okay. So you remember doing a written statement
15 for law enforcement?

16 A. I do.

17 Q. Okay. And you remember giving description of the
18 car?

19 A. I do.

20 Q. Okay.

21 A. And the license plate.

22 Q. So will get to the license plate. So I'm going
23 to show you -- to see if this refreshes your memory about
24 the make of the car you told law enforcement.

25 MS. ZMROCZEK: Your Honor, I think --.

1 BY MS. TAYLOR:

2 Q. Can you look at this and see if it refreshes your
3 memory about the make of the car or the model of the car?

4 A. Yeah.

5 Q. Okay.

6 A. Got you.

7 Q. And what was the make or the model of the car?

8 A. It was a Ford Fusion. I knew it was between a
9 Fusion or a Focus, but I just didn't want to say which one
10 it -- I couldn't recall which one it was, but --

11 Q. Okay. And when you saw that Ford Fusion leave
12 the scene, was there anything specific on that car that you
13 focused on?

14 A. The license plate.

15 Q. Okay. And when you saw the license plate, what
16 did you do with that information to make sure you would
17 remember it?

18 A. I repeated it multiple times in my head.
19 Multiple times.

20 Q. So you memorized it?

21 A. Yes.

22 Q. Okay. Looking at State's 16, do you recognize
23 the car in the photo?

24 A. Yes.

25 Q. Okay. Where did you see that car?

1 A. At Tsubaki. Outside Tsubaki.

2 Q. And where -- where did you see -- or how did you
3 see Jaquan King in this car?

4 A. I'm sorry, can you rephrase the question?

5 Q. Is this the car you saw Jaquan King leaving?

6 A. Yes.

7 Q. Okay. Is that the car you saw him go to
8 initially to get the gun?

9 A. Yes.

10 Q. Okay. And the license -- So, looking at 16
11 again, is this the license plate that you memorized?

12 A. Yes.

13 Q. All right. And what was that license plate?

14 A. UFV 626.

15 Q. Okay. So you still know it today?

16 A. I mean, I just saw, like, 30 seconds ago and I
17 remembered it again.

18 Q. Okay. So let's turn to when police arrived on
19 the scene. What -- were you still there when police
20 arrived on scene?

21 A. Yes.

22 Q. Okay. And did you talk to 9-1-1 operators on the
23 phone?

24 A. Yes.

25 Q. Okay. And I'm going to -- so I want to show you

1 what's been marked as State's Exhibit Number 4. This is
2 the 9-1-1 call. Do you remember us playing this call for
3 you?

4 A. I do.

5 Q. Okay. And do you remember hearing your voice on
6 this call?

7 A. Yes, I do.

8 MS. TAYLOR: The State requests to enter Number 4
9 into evidence.

10 THE COURT: Any objection?

11 MS. ZMROCZEK: Oh, no objection, Your Honor.

12 THE COURT: All right. 9-1-1 call will be
13 admitted as State's 4.

14 (State's Number 4 was admitted and marked.)

15 MS. TAYLOR: And also we need to do a business
16 record affidavit for this call.

17 MS. ZMROCZEK: Okay. Please.

18 MS. TAYLOR: Permission to publish it, Your
19 Honor.

20 THE COURT: Yes, ma'am.

21 (Phone call recording played.)

22 BY MS. TAYLOR:

23 Q. Okay. And you just heard that call was made
24 August 1st at 2:18 a.m.?

25 A. Yes.

1 Q. Okay.

2 (Phone call recording played.)

3 BY MS. TAYLOR:

4 Q. Okay. And is that your voice?

5 A. Yes.

6 (Phone call recording played.)

7 BY MS. TAYLOR:

8 Q. Okay. So when you were talking to the 9-1-1
9 dispatcher, did it appear that she was having a hard time
10 hearing what you were saying?

11 A. Yes.

12 Q. Okay. And did you have to repeat back the
13 license plate number to her?

14 A. Yes.

15 Q. And when you repeated the plate number back to
16 her, what did you do to clarify the letters of the license
17 plate?

18 A. I tried my best to recite the phonetic alphabet
19 even though it wasn't necessarily to the standard of the
20 military.

21 Q. Okay. And on that 9-1-1 call, what description
22 did you give of the color of the car?

23 A. A dark gray.

24 Q. And how many people did you tell the dispatcher
25 you saw get into that car to leave?

1 A. I said about four.

2 Q. And did the dispatcher ask you if it was a Ford
3 Fusion?

4 A. Yes.

5 Q. And what was your answer about whether the car --
6 the car was a Ford Fusion?

7 A. Yes.

8 Q. Now, did police arrive on scene immediately after
9 the shooting?

10 A. Yes.

11 Q. All right. And when they arrived, did you give
12 -- did you give those deputies information about what you
13 heard?

14 A. Yes.

15 Q. All right. And what description did you give of
16 the shooter's hairstyle?

17 A. He had lines that were about shoulder length.

18 Q. Okay. And did you tell them -- those deputies on
19 scene about what you memorized as license plate?

20 A. Yes.

21 Q. All right. And did you tell those deputies on
22 scene how many people you saw get into the car and leave?

23 A. Yes.

24 Q. All right. And you told them about the make and
25 the model of the car?

1 A. Yes.

2 Q. And -- and the color?

3 A. Yes.

4 Q. And how -- how -- I guess, how long would you
5 estimate after the shooting did you give those descriptions
6 to police on scene? Like 10 minutes, 20 minutes?

7 A. It could -- it -- it had to be -- I wouldn't say
8 20 minutes. Probably somewhere between about 10 to 15 in
9 the back here.

10 Q. All right. And so August 3rd, 2021, let's turn
11 to that date.

12 A. Okay.

13 Q. Did you go to the Sheriff's Department to get the
14 interview about what you witnessed during the shooting?

15 A. Yes.

16 Q. And that was two days after the shooting?

17 A. Yes.

18 Q. And did you do the interview with Investigator
19 Short?

20 A. Yes.

21 Q. All right. And while you were giving your
22 interview, were there any other witnesses in the area where
23 you were being interviewed?

24 A. No.

25 Q. And did you give information about what you

1 witnessed at the shooting?

2 A. Yes.

3 Q. And did you give descriptions of people that you
4 saw involved in the shooting?

5 A. Yes.

6 Q. All right. So let's turn to your description of
7 the shooter. Regarding the physical description of the man
8 that you saw shoot Yolanda and Jacob, what did you say was
9 his race?

10 A. Black.

11 Q. All right. And how did you describe the
12 shooter's skin complexion? And you can refer your
13 statement if you need to refresh. On Page 2. The fourth
14 question.

15 A. I said he was dark-skinned.

16 Q. Okay. And what type of hairstyle did you say the
17 shooter had?

18 A. Dreads.

19 Q. Okay. And how did you describe he -- like the
20 style of his dreads?

21 A. Pulled back in a ponytail.

22 Q. Okay. And you -- you describe as if it had been
23 down, how long would his dreads have been?

24 A. Shoulder length.

25 Q. Okay. Now, what description did you give police

1 on August 3rd about how tall the shooter was?

2 A. I said about five-ten or so.

3 Q. Okay. Now, are you sure? Describe without the
4 gun. How did you describe without the gun?

5 A. Oh, I'm so sorry. I was -- I was looking at a
6 different line. Six-one.

7 Q. Okay. And how would you describe his weight or
8 his body type?

9 A. I said about 190.

10 Q. And -- and -- okay. Also in your interview with
11 Investigator Short on August 3rd, did you give the
12 description of the car again?

13 A. Yes.

14 Q. Okay. And did you tell him about that license
15 plate?

16 A. I'm sorry, can you -- can you repeat that?

17 Q. Did you tell Investigator Short about the license
18 plate number you memorized? Page 1 -- at the bottom.

19 A. Yes.

20 Q. Okay. And that's that same -- UFV 626, you just
21 testified about?

22 A. Yes.

23 Q. All right. Now, during your interview, did
24 Investigator Short do something to be called a photo line?

25 A. Yes.

1 Q. And before he shoved you the lineup, what did you
2 say about whether you would be able to identify the shooter
3 if you saw his face again? Did you ever identify his face?

4 A. Oh, yeah. I said I 100% definitely would be able
5 to identify his face.

6 Q. Okay.

7 MS. TAYLOR: (Demonstrating).

8 (Showing State's 3.)

9 MS. ZMROCZEK: Subject to my previous objection,
10 Your Honor.

11 BY MS. TAYLOR:

12 Q. I'm gonna show you --

13 THE COURT: Yes, ma'am.

14 BY MS. TAYLOR:

15 Q. -- what's been marked as State's 3, and tell me
16 if you recognize what this is.

17 A. Yes. This is the affidavit and the photo lineup.

18 Q. Okay. And then that fairly and accurate
19 represent the lineup that you did?

20 A. Yes.

21 Q. Okay. And that -- is that your signature on the
22 first page and your initials on the second page?

23 A. Yes.

24 MS. TAYLOR: State requests to move Number 3 into
25 evidence.

1 THE COURT: All right. It'll be admitted as
2 State's 3 subject to the pretrial objections.

3 (State's Number 3 marked.)

4 BY MS. TAYLOR:

5 Q. Okay. Let's scroll. So that first page. Is
6 that your signature on it?

7 A. Yes.

8 Q. Okay. Let's go to the second page. Okay. And
9 at any point during your interview and -- or before he
10 showed -- showed you these photos, did Investigator Short
11 mention the name Jaquan King to you?

12 A. No.

13 Q. Did he ever show you any pictures of him?

14 A. No.

15 Q. But at some point in these last couple years,
16 you've learned that he was arrested for this incident?

17 A. Yes.

18 Q. But at that -- this time you had no idea who he
19 was?

20 A. Correct.

21 Q. All right. And when you did your photo lineup,
22 other than Investigator Short, was there anyone else in
23 there?

24 A. No.

25 Q. Okay. And when you looked at the photos in this

1 lineup, did you identify anyone out of that lineup in
2 relation to the shooting?

3 A. Yes, I did.

4 Q. And what was the number photo you selected?

5 A. Six.

6 Q. And what did you identify the person in photo
7 number 6 as doing during the lineup?

8 A. He was the shooter.

9 Q. And who did you see him shoot?

10 A. I saw him shoot Ms. Yolanda and Jacob.

11 Q. Okay. And to indicate your selection of Number
12 6, did you circle his photo and put your initials down?

13 A. Yes, I did.

14 Q. Okay. And the person in Photo Number 6 that you
15 identified as the person you saw shoot Yolanda and Jacob,
16 do you see him in the courtroom today?

17 A. Yes, I do.

18 Q. Okay. And can you describe where he's sitting
19 and what he's wearing?

20 A. He is sitting right next to the lady in the green
21 at that table, and he has on a white dress shirt and a
22 black coat.

23 MS. TAYLOR: Okay. Let the record reflect that
24 the witness has identified the Defendant.

25 THE COURT: So noted.

1 BY MS. TAYLOR:

2 Q. And as you see Jaquan King today, is there
3 anything different about his physical appearance compared
4 to how you saw him three and a half years ago?

5 A. Yes. I can notice his beard today and his locks
6 are longer.

7 Q. Now, back in -- when you did his interview with
8 Investigator Short, did anyone -- did he ask you about his
9 beard?

10 A. No.

11 Q. Okay. And when you picked Jaquan King's photo on
12 this lineup, how sure were you?

13 A. 1000%.

14 Q. And when you looked at his photo in the lineup,
15 what, if any, of his physical features matched the person
16 you saw -- the shooter as that night?

17 A. I'm sorry, can you rephrase the question?

18 Q. So looking at this lineup, and I believe it's in
19 your statement, as well, on Page 2, what was it about the
20 person in photo 6 -- his physical features that made you
21 know for sure that this was the person you saw as the
22 shooter? Third question.

23 A. I'm sorry, can you repeat the question?

24 Q. So on Page 2 of your statement --

25 A. Page 1, 2.

1 Q. They asked you, "Do you recognize anyone from
2 this lineup?" And you told them specific physical features
3 that you recognized the person in this photo having that
4 made you recognize that he was a shooter. What were those
5 physical features?

6 A. I said, "Yes", Number 6, same face and dreads.

7 Q. Same face?

8 A. Yes.

9 Q. And same dreads? Okay.

10 A. Yeah. Yeah. I said, "Six -- same face and
11 dreads."

12 Q. Okay.

13 A. Correct.

14 Q. And is the person in Photo Number 6 the person
15 you saw with the gun in his hand?

16 A. Yes.

17 Q. Is that the same person you saw arguing with
18 Jacob?

19 A. Yes.

20 Q. Okay.

21 A. Not -- excuse me. Not initially, though.

22 Q. Okay. But later on --

23 A. Later.

24 Q. Okay.

25 A. Right.

1 Q. And is that the same person you saw shoot Jacob
2 and Yolanda?

3 A. Yes.

4 Q. And when you identified Photo Number 6 in your
5 lineup, did Investigator Short influence you or suggest you
6 could pick?

7 A. No. Not at all.

8 Q. All right. So let's turn to another description
9 you gave in your written statement in your interview. So
10 on August 3rd during your interview with Investigator
11 Short, did you give a description of another man that you
12 noticed outside during the argument?

13 A. Yes, I did.

14 Q. Okay. And can you describe what you observed him
15 doing during the argument? Or let me put it this way. The
16 person that you described, was he acting as aggressively as
17 Mr. King?

18 A. The gentleman who was initially arguing was
19 actually acting more aggressive than Mr. King.

20 Q. So I'm talking about during the second argument,
21 like in the parking lot. Did you talk about a man trying
22 to de-escalate the situation?

23 A. Yes. There was -- there was one who, I do
24 believe, was trying to de-escalate it. You could tell that
25 he really did not want things to go the way that they ended

1 up going.

2 Q. Okay. And what was his physical description?

3 A. He was tall. He was about six-five, probably
4 six-six. He looked like he played college basketball.

5 Q. Okay. And after the shooting, did you see that
6 guy?

7 A. I did. I saw him hesitate to leave.

8 Q. Okay. Who did you see him leave with?

9 A. Mr. King and his associates.

10 Q. Okay. And you described his demeanor as he -- he
11 hesitated. Like, describe how he was looking after the
12 shooting.

13 A. He had a look of fear in his face that I've
14 honestly never seen in somebody's face --

15 Q. Okay.

16 A. -- before he got into that car.

17 Q. And this is the man that you said was as tall as
18 a basketball player?

19 A. Yes.

20 Q. Now that guy, did you ever see him shoot Yolanda
21 or Jacob?

22 A. No.

23 MS. TAYLOR: No further questions.

24 CROSS EXAMINATION

25 BY MS. ZMROCZEK:

1 Q. Morning, Mr. Pate. You -- who's Joseph Tyner?

2 A. Joseph Tyner? I have no idea.

3 Q. You don't know him at all?

4 A. Oh, you talking about Joe from the bar?

5 Q. Yeah. Yeah. Joe from the bar.

6 A. Okay.

7 Q. Yeah. You know Joe?

8 A. Yeah.

9 Q. Okay. You and Joe were together that night in
10 the parking lot talking to the police?

11 A. I believe so.

12 Q. Okay. And in fact that 9-1-1 call I believe it
13 states --

14 MS. ZMROCZEK: Court, can we play the whole
15 thing, please? Thank you.

16 (Phone recording played.)

17 BY MS. ZMROCZEK:

18 Q. As we can hear in real-time, it was very chaotic,
19 right?

20 A. Yes. It was -- it was loud. It was very loud.

21 Q. Okay. People were all over the place?

22 A. It was very loud.

23 Q. Okay. People were all over the place?

24 A. There were people outside.

25 Q. Okay. People were leaving?

1 A. Possibly,

2 Q. Possibly?

3 A. Possibly. Well, Jaquan and his friends
4 definitely left. Yes.

5 Q. Right. Other cars were leaving as well?

6 A. Again, that's -- I just told you who I saw
7 leaving.

8 Q. Okay. Is there a reason that you do -- you do
9 not remember, or I'm not asking the question correctly?

10 A. I'm just answering the question.

11 Q. Okay. Did you see two black Chargers leaving?

12 A. I don't recall.

13 Q. You -- how many lineups were you shown throughout
14 the investigation of this case?

15 A. I don't recall exactly how many, but I know at
16 least two.

17 Q. At least two. And the second group of lineups
18 had at least three separate lineups in them, correct?

19 A. I'm sorry, can you rephrase the question?

20 Q. Sure. You were shown on August 3rd the lineup
21 that -- that you have there, and then you came back and
22 were shown three additional lineups afterwards, correct?

23 A. I don't recall coming back.

24 Q. Okay. So you were shown two lineups that day
25 then? And I -- I -- I'm not trying to trick you, I'm just

1 trying to make sure I understand.

2 A. I'm not necessarily sure when it was, but like I
3 said, I know that I was shown at least two lineups.

4 Q. Okay. But you don't remember, were they at the
5 same time?

6 A. I can't tell you exactly the day. That was four
7 years ago, ma'am.

8 Q. Sure. But on the day that you 1000% picked this,
9 how many lineups were you shown?

10 A. I just told you, ma'am, that was four years ago.
11 I can't clarify.

12 Q. Okay. And you -- so today you were asked a
13 question about how Mr. King -- where you called him Jaquan
14 or -- I'm not sure what you called him, but you -- you
15 asked how he looked different and today you said his beard
16 is thicker, right?

17 A. From this photo, correct.

18 Q. Sure. When did you ever tell police that the
19 person that you saw shooting had a beard?

20 A. They never asked.

21 Q. Okay. They didn't ask you to describe him?

22 A. Yeah. I did describe him.

23 Q. Okay. And tell me again how you described him.

24 A. I described him as, he was probably about six-one
25 or so, taller than me, about 190 pounds. He was a black

1 guy, darker than me, brown skin. He had dreadlocks pulled
2 back in a ponytail. If his hair was down, it would be more
3 than about -- it would be about shoulder length.

4 Q. Okay. And then at the very end of that statement
5 I -- and so I want to actually, before I get to the end of
6 the statement, let me rephrase that or just make sure I
7 remember. That night, you said his hair was pulled back in
8 a ponytail, right?

9 A. Correct.

10 Q. Okay. And then at the end of that statement,
11 which would be Page 2, they asked you if that was the
12 truth, right? And did you ever -- so did you ever say,
13 "Oh, wait, I need to tell you he had a beard" as I -- as
14 you're describing his features? Did he ever -- did -- did
15 you ever give a description of the beard? Even though they
16 didn't say, "Did he have a beard?"

17 A. I did not say that.

18 Q. Okay. You did not say that. Now, you did say --
19 you described -- so they asked you -- they -- the police on
20 August 3rd, they asked you to describe the man -- excuse me
21 -- describe the guy that started the confrontation with
22 Yolanda. Right?

23 A. Yes.

24 Q. Okay. And tell the jury how you described that
25 guy.

1 A. I described him as dark-skinned about five-ten or
2 so, not as heavy as the shooter, maybe 150 or 160, and had
3 a scruffy, rough beard with -- he had a little afro.

4 Q. Okay. So that's the guy that was the initial
5 confrontation with Yolanda?

6 A. Correct.

7 Q. Okay. And the -- what was he wearing? The guy
8 with the initial --

9 A. I have no idea.

10 Q. Okay. What was the person that you said you saw
11 the shooter wearing?

12 A. I have no idea. I don't know what I was wearing.

13 Q. Okay. And you saw the gun, right?

14 A. Correct.

15 Q. And -- and Monday when you testified under oath
16 and I asked you what color it was, you couldn't recall, but
17 your memory's been refreshed since then?

18 A. Oh, no, it definitely hasn't been refreshed.
19 Like I said, I said it was not a colorful gun, I can
20 promise you that.

21 Q. Right. On Monday, you said it was a handgun,
22 right?

23 A. Correct.

24 Q. And I asked you what color?

25 A. And I said a handgun.

1 Q. Right. Multiple times.

2 A. Yep.

3 Q. And -- and -- but today it's -- it was black
4 and/or gray. Is that what you --

5 A. Correction. I said it was not a colorful gun.

6 Q. Right.

7 A. It was no -- put it this way for you. It was no
8 unordinary colored gun, like, you know, a purple. Exactly
9 as I just described to Ms. Taylor. It wasn't purple, it
10 wasn't orange, it wasn't pink, it wasn't green.

11 Q. Okay. Was it gray?

12 A. It wasn't anything that would've stood out.

13 Q. Okay.

14 A. Which means basically it had to be the color of a
15 typical gun, which is either way, black, gray, silverish,
16 chromish. There you go.

17 Q. Okay. But you saw him not only walking around
18 with it, and in which hand was that?

19 A. Did I ever say that?

20 Q. I -- I -- I'm asking you.

21 A. I never said what hand it was in.

22 Q. Okay. I'm asking you now, do you know which hand
23 it was in?

24 A. I do not.

25 Q. Okay. So -- so -- but you see him walking around

1 with this normal looking black, silver, gray, chrome gun --
2 handgun. And -- and then at some point you said that he
3 walked up to -- or he put the -- the gun on Yolanda's
4 chest. Is that -- is that -- I just want to make sure I
5 heard that correctly.

6 A. I do believe, yes. That I saw him shoot,
7 actually, Yolanda, it was in the chest, yes. Chest,
8 somewhere in this area. Chest, stomach. Somewhere in this
9 (indicating) area.

10 Q. Okay. I didn't mean --

11 A. It wasn't in the lower stomach. I can promise
12 you that.

13 Q. No problem. Okay. But I guess the point that I
14 was trying to focus on is you saw him take that gun and put
15 it up to her and shoot?

16 A. Oh, yes.

17 Q. Okay. And -- and so then I want to ask you,
18 obviously you -- you've used your statement today to
19 refresh your recollection, right?

20 A. Correct.

21 Q. Okay. And that's because when -- when things
22 happen closer in time, they're more immediate to remember,
23 right?

24 A. Not necessarily. It was just certain things that
25 I needed to go and look at. Just certain things.

1 Q. Okay. You -- this other guy that you described,
2 you said he was about six-five or six-six?

3 A. Correct.

4 Q. Okay. And he was de-escalating, I think, or
5 trying -- or he was -- you said he had a look of fear that
6 you'd never seen before or --

7 A. That was -- yes. That was after the shooting had
8 occurred and they all went back to get in the car. He
9 hesitated.

10 Q. Okay. And so with your clear vision of that
11 night, the only person that had the gun, you say, is Mr.
12 King, right?

13 A. From what I saw.

14 Q. Okay. From what you saw. You only saw one gun
15 and it was from Mr. King. And they weren't acting
16 together, it's just you said that he kind of came in and
17 shot and then that was it, right? They -- they -- he
18 wasn't being encouraged? He wasn't --

19 A. Oh, yeah. No, no. None of his friends was like
20 "Shoot her. Shoot her." Yeah. No.

21 Q. Okay. And -- and the other friends, there were
22 four of them you said. So we have the -- the -- we had the
23 description of Mr. King.

24 A. Four in total.

25 Q. Right. Right, right. Hair and braids. We had

1 the initial guy four-ten, the little scruffy beard.

2 A. Five-ten.

3 Q. Sorry, five-ten. Four -- scruffy beard, a short
4 afro, I think, right?

5 A. Correct.

6 Q. Okay. And then the third guy who was super tall.

7 A. Correct.

8 Q. And I think you said six-five to six-six, would
9 it surprise you to learn that -- that -- well, you wouldn't
10 know that. Okay. And what else was he describing? How
11 else would you describe him?

12 A. Who? The -- the --

13 Q. The -- the super tall --

14 A. The tall -- again, like I said, like a college
15 basketball player.

16 Q. Okay. But I mean, like facial features, things
17 like that. Hair?

18 A. I can't recall necessarily.

19 Q. Okay. And what about the forth guy? What did he
20 look like?

21 A. The forth guy I -- him I can't really necessarily
22 remember exactly what he looked like.

23 Q. Okay. And you were -- when you were working with
24 the -- or not working. When you were -- when the police
25 came, they came relatively quickly, right?

1 A. Correct.

2 Q. And you remember talking to them? They all had
3 body cams on?

4 A. Okay.

5 Q. Do you -- do you remember that?

6 A. I can't recall if they had on body cam or not.

7 Q. Okay. All right. I just showed you what's
8 already in evidence as State's 4. Do you know that person?

9 A. Yeah. That's Joe.

10 Q. That's Joe Tyner?

11 A. Yep.

12 Q. That we heard on -- on the beginning of your
13 phone call?

14 A. Correct.

15 Q. Okay. And this is Defense 6, I think I already
16 said State's 5, but that was Defense 4. Sorry, just so the
17 record's clear. But Defense 6, do you see yourself in that
18 picture?

19 A. Yes, I do.

20 Q. Okay. What -- what are you wearing?

21 A. I'm wearing my black and white G-Star T-shirt.

22 Q. Is this you as well? Or is that somebody else?

23 A. Yeah. No. That's definitely not me.

24 Q. All right. So where are you in this?

25 A. I'm right -- right there. I believe, unless

1 somebody has another T-shirt that looks exactly like my
2 black and white G-Star -- with the white around the --

3 Q. Okay. There (indicating)? That -- that's you
4 right there, right?

5 A. Right. I believe.

6 Q. Okay. Oh --

7 A. Like I said, that T-shirt, that's -- I definitely
8 have a T-shirt that looks exactly like that, and that's
9 definitely one of my favorite T-shirts.

10 Q. Okay. And -- and you had -- did you have a beard
11 then too?

12 A. I don't recall.

13 Q. Okay. When you -- went -- okay. You already
14 said you don't recall when you went to, or when you saw all
15 those lineups. Have you kept in contact with the family
16 since?

17 A. Yes. Somewhat, to an extent.

18 Q. And recall -- so when you testified on direct --
19 I want to make sure. So you -- I want to make sure I
20 understood correctly. So you come outside either right
21 before or with, or right after Yolanda? Right?

22 A. Right.

23 Q. And where are -- at that point, where are the
24 four males standing?

25 A. Right outside the doors.

1 Q. Just literally right outside the doors of
2 Tsubaki?

3 A. Right.

4 Q. To the right or to the left?

5 A. To the right.

6 Q. Okay. And --

7 A. Well, it depends on which way you're talking
8 about. If you're coming from out, then they're on your
9 right. If you're going in, they're on your left.

10 Q. So if I'm looking at it, they would be on the
11 left closer to Inakaya door?

12 A. Correct.

13 Q. Okay. And have you -- you had been in that area
14 before?

15 A. Yes.

16 Q. To Tsubaki in Oneil Court --

17 A. Yes.

18 Q. -- in all those. Okay. Have you been in
19 Inakaya?

20 A. Yes.

21 Q. Okay. In fact, there's a camera right over that
22 door of Inakaya, isn't there?

23 A. I don't recall if there's a camera or not.

24 Q. Okay. You described today where the car was
25 parked. The -- the Ford.

1 A. Right.

2 Q. Okay. And -- and did you ever give -- did you
3 ever tell the police or anyone where the car was parked?

4 A. They didn't ever ask.

5 Q. Okay. And so I just want to make sure that I
6 understood where you said they were today. And I'm going
7 to give you a couple of -- of State pictures. What I'm
8 probably -- I'm going to show you -- I'm going to put it up
9 on the board for everybody, State's 6. Okay?

10 A. Okay.

11 Q. It's the best picture of the parking lot that I
12 can see.

13 A. Okay.

14 Q. Okay. Can you see that okay on the screen?

15 A. Yes.

16 Q. Okay. Thank you. So can you see -- because --
17 and I wrote it down because I wanted to make sure that I
18 didn't misquote you. You said the second -- first or
19 second row, or second or third? I'm not 100% --

20 A. I -- I said first or second.

21 Q. First or second.

22 A. Correct.

23 Q. Okay. And so when you say first or second row,
24 do you mean --

25 A. I mean, the two handicap spots. One handicap

1 spot is one row, the next handicap spot starts another row.

2 Q. Okay. So when you say row, do you mean this
3 (indicating) way or do you mean this (indicating) way?

4 A. Again, ma'am, do you see there's two handicap
5 spots?

6 Q. I do. Okay. Okay. Okay. So one in front of
7 the other? Perfect.

8 A. There we go.

9 Q. Perfect. That's what I was saying. Okay. So
10 where are you saying that the -- that the Ford --

11 A. It was parked -- it was parked to from where I'm
12 looking at right now, where that gray Ford truck is.

13 Q. Mm-hmm (affirmatively).

14 A. It would've been on the other side of it.

15 Q. Okay. And so if I understand you correctly, when
16 you say other side --

17 A. To the left.

18 Q. -- yeah. Right -- right here (indicating)?

19 A. Correct. Somewhere in that area. Right there.
20 Yes. Correct.

21 Q. Somewhere in that area?

22 A. Correct.

23 Q. Okay. But -- but you're not quite sure exactly
24 where in that area?

25 A. Oh, no. I just told you. Somewhere right there.

1 Q. Somewhere right there. Got it. Okay. When you
2 are looking at it and then you said you see "all four
3 scattered", I think was the term you used --

4 A. Correct.

5 Q. -- in -- in your statement. Because when --
6 that's a poor question I'll move on. When you -- but you
7 saw them all run to the car? All four of them?

8 A. Correct.

9 Q. Okay.

10 A. And the forth -- like I said, the tall one -- the
11 college basketball player --

12 Q. Correct.

13 A. -- right. Yeah. He -- he had -- he was
14 hesitant.

15 Q. He was hesitant?

16 A. He was hesitant to get into the car.

17 Q. Okay.

18 A. Because he probably knew what the results of him
19 getting back into that car were gonna end up being.

20 Q. Okay. What were those?

21 A. Well, his friend just literally shot two people,
22 so it would be a pretty stupid decision to get in the car
23 with somebody who just shot two people in broad day --
24 well, not broad day light, I apologize, but in public.

25 Q. And then where did he -- where -- when he was

1 hesitant to get in the car, where did he get into the car?

2 A. He got in on the back, right side.

3 Q. Did he take driver or passenger just because --

4 A. Okay. So he got in on the passenger back seat.

5 Q. Okay. Okay. And -- and you didn't see where you
6 say Mr. King got in the car?

7 A. No. The only reason that I saw where he got in
8 is because again, like I said, he hesitated. Everybody
9 else immediately got into the car, he got to the door and
10 like I said, looked and kind of had like a deer in the
11 headlights for a few seconds before he decided to actually
12 get into the car.

13 Q. Okay. And, in fact, he -- Sorry. You said that
14 he was noticeably younger than everyone and physically
15 bigger --

16 A. Correct.

17 Q. -- in your statement? When you say physically
18 bigger, you mean tall?

19 A. Correct.

20 Q. Okay. All right. And when you were describing
21 Mr. King on Monday, you said, do you remember what you said
22 about how you described him that night?

23 A. Yeah. I said that he was -- yeah. I said that
24 he was -- like I said, he was -- he was six-one, whatever.
25 I said his build was similar probably to about like that

1 equivalent of like a tight end.

2 Q. Okay. Of a tight end. Okay.

3 A. Correct.

4 Q. Good. And -- and then, of course, you've met
5 with the solicitor's office to prepare for today, right?

6 A. I did.

7 Q. Okay. And -- and then at that time you said that
8 the car was --

9 A. Correction, ma'am.

10 Q. Oh, sorry. Go ahead.

11 A. When you say prepare for today, can you rephrase
12 that question?

13 Q. You met with the solicitor's office to discuss
14 your testimony -- to tell them what happened to make
15 changes. Can you tell me --

16 A. Yes. I -- I met with them to let them know what
17 I observed.

18 Q. Okay.

19 A. Not to prepare me.

20 Q. Okay. To let them know what you observed.

21 A. Correct.

22 Q. And so a couple of different things to let them
23 know what you observed -- and this was in 2024 that you met
24 with them, right?

25 A. I guess so.

1 Q. Okay. It -- within the last couple of months, or
2 last year?

3 A. It wasn't within the last couple months.

4 Q. Okay. Okay. And then you -- and at that point
5 you told them that the car was parked by the light pole,
6 right?

7 A. Correct.

8 Q. Okay. And that -- that he walked to his car and
9 came back to the second argument in the parking lot and was
10 walking up to people including you with a gun, moving it
11 back and forth from his waistband.

12 A. Where did I say that?

13 Q. To -- when you were telling the solicitor's
14 office what you saw?

15 A. I said he was moving it back and forth on his
16 waistband?

17 Q. Those are the notes that I have. Did you not say
18 that?

19 A. That he was moving it back and forth on his
20 waistband? Like he was rubbing his stomach with his gun?

21 Q. I -- I'll read you what I have. "Walking up to
22 people -- including Devin, with a gun in his hand, moving
23 it back and forth from waistband saying, 'What's up?
24 What's up? What y'all tryna do? You don't want these
25 problems."

1 A. Okay.

2 Q. Does that refresh what you said?

3 A. Possibly. I don't recall exactly saying that
4 specifically, but if that's what I said, that's what I
5 said.

6 Q. Okay. And so at what point -- so how was he
7 moving it back and forth from his waistband, was my next
8 question?

9 A. That was four years ago.

10 Q. Okay. And when you say the argument happened by
11 the light pole and the silver SUV in -- are you saying that
12 -- sorry, that's easier point from over here. Is -- would
13 that be -- did the argument happen here (indicating) or
14 over here (indicating)?

15 A. No. The argument happened like to the right of
16 the -- of the silver SUV.

17 Q. Okay.

18 A. Not close to -- not right next to where their car
19 was at.

20 Q. Do you mind showing me on here (indicating on
21 board) so I can point there?

22 A. So like, the argument happened, like, in this
23 area.

24 Q. Okay. Okay. So I was -- yeah. So where I was
25 -- was pointing, but -- but -- so it was in -- and I'll

1 make sure I'm -- I'm not misquoting you. In this area,
2 right?

3 A. You can make a circle a little bit bigger coming
4 back this (indicating) way.

5 Q. This way (demonstrating)?

6 A. Like pretty much like -- yeah. Like those first
7 four spots into where like the blood is at.

8 Q. Mm-hmm (affirmatively).

9 A. Yes. Within that vicinity.

10 Q. Okay. Okay. And -- and that's where -- and
11 that's where the actual shooting took place, is that -- is
12 that -- that's what you recall?

13 A. Yes.

14 Q. Okay. Now, do you recall, again, when you met
15 with the solicitor's office in -- within the last year --
16 is that -- is that fair? Within the last year?

17 A. If -- if that's what it was.

18 Q. Okay. All right. Do you recall describing Mr.
19 King's body as solid closer to 220, to 230?

20 A. I don't recall, but if that's what I said then,
21 yes.

22 Q. Okay. But again, when you talked to the police
23 on August 3rd, you said "Six-one, about 190"?

24 A. Correct.

25 Q. Okay.

1 A. Now the question., You said when I talked to the
2 solicitor, I said what size was he? I know you said the
3 weight. I know the weight you said, you said about 220 or
4 230, correct.

5 Q. Described his body as solid --

6 A. Solid, correct.

7 Q. -- closer to 220 --

8 A. Okay. Got you.

9 Q. Okay.

10 A. Cool. So still within the vicinity of a tight
11 end.

12 Q. Perfect. And -- of a tight end. Yes.

13 A. Correct. And I do apologize. It was four years
14 later, so I do apologize that I was 30 pounds off.

15 Q. Okay.

16 A. Muscle mass, fat, those things, I mean, 30 pounds
17 can definitely go -- it can go a couple of different ways
18 when you're six-foot-one, six-two, whatever.

19 Q. Sure. It can -- can affect how face looks.
20 Thirty pounds can change weight and his face looks?

21 A. A lot of stuff.

22 Q. Mm-hmm. Okay. Beg the Court's indulgence. I am
23 gonna show you what's been marked as Defendant's 25 and 26
24 and ask if you recognize anyone in those pictures.

25 A. Yes. This is me with my G-Star shirt on.

1 Q. Okay. All right. And that -- and in both of
2 them?

3 A. Correct.

4 Q. Okay. And so -- and so you -- you definitely had
5 a beard, right?

6 A. Definitely had a beard.

7 Q. That's a good close-up of you, right?

8 A. Yes, it is.

9 Q. Definitely had a beard. That was definitely you
10 talking to the officers?

11 A. 100%. 100%.

12 Q. Okay. And there were several people -- when the
13 officers were -- were talking to y'all and kind of trying
14 to ask what happened, you weren't just talking to them by
15 yourself, right? Joe was -- Joe was close by with you when
16 y'all were talking?

17 A. I imagine so.

18 Q. Okay.

19 A. Joe -- Joe was --

20 Q. Joe was hammered?

21 A. Joe was pretty loud.

22 Q. Okay. Joe was pretty hot. He had a lot of
23 drinking, in fact, he did admit it and said so on the body
24 cam.

25 A. Gotcha.

1 Q. And so when y'all were talking, you were but --
2 but y'all were just kind of trying to fill in what happened
3 when the officer was asking you, "Just tell me everything.
4 Tell me what you remember," right?

5 A. Correct.

6 Q. Okay. And -- and then when you went down in
7 August, who -- who did you go down with? I know that there
8 was nobody in the room with you, but who did you go to the
9 police department with to go give your statement?

10 A. I may have had my son who was about one-year-old
11 at that time with me.

12 Q. Okay. All right. So you had a one-year-old son
13 at home this night?

14 A. I'm sorry, you're saying, did I have a
15 one-year-old son at home, like the night of the shooting?

16 Q. Right, right, right, right. He was obviously,
17 wasn't at the bar.

18 A. He -- he was with his mom. We told the --

19 Q. With the mom, sure. And so -- but when you came
20 down, were -- did you come down with the -- the family as
21 well? Did you see them in the -- in the lobby area?

22 A. I saw -- I saw them there.

23 Q. Okay. Yeah. Because there was -- there was a
24 group of -- of y'all -- of them and you. Obviously you all
25 weren't giving statements at the same time, but y'all were

1 in the lobby room waiting area, right?

2 A. Right. I can't say that I saw all of them in the
3 lobby.

4 Q. Mm-hmm.

5 A. I do remember, I believe, maybe Sheena or another
6 family member. There was -- there was one woman who was in
7 the family that obviously, you know, held my son for me
8 while I went to the back to --

9 Q. To do your thing?

10 A. Yeah.

11 Q. Okay. And again -- and you don't remember how
12 many lineups you were shown that day?

13 A. Right.

14 Q. Okay. But you know you were shown two at some
15 point?

16 A. Right. Because the -- the only other person that
17 I could guarantee -- I know -- pick out of the lineups --

18 Q. Mm-hmm.

19 A. -- were -- was the gentleman who I said looked
20 like the college basketball player. I know that as soon as
21 I saw his face on the lineup, I was able to immediately
22 pick him.

23 Q. Okay. And -- but you can't remember what day
24 that was?

25 A. Correct.

1 Q. Okay. That's fine. And you -- just talking
2 about looking at the pictures, listening to the 9-1-1 call,
3 kind of seeing that there were a lot of patrons there --

4 A. Right.

5 Q. -- right? In fact, you were in Tsubaki that
6 evening, that's where you met the family and met up with
7 them.

8 A. Correct.

9 Q. Okay. And you were doing karaoke?

10 A. Yeah, I do. Yeah. Karaoke, food.

11 Q. Okay.

12 A. Yeah.

13 Q. Singing karaoke I guess is a better way to say
14 that.

15 A. Yeah.

16 Q. And -- and, in fact, that tall basketball player
17 was doing karaoke in there too, wasn't he?

18 A. I don't recall.

19 Q. You don't recall?

20 A. Like I said, I don't even recall necessarily
21 seeing them. And I remember when they had gotten to the
22 bar, like I said, I'd been out front smoking a cigarette
23 and I do remember when they had gotten there.

24 Q. Okay. And what -- at what time was that?

25 A. Not too long before closing, to be honest. It

1 had to be within, like, maybe an hour, maybe even half hour
2 before closing.

3 Q. Okay. Okay. And then you -- so you had seen
4 them before all of this happened, right?

5 A. Right.

6 Q. Okay. And there were no problems. You walked
7 by, you saw the tall guy, you saw him all together, right?

8 A. Right.

9 Q. And walking in, you got a good look at them?

10 A. Right. I mean, like I said, when you see
11 somebody who's like six-five, six-six, they're gonna stick
12 out like a sore thumb.

13 Q. Right. Draw your attention to it every time?

14 A. Right.

15 Q. And no problems? No, no, no being aggressive?
16 No nothing at that time?

17 A. No.

18 Q. There were, like I said, not just those people
19 either in or outside the bar, but there were a lot of --
20 lots of groups of people, right?

21 A. I imagine so. I mean, Tsubaki -- I mean, it's
22 only so big, so I mean, it couldn't have been no more than
23 maybe, you know -- I imagine maybe 50 people, 60 people at
24 the very, very most.

25 Q. On Saturday night, right?

1 A. Right.

2 Q. Okay. And -- and -- and y'all were, everybody in
3 there was having a good time?

4 A. Right.

5 Q. Okay. And when this -- and -- and when it was
6 closing time, around two o'clock-ish, right? People have
7 to either go in the parking lot or go home, right?

8 A. Correct.

9 Q. And so there were cars in the parking lot that
10 were all leaving right around this happened, especially
11 after you hear gunshots, right?

12 A. Okay.

13 Q. I -- I wasn't there, but --

14 A. I -- I -- you asked me that same question about
15 10 minutes ago when I told you I don't know exactly when,
16 who, what left.

17 MS. ZMROCZEK: All right. Perfect. I believe
18 those are all the questions I have, Your Honor.

19 THE COURT: Anything on redirect?

20 MS. TAYLOR: Yes, Your Honor.

21 REDIRECT EXAMINATION

22 BY MS. TAYLOR:

23 Q. Okay. So Ms. Zmroczek initially replayed the
24 9-1-1 video for you and you said that you recognized Joseph
25 Tyner's voice from that?

1 A. Right.

2 Q. Okay. Now, you can't sit up here and testify to
3 what Joseph Tyner saw and -- and said on that 911 call?

4 A. No. Not at all.

5 Q. So your perception of what you saw is not same as
6 what he saw?

7 A. No. Not at all. One, he wears glasses and --
8 yeah.

9 Q. Okay.

10 A. Two, he was being pretty loud, so --

11 Q. He was -- he was drunk?

12 A. He, probably, more than likely he was.

13 Q. All right. Now, she asked you about the -- there
14 were four guys who identified Jaquan King. She asked you
15 about the basketball player looking guy, the third guy and
16 the fourth guy. And I believe you said that Jaquan King
17 was the only one you saw had a gun, right?

18 A. Correct.

19 Q. Were you focused on the other three guys?

20 A. No.

21 Q. If they had a gun, would you been focused on
22 them?

23 A. Probably so, yeah. I'm pretty sure. Yeah. If I
24 -- if I was seen anybody with a gun because, you know,
25 within reasonable distance of me while an altercation's

1 going on, I definitely would, you know, need to pay
2 attention to that. Unless, like I said, when I saw Mr.
3 King with the gun, I kind of was zeroed in on him, so even
4 if somebody else would've had a gun, I was just kind of
5 zeroed in on him at that point. So, yeah...

6 Q. And you didn't see any of those other three guys
7 arguing with Jacob after Jaquan pulled out the gun, did
8 you?

9 A. I can't necessarily say if -- if anybody was
10 still arguing it would've been the same gentleman who,
11 excuse me, correction. Can't call him the gentleman. It
12 would've been the guy who had made the rude pass at Ms.
13 Yolanda.

14 Q. But you know for sure the person that -- one of
15 the people that was arguing with Jacob was definitely
16 Jaquan King?

17 A. Correct.

18 Q. And he had the gun?

19 A. Correct.

20 Q. All right. She asked you a lot about, you know,
21 you didn't tell police about he had a beard, you know, you
22 didn't tell him where the car was parked. When you were
23 giving your interview with police on, I guess August 1st at
24 the scene and August 3rd again at the Sheriff's Department,
25 did your interview last a hour and a half?

1 A. I don't believe so.

2 Q. Okay. And did you have a prosecutor and defense
3 attorney asking you hundreds of questions?

4 A. No.

5 Q. Okay.

6 A. And I'm so sorry, just making sure. You're
7 talking about when I came -- met with the solicitor's
8 office?

9 Q. No. Anytime that you spoke to the police
10 department?

11 A. Oh yeah. No, no, no. That definitely wasn't
12 that long. It definitely wasn't a lot of questions.

13 Q. All right. Now, she asked you about who you rode
14 with to the police department to give your interview, you
15 know, were the victim's family there or whatever. If you
16 saw them in the lobby, did y'all discuss and have
17 conversations about physical descriptions of the shooter?

18 A. No. Not at all.

19 Q. Okay.

20 A. No. The only discussion that I remember actually
21 having was like I said with -- and I apologize. It was
22 either Ms. Kiara or another woman in the family who offered
23 to hold my child while I went and did the lineup and
24 things.

25 Q. Okay. So Ms. Zmroczek asked you about how many

1 lineups you were shown and you said that you definitely
2 recall two. So one would've been Jaquan King and another,
3 you said, was the basketball player guy?

4 A. Right.

5 Q. Okay. And she asked you again about, you know,
6 his height, what he was doing, and she asked you multiple
7 questions about this guy. And you said you were able to
8 identify him?

9 A. Right. Him -- you talking about Jaquan --

10 Q. The basketball player.

11 A. Correct. Yes, yes.

12 Q. Okay. So I want to show you what's been marked
13 as State's 34.

14 MS. ZMROCZEK: Thirty-six?

15 MS. TAYLOR: Thirty-four.

16 MS. ZMROCZEK: Thirty-four. Thank you.

17 BY MS. TAYLOR:

18 Q. I want to show you what's been marked as State's
19 34. Can you tell me if you recognize what these 2 pages
20 are? Is that one of the lineups that you did?

21 A. Yes. This is another lineup affidavit.

22 Q. Okay.

23 A. And, yep, that's the basketball player.

24 Q. Okay. So let me get this (grabbing document).

25 All right. So looking at that, is that your signature on

1 the front page?

2 A. Yes.

3 Q. Okay. And do you remember another investigator
4 coming to your house to complete this lineup? Barbara
5 Drive address?

6 A. It is.

7 Q. Okay. So this would've been done at your address
8 at your house?

9 A. Correct.

10 Q. Okay. And when you talked to this investigator,
11 he showed you this lineup?

12 A. Right.

13 Q. And did he -- did you give a description and kind
14 of detail what you saw the guy in this lineup doing?

15 A. Yes.

16 Q. Okay. Can you tell the Jury what you described
17 him as doing?

18 A. Again, he -- he didn't seem like he really wanted
19 any confrontation. He just saw that things went left and
20 again, when they were going to leave, they all immediately
21 ran and hopped in the car.

22 And like I said, he went to the car, but you could
23 tell that he had, like, hesitated and understandably so,
24 because it's like, "Do I get in the car with the guy who
25 just shot somebody or do I stay here with the people of the

1 family that he just shot and potentially put myself at
2 risk" or potentially put himself at risk of getting harmed.
3 So it -- I could definitely understand it was a difficult
4 decision.

5 MS. TAYLOR: Your Honor, I can't remember if I
6 requested to move this into evidence. But the State
7 request to put this into evidence.

8 MS. ZMROCZEK: Without -- without objection on
9 this one, yes.

10 THE COURT: All right. It'll be admitted as
11 State's 34 without objection.

12 (State's Number 34 marked.)

13 BY MS. TAYLOR:

14 Q. So looking at Page 2 of 34, are these -- do you
15 remember -- is this your initials?

16 A. Yes.

17 Q. Okay. And when you looked at this lineup, did
18 you identify that basketball player that you described to
19 the jury?

20 A. Yes.

21 Q. Okay. And what number is he in the lineup?

22 A. Five.

23 Q. Okay. And when you saw him at the scene on
24 August 1st at the shooting, did you see this person shoot
25 Jacob and Yolanda?

1 A. No.

2 Q. Now she asked you about how you described Jaquan
3 King's body type on August 3rd during your interview with
4 the Sheriff's Department, and then when you met with our
5 office. Now you said that he was solid, like a tight end.
6 Now, you've been in the courtroom different times this
7 week.

8 A. Correct.

9 Q. And looking at Jaquan King now, does he fit the
10 body type of the person you saw as the shooter?

11 A. Yeah.

12 Q. And so August 1st when the shooting happened, you
13 gave the police description on the scene, right?

14 A. Excuse me, I'm so sorry. What -- what was that?

15 Q. So August 1st, like you said about 10 to 15
16 minutes after the shooting when police got there, you gave
17 a description of the shooter?

18 A. Correct.

19 Q. Then on August 3rd, you come to the Sheriff's
20 Department, you give an interview, you give a description
21 of the shooter, and you identify him in the lineup?

22 A. Correct.

23 Q. Was there any doubt on August 1st or August 3rd
24 or today that Jaquan King is the person you saw shoot
25 Yolanda and Jacob?

1 A. No doubt at all.

2 MS. TAYLOR: Oh, sorry, no further questions,
3 Your Honor. I'm sorry.

4 THE COURT: Anything on recross?

5 RECROSS EXAMINATION

6 BY MS. ZMROCZEK:

7 Q. She asked you about -- so now you recall seeing a
8 second -- another lineup which you have the date, which --
9 which is the end of August of 2021, right?

10 A. Right.

11 Q. Okay. And at that time -- at that time, you were
12 actually shown three lineups with 18 people in them, right?

13 A. When -- when was that?

14 Q. On -- on -- on whatever day State's 34 has
15 written on it.

16 A. Again, like I said, I -- I never said that I knew
17 exactly when I did what lineups. I said that I know I did
18 at least two lineups, but I never said that I knew exactly
19 what dates that I did the lineups.

20 Q. Do you have State's 34 in front of you?

21 A. Should be, I don't put these so --

22 Q. State's 34?

23 A. Okay.

24 Q. Okay. What's the date on that? I'm -- I'm not
25 trying to trick you, I'm just trying to get the date.

1 A. Right. Oh no, you're not treating me at all
2 because I didn't say that I did them on the same day. So
3 yeah, this date says August 31st.

4 Q. Okay. And you recall on August 31st being shown
5 three additional lineups, one of which you picked?

6 A. As I said, again --

7 Q. Mm-hmm.

8 A. -- I do not recall what day I did how many
9 lineups for the third time.

10 Q. Okay. And... the tall guy wasn't violent, wasn't
11 active with anybody -- that's what you said.

12 A. Correct. One hundred percent.

13 MS. ZMROCZEK: Nothing further.

14 THE COURT: Anything else?

15 MS. TAYLOR: No. Not from the State. Can this
16 witness be released, please?

17 THE COURT: Any objection Ms. Zmroczek?

18 MS. ZMROCZEK: No objection.

19 THE COURT: All right, sir, you can step down and
20 you're released from your subpoena.

21 THE WITNESS: Thank you, Your Honor.

22 (The witness steps down from the stand.)

23 MR. SCOTT: State calls Jack King.

24 THE COURT: We've been going about an hour and a
25 half. Why don't we take a -- a break for about 15

1 minutes, let everyone refresh themselves. Ladies and
2 gentlemen, I'm going to excuse you to your jury room,
3 please don't discuss the case.

4 (The jury exits the courtroom.)

5 All right. We'll be at ease till about 10:45.

6 (A brief break was taken.)

7 THE COURT: All right. We ready?

8 MADAM CLERK: Yes, sir.

9 THE COURT: All right. Bring in the jury,
10 please, sir.

11 (The jury enters the courtroom.)

12 THE BAILIFF: The jury is present and seated,
13 Your Honor.

14 THE COURT: Very good. Thank you, sir. You may
15 proceed. Mr. Scott.

16 MR. SCOTT: Your Honor, State calls Jack King.

17 MADAM CLERK: Please, raise your right hand.

18 **JACK KING,**

19 A witness herein, having been first duly sworn, was
20 examined and testified as follows:

21 MADAM CLERK: Please have a seat in the witness
22 stand and state your full name for the record.

23 THE WITNESS: Jack King.

24 DIRECT EXAMINATION

25 BY MR. SCOTT:

1 Q. Thank you. Mr. King, where do you live?

2 A. Now I live at [REDACTED].

3 Q. [REDACTED]?

4 A. Columbia, South Carolina.

5 Q. Okay. Do you remember your address back in
6 August of 2021?

7 A. 2110 Green Oaks Road.

8 Q. Okay. How long had you lived at that address
9 back in August of 2021?

10 A. About five or six years.

11 Q. Okay. Do you remember where you lived before
12 that?

13 A. It was on Oneil Court.

14 Q. Oneil Court?

15 A. Oneil Court.

16 Q. 139 Oneil Court?

17 A. 139 Oneil Court, yes, sir.

18 Q. Okay. And who all lived there with you?

19 A. At the time. Which one? On Oneil Court?

20 Q. Yeah.

21 A. More than likely, it was me, my wife, my two sons
22 at the time.

23 Q. Who were your two sons at the time?

24 A. Javonn King and Jaquan King.

25 Q. Jaquan King and Jaywan [phonetic]?

1 A. Javonn King.

2 Q. How do you spell that?

3 A. J-A-V-O-N-N.

4 Q. Okay. Who else?

5 A. My wife and I believe my grandkids.

6 Q. Okay. Do you have any stepchildren?

7 A. I have three stepchildren.

8 Q. What are their names?

9 A. Tamika Lee, Isaiah Lee, and Michelle Lee.

10 Q. Okay. Isaiah Lee and Jaquan King are
11 stepbrothers?

12 A. Yes.

13 Q. Okay. Isaiah Lee is in the Courtroom today; is
14 he not?

15 A. He is.

16 Q. Is he wearing a black North Face vest back here?

17 A. Yes, that's my stepson.

18 Q. Okay. Did he ever live at 139 Oneil Court with
19 you?

20 A. He may have, yeah. All my kids stay with me
21 periodically.

22 Q. Okay. 139 Oneil Court, that's right across the
23 street from Tsubaki Restaurant Lounge?

24 A. Yes, sir.

25 Q. Okay. Did you ever walk to that shopping center

1 when you lived at 139?

2 A. No.

3 Q. Okay. But you could have?

4 A. Sure.

5 Q. Okay. Do you recall -- let me ask you this, who
6 was living with you at 2110 Green Oaks Road in August of
7 2021?

8 A. Me and my wife.

9 Q. Just you two and the grandkids would come?

10 A. The grandkids were always at my house.

11 Q. Okay. All right. Jaquan King is your son -- and
12 who is your daughter-in-law?

13 A. Ashley Coll -- Cott -- Ashley.

14 Q. Is is Walcott?

15 A. Walcott. Yes. Excuse me, I'm sorry.

16 Q. That's all right. Okay. And Ashley Walcott and
17 Jaquan King are boyfriend and girlfriend?

18 A. Well, they married now.

19 Q. Okay. Did she take his license? She still goes
20 by Walcott though.

21 A. Well, she's married now.

22 Q. So she goes by Ashley King now?

23 A. Yes.

24 Q. Okay. Did she ever live with you or stay with
25 you?

1 A. Periodically. Periodically.

2 Q. Okay, she did. Do you -- all right. Do you
3 remember getting a visit from Sheriff's Deputies? It was
4 the evening of August 1st, 2021 at the Green Oaks address?

5 A. Yes. I remember that.

6 Q. Okay. I'm gonna show you State's 16. Tell me if
7 you recognize this car.

8 A. Yes, I recognize it.

9 Q. Okay. How do you recognize it?

10 A. Well, that was Ashley and Jaquan's car at the
11 time.

12 Q. Okay. And do you remember officers showing up
13 and they were asking about that car?

14 A. Yes.

15 Q. Okay. And do you remember telling them that it
16 was your son's car?

17 A. I never said that.

18 Q. Okay.

19 A. I don't remember saying that, let's just say.

20 Q. Okay. That's fine. Well, would it surprise you?
21 To know that you did say that.

22 A. I have a car and my wife drives my car all the
23 time.

24 Q. Okay.

25 A. So, I mean, like to me, my car is my wife's car,

1 too.

2 Q. Okay. I got you. Well, that's from -- would it
3 surprise you to know that you told an officer, that's my
4 son's car?

5 A. Again, like I said, I have a car. If somebody
6 asks if that's my wife's car, she's gonna say that's her
7 car, too.

8 Q. Would it surprise you to know that you told law
9 enforcement, that was your son's car?

10 A. I don't remember.

11 Q. Okay. Would you -- would it help to refresh your
12 memory if I played you a video?

13 A. You can play it.

14 Q. You just want me to play it to you?

15 A. I mean --

16 MS. ZMROCZEK: Your Honor, I believe that's what
17 the rules require.

18 BY MR. SCOTT:

19 Q. So I'm going to play it to you or if I showed you
20 the transcript, would that help or?

21 A. Whatever you would like to do, sir.

22 (Video playing for the witness only.)

23 Q. Okay. I know you're gonna want to answer some
24 follow up questions, but do you remember when she initially
25 asked you whose car that was, you said, that's my son's?

1 A. I don't remember.

2 Q. Did you not just see yourself say that or do you
3 deny?

4 A. No, I didn't say it.

5 Q. You didn't?

6 A. No.

7 Q. Are you denying that you --

8 A. I'm not denying anything.

9 Q. Did you -- do you have trouble with the volume?
10 You want me to turn it up some more for you?

11 A. No, I mean, like, --

12 Q. What did you say in the video just now?

13 A. I said it's my son's or my daughter's-in-law car.

14 Q. That's not what you said, is it? Let me ask you
15 again. All right. She asked you, whose vehicle is this?
16 The first thing you said was, that's my son's. Did you
17 not?

18 A. If that's what I said, that's what I said. I
19 don't remember saying it.

20 Q. Let's play it again for him real quick. The
21 question is not do you remember saying it. Is that what
22 you're saying in that video?

23 (Video playing for the Defendant only.)

24 A. She asked if that's my vehicle.

25 Q. Yes.

1 A. I said, "No, that's my son's."

2 Q. Thank you. That's all I was asking. And then --
3 but I'm going to get what else you said. When she said,
4 where's your son, then you said, "No, that's my
5 daughter-in-law's", right?

6 A. Yes.

7 Q. Okay. And that's what you were trying to explain
8 a minute ago? I'm sorry we had to go through that but...
9 Initially, when he asked about the car you said, that's my
10 son's. And then she said, "Where's your son", and then you
11 changed it, "No, that's my daughter's." But it was
12 registered to your daughter-in-law, Ashley Walcott, wasn't
13 it?

14 A. Yes.

15 Q. Yeah. Okay. But what you were trying to explain
16 a minute ago was if somebody asked you if it's your car --
17 what were you trying to tell me minute ago? That your wife
18 drove it too?

19 A. Yeah. Because, you know, if that's it, it makes
20 sense to me. If we're married, they're married, they --
21 you know, they sharing a vehicle.

22 Q. Yeah. Okay. Well, that was my question. But...

23 A. That's not what you said.

24 Q. Well, I asked you what'd you first say. You did
25 say it was your son's.

1 A. Because I heard it -- yeah, okay.

2 Q. Okay. And then you said, "but my daughter-in-law
3 too", right?

4 A. Okay.

5 Q. Okay. And so they both drove that car around?

6 A. Okay.

7 Q. Are you saying yes or no, correct?

8 A. I am saying okay, you're telling me.

9 Q. They both drove it. I didn't deal with these
10 people -- but did -- they both drove the car, correct?

11 A. I guess. Yes.

12 Q. You guess?

13 A. Yes. They both drove the car.

14 Q. Okay. Thank you. And where are you from?

15 A. I'm from New York.

16 Q. Okay. And you still have an accent, a little
17 bit?

18 A. I'm 60 years old. I lived in New York all my
19 life.

20 Q. Okay. Did you -- when did you move to South
21 Carolina?

22 A. About 13, 14 years ago.

23 Q. Okay. You lived in the Bronx?

24 A. Yes, sir.

25 Q. You lived in Brooklyn?

1 A. Yes, sir.

2 Q. Staten Island?

3 A. Yes, sir.

4 Q. Okay. You still have a lot of family in New
5 York?

6 A. Somewhat.

7 Q. You lived in New York City, didn't you?

8 A. Yes, sir.

9 Q. Okay. Do you remember the video? They were
10 asking you who was driving the car last night, and you
11 said, "I don't know," because you didn't know. Is that
12 correct?

13 A. I had -- at that time I had just had an operation
14 and I was a little annoyed with them even coming and asking
15 me all these questions. My kids are grown. I don't follow
16 them around or -- you know, I don't know what they do. So
17 they -- you know, like -- so, I was a little annoyed with
18 the whole situation and from my recollection, I
19 co-operated. Okay. They came to my house. I didn't have
20 to let them in. I let them in. I did answer each question
21 to the best of my knowledge.

22 Q. That's what I'm asking. They asked you, who was
23 driving last night, you said, "I don't know", right?

24 A. It was four years ago, sir.

25 Q. Well, you just listened to your --

1 A. I just listened to it.

2 Q. But you told them you didn't know who was
3 driving.

4 A. Okay.

5 Q. Okay.

6 A. And I said what I said.

7 Q. But the car was backed into your driveway, was
8 it?

9 A. My car was backed in my driveway too, sir.

10 Q. Well, we're not talking about -- was your car at
11 Tsubaki the night before or?

12 A. Are you saying my car was -- the car was backed
13 up. There was nowhere else to park the car.

14 Q. This car -- I'm asking, this car (indicating) was
15 backed into your driveway, wasn't it?

16 A. Yeah. Ashley was at my house with my grandkids.

17 Q. They asked you where your son was and you said,
18 "hold on" -- you remember that?

19 A. Yes.

20 Q. Okay. Did you know whether or not he was in the
21 house at the time?

22 A. I was in the house, he was not in the house.

23 Q. Okay. So when -- I'm just curious, whenever they
24 asked you, where's your son at? You just said, "hold on"?

25 A. Because at that point, I really didn't even want

1 to answer no more questions. If they wanted to come in,
2 they was welcome to come in. You know, I wasn't hiding
3 anything. My grandkids and my daughter-in-law was in the
4 house.

5 So they came through, they went through the backyard,
6 they went through the closets, they went through every
7 single part of the house. So what else was I supposed to
8 do? I co-operated; my wife co-operated. Even though we
9 didn't want to; we still co-operated.

10 Q. Why didn't you want to co-operate?

11 A. Excuse me?

12 Q. Why didn't you want to co-operate?

13 A. Because we didn't know what was going on and
14 people was at my door asking questions. So that's why at
15 that point, I was a little annoyed until the officer
16 explained to me what was going on. Once he saw what's
17 going on, I let them come in. I let them look around and
18 do whatever they needed to do.

19 Q. Okay. But that -- just to be clear, that was a
20 car that you knew Ashley and Jaquan to drive around in. Is
21 that true?

22 A. Yes, sir.

23 MR. SCOTT: Beg the Court's indulgence. Thank
24 you, Mr. King.

25 THE COURT: Anything on cross-examination?

1 MS. ZMROCZEK: Thank you.

2 CROSS EXAMINATION

3 BY MS. ZMROCZEK:

4 Q. Mr. King, tell the jury where you work?

5 A. City of Columbia Park Facilities.

6 Q. Okay. How long you been there?

7 A. Almost 10 years.

8 Q. And you -- Mr. Scott, was asking you about -- and
9 listen -- you got to listen to it because it was four years
10 ago, right?

11 A. Yes, ma'am.

12 Q. And, I guess, you were listening to the audio and
13 the -- and that wasn't right at the very beginning, but
14 they walked up to you and they asked you, whose car is
15 this? Because the police were milling around your
16 driveway, right?

17 A. Mm-hmm (affirmatively).

18 Q. And you said, it's my son's. And then she said,
19 something, is it registered to him, and then you said,
20 well, it's my daughter-in-law's?

21 A. Right.

22 Q. All within a matter of 35 seconds, right?

23 A. Right. Yes.

24 Q. If even 35 seconds.

25 A. Yes.

1 Q. Jaquan drove that car as well, right?

2 A. Yes.

3 Q. They have children together?

4 A. They do.

5 Q. In fact, they were at your house at 10 o'clock on
6 August 1st because -- tell the jury why they were there?

7 A. My wife normally cooks Sunday meal for the family
8 and even though everybody's grown, everybody would come by
9 and get some or whatever. So younger kids we keep -- for
10 the weekend.

11 Q. Okay.

12 A. So Ashley was there with the kids and that was
13 it.

14 Q. To drop them off, right?

15 A. Yes.

16 Q. And to eat a little dinner?

17 A. Yes.

18 Q. Okay. And you -- in fact the police told you
19 that that car was involved in a shooting almost right When
20 they got there, didn't they?

21 A. They did.

22 Q. And how'd that make you feel?

23 A. I was scared. I didn't know --

24 Q. You didn't know anything about it?

25 A. I didn't know anything, no ma'am.

1 Q. Okay. And your car -- what kind of car did you
2 -- and what kind of car did you and your wife have?

3 A. At that time, I had a Malibu -- Chevy Malibu.

4 Q. Like silver or whiteish?

5 A. Silver, yes, ma'am.

6 Q. Okay. And that -- and you backed into your
7 driveway?

8 A. I always backed in. Yes ma'am.

9 Q. Like you always do?

10 A. Yes.

11 Q. Okay. And Ashley's car that Jaquan used, right?

12 A. Yes.

13 Q. The Fusion was backed in right in front of it?

14 A. Right in front of the car, yes.

15 Q. They told you all kinds of things. They told you
16 that there was a shooting, that two people got shot, that
17 they were giving you all kinds of information about a crime
18 that had taken place a couple hours earlier? Or When I say
19 a couple, I meant -- so, it happened at 2:00 in the morning
20 on August 1st and they were at your house at 10:00 in the
21 morning. So when I say a couple hours, I mean, probably --
22 however long that is -- I can not do math, right?

23 A. Yes.

24 Q. Okay. And you still said feel free to come --
25 and you had small children in the house, right?

1 A. Yes.

2 Q. But you let all of those police officers wander
3 through your whole house?

4 A. I did.

5 Q. Okay. Never said, "get off my property, get out
6 of my house"?

7 A. Never said that.

8 Q. Okay. And you had recently had surgery?

9 A. I did.

10 Q. Okay. And it was -- they were there for -- they
11 got there around 10:00 p.m. and they were there till at
12 least two or three hours?

13 A. Yeah, it was there for a long time.

14 Q. And it's raining?

15 A. It was raining.

16 Q. Lots of police officers?

17 A. Yes.

18 Q. And small children in your house?

19 A. Yes.

20 Q. But you still never told them, "get out". You
21 said, "do whatever you need to do".

22 A. I did.

23 Q. Okay. And Ashley and Jaquan dated for some time,
24 obviously before they got married, correct?

25 A. Oh, yes.

1 Q. But then they got married?

2 A. Yes, they did.

3 Q. Had children together?

4 A. Mm-hmm (affirmatively).

5 Q. And have that one vehicle, right?

6 A. Yes.

7 MS. ZMROCZEK: Okay. Mr. King, thank you so much
8 for being here. I have no further questions.

9 THE COURT: Anything in redirect?

10 REDIRECT EXAMINATION

11 BY MR. SCOTT:

12 Q. That was a Sunday night?

13 A. Yes, sir.

14 Q. That law enforcement came there about 8:30 at
15 night?

16 A. Something like that.

17 Q. Okay. Everybody comes over for Sunday dinner.
18 That's what you said?

19 A. I said my kids come to my house periodically for
20 Sunday dinner.

21 Q. I wrote down everybody comes to eat for Sunday
22 dinner. Where was Jaquan?

23 A. I don't know.

24 Q. You don't know why he wasn't there?

25 A. I don't know.

1 Q. His wife was there. And were those his kids or?
2 A. Yeah, my grandkids. They're his kids.
3 Q. So his wife and kids were there when he wasn't
4 there for Sunday. You don't know where he was?
5 A. No, sir.
6 MR. SCOTT: Thank you.
7 THE COURT: Anything else?
8 MS. ZMROCZEK: Nothing further.
9 THE COURT: All right. You can step down, sir.
10 Thank you for being here.
11 MS. ZMROCZEK: Your Honor, I ask that this client
12 be released so that he may go back to work.
13 THE COURT: Any objection from State?
14 MR. SCOTT: No objection.
15 THE COURT: You can head back to work, sir.
16 Thank you for being here.
17 (The witness steps down.)
18 All right. Call your next witness.
19 MR. FOWLER: Apologies, Your Honor. State calls
20 Investigator Tucker Kovalchek.
21 THE BAILIFF: Come forward to be sworn.
22 MADAM CLERK: Please, raise your right hand.
23 **INVESTIGATOR TUCKER JACOB KOVALCHEK,**
24 A witness herein, having been first duly sworn, was
25 examined and testified as follows:

1 MADAM CLERK: Thank you. Please have a seat on
2 witness stand, state your full name for the record.

3 THE WITNESS: Investigator Tucker Jacob
4 Kovalchek.

5 DIRECT EXAMINATION

6 BY MR. FOWLER:

7 Q. Investigator Kovalchek, would you please explain
8 the jury what your duties are at the Richland County
9 Sheriff's Department?

10 A. I am a senior crime scene analyst. I work in our
11 Forensic Sciences Unit. We are responsible for processing
12 crime scenes as well as forensic duties --

13 MS. ZMROCZEK: Your Honor, I can't hear what he's
14 saying.

15 BY MR. SCOTT:

16 Q. Sorry. Could you speak up just a little bit?

17 A. Yeah. Okay. I'm a senior crime scene analyst,
18 at the Richland County Sheriff's Department. We're
19 responsible for processing crime scenes as well as
20 performing other forensic duties upon request.

21 Q. And so you mentioned processing scenes, you
22 process stuff like cars and things like that?

23 A. Yes, we do.

24 Q. And explain to the jury what you mean by
25 processing.

1 A. So there's many different things that could be
2 considered processing, but, generally, what we do is use
3 black powder. We'll process for latent fingerprints,
4 generally on the inside and the outside of the vehicle --
5 in this case -- black powder is applied to a brush and
6 multiple surfaces on the inside and outside of the vehicle
7 are brushed essentially to possibly develop latent ridge
8 detail for fingerprints.

9 Q. All right. And so I believe this happened on
10 August 2nd, the day after the incident, third or fourth
11 day, August 2nd, 2021. Did you have an opportunity to
12 process the cars?

13 A. I did.

14 Q. Could you tell the jury what kind of car that
15 was?

16 A. Yeah. Can I refer to my notes?

17
18 Q. Yes. Absolutely.

19 A. The vehicle was a 2019 Ford Fusion and gray.

20 Q. What was the license plate that you got for that
21 car?

22 A. It was Uniform Foxtrot Victor, so, UFV 626.

23 Q. I'm going to show you what has been marked as
24 State's 17-20 and I'm gonna ask -- you if you recognize
25 these photographs?

1 A. I do.

2 Q. Is that the car that you processed on August 2nd?

3 A. It is.

4 MR. SCOTT: Your Honor, at this time the State
5 will move to have 17 through 20 admitted into
6 evidence.

7 THE COURT: Any objection?

8 MS. ZMROCZEK: No objection, Your Honor.

9 THE COURT: Being admitted as State's 17 through
10 20.

11 (State's Exhibits 17 through 20 admitted.)

12 MR. FOWLER: Can we have State's 18, please, on
13 screen?

14 BY MR. FOWLER:

15 Q. All right, so we talk a little bit about
16 processing and you processed this car, correct?

17 A. Yes.

18 Q. What type of processing did you do to this car
19 specifically?

20 A. So specifically the processing method we -- I
21 used for this vehicle was black powder for the development
22 of latent finger ridge detail.

23 Q. Okay. And so were you able to -- with the black
24 powder develop ridge detail?

25 A. I was.

26 Q. And were you able to lift a print off of the

1 vehicle?

2 A. I was.

3 Q. I'm gonna show you what's been marked as State's

4 27. Is this the lift you got off of that vehicle?

5 A. It is.

6 MR. SCOTT: Your Honor, at this time the State
7 would offer Item 27 into evidence.

8 THE COURT: Objection?

9 MS. ZMROCZEK: No objection.

10 THE COURT: Be admitted as State's 27 without
11 objection.

12 (State's Exhibit 27 marked.).

13 BY MR. FOWLER:

14 Q. I'm sorry. I'm also going to offer State's 23.
15 Do you recognize that photo?

16 A. I do.

17 Q. Is that the -- where you've lifted the print?

18 A. It is. Yes.

19 MR. SCOTT: Your Honor, I offer State's 23 into
20 evidence.

21 THE COURT: Any objection?

22 MS. ZMROCZEK: No objection.

23 THE COURT: Be admitted as State's 23.

24 MADAM CLERK: State 23?

25 MR. SCOTT: Yeah.

1 (State's Exhibit 23 marked.)

2 BY MR. FOWLER:

3 Q. Okay. I'm sorry. And so this -- you were
4 saying, this is where you lifted the print?

5 A. Yes. One spot.

6 Q. Okay. And that's with the dusting of the powder
7 and laying the card over it?

8 A. Yes. Laying tape over it.

9 Q. And so you get the print. What other types of
10 processing did you do?

11 A. When it comes to processing for latent
12 fingerprint detail, black powder was the only method used.
13 What we do after we process for fingerprints is we swab
14 areas for possible DNA analysis. Yeah.

15 Q. So you swabbed this vehicle for the presence of
16 DNA?

17 A. I did.

18 Q. And you swabbed a lot of areas on this car; is
19 that correct?

20 A. I did.

21 Q. That's pretty standard when you're swabbing for
22 DNA. I'm gonna show you a select few swabs that you did.
23 I'm gonna ask if you recognize State's 35 through 43. Do
24 you recognize these?

25 A. I do.

1 Q. Are those DNA swabs that you collected from this
2 Ford Fusion?

3 A. They are.

4 MR. FOWLER: Okay. Your Honor, at this time the
5 State would offer State's 35 through 43 into evidence.

6 MS. ZMROCZEK: Without objection.

7 THE COURT: All right, will be admitted State's
8 35 through 43 without objection.

9 (State's Exhibits 35 through 43 marked.)

10 BY MR. FOWLER:

11 Q. I guess, if you wouldn't mind, just tell the jury
12 what you mean by swabbing for DNA?

13 A. So generally, after we have processed areas for
14 latent fingerprint detail, we'll go behind and -- we'll
15 collect swabs of affected areas as well as areas we would
16 like try to collect DNA from possible -- from high
17 touchpoint areas.

18 So we will take a sterile tab, much like a long Q-tip
19 -- that's one sided; a couple drops of distilled water we
20 put on the bumpy side of the swab and that area will be
21 swabbed. It can be up to multiple swabs for one area and
22 then once the swab is collected, each area gets packaged
23 into a separate box. Just that area.

24 Q. After all of this processing for trace evidence,
25 do you go through the car to see if there are any items of

1 interest in the vehicle?

2 A. Yes.

3 Q. Did you do that to this vehicle?

4 A. I did.

5 Q. I'm going to show you what's been marked as
6 State's 21 and 22. Do you recognize these?

7 A. I do.

8 Q. Did you find that in the vehicle?

9 A. I did.

10 MR. FOWLER: Your Honor. At this time the State
11 would offer State's 21 and 22 into evidence.

12 MS. ZMROCZEK: Without objection.

13 THE COURT: Admit State's 21 and 22 without
14 objection.

15 (State's Exhibits 21 and 22 marked.)

16 BY MR. FOWLER:

17 Q. And can you tell me what you found in this gray
18 Ford Fusion?

19 A. It was a South Carolina driver's license.

20 Q. Who does that South Carolina driver's license
21 belong to?

22 A. Jaquan Leon King.

23 Q. And can you tell me what his address is on that
24 driver's license?

25 A. It says 139 Oneil Court, Apartment 8-B.

1 Q. I guess it's an identification card not a
2 license. And then can you tell me what his height is
3 listed as?

4 A. The height is listed as 6ft 1'.

5 Q. And again, you found this in the glove
6 compartment of a grey Ford Fusion with Tag UFV 626.

7 A. I don't believe it was glove compartment but --

8 Q. In the center console, yes.

9 A. Inside the vehicle center console, yes, sir.

10 MR. FOWLER: Nothing further for this witness,
11 Your Honor.

12 THE COURT: Cross-examination?

13 MS. ZMROCZEK: Thank you.

14 CROSS EXAMINATION

15 BY MS. ZMROCZEK:

16 Q. Good afternoon, Investigator. You are a senior
17 crime scene analyst, right?

18 A. Yes.

19 Q. So you got -- you have training on all different
20 types of evidence that you can collect and test and use to
21 help provide information in a crime, right?

22 A. Generally, yes.

23 Q. And sometimes in crime a scene they have you go
24 and get videos that could help show things that happened at
25 the crime scene too, right?

1 A. Like what?

2 Q. Okay.

3 A. Can you clarify the videos?

4 Q. Videos like if you have to go to a store, pick
5 them up or --

6 A. Generally I --

7 Q. -- Investigators do that.

8 A. -- do that.

9 Q. All right. But this night or this day, August
10 2nd, what time -- about what time did you complete this and
11 you can look at your notes.

12 A. Okay. I completed this around two minutes before
13 12:30.

14 Q. Okay. And when you process a car, you -- I mean
15 you, you've processed a lot of cars in your day, haven't
16 you? I bet you have now done this several times, right?
17 And you can test for gunshot residue in -- in cars?

18 A. You can.

19 Q. Right. Did -- were you asked to do that in this
20 case?

21 A. I was not.

22 Q. Okay. And you -- when you processed this
23 vehicle, you found three positive latent print cards,
24 right? Or three positive latent -- I'm not reading right.
25 How many positive latent prints did you find?

1 A. I collected seven latent print cards.

2 Q. Okay. And how you get a print on something -- is
3 like, if I touch something, there's a possibility that you
4 could then swab that and my thumbprint would be on there,
5 right?

6 A. If I process it with black powder, yes.

7 Q. With the black powder. Right. And then DNA --
8 how many DNA swabs did you take of the vehicle?

9 A. Goodness -- in general -- I believe it was 20.

10 Q. 20? From all throughout the vehicle?

11 A. 20 locations swabbed.

12 Q. Okay. And you identified and put into evidence
13 -- well you didn't, you identified it and it was put into
14 evidence State's 23 and State's 27. Okay. I'm gonna put
15 it up here so we can all see them (indicating). This is
16 State's 23, right? And is this an area that you did the
17 black powder, one of the areas?

18 A. Yes.

19 Q. Okay. And is that where State's 27 came from?

20 A. Two of the latent print cards contained inside
21 that package should be from this picture (indicating).

22 Q. This picture. Okay. I'm looking at this. Is
23 this the front driver's side or excuse me, back driver's
24 side or back passenger side?

25 A. This is the rear driver's side door.

1 Q. Rear driver's side. Okay. Did you get any
2 fingerprints off of the passenger side?

3 A. I did.

4 Q. You did, right?

5 A. Yes, ma'am.

6 Q. Okay. But none of those are these two
7 (indicating), right?

8 A. They should not be -- can you clarify what you're
9 asking?

10 Q. Sure, 27 -- State's 27.

11 A. All latent prints that I collected --

12 Q. Are in here (indicating). Okay. But this
13 (indicating) is the picture that was put in by the State,
14 right?

15 A. Yes, ma'am.

16 Q. Okay. And why do you swab for DNA? Like if,
17 again, because I just put my thumb up here. If I touch
18 this am I leaving DNA here?

19 A. It's possible.

20 Q. It is possible. So is it possible if you use a
21 vehicle every other day or every day that your DNA would be
22 found in there?

23 A. Certainly.

24 Q. Okay. So that's not unusual, right? You would
25 expect somebody to use the car -- that uses the car, their

1 DNA would be in there, right?

2 A. Yes.

3 MS. ZMROCZEK: I have no further questions, Your
4 Honor.

5 THE COURT: Anything on redirect?

6 MR. FOWLER: No, I don't have anything on
7 redirect, Your Honor.

8 THE COURT: All right. Witness can step down.
9 Thank you for being here, sir.

10 THE WITNESS: Thank you.

11 (The witness steps down from the stand.)

12 THE COURT: All right. Call your next witness.

13 MR. FOWLER: State calls Kristin Polis.

14 THE BAILIFF: Come forward and be sworn.

15 MADAM CLERK: Please, raise your right hand.

16 **KRISTIN POLIS,**

17 A witness herein, having been first duly sworn, was
18 examined and testified as follows:

19 MADAM CLERK: Thank you. You can have a seat on
20 the witness stand, state your full name for the
21 record.

22 THE WITNESS: My name is Kristin Morrow Polis.

23 DIRECT EXAMINATION

24 BY MR. FOWLER:

25 Q. Ms. Polis, can you please tell the jury what is

1 it you do for Richland County Sheriff's Department?

2 A. I'm in the Sheriff's Department's forensic
3 sciences laboratory. I have a couple of different duties.
4 I'm quality -- I'm over quality management. I'm the
5 forensic manager. Our lab is an accredited lab, so that
6 portion of my job is -- I make sure that all of the
7 standards that apply to our lab that we meet through audits
8 and different activities that we complete.

9 I'm also, currently the latent print technical leader,
10 meaning I'm over the latent print section. Latent prints
11 are the -- we identify fingerprints, so all the fingerprint
12 evidence from the department comes in through us and I'm
13 currently over that section. At the time of this case, I
14 was a latent print analyst.

15 MS. ZMROCZEK: And Your Honor, I understand that
16 the State may still want a voir dire, but we have no
17 objection to this witness being qualified as an
18 expert.

19 THE COURT: You offer -- are you offering her as
20 an expert?

21 MR. FOWLER: I was, Your Honor, yes.

22 THE COURT: All right. In what field?

23 MR. FOWLER: Latent print analysis?

24 THE WITNESS: Yes.

25 MR. FOWLER: Expert in latent print analysis.

1 THE COURT: All right. I find that expert
2 testimony is necessary to assist the jury in resolving
3 certain factual questions. Both parties have
4 stipulated this witness is a qualified latent print
5 analysis. And the methodology and testimony is
6 reliable.

7 Ladies and gentlemen, normally, a witness cannot
8 offer opinion testimony in a case. They have to tell
9 you what they saw, heard, smelled, or perceived.

10 However, there's an, exception when someone is
11 qualified because of their education or experience. I
12 have -- or this witness has been qualified in the area
13 of latent print analysis. And you can give this
14 testimony whatever weight you deem necessary during
15 the course of your deliberations. All right. Go
16 ahead.

17 MR. FOWLER: Thank you, Your Honor.

18 BY MR. FOWLER:

19 Q. And Ms. Polis, before we jump into this case,
20 could you just give the jury a kind of a broad overview of
21 latent print analysis?

22 A. Sure. So all of the latent print evidence, which
23 is fingerprint evidence that's collected through the
24 department, will get submitted to our section. And our job
25 is to try to identify those prints to find out where they

1 came from. So we can do that in a number of ways. We can
2 do that through some database searches. We can do it
3 through requests.

4 Sometimes an investigator will have an individual that
5 they're looking at for a specific incident and we can
6 compare to that person's prints. Sometimes we are trying
7 to identify prints belonging to somebody where they should
8 be so that we can rule those out.

9 But through the process of the methodology that we use
10 we go through it -- it's called ACEV it stands for
11 analysis, comparison, evaluation and verification. It's a
12 process of looking at that latent print evidence and
13 determining -- first of all the analysis phase -- if there
14 is enough to proceed with an identification.

15 So everything we work with mostly is gonna be
16 fragmentary. We're not going to get a lot of beautiful
17 prints like you would see rolled on a print card. We're
18 gonna get little bits and pieces of what is left behind
19 from touching surfaces. So we initially will do the
20 analysis portion of our methodology and that is where we
21 determine if we even have enough to move forward.

22 We have software that we use for that process. So we
23 will scan the fingerprint card that Investigator Kovalchek
24 was describing, that is the card that has a tape lift on
25 it. So we can scan that and we can use software to put

1 that up on the computer. We will mark features that we
2 recognize in that print that we will rely on to use for our
3 comparison.

4 And if it's good enough -- if we have enough quantity
5 and quality of that print, then we'll move to the next
6 phase, which will be comparison. And so at that point,
7 that's when we're bringing in that known print card -- the
8 roll print card that we have to compare to. And we can put
9 those prints side by side on the computer screen and we'll
10 go literally ridge by ridge marking any features that are
11 there.

12 Looking at anything that we see, they're all gonna be
13 distorted because it's not a perfectly rolled or pressed
14 impression. So we have to learn how to interpret the
15 distortions there in those prints. When we finish the
16 comparison portion, we'll go into the evaluation, which is
17 where we actually make a decision on if we have a match, If
18 we absolutely do not have a match or if we don't have
19 enough information to determine.

20 So sometimes those rolled print cards may not be that
21 great. They may not capture the area that we need,
22 especially it's easy if you think about palm, what we may
23 need maybe here and what we have may be more.

24 So if we need more, that might -- that may be an
25 inconclusive decision that we can potentially do some more

1 work on. Then everything that I just described is going to
2 be done again by another examiner as the verification.

3 Q. How do fingerprints or palm prints -- latent
4 prints in general, how do they get left on surfaces?

5 A. So as we are all living and the functions of the
6 processes that our bodies are going through, we are always
7 -- there's sweat, there's organic and inorganic compounds.
8 It's in that perspiration that we are touching and leaving
9 behind as we're handling things.

10 We also -- we all learned during COVID. Spend a lot
11 of time touching our own skin, touching our face. And
12 these are getting like sebaceous oils. The oils that are
13 on your skin. You can get those also on your hands. All
14 of those deposits are being left behind as we touch things.

15 The fingerprint powders and the other chemicals and
16 processes that we use, and there's a number of them, but
17 fingerprint powders kind of the main bread and butter,
18 that's the one we use the most. Those powders will adhere
19 to the residues that are left behind and they will make
20 what is invisible.

21 The word latent literally means hidden or not visible.
22 So they will make that invisible print visible to our eye
23 by the powder adhering to those ridges. So then it is our
24 job to -- the way that it's collected from a surface, it
25 can be photographed in place and we can do comparisons from

1 photos.

2 It can also be lifted with tapes. We have a special
3 lifting tape that is applied over that surface. We rub
4 over the top of that tape to warm the adhesive up, pull the
5 powder off of the surface onto the tape and then that is
6 applied to a card.

7 We're usually using black powder and we're placing it
8 on a white card. So that gives us really good contrast for
9 those ridges, so we can see it to do our examination.

10 Q. There's a follow up to that latent print evidence
11 -- like trace evidence in general. I guess it's fragile
12 evidence as it exists on the outside world. It's easily
13 disturbed.

14 A. It is. It's mostly moisture. So our
15 fingerprints that we leave behind are mostly made of
16 moisture so they can dry out. And the easiest way to think
17 about it is on your own phone screen. When you have
18 touched your phone and you get smudges on it, all it takes
19 is a wipe to wipe those fingerprints off. That's literally
20 the evidence that we're talking about. It's very fragile.

21 Q. And I guess just maybe a quick hypothetical to
22 demonstrate that. Like, let's say I get in the back
23 driver's side of the vehicle earlier in the night and I
24 grab the door. You might find my fingerprints or palm
25 print on that door?

1 A. You might. Sure.

2 Q. You might. And if I later got into the -- into
3 shotgun in that car and opened the door, you may or may not
4 find my fingerprints on that door?

5 A. Front passenger side?

6 Q. Yes.

7 A. Yes.

8 Q. Depending on if it's been touched, if it's been
9 rubbed down, it's been washed or rained on or anything, you
10 may or may not get it?

11 A. Exactly, yes.

12 Q. Okay. So, turning to this case in particular,
13 did you have an opportunity to conduct a latent print
14 analysis?

15 A. I did complete a comparison on this case.

16 Q. And I'm gonna see what's been marked as State's
17 27. Would you mind examining that and telling part of your
18 analysis?

19 A. Yes. So this is the latent print card submission
20 envelope. This is the envelope we use for all of our print
21 cards. I've identified by the case number. And then
22 here's our bar coded system when we take items in the
23 inventory. So this is the same item number that I've
24 examined.

25 Q. And I think according to your report, the date of

1 August 6th, 2021, you were only able to make one
2 identification from all those latent fingerprints.

3 A. I only compared one. That is what was provided
4 to me to compare.

5 Q. And that was what -- is Investigator Kovalchek
6 listed as L-1?

7 A. No, he would've labeled this as P4. In the
8 photograph that you saw, this would be P4. When we receive
9 these, we will label each individual card with an L -
10 number. So this envelope contains L-1 through L-7.

11 Q. So Investigator Kovalchek would've labeled that
12 P4?

13 A. That's correct.

14 Q. And then you would've relabeled it as L-1?

15 A. Yes.

16 Q. Okay. And so L-1, which is the same as P4, the
17 rear driver's side door of that Ford Fusion, you compared
18 that to what?

19 A. To a 10 print card with the name Michael Antonio
20 Jones.

21 Q. Where did you get a 10 print card?

22 A. This was -- there was one of a database search
23 performed by another analyst.

24 Q. And so there's a worldwide database of
25 fingerprints of individuals.

1 A. There's not.

2 Q. Or there's a database?

3 A. A database that contained individuals'
4 fingerprints. Yes, sir.

5 Q. And what is a 10 print card?

6 A. So a 10 print card is gonna be a collection of
7 your prints if you've ever been rolled for a concealed
8 weapons permit or for a job application or any reason that
9 was collected on the 10 print card. So we typically think
10 of it as ink. We take an ink pad and it's literally trying
11 to capture -- there's friction ridge detail we can use all
12 the way from one side of your fingernail to the other.

13 So it is a rolled impression where we ink that side of
14 the skin and roll from one side of the nail to the other,
15 each of the fingers. So we have 10 fingers. And then at
16 the lower portion we call slaps, plain impressions, you
17 just ink these four together and place those on the cards.
18 And there's also an impression each bottom.

19 Q. And in comparing that 10 print card belonging to
20 Michael Jones, with what you labeled as L-1, were you able
21 to make an identification?

22 A. We did. So on the card L-1, there is a specific
23 impression on there. So there could be multiple
24 impressions on the card. So there's a specific impression
25 on that card labeled 0.1. So, L-1.1, we were able to

1 identify to the -- sorry, to the number eight left-middle
2 finger of Michael Jones.

3 Q. And so this -- there's 10 print cards. So they
4 come with other identifying information about the
5 individual such as date of birth?

6 A. Yes.

7 Q. What was the listed date of birth for Michael
8 Jones on the 10 print card?

9 A. August 23rd, 1987.

10 Q. And when you finish your analysis and reduce it
11 to a report, do you then pass that on to the lead
12 investigator?

13 A. When everything is completed, yes.

14 MR. FOWLER: Thank you. No further questions,
15 Your Honor.

16 THE COURT: Cross-examination?

17 MS. ZMROCZEK: Thank you.

18 CROSS EXAMINATION

19 BY MS. ZMROCZEK:

20 Q. Good afternoon. So, I want to make sure I
21 understand right. So investigator Kovalchek found or
22 developed -- excuse me, developed fingerprints on the -- on
23 various areas throughout the card, right?

24 A. So I don't have his report in front of me without
25 opening this. I can't say, but I believe so.

1 Q. Okay. But you -- and this -- so I'm getting to
2 the next question. You said that you were only asked to
3 run that one print?

4 A. Yeah. That I was asked to compare that one
5 print.

6 Q. I mean, compare.

7 A. Yes.

8 Q. Oh, who asked? Did Mr. Kovalchek ask you that?
9 Or who was -- who asks you to do things like that?

10 A. So, initially this case was received by our
11 formal tech -- former technical leader, Trish Odom. She
12 takes the cards, looks at all of them, and evaluates the
13 impressions that were on there. She does database searches
14 if that's applicable. And she received a hit from the
15 database search that was forwarded to me.

16 So, we will initially -- because our -- the way we
17 contribute the most to the investigation is to get
18 information to our investigators quickly. So what we will
19 initially do is of the comparison on that information alone
20 and then additional comparisons can be requested. But none
21 were in this case.

22 Q. None ever were?

23 A. Not that I'm aware of.

24 Q. And when did you run this comparison?

25 A. I completed -- the report was issued on August

1 the 6th, 2021.

2 Q. Okay. And so when you -- whewww -- my brain is
3 moving much faster than my tongue. So when you get your --
4 complete your report, and like you said, you want to get
5 this information to the investigators quickly, right?

6 A. Correct.

7 Q. So how -- tell the jury how long that information
8 gets to them. Like you're -- August 6th, you're done with
9 your report, they're getting it August 6th, right?

10 A. We will complete the report and it's uploaded
11 into our case management system. So it will go to them
12 through that system.

13 Q. So it'll send them a notification?

14 A. Yes.

15 Q. Okay. And since then -- there's no reason, for
16 example, let's say that I want to know who was at my back
17 passenger side door, right? And there's a fingerprint and
18 even though it's not an immediate crime, and I know y'all
19 have a lot of stuff that y'all are processing, but if it's
20 important to kind of fact check what people are saying,
21 could you -- is there anything prohibiting you from running
22 comparisons on those fingerprints found on the passenger
23 side door?

24 A. If they were, they would have to be suitable
25 quality.

1 Q. Right.

2 Q. And initially when the first examiner receives
3 the case, they are gonna go through the print cards and
4 determine what can be run. And so we -- multiple prints
5 could be run at that time as long as the quality is
6 sufficient, there's nothing prohibiting us from doing that
7 later, no ma'am.

8 Q. Okay. And again, they can -- you can do that at
9 any time? Right.

10 A. Yes.

11 Q. Okay. There are -- I know that these -- there
12 are different services that adhere better to fingerprints,
13 right?

14 A. Yes.

15 Q. I guess -- let me ask it this way. If there's a
16 plastic cup sitting in the middle of a crime scene and they
17 want you to, or they -- not you, but well, it's collected
18 as evidence, right? Is there a possibility that that could
19 be tested for latent prints?

20 A. Potentially, anything we could try to get prints
21 from, surface texture is an important factor in being able
22 to recover prints. If you think about texture from a brick
23 to a car with a brand new, very smooth paint job, it's
24 gonna be much easier for us to get a latent print off of
25 that clean brand new paint job than it is going to be a

1 brick. So some of those factors would go into play with
2 any item that we were potentially gonna process.

3 Q. Okay. And then, lastly, you said, that your
4 current position, one of your current positions is, Quality
5 Control?

6 A. Forensic Manager.

7 Q. I'm sorry?

8 A. Forensic Manager.

9 Q. Okay. And so what kind of services does -- not
10 all Sheriff's Department or counties have their own labs,
11 do they?

12 A. No, absolutely not.

13 Q. In fact, that's why a lot of them use SLED,
14 right?

15 A. Yes.

16 Q. But you don't have to -- you in Richland County
17 don't always have to because y'all have a full lab.

18 A. We can do almost everything in house.

19 Q. What are -- so you can do -- I'm not gonna make
20 the list long, but you can do finger printing as we
21 learned, right?

22 A. We have a latent print section, a drug ID
23 section, firearm section and a DNA section.

24 Q. Okay. And then the different types of evidence
25 go in through there, right?

1 A. I don't understand.

2 Q. Like --

3 A. Drugs go to drugs?

4 Q. Right.

5 A. Yes.

6 Q. Firearms to firearms?

7 A. Yeah.

8 MS. ZMROCZEK: And those are all the questions
9 that I have for you. Thank you.

10 THE COURT: Anything on redirect?

11 MR. FOWLER: No, sir.

12 THE COURT: You can step down ma'am. Thanks for
13 being here.

14 (The witness steps down.)

15 All right. Call the next witness.

16 MR. FOWLER: State calls Investigator Taima
17 Jordan.

18 THE BAILIFF: Come forward and be sworn.

19 MADAM CLERK: Please, raise your right hand.

20 **TAIMA JORDAN,**

21 A witness herein, having been first duly sworn, was
22 examined and testified as follows:

23 MADAM CLERK: Please take your seat on the
24 witness stand, state your full name for the record.

25 THE WITNESS: Taima Jordan.

DIRECT EXAMINATION

BY MR. FOWLER:

Q. Investigator Jordan, would you just briefly tell the jury what it is that you do at the Sheriff's Department?

A. First of all, good morning. I'm a Lieutenant in the Narcotics Division. I've been in narcotics now for about 9 months.

Q. And you've been an investigator for how long?

A. Twenty years.

Q. Investigator Jordan, would you please tell the jury what a buccal swab is?

A. A buccal swab. It's a long Q-tip or the swab is a long Q-tip, which is given to the victim or defendant. And we're instructed to take it swab around their gums and cheek to get cell the off of to place into a container, which is then put into evidence to be tested in the lab.

Q. Did you take a buccal swab in this case?

A. Yes, I did.

Q. Who did you take a buccal swab from?

A. Jaquan King.

Q. I'm going to show you what's been marked as State's 44. Do you recognize this?

A. Yes, I do.

Q. Is that the buccal swab you took from Jaquan

1 King?

2 A. Yes, it is.

3 MR. FOWLER: Your Honor, at this time the State
4 would offer State's 44 into evidence.

5 MS. ZMROCZEK: Without objection.

6 THE COURT: All right. It'd be State's 44
7 without objection.

8 (State's Exhibit 44 was marked.)

9 MR. FOWLER: I have nothing further, Your Honor.
10 Did Mr. King come to the Sheriff's Department
11 voluntarily to give that swab?

12 THE WITNESS: Yes, he did.

13 MR. FOWLER: No further questions, Your Honor.

14 MS. ZMROCZEK: I have nothing for this witness,
15 Your Honor.

16 THE COURT: All right, sir, you can step down.

17 THE WITNESS: Thank you.

18 THE COURT: All right. Can you call your next
19 witness?

20 MR. FOWLER: Your Honor, State will call John
21 Barron.

22 THE BAILIFF: Come forward and be sworn.

23 MADAM CLERK: Please, raise your right hand.

24 **JOHN BARRON,**

25 A witness herein, having been first duly sworn, was

1 examined and testified as follows:

2 MADAM CLERK: Thank you. Please take your stand.
3 State your full name for the record.

4 THE WITNESS: My name is John Barron,
5 B-A-R-R-O-N.

6 DIRECT EXAMINATION

7 BY MR. FOWLER:

8 Q. Mr. Barron, would you please tell the jury what
9 it's you do with the Sheriff's Department?

10 A. I'm a DNA analyst at Sheriff's Department.

11 MR. SCOTT: And, Your Honor, I'm going to offer
12 him as an expert in DNA analysis at this time.

13 MS. ZMROCZEK: We discussed it, I stipulate we
14 have no problem with him.

15 THE COURT: All right. I find that expert
16 testimony is necessary to assist the jury in resolving
17 certain factual questions. The expert is qualified in
18 the area of DNA analysis by stipulation of both
19 parties. The methodology and testimony is reliable.

20 Ladies and gentlemen, the same rules apply. It's
21 this opinion testimony is authorized by virtue of his
22 education and or experience. And you can give it
23 whatever way you deem necessary in your deliberations.

24 MR. FOWLER: Thank you, Your Honor.

25 BY MR. FOWLER:

1 Q. Mr. Barron, would you -- can you give the jury a
2 overview of DNA in general and the analysis process,
3 please?

4 A. Yes, sir. DNA is the molecule in most of our
5 cells in the body that makes you unique, identifies you as
6 a human being as well as your personal features and also
7 supplies the information necessary to make your heart, make
8 your lungs, make your face what it looks like. So the
9 good thing about DNA for us in human identification is the
10 fact that it is unique to individuals.

11 No two people have the same DNA unless you have an
12 identical twin, and then you have that issue. It is
13 collected -- samples are collected at the scene, body
14 fluids, samples from what we call touch DNA, which is
15 actually skin cells that you leave behind when you touch
16 something, or grab something. And it is extracted.

17 It is -- DNA is removed from all the material around
18 that are attached to it when it's collected then it's
19 isolated and then it's copied. There's certain portions of
20 the DNA that are copied because they are variable -- and
21 they add to the uniqueness as far as human identification.
22 It has nothing to do with, you know, anything other than
23 the ability to identify you because it has certain DNA
24 sequences that are repetitive and give us enough
25 variability to use to identify individuals.

1 Q. How do you go about comparing touch DNA that may
2 be left at the crime scene with, I believe you call it, a
3 known standard of DNA?

4 A. Yeah. A known standard is a sample collected
5 from an individual. It could be a blood sample, be a swab
6 inside from your mouth --

7 Q. Like a buccal swab.

8 A. Like a buccal swab, yes. So buccal swabs,
9 essentially, are much less invasive -- sticking a needle in
10 your arm, and so it's more convenient. And we get more
11 cooperation from collecting buccal swabs than getting blood
12 samples. So, buccal swabs are easy but it is the same DNA
13 that's in a buccal swab that is in your blood.

14 Q. And so how then do you compare the DNA at the
15 crime scene with something like a buccal swab?

16 A. Okay. So DNA pattern is developed from a known
17 person. And like I said, that DNA pattern would be unique
18 to that individual. And then you take the samples from a
19 crime scene and then you compare that to that known pattern
20 in that individual. If that known pattern exists within
21 the evidence, then you can establish the probability that
22 that is a match to that individual.

23 Q. And so after that comparison is done, you produce
24 your results to a report; is that correct?

25 A. That's correct.

1 Q. How do you report on the results of various items
2 of evidence that you analyze?

3 A. We issue a written report based on where the
4 items were collected and whether or not we were able to
5 obtain DNA and whether or not it matched or was distinctly
6 comparable to an individual and what is the probability or
7 the likelihood that individual matches that DNA from that
8 piece of evidence.

9 Q. And you were able to do a DNA analysis in this
10 case; is that correct?

11 A. Yes, sir. On numerous items.

12 Q. And yes, numerous items that I believe there are
13 51 items listed in your report, which you analyzed or I
14 don't think that's correct. I think you skipped some
15 numbers -- around 30 items looks like to me that you
16 analyzed in this case. Is that about right?

17 A. I would have to count them. But that sounds
18 about right.

19 Q. I just want to focus on a few of them and I've
20 set them out in front of you. They're labeled State's 35
21 through 43 -- I believe, but you have them as your own
22 internal Item Numbers: 29, 32, 33, 37, 38, 41, 40, 42, 43
23 and 44. Do you recognize these swabs, Mr. Barron?

24 A. Yes. I am recognize them. I have a laboratory
25 case number as well as item number as well as initials of

1 the individuals that assisted me in cutting these samples
2 out.

3 Q. And then I'm gonna ask you, do you recognize
4 State's 44 and I believe that's Sheriff's Department Number
5 50?

6 A. Yes. This will be a sample of known buccal swab
7 from Jaquan King that was analyzed separately from the
8 others.

9 Q. Okay. So going to your report, item -- your Item
10 29, which is labeled as swab from driver's door, you
11 compared Item 29 to the buccal swab from Jaquan King. And
12 what were the results of that comparison?

13 A. The DNA from Item 29 matched Jaquan King and the
14 probability or the likelihood that Jaquan King is the
15 origin of this DNA is approximately 125 quadrillion times
16 more likely than a random -- just picking a person at
17 random. So, that's a pretty big number. It's a 125 times
18 10 to the 15 or add 15 zeros to that.

19 Q. So Jaquan King's known standard matches the swab
20 from the driver's door?

21 A. That's correct.

22 Q. Item 32, which is labeled as the swab from the
23 rear driver's door. What was your result when you compared
24 that with Mr. King's buccal swab?

25 A. I reviewed the result of line two also matched

1 Jaquan King and the probability or the approximate
2 likelihood that that sample is indeed Jaquan King is 18,400
3 times more likely, than just picking an individual at
4 random.

5 Q. And Item 37, swab from the interior door of the
6 Ford Fusion?

7 A. That result also matched Jaquan King and that
8 result was a much better DNA result.

9 It was approximately 1.6 decillion times more likely
10 to be Jaquan King DNA than a random individual. Now,
11 decillion is a number you probably never heard of, but it
12 is 1.6 times 10 to the 32. In other words, 32 zeros after
13 it, so that's a pretty huge number. If you keep in mind
14 that the population of planet Earth is 8.5 billion. So
15 this is magnitudes larger than that. So, scientifically
16 speaking that is the DNA of Jaquan King.

17 Q. And that was Item 37, labeled as swab, interior
18 driver's door handle/buttons, in your report; correct?

19 A. Correct.

20 Q. All right. Moving on to Item 38, which is
21 labeled as swab from the driver's side door handle
22 exterior. What was your results on that one?

23 A. This was a mixture. It's not uncommon to get a
24 mixture from local people touching something, but Jaquan
25 King's like the major person in the mixture, and based on

1 the population -- genetic results obtained, it's about 340
2 billion times more likely if that -- Jaquan King is that
3 person's DNA, a major contributor, than that of an
4 unrelated individual.

5 Q. That's 340 billion times more likely?

6 A. Correct.

7 Q. And you said Earth has only has 8.5 billion
8 people in it, right?

9 A. That's correct.

10 Q. Moving on to Item 41, the gear shift, what your
11 results for the swab for the gear shift of the Ford Fusion?

12 A. Yes. Again that's also a mixture, but the major
13 contributor was Jaquan King, and again, we got that 1.6
14 decillionth number being more likely to be him than a
15 random person, population.

16 Q. Item 42, the steering wheel of the Ford Fusion?

17 A. Item 42, also a mixture. But again, we have a
18 strong match to Jaquan King as being the major contributor
19 of that mixture, and it's about 2.2 nonillion times more
20 likely to be Jaquan King than a random person in the
21 population. And that number is 2.2 times ten to the 29 --
22 29 zeros after it. So again, a huge probability.

23 Q. Also bigger than the population, correct?

24 A. Way bigger, yes.

25 Q. Item 43, which is the center console of the Ford

1 Fusion, what were your results on that one?

2 A. Again, we got Jaquan King being the major
3 contributor to the mixture and we're going back to the 126
4 decillionth number, pretty much that's a complete match to
5 Jaquan King.

6 Q. And lastly, Item 4, which is the glove box in the
7 Ford Fusion, what were your results on that one?

8 A. Is it, forty-four or four?

9 Q. I'm looking at Paragraph Number 10, Item 44.

10 A. Yes. Forty-four.

11 Q. Oh, sorry.

12 A. You said four.

13 Q. Oh, my apologies. Item 44.

14 A. Yes, sir.

15 Q. Okay.

16 A. Item 44 again is a mixture. Jaquan King cannot
17 be excluded from this mixture he's about 14,700, 14,700
18 times more likely to be -- for his DNA to be in this
19 mixture than picking a person at random.

20 Q. So, Jaquan King's DNA is all over that Ford
21 Fusion?

22 A. I would say so, yes, sir.

23 Q. All over, I'm sorry, all over the driver's side
24 of that Ford Fusion based on your analysis?

25 A. Yes. The -- wherever these samples were

1 collected. The probability as I stated indicates -- strong
2 indication that Jaquan King is in those various locations.

3 MR. SCOTT: Thank you, Your Honor. No further
4 questions.

5 THE COURT: Cross examination?

6 CROSS EXAMINATION

7 BY MS. ZMROCZEK:

8 Q. So Investigator Barron, you found Jaquan King's
9 DNA in Jaquan King's car, right? That's what you've
10 testified to.

11 A. I don't know who's car it was, ma'am.

12 Q. Right. But the car -- the items that you were
13 given, you tested and found his DNA right?

14 A. I found, yeah. A lot of his DNA in this vehicle.

15 Q. Okay. And you found -- you also tested some
16 other stuff that was not just from the vehicle, right?

17 A. I did.

18 Q. Okay. You swabbed Styrofoam cup, Marker A --
19 Marker A would be -- is that what y'all refer to when they
20 use the little placards at the crime scenes?

21 A. Yes. That would be a marker that a crime scene
22 individual at that crime scene would use to mark the
23 location of that collection.

24 Q. Okay. And so, Marker A -- that was identified, I
25 think, in your notes as swab from Styrofoam cup; right?

1 A. That's correct.

2 Q. Okay. And talk to the jury about those results
3 on that. And that was at the crime scene?

4 A. Styrofoam cup contained DNA from a male
5 individual that does not match Jaquan King.

6 Q. Okay.

7 A. And as far as I know, we don't know who that is
8 because Jaquan King is the only male sample that we
9 submitted for comparison.

10 Q. So, he was excluded from that. And then you
11 weren't given any other buccal swabs to compare your
12 findings against, were you?

13 A. Right. So my report just says unknown male.

14 Q. Says unknown -- what does it say, unknown male or
15 unknown person?

16 A. It says unknown male.

17 Q. Okay. And then, so the next one, now, Item
18 Number 2, swab from a plastic cup, Marker F. Now, one way
19 that people leave DNA -- that they can leave DNA is by
20 touching things; right? That's touch DNA?

21 A. You can touch it with your hand, but more than
22 that, you can have a cup, you can take a sip out of it and
23 put it in your mouth gonna probably leave more DNA than
24 your hand would.

25 Q. Right. I mean, because you're getting saliva,

1 you're getting all kinds of stuff in there, right?

2 A. You gettin' all that DNA that's in your mouth
3 from your cells that are in your mouth, which are buccal
4 swab cells.

5 Q. Right. So they can help identify.

6 A. Right.

7 Q. So let's talk about Item Number 2. That would be
8 the plastic cup. Tell the jury the results on that, Marker
9 F.

10 A. All right. That contained the DNA of another
11 unknown male -- not Jaquan King and not the other -- the
12 male on the Styrofoam cup. So it's another unknown male
13 that was found on this evidence.

14 Q. Item Number 3 would be a swab from a cigarette
15 wrapper?

16 A. Correct.

17 Q. Okay. And your results indicate that it was too
18 weak. What's that mean too weak?

19 A. Too weak. There was DNA there, but as far as
20 identifying whose DNA it was, it was too weak to make the
21 comparison.

22 Q. Okay. So we don't have any profile developed
23 from that, right?

24 A. That's correct.

25 Q. Okay. Item Number 4, which would be swabbed from

1 FCCB nine millimeter, Marker B. So that would be, I'm
2 showing you State's 15. Is that when you say like they
3 identify him as the placards?

4 A. Yes.

5 Q. Okay. All right. So this little fire cartridge
6 casing, you ran some DNA tests on that?

7 A. Yes, we would try to swab a -- we would swab
8 through the cartridge casing and we would see if there's
9 any DNA on it. Cartridge casing has very -- very rarely do
10 we find DNA on the cartridge casing, but it's possible so
11 we test it.

12 Q. Okay.

13 A. And so this case, there was no DNA found.

14 Q. No DNA found on that one. Okay. The next one
15 would be Item 5. That would be Marker -- this firearm
16 cartridge casing this is State's 13 from Item C.

17 A. Right.

18 Q. Okay. Tell the jury results on that one.

19 A. That one also had insufficient amount DNA for
20 comparison purposes.

21 Q. Okay. And then the next one, Item 6 was G?

22 A. Right.

23 Q. And same results?

24 A. Fire cartridge casing.

25 Q. -- another fire cartridge casing and unable to

1 get any DNA from that?

2 A. No, DNA was found on that.

3 Q. Okay. Now let's go to Item 8, cigarette butt,
4 Marker E, tell the jury what you found on that?

5 A. Cigarette butt from Marker E, of course, you
6 know, putting a cigarette in your mouth is gonna leave DNA.
7 I believe an unknown female smoked this cigarette.

8 Q. Okay. And no -- and you didn't get any buccal
9 swabs to test on that?

10 A. Correct.

11 Q. Okay. Item 9, which is a cigarette bar --
12 cigarette butt, Marker L, tell the jury your results on
13 that.

14 A. That one was also smoked by a female, but it was
15 a different female than the other cigarette butt.

16 Q. And then Item 10, swab from hood?

17 A. Yes.

18 Q. All right. Now you tell them the result from
19 that, sorry.

20 A. We were able to exclude Jaquan King from the DNA
21 on that.

22 Q. So you found a mixture of DNA but Mr. King was
23 excluded?

24 A. That's correct.

25 Q. Okay. Number 11, was a swab from a driver's side

1 door with the rear view mirror. And when these items are
2 submitted to you they're just marked as collected, right?
3 And then you compare them. But this -- sorry. You -- so
4 Item 10 was a swab from a hood of a car at the 224 Oneil
5 Court, which I know you don't know, but what is the -- what
6 were the results on that?

7 A. Item 10?

8 Q. Yes.

9 A. I believe that's one I just said was -- he was
10 excluded.

11 Q. Okay. Sorry. I meant -- yeah. All right. Item
12 11, was a swabbed from a driver's side door with a rear
13 view mirror at the scene. What were your results on that?

14 A. That one had insufficient amount of DNA for
15 comparison.

16 Q. Okay. Item 12, swabbed from the rear driver's
17 side porter panel also located at 224 Oneil Court. What
18 were your results on that?

19 A. That contained a mixture. The major contributor
20 did not match Jaquan King and it's another unknown male.

21 Q. Okay. And then 13 through 16 were all swabbed
22 from stains. When you receive something that says swabbed
23 from a stain, what does that typically indicate to you?

24 A. Well, if we have a stain that looks kind of red,
25 we test it for, in this case we did it was positive for and

1 all that blood, those four swabs were blood that came from
2 an unknown male -- another unknown male, different from the
3 Jaquan King. And I think we have four unknown males in
4 this case.

5 Q. Okay.

6 A. But this was all from the same unknown male, but
7 not the unknown male that I previously testified to .

8 Q. (Laughing) Lots of unknown males -- but so would
9 it be -- if let's say someone had been shot, they bled and
10 then you run the swabs -- four swabs from that stain or
11 that area and that comes back to a different unknown male
12 than the other unknown males that we've been talking about,
13 right?

14 A. Correct.

15 Q. Okay.

16 A. So, but this unknown -- this male had to be
17 bleeding, that's for sure.

18 Q. That this one had to be bleeding. Got it. All
19 right. The Item Number 26, which is just identified as a
20 hoodie, what were your results on that?

21 A. The hoodie contain DNA, again, the hoodie would
22 be something you wear and you can get DNA from basically
23 inside the collar or something like that. Your skin cells
24 are rubbed off.

25 Q. And -- I'm sorry.

1 A. -- that contain DNA that was not Jaquan King.

2 Q. Excluded him as well, right?

3 A. That's correct.

4 Q. Now, so with DNA, one of the challenges that we
5 have is we don't know when DNA is left somewhere, right?

6 A. Not exactly. Yeah. I mean -- except the blood
7 you know, somebody's bleeding.

8 Q. Right. Well, we hope, yes.

9 A. Right.

10 Q. But for example, like if I'm driving by car, you
11 know, or the car that I shared with my wife and or husband
12 as it were and we are -- and I'm in that car often, would
13 you expect to find my DNA in there?

14 A. Yes.

15 Q. Okay. If I'm driving it, expect to find it on
16 the gear shift?

17 A. Correct.

18 Q. Okay. All right. So all the items that you --
19 that you not -- you didn't swab them, all the items that
20 you tested from the crime scene -- so that would be Items 1
21 through 26 or wherever we got to, Mr. King was excluded
22 from those?

23 A. Either, he was -- did not match and they were
24 unknown individuals, males and females.

25 MS. ZMROCZEK: Thank you very much. I have no

1 further questions.

2 THE COURT: Anything on redirect?

3 MR. FOWLER: Very briefly, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. FOWLER:

6 Q. Mr. Barron, you said that it's very rare that you
7 get DNA off of fire cartridge casings, correct?

8 A. Based upon my experience and I've tested a lot of
9 them.

10 Q. Why is it very rare that you get DNA off of fired
11 cartridge casings? Off of a fire cartridge casing?

12 A. Right. It's a -- fire cartridge casings is
13 usually a cartridge casing is ejected from the gun after
14 it's been shot. So, first of all it has to be loaded into
15 the gun. And, you know, I don't know how much DNA you're
16 gonna leave on a shell that you load into a gun because
17 it's kind of small not much to start with plus when it's
18 ejected it's subject to a lot of heat and pressure so it
19 may actually have a detrimental affect on the DNA as well.

20 Q. And that's because DNA evidence is fragile?

21 A. Well, actually the DNA model is pretty stable,
22 but unless you -- if you subject it to a lot of external
23 pressure and heat it will degrade it, yes.

24 Q. Right. Atomically it's a stable structure, but
25 in terms of wiping DNA off is pretty easy to do?

1 A. Yeah. You can wipe it pretty easily. Yes.

2 Q. And then would I be correct in stating that the
3 closer in time a crime scene analyst is able to collect the
4 swab to when the DNA was actually left there, is a more
5 stronger likelihood that you'll get a larger result like
6 you did in this case?

7 A. Yeah, I think there is a direct relationship,
8 more recent and the more DNA you leave behind, more likely
9 are you to get a very strong result like I did on some of
10 these items.

11 Q. Like, if I touch this (demonstrating) and
12 Investigator Kovalchek comes and swabs it right now, more
13 likely you're gonna get a stronger match than if we waited
14 a week, right?

15 A. Yeah. I mean, the cleaning person might come
16 along and clean it and that wipes off your DNA.

17 Q. And, in say, a public parking lot that's open to
18 anyone, there's a more -- more likely you'll have
19 unidentified individuals in a particular DNA analysis. Has
20 that been your experience?

21 A. A public parking lot?

22 Q. Mm-hmm (affirmatively).

23 A. I mean, just walking by and touching the vehicle?

24 Q. Right.

25 A. I mean, they'd have to get inside the vehicle to

1 leave some of these --

2 Q. Right. But I'm saying in the public parking lot
3 where people come and go every day, there's a -- it
4 logically it follows that you would have some unknowns and
5 some stuff recovered from that scene, correct?

6 A. I'm not hearing your question exactly.

7 Q. I think what I'm saying is, there are a lot of
8 people that could be in a public parking lot over a given
9 period of time, people unrelated to a crime or a scene that
10 could potentially leave DNA?

11 A. Yeah, I mean, you're talking about a particular
12 vehicle or leaving trash like cups and cigarette butts.
13 That would -- of course be possible to leave DNA from many
14 people.

15 Q. Right. So if I was smoking a cigarette before a
16 shooting happened and I left my butt and then I left an
17 hour before the shooting happened and that butt was
18 collected.

19 A. Yeah.

20 Q. You would have no idea who I am.

21 A. Yeah. The crime scene individual doesn't have
22 any idea that a cigarette butt or any of these items are
23 collected have any thing to do with the crime or not but
24 they are collected anyway.

25 MR. FOWLER: No further questions.

1 MS. ZMROCZEK: I have none either.

2 THE COURT: All right. You can step down, sir.
3 Thank you for being here.

4 (The witness steps down.)

5 All right. You want to call your next witness?

6 MR. FOWLER: I think now would be an appropriate
7 time for lunch break, Your Honor.

8 THE COURT: Okay. All right, ladies and
9 gentlemen, I'm going to excuse you all for lunch.
10 It's 12:10, let's say be back here, ready to go at
11 1:30. Please don't discuss the case. Enjoy your
12 lunch.

13 (The jury exits the courtroom and a lunch recess was
14 taken.)

15 All right. Anything before we break for lunch?

16 MR. FOWLER: A second, Your Honor.

17 THE COURT: How many more witnesses you all got?

18 MS. TAYLOR: Three.

19 THE COURT: Okay. You think -- how long are they
20 gonna be?

21 MS. TAYLOR: One is the lead investigator, so I
22 foresee that taking a while and then the other two I
23 don't think will be that long.

24 THE COURT: Okay. So you all should be able to
25 rest today?

1 MS. TAYLOR: Yes, Your Honor.

2 THE COURT: Okay. All right. See you at 1:30.

3 (A lunch recess was taken.)

4 THE COURT: All right. Bring in the jury.

5 (The jury enters the courtroom.)

6 THE BAILIFF: Your Honor, the juries seated.

7 THE COURT: State ready to call your next
8 witness?

9 MS. TAYLOR: Yes, Your Honor. The State calls
10 Dr. Michael Fitzgerald.

11 MADAM CLERK: Please, raise your right hand.

12 **DOCTOR MICHAEL FITZGERALD,**

13 A witness herein, having been first duly sworn, was
14 examined and testified as follows:

15 MS. ZMROCZEK: Your Honor this witness, I again
16 have no objection to him being qualified as an expert
17 witness in trauma.

18 MS. TAYLOR: Medicine trauma surgery.

19 MS. ZMROCZEK: Medicine trauma surgery.

20 MS. TAYLOR: Yeah.

21 THE COURT: Trauma surgery.

22 MS. TAYLOR: In trauma medicine

23 THE COURT: And what?

24 MS. TAYLOR: Trauma medicine too.

25 MADAM CLERK: Will you state your name for the

1 record?

2 THE WITNESS: Michael Fitzgerald.

3 THE COURT: All right. The parties have again
4 stipulated that Dr. Fitzgerald is an expert in the
5 area of trauma surgery and trauma medicine, find the
6 testimony is necessary to assist the jury in resolving
7 certain factual questions. He's qualified in this
8 area based upon the stipulations of the parties and
9 the methodology and testimony is reliable.

10 Ladies and gentlemen, same rule. He's -- he's an
11 expert and has been qualified and he will be allowed
12 to provide opinion testimony and you'll give it
13 whatever weight you deem necessary during your
14 deliberations. Ms. Taylor?

15 DIRECT EXAMINATION

16 BY MS. TAYLOR:

17 Q. Yes, sir. Dr. Fitzgerald, where do you work?

18 A. Prisma Health Richland.

19 Q. And what is your job here?

20 A. I'm a trauma surgeon and a surgical critical care
21 intensivist.

22 Q. How long have you worked there?

23 A. Five-and-a-half years.

24 Q. Can you please tell the jury a little bit about
25 your educational background, medical training?

1 A. So I did four years of undergrad at Clemson
2 University. I did four years of medical school the at
3 Medical University of South Carolina. I finished there in
4 2012. I did five years of general surgery training at
5 Mercer University Madison Health in Macon, Georgia. After
6 that I did two years of trauma and critical care training
7 in Memphis, Tennessee or Region 1 Health, the third busiest
8 trauma center in the country.

9 Q. And are you Board certified?

10 A. I am Board certified both in general surgery and
11 in surgical critical care.

12 Q. And what does it mean for a doctor be board
13 certified?

14 A. For general surgery, we sit for written tests
15 after five years of training. And then we take a series of
16 oral boards administered by our peers. And then for
17 surgical critical care, we sit for a written test after
18 performing one year of fellowship.

19 Q. Okay. So cardiologists or doctors that work with
20 problems with the heart? Ophthalmologists work with
21 problems with the eyes. What type of injuries do you
22 primarily deal with as a trauma surgeon?

23 A. Everything.

24 Q. Okay.

25 A. But primarily what trauma surgeons require are

1 blunt injuries, secondary to motor vehicle accidents,
2 falls, stuff like that. And then penetrated injuries, so
3 they're stabbing shootings. But we have no one organ
4 system we operate on. I can operate on the heart, operate
5 the neck. I do not operate on the brain. I leave that for
6 neuro-surgeons but anything basically neck to pelvis I can
7 operate on.

8 Q. And were you involved in the treatment of both
9 Yolanda Cora and Jacob Cora when they were admitted to the
10 hospital for this incident?

11 A. I was.

12 Q. And had you had the opportunity to review their
13 medical records?

14 A. I have.

15 Q. Okay. So let's turn to Jacob's injuries. Was he
16 admitted to the hospital on August 1st, 2021, around 2:40
17 a.m.?

18 A. He was.

19 Q. And how was he brought to the hospital?

20 A. He was brought by ambulance. One of my partners
21 Alex Louise, was the initial surgeon there. He was
22 intubated in the trauma bay for airway protection secondary
23 to an injury to his neck. That wound was not, as we were
24 described, actively expanding suggested of a severe
25 vascular injury, because there were both two patients

1 coming in, he triaged Jacob intubated him packed his neck
2 and then went to a CT scan in preparation for the second
3 patient.

4 Q. Okay. So you talked about he had a neck injury.
5 Can you kind of break down what type of injuries that he
6 had?

7 A. So he had multiple wounds. I can't tell what was
8 entrance or exit on that. But he had a left neck wound.
9 He had a right anterior, posterior thigh wound and I
10 believe a right shoulder wound. The CTA, which evaluated
11 chest, ab, and pelvis identified no injuries to the thorax,
12 abdomen the neck noted no large injury to any of his
13 vasculature or airway. However, there was some -- some
14 small bleeding.

15 Q. So when you mentioned his injury to his neck and
16 his leg, what was the cause of these injuries?

17 A. Seemed to be a gunshot wound.

18 Q. And in your experience, what has been a typical
19 outcome you've seen with patients who have been shot in the
20 neck?

21 A. I -- most of them don't make it to the hospital.

22 Q. So they die?

23 A. Most of them die.

24 Q. Okay. And what are some of the body parts that
25 make up the neck that make that area such a fatal area to

1 be shot in?

2 A. So you have your airway, your trachea, which
3 carries air from your mouth to your lungs. You have your
4 esophagus, posterior of that, which will basically move
5 your food from your mouth to your stomach. Flanking both
6 of those are gonna be the most important things are gonna
7 be your carotid arteries which take blood to your brain.
8 And next to those are gonna be your jugular veins, which
9 turn blood from your brain to your head. Our brain,
10 fortunately, gets a large amount of the blood from our
11 body. So if an injury to a carotid or a jugular vein or
12 carotid arteries, are a very significant injury.

13 Q. And based on the fact that Jacob was shot in the
14 neck and he actually survived, how would you describe the
15 fact that he actually survived with that type of injury?

16 A. The location of his injury was lateral, so
17 fortunately it missed the vital structures.

18 Q. Okay. If he haven't shot a few centimeters or
19 inches to -- to midline what would've happened?

20 A. He probably would not have survived it.

21 Q. So let's talk about his leg injury. Where is the
22 femoral artery?

23 A. Femoral artery is lateral part or medial part of
24 your -- your legs kind of in your inguinal crease side of
25 your leg (demonstrating). Sorry for how it's described.

1 Q. That's okay. And why is that artery so important
2 to the body?

3 A. Because it is the largest artery that takes blood
4 from your core to your extremity. If that blood is
5 jeopardized. You can lose your leg or you can hemorrhage
6 up.

7 Q. And how close was the gunshot move Jacob's leg in
8 relation to his femoral artery?

9 A. I believe it was a centimeter or two.

10 Q. And what would've happened if the bullet hit his
11 femoral artery?

12 A. He would've gone into hemorrhagic shock depending
13 on the location of it if they could have gotten a
14 tourniquet on it, there's a risk of hemorrhage in death.

15 Q. And did the bullet cause something called a blast
16 effect in his leg?

17 A. It did.

18 Q. And what is a blast effect?

19 A. So the bullet will cause injury from where it
20 penetrates tissue but because of the velocity, there's a
21 distribution of damage outside of that area. So I don't
22 know if you've ever seen ballistic gel or anything, you can
23 see the shock wave as the bullet goes through but the
24 damage is not just reserved for where it pierces there's a
25 surrounding area blast injury in that, that region as well.

1 And his was evident by the vasospasm on CTA that shows the
2 narrowing of his -- his superficial femoral artery.

3 Q. And how did you treat that leg injury?

4 A. I believe we just reserved it. It didn't require
5 any intervention.

6 Q. Okay. And were you able to recover the bullet
7 out of his leg?

8 A. No, ma'am.

9 Q. Okay. So let's turn to Yolanda's injuries. Was
10 Yolanda also brought to the hospital by ambulance around
11 the same time Jacob was?

12 A. Yes, ma'am.

13 Q. And when she arrived, what type of injuries did
14 she present?

15 A. So she had one wound through the right breast,
16 through the right back that was the most notable injury.

17 Q. Okay. And can you kind of describe the condition
18 of her -- her body and her vitals when she arrived?

19 A. So she was in what we would call hemorrhagic
20 shock. She was essentially bleeding out, her blood
21 pressure was lower than recommend -- lower than
22 physiologic. She was what we call hypotensive. She was
23 tachycardic so her body blood pressure was well below
24 what's normal. Her heart rate was well above what's normal
25 trying to compensate for the loss of blood.

1 Upon arrival, we started what's called massive
2 transfusion, which means we activate -- giving blood. She
3 received blood, she was taken to the operating room
4 emergently. We did not do CT scans or anything else to
5 evaluate because we knew based on where the injury was,
6 that it was an area that has a high risk for hemorrhage.

7 We got in there, she had a injury to her lung, injury
8 to her diaphragm, and then a large injury to her liver,
9 which was hemorrhaging. The safest and quickest way to
10 control that is by packs. So we basically take surgical
11 pads and pack it on the liver and to try to stop the
12 bleeding. From there she was temporarily closed meaning we
13 kind of put a covering over her abdomen, brought her to the
14 ICU continuous resuscitation.

15 Q. Okay. And you may have said this already, but
16 was she intubated?

17 A. She was intubated.

18 Q. Okay. And in the medical records, do you recall
19 if she lost two liters of blood?

20 A. I don't know what the final count was on
21 anesthesia. I do know we replaced with five units, which
22 is roughly, so each unit of blood is about 300 CCs, so
23 that's 1500 plus her FFP and platelets. We replaced at
24 least two liters in volume of blood product alone on top of
25 all volume we gave her from Crystalloid, which would be your

1 IV fluids.

2 Q. Okay.

3 A. But from suction -- I -- I don't remember what
4 the anesthesia reference said exactly .

5 Q. Okay. So two liters like the size of a big soda.

6 A. Mm-hmm (affirmatively).

7 Q. Okay. And let's talk about her liver injury.

8 Where is the liver located in the body?

9 A. Liver's located in the right upper quad of the
10 abdomen.

11 Q. And how many livers are in a person's body?

12 A. One.

13 Q. So it's not like a kidney where you have two.

14 A. No.

15 Q. Okay. And how would you describe the size of a
16 liver in the body?

17 A. It is the largest solid organ in the body.

18 Q. So it's kind of like a big area.

19 A. Mm-hmm (affirmatively).

20 Q. Okay. And what is the function and the
21 importance of the liver?

22 A. So the liver filters toxins as well as processes
23 all of our GI tracts. So anything you eat, it absorbs
24 through the intestines and it's taken to the portal vein
25 into your liver and converts everything you absorbed into

1 glucose. All the things we need for our body to function -
2 - gives us energy.

3 Q. And can human live without a liver?

4 A. No.

5 Q. Can you tell us the injuries that the bullet
6 caused to Yolanda's liver?

7 A. It was a Grade 4 liver injury which is there
8 great injuries 1 to 5. Five being completely shattered and
9 usually requires removal, which is not an option with the
10 liver but hers was an extensive blast injury and physical
11 laceration to the superior portion of the liver.

12 Q. And does -- can the liver bleed a lot?

13 A. Yes, very much so. It's got dual blood supply,
14 so not only do you have arterial blood that gets delivered,
15 but you also have the portal vein I just mentioned, which
16 brings all the blood from our intestines to our liver.
17 So, it's very difficult organ to stop bleeding.

18 Q. And did you observe something called a large
19 ballistic injury to her internal body?

20 A. Yes. So she had a large blast injury to the
21 posterior aspect and superior aspect of the liver on second
22 surgery that I did on the third.

23 Q. Okay. So you had perform two surgeries on her?

24 A. Yes, ma'am.

25 Q. And what type of surgical procedures did you

1 perform on her?

2 A. So the, the surgeries I performed on her, the
3 first surgery was what's called the damage control
4 laparotomy with hypertrophy and packing that is basically
5 you just try to control what you can, get out, and keep
6 moving forward.

7 The surgery I did, we did a repudix or re-laperarotomy
8 with her abdomen, explored everything. We did a
9 hepatorrhaphy and repaired the liver as best we could by
10 bringing it back together. We did a diaphragm repair to
11 repair the two injuries and the diaphragm, which is the
12 muscle that separates your chest from your abdomen where
13 the bullet had gone through.

14 She already had a thoracoscopy to her chest tube to
15 drain the blood drain from the abdomen into the chest and
16 then hepatorrhaphy. So, basically we had to make sure the
17 liver had completely stopped bleeding before we closed her.
18 And then we left drains to manage any expected injuries to
19 the liver.

20 Q. So when you do a -- an exploratory laparotomy
21 surgery, can you describe where you start that cut? Like
22 where, how long does that cut go?

23 A. From start end to pubis. So from basically from
24 your chest bone all the down to your pubic bone.

25 Q. And if you hadn't been able to surgically repair

1 Yolanda's liver what would've happened to her?

2 A. So if you cannot repair a liver you can not
3 synthesize or absorb anything and you cannot develop
4 clotting factors. And usually you essentially you die
5 secondary to the inability to absorb to create energy to -
6 - it's hard to explain it but you cannot live without your
7 liver. That's why liver transplants are such a big thing
8 and you don't have crux like dialysis. There's just no way
9 to replace your liver.

10 Q. It's a very fatal injury.

11 A. Yes, ma'am.

12 Q. And was Yolanda discharged from the hospital on
13 September 28th?

14 A. Yes, ma'am.

15 Q. Okay. So she stayed in the hospital recovering
16 for about two months?

17 A. Yes, ma'am.

18 Q. Was she placed in a coma during that time?

19 A. So when she was brought to our surgical trauma
20 ICU, we keep our patients intubated and sedated meaning
21 they're on Propofol which is medication that keeps them
22 asleep, and Fentanyl which is medication that treats their
23 pain. We do that because an open abdomen and anything else
24 going on, it's very difficult to control pain wise as well
25 as the need for multiple procedures during resuscitation,

1 whether it's central lines, arterial lines, IV, blood draws.
2 There's a lot of things we give patients in ICU, because
3 they're critically ill and require by minute, hour by hour
4 action.

5 Once we got the abdomen closed, the fact that patients
6 are intubated for a extended period of time makes it
7 difficult to wean them from the ventilator. And so then
8 you have to slowly withdraw medications to see if they can
9 breathe on their own, their lungs have atrophy because
10 they're not using anymore, they're hooked up to a machine.
11 So it takes days to, what we call wean, from the ventilator
12 to get them extubated and on top of that they're weak
13 because they've been bed bound and require physical
14 therapy, they require much more intensive care to rebuild
15 their strength to get them back to where they were prior.

16 Q. And for a patient like Yolanda who was like you
17 just described, intubated, sedated, had to be brought back
18 over weeks of time. How does that type of trauma recovery
19 from that type of trauma affect the person's memory?

20 A. So in the ICU, about I would say 30 or 40%
21 develop what's called acute delirium or ICU delirium.
22 Propofol's a known medication that makes you forget what
23 happened. The trauma can make people forget. But I see
24 delirium, which is being in the ICU, having bells,
25 whistles, lights, people come in and checking on you.

1 There's very prominent in about 40% of patients such that
2 they can have memory loss, they can have, you know, trouble
3 sleeping after or trouble remembering what we call an ICU
4 fog, meaning it takes years sometimes to get back to where
5 you were before your trauma.

6 Q. And regarding Jacob, in your experience as a
7 trauma surgeon can being shot in the neck and the leg
8 result in death?

9 A. Yes.

10 Q. Okay. And regard regarding Yolanda's injuries.
11 In your experience as a trauma surgeon, could she have died
12 from the types of injury she sustained being shot?

13 A. Yes.

14 MS. TAYLOR: No further questions, Your Honor.

15 THE COURT: Cross examination?

16 CROSS EXAMINATION

17 BY MS. ZMROCZEK:

18 Q. Just very few questions. I want make sure that I
19 heard you correctly you said that trauma can affect
20 people's memories?

21 A. Yes, ma'am.

22 Q. And that's just not physical trauma, but they
23 don't have to be hurt to have their memories affected. It
24 could be traumatized by that they see, right?

25 A. Right.

1 Q. And that can affect people's memories.

2 A. Yes, ma'am.

3 Q. And you have no information about who -- who did
4 the shooting in this case, do you?

5 A. No, ma'am.

6 MS. ZMROCZEK: Those are all the questions I have
7 you. Thank you for coming today.

8 THE COURT: Anything on redirect?

9 MS. TAYLOR: No, Your Honor.

10 THE COURT: All right. Doctor, you can step
11 down. Thank you for being here. All right. Call
12 your next witness?

13 (The witness steps down.)

14 MS. TAYLOR: The State calls Clay Short.

15 MADAM CLERK: Please, raise your right hand.

16 **CLAY SHORT,**

17 A witness herein, having been first duly sworn, was
18 examined and testified as follows:

19 MADAM CLERK: Thank you. Please have a seat
20 on the witness stand and state your full name for the
21 record.

22 THE WITNESS: Clay Short.

23 DIRECT EXAMINATION

24 BY MS. TAYLOR:

25 Q. Where do you currently work?

1 A. I currently work for an Insurance Company. I
2 work for Geico.

3 Q. Okay. What is your job there?

4 A. I'm an investigator.

5 Q. Okay. And back in August, 2021, were you an
6 investigator somewhere else?

7 A. I was -- at Richland County Sheriff's Department.

8 Q. Okay. How many years did you work at the
9 Sheriff's Department?

10 A. About twelve-and-a-half.

11 Q. And what were some of your duties as an
12 investigator?

13 A. I was investigating crimes at that point. In
14 2021 I was investigating what we call major crimes, which
15 were robbery, shooting, and homicide.

16 Q. And before you ascend the role of investigators,
17 do you start on a patrol deputy and is that where you kind
18 of start off?

19 A. Yeah, I started as a patrol deputy. I was in
20 uniform and I responded to 9-1-1 calls. I did that for
21 five years.

22 Q. Okay. Were you assigned to any specific areas?

23 A. Two Notch, Road.

24 Q. Okay. So we'll get to that. Were you the lead
25 investigator on the case we're here for today?

1 A. I was.

2 Q. And what are some of the responsibilities that a
3 lead investigator has?

4 A. My main responsibility was to investigate and
5 figure out who committed the crime.

6 Q. Okay. And when you're investigating crime, do
7 you work alone?

8 A. No.

9 Q. Are there other investigators who assist you?

10 A. Certainly.

11 Q. And did other investigators assist in work in
12 this case?

13 A. Yes, they did.

14 Q. And as a lead investigator did you delegate tasks
15 to other investigators as you did in this case?

16 A. Yes, I did.

17 Q. Okay. And when you're investigating a case, is
18 there something that you create called a case jacket?

19 A. Yes.

20 Q. And what -- what are some examples of type of
21 items that can make up a case jacket?

22 A. Certainly the -- the report that describes where,
23 when, how, who any -- any investigative reports that I
24 generate or other investigators generate, photo lineups and
25 copies of warrants or affidavits, anything like that.

1 Q. Okay. And does each and every case jacket have
2 the same types of documents and items in them?

3 A. Generally, yes.

4 Q. Okay. But not like this case jacket might not
5 have the same documents that a case for another incident
6 might have?

7 A. Correct, because there's always gonna be case
8 specific documents that are in there.

9 Q. And what date were you assigned to this case?

10 A. The next morning, which would've been the 2nd of
11 August.

12 Q. Okay. And what was the address of this incident?

13 A. 224 I think -- 224 Oneil Court.

14 Q. Okay. And that was in Richland County?

15 A. It is in Richland County.

16 Q. All right. Now did you actually respond -- well,
17 let's back a little bit. So 224 Oneil Court, generally,
18 like what type of area is that?

19 A. I would say it's kind of like a strip mall. It's
20 a big parking lot. There's several businesses. In this
21 case, the business is a karaoke bar, which is next to a
22 sushi restaurant.

23 Q. Okay. And the karaoke bar was it Tsubaki?

24 A. Correct.

25 Q. All right. Now did you actually respond to the

1 scene the night of the shooting?

2 A. I did not.

3 Q. And were there other investigators who responded
4 that night?

5 A. Yes, there were.

6 Q. Okay. And I guess what -- what are some
7 differences between kind of like a deputy and investigator?
8 What's the different between the roles?

9 A. Like in this case, the deputies that were -- that
10 responded first, their job is to first get victims
11 emergency care as fast as possible and then to start
12 identifying people that were there, people that witnessed
13 it, people that saw it, or any other potential victims.
14 And then to determine if there are suspects still on scene
15 or if they've already left the scene.

16 Q. And when you were assigned this case, did you
17 receive reports from the deputies and investigators who
18 actually were on scene?

19 A. Yes, I did.

20 Q. And you used those reports to start your
21 investigation?

22 A. Yes, I did.

23 Q. And in your experience does every single law
24 enforcement officer who arrives do their own reports?

25 A. They're supposed to.

1 Q. Okay. But is it unusual for one deputy or one
2 investigator to kind of make one report for that incident?

3 A. Yes.

4 Q. Okay. And did deputies specifically wear
5 something called a body-worn camera?

6 A. Yes.

7 Q. And what does the body-worn camera do?

8 A. It records, especially these days, any
9 interaction the police have with the public.

10 Q. And back in 2021, did investigators typically
11 wear body-worn cameras?

12 A. No, we did not.

13 Q. And when you were investigating this case, did
14 you review the on-scene deputies' body-worn cameras to help
15 your investigation?

16 A. Yes, I did.

17 Q. All right. And in the reports you received from
18 the body-worn cameras did they have a witness information
19 in them?

20 A. Yes.

21 Q. Did they have the information about what
22 witnesses observed on the scene?

23 A. Yes, they did.

24 Q. All right. And for reviewing those witness
25 statements or reports on the scene when you were assigned

1 this case, were you able to develop a general physical
2 description of the potential shooter?

3 A. Yes, I was.

4 Q. And what was that general physical description as
5 far as his race?

6 A. Black male.

7 Q. Okay. What about the age range?

8 A. In the twenties, thirties, certainly not older --
9 for what people would describe as older.

10 Q. Okay.

11 A. Go ahead, sorry.

12 Q. What about his hair?

13 A. Everybody described him having dreadlocks.

14 Q. And his height?

15 A. Six feet.

16 Q. And what about the body type or his weight?

17 A. They described him as chunky.

18 Q. Okay. Did any of the witnesses on scene give
19 descriptions of a potential car if they saw the shooter
20 leave in?

21 A. Yes, they described the car and then one of the
22 witnesses actually took a picture of the license plate of
23 the car that left the scene.

24 Q. Okay. Is this the -- one of the -- the photo the
25 witnesses took (indicating)?

1 A. Yes.

2 Q. Okay. And did any witnesses on scene, were they
3 able to give a license plate number?

4 A. Yes.

5 Q. Okay.

6 A. One of the witnesses was able to recite license
7 plate number.

8 Q. From memory?

9 A. Yes.

10 Q. Okay. And what about the color? The make and
11 the model of the car?

12 A. Gray Ford Sedan.

13 Q. Okay. And did any witnesses on scene
14 specifically say it was a Ford Fusion?

15 A. Yes.

16 Q. Okay. Now, does law enforcement have access to
17 various databases with people's, like, information?

18 A. Yes, they do.

19 Q. And is one of those databases the South Carolina
20 Department of Motor Vehicles database?

21 A. Yes, it is.

22 Q. And what type of information can you search on
23 the DMV database?

24 A. It would be the registered owner of that vehicle
25 and then you could also search everybody that the DMV has

1 listed at that address.

2 Q. Okay. So can you use like a license plate number
3 and search -- use that to search to get information?

4 A. Certainly.

5 Q. Okay. Did you do that in this situation?

6 A. Yes.

7 Q. All right. And when you use the license plate to
8 search what kind of information can you find by the
9 registered owner attached to that plate number?

10 A. Registered owner's name, address, and birth date,
11 driver's license number. All the information would be on
12 the driver's license.

13 A. Can you -- does it also show you the make of the
14 model?

15 A. Excuse me. Yes, it'll show the make model, VIN
16 number, and license plate of that vehicle, too.

17 Q. I want to show you what's been marked as State's
18 Exhibit Number 30. Do you recognize what this is?

19 A. Yes, ma'am, I do.

20 Q. And what is that?

21 A. This is the printout of the license plate that's
22 on that Ford Fusion and it shows the year, make, model, and
23 the current status of the license plate and the register
24 number.

25 MS. TAYLOR: Your Honor, the State requests to

1 move Number 30 into evidence.

2 MS. ZMROCZEK: No objection.

3 THE COURT: All right. It'll be State's 30
4 without objection.

5 (State's Exhibit 30 marked for evidence.)

6 BY MS. TAYLOR:

7 Q. So looking at State's Exhibit Number 30, what is
8 the plate number assigned to this registration?

9 A. Plate number is down on the left side. It's UVFV
10 626.

11 Q. And what does the make and the model of the car
12 attached to this registration?

13 A. It's a 2019 Ford Fusion.

14 Q. And what is the name of the registered owner of
15 the Ford Fusion and the license plate number on this
16 document?

17 A. The registered owner is Ashley Lynn Walcott.

18 Q. Okay. And what address is listed as the owner
19 Ashley Walcott's address?

20 A. 2400 Kneece Road, Apartment 2207, and that's
21 Columbia, South Carolina.

22 Q. So you said that you weren't assigned the case
23 until the next day?

24 A. Correct.

25 Q. But were there other investigators working this

1 case while you were assigned?

2 A. Yes.

3 Q. Okay. And are you aware of a 9-1-1 call made
4 regarding information about this car?

5 A. Yes.

6 Q. And was that call made around 10:30 PM or 8:30?

7 MS. ZMROCZEK: Your Honor, I would object to
8 leading at this point.

9 MS. TAYLOR: I mean, the witnesses has already
10 testified about the car.

11 THE COURT: Overruled. Go ahead.

12 BY MS. TAYLOR:

13 Q. Okay. And are you aware that that 9-1-1 call was
14 made around 8:30 the same day as the shooting that night?

15 A. Yes.

16 Q. All right. And who did the caller identify
17 herself as in that 9-1-1 call?

18 A. I believe it was one of the victims? I don't
19 recall which name --

20 Q. Was it a witness or?

21 A. Excuse me, one of the witnesses.

22 Q. They indicated they were at the shooting?

23 A. Correct.

24 Q. Okay. And based on that information provided in
25 that 9-1-1 call, did deputies go to a specific location?

1 A. They did.

2 Q. And what address did deputies respond to?

3 A. It was 2110 Green Oaks Road.

4 Q. And what was the reason deputies responded to
5 2010 Green Oaks Road?

6 A. That's where the car was, the -- that Ford Fusion
7 was located.

8 Q. Okay. And that's the information that was
9 received by law enforcement on the 9-1-1 call?

10 A. Correct.

11 Q. Okay.

12 A. And this was just a few hours if not less than
13 when the shooting was taking place.

14 Q. Now looking at State's 28. Can you describe
15 where Green Oaks Road is compared towards Tsubaki
16 Restaurant -- now you said you were assigned to this area
17 as a patrol deputy?

18 A. I was.

19 Q. So are you kind of familiar with these streets?

20 A. I'm very familiar with these streets.

21 Q. Okay. So describe to the jury where 2010 Green
22 Oaks Road is compared to Tsubaki on Oneil Court is.

23 A. They're within just a few miles of each other, if
24 that. It's a very small area of Richland County, and
25 they're all basically located off of the same main road,

1 which would be Decker Boulevard.

2 Q. Okay. And based on information deputies
3 responded to Green Oaks, were they wearing body-worn
4 cameras?

5 A. Yes.

6 Q. Okay. And did you review the footage from that
7 body-worn camera or did the investigators review with you
8 the footage?

9 A. Yes.

10 Q. And on that body-worn camera did deputies have a
11 conversation with someone named Jack King?

12 A. Yes, they did.

13 Q. Okay. And did he indicate whether he knew who
14 drove the Ford Fusion?

15 A. Yes, he did.

16 Q. And who did he say?

17 A. He said it was registered to his daughter -- the
18 daughter-in-law, excuse me, Ashley Walcott, but that his
19 son Jaquan drove it.

20 Q. Well, did he just say the son drives it?

21 A. The son. Yes, correct.

22 Q. And did he provide a specific name of the son
23 that he was referring to at that time?

24 A. Not initially.

25 Q. Okay. And was there also a younger female

1 present at the residence?

2 A. Yes.

3 Q. And who did she identify herself as?

4 A. Bear with me (looking through a document).

5 Q. When I say young, I mean like a twenties adult
6 female.

7 A. On Green Oaks, you're talking about?

8 Q. When the deputies arrived.

9 A. I do not recall what her name was.

10 Q. Okay. Is it possible that it was Ashley Walcott?

11 A. Oh, yes.

12 Q. Okay. And that's the person you said was the
13 registered owner of the car?

14 A. Correct.

15 Q. All right. So what did police decide to do with
16 the Ford Fusion located at Green Oaks?

17 A. It was taken into our custody.

18 Q. It was towed?

19 A. It was towed and a search warrant was obtained to
20 process it.

21 Q. Okay. So when those deputies like left that
22 address at that time, like what information did
23 investigators know about the specific identity of this son
24 that Jack King was referring to?

25 A. That his name was Jaquan.

1 Q. And did you know, like, so when deputies leave
2 2110 Green Oaks, do you know his name Jaquan at that time?

3 A. No, sorry.

4 Q. Okay. So you don't have a specific identity?

5 A. No, we don't have a specific identity at that
6 point.

7 Q. Okay. So let's turn to August 2nd. So this
8 would've been the day after the shooting?

9 A. Correct.

10 Q. Did you come in contact with Ashley Walcott?

11 A. I did. I went to her address, which is the
12 registered address we saw 2400 Kneece Road.

13 Q. Okay. And looking at State's 28 again where is
14 Kneece Road in relation to Tsubaki and Green Oaks?

15 A. The very same vicinity. I would say it's half a
16 mile or less from the Green Oaks Road it's a very close
17 proximity.

18 Q. And what was the reason you went to talk to
19 Ashley Walcott in person?

20 A. To figure out why her car was seen leaving the
21 scene of the crime.

22 Q. Okay. And can you describe her willingness to
23 provide information about that to you?

24 A. At first she claimed that her car was not
25 missing. She had custody of it and she's the only person

1 who drives it. And then when I explained that we had a
2 picture of it leaving the scene of the crime and that we
3 had already taken custody of the car --

4 MS. ZMROCZEK: Your Honor, I'm going to object to
5 specific hearsay coming in through this witness. If
6 they want to call that person, they can.

7 BY MS. TAYLOR:

8 Q. Well, can you just describe -- was she willing to
9 give the statement?

10 A. No, she was very uncooperative.

11 Q. Okay. And throughout your investigation, what,
12 if any, documentation did you find where Ashley Walcott
13 reported her car stolen on August 1st, the day of the
14 shooting?

15 A. She reported it stolen, if I remember correctly,
16 by someone she knew.

17 Q. Are you sure about that?

18 MS. ZMROCZEK: Your Honor, we -- may we approach?

19 THE COURT: Sure.

20 (A sidebar conversation was held.)

21 BY MS. TAYLOR:

22 Q. So let me phrase it this way. You didn't find
23 any reports of Ashley Walcott reporting her car stolen?

24 A. No. There was no report of her car stolen.

25 Q. Okay. What about July 31st the day before the

1 shooting?

2 A. No.

3 Q. Okay. So let's turn -- so we're still on August
4 2nd, you're assigned to the case. So at this point, you
5 testified that the information you know is that you have a
6 general physical description of the shooter from the scene.

7 A. Correct.

8 Q. You have a license plate of a Ford Fusion that's
9 registered to Ashley Walcott. Ashley Walcott is at Green
10 Oaks where the car's located, and then you visit her
11 in-person.

12 A. Right.

13 Q. And then Jack King said his son, who's
14 unidentified --

15 A. Right.

16 Q. -- drives the car. Now, based on all that
17 information, what was done next to determine the potential
18 male who may be his son that is associated with Jack King
19 on that Green Oaks Drive address?

20 A. So there are several databases that the Sheriff's
21 Department had at the time, one of which was an internal
22 database that keeps track of all the reports that are
23 written. And you can search names and addresses and same
24 thing with the DMV, you can search all the customers who
25 have never been listed as residents of that address through

1 the DMV.

2 Q. Okay. And did the name Jaquan King come up in
3 that database search?

4 A. It did.

5 Q. And did his date of birth also come up?

6 A. It did.

7 Q. And based on these database search results, what
8 did you determine was potentially Jaquan King's
9 relationship to Jack King?

10 A. That it was his son.

11 Q. All right. And when you researched Jaquan King's
12 name, his date of birth, did you find out about whether he
13 had any connections to other states?

14 A. Yes.

15 Q. And what was that state?

16 A. I believe New York.

17 MS. ZMROCZEK: Your Honor, may we approach,
18 please?

19 (A sidebar conversation was held.)

20 BY MS. TAYLOR:

21 Q. Okay. And what state did you find that he has
22 ties to?

23 A. New York.

24 Q. New York. Okay. And based on finding the name
25 of Jaquan King's database -- or his date of birth, did you

1 also search to find photos of Jaquan King?

2 A. I did.

3 Q. And did you find a photo of him?

4 A. I did. It's from January for that same year.

5 Q. Of 2021?

6 A. Yes.

7 Q. All right. That was seven months before the
8 shooting?

9 A. Yes.

10 Q. Did that photo from January 2021 show his hair?

11 A. It did.

12 Q. And what hairstyle did he have in that photo?

13 A. Dreadlocks.

14 Q. I'm gonna show you what's been marked as State's
15 Exhibit Number 32. Can you tell me if you recognize where
16 this picture was taken?

17 A. Yes.

18 Q. And what is that record from?

19 A. From the DMV -- it's his driver's license photo.

20 Q. Okay.

21 A. By "he," I mean the defendant, sorry.

22 MS. TAYLOR: Okay. And we have a business
23 affidavit for that one, too. So we request to move
24 State's Number 32 into evidence.

25 MS. ZMROCZEK: I thought you said 42.

1 MS. TAYLOR: Thirty-two.

2 MS. ZMROCZEK: Okay. No objection.

3 THE COURT: It'll be admitted as State's 32
4 without objection.

5 (State's 32 marked and admitted for evidence.)

6 BY MS. TAYLOR:

7 Q. Okay. So you said that that document was located
8 in DMV database?

9 A. Yes, ma'am.

10 Q. And what -- okay. Okay. And what year was his
11 license issued?

12 A. It was issued in 2018.

13 Q. Okay. And does that appear to be his signature
14 on that document?

15 A. It does.

16 Q. And what is listed as his address? The city and
17 ZIP code on the date that this was issued?

18 A. 139 Oneil Court, Columbia, South Carolina 29223.
19 Which is directly across the street from Tsubaki, at 224
20 Oneil Court.

21 Q. Okay. Is that the Palmetto Gardens Apartments?

22 A. It is.

23 Q. All right. So looking at 32 again, what was
24 listed as Jaquan King's height and weight?

25 A. Six-one, 200 pounds.

1 Q. Okay. And from your experience as a patrol
2 deputy, investigator, and just somebody with the driver's
3 license, typically who provides DMV the information about
4 the address, your height, your weight, to put on your
5 license?

6 A. You supply all that information to the DMV.

7 Q. All right. Now -- all right. So let's go back
8 to the January 2021 photo you were referring to. When you
9 saw his hairstyle on that January photo and it's listed
10 height and weight in the DMV photo we just showed, did you
11 compare those physical traits to the witness's physical
12 descriptions on the scene?

13 A. I did.

14 Q. And based on the pairing those physical
15 descriptions, what did you determine about Jaquan King in
16 the shooting incident?

17 A. That he was a likely candidate based on his
18 height, weight, his hair, and the potential access to the
19 car that we already recovered.

20 Q. That he'd be potential suspect?

21 A. Correct.

22 Q. Okay. And did he match the description of the
23 shooter that people gave?

24 A. Yes.

25 Q. Okay.

1 A. The only description he ever matched was the
2 person shooting, not anybody else related to that car.

3 Q. Okay. And based on the determination, did you
4 request that Jaquan King's photo be put in a photo lineup?

5 A. I did.

6 Q. So we're gonna shift gears for a little bit. So
7 in the days leading up to Jaquan King being developed into
8 a potential suspect, the name Ashley Walcott kept coming
9 up, right?

10 A. Correct.

11 Q. Okay. And you spoke to her at her apartment on
12 August 2nd, you hadn't developed the name Jaquan King, yet?

13 A. No.

14 Q. Okay. And at that point, did you know what the
15 relationship between Ashley and Jack King was?

16 A. Other than him saying to deputies when the car
17 was found that she was his daughter-in-law.

18 Q. Okay.

19 A. She certainly didn't elaborate.

20 Q. Okay. I'm gonna show you what's been marked as
21 State's Exhibit Number 31. And tell me if you -- what this
22 is.

23 A. This is a South Carolina marriage certificate.

24 MS. TAYLOR: Okay. And the State requests to
25 enter Number 31 into evidence under Rule 9024 as a

1 self-authenticating public record.

2 MS. ZMROCZEK: No objection.

3 THE COURT: All right. It'll be admitted as
4 State's 31.

5 (State's 31 was marked and admitted.)

6 BY MS. TAYLOR:

7 Q. Okay. And are you familiar with the names on
8 this marriage license?

9 A. I am.

10 Q. And who -- whose name is listed in Section A?

11 A. Section A would be Jaquan King.

12 Q. And whose name is listed in Section B?

13 A. Ashley Walcott.

14 Q. And are both of their signatures at the bottom of
15 the document?

16 A. Yes.

17 Q. And under Section A, what is listed Jaquan King's
18 address?

19 A. 2110 Green Oaks Road.

20 Q. Okay. What is listed as Ashley's address?

21 A. 2400 Kneece Road.

22 Q. And based -- okay. And also under Section A,
23 what is listed as Jaquan King's birthplace?

24 A. It's New York.

25 Q. All right. So let's go back to -- let's go back

1 to your decision to put Jaquan King's photo in a photo
2 lineup. What is the purpose of a photo lineup in criminal
3 investigations?

4 A. For witnesses or victims to clearly identify a
5 face to go along with -- or identify a physical person to
6 go along with the person they're describing to us.

7 Q. Okay. And did you create the lineup with this
8 photo yourself?

9 A. I did not.

10 Q. And what agency did you request to create that
11 lineup?

12 A. SLED, which is the State Law Enforcement
13 Division.

14 Q. And was it uncommon for Richland County Sheriff's
15 Department to ask SLED for your lineups?

16 A. No, it was not, it was a routine occurrence.

17 Q. And how many photos did you request to be put in
18 the lineup?

19 A. Each lineup has six pictures in it.

20 Q. Okay. And what type of information did you
21 provide to SLED about Jaquan King in order for them to
22 create this lineup?

23 A. His name, his date of birth, and his height and
24 weight.

25 Q. And did SLED send you a photo lineup with his

1 photo in it?

2 A. They did.

3 Q. And when you received the lineups, did they have
4 any other information on it besides some -- the photos and
5 some numbers below it?

6 A. No --

7 Q. There's no writing or anything on it?

8 A. No.

9 Q. Okay. And did you review the lineup before you
10 showed it to the witnesses?

11 A. I did.

12 Q. And did you have any other investigators review
13 the lineup before you showed it to witnesses?

14 A. Yes, they did.

15 Q. And who did you have review it?

16 A. Sergeant Dauway, who would have been my
17 supervisor at the time.

18 Q. And is Sergeant Dauway a black male investigator?

19 A. He is.

20 Q. All right. And when you received the lineup, did
21 you review it to ensure that Jaquan King's photo was in
22 there?

23 A. Correct, I did.

24 Q. And, I guess, would his -- his photo be referred
25 to as the suspect photo?

1 A. Yes, it would.

2 Q. And did you ensure -- did you review it to ensure
3 that his photo matched the physical descriptions given by
4 the witnesses?

5 A. Yes, ma'am. I did.

6 Q. Okay. And was the photo used in his lineup that
7 same January 2021 photo you just told us about?

8 A. Yes, it was.

9 Q. Now, the five other people that are in these
10 lineups, they are not suspects in this case?

11 A. No, they're not.

12 Q. Okay. But did you review the lineup to -- or
13 what were some factors that you -- you were looking for
14 between the suspect photo, Jaquan King, than the other five
15 ones? What were you looking for?

16 A. So you want to make sure that the lineups are all
17 in color or either they're all black and white. They have
18 to be all one or the other. You don't want any photos to
19 stand out, you want to make sure all the photos are the
20 same size. And that all the backgrounds are the same
21 color and they all appear to be wearing the same color
22 shirt. So there's not one that stands out over any other
23 one.

24 Q. Okay. And after SLED send you the lineup, can
25 you kind of save the lineup to -- to use to show different

1 witnesses?

2 A. Yes. They send you a complete lineup and they --
3 you -- the six pictures so that you can recreate the lineup
4 in a different order if necessary.

5 Q. And what do you typically do with the location of
6 the suspect photo and the number when you show it to
7 different witnesses?

8 A. Each witness is shown a lineup where the
9 potential suspect is in a different location and has a
10 different number. So that no two people are shown the same
11 number or the same location at the lineup.

12 Q. And -- so did you also give Sergeant -- someone
13 named Sergeant Kneece a lineup with Jaquan King's photo in
14 it to show the witnesses?

15 A. Yes, ma'am, I did.

16 Q. Okay. And which witness did you show that lineup
17 to?

18 A. I showed the lineup to Ms. Arce.

19 Q. Okay. And was Jaquan King's photo moved around
20 in that lineup?

21 A. Yes, it was.

22 Q. Okay. I'm going to show you State's Exhibit
23 Number 1. And do you receive the lineup back after he does
24 that with them?

25 A. Yes, he physically gives me the copy of the

1 lineup.

2 Q. Okay. And is this (indicating) the lineup that
3 he Kiara Arce completed?

4 A. Yes, it is.

5 Q. And in this lineup, which number is Jaquan Kings'
6 photo?

7 A. Number 3.

8 Q. And which number photo did she identify in this
9 lineup?

10 A. She identified Number 3.

11 Q. Okay. So let's turn to August 3rd. Did you
12 interview witnesses named Judy Reyes and Devin Pate, you
13 like, personally?

14 A. I did.

15 Q. Okay. And did you show them photo lineups with
16 Jaquan King photo in it?

17 A. Yes, I did.

18 Q. Now, on August 3rd when you showed Judy and Devin
19 the lineups and Sergeant Kneece showed Kiara this lineup,
20 had there been any media releases or news articles put out
21 to the public with Jaquan King's name and his photo linked
22 to this shooting?

23 A. No, it was not.

24 Q. So let's talk about Judy's lineup. You
25 interviewed her two days after the shooting?

1 A. Yes, ma'am.

2 Q. And did she indicate whether she witnessed the
3 shooting?

4 A. She did.

5 Q. And did she indicate whether she would be able to
6 identify the shooter's face if she saw him again?

7 A. She did.

8 Q. And during her interview, did she give a physical
9 description of the shooter?

10 A. She did.

11 Q. And based on her physical description of the
12 shooter, her ability to see the shooter's face, did you
13 decide to present her with a photo lineup?

14 A. I did.

15 Q. When you presented her with this lineup, were
16 there any of her family members or any other witnesses in
17 there with y'all?

18 A. Yeah. There were several witnesses that -- or
19 victims that came to the Sheriff's Department that day.
20 They're all separated by sight and sound. And what that
21 meant was physically, everybody was downstairs in the
22 lobby, and one person at time was brought upstairs to give
23 their statement, and if they felt like they were able to or
24 potentially identify somebody, then they were shown the
25 lineup.

1 They were put in a different room and the next person
2 was brought up. So after they were -- made their statement
3 and looked lineup, they didn't have contact with everybody
4 else, so they couldn't influence anybody else's decision.

5 Q. And when she -- or when you did your interview
6 with her, before you showed her the lineup, did you ever
7 mention the name Jaquan King to her?

8 A. I did not.

9 Q. Did you ever show her any photos of Jaquan King?

10 A. I did not.

11 Q. Did she mention the name Jaquan King?

12 A. She did not.

13 Q. All right. And I'm going to show you State's
14 Exhibit Number 2. Is this the lineup that you did with
15 Judy Reyes?

16 A. Yes, ma'am.

17 Q. Okay. And what number was Jaquan King's photo in
18 this lineup?

19 A. He's number 2.

20 Q. Which was different from where he was in Kiara's
21 lineup?

22 A. Correct.

23 Q. Did she -- did Judy identify someone's photo in
24 this lineup?

25 A. She did.

1 Q. And what number did she pick?

2 A. She picked Number 2.

3 Q. And what did she identify him as doing -- his
4 involvement in the shooting?

5 A. He was the shooter.

6 Q. All right. And Photo Number 2 is Jaquan King's
7 photo?

8 A. It is.

9 Q. Okay. And the person that you chose or you put
10 in these lineups as the suspect photo that was Jaquan
11 King's photo?

12 A. It is.

13 Q. All right. And --

14 A. Or it was.

15 Q. It was. Okay. And did Judy notate her selection
16 of Photo Number 2?

17 A. She did.

18 Q. And how certain did she appear about her
19 selection of this photo?

20 A. She was very certain.

21 Q. And did you suggest or influence her on who to
22 pick?

23 A. No. Certainly not.

24 Q. Okay. So let's turn to Devin Pate's interview on
25 the lineup. On that same day, August 3rd, did you also

1 interview witness named Devin Pate?

2 A. I did.

3 Q. And were there any other witnesses during his
4 interview?

5 A. No, just me and him.

6 Q. All right. Did he indicate whether he witnessed
7 the shooting?

8 A. He did.

9 Q. Did he provide any information about details
10 related to a car he saw at the shooting?

11 A. He did. And again this is two days later he was
12 interviewed where he, again, recited the license plate he
13 had memorized from the two days before.

14 Q. And did he indicate whether he would be able to
15 identify the shooter's face if he saw him again?

16 A. Yes. He was very certain he could do that.

17 Q. And did he also give a physical description of
18 the shooter?

19 A. He did.

20 Q. And based on his physical description of the
21 shooter and his ability to observe the shooter's face, did
22 you decide to present him with a photo lineup?

23 A. I did.

24 Q. Okay. And once again, during Devin's interview,
25 did you ever mention the name Jaquan King.

1 A. No, I did not.

2 Q. Did you ever show Devin any photos of Jaquan
3 King?

4 A. No, I did not.

5 Q. Did Devin mention Jaquan King?

6 A. No, he had no idea who that was.

7 Q. Okay. So I'm gonna show you what's been entered
8 as State's Number 3. Do you recognize this as the lineup
9 you did with Devin Pate?

10 A. Yes.

11 Q. And what number was Jaquan King's photo in this
12 third lineup?

13 A. Number 6.

14 Q. Okay. So he's in a different location than he
15 was with Judy and Jacob?

16 A. Correct.

17 Q. All right. And did Devin identify someone's
18 photo in this lineup?

19 A. He did.

20 Q. And what number photo did he pick?

21 A. He picked Number 6.

22 Q. And what number photo was Jaquan King's photo on
23 this (indicating) lineup?

24 A. He was Number 6.

25 Q. And what did he identify the person in Photo

1 Number 6 involvement in the shooting?

2 A. As being the shooter.

3 Q. Okay. And did he indicate who he saw him shoot?

4 A. Yes.

5 Q. Who?

6 A. The victims -- Cora and Ms. Reyes.

7 Q. Okay. Or the male, the female?

8 A. The male and female, sorry.

9 Q. Okay. And did Devin circle Photo Number 6 and
10 initial?

11 A. He did.

12 Q. And how confident did he appear about his
13 election?

14 A. He was extremely confident.

15 Q. Did he hesitate at all?

16 A. He did not hesitate.

17 Q. Did you influence or suggest to him a photo to
18 pick?

19 A. No, I did not.

20 Q. Okay. Now, the person that you selected as the
21 suspect photo you said was Jaquan King, right?

22 A. Yes, ma'am.

23 Q. And he's a suspect photo in each of these three
24 lineups?

25 A. Yes, ma'am.

1 Q. Okay. Do you see Jaquan King in the courtroom
2 today?

3 A. I do.

4 Q. All right. Can you describe what he's wearing
5 and where he's sitting?

6 A. He's sitting next to Counsel Zmroczek. He's
7 wearing a black jacket with a white shirt.

8 MS. TAYLOR: Okay. Let the record reflect the
9 witness has identified the defendant.

10 THE COURT: So noted.

11 BY MS. TAYLOR:

12 Q. Is there anything different about his physical
13 appearance today than how he looked in the photo that was
14 used in the lineup?

15 A. His dreads are a bit longer.

16 Q. Today they're longer?

17 A. Yes. Today they're longer than there were at the
18 time.

19 Q. All right. Now, was he arrested for these
20 charges on August 24th of 2021?

21 A. Yes, he was.

22 Q. Now, in your interview with Devin on August 3rd,
23 did he provide any physical descriptions about another man
24 that he saw was present at the shooting that you used to
25 further your investigation?

1 A. He did.

2 Q. Okay. And what was that general physical
3 description of that other man?

4 A. He was described as being way taller than
5 everybody else, also being a black male. And he described
6 him as not wanting to be there.

7 Q. Okay. And did he describe kind of how he was
8 acting in the -- in the situation?

9 A. He -- he was not -- certainly not the aggressor
10 by any means.

11 Q. Okay. Was he trying to defuse the situation?

12 A. He was trying to defuse the situation.

13 Q. All right. Now, did you receive a latent print
14 report from Kristin Polis regarding some fingerprints done
15 in this case?

16 A. I did.

17 Q. And who was the person that the fingerprint
18 matched?

19 A. That was a few days later on the 6th and it was
20 to Michael A. Jones.

21 Q. Okay. And where on the Ford Fusion was Jones'
22 fingerprints located?

23 A. On the passenger side.

24 Q. Are you sure it's not the rear driver's side?

25 A. No. Excuse me. The rear driver's side.

1 Q. Okay. So your -- it was the rear driver's side
2 door?

3 A. Yes. I'm sorry.

4 Q. Okay. And did the print identification from
5 Polis' report also provide Jones' date of birth?

6 A. It did.

7 Q. And so based on what -- learning Michael Jones'
8 name, his date of birth, did you also search these same
9 databases for photos of Michael Jones?

10 A. I did.

11 Q. And did you find a photo of him on the database?

12 A. I did.

13 Q. And did it list his height and weight?

14 A. It did.

15 Q. And what was his height and weight listed in that
16 database?

17 A. Six-eight, 230.

18 Q. So based on your experiences in law enforcement
19 and just being a person with eyes, how would you describe
20 the body type of a person who is six-eight, 230 pounds?

21 A. I'll describe him like Devin said, he was way
22 taller than everybody else. He was certainly several
23 inches taller than everybody that was there that night.

24 Q. Okay. So NBA basketball star, depending on who
25 you're asking. LeBron James, he's six-nine. Okay? So

1 this guy, Michael Jones, that print came back to, would be
2 about as tall as the NBA player?

3 A. Correct.

4 Q. All right. And on September 7th, 2021, and
5 September 16th, 2021, did you have the opportunity to talk
6 to and actually see Michael Jones in person?

7 A. I did.

8 Q. And how would you compare his physical
9 description, from when you saw him in person, to how the
10 witnesses described this other man they saw that night?

11 A. I would say he was way taller. He was a foot
12 taller than me. A lot taller.

13 Q. Okay. All right. And did you have the
14 opportunity to interview Michael Jones?

15 A. I did.

16 Q. All right. And how would you describe how
17 cooperative he was in telling you what he knew about the
18 shooting?

19 A. The first instance I spoke with him, he admitted
20 to being there, and then was very hesitant to elaborate on
21 anything else.

22 Q. Okay. So based on the witnesses' visible
23 description of the shooter, which three people identified
24 Jaquan King as the shooter?

25 A. Correct.

1 Q. And then you see Michael Jones in person, who you
2 determine is almost as tall as the NBA player or about as
3 tall, what did you determine about whether Michael Jones
4 was the shooter in this case?

5 A. Being that he was significantly taller than who
6 everybody else described. And everybody -- the two people
7 that described him said that he was not the shooter and
8 that he didn't have dreadlocks, it was determined that he
9 was not most likely the shooter.

10 Q. Okay. And the three people that identified
11 Jaquan King, did they identify anyone else as the shooter
12 in this case?

13 A. They were all very confident when they made their
14 selections from the lineups. They were -- they were
15 clearly identifying the person who was shooting. Not
16 anybody else related to the crowd.

17 MS. TAYLOR: No further questions.

18 THE COURT: Cross examination?

19 CROSS EXAMINATION

20 BY MS. ZMROCZEK:

21 Q. Investigator Short, would you identify as a
22 ginger?

23 A. I suppose.

24 Q. Okay. What about Investigator Kneece? What does
25 he identify as? He got -- he got dark hair. He didn't --

1 A. Am I allowed to identify -- identify him. I
2 don't think I'm allowed to pick his identification.

3 Q. All right. Let me ask you this way. So you
4 worked with Investigator Kneece, in fact?

5 A. I did.

6 Q. Okay. And -- and he has dark brown hair, right?

7 A. He does.

8 Q. Okay. How tall are you?

9 A. Five-ten.

10 Q. Okay. You -- I want talk to you about a bunch of
11 different things, so I'm gonna try to keep it organized in
12 that way, okay?

13 A. All right.

14 Q. So I want to first talk to you about, you said
15 that you're a -- you were a -- the lead investigator in
16 this case, right?

17 A. Yes, ma'am.

18 Q. And that your duties were to investigate and get
19 ready for trial, right?

20 A. My duties were to investigate and, you know, try
21 to solve the crime.

22 Q. Try to solve the crime, right?

23 A. Not necessarily get ready for trial. That would
24 be later.

25 Q. Okay. And when you try to solve the crime, when

1 people tell you things, you fact-check them, right? You
2 corroborate? You try to see if what they're saying adds
3 up, right?

4 A. Certainly.

5 Q. Okay. And so when you have -- how many people
6 were interviewed by either yourself or investigators in
7 this case that you reviewed their interviews?

8 A. You'd like a number?

9 Q. I would.

10 A. I can't give you a specific number. I would say
11 several at the very least.

12 Q. Okay. Judy Reyes, investigated?

13 A. She was investigated?

14 Q. I mean, sorry, interviewed?

15 A. Yes, ma'am.

16 Q. Yolanda Cora?

17 A. Yes, ma'am.

18 Q. Jacob Cora?

19 A. Yes, ma'am.

20 Q. Abigail Rondon?

21 A. Yes, ma'am.

22 Q. Nelson Cora?

23 A. Yes, ma'am.

24 Q. Kiara Arce?

25 A. Yes, ma'am.

1 Q. Joseph Tyner? Anybody interview him?

2 A. I don't recall.

3 Q. Okay. Jerry Hammond?

4 A. Yes.

5 Q. Devin Pate?

6 A. Yes.

7 Q. Demetrius Potts?

8 A. I believe so.

9 Q. Alexis Green?

10 A. I don't recall Alexis Green.

11 Q. Okay. And Mr. Brown?

12 A. I do not recall specifically Mr. Brown.

13 Q. Okay. Am I leaving anybody else out?

14 A. Not to my knowledge.

15 Q. Okay. So when you -- when there are
16 discrepancies in the -- in the things that they are telling
17 you, you just pick which one you go with and -- and ignore
18 the others?

19 A. Certainly not.

20 Q. Okay. Well then, what investigation did you do
21 into the -- into the two guns that were seen by witnesses?

22 A. I personally didn't have knowledge of the two
23 guns being seen.

24 Q. You didn't? Okay. You reviewed the --
25 investigate the -- the reports in the investigations,

1 right?

2 A. Which report are you referring to?

3 Q. You reviewed Ms. Arce's report?

4 A. Her --

5 Q. Right?

6 A. Are you talking about the statement that she
7 gave?

8 Q. Yes, sir.

9 A. So are you referring to which part of her
10 statement?

11 Q. The part where she said that there were two guns
12 that she saw.

13 A. Oh! The tall, skinny person that had a gun. Is
14 that what you're referring to. That part of her statement.

15 Q. That's what I'm talking about. Mm-hmm
16 (affirmatively).

17 A. What -- what was the question about?

18 Q. The question was, do you just discount when
19 people -- when -- when people say that there are two guns,
20 do you -- do you do any investigation into that?

21 A. Well, this part of her statement, says that she
22 saw somebody else with a gun, but she said that she didn't-
23 - fire the gun.

24 Q. Okay.

25 A. My focus was on the gun that was fired and the

1 people that were shot from the gun was fired.

2 Q. Okay. And what about when Ms. Reyes told you
3 that she saw two people with guns? That'll be on Page 2 of
4 her -- of the report you took -- that you typed out
5 yourself, right?

6 A. Correct.

7 Q. Did you type that out?

8 A. I did.

9 Q. Mm-hmm (affirmatively).

10 A. So, are you talking about where she says, "After
11 the shots rang out, I saw him throw the gun on the ground"?

12 Q. Uh-huh. And then keep going.

13 A. Okay. You want me to keep reading the statement?
14 Is that what you're asking me?

15 Q. No. But what I'm saying is that he had a gun
16 too. Taller, thinner. He had braids; he had a gun too.

17 A. Correct.

18 Q. Okay. So yeah, at least now two people saying
19 there were two guns?

20 A. Okay.

21 Q. You -- okay? Yes?

22 A. Yes.

23 Q. Okay. So are you interested in -- in -- in
24 following up on any other guns that were out there?

25 A. Most certainly.

1 Q. Okay. And what did you do to follow up on that?

2 A. Well, I attempted to identify other people --

3 Q. Mm-hmm (affirmatively).

4 A. -- that were connected to the one person I had
5 connected to the car, which is Jaquan King.

6 Q. Mm-hmm (affirmatively).

7 A. And the other evidence we had at the scene, which
8 was a business card.

9 Q. Okay. Let's talk about that business card.

10 A. Okay.

11 Q. Okay? So you got that business card, and that
12 person was as -- identified as who?

13 A. The name on the card was Mustafa Smith.

14 Q. Okay. What'd you do to follow up with Mustafa
15 Smith?

16 A. Well, I certainly called the number on the card
17 multiple times.

18 Q. Okay.

19 A. And he didn't want to call me back.

20 Q. Okay.

21 A. I was not able to locate a -- a good address or a
22 date of birth for Mustafa Smith. I was not able to locate
23 him.

24 Q. With all the money, all the power, and all of the
25 resources in the State of South Carolina, you couldn't

1 figure out who this guy was?

2 A. I worked for Richland County not State of South
3 Carolina. It's a smaller budget.

4 Q. Okay. So Richland County wasn't interested in
5 following up on somebody who could possibly be involved?

6 A. I never said I wasn't interested. I said I was
7 not able to physically locate him.

8 Q. Okay. You physically located Mr. Jones?

9 A. Yes, I did.

10 Q. Arrested him?

11 A. Eventually, yes, I did.

12 Q. When you brought him into the station, you -- he
13 was in handcuffs?

14 A. Well, I talked to him first before that.

15 Q. Right.

16 A. And asked him to help me identify the other
17 people in the car.

18 Q. Right.

19 A. And he chose not to.

20 Q. Right. And so you told him, "You could either be
21 a defendant or a witness," right? You told him that
22 multiple times on video, right?

23 A. Sure. You're saying you saw it on video.

24 Q. Would you like to see it?

25 A. Sure. Sure. I'm not sure what the question is.

1 Q. Okay. The question was, did you say to Michael
2 Jones, "You can either be a defendant or a witness"?

3 A. Yes.

4 Q. Okay. And when you were saying that to him, you
5 were showing him -- you were asking him to review photo
6 lineups, right?

7 A. Yes.

8 Q. Okay. Let's talk about photo lineups for a
9 second. You are familiar with the policies and procedures
10 of SLED that they require to get -- to even generate a
11 photo lineup, right?

12 A. I'm not aware of the policies. I'm aware of what
13 our procedure was. If you're asking about sending a
14 request for SLED to generate a photo lineup --

15 Q. Mm-hmm (affirmatively). You're not familiar with
16 their policies?

17 A. I'm not familiar with SLEDs policies. I don't
18 work for SLED. I was familiar with our procedure on how to
19 request them.

20 Q. Okay. So -- so when SLEDs policy say that they
21 have to have confidence before they will even generate a
22 report, you weren't familiar with that?

23 A. They have to have what? I'm sorry.

24 Q. They have to have -- "before making a request for
25 photographic lineup, agents shall attempt to assess the

1 victims or witnesses' level of confidence in their ability
2 to make an identification." You're not familiar with that
3 policy?

4 A. Again, I'm not familiar with SLED's policy. I
5 never worked for SLED.

6 Q. All right. So because y'all have a policy --
7 y'all have policies at Richland County, right?

8 A. Certainly.

9 Q. Okay. And when you were reading -- when you were
10 asked on direct about what you said to the witnesses, it
11 appeared that you were reading that from somewhere. Where
12 were you reading that from? The things that you say to the
13 witnesses?

14 A. What?

15 Q. When -- when you said --

16 A. Specifically, what was I saying?

17 Q. The things that you said that the person may or
18 may not be here, et cetera, et cetera. Is that written
19 down or were you just looking down and saying that?

20 A. Today? You're asking me?

21 Q. Yeah.

22 A. No, I was -- I was off the top of my head. I
23 wasn't reading it from anything.

24 Q. Okay. And so when you show a photo lineup to a
25 witness or a suspect or a defendant, you say the same

1 thing. You treat that lineup the same way every single
2 time, right?

3 A. No, ma'am.

4 Q. Okay. Do you recall being under oath on Monday
5 in a pretrial hearing in this matter?

6 A. Certainly, I do.

7 Q. Okay. Do you recall when I asked you that
8 question on Monday?

9 A. I do. And I told you the same thing I'm telling
10 you now, there's a difference between showing a lineup to a
11 witness or a victim and a co-defendant.

12 Q. No. And -- and -- and I said -- that was because
13 I said why weren't they recorded, right? We can play -- we
14 can -- we can play that.

15 A. Yeah. And I asked you to clarify because there's
16 a difference between what was policy then and what is
17 policy now.

18 Q. Okay.

19 A. And recording an interview or showing somebody a
20 lineup on camera, which would be done for a co-defendant --

21 Q. Mm-hmm.

22 A. -- at the time in 2021.

23 Q. Right.

24 A. And at that time we did not record showing
25 witnesses photo lineups.

1 Q. Okay.

2 A. That's -- that's what we clarified Monday in
3 court.

4 Q. Right. That's what we clarified. That was the
5 only difference, though. That's what you said. The only
6 difference is --

7 A. That was the only difference.

8 Q. Okay. That's what you testified to on Monday
9 under oath.

10 A. I'm not sure that I testified that that was the
11 one and only difference.

12 Q. Okay. All right.

13 A. There are certainly differences.

14 Q. What are the other differences?

15 A. Well, (clears throat) specifically --

16 Q. Mm-hmm (affirmatively).

17 A. -- in Mr. Jones' case --

18 Q. Mm-hmm (affirmatively).

19 A. -- his fingerprint and his description in my mind
20 put him there at the scene.

21 Q. Okay.

22 A. So I was asking him to identify who else was in
23 the vehicle with him --

24 Q. Mm-hmm (affirmatively).

25 A. -- because witnesses described four people and --

1 Q. Well, not all the witnesses described four
2 people, but some of them did, right? Did all of the
3 witnesses describe four people?

4 A. Every single one of them.

5 Q. Every single witness described four people?

6 A. You're asking for an absolute. No not --

7 Q. Okay. How many?

8 A. I don't know. If you're asking for a specific
9 number --

10 Q. Okay.

11 A. -- of who said more or less than four people. I
12 don't have a specific number to give you.

13 Q. Okay. Okay, keep going.

14 A. So, Mr. Jones was shown lineup for him to
15 identify other people in the car.

16 Q. Right.

17 A. He's being treated differently because at that
18 point he was under arrest.

19 Q. Right.

20 A. Versus a victim or a witness.

21 Q. Mm-hmm (affirmatively).

22 A. And if you're asking if there's a difference
23 between when he was shown a lineup as somebody under arrest
24 and a co-defendant in a case versus showing a victim or a
25 witness the lineup, they're certainly two different things.

1 Q. Why are they different? Shouldn't lineups be
2 administered the same way each and every time regardless of
3 who sees them?

4 A. Well, no.

5 Q. No?

6 A. Not necessarily.

7 Q. Why not?

8 A. Because each case is different.

9 Q. Right. Because you want to make sure you get the
10 right person, right?

11 A. Well, certainly.

12 Q. Okay. I want to go back to one thing you said
13 about Mr. Jones. You said that multiple people identified
14 a very tall person, right?

15 A. Okay.

16 Q. Did you say that? When you say okay, are you
17 saying yes, I agree?

18 A. I'm -- I'm unclear as what your question is. Are
19 you asking me to give you a number of how many people said
20 that he was tall or what -- what are you asking?

21 Q. I'm going to speak real slow. How many (speaking
22 slowly) witnesses described an extremely tall individual
23 being with this group?

24 A. (Laughing) I understand what you're saying. You
25 don't have to be condescending.

1 Q. Okay. I'm just trying. Sure.

2 A. More than one person --

3 Q. Who?

4 A. -- described a tall person.

5 Q. Okay. Who?

6 A. Let me go back and look (flipping through pages).

7 Q. Please. Because we know Devin Pate told you that
8 there was a -- a basketball center tall person, right?

9 A. Okay. And then Ms. Reyes.

10 Q. Ms. Reyes, she described somebody that was
11 incredibly tall.

12 A. He was taller.

13 Q. He who?

14 A. The tall person? He was taller than the person
15 she said was shooting.

16 Q. Okay.

17 A. She describes -- so she described the shooter and
18 then she described the taller person.

19 Q. All right. And so did you ask her how tall?

20 A. Did I specifically ask her how tall I thought she
21 was? No, she said taller. So that was a good measure, a
22 good reference.

23 Q. That's a good reference for you?

24 A. At the -- at the time. Certainly.

25 Q. Okay. All right. And so I want go back to these

1 photo lines for a moment. You develop these photo lineups,
2 right? And I want to talk about that for a second. You
3 said that, or you had SLED develop them, but you developed
4 Mr. King, right? When did you submit that request to SLED?

5 A. Would have been before the third? When they were
6 shown (flipping through pages). It would have either been
7 the 2nd or the 3rd.

8 Q. Okay. And so do lineups show the height of
9 people?

10 A. No.

11 Q. Okay. So the information that you had based
12 solely upon the witness's statements, right? Was that
13 there was a black man with dreads, right?

14 A. They all described a six foot-ish black male with
15 dreadlocks who was chunky or heavysset.

16 Q. Okay. And so those photo lineups, do they show
17 the body type in there?

18 A. No, they do not.

19 Q. Okay. Do they show the height in there?

20 A. No, they do not.

21 Q. Okay. Each and every witness that you talked to
22 or anybody talked to in this case, not a single one,
23 mentioned a full beard, right?

24 A. The reason that I believe facial hair was not
25 really a factor was because everybody was focused on the

1 person with a gun, which is natural when somebody pulls out
2 a gun in a crowd and starts shooting.

3 Q. Okay. And so it's -- so let me ask again.
4 Everybody was focused on the person with the gun?

5 A. Correct.

6 Q. Okay. The person with the gun who they claim,
7 you claim as Mr. King, had a full beard just like he does
8 today, right?

9 A. Are you asking me if he had a full beard then?

10 Q. Yes.

11 A. I don't know if they have full beard then.

12 Q. Okay. Did he have a beard at all?

13 A. When?

14 Q. The night that this happened? The night that
15 everybody's focusing on the person that's shooting him,
16 that's doing the shooting, focused very clearly on him?

17 A. Well, I certainly wasn't there.

18 Q. I know that.

19 A. So, his facial hair or potential lack thereof
20 wasn't a factor because none of the witnesses were focused
21 on what or how much facial hair he had?

22 Q. No, they were focused on his head-hair
23 apparently, right?

24 A. Seemingly, his head-hair and his gun.

25 Q. Okay. Head-hair and the gun. Okay. Head-hair,

1 and gun. That's what they were focused on. And that's
2 what you developed the photo lineup from?

3 A. I developed the photo lineup because the person
4 connected to the car is Ashley Walcott.

5 Q. Mm-hmm (affirmatiely).

6 A. Okay. Her husband, Mr. King, his father, says,
7 drives the car.

8 Q. Right.

9 A. So his father is now connected Jaquan, to this
10 gray Ford Fusion that we have a picture of leaving the
11 scene. And then speaking to the victims and witnesses that
12 were there, there that night, who all described the same
13 person as being the shooter.

14 Q. Right. And none of them identified facial hair,
15 correct?

16 A. They didn't identify the shoes either.

17 Q. Right. But shoes aren't a photo line lineup, are
18 they Mr. or Investigator Short? Former investigator Short?

19 A. No, they're not.

20 Q. No, no they're not. So that wouldn't matter in a
21 photo lineup, right?

22 A. I can argue the same thing for a facial hair.

23 Q. Okay. So if -- okay. So according to you facial
24 hair, doesn't matter.

25 A. That's not what I said.

1 Q. Okay.

2 A. I said in this case.

3 Q. In this case, you knew question --

4 MS. TAYLOR: Your Honor, he has to be able to be
5 allowed to answer the question that she asked.

6 THE COURT: Let him answer the question and
7 explain it if he needs to.

8 MS. ZMROCZEK: Certainly.

9 THE WITNESS: Repeat your question, please.

10 BY MS. ZMROCZEK:

11 Q. The question is, if somebody describes a shooter
12 as black with dreads, then why do you put a shooter or a
13 suspect in a lineup that's black with dreads and all of
14 them have facial hair?

15 A. Because the picture that -- his picture that's in
16 the lineup -- he has facial hair in that picture. It
17 wouldn't be wise to put his picture with facial hair in it
18 -- in a lineup where five other people don't have facial
19 hair, because potentially a defense attorney, like
20 yourself, would have issues with that at trial.

21 Q. Right.

22 A. The picture that was put in the lineup has some
23 facial hair. So, the SLED Analyst that created the lineup,
24 put everybody else in the picture to be similar. So they
25 have, whether -- whether you can see it in a lineup or not,

1 that's why you give them height and weight, because
2 arguably a seven-foot-tall person, even though you only see
3 his head and neck, may look differently than a five foot
4 tall person. So everybody in that lineup, is of the same
5 height and weight.

6 Q. Okay.

7 A. But, you know, with -- with a few degrees of
8 varying.

9 Q. Okay.

10 A. And this picture has facial hair. They all have
11 facial hair. You're trying -- you're trying to have five,
12 six similar pictures so that not one stands out. So you
13 don't -- or there's no perception of influencing the
14 lineup.

15 Q. You showed that same picture with Mr. King in it,
16 you showed that same lineup to more than three witnesses --
17 it was shown to more than three witnesses, correct?

18 A. Probably was.

19 Q. Probably was. You know, that you showed the
20 lineup to witnesses that did not identify him?

21 A. I'd have to go back and read specifically, but
22 there were certainly people that could not identify the
23 shooter.

24 Q. From the photo lineups that you gave them, right?

25 A. Okay. If you're telling me that's what I did,

1 I'm -- I'm confused at why you're asking, "Right", after
2 every question. It makes answering your questions a
3 little...

4 Q. You're confused about why I'm asking so many
5 questions?

6 A. I'm confused at the way you're structuring the
7 questions.

8 Q. Okay. Did you show the lineup to more than three
9 people (talking slower)?

10 A. Sure.

11 Q. Yes or no?

12 A. Yes.

13 Q. Okay. How many of them did not identify Mr. King
14 who was in the lineup (talking slower)?

15 A. I do not recall (answering slower).

16 Q. Don't recall. Okay. I want to go back to the
17 recording policy. You said that in 2021, that Richland
18 County had a -- did not have a policy requiring --
19 recording witnesses just suspects; right?

20 A. Correct.

21 Q. Okay. Are you familiar with the policy that was
22 published on March 4th, 2019, which would be two years
23 before this, Policy Number 901?

24 A. Do you want me to read policy?

25 Q. Well --

1 A. What's your -- what's your question?

2 Q. My question is, were you familiar with it in
3 August of 2021?

4 A. Yes.

5 Q. So you were familiar that there was a policy to
6 record interviews when practicable, meaning at the police
7 stations. It even outlines where they consider
8 practicable; right? In cases that were involving serious
9 crimes, violent crimes -- that would fall under this case;
10 right?

11 A. Yes. It says of suspects/potential suspects.

12 Q. And what else? Read the next page.

13 A. What part of the next page?

14 Q. Here (demonstrating), I'll show you exactly
15 where, Number 2.

16 A. (As read): "An audio and/or video recording
17 interview of a victim or witness may be conducted at the
18 discretion of the investigating officer."

19 Q. Okay. So it was your discretion to not record
20 any of these interviews?

21 A. Any of the victims or the witnesses?

22 Q. Anybody's interview except for Mr. Jones.

23 A. No, at the time -- I understand what you just
24 read -- what I just read for policies. At the time,
25 victims and witnesses were not audio or video recorded.

1 That wasn't just -- that wasn't just my discretion.

2 Q. Okay. What year was this policy implemented?

3 A. You said 2019.

4 Q. I'm not trying to make it up. What does it say
5 to you?

6 A. It says publication date 2019; it was revised in
7 '22. Are you sure that the part of your reading was
8 revised before or after 2022?

9 Q. I am. This was -- this was received -- this was
10 received both in 2019 and the only revision in 2022 changed
11 the statute number. But you were familiar with the
12 policies, right?

13 A. Certainly.

14 Q. Because you just said that there were policies
15 that you don't record?

16 A. At the time in 2021, we did not record victims or
17 witnesses giving video or audio statements.

18 Q. Okay.

19 A. They were still typed like you've seen already.

20 Q. Okay. And so let's talk about those statements
21 for a moment. Yeah. We've seen those statements that they
22 have, but you have wherein the -- the person who is being
23 interviewed, signs it to make sure that -- and they get to
24 read it over, right?

25 A. Correct. They -- they read the statement with

1 the investigator that takes the statement from them, and we
2 tell them to read and make sure that we're not putting
3 words in their mouth, or we didn't hear them, or we're
4 making sure that what they're relaying to us is accurate
5 and it's represented in a statement. And then at that
6 point, they sign it, and then the investigator signs it.

7 Q. Okay. And so the statements that we have in this
8 case are ranged between two to three pages and the third
9 page not going above one paragraph, right?

10 A. Yes.

11 Q. Okay. So you have a lot of conversation and a
12 lot of discussions before you start typing the statement.
13 You're not in there typing statements right away; right?

14 A. Are you saying that we -- are you asking if we
15 have a conversation, and then not include that in the
16 statement? What -- what's your question?

17 Q. My question is, you don't include everything in
18 the conversation that -- that is typed on the report,
19 right?

20 A. The interview and the statements that are signed
21 that we're referring to are representative of what's
22 probative about what we're talking about. So, if I ask the
23 person being interviewed, if the weather's nice, that's not
24 included in the statement because it's not relevant to the
25 crime for which they're giving a statement about.

1 Q. Okay. You -- I want to move on to investigation.
2 Let's go to the investigation, okay? So you weren't there
3 that night, that's been established, right? You were not
4 at Tsubaki on August 1st, 2021 at two in the morning?

5 A. No, I was not.

6 Q. Several of your coworkers were?

7 A. Correct.

8 Q. Several of those coworkers had body-worn cameras?

9 A. Correct.

10 Q. Okay. Did you review all of those body-worn
11 cameras?

12 A. Did I review all of them?

13 Q. Yes.

14 A. Probably not.

15 Q. Okay. When you went to the academy, you were --
16 you were trained on how to do investigations -- how to be a
17 police officer, right?

18 A. Yes.

19 Q. Okay. And they want to make sure that you're
20 trained to be accurate; right?

21 A. Yes.

22 Q. Thorough, yes? And complete; right?

23 A. Yes.

24 Q. Okay. So starting with the investigation. You
25 come in at eight to -- get assigned this case. First thing

1 you do -- well, who requests the 911 calls?

2 A. I don't know which investigator requested it.

3 Q. Okay. You are familiar that 911 calls are only
4 -- only available for 90 days, right?

5 A. Yes.

6 Q. Okay. And if -- and so we have four recorded --
7 four, 911 calls in this case, for that night at two o'clock
8 in the morning, right?

9 A. Yes.

10 Q. Okay. And those -- you listened to all four of
11 those, right?

12 A. Not all four in there entirety.

13 Q. You did not, okay?

14 A. Not in there entirety.

15 Q. So when people are calling 911, they're either
16 immediately or currently experiencing an event; right?

17 A. Yes.

18 Q. So, hypothetically, if a 911 caller says
19 suspects are getting away in two black Chargers, is that
20 something you would want to investigate?

21 A. Well, hypothetically, you could say several
22 things.

23 Q. Right.

24 A. I mean, I don't know what answering a
25 hypothetical question, what the relevance is.

1 Q. In this case -- Okay. Sorry, I didn't mean to
2 cut you off. Can you finish?

3 A. Yes.

4 Q. In this case, you had a 911 caller say that the
5 suspects were getting away in two black Chargers? Yes?

6 A. Okay.

7 Q. And -- and you actually interviewed that person
8 yourself? Yes?

9 A. Who are you referring to?

10 Q. Mr. Hammond.

11 A. Okay.

12 Q. You recall interviewing him?

13 A. I did.

14 Q. Okay. He told you the suspect --

15 MS. TAYLOR: Your Honor, objection.

16 MS. ZMROCZEK: Okay, I'll --

17 MS. TAYLOR: Hearsay.

18 MS. ZMROCZEK: I'll withdraw that question.

19 BY MS. ZMROCZEK:

20 Q. All right. So again, one of the jobs of being
21 thorough is making sure that you -- that you follow up on
22 -- on all the information that you can get, right?

23 A. Yes.

24 Q. Okay. So you weren't there at Tsubaki that
25 night, but you, did you ever go to the scene?

1 A. Yes.

2 Q. Okay. When did you go to the scene?

3 A. Several times. I don't recall which date
4 specifically I went there.

5 Q. Okay. Is it reflected in your report that you
6 went to the scene?

7 A. That I physically went and stood in the parking
8 lot? No, it's not.

9 Q. Okay.

10 A. It's not notated in my follow-up.

11 Q. Okay. And so why'd you go to the scene?

12 A. Well, it's important, first, to physically go to
13 the scene for many reasons, and I assume you're referring
14 to the potential video.

15 Q. That's exactly what I'm referring to. Okay. So
16 who did -- what cameras did you see when you went to the
17 scene?

18 A. There were none at Tsubaki.

19 Q. Okay.

20 A. I don't recall seeing any cameras that would've -
21 - or that were angled to capture where the shooting was.

22 Q. Did any of your other investigators go and see if
23 there were any cameras?

24 A. Yes.

25 Q. Okay. Who were they?

1 A. I don't have who went. I know somebody from
2 Investigations went, but --

3 Q. We know -- sorry, go ahead. Go ahead.

4 A. There's a Sushi restaurant next door called
5 Inakaya, where there was -- or is a camera, if that's what
6 you're asking about.

7 Q. That's exactly what I'm asking. Okay. Let me
8 show you what's been marked as Defendant's -- gonna be 32.
9 Are you familiar with this being the camera at Inakaya's?
10 Defendant's 32?

11 A. That looks like the camera outside.

12 MS. ZMROCZEK: Okay. That looks like the camera
13 outside. Okay. Your Honor, at this time we would
14 like to introduce Defendant's 32 into evidence.

15 THE COURT: Any objection from the State?

16 MS. TAYLOR: I think at this point someone needs
17 to authenticate when -- if that camera was there when
18 he went there, or when the camera was taken --
19 or the camera in that photo, when it was taken. I
20 mean, was it taken yesterday? Was it taken five
21 years ago? When was it taken?

22 THE COURT: All right. It's time for a -- it's a
23 good time for a break. Ladies and gentlemen, I'm
24 gonna excuse you to your jury room for our afternoon
25 break, and I'll be back with you as quick as I can.

1 Don't discuss the case.

2 (The jury exits the courtroom.)

3 THE BAILIFF: Everyone remain seated until the
4 jury leaves.

5 MS. ZMROCZEK: Your Honor, if I may respond.

6 THE COURT: Sure.

7 MS. ZMROCZEK: Thank you.

8 BY MS. ZMROCZEK:

9 Q. The question was, "Is this the camera that was at
10 Inakaya?" And he said, "Looks like the camera that was at
11 Inakaya that night or that next day."

12 A. I did not say that night.

13 Q. No, no. The next day when you went.

14 A. I didn't say -- I didn't give a time frame. I
15 said that looks like a camera that's outside Inakaya.

16 Q. Okay.

17 A. I didn't say what day or time.

18 MS. ZMROCZEK: Okay. I'll rephrase or I'll
19 develop it further, Your Honor.

20 BY MS. ZMROCZEK:

21 Q. When did you go out to Inakaya and see that
22 camera?

23 A. I'm not certain if that camera was there.

24 MS. ZMROCZEK: Okay. Your Honor, if that's his
25 position, I'll leave it as ID now and I'll -- I'll

1 have the actual manager of the restaurant come in and
2 clear that up.

3 THE COURT: Okay. All right. We'll be at ease
4 till about --

5 MS. ZMROCZEK: So, 32 is ID for now.

6 THE COURT: Okay. We'll be at ease till about
7 3:25.

8 MS. ZMROCZEK: I'm sorry.

9 THE COURT: We're in recess till 3:25.

10 MS. ZMROCZEK: Thank you.

11 (A brief recess was taken.)

12 THE COURT: All right. Bring in the jury.

13 (The jury enters the courtroom.)

14 THE BAILIFF: Judge, the jury is seated.

15 THE COURT: Very good. All right, Ms. Zmroczek,
16 go ahead.

17 CROSS EXAMINATION

18 BY MS. ZMROCZEK:

19 Q. Thank you. So, Investigator Short, did you go
20 and look at cameras to see if there were any cameras in the
21 -- at 22 -- 224 Oneil Plaza?

22 A. At 224 Oneil Court at Tsubaki, there were no
23 cameras.

24 Q. At the Plaza, with the -- Inakaya right next door
25 to Tsubaki, did you go and look to see those cameras?

1 A. Yes.

2 Q. Okay. When did you do that?

3 A. I don't recall which date. It would've been in
4 the few days after the shooting occurred.

5 Q. Is it in your report?

6 A. It is not. I said that to you earlier.

7 Q. You just let --

8 A. I don't recall which date. It would've been that
9 week.

10 Q. Okay. Did you watch the cameras?

11 A. Which cameras?

12 Q. The ones at Inakaya?

13 A. I'm not even sure if they were there at the time.
14 I don't -- I didn't physically watch any surveillance
15 cameras of the shooting because to my knowledge there are
16 none.

17 Q. Okay. Did -- did -- you were the lead
18 investigator, yes?

19 A. Yes.

20 Q. You directed people to go and -- and collect
21 evidence, yes?

22 A. Yes.

23 Q. You, in fact, directed Investigator Hooks to
24 collect what we call Shelley's cameras, right?

25 A. He did that on his own. I didn't physically

1 direct him to do that. He -- I remember correctly he
2 collected them all that night.

3 Q. Okay. So, he didn't even need your direction.
4 Investigator Hooks went and -- and noticed and he's aware
5 that there are Shelleyes cameras -- cameras throughout the
6 city that record the whole city, right, and he went out and
7 got those, right?

8 A. Yes.

9 Q. Did you review those?

10 A. I did.

11 Q. Okay. You did not?

12 A. I did.

13 Q. You did. What did you see on those cameras? Let
14 me rephrase that. That's a very broad question. You
15 didn't see -- you didn't see any Ford Fusion on those
16 cameras, did you?

17 A. I did not.

18 Q. Okay. Did you see two black Chargers?

19 A. I did not.

20 Q. Okay. Did you take any notes when you reviewed
21 these cameras?

22 A. Did I physically write anything down? Not that I
23 recall.

24 Q. Okay. Do you have any -- do you recall when you
25 reviewed them?

1 A. It would've been the few days after the -- after
2 the shooting occurred. I don't specifically recall which
3 date I watched those videos.

4 Q. Okay. All right. We -- let's move to -- I'm
5 gonna go back to the 911 call. So, the 911 call that comes
6 in August 1st of 2021 at 02:18 and 39 seconds, you -- you
7 said you got the recordings, but you didn't listen to them
8 all the way through, but you did get them, right?

9 A. Yes.

10 Q. Okay. You also -- they also -- when you get --
11 when you request 911 calls, they provide what's called a
12 CAD report, right?

13 A. Yes, they're supposed to.

14 Q. Okay. And you collected those in this case?

15 A. Yes.

16 Q. Okay. And so you're aware -- and the CAD report,
17 they, it records things that are being said, who is saying
18 them, all of those kinds of things, right?

19 A. Yes.

20 Q. Okay. And you were asked on direct when -- when
21 that tag number became associated and was identified with
22 Ashely Walcott, right?

23 A. If I was asked a specific question about what
24 time I was made aware of that license plate, I don't
25 recall.

1 Q. Okay.

2 A. If that's what you're asking.

3 Q. Sure. I'm gonna hand you the CAD report from
4 that day. Okay.

5 A. Okay.

6 Q. And I already have it turned to Page 416.

7 MS. TAYLOR: I object. I don't know if this
8 witness can actually testify about what somebody else
9 said in a document that's not authenticated by him or
10 kept in his report.

11 MS. ZMROCZEK: -- getting through the next
12 witness, Your Honor.

13 BY MS. ZMROCZEK:

14 Q. I want to talk about the car. Okay.

15 A. Okay.

16 Q. The Ford Fusion.

17 A. Okay.

18 Q. It is not against the law to leave somewhere
19 where somebody is being shot, right?

20 A. Not unless you speed.

21 Q. Right. Not unless you speed. So, when shots go
22 off in a case that you have nothing to do with, nothing
23 wrong with -- with cars leaving, right?

24 A. No, ma'am.

25 Q. Okay. And it's certainly also not against the

1 law to be a patron at Tsubaki's on the evening -- late
2 evening hours, early morning hours of July 31st to August
3 1st, unless you're on trespass reporting; right?

4 A. Sure.

5 Q. Okay. They -- this car was provided -- this
6 information was provided to police that night.

7 A. Correct.

8 Q. Okay. And 18 hours later, Judy Reyes calls 911
9 and says she knows where the car is, right?

10 A. Okay.

11 Q. Okay. And so at this point, you're still not on
12 the case, right? August 1st at twenty hundred, you're not
13 on the case?

14 A. No. That night, no.

15 Q. Okay. And so certainly when you asked Judy and
16 you investigate her, excuse me, interview her on August
17 3rd, right?

18 A. Right.

19 Q. You say, "Hey Judy, how did you know where that
20 car was?" Right?

21 A. Are you asking me if I asked her that question?

22 Q. I'm asking.

23 A. Okay. I don't recall asking her that specific
24 question.

25 Q. Okay. As you sit here today, do you have any

1 knowledge of how Judy Reyes knew where that car was?

2 A. Not specifically.

3 Q. Okay. You're familiar that there was a Facebook
4 post, right?

5 A. Yes.

6 Q. Okay. And did you get a copy of that Facebook
7 post?

8 A. I don't believe I have one.

9 Q. No?

10 A. I don't recall if I got one or not. I don't have
11 one here with me, no.

12 Q. Okay. All right. And so -- so you can't say --
13 you cannot say that -- let me -- let me rephrase the
14 question. You're familiar with programs that allow you to
15 run license plate tags, right?

16 A. I'm familiar with law enforcement databases that
17 allow you to do that.

18 Q. Okay. And can private investigators?

19 A. I have no idea. I've never been one.

20 Q. Okay.

21 A. I would assume so.

22 Q. You would assume --

23 A. But I don't know --

24 Q. -- but you don't know. Okay. Are there also
25 programs where you can put information in Google and see --

1 and see if -- if that comes up? Or are you familiar with
2 that at all?

3 A. In my experience, Googling a license plate
4 doesn't give you the registered owner.

5 Q. Okay. All right. And so -- but it's certainly
6 possible that -- strike that. When you learned where the
7 car was, right, did you ever see pictures? Did you watch
8 that body cam?

9 A. From Green Oaks?

10 Q. Yeah.

11 A. Yes.

12 Q. Okay. So, you watched that body cam?

13 A. Yes.

14 Q. And so you watched when family members were told
15 that that car was involved with the shooting within two
16 minutes of being on scene -- on scene at -- at Green Oaks,
17 right?

18 A. Okay.

19 Q. Yes. When you say, okay, is that yes?

20 A. What are you asking?

21 Q. I'm asking, if you remember seeing the police
22 advising Mr. King's family that that car was involved in a
23 shooting within two minutes of arriving?

24 A. Okay. They were explaining why they were there.
25 Yes.

1 Q. Okay. And you noticed that both cars were --
2 hood first in the driveway, right?

3 A. Pulled into the driveway --

4 Q. Pulled into the driveway.

5 A. Instead of backed in.

6 Q. Well, when I say backed in, they were backed in,
7 they were -- the hood being -- facing the road.

8 A. Right.

9 Q. Okay. So, Investigator, it's not possible to see
10 the license plate of a car that's backed into a driveway,
11 is it?

12 A. In fact, that is something that you notice in law
13 enforcement that people back that car or back a car into
14 the driveway, so the license plate is close to the house.
15 So that law enforcement can't read it.

16 Q. Right. Right. And sometimes people just do it
17 because it's easier to get out instead of having to back
18 into the street; right?

19 A. True.

20 Q. So, there's multiple ways. I know you want focus
21 on the nefarious ones, but there are also multiple reasons
22 why people would back into a -- a parking spot, right?

23 A. I'm just giving you my experience.

24 Q. I hear you. And so, again, I'll ask the
25 question. If they're doing that, like you said, it

1 prevents law enforcement or anybody else from seeing that
2 tag, unless they get out and -- and go onto people's
3 property, and they look, and -- and see the tag, right?

4 A. Potentially.

5 Q. Okay. But we don't know how that -- this tag was
6 located at this house, right?

7 A. I do not have any direct knowledge of how the
8 license plate was physically viewed by somebody.

9 Q. Okay. You're familiar that Ashley Walcott has
10 Facebook?

11 A. I do not know whether she has Facebook or not.

12 Q. Okay. Jaquan King?

13 A. I don't recall if I looked in his Facebook or
14 not. I don't know.

15 Q. So, but you do know that there were people
16 associated with this case posting pictures of that tag on
17 Facebook, right?

18 A. Yes. I knew there was a post made about it.

19 Q. Okay. And certainly you would agree with me that
20 if a tag had been run either by law enforcement or by a
21 private investigator or by somebody who had access to that
22 information and they came up -- that -- that car -- that
23 information on that car would come back to Ashley Walcott,
24 right?

25 A. Are you're saying that somebody got her

1 information from the Facebook post?

2 Q. What I'm asking is, is it possible that if
3 somebody was able to run the tag, they would've come up
4 with the same information that you did that the tag was
5 related to Ashley Walcott?

6 A. It's possible.

7 Q. Okay. And it's possible if they got the name
8 Ashely Walcott, they could have looked on the Internet to
9 find out who she was or if it was a private investigator,
10 who she was with, and who she was married to, or dating,
11 right?

12 A. To my knowledge, there were no private
13 investigators involved the night of the shooting.

14 Q. Okay. And -- but -- but -- but you have no
15 knowledge of whether or not there were cameras there or
16 whether or not they were viewed either, do you?

17 Q. Cameras where?

18 Q. At Inakaya.

19 A. If cameras that caught the shooting, if that's
20 what you're asking.

21 Q. Nope. I'm asking if there were cameras there.
22 That's not -- I didn't say cameras that caught the
23 shooting, cameras that were there. That's what I'm asking.

24 A. At Inakaya?

25 Q. Uh-huh (affirmatively).

1 A. I don't have any personal knowledge of cameras
2 being active that night.

3 Q. Okay. Let's go to -- you admitted to watching
4 some of the body cams that night, right?

5 A. I watched them that week. I don't know about
6 that night --

7 Q. Okay.

8 A. But I did watch some of the body cameras, if
9 that's what you're asking, yes.

10 Q. Okay. I'm not trying to nail you down on the
11 time, but you -- you've admitted to watching most of the
12 body-worn cameras, right? Not all of them. But some.

13 A. Yes, ma'am.

14 Q. Okay. I'm gonna show you what's been marked as
15 Defendant's 27, 28, 29, 30, 31, and 32. I'll ask if you
16 recognize any of those images?

17 A. You asking if I recognize the pictures or the
18 people in the pictures? Sorry.

19 Q. People in the pictures. Or seeing those pictures
20 from -- as still shots from body cams that you may or may
21 not have watched?

22 A. Yeah. I recognize these are deputies with the
23 Sheriff's Department.

24 Q. Okay. Do those fairly and accurately depict the
25 scene that night as you recall it, since you weren't there,

1 but from what you see on the body cams?

2 A. These appear to be screenshots from the body
3 cameras from that night?

4 MS. ZMROCZEK: Yes. Your Honor, at this time we
5 would move in Defense --

6 MS. TAYLOR: Your Honor, I'll object about
7 foundation. He wasn't there that night. I don't know
8 if he even knows where these came from -- But he
9 wasn't there that night that this was taken.

10 MS. ZMROCZEK: Okay.

11 MS. TAYLOR: Those are screenshots are from
12 somebody else's body cam.

13 MS. ZMROCZEK: If he can identify the officers in
14 there and -- and recognizes that they were
15 screenshots from that night.

16 MS. TAYLOR: He doesn't -- he -- I mean, he
17 recognizes the screenshots, but he said multiple times
18 he was not even there that night. So, I don't know
19 how he can authenticate what is shown in this -- these
20 screenshots from somebody else's body cam.

21 THE COURT: All right. I'm gonna sustain it,
22 unless you can lay a better foundation.

23 BY MS. ZMROCZEK:

24 Q. I'm gonna show you a picture that's already into
25 evidence, okay? I'm gonna show you Defendant's 11. Do you

1 know who that person is?

2 A. Which person?

3 Q. The person depicted in the -- the one with his
4 arms right there (indicating), center screen of that
5 picture. Do you know who that person is?

6 A. No, I do not.

7 Q. Okay. So, you don't know, who's on Defendant's
8 11. Are you familiar with the name Demetrius Potts?

9 A. Not off the top of my head.

10 Q. Okay. I'm gonna show you State's -- or excuse
11 me, Defendant's 15, and ask you if you recognize the person
12 in the blue hat in that picture.

13 A. I'm not sure about that picture.

14 Q. You don't know who that is?

15 A. It's kind of blurry.

16 Q. Okay.

17 A. But I can't be certain about who that is.

18 Q. Okay. How many investigators did you talk to
19 that talked to witnesses that night? Let me rephrase the
20 question because that's kind of open-ended. Did you speak
21 with Investigator Colwell that -- any time during this
22 investigation?

23 A. I don't believe I spoke to him directly. I got
24 his follow-up report the next morning. The one that he
25 typed up that you have access to?

1 Q. You reviewed his report?

2 A. Yes.

3 Q. And --

4 A. His follow-up.

5 Q. Colwell? You reviewed his report?

6 A. Yes, ma'am.

7 Q. Okay. So, when he describes speaking for -- with
8 someone, Mr. Potts, who was a Charleston County Sheriff's
9 deputy, did you go and follow-up with Colwell to see what a
10 deputy who from -- from Charleston County possibly would've
11 known about this case?

12 A. I did not speak with Mr. Potts.

13 Q. You didn't follow-up on that? Don't know what he
14 saw?

15 A. I have what Colwell reported that he saw.

16 Q. Okay. But you didn't follow-up on that?

17 A. I didn't speak to Mr. Potts, no.

18 Q. So, you had -- there was a sheriff's -- an
19 off-duty sheriff's deputy on scene while this happened, and
20 you didn't ask him one question about what he saw?

21 A. He was on-duty?

22 Q. He was off-duty --

23 A. Okay.

24 Q. -- from Charleston County, just a patron --

25 A. Correct.

1 Q. -- right?

2 A. Uh-huh (affirmatively).

3 Q. That's what you learned from -- from Colwell's
4 report, right?

5 A. The other thing I learned from Colwell's report
6 is it says right here, "Potts stated that he did not get a
7 great look at the shooter."

8 Q. Right. But he was on scene as a deputy, right?

9 A. No, if he was off-duty, he wasn't on-scene as a
10 deputy, he was a patron of the establishment.

11 Q. Okay. You'd agree with me in -- what -- well,
12 you don't agree with me so I won't tell you. The -- when
13 you talked to Colwell in his report, he indicated that,
14 that person, Mr. Potts, was wearing a badge around him that
15 night. Yes?

16 A. Yes.

17 Q. Okay. But -- but you didn't ask him any other
18 follow-up questions about anything that happened that
19 night?

20 A. Ask who?

21 Q. Mr. Potts?

22 A. No, I did not speak to Mr. Potts.

23 Q. Okay. You find out that the car is connected to
24 Mr. King, get -- get the lineups, get all that done, right?

25 A. What's the question? I'm sorry.

1 Q. The question is, what follow-up did you do after
2 that?

3 A. After what?

4 Q. Did you issue -- after Mr. King was identified as
5 a suspect and eventually arrested. Did you issue a search
6 warrant for his house?

7 A. Well, the key with searching a house for
8 potential evidence is, if you have a house where they --
9 where you believe they go to every day. I have, I think
10 three addresses connected to Mr. King, and I wasn't sure
11 which one he actually lived at.

12 Q. Okay.

13 A. And being that his wife, Ms. Walcott, wasn't
14 being helpful with that, I -- I didn't know which house or
15 which residence to search. Therefore, I didn't have enough
16 reason to search a house or an apartment.

17 Q. Okay. So, you -- did you ever ask for consent to
18 search any houses?

19 A. Well, Ms. Walcott was not willing to give
20 consent.

21 Q. But she gave you consent to search her car?

22 A. She gave consent to search the car the night
23 before when she was at a physically different location,
24 yes.

25 Q. Right. And that house was searched that night?

1 At 311 Green Oaks, right?

2 A. 2110 Green Oaks?

3 Q. I mean, 2110, yeah.

4 A. Okay.

5 Q. That was searched that night, you watched -- you
6 saw that, right?

7 A. Yes, ma'am.

8 Q. You saw it --

9 A. What's your question?

10 Q. My question, I'm getting to it. It was searched
11 thoroughly, yes?

12 A. Okay. Yes, ma'am.

13 Q. Okay. No guns found?

14 A. No.

15 Q. Okay. And you -- you have a refusal form. Did
16 you ask Ms. Walcott to search the apartment that you went
17 to the next day?

18 A. She was not cooperative in the least.

19 Q. Okay. So, you have a refusal form from that?

20 A. Did I physically get her to sign a form? No, I
21 did not.

22 Q. Okay. And you -- you never found a gun connected
23 with the shooting?

24 A. No, I did not.

25 Q. Never? You found -- you were aware that three

1 shell casings were collected?

2 A. Correct.

3 Q. And that there were at least four shots that were
4 shot, right?

5 A. Correct.

6 Q. Okay. What investigation -- you didn't do any
7 follow-up investigation to -- to locate any other shell
8 casings or -- or bullets at the scene, did you?

9 A. Are you asking if I looked for shell casings at
10 the scene?

11 Q. Mm-hum (affirmatively). The next day or whenever
12 you got the case?

13 A. I went to the scene, but I didn't physically look
14 for shell casings because that was done by crime scene.

15 Q. At three in the morning, right, and the sun comes
16 up, and then -- and then you got lots more lights, and you
17 go back and look, right?

18 A. Correct.

19 Q. Okay. But you didn't do that?

20 A. I didn't feel the need to.

21 Q. Okay. You -- Forest Acres Police Department had
22 deputies on scene that night, right?

23 A. I believe there was one there.

24 Q. You believe they were around there? Do you know?

25 A. I do.

1 Q. Okay. Did you ask them to -- and they
2 interviewed witnesses, right?

3 A. Right.

4 Q. Okay. Did you get a report -- get a report from
5 them?

6 A. They didn't issue one.

7 Q. Okay. Who did they talk to?

8 A. I don't recall.

9 Q. Okay. You are aware that Deputy Hamlin who was
10 on scene at the Oaks -- or excuse me, at the -- where the
11 car was located -- you -- you -- did you listen to her
12 entire body cam and watch it?

13 A. Am I aware of it or did I listen to it? What's
14 your question?

15 Q. Either.

16 A. I -- I watched some of it. I didn't watch the
17 entirety of it, if I recall.

18 Q. Okay. So, when she -- so, when she was calling
19 asking for direction from an investigator, obviously that
20 wouldn't have been you because you weren't even on the case
21 that night. Do you know who that was?

22 A. That would have been the investigators on call --

23 Q. Okay.

24 A. -- that were working that night.

25 Q. Do we know who that was?

1 A. Specifically, do I know who she was talking to on
2 the phone? No, I do not.

3 Q. Okay. And are you familiar with other digital
4 evidence such as license plate readers that were issued in
5 this case?

6 A. I'm aware of license plate readers that are
7 attached to Richland County cameras. I'm not aware of
8 anything being issued.

9 Q. You're not aware of any license or -- let me
10 rephrase the question. Are you aware of any license plate
11 readers that were used in this case?

12 A. There are license plate readers in Richland
13 County. I don't have any license plate reader printouts,
14 if that's what you're asking.

15 Q. Okay. You didn't get any of those printouts?

16 A. If I recall there were no pics to print out.

17 Q. I'm sorry.

18 A. I'm confused at your question. I don't have any
19 license plate reader results.

20 Q. You don't. So, if they were provided in this
21 case, they were provided after your involvement?

22 A. If you have knowledge of one, I'm not under --
23 I'm not understanding what you're asking me to testify to.

24 Q. Okay. When did you leave the Sheriff's
25 Department?

1 A. 2022.

2 Q. What -- what month?

3 A. May.

4 Q. May of 2022. Did you ever -- prior to May of
5 2022, did you ever receive any license plate reader
6 information from Linda Howell?

7 A. I may have, I don't recall specifically.

8 Q. Okay. Did you document it if you did?

9 A. I did not.

10 Q. Okay. Let's go to your reports. When you --
11 what is considered long hair to you?

12 A. Well, it's kind of a subjective question.

13 Q. Right. That's why I'm asking. What is it
14 considered to you?

15 A. Shoulder length or anything longer than my hair.

16 Q. Anything longer than your hair is what you
17 consider long, right? Is that what -- I'm just making
18 sure. Because you wrote in your report -- do you have your
19 original five-page report?

20 A. Yeah.

21 Q. Okay. Were you -- and I'm referring to the very
22 front page.

23 A. Okay.

24 Q. I'm just making sure we're on the same report.

25 A. The arrest report. Okay.

1 Q. Yeah. The arrest report.

2 A. (Looking through the pages) All right. Give me a
3 moment. What page of the arrest report are you on?

4 Q. I'm on Page 1.

5 A. Okay.

6 Q. Okay. You arrested Mr. King on 8/24/2021, at
7 15:5200, right?

8 A. Yes, ma'am.

9 Q. In fact, he turned himself in, right?

10 A. He did.

11 Q. Okay. And you had an address for him at that
12 time, right?

13 A. I had a potential address.

14 Q. Well, at that time you had three potential
15 addresses --

16 A. Correct.

17 Q. -- right?

18 A. I did.

19 Q. Okay. So, when he's arrested on August 24th,
20 there is nothing stopping you from getting search warrants
21 to search for shell casings, ammunition, guns, at any of
22 the addresses that are associated with him, are there?

23 A. At the time he was arrested, it's very hard to
24 articulate because of the nature of guns and ammunition,
25 how small and easy to conceal or to destroy they are. It'd

1 be hard to articulate that many days after the crime that
2 there's a likelihood that items from the crime were likely
3 to be found at the place to be searched.

4 Q. But if you don't search, you don't know, do you?

5 A. Well, you also have to be able to find a judge
6 that's willing to sign a search warrant for over 20 days
7 later, and most of them are not.

8 Q. You found no problem having a judge sign an
9 arrest warrant, did you?

10 A. Arrest is different than searching property.

11 Q. In fact, arrest has a higher standard than
12 searching property, right?

13 A. And that was also several days -- or a few days
14 after the crime, not the end of the month.

15 Q. Okay. You -- all right. Now, let's turn to your
16 narrative. How many pages is that report?

17 A. About the follow-up report? (Counting pages)
18 One, two, three, four. Three.

19 Q. Three -- three pages, right?

20 A. Okay.

21 Q. Okay. And you -- you list all the things that --
22 that you do for -- beginning 8/2 through 9/22/21, right?

23 A. Right.

24 Q. Okay. Because this -- and -- and -- and this
25 helps document because so much time has passed, right, so

1 you can rely to see what you did and what you didn't do or
2 -- or what you wrote down or remembered to write down,
3 right?

4 A. Sure.

5 Q. Okay. So, we've established in these three-page
6 reports that nowhere in it, does it ever say that you or
7 anybody else went to go view cameras at the scene, right?

8 A. Correct. That's because I didn't find the
9 cameras to review.

10 Q. Okay. And you --

11 A. If I had found --

12 Q. Sorry, go ahead.

13 A. If I had found a camera to review, it would've
14 been documented that I reviewed it --

15 Q. Okay.

16 A. Or downloaded it, or saw it, or whatever.

17 Q. Okay. You -- did you rely heavily on
18 Investigator Maxwell to assist you with this case?

19 A. He did help. I don't know that -- relied
20 heavily, but he did help for certain.

21 Q. Okay. All right. You would agree, I -- I think
22 you already admitted to, would you agree that nowhere in
23 this report does it talk about where you reviewed the
24 Shelleyes cameras?

25 A. No.

1 Q. Okay.

2 A. But I have personal knowledge of reviewing the
3 Shelleyes cameras.

4 Q. Okay. You have personal knowledge of that?

5 A. Yes.

6 Q. Okay.

7 A. I technically sat in front of the computer and
8 watched the cameras.

9 Q. You watched them. You watched them, right? So
10 you watched the one that shows two black Chargers going
11 into a Shell station and four black males getting out of
12 that at about 2:21 that morning, right?

13 A. I don't specifically remember that.

14 Q. Don't remember that. That could be important.
15 When -- when at least one of your witnesses tells you that
16 there were two black Chargers with four males that fled
17 right when it happened and that those were the ones that
18 were shooting, right?

19 A. I was focused on what everybody described as the
20 shooter and the car connected to that person.

21 Q. Except not everybody because there's one person
22 who gave you other information. At least one person,
23 right?

24 A. Okay.

25 Q. But you didn't follow-up on that.

1 A. Which person specifically?

2 Q. Jerry Hammond. I'm not asking you to tell me
3 what he said.

4 A. I spoke to Mr. Hammond.

5 Q. Right. But didn't follow-up on anything that he
6 told you.

7 A. I have to go back and read his statement (looking
8 through papers). Which part of Mr. Hammond's statement are
9 you referring to?

10 Q. This part right there (indicating).

11 MS. TAYLOR: Objection. Is her
12 goal to have him read the statement?

13 MS. ZMROCZEK: It is not. My goal is to ask if
14 he followed up on information he learned from the
15 report, not what the information was, not what was
16 said, if he followed up on it. That's all I'm asking.

17 THE WITNESS: If I followed up on the things that
18 are in Mr. Hammond's statement? Certainly.

19 BY MS. ZMROCZEK:

20 Q. Including the two black Chargers?

21 A. There was no evidence I had at the time that the
22 two black Chargers were connected to the shooter.

23 Q. Except for a statement from some witness that was
24 there that night?

25 A. The two dark colored cars that peeled out.

1 Q. Mm-hmm (affirmatively).

2 A. I'm not sure if both the cars were together.

3 Q. Mm-hum (affirmatively).

4 A. So if he was not sure of their connection to the
5 shooter at the time he gave that statement. So there would
6 be no reason for me to think they were connected to the
7 shooter.

8 Q. Okay. And a thorough investigation is -- is what
9 you would classify this as?

10 A. I would say this is an investigation that was as
11 thorough for the circumstances.

12 Q. Right. Circumstances --

13 A. At the time three years ago.

14 Q. Sorry, go ahead.

15 A. Thorough for the circumstances at the time, three
16 years ago.

17 Q. Meaning you had a car, tag, you had a person, and
18 you could close your investigation?

19 A. Well, I had three different people who, at three
20 different times, were extremely confident in their
21 identification of the shooter, who was also connected to
22 the car that was seen with the shooter getting into it.

23 Q. Right.

24 A. And then the fingerprint matched to a second
25 person who admitting to being there.

1 Q. Right. Which is not a crime, correct?

2 A. Who also matched the same witness's descriptions.

3 Q. Right. Not a crime to be there.

4 A. I never said it was.

5 Q. Okay. And -- and so any information that didn't
6 fall into that, was simply not followed up on, or not
7 important?

8 A. No, that's not what I said at all.

9 Q. Okay.

10 A. I certainly wouldn't say that anything's not
11 important.

12 Q. Okay.

13 A. I focused on the evidence that I had and the
14 witness descriptions that I had.

15 Q. And you can --

16 A. I connected it to the physical evidence like the
17 car and the fingerprint and the people associated with the
18 car and the fingerprint.

19 Q. And you have no information that -- of how the
20 car was found, or who saw the pictures of the car, or who
21 saw people connected with the car, right? You have no
22 information about any of that, how that car was located or
23 how they found out where it was or anything like that?

24 A. You would have to be more specific. Who's they?
25 And when -- when they found the car, what date are you

1 talking about?

2 Q. August 1st, 2021 at 8:00 p.m. when they called
3 911. And we don't have a recording of it because it wasn't
4 preserved, but we have the CAD report.

5 A. Correct.

6 Q. Okay. You -- I beg the Court's indulgence.

7 (Brief pause.)

8 I believe, investigator you were kind of
9 directing things or allowing people to -- to go and do
10 things like get cameras and that kind of stuff, right?

11 A. Correct.

12 Q. We had the car 18 hours after the shooting.

13 A. Correct.

14 Q. Ever tested it for gunshot residue?

15 A. It was not tested for gunshot residue at the
16 time.

17 Q. Okay. And you as the lead investigator take
18 ownership and in the reports and -- and all the information
19 that's collected, right? Like you're responsible for --
20 for knowing or at least trying to follow-up on it.

21 A. Yes.

22 Q. And you never heard a 911 call that said anything
23 different about suspects leaving in two black Chargers?

24 A. Not that I recall.

25 MS. ZMROCZEK: No further questions.

1 THE COURT: Anything on redirect?

2 MS. TAYLOR: Yes, briefly, Your Honor.

3 THE COURT: Please.

4 REDIRECT EXAMINATION

5 BY MS. TAYLOR:

6 Q. So she asked you a lot of questions about Dodge
7 Chargers and things like that. Some witness said that they
8 just saw at the scene. Tsubaki, 224 Oneil Court, that's a
9 public parking lot, right?

10 A. It certainly is.

11 Q. And Tsubaki is a bar/karaoke?

12 A. It is.

13 Q. Okay. So you would expect that there would be --
14 be people parked in the parking lot?

15 A. As well as the sushi restaurant next door
16 essentially -- depending on the time.

17 Q. And it happened at 2:00 a.m., which is closing
18 time usually?

19 A. It is.

20 Q. And in your experience, because you as a person,
21 well, if you were not law enforcement, I guess if you hear
22 someone shooting and arguing in the parking lot at 2:00
23 a.m., are you gonna peel out, too?

24 A. I would imagine most people would try to get out
25 of there.

1 Q. Okay. And you said that you're an investigator
2 at GEICO, that's a car insurance company?

3 A. It is.

4 Q. So are you familiar with different types of cars?

5 A. Yes, I am.

6 Q. When cars get stolen, are you familiar with like,
7 you know, the types of cars that are often stolen?

8 A. Yes.

9 Q. And are you familiar with how popular Dodge
10 Chargers are?

11 A. I am very aware of that.

12 Q. And how would you describe the popularity of
13 Dodge Chargers in general, and then what you've seen in
14 Columbia in your experience in law enforcement?

15 A. They're very popular and they're stolen -- I
16 worked a case for one that got stolen this morning.

17 Q. So they're very --

18 A. It happens almost every day.

19 Q. So they're very popular cars?

20 A. They're extremely popular.

21 Q. All right. Now she focused a lot about his
22 facial hair, and she asked you, did anyone describe his
23 facial hair and this, this and that. Did anyone describe
24 how thick his eyebrows were?

25 A. They did not.

1 Q. Did they describe how long eyelashes were?

2 A. They did not.

3 Q. Is that something people usually focus on?

4 A. No, they do not.

5 Q. All right. So you're a man, you have a beard,
6 you can shave your beard tomorrow, right? But your facial
7 features don't change.

8 A. They do not.

9 Q. My co-counsel has a beard. If he shaved his
10 beard tomorrow, theoretically, you would presume that you'd
11 still be able to identify his face?

12 A. Correct.

13 Q. Okay. She mentioned -- she -- she asked you a
14 lot about, well, do you remember which lineups you showed
15 to different witnesses and, you know, which ones she -- she
16 showed. If you did show multiple lineups to a witness that
17 did identify Jaquan King, and then if you showed them
18 another lineup that they didn't identify anyone else, is
19 that kind of evidence that you didn't force them to pick
20 someone out of the lineup?

21 A. Correct. We only focused on -- showing line up
22 only focused on if somebody felt they were confident that
23 they would be able to identify and there are certainly
24 times, especially when there's a crowded bar that's
25 closing, people are not confident that they can pick one

1 person or any person one way or the other. So sometimes
2 they're not even shown a lineup.

3 Q. Okay. She asked you about Kiara and Judy saying
4 that they saw two guns. How many people did they actually
5 say they saw shoot someone with a gun?

6 A. Everybody that was interviewed was pretty clear
7 that there was one person shooting.

8 Q. Okay. And she asked you about these Shelleyes --
9 Shelleyes cameras. She said that they're everywhere in
10 Columbia. Do Shelleyes -- are there Shelleyes cameras in
11 every single intersection in Columbia?

12 A. No. They're strategically placed around the
13 county.

14 Q. Are they on every single street?

15 A. They're certainly not.

16 Q. So they're -- so you could drive without hitting
17 a Shelleyes camera?

18 A. You could drive from Oneil Court to Green Oaks
19 and Kneece Road and back without passing one of those
20 cameras.

21 Q. Could you take a left turn out of Oneil and go
22 towards Park -- Parklane and Oneil and go towards the mall
23 without passing one?

24 A. Yes, you could.

25 Q. All right. Could you go across the street to

1 Palmetto Garden's Apartment at Oneil Court without passing
2 one?

3 A. Absolutely.

4 Q. And she mentioned that you didn't do a search
5 warrant of any of his multiple addresses that you had on
6 file. And you mentioned that it was 24 -- or 20 days later
7 by the time he was arrested. In your experience in law
8 enforcement, when you have investigated shootings, how
9 common is it for a shooter to get rid of the gun?

10 A. Very common.

11 Q. And how quickly do they typically do that?

12 A. Immediately after the crime.

13 Q. She asked you about GSR on a car. Now, in your
14 experience with law enforcement, GSR is gunshot residue?

15 A. Correct.

16 Q. And is it kind of fragile?

17 A. It's very fragile.

18 Q. It's like a powder dust?

19 A. Yes.

20 Q. And typically, what is the timeframe that is
21 recommended for collecting gunshot residue?

22 A. No longer than six hours.

23 Q. Okay. And in this situation, she said it was 18
24 hours later when they located the car.

25 A. Correct.

1 Q. And it was raining that night?

2 A. Correct.

3 Q. Okay.

4 A. And it changed hands because Mr. King wasn't with
5 it when we found it.

6 Q. And speaking of this Ford Fusion, that was found
7 at his dad's house, in all of your investigations, did you
8 find any evidence that any other male drove that Ford
9 Fusion?

10 A. No, nobody else had access to that car.

11 Q. Okay. And during your investigation, did you
12 uncover any evidence from witnesses that you interviewed,
13 that the person they identified as Jaquan King -- or they
14 gave a description of -- of the physical description of the
15 shooter -- did they ever say that this person was an
16 innocent bystander who just left the scene in the car
17 because they were fleeing and were -- didn't do anything?

18 A. No.

19 Q. Okay. Did any of those people say that the
20 person that they identified as Jaquan King was trying to
21 like stop the shooting or try to get away from the
22 shooting?

23 A. Nope, he was clearly the aggressor and the
24 shooter according to everybody who gave statements about
25 it.

1 Q. Okay. And the people that identified Jaquan King
2 and those three people in those lineups, did they identify
3 or pick anyone else other than Jaquan King as the shooter
4 in this case?

5 A. No, they did not.

6 MS. TAYLOR: No further questions.

7 MS. ZMROCZEK: Very Briefly.

8 THE COURT: Yes, ma'am.

9 RECROSS EXAMINATION

10 BY MS. ZMROCZEK:

11 Q. So in your experience, you don't find guns with
12 shootings? That -- is that what you testified?

13 A. That's not what I testified to. I testified that
14 frequently people that use guns in crimes attempt to get
15 rid of them.

16 Q. Right. You don't have any information that
17 that's what happened in this case?

18 A. I didn't find the gun.

19 Q. And you didn't even try, did you?

20 A. We searched the car. That was the first piece of
21 evidence we found.

22 Q. Right. No gun?

23 A. No.

24 Q. No shell casings? No evidence of a gun connected
25 to that car and no evidence of a gun on that day connected

1 to Mr. King?

2 A. Well, again, it had already changed hands. So
3 the likelihood of finding --

4 Q. Who told you that? How'd you know that? Who
5 told you that? Or is that just something that you assumed?

6 A. Well, Mr. King wasn't in the car. We have people
7 that saw him get in the car, took a picture of it leaving,
8 and then by the time we found it, he was not with it.

9 Q. Mm-hmm (affirmatively). So you assumed that it
10 had gotten rid of.

11 A. I could infer that he -- he wasn't with the car
12 at the time it was found, so he left with a gun, and the
13 car was found 18 hours later, I can infer that there was
14 time for him to dispose of it.

15 Q. But you also could have investigated and been
16 certain, right?

17 A. Been certain of what?

18 Q. That you did a thorough job in this case?

19 A. I feel pretty certain.

20 Q. Thank you.

21 THE COURT: Any other redirect?

22 MS. TAYLOR: Nothing from the State.

23 THE COURT: All right, you can step down, sir.

24 Thank you for being here.

25 THE WITNESS: Thank you, Your Honor.

1 (The witness steps down from the stand.)

2 MS. ZMROCZEK: Your Honor, we ask that he remain
3 under subpoena.

4 THE COURT: All right.

5 MS. ZMROCZEK: Thank you.

6 THE COURT: All right, call your next witness.

7 MS. TAYLOR: He hasn't been subpoenaed, so I
8 don't know.

9 THE COURT: Oh, okay. Well, he hasn't been
10 subpoenaed.

11 MS. TAYLOR: The State calls Lieutenant Kevin
12 McCullough.

13 MADAM CLERK: Please, raise your right hand.

14 **LIEUTENANT KEVIN McCULLOUGH,**

15 A witness herein, having been first duly sworn, was
16 examined and testified as follows:

17 MADAM CLERK: Thank you. Please have a seat on
18 the witness stand. State your full name for the
19 record.

20 DIRECT EXAMINATION

21 BY MS. TAYLOR:

22 Q. Can you state your name for the record, please.

23 A. Lieutenant Kevin McCullough.

24 Q. Lieutenant McCullough, do you work at the Alvin
25 S. Glenn Detention Center?

1 A. Yes, ma'am.

2 Q. And is that the local jail here in Richland
3 County?

4 A. Yes, ma'am.

5 Q. And how long have you worked there?

6 A. March 1st will be 15 years.

7 Q. Are you a records custodian there?

8 A. Yes.

9 Q. Okay. And so let's just talk about generally
10 about how records are -- are kept in Alvin S. Glenn. So
11 does -- well it's called the jail. Does the jail keep
12 records of information about when a person is booked into
13 the jail?

14 A. Yes, ma'am.

15 Q. And it's kind of the general term you refer to
16 anyone who books into the jail as detainee?

17 A. Yes, ma'am.

18 Q. Okay. And those records that you keep, is that
19 something called the booking information sheet?

20 A. Yes, ma'am.

21 Q. And I'm gonna show you what's been marked as
22 State's 29. Is this the document you sent us as a business
23 affidavit a few days ago.

24 A. Yes, ma'am.

25 MS. TAYLOR: The State requests to offer State's

1 29 into evidence.

2 MS. ZMROCZEK: Without objection.

3 THE COURT: To be admitted as State's 29 without
4 objection.

5 (State's Number 29 marked and admitted.)

6 BY MS. TAYLOR:

7 Q. Okay. So let's go back to just generally talking
8 about the booking process. When -- when a person is booked
9 into the jail, is a photo taken of that person?

10 A. Say that one more time.

11 Q. Is a photo taken of them?

12 A. Yes, ma'am.

13 Q. Okay. And is the time and the date that that
14 photo was taken, documented on the booking info sheet?

15 A. Yes, ma'am.

16 Q. Okay. And is the person's address also
17 documented?

18 A. Yes, ma'am.

19 A. And the birthday?

20 A. Yes, ma'am.

21 Q. Race?

22 A. Yes.

23 Q. Sex?

24 A. Yes.

25 Q. Hair, height, weight?

1 A. Yes.

2 Q. Okay. Or hair color. Typically, in the booking
3 process, who is the person that provides that identifying
4 information in order for the jail -- the jail to put it on
5 their booking info sheet?

6 A. The individual that was arrested.

7 Q. Okay. So example, a person's height or weight
8 that's listed on their booking info sheet would've been
9 provided by the person that was arrested?

10 A. Correct.

11 Q. All right. So let's look at Jaquan King's
12 booking sheet. Is that a photo of Jaquan King?

13 A. Yes, ma'am.

14 Q. And what date was that photo taken?

15 A. August 24 of 2021.

16 Q. And what address did he provide on that sheet?

17 A. 2400, I think that's Kelsey Road Apartment 22-07.

18 Q. You can look at the sheet.

19 A. Oh.

20 Q. Is it Kneece Road?

21 A. Yes, ma'am.

22 Q. Okay. And his date of birth?

23 A. November -- November 3rd, 1992.

24 Q. And what height did he provide?

25 A. With the height, we put by feet but the computer

1 converts it to centimeters.

2 Q. Okay. Or inches?

3 A. Inches.

4 Q. Okay. So 73 inches would be 6'1-ish?

5 A. Yes, ma'am.

6 Q. Okay. And what weight did he provide?

7 A. 220.

8 MS. TAYLOR: No further questions.

9 THE COURT: Any cross-examination?

10 MS. ZMROCZEK: I have nothing further for this
11 witness, Your Honor.

12 THE COURT: All right. All right. You may step
13 down, sir.

14 THE WITNESS: Thank you, Your Honor.

15 (The witness steps down from the stand.)

16 MS. TAYLOR: Your Honor, the State rests at this
17 time.

18 THE COURT: All right. Ladies and gentlemen, the
19 State has rested their case, meaning they have
20 presented all the evidence they intend to present in
21 their case-in-chief. I have some legal things I need
22 to do, so I'm gonna excuse y'all to the jury room, and
23 we may be letting you go for the day.

24 I'm gonna talk to the lawyers and see how much --
25 what else we have to do. But just sit tight for just

1 a minute, and I'll -- we'll be right back with you.

2 (The jury exits the courtroom.)

3 All right. Before I hear your motions, do you
4 have a short witness today?

5 MS. ZMROCZEK: I don't have a short one today,
6 Your Honor.

7 THE COURT: Okay.

8 MS. ZMROCZEK: Because even the business -- even
9 the -- the 911 call, it's four calls plus two CAD
10 reports.

11 THE COURT: Okay.

12 MS. ZMROCZEK: And so I just -- I just don't
13 think that, I think it would roll over.

14 THE COURT: Okay. All right. Can somebody just
15 let the jury know that they are excused until same
16 time tomorrow, 8:40 -- nine o'clock? We'll be ready
17 to start at nine o'clock.

18 THE BAILIFF: Yes, sir.

19 THE COURT: All right. Happy to hear your
20 motions.

21 MS. ZMROCZEK: Your Honor, at this time, first I
22 need to renew all of my motions previously argued
23 during pretrial, specifically the one regarding the
24 improper indictment. I know that I raised it
25 properly, but again, in reviewing *Campbell*, I just

1 wanted to make sure that those were renewed for the
2 record. And at this time, we would ask for a -- a
3 directed verdict under Rule 19; being that there has
4 been no substantial circumstantial evidence that the
5 defendant had a specific intent to kill these two
6 victims.

7 THE COURT: Anything from the State?

8 MR. FOWLER: Yes, Your Honor. I don't believe
9 that the defense challenges that somebody had a
10 specific intent to kill those victims. And certainly,
11 you heard testimony from the two victims. As to the
12 extent of their injuries, and from the doctor treated
13 them, as well as testimony about what the shooter
14 said.

15 I think Your Honor is fully aware that the sole
16 issue in this case is the identification of the
17 shooter. Your Honor has heard Mr. King's connection
18 to the vehicle the witnesses reported the shooter
19 leaving in, as well as testimony from the three
20 witnesses that picked him out of a photo lineup, all
21 with 100 to 1000 percent certainty.

22 So I think, in light most favorable of the State,
23 there is certainly direct evidence, and there is also
24 substantial circumstantial evidence. We ask that you
25 deny the motion, Your Honor.

1 THE COURT: All right. As you know, I'm required
2 to take the motion like most favorable for the State
3 at this juncture. Based on that, I find there is
4 sufficient evidence to allow the case to go to the
5 jury.

6 So I will deny your motion and I will note the
7 renewal of your prior motions which are also denied.
8 All right. Anything else?

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

10 THE COURT: All right, well, let's be ready to go
11 at nine o'clock in the morning.

12 MS. ZMROCZEK: Thank you.

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25 (Court adjourned for the day.)

CERTIFICATE

I, THE UNDERSIGNED BRANDI J. BERRY, CERTIFIED COURT REPORTER FOR THE FIFTH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE CIRCUIT COURT FOR RICHLAND COUNTY, SOUTH CAROLINA, ON THE 28TH DAY OF FEBRUARY, 2025.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST IN ANY PARTY HERETO.

/S/Brandi J. Berry, CVR

COLUMBIA, SOUTH CAROLINA

JANUARY 8TH, 2026

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF RICHLAND	)	
	)	
STATE OF SOUTH CAROLINA	)	2022-GS-40-00069
	)	2022-GS-40-00070
vs	)	2022-GS-40-00071
	)	
JAQUAN LEON KING,	)	
	)	
<u>DEFENDANT.</u>	)	

February 27, 2025
Columbia, South Carolina

VOLUME IV of V

Page 786 to 905

B E F O R E:

The Honorable Heath P. Taylor, Judge

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

ON BEHALF OF THE STATE:	Stephanie Taylor, ESQ.
	Nicholas Fowler, ESQ.
	Dale Scott, ESQ.
	Assistant Solicitors

ON BEHALF OF THE DEFENDANT:	Aimee Zmroczek, ESQ.
	Attorney At Law
	Brian Setree, Investigator
	Caroline Burns, Law Clerk

Brandi J. Berry,
Judicial Circuit Court Reporter

I N D E X

SW) - STATE'S WITNESS (DW) - DENOTES DEFENSE WITNESS

DIRECT CROSS REDIRECT RECROSS

(DW) TIA FREY...800,811

(DW) DEMETRIUS POTTS....812,818,821,822

(DW) TAISHI SATO...826,835,838

(DW) JAQUAN KING...839

(DW) DAWN McQUISTON...844,876,889

CERTIFICATE.....905

E X H I B I T SDEFENDANT'SPGADMITTED

33 911 CALLS.....802 X

35 CAD REPORT803

27-32 PHOTOGRAPHS.....811 X

36,37 SCREENSHOTS.....830 X

1 (THURSDAY, FEBRUARY 27, 2025; COLUMBIA,
2 SC, RICHLAND COUNTY, IN OPEN COURT.)

3 THE BAILIFF: All rise. Court, come to order.
4 You may remain seated.

5 THE COURT: Okay. And I don't know if I told you
6 all already, I am scheduled to -- did I tell you about
7 -- so what we may do is just try to start at 11:00 on
8 Friday and go ahead and get the jury lunch and argue
9 and charge and just let them get right into it.

10 Because if y'all are -- y'all gonna have a reply
11 case? Do you know?

12 MR. SCOTT: Possibly.

13 THE COURT: Okay. Because I don't think --

14 MR. SCOTT: Very brief.

15 THE COURT: Okay. Because I don't think it makes
16 sense to come in for an hour on Friday and --

17 MS. ZMROCZEK: And then take a break.

18 THE COURT: Yeah. Like do one closing argument,
19 then take a break for an hour and come back. I'd
20 rather not do that. Okay. All right. That'll be the
21 plan moving forward. I have a note from a juror.
22 Says this morning -- this morning around 3:00 a.m., I
23 woke up with eye irritation. I noticed that it's red,
24 swollen and with drainage. I'm not sure if it's pink
25 eye.

1 MS. ZMROCZEK: My prescription had ran out so I
2 can't get any antibiotics.

3 THE COURT: And my medical degree did not make it
4 in the mail, so I'm not qualified to diagnose it.

5 (All laughing.)

6 Do you all -- what I was thinking, is, maybe
7 bring that individual juror in, see if they're -- he
8 or she is okay and feels comfortable continuing to
9 serve. Or if they feel like they need medical
10 attention right now, then, I guess we would excuse
11 them and replace with an alternate. Does that -- that
12 suit everyone and handle it that way?

13 MR. SCOTT: Yes.

14 MS. ZMROCZEK: I think that's fair reasoning.

15 THE COURT: All right. Sir, can you bring me
16 juror number 335?

17 THE BAILIFF: (Complies).

18 THE COURT: Let's go ahead and make that Court's
19 Exhibit -- what?

20 MADAM CLERK: Seven.

21 THE COURT: Seven?

22 MADAM COURT REPORTER: Seven.

23 (Juror 335 walks into the courtroom.)

24 THE COURT: Good morning, sir.

25 JUROR 335: Morning, sir.

1 THE COURT: I got your note. Now --

2 JUROR 335: (Walking towards the Court.)

3 THE BAILIFF: -- sir!

4 THE COURT: He's okay. He's okay. He's all
5 right. Do you feel comfortable continuing to serve?
6 Do you think you need to get medical attention?

7 JUROR 335: I'm fine. I just don't want to
8 infect anybody else.

9 THE COURT: Okay. Well if you're fine and you're
10 comfortable still serving, and it's not causing you
11 any significant discomfort, then we'll just -- we'll
12 let you continue to serve.

13 JUROR 335: Okay.

14 THE COURT: All right.

15 JUROR 335: Yes, sir.

16 THE COURT: Yeah. Thank you. Thank you for
17 letting us know.

18 (Juror 335 exits the courtroom.)

19 Okay. Everybody ready?

20 MR. SCOTT: Judge, just -- I don't know who the
21 first witness is going to be but they do -- we've
22 gotten an amended forensics report from an expert
23 last night.

24 THE COURT: Okay.

25 MR. SCOTT: It does contain some methodology that

1 it might be some extensive questioning on. I don't
2 know if we need to proffer some testimony outside the
3 presence of the jury. It also contains accusations of
4 third party guilt, which I have -- I've got a
5 memorandum on which would exclude any testimony
6 regarding third party guilt. The law is pretty clear
7 on that, but that is what this expert is going to
8 attempt to do.

9 THE COURT: Well, I was thinking about that last
10 night. It seems like we're headed down that road and
11 we certainly have not addressed third party guilt yet.

12 MS. ZMROCZEK: I'm sorry?

13 THE COURT: I said I was thinking about that last
14 night. It seems like we were headed towards some --

15 MS. ZMROCZEK: We -- we are.

16 THE COURT: -- allegations of third party guilt.

17 MS. ZMROCZEK: We are.

18 THE COURT: And I'm not sure we've met any sort
19 of standard that would have met that yet.

20 MS. ZMROCZEK: Well, certainly, we haven't met
21 that yet. It's going to start this morning with my
22 first witness, Your Honor. The 911 call -- that's
23 gonna be played -- all of the 911 calls will be played
24 and the second one involves someone named Jerry
25 Hammond who is also scheduled -- we're going to make

1 sure that he -- he was served a subpoena, so they're
2 just making sure that he shows up.

3 But that he says that he saw the shooters and
4 they got into two black Chargers and drove away. They
5 -- in discovery, we received Shelleye cameras that the
6 timing matches up with the -- with two black Dodge
7 Chargers that are seen on the roads at 1:56-ish and
8 gives -- because I don't have the report front me.

9 They're coming -- they're seen coming in and
10 which matches with a lot of the written testimony of
11 the -- of the people that said they got there right
12 before closing. And then the Shelleye cameras also
13 showed them leaving away about a minute and a half
14 after the 911 call and it's been seen on the road.

15 And when they get to the Shell station, which is
16 all picked up on the Shelleye cam, there are four
17 black males that get out of the vehicle. Your Honor,
18 all of that -- and we are certainly prepared to
19 proffer that with the expert testimony.

20 But I mean, all of that is clear under the
21 language of *Holmes* that it tends to exonerate my
22 client and not -- and not in any way lessen his
23 culpability because it just completely exonerates him
24 therefore, it would be admissible.

25 MR. SCOTT: I've got the memoranda I'm gonna pass

1 up to Your Honor. I've provided to Ms. Zmroczek as
2 well.

3 THE COURT: Okay. What's the State's position?

4 MR. SCOTT: Well, first of all --

5 MS. ZMROCZEK: You said you gave me a copy?

6 MR. SCOTT: Yes.

7 MS. ZMROCZEK: Thank you.

8 MR. SCOTT: Well, Judge, it's clearly
9 inadmissible. I think what -- what I would ask --
10 well -- I can't really ask for how she presents the
11 case, but I think it would be most appropriate for her
12 to call her Jerry Hammond to testify before the expert
13 does. I've got some questions regarding the expert's
14 methodology and how she bases her times.

15 She has offset different times regarding 911
16 calls, regarding body cams, regarding Shelleye Cameras
17 and I -- I disagree with her methodology. But also I
18 think Mr. Hammond would testify that he did not see
19 the shooter get into black Chargers. He simply saw
20 two black Chargers leave the scene after, or around
21 the time of the shooting, which is not inconsistent
22 with the defendant's guilt.

23 MS. ZMROCZEK: Your Honor, the 911 call, which is
24 why they haven't put it in yet, clearly states on the
25 911 call as he's watching it, they are getting into

1 the Charger now. Also, there's a BOLO that's put out
2 for two Dodge Chargers. And that comes across on the
3 -- the radio traffic that I was not able to get in
4 through Riley, but -- and that I'm able to get in
5 through our first witness.

6 THE COURT: Is there any witness that
7 unequivocally says they saw the persons that fired the
8 gun get into the Chargers?

9 MS. ZMROCZEK: He says the shooters are getting
10 into the Chargers on the 911 call. He says it as
11 clear as day, the shooters are getting into the --
12 into the Chargers and leaving right now is what the
13 911 call says. I can play it for you if you want to
14 hear it.

15 MR. SCOTT: Here -- here's the transcript. (As
16 read): "And we met with the -- we met with Mr. Hammond
17 afterwards. But dispatch -- did you see the suspect
18 that shot her? Did you see the person that shot her?
19 Yeah. We saw the person that shot her. Can you
20 describe for me? They just -- they just took off.
21 It's two Dodge Chargers. Two Dodge Chargers, question
22 mark. Two dark colored? Yes. Two of them, dark
23 colored."

24 She never -- they never said anything about the
25 shooters getting in the Chargers, simply they're

1 leaving. In meetings with Mr. Hammond, which Ms.
2 Zmroczek is privy to, based on Riddle documents. He
3 indicated that, "no", he -- he did not see shooters
4 get into the Chargers. He simply was stating they
5 were leaving at or around the time he was on the phone
6 with dispatch.

7 THE COURT: Well, yeah, I would think Mr. Hammond
8 would need to testify first.

9 MS. ZMROCZEK: Okay.

10 THE COURT: Because I'll -- I'll tell -- unless
11 he is going to unequivocally say what you're telling
12 me he says then I don't think all the camera and
13 Chargers and all that is admissible under --

14 MS. ZMROCZEK: Okay. Well --

15 THE COURT: -- third party standard.

16 MS. ZMROCZEK: -- he would proffer as well
17 just to protect the record.

18 THE COURT: Oh, yeah. I mean I -- but I think
19 Mr. Hammond needs to testify first and then that
20 would determine --

21 MS. ZMROCZEK: Okay.

22 THE COURT: -- whether or not all the other stuff
23 --

24 MS. ZMROCZEK: We have him -- my investigator is
25 out meeting him right now, but let pull up his --

1 yeah. Even when they met with him, Your Honor, he
2 says he -- sorry.

3 Hang on. No, I got to -- I got to
4 find it.

5 MR. SCOTT: (As read:) "He saw shooter and his
6 group leave but couldn't see them get in a car or what
7 car they got in. Jerry wasn't focused on the cars but
8 was focused on trying to help victims."

9 MS. ZMROCZEK: Your Honor, that Riddle testimony
10 for that Riddle note is from 2024. Again, his
11 statement to the police and his --

12 THE COURT: I'm concerned about what his
13 statement right there (indicating) is gonna be.

14 MS. ZMROCZEK: Right. Right. Well, and I won't
15 know until he gets here.

16 THE COURT: Right.

17 MS. ZMROCZEK: But obviously we're not gonna -- I
18 mean, I'm not gonna put that up first. I'm putting --
19 I am putting up the 911 operator, because I think that
20 all of those calls are entitled to be played.

21 THE COURT: Okay. So are we otherwise ready?

22 MS. ZMROCZEK: What, I'm sorry?

23 THE COURT: Are we otherwise ready?

24 MS. ZMROCZEK: Oh yeah. I'm ready.

25 THE COURT: You're ready to do the 911. Okay.

1 MS. ZMROCZEK: My first two witnesses -- I have
2 the first two witnesses, Your Honor.

3 THE COURT: Okay.

4 MS. ZMROCZEK: They -- they are ready to go.

5 THE COURT: All right. Bring us the jury please,
6 sir.

7 (The jury enters the courtroom.)

8 THE BAILIFF: Jury's present and seated, Your
9 Honor.

10 THE COURT: Very good. Thank you, sir. Good
11 morning ladies and gentlemen. Sorry to keep you all
12 waiting a little bit. I know you probably didn't pick
13 up on it when we started, but I told you I was also
14 the chief administrative judge, which means I have
15 some administrative responsibilities, which I had to
16 take care of this morning. So the delay is all my
17 fault. I apologize. But we are ready to go. So Ms.
18 Zmroczek.

19 MS. ZMROCZEK: Thank you. Your Honor, defense
20 calls Tina Frey. Tia, excuse me.

21 THE BAILIFF: Come forward to be sworn.

22 MADAM CLERK: Please, raise your right hand.

23 **TIA FREY,**

24 A witness herein, having been first duly sworn, was
25 examined and testified as follows:

1 MADAM CLERK: Thank you. Please have a seat on
2 the witness stand. State your full name for the
3 record.

4 DIRECT EXAMINATION

5 BY MS. ZMROCZEK:

6 Q. State your full name for the record.

7 A. My name is Tia Frey.

8 Q. Frey, sorry. Good morning Ms. Frey. Can you
9 tell the jury where you're employed?

10 A. I'm employed at Columbia, Richland 911.

11 Q. And what are your duties at Columbia, Richland
12 911?

13 A. I'm the custodian of records. I maintain our
14 audio and our CAD reports.

15 Q. Okay. And so explain a little bit about the
16 records that you maintain. How does -- how does 911 work?
17 For example, if I call 911, how -- tell the jury how that
18 works.

19 A. When a citizen calls 911, at the same time that
20 the call taker is speaking to the citizen, they're also
21 making notations and what -- what we refer to as a CAD
22 report. So we kind of summarize what the -- the caller is
23 telling us and we put it down and then that call is -- is
24 dispatched out to the responders.

25 Q. And so when the -- so when the person's taking

1 notes are -- are -- are they trained to ask questions to
2 try to figure out what's going on?

3 A. Yeah. We have what we call the five Ws as to
4 who, what, when, where, why and weapons. And that's the
5 questions that we ask.

6 Q. Okay. And then how are -- how are these records
7 -- how are these calls captured?

8 A. They're recorded as they come in.

9 Q. They're -- they're recorded.

10 A. Um-hum (affirmative).

11 Q. And then how long are they maintained in your
12 system?

13 A. They're -- the audio is kept for 90 days unless
14 it's requested for the 90 days and then we -- we don't
15 destroy it after that if it's actually requested.

16 Q. Okay. The audio.

17 A. Um-hum (affirmative).

18 Q. And then what about the CAD reports?

19 A. The CAD reports, I believe it's six to seven
20 years that they hold the CAD reports --

21 Q. Okay.

22 A. -- before they erase them out of the system.

23 Q. Okay. So they maintain -- so if -- if the
24 records are not requested within 90 days, the audio
25 records, but then there's at least within six to seven

1 years a request for the CAD report, that would still exist?

2 A. Yes. Mm-hum. Yes, ma'am.

3 Q. And when you -- and then you said that they --
4 they communicate -- dispatch communicates, with whom do
5 they communicate?

6 A. The -- the dispatchers communicate with the
7 responders on the scene.

8 Q. Okay. And how do they do that?

9 A. Over the radio.

10 Q. All right. And is that radio -- radio traffic --
11 is that -- is that captured on any devices from the police
12 officers?

13 A. I -- I don't know... On our end, we have the
14 same recording system for our phone. If they have like
15 body cams, I'm assuming it would be captured on there.

16 Q. Okay. And the -- and perhaps through their
17 radio, do they communicate with you all through the radios?

18 A. Yes, they -- we record that.

19 Q. Okay. And in this case specifically, well we've
20 already had one 911 call entered. Did you fill out a form?
21 Did you meet with the State? Did they asked you to fill
22 out a form to listen to a call?

23 A. Yes.

24 Q. Now, how many calls were made in this case?

25 A. There were four.

1 Q. Four 911 calls?

2 A. Yes.

3 Q. And did they have you listen to all of them?

4 A. I listened to one.

5 Q. You listened to one for the State. And then have
6 you had an opportunity to listen to all of them since?

7 A. Yes, I have.

8 Q. And would that be what's been marked as Exhibit
9 -- Defense 33, the four 911 calls?

10 A. Yes, ma'am.

11 MS. ZMROCZEK: Okay. And Your Honor, at this
12 time we would like to move Exhibit 33 into the record.

13 THE COURT: Objection from the State?

14 MR. FOWLER: That's the 911 calls?

15 MS. ZMROCZEK: Yes.

16 MR. FOWLER: The other three?

17 MS. ZMROCZEK: Yes.

18 MR. FOWLER: No objection to the 911 calls.

19 THE COURT: All right. It'll be admitted as
20 State's --

21 MR. FOWLER: Your Honor, I'm sorry. Is that all
22 that's on that disc, just the 911 calls?

23 MS. ZMROCZEK: Correct.

24 MR. FOWLER: Okay. Yes.

25 THE COURT: It'll be --

1 MR. FOWLER: No objection Your Honor.

2 THE COURT: Defense 33 without objection.

3 (Defendant's Number 33 marked.)

4 MS. ZMROCZEK: Thank you, Your Honor. May I
5 publish?

6 THE COURT: Sure.

7 BY MS. ZMROCZEK:

8 Q. Thank you. When -- when you have multiple calls
9 -- before I play this, when you have multiple calls for an
10 incident, how do y'all keep track of that in your system?

11 A. I don't -- I'm not understanding.

12 Q. Sorry. So you just have one -- like one person
13 working 911 or?

14 A. It's multiple people.

15 Q. There are multiple people?

16 A. Yes, ma'am.

17 Q. Okay. So that way if you get more than one call,
18 even if it's about the same incident or two incidents, you
19 still have people to pick up that -- that call?

20 A. Yes.

21 Q. Okay. So yesterday we heard a call that was made
22 at 2:18. I'm gonna play the second call. Helps to have
23 audio on -- beg the Court's indulgence (adjusting the
24 volume on the audio player.)

25 (The 911 calls are played.)

1 MS. ZMROCZEK: I'm gonna play the third call.

2 (The 911 call continues.)

3 BY MS. ZMROCZEK:

4 Q. So when you -- when you -- when someone calls
5 911, does it -- when does it start recording?

6 A. Instantly. Instantly when we pick up the line.

7 Q. Okay. And then if y'all -- is there a reason why
8 911 operators would call a number back?

9 A. If it was an abandoned phone call.

10 Q. If it was what?

11 A. An abandoned phone call, meaning the person hung
12 up before we could answer.

13 Q. Okay. And so the -- we just listened to those
14 calls and I want to show you -- and that was Defendant's
15 33. I want to show you what's been marked as Defendant's
16 35 and ask if you recognize that (indicating). Okay.

17 A. Yes. This is a CAD incident detail report from
18 our agency.

19 Q. Okay. And is that something that is kept in the
20 regular course of business like you discussed?

21 A. It is, yes.

22 Q. Okay. Up to six to seven years, right?

23 A. Yes.

24 Q. Has that report been altered in any way since it
25 was created?

1 A. No ma'am.

2 MS. ZMROCZEK: Your Honor, at this time we would
3 move Defense 30...

4 MR. FOWLER: I do have an objection to that, Your
5 Honor.

6 THE COURT: Okay.

7 MR. FOWLER: I believe it's hearsay. Within
8 hearsay. The CAD report, I would agree is a business
9 record, dates, times, officers responding. I believe
10 that comes in as a business record. But as for the
11 actual statements from callers that are --

12 THE COURT: All right. Hold on. So y'all come.
13 What number is it?

14 MADAM CLERK: 35.

15 (A side bar conversation was held between the
16 Counsels and the Court.)

17 BY MS. ZMROCZEK:

18 Q. Sure. I'm gonna show you what's been marked for
19 ID as Defense 35. Which you already identified as the CAD
20 report. I'm gonna give you a copy, (hands over a document)
21 so I can ask you some questions about it. So when you have
22 multiple calls, does that make -- does that mean that you
23 have multiple CAD reports?

24 A. Ideally, it's supposed to go into one CAD report
25 but in something like a major event multiple people are

1 calling and two people may be answering the call at the
2 same time, so one of them doesn't realize the other has
3 already put in a call. So, that's how 2 CAD reports are
4 sometimes created for the same incident.

5 Q. Okay. And I'm asking you to turn to Page 4, and
6 direct you to an entry at 2:24:48. So as the information
7 is coming in or going out, it's documented by when they
8 type in the time and then their notes?

9 A. Yes.

10 Q. Okay. At -- at 2:24:48, does -- does the CAD
11 report show that we have the identification?

12 MR. FOWLER: Your Honor, I think I have to object
13 to this question as well. May we approach?

14 THE COURT: Yes, sir.

15 (A sidebar conversation was held between Counsels and
16 the Court.)

17 BY MS. ZMROCZEK:

18 Q. At 2:24, did they have a name and address of
19 someone who owned a vehicle with the tag UFV 626?

20 A. At 2:24, that tag number was ran and that
21 information was given for that tag number.

22 Q. Thank you. You had a -- there was another 911
23 call made in connection with this case. Was there not?

24 A. Yes, there was.

25 Q. And I'm just gonna show you what's been marked

1 for ID purposes, Defendant's 34. And you said if -- if the
2 audio isn't requested within 90 days, then we don't get to
3 hear the audio. Is that correct?

4 A. If the audio is not requested within 90 days, yes
5 ma'am.

6 Q. Okay. But we still keep the CAD report?

7 A. We have the CAD report, yes.

8 Q. So what time was the next 911 call made in
9 connection with this case?

10 A. This incident report has it marked at 20:30 but
11 let me see (looking)...

12 Q. 20:30 on what date?

13 A. On August 1st.

14 Q. Okay. And then -- that's all. And then the --
15 we talked about the radio traffic. Did you have an
16 opportunity prior to testifying today to listen to the --
17 the radio traffic from Officer Riley's body cam -- or
18 excuse me, dash camera?

19 A. From the dash cam, yes.

20 Q. Okay. And did that transmission -- was that with
21 -- was that dispatch transmission?

22 A. That was dispatch radio traffic. Yes, ma'am.

23 Q. Okay. And did that audio fairly and accurately
24 reflect what was recorded at that time?

25 A. As far as the -- as far as what?

1 Q. As far as the -- as far as the radio traffic?

2 A. Yes.

3 MS. ZMROCZEK: Okay. Your Honor, at this time
4 we'd like to publish the audio to Sergeant Riley's
5 body cam who testified first in this case?

6 THE COURT: The whole thing?

7 MS. ZMROCZEK: No. No. Just the -- the portions
8 that we have already admitted were -- from his dash
9 cam.

10 MR. FOWLER: I have the same objection now as I
11 had with Deputy Riley, Your Honor, to that radio
12 traffic, those are police officers talking on the
13 radio to one another, there's no hearsay exception to
14 what the officers are saying over the radio to each
15 other.

16 THE COURT: And didn't we already play portions
17 of it?

18 MS. ZMROCZEK: Just the -- the video --

19 THE COURT: You all come -- come up here. We've
20 already played part of it, that radio traffic?

21 (A sidebar conversation ensued between Counsels
22 and the Court.)

23 THE COURT: I'll sustain the objection.

24 MR. FOWLER: Thank you, Your Honor.

25 MS. ZMROCZEK: Please answer any questions the

1 State may have.

2 CROSS-EXAMINATION

3 BY MR. FOWLER:

4 Q. The times they're listed at the beginning of
5 those 911 calls, are those accurate?

6 A. Those are timestamp calls. Yes.

7 Q. Timestamp, and that time is what time that call
8 came in? That's very accurate time?

9 A. Yes.

10 MR. FOWLER: No further questions, Your Honor.

11 THE COURT: Anything on recross?

12 MS. ZMROCZEK: Nothing further, Your Honor.

13 THE COURT: All right. You may step down, ma'am.

14 Thank you ma'am. All right. Call your next witness.

15 (The witness steps down.)

16 MS. ZMROCZEK: Your Honor, we call Demetrius
17 Potts.

18 THE BAILIFF: Come forward and be sworn.

19 MADAM CLERK: Please, raise your right hand.

20 **DEMETRIUS POTTS,**

21 A witness herein, having been first duly sworn, was
22 examined and testified as follows:

23 MADAM CLERK: Please have a seat on the witness
24 stand and state your full name for the record.

25 THE WITNESS: Demetrius Tyler Potts.

DIRECT EXAMINATION

BY MS. ZMROCZEK:

Q. Thank you for being here this morning. Is it
Officer Potts?

A. It's Deputy.

Q. Deputy. Can you tell the jury where you are
employed?

A. Charleston County Sheriff's Office.

Q. Okay. And where -- obviously we're here for an
incident that happened back in August 1st, or the late
evening hours of July 31st, 2021, early morning hours of
August 1st of 2021. Do you recall that evening?

A. Yes.

Q. Okay. How were you -- where were you that
evening?

A. I was standing in the parking lot.

Q. Of Tsubaki Grill?

A. Yes.

Q. Okay. Had you been in Tsubaki that evening?

A. No.

Q. You had not?

A. No.

Q. Okay. Where -- where had -- who were you with?

A. A couple of people I met in Columbia.

Q. Some friends.

1 A. Yes.

2 Q. And you were not on duty?

3 A. No.

4 Q. Is that correct?

5 A. Correct.

6 Q. Okay. And you -- and so you had been with
7 friends who were in the parking lot?

8 A. Yes.

9 Q. So where had you been before then?

10 A. Driving around.

11 Q. I'm sorry.

12 A. We were just driving around.

13 Q. Okay. All right. And -- and so I think I've
14 shown you -- or have you seen... Have you seen Exhibits 27
15 through 30?

16 A. Yes.

17 Q. Defense exhibits. And were you able to identify
18 yourself in those pictures?

19 A. Yes.

20 Q. Okay. And do those pictures fairly and
21 accurately represent what you -- what you remember -- and
22 where you remember being and talking -- and who you were
23 talking to that evening?

24 A. Yes.

25 MS. ZMROCEK: Your Honor, at this time we would

1 move Defense 27 through your 32 in.

2 MR. SCOTT: No objection.

3 THE COURT: All right. That'll be Defense 27
4 through 32 without objection.

5 (Defendant's Number 27 through 32 marked.)

6 BY MS. ZMROCZEK:

7 Q. Deputy Potts, I'm gonna put them up here and just
8 ask you a few questions about them. So I'm showing you
9 Defense 27, which appears to be a little blurry. Okay.
10 Using the end of my pencil. Is this you that evening
11 (indicating)?

12 A. Yes.

13 Q. And did you -- what did you have on?

14 A. T-Shirt and jeans.

15 Q. And jeans?

16 A. Yes.

17 Q. Okay. And did you have your service weapon with
18 you?

19 A. Yes.

20 Q. All right. What kind of service weapon do you
21 have?

22 A. It's a Glock.

23 Q. A what?

24 A. Glock.

25 Q. A Glock. And what color is it?

1 A. Black.

2 Q. Okay. And were you also wearing your badge that
3 evening?

4 A. Yes.

5 Q. Okay. And obviously you weren't on duty. What
6 made you jump into action?

7 A. Two victims being shot.

8 Q. Okay. And so what -- I'm gonna show you Defense
9 28. Is this your vehicle? Or do you know?

10 A. It's -- it's hard to tell from that.

11 Q. Okay. All right. What -- what do you remember
12 driving that evening?

13 A. A Dodge Charger.

14 Q. Okay. What color was it?

15 A. It was purple.

16 Q. Okay. Let me show you Defense 30. Does that
17 look better -- better image for you?

18 A. Yes.

19 Q. Okay. Is that your vehicle?

20 A. Yes. And how do you -- it -- it kind of appears
21 that it is -- in -- not in a parking spot. How did your
22 vehicle end up in that position?

23 A. Some -- someone drove up to pick me up.

24 Q. I'm sorry?

25 A. Drove -- someone drove closer to the scene to

1 picked me up.

2 Q. Someone did what?

3 A. Drove closer to the scene.

4 Q. Okay. So you drove closer to the scene?

5 A. Drove my vehicle closer to the scene.

6 Q. Okay. And -- and so what do you -- what did you
7 observe that evening?

8 A. I heard two males arguing in the parking lot, and
9 then two shots were fired and then moments later, several
10 more shots were fired.

11 Q. So you heard arguing and then you heard two
12 shots?

13 A. Two initial shots.

14 Q. Two initial shots, and then you heard how many --
15 do you recall how many additional?

16 A. I do not.

17 Q. Okay. But there was a break between?

18 A. Yes.

19 Q. Okay. And did you -- were there a lot of
20 vehicles out there?

21 A. Yes.

22 Q. Okay. When the shooting started, what happened
23 with some of those vehicles?

24 A. They -- they left.

25 Q. All right. And were there a lot of people out

1 there as well?

2 A. Yes.

3 Q. All right. You -- you were able to render aid;
4 is that correct?

5 A. Correct.

6 Q. As an officer and you hear gunshots, what are you
7 trained to do?

8 A. Go towards them.

9 Q. Okay.

10 A. And stop threats.

11 Q. All right. And did you have an opportunity to
12 see who shot?

13 A. No, I did not.

14 Q. I'm sorry.

15 A. No, I did not.

16 Q. Okay. All right. And did you have an
17 opportunity to at least discuss with the officers, just,
18 kind of, your involvement with --

19 A. Yes.

20 Q. -- with the -- and since then, has anybody been
21 in contact with you to ask you what happened?

22 A. The Solicitor's office.

23 Q. Okay. They -- they called you?

24 A. Yes.

25 MS. ZMROCZEK: All right. Perfect. Please

1 answer any questions the State may have.

2 CROSS-EXAMINATION

3 BY MR. SCOTT:

4 Q. You didn't see the shooter?

5 A. I saw a male run towards a black sedan.

6 Q. A what?

7 A. A dark in color sedan not a black sedan. Dark in
8 color sedan.

9 Q. Okay. A dark sedan. Okay. But you don't know
10 if that was a shoot or not?

11 A. I can't make out if that was the shooter or not.

12 Q. Okay. Dodge Charger. A dark Dodge Charger.
13 Do you have a dark Dodge Charger?

14 A. Yes.

15 Q. And you were driving around the Two Notch
16 Parklane area earlier that night?

17 A. Earlier, yes.

18 Q. Okay. Would you say a Dodge Charger is a pretty
19 common vehicle?

20 A. I wouldn't say that, no.

21 Q. You don't see a lot --

22 A. It's about as common as any other car on the
23 roadway.

24 Q. What's that?

25 A. It's about as common as any other car on the

1 roadway, so...

2 Q. Okay. And so you were driving a Dodge Charger
3 that night?

4 A. Correct.

5 Q. Do you remember seeing any other Dodge Chargers
6 there?

7 A. I don't recall, no.

8 Q. Okay. And you heard a shot and you saw several
9 cars leave after that?

10 A. I saw a few cars leave after that.

11 Q. And you said you saw somebody in a dark colored
12 sedan at some point?

13 A. Yes. The dark colored sedan sped up to where the
14 -- near where the victims were and picked up a black --
15 dark -- picked up a dark -- dark colored man.

16 Q. Okay. But you don't know if that was the shooter
17 or not?

18 A. I can't confirm that was the shooter.

19 Q. Were -- is it true that you were in an area of
20 the parking lot where your view of the altercation would've
21 been obstructed?

22 A. Slightly, yes.

23 Q. Did you come to find out where the victims were
24 shot?

25 A. Yes.

1 Q. Okay. About how far away from that location were
2 you when the shots rang out?

3 A. About from here to the benches (indicating).

4 Q. First road (indicating)?

5 A. Yes.

6 Q. Okay. Were there any cars in the way?

7 A. There were people in the way.

8 Q. So you didn't see any shooter?

9 A. No.

10 Q. And you saw somebody -- you saw several cars
11 later and you saw somebody, a dark color male get into a
12 dark color sedan?

13 A. Where the victims were shot.

14 MR. SCOTT: That's all the questions I have for
15 you. Thank you, Mr. Potts.

16 THE COURT: Anything on re-cross?

17 MS. ZMROCZEK: Just very briefly.

18 REDIRECT EXAMINATION

19 BY MS. ZMROCZEK:

20 Q. He asked you about what you saw. As an officer,
21 do you -- when you heard gunshots, you said you wanted to
22 protect the --

23 A. Yes.

24 Q. So are you trained or just because of the nature
25 of your employment to -- to try to look around and see what

1 you can identify?

2 A. Yes.

3 Q. Okay. And -- and you did that to the best of
4 your ability in this case, right?

5 A. Yes.

6 Q. It was very chaotic?

7 A. Yes.

8 MS. ZMROCEK: Those are all the questions I
9 have, Your Honor.

10 RECROSS EXAMINATION

11 BY MR. SCOTT:

12 Q. You were on the other side of the car, so you
13 weren't in close proximity to the shooter, were you?

14 A. No, I was not in close proximity.

15 Q. Okay. So if you would've been like right up
16 maybe two or three feet from him, you probably could have
17 identified him, don't you think?

18 A. Correct.

19 Q. Okay. But you had a car blocking you?

20 A. I had people blocking me.

21 Q. Would it surprise you to know that you said I
22 didn't see the shooter because he was on the other side of
23 the car at the time?

24 A. It wouldn't surprise me.

25 Q. Okay. So there were people and cars in between

1 you?

2 A. People and cars.

3 Q. You were back over here (indicating) closer to
4 the restaurant or farther out in the parking lot?

5 A. Farther in the parking lot.

6 Q. So there are cars and people in between you. You
7 didn't get a good look at the shooter. You didn't see the
8 shooter at all, correct?

9 A. There was a car. I did not -- I used the car to
10 protect myself from getting harmed.

11 Q. Okay. But again, if you had been involved in the
12 argument with the shooter and you had been two or three
13 feet from him --

14 A. Right. Correct.

15 Q. -- probably could have given a description of him
16 don't you think?

17 A. Yes.

18 Q. I mean, and if his car was right over
19 (indicating) here, and he ran to it, and you took a picture
20 of the tag, you could have probably identify the car. Don't
21 you think?

22 A. Yes.

23 MR. SCOTT: Nothing further, Your Honor.

24 THE COURT: All right. Anything else?

25 MS. ZMROCZEK: Nothing further.

1 THE COURT: All right. You can step down, sir.
2 Thank you for being here.

3 (The witness steps down from the stand.)

4 MS. ZMROCZEK: Your Honor, checking to make sure
5 our next witness is out there.

6 They're walking in, Your Honor. I'm sorry,
7 Your Honor. Apparently there was a line, I guess,
8 with appearances down at the entrance.

9 THE COURT: All right. Why don't we take a short
10 break and I guess let folks stretch their legs, go to
11 restroom? Ladies and gentlemen, I'm going to excuse
12 you to the juryroom.

13 (The jury exits the courtroom for a brief break.)

14 MS. ZMROCZEK: I've had an opportunity to discuss
15 with my client and making informed decisions about
16 going forward with third party guilt or just
17 abandoning that and not proffering it. And Your
18 Honor, just based on the -- on the testimony and the
19 current case law and how it's not going to be found to
20 be admissible under third party guilt, we are going to
21 withdraw that.

22 THE COURT: Okay.

23 MS. ZMROCZEK: So -- but scheduling wise, that's
24 what I need to tell you. So scheduling wise, this
25 causes a little bit of a problem because obviously my

1 expert, the -- the -- I'm sure they'll -- they'll have
2 a challenge to her, too, but -- but I have an expert
3 eyewitness in memory and memory perception, things
4 like that.

5 She is coming -- she's scheduled to be here at
6 1:30. I just confirmed with her. And she's coming
7 from Greenwood, I tried to see if she could come
8 early, but she -- Greenville, excuse me, she teaches
9 at Wofford and she has a class and is coming.

10 THE COURT: I'm familiar with her.

11 MS. ZMROCZEK: But that would be our last
12 witness. So that would probably take from 1:30 to
13 2:30, then we can do -- so I know today is kind of a
14 disjointed -- it would be a disjointed day, but just
15 so that we're respectful of the jury's time, I think
16 that would give us time to -- well, you still have to
17 do the call plea of the defendant --

18 THE COURT: Right.

19 MS. ZMROCZEK: -- et cetera. And then we can --
20 I have to renew my motions, do -- do our jury charge
21 argument. And so I still think that that puts us
22 coming -- and -- and if they have a reply case, so
23 that way if they have a reply case, they can call it
24 after my doctor. But I still think that --

25 THE COURT: Okay. So you don't have anything

1 else this morning?

2 MS. ZMROCZEK: Well, I have one more witness this
3 morning.

4 THE COURT: Okay.

5 MS. ZMROCZEK: I do.

6 THE COURT: Okay. All right. Well, then let's
7 take care of that witness and I guess we'll just have
8 to take a long lunch. Also, I just wanted to put on
9 the record too, because we did it at the bench with
10 regard to Defense Exhibit 35 and the CAD reports. My
11 ruling was that they were hearsay.

12 I think the defense stated that the main purpose
13 was to illustrate that the investigators or law
14 enforcement, what have you, had the tag number. The
15 record is replete with that fact in addition to it
16 being hearsay. So that's the basis of the denial of
17 admitting Defendant's 35. Just want to make sure the
18 record was clear.

19 MS. ZMROCZEK: And thank you, Your Honor. And I
20 did mark those two as ID.

21 THE COURT: Okay.

22 MS. ZMROCZEK: And obviously -- and since you
23 disallowed the audio on the dash cam --

24 THE COURT: Yeah.

25 MS. ZMROCZEK: -- I will make sure -- and I think

1 that we'll have time today just given the scheduling
2 issues. I will make sure that the exhibit is -- audio
3 corrected and then the State gets an opportunity to
4 confirm that before we send it back to the jury.

5 THE COURT: Okay. And then -- so you'll
6 -- we'll take care of this witness and then I'll
7 advise Mr. King of his rights as well. All right.
8 Ready?

9 MS. ZMROCZEK: Thank you.

10 THE COURT: Okay. Bring in the jury, please,
11 sir.

12 (The jury enters the courtroom.)

13 THE BAILIFF: The jury is present and seated,
14 Your Honor.

15 THE COURT: All right. Ms. Zmroczek?

16 MS. ZMROCZEK: Thank you Your Honor. We call
17 Taishi Sato.

18 THE BAILIFF: Come forward and be sworn.

19 MADAM CLERK: Please, raise your right hand.

20 **TAISHI SATO,**

21 A witness herein, having been first duly sworn, was
22 examined and testified as follows:

23 MADAM CLERK: Thank you. Please step on the
24 witness stand and state your full name for the record.

25 THE WITNESS: Taishi Sato.

DIRECT EXAMINATION

BY MS. ZMROCZEK:

Q. I'm sorry if I mispronounce your name, Mr. Sato.
Can you tell the jury what you do for a living?

A. I run multiple restaurants and I own Tsubaki. I
co-own Tsubaki.

Q. Okay. And in -- in August of -- August 1st,
2021, what was your job title?

A. I was owner -- co-owner.

Q. Okay.

A. Manager.

Q. Which ones?

A. Co-owner and manager.

Q. Co-owner and manager of Tsubaki. And what about
Inakaya?

A. Just pretty much a manager. I wasn't really
working there at the time.

Q. Okay.

A. But I did do tech support, help -- help with
anything they had.

Q. You did tech support with them and their
restaurant is right next to your -- to Tsubaki?

A. Yeah. They're both family -- owned by our
family.

Q. They're both family owned. Okay. And so that's

1 how you obviously can get in and out of there.

2 A. Yes.

3 Q. And you -- do you recall if you were working the
4 night of August 1st of 2021?

5 A. I was working, but I left early.

6 Q. About -- when you say early, what's early in the
7 -- in the restaurant business?

8 A. I -- well, for the bar business it was around
9 9:00, 9:30 something like that.

10 Q. 9:00 or 9:30?

11 A. Yes.

12 Q. And so -- but you had been in the bar earlier
13 that evening?

14 A. Yes.

15 Q. And did you see a large group of Hispanics come
16 in to celebrate -- to celebrate anything?

17 A. I think at the time it was just a couple.

18 Q. Okay.

19 A. I think everybody showed up a little bit after I
20 left.

21 Q. Okay.

22 A. But I did see -- I think like two or three people
23 come in early on, and say that they were gonna celebrate a
24 birthday.

25 Q. Okay. And you've previously been shown some

1 pictures, but I'm gonna show them to you again. I'm gonna
2 first show you Defense 32. Do you recognize that picture?

3 A. Yes.

4 Q. And how do you recognize that picture?

5 A. It's the front camera of Inakaya.

6 Q. And was that -- does that picture fairly and
7 accurately represent the cameras that would've been there
8 on the evening of August 1st, 2021?

9 A. No.

10 Q. Okay. What would -- what is different about
11 them?

12 A. The -- I believe the -- the white camera is the
13 new one that we put up after the incident.

14 Q. Okay. But the -- the left camera?

15 A. The left camera is just an old camera left behind
16 --

17 Q. Okay.

18 A. -- from -- from before.

19 Q. And so what the -- but you had -- so you had a
20 new camera, but you had another camera prior to this one?

21 A. Yes.

22 Q. Okay. Was it in the same or similar location?

23 A. Yes.

24 Q. Okay. And so, can you describe where that
25 location is?

1 A. If I'm facing the parking lot and the Inakaya
2 door is behind me, it's slightly on the top-end left --

3 Q. Okay.

4 A. -- of the door.

5 Q. So if you're --

6 A. Facing the parking lot. So if I'm facing the
7 door, it would be the -- up to the right.

8 Q. Okay. Would it be in the same location as the
9 new camera?

10 A. Are we talking about the one at Inakaya?

11 Q. Yes.

12 A. This one (indicating)?

13 Q. Yes.

14 A. Yes. It's the same. That white one is the one.

15 Q. That white one is the same?

16 A. I believe so, yes.

17 MS. ZMROCEK: Okay. Your Honor, at this time we
18 would move Defendant's 32.

19 THE COURT: Any objection?

20 MS. TAYLOR: The relevance of this.

21 MS. ZMROCEK: You guys did impeach on
22 Investigator Short's testimony from yesterday.

23 THE COURT: All right. I'll allow it. It'll be
24 admitted as Defendant's 32.

25 MS. ZMROCEK: Thank you.

1 (Defendant's 32 admitted into evidence.)

2 BY MS. ZMROCZEK:

3 Q. Thank you. And so -- so it kind of tries to
4 catch a little bit of the front walkway and the parking
5 lot?

6 A. Yes. It really only shows the -- the walk -- the
7 sidewalk.

8 Q. Okay.

9 A. Not a lot of the parking lot.

10 Q. And not a lot, but some of it, right?

11 A. Yes.

12 Q. And so I'm gonna show you what's been marked
13 Exhibits 36 and 37. Okay. So I'm gonna show you. And
14 it's 36 and 37. Okay. And so Inakaya, you didn't just
15 have that one camera at the door, right?

16 A. What do you mean?

17 Q. There -- there were multiple cameras throughout
18 Inakaya's system?

19 A. Oh, yes.

20 Q. Okay. Sorry, I didn't confuse you. And so 30 --

21 A. 36.

22 Q. Thank you. So 36, does 36 reflect what all of
23 the cameras that Inakaya had at the time would've shown?
24 Not that the images are anyway related, but what the camera
25 area would've covered?

1 A. Are we talking about during 2000...

2 Q. August 1st, 2021.

3 A. For the most part, yes. This is the newer
4 system.

5 Q. Okay.

6 A. So, I don't think that -- I think this is the
7 newer system, but I'm not sure. But it would be -- it
8 would -- it would show -- the camera angles would be the
9 same.

10 Q. The camera angles are the same. Right. And the
11 -- so yeah. And I'm sorry, I didn't mean to confuse you.
12 The images are certainly not from that -- from that date?

13 A. Okay. Yeah. It's a new system as I said.

14 Q. Right. But the camera areas are the same?

15 A. Yes.

16 Q. Is that correct? And so camera 18, which is
17 Defense 37, would that be the camera that we just were
18 saying -- we're -- we're looking at and kind of what it
19 would be shown?

20 A. Yes.

21 MS. ZMROCEK: Okay. Your Honor, at this time we
22 move Defense 36 and 37 again.

23 MS. TAYLOR: Objection. He literally just the --
24 that those are not the angles of the cameras that --
25 those are not from the cameras that existed on August

1 1st, 2021 -- that those screenshots are not from those
2 cameras. So how can he -- how's that relevant to what
3 happened on August 1st?

4 THE COURT: I'll allow it and -- but you'll
5 certainly have the opportunity on cross-examination.
6 Will be Defendants 36 and 37.

7 (Defendant's Number 36 and 37 marked.)

8 MS. ZMROCZEK: Thank you.

9 BY MS. ZMROCZEK:

10 Q. Lastly, did anybody -- have you spoken with
11 anyone in the last week about this case?

12 A. The last week, no.

13 Q. Okay. The last two weeks. Did you -- did you
14 meet with the solicitor's office?

15 A. Yes, I did meet with the solicitor's office.

16 Q. Okay. What -- was that in February? Sorry.

17 A. I think so. Yes. I think it was sometime this
18 month or maybe January.

19 Q. Okay.

20 A. Or late January, I'm sorry.

21 Q. But it was this year?

22 A. Yes, this year.

23 Q. Okay. And did you -- at that time, did you have
24 an opportunity -- who did you have an opportunity to speak
25 with?

1 A. You mind if I check my phone?

2 Q. Sure. If you recall.

3 A. I don't...

4 Q. It's fine. We don't need the specifics, but it
5 was just someone -- and did you come here to the
6 solicitor's office?

7 A. I did. I went to the 4th floor.

8 Q. Okay. And what did you tell them at that time
9 regarding if police ever came to ask about cameras?

10 A. So, after the incident, I was called because of
11 the incident, so I showed up and by the time I showed up,
12 the police were already there. And then every -- I guess
13 people told them that I was the owner. So the police did
14 come up to ask me if the cameras were working, and see if
15 we'd give them some footage. The cameras weren't working.
16 The one in front of Tsubaki had water damage and so were
17 not working. And the one close in front of Inakaya also
18 had water damage.

19 Q. Okay. And then do you remember telling them in
20 January or February that investigators actually were able
21 to view footage?

22 A. Yes. So they -- they came -- they got my number.
23 They came back in the next two or three days, and then they
24 came into the back of the Inakaya with me to look at the
25 footage. But like I said, it was just a black screen --

1 the front camera, but it wasn't working.

2 Q. Okay. And -- and they didn't -- had they -- if
3 they had asked to download everything, would that have been
4 a problem?

5 A. No.

6 MS. ZMROCZEK: Okay. Thank you. I have no
7 further questions. Please answer any questions the
8 State has.

9 CROSS-EXAMINATION

10 BY MS. TAYLOR:

11 Q. So Mr. Sato, so you agree that on the night of
12 the shooting police investigators or someone from Richland
13 County Sheriff's Department did make contact with you at
14 the scene?

15 A. Yes.

16 Q. And they also came back a few days later to
17 follow up on whether you had camera footage?

18 A. Yes.

19 Q. Okay. And you agree that Tsubaki did not have
20 any cameras that showed the door?

21 A. No. It was down.

22 Q. Okay. Tsubaki didn't have any cameras that
23 showed the inside of the restaurant?

24 A. No.

25 Q. Tsubaki didn't have any cameras that showed the

1 parking lot?

2 A. No.

3 Q. Okay. So looking at the screenshots that she
4 showed you of the different -- this is State's 36, this is
5 the, I guess the screenshots, so you cannot say that what
6 angles the cameras are actually installed on in August 1st,
7 2021 showed?

8 A. I mean, I've looked at the cameras before. The
9 angles were pretty much always pointing towards the door to
10 see people coming in and out and also the front -- the
11 front parking -- the front sidewalk area for -- to see
12 people walking in and out just so that -- you know, for
13 security reasons. Or if we need, you know, like someone
14 like a diving dash just so we know what they look like.

15 Q. So these are from, talking about the newer
16 cameras that were installed?

17 A. Yes, but the -- at least for the front one, I
18 know that the angles are the same as the old one, because
19 just the way we need to -- to see people coming in and out
20 of the restaurants is the same. And they're also installed
21 right next to each other on the --

22 Q. So the angles are similarly positioned in this
23 new camera system that's shown here (indicating)?

24 A. Yes.

25 Q. But this is not the camera system that existed

1 August 1st, 2021?

2 A. That's correct.

3 Q. Now, looking at States 37, which is kind of a
4 clip from that screenshot.

5 A. Yes.

6 Q. Do you see a light pole in this photo?

7 A. A light pole?

8 Q. Yes.

9 A. I do not.

10 Q. So you do not see a light pole?

11 A. Like a street light.

12 Q. Like a light pole, yeah?

13 A. Not -- there might be one.

14 Q. Do you see it in that clip?

15 A. No.

16 Q. Okay. And you're saying that this clip is the
17 only clip that, I guess, from the new camera that was faced
18 towards the parking lot?

19 A. Yes.

20 Q. So can you try to clear this up for me. So the
21 camera system that you had August 1st for Inakaya. Did you
22 say that was damaged somewhere?

23 A. I believe it was just -- it was just older and
24 the rain -- the rain water seeped through and damaged the
25 camera.

1 Q. So they weren't working?

2 A. No.

3 MS. TAYLOR: Nothing further.

4 THE COURT: Cross examination -- redirect?

5 Sorry.

6 REDIRECT EXAMINATION

7 BY MS. ZMROCZEK:

8 Q. Again, had we -- we would be able to see or had
9 you -- had they asked you to -- to download your system
10 would you have allowed them to do that?

11 A. Yes.

12 Q. Okay. And then -- and so, any of the camera
13 angles or things that could have possibly damaged or
14 possibly repaired would've been able to have done at that
15 point, right?

16 A. Yes.

17 Q. Okay. And they never asked you to preserve any
18 of that evidence?

19 A. No.

20 MS. ZMROCZEK: Thank you. I have no further
21 questions.

22 THE COURT: Re-cross?

23 MS. TAYLOR: No, Your Honor.

24 THE COURT: All right. You can step down, sir.

25 (The witness steps down from the stand.)

1 All right. All right ladies and gentlemen, we've had
2 some scheduling conflicts with a witness. So we're
3 all going to get a long lunch today. The witness will
4 be here, I'm told, at 1:30. So I'm gonna excuse
5 you now for lunch. If you got any errands you need to
6 run, anything like that, I guess -- or go to your
7 office, whatever you need to do.

8 But we'll be back -- we'll get started back at
9 1:30 and we'll see you then. Again, don't discuss the
10 case, don't do any research, nothing to that nature.
11 And I'll see you back here at 1:30.

12 (The jury exits the courtroom for lunch break.)

13 All right. Madam Clerk, can you swear in Mr.
14 King?

15 MADAM CLERK: Yes, Your Honor. Please stand up
16 and raise your right hand.

17 **JAQUAN LEON KING,**

18 A witness herein, having been first duly sworn, was
19 examined and testified as follows:

20 THE COURT: All right. Mr. King, you can have a
21 seat; you don't have to stand up for us. At this
22 time, I'm going to explain to you your rights under
23 the Fifth Amendment to the United States Constitution.
24 If you do not understand anything I say, please let me
25 know. If you want me to explain anything in more

1 detail, please let me know.

2 Now, we've reached the stage of the trial where
3 -- well, we're already past that -- where you are
4 presenting a defense in the case. You have the right
5 to claim the protections of the Fifth Amendment to the
6 Constitution of the United States, which states no
7 person shall be compelled to -- in any criminal case -
8 - to be a witness against themselves.

9 This means that you cannot be required to testify
10 in the case. You have the right to testify on your
11 own behalf, but no one can make you testify. That's a
12 personal right, and only you can waive that right.
13 Now, if you decide to testify, you'll be subject to
14 the same rules that govern any other witness, and you
15 may be examined and cross-examined on any relevant
16 issue in the case.

17 In addition, if you have any convictions
18 involving dishonesty or false statements, or crimes
19 punishable by imprisonment for more than one year, and
20 I determine that the probative value of omitting that
21 evidence outweighs its prejudicial effect to you, the
22 solicitor will be able to introduce your record -- if
23 one exists -- to attack your credibility.

24 If you decide to testify, this decision on your
25 part must be made freely, voluntarily, and

1 intelligently with knowledge of protections given to
2 you by the Fifth Amendment and the consequences of
3 your decision to testify. If you decide not to
4 testify, I'll instruct the jurors that they cannot
5 give the fact that you do not testify any
6 consideration whatsoever, and there is to be
7 absolutely no prejudice to you because you choose not
8 to testify. It is left entirely up to you whether or
9 not to testify. You can talk with your lawyer, you
10 can talk with your family, you can talk with friends -
11 - anybody else -- but the final decision is left
12 entirely up to you. Do you understand everything I
13 just told you?

14 THE WITNESS: Yes, sir.

15 THE COURT: Do you have any questions about what
16 we just discussed?

17 THE WITNESS: No sir.

18 THE COURT: Have you discussed with Ms. Zmroczek
19 whether or not you should testify?

20 THE WITNESS: I will not.

21 THE COURT: You're not going to testify. Do you
22 need any more time to talk with her before you make
23 that decision?

24 THE WITNESS: No.

25 THE COURT: Okay. All right. He has been

1 advised of his rights and he indicated he does not
2 wish to testify.

3 MS. ZMROCZEK: Thank you.

4 THE COURT: All right. Caroline is going to be
5 sending y'all a draft charge. So now that we have a
6 little time, if you want to go ahead and look over it
7 and then we can get right into that after your last
8 witness.

9 MS. ZMROCZEK: Okay.

10 THE COURT: Okay. All right. Well, I guess we
11 are at ease until 1:30.

12 MS. ZMROCZEK: I guess, Your Honor, I guess -- I
13 don't know.

14 THE COURT: Unless there's anything else we need
15 to do.

16 MS. ZMROCZEK: Yeah. If they're moving to cross
17 my expert's testimony, I need to prepare that -- so
18 that I can let her know that.

19 MS. TAYLOR: I wasn't planning on stipulating
20 that she was expert.

21 MS. ZMROCZEK: Okay. Okay.

22 THE COURT: Okay. All right. Well that's easy.

23 MS. TAYLOR: You're talking about Dawn McQuiston,
24 right?

25 MS. ZMROCZEK: Yes.

1 MS. TAYLOR: Okay.

2 THE COURT: Yeah. I mean, she's been qualified
3 in that a bunch of times.

4 MS. ZMROCZEK: I understand.

5 THE COURT: And I guess I'll disclose, I don't
6 know if it matters, I have appeared on a panel with
7 her. Actually I invited her to speak at a SCAJ
8 convention.

9 MS. ZMROCZEK: I did not know that.

10 THE COURT: That's -- that was about probably
11 five or six years ago and haven't spoken to her since.
12 Just want to make sure that's on the record.

13 MS. ZMROCZEK: All right. Thank you.

14 (A lunch recess was taken.)

15 THE BAILIFF: All rise. Court, come to order.

16 THE COURT: Please, be seated.

17 THE BAILIFF: Make sure all cell phones are
18 turned completely off. Not on vibrate. Not on
19 silent. If you're not authorized to have your phone
20 on, please turn them off at this time.

21 THE COURT: All right. We ready?

22 MS. ZMROCZEK: Yes, Your Honor. Thank you for
23 the opportunity.

24 THE COURT: Not a problem. Everybody could
25 probably use a rule break. All right. Bring in the

1 jury please, sir.

2 (The jury enters the courtroom.)

3 THE BAILIFF: The jury is seated, Your Honor.

4 THE COURT: Thank you, sir. All right. Ms.
5 Zmroczek, call your next witness.

6 MS. ZMROCZEK: Thank you, Your Honor. We call
7 Dr. Dawn McQuiston.

8 THE BAILIFF: Come forward to be sworn.
9 Place your left hand on the bible right here
10 (indicating).

11 MADAM CLERK: Please, raise your right hand.

12 **DR. DAWN McQUISTON,**

13 A witness herein, having been first duly sworn, was
14 examined and testified as follows:

15 THE BAILIFF: State your full name for the
16 record, please.

17 THE WITNESS: Dawn McQuiston.

18 DIRECT EXAMINATION

19 BY MS. ZMROCZEK:

20 Q. Good afternoon.

21 A. Good afternoon.

22 Q. I'd like to have you introduce yourself to the
23 jury a little bit. What is your current occupation?

24 A. I'm a college professor. I work at Wofford
25 College in Spartanburg.

1 Q. Okay. And how many years have you been a
2 Psychology Professor at Wofford?

3 A. At Wofford, this is my 11th year.

4 Q. Okay. And -- and how many years in total have
5 you been doing this kind of work?

6 A. This is the 21st year. I was a professor at
7 Arizona State University for ten years before I moved to
8 South Carolina.

9 Q. And what is your education? What type of degrees
10 do you have?

11 A. I have a bachelor's degree in psychology, a
12 master's degree in experimental psychology, and a PhD in
13 experimental psychology with a focus in law and psychology.

14 Q. What's your faculty position consist of at
15 Wofford?

16 A. I teach and I do research.

17 Q. Okay. And so what are your general areas of
18 expertise?

19 A. Over the years, my expertise has focused on
20 eyewitness memory and also general decision making in a
21 legal context.

22 Q. Do you belong to any psychological organizations?

23 A. I do. I belong to the American Psychology Law
24 Society, the Society for Research in Memory and Cognition
25 and the Association for Psychological Science.

1 Q. And have you published or conducted any research
2 in this area?

3 A. Yes.

4 Q. And I want to show you what's been marked as
5 Defendant's 36 and ask if you recognize this document?

6 A. Yes, that's my CV.

7 Q. Okay. And does that list all of your, not only
8 your professional experiences, but all of your
9 publications?

10 A. Yes, it does.

11 Q. And are they numerous? Are -- does it consist
12 multiple pages?

13 A. Yes.

14 MS. ZMROCZEK: Okay. Your Honor, at this time we
15 move Defendant's 36 into evidence.

16 THE COURT: Any objection?

17 MS. TAYLOR: Yes. We would object. It seems
18 like that's improper value to her credibility. She
19 can talk about her publications, her education. But I
20 don't think it needs to be put into evidence.

21 THE COURT: All right. I think I am going to
22 sustain the objection. She can certainly talk about
23 anything that's in here, but there are a number of
24 things that could be somewhat confusing.

25 BY MS. ZMROCZEK:

1 Q. Okay. And so what are some of things that you
2 have published in this -- and you can refer to this
3 (indicating) document for ID purposes if you need to. What
4 are some of the things that -- that -- that you've worked
5 on? Or how many articles have you published in this area
6 of -- of this area of psychology?

7 A. (Looking through document) Looks like 23 peer
8 reviewed articles.

9 Q. Twenty-three peer reviewed articles.

10 A. Chapters.

11 Q. Which was gonna be my -- which was gonna be my
12 next question -- is have those articles been peer reviewed?

13 A. Yes.

14 Q. And explain to the jury what peer review is.

15 A. Sure. Peer review is a process by which we
16 scientists get our research published. It has to go
17 undergo peer review by a panel of experts, and they decide
18 on whether your research meets the criteria for being
19 published.

20 Q. And based on your expertise, do you conduct peer
21 reviews of others' work?

22 A. I have, yes.

23 Q. Okay. And do you present your research at any
24 professional psychology conferences?

25 A. Yes.

1 Q. Have you been qualified as an expert in
2 eyewitness memory before in court?

3 A. Yes.

4 Q. How many times?

5 A. Between 40 and 45.

6 Q. Okay. And have you ever testified for the
7 prosecution?

8 A. No, I have not.

9 MS. ZMROCZEK: Okay. Are -- Your Honor, at this
10 time we would move Dr. McQuiston in as an expert in
11 eyewitness memory.

12 THE COURT: Any objection?

13 MS. TAYLOR: No, Your Honor.

14 THE COURT: All right. I find expert testimony
15 is necessary to assist the jury in resolving certain
16 factual questions. Dr. McQuiston is qualified in the
17 area of eyewitness memory, methodology and her
18 testimony is reliable.

19 Ladies and gentlemen, I have qualified Dr.
20 McQuiston as an expert. You would give her, just like
21 the other experts that have testified here, that she
22 can offer opinion testimony, but you can give it any
23 weight you see fit during your deliberations.

24 BY MS. ZMROCZEK:

25 Q. Dr. McQuiston, are you compensated for your --

1 for your -- the time that you work on cases?

2 A. Yes, I am.

3 Q. For your consulting time?

4 A. Yes.

5 Q. And how much is that?

6 A. \$400 per hour.

7 Q. Is that -- how do you set that? Is that -- how
8 do you set that price? Is that something in the field or
9 -- or...

10 A. In the field. I talk to colleagues who do some
11 of the work and ask what they're compensated.

12 Q. And let me ask you this, because you're
13 compensated for your consultation, does that mean that you
14 are paid to give your opinion?

15 A. Not necessarily, no.

16 Q. And when I say pay to give your opinion, I mean,
17 we're not paying you to say just what we want to say. Is
18 that correct?

19 A. That's correct.

20 Q. You -- I want to focus on, kind of, memory,
21 attention, and perception. And, is there a generally
22 accepted theory on how memory works?

23 A. There is, and there's a couple of them, but the
24 one that I like to focus on when I'm talking about
25 eyewitness memory, it was performed by researchers Atkinson

1 and Shiffrin in the 1960s. And some of the main principles
2 are that video -- that memory doesn't work like a
3 videotape. That we don't simply witness an event and play
4 it then back and are playing in our minds and -- and
5 recalling it in that way.

6 In fact, actually instead of that information that we
7 see in the events and interpret and focus on passes through
8 a series of stages that we can, in fact call memory
9 storage, different stages of memory in order to actually
10 make it into memory.

11 Q. And, so when you're talking about memory storage,
12 what's the first type of memory storage?

13 A. So there's three different types. And so the
14 first type is sensory memory. The second time type --
15 second type is short-term, third type is long-term. But
16 focusing on that first one -- sensory memory -- that's
17 everything that you're paying attention to in this moment.

18 Scanning an environment, we only hold onto that
19 information for a couple of seconds. So it's whatever you
20 might be looking at or attending to in a given moment. And
21 if we don't attend to it long enough, it's lost -- it's
22 immediately lost.

23 Q. And so the -- and so that would be the sensory
24 memory. And as information moves from that stage to the
25 next stage, what -- what is that next stage?

1 A. So the next stage is short term memory. We could
2 hold onto information, short term memory for about 30
3 seconds. And the way that I like to think about this is
4 back when we had to remember phone numbers, you know, that
5 -- or someone's name, you know that if you don't rehearse
6 it and rehearse it, it's -- it's gone almost immediately.
7 And so we can hang onto information in short term memory
8 about 30 seconds, and it takes rehearsing it to -- to hang
9 onto that information.

10 Q. Okay. And so then the last stage following that
11 would be, I think you said long-term memory?

12 A. That would be -- so anything that we've rehearsed
13 over and over again, then that has an opportunity to move
14 into long-term memory. And so then information in
15 long-term memory has the potential to be recalled later.
16 So that's information that we should be able to recall
17 later.

18 Q. And I know you said earlier that -- that the
19 memory doesn't necessarily work or does not work like a
20 video tape. So do people typically remember a mental
21 photograph or video of what they saw?

22 A. Not necessarily. We like to think of memories as
23 actually constructions or reconstructions of information
24 because what we remember isn't simply based on what we've
25 seen in any given situation, it's a combination of perhaps

1 the kind of knowledge we have about how these situations
2 play out, also how we expect things to go.

3 So, prior knowledge, expectations, the actual events
4 itself, information from that event, and perhaps
5 information we've heard in other places -- that can also
6 make its way into what we then string together or
7 reconstruct into -- into a memory. So, we think memories
8 as being reconstructions of information.

9 Q. And so do memories naturally fade over time?

10 A. Sure. Yes.

11 Q. When you -- I want to talk about attention and
12 the concept of attention. Is this something that
13 scientists like yourself have studied?

14 A. Yes.

15 Q. Okay. And -- and what do -- what -- what do you
16 study? What do you mean by studying attention?

17 A. So, attention simply means it's a mechanism that
18 we use in our everyday lives to focus on relevant
19 information so that we can filter out irrelevant
20 information.

21 If you think about just in your everyday life, there's
22 so much going on at any given moment that we need some kind
23 of mechanism to help us focus. And so, that's what
24 attention is -- for attending to information.

25 Q. And so how does attention affect memory?

1 A. So, we can't remember -- we can't later remember
2 -- information that we didn't attend to.

3 Q. Okay. All right. And so when we are -- when --
4 so after -- so attention is one way that can affect memory.
5 What about -- what is meant by the term perception?

6 A. So, perception is another one of these mechanisms
7 -- or cognitive mechanism -- that we use to process
8 information. And so when we think about perceiving
9 information in the world, we're talking about sense. So,
10 any information that's coming in through the senses -- what
11 we see, what we hear, what we smell, touch, et cetera. So,
12 it's another way that we process, and filter out and focus
13 on information.

14 Q. And do people make errors when in perception?

15 A. They can, yes.

16 Q. Okay. Are there things that can influence the
17 quality of the information that is perceived and then
18 accepted into the memory?

19 A. Yes.

20 Q. Okay. For example, the amount of time that you
21 have to experience or -- or an affect an event, can that --
22 can that affect the memory?

23 A. Sure. So, of course, the longer the time period
24 that you are interacting with any part of an event --
25 interacting with someone -- the more time there is, the

1 more opportunity for you to get more information. Of
2 course then, if something is happening very quickly, you
3 get less information. So, less information will then be
4 available later to be -- to recall.

5 Q. Okay. And so does the quality of the view that
6 you have during an event affect your memory towards that
7 event? Is that --

8 A. Yes. So it's the same type of thing. Of course,
9 the better view that you have -- so the more time you have,
10 the better view you have -- the more information will be
11 available for you to accept into memory, process into your
12 memory so that you can later recall it.

13 Q. So then the -- the flip side of that is if
14 something's happening very fast or if it's a short term
15 span, can that also affect the quality of the memory?

16 A. That's right. So if it's happening very quickly,
17 there just isn't time to process everything that's going
18 on.

19 Q. All right. Okay. For instance, what about dim
20 lighting, can that affect a memory or quality of the view
21 during an event?

22 A. Sure. And so that's intuitive that the -- the
23 better the lighting, the more information that you'll --
24 you'll get; the worse the lighting, the less information
25 that you might be able to get during an event.

1 Q. And to make these mistakes in perception, what
2 people are perceiving, is that normal?

3 A. It's normal. It's the way we live our lives
4 every day.

5 Q. Okay. Are there other things -- I want to -- the
6 testimony in this case -- and did you review any documents
7 in this case to -- to help prepare you for your testimony?

8 A. I did, yes.

9 Q. What are some of the things that you looked at?

10 A. I looked at police reports, I looked at the
11 lineup photos, I read witness statements, and I looked at
12 body -- some body cam footage.

13 Q. Okay.

14 A. From the night of the event.

15 Q. Okay. And so I want to talk -- kind of focus on
16 stress and -- and weapons. And so I want to ask you, could
17 a person experience a heightened level of stress if they're
18 just a witness to a crime?

19 A. Certainly.

20 Q. Okay. And -- and does that heightened stress
21 affect their ability to make an eyewitness identification?

22 A. It can under certain circumstances, yes.

23 Q. Okay. How does -- how does it -- how does stress
24 affect a memory?

25 A. Sure. And so it's witnesses and or victims to a

1 crime, this heightened level of stress, of course, what
2 happens to you when you're feeling stress or fear, or
3 traumatic situation -- stress hormones are released.
4 Cortisol -- people are talking a lot about cortisol these
5 days -- adrenaline, things are released, and it -- the
6 release of those hormones, and your heart racing, it may --
7 it -- tends to interfere with attention. It can interfere
8 with your ability to process information. And so, this
9 kind of situation can -- in certain circumstances, be right
10 for that -- a heightened level of -- of stress and
11 physiological arousal.

12 Q. And so you -- you said you had an opportunity to
13 watch some of the body cams in this -- in this case?

14 A. I did.

15 Q. And -- and were you able to form an opinion about
16 whether witnesses at the scene of this crime had heightened
17 stressed during and after the incident?

18 A. I would -- I would say yes. Right -- rightly so.
19 Of course, yes.

20 Q. What are some of the things that -- that queued
21 you off to that when you heard -- when you watched the body
22 camera?

23 A. Sure. Screaming and crying -- those kinds of
24 things.

25 Q. Okay. And then -- so are there studies that --

1 that are conducted that give us an idea of how to -- how to
2 examine stress are generally conducted?

3 A. Sure. So in the eye witness identification
4 field, there have been several dozen studies that simulated
5 a stressful event. So exposed participants to some kind of
6 stressful event and then test their memory for that event
7 later.

8 Q. Okay. And so what are the results of that
9 research?

10 A. So the results tend to show that during
11 heightened -- really heightened -- levels of stress, people
12 can be less likely to accurately remember details later and
13 less likely to make or correct identification later. So,
14 under heightened levels of stress versus no levels of
15 stress.

16 Q. And so what -- if I hear you correctly, what I
17 have written down is that, so people are particularly
18 successful at making errors in perception when they're
19 experiencing a highly stressful event. Would that be an
20 accurate statement?

21 A. I think so, yes.

22 Q. Okay. What about the fact that a weapon was
23 involved in this case?

24 A. Sure. I think it plays right into that, that the
25 -- the arousal level and -- and fear when a weapon is

1 involved. There's a term in the scientific literature
2 called weapon focus there have been dozens of studies that
3 also looked at what happens when there's a presence of a
4 weapon, people naturally tend to focus on the weapon.

5 So, if you're focusing on the one thing, then it's
6 going to be at the expense of being able to get other
7 information that's happening. So again, like I said, the
8 less information you get, the less you'll have to recall
9 later potentially. So we find in these studies that when
10 there's a weapon present, identification accuracy can go
11 down compared to when there's no weapon.

12 Q. I'm going to talk a little bit about something
13 called cross-race effect. Explain to the jury a little bit
14 about what that is.

15 A. So, for a few decades now, there have been dozens
16 -- probably at least 50 -- studies that looked at how long
17 people can recognize and identify faces that are of a
18 different race than their own. These studies have been
19 conducted in this country and around the world and they
20 consistently find that people are less likely to accurately
21 recognize a face of a different race than a face of their
22 own race.

23 Q. And so how does that happen?

24 A. There are lots of theories that scientists have
25 put forth, but the one that seems to be -- seems to have

1 received the most support scientifically is what -- what is
2 called contact hypothesis. And that is simply the more
3 contact that you have in your life with members of another
4 ethnic group or racial group, the less susceptible you are
5 to making these kinds of cross-race errors.

6 Q. And so has that particularly been applied with
7 different race groups in studies?

8 A. It has, yes.

9 Q. Okay. And which -- among which -- the scientific
10 evidence, among which groups do they study?

11 A. Whites, blacks, Hispanics, European, Germans,
12 Turks, South Africans, all over the world, that -- this
13 phenomenon is consistent.

14 Q. Okay. I want to move to the next area that --
15 that could possibly affect memory being familiar -- I
16 cannot say this word, familiarity or identification of
17 bystanders.

18 A. Right.

19 Q. Okay. Is there a -- is there a phenomenon in
20 eyewitness situations where seeing someone as a bystander
21 could affect your memory?

22 A. Sure. Yes.

23 Q. Okay. Explain how -- explain what that means or
24 kinda how that happens.

25 A. Sure. Just in the -- in the eyewitness

1 literature, we call it the bystander effect. Simply that a
2 bystander at a crime can be confused for the person who
3 actually committed the crime. And this is especially so if
4 seeing the bystander was very close in proximity in time
5 and space to the crime happening.

6 Q. So for example, if there were testimony that a
7 group of people were standing outside of a door to a -- to
8 this bar or restaurant a short time before this happened,
9 and particular attention was drawn to this group because of
10 the height of one of the members. Is -- is that an example
11 of what you're talking about?

12 A. Sure. Yes.

13 Q. When -- do the scientists know why this happens?

14 A. It's hard to say on -- on this phenomenon, why it
15 happens. But it could be that it's simply a confusion of
16 the source. So there's a concept in the psychology
17 literature called source monitoring or source confusion,
18 where people can -- simply -- and it applies to all
19 memories where you think you saw something in this
20 situation but actually you saw in this situation. And so
21 we can confuse those things in many different situations.
22 So, it's simply the confusion of where I saw the person in
23 this situation.

24 Q. And so, again, if -- if a lot of the interaction
25 where the crime occurs, for example, remember when I talked

1 about the people that were seen outside before this
2 happened, and if -- if a crime occurs in that same general
3 area, is that an example of kind of what we're talking
4 about?

5 A. Sure. That could happen. Yes. And -- and
6 people are particularly susceptible to this if the
7 bystander and the person who actually committed the crime
8 look very similar -- then this can especially happen.

9 Q. Okay. And I want to talk about, kind of, the
10 influence of -- of co-witness information or something like
11 contamination.

12 A. Right.

13 Q. Okay. So is -- is that -- is -- sometimes
14 witnesses discuss events amongst each other, right?

15 A. Right.

16 Q. Okay. In fact, I think you -- you -- were the
17 witnesses immediately separated at the crime at this -- at
18 the scene of this crime, on the cameras that you watched?

19 A. From what I watched, there were at least some
20 witnesses who were not separated.

21 Q. And in fact, as you watched it, were -- did --
22 were they talking at the same time and -- and sometimes
23 seeing information filled in?

24 A. They were, yes.

25 Q. Okay. And -- and if that's done early on in a --

1 in a case, is that problematic for memory?

2 A. It can be because memory -- we think of -- we
3 like to think of memory as being fragile, similar -- you
4 know, the memory evidence needs to be gathered with
5 caution, similar to any other kind of evidence. It's very
6 easy to contaminate memory. And so while on the one hand
7 it makes -- it makes sense that witnesses are immediately
8 going to be talking to each other, it makes a lot of sense.

9 But the problem is that if people are talking to each
10 other or talking over each other, or what I saw was kind of
11 giving a joint statement, it's very easy to contaminate
12 each other's perception of what they -- what they actually
13 saw. It's easy to start filling in memories -- filling in
14 your own memory just with something somebody else said, or
15 didn't actually come from -- come from you. So there is
16 some danger in that.

17 Q. And so, do you know if experts generally support
18 your conclusions regarding the impact of all of these
19 factors in identification -- in making an identification
20 accurate?

21 A. I'd say so, yes.

22 Q. Okay. And are all of these phenomenon that we
23 talked about, are those all well researched in your field?

24 A. They are, yes.

25 Q. Okay. I wanted to talk a little bit about proper

1 identification techniques. I know that you saw the -- some
2 photo lineups in this case. Is that correct?

3 A. Yes.

4 Q. Okay. And I think the ones that you saw all had
5 somebody selected. Is that right?

6 A. That's correct.

7 Q. Okay. Do you have knowledge if other people were
8 shown photo lineups that -- and they weren't -- and nobody
9 was selected --

10 A. Through --

11 Q. -- in this case?

12 A. I do, yes.

13 Q. And so what is a lineup procedure? Why -- why
14 are lineup procedures important?

15 A. Lineup procedures are important because they
16 provide -- they should provide and are intended to provide
17 an objective test of a person's memory. And so I like to
18 think of a lineup similar to a multiple choice question,
19 that if you know the right answer, you should be able to
20 pick it out amongst a bunch of wrong answers.

21 And so I think of it in that way and that it should be
22 a test of a witness's memory. And it's also meant to
23 provide some protection in case a witness doesn't --
24 doesn't necessarily have a good memory.

25 Q. Okay. And so what -- looking back at the factors

1 that we've already discussed, particularly paying attention
2 to the -- to the bystander kind of effect. If -- if a
3 bystander was placed into a photo lineup, and we have all
4 of these additional structures, is that one way that they
5 can be misidentified?

6 A. It's possible.

7 Q. What -- are there national guidelines and
8 recommendations for performing photo lineups or performing
9 identification?

10 A. There are, yes.

11 Q. Okay. And who -- who has developed these?

12 A. A couple of different agencies. The Department
13 of Justice put out guidelines in 2000 -- around 2015, 2016,
14 the National Association for Chiefs of Police, they put out
15 guidelines, both these guidelines are very similar. Those
16 were put out 2015, I think. So around the same time.

17 So these -- you know, these national organizations
18 have put out -- based on -- based on three decades of
19 eyewitness science. So what the scientists know about how
20 to avoid misidentifications along with how the -- the
21 practical way to be able to perform line up identification.
22 So all of this coming together produce these -- these
23 guidelines. Yeah.

24 Q. All right. And so has the National Academy of
25 Sciences addressed this as well?

1 A. Yes. So the National Academy of Sciences is a
2 body of scientists who make recommendations about these as
3 well. So they did a really comprehensive study of, kind
4 of, the state of eyewitness identification and produced
5 that document, within the last seven or eight years.

6 Q. And so why is it important that we have best
7 practices when it comes to -- to conducting identification
8 procedures for photo lineups?

9 A. So, because we know that eyewitnesses can make
10 mistakes, we know that memory is fragile, it's important to
11 look at what we know from the -- from the science in terms
12 of how to -- how can we help eyewitnesses make fewer
13 mistakes? How can we identify some procedures that might
14 help them get it right?

15 And so over the years, scientists have been able to
16 work in concert with practitioners to develop what we think
17 are strategies that can promote eyewitness accuracy to help
18 eyewitnesses to be correct in their choices.

19 Q. And so, to your knowledge, was any of the -- any
20 of the victims or witnesses in this case asked whether or
21 not they could identify the assailant with the gun from the
22 line up in -- in this case?

23 A. They were, yes.

24 Q. Okay. And so, when it comes to the guidelines or
25 recommendations, do they say anything about collecting a

1 witness -- a witness confident statement -- at the time it
2 was given?

3 A. They do, yes.

4 Q. Okay. And what do these guidelines say?

5 A. So one of the major recommendations that is made
6 is that once a -- when -- when a witness views a lineup and
7 makes an identification, they should be immediately asked
8 in whatever way the officer wants to do it, how confident
9 are you? Because it means -- how confident are you in your
10 identification right now in this moment -- in order to have
11 a record of it because we know that confidence is
12 malleable, confidence can change over time. Your sense of
13 -- it can change over time based on conversations with
14 other people, information that you might learn from any
15 kind of source, even just thinking about something over and
16 over again.

17 So because we know that a person's confidence in their
18 identification can change, we want to make sure that we
19 have it documented from the moment the identification was
20 made.

21 Q. And -- and for example, you were given other
22 reasons why confidence could grow. So could one of those
23 reasons be that -- that they pick a person out and then
24 that person gets arrested and it is for years going through
25 the criminal justice system. Is that something that can

1 raise someone's confidence in their identification?

2 A. It could.

3 Q. We -- the -- and when you say, kind of, have a
4 record of this, what -- what kind of record are we looking
5 for?

6 A. To be written down.

7 Q. To be written down and documentation --

8 A. -- along with an identification choice, yes.

9 Q. Okay. And do police departments utilize this
10 procedure in your experience?

11 A. They do.

12 Q. Okay. And was it used in this case?

13 A. No, it was not.

14 Q. Okay. And you got to see the police reports as
15 well as the -- as well as the witness statements?

16 A. That's correct.

17 Q. Okay. You -- I want to talk about another
18 recommendation and guideline. They talk about you should
19 administer the lineups to the -- to the victims or to the
20 witness. What do they -- what are the recommendations
21 regarding that?

22 A. The recommendations here are to conduct lineups,
23 what we call blind line administration of lineups, meaning
24 that a person not involved in the case, another officer,
25 should actually show that lineup to witnesses, someone not

1 involved. And this is, you know, going back decades to
2 basic scientific research about nonverbal cues.

3 We want to make sure -- and it's -- it's for
4 everyone's protection, we want to make sure that there's no
5 nonverbal cues ever communicated to a witness. And -- and
6 -- and I'll emphasize again that this is for -- this is for
7 both the officer's protection and the witness's protection.

8 The same reason that it's also recommended that these
9 procedures are videotaped, so there's always a record of
10 it. And so the idea of -- of blind lineup is that an
11 officer not involved in the case doesn't know who the --
12 the suspect is in the case. Therefore, there could be no
13 opportunity to -- for there to be any nonverbal cues
14 communicated to the -- to the witness.

15 Q. And -- and again, with police -- with the work
16 that you've done with police officers or agencies in South
17 Carolina, do they do that in South Carolina? Is that a
18 practice that some agencies use?

19 A. Not that I'm aware of.

20 Q. Okay. And was it used in this?

21 A. I don't believe so, no.

22 Q. Okay. And so again, we talked about the lineup
23 procedures being -- it's important to be videotaped so that
24 we can make sure that there are no nonverbal cues or verbal
25 cues even. And did you have -- did you see any recordings

1 of witness photo lineups in this case?

2 A. No, I did not.

3 Q. Okay. So, I want to go back real quickly and
4 talk about another possible area of contamination. What --
5 what does this research say about Facebook or social media
6 or having access to someone's information and that being
7 used to -- to contaminate -- to contaminate memory?

8 A. Right. And this is -- this is something that
9 we're now talking about so much in these kinds of cases.
10 With social media and everybody's on it, it's very hard to
11 avoid but the -- but the problem, the potential problem
12 with this is similar to things I've talked about is if you
13 witness a crime and then you happen to see a person from
14 that situation on social media, then you've already seen
15 that face again. And if that person then becomes or is,
16 you know, put into a lineup, then the question becomes, are
17 you identifying the person from the criminal lineup because
18 they're the actual person who committed the crime or are
19 you identifying that face because that's the one you saw in
20 -- on social media?

21 So it's just -- it's very easy for, as I was saying,
22 for the memory image to be contaminated. So again, this is
23 so hard to avoid but when it does happen, it can get a
24 little bit messy for those reasons.

25 Q. And did you see -- going back to contamination as

1 well, you --- you were able to read the -- the witness
2 statements that were given in this case?

3 A. Yes.

4 Q. And what did you notice, if anything, that --
5 that -- that struck out to you about similarities amongst
6 these statements?

7 A. All I noticed was there were a couple of -- a
8 couple of times the exact same words were used, which -- to
9 describe.

10 Q. And what was that word in particular?

11 A. Chunky.

12 Q. Chunky?

13 A. Yeah.

14 Q. Okay.

15 A. I thought that that was a -- it was interesting
16 to note that more than one person used that exact word,
17 which may or may not be a coincidence.

18 Q. Okay. And so your testimony today, it's not --
19 you're not saying that all eyewitnesses are incorrect, are
20 you?

21 A. No.

22 Q. Okay. But in fact, there are circumstances where
23 an eyewitness memory can be reliable?

24 A. Definitely, yes.

25 Q. Okay. And one of the ways that we test

1 reliability as well is -- so you were able to hear the
2 descriptions or read the descriptions, not only on the body
3 cam and -- and then the witness statements, and I
4 understand that there were differences, but not one of them
5 talked about facial hair and obviously this defendant had
6 facial hair. Why was that -- why is that problematic in
7 looking at this identification?

8 A. We know from -- from the literature that people
9 tend to notice distinctive features about other people, and
10 this -- this might be considered one of those kinds of
11 features, a distinctive feature.

12 Q. Okay. And so are there -- when -- obviously
13 doing your research and -- and just analyzing different
14 procedures, what are some of the features or what are some
15 terms that -- that help people really -- to help, what
16 features are they focusing on, or what things do they -- do
17 they say that you -- that you would expect to see in
18 somebody who got a really good look at somebody?

19 A. If somebody got a really good look, I would
20 expect to see some details about that person's face. And
21 facial hair, and of course hairstyle, color of the hair, if
22 there were any other distinguishing marks, if there were
23 tattoos or piercings or scars.

24 Q. So particularly you said scars, so if there's a
25 prominent scar, you would think that that would be a -- a

1 -- a kind of a detail to focus on, right?

2 A. Correct.

3 Q. And then tattoos, could those go to tattoos on
4 the hands as well, especially if you're holding a gun?

5 A. It's possible.

6 Q. Okay. And so those would be some of the details
7 that you would be looking for in somebody that got a good
8 look?

9 A. Right.

10 Q. Okay. And so in this particular case, given what
11 you've seen and the particular set of circumstances, what
12 is your overall conclusion?

13 A. So when you take all these factors together,
14 heightened level of stress and presence of weapon,
15 crossroads effect, and that happened very quickly, et
16 cetera, all these things, I think that there's sufficient
17 cause to -- to question the reliability of the
18 identifications that were made.

19 Q. And again, when we say reliability or mistaken
20 identity, are you -- are you accusing or inferring or
21 implying that somebody was lying?

22 A. No.

23 Q. Okay. Are these something that just happen? It
24 is simply a mistake. Is that --

25 A. That's correct. I think we're -- in many cases

1 we're -- we're talking about honestly mistaken witnesses
2 and people making mistakes that are so easy to make in a --
3 in a situation like -- like this one.

4 Q. And I meant to ask you as well, does alcohol play
5 -- have a -- play a factor in these?

6 A. That's a great question. The jury's kind of
7 still out when it comes to the research looking at whether
8 alcohol intoxication negatively impacts the ability to
9 describe somebody who's committed a crime and to recognize
10 somebody. Intuitively, you would think that the answer is
11 yes, but actually the research is very mixed, so it's not
12 -- it's not robust in one way or the other.

13 Q. And what about sleep deprivation? When I say
14 sleep deprivation, I mean, you know, like if an event
15 happens at two in the morning and somebody's been up all
16 day doing things, does that have an effect as well?

17 A. Sure. Generally, scientists would say that being
18 on a sleep deficit is certainly -- it affects us
19 cognitively in lots of ways, but memory is one of those, or
20 the ability to really encode and process information
21 accurately can -- is definitely affected by sleep
22 deprivation.

23 MS. ZMROCZEK: Thank you. Please answer any
24 questions the State may have.

25 THE WITNESS: Thank you.

1 THE COURT: Cross examination?

2 CROSS-EXAMINATION

3 BY MS. TAYLOR:

4 Q. Dr. McQuiston, do you have a copy of your report
5 that you prepared for the defense to testify? Do you have
6 a copy of that report you made?

7 A. I did not prepare a report in this case.

8 Q. Okay. Do you have a copy of your handwritten
9 notes that you used to prepare for this testimony today?

10 A. Do I have it on me? No, I -- I do not have it on
11 me.

12 Q. Okay. Did you make any?

13 A. I did. Yes.

14 Q. Did you give it to the defense?

15 A. No.

16 Q. Okay. But you didn't bring them with you today?

17 A. No, I did not bring it with me today.

18 Q. You mentioned that you are a professor at Wofford
19 and you do research. Are you teaching a class this
20 semester?

21 A. I am.

22 Q. What classes are you teaching?

23 A. I teach three classes.

24 Q. Okay.

25 A. I teach introduction to Statistics, and

1 Psychology and the Law, and I have a research group this
2 semester so a senior thesis class.

3 Q. What days are those classes scheduled or what
4 days do you teach?

5 A. Mondays, Tuesdays and Thursdays.

6 Q. Okay. So today you would've had a class?

7 A. Yes.

8 Q. So did you have to cancel class to get here
9 today?

10 A. I did.

11 Q. Okay. How much is the tuition per semester at
12 Wofford these days?

13 A. Whew! It's over \$70,000 per year.

14 Q. And you canceled that class so you could come
15 testify for Jaquan King?

16 A. I testified so I could be here to talk to the
17 jury, yes.

18 Q. For Jaquan King's case?

19 A. That's correct.

20 Q. All right. You also have your own website,
21 correct?

22 A. I do.

23 Q. Okay. And you mentioned that you have never
24 testified for the prosecution before at a trial?

25 A. That's correct.

1 Q. And on your website you list, like your
2 workshops, the trainings and like different seminars you
3 speak at, right?

4 A. That's right.

5 Q. Okay. And you spoke to the attendees of those
6 seminars about eye witness identification like you did
7 today?

8 A. That's right.

9 Q. Okay. And is it fair to say that from 2006 to
10 2019, so for about the last 13 years, the majority of those
11 trainings and seminars that you've spoken at have been at
12 criminal defense attorney seminars?

13 A. Criminal defense and a few judges' seminars.
14 Yeah.

15 Q. Okay. So you've never given a lecture at the
16 South Carolina Solicitor's Conference?

17 A. I've never been asked.

18 Q. But you've never given a -- a seminar there?

19 A. Correct.

20 Q. And you've never given a seminar at the South
21 Carolina Prosecution Commission either?

22 A. No.

23 Q. You talked a lot about your education and, you
24 know, a PhD and all those things, but you're not a
25 certified law enforcement officer, are you?

1 A. No.

2 Q. You've never received any training at the South
3 Carolina Criminal Justice Academy or the, I guess, Arizona
4 Criminal Justice Academy about how to conduct photo
5 lineups?

6 A. No, I have not.

7 Q. And the majority of your experience in
8 identification procedures, they've been in either like a
9 university or an academic setting, correct?

10 A. Can you repeat that question.

11 Q. So you talked about, I guess, studies and
12 different experiments you've given around this topic. Have
13 they been in a university or an academic setting?

14 A. Some of them have, yes.

15 Q. Okay. So it's fair to say that studies that you
16 have conducted with witnesses on -- about how to give --
17 about these, I guess, identification, these studies on how
18 reliable they are, they were fake crimes, right? They
19 witnessed fake crimes?

20 A. Of the studies that I have conducted personally,
21 yes.

22 Q. Okay.

23 A. But not generally speaking.

24 Q. Okay. So I guess the eyewitnesses in your study
25 did not actually witness someone threaten to shoot their

1 family member and then actually shoot their family member?

2 A. That's correct.

3 Q. And then in your studies, I guess, that when you
4 show the witnesses the -- the fake crime and then you
5 interview them later about how to identify what they saw,
6 do you separate the witnesses before you interview them?

7 A. We test witnesses individually. So there's never
8 any opportunity.

9 Q. So there's not other people in the room while
10 you're interviewing these witnesses?

11 A. That's correct.

12 Q. And the lineups that you show to these witnesses
13 in your study, are they six photo lineups?

14 A. Yes.

15 Q. Okay. And you agree that eyewitness
16 identifications can be accurate?

17 A. Correct.

18 Q. Now, you talked about -- to prepare for your
19 testimony, you didn't do a written report, but you said
20 that you looked at body-worn cameras, some witness
21 statements. What date did you actually go to the parking
22 lot at 224 Oneil Court, where the shooting happened?

23 A. I didn't.

24 Q. So you didn't go to the actual scene?

25 A. No, I did not.

26 Q. And you said you looked at the written statements

1 that were provided in the discovery. Did you actually
2 interview any of the eye witness who -- eyewitnesses who
3 identified Jaquan King as the shooter?

4 A. No, I did not.

5 Q. Did you interview any of the law enforcement
6 investigations -- investigators who conducted the photo
7 lineups in this case?

8 A. No.

9 Q. Would it surprise you that the investigator who's
10 showed Kiara Arce -- one of the eyewitnesses --

11 MS. ZMROCZEK: Your Honor, I would -- I have --
12 may we approach?

13 THE COURT: Looks like you are.

14 MS. ZMROCZEK: Sorry, we're approaching.

15 (A sidebar meeting between the Court and Counsels
16 was held in the presence of the jury.)

17 BY MS. TAYLOR:

18 Q. Dr. McQuiston, would it surprise you that one of
19 the investigators in this case showed a -- or conducted a
20 blind lineup with one of the witnesses?

21 A. It would surprise me.

22 Q. So you talked about that memories naturally fade
23 over time. Can you give, like, kind of a timeframe of how
24 you would define when memories fade over times?

25 A. Not really. There's no specific timeframe put on

1 it, but we -- we do know -- we just know generally
2 speaking, that memories fade over time.

3 Q. Okay. So you can't say two days is in that
4 timeframe where memories start to fade?

5 A. It's hard to say.

6 Q. And you talk about factors that can affect
7 perception. And you said that, I guess, the longer the
8 period of time that a witness or a person is interacting
9 with the event they can obtain more information?

10 A. Correct.

11 Q. So would you agree that, you know, having a
12 conversation with the perpetrator is an example of, you
13 know, the type of interaction that would increase memory?

14 A. I would agree, yes.

15 Q. Okay. And you talked about the quality of the
16 view and you talked about that the better the view, the
17 more info that's available?

18 A. Right.

19 Q. And you mentioned about lighting. And is it fair
20 to say that even in nighttime the better the lighting --
21 lighting is in an area, the better the visibility?

22 A. Yes.

23 Q. And you agree that wearing like corrective
24 eyewear like glasses and contacts can improve vision?

25 A. Right. Yes.

1 Q. And you agree that it's fair to say that
2 proximity, so the closer an eyewitness is to the person
3 that they identify, that increases the accuracy of their
4 identification?

5 A. Correct.

6 Q. All right. You talked about stress can affect
7 the ability to identify people in certain situations, but
8 you agree that different people react to stress
9 differently?

10 A. Sure.

11 Q. And is it fair to say that adrenaline sometimes
12 can increase focus in certain circumstances?

13 A. I would say adrenaline up to a certain point.
14 That what we find is that up to sort of a kind of moderate
15 amount, it can -- it can increase our -- our focus. But
16 once you get to a really high amount, that's where you
17 start to -- to see a potential problem.

18 Q. Okay. And is it fair to say that if someone
19 yelled out something rude or threatening to an eye
20 witness's mother or their brother or family member, that
21 eyewitness might possibly shift their attention to whoever
22 said that?

23 A. Sure.

24 Q. Compared to if that person said something to a
25 complete stranger?

1 A. Right.

2 Q. And is it fair to say that if someone said you
3 better get your son before I shoot him, that's the type of
4 threatening statement that might cause an eyewitness to
5 focus on the person who said that?

6 A. Right.

7 Q. So you talked about witness confidence. And you
8 said that, I guess, if a witness is shown more than one
9 lineup that kind of deals with the accuracy. I can't
10 remember exactly what you said.

11 A. I don't think I talked about multiple lineups.

12 Q. She asked you about social media.

13 A. Right.

14 Q. And seeing the offender on social media.

15 A. Yeah.

16 Q. And you said you reviewed the witness statements,
17 body worn camera statements. In any of those statements
18 that you reviewed from the witnesses, none of them actually
19 said that they saw the shooter on social media, right?

20 A. I believe so, right.

21 Q. Meaning they did not see him on social media?

22 A. That was either of what I read or through
23 conversations with defense counsel.

24 Q. Okay. So you can't say for sure, even though you
25 said you read the statements?

1 A. I said I read the witness statements. Yes, I
2 did.

3 Q. Okay. But you can't say that they said they
4 didn't see the person on social media.

5 A. It was either in materials that I read or through
6 conversations.

7 Q. Okay. But there is nothing in there that you
8 remember that they said they saw the shooter on social
9 media?

10 A. I can't remember if it was there or in
11 conversations.

12 Q. Okay. So the defense could have put that theory
13 in your mind?

14 A. She could have given me that information.

15 Q. Okay.

16 A. Correct.

17 Q. She asked you a lot about, you know, facial hair
18 and I guess the types of features that people should focus
19 on for reliable identification.

20 A. Not what they should focus on, but what they
21 often do focus on.

22 Q. Okay. And you said that if they -- if the
23 witness got a really good look at this person then they
24 should have focus on their face?

25 A. Yes.

1 Q. Okay. And then you said facial hair?

2 A. They would probably focus on facial hair.

3 Q. Okay. Manner of hair?

4 A. Correct.

5 Q. Okay. And an example of a manner of hair would
6 be a witness describing the shooter had dreadlocks that
7 were pulled back like they were in a ponytail?

8 A. Right. Like -- right. A specific detail about
9 their hair.

10 Q. So you mentioned cross-racial identification in
11 quality context, right? That's kind of the --

12 A. Yes.

13 Q. -- factors you use in that theory. Would you
14 agree that quality contact is living in a neighborhood with
15 large numbers of black people?

16 A. Yes.

17 Q. Okay. Living in urban cities with large numbers
18 of black people?

19 A. Correct.

20 Q. Going to school with black people?

21 A. Correct.

22 Q. Having a black family member?

23 A. Correct.

24 Q. Having a baby with a black man?

25 A. Correct.

1 Q. All right. And you agree that the studies that
2 you kind of have referenced, they show that white
3 eyewitnesses are the race that most often makes wrong
4 identifications of non-white suspects?

5 A. There are probably more white participants in
6 those studies.

7 Q. Okay.

8 A. That's probably fair to say.

9 Q. Okay. And they make the most wrong
10 identifications of non-white suspects?

11 A. I don't -- I don't know those numbers for sure.

12 Q. Okay. But it's possible?

13 A. It's possible.

14 Q. Okay. And you would agree that an eye witness is
15 most likely able to make an accurate and reliable
16 identification of someone of their own race?

17 A. That's right.

18 Q. All right. Are you aware that one of the eye
19 witnesses who identified Jaquan King as the shooter is a
20 black man himself?

21 A. Yes.

22 Q. And you agree that most likely he would have
23 quality contact with his own race?

24 A. That's correct.

25 Q. All right. So you said you've been paid \$400 an

1 hour, right?

2 A. Correct.

3 Q. How many hours have you -- of work have you
4 accumulated in total to prepare for this trial so far?

5 A. Probably about 8 to 10 hours.

6 Q. Eight to 10?

7 A. Right.

8 Q. And are you paid or reimbursed for your travel
9 time?

10 A. Yes, I am.

11 Q. Okay. Are you reimbursed by the mileage or how
12 does that work?

13 A. By the time.

14 Q. Okay. So, I assume since you teach at Wofford,
15 you live in the Spartanburg area?

16 A. I live in Greenville.

17 Q. Greenville. Okay. So round trip you would've
18 had to travel 200 miles?

19 A. I don't know the miles -- I know it's an hour and
20 a half.

21 Q. Okay. So about 200 miles?

22 A. If you say so.

23 Q. Okay. And you get reimbursed with that on top of
24 the \$400 per hour?

25 A. Yes. \$250 per hour for travel.

1 Q. Okay. \$250 per hour.

2 A. Yeah.

3 Q. I need to become an expert witness (laughing).
4 So all the factors that you talked about regarding what
5 makes identifications less reliable, more reliable,
6 accurate -- that does not mean that the three
7 identifications in this case were unreliable or inaccurate?

8 A. That does not mean that, no.

9 MS. TAYLOR: Okay. No further questions. Thank
10 you, Dr McQuiston.

11 THE COURT: Redirect?

12 MS. ZMROCZEK: Thank you, very briefly.

13 REDIRECT EXAMINATION

14 BY MS. ZMROCZEK:

15 Q. She asked you about multiple lineups. What --
16 how can that affect a person's ability to pick somebody
17 out?

18 A. So are you saying if there's one witness who has
19 been shown multiple lineups?

20 Q. Right.

21 A. And are you asking if it -- if it's the same
22 suspect in both of those lineups?

23 Q. Right.

24 A. So that can be problematic if there's only one --
25 if there's one person who's consistent between those two

1 lineups -- with different five, I'm assuming -- if it's a
2 six-person lineup: five fillers in the first lineup and
3 then a different five fillers in the second lineup.

4 The problem with -- if you -- the witness identifies
5 the same person two times, it's hard to -- we can never
6 know the source of the second identification.

7 So, was the second -- second identification made only
8 because that person was picked out of the first lineups --
9 we call that commitment effect; you're committed to it
10 already -- or are they familiar with that face from the
11 first lineup, so they identify the second time? Or is --
12 is that the actual person who committed the crime?

13 So, that's the problem -- is that we can never know
14 the source of the identification.

15 Q. And so if we don't have the -- if we aren't
16 provided what was in that second lineup, then -- then it --
17 it makes it difficult for us to challenge that. Is that --

18 A. That's correct.

19 Q. Correct. Okay. And she asked you extensively if
20 you've ever taught or lectured or conducted any kind of
21 training for the Prosecution Commission?

22 A. Right.

23 Q. And you said no?

24 A. No.

25 Q. If -- if they emailed you, called you, asked you,

1 would you do that?

2 A. I would.

3 Q. Okay. So it's not something you're opposed to?

4 A. That's correct.

5 Q. -- you just haven't been asked?

6 A. That's right.

7 Q. And has anybody from the Prosecution Society
8 asked you to ever come do a presentation about this?

9 A. No.

10 Q. And has anybody from the prosecution ever said,
11 "Hey, we have concerns about lineups -- will you look at
12 this and come testify?"

13 A. No.

14 Q. Okay. So you've just never been asked?

15 A. That's correct.

16 Q. But if you were asked, would you agree to provide
17 that information?

18 A. I'd be happy to.

19 Q. Okay. And she asked about going to the scene.
20 Would that help you -- to go to the scene after all of it
21 has happened or are your -- is your information, your
22 education most helpful from the body-worn cameras from --
23 at the time?

24 A. I would say going to the scene has little to do
25 with the information that I'm here to present today, which

1 is what we know from decades of science. That's the reason
2 I'm here today is to -- to talk about those things.

3 Q. Okay. And she asked you about seeing a gun in
4 the hand. Would -- would one of the things or -- some
5 things that you would expect if somebody was actually
6 focusing on somebody having a gun in their hand, would they
7 be able to describe the gun or at least the color?

8 A. Right. Yes.

9 Q. Okay. The hand that it was in?

10 A. Possibly, yes.

11 Q. Okay. And again, if they had any visible tattoos
12 on whatever hand that gun was in?

13 A. Correct.

14 Q. Okay. And so those were some of the things that
15 you would expect to see as well, right?

16 A. If somebody said they got a good look, you might
17 expect to see those things. Sure.

18 Q. Okay. And she was asking you about Facebook --
19 you were provided information regarding a photo of a car on
20 Facebook. Is that something -- is that -- is that what you
21 saw as far as social media?

22 A. I'm sorry, can you repeat that?

23 Q. Actually, I'll scratch that question. She asked
24 you about, you know, directing your attention to someone
25 and if someone you knew was describing hair -- and we

1 talked a lot about these things that -- that you would
2 expect to see in a photo lineup. But if somebody says that
3 if -- if there was relative consistency among that height,
4 6'0 or 5'10 to 6'0 or 6 -- 5'10 to 6'2 or 6'0 to 6'2, did
5 those -- is that some information that's projected in a
6 lineup?

7 A. No. You can't see someone's height in a lineup.

8 Q. Okay. All right. And -- and the last thing that
9 I have is she -- oh, actually I have two things. When --
10 when someone is giving information, hopefully before it's
11 contaminated or even during -- if we can see it during --
12 if two people are doing it at the same time or one person
13 is on a body cam by themselves and they're getting
14 immediate information, is that information typically what
15 we would consider the most reliable? Is it the most --

16 A. That's right. If it's right after the -- the
17 event happened. Yes.

18 Q. Okay. And then the last thing she asked you, or
19 one of the things is, she said, it doesn't mean that these
20 -- these three identifications were reliable -- unreliable,
21 right?

22 A. That's -- that's what she asked.

23 Q. That's what she's asking you. But the point is,
24 is that your testimony is here to educate on the
25 possibilities of -- of the unreliability. Is that correct?

1 A. Generally speaking, yes.

2 Q. Generally speaking?

3 A. Yes.

4 Q. And -- and -- and -- and I think that you said
5 your opinion in this case was that you had some factors
6 that should definitely be considered in determining the
7 reliability of these identifications?

8 A. Yes.

9 MS. ZMROCZEK: Okay. Thank you

10 MS. TAYLOR: Your Honor, nothing further.

11 THE COURT: Very good. You can step down.
12 Doctor, thanks for being here.

13 (The witness steps down from the stand.)

14 MS. ZMROCZEK: May she be excused, Your Honor?

15 THE COURT: Suits me.

16 MS. ZMROCZEK: Thank you. The defense rests.

17 THE COURT: Okay. All right. Ladies and
18 gentlemen, the defense has rested, which indicates
19 they will not be presenting any more evidence. So,
20 I'm gonna excuse you to your jury room while I take up
21 some legal matters, and I'll be with you as soon as we
22 can. Please don't discuss the case.

23 (The jury exits the courtroom.)

24 MS. ZMROCZEK: And Judge, I just wanted to -- I
25 know we had a discussion about it, about the double

1 blind presentation. I think that the question
2 actually ended up being different than -- I think that
3 she scaled down the question. So we -- I can withdraw
4 that objection.

5 THE COURT: Okay. So we don't need to put
6 anything else on the record about it.

7 MS. ZMROCZEK: Yes.

8 THE COURT: Okay. All right.

9 MS. ZMROCZEK: And then also obviously, Your
10 Honor, I need to renew all of my motions including --
11 including the ones from pretrial obviously based on
12 the same information at this point.

13 THE COURT: Okay. All right. Well, I will
14 respectfully deny all those -- all your motions based
15 upon the same reasoning as before. All right. Is the
16 State calling anybody in reply?

17 MR. SCOTT: I don't think we -- we're going to,
18 Judge. Well, let me say we're not going to.

19 THE COURT: I was going to say speak now. All
20 right. Did all of you get a copy of the charge?

21 MR. SCOTT: We did.

22 THE COURT: Okay.

23 MS. TAYLOR: Do you want to release the jury?

24 THE COURT: I think I am. We're gonna try to
25 start back tomorrow morning at 11:00. All right.

1 Okay. Well, I guess -- well, y'all weren't prepared
2 -- I don't think anybody's prepared to argue and
3 charge today, are you?

4 MR. SCOTT: I don't think -- we can. I don't --
5 I don't see a whole lot of -- you know, we just did
6 one of these identifications charge, attempted murder
7 charge a couple weeks ago.

8 THE COURT: Um-hum (affirmative).

9 MR. SCOTT: I don't see a lot of difference in
10 this. The standard charges are --

11 THE COURT: Well, I mean, it's -- it's just 2:40.
12 I mean, we could -- if y'all are prepared, we could
13 argue the charge this afternoon.

14 MS. ZMROCZEK: Your Honor, I'm not -- I'm not
15 prepared to argue. Sorry, I just -- based on -- on
16 the change in our trial strategy, based on their
17 objections.

18 THE COURT: Okay.

19 MS. ZMROCZEK: And -- but I -- and I do have
20 issues with some of the jury charges -- I think I've
21 tried to email.

22 THE COURT: Okay. Well, I'll just go ahead and
23 release them. All right. Can you bring them back in
24 please, sir?

25 THE BAILIFF: Yes, sir.

1 (The jury enters the courtroom.)

2 The jury is seated, Your Honor.

3 THE COURT: All right. All right. Ladies and
4 gentlemen, the State is not going to be putting in any
5 reply or rebuttal evidence. So you have received all
6 the evidence in the case. However, there's some legal
7 stuff that I still need to do before they will present
8 their closing arguments and you'll be charged on the
9 law.

10 So rather than have y'all sit around and get this
11 case really late in the afternoon, I'm gonna excuse
12 you for the day. And again, please don't discuss the
13 case with one another.

14 Now, we're gonna start a little bit later
15 tomorrow. That again is my fault. So don't -- don't
16 blame that on anybody else. But I -- lawyers have to
17 get a certain amount of continuing legal education
18 each year and I committed to speak at a seminar
19 tomorrow. It's only gonna be half an hour so we --
20 I'm not going to -- I'm not gonna be that late, but
21 that's my fault.

22 So that's why we'll be starting a little bit
23 late. And so be here at 11 o'clock ready to go. And
24 we're gonna -- I guess you've all already gotten your
25 lunch menus, made your selections there.

1 So we will -- the parties will present their
2 closing arguments, I'll charge you on the law and you
3 all can have lunch and then you'll be able to discuss
4 the case. So again, don't discuss the case, don't do
5 any research, anything like that. And be here ready
6 to go at 11 o'clock tomorrow. All right. Thank you.
7 Have a good evening.

8 (The jury exits the courtroom.)

9 All right. Do we have any issues with the charge?

10 MS. ZMROCZEK: I do, Your Honor. On page -- you
11 don't give the -- you don't give a copy of the charge
12 to the jury, do you?

13 THE COURT: No.

14 MS. ZMROCZEK: Okay. Because it -- I just -- I
15 had struck out "failure of defendant to testify" and
16 changed it to "election not to testify." But if you
17 don't give the -- I just want to make sure you don't
18 -- that they don't understand it was a failure,
19 because he doesn't have to. Now, the attempted murder
20 instruction -- did the Court get my emails?

21 THE COURT: Yeah.

22 MS. ZMROCZEK: So I have -- and I know that --
23 that we discussed this in pretrial as well, but I'm
24 handing *State v Campbell*. And I have copies for the
25 State as well -- that feels really thick. I don't

1 know why. Because it's all three copies. Sorry.

2 THE COURT: Okay. What's your argument?

3 MS. ZMROCZEK: So, Your Honor, the charge that I
4 -- and it focuses again on the inferred malice and --
5 and the ruling of the Supreme Court when they upheld
6 this or when they overturned the Court of Appeals,
7 they said it -- they start off with the erroneous
8 charge. But they found it to be harmless because of
9 all of the overwhelming evidence, Your Honor.

10 So we start with the premise that giving the --
11 that giving the inferred malice charge was erroneous.
12 And that's -- and -- and that's kind of what I've been
13 arguing before, I submitted --

14 THE COURT: No, you were arguing implied malice.
15 And this case says exactly the opposite of what you
16 told me, pretrial, where the Court here now says can
17 be proven by showing either express or implied malice.

18 MS. ZMROCZEK: And then it -- correct. And then
19 it -- but then it goes on to talk -- talked about the
20 inferences. So here's the -- here's the --

21 THE COURT: Well, I -- I don't -- my charges
22 don't contain the inference. We have the weapon.

23 MR. SCOTT: We -- we don't ask -- we don't ask
24 you to evident --

25 THE COURT: If it's in there, it's in there by

1 mistake.

2 MS. ZMROCZEK: It-- I mean it's -- I mean, I'm
3 looking at Page 15, Your Honor, and it says malice
4 does not require -- on the third -- on the third
5 paragraph, malice may be expressed or inferred.

6 MR. SCOTT: So if I may, I think it's taken me
7 all week, but I think I understand what the confusion
8 is. In *Belcher and Verte* and now this case, the
9 courts have ruled -- used to get a charge, malice may
10 be inferred from the use of a deadly weapon --

11 THE COURT: -- from the use of a deadly weapon.

12 MR. FOWLER: *Belcher* was the first one that said,
13 you can't do that unless there's some -- if there's
14 some mitigation or self-defense for some reason to use
15 it. In that case, the guy was prohibited from having
16 a gun so -- but he said I was using it as
17 self-defense. Well, you can't infer malice from that.

18 We don't have that in this situation. We're not
19 asking you to charge an inference use of a deadly
20 weapon. But certainly implied malice is the law of
21 this state. Malice can be proven through expressed or
22 implied from here all the way to California. That law
23 hasn't changed. So we're not asking for any inference
24 charge, but malice can certainly be implied.

25 MS. ZMROCZEK: Again, what this charge has

1 inferred when it's discussing malice -- and here's my
2 other concern, Your Honor. So, the other concern is
3 this: In *Burdette* and -- obviously *Burdette* overruled
4 *Belcher* -- *Belcher* was -- you can't give that charge
5 unless there's a mitigation, and *Burdette* says you
6 can't give the charge, period.

7 But here what we have is you want to infer --
8 malice can be inferred from the facts or shown to
9 exist. And the facts that show to exist in this case,
10 all of the -- all of the inferred malice, Your Honor,
11 is going to come from the use of a gun.

12 THE COURT: (Brief pause, looking up information)
13 Ms. Zmroczek, the Supreme Court approved the charge
14 that was used in the case you just gave me and my
15 charge is identical.

16 MS. ZMROCZEK: Well, but the first line of that
17 Supreme -- the opinion, it says -- sorry. Yeah. What
18 we're confusing, if it's inferred versus implied is --
19 is what's -- is what's gonna confuse the jury. Here,
20 Your Honor (indicating). It says the erroneous
21 charge, so I understand it was the exact same charge
22 you gave, but the -- the, "no harm resulted from the
23 trial court's error in improperly instructing the" --

24 THE COURT: -- have you read the whole case?

25 MS. ZMROCZEK: I have.

1 THE COURT: On Page 5, it says, "however, the
2 trial court included the following sentence: inferred
3 malice may also be -- also arise when the deed is done
4 with a deadly weapon." And that's what they said to
5 take out.

6 MS. ZMROCZEK: Right.

7 THE COURT: Otherwise, my charge is exactly as
8 the Supreme Court approved here.

9 MS. ZMROCZEK: So -- and -- and -- and I guess
10 the issue that I'm trying to raise, Your Honor, is
11 here the only inference of malice, even though it is
12 not going to be charged, but the factual inference is
13 gonna come from the use of a gun.

14 THE COURT: Well, then what's your remedy? Just
15 let everybody go? We don't have trials anymore
16 because you -- you can't use an inference that the gun
17 -- the jury can't deduce from the facts that there was
18 malice involved.

19 MS. ZMROCZEK: No, that -- my remedy
20 would be to charge under expressed -- expressed
21 malice. But --

22 THE COURT: That's not the law. I mean, if you
23 want to get that changed, you need to go down to the
24 -- the end of Main Street --

25 MS. ZMROCZEK: Right.

1 THE COURT: -- because that's what's in the
2 statute.

3 MS. ZMROCZEK: I think it --.

4 THE COURT: And that's what this case that you've
5 handed me expressly says.

6 MS. ZMROCZEK: Certainly. And Your Honor, I
7 think that that -- as you understand from being
8 involved in organizations that are trying to -- to
9 make and effect changes of the law, you have to make
10 these arguments. I understand that the Court is
11 frustrated that I'm making the arguments.

12 THE COURT: Well, when I -- I know I sound
13 frustrated, but when you hand me a case that says the
14 exact opposite of what you're arguing, that tends to
15 frustrate me. Because it -- I mean, it says it here
16 in black and white. I mean, my -- my charge is
17 identical to the one that the Supreme Court approved.
18 And I understand you -- you need -- if you need to
19 preserve it for appellate review or whatever, but --

20 MS. ZMROCZEK: Yes.

21 THE COURT: -- you know, they -- as of about
22 seven months ago, the Supreme Court thought that was
23 the law. So -- and you know, as well as I do too,
24 that it's not my job to change it.

25 MS. ZMROCZEK: I understand. And -- as we -- we

1 will not be here three hours like we were with that
2 one, Your Honor. So as long as, you know, I think
3 that the record's preserved --

4 THE COURT: Okay.

5 MS. ZMROCZEK: -- you've made your decision and
6 I'll make sure to -- to uphold that or to renew that
7 objection.

8 THE COURT: Okay. What's next?

9 MS. ZMROCZEK: And then I think, Your Honor, and
10 -- and -- I -- those are the only issues I that I had
11 with the charge, Your Honor. I do think that I -- I
12 understand Supreme Court's position on this now, but I
13 know that you're not gonna charge, that malice can be
14 inferred through the use of a weapon. I understand
15 that. And I understand that the State is going to
16 argue that.

17 And -- and so I need to just make sure -- I don't
18 want to object during their closing because I'm not
19 trying to be a -- you know, I'm not trying to
20 interfere with court workings. But I do know that --
21 I think that that is an issue that I think that the
22 courts gonna have to address is that allowing --
23 allowing the solicitor's office, and I understand that
24 that's as -- as it stands today, that's the current
25 state, allowing them to argue that -- that they can

1 argue that malice was inferred from the gun, but you
2 can't charge it.

3 I still think it's a slippery slope that the --
4 that the courts need to address. As you know, I think
5 I've raised it in every trial that I've had with you.
6 I know I raised it in every trial. So hopefully it
7 will get decided. So I -- I just need to make that
8 objection with regards to their closing -- I know it's
9 premature now, but I'll make sure to -- I just wanted
10 to bring it up because I don't want to make it
11 contemporaneously and -- and have it interrupt the
12 flow of the court system.

13 THE COURT: Okay.

14 MS. ZMROCZEK: And so, I'll -- I'll obviously
15 preserve it and make it again after -- the after the
16 arguments are made, but I did want to make the Court
17 aware of that. But I -- I take -- but I don't see any
18 other issues with the -- with charges and the -- and
19 the verdict forms. I think is there -- I looked at it
20 two hours ago, so I can't remember. Is -- is there an
21 instruction that they have to decide the first two
22 before they can decide the -- the weapon?

23 THE COURT: We can add that if you want.

24 MS. ZMROCZEK: Okay.

25 THE COURT: Yeah. We can -- we can modify it.

1 MS. ZMROCZEK: I think it's common sense, but I
2 think that --

3 THE COURT: Yeah. And we usually number them and
4 assume that they will go in the order. But you know
5 what assuming does sometimes.

6 MS. CLARK: It is the third one. I'm pretty
7 sure.

8 THE COURT: The possession weapon is the third
9 one.

10 MS. CLARK: I think so.

11 THE COURT: Okay. All right. What else? That
12 it? You -- was there something about identification?

13 MS. ZMROCZEK: Oh, sorry. Yes, the -- so I
14 submitted the *Telfair* -- the *Telfair* charge and I read
15 your identification. I just -- I think that the
16 *Telfair* instruction especially in cases where there is
17 only eyewitness identification of the *Telfair* language
18 is a bit stronger than our identification.

19 And I understand that it's not typically used in
20 South Carolina unless the only evidence is coming from
21 eyewitness identification. And so that's why we would
22 request the heightened -- the heightened charge that
23 we emailed.

24 THE COURT: What's the State's position on that?

25 MR. SCOTT: Judge, I -- I would ask -- I've got a

1 copy here and it seems to cover everything her witness
2 talked about. It seems to be the most clear and
3 concise and easily digestible, and it comes from our
4 jurisprudence. I would take issue with that ID being
5 the only evidence we have, because we certainly have
6 the car that was mentioned and other identifying
7 characteristics. But I -- I think I would ask for
8 your identification charge that's the one I'm most
9 we're familiar with, and it seems the most easily
10 digestible for a non-lawyer.

11 THE COURT: Oh, Caroline -- you were asking about
12 the verdict form. Caroline just pointed out that I
13 have it in the charge that I charged them, that they
14 have to address the first -- the other two first.

15 MS. ZMROCZEK: Okay.

16 THE COURT: But in order to -- it says, "in order
17 to find the defendant guilty of possession you must
18 first find the defendant guilty of either committing a
19 violent crime or attempting to commit a violent crime.
20 Attempted murder is a violent crime."

21 MS. ZMROCZEK: Okay. I think procedurally, it'll
22 just keep us from having to address that later.

23 THE COURT: Where -- where did this *Telfair*
24 instruction come from?

25 MR. SCOTT: A federal case. I think it's a 1972

1 case.

2 THE COURT: Okay. All right. I think I'm gonna
3 stick with the charge I have on identification at this
4 point. I'm always looking for ways to cut words out
5 of these charges because I think there's too many in
6 there already.

7 MS. ZMROCZEK: Okay.

8 THE COURT: I think it adequately sets forth the
9 law here on self-defense. All right. Anything else
10 from the defense?

11 MS. ZMROCZEK: Nothing further. Nothing else
12 from the defense.

13 THE COURT: How about you, Mr. --

14 MR. SCOTT: No, sir.

15 THE COURT: Mr. Solicitor?

16 MR. FOWLER: I don't have anything, Judge. Thank
17 you.

18 THE COURT: Okay. All right. So we'll be ready
19 to go -- I'm done at 10:50 and I'm only
20 two blocks away, so I'll -- I'll be here as close to
21 11:00 as I can. So you all be ready to roll then?

22 MS. ZMROCZEK: We will. And Your Honor, I'll --
23 if -- since I have to fix that audio in Defendant's
24 22, may I take that with me and then we can bring --
25 because I know it's in the Clerk's possession right

1 now, but if I can take it with me because I need to
2 make sure that it's fixed so that -- and the State
3 agrees that it's fixed before we put it back into
4 evidence?

5 MR. SCOTT: I might have a duplicate.

6 THE COURT: Yeah. But you don't have another
7 copy?

8 MS. ZMROCZEK: I have -- I'll just -- I'll just
9 make sure --

10 THE COURT: Yeah. Yeah. Why don't you all
11 redact whatever you need to redact --

12 MS. ZMROCZEK: Okay.

13 THE COURT: And then run that by the State,
14 we can just agree on the record to substitute that
15 one.

16 MS. ZMROCZEK: To substitute.

17 THE COURT: -- for the other one.

18 MS. ZMROCZEK: Okay.

19 THE COURT: That work?

20 MS. ZMROCZEK: Yes, that works.

21 THE COURT: Okay.

22 MS. ZMROCZEK: Thank you.

23 THE COURT: Have a good evening.

24

25 (Court was adjourned for the day.)

CERTIFICATE

I, THE UNDERSIGNED BRANDI J. BERRY, CERTIFIED COURT REPORTER FOR THE FIFTH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE CIRCUIT COURT FOR RICHLAND COUNTY, SOUTH CAROLINA, ON THE 28TH DAY OF FEBRUARY, 2025.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST IN ANY PARTY HERETO.

/S/Brandi J. Berry, CVR

COLUMBIA, SOUTH CAROLINA

JANUARY 8TH, 2026

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF RICHLAND	)	
	)	
STATE OF SOUTH CAROLINA	)	2022-GS-40-00069
	)	2022-GS-40-00070
vs	)	2022-GS-40-00071
	)	
JAQUAN LEON KING,	)	
	)	
<u>DEFENDANT.</u>	)	

February 28, 2025
Columbia, South Carolina

VOLUME V of V

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B E F O R E:

The Honorable Heath P. Taylor, Judge

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

ON BEHALF OF THE STATE:	Stephanie Taylor, ESQ.
	Nicholas Fowler, ESQ.
	Dale Scott, ESQ.
	Assistant Solicitors

ON BEHALF OF THE DEFENDANT:	Aimee Zmroczek, ESQ.
	Attorney At Law
	Brian Setree, Investigator
	Caroline Burns, Law Clerk

Brandi J. Berry,
Judicial Circuit Court Reporter

I N D E X

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DEFENSE'S CLOSING ARGUMENT.....940

JURY CHARGE.....982

VERDICT.....1002

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E X H I B I T S

<u>COURT'S</u>	<u>ID</u>	<u>ADMITTED</u>
7 - 11 JUROR NOTES	X	

1 (FRIDAY, FEBRUARY 28, 2025; COLUMBIA, SC,
2 RICHLAND COUNTY, IN OPEN COURT.)

3 THE COURT: All right. Everybody ready?

4 MS. ZMROCZEK: Your Honor, yes. There are two
5 things that I need to put on the record. One is --

6 THE COURT: Yeah, y'all needed to get those
7 exhibits straightened up.

8 MS. ZMROCZEK: Straightened up. So, Your Honor,
9 there were two 36s. One was 36 marked for ID because
10 that was Dr. McQuiston's CD. Since there were two
11 of those, I'm just going to withdraw the one that was
12 marked for ID.

13 THE COURT: Okay.

14 MS. ZMROCZEK: And then the -- there were two
15 32s, and one of them is just a picture of -- of Devin
16 -- excuse me, of Demetrius Potts -- Officer Potts and
17 there are several others in there. And so I'll
18 withdraw this 32.

19 THE COURT: Okay.

20 MS. ZMROCZEK: -- and leave the other one in
21 there.

22 THE COURT: All right.

23 MS. ZMROCZEK: And then the only other thing,
24 Your Honor, is so I wasn't even able to be let in,
25 which is fine. I understand that they have to lock

1 the courtroom, but as soon as I got in and talked to
2 Molly about -- because I have a PowerPoint and then I
3 realized that my laptop was there. So we have gone to
4 get my iPad.

5 Obviously, the State has to open first in full.
6 And so what I was just asking the Court if we can have
7 like a five-minute break between the State's opening
8 and mine, just so that I can make sure that that
9 technology works.

10 I mean, I imagine they're going to probably go
11 for a little while, so it might be a natural bathroom
12 break time.

13 THE COURT: Okay.

14 MS. ZMROCZEK: But -- but you know, we're working
15 on it as --

16 THE COURT: Okay.

17 MS. ZMROCZEK: -- we start.

18 THE COURT: All right. All right. And I got
19 something I need to put on the record, too. And first
20 I apologize for getting frustrated yesterday. That's
21 all me. My fault. Now and -- and this -- and what
22 I'm speak to is related to those motions with the
23 infer -- the inferred intent issues that Ms. Zmroczek
24 raised.

25 I think again, *State v. Campbell* is clear on how

1 it needs to be charged. And we addressed that. But
2 Ms. Zmroczek also raised the issue of a weapon -- of
3 the State arguing that a weapon can be used to infer
4 malice.

5 I read or re-read *Burdette* and it is 100 percent
6 clear that the Supreme Court says it is fine for the
7 State to argue that the presence or the use of a
8 deadly weapon can be inferred malice.

9 The case even goes further. It says that I can
10 use it to -- when considering a DV motion. So I think
11 those issues are crystal clear. The same justice
12 authored both of those opinions.

13 So I understand you're -- you're trying to
14 maintain a record, but the way I read it, even if this
15 were to go up on appeal, who knows it -- this may be
16 all for now, jury may find him not guilty, but you'd
17 have to file a motion to argue against precedent.

18 So I mean, I think those issues are clear, but I
19 wanted for the record to -- so y'all would know
20 everything I considered.

21 MS. ZMROCZEK: Okay. I -- I appreciate that,
22 Your Honor. And as you know, the only way that we get
23 -- we make changes is to keep raising those issues.
24 So it -- and that's why -- even though I know that's
25 the law of the case that that's an issue that I do

1 think at some point is going to be come -- is going to
2 become right. So that's why, again, why I'm not going
3 to object during their closing at all.

4 THE COURT: Okay.

5 MS. ZMROCZEK: But I do want to make sure that if
6 -- if a higher court sees this, that they understand
7 what our position is.

8 THE COURT: Okay.

9 MS. ZMROCZEK: Thank you.

10 THE COURT: All right. Anything from State
11 before we begin?

12 MR. SCOTT: No, sir.

13 THE COURT: All right. Bring in the jury please,
14 sir.

15 THE BAILIFF: Yes, sir.

16 (The jury enters the courtroom.)

17 THE BAILIFF: Jury is seated, Your Honor.

18 THE COURT: Very good. Thank you, sir. Ladies
19 and gentlemen, as I told you yesterday, the parties
20 have presented all the evidence in the case. It's now
21 time for the lawyers to make their closing arguments.
22 The arguments of the attorneys are not evidence in the
23 case. They're meant to help you understand the case
24 from their perspective.

25 You should disremark -- or excuse me, put two

1 words together there, you should disregard any remark
2 or statements made by the lawyers that aren't in the
3 record or you didn't -- through the exhibits or that
4 you didn't hear from the witness stand. State's
5 recognized.

6 MR. SCOTT: Thank you, Your Honor. May it
7 please the Court?

8 THE COURT: Yes, sir.

9 STATE'S CLOSING ARGUMENT

10 MR. SCOTT: I do want to thank you guys. This
11 has actually been a long trial. You know on TV,
12 sometimes they stretch out weeks -- sometimes months --
13 -- in the states, in big cases that publicize.

14 But South Carolina, in the real world, these
15 things take two, three days -- lot of times talking
16 about homicides, talking about all kinds of cases.
17 This has been a relatively long case for this
18 courtroom.

19 So, I do appreciate your patience, and I've been
20 watching you guys -- and everybody's been paying
21 attention all week, even when we've gotten into some
22 fairly mundane things. But here we are. We are at
23 the finish line.

24 What did we say this case was all about Tuesday?
25 That's when we started -- and we spent all day Monday

1 qualifying the jury. This is about three things,
2 remember that?

3 Fragile egos, reckless gunplay, and senseless
4 violence.

5 At the time, y'all didn't have a lot of context
6 for that, but now -- doesn't it kind of make sense,
7 given the facts of this case?

8 Fragile egos. Reckless gunplay. Senseless
9 violence. One hundred percent. One thousand percent.

10 Too many guns in the streets. Too many guns in
11 the hands of people who are capable and willing to use
12 them at the drop of a hat.

13 Fragile egos. Reckless gunplay. Senseless
14 violence. One hundred percent. One thousand percent.

15 You know, all these things in life -- the bad
16 things happen when you least expect them in life. I
17 would hope we're not all walking around all day weary
18 of getting hit by a school bus, or mugged.

19 Or we're not always thinking about getting shot
20 in the parking lot -- of the restaurant off Oneil
21 Court. But doesn't it seem like those things always
22 seem to come out nowhere -- and at such random moments
23 in life?

24 Looking at July 31st, 2021. It was a Saturday.
25 And you can bet it was hot, because we are in

1 Columbia, and it was in July. We were just getting
2 out -- or just getting to -- the 2020 Olympics. I
3 looked that up. That was because they were postponed
4 because of COVID. I had forgotten, but we had to have
5 the Olympics a year later.

6 So, there we were -- July, 2021 -- holding the
7 2020 Olympics. The world was trying to catch up from
8 standing still from the Global pandemic. And we still
9 find ourselves today digging ourselves out of that
10 hole, out of that backlog.

11 So here we are trying a case that happened in
12 2021. Nothing at all noteworthy in the world news.
13 It's kind of a matters day of not for the family we
14 heard from this week, it was anything but average.

15 It was supposed to be a fun night for Jacob Cora
16 and Yolanda Cora, Judy Reyes, Kiara Arce -- plans
17 were, they would all go to Tsubaki and be together.
18 They'd eat, they'd drink, and they'd sing karaoke by
19 -- by Japanese Karaoke bar or whoever knew. That's
20 what we heard about.

21 But by all accounts, it seemed like it was
22 supposed to be a fun time. So the night of July 31st,
23 2021, became the early morning hours of August 1st,
24 2021. They decided on one more stop before heading
25 home.

1 They were gonna go to Waffle House for something
2 to eat -- after hanging out, being together as a
3 family. I thought was the noteworthy. They were
4 celebrating a birthday -- as a family.

5 So the plan was to go to Waffle House to finish
6 off the night. Of course, we knew they would never
7 make it.

8 Why was Jaquan King and his friends in that
9 parking lot at 2:00 a.m. that night? You don't really
10 know.

11 What's been testified to is the King and three
12 other men were out there when Yolanda and Jacob go
13 outside. We heard about that.

14 Y'all remember Alexis Green -- she was out there
15 smoking a cigarette when Yolanda came out. We heard
16 she was waiting for a ride. And we've seen her Ford
17 SUV in various pictures, it was parked one spot --
18 well, two spots over in that Ford Focus, we heard
19 about -- Ford Fusion that we heard about.

20 We heard how she gave Yolanda a cigarette. They
21 spoke briefly. That's when we hear about one of the
22 men -- everyone has associated with Jaquan King --
23 one of his friends, kind of like a mouthy kind of a
24 guy -- was trying to flirt with Yolanda. Again,
25 Yolanda -- who's over there with her family, trying to

1 celebrate a nephew's birthday.

2 But one of Jaquan's friends -- who's mouthing off
3 -- he begins his flirtation. Sounds like -- but she
4 just did the unspeakable -- the unforgivable. She
5 denied and rejected him.

6 Fragile egos, y'all.

7 She politely informed the man she had a
8 boyfriend. Again -- this is where fragile egos begin
9 to shatter. Think about that -- the man hanging out
10 in a parking lot on Two Notch Road and Parklane,
11 trying to pick up women at 2:00 a.m. What are Jaquan
12 and his friends doing out there in that parking lot.

13 So, he's rejected -- or he perceived, I guess,
14 being rejected. He flies off the handle and begins
15 hurling insults to this family. And apparently, they
16 were insults regarding Yolanda's ethnicity.

17 I mean, talk about Fragile egos... "I have a
18 boyfriend." A guy, hanging out in the parking lot at
19 2 a.m. Jacob Cora -- that's Yolanda's nephew -- I'm
20 looking at this all week.

21 Of course, Judy is Yolanda's sister, Jacob is
22 Judy's son. But Jacob hears these insults being
23 hurled at his aunt. He confronts the man over these
24 insults, and this man then proceeds to confront Jacob
25 -- all because Jacob called him out.

1 I think it was clear from all the testimony that
2 the man that initially starts this altercation with
3 the flirting and insults -- that's not Jaquan King.
4 Everyone was very clear that this man looked
5 completely different from Jaquan King. But he was an
6 associate of Jaquan King's. Jacob calls this man out.
7 Fragile egos.

8 Now, this man who's from Jaquan King's group and
9 Jacob are back and forth yelling at each other, and --
10 and like all these cases -- it just always... It could
11 have ended right there, right? That could have been
12 the end of it.

13 Maybe if egos weren't so fragile. Maybe if
14 Jaquan's friend and Jacob could have just ended it in
15 what was just a shouting match at that point.

16 Maybe if Jaquan King hadn't decided to inject
17 himself into what was only a verbal argument at this
18 point. You think about these things in hindsight.

19 Maybe if young man like Jaquan didn't find it so
20 damn important to be matcho. Right now, let's just
21 end it. It's just an argument amongst people in a
22 parking lot. It doesn't have to be violent.

23 This is -- this is the Monday morning
24 quarterbacking -- kind of hindsight being 20/20. You
25 look back at these and think about it.

1 Maybe if guns weren't so prevalent -- so quick to
2 be used. Maybe. Maybe. Maybe. Was gonna.
3 Could've. Should've. Would've.

4 But don't you think about these things after
5 something bad happens? These tragic situations like
6 -- like the ones Jaquan King has created here.

7 You always go back, in your head, and you think -
8 - what if the Coras had just left Tsubaki an hour
9 earlier? What if Jaquan King had just stayed home
10 that night with his girlfriend and his kid -- instead
11 of hanging out with these other guys in a parking lot?

12 A parking lot. There are all those times when
13 something happens and you think, in your head, "What
14 if I had only taken that left instead of taking the
15 right?" You can try to blame it on fate -- but it's
16 about choice. It's about choice to the people that
17 Jaquan King met. Fate really doesn't have anything to
18 do with it.

19 Well, this guy decided to introduce a gun into
20 what -- up until this point -- it was just verbal
21 jousting. And then talk about using a sledgehammer to
22 crack a nut -- maybe it's just an argument. But this
23 guy decides to introduce a gun. We see it all the
24 time, sadly. Too many guns. Too many guns in the
25 hands of people like Jaquan King.

1 Talk about recklessness. Talk about fragile
2 egos, reckless gun play, and senseless violence.

3 All right, now Jacob's upset. He wasn't upset
4 before. Now there's a gun introduced. And
5 rightfully so -- he's getting more and more
6 upset.

7 Jaquan has gone to his car, as witnesses said,
8 and brought a gun into what was just an argument. He
9 begins threatening to shoot people. You gonna hear
10 about that.

11 That's called express malice. You indicate
12 through words what your intent is. But you haven't
13 only produced the gun -- you have expressed the intent
14 to use it on people. That is specific intent to
15 inflict malice upon others.

16 Jaquan King has now, again, inserted himself into
17 this argument and threaten to use deadly force. Judy
18 Reyes sees that her son is in trouble. And it seems,
19 at this point, what better cure for young men with
20 heads full of steam -- desperate to show how hard they
21 are -- what better anecdote for all this hostility
22 than a calm level-headed reason of a mother? Of a
23 female?

24 Some of these situations could use a level-headed
25 female -- wouldn't you agree? Two young men bucking

1 up at each other without nothing.

2 So, the mother's inserted herself now -- but to
3 separate things. To try to calm things down. She put
4 herself in between Jacob Cora and Jaquan King -- and
5 that's what a mother does.

6 And you heard how she said, "I was not gonna give
7 my back to the man because he had a gun. I wanted to
8 keep eyes on him as we stood under that bright light,
9 and he was threatening to harm my family members."

10 So she described them being chest to chest. But
11 she said -- put herself in front of him -- wasn't
12 gonna turn on this man -- who got the gun. He was
13 driving a Ford Fusion -- parked two spaces over --
14 under that bright light. He tried to grab Jacob. He
15 tried to take him back to the car.

16 Kiara Arce and Yolanda Cora -- were right there,
17 under that bright light, watching all this go down.
18 Alexis Green -- was still watching all this from the
19 front of Tsubaki. Devin Pate -- he, too, is in the
20 parking lot, watching.

21 Onlookers described Jaquan King firing a warning
22 shot. But it doesn't seem like much of a warning shot
23 to me. Directly after that, he's shooting people.

24 He shoots Yolanda in the midsection. Shoots
25 Jacob in the neck. Luckily, there was a grazing

1 wound.

2 You heard the doctor said if it was a millimeter
3 or two over, he's dead. Shoots him in the thigh.
4 And again -- less than an inch over and it's hitting
5 that femoral artery, he's gonna die. That is
6 malice. That is recklessness.

7 We're lucky we're not here on a murder or a
8 double homicide. This sends people scrambling.
9 Jaquan's buddy -- who started the argument -- runs to
10 the Ford Fusion.

11 Again, parked two spots over from Alexis Green's
12 car -- from where the argument is. Right up under
13 that light -- that bright light.

14 You heard about the very tall friend of Jaquan's
15 -- who he'd been trying himself to calm things down
16 when we saw what his buddies were up to and what they
17 were injecting into a verbal argument.

18 You heard about him running over to the Ford
19 Fusion as well -- in shock. Almost unsure whether to
20 get in or not, is what the testimony was. We're going
21 to come to find out that that man's name was Michael
22 Jones.

23 Jaquan King runs to the car, jumped in the
24 driver's seat -- as you would in your own car -- and
25 drove off. But not before some smart level-headed

1 quick thinking comes into play.

2 You heard about Kiara taking the phone out and
3 getting that picture of the license tag. Devin Pate -
4 - you heard about him -- he reads it, and he does
5 exactly what, you know, he should do: he repeated it
6 over and over in his head so he could remember six
7 digits. But he was able to do that.

8 You hear him on 911 -- repeating it over and
9 over. That's amazing. That was quick thinking -- on
10 both their parts. That's how we have a reckless
11 minded person who's gonna answer for what he's done.

12 So, as the coward drive's off into the night, he
13 left two people lying on that hot asphalt -- bleeding
14 out, dying. They were rushed to the hospital -- Jacob
15 and Yolanda.

16 Jacob's surgery and recovery were relatively
17 fast. And it was lucky. You heard the doctor. It's
18 just a matter of minutes. He said it. He would've
19 died back in parking lot.

20 Yolanda would be in the fight of her life. Had
21 to be put into a medically induced coma for five
22 weeks. Senseless, senseless, violence because of
23 reckless gunplay. The investigators began gathering
24 information.

25 So right now they've got two victims. They know

1 where it occurred. They've got some shell casings.
2 They've got a description of the shooter: a Black
3 male -- he was around six feet tall -- he was chunky
4 and had dreads. He had an up North accent.

5 Alexis Green said he was between six foot -- six
6 -two, and about 220. And Alexis said, "I base that on
7 -- I'm about 240. So he's 220. Six foot -- 6 foot
8 two." This is Alexis Green, who was watching from
9 Tsubaki -- front of Tsubaki. Investigators also had
10 that tag number of the car -- the shooter had driven
11 off in.

12 Again -- Devin Pate had recited it. Alexis Green
13 -- who was working at a Ford dealership at the time,
14 said, "That was a Ford Fusion." Kiara Arce -- again
15 -- provided them with an actual picture of the tag she
16 caught driving off into the night.

17 So from here, deputies are able to use law
18 enforcement databases. Obtain the name of registered
19 number of the Ford Fusion. Do y'all remember that?
20 It comes back to Ashley Walcott. She's been sitting
21 here (indicating) all week.

22 Investigators learned the car may be at a
23 location of: 2110 Green Oaks Road. Maybe that's not
24 where Ashley lives. That's not -- at the time where
25 Jaquan King lived. But the information was: "You

1 will find it there". And they did.

2 Backed in to the driveway. But the tag couldn't
3 be seen from the street. The home belonged to Jack
4 King. Jack King met deputies outside. He's asked
5 what they were doing or -- or rather, he asked what
6 they were doing and if they needed anything. They
7 asked him who the car belonged to, and immediately Mr.
8 King said, "My son." They asked him where his son was
9 -- then he said, "My daughter-in-law." So he was --
10 when they asked where the son was he kind of had to
11 backtrack a little bit, said, "It's my
12 daughter-in-law's car."

13 They asked him where his son was at the time. He
14 simply said, "Hold on", and he walked back to the
15 house. Ashley Walcott was there. Ashley Walcott's
16 children were there. Jaquan King was not.
17 Investigators asked Ashley Walcott questions about the
18 car and who had been driving the car. She was
19 uncooperative. Where was that car last night? Who
20 was driving the car? She was uncooperative. Ask
21 yourself why wouldn't she want to answer those
22 questions? Where was Jaquan King? He wouldn't be
23 found until 23 days later -- where was he? Where was
24 he for those 23 days.

25 Investigators researched Jaquan King. They found

1 pictures of him in databases. They noted that he fit
2 the description of the shooter and they found out that
3 he was, in fact, Jack King's son. Found out he was
4 Ashley Walcott's boyfriend. They discovered he was
5 from New York. They found his DNA all over the inside
6 of that Ford Fusion. The one that everybody saw in
7 the parking lot that the shooter got in and drove off.

8 They found a fingerprint in the car that ended up
9 belonging to Michael Jones. Remember Michael Jones?
10 The guy who all the witnesses said he was with Jaquan
11 -- but seemed to be the one trying to pacify
12 everybody. Seemed to be the one trying to de-escalate
13 things. Seemed to be unsure whether he should get
14 back in the car after shooting -- or not. But
15 ultimately did.

16 They researched and they found he was six foot
17 eight -- matched the description of a very tall,
18 skinny friend of Jaquan's. They spoke with him. He
19 admitted to being there that night, but refused to
20 name who he was with. Why? Found him to be
21 uncooperative. Why?

22 Of course, we know about the lineups. Those were
23 administered August -- August 3rd, 2021 to witnesses,
24 who knew they could identify the shooter? Kiara Arce,
25 Judy Reyes, Devin Pate -- all picked Jaquan King out

1 immediately. Some said, "I'm hundred percent sure."
2 Some said, "I'm a 1000 percent sure." All of them
3 picking him out immediately, with almost no
4 hesitation.

5 And that's the story. That's how we get to where
6 we are. We saw some exhibits. I want to walk y'all
7 through some of them -- because you're gonna have a
8 lot back there. But just to remind you why they're
9 relevant; and how they're relevant.

10 This is the general area we're dealing with here.
11 You see Tsubaki down at the bottom (indicating) --
12 and you see the border of Parklane Road and Oneil
13 Court. And, essentially, shows where Tsubaki would be
14 -- and then Inakaya is there -- and then this -- the
15 parking lot you see that we've been talking about all
16 week.

17 This would be a State's exhibit (indicating)--
18 from a body cam. And again, we see some things that
19 have been testified to. We note where the clothing of
20 the victims was found -- and where they came to be
21 when EMS arrived on the scene. We see Alexis Green's
22 Ford SUV. We see Inakaya. And we see Tsubaki.

23 We see an empty space here (indicating) and then
24 we see, in red, where Alexis Green and other witnesses
25 said the Ford Fusion was parked. Okay. We're talking

1 about the very small area where all this is going on.
2 We're not talking about a football field. We're not
3 talking about the entire parking lot. We're
4 essentially talking about a very small area -- that's
5 under the brightest light you've ever seen in a
6 parking lot in your life. This is the picture that
7 Kiara Arce was quick enough and level-headed enough,
8 smart enough to snap a picture of.

9 That photo -- according to her phone -- was taken
10 at 2:19 a.m. -- okay -- in the parking lot of Tsubaki.
11 That's what the Apple iPhone tells us.

12 Of course, you heard -- after running the
13 registration -- it comes back to Ashley Lynn Walcott
14 of 24 -- 2400 Kneece Road. So, in -- that's Green
15 Oaks -- in relation to Tsubaki, where everything
16 happens in Kneece Road -- it's just a short drive up
17 Decker Boulevard.

18 The car that was found at Green Oaks -- and
19 that's the home of Jack King -- again, just a very
20 short distance from Tsubaki, is the same Ford Fusion
21 with the same tag that was taken -- the picture was
22 taken up in the parking lot.

23 Inside of the Fusion, what do we have? We've got
24 a ID card of one Jaquan Leon King -- of 139 Oneil
25 Court. At the time of issuance -- that was back in

1 March of 2017 -- he listed himself at 6'1" and 195
2 pounds. His driver's license, which was issued in
3 2018, gained a little bit of weight here -- he lists
4 himself as 6'1", 200 pounds. And he still uses the
5 139 Oneil Court, Apartment 2-D, address. That is a
6 noteworthy address for you guys. You see (indicating)
7 where 139 Oneil Court is? It's directly across the
8 street -- Jack King testified you could walk to
9 Tsubaki from there.

10 Now, the photo lineups that were shown -- this is
11 Kiara Arce -- shown two days after the incident. I
12 want you to note the appearance of everyone. A
13 similar appearance -- and that's the goal of the
14 lineup. You're not gonna throw some White dude in
15 there and you're not gonna put a guy with short hair
16 in there. You're gonna try to find similar people
17 with similar features, and that's what you have here.

18 You have six Black men, with some degree of
19 facial hair, with dreadlocks with a fairly full face.
20 And immediately, Kiara picks out Jaquan King. And in
21 this one (indicating), he's in the number 3 slot.
22 That's another thing I want you all to take notice of
23 -- okay?

24 This one that Kiara picked out -- that she's
25 hundred percent sure of -- he's in number 3 slot.

1 What they do next is they bring Judy Reyes in --
2 separate and apart from Kiara -- everybody else is in
3 the room except for Investigator Short. What slot is
4 Jaquan in, in this one?

5 Okay. That -- that was what they were talking
6 about -- they don't all put them in the same slot
7 because that would mean, you know, somebody could come
8 out and say, "I picked number 3."

9 They -- they mix them up, so it could be just
10 random orders -- to make sure everybody's
11 independently picking out the person they recognized
12 as the shooter.

13 Judy Reyes picked out number 2 -- which is Jaquan
14 King and initialed it. She said she actually had
15 a deep -- she exhaled deeply when she saw it,
16 because that was the first time she had laid eyes
17 on the shooter since that night -- where she
18 watched her son get shot in the neck and in the thigh.
19 And she watched her sister get shot right in the mid-
20 section -- by that man. Hundred percent certain -- is
21 what she said.

22 Devin Pate, was brought in. Devin Pate, again,
23 was -- was the man who memorized the license tag.
24 What slot is Jaquan King in this one? "He's in the
25 number 6 slot." So they mixed it up again. But he

1 picked him out immediately -- because he was right
2 there.

3 He talked about being just a couple feet from the
4 guy when it happened. He didn't have anything to do
5 with this family, by the way. He just happened to be
6 there that night. Met them for the first time. Said,
7 I'm 1000 percent certain -- number 6, right there
8 (indicating) -- is the man, I'm gonna circle and
9 initial it, and that's what he did.

10 Jaquan King, when they finally catch up to him 23
11 days later, but I don't know where he was, but he list
12 his address at this point is 24 Kneece Road, Apartment
13 2207. He -- he lists himself as 220. That's
14 remarkable.

15 Alexis Green said the man was 220 pounds. He
16 lists himself as 6 ft 1. I don't know what you --
17 what chunky is, you know, that's subjective, I guess.
18 Just for reference, I'm 6 ft 1. I weigh about 185
19 pounds. This man is 6 ft 1, 220 pounds; shoulder
20 length dreadlocks. 2400 Kneece Road is where he's
21 listed his address at that time. But look at all
22 these connections in and around Tsubaki that -- that
23 he has. Very clearly tied to the area. He has been
24 charged with two counts of attempted murder. Again,
25 we are lucky we're not here on a murder, an actual

1 murder case.

2 MS. ZMROCZEK: Judge, may we approach? I just
3 object that he keeps saying that we're lucky that
4 we're not here for murder. He said that twice now.

5 THE COURT: Overruled.

6 MR. SCOTT: Yeah, and I'm gon' keep saying it,
7 too. I want to impress upon you guys that we are very
8 lucky were not here for murder. And that's hard to
9 hear, but that's what the doctor told us.

10 He said, most people I see getting shot in the
11 neck don't make it to here. They die right there,
12 they bleed out. We're lucky. There are very
13 important arteries running through your neck. There
14 are very important arteries running through your
15 thigh.

16 But for a millimeter, we're here for a murder of
17 Jacob Cora. And it's hard to hear. But for a second,
18 we're here for the murder of Yolanda Cora. But we're
19 lucky they don't feel lucky. But we're here for an
20 attempted murder.

21 Maybe Jaquan King is lucky for that. Attempted
22 murder -- the statute is 16-3-29. That's what he's
23 been charged with -- times two. In order to prove
24 this crime, the Judge is going to tell you -- I
25 suspect it would be something similar to this. If

1 it's slightly different, you do with what the judge
2 told you.

3 My interpretation of the law: the State must
4 prove beyond a reasonable doubt -- you're gonna hear
5 again in a minute. The defendant acted with specific
6 intent to kill another person; and the defendant
7 attempted to kill another person with malice
8 aforethought.

9 You're gonna hear about malice aforethought too.
10 And that malice can either be expressed or implied.
11 Okay. What is malice? Malice is hatred. It's ill
12 will -- hostility -- towards another person -- it's
13 the intentional doing of a wrongful act, a.k.a.
14 shooting a gun at somebody without just cause or
15 excuse, when an intent to inflict injury or under
16 circumstances, the law will infer an evil intent.

17 And I've underlined it here -- this is an easy
18 way for you all to understand what malice is, and how
19 it may be inferred or how it may be implied.

20 A conduct showing a total disregard for human
21 life. Do you really hold human life in high regard
22 when you shoot somebody in the parking lot, drive
23 away, leaving him to bleed to death? Do you hold
24 human life in high regard when you shoot a 50-year-old
25 female right in her gut and drive off leaving her

1 there? That's malice. He has been charged with one
2 count of possession of a weapon during the commission
3 of a violent crime.

4 It's unlawful or person in possession of a
5 firearm or visibly display what appears to be a
6 firearm or visibly display a knife in commission of a
7 violent crime.

8 Attempted murder is statutory defined as a
9 violent crime in South Carolina. So if you find him
10 guilty of the attempted murders -- that is a violent
11 crime -- you find he possessed a weapon during
12 attempted murders, he's guilty of possession of a
13 weapon of commission of violent crime.

14 The State has to prove that every element of
15 these charges are beyond a reasonable doubt. The
16 State has to prove the entire case beyond a reasonable
17 doubt.

18 The defense doesn't have to prove anything. They
19 put up some witnesses, but they don't have to do that.
20 It's up to the State to prove to you guys that Jaquan
21 King did what I'm here to tell you he did. The
22 evidence tells you he did.

23 What is beyond a reasonable doubt? Does it mean
24 that you can't go back there and talk amongst
25 yourselves and say, "I kind of have a doubt about this

1 one part of the story", or "I'm not sure if I'm 1000
2 percent certain about this other part of the story?"

3 Is that what reasonable doubt is? No. It means
4 that if you had a doubt that is reasonable -- if you
5 reasonably believe that there's some other alternate
6 version of the story -- where Jaquan King isn't in his
7 own car, in that parking lot, being described by a lot
8 of people doing the shooting -- if you have a
9 reasonable doubt as to that, well, you should find him
10 not guilty.

11 But if your doubt is not reasonable, or your
12 doubt is not really logical, you should find the
13 defendant guilty. And the defense and the State at
14 the beginning has said, you need to use your common
15 sense.

16 You need to use your logic. What does logic tell
17 you guys? What does your reason tell you all? What
18 does your common sense tell you? Ask yourself: Am I
19 having to jump to conclusions when you're
20 deliberating, or is what we're talking about -- does
21 it make a lot of sense? Does it make a lot of common
22 sense -- the conclusion we're coming to.

23 Does it mean you have to be 100 percent certain?
24 You hear when Kiara and Judy, when they did the
25 lineups, they said, "I'm a hundred percent certain

1 that's him."

2 Do you have to be a thousand percent certain
3 like, Devin Pate? With the line ups, "I'm a thousand
4 percent certain, that's the man I saw shoot the man
5 and the woman in the parking lot". That's not what
6 required in beyond a reasonable doubt.

7 The Judge is going to tell you: there are a few
8 things in the world we know with absolute certainty.
9 In criminal case, the law does not require proof that
10 overcomes every possible doubt.

11 Based on your consideration of evidence, you are
12 firmly convinced -- I put that in bold script there
13 (indicating), so you can remember that. That's the
14 best way I think to understand what beyond a
15 reasonable doubt is.

16 When the Judge reads you his charge on beyond a
17 reasonable doubt. He's gonna use that term twice
18 because that's what beyond a reasonable doubt is. So
19 when you go back there, a good way to deliberate and
20 come up with a conclusion is, of course, after you
21 think about the testimony, after you review the
22 evidence, you look at each other and say, "Are we all
23 firmly convinced in what our decision is?" And if the
24 answer is yes, that is beyond a reasonable doubt.

25 As he stands here still today, this man -- he's

1 innocent. We talked about him being cloaked in a
2 "robe of righteousness." Of course, we all know --
3 innocent until proven guilty. And it's not until
4 after deliberations, when you all review the evidence,
5 look at the testimony, you ultimately render a verdict
6 that -- he's stripped of that "robe of righteousness."
7 That he answers to what did on August 1st -- in the
8 early morning hours of August 1st, 2021.

9 And the way we get to that is through the
10 evidence, common sense, witness description of the
11 shooter. Alexis Green didn't have a dog in this
12 fight. She wasn't part of anything. She was an
13 onlooker.

14 Devin Pate, another person who was just at the
15 restaurant that night, who just tells you what he saw
16 -- Judy Reyes, Jacob Cora. The description is dead-on
17 for what you see here today, and exactly how he looked
18 at the time.

19 The up-north accent -- wasn't that just a minor
20 detail? What are the chances? The guy's from New
21 York. You heard his dad talking the same. It's
22 difficult to mask the accent that we grew up with.

23 Picture of the getaway car -- how do you -- well,
24 what's the explanation for that? Right there.
25 Everybody watches as he gets in the driver's seat and

1 they take a picture of the car -- they're not running
2 across the parking lot to get this picture
3 (demonstrating). It's two spaces over from where
4 Alexis Green's car was. Under that bright light
5 (indicating).

6 What are the chance of Devin Pate just happens to
7 memorize that same tag that Kiara took a picture of.
8 What are the chances? What's common sense tell you?
9 Not only is that the car that's driving away with the
10 people in it, the shooter's driving that car.

11 Jaquan King and his girlfriend owned the Ford
12 Fusion. What are the chances? Why is Jaquan King's
13 girlfriend uncooperative? Well, what does she got to
14 hide?

15 Why's Michael Jones' fingerprints on the car? He
16 says he was there? Why won't he cooperate? If you're
17 just there, say you're just there, Michael. Jaquan
18 King's ties to the immediate area. He got three
19 different addresses he's used in and around that area,
20 including one where he lives directly across the
21 street from the place.

22 Kiara Arce's photo lineup. Judy Reyes photo
23 lineup. Devin Pate's photo lineup. In court
24 identification by all of them -- "There's the guy."
25 The only difference he has now from then is his hair

1 is a little bit longer, but that is him.

2 Ladies and gentlemen, when you go back to
3 deliberate, just common sense and logic, it is your
4 greatest tool. And of course, be respectful to one
5 another and each other's decisions.

6 I just -- whenever you start going way out on the
7 limb, "what if," -- what if, you know, what if the sun
8 doesn't come up tomorrow? And then you -- "whoa,
9 let's step back." We're not really -- we're getting a
10 little bit away from the logic now. Let's get back to
11 reason of what makes sense and what the evidence shows
12 us.

13 Okay. But be respectful to one another, I do ask
14 you. But after all that, after reviewing the
15 evidence, and again, after using the God-given common
16 sense, is really only one -- there's only one
17 conclusion: that Jaquan King is guilty beyond the
18 reasonable doubt of the attempted murder of Yolanda
19 Cora.

20 He's guilty beyond the reasonable doubt of the
21 attempted murder of Jacob Cora. And he's guilty of
22 that weapons charge. It is not just some wild
23 commencements, guys. Some things, I mean, they're
24 exactly as they appear.

25 If you can't be man enough to walk away from

1 something so trivial, the people of Richland County
2 are going to hold you accountable when the evidence
3 shows it. That's what I'm asking you to do.

4 I want you to go back there, and talk about what
5 the testimony was, what do your own eyes see, and what
6 do your brains tell you, good common sense tell you.
7 And that's to find him guilty of charges that have
8 been brought against him. Thank you.

9 THE COURT: Ms. Zmroczek, do you still need a
10 minute?

11 MS. ZMROCZEK: (Nods head.)

12 THE COURT: All right, ladies and gentlemen,
13 we're gonna take a short break and then the defense
14 will offer you their closing argument. I'm going to
15 ask you to go back to your jury room.

16 Please do not begin discussing the case yet, but
17 we'll be right back with you shortly.

18 (The jury exited the courtroom for a brief break.)

19 THE BAILIFF: All rise. Court, come to order,
20 remain seated.

21 THE COURT: All right. Bring the jury in please.

22 THE BAILIFF: (Complies.)

23 (The jury enters the courtroom.)

24 THE BAILIFF: Juries seated, Your Honor.

25 THE COURT: Very good. Thank you, sir.

1 Ms. Zmroczek?

2 MS. ZMROCZEK: May it please the Court?

3 THE COURT: Yes, ma'am.

4 DEFENSE CLOSING ARGUMENT:

5 MS. ZMROCZEK: Good morning. I want to thank you
6 individually and collectively for the time that y'all
7 spent here this week. I know that it's not always
8 been exciting. It's been kind of boring. It's been
9 repetitive.

10 If y'all don't know who owns that -- that -- that
11 Ford Fusion by now, then we've all done a poor job,
12 okay. But I want to thank you, because the most
13 important people in this room are the 12 of you that
14 are going to decide the facts of this case.

15 So I'm going to talk to you a little bit about
16 that. My presentation hopefully won't be too, too
17 long, but I -- as the Judge told you, this is our last
18 opportunity to tell you what we think -- we think that
19 the facts show.

20 And just like I told you in the beginning of this
21 case: right crime, wrong person. We have been
22 sitting here listening to these different facts and
23 because y'all couldn't take notes, what you have to
24 do, you have to take them -- everything that you
25 remember to take it back to apply to the -- to the

1 facts of this case.

2 And one thing that I wanted to tell you --
3 because people don't always notice as jurors -- if in
4 your deliberations and discussions back there, you
5 say, "Well, that crazy lady said that they identified
6 two guns or one gun," or they said, "two guns", and --
7 and -- and things start to get confusing in your mind
8 about what was testified to or what was cross-examined
9 to, you can write a note.

10 And you could say, "Madam Court Reporter" -- they
11 hate when I say this part because it's a lot of work
12 for them -- but it's important for y'all to get it
13 right. And you can say, "Madam Court Reporter, can I
14 hear back some of that testimony?" There's -- if
15 there's a question. You can do that.

16 So, ladies and gentlemen, how I have broken down
17 my closing, and what I want to explain to you is that
18 this is my last opportunity to talk to you.

19 When I'm finished, the State -- either Mr. Scott
20 or Mr. Fowler or Ms. Taylor, one of -- one of those
21 three Prosecutors we call Solicitors -- one of those
22 three will be able to come back up, and they'll be
23 able to do what we call a rebuttal argument.

24 And let me tell you, that is the entire --
25 hardest time in the whole trial for a criminal defense

1 attorney. It's because I can never come back up and
2 say, "Wait, but -- but what about this?"

3 So this is the only opportunity that I get to
4 show you what we think the evidence shows. And then
5 the reason the State gets to come back up and do that
6 is because, as Mr. Scott said, the burden is
7 completely on them.

8 I could have sat back, not ask one question, not
9 challenged one investigator, not tried to get some
10 clarity on what was said that night, could have just
11 sat there the whole time and not said a word and the
12 burden is still on the State.

13 I put witnesses up, I put a couple witnesses up
14 just to show that there were more people that were
15 there that we needed to hear from. I put up the
16 expert to help educate as to these three
17 identification.

18 And even though I did that, that burden doesn't
19 ever shift to us. That burden remains with the State.
20 And that's done so for a very important reason.
21 You're here to answer a very important question of
22 fact, and that is: Have they proven the identity of
23 Mr. King beyond a reasonable doubt? Right crime,
24 wrong person.

25 They don't just have to prove the elements of

1 murder and attempted murder -- excuse me, of attempted
2 murder -- two of them. They can say, I have to prove
3 the elements of murder.

4 They don't have to prove the elements of -- of
5 possession a weapon simply beyond reasonable doubt.
6 They have to prove identity beyond a reasonable doubt.

7 And, ladies and gentlemen, that's what the focus
8 of this case is. So -- and the reason that -- that
9 burden is so high is the highest level in
10 jurisprudence -- because we are here for an important
11 case.

12 What happened to the Coras, to Jacob and Yolanda
13 was awful, and we have never denied that. I hated
14 that they had to get up on the stand and relive it
15 again. I hated that for them.

16 But what I hate for y'all is to have to make a
17 decision of this magnitude, and not have all of the
18 evidence -- or not understand all of the evidence.
19 And so that's what we're -- we're going to do in the
20 next certainly 30, 40 minutes. And the way that I've
21 broken down my closing is, I have -- I want to talk to
22 you about my biggest fears.

23 I want to talk to you about them, I want to get
24 it out there, and I want to discuss it with you. Then
25 I'm gonna talk about the State's case a little bit.

1 What -- what -- what we proved, what they know, that
2 they proved, what we questioned, and why we questioned
3 it. And then I want to talk a little bit about the
4 case that we put up and kind of tie it all together.

5 And then at the end, I will make a few last
6 closing remarks, and I'm going to sit down and then
7 that's it. That's the hardest time. But as you
8 understand now, the reason that they get to do that is
9 because the burden is always theirs.

10 I want to start with my biggest fear, okay. My
11 biggest fear is that you take these three IDs and this
12 incredibly emotional case and you say, "Well, I mean,
13 let's just disregard all of the evidence."

14 And, ladies and gentlemen, my biggest fear is you
15 are going to do exactly what the police did, what the
16 State has done in this case, and that is: get tunnel
17 vision. Tunnel vision.

18 Because what we have is we have Saturday night
19 celebration. Lots of people are celebrating Saturday
20 night, okay? We have -- Jaquan, is seen with friends
21 at the bar, all right. He interacts with the group;
22 they see them ahead of time, especially drawn to the
23 tall person.

24 They leave in the car when the shooting starts,
25 they get a car tag, and as you heard, within five

1 minutes -- that's why I put Ms. T up there, two
2 reasons I put her up there -- they have that car tag,
3 name, and address. Within five minutes of this case,
4 their case was solved.

5 And, ladies and gentlemen, that's why this is so
6 important. And what we're here today to talk about is
7 so important -- because Mr. King has been identified
8 by three people. Just three people.

9 And this is the man that they have identified --
10 that they fought with face to face, that they saw
11 shooting a gun -- but can't remember which hand. That
12 they picked out numerous times, over and over, in this
13 courtroom, with only the identifiers that you have
14 heard.

15 And the only difference that they say today is
16 his dreads are a little bit longer. That's what this
17 case is about -- looking.

18 Okay, so let's turn to some points of doubt that
19 -- that I've raised. You heard about the burden of
20 beyond a reasonable doubt, and I'll talk to you a
21 little bit about that more.

22 There is no percentage. It's not preponderance.
23 It's not, you know, more than 50 percent. It's not no
24 doubts whatsoever. They -- these doubts have to be
25 reasonable.

1 And again, we're not gonna focus on are the
2 reasonable doubts in the identification. Like I said
3 -- right crime, no question in my mind that whoever
4 shot those two people committed the crimes of
5 attempted murder and possession of a weapon.

6 It's not why we're here. Why we're here is
7 because we submit it was not Jaquan.

8 So, when we're looking at -- when we're looking
9 at the case, and Mr. Scott even touched on this at the
10 end -- and I was so glad that he did. Rarely do I
11 agree with the State, but there are some things that
12 he said in his closing that I do agree with. And one
13 is that when you all come in here, you bring your
14 common sense with you, right?

15 And so -- so you have to ask yourself and -- and
16 -- and rely on the testimony that was presented.
17 Because remember, the one person who a lot of people
18 are saying was the reason that this fight broke out
19 was Yolanda.

20 But Yolanda, in her own testimony said, "Some guy
21 asked me for my number. I said, no thank you, I have
22 a boyfriend, and I walked away." And that was it --
23 that's what she said.

24 And so what the State wants us to leap to is that
25 somehow -- because they've said now that it's not

1 Jaquan that had this first interaction, but somehow on
2 somebody's behalf that they can't even identify and
3 haven't even tried, he gets so mad, he gets so mad
4 that he goes to his car, wherever it may be parked,
5 and gets a gun?

6 Ladies and gentlemen, that doesn't make sense.
7 There's something more going on here. Why would
8 somebody do this? What sense does it make to get into
9 your car when you hear shots and you have a family
10 waiting for you at home? Now, does that make sense?
11 That makes sense.

12 If you're hanging out with friends, people start
13 shooting, you're gonna leave. That's what happened in
14 this case.

15 Okay. I want to talk about the State's case as
16 far as the car. Good gravy! This picture right here
17 (indicating). They have proven it. Never contested
18 that, that's Jaquan King's car.

19 That's why I first -- one of the first questions
20 I got up and asked John Barron, DNA expert, "So you
21 found Jaquan King's DNA in Jaquan King's car." Does
22 that make him guilty of a crime? Absolutely it does
23 not.

24 They -- they've never even proven that he was
25 there, but that's not a contested fact -- his car was

1 there. He was there. He was driving his car. He
2 drives his car with his wife. They share one car, as
3 you heard Jack testify to, okay. But we had to spend
4 an entire afternoon doing that.

5 But these are the questions. And so one of the
6 things that I know I want to try to address or -- or
7 to react -- because I won't be able to, so one -- one
8 of the things I think that they anticipate that I'm
9 going to say or that they're gonna say in rebuttal,
10 and what I anticipate that they're gonna say in
11 rebuttal is I'm trying to muddy the water or red
12 herrings -- or there's a lot of phrases that are used
13 -- when I'm trying to bring all of the facts to light.

14 And so, this Defense -- Defense 33 -- you're
15 gonna have all of this stuff back there to -- to watch
16 and listen to. And I know -- I know that y'all will.
17 I know you will.

18 But -- but Defense 33 has all four 911 calls on
19 it. All four of them. And the State? They only put
20 the one in. And then they only put the one in, and
21 then they only played you the portions that they
22 wanted you to hear -- which were Mr. Pate, over and
23 over, reciting the license plate. And we'll -- we'll
24 get to that in a little bit.

25 But -- so when I say, "I wonder what the

1 hairstyle of the guys in the black Chargers were,"
2 that's not me trying to create evidence. Listen to
3 this second 911 call of Jerry Hammond. Listen to it,
4 as he says, "They're getting away right now -- two
5 black Chargers."

6 They -- nobody can say where these cars are, but
7 -- and I -- and I take issue with this, thank goodness
8 Ms. Kiara Arce was level-headed, bless her heart,
9 level-headed. She wasn't levelheaded. She testified
10 to you that she was freaking out. She was frozen, she
11 was scared.

12 It took her a minute to -- to do things. And
13 then, I want you to take this picture, and I really
14 want you to look at it in relation to defense -- or to
15 the State's picture that they put in of the map, okay.

16 And -- and why that's important is because nobody
17 could tell us where this Dodge Charger was. Perhaps
18 Alexis Green got closest when she said she thought it
19 was two cars away.

20 But -- and remember when I asked all of the
21 witnesses, why didn't -- why wasn't this brought out?
22 You know, when you were interviewed. Nobody asked
23 this and then nobody told. But -- but look and see if
24 this looks like the same incident area that we're
25 talking about.

1 The next point I want to talk about in the
2 State's case is, like I said, the metadata. The --
3 but then how do they find his car? And, ladies and
4 gentlemen, this is something that sits -- that sits
5 with you, right? Because if you want to get the right
6 person who did this, why? Why would you withhold any
7 information?

8 I submit there's a reason, and I'm gonna talk to
9 you about it. Why would you withhold any information?
10 Because we never -- not only did the police have the
11 actual name of the person and their address, Ashley
12 Walcott, and their address within five minutes of
13 this, from the 911 call.

14 All those people were listening over the radios
15 to transmissions that come over. All people talking
16 with officers. Also, as -- as everybody has agreed,
17 that they posted this on Facebook. My niece is 18
18 years old, and I was trying to find somebody or
19 something.

20 And she -- Googling social media, was able to
21 tell me within two minutes something I had spent three
22 hours trying to find and still couldn't find. Because
23 the power of social media is just that.

24 And so we said, we know that the 911 call had the
25 address. We know that the officers had that. We know

1 that the vehicle was found 18 hours or at least 911
2 call -- 911 was called by Judy Reyes, 18 hours later.
3 18 hours.

4 You don't think that they're not trying to find
5 the person that -- that committed this crime? And all
6 they have is this tag that they're just convinced that
7 it happened.

8 But ladies and gentlemen, it's not like somebody
9 could just drive down the road and see that. Because
10 the cars were backed in.

11 And remember Clay Short and perhaps the State
12 trying to make these nefarious, "Oh, well, cars were
13 backed in because they didn't want people to read the
14 tags."

15 Or could it be the cars were back in because when
16 you leave for work in the morning and everybody's
17 leaving at 7:45, you don't have to -- you don't have
18 to worry about backing up and getting hit.

19 Both explanations are reasonable, but what's
20 unreasonable about -- about the finding of this car,
21 is that we know that it couldn't have been a friend of
22 a friend that happened to be driving down the road
23 looking for tag numbers, because that's not how they
24 would've found this.

25 So what other ways could they have found this?

1 Is it reasonable to assume that somebody that works in
2 a security and had memorized the tag number might be
3 able to look up and see who owned that and start
4 looking for names on social media? Is it reasonable?

5 Those are questions that I want you to -- to ask
6 yourself when we're talking about the identity in this
7 case.

8 They already talked about, of course -- of course
9 they discussed what they saw and what happened. And
10 I'm not faulting them for that. It's not their fault,
11 and faulting the police for not being able to separate
12 some key witnesses at the beginning.

13 But it is reasonable that you would -- that you
14 would discuss that. And quite honestly, I appreciated
15 the honesty that they did.

16 But remember when Dr. McQuiston was talking about
17 identifications in social media? Because one of the
18 very strong principles that we're gonna stand on for
19 this misidentification was they had seen him before.

20 And I'm not suggesting that they had seen him
21 just from pulling up the tag looking on social media,
22 and figuring out Ashley and him. And no -- about when
23 the -- they'd already seen that face because they had
24 interacted with him before. Before any of this, okay.
25 This crime was solved as soon as they had that tag in

1 the family's mind because they wanted the guy, they
2 had their guy, but not the right guy.

3 Okay. Let's move on to the part that everybody
4 likes to think, oh, this is defense attorney's fun
5 thing to do. And that is just cross-examine and poke
6 holes in the police investigation.

7 It's a little fun, but it's a really lot
8 frustrating and a really lot sad. Because when you go
9 to do your jobs every day, you have a -- a way that
10 they're supposed to be done, right?

11 You got policy, you got things that you have to
12 do, you have rules that you have to follow or things
13 don't get done correctly.

14 Being a police officer doesn't change that. In
15 any doubt, they had their guy -- not the right guy --
16 but they had their guy when that tag was run at 2:24
17 a.m.

18 Much like the State did today and in the
19 presentation of the case, the police just choose to
20 ignore all the witnesses that said something
21 different, or all the witnesses that didn't pick
22 Jaquan out of a lineup, or the fact that there are two
23 guns -- sometimes -- sometimes one.

24 The fact that can -- nobody can describe them or
25 the fact that the 911 call says, "I am looking" --

1 literally, Jerry Hammond on that 911 call -- "I'm
2 looking at them, they're getting away two black Dodge
3 Chargers."

4 But Investigator Short, admitted he didn't watch
5 all the body cams. It's 2025. It's 2025. There --
6 it was 2021 back then. There are reasons that we have
7 body cams because sometimes people say and do things
8 and then don't tell the truth, or can't remember or
9 are different.

10 There's no reason for him not to watch all of
11 those body cams to understand what was going on. He
12 admitted he didn't bother listening to the -- the 911
13 calls.

14 There's surveillance cameras and I want to talk
15 about those surveillance cameras. Because what I
16 imagine is gonna happen when the State comes back up,
17 they're gonna be -- "Oh, she put Mr. Sato up there and
18 he said that that camera, was -- he -- maybe water-
19 damaged." Maybe water-damaged.

20 But remember when I asked Investigator Short and
21 the snarky response about, well were there cameras
22 even there?"

23 Well, that wasn't my job. I mean, I found out
24 because I investigated it. I'm asking you were the
25 cameras there? And where is it in your report so that

1 I can ask you. Because Mr. Sato told you that some
2 officers came back and they watched the footage and
3 they decided that it wasn't relevant.

4 We don't know who those officers were. It is not
5 written in one report in five years. And -- and he
6 told -- he told you if they would've asked to -- to
7 get a copy of that, then we could have done it. Then
8 we could confirm if there was damage.

9 And then I think the other point that they might
10 try to make is, "Well look at -- if look at State's 30
11 or Defense 37, it doesn't show the light pole." Do
12 you see the light pole in that? No. Missing the
13 point.

14 What it shows is the direct area where these
15 inter -- some of these interactions were occurring so
16 that we could have made our own observations of what
17 somebody looked like, and challenged those that were
18 given.

19 He -- the lineups he's testified to you, he
20 wasn't real -- he wasn't familiar with SLED policies
21 because that's not -- not important. He didn't record
22 anything.

23 And then we don't have any of the lineups that
24 were -- we don't have any of the lineups that were the
25 multiple lineups. We heard tons of -- I -- or not

1 tons, excuse me, we heard several eyewitnesses that
2 were shown lineups and that they couldn't pick out Mr.
3 King, but we weren't provided with those.

4 Kiera testified -- do you know, she was shown two
5 photo lineups, but she can't remember when -- they
6 want to focus on her a hundred percent. And -- and
7 bless her heart.

8 I get -- I get it. They're mad, they're angry.
9 They want to believe this is the person. So they
10 convinced themselves that. But that's the only thing
11 that she was a hundred percent on because she couldn't
12 remember who showed her the lineups, when they were
13 shown, and specifically recall, I said, who showed you
14 those lineups?

15 Because on her -- on her lineup thing that you'll
16 take back there, it says -- it says Short/Kneece. But
17 we didn't hear from Officer Kneece. And the person
18 she described was Short.

19 She said, 5'6", 5'7" red or ginger hair. And I
20 asked her red? And -- and she wasn't even sure of
21 that. And we would've loved to have been able to
22 challenge her -- we would've loved to be able to
23 challenge her -- her selection. But it wasn't
24 recorded.

25 The other thing I just want to just touch on with

1 the State's case, the lack of reports. You looked at
2 the camera and do -- you looked at the cameras, the on
3 scene statements of witnesses.

4 I was able to -- if you recall, and I hated to do
5 it, but it's just too important. But if you recall, I
6 was able to cross examine Ms. Reyes on the very first
7 statement that she gave at 2:30, right there on scene,
8 right there on scene with the investigator, because we
9 had that body-worn camera.

10 Where she said she doesn't know how it started.
11 Two Black males, gives descriptions and we'll go over
12 that. But we don't have the body-worn camera for
13 Kiera.

14 We don't have all of the body-worn cameras. We
15 don't have what Demetrius Potts said on body-worn
16 camera. Thank goodness, he was nice enough to come up
17 here and -- and testify to that. We -- and then --
18 and then some of these loose ends.

19 Again, I -- I'm quite positive -- I'm quite
20 positive that they're gonna come up and say, "Oh,
21 she's just trying to -- she's just trying to distract
22 you." Distract or give a full picture?

23 Because this -- that 911 call of somebody who is
24 eye witnessing, the -- the people, he says getting
25 away with black Chargers is an important fact in this

1 case. But that evidence was completely disregarded.

2 And any time, any evidence that tended to focus
3 away from Mr. King arrived, it was completely
4 disregarded. The DNA of four different males at the
5 very scene that this happened -- cigarette butts, cups
6 -- disregarded. "We don't know who those are".

7 But remember what we do know, and I take issue
8 with something that -- that Mr. Scott said, is that
9 Mr. King wasn't found until 23 days later. No, no,
10 no. No, no. Mr. King turned himself in, said, "I
11 hear you're looking for me, I'm here." Mr. King said,
12 "here's my DNA."

13 And they want to talk about Ashley Walcott being
14 uncooperative. She's been in this courtroom almost
15 the whole time. They could have called her, put her
16 up there, asked her why she was uncooperative --
17 "Well, Ms. Zmrozek, why didn't you?"

18 Again, no burden here, right? We don't need to
19 extend this anymore. But if you're gonna call
20 somebody uncooperative, then explain why they said,
21 "Sign a waiver -- search my car", that night. Even
22 though it was right when the police got there.

23 They said that, that car was involved in a
24 shooting. She was like, "here -- here's my car."
25 Search away. Uncooperative?

1 Fingerprints -- they put in all of these
2 fingerprints and they -- they only matched that one to
3 Mr. Jones, right? And remember where that fingerprint
4 -- Mr. Jones was found.

5 Mr. Pate was 100 percent certain on everything he
6 saw that night. He saw Mr. Jones get in on the
7 passenger side. That passenger side (indicating), I
8 asked him twice, that's not where that fingerprint
9 came from. There were other fingerprints. The
10 descriptions of the parking lot.

11 We have, Ms. Arce -- says there wasn't a light
12 pole. The light pole was in the street -- which would
13 make sense of what she's remembering. A light pole
14 was in the street. Because if this car -- if she was
15 so level-headed to just take out her phone while this
16 car is immediately getting away, where's the light
17 pole? Where's Tsubaki? Where's Inakaya?

18 And -- and facial hair. Not -- that's the one
19 thing that -- that we can say with certainty: is not
20 one witness -- not even on the 911 call, not even on
21 the multiple statements -- ever, ever said that he had
22 facial hair. Which, as we know, they put the booking
23 photo in, and -- and as Mr. Scott said, "It's exactly
24 what he looked like on that day." That facial hair.

25 Just yesterday, I was having a conversation with

1 a friend of mine, and they were talking about a -- a
2 different case, and they were like, "It was crazy.
3 This person looks like a normal person, you know? I
4 mean, got some neck tattoos -- but I mean, just a
5 normal guy. Regular-looking, beard". Because that's
6 what we notice. That's what you notice. But they
7 didn't see.

8 When you look at these pictures, and you look at
9 the scar over his right eye, that's -- that -- that's
10 a detail that I'm talking about. When you look at
11 these pictures and you see the -- the line in the
12 pigmentation that goes across his face, and when you
13 look at these pictures, can you see eyebrows?

14 I -- this description that they gave was: a
15 Black man with dreads. They want to ask how many
16 Dodge Chargers are in this -- are in this county? I
17 submit that they ask how many men have dreads?

18 And again, it's the long and short and the lack
19 of attention to detail asking everybody, okay. So we
20 finally got everybody to agree on shoulder length.
21 Shoulder length.

22 But remember that hair was up in a pony or pulled
23 back in a pony, but I know that it wouldn't have been
24 shoulder length if it was down. Hair was down.
25 Dreads were like the big braids. The descriptions

1 over and over and over are of multiple people. Then
2 is Mr. King a Black male with dreads? Yes! Is that
3 why he should be convicted of this crime? No!

4 All right. These descriptions, ladies and
5 gentlemen -- again, if you need to come back and
6 listen to the cross-examination -- because we have
7 descriptions given and information given from that
8 night immediately. Remember, Ms. Reyes didn't see any
9 -- don't know just -- just mad and upset and angry.
10 But what we're looking for? Clothing. No
11 descriptions of the clothing.

12 If you're in a tussle with somebody where you're
13 physically fighting them and you have to go up and --
14 and you're -- and you're not shot, right?

15 Ms. Reyes wasn't shot -- but she goes and she
16 gets in between them. She gets right within his face.
17 But no clothing descriptions. And again, right at --
18 right at beard level.

19 How many guns were there? One? Two? that's an
20 important fact -- because they want to tell you --
21 they want to say over and over again: 100 percent,
22 100 percent, a thousand percent.

23 It's just not proven ladies and gentlemen. The
24 only trained witness -- the only trained witness, and
25 when I say trained, he's a police officer. He's

1 trained to react in these situations. He's trained to
2 look around. He's trained to care for those people.

3 And even he couldn't give a good description.
4 I'm not saying that there's anything wrong with that.
5 I'm just saying he was honest. Couldn't give a
6 description.

7 Remember that, even though I put Dr. McQuiston up
8 to help educate and understand why eyewitness
9 identification is so important and so fragile -- even
10 their own expert, Dr. Fitzgerald sat from this stand
11 and he told you: trauma affects identification. It
12 means it changes their memory.

13 It -- they can't always remember. And I made
14 sure to clarify, "Now, Doc, it's not just people that
15 received the physical trauma, right? It's people who
16 are experiencing it and witnessing it".

17 And he said, "That's right". Because there is no
18 question that each and every one of these people out
19 there witnessed something terrible. Well lit. Sure
20 there was a light. We're not disputing that, but it
21 was also 2:00 in the morning.

22 But remember, the only witness that wasn't
23 connected to the family by -- by -- by way of blood or
24 marriage, or friends, was the second witness they
25 called. It was Rainsford -- Franklin Rainsford, CSI.

1 He talked to you about how he's trained to
2 collect evidence, to look for evidence. Because --
3 because were there two warning shots as the training
4 witness says, or were there one perhaps warning shots
5 as some of the other people say? And then how many
6 other shots were fired?

7 Okay. We know that there were at least three
8 because we have three fired shell casings, but two
9 plus three shots equal five.

10 Where are those other casings? And I said,
11 "Well, did you look for them?" And of course he
12 didn't. He's been doing it however many years,
13 multiple number of years, he said, "But it was dark".
14 It was dark. It wasn't dead dark.

15 Of course if there was a little light, but it
16 wasn't like a spotlight shining down on this incident.
17 Again, with the parking spaces. They couldn't -- they
18 couldn't remember where their own cars were parked.
19 And some couldn't remember where the Ford Fusion that
20 got away was parked. We got vague general
21 descriptions except for only Alexis Green said maybe
22 it was two spots in on the other side.

23 But again, how does that comport with this? But
24 not only -- not only can they not say for certain
25 where the car was, they can't even say where their

1 cars were. And I'm not faulting them. I'm not saying
2 they're lying.

3 I'm not saying they're making them -- they were
4 mistaken. Other -- other points of just issues with
5 identification. Did it happen inside? Did it happen
6 outside? What time did they get there? Who was
7 fighting with who?

8 What kind of racial slurs were said. Were --
9 were racial slurs said? Is that enough for somebody
10 who didn't say them to go and defend their friend's
11 fragile ego? Where was the gun? Waistband? Which
12 hand? Front, back, car? Where was the person
13 located? In the car? Out of the car, standing around
14 the car? How many shots?

15 The most incredible testimony is that we've heard
16 from Mr. Pate that -- that shooter goes right up and
17 puts the gun to the skin on Yolanda. The mind, as you
18 learned from the expert, when it is in these
19 situations, is trying its best to fill it -- to fill
20 in.

21 But ladies and gentlemen, when they fill in the
22 identification and they are not sure because of all
23 the things that they don't even remember, the mind is
24 not a memory. That is problematic. And that's why
25 they have to prove beyond a reasonable doubt.

1 Mr. Scott talked it up, you know -- "Oh, the
2 doubt -- the doubt has to be reasonable or logical."
3 I -- I would ask that when you go back to deliberate -
4 - because I've never had the pleasure of being picked
5 for a jury, given the nature of what I do, I doubt I
6 will -- but this is how I imagine it goes. You get
7 back there, and everybody says, "Okay, let's vote."

8 I would ask before -- before we jump to
9 conclusions -- is that you deliberate these things,
10 because you are the last line of protection for Mr.
11 King and for any defendant in the case. Because the
12 other thing Mr. Scott and I agree on is: Jaquan King
13 is innocent as he sits there today.

14 So what are some of the reasons that you can give
15 to doubt for this identification? The multiple
16 statements from the witnesses themselves?

17 The -- the glaring differences between what we
18 see and what we hear on the body cams and what we see
19 on the body cams and what we hear on the 911 calls?
20 Statements to solicitors that were made just last
21 year? New statements that we heard on the stand?
22 Those are things -- those are all reasons to doubt and
23 you don't ever have to give it any reason. Because
24 once you make up your determination, then you get to
25 stick with that.

1 I want to talk about our case for just a little
2 -- just -- just a little bit.

3 Again, I had to put up Tia Fre -- Tia Frey --
4 excuse me, I can never pronounce her name correctly -
5 - because remember. the State when they put in, Number
6 1, they went through all the trouble to get her to
7 fill out an affidavit, but they didn't want to put all
8 of the evidence in.

9 And the reason that I did that -- and the reason
10 that I put her up there was to show that there are
11 some stark differences in what the -- the very -- the
12 very focused case that the State put up and what
13 actually was said and heard.

14 And then I put up Mr. Sato for the cameras and
15 Mr. Potts because he was there, he was trained, and he
16 of course said it's natural for people to scatter.
17 That doesn't make it a crime?

18 More than once, I heard Mr. Scott ask, "Well,
19 what was Mr. King doing in the parking lot?" That's
20 that. What does that question answer to the elements
21 of this case? We asked -- I asked Mr. Potts what he
22 was doing in the parking lot: "Man, I just come there
23 and hang out."

24 We heard from the other witnesses, people are in
25 the parking lot. A criminal does that not make? But

1 then I put out Dr. McQuiston, okay? And -- and not to
2 say that these, you know, she's not gonna testify that
3 these lineups were -- or these identifications were
4 improper, because that's not her purview. That's what
5 y'all get to decide.

6 But what she was here for, and one and only
7 reason was to say: ladies and gentlemen, this case
8 comes down to three IDs off of a car.

9 And before you consider those as 100 percent, no
10 reason to doubt them, you got to look at the
11 circumstances. The stress, the trauma. Are there
12 changes in statements? Was there contamination?

13 A lot of the pictures that I put in, you're gonna
14 see witnesses, even some that testified that are
15 standing and talking together. It's -- it's not their
16 fault. It's not their fault, but they're trying to
17 figure out what happened. It's natural.

18 Again, Judy's original statement where we had to
19 send you out so she could watch some and listen to it.
20 And then I had to ask several, several times: "Did you
21 say this? -- "I don't remember." "You say this?" -- I
22 don't remember." Finally, "You said this?", right?
23 And finally it comes out.

24 And again, do I say that she's lying now? No,
25 it's -- it's perfectly reasonable when her son and her

1 sister and their family is so close that she wants to
2 convince herself of this. And that's what she's done,
3 ladies and gentlemen.

4 So, it's you that has to be convinced. Talk
5 about hundred percent, they kept saying they were
6 hundred percent confident, hundred percent, a thousand
7 percent confident.

8 You remember, and I was like, "Well, yesterday
9 when you testified, or this day on August 3rd when you
10 gave your statement, were you a hundred percent, a
11 hundred percent certain?" "Yes". So you were a
12 hundred percent certain you saw two guns?

13 Remember, if they want to arrest on that a
14 hundred percent certainty, then why don't we have Clay
15 Short's report about what their confidence was then?
16 And why are they a hundred percent certain on things
17 that we know haven't been proven?

18 Devin had a different -- different hair that he
19 -- he had a whole different set of facts, but he does
20 stay in contact with the family. And he did work
21 security. Is it reasonable to assume that they had
22 his information ahead of time?

23 A couple things that I want to touch on, and I
24 wrote them down so I don't forget. They always tell
25 us in lawyer school: when you're doing closing

1 arguments, don't just get up there and read from your
2 paper.

3 But I want to read the paper right now because I
4 want to make sure I don't miss anything that I want to
5 challenge from what the State said.

6 Because again, I don't get to come back. They
7 said something about -- well, when they started off
8 and they said, "You never know what's going to
9 happen." And -- and then they talked to you about
10 reasonable doubt, you know, "Can you look at the what
11 ifs, what ifs, what ifs, what ifs?"

12 "What if the sun the sun comes, if it doesn't
13 come up tomorrow?" I think is is one of the things
14 that they said that was not a reasonable explanation.
15 But what if these people are on the 911 call, Mr.
16 Hammond, and what if he sees those shooters getting to
17 the black Dodge Charger? And what if those people
18 have dreads?

19 That's not, "Will the sun come up tomorrow?"
20 Ladies and gentlemen, that is a reason to doubt.

21 They want to talk about the -- the "up North"
22 accent. How many -- how many witnesses testified to
23 that, and -- and when did that information come to
24 light? Remember, you'll have the direct and cross
25 examinations available to you. They wanted -- they

1 said that -- but you got to use your common sense.
2 And you got -- you got to be able to keep that robe of
3 righteousness on Mr. King. That I agree with.

4 And they said you can't speculate. Or maybe they
5 didn't. But I'm saying this, we cannot speculate as
6 to the story. We can't disregard things that don't
7 make sense.

8 I grew up in Louisiana, and it -- very similar to
9 South Carolina. We lived in a place called Russ or
10 Denham Springs. And have a lot of farms and they put
11 those blinders on those horses to keep them from
12 messing up the fields.

13 While I was talking about -- when I was talking
14 about tunnel vision, my niece goes, "Oh, like that,
15 song from Kodak Black?" "Yes".

16 Okay. Tunnel vision is what everybody had in
17 this case. And when you look at the identification
18 and you're applying beyond a reasonable doubt, I want
19 you to, and I know that you will -- remember the
20 things that the expert said, and remember all of the
21 statements that we've been given.

22 And please, for the love of Pete, remember -- not
23 one person identified any facial hair. And then ask
24 yourself, is that reasonable?

25 Short story about -- about reasonable doubt, and

1 then I'm gonna go sit down. One of the greatest
2 things about growing in Louisiana was we had a really
3 good Cajun food. And my mom -- terrible cook. My dad
4 -- phenomenal chef. And so every Saturday he would
5 make us a very big Cajun dinner.

6 And I remember this Saturday in particular
7 because, as the oldest of seven girls, let me tell you
8 who got in trouble the most was the one who either
9 should have been watching what they were doing -- and
10 let them get hurt, or should have kept them from doing
11 something that was bad -- or gets blamed because they
12 said I did it. Okay. It's the right of the first
13 born. I understand that.

14 But one day I come home, and my dad is supposed
15 to be in the kitchen cooking. But what I see is
16 crawfish. I walked in the door, it's wafting
17 throughout the house -- and you smell it. Oh, it's so
18 good. But it's sitting on the counter. It's not
19 finished. It's corn bread in the oven coming through
20 the stove. I'm like, "where is everybody?"

21 And I hear screaming and hollering between my dad
22 and my second sister, Allison. Not only was she the
23 one who took away my parents full attention from me,
24 she was -- she has a nerve to be born the day before
25 my birthday. So already I don't like her, right?

1 And I'm getting in trouble all the time, but this
2 time she's getting it -- she's getting it from my dad.
3 And I've heard those words. I know he's mad. And I'm
4 like, "Yes!" And I'm cheering it on. And she gets so
5 mad. And she goes, she runs up the stairs, she tears
6 up the stairs. And my dad is tearing at her. And
7 he's like, "I'm gonna beat your behind!" And I'm
8 running upstairs after both of them going, "Do it, do
9 it!" And my mom's running behind me going, "John,
10 don't touch her!"

11 And she gets up to the top of the stairs and we
12 hear this loud (slams hand to make noise on the
13 table), because she's slammed the door. And my dad
14 was like, "If I'm not beating some tail," -- before
15 beating it down. And he was like -- and he throws
16 that door open.

17 There I am: "Do it, do it, do it". And then my
18 mom: "Don't do it, don't do it, don't do it". And he
19 goes, "Allison Ann, you slammed that door?" And she's
20 like, "No, Daddy. No, it was the wind. It was my --
21 it was the wind."

22 And my dad, hand up, ready to lay it down, looks
23 at that window, sees the curtains blowing -- he lowers
24 his hand, because, ladies and gentleman, that is a
25 reason to doubt.

1 And I want you to take those principles and apply
2 them to each and every fact that the State has to
3 prove in this case.

4 Like I said, I'm gonna go sit down now. I've
5 done everything that I can for my client, and I'm
6 giving this case to you to apply all of the principles
7 that Judge Taylor's gonna tell you about and to apply
8 the factors that we've spoken about.

9 And respectfully, I'm gonna ask that you do what
10 the law, as your guide, tells you to do when you don't
11 have the facts to answer your question -- and that is
12 to find Mr. King not guilty. Thank you.

13 THE COURT: Anything else from the State?

14 MR. SCOTT: Shots ring out at 2:18, 2:19 Sunday
15 morning parking lot of Oneil Court . People run.
16 Cars leave. They were mention of various cars later.
17 There was mention of black Chargers at least one --
18 one 911 call. Nobody indicated a shooter, not any
19 black Charger.

20 Defense attorney says she put up witnesses who
21 she wanted to be heard from. She didn't have to put
22 up any witnesses, but she put up the witnesses she
23 thought you needed to hear from. I didn't hear
24 anybody talking about a shooter getting in a Charger.

25 She told you she put up the witnesses she wanted

1 you to hear from. Where's the witness that talk about
2 the shooter getting in the Charger? I heard her
3 calling 911 business records custodian. Heard her
4 call an off-duty sheriff's deputy in Charleston who
5 said he saw very little -- said there was a car and a
6 group of people between him. He never saw a shooter.
7 Cars and people blocking his view. Heard the shots.

8 She put up the witnesses she thought she needed
9 you to hear. She put up a Taishi Sato -- the witness
10 she thought you needed to hear. She said at the time
11 there were no working cameras at Tsubaki, there were
12 no working cameras at Inakaya.

13 Officers came to view what he had. He said he
14 couldn't pull up anything. It was a black screen.
15 She put up the witnesses that she thought you needed
16 to hear from.

17 So he indicated exactly what law enforcement
18 said. There were no working cameras that he had.
19 Make no mistake, whenever you see the defense exhibits
20 of a camera that's how it exists today, I imagine
21 maybe as a result of what Mr. King did in the parking
22 lot that night.

23 Cameras have been installed that are working and
24 she's introduced some videos from present day at
25 Inakaya that would show some different angles that

1 were captured today. But you heard from the man
2 himself, they were no cameras at the time. No mistake
3 about that.

4 She testified Jaquan was inside the -- the bar
5 that he was interacting with the victims before the
6 parking lot. Ask yourself when you heard that.
7 There's absolutely no testimony of that. The judge
8 will tell you, lawyers' arguments are not evidence.
9 And that's important because I want you to ask
10 yourself, when did anybody testify about Jaquan King
11 being inside the bar, interacting with the victims?
12 Nobody said that. It came from the defense attorney's
13 mouth.

14 She mentioned it was Jaquan's car. Why was the
15 prosecution so determined to prove it was his car?
16 First of all, the burden of proof is on the State. We
17 have to prove the case.

18 Second, why wouldn't he ever admit? Why wouldn't
19 his family ever admit that was his car?

20 MS. ZMROCZEK: Your Honor? We have a matter of
21 law. May we approach?

22 THE COURT: Yes.

23 (A sidebar conversation was held between the
24 Counsels and the Court.)

25 MR. SCOTT: We have to prove this is his car

1 because they go to Jack King, he won't -- he won't
2 explain who drives the car. He blurted out his son
3 then he quickly had to change it to his
4 daughter-in-law.

5 Why won't Ashley say whose car it is? Why won't
6 she say he was driving it the night before? Why won't
7 she tell where Jaquan is? They only, you know,
8 they'll admit it once we put it up there, Jack King
9 and Ashley will that it's his car. We got to prove
10 it, okay?

11 So for them to say, "Oh, how they spending all
12 this time wasting your time"? That -- that's our job.
13 The judge is going to say the burden of proof is on
14 the State. That's why we have to do these things.
15 You know, because if we don't, what happens? She gets
16 up here and says, "how do you know that was his car?"
17 That's how it works. So that's disingenuous asking
18 why we had to do that.

19 Of course we all know as court officials here why
20 we have to do it. She asked why would anybody
21 withhold info on the case, and that -- that is a good
22 question.

23 That's why I keep asking: Why did Jack King and
24 Ashley Walcott withhold the information? I don't
25 understand. What is there to hide? Why won't they

1 speak Jaquan's name? Why won't they tell us where he
2 was that night? She said nobody indicated what
3 clothing the shooter was wearing.

4 Of course, you heard: white t-shirt with an
5 emblem on it, light blue jeans -- that was testified
6 to. But what good does that do when somebody's
7 missing, and on the run for 23 days. You expect them
8 to still be wearing the same clothes when they catch
9 up with them?

10 Now, I heard something -- I heard something very
11 interesting. We're asking not to jump conclusions.
12 We're asking not to make any kind of rash
13 speculations.

14 The defense is saying our version of events is
15 just inconceivable, makes no sense. But here's what I
16 just heard her propose to you all -- here's what I
17 heard.

18 And if you all heard something different, let me
19 know. But the insinuation was: Devin Pate -- he
20 didn't know this family before -- had some kind of
21 ties, and some kind of a link to databases that law
22 enforcement might have.

23 And based on that tag, he typed in through a
24 special database -- because we all can't just do this,
25 look up tag, find who the car is registered to by

1 Google or whatever -- but somehow, Devin Pate entered
2 a conspiracy with this family in order to peg this on
3 somebody.

4 So they look at that tag, he enters in, he finds
5 an Ashley Walcott. Then he does some more snooping
6 and somehow links it to Jaquan King. And from there
7 they're able to find a picture of Jaquan King, and
8 they all get together and say, look, this is the guy
9 we got to pick out.

10 But does that make sense? Because they all three
11 picked him out. So does that make sense? If it did -
12 - if it made sense they were dead set on pinning it on
13 this one guy, who they randomly got the picture of the
14 tag -- why stop at Judy?

15 Why stop at Kiara? Why stop at Devin? Let's
16 show Jacob a picture and get him to pick him out of
17 the lineup, because he's already out of the hospital
18 by now.

19 Nelson -- you gotta see this picture, you gotta
20 get in on this and pick him out too. Abigail, here's
21 the guy we gotta pick out, okay? Because the more of
22 us pick him out of a lineup, the better. Because
23 we're all in this conspiracy to nab this dude.

24 Who else? Shakira -- according to the defense,
25 that's best friends with you -- let's get Shakira to

1 pick him out, too.

2 Now we got 1, 2, 3, 4, 5, 6 people picking him
3 out. But look, let's don't stop there. Alexis, you
4 know, you gave a description of the guy, but can we
5 show you this picture so you can be sure and pick him
6 out of the lineup?

7 Jerry Hammond, he was gonna go to Waffle House
8 with him. That's another good person we can get.
9 Here's a picture.

10 If that was -- if that made any sense, wouldn't
11 that be the way to do it? If you're entering this
12 vast conspiracy just to pin it on Jaquan King
13 randomly, does that make sense?

14 Who's asking you to jump to conclusions? Who's
15 asking you to speculate. Who's asking you to step
16 outside of what makes sense? What's common sense?
17 No, no -- the people who said they could identify him
18 did so.

19 They were given lineups. They had six choices.
20 They were given these lineups independent, okay? So
21 do you know what the chances are if I took three of
22 you, took you in a different room, asked you to pick
23 out one random card, and then I shuffled him up, then
24 I brought you in the room and asked you to pick out
25 one random card, and I shuffled them again, and asked

1 you to come in the room to pick one random card? And
2 lo and behold, you all picked the three of clubs.
3 Randomly.

4 You know the chances of that are? It's less than
5 3 percent. And then on top of that, the guy you
6 picked out has connections to the cars in the scene.

7 Then on top of that, he's got that accent that
8 people describe. Then on top of that, he lives right
9 nearby. Then on top of that, his family won't talk
10 about where he was that night. And on top of that, he
11 perfectly matches the description that everybody gave.
12 What are the chances?

13 You know, we remember -- we remember our first
14 child and when they were born. We don't remember his
15 temperature, heartbeats per minute, we remember him or
16 her learning to ride a bike.

17 We don't remember what the brand of bike was.
18 Remember when granddad died, but you -- you just --
19 it's hard to remember the last time you went fishing
20 with him.

21 We remember when a man shoots a woman in the
22 chest right in front of us, but I don't remember what
23 hand he had the gun in. The human mind just works
24 that way. There's some minor details in life we just
25 can't remember. Maybe they were just a blip on radar.

1 We remember the big ones. Sometimes we do remember
2 the minor ones. That's just how the human mind works.

3 You're never gonna forget the face of the man
4 that shot your son in the neck, shot your mom in the
5 chest; or your sister. You don't forget that.

6 And I don't need a professor who teaches at
7 school with tuition \$70,000 a year to skip class and
8 come down here and tell you, you can't believe your
9 own eyes. You don't need that either. You paid 4,750
10 bucks to tell you can't believe your own eyes.

11 Facts in this case point to one conclusion. One
12 conclusion only. And it's crystal clear. That is
13 Jaquan King's guilt. That is his guilt in the attempt
14 to murder Jacob Cora.

15 Guilt beyond a reasonable doubt in the attempt to
16 murder Yolanda Cora. And there's guilt beyond a
17 reasonable doubt in that weapons charge.

18 I ask you one more time -- just use your common
19 sense. Don't jump to these wild conclusions.
20 Conspiracy theories made up on the spot. People just
21 having it in for Jaquan King -- somebody they never
22 knew, somebody who decided to inject himself into
23 their life.

24 Do what's right. Do what speaks the truth based
25 on the evidence and the testimony. Find Jaquan King

1 responsible for what he did. Find him guilty of these
2 charges. Thank you.

3 **JURY CHARGE**

4 THE COURT: All right, ladies and gentlemen,
5 you've heard all the evidence and arguments of both
6 the parties.

7 Now I'm going to explain to you what the law is
8 that you will apply in the case. If it sometimes
9 seems like I'm reading to you, it's because I am, this
10 is kind of complicated, and I got to make sure I get
11 it right.

12 So, as I told you up front, you and I have
13 specific duties to perform in this trial. As the
14 trial judge, it is my responsibility to preside over
15 the trial, and it's your responsibility to consider
16 the testimony which has been presented from the
17 witness stand, as well as the exhibits that have been
18 introduced.

19 I have the duty to charge the law applicable in
20 this case.

21 As the presiding Judge, I'm the sole judge of the
22 law. It's your duty, as jurors, to accept and apply
23 the law as I now state it to you.

24 If you already have any idea as to what the law
25 is or what the law ought to be, and it doesn't agree

1 with what I'm going to tell you now, you must abandon
2 your ideas because you're sworn to accept the law as I
3 now give it to you.

4 Your duty is to determine the facts. In every
5 case, the jury is the sole and exclusive judge of the
6 facts.

7 A trial judge cannot suggest, state, comment on,
8 or make any statement to a trial jury about the facts
9 in the case.

10 Since you, as jurors, are the sole judge of the
11 facts, you are not to infer from what I've said during
12 the course of the trial in ruling upon the
13 admissibility of evidence or otherwise, or anything
14 that I say now during the course of this instruction,
15 that I have any opinion about the facts in the case.

16 The law does not allow me to have an opinion. It
17 is a matter solely for you to determine.

18 As jurors, it is your duty to determine the
19 effect, value, and weight of the evidence presented
20 during the trial.

21 The indictment charges Mr. King with two counts
22 of attempted murder and one count of possession of a
23 weapon during the commission of a violent crime.

24 The fact that he was charged, arrested, and
25 indicted is not evidence and cannot be considered by

1 you as evidence of guilt, nor does it create any
2 presumption or inference of guilt.

3 The indictments are simply the formal written
4 instruments which contain the charge made against Mr.
5 King and the formal document by which the case is
6 brought into this court.

7 The defendant has pled not guilty to the
8 indictments, and that plea puts the burden on the
9 State to prove the defendant guilty beyond a
10 reasonable doubt.

11 A person charged with committing a criminal
12 offense in South Carolina is never required to prove
13 himself or herself innocent.

14 I charge you that is a guiding rule of the law
15 that the defendant in a criminal trial, no matter how
16 serious the charge, is always presumed innocent of the
17 crime for which the indictment was issued, unless
18 guilt is proven by evidence satisfying you of that
19 guilt beyond a reasonable doubt.

20 The presumption of innocence does not end when
21 you begin your deliberations, but accompanies the
22 Defendant throughout the trial until you reach a
23 verdict of guilt based on the evidence satisfying you
24 of that guilt beyond a reasonable doubt.

25 The presumption of innocence is like a robe of

1 righteousness placed about the shoulders of the
2 defendant, which remains with the defendant until it
3 has been stripped from the defendant by evidence
4 satisfying you of the defendant's guilt beyond a
5 reasonable doubt.

6 The presumption of innocence is not a mere legal
7 theory. It is not just a legal phrase -- it is real,
8 a real and substantial right to which every defendant
9 is entitled unless you, the jury, are satisfied by the
10 evidence of the defendant's guilt beyond a reasonable
11 doubt.

12 What is reasonable doubt in the law? A
13 reasonable doubt is the kind of doubt that causes a
14 reasonable person to hesitate to act.

15 The State has the burden of establishing every
16 fact necessary to prove the defendant guilty beyond a
17 reasonable doubt.

18 The law presumes every person charged with a
19 crime to be innocent and the burden of establishing
20 guilt is placed solely on the State.

21 The defendant is not required to prove his
22 innocence.

23 Some of you may have served as jurors in civil
24 case -- I mean, or in certain civil cases where you
25 are told that it is only necessary to prove a fact is

1 more likely true than not true -- such as by the
2 greater weight or preponderance of the evidence.
3 Other civil cases use a clear and convincing evidence
4 standard.

5 In those cases, it's necessary to prove that a
6 fact is highly probable. But this is a criminal case,
7 and the State's proof must be more powerful than those
8 burdens of proof.

9 In criminal cases, the State's proof must be
10 beyond a reasonable doubt.

11 Proof beyond a reasonable doubt is proof that
12 leaves you firmly convinced of the Defendant's guilt.
13 There are very few things in this world that we know
14 with absolute certainty, and in criminal cases, the
15 law does not require proof that overcomes every
16 possible doubt.

17 If, based on your consideration of the evidence,
18 you are firmly convinced that the defendant is guilty
19 of the crime charged, you must find the defendant
20 guilty.

21 The defendant is not required to prove his
22 innocence. If, on the other hand, you think there is
23 a real possibility the defendant is not guilty, you
24 must give the defendant the benefit of every
25 reasonable doubt and find him not guilty.

1 Necessarily, you must determine the credibility
2 of witnesses who have testified. Credibility simply
3 means believability.

4 It's your duty as jurors to analyze and evaluate
5 the evidence and determine which evidence convinces
6 you of its truth.

7 In determining the believability of witnesses who
8 have testified in the case, you may believe one
9 witness over several witnesses, or several witnesses
10 over one witness.

11 You may believe part of the testimony of a
12 witness and reject the remaining part of the testimony
13 of that same witness.

14 You may believe the testimony of a witness in its
15 entirety or reject the testimony of a witness in its
16 entirety.

17 You may consider whether any witness has
18 exhibited you any interest, bias, prejudice, or other
19 motive in the case.

20 You may also consider the appearance and manner
21 of a witness while on the witness stand.

22 There has been evidence presented that witnesses
23 have made prior, or may have made prior, statements
24 which are not consistent with the witness's present
25 testimony.

1 You may use this evidence to decide whether or
2 not you believe the witness.

3 You may also use evidence of the earlier
4 contradictory statements to determine the truth of
5 those statements.

6 It's up to you to decide whether to believe the
7 earlier statements or the testimony given at trial.

8 If a witness is shown to have knowingly testified
9 untruthfully concerning any material matter, you may
10 consider this and determine whether to trust the
11 witness's testimony as to other matters.

12 You may reject all testimony of that witness or
13 give all or part of the testimony the weight you think
14 it deserves.

15 In order to establish criminal liability,
16 criminal intent is required. For example, the mental
17 state required to be proven by the State for a
18 particular crime might be purpose, intent, knowledge,
19 recklessness or criminal negligence. Criminal intent
20 must be proven by the State beyond reasonable doubt.

21 Criminal intent is always a matter that must be
22 determined by the jury from the circumstances existing
23 at the time. There is no way to prove intent to a
24 mathematical certainty. There's no way medical
25 science can dissect a person's brain and determine

1 what that person had in mind.

2 So, the law says that criminal intent may be
3 inferred from the circumstances shown to have existed.
4 This is how you make a determination of whether or not
5 the element requiring intent was present.

6 It's not necessary to establish intent by direct
7 and positive evidence, but intent may be established
8 by inference in the same way as any other fact, taking
9 into consideration the acts of the parties and all of
10 the facts and circumstances of the case.

11 Criminal intent is a mental state of conscious
12 wrongdoing. You must determine what the Defendant
13 intended to do based upon the circumstances existing
14 at the time.

15 Criminal intent can arise from action or a
16 failure to act. It may arise from negligence,
17 recklessness, or an indifference to duty or to
18 consequences that are considered by the law to be the
19 equivalent of criminal intent.

20 There are two types of evidence that are
21 generally presented at trial: direct evidence and
22 circumstantial evidence.

23 Direct evidence directly proves the existence of
24 a fact and does not require deduction. Circumstantial
25 evidence is a proof of a chain of facts and

1 circumstances indicating the existence of a fact.

2 Crimes may be proven by circumstantial evidence.

3 The law makes no distinction between the weight
4 or value to be given to either direct or
5 circumstantial evidence. However, to the extent the
6 State relies on circumstantial evidence, the
7 circumstances must be consistent with each other, and
8 when taken together, point conclusively to the guilt
9 of the accused beyond a reasonable doubt. If these
10 circumstances merely portray the defendant's behavior
11 as suspicious, the proof has failed.

12 The State has the burden of proving the defendant
13 guilty beyond a reasonable doubt. The burden rests
14 with the State regardless of whether the State relies
15 on direct evidence, circumstantial evidence, or some
16 combination of the two.

17 The rules of evidence ordinarily do not permit
18 witnesses to testify to opinions or conclusions. An
19 exception to this rule exists for witnesses we call
20 expert witnesses. A witness who, by education and
21 experience, has become an expert in some art, science,
22 profession, or calling, may state an opinion as to the
23 relevant and material matter in which the witness
24 claims to be an expert, and may also state the reasons
25 for the opinion.

1 You should consider any expert opinion received
2 in evidence in this case, and like any other evidence,
3 give it the weight you think it deserves.

4 If you decide the opinion of expert is not based
5 on sufficient education or experience, or if you
6 conclude that the reasons given in support of the
7 opinion are not sound, or that the opinion is
8 outweighed by other evidence, you may disregard the
9 opinion entirely.

10 An expert witness's testimony is to be given no
11 greater weight than that of other witnesses simply
12 because the witness is qualified as an expert.
13 Further, you are not required to accept an expert's
14 opinion even though it is not contradicted.

15 I instruct and emphasize to you that the fact the
16 defendant did not testify is not a factor to be
17 considered by you in any way in your deliberation and
18 in your consideration of the question of guilt or
19 innocence of the defendant. It must not be considered
20 by you in any manner whatsoever.

21 A defendant has the constitutional right to
22 remain silent, and the assertion of this right must
23 not be considered by you in your deliberations.

24 I repeat: under your oath, you are to draw no
25 conclusion whatsoever from the fact that the defendant

1 did not testify. The fact that he did not testify
2 should not even be discussed in the jury room.

3 The burden of proof, as I have stated to you, is
4 on the State. The defendant is not required to prove
5 his innocence. The burden of proof remains on the
6 State to prove guilt beyond a reasonable doubt as to
7 the charge or charges against the defendant.

8 The defendant is charged with two counts of
9 attempted murder. In order to prove this crime as to
10 each victim, the State must prove the defendant acted
11 with the specific intent to kill another person and
12 the Defendant attempted to kill another person with
13 malice aforethought, either express or implied.

14 Malice is hatred, ill will, or hostility toward
15 another person. It is the intentional doing of a
16 wrongful act without just cause or excuse, and with
17 the intent to inflict an injury, or under
18 circumstances that the law will infer, an evil intent.

19 Malice aforethought does not require that malice
20 exists for any particular time before the act is
21 committed, but malice must exist in the mind of the
22 defendant just before and at the time the act is
23 committed.

24 Therefore, there must be a combination of the previous
25 evil intent and the act.

Malice aforethought may be expressed or inferred.

These terms -- expressed and inferred -- do not mean different kinds of malice, but merely the manner in which the malice may be shown to exist, that is either by direct evidence or by inference from the facts and circumstances which are proved.

Express malice is shown when a person speaks words which express hatred or ill will or another, or when the person prepared beforehand to do the act which was later accomplished.

For example, lying in wait for a person, or other acts of preparation, going to show that the deed was within the defendant's mind, would be express malice. Malice may be inferred from the conduct showing a total disregard for human life.

If facts are proven beyond a reasonable doubt sufficient to raise an inference of malice to your satisfaction, this inference would simply be an evidentiary fact to be considered by you along with the other evidence in the case, and you may give it the weight you decide it should receive.

Specific intent to kill is an element of attempted murder. Intent means intending the result which actually occurs -- not accidentally or involuntarily.

1 Intent may be shown by acts and conduct of the
2 defendant, and other circumstances from which you may
3 naturally and reasonably infer intent.

4 Evidence of the character of the act, the
5 character of the instrument used, the manner in which
6 it was used, the purpose to be accomplished, and the
7 resulting wounds or injury may be considered in
8 determining the intent to which the act was committed.

9 Intent may also be inferred when it is
10 demonstrated that the defendant voluntarily and
11 willfully commits an act, the natural tendency of
12 which is to destroy another's life.

13 The defendant is also charged -- excuse me. The
14 Defendant's also charged with Possession of a Weapon
15 During the Commission of a Violent Crime.

16 The State must prove beyond a reasonable doubt.
17 The Defendant was in possession of a firearm or
18 visibly displayed what appeared to be a firearm during
19 the commission of the violent crime.

20 A firearm means any machine gun, automatic rifle,
21 revolver, pistol, or any weapon, which will, and is
22 designed to, or may be readily converted to expel a
23 projectile.

24 In order to find the defendant guilty of
25 Possession of a Weapon during the Commission of a

1 Violent Crime, you must first find the defendant
2 guilty of either committing a violent crime or
3 attempting to commit a violent crime. Attempted
4 murder is a violent crime.

5 The State must prove beyond a reasonable doubt
6 that the weapon further advanced or helped in the
7 commission of the crime.

8 An issue in this case is the identification of
9 the Defendant as the person who committed the crimes
10 charged. The State has the burden of proving identity
11 beyond a reasonable doubt.

12 You must be satisfied beyond a reasonable doubt
13 of the accuracy of the identification of the Defendant
14 before you may convict the defendant.

15 Identification testimony is an expression of
16 belief or impression by a witness. You must determine
17 the accuracy of the identification of the defendant.

18 You must consider the believability of each
19 identification witness in the same way as any other
20 witness you may consider.

21 You may also consider whether the -- the witness
22 had an adequate opportunity to observe the offender at
23 the time of the offense. This will be affected by
24 things like how long or short a time was available,
25 how far or close the witness was, the lighting
26 conditions, and whether the witness had the chance to

1 see or know the person in the past.

2 Once again, I instruct you: the burden of proof
3 on the State extends to every element of the crime
4 charge, and specifically includes the burden of
5 proving beyond a reasonable doubt the identity of the
6 defendant as the person who committed the crime.

7 If, after examining the testimony, you have a
8 reasonable doubt as to the accuracy of the
9 identification, you must find the defendant not
10 guilty.

11 Ladies and gentlemen, I have declared to you the
12 law through these instructions to help guide you to a
13 verdict. Whether some of these instructions apply
14 depends on what you find the facts to be.

15 The fact that I have instructed you on various
16 subjects in this case should not be taken as
17 indicating an opinion of this Court as to what you
18 should find to be the facts or what your verdict
19 should be.

20 Your verdict must represent the considered
21 judgment of each juror. In order to return a verdict,
22 it is necessary that each of you agree. Your verdict
23 must be unanimous. All twelve of you must agree on
24 the verdict.

25 Your verdict cannot be based on sympathy,

1 passion, prejudice, emotion, or any other
2 consideration not in evidence in this case.

3 Remember, at all times, you're not partisan,
4 favoring one party over another. You are the judges
5 of the facts.

6 Your sole interest is to determine whether the
7 State has proven the defendant's guilt to the charges
8 beyond a reasonable doubt from the evidence presented
9 to you in the case.

10 Ladies and gentlemen, again, as I told you, a
11 verdict must be unanimous. Madam Forelady, when you
12 agree on a verdict, I have three verdict forms here
13 for you.

14 You will circle the verdict, and you'll sign it
15 and date it. Then just knock on the door and let the
16 Bailiff know that you've reached the verdict. At that
17 time, we'll bring you back in for the verdict.

18 Now, I'm going to ask you to go back to your jury
19 room, but don't start deliberating just yet. We're
20 gonna get all the evidence together and send all that
21 back, and then you will be able to begin.

22 But don't discuss the case just yet until you
23 have all the evidence in there. We'll be back with
24 you very shortly.

25 And is lunch here yet?

1 MADAM CLERK: I believe it's here.

2 THE COURT: All right. We'll be with you very
3 shortly.

4 (The jury exits the courtroom.)

5 (The jury began deliberation at 1:30 p.m.)

6 Oh, I need the alternates. Any exception to
7 this charge from State?

8 MR. FOWLER: No, Your Honor.

9 THE COURT: Anything from defense?

10 MS. ZMROCZEK: Just the --

11 THE COURT: Yeah, other than your prior
12 objection, okay.

13 MS. ZMROCZEK: No, nothing new, Your Honor.
14 Thank you.

15 THE COURT: All right. I'm gonna go ahead and
16 --

17 MS. ZMROCZEK: Your Honor, I'm trying to make
18 sure that this evidence is correct before we send it
19 back.

20 (The Court Reporter, Counsels, and Madam Clerk go
21 over the evidence before sending it to the jurors.)

22 THE COURT: Okay. And I'm going to go ahead and
23 release the alternates.

24 MS. ZMROCZEK: Okay.

25 (The juror alternates enter the courtroom.)

1 THE COURT: All right, ladies. Y'all are done.
2 Since you are the alternates, and everybody is still
3 here and healthy, we don't need you anymore. So y'all
4 are excused.

5 I think you got lunch, so you might as well take
6 that free lunch because you're not going to get rich
7 off the check the Clerk is gonna send you. And we
8 appreciate your service. We can't do our jobs without
9 folks like you all being willing to show up, and --
10 and do the job.

11 You are free to talk about the case now.
12 Sometimes the lawyers like to talk to you. You don't
13 have to talk to them. But you're free to if you want
14 to. You can discuss it with your family.

15 You can hang around and watch for the verdict if
16 you'd like, or you can go on back about your lives.
17 But again, thank you very much for your service.
18 Again, we can't do what we do without folks being
19 here. You heard, I think the Solicitor might have
20 alluded to it, you know, this case was at sort of the
21 tail end of COVID. We're still digging out of that.
22 We took 10 months. You saw what's gotten done this
23 week.

24 This one trial and we took 10 months off of
25 court. So we're a little behind, but we're working

1 hard. So thank you all again for your service.

2 (The alternates were excused and court
3 was in recess while the jury deliberated at 1:36 pm.)

4 (A note was received from a juror at 1:45 pm.)

5 THE COURT: All right. We got everybody here?

6 MADAM CLERK: Yes.

7 THE COURT: Okay. We received a note that says,
8 we cannot get this disc/computer to work. I didn't
9 call you all back in, I just directed the Clerk to go
10 in there and give it a shot. But she was stumped as
11 well, so we need to figure out how we're going to make
12 that work.

13 All right, we're gonna make that Court's 8.

14 (Court's Exhibit 8 was marked for identification.)

15 (The jury continues deliberating at 1:48pm)

16 THE COURT: All right, sir. Can you bring the
17 jury in for me.

18 THE BAILIFF: (Complies.)

19 (The jury enters the courtroom at 2:30pm.)

20 THE COURT: All right, ladies and gentleman. I
21 got your question Madam Forelady about wanting to see
22 the orange poster chart. Unfortunately -- well, not -
23 - fortunately, unfortunately, either way. It was not
24 introduced into evidence and your deliberations have
25 to be confined to documents and exhibits that were