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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Edgefield County

Honorable Walton J. McLeod, IV, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BARRY WAYNE JONES,

APPELLANT

APPELLATE CASE NO. 2022-000046

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

FROM THE SEPTEMBER 7-8, 2021 PRETRIAL HEARING: DEFENDANT’S EXHIBIT NO. 1 (POOL ROOM ENHANCED VIDEO); DEFENDANT’S EXHIBIT NOS. 2-4 (PHOTOGRAPHS); DEFENDANT’S EXHIBIT NO. 11 (POOL ROOM ORIGINAL VIDEO); DEFENDANT’S EXHIBIT NO. 12 (PHOTOGRAPH); STATE’S EXHIBIT NO. 1-3 (VIDEO CLIPS); STATE’S EXHIBIT NOS. 4-19 (PHOTOGRAPHS).

FROM THE DECEMBER 3-13, 2021 TRIAL: STATE’S EXHIBIT NO. 8 (KATHMANN DASH CAMERA VIDEO); STATE’S EXHIBIT NO. 13 (POOL ROOM VIDEO); STATE’S EXHIBIT NO. 14 (POOL ROOM VIDEO); STATE’S EXHIBIT NO. 60 (DENSMORE BODY CAMERA VIDEO); DEFENDANT’S EXHIBIT NO. 71 (CD OF PHOTOGRAPHS); DEFENDANT’S EXHIBIT NO. 96 (CD OF VIDEO); DEFENDANT’S EXHIBIT NO. 97 (PHOTOGRAPH).

1 State of South Carolina) Court of General Sessions
2 County of Edgefield) Eleventh Judicial Circuit

3
4 State of South Carolina,) Transcript of Record
5 vs.) 2018-GS-19-00219
6 Barry Wayne Jones,) 2018-GS-19-00220
7 Defendant.) 2018-GS-19-00221
8) 2018-GS-19-00222
9) 2018-GS-19-00223
10) 2018-GS-19-00418

11
12
13 September 7th & 8th, 2021
14 Edgefield, South Carolina

15 B E F O R E:

16 The Honorable Walton J. McLeod IV, Judge

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

18 Samuel R. "Rick" Hubbard III, Eleventh Circuit Solicitor
19 Robert E. McNair III, Assistant Solicitor

20 On behalf of the State of South Carolina

21 Luke A. Shealey, Esquire
22 Brian R. Shealey, Esquire
23 Casey M. Secor, Esquire

24 On behalf of the Defendant

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Reported by: Stacy S. Johnson,
Circuit Court Reporter

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1 (The following proceedings were held September 7,
2 2021, beginning at 9:35 AM.)

3 BAILIFF: All rise.

4 THE COURT: Good morning, ladies and gentlemen.
5 Please be seated.

6 Do the motions first or --

7 MR. LUKE SHEALEY: Yes, sir. I think with all of
8 the witnesses here it probably makes more sense to start
9 with our immunity motion, if you don't mind.

10 THE COURT: Very well.

11 MR. LUKE SHEALEY: Your Honor, before we get going
12 here, I know our client will be interested in this, but
13 is there any way we can unshackle his hands throughout
14 this proceeding so he can write and -- and deal with us
15 better?

16 THE COURT: Any objection from the State?

17 MR. HUBBARD: Your, Honor I would defer to law
18 enforcement on that.

19 THE COURT: Yes.

20 THE DEPUTY: That's fine.

21 THE COURT: Okay. We'll do that.

22 MR. LUKE SHEALEY: And I guess I'll just make a
23 general request that any kind of factual witnesses that
24 might be around, we'd ask that they be sequestered as
25 long as they're not, you know, a victim or something

1 like that.

2 THE COURT: Okay. I don't have any problem with
3 that.

4 MR. HUBBARD: Your Honor, as far as that motion, we
5 don't have problem but we have our investigators here,
6 our lead investigators.

7 THE COURT: Very well.

8 All right. Are you ready to proceed?

9 MR. LUKE SHEALEY: Yes, sir, Your Honor.

10 THE COURT: All right.

11 MR. LUKE SHEALEY: Your Honor, this will be
12 regarding our motion for immunity under 16-11-440.

13 The defense would call Mr. Tony Friar to the stand.

14 THE COURT: Tony Friar.

15 THE CLERK: Raise your right hand and place your
16 left hand on the Bible.

17 (Whereupon, Tony Gordon Friar was duly sworn by
18 the Clerk of Court.)

19 THE CLERK: Thank you, sir. Please be seated.
20 State your full name and spell your last name for the
21 record.

22 THE WITNESS: Tony Gordon Friar. Last name's
23 spelled F-R-I-A-R.

24 TONY GORDON FRIAR,
25 having been duly sworn, testified as follows:

1 DIRECT EXAMINATION

2 BY MR. LUKE SHEALEY:

3 Q. Good morning, Mr. Friar.

4 A. How you doing?

5 Q. Mr. Friar, can you tell the judge how old you are,
6 where you're from?

7 A. I'm sixty-three years old from Johnston, South
8 Carolina.

9 Q. All right. Are you married? You got any children?

10 A. I'm married. I've got two grown kids and I have
11 custody of three teenagers.

12 Q. All right. Now are you working currently?

13 A. I'm helping at a small machine shop called Carolina
14 Machine. I retired from Savannah River Site, thirty-five
15 years, and I'm helping them down there just selling motors
16 part-time.

17 Q. All right. Now this case is about Mr. Barry Jones and
18 this case is also about Mr. Milledge Hall. Do you know
19 both of these individuals?

20 A. Yes, sir, I do.

21 Q. Tell us how you -- you know Mr. Hall.

22 A. I actually went to school with Milledge growing up and
23 I basically remember him through like the eighth grade as
24 far I can remember in school. We were pretty much the in
25 same class.

1 Q. All right. And he's about your same age?

2 A. I think he was a little bit older than me. I'm not
3 positive, but I think he was older than me.

4 Q. All right. And which school are we talking about?

5 A. It was Johnston Elementary at the time.

6 Q. All right. Did you have other schooling opportunities
7 to observe him?

8 A. I went to high school at Strom Thurmond, but I really
9 wasn't around him at any other time from middle -- from
10 elementary school.

11 Q. Okay. Now -- now growing up with Mr. Hall, what was
12 your -- your understanding of his reputation in this
13 community?

14 A. He -- he was kind of -- he liked to fight. That was
15 one thing he did. He did a lot of that in school.

16 Q. Is that stuff you observed?

17 A. Yes, sir.

18 Q. And that's just what your understanding of him was?

19 A. Yes, sir.

20 MR. McNAIR: Your Honor, I'm -- I'm gonna object to
21 this. If he's talking about fights in high school, that's
22 far too remote to be admissible in a hearing like this.

23 THE COURT: Well --

24 MR. McNAIR: That he fought in high school is not
25 relevant to what happened on May 7th of 2018.

1 THE COURT: Well, for the -- for the time being,
2 I'll allow the testimony, but we certainly don't need
3 to go any further back to elementary school for any
4 propensities.

5 MR. LUKE SHEALEY: Well, I understand, Your Honor.
6 Just under Rule 405(a), which is his reputation as he
7 knows in the community.

8 THE COURT: I -- I understand. That's why I'm
9 allowing that portion of the testimony.

10 Proceed on.

11 MR. LUKE SHEALEY: Yes, sir.

12 BY MR. LUKE SHEALEY:

13 Q. All right. Now I think you said that you went to a
14 different high school maybe?

15 A. No, I think he might -- I went to Strom Thurmond High
16 School. I just -- when you get to high school, everybody's
17 classes separate and I just didn't see him.

18 Q. Did you hang -- did you hang out or see Mr. Hall much
19 at that point?

20 A. No, sir.

21 Q. All right. Did you ever have an occasion to reconnect
22 with him or have him come into your contact?

23 A. Basically when -- I guess it was his grandson, I
24 coached reg league football -- eleven and twelve in
25 baseball, and his grandson played for me and that's when I

1 started back really seeing him. I'd see him pretty much
2 every day. He'd bring him to football practice.

3 Q. Okay. Who was his grandson?

4 A. Clayton Hall.

5 Q. Okay.

6 A. I think that was -- I think he's considered a
7 grandson, I'm not positive, but that's who he was bringing.

8 Q. Did you ever happen to witness any instances of
9 violent conduct during that occasion when you'd see him?

10 A. Well, he had -- one of my coaches, I can't remember,
11 disciplined Clayton for something, but --

12 MR. McNAIR: Your Honor --

13 THE COURT: Are we talking coaching when he was in
14 high school or the grandson?

15 MR. LUKE SHEALEY: Well, it's -- I think what the
16 witness testified to is seeing Mr. Hall bring his own
17 grandson to coach as an adult.

18 THE WITNESS: I coached his grandson.

19 MR. McNAIR: Your Honor, he can ask -- ask him
20 about his reputation for violence or something of that
21 nature, but he can't get into all these specific
22 instances of conduct. He can ask him about his
23 reputation -- the victim's reputation.

24 THE COURT: I'm mostly concerned of what age
25 bracket we're talking about here? We talked -- we

1 started in high school and then we moved to what I --
2 what I heard I thought was of the victim's grandchild
3 and that he brought his grandchild to a sporting event.

4 Is that correct?

5 MR. LUKE SHEALEY: Yes, sir. Maybe I can clear
6 this up.

7 BY MR. LUKE SHEALEY:

8 Q. Now were you a coach?

9 A. Yes, sir.

10 Q. What did you coach?

11 A. Eleven and twelve-year-old head coach football.

12 Q. All right. About what time you were doing this in
13 your life?

14 A. We started like 6:00 in the afternoon. Is that what
15 you mean?

16 Q. I mean, how long -- compared to you being sixty-three
17 years old here now, when was this?

18 A. I've coached since I was eighteen. That would have
19 been fifteen years maybe.

20 Q. Okay. And you knew Milledge -- I guess it's fair to
21 say you came back into contact with Mr. Hall at that point?

22 A. Yes, sir.

23 Q. And he's roughly your same age?

24 A. Yes, sir.

25 Q. So would he have been an adult male?

1 A. Yes, sir. He' was an adult.

2 Q. And I think you said he was bringing his grandson to
3 be coached by you?

4 A. Yes, sir. That's correct.

5 Q. And others?

6 A. Yes, sir.

7 Q. All right. And I'll ask you the same question again.
8 Did you ever have occasion to witness any violent actions
9 by Mr. Hall at that point?

10 A. Well, he actually called me up to his truck where he
11 was at, and I don't remember the incident, but something
12 happened with Clayton with one of the other coaches
13 disciplining him and he basically asked me that if I
14 couldn't take care of it he would come down and take care
15 of the problem and I told him no, it's no problem, and he
16 said I just want to make sure.

17 THE COURT: Yes, sir.

18 MR. NAIR: This is about whether Barry Jones was
19 reasonably in fear of losing his life or great bodily
20 injury. How is any of this pertaining to what he knew
21 on that day? We're going back on all these prior
22 instances involving the victim back from years ago.
23 It's way too remote to be relevant to this hearing today.
24 It has nothing to do about Barry Jones' state of mind on
25 May 7th. He can ask about his general reputation, but

1 he can't get into all the facts of all these specific
2 instances of conduct involving the victim.

3 MR. LUKE SHEALEY: Well, Your Honor, I -- I would
4 say that I think under 404(a)(2), character of the victim,
5 this is a pertinent trait of character that will be very
6 relevant in this hearing. I'm very confident the State
7 will say Barry is a bad guy who went there to pick a
8 fight with Milledge and we're gonna basically be
9 interjecting and showing evidence that Mr. Hall had a
10 reputation for fighting and a general reputation for
11 violence.

12 Are you --

13 THE COURT: No, no. I'm having him to hold off
14 while you're talking.

15 MR. LUKE SHEALEY: Oh, okay. And that this is a
16 guy that knows him well growing up and -- and that's
17 really all. I think we are pushing back on the idea
18 that Mr. Hall, you know, never -- never was looking for
19 any kind of trouble whatsoever, which is what I think
20 we're gonna hear in the State's case.

21 THE COURT: All right.

22 MR. LUKE SHEALEY: And I can -- I can move along
23 from this question.

24 THE COURT: Well, you've given a little bit of
25 historical background, okay, but -- I mean, I'm -- it's

1 just me here.

2 MR. LUKE SHEALEY: I know.

3 THE COURT: So apparently Mr. Hall -- the witness
4 is, you know, stating that Mr. Hall had some aggressive
5 tendencies perhaps, but is he a witness to the ultimate
6 charge here?

7 MR. LUKE SHEALEY: He is a witness to a specific
8 threat by Mr. Hall against our client in the weeks
9 preceding the shooting.

10 THE COURT: All right. Well, let's get all the way
11 there.

12 MR. LUKE SHEALEY: We will. Yes, sir, I will.

13 BY MR. LUKE SHEALEY:

14 Q. Now, Mr. Friar, you do know Mr. Barry Jones, right?

15 A. Yes, sir.

16 Q. All right. Tell this Court about how you know Barry
17 Jones.

18 A. Well, I've known Barry pretty much since he was a --
19 a kid, too. He used to live up in the same neighborhood I
20 did and his brother was the same age as me and Barry was
21 always out there playing with us and then when we got to
22 working at Savannah River Site, we rode together and
23 carpooled for maybe ten -- probably ten, twelve years.

24 Q. All right. So you knew him growing up and also
25 working at Savannah River Site with him?

1 A. Yes, sir.

2 Q. I think you said that was for ten years?

3 A. Approximately. We worked together longer than that,
4 but, I mean, riding together we -- we kept in touch the
5 whole time.

6 Q. All right. Did you know his wife?

7 A. Yes, sir, I did. We all worked in the same building
8 actually.

9 Q. So she worked at Savannah River Site too?

10 A. Yes, sir.

11 Q. Before her passing?

12 A. Yes, sir.

13 Q. Do you have any -- any personal knowledge about the
14 context of -- of if he stopped working at Savannah River
15 Site and why?

16 A. Yes, sir. I think after his wife, she had a bad
17 time --

18 MR. MCNAIR: Objection. Relevance.

19 MR. LUKE SHEALEY: It will be relevant in our case.
20 Very relevant.

21 THE COURT: Mr. Jones' wife?

22 MR. LUKE SHEALEY: The reasons for his leaving
23 Savannah River Site will become very relevant in our
24 case, Your Honor.

25 THE COURT: All right. Just restate the question

1 so I can understand the proper context.

2 BY MR. LUKE SHEALEY:

3 Q. Do you know -- do you know whether he was fired or
4 whether he retired from Savannah River Site?

5 A. He retired.

6 Q. Do you know why?

7 A. I just think after his wife he was kind of down and he
8 was just ready to go.

9 MR. McNAIR: Objection. Relevance.

10 THE COURT: Let's -- overruled. Let's move.

11 MR. LUKE SHEALEY: Yes, sir.

12 BY MR. LUKE SHEALEY:

13 Q. Now you weren't personally at this pool hall when
14 Mr. -- Mr. Hall was shot, were you?

15 A. No, sir.

16 Q. Are you aware that that was around May 7th of 2018?

17 A. Yes, sir.

18 Q. Did you ever get any phone calls when that occurred or
19 any people telling you what happened?

20 A. Yes, sir.

21 Q. Okay. But, again, you weren't there?

22 A. No, sir.

23 Q. Now did you have occasion to be there in the weeks
24 prior where you personally observed both Mr. Hall and
25 Mr. Jones there?

1 A. Yes, sir.

2 Q. As best as you can recall, how close in time was it to
3 May 7th?

4 A. I would say within a month. I don't remember the
5 exact time.

6 Q. Okay. And did you observe any -- well, first of all,
7 did you know that Mr. Hall was in -- was back in town at
8 that point?

9 A. Mr. Hall?

10 Q. Sorry. Mr. -- Mr. Jones.

11 A. No, sir, I did not.

12 Q. All right. Did you -- did he talk to you when you
13 were at the pool hall?

14 A. Yes, sir.

15 Q. Did you go to the pool hall a good bit?

16 A. No, sir.

17 Q. Okay. And, you know, did you see Mr. Hall there the
18 day when Mr. Jones was talking to you?

19 A. Yes, sir.

20 Q. All right. Now was there any specific threats or
21 problems that Mr. Hall expressed to you regarding Mr. Jones
22 that day?

23 A. Okay. When we got there, Barry came up to me and
24 talked. I hadn't seen him and, anyway, he went back and
25 sat back at the bar. Me and my wife and brother went and

1 sat in a -- over on the side. Anyway, Barry came over
2 there and sat down with us and Milledge was actually just
3 walking around in the building and when he come by Barry
4 said he doesn't like me at all and I said what's going on
5 with that and he basically said they'd had some beef and
6 that's when I found out that Milledge was thinking that
7 Barry had been fired and Barry said well, let me go back up
8 to where his girlfriend was. He went to back to the bar
9 and Milledge came and sat down with us and Milledge said
10 how good do you know him? I said I've known him all his
11 life. I said why? He's all right. He said well, didn't
12 he get fired out at Savannah River Site? I said no, sir,
13 he did not. He said well, I got something for him. He
14 said I don't like him. He did like this (demonstrating)
15 and said you know me, I got something for him. I said
16 Milledge, y'all ought to quit arguing, I said both of you,
17 all right? And that's -- I left it like that and didn't
18 hear no more until I heard about the shooting.

19 Q. All right. Let me back up just to be clear so the
20 Court can understand. So you happened to be there about a
21 month prior?

22 A. Yes, sir.

23 Q. And both these guys were there?

24 A. Yes, sir.

25 Q. And Barry's come to talk to you, I guess, because

1 y'all haven't seen each other in a while?

2 A. Yes, sir.

3 Q. And he -- he's bringing up the fact that, you know,
4 he's got a problem with Mr. Hall based on, I guess,
5 spreading a rumor about how he left Savannah River Site?

6 A. Yes, sir.

7 Q. And so I think you said you took an opportunity at
8 that point to go and talk to Mr. Hall about that?

9 A. That I did?

10 Q. Yes.

11 A. No, Mr. Hall came and sat down in the booth with my
12 wife and my brother and I.

13 Q. And I think he said well, why are you -- why are you
14 saying he got fired when he was retired; is that right?

15 A. Yes, sir.

16 Q. And what -- Mr. Hall told you what?

17 A. He said that's what I heard and I think that's what
18 happened and I said no, he didn't.

19 Q. All right.

20 A. I told him that twice.

21 Q. And did he make a reference to how he didn't care for
22 -- for Barry Jones?

23 A. Yes, sir.

24 Q. And I think I just saw you for the record --

25 A. Did his fist like that and he said you know me and I

1 said y'all don't need to get in a fight.

2 Q. And so for the record you're putting your hand in a
3 balled up fist and with the other hand and you're saying...

4 A. Yes, sir.

5 Q. And I think you said earlier that he said I've got
6 something for -- for Barry?

7 A. Yes, sir.

8 Q. All right. And -- and that was the only time you saw
9 them together prior to this incident?

10 A. Yes, sir. The reason I was there, Milledge -- I
11 usually would see him in the grocery store and he kept
12 telling me -- he said you haven't been up there to eat yet,
13 we've got great food, and so I finally got my wife and
14 brother and we went up there and that was the only time
15 we'd been up there to eat.

16 Q. All right.

17 MR. LUKE SHEALEY: I beg the Court's indulgence.

18 Mr. Friar, please answer any questions the State
19 has for you. I appreciate it.

20 THE WITNESS: Yes, sir.

21 THE COURT: Cross-examination.

22 CROSS-EXAMINATION

23 BY MR. McNAIR:

24 Q. Mr. Friar, your testimony is that Mr. Hall was mad at
25 Barry Jones because Barry Jones got fired from Savannah

1 River Site?

2 A. I -- that's the reason he gave me. I don't know what
3 went on between them, but that's what he was -- that was
4 the only thing he asked me about Barry. He said didn't he
5 get fired.

6 Q. He was mad Barry Jones got fired from the Savannah
7 River Site? Why does that pertain to Milledge Hall? Why
8 would Milledge Hall care about that?

9 A. I don't know what Milledge was thinking. All I know
10 is what he told me.

11 Q. And Barry Jones didn't care for Milledge Hall either,
12 did he?

13 A. Evidently not.

14 Q. And when Milledge told you or implied to you that he
15 wanted to fight Barry Jones --

16 A. Yes, sir.

17 Q. -- did you tell Barry Jones about that?

18 A. No, sir, I did not.

19 Q. You didn't tell your good friend that Milledge Hall
20 had something for him?

21 A. I didn't say anything to either one of them. I
22 assumed they were already arguing. I didn't go the pool
23 room except to eat. That's the only time I'd been around
24 him.

25 Q. Well, he was your good friend, wasn't he, that you

1 grew up with?

2 A. Yes, sir, but I hadn't seen him since he retired. He
3 was living in Georgia. I was living in --

4 Q. Well, you rode to work with him for twelve years,
5 right?

6 A. Yes, sir.

7 Q. You knew him and his wife?

8 A. Yes, sir.

9 Q. And you weren't concerned enough to tell him that
10 Milledge Hall had something for him?

11 A. I didn't really think anything about it at the time.
12 A lot of people get mad.

13 Q. So it wasn't a real threat in your mind then, was it?

14 A. I, mean, yeah. I --

15 Q. You -- you weren't concerned enough to tell your
16 friend because you didn't consider that a threat?

17 A. I mean, when he sat down and talked to me I'm pretty
18 sure he already knew that's what I would think. I mean, I
19 didn't think I was gonna have to tell him. They already
20 both --

21 Q. And what did you know about Millage Hall?

22 A. -- said they didn't like each other.

23 MR. LUKE SHEALEY: Objection. I'd ask that the
24 witness --

25 THE COURT: I've got it. Thank you. Let's just

1 -- to be fair with everyone, let's just try to let the
2 witness finish the question and if the witness will
3 please allow the attorney to finish their question and
4 let's not talk over each other. Thank you.

5 THE WITNESS: Yes, sir.

6 BY MR. McNAIR:

7 Q. What you testified to concerning Milledge Hall was
8 based on how -- what you knew about him in high school?

9 A. Elementary school. Yes, sir.

10 Q. Elementary. I'm sorry. Even further back?

11 A. Yes, sir.

12 Q. And based on what you knew from coaching his grandson
13 Clayton in Little League?

14 A. Yes, sir.

15 Q. People grow up, don't they?

16 A. Yes, sir.

17 Q. Do you act the same way now that you did in high
18 school?

19 A. Probably not.

20 Q. Well, you knew Barry Jones well, right?

21 A. Yes, sir.

22 Q. Was Barry Jones scared of a fight?

23 A. No, sir.

24 Q. Was Barry Jones scared of Milledge Hall?

25 A. No, sir, I wouldn't think so.

1 Q. And you weren't there that day?

2 A. No, sir.

3 Q. And would Barry Jones have been afraid of Milledge
4 Hall if Milledge Hall was six feet away from him?

5 MR. LUKE SHEALEY: Objection. Speculation.

6 THE COURT: He can answer the question. It's his
7 opinion. We've had a lot of opinion here.

8 THE WITNESS: I wouldn't think so, not -- no, sir,
9 not --

10 BY MR. McNAIR:

11 Q. Okay. Based on the person you knew -- you know, would
12 Barry Jones have been scared of Milledge Hall?

13 A. No, sir.

14 MR. McNAIR: No further questions, Your Honor.

15 MR. LUKE SHEALEY: Brief redirect?

16 THE COURT: Yes, sir.

17 REDIRECT EXAMINATION

18 BY MR. LUKE SHEALEY:

19 Q. Based on your opinion, would Milledge Hall as an adult
20 as you saw him in that pool hall that day with Barry react
21 the same as he did in school?

22 A. Pretty much, yes, sir.

23 Q. Based on your opinion, would it surprise you if he had
24 a gun that day?

25 A. I'm not sure about that. I mean, I wouldn't -- it

1 wouldn't surprise me I don't think.

2 Q. I mean, he is the owner of a pool hall, right?

3 A. Yes, sir.

4 Q. As far as you know, he was in charge of running that
5 and telling people who can be there and who can't be there?

6 A. Yes, sir.

7 Q. So, again, would it surprise you if he had a gun that
8 day?

9 A. No, sir.

10 Q. All right. Would that be in conformity with the
11 character of the guy you knew?

12 A. Yes, sir.

13 MR. MR. LUKE SHEALEY: All right. Thank you.

14 THE COURT: Any recross?

15 RECROSS EXAMINATION

16 BY MR. McNAIR:

17 Q. Have you ever seen Milledge Hall with a gun as an
18 adult?

19 A. No, sir.

20 Q. Did you know Milledge Hall to carry a gun?

21 A. No, sir. I really wasn't around him.

22 Q. Did you know Barry Jones owned a gun?

23 A. No, sir.

24 Q. You didn't know that Barry Jones owned guns?

25 A. No, I didn't know he still had guns.

1 Q. Would it surprise you that Barry Jones had a gun?

2 A. No, sir. I mean...

3 MR. McNAIR: No further questions, Your Honor.

4 THE COURT: All right. The witness may step down.

5 MR. LUKE SHEALEY: And if it's all right, I'd like
6 to go ahead and release him from his subpoena.

7 THE COURT: All right. State -- any objection from
8 the State to him being released? The witness.

9 MR. HUBBARD: What was that? I'm sorry.

10 THE COURT: Any objection to him being released?

11 MR. HUBBARD: No, sir.

12 MR. McNAIR: No, Your Honor.

13 THE COURT: Thank you, sir.

14 THE WITNESS: Thank you.

15 (Witness excused.)

16 THE CLERK: What's the name of the witness you're
17 calling?

18 MR. LUKE SHEALEY: Doug Lacey.

19 THE CLERK: L-A-C-E-Y?

20 MR. LUKE SHEALEY: Yes, sir.

21 THE COURT: How many witnesses do you expect to
22 call?

23 MR. LUKE SHEALEY: I think four today and maybe a
24 couple tomorrow.

25 THE COURT: Okay.

1 MR. LUKE SHEALEY: And not to presume to control
2 the schedule of the Court, I just think based on the --
3 I'm sorry. I thought that was the clerk. That's the
4 reason I was so flippant about it.

5 One will probably be our client, which I think
6 will be lengthy, and I have two who, based on their
7 schedules, that really -- one guy's working the night
8 shift and one's coming from out of state that really
9 tomorrow morning would be idea, so I think that will
10 probably be when we rest on this particular motion, but
11 obviously if Your Honor had time to kill this afternoon
12 or something and we could take up other matters, I would
13 have no complaint with that.

14 THE COURT: I mean, I'm -- I'm here for the week.

15 MR. LUKE SHEALEY: Yes, sir. Okay.

16 THE COURT: I just -- I'm sure y'all have already
17 talked about basic scheduling, but try to keep me
18 apprised of it as well.

19 MR. LUKE SHEALEY: Yes, sir. Thank you.

20 THE CLERK: Raise your right hand and place your
21 left on the Bible.

22 (Whereupon, Douglas Lacey was duly sworn by the
23 Clerk of Court.)

24 THE CLERK: Thank you, sir. Please be seated.

25 State your full name spell and your last name for

1 the record.

2 THE WITNESS: My name is Douglas Lacey. Last name
3 is spelled L-A-C-E-Y.

4 DOUGLAS LACEY,

5 having been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. LUKE SHEALEY:

8 Q. Good morning, Mr. Lacey.

9 A. Good morning.

10 Q. Where do you -- where do you live and work, Mr. Lacey?

11 A. I reside in Fredericksburg, Virginia, and I own a
12 company named BEK TEK, LLC, which is located in Stafford,
13 Virginia.

14 Q. All right. And what is it that you do at BEK TEK,
15 LLC?

16 A. I conduct analyses of audio and video recordings, as
17 well as video still images, whether they be used in
18 criminal or civil or administrative matters.

19 Q. All right. And -- let me back up. Where did you go
20 to high school?

21 A. High school?

22 Q. Yes, sir.

23 A. Colonial High School in Orlando, Florida.

24 Q. All right. I assume you went to college?

25 A. I did.

1 Q. Where did you go to college and what is your degree
2 in?

3 A. I attended the University of Florida for three years
4 in Gainesville, Florida, transferred to the University of
5 Miami, where I graduated in 1996 with a bachelor of science
6 degree in electrical engineering.

7 Q. Okay. Do you have any additional further schooling?

8 A. I do.

9 Q. And what is that?

10 A. In 2019, I earned a master of science degree in
11 recording arts with an emphasis in media forensics from the
12 University of Colorado Denver.

13 Q. Okay. And I'm looking -- I've got a copy of your CV
14 that you provided me and that I provided the State, but
15 have you worked most of your professional career in the --
16 in the field of video and audio forensic enhancements
17 analysis?

18 A. Yes, generally in forensics. Initially while employed
19 at the FBI, I was a forensic audio examiner and so my
20 primary focus was on audio recordings and since leaving the
21 FBI in 2003 working with BEK TEK, LLC, under the ownership
22 of my mentor, we branched out in conducting analyses of
23 video recordings and still images as well.

24 Q. Okay. And how long were you with the FBI?

25 A. For just under seven years.

1 Q. Are you a member of any organizations or have you ever
2 presented on any of these topics that you're describing?

3 A. Yes, I have.

4 Q. All right. Have you ever testified and been qualified
5 as an expert in court before?

6 A. Yes, I have.

7 Q. And just approximate for the Court today about how
8 many times.

9 A. This is my fifty-sixth opportunity to testify to my
10 work.

11 Q. All right. And, again, what typically are the fields
12 that you're -- you've been qualified in?

13 A. Audio enhancement, audio authentication, video
14 enhancement, video authentication, image enhancement, image
15 authentication, as well as signal analysis examinations.

16 Q. All right.

17 MR. LUKE SHEALEY: Your Honor, at this time I
18 would seek to qualify Mr. Lacey as an expert in video
19 enhancement.

20 THE COURT: Video enhancement.

21 Any questions from the State?

22 MR. HUBBARD: No objection at this time, but I
23 understand it's just for the enhancement purposes, it's
24 not interpretation of what's seen.

25 MR. LUKE SHEALEY: That correct.

1 MR. HUBBARD: No objection.

2 THE COURT: All right. The witness will be
3 qualified in the area of video enhancement for the
4 purposes of this hearing.

5 MR. LUKE SHEALEY: Yes, sir.

6 THE COURT: Go ahead.

7 BY MR. LUKE SHEALEY:

8 Q. And, Mr. Lacey, did I engage to employ you on this
9 case?

10 A. Yes, you did.

11 Q. All right. And during the course of that, did I send
12 you via a shared DropBox link some videos of this pool room
13 incident?

14 A. Yes, you did.

15 Q. Okay. And obviously you weren't there, you have no
16 dog in this fight and you're living in Virginia, right?

17 A. Correct.

18 Q. Did I ever ask you to alter these videos in any way,
19 shape or form?

20 A. No, you did not.

21 Q. Okay. Now did I -- but I did ask you though to
22 enhance as best you could certain portions of the video.
23 Did I ask you to do that?

24 A. Yes, you did.

25 Q. And I designated those for you?

1 A. Yes.

2 Q. Okay. And can you describe to the Court the type of
3 methods you'd use generally to enhance a video in this case
4 or enhance a still image in this case?

5 A. Using one or two pieces of software processes would be
6 applied to the video content in an effort to, in a simple
7 way, adjust the brightness and contrast of the pixels that
8 comprise the image so the details that may be in shadowed
9 areas or blurred may be more readily visible through the
10 enhancement process.

11 Q. Okay. Is that generally, all that type of work, used
12 to aid the viewer of either these videos or still images?

13 A. Yes.

14 Q. Okay. And you have the ability to zoom in by a
15 certain percentage, I guess, as well as part of this,
16 right?

17 A. Yes.

18 Q. Okay. I want to show you on the screen and just --
19 now let me ask you this. Did I prior to court give you a
20 thumb drive that is now plugged into my computer to ask you
21 to look at all the video enhancements that we have done and
22 are seeking to admit today?

23 A. Yes, those that you had specified in a -- in a folder
24 for today, yes.

25 Q. And did you -- did you confirm your own forensic

1 analyses or method that those are, in fact -- that's the
2 work you did and I didn't alter it in any way?

3 A. Yes, I verified that the files you had selected were
4 files that I had produced directly myself.

5 Q. Okay. And I've got this -- this flash drive with
6 several enhanced -- there's several videos that are broken
7 down in what I've called enhanced exterior. Are all those
8 the same files that you've confirmed that you enhanced for
9 me?

10 A. Yes, these -- I've confirmed that I produced these
11 files. The conformation was earlier this morning, yes.

12 Q. Right. And I've got another folder here, enhanced
13 interior, with Mr. Hall exiting. I mean, just to get to
14 the point, you've viewed all these and confirmed that's the
15 work you did for me; is that right?

16 A. Yes, I did.

17 Q. Without alteration?

18 A. Correct.

19 Q. All of this without alteration other than enhancing it
20 for the viewer, correct?

21 A. Yes. In these particular images, I did crop down to a
22 particular visible portion of the camera view and enlarged
23 that portion, so content that's outside of the cropped area
24 is not included in these particular images. I just want to
25 clarify that.

1 Q. Right. And that's based on my specific request of
2 you, right?

3 A. Correct.

4 Q. And that describes how -- 36X is how enlarged it is?

5 A. Yes, it's -- what that means is it's been multiplied
6 by six times on each dimension, width and height, so
7 thirty-six times is by area.

8 Q. Okay. When you see bicubic, is that a type of filter
9 you apply?

10 A. When -- when an image is enlarged, pixels have to be
11 added and the image and the method by which those pixels
12 are added and the colors of those new pixels is defined by
13 what's called a bicubic algorithm. It's a mathematical
14 algorithm that determines what colors those new pixels need
15 to be.

16 Q. Okay. Now did I ask or did you for lack of -- kind of
17 in laymen's terms, photoshop or put any -- or alter in any
18 way the videos in this case? Did you add any items to this
19 video file?

20 A. I added no content to the image.

21 Q. That's what I'm getting at.

22 A. The video frames themselves, that's correct.

23 Q. Okay.

24 MR. LUKE SHEALEY: Your Honor, at this time I would
25 seek to introduce what Mr. Lacey has identified as the

1 enhanced video work that he's done in this case, which
2 would be all of these items under the pool room enhanced
3 file. The only other item on this is the pool room
4 original, which he didn't work on, which was produced
5 by the State, and body cams, which were produced by the
6 State.

7 So I would seek to introduce the pool room enhanced
8 file on this flash drive to work -- work with and show
9 the various witnesses.

10 THE COURT: Has he enhanced all -- all of those
11 videos?

12 MR. LUKE SHEALEY: No, he has not.

13 THE COURT: Just the -- okay.

14 MR. LUKE SHEALEY: He's only enhanced the ones in
15 this file. I didn't ask him to enhance any others.

16 THE COURT: Okay. All right. Enhanced --

17 MR. LUKE SHEALEY: It's the enhanced -- this is a
18 file called pool room enhanced, which has his various
19 enhanced exterior and interior photos and videos.

20 THE COURT: All right.

21 MR. LUKE SHEALEY: What's also on this flash drive,
22 which I imagine will likely be into evidence, are body
23 cams from law enforcement, which he did not enhance, and
24 then the original pool room videos which were provided
25 by the State.

1 THE COURT: All right. Any objection from the
2 State?

3 MR. HUBBARD: Your Honor, I do have a question
4 about -- if I may ask the witness?

5 VOIR DIRE EXAMINATION

6 BY MR. HUBBARD:

7 Q. This mathematical algorithm, your testimony is it
8 does, in fact -- whether you do it, that this algorithm
9 that you used has it added to the original pictures that
10 we're gonna see?

11 A. It -- it creates pixels when I create the enlargement
12 based on existing content in the image, yes.

13 Q. It adds to the existing content. It's an algorithm
14 that tries to figure out if it needs to add what color,
15 what pixel and where?

16 A. Yes. When you say where, if I can give a simple
17 example.

18 Q. Sure.

19 A. If I have a two by two image, two squares by two
20 squares, and I double each dimension, I now have four by
21 four. So for each one pixel that I had in my original
22 image, I now have three additional pixels between the
23 existing pixels that need to be created and it's created
24 through an algorithm based on the color values of the
25 surrounding pixels that were in the original image.

1 Q. But it's fair to say and it's true to say that
2 the original image you got when it's enhanced even if
3 it's by an algorithm, it's not you selecting it, it's a
4 mathematical algorithm, it is added to the original picture
5 or the original image it's added to?

6 A. Yes. The enlargement adds those pixels. The bicubic
7 method is one method. Another method is nearest neighbor
8 for how those pixels are -- the color values of those
9 pixels are determined.

10 Q. And for that reason -- I mean, it's -- it's a
11 mathematical formula. It is -- it is -- and I guess you
12 could even say may or may not even actually be accurate.
13 It's supposed to be a good algorithm, I get that, but
14 theoretically it could be wrong?

15 A. It's -- again, there are other methods.

16 Q. Sure.

17 A. There's no accuracy that can be assessed for that
18 particular algorithm. It conducts what it conducts based
19 on the content of the original image. It doesn't pull
20 content from something that was outside the original image.

21 MR. HUBBARD: Your Honor, I guess my question's
22 gonna be under State v. Jones, the reliability of a
23 process that needs to be established, not the reliability
24 of the witness. I believe he's an expert. I don't
25 believe he's trying to say anything dishonest, but this

1 is a process that takes one picture -- and I understand
2 enhancement, I get that, but if we're gonna draw
3 conclusions from something that has been altered as
4 opposed to just enlarged, I'd like to know what that
5 process is and if it's reliable under State v. Jones.

6 THE COURT: All right. At the appropriate time,
7 we'll be able to see both the enhanced and the originals;
8 will we not?

9 MR. LUKE SHEALEY: That's correct.

10 THE COURT: So, I mean, that -- I mean, I under --
11 I mean, I heard the same language about adding pixels,
12 so, I mean, I'd like to see it now, but obviously at
13 some point the factfinder has to be able to see both,
14 right?

15 MR. LUKE SHEALEY: I'm certainly planning on
16 introducing it. I certainly imagine the State will
17 be.

18 THE COURT: Yeah. Well, I haven't seen anything
19 at this point, so we're starting off with the enhanced
20 and that's fine.

21 MR. LUKE SHEALEY: Sure. And we've got witnesses
22 that we're gonna show it to.

23 THE COURT: Sure.

24 VOIR DIRE EXAMINATION

25 BY MR. LUKE SHEALEY:

1 Q. But, Mr. Lacey, let me follow up with some of my own
2 questions based on some of the Solicitor's concerns. You
3 know, this is a photo that you've cropped and zoomed in and
4 enhanced. Now are your -- I'm not asking you to describe
5 what is in Mr. Hall's hand there, but is your algorithm and
6 filters and the things that you learned at the FBI, is that
7 gonna put a black object in that man's hand?

8 A. No. Again, it -- certainly the enhancement will not
9 do that. The enlargement will not do that other than it
10 creates new pixels based on content that's already in the
11 original image.

12 Q. But this -- these techniques you used, are they
13 designed to, for lack of a better word, bring out the truth
14 or aid a viewer to see the truth in terms of a clearer
15 image from perhaps less good material to work with?

16 A. I'm sorry. Can you rephrase?

17 Q. Does this generally aid the viewer?

18 A. The bicubic -- specifically the bicubic algorithm for
19 the enlargement process, it -- it creates a -- what I would
20 say a more visually appealing image rather than something
21 that is pixillated based on the original pixels. It's --
22 it's an optional method for, again, the enlargement process
23 alone.

24 MR. HUBBARD: Again, Your Honor, I --

25 MR. LUKE SHEALEY: Can I finish my --

1 MR. HUBBARD: Well, I'm just gonna object on that,
2 okay? That's kind of my point. I understand for a lot
3 of things when you enhance something it does make it
4 visually appealing. This isn't about what's appealing.
5 The initial question was as to truth. The answer was
6 it makes it more visually appealing. I'm worried about
7 the process and, again, that's why I go back to
8 State v. Council, State v. Jones, the five factors of
9 reliability. I think that has to be established.

10 MR. LUKE SHEALEY: Your Honor, this is a man that's
11 been qualified in courts all across the nation. I don't
12 think -- and I can ask him. I don't think he means
13 appealing as I like it better, I think he means appealing
14 to the viewer in terms of being able to see what's going
15 on.

16 BY MR. LUKE SHEALEY:

17 Q. Mr. Lacey, am I putting words on your mouth or is that
18 what you mean by visually appealing?

19 A. Right. It's not that it pleases me more in viewing
20 it. It's -- it takes the original pixelation of the video,
21 of the image, and softens the edges of that pixillation in
22 the enlargement process.

23 I have also produced nearest neighbor enlargements of
24 these images. I don't know that I've done it with this
25 particular image, but the nearest neighbor will simply

1 duplicate pixel colors when the enlargement process is
2 conducted.

3 Q. All right. And so, again, you running through this
4 bicubic --

5 THE COURT: Mr. Shealey, if I could, if y'all could
6 just approach.

7 MR. LUKE SHEALEY: Sure.

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

9 THE COURT: Okay. Both parties had a chance to
10 talk to the witness. You were in the middle of a question
11 and I cut you off. I don't remember exactly where you
12 were, but if you want to pick up...

13 MR. LUKE SHEALEY: Well, I honestly can't remember.
14 Think we were --

15 THE COURT: Are we to the point where we're ready
16 to --

17 (Discussion between the Court and the Clerk of
18 Court.)

19 MR. LUKE SHEALEY: Are you ready, Judge?

20 THE COURT: Yeah.

21 MR. LUKE SHEALEY: Okay.

22 CONTINUED DIRECT EXAMINATION

23 BY MR. LUKE SHEALEY:

24 Q. Mr. Lacey, I think I was asking you about when you
25 meant by appealing nature of certain -- you know, bicubic

1 versus others, now -- and I think I said when you mean
2 appealing, it's not just that it's fun to look at, I was
3 asking if that meant that it helps aid the viewer, meaning
4 appealing to the viewer so they can see better what's going
5 on, right?

6 A. The bicubic method would, again, soften the
7 transitions between the pixels when it's enlarged versus
8 seeing the pixels and the sharp edges between them when it
9 is enlarged through the nearest neighbor method.

10 Q. Okay.

11 A. That's about as best as I can explain it.

12 Q. All right. And, again, you didn't add content to
13 these images, right?

14 A. I did not add content to the images, but during the
15 enlargements pixels did have to be added one way or
16 another.

17 Q. And are these the types of techniques that you've used
18 in being qualified to show in courts across this nation
19 before?

20 A. Yes. Bicubic is a common algorithm when enlarging an
21 image.

22 Q. Does the FBI use this type of algorithm?

23 A. They have, yes.

24 MR. LUKE SHEALEY: Your Honor, at this time I would
25 seek to introduce these specific enhanced images that are

1 on this flash drive described as pool room enhanced. I
2 think he's been qualified as an expert and described what
3 he's done to them to aid the viewer.

4 THE COURT: And to be clear, you're only talking
5 about that one folder that you're --

6 MR. LUKE SHEALEY: This folder, pool room enhanced,
7 that was on this flash drive of the body cams, and then
8 pool room original.

9 THE COURT: But are you able to submit it as a
10 separate exhibit without all the other things on it?

11 MR. LUKE SHEALEY: I can. I can just remove
12 them if the Court has an objection if it's with the pool
13 room original and --

14 THE COURT: We don't have to do that this minute,
15 but for the long-term file that's what we need to do.

16 MR. LUKE SHEALEY: Yes, sir. Absolutely.

17 THE COURT: So for the purposes of the hearing
18 we're in and subject to the State's objections as
19 previously noted, it's admitted for this hearing.

20 MR. LUKE SHEALEY: Yes, sir. Thank you.

21 Mr. Lacey, I don't have any further questions for
22 you at this time as you were not there you and you've
23 described your work.

24 Thank you very much.

25 MR. HUBBARD: No more questions.

1 THE COURT: All right. Do you want to play it
2 now?

3 MR. LUKE SHEALEY: I'm gonna play it through
4 other witnesses, Your Honor.

5 THE COURT: Okay.

6 MR. LUKE SHEALEY: People that were there.

7 THE COURT: Very well.

8 MR. LUKE SHEALEY: You can be excused, Mr. Lacey.

9 THE COURT: Oh, yes. Excuse me. The witness may
10 step down.

11 (Witness excused.)

12 (Defendant's Exhibit Number 1 was marked for
13 identification.)

14 MR. LUKE SHEALEY: Mr. Yonce, if you'd take the
15 witness stand. Go right around this way, please.

16 THE CLERK: Raise your right hand and place your
17 left hand on the Bible.

18 (Whereupon, Randy Yonce was duly sworn by the Clerk
19 of Court.)

20 THE CLERK: Thank you, sir. Please be seated.
21 State your full name and spell your last name for the
22 record.

23 THE WITNESS: Randy Yonce, Y-O-N-C-E.

24 RANDY YONCE,

25 having been duly sworn, testified as follows:

1 DIRECT EXAMINATION

2 BY MR. LUKE SHEALEY:

3 Q. Okay, Mr. Yonce. Can you tell the Court how old are
4 you and where you're from?

5 A. I'm sixty-nine years old and I live in Johnston, South
6 Carolina.

7 Q. All right. And what do you -- do you work still?

8 A. No, I'm retired. I've been retired I think eleven
9 years.

10 Q. All right. Where did you retire from?

11 A. Savannah River Site.

12 Q. All right. Did you have occasion to know Mr. Barry
13 Jones over there?

14 A. Yes, I met him at the pool room. He's -- he's younger
15 than me, so I didn't know him growing up.

16 Q. And at the pool room, who -- when you were going to
17 the pool room, who was involved in owning or running the
18 pool room?

19 A. Milledge's grandson and his wife were running it.

20 Q. Okay. And Milledge, was he also around -- involved in
21 running or a partial owner? Do you have any knowledge on
22 that?

23 A. He was in there a lot. I assume he was, you know,
24 involved in it.

25 Q. Does Milledge go by any nicknames that you're aware

1 of?

2 A. I don't think -- I always knew him as Milledge.

3 Q. Okay. Okay. Now would you -- would you describe
4 yourself as a regular patron of that pool room?

5 A. Yes, I used to go in there a good bit, you know, like
6 on Mondays and Tuesdays.

7 Q. All right. And would you regularly see Mr. Jones in
8 there on Mondays and Tuesdays?

9 A. Yes.

10 Q. All right. Would there be any other gentlemen that
11 would regularly kind of meet on Mondays and Tuesdays?

12 A. Yeah, it was generally four, five or six people. You
13 know, it was a different mix, but there were some four,
14 five or six people who were regulars I guess you'd say.

15 Q. Kurt Koss (ph.)?

16 A. Yes.

17 Q. Who else would meet with you?

18 A. Kurt Kelps (ph.), Kenny Hutchins, Nick Waites. I
19 don't know. I don't know. Just -- that's the ones I can
20 recall offhand that were generally in there.

21 Q. All right. Now you were there the day of May 7, 2018,
22 right, at some point?

23 A. Yes. Yes.

24 Q. Now I think you were not there during the shooting
25 incident; is that right?

1 A. No, I was not. I left earlier.

2 Q. Okay. But you were there earlier that day?

3 A. Correct.

4 Q. And did you see Mr. Barry Jones?

5 A. Yes.

6 Q. And, I guess, you were -- would you have been there
7 with the other gentlemen you described?

8 A. Correct.

9 Q. And that was a Monday?

10 A. Yes, I think that was Monday.

11 Q. All right. Did you have occasion to see Mr. Milledge
12 Hall there?

13 A. Yes, I think he was there.

14 Q. All right. Now did you personally observe
15 Mr. Milledge Hall or Mr. Barry Jones interacting at all
16 whatsoever during your -- your observations that day?

17 A. No, I don't recall that.

18 Q. All right. Do you recall -- you don't recall -- well,
19 what was your recollection of Mr. Hall -- or Mr. Jones'
20 general demeanor?

21 A. Nothing too much out of the ordinary that I recall.

22 Q. All right. Was he -- do you recall who he was dating
23 at the time?

24 A. Yes. Her name was Angie. I'm not sure what her last
25 name was.

1 Q. Does Angie Smith sound right?

2 A. Yes. Yeah.

3 Q. All right. And do you recall Mr. -- Mr. Jones and
4 Angie arriving together and being together there?

5 A. Most of the time that I recall when Barry was up there
6 when I was there he was there by himself. I think on
7 occasions he would leave -- you know, when we would leave,
8 he would go home sometimes and bring her back up there like
9 at night.

10 Q. Okay. Do you recall them sitting separately that day?

11 A. Yes.

12 Q. Okay. Do you recall him having any concerns about
13 Angie that day?

14 A. Yes.

15 Q. All right. What do you recall?

16 A. Well, he -- I think a couple of people that were
17 sitting near me left and I ended up sitting beside Barry
18 and Barry was there and Angie came in the door and he kind
19 of looked around and said something to the effect of oh,
20 hell, here comes Angie, which surprised me because I
21 thought they were together, and then he said something to
22 the effect of no, no, we're not together anymore, and then
23 after a few minutes he would say I think Angie's gonna
24 start some trouble and he -- and he told me watch my back
25 now, Angie's gonna start some trouble, she's gonna come

1 over here and start some trouble, and I said well, Barry, I
2 can see her over there, she's just sitting over there at
3 the other part of the bar.

4 Q. All right.

5 A. And it wasn't too much longer I said well, I'm
6 leaving, you know, and so I -- I paid my tab and Barry said
7 something to the effect well, I'm leaving when you leave,
8 so we both exited, you know, about the same time.

9 Q. All right. So it sounds like he had some concerns or
10 problems with Angie that day based on what you recall?

11 A. Yeah, I suppose, which surprised -- I didn't know any
12 -- any of this was going on.

13 Q. You weren't -- you weren't privy to any kind of
14 personal relationship problems between them, right?

15 A. Not that I knew of.

16 Q. You didn't hear him, you know, expressing concerns
17 about Milledge that day, right?

18 A. No.

19 Q. And did you hear Milledge expressing concerns about
20 Mr. Jones that day?

21 A. No.

22 Q. All right.

23 A. Barry was over near where I was and Milledge, I think,
24 was sitting over on the other part of the bar.

25 Q. All right. I'm gonna play for you a video and ask --

1 ask if you recognize it. I can go ahead and tell you that
2 it's from the day we're talking about. If you can look at
3 the screen I think that will help you.

4 Do you recognize is that guy walking out in the orange
5 shirt? Maybe that was a bad view for you, but...

6 A. I guess it's Barry or me one. I can't -- I can't tell
7 from the back.

8 Q. I bet you recognize this guy walking out.

9 A. Yeah, that's me.

10 Q. That's you right there smiling?

11 A. Yes.

12 Q. All right. So, like you said, you and Barry walked --
13 walked out around the same time is what you remember?

14 A. Yes.

15 Q. And I guess you were -- would you have been sitting
16 kind of to the front right at a little -- a little bar area
17 in that place?

18 A. Correct.

19 Q. Okay. And I think you said that Angie was sitting
20 somewhere further away. She wasn't sitting right with
21 y'all and -- and Mr. Jones, right?

22 A. Correct.

23 Q. I'll play the rest of this video.

24 Do you walk out and just go to your car and leave for
25 the day?

1 A. That's correct.

2 Q. And we see a timestamp up there that says May 7, 2018.

3 Do you see that?

4 A. Yes.

5 Q. And I think it looks like it says 5:31, right?

6 A. Yes.

7 Q. All right.

8 MR. LUKE SHEALEY: I beg the Court's indulgence.

9 Mr. Yonce, I don't have anything more for you.

10 Please answer any questions that the State has for you.

11 THE COURT: Cross-examination.

12 CROSS-EXAMINATION

13 BY MR. McNAIR:

14 Q. Mr. Yonce, how you doing?

15 A. Fine.

16 Q. You don't know whether or not the time on that video
17 is correct, do you?

18 A. No, I can't say for certain it's correct. I would
19 think it's about the correct time.

20 Q. You're speculating on that. You have no idea, right?

21 A. I think in general it's close to what it was. I can't
22 -- I can't tell you exactly.

23 Q. Isn't it true that you left around 6:25 PM that day?
24 Does that sound about right?

25 A. Maybe. I don't know. I -- I just don't --

1 Q. But it's possible you could have left around 6:25 and
2 not 5:31 as the video shows?

3 A. It's unlikely because I don't usually stay there that
4 long.

5 Q. But you have -- you said -- it's your testimony you
6 have no idea exactly what time you left?

7 A. Correct, I don't.

8 Q. Okay. Now who owned the Johnston pool room?

9 A. I thought Milledge's grandson and his wife owned it,
10 but...

11 Q. Clayton Hall?

12 A. Yes.

13 Q. And his wife?

14 A. Uh-huh.

15 Q. And Milledge was Clayton's grandfather, correct?

16 A. Yeah. I think so, yeah.

17 Q. How often would you go to the pool room?

18 A. Pretty much once or twice a week normally on like
19 Monday -- or Mondays and Tuesdays.

20 Q. Would you typically see Milledge there?

21 A. Yes.

22 Q. Okay. And would you see Milledge go behind the bar
23 and do things of that nature from time to time?

24 A. Yeah, possibly.

25 Q. Were you aware that Milledge Hall invested money in

1 the business?

2 A. I figured he probably did, yeah.

3 Q. Did he conduct himself like a normal patron or as a
4 part owner of the business?

5 A. I don't know. It's hard to say. I mean, most of the
6 time he was not behind the bar as I recall. He was sitting
7 on a stool like most customers.

8 Q. Did you believe Mr. Hall had a superior right to be
9 at that bar than you did based upon his relationship to
10 Clayton?

11 A. Say that again now.

12 Q. Milledge Hall was not a normal patron at that bar.
13 Would you agree with me on that?

14 A. Yeah.

15 Q. You were. You were a normal patron that went there
16 to have a few drinks and get something to eat or whatever,
17 correct?

18 A. Right.

19 Q. Okay. But Milledge Hall was something more than that?

20 A. Yeah. I mean, he was up there a lot, yeah.

21 Q. And you testified that on the day of this incident,
22 the day that you talked to Barry Jones, he was talking
23 about Angie starting trouble and you've testified that
24 you saw Angie across the bar and she didn't appear to be
25 starting any type of trouble to you; is that correct?

1 A. Correct.

2 Q. Now were you up there at the bar -- this was a Monday.
3 Were you up there on the Saturday night prior?

4 A. No.

5 Q. Did you ever talk to anybody about what happened on
6 the Saturday night prior?

7 MR. LUKE SHEALEY: Objection.

8 THE COURT: Overruled.

9 BY MR. McNAIR:

10 Q. Did you ever speak to Milledge Hall about Mr. Jones?

11 A. No, not that I recall.

12 Q. Did you talk to Mr. Jones more than you did Milledge
13 Hall?

14 A. I don't know. I mean, I -- I talked -- typically
15 Barry would be sitting over there by us, but I've also been
16 in there plenty of times and been sitting near Milledge,
17 so, yeah, I've talked -- talked to both of them.

18 Q. Did you know how Mr. Hall felt about Barry Jones being
19 at the bar?

20 A. No.

21 MR. McNAIR: I've got nothing further, Your Honor.

22 THE COURT: Redirect.

23 MR. LUKE SHEALEY: Briefly.

24 REDIRECT EXAMINATION

25 BY MR. LUKE SHEALEY:

1 Q. So on that point, I mean, you didn't see any
2 indication from management or Mr. Hall that day when you
3 were there that Mr. Jones was not allowed to be there?

4 A. No, I didn't know that.

5 Q. And I think you said you saw Milledge up there a good
6 bit, right?

7 A. Yes.

8 Q. And I think under some questions you admitted that
9 maybe he had more of a right to be there or something like
10 that due to his family owning the bar?

11 A. Correct.

12 Q. But he was a routine customer?

13 A. Yes.

14 Q. Was he regularly drinking when you were there?

15 A. Mr. Hall?

16 Q. Yeah.

17 A. Yeah. I suppose so, yeah.

18 Q. It's a pool hall, right?

19 A. Yeah.

20 MR. LUKE SHEALEY: I don't have any further
21 questions.

22 THE COURT: Any recross?

23 MR. McNAIR: Nothing further, Your Honor.

24 THE COURT: All right. The witness may step down.

25 (Witness excused.)

1 MR. LUKE SHEALEY: Can this gentlemen be released
2 from his subpoena?

3 THE COURT: Any objection?

4 MR. HUBBARD: No.

5 THE COURT: All right. He's so released.

6 MR. LUKE SHEALEY: Your Honor, the next witness
7 is somewhat a lengthy one, can we take five minutes?
8 The next witness is my client. It's a little bit
9 lengthy. Can we maybe get like a five-minute break?

10 THE COURT: That's fine. We'll take a short
11 recess.

12 (Recess taken at 10:37 AM.)

13 (Defendant's Exhibit Number 2 through 10 were
14 marked for identification.)

15 (Back on the record at 10:47 PM.)

16 BAILIFF: All rise.

17 THE COURT: Thank you.

18 Is the defense ready?

19 MR. LUKE SHEALEY: Yes.

20 THE COURT: Is the State ready to proceed?

21 MR. HUBBARD: Yes, sir.

22 MR. LUKE SHEALEY: I next call Barry Jones.

23 THE CLERK: Raise your right hand and place your
24 left hand on the Bible.

25 (Whereupon, Barry Wayne Jones was duly sworn by

1 the Clerk of Court.)

2 THE CLERK: Thank you, sir.

3 Please be seated. State your full name and spell
4 your last name for the record.

5 THE WITNESS: Barry Wayne Jones, J-O-N-E-S.

6 BARRY WAYNE JONES,

7 having been duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. LUKE SHEALEY:

10 Q. Barry, good morning.

11 A. Good morning.

12 Q. Will you tell the Court where you're from, how old
13 you are, what your education level is.

14 A. Well, I grew up in Johnston and I went to high
15 school at Wardlaw Academy. I went -- from there I went
16 to Lander College in Greenwood, South Carolina, and got
17 my business of science in business administration and I
18 majored in management.

19 Q. Okay. How old you are today?

20 A. I'm fifty-seven.

21 Q. All right. And you're from Johnston. Do you have
22 any children?

23 A. No, me and my wife weren't able to have any children.

24 Q. Okay. So after -- let's just say after graduating
25 high school and after going to Lander, where, if anywhere,

1 did you work?

2 A. Well, after Lander I got hired on at Savannah River
3 plant I think at age twenty-two and I worked out there for
4 twenty-seven years and I retired.

5 Q. And what was your -- what were your jobs out there for
6 those twenty-seven years?

7 A. The first of -- about the first half -- half of my
8 career out there, I was an electrical and instrumentation
9 mechanic, and the second half I had an opportunity to -- to
10 add on another leg of -- of operation there and that was a
11 -- that was a radiological technician where I monitored for
12 radiation and -- and contamination for people and to keep
13 them safe.

14 Q. Okay. And I think you said twenty-seven years?

15 A. Right.

16 Q. Now you said you were married. Where did you meet
17 your wife?

18 A. I met my wife at Savannah River plant.

19 Q. All right. And it sounds like she knew some other
20 people in this case, Tony Friar?

21 A. Yes. Yes, we all three knew each other.

22 Q. All right. And is your wife still with us today?

23 A. No, she passed away in 2014 of cancer. We battled for
24 eight years.

25 Q. All right. And how long did y'all work there

1 together?

2 A. As far as in the same building, me and Tony Friar and
3 my wife worked together probably about -- I want to guess
4 about five years, but I don't know exactly.

5 Q. All right. Now after she passed, did you want to
6 continue working at Savannah River Site?

7 A. Absolutely. Absolutely. That was a job that I always
8 wanted and it was something that you could hang your hat
9 on, you know, working out there and making good money and
10 trying to do the right thing. I liked -- I enjoyed it.

11 Q. But did you continue working there?

12 A. No, I wasn't able to continue to work at Savannah
13 River plant. With -- with my wife passing, it was -- it
14 was too much and I would -- I got real depressed and -- for
15 me to go back out to the plant and without her being out
16 there, it was just too much for me.

17 Q. Okay. So is it fair to say you retired?

18 A. I did retire from Savannah River Site.

19 Q. All right. Did you retire early?

20 A. I did retire early, yeah.

21 Q. Okay. When was that?

22 A. Eight -- well, eight years early. The earliest you
23 can retire from the Savannah River Site's fifty-eight. No
24 matter how many years you've been out there, you have to
25 be fifty-eight and I'd just turned fifty, and that's the

1 minimum age you can retire is at fifty and that was eight
2 years, so I had really eight years of reduction in pay when
3 I had to do that.

4 Q. Okay. Now after your wife's passing and after your
5 retirement from Savannah River Site, did you have occasion
6 to find your way back to Johnston, South Carolina?

7 A. I -- I did. I ended up -- my dad had -- was getting
8 in bad health and I moved back to Johnston to kind of be
9 around him closer in case he needed me and kind of take
10 him some hot food and stuff instead of him always having to
11 eat -- you know, heat things up. He got where he really
12 couldn't drive, so it was pretty rough on him to be able to
13 get something decent to eat and I'd like to take him stuff
14 while I was -- while I was there in Johnston.

15 Q. All right. Well, I'm not from Johnston, but you are.
16 Are there a lot of places to go out and eat in Johnston,
17 South Carolina?

18 A. No, not at all. You know, I -- compared to Barnwell,
19 it's not -- Barnwell has a lot more that me and my wife was
20 used to and, of course, she was cooking and stuff like that
21 for me back before she got sick, so I'm -- I'm -- there's
22 just few places really to eat. I think the Triangle's one
23 as far as to go and sit down and the pool room was another
24 place that you could go and sit down and to have a bite to
25 eat.

1 Q. Okay. And would you go there on a regular basis, the
2 pool room?

3 A. I would. I would.

4 Q. Okay. Now what -- tell the Court about what time did
5 you -- after you retired, did you move back to Johnston?
6 What year?

7 A. 2017.

8 Q. Okay. And you said you'd go to the pool room?

9 A. I would.

10 Q. And who owned the pool room at that time?

11 A. At that time in 2017 it was a guy named Holloway owned
12 it or whatever.

13 Q. Okay. And was it just a pool room? What was the
14 makeup of that place?

15 A. Well, from what I understand he had changed it and
16 kind of made it into a sports bar and from what I
17 understand he had moved in some televisions and -- and --
18 to where we could watch sporting games and stuff like that.

19 Q. Okay. Did you enjoy that?

20 A. I did. I love sports and I liked to be able to sit
21 down and watch games or whatever instead of just being at
22 home all the time. In Johnston's there's not a whole lot
23 of -- no where else to go.

24 Q. I understand. In your -- in your opinion of the way
25 Mr. Holloway had run that sports bar, pool room, what have

1 you, how you would describe the way it was run?

2 A. Well, it was -- it was run well. I -- I liked the way
3 he ran it. The food was good and on time and he -- he came
4 in quite often. And it was his second job, so he came in
5 after working all day and he would shoot pool with us and
6 -- and talk to us, ask us how things were, you know, how
7 the food was and asked us about the service we were getting
8 and whatever. He was real concerned and he was very social
9 at -- when he would come in to talk to us.

10 Q. Now going there and patronizing that place, did you
11 happen to meet somebody that would be important to you
12 moving forward in this -- in your life in this case?

13 A. Yeah, it wasn't long that I met a girl named Angie
14 Smith and we struck up, you know, a conversation and she
15 wasn't really dating anyone, I wasn't dating anyone, and we
16 both kind of needed some companionship and, you know, that
17 -- that was kind of where -- where it took place was at the
18 pool room.

19 Q. All right. And Angie, had she been married before?

20 A. She had. She was married to an officer or an
21 investigator -- I believe Investigator Smith that was, I
22 think, on my case. I'm not sure.

23 Q. Okay. That's the same investigator that was the lead
24 investigator on this case?

25 A. I believe he was, yes. He was the lead investigator

1 for -- for my case.

2 Q. All right. She knew that you had been married before?

3 A. Yes, she -- she was very aware of that and I'd went
4 through with my wife battling eight years and the last
5 two years was -- was really bad. My wife got down to
6 eighty-three pounds, yeah.

7 Q. Okay. Now obviously the date of this incident you
8 recall it being May 7th of 2018?

9 A. Yes, I do.

10 Q. By that time how long had you been dating Angie Smith?

11 A. Probably about eight months.

12 Q. Okay.

13 A. I think that's right. Seven, eight months. Something
14 like that.

15 Q. Now were there any other folks or anybody else that
16 you got accustomed to or acquainted with while patronizing
17 that Jerry Holloway pool hall?

18 A. Could you repeat that, please?

19 Q. What other folks did you meet? Did you ever met any
20 police officers while there?

21 A. Yes. Yes. I met a Sergeant Mathis -- excuse me --
22 Sergeant Mathis was eating in there one night. I didn't
23 know him. Him and another officer was eating in the -- in
24 the pool room and I went over to strike up a conversation
25 and we talked about cars and what football he liked and

1 stuff like that.

2 Q. All right. Did you exchange cell phone numbers?

3 A. We did.

4 Q. All right. Were y'all on a text kind of somewhat
5 friendly basis?

6 A. We were.

7 Q. And what would you routinely text him about?

8 A. Well, I had a Corvette that I was trying to sell and
9 it was a ZR-1 and I was trying to get -- trying to sell it
10 and I would text him about the car trying to, you know, get
11 him to come over and test drive it, some things like that.

12 Q. All right. Now moving forward a little bit, did
13 management being owned by Mr. Holloway, did that ever
14 change while you were there patronizing the pool hall?

15 A. Yes. Yes. The Halls took over running it.

16 Q. All right. What Hall specifically are you describing?

17 A. I believe it's Clayton and Madison Hall. I believe
18 they were the ones mainly running it. And I never asked,
19 you know, where the money came from or anything like that,
20 so I don't know to what -- I would almost -- I would guess
21 that Milledge Hall, which I called B Boy, I didn't know his
22 name was Milledge, everybody calls him B Boy in the -- in
23 the bar, and I had an idea that he probably had money in
24 the establishment.

25 Q. Okay. Now Angie, your girlfriend at the time, was she

1 related to the Halls?

2 A. Yes, she was -- she was B Boy's second cousin.

3 Q. All right. And she had advised you of that?

4 A. Yes. Yes. She'd talked about it and she was -- told
5 me that, yeah.

6 Q. Now being in Johnston and not that many places to go,
7 did you describe or observe any improvement or decline in
8 the way that that particular establishment was run when the
9 Halls took over?

10 A. Yes, it -- it -- the service had went down and the
11 quality of food had went down and just overall the way the
12 bar was run it had -- it had taken a turn for the worse.

13 Q. All right. And now describe some specifics. I mean,
14 what -- what are you talking about?

15 A. Well, it's several things, but one of the things was
16 the temperature in the bar. It was wintertime when they'd
17 taken over and I had to go out and get Angie's winter coat
18 to wear while she was sitting at the bar and her friend
19 Brenda also had to get her coat and after about the third
20 evening they were there drinking and having their
21 conversation, they asked me to contact -- or ask I think
22 it was Madison. They said contact Madison. She was behind
23 the bar and she was behind the bar working with a winter
24 coat on there, too.

25 Q. And Madison is Clayton's wife?

1 A. That's right.

2 Q. Kind of a coowner?

3 A. Right. Right. She was behind the bar being a
4 bartender and, you know, I went to her and I told her that,
5 you know, it was too cold and she said she would do what
6 she could whatever, so I went and sat back down or
7 whatever. And, you know, one of the biggest issues was
8 they still allowed smoking in -- in the pool room and
9 Brenda and Angie was concerned that the winter coat was
10 starting to smell like smoke and that's not something you
11 just wash, so they were concerned and didn't -- didn't
12 really like wearing their coat inside, so that was just one
13 of the issues.

14 Q. Okay. So temperature?

15 A. Temperature, right, was one.

16 Q. What about the quality of food?

17 A. The quality of food was not consistent.

18 Q. Did you ever make that known to the management?

19 A. I did. I did. I let them know that they need to be
20 consistent with their food because I would go in there one
21 time and -- I loved the cheeseburger and it was great or
22 whatever. Well, the next time I went in and ordered one,
23 it had grilled onions that I didn't ask for and it had cut
24 up lettuce. I mean, I just told them to, you know, be
25 consistent. If you're gonna do it that way, do it all the

1 time. I was trying to let them know that they had to have
2 some consistency with the -- the menu.

3 Q. Now in your mind, what's gonna happen if the -- if the
4 quality of service is not good?

5 A. Well, they're going to close it down.

6 Q. All right. Did you want that pool room to close down?

7 A. Absolutely I don't want that to close down because
8 that's the best place to actually go and watch -- the only
9 place really to watch a -- watch a game and get a bite to
10 eat and have a few beers or whatever, so I -- I really
11 wanted the place to succeed.

12 Q. When you were voicing these concerns to Clayton or
13 Madison or any of the staff, are you -- you are yelling,
14 are you cussing? How are you doing this?

15 A. Absolutely not. I -- I don't do that.

16 Q. All right. Are you making any sexually derogatory
17 remarks to any female staff or anything like that?

18 A. No, I didn't.

19 Q. All right. Was your girlfriend there a lot of times
20 when you were there?

21 A. Right. Almost all the time.

22 Q. Okay. Were you ever put on any official trespass
23 notice there or anything like that?

24 A. No, I wasn't.

25 Q. All right. Now I want to -- you've mentioned how you

1 cared about this pool hall I think because you don't want
2 it to close down.

3 A. That's correct.

4 Q. Do you ever recall a time where you reached out to
5 Officer Mathis on a cell phone about a concern for a staff
6 member?

7 A. I did. One night Miranda was having to close.
8 Clayton and Madison had left and Angie and myself was still
9 at the bar and it wasn't exactly time to close, but Miranda
10 had reached out to me about she was gonna be the only one
11 at the bar when it closed and we were -- we were concerned
12 for Miranda that, you know, she didn't need to close the
13 bar by herself without a male present.

14 Q. All right. And do you recall if he responded and
15 helped you out with that situation?

16 A. He -- he did. He responded back for -- to give her
17 his number and he would -- he would come up and escort her
18 out and make sure she left safely.

19 Q. All right. I want to show you what's been marked
20 for ID purposes as Defendant's Exhibit Number 9. Do you
21 recognize generally this document?

22 A. Yes.

23 Q. All right. Do you see -- now we've been going over
24 discovery and do you recognize these as text messages
25 between you and Officer Mathis?

1 A. They are.

2 Q. Okay. Do you recognize -- you know, your name is
3 Barry Jones and what is -- do you recognize your phone
4 number there ending in 5260?

5 A. 5260. Yes, sir.

6 Q. All right. And I see you've entered him as Johnston
7 police, Joseph Mathis. Do you recognize his number there?

8 A. I remember that, yes, sir.

9 Q. Ending in 2464?

10 A. 2464. Yeah.

11 Q. Now that -- this text message conversation that I was
12 asking you about, do you recall that specific date?

13 A. Yes.

14 Q. What was the specific date or would it -- would it
15 help your memory if I showed you this text message?

16 A. I know about when it was, but I don't know the exact
17 date. I don't.

18 Q. All right. Do you see -- what does that date say?

19 A. February 24th of 2018.

20 Q. Okay. So that would be, what, a few months prior
21 to --

22 A. Right. It was -- it was several months prior to the
23 incident.

24 Q. All right. And do you recognize these texts reaching
25 out regarding Miranda?

1 A. Right. Yes, that is.

2 Q. Okay. And asking Officer Mathis to help her out
3 because no males were present?

4 A. That's correct.

5 Q. And his response confirming that he would do that?

6 A. Yes, he would.

7 Q. Okay. Now I think you said that Angie, your
8 girlfriend at the time, was B Boy's second cousin?

9 A. That's correct. Second cousin.

10 Q. All right. Did you have occasion to really interact
11 with him a whole lot? Were y'all social buddies, friends?
12 That -- describe your interactions from dating Angie
13 forward.

14 A. Well, when I first started going there and I knew --
15 when me and Angie went, you know, she -- she kind of
16 introduced B Boy to me and, you know, we talked a little
17 bit, but other than that we didn't really talk a lot.

18 Q. Okay. Now did y'all have a lot in common?

19 A. No, we didn't.

20 Q. All right. Now I want to draw you up a little closer
21 in the spring of 2018. Was there an encounter with B Boy
22 that you remember specifically around that time?

23 A. Yes, in the -- I believe that was probably early
24 spring. I'm not sure what the date was.

25 Q. Well, you remember the date that you got into the

1 shooting incident with him being May 7th?

2 A. Yes.

3 Q. All right. Just estimate about as best you can. Do
4 you have a best guess of when this conversation that we're
5 about to discuss would have transpired?

6 A. I want to guess it was about a -- about a month --
7 about four weeks before the incident on May the 7th.

8 Q. Okay. All right. Now tell -- tell for this courtroom
9 what you recall from that incident.

10 A. Well, Angie and myself were at the bar and I wasn't
11 sitting with Angie the whole time. I was kind of moving
12 around and talking to other people and when I came back to
13 sit down Angie said she had to tell me something and she
14 leaned over to me and told me that --

15 MR. HUBBARD: Objection to hearsay, Your Honor.

16 THE COURT: Sustained.

17 BY MR. LUKE SHEALEY:

18 Q. What -- what did you learn about B Boy that day? Was
19 it -- in your mind was he describing something that was
20 truthful or not truthful?

21 A. Yes, he --

22 MR. HUBBARD: Your Honor, if this is based on
23 hearsay, it's still objectionable.

24 THE COURT: I don't know how to rephrase it any
25 differently.

1 MR. LUKE SHEALEY: Well, Your Honor, the hearsay
2 exception would be this is a present sense objection,
3 you know, or -- for hearsay purposes or excited utterance.
4 This is gonna be a startling event that his girlfriend
5 was telling -- that his girlfriend Angie is gonna be
6 telling him about something that -- that he went to
7 address with the victim in this case, so I think it --
8 I think it qualifies as a hearsay exception.

9 MR. HUBBARD: He can either lay a foundation or
10 Ms. Smith still lives in the community.

11 THE COURT: All right. You can lay a little more
12 foundation and then we'll go from there.

13 BY MR. LUKE SHEALEY:

14 Q. You said your girlfriend Angie leaned over and told
15 you something?

16 A. Yes.

17 Q. Would this be -- is this something that you ended up
18 being concerned about?

19 A. Very much.

20 Q. Okay. What was -- what were you concerned about
21 learning?

22 A. That he had told that I had gotten fired from my job
23 at Savannah River Site.

24 Q. Okay. Now why was that concerning to you?

25 A. Well, I loved that job and that was part of my life

1 and I didn't want anybody going around telling other people
2 that I'd gotten fired from a job that I really loved.

3 Q. Okay. I think you described the context for why you
4 retired early, right?

5 A. Right.

6 Q. Having something to do with your wife's passing?

7 A. That's correct. That's the only reason I would leave
8 a job like that.

9 Q. Now so based on learning this inaccurate information,
10 what did you then go do?

11 A. I -- I wanted to find out, you know, who had said it
12 because I went -- got up and went down and asked B Boy, you
13 know, who -- who had said that. I didn't think B Boy had
14 -- had said that.

15 Q. Okay.

16 A. So -- but I wanted to get it clear, clarified, that --
17 for him to tell me who -- who actually said that about me.

18 Q. All right. So you couldn't -- I guess what you're
19 saying is you couldn't believe that he would say that
20 inaccurate statement?

21 A. That -- that's correct.

22 Q. All right. And you went to find out if he had, in
23 fact, said that?

24 A. Right. I was dating his second cousin.

25 Q. Okay. So when you went to talk to -- to him about

1 this, were you raging mad?

2 A. No, I wanted to find out, you know, who -- who said
3 it.

4 Q. All right. And did he tell you who said it?

5 A. No, he didn't. He basically told me that he heard it
6 from somewhere and basically that he wasn't -- he didn't
7 know really -- he just -- he didn't care about what he was
8 spreading in the pool room.

9 Q. Okay. Now I assume you advised him what he was saying
10 was untrue?

11 A. That's correct. I told him that was not the fact.
12 The fact I had retired.

13 Q. And when you advised him of that you said he didn't
14 care?

15 A. That's correct.

16 Q. All right. What -- what happened next?

17 A. He ended up jumping up off of his barstool and came at
18 me. I put my hands up --

19 Q. Let me stop you there.

20 MR. LUKE SHEALEY: Your Honor, may the witness
21 step down real quick?

22 THE COURT: Sure.

23 MR. LUKE SHEALEY: He's got shackles. He won't
24 run anywhere.

25 THE COURT: Well, I mean --

1 BY MR. LUKE SHEALEY:

2 Q. All right. So as if -- pretending you're B Boy and
3 I'm you, describe what happened.

4 A. Okay. He got up off his barstool and came at me like
5 this. Got all up in my face. I backed up like you're
6 doing. I kind of put my hands up like that. He's telling
7 me boy, I'll beat your ass all over this bar.

8 Q. All right. You can sit back down.

9 A. (Witness complies.)

10 Q. Now how big is B Boy from your recollection?

11 A. He's probably 280 or more pounds.

12 Q. All right. Is he bigger than you?

13 A. A lot bigger than me.

14 Q. Is he taller than you?

15 A. Yes, he's taller than me also.

16 Q. Is he stronger than you?

17 A. He's absolutely stronger than me. Yes, sir.

18 Q. Did you feel like he was playing around when he told
19 you what he told you that day?

20 A. Well, he was very serious. I could see it in his eyes
21 and it scared me.

22 Q. Okay. So at that point did you hit him, retaliate, do
23 anything in any way, shape or form?

24 A. No. It's almost like when he saw my hands up, he
25 stopped, and when he did that I got out from around him and

1 went back and told Angie, I said we've got to get our tab
2 and we've got to get out of here.

3 Q. All right. And did you do that?

4 A. We did.

5 Q. All right. Did you get any other warnings from
6 anybody else that day?

7 A. Yes. While we were waiting on the tab, Brenda --
8 Brenda told Angie that --

9 MR. HUBBARD: Objection to hearsay again.

10 A. -- she better get --

11 THE COURT: Sustained. Sustained.

12 MR. HUBBARD: Objection to hearsay.

13 THE COURT: Stop.

14 THE WITNESS: Okay.

15 BY MR. LUKE SHEALEY:

16 Q. Did you learn from Mr. Hall's wife that you should
17 probably leave?

18 A. Yes.

19 MR. HUBBARD: Your Honor --

20 A. You better get my little friend out of here she said.

21 THE COURT: All right. Listen. Do we have all
22 these witnesses here or not? I mean, I want to give you
23 leeway as much as I can, but you can't testify about what
24 other people told you.

25 MR. LUKE SHEALEY: And I'm just trying to get what

1 -- yes, sir. I'll move on.

2 BY MR. LUKE SHEALEY:

3 Q. So now it sounds like you've already established that
4 you didn't have much a relationship with B Boy prior to
5 that moment.

6 A. Correct.

7 Q. Now after that moment did that change the way you
8 dealt with coming around Mr. Hall?

9 A. Yes, I tried to keep my distance.

10 Q. In what way?

11 A. Well, I would always sit at the front of the bar and
12 B Boy usually sat at the back of the bar, so I could keep a
13 little distance in between us.

14 Q. All right. Now did you ever -- did you go anywhere
15 else to avoid him?

16 A. Yes.

17 Q. Did you go any other places? I know you said Johnston
18 didn't have a lot to do.

19 A. Right. I -- I looked into a place that we found in
20 Saluda that's called Foley's and Angie and myself started
21 going there more often and her friend lived down that way
22 anyway, so the three of us would go down there and get a
23 bite to eat and drink a little bit and they had TVs and a
24 pool table also down there, so we would go down there more
25 often because of that. Up until that point I hadn't went

1 to Foley's at all.

2 Q. All right. And you said that's in Saluda?

3 A. That's in Saluda, right, South Carolina.

4 Q. And what kind of drive was that for you?

5 A. That's about twelve miles from -- from Johnston, I
6 believe. I'm not sure.

7 Q. All right. Now I want to show you -- well, we'll get
8 to that. But, again, you said this was about a month
9 prior?

10 A. Yes. The best I can recollect, yes.

11 Q. Now do you recall after that interaction with Mr. Hall
12 you reaching out to anybody for help with that situation?

13 A. Yes. I -- I texted Sergeant Mathis that I was gonna
14 talk to him about that.

15 Q. All right. And, again, I want to show you what's
16 marked as Defense Number 9 that you've previously
17 identified as text exchanges between you and Sergeant
18 Mathis. Do you see an exchange where you're asking him to
19 -- to come talk to you?

20 A. Yes.

21 Q. And I think specifically do you recall saying when are
22 you on days, I have a -- I need -- I'm sorry. When you are
23 on days and have time, I need to talk to you.

24 A. Yes, I did.

25 Q. And I think you said most of your conversations are

1 about cars and things, but -- so what do you recall that
2 being about?

3 A. That was definitely about B Boy and our problem, you
4 know, what I could do about it.

5 Q. And looking at the prior page at the start of that
6 text, what was the date of that?

7 A. That was 4-9 of 2018.

8 Q. Okay. So a month and a couple of days prior to
9 May 7th?

10 A. Right. It would be about a month, yeah. Right.

11 Q. Do you recall Officer Mathis responding to you,
12 providing or talking about a time he might be able to talk?

13 A. He said that -- he normally worked nights and I don't
14 remember exactly when we had planned to get together, but
15 we -- I never got to talk to him.

16 Q. Okay. Now what was your idea -- what would be the
17 point of talking to Officer Mathis about B Boy and that
18 threat?

19 A. Well, I just wanted some advice with the situation
20 that was -- that I was under, you know, with B Boy running
21 -- running the bar and I wanted to know kind of how to
22 handle it and I just didn't know how to -- how to handle
23 the situation other than avoid him.

24 Q. All right. Now had you ever been advised about
25 B Boy's reputation in the community for fighting or

1 violence?

2 A. Yes, I had.

3 Q. All right. Who advised you?

4 A. Tony Friar.

5 Q. And we just heard from Tony Friar this morning?

6 A. That's correct.

7 MR. HUBBARD: Your Honor, I objection. Mr. Friar
8 said he did not convey that message. Their own witness
9 made that clear. He said he didn't convey that message.

10 MR. LUKE SHEALEY: Well, it's not as much an
11 evidentiary thing.

12 MR. HUBBARD: It's a record --

13 MR. LUKE SHEALEY: It's more of a factfinder deciding
14 what he thinks --

15 THE COURT: So noted for the record.

16 THE WITNESS: Yes, he -- Tony Friar definitely told
17 me that.

18 BY MR. LUKE SHEALEY:

19 Q. And I think -- now Tony, you heard Tony talk today
20 about an incident a few weeks prior where there was this
21 discussion again about whether you were fired or retired,
22 right?

23 A. Right.

24 Q. Now do you recall Tony warning you about -- about
25 B Boy that day or just some other day?

1 A. Could you repeat that?

2 Q. Well, I'm trying to remember -- it seems like
3 Mr. Friar didn't recall warning you that day in the pool
4 room. Are you saying you had prior warning or you were
5 actually warned that day in the pool room when Tony was
6 there?

7 A. When Tony was there in the bar, that's when I got
8 warned. I was talking to him and his wife Deborah.

9 Q. Okay. Now --

10 A. Could I add something to that?

11 Q. Sure.

12 A. Okay. The whole point was when B Boy had come at me
13 like that, I told Tony that and when I told Tony that,
14 that's when he conveyed the message, you know, be careful
15 with B Boy because he's been fighting all his life --

16 Q. Okay.

17 A. -- is what he told me.

18 Q. All right. I understand now. Now I want -- I want
19 to bring you a little closer to the day we're talking about
20 here, but I want to ask you as we get closer to May 7th,
21 how was your relationship with Angie, your girlfriend?

22 A. For about the last month up until the incident day she
23 had gotten smothering to me. She was texting me a lot when
24 I would go over to my dad's when I was coming back, things
25 like that. She just was drinking more and she was -- she

1 just got to where it wasn't -- wasn't fun to be with her
2 anymore and I really don't want to be with somebody that
3 it's not gonna be fun.

4 Q. Okay. Is it fair to say the relationship had run its
5 course?

6 A. Right. You could say it that way, yeah. That would
7 -- that would be correct.

8 Q. All right. Now I want to -- I want to bring you maybe
9 a couple of days prior to this incident. You agree this
10 incident was on a Monday?

11 A. Yes, it was.

12 Q. All right. Do you remember being at the bar on a
13 Saturday?

14 A. Saturday night.

15 Q. Okay. Now describe that night, who was with you.
16 What, if anything, happened?

17 A. Well, it was one of the typical nights. Angie was
18 there with me and we went about our business and, you know,
19 talked to other people there. I don't remember exactly who
20 was there that night, so we -- we went to close out our tab
21 or whatever and I noticed on my tab that I'd been charged
22 for two extra beers that night or whatever.

23 Q. Okay.

24 A. I brought it up to -- I don't remember if Madison was
25 working as far as the bartender, I'm not sure who it was,

1 but I notified the bartender or whatever and they went and
2 got -- they went and got Clayton to -- to come over and
3 find out, you know, what was going on. I told him that I
4 had been charged for two extra beers or whatever that needs
5 to be taken off my tab and he did -- he did nothing and he
6 walked away.

7 Q. All right. Now you go there a lot, right?

8 A. Right.

9 Q. You spend a lot of money there?

10 A. Yes.

11 Q. Okay. Would you describe that, I guess,
12 miscalculation on your tab as part of the general maybe
13 poor quality of the place that had changed since
14 Mr. Holloway?

15 A. Yes. That's not the way you handle a situation where
16 a patron has been overcharged.

17 Q. Okay. Did you -- did that cause you to be stark
18 raving mad?

19 A. No, not at all.

20 Q. Did you yell at anybody?

21 A. No, I didn't.

22 Q. Did you throw any beers?

23 A. No, not a -- not a word.

24 Q. All right.

25 A. Not over -- not over being charged two beers.

1 Q. But you voiced your complaint and it was -- that was
2 that, right?

3 A. Right. That's it.

4 MR. LUKE SHEALEY: Judge, do you need something? I
5 feel like --

6 THE COURT: I just didn't want y'all -- y'all
7 talking over each other.

8 MR. LUKE SHEALEY: Okay.

9 BY MR. LUKE SHEALEY:

10 Q. So was Angie there that night?

11 A. Yes. Yes, she was.

12 Q. Okay. So after you -- you didn't get, I guess, credit
13 for your beers, did you leave?

14 A. We did.

15 Q. Okay.

16 A. I paid the tab like it was and Angie and myself left
17 and went home.

18 Q. All right. The police didn't have to be called?

19 A. No.

20 Q. Okay.

21 A. No. Absolutely not.

22 Q. Did anybody tell you to leave now and never come back?

23 A. No, not at all.

24 Q. Okay. Would you describe that as just another night?

25 A. Yes.

1 Q. Okay. Now let's move to around Sunday, okay? Talking
2 about you and Angie's relationship, how's it going that
3 night?

4 A. Well, she kept -- continued to drink heavy and I'd
5 just had enough as far as her drinking, I was ready to go
6 to sleep, and she kept on and on and on, and I -- I finally
7 had to do something about it.

8 Q. All right. What did -- who did -- did you call
9 anybody? Did you do anything? What did you do?

10 A. I reached out to Sergeant Mathis to see if he was
11 working. He normally worked nights, so I texted him to see
12 if he could come by and help calm down my girlfriend.

13 Q. All right. Now I want to show you -- bring to your
14 attention again these text messages, which are marked as
15 Defense Number 9 for ID purposes. Do you recall that night
16 -- did you call 9-1-1 or did you reach out to Officer
17 Mathis on his cell?

18 A. No, I didn't call 9-1-1. I reached out to Sergeant
19 Mathis. I figured out he could come by and help me and
20 the situation would be okay.

21 Q. All right. Now I want to draw your attention to a
22 text from May 6th of 2018 --

23 A. Right.

24 Q. -- at 1:29. Do you recognize that text?

25 A. That is.

1 Q. Is this the text where you're asking Sergeant Mathis
2 to come by 206 Edisto to calm down my girlfriend?

3 A. Yes, I did. That's my text.

4 Q. All right. And he responds -- do you recall him
5 responding yes, sir, on the way?

6 A. Yes. Yes, he did.

7 Q. Okay. And did he show up at y'all's house that night?

8 A. He did. He did. He came and --

9 Q. And what -- what happened when he got there? Did he
10 calm the situation down?

11 A. Yes, he -- he asked me did -- was he gonna need to go
12 inside and by the time that I had answered him with that
13 Angie had come to the door and said that she would -- she
14 would stop drinking and go to bed.

15 Q. All right. So your reaching out to Officer Mathis, I
16 guess that worked?

17 A. It did.

18 Q. Okay. And you weren't trying to get her arrested or
19 necessarily in trouble, right?

20 A. No, I didn't -- I didn't want that. She's a
21 goodhearted person. She just at times drank too much.

22 Q. Okay. So now that's the day prior to this incident
23 that we're all here for. Let's move forward to the
24 incident date, May 7, 2018.

25 A. Okay.

1 Q. Describe your day. What are you -- what are you
2 doing?

3 A. Okay. I -- Angie had asked me if we were gonna go
4 out that night and I said no, we're not gonna go out,
5 we're gonna cook something and maybe grill something out
6 and stay -- stay home. And I had to take some shirts to
7 the dry cleaners in Edgefield and by the time I did that I
8 was on the way back and it looked to be around 4:00, I was
9 on the way back, and I said I'll stop by and go to what I
10 refer as the meeting that me and Randy that was -- was here
11 earlier and Kurt, I went to school with Kurt, and we could
12 catch up with what happened over the weekend, so I stopped
13 by the pool room.

14 Q. All right. Now is that a normal thing for you on a
15 Monday?

16 A. It is. Monday or Tuesday, one or the other, or both
17 days depending on what was going on.

18 Q. All right. And I think you said that you did not go
19 there with Angie, right?

20 A. No, I stopped on the way back from -- from going to
21 the dry cleaners in Edgefield.

22 Q. Okay. Now how long are you there and what is your --
23 who all was there?

24 A. Well, when I first got there, there wasn't very many
25 people there. I don't remember exactly if Kurt was already

1 there or, you know, but eventually within fifteen minutes
2 of me being there Kurt was there, the Yonce guy was there,
3 eventually Milledge came in, which is B Boy. He came in
4 and went to the back part of the bar and didn't talk to any
5 of us and Angie eventually came up there that day.

6 Q. Okay. And where -- where are you sitting in relation
7 to B Boy when he comes in?

8 A. I'm at the very front of the bar. That's where we
9 always sat and even if they weren't there I always sat at
10 the front of the bar like that ever since the occasion that
11 happened when he threatened to beat me.

12 Q. Do you mean in the front towards the door?

13 A. The front towards the door, yes.

14 Q. Does the bar go back a good ways?

15 A. Yes, it does.

16 Q. Okay. So you're keeping your distance from B Boy, is
17 that what you're saying?

18 A. Well, yes, I always did, but we usually sat up front
19 on Monday and Tuesday anyway, but it worked out for me in
20 that situation, yes.

21 Q. Now when you're at the bar and without Angie, did you
22 recall receiving any text messages from Angie?

23 A. Yes, she -- she texted me that -- where I was. I
24 didn't hear -- I didn't hear my phone. I think I had it on
25 vibrate or something. I didn't hear it initially because

1 she had texted me several times earlier and by the time I
2 got to respond to her, you know, she had already gotten to
3 say, you know, hello, where are you, you know, that kind of
4 stuff or whatever, so eventually she started -- she started
5 giving me some texts that -- that were pretty alarming.

6 Q. Okay. Well, I want to -- I want to show you what's
7 marked Defendant's 10 for ID purposes. Do you recall this
8 kind of thread of texts that had been produced from -- in
9 your discovery?

10 A. Yes, she --

11 Q. All right.

12 A. -- texted me was everything okay.

13 Q. Hold up. Do you recognize the number in your phone
14 you had as Angie Smith, Johnston?

15 A. Yes, that's -- that's Angie's number.

16 Q. Ending in 8734?

17 A. Yes.

18 Q. All right. Now and looking at May 7th around 5:15,
19 is that that hello text you were describing?

20 A. It is.

21 Q. Did you begin to receive other texts in -- in quick
22 succession from her wondering where you are?

23 A. Yes.

24 Q. Did you respond to her?

25 A. I did.

1 Q. Did you let her know you didn't hear the phone at
2 first?

3 A. I did.

4 Q. And does she believe you?

5 A. Well, she says no, what -- I can't believe you.

6 Q. All right. Do you recall her telling -- telling you
7 that y'all aren't gonna make it like this, that you need to
8 come talk to her?

9 A. Yes, she did.

10 Q. You do recall her telling you that she didn't think
11 y'all were going anywhere today, all right, when she got
12 ready?

13 A. Right.

14 Q. Does she tell you that she's, quote, really pissed
15 now?

16 A. She did.

17 Q. Do you recall her telling you that if you don't come
18 talk to her it won't be pretty when you get home?

19 A. Yes, she did.

20 Q. Now is this in line with what you were describing as
21 kind of feeling smothered at the relationship at this time?

22 A. That's exactly -- exactly what I meant.

23 Q. All right. Now turning the page, getting a little
24 further, at 5:24 that same day is she asking you to answer
25 you -- answer me?

1 A. Yes, she does.

2 Q. And does she let you know that -- that she'll come
3 show out?

4 A. She definitely did.

5 Q. All right. And so this is -- is this what's happening
6 while you're at the pool hall and she's not there?

7 A. Yes.

8 Q. All right. Do you -- do you recall complaining to
9 anybody about this kind of behavior that we just are
10 describing in these texts?

11 A. I did. I didn't want any trouble at the pool room as
12 far as her coming up there causing a problem, so I told --
13 I know I told Randy and I believe I told one other person
14 that was sitting up there, but Randy was the main one that
15 I told that -- that she was giving me problems and I didn't
16 need them and whenever he left because he normally didn't
17 stay there that -- that long, I wanted to go ahead and
18 leave when he left.

19 Q. Well, let's describe that. When she -- I think you
20 said she eventually came to the pool room?

21 A. She did.

22 Q. All right. After those texts where she describes kind
23 of about being unhappy that you're there without her, did
24 she come?

25 A. She came to the pool room and didn't speak to me. She

1 walked straight by me and went back and sat down by B Boy.

2 Q. Okay. She sat by him, not by you?

3 A. That's correct.

4 Q. Did you have any conversations with her during that
5 time at the pool hall?

6 A. No, I didn't.

7 Q. And about how long were you there while she was there
8 talking to B Boy?

9 A. I'm guessing about twenty minutes, thirty minutes
10 maybe. I'm not sure.

11 Q. And that's when you made the comments to Mr. Yonce?

12 A. I did.

13 Q. Okay. Now we've received some video in the form of
14 discovery that shows you entering and leaving at various
15 parts. I want to show you what's already been introduced
16 into evidence. Who's that guy?

17 A. That's me leaving.

18 Q. All right. And are you sitting as you say to the
19 front of the pool room over here?

20 A. Right. I'm coming right from where my seat was at
21 the front. That's as front as you can get to the bar right
22 there.

23 Q. All right. So is there a bar kind of like where my
24 arm is right here going this way?

25 A. That's correct.

1 Q. And then there's a bar --

2 A. It's actually going this way.

3 Q. Okay. And where are -- are B Boy and Angie sitting
4 kind of in the direction of the judge?

5 A. Right. You'd have to -- I'd have to take a right and
6 walk down what looks like an alleyway. It would go back
7 into the bar on the right.

8 Q. Okay. But -- but you recognize this as when you were
9 leaving that day?

10 A. Absolutely.

11 Q. All right. And who's that gentleman? Do you
12 recognize him?

13 A. That's Randy leaving. I wanted to leave when he left
14 so he said he -- we both paid our tab and I left out and he
15 was behind me.

16 Q. Okay. Now do you recognize that car?

17 A. That -- yeah, that's my silver car.

18 Q. Okay. And what kind of car is that?

19 A. It's a silver Mercedes.

20 Q. All right. Now I want to ask you -- I want to show
21 you another video that's been produced into discovery to
22 us. Now, again, do you recognize that vehicle?

23 A. Yes, that's my silver Mercedes. Yes, sir.

24 Q. That's the car you just described?

25 A. Yes, sir.

1 Q. Do you know that gentleman in the gold shirt?

2 A. He's one of our regulars, but I didn't -- I don't know
3 him by name.

4 Q. All right. And, again, this is you?

5 A. That's me. Yes, sir.

6 Q. Does this just look like an exterior video of kind of
7 the same interior video we were just watching?

8 A. Right. Right. This is part of the inside when I was
9 leaving, yes, sir.

10 Q. And, again, this is May 7, 2018?

11 A. Right.

12 Q. And this counter, whether it's accurate or not, says
13 May -- says 5:30 and 54 seconds; does it not?

14 A. It -- it does say that.

15 Q. All right. Does this fairly and accurately reflect
16 the first time you left the pool hall that day?

17 A. I -- I think so, but I'm not real sure exactly on what
18 time it was. I --

19 Q. Well, not the time, but you remember walking out and
20 you recognize yourself in that video?

21 A. Absolutely.

22 Q. Okay.

23 MR. LUKE SHEALEY: Your Honor, at this time I'd
24 seek to introduce this unenhanced pool room video into
25 evidence.

1 MR. McNAIR: No objection.

2 THE COURT: All right. So admitted.

3 (Defendant's Exhibit Number 11, pool room original
4 video, was marked and admitted into evidence.)

5 BY MR. LUKE SHEALEY:

6 Q. All right, Barry. I want to continue playing this
7 video for you.

8 THE COURT: Which exhibit number was that?

9 MR. McNAIR: 11.

10 THE COURT: All right.

11 BY MR. LUKE SHEALEY:

12 Q. Barry, what, if anything, can you describe that you're
13 doing?

14 A. I'm preparing to go and get in my car and leave.

15 Q. All right. Now did you drink any beer that day?

16 A. I did.

17 Q. All right. How many beers did you drink?

18 A. I had drank three beers in there during our meeting.

19 Q. Okay. And what kind of beer are you drinking?

20 A. Michelob Ultra.

21 Q. All right. Michelob Ultra Light?

22 A. Yeah, I believe that would be correct.

23 Q. Okay. Are you intoxicated at that time walking to
24 your car?

25 A. No, not at all.

1 Q. Okay. Do you routinely drink that type of beer?

2 A. I do.

3 Q. All right. Now who is this man right here?

4 A. That's B Boy.

5 Q. All right. And you recognize him from just knowing
6 him by name and sight?

7 A. That's definitely him.

8 Q. And did he talk to you at all that day?

9 A. No, not at all.

10 Q. Now at this point do you even see him behind you?

11 A. No, I haven't.

12 Q. All right. Keep watching. What does he do right
13 there?

14 A. He beats on my car.

15 Q. All right. Did that startle you? Did you recognize
16 that? Did you see him do that?

17 A. I did.

18 Q. Keep watching. Do you see him in your rear view at
19 this point?

20 A. I do.

21 Q. And what do you see his hands doing right now? Is he
22 raising his hands like this?

23 A. Right.

24 Q. Now how is this making you feel based on your past
25 encounters with B Boy?

1 A. Well, it's kind of obvious that he's wanting to talk
2 to me or he's yell -- he's also yelling when I'm out there,
3 too, so I know something's -- something's not right with
4 the -- with him wanting to talk to me that way.

5 Q. All right. Were you scared?

6 A. Yes, I -- I was starting to get scared. Once he did
7 that, I knew something was up.

8 Q. But you didn't stop the car and confront him over it
9 or anything, did you?

10 A. No, I -- I kept going. Went on and went to Angie's to
11 start taking care of some stuff.

12 Q. Now let me ask you that. Now with Angie texting you
13 the way she had and the way y'all were doing in your
14 relationship, had you made any -- made any decisions about
15 this relationship at that point in time?

16 A. Yes, I had decided that the next time she had --
17 because I talked to her about it. I told her that I needed
18 some space and I needed to be able to -- to do some of my
19 own things and to get away a little bit and I'd made my
20 mind up the next time that she had crossed over into giving
21 me a little space that I was done, so I was basically done
22 with her when that -- when she did that that day. I was --
23 I was going back to her house and packing some stuff.

24 Q. All right. So it sounds like you committed in your
25 mind to break up with her that day and pack some stuff?

1 A. Yes, I was -- I was finished with her.

2 Q. What kind of things did you have at her house?

3 A. Well, you know, I still had -- I had -- her dad -- my
4 dad was right across the -- the town there, so I didn't
5 have everything there, but I did -- I did have a quite bit
6 of stuff that I had accumulated there over eight months. I
7 had, you know, of course, all my medicine to take and, you
8 know, clothes so I wouldn't have to be going back and forth
9 every day, we washed clothes there, and I had a safe with
10 money in it that was locked. I had all my guns. I had my
11 ammunition there. I had quite a bit of stuff there.

12 Q. All right. So when you left that bar that day at that
13 moment, you're saying it was your intention to get most --
14 your valuables out and move out of her place?

15 A. Ab -- absolutely. I wanted to get most of the
16 valuables on the first trip that I just didn't want to
17 leave there or whatever, but I was hoping that she would --
18 would allow me to come back later to get some of my other
19 stuff.

20 Q. Okay. I want show you another video that's already in
21 evidence that's an enhanced video of the interior. Who's
22 that?

23 A. That's B Boy.

24 Q. Is that -- what is he doing?

25 A. He's walking outside.

1 Q. All right. And is your car still there?

2 A. Yes, it is.

3 Q. All right. And it says 5:31. Is this when you're
4 walking outside? That's the interior view?

5 A. Yes, that's the interior view of when I had left out,
6 yeah.

7 Q. Does it look like -- do you see anybody coming back
8 in?

9 A. That's B Boy coming back, yeah.

10 Q. Do you recognize him from that same day?

11 A. Yes, that's the same day.

12 Q. I'm gonna play for you a somewhat enhanced and zoomed
13 in version of that same video.

14 A. Yes.

15 Q. Do you see him?

16 A. Right.

17 Q. What's he doing?

18 A. Smiling.

19 Q. I want to show you some photos that are digitally
20 entered into evidence already. Is that more of the same?
21 Do you recognize him at that same moment?

22 A. Right. That's -- that's B Boy.

23 Q. All right. Now you're moving out, you've got things
24 in your car as you described as clothes, medicine, cash,
25 safes, guns. Is that fair?

1 A. That's fair.

2 Q. Now I think you said your plan is to break up with
3 Angie?

4 A. Yes, it is.

5 Q. But is it fair to say that breaking up with someone
6 you dated for eight months can be emotionally difficult?

7 A. Yes, it is.

8 Q. Now it sounds like this relationship has run its
9 course, but it doesn't mean that that's easy, does it?

10 A. No, not at all. Angie's a very goodhearted person
11 and she just got -- you know, she just got a little bit
12 drinking too much and too -- too smother -- she just --
13 just smothered me and wouldn't let me have a little space
14 to do what I needed to do, but she's not a bad person at
15 all.

16 Q. Now that thing not being easy, is that made easier or
17 less easy when Mr. Hall is at the back of your car like
18 that?

19 A. Right. I -- I was trying to figure out in my head
20 what I was supposed to do with Angie to break up and I
21 didn't need anybody else interjecting their self into what
22 I was gonna try to do. I had a lot on my mind about how I
23 wanted to do it because I just -- I just was not gonna be
24 able to get all my stuff, put it in the car and go and
25 never see her again. That's not like me. I don't want to

1 send a text message to her saying hey, I'm -- I'm out of
2 here, you know, so I wanted to try to get in contact with
3 her some way to -- to let her know that we could talk about
4 it and I could explain to her what -- what I felt.

5 Q. Okay. Do you recall venting to any other friends or
6 associates of yours about Angie that day via text?

7 A. Yeah, I had already texted a guy, one of my friends,
8 Joe-Joe, that --

9 Q. Is that Joe-Joe Mims?

10 A. It is.

11 Q. Okay.

12 A. And I texted Joe-Joe and let him know that I was -- I
13 was tired of Angie's I believe I said shit and I believe
14 he had texted me back something about that's why I fly by
15 myself or something to that effect, he didn't normally have
16 a girlfriend, and he was just letting me know that that's
17 why he didn't have a girlfriend.

18 Q. I want to -- I want to show you again what's marked
19 for ID purposes at this time Defense 10, the same kind of
20 thread of texts where Angie's on, but it looks like the way
21 it's been extracted from your phone that Mr. Mims is on
22 here. Do you recognize his name in your phone as Joe-Joe
23 Mims?

24 A. Yes, that's my friend Joe-Joe.

25 Q. Ending in 5713?

1 A. It is.

2 Q. Okay. And, you know, right after -- do you recognize
3 a text right after Angie says she'll show out your text to
4 Joe-Joe Mims?

5 A. Yeah.

6 Q. Is that the one you reference where you're describing
7 how you're getting sick of Angie's shit?

8 A. I did text him that. Yes, I did.

9 Q. All right. And I think you referenced his response
10 was that's why I fly by myself?

11 A. Yes, that's what he told me.

12 Q. All right. Now have you -- had you left the pool hall
13 at this point?

14 A. I believe so.

15 Q. Okay. I want to describe for you some texts that
16 you're getting that same day. Again, now we're looking for
17 the text timestamp. Do you recognize it as 6:33?

18 A. Yes, that's 6:33.

19 Q. Still on May 7th, right?

20 A. Right.

21 Q. And this is -- who's this coming from?

22 A. Angie Smith.

23 Q. And does she -- does she advise that you couldn't even
24 come and speak?

25 A. Yes. I was at her house when I received that text.

1 Q. All right. And is she referencing the pool hall
2 earlier?

3 A. Yes, I didn't want to have any problems inside. She
4 said she was gonna come cause trouble and I didn't want
5 any trouble in the bar and I left without speaking to her.
6 She was sitting by B Boy, too, and I just didn't want any
7 trouble and I was trying to get out of there.

8 Q. And, again, at 6:33, that same minute, does she tell
9 you that everyone stared at me?

10 A. Yes, she did.

11 Q. And does that -- are you feeling that she's happy that
12 you didn't talk to her and just left without talking to
13 her?

14 A. No, not at all. It -- it made me feel bad that I had
15 to leave that way. You know, I felt -- I felt bad that I
16 had to do that. I -- I cared for Angie and I -- I just
17 felt like I had to -- I had to get out of there and I
18 thought that would make things better. I would -- I would
19 eventually get to her and talk to her.

20 Q. All right. Now eventually looking at 6:47, so maybe
21 fifteen minutes or so roughly from her last text, do you
22 get another text from her?

23 A. Yes, I -- I did, and I was -- I was kind of glad to
24 get that text. It looked like that she had calmed down
25 and it -- and it said see you soon, no fighting, so that

1 told me that she was -- she had calmed down. I figured
2 that she was talking to her friend Brenda and Brenda had
3 told her -- you know, calmed her down and -- and I felt a
4 lot more comfortable as far as encountering her.

5 Q. We're gonna get into a few more texts, but just for
6 the purposes of the record, this -- I mean, you fairly and
7 accurately recognize all these texts from that day between
8 you and Angie, right?

9 A. Absolutely.

10 Q. And you and Joe-Joe?

11 A. Yes.

12 Q. All right. And we've gone over them. Those
13 truthfully and accurately depict what was going on and how
14 y'all were conversating that day?

15 A. That -- that is correct.

16 MR. LUKE SHEALEY: Your Honor, at this time I'd
17 seek to admit these text messages produced by the State
18 into evidence.

19 MR. McNAIR: No objection.

20 THE COURT: Which exhibit?

21 MR. LUKE SHEALEY: This would be Number 10 defense.

22 THE COURT: All right. Defense Exhibit Number 10
23 admitted in evidence.

24 (Defendant's Exhibit Number 10, text messages, was
25 admitted into evidence.)

1 BY MR. LUCK SHEALEY:

2 Q. Now I want to -- so, again, I think you said you're
3 at her house, you're packing up your things, you're venting
4 to your friend Joe-Joe Mims about her --

5 A. Uh-huh.

6 Q. -- and you know you're gonna break up with her. I
7 think you said that.

8 A. I'd made that -- I had made my mind up, yes. That's
9 -- that's correct.

10 Q. Okay. But you've also described this B Boy situation
11 that we just witnessed at the back of your car?

12 A. Right.

13 Q. I want to talk to you about another text, 6:49 that
14 same day where you're texting Joe-Joe Mims. Do you recall
15 texting him can you calm me down?

16 A. Yes, I did.

17 Q. Tell the Court what you're -- what you mean by that.

18 A. Well, I -- I wanted to reach out to somebody to help
19 calm me down because I didn't need all the stuff going on
20 as far as I had -- breaking up with Angie and now I have
21 somebody running out and beating on my car and it made me
22 feel nervous and I just didn't know what to do. I needed
23 someone to -- to help me as far as with the situation,
24 give me some guidance on -- on, you know, what I should do.

25 Q. Now help you -- I mean, I think -- did you know how to

1 break up with a girlfriend?

2 A. Well, I was married for twenty years, but before that
3 I had opportunity to --

4 Q. Well, let's just -- not belaboring the point, but
5 you've done that before?

6 A. Yes, I have.

7 Q. But what situation is it on that day and that
8 timeframe that you needed with?

9 A. Well, I needed help with somebody that was beating on
10 my car. I didn't need -- I didn't need that along with
11 having to break up with my girlfriend.

12 Q. And that somebody is B Boy?

13 A. That's correct.

14 Q. Now why did you think Joe-Joe Mims would be able to
15 help you with that? Who was he to you? What did you know
16 about him?

17 A. Well, I went to school with him. We played ball
18 together. We used to hang out together and he's -- he's
19 300 pounds.

20 Q. Okay. Is B Boy gonna start anything if Joe-Joe Mims
21 is next to you?

22 A. I would very -- doubt it.

23 Q. All right. Now I want to talk to you about your next
24 text, which is 6:49, and I know that the solicitor will be
25 asking you about that, you say I'm gonna kill that B Boy.

1 A. Yes, I did text that.

2 Q. Please tell the Court about that.

3 A. Well, I was venting. I didn't mean it literally
4 that -- that was gonna happen. I just didn't need him
5 interjecting -- beating on my car and hollering at me out
6 there. I just didn't need him doing that at the particular
7 time and it was just one of those things where you text
8 someone and it doesn't come across as the way you mean it.

9 Q. Have you ever texted anything else in your life that
10 wasn't literal?

11 A. A bunch of times.

12 Q. Okay. But you're upset, right?

13 A. I'm upset.

14 Q. And does he respond to you that they had talked shit
15 the last time he was in there?

16 A. Yes. Yes. I'd known a little bit about that. I
17 didn't know exactly what happened, but I knew Joe-Joe
18 hadn't been coming in there anymore like he was. So, yeah,
19 I -- I knew Joe-Joe had had some problems with B Boy.

20 Q. Okay. And you asked him specifically -- 5:55, a few
21 minutes later, do you recall saying can you help me?

22 A. Yes, I did.

23 Q. And you say -- and I probably wouldn't ask you this
24 question in front of a jury, but you say I'm out on two
25 bonds, I don't need this BS?

1 A. BS, right.

2 Q. Now you had a prior incident in Georgia that we're not
3 really getting into, but since it's in this text that we're
4 -- that's admitted in evidence, did you want -- were you
5 looking for trouble if you're out on bond?

6 A. Absolutely not. I -- you know, you need to keep your
7 -- keep clean and out of trouble when you're like that, but
8 I meant I just had a situation.

9 Q. And you don't need to talk about it, but are you --
10 are you hoping to avoid trouble?

11 A. Absolutely. Yes.

12 Q. And that's why you're asking, what, Joe-Joe?

13 A. Yeah, I'm asking Joe-Joe to help me.

14 Q. When you say I don't need this BS, I assume you're not
15 talking about literal bull S-H-I-T. You mean I don't need
16 this?

17 A. I don't need all of what's being interjected into me
18 as far as I've already got enough problems going on with --
19 with Angie and I just don't need all the BS as far as --
20 that's added on stuff that I'm trying to take care of Angie
21 and I've got more stuff now, which I'm calling as BS.

22 Q. Did you think that Joe-Joe might be able to diffuse
23 this situation, help it out in some way?

24 A. I did. I was definitely hoping that.

25 Q. Did he come? Did he answer you?

1 A. He -- he answered me that he was in Augusta at --
2 somewhere over in Augusta.

3 Q. Those last texts, he didn't come -- come right over or
4 say I'm on the way. Did he ever respond to you in a way
5 that made you think he was on the way?

6 A. No. No, he was at the River -- I think it was called
7 River -- Riverview Pub in Augusta, so he was a good
8 forty-five minutes away.

9 Q. Now I want to, again, show you defense for ID 9, your
10 text exchange from Officer Mathis that we'd talked about a
11 little bit and you'd already said you called him when you
12 were worried about a female at the bar closing up by
13 herself, right?

14 A. Right.

15 Q. And we know you called him the day before when Angie
16 was giving you problems and you wanted her to be calmed
17 down, right?

18 A. I did.

19 Q. Do you recall reaching out to him during this same
20 timeframe you're reaching out to Joe-Joe Mims?

21 A. Right, I did.

22 Q. And I want to point your attention to a text message
23 here, the very final one between you and Officer Mathis,
24 May 7th. Do you recognize the time as being 6:52?

25 A. I do.

1 Q. And what do you ask him?

2 A. I asked him if he was available.

3 Q. Are you available?

4 A. Right.

5 Q. Is that because you want to let him know you're about
6 to go murder B Boy?

7 A. No, not at all. That wouldn't be a smart thing to
8 do. I was asking if he was available to go up to the pool
9 room with me to allow me to talk to Angie and not have any
10 problems.

11 Q. Okay. And he -- had he been helpful in that way
12 before?

13 A. He absolutely had. He'd come to my house and, yeah,
14 he had helped diffuse the situation there and I was hoping
15 he would answer my text or whatever and me and him would
16 ride up there and I would be able to talk to Angie.

17 Q. Now in your mind is B Boy gonna start anything with
18 Officer Mathis there?

19 A. Absolutely not.

20 Q. But did he respond to you?

21 A. Unfortunately he did not.

22 Q. All right. So when you're reaching out to folks and
23 they're not helping you, what did you decide to do?

24 A. Well, when I'd gotten the text message that Angie sent
25 me, the last one, she said I'll see you soon, no fighting,

1 I felt like she had calmed down enough that I could go to
2 the pool room and as long as I didn't go inside the pool
3 room I would be able to get her to come outside and we
4 could talk it over.

5 Q. All right. Why didn't you just break up with her at
6 her house? Why didn't you just wait on her to come back
7 and -- what was your thinking behind that?

8 A. Well, I'd already had situations like that, you know,
9 when she loses control and she doesn't have anybody around,
10 it wasn't gonna be real nice I didn't think. I was gonna
11 end up having to call the law. It just wasn't a good idea
12 to do it actually at her house. I figured if people were
13 around it would be more apt -- that she would be more apt
14 to not be violent with me.

15 Q. Okay. Now I want to play you again what I would call
16 the original pool room video. It's unedited, unenhanced
17 in any way, of your return back to the pool room that day.
18 And I want to go ahead and kind of fast-forward up to the
19 point of interest for the Court. Do you recognize that
20 car?

21 A. Yes, that's my car.

22 Q. And we're at 6:06 on this counter, whether it's
23 accurate or not, but that's your gray Mercedes?

24 A. Yes, it is.

25 Q. Did you come back there for the intention of killing

1 B Boy?

2 A. No, I did not.

3 Q. Why did you come back to the pool room?

4 A. I wanted to break up with Angie.

5 Q. And she said see you soon, no fighting?

6 A. That's correct.

7 Q. And for whatever reason it cuts off there. We'll pick
8 up right with the other one.

9 When you arrive, and I just paused it, do you recall
10 getting out, coming in the pool room to try to break up
11 with Angie face-to-face in that bar?

12 A. No, I wasn't gonna do that.

13 Q. Again, what was your plan? Why would you not get out?

14 A. B Boy had already ran out at my car and beat on my
15 car and anybody that comes all the way out to the road, I
16 mean, I knew something wasn't good, so I was gonna wait,
17 and I parked up front that Angie would see me and come out
18 or eventually if she didn't come out I would text her, but
19 I didn't want to text her because if she was sitting beside
20 B Boy, then B Boy would know and come out.

21 Q. Okay. And does this pool room have big old windows on
22 the front of it?

23 A. It does.

24 Q. Okay. I'm playing it again. Are you still sitting in
25 your car?

1 A. Yes, I am.

2 Q. Who's that that comes out?

3 A. That's B Boy.

4 Q. And this video is about eight minutes, so I'm just
5 gonna have you watch it and then we can talk about what we
6 see.

7 What's he doing right there? Do you see him lean over
8 and do something?

9 A. Yeah.

10 Q. What do you -- what did he do?

11 A. Checked my door handle.

12 Q. What's he got in his hand?

13 A. A gun.

14 Q. Say it again, please.

15 A. A gun.

16 Q. What's he showing you?

17 A. A gun.

18 Q. Do you know what a gun looks like?

19 A. Yes, I do.

20 Q. What did he do with that hand motion?

21 A. You can't really see.

22 Q. Right there.

23 A. Is that when he does like this?

24 Q. I can't tell you what -- I know your vision may not be
25 the best, but --

1 A. I can't -- it's not -- I don't have a very good view
2 here.

3 Q. Well, I'm describing this sweeping motion he makes
4 like that. Do you recall seeing that on my laptop when I
5 came to visit you?

6 A. Yes.

7 Q. Do you recall what he was inviting you to do?

8 A. Telling me to step out and fight like a man.

9 Q. We'll talk more about it in detail, but let's get
10 through this original.

11 All right. It's gonna pick up with the next video.

12 Now real quick, Barry, since we're in the middle of
13 this one video, did you come in with your headlights on?
14 Did you drive up with your headlights on?

15 A. No.

16 Q. Okay. Had you stopped your car?

17 A. Yes.

18 Q. But your headlights are on right now?

19 A. Right because I started it up.

20 Q. All right. I'll talk to you more about that in a
21 second.

22 A. Okay.

23 Q. All right. I'm gonna stop it right there. I'm gonna
24 walk you back. We've watched the original video, but
25 you're going to have to talk to this Court about what was

1 going on between you and B Boy.

2 MR. HUBBARD: I have a quick question for
3 clarification. Is that in evidence, everything?

4 MR. LUKE SHEALEY: Yeah, we already put it in
5 evidence.

6 MR. HUBBARD: Okay. I wanted to make sure that
7 was in.

8 MR. LUKE SHEALEY: Right, Clerk? We did.

9 THE CLERK: (Nods head.) You did.

10 BY MR. LUKE SHEALEY:

11 Q. All right. So let's backtrack. You're driving up.
12 You testified that you planned on breaking up with Angie.
13 You'd gotten a somewhat encouraging text from her; see you
14 soon, no fighting?

15 A. Yes, I did.

16 Q. And you've described how you've got this problem with
17 B Boy based on him beating on your car, right?

18 A. Well, that and some other, you know, instances that
19 happened before that, but that day, right.

20 Q. Well, right. We've already heard about that, but in
21 that moment you reached out to folks who haven't been able
22 to help you, specifically Joe-Joe Mims and Officer Mathis.

23 A. Right.

24 Q. And you arrive up there. Tell use what happens.

25 You've described how you were gonna sit in the car. Again,

1 why did you want to sit in the car?

2 A. Well, I didn't want to go inside with B Boy running
3 outside, you know, to my car. I didn't feel safe with that
4 and him beating on my car and whatever. I felt I would be
5 safe if I went up to the bar, parked near the front, the
6 first spot I came to and I got it, and I sat there and was
7 hoping Angie -- Angie would come out and we could talk
8 about it or ride somewhere else or whatever, but --

9 Q. But Angie didn't come out, right?

10 A. She didn't.

11 Q. B Boy came out?

12 A. He did.

13 Q. And how did he approach your car? Where did he --
14 where did he come up to your car?

15 A. Well, he came up to the driver's side door, the window
16 area.

17 Q. All right. And is he happy with you?

18 A. No, he's not happy at all.

19 Q. All right. What -- what are the -- this is an
20 eight-minute exchange between you and B Boy. Did you want
21 to be having that conversation with B Boy?

22 A. No, I just wanted to break up with Angie and get that
23 over with and -- and be done with that and gone.

24 Q. So it seems like he's discussing a lot of things with
25 you. What are the topics of conversation?

1 A. Well, the biggest thing, he's wanting me to get out of
2 the car. Other things, he's wanting to know the things
3 that I had -- he had heard from Angie, why she was in the
4 bar. She was -- she was talking about how I hadn't talked
5 to her when I -- before I left and he was wanting to know
6 why I didn't come talk to his cousin before I left, I'd
7 just left her sitting there. He also said he didn't like
8 the fact that he was -- that I was taking -- I was taking
9 Angie to the bar -- in Foley's, taking the business away
10 from the pool room there. Also --

11 Q. He didn't -- he didn't like that you were going to
12 other establishments?

13 A. That's correct.

14 Q. And, again, why did you go to other establishments?

15 A. To try to get some space away from him and to get away
16 from the smoke.

17 Q. All right. Continue. What else -- what else was he
18 raising with you?

19 A. He -- he -- he was angry that I had called the law
20 over to Angie's house.

21 Q. Are you talking about the night before?

22 A. The night -- the night before, yeah. Apparently he
23 had found out about that and he was angry about that
24 because Angie was part of the family and he didn't see
25 any reason that I should be calling the law on her and I

1 explained to him that, you know, I didn't dial 9-1-1, I
2 called Officer Mathis over, there was no report done or
3 anything like that, and he didn't really want to hear that.
4 He -- he talked about that Clayton had he told him that I
5 was trying to run the bar and some different -- different
6 ideas that I had. I told -- you know, I'd told Clayton
7 that they needed to stop smoking in the establishment.
8 Most every place had had -- there's no smoking inside, to
9 let the smokers go outside.

10 Q. You're saying he was referencing your -- your prior
11 complaints?

12 A. Yes, he -- he was, that Clayton had had a chance to
13 talk to him about, and he was discussing them with me.

14 Q. All right. What is the -- the tone of his voice?
15 What is his general demeanor toward you as best as you can
16 remember from watching that video?

17 A. He's -- he's angry with me and it gets to a point
18 where he wants to fight me and -- and get me out of the
19 car.

20 Q. All right. Describe specifically. Now when you're
21 talking to him, you've got your window rolled down?

22 A. No, I -- I rolled the window down about six to
23 eight inches and when I was talking to him the only
24 protection I had between me and him was -- was the -- was
25 the window itself, so I didn't feel comfortable at that

1 time to -- to having the window rolled all the way down and
2 it's just the fact I didn't -- I didn't feel comfortable
3 with him.

4 Q. All right. What -- what would have happened if you
5 rolled your window down the entire way?

6 A. Well, he -- he's big enough and strong enough that if
7 he wanted to he could easily drag me out of the -- out of
8 that car.

9 Q. Did he -- did he ask you to fight him?

10 A. Absolutely.

11 Q. Were your doors locked or unlocked?

12 A. The door was locked.

13 Q. Why were the doors locked?

14 A. Because I didn't want him pulling me out of the car
15 and beating me to a pulp.

16 Q. I asked you something about something he was doing in
17 the video and you said he was checking the door. What do
18 you mean by that?

19 A. He was seeing if it was unlocked.

20 Q. All right. Did he ever ask you to get out?

21 A. Absolutely he asked me to get out. On more than one
22 occasion he asked me to get out. He said get out and fight
23 like a man and he called me this college boy.

24 Q. Did he ever ask -- did you ever get the feeling that
25 he could make you get out?

1 A. I did. There was a point.

2 Q. All right. I'm gonna show you a video that we've
3 enhanced. All right. In this -- I'm just gonna play this
4 for you and we'll talk about it.

5 MR. HUBBARD: What exhibit number is this?

6 MR. LUKE SHEALEY: This has already been entered as
7 the enhanced. Whatever -- whatever they were, the first
8 one.

9 MR. HUBBARD: Is there a number on it? I just want
10 to follow it.

11 THE CLERK: Number 1. Defendant's Number 1.

12 MR. HUBBARD: Okay.

13 BY MR. LUKE SHEALEY:

14 Q. Now describe for the Court what he's doing here,
15 Barry.

16 A. Here he's showing me a gun in his waistband.

17 Q. And do you know what a gun looks like?

18 A. Yes, I have a lot -- I have a lot of guns. I'm a gun
19 owner.

20 Q. Okay. Now did you see him with a cell phone that day?

21 A. Yeah, he had a cell phone.

22 Q. All right. Was that -- do you recall that being
23 around his pocket area?

24 A. Yes. His hand's on his cell phone right there.

25 Q. All right. His right hand being on his cell phone?

1 A. Correct.

2 Q. Where's the gun?

3 A. Up toward his waistband under his hand and to the
4 left.

5 Q. Okay. Now is it tucked into his waistband?

6 A. Yes.

7 Q. All right. And you saw this specifically?

8 A. I did.

9 Q. Has anybody ever flashed you a gun before like that?

10 A. That's the given signal that they have a gun.

11 Q. All right. How did that make you feel in that moment?

12 A. Things really changed when that was a fact. I -- my
13 car was no longer my protection once he had a gun.

14 Q. I'm gonna play the rest of this. Now there's a moment
15 when he was waving his hand around.

16 A. That's --

17 Q. That. What do you believe is in his hand at that
18 moment?

19 A. A gun. He told me it was a gun.

20 Q. Now I want to show you what's been marked as Defense
21 Exhibit 2, 3 and 4 for ID purposes. We've talked about it
22 with our experts. Does these look like some still images
23 of this video that we just saw?

24 A. Right.

25 Q. Where he's flashing you his waistband area and where

1 he is specifically in Defense Number 4 showing you
2 something?

3 A. That's correct.

4 Q. And you recognize that?

5 A. Yes. It's a gun.

6 Q. All right.

7 MR. LUKE SHEALEY: At this time I would enter
8 these still images into evidence.

9 THE COURT: Those are the originals?

10 MR. LUKE SHEALEY: This is the enhanced. They're
11 still images from the enhanced.

12 THE COURT: Okay. Subject to your previous
13 objection?

14 MR. HUBBARD: Yes, sir.

15 THE COURT: All right. Subject to State's objection,
16 they're so admitted.

17 (Defendant's Exhibit Number 2, 3 and 4, photographs,
18 were admitted into evidence.)

19 BY MR. LUKE SHEALEY:

20 Q. What did you think B Boy was gonna do with that gun?

21 A. He was gonna get me out of that car and either beat me
22 up or shoot me.

23 Q. Did he reference the gun specifically?

24 A. He did. He said that he had something for me that day
25 and that he would get me out of that car because he had

1 something, you know, for me to -- to get me out of the car.

2 Q. All right. Did you feel that with him being armed
3 that your locked door was gonna prevent you from being
4 removed from your vehicle?

5 A. No, the glass and the doors and the car's no good when
6 a man shows you the gun and he threatens me with the gun.

7 Q. Now you've already described how you had some of your
8 possessions in your car from Angie's?

9 A. Right.

10 Q. You mentioned you had guns in your car?

11 A. Right. I did.

12 Q. All right. When you went back over there, did you
13 come armed with a gun, let's say, in your pocket or in a
14 holster specifically or anywhere on your person?

15 A. No, I didn't.

16 Q. What, if anything, did you do when you saw B Boy with
17 that gun?

18 A. I reached over and I had a bag that had guns in it,
19 my revolvers and stuff, and my semiautomatic Glocks or
20 whatever, and I grabbed the first one I could off the top
21 of the bag.

22 Q. The first gun you could?

23 A. Yes.

24 Q. What -- do you recall what gun that was?

25 A. Yeah, it was my wife's gun that I bought for her. It

1 was a revolver.

2 Q. Do you know what type of revolver?

3 A. It was a hammerless Titanium. I don't remember the
4 brand, but it's a -- it was especially for her. It was gas
5 ported to keep it from kicking and had a good -- good grip.

6 Q. Do you remember the caliber?

7 A. It was a .38 special, sir.

8 Q. All right. And after seeing B Boy with that gun, you
9 grabbed your wife's gun. What did you do with that gun at
10 that point?

11 A. I put it in my lap.

12 Q. All right. And is this after seeing this?

13 A. After seeing what?

14 Q. After you witnessed this, the flashing, is that when
15 you hid it?

16 A. Yes, I did.

17 Q. Now can B Boy see that gun?

18 A. No, he can't.

19 Q. Are your windows tinted or untinted?

20 A. They're tinted.

21 Q. All right. And I think you said -- how far down did
22 you have your driver's window?

23 A. At that particular time, I had them down about six to
24 eight inches --

25 Q. Okay.

1 A. -- but I -- I felt safer with the window down after
2 the fact that he had a gun and I -- if I had a gun that I
3 could not maneuver myself with the window -- through the
4 window. I felt better with the window actually down once I
5 had the gun on my lap.

6 Q. Now this conversation, I think you've described it as
7 general issues between you and B Boy, I guess, but some of
8 them were concerning his cousin Angie, right?

9 A. That's correct.

10 Q. And some of them were about you trying to run the bar
11 or something like that, I guess, your complaints?

12 A. Right.

13 Q. Did he ever in that moment say look, Barry, I'm here
14 because you've been an unruly patron and we're just tired
15 of stuff and you just need to leave and never come back?

16 A. No, he didn't.

17 Q. He never said look, Barry, I'm gonna call the police
18 on you if you don't leave quietly and politely right now?

19 A. No, he didn't.

20 Q. Now I want to play at some point -- and this is a long
21 video. I think it's like eight minutes or something. At
22 some point do you see him kind of leave your car and walk
23 away?

24 A. Yes. I got some -- a hope at one point in time or
25 whatever when he stopped -- he was going back and forth and

1 finally he started walking and he was doing motions like
2 this and he finally looked like he was gonna go inside and
3 I was -- I was gonna get out of there as soon as he went
4 inside.

5 Q. So you said a hope. So when he started walking away,
6 did that give you hope that that encounter was gonna end?

7 A. It did.

8 Q. Okay. And, you know, at that point, again, you were
9 there for Angie?

10 A. Correct. I was there to talk with Angie, find out --
11 you know, tell her that I decided to just kind of call it
12 off and -- and take care of things that way.

13 Q. And at this point did you still have your wife's
14 pistol in your lap?

15 A. Absolutely.

16 Q. I want to show you what you just described. Is this
17 him walking away?

18 A. Yes, that's -- that's when I was getting a little bit
19 of hope once he kept going this way. Right there he --

20 Q. With him doing like that, just looking at it, it looks
21 like he might be saying leave, get out of here?

22 A. Yeah. Yeah, I believe so.

23 Q. Do you recall that at that point?

24 A. Right. I did.

25 Q. Why didn't you -- now why is he asking you to leave?

1 It seems like you're saying he wants you to fight.

2 A. Right.

3 Q. Well, describe that. Did you get out and fight him?

4 A. No, I wasn't gonna get out and fight him. There's no
5 way, no. He was -- he -- I told him he was not gonna get
6 me out of the car no matter how he talked bad to me and
7 down to me and threatened me. He wasn't gonna get me out
8 of that car.

9 Q. All right.

10 A. I told him to leave and go inside.

11 Q. So you told him to leave and go inside?

12 A. I did and I would leave.

13 Q. All right. At this point is this the time you thought
14 maybe he was just gonna go inside?

15 A. Yes, I did.

16 Q. Now we talked about your lights being on at this point
17 and I think you said your car was running. Why didn't --
18 why didn't you just throw it in reverse and get the heck
19 out of there?

20 A. With him showing me that gun, I'm not gonna take my
21 eyes off him to put my -- put it in reverse and back up
22 and look at what's behind me. I don't -- I don't feel
23 safe with -- with leaving while he's still on the outside
24 because --

25 Q. All right. Would you have left if he had gone inside?

1 A. Absolutely. I was -- I was getting ready to go. I
2 had the car running and -- and was ready to go.

3 Q. All right. Now I want you to watch him here. He
4 turns. Do you see that?

5 A. Right.

6 Q. Real quick. Do you know why he did that?

7 A. No, I don't.

8 Q. Now I notice throughout the entire video there's some
9 pacing and moving back and forth. Do you have any idea why
10 he turned on his heel like that?

11 A. Well, I felt like he was coming back to get me for
12 sure.

13 Q. I'm gonna ask you this because I feel like the State
14 will probably have this question for you. Did you say hey,
15 B Boy, come here, I want to talk to you?

16 A. Ab -- absolutely not. I did not.

17 Q. Did you call him back over in any way?

18 A. I did not.

19 Q. All right. And what is in your mind when he turns
20 that quickly for that large man?

21 A. I'm still hoping that he -- he doesn't come all the
22 way to my car. I still -- I'm still -- I have hope that
23 he's not gonna try to come and -- and pull me out of the
24 car. My window's down at that point in time, I have my
25 gun, but I'm just hoping he stays in the front of my car

1 and tells me to go and I was gonna tell him to -- you go
2 inside and I will leave.

3 Q. All right. And he keeps advancing here; does he not?
4 But he pauses right there?

5 A. Uh-huh.

6 Q. Does he start again?

7 A. Yeah. He says he's gonna get me out of the car.

8 Q. Now it looks like you didn't get out of your car.
9 Tell me when exactly it was that you got out of the car.
10 It looks like to me right around that last piling.

11 A. That -- that last whatever you call the yellow thing.
12 Once he -- once he turned that corner, I could not let him
13 get any closer to me than that whatever. He was gonna pull
14 me out of the car or use the gun on me or whatever. It's
15 got to a point where he's -- he's 280 pounds or so. I
16 couldn't -- I couldn't let him just come and pull me out of
17 the car and beat me around the place or whatever. I -- I
18 couldn't. I just had to defend myself. I had no other
19 choice.

20 Q. And were you -- did you see a gun in his hand in the
21 moment you shot him?

22 A. I could not see his right hand when he turned the
23 corner, so I can't say for sure that he had a gun. I just
24 knew that if I didn't stop him -- with a gun or not. If he
25 had a gun, he was gonna shoot me. If he didn't have a gun

1 at that particular time when he turned the corner --

2 Q. You mean a gun in his hand?

3 A. Right. When -- when he turned the corner or whatever,
4 he's close enough to me and he's already threatened me
5 multiple times he was gonna beat me or whatever, I didn't
6 feel safe in the car at all with my window down because I
7 didn't feel comfortable with having a gun and him having a
8 gun and me pinned down in my car. It's -- I was at a big
9 disadvantage pinned down in my car like that.

10 Q. Okay. But you had seen him with a gun moments prior?

11 A. I did see him with a gun. Absolutely I did.

12 Q. Now how many times did you shoot him?

13 A. Twice.

14 Q. Did you shoot him face on like you and I are facing
15 each other?

16 A. Yes.

17 Q. Did you shoot him in the back?

18 A. I did not. I got out as quick as I could and fired
19 two shots because he was coming at me as I had no choice.

20 Q. Did he stop coming at you when you fired two shots?

21 A. He stopped after I fired, but he was still going when
22 I fired.

23 Q. Right. But the two shots stopped him coming?

24 A. That's correct.

25 Q. You didn't feel the need to fire five shots or

1 anything like that?

2 A. No. No.

3 Q. Now --

4 A. My intention was to stop the threat, not to actually
5 kill him.

6 Q. Okay. You didn't go there with the intention of
7 killing him?

8 A. No.

9 Q. But you did kill him?

10 A. I did kill him.

11 Q. And you said you felt you had to stop the threat?

12 A. Right. I was taught to stop the threat. That's
13 what's you have to do.

14 Q. Now why didn't -- now you said taught. Are you
15 talking about -- have you ever had a concealed weapons
16 permit?

17 A. Right. I got my concealed weapons permit in 19, I
18 believe, 96.

19 Q. All right. So you had been through some basic use of
20 weapons or training by whoever taught that to you in 1996?

21 A. Right.

22 Q. Was that law enforcement that taught you?

23 A. Yes, it did.

24 Q. Now why didn't you call 9-1-1 right there and wait
25 around at the pool room. You see from the video you drove

1 off.

2 A. Yeah, as soon as -- as soon as that happened, his
3 friends started piling out of the pool room. There's no
4 way I could have felt safe there -- staying there with that
5 happening and he's been going there for years and years and
6 years. I think at one time he said like forty years he had
7 been attending that bar and he -- he had a lot of friends
8 in there that were not really friends of mine, but I was
9 sociable with them. But I knew that I could possibly get
10 -- get shot by one of those -- those guys in there.

11 Q. So it sounds like you're saying due to the people
12 that you knew were in there at the time you felt it
13 wouldn't be safe killing their friend or shooting their
14 friend at least?

15 A. Right. Basically my three closest friends had already
16 -- already left -- left the bar earlier.

17 Q. All right. Why did you shoot Mr. Hall?

18 A. Just to save my life where I would be able to breathe
19 the next day.

20 Q. Did you feel like you'd be here today if you hadn't
21 taken the action you did?

22 A. I wouldn't or I would be mangled up, one of the two.

23 MR. LUKE SHEALEY: Barry, I don't have any further
24 questions for you. If you'd please answer any questions
25 the solicitor might have for you.

1 THE WITNESS: Yes, sir.

2 THE COURT: Cross-examination.

3 MR. HUBBARD: Your Honor, I think this is gonna be
4 quite a while. I would request a lunch break.

5 THE COURT: All right. What time is it now? 12:30.
6 Let's come back at 1:30 and start cross-examination.

7 Please don't discuss -- please don't discuss your
8 testimony during the lunch hour.

9 THE WITNESS: Yes, sir.

10 (Whereupon, a luncheon recess was taken at 12:34 PM.)

11 (State's Exhibit Number 1 through 19 were marked
12 for identification.)

13 (Back on the record at 1:31 PM.)

14 BAILIFF: All rise.

15 THE COURT: Good afternoon, ladies and gentlemen.
16 Please be seated. Thank you.

17 MR. LUKE SHEALEY: Barry, you can step back up on
18 the stand, all right?

19 THE CLERK: You're reminded you're still under oath.

20 THE WITNESS: Yes, sir.

21 MR. HUBBARD: If it please the Court?

22 THE COURT: Yes, sir.

23 CROSS-EXAMINATION

24 BY MR. HUBBARD:

25 Q. Mr. Jones?

- 1 A. Yes, sir.
- 2 Q. Life's about choices, isn't it?
- 3 A. Yes, sir. A lot of them.
- 4 Q. Bad choices, good choices, but ultimately people get
5 to choose what they do, right?
- 6 A. That's correct.
- 7 Q. So we've been hearing you today talk about how your
8 life seemed to be miserable. You're with Angie, things
9 weren't going well.
- 10 A. At that particular time they weren't.
- 11 Q. You'd been going to this pool hall, pool room, and you
12 say the service is horrible, yet you keep going back?
- 13 A. Right. I wanted to see it succeed.
- 14 Q. Succeed?
- 15 A. Yes, sir.
- 16 Q. If it went out, somebody else could come in and run a
17 nice pool hall.
- 18 A. Well, I wanted -- I wanted the Halls to succeed with
19 the business.
- 20 Q. The same Halls, Milledge Hall, who you say was
21 spreading lies about you?
- 22 A. He -- I thought he did, yes.
- 23 Q. So of all the places you could go, you're gonna go to
24 this pool hall where they serve lousy food, the service was
25 poor and Milledge Hall's there?

1 A. Is that a question?

2 Q. Yeah, it's a question.

3 A. Okay. The answer to that question is I wanted to see
4 it succeed and I wasn't going there all the time talking
5 bad about the stuff. I wanted --

6 Q. I didn't ask you that.

7 A. -- I wanted the service to be better. Could you
8 repeat the question, please?

9 Q. So you're going there to make the service better?

10 A. I do know a lot about management. Majored in
11 management, in business.

12 Q. So your -- your purpose in going there isn't just for
13 a nice bite, but it's to make this place run better?
14 That's your purpose?

15 A. That's not my purpose. My purpose is going to enjoy
16 myself.

17 Q. But you're gonna offer your free advise whether it's
18 wanted or not?

19 A. Well, I'm gonna interject when I feel like it could
20 help the business, yes.

21 Q. Even when you're told we don't need your help?

22 A. Nobody ever told me that, sir.

23 Q. Nobody. Nobody's ever said we've heard enough?

24 A. No. No, sir.

25 Q. So you go to this place on a routine basis and on

1 this night or this day, May 7th -- well, let's talk about
2 two days before that, this -- what was it, May 5th,
3 Saturday, you're in there and you talked about being in
4 there with Angie?

5 A. I was.

6 Q. And that she was all drunk and --

7 A. I didn't --

8 Q. -- you wanted to leave and all that?

9 A. I never said she was drunk, sir.

10 Q. Okay. Well, isn't it true that night you were
11 hounding her?

12 A. Later that night she drank too much --

13 Q. Isn't it --

14 A. -- and continued to drink and wouldn't let me go to
15 sleep.

16 Q. Isn't it true you were hounding her at the pool room?

17 A. No, I wasn't.

18 Q. Do you deny on your own phone you shot a photo -- a
19 video, your attempt -- demanding her to say what did you
20 say again, say it again, and she looks very perturbed and
21 you've got your phone right in her face? You deny that
22 happened?

23 A. I do.

24 Q. You do deny that?

25 A. I do not remember that, sir.

- 1 Q. You don't remember it or it didn't happen?
- 2 A. I don't remember it.
- 3 Q. Okay. Let me show you this. Go ahead.
- 4 That was your phone, right?
- 5 A. I have no idea, sir.
- 6 Q. That was your voice.
- 7 A. I can't hear it that well. If it is mine, it is mine.
- 8 I'm not --
- 9 Q. You'd been drinking that night?
- 10 A. Yes, sir.
- 11 Q. And that's Angie. That's who we're talking about.
- 12 A. I see Angie on the video. Yes, sir.
- 13 Q. And tell me what you just said.
- 14 A. I did not hear it, sir.
- 15 Q. You didn't hear that?
- 16 A. I did not hear it.
- 17 Q. Do you want to play it one more time? Listen closely.
- 18 A. There's a lot of background noise. I can't hear that.
- 19 Q. Yes, sir. It's a bar. Tell me exactly what you just
- 20 said.
- 21 A. I believe it said tell me what you just said.
- 22 Q. That's good. That's Angie?
- 23 A. It is.
- 24 Q. She doesn't look too happy, does she?
- 25 A. No, she doesn't.

1 Q. And you're making a demand to her and she's not
2 answering you. She's not saying anything. You're the
3 one --

4 A. What did I demand, sir?

5 Q. Did you not just hear what you said?

6 A. I did not hear it. I cannot understand with all that
7 going on.

8 Q. Let me interpret. What did you just say? Say it
9 again. That's what -- that's what was on here?

10 A. Right.

11 Q. So Angie wasn't showing out that night?

12 A. Well, not at that point in time, no.

13 Q. You were the one making a demand.

14 A. If that's what it said, that's -- that's what
15 happened --

16 Q. Okay.

17 A. -- but that's not a shot of the whole night.

18 Q. It's off your phone.

19 MR. HUBBARD: I offer this into evidence.

20 MR. LUKE SHEALEY: Your Honor, that's hearsay,
21 number one. It's a statement made for the truth of
22 the matter asserted, but I don't -- I've never seen
23 this thing, number two.

24 I asked Rick, you know, is it part of the phone
25 dump, he says yes. We didn't see any videos as part

1 of the phone dump, so. I think he can impeach him with
2 it, but I don't think he can enter it into evidence and
3 we can take it up that we've not seen it before and it's
4 a discovery matter, but --

5 THE COURT: Well, I mean, you don't -- there's no
6 issue whether it's his voice. I mean, I heard it, but
7 you're -- you're offering to admit it for the purpose of
8 this hearing?

9 MR. HUBBARD: Right. Yes, sir.

10 THE COURT: Okay. Subject to your objection.

11 MR. LUKE SHEALEY: Okay. Was there a date on that?
12 I don't know if there was a --

13 MR. HUBBARD: Yeah, it was the 5th.

14 MR. LUKE SHEALEY: I don't recall --

15 MR. HUBBARD: May 5th. Yeah, that's how I set up
16 the question, two days before, that Saturday that you
17 discussed earlier.

18 THE COURT REPORTER: Can I just -- did you mark
19 this already or what number are you on? Sorry.

20 THE COURT: That's State's 1.

21 (State's Exhibit Number 1, video clip from phone,
22 was admitted into evidence.)

23 BY MR. HUBBARD:

24 Q. All right. And at this bar, do you admit B Boy's one
25 of the ones that runs the bar?

1 A. That's correct.

2 Q. So if he doesn't want somebody in that bar he's got
3 authority to say you need to go?

4 A. He does.

5 Q. So there's no question about that?

6 A. No, there's not a question.

7 Q. And you've expressed how upset you were with him
8 spreading lies?

9 A. That one particular time, yes.

10 Q. Now on May 7th, that one time, so you only know of one
11 time when he said something that wasn't true about your
12 employment?

13 A. Yes.

14 Q. So he wasn't out spreading lies, it was just that one
15 time?

16 A. Well, I don't know who he spread it to, sir.

17 Q. All right. May 7th -- May 7th you leave that first
18 time. Now you talked about how he beat your car. Those
19 were your words, weren't they?

20 A. If that's what I said, yes, he beat -- he beat my car.

21 Q. You would agree that today on this record you said it
22 repeatedly. He beat my car. I was concerned about going
23 back because he beat my car. When I was leaving, he beat
24 my car.

25 A. Yes, sir.

1 Q. Let's play that video again.

2 Again, that's you leaving, the orange shirt, correct?

3 A. Yes.

4 Q. And when you're leaving, nobody's chasing you. You're
5 not running, you're just walking to your car?

6 A. That's correct.

7 Q. No threats?

8 A. No.

9 Q. And, again, we see Milledge coming out, correct?

10 A. Yes, sir.

11 Q. And as you're backing up he's walking towards your
12 car?

13 A. That's correct.

14 Q. He's probably in your blind spot right there.

15 A. Correct.

16 Q. As you turn right here, that one time, that hit, you
17 say that's beating your car?

18 A. Yes, that was pretty loud on the inside, sir, when
19 something hits inside your car.

20 Q. I just want to know how to gauge your perception of
21 things.

22 A. Okay.

23 Q. What you describe as a beating on my car.

24 A. If that's what I said, sir, yeah.

25 Q. Okay. So -- but you would agree it looks like hey, I

1 just want to talk to you, where are you going? You see me.

2 A. No, sir, I didn't take it that way because he was
3 hollering at me too at the same time, but you can't see
4 that.

5 Q. He's asking you to stop to talk.

6 A. Sir, he's not asking me to stop the car.

7 MR. LUKE SHEALEY: Objection, Your Honor.

8 A. I can -- I can hear what he's saying, you can't.

9 THE COURT: Sir, stop. Well --

10 MR. LUKE SHEALEY: I'd object to the, you know,
11 speculation about what the deceased might be saying.
12 I don't think anybody knows about that.

13 MR. HUBBARD: I can put a question to him about
14 what is said or what I believe is said and he can accept
15 it, deny it or rephrase it how he wants. That's cross.

16 THE COURT: All right. Well, you need to ask it
17 again because I didn't hear the response, but the
18 objection's overruled.

19 BY MR. HUBBARD:

20 Q. Isn't it -- isn't it true he was just wanting to talk?

21 A. No, sir, he wasn't.

22 Q. Isn't it true that at some point prior to this he had
23 indicated he needed to talk to you about you not coming
24 back?

25 A. No, he do not.

- 1 Q. That didn't happen?
- 2 A. That did not happen.
- 3 Q. And that he wanted to talk to you outside?
- 4 A. No, he did not.
- 5 Q. Okay. All right. So that didn't happen?
- 6 A. That did not happen.
- 7 Q. Now you leave and around 6:49 per your phone you send
- 8 a text to Joe-Joe Mims can you calm me down?
- 9 A. Right.
- 10 Q. So you're upset?
- 11 A. I am.
- 12 Q. And right within that same minute I'm gonna kill that
- 13 B Boy?
- 14 A. That's what it said, yes. It was not literally meant
- 15 that way, that I was actually gonna --
- 16 Q. Not literally, but that's what ends up happening,
- 17 correct?
- 18 A. Yes.
- 19 Q. Well, this is at 6:49. At 6:56 you text Joe-Joe again
- 20 and say can you help me, I'm out on two bonds and I don't
- 21 need this BS.
- 22 A. That's correct.
- 23 Q. Well, when you got back to the -- for the second time
- 24 -- if you'd pull that up. So that's 6:56. So 6:56 you
- 25 send this text can you help me, I'm out on two bonds, I

1 don't need this BS, and that's right after you say I'm
2 gonna kill this B Boy.

3 And now you're showing up again, but, look, it says
4 6:06, so that -- we know that clock's wrong, don't we?
5 Stop it right there.

6 A. Yeah, it must be. Yes, sir.

7 Q. By almost an hour. You would agree with me it's
8 probably closer to 7:00 or 7:06, somewhere in that
9 neighborhood?

10 A. Yeah, I agree with that.

11 Q. Okay. All right. Go ahead and play it.

12 And your testimony is you've come back the second time
13 to break up with Angie?

14 A. That's correct.

15 Q. Now your last text with her is you said you thought
16 she was okay, no fights?

17 A. Yeah, she was -- the way I took that she said see you
18 soon, no fighting.

19 Q. Yeah.

20 A. That means that she was not mad at me anymore.

21 Q. Okay.

22 A. Right.

23 Q. So the best place to break up with Angie is at the
24 pool room, correct? That's what you decided. Instead of
25 home, this is where you decided -- your choice was to go to

1 the pool room to break up with Angie?

2 A. Right. She had texted me that everything was okay at
3 that point in time, I was gonna go there. I was not gonna
4 go inside the pool room. I wanted to sit on the outside,
5 have her come outside and her get in the car and we'd go
6 somewhere else. I did not want to break up at home because
7 of the fact that she got pretty violent when she didn't get
8 her way at home.

9 Q. Well, so what you're telling us now is you want her to
10 come outside and get in the car and y'all were gonna go for
11 a drive and you're gonna break up?

12 A. Or just get in the car and -- and talk about it.
13 That's -- that's the last -- the only thing I could think
14 of to do. I wasn't gonna do it over the phone.

15 Q. It's somehow --

16 A. Sir?

17 Q. What was that?

18 A. I said I'm not gonna text her that I'm breaking up
19 with you.

20 Q. Sure, but you don't think she's gonna -- you think she
21 might get violent at home, but she's not gonna get violent
22 in a parking lot? Is that what you're saying?

23 A. I am saying that because if there's other people
24 around she's never really showed out like that like she did
25 at home.

1 Q. Well, let's talk about these other people earlier
2 today. You said when you left you didn't hang around after
3 you shot Milledge because it was all his friends?

4 A. Correct.

5 Q. So you're at a bar with Milledge who's beat on your
6 car, who's spread lies about you, you're there to talk to
7 Angie and you park in the window where everybody in that
8 whole bar can see you and what's going on?

9 A. Well, I wanted to park where Angie could see me where
10 she would come out.

11 Q. Well, she could see if you just sent a text and say
12 hey, can you meet me outside?

13 A. I told you earlier I believe on oath that I did not
14 want to do that because if she's sitting by Milledge, then
15 Milledge would have come out.

16 Q. You could have said can you just come out and talk to
17 me alone. Instead you sat there for everybody to see you,
18 right?

19 A. No, I didn't sit there on that particular -- on
20 that --

21 Q. You would agree --

22 A. Are you gonna let me finish?

23 Q. You would agree where you're sitting right now --

24 MR. LUKE SHEALEY: Objection. I'd ask that the
25 Solicitor allow him to finish, please.

1 THE COURT: I've discussed that with the attorneys.
2 I don't think it was over the line, but everyone be on
3 the lookout for that, please.

4 BY MR. HUBBARD:

5 Q. You would agree where you parked there's big windows.
6 Everybody in the bar can see you there?

7 A. That's true.

8 Q. And that's where you chose to be when you broke up
9 with Angie?

10 A. I did. I wanted -- I wanted to be in the view of the
11 -- everybody as far as she wouldn't show out --

12 Q. And that made sense --

13 A. -- and I wouldn't get beat up.

14 Q. That made sense to you about where to do this personal
15 thing?

16 A. At that particular time in the situation that I was
17 in, that's what I chose.

18 Q. And that would save her from embarrassment even though
19 everybody would see?

20 A. No, they -- they wouldn't see because she would be
21 inside my car.

22 Q. And this is just minutes, minutes, eleven minutes you
23 pull up after you've said you could kill -- you're gonna
24 kill B Boy?

25 A. Well, the text was -- that said that as far as I'm

1 gonna kill that B Boy and it wasn't meant literally that I
2 was gonna do that.

3 Q. Well, we know this. The difference between when you
4 were there the first time and now your car is full of
5 weapons, full of guns?

6 A. Yeah, and a safe and all my toiletries and my medicine
7 and everything. Yes, sir.

8 Q. Pistols, knives?

9 A. Yes, sir.

10 Q. Brass knuckles?

11 A. Yes, sir.

12 Q. A garotte where you choke somebody?

13 A. I have -- I have a lot of different weapons and try to
14 -- try to be -- be aware of survival techniques and stuff.

15 Q. And those weapons are in your car right there with
16 you?

17 A. They are.

18 Q. They're not in the trunk?

19 A. Those particular weapons I threw in as quick as I
20 could when I was packing from Angie's.

21 Q. All right. So we'll come back to that a little bit.

22 All right. Go ahead and play it.

23 Well, let's talk about this video a little bit more.

24 Let's watch a little bit more of this.

25 That's you pulling up right there, right?

- 1 A. Yes, sir.
- 2 Q. Parking right up front?
- 3 A. Right.
- 4 Q. Switch to the next. And that's Milledge coming out to
5 see you right there, right?
- 6 A. That's correct.
- 7 Q. He's not running out, he's just walking to you. In
8 fact, he's talking to you right there, correct?
- 9 A. I don't believe -- I don't remember that, sir.
- 10 Q. You've got your window cracked. It's not all the way
11 down.
- 12 A. He's definitely talking to me now.
- 13 Q. Isn't it true Milledge came out there to tell you to
14 please leave?
- 15 A. No, he did not.
- 16 Q. Isn't it true he came out not only to tell you to
17 leave, but he said he didn't want to embarrass you, that's
18 why he came outside?
- 19 A. No, that's not true, sir.
- 20 Q. That didn't happen?
- 21 A. No, it did not.
- 22 Q. Now while Milledge is there, you would agree with me
23 this, the entire time he's at your window he never reaches
24 in and touches you, does he?
- 25 A. No, sir, he doesn't reach in and touch me.

1 Q. He doesn't reach in at all?

2 A. No, he's got his hands on -- on the car and checking
3 my door handle to see if it's open.

4 Q. You mention that one time. Just that one time?

5 A. Yes. He realized it was locked then, sir.

6 Q. All right. Back that up again. I'm sorry.

7 Do you see this man walking in right here?

8 Go ahead and play it.

9 Is that Lanyce Hatcher?

10 A. It is.

11 Q. Do you agree that as Lanyce Hatcher is walking by
12 Milledge is saying to you no, what you're going to do is
13 leave?

14 A. No, I didn't ever hear that, sir.

15 Q. That didn't happen?

16 A. No, it didn't.

17 Q. As Lanyce Hatcher was walking by, that didn't happen?

18 A. Yeah, I didn't even see Lanyce Hatcher walk by that
19 particular time.

20 Q. Okay.

21 A. But he never told me that.

22 Q. And Milledge stays at your car for almost ten minutes,
23 but for nine minutes more he's gonna stay there.

24 He's never reaching in.

25 A. Right.

1 Q. He never reached into your vehicle?

2 A. That's correct.

3 Q. He never tried to pull you out?

4 A. He never got his hands on me. He just told me and
5 threatened me what he could do to me.

6 Q. And you would -- you would disagree, too, that it's
7 just a conversational tone, he's not yelling?

8 A. At the very first he wasn't really yelling, but he --
9 he got very stern with me, threatening me. It got -- it
10 got me very frightened. I didn't know if that glass at
11 that particular time was gonna stop him from pretty much
12 mangling my body.

13 Q. Well, all you needed to do was roll up the window,
14 right?

15 A. It's not that easy to do with Milledge. He's a very
16 intimidating guy. He could bust my window out very easily
17 if he wanted to.

18 Q. So it's safer to have it cracked opened?

19 A. Yes.

20 Q. It's safer to have the window cracked as opposed to
21 rolling it up?

22 A. I wanted to give him a chance to talk what he needed
23 to say because if you didn't with B Boy, he's gonna break
24 the window out.

25 Q. Well, you agree with me he talked for almost ten

1 minutes?

2 A. Yes, he did, and I tried to leave multiple times.

3 Q. Well, we see your car cranking on in a little while,
4 too, right?

5 A. Uh-huh.

6 Q. But you don't back up, do you?

7 A. No, I don't.

8 Q. Okay. I just want to understand this correctly.

9 You've got a guy standing right there at your window, he's
10 making threats, so it's all talk right now. All talk?

11 A. Yes, sir.

12 Q. And you're too scared to leave?

13 A. Yes, sir, I am.

14 Q. You're too scared to roll up your window?

15 A. Yes, sir, I am.

16 Q. Now later you weren't too scared to leave after you
17 shot him and all his friends as you say are out?

18 A. Right. He's -- he is not threatening me at that time.

19 Q. But right now you say he -- he's threatening you and
20 you're just sitting there?

21 A. Yes.

22 Q. Now you've got those tinted windows and you've got a
23 phone. So is this when you text Mathis and say hey, can
24 you come here, I've got a problem?

25 A. No, I didn't -- I didn't feel comfortable taking my

1 eyes off of B Boy at that point in time while I'm sitting
2 up there and he's that close to me.

3 Q. And you didn't dial 9-1-1 saying hey, I've got a
4 problem, I'm being threatened right here? Just -- just
5 letting 9-1-1 hear what's going on.

6 A. Sir, I'm at his place of business --

7 Q. Yes, sir.

8 A. -- and to do that would be very stupid.

9 Q. So you agree you're at his place of business --

10 A. Yeah.

11 Q. -- and you're not leaving?

12 A. I would not leave because he did not tell me to leave
13 and he did not want me to leave. He threatened me if I
14 left that he would take the gun and take care of me.

15 Q. Okay. That's the first we we've heard of that, so if
16 you -- if you were gonna leave he was gonna take the gun
17 and hurt you?

18 A. Absolutely. Yes, sir.

19 Q. So he said that. Now we didn't hear that on direct,
20 so now if you leave he's gonna shoot you?

21 A. Ab -- absolutely.

22 Q. Okay. So we didn't hear that the first time.

23 A. Get me out.

24 Q. Huh?

25 A. Get me out of the car with that gun.

1 Q. But, of course, you have guns in your car?

2 A. I do.

3 Q. Okay. And so we're gonna see a gun, right?

4 A. Yes, sir.

5 Q. So Milledge right now is talking. He's just talking,
6 right?

7 A. Yeah, he's angry talking. He's --

8 Q. Well, you're not leaving.

9 A. He's -- well, he won't let me leave, sir.

10 Q. So, again --

11 A. He threatens me with bodily harm if I do leave.

12 Q. The entire conversation from your standpoint is he --
13 he won't let you leave. You deny he is out there telling
14 you over and over you have to leave?

15 A. He does not over and over. He -- it's the exact
16 opposite. That I can -- I would not leave. He wanted me
17 out of that car. He did not want me leaving because he
18 wanted to do bodily harm to me.

19 Q. And this man that wants to do bodily harm never
20 reached into your car?

21 A. I never allowed him to. The window wasn't down long
22 enough -- low enough that he could reach in.

23 Q. He gets more agitated as you sit there, but initially
24 he was just talking, wasn't he?

25 A. Well, yeah, he was sternly talking telling me what he

1 could do to me.

2 Q. And so, again, if he's talking about all this stuff,
3 it's clear it's just talk. He's just talking and talking.
4 If you are to be believed, what is happening is just talk,
5 right?

6 A. He's talking, but all talk's not the same. How it
7 comes out matters a lot.

8 Q. And you say through all of this he is never telling
9 you to leave?

10 A. He is not. Only at the very end.

11 Q. We're gonna get to that.

12 You see him -- he reaches for something right there.
13 Do you see what he's got in his hand? Isn't it true he
14 reached down and grabbed his phone, his phone off his clip
15 right there on his hip, the phone on his clip --

16 A. No, sir.

17 Q. -- right there and pointed to two cameras? You admit
18 there's a camera here and there's a camera right in front
19 of that car, too, one that doesn't operate?

20 A. I don't know about the camera situation.

21 Q. Hold on. You see a camera right here and a camera
22 right there. That's what he's pointing to, isn't he?

23 A. No, sir.

24 Q. You don't disagree there's two cameras?

25 A. I -- I do see something that's looks like a camera. I

1 never knew they even had cameras there.

2 MR. HUBBARD: I offer this into evidence.

3 THE COURT: Without objection?

4 MR. LUKE SHEALEY: May I see what it is?

5 No objection.

6 THE COURT: That will be State's Exhibit 2?

7 THE COURT REPORTER: Number 4.

8 MR. HUBBARD: Your Honor, just to clarify, I'm
9 gonna go ahead and offer the -- the two videos. That's
10 2 and 3.

11 THE COURT: These are videos --

12 MR. LUKE SHEALEY: Which videos are we talking
13 about?

14 MR. HUBBARD: The ones that we're playing here.

15 MR. LUKE SHEALEY: They're already in?

16 MR. HUBBARD: Yeah, they're yours. I'm just putting
17 these in.

18 THE COURT: Okay. So State's Exhibits 2 and 3
19 are already admitted -- or they're admitted into evidence.
20 State's Exhibit 4 will be the still shot photograph he
21 just showed.

22 State's 2, 3 and 4 admitted into evidence.

23 (State's Exhibit Number 2 and 3, pool room video
24 clips, and State's Exhibit Number 4, a photograph, were
25 admitted into evidence.)

1 BY MR. HUBBARD:

2 Q. Isn't it true that Milledge tells you if you don't
3 leave he is going to call the Edgefield County Sheriff's
4 Office?

5 A. No, sir. That's -- that's not how it happened at all.

6 Q. That didn't happen?

7 A. No.

8 Q. And you say you are scared even though right there in
9 the bag, right there in your front seat, you've got a .38?

10 A. Yes, sir.

11 Q. The truth is you've got a .357 as well?

12 A. Yes, sir.

13 Q. A 9 millimeter?

14 A. Yes, sir.

15 Q. You've got a .32 KelTek?

16 A. Yes, sir.

17 Q. You've got a Glock?

18 MR. LUKE SHEALEY: Objection to all the numerous
19 guns that weren't used in this particular incident.

20 THE COURT: I -- I heard reference to a bag of
21 guns earlier. I don't think it's objectionable there.
22 Overruled.

23 BY MR. HUBBARD:

24 Q. You've got what you need to protect yourself if you
25 have to, right?

1 A. Yes, sir.

2 Q. But this man never ever points a gun at you. This man
3 didn't have a gun. He had a phone; isn't that correct?

4 A. No, sir, I saw a phone and a gun in his waistband.

5 Q. You would agree with me no gun was ever recovered from
6 Milledge's body. You would agree with that, wouldn't you?

7 A. Yes, I would.

8 Q. Now are you saying that gun just mysteriously
9 disappeared?

10 A. Things happen once a man goes down. He has a lot of
11 friends around him.

12 Q. And you don't -- so you're thinking his friends are
13 protecting him?

14 A. I know I saw a gun, sir. And if it disappeared --

15 Q. You go into a bar --

16 A. -- I know what a gun looks like and I see it on him
17 and he threatens me with it.

18 Q. So you go to a bar where you've got a man who's got a
19 gun, all his buddies are there and, again, you're there and
20 your sole purpose for being there right now is to break up
21 with Angie?

22 A. That's correct.

23 Q. And he --

24 A. I've never seen -- I never saw B Boy with a gun until
25 that day.

1 Q. And he is not telling you at any time ever to leave?

2 A. No, he's not.

3 Q. And you're scared of this man?

4 A. I am. I wanted to get out of there.

5 Q. So you would agree with me -- with this. If you're to
6 be believed with all the talking he's doing, that's all it
7 is, is talking?

8 A. Well, he didn't touch me, sir.

9 Q. He didn't touch you?

10 A. He threatened my life many times.

11 Q. And you just sat there?

12 A. I did because he wouldn't let me leave.

13 Q. Of course, he's not standing behind your car?

14 A. No, he's not.

15 Q. He's standing off to the side your car?

16 A. Yes, he is.

17 Q. All right. You deny he's pointing to the cameras
18 right there?

19 A. Yes.

20 Q. That's not -- that didn't happen?

21 A. He's not -- that's not what he's doing, sir.

22 Q. Isn't it true you were refusing to leave?

23 A. That's not true. I was wanting to leave.

24 Q. Now you would agree he's telling you to leave now,
25 right? Right there.

1 A. He is starting to tell me to leave right there.

2 Q. At a minimum we agree, right there, leave, leave, and
3 you do nothing, do you?

4 A. No, I don't, sir, because I don't feel safe leaving
5 until he goes inside that building.

6 Q. His back is to you and he is telling you to leave. He
7 is walking away and you're saying you're not gonna leave?

8 A. Not when he has that gun. I'm not gonna leave. I
9 have to take my hand here and on the steering wheel and
10 when I back up I don't see where he is. I don't know if
11 he's gonna run up there and shoot me. I don't know. I
12 want him to go inside the bar and I'll leave. I told him
13 that.

14 Q. So you put a condition on your leaving. You said if
15 you go inside, then I'll leave, but that's my condition to
16 you, Milledge Hall?

17 A. That's it because he --

18 Q. You set the groundwork?

19 A. Yes, sir. Because he had a gun and he threatened me
20 with a gun.

21 Q. This is his property?

22 A. Yes, it is.

23 Q. And he's telling you to leave right now?

24 A. Right.

25 Q. But you said no, not until you go inside, Mr. Property

1 Owner?

2 A. I didn't feel safe with him having a gun like that.

3 I'm in my car. I have a right to be safe in my car.

4 Q. And we keep talking about this gun, a gun that was
5 never ever found.

6 A. Right.

7 Q. A gun you just won't admit didn't exist. It was a --
8 it was a phone, right?

9 A. No, it -- it was definitely a gun and a phone.

10 Q. All right. A gun and a phone. So you do admit he had
11 a phone?

12 A. Oh, absolutely. Yeah.

13 Q. All right. Back up again.

14 When he just spun around right there, do you deny that
15 you called him? Hey, B Boy?

16 A. I did -- I will deny that.

17 Q. You deny that? That didn't happen?

18 A. It did not happen.

19 Q. Back it up a little bit.

20 So that didn't happen. You didn't call him back to
21 your car?

22 A. No, I didn't.

23 Q. Back it up again.

24 All right. He's telling you to leave. He's walking
25 back in now, right?

- 1 A. Yes, sir.
- 2 Q. And just on a dime he stops right there and then
- 3 turns?
- 4 A. Right.
- 5 Q. You had nothing to do with that? You didn't call him
- 6 back?
- 7 A. No, I did not, sir.
- 8 Q. And now he's still telling you to leave?
- 9 A. Right.
- 10 Q. And you're not?
- 11 A. I'm not leaving until he goes inside because he has a
- 12 gun and he's threatened it with me and I --
- 13 Q. All right. And you agree he never even gets past your
- 14 hood before you open your door, correct?
- 15 A. He's coming with steam, sir.
- 16 Q. Stop it right there.
- 17 So he's 'right here and you're already opening your
- 18 door?
- 19 A. Right. When he turned that corner, I made my decision
- 20 that he could only get so close to me. At that point in
- 21 time, I had my window down and I was not gonna let him just
- 22 come and -- and beat my brains out or shoot me. I couldn't
- 23 even see if he had a gun at that point in time in his hand.
- 24 Q. You get out all the way out of your car?
- 25 A. Yes, I do.

1 Q. And just leave it right there.

2 So you get all the way out of your car. So this
3 doesn't take place while you're in your car. You are
4 outside of your car now?

5 A. I get out as quick as I can and in a matter of a half
6 a second it -- this was done.

7 Q. And you'd agree with me --

8 A. I didn't --

9 Q. -- right when you get out, as you're getting out, he
10 sees that gun and stops and even backs up a touch?

11 A. Sir, this happened so fast. It's a split second. I
12 got out to save my life.

13 Q. And where do we see a gun on Milledge right now? Do
14 you see one pointed at you right now?

15 A. No, I don't.

16 Q. Do you see when he's walking back to you any gun or
17 anything in his hands right now?

18 A. At that point in time when he turns the corner, I
19 don't know what he has. He's coming at me. He's gonna
20 pull me out of my car. I mean --

21 Q. Let's -- let's -- let's keep talking about that. If
22 he was gonna pull you out of the car, he stood by your door
23 almost ten minutes.

24 A. Sir, I didn't have all -- the window all the way down.
25 At that point in time I didn't feel comfortable.

1 Q. He could have touched that glass and broken your
2 window if he wanted you, right?

3 A. I felt like he was gonna do that if I didn't keep
4 pacifying him and telling him don't do that, calm down,
5 calm down, just go inside, get -- I calmed him down a lot
6 of this time.

7 Q. So you were the calming force in all this?

8 A. I definitely wasn't the aggressor.

9 Q. And who's the one with the gun right there pulling the
10 trigger?

11 A. That's because I didn't want to die that day and I
12 wanted to breathe the next day. That's the only choice I
13 had at that point in time when he turned that corner.

14 Q. The only choice you had. You couldn't wait and say
15 hey, Milledge, I've got a gun, go inside?

16 A. His state of mind, that was not -- that was out of the
17 question. He'd already threatened me. My mind's going a
18 hundred miles an hour for my safety.

19 Q. He is standing as close as I am to you, correct?

20 A. Closer, sir.

21 Q. About right here?

22 A. A little bit closer, sir.

23 Q. How big is your car? He's not even at -- he's two to
24 three feet away from your car right now.

25 A. No, when he turns the corner and by the time he -- I

1 had to shoot him, he was within five feet.

2 Q. You can see right now my hand. I have no gun, right?

3 A. Sir, it's easy to analyze this situation when you've
4 got to sit back there in the air-conditioning and look at
5 this video. When somebody is threatening me the way they
6 had the whole time, threatening my life while I'm inside my
7 car, my own car --

8 Q. So a man that's standing directly --

9 A. -- I'm still --

10 Q. A man that's standing directly in front of you --

11 MR. LUKE SHEALEY: Objection, Your Honor. Mr. Jones
12 was gonna finish his statement. He was not done.

13 THE COURT: All right. Mr. Jones, you can finish
14 your previous response.

15 THE WITNESS: When he turns the corner, I have a
16 split -- split second to make a decision what's going on
17 there.

18 BY MR. HUBBARD:

19 Q. And so you --

20 A. He is -- he is threatening my life.

21 Q. I get to ask questions at some point. You chose to
22 step out of your car when you could have just backed up
23 your car?

24 A. No, sir, I did not feel comfortable with doing that.

25 Q. That was the unreasonable thing to do, back up your

1 car?

2 A. It was when he has a gun and he threatened not to let
3 me leave, now he's telling me to leave. I don't know if
4 he's baiting me or anything as far as -- I don't know what
5 to do.

6 Q. So --

7 A. I know he said don't leave and I don't feel
8 comfortable leaving while he has showed me a gun. I have
9 no protection. I'm using my hands to get out of there.

10 Q. Are you done?

11 A. Yes, sir.

12 Q. So you see a man right in front of you. You don't
13 take the time to see if he actually has a gun pointed at
14 you and you fire first? That's your testimony?

15 A. I cannot see his right hand when he makes that turn.
16 I don't have a chance to wait for that.

17 Q. So the reasonable thing to do is if I don't know I'm
18 gonna kill him?

19 A. I could not see his hand when he turned that corner
20 and even if he didn't have a gun, he was gonna mangle my
21 body, pull me out of the car.

22 Q. He's there for ten minutes and now he's gonna mangle
23 your body?

24 A. That's because my window's down now, sir.

25 Q. As you're standing out of the car with a gun, this

1 same man's gonna come mangle your body?

2 A. If I don't stop him, he is, sir.

3 Q. And that's what makes sense. This man who has nothing
4 in his hands yet, nothing pointed -- you don't see his arms
5 pointed at you?

6 A. I didn't know if he had anything at the time he made
7 his turn.

8 Q. Listen to my question. He has nothing pointed at you
9 right now, does he? Does he?

10 A. No, I'm just now getting to where I can see his hand.

11 Q. And nothing is pointed at you, is it?

12 A. I don't --

13 Q. It's right there. Nothing is pointed at you, is it?

14 A. It happened so fast.

15 Q. That is not my question. I'll let you answer, but
16 you've got to answer my question. Nothing is pointed at
17 you?

18 A. That's correct.

19 Q. That's correct. The only one pointing anything is
20 you?

21 A. Yes. I'm very frightened for my life.

22 Q. We've heard that.

23 All right. Go ahead and finish it.

24 You shoot him not once, but twice. As he's falling
25 backwards, you shoot him a second time.

1 A. That's a split second decision. You pull the trigger
2 twice or whatever. He's a big man. I didn't continue to
3 shoot him.

4 Q. All right. Now you turn left right here, right in
5 front of that car, right?

6 A. Yes, sir.

7 Q. So you're clearly not going home?

8 A. No, sir.

9 Q. You're running?

10 A. I'm getting away from that bar because all his friends
11 are coming out.

12 Q. You could turn right and get away from the bar, too.
13 Stop it right there.

14 A. Look, it's a decision one way or the other, right or
15 left.

16 Q. And you see the lady on the phone right there?

17 A. Yes.

18 Q. If you had turned right, you could have gone to the
19 Johnston police station, couldn't you?

20 A. Yes. I mean, looking back on it, yeah.

21 Q. Looking back?

22 A. Hindsight's 20/20.

23 Q. You're -- you're here in a courtroom saying this man's
24 been threatening your life for ten minutes. You now have
25 to use lethal force or die and you don't go to law

1 enforcement?

2 A. No, sir, I ended up not going to law enforcement.

3 Q. You didn't go to Johnston, you didn't go to Edgefield
4 sheriff's department. You didn't go to anybody that wore a
5 badge, did you?

6 A. No, sir.

7 Q. You didn't text your friend or call Mathis, the man
8 who's always bailed you out, who's always been there, the
9 Mr. Reliable, you didn't call him, did you?

10 A. I did not call Officer Mathis.

11 Q. You didn't reach out for any help from anyone?

12 A. No, sir, I -- at that point in time I was so
13 distraught about what had went on that I just didn't know
14 what to do. I know I just didn't want to lose my life that
15 day.

16 Q. You agree you flee?

17 A. I left the scene, yes, sir.

18 Q. Where are you heading to?

19 A. I don't know at that particular time. When I turned
20 left, I didn't know where I was going.

21 Q. You're just running?

22 A. I'm getting away from the bar. I know that.

23 Q. And you're not running to help?

24 A. I didn't know where I was gonna go at that point in
25 time.

1 Q. Once you got away from that bar, you could easily have
2 pulled over somewhere to collect your thoughts, right?

3 A. I suspect I could have, but, you know --

4 Q. But you didn't?

5 A. -- I didn't know what was going on.

6 Q. And nobody from that bar chased you?

7 A. No, I didn't know if they were gonna chase me or not.

8 Q. And you'd agree with me somebody's been shot. Law
9 enforcement's gonna come, right?

10 A. Right.

11 Q. So all of these people are Milledge's friends. None
12 of them are yours?

13 A. Well, I know them, but I'm not personal friends with
14 any of them.

15 Q. So Lanyce Hatcher there, he's not somebody that you
16 have to be afraid of, is he?

17 A. Lan -- Lanyce Hatcher?

18 Q. Yeah, the guy right here. The guy we pointed out
19 earlier in the white pick-up truck.

20 A. I don't really know him that well.

21 Q. None of these people at any time with whatever you had
22 going on with Milledge ever threatened you?

23 A. No, sir.

24 Q. And there's Angie coming out right there in the pink,
25 isn't she?

1 A. Yes, that's Angie.

2 Q. She never came out and checked on you, she never came
3 out to see you, did she?

4 A. No, she didn't.

5 Q. And she knew you were out there?

6 A. I don't know if she did or not. I would suspect she
7 did.

8 Q. And law enforcement is gonna show up in just a minute
9 and you knew law enforcement's gonna come to this bar,
10 right?

11 A. Yes. Any time something like that happens, yes, sir.

12 Q. Absolutely. So if you'd stayed around, you could tell
13 your story to law enforcement right there in that parking
14 lot, couldn't you?

15 A. I could have, yes, sir.

16 Q. And there's not a person you'd point to in that crowd
17 that you see right there that would have threatened your
18 life?

19 A. I don't -- I don't know that, sir. If I was there, it
20 could be more people coming out at me, too.

21 Q. Well, you had been in the bar earlier. I mean, who's
22 -- who's in that bar that you're scared of?

23 A. A lot of people came in after I left, sir. I don't
24 know who's in there.

25 Q. As we're seeing all these people come out, out of all

1 these people, who are the ones you're scared of? There's
2 law enforcement right there. Who are you scared of? And
3 law enforcement comes almost two minutes later, right?

4 A. I didn't know how quick they were gonna be there.

5 Q. You'd admit it's pretty quick. Johnston police
6 department's right around the corner, right?

7 A. Yeah.

8 Q. You could have driven to Johnston in two minutes,
9 right?

10 A. Yeah, I could have.

11 Q. And you didn't?

12 A. I didn't think about it at that point in time.

13 Q. Now as you're heading out, you saw law enforcement as
14 you're leaving, too, didn't you?

15 A. No, I did not.

16 Q. As you're driving away, you're just riding?

17 A. No, I did not.

18 Q. At some point at an intersection you saw a marked
19 Edgefield County Sheriff's Department car?

20 A. I did.

21 Q. Yeah.

22 A. That was in Edgefield.

23 Q. Yes, sir. I'm gonna show you --

24 MR. LUKE SHEALEY: Your Honor, I'm gonna object
25 to the relevance of that. I mean, there's -- there's

1 a second side of this case that involves another
2 incident that isn't the subject of this motion. I
3 think the Solicitor has asked and answered exhaustively
4 the fact that my client didn't stay on the scene, but I
5 don't exactly know where he's going with this.

6 MR. HUBBARD: Well, I -- I'm sorry, Your Honor.

7 THE COURT: Go ahead.

8 MR. HUBBARD: I am not limited by what his theory
9 of this case is. I can show flight, I can show lethal
10 resistance evidence of malice from this scene. I can
11 show suicide attempt that is absolutely incongruous with
12 the theory they're presenting that he's an innocent man
13 protecting his life. I have a right by law to show
14 those three things and that's what I intend to do.

15 THE COURT: He gets to respond to you, Mr. Shealey.
16 I don't think he's arguing the other part of the case,
17 so...

18 MR. LUKE SHEALEY: Your Honor, I think -- as you're
19 aware from some of our motions -- some of the motions
20 we have for you, there's a second police shooting
21 allegation. Mr. Hubbard's established our client left
22 the scene for purposes of flight. We don't have a jury
23 here. We're not arguing inferences. I think for him to
24 get into a police shootout an hour and a half later down
25 the road is completely irrelevant to what happened at

1 that pool hall.

2 THE COURT: And I agree with you we're not arguing
3 inferences and I didn't take an inference from the line
4 of questioning is all I'm saying, but I --

5 MR. LUKE SHEALEY: It seems to be where we're going.

6 THE COURT: However, if we go there, we will address
7 it then, but I don't think we're there.

8 MR. HUBBARD: Well, here's -- just so I can lay this
9 out, we're talking about thirty-five minutes later, not
10 an hour and a half later. The discrepancy the defense
11 keeps bringing up is this clock right here, which the
12 CAD he's already admitted by his own phone --

13 MR. LUKE SHEALEY: I can't claim immunity against
14 law enforcement. This -- this is an isolated pool hall
15 incident. He's trying to essentially throw in a separate
16 bad act that we're gonna have a separate trial about.

17 THE COURT: I don't take it that way. He asked if
18 he later saw law enforcement. That was the only question.
19 I can't guess on where the Solicitor's going with his
20 examination here. Neither can you.

21 MR. LUKE SHEALEY: Well, I think --

22 THE COURT: However -- however, we can take that
23 up at the appropriate time for those declarations.

24 MR. LUKE SHEALEY: I will. I'll make my objection
25 to that later in about thirty seconds.

1 BY MR. HUBBARD:

2 Q. Let me see if you recognize this intersection
3 involving 25. Which direction were you coming from?

4 A. 430.

5 Q. 430 -- Highway 430 out of Johnston, correct? Is that
6 right?

7 A. Well, no, that doesn't run all the way to Johnston.
8 It runs to Highway 23.

9 Q. Okay. But from that area?

10 A. Yeah, from that -- from that side. I was actually
11 going toward 25, yes, sir.

12 Q. When you see a deputy, is it at this intersection?
13 He's coming down this road?

14 A. Right. Right. That's 430 that way.

15 Q. Is that right?

16 A. Yeah, that should be the intersection right there.
17 I believe so.

18 Q. So you see a deputy right there, an Edgefield County
19 deputy in a marked patrol car. You don't know who it is at
20 this point, right?

21 A. No, I don't.

22 Q. You see him and you don't pull over, you don't wave
23 him over?

24 A. No, I don't.

25 Q. You drive away?

1 A. I drive straight across, yes, sir.

2 Q. And do you see him follow you at some point?

3 A. I could tell he was behind me, yes, sir.

4 Q. Did you just pull over and wait for him so you can
5 explain what you've been telling the judge today?

6 A. I could have.

7 Q. You could have, that's my point, but you didn't, did
8 you?

9 A. I -- I didn't. He was approaching back behind me,
10 running right up behind me. I could see he had something
11 in his hand. I didn't know what to think.

12 Q. The officer had something in his hand?

13 A. Yeah, while he was driving. I don't know what it was.
14 While he's driving.

15 Q. So he was right behind your vehicle?

16 A. And then he'd get back -- way up and then kept -- kept
17 -- kept approaching me. I didn't know what he was doing,
18 sir.

19 Q. Were you scared of the officer?

20 A. I was.

21 Q. So you're scared of everybody?

22 A. I'm scared of everybody that has a gun that I think
23 may use it on me.

24 Q. You've just shot somebody twice, you know law
25 enforcement's gonna be involved and you're scared of law

1 enforcement?

2 A. At that point in time I was, sir.

3 Q. So you -- do you agree that the road you were on goes
4 right past Log Creek? Well, you end up on Log Creek Road,
5 right?

6 A. Right.

7 Q. What is --

8 MR. LUKE SHEALEY: Objection.

9 THE COURT: All right.

10 Q. What -- what is the name of this road?

11 MR. LUKE SHEALEY: Objection.

12 MR. HUBBARD: I'm sorry.

13 THE COURT: Let me talk to you-all.

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

15 (Recess taken at 2:27 PM.)

16 (Back on the record at 2:58 PM.)

17 THE COURT: All right. I -- I took a break to
18 discuss with the lawyers about the line of questioning.

19 You know, when our direct -- excuse me -- the
20 cross-examination, essentially he had left the pool
21 hall and there was testimony being offered about what
22 occurred in the minutes following -- after the defendant
23 left the scene in his vehicle. An objection was raised
24 as far as testimony leading down the line that essentially
25 -- that touched close to additional indictments that the

1 to -- I'm not okay with having an attorney/client meeting
2 at this time and the point is to do not consider or allow
3 testimony about specific separate indictments involving
4 the officers.

5 MR. HUBBARD: Yes, sir.

6 THE COURT: Proceed.

7 MR. HUBBARD: Yes, sir.

8 BY MR. HUBBARD:

9 Q. Mr. Jones, you said when you left the pool hall you
10 didn't know where you were going, correct?

11 A. I did not. I didn't know -- really know where I was
12 gonna go.

13 Q. But you admitted what you didn't do. You didn't go to
14 law enforcement, correct?

15 A. That's correct.

16 Q. And you knew they were gonna be showing up in the
17 parking lot as we see right here on the video?

18 A. Right. I said I wouldn't feel comfortable there. At
19 that point in time I didn't know who was going to come out
20 and I didn't know how long law enforcement would -- would
21 be being there, I knew it wouldn't be that long, but I
22 didn't feel comfortable with that situation.

23 Q. You admitted that at the intersection of Meeting
24 Street and Crest Road, which goes -- pours into 25, you saw
25 an Edgefield County sheriff's officer?

- 1 A. I did. Yes, sir.
- 2 Q. A fully marked car?
- 3 A. Yes, sir.
- 4 Q. Did you not pull over?
- 5 A. No, I didn't. No blue lights. I had no reason to
- 6 pull over.
- 7 Q. But you also said you knew he was following you,
- 8 correct?
- 9 A. I did.
- 10 Q. And you didn't pull over?
- 11 A. No, I didn't.
- 12 Q. Now you would agree with me if what happened at this
- 13 pool hall is based -- is the way you say it, you had
- 14 nothing to fear from law enforcement, did you?
- 15 A. I didn't think that they would believe me, sir.
- 16 Q. You didn't think they would believe you?
- 17 A. Yeah.
- 18 Q. Okay.
- 19 A. All Milledge's friends are -- are watching. I don't
- 20 know there's video. Nobody's gonna believe what happened.
- 21 Q. At the intersection of -- what is this, Pleasant --
- 22 MR. McNAIR: Pleasant Lane.
- 23 Q. -- Pleasant Lane and Log Creek Road, you had another
- 24 opportunity to see that same --
- 25 MR. LUKE SHEALEY: Objection.

1 Q. -- marked vehicle?

2 THE COURT: Specifically?

3 MR. LUKE SHEALEY: Rule 403, Rule 404(b).

4 THE COURT: All right. Overruled.

5 BY MR. HUBBARD:

6 Q. You saw that same marked police officer at that
7 intersection, didn't you?

8 THE WITNESS: Your Honor, may I request to plead
9 the Fifth on that?

10 MR. HUBBARD: Your Honor, he's been coached right
11 here in this courtroom about what to say. I've got a
12 question and he's waived it by getting on that stand.

13 THE COURT: Ask the -- you can ask the question
14 again.

15 BY MR. HUBBARD:

16 Q. Isn't it true you saw that same police officer -- or
17 a marked vehicle, an Edgefield County vehicle, sheriff's
18 department vehicle, right here at the intersection of this
19 Pleasant Lane Road and Log Creek Road, the dirt road?

20 THE COURT: Please answer the question, Mr. Jones.

21 THE WITNESS: Your Honor, I haven't been -- my
22 counsel hasn't had a chance to talk to me about this
23 stuff and I don't feel comfortable.

24 MR. HUBBARD: Your Honor, he is on the stand. I
25 absolutely object to him being coached by his counsel

1 at this point. I put a question to him. It's not as
2 to the charge. I'm abiding by Your Honor's rulings.

3 MR. LUKE SHEALEY: Your Honor, he just asked --
4 he's asserting his Fifth Amendment right. Obviously
5 he's heard me ask for a chance to discuss these matters
6 with him, but he -- it seems like he's not gonna answer
7 that question under the Fifth, which I think is
8 appropriate considering the territory of what this might
9 go into. I don't know how you can make him --

10 THE COURT: I -- I said here in open court where
11 the Solicitor was not gonna go and he's not asked a
12 question that I consider over -- regarding those
13 indictments. He asked whether he saw the police car.

14 Is that correct?

15 MR. HUBBARD: Yes, sir, Your Honor.

16 THE COURT: The witness will answer the question.

17 THE WITNESS: Could you answer -- ask that again?

18 BY MR. HUBBARD:

19 Q. Isn't it true at the intersection of Pleasant Lane
20 Road and Log Creek Road, that dirt road, you saw a marked
21 deputy patrol car from Edgefield County Sheriff's Office?

22 A. Yes, I did.

23 Q. You did. And you did not stop for it and say hey, let
24 me tell you what happened?

25 A. No, sir. He was going too fast for me to stop it.

1 Q. You're saying that vehicle drove past here?

2 A. Yes, sir.

3 Q. So when that happened, were you at this intersection
4 already on the dirt road?

5 A. I was on down the dirt road, sir.

6 Q. But you saw them?

7 A. I did.

8 Q. You didn't stop?

9 A. Did I stop?

10 Q. You didn't stop, did you?

11 A. No, I didn't.

12 Q. And when you drove down that dirt road, you pulled
13 into a little area off the side of that dirt road, right?

14 MR. LUKE SHEALEY: I'm gonna object again to this
15 line of testimony, Your Honor. We're right here. We're
16 right here at the cusp of it. It has nothing to do with
17 it.

18 MR. HUBBARD: I'm not gonna get into what Your Honor
19 said I can't.

20 THE COURT: Did you pull into the street was the
21 question, the dirt road; is that correct?

22 THE WITNESS: I did.

23 THE COURT: All right.

24 BY MR. HUBBARD:

25 Q. And, again, you saw law enforcement, correct?

1 THE COURT: You can answer -- well, I'm not --
2 answer the question.

3 THE WITNESS: I don't feel comfortable answering
4 the question because I haven't been counseled on that
5 situation.

6 THE COURT: We have reached the end of the line,
7 but he can answer that question. I've reached the end
8 of the line, but he can answer the question of whether
9 he parked the vehicle.

10 MR. HUBBARD: Yes, sir. That's my last one on
11 this, Your Honor.

12 THE WITNESS: What was the question?

13 BY MR. HUBBARD:

14 Q. Did you see the officers again?

15 A. I did.

16 THE COURT: All right.

17 BY MR. HUBBARD:

18 Q. Okay. Now one final question that is nothing about
19 seeing the officers. That night while you're on that dirt
20 road, you raised a gun to your own head and pulled the
21 trigger?

22 MR. LUKE SHEALEY: Objection, Your Honor.

23 THE COURT: All right.

24 MR. LUKE SHEALEY: Rule 404(b) and Rule 403.

25 THE COURT: All right.

1 MR. LUKE SHEALEY: It has nothing to do with the
2 motion we're here for. Absolutely nothing.

3 THE COURT: Just a moment.

4 Go ahead, Mr. Solicitor. You can respond to
5 counsel.

6 MR. HUBBARD: I got you. Your Honor, it shows
7 guilty conscience, it does, for what happened right
8 here at the pool hall. Law enforcement's there. I'm
9 not talking about what he's charged with. This is an
10 attempted suicide.

11 MR. LUKE SHEALEY: Your Honor, we have no idea what
12 it refers to, whether it refers to events that unfold
13 in the next thirty-five, forty minutes or whether it
14 refers to the pool hall, and we're limiting testimony
15 appropriately to not get into that, but it's just wildly
16 inappropriate.

17 THE COURT: Mr. Solicitor, I'm gonna sustain the
18 objection and exclude the question.

19 MR. HUBBARD: All right.

20 BY MR. HUBBARD:

21 Q. Going back to this incident, you kept your window at
22 -- you said about eight inches down?

23 A. For most of the time, yes.

24 Q. I believe you made a comment that the window was the
25 only thing protecting you; is that correct?

1 A. It was until the point I -- he showed me the gun and
2 I put my gun in my lap, then the window was no longer
3 protection from a gun and my car wasn't either, sir.

4 Q. And so your window -- even though you had a gun there.
5 So what you did then is you rolled your window all the way
6 down, correct?

7 A. I -- I did, sir.

8 Q. So now your window -- your car, instead of pressing
9 the gas to back up, you press the window to roll it down,
10 to expose yourself?

11 A. When I had my gun, I felt more protected. He had a
12 gun also. I didn't want to be settled in there with the
13 tinted windows. I don't know if he's gonna shoot me or
14 not. Once he showed me the gun and told me he was gonna
15 use the gun on me, I had to have the right to protect
16 myself.

17 Q. And you can admit, particularly when you look at this,
18 he never once -- when he was coming back, he never once
19 raised either hand to you?

20 A. That's right. I couldn't see his right hand.

21 Q. And so you didn't want to wait to see what might be
22 there?

23 A. I didn't have a chance, sir.

24 Q. Well, we'll let the video speak for itself with the
25 judge if you had a chance, but the bottom line is you

1 didn't wait, you stepped out of your car and pulled the
2 trigger?

3 MR. LUKE SHEALEY: Objection. Asked and answered.

4 THE COURT: Overruled.

5 THE WITNESS: Ask -- ask the question again.

6 BY MR. HUBBARD:

7 Q. You didn't wait to see what he had in his hand, you
8 stepped out of your car, raised the gun and pulled the
9 trigger?

10 A. That's correct. I didn't have time to wait for him to
11 see his hand come all the way around. He's coming with me
12 at steam. It doesn't matter if he had a gun or not. He
13 was gonna beat my brains out --

14 Q. And --

15 A. -- or pull me out of the car if I didn't get out.

16 Q. Let's talk about beating your brains out. Your
17 talking about a man who's ten years older than you and you
18 worked out all the time, didn't you?

19 A. For the last year I hadn't, sir.

20 Q. On your phone you have pictures where you're proud of
21 your physique.

22 A. Right, that -- that was previous. That was not at the
23 time.

24 Q. These are photos off of your phone right here. These
25 are you?

1 A. Yes, they are.

2 Q. Multiple?

3 A. Uh-huh.

4 Q. You're proud?

5 A. Right. That wasn't at the point in time when this
6 happened. If you look at the dates on these, you'll see
7 that they're over a year --

8 MR. HUBBARD: Your Honor, I'm gonna offer all of
9 these into evidence for Your Honor's consideration. You
10 can give it whatever weight you want.

11 MR. LUKE SHEALEY: I object, Your Honor. He's
12 saying this is not at the date and time of the incident.

13 MR. HUBBARD: I'm not -- my --- my offer is not that
14 it's May 7th. I don't think it has to be.

15 MR. LUKE SHEALEY: Well, then it's irrelevant.

16 MR. HUBBARD: That he's -- he's in shape at the time.

17 THE COURT: At the time of the shooting?

18 MR. HUBBARD: Uh-huh. Yes, sir.

19 THE COURT: And the point being you're offering it
20 for believability that he felt threatened?

21 MR. HUBBARD: That he had the ability physically to
22 protect himself from a man who's ten years older and
23 overweight.

24 THE COURT: I haven't seen them, but --

25 MR. LUKE SHEALEY: I haven't seen them either. May

1 I look at them before they get offered?

2 MR. HUBBARD: And, Your Honor, just as far as they
3 haven't seen them, it's on all the discovery.

4 THE COURT: Well --

5 MR. LUKE SHEALEY: I don't know what's being offered
6 in this moment.

7 MR. HUBBARD: Okay. I just want to make the record
8 clear that it's not some surprise I pulled out of a back
9 drawer.

10 THE COURT: Well, to be clear I haven't seen them
11 ever, so.

12 MR. LUKE SHEALEY: I don't see any dates on these
13 at all. I stand by my objection.

14 THE COURT: May I see them?

15 MR. HUBBARD: Yes, sir, Your Honor.

16 MR. LUKE SHEALEY: And Mr. Jones said they're not
17 from around the time, so I think we start with relevance.

18 MR. HUBBARD: No, the -- the question was it wasn't
19 from that day. I didn't ask that question. I asked
20 about are these your photos on your phone and you worked
21 out.

22 MR. LUKE SHEALEY: Well, the answer you got described
23 that they weren't from that time.

24 THE COURT: He said that he hadn't worked out in the
25 last year. Was that a year prior to today or a year prior

1 to the shooting?

2 THE WITNESS: The shooting. The shooting.

3 Are you asking me?

4 THE COURT: Well, I mean, I'd like a clarification.
5 You can clarify it.

6 MR. HUBBARD: They're off of his phone, Judge.

7 THE COURT: Well, okay.

8 THE WITNESS: Can I say something, Your Honor?

9 THE COURT: No. No. Wait. Wait. Wait.

10 MR. LUKE SHEALEY: We're having a little legal
11 battle. Just hold on, Barry.

12 THE WITNESS: Oh, okay.

13 THE COURT: I don't -- I don't know how relevant,
14 but I'll allow them in.

15 MR. HUBBARD: Thank you, Your Honor.

16 THE COURT: They're all -- certainly, I mean, they
17 give a picture of the physical physique of the defendant
18 at least within a year prior. You can certainly address
19 on redirect these pictures.

20 MR. LUKE SHEALEY: Yes, sir.

21 THE CLERK: So that's State's 5 through 9.

22 (State's Exhibit Number 5 through 9, photographs,
23 were admitted into evidence.)

24 MR. HUBBARD: Your Honor, that's what I've got at
25 this time.

1 THE COURT: All right. Redirect.

2 MR. LUKE SHEALEY: Redirect, Your Honor. May it
3 please the Court?

4 THE COURT: Yes, sir.

5 THE WITNESS: I didn't get to ask my question.

6 THE COURT: Say that -- I'm sorry.

7 THE WITNESS: I was -- I was gonna --

8 THE COURT: No. No. You don't -- don't ask me
9 anything and don't ask your attorney anything. He'll
10 ask you questions.

11 THE WITNESS: Okay.

12 MR. LUKE SHEALEY: Do we have the -- where are the
13 workout photos?

14 THE COURT: Mr. Clerk.

15 MR. LUKE SHEALEY: May I have those real quick?

16 THE CLERK: (Handing.)

17 REDIRECT EXAMINATION

18 BY MR. LUKE SHEALEY:

19 Q. Barry, since we were talking about this, this was the
20 last line of questioning, I'm showing you State's 7 and 8
21 and 9 and 5 and 6, which would appear to show shirtless
22 photos of you in a mirror. Does that look right?

23 A. That's correct.

24 Q. And the Solicitor's been making comments about your
25 physique I guess being a fit physique. Do you recall that?

1 A. I remember him saying that, yes.

2 Q. All right. Now I think you said that you were not
3 working out at the time of this incident. Tell -- tell the
4 Court when -- what time were you taking these photos in
5 relation to the incident.

6 A. That's at least a year, some of them were more than a
7 year, and I had stopped working out because I injured my
8 back.

9 Q. Okay. Now regardless of the size of your biceps, is
10 a biceps gonna save you from a man with a gun?

11 A. No, it's not.

12 Q. Is a biceps gonna save you from a man who's flashing a
13 gun and telling you what he's gonna do with that particular
14 gun?

15 A. No, it's not.

16 Q. Right. Biceps don't kill people, people kill people,
17 right?

18 A. That's correct.

19 Q. With guns?

20 A. Right.

21 Q. But I think you had testified that you also felt B Boy
22 given his size had the ability to potentially physically
23 overpower you?

24 A. Absolutely. He was a big man.

25 Q. And it's your belief that that was the case during

1 May 7, 2018?

2 A. Yes, it did.

3 Q. Now we could play the video some more, but they've
4 been played a lot and we've played enhanced versions, is
5 there any question in your mind that B Boy had gun in his
6 hand that day?

7 A. No question at all.

8 Q. Now you also, I believe, correct me if I'm wrong,
9 you've already described to me on direct that you recall
10 him also having a cell phone; is that right?

11 A. That's correct.

12 Q. And where would that cell phone had been?

13 A. Hooked on the lower part of his pocket on his right
14 side.

15 Q. All right.

16 MR. LUKE SHEALEY: Here's a photo, Madam Clerk.
17 Madam Court Reporter, apologies. Do you mind marking
18 that?

19 MR. HUBBARD: May I see which photo that is?

20 MR. LUKE SHEALEY: Whoever has the power of marking
21 this, mark this for ID purposes only.

22 THE CLERK: She has the stickers.

23 THE COURT REPORTER: I'm sorry. Hang on. We're
24 up to 12, I think, on Defendant's.

25 MR. LUKE SHEALEY: Thank you.

1 (Defendant's Exhibit Number 12 was marked for
2 identification.)

3 BY MR. LUKE SHEALEY:

4 Q. I'm gonna show you what's marked as Defendant's Number
5 12. Do you recognize that?

6 A. Yes, I do.

7 Q. And what time -- is that close to where you shot
8 B Boy?

9 A. I believe so.

10 Q. And what direction was he walking at that moment?

11 A. Away from me.

12 Q. Okay. This is kind of toward the end?

13 A. Yes, I believe.

14 Q. Do you see something kind of on his pocket area that's
15 large and black and square?

16 A. Yes, I do.

17 Q. Do you remember what that was that day?

18 A. That was a cell phone, sir.

19 Q. Is that what you think is a gun or is that something
20 different?

21 A. No, that's not the gun there.

22 Q. That's a cell phone and exactly where did he have it?

23 A. Right here.

24 Q. Like below his waistband, somewhere lower?

25 A. Absolutely, yes. Hooked on his pocket.

1 Q. Is it kind of one of those clips where you put your
2 big cell phone in?

3 A. I believe so.

4 Q. But, again, looking at Defendant's 4, what's
5 outstretched in his hand, is that a cell phone or is that
6 a gun?

7 A. That's a gun.

8 Q. And, again, looking at Defendant's 3, what you've
9 already described as being in his waistband, is that a cell
10 phone or is that a gun?

11 A. That's a gun in his waistband, but he's also got the
12 cell phone on that same side, too, down below.

13 Q. Do you -- is his right hand touching his cell phone?

14 A. Yes.

15 Q. Is it kind of just resting on it?

16 A. Right.

17 Q. But you're saying to the Court for the record that his
18 gun is in his waistband at that point?

19 A. Right, when he pulls his shirt up and shows me.

20 Q. All right. And are you a man that possesses both guns
21 and cell phones?

22 A. Yes, I do.

23 Q. You do know the difference?

24 A. I do.

25 Q. I want to talk to you about the topic of the

1 conversations that -- again, it's fair that Mr. Hall's at
2 your car door for eight to ten minutes, somewhere in there,
3 right?

4 A. Right.

5 Q. And I think you testified on cross that it started --
6 the tone started off softer and built up?

7 A. It did.

8 Q. All right. And you talked about to me on direct the
9 various types of things that Mr. Hall was describing to you
10 as being problems. Do you remember that?

11 A. Right.

12 Q. I think you described taking -- you know, problems
13 with Angie, right?

14 A. Right.

15 Q. And you referenced, I believe --

16 A. Some things --

17 Q. -- him being aware of the police being called the
18 night before?

19 A. Right, he did.

20 Q. I believe you testified to him being unhappy with you
21 taking Angie to a separate bar, taking business away?

22 A. That's right.

23 Q. And then just some of the general issues where maybe
24 he feels like you think you're running the bar. Is that
25 what you testified to?

1 A. Right.

2 Q. All right. And during this time, is he getting more
3 calm or is he getting less calm?

4 A. He's getting less calm.

5 Q. Okay. Now you -- you told Mr. Hubbard, I believe,
6 that you asked him to calm down through your six-inch
7 window?

8 A. I did.

9 Q. Did he calm down?

10 A. No, he didn't. That seemed to make him actually more
11 perturbed.

12 Q. Did things escalate?

13 A. They did.

14 Q. Now I know, you know, it's being called into question
15 whether Mr. Hall had a gun because, you know, no gun was
16 ever found and now it's -- I think you've testified that
17 you had your wife's gun that you grabbed and shot him with,
18 right?

19 A. Right.

20 Q. Okay. Now at some point you told the Court earlier
21 when it was that you got that gun. When was that again?

22 A. When I saw his gun.

23 Q. Okay. But before that you didn't have a gun in your
24 possession?

25 A. No, I didn't. It was over packed up -- when I had

1 packed up my stuff from Angie's.

2 Q. And I meant -- by possession, I mean, you didn't have
3 it on your person?

4 A. No, I didn't.

5 Q. I mean, of course, you had lots of guns in the car?

6 A. Right. I didn't have one on -- on my body.

7 Q. And you had your safe in the car?

8 A. Yes.

9 Q. And you had other things I think you testified to
10 about moving, right?

11 A. Right. Right. I had all my medicine and toiletries,
12 that kind of stuff. I had all that.

13 Q. Right, but this is just, you know -- you said
14 something that caught me on cross when you said well,
15 you're sitting here thinking about this in an
16 air-conditioned room and you're the one that seemed to
17 say that this happened real quick in the heat of the
18 moment. Describe what you mean by that.

19 A. Well, you just -- you know, when it gets to a point
20 where you think you're gonna lose your life, you have to
21 make a decision, and that's what I did. I got out as quick
22 as I could.

23 Q. Okay. And, again, prior to coming back to the bar,
24 had you ever been told that you were not welcome there?

25 A. No, never.

1 Q. All right. And that wasn't -- that was not a topic of
2 conversation that day?

3 A. No, it wasn't.

4 Q. Okay.

5 A. He was even asking me why I was taking Angie away from
6 the bar and going to Foley's.

7 Q. And, again, you had -- did you say Mr. Hall threatened
8 you with that gun? Threatened you what with a gun?

9 A. He threatened to get my ass out of the car or he would
10 shoot me.

11 Q. Okay. In your mind was he looking for a fight?

12 A. Yes, he was.

13 Q. In your mind when he came up behind your car as you
14 were leaving and, as you said, beat on your -- the back of
15 your car, what did you think he was trying to do?

16 A. I thought he was trying to pick a fight.

17 Q. Okay. Now he didn't leave a dent in your car or
18 something like that, did he?

19 A. No, it was just -- it was loud. When somebody slaps
20 or -- or beat, you know, whatever you want to call it, you
21 can hear it, it startled me, and then I hear him yelling at
22 me. I don't know exactly what he said. I'm not gonna make
23 up something that he said. I just know he was yelling at
24 me.

25 Q. Were you trying to stick around to figure out what he

1 wanted?

2 A. No, I'm not gonna stick around when he's -- he's like
3 that. I was getting out of there.

4 Q. All right. But you came back for Angie. Is that what
5 you testified to?

6 A. I did. When I initially left, I didn't think I was
7 going back there, but the way things unfolded I felt like
8 it would -- I could -- I could do it once she got under
9 control. I felt like that she could -- I could get her out
10 and -- and take care of it, but it didn't happen that way.

11 Q. Let me ask you this because it was brought up on
12 cross. I mean, you've already testified that you decided
13 that enough was enough, you were gonna break up with her;
14 is that right?

15 A. That's correct.

16 Q. And I guess the question has been posed well, why did
17 you decide to do it in a public place versus at home. Tell
18 the Court again why.

19 A. Well, we'd had some arguments and stuff and she'd
20 jumped on me when I was at her house and that didn't go
21 over too well. You know, one time I had to call the --
22 call the -- I had to text my buddy to come over to try to
23 calm her down.

24 Q. The day prior?

25 A. Right, the day prior.

1 Q. Let me put it to you this way. Did you feel that
2 she was less likely to show out in a public place versus
3 private?

4 A. Absolutely in a public place. She's definitely not
5 gonna -- because like when she came in the bar, she didn't
6 start anything with me, she went back and sat down with
7 B Boy, and once she did that, you know, that's when I got
8 out of there.

9 Q. Again, let's talk about -- there were questions about
10 obviously you didn't call police after you shot B Boy.

11 A. Right. I didn't.

12 Q. And you didn't -- you know, I think you just testified
13 that you -- you didn't go to the sheriff's department, you
14 didn't go to Johnston, right?

15 A. No, I didn't.

16 Q. You didn't even text your friend, Officer Mathis, that
17 you had asked for help earlier in the day, right?

18 A. No, I didn't.

19 Q. Now you said on direct, and it was also on cross, that
20 you were concerned about the reaction of folks who might be
21 friends of B Boy; is that fair?

22 A. That's very fair.

23 Q. And we watched the video that showed -- how many
24 people were pouring out of that bar in your estimation?

25 A. Well, once I saw, I think, the second one come out, I

1 -- I knew I had to get out of there.

2 Q. Okay. And have you ever been -- have you ever shot a
3 man before in a moment like this where he died?

4 A. No, I haven't.

5 Q. All right. And, like you said, it's easy for us to
6 sit as lawyers with our computers in our air-conditioned
7 rooms Monday morning quarterbacking your -- your actions,
8 isn't it?

9 A. It is. It -- it happens really fast. I mean,
10 somebody that's never had that happen they don't understand
11 what someone goes through when somebody's attacking and
12 talking and threatening my life and gonna mangle my body
13 and get out of the car, get out of the car, fight like a
14 man. You -- then he started, you know, talking about me
15 being a -- a college boy.

16 Q. Okay.

17 A. Like he -- you know, I mean, I just went to college.
18 I didn't -- I didn't go to college to fight.

19 Q. But this is about what you're feeling, not what we're
20 looking at on a screen in the moment?

21 A. Right.

22 Q. And what did you feel that day when he did and said
23 those things to you?

24 A. Well, I mean, I felt fear. I mean, I couldn't
25 swallow, my hands were sweaty, and I just felt like that --

1 that he was gonna get control of me some kind of way out of
2 the car, but I was not gonna get out of the car on my own.

3 Q. All right. And when he started to walk away and you
4 described that you felt hope that maybe he would go inside
5 and he turned --

6 A. Right. He -- he did that several times not all the
7 way up toward the building, but back and forth with my car.
8 He would go up toward the front or whatever and he would
9 come back, so he was steady pacing, then he would get right
10 up in my face once he came back. It's like he was trying
11 to bait me into doing something while he would walk away,
12 then he would come back, he'd walk away and then he'd come
13 back and get right up in my face. I could tell he was
14 drunk. I could smell alcohol on him and he had spit coming
15 out because he was like this close to me, you know, but I
16 was just hoping he didn't break the window.

17 Q. Now the final time when he came and turned after you
18 thought he was gonna go away, you said -- what did you say,
19 you said he was coming with steam?

20 A. Yes, when he -- he was steady coming at me. He wasn't
21 back and forth, back and forth at that time.

22 Q. Now the Solicitor stood here and had you describe how
23 far away you were.

24 A. Right.

25 Q. How far away do you remember -- just between me and

1 you, tell me to stop when you felt you had to get out and
2 shoot him.

3 A. Well, I'm -- the length of my car, from the door to
4 the front of my car, my car's an E320, it's not an E350 or
5 a 400 Series Mercedes, it's not a very long car, so from
6 the -- from my door to where he was was -- come closer.
7 Right there. About right there --

8 Q. Okay.

9 A. -- and I was right here. My door was open and he made
10 the corner. He was that close to me.

11 Q. And this is after this entire exchange where he showed
12 you his gun --

13 A. Right.

14 Q. -- told you to get out, all that you described?

15 A. Right.

16 Q. So after all that, why didn't you want him to get like
17 this?

18 A. Well, it's too late for that once you -- once you let
19 a big man get on you like that, it's just -- you don't know
20 what he's gonna do. You fall down, you hit your head, he
21 ends up beating me to death.

22 Q. Well, when he walks away the first time, I guess, and
23 I think you said you hoped he was gonna go inside --

24 A. I did.

25 Q. -- and the Solicitor had a good question, why didn't

1 you -- your car was running, why didn't you reverse?

2 A. Exactly. I mean, I can't take my eyes off of him.

3 I've got to look where I'm going backwards, I've got to

4 have one hand to steer or either two, whatever. I wanted

5 to have my pistol in my lap at that time and see him go in

6 the -- in the bar and once he did that all he had to do was

7 walk in that bar and I was gone.

8 Q. Okay. Now the Solicitor asked you some questions

9 about Mr. Hall's right to tell you to leave. Do you recall
10 those questions?

11 A. I do.

12 Q. Now this thing went on for eight to ten minutes. Is

13 that the first thing he walked out and said, Mr. Hall --

14 or, Mr. Jones, I need you to leave?

15 A. No, he didn't. Not it at all.

16 Q. You -- I think you testified, and correct me if I'm

17 wrong, that only happened at the very end?

18 A. That's the only time he told me to -- to leave because

19 he had mentioned about Angie, us taking business from there

20 because I was going to Foley's.

21 Q. Okay. So the front, middle and let's say

22 three-quarters of the conversation was mostly about gripes

23 and grievances, the things you discussed already?

24 A. Right. Right.

25 Q. All right. And you'd seen his gun?

1 A. That's correct.

2 Q. And he had offered to fight you and asked you to get
3 out of your car?

4 A. He did.

5 Q. And you said he tried to check your -- your door
6 handle, but it was locked?

7 A. He absolutely did check my door handle.

8 Q. Okay. But at some point at the very end when he was
9 going like this, you feel at that point he was telling you
10 to leave?

11 A. He did. I -- that's what I -- I understood.

12 Q. Okay. But at that point he had already brandished a
13 gun at you, right?

14 A. He did.

15 Q. If you'd left at that point and turned around, put
16 your car in reverse, again, what -- why didn't you do that?

17 A. I didn't feel comfortable doing that. I didn't think
18 that was a very smart thing to do is take an eye off a man
19 that's already threatened you with a gun, threatened to
20 beat me all over the parking lot. That's not a very smart
21 thing to do is take your eye off of a man like that.

22 Q. So leaving would be retreating, right?

23 A. Leaving would be --

24 Q. That's a retreat?

25 A. That's correct.

1 Q. Did you feel that retreating in that moment where
2 you're operating your vehicle, taking your hands off your
3 gun, would leave you vulnerable?

4 A. That wasn't -- yeah, that wasn't safe to do at that
5 point in time. If he would have just went inside I would
6 have left.

7 Q. If he had never shown you a gun, would you have left?

8 A. Yes. I felt more comfortable until he showed me a gun
9 and I knew my car really wasn't protection then.

10 MR. LUKE SHEALEY: Nothing further, Barry.

11 THE COURT: Recross.

12 MR. HUBBARD: Yes, sir.

13 RECROSS EXAMINATION

14 BY MR. HUBBARD:

15 Q. I just want to understand this. You're saying if a
16 man has a gun and he's telling you to leave it makes more
17 sense to defy that man and stay put rather than do what he
18 says when he says leave?

19 A. Well, once he showed me the gun and all the
20 threatening he had done, I didn't feel safe leaving at that
21 point in time.

22 Q. I'm gonna to ask you again because you kind of touched
23 on it, but you never really answered my question. You say
24 it makes more sense when a man with a gun says leave, it's
25 -- it's more reasonable to sit there and defy him and stay

1 put?

2 A. Like I said, I didn't feel comfortable at all with him
3 having a gun threatening me and then wanting me to take my
4 eyes off of him. No matter what he was telling me to do, I
5 was not gonna take my eyes off of him, sir.

6 Q. Even if he's brandishing a gun threatening to kill
7 you, but he's telling you to leave now at this point?

8 A. Right.

9 Q. And at this point when he's telling you to leave, he
10 doesn't have a gun in his hand, he's pointing, leave?

11 A. Right. Right.

12 Q. So it makes more sense to say no, man with the gun,
13 I'm not leaving. I'm gonna make you really mad and stay
14 right here in your -- your parking lot?

15 A. That wasn't my intentions at all, sir.

16 Q. That's what you did.

17 A. No.

18 Q. That's what you did.

19 A. I waited for him to go inside.

20 Q. Those were your --

21 A. He didn't go inside. Let me -- let me --

22 Q. Those were your terms for him. No, sir, you go inside
23 and then I'll leave your property. Those were your terms.

24 A. Right. I'm -- I'm in my car and I have a right to
25 feel safe inside my car, sir.

1 Q. And a man on his own property has a right to tell
2 somebody in their car to get off; isn't that right?

3 A. That -- yeah, he had eight minutes to do that and he
4 would not let me. He wouldn't even let me off his own
5 premises.

6 Q. It's nothing about your choice, is it? And you would
7 agree with this, that phone he had had a phone clip?

8 A. Yeah, down low.

9 Q. Right. Phones don't kill people, do they?

10 A. No, they don't.

11 Q. And whatever you say he was brandishing, that has
12 mysteriously disappeared?

13 A. Could you repeat that?

14 Q. Whatever you say he was brandishing, this pistol, this
15 gun, it's mysteriously disappeared?

16 A. Well, I know what I saw when he showed me the gun.

17 Q. You would agree with me --

18 A. What happened with it after that, I have no -- I have
19 no control over that, sir.

20 Q. You would agree with me you are the only person who
21 says he saw a gun in the hands of Milledge Hall?

22 MR. LUKE SHEALEY: I'd object to that as --

23 A. He --

24 THE COURT: Let's stop.

25 MR. LUKE SHEALEY: He's pitting the witnesses.

1 MR. HUBBARD: No, sir. That's not pitting.

2 THE COURT: Right. No, no, I think -- do you still
3 want -- do you want to rephrase it or -- do you want to
4 rephrase it, Mr. Solicitor, or are you walking away?

5 MR. HUBBARD: I didn't think he was --

6 THE COURT: Well, I -- I think as far as asking
7 about what other people have testified to, that -- so to
8 the extent -- I think I will sustain your objection, but
9 you can re-ask that question about what is his personal
10 knowledge or what he asserts is his personal knowledge.

11 MR. HUBBARD: Yes, Your Honor.

12 BY MR. HUBBARD:

13 Q. You don't know of anyone else who saw Milledge Hall
14 with a gun, do you?

15 A. I haven't talked to anybody that was in there. I'm
16 not allowed to talk to anybody.

17 Q. So you're the only person though that said Milledge
18 Hall had a pistol?

19 MR. LUKE SHEALEY: Objection.

20 A. I don't know that, sir.

21 THE COURT: He hasn't talked to any -- it's
22 overruled. Yes.

23 BY MR. HUBBARD:

24 Q. Now let me ask you this. We got into this Angie
25 stuff. You had the gun right there. All of that was from

1 because you were packing so fast?

2 A. Yes, I wanted to get as much packed as -- as I could.

3 Q. And you made a point to make sure all those guns were
4 accessible, didn't you?

5 A. No, sir. Some were on the back seat, some were in the
6 back behind the driver's seat, one was in the trunk from
7 what I remember.

8 Q. Well, let's -- let's talk about the trunk. You bring
9 that up. I'm gonna show you three photos of your trunk.
10 That's the trunk of your car?

11 A. That --

12 MR. LUKE SHEALEY: Objection. Relevance.

13 THE COURT: Well, he brought it up. I mean --

14 MR. LUKE SHEALEY: It was -- it was -

15 THE WITNESS: That -- that's after the fact.

16 MR. LUKE SHEALEY: He didn't ask to describe where
17 his guns are even though he's naming them based on the
18 Solicitor's question. Whether he put them in the trunk
19 has nothing to do with this.

20 THE COURT: All right. Overruled.

21 THE WITNESS: That is after the fact that the --
22 there's no gun in there. At that time it's already been
23 shut down.

24 BY MR. HUBBARD:

25 Q. They didn't --

1 A. Law enforcement had already --

2 Q. Let me ask my question.

3 A. -- went through my trunk. Go ahead.

4 THE COURT: All right.

5 BY MR. HUBBARD:

6 Q. Law enforcement didn't get to take photos until after
7 they caught you, so we already know that. They're taking
8 photos of what you put in your vehicle, right?

9 A. Right.

10 Q. This is your trunk. That's your car?

11 A. Right.

12 Q. That gray bag, you see it there? That gray bag?

13 A. Uh-huh.

14 Q. Is that a yes?

15 A. Yes.

16 Q. Here's that gray bag again, correct?

17 A. Right. Right.

18 Q. Here's that gray bag. That's your toiletry kit.

19 A. Right. There's also -- in the trunk there is also an
20 AR-15, sir.

21 Q. No, sir. The AR-15 was on the ground.

22 THE COURT: Well, hold on. Hold on.

23 A. At the time of the incident in --

24 THE COURT: Hold on. What does the picture show?

25 I mean, that -- the question was about --

1 MR. HUBBARD: I'm gonna offer these into evidence,
2 Your Honor, but I'll show you what --

3 THE COURT: Well --

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

5 THE CLERK: 10, 11, 12.

6 THE COURT: All right. State's 10, 11, 12 in
7 evidence.

8 MR. HUBBARD: Thank you, Your Honor.

9 (State's Exhibit Number 10, 11 and 12, photographs,
10 were admitted into evidence.)

11 BY MR. HUBBARD:

12 Q. This pistol that Milledge Hall supposedly had -- this
13 pistol that he had, you're a man that knows guns?

14 A. I do.

15 Q. I mean, you had a KelTek. In fact, when you were
16 arrested it was in your pocket, right?

17 A. Yes, it was.

18 Q. A Wolf .32?

19 MR. LUKE SHEALEY: Objection. We're talking about
20 another crime scene, Your Honor. He's talking about
21 guns in his pocket, I mean, at a much later date that
22 aren't involved in the -- in this incident.

23 MR. HUBBARD: It's not a later date.

24 THE COURT: All right.

25 MR. LUKE SHEALEY: 404, 403.

1 THE COURT: Hold on.

2 MR. HUBBARD: I'm not getting into his charge,
3 Your Honor. I'm getting into his knowledge of guns
4 because he's got them.

5 THE COURT: All right.

6 MR. LUKE SHEALEY: It's also outside the scope of
7 redirect.

8 THE COURT: Well, he brought up the trunk. That's
9 what led to this and so I realize -- and to be clear,
10 both of y'all were allowed a very wide berth on both
11 redirect and cross and recross.

12 MR. HUBBARD: Yes, sir.

13 THE COURT: Ask the question.

14 BY MR. HUBBARD:

15 Q. You have all these pistols, all these different makes.
16 A Glock, an FNS, you've got all these things. What did
17 Milledge Hall have?

18 A. It looked to be a semiautomatic black gun similar to
19 my Glock or FNS 9, something on that manner.

20 Q. Medium or full frame?

21 A. I don't know that, sir.

22 Q. And it's right there in front of you?

23 A. No, at the time it was tucked in his waistband and
24 when he pulled it out, when he's moving it around and
25 stuff, I can't tell what it is.

1 Q. When he's pointing it in the air supposedly, when
2 that's -- all that's going on right outside your door?

3 A. Yeah, right -- right outside my door. The man's got
4 a gun. He's already threatened to kill me and he's got a
5 gun on the outside.

6 Q. Right. I heard you.

7 A. It doesn't really have to point to you -- point right
8 at me.

9 MR. HUBBARD: That's all I've got.

10 THE COURT: All right. The witness may step down.
11 You're free to step down, Mr. Jones.

12 (Witness excused.)

13 THE COURT: Let's talk scheduling. Scheduling.
14 Let's talk about the schedule.

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

16 THE COURT: All right. Court will be in recess
17 until tomorrow morning. Let's start back up at 9 AM
18 approximately.

19 Have a good day.

20 (Whereupon, the proceedings were concluded for
21 September 7, 2021, at 4:00 PM.)

22 (The following proceedings were held September 8,
23 2021, beginning at 9:10 AM.)

24 THE COURT: All right. We're back on the record
25 in the matter of the State versus Barry Jones.

1 All right. We -- I believe we went through four
2 witnesses yesterday.

3 MR. LUKE SHEALEY: Yes, sir. That sounds right.

4 THE COURT: I believe the defense has two witnesses.

5 MR. LUKE SHEALEY: It might end up -- I think it's
6 just gonna be one.

7 THE COURT: Okay. Are you ready to call your next
8 witness?

9 MR. LUKE SHEALEY: Yes, sir.

10 THE COURT: All right. Anything from the State
11 before we get started?

12 MR. HUBBARD: No, sir, Your Honor.

13 THE COURT: All right. Call your next witness.

14 MR. LUKE SHEALEY: The defense is gonna call
15 Dr. David Eagerton.

16 THE COURT: David what?

17 MR. LUKE SHEALEY: David Eagerton if I'm pronouncing
18 that right. E-A-G-E-R-T-O-N.

19 THE COURT: All right. I just wanted it for the
20 record. You said it. I just couldn't hear it.

21 MR. LUKE SHEALEY: I'm sorry.

22 THE COURT: All right, Dr. Eagerton.

23 MR. LUKE SHEALEY: Doctor, right around this way
24 is gonna be the witness stand.

25 (Whereupon, David H. Eagerton was duly sworn by

1 the Clerk of Court.)

2 THE CLERK: Thank you, sir. Please be seated.

3 State your full name and spell your last name for
4 the record.

5 THE WITNESS: David H. Eagerton, E-A-G-E-R-T-O-N.

6 THE CLERK: Thank you, sir.

7 DAVID H. EAGERTON,

8 having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. LUKE SHEALEY:

11 Q. Dr. Eagerton, tell the Court where you're from and
12 where you're presently employed.

13 A. Well, I'm from a small town in South Carolina,
14 Summerton. I've lived in South Carolina the majority of
15 my life until about four years ago I moved up to North
16 Carolina where I'm presently employed at Campbell
17 University in Buies Creek, North Carolina.

18 Q. And what do you do at Campbell University?

19 A. I'm a -- I teach. I'm the department chair of the
20 Department of Pharmaceutical Sciences in the College of
21 Pharmacy and Health Science at Campbell University.

22 Q. Okay. Pharmaceutical sciences you said?

23 A. Yes, sir.

24 Q. Tell me something about your education, if you
25 wouldn't mind, please.

1 A. Sure. I have a bachelor's of science degree in
2 biology from the University of South Carolina and I have
3 a Ph.D. in pharmacology also from the University of South
4 Carolina.

5 Q. Okay. Have you had any additional trainings or
6 certifications?

7 A. Yes, sir. After I graduated with my Ph.D. in
8 pharmacology, I went to work at the South Carolina Law
9 Enforcement Division, commonly known as SLED, as a forensic
10 toxicologist and I underwent the training in forensic
11 toxicology there and I became actually Board-certified by
12 the American Board of Forensic Toxicologists while I was at
13 SLED and then I was promoted to chief toxicologist and I
14 ran pretty much the toxicology lab at SLED for I think
15 around twelve years until I retired in 2009 to start
16 teaching.

17 Q. Okay. So Board-certified in forensic toxicology and
18 you said you ran SLED's lab for the toxi --

19 A. The toxicology lab. I supervised the toxicology lab,
20 yes.

21 Q. Not DNA?

22 A. Right.

23 Q. So I guess you had occasion to testify on behalf of
24 SLED throughout your tenure there?

25 A. Absolutely. Yes, sir.

1 Q. And I guess you -- were you ever qualified I assume as
2 a forensic toxicologist perviously?

3 A. Yes, sir, many times. Well, every time I've
4 testified.

5 Q. And tell the Court what -- what your job is as a
6 forensic toxicologist.

7 A. Sure. Forensic toxi -- well, forensic toxicology is
8 actually a small part of the field of pharmacology and
9 pharmacology is the study of drugs and how they affect
10 living systems and toxicology deals with whenever they
11 become harmful or toxic and then forensic toxicology deals
12 with the toxicology as matters of law.

13 And so what we did at SLED, our -- our duties as a
14 toxicologist is to analyze blood and body fluids and
15 tissues and look for the presence of drugs or poisons and
16 then make a determination as what they mean, you know, the
17 presence or absence, what that means. And typically the
18 types of cases we -- we dealt with primarily were death
19 investigation cases, driving under the influence cases and
20 criminal sexual conduct cases.

21 Q. Okay. And determining what the presence of a drug,
22 whether it's alcohol or some other, how it might affect the
23 body?

24 A. That's correct.

25 Q. And I guess the levels of that drug within the body?

1 A. That's correct.

2 Q. Okay. And is it fair to say that bodies have
3 metabolisms that affect certain substances in the body?

4 A. Yes, sir. That's part of the -- what your body does
5 to drugs. Drugs are a foreign substance, foreign compound,
6 and one of the things it does is it metabolizes or changes
7 it to something else in order to more readily get rid of it
8 from the body.

9 Q. Okay. I guess as a -- whether you're working at SLED
10 or an expert now, one of the things when you get a file is
11 you have to determine a time of injury or a time of death
12 in relation to, let's say, when a sample is taken; is that
13 right?

14 MR. HUBBARD: What was the question again? I'm
15 sorry.

16 THE COURT: I believe it -- well, actually it was a
17 long question.

18 MR. LUKE SHEALEY: Let me see if I can do better on
19 that question.

20 BY MR. LUKE SHEALEY:

21 Q. Is it fair to say that sometimes samples are not
22 necessarily taken at the time of someone's death?

23 A. They're very seldom taken at the time of -- well,
24 occasionally they are if it's -- they can be, but usually
25 they're samples -- it's not unusual for samples to be taken

1 at autopsy, which is typically sometime after death.

2 Q. And while working at SLED, I mean, you testified on
3 behalf of law enforcement as best you could to determine
4 a toxicology or the presence of a -- of a substance in
5 someone's system at a relevant time, I guess?

6 A. Yes, sir.

7 Q. Okay. Now did you ever have occasion to leave SLED?

8 A. Yes, sir. I retired in 2009.

9 Q. Okay. Where did you go from there?

10 A. I became one of the founding faculty members at
11 Presbyterian College School of Pharmacy.

12 Q. Okay. School of Pharmacy?

13 A. Yes, sir.

14 Q. And did you teach pharmacy or pharmacology?

15 A. Yes, sir. I taught pharmacology, biochemistry,
16 pathophysiology.

17 Q. Okay. Have you ever served as an expert witness in
18 pharmacology?

19 A. Yes, sir. Numerous times.

20 Q. And I think you said that -- did you say forensic
21 toxicology is kind of a subset of pharmacology?

22 A. Yes, sir.

23 Q. Describe -- describe the difference, I guess, just
24 briefly and the best we can understand it.

25 A. Well, again, pharmacology is the study of all drugs

1 and how they affect living systems and then forensic
2 toxicology is just a small part of that field where we're
3 dealing with when drugs become potentially harmful or toxic
4 and then forensic toxicology typically has to do with
5 matters of law.

6 Q. Okay. And did you ever have occasion to leave
7 Presbyterian?

8 A. I did when I got an opportunity to go to Campbell to
9 be department chair four years ago.

10 Q. Okay. And have you been there ever since?

11 A. Yes, sir.

12 Q. And approximately how many times have you been
13 qualified as an expert in any court?

14 A. Around a hundred and fifty times.

15 Q. Okay. And I think you said you'd been qualified as an
16 expert in the area of forensic toxicology and pharmacology?
17 Excuse me.

18 A. Yes, sir.

19 Q. Now --

20 MR. LUKE SHEALEY: At this time, Your Honor, I'd
21 ask that he be admitted as a -- qualified as an expert
22 in the fields of forensic toxicology and pharmacology.

23 THE COURT: Any voir dire, Mr. Solicitor?

24 MR. HUBBARD: I have no objection to that. I'm
25 not sure what the substance they're gonna talk about, I

1 may have an objection on that, but I have no objection
2 to Dr. Eagerton's qualifications. I think we've worked
3 together in the past.

4 THE WITNESS: Yes, sir.

5 THE COURT: All right. For the purposes of this
6 hearing, the witness will be qualified as an expert in
7 the area of forensic toxicology and pharmacology.

8 BY MR. LUKE SHEALEY:

9 Q. Now, Dr. Eagerton, did I ask you to evaluate some
10 materials for a decedent by the name of Milledge Hall in
11 this case?

12 A. Yes, sir, you did.

13 Q. And did I provide you some materials to review in this
14 case regarding Mr. Hall?

15 A. Yes, sir.

16 Q. And what were some of those materials that I provided
17 to you to review regarding Mr. Hall?

18 A. Hospital records from the Medical University Hospital
19 in Augusta -- or the University Hospital in Augusta,
20 autopsy records and results and SLED toxicology results.

21 Q. Okay. So the SLED -- pretty much their toxicology
22 report, right?

23 A. Yes, sir.

24 Q. And so have you had a chance to review those results?

25 A. Yes, sir, I have.

1 Q. Now in this case based on reviewing those records, do
2 we have -- is the time of injury in this case and the time
3 of death and the time of sample withdrawal the same?

4 A. No, sir.

5 Q. Can you describe what you discovered from reviewing
6 the records regarding Mr. Hall on that point?

7 A. I guess he was injured somewhere shortly after
8 7:00 PM and he actually died around -- if I may refer to
9 my notes --

10 Q. Yes, sir. Absolutely.

11 A. -- I can be a little be more specific. And then he
12 -- he was pronounced dead at 1:10 AM and then autopsied the
13 next day.

14 Q. Okay. So the time of injury would be on the 7th; is
15 that right?

16 A. Yes, sir, that's correct.

17 Q. The time of death would be a different day on the 8th;
18 is that right?

19 A. Just barely. An hour and ten be minutes into the 8th,
20 yes, sir.

21 Q. Okay. And then we have a time of autopsy on the 9th,
22 which would be when his blood was drawn?

23 A. That's -- that's correct.

24 Q. Okay. And reviewing all those records and the things
25 that you described as being mentioned, did that allow you

1 to formulate an opinion in your expert analysis to the
2 best of your scientific certainty what his potential blood
3 alcohol might have been at the time of injury?

4 A. Yes, sir.

5 Q. And what -- and what was that opinion?

6 MR. HUBBARD: Your Honor, I object to the form
7 of the question. There is a specific way to ask for
8 scientific and medical opinions and it is not do you
9 have a -- just an opinion or do you have an idea. That's
10 not the basis. It's got to be -- it's got to be stated
11 differently and by law it's got to be very specific.

12 THE COURT: Do you want to rephrase your question?

13 BY MR. LUKE SHEALEY:

14 Q. Dr. Eagerton, based on reviewing these records, did
15 you -- did you have an opinion in this case regarding blood
16 alcohol at the time of injury?

17 MR. HUBBARD: I -- I object again. There is -- I
18 don't want to coach the defense, but that is not the
19 form of question how you ask a question. State v.
20 Phillips in 2020 makes that clear. That is not what
21 you're supposed to do. There's a specific way to ask
22 an expert.

23 MR. LUKE SHEALEY: Your Honor, we're --
24 respectfully we're not in front of a jury. I'm sure
25 you're dying to know the answer to this question and

1 I apologize for my inartfulness and I know the State
2 probably doesn't want this information in, but if he's
3 qualified -- I can try it again and do my -- do my
4 darnedest to ask it the way Mr. Solicitor likes, but
5 it's --

6 MR. HUBBARD: And, Your Honor, I know this is a
7 hearing just with you, but obviously they're trying --
8 they're trying to put damaging information on the record
9 for you to consider. There's a proper way to do it. I
10 mean, if -- if Your Honor wants to relax a little, that's
11 fine. I get it.

12 THE COURT: Well, I'm not trying to relax anything.
13 I have -- well, in my days of practice I know I asked
14 certain questions of medical providers in a certain way --

15 MR. HUBBARD: Yes, sir.

16 THE COURT: -- and I think that's what they're
17 doing.

18 MR. HUBBARD: Yes, sir.

19 MR. LUKE SHEALEY: I can try again, Your Honor.

20 THE COURT: Sure. One more time and then I'm --

21 MR. LUKE SHEALEY: I mean, maybe we're just doing
22 a record for a PCR if I don't get this evidence in.

23 THE COURT: Maybe we are. Maybe we are. Try it.

24 BY MR. LUKE SHEALEY:

25 Q. Let me try one more time, Dr. Eagerton. So we've

1 talked about the records you've reviewed in this case,
2 right?

3 A. Yes, sir.

4 Q. Some of those being from SLED, right?

5 A. Yes, sir.

6 Q. Some of those being from the hospital where Mr. Hall
7 was treated?

8 A. That's correct.

9 Q. And specifically at the hospital she states that he
10 had six beers. You reviewed that record?

11 A. Yes, sir, I did.

12 Q. And so you're sitting here and you're -- you as a
13 scientist are trying to evaluate, you know, what his --
14 based on my request what his blood alcohol might have been
15 at the time of his injury; is that right?

16 A. That's correct.

17 Q. And so are you taking into account using your
18 scientific training and experience, are you using a
19 methodology to come to an opinion on that?

20 A. Yes, sir.

21 Q. And is that methodology the same one that you were
22 taught and you used at SLED?

23 A. Yes, sir.

24 Q. And is that scientific methodology the same one that
25 you've employed throughout your career when asked to do

1 this function?

2 A. Yes, sir.

3 Q. And based on that methodology did you, in fact,
4 formulate an opinion of his blood alcohol at the time of
5 his injury?

6 A. Yes, sir.

7 Q. At this time I'd ask you to state what your opinion is
8 on that.

9 MR. HUBBARD: I'm just gonna state my objection one
10 more time, Your Honor. Obviously I know this type of
11 rule, but might have been is how it was coached -- coached
12 at the beginning of his question, what the alcohol level
13 might have been. That is absolutely inappropriate.

14 BY MR. LUKE SHEALEY:

15 Q. Well, let me ask it this way, Dr. Eagerton. What is
16 your scientific opinion to the best degree of your
17 scientific certainty, not what might have been, but what is
18 in your opinion as an expert his blood alcohol level at the
19 time of injury?

20 A. Somewhere between a .1 and a .13.

21 Q. Okay. Thank you.

22 Are you familiar with what the -- what it means to be
23 materially and appreciably impaired?

24 A. Yes, sir, I am.

25 Q. All right. And how are you familiar with that?

1 A. Well, that's -- that's language I believe from the
2 South Carolina statute specifically having to do with
3 driving under the influence and -- and so that's something
4 that we are asked or have been asked in driving under the
5 influence cases or cases involving driving in general about
6 whether a subject was materially and appreciably impaired
7 at the time of the incident.

8 Q. Okay. And have you ever testified in a case like that
9 where you were asked about what that means in relation to,
10 let's say, a felony DUI case?

11 A. Yes, sir.

12 Q. Okay. And is that something you're able to quantify
13 as a scientist?

14 A. I don't know about quantifying it, but I can -- I can
15 explain it to you and tell you about it, yes, sir.

16 Q. Well, let me ask you this way. When someone is a .08,
17 you're aware that that's the inference of being impaired in
18 South Carolina, a DUI?

19 A. Yes, sir, that's correct.

20 Q. So have you ever been asked to describe what being a
21 .08 is in relation to a person's lack of functioning or
22 inhibition when -- when drinking alcohol?

23 A. Yes, sir, I have.

24 Q. Okay. And we know and you know that at .08 you're
25 presumed to not be safe to drive a vehicle, right?

1 A. That is correct.

2 Q. And you've just testified that Mr. Hall at the time
3 of his injury in your expert scientific opinion would have
4 been somewhere between .10 and .13 on your review of these
5 records?

6 A. That's correct.

7 Q. So that -- that is well above .08, correct?

8 A. It's above .08, yes, sir.

9 Q. Okay. And as an expert in pharmacology and the way
10 substances affect a body, can you describe for the Court
11 what an alcohol level of .10 to .13, how would that affect
12 an individual?

13 A. Well, alcohol is a central nervous system depressant.
14 That's a fancy name. Basically it slows down your brain
15 from functioning and so at lower blood alcohol levels the
16 part of your brain that's affected the most is the frontal
17 lobe part of your brain and that's the area of the brain
18 that has to do with -- or that processes judgment,
19 self-control, things of that nature, and so as your blood
20 alcohol level is low -- relatively low, around an .04, an
21 .05 and moving up, those -- those areas of the brain are
22 starting to be impaired, that is, it's slowing them down,
23 it's keeping them from functioning properly, and then as
24 your blood alcohol level increases, then you start to
25 include other areas of the brain that would include things

1 like balance and motor coordination and things of that
2 nature. So all of these things are gonna start low and
3 then as your blood alcohol gets higher they're gonna become
4 more and more intense.

5 Specifically to your question about as you get to
6 a .08 or above your ability to safely operate a motor
7 vehicle is materially and appreciably impaired and
8 certainly at that level and above. What you typically
9 get at those levels of a .1 to a .12 for people is, again,
10 you're gonna see pretty pronounced impaired judgment, their
11 decisionmaking ability is gonna be impacted in a negative
12 way. They usually have a little bit more difficulty in
13 self-control and things of that nature. And also from --
14 from zero to .1 or .12 or .13, you -- it's not unusual to
15 see a change in demeanor over the time. Like you can have
16 a very docile, nice person and then they can be loud and
17 boisterous and obnoxious as they start to get to those
18 levels or you can have a loud, boisterous, obnoxious person
19 and they become quiet and withdrawn at those levels.

20 Q. Okay. When you're talking about judgment and lack of
21 inhibition, in your training and expertise have you ever
22 seen anybody become more angry at those levels?

23 A. I have, yes, sir.

24 Q. And you've also said you've seen people become less
25 angry at those levels?

1 A. That's correct.

2 MR. LUKE SHEALEY: I beg the Court's indulgence.

3 Dr. Eagerton, please answer any questions Solicitor
4 Hubbard has for you.

5 CROSS-EXAMINATION

6 BY MR. HUBBARD:

7 Q. Hey, Dr. Eagerton. How are you doing today?

8 A. I'm doing well. How about you?

9 Q. Pretty good. I've just got a few questions. Now you
10 were asked -- the documents you reviewed where you came to
11 this .10 to .13; is that right?

12 A. Yes, sir.

13 Q. Ethanol?

14 A. Yes, sir. That's right.

15 Q. Alcohol like beer or some type of --

16 A. Drinking alcohol. Yes, sir.

17 Q. Alcohol, as you mentioned, can be a depressant?

18 A. A central nervous system depressant, yes, sir.

19 Q. And that affects people differently?

20 A. It actually effects people the same way. People
21 respond to it differently.

22 Q. That's -- that's what I should have asked. We know it
23 depresses your central nervous system, but each individual
24 responds differently. Is that the best way to say it?

25 A. Yes, sir, they can.

1 Q. Now if somebody's got alcohol in their system -- of
2 course, you didn't know Milledge Hall?

3 A. That's correct.

4 Q. You didn't know anything about his health history?

5 A. That's correct.

6 Q. You weren't aware that he had had open heart surgery a
7 year and a half before?

8 A. Well, that's in the records, yes, sir.

9 Q. Okay. But you did have that, right?

10 A. Yes, sir.

11 Q. So this is a man you also understand he was still
12 under a doctor's care for heart issues or was that not in
13 the records?

14 A. I'm sure that's probably in there, but I'm --

15 Q. This is not -- not a man of pristine health?

16 A. No, sir, he's not.

17 Q. Ten years older than our defendant. Were you not
18 given that information?

19 A. I was, but I -- that's probably about right, but I
20 don't recall that specifically and I don't have a note of
21 that.

22 Q. So a man who may have alcohol in his system and we
23 know that his central nervous system can be depressed by
24 this alcohol, you cannot say to a reasonable degree of
25 scientific certainty how Milledge Hall would respond to

1 that alcohol?

2 A. No, sir, I cannot.

3 Q. You would -- you can just say in general what it does
4 to people?

5 A. I can, yes, sir.

6 Q. And as to -- much of what you based your decision on,
7 too, if I'm not mistaken and please correct me if I'm
8 wrong, were comments made apparently by Milledge Hall at
9 the hospital about how much he drank?

10 A. Yes, sir, there was some documentation in the record
11 of -- of that.

12 Q. And, of course, he had just been shot?

13 A. Yes, sir. Recently, yes, sir.

14 Q. And is it fair to say that he was not the most lucid
15 man at that time? He's just been shot not once, but twice,
16 and in the hospital?

17 A. Between that and the alcohol, yes, sir, that's
18 probably true.

19 Q. Yeah. Well -- well, let's -- let's back up a minute.
20 Let's peel this one little bit at a time.

21 A. Okay.

22 Q. I understand that you're given a set, all right,
23 Doctor, you've got six -- six beers, what does that mean,
24 I get that. That's a hard scientific fact what you can do.
25 But what you must concede is Milledge Hall may or may not

1 have had six beers.

2 A. I think he had more than six beers personally, but --
3 based on my --

4 Q. Now how would you know that?

5 A. Well, because the way I calculated his blood alcohol
6 level was not based on the number of beers that he stated
7 that he drank, it was based on the levels that was measured
8 by -- by SLED at -- basically at 1:10 AM.

9 Q. Okay. So you -- you have no idea though exactly what
10 Milledge Hall did during the course of the day, when he
11 drank beer or anything else?

12 A. No, sir. That -- that would be -- that's a good
13 point because that's why I say he had to drink at least --
14 well, he probably drank at least six beers. That could be
15 correct -- or it could be accurate, but he probably had
16 more. It depends on how -- what timeframe he was drinking
17 them in. That's -- that's exactly right.

18 Q. And were you provided information by other folks who
19 said they weren't seeing him drink, not like that?

20 A. I don't recall having that information.

21 Q. People that were in the bar?

22 A. No, sir. I didn't -- I didn't review any documents
23 from that.

24 Q. And, again, coming back to Milledge Hall, how he
25 would respond and function, you cannot say with any degree

1 -- reasonable degree of scientific certainty how he would
2 respond to this alcohol?

3 A. No, sir. The only -- the only thing I can really do
4 based on that is if you tell me behaviors I can say whether
5 or not that's consistent with someone under the influence
6 of alcohol, but I can't say specifically that at this level
7 he's gonna be doing exactly this.

8 Q. And you would agree with me, I think you've already
9 testified to, that those that have alcohol sometimes it
10 tones them down?

11 A. It can for some people, yes, sir.

12 Q. And you don't know if Milledge Hall was one of the
13 those that it tones down or it jacks up?

14 A. I do not.

15 Q. But we do know it's a depressant, alcohol is?

16 A. A central nervous system depressant.

17 Q. And I think you said you did see -- there's medical
18 records that he had heart surgery about a year and a
19 half --

20 A. Yes, sir.

21 Q. A triple bypass?

22 A. Well, it's -- on his autopsy I saw that -- that he had
23 evidence of a triple bypass, yes, sir.

24 Q. Would you say based on your knowledge, history of --
25 of your experience, would this be a man who's in a great

1 position or a good condition to fight?

2 A. I don't believe I have a --

3 MR. LUKE SHEALEY: Objection. I think that's
4 beyond the scope of his testimony.

5 MR. HUBBARD: He's an expert. I think he can
6 answer the question. If he can't, he'll tell me.

7 THE COURT: Okay. Overruled. We'll hear --

8 THE WITNESS: I believe it's beyond the scope of my
9 expertise, yes, sir.

10 BY MR. HUBBARD:

11 Q. So that's not someplace you can go?

12 A. That's correct.

13 Q. You can't tell us if Milledge Hall because of his
14 prior physical condition added with some alcohol how he
15 would -- if he would have genuinely posed a physical threat
16 to someone else? You can't -- you can't tell us that?

17 A. No, sir, I cannot.

18 Q. You can't tell us anything really about Milledge Hall
19 other than you're looking at just the alcohol and what it
20 might do based on what you know it does with other people?

21 A. I can't --

22 Q. What might be in Milledge Hall?

23 A. I can tell you what it's gonna do to Milledge Hall as
24 far as depressing his central nervous system. Now I
25 cannot tell you specifically how he's gonna respond to

1 that, no.

2 Q. Right.

3 MR. HUBBARD: Okay. I don't have any other
4 questions. Thank you, Doctor.

5 THE WITNESS: Yes, sir.

6 THE COURT: Redirect.

7 MR. LUKE SHEALEY: No redirect. May he be excused?

8 THE COURT: Sure.

9 THE WITNESS: Thank you, Your Honor.

10 MR. LUKE SHEALEY: Thank you, Doctor.

11 (Witness excused.)

12 THE COURT: Next witness.

13 MR. LUKE SHEALEY: Your Honor, I think that's it
14 for us. The defense will rest in terms of our -- our
15 burden on the preponderance of this motion. We don't
16 have any other witnesses to put up.

17 THE COURT: Very well.

18 Is the State ready to proceed?

19 MR. HUBBARD: Yes, sir, but I do have a motion
20 before that.

21 It is the State's position based on what the
22 defense has presented they have not carried their burden
23 of proof by a preponderance of evidence that their man
24 Barry Jones had a right to be at that bar. They've
25 already established by his own words he knew he was

1 told to leave, that he refused to leave. He gave an
2 explanation why he refused to leave, but he was under a
3 duty right then and there to leave. The video is clear
4 that he had an opportunity to leave. Certainly when
5 Milledge Hall had his back to him walking back to the
6 door, he had a duty to leave and the opportunity. His
7 car was on.

8 So, Judge, we -- we feel right then and there they
9 failed their duty. They acknowledge this man had the
10 right to tell him to leave, the defendant refused to
11 leave.

12 In addition, Your Honor, we believe they just
13 failed by -- just by the defendant's own testimony, he's
14 repeatedly said he saw a gun. They've not produced a
15 gun. He said there was a gun, not I perceived one, it's
16 just my perception, there a was one. There is no gun.
17 They haven't brought anything out or anyone else to say
18 they saw a gun. If there was a gun, surely somebody
19 else could be there to say there was a gun.

20 What about Angie? Supposedly they weren't fighting
21 anymore. Where was that gun? Where was the threat?
22 They have failed to establish it. All they've done is
23 made a bare accusation, the defendant has, I'm there
24 and I'm afraid and I'm too afraid to leave. It's like
25 I was afraid. I was afraid. I was afraid. I couldn't

1 do anything because I was afraid. It's like a catchall.
2 Your Honor, he's got to establish it to you. He has
3 failed to do that.

4 THE COURT: Mr. Shealey.

5 MR. LUKE SHEALEY: Thank you, Your Honor. May it
6 please the Court?

7 THE COURT: Yes, sir.

8 MR. LUKE SHEALEY: This is one of the rare
9 situations where the burden is on the defense and I --
10 I understand that, but think we've definitely established
11 it and if the State doesn't want to put up any evidence,
12 then I think they would -- they would not carry it today
13 in this motion.

14 Here's what we have established. Our client has
15 testified very convincingly, very thoroughly about his
16 entire background with Mr. Hall, about a prior threat
17 that was made. It seems very clear that these two don't
18 -- don't get along. A threat that was really brought
19 about by Mr. Jones trying to clarify the record about a
20 rumor being spread by Mr. Hall about the circumstances
21 of him either being fired or retiring from his work at
22 a job at SRS. Mr. Hall testified that that was a
23 personal thing for him because he did retire after his
24 wife's passing because he was pretty much too depressed
25 to continue on there, he had to retire early with a

1 reduced pension.

2 That was corroborated by Mr. Tony Friar who was in
3 close proximity to this shooting event, also recalls
4 being in the bar, and hearing the specific threat by
5 Mr. Hall while pounding his fist, you know, when he was
6 trying to discuss this fired versus retire situation.
7 Mr. Hall said I've got something for him, I don't like
8 that guy.

9 Basically we have brought you a very corroborated
10 story through his text messages and our client's own
11 testimony where he was having a difficulty with his
12 girlfriend Angie that day. That day was never really
13 about Mr. Hall and Mr. Jones until Mr. Hall made it
14 about Mr. Hall and Mr. Jones. It's very clear from the
15 text messages, they are in evidence, that he's decided to
16 break up with her. He described her as being smothering,
17 an eight-month relationship that it was just time to end,
18 and he decided to do so that day.

19 He had to call police the night before on her you've
20 heard him discuss and the -- the question about his text
21 messages to Officer Mathis. He's got a pattern of
22 calling Officer Mathis when he's looking for help. He
23 called Officer Mathis the night before for help. He
24 called -- tried to text Officer Mathis the day of the
25 incident as he was weighing what to do about B Boy, the

1 decedent, hitting his car, that's in the record, are
2 you available, and he never responded.

3 He reached out to his friend Joe Mims, who's a big
4 guy, saying hey, can you help calm me down, I don't need
5 this BS right now, and Joe Mims is kind of sympathizing,
6 saying yeah, they talked trash the last time I was in
7 there, but he doesn't ever come to his aid.

8 So Barry Jones testified how having not previously
9 ever been told that he wasn't welcome there. Sure, he
10 brought up his concerns about the bar, the beer's hot,
11 the food's not consistent, what have you, but we've
12 heard how he hasn't been ever told to leave.

13 Mr. Yonce testified he was there that -- that day.
14 There was nothing going on. Barry was acting normal
15 except being concerned about Angie. There was no
16 conversation between Mr. Hall and Mr. Jones. He
17 certainly was unaware of any prior harassment by staff
18 or anything.

19 But what we've brought you, there is no gun in this
20 evidence, and I think if we're in a trial there's certain
21 ways to answer that question. What we have is not
22 exactly a secure crime scene as you've seen from people
23 milling in and out afterwards, but we're not gonna have
24 a lot of things in this case. We're not gonna have any
25 gunshot residue, we're not gonna have any official crime

1 scene investigation whatsoever in the pool hall because
2 everybody went to the other scene.

3 What we are gonna have is witnesses and we're gonna
4 have video. That's -- that's gonna be the extent of what
5 we have to offer as we -- as you as a judge think about
6 in your duty to decide immunity and if you don't decide
7 immunity as a jury will have to decide one day on the
8 charge of murder, but we have specifically brought you
9 what reasonably appears to be a gun in the man of a guy
10 who has .10 to .13 alcohol. And you heard how that
11 would affect a man. We're -- we're all humans, we know
12 what that means, but we've also heard a scientific
13 analysis of what that might do to a man's judgment.

14 And you know what? I've never seen or -- seen
15 anybody that flashes like this for no reason whatsoever.
16 I've never seen that in the practice of law. I've been
17 doing this sixteen years. I've never seen that in any
18 case I've ever had unless they're showing something and
19 it's clear -- I mean, after you heard testimony that
20 Mr. Jones said that that's not -- that's not his cell
21 phone. His cell phone is lower on his pocket. He's
22 showing me what I perceived to be a gun in his waistband.

23 So, you know, under the Protection of Persons and
24 Property Act, this is -- this is a totally different
25 game changing situation that we've been thrust into by

1 our Legislature. You know we have Section (C), 16-11-440
2 Section (C), which I like to call stand your ground,
3 which our courts have basically said it's codified
4 self-defense but for the duty to retreat. But then you
5 have 16-11-440(A), which is -- is your defense of your
6 habitation, which has been extended to your occupied
7 vehicle. That's basically if you're in an occupied
8 vehicle and someone's trying to get out of your car,
9 then you might as well be sitting in your house per
10 our Legislature. And you've heard testimony ad nauseam
11 about how Mr. Hall threatened to fight him, wanted him
12 to get out of his car, checked his door handle, told him
13 I've got something to make you get out of this car, so
14 the fact that we don't have a gun sitting here in
15 evidence collected, nothing was collected from that scene.
16 There's nothing. We we're not gonna have a cell phone.
17 We're not gonna have anything.

18 You know, we have certainly -- this is kind of like
19 a DV motion, I guess, for the State if were in a trial,
20 a version of that. We've certainly gotten to the point
21 where our motion should certainly survive the State's
22 objection to -- the State's request to dismiss our
23 motion at this juncture of the case.

24 THE COURT: All right.

25 MR. HUBBARD: Your Honor, if I can just make it a

1 little more specific. If you look at the four elements
2 of self-defense, the defense failed to establish
3 self-defense. Under State v. Davis, the old bringing
4 the trouble on, Your Honor, he did. Once he was told
5 to leave, by refusing to leave, even if you look at it
6 right at that point, accepting the defendant's testimony,
7 he refused. Milledge Hall was walking away and the
8 defendant refused to leave, so right then and there he's
9 out.

10 But also failing under there is that he failed under
11 common law self-defense. He had a duty to retreat. He
12 admits Milledge Hall's in charge. He was told to leave.
13 He admitted on the stand, even if it's at the tail end
14 of their conversation, he refused to leave. He set the
15 terms for Milledge Hall. He had no right in the law to
16 do it. No right whatsoever. He fails on common law.

17 So, yeah, now you go to the Protection of Persons
18 and Property Act. Section (A) clearly doesn't comply.
19 When this act occurred, the defendant got out of the car.
20 He was not in his vehicle and by his own testimony, his
21 own testimony, he said Milledge Hall never attempted to
22 pull him out of the car, never touched him, never reached
23 in the vehicle. The only thing he said is he did a door
24 handle check, which, all right, say he did that, so what?
25 That -- if you read Section (A), that's not going to cut

1 it, but more importantly when the killing occurred the
2 defendant chose to open his door, step outside, Section
3 (A)'s gone. We're down to Section (C) and (C) alone --
4 common law's gone, Section (A)'s gone and Section (C),
5 it boils down to one question, did the defendant have a
6 right to be there and if the victim had a right to be
7 there, you weigh those rights. Did one have a superior
8 right? Yeah, Milledge Hall. But the defendant had no
9 right whatsoever. Milledge Hall withdrew his right to
10 be there. He fails under Section (C). When he said
11 leave, by law he is now put on notice. Leave. I've got
12 to leave. I no longer have a right to be sitting in this
13 parking lot. He doesn't have a right by law to negotiate
14 that or set terms anymore than a man who pulls up in my
15 driveway can say I'll leave, Mr. Hubbard, if you go in
16 your house. I can sure as heck tell you that ain't
17 happening and there ain't a court in the world that's
18 gonna say that, but that's what this man wants you to do.
19 Milledge Hall had that kind of right and the defendant
20 established that with his own testimony. Common law fails,
21 Section (A) doesn't apply at all and under (C) he fails.

22 And Milledge Hall, if he was gonna use force, he
23 had a right to eject an unlawful trespasser. So even if
24 he was gonna use force when he spun around, which never
25 happened, even if he was going to he had a right to. And

1 the one thing Your Honor knows is the defendant had a gun
2 and was ready for that moment. He had already said before
3 Milledge Hall was walking back he had already put that .38
4 pistol in his lap just in case. He rolled his window all
5 the way down just in case. The window who he had said was
6 offering the only protection he had initially. This man
7 with a car full a guns put a .38 in his lap and was ready
8 for Milledge Hall when he spun around. He loses, Judge.

9 MR. LUKE SHEALEY: Respectfully, Your Honor --

10 MR. HUBBARD: And just one moment, Your Honor.

11 And the one -- the most important thing, when he
12 showed up that second time minutes before, minutes
13 before he pulled in that parking lot, he had just sent
14 a text I'm going to kill B Boy. They've tried to put it
15 in oh, it's just hot steam, hot air, Judge, minutes, and
16 that's exactly what he did. They fail, Judge.

17 MR. LUKE SHEALEY: Your Honor, just -- just to
18 clarify a couple of things. And, you know, the Protection
19 of Persons and Property Act has really put our historic
20 common law somewhat on its head ever since it came down
21 and our courts have been trying to reconcile it obviously
22 with cases like Curry, Douglas, Jones, Glenn, I'm sure
23 Your Honor's familiar with it, but the thing about
24 Section (A) of 16-11-440 is you get to -- again, it
25 positions you in an occupied vehicle as having the same

1 rights as if you were on your couch in your living room.
2 So that's how -- number one, that's the ramification and
3 it gives you the presumption that someone's there to kill
4 you or cause you great bodily injury if they try to
5 forcefully remove you from your occupied vehicle or if
6 they are attempting to remove you.

7 We don't have to show a video of Mr. Hall inside the
8 window tugging on Mr. Jones, trying to pull him out.
9 Mr. Jones' testimony will be all that we have in this
10 case, and I know the State has stuff to put up, but
11 there's not gonna be a witness that was out there. No
12 one was out there hearing the verbiage of that ten-minute
13 conversation, that's just not the case, and if -- if you
14 do end up hearing that, then obviously we're gonna have
15 to question the credibility of that, but what he said was
16 that Mr. Hall -- he was hopeful he was gonna leave, he
17 didn't go back inside, but he turned around for reasons
18 unknown to him and came with steam. Came with the steam,
19 and in his opinion that meant he was gonna get me out of
20 that car because he had not succeeded at that point in
21 getting him to get out and fight and he felt his life
22 was in danger, so that -- clearly we are still in
23 Section (A) territory because he testified he was in
24 the process of being unlawfully removed from the vehicle,
25 the same as sitting in his house.

1 But if we get to falling under Section (C), again,
2 that's kind of -- that's just self-defense, there's no
3 longer a duty to retreat in South Carolina. That was
4 done away with by this. Even prior to this you didn't
5 have a duty to retreat if retreating would put your life
6 in danger. So here there's no longer a duty to retreat.
7 That's established in State v. Curry.

8 And as we get into this analysis of who had the
9 superior right, that's kind of a red herring, Your Honor.
10 You know, that's basically saying well, if we're talking
11 about self-defense, I'd say that's -- you're at fault
12 in bringing about this difficulty because you're not
13 supposed to be here, maybe that's where that goes in that
14 prong, but State v. Glenn handles that squarely, which
15 is a case that came down from the Supreme Court in 2019,
16 and that cite is 429 S.C. 108.

17 There during an immunity hearing a young man who was
18 asserting immunity had been put on trespass notice and so
19 the Court said well, let me just kind of do away with all
20 this, I'm just gonna deny this because you're on trespass
21 notice. You brought about that difficulty. You're not
22 supposed to be there. The problem was that didn't have
23 anything to do with the reason why he was asserting
24 self-defense, so, you know, kind of in the latest
25 iteration of reconciling this act with our common law,

1 the Supreme Court said hey, that doesn't -- that doesn't
2 have anything to do with this, you can't just say that,
3 you have to go through an analysis and then you have to
4 figure out who maybe doesn't have the right to be there
5 that's the proximate cause of the lethal confrontation
6 and it wasn't, so they said go back and redo. So it
7 really isn't. That's not a determining factor. The
8 witnesses will be.

9 You know, that timeframe of ten minutes where only
10 Barry credibly testified to because no one else was out
11 there, he has testified to, and I think that certainly
12 survives the motion right here and we've got a lot of
13 consideration left to do on this.

14 THE COURT: All right.

15 MR. HUBBARD: Your Honor, just one quick thing
16 because he brought up Glenn and also just to go back to
17 Section (A), he can be in his car, but if his car is not
18 where he has a right to be, Section (A) doesn't apply.
19 If he's in my driveway in his car and I tell him to
20 leave, he cannot resort to Section (A). It all hinges
21 on the fact that you have a right to be where you are
22 and he does not have a right to be somewhere if he is put
23 on notice to leave.

24 Now they bring up Glenn. That is a case -- and I
25 hope you do read that case, Your Honor. We'll provide

1 a copy. For the record it's at 838 S.C. 2d 491. It's
2 a 2020 case, Your Honor, and they walk through the steps
3 that I just walked through. You go through the common
4 law elements and then you go to the statute.

5 In this case, they do bring up a trespass notice.
6 Here's what they point out. That trespass notice had
7 been given three years earlier, not that day. Three
8 years earlier. And they said you need to look at the
9 proximate connection, the proximate cause, of those two
10 things, the notice of trespass to what happened, that
11 lethal action. Here it was given within minutes. It's
12 exactly what Glenn is saying -- they're describing, that
13 connection.

14 So I -- I hope you do read Glenn. That is the case
15 and I think that's how they're gonna start analyzing
16 this statute altogether starting with common law and then
17 moving onto the statute. The statute as the defense has
18 conceded, and I think both of us would agree on this, it
19 is screwy, it's poorly written. It's a horrible statute.
20 As a prosecutor I think it's a horrible statute. A lot
21 of defense lawyers say it's -- it's got a lot of holes
22 in it.

23 MR. LUKE SHEALEY: I tend to like it as a defense
24 lawyer.

25 MR. HUBBARD: Well, and that's why, but it's screwy.

1 MR. LUKE SHEALEY: I admit it's screwy.

2 MR. HUBBARD: But you can tell the Supreme Court is
3 trying to figure this thing out it is so poorly written
4 and, Your Honor, so I think that's where we are. You
5 start with common law. He doesn't meet common law
6 self-defense at all and when he is put on notice to
7 leave by somebody he concedes on the record under oath
8 had the authority to do that, it doesn't matter if he's
9 still scared. He can give an explanation why he didn't
10 leave, but, Judge, if I put a man on notice who's on my
11 property and he says he doesn't leave because he's scared
12 and then he kills me, he ain't gonna fall under
13 self-defense. He's gonna go to prison. That's what you
14 have right here.

15 THE COURT: All right. I'll take a moment to think
16 it over.

17 MR. HUBBARD: And we're prepared to put up any
18 other testimony.

19 THE COURT: Yeah, obviously if I deny it, then
20 you're ready to go.

21 MR. HUBBARD: Yes, sir.

22 THE COURT: All right.

23 MR. HUBBARD: Or if you take it under advisement,
24 we'll still go forward, Your Honor, however you want
25 to do it.

1 THE COURT: Okay. I'll be right back.

2 (Recess taken at 9:56 AM.)

3 (Back on the record at 10:03 AM.)

4 BAILIFF: All rise.

5 THE COURT: All right. Please be seated.

6 All right. Clearly both sides made good arguments
7 there, but under the circumstances I'll deny the motion
8 at this stage. I would like to hear what additional
9 testimony, if any, there is, but that's just -- that's
10 something I want to have the benefit of before making a
11 decision.

12 MR. LUKE SHEALEY: Yes, sir.

13 MR. HUBBARD: Thank you, Your Honor. I appreciate
14 that.

15 MR. McNAIR: May it please the Court, Your Honor?

16 THE COURT: Yes, sir.

17 MR. McNAIR: The State calls Renee Kaigler.

18 THE CLERK: If you'll raise your right hand and
19 place your left hand on the Bible.

20 (Whereupon, Renee Kaigler was duly sworn by the
21 Clerk of Court.)

22 THE CLERK: Thank you, ma'am. Please be seated.
23 State your full name and spell your last name for the
24 record.

25 THE WITNESS: Renee Kaigler, K-A-I-G-L-E R.

1 THE CLERK: Thank you, ma'am.

2 RENE KAIGLER,

3 having been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. McNAIR:

6 Q. Ms. Kaigler, how are you doing today?

7 A. I'm good.

8 Q. Ms. Kaigler, where are you from?

9 A. Originally Johnston.

10 Q. Do you live in Edgefield county currently?

11 A. Yes, sir.

12 Q. And what do you do for a living?

13 A. I work at Cone's Meat Market.

14 Q. Okay. Let's get right to the point. Do you know
15 Milledge Hall?

16 A. Yes, sir.

17 Q. How long did you know Milledge Hall prior to his
18 death?

19 A. Probably about ten, twelve years.

20 Q. And, I guess, how did you know him?

21 A. Because I lived with his cousin. I dated his cousin.

22 Q. All right. Now where did you live back in May of
23 2018?

24 A. Right across the street from the pool room.

25 Q. All right. Now on May 7th of 2018, did something

1 happen that day that caused you to go to the pool room?

2 A. Yes, sir.

3 Q. What was that?

4 A. I heard shots and seen somebody on the ground and I
5 ran across the street and it was Milledge.

6 Q. It was Milledge on the ground?

7 A. Yes, sir.

8 Q. Had he been shot?

9 A. Yes, sir.

10 Q. Now what was going on when you got there? Were you
11 one of the first people to get to Mr. Hall?

12 A. There were several people out there, but only
13 Mr. Gessner was the only one on the other side of him.

14 Q. It was you and Mr. Gessner?

15 A. Yes, sir.

16 Q. Were y'all the first ones to him?

17 A. There was other people around, but, I mean, I was
18 right there beside him.

19 Q. Okay. And what did you do when you got there?

20 A. Tried to talk to him and got his head up off the
21 concrete and put my hand on his -- on the gunshot wound.

22 Q. All right. Now what was his condition when you were
23 talking to him? How would you describe him?

24 A. He really wasn't coherent. I mean, he was just like
25 -- he was just there.

1 Q. Did he appear scared?

2 A. I really couldn't tell you. I mean, I'm sure he was,
3 but...

4 Q. Did he appear to be in critical condition?

5 A. Yes, sir.

6 Q. All right. Now did he make any statements to you
7 while he was on the ground?

8 A. Not until the cop got there.

9 Q. And what did he say at that point?

10 A. The cop asked him his name and he told the cop his
11 name, then he told -- the cop asked him what happened and
12 he told the cop that the man had shot him and then he
13 proceeded to tell the cop who -- who the man was.

14 Q. Okay. And do you recall what he told the cop?

15 A. Yes, sir.

16 Q. What name did he tell the cop?

17 A. Barry and he -- he said Barry who and he said Barry
18 Jones.

19 Q. Okay. Now when you first got to Mr. Hall, did you see
20 any guns on him?

21 A. No, sir.

22 Q. Did you see any guns on the ground around him?

23 A. No, sir.

24 Q. Did you see anybody pick up any guns around his body?

25 A. No, sir.

1 Q. And you'd known Milledge for you said ten years?

2 A. About ten to twelve.

3 Q. How would you describe Milledge?

4 A. He was just a fun loving man to be around. He -- I
5 mean, he was friends -- tried to be good to everybody.

6 Q. Was Milledge a violent person?

7 A. No, sir.

8 Q. Was Milledge the type of person that liked to fight?

9 A. No, sir.

10 Q. Did you ever know Milledge to carry a gun?

11 A. No, sir.

12 Q. Do you know Mr. Jones sitting over here?

13 A. No, sir. Never met him.

14 Q. Had you ever seen him that day?

15 A. No, sir.

16 Q. Had you ever seen him before?

17 A. No, sir.

18 MR. McNAIR: That's all I have, Your Honor.

19 THE COURT: All right. Please answer any questions
20 the other attorney has for you.

21 Cross-examination.

22 MR. BRIAN SHEALEY: May it please the Court?

23 THE COURT: Yes, sir.

24 CROSS-EXAMINATION

25 BY MR. BRIAN SHEALEY:

1 Q. How are you doing, Ms. Kaigler?

2 A. Good.

3 Q. So you testified that you had known Milledge for over
4 ten years?

5 A. Yes, sir.

6 Q. Okay. And it's safe to say that you were there with
7 Milledge after he was shot?

8 A. Yes, sir.

9 Q. And at the time you lived across the street at the --
10 right across the street from the pool hall, right?

11 A. Yes, sir.

12 Q. Now you had an occasion to give a statement in this
13 case to law enforcement, I guess, that day, right?

14 A. Yes, sir.

15 Q. And you recall putting some of what -- what you
16 experienced into words in a -- in a voluntary statement
17 that you wrote and signed?

18 A. Okay.

19 Q. Do you recall that?

20 A. I remember writing it, yes, sir.

21 Q. Okay. I'm just gonna show you a copy of your
22 statement just so you can refresh your recollection on
23 that. Is that your signature, ma'am?

24 A. Yes, sir.

25 Q. And what -- what's the date of the -- of the

1 statement? What date did you give that statement?

2 A. May the 7th.

3 Q. Okay. And you recall writing this out basically?

4 A. (Nods head.)

5 Q. Yes, ma'am?

6 A. Yes.

7 Q. Okay. Do you recall telling the officer that Milledge
8 said he was shot in the back?

9 A. Yeah.

10 Q. Okay. And he was telling you that it was Barry Jones,
11 correct?

12 A. Uh-huh.

13 Q. And that he told you he was shot in the back?

14 A. Uh-huh. He told the cop that he had been shot twice.

15 Q. Right. There was an officer that kind of arrived.

16 A. Uh-huh.

17 Q. Did you know that officer?

18 A. No, sir.

19 Q. Okay. But he was there --

20 A. Uh-huh.

21 Q. -- and he actually had a body cam of kind of you and
22 Mr. Hall and everything that you were -- that you were
23 doing for Mr. Hall at that time; is that correct? Does
24 that seem fair?

25 A. Yes, sir.

1 Q. Okay. And we might play this here in a second.

2 Now since this incident happened you have not only given
3 a statement, but you've also met with the solicitor's
4 office a couple of times, right, in preparation for your
5 testimony?

6 A. I've only seen them once.

7 Q. Okay. You don't recall on March 27th of 2020 speaking
8 with Mr. McNair at the solicitor's office, meeting with
9 them, interviewing you about what you saw and heard?

10 A. They came to my work.

11 Q. Okay. Okay. You recall that. It would have been --
12 this gentleman right here came to your work?

13 A. There was five of them that came like I said.

14 Q. And you recall not too far ago this year, June 17,
15 2021, them talking to you again in preparation, I imagine,
16 for your testimony today? Do you recall that?

17 A. I'm assuming.

18 Q. And you still continue to tell them that, you know, he
19 told you he was shot in the back, right?

20 A. Yeah.

21 Q. Has anyone ever told you that wasn't actually what
22 happened, that he wasn't shot in the back?

23 A. That I'm not for sure.

24 Q. No one's corrected you on that?

25 A. No, sir.

1 Q. Okay. Now you were there with him. I think you -- in
2 one of the statements here you even said you covered one of
3 the wounds, right?

4 A. Yes.

5 Q. Did you see a wound to his stomach?

6 A. No.

7 Q. You didn't see a wound to his stomach?

8 A. Unh-unh.

9 Q. Did you see a wound to -- to his arm?

10 A. Yeah.

11 Q. Okay. So you believe he was shot in the back?

12 A. On -- where I had my hand.

13 Q. And no one from this office has corrected you?

14 A. No, sir.

15 Q. All right. Now is it safe to say that you're friends
16 with Milledge Hall?

17 A. I used to work with -- helped him, yes, sir.

18 Q. Did you work with him or did you work for him? Your
19 statement says I think at one point --

20 A. I helped him out. I did the driving. That was all
21 I did.

22 Q. You did the driving?

23 A. Yes, sir.

24 Q. Driving for what?

25 A. Because his other employee didn't have a license.

1 Q. Was that in his -- in his job as -- what kind of job
2 was that?

3 A. Oh, my goodness. AT&T.

4 Q. AT&T?

5 A. Uh-huh. Hall's Underground.

6 Q. And is it safe to say that this -- this moment was
7 shocking for you?

8 A. Yes, sir.

9 Q. Now you didn't see it, but you heard it?

10 A. Yes, sir.

11 Q. And you ran on over, right?

12 A. Yes, sir.

13 Q. And I think -- you may not recall this, but you were
14 barefooted.

15 A. Probably.

16 Q. And you came over as soon as you could, right?

17 A. Yes, sir.

18 Q. But when you got there, there were already people out
19 there?

20 A. Yes, sir.

21 Q. So you have no idea really about how many people could
22 have already been there before you got there? You can only
23 know what you see, correct?

24 A. Pretty much.

25 Q. Now, ma'am, I'm gonna play you a couple of things that

1 I want to talk to you about because you are -- like you
2 stated, there's an officer that's there with you guys and
3 I just want to ask you a couple of questions about this
4 video.

5 And, again, just so you know, this should be when the
6 first officer kind of gets to you.

7 Now, ma'am, I'm gonna stop this right when he gets to
8 you. Now do you recognize yourself there in that -- in
9 that video?

10 A. Yes, sir.

11 Q. And just for the record will you identify what color
12 shirt you're wearing?

13 A. Yellow with stripes.

14 Q. Yellow with stripes. And are you basically right with
15 -- with B Boy at that point?

16 A. Yes, sir.

17 Q. Okay. And how many people do you see in this video at
18 this point?

19 A. Four.

20 Q. Do you recognize any of them?

21 A. Yes, sir.

22 Q. Just for the record, state who you recognize in this
23 video.

24 A. Ms. Betty, Ken Gessner, myself, Milledge, Bud.

25 Q. Okay. I'm gonna play it a little bit longer. And,

1 for the record, is it safe to say that you were directly
2 communicating with Mr. Hall at that point?

3 A. Yes, sir.

4 Q. Now you just said I'll catch him. What did you mean
5 by that?

6 A. I don't have a clue. I don't even remember that.

7 Q. Okay. You don't know who you were referring to? Do
8 you think you were referring to Mr. Jones?

9 A. That I'm not for sure.

10 Q. Okay. But you do recall that, you're saying I'll
11 catch him?

12 A. I mean, it's showing I said it. I don't remember it,
13 but...

14 Q. Now I want you to listen to this next part right here
15 very carefully and I hope you can hear it. The speaker's
16 turned up really loud.

17 So that's when Mr. Hall told you that he was shot in
18 the back?

19 A. Uh-huh.

20 Q. And as far as you can tell you still believe that
21 today, right?

22 A. Yes, sir.

23 Q. And, again, no one from law enforcement told you
24 anything different, right?

25 A. No, sir.

1 Q. Now you just told him you got friends, buddy, you
2 ain't going to jail. Why would you say that?

3 A. I didn't say that.

4 Q. You didn't say that? Okay. I'm just gonna play it
5 one more time. Maybe you haven't thought about this in a
6 long time like this.

7 You ain't going to jail. You've got friends.

8 A. I don't know why I said that because there's no reason
9 for him to go to jail.

10 Q. Well, now you testified that you didn't see a gun that
11 day and you've got Mr. Hall telling you he was shot in the
12 back, so it is very curious that you would say to him don't
13 worry, you've got friends, you ain't going to jail.

14 MR. McNAIR: Your Honor, he's -- these are his
15 words. I don't know that Ms. Kaigler ever said that.
16 This is his interpretation of what he thinks he hears on
17 the video.

18 MR. BRIAN SHEALEY: And I'll play it again.

19 MR. McNAIR: To me it says --

20 THE COURT: Just a minute.

21 THE WITNESS: I thought I said he wasn't gonna die.

22 THE COURT: Well --

23 MR. McNAIR: That's what I hear on the video.

24 THE COURT: Just let -- just let me hear from

25 Mr. McNair. I didn't hear the second part of what you

1 told me.

2 Tell me again what you're telling me.

3 MR. BRIAN SHEALEY: I was asking that's an odd thing
4 to say.

5 THE COURT: Okay.

6 THE WITNESS: I didn't say nothing about jail. I
7 told him he wasn't gonna die.

8 THE COURT: Mr. McNair, you were just saying -- I
9 didn't hear the last part of what you said.

10 MR. McNAIR: I can't remember what I was saying.
11 I'm objecting to -- he's testifying to what he thinks
12 is on the video and Ms. Kaigler said she didn't say
13 that. She said I think I said he wasn't going to die,
14 which is what I hear, so a mischaracterization of
15 evidence.

16 MR. BRIAN SHEALEY: That's fine. We'll, play it
17 one more time and I'll let her answer what she said --

18 THE COURT: Please do so.

19 MR. BRIAN SHEALEY: -- because it's pretty
20 astounding to me, but she's the witness and these are
21 her words and --

22 THE COURT: That's -- Mr. Shealey, just play it
23 and let her respond to it.

24 Thank you.

25 MR. BRIAN SHEALEY: Yes, sir.

1 BY MR. BRIAN SHEALEY:

2 Q. All right. Ms. Kaigler, I'm gonna play this one more
3 time for you.

4 A. You ain't going to die.

5 Q. Okay. Not that you ain't going to jail?

6 A. Yeah. That ain't have nothing to do with it.

7 Q. Okay. Now I'm gonna play for you something else
8 that's important, and obviously Mr. Hall is talking to you
9 as he's suffering from his injuries, but do you recall the
10 officer asking you what is he saying down there because you
11 were closest to him? Do you remember that?

12 A. Yes, sir.

13 Q. And you were relaying that information to the officer?

14 A. Trying to. Yes, sir.

15 Q. Let me make sure this things's turned up so everybody
16 can hear it.

17 THE COURT: Well, it's -- the acoustics in here are
18 not favorable for that speaker, but I'm doing the best I
19 can.

20 MR. BRIAN SHEALEY: And I'm sorry about that,
21 Judge.

22 BY MR. BRIAN SHEALEY:

23 Q. Now in a couple of seconds he's gonna say something
24 else here.

25 So he's telling you -- you know, the officer's saying

1 what happened and that's Mr. Hall telling you we were
2 arguing about the pool room. You agree -- you agree with
3 that?

4 A. Yes, sir.

5 Q. That's what -- that's what Mr. Hall said to you and to
6 the officer?

7 A. Yes, sir.

8 Q. Now he didn't say we were arguing about him not having
9 a right to be there, did he?

10 A. More or less. He was being rude to the -- to the
11 staff and he -- he wanted him to go.

12 Q. So that's what you've learned throughout this
13 investigation from other witnesses in this case?

14 A. He wanted him -- he didn't want him there.

15 Q. That's the question I'm asking you. You learned that
16 from other witnesses in this case, correct?

17 A. Milledge was trying to get him to go.

18 Q. Ma'am, I'm asking a question. You're learning that
19 information not from Milledge because that's not what he
20 said, but you're learning that from other witnesses in this
21 case, correct?

22 A. I guess.

23 Q. You learned that from the State here?

24 MR. MCNAIR: Objection.

25 THE COURT: You can -- she's answered the question.

1 BY MR. BRIAN SHEALEY:

2 Q. So he didn't tell you that because that's not what he
3 said right there, correct? You learned that elsewhere?

4 A. Yes, sir.

5 Q. Okay. Now you've known Milledge for a long time,
6 right? Obviously this is upsetting to you today, right?

7 A. Yes.

8 Q. It was upsetting then?

9 A. Yes.

10 Q. That's your friend that died, right?

11 A. Yes.

12 Q. Have you ever been to his house?

13 A. Yes.

14 Q. Socialized with him?

15 A. Yes.

16 Q. And, you know, you wish he were here today, correct?

17 A. Yes, sir.

18 Q. And you're telling us that he was just a nice guy and
19 he never picked a fight with nobody?

20 A. No.

21 Q. Okay. There wouldn't be any record of him fighting
22 anybody or saying a bad word to just anyone, right?

23 A. Not to my knowledge.

24 Q. Not your friend, right? Right?

25 A. What did you just say?

1 Q. Not your friend, Mr. Hall, right?

2 A. Not Mr. -- not the one I know, no, sir.

3 Q. Not the man you had dinner with, right?

4 A. Who said I had dinner with him?

5 Q. I just asked if you'd ever been over to his house.

6 A. Yes.

7 Q. Not the man that you'd been over to his house?

8 A. He wasn't never disrespectful to me.

9 Q. I understand. So you've been to his house and he --

10 you'd never seen him with a gun?

11 A. No, sir.

12 Q. Does he hunt?

13 A. Not that I know of. No, sir.

14 Q. He's not a hunter?

15 A. No.

16 Q. Doesn't have any guns at all?

17 A. Not that I ever seen.

18 Q. So there wouldn't be any record of any firearms in his

19 possession period?

20 A. Not that I seen.

21 Q. But, again, it's still your understanding that he was

22 shot in the back, right?

23 A. Yes, sir.

24 Q. That's kind of a cold-blooded -- cold-blooded thing,

25 to get shot in the back, right?

1 A. Yes.

2 Q. And, again, no one -- no one set the record straight
3 for you on that, right?

4 A. No.

5 Q. And, again, all the information you're getting about
6 Mr. Jones in terms of the bar is coming from other people?

7 A. What I hear, yes, sir.

8 Q. Okay.

9 MR. BRIAN SHEALEY: I beg the Court's indulgence.

10 Thank you, Ms. Kaigler. I don't have anything
11 further.

12 THE COURT: Redirect.

13 REDIRECT EXAMINATION

14 BY MR. McNAIR:

15 Q. Ms. Kaigler, you weren't aware that Milledge Hall was
16 shot in the chest?

17 A. No, sir.

18 Q. And you have no idea where the bullet lodged in his
19 body, do you?

20 A. No, sir.

21 Q. Were you present when EMTs got there?

22 A. I had gone to get Bobby for his daddy. I'd already
23 left.

24 Q. You -- you left prior to when the EMTs got there?

25 A. (Nods head.)

1 Q. Okay. So you have no idea where the bullet ended up
2 in his body, whether it ended up in his chest or in his
3 back?

4 A. No, sir.

5 Q. Okay. Now when you're there you know other people
6 there at the bar, right?

7 A. Yes, sir.

8 Q. Are people talking about what happened?

9 A. I really didn't pay no attention to nobody else. I
10 mean, there was too much going on. Plus I just -- I was
11 dealing with a lot on my own then.

12 Q. Was it emotional for you seeing him like that?

13 A. Yes, sir.

14 Q. Is it hard to hear what he's saying --

15 A. Yes, sir.

16 Q. -- as he's laying on the ground --

17 A. Yes, sir.

18 Q. -- dying?

19 A. (Nods head.)

20 Q. You didn't just make up the name Randy Jones, right?

21 A. No, sir.

22 Q. Okay. Is it possible that you heard the name Barry
23 Jones from others at the scene?

24 MR. BRIAN SHEALEY: Objection. Calls for hearsay.

25 A. No, I heard it from Milledge.

1 THE COURT: Overruled.

2 MR. McNAIR: He asked her how she learned the name
3 and implied it was from us.

4 BY MR. McNAIR:

5 Q. And when he asked you or when you testified as to
6 what you thought had happened before, what Milledge wanted,
7 it is possible you learned that from people at the scene --
8 talking to people at the scene?

9 MR. BRIAN SHEALEY: Objection. That calls for
10 hearsay.

11 A. I didn't talk to nobody.

12 THE COURT: Overruled.

13 MR. McNAIR: I have no further questions.

14 MR. BRIAN SHEALEY: Briefly, Judge.

15 THE COURT: Yes, sir.

16 RE CROSS EXAMINATION

17 BY MR. BRIAN SHEALEY:

18 Q. Ms. Kaigler, B Boy told you he was shot in the back,
19 right?

20 A. Yes, sir.

21 Q. He told you right there, right?

22 A. Yes.

23 MR. BRIAN SHEALEY: Okay. Thank you.

24 THE COURT: All right. The witness may step down.
25 Thank you.

1 (Witness excused.)

2 MR. McNAIR: May it please the Court, Your Honor?

3 THE COURT: Yes, sir.

4 MR. McNAIR: The State calls Betty Edwards.

5 THE CLERK: Raise your right hand and place your
6 left hand on the Bible.

7 (Whereupon, Betty Edwards was duly sworn by the
8 Clerk of Court.)

9 THE CLERK: Thank you, ma'am. Please be seated.
10 State your full name and spell your last name for the
11 record.

12 THE WITNESS: Betty Jean Edwards, E-D-W-A-R-D-S.

13 BETTY JEAN EDWARDS,

14 having been duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MR. McNAIR:

17 Q. Ms. Edwards, how are you doing today?

18 A. Fine. And you?

19 Q. Thank you for being here. Ms. Edwards, where are you
20 from?

21 A. Johnston, South Carolina.

22 Q. How long have you lived in Johnston?

23 A. Sixty plus years. All my life. I ain't gonna tell my
24 age, but all my life.

25 Q. Now where do you work?

1 A. I work for Edgefield County Public Schools at Johnston
2 Elementary.

3 Q. All right. Are you a teacher?

4 A. Yes, I am.

5 Q. All right. How long have you been doing that?

6 A. Thirty-eight years.

7 Q. Okay. Now did you know Milledge Hall?

8 A. I knew him from going to the pool hall, yes, sir.

9 Q. All right. And, I guess, how well did you know
10 Milledge?

11 A. I wasn't like best friends with him, but going in
12 ordering burgers and stuff, you know, chat with him like
13 that, but...

14 Q. So you talked to him from time to time at the pool
15 hall?

16 A. From time to time, yes, sir.

17 Q. Did you know Barry Jones?

18 A. No, sir.

19 Q. All right. Now on May 7th of 2018, did you go to the
20 Johnston pool room that day?

21 A. Yes, sir.

22 Q. All right. And why did you go there? What happened?

23 A. I was at the IGA grocery store.

24 Q. And where's that?

25 A. Next door to the pool hall.

1 Q. Right next door to the pool room?

2 A. It's right -- it's right next door to the pool hall.

3 Q. All right. You were in the IGA and what happened?

4 A. I heard a confron -- two people arguing and I looked
5 up the hill to see what was going on and they was steady
6 arguing, it was a confrontation, and it was getting louder
7 and louder and then I heard pow, pow.

8 Q. Okay. You heard two people arguing?

9 A. Two people arguing.

10 Q. You heard two voices?

11 A. Yes.

12 MR. BRIAN SHEALEY: Objection to leading.

13 THE COURT: Overruled. Overruled.

14 BY MR. McNAIR:

15 Q. Now did you hear -- was one voice louder than the
16 other voice?

17 MR. BRIAN SHEALEY: Objection to leading.

18 THE COURT: He can lead the witness to develop the
19 testimony in this circumstance.

20 Proceed.

21 BY MR. McNAIR:

22 Q. Was one voice louder than another voice?

23 A. They was both arguing with each other.

24 Q. Okay. What did you see?

25 A. Milledge was standing on the -- like the side. It

1 was off the sidewalk, but he was standing beside a gray car
2 and he was arguing, you know, doing his hands, you know,
3 making motions with his hand, and someone else was standing
4 and all I saw was Milledge when he fell back after the pow,
5 pow.

6 Q. Could you see the man who shot him?

7 A. The man who shot him sat back in that car, in the gray
8 car, and sped away.

9 Q. Okay. Now you said Milledge was waving his arms.
10 Describe how he was waving his arms.

11 A. You know like you're having an argument with someone
12 and you're doing like this and doing like that, you know --
13 you know, don't want nothing to do, hands up, you know,
14 that kind of...

15 Q. All right. Well, based on his arm movements, what did
16 you believe Milledge wanted --

17 MR. BRIAN SHEALEY: Objection. Calls for speculation.

18 THE COURT: Just a moment. She can testify to what
19 she perceived with her own eyes.

20 MR. McNAIR: Thank you, Your Honor.

21 THE COURT: You can address it on cross-examination.

22 BY MR. McNAIR:

23 Q. What was your perception of what Milledge wanted this
24 man to do?

25 A. My perception of what Milledge wanted this man to do

1 was not come into the premises or leave the premises. They
2 was arguing, had been a confrontation about something, they
3 was arguing about something, and he didn't want no part of
4 it.

5 Q. Okay. And I believe -- is it your testimony that you
6 felt Milledge wanted this man to leave?

7 A. Yes, sir.

8 Q. All right. And then you heard two shots?

9 A. Yes, sir.

10 Q. After you heard the shots, what did you do?

11 A. I got in my car and I drove up to the pool hall and I
12 saw him laying on the ground. I got down beside him and I
13 was talking to him, telling him to keep his eyes open, and
14 that it was gonna be all right and trying to comfort him,
15 give him some comfort.

16 Q. All right. Describe how Milledge was when you first
17 saw him.

18 A. He was laying on his back with his stomach, you know,
19 on his -- he was laying on his back and he kept trying to
20 roll his eyes, his eyes was closing, and I kept telling him
21 to open your eyes, keep your eyes open, don't close your
22 eyes, and then when he did open his eyes I made the comment
23 to him, I say you haven't went to that other place, this is
24 not a burn-up because I didn't him want to be shocked by
25 something, I said I'm here to help you, and then I asked

1 him could I pray for him, and we prayed.

2 Q. Did it appear to you he was fading?

3 A. He was what?

4 Q. Fading away.

5 A. It was -- I was praying that he wasn't, but he was --
6 he was.

7 Q. All right. So you prayed with him. Did he ask you
8 anything?

9 A. He -- he didn't ask me any -- he just asked me why.

10 Q. Why what?

11 A. Why did he shoot him.

12 Q. He asked you why the man shot him?

13 A. Uh-huh.

14 Q. What did you tell him?

15 A. I told him let's just concentrate on him getting well
16 and that he was gonna be fine.

17 Q. And were you one of the first people to get to
18 Milledge?

19 A. No, it was -- it was some other people there. It was
20 -- someone had brought out a -- a pillow or a makeshift
21 something to get -- to make him comfortable.

22 Q. All right. During the time that you were around
23 Milledge, did you -- did you ever see a gun around him or
24 on him?

25 A. No.

1 Q. Did you ever see anybody remove a gun?

2 A. No. The only thing -- no. I did -- I did see a
3 phone.

4 Q. I want to show you State's Exhibit 13 I previously
5 showed defense. Do you recognize that photo?

6 A. That's -- that's me.

7 Q. Is that you?

8 A. Yes, sir.

9 MR. McNAIR: Your Honor, we'd offer State's 13 into
10 evidence at this time.

11 THE COURT: Any objection from the defense?

12 MR. BRIAN SHEALEY: It is the one you showed me?

13 MR. McNAIR: Yeah, you've already played the video
14 of it.

15 MR. BRIAN SHEALEY: That's the one you showed me
16 before, right?

17 MR. McNAIR: Yes.

18 THE COURT: All right. State's Exhibit 13 is
19 admitted into evidence.

20 (State's Exhibit Number 13, a photograph, was
21 admitted into evidence.)

22 BY MR. McNAIR:

23 Q. Now is this the time when Mr. Hall was asking you why
24 the man shot him?

25 A. That was -- I was holding his hand. I was holding his

1 hand because I had been down beside him, but the concrete
2 and rocks was on my knees. But I got up and I -- like the
3 other gentleman that was there, he took -- he got beside
4 him. But I was just holding his hand, talking to him,
5 telling him to keep his eyes open, to stay with us, hang
6 with us.

7 Q. Okay. Did you see the wounds to Milledge?

8 A. Yes, I did.

9 Q. Where were his wounds?

10 A. It was -- to me because I was afraid to -- when it
11 first -- I was afraid because I thought I was gonna be
12 seeing guts and all this when I got there, but it wasn't.
13 It was a hole. Just a small hole. It wasn't a big open
14 wound.

15 Q. In his chest?

16 A. Yes, sir.

17 Q. Were you present when the EMTs got there?

18 A. Yes, sir.

19 Q. Were you present when the EMTs located what they
20 thought was a bullet?

21 A. What they thought was a bullet? I was there the
22 entire time until they loaded him into the ambulance.

23 Q. Okay.

24 A. But I did move out of the way so the EMTs could do
25 their work now.

1 Q. All right. So you don't know -- you don't know where
2 the bullet ended up in Milledge's body?

3 A. No.

4 MR. MCNAIR: No further questions, Your Honor.

5 THE COURT: All right. Cross-examination.

6 MR. BRIAN SHEALEY: Thank you, Your Honor. May it
7 please the Court?

8 THE COURT: Yes, sir.

9 CROSS-EXAMINATION

10 BY MR. BRIAN SHEALEY:

11 Q. Good morning, Ms. Edwards.

12 A. Good morning.

13 Q. So you've been in Johnston for a long time, right?

14 A. Yes, sir.

15 Q. Teaching?

16 A. Yes, sir.

17 Q. You know Milledge Hall very well?

18 A. Not very well, but I know Milledge, yes.

19 Q. You testified that you kind of knew him from going
20 into the pool hall; is that what I heard?

21 A. The pool hall.

22 Q. Is that one of the only spots in town that you can,
23 you know, get a bite to eat? A lot of people go there to
24 socialize, right?

25 A. Yes, sir.

1 Q. And is your understanding that Milledge Hall, you
2 know, was there quite frequently, right?

3 A. Yes, sir.

4 Q. Did you talk to him a lot when you were at the bar?

5 A. No. No, I'm not a bar person. I'm not a bar person,
6 I'm an eater. I go there for the food. I don't drink.

7 Q. So you would go there and maybe get those good
8 cheeseburgers?

9 A. There you go, right. Not to drink, no.

10 Q. All right. I understand that. I understand that, but
11 when you would go there to get those good cheeseburgers you
12 would, I guess, speak to Milledge Hall from time to time?

13 A. Yes. I speak to everybody.

14 Q. Now on the date that were talking about, you weren't
15 going in for food at the pool hall, you were next door at
16 the IGA?

17 A. Yes, sir.

18 Q. In the parking lot?

19 A. Yes, sir.

20 Q. Now the IGA grocery store's got a big old parking lot,
21 right?

22 A. Yes, sir.

23 Q. A big old building?

24 A. A big old building.

25 Q. A lot of space?

1 A. A lot of space.

2 Q. And the pool -- the pool room for the Court, and he's
3 our factfinder today, I don't know if he's ever been out
4 there, but the IGA parking lot is a pretty -- a pretty big
5 sized lot and then next door is the pool room on the same
6 side of the street, correct?

7 A. Yes, sir.

8 Q. The pool room's got a little bit smaller lot for their
9 parking, right?

10 A. Yes, sir.

11 Q. And you were in that other lot, that big lot?

12 A. That big lot.

13 Q. And there's like a fence, there's some stuff right
14 there that kind of separates them a little bit, and I think
15 your testimony to Mr. McNair was after you heard the shots
16 you got in your car and you drove over?

17 A. Yes, sir.

18 Q. Okay. So every thing that you were hearing and
19 perceiving of that occasion was from a different parking
20 lot?

21 A. Yes, sir.

22 Q. So every -- everything you heard and everything you
23 saw, right?

24 A. No, not when I got over there.

25 Q. Yeah, yeah, but when you first --

1 A. Heard the arguing, the confrontation.

2 Q. It was from a different parking lot?

3 A. Yes, sir.

4 Q. Through sort of some -- it's not just a clear line of
5 sight, there's some stuff and -- trees and stuff like that,
6 but you were -- you were -- you're perceiving this from
7 over -- from over the way?

8 A. Yes, sir.

9 Q. Okay. Now when you did drive and get there, I know
10 you testified that there were a number of people that were
11 already there around Mr. Hall, right?

12 A. Not a number, but people had came out because they had
13 heard shots. So people had came out and people were trying
14 to assist him, yeah.

15 Q. Do you consider yourself a -- a friend of Mr. Hall?

16 A. A friend? No. I'm a friend to everybody, but, no, I
17 wouldn't say we was best friends or friends or nothing.

18 Q. Do you consider yourself friendly with Mr. Hall?

19 A. No.

20 Q. Did -- this event, was it of significance to the
21 Johnston community?

22 A. Was it a significance?

23 Q. Yeah. Was it significant to you?

24 A. It was -- it was heartbreaking and gut-wrenching
25 because that was something that usually doesn't happen in

1 our little small town.

2 Q. So it was significant in the Johnston community?

3 A. Yeah.

4 Q. It doesn't normally happen --

5 A. Something like that does not usually happen in the
6 town of Johnston.

7 Q. And Johnston is a pretty close-knit community?

8 A. Somewhat. I'm not gonna say close-knit, but...

9 Q. People talk to each other because it's a small town?

10 A. Yeah.

11 Q. Okay. And you learn things about people?

12 A. If you ask questions.

13 Q. And you hear things about what's going on about an
14 event like this, right?

15 A. Yes, you -- yes, people will talk.

16 Q. So after this day you talked about this event a lot
17 with people, didn't you?

18 A. I talked to people a lot about this event?

19 Q. Did you talk to people about this event after?

20 A. No, I went to school the next morning to work because
21 I had prayed for him all night and I was hoping that he
22 had made it through the night and another employee, another
23 teacher, came up to me and stated -- and asked -- and
24 explained to me. I was saying that I prayed for this young
25 -- I pray for a man last night that got shot and they told

1 me that he passed away.

2 Q. Yes, ma'am. Ms. Edwards, have you ever talked to
3 anyone else about this case since this happened?

4 A. This happened in --

5 Q. May 7, 2018.

6 A. May 7th of '18? I wouldn't say -- now probably when
7 it happened, I probably talked to somebody, but I haven't
8 talked to anybody recently, no. Recently.

9 Q. Okay. So is it your testimony that you haven't talked
10 to anybody about the case?

11 A. No, I'm not gonna say I haven't talked to anybody
12 about this case, no.

13 Q. Have you ever talked to anyone that frequents the pool
14 hall about this case?

15 A. I don't know who goes to the pool hall. I only know
16 when I got to the pool hall.

17 Q. Okay. Have you been to the pool hall since this
18 situation happened?

19 A. It's not the pool hall anymore. It's Palmetto
20 Seafood.

21 Q. Have you talked to anybody -- have you been to that
22 physical location since this incident?

23 A. Yes, I have.

24 Q. Have you ever talked about this situation?

25 A. Not, any -- no. No, sir.

1 Q. Now you have talked to law enforcement about this
2 situation, right?

3 A. Law enforcement?

4 Q. Yes, ma'am. There's a couple -- the Johnston police
5 department and the Edgefield sheriff's department came out
6 and talked to you about this situation, right?

7 A. They came out and told me -- gave me a subpoena.
8 That, sir?

9 Q. Well, let me just show you. You gave a statement in
10 this case, correct, a written statement?

11 A. Uh-huh.

12 Q. I'll just show you briefly your statement. Is that
13 your signature right there?

14 A. That's my signature.

15 Q. Okay. And you gave one, two, three, four, five --
16 five lines maybe on this sheet?

17 A. Uh-huh.

18 Q. Okay. You gave five lines on the sheet on the day of
19 the incident, right?

20 A. Uh-huh.

21 Q. And then you -- you've also met with the solicitor's
22 office, Mr. McNair and maybe an investigator, Jesse
23 Quattlebaum, does that ring a bell? It would have been
24 March 27th of 2020.

25 A. Yes.

1 Q. To prepare you for your testimony today, right?

2 A. To prepare me?

3 Q. Yes, ma'am. Talk to you about this investigation.

4 A. To talk to me, yes, but not -- yes.

5 Q. Talk to you about this situation?

6 A. Uh-huh.

7 Q. Now, again, you were in another parking lot when the
8 shooting happened --

9 A. Uh-huh.

10 Q. -- but then you drove over and you were able to get
11 close to Mr. Hall?

12 A. Yes.

13 Q. Did he tell you he was shot in his back?

14 A. He told me he had been shot and he told me who had
15 shot him.

16 Q. Did he tell you that he was shot in the back?

17 A. No, he didn't say he was shot in the back. He told me
18 he had been shot and he asked why did he shoot me.

19 Q. Okay. So he didn't personally tell you about where he
20 was shot? He wasn't saying that to you?

21 A. No.

22 Q. Let me ask you this. Since you still go to that
23 location and at the time you would get food at the pool
24 hall, let me ask you if you recognize these names.
25 Theodore Kohl.

1 A. Who?

2 Q. Theodore Kohl. That's K-O-H-L.

3 A. No.

4 Q. Let me ask you one more name -- two more names.
5 Christopher Paul Edwards.

6 A. No.

7 Q. James Bolt?

8 A. No.

9 Q. Any of these people ring a bell?

10 A. No.

11 Q. Okay.

12 MR. BRIAN SHEALEY: I beg the Court's indulgence.
13 Thank you, ma'am.

14 THE COURT: Any redirect?

15 REDIRECT EXAMINATION

16 BY MR. McNAIR:

17 Q. Ms. Edwards, so you -- you gave a written statement
18 the day this happened to law enforcement?

19 A. Yes, sir.

20 Q. And that's when things were fresh on your mind?

21 A. Right then, yes, sir.

22 Q. Would you read your statement to refresh your memory?

23 MR. BRIAN SHEALEY: Your Honor, I'm gonna object.
24 She hasn't said that her recollection isn't clear. I
25 think he has a couple of things to do before he gets to

1 having her read her statement.

2 THE COURT: You can lay the foundation for the
3 statement.

4 MR. BRIAN SHEALEY: Your Honor, I'm also gonna
5 lay a basis for an objection that this would be a prior
6 consistent statement unless she says that she doesn't
7 recall or it's something different.

8 THE COURT: I don't know if it's consistent or not.
9 I want her to -- she's refreshing -- or she's reviewing
10 it, but Mr. Solicitor's gonna make a -- some more
11 foundational questions.

12 BY MR. McNAIR:

13 Q. Did that help refresh your mem -- I guess what I want
14 to ask you is do you recall what the man in the Mercedes
15 said prior to the shooting?

16 A. The -- the man in the Mercedes called his name.

17 Q. He called his name?

18 A. (Nods head.)

19 Q. Okay. So prior to you hearing the gunshots, the man
20 in the Mercedes called Milledge's name?

21 A. Yes.

22 MR. McNAIR: Thank you.

23 THE COURT: Recross.

24 MR. BRIAN SHEALEY: Well, I'm gonna have a motion
25 most likely on this issue unless I'm not mistaken, so.

1 RECROSS EXAMINATION

2 BY MR. BRIAN SHEALEY:

3 Q. I think the question from Mr. McNair was did the man
4 in the Mercedes call Milledge's name and you said -- what
5 did you just say?

6 THE COURT: Who? Who are you talking to?

7 MR. BRIAN SHEALEY: I'm asking the witness.

8 THE COURT: Okay.

9 BY MR. BRIAN SHEALEY:

10 Q. He just asked you about the man in the Mercedes and
11 did he call Milledge's name. Is that what he just asked
12 you?

13 A. These two gentlemen were having an argument, a
14 confrontation. They -- the man in the gray car -- the man
15 in the gray car -- Milledge was doing his hands in all this
16 motion like he didn't want to be bothered with him and the
17 other gentleman called his -- called out his name.

18 Q. Okay. Where is that in that statement?

19 MR. MCNAIR: Can I see the statement?

20 THE WITNESS: A gentleman in the gray Mercedes
21 called a name Milledge.

22 THE COURT: Hold on. Wait a minute. They're
23 talking about --

24 BY MR. BRIAN SHEALEY:

25 Q. Do you see that in that statement?

1 A. The first line. A gentleman in the gray Mercedes
2 called a name Milledge and the gentleman in the gray car
3 pulled a gun and shot two shots.

4 Q. Okay. So you're not just naming the parties, but
5 you're saying he's actually calling Milledge's name?

6 A. Uh-huh.

7 Q. And you're hearing that from a different parking lot?
8 Is that what your testimony is?

9 A. Yes.

10 Q. Okay. Because down in the IGA parking lot, in that
11 big old parking lot, you're saying the gentleman called
12 Milledge's name?

13 A. When you're screaming, that's what caught my
14 attention. The confrontation, remember? Arguing, arguing,
15 arguing back and forth.

16 Q. And you -- and you said that he said Milledge? You
17 said he said Milledge's name?

18 A. Yes.

19 Q. So that would be like Milledge. Is that what you're
20 saying?

21 A. Yes.

22 Q. And you perceived that from that other parking lot
23 through that treeline; is that what you're telling the
24 Court?

25 A. Yes.

1 Q. Okay. Milledge.

2 MR. BRIAN SHEALEY: All right.

3 THE COURT: All right. The witness may step down.

4 (Witness excused.)

5 MR. HUBBARD: The State calls Clayton Hall.

6 (Whereupon, Clayton O'Brien Hall was duly sworn by
7 the Clerk of Court.)

8 THE CLERK: Thank you, sir. Please be seated.

9 State your full name and spell your last name for the
10 record.

11 THE WITNESS: My name is Clayton O'Brien Hall. The
12 last name, H-A-L-L.

13 CLAYTON O'BRIEN HALL,

14 having been duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MR. HUBBARD:

17 Q. Clayton, what's your relationship to Milledge Hall?

18 A. I'm his grandson.

19 Q. Now we've been hearing about the pool hall. Did you
20 and your wife at some point own that facility?

21 A. We did.

22 Q. When did y'all own that?

23 A. We purchased it late November of 2016 and ran it for
24 about a year and a half.

25 Q. While you ran it, would your grandfather frequent the

1 place and help you?

2 A. Absolutely.

3 Q. In purchasing that facility and running that business,
4 what, if anything, did your grandfather Milledge Hall do to
5 help you?

6 A. He would assist just anything that we needed along the
7 -- as far as the staff goes, just making sure they're taken
8 care of, change from the bank, just small things, little
9 errands, just making sure everything ran smoothly.

10 Q. Did he put money in the business as well?

11 A. He did. About \$16,000.

12 Q. 16,000. As your grandfather, was it clear he wanted
13 you to succeed?

14 A. Yes, sir. That's why he invested.

15 Q. And he also had a money interest as well, but
16 certainly he had you?

17 A. Correct. Yes, sir.

18 Q. Now were there times you weren't there and your
19 grandfather was there at the bar?

20 A. Right. Yes, sir.

21 Q. While he was there, did he have the authority to tell
22 people to leave if -- if that was needed?

23 A. Absolutely.

24 Q. I want to ask you about Saturday, May 5th of 2018.

25 Were you at the business at that time?

1 A. I was.

2 Q. Was your grandfather?

3 A. He was not.

4 Q. Do you know the defendant Barry Jones or do you
5 recognize him?

6 A. Yes.

7 Q. Was he someone that would frequent your bar?

8 A. Yes.

9 Q. Prior to May 5th, had you had any issues with Barry
10 Jones?

11 A. Yeah, on and off arguments between me and him, him and
12 my wife, other bar staff. Other customers would complain
13 as well.

14 Q. On May 5, 2018, what, if anything, happened involving
15 Barry Jones?

16 A. Whenever he went to pay his tab, he was arguing over a
17 fifty cent charge for soda for a mixer on his girlfriend's
18 drink and he just kept escalating that issue.

19 Q. Let me ask you about the -- the mixers. Was this the
20 same charge that he would have gotten if he'd been there
21 May 4th or May 3rd?

22 A. Absolutely. It was always fifty cents for each liquor
23 drink to add onto it.

24 Q. And on this night that was a problem?

25 A. Correct.

1 Q. Did it have anything to do about two extra beers that
2 were on his tab that -- that he didn't have?

3 A. No, sir.

4 Q. And it was about his girlfriend Angie's tab?

5 A. Correct. Well, combined. It was a combined tab.

6 Q. How did Barry Jones react that night and was it
7 different from any way he had acted the night before?

8 A. It was definitely different. You could just tell he
9 had a lot more aggression towards how he was acting about
10 it. Before Angie would kind of be able to talk him down
11 and make him leave, but it just seemed like he had more
12 aggression that night.

13 Q. And Angie is who?

14 A. His presumed girlfriend at the time.

15 Q. Okay. So you knew about that relationship?

16 A. Correct.

17 Q. Okay. And she was trying to talk him down?

18 A. Right. You know, she would give him the little subtle
19 calm down little things to their self. Nothing, you know,
20 loud and out in the open, but you could definitely tell.

21 Q. But on this night that wasn't working?

22 A. Correct.

23 Q. What, if anything, did you do?

24 A. I called my father to come up there to help me close
25 up just so we would be safe that night. I was there with

1 other female staff, so I just wanted somebody there to help
2 me out.

3 Q. How close was all this in -- time-wise to about
4 closing time?

5 A. It was all about close to an hour to closing time.

6 Q. And closing time is what time?

7 A. Midnight on Saturdays or until we get all the patrons
8 out.

9 Q. And your dad, who was your dad?

10 A. Marty English.

11 Q. Is that your stepfather?

12 A. Correct.

13 Q. And so you had -- did he show up at the bar?

14 A. He did.

15 Q. Was there any confrontation at that point?

16 A. He didn't say a word. He just stood behind the bar
17 with me.

18 Q. And that just toned things down?

19 A. Correct. Yeah, nothing else really happened after
20 that. He left after.

21 Q. Now did this incident have any effect with you and
22 your wife, Madison?

23 A. Yeah, we took a trip solely because of this and the
24 stress from it. Prior to me leaving, I had a conversation
25 with my grandfather about needing to remove Barry and ask

1 him not to ever come back before I left on the trip Sunday
2 morning.

3 Q. So y'all left Sunday morning because of this incident?

4 A. Yes, sir.

5 Q. And you had a conversation with your grandfather,
6 Milledge Hall?

7 A. Yes, sir.

8 Q. Did you convey everything that had happened?

9 A. I did. He was fully aware the whole time of previous
10 things, too, so it wasn't just this once.

11 Q. Did you get any advice from your grandfather on how to
12 handle Barry Jones?

13 MR. SECOR: Objection, Your Honor. Calls for
14 hearsay and confrontation --

15 MR. HUBBARD: I haven't asked what it was. I just
16 said did you give advice.

17 THE WITNESS: What was the question?

18 MR. HUBBARD: I'm not gonna ask --

19 THE COURT: Overruled. Overruled.

20 MR. SECOR: Thank you.

21 BY MR. HUBBARD:

22 Q. I'm not gonna ask you what your grandfather said, but
23 did you get any advice on how to handle --

24 A. Oh, yeah. Absolutely. The most professional way
25 possible, not to embarrass anybody. The way he would

1 handle any business because this was essentially his
2 business as well.

3 Q. And so when you left to go on a trip with your --
4 your wife, did you have the impression that's how your
5 grandfather was gonna conduct business?

6 A. Absolutely. Absolutely. Just like I've seen him
7 always conduct business.

8 Q. And try not to embarrass them?

9 A. Correct.

10 Q. Based on your knowledge of your grandfather, having
11 worked with him, having had him in the bar, seeing how he
12 interacts with people, if he was gonna do that and if you
13 were gonna do that, would you do that in the bar or out in
14 the parking lot?

15 A. Out in the parking lot not to damage my business.

16 Q. Okay. Now I want to ask you this about your
17 grandfather. At any time when you were running your
18 business, did you see him carrying a gun?

19 A. Absolutely not. Never.

20 Q. What did he carry?

21 A. A cell phone in a -- either a leather pouch or a phone
22 clip on his right hip.

23 Q. As you were growing up, did you know your grandfather,
24 Milledge Hall, to carry a gun?

25 A. Never. Never even watched him shoot guns in my life.

1 Q. What was his reputation in the community as far as his
2 demeanor?

3 A. Hardworking, honest, somebody you could depend on and
4 if you needed him he was only a phone call away and he'd
5 help you with anything.

6 Q. Did you ever know your grandfather to get in fist
7 fights?

8 A. Never.

9 Q. Were you aware of your grandfather's heart -- heart
10 issue?

11 A. I was.

12 Q. About how long before this incident did he have
13 surgery?

14 A. It was about a year and a half or so before this all
15 happened.

16 Q. All right. About a year and a half?

17 A. Right.

18 Q. What kind of surgery was that?

19 A. It was a triple bypass. Open heart surgery.

20 Q. I want to ask you if you recognize -- well, I want to
21 show you three photographs the defense has seen, State's
22 14, 15 and 16.

23 Any objection to these going in?

24 MR. BRIAN SHEALEY: No, sir.

25 MR. HUBBARD: Okay. Your Honor, I'll offer them,

1 but I'll ask this one question to foundation.

2 BY MR. HUBBARD:

3 Q. Who -- who's in these photographs?

4 A. That's my grandfather.

5 Q. Milledge Hall?

6 A. Correct. Yes, sir.

7 MR. HUBBARD: I offer these into evidence.

8 THE COURT: That's State's Exhibits 14, 15 and 16?

9 MR. HUBBARD: Yes, sir, Your Honor.

10 THE COURT: All right. So admitted.

11 (State's Exhibit Number 14, 15 and 16, photographs,
12 were admitted into evidence.)

13 BY MR. HUBBARD:

14 Q. First I'm gonna show you State's 14. Where -- let me
15 ask you, where did your grandfather carry his phone clip?

16 A. On his right -- right side.

17 Q. I'm showing you State's 14. Do you see that phone and
18 phone clip?

19 A. You can see the Apple logo on the phone.

20 Q. State's 15, do you see the phone clip?

21 A. Yes, sir. You can clearly see the outline there, the
22 same as the other picture.

23 Q. I want to show you, and you might have to squint your
24 eyes, State's 16. Do you see your grandfather pulling his
25 shirt up?

1 A. Yes, sir, reaching in the same area where the cell
2 phone is.

3 Q. Okay.

4 MR. HUBBARD: And, Your Honor, I'll put these up
5 on the screen.

6 BY MR. HUBBARD:

7 Q. There's a TV right up here. Where your grandfather's
8 reaching, what does he keep right here?

9 A. His cell phone.

10 Q. Have you ever known him to carry a gun in his
11 waistband?

12 A. Never.

13 Q. Left side, right side?

14 A. No, sir.

15 Q. In the middle?

16 A. No. Never.

17 Q. Have you ever known him to have a black semi-auto
18 pistol about the size of a Glock?

19 A. No, sir.

20 Q. Never?

21 A. Never.

22 Q. I'm gonna show you another photo, which is State's 15.
23 I'm gonna direct your attention to his right side again.
24 What, if anything, can you identify?

25 A. A cell phone, right side, clipped where it always is.

- 1 Q. Right here?
- 2 A. Yes, sir.
- 3 Q. That rectangular black thing?
- 4 A. (Nods head.)
- 5 Q. And he carried what kind of phone?
- 6 A. An Apple iPhone.
- 7 Q. One more photo, State's 14. Right here, what object
- 8 are we looking at right there?
- 9 A. That's the Apple logo in the center of the phone.
- 10 Q. And, again, when you had a talk with your grandfather
- 11 and y'all talked about Barry Jones, was there ever any
- 12 mention of we need a gun?
- 13 A. Absolutely not.
- 14 Q. Now did you have a gun in the establishment?
- 15 A. I did.
- 16 Q. What kind of gun did you have?
- 17 A. It was a Taurus .40 caliber revolver.
- 18 Q. Revolver?
- 19 A. Correct.
- 20 Q. Where did you keep it?
- 21 A. In a secure location behind the cash register. Only
- 22 me or the closing person knew about it.
- 23 Q. You or the closing person?
- 24 A. Correct.
- 25 Q. Who was the closing person?

1 A. It would either be me -- it would either be me or
2 Madison would be there with the closer and then, you know,
3 we'd have it for protection while we walked out with a bag
4 of money essentially.

5 Q. Did -- your grandfather, was he ever told about that
6 pistol?

7 A. No.

8 Q. Did you before you went on that trip say hey,
9 granddad, if things get out of hand there's a revolver?

10 A. No. He wouldn't have settled anything that way
11 anyway.

12 Q. So you didn't have that conversation?

13 A. No. Absolutely not.

14 Q. That information about the pistol's existence was
15 never conveyed to him?

16 A. No, sir.

17 Q. If he had known about a pistol, you know your
18 grandfather better than anyone, what would he have done?

19 MR. SECOR: Objection.

20 A. He wouldn't have used it. He wouldn't have had to.

21 THE COURT: What's your objection?

22 MR. SECOR: Speculation. He said he never had a
23 gun, but what would he do if he had one or knew where it
24 was.

25 MR. HUBBARD: No, that's not my question.

1 MR. SECOR: He knew where it was.

2 THE COURT: Okay.

3 MR. HUBBARD: I'll rephrase.

4 THE COURT: Rephrase your question.

5 BY MR. HUBBARD:

6 Q. You knew your grandfather as well as anybody; is that
7 safe to say?

8 A. Correct. Yes, sir.

9 Q. You knew his attitude towards guns; is that safe to
10 say?

11 A. Yes. Absolutely.

12 Q. You knew his attitude when it came to violence; is
13 that safe to say?

14 A. Correct.

15 Q. If your grandfather had owned a gun, knowing your
16 grandfather as you did, would he ever resort to a gun?

17 MR. SECOR: Same objection.

18 A. Never. No, he would not.

19 THE COURT: Overruled. I mean, this is -- yeah,
20 overruled.

21 MR. HUBBARD: I beg the Court's indulgence.

22 BY MR. HUBBARD:

23 Q. One final question. How did your grandfather,
24 Milledge Hall, feel about guns?

25 A. He did not like guns.

1 Q. And he had conveyed that to you?

2 A. Absolutely. He never wanted me to carry a gun, he
3 never believed in anybody having to carry a gun.

4 MR. HUBBARD: Thank you, Clayton. Please answer
5 any questions the defense has.

6 THE COURT: Cross-examination, Mr. Secor.

7 MR. SECOR: Thank you, sir.

8 CROSS-EXAMINATION

9 BY MR. SECOR:

10 Q. Good morning, Mr. Hall.

11 A. Good morning.

12 Q. I'm sorry about your grandfather. I'm sure this is
13 tough for you. I just want to speak to you briefly about
14 a few of the things that the Solicitor talked to you about.
15 Is that all right?

16 A. Yeah, that's fine.

17 Q. I believe you said to Mr. Hubbard that you had
18 problems with Mr. Jones in the past?

19 A. Correct.

20 Q. Is that right? At the -- at the Johnston pool room?

21 A. Correct.

22 Q. Okay. And that you heard about those problems from
23 not -- not only because you had them, but because you heard
24 them from your wife, Madison; is that correct?

25 A. Right, and my entire wait staff and a lot of the

1 patrons of the bar as well.

2 Q. Okay. And you're -- you're telling us now that that
3 had gone back in time in the months before the date that
4 your grandfather was shot; is that right?

5 A. Correct.

6 Q. Okay. But you had never told Mr. Jones to leave and
7 not come back, right?

8 A. Not to my knowledge. I didn't tell him yet, no.

9 Q. And your -- no one else as far as you know as the
10 owner of the pool room or one of the owners of the pool
11 room, no one else on your staff had told him to leave and
12 never come back, right?

13 A. Not leave and never come back, no.

14 Q. There were though in the -- in the months leading up
15 to this incident in the early part of 2018 there were some
16 people that you or the Johnston pool room did tell to leave
17 and never come back; is that right?

18 A. Yeah, we did.

19 Q. Okay. And just to make sure that I'm right about
20 this, one of those people would have been Theodore Kohl?
21 Does that sound familiar?

22 A. Do you have any other information?

23 Q. All I can tell you is that he was a white male with a
24 date of birth of [REDACTED] and he was put on trespass notice
25 at the pool room on January 8, 2018. Does that sound like

1 it could be right?

2 A. I don't recall.

3 Q. Okay. How about a Christopher Paul Edwards, a white
4 male with a date of birth of [REDACTED] who was put on
5 trespass notice at the pool hall on March 9, 2018?

6 A. Yeah, him and another person got into a physical
7 altercation that left them bloody laying in my parking lot,
8 so absolutely they got banned.

9 Q. And that was -- the other person was James Foley.
10 Does that sound familiar?

11 A. Correct.

12 Q. Okay. And the reason I bring that up is because
13 clearly if there's somebody causing a problem at the pool
14 hall, you don't hesitate to put somebody on trespass
15 notice, right?

16 A. Well, when somebody's bloody laying on the concrete,
17 yeah, it's not a hard decision to make.

18 Q. Okay. But Theodore Kohl, the other person that was on
19 trespass notice, he wasn't bloodied in the parking lot as
20 far as you remember?

21 A. As far as I can remember, but he was removed -- I
22 believe that was the person that was removed for how creepy
23 he was towards all the women at the bar and other patrons
24 and we had multiple issues out of him.

25 Q. And the -- the information that I have about these

1 individuals came from what we -- what we call discovery in
2 this case, which is the evidence that the State gives to us
3 so that we can all be prepared for this case.

4 A. Uh-huh.

5 Q. So I got this information from some law enforcement
6 documentation, which would have meant that these people
7 were officially on trespass notice through law enforcement,
8 right?

9 A. Right. Absolutely.

10 Q. That's because you as the -- as the owner and the
11 person who's responsible for the people at your bar is you
12 notify law enforcement that these people were no longer
13 welcome there?

14 A. Right, and that's how trespassing notice works I'm
15 sure.

16 Q. Yes, sir. Exactly. The night that you spoke to
17 Mr. Hubbard about, May 5, 2018, that was the night that you
18 said that there was an argument over Mr. Jones' bar tab?

19 A. Correct.

20 Q. Is that right?

21 A. Yeah.

22 Q. And what did you do to try to figure that situation
23 out; do you remember?

24 A. Tried to explain the fifty cent charge, like it's
25 always there, went over his ticket with him, printed it out

1 in detail where it broke down every single drink.

2 Q. Okay. And you called -- it's Mr. English; is that
3 right?

4 A. That's correct.

5 Q. And he came to the bar?

6 A. Correct.

7 Q. And are you aware that he perceived everything as
8 being fine at the bar?

9 A. No, he -- he came to support me because he could feel
10 that it was not okay.

11 Q. But do you know that he left the bar when both you and
12 Mr. Jones were still there?

13 A. No, he did not.

14 Q. Would you be surprised to hear that he told law
15 enforcement that he did that? And I'm not trying to give
16 you a hard time. I'm just telling you what he said.

17 MR. HUBBARD: Your Honor, I'm gonna object. This
18 is just -- if he knows -- he's basically already answered
19 the question. Now if they want to put up this gentleman
20 to say otherwise, I don't have any problem with that.

21 THE COURT: Okay. I'm a little confused on the
22 question.

23 MR. SECOR: I'm sorry, sir?

24 THE COURT: I'm a little confused on your question.

25 MR. SECOR: Okay.

1 BY MR. SECOR:

2 Q. So your memory is that Mr. English stayed there; is
3 that correct?

4 A. Until, yeah, Barry left, yeah.

5 Q. Okay. So he stayed there until Mr. Jones left and
6 then he left. That's your memory?

7 A. Right. He just stood there behind the bar. Didn't
8 say anything, didn't do anything. Just stood there.

9 Q. Okay. When you said that the way the trespass notice
10 works -- I think you said that the way that it works is
11 that you contact law enforcement; is that right?

12 A. Correct, and then they do their civil duty of doing
13 that for me.

14 Q. That's right. And so that's the way that it went with
15 Theodore Kohl and Christopher Paul Edwards and James Foley
16 is that you went through law enforcement and they notified
17 them, right?

18 A. Correct.

19 Q. And that would be -- it seems to me like that would be
20 consistent with what you were saying earlier, that that's
21 sort of like the professional polite way to do it, right,
22 you follow the law?

23 A. Correct.

24 MR. HUBBARD: Your Honor, I object. The law
25 doesn't require somebody in asking them to leave their

1 premises to put them on trespass notice.

2 THE COURT: Well, it calls for a legal conclusion
3 essentially. Is that your objection?

4 MR. HUBBARD: Correct.

5 MR. SECOR: I didn't suggest that it requires it --

6 THE COURT: Well, maybe I mis --

7 MR. SECOR: -- by any stretch of the imagination.

8 The COURT: Maybe I misheard your question. You're
9 free to ask it again if I muddled it up for you.

10 BY MR. SECOR:

11 Q. Notifying law enforcement that somebody was on
12 trespass notice, that's in line with what you described as
13 being the professional manner that you ran the bar, right?

14 A. That or taking somebody outside to tell them they are
15 not welcome back, yes. Both of those are considered legal
16 grounds to remove somebody from the property.

17 Q. Right.

18 A. As the property owner, I can ask them to leave and not
19 come back.

20 Q. Yes, sir. You can. And -- but you -- the three
21 people that were put on trespass notice in 2018 before this
22 incident, before the date that your grandfather was killed,
23 those three people were notified via law enforcement,
24 right?

25 A. Well, who was the third?

1 Q. It was -- hang on just a second. Theodore Kohl,
2 Christopher Paul Edwards and James Foley. I believe you
3 said Edwards and Foley were the two that were in an
4 altercation.

5 A. Correct. Yeah, so that's correct then.

6 Q. Okay. So they all would have been notified via law
7 enforcement that they were on trespass notice?

8 A. Yeah, I'm pretty sure Edgefield County handled the
9 part with James Foley their self though because it was an
10 assault, so.

11 Q. Okay. Were you ever aware of any issues between your
12 grandfather and Mr. Jones in terms of them having words
13 about anything at the bar?

14 A. No, sir.

15 Q. Okay. The cameras that y'all had at the pool room
16 there, can you tell me how many were inside and how many
17 were outside?

18 A. I really can't recall the exact number. I want to say
19 anywhere from six to eight.

20 Q. Okay. And am I right that there were two outside but
21 one wasn't working?

22 A. Correct. The far corner one, it just -- yeah, it
23 didn't work.

24 Q. Okay. So if we're saying that there were six --
25 between six to eight and if there's two outside, we're

1 talking about inside there's four to six?

2 A. Right.

3 Q. And are they in every room in the -- in the pool room?

4 A. They covered the majority of it.

5 Q. Okay. Is there anyplace in the pool room that you
6 would not be able to see from surveillance?

7 A. No.

8 Q. Okay. So anything that went on inside the pool room
9 that day would have been captured by your surveillance
10 system?

11 A. Yes, sir.

12 Q. Okay. And as far as you know the surveillance system
13 was working fine except for that one exterior camera?

14 A. Yes, sir.

15 Q. Okay. And if law enforcement or if the solicitor's
16 office wanted more of that footage from the interior of the
17 -- of the pool room that day to find out what was going on,
18 you would have been able to give it to them?

19 A. Correct. Yes, sir.

20 Q. I'd like to talk to you just briefly about the -- the
21 issue about the gun that y'all had at the bar, okay?

22 A. Uh-huh.

23 Q. You said that it was there for protection, right?

24 A. Correct. When I'm closing up with money, correct.

25 Q. Okay. And that's because you as -- as somebody that

1 has authority to protect the bar, you need some way to
2 protect yourself while you're protecting the bar, right?

3 A. Correct. To protect my life and our staff's life.

4 Q. Right. And even your patrons, if necessary, right?

5 A. Correct. Yes, sir.

6 Q. And also there was the issue of there being money at
7 the bar and wanting protection when you were handling money
8 in the event that something came up or there was a threat
9 of somebody trying to take your money, correct?

10 A. Right. If we were walking to the car and somebody
11 walked up to mug us after they seen me close for the night.

12 Q. Yes, sir. And the people that had the primary
13 authority at the Johnston pool room to protect it based on
14 your testimony, and tell me if I'm wrong, it sounds like it
15 was you and your grandfather?

16 A. No, sir. Just me and my wife knew about the gun
17 and --

18 Q. No, I'm not -- I'm not trying to trip you up on that.
19 I'm just saying you talked about him having the authority
20 to eject people from the pool room if necessary, right?

21 A. Correct.

22 Q. Which means he, just like you, had the authority to
23 protect the Johnston pool room?

24 A. Correct.

25 Q. Because sometimes he was there and you were not there,

1 right?

2 A. Correct.

3 Q. And sometimes he was there and Madison was not there,
4 right?

5 A. Correct.

6 Q. And you testified earlier that he sometimes handled
7 the money, would take the money away from the pool room?

8 A. He would get change from the bank, so somebody would
9 be there to take it out of the register, let him take it to
10 the bank and he'd bring it back, and that was rare.

11 Q. So that's -- that's the extent to which he handled the
12 money?

13 A. Right, it would be a hundred bucks to go get fives,
14 ones and quarters for the pool tables.

15 Q. Okay. So -- but my question is if he had authority
16 to protect the pool room just like you did, right, and you
17 felt like you needed a gun as part of your duty to protect
18 the pool room, it's -- I have a hard time with the issue
19 that he didn't even know where it was if there were times
20 that he was there alone as being the only person to protect
21 the place?

22 A. I don't know how to --

23 MR. HUBBARD: Your Honor, I'm objecting at this
24 point. That's not a question, that's an observation
25 where he says he just has a hard time believing. That's

1 not a question and I object to it.

2 THE COURT: You can -- you can rephrase the question
3 or narrow the question.

4 MR. SECOR: Yes, sir.

5 BY MR. SECOR:

6 Q. Your grandfather had the authority to protect the pool
7 room, right?

8 A. Correct.

9 Q. Sometimes he was the only person there that had the
10 authority to protect the pool room?

11 A. Correct.

12 Q. And if you were the only person there to protect the
13 pool room, you had a way to protect yourself?

14 A. That's correct.

15 Q. And that was the gun?

16 A. Correct.

17 Q. And if you were handling money, you had a way to
18 protect yourself, right?

19 A. When I close up for the night, yes.

20 Q. And that was the gun?

21 A. Correct.

22 Q. But when your grandfather was there as the sole person
23 who had authority to protect the pool room, he didn't have
24 a way to protect himself?

25 A. Well, that's the difference between me and him. He

1 didn't believe in it that way.

2 Q. Okay. And when -- and when he was responsible for
3 handling the cash, he didn't have a way to protect himself
4 the way that you had a way to protect yourself?

5 A. I don't think you need much protection to go to the
6 bank with a hundred dollars in the middle of the day to be
7 honest.

8 Q. Okay.

9 MR. SECOR: I beg the Court's indulgence for just
10 a moment, please.

11 THE COURT: Sure.

12 BY MR. SECOR:

13 Q. Just a couple more questions along the same line. You
14 said that you had problems with Mr. Jones in that he had
15 acted more aggressively recently with you; is that correct?

16 A. Correct.

17 Q. That was May 5, 2018?

18 A. Correct.

19 Q. You did not tell him to leave, right?

20 A. Not -- and not come back, no.

21 Q. You didn't tell him to leave at all. Like he left on
22 his own volition on May 5, 2018.

23 A. On May 5th, he seemed -- yeah, he recognized that he
24 was causing an issue and left after Angie made him leave
25 essentially.

1 Q. Okay. But you didn't tell him that he was on trespass
2 notice then, right?

3 A. No. He was belligerently drunk and I don't think
4 that's a good time to bring up something that could create
5 a hostile environment, especially not at 11:00 at night at
6 a bar, so.

7 Q. But the following day you didn't call law enforcement
8 and ask them to put him on trespass notice?

9 A. He hasn't done anything violent to give me that reason
10 at that time.

11 Q. But, I mean, you said earlier you didn't have to be
12 violent to be put on trespass notice, right? You said one
13 guy had been creepy and you got him put on trespass notice.

14 A. Well, it was a lot more than that. It was more
15 touching and feeling and my patrons weren't comfortable,
16 so it was affecting my business, so he had to be removed,
17 correct.

18 Q. Okay. But, I mean, you said earlier you had the
19 right to put somebody on trespass notice and if you owned
20 an establishment or run an establishment and you told law
21 enforcement this person's on trespass notice, they'd do it,
22 right? I mean, they don't -- they don't grill you about
23 why, right?

24 A. Right.

25 Q. And so the point I'm trying to make is you could have

1 called law enforcement the following day and ask them to
2 put him on trespass notice, but you didn't do that then?

3 A. No, I was gonna handle it Monday and tell him not to
4 ever come back to my business.

5 Q. Okay. So then you and Madison left town?

6 A. Correct, on Sunday.

7 Q. Okay. And so the person that was left at the pool
8 room for that couple of days was your --

9 A. It was Eileen Hudson.

10 Q. Eileen Hudson was the person responsible for
11 protecting it?

12 A. Correct. Yeah, she ran it, opened it up, closed it,
13 called us when anything happened.

14 Q. But, I mean, more about protecting it, right? Because
15 we talked about your grandfather being somebody to who had
16 the authority to protect that place and you wouldn't -- I
17 mean, you wouldn't leave Ms. Hudson just on her own there,
18 would you?

19 MR. HUBBARD: Your Honor, I'm gonna make an
20 objection. I think we're getting into -- the defense
21 has been characterizing Milledge Hall as the protector
22 and this witness as the protector. That's their
23 characterization and so now they're trying to say
24 that is, so I object to the characterization.

25 THE COURT: Overruled. I suppose there's a

1 additional person whose giving information on Ms. Hudson.

2 You can continue with your questions.

3 BY MR. SECOR:

4 Q. We're talking about Eileen Hudson, right?

5 A. Correct.

6 Q. She worked at the bar?

7 A. Yeah, she did. She helped manage it with me and
8 Madison.

9 Q. She -- she cooked and she tended bar sometimes?

10 A. She did everything. Just like all of us.

11 Q. And she's -- she's related to your wife, right?

12 A. Grandmother.

13 Q. Okay. And she also put money into the business just
14 like your grandfather did?

15 A. Correct.

16 Q. Okay. And she was helping you also trying to get the
17 business on its feet because it was still relatively new,
18 right?

19 A. Correct.

20 Q. And Ms. Hudson would have been approximately how old
21 at this time?

22 A. Sixty something. I'm not really sure.

23 Q. And -- but I guess you said that one of the reasons
24 why you needed there to be protection at the bar is
25 because, you know, some of the employees were women, right?

1 A. Correct.

2 Q. And that's why, I guess, part of the reason that you
3 had the gun?

4 A. Right.

5 Q. But when you were gone from the bar and Ms. Hudson was
6 in charge of running it --

7 A. Correct.

8 Q. -- you felt comfortable with your grandfather being
9 there in case anything happened?

10 A. Correct. Just like I would be her because she had her
11 own protection.

12 Q. Her own protection being the gun?

13 A. No, she had her own as in her name in her purse like
14 she always had everywhere she went.

15 Q. Okay.

16 A. So she didn't need to use my weapon as defense if she
17 had to.

18 Q. Right.

19 A. She would have had her own.

20 Q. So she had -- she had her own way to protect herself?

21 A. Yes, sir.

22 Q. And so that -- that time that you were concerned about
23 Mr. Jones and you left town and you did not put him on
24 trespass notice, the only person at the pool room who might
25 theoretically have to encounter Mr. Jones is someone who

1 you didn't tell where the gun was as a way of protecting
2 himself?

3 A. No.

4 Q. Okay.

5 MR. SECOR: The Court's indulgence for just a
6 moment, please.

7 Thank you, Mr. Hall. I appreciate it.

8 THE COURT: Redirect.

9 REDIRECT EXAMINATION

10 BY MR. HUBBARD:

11 Q. One quick question just so I want make sure I
12 understand. When you had that conversation with your
13 grandfather before you went off on your trip, did you
14 express at that time that you were gonna let Barry Jones
15 know he should never come back -- could never come back?

16 A. Yes, I told him multiple times while he was reading
17 his newspaper that Sunday morning.

18 MR. HUBBARD: Thank you.

19 THE COURT: Any recross?

20 MR. SECOR: No, sir. Thank you.

21 THE COURT: The witness may step down.

22 (Witness excused.)

23 MR. HUBBARD: Thank you, Your Honor. The State
24 calls Lanyce Hatcher.

25 Your Honor, may this witness stay in the courtroom

1 now that he's testified since he's family?

2 THE COURT: I don't have any issue with that.

3 MR. HUBBARD: Any -- any objection from the defense?

4 MR. LUKE SHEALEY: No objection.

5 THE COURT: I'd like a five minute recess.

6 MR. HUBBARD: Oh, yes, sir. Yes, sir. Absolutely.

7 THE COURT: Thank you.

8 (Recess taken at 11:25 PM.)

9 (Defendant's Exhibit Number 13 through 16 were
10 marked for identification.)

11 (Back on the record at 11:37 PM.)

12 BAILIFF: All rise.

13 THE COURT: Thank you. Please be seated.

14 MR. HUBBARD: Thank you, Your Honor.

15 THE COURT: Yes, sir. Proceed.

16 MR. HUBBARD: Yes, sir. The State calls Lanyce
17 Hatcher.

18 THE CLERK: Raise your right hand.

19 (Whereupon, Lanyce Hatcher was duly sworn by the
20 Court.)

21 THE COURT: All right. Please be seated. State
22 your first and spell your last name for the record.

23 THE WITNESS: Lanyce Hatcher, H-A-T-C-H-E-R.

24 LANYCE HATCHER,

25 having been duly sworn, testified as follows:

1 DIRECT EXAMINATION

2 BY MR. HUBBARD:

3 Q. Mr. Hatcher, I'm gonna with the Court's permission
4 move that right there. You don't have to hold it. Just
5 speak up and I think it will pick you up.

6 Mr. Hatcher, are you familiar with the pool room in
7 Johnston?

8 A. Yes, sir.

9 Q. Is that a place you would frequent?

10 A. Yes, sir.

11 MR. HUBBARD: Your Honor, if I may, can I ask
12 Mr. Hatcher to lower his mask so we can hear him a little
13 better?

14 THE COURT: Is he having a hard time hearing?

15 MR. HUBBARD: He's just a soft-spoken man.

16 THE COURT: Okay. Yes.

17 Mr. Hatcher, you've got the microphone right in
18 front of you. Just make sure we can hear your testimony.
19 You can pull your mask down and speak up close to the
20 mic.

21 THE WITNESS: Okay.

22 MR. HUBBARD: And I think if you just speak normal
23 now, it will pick you up. You don't have to -- you don't
24 have to lean forward now. It think it will get you.

25 BY MR. HUBBARD:

1 Q. So I'm gonna ask you again, you're familiar with the
2 pool hall in Johnston?

3 A. Yes, sir.

4 Q. Were you a regular customer and patron at that bar?

5 A. Yes, sir.

6 Q. Do you know Mr. Hall? Milledge Hall?

7 A. Yes.

8 Q. How long have you known Mr. Hall?

9 A. Over fifty years I know.

10 Q. I'm gonna ask you on May 7, 2018, did you go to the
11 pool hall in Johnston?

12 A. Yes.

13 Q. When you were pulling up, who, if anybody, did you see
14 outside?

15 A. Milledge.

16 Q. Milledge Hall?

17 A. Yes.

18 Q. What was he doing?

19 A. He was arguing with somebody in a car. I couldn't see
20 who was in the car, but you could tell they were arguing.

21 Q. Okay. And did you -- what do you drive?

22 A. A white -- that day I was driving a white Ford
23 pick-up.

24 Q. And did you park it and walk past them as they were
25 talking?

1 A. Yes.

2 Q. I want to show you some photographs the defense has
3 seen.

4 MR. HUBBARD: State's 17, 18 and 19, Your Honor.

5 BY MR. HUBBARD:

6 Q. Looking at 17, do you see your vehicle?

7 A. Yeah, sitting right there.

8 Q. A white truck?

9 A. Yes, sir.

10 Q. Looking at 18, do you see you?

11 A. Yeah, that's me, and I parked by Milledge's truck.

12 Q. Okay. And in 19 do you see you?

13 A. Yes, that's me.

14 Q. All right. Now I'm gonna put these up on this TV
15 screen here.

16 THE COURT: Are you gonna -- you're moving to admit
17 them? You're moving to admit those into evidence?

18 MR. HUBBARD: Yes, sir. I'm sorry.

19 THE COURT: Without objection?

20 MR. SECOR: No objection, Your Honor.

21 THE COURT: All right. State's Exhibit 17, 18 and
22 19 are admitted into evidence.

23 (State's Exhibit Number 17, 18 and 19, photographs,
24 were admitted into evidence.)

25 BY MR. HUBBARD:

1 Q. Looking at 17, which vehicle do we see that's yours?

2 A. The one turning in off the highway.

3 Q. The white Ford pick-up truck?

4 A. That's correct.

5 Q. Looking at State's 18, do you see yourself?

6 A. Yes, sir.

7 Q. Do you see where you parked the white pick-up truck?

8 A. Yeah, right over on the right of Milledge's truck.

9 Q. And do you see Milledge?

10 A. Yeah, he's standing at the window of the car there on
11 the end, the gray car.

12 Q. Is that him right here in the photo?

13 A. Yes, sir.

14 Q. State's 19. Again, is that you walking into the bar?

15 A. Yes, sir.

16 Q. As you were walking by, could you hear talking,
17 Milledge and whoever was in that vehicle?

18 A. I heard Milledge. I couldn't hear anything from the
19 car. The window was just cracked and tinted. I couldn't
20 see. I didn't know who it was and I didn't hear anything,
21 but I heard Milledge.

22 Q. Okay. Well, let me ask you this. You didn't know who
23 was in the car; is that correct?

24 A. Yes, that's correct.

25 Q. The windows, could you see through the windows of the

1 car?

2 A. No.

3 Q. Why?

4 A. They were tinted, I guess, because I couldn't see
5 anybody in there. I didn't know who he was talking to.

6 Q. What, if anything, did you hear Milledge Hall say to
7 that person in the car?

8 MR. SECOR: Objection, Your Honor. Calls for
9 hearsay.

10 MR. HUBBARD: No, sir. This is going -- this is in
11 response to their client's testimony about comments and
12 words of Milledge Hall, a direct response.

13 MR. SECOR: It's hearsay without exception. There's
14 no exception to the hearsay that this is attempting to
15 elicit.

16 MR. HUBBARD: No, sir. This is direct response.

17 THE COURT: All right. Overruled.

18 BY MR. HUBBARD:

19 Q. What, if anything, did you hear Milledge Hall say to
20 this person in the vehicle?

21 A. The only thing I heard as I was walking by was that
22 Milledge said -- let's see how did he say it? He said no,
23 I'll tell you what you're gonna do, you're gonna leave and
24 not come back, and that's -- that's all I heard and by then
25 I was almost to the door and I didn't hear any more.

1 Q. No, what you're gonna do is leave and not come back?

2 A. That's correct.

3 Q. And that was Milledge Hall to the person in the
4 vehicle?

5 A. That's correct.

6 Q. Now once you got inside at some point did you -- where
7 did you usually sit in that bar?

8 A. At the bar at wherever there's a seat.

9 Q. At some point did you hear a gunshot?

10 A. Yes.

11 Q. Did you see who shot him at that time?

12 A. Not the first shot. I turned and then I saw the
13 second shot.

14 Q. Who was firing the gun?

15 A. (Indicating.)

16 Q. Can you say his name?

17 A. Barry. Barry Jones.

18 Q. Barry Jones.

19 A. He was standing -- had the door open in the car and I
20 saw him when he shot -- the fire coming out and the gun
21 pop up, the second shot, but I thought Milledge was running
22 down beside the building because I couldn't see Milledge
23 right there at that time.

24 Q. Okay. By the time you heard those shots -- you walked
25 by and go inside, did you have time to get a drink?

1 A. Yeah, they brought me a beer and I was gonna order
2 some food. I drank about that much and that's when I heard
3 -- I was talking to Roger Walters a second and that's when
4 I heard the shot.

5 Q. Okay. So let me -- let me make sure I understand.
6 When you get to the pool hall and you walk past and hear
7 Milledge saying no, what you're gonna do is leave and not
8 come back --

9 A. That's right.

10 Q. -- then you go inside and you're inside long enough
11 to get a beer and some food and drink part of your beer?

12 A. No, I -- I didn't -- no, I didn't get any food. I
13 hadn't even ordered it. I didn't have time for that. They
14 just brought a beer when they saw me coming and I was just
15 sitting there talking to Roger a minute.

16 Q. And how much of it had you already drunk before?

17 A. About that much when I heard the shot.

18 Q. And then when you got up after that, that's when you
19 saw Barry Jones on the second shot?

20 A. Well, I didn't get up. I just turned or swiveled
21 around and saw him through the window.

22 Q. All right. Now let me ask you this. After that did
23 you go outside and check on Milledge?

24 A. Yeah, everybody ran outside.

25 Q. Did you see -- well, what did Barry Jones do? Did you

1 see him do anything?

2 A. Well, after he shot he got in the car and backed up,
3 went out in the road and up the road to -- towards Trenton.

4 Q. Towards Trenton?

5 A. (Nods head.)

6 Q. Away from Johnston and away from Edgefield?

7 A. Right. Well, I don't know about away from -- yeah, he
8 was going -- I don't know where he got when he got to the
9 hilltop. 191 goes to the left and he could have went
10 straight. I don't know where he went. You couldn't see
11 then, you know.

12 Q. Sure. So you get there and when you get out there, do
13 you see any gun on Milledge or around Milledge?

14 A. No.

15 Q. Any pistol?

16 A. No.

17 Q. How long had you known Milledge?

18 A. Like I said, I know over fifty years because we were
19 kids. I mean, I was a little -- two or three years older
20 than him's all. I mean, probably closer to fifty-five
21 years.

22 Q. In all of your fifty-five years, had you known
23 Milledge to carry a gun?

24 A. Not that I ever knew, no.

25 Q. You never seen him with one?

1 A. No, I never seen him with a gun.

2 Q. Now did you know he had a cell phone?

3 A. Yeah.

4 Q. That he wore on his hip?

5 A. I -- I don't know where he wore it. I've seen him
6 talking on it in there and looking up stuff, you know, but
7 I don't know where he kept it, no.

8 Q. But you never saw him with a gun?

9 A. No.

10 Q. In your fifty-five years of knowing Milledge, what was
11 his reputation in the community?

12 A. He was just a likeable person. I mean, he'd do a
13 favor for you if he could and plenty of people he did
14 favors for.

15 Q. Did you ever know him to be a violent man?

16 A. Not that I ever saw.

17 Q. Did you ever see him in the bar get violent with
18 anyone?

19 A. No. I never did, no. I don't know if he did or not,
20 but never when I was around. I never saw it.

21 Q. That wasn't the Milledge you knew?

22 A. No.

23 MR. HUBBARD: I believe that's all I've got at
24 this time. Thank you, Mr. Hatcher. Please answer any
25 questions the defense has.

1 THE COURT: Cross-examination.

2 MR. SECOR: Thank you, sir.

3 CROSS-EXAMINATION

4 BY MR. SECOR:

5 Q. Good morning, Mr. Hatcher.

6 A. Morning.

7 Q. I just want to make sure that -- I just want to make
8 sure that I heard you correctly when you were talking to
9 the Solicitor, okay?

10 A. Okay.

11 Q. You told the Solicitor that on May 7, 2018, you
12 arrived at the Johnston pool room in your white truck,
13 right?

14 A. That's correct.

15 Q. And parked next to Mr. Hall's truck?

16 A. Yes, sir.

17 Q. And went to walk inside?

18 A. That's correct.

19 Q. And when you went to walk past that first car parked
20 along the front of the building, you saw Mr. Hall?

21 A. Yeah. Yes, sir.

22 Q. And he was talking with somebody inside that vehicle
23 as far as you could tell?

24 A. Yes, sir.

25 Q. And as you were walking by you heard Mr. Hall say,

1 quote, no, what you're going to do is leave and not come
2 back, end quote; is that correct?

3 A. That's correct.

4 Q. Okay. Again, this was May 5, 2018, right?

5 A. May what?

6 Q. May 7, 2018, right?

7 A. I guess. It's been three years ago or more, so.

8 Q. Yes, sir. And you stayed there after Mr. Hall was
9 shot and went outside, right?

10 A. That's correct.

11 Q. And the police arrived, right?

12 A. That's correct.

13 Q. And they were speaking to people trying to figure out
14 what had happened?

15 A. Yeah, they had us all write a statement, you know, of
16 what -- what we saw and heard.

17 Q. Yes, sir. That's exactly right. And you were one of
18 those people that wrote a statement, correct?

19 A. Yes, sir.

20 Q. And you saw -- there were several officers that
21 responded from the sheriff's department and the police
22 department?

23 A. Yes, sir.

24 Q. And they were, just like you said, talking to
25 different people trying to collect information?

1 A. That's correct.

2 Q. And they asked specific people to make written
3 statements about what they saw and what they heard?

4 A. Yes, sir.

5 Q. Okay. And they provided you the opportunity to write
6 your own statement, right?

7 A. That's correct.

8 Q. And you wrote it in your own hand, right?

9 A. Yeah. I think everybody did I think.

10 Q. Okay. Well, somebody had one written for them, but
11 that doesn't apply to you. And I'm just gonna -- I'm gonna
12 show you just to make sure that I've got the right one.

13 MR. SECOR: May I approach, Your Honor?

14 THE COURT: Yes, sir.

15 BY MR. SECOR:

16 Q. Mr. Hatcher, can you just tell me if you recognize
17 this as the statement that you wrote that day?

18 MR. HUBBARD: No objection if they want to put
19 it in.

20 THE COURT: Very well.

21 THE WITNESS: Yes, sir. I mean, that's -- that's
22 it.

23 BY MR. SECOR:

24 Q. That's it and that's your handwriting and that's your
25 signature?

1 A. Yes, sir.

2 Q. Okay. And would you agree with me that you filled
3 up the entire portion of the -- of the document that's
4 provided for you to write?

5 A. Yes, sir.

6 Q. And, as a matter of fact, you even added a line of
7 writing underneath because there wasn't enough room to put
8 in all that you wanted to put in?

9 A. I just wanted to put in everything that I could think
10 of that I was -- while it was fresh in my mind.

11 Q. Like you said, everything that you saw and you heard
12 that was fresh in your mind, right?

13 A. Yes, sir.

14 Q. Okay. And if you will look over that.

15 A. (Witness complies.)

16 Q. Did you look it over, sir?

17 A. Yes, sir.

18 Q. Okay. Would you agree with me that there's nothing in
19 your handwritten statement about you hearing Milledge Hall
20 say anything at all; is that correct?

21 A. I don't think there is, but I -- I heard it, but I
22 don't guess I wrote that down. But I definitely heard it
23 because that's the last thing I ever heard him say.

24 Q. In the middle of that, your own handwritten statement,
25 you did write that you -- you walked by the car and heard

1 the two people talking loudly, right?

2 A. Yeah.

3 Q. Okay. But in that statement that you wrote on May 7,
4 2018, when you, like you said, you were trying to provide
5 law enforcement with as much information, the most accurate
6 recitation of what you saw and what you heard because it
7 had just happened, you never wrote down that you heard
8 Milledge Hall said no, no, what you're gonna do is leave
9 and never come back?

10 A. No, I didn't write it down, but I sure heard it.

11 Q. Okay.

12 A. I thought I wrote it down, but I guess I didn't.

13 Q. One last thing, Mr. Hatcher. You do recall that the
14 window was down about six to eight inches on the gray or
15 silver car?

16 A. It was down. That's three years ago. If that's what
17 I said on there, but it was down a little, you know, but I
18 couldn't see in there.

19 Q. Okay. But when you wrote it down on your statement on
20 May 7, 2018, you remembered it better and that's why you
21 put it in your statement, right?

22 A. Right.

23 Q. Okay.

24 MR. SECOR: May I retrieve my copy of that?

25 THE COURT: Sure.

1 MR. SECOR: Thank you, Mr. Hatcher. I appreciate
2 it.

3 THE COURT: Any redirect?

4 MR. HUBBARD: Your Honor, I was gonna put his
5 statement in. I don't know if they object to me putting
6 that copy in that he looked at it.

7 I can find the original or look for a clean copy,
8 but since he had that and had him read it off...

9 MR. SECOR: I'm just trying to figure out what
10 the purpose is of admitting it. If it's used for
11 impeachment because --

12 MR. HUBBARD: I'd like Your Honor to be able to
13 read it.

14 MR. SECOR: I mean, you have a copy.

15 MR. HUBBARD: I've got one handy.

16 Since they made reference to this statement, I now
17 offer State's Exhibit 20 into evidence.

18 THE COURT: If nothing else, for the purpose of
19 having the factfinder have a copy of what was read in
20 open court.

21 MR. HUBBARD: I'm sorry, Your Honor?

22 THE COURT: If nothing else, for the purpose of
23 having the factfinder have a written copy of what was
24 read in open court.

25 MR. HUBBARD: Correct.

1 THE COURT: Very well.

2 (State's Exhibit Number 20, Lanyce Hatcher written
3 statement, was marked and admitted into evidence.)

4 REDIRECT EXAMINATION

5 BY MR. HUBBARD:

6 Q. Mr. Hatcher, when you wrote that statement, did they
7 give you a statement form and say write out what happened?

8 A. I -- you know, I don't really remember what they said.
9 They just said we all needed to fill out a statement of
10 what we saw and heard.

11 Q. Okay. What you saw and heard. Let me ask you, you
12 just saw a man you had known for fifty-five years get shot.

13 A. That's correct.

14 Q. Was your focus on that incident and the shooter?

15 A. Yeah.

16 Q. Okay.

17 MR. HUBBARD: No further questions.

18 THE COURT: Any recross?

19 MR. SECOR: No, sir. Thank you.

20 THE COURT: All right. The witness may step down.

21 MR. HUBBARD: Thank you Mr. Hatcher.

22 (Witness excused.)

23 MR. HUBBARD: Your Honor, I believe --

24 THE COURT: Do y'all want to come up real quick?

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

1 THE COURT: All right. Court will be in recess
2 until 1:00 PM. 1:00 PM.

3 Thank you.

4 (Whereupon, a luncheon recess was taken at
5 11:56 AM.)

6 (Back on the record at 1:04 PM.)

7 BAILIFF: All rise.

8 THE COURT: Thank you. Be seated.

9 All right. Are you ready to proceed?

10 MR. HUBBARD: Yes, sir, Your Honor. Thank you.

11 MR. LUKE SHEALEY: We just need Mr. Jones.

12 THE COURT: Sorry. Thank you.

13 (Whereupon, the defendant enters the courtroom.)

14 THE COURT: Mr. Shealey, are you ready?

15 MR. LUKE SHEALEY: I think so. We should be ready.

16 I'm just having a technical issue with my computer.

17 (Off the record discussion.)

18 THE COURT: Okay. Mr. Solicitor.

19 MR. HUBBARD: Thank you, Your Honor.

20 The State calls Brenda Hall.

21 (Whereupon, Brenda New Hall was duly sworn by the
22 Clerk of Court.)

23 THE CLERK: Thank you, ma'am. Please be seated.

24 State your full name and spell your last name for the
25 record.

1 THE WITNESS: My name is Brenda New Hall. Last
2 name is spelled H-A-L-L.

3 THE CLERK: Thank you, ma'am.

4 BRENDA NEW HALL,
5 having been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. HUBBARD:

8 Q. Thank you, Ms. Hall. Ms. Hall, what was your relation
9 to Milledge Hall?

10 A. He was my husband.

11 Q. How long were y'all married?

12 A. We were three weeks away from our forty-third
13 anniversary.

14 Q. Three weeks away from your what anniversary?

15 A. Our anniversary would have been May 31st.

16 Q. Forty-three years?

17 A. Uh-huh.

18 Q. What was -- did you know Milledge long before you got
19 married?

20 A. Yes.

21 Q. What was his reputation in the community? If Your
22 Honor would permit, can you drop that so that -- you're
23 kind of muffled.

24 THE COURT: That's fine. That will be fine. Yes,
25 sir.

1 BY MR. HUBBARD:

2 Q. What was your husband's reputation in the community?

3 A. He was a good person. I'd never known him to be mean
4 to anybody.

5 Q. Did you ever know him to be a fighter and a brawler?

6 A. No. No.

7 Q. Did you ever know him to carry a gun?

8 A. Sir?

9 Q. Did you ever know him to carry a pistol?

10 A. No. No.

11 Q. While he worked at the pool hall, did he ever carry a
12 pistol?

13 A. No.

14 Q. Did you ever know him to threaten anybody with a
15 pistol or threaten to hurt anybody?

16 A. No.

17 Q. There was testimony by the defendant, Barry Jones --
18 do you know who Barry Jones is?

19 A. Yes.

20 Q. -- about a confrontation between your husband and him
21 at the pool hall.

22 A. Yes.

23 Q. Were you present?

24 A. Yes.

25 Q. Can you tell the Court when that was?

1 A. I'm not sure of the exact date. I know it was 2017.
2 Clayton did not own the pool room. It was ran by Jerry and
3 Annette Holloway and -- I mean, do you want me to tell you
4 everything that I remember?

5 Q. Yes.

6 A. We were sitting at the bar on this side where the
7 bathroom is down there and Barry had came from the bathroom
8 and he stopped behind my husband, and I don't know his
9 exact words, I do know he said something about you telling
10 lies about me or something, I was not fired or whatever,
11 and my husband spins around in his chair and says the best
12 thing for you to do is just go back and sit down.

13 Q. Did your husband ever get up?

14 A. No.

15 Q. Did your husband ever threaten to beat his backside
16 all over the bar?

17 A. No.

18 Q. Did he ever threaten any kind of violence?

19 A. No.

20 Q. He said what? What did Milledge say?

21 A. Told him the best thing for him to do was to go over
22 there and sit down.

23 Q. And what did Barry Jones do?

24 A. He went and sat down. There was nothing else to it.

25 Q. That was it?

1 A. Yeah.

2 Q. That was the only confrontation about the so-called
3 spreading lies?

4 A. Yeah. As far as I can remember now. I wasn't up
5 there every time or whatever, but I do remember that
6 particular night.

7 Q. Well, talking about beating someone up, let me ask you
8 this. How was your husband's physical condition?

9 A. He was very overweight. He had had a triple bypass
10 surgery.

11 Q. When did he have that triple bypass surgery?

12 A. He had it on January 26, 2016, but he was still --
13 he had a lot of complications that same year with fluid
14 building up and had to go back in through his back, you
15 know, to have drainage and stuff. He was still seeing
16 Dr. Salazar for like every six-month checkups.

17 Q. So he was still under a doctor's care at the time he
18 was shot?

19 A. Yeah.

20 Q. And you know the day he was shot and killed was
21 May 7th?

22 A. Uh-huh.

23 Q. When was the last time he had been for a checkup to
24 follow up with his cardiologist about his heart?

25 A. That morning.

1 Q. May 7th?

2 A. That morning.

3 Q. Where did he go for that checkup?

4 A. Well, Dr. Salazar's offices are on the Fifth floor of
5 University Hospital.

6 Q. So he was still under a doctor's care for that heart
7 condition?

8 A. Yeah. Yeah.

9 MR. HUBBARD: I think that's all I have, Ms. Hall.
10 Please answer any questions the defense may have.

11 THE COURT: Cross-examination.

12 CROSS-EXAMINATION

13 BY MR. SECOR:

14 Q. Good afternoon, Ms. Hall. I'm sorry about all of
15 this.

16 A. (Nods head.)

17 Q. Do you remember who else was there when Mr. Hall and
18 Mr. Jones had the interaction that you described to the
19 Solicitor?

20 A. I couldn't tell you who all was in there.

21 Q. Do you remember were there other people there?

22 A. Oh, yeah. There were other people there.

23 Q. Okay. And I think you did confirm to the Solicitor
24 that the topic was definitely that Mr. Jones was concerned
25 or frustrated about a rumor he believed Mr. Hall was

1 spreading about him?

2 A. Yeah.

3 Q. Did you get a sense of what that -- that rumor was?

4 A. No, because, I mean, all I heard was -- of it was
5 like, you know, I did not get fired, you know, I retired,
6 you know.

7 Q. Yes, ma'am.

8 A. I never knew a lot of details about it.

9 Q. Yes, ma'am. You did say though that that's the only
10 -- that's the only altercation that you were aware of, of
11 course, right?

12 A. Uh-huh.

13 Q. Mr. Hall started spending more time, I assume, at the
14 -- at the pool room after Clayton and Madison took it over?

15 A. Well, I mean, he's -- he's been going to that place
16 off and on since he was probably twenty-one years old --

17 Q. Yes, ma'am.

18 A. -- but he may have frequented it more.

19 Q. Because he -- I mean, he or I guess maybe both of you
20 had invested in it?

21 A. Well, sometimes I would go, sometimes I wouldn't. I
22 was not there with him every time.

23 Q. Okay. But he went there -- he went there quite a bit?

24 A. Yeah.

25 Q. Okay. And I know you said you're -- you've never been

1 familiar with Mr. Jones at all; is that right?

2 A. Well, I had met Barry in there when -- when Annette
3 and Jerry had it. I met him. I remember him coming in.

4 Q. So -- so you knew who he was at the time of that
5 altercation or --

6 A. Yeah.

7 Q. -- the one that you described?

8 A. Yeah.

9 Q. Okay. And did you know him to be somebody that went
10 to the Johnston pool room on a regular basis?

11 A. Well, I can't say regular. I remember him being quite
12 regular when Clayton had it.

13 Q. He was when Clayton had it a regular customer?

14 A. Yeah. I mean, he would come in and sometimes order
15 food, you know, leave and -- that's when I seen him the
16 most is when Clayton had it.

17 Q. Yes, ma'am. And how often do you think your husband,
18 Mr. Hall, went up there? Was he there every day?

19 A. No, he wasn't there every day. He was always there on
20 Mondays.

21 Q. Okay.

22 A. He didn't -- maybe Wednesdays and Thursday and Fridays
23 -- or I meant Mondays, Thursdays or Fridays or maybe not
24 even on Friday and go Saturday. It wasn't every day.

25 Q. Yes, ma'am. Do you know why it was always Mondays?

1 Was there a reason for that?

2 A. Well, that's when a lot of his buddies from around
3 Johnston, you know, he might just sit around and talk with
4 them and catch up from over the weekend, I guess.

5 Q. Yes, ma'am.

6 A. There was no particular reason.

7 Q. Okay. But that was just sort of their -- their day to
8 get together?

9 A. Yeah, I guess. I guess that's what you'd say.

10 Q. Okay. And he would sometimes stay up there later on
11 to see that everything was okay to get -- for the bar to be
12 closed?

13 A. Well, not if Clayton was there he wouldn't.

14 Q. But if Clayton wasn't there he would sometimes do
15 that?

16 A. He -- I'm not gonna say he stayed until closing time
17 every time, no.

18 Q. No, no, no. I don't mean every time. I just mean
19 sometimes he did.

20 A. Well, maybe sometimes like on the weekend or
21 something.

22 Q. Okay. I know this is sort of a sensitive topic. I
23 don't mean to be disrespectful at all, but regarding your
24 husband's health condition you were obviously aware he had
25 some pretty serious health problems?

1 A. Yeah.

2 Q. Were you -- were you concerned about him -- the amount
3 that he drank regarding his -- his health issues?

4 A. He wasn't an alcoholic.

5 Q. I'm not -- I'm not trying to cast dispersions or make
6 any -- call somebody names. I'm really not.

7 A. Yeah.

8 Q. For somebody who loved him obviously, was that
9 something that concerned you that he was in that physical,
10 medical condition and he still drank?

11 A. I wasn't overly concerned about it, no.

12 Q. Okay. Would you have preferred that he didn't?

13 A. Well, I would prefer anybody didn't drink at all all
14 the time, you know.

15 Q. I feel the same way.

16 A. You know, I mean, he -- he was just good to me whether
17 he drank or not.

18 Q. Yes, ma'am. When -- the time that you recall that
19 there was that interaction between Mr. Jones and your
20 husband, you remember it being in 2017; is that right?

21 A. Uh-huh.

22 Q. Okay. And we've already established that it was
23 clearly something that Mr. Jones was upset about a rumor
24 that he thought Mr. Hall was spreading about him?

25 A. (Nods head.)

1 Q. And I believe you told the Solicitor that your
2 husband's response to Mr. Jones was the best thing for you
3 to do is go and sit down?

4 A. (Nods head.)

5 Q. Is that -- that's what you remember?

6 A. That's precisely what he said. I may not have the
7 exact the words because, I mean, that's been four years.

8 Q. I understand. I understand. But clearly the sort of
9 insinuation is you need to go sit down or something's gonna
10 happen?

11 MR. HUBBARD: Objection, Your Honor.

12 THE COURT: Sustained. I think you -- you can
13 re-ask the question another way, Mr. Secor.

14 BY MR. SECOR:

15 Q. Your husband was a -- a very large person. I mean, an
16 imposing guy, right?

17 A. He was overweight.

18 Q. No, I didn't mean that. I didn't mean that. I meant
19 a big guy. He was at least six feet tall, right?

20 A. No.

21 Q. Oh, he wasn't?

22 A. No, he was five-eight.

23 Q. Five-eight?

24 A. Uh-huh.

25 Q. But, again, a -- a big guy?

1 A. Yeah, if you're considering his weight. He was not
2 muscular and stuff. I mean, he was sixty-two years old.

3 Q. I understand, but, I mean, an imposing figure?

4 A. Like a threat to somebody if they looked at him or --

5 Q. No, no, no. I don't mean a threat to somebody if
6 they looked at him. I mean, if he wanted to intimidate
7 somebody, he was perfectly capable of doing that.

8 A. I mean, I guess. Anybody can intimidate somebody.

9 Q. Okay. And if they say to somebody you need to go sit
10 down, it's because they may decide to carry out whatever
11 they mean by that?

12 A. Well, my way of taking it was he was just -- you know,
13 not asking for any trouble, you know, just go sit -- go sit
14 down, don't carry it any further.

15 Q. The best thing's for you to go and sit down, that's
16 your best option right now?

17 MR. HUBBARD: Your Honor, I object. She's answered
18 the question.

19 THE COURT: I think it's asked and answered.

20 MR. SECOR: Thank you.

21 THE COURT: Any redirect?

22 MR. HUBBARD: No, sir, Your Honor.

23 THE COURT: All right. The witness may step down.

24 (Witness excused.)

25 MR. HUBBARD: Your Honor, that's all we have.

1 THE COURT: Okay. Thank you.

2 Am I correct at this point do you want me to hear a
3 brief summarization from both sides of your respective
4 arguments? If you wish. You don't have to. I mean,
5 there's clearly a record. I've got half a notepad filled
6 up, but I certainly want to give you the opportunity to
7 make a summation if you wish to do so and then from here,
8 you know, I'll have to come up with an order and I won't
9 do that in the next few minutes certainly.

10 MR. LUKE SHEALEY: I'm happy to do so. I know that
11 the Solicitor and I expressed our views on that at the
12 end of my case and, of course, now we have the State's
13 case in response and so we have more to talk about, but,
14 you know, since it's my motion I'll go ahead tell you
15 my views on why I think we've met our burden by a
16 preponderance of the evidence. I think we've done it
17 both under 16-11-440 (A) and 16-11-440(C).

18 Just to summarize, the evidence I think corroborates
19 my client. Now there's cases such as State v. Curry
20 which explicitly say you don't -- the Court is not
21 required to take the defendant's word for what happened
22 and that's -- that's really the case with any situation.
23 What the Court seems to be looking for in the cases that
24 come down the road, Douglas, Jones, evidence that tends
25 to corroborate the defendant's account.

1 So what my client's account is and which we think
2 we've corroborated is that he and Milledge or B Boy, as
3 he really only knew him, they weren't great friends.
4 They came into contact with each other really by Mr. Jones
5 moving back to Johnston after he quit his job or retired
6 from SRS and moved back home and started going back to the
7 bar again. He was dating a family member of Mr. Hall.
8 That's the second cousin Angie.

9 And my client described how he started going to the
10 pool hall when it was owned by Mr. Holloway. He described
11 how it was run quite well and that's how he made
12 friendships with Angie and he met Officer Mathis and
13 things like that. Once the Halls took over he does
14 describe not in supercritical ways, but just there were
15 inconsistencies, you know, with the service, with the
16 quality of food, the temperature of the place, requiring
17 women to wear coats in a smokey bar that he's, you know,
18 perfectly happy to bring up.

19 You know, he's in his fifties, he has a business
20 degree, and I don't think anyone thinks he's shy about
21 expressing his mind about certain things like that, but
22 he described doing that to Clayton, he described, you
23 know, discussing I think on May 5th about the difference
24 in -- in the tab and we've heard some things on that, but
25 really the problem between Mr. Hall and my client seems

1 to be an encounter corroborated by several sources. We
2 even just heard the crux of the problem from his widow,
3 which is that my client had heard Mr. Hall saying that
4 he was fired from SRS, not retired, and so this is a
5 matter that our clients -- my client described as being
6 personal to him due to his wife passing there, him
7 essentially feeling like he was too depressed to continue
8 to work at the same place where he had worked with her,
9 and he'd worked there for twenty-seven years.

10 So he described how he doesn't go over to fight
11 Mr. Hall about that event. He describes it about a
12 month prior, not in 2017. Obviously it's been three and
13 a half, Ms. Hall said four years, but she corroborates
14 that there's a conflict about that topic.

15 Tony Friar testified he knew them both, grew up
16 with Mr. Hall, worked with Mr. Jones, and described
17 hearing that conflict with them both in the same room
18 on a different occasion, you know, closer in time and
19 described how, yes, Mr. Jones is concerned, he wants to
20 set the record straight about this, but he's not violent
21 about it.

22 He's denied taking a swing at anybody. He's not
23 yelling at anybody. They're saying where did you hear
24 this. You know, if you listen to your notes about how
25 he describes confronting Mr. Hall, he said I wanted to

1 see if that's, in fact, what he was saying, who he heard
2 it from, but what he described was not -- that topic
3 being not warmly received and he describes a threat to
4 beat your little A-S-S about this bar and physical
5 intimidation, okay?

6 Obviously we don't have any surveillance video in
7 that moment, but he also -- that moment and that threat
8 has been corroborated by things that can't lie, that
9 can't be biased or don't forget such as text messages
10 where he described how he reached out to Officer Mathis,
11 and that text was read out for the record, read out for
12 the Court, are you available, I need to talk to you when
13 you're not working nights. You know, just common sense
14 dictates you don't reach out to a police officer when
15 you're claiming to do something bad. That just doesn't
16 make a lot of sense, but that was clearly the conflict.

17 And Mr. Tony Friar described how Mr. Hall said --
18 went like this regarding that conversation, I don't like
19 that boy and I've got something for him, and that was
20 testimony from a man that knew both of these people
21 equally.

22 Although, you know, his loved ones will say he's
23 peaceful and the State has a right to push back on that
24 and present evidence of his peacefulness when we present
25 evidence of his reputation for violence. Mr. Friar grew

1 up with him and said he was known for getting in fights,
2 known for that.

3 So that fast-forwards us to the spring of 2018 where
4 we've got this simmering in the background. It's very
5 clear from the text messages and from numerous witnesses
6 for the defense and for the State that Mr. Jones was not
7 getting along with his then girlfriend, Angie Smith. She
8 is the second cousin of Mr. Hall. No one has disputed
9 that.

10 The day in question on May 7th when he went there
11 without her, and we heard about the text where she was
12 upset about that, I'm gonna come and show out, I'm really
13 pissed, you know, she -- he decided he's gonna break up
14 with her. He had just called the police the night
15 before. Actually he didn't call 9-1-1. He texted his
16 friend Officer Mathis, and that -- that is in the record,
17 and that text message was discussed and Officer Mathis
18 came and resolved the situation, no one went to jail.

19 So the record is very clear of him calling figures
20 of authority for help when he has a conflict. Even
21 Ms. Hall described her, you know, perception of a
22 conflict. It wasn't that her husband really went after
23 our client back in 2017, but when he said you need to go
24 sit down, Mr. Jones sat down. He didn't -- he didn't
25 push the issue any further, so we don't have any great

1 aggressive force coming from our client there.

2 But getting back to the incident, you've got a
3 situation where they're gonna break up. He's made this
4 decision to break up with his eight-month girlfriend.
5 He's talked to Randy Yonce about it, who you heard from.
6 No one on either side at this point said that a line was
7 drawn in the sand and it was -- it was communicated to
8 him at that point that you need to leave and never come
9 back. It was not.

10 Now it seems like we heard today from Clayton Hall
11 that there was this -- this plan, this idea, that he had
12 had enough, I guess. No police were called, no trespass
13 notice was done, just that he'd had enough and was gonna
14 ask his granddaddy to tell him to leave at some point.
15 That was the future plan, but it hadn't occurred yet.
16 The police weren't gonna be called. It was gonna be nice
17 -- done nice, politely and respectfully and, you know, he
18 was gonna leave his granddaddy to do that by himself
19 unarmed with nothing but his wits to tell a man who they
20 say was belligerent and angry the night before to a
21 point where they were too scared to tell him then
22 somewhat defies credibility to think that Mr. Hall would
23 be left as the only one to do that unarmed or was just
24 peaceful guy. So but that -- you're the factfinder here
25 and so I'm gonna bring that to your attention.

1 And we describe how -- you've seen the video of
2 Barry walking out, just completely oblivious to anything,
3 peaceable that day. Mr. Yonce comes out behind him. He
4 just walks to his car casual like and then we see --
5 perhaps that's when Mr. Hall has taken the opportunity,
6 he's gonna maybe go out there and confront him and say
7 this is the moment that I will tell you to leave and
8 never come back maybe. He hits the back of his car.
9 Barry doesn't get out, Barry doesn't engage in him any
10 way, and you can see Mr. Hall go like that.

11 And he comes back inside and he's got kind of a
12 smile on his face and he's talking to the folks in the
13 bar. He's certainly not scared. He certainly doesn't
14 look like he's about to call the police. It looks like
15 maybe he missed an opportunity to have that conversation
16 if -- if we can believe that was when he was gonna tell
17 him you're not welcome here anymore, and he missed that
18 opportunity.

19 So meanwhile Barry, who's has this prior threat by
20 him that you've heard from, who's concerned about it,
21 but is also dealing with his decision to break up.

22 You know, I asked him specifically, you're dealing
23 with a hard thing, which is breaking up with a girlfriend
24 of eight months and now you're having another situation,
25 you're concern about Mr. Hall at the back of your car,

1 and he has no idea why he was there. He hadn't even
2 talked to him that day. Nobody has said that they talked
3 to each other that day, but all of a sudden he's at the
4 back of his car after he had been basically making it his
5 practice to avoid him per his testimony and -- and it's
6 concerning him.

7 He says he's scared, he's worried about that.
8 That's when he starts reaching out again to the people
9 of authority or power that he thinks, you know, can help
10 him. He -- he says -- he texts, which you heard from in
11 the record, Officer Mathis again, are you available.
12 And, you know, as bad as it is on the face of that text
13 message saying I'm going to kill that B Boy, which
14 Mr. Jones described was not literal, it was just kind of
15 venting. If you're gonna do that, you're not gonna reach
16 out to a police officer and say are you available. Those
17 things -- plotting a murder and reaching out to a police
18 officer within a minute or two of each other, those things
19 just do not mesh in a world that makes sense.

20 But he did reach out to a guy named Joe-Joe Mims.
21 He didn't come testify, but you've got the texts. Barry
22 described him as a tough guy, a guy he knew, a guy who
23 knew both of them, that he texts can you come calm me
24 down, can you come help me, you know. He's figuring I
25 think this would be good to have someone like that around

1 because he testified Mr. Hall's not gonna start anything
2 with him when he's got someone like that around.

3 So he goes back -- he makes the decision to go back
4 to the pool hall, and some of us might go well, why? If
5 you're worried about Mr. Hall, why are you gonna do that?
6 Why don't you just go and get your stuff, leave. He's
7 made up his mind to break up with her, but he's not gonna
8 do it by text. He's old school. He's not gonna just
9 hang out in the house and wait for her to get home. He
10 just had to reach out to law enforcement the night before.
11 He said that she, quote, had jumped on him. He wanted
12 to do it in a public place because he felt like if he
13 did it in a public place she would be less likely to
14 show out.

15 So he pulls right up in the front per his testimony
16 in a place where she could clearly see him, and this is
17 critical for Your Honor. He waits. I encourage you to
18 watch that video over and over and over again. He waits
19 approximately forty-five seconds in his car. If he had
20 a plan to arm himself with all his guns, to go in there
21 and exact revenge on Mr. Hall for some unknown reason
22 that particular day, he would have just stormed in there
23 and done it because that's how you take action, that's
24 how you do something, but he waited which is consistent
25 with his testimony and what he's trying to do is hope to

1 break up with Ms. Smith, see if she'll come out and
2 hopefully have this conversation outside. He does not
3 go charging into that pool room.

4 Now the fact that he's in his car that entire
5 exchange is very important from a legal perspective and
6 that's when we start tapping into this motion. So simply
7 16-11-440(A), you give a presumption that someone is
8 there to kill you if someone is trying to or attempting
9 to remove you from your occupied vehicle. This vehicle
10 was occupied that entire time except the moment when
11 Barry Jones stands to shoot Mr. Hall who's coming at him
12 in an aggressive manner per his testimony. So it's about
13 eight, nine minutes and we can all see, we've all got
14 common sense, the body language and mannerisms escalates.

15 Mr. Hall testified that he was not told to leave
16 off the bat. He was kind of very uneasy concerning Angie,
17 his girlfriend, calling the police, leaving her here
18 when she came in. We heard testimony that she -- from
19 multiple people, Mr. Yonce included, that when she came
20 in she went right to Mr. Hall, her cousin, not to
21 Mr. Jones, which would be the normal course of things
22 if they were not on the outs.

23 And so Mr. Hall comes out, talks about you think
24 you're a big shot, you think you're running the place,
25 you know, talking about the treatment of his cousin per

1 my client and -- and other things, other grievances, and
2 Barry's saying look, please go get Angie, leave me alone,
3 but -- and things are okay until the point in time which
4 when gestures escalate until what we can clearly see on
5 video is a black object that we assert is a gun in his
6 hand and then just this universal gesture that I just
7 can't wrap my mind about in this case. If Mr. Hall did
8 not have a gun on him, then why did he do this?

9 Barry has testified in great detail. We all know
10 that Mr. Hall carried a large cell phone clipped to his
11 right pocket, and that's very clear to see, but in those
12 pictures he's got his hand on that cell phone and he's
13 using his left hand to lift up his shirt to show something
14 in this area. That is a universal symbol for I've got
15 something for you, here's my weapon. It just -- it
16 couldn't be more universal. If you're about to call the
17 police, you pick up the phone and you call the police or
18 you show somebody your phone and go get out of here before
19 you call. You don't go like this.

20 Let's pretend that Mr. Hall didn't have a gun. Let
21 me put myself into the shoes of the State and say well,
22 no gun was ever found. Well, no. Mr. Hall's cell phone
23 was never found either. A lot of things weren't found.
24 There really was no crime scene. But let's say there was
25 not a gun found. Under common law principles a man is

1 allowed to act on appearances. He doesn't have to have
2 a precise perception of a threat, it just has to be
3 reasonable. That's why you can't -- it's not a defense
4 to armed robbery for someone to go into a -- into a
5 convenience store and put their hand in their pocket and
6 go I don't really have a gun, its an appearance of a gun,
7 so that's why you're allowed to act on appearances. And
8 if you have a prior threat by that person, you're allowed
9 under the law to judge them more harshly. He can judge
10 Mr. Hall more harshly and react more quickly under the
11 law, and in my proposed order when you see it you will
12 get that case law, than some stranger that he'd never had
13 that prior problem with.

14 So it's very important the evidence in that video,
15 the evidence in those pictures, and we know there was a
16 gun in the bar -- in the bar. We do. It's Clayton's
17 gun, he's his grandson, and he testified he didn't know
18 about the gun. You know, it's a very sympathetic case,
19 but it does defy credibility a little bit to say that in
20 a pool hall in Johnston, South Carolina where you've got
21 people getting put on trespass notice for beating each
22 other up, there's drinking, and that's what you do, you
23 drink, you eat, you smoke, play pool, that that man,
24 sixty-two years of age, would be tasked with ejecting a
25 belligerent guy and not be armed with something. It

1 defies belief.

2 So let's -- let's get to this next question, okay?
3 Well, doesn't he have a right to make that decision
4 and eject the belligerent guy? He does under normal
5 circumstances, but you don't -- if Barry at the very end
6 of his recitation of the -- scraping the entire ten
7 minutes said only at the very end is he saying -- after
8 he's showed me his gun, after he's told me to get out
9 and fight, not to leave, but come on, I've got something
10 for you, I'm gonna get you out of that car, pull on your
11 door handle, does he ever say leave now. And I would
12 submit that's because Mr. Hall hasn't really gotten his
13 satisfaction. He didn't get the opportunity to beat up
14 on Mr. Jones. He's not getting out of his car. He's
15 basically laying an ultimatum. No, you leave me alone,
16 go get your cousin.

17 And it's frustrating and you can see the frustration
18 building on that video, so finally at the end we see hand
19 gestures like leave, leave, leave, and at that point
20 Mr. Jones has seen a gun, he's already been threatened
21 with a gun, he's already been invited to get out, he's
22 already said I'm gonna get you out of this car. So
23 Mr. Jones, under the common law rules of self-defense,
24 I submit there was no duty to retreat, but the case law
25 says we have to apply the common law rules of self-defense

1 first, one of those being, you know, you should retreat
2 because it puts you in more arm, and that's State v.
3 Felder, and I put that in my brief as well.

4 Mr. Jones testified that if he had to turn and not
5 keep eye contact on Mr. Hall and reversed and turned his
6 car, he's worried the man might confront him because he's
7 clearly going back and forth, back and forth. He denies
8 calling him out. Hey, Mister, you know.

9 One thing that's interesting and I think it was Ms.
10 -- the teacher, I can't remember her name, Ms. Edwards,
11 she said that she heard Mr. Jones say Milledge, something
12 to that effect, from a parking lot across the street
13 at the IGA. He testified here he doesn't know him as
14 Milledge, he calls him B Boy, so, you know, that's another
15 inconsistency.

16 You heard from Mr. Lanyce Hatcher, who is completely
17 -- the nicest guy in the whole world, been good friends
18 with Mr. Hall for fifty-five years, but --

19 THE COURT: Let me ask you a question.

20 MR. LUKE SHEALEY: Yes.

21 THE COURT: There's been testimony, evidence,
22 whether he was there lawfully or not. Apparently he
23 wasn't given law enforcement trespass notice, but,
24 Mr. Shealey, what do you believe is required for a
25 property owner or someone with property owner authority

1 to make another person's presence from that property
2 unlawful? Where is the line?

3 MR. LUKE SHEALEY: I think the line as supported by
4 the case law is that you ask someone to leave and if they
5 refuse, then you can eject them.

6 THE COURT: Okay. Ask someone to leave.

7 MR. LUKE SHEALEY: If they refuse, then you can eject
8 including using deadly force. That's State v. Bryant.
9 That case law is a hundred years old and I don't think
10 there's anything --

11 THE COURT: I think my question is this. Does it
12 become unlawful after you ask someone to leave and they
13 do not leave?

14 MR. LUKE SHEALEY: Well, to answer your question,
15 we haven't heard that. I think what you should be doing
16 -- what someone who's a property --

17 THE COURT: Again, I think it's a general question
18 and you can answer in a general context.

19 MR. LUKE SHEALEY: I think you -- I think you can't
20 use deadly force first as a general proposition. You
21 have to ask them peaceably to leave and if they don't
22 leave under State v. Bryant, then you -- as a triage,
23 of course, and can use up to and deadly force to eject
24 a trespasser from your property. What we see in the
25 video and what we've heard from the only witness that's

1 describing the entire encounter is general grievances,
2 personal complaints and showing of guns, inviting to
3 fight, you know, kind of going like this, lots of going
4 like this in the window, a universal symbol for here's
5 my gun, and only after that do you hear or see
6 unequivocal body language at least, so I think you have
7 to -- per State v. Bryant you have ask them peaceably
8 first. You don't get to use lethal force first and then
9 say, you know what, they didn't leave so I get to shoot
10 them. You have to ask them first. The law doesn't
11 encourage conflict like that.

12 But basically the Protection of Persons and Property
13 Act turns the common law on its head. As I said, the
14 Supreme Court is trying to reconcile it, but under
15 Section (A), and the evidence we've heard in this case
16 has not been refuted at all, is Mr. Hall was pulling on
17 his door handle, asking him to get out, telling him I've
18 got something for you, telling him if you don't get out,
19 I'll make you get out. We're told Barry had his door
20 locked, guns are being shown, guns are being brandished,
21 he's hopeful that he's gonna leave, but then he turns
22 quite quickly for a big man and then continues to come
23 forward, as Mr. Jones said, with steam, that is an
24 on-going attempt to remove him from his vehicle. That's
25 a reasonable perception in his mind. That's -- you know,

1 we're talking a lot about deciding who has a superior
2 right to be there. The Protection of Persons and
3 Property Act under 16-11-440(A) basically puts Barry
4 Jones -- he might as well be on the couch in his home
5 because it extends the same laws and protections you have
6 in your castle to your occupied vehicle.

7 And he's not being told to leave for any other
8 reason in this case until at the very end you hear from
9 Lanyce Hatcher when he walks up and he's completely
10 impeached through that not being in his statement and we
11 have it in evidence and Mr. Secor did quite a good job
12 at impeaching him, no, it's not in my statement, only
13 now however many years later is he saying I think I
14 heard him say what you need to do is leave and never
15 come back. And he's been a friend of his for fifty-five
16 years and it wasn't in his statement that day, but he's
17 in an equal position based on the Protection of Persons
18 and Property Act. Had he gone inside or had he gotten
19 out of his car and had this big ten-minute confrontation
20 on the sidewalk or had he stormed inside armed and said
21 where's my -- where's my cousin, no, he does not have an
22 equal right.

23 THE COURT: If he had been on trespass notice
24 officially on the date of the shooting and remained in
25 his vehicle, do you still assert he should be entitled

1 to immunity?

2 MR. LUKE SHEALEY: Well, no because per State v.
3 Glenn, that defendant was on trespass notice and the
4 judge went right to that point and said you're in a
5 place you don't have a right to be, do not pass go,
6 motion's denied. And the courts are saying now well,
7 if you think that element is not there, you now have to
8 figure out, you know, well, was that denial of a right
9 to be there a proximate cause of this conflict.

10 Now the State might say yeah, that's the whole
11 point, and we would disagree. He was there to get his
12 girlfriend who he was breaking up with. He went there
13 and he didn't know why Milledge Hall was banging on the
14 back of his door that day, so this is not as simple as
15 that because of State v. Glenn.

16 THE COURT: Okay. Let me have you wind it up a
17 little bit.

18 MR. LUKE SHEALEY: I'm totally wound up. I'll wind
19 down.

20 I think we've met our burden under 16-11-440(A)
21 because of the unusual nature of this case, which was
22 an attempt to remove him from his occupied vehicle,
23 which is on-going and, if not, he's certainly under
24 attack in a place he has a right to be, he doesn't have
25 to retreat. He only shoots, as he said, when he thought

1 it was the last thing to do, otherwise, he wouldn't be
2 here, he would be mangled by a larger man who he had
3 clearly seen had a gun, and he described the exact type
4 of gun he thought it was, so I think we're well within
5 proving our burden in this case. Whether there's a gun
6 in evidence to present to you or not, he's also allowed
7 to act on appearances.

8 THE COURT: Very well. Thank you.

9 Mr. Solicitor.

10 MR. McNAIR: Thank you, Your Honor.

11 I guess as Mr. Shealey stated and as you know, Your
12 Honor, the courts have said, the analysis is you go
13 through the elements of common law self-defense before
14 you get to the elements under the act. When you combine
15 those two things, which to simplify I'm going to do, I
16 think it requires that you have a right to be where
17 you're attacked and I think that's what Your Honor was
18 just asking Mr. Shealey, and that's the simplest question
19 to answer in this case is did Mr. Jones have a right to
20 be there in the first place.

21 It doesn't matter that he's just in his vehicle.
22 If that's the analysis, then I could pull my vehicle
23 into your driveway and when you told me to leave I could
24 resist you with deadly force. That's ridiculous. That's
25 absurd. What matters is where your vehicle is. His

1 vehicle was on private property and he refused to leave.

2 The credible evidence in this case is that Lanyce
3 Hatcher heard Milledge Hall tell him to leave nine minutes
4 before the shooting. By his own admission Milledge Hall
5 told him to leave toward the end of their conversation
6 and he refused to leave. His response was I'll leave if
7 you go inside. He doesn't have a right to put conditions
8 on Milledge Hall. Milledge Hall told him to leave. He
9 has to leave immediately or he's a trespasser.

10 Clayton Hall talked to his grandfather about the
11 incident on Saturday night, so whether Clayton told his
12 grandfather hey, will you tell him to leave when you see
13 him Monday or not, his grandfather was aware of what
14 happened on Saturday, his grandfather was aware that
15 Clayton didn't want him there anymore, so what's logical
16 is that his grandfather took the opportunity on that
17 Monday to tell him to leave in Clayton's place. That's
18 the logical explanation. This wasn't some argument over
19 onion rings on his cheeseburger.

20 Betty Edwards. You can see the video. I mean, it
21 is universal sign language. Leave. Leave. He refuses
22 to leave. Betty Edwards could tell that's what he was
23 saying. She could tell that's what Milledge Hall wanted
24 him do. He wants to stay there and bicker about onion
25 rings on his cheeseburger, it's too cold in the winter,

1 they're getting smoke on their jackets, and he knows how
2 to run it better because he's got a management degree.
3 That's the type of person he is.

4 He's refusing to leave. You can't sit there for
5 ten minutes and have a face-to-face conversation with
6 somebody. By his own testimony at one point Milledge
7 Hall is standing at his window after he's presented a
8 weapon, according to him, pulling on his door handle, but
9 he doesn't feel threatened enough then to shoot? No, he
10 waits until Milledge walks away and then Ms. Edwards
11 hears his name, then he comes back. He summoned him
12 back to the window. That is the credible evidence. That
13 is the logical conclusion. You can't sit there for
14 ten minutes not in fear and then summon the person back
15 and all of a sudden say now I'm scared and I have to use
16 deadly force.

17 Watch the video. As soon as he hops out of the
18 car, Milledge Hall stops and he shoots anyway and then
19 he shoots again as he's falling down. He's not in
20 reasonable fear. He set Milledge Hall up.

21 But let's go back to the obvious issue. He didn't
22 have a right to be there in the first place and that is
23 what led to this whole interaction with Milledge Hall.
24 He is disqualified from self-defense and immunity based
25 on that alone. That was the proximate cause of this

1 encounter and this shooting.

2 This trespass -- South Carolina Code 16-11-620, any
3 person who fails and refuses to leave immediately upon
4 being ordered or requested to do so by the person in
5 possession or his agent or representative is guilty of
6 trespassing. Immediately. He was required to leave
7 immediately. We know he was asked to leave nine minutes
8 prior. He did not leave.

9 Your Honor, he brought on the difficulty. Are we
10 to believe -- he said he rushed home to Angie's house,
11 loaded up his vehicle of his valuables, which included
12 mainly guns, a safe and a survival kit -- oh, and his
13 toiletry bag. Hurried to load his car up to get back to
14 the bar to break up with Angie. Is that believable?

15 During the early part of his testimony yesterday,
16 he said he didn't want to go out that night. He planned
17 to cook in with Angie. He's making this up. Then he
18 gets there -- minutes before getting there sends a text
19 I'm going to kill that B Boy. He can try and spin that
20 all he wants.

21 But it's funny. Like he's spent so much time
22 talking about all his frustrations with Angie and
23 Milledge in the bar. He's telling us why he was angry.
24 And he was, in fact, angry. He admitted when he sent
25 that text he was angry. He can try to walk that back

1 all he wants now, but what makes more sense? He texted
2 can you calm me down, not can you come help me. Can you
3 calm me down.

4 Who knows why he called Mathis. That may have been
5 to help with Angie, not Milledge. That's when he called
6 him the first time. No, he's a man nobody's gonna tell
7 him what to do. He's mad. He's angry because he knows
8 more than anyone else how to run this bar and he's gonna
9 tell Milledge about it and Milledge is not gonna tell him
10 what to do. He did exactly what he texted Joe Mims he
11 was gonna do. He killed Milledge Hall.

12 Your Honor, I don't know what else to say. I mean,
13 Milledge Hall was an older gentleman, had a heart
14 condition. Barry Jones was younger, he was in better
15 physical shape. He was armed prior to getting to the
16 pool room. We know that. There's no credible evidence
17 that Milledge Hall was armed. Nobody knew him to carry
18 a gun, nobody saw him with a gun that day. There's no
19 evidence that somebody removed a gun from the scene.
20 Nobody saw a gun by his body. The only person who says
21 Milledge Hall had a gun was the man who has the most to
22 lose today and you get to decide who's believable and
23 who's not. Nothing he said was believable.

24 Then rather than ask the people who were walking by,
25 Lanyce Hatcher and the other female for help, hey, can

1 y'all call the police, I'm scared of this guy, doesn't
2 ask them for help, doesn't call the police, pulls out of
3 the parking lot, flees the scene, doesn't go two minutes
4 down the road to the police department, sees a marked
5 vehicle at least on three different occasions, doesn't
6 flag them down to tell them what happened, goes to the
7 most remote location you can imagine and then tries to
8 kill himself. Is that a man who did that in self-defense?

9 And his buddy, Tony Friar, came up here to talk
10 about this threat that Milledge told him a month prior,
11 but wasn't even concerned enough to tell his good friend
12 Barry Jones about the threat. Did he really think that
13 was a threat? He himself said Barry Jones wasn't scared
14 of a fight. Then the audacity to get up here and say oh,
15 Milledge used to fight in elementary school. Please.
16 That's absurd.

17 He keeps talking about pulling up his shirt. What
18 side of the shirt is he pulling? He's showing his right
19 side, the side that everybody said his phone was on. And
20 he's doing that at the same time he's pointing to the
21 cameras on the building. What's he telling him? I'm
22 gonna kill you on video, Barry Jones. No, he's
23 threatening to call somebody. That's the logical
24 conclusion.

25 Again, Judge, it's multiple times he's telling him

1 to leave. The man's refusing to leave. He set him up
2 and he did what he said he was going to do.

3 THE COURT: All right. Well, I'll -- it's under
4 advisement.

5 Y'all come up real quick so we can talk about
6 scheduling.

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

8 THE COURT: All right. We'll take a short recess
9 and get started with what we have left.

10 (Recess taken at 2:01 PM.)

11 (Back on the record at 2:10 PM.)

12 BAILIFF: All rise.

13 THE COURT: All right. The next item on the
14 schedule here is defendant's motion to sever. It was
15 filed September 2nd maybe? I can't read the copy,
16 but --

17 MR. LUKE SHEALEY: Your Honor, I did put up a
18 hard copy on your desk in case you wanted to read by
19 candlelight tonight and not by computer.

20 THE COURT: Oh, thank you.

21 MR. HUBBARD: Your Honor, I have my case law for
22 you and it's still sitting on my desk back in Lexington.
23 I brought mine. I can just give you my copies when I'm
24 done and that way you'll have everything of ours.

25 THE COURT: Are you okay if he drops a copy in my

Eaglesfield County Sheriff's Office

VOLUNTARY STATEMENT

approx.

Time: 7:49 AM Date: 5/7/18Page 1 of 1 pagesLocation where statement was obtained: Johnston Pool RoomName: Lanyce Hatcher Date of Birth: 1/18/53 SSN: 250-90-4750Address: 41 Hatcher Road City: Johnston State: SC Zip: 29832I completed the 12 grade in school, and I CAN/CANNOT read and write. (Circle one)

When I pulled into the pool room parking lot & parked in the space beside Milledge's prop (facing IGA parking lot) & got out to come inside I saw Milledge standing beside this car parked on the end space facing the pool room with the driver's window rolled down 6"-8" talking to each other - loudly. I came in but didn't know who was in the car - I believe the windows were tinted & it was a silver car. Maybe 10-15 minutes later I heard a shot & looked outside & saw the driver's door open & didn't see Milledge but saw Barry Jones standing on the ground with his driver's side door open & him standing behind it aiming & firing the second shot. We all jumped & went outside & Barry had got back in the car backed up & was speeding out of the parking lot (pulled out in front of a car & sped off toward Trenton). Milledge was

I have read or have had read to me this statement consisting of 1 page(s). This statement is true. I have initialed all corrections and initialed the bottom of each page containing the statement. I declare that the voluntary statement is made of my own free will, without promise or reward, without fear or threat of physical harm/punishment, without coercion, unlawful influence or unlawful inducement.

This statement was completed at 8:25 a.m./p.m. on 7 day of May 20 18Signature of person giving voluntary statement
Lanyce HatcherWitness
E. J. HatcherWitness
Timothy B. JonesI have been given a copy of this statement consisting of 1 pages.Initials of person making statement. LH

ECSO Form: ED189 (07/28/04)

803-480-2424

1



1 State of South Carolina) In the Court Of General Sessions
2 County of Edgefield) Indictment Nos.: 2018-GS-19-00418,
3 State of South Carolina,) 419, 420, 421, 422, 423
4 Plaintiff,)
5 vs.) Transcript of Proceedings
6 Barry Wayne Jones,)
7 Defendant.)
8

9 December, 3rd, 6th, 7th, 8th, 9th, 10th,
10 13th, 2021

11 Edgefield, South Carolina

12 BEFORE:

13 The Honorable Walton J. McLeod, IV, Judge, and
14 a Judge.

15

16 APPEARANCES:

17 Richard Hubbard, Solicitor, Eleventh Judicial
18 Circuit
19 Robby McNair, Assistant State Solicitor
Attorneys for the State/Plaintiff

20 Luke A. Shealey, Esquire
21 Brian R. Shealey, Esquire
22 Casey Secord, Esquire
Attorneys for the Defendant

23 ALSO PRESENT:

24 Barry Wayne Jones

25

1 us up to 35. We may have a strike for cause here and
2 there, but we're doing the best we can. Hopefully we'll
3 be okay when it's all said and done. Anything else we
4 need to make a record for now?

5 MR. HUBBARD: No, sir.

6 MR. L. SHEALEY: Do you want us to take up the
7 suicide evidence issue later as part of --

8 THE COURT: Well, we did talk about it in chambers
9 and to the extent that you're referring to it in the
10 motion to exclude evidence of attempted suicide,
11 precluding the State from offering evidence of attempted
12 suicide according to Cartwright there must be a hearing
13 to proffer that testimony/evidence outside the presence
14 of the jury.

15 MR. L. SHEALEY: Yes, sir.

16 THE COURT: Which I think we can do today or first
17 thing Monday morning or do it depending on when that
18 certain witness is gonna testify at trial. We just need
19 a little bit of notice so we can plan accordingly. I
20 believe, Mr. Shealey, your point was that we needed to
21 have some sort of addressing that issue in voir dire just
22 to, the way your question put it was, if someone has
23 attempted suicide or if there's evidence of attempted
24 suicide, would you consider that as evidence of guilt.
25 I'm sorry. I'm probably not getting the words correct.

1 MR. L. SHEALEY: Yes, sir. That's basically it.
2 It's kind of what --

3 THE COURT: What I indicated in chambers today, you
4 know, or I wanted to, I don't know if that will get in
5 the trial or not, but I do want to at least have the
6 subject broached in some way during voir dire. I'm
7 looking for the language I wrote. Okay. From what I
8 mentioned in chambers was a question that had any jurors
9 had close friends or family members who have committed
10 suicide or attempted to commit suicide.

11 MR. L. SHEALEY: And so, Judge, I appreciate what
12 you're doing, but I don't care that much about whether a
13 juror had a close member or family have committed
14 suicide. I don't care about their general proximity to
15 suicide like whether that would offend them generally. I
16 want to know if the State infers that he committed
17 suicide because he's a guilty, guilty murderer and he was
18 looking to avoid punishment from that because he's so
19 overwhelmed with his own guilt. I want to know if the
20 jury - the jury needs to be voir dired on that concept.
21 It's not just that they might be shocked or have some
22 personal feeling about suicide. I assume that the State
23 will try to elicit that he attempted to commit suicide
24 because he feels so guilty of his crimes. So that is the
25 Cartwright framework.

1 THE COURT: All right.

2 MR. L. SHEALEY: That's why it requires an
3 evidentiary hearing. I mean, I know scheduling has been
4 weird. I do have witnesses out, but I would love, in a
5 perfect world for me we would have addressed that prior
6 to talking to a jury because if you decided under the
7 strict framework of the Supreme Court which they say it
8 rarely comes into evidence or it shouldn't.

9 THE COURT: In a perfect world we would have taken
10 it up in September.

11 MR. L. SHEALEY: We all just took off Friday, we
12 were all tired. I don't know, but anyway. It's my
13 request, but we didn't take up some things in September.

14 THE COURT: Well, I just don't want to, I don't want
15 the record to --

16 MR. L. SHEALEY: I'm not blaming you.

17 THE COURT: I say we, I mean all of us have worked
18 with the Clerk of Court to have this jury selection today
19 to get try to get us that extra time.

20 MR. L. SHEALEY: Yes.

21 THE COURT: So I know you're not inferring that.

22 MR. L. SHEALEY: No.

23 THE COURT: Just for the record, we all worked hard
24 to try to schedule as much as we could in an efficient
25 manner in this case. I understand if you would like it

1 to be asked, I think --

2 MR. HUBBARD: I would object. I think it's
3 improper. One, if you hear the motion and you rule
4 suicide's out, then you've just asked jurors about
5 something that doesn't matter. It's moot. But secondly,
6 if it does come in, it would only come in to show that it
7 was knowledge of guilt, an argument by the State.
8 They're gonna argue otherwise. So again, we're back at
9 staking out. Are you gonna believe the State or the
10 defense? That's absolutely improper. Absolutely
11 improper. That's a question jurors take to the jury room
12 and ask themselves after they hear evidence. It is not a
13 voir dire question.

14 THE COURT: Well, in the form that he's --

15 MR. HUBBARD: Correct. Correct. I'm not addressing
16 what Your honor has proposed. I don't have any objection
17 to what Your Honor has proposed.

18 THE COURT: Mr. Shealey.

19 MR. L. SHEALEY: Well, I just think we have this
20 legal decision to make based on this case, where it's not
21 staking out. It's a decision for Your Honor based upon
22 what - the Supreme Court really doesn't want it into
23 evidence absent very unique circumstances. So if we
24 decide it's coming in, then we have to ask some type of
25 question to prospective jurors because they might think,

1 you know, morally, religiously, what, I don't care if he
2 shot a man as he said in self defense, but he's going to
3 hell because he tried to take his own life and I'm a
4 Catholic and he needs to burn. So like we need to
5 understand their feelings on whether he, one, how they
6 feel about suicide, if the defendant did it, because they
7 can assume he must be guilty. But two, do they have some
8 reprehensible, personal, moral, religious objection to
9 that, so that's why it would be good to know one way or
10 the other if you were gonna --

11 THE COURT: Well, the direction you just went is
12 different than asking what they would take it as.
13 Generally in a question of, you know, is there any member
14 of the jury panel who has religious or moral opposition
15 to, you know, the standard thing, the consumption of
16 alcohol but, you know, consumption of alcohol, suicide or
17 attempted suicide.

18 MR. L. SHEALEY: Well, the second prong of
19 Cartwright analysis is 403 so that -- The second prong
20 after you get to the Cartwright --

21 THE COURT: After the three factors.

22 MR. L. SHEALEY: -- is then 403. So the argument I
23 just made goes to 403. It's just so prejudicial. Some
24 jurors just like, oh, my gosh, you know, that what is it
25 probative of, so that's why it's important.

1 THE COURT: I understand it's important, but it's
2 not, it's not even a done issue yet, and I'm trying to
3 broach the subject without bringing too much attention to
4 it because in reality it might not get in. It might not.
5 It just depends on what we hear from the State's
6 witnesses. I mean, this is - I've looked at the
7 transcript. I mean, this is where I cut it off at in the
8 immunity hearing. There was a question asked, you
9 objected, and I said we heard, we, of course, heard the
10 testimony about flight. I don't know if we heard
11 testimony, but I know about the gunfire. We didn't
12 really hear anything on the self inflicted wound or
13 alleged self inflicted wound.

14 So I don't know if the State gets there, but I don't
15 want to make a decision without having heard the full
16 hearing and having the testimony properly proffered. So
17 I understand your argument, that you want, I think you
18 want me to make a decision. If I were to make a decision
19 it's out, then we don't need to talk about it. But since
20 I haven't made a decision yet and you want to have the
21 question broached in case it does come up later, correct?

22 MR. L. SHEALEY: Absolutely.

23 THE COURT: Okay. Didn't you have a proposed
24 question about moral, religious?

25 MR. L. SHEALEY: Even if we had that kind of moral,

1 religious question about suicide, it wasn't necessarily
2 whether you think someone is guilty because he attempts
3 to commit suicide.

4 THE COURT: Well, hypothetically if a person stood
5 up and said anybody who commits suicide or attempts to
6 commit suicide, in certain language, I don't know, I
7 mean, that's - they're making that response based upon
8 their general inherent feelings without having been led
9 down the path of potential testimony, so I mean, that at
10 least is better than no mention at all which would then
11 require me to make the ruling which I'm not prepared to
12 make yet so I'll take a look at what you send me.

13 MR. L. SHEALEY: And I guess I'll go ahead and
14 prepare a copy for the clerk since we're arguing that
15 just to have and I guess we'll finish the argument for
16 the hearing in the afternoon I assume.

17 MR. HUBBARD: Right, pending our witnesses.

18 THE COURT: Okay.

19 MR. HUBBARD: I would like to try, if we can.

20 THE COURT: Estimated time for that witness
21 testimony, proffered testimony.

22 MR. HUBBARD: How long it would take?

23 THE COURT: Yes.

24 MR. HUBBARD: Very short. We've got three Denno
25 witnesses, very short statements, but considering we're

1 THE COURT: See you Monday morning at 10:15. Thank
2 you.

3 (Whereupon, the jury was released for the evening at
4 3:30 p.m.)

5 THE COURT: All right. Thank you for your patience.
6 Did everybody have a chance to refresh themselves or do
7 we need another five minutes?

8 MR. HUBBARD: Your Honor, I was just gonna go back.
9 I saw my witness here. I have not had a chance to
10 actually --

11 THE COURT: Okay. Take five or ten minutes and then
12 let's get started.

13 MR. HUBBARD: It won't take that long, Your Honor.

14 THE COURT: Okay.

15 (Short break.)

16 BAILIFF: All rise.

17 THE COURT: All right. We can commence with this
18 modified Jackson v. Denno, State v. Cartwright hearing.

19 MR. HUBBARD: Yes, sir. Please the Court. The
20 State calls Robbie Harter.

21 Thereupon,

22 ROBERT HARTER

23 after having been first duly sworn, testified as follows,

24 THE CLERK: Please have a seat. Once you're seated,
25 state your full name spelling your last name for the

ROBERT HARTER - DIRECT BY MR. HUBBARD

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1 record please.

2 THE WITNESS: My name is Robert Harter,
3 H-a-r-t-e-r.

4 MR. HUBBARD: Your Honor, I ask if he can drop his
5 mask down?

6 THE COURT: Please.

7 DIRECT EXAMINATION

8 BY MR. HUBBARD:

9 Q. I know you as Robbie. Where are you working now?

10 A. Currently I'm employed at the Edgefield County
11 Coroner's Office part-time and also at Edgefield Mercantile
12 Funeral Home part time.

13 THE COURT: You might want to move your chair just a
14 little bit closer to the mic to make we can hear you
15 clearly. Thank you.

16 BY MR. HUBBARD:

17 Q. Back in 2018 where were you working?

18 A. I was employed at the Edgefield County Sheriff's
19 Office.

20 Q. How long had you been with Edgefield?

21 A. Since the spring of 2003.

22 Q. Okay. Back on May 7th of 2018, do you recall being
23 in the arrest takedown of Barry Jones?

24 A. I do.

25 Q. Did you know Barry Jones prior to this arrest?

1 A. I did.

2 Q. Okay. Had you known him a good long time?

3 A. I did.

4 Q. All right. Were you on duty at the time that the
5 call came out about a shooting at the Johnston Pool Hall?

6 A. I was not.

7 Q. How did you go about going on duty? What did you
8 hear that brought you on duty?

9 A. At the time I was a public information officer for
10 the Sheriff's Office and I was on the notification list of
11 certain incidents, when they occurred in the county, I was
12 called by dispatch.

13 Q. When you got that call, were you aware there had
14 been a shooting at the Johnston Pool Room?

15 A. I was after dispatch had notified me. Yes.

16 Q. At that point were you aware that it was Barry Jones
17 that was involved?

18 A. No.

19 Q. And were you then aware of a pursuit involving
20 Sergeant James Florida?

21 A. After I got the phone call, I turned my radio on to
22 listen and at that point I heard Sergeant Florida run a
23 license plate and the license plate came back to Barry
24 Jones.

25 Q. Okay. And is that how you got involved in going to

ROBERT HARTER - DIRECT BY MR. HUBBARD

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1 Log Creek Road to back up Sergeant Florida?

2 A. Yes.

3 Q. Okay. Again, were you there and did you participate
4 in the actual takedown of Barry Jones at that scene?

5 A. I did.

6 Q. Prior to that, had there been a shootout between
7 officers who worked with you and Barry Jones?

8 A. Yes.

9 Q. One of those officers is Sergeant Florida?

10 A. Yes.

11 Q. And then a town officer Kathmann, town police?

12 A. Yes.

13 Q. All right. After that shooting had stopped, is that
14 when the takedown took place?

15 A. Yes.

16 Q. And, in fact, were you one of the ones that
17 converged on the vehicle where Mr. Jones was?

18 A. I was.

19 Q. Where was he located?

20 A. He was located on the side of his vehicle kind of in
21 the apex of his door.

22 Q. The driver's side?

23 A. Yes, sir.

24 Q. What, if anything, did you find at the apex of his
25 door?

1 A. Uhm, when I walked up, I noticed two weapons on the
2 ground beside him, a AR-15 type rifle and a silver colored
3 revolver.

4 Q. A .38?

5 A. Yes, sir.

6 Q. And did you secure that .38?

7 A. I did.

8 Q. Once Barry Jones was apprehended, was he cuffed?

9 A. He was.

10 Q. Did you in any way attempt to interrogate him at
11 that time?

12 A. I did not.

13 Q. And this is at the scene at Log Creek?

14 A. Yes.

15 Q. While you're in his presence what, if anything, did
16 he say or what did he say in response?

17 A. Someone asked Barry if he was hurt because he had a
18 lot of blood on the front of him. He did say he was hurting
19 and that he had shot himself.

20 Q. He had shot himself?

21 A. Yes.

22 Q. Did he at any time mention the word suicide to
23 you?

24 A. He did not.

25 Q. He did not. Did he say anything about trying to

ROBERT HARTER - DIRECT BY MR. HUBBARD

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1 kill himself to you?

2 A. He did not.

3 Q. Did he give any explanation for why he shot
4 himself?

5 A. He did not.

6 Q. Did he talk about anything about breaking up with
7 his girlfriend?

8 A. He did not.

9 Q. Financial problems?

10 A. No.

11 Q. Anything else going on in his life?

12 A. No.

13 Q. Now, you are aware at this point now that you were
14 out there at this point of arrest, he had been involved in a
15 shooting at Johnston Pool Room?

16 A. Correct.

17 Q. That he had fled?

18 A. Correct.

19 Q. You were aware at this point he had been cornered by
20 Sergeant Florida and had engaged in a shootout?

21 A. Correct.

22 Q. And then had been surrounded?

23 A. Correct.

24 Q. And then apprehended?

25 A. Correct.

1 Q. And that's where this shooting himself took place?

2 A. Yes.

3 Q. And his statement regarding that he was very much
4 aware of why you all were arresting him?

5 A. Yes.

6 MR. HUBBARD: Okay. I believe that's all I have at
7 this time, Your Honor.

8 THE COURT: Cross examination.

9 CROSS EXAMINATION

10 BY MR. B. SHEALEY:

11 Q. How you doing, sir?

12 A. I'm good, sir. Yourself?

13 Q. Good. So I'm just gonna stick to the scene on Log
14 Creek Road. You were one of the officers that Solicitor
15 Hubbard said did the takedown, right?

16 A. Correct.

17 Q. So you would have been armed?

18 A. Yes.

19 Q. And I think you were armed with a shotgun; is that
20 correct?

21 A. Yes, sir.

22 Q. Okay. Did you have tactical gear on?

23 A. I did not.

24 Q. Did you have any other weapons other than the
25 shotgun on you?

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1 A. I had my sidearm on.

2 Q. And what did you carry?

3 A. A Glock model 23. No, 22. I'm sorry. Glock model
4 22.

5 Q. Okay. So you had a Glock 22, you had a shotgun.
6 What gauge shotgun was that?

7 A. 12 gauge.

8 Q. 12 gauge. And you were part of the takedown.
9 Describe to this Court who else was with you converging on
10 Mr. Jones?

11 A. I believe it was myself, Deputy Morgan, Deputy
12 Densmore and Deputy Bowman.

13 Q. Okay. So including yourself total that would be
14 four converging on Mr. Jones, correct?

15 A. Correct.

16 Q. Okay. And he was on the ground with his hands up,
17 correct?

18 A. When we got up to him, yes.

19 Q. Okay. And he, I think you testified that he was
20 shirtless? Or do you recall if he was shirtless or not?

21 A. I don't recall. I just remember seeing a lot of
22 blood on him in this area.

23 Q. Okay. So you recall a lot of blood, right?

24 A. Right.

25 Q. So you were aware that he was shot?

1 A. That he had been injured. When I first saw him, it
2 was obvious that he had been injured in some way.

3 Q. I mean, was there a lot of blood?

4 A. It wasn't pools of blood, but it was a good bit.

5 Q. Okay. But based on the circumstances that you found
6 him, you were aware that he was physically injured?

7 A. Injured. Yes, sir.

8 Q. Okay. Can you estimate how many other people
9 arrived on scene as you were, you and Morgan and Densmore and
10 others were handcuffing him and kind of bringing him off to
11 the road?

12 A. I'm gonna guess about 10, but that's just purely a
13 guess.

14 Q. Okay. And once someone is in handcuffs, he's in
15 custody, correct?

16 A. That is correct.

17 Q. And he wasn't free?

18 A. That is correct.

19 Q. Okay. It wasn't like he was coming into the station
20 for questioning or something like that. He was in
21 handcuffs?

22 A. Correct.

23 Q. Okay. He was going nowhere but to the hospital and
24 then to jail?

25 A. Yes, sir.

1 Q. Okay. Now, about this statement that he made, I
2 think you just testified that he said that he had shot
3 himself. He said that in the woods there with everyone around
4 him, correct?

5 A. People weren't in a group around him like this.
6 They were kind of spread out. There was a couple officers
7 standing with him and I was standing in close proximity to
8 them.

9 Q. Okay. But he said this at the scene of a shooting
10 event, correct?

11 A. Correct.

12 Q. And he was bloody and injured, correct?

13 A. Correct.

14 Q. Okay. Now, you said that he was also in custody, of
15 course. You also mentioned that someone asked him a
16 question?

17 A. Correct.

18 Q. And then he answered by saying he had shot
19 himself?

20 A. They asked him if he was hurt.

21 Q. Who asked him?

22 A. I don't remember.

23 Q. Was it -- You don't recall. Was EMS there yet?

24 A. No.

25 Q. Okay. So it would have been someone non medical,

1 someone that was there to apprehend Mr. Jones?

2 A. It was one of the officers, but I don't remember
3 which one.

4 Q. Okay. But again, this is at the scene where there
5 was a shooting where Mr. Jones was bleeding and shot and
6 injured, right?

7 A. Correct.

8 Q. Okay. And he was handcuffed and surrounded by other
9 officers on the way to the hospital once EMS arrived, right?

10 A. Correct.

11 Q. Now, when he said that he had shot himself in
12 response to an officer's question, did he say he shot himself
13 because he was so guilty of things that he had just done?

14 A. He did not say why at all.

15 Q. Okay. He just was responding saying that he had
16 shot himself?

17 A. Correct.

18 Q. Okay. Are you still an officer? I know you're at
19 the Corner's Office. Am I calling you Officer Harter?

20 A. It doesn't matter. I'm not a Class I anymore. No,
21 sir.

22 Q. Okay. Let me ask you a question. Have you ever
23 been shot?

24 A. Have I ever been shot?

25 Q. Yes, sir.

ROBERT HARTER - CROSS BY MR. L. SHEALEY

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1 A. I have.

2 Q. Was it minor or significant?

3 A. It was minor.

4 Q. Okay.

5 A. Not in the line of duty I might add.

6 Q. You have experienced pain you've suffered from a
7 gunshot wound?

8 A. Yes.

9 Q. Okay.

10 A. In my hand.

11 Q. In your hand. Okay. So an extremity of your body,
12 not even like your neck or your chest?

13 A. Right.

14 Q. But it would be painful, correct?

15 A. It was.

16 Q. Okay. And, you know, your own personal experience
17 with being shot, what kind of mental state are you in when you
18 were shot?

19 A. I was 13 at the time so I really don't remember.

20 Q. So you were young and dumb anyway?

21 A. Yes, sir.

22 Q. Okay. All right. But it can be painful and
23 sometimes people can be in a state of shock, correct?

24 A. I would agree with that. Yes, sir.

25 Q. Okay. Just one brief follow up. Do you have a copy

1 of your statement?

2 A. I do not.

3 Q. Okay. Let me ask you a question. On your statement
4 do you recall saying that the suspect Mr. Jones stated that he
5 was hurting and had tried to shoot himself under the chin?

6 A. I don't remember that detail. No, sir.

7 MR. B. SHEALEY: With the Court's indulgence, I'm
8 gonna approach. It's highlighted.

9 MR. HUBBARD: I don't have any problem if it's for
10 purposes of this hearing, Your Honor.

11 MR. B. SHEALEY: Yeah.

12 BY MR. B. SHEALEY:

13 Q. Mr. Harter, I'm just gonna show you a two-page
14 statement. Do you recognize this two pages?

15 A. I do.

16 Q. Do you recognize that this was in reference to this
17 event?

18 A. I do.

19 Q. And the third line from the bottom starts the
20 sentence right there, take a moment to look at that.

21 A. Yes, sir.

22 Q. Okay. Is your recollection refreshed on that?

23 A. I still don't remember him saying that directly.

24 No, sir.

25 Q. But you agree you wrote it?

ROBERT HARTER - REDIRECT BY MR. HUBBARD

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1 A. Yes, sir.

2 Q. So what you wrote when this was fresh in your mind
3 was that Mr. Jones said he tried to shoot himself under the
4 chin?

5 A. Yes, sir.

6 MR. B. SHEALEY: Okay. Nothing further, Judge.

7 THE COURT: Any redirect?

8 MR. HUBBARD: Real quick follow up.

9 REDIRECT EXAMINATION

10 BY MR. HUBBARD:

11 Q. When y'all got there, Florida already had him in a
12 stand off; is that correct?

13 A. Correct.

14 Q. Did you hear someone giving him commands, giving the
15 defendant Barry Jones commands to show his hands, put down his
16 weapon?

17 A. Yes.

18 Q. Did that go on for some time?

19 A. Yes.

20 Q. And while that was going on, did y'all wait to move
21 in?

22 A. We did.

23 Q. At what point did you and other officers converge on
24 Mr. Jones?

25 A. After we had gotten the all clear from Deputy

1 Florida.

2 Q. So it was only at that point that y'all went in and
3 made the arrest?

4 A. Correct.

5 Q. Okay. And your memory is refreshed now that you've
6 seen your statement that when he said he shot himself, it's
7 where he shot himself is under the chin?

8 A. According to my statement. Yes, sir.

9 MR. HUBBARD: Thank you. No further questions.

10 THE COURT: Any recross?

11 MR. B. SHEALEY: No, Your Honor.

12 THE COURT: All right. The witness may step down.
13 Thank you.

14 THE WITNESS: Thank you, Your Honor.

15 MR. HUBBARD: Your Honor, that's all we have of
16 Officer Harter today unless y'all have anything else.

17 MR. B. SHEALEY: No.

18 MR. HUBBARD: Thank you, Your Honor.

19 MR. McNAIR: Your Honor, the State calls Samuel
20 Sherrill.

21 Thereupon,

22 SAMUEL SHERRILL

23 after having been first duly sworn, testified as follows,

24 THE CLERK: Please have a seat. Once you're seated,
25 state your full name spelling your last please.

SAMUEL SHERRILL - DIRECT BY MR. McNAIR

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1 THE WITNESS: Samuel Sherrill, S-h-e-r-r-i-l-l.

2 DIRECT EXAMINATION

3 BY MR. McNAIR:

4 Q. Officer Sherrill, how you doing today?

5 A. Good, sir. Yourself?

6 Q. Pretty good. Will you tell us where you work?

7 A. Edgefield County Sheriff's Office.

8 Q. How long have you worked there?

9 A. About 10 years.

10 Q. All right. Now, were you on duty back on May 7th of
11 2018?

12 A. I was that morning. Yes, sir.

13 Q. That morning. Did you ultimately respond to Log
14 Creek Road that day?

15 A. I did.

16 Q. And why did you respond to that location?

17 A. I heard that a shooting had went out and then a
18 deputy was yelling for assistance due to shots being fired.

19 Q. Okay. So you listened to the radio even though you
20 were off duty?

21 A. Correct.

22 Q. And you heard that shots were fired?

23 A. Correct.

24 Q. And then you responded to Log Creek Road?

25 A. Yes, sir.

1 Q. All right. Once you got to Log Creek Road, what
2 were tasked with doing?

3 A. Once I got there, I was asked to accompany the
4 subject to the ambulance which then we went to the hospital.

5 Q. All right. By subject, are you referring to Barry
6 Jones?

7 A. Correct.

8 Q. Now, when you got there, was he already in
9 custody?

10 A. He was.

11 Q. Was he handcuffed?

12 A. Yes, sir.

13 Q. And I guess, what interaction did you have with him
14 at Log Creek Road?

15 A. Uhm, the only interaction I had with him was I went
16 over to him whenever EMS got there with the stretcher. They
17 had to park a good ways down and I stood by as they put him on
18 the stretcher and then to the ambulance.

19 Q. All right. So you're walking beside him as he's
20 being transported on the stretcher to the ambulance?

21 A. More to the end of it, but yeah.

22 Q. Okay. All right. Well, during that time frame did
23 you ask him any questions?

24 A. I did not.

25 Q. Did you Mirandize him?

SAMUEL SHERRILL - DIRECT BY MR. McNAIR

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1 A. I did not.

2 Q. Are you aware of anybody who Mirandized him prior to
3 you seeing him?

4 A. I do not know.

5 Q. Well, as he's en route to the ambulance, does he
6 make any statements?

7 A. He does.

8 Q. Are those statements in response to any questions
9 posed to him?

10 A. No, sir. Not from me.

11 Q. Are those just statements that he volunteered?

12 A. Correct.

13 Q. All right. Did you note what statements he made to
14 you in your report?

15 A. I did. Yes, sir.

16 Q. Will you refer to your report and tell us what
17 statements he made to you on the stretcher.

18 A. On the way to the ambulance while we were, while he
19 was on the stretcher, he said that he, "I wish y'all would
20 have killed me."

21 Q. Is that in quotes?

22 A. It is.

23 Q. Okay.

24 A. And then he also stated quote, "y'all should just
25 let me die."

1 Q. All right. And that was on scene at Log Creek after
2 he had just been arrested?

3 A. Correct.

4 Q. Now, did he appear to be in shock when he made those
5 statements to you?

6 A. Uhm, I mean, he seemed to be upset. I'm not sure
7 what you mean by "shock."

8 Q. Did he seem to understand what he was saying?

9 A. Yes.

10 Q. He seemed coherent?

11 A. Yes.

12 Q. Okay. Now, did he offer any explanation for why he
13 wanted to die?

14 A. No.

15 Q. Did he tell you that he was depressed?

16 A. No, sir.

17 Q. Did he tell you that his girlfriend had just broken
18 up with him?

19 A. No, sir.

20 Q. Did he tell you he was in financial trouble or
21 anything like that?

22 A. No, sir.

23 Q. But he told you that he wanted to die shortly after
24 being arrested at Log Creek?

25 A. Yes, sir.

SAMUEL SHERRILL - DIRECT BY MR. MCNAIR

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1 Q. All right. Now, after did you ride in the ambulance
2 with him to the hospital?

3 A. Yes, sir. I did.

4 Q. Did he make any other statements in the back of the
5 ambulance?

6 A. Yes, sir. He did.

7 Q. Did you ask him any questions prior to him making
8 those statements?

9 A. No, sir. I did not.

10 Q. Were those again statements that he just made on his
11 own volition?

12 A. Correct, sir.

13 Q. All right. And what statements did he make in the
14 back of the ambulance?

15 A. Uhm, he stated quote, "the only hole that hurts is
16 the one in my neck." I'm sorry. "The one I put in my neck."
17 And then another quote was quote, "I wish I would have made it
18 to Augusta. A guy owes me \$300,000.00."

19 Q. All right. And Did you observe a wound to his
20 neck?

21 A. I did. Yes, sir.

22 Q. All right. And that's the wound that he's saying he
23 did to himself?

24 A. Correct, sir.

25 Q. It's your understanding that that's the wound that

1 he inflicted to himself in order to kill himself?

2 A. Yes, sir.

3 MR. McNAIR: No further questions. Thank you.

4 THE COURT: Cross examination.

5 CROSS EXAMINATION

6 BY MR. B. SHEALEY:

7 Q. Officer Sherrill, were you part of the team that
8 came to apprehend Mr. Jones?

9 A. Yes, sir.

10 Q. So let's talk about, at the time were you part of
11 the team that actually converged on him when he was on the
12 ground?

13 A. No, sir.

14 Q. Okay. Were you there after he was already in
15 handcuffs?

16 A. Correct, sir.

17 Q. Okay. Did you see him get placed in handcuffs?

18 A. To be honest with you I don't remember.

19 Q. Okay. But he was in custody, correct?

20 A. Yes.

21 Q. He wasn't going anywhere and he wasn't free to
22 leave?

23 A. Correct.

24 Q. Okay. And you're aware that he was bloody? Do you
25 recall his appearance from your observation being right next

SAMUEL SHERRILL - CROSS BY MR. L. SHEALEY

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1 to him?

2 A. He was bloody. Yes.

3 Q. Could you tell how many holes he had in him?

4 A. I do not remember.

5 Q. Okay. When you were next to him, did you have your
6 firearm on you?

7 A. Yes, sir. I did.

8 Q. Was it holstered or unholstered?

9 A. It was holstered.

10 Q. Okay. And approximately how many other officers
11 were around you when y'all were trying to get him on the
12 gurney and going with EMS, do you recall?

13 A. I don't. I was focusing on him.

14 Q. Okay. You understand that this was like an active
15 crime scene where there had just been a shooting, right?

16 A. Yes, sir.

17 Q. Okay. And that he had, I'll just say been injured
18 in the shooting, correct?

19 A. Correct.

20 Q. All right. Now, you described a couple of
21 statements that are attributed to Mr. Jones, but you're saying
22 he wasn't Mirandized, and you personally you're saying did not
23 attempt to interrogate him or question him, right?

24 A. No, sir. I'm saying I didn't Mirandize him. I
25 don't know that he was or wasn't prior to me getting there.

1 Q. Okay. You didn't hear any Miranda Warnings, did
2 you?

3 A. I didn't hear any Miranda.

4 Q. Okay. And you were not trying to ask any questions
5 or interrogate him?

6 A. Correct, sir.

7 Q. Okay. But you were tasked by Captain Wash to assist
8 EMS and escort him to the hospital?

9 A. Correct.

10 Q. And that's in your statement and presumably EMS was
11 busy treating Mr. Jones because he was full of holes, right?

12 A. (Witness nodding head.)

13 Q. Okay. You have to answer so --

14 A. Oh, I'm sorry. Yes, sir.

15 Q. Okay. And they were working on him as you were
16 riding along I guess for security purposes, correct?

17 A. Correct, sir.

18 Q. Okay. And so they're asking him questions about
19 presumably where is he hurt, where is he shot, what hurts,
20 what doesn't, correct?

21 A. Yes, sir.

22 Q. Okay. So they were asking him a fair amount of
23 questions trying to treat him, correct?

24 A. Correct, sir.

25 Q. Okay. About his medical condition? About his

SAMUEL SHERRILL - CROSS BY MR. L. SHEALEY

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1 medical condition?

2 A. As far as the bullet holes?

3 Q. Yes, sir.

4 A. Yes, sir.

5 Q. Okay. And so I think one of these statements you
6 discussed about the only hole that hurts is the one I put in
7 my neck, were they asking him, do you recall if they were
8 asking him what hurts and what doesn't hurt?

9 A. Uhm, I believe they may have. Yes, sir.

10 Q. So that would have been in response to EMS
11 questioning him about, you know, his physical state?

12 A. Yes, sir.

13 Q. Okay. And you didn't hear when you were in his
14 presence him say that he tried to kill himself because he had
15 just gotten in a shootout with law enforcement, did you?

16 A. No, sir. I didn't.

17 Q. And when you were in his presence you didn't hear
18 him say that he tried to kill himself because he had just got
19 into a shooting at a pool hall earlier, did you, and he felt
20 so guilty?

21 A. Correct, sir.

22 Q. You didn't hear anything like that?

23 A. I did not.

24 Q. Okay. Well, that would have been in your
25 statement?

1 A. Correct, sir.

2 Q. Okay. Have you ever been shot?

3 A. No, sir.

4 MR. B. SHEALEY: That's it, Officer Sherrill.

5 Appreciate it.

6 THE COURT: Redirect.

7 REDIRECT EXAMINATION

8 BY MR. MCNAIR:

9 Q. Just to be clear, in the ambulance, you were the
10 only officer in the back of the ambulance, correct?

11 A. Correct, sir.

12 Q. There were no other officers?

13 A. No, sir.

14 Q. You never threatened Mr. Jones?

15 A. No, sir.

16 Q. You never asked him any questions?

17 A. No, sir.

18 MR. MCNAIR: Thank you.

19 THE COURT: Any recross?

20 MR. B. SHEALEY: None, Your Honor.

21 THE COURT: All right. The witness may step down.

22 MR. MCNAIR: Your Honor, I've been informed our
23 third witness that we will put up will be here later
24 today so probably after four so I know we had discussed
25 maybe doing that Monday morning.

JAMES MORGAN - DIRECT BY MR. HUBBARD

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1 DECEMBER 6TH, 2021

2 (Whereupon, State's Exhibits #1 through 170 marked
3 for identification.)

4 BAILIFF: All rise.

5 THE COURT: Good morning, ladies and gentlemen.
6 Please be seated. All right. When we left Friday
7 afternoon we were in the middle of a pretrial hearing.
8 Is the State ready to proceed with their next witness?

9 MR. HUBBARD: Yes, sir, Your Honor.

10 THE COURT: All right. Defense ready to proceed?

11 MR. L. SHEALEY: Yes, sir.

12 THE COURT: All right. Let's go.

13 MR. HUBBARD: Thank you. The State calls James
14 Morgan.

15 Thereupon,

16 JAMES MORGAN

17 after having been first duly sworn, testified as follows,

18 THE CLERK: Please have a seat. Once you're seated,
19 state your full name spelling your last please.

20 THE WITNESS: James Morgan, M-o-r-g-a-n.

21 DIRECT EXAMINATION

22 BY MR. HUBBARD:

23 Q. Sergeant Morgan, how long have you been with the
24 Sheriff's Department?

25 A. I've been with the Sheriff's Office approximately

1 eight years.

2 Q. And were you involved in the arrest of Barry Jones
3 on May 7th, 2018?

4 A. I was.

5 Q. Do you recall the 911 call and how you responded to
6 the pool room?

7 A. Yes, sir.

8 Q. While at the pool room what, if anything, did you
9 hear about a pursuit or about Sergeant Florida?

10 A. Well, I was assisting investigators at the pool room
11 and I overheard on the radio that Sergeant Florida possibly
12 got behind the suspect vehicle, he ran the plates through
13 dispatch, dispatch confirmed that it was, the vehicle was
14 registered to Barry Jones, and Sergeant Florida continued to
15 follow the vehicle afterwards.

16 Q. And did you at that point break away from the pool
17 room and go to back up Sergeant Florida?

18 A. I did.

19 Q. When you got to Log Creek Road, was Sergeant Florida
20 and Kathmann already there?

21 A. They were.

22 Q. And was Barry Jones pretty much pinned down at that
23 point?

24 A. Yes, sir.

25 Q. Did you hear any gunfire at that point or had that

JAMES MORGAN - DIRECT BY MR. HUBBARD

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1 already occurred?

2 A. That had already occurred. I overheard gunfire
3 while Sergeant Florida was talking on the radio. I could hear
4 gunfire in the background.

5 Q. Now, you teamed up as you moved in with who?

6 A. With Sergeant Densmore.

7 Q. Who had a body cam?

8 A. Correct.

9 Q. Let me ask you, did you have a body cam?

10 A. I did not.

11 Q. And can you explain to the Court why your body cam
12 was either compromised or off?

13 A. When I arrived at the scene on the dirt road, on Log
14 Creek Road, I took off my outer carrier which is my daily
15 wear, I took it off and put on my plate carrier, my issued
16 plate carrier that I had through special ops team and also
17 placed on my helmet, ballistic helmet.

18 Q. Okay. At the scene are you all relying on Sergeant
19 Florida to give eyes on with what's going on with Barry
20 Jones?

21 A. Yes, sir.

22 Q. At some point does he give the command to move in?

23 A. Yes, sir.

24 Q. And you moved in and helped in the arrest?

25 A. Correct.

1 Q. After Barry Jones was secured, he's in cuffs, did
2 you interrogate him or ask him any questions whatsoever about
3 what had occurred?

4 A. No, sir.

5 Q. What, if anything, did you ask him?

6 A. I asked him about his current medical state.

7 Q. Did you see him bleeding?

8 A. Yes, sir.

9 Q. He had blood all over his face and chest?

10 A. Yes, sir.

11 Q. And what, if anything, was his response?

12 A. He informed me where he was shot at, where he was
13 hurting at, around his chest, stomach, arm there, and then he
14 lifted up his head and he said I'm also shot here. I didn't
15 ask any questions. He voluntarily told me, I tried to kill
16 myself and I couldn't even do that.

17 Q. I tried to kill myself and I couldn't even do
18 that?

19 A. Yes, sir.

20 Q. The face area, was that the chin?

21 A. Yes, sir. It appeared to be around the bottom part
22 of the neck chin area, and then I couldn't really tell from
23 all the blood, I cleaned him up, it appeared to be coming out
24 around the side of his face.

25 Q. Was that the most serious wound that you saw?

JAMES MORGAN - DIRECT BY MR. HUBBARD

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1 A. That and the chest area. It looked pretty serious.

2 Q. Okay. But that was the only statement you heard at
3 that point in time?

4 A. Yes, sir.

5 Q. And this is obviously at Log Creek Road right after
6 he'd been arrested?

7 A. Yes, sir.

8 Q. Very clear there had just been a shootout?

9 A. Yes, sir.

10 Q. Very clear you had just come from the pool room
11 where you knew he was the suspect in the shooting of Milledge
12 Hall?

13 A. Correct.

14 Q. Did he at any time say I did this because I just
15 broke up with my girlfriend?

16 A. No, sir.

17 Q. Did he say anything about I did this because my wife
18 died of cancer a couple years ago?

19 A. No, sir.

20 Q. Did he say anything about his sick father?

21 A. No, sir.

22 Q. Did he say anything about I'm in financial
23 straits?

24 A. No, sir.

25 Q. Or anything about I don't have a future?

1 A. No, sir.

2 Q. Just I tried to shoot myself or kill myself and I
3 couldn't even do that right?

4 A. Correct.

5 MR. HUBBARD: Thank you.

6 THE COURT: Cross examination.

7 MR. B. SHEALEY: Please the Court.

8 THE COURT: Yes, sir.

9 CROSS EXAMINATION

10 BY MR. B. SHEALEY:

11 Q. Good morning, Officer Morgan. How are you doing?

12 A. Good, sir.

13 Q. Good. So you had occasion to be both at the pool
14 hall and also at Log Creek Road on this day in question; is
15 that right?

16 A. Yes, sir.

17 Q. Okay. And basically as you've testified when you
18 were at Log Creek Road the shooting was over, right?

19 A. Yes, sir.

20 Q. Okay. But you dropped down, got your tactical gear
21 on, correct?

22 A. Correct.

23 Q. You were part of a group of officers that were
24 closing in on Mr. Jones I think at Officer Florida's
25 command?

JAMES MORGAN - CROSS BY MR. L. SHEALEY

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1 A. Yes, sir.

2 Q. Okay. So you had your body cam off because you put
3 on your vest?

4 A. Right. Plate gear.

5 Q. You had your AR-15 in your hand?

6 A. Yes, sir.

7 Q. The AR-15, is that the most powerful weapon you have
8 at your disposal?

9 A. I wouldn't say the most powerful. I don't know
10 anything about ballistics but...

11 Q. Is that a good one for a situation like this?

12 A. Could be.

13 Q. Okay. Better than your sidearm potentially?

14 A. Potentially given the situation. I don't know what
15 I'm coming into.

16 Q. Okay. Correct. So you don't know what you're
17 coming into and you've got your AR-15 pointed at Mr. Jones as
18 you're approaching with other officers?

19 A. Correct.

20 Q. Okay. And he's got his hands up, right?

21 A. Yes, sir.

22 Q. Okay. And he's shirtless?

23 A. Yes, sir.

24 Q. He's in the woods. This is a very wooded scene,
25 right?

1 A. Not really wooded. It was off of, it's like a spur
2 off the dirt road that goes into I would say a logging road.

3 Q. Surrounded by woods though?

4 A. Yeah.

5 Q. The open space is surrounded by woods?

6 A. Right.

7 Q. It's not like buildings or houses or anything like
8 that?

9 A. No.

10 Q. Okay. And you're with other officers who also have
11 their weapons drawn?

12 A. Correct.

13 Q. Okay. And Barry's in flip flops?

14 A. Yes, sir.

15 Q. Okay. And you can see that he's bloody from being
16 shot, correct?

17 A. Right.

18 Q. But you're not sure about whom shot whom or whatever
19 at that point, correct?

20 A. No, sir.

21 Q. Do you put him in handcuffs?

22 A. I did not.

23 Q. Okay. But he's placed in handcuffs and kind of
24 propped up and kind of taken to the road, correct?

25 A. Correct.

JAMES MORGAN - CROSS BY MR. L. SHEALEY

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1 Q. Okay. Now, do you know at that point how many times
2 he's shot?

3 A. I do not.

4 Q. But you know he is shot?

5 A. Correct.

6 Q. Okay. And this location as we're discussing it
7 where you're asking him a couple questions, you understand
8 that was the location of where he had just gotten into a
9 shootout situation?

10 A. Correct.

11 Q. So officers firing at him, him presumably firing
12 back, correct?

13 A. Correct.

14 Q. Okay. And you're waiting on EMT when you start
15 asking him questions?

16 A. Right. When I asked him about his medical state, I
17 was waiting on EMS to arrive.

18 Q. Now, they were already coming, correct. It wasn't
19 like what you asked him was gonna decide whether or not you
20 brought EMS, was it?

21 A. I guess they were already coming. I had no control
22 over calling anyone out. Nine times out of ten they are.

23 Q. Now, you initiated this communication with Mr.
24 Jones. You've already testified to that. You were asking him
25 questions about how he's feeling, his state, correct?

1 A. Mm-hmm.

2 Q. Okay. He didn't start talking to you. You
3 initiated with him?

4 A. Correct.

5 Q. You didn't Mirandize him, right?

6 A. No, sir.

7 Q. Okay. When you were talking to him, was your weapon
8 still out?

9 A. No, sir.

10 Q. So once he's in handcuffs you put your weapon up?

11 A. Right. Once we secured him and made sure he had no
12 more weapons on him, we brought him to the side of the road
13 and my weapon was holstered.

14 Q. But you were still, you still had your firearm, your
15 sidearm?

16 A. Yes, sir.

17 Q. But nothing was out then?

18 A. No, sir. Nothing was in my hand.

19 Q. Okay. And he's telling you when you initiate this
20 line of questioning that he, and I'm just looking at your
21 report, your report, he was shot in the stomach area. Does
22 that sound about right?

23 A. Yes, sir.

24 Q. And he's telling you he was shot in arm, am I
25 right?

JAMES MORGAN - CROSS BY MR. L. SHEALEY

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1 A. Yes, sir.

2 Q. And under his head/neck area, correct?

3 A. Yes, sir.

4 Q. And that he told you he shot himself in the
5 neck/head area in an attempt to kill himself, correct?

6 A. Correct.

7 Q. Okay. Now, he said he attempted to kill himself
8 because he had just gotten in a shootout with Officer
9 Florida?

10 A. No, sir. He didn't give a reason why.

11 Q. Okay. So he certainly didn't say I tried to kill
12 myself because I feel so guilty for what I did at a pool
13 hall?

14 A. He did not give a reason why.

15 MR. B. SHEALEY: Okay. Thank you, officer.

16 THE COURT: Any redirect?

17 MR. HUBBARD: No, sir, Your Honor.

18 THE COURT: Okay. The witness may step down.

19 MR. HUBBARD: The State calls Captain Florida.

20 Thereupon,

21 JAMES FLORIDA

22 after having been first duly sworn, testified as follows,

23 THE CLERK: Please have a seat. Once you're seated,
24 state your full name spelling your last please.

25 THE WITNESS: James Paxton Florida, Junior. Last

1 name is F-l-o-r-i-d-a.

2 DIRECT EXAMINATION

3 BY MR. HUBBARD:

4 Q. Captain Florida, how long have you been with
5 Edgefield County?

6 A. Since 2003.

7 Q. And obviously I think everybody has heard, but were
8 you involved in the takedown and arrest of Barry Jones on May
9 7th, 2018?

10 A. Yes, sir.

11 Q. Were you involved in a shootout with him?

12 A. Yes, sir.

13 Q. And that was Log Creek Road in Edgefield County?

14 A. Yes, sir.

15 Q. Let me ask you this: I'll just, while that's going
16 on, were you giving him commands?

17 A. Yes, sir.

18 Q. What were your commands?

19 A. Stop shooting, uhm, let me see your hands, clear
20 your hands, show clear hands.

21 Q. Put the gun down?

22 A. But the gun down. Yes, sir.

23 Q. Could you always hear his responses?

24 A. No, sir.

25 Q. I want to ask you about there was a point where we

JAMES FLORIDA - DIRECT BY MR. HUBBARD

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1 hear you on audio say something about, no, I'm not gonna do
2 that. That's you saying that. What is that in response to?

3 A. Uhm, that was in response to Mr. Jones telling me
4 that he wanted me to let him bleed to death.

5 Q. Is that while the standoff is still active?

6 A. Yes, sir.

7 Q. That's before he's arrested?

8 A. Yes, sir.

9 Q. Do you know if you had backup - you had backup then
10 I guess because that's Densmore?

11 A. Yeah. They were coming, lining up and stuff.

12 Q. Okay. So he says that, let me bleed to death?

13 A. Yes, sir.

14 Q. And your response is?

15 A. I can't do that.

16 Q. You can't do that. All right. Did you at any time
17 interrogate or ask any questions of Barry Jones?

18 A. No, sir. I did not.

19 Q. After your role in this was done and you called in
20 for everybody to come in and secure him and arrest him, your
21 part in that had been done?

22 A. Yes, sir.

23 Q. Let me ask you this: During those communications,
24 at any time did Barry Jones say anything about I want to die
25 because I lost my wife a few years ago?

- 1 A. No, sir.
- 2 Q. Did he say anything about his girlfriend Angie?
- 3 A. No, sir.
- 4 Q. Anything about his sick dad?
- 5 A. No, sir.
- 6 Q. Anything about life in general, that's why he wanted
- 7 to die?
- 8 A. No, sir.
- 9 Q. This is at the conclusion of a fire fight
- 10 with you?
- 11 A. Yes, sir.
- 12 Q. And, Sergeant Florida, did he fire first?
- 13 A. Yes, sir.
- 14 Q. And then you responded with initially a sidearm?
- 15 A. Yes, sir.
- 16 Q. And then he fires again?
- 17 A. Yes, sir.
- 18 Q. And you respond with a shotgun?
- 19 A. Yes, sir.
- 20 Q. After all the shooting is done, was all the shooting
- 21 done when this piece of conversation occurred?
- 22 A. Yes, sir.
- 23 Q. Had you heard one final shot from him?
- 24 A. Yes, sir.
- 25 Q. And as far as you know that might have been the shot

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1 to the chin?

2 A. Possibly.

3 MR. HUBBARD: Okay. Your Honor, that's all I have
4 at this time.

5 THE COURT: Cross examination.

6 MR. L. SHEALEY: May it please the Court.

7 THE COURT: Yes, sir.

8 CROSS EXAMINATION

9 BY MR. B. SHEALEY:

10 Q. Good morning, Officer Florida.

11 A. Good morning, sir.

12 Q. Now, you did prepare a statement with the help of
13 your lawyer Mr. Sussman in this case?

14 A. Yes, sir.

15 Q. And that was a typed and written statement that you
16 provided to SLED when you met with them?

17 A. Yes, sir.

18 Q. You agree that basically details as best that you
19 can remember what happened that day with the shooting and
20 everything else, right?

21 A. Yes, sir.

22 Q. And you would agree that what you just told Mr.
23 Hubbard regarding what Mr. Jones said, that's nowhere in that
24 written document, right?

25 A. I don't believe so.

1 Q. Would you like to look at it? Have you had a chance
2 to look at it?

3 A. I can look at it again to confirm it.

4 Q. Do you agree with me or you're not sure?

5 A. I don't believe it's in there.

6 Q. Okay. You don't believe it's in there.

7 A. Right.

8 Q. Okay. You can agree with me on that.

9 A. Okay.

10 Q. So just so I'm clear, are you saying that you recall
11 this after is it reviewing some body cams maybe from Officer
12 Densmore? Is that why you recall kind of hearing this?

13 A. No, sir.

14 Q. It's just from your recollection, your memory from
15 that day?

16 A. Yes, sir.

17 Q. Okay.

18 A. I had a lot going on that night.

19 Q. Sure. And you didn't have a body camera on,
20 right?

21 A. No, sir.

22 Q. So it's not recording anything like that?

23 A. No, sir.

24 Q. But, and I think Mr. Hubbard said this is after all
25 the shots had happened and you're saying Mr. Jones is asking

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1 you to just let him bleed out, right?

2 A. Yes, sir. There was one final shot. I couldn't
3 tell which direction or who it was aimed at at that time.

4 Q. And he's not also saying let me bleed out because I
5 know I'm going down for shooting at you, Mr. Florida? He's
6 not saying that, right?

7 A. No, sir.

8 Q. And he's not saying just let me die because, gosh, I
9 know I did a bad thing at the pool hall with B-Boy. He's not
10 saying that, is he?

11 A. No, sir.

12 Q. And just like the Solicitor said, he's not giving
13 you a reason at all why he wants you to let him bleed out,
14 right?

15 A. Correct.

16 Q. But that is what you recall from your memory that
17 occurred?

18 A. That's what I heard.

19 MR. B. SHEALEY: All right.

20 REDIRECT EXAMINATION

21 BY MR. HUBBARD:

22 Q. One quick question. Captain Florida, at the time
23 you were a sergeant, correct?

24 A. Yes, sir.

25 Q. When you're giving that statement, was your focus on

1 the shootout and the takedown and what you had to do, your
2 involvement in that?

3 A. Yes, sir.

4 Q. As opposed to particular responses you got from
5 him?

6 A. Yes, sir.

7 MR. HUBBARD: Thank you.

8 THE COURT: Any recross?

9 MR. L. SHEALEY: No, Your Honor.

10 THE COURT: All right. Thank you. The witness may
11 step down.

12 MR. HUBBARD: Thank you, Your Honor. That's all we
13 have as to both the Denno and to the Cartwright issue.

14 THE COURT: Any witnessed from the defense?

15 MR. L. SHEALEY: No, Your Honor.

16 THE COURT: All right. The pre-trial motion deals
17 with meeting the suicide attempt evidence. It's your
18 motion?

19 MR. L. SHEALEY: It's my motion.

20 MR. HUBBARD: Actually, there's two. One, I would
21 like a finding as to the Denno that the individual
22 statements that were made were non Miranda, non
23 interrogation statements and freely and voluntarily
24 given.

25 MR. L. SHEALEY: Now, we have two analysis here due

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1 were voluntary and clearly made under the circumstances.
2 There's a lot of argument back and forth about when that
3 Miranda requirement kicks in from being on the ground, in
4 this case I don't think being on the ground and bleeding
5 or on a gurney being moved to an ambulance, I believe
6 that's a non custodial setting in light of what I heard
7 from the witnesses today, otherwise -- Well, there's one
8 case where it said Miranda Warnings were not intended to
9 hamper traditional response of police officers responding
10 to a scene the way they did in this case so with that in
11 mind I'll allow their statements in as the fact finders
12 may seem appropriate during the trial. All right. Yes,
13 sir.

14 MR. L. SHEALEY: Yes, sir. And now I'm going to ask
15 the Court to please put on the Cartwright analysis hat.
16 Obviously all those statements, probably four out of five
17 of them might have to do with Cartwright and attempted
18 suicide evidence. So, Your Honor, I would ask you to
19 consider that. So the Cartwright case came about in
20 2018. It's our South Carolina Supreme Court and it was a
21 case of first impression for our Supreme Court and the
22 Court of Appeals had framework together and they were
23 asked by the State to follow and the South Carolina
24 Supreme Court declined that, Your Honor. And they
25 declined that because they recognized that evidence in a

1 trial of attempted suicide can be highly prejudicial so
2 they wanted to look and they did look to other states and
3 try to figure out what were other states doing with this.

4 So just to tell you a little bit about the facts of
5 the Cartwright case and why it's no different from ours,
6 Cartwright was charged with numerous counts of criminal
7 sexual conduct with his own daughter, and he's sitting in
8 the county jail for quite a while and then one day they
9 served him with two new warrants. Boom, your troubles
10 are even more terrible and he tried to hang himself in
11 his own jail cell and he was not successful and so the
12 State over objection was able to elicit that testimony at
13 trial to say you're such a guilty guy that you thought
14 that that was the best way out because you're so guilty.

15 And so Cartwright testified in his own defense and
16 obviously he denied the crimes, but he said, you know,
17 when I got those two warrants, those new warrants, yeah,
18 I felt hopeless about being served with these two new
19 warrants. So that was the Cartwright case. They
20 affirmed that conviction, but they set this new highly
21 rigorous framework into play, and so here's what that
22 framework is. The onus is completely on the State. They
23 hope to seek any evidence of any attempted suicide number
24 1, by clear and convincing evidence they have to prove
25 that reasonably that a suicide attempt did occur. You

1 know, perhaps they have met their burden here. We've
2 heard from several different officers who talked about
3 looking, what looked to be a self inflicted wound, you
4 know.

5 Barry talked about shooting under his chin. You
6 haven't heard any medical evidence or anything or seen
7 any photos, but let's just say that they have met their
8 burden for the purposes of this conversation. They also
9 have to show, two, the defendant was aware of the
10 occurrence of the alleged crimes at the time of the
11 suicide attempt. So they're trying to make sure that
12 they can make this connection. I don't think anybody is
13 gonna claim that Barry wasn't aware that he had shot
14 B'Boy, whether it was a crime or not, and that he wasn't
15 engaged in a shootout here with law enforcement. But
16 number 3 is the thing that the State has not been able to
17 prove and no words have come out of this witness stand
18 today or Friday that would prove it.

19 They have to show by clear and convincing evidence
20 an unmistakable nexus that exists linking the suicide
21 attempt to a guilty conscious derivative of the offense
22 for which the defendant is on trial. So showing that he
23 tried to commit suicide because he feels so guilty, one,
24 for the crime of murder against Milledge Hall, and two,
25 that he feels so guilty for his participation in the

1 shootout with law enforcement on Log Creek Road that he's
2 just gonna commit suicide over his guilt over those two
3 things. That has to be done by clear and convincing
4 evidence.

5 What we've heard is and the State has asked kind of
6 a series of the same question which is you didn't know if
7 he was depressed about his wife, or if he was having
8 financial troubles, yadda yadda, and all that shows is
9 that no one knows. There isn't any evidence in the
10 record of why Mr. Barry Jones attempted to commit
11 suicide. We don't know what it is. We also, they
12 haven't proven that it is because of his overwhelming
13 guilt for shooting Milledge Hall or his overwhelming
14 guilt for shooting at Officer Florida. That is on the
15 State to prove by clear and convincing evidence. They
16 have not done that, Your Honor.

17 The framework recognizes also that if you do do
18 that, then it's subject to a 403 analysis just like every
19 other piece of evidence that the Court might be asked to
20 consider letting in. And that's the other point I bring
21 up and why I asked so hard for us to kind of flesh this
22 out of potential jurors, the idea that a man, not
23 necessarily a juror is okay hearing the concept of
24 suicide, but a man who is on trial and trying to take his
25 own life, that may be assumed morally reprehensible to a

1 perspective juror. They might not mind that he shot at
2 police. They might understand that. They might not mind
3 that he's claiming self defense and they're gonna have to
4 figure that out. But the fact that he tried to take his
5 own life, that's just wrong, that's unChristian, and that
6 just might blow their doors off in terms of giving Barry
7 Jones a fair trial. So that is after Cartwright. That's
8 part of the analysis at the tailend so --

9 THE COURT: Let's focus on factor number 3.

10 MR. L. SHEALEY: Factor number 3. I think I've laid
11 it out. There isn't any evidence that the State has
12 proven to show the mental state of Barry Jones by words
13 or actions that shows that it's his guilty derivative
14 conscious for the crimes he's on trial for. They haven't
15 elicited testimony such as, you know, let me just bleed
16 out, I guess we just heard today from Officer Florida.
17 Or the only hole that hurts is the one I put in my head.
18 I couldn't even, you know, do that right. That doesn't
19 pass the test of saying that he's doing that because he
20 feels so darn guilty.

21 THE COURT: In your opinion what would it take? I
22 mean, I don't want to get you into too much of a
23 hypothetical, absent him having previously testified
24 which he didn't admittedly, there was an objection to the
25 question, but is it your contention that the defendant

1 essentially has to admit or have some sort of
2 circumstantial evidence admitting his guilty conscious
3 before the crimes he's accused of?

4 MR. L. SHEALEY: It would take something akin to
5 what Mr. Cartwright testified, that when he got served
6 with those two warrants, he just felt so hopeless about
7 being served with two new criminal sexual conduct
8 warrants that he tried to take his own life. So it would
9 take -- That is -- They decided that that nexus was
10 established there in response to being served with two
11 new warrants while sitting in the county jail and he
12 tried to hang himself.

13 So, you know, the direct quotes from the case itself
14 are, they kind of, they recognize that this case will
15 rarely, if ever, get into evidence. They understand
16 that. They kind of understand that they're probably
17 making it difficult for prosecutors all throughout our
18 state under these circumstances, but they make it very
19 clear, they don't want to hear this type of stuff and
20 they say that evidence of suicide is not easily analyzed
21 to evidence of guilt so they try to purposely make it
22 very hard, and that is really it.

23 The State has not met their burden, I think, and I
24 would ask for purposes of this hearing to incorporate all
25 of the testimony, particularly my client's from our

1 immunity hearing back in September because he testified.
2 He didn't talk a lot about his guilt or remorse for what
3 he had to do for Mr. Hall. He talked about what he had
4 to do in the moment to stay alive and how he felt scared.
5 So the Court has a strong understanding of his position
6 as it relates to that incident. I can also inform the
7 Court, he's been sitting jail for three and a half years.
8 He's battled testicular cancer, stayed alive. He's
9 battled covid, stayed alive. He could have let himself
10 go a lot. He hasn't. He's here for his day in court.
11 So we don't have any kind of Cartwright evidence.

12 THE COURT: Well, I'm not focused on the last three
13 and a half years. I'm focused on May 7th, 2018.

14 MR. L. SHEALEY: Yes, sir. But in Cartwright that
15 was an after the facts evidence trial.

16 THE COURT: Well, that's true. That's true. What
17 difference in analysis the fact that Cartwright and I
18 don't know the specific amount of days subsequent
19 warrants came out, but what we have here is a space in
20 time of about 40 minutes; is that right?

21 MR. L. SHEALEY: Yeah. Less than an hour. We can
22 say that.

23 THE COURT: Okay.

24 MR. L. SHEALEY: Yeah.

25 THE COURT: Less than an hour.

1 MR. L. SHEALEY: Yes, sir. I think the general
2 framework is set up because prosecutors may want to
3 introduce evidence of let's say a jail attempted suicide
4 or a later date he's on bond but just doesn't want to
5 come to court. Let's say he left a note saying, man, I
6 just, I know what I did was wrong and I don't want to
7 pick 12. Well, and then he's screwed that up. You know,
8 you've got the case of Mr. Murdaugh in Hampton County
9 that everybody's heard about it. I would suspect that
10 those actions would survive a Cartwright analysis, where
11 he tried to take his own life, you know, you might say.

12 THE COURT: Let's not get into that today.

13 MR. L. SHEALEY: I know, but it comes to mind and so
14 if I'm a prosecutor, I'm gonna want to put that in
15 evidence and I'll be arguing that it survives the
16 Cartwright framework because he tried to get someone to
17 kill him and, you know, but anyway, I don't think - the
18 burden has not been met here, clear and convincing, Your
19 Honor.

20 THE COURT: We're gonna come back to 403. I'm gonna
21 let the State respond to factor number 3.

22 MR. L. SHEALEY: Yes, sir.

23 MR. HUBBARD: Your Honor, I think the first two
24 steps have been met. A jury could reasonably believe
25 that a suicide attempt occurred. That is the easy one I

1 think, from the defendant's own mouth, what did you try
2 to do? I tried to kill myself. The defendant was aware
3 of the occurrence of the alleged crimes. Obviously.
4 Like you said in the time span that he was fleeing from
5 fatally shooting Milledge Hall and he had just been in a
6 shootout with police officers, he knows he's he being
7 arrested.

8 The nexus issue, Barry Jones creates the nexus.
9 There is no requirement that it has to be some explicit
10 soliloquy. Here is why I tried to kill myself. The
11 Supreme Court doesn't require that. The Supreme Court
12 doesn't require a note, a handwritten note saying here's
13 why I'm gonna try to kill myself. Of course, it would
14 have been crazy if that was required because at a scene
15 like this, who's got the time to write a note when you're
16 firing a gun at a police officer. His actions speak for
17 himself what's going on, but also his words speak of his
18 guilty conscious.

19 Reference is made to the previous hearing. I think
20 you can draw from what we heard in that previous hearing
21 because part of my job is to let you know facts to rule
22 on, and that's been done under oath with witnesses, but
23 what was presented is Barry Jones for whatever reason,
24 obviously we're gonna debate about why he shot and killed
25 Milledge Hall, but he fled. He fled. By his own words

1 he knew he was being pursued by a marked deputy, by his
2 own words. There was some dispute as to the intersection
3 incident that will come out between he and Sergeant
4 Florida before he went down Log Creek Road, but certainly
5 when he went down Log Creek Road, Your Honor is gonna see
6 he fired first. He fired into the vehicle. This man is
7 trying to get away and initially thinks he's only got one
8 cop pursuing him. It's gonna come out that you're gonna
9 see, we're gonna see he's actually got two, but the
10 bottom line is this: As these officers have testified to
11 at this specific time when these statements were made
12 Barry Jones was trapped. He could no longer flee. There
13 was no way to get out. He had a gate behind him and both
14 sides of the road were blocked. He had officers all
15 around, and when he was engaging in this conversation
16 with Sergeant Florida, the takedown had not occurred at
17 that point in time, but he clearly says I want to die.
18 Let me bleed to death.

19 Now, Your Honor, the nexus is just that. Let me
20 bleed to death. You've inflicted this, you've inflicted
21 this gunshot wounds on me and I just inflicted one during
22 the shootout. Let me bleed to death. I want out. This
23 is my escape. I can't get out any other way. Then the
24 statement I tried to kill myself and I couldn't even do
25 that is after the fact to James Morgan, but, Your Honor,

1 I tried to kill myself and I couldn't even do that, what
2 does that mean? I tried to escape from the pool room. I
3 tried to escape going down Log Creek Road. I failed on
4 those attempts. I tried to kill myself and I couldn't
5 even do that.

6 Your Honor, circumstantial evidence is good evidence
7 and the Supreme Court in analyzing Cartwright did not say
8 that it has to be direct evidence and in the statements
9 to Sherrill, and this one, Your Honor, is I think the
10 most clear, wish y'all would have killed me. Y'all. Law
11 enforcement. Kill me. I've just fatally shot a man in a
12 pool room, I've been in a shootout with law enforcement,
13 I wish y'all would have just killed me. Finish this.
14 Y'all should just let me die, he says to Sherrill. Your
15 Honor, this is stronger than the case in Cartwright.
16 Cartwright is 30 days after the man has been put in jail
17 and he's pining away. That's why they say it's a close
18 case.

19 Your Honor, I can clearly appreciate the Supreme
20 Court's concern with just letting suicide in without an
21 analysis because as Your Honor knows people sit in jail
22 everyday and they have things happening. Their wives
23 leave them. You're sitting in jail. You're never coming
24 home. You mess with my daughters, the family is broken
25 up. All kinds of things. I've lost my job, my career.

1 You have time to think about it sitting and pining away
2 in a jail.

3 Your Honor, this is a man on a roadside. This has
4 just happened, just now, just happened. This is cleaner
5 and clearer than Cartwright could ever be. The nexus is
6 created by this man by his words. He's at this point,
7 he's at the roadside still at Log Creek when these things
8 are being said or he's being put in the back of an
9 ambulance. Your Honor, I don't know how much clearer a
10 nexus could be and again, there's no requirement of a
11 soliloquy on the part of anybody saying I did this
12 because. Let me make a record of this. I don't think
13 we'll ever have a situation like that. Anyway, that's as
14 to number 3 on the nexus, Your Honor.

15 THE COURT: All right.

16 MR. L. SHEALEY: He's talking about the nexus, but
17 it's the unmistakable nexus by clear and convincing
18 evidence that the suicide attempt is regarding the guilty
19 conscious for those offenses, and there's a dearth of
20 evidence regarding that. It doesn't exist. We know that
21 he's making almost some, you know, I wish y'all would
22 have just killed me. That's kind of a fatalistic thing,
23 but it doesn't say because I know I'm going to jail
24 forever for killing Milledge Hall. I mean, I understand
25 that it's a very hard burden for the State, but the

1 Supreme Court wants it that way because suicide attempts
2 are very personal.

3 No one knows what's going on in Barry Jones' head,
4 what he's having to deal with. People decide to take
5 their own way out for a myriad of reasons and the State
6 shouldn't just be allowed to cherry pick that and say
7 it's because he's a guilty, guilty guy. It's meant to be
8 hard and this will be a serious problem, for the record,
9 if this were to come in, if they had Cartwright type
10 evidence which we don't. Cartwright admitted I hung
11 myself because I got these two new warrants regarding
12 this offense. I mean, that's basically the threshold,
13 Your Honor. They don't want it in because of the danger
14 for extreme prejudice for a jury.

15 MR. HUBBARD: One quick follow up.

16 THE COURT: Yes, sir.

17 MR. HUBBARD: There are no, no suicidal statements
18 by Barry Jones prior to this incident. If Barry Jones
19 went to the pool room with depression and suicidal
20 thoughts, why did he defend himself? Why didn't he say,
21 Milledge Hall, you kill me. Does he really care as long
22 as he dies if he wants to commit suicide. It only occurs
23 after he fires the fatal shots, he flees and he's
24 trapped. Only then, it's almost like a spontaneous
25 thing, I am trapped like a rat. I can't get out. I'm

1 gonna try to take myself out. I failed. Why don't y'all
2 just let me die. I wish y'all would have killed me.
3 That is the only time. It's a spontaneous thing and I
4 think that's important. There's no -- In Cartwright
5 there is talk about he had talked about killing himself
6 previously. He's a suicidal man.

7 THE COURT: If I understand what Mr. Shealey is
8 trying to make, the issue for you is not that he arguably
9 wanted to end his life, but the reason why.

10 MR. L. SHEALEY: Correct. Because the State has to
11 meet the burden that it goes to his guilty conscious for
12 these crimes. Rather than face a Judge and jury, that he
13 would rather take his own way out because he's so darn
14 guilty. And to Mr. Hubbard's point, if he just wanted to
15 commit suicide because he felt so bad about the pool
16 hall, he would have done it in the hour prior to being
17 down Log Creek Road. If he felt so upset about, you
18 know, being in this potential shootout with police, he
19 would have just shot and killed himself. But every shot
20 that he takes at Officer Florida is absolutely the
21 opposite of wanting to die.

22 THE COURT: What about can the jury reasonably find
23 a guilty conscious based upon the statements?

24 MR. L. SHEALEY: I'm sorry. Say again.

25 THE COURT: Well, I'm just -- I'm going back to the

1 first element which refers to a jury could reasonably
2 find.

3 MR. L. SHEALEY: Oh, I think that is addressing a
4 suspect suicide like maybe someone OD'd and they want to
5 say it's a suicide due to their guilty, guilty conscious
6 but really they were just partying and it got away. I
7 think the State has to first establish that it was a
8 suicide attempt that occurred just so it's not a
9 question. That's the burden. Number 2, that the
10 defendant was aware of these crimes at the time of it.
11 So, you know, they lay it on him that he's thinking about
12 it, he's feeling guilty and that that is the derivative
13 of his conscious for that guilt of those crimes. So
14 that's what number 1 is about. It's just making sure
15 we're really talking about suicide.

16 And I agree. I think based on what we've heard,
17 they meet number 1 and they probably meet number 2, but
18 they don't meet number 3 or 403.

19 THE COURT: We haven't gotten to 403 yet so...

20 MR. L. SHEALEY: Yes, sir.

21 THE COURT: Let's see. For purpose of argument,
22 let's argue 403 now.

23 MR. HUBBARD: One quick response.

24 THE COURT: Sure.

25 MR. HUBBARD: I don't have to show that he felt

1 guilty about, or felt bad about shooting Milledge Hall or
2 at officers. That's not it. It's a guilty conscious.
3 When I say nexus, I'm summing that up.

4 THE COURT: Nexus is a connection.

5 MR. HUBBARD: It's a connection. It's just a
6 connection that he knows he's in trouble. He knows he's
7 done something wrong. That's it. That's all I have to
8 show. As to 403 I guess I'll defer to, since it's their
9 motion, I'll defer to them.

10 MR. L. SHEALEY: Thank you. Yes, sir, Your Honor.
11 Your Honor is clearly aware of what 403 is. It's the
12 rule that allows us to exclude all kinds of evidence
13 although it may be relevant under 401, but this evidence
14 should still be excluded if the probative value is
15 substantially outweighed by the danger of unfair
16 prejudice. And I think that's the one that is here and
17 that is addressed directly in the Cartwright case, that
18 evidence of suicide has potential, is fraught with
19 potential for extreme prejudice. That's is as a rule. I
20 will also argue in addition to 403, that 404(B) needs to
21 be considered and that's in my motion as written because

22

23 THE COURT: Referring to suicide as a bad act.

24 MR. L. SHEALEY: It's a bad act. It's actually a
25 crime under common law. So it's a moral crime to many

1 people. They're sitting here wresting with these issues
2 of malice, or self defense, and all of a sudden their
3 mental doors are proverbially just blown off by hearing
4 about how he tried to commit suicide and they're not
5 thinking. They're not applying the facts to the law now.
6 They're thinking about what a bad man he is for doing
7 that. I can't believe he would do that. I'm just - I'm
8 done. I'm done listening. And that is the problem.
9 There's plenty of evidence --

10 THE COURT: Well, maybe they may be done listening
11 if they hear that he had a firearm. I'm just saying. Of
12 course, jurors, when they get back there, who knows what
13 they talk about.

14 MR. L. SHEALEY: They might not be listening from
15 opening statements, but if they were listening to Mr.
16 Jones and listening to what we're trying to say about how
17 this case occurred, they may be so overborne by disgust
18 for a man that would try to take his own life regardless
19 of the circumstances, and that is 403. That is 404(B)
20 that has to be analyzed if they can even meet their
21 burden by clear and convincing evidence. Again, there's
22 no testimony from the stand.

23 THE COURT: Well, it's submitted in any context into
24 evidence prejudicial, to some extent highly prejudicial.
25 Tell me how it's not probative, or highly probative. Is

1 it no probative in any way?

2 MR. L. SHEALEY: It's just a balancing -- It's
3 probative if you want to agree that he ran and felt so
4 bad about the shooting or the police shootout. It's
5 probative in a way that it came in in Cartwright, but the
6 test is not whether it's probative. It's whether it's
7 more probative than unfairly prejudicial.

8 THE COURT: Is it more probative because you're
9 asserting something else?

10 MR. L. SHEALEY: It certainly is because we're
11 saying, uh-uh, he ain't guilty. He did what he had to
12 do. It's not more probative. It's more prejudicial
13 because we're asserting self defense.

14 THE COURT: Well, that wasn't my question. The fact
15 -- I know you're not in the case yet, but you're
16 asserting self defense and --

17 MR. L. SHEALEY: Yes, sir.

18 THE COURT: -- as part of self defense the issue is,
19 look, we're not saying this, didn't, we didn't mean for
20 this to happen. We pointed. We shot. Okay. But it was
21 a lawful killing based upon circumstances that were
22 presented in your case, but the fact that you're saying
23 because of what he did at the pool hall was lawful, does
24 the incident under Cartwright become even more probative?

25 MR. L. SHEALEY: It becomes, because of the strong

1 self defense claim at the pool hall, it becomes less
2 likely that this attempted suicide is related to his
3 guilty conscious derivative so because we don't have this
4 direct evidence coming from the stand, these officers
5 aren't hearing him say anything about his guilty
6 conscious, the Solicitor is asking you to infer that he's
7 trapped like a rat and therefore he must be so guilty,
8 but because of the self defense evidence shows that he is
9 not of a guilty state of mind about that. There is
10 certainly evidence of flight, you know.

11 THE COURT: And resisting arrest.

12 MR. L. SHEALEY: Sure. But regarding the suicide
13 attempt, they have not met their burden. It has the
14 potential to destroy the minds of the jury.

15 THE COURT: Okay. Let me let the State respond.

16 MR. HUBBARD: Yes, sir. Your Honor, under 403 the
17 probative value has to be substantially outweighed by the
18 unfair prejudice, by confusion, by misleading the jury.
19 That's not present here. As Your Honor pointed out, the
20 defense of self defense raises the probative value of
21 this evidence. It's already probative because it's at
22 the scene and it explains the State's narrative.

23 Your Honor doesn't have to choose which narrative
24 you're following. Your Honor is ruling on admissibility.
25 The question is, isn't it proper for the jury to be able

1 to see which narrative is actually true and when the
2 defense puts up self defense, they're saying this man is
3 using lethal force to protect himself and yet his actions
4 40 minutes later are absolutely contrary to that. His
5 actions at the shootout with Sergeant Florida, his
6 actions of shooting himself in the chin, absolutely
7 contrary. Both are probative of the State's case of
8 guilt and this notion that this jury is gonna be so
9 overwhelmed and so shocked that this man would try to
10 kill himself after he has just killed a man at the pool
11 room, after he has been in an active shootout with law
12 enforcement, that the suicide attempt is gonna be what
13 carries the day and tips the balance, Your Honor, it's
14 kind of like, well, you almost have to speculate. Jurors
15 are more offended by suicide than they are by murder.
16 And that's highly unlikely.

17 But, Your Honor, the whole issue is it's
18 admissibility for you. Does it come in. And the
19 probative value is not substantially outweighed by any
20 kind of confusion. What confusion is there? We're all
21 clear on the facts and what was stated. How is it
22 misleading to the jury? The jury can consider this, but
23 they can consider their arguments as well. That's their
24 burden is to determine what's true here. What's behind
25 all this. And that's what evidence is that we'll be

1 putting up.

2 But and as to the 404(B) argument, Your Honor, we go
3 back to our original hearing, the res gestae. If you
4 have a res gestae ruling, it trumps 404(B). This is part
5 of the incident. We've kind of addressed that already.
6 Yeah, under common law suicide's a crime. I can't
7 remember ever prosecuting a dead man for killing himself.
8 Can't remember prosecuting somebody for trying to kill
9 themselves. Usually give them mental health or medical
10 health if there's no mental health issue as in this case.

11 But, Your Honor, it's part of the res gestae. It's
12 clearly probative and I think it's additional elements
13 that this man knows he's done something wrong, he's
14 trying to get away. Your Honor doesn't have to believe
15 that. It's evidence for the jury. How in the world can
16 that be misleading? On the heels of he's fleeing from
17 the scene, on the heels of a shootout with cops. How is
18 this one additional piece that fits that same narrative
19 misleading, confusing? It's highly probative. Thank
20 you, Your Honor.

21 MR. L. SHEALEY: And you do have to believe it, Your
22 Honor, to pass this test that the State has the burden.
23 You have to believe that the State has proved by clear
24 and convincing evidence to you as the gatekeeper for this
25 hearing and it hasn't occurred.

1 MR. HUBBARD: Your Honor, the correction there is,
2 you have to say that there's clear and convincing
3 evidence that a jury, for this to go to the jury. You
4 don't have to embrace one side or the other. The Court
5 does not require you to say I accept the State's argument
6 over the defense's.

7 THE COURT: I think y'all agree with that. I get
8 that. It's an unmistakable nexus connection. An
9 unmistakable nexus by clear and convincing evidence
10 linking the suicide attempt to a guilty conscious
11 derivative of the offense for which the defendant is on
12 trial. So linking attempted suicide to a guilty
13 conscious. Guilty conscious, I guess my final question
14 to both of you is, is guilty conscious a, proved by,
15 circumstantial evidence can apply, can go into the hat,
16 the clear and convincing standard, but does Cartwright
17 ask for specific evidence that shows he felt guilty or
18 does is it all due to the various statements, voluntary
19 statements that I found were voluntarily made at the
20 scene, build up toward a guilty conscious? That's,
21 that's just, that's the only thing I'm wondering.

22 MR. L. SHEALEY: Cartwright is a relatively recent
23 case. I don't think there's a magic test. They have
24 what happened in Cartwright.

25 THE COURT: And it hasn't been cited by anybody.

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1 MR. L. SHEALEY: Right.

2 THE COURT: It's so new.

3 MR. L. SHEALEY: But what was acceptable in that
4 case as they made out this intense framework was the
5 man's own admission that he became, he felt hopeless
6 being served with these new warrants. Now, what we have
7 here in the record regarding his guilty conscious
8 derivative is nothing. We've asked of every witness
9 other than the exact words that were said, you know,
10 which are somewhat fatalistic whatever they are, he's not
11 saying why he did it. The questions are, was he
12 depressed about his wife. No. Did you hear him talk
13 about financial problems? No. The State would like for
14 you to infer that he is there and it must be because he's
15 so guilty that he wants to leave this world, but that's
16 not in the record. That is not from the witnesses that
17 we heard that created this record, and it is their burden
18 and that is the whole point. It's just not there. I
19 understand why the State wants it. The suicide is an
20 extremely personal thing, and if Mr. Barry Jones
21 testifies and if he's forced to address this allegation
22 in this courtroom, it ain't gonna be that he's so darn
23 guilty about shooting at Mr. Florida. So I don't know
24 what else to say, Judge. We can talk until we're blue in
25 the face.

Steven E. LeBlanc, R.P.R., Circuit Court Reporter
P.O. Box 184, Lexington, South Carolina 29071

1 THE COURT: You talk about what?

2 MR. L. SHEALEY: We've talked until we're blue in
3 the face.

4 THE COURT: Oh, oh.

5 MR. HUBBARD: Well, I would like to address your
6 question specifically. Does it take direct evidence or
7 circumstantial evidence and the answer is both. It can
8 take either one and I believe the Court does allude to
9 that in Cartwright. And here's why. In Cartwright it's
10 three to two. You have two people concurring, Justice
11 Hearn writes an opinion and she is joined by Judge Maddox
12 who is sitting in with the Court. She basically concurs
13 simply because she finds the admission of this as
14 harmless error. That she would always keep it out unless
15 there's like a suicide note. She wants direct evidence.

16 The majority, Your Honor can infer, rejected that,
17 otherwise they would have joined her and said, yep, you
18 always have to have some kind of direct evidence. That
19 is on, at least on mine, page 12 where she talks about in
20 my view, a suicide without some tangible and culpatory
21 evidence such as a note penned in the defendant's hand
22 which states that his suicide was motivated by guilt
23 stemming from his commission of the crime should never be
24 admitted. Three other justices clearly rejected that and
25 because of that she said she would dissent, but she only

1 concurred because she believed that because of all the
2 other evidence, it was harmless error.

3 So our court has, I believe, answered the question
4 Your Honor asked in Cartwright. There doesn't have to be
5 a pen to note. There doesn't have to be a soliloquy.
6 There doesn't have to be direct evidence. Your Honor for
7 admission purposes can relying on circumstantial evidence
8 and the jury as all juries can rely on circumstantial
9 evidence on this issue as well as all other issues.

10 MR. L. SHEALEY: I don't feel I need to argue
11 further, but the State has not met their burden on
12 circumstantial evidence in this particular case.

13 THE COURT: All right. Okay. I'll take a moment.

14 (Short break.)

15 BAILIFF: All rise.

16 THE COURT: Please be seated. Thank you. Okay.
17 One of the things in Cartwright of importance in that
18 case it was a close call, a close decision, but it is a
19 case by case analysis. I - you know, we analyzed
20 Cartwright, the lawyers did, they made arguments based
21 upon it, you also have to take account of the facts
22 present in this case, and ultimately I'm gonna find that
23 the three factors are met under Cartwright. I believe
24 there is, based upon the testimony I've heard from the
25 witnesses, the testimony I've heard regarding previous

1 immunity hearing as far as the chain of events that
2 occurred at the shooting, after the shooting, leading up
3 to the post - leading up to the confrontation with law
4 enforcement on the dirt road approximately 40 minutes
5 after the shooting of Mr. Milledge Hall, the statements
6 made, excuse me, the act done in the attempted suicide
7 with the self inflicted wound by the defendant and the
8 statements that followed in close time and proximity in a
9 non custodial manner after I believe demonstrate a nexus
10 by clear and convincing evidence of attempted suicide
11 that can be linked to a guilty conscious.

12 Obviously the defendant may not agree with that, and
13 the jury will have an opportunity to hear both sides of
14 the story as the trial progresses. For 403 purposes, any
15 time this type of evidence comes up, it certainly
16 requires an analysis. I think the lawyers made a good
17 record on both sides of their arguments. Ultimately in
18 light of, and the specific facts of this case, where a
19 defendant is asserting self defense and there's already
20 been sworn testimony laying out the factual basis for
21 that asserting of self defense and all of the factors
22 that occurred after that, I think the highly probative
23 nature that encapsulates that entire story of facts
24 outweighs the prejudicial effect of the evidence of
25 attempted suicide.

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1 To be clear, it is a close call and it's supposed to
2 be. I recognize that the Supreme Court in 2018 wanted a
3 rigorous framework and I made a holding according to
4 those wishes. I think in a case by case analysis here in
5 Mr. Jones' case that that evidence may be admitted and
6 the fact finder may or may not believe it but can give it
7 the weight they believe it deserves. So that's the
8 ruling on that. We need to get the jurors out here and
9 find out which witnesses.

10 MR. L. SHEALEY: Yes, sir. And you asked me to
11 write that down. I did email your clerk but I also have
12 the --

13 THE COURT: I apologize. I have two electronic
14 devices up here and neither one of them are connected to
15 the Internet.

16 MR. L. SHEALEY: The best that you can read my
17 handwriting those are the jurors with their numbers and
18 the issue.

19 THE COURT: Right. Just so I'm clear, Mr. Shealey,
20 as far as juror number 28, he's a Facebook friend with
21 now Captain - what's Florida's rank?

22 MR. HUBBARD: Captain. Yes, sir.

23 THE COURT: Captain Florida. Alleging that he
24 may be friends with his son on Facebook and a potential
25 witness. How is that last name, Mr. Shealey?

1 cause them to have a prejudicial view of Mr. Jones and
2 the type of man he is. Who carries a garrote around? I
3 don't have it in my gun safe, I'll tell you that, Judge.
4 It's 404(B). It's bad character and it's not relevant to
5 this because he didn't use those weapons, so I would
6 object to that. And I guess I understand your ruling,
7 the way it is and I don't expect you to change it just
8 because I'm objecting to it, but while I'm here before we
9 swear in the jury I think I'll just, for the record, I'm
10 gonna object to the denial of the immunity. I don't
11 think we should be here on a murder charge. I object to
12 the lack of severing these cases. I don't think we
13 should be hearing about them both in the same trial. I'm
14 gonna object to the lack of attorney conducted voir dire
15 and the lack of extensive supplemental voir dire. I'm
16 gonna object to allowing the Cartwright suicide attempt
17 evidence to come in.

18 THE COURT: And any other pretrial motions.

19 MR. L. SHEALEY: Any other ones I have, Judge, just
20 to cover my bases here.

21 THE COURT: And I'll, if I remember, I'll allow you
22 to renew those objections throughout the trial.

23 MR. L. SHEALEY: Yes, sir.

24 MR. HUBBARD: Just a quick follow up, Your Honor.
25 Your Honor has ruled on the weapons, but obviously I

1 arguments and I have instructed you on the law of this
2 case. It's your solemn responsibility to determine the
3 guilt or innocence of the defendant and your verdict must
4 be based solely on the evidence as it is presented to you
5 in this trial and on the law as I instruct you during and
6 at the close of this trial.

7 At any point during the trial if something comes up
8 and you need to get my attention, if someone absolutely
9 needs to have a break, which can happen, just get my
10 attention, get one of the bailiff's attention and we'll
11 take a break as needed. I told you on Friday we go
12 generally about an hour and a half in between breaks,
13 sometimes a little less, sometimes a little more. It
14 just depends on where we are in a witness' testimony.

15 Anyway. At this point, ladies and gentlemen, what I
16 want you to do is give your complete and undivided
17 attention to the attorneys in this case as they make
18 their opening statements.

19 MR. McNAIR: Thank you, Your Honor. May it please
20 the Court.

21 THE COURT: Yes, sir.

22 MR. McNAIR: May 7th of 2018, 63 year old Milledge
23 Hall went to the doctor that morning for a routine heart
24 check-up. He had had triple bypass surgery a couple
25 years prior. Later that same day he was carried back to

1 that hospital on a stretcher after being shot twice by
2 Barry Jones where he died. All he did was to ask Barry
3 Jones to leave the Johnston Pool Room. He lost his life
4 because all he did was ask Barry Jones to do something he
5 didn't want to do, leave the Johnston Pool Room.

6 Officer Florida that same day was having supper with
7 his family off duty. He was heading home following his
8 wife, heard the call come over the radio about the
9 shooting at the Johnston Pool Room. He didn't envision
10 his day would end with him following Barry Jones down a
11 secluded dirt road where Barry Jones backed his Mercedes
12 into the woods and opened fire on him with an AR-15
13 ambushing him.

14 You will see pretty much all of this case on video.
15 I'll tell you about it right now, but you're gonna see it
16 on video. The murder of Milledge Hall was captured on
17 the video surveillance system at the Johnston Pool Room,
18 the attempted murder on Officer Florida was captured on
19 police dashcam. All you have to do in this case, ladies
20 and gentlemen, is believe your own eyes.

21 You're gonna hear that Milledge Hall was just trying
22 to help out his grandson Clayton Hall who owned the
23 Johnston Pool Room. Clayton and his wife were going on a
24 short vacation on Sunday. Prior to going on vacation,
25 Clayton told his grandfather about an incident they had

1 with Barry Jones that prior Saturday night where Barry
2 Jones had been disrespecting the staff. Clayton told his
3 grandfather Milledge that he didn't want Barry Jones to
4 come back to the pool room and that he could tell him not
5 to come back the very next time he saw him.

6 Well, that following Monday while Clayton was on
7 vacation, Milledge is at the pool room watching over
8 things, Barry Jones walks in. Milledge decides he's
9 gonna do what grandfathers do. He's gonna help his
10 grandson out. He's gonna help him handle the situation.
11 So when Barry Jones leaves the first time you'll hear,
12 Milledge walks outside trying to talk to him to ask him
13 not to come back. Hr tried. He went outside to do it so
14 he wouldn't embarrass him in front of everybody who was
15 inside.

16 Barry Jones is in his vehicle by the time Milledge
17 gets out there. He taps on the back of Barry Jones'
18 vehicle but Barry doesn't stop. He drives off. I don't
19 know if Milledge and Barry talked before Barry left, but
20 apparently Barry Jones knew what Milledge wanted to talk
21 to him about because he left spitting mad. He drove to
22 his girlfriend's house where he lived, loaded up his
23 silver Mercedes with an arsenal of guns, ammunition, a
24 safe full of ten thousand dollars cash, and other things
25 you may need if you had murder on your mind. But we

1 don't have to wonder what Barry Jones had on his mind in
2 this case. He told us. Ten minutes before getting back
3 to the pool room he texted his buddy Joe Mims, can you
4 calm me down? I'm going to kill that B'boy. That's what
5 people called Milledge Hall, B'boy. He told his friend
6 he was going to kill B'boy and that's exactly what he did
7 on video. And you will see it on video, ladies and
8 gentlemen.

9 You're gonna see when Barry Jones pulls up to the
10 pool room the second time, Milledge Hall walks out to go
11 talk to him respectfully, walks up to his driver's side
12 window, they talked for over 10 minutes. You're gonna
13 see Milledge Hall doing this (indicating) that anybody
14 can understand what he wants Barry Jones to do. Leave.
15 Leave. But Barry Jones doesn't leave. Nobody is gonna
16 tell Barry Jones what to do.

17 At one point in the video you will see Milledge Hall
18 pull up his shirt to show Barry Jones what's on his
19 waistband. You know what's on his waistband? His phone.
20 The only thing he threatens to do to Barry Jones is call
21 the police. They talked for almost 10 minutes. Milledge
22 Hall then turns to walk back into the building. All of a
23 sudden you will see on video he turns around. You know
24 what happened? Barry Jones called his name. He called
25 him back to the car. Then as Milledge Hall is walking

1 back to the car, as soon as he gets around the hood of
2 Barry Jones' vehicle, he pops out of the Mercedes and
3 pops him with two shots, then he gets in that Mercedes
4 and he flees the scene.

5 And like I mentioned, about that same time Officer
6 Florida is just finishing supper with his family,
7 following his wife home when he hears the call and lo and
8 behold on the way home what does he see at the
9 intersection right off of Highway 25, he sees Barry Jones
10 in that silver Mercedes. So he does what any law
11 enforcement officer has to do, he follows him. The man,
12 he had just committed a murder. He follows him. He
13 follows him at a distance until backup can arrive. They
14 go down Highway 25 north for aways. Barry Jones then
15 turns onto Pleasant Lane off of 25. Officer Florida
16 follows him and when he makes that turn onto Pleasant
17 Lane, he sees Barry Jones in that silver Mercedes parked
18 at the head of Log Creek Road. Barry Jones is standing
19 there pointing an AR-15 at him.

20 Florida makes the decision to speed on past him. At
21 that point Barry Jones starts heading down Log Creek Road
22 into the woods, a logging road. About that time Officer
23 Kathmann finally catches up with Florida and Barry Jones,
24 he's the one that's got the dashcam so from that point
25 forward on dashcam you're gonna see Officer Florida and

1 Officer Kathmann following the dust down Log Creek Road
2 and then the dust stops and there's Barry Jones backed
3 into a cut out in the woods off of Log Creek Road
4 standing there behind his driver's side door with an
5 AR-15 and he opens fires on Officer Florida.

6 Officer Florida jumps out, grabs his pistol, fires a
7 few rounds back at him, is able to get around to the
8 other side of his vehicle. Officer Kathmann fires some
9 shots to help provide Florida some coverage. That goes
10 on, this shootout here goes on for several minutes.
11 Officer Florida is able to get his 12 gauge shotgun,
12 fired two rounds of buckshot which we believe struck
13 Barry Jones. Then after being shot and realizing he was
14 trapped, he couldn't escape. He had nowhere to go. He
15 turned his gun on himself. That AR-15 he shot was found
16 by his vehicle with 12 fired casings that he fired at
17 Florida. Also on the ground was found a .38 revolver
18 with three spent casings, two for Mr. Milledge Hall and
19 one for himself. They also found enough guns and other
20 ammunition in his vehicle that he could have killed every
21 officer in Edgefield County.

22 Like I said, he's charged with the murder of
23 Milledge Hall and the attempted murder of Officer
24 Florida. What this is not, ladies and gentlemen, is a
25 case of self defense. The defense does not have to say a

1 word during this whole trial. We have the burden of
2 proof and that's fine. But I suspect that if you wanted
3 to say this was self defense, you would want Milledge
4 Hall's phone to be a gun, wouldn't you? But you can see
5 it for yourself on video and beyond that we have multiple
6 eyewitnesses from the pool room who were there who could
7 see it closer in person than you can see it on the video
8 and not one credible witness is going to come in this
9 courtroom and say Milledge Hall ever had a gun, that
10 Milledge Hall ever had a gun in his waistband or ever
11 pointed a gun at Barry Jones or had a gun anywhere on his
12 person. All Milledge Hall had on him was a phone.

13 The good thing about a jury like yourself is y'all
14 have common sense. You get to decide what's reasonable
15 and what's not, who is believable and who is not, who has
16 the motive to lie and who doesn't. You get to decide
17 that. Use your common sense, believe your eyes.

18 Milledge Hall lost his life because he told Barry
19 Jones to do something Barry Jones didn't want to do,
20 leave. Officer Florida almost lost his life for doing
21 his job, for doing something we all expect the police to
22 do, don't let a murderer get away. He's lucky to be here
23 today.

24 I don't know any of you and y'all don't know me. We
25 may never see each other again, but we picked you because

1 we believe that y'all can see the truth and we're gonna
2 ask you at the end of this trial to do justice. We are
3 all accountable for our actions. Barry Jones is
4 accountable for his actions. Find him guilty. Thank
5 you.

6 MR. L. SHEALEY: May it please the Court.

7 THE COURT: Yes, sir.

8 MR. L. SHEALEY: How y'all doing? Wooo! Feel it.
9 Y'all feel it? Feel some passion. I feel hate in my
10 bones, Mr. McNair's eloquent modern day lynch mob that he
11 tried to whip up here. I don't know if y'all have ever
12 sat on a jury before in your life, but it ain't about
13 modern day lynch mob. It's about the evidence that comes
14 from this witness stand. It's about the law. It's about
15 the facts. To do your job as jurors you need to decide
16 this case with calmness, with cool reflection, with
17 reason and careful analysis. What our courts and our
18 system don't want is for you to decide this case based on
19 anger, fear, hate, because that's not what it's about.
20 That is not what this judicial system is about.

21 But let me tell you what it is about because this
22 may be a foreign concept to everybody. Barry Jones is
23 innocent until proven guilty beyond a reasonable doubt by
24 the evidence on that witness stand. Our Supreme Court
25 uses fancy language that I like. Says that Mr. Jones is

1 cloaked in a robe of righteousness. That's the
2 protection that our system affords people charged with
3 crimes. He sits there protected by that cloak of
4 innocence from the day that they took him in custody,
5 they charged him, all the way throughout this case until
6 we're sitting here before you today and only if after
7 they've met their burden beyond a reasonable doubt is
8 that cloak of righteousness removed from Mr. Jones.

9 What is reasonable doubt? Y'all think y'all know
10 what it is? Reasonable doubt. You're all reasonable
11 people. That's the one thing I agree with Mr. McNair.
12 That's why we put you on this case. From what little we
13 can tell you folks seemed to want to be here to do
14 important work and be reasonable folks. So if you folks
15 have a doubt about the State's case, it is reasonable
16 doubt. We all know what doubt is. You go to the fridge
17 thirsty, you see that jug of milk, not exactly sure when
18 you bought it, says it expires today, but, mmm, that's
19 doubt. That's real world doubt. You're doubting whether
20 you should drink that milk or not. It doesn't smell
21 right. You think it might give you a tummy ache later if
22 you drink it so you don't. That's doubt. That's doubt.

23 So the State has a vast burden to prove here and
24 it's meant to be that way. It is meant to be hard to
25 convict somebody of a crime in our country and in South

1 Carolina. It ain't meant to be easy. You may not like
2 Mr. Jones. You may think, oh, this is a tough one, but
3 unless you're convinced beyond a reasonable doubt, you
4 can't convict. You wouldn't be doing your job. You
5 would be violating your oath if you did anything else and
6 they are not gonna meet their burden.

7 It's like a football field. The State starts with
8 the ball at their one yard line and every play, every
9 piece of evidence, they can either try to prove it to
10 y'all, they might get knocked back, they might fumble,
11 and it doesn't matter if they get all the way to the one
12 yard line, if they fumble the ball before they get to the
13 end zone and you're left with a doubt about their case,
14 you cannot convict Mr. Jones. It is designed to be that
15 hard.

16 What are you sitting here deciding? What are the
17 charges? Murder, attempted murder. It's not necessarily
18 what you think. The Judge ultimately is gonna tell you
19 what those things mean at the end of this case. Here's
20 what murder is. I've been doing this a long time. I can
21 tell you what it is. It is the unlawful killing of
22 another human being with malice aforethought, all right?
23 Unlawful means it's not lawful, so if it's self defense,
24 it's lawful, end of story, okay?

25 With malice aforethought. Malice is a tricky one.

1 You have to sit here and decide, all right, maybe we
2 don't think it's lawful. Maybe we don't think it's self
3 defense, but is it malice. Have they proved malice.
4 Here's what malice means. Malice is evil, hatred,
5 wickedness, depravity, all right? It's not fear. It's
6 not panic. It's not emotion. Malice is evil. So unless
7 and until the State proves that mental state at the time
8 that Barry shoots his weapon whether it's at the pool
9 hall or whether it's out on Log Creek Road, that's not
10 murder, if you think he was fearful or panicky.
11 Certainly not if he's acting in self defense.

12 Attempted murder requires malice too. They're gonna
13 say that Barry Jones tried to kill Officer Florida. That
14 is, again, an unlawful attempt to kill. It has to be a
15 specific attempt. You have to specifically try to kill
16 somebody. It can't be a close call. It can't be
17 accidental, it can't be I shot generally in his direction
18 and, again, with malice, evil, hatred in your heart at
19 the time you shoot your gun. It's a mental state. It's
20 something that's in your head, in your heart. They have
21 to prove that.

22 Barry Jones doesn't have to proof anything. I want
23 you all to understand that. I want you to have an
24 advanced understanding of this because you might not be
25 thinking about it until the end of the day when the Judge

1 asks you, you hear these concepts for the first time, I
2 don't want that to be the first time. I want you to
3 think about it now. Every action, every piece of
4 evidence, does it sound like evil, hatred, malice, or
5 does it sound like something else.

6 I want to have you guys to stay with me throughout
7 this case. Every attempt to whip you up into a modern
8 day lynch mob, every attempt to make you decide this case
9 on anger or fear, I'm going to try to draw you right
10 back. Look at the evidence. Be calm. Talk to each
11 other. Do your duties because that is a very high burden
12 the State has and it's meant to be that way. You are
13 going to hear evidence of self defense. You're gonna
14 hear right from Barry Jones' mouth. He doesn't have to
15 come and testify. He doesn't have to do anything except
16 sit there in his robe of righteousness, but he's gonna
17 talk to you and he's gonna talk to you for a long time so
18 you can understand what was going on in Barry Jones' mind
19 that day.

20 You're gonna hear that Barry worked at SRS for 27
21 years, Savannah River Site, good job, his wife, met her
22 there, Dana, she got cancer. He dealt with her for eight
23 years until she ultimately died. It was very tragic and
24 he retired early. He couldn't stand to work at Savannah
25 River Site anymore where he used to work there with his

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1 wife. He's from Johnston. He moved back home to
2 Edgefield. Started over. He's retired. He's in his mid
3 50's. He's in the next chapter of his life and he starts
4 going to this pool room, to the Johnston Pool Room. It
5 used to be owned by Jerry Holloway when Barry first
6 started going there in the fall of 2017.

7 Then Clayton Hall, B'Boy's grandson, bought it out
8 somewhere around the fall or winter of 2017 and he owned
9 and operated it up until the time of this incident which
10 was in May. So you're gonna hear about how Barry
11 frequented that establishment. He met his girlfriend
12 Angie Smith. Whether the State calls her or not, she's
13 critical to this case because that is what that day was
14 about. That day was not about Barry and B'Boy. That day
15 was about Angie Smith and the bar. He had been dating
16 her for about eight months at the time of this incident.

17 You're gonna hear from him that the relationship had
18 run its course. It wasn't fun anymore. They had both
19 been married. Barry was a widower. She was divorced and
20 they met each other and started getting along, starting
21 dating. He lived with her at the time of this incident.
22 But again, the relationship wasn't, it ran its course.

23 Here's something critical that was not brought up by
24 Mr. McNair in his opening. Angie's ex-husband was
25 Investigator James Smith with the Edgefield County

1 Sheriff's Office. So let that sink in. That is who the
2 ex-husband was. That is the same man that signed off on
3 Barry Jones' murder warrant. Imagine that. He's the
4 one. It's a small town, but he's tasked with coming out
5 and leading the investigation into whether Barry Jones
6 shot and killed B'Boy, whether it was murder or not. Her
7 ex-husband. Here's the other thing Angie is the cousin
8 of B'Boy.

9 Now, this is small town stuff. Angie is the cousin
10 of the man that Barry shot so that makes James Smith, the
11 man who signed off on Barry's murder warrant the
12 ex-in-law of the victim in the case, and he's supposed to
13 give a fair and impartial assessment of this event and
14 decide whether Barry Jones needs to be charged with
15 murder or not for essentially shooting a former family
16 member by marriage.

17 So I'm gonna ask you guys to think really critically
18 about this case. When you think about what was done at
19 that pool hall, I'll go ahead and tell you what was done.
20 Nothing. I'll tell it to you again. Nothing. The only
21 thing that was done by law enforcement was they arrived
22 on scene with all of the witnesses who are all B'Boy's
23 friends, these are his friends, it will be very evident
24 to you, watch the video, they all come running out, about
25 ten folks, Barry leaves, and they all stand around

1 talking and give about, you'll see they give about half
2 page statements. Very quick statements. They're all
3 huddling, cuddling, talking about what happened.

4 There's not a crime scene set up. They don't set up
5 a perimeter to preserve evidence. They don't separate
6 people before they give statements. This is all
7 loosey-goosey on the fly. All they care about is who did
8 the shooting. They don't care about the why or what.
9 They will talk to you and say B'Boy only had a phone.
10 That ain't a gun. It was just a phone. They didn't find
11 a phone either. They didn't find a phone either. They
12 didn't find anything because nothing was done to ensure
13 that you could figure out what happened in this case.

14 Barry Jones is going to tell you from his own mouth
15 that the relationship had run its course. You're gonna
16 hear from his text messages. You've already heard about
17 the one, right? You heard about that one, I'm going to
18 kill B'Boy. That sounds pretty bad, doesn't it? The
19 State wants us to be held responsible for anything we say
20 on our text. That might not be a good idea for most
21 folks, but that day Barry had decided enough was enough
22 with Angie. He was gonna break up with her. You'll see
23 it in his text messages. He even had to call a friend of
24 his, a local Johnston police officer named Officer Mathis
25 that he was on text basis the night before. This night

1 when they claim Barry was a belligerent and drunken man
2 at the bar, and management made a decision no more. No
3 more Mr. Jones around here. We're gonna leave and we're
4 gonna just tell him at some point he can never come back.

5 That night Barry had to call the law on Angie,
6 B'Boy's cousin. By the following Monday, Barry stops by
7 the bar which he always does on Monday afternoon, catch
8 up with his few friends just to see what did you do over
9 the weekend. So the State's position is that Barry was
10 no longer welcomed there and that B'Boy on his own kind
11 of as the grandson who might have some belief that he has
12 that right to tell people to leave or not leave the bar,
13 that he's gonna take that up with Barry that day.

14 Watch the video. Barry comes in the first time that
15 afternoon and he's there for about 45 minutes, an hour,
16 catching up with his friends. He'll tell you he had two
17 or three beers, Mich Ultra Lights. B'Boy doesn't say a
18 word to him. No one is gonna say that B'Boy came over
19 during that entire time to say, oh, I forgot, you're not
20 supposed to be here. We don't like you around here
21 anymore. No. They just let him drink a couple, few
22 beers, and he walks out. He's having problems with
23 Angie. She's mad that he went to the bar without her.
24 Angie's got a drinking problem. He's gonna tell you
25 about that. It's right in her text message. I can't

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1 believe you left me. I'll come show out. We ain't gonna
2 work like this. And meanwhile he's texting his other
3 friends. Oh, Angie, it ain't gonna work. And they're
4 saying, well, that's why I fly solo. He's clearly got
5 Angie on the mind.

6 You'll hear from a witness that we're gonna bring
7 you that says Barry was there and only worried about
8 Angie and he didn't have any thoughts about B'Boy that
9 day. Now, B'Boy had threatened him in the past and he
10 had been worried about B'Boy. This was personal between
11 them. This wasn't bar business. This was B'Boy
12 business. Barry moved back into town, dating B'Boy's
13 cousin, driving a Mercedes, college educated, got plenty
14 of money and Barry's not shy. You'll hear from him. He
15 doesn't think the bar is being run very well. He doesn't
16 care for 50 cents in the tab being misplaced or not
17 calculated right. He's not a shy man. But at one point
18 you'll hear how he brought up to B'Boy, how I hear you've
19 been telling people that I got fired from Savannah River
20 Site, not retired.

21 He retired early because his wife had cancer and her
22 death and how he couldn't stand to work there anymore.
23 You're gonna hear how B'Boy said, I don't care. That's
24 what I heard. You're gonna hear about that from Barry.
25 You're gonna hear about that from another witness we're

1 gonna bring you. Tony Friar who witnessed the same
2 conversation. Barry knew all about B'Boy from his
3 personal experience with the prior threat. He was scared
4 of B'Boy. He was worried about B'Boy, and that day he
5 had Angie on his mind.

6 So after all of that drama from Angie, she came to
7 the bar, and you're gonna hear instead of coming to see
8 Barry after all those text messages, she went running
9 over to where B'Boy was. They kept their distance in the
10 bar and she's talking to B'Boy. She's not talking to
11 Barry. That's unusual. I'm gonna ask you to think, what
12 was she talking about. Could it have been the fact that
13 Barry called the police on her the night before? Could
14 it be the fact that he's just, the relationship's run its
15 course?

16 Barry, you will see Barry Jones leave that pool room
17 walking out casually to his car, Angie's on the mind, on
18 the brain. He's gonna tell you that he decided to go to
19 her house where he'd been living for almost seven months,
20 he had all his things over there, he was gonna move out
21 and break up with her, and while she was at the bar
22 talking to her cousin B'Boy, he was gonna get his things.
23 You know what his things were? Guns, a safe with a lot
24 of cash, all of his prescription medication, his
25 toiletries, his shaving kit, all of his mail, his mail

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1 because he's not going back there. He doesn't want to
2 miss his mail. He's a Clemson fan. He had lots of
3 Clemson shirts. I don't care for them, but that's what
4 he got. He put all that stuff haphazard in the car while
5 texting his friends.

6 Well, what happens when he gets into the car in the
7 first place, you're gonna see it, B'Boy lumbers out to
8 where he is after letting him be there at the bar for
9 about an hour and (indicating), hey, he makes that motion
10 on the back of Barry's car as Barry has his right turn
11 signal on getting ready to leave to go to Angie's. Barry
12 doesn't know what in the world that's about. They had no
13 interaction that day. Barry, all he can think about is
14 the last time he was threatened by B'Boy in the bar and
15 B'Boy told him I'm gonna beat your ass about this car
16 when Barry tried to get him to stop telling lies about
17 how he left SRS.

18 So now Barry's got a complicated day. All of you
19 people have broken up with somebody. All of you have,
20 and it's not fun and once you make that decision,
21 you want to get it done. You don't want to dwell on it.
22 It's kind of like ripping the Band-Aid off. Barry was
23 breaking up with his girlfriend of eight months, and here
24 comes her cousin for reasons unknown banging on the back
25 of his car gesturing at him like this (indicating.) He

1 drives off. He doesn't get out and try to fight B'Boy,
2 he doesn't pull any guns, but it's on his mind and he is
3 concerned. It's like I said, he wants all of his worldly
4 possessions out of Angie's house and he's thinking how do
5 I break up with her.

6 You're gonna hear that he didn't want to break up
7 with her at her house because he had to call the law on
8 her the night before. He doesn't want to be stuck there
9 with her, an emotional setting. He wanted to do it face
10 to face. He's old school. He's not gonna text her to
11 break up. This man is in his mid 50's. He wanted to
12 find a place where he could do it in public, man to woman
13 and so in that time she had been texting him still. I
14 can't believe you left. Everybody's staring at me. But
15 eventually she says, see you soon. See you soon. No
16 fighting. So that let's Barry know that perhaps I can
17 drive back to that pool room not with any intention to
18 start stuff up with your cousin, but if I can come there,
19 you'll see me, you'll come out and I'll break up with you
20 person to person. It's done. I'm not spending the night
21 at your house anymore.

22 He is concerned about B'Boy. He is, so he text two
23 people, one is a guy named Joe Mims. That's his friend
24 who's known him since high school, a big guy, and he had
25 already been texting him about hanging out. He says,

1 hey, are you available? I don't need this bs. Can you
2 come calm me down? I'm gonna kill that B'Boy. He texted
3 that. He doesn't get a response from Joe Mims. And
4 you're gonna hear that he thought if I could get someone
5 to come with me they could defuse this situation, I can
6 do what I need to do with Angie and B'Boy won't come out
7 after me.

8 All right. Here's the thing I really want you to
9 think about. The State says, no, no, no. He texted him.
10 I'm gonna kill that B'Boy. That's a plan to kill. B'Boy
11 got killed so that's just it, right, guys? No. Who else
12 does he text at the same time after Joseph Mims, his
13 friend doesn't respond? He text police. He text his
14 friend Officer Mathis who did come to his house and help
15 him out the night before when Angie wouldn't go to bed,
16 when she was drinking too much. He said, hey, are you
17 available?

18 Ladies and gentlemen, this text message that the
19 State will harp on, they love it. I understand why they
20 love it. I'm gonna kill that B'Boy and then B'Boy gets
21 killed. It's like, if you're old enough to remember the
22 O.J. Simpson case, like that glove. Everybody becomes
23 obsessed with that glove and the glove didn't fit, it's a
24 red herring. It's something to get you excited up, make
25 you think that this is premeditated murder. No. No. He

1 will eventually tell you about it. You do not text a
2 police officer, are you available, if you're about to
3 commit murder on anybody. If you're about to commit an
4 assault at all.

5 He had all his worldly belongings and went to that
6 bar and he waited in his car for almost a minute. He
7 didn't go charging in there looking for anything about
8 B'Boy. He waits. And who comes out? It's not Angie.
9 It's B'Boy. And you have an escalating 10 minute
10 conversation from B'Boy with gestures and spitting and
11 this (indicating) right at Barry's car window and he only
12 cracks his window six inches because he's too scared to
13 get out, and he's not trying to get into a physical
14 confrontation with B'Boy. B'Boy's six one, 300 pounds.
15 He's a big ole boy. Barry's about five ten, 190 at this
16 time. By strength and size alone it would not be a fair
17 fight, but B'Boy doesn't come out on bar business. He
18 comes out on B'Boy business because he doesn't like
19 Barry. He's heard it all from Angie about what happened
20 and he wants to have some words, but Barry doesn't want
21 to have words. Barry wants to tell him to go get Angie.
22 I'm not fooling with you.

23 You're gonna hear about exactly what happens there.
24 This escalates and escalates. B'Boy gets more mad and
25 more mad until he shows him his gun. The State wants to

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1 tell you this is a cell phone. B'Boy did have a cell
2 phone. He did. Watch it on the video. He's got a cell
3 phone, a big case clipped right here, as some of you
4 folks from a certain generation like to do, right there
5 hanging loosely. What I'm talking about is right here.
6 You're going to see on the video B'Boy in the middle of
7 his most angry moment where he's passing around, go like
8 this (indicating) and pull up his shirt to expose his
9 entire belly. He's showing him what he's got. You watch
10 TV. You guys weren't born yesterday. That is a
11 universal symbol for I'm showing you my gun and I'm not
12 scared to use it. There's no other explanation. The
13 State's gonna try to tell you that he's showing you his
14 cell phone. That's all it could be. Just like calling
15 in a pizza. Hey, someone call Dominoes. No. This is
16 what you do, that's a symbol you make if you're
17 threatening to call somebody like police. You don't do
18 the universal symbol for what I got for you. Use you're
19 common sense.

20 Here's what self defense is. Once evidence of self
21 defense is heard, it's an additional burden for the
22 State. They still have to prove guilt beyond a
23 reasonable doubt, but once evidence of self defense is
24 there, they now have to disprove that evidence beyond a
25 reasonable doubt. Here's what self defense is. Number

1 1, you can't be at fault for starting the difficulty.
2 You can't rob a 7-Eleven, pull your gun and when the
3 clerk gets his gun out first and shoots you claim self
4 defense. No. That's common sense. Barry Jones was
5 breaking up with his girlfriend. He's trying to avoid
6 B'Boy. He doesn't need this bs. Two, you have to see an
7 actual threat or reason to believe an imminent threat.
8 Both those things are met when you see a gun, and if
9 B'Boy was silly enough to show that and not actually have
10 a gun, then that's on B'Boy because that's the universal
11 symbol for I've got a gun. Three, the response has to be
12 proportional. If someone flicks your ear, you can't
13 shoot them. If someone shows you a gun, you can shoot
14 them.

15 There's no duty to retreat in South Carolina
16 anymore, but you have to make sure that you can, you
17 know, retreating would put you at more of a disadvantage,
18 but there's not a duty to retreat. Barry Jones had no
19 duty to retreat. It does not exist in South Carolina.

20 So you're gonna hear from Barry. You're gonna hear
21 from so many witnesses and at the end of the day we're
22 gonna be sitting here Monday morning quarterbacking on
23 Barry Jones actions, and we'll see it on TV, we're gonna
24 hear it, and the State is gonna want you to pretend this
25 is like second by second analysis. Barry Jones thought

1 B'Boy was gonna walk inside and then B'Boy quickly for
2 unknown reasons turns on his heels, he's mad, he wants
3 Barry to go, but Barry doesn't want to leave until B'Boy
4 makes it safe. Go inside. And he charges at that car
5 one more time, and the law says you don't have to let
6 someone get the drop on you. You don't have to let them
7 get close to you. You don't have to - you can't wait
8 until they get their hands around your neck or a gun in
9 your face. That is not what South Carolina law says once
10 that threat is assessed. You're gonna hear a lot about
11 that from the witnesses in this case.

12 Now, Barry leaves. All of B'Boy's friends come
13 pouring out. Barry doesn't believe it's safe, he doesn't
14 have a plan, he's upset, but he also doesn't feel like he
15 can just call 911 because the man he just killed
16 potentially is related to the investigator who would
17 ultimately sign off on his murder warrants. You're gonna
18 hear from Barry about what he thought and what he did and
19 ultimately Officer Florida does get behind him. This is
20 a tough case to have an officer as a victim according to
21 the State. We all want to back the blue. We all want to
22 believe that officers have our best intentions in mind.
23 But we also know that officers are people just like
24 anybody else. There's bad lawyers. There's bad doctors.
25 There's bad officers. We're all just people. All you

1 have to do is watch the news and you'll hear stories
2 about all the folks like that. Lawyers, doctors, bad
3 officers.

4 I'm gonna to tell you today there's two officers
5 that went out primarily and found my client Barry on that
6 dirt road. One of them is a good officer. That's
7 Officer Kathmann. I have no problem with what he did.
8 The other one is a bad officer and that's Officer Florida
9 and I've got a real problem with what he did. I'm gonna
10 save it for the trial. But Barry Jones had a choice.
11 You might hear that, life is about choices. Mr. Hubbard
12 might come down here and talk to you maybe at the end of
13 the case. Barry made a choice. He chose not to die and
14 that is a choice that our law understands and embraces,
15 the laws of self defense.

16 I walked up here and I've been in this courthouse a
17 few times, now the first time in this case, and I see out
18 front plaques and various things about citizens of
19 Edgefield County that back in the day in the 1800's and
20 such settled their disputes on the courthouse steps here.
21 They would duel each other. Someone might die and come
22 in here and have a trial about it. I'm not saying that's
23 right. I'm not saying that. Our society has evolved a
24 lot since then, but Edgefield County citizens understand
25 about that choice in deciding I don't want to die that

1 day.

2 I'm gonna ask you to use your common sense. Stay
3 with me. Don't just get whipped up here, folks. This is
4 the most important day in Barry Jones' life. There's a
5 big burden to surmount by the State. At the end of the
6 day you will find that he is not guilty of murder. He's
7 innocent. And he's not guilty of attempted murder on
8 Officer Florida. I thank you.

9 THE COURT: All right. Ladies and gentlemen, at
10 this time we'll break for lunch. You've heard opening
11 statements. It is 12:47 now. Let's just plan to have
12 you back in the jury room in an hour, okay? If you're
13 walking around Time Square, just keep in mind please
14 don't discuss the case with anyone. If someone doesn't
15 speak to you that you see in the courtroom, that's
16 because they're not supposed to so don't take that the
17 wrong way. Don't do any independent research of the
18 people involved. We'll see you back in the jury room
19 about an hour, otherwise have a nice lunch. Please don't
20 discuss the case. Thank you.

21 (Whereupon, the jury was released for lunch at 12:50
22 p.m.)

23 THE COURT: Okay. We'll be in recess for an hour.
24 To be fair, I don't know if an hour is good enough in
25 Edgefield or not. I know with Town Square. We'll just

1 when we need it to work. Is the State ready to call
2 their first witness?

3 MR. HUBBARD: Yes, sir, Your Honor.

4 THE COURT: Is the defense ready to proceed?

5 MR. L. SHEALEY: Yes, sir.

6 THE COURT: Let's bring them in.

7 MR. L. SHEALEY: Your Honor, can we move to
8 sequester Officer Kathmann here? He's no longer being
9 alleged as a victim, but he is a witness. Anybody else
10 just before we forget?

11 THE COURT: Ladies and gentlemen, if there are any
12 potential witnesses, they must leave at this time. Thank
13 you, sir. And that's it? All right.

14 MR. L. SHEALEY: As far as I know.

15 (Whereupon, the jury entered the courtroom at 2:05
16 p.m.)

17 THE COURT: All right. Ladies and gentlemen, please
18 be seated. Mr. Foreman, ladies and gentlemen of the
19 jury, welcome back. I hope you refreshed yourselves at
20 lunch. When we broke, we just finished opening
21 statements. We'll now have an opportunity for the State
22 to begin their case in chief by calling their first
23 witness.

24 MR. HUBBARD: Thank you, Your Honor. The State
25 calls Clayton Hall.

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1 Thereupon,

2 CLAYTON HALL

3 after having been first duly sworn, testified as follows,

4 THE CLERK: Please have a seat. Once you're seated,
5 state your full name spelling your last please.

6 THE WITNESS: My name is Clayton Hall, last name
7 H-a-l-l.

8 DIRECT EXAMINATION

9 BY MR. HUBBARD:

10 Q. Mr. Hall, what's your relationship to Milledge
11 Hall?

12 A. I'm his grandson.

13 Q. And your grandfather often went by B'Boy?

14 A. That's correct.

15 Q. But his real name is Milledge Hall?

16 A. Correct. Yes, sir.

17 Q. Now, did you and your wife at that time Madison I
18 believe?

19 A. Yes, sir.

20 Q. Did y'all own the pool room?

21 A. We did.

22 Q. Back in 2018?

23 A. Yes, sir.

24 Q. What about, when about did you go about getting that
25 place?

1 A. Uhm, it was around the fall we started the
2 process.

3 Q. And the pool hall, the pool room rather in Johnston,
4 is that in Edgefield County?

5 A. It is.

6 Q. I'm gonna show you a photograph.

7 MR. HUBBARD: Your Honor, the defense has seen this.

8 BY MR. HUBBARD:

9 Q. State's 1, is that the establishment?

10 A. That's correct.

11 MR. HUBBARD: Any objection?

12 MR. L. SHEALEY: No, sir.

13 THE COURT: State's Exhibit 1, moving it into
14 evidence?

15 MR. HUBBARD: Yes, sir.

16 THE COURT: That's admitted into evidence without
17 objection.

18 MR. HUBBARD: Thank you.

19 BY MR. HUBBARD:

20 Q. Is that how it looked on May the 7th, 2018?

21 A. Yes, sir.

22 Q. Now, your grandfather Milledge, did he do anything
23 to assist you in purchasing the pool room?

24 A. He did. He gave me about \$16,000.00.

25 Q. So he had a monetary interest in the

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1 establishment?

2 A. Correct.

3 Q. But is it safe to say he also wanted to see his
4 grandson succeed?

5 A. Absolutely.

6 Q. While you owned the pool room, would your
7 grandfather Milledge frequent the place and sometimes help you
8 out?

9 A. Oh, yeah. A hundred percent.

10 Q. What type of things would he do?

11 A. He would go get small amounts of change, check on
12 the bartenders, make sure they didn't need anything urgent.
13 Just making sure, you know, the small operation keeps moving
14 when we weren't presents.

15 Q. Sometimes sweep and clean up?

16 A. Correct. Small things.

17 Q. Were there times you weren't there but your
18 grandfather was?

19 A. Yes, sir.

20 Q. Did your grandfather Milledge Hall need your
21 permission to tell somebody they had to leave?

22 A. Absolutely not.

23 Q. He was a part owner?

24 A. Correct.

25 Q. So he had authority to tell someone if they came

1 there and he thought they didn't have any business to be
2 there, he could tell them to leave?

3 A. Absolutely.

4 Q. Now, the incident we're here about is from May 7th,
5 2018, but I want to take you back two days before that, May
6 5th, 2018. Were you and your wife working that day?

7 A. We were.

8 Q. Was that a Saturday?

9 A. It was Saturday night.

10 Q. Was your grandfather there?

11 A. No. He was not.

12 Q. Now, do you know Barry Jones?

13 A. I do.

14 Q. How do you know him?

15 A. Uhm, as a patron in our bar.

16 Q. Do you see him in the courtroom today?

17 A. I do.

18 Q. Can you point him out for the Court please?

19 A. Right there (indicating.)

20 Q. Seated with his three lawyers?

21 A. Correct.

22 Q. With the blue mask?

23 A. Yes.

24 Q. Was he there on May 5th, 2018 that evening?

25 A. He was.

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1 Q. Was he with anybody?

2 A. Angie, his girlfriend.

3 Q. What, if any, issues did you have with Barry Jones
4 that evening?

5 A. That evening specifically was a 50 sent charge for a
6 mixer on his drink. That's always been there so specifically
7 the 50 sent charge.

8 Q. What about that 50 cent charge?

9 A. He was just arguing the bill, about it. He wasn't
10 gonna pay it, he didn't agree with it and it wasn't there
11 before then which the receipts always printed out itemized so
12 it gave you everything you had.

13 Q. That charge for all your mixer, that 50 cents?

14 A. Correct. Just for a mixer. Correct.

15 Q. So that night was no different as far as your
16 charging process?

17 A. No, sir.

18 Q. You charged him in the past for it?

19 A. Correct.

20 Q. But this night it was a problem?

21 A. Correct.

22 Q. He refused to pay?

23 A. Correct. But he did pay before he left.

24 Q. Okay. Now, was his reaction that night different
25 from say previous nights?

1 A. It was. It was more aggressive. A lot more
2 aggressive tone. You could even feel the tension from him a
3 lot worse than just a friendly patron for sure.

4 Q: You say a lot worse. Y'all had some other issues
5 with him in the past?

6 A. Correct. Insulting bar staff about what they would
7 wear, what they needed to do and just pretty much telling them
8 how to do their job on multiple occasions.

9 Q. But on May 5th he just had a much more aggressive
10 attitude?

11 A. Correct. Directly at me.

12 Q. In the past how would Angie, his girlfriend, handle
13 him?

14 A. She would quietly talk to him in his ear, not make a
15 big scene, try to calm him down, get him to leave, things of
16 that nature. She could usually do that, take him off to
17 theirself, not getting anyone else involved so...

18 Q. So she could be a big influence in that regard?

19 A. She could. Yes. Definitely when it came to him.
20 Yeah.

21 Q. May 5th, 2018 you said she was there?

22 A. Mm-hmm.

23 Q. Was she able to calm him down?

24 A. She ended up making him leave, leave out of the
25 door, not really dragging him out, but kind of pulling on his

1 hand saying it's time to go.

2 Q. How close was this to closing time?

3 A. It was around 11:00 p.m. and we close at midnight so
4 within an hour of closing. They were the last few people
5 there.

6 Q. Now, was your wife present on May 5th when Barry was
7 acting this way, Barry Jones?

8 A. Not that night. No. She went home.

9 Q. Was she concerned about that behavior?

10 A. Absolutely.

11 Q. What, if anything, did do you that night to try to
12 calm that situation down?

13 A. That night we just, you know, I called my father
14 main thing. He came up there just to be with me because I was
15 closing with one other bartender alone so I just wanted to
16 have that support up there and he just stayed there behind
17 that bar while we closed up for the night.

18 Q. Is that your stepdad Marty English?

19 A. Correct.

20 Q. So did he have any conversation with Barry Jones
21 that night?

22 A. No, sir.

23 Q. Was Barry Jones even there when he got there?

24 A. He was.

25 Q. Did things calm down?

1 A. Correct. Yeah.

2 Q. Did this incident affect you and your wife
3 Madison?

4 A. Absolutely.

5 Q. What did y'all decide to do?

6 A. That morning we woke up and decided just to take a
7 one night trip, get out of town specifically due to stress
8 from him.

9 Q. From this situation?

10 A. Correct.

11 Q. So y'all both left town Sunday?

12 A. We did. Sunday morning.

13 Q. Prior to leaving, did you have a conversation with
14 your grandfather Milledge about what had happened?

15 A. I did.

16 Q. And did you tell him about Barry Jones' behavior?

17 A. I did.

18 Q. Did you tell your grandfather what you intended to
19 say to Barry Jones the next time you saw him?

20 A. I did. I told him that I was gonna ask him not to
21 come back to the establishment anymore.

22 Q. Now, Clayton, if you can, tell us why you didn't say
23 it that night on May 5th?

24 A. That night he was just intoxicated and to, you know,
25 not have any other issues we thought it would be best to leave

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1 it at that and tell him at a later date when he was sober.

2 Q. Let him calm down too?

3 A. Correct.

4 Q. Now, without saying what your grandfather Milledge
5 said, did he give you any advice on how to handle the
6 situation with Barry Jones?

7 A. He did. Yes, sir.

8 Q. Did you agree with his advice?

9 A. Absolutely.

10 Q. What did you agree needed to be done?

11 A. Uhm, to tell him that he wasn't going to be allowed
12 back in, but he insisted on it being professional and done
13 outside, that way it didn't affect other patrons and didn't
14 embarrass him.

15 Q. So any conversation you're gonna have with Barry
16 Jones you intended to have it where?

17 A. Outside.

18 Q. Don't do it inside the pool room?

19 A. The establishment. Right.

20 Q. And you mentioned embarrassing him. Is that
21 something you were trying to avoid as well?

22 A. Absolutely.

23 Q. To keep things calm?

24 A. Absolutely.

25 Q. And out of everyone else's presence?

1 A. Yes, sir.

2 Q. Did you tell your grandfather you intended to do
3 this when you got back from your trip?

4 A. I did.

5 Q. And y'all left Sunday. Did y'all get back what
6 day?

7 A. We were back on Monday. We would have been there
8 about an hour after opening time.

9 Q. So you told your grandfather what you intended to do
10 when you got back?

11 A. Correct.

12 Q. You told him that Sunday?

13 A. Yes, sir.

14 Q. This incident occurred Monday. Did you go in at any
15 time Monday?

16 A. I did not. No. I went straight to the hospital
17 after we got the calls.

18 We'll get to that. When you left for your trip, was
19 it your sense that the way in which you were planning to
20 handle it, your grandfather would handle it if you were
21 gone?

22 MR. SECORD: Objection, Your Honor. Speculation.

23 MR. HUBBARD: This is his grandfather. He had a
24 conversation with him about it.

25 MR. SECORD: It's still speculation.

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1 THE COURT: Rephrase the question. You can ask the
2 question differently.

3 BY MR. HUBBARD:

4 Q. When you left for your trip, was it your sense that
5 this is how your grandfather Milledge was gonna handle the
6 situation with Barry Jones if he showed up while you were
7 gone?

8 MR. SECORD: Same objection.

9 BY THE WITNESS:

10 A. Absolutely.

11 THE COURT: Overruled. And just for the witness'
12 benefit, when you hear an attorney making an objection,
13 just hold off answering until I make a ruling on it. The
14 objection overruled.

15 BY MR. HUBBARD:

16 Q. Clayton, so what was your sense of what your
17 grandfather would do?

18 A. The same thing that he told me, if he had the chance
19 he would calmly handle it himself before I got back.

20 Q. Again, did your grandfather have to ask your
21 permission to handle that?

22 A. Absolutely not. If at any time anything happened,
23 he had the authority to ask anybody to leave.

24 Q. Was it pretty much common knowledge that your
25 grandfather was part owner and had that kind of authority at

1 this pool room?

2 A. Correct.

3 Q. Based your knowledge of your grandfather having
4 worked with him and obviously interacting, seeing how he
5 interacted with people, how did you expect him to handle this
6 matter if he were to handle it?

7 A. Definitely professional like all other business,
8 that he would perform professional and man to man.

9 Q. Would it be inside that establishment or outside?

10 A. Definitely outside.

11 Q. From a business standpoint is that a better place to
12 do it as well?

13 A. Absolutely.

14 Q. When you were talking to your grandfather about
15 Barry Jones, was there ever any mention of a need for a gun or
16 a pistol?

17 A. No, sir.

18 Q. If you believed or your grandfather believed during
19 this conversation that Barry Jones posed that kind of a threat
20 enough that you needed a gun to get him out of there, would
21 y'all have tried to handle it yourself?

22 A. No, sir. We would have called the police.

23 Q. Now, in the past you've put a few people on trespass
24 notice?

25 A. Yes, sir.

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1 Q. A couple people?

2 A. Yes, sir. Two people.

3 Q. Let's talk about one. What was one of them doing?

4 A. One male in particular was groping multiple women so
5 we had the same complaint from multiple women throughout that
6 afternoon, evening so we had to put him on notice, and that
7 was the most professional way to do it. And then the other
8 one was a fight in the parking lot that left one person bloody
9 laying in the parking lot.

10 Q. Those two situations, did you call law enforcement
11 to the scene?

12 A. Correct. Absolutely.

13 Q. Now, the situation with Barry Jones on May 5th, did
14 it arise to the need to call law enforcement?

15 A. No. It did not.

16 Q. And obviously you can tell someone to leave and
17 never come back without having law enforcement there?

18 A. Right.

19 Q. It's your place, correct?

20 A. Correct. Yes, sir.

21 Q. At any time while running your business did you see
22 your grandfather Milledge Hall carry a gun?

23 A. No, sir.

24 Q. As you were growing up, did you ever know your
25 grandfather Milledge Hall to carry a gun?

1 A. No, sir.

2 Q. Did you ever know him to wear a holster or wear a
3 gun in his waistband?

4 A. No, sir.

5 Q. Did you ever see him shoot a gun?

6 A. No, sir.

7 Q. Did you ever know him to own a pistol?

8 A. Not to my knowledge. No, sir.

9 Q. More specifically, did you ever know him to own a
10 semi-automatic Glock like law enforcement carries?

11 A. No, sir.

12 Q. What, if anything, did you know him to carry?

13 A. Just his cell phone on his hip.

14 Q. What kind of phone did he carry?

15 A. At the time it was an iPhone 7 plus.

16 Q. An Apple.

17 A. Which is a pretty big phone.

18 Q. Now, did the pool room have security cameras?

19 A. It did. Yes, sir.

20 Q. How many cameras do you recall it having?

21 A. On the exterior only a couple. Most of them were
22 interior cameras, but we did have most of the parking lot
23 covered except one side.

24 Q. Okay. I want to show you what's been marked as
25 State's Exhibit 2. Does this show one of the cameras and the