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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).

other one is a little hard to see?

A. Correct, sir. It's behind the spotlight.

MR. HUBBARD: Your Honor, I offer State's Exhibit 2 in evidence.

MR. SECORD: No objection.

THE COURT: State's Exhibit 2 is admitted into evidence.

BY MR. HUBBARD:

Q. Clayton, this is a little bit of a blowup here.

MR. HUBBARD: If I may ask him to step down, Your Honor.

THE COURT: Very well.

THE WITNESS: (Complies.)

BY MR. HUBBARD:

Q. Clayton, if you can keep your voice up so the court reporter here can report what you say. If I stand right here, please point for the jury so they can see it on both of these screens where these cameras are?

A. We have one there.

Q. Keep your voice up.

A. We have one here and then we have one right around the side of the flood light.

Q. All right. So what we see right here on that little piece that juts out on your building is a flood light?

A. Yes, sir.

Q. But there's a camera on the other side?
A. It is and it's pointed back to the direction of the side of the building.
Q. Which one was not operational?
A. The one on the side right here.
Q. Thank you.
A. Yes, sir. (Resumes witness stand.)
Q. Now I want to show you three other photographs defense has seen, State's 3, 4, and 5. Do you see your grandfather there?
A. Yes, sir.
Q. Lifting his shirt?
A. Yes, sir.
Q. Do you see him entering into the establishment?
A. Yes, sir.
Q. Do you see something on his hip?
A. Yes, sir.
Q. What is that?
A. His cell phone.
Q. And States, that's State's 4. State's 5 do you see his phone as well?
A. Yes, sir. You can even see the Apple logo on it.
MR. HUBBARD: Your Honor, I offer State's 3, 4 and 5 into evidence.
MR. SECORD: No objection.

THE COURT: State's Exhibits 3, 4, and 5 admitted into evidence.

MR. HUBBARD: Thank you, Your Honor.

BY MR. HUBBARD:

Q. Looking at State's 3, is this your grandfather right here?

A. Yes, sir.

Q. Standing in front of a silver Mercedes or standing beside it?

A. Yes, sir.

Q. Is that him lifting his shirt?

A. It is.

Q. What do you see when you see him lifting his shirt?

A. His stomach, bare stomach and him reaching for his cell phone.

Q. What did he always keep on that side?

A. His cell phone, same spot since they made a cell phone.

Q. Did you ever know him to carry a gun there?

A. Absolutely not.

Q. In his waistband?

A. No, sir.

Q. Up above the phone?

A. No, sir.

Q. State's 4, is that your grandfather coming back inside the business?

A. Yes, sir.

Q. What is this object right here?

A. His cell phone.

Q. Again, you said he had an iPhone, one of the big ones?

A. Correct. Yes, sir.

Q. State's Exhibit 5, what is this we see right here?

A. His cell phone with the Apple logo.

Q. Is that little faint spot right there, that's the Apple logo?

A. Yes, sir.

Q. Did you know him to carry a gun under his shirt at any time?

A. No, sir.

Q. Now, your security camera, that's where these are pulled from, was the time off a little bit on these?

A. It was. It was approximately an hour off.

Q. So you didn't spring forward maybe for daylight savings time or whatever?

A. Correct. Either that. It wasn't on battery back up so if the power went out, it would reset as well so...

Q. So the time we see, the days are right, but the time is off by almost an hour?

A. Correct. Yes, sir.

Q. Now, Clayton, you told us your granddaddy didn't carry a gun. Did you have a gun in your establishment or a pistol?

A. I did.

Q. What type of weapon did you have?

A. It was a .40 caliber revolver.

Q. A revolver. So that's with the spinning wheel kind of like the cowboy pistol?

A. Correct. Yes, sir.

Q. Doesn't have magazine that you load in the bottom?

A. No, sir.

Q. What kind of revolver did you have?

A. A Taurus, silver.

Q. Silver in color?

A. Yes, sir.

Q. Where did you keep it?

A. We kept it under the cash register location for the closing person, that way they had security which would usually be me or my wife.

Q. So usually at closing time it's you or Madison?

A. Correct. Yes, sir.

Q. Did your grandfather ever close?

A. No, sir.

Q. So Milledge Hall, your grandfather, would be home by

the time closing time came?

A. Yes, sir. Absolutely. Way before then.

Q. If you or Madison wasn't available to close, who did you often rely on?

A. Madison's grandmother Eileen Hudson which also had a little financial in the business too so she would help close.

Q. So she contributed to the business as well?

A. Correct. Yes, sir.

Q. Now, did she have any need of that revolver y'all had?

A. No, sir. She had her own.

Q. So she carried her own pistol?

A. Yes, sir. Absolutely.

Q. Did you ever tell your grandfather about the revolver you had behind the cash register?

A. No, sir.

Q. To your knowledge, did he ever know about that revolver behind the cash register?

A. No, sir.

Q. Did you tell him about it before you and Madison went on the trip?

A. No, sir.

Q. So to your knowledge that pistol's existence was never conveyed to him?

A. Right. Yes, sir. It was not.

Q. Why didn't you tell him about that pistol, Clayton?

A. He did not like guns and didn't believe that a gun was needed for, you know, any altercation so he was just against carrying guns and having guns around in general.

Q. During the time your grandfather was helping you in the pool room, were you aware of any health issues he had?

A. I did. Yes, sir. He was recovering from open heart surgery. He was still under a doctor's care.

Q. Open heart surgery. He had bypass surgery?

A. Yes, sir. Triple bypass.

Q. So he was still under a doctor's care for that?

A. Yes, sir.

Q. During all the years growing up with your grandfather, had you ever seen him get in any kind of physical altercation?

A. No, sir.

Q. Now, you weren't there Monday, May 7th. You took a trip Sunday, but on Monday May 7th, 2018 was your grandfather Milledge Hall in any physical condition to fight anybody in a physical altercation?

A. No, sir.

Q. And did he know he was not in any kind of shape to fight anybody?

A. Absolutely. He was limited on the work he could do as well after so he was very aware.

Q. What type of limitations were on him?

A. Specifically weight restrictions on how much he could pick up and lift. That was the most specific thing.

Q. What was that weight limit?

A. Around 25 pounds.

Q. This was true up until the night, the evening he was shot?

A. Correct. Yes, sir. He went to an appointment that morning with his doctor.

MR. HUBBARD: Okay. Clayton, thank you for answering my questions. Please answer any that the defense might have.

THE COURT: Cross examination.

MR. SECORD: May it please the Court.

THE COURT: Yes, sir.

CROSS EXAMINATION

BY MR. SECORD:

Q. Hi, Mr. Hall. How you doing today?

A. Good.

Q. Good. I just want to follow up with you on a few things you spoke to the Solicitor about. Based on the information that the Solicitor's Office has turned over to us it looks like the first time that law enforcement spoke to you

about this case was August 3rd, 2021. Does that sound about right?

A. Correct. When they started to let me know about the process, legal process.

Q. Okay. And so that was over three years from the time that your grandfather was shot, right?

A. Correct.

Q. So they never spoke to you up until August 3rd, 2021. Since the day that they talked do you, have they ever asked you about that silver Taurus revolver that you said you had at the pool room?

A. No, sir.

Q. They never asked you to show you, show them where you hid it at the pool room, right?

A. No, sir.

Q. They didn't ask you to provide a photograph of it or documentation of purchase or ownership or anything like that?

A. No, sir.

Q. Okay. I'm gonna show you some additional photos that are from the surveillance cameras and just to make sure that these are accurate. And the surveillance cameras, you were the one that pulled all the information from the surveillance cameras; is that correct?

A. I don't recall. I don't believe I did, but somebody

at the bar pulled it for them that worked for us.

Q. I think, am I right there was somebody named Douglas Cardosi that helped you do it?

A. Correct. Yeah.

Q. But the surveillance footage or the system was controlled by you, the owner of the bar, right?

A. Correct. Yes.

MR. SECORD: I'm just gonna show these to the State first (proffering.) May I approach, Your Honor?

THE COURT: Yes, sir.

BY MR. SECORD:

Q. I'll show you what's marked for identification purposes as Defense Exhibits 2 through 6. If you'll just look through them and just tell me whether or not you recognize them if you would please.

A. (Witness complies.) I do.

Q. Just, is it fair to say that these are stills or screenshots of the surveillance footage outside the pool room?

A. Yes, sir.

MR. SECORD: I would offer Defense Exhibits 2 through 6 into evidence.

MR. HUBBARD: No objection.

THE COURT: Defendant's 2 through 6. 2, 3, 4, 5, 6 are admitted into evidence.

MR. SECORD: Yes, sir. Thank you.

BY MR. SECORD:

Q. Did the surveillance system that you had at the pool room, you said there were two cameras outside, one of them wasn't working, correct?

A. Correct.

Q. And that's why this incident is just captured on that one camera that's closest to the door, right?

A. Yes, sir. The other one was at the back so it wouldn't have caught anything.

Q. Yes, sir. Inside the pool room there were several cameras though. I think you said four to six or something like that?

A. We do. We had about six inside to cover the inside.

Q. And every inch of the interior of the pool room was captured by one of those cameras except probably for the bathrooms, right?

A. Pretty much. Yes, sir.

Q. Okay. And so anything that went on in the pool room that day May 7th, 2018 throughout that afternoon and evening would have been captured on those interior cameras, right?

A. It would have. Yes, sir.

Q. And if law enforcement or the Solicitor's Office had wanted to get that from you, they certainly could have?

A. Yes, sir.

Q. And that would have shown what was going on inside the pool room in the period of time leading up to when your grandfather was shot, right?

A. Correct.

Q. All right. Now, your grandfather, Mr. Hall, Milledge Hall, he was not employed at the pool room, right?

A. No, sir. None of us were employees.

Q. So the ownership paperwork for the pool room would not have shown him as an owner, right?

A. No, sir.

Q. And there would have been no employment paperwork showing him on payroll or taxes or anything like that?

A. No, sir.

Q. All right. And he wasn't even there everyday because he worked in construction, right?

A. Correct.

Q. When he came to the pool room though, like most of your patrons I assume, he drank, right?

A. Right.

Q. And I assume that the people who were employed at the pool room aren't drinking on the job, right?

A. Right. Correct.

Q. Okay. Now, when you were talking to Solicitor Hubbard, you were talking about how you had some frustrations

with Mr. Jones in the past, right?

A. Right.

Q. From the time that you opened the pool room or you took ownership from the Holloways, right?

A. Correct.

Q. And some of that was he had some criticisms about the way the place was run?

A. Correct.

Q. About things like food?

A. Correct.

Q. The temperature inside in pool room?

A. Correct.

Q. The smoke inside the pool room?

A. Correct.

Q. And some of those things just sort of irked you or rubbed you the wrong way, I guess, is that fair to say?

A. Yeah. That and the entire bar staff.

Q. Okay. Never was there anything that he did that rose to the level where you needed to ban him, right?

A. No, sir.

Q. Never had to tell him to leave?

A. No, sir. Not until May 5th.

Q. Never had to call the police on him?

A. No, sir.

Q. And I know you went over this with Mr. Hubbard, but

I wanted to just speak again briefly about the people that did get banned or put on trespass notice at the pool room. And tell me again when was it that you and Madison took ownership of it?

A. It was in the fall of 2017.

Q. Okay. So up until the time that your grandfather was shot, you only had it for, what, maybe five or six or seven months, something like that?

A. That's correct.

Q. Okay. In 2018, January of 2018 you banned a man by the name of Theodore Cole from the pool room, right?

A. Yes, sir.

Q. And you had law enforcement put him on trespass notice, correct?

A. Correct.

Q. And then on March 9th you banned a man named Christopher Edwards from the pool room, right?

A. Correct.

Q. And you had law enforcement put him on trespass notice, right?

A. Correct.

Q. And also on March 9th you put a man named James Foley, or you banned him from the pool room, right?

A. Correct.

Q. And you had law enforcement put him on trespass

notice, correct?

A. I did.

Q. And the day after your grandfather was shot, May 8th, 2018, you banned Angie Smith from the pool room, right?

A. Correct.

Q. And you had law enforcement put her on trespass notice?

A. Correct.

Q. And she was kin to you; isn't that right?

A. Not to my knowledge.

Q. You didn't know that she was a cousin of your grandfather's?

A. Not that I recall.

Q. Okay. But you would agree with me that in 2018 alone in a little over four months you banned four individuals from the pool room, right?

A. Uhm, let's see. We had Theodore, then the two so three.

Q. Plus Ms. Smith, Angie Smith?

A. After the fact we did yeah.

Q. Right.

A. But before it was just three. Correct.

Q. Right. But in just over four months, right? Because it was May 8th when Ms. Smith was banned. In just over four months you banned four people from the pool room and

had them put on trespass notice by law enforcement?

A. Correct.

Q. And that's because that's the way that you run your business. You're gonna protect your business that way, right?

A. Correct.

Q. Okay. Now, if we can just speak briefly about May 5th, 2018. That was the night of the bar dispute; is that correct?

A. Correct.

Q. And it was that night, I think, and correct me if I'm wrong, but it was that night that you decided that you were gonna tell Mr. Jones that he couldn't come back?

A. Correct.

Q. But you didn't do it that night, right?

A. No. I did not.

Q. And you didn't call law enforcement that night, right?

A. I did not.

Q. And one of the main reasons that you told the Solicitor that you didn't do anything that night is because you said Mr. Jones was intoxicated that night, right?

A. Correct.

Q. And that was something that you considered to be a factor in when you were gonna try to approach this subject?

A. Yes, sir.
Q. Is that because you thought a person being intoxicated is likely to be more volatile?
A. Correct.
Q. Okay. And the following day I believe it was you were leaving that morning with your wife to go out of town?
A. Correct.
Q. And you spoke to your grandfather that morning?
A. Correct.
Q. And you described to him what had happened?
A. Correct.
Q. And you told him what your plan was?
A. Yes, sir.
Q. You didn't ask him to do anything on your behalf?
A. No. But if he needed to, he definitely could have.
Q. That's fine. But I'm saying you did not ask him, right, to do anything for you?
A. I didn't have to ask him to do anything for me. He would just jump in on what needed to be done.
Q. But you said he was giving you advice, right?
A. Correct.
Q. So certainly he's not giving himself advice. He's giving you advice because it's you that are gonna do something, right?

A. Correct.

Q. Okay. And you also told him that you were going to speak to Mr. Jones only when he was sober, right?

A. Correct. The next time he came in to the establishment, yes.

Q. When you left on the morning of May 6th after having this conversation with your grandfather, you did not instruct your staff at the pool room to refuse to serve Mr. Jones alcohol?

A. No. Not my staff. They wouldn't have the authority to.

Q. They wouldn't have the authority to refuse to serve him alcohol?

A. They had the authority to refuse to serve him alcohol, but the only person that could ask anybody to leave would me, my grandfather or my wife so...

Q. But if you didn't want anybody to have to deal with Mr. Jones in an intoxicated state, you certainly could have told your staff do not sell any alcohol to Mr. Jones?

A. Right. But it wasn't their responsibility to.

Q. Okay. But you didn't do that, right?

A. No. I did not.

Q. Okay. And as you told the Solicitor, and I think you just said it again, your grandfather gave you some advice and you took that advice to heart, how you were going to

handle the situation when you saw Mr. Jones again, right?

A. Correct. The same way I would have handled it regardless.

Q. Right. The same way you handled it in the past with other people, right, in a professional way?

A. Correct. The others were violent and/or breaking the law, so that's why authorities were called on them.

Q. Well, I mean, Ms. Smith wasn't being violent or breaking the law, right?

A. No. She wasn't, but due to the nature of everything, I didn't think it was a good idea for her to come back to the establishment with my staff and my wife there.

Q. Okay. But you knew when you went out of town there was a possibility Mr. Jones would come back to the establishment, right?

A. I mean, there's really no way to say if he would or not.

Q. Okay. But he was a regular?

A. A few days a week. Yeah.

Q. Okay. So again, you took that advice to heart. You were gonna approach Mr. Jones only when he was sober, right?

A. Correct. Not that night was the point.

Q. Right. And you were gonna do it in a professional way, right?

A. Correct. Yes.

Q. And your intention was to do it yourself, right?
A. Correct. Me or him.
Q. And you certainly did not intend, when you spoke to Mr. Jones, you certainly were not gonna be intoxicated when you spoke to him about it, right?
A. No, sir.
Q. Because that would not be professional, right?
A. No, sir.
Q. Okay. Just one last thing, Mr. Hall. We talked about Mr. Cardosi helping you or somebody get surveillance footage captured off the system, right?
A. Correct.
Q. Law enforcement came back on May 10th, 2018 to attempt to get the additional footage that we talked about earlier from the inside the pool room to be able to show what was going on on the inside, right? And when they returned to get that footage, they were told that the footage had already been recorded over. Were you the person that told them that?
A. No, sir.
Q. Do you have any idea who that was?
A. No, sir. That's the first time hearing that.
Q. But you have no reason to doubt it if it's in this investigator's report, right?
A. No, sir.

MR. SECORD: Okay. I appreciate it, sir. Thank you.

THE COURT: Redirect.

MR. HUBBARD: Just a couple questions.

REDIRECT EXAMINATION

BY MR. HUBBARD:

Q. Do you still own the pool room today?

A. I do not.

Q. When did you and Madison sell the pool room?

A. Roughly a year after this, a little over a year.

Q. Now, they mentioned footage for your video cameras. How long would that footage last before it would record over?

A. 30 days.

Q. And May 7th, May 10th, did you know what day the 30th day would be?

A. No, sir.

Q. But you knew at some point after 30 days it would record over?

A. Yes, sir.

MR. HUBBARD: Thank you. No further questions.

THE COURT: Recross?

MR. SECORD: No, sir.

THE COURT: Okay. The witness may step down.

MR. HUBBARD: The State calls Amanda Moore.

Thereupon,

AMANDA MOORE

after having been first duly sworn, testified as follows,

THE CLERK: Please have a seat. Once you're seated, state your full name spelling your last please.

THE WITNESS: Amanda Moore, M-o-o-r-e.

DIRECT EXAMINATION

BY MR. HUBBARD:

Q. Ms. Moore, where do you work?

A. The Edgefield County Sheriff's Office.

Q. And what do you do there?

A. I'm the dispatch supervisor.

Q. What does a dispatch supervisor do at the Sheriff's Department?

A. I supervise all of the nine dispatchers that we have that answer 911 calls that come in.

Q. Do you also maintain radio traffic?

A. Radio and telephone traffic.

Q. Radio and telephone traffic, is that when you're listening and hear all these officers talking on one radio?

A. Yes, sir. Police, fire and EMS radios.

Q. What's a CAD report?

A. A CAD is what we create every time a call comes in. It's a computer generated report. Just helps us keep track of every call we get where we send police, fire, EMS.

Q. So say you have a 911 call, it comes in, does your CAD report give an accurate time when that call came in?

A. It does.

Q. Are all the times on the CAD report accurate?

A. They are.

Q. Is that something very important about that CAD report?

A. Very much so.

Q. Does it also reflect the conversations or at least snippets like where an officer is, who is responding to a particular scene?

A. Yes. Part of the dispatcher's job is almost everything an officer says on the radio they put into the CAD.

Q. The incident that occurred on May 7th, 2018, was that captured in a CAD report?

A. It was.

Q. I want to show you what's been marked as State's ID 6. Is that the CAD report for the incident at the pool room and for later?

A. It is.

MR. HUBBARD: Your Honor, I offer this into evidence as State's 6.

MR. L. SHEALEY: Your Honor, I would object to this as hearsay. The 911 calls and things themselves are not

hearsay, but this is a written report of that so I don't have a problem with calls, but I do have a problem with that.

MR. HUBBARD: I'll make -- Let me clarify it.

BY MR. HUBBARD:

Q. Is a CAD report something your agency keeps in the ordinary course of business as a regularly conducted activity?

A. Yes, sir.

Q. So this is something you always keep as a business record?

A. Yes, sir.

MR. HUBBARD: Your Honor, that's an exception to the hearsay, 803(6), records that are kept as a business record.

THE COURT: May I at least see the record?

MR. HUBBARD: Yes, sir (proffering.)

THE COURT: Mr. Shealey.

MR. L. SHEALEY: My objection is it's a law enforcement generated document. It's tantamount to a police report, Your Honor.

THE COURT: Are there actual statements in it?

MR. HUBBARD: Notes.

MR. L. SHEALEY: Your Honor, we might have to take this up outside the presence of the jury.

MR. L. SHEALEY: No. The 1911 call is perfectly admissible evidence in my opinion. While on bathroom break, Your Honor, I did have a chance to review this CAD report a bit more. So in addition to my prior objection just so the record is clear, on page 2 it says, subject got rifle pointed at officer. It also says, armed with an AR-15, on page 2. On page 3, it says, backed off into the woods, shooting rounds from AR-15. And at top of that page it says, shots fired. Stay in vehicle. So it's replete with opinions and other things that support my prior objection.

THE COURT: To be clear, I did not read it during the break. I was doing research on another matter but I have it and I'm gonna.

MR. L. SHEALEY: Yes, sir.

THE COURT: Okay. We ready?

MR. HUBBARD: Yes.

(Whereupon, the jury entered the courtroom at 3:10 p.m.)

THE COURT: Okay. Mr. Foreman, ladies and gentlemen, you may be seated. I hope you had a chance to refresh yourselves during the break. We'll pick up where we left off.

MR. HUBBARD: Thank you, Your Honor.

BY MR. HUBBARD:

Q. Ms. Moore, if I may, I want to show you State's ID 6, the CAD report. Again, you've identified that earlier. Looking at that, you mentioned it records 911 calls or documents that?

A. It does.

Q. And this report that you're holding, State's ID 6 reflects the incident from May 7th, 2018 involving Barry Jones?

A. Yes, sir.

Q. Does it accurately reflect the time of that 911 call?

A. Yes, sir. It does.

Q. What time does it have that 911 call?

A. The call came into dispatch at 7:10 p.m.

Q. Okay. Does it show the number of the person calling 911?

A. Yes, sir. It does.

Q. The caller's address?

A. It shows the business's address.

Q. Okay. Does it also indicate the units that were notified?

A. Yes, sir.

Q. Those units being law enforcement officers?

A. As well EMS on this. Yes, sir.

Q. Does it have dispatch times, en route times and

arrival times?

A. Yes, sir. It does.

Q. Does it have clear times meaning when they're all done?

A. Yes, sir.

Q. And then without going into it, is there also a section where they have dispatch marks based on the traffic coming in?

A. Yes, sir.

Q. Turning to page 2, does it also show radio traffic, communication among officers and then dispatch to officers?

A. Yes, sir. It does.

Q. Does it show what officers were notified?

A. Yes, sir.

Q. And again, does it show the dates and time of all notifications and communications?

A. Yes, sir. It does.

Q. And is it part of your business, part of the way y'all conduct business y'all take short notes to identify what is going on?

A. Yes, sir.

Q. So that is part of how this process is done?

A. Yes, sir.

Q. And then all that is kept in the ordinary course of your business?

A. Yes, sir. It is.
Q. Is the purpose also to convey all that information to other officers and other first responders out there that may be listening in?
A. Yes, sir.
Q. Looking at page 4 through 6, does it keep track of all the units that are notified?
A. Yes, sir. It does.
Q. Does it have a column of like numbers?
A. It does.
Q. Do officers, are they given a number, a unit number?
A. They are.
Q. Officer Florida, what is his call number? If I were to say Sierra 22?
A. Yes, sir. That could have been him.
Q. Okay. All right. It's been a while?
A. I didn't work there during this call so...
Q. Okay. But it does note all the agencies that are calling or being notified?
A. Yes, sir.
Q. And does it also note the disposition of the case, any remarks by units?
A. Yes, sir. It does.
Q. And again, all the times those activities are

documented?

A. Yes, sir.

Q. Time is an important aspect of what you do with a CAD report?

A. Yes, sir.

Q. Page 6, do you have vehicle information pertaining to the suspect in this case?

A. Yes, sir.

Q. Silver 2007 Mercedes?

A. Yes, sir.

Q. Vin number and a tag number from Georgia?

A. Yes, sir.

Q. And you have the owner of that vehicle as Barry W. Jones?

A. We do.

Q. Now, the 911 call concerning the shooting at the pool room, that was made, do you recall, by Nicole Bibbs?

A. Yes, sir.

Q. Is that reflected on the CAD report, at least the call time?

A. The call time.

Q. You said 7:10.

A. Yes.

Q. You don't have her name on the CAD report?

A. No, sir.

Q. But you have the business she's calling from, the pool room?

A. Yes, sir.

Q. Was this 911 call recorded and is it kept by your agency in the course of your business as well, the regularly conducted activity of the business?

A. Yes, sir. It is.

Q. Have you listened to this call?

A. I have.

Q. Has it been altered in any way to change the substance of the call?

A. No, sir.

Q. Does it accurately reflect the 911 call that was made that evening?

A. Yes, sir. It does.

MR. HUBBARD: Your Honor, if I may.

BY MR. HUBBARD:

Q. Let's see if you recognize State's Exhibit 7.

A. Yes, sir. That's the call I signed.

Q. Did you see your initials so you've listened to this?

A. Yes, sir.

MR. HUBBARD: Your Honor, I offer this 911 call into evidence as State's Exhibit 7.

MR. L. SHEALEY: No objection.

THE COURT: State's Exhibit 7 is admitted into evidence.

BY MR. HUBBARD:

Q. Ms. Moore, if I may, before it starts playing, does it start recording before y'all actually pick up?

A. Yes, sir. It does.

Q. So you will hear people talking before there's actually a 911 operator talking?

A. Yes, sir.

(Playing State's Exhibit #7.)

BY MR. HUBBARD:

Q. Ms. Moore, was there more than one operator working at that same time?

A. Yes, sir. There was two.

Q. So was there another call that came in as well?

A. Yes, sir.

Q. So sometimes we hear other talking in the place, that may be that other operator as well?

A. Yes, sir.

Q. And you may hear other people, other traffic?

A. Yes, sir.

Q. Do 911 calls often get as chaotic as this?

A. Sometimes.

Q. Now, I want to ask you this: Do you know Officer Keith Kathmann with the Edgefield City Police?

A. Yes, sir.
Q. Have you had an opportunity to watch and 1isten to his dashcam video?
A. I have. Yes, sir.
Q. I want to show you and see if you see your initials on this, State's ID number 8?
A. Yes, sir.
Q. In watching and listening to this, this is something generated by Officer Kathmann's dashcam that day, correct?
A. Yes, sir.
Q. It says made from his patrol car?
MR. L. SHEALEY: Objection to leading.
THE COURT: Overruled.
BY MR. HUBBARD:
Q. Dashcams are made from patrol cars?
A. Yes, sir.
Q. Okay. Have you had an opportunity while listening to this to go through the CAD report and check the times?
A. Yes, sir. I did.
Q. And also see if it accurately reflects the information coming in to dispatch?
A. Yes, sir.
Q. And did it accurately reflect information that y'all got in at dispatch?
A. Yes, sir. It did.

Q. And specifically the radio traffic and communication in your CAD report from the shooting at the incident of Log Creek?

A. Yes, sir.

Q. So all of that involving Barry Jones and Sergeant Florida appears accurate based on your CAD?

A. Yes, sir.

MR. HUBBARD: Your Honor, I believe that's all I have at this time.

THE COURT: All right. Cross examination.

CROSS EXAMINATION

BY MR. L. SHEALEY:

Q. Briefly. Ms. Moore or Morer?

A. Moore.

Q. Moore. Like Roger Moore?

A. Like that.

Q. Okay. Did you say that you were not working at dispatch at the time of this, but you are now, or did I get that mixed up?

A. No. At the time of this incident I was working at a different agency.

Q. Okay. But you have since been called upon to come produce these records and discuss it?

A. Right.

Q. Tell me how this works a little bit. Obviously

you've got, things are happening. Any time an officer calls in something, what he's doing or whatever over the radio I guess it's at a central hub and it can be documented, right?

A. We have the radios in dispatch and we can hear what they're saying.

Q. Okay. And is there an actual live person who is typing up what they're saying or is this recorded later and then transcribed?

A. So there's a dispatcher working who can type it into the CAD and at the same time our system records it.

Q. So in your present job now, if there's some event out there and some officer's calling in something, are you responsible for listening to it come in and typing it up into a CAD? Is that what I'm hearing?

A. Most of the time, me, no. I'm the dispatch supervisor now. I'm not usually in dispatch working. It would be my job to download the recordings off our server later if needed.

Q. Okay. But there is somebody maybe who isn't a supervisor who is typing that into CAD?

A. There is.

Q. So I guess it requires them to correctly hear what the officer is saying over the radio as well?

A. It does.

Q. I guess that's not always perfect. You might get it

wrong. Some officer might come back and say I didn't say that. You have your ears clogged, Betsy.

A. Mistakes happen.

Q. Right. Okay. So there is that level of human component that is typing that up?

A. Yes, sir.

Q. So this is not some advanced computer system that recognizes this and everything else, right?

A. No, sir. It's just a person.

Q. Okay. Like this court reporter right here taking down what we say, he's gonna get 99 percent right, maybe not that last one percent?

A. Yes, sir.

MR. L. SHEALEY: Okay. All right. That's all. Thank you.

THE COURT: Redirect?

MR. HUBBARD: Real quickly.

REDIRECT EXAMINATION

BY MR. HUBBARD:

Q. And that's why you also have a recording that you can go back to?

A. Yes, sir.

Q. The typing is shorthand so you get that information out immediately?

A. Yes, sir.

MR. HUBBARD: Thank you. No further questions.

THE COURT: Any recross?

MR. L. SHEALEY: No, sir.

THE COURT: The witness may step down.

MR. HUBBARD: And I ask that she be excused.

THE COURT: Any objection?

MR. L. SHEALEY: No objection.

THE COURT: All right.

MR. McNAIR: Your Honor, the State calls Douglas Cardosi.

Thereupon,

DOUGLAS CARDOSI

after having been first duly sworn, testified as follows,

THE CLERK: Please have a seat. Once you're seated, state your full name spelling your last please.

THE WITNESS: Douglas Cardosi, C-a-r-d-o-s-i.

DIRECT EXAMINATION

BY MR. McNAIR:

Q. Mr. Cardosi, how are you doing today?

A. All right.

Q. Where are you from?

A. Rhode Island originally.

Q. Okay. Now, I'll get right to the point. Back in May of 2018 were you asked to pull video from the Johnston Pool Room for law enforcement?

A. Yes, sir.
Q. Specifically was it for the day May 7th, 2018?
A. Yes.
Q. Who asked you to go do that?
A. The officer that was with me and my family.
Q. Did you pull the video from the surveillance system there and provide that to law indictment?
A. With him, yes.
Q. Okay. And one of those, one of the videos was from a camera on the outside of the building and one was from a camera on the inside of the building; is that correct?
A. Yeah.
Q. And have you previously reviewed the copies that we provided to you and put your initials on these disks?
A. Yes. I did.
Q. Do those fairly and accurately depict what you pulled from the surveillance system from the Johnston Pool Room on May 7th, 2018?
A. Yes, sir.
MR. McNAIR: Your Honor, we offer for identification State's 13 and 14 at this time.
BY MR. McNAIR:
Q. Were you actually there on the May 7th?
MR. HUBBARD: Your Honor, State's 13 and 14 for ID at this time.

BY MR. McNAIR:

Q. Mr. Cardosi, you weren't there on May 7th of 2018; is that correct?

A. No. I wasn't.

MR. McNAIR: Thank you for your time. I have no further questions.

MR. B. SHEALEY: May it please the Court.

THE COURT: Yes.

CROSS EXAMINATION

MR. B. SHEALEY:

Q. Mr. Cardosi, am I pronouncing your name right?

A. It's Cardosi. C-a-r.

Q. Cardosi. Are you friends with, I guess, the Halls or Madison and Clayton?

A. I'm Madison's stepfather.

Q. You're Madison's stepfather?

A. Yes.

Q. Okay. So you were, I guess, tasked with meeting with law enforcement and helping retrieve the video footage that they were interested in?

A. Yes, sir.

Q. And so Clayton and Madison weren't there with you, right? They were still out of town?

A. I don't remember if they were, but I don't think they were at the bar.

Q. Okay. But do you recall you, just you and law enforcement and they were asking you to put it on a flash drive and give them what they needed, right?

A. Yes.

Q. Okay. So you recall maybe a day after this incident, I know it's been a while, but you gave them one flash drive of the exterior footage and then a little bit of the interior footage, correct?

A. I gave what the officer asked for. He was in the room with me when we downloaded the video.

Q. So he told you what to get?

A. Yeah.

Q. And then a couple of days later, so that would have been roughly, let's say this incident is May 7th, 2018, this would have been maybe May 9th, does that sound about right when you provided this information to them?

A. I know it was a few days later because when it happened, I was in Kentucky.

Q. I'm sorry. You said?

A. It was a couple days later. I was in Kentucky when the incident happened.

Q. Okay. And do you recall actually the officer, investigator that you were dealing with at the time?

A. I don't know. I don't remember his name. No.

Q. Does Investigator Smith sound familiar maybe with

the Edgefield Sheriff's Department?

A. Yes, sir.

Q. Okay. Now, do you recall him actually coming back to you and trying to get some more footage of the inside of the pool hall?

A. I do not.

Q. Don't recall that at all?

A. (Witness shaking head.)

Q. Would have been the next day.

A. Possibly. I just don't remember.

Q. Okay. You don't remember. Do you remember trying to get any more footage and it not being available because it had been recorded over from the inside?

A. Not that I can remember.

Q. Okay. All right. It's been a while, right?

A. Yes, sir.

MR. B. SHEALEY: Thank you very much.

THE COURT: Any redirect?

MR. McNAIR: No, sir, Your Honor.

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

MR. McNAIR: Your Honor, the State calls Roger Bryan.

THE COURT: This witness is free to go?

MR. McNAIR: Yes, sir, Your Honor.

THE COURT: Without objection the witness is free to

go?

MR. L. SHEALEY: Yes. Mr. Cardosi is free to go.

Thereupon,

ROGER BRYAN

after having been first duly sworn, testified as follows,

THE CLERK: Please have a seat. Once you're seated, state your full name spelling your last please.

THE WITNESS: Roger Alan Bryan. The last name is B-r-y-a-n.

DIRECT EXAMINATION

BY MR. McNAIR:

Q. Mr. Bryan, where are you from?

A. Saluda, South Carolina.

Q. What do you do for a living?

A. Run a tree company, log, tree, timber.

Q. How long you been doing that?

A. 14 years.

Q. Are you married?

A. Yes, sir.

Q. Have any kids?

A. Yes, sir.

Q. All right. Did you know Milledge Hall?

A. Yes, sir.

Q. How did you know Milledge?

A. Met him at the pool room, became good friends.

Q. Now, were you present at the pool room on May 7th of 2018 when he was shot?

A. Yes, sir.

Q. How long had you known Milledge prior to that?

A. I would say eight to 10 year.

Q. What about Barry Jones, did you know him?

A. No, sir.

Q. No, sir?

A. No, sir. I never knowed him.

Q. Did you know who he was?

A. Just by what people told me.

Q. Was he somebody you would see from time to time at the pool room?

A. (Witness shaking head.) I mean, it would be dark in there sometimes, but I could never remember seeing him in there except for that night.

Q. Well, had you seen him in there before May 7th, 2018, the person you knew as Barry Jones?

A. Yes, sir.

Q. Let's talk about that day May 7, 2018. What time did you get there that day?

A. I would say roughly 6:00. That's guessing because I got off, I get out of our shop, it was between five and 6:00.

Q. That was a Monday, correct?

A. Yes, sir.
Q. Were you working that day?
A. Yes, sir.
Q. Did you go after work?
A. Yes. After work.
Q. So when you got there, did you see Milledge Hall there?
A. Yes, sir.
Q. Did you see Barry Jones there?
A. Yeah. The one that they told me was Barry, I seen him there.
Q. All right. So he was there when you got there?
A. Yes, sir.
Q. At some point while you were there did Barry Jones leave?
A. Yes, sir.
Q. Where were you when he first left?
A. I was sitting at the corner of the bar with the L shape like this. I was sitting at the corner.
Q. Where was Milledge?
A. Right beside me.
Q. He was right beside you at the bar?
A. Yeah.
Q. When Barry Jones walked out?
A. Yes, sir.

Q. Did Milledge say anything to Barry Jones that you saw prior to Barry Jones leaving?

MR. SECORD: Objection, Your Honor.

MR. McNAIR: I'll rephrase it.

THE COURT: Okay.

BY MR. McNAIR:

Q. Did you see Milledge Hall speaking to Barry Jones prior to Barry Jones leaving?

A. No, sir.

Q. What, if anything, did Milledge do when Barry Jones left?

A. Milledge got up to go talk to him, but he got out in the parking lot before he get to the car, he was leaving.

Q. Okay. What, if anything, did you see Milledge do once he got out in the parking lot?

A. He throwed his hands up like he was gonna try to, you know, like he was hollering for him to stop.

Q. Where was Barry Jones at that point?

A. He was going out the driveway. He was already in the car.

Q. Okay. And did Barry Jones stop?

A. No.

Q. Did you see Milledge when he came back into the pool room?

A. Yes, sir.

Q. What was his reaction to Barry Jones leaving?

MR. SECORD: Objection, Your Honor. Speculation and hearsay.

THE COURT: All right. What was the question?

MR. McNAIR: I said, what was Milledge Hall's reaction to Barry Jones leaving.

THE COURT: Rephrase your question please.

BY MR. McNAIR:

Q. When Milledge Hall came back in, did he say anything to you?

MR. SECORD: Objection. Calls for hearsay.

MR. McNAIR: I didn't ask what he said. I asked did he say anything to you.

THE COURT: Overruled.

BY MR. McNAIR:

Q. Did he say anything to you?

A. I asked him what's goin' on and then he told me --

MR. SECORD: Objection.

THE COURT: Hold it. That's okay. Don't testify to what he told you, but he spoke to him and he responded. Okay. Thank you.

BY MR. McNAIR:

Q. Now, at some point after that did Barry Jones come back to the pool room?

A. Yes, sir.

Q. About how much longer do you think it was when he came back?

A. 15 minute.

Q. How did you know he got back?

A. I seen him when he drove up.

Q. Were you sitting in the same place at the corner of the bar?

A. Yes, sir.

Q. And I guess from where you were sitting how far away was he parked?

A. I would say 30 feet.

Q. Was there anything obstructing your view?

A. No, sir.

Q. Now, describe, I guess, the pool room. Is there anything blocking the windows or anything -- I guess just describe it. Like how are you able to see him sitting at the bar?

A. I mean, it's a big clear glass.

Q. All right. Just big pieces of glass?

A. Yeah. It's clear.

Q. Now, where was Milledge when Barry Jones pulled back up the second time?

A. He was sitting right by me.

Q. What, if anything, did you tell Milledge at that point?

A. I told Milledge he drove back up.

Q. What did Milledge do at that point?

A. He said, well, I'm gonna go talk to him. He got up and walked out the door.

Q. Okay. Now, did Milledge ever express to you why he wanted to talk to Barry Jones?

MR. SECORD: Objection.

MR. McNAIR: Judge.

THE COURT: Yes. Your response, Mr. Solicitor.

MR. McNAIR: I think that goes towards his state of mind, his intent in wanting to speak to Barry Jones which would be an exception to hearsay 803(3).

THE COURT: Present state of mind.

MR. McNAIR: The then existing mental.

MR. SECORD: Yes, sir. Essentially.

THE COURT: Just before y'all get into it, I want to, let me rule on the objection. Mr. Solicitor, Mr. Shealey, approach real quick. Come over to this side.

(Side bar off the record.)

THE COURT: We're going to take a very short break. I'll get you back in the courtroom as soon as possible. Please don't discuss the case while you're out. Thank you.

(Whereupon, the jury entered the jury room at 3:45 p.m.)

MR. McNAIR: Thank you, Your Honor.

BY MR. McNAIR:

Q. Mr. Bryan, we left off with, you just testified that Barry Jones pulled up while Milledge Hall was sitting beside you, correct?

A. Correct.

Q. And that prior to going outside, did Milledge Hall tell you that he was going outside to tell Barry Jones to leave if he couldn't act in a respectful manner?

A. Yes.

Q. And after Milledge goes outside, are you watching his interaction with Mr. Jones?

A. Yes, sir.

Q. And what are they doing?

A. When he first went out there, they was just talking and then I seen Milledge, you know, point like that right there like saying leave (indicating.)

Q. Okay. So based on what you're observing Milledge do you think he's telling Mr. Jones to leave?

A. Yes, sir.

Q. All right. Where was Mr. Jones?

A. He was still in his car.

Q. And where was Milledge Hall during this time?

A. Standing right there by the front of his car.

Q. All right. And did they talk for a while?

A. Yeah. They talked a few minutes. I don't know how long, but just a few minutes.

Q. And what ended up happening after that conversation?

A. Milledge turned and started back towards the building and Barry must have said something to him. He stopped.

Q. Milledge stopped?

A. Yeah.

Q. And what did Milledge do after he stopped?

A. That's when he raised his hand like telling him to leave again.

Q. All right. So you saw him do his hand motion again telling Mr. Jones to leave?

A. Yes, sir.

Q. And what happened after that?

A. That's when the shots happened. The shots happened.

Q. Okay. I guess, what did you see when the shots happened?

A. I could tell that it was -- What I saw?

Q. Yes.

A. I could tell it was a revolver.

Q. Who shot him?

A. Barry.

Q. Where did he get out of?

A. He opened the car door and he never put both feet on the ground as far as I know. He just opened that door and shot.

Q. All right. Do you recognize that man that you knew as Barry Jones?

A. Yes, sir.

Q. Do you see him in the courtroom today?

A. It's been -- He could be, you know, changed. That's four year, close to four year.

Q. All right. So you saw him shoot Milledge Hall how many times?

A. Twice.

Q. What happened after that?

A. That's when he left and I ran out.

Q. You ran out?

A. Yeah. I ran out to check on Milledge.

Q. Okay. Were you one of the first people to Milledge?

A. Probably the second one. First or second.

Q. When you got to Milledge, was he still alive?

A. Yes, sir.

Q. Was he still able to talk?

A. Barely. You couldn't, you know, slurring his words from being shot. You couldn't hardly understand him.

Q. Right. Now, when you got to Milledge, did you see a gun on him or around his body?

A. No, sir.

Q. Now, during this whole interaction with Mr. Jones, you said you're about 30 feet away?

A. Yes, sir.

Q. Looking through big glass windows?

A. Yes.

Q. At any point during the time they were interacting, did you ever see a gun in Milledge's hand?

A. No, sir.

Q. Did you ever see a gun in Milledge's waistband?

A. No, sir.

Q. Did you see when Milledge pulled up his shirt?

A. Yes, sir.

Q. If Milledge had had a gun in his waistband, could you have seen it from where you were?

A. Yes.

Q. All right. What did Milledge have on his waistband?

A. Cell phone clip.

Q. What did Milledge have in his hand?

A. Cell phone.

Q. Are you a hundred percent certain about that?

A. Yes, sir.

Q. Now, have you previously watched the video from the Johnston Pool Room that day?

A. Yes, sir.

Q. And did that fairly and accurately depict what you saw on May 7th of 2018?

A. Yes, sir.

Q. And there were two videos, right? One from the first time when Barry Jones left when you were there, correct?

A. Correct.

Q. And then when Barry Jones came back and ended up shooting Milledge, correct?

A. Correct.

Q. And both of those have not been altered in any way, have they?

A. No, sir.

Q. I'm gonna show you State's 13 and 14 and ask if you can identify this as being the videos that you previously watched?

A. Yes. That's my initials right there and ID.

Q. Okay. On State's 13 and 14 those are your initials?

A. Yes, sir.

MR. McNAIR: Your Honor, at this time we'd offer State's 13 and 14 into evidence and publish.

MR. SECORD: Your Honor, may I speak to Mr. McNair?

THE COURT: Sure.

MR. SECORD: No objection, Your honor.

THE COURT: State's 13 and 14 admitted into evidence.

MR. McNAIR: Thank you, Your Honor, permission to publish.

THE COURT: Very well.

(Playing State's Exhibit #14.)

BY MR. McNAIR:

Q. Mr. Bryan, what are we seeing here?

A. That's the first time he's leaving.

Q. That's the first time Mr. Jones left?

A. Yeah.

Q. Was he walking to his vehicle?

A. Yes, sir.

Q. Is that the vehicle that you later saw him return in?

A. It was a different one that he came back in, the color anyway.

Q. All right. Who is that?

A. That's Milledge right there.

Q. What did you see Milledge Hall do right there?

A. He tapped on the back of his car trying to get him to stop. That would be my response.

Q. Can you tell us what we see right there on his side?

A. Cell phone.

MR. McNAIR: For the record, Your Honor, this is State's 13.

(Playing State's Exhibit #13.)

BY MR. McNAIR:

Q. Now, what is this showing us?

A. That's the inside. Right where I was, you can't see it, but I was sitting there, there's that glass, all that glass just right of the door, you see how clear it was.

Q. And who did we just see walking out the door?

A. That was -- just the second one. Back it up. Back it up so I can see it more clearly.

(Playing State's Exhibit #13.)

BY THE WITNESS:

A. I'll say that's Barry leaving right there.

BY MR. McNAIR:

Q. All right. Let me pause it. Mr. Bryan, where is, where is - do you know where this camera is located actually in the bar?

A. They behind the bar as far as I know. I don't know the exact spot.

Q. Can you kind of point out where you were sitting in relation to this video? With this top, push to top button

here.

A. Be right in that area right there. You can't see the bar, but it would be, be in that area right there.

Q. All right.

A. It's like, it's like an L shape like right here and I was sitting at the corner.

Q. All right. And what windows were you referring to that you were looking out when you saw him pull back up?

A. They're right there.

Q. Okay. And You said that was about 30 feet from where you were sitting?

A. Yes, sir.

Q. All right. All right. Who is that?

A. That's Milledge right there.

Q. What do we see on Milledge's waistband as he was walking back in?

A. Cell phone.

MR. McNAIR: That's it for State's 13. We'll now publish State's 14.

(Playing State's Exhibit #14.)

BY MR. McNAIR:

Q. Mr. Bryan, whose vehicle is Milledge walking up to?

A. That would be Barry's.

Q. Is that the same vehicle we saw in the earlier

video?

A. It looks like a different color to me from where he's sitting at.

Q. And you watching the video today, does that appear to be the same color to you?

A. Yes, sir.

Q. Do you recognize that individual?

A. Yes, sir.

Q. Who is that?

A. Laynce Hatcher.

Q. Mr. Bryan, can you tell us what Mr. Milledge Hall is pointing at right there?

A. Cameras.

Q. Cameras on the building?

A. Yes.

Q. Can you tell us what he has his hand on right now?

A. Pistol. I mean, a cell phone.

Q. Can you tell us what he's showing?

A. When he pulled his shirt up, he's showing his cell phone.

Q. Did you ever see him reach into Mr. Jones' vehicle?

A. No, sir. All I could see, he had his hand right there on the edge of the car.

MR. McNAIR: Your Honor, at this time I would like

to give the family an opportunity to maybe step out if they want to or just warn them about what they're about to see and may want to turn away.

THE COURT: Counsel, approach.

(Side bar off the record.)

MR. McNAIR: All right.

(Playing State's Exhibit #14.)

BY MR. McNAIR:

Q. Mr. Bryan, at some point can you actually hear what Mr. Hall saying right there?

A. Yeah. He was telling him to leave.

Q. Is that you coming out the door?

A. Yeah. I was the second one right there with the blue shirt on.

Q. Were you present when law enforcement arrived?

A. Yes.

Q. And once again, did anybody remove a gun from around Milledge Hall's body?

A. No, sir.

Q. All right. I'm gonna show you State's 15 through 19 for ID. Take a look at those photos.

A. (Witness complies.)

Q. Are those just screen shots from the video that we just watched?

A. Yes, sir.

Q. Do some appear to be zoomed in a little more than the regular video?

A. I mean, you can see them better in this picture than there, I mean.

Q. Okay. Do those fairly and accurately represent what you saw that day?

A. Yes, sir.

MR. McNAIR: Your Honor, we would offer State's 15 through 19 into evidence at this time.

MR. SECORD: I don't have any objection. I would just like to point out, some of those images are zoomed him and in the past the State has specifically objected to zoomed in photographs being admitted. I just want it now on the record that they're offering the same type of photos.

MR. HUBBARD: Your Honor, this is my witness, but for clarification, I didn't object to zooming in. It was something else.

THE COURT: Okay. All right. Can I see the picture please?

MR. McNAIR: (Proffering.) 15 through 19. 19 is zoomed in.

THE COURT: Just approach real quick please.

(Side bar off the record.)

THE COURT: All right. Ladies and gentlemen, the

State's Exhibits 15 through 19 will be admitted into evidence subject to objection. Exhibit 19 which is a photograph, I believe it's a still that's already admitted. Is there one already admitted of 19 smaller?

MR. McNAIR: I believe there was.

THE COURT: 19 is a zoomed version of a previously admitted exhibit.

MR. McNAIR: Yes, sir.

THE COURT: Okay. Thank you.

BY MR. McNAIR:

Q. State's 22 through 34, will you look through these photos and tell me whether or not you recognize those?

THE COURT: 22 through 34?

MR. McNAIR: 34.

BY THE WITNESS:

A. (Witness complies.)

BY MR. McNAIR:

Q. Do you recognize those photos?

A. Yes, sir.

Q. Are those all still shots from State's 14, the video that we just watched?

A. Right.

Q. Other than just being zoomed in, have they been altered or changes in any way from the video?

A. No. Everything's the same.

MR. McNAIR: Your Honor, we would offer State's 22 through 34 into evidence.

MR. SECORD: Subject to the same instructions by the Court regarding zoomed.

THE COURT: Okay. I'll overrule that.

MR. McNAIR: 22 through 34 all zoomed in still shots from the video.

THE COURT: All right. State's 22 through 34 will be admitted into evidence. As I previously stated, these photographs are zoomed from their original photos.

MR. McNAIR: Right.

BY MR. McNAIR:

Q. Now, you just watched the video, but from where you were sitting in the pool room that day, could you see better than we can see on the video?

A. I mean, just the same. I mean, being a video I could see the same, I mean.

Q. Okay. And you never saw Milledge Hall with a gun?

A. No, sir.

MR. McNAIR: That's all the questions I have at this time. Answer any questions the defense has.

THE COURT: Cross examination.

MR. SECORD: May it please the Court.

THE COURT: Yes, sir.

CROSS EXAMINATION

BY MR. SECORD:

Q. Good afternoon, Mr. Bryan.

A. Hi.

Q. I was just hoping that maybe you could help me just to make sure we're all on the same page about the interior of the Johnston Pool Room, okay?

A. All right.

Q. And unfortunately I don't have a diagram of it, but I'm just gonna do an extremely simple drawing and just ask you if that is the general layout of the shape of the bar.

MR. SECORD: May I approach the witness.

THE COURT: Yes, sir.

BY MR. SECORD:

Q. This is the front door.

A. Front door, the bar running like that, L shaped, and I would be right in there and the window would be over this way.

Q. Yes, sir. And the pool tables would be in the back; is that correct?

A. Yes, sir.

Q. And this would be the kitchen right here?

A. Yes. The kitchen.

MR. SECORD: Can I just show this to the jury with Mr. Bryan's description, Your Honor?

THE COURT: He can stand up and point.

BY MR. SECORD:

Q. Do you mind coming up here, Mr. Bryan?

A. (Witness complies.)

Q. Thank you. Just speak up.

A. Yeah. That would be the door right there and I was sitting right in this corner of the L shape of the bar and the big window run down that way so that would be right in the corner.

Q. So this would be where the cars were parked right out front?

A. Yes. Right out front right there.

Q. Okay. Mr. Jones, when he pulled back in, he would have been in the last spot right there?

A. Right there in the corner right there.

Q. Yes, sir. And then the bartenders would be back here, right?

A. Yes, sir.

Q. And the kitchen is right here?

A. Yes, sir.

Q. And then the pool tables in back right up here?

A. Yes, sir.

Q. Thank you very much. I appreciate it. Now, Mr. Bryan, the day that we're talking about, May 7th, 2018, you got there in the afternoon sometime?

A. Yes, because I worked that day.

Q. Yes, sir. And when you got there, Mr. Jones was already there?

A. Yes, sir.

Q. Okay. And when you got there, when you walked in the front door, Mr. Jones would have been immediately to your right at the bar right there, right?

A. Yes. At the corner right to my right.

Q. Closest to those windows to the right of the front door?

A. Yeah.

Q. Do you remember whether he was there with somebody else?

A. There was another fellow there with him, but I didn't recognize him.

Q. Yes, sir. Okay. You walked in and went straight back to that corner of the L that you talked about?

A. Yes, sir.

Q. And that's where you were sitting with Mr. Hall?

A. Yes, sir.

Q. Okay. Do you remember at some point that Angie Smith came to the Johnston Pool Room?

A. Yes, sir.

Q. Do you know Angie Smith?

A. Uh-uh.

Q. Okay.

A. I just know her by what people said her name was when she was in there.

Q. Yes, sir. Had you seen her before that day?

A. No.

Q. Oh, okay. But she came and sat with you and Mr. Hall?

A. She sat on the other side.

Q. On the other side of the corner?

A. Yeah.

Q. Okay. So if you were sitting on the right side of the corner, she was just sitting on the left side of that corner?

A. Yeah.

Q. And Mr. Hall was between the two of you?

A. Yes, sir.

Q. Okay. Did you know that Mr. Hall and Ms. Smith had any relationship to one another at all?

A. No. She had -- No.

Q. Okay. Now, you were there for a while when Mr. Jones was there and then he eventually left, right?

A. Yes, sir.

Q. But you saw him at the bar while you were there?

A. Yeah.

Q. And there was no issues occurring at the bar when he was there?

A. No, sir.
Q. And he was drinking beer with his friend, right?
A. Right.
Q. And the beers were being served to him by the bartender at the Johnston Pool Room?
A. Yes, sir.
Q. Was it Ms. Hutson that day, Mimi?
A. Nicole was there too.
Q. Okay. I'm sorry. Right. Ms. Bibbs, right?
A. Yes.
Q. I think Ms. Hutson was in the kitchen probably; is that right?
A. (Witness nodding head.)
Q. Okay. But there was no altercations, problems at all between Mr. Jones and anybody at the Johnston Pool Room before he left that first time? He just left, right?
A. Yeah. He just left.
Q. Okay. Did you -- And I'm not gonna ask you what anybody said to you inside the bar, but after Mr. Jones left, you were conversating with Mr. Hall and Ms. Angie Smith, I assume, while you were just enjoying a drink; is that right?
A. Yes, sir. I was waiting on some food.
Q. Again, I don't want you to say what anybody else said, but during the course of that conversation, did you learn that Ms. Smith and Mr. Barry Jones were in a

relationship?

A. Yes, sir.

Q. Okay. Did you, during the course of that conversation, learn that there was some problem in that relationship between Ms. Smith and Mr. Jones?

A. What I overheard. Yes, sir.

Q. Okay. That there was some sort of tension or something between Ms. Smith --

A. Some type of disagreement or something.

Q. I understand. Okay. Was Ms. Smith telling those things to Mr. Hall?

A. She was telling it, she was telling it to basically everybody could hear what she was saying. I mean, she was speaking loud.

Q. Okay. And so was there more than just you and Mr. Hall were listening to what she was saying?

A. Yes, sir.

Q. Okay. And is it fair to say she was complaining about problems in her relationship with Mr. Jones?

A. Yes. If you're angry, your voice is sort of loud --

Q. Yes, sir.

A. -- so everybody could hear.

Q. Of course. Absolutely. I agree with you. Do you recall when Ms. Smith initially arrived? Do you actually remember that moment when she arrived that day at the bar?

A. I just remember seeing her coming in. I don't know the exact time.

Q. No. No. I'm not asking the exact time, but you do remember seeing her walk in?

A. Yes, sir.

Q. And if you walked in that bar, it would be very obvious that Mr. Jones was sitting right there at the bar to your immediate right?

A. Yes.

Q. But when Ms. Smith walked in, Ms. Angie Smith walked in, she just walked straight in and walked right to you and Mr. Hall?

A. Yes. Walk in, sit down, didn't go nowhere by Barry.

Q. Didn't go nowhere near Barry?

A. No.

Q. Didn't even look over there at him?

A. Uh-uh.

Q. Okay. And then as you said when Solicitor Hubbard was talking to you after a while Barry gets up, both he and his friend leave, right?

A. Yes, sir.

Q. All right. And then that's when Mr. Hall gets up and goes outside and you said he tapped on his car and Barry left?

A. Yes.
Q. And then after a little while he came back, right?
A. Yes, sir.
Q. And it was your recollection that you thought it was a different car that he came back?
A. It looked like a different color.
Q. Okay. Like the same model, but just a different color?
A. Yeah.
Q. Okay. Now, I know the time between when Mr. Jones left and when Mr. Jones came back you don't know exactly, right?
A. I just say 15 minutes. Yeah.
Q. Whatever. It was a period of time, right?
A. Yeah.
Q. And when you saw the car pull back in, you were the one that told Mr. Hall Barry just came back; is that right?
A. Yes. That's right.
Q. All right. And Mr. Hall got up. He was sitting there with Angie, right?
A. Right.
Q. And during that whole time that Mr. Jones was gone from the bar, this conversation or this whatever Angie was talking about that she was angry about, that went on the whole time Mr. Jones was gone?

A. Yes. She was complaining.
Q. The whole time?
A. Yeah.
Q. So when Barry comes back in, you say to Mr. Hall Barry's back, right?
A. Yes, sir.
Q. And Mr. Hall gets up and when you were talking to the Solicitor you said that the reason that Mr. Hall was gonna go out into the parking lot was that he was specifically gonna tell Barry, quote, "if you couldn't act in a respectful manner, you would have to leave", end quote; is that right?
A. That's right.
Q. Okay. Now, when Mr. Hall is outside, were you watching that whole interaction between Mr. Hall and Mr. Jones or where you glancing back and forth?
A. I watched the whole thing.
Q. Steady watched the whole thing?
A. Yes.
Q. Did everybody else in bar watch like you did?
A. I was the only one that actually could really see that clear. They were sitting -- If you get on around get back from where I was sitting by the window on the side, you wouldn't be able to look straight out like the way I seen it.
Q. Okay. So the further back in the bar you're

sitting, you're telling us you start to lose the angle to be able to see out the window?

A. Yes, sir.

Q. Now, while Mr. Hall was outside, you couldn't actually hear what was being said?

A. Not at first.

Q. Okay.

A. But when I heard him to say leave, that's when he done started raising his voice I reckon trying to get the point across.

Q. Right.

A. That's when I heard it.

Q. And that's when you see that he's making hand gestures, right?

A. Yes.

Q. But his elevated voice, it took a while for that to happen, right? They were out there for a while?

A. Yes.

Q. And most of the time that you were watching, you could see Mr. Hall was directly right outside the window of Mr. Jones' car?

A. Yes, sir.

Q. Could you tell that Mr. Jones' window was just cracked about six inches from where you were sitting?

A. Yeah, because if it was all the way down, it would

be a clearer picture.

Q. Exactly. Right. But it was dark from where you were sitting?

A. Yeah.

Q. So you could tell if it was down at all, it was just down a little bit?

A. Yes.

Q. Okay. And you never heard anything that Mr. Jones said at all? You could only hear Mr. Hall's voice?

A. Yeah.

Q. Okay. I know the State was asking you a lot of questions as you were going through the video, okay? Is today the first time you've ever seen the video?

A. No, sir.

Q. Okay. At one point you were asked when Mr. Hall is seen lifting up his shirt, Mr. McNair asked you what is he showing you and I think I heard you say a pistol first and then say a cell phone; is that right?

A. I got it mixed up. It was a cell phone.

Q. But you did first say a pistol, right?

A. I got nervous.

Q. I understand. I understand. We all are. On the date that this happened you rendered aid to Mr. Hall the best you could, right?

A. Yes, sir.

Q. And you waited for the police to arrive?
A. Yes, sir.
Q. Because you wanted to provide them any helpful information that you possibly could, right?
A. (Witness nodding head.)
Q. And you were actually asked to make a statement by the police and they gave you a form, right, and you filled that out?
A. Yes.
Q. With as much information as you possibly could?
A. Yes.
Q. Anything that you thought would be important to them, right?
A. Yes, sir.
Q. And then I think it was in March of 2020 you were interviewed by the Solicitor's Office. Do you remember that?
A. Yes, sir.
Q. Okay. And again, that was because they just wanted to ask you about any other relevant information that you might remember, right?
A. Yes, sir.
Q. And, of course, being who you are, you were trying to be helpful in telling them everything you possibly could, right?

A. Right.

Q. Anything that was relevant and important to what you remembered, right?

A. Yes, sir.

Q. And then three months later in June -- Oh, no. I'm sorry. Over a year later in June of 2021 you were interviewed again by the Solicitor's Office, right?

A. Yes, sir.

Q. And again, that was just they're trying to get relevant information from you and you're trying to be as helpful as you possibly can to give them anything that they want to know, right?

A. Right.

Q. Now, in hearing your testimony today, you made several references to Mr. Hall having a cell phone on his hip and seeing a cell phone in his hand, right?

A. Right.

Q. And those are things that you say that you remember from that day, right?

A. (Witness nodding head.)

Q. But in those statements that you've made or times that you were interviewed including the date that Mr. Hall was shot, which was, of course, May 7th, 2018, and again when you were interviewed by the Solicitor's Office in March of 2020 and again in June of 2021, you never mentioned him having a

cell phone on his hip or seeing a cell phone in his hand?

A. But he's always had a phone.

Q. I'm just saying --

A. Okay.

Q. -- in those statements that you made --

A. Yes.

Q. -- you never mentioned seeing a cell phone on his hip or in his hand, right?

A. Right. That never came up at the time.

Q. Okay. Had you been going to the Johnston Pool Room for quite a while?

A. Yes, sir.

Q. And you were friends with Mr. Hall?

A. Yes, sir.

Q. Okay. And assuming this happened, this was obviously upsetting to you?

A. Yes, sir.

Q. And you went out to try to help your friend in the parking lot?

A. Yes, sir.

Q. And when you were trying to help him, did you ever hear him say that he had been shot in the back?

A. Yes, sir. I mean, you could tell he was shot in the back. It come through the front and it lodged in his back, and that's when I rolled him over when he said back, you could

see the bullet logged in his back.

Q. Okay. But you actually heard Mr. Hall say I was shot in the back?

A. It wasn't clear because I had to bend over to listen to him.

MR. SECORD: Yes, sir. I understand. Okay. Thank you so much, Mr. Bryan. I appreciate it.

THE COURT: Redirect?

MR. McNAIR: Nothing further.

THE COURT: Counsel, come up and approach please.

(Side bar off the record.)

THE COURT: Ladies and gentlemen, it's about ten to five. We're gonna break for the evening without calling any more witnesses. So first, leave today. As I have told you numerous times, don't discuss the case. Please don't discuss the case with your family members tonight. Please don't do any research on the computer or on your phone or anything having to do with this case at all about anything.

Secondly, I would like you to be back in the jury room at 8:45. Our goal will be to start at nine. We'll continue with witness testimony then. We didn't really, I don't think we ever went longer than 90 minutes today without taking breaks here and there so I want to go ahead and tell you it's not 5:00 yet, but let's be

keeping with what was asked at the immunity hearing, then we should be able to get past it, you make your objection and I'll overrule it, but the record will reflect the basis for your objection in this pre-testimony hearing.

MR. SECORD: Yes, sir. I appreciate it.

THE COURT: All right. It's a -- They were here on time and y'all were here on time so thanks for doing that. I don't think many of us actually live in Edgefield, but I realize everybody, everyone is doing a lot right now so... Let's bring the jury in please.

(Whereupon, the jury entered the courtroom at 9:25 a.m.)

THE COURT: Ladies and gentlemen of the jury, please be seated. Welcome back. Hope you had a nice evening. Appreciate everyone being here promptly this morning on time. We'll pick up where we left off yesterday on the next witness in the State's case in chief.

MR. HUBBARD: Thank you, Your Honor. The State calls Lanyce Hatcher.

THE COURT: Lanyce Alan Hatcher.

Thereupon,

LANYCE A. HATCHER

after having been first duly sworn, testified as follows,

THE CLERK: Please have a seat. Once you're seated, state your full name spelling your last please.

THE WITNESS: Lanyce Alan Hatcher, H-a-t-c-h-e-r.

DIRECT EXAMINATION

BY MR. HUBBARD:

Q. Mr. Hatcher, are you from here in Edgefield county?

A. Yes, sir.

Q. Are you familiar with the pool room in Johnston?

A. Yes, sir.

Q. You been going there for quite a while?

A. Yes, sir.

Q. Were you going there before Clayton Hall owned the place?

A. Yes, sir.

Q. So you been, you're very familiar with that establishment?

A. Yes, sir.

Q. And while Clayton Hall owned that establishment, were you a customer there as well?

A. Yes, sir.

Q. Would you consider yourself a fairly regular customer?

A. Yes.

Q. Now, where are you working right now?

A. Savannah River Site.

Q. Were you working there at that time?

A. Yes, sir.

Q. So if you were working a day shift, would you, after day shift several times a week go by the pool room?

A. Not usually. No. But I did on this occasion because I was working off shift and had to go to the post office and I got off earlier.

Q. Okay. Now, you knew Clayton Hall?

A. Yes, sir.

Q. You knew he was running the establishment?

A. Yes, sir.

Q. Did you know Milledge Hall?

A. Yes, sir.

Q. How well did you know Milledge Hall?

A. I've known Milledge for over 50 years probably. Since we was teenagers.

Q. Are you older or younger than Milledge?

A. I'm older I think a couple years.

Q. So growing up here in Edgefield County you knew Milledge pretty much your whole life?

A. Yes.

Q. May 7th of 2018, that's the day of the shooting, do you remember going to the pool room in Johnston?

A. Yes.

Q. What did you drive there?

A. A white Ford pickup.

Q. And do you remember pulling in and who you parked next to?

A. Yeah. I parked next to Milledge's truck.

Q. So Milledge had a truck parked there as well?

A. That's correct.

Q. Did you park off to the side?

A. Yeah. I parked on the right side of him facing the old IGA.

Q. All right. As you were pulling up, did you see Milledge Hall out in the parking lot?

A. Yes.

Q. What was he doing?

A. He was having a conversation with somebody in a car parked on the corner right there in front of the pool room.

Q. Do you remember what this car looked like, if you can remember? If you don't --

A. I really didn't pay it much attention. It seemed like it was a silver or gray colored car.

Q. Okay. And as you got out, did you have to walk by that car? Was it parked up to the front of the establishment?

A. Yes.

Q. Whereabout?

A. On the, if you're facing it, on the left the last parking lot on the left.

Q. So right there on the corner?

A. Right.

Q. And when you got out of your truck, you walked right by there?

A. That's correct.

Q. And Milledge was over there and there was something going on between he and this guy?

A. Yes. He was standing outside of the car and arguing I believe because it was loud.

Q. Well, you say arguing, it's loud. Usually when you're walking by Milledge Hall out in the parking lot, would you two talk?

A. Oh, yeah. He would at least speak and I would at least speak, but you could tell it was an argument, but I figured, well, it's none of my business so I just walked on by.

Q. And this car, could you tell, were the windows clear or tinted?

A. It must have been tinted because, or barely cracked, because I couldn't tell. I didn't know who he was arguing with, but you could tell it was an argument.

Q. And as you're walking by Milledge Hall and you hear this argument, what, if anything, do you hear Milledge Hall say?

MR. SECORD: Objection, Your Honor.

THE COURT: Overruled.

BY THE WITNESS:

A. I heard him say, no. I'll tell you what you're gonna do. You're gonna leave and you're not coming back. And that's as I was passing by, that's what I heard.

BY MR. HUBBARD:

Q. You're gonna leave and not come back?

A. That's correct.

Q. When he's saying no -- Let me ask you this: When you heard that, did it sound as if he got some kind of response and he's saying, he's correcting the guy?

A. That's exactly what I thought.

Q. So he gives a response. He goes no. What you're gonna do is leave and not come back?

A. That's correct.

Q. I want to show you some photographs, State's ID 9. Do you see your truck in that as you're pulling up?

A. Yes, sir. Right there.

Q. State's 10, do you see a blowup of your truck?

A. Yes, sir.

Q. State's 11, another blowup. Do you see yourself walking now from your truck?

A. Yeah. That's me there.

Q. Okay. And then State's 12, again, do you see yourself walking into the door of the establishment?

A. That's me right there.

MR. HUBBARD: I offer these into evidence, Your Honor.

MR. SECORD: No objection.

THE COURT: Those are State's?

MR. HUBBARD: State's 9, let's see, 9, 10, 11, 12, Your Honor.

THE COURT: State's Exhibits 9 through 12?

MR. HUBBARD: Yes, sir.

THE COURT: In evidence.

BY MR. HUBBARD:

Q. Whose truck is this right here?

A. That's mine.

Q. This white Ford. Is that you pulling in?

A. Yes, sir.

Q. Now, I don't know if you can make out, but do you see somebody standing right here at this silver car?

A. Yes.

Q. Who's that?

A. Well, I couldn't tell you from here, but when I pulled in, I was closer. I knew it was Milledge Hall.

Q. All right. I want to show you a blowup, State's 10. You see your truck as you're pulling in right there?

A. Yes, sir.

Q. And again, do you see Milledge a little more clearly

now?

A. Yes.

Q. So he's at that car apparently having some kind of conversation?

A. That's right.

Q. State's 12. Let me show you, first of all, let me show you State's 11. Is that your truck right there, that white truck?

A. That's correct.

Q. Is that you --

A. Yes.

Q. -- in jeans and the kind of reddish shirt?

A. That's me.

Q. That red truck that you parked next to, who's that?

A. That's Milledge's truck.

THE COURT: As long as they're looking at that screen, you can use the pointer.

MR. HUBBARD: Okay. Yes, sir.

THE CLERK: The light is coming through onto the Elmo is what it is.

THE COURT: No. No. No. They're using a pointer on that screen. I want to make sure they're not looking at that screen.

MR. HUBBARD: I know when I do the pointer on this

one, I don't think it really works.

BY MR. HUBBARD:

Q. All right. And right here is Milledge?

A. Yes, sir.

Q. And again, State's 12, that's you right there?

A. That's correct.

Q. You've already walked past?

A. Yes.

Q. So during this walk, you didn't stop and say, hey, Milledge, or anything like that because he seemed to be engaged in this argument?

A. That's correct.

Q. Once you got inside the bar, what did you do?

A. I took a seat at the bar on the corner next to Roger Walter.

Q. Okay. Did you make an order?

A. Well, no. The first thing I asked him was who is Milledge arguing with out there and he said Barry Jones.

MR. SECORD: Objection, Your Honor.

BY MR. HUBBARD:

Q. Let's not -- Don't say what somebody else said, okay?

A. Okay.

Q. But you made an inquiry, who is Milledge arguing with out there?

A. Right.
Q. Okay. Now, did you end up getting a drink and --
A. Yeah. They brought me a beer. I was gonna order some food to take home.
Q. Did you ever order your food?
A. No. It happened so fast.
Q. Now, as you're sitting there talking to Roger Walter and drinking your beer, what, if anything, happened?
A. Well, I heard a shot, I turned to my right and I saw Barry open the car door and he shot, I saw him when he shot him the second time, I saw the gun fire coming out of the gun and pop up.
Q. So the first shot you didn't see what happened?
A. No.
Q. When you say you turned around, were you sitting on a stool?
A. Yes.
Q. So you could just swivel around?
A. That's correct.
Q. Now, were you able to just look out the window and she what happened?
A. Yes.
Q. When you saw this second shot, you mentioned Barry Jones?
A. That's correct.

Q. That's who you saw standing outside his car?
A. That's right. That's who I saw.
Q. Do you see him in the courtroom today?
A. Yes, sir.
Q. Can you please point him out?
A. Yes. Yes, sir. With the yellow tie with the stripes across it.
MR. HUBBARD: Your Honor, please let the record reflect that Mr. Hatcher has pointed out the defendant.
BY MR. HUBBARD:
Q. That's who you saw standing outside his car door shooting at Milledge?
A. Yes.
Q. Now, when you saw that, you mentioned you saw fire coming out of the gun. Did you see Milledge?
A. No. I didn't see Milledge. I thought he was running down the side of the building as a matter of fact.
Q. Once you saw what happened, the second shot, what did you and everybody in there do?
A. Ran out. Well, in the meantime, the next thing I saw was Barry backing out and taking off up toward the road toward Trenton so we all ran out to see where Milledge was.
Q. Okay. So you got a road right here. What road is that looking at State's 12?
A. Okay. I've lived there all my life. I don't know

the name of the road from Johnston to Trenton.

Q. That's all right. All right. Let's do it that way. When he comes up here to this, pulls back up here, which way does he go, to the left or the right?

A. The left.

Q. So he goes to the left. Is that towards Trenton?

A. That's correct.

Q. Now, if you were to go right, could you go to the Johnston Police Station or --

A. You would go to the stoplight, yeah, in Johnston. You go back to, into town.

Q. So if somebody wanted to go look for law enforcement, that would be one of the quickest places to go?

A. Yes.

MR. SECORD: Object to speculation.

MR. HUBBARD: He lives here.

THE COURT: Overruled. You can answer the question.

BY THE WITNESS:

A. Yes.

BY MR. HUBBARD:

Q. But he went the other way?

A. Yes.

Q. Now, after he's gone or you see him leaving, you go outside as well?

A. Yes.

Q. When you round that corner or get to the corner of that building where you initially saw Milledge, was he still there or did he run on down the building?

A. No. He was at that last yellow thing that stuck up against the car. He was laying right about four feet past it right in there.

Q. Okay. Was he still alive at that point?

A. Yes.

Q. Now, this is a man you've known most of your life?

A. Yes.

Q. Did you see any gun on Milledge Hall?

A. No.

Q. Did you see any gun lying around the ground?

A. No.

Q. Any kind of pistol or weapon at all?

A. No.

Q. In your 50 plus years knowing Milledge Hall, did you ever know him to carry a gun or a pistol?

A. Not that I've ever known. No.

Q. Did you ever see him with a gun or pistol during all these years?

A. No.

Q. Did you know him to carry a cell phone?

A. Oh, yeah.

Q. Did you see him use that cell phone a good bit?
A. Yeah. He'd snatch it out and look something up in a minute.
Q. So if y'all are having a talk and somebody has a question about something, he'd look something up on his phone?
A. Yes. Especially sports. Yeah.
Q. What's that?
A. Especially sports.
Q. Sports. During your time going to the pool room, did you ever see Milledge Hall threaten anyone or use physical violence against anyone?
A. No.
Q. And again, as you're walking in and you pass by Milledge, he's arguing and he's saying, no. What you're gonna do is leave and not come back?
A. And not come back.
MR. HUBBARD: Thank you, Mr. Hatcher.
THE COURT: Cross examination.
MR. SECORD: Please the Court.
THE COURT: Yes, sir.

CROSS EXAMINATION

BY MR. SECORD:
Q. Good morning, Mr. Hatcher.
A. Hey.

Q. Solicitor Hubbard showed you the still photographs of you arriving. I would just like to have you watch the video. Is that all right with you?

A. Yes.

Q. Okay.

MR. HUBBARD: Are we playing something already in evidence?

MR. L. SHEALEY: Yes, sir.

MR. HUBBARD: It's not something downloaded on a computer?

THE CLERK: There you go.

MR. HUBBARD: Let's play the disk. Let's play what's already in evidence. May we have a side bar?

THE COURT: Sure.

(Side bar off the record.)

THE COURT: Ladies and gentlemen, we're going to take a short break. We have a little technology to set up. I don't want to have you sitting out here while we mess with technology, so we'll take five or 10 minutes and I'll get you back in here. Please don't discuss the case. Thank you.

(Whereupon, the jury entered the jury room at 9:50 a.m.)

THE COURT: Okay. We had a bench conference here about the video on defense counsel's computer. It's the

pick up with cross examination.

MR. SECORD: May it please the Court.

THE COURT: Yes, sir.

MR. SECORD: Thank you.

BY MR. SECORD:

Q. Sorry for the delay, Mr. Hatcher.

A. That's okay.

Q. And you do recognize this as the video that I think you've seen probably several times in the past, correct?

A. I don't know if I actually saw the video.

Q. Oh, you haven't?

A. I just saw pictures.

Q. Okay. All right. If you'll watch this and tell me if you feel like that's a good representation of what happened that day when you arrived at the pool room.

A. Yes, sir.

(Playing video.)

BY MR. SECORD:

Q. Okay. I think that's your white truck there? Yes, sir? Is that right?

A. That's it with me walking behind it.

Q. Okay. And that's about it. That's your memory of what happened that day?

A. Yes.

Q. Okay. And I think that we can agree from watching

that video, when you walked by, you didn't even look up and I think you told the Solicitor that; is that right?

A. I looked over at Milledge and them, but I didn't know. I didn't say anything. I didn't stop.

Q. And you weren't worried about Mr. Hall at that point at all?

A. Well, I didn't know who he was arguing with or about. What I just knew is he was in an argument.

Q. Right. But as you testified, this is your good friend Mr. Hall, right?

A. That's correct.

Q. And if you had been concerned at all for him, you probably would have stopped and asked him if he was okay, right?

A. Probably.

Q. Yes, sir. Okay. When the Solicitor was talking to you, you talked about what you say that you remember hearing as you were walking into the pool room; is that right?

A. That's correct.

Q. And just, I just want to make sure that I'm correct about what your testimony is today. Your testimony is that you heard Mr. Hall say, no, what you're gonna do is leave and not come back; is that correct?

A. That's correct.

Q. Okay. When this, the day that this happened which

was, of course, May 7th, 2018, you stayed at the pool hall after Mr. Hall was shot and after Mr. Jones left the pool hall, right?

A. That's correct.

Q. All right. And you waited until law enforcement arrived, right?

A. That's right.

Q. And in the course of what law enforcement did on the scene is they talked to people that were there, right?

A. That's right.

Q. And you were one of several people there that they talked to, right?

A. That's correct.

Q. And they were talking to you and the other people there obviously because law enforcement didn't know what happened, they weren't there, correct?

A. That's correct.

Q. And one of the things that they asked you all to do is to write your own statements as to what you remembered seeing and hearing that day, right?

A. That's correct.

Q. And you, in fact, wrote out your own statement on that day before you even went home that night, right?

A. That's right.

MR. SECORD: May I approach the witness, Your Honor?

THE COURT: Yes, sir.

BY MR. SECORD:

Q. Mr. Hatcher, if you'd just look at that piece of paper and just tell me if you recognize it?

A. Yes. I do.

Q. Okay. And is this is a copy of the actual written statement that you made on May 7th, 2018?

A. Looks like it to me.

Q. Okay. and I'm just gonna put it up here. I'm not gonna offer it into evidence.

THE COURT: Counsel. Wait, counsel. Counsel.

(Whereupon, Defendant's Exhibit #1 marked for identification.)

BY MR. SECORD:

Q. Sorry, Mr. Hatcher. I had to get this marked as Defendant's Exhibit number 1. Take a look at it and tell me if it's the same document.

A. Yes.

Q. That's the statement that you filled out that day at the pool hall before you left that day?

A. That's correct.

MR. HUBBARD: No objection to that coming into evidence.

THE COURT: Is it being offered?

MR. SECORD: Yes, sir.

THE COURT: Defendant's Exhibit 1 is admitted into evidence without objection.

BY MR. SECORD:

Q. Mr. Hatcher, I'm gonna put it on the overhead here and I know you probably can't read it from there, but I'm not going to ask you to. I'm just sort of going to go over what's on the form. It's an Edgefield County Voluntary Statement Form, right, that the police gave to you?

A. Yes.

Q. All right. And it just obviously gives you the opportunity to write the date and time at the top and your name and where you were at the time you made the statement, right?

A. Right.

Q. And then the bulk of the form obviously is where you are handwriting your memory of what happened that day, right?

A. Right.

Q. And there's several lines here. I don't know how many, but you actually added an additional line at the bottom there because you wanted to make sure you provided law enforcement every bit of information that you could to possibly help them, right?

A. Right.

Q. Because you wanted to give them information to help

them investigate what happened, right?

A. That's correct.

Q. I think you would agree with me given the day that form was filled out by you on May 7th, 2018, that it's the best representation of what happened that day because it's the day that you made that statement, right?

A. That's right.

Q. But in this statement from May 7th, 2018, there's nothing in it about you hearing Mr. Hall say quote, "what you're gonna do is leave and never come back", end quote, right?

A. I don't know. That was three and a half year ago. I don't know.

MR. SECORD: May I approach again?

THE COURT: Yes.

BY THE WITNESS:

A. I mean, y'all told me before that I didn't put that in there.

BY MR. SECORD:

Q. That's the only point I'm trying to make.

A. Right.

Q. You agree there is nothing in there about that?

A. No.

Q. There's nothing in your statement at all about hearing any specific words that Mr. Hall said at all, right?

A. Right.
Q. Okay.
A. But can I say something?
Q. Sure.
A. I was asked when the Sheriff's Department people handed me this, write down what did you see. They didn't ask me to write down everything I heard or heard afterward or anything like that, you know? I didn't know I was supposed to give that detail.
Q. But you were giving them as much as you possibly could, right?
A. Yeah.
Q. All right. And you eventually had an interview with the Solicitor's Office that I believe was on March 27th, 2020. Does that sound about right?
A. That sounds about right.
Q. And that would have been almost two years from the time that Mr. Hall was killed, right?
A. Yeah.
Q. Just under two years?
A. Close.
Q. And that was the first time that any conversation was had about specific things that you heard Mr. Hall say, right?
A. I suppose. I mean, I don't remember all that stuff

from way back then.

Q. I understand. The last thing I wanted to ask you about, Mr. Hatcher, is in your testimony today you specifically, and correct me if I'm wrong because I don't want to put words in your mouth, but you specifically said it was arguing that you heard, right?

A. That's right.

Q. And today you specifically said that Mr. Hall was being responsive to something that had been said to him when he said the quote that you said he said; is that correct?

A. That's what it seemed like to me. Yes.

Q. In early September you testified in a hearing about this case before the trial, right?

A. Right.

Q. And it was in this exact courtroom. You were in that exact same witness stand, correct?

A. That's correct.

Q. You went through the same process with the clerk, you swearing to tell the truth and all that, right?

A. That's right.

Q. During the course of that testimony that you gave back in September of 2021, you were asked, quote, "as you were walking by, could you hear talking between Milledge and whomever was in that vehicle", end quote. And your response to that question was quote, "I heard Milledge. I didn't hear

anything from the car. The window was just cracked and tinted. I couldn't see. I didn't know who it was and I didn't hear anything, but I heard Milledge", end quote. Do you remember saying that?

A. Yes.

MR. HUBBARD: Your Honor, I would ask that when he does that, that he has that up there so Mr. Hatcher can read along.

THE COURT: Give it to the witness. Show him.

BY MR. SECORD:

Q. I'm happy to approach, Mr. Hatcher, just so you know. It's that answer right there is the one I just quoted. Just make sure I didn't misquote you.

A. That's correct.

Q. What I said was what you said; is that right?

A. Yes. That's right.

Q. Thank you. And so when you came through, or when you walked in the front of the pool room that day, the only voice that you heard was Mr. Hall's voice, right?

A. That's correct.

Q. And I understand that you described it as arguing and that you described what Mr. Hall said as being responsive, but these are just things that you infer. The only voice that you heard at all was Mr. Hall's voice, right?

A. That's correct.

Q. Once you got inside the pool room, I think you said you ordered a beer and had a couple sips, hadn't even ordered food yet, right?

A. That's right.

Q. And from inside the pool room you never heard any voices outside at all whatsoever, correct?

A. No.

Q. And the first thing that drew your attention to what was going on outside is you heard a gunshot?

A. Well, that wasn't the first thing because I had looked around a couple times to see them and you could see Milledge out there waiving his arms and talking, arguing, whatever they were doing.

Q. Okay.

A. But yes.

Q. But the first thing that you heard, I guess the point I'm trying to make, it was the gunshot?

A. That's right.

Q. Because inside the pool room you couldn't hear anything being said?

A. Yeah.

MR. SECORD: Thank you, Mr. Hatcher. I appreciate your time.

REDIRECT EXAMINATION

BY MR. HUBBARD:

Q. Mr. Hatcher, when we had this hearing back in September of this year in this same courtroom, your testimony about the statement you heard referring back to the transcript on page 340 of that transcript, you have here, no, I'll tell you what you're gonna do. You're gonna leave and not come back. That's what you heard Milledge say then?

A. That's correct.

Q. And that's what you testified to under oath before?

A. Yes.

Q. So your testimony today is the same?

A. Yes, sir.

Q. Now, let me also ask you, you were asked about a written statement. Defense has put in Defense Exhibit number 1. What time of day was that statement written?

A. It says 8:25 p.m.

Q. On the same day your friend was shot?

A. That's correct.

Q. So we're talking about maybe an hour and a half after Milledge has been shot?

A. Yes. That's a pretty good while. It was a long time before the ambulance even got there.

Q. And where was Milledge Hall while you were writing that statement? Had they transported him?

A. He was on his way to the hospital or he may have

already been there, but yes, he was gone.

Q. And law enforcement, when they gave you this statement, it was just a blank form?

A. That's right.

Q. Did they just give it to you and say write down what you saw?

A. That's right.

Q. Did anybody come back and say, Mr. Hatcher, let's sit down and talk about what you wrote?

A. No.

Q. And what you wrote, was your focus on what you heard or was your focus on the fact that you had just seen your friend get shot?

A. That's what I was focused on.

Q. Seeing Milledge get shot?

A. That's right.

MR. HUBBARD: Thank you. No further questions.

THE COURT: Recross.

MR. SECORD: No, sir.

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

MR. HUBBARD: Ask the witness be excused.

MR. SECORD: That's fine. Yes.

THE COURT: All right. The witness is free to go.

MR. McNAIR: Your Honor, the State calls Nicole Bibbs.

Thereupon,

NICOLE BIBBS

after having been first duly sworn, testified as follows,

THE CLERK: Please have a seat. Once you're seated, state your full name spelling your last please.

THE WITNESS: Nicole Bibbs, B-i-b-b-s.

DIRECT EXAMINATION

BY MR. McNAIR:

Q. Ms. Bibbs, will you tell the jury a little bit about yourself. Where are you from?

A. Edgefield County.

Q. Do you currently live in Edgefield County?

A. Yes, sir.

Q. Are you working?

A. Yes, sir.

Q. Where do you work?

A. Jack's Bar in Edgefield.

Q. Okay. Are you married?

A. No, sir.

Q. Do you have any kids?

A. Yes, sir.

Q. How many kids do you have?

A. Five.

Q. Five kids?

A. Yes, sir.

Q. Okay. Now, back in May of 2018 where were you working?

A. At the pool hall in Johnston.

Q. And what did you do there?

A. Cook.

Q. Ma'am?

A. Cook.

Q. Now, who owned the pool room at that time?

A. Clayton and Maddie.

Q. And Maddie?

A. Clayton and Maddie. Mm-hmm.

Q. Who is Maddie?

A. That's his wife.

Q. Okay. Can you pull that microphone just a little bit closer to you? I'm having trouble hearing you.

A. (Witness complies.)

Q. Now, did you also work there prior to Clayton taking over?

A. Yes, sir.

Q. And were you a cook there at that time too?

A. Yes, sir. I was.

Q. Who was the owner at that time?

A. Mr. Holloway.

Q. Mr. Holloway?

A. Mm-hmm.

Q. Okay. Now, do you know Milledge Hall?
A. Yes, sir.
Q. How do you know Milledge?
A. He used to come in there.
Q. He was what?
A. He used to come in there, a customer.
Q. Okay. What was his relationship to Clayton Hall?
A. That was his granddaddy.
Q. Now, did you know Milledge prior to Clayton buying the pool room?
A. Yes, sir.
Q. So how long had you known Milledge?
A. About 10 years.
Q. Ten years?
A. Yes, sir.
Q. Now, were you there the day that Milledge was shot?
A. Yes, sir.
Q. And you were the one who called 911, correct?
A. Yes, sir.
Q. What did people call Milledge?
A. B'Boy.
Q. That was his nickname?
A. Yes, sir.
Q. Now, how many days per week did you work back in

2018?

A. Five, six days a week.

Q. How often would you see Milledge in there?

A. Maybe two or three times a week.

Q. What was his involvement with the pool room?

A. Uhm, that was his grandson and so he would keep an eye on it just to keep him going so he will know what's going on and everything.

Q. All right. Was he kind of looked at as an owner of the pool room?

A. Yes, sir.

Q. And was it your understanding that he had authority to tell people to leave?

A. Yes, sir.

Q. Now, do you know Barry Jones, the defendant in this case?

A. Yes, sir.

Q. How do you know him?

A. By him coming into the pool hall.

Q. How often would he come in there?

A. Maybe three or four times a week.

Q. Is he what you would describe as a regular?

A. Yes, sir.

Q. Were you familiar with what he drove?

A. Yes, sir.

Q. And would he be with anybody in particular when he would usually come in there?

A. Sometimes with Ms. Angie, his friend.

Q. That was his friend?

A. Yes, sir.

Q. Now, let's talk about May 7th of 2018. That was a Monday, correct?

A. Yes, sir.

Q. Did you work that day?

A. Yes, sir.

Q. What time did you get there?

A. 5:00.

Q. 5:00. Now, the pool room, was it closed on Sundays?

A. Yes, sir.

Q. So about what time did you get there on May 7th?

A. It what like 5:00.

Q. Okay. I'm sorry. I asked the same question. Was Mr. Jones there when you got there?

A. Yes, sir.

Q. Was Milledge there?

A. Yes, sir.

Q. Did you have a conversation with Milledge when you got there about Barry Jones?

A. Uhm, right before he, uhm, right after he got there

he was telling him --

MR. L. SHEALEY: Objection. Hearsay.

MR. McNAIR: I'll rephrase the question.

THE COURT: Rephrase the question. Please don't testify to what you were told.

BY MR. McNAIR:

Q. Without saying what Milledge told you, you had a conversation with Milledge about Barry Jones when you got there, correct?

A. Yes, sir.

Q. Okay. Now, at some point after you had that conversation with Milledge, did Mr. Jones leave?

A. Yes, sir.

Q. Now, do you know if Milledge ever talked to Barry Jones prior to Barry leaving and we'll say the first time?

A. Yes, sir.

Q. He did have a conversation with him?

A. Yes, sir.

Q. Okay. After Mr. Jones left, did Milledge tell you what he intended to do if Mr. Jones came back to the bar?

MR. L. SHEALEY: Objection. Hearsay.

THE COURT: That would be an exception, 803(3)?

MR. McNAIR: 803(3), statement of intent.

THE COURT: All right. Objection overruled pursuant 803(3).

BY MR. McNAIR:

Q. What did Milledge say he intended to do if Barry came back to the bar?

A. That he was gonna call the police and tell him not to come trespassing.

Q. Okay. And put him on trespass notice?

A. Yes, sir.

Q. Now, at some point did Barry Jones come back to the bar?

A. Yes, sir. He did.

Q. How did you know when he got back?

A. He pulled up in his gray Mercedes.

Q. Where were you at that point?

A. Behind the bar.

Q. Where was Milledge?

A. Right at the bar, standing up right at the bar.

Q. Was he close to you?

A. No, sir. But he was a distance from me but I could see him.

Q. What was Milledge's reaction to Mr. Jones coming back to the bar?

A. Upset.

MR. L. SHEALEY: Objection.

THE COURT: Rephrase the question.

BY MR. McNAIR:

Q. Did Milledge seem surprised when Barry Jones got back to the bar?

A. Yes, sir.

Q. Did he blurt something out in response to seeing Mr. Jones?

MR. L. SHEALEY: Objection. Hearsay.

MR. McNAIR: Excited utterance, Your Honor.

THE COURT: I need a little more framework and foundation.

MR. McNAIR: I'll move on.

THE COURT: All right.

BY MR. McNAIR:

Q. What did Milledge do after Barry Jones got back to the bar?

A. He walked out to the outside where he was.

Q. Did you say anything to Milledge prior to him going outside?

A. Yes, sir.

Q. What did you say?

A. Do you want me to call the police.

Q. Okay. And did you call the police?

A. No, sir.

Q. Why not?

A. Because he told me he was gonna tell him to go out, he was gonna go out there --

MR. L. SHEALEY: Objection to what Mr. Hall said.

MR. McNAIR: It's not offered for the truth of the matter asserted.

THE COURT: Same ruling as before, his intent to go outside, 803(3). Overruled.

MR. L. SHEALEY: We're gonna object based on Garcia as well as we previously objected to this similar thing.

THE COURT: So noted.

BY MR. McNAIR:

Q. All right. So you testified you asked him if he wanted you to call the police?

A. Yes, sir.

Q. And was his response?

A. No.

Q. No what?

A. That he was gonna tell him to leave before he called the police.

Q. Okay. That he was gonna tell him to leave --

A. Yes, sir.

Q. -- before calling the police?

A. Mm-hmm.

Q. When Milledge went outside, did you watch his interaction with Mr. Jones?

A. Yes, sir.

Q. Could you see Mr. Jones initially?

A. In the car. Yes, sir.
Q. Okay. He was in his car?
A. Yes, sir.
Q. And where was Milledge?
A. Standing in front of the car like.
Q. Okay. And did he ultimately get to the driver's side window?
A. A little bit. Yes, sir.
Q. Okay. At some point while they're out there, do you move closer to where they are?
A. Yes, sir.
Q. Where do you go?
A. To the door.
Q. The front door of the building?
A. Yes, sir.
Q. And you're standing there and you're watching what's going on?
A. Yes, sir.
Q. Can you hear anything that's being said while you're standing there at the door?
A. A little. Yes, sir.
Q. Okay. Did you hear Mr. Hall tell Mr. Jones how he felt about him being there that time?
A. Yes, sir.
Q. What did Mr. Hall tell --

MR. L. SHEALEY: Objection. Hearsay.

THE COURT: This is while he's --

MR. McNAIR: I'll rephrase.

THE COURT: Okay.

BY MR. McNAIR:

Q. I'm gonna have to, I'll phrase it very specifically. Did you hear Mr. Hall put Mr. Jones on notice that he wasn't welcome there?

A. Yes, sir.

Q. What did he say in that regard?

A. To tell him to leave or he was gonna call the police.

Q. He told him to leave or he would call the police?

A. Yes, sir.

Q. And what, if anything, did he have in his hand at that point?

A. A phone.

Q. A phone. Could you hear anything that Mr. Jones said in response to what Milledge said?

A. No, sir.

Q. Okay. Did you hear any conversation about whether or not Milledge had the authority to tell Mr. Jones to leave?

A. Yes, sir.

MR. L. SHEALEY: Objection. Calls for hearsay.

THE COURT: I'm having a hard time hearing the responses and the questions for some reason. Maybe it's just because the speaker is pointed out.

MR. McNAIR: I'm not speaking loud enough?

THE COURT: Between that and I'm not hearing the witness too well. I'm sorry. But you can ask the question again. He objected, but I need to hear it.

MR. McNAIR: Okay.

BY MR. McNAIR:

Q. So do you continue to watch their interaction the whole time?

A. Could you say that again, sir?

Q. Do you continue to watch Mr. Hall and Mr. Jones' interaction the whole time?

A. Yes, sir.

Q. Okay. Now, after the conversation occurred, what did Milledge Hall do? After they finished talking, what did Milledge Hall do?

A. He started walking towards the building to come inside.

Q. Okay. And did he make it all the way inside?

A. No, sir. He didn't.

Q. What did he do?

A. Uhm, Mr. Barry called him back so he started walking back towards his car.

Q. Okay. So you saw Milledge Hall walking back towards the building and then Barry called him back?

A. Yes, sir.

Q. And how did he call him back?

A. He called out, said, B'Boy, and he went to the car to see what he wanted.

Q. He called his name B'Boy?

A. Yes, sir.

Q. And Milledge turned around?

A. Yes, sit.

Q. And what happened after that?

A. And he walked up to the car and a few seconds later then that's when he shot him.

Q. Okay. And did you actually witness the shooting?

A. Yes, sir.

Q. And were you standing at the front door when it happened?

A. Yes, sir.

Q. Did you see who shot Milledge Hall?

A. Yes, sir. I did.

Q. Who was that?

A. Barry Jones.

Q. Barry Jones. Do you see him in the courtroom today?

A. Yes, sir.

Q. Can you describe what he's wearing, what type of tie?

A. It's almost four years.

Q. Are you having trouble recognizing him?

A. Yes, sir. It's been four years.

Q. Okay. All right. Is Mr. Jones a guy that you knew prior to seeing the shooting?

A. Yes, sir.

Q. All right. And when you provided that name to 911 and law enforcement, was that a name that you had known?

A. Yes, sir.

Q. All right. And you knew what he looked like at the time?

A. Yes, sir.

Q. Okay. Now, you did call 911. How soon after you saw this did you call 911?

A. Seconds later.

Q. All right. So the time of your 911 call would be the time immediately after you saw the shooting?

A. Uhm, right after it, I ran to his car and tried to stop him and ask him why did he do it, then I went and called the police.

Q. Okay. Do you recall asking?

A. I ran to the car to stop him to ask him why did he do that and then leave and then he looked at me like, bitch,

you best be gone, get on, and I ran into the building and called the police.

Q. Okay. And when you say you tried to ask him, you're talking about you tried to ask Barry Jones?

A. Yes, sir.

Q. Now, we've shown you before a video of the shooting, right?

A. Yes, sir.

Q. And did that fairly and accurately depict what you remember seeing that day?

A. Yes, sir.

Q. This is State's 14 for the record.

(Playing State's Exhibit 14.)

BY MR. McNAIR:

Q. Nicole, do you recognize this vehicle right here?

A. Yes, sir.

Q. Whose vehicle is that?

A. Barry's.

Q. Who is this that just walked out?

A. Milledge.

Q. Can you see that okay?

A. Yes, sir.

Q. Now, this entire interaction between Milledge Hall and Barry Jones went on for some time; is that correct?

A. Yes, sir.

Q. Did you ever see Milledge do anything that you perceived as threatening during that time?

A. No, sir.

Q. And from where you are, were you able to see what's going on a little more clearly than we can see on video right now?

A. Yes, sir.

Q. Can you tell us what Milledge is pointing at right there?

MR. L. SHEALEY: Objection. Calls for speculation.

THE COURT: The question is what is he doing, what is she seeing him doing on the video.

MR. McNAIR: What is he pointing at.

BY MR. McNAIR:

Q. You're familiar with the building, correct?

A. Yes, sir.

Q. All right. What is located --

MR. L. SHEALEY: Your Honor, objection.

THE COURT: The objection is overruled. Thank you.

BY MR. McNAIR:

Q. What is he pointing at?

A. Sir?

Q. What is Milledge pointing at?

A. The building, customers, talking about the

customers.

Q. What caused him to turn around right there?

A. Mr. Barry had called him.

Q. Is that you coming out the door right there?

A. Yes, sir.

Q. Are you already on the phone with 911?

A. Yes, sir.

Q. Now, at any time during that entire interaction when you're actually standing at the door, did you ever see Milledge Hall with a gun?

A. No, sir.

Q. Did you ever see a gun in his hand?

A. No, sir.

Q. When he pulled up his shirt, did you see a gun in his waistband?

A. No, sir.

Q. What was on his waistband?

A. He had a clip where his phone would be on his side of his waistband where he had it.

Q. If he had a gun in his waistband, would you have seen from where you were?

A. Yes, sir.

Q. Absolutely certain?

A. Yes, sir.

Q. If had a gun in his hand, would you have seen it

from where you were?

A. Yes, sir.

Q. Absolutely certain?

A. Yes, sir.

Q. I want to show you State's 22. Can you see that?

A. Yes, sir.

Q. What is that in Milledge Hall's hand?

A. His phone.

Q. And you testified previously that he had his phone in his hand when he threatened to call the Edgefield County Sheriff's Department?

A. Yes, sir.

Q. State's 23, again, what is that in his hand?

A. His phone.

Q. State's 24, what is that in his hand?

A. His phone.

Q. State's 25, what does he have his hand on right there?

A. His phone.

Q. State's 26?

A. His phone.

Q. His phone. And if he had a gun in his waistband above his phone where he had pulled up his shirt, would you have seen that from where you were?

A. Yes, sir.

MR. L. SHEALEY: This is a blow up of your prior enhanced zoomed in?

MR. McNAIR: Yes.

MR. L. SHEALEY: All right.

BY MR. McNAIR:

Q. Nicole, I'm gonna show you what's marked as State's 20 and 21. Do you recognize these photos?

A. Yes, sir.

Q. Are these photos, just do they come from the video we just watched?

A. Yes, sir.

Q. Just zoomed in?

A. Mm-hmm.

Q. Have they been changed or altered in any way?

A. No, sir.

MR. McNAIR: Your Honor, we'd offer State's 20 and 21 into evidence.

MR. L. SHEALEY: I don't have an objection. Just subject to noting for the record that these are zoomed in so they have been altered in some way, but I don't have an objection because it's just zooming.

THE COURT: Understood, and State's Exhibits 20 and 21 will be admitted into evidence and as noted by the Solicitor presenting the pictures, these are still shots from the video that have been zoomed in.

BY MR. McNAIR:

Q. All right. State's 21, Nicole, is that just a zoomed in version of the first shot that you witnessed Barry Jones shoot at Milledge Hall?

A. Yes, sir.

Q. All right. And when Barry Jones first popped up out of his vehicle, what did Milledge Hall do?

A. Can you repeat that, sir?

Q. When you first saw Barry Jones come out of his vehicle, did Milledge continue towards him or did he stop?

A. He stopped.

Q. And the individual that we see in this photo firing that shot is the man you knew as Barry Jones?

A. Yes, sir.

Q. State's 20, that is the second shot that Mr. Jones fired at Milledge Hall?

A. Yes, sir.

Q. Now, you gave a statement to law enforcement on this day, correct?

A. Yes, sir.

Q. And what were -- They gave you a statement form?

A. Yes, sir.

Q. What were their instructions to you when they gave you that statement form?

A. They told me to put my name down and told me to

write down what happened.

Q. Okay. Now, after you wrote that statement, did anybody come back to you and ask you any follow up questions?

A. No, sir.

Q. And I think we met probably about June of this year; is that correct?

A. Yes, sir.

Q. Three years after this happened?

A. Yes, sir.

Q. Was that the first time you actually got to see the video?

A. Yes, sir.

Q. Did that jog your memory about certain things that weren't included in your statement that you gave to law enforcement at the scene that day?

A. Yes, sir.

MR. McNAIR: Your Honor, I don't think I have any further questions at this time.

THE COURT: Cross examination.

MR. L. SHEALEY: Yes, sir. May it please the Court.

THE COURT: Yes, sir.

(Whereupon, Defendant's Exhibits #37 and #38 marked for identification.)

CROSS EXAMINATION

BY MR. L. SHEALEY:

Q. Ms. Bibbs, I want to talk to you about the various statements you've made in this case, okay? You agree that you called 911, right?

A. Yes, sir.

Q. So that's a statement to law enforcement, what's being said over 911, right?

A. Yes, sir.

Q. And you've listened to that before I assume?

A. Yes, sir.

Q. Okay. And it's a little chaotic, but you basically recall saying that he was telling him not to be disrespectful before he left. He shot twice, right?

A. Mm-hmm.

Q. Okay. He being, I guess, B'Boy, right?

A. Yes, sir.

Q. Telling Barry not to be disrespectful, right?

A. Mm-hmm.

Q. Now, eventually police come to the scene and there's at least a couple, maybe two to four officers kind of milling around talking to people. Do you remember that?

A. Mm-hmm.

Q. And some of those officers had body cameras on them. Do you recall that?

A. Yes, sir.

Q. And so you agree that anything you said to them would be recorded within their body cameras?

A. Yes, sir.

Q. Okay. So that's kind of a statement too, isn't it?

A. Yes, sir.

Q. Now, you also then, as the Solicitor pointed out, were asked and given a sheet of paper to write your official statement?

A. Mm-hmm.

Q. And I think if memory serves, you wrote it on the back of Officer Densmore's car. Do you remember that?

A. No, sir. I don't.

Q. You don't really remember?

A. I know I wrote a statement.

Q. You know you wrote a statement. Have you had a chance to review it ever in this case?

A. I think so. Yes, sir.

Q. Okay. And then you met with the Solicitor's Office twice at least that I know of, right? You agree with meeting with Mr. John Bishop and the Solicitors around there somewhere?

A. Yes, sir.

Q. If I told you that that was June 25th of 2021, would

you agree with me?

A. Yes, sir.

Q. And you're aware that Mr. Bishop prepared your meeting with them to a report about what you said?

A. Yes, sir.

Q. You've had a chance to look at that?

A. Yes, sir.

Q. And then you met with the Solicitors again on August 26th of 2021, late summer of this year and you did the same thing, you met with Mr. Hubbard and Mr. McNair and Mr. Bishop and you talked again and that was all to prepare a report. Do you agree with that?

A. Yes, sir.

Q. Of course, you've talked today and that's a statement under oath, right?

A. Yes, sir.

Q. And today, I just want to make sure I understand, today your official position is that you were working that day, right?

A. Mm-hmm.

Q. I think you said you were cooking?

A. Yes, sir.

Q. You weren't serving drinks. You were cooking?

A. Yes, sir.

Q. And that Milledge was there?

A. Yes, sir.
Q. Mr. Jones was there?
A. Yes, sir.
Q. And it was indicated to you by Milledge, I guess, that he was gonna go out there and talk to Mr. Jones. He didn't want him back, right?
A. Yes, sir.
Q. And you observed Mr. Jones leave, right?
A. Mm-hmm.
Q. Comes back, right?
A. Yes, sir.
Q. You observe Mr. Hall go out there to talk to him?
A. Yes, sir.
Q. And you claim I think today that you were watching from the door?
A. Yes. I was.
Q. Okay. Right at the front door?
A. Yes, sir.
Q. Seen it a11 watching it?
A. Yes, sir.
Q. You knew that that confrontation was gonna be bad? Something bad was gonna happen?
A. No, sir.
Q. Okay. It was at least a topic of interest for you, right?

A. He was like an uncle to me so I was just making sure everything was all right. I mean, that's how it was.

Q. You're very close to him?

A. Yes, sir.

Q. He's your friend?

A. Uhm, him and his wife was like an aunt and uncle. I mean, they always making sure we was all right.

Q. His family employed you at the time --

A. Yes, sir.

Q. -- right?

A. I was there before that.

Q. We talked about your 911 call. I want to talk about, do you recall telling Mr., Officer Densmore when he was talking to you about what happened, do you recall telling him that, referring to Barry, he must have called his name out. I seen it through the window. Do you recall that?

A. Mm-hmm.

Q. Not that I heard him call his name out, but he must have called his name out. Do you recall that?

A. Yes, sir.

Q. Okay. And then still later on in that same conversation, do you recall informing Officer Densmore that you were talking to Danny and said, go get Milledge because it looks like he's fixing to do something, right?

A. Mm-hmm.

Q. It looked like Milledge was fixing to do something. Do you recall that?

A. I don't recall it. I mean, it's been a long time, but I know that I told Danny to go outside so I didn't want nothing to happen, but I know that Milledge didn't have nothing on him or anything, but I just didn't want nothing to happen, you know, outside since Clayton was out of town.

Q. I can play it for you, but you agree with me here today that you said those words, it looks like he's fixing to do something?

A. Yes, sir.

Q. To Danny, you better go get him, right?

A. Yes, sir.

Q. Okay. Now, do you have your written statement in front of you?

A. (Indicating.)

Q. Is that not your written statement.

A. No. It's not.

Q. Do you recall your written statement or do you need me to provide you a copy so you can refer to it?

A. You can provide a copy.

MR. L. SHEALEY: May I approach the witness?

THE COURT: Yes, sir.

BY MR. L. SHEALEY:

Q. Now, this is a statement that you made there on

scene that day, May 7th, 2018; is that correct?

A. Yes, sir.

Q. You signed your name Nicole Bibbs and you put some biographical information; is that right?

A. Mm-hmm.

Q. And it's redacted on that copy, but that is the place where you had an opportunity for your employer and your friend to tell law enforcement everything you could to help them understand what happened that day. You agree with that, right?

A. Yes, sir.

Q. Okay. And you wrote half a page. You didn't even write a full page or use the back or anything, right?

A. No. I just wrote down the main thing that they needed to know what had happened.

Q. Mm-hmm.

A. Mm-hmm.

Q. Because this is your friend and your employer that was shot?

A. Mm-hmm.

Q. And no one said, Nicole, you got five minutes. Hurry up. No one rushed you, right?

A. No.

Q. No one said, we got somewhere to go. Hurry up, right?

A. Mmm-mmm.

Q. And you agree in that statement there's nothing in there about B'Boy going out to tell Mr. Jones to leave and never come back. You agree with that?

A. Mm-hmm.

Q. You agree that there's nothing in that statement about B'Boy saying or you talking about I might need to call the police and him saying, no. I've got it. Nothing about that, right?

A. No, sir. It's not in there.

Q. And you recall there's nothing in that statement talking about watching from the door, watching every action, every move, whether it's a cell phone or a gun, nothing is in that statement about that. Do you agree with that?

A. Yes, sir.

Q. Nothing about any prior problems with Barry, right? You agree with that?

A. Yes, sir. It's not on the statement but...

Q. Now, I want to take your attention to the first time you met with the Solicitors on this case, these gentlemen right here. Have you had a chance to review your, the report prepared by the Solicitor's Office after meeting with you on June 25th of 2021?

A. Yes, sir.

Q. You have?

A. Yes, sir.
Q. Would you like a copy to refer to it?
A. Yes, sir.
Q. Because I am gonna be asking you some questions.
MR. L. SHEALEY: May I approach?
THE COURT: Yes, sir.
BY MR. L. SHEALEY:
Q. Now, I want to ask you a question since you've got it in front of you and this accurately reflected what you said, but you told the Solicitors and their inhouse investigator for the first time then you would agree that Barry the day before was told that he was to leave and not come back, right?
A. Mm-hmm. Yes, sir.
Q. That's reflected in that report, before, the day before, I guess, Sunday, right?
A. No. It's supposed to be Saturday because we're closed on Sunday.
Q. Okay. You said the day before.
A. Yeah. I said it wrong, but it was Saturday before. That's the day that he was supposed to be, they told him not to come Saturday, but we always be closed on Sunday.
Q. But what you testified here under oath was that he was told that day by Milledge, the same day?
A. Mm-hmm.

Q. So that's different, right?
A. Yes, sir.
Q. Now, you also say that you were at the door watching the conversation, correct?
A. Yes.
Q. Paragraph 2?
A. Yes, sir.
Q. And this is real interesting. You provide information to the Solicitor's Office and their investigator that while at the door you heard and saw Barry Jones blow the horn of his car, right?
A. Mm-hmm.
Q. (Indicating.) You agree with that?
A. Yes, sir.
Q. That's reflected in that report?
A. No. It's not in there.
Q. It's not in there? Check again. Paragraph 2. Paragraph 3. Right after you were at the door watching the conversation, middle of the page, you agree that you claim to have heard Mr. Jones blow his horn and make a hand gesture for Mr. Hall to come back to Barry Jones' car. That's what you told them, right?
A. Yes, sir.
Q. You didn't say that today, correct?
A. Yes, sir.

Q. Because that's not the truth, correct?
A. It is the truth. I just didn't put it in. I mean, it's been so much to -- I mean, I forgot some of this stuff so...
Q. You forgot some of this stuff?
A. Yes, sir.
Q. So which is it?
A. That he did --
Q. Hold on. We've got an ambulance coming.
THE COURT: Thank you.
BY THE WITNESS:
A. That he did call his name to come back to the car.
BY MR. L. SHEALEY:
Q. But he didn't blow his horn?
A. No, sir.
Q. But you told the Solicitors and their investigator that that day when you met with them?
A. Mm-hmm.
Q. And that wasn't true?
A. I had it confused. There was so much happening.
Q. You also said in that statement when you arrived at work that day, that Barry wasn't there, right?
A. Not in this statement I didn't say that.
Q. You agree that that day when you met with the Solicitors you said that when you arrived at work at 5:00,

that you did not see Barry at the establishment?

A. No, sir. I said that.

Q. Do you agree that you claim that day you did not see him at the establishment when you met with the Solicitors on June 25th?

A. Yes, sir.

Q. Right? But today it's your testimony that you claim to have seen him at the establishment?

A. Yes, sir.

Q. Now, I want to turn your attention, actually go down to paragraph one, two, three, four. You claim that day that after the shooting occurred, that you ran outside and asked Barry Jones why he shot Mr. Hall, right?

A. Mm-hmm.

Q. But Barry Jones did not respond to you, correct?

A. No. He just looked at me and then he left.

Q. And you were afraid for your safety with the way he looked at you when you asked him this question, right?

A. Yes, sir.

Q. You had a conversation with Barry Jones, right?

A. No, sir.

Q. That's what you said.

A. I didn't have a conversation with him. When he shot Mr. Milledge, he got in his car and he left and I was like running to the car asking him why did he shoot him. I didn't

have a conversation with him. I just asked him a question and he left and went --

MR. L. SHEALEY: I can play the --

MR. HUBBARD: You're interrupting her answer.

(Playing video.)

BY MR. L. SHEALEY:

Q. Who is that?

A. Mr. Danny.

Q. Danny, he's the first one out the door. Who's that?

A. I don't know. I forgot his name, but he was one of the other customers too.

Q. Roger Bryan?

A. Yes, sir. Yes.

Q. That's you, right?

A. Mm-hmm.

Q. You've got a phone in your hand?

A. Yes, sir.

Q. Barry is turning left, correct?

A. Yes, sir.

Q. So again, when you met with the Solicitors, I want to refer you again to that same statement right before you, when you tell them that you ran out and asked Mr. Jones why he shot Mr. Hall, but he did not respond, that made you afraid for your safety by the way he looked at you, right?

A. Mm-hmm.

Q. You never had a conversation with Mr. Jones, did you?

A. I did. On that part right there, I don't know where that is, but the part that I did, I know for a fact that I did run out there to that car and asked him and he left. That is not showing on that video because the man stay right down the street because that's why I was afraid for my life.

Q. So you're saying that that video is not accurate?

A. It accurate, but the part where I'm running out to the car is not on there.

Q. Okay. In your mind you ran out to his car and had that conversation?

A. Not in my mind. I know that I ran out there.

Q. You know.

A. It's not showing.

Q. Okay. I want to turn your attention to a report that was generated after your August 22nd meeting with the Solicitor's Office.

MR. L. SHEALEY: May I approach?

THE COURT: Yes, sir.

BY MR. L. SHEALEY:

Q. (Proffering.) I want to turn your attention, if you look with me, about paragraph number 4. Now you agree, you change your story, don't you, Ms. Bibbs? You agree that you

weren't actually correct in your assertion that Mr. Jones blew a horn at B'Boy, were you? You changed that story even to the Solicitor's Office right here, right?

A. Yeah. I did.

Q. You agree?

A. Mm-hmm.

Q. And now you're saying, well, I think he just called him by his nickname B'Boy. That's what you're saying in that statement, correct?

A. Mm-hmm.

Q. But also very important to this case, if you will go down to the second to last paragraph, you say now that you were actually standing behind the bar when Mr. Jones returned, correct?

A. Mm-hmm.

Q. And you were cooking that day, right?

A. Yes, sir. But we were slow so I didn't have that many orders.

Q. But you were standing behind the bar?

A. Mm-hmm. But when the incident happened, I was standing at the door. When Mr. Milledge and Mr. Barry was talking or whatever, I was right at the door because I didn't have any orders.

Q. You were right at the door --

A. Mm-hmm.

Q. -- looking from this vantage point, right? That's the door?

A. Mm-hmm.

Q. That's a big wall jutting out, right? Solid brick.

A. Yes. And there's windows right here so you can --

Q. Yes. I know, but you're at the door looking through the door now?

A. Mm-hmm.

Q. That's where you're saying you looked and observed this whole thing, so when he would have been shot, you would have run right out there, right?

A. Mm-hmm.

Q. But you're not the first one out because you weren't at the door, were you?

A. Yes, sir. I was.

Q. You were behind the bar and you're calling 911 from the bar phone. There's Danny. All these guys plowed through you at the door because you were at the bar, correct?

A. No, sir. I was not at the bar and the phone was not at the bar. I mean, I already had the phone in my hand in case I had to call the police in case Mr. Barry was acting up, if he did not want to leave like Mr. Milledge had told him to leave. I already had the phone in my hand.

Q. But you're claiming you watched this whole thing from the door, but you're not running out first even though

you were the closest one, right?

A. Yes, sir.

MR. L. SHEALEY: Nothing further for this witness at this moment.

THE COURT: Very well. Redirect.

REDIRECT EXAMINATION

BY MR. McNAIR:

Q. Ms. Bibbs, let's start with how did seeing Milledge Hall get shot affect you?

A. Uhm, I'm - I'm still --

MR. L. SHEALEY: Objection, Your Honor. How it affected her? The impact? It's beyond the scope of cross number 1. And I think we're about the head into --

THE COURT: Is that the question?

MR. McNAIR: I'll ask another question.

THE COURT: The question is how did witnessing, how did seeing something --

MR. L. SHEALEY: I think he's trying to elicit how this impacted her life.

MR. McNAIR: No. I'm not trying to elicit that.

THE COURT: All right. Rephrase the question.

MR. McNAIR: I will.

BY MR. McNAIR:

Q. Was this a traumatic event for you?

A. Yes, sir. It was.

Q. Okay. And when you called 911, do you recall you couldn't think of Barry Jones' last name?

A. No, sir. I couldn't.

Q. But did you know Barry Jones' last name?

A. Yes, sir.

Q. When you initially talked to law enforcement, were you still under the stress of just seeing Milledge Hall get shot?

A. Yes, sir.

Q. All right. And did they ask you, they asked you what you saw, right?

A. Yes, sir.

Q. Did they ask you about all the details surrounding what happened prior to that?

A. No, sir.

Q. Did anybody ever come back and ask you any details other than us three years after this event?

A. No, sir.

Q. And when we first met with you three years after this, the first time we met we didn't play the 911 call for you or show you the video?

MR. L. SHEALEY: Objection to leading.

MR. McNAIR: I'll rephrase.

THE COURT: Yes, please. Sustained on that.

BY MR. McNAIR:

Q. The first time we met, had you seen the video or heard your 911 call?

A. No, sir.

Q. All right. And then we met again sometime in September and at that time did you listen to your 911 call?

A. Yes, sir.

Q. And did you watch the video?

A. Yes, sir.

Q. And did that jog your memory about certain things that had happened?

A. Yes, sir.

Q. And did we ask you a lot more questions than law enforcement asked you?

A. Yes, sir.

Q. Okay. Now, when he keeps asking you whether you were standing at the door, now, when you're standing at the door, are you still able to see out the windows too?

A. Yes, sir.

Q. So you're not standing right at the door with your face on the glass, are you?

A. No, sir.

Q. So when you're saying you're standing at the door, you're standing in the --

MR. L. SHEALEY: Objection to leading.

THE COURT: Overruled. Repeat the question.

BY MR. McNAIR:

Q. When you said you were standing at the door, you were standing in the area of the front door, right?

A. Yes.

MR. L. SHEALEY: Objection to leading.

THE COURT: Overruled.

BY MR. McNAIR:

Q. And everything you've testified to today you saw, correct?

A. Yes, sir.

MR. McNAIR: Thank you.

THE COURT: All right. Recross.

MR. L. SHEALEY: I forgot to enter these into evidence so we're talking about the view --

MR. McNAIR: Your Honor, we've got some matter of law with these particular pictures I believe.

THE COURT: Why don't y'all come over here first.

(Side bar off the record.)

RECROSS EXAMINATION

BY MR. L. SHEALEY:

Q. Ms. Bibbs, I want to show you a couple photos of the interior of the bar since we've been talking about positioning and we don't have any surveillance, but do you recognize, this is defendant's number 38, do you recognize that as being a view from the interior of the bar from the corner of this kind

of back side of the bar?

A. Yes, sir.

Q. That's Mimi?

A. Yes, it is.

Q. That's the front door?

A. Yes, sir.

Q. Okay. I want to show you defendant's 37. Again, that's another view looking more directly at the bar. Would you agree with that?

A. Yes, sir.

MR. L. SHEALEY: All right. At this time I seek to enter these into evidence.

THE COURT: 37 and 38.

MR. McNAIR: No objection.

THE COURT: All right. Defendant's Exhibit 37 and 38 are admitted into evidence.

BY MR. L. SHEALEY:

Q. All right. Ms. Bibbs, you would agree that's what we just discussed. That's a view of the interior of the pool hall, right?

A. Yes, sir.

Q. And so the kitchen is back that way, right? This way off screen? If I had a pointer.

A. No. It's back that way.

Q. Back that way. This is the bar. This is where the

bartenders serve drinks, correct?

A. Yes, sir.

Q. Milledge would be sitting over here, right?

A. At the bar. Not where your hand is. On the other side.

Q. That's the front door?

A. Mm-hmm.

THE COURT: Let's let the witness use that, if we can.

BY MR. L. SHEALEY:

Q. You would agree right there that's the front door?

A. Mm-hmm.

Q. So if you're at the bar, the front door is probably about 15 feet, correct?

A. Yes, sir.

Q. And this is number 37 that we just discussed. This is more, you would agree this is more of a direct view of the actual bar, right?

A. Yes, sir.

Q. And the bar is an L shape, it goes like this, takes a left and it goes right along towards the front of the building, correct?

A. Yes, sir.

Q. And the kitchen will be somewhere back that way?

A. Straight back. Yes.

Q. Okay. And if you're at the bar, you just testified we're talking about approximately 15 feet, correct?

A. Yes, sir.

MR. L. SHEALEY: I don't have anything further for Ms. Bibbs.

THE COURT: All right. The witness can step down. Is she free to go?

MR. McNAIR: Yes, sir, Your Honor.

MR. L. SHEALEY: No objection.

THE COURT: All right. Anybody need a break? I guess not. We're ready for our next witness.

MR. McNAIR: The State calls Officer Kathmann.

Thereupon,

KEITH ALAN KATHMANN

after having been first duly sworn, testified as follows,

THE CLERK: Please have a seat. Once you're seated, state your full name spelling your last please.

THE WITNESS: Keith Alan Kathmann. Spelling of the last name is K-a-t-h-m-a-n-n.

DIRECT EXAMINATION

BY MR. McNAIR:

Q. Officer Kathmann, how are you doing today?

A. I'm doing well, sir.

Q. Tell the jury where you work.

A. I work for the Edgefield Police Department.

THE COURT: Officer, you're free to remove your mask while testifying.

THE WITNESS: Okay. That's good. Thank you.

BY MR. McNAIR:

Q. How long have you been with the Edgefield Police Department?

A. Five years.

Q. All right. Do you have any previous law enforcement experience prior to that?

A. No.

Q. What's your current position there?

A. Corporal.

Q. Corporal. Now, were you on duty back on May 7th of 2018?

A. I was.

Q. And did you become aware of a shooting at the Johnston Pool Room that day?

A. I did.

Q. How did you initially learn about that?

A. Over my police radio.

Q. And where were you when you first learned about that shooting?

A. Where was I?

Q. Where were you?

A. I was on patrol somewhere in the city.

Q. I guess at some point did you leave where you were and respond to a certain location?

A. I did.

Q. Okay. And I guess what happened or what occurred that caused to you leave your location?

A. Uhm, it came over the radio that they were looking for a silver Mercedes with dark tinted windows. To my knowledge, it was headed down 121 South, so I went to Augusta Road by where U-Ride is there and I staged up there in case the vehicle decided to come back into town.

Q. And did you hear, I guess over your radio you hear all of law enforcement communicating back and forth over your police radio?

A. I was. Yes.

Q. Did you hear Officer Florida's voice on the radio that day?

A. I did.

Q. And can you tell whether or not Officer Florida located the suspect vehicle?

A. He did.

Q. All right. And at that point is that when you left where you were and started heading to his location?

A. That's when I started moving, that's correct. That's when I started to proceed down the road.

Q. Okay. You started heading towards Officer

Florida?

A. I ended up going in the wrong direction at first. I still assumed they were south of me coming toward me when Officer Florida at that point told me he was up by DMV, up by VP, that's when I flipped around and started going north.

Q. All right. So as you're heading toward where Officer Florida was, is he keeping you abreast of what he's seeing and observing on the radio?

A. He was.

Q. How long did it take you to get to where he was?

A. I don't know.

Q. A while?

A. Uhm, I would say six or seven minutes. I'm not sure.

Q. Are you running lights and siren the whole way?

A. I was. Yes.

Q. Now, prior to getting or seeing Officer Florida, did he observe something that you became aware of over the radio that concerned you?

A. Yes.

Q. What was that?

A. He came over the radio and said that he had a weapon pointed at him and he had to take cover.

Q. That the suspect had pointed a weapon at him?

A. That's what I understood over the radio, yes.

Q. And where did you ultimately catch up to Officer Florida?

A. Uhm, as I turned onto the road there on Pleasant Lane.

Q. Pleasant Lane?

A. Correct.

Q. When you turned onto Pleasant Lane, what did you see at that point?

A. I saw the Officer Florida down the road a little ways, but he started yelling at me to stop right where I was because there was a person with a weapon.

Q. Okay. Did you see the suspect vehicle?

A. I did not. No. Not at that point. No.

Q. So after you turned onto Pleasant Lane, what happened?

A. We just proceeded down. Well, I went down a little ways farther. He asked me if I saw the vehicle. I said I did not.

Q. Okay.

A. And he said he must have went down that road to the left, and that was his left, would have been on my right.

Q. Okay. So was that Log Creek Road?

A. It was. Yes.

Q. So y'all believed the suspect had turned off of Pleasant Lane down Log Creek?

A. Yes, sir.
Q. And did y'all proceed down Log Creek?
A. Yes, sir.
Q. Who was leading the way?
A. Officer Florida.
Q. And you were following behind him?
A. I was.
Q. Did you have your dashcam that day?
A. I did.
Q. Was it operating?
A. It was.
Q. Before we get to that, I guess just describe for the jury what you recall as y'all were heading down Log Creek and what happened.
A. I just recall going down the road. It was very dusty. I was following Officer Florida. I'm not quite sure whether it was three or four miles, something like that and then I heard over the radio and out my window at the same time gunfire, and that's when he stopped. I was forced to stop and then I ended up backing up to get out of the way.
Q. And what did you see when you heard the gunfire?
A. I looked to my left. I saw a silver Mercedes with dark tinted windows and was backed into a little opening like a cutoff, like access road to a piece of property. I noticed the driver's door was open. That's when I backed up.

Q. Did you see an individual standing there?
A. No.
Q. You don't recall that?
A. No. I don't recall at that time.
Q. You just recall seeing a silver Mercedes?
A. Silver Mercedes with the dark tinted windows backed into the spot and the driver's door was open.
Q. And then you heard shots?
A. I heard shots before I stopped.
Q. Before you stopped. Who shot first?
A. I'm gonna assume the suspect shot at us.
Q. It came from --
A. It came from my left.
Q. Where the silver Mercedes was?
A. Correct.
Q. And what happened after the shooting started?
A. I proceeded to back up the road a little ways so I could get out of the engagement zone. I exited my patrol vehicle on the driver's side, I went around from the back to the front to the passenger A pillar and that's where I took my position.
Q. And what did you see Officer Florida do?
A. He exited his driver's door and as he was going to wrap around the back of his car, I saw him shoot four rounds out, and then he came around to the driver's side so he was on

his driver's side. I was on my passenger side. Or excuse me. He was on his passenger side.

Q. And just to be clear, the person in the silver Mercedes shot prior to any law enforcement officer shooting?

A. Yes. He shot first at us. Correct.

Q. And then you said Florida got out of his vehicle. He returned fire?

A. Yes.

Q. And did you shoot as well?

A. Not at that time.

Q. Not at that time?

A. No.

Q. Okay. At some point, I guess, how long did this exchange of gunfire go on, do you remember?

A. I don't. It seemed like forever, but I don't remember exactly the amount of time.

Q. At some point did it stop?

A. It did eventually stop. Yes.

Q. Do you know why it stopped or what caused it to stop?

A. At the time I did not know. No.

Q. Well, after the shooting stopped, I guess did back up ultimately arrive?

A. Yes. Ultimately they did. Yes.

Q. During the period of the gunfire, were you and

Florida the only ones out there?

A. Yes. We were. Correct.

Q. Did you ever hear Florida giving the suspect commands after the shooting stopped?

A. I heard him speaking with the suspect, but there was a little bit of distance between us and I couldn't make out all the words.

Q. Tell me this: Did y'all, at some point did y'all move in and take custody of the suspect?

A. We did.

Q. And why was that. Why did you move in at that time?

A. Officer Florida was communicating to us that he was on the ground, that he was surrendering to us, that we could good ahead and move in.

Q. So he gave you the command of when you could move in?

A. Yes, sir.

Q. I guess you return, you shoot as well, correct?

A. Previous to that I did shoot. Yes.

Q. When you were shooting, could you even see the suspect?

A. No.

Q. What were you shooting at?

A. When he would shoot at us, I would return fire

toward in the direction of where the shooting came from through the bushes.

Q. Okay. And was the purpose of that just to help provide cover for Florida?

A. I believe it was. Yes. To just cause a distraction or cover for him because it appeared that he was going to attempt to do something so I was just taking some of the heat.

Q. As far as your dashcam, you say that that was working properly on May 7th of 2018, correct?

A. Yes, sir. It was.

Q. And have you previously reviewed a copy of that on the disk?

A. I did.

Q. Was that an unaltered version of your dashcam from that day?

A. Yes, sir.

Q. And did that dashcam also contain all of the radio traffic from that day?

A. It did.

Q. And was that an accurate recording of all the radio traffic rom the day as well?

A. It was. Yes, sir.

Q. I'm gonna show you State's 8 and ask if you can identify this.

A. That's the disk containing the video off of my dashcam.

MR. McNAIR: Your Honor, at this time we'd offer State's 8 into evidence and permission to publish.

MR. SECORD: No objection.

THE COURT: State's Exhibit 8 admitted into evidence.

(Playing State's Exhibit #8.)

BY MR. McNAIR:

Q. Whose voice is that?

A. Officer Florida.

Q. So at this point Officer Florida is behind the suspect vehicle?

A. Yes.

Q. Officer Kathmann, that was Officer Florida's voice we just heard on dispatch?

A. Yes, sir. It was.

Q. Saying the suspect had just pointed a rifle at him?

A. Yes, sir.

Q. All right. And this road that you're about to turn on, what road is that?

A. That's Pleasant Lane.

(Playing State's Exhibit #8.)

BY MR. McNAIR:

Q. This is Log Creek you're about to turn on to?
A. It is.
Q. Real quick, Officer Kathmann, who fired those initial shots we just heard?
A. The suspect fired at us.
Q. Before Florida even got out of his vehicle?
A. Correct.
Q. Or you.
(Playing State's Exhibit #8.)
BY MR. McNAIR:
Q. Whose shots were those we just heard?
A. The suspect.
Q. At this point has Officer Florida given you the word to move in?
A. Yes, sir.
THE COURT: Pause the video, Mr. Solicitor, and ask your questions. I just don't want --
MR. McNAIR: All right.
BY MR. McNAIR:
Q. You were part of the group that moved in to take custody of the suspect?
A. I was.
Q. And were you present when his pockets were searched?
A. I was.

Q. And what, if anything, was found on his person?

A. I believe it was his right front pocket we pulled out a small black in color semi-automatic handgun. I believe there was a wallet too.

Q. Okay. Were there any magazines recovered from his pockets?

A. I believe there was one.

Q. Would it refresh your memory to see the statement that you gave to SLED? Do you have that up there with you?

A. I do not have that with me.

Q. Apparently there were four of them? There was four magazines?

A. Yes, sir. Fully loaded magazines and a wallet.

Q. Fully loaded magazines.

A. Four fully loaded magazines and a wallet.

Q. And a semi-automatic pistol?

A. Yes, sir.

Q. In his pocket?

A. Yes, sir.

Q. Did you do anything with those items after they were removed from his pocket?

A. Excuse me.

Q. Did you do anything with those items after they were removed from his pocket?

A. I went back to my patrol vehicle and got a box of

rubber gloves because there was blood all over the wallet. I went back to where it was and placed all the items in a paper bag and I put that paper bag near the suspect's vehicle so it could be recovered by SLED.

Q. Did you see any other weapons around the suspect when you moved in for the arrest?

A. When we moved in to take him into custody, I saw near his person a black assault rifle, semi-automatic rifle.

Q. All right. And did you also see a silver revolver?

A. I did.

Q. I'm gonna show you State's 37 through 39 and just ask if you recognize these photos?

A. I do.

Q. Are those taken from the scene that night at Log Creek?

A. Yes, sir.

MR. McNAIR: Your Honor, we'd offer State's 37 through 39 into evidence at this time.

MR. SECORD: No objection.

THE COURT: State's Exhibit 37 through 39 admitted into evidence. Thank you.

BY MR. McNAIR:

Q. All right. In State's 37, that black handgun, is that the one that was removed from his pocket?

A. Yes, sir.
Q. And the revolver, is that the one that you testified you saw around where he was?
A. Yes, sir.
Q. And that paper bag there, is that the one that you brought?
A. It appears to be. Yes.
Q. State's 38, you can't hardly see it, but this marker here, I believe it's 20, is that the area where the items were removed from the suspect's pockets?
A. Yes, sir. I believe so.
Q. And State's 39, who is that?
A. That's the suspect, Mr. Jones.
Q. All right. That's the guy that y'all took into custody that day?
A. Yes, sir.
Q. On Log Creek Road?
A. Yes, sir.
Q. For the record, is that Edgefield County?
A. Yes, sir.
Q. Now, also for the record, what type of gun were you shooting that day?
A. Was I shooting?
Q. Were you shooting. Yes, sir.
A. I was shooting a .40 caliber Glock semi-automatic

handgun.

Q. And when you were firing shots, where were you standing?

A. I was standing by the passenger front door A pillar by where my hood meets the windshield.

Q. Okay. On the passenger's side of your vehicle?

A. On the passenger side. Correct.

MR. SECORD: Your Honor, we have an objection to take up with you.

MR. McNAIR: I think we can probably do it at side bar.

(Side bar off the record.)

THE COURT: Which exhibit is that?

MR. McNAIR: This is State's 35 and 36.

THE COURT: So State's Exhibit 35 and 36 will be admitted subject to objection. Ladies and gentlemen, the photos you're about to see are still shots from the video you just watched on the television and video screen, however, it has been zoomed in for the purpose of this picture so be aware it has been zoomed in. Thank you.

BY MR. McNAIR:

Q. Again, Officer Kathmann, I'm gonna show you State's 35 and 36. Do you recognize these photos?

A. I do.

Q. And are these just blown up photos obtained from

your dashcam?

A. They are.

Q. Now, when you actually see things in person -- Well, let me ask the question this way. Does your dashcam do it justice for how close or far something is?

A. It does not.

Q. Okay. Can things appear further away in your dashcam than they do to your naked eye?

A. They do because of the way the camera is set up.

MR. McNAIR: Okay. Your Honor, we'd offer State's 35 and 36 into evidence at this time.

THE COURT: That's the one --

MR. McNAIR: That we just talked about, yes, sir.

THE COURT: Which I already admitted.

MR. McNAIR: Right. Okay.

BY MR. McNAIR:

Q. State's 35, is this what you saw prior to the shooting occurring?

THE COURT: Counsel, if you wouldn't mind, the light is -- That's fine. It's confusing with the light.

BY THE WITNESS:

A. I recognize that. Yes, sir.

BY MR. McNAIR:

Q. Okay. And is that what you saw prior to backing up?

A. Yes. Yes, sir.

Q. And prior to hearing the gunshots?

A. I believe the gunshots had already gone off at that point.

Q. Okay.

A. But that's when I looked over to the left, that's what I saw.

MR. McNAIR: State's 36 was just a more blown up version of the same thing. Officer Kathmann, I don't think I have any other questions. Please answer any questions the defense may have. Thank you.

THE COURT: All right. Ladies and gentlemen, before we begin cross examination, we're gonna take a break. We've been going about an hour and 15 minutes, so y'all go back to the jury room, refresh yourselves, we'll get you back in here in about five minutes. As soon as everyone has been refreshed, let the bailiff know you're ready to come back. Thank you.

(Whereupon, the jury entered the jury room at 12:00 noon.)

THE COURT: All right. Officer Kathmann, while we're on this short break, please don't discuss your testimony with anyone. During the break, you certainly can refresh yourself as well, but just don't discuss the case or your testimony.

THE WITNESS: Thank you, sir.

THE COURT: Thank you.

(Short break.)

THE COURT: The State ready to proceed?

MR. McNAIR: Yes, Your Honor.

THE COURT: Are y'all set up, defense?

MR. L. SHEALEY: Yes, sir.

THE COURT: All right. Bring the jury in.

(Whereupon the jury entered the courtroom at 12:10 p.m.)

THE COURT: All right. Mr. Foreman, ladies and gentlemen, please be seated. Pick up where we left off. Cross examination.

MR. SECORD: Please the Court.

THE COURT: Yes, sir.

CROSS EXAMINATION

BY MR. SECORD:

Q. Good afternoon, Corporal Kathmann.

A. Good afternoon, sir.

Q. I just wanted to speak to you about a few things that you talked to Mr. McNair about and the first one was about, you testified about when Captain Florida got out of his vehicle, you testified he fired four shots, correct?

A. I believe so. Yes, sir.

Q. Okay. And I just want to go back and watch the

video for that one portion.

(Playing State's Exhibit #14.)

BY MR. SECORD:

Q. Would you agree with me that sounds like three?

A. It does sound like three.

Q. Okay. Where was it again, I'm sorry, when your supervisor initially told you to go help Sergeant Florida?

A. I was approximately where the Dollar General is, the old Edgefield butcher shop, in that area.

Q. Okay. And that was, uhm, it was Lieutenant Peco?

A. Lieutenant Peco.

Q. And he specifically told you to go assist Captain Florida, right?

A. Yes, sir.

Q. Okay. Now, when you were talking to Mr. McNair, he asked you several times about that first volley of shots that you can hear that's captured on the dashcam, right?

A. Yes, sir.

Q. And I think just for clarification purposes the dashcam in your vehicle, it's capturing both the video and the audio, correct?

A. Yes, sir.

Q. Okay. And Mr. McNair asked you several times about that first volley of shots and who fired. I just wanted to see if we can agree that when Mr. McNair first asked you who

shot the initial shots, your response was I assume it was the suspect; is that right?

A. If you say so. Yes, sir.

Q. Okay. I'm not misquoting you as far as you know, right?

A. Not as far as I know.

Q. Okay. In reviewing the video, have you had an opportunity to review it with the Solicitor's Office before today?

A. I've reviewed it. Yes, sir.

Q. Okay. And you know, I'm sure, that the audio of that first volley of shots, not the three that we just watched, but the audio of the initial volley of shots, that comes through your police radio?

A. It does. Yes, sir.

Q. Okay. So it's captured on your dashcam, but it's actually coming through your police radio being captured by the dashcam which is inside your vehicle, right?

A. Yes. Also from my window. Correct.

Q. Right. Okay. But because it's being captured on your radio or coming through your police radio, that means it's being broadcast from another police vehicle, right? That's how it's coming through your radio?

A. That particular sound, correct. Yes.

Q. I'm sorry?

A. That particular sound, correct. Yes.

Q. Okay. So the initial volley of shots that you hear come through your radio and captured by your dashcam, that's because another police radio is capturing that sound and it's being transmitted to your vehicle, right?

A. It was. Yes.

Q. Okay. And the only other vehicle, police vehicle out there at that time was Captain Florida's vehicle, right?

A. Correct.

Q. Okay. After you all got Mr. Jones in custody and he was taken away by EMS, as part of your duties of your investigation of this case, you did various things to document what had happened, right?

A. Yes, sir.

Q. Okay. And you would agree with me that police work involves a great deal of documentation?

A. Yes, sir.

Q. Okay. And one of the things that you did after this incident was over is you wrote an incident report?

A. I did.

Q. Okay. And you also wrote a use of force report because you fired your weapon?

A. I did.

Q. Okay. And then in addition to your incident report and your use of force report, you actually made a two and a

half page single spaced typed statement of what happened, right?

A. I did.

Q. And that was just an additional attempt to document absolutely everything that you could remember from that date, right?

A. I believe is was a requirement by SLED. I don't remember. But yes, I did.

Q. Right. And then in addition to writing up the statement, you went and had an interview with SLED, right?

A. I did.

Q. And during the course of that interview you actually read your typed up statement word-for-word because they had a video camera in the interview room and they wanted your entire statement in your own words to be read with the video camera recording, right?

A. I knew it was being recorded. Yes, sir.

Q. That's what they always do?

A. That's the first time I had ever been to one of those so...

Q. Okay. But they told you during the course of that the reason they were recording it is because they wanted it to be part of the record, right?

A. I believe so. Yes.

Q. All right. And then after you read your two and a

half page typed statement to these two agents with the video camera recording, they asked you some follow up questions, right?

A. They must have. Probably. Yes.

Q. Okay. And I can show them to you. I'm not gonna ask you what the questions are. They asked you some questions and they wrote the questions out. Do you remember that?

A. Vaguely, yes.

Q. And then they had you answer them and then they had you actually write your answers on the form that they had provided the questions to you on, right?

A. I don't really remember doing that, but yes.

Q. Just to make sure we're on the same page, I can approach and show you the questions and answers.

MR. SECORD: Is that all right?

MR. McNAIR: Yes.

BY MR. SECORD:

Q. Just look at those three pages and see if those are familiar to you?

A. That's my handwriting. Yes.

Q. Okay. And these were done with the SLED agents, right?

A. Yes.

Q. Okay. And in the course of all those things that you did, writing up this two and a half page statement for

SLED, going to SLED, being interviewed by the SLED agents, reading your statement into the record, answering the SLED agent's questions, and writing your answers to the SLED agent's questions, you did all of that without a lawyer representing you, correct?

A. Correct.

Q. Okay. And in addition to all those things that you did that we discussed about documentation, you also turned over your dashcam to investigators, right?

A. I turned over the memory card.

Q. I'm sorry. Correct. The memory card inside your dashcam?

A. Yes. That was taken the night of the incident. Yes.

Q. And your dashcam was not provided to you by the department that you work for, right?

A. Correct.

Q. You actually purchased that dashcam of your own volition?

A. Correct.

Q. All right. And you did that because it's important for you for there to be a video recording of the things that you're doing in your capacity as a police officer, correct?

A. That's one reason. Correct.

Q. It's another form of documentation, right?

A. Yes.

Q. And one of the reasons that you document so much in law enforcement is because in some cases you have to end up testifying, right?

A. Correct.

Q. And sometimes your recollection is called into question, right?

A. Correct.

Q. And it's very helpful when you've a written report to be able to say, if somebody asks you, well, how do you remember that, it's very helpful to be able to say because I put it in my incident report, right?

A. Correct.

Q. And when you have a video or a dashcam that you bought of your own volition, that's another layer of assistance to you in terms of what you did as an officer on that particular day, right?

A. Correct.

Q. And I would assume that to a certain degree that's a safety mechanism for yourself, right?

A. Potentially. Correct.

Q. For the past, how long has this been going on now, three years, there was a charge pending against Mr. Jones of attempted murder with you as the victim, correct?

MR. McNAIR: Judge, objection.

characterize that.

THE COURT: Are we ready to bring the jury back in?

MR. McNAIR: Yes, sir.

MR. SECORD: Yes, sir.

(Whereupon, the jury entered the courtroom at 2:30 p.m.)

THE COURT: Ladies and gentlemen of the jury, please be seated. Hope you had a nice lunch and had a chance to recharge. We'll continue with where we left off before the lunch break.

MR. SECORD: Please the Court.

BY MR. SECORD:

Q. Corporal Kathmann, I have just a very few last couple of questions for you. On Log Creek Road when you saw the Mercedes backed in off of Log Creek Road, you immediately stopped your vehicle, right?

A. I did.

Q. And you backed it up immediately, right?

A. I did.

Q. And at that time you never saw Mr. Jones or any other person there, right?

A. I did not.

Q. And you never saw a gun, right?

A. No. I did not.

Q. And you at that point never were under the

impression that any shots were being fired at you, correct?

A. Not at that point. No.

Q. Okay. And after you backed up and stopped, you got out of your car and went around to the passenger side, correct?

A. When I wrapped around the back from the passenger to the front, correct.

Q. Right. And throughout the duration of the incident at no point did you think that there were gunshots being fired at you, correct?

A. I wasn't sure.

Q. But you were never under the impression of that, right? You never put that --

A. All's I saw, all I know is I heard a bunch of rounds being fired.

Q. Right. But in all your reports you never said that you thought that shots were being fired at you, right?

A. I did not know at the time. No.

MR. SECORD: Okay. Thank you.

THE COURT: Redirect.

REDIRECT EXAMINATION

BY MR. McNAIR:

Q. Officer Kathmann, you were asked a long time ago about hearing gunshots over the radio, correct?

A. Yes, sir.

Q. All right. Well, did you also hear those gunshots live and in person?

A. Absolutely. Yes, sir.

Q. And when we watch that video and I asked you where those first shots came from, where did they come from?

A. They came from the direction of the silver Mercedes.

Q. Okay. Not from Officer Kathmann, correct?

A. From myself?

Q. Officer Florida. Excuse me.

A. Absolutely not.

Q. Okay. And Officer Florida was not even out of his vehicle at the time those gunshots occurred, was he?

A. No. He was not.

Q. And you never saw Officer Florida's hand come out the window, did you?

A. No.

MR. McNAIR: Thank you.

THE COURT: Any recross?

MR. SECORD: No, sir.

THE COURT: The witness may step down.

MR. HUBBARD: The State calls James Florida to the stand.

Thereupon,

JAMES PATRICK FLORIDA, JUNIOR

after having been first duly sworn, testified as follows,

THE CLERK: Please have a seat. Once you're seated, state your full name spelling your last please.

THE WITNESS: James Patrick Florida, Junior. Last name spelled F-l-o-r-i-d-a.

DIRECT EXAMINATION

BY MR. HUBBARD:

Q. It's now Captain Florida, is it not?

A. Yes, sir. At the time of the incident I was a sergeant.

Q. Back in 2018 you were a sergeant. What were you a sergeant over back in 2018?

A. Road patrol on a shift. I was a supervisor for the road patrol.

Q. So what was that again back in 2018?

A. I was a shift sergeant. I was over the road patrol division. I took care of, we had four different shifts and I was C shift. I took care of it. That was the day shift that day.

Q. What do you do today?

A. I'm a Captain of general administration.

Q. How long have you been in law enforcement?

A. 30, I would say going on about 36 years, since 1986.

Q. How long have you been with Edgefield County?

A. Since 2003.
Q. Back on May 7th, 2018 were you working?
A. Yes. I worked day shift that day, but I got off around six.
Q. Day shift is from when to when?
A. Usually five to six.
Q. Five a.m. to six p.m.?
A. Yes, sir.
THE COURT: Ladies and gentlemen, are you able to hear the witness clearly? All right.
BY MR. HUBBARD:
Q. So day shift was five a.m. to five p.m.?
A. Well, five to six usually.
Q. Five to six?
A. Yes, sir.
Q. So on the 7th when this incident occurred, you had already come off shift?
A. Yes, sir.
Q. Now, when you would come off shift, as a patrol officer did you wear a body cam?
A. No, sir. The end of the shift we were required to dock our body cams in the dock at the office.
Q. While you're on duty you would wear it?
A. Yes, sir.
Q. but then once you came off, you had to leave the --

A. We had to put it on the dock to download our daily duties and videos of calls or whatever we answer to.

Q. All right. And then were you driving a marked vehicle at the time?

A. Yes, sir. I was. It's all marked up.

Q. Would you take the vehicle with you or did it stay at the Sheriff's Department?

A. No, sir. We're allowed to take our vehicles home.

Q. So when you went home on May 7th after your day shift, you were still dressed in your regular uniform?

A. I was in full uniform. I was in a marked vehicle, but I did not go home that afternoon. I went to my daughter's house in North Augusta.

Q. Okay. Well, what did you go to your daughter's house for?

A. The grandkids there, we was gonna eat pizza with them that night and my wife works in North Augusta so she drove her car to my daughter's house and we met there for dinner with the kids.

Q. How many grandkids does your daughter have, or how many kids does your daughter have?

A. She has four now so let's see. So yeah, it would be four grandkids now.

Q. All right. So you just went to have pizza and a dinner with your wife, your daughter and grandkids?

A. Yes, sir.

Q. After you got through -- And this is May 7th of 2018?

A. Yes, sir.

Q. After you got through and you start heading home, you say your wife drove separately?

A. Yes, sir. She was in front of me going down Sweetwater Road, I heard the call go off at Johnston Pool Room. At that time I advised Sergeant Densmore who's on the night shift supervisor if he needed me to come assist. He advised me no. They had other units en route so we continued.

Q. Can I ask you this? When that call came in, was there a description of a vehicle or an idea of who the person was or do you recall?

A. Yes, sir. During the radio traffic, they had stated that Barry Jones was the shooter and that he was driving a silver Mercedes four door tinted windows with a Georgia plate.

Q. All right. So that comes over your radio, you call in and say, hey, do y'all need me at the pool hall and Sergeant Densmore says we got enough people here?

A. That's correct.

Q. So you keep heading home?

A. Yes, sir.

Q. What, if anything, do you observe while you're heading home?

A. Me and my wife got to the four way stop. She was in front of me. I was behind her. As we approached the stop sign, she stopped and I looked at the corner of my right side, Mr. Barry Jones was coming down Crest Road going toward Highway 25 north. He stopped at the stop sign. My wife pulled off. She went on down the road toward the house. I called and told her I was gonna be late. I pulled up to the stop sign and waited for Mr. Barry to go by, as he went by there was a Georgia tag. I ran the DKQ580 tag, advised dispatch about it, and they advised me that come back to Mr. Barry Jones from Evans, Georgia.

Q. Okay. Let me stop you. Let's back up and walk through this a little bit. So you're at the stop sign. Your wife's in front of you. Y'all were stopped?

A. Yes, sir.

Q. And you see the silver Mercedes pull up?

A. Yes, sir.

Q. Had you ever met Barry Jones before?

A. No, sir. I do not know him.

Q. Had you ever heard of him before?

A. No, sir.

Q. So he was just a name on the radar?

A. Yes, sir.

Q. Affiliated with a silver Mercedes with a Georgia tag?

A. Yes, sir.

Q. When you see that vehicle, you let your wife know you might be late because you're calling in that car?

A. Correct.

Q. You see the tag? You let it go by and see the tag?

A. Yes, sir.

Q. And that's when you were able to confirm that's Barry Jones?

A. Correct.

Q. All right. Now you mentioned an intersection. Have you seen this board before?

A. Yes, sir.

Q. All right. What road is this?

A. That's Buncombe.

Q. What road is this?

A. That's Meeting Street.

Q. Is there a number for Meeting Street?

A. It's [redacted]

Q. [redacted] And then this is Crest Road?

A. Yes, sir.

Q. These arrows that are on this board, is that done with your assistance to show where you were?

A. Yes, sir. There's a four way stop right there. That's where my wife was stopped. I stopped behind her. Mr. Jones is coming down and once he stopped, she proceeded forward.

MR. HUBBARD: Okay. Your Honor, this is State's 40 offered into evidence.

MR. L. SHEALEY: No objection.

THE COURT: State's Exhibit 40 is admitted into evidence.

BY MR. HUBBARD:

Q. So when you're at this stop and you see Mr. Jones, he proceeds on, he's on Crest but he's heading towards what road?

A. Highway 25 North.

Q. And when he proceeds, does he go on to Highway 25?

A. Yes, sir. He continues.

Q. Is that Highway 25 North?

A. Yes.

Q. And then when you say you let him go on by, if you would, if you turn, swivel a little bit, if you're right here, what did you do as he proceeded on?

A. As he proceeded on through the four way stop, I was able to get his tag and read it to dispatch. I was slowly watching him go down 25, and then I pulled up to make him think I was going down the other way, that I didn't see him.

I turned around in this little loop area here, come back down the road and followed him from a great distance. While I was doing that, dispatch advised me that the car come back registered to Mr. Barry Wayne Jones.

Q. Okay. So you took the loop, you came on through as if you were going on down Meeting Street?

A. Yes, sir.

Q. Why did you do that?

A. To make him think that I did not see him and call it in and to get assistance because, you know, he was accused of having shooting somebody up in Johnston and I wanted to be prepared.

Q. All right. You had heard there had been obviously a shooting at the pool room?

A. Yes. They stated that Barry Jones was the shooter and that he was a threat.

Q. All right. So you're by yourself at this point?

A. Yes, sir.

Q. And off duty?

A. Yes, sir.

Q. When you call that in and you get the description and you start following him, how far do you let him get?

A. I tried to get him far enough where I could mainly maintain his taillights, see his taillights on his car. I didn't want to get real close up where he could, you know, see

that I was right behind him so it was a great distance, but far enough where I could just see the back end of his car.

Q. And so you had no blue lights, no siren. You didn't want him to start running?

A. I didn't want, I didn't want, the terminology is spook him. I didn't want to scare him up, because we were going right by Northside BP and there's citizens there and I know he was going out 25 north and I was indicating for assistance.

Q. You're waiting for other officers to come in with you?

A. Yes, sir.

Q. Because knowing that or having information anyway that somebody has been involved in a shooting, does your police training say if you can wait for backup, that's the best practice?

A. Yes, sir.

Q. Okay. So that's what you were doing?

A. Yes, sir.

Q. As you were following him, could you tell if he noticed you or not or is that something you just couldn't tell?

A. I couldn't tell.

Q. All right. And you relayed your direction to dispatch?

A. Yes. As I passed certain locations, I called them into dispatch and then when I was so far out 25 North I didn't know exactly what the next cross street was, I used an address.

Q. Okay. Well, when we talk about a CAD, there's discussion about that. Is that where all that is relayed to dispatch so they get all that out to all other officers?

A. Yes.

Q. And it's recorded?

A. Yes, sir.

Q. So when you went down north on Highway 25, did you pass also Cross Creek Road?

A. Yes, sir.

Q. Turkey Creek bridge?

A. Yes, sir.

Q. Plum Branch Road which is --

A. Highway 283. Yes, sir.

Q. -- Highway 283. And you called all that in?

A. As we'e going down the road. Yes.

Q. And that let all of your fellow officers know where you were and let dispatch know where you were as well?

A. Yes, sir.

Q. Now, we talk about call signs or a unit number. What was yours?

A. Sierra two two or Sierra 22.

Q. So if we hear in any of the radio talk two two or 22, they're talking about you?

A. Yes, sir.

Q. At that time you worked patrol, was your vehicle, it was a marked vehicle I think you said?

A. Yes, sir.

Q. Was it equipped with a dashcam or carcam?

A. It was, but it was not working properly. I informed Captain Wash who is the captain over patrol at the time that it was not been working and it had not been working the last two months and he was aware of that.

Q. Okay. Was that unusual back at that time with the issues you had with vehicles and camera systems and things like that not to have a camera?

A. No. We were supposed to have a camera, but it was not working properly. That's why I informed my superiors they needed to get it fixed.

Q. Right. So you did what you were supposed to do?

A. Yes, sir.

Q. Now, at some point did y'all come up near Pleasant Lane Road?

A. Yes, sir. As we went further out Highway 25 North, when he veered off on Pleasant Lane to the right, that's when I lost sight of him, so when I went to make a right onto Pleasant Lane, I started going very slowly. As I continued on

Pleasant Lane very slowly, that's when I observed his vehicle, he turned his vehicle around facing Pleasant Lane on Log Creek Road which is a dirt road and his driver's door was open, he was out and he was aiming and pointing a large assault rifle, what I believe to be a AR-15 rifle.

Q. I want to show you another aerial, State's ID 41. Do you see Log Creek Road?

A. Yes, sir.

Q. Do you see Pleasant Lane Road?

A. Yes, sir. This is where I was going slow and he done turned around and his vehicle is facing Pleasant Lane Road.

Q. What road is this?

A. That's Highway 25 North, the very bottom left hand corner.

MR. HUBBARD: Your Honor, I offer State's 41 in.

MR. L. SHEALEY: No objection.

THE COURT: State's Exhibit 41 admitted into evidence.

BY MR. HUBBARD:

Q. All right. When you're following Mr. Jones, at this point you know the name Jones?

A. Yes, sir.

Q. The silver car. You say as you're following him you lose sight of him at some point?

A. Yes, sir. Right when he turned off on Pleasant Lane because the way he turned into the road, it's like a blind spot because of the forest and the woods.

Q. Well let me ask you this: You still let him go way out in front of you, correct?

A. Yes, sir.

Q. All right. Now, when he turns, is this Pleasant Lane Road here?

A. Yes, sir.

Q. What road is this?

A. Highway 25 North.

Q. and this road?

A. Is Log Creek Road.

Q. So he turns leading towards Log Creek?

A. Yes, sir.

Q. And when you turned on Pleasant Lane, did you see him immediately?

A. No, sir. I was going very slowly because I didn't know if he, there were some houses in the area. I didn't know if he may have turned down one of their driveways or try to cut through one of the driveways going back to 25 North. As I continued down Pleasant Lane real slowly, then I observed him immediately on my right, his vehicle was facing Pleasant Lane, he was outside of the vehicle aiming the rifle at me and at that time I sped up on down the road and I don't know if he

popped any rounds off or not because I was concentrating on getting get out of his line of fire.

Q. All right. Again, I want to use State's 41. I'll come up here to you. When you were coming down Pleasant Lane Road, where did you see him?

A. He was parked right here facing this direction outside the car with the rifle.

Q. Okay. And you did what?

A. When I seen him pointing it at me, I got down on it, that's when my vehicle went further down the road to avoid being shot and killed.

Q. So you drove on down Pleasant Lane Road?

A. Yes, sir.

Q. Did you call in that he had a rifle?

A. Yes, sir.

Q. When you saw him, you say the car is turned around, which door was open or did you see a car door open?

A. The driver's door of his vehicle was open and he was standing outside aiming the assault rifle at me.

Q. You said assault rifle. So the rifle -- What color was that rifle?

A. It was black.

Q. And what did it appear to be?

A. It appeared to be an AR-15.

Q. And did you end up relaying that to dispatch as

well?

A. Yes, sir.

Q. So now law enforcement now knows that there's a handgun used at the pool room, but now you've let them know he's got a rifle, he's got an AR-15?

A. Yes, sir.

Q. When you were on Pleasant Lane, did you see Officer Kathmann?

A. He was radioing with all the radio traffic going on. That's when I observed him turn on Pleasant Lane and I started hollering to him on the radio to back up, back up. He was to his left which was to my left, but to Kathmann's right on the dirt road.

Q. Now, prior to seeing him, did you know he was coming there to help you?

A. I heard radio traffic. I knew they had some units on the way and when I looked in my rear view mirror, I knew it was a city car and it was Kathmann.

Q. Okay. So you advised him to back off because you had just seen him with a weapon?

A. Yeah. He had pointed a weapon at me and I didn't want him to get in the line of fire.

Q. Now, the video that Kathmann had on his dashcam, did you have an opportunity to see that?

A. Yes, I did, sir.

Q. Does it accurately reflect what happened?

A. Yes, sir.

Q. While we're looking at that, I want to show you a couple other -- Well, I'll wait on these. While we're doing this, let me go ahead and address these. Did you follow him down Log Creek Road?

A. Yes, sir. I did.

Q. And at some point were you fired upon?

A. Yes, sir.

Q. I want to show you what's been marked as State's 42. Does that show the basic distance you went down Log Creek before that incident occurred?

A. Yes, sir.

MR. HUBBARD: I offer this into evidence.

MR. L. SHEALEY: No objection.

THE COURT: State's Exhibit 42 is admitted into evidence.

BY MR. HUBBARD:

Q. So you drove a ways down Log Creek before you were actually shot at, correct?

A. Yes, sir. A good ways.

Q. And that's a dirt road again?

A. Yes, sir.

Q. So you were following, I believe we heard testimony, dust following, the dust?

A. Yes. As he was going down Log Creek I was following the dust particles in the air and going slow because I didn't want to come up on him real quick and I wanted to stay a distance until we get some other units in the area.

Q. And you took the lead and Kathmann was behind you?

A. Yes, sir.

Q. I want to show you what's been marked as State's 43. Is that a blowup of or enlarged picture showing the cut out where Mr. Jones turned in, backed in off of Log Creek?

A. Yes, sir. That's the gate, green gate.

Q. You see the gate back behind him?

A. Yes, sir.

MR. HUBBARD: I offer State's 43 in.

MR. L. SHEALEY: No objection.

THE COURT: All right. State's Exhibit 43 is admitted into evidence.

BY MR. HUBBARD:

Q. Sergeant, this being Log Creek, this is the area here that you saw Mr. Jones back into?

A. Yes. It goes back up in that way and in real life you can go down there and look, it goes more slanted than the actual aerial shot.

Q. What is right here?

A. That's a private gate. Goes to someone's property.

Q. So if that gate is closed and that gate was closed that day?

A. Yes, sir. As we came down Log Creek and I was following the dust, when it started to clear up when I was right about here, I realized, oh, boy, and at that time as soon as I got right in here in the open view I could see him. He had backed his car up and again his front end of his vehicle was pointing back toward Log Creek outside of his vehicle with the assault rifle and then I started getting shots in my door.

(Playing State's exhibit.)

BY MR. HUBBARD:

Q. Okay. That's your voice?

A. Yes, sir, because I'm up the road.

Q. Okay. Right here, do you see his car?

A. Yes, sir.

Q. Who shot first?

A. Mr. Jones started shooting at me.

Q. Your vehicle was still moving?

A. Yes. I was still driving it. When we got to that area, by the time I observed him, he started shooting at me.

Q. What type of weapon did you observe him shooting?

A. AR-15.

Q. Were you wearing body armor?

A. Yes. I was. Back then we had a T-shirt and they

were black and green.

Q. The body armor you were wearing at that time, was it sufficient to stop an AR-15 round?

A. No, sir.

Q. What was that?

A. No, sir. It would go right through us.

Q. So whether you wore body armor or not on this occasion it didn't matter?

A. No, sir.

Q. Do you see, and it's kind of fuzzy there, someone standing right here?

A. Yes, sir. That's him.

Q. A little bit clearer on a computer screen, but standing right in the apex of the door?

A. Yes, sir.

Q. All right. And Kathmann backs up after this, correct?

A. Yes, sir.

Q. Those really loud shots, where are those coming from?

A. From Mr. Barry.

Q. That's the AR-15?

A. Yes, sir.

Q. Now, working your way around that vehicle did you get to other side?

A. Yes, sir. I was able to come out my driver's side, I discharged my Glock toward him because that's where I could see him at the apex of his door. I went around to the passenger side of my vehicle to keep cover and try not to get hit and hollering at him, asking him to stop shooting and, you know, let me see his hands and kept on giving loud verbal commands. Then I was having to deal with radio traffic and then going back and trying to keep my eyes on him, keep him contained until other units got there. I was going back and forth. Eventually I got my shotgun. He shot again back at the back end of the car where I was standing. I had to come out in the open with a shotgun to get a good visual on him. I discharged my shotgun twice, then I went back to seek cover and still giving verbal commands to stop shooting, put the weapons down, let me see your hands.

Q. Let's stop right there for a moment and back up. When you stop your vehicle there, you get out of which side of your car?

A. I get out the driver's side exposing myself to Mr. Jones.

Q. So he's shooting at you from that side, you get out on that side?

A. Yes, sir.

Q. You're a big man. Crawling over the seat in that vehicle you're in would have been a challenge as well?

A. Yes, sir.

Q. So you get out on the driver's side. Which weapon do you resort to at that point in time?

A. My Glock.

Q. A Glock is, is that a revolver or semiauto?

A. It's a semiauto.

Q. So it has a magazine?

A. Yes, sir. .40 caliber.

Q. .40 caliber. Is that standard issue for Edgefield County?

A. Yes, sir.

Q. How many rounds do you keep or was it standard to keep in your Glock?

A. It's 15 in the mag, one in the chamber, total 16.

Q. So total 16. As you made your way around you vehicle, did you go around the back side or the front side?

A. I got out the driver's side and come down the driver's side to the backside of the car.

Q. Okay. And went around the back?

A. Yes, sir. Exposed myself completely to Mr. Jones.

Q. How many shots did you get off with your Glock?

A. I believe I shot four times.

Q. So a total of four shots came from your Glock?

A. Yes, sir.

Q. Now, you mentioned making it around to the other

side of your vehicle. You mentioned a shotgun. Do you have an AR-15 or did you have an AR-15 in your vehicle?

A. I do. It's in between the seats and it's locked, engaged, is not loaded. The magazines was in my driver's door. The only other weapon I had access to at the time was a shotgun and it's ready racked, but not one in the chamber.

Q. All right. Well, let's break that down. So you had an AR-15 as well, but if you reached in there, first of all, it's locked in., You get it out, it's unloaded?

A. Correct.

Q. To load that weapon you would have to go back to your driver's door to get the rounds to fire?

A. Yes, sir.

Q. Was it policy of your office to keep those unloaded?

A. Yes, sir.

Q. Okay. Now, the 12 gauge, the shotgun, it was a 12 gauge?

A. Yes, sir.

Q. It was kept where?

A. In the second rack right next to the AR-15.

Q. How many rounds does that shotgun hold?

A. It holds, we put four in the chamber rack ready, but nothing in the --

Q. So it hasn't been racked, otherwise you would be

able to have five?

A. Correct.

Q. So you've four in there. Is it pump?

A. Yes, sir.

Q. So you got to pump it to load it?

A. Yes, sir.

Q. And you got four shots in there?

A. Yes, sir.

Q. And you said you used that weapon as well at this time?

A. Yes, sir.

Q. Where were you positioned in your vehicle when you used that 12 gauge?

A. After I went back to the corner, he started shooting at the back end of my patrol car again. At that time after he got through firing, I had to step out in the open area with the shotgun and popped off two rounds to get a visual on him.

Q. So you fired that shotgun twice?

A. Yes, sir.

Q. When it's all said and done you fired four rounds with your pistol?

A. Yes, sir.

Q. And two with your shotgun?

A. Yes, sir.

Q. When you returned fire with your handgun, your Glock, did he fire back?

A. Yes, sir.

Q. When you returned fire with your shotgun, did he fire back?

A. Yes, sir. He fired first every time and I, in between him shooting, me shooting, I was giving verbal commands before and afterwards.

Q. All right. I'm gonna show you -- Just a minute. When you're getting out of the front seat, did your car take damage?

A. Yes, sir. It did.

Q. I want to show you some photographs. Are these photos of your vehicle and damage to the door side looking at State's 44, 45, 46, 47, 48, 49, 50, 51, 52, 53?

A. Correct. Yes, sir.

Q. All of those were damage on the driver's side?

A. Yes. That's all the shots that Mr. Jones made at me.

MR. HUBBARD: Your Honor, I offer State's 44 through 53 into evidence.

MR. L. SHEALEY: Without objection.

THE COURT: State's 44 through 53 are admitted into evidence.

BY MR. HUBBARD:

Q. All right. Officer Florida, looking at this vehicle you see a round here and some damage here?

A. Yes, sir.

Q. Is that from being shot at by Mr. Jones?

A. Yes, sir.

Q. I show you 45. Is this one, it's marked showing the damage close up right here and then this is the door post?

A. Yes, sir.

Q. All that damage right there?

A. Yes, sir.

Q. Another close up, State's 46. This is the metal of your vehicle being torn through by an AR round?

A. Yes, sir.

Q. State's 47 following that same line, is there damage to your steering wheel up here?

A. Yes, sir.

Q. Where you had been sitting?

A. Yes, sir.

Q. State's 48 you see some damage on your steering wheel right up here?

A. Yes. Closer.

Q. State's 49 a closer shot that's been marked off. Do you see damage to your steering wheel?

A. Yes, sir.

Q. Was that there before Barry Jones shot at you that

day?

A. No, sir. They were not.

Q. Was there damage to your windshield?

A. That's from Mr. Jones' gun.

Q. Do you see in State's 50 fragments of your windshield?

A. Yes, sir.

Q. State's 51 a little bit closer shot --

A. Yes, sir.

Q. -- of the damage to your windshield. State's 52, State's 53?

A. Yes, sir.

Q. All those were from being fired upon by Mr. Jones?

A. Yes, sir.

Q. And that's on the driver's side coming in from the driver's side?

A. Yes, sir.

Q. The side you got out of?

A. Yes, sir.

Q. Now, when you fired your shotgun, you said you were at the back of the vehicle?

A. Yes, sir.

Q. Did you receive damage to your vehicle in the back of your vehicle where you were standing?

A. Yes. I did. He shot it several times.

Q. I'm going show you State's 54 through 58. Is that is the back of your vehicle?

A. Yes, sir.

Q. It's hard to see but glass broken?

A. Yes, sir.

Q. Close up glass broken?

A. Yes, sir. That's the back window shot out.

Q. And 56, glass broken and more damage?

A. Yes.

Q. Close up to 57?

A. Yes.

Q. And 58?

A. Yes, sir.

MR. HUBBARD: Your Honor, I offer 54 through 58 in evidence.

MR. L. SHEALEY: Without objection.

THE COURT: State's Exhibits 54 through 58 are admitted into evidence.

BY MR. HUBBARD:

Q. Sergeant Florida, looking at State's 54, is that your patrol vehicle?

A. Yes, sir. It is.

Q. Again, a marked vehicle?

A. Yes, sir.

Q. And this is -- Let me ask you this: You're standing

over in this area?

A. Yes, sir.

Q. Now, the passenger door is open. Who opened that?

A. I opened it so I could go back and forth to my radio because my portable dropped off inside the car getting out.

Q. The radio, you had to actually go to your car to use, every time you spoke you had to step over there to do that?

A. Yes, sir. What I did was I got the mic and pulled it to the passenger side so I wouldn't be in direct line of fire.

Q. Okay. And then you stood in this area when you fired your shotgun?

A. I stepped out from the backside of the vehicle a couple feet away from that side and discharged my, right where the taillight is on the right side maybe two foot from it so I could get in the opening and see Mr. Jones before I discharged my shotgun.

Q. Mr. Jones from this photograph, is he on the left side of your vehicle here or is he on the right side?

A. He's gonna be, the back end, he's gonna be on the left side in the woods.

Q. So he's gonna be --

A. Yeah. I tried to use the car as a cover.

Q. In looking at this photograph again, what do we see

here?

A. That's glass from the back window where he shot it out.

Q. Is this where he shot up here?

A. Yes, sir. He shot the top and glass and other parts of the vehicle.

Q. You said you fired your shotgun how many times?

A. Twice. Those are the shells there.

Q. Those are the shells. I show you State's 55. Again, kind of hard to see, but does it show the jagged glass --

A. Yes, sir.

Q. -- where your vehicle was shot?

A. That's my vehicle because it's the tag.

Q. Getting up a little closer, 56, did it actually hit up here in the corner?

A. Yes, sir. It did. That's what I was referring to, the black fin on the top.

Q. 57, even a closer look at that damage?

A. Yes, sir.

Q. Finally 58?

A. Yes, sir.

Q. And this is the area you were standing in when you returned fire with your shotgun?

A. Yes, sir.

Q. Was there any question in your mind Mr. Jones was shooting at you?

A. No. He was trying to kill me.

Q. Now, while you returned fire, did Officer Kathmann also return fire?

A. Yes, sir. During the incident, Mr. Jones had turned, he shot at the back window of my car a couple times and then he turned and started shooting toward Officer Kathmann.

MR. L. SHEALEY: Objection, Your Honor, subject to our prior argument, plus 404(B) on this topic.

MR. HUBBARD: Res gestae.

THE COURT: Previous objection noted. Overruled.

BY MR. HUBBARD:

Q. So at this point though is Officer Kathmann back down out of the line of sight --

A. Yes, sir.

Q. -- of Barry Jones?

A. As soon as the shooting started, he backed up.

Q. Okay. So you're the only one with eyes on Barry Jones?

A. Yes, sir.

Q. While the shooting is going on, what, if anything, are you yelling out to Barry Jones?

A. Several times during the whole incident to stop

shooting, put his gun down, let me see his hands clear.

Q. Do you keep doing that?

A. Yes, sir. Continuously.

Q. Now, we hear you on the radio?

A. Yes, sir.

Q. But you're not shouting that into the radio?

A. No, sir.

Q. So if you're shouting that and the radio is still in your car, you may or may not hear it?

MR. L. SHEALEY: Objection. Calls for speculation.

MR. HUBBARD: On the video.

BY THE WITNESS:

A. No. You won't hear --

MR. HUBBARD: Hang on.

THE COURT: Overruled. You can answer the question.

BY THE WITNESS:

A. Okay. If I'm hollering at Mr. Jones, it's not going over the radio because I don't have my mic keyed up because I'm not in that area at the time.

BY MR. HUBBARD:

Q. Okay. But those were the commands you were giving him?

A. Yes, sir.

Q. Did you and Officer Kathmann basically have Mr. Jones hemmed in?

A. Yes, sir. Where my car was positioned and Kathmann's vehicle was positioned, he couldn't back up, there was nowhere for him to exit or leave in his vehicle.

Q. Looking at State's 43 again, he's in this little clearing?

A. Yeah. Backed up to that green gate.

Q. And then you and Officer Kathmann are on either side of that?

A. Yes, sir.

Q. So he's trapped in that area?

A. Yes, sir.

Q. As you gave commands, did you hear Barry Jones, did he respond at all?

A. Yes, sir. We had, like the last round you hear go off and I was still giving commands and stuff and he made a statement to me that to let him bleed to death.

MR. L. SHEALEY: Objection.

BY THE WITNESS:

A. I told him I could not do that.

MR. L. SHEALEY: Subject to my pretrial motions. Cartwright, Your Honor.

THE COURT: Previous objection noted. Overruled.

BY MR. HUBBARD:

Q. What, if anything, did Barry Jones say during this exchange as you're telling him to put his hands up, put his guns down?

A. He stated to let me bleed to death. He stated that to me that he wanted me to let him bleed to death, and I told him, no, I cannot do that.

Q. So he's injured?

A. Yes, sir.

Q. Could you see him?

A. At the time when we was talking, I could not see him. Later on I was able to see him lying on his back.

Q. Okay. Let me catch up with you there.

A. All right.

Q. So at this point he's indicated he's bleeding, he's injured and he's made this statement let me bleed to death?

A. Yes, sir.

Q. And then you said I can't do that?

A. I can't do that.

Q. All right. While all this is going on are other units arriving?

A. Yes, sir.

Q. And were you again the only one with eyes on Barry Jones?

A. Yes, sir.

Q. So was everybody relying on you?

A. Yes, sir. Everybody was waiting on my call and my instructions.

Q. At some point did another officer take over the radio to keep you from having to go back and forth?

A. Yes. Robbie Harter told me that he would take over the radio and to go ahead and continue talking to Mr. Jones.

Q. Did you happen to look at the body cam footage of Sergeant Densmore's body cam footage?

A. Yes, sir.

Q. Does it accurately reflect what happened following what we see on this video, the takedown?

A. Yes, sir.

Q. And you've watched that?

A. Yes, sir.

Q. And in watching that, does it record you giving commands to Barry Jones?

A. Yes, sir.

Q. Hands up, put the gun down?

A. Quit shooting, put the gun down, let me see your hands clear.

Q. When you finally see Barry Jones down, is he on his back, on his stomach? How is he?

A. When I finally got everything to a calm state, he was laying on his back with his hands up in the air and then I was advising all the officers to move in very slowly and I

kept him at gunpoint giving verbal commands not to move or anything like that and then they were able to get to him and apprehend him.

Q. You're not the one that actually laid hands on him?

A. No, sir. I just kept the main sight on him and gave instructions for them to move in because they was coming in at and angle which he couldn't see until all of them were right there on him.

Q. When they're on him and they move him out of that area, what, if anything, did you see in the apex of his door on the ground?

A. The rifle that he was using and shooting.

Q. I show you State's 59.

A. Yes, sir.

Q. Is that the rifle?

A. Yes, sir, because I could see it when I was talking to him. He was laying down on his back with his hands up and I was making sure that he wasn't gonna try to flip and grab it and shoot us.

MR. L. SHEALEY: No objection.

MR. HUBBARD: Offer State's 59 into evidence.

THE COURT: State's Exhibit 59 is admitted into evidence.

BY MR. HUBBARD:

Q. So is this the open door here?
A. That's the driver's door. Yes, sir.
Q. And that's where the AR-15 is?
A. Yes, sir.
Q. Do you see some casings?
A. Yes, sir.
Q. Indicating the weapon had been fired?
A. Yes, sir.
Q. Sergeant Florida, or Captain Florida, it took a while for backup to get there?
A. Yes, sir.
Q. So was it your responsibility to just keep him at bay?
A. Yes, sir.
Q. And hold him there the best you could?
A. Yes, sir.
Q. You had been fired upon. You weren't sure, when you fired back you weren't sure if you hit him or not, correct?
A. Correct.
Q. But you can hear him occasionally when you're talking to him?
A. Yes.
Q. You chose, did you not, not to move in on him, correct?
A. That's correct. Because if I would have moved in, I

would have been in wide open. I'm gonna keep cover.

Q. Okay. And was it also your responsibility to try to keep Officer Kathmann safe?

A. Yes, sir.

Q. Was it also your responsibility to make sure that officers that got there knew where everybody was so they're safe?

A. Yes, sir. I'm the primary officer. I call the shots and I make the commands and tell them what to do and give them instructions.

Q. Final question. Even though you're being shot at, if you can hold Barry Jones at bay without taking his life, is that your job?

A. Yes, sir. It is.

Q. Even though he's trying to take yours?

A. That's my job.

MR. HUBBARD: Thank you, sir.

THE COURT: Ladies and gentlemen, before we get into cross examination, we'll take a short break. Let's head back to the jury room for five, 10 minutes and we'll start right after that. Please don't discuss the case.

(Whereupon, the jury entered the jury room at 3:20 p.m.)

(Short break.)

THE COURT: Ready to bring the jury back in?

MR. HUBBARD: Yes, sir, Your Honor.

THE COURT: Let's bring them back in.

(Whereupon, the jury entered the courtroom at 3:35 p.m.)

THE COURT: Mr. Foreman, ladies and gentlemen, please be seated. Took a quick break. We'll pick up with cross examination.

MR. L. SHEALEY: May it please the Court, Your Honor.

THE COURT: Yes, sir.

CROSS EXAMINATION

BY MR. L. SHEALEY:

Q. Good afternoon.

A. Good afternoon, sir.

Q. Do you have a copy of your formal statement that you made to SLED with you today?

A. Yes. I do.

Q. Okay.

A. October 20, 2018 form. Looks like this?

Q. Yes, sir.

A. Okay.

Q. I just want to make sure you have it. I have a copy if you need it, but you already got one.

A. Yes, sir. Hold on one second.

Q. So you've been working in law enforcement a long

time; is that right?

A. Yes, sir.

Q. And you worked it for quite a while for Edgefield County at that time as well, right?

A. Yes, sir.

Q. You would have known Investigator James Smith, right? He was a colleague of yours?

A. I know him as an investigator, yes.

Q. Were you aware that he was married to Angie Smith formerly?

A. No, sir.

Q. No idea on that?

A. No. I'm not from the County so a lot of people know each other. I'm from Augusta, Georgia so I don't know a lot of people in Edgefield County.

Q. Okay. Now, when you gave your official formal statement to SLED in this case, now, this incident happened on May 7th of 2018, correct?

A. Yes, sir.

Q. And you didn't give your official statement to SLED until quite a while later; is that right?

A. Yes, sir.

Q. That would have been on June 5th of 2018 so almost a month?

A. I believe so. Yes, sir.

Q. And you came to SLED to meet with your attorney in tow, correct?

A. Yes. I had an attorney.

Q. That was Mr. Sussman out of Augusta?

A. Yes, sir. Bill Sussman.

Q. Pretty prominent attorney in that area?

A. He's been around for years.

Q. All right. You felt the need when you were just talking about this case to bring --

MR. HUBBARD: Your Honor, I'm gonna object. It's not uncommon for law enforcement to have an attorney --

MR. L. SHEALEY: I would object to the speaking objection.

THE COURT: Come up. We'll talk about it.

(Side bar off the record.)

MR. L. SHEALEY: Thank you, Judge.

BY MR. L. SHEALEY:

Q. Officer Florida, you brought your lawyer Mr. Sussman with you to that SLED meeting?

A. Yes, sir. I did.

Q. Did he help you prepare this typed statement?

A. Yes, sir.

Q. Okay. And that was almost a month later?

A. Yes, sir.

Q. You did not give this that night when SLED was on

scene, did you?

A. No, sir.

Q. Now, you were off duty; is that correct? You had just gotten off duty and gone to Augusta to --

A. I went to North Augusta --

Q. North Augusta.

A. -- to my daughter's house. I was still in uniform and in my patrol unit which is marked.

Q. And your official statement says you went to meet your wife. What you said today is that you went to your daughter's?

A. I met my wife there at my daughter's house to eat pizza with my family.

Q. Pizza party?

A. Yes, sir.

Q. Okay. That's not in your official statement?

A. No. I think, let me double check and see. Let's see. The official statement stated that I went to North Augusta which was the south end of the county to meet my wife. That is correct.

Q. Okay. So and I think you're driving along and you do encounter Mr. Jones?

A. On the way back home.

Q. Right. You had previously heard about a pretty startling event in Johnston, a shooting at the pool hall,

right?

A. Correct.

Q. And I think you knew that the suspect was armed, identified as possibly being Mr. Jones and you run into Mr. Jones?

A. Yes, sir.

Q. You run his tag, you confirm it's Mr. Jones, right?

A. Yes, sir.

Q. You ask, hey, you know -- Well, before you ask if you needed any units because you hadn't run into Mr. Jones yet and you were told by Sergeant Densmore no, we're good, right?

A. Right. Correct.

Q. But when you run into Mr. Jones --

A. I have to do my job.

Q. -- doing your job whether you're on duty or not, right?

A. Correct. 24/7.

Q. And you -- Well, some parts are 24/7. You had your body cam, but the body cam is turned in?

A. Correct.

Q. Right. So you don't have that ability to document everything that's in front of you? You've lost that ability, right?

A. I don't have the body cam, no.

Q. And you're in a vehicle that you've testified has an in car camera, a dash camera?

A. Correct.

Q. But it ain't been working for two months?

A. That's correct.

Q. Okay. And you said that you brought that up to your supervisor Captain Wash at the time?

A. Yes, sir.

Q. But you're still driving around, you're working in that vehicle?

A. And they're aware of it.

Q. Right. So that's a problem, well, because it does hinder you doing your job, correct?

A. No. I can still do my job.

Q. Well, it's hard for you to prosecute and arrest somebody on a DUI, for example, because that requires a recording, doesn't it?

A. We don't do DUI's in Edgefield. We turn them over to the state troopers.

Q. You don't do any DUI's in Edgefield?

A. No. We turn them over to state troopers when we have a reckless driver or something.

Q. But you agree --

A. We just give them the information of the reason why

we stopped the vehicle.

Q. But you agree that not having that recording device doesn't allow us to have any true documentation other than words about what's going on in your car?

A. It's an extra tool. Yes.

Q. Yes, sir. And you've been sitting here. Officer Kathmann had his dashcam, in-car camera, right?

A. Correct. He works for the city.

Q. Well, you heard he actually bought it himself, right?

A. Yes, sir.

Q. You didn't in the meantime while your camera was down buy your own, did you?

A. No, sir. We can't put our own property in the vehicles.

Q. I want to talk to you, you've encountered Mr. Jones. You know that he's a suspect in a shooting, right?

A. Correct.

Q. And you start to follow him out of town. I think the exact quote that you told Mr. Hubbard was I wanted to be prepared, right?

A. Yes, sir. I didn't know what he was capable of doing or anything like that and when you're doing a felony stop on somebody like that, you don't do it by yourself. You do it with multiple officers so everything goes down smoothly

and everybody goes home.

Q. You wanted to be prepared?

A. Prepared and safe. Yes, sir. For the public too.

Q. And now in your statement to SLED you admit that you did not have any lights or sirens as you were following Mr. Jones, correct?

A. No, sir. I did not because I followed him from a great distance because I did not want to engage with him and not have anybody else there and it's a felony stop.

Q. So, you know, but when you initiate a traffic stop, that's typically what someone does, right? You turn on your lights and your siren. That's what you do probably tons of times?

A. Yes, sir. If you want to do a traffic stop. Yes, sir.

Q. Right.

A. But I wasn't doing a traffic stop.

Q. Sorry. I don't want to talk over you. You had that choice, but you chose not to, correct? To not initiate a traffic stop?

A. No. Not on that situation. No, sir.

Q. Right. So you're following in your marked car, but you don't have lights and you don't have sirens?

A. No, sir. I'm at a great distance. I can just barely see the back end of his car.

Q. Now, at some point you're going down 25 and you're at a distance but you're maintaining eye contact as close as you can. I mean, you don't want to lose him, do you?

A. No. Trying not to, but I have.

Q. And he turns off onto Pleasant Lane, and we've looked at this map, correct?

A. Yes, sir.

Q. And I want to show you defendant's 28. This is a still shot that I have taken from Kathmann's dashcam. Does that look like your, that looks like Pleasant Lane and Log Creek?

A. Pleasant Lane and Log Creek. That's me right there.

Q. Right. So that's where you sped past and you turned around and Kathmann is joining you, correct?

A. Correct.

Q. Would this be another closer shot where you're coming more into view?

A. Yeah. I'm coming more into view at the turn.

Q. All right. And would this be another shot of you turning onto Log Creek?

A. Yes. In my marked vehicle.

Q. And this is another --

A. A bigger of my marked vehicle.

Q. -- of your marked vehicle turning onto Log Creek?

A. No lights, no siren.

Q. And the same one kind of the rear of your vehicle turning onto Log Creek?

A. Yes, sir. And all at the same time.

MR. L. SHEALEY: All stills from Officer Kathmann's video. Your Honor, at this time I would seek to move into evidence Defendant's 28, 29, 32, 33 and 34.

MR. HUBBARD: No objection.

THE COURT: Defendant's Exhibits 28, 29, 32, 33, 34, admitted into evidence.

BY MR. L. SHEALEY:

Q. So if we can look at this photo, I think you just told me, but so the jury can see, this would be a view of you down the road after claiming that Mr. Jones was in this area, correct?

A. That is correct. I sped past him.

Q. You sped past him because you said he was pointing an AR-15 at you?

A. At me. Yes, sir.

Q. Now, I want to get something clear. You say that he was facing Pleasant Lane?

A. Yes, sir.

Q. So he didn't just drive in and stop and decide to get his gun out. He must have done a three point turn. Is that what your testimony is?

A. I don't know how he turned, but when I got up on him, his vehicle is already facing Pleasant Lane like he was ready to pull back out onto Pleasant Lane and his driver's door was open which was on my side of the roadway and he was out with an AR-15 pointed it at me.

Q. Okay. That's your testimony that he turned his car all the way facing Pleasant Lane?

A. I don't know how he turned it, but his vehicle is facing outward. I don't know if he done a three point turn, did a donut.

Q. Now, are you aware that Officer Kathmann, he didn't make any contact with Mr. Jones there when he arrived?

A. No, sir.

Q. Mr. Jones was gone so this must have happened quickly I guess?

A. Yes.

Q. This is you coming back towards Kathmann's position, correct?

A. Yes, sir.

Q. And this is you again?

A. Turning on --

Q. Rounding up with Kathmann and both deciding to head down Log Creek?

A. Yes, sir.

Q. Now, it's very apparent, but your passenger window

is down, correct?

A. Mm-hmm.

Q. Your rear window is down, correct?

A. Mm-hmm.

Q. And you can even see your mirror on the other side of the vehicle because your driver's window is down, correct?

A. Correct. But they go up when I'm going down the dirt road because I didn't want to get dust in my car.

Q. And this is another picture of you going down that road, right?

A. Yes, sir.

Q. Now, you said you want to be prepared, right?

A. Yes, sir.

Q. You don't want to - you're following, you're pursuing a potentially armed and dangerous suspect, right?

A. Correct.

Q. You have no idea whether it's self defense at the pool hall, an accident. You don't know. Your job is to find this person, apprehend him, get them to court like this, correct?

A. Correct.

Q. But if you know they're armed, it puts you in a certain more sense of awareness and protection even for your own person, correct?

A. Yeah. I want to make sure I take cover and be able to talk to him verbally without having to use any force if necessary.

Q. Now, when you were driving, you would have been driving with your Glock in your hand, correct?

A. No, sir.

Q. You would not. How are you gonna be prepared if your Glock's not in your hand?

A. How am I gonna be prepared?

Q. Yeah.

A. Well, I need to stop that car that i drive, put it in reverse and put it at an angle.

Q. So you're saying that when you were driving with your windows down, you did not have your Glock out?

A. No, sir.

Q. You just saw a man with an AR-15 and you didn't have your Glock out?

A. No, sir.

Q. Well, that's pretty standard protocol to drive with a weapon if the circumstances warrant it, is it not?

A. No, sir.

Q. Well --

A. I don't drive with a weapon in my hand because you can hit a bump or something like that or a deer come out in front of you. I'm not gonna be put in that kind of

situation.

Q. I want to show some of your colleague's body cam photos as they're en route to the scene.

A. Okay.

Q. This is a body cam still shot from Officer Donaldson. And you see him driving. That's from his body cam. He was wearing one so you can see what he's doing.

A. Mm-hmm.

Q. Do you recognize this AR-15 in his hand while he's driving?

A. Yes, sir. I see that.

Q. On defendant's number 26?

A. That's his decision.

Q. Okay. I want to show you -- Well, here's another shot of Donaldson. He's actually driving while working his radio. You see his hand?

A. Right. But I have --

MR. HUBBARD: Your Honor, I'm gonna object. If they want to say what Sergeant Florida did, or Captain Florida did, that's fine. These other officers are available. They can ask them.

THE COURT: Well, he -- Go ahead.

MR. L. SHEALEY: Are you about to defend me, Your Honor? Because what I asked him was whether that was a standard police practice and he said no so that's why I'm

showing him what appears to be a standard police practice.

THE COURT: I think for questioning at this time it's appropriate for cross examination based upon the testimony and responses I've heard thus far. Continue. The objection -- I don' think -- Did you object?

MR. HUBBARD: I didn't, Your Honor, but that's all right.

THE COURT: Objection overruled.

MR. HUBBARD: Thank you.

BY MR. L. SHEALEY:

Q. So this is Officer Donaldson and you can see him driving while working his actual radio, correct?

A. That's his option. Yes, sir.

Q. All right. That's his option. But you also said that you've done that before?

A. Yeah, but I have my left hand on the steering wheel.

Q. Okay. But that's just another option, right?

A. That's him doing, not mine.

Q. And again, he's also holding an AR-15?

A. And that's dangerous.

Q. I agree with you on that. And here's another, this is from Densmore's body cam where he's actually holding his radio and his AR-15 in hand. Do you see that?

A. Yes, because he's got it right here, his weapon is right there.

MR. L. SHEALEY: You recognize all those things. At this time, Your Honor, I would seek to move all three, 24, 26, 25 into evidence at this time.

MR. HUBBARD: Your Honor, I would say these should be marked for ID for when these officers get up here. The testimony is in. That's fine. Your Honor ruled on that. But Your Honor hasn't ruled on the photographs. I think that goes with the officers who need to be questioned about why they did what they did, not this officer.

THE COURT: Those photographs are from a body cam that was --

MR. L. SHEALEY: En route to the scene.

THE COURT: -- obviously not from this witness.

MR. HUBBARD: Yes, Your Honor. Officer Densmore.

THE COURT: Is it all the same officer?

MR. L. SHEALEY: Two different officers. For the record, Your Honor, I have already entered stills from Officer Densmore without objection.

MR. HUBBARD: That's the key, without objection.

MR. L. SHEALEY: Well, it's not that it's --

THE COURT: May I see the pictures please?

MR. L. SHEALEY: Certainly.

THE COURT: I'm going to admit them over the State's objection really for the purpose of because they were offered to show the way to compare the testimony of the witness provided versus another officer practices, so I will admit it subject to your objection.

MR. HUBBARD: Thank you, Your Honor.

THE COURT: Defendant's 24, 25, 26.

MR. L. SHEALEY: Thank you, Your Honor.

BY MR. L. SHEALEY:

Q. Well, let's talk about you driving down this road, right?

A. Yes, sir.

Q. That's what we're all here for. Now, when you pull into this clearing and you say Mr. Jones shot at you, I mean, let's see if we can agree on a couple things. When you drive by him and you see him and you're saying he's shooting at you, you agree that's fairly perpendicular, right?

A. Let me see. I'm cruising, he's backed up and about the time I got to see him, that's when he started shooting at my car.

Q. So you're Barry Jones and I'm you, I'm in the car, started shooting about like this (indicating), right?

A. No. He would be a little more like an angle like this because of the woods and stuff.

Q. So I'm not talking about where --

A. Like you.

Q. I'm not talking about when you finally arrested. I'm talking about when you say he first started shooting at you?

A. Mm-hmm. Yeah. When he first started shooting at me, I was just passing that little cut there.

Q. You were right in front of him?

A. Yeah. Correct.

Q. Right in front of him. That's what I mean.

A. Okay. I just wanted to clarify.

Q. I'm gonna play that.

(Playing video.)

BY MR. L. SHEALEY:

Q. And then you stop, correct?

A. Yeah. I pulled up further in the woods to get covered so he couldn't --

Q. So when he's done his three point turn and he's got his rifle pointed at you when you get onto Pleasant Lane, right? You with me?

A. Okay. I don't know if he done a three point turn.

Q. He's waiting on you. However he got, however he got facing again Pleasant Lane, he's waiting on you and you say he's pointing a rifle at you?

A. Yeah.

Q. Your reaction was to speed up, correct?

A. Yes, sir.
Q. Get out of the line of sight?
A. Yes, sir.
Q. Because that is smart, because a man with an AR-15, you --
MR. HUBBARD: Your Honor, objection. If there's a question as opposed to an observation.
MR. L. SHEALEY: The question is coming.
BY MR. L. SHEALEY:
Q. A man with an AR-15 could shoot you dead if he's right there pointing a gun at you, a rifle, correct?
A. Yes. He could shoot.
Q. So you testified that your reaction was to gun it and speed off down Pleasant Lane, correct?
A. Correct.
Q. Now, here when you say that a man shot at you several times and we're talking, let's talk feet, it's not that far away, is it? About 40 feet, would you guess, give or take?
A. I'm not sure to be honest.
Q. Okay. It's not far. That video makes it look bigger than it is. You would agree with that.
A. Yeah. But the distance on the vehicles is actually a little further.
Q. Okay.

A. If you go back to the actual scene site.

Q. But what your testimony is now is that when a man shoots at you several times with an AR-15, you stop and get out --

A. Yes.

Q. -- and face him. Does that sound consistent with what you did on Pleasant Lane?

A. No, sir. At this point, at this time when I stopped, I was taking fire. I was preparing myself not to get hit and since I knew where he was at and I knew an officer was behind me, then we've got him in a location where we can contain him. On Log Creek and Pleasant Lane there's no way to contain him because he could have shot on out because I was there by myself.

Q. Well, the safest thing for your own safety would just be to keep hauling butt down Log Creek Road, would it not?

A. No, sir. Because then you give that subject the opportunity to leave the location that he's at and still have to pursue him.

Q. Well, that might be -- I'm talking about for your personal safety after being shot at from close range several times from an AR-15, just for your own life to be well, wouldn't it be the smartest thing to keep hauling butt down that road?

A. No, sir. Not in this scenario.
Q. Okay. Now, I want to switch gears here. You said that when you drove into that clearing, you started getting shots in the door, correct?
A. He was shooting at me, yes, sir, at the door.
Q. Okay. And Mr. Hubbard put in some photos of shots --
A. Yes, sir.
Q. -- that he tried to say was from that moment. Before I show you this, we can agree that you didn't take shots in the door from the first volley?
A. Yes.
Q. We can agree to that, right? I don't need to walk you through this, correct?
A. No. He shot while I was still in the car.
Q. Okay. How big are you? How much do you weigh?
A. What do I weigh?
Q. Yeah.
A. Now I weigh 280. Back then I weighed about 235.
Q. Okay. But you're not a small man?
A. No.
Q. When you're sitting in your seat, you typically fill it out, right?
A. Yes, sir.
Q. Even back then?

A. yes, sir. With a vest on too.

Q. What we've got, I want to show you, you're trying to tell me that the shot that Mr. Hubbard has shown you that comes at an angle from the rear and then connects right across your seat and hits your steering wheel --

A. Correct.

Q. -- you're trying to tell me in this courtroom under oath that that came while you were right in front of Mr. Jones?

A. Yes.

Q. And that somehow that miraculously didn't hit your body?

A. No. Well, I have a mark on my forearm which you can see with the SLED pictures where I had a mark where one grazed me and I don't know if it's from that one or not.

Q. Do you think SLED is gonna come in here and tell you that that's from an AR-15 .223 round?

A. I don't know.

Q. You were not in that car. That shot came from when your car was parked and you were outside of it?

A. No, sir.

Q. Look at the angle.

A. I see the angle, sir.

Q. If you had been in that seat, you would be in two pieces?

A. No, sir.

MR. HUBBARD: Your Honor --

THE COURT: Before that, I would like to ask a quick question over here.

(Side bar off the record.)

BY MR. L. SHEALEY:

Q. Back where we were. So you got that shot, it comes in at an angle right through the driver's seat and goes through the steering wheel and you're saying that you were in the car in that seat at that point but somehow it just miraculously missed you?

A. Yes, sir.

Q. And what you're refusing to agree with me on is that that was actually when you were out of your car and Mr. Jones was later shooting at you that he made these angled holes into your vehicle?

A. No, sir.

Q. You disagree on that?

A. He was shooting into my car when I was in the driver's seat and when I was coming out, he was still popping rounds off because I fired back at him, then he no longer shot to the front, he started shooting the back where I moved to.

Q. That is your testimony here under oath?

A. Mm-hmm.

Q. Now, even though you claim to be having been shot at

several times with a high powered rifle at close distance, you testified that you stopped your car, correct?

A. Yes, sir.

Q. You got out of the driver's side, correct?

A. Yeah. After being shot at for a couple times.

Q. You didn't continue to speed down the road, correct?

A. No, sir. Turned in at an angle.

Q. And turned right into him, got out courageously, right?

A. Mm-hmm.

Q. And returned fire with your Glock?

A. Correct.

Q. Now, look at your official statement to police.

A. Okay.

Q. You don't really put a number on how many times you shoot with your Glock at this point, do you?

A. Let me double check.

Q. I want to refer you to -- All I've got is Bates stamps, but it's got to be the second page at the bottom. After several shots from the suspect and shooting my vehicle, I yelled at the suspect several times to stop shooting, put down his weapons and show his hands clear. At that point I was able to return gunfire. Do you see that part?

A. Hold on. Trying to catch up with you.

Q. It's probably the second page after your, it's the second page of your statement.

A. After several shots from the suspect and shooting my vehicle, I yelled at the suspect several times to stop shooting, put down his weapons and show his hands clear. At that point I was able to return gunfire. That's correct.

Q. Right. You don't specify how many times you shot?

A. No, sir.

Q. But later down in the article (sic), you do specify that once you got your shotgun, you did shoot it twice at Mr. Jones, right?

A. That's correct, sir.

Q. So you are able to be more specific with that?

A. Yes.

Q. And at this time when you're making this statement, you had already reviewed Officer Kathmann's dashcam, correct?

A. His what?

Q. His dash camera?

A. No. We're doing it during the interview with SLED.

Q. You had already previously observed that evidence?

A. The, uhm, when we were with SLED, I seen the videos then.

Q. Right. Prior to making the statement. The question

and answer, the last one, have you had the opportunity to review the video from Officer Kathmann's vehicle? Your answer, yes. Do you agree with that?

A. Let's see. I reviewed the recordings from dispatch. My camera was not working at the time of the incident in my car.

Q. The handwritten -- Let me help you.

A. Okay. Hold on.

Q. The handwritten. Last question. You agree that at the time of making that statement you had been given the opportunity to review Kathmann's in car camera?

A. Yes.

Q. But still you couldn't put a number on how many times you shot your Glock?

A. No. I didn't put that in there. No.

Q. Well, let's count. You ready to listen with me?

A. Mm-hmm.

(Playing audio.)

BY MR. L. SHEALEY:

Q. Pow, pow, pow. How many shots did you shoot?

A. Play it again slowly.

Q. I will.

(Playing defendant's exhibit #.)

BY THE WITNESS:

A. Thank you.

BY MR. L. SHEALEY:

Q. Now, you say that's not you, but now listen. You said you're taking shots.

A. Right.

Q. You agree you shot three times?

A. I thought I shot four. You can only hear three on the thing.

Q. Okay. You agree that you hear three on the --

A. I hear three on the video, sir.

Q. Okay. Have you had an opportunity to view the diagram made by SLED in this case? (proffering.) Have you ever seen that?

A. No, sir.

Q. Agent Tankersley their CSI person, you've never seen that?

A. No.

Q. What we've got is her analysis, her diagram with measurements and vehicles. She's got your vehicle right there. You see that?

A. Yes, sir.

Q. Mr. Jones' vehicle right there. You see that?

A. Yes, sir.

Q. Mr. Kathmann's vehicle right there, you see that?

A. Yes, sir.

Q. She's got measurements. See, 49 feet from the tip

of Mr. Jones' car all the way to the wood line?

A. Mm-hmm.

Q. She's got 157.9 feet from Kathmann's car to the back of your car. Do you see that?

MR. HUBBARD: Your Honor, I'm gonna object again, if this is -- First of all, it's not a report that this man did. He said he hasn't seen it. He's basically publishing a report that someone else did to a man who hasn't seen it.

THE COURT: Well, he's showing him an exhibit at the moment. I don't know what his intent is with the exhibit but...

MR. L. SHEALEY: I'm just seeing if he agrees with the set-up of the crime scene and so far he hasn't said otherwise.

THE COURT: Answer the question for now. Go ahead.

BY MR. L. SHEALEY:

Q. And we've got markers of evidence out there. Are you familiar with the markers that get laid out on the crime scenes?

A. I wasn't there when they did all that.

Q. Right. But you'r familiar with that concept?

A. Yes.

Q. Find a shell casing, you put down a marker, find a piece of potentially good evidence, blood or what have you,

put down a marker.

A. Put markers.

Q. You see markers all through this?

A. Yes, sir.

Q. You see the gate back there that you mentioned with Solicitor Hubbard?

A. Okay.

Q. Right?

A. I see the markings. Yes.

Q. Okay. Do you agree that this fairly and accurately depicts the crime scene as it was and where the vehicles were resting that day?

A. I don't know. I didn't do the measurements so I couldn't tell you.

Q. Okay. But the relationship of the vehicles, I'm not talking about the numbers of measurements, generally the relationship, the set up of this crime scene?

A. I mean, I don't know. I didn't do any measurements or diagram of it so I couldn't really tell you.

Q. You wouldn't disagree with it? Would you disagree with Agent Tankersley with SLED?

A. No. I didn't have any contributing to doing the diagram or drawing or anything like that, so that's another officer's investigation, not mine.

THE COURT: I think it's marked for identification

purposes at this point. We need to talk more about it. Are you intending to admit that into evidence?

MR. L. SHEALEY: I was but I can admit it later, but it's --

THE COURT: Well, I think that would be appropriate.

MR. L. SHEALEY: I'll move along. Now, we can just talk about photos then if you don't want to necessarily agree with me on the crime scene.

THE COURT: Just - just to that one, defense exhibit 59?

MR. L. SHEALEY: Yeah. For ID purposes. That was 39.

THE COURT: Thank you. Defendant's Exhibit 39 for identification purposes only. Thank you.

BY MR. L. SHEALEY:

Q. Defendant's number 12, do you recognize this white Edgefield town police car that was out there that day, right?

A. That's a police car.

Q. That's Kathmann's vehicle?

A. Kathmann's. Yeah.

Q. And you see his window is up, correct? You recognize your own blue county vehicle, right?

A. Yes, sir.

Q. And you've talked about why your door was open. Obviously the windows are down, correct?

A. That's the passenger side and that's me trying to get some air and a drink of water --

Q. Right.

A. -- after the incident.

Q. This is the driver's side with your window down, correct?

A. Correct.

Q. This is a view of your rear with back windshield blown out, correct?

A. Yeah, because it's got the tag number on there.

Q. You see glass?

A. Yes, sir.

Q. And you see some markers, right?

A. Yes, sir.

Q. You see markers 1, 2, and then you see markers 3, 4, 5, 6, right?

A. Yes, sir.

Q. Are you aware that you had four shell casings out there that day of your Glock?

A. I thought I shot four times. That's what I had said earlier.

Q. I mean, you had been advised you had four shell casings out there, right?

A. No. I shot four times.
Q. You disagree with me you had four shell casings out there?
A. I said, that's what I said, I had shot four times.
Q. And you shot two with your shotgun, correct?
A. Right. And those should be on that side there.
Q. All right. That's a shell casing, .40 caliber number 6, you agree?
A. Yes, sir.
Q. You know the difference between a shotgun shell casing (indicating) --
A. Oh, yeah.
Q. -- versus a .40 caliber? That would have been one or yours, number 6?
A. Yes, sir.
Q. Which is under the vehicle, correct?
A. Yes, sir .
Q. There's another view of number 6, you agree?
A. Yes, sir.
Q. That would be number 5. You'd agree with that?
A. Yes, sir. That's where they found the shell casing.
Q. That's right. There's number 5 again. There's 1, 2 next to your shotgun shells, you agree?
A. Correct.
Q. This is some of you and the guys afterwards who came

and got Mr. Barry out of there, Captain Wash and Donaldson, Harter, Kathmann. This is a still from a body cam.

A. Okay.

Q. Another still of the body cam.

A. Correct.

Q. That's actually you right there, right?

A. Let me see. I can't see. I believe so.

Q. Okay. This is another still kind of a congregation afterwards. You agree with car kind of in the same place where it was?

A. Yes, sir.

Q. Mr. Jones' vehicle, number 27.

A. Yes, sir.

Q. And another still generally of that --

A. Photo. I thought that was the same one.

Q. Slightly different. You can see Officer Kathmann.

A. On that one, but I'm in that one, not that one.

Q. Correct. All that looks fair and accurate from the scene out there that day?

A. Yes.

MR. L. SHEALEY: All right. Your Honor, if I may at this time seek to admit numbers 10, 27, 30, 21, 20, 19, 18, 17, 16, 15, 14, 13, 12, in no particular order.

THE COURT: Duly noted. Those are all still shots, are they not?

MR. L. SHEALEY: Yes. Some are stills, a couple stills from body cams. All the rest are SLED, CSI photos.

MR. HUBBARD: No objection.

THE COURT: You got all these numbers. All right. Defense exhibits so noted by counsel admitted into evidence.

BY MR. L. SHEALEY:

Q. Let me switch back and play a device here so we can talk about this. All right. Real quick. Right there, 1 and 2, those are the two shotgun shells that you fired?

A. Correct.

Q. We've got 3, 4, 5, and you can't see 6, it's under your car, but those are your four .40 caliber shell casings, correct?

A. Yes, sir.

Q. Again, that's just a couple different, a different view of it, 3, 4, 5 and 6 is gonna be under there, but .40 caliber, .40 caliber, .40 caliber, .40 caliber, and there's that number 6 that's hiding under your vehicle there. SLED found it. Number 5 to complete the four. There's a close up of number 6 under your vehicle and here is one shot that you can kind of see them all together. Another shot where we can see your window down that we already discussed. All right. Now, we know you got four shell casings out there, but you and

I have agreed that you shot three times with your Glock there.

A. No. I said I shot four times. You said three times.

Q. You agreed with me once we played it, we can play it again.

A. On the sound video you heard three, not four.

Q. Correct.

A. Correct.

Q. The video is recording the shots as they are being fired. Do you agree with that?

A. Well, yes and no. You can hear things going on, but you can't hear everything on that audio.

Q. Okay. So you're saying that that is not accurate, that it wouldn't have captured the sound of a Glock .40 caliber pistol?

A. No. I'm saying that I shot four times.

Q. Well, you know there's four shell casings, but let's play it again because we got to do this. This is important.

A. Okay. That's fine.

(Playing audio.)

BY MR. L. SHEALEY:

Q. Three shots, that's what you hear, correct?

A. Three sounds. Yes.

Q. I want to refer you back to your SLED statement and I think you've already testified to this, that it was your

practice to keep a 15 full round magazine with one in the chamber, correct?

A. Yes, sir.

Q. Which would make 16 rounds that you had in that gun that day ready for your use?

A. Yes, sir.

Q. Now, and you're aware that as soon as this scene was over and SLED arrived to take custody of it, you went and met with Agent Tankersley, correct?

A. I went there. Lieutenant took me to the office. They met me there and took my guns and everything from me.

Q. You know that the guns are an important piece of evidence and you've got to turn them over to SLED to be analyzed, correct?

A. Yes, sir.

Q. And so I assume you're aware that your gun was returned with 10 live rounds still left in it. Let's do some math. That means with a capacity of 16 as you have already testified to but only 10 returned to SLED, that means that you shot six times that day, correct?

A. No. It's, uh, I had nine in the cartridge. Let's see. Glock .40, handgun, one magazine containing nine and one cartridge in the chamber. That's what I have.

Q. Agent Tankersley recovered your weapon with nine in it and one in the chamber, right?

A. Mm-hmm. That's what it's saying there.
Q. That's what's in her report?
A. Yes.
Q. And she's trained to document guns and evidence because it's important how many times people shoot in a shootout. You agree with that?
A. Yes, sir.
Q. So let's do the math again. Nine in your magazine plus one in your chamber?
A. Mm-hmm.
Q. When that gun started with 16 in it, so nine plus one is 10?
A. Mm-hmm.
Q. 16 minus 10 is? Come on. What's 16 minus 10?
A. Six, of course.
Q. Six. So you shot six times that day.
A. I don't recall shooting six times.
Q. So I'll explain how you shot six times. Watch the video again with me, sir.
A. All right.
Q. Because you were shooting first when you went in that clearing because you were gonna be prepared?
A. No, sir.
Q. And you shot three times initially which would explain why you were so cavalier in getting out in the face of

AR-15 fire and you shot three more times again.

A. No.

(Playing audio.)

BY MR. L. SHEALEY:

Q. Taking shots dispatch. You don't sound that concerned for having an AR-15 almost somehow miraculously miss your body as it ripped through your driver's seat, and that's because you were the aggressor, sir, correct?

A. No, sir. That's incorrect.

Q. There's the three shots. Holding six. Let's talk about this. You know there's four shells out there, right?

A. Correct.

Q. Because you shot from your moving vehicle?

A. No, sir.

Q. And then when you stepped out, one of your shells came out with you while the other two were in your car?

MR. HUBBARD: Your Honor, is he testifying or is that a question?

BY MR. L. SHEALEY:

Q. Correct?

THE COURT: Is there a --

BY THE WITNESS:

A. No, sir.

THE COURT: Ask -- Can you --

BY MR. L. SHEALEY:

Q. Correct?

THE COURT: You ended it with a correct so you ended it with a question, but let's focus on asking questions and not testifying.

BY MR. L. SHEALEY:

Q. Isn't that correct?

A. No, sir.

Q. Well, you've agreed that your video is three shots so how do you explain four shell casings?

A. I shot four times.

Q. How do you explain the fact that your gun shot six times?

A. I don't know if my gun did shoot six times.

Q. So Agent Tankersley doesn't know how to do her job and collect evidence?

A. I didn't say she didn't collect evidence. I'm just telling you what I know what happened.

Q. Now, by this point you have run around to the passenger side of your car. You see your body right there, right?

A. Yes, sir.

Q. Now, you've got an AR-15 in your car that day, right?

A. Yes. It's in a locked compartment.

Q. Okay. You agree that an AR-15 is a supersonic round

that sounds quite a bit different than a Glock .40 caliber pistol, right?

A. Yes, sir.

Q. More of a pop, pop on the Glock, right?

A. Yes, sir.

Q. Versus a crack, pow (indicating) a rifle?

A. Correct.

Q. So when you actually first start getting shot at by Barry, let's listen to the way your voice sounds coming over the radio.

(Playing audio.)

BY MR. L. SHEALEY:

Q. That's still pretty calm. Barry hasn't shooting yet --

MR. HUBBARD: Your Honor.

BY MR. L. SHEALEY:

Q. -- has he?

THE COURT: Mr. Solicitor.

MR. HUBBARD: I don't mind questions, but characterizing this man's conduct, he doesn't need to testify. I don't mind a question. I really don't.

THE COURT: Okay. I think the previous statement could have been -- Well, come up here.

MR. L. SHEALEY: I'm good. I'll rephrase. I'm ready to go, Judge.

BY MR. L. SHEALEY:

Q. Barry hasn't shot yet, has he?

A. Yes. He shot at me when I pulled up.

Q. Let's listen.

(Playing audio.)

BY MR. L. SHEALEY:

Q. You sound a little bit more scared there when you hear that loud AR-15 round coming in your direction. Shots fired. Shots fired. Don't you?

A. Mm-hmm.

Q. You agree that's Mr. Jones shooting at you with his AR-15, don't you?

A. Yes.

Q. Now, you say during this time that you're calling out to him telling him to come out, hands up, be safe, all that stuff, right?

A. No. I was on the radio.

Q. Okay. You're on the radio?

A. Then I come back out.

Q. You agree Officer Kathmann's shooting this way kind of into the hill, into the wood line, right?

A. Yes, sir.

Q. That's Barry again, right?

A. Yes, sir.

Q. Now, right there you've got your shotgun and you're

starting to move around the back of your vehicle to take a position and you're gonna shoot at in Barry Jones' direction, correct?

A. Yes.

Q. Now, he's behind his car at this point --

A. He's behind --

Q. -- behind his open door?

A. Yes.

Q. Now, you can agree that you shoot right here, right? That's you. I'll play it again for you. Right here.

(Playing audio.)

BY MR. L. SHEALEY:

Q. That's you shooting at him with your buckshot, correct?

A. I believe so because I shot twice with my shotgun.

Q. That's the first one, right? Now he's gonna shoot quite a bit more, five more times with an AR-15 in response to that, right? So he shot five more times in response to you shooting at him with the buckshot, do you agree?

A. Yeah. I believe so. He shot at the back end, then I returned fire with a shotgun and then he returned fire again.

Q. And here's you crouched in preparation to shoot one more time with your shotgun. Tell me if you agree with that.

(Playing audio.)

BY MR. L. SHEALEY:

Q. And that's you shooting it that second time. Do you agree with that?

A. I thought it was back to back on the shotgun but...

Q. Do you want to watch it one more time?

A. I seen it.

Q. Do you agree with me on that?

A. Yeah. I guess.

Q. Okay. I'm gonna show you afterwards, but this is defendant's 10 for ID, this is a close up of your gun on your holster, in your holster when you're meeting with SLED, right?

A. Yes, sir.

Q. Agent Tankersley is documenting things, right?

A. Yes.

Q. That's the same gun?

A. Yes, sir.

Q. This is that abrasion right there on your right harm?

A. Yeah. They took the bandage off and I had my shirt up.

Q. That didn't require medical treatment? You didn't go to the hospital?

A. No.

Q. That's not a gunshot wound.

A. Is that -- Are you sure?

MR. HUBBARD: Your Honor, is that a question --

BY MR. L. SHEALEY:

Q. I'm asking you.

MR. HUBBARD: -- or an observation?

BY THE WITNESS:

A. I'm asking you. I'm not a medical doctor.

THE COURT: All right.

MR. HUBBARD: Objection.

THE COURT: Just a minute please. The question was is that a gunshot wound.

MR. L. SHEALEY: Correct.

THE COURT: He can answer that question.

BY MR. L. SHEALEY:

Q. That's not a .223 shot, is it?

A. Probably a graze from one, not a complete shot.

MR. L. SHEALEY: Okay. At this time I want to seek to enter defendant's 10 into evidence without objection.

THE COURT: All right. Defendant's Exhibit 10 is admitted in evidence.

THE CLERK: We've already got a 10, Your Honor.

THE COURT: No. No. I thought we mentioned last Monday that we did not use that.

THE CLERK: No, sir. Number 10 was the bodycam.

THE COURT: I'm sorry. Which one?

THE CLERK: The one that he was doing for ID earlier was 39.

MR. L. SHEALEY: This is 10.

THE CLERK: Well, we've already got a number 10.

MR. L. SHEALEY: We'll make this 10.5. I don't know.

THE COURT: How about if we look through the stack and see what we got as far as defendant's exhibits.

MR. L. SHEALEY: Well, I don't want to look through a stack but --

THE COURT: All right. Then we will --

MR. L. SHEALEY: We'll figure this out. Beg the Court's indulgence. I don't have anything more at this point.

THE COURT: Very well. Redirect.

REDIRECT EXAMINATION

BY MR. HUBBARD:

Q. Captain Florida, if you were able to lawfully make an arrest that day by yourself, would you have done that?

A. No, sir.

Q. If you could have done it safely by yourself?

A. Yes, sir. If I could have done it safely.

Q. But you mentioned this is a felony situation?

A. Yes, sir.

Q. So you wanted to wait for backup?

A. Yes, sir.

Q. Now, in any situation if a suspect points a weapon at you and you know that suspect has used a weapon prior --

A. Correct.

Q. -- are you allowed as an officer to use your weapon?

A. Yes. I am.

Q. Do you have to wait to be shot at?

A. No, sir.

Q. In this case did you fire first or did the defendant?

A. Mr. Jones fired first.

Q. Did you fire your weapon out the window, your Glock out the window of your vehicle?

A. No.

MR. HUBBARD: No further questions.

THE COURT: Recross.

MR. L. SHEALEY: I don't, Judge. He can be excused.

THE COURT: All right. The witness can step down. Ladies and gentlemen, refresh yourselves in the jury room. Have a short break. We'll get you right back out here for the next witness. Please don't discuss the case while you're in the jury room. Thank you.

(Whereupon, the jury entered the jury room at 4:37 p.m.)

THE COURT: We'll take a short recess. We'll get started hopefully in five minutes.

(Short break.)

BAILIFF: All rise.

THE COURT: Please be seated.

(Whereupon, the jury entered the courtroom at 4:48 p.m.)

THE COURT: Ladies and gentlemen, please be seated. We're going to pick up where we left off with our last witness for the day.

MR. McNAIR: Your Honor, the State calls Sergeant James Densmore.

Thereupon,

JAMES DENSMORE

after having been first duly sworn, testified as follows,

THE CLERK: Please have a seat. Once you're seated, state your full name spelling your last please.

THE WITNESS: James Russell Densmore, D-e-n-s-m-o-r-e.

DIRECT EXAMINATION

BY MR. McNAIR:

Q. Sergeant Densmore, where do you work?

A. Edgefield County Sheriff's Office.

Q. How long have you been there?

A. About since September of 2013.

Q. All right. Now, were you working on May 7th of 2018?

A. Yes, sir.

Q. And did you respond in reference to this case?

A. Yes, sir.

Q. All right. Where did you respond to initially that day?

A. Initially I responded to the Johnston Pool Room on 121 in Johnston in Edgefield County.

Q. All right. And that was in response to a shooting that happened at the pool room?

A. Yes, sir.

Q. Were you one of the first officers on the scene there?

A. I was a few after but I was.

Q. Was the suspect on scene when you got there?

A. No, sir.

Q. Was the victim still on scene?

A. Yes, sir.

Q. All right. What was his condition?

A. Unresponsive at the time that I got there.

Q. He was ultimately transported to the hospital?

A. Yes, sir.

Q. Did you speak to witnesses there at the Johnston Pool Room?

A. A few. Yes, sir.
Q. Were you able to develop a suspect?
A. Yes, sir.
Q. Who was that?
A. Barry Jones.
Q. Were you also able to get a description of a vehicle that Mr. Jones may be driving?
A. Yes, sir.
Q. What was that?
A. It was a gray or a silver Mercedes sedan.
Q. All right. Did you relay that information back to other officers?
A. I did.
Q. Now, at some point did you leave the Johnston Pool Room?
A. I did.
Q. Why was that?
A. Because Sergeant Florida at the time was, had radioed that he was behind the subject vehicle, to a vehicle, he ran the tag and it came back to the subject.
Q. All right. You heard that over the radio?
A. Yes, sir.
Q. So what did you do at that point?
A. I left the pool room and started heading toward him because he was by hisself.

Q. And as you were heading towards his location, are you continuing to hear him over the radio talking about what he's seeing and where he is?

A. Yes, sir.

Q. Now, en route to where he was, did you hear something over the radio that concerned you even more?

A. I heard what sounded like gunshots.

Q. Okay. Did you hear anything prior to gunshots? Did you hear Officer Florida --

MR. B. SHEALEY: Objection. Calls for hearsay.

MR. McNAIR: I think it's been testified to multiple times.

THE COURT: You're talking about what he heard on his radio?

MR. McNAIR: Yes, sir.

THE COURT: Overruled.

BY MR. McNAIR:

Q. So do you hear Officer Florida's voice on the radio?

A. Several times.

Q. All right. Is he announcing what he's seeing and observing over the radio as he's seeing it?

A. Yes, sir.

Q. All right. And does he see something and announces it over the radio that concerns you?

A. Yes, sir.
Q. What was that?
A. That the subject had an AR-15.
MR. B. SHEALEY: Objection. Same objection.
THE COURT: Very well. Overruled.
BY THE WITNESS:
A. The subject had an AR-15 pointed at him.
BY MR. McNAIR:
Q. All right. And then what did you hear after that?
A. Gunshots.
Q. Okay. And did you ultimately respond to Log Creek?
A. I did.
Q. And the scene of the shooting there?
A. Yes, sir.
Q. All right. When you got there, what was going on?
A. When I got there, Sergeant Florida was giving loud verbal commands to come out with his hands up.
Q. Okay. Was there anymore exchange of gunfire going on?
A. No.
Q. And who did you pull behind when you first got there?
A. Officer Keith Kathmann, Edgefield police department.

Q. All right. And what did you do after at that point?

A. I walked up to him and asked him where the subject was and he told me he didn't know, he couldn't see him. I asked him where his vehicle was. Told me he didn't know. He couldn't see it. At that point I went to my right into the wood line to try to get a better angle to be able to see and have a little cover while I was trying to see where the subject's vehicle and the subject was.

Q. Okay. Was anybody with you when you did that?

A. At first it was Corporal Harter, but then he went back, shortly after we went into the woods, he went back and, well, it was Corporal Morgan then, Sergeant Morgan now, came up to assist me.

Q. Okay. So y'all walked into the woods. I guess if you're standing behind Kathmann's vehicle, the woods would be to the right?

A. Yes, sir.

Q. All right. And were you able to from that vantage point see the suspect vehicle or the suspect?

A. I could see the suspect vehicle.

Q. Okay. Did you see the suspect at that time? You could see his vehicle?

A. I could see his vehicle and I saw something moving on the ground, but I couldn't make out what it was.

Q. Okay. Now, at some point were you part of a group of officers that moved in to take him into custody?

A. Yes, sir.

Q. And what prompted you to move in?

A. I saw other units. I was standing in the woods and I saw other units on the roadway walking up toward him. That's when I exited the woods and came to him.

Q. And did you move and actually take the suspect into custody yourself?

A. I assisted. I told Deputy Dexter Bowman to put handcuffs on him. I assisted in standing the subject up.

Q. Were you present when the suspect was searched?

A. Yes.

Q. And what, if anything, was recovered from his pockets?

A. I found a small black handgun in his right pocket with a holster and there were some magazines also located, magazines to a firearm.

Q. I'm just going to show you State's 39. You recognize that photo?

A. Yes, sir.

Q. All right. Is that you in that photo?

A. Yes, sir. Right here.

Q. That's you just taking Mr. Jones into custody?

A. Yes, sir.

Q. Now, were you wearing a body cam at the time that you were at Log Creek Road?

A. Yes, sir.

Q. I'm gonna show you what's been marked as State's Exhibit 60. Tell me whether or not you recognize your initials on that disk?

A. I do.

Q. Is that a fair and accurate recording of a portion of your body cam from Log Creek that day?

A. Yes, sir.

MR. McNAIR: Your Honor, we seek to introduce State's 60 at this time.

MR. B. SHEALEY: Without objection.

THE COURT: Very well. State's Exhibit 60 is admitted into evidence.

(Playing State's Exhibit #60.)

BY MR. McNAIR:

Q. Just real quickly, this is when you're in the woods across from where the suspect vehicle was?

A. Yes, sir.

Q. And whose voice are we hearing on here?

A. Sergeant Florida.

Q. Who was that with you in the woods that we saw on the body cam?

A. Sergeant Morgan.

Q. During the time y'all are in the woods, who is that repeatedly telling the suspect to come out with his hands up?

A. Sergeant Florida.

Q. All right. And was he the one who gave y'all the cue after watching this video to move in?

A. I just - I just saw people moving up. There was a lot of commotion, a lot of yelling. I don't know if he said to move up or not.

Q. You moved when everybody else did?

A. I did.

MR. McNAIR: All right. Thank you. No further questions.

THE COURT: Cross examination.

MR. B. SHEALEY: Please the Court.

THE COURT: Yes, sir.

CROSS EXAMINATION

BY MR. B. SHEALEY:

Q. Officer Densmore, so you were both at the pool hall and then you had an opportunity to come down to this scene, right?

A. Yes, sir.

Q. I think you testified that you were at the pool hall talking to witnesses and then you heard Florida over the radio and you went on your own or you were told to go to that

location?

A. I went on my own.

Q. Okay. And I think you've also testified that Officer Morgan was also at the pool hall and then he went down to this scene?

A. Eventually, yes.

Q. And that was y'all in the woods together, right?

A. Yes, sir.

Q. And y'all were at the pool hall together, right?

A. Yes, sir.

Q. Okay. I'm just looking at your supplemental incident report and it says that before you heard Officer Florida, you had ascertained from speaking to witnesses at the pool hall that the shooting involved Barry Jones and that he was driving a gray Mercedes, correct?

A. Yes.

Q. That's just at the top of your report?

A. Yes, sir.

Q. And you've got a copy of your report with you?

A. Yes, sir.

Q. Okay. Now, you're with Edgefield and I don't know, you know, how much you've advanced in your career since this incident, but you were not an investigator at that time, correct?

A. No, sir.

Q. So there were two investigators at the pool hall site, correct?

A. I think there was. Yes.

Q. Investigator Smith. Does that ring a bell?

A. Yes, sir.

Q. How about Investigator Duran, does that ring a bell?

A. Yes, sir.

Q. Okay. Does that sound about right? They were at the pool hall as well talking to witnesses and doing investigative work, correct?

A. Yes, sir.

Q. Okay. But you had already ascertained some information just from your own talking to witnesses and there were a lot of witnesses out at that scene, correct?

A. Yes, sir.

Q. There was a bar full of people that kind of come out into the parking lot when you arrived, right?

A. Yes, sir.

Q. Okay. Do you recall any tape or anything up at that crime scene?

A. Do I recall any?

Q. Yes, sir.

A. I don't remember.

Q. Okay. Now, to get some of this information about

identity of the shooter and the vehicle, you were talking to a bunch of witnesses. Did you talk to Albert Gessner?

A. I don't remember.

Q. Did you talk to Angie Smith?

A. I don't remember.

Q. Did you talk to Bartley Hall?

A. I don't remember anybody's names that I talk to.

Q. Okay. Maybe one of these will ring a bell. Keep asking a couple more questions. Betty Edwards?

A. I don't know.

Q. Eileen Hudson?

A. I don't remember.

Q. James Danny Dowling?

A. That one sounds familiar, but I don't know.

Q. Somebody that could have been there?

A. Yeah.

Q. Maybe talked to him, maybe you didn't?

A. Yes.

Q. What about Jessica Greene?

A. I'm not sure.

Q. How about Ken Gessner?

A. I'm not sure.

Q. Nicole Bibbs?

A. I don't remember anybody's names.

Q. Okay. Nothing stands out in terms of names or

anything like that?

A. No.

Q. But potentially you got some information from the people at that pool hall?

A. Yes. I did speak to a couple individuals. I just don't remember their names.

Q. Again, when you made the decision on your own to go to this area, the investigators were still there doing their job?

A. The investigators were there along with Captain Wash.

Q. Okay. So Captain Wash?

A. Yes.

Q. Investigator Duran. Investigator James Smith.

A. Yes.

Q. Okay. Now, you go to this scene. I think we basically, I mean, sometimes video is as good as your recollection, correct?

A. Sometimes.

Q. I mean, but for your camera on your person, we wouldn't have this information, right?

A. Do what now?

Q. I said, we have this information because you had your body cam on, correct?

A. Yeah. I was there.

Q. Right. But that was a couple years ago, right?
A. Yeah. Several years ago.
Q. So, for instance, you know who was with you in those woods, it was Officer Morgan, right?
A. Yes, sir.
Q. And you know some more particulars because we have video evidence, correct?
A. Yes, sir.
Q. Like you just told me, you're not sure about who you were talking to, right? It didn't make your statement, right?
A. Yeah. I didn't put it in my report.
Q. But we know what's happening at this scene at least because of your camera, correct?
A. Yes, sir.
Q. Okay. Just looking down at the bottom of your report, the rest of it is just kind of what you did which we just saw on the video but Captain, is it Walsh or Wash?
A. Wash.
Q. Wash. W-a-s-h?
A. Yes, sir.
Q. You were instructed to get some crime scene tape and tape off the area, correct?
A. Yes, sir.
Q. That's important to do in any kind of

investigation?

A. When you can to try to keep people away. Yes.

Q. Make sure evidence doesn't get disturbed, right?

A. Yes, sir.

Q. And he also told you to set up a crime scene log?

A. No. I told Deputy Logan to start a crime scene log.

Q. I'm sorry. That's important in a crime scene as well, right? And for people that don't know, a crime scene log is kind of once you get your tape up and you get it secured, it says who comes in and who comes out of a scene, right?

A. Yes, sir.

Q. That way evidence doesn't go missing and you have accountability for a scene, correct?

A. Yes, sir.

MR. B. SHEALEY: Okay. No further questions.

THE COURT: Redirect.

MR. McNAIR: Real quick.

REDIRECT EXAMINATION

BY MR. McNAIR:

Q. Just so everybody knows, where is Investigator Jimmie Smith today?

A. He's deceased.

Q. All right. And when did he pass away?

A. I don't remember the exact year, but I think it was maybe a year, a year and a half ago.

Q. Approximately October of 2019?

A. Yes, sir.

Q. All right. You were asked a lot about crime scene tape. Aren't you the one that put the crime scene tape around this incident location?

A. Yes, sir.

Q. And after you put crime scene tape around that crime location, was anybody allowed to move through there?

A. No, sir.

MR. McMAIR: All right. Thank you.

RECROSS EXAMINATION

BY MR. B. SHEALEY:

Q. One last question. Investigator Randy Duran, he's not dead, is he?

A. No. He's not.

MR. B. SHEALEY: Okay.

THE COURT: All right. The witness may step down. All right. Ladies and gentlemen, we've reached a point for the day where we'll break and let you go for the night. As I told you yesterday, please don't discuss this case amongst yourselves or with any of your friends or your family members. Please don't do any independent research or anything involved in this case whether it's

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BAILIFF: All rise.

THE COURT: All right. Good morning, ladies and gentlemen. Please be seated. Thank you. All right. We ready to proceed with our next witness?

MR. HUBBARD: Yes, Your Honor.

THE COURT: Defense ready to proceed?

MR. L. SHEALEY: Yes, Your Honor.

THE COURT: Let's bring the jury in please.

(Whereupon, the jury entered the courtroom at 9:15 a.m.)

THE COURT: All right. Mr. Foreman, ladies and gentlemen of the jury, please be seated. Welcome back. Hope you had a nice evening. We'll pick up where we left off yesterday with the State's next witness.

MR. HUBBARD: Thank you, Your Honor. The State calls Robbie Harter.

Thereupon,

ROBBIE HARTER

after having been first duly sworn, testified as follows,

THE CLERK: Please have a seat. Once you're seated, state your full name spelling your last please.

THE WITNESS: My name is Robbie Harter, H-a-r-t-e-r.

DIRECT EXAMINATION

BY MR. HUBBARD:

Q. Officer Harter, where do you work currently?

A. Currently I'm employed by the Edgefield County Coroner's Office.

Q. How long have you been working there?

A. Since June of '20.

Q. And prior to that where were you working?

A. Prior to that I was a deputy with the Edgefield County Sheriff's Office.

Q. How long were you with Edgefield County?

A. Since 2003.

Q. Back in May of 2018, specifically May 7th of 2018, do you remember the incident involving both the pool room and Log Creek?

A. I do.

Q. Where were you at the time when you were first notified of something going on at the pool hall or pool room in Johnston?

A. I was at home.

Q. Were you off duty at that point?

A. I was.

Q. And were you notified by whom?

A. By Edgefield County dispatch.

Q. When you got that information, did you, were your plans to go there or did you just start monitoring the radio

or what did you do?

A. When I was first notified, I had just turned on my radio just to listen.

Q. And as you listened to your radio about what was going on in the investigation, what, if anything, did you hear that prompted you to take some action?

A. I heard Sergeant Florida run a license plate and it came back to a Mercedes registered to Mr. Barry Jones. When I heard that, I heard his location. He was fairly close to me. I went and threw my uniform on, ran out to my car and took off to try to catch up with him.

Q. If you can speak up just a little bit. I think the sound gets muffled in here really quick?

A. All right.

Q. Now, the name you hear, Barry Jones, is that the suspect that had been identified at the pool room?

A. Yes.

Q. And so you hear on the radio that Florida, Sergeant Florida has now identified a vehicle associated to Barry Jones?

A. Correct.

Q. And he's following that vehicle?

A. Correct. I believe at the time he was on Highway 25 North headed toward Greenwood.

Q. You said you got dressed?

A. I did.
Q. Put on your uniform?
A. Yes.
Q. Back at that time the uniform was a T-shirt marked Edgefield County Sheriff's Office?
A. Yes. And a pair of BDU pants.
Q. BDU's and you had your sidearm?
A. Yes.
Q. And where did you start heading at that point?
A. I headed up 25 North.
Q. And did you continue to monitor the radio?
A. I did.
Q. Is that how you knew how to get to the Log Creek location?
A. Correct.
Q. When you got there -- Well, let me ask you this: En route at any time did you hear gunfire?
A. I did.
Q. So you knew this was a pretty serious situation?
A. I did.
Q. When you got to the Log Creek area, what did you do?
A. When I first arrived, the first thing we did was took cover behind an Edgefield city police department car, myself and several other deputies.

Q. Did you end up with other deputies there who arrived as well?

A. Correct.

Q. Did you end up getting another firearm from another deputy?

A. I did. I borrowed a shotgun from Sergeant Densmore.

Q. Sergeant Densmore who testified the other day?

A. Yes.

Q. And did you not have a shotgun on you or a rifle on you?

A. I did not.

Q. You had been off duty?

A. Correct.

Q. At some point do you hear Sergeant Florida giving commands to Barry Jones?

A. I did.

Q. Hands up?

A. I distinctly remember him saying --

MR. B. SHEALEY: Objection, hearsay, Your Honor.

THE COURT: Overruled.

BY THE WITNESS:

A. I distinctly remember him saying show me your hands, show me your hands.

BY MR. HUBBARD:

Q. Okay. Did this go on for a while?

A. It did.

Q. So it wasn't just show me your hands and then y'all moved in?

A. No. It was several minutes.

Q. And Sergeant Florida had been there for a while waiting for everybody?

A. Correct.

Q. So this had been going on for a while?

A. Correct.

Q. At some point now, who has eyes on Barry Jones at this point or who is the one person best positioned out of all of y'all to keep an eye on Barry Jones?

A. Sergeant Florida.

Q. Now, he's trying to talk on the radio too. At some point somebody says I'll take over, Sergeant Florida. Who is that?

A. That was me.

Q. So you took over the radio?

A. I did.

Q. Is that because he kept having to go back to his car to call in and then he couldn't see what was going on?

A. Correct.

Q. So you took over that role?

A. Right.

Q. At some point did you get the clear or all clear from Sergeant Florida to move in?

A. We did.

Q. And did you move in with everybody else?

A. I did.

Q. So you were involved in the take down?

A. I was.

Q. When you got to the vehicle, where was Barry Jones?

A. He was in the apex of the driver's door.

Q. Was he lying down on his stomach, back or was he standing?

A. He was back like (indicating.)

Q. Okay. Let me ask you this: Did you know Barry Jones prior to all this?

A. I did know Barry. Yes.

Q. So you knew who he was prior to this. Edgefield is a small county. You grew up here?

A. I did not grow up here, but I knew Barry from mutual friends prior.

Q. Okay. And do you see him in the courtroom?

A. Yes.

Q. Please point him out to the Court.

A. Barry.

Q. With the black mask on?

A. Yes.

Q. You moved in. When you get up to Barry Jones lying on the ground in the apex of his open door, what else do you see there?

A. There was a AR-15 type rifle and a silver in color handgun on the ground.

Q. As to that silver in color handgun, was that a revolver or was that a semi automatic?

A. It was a revolver.

Q. What did you do as to that revolver?

A. I picked it up and secured it.

Q. You had a suspect on the ground and there's two weapons there so you picked up one of the weapons?

A. Correct. I believe Deputy Morgan kicked the rifle away if I remember correctly.

Q. The point was to separate suspect from weapons?

A. Correct.

Q. I want to show you three photographs, State's ID 68, 69 and 70. Is that you bending down right there?

A. It is.

Q. In another picture and then those three documents that we just discussed?

A. Yes.

MR. HUBBARD: Your Honor, I move these into evidence.

MR. B. SHEALEY: I've seen these and I have no objection.

THE COURT: State's Exhibits 68, 69 and 70 are admitted into evidence.

BY MR. HUBBARD:

Q. Looking at State's 68 right here, right up here, what are we looking at?

A. That's the pistol on the ground.

Q. Is that you bending down to pick that up?

A. It is.

Q. Of course, we see Barry Jones right here?

A. Yes.

Q. 69, that's you bending down to pick it up right there?

A. Yes.

Q. Then looking at 70, is that you holding that pistol?

A. It is.

Q. That's the .38 caliber stainless or silver revolver?

A. Yes.

Q. And you say who kicked away the AR-15?

A. I believe it was Deputy Morgan.

Q. Okay. Now, once Barry Jones was in custody, did y'all pull him away from the car?

A. We did.
Q. Closer towards Log Creek Road?
A. Yes.
Q. Once he was secured, cuffed and he's on the ground, did you or some else ask about his physical condition?
A. I believe it was Deputy Morgan asked him where he was hurt.
Q. Okay. What did you hear Barry Jones say?
MR. B. SHEALEY: Objection to Cartwright, Your Honor.
THE COURT: All right. Objection noted. Overruled previous to objection - subject to previous objection.
MR. HUBBARD: Thank you, Your Honor.
BY THE WITNESS:
A. Barry said that he was hurting under his chin area because he had shot himself there.
BY MR. HUBBARD:
Q. So you saw blood on Barry Jones, correct?
A. Yes.
Q. All over his chest. Could you see some other injuries or was it hard to see where the injuries were?
A. It was hard to see.
Q. But he specifically referenced where on his body?
A. Under his chin.
Q. And as to that wound he said who inflicted that

wound?

A. He said that he had shot himself there and it was hurting.

MR. HUBBARD: Thank you. Please answer any questions defense has.

THE COURT: Cross examination.

MR. B. SHEALEY: Thank you, Your Honor. May it please the Court.

THE COURT: Yes, sir.

CROSS EXAMINATION

BY MR. B. SHEALEY:

Q. Good morning, Officer Harter.

A. Good morning, sir.

Q. And we've had an opportunity to speak before on this matter?

A. Yes.

Q. And you were under oath on that occasion, right?

A. Yes.

Q. And you're under oath now?

A. Yes.

Q. Okay. Now, when you got information about this activity occurring on this day, you decided to go to the scene, correct?

A. Yes.

Q. Okay. And you were off duty at the time?

A. I was. It was in the afternoon. I had already gotten off work.

Q. Okay. Did you get in a patrol car that you had access to?

A. I did.

Q. Okay. And when you went to the scene, did you have your lights and siren on?

A. Yes.

Q. Is there a dashcam in that vehicle?

A. No.

Q. Okay. Did you have a body cam on?

A. I didn't have a body cam.

Q. Okay. But you approached the scene with your lights and siren on?

A. I don't think I had it on. I had my lights on, but not my siren once I got to Log Creek Road if I remember correctly.

Q. Okay. So what you previously said about lights and siren is not exactly accurate now that you think upon that?

A. I know I had it on until we turned onto the dirt portion.

Q. Is it safe to say you're not sure?

A. No. I know I did not have my siren on on the dirt portion.

Q. Just the lights?

A. Just the lights.

Q. Before you got to the dirt portion, did you have your siren on?

A. Yes.

Q. Okay. Now, you answered some questions from Mr. Hubbard on this, but you heard shots through your radio on the way down to this location, correct?

A. I heard what sounded like gunfire, yes.

Q. And I know you're in the Coroner's Office now, but you've served in law enforcement and have for a long time and you recognize gunfire, correct?

A. Correct.

Q. So it was gunfire you heard coming through your radio?

A. Yes.

Q. Okay. Now, we've seen some pictures of you approaching Mr. Jones. He was in flip flops that day, correct?

A. I don't remember what he had on his feet.

MR. B. SHEALEY: May I approach?

THE COURT: Yes, sir.

BY MR. B. SHEALEY:

Q. I'll show you State's 68.

A. Yes. Flips flops or sandals.

Q. Okay. So not closed covered shoes or boots or

anything like that. Those are definitely open toe footwear, correct?

A. Yes, sir.

Q. Okay. He's also without a shirt, correct?

A. Correct.

Q. Shirtless. Entirely shirtless. Now, regarding your testimony that Mr. Jones said he shot himself, he never told you why he shot himself, did he?

A. He did not.

MR. B. SHEALEY: No further questions.

THE COURT: Redirect.

MR. HUBBARD: Nothing further.

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

MR. HUBBARD: The State calls James Morgan.

Thereupon,

JAMES MORGAN

after having been first duly sworn, testified as follows,

THE CLERK: Please have a seat. Once you're seated, state your full name spelling your last please.

THE WITNESS: James Morgan, M-o-r-g-a-n.

DIRECT EXAMINATION

BY MR. HUBBARD:

Q. Sergeant Morgan, I see you're in uniform. You work for the Edgefield County Sheriff's Office?

A. I do.

Q. How long have you been working with the Sheriff's Office?

A. I've been with the Sheriff's Office since 2013.

Q. What are your duties now with the Sheriff's Office?

A. I'm a patrol sergeant.

Q. Back in May, specifically May 7th, 2018, what were you doing?

A. I was a patrol corporal at that time.

Q. Okay. So you've been promoted since then?

A. Yes, sir.

Q. Back on May 7th of 2018, do you remember the incident at the pool room and then later at Log Creek?

A. Yes, sir.

Q. Were you on duty at that time?

A. Yes, sir.

Q. When a call came in, did you respond to the pool room?

A. I did.

Q. And was Milledge Hall our victim still there at that time?

A. Yes, sir.

Q. While you were there, were you maintaining a contact with radio?

A. Yes, sir.

Q. What, if anything, did you hear on the radio that prompted you to leave the pool room?

A. I heard at first Sergeant Florida ran the plates on a vehicle which came back to the suspect that several people had mentioned on scene and I left from the pool room at that time.

Q. That suspect was Barry Jones?

A. Yes, sir.

Q. So Sergeant Florida was now behind him and following him?

A. Yes, sir.

Q. And your purpose of leaving the pool room was what?

A. For backup.

Q. Okay. Are most officers engaged in the pool room or -- Sergeant Florida was on his own?

A. Correct. He was on his own.

Q. While you were heading to backup Sergeant Florida, what, if anything, did you hear on the radio?

A. I heard several gunshots come across the radio and Sergeant Florida saying he'd been shot at.

Q. Okay. That was before you even got to Log Creek?

A. Yes, sir.

Q. Once you got to Log Creek, what did you do?

A. Once I got to Log Creek, I was briefly briefed by

Captain Wash. I had an assault armor plate carrier on that I wear everyday during duty. I had taken it off, put on my issued plate carrier which is metal plates front and back and side and my issued ballistic helmet.

Q. Let me ask you about the body armor you typically wear. You said it's soft?

A. Yes, sir.

Q. What is it good for protecting you for?

A. For small rounds more or less.

Q. Handguns?

A. Yes, sir.

Q. Is it of any use at all if you're going up against somebody with an AR-15?

A. Not likely.

Q. The vest you swapped out and put on with the hard plate --

A. Yes, sir.

Q. -- is that what it's designed for --

A. Yes, sir.

Q. -- large caliber guns like an AR-15?

A. Yes, sir.

Q. And you had a helmet as well?

A. Yes, sir.

Q. Who did you link up with when you got out there?

A. Sergeant Densmore.

Q. Densmore had his bodycam on?
A. Yes, sir.
Q. Now, did you have a bodycam?
A. No, sir. It was on my soft armor that I left in my patrol car.
Q. Okay. So when you swapped out vests, you didn't have --
A. Yes, sir.
Q. -- a body camera. Okay. While y'all are waiting to move in, who was the one kind of controlling the scene and saying what Barry Jones is doing?
A. Sergeant Florida.
Q. Does any other officer have good eyes on Barry Jones?
A. No, sir.
Q. So everybody is relying on Sergeant Florida?
A. Yes, sir.
Q. What do you keep hearing Sergeant Florida say to Barry Jones?
MR. B. SHEALEY: Objection to hearsay. Improper bolstering.
THE COURT: Overruled.
BY THE WITNESS:
A. I don't remember exactly word-for-word what he was saying.

BY MR. HUBBARD:

Q. I'm not asking for quotes, but do you remember him giving commands?

A. Yes, sir.

Q. Do those commands have anything to do with putting his hands up?

A. Yes, sir.

Q. Do you remember any other commands?

A. Put down the weapon or maybe put down a gun or something like that.

Q. Did this process go on for a while?

A. For a couple minutes.

Q. And it had been going on before you got there?

A. Yes, sir.

Q. When you finally moved in with Sergeant Densmore, where did you find Barry Jones?

A. He was behind the driver's door of the vehicle laying on the ground.

Q. Did you see any weapons around him?

A. Yes, sir.

Q. What did you see?

A. There was a pistol and a rifle, a AR style rifle laying on the ground.

Q. What did you do as to that rifle?

A. I removed it from his person with my foot.

Q. Moved it away, kicked it away?

A. Right. Out of arms reach where he couldn't grab it if need be.

Q. So keep the suspect separate from weapons?

A. Correct.

Q. And then did you and others assist in getting Barry Jones, cuffing him and pulling him away from the car?

A. Yes, sir.

Q. Once he was removed from the vehicle, do you recall, whether it was you or someone else asking about his medical condition?

A. I asked about his medical state.

Q. Did you see him bleeding?

A. Yes, sir.

Q. So you asked about his medical condition?

A. Yes, sir.

Q. What did he say about his medical condition?

MR. B. SHEALEY: Objection, Cartwright.

THE COURT: Noted subject to previous objection. Overruled.

MR. HUBBARD: Thank you, Your Honor.

BY THE WITNESS:

A. He informed me of the locations where he was shot.

BY MR. HUBBARD:

Q. Okay. What did he say?

A. He told me that he was shot in the stomach, the arm and the one underneath the neck/head area.

Q. Did he say one in particular was hurting or do you recall?

A. No more than the other. No, sir.

Q. As to the neck area, what, if anything, did he say?

A. He said I tried to kill myself and I couldn't even do that.

MR. HUBBARD: Thank you, Sergeant.

THE WITNESS: Yes, sir.

THE COURT: Cross examination.

CROSS EXAMINATION

BY MR. B. SHEALEY:

Q. Good morning. So you are the only witness in this case who had the unique opportunity to be both at the pool hall and Log Creek Road, right? You were on both scenes?

A. Right. I wasn't the only one doing that.

Q. One of?

A. I'm one of them.

Q. And you had a body camera on and I know you testified that you took it off when you were changing your gear so we can't see from your perspective on Log Creek, correct?

A. Correct.

Q. But you had it on still at the pool hall, correct?
A. Correct.
Q. So if we wanted to, we can see everything that you did at the pool hall, correct?
A. Correct.
Q. I think the beginning of your statement talks about talking to witnesses and at the pool hall, correct?
A. Yes.
Q. Okay. Approximately how many people were at the pool hall?
A. I couldn't tell you exact number.
Q. Okay. More than five?
A. Yes, sir. I would say so.
Q. Bunch of people kind of came out of the pool hall and y'all were dealing with that when you arrived, correct?
A. Correct.
Q. Okay. Now, as you were traveling down to the Log Creek Road scene, you certainly had your lights and siren on, correct?
A. Correct.
Q. Okay. Call that code three, right, lights and siren?
A. Yes, sir.
Q. Okay. Now, when you got down there, as you were approaching at some point before you got down there you

testified that you heard shots coming through the radio, correct?

A. Correct.

Q. Okay. Now, when you approach Mr. Jones, he was in flip flops and was shirtless, correct?

A. Correct.

Q. Had some shorts on?

A. Yes, sir.

Q. And he was bloody?

A. Yes, sir.

Q. Okay. And in your report here and you testified he was shot in the stomach area, the arm and the head/neck area, correct?

A. Correct.

Q. Okay. And again, regarding his statement about a self inflicted wound, he didn't tell you why he did that, correct?

A. Correct.

MR. B. SHEALEY: All right. Thank you, sir.

THE COURT: Thank you.

MR. HUBBARD: Quick follow up.

REDIRECT EXAMINATION

BY MR. HUBBARD:

Q. You were asked about whether you had your lights on, your siren on?

A. Yes, sir.

Q. Were you aware that when Sergeant Florida was following Barry Jones, he did not have his lights on?

A. Correct.

Q. Or his siren on?

A. Correct.

Q. You're a Sergeant over patrol right now. You were a corporal of patrol at that time?

A. Yes, sir.

Q. Why would an officer working for Edgefield County in a situation like that not use lights or siren?

A. Sergeant Florida was trying to get units to him as backup so he did not want to make the traffic stop alone. At that point we would have conducted a felony traffic stop with multiple units.

Q. Okay. And then when you're heading to backup Sergeant Florida, you have your lights, your siren on?

A. Correct.

Q. So citizens on the road know to move aside?

A. Correct.

Q. You're in an urgent situation to get to Sergeant Florida?

A. Correct.

MR. HUBBARD: Thank you.

THE COURT: Recross.

MR. B. SHEALEY: Nothing further, Your Honor.

THE COURT: All right. This witness may step down.

MR. McNAIR: Your Honor, the State calls Officer Sam Sherrill.

Thereupon,

SAMUEL SHERRILL

after having been first duly sworn, testified as follows,

THE CLERK: Please have a seat. Once you're seated, state your full name spelling your last please.

THE WITNESS: Samuel Sherrill, S-h-e-r-r-i-l-l.

DIRECT EXAMINATION

BY MR. McNAIR:

Q. Officer Sherrill, where do you work?

A. Edgefield County Sheriff's Office.

Q. And how long have you been there?

A. Approximately 10 years.

Q. And what's your current position?

A. I am a corporal over road patrol.

Q. Now, on May 7th of 2018, did you respond to Log Creek Road?

A. I did.

Q. And why did you respond to that location?

A. I had my radio on and heard my sergeant at the time call for assistance due to shots being fired.

Q. All right. Were you on duty when you heard that call?

A. I was not.

Q. But you still went to Log Creek Road?

A. Correct.

Q. Now, what was going on when you first got there?

A. Once I arrived, the shooting had already stopped, the subject, Mr. Jones, had already been placed in handcuffs and evidence was beginning to be collected, the scene was beginning to be roped off and personnel was starting to get there such as, I believe, SLED maybe.

Q. All right. So Mr. Jones was already in custody when you got there?

A. Correct.

Q. Did you have any interaction with him while you were there?

A. Just to go to the ambulance with him, but as far as anything else, no.

Q. All right. So you escorted him to the ambulance?

A. Correct.

Q. Was he walking?

A. He was not. He was placed on a stretcher by EMS/paramedics and wheeled to the ambulance.

Q. All right. On the way to the ambulance did he make any comments to you?

MR. B. SHEALEY: Objection subject to Cartwright.

THE COURT: All right. Subject to previous objections noted, overruled.

BY MR. McNAIR:

Q. What comments -- Well, let me ask you this: So did you ask him any questions on the way to the ambulance?

A. No, sir. I did not.

Q. So he just made these comments to you voluntarily?

A. Correct, sir.

Q. And did you document the statements that he made to you in your report?

A. Yes, sir. I did.

Q. Do you have a copy of your report with you?

A. I do not.

Q. Do you recognize that (proffering)?

A. Yes, sir. I do.

Q. Is that your report?

A. It is.

Q. All right. Will you read to the jury what statements Mr. Jones made to you?

A. Yes, sir. On the way to the ambulance or all of them?

Q. Let's start with on the way to the ambulance.

A. Okay. On the way to the ambulance he advised, quote, "I wish you would have" -- I'm sorry. "I wish y'all

would have killed me", end quote. And then he stated, quote, "Y'all should just let me die", end quote.

Q. All right. Now, after he was placed in the ambulance, did you ride with him in the back of the ambulance on the way to the hospital?

A. Yes, sir. I did.

Q. Did he make more statements to you in the back of the ambulance?

A. Yes, sir. He did.

Q. Were those statements made in response to any questions you asked or did he just volunteer those statements?

A. He volunteered.

Q. All right. What statements did he make in the back of the ambulance?

A. Uhm, Mr. Jones stated, quote, "The only hole that hurts is the one that I put in my neck", end quote. And quote, "I wish I would have made it to Augusta. A guy owes me $300,000.00", end quote.

Q. All right. Now, and after you got to the hospital, did you have any more contact with him?

A. I would stand in the hallway while the doctors and nurses were in the room dealing with him.

Q. Okay. And was that the extent of your involvement in this case?

A. Correct.

MR. McNAIR: Thank you, sir.

THE COURT: Cross examination.

CROSS EXAMINATION

BY MR. B. SHEALEY:

Q. Good to see you again.

A. Morning, sir.

Q. So as you were kind of being prepared to come to the scene, you also heard shots coming over the radio, right?

A. That's correct.

Q. Okay. And you know what a gunshot sounds like?

A. Yes, sir.

Q. Okay. And you went code three to that location, right?

A. That's correct, sir.

Q. Lights and siren?

A. Yes, sir.

MR. B. SHEALEY: Okay. Thank you, sir.

THE COURT: Any redirect?

MR. McNAIR: No, sir.

THE COURT: The witness may step down.

MR. HUBBARD: Your Honor, may we approach on a quick schedule issue?

THE COURT: Yes, sir.

(Side bar off the record.)

(Whereupon, the jury entered the courtroom at 10:10 a.m.)

THE COURT: A11 right. Ladies and gentlemen, please be seated. We'll continue where we left off with our next witness.

MR. HUBBARD: Thank you, Your Honor. The State calls Anna Tankersley.

Thereupon,

ANNA TANKERSLEY

after having been first duly sworn, testified as follows,

THE CLERK: Please have a seat. Once you're seated, state your full name spelling your last please.

THE WITNESS: My name is Anna Tankersley. Last name is spelled T-a-n-k-e-r-s-l-e-y.

DIRECT EXAMINATION

BY MR. HUBBARD:

Q. Officer Tankersley, where do you work now?

A. I currently work at Fairfield County Sheriff's Office.

Q. How long have you been with Fairfield?

A. I've been with Fairfield about two and a half months.

Q. Prior to Fairfield, where did you work?

A. Prior to Fairfield I worked at the South Carolina Law Enforcement Division commonly known as SLED.

Q. What did you do at SLED?

A. I was assigned to the crime scene unit. I worked there for about four and a half years.

Q. So you worked the crime scene unit, is that CSI?

A. Yes, sir.

Q. How long did you work CSI at SLED?

A. About four and a half years.

Q. Is that the entire time you were with SLED did you do CSI?

A. Yes, sir. That's correct.

Q. In order to do the job with CSI or crime scene, did you have some education and training?

A. Yes, sir.

Q. Can you go through that please.

A. Certainly. So my education is, I have a bachelor's degree in criminal justice from the University of Tennessee at Martin. After that I completed a master's degree in forensic science from the University of New Haven in Connecticut. While I was in school I completed two federal internships and I also attended the National Forensic Academy Inclusion Program at Knoxville. After graduating with a master's degree, I was hired by SLED and with them I had to complete the South Carolina Criminal Justice Academy 12 week basic law enforcement training. I also had to complete about a year and a half of inhouse training with the crime scene unit, and we

have various training blocks all in crime scene documentation and crime scene preservation. While I was in training and during my tenure at SLED I also went to several professional training classes such as crime scene photography, blood stain pattern analysis, shooting incident documentation and crime scene reconstruction. I also am certified through the International Association of Identification in crime scene analysis.

Q. Okay.

A. And -- Sorry.

Q. Not to cut you off, the bottom line is when you're hired at SLED, you had education and SLED continued to educate you in this area?

A. Yes, sir.

Q. Sent you to classes. You had classes at SLED, but they also sent you to other classes outside of the state?

A. Yes, sir.

Q. And then you belong to several organizations and are certified in these organizations for what you do in CSI?

A. Yes, sir.

MR. HUBBARD: Your Honor, at this time I would like to offer Officer Tankersley as an expert in crime scene investigations.

MR. L. SHEALEY: No objection.

THE COURT: Ladies and gentlemen, normally a person

cannot give opinion testimony. When a person testifies, they must testify as to what they either saw, heard or sensed by smell or something of that nature. However, there is an exception when someone is qualified because of education or experience. They are permitted to give their opinion in certain areas if the Court qualifies them that way. This person will be qualified in the area of crime scene investigation to give opinion testimony in that area. That does not mean you must accept the opinion, but it is evidence for you to use any way you see fit.

BY MR. HUBBARD:

Q. Officer Tankersley, do you recall when you got called out on May 7th, 2018?

A. (Witness nodding head.)

Q. Was it already late in the evening or was it in the next day?

A. No, sir. I got the call about 8:30 p.m. that night.

Q. Okay. And did you go directly to Log Creek Road?

A. No, sir. I went to the Sheriff's Office first.

Q. Okay. And then proceed to Log Creek Road?

A. Yes, sir.

Q. When you got to Log Creek Road, was Officer Florida's vehicle still there?

A. Yes. It was.

Q. Was the town vehicle, the other police vehicle still there?

A. Yes, sir. It was.

Q. And was the suspect vehicle, Barry Jones' Mercedes still there?

A. Yes, sir.

Q. Okay. What do you do and what did you do in this situation? When you come up and you're told, all right, this is your crime scene, how do you go about it?

A. When we first get there, we would have documented the scene with photographs as we found it so we would have documented anything that we would have deemed as evidence before we place any markers on the scene so we documented it as it was when we arrived and then after that we lay down yellow marker numbers to mark the evidence that we were going to continue to document and collect and then we would photograph everything again with the markers in place before collecting everything.

Q. So to recap, you start out, you just take photographs as things are?

A. Yes, sir.

Q. And you're locating evidence as well at that time I guess?

A. Yes, sir.

Q. And then you go back and you mark it with your yellow placards or whatever else you have, tape, and then you go back and document that?

A. Yes, sir.

Q. So it's kind of a building process?

A. Yes, sir.

Q. All right. And going through, at some point also do you render a diagram of the entire area as well?

A. Yes, sir. While we're documenting the scene with photographs, we're also taking written notes and we do what we call a rough sketch which means we take measurements and show where items of evidence are at the scene and then after we, do the report later, we'll create a digital diagram of what we documented on scene.

Q. All right. I might start off with a diagram. You did a diagram. I want to show you what's been marked State's 153. Based on your diagram did you assist in the preparation of this diagram?

A. Yes, sir.

Q. And does it accurately reflect where certain pieces of evidence are that you located and marked?

A. Yes, sir. It does.

MR. HUBBARD: Your Honor, I offer this into evidence.

MR. L. SHEALEY: No objection.

THE COURT: State's Exhibit 153 admitted into evidence.

MR. HUBBARD: Your Honor, I may try it up here.

THE COURT: Okay.

MR. HUBBARD: And I may need my witness to stand up, but I'll see.

BY MR. HUBBARD:

Q. All right. Officer Tankersley, can you see that?

A. Yes, sir.

Q. All right. Let's orient ourselves. Is this Log Creel Road?

A. Yes, sir.

Q. And this is the little area that the suspect vehicle was backed into?

A. Yes, sir.

Q. And what is this item here?

A. That's a gate.

Q. Okay. All right. Whose vehicle is this?

A. That's Florida's vehicle.

Q. On the right hand corner?

A. Yes, sir.

Q. The vehicle over here?

A. Officer Kathmann.

Q. Kathmann with the town. Okay. And again suspect vehicle?

A. The Mercedes. Yes.

Q. Okay. Yes. These items that we see, is this where you placed placards?

A. Yes, sir. That's the approximate location.

Q. And I know you did a separate one, a very specific one --

A. Mm-hmm.

Q. -- but do these denote casings where rounds have been fired?

A. Yes, sir.

Q. Up here in the legend where it says cartridges, ECS, Edgefield County Sheriff's Department, does it have the number of rounds that you recovered, like the 12 gauge shells, you have two, .40 cartridges, four?

A. Yes, sir.

Q. All that's accurate. And then for the Edgefield Police Department you had 12?

A. Yes, sir.

Q. So down here there are 12 casings. Is that what we're seeing?

A. Yes, sir.

Q. The Mercedes, a .223 round. What is that used for?

A. It's a rifle round, sir.

Q. For AR-15 or can it be used in AR-15?

A. Yes, sir.
Q. And a spent rounds outside the vehicle, you found nine?
A. Yes, sir.
Q. And what's denoted in pink is the AR-15?
A. Mm-hmm.
Q. So it's found - and the driver's door would have been open, right?
A. Yes, sir.
Q. Okay. And then you found an unfired .223 round as well near the rifle?
A. Yes, sir.
Q. Okay. Let's go through if we can and look at some of these photos. Let's start with Sergeant Florida's vehicle. These photos you took of his vehicle without placards and then some with placards?
A. Yes, sir.
MR. HUBBARD: Your Honor, this is State's 71 through 74. Offer these into evidence.
MR. L. SHEALEY: No objection.
THE COURT: State's Exhibit 71 through 74 admitted into evidence.
BY MR. HUBBARD:
Q. So the vehicle, this is how you found the vehicle?
A. Yes, sir.

Q. Marked patrol vehicle. And then from behind we see some placards. Did you place those there?

A. Yes, sir.

Q. And those are denoted on the board that we just put up which is again State's 153?

A. Yes, sir.

Q. And a close up of 73 again showing the placards?

A. Yes, sir.

Q. And 74, are those the shotgun shells?

A. Yes, sir. They are.

Q. Now, looking at those shotgun shells, are those by the back rear tire, the right passenger tire?

A. Yes, sir.

Q. So those shells would be right in here?

A. Yes, sir.

Q. And these other four rounds are from a .40 caliber pistol?

A. Yes, sir.

Q. And that's where you found them?

A. Yes, sir. That's correct.

Q. Okay. Let's take a look at Officer Kathmann's vehicle. State's 75 through 78. These are photographs you took?

A. Yes, sir. This first one is without markers, but the others are after we placed markers.

Q. Okay. So the first one, 75, you took that without markers and that's looking down the road behind his vehicle?

A. Yes, sir.

Q. And then off to the right of his vehicle looking at State's 76 you see some yellow placards. What do those denote?

A. Those are Officer Kathmann's .40 caliber cartridge casings.

Q. Okay. Another photo of that 77 shows that as well?

A. Yes, sir.

Q. Finally looking at 78 from a different angle?

A. Yes, sir. That's the same evidence.

Q. So you capture it from different angles?

A. Yes, sir.

Q. And total cartridges you found were 12?

A. Yes, sir.

Q. Now, lets look at the .223 casings, again in State's 79 through 87, you took those photos as well?

A. Yes.

MR. HUBBARD: Your Honor, I offer these into evidence.

THE COURT: 79 through 87.

MR. L. SHEALEY: No objection.

THE COURT: State's Exhibit 79 through 87 are

admitted into evidence.

MR. HUBBARD: Yes, sir.

BY MR. HUBBARD:

Q. Looking at State's 79, that's the suspect vehicle and those are casings or cartridges being fired from an AR-15?

A. Yes, sir.

Q. State's 80 right near the door, the outside of the door, do you see casings right there?

A. Yes, sir.

Q. A little bit different angle towards the front of the vehicle in 81, somewhat towards the front of the vehicle and at the door?

A. Yes, sir.

Q. And then State's 82 right at the vehicle. Can you kind of see the weapon there too?

A. Yes, sir.

Q. State's 83, you see the open door and some more evidence?

A. Yes, sir.

Q. State's 84, just a different angle. Close up of 85. State's 85, 86 and 87.

A. Yes, sir.

Q. Did you find -- And .223 casings are fired by the AR-15?

A. Yes, sir.

Q. That's the only weapon you found that would fire those rounds at that scene?

A. Yes, sir. That's correct.

Q. Now let's look. In the car did you find some .223 rounds as well?

A. Yes, sir. We found three more.

Q. I want to show you State's 88 through 91. Do you recognize those?

A. Yes, sir.

MR. HUBBARD: I offer these into evidence as well.

MR. L. SHEALEY: No objection.

THE COURT: Those numbers were?

MR. HUBBARD: 88 through 91, your Honor.

THE COURT: State's Exhibits 88 through 91 admitted into evidence.

BY MR. HUBBARD:

Q. So looking inside the Mercedes in the driver's door State's 88, what do you see up there on the dash?

A. That's a .223 cartridge case on the dashboard.

Q. so shots have been fired and this casing went inside the vehicle?

A. Yes, sir.

Q. And again, State's 89, what do we see here in the door panel?

A. That's an additional .223 cartridge casing.
Q. State's 90, do you see actually a magazine?
A. Yes, sir.
Q. And then do you see another casing right here?
A. Yes, sir. That's correct.
Q. Looking at that same casing a little bit closer up in 91?
A. Yes, sir.
Q. So that is a round that's been fired so that's the casing of a round that was fired?
A. Yes, sir.
Q. Now, when you got there, some items were taken off Mr. Jones and placed in a bag in front of the vehicle and you documented that?
A. Yes, sir. That's correct.
Q. Looking at State's 92 through 103, did you take these photographs? Did you take those photographs and document those items?
A. Yes, sir.

MR. HUBBARD: I move these into evidence, State's 92 through 103, Your Honor.

MR. L. SHEALEY: No objection.

THE COURT: State's Exhibits 92 through 103 admitted into evidence.

MR. HUBBARD: Thank you, Your Honor.

BY MR. HUBBARD:

Q. Looking at State's 92, down here in the corner with marker 20, are those items that were found on the suspect's person and you were asked to document as it was right there?

A. Yes, sir. That's correct.

Q. Looking at 93 is that a close-up of those items?

A. Yes, sir. It is.

Q. So these are items on his person. You have a revolver, a semiauto. You see a knife and a bag of some sort right there?

A. That's a holster.

Q. A holster.

A. And a paper bag have more contents that came from him.

Q. Okay. State's 94.

A. Yes, sir.

Q. Close up of 94 is in State's 95?

A. Yes, sir. That's just the other side of the gun.

Q. Now, this same weapon, did you also take back and document where the rounds were fired looking at State's 96?

A. Yes, sir. That's the same gun.

Q. Can you see three rounds are fired and two have not been?

A. Yes, sir. You can see the firing pin impressions.

Q. So when a round is fired, a dent is left there?

A. Yes, sir.
Q. But the casing in this type of weapon does not fly off, it retains it in the wheel?
A. That's correct.
Q. Again 97, do you see that?
A. Yes, sir. That's just a close up.
Q. So you've got 1, 2 and 3, looks like they've been fired?
A. Yes, sir.
Q. Again, you document it in State's 98, so you have two rounds that have not fired, but three that have?
A. Yes, sir.
Q. Now, you have not as a CSI officer although you may be given information about everything, you're not necessarily told about two shots fired at the pool room and whether the suspect used the weapon on himself at the scene, are you?
A. No, sir. We just document the condition the gun was in at the time we collected it.
Q. Okay. State's 99, is that a .32 caliber pistol?
A. Yes, sir.
Q. Kel-Tec. Then you documented the serial number?
A. Yes, sir.
Q. And then that bag we saw, is that State's 101?
A. Yes, sir. We would have collected the bag the way it was and then we would have continued to document it in the

lab.

Q. Because the bag is not something you brought to the scene. Law enforcement at the scene left that for you and had stuff in the bag?

A. That's correct.

Q. Okay. And then items found in that State's 108, you see what looks like a wallet, knife and what else are we looking at right there?

A. Those are four magazines with unfired cartridges in them.

Q. Okay. State's 103, what are we looking at?

A. That's the subject's wallet with ID pulled out.

Q. Barry Jones?

A. Yes, sir.

Q. All right. Now, the revolver that we saw, is that a .38?

A. Yes, sir.

Q. See if you recognize and can identify State's 62, if that's the revolver we're talking about?

A. Yes, sir. That's the same gun.

Q. And then I see a cartridges in here and unfired rounds. Are those exactly what we've been looking at as well?

A. Yes, sir.

MR. HUBBARD: Okay. If I may, Your Honor, for the

jury.

THE COURT: Sure.

MR. L. SHEALEY: Is this item in evidence yet?

MR. HUBBARD: I'll move it into evidence. I'm sorry.

MR. L. SHEALEY: I don't have an objection to that particular one.

MR. HUBBARD: It's State's 62, Your Honor.

THE COURT: State's Exhibit 62 is admitted into evidence.

BY MR. HUBBARD:

Q. And then that small handgun, is that the Kel-Tec?

A. Yes, sir. That's the same gun.

Q. What caliber is it?

A. .32.

MR. HUBBARD: .32. Okay. Your Honor, I move State's 63 into evidence.

MR. L. SHEALEY: I don't have an objection to that particular item.

THE COURT: Very well. State's 63 admitted into evidence. You may publish.

BY MR. HUBBARD:

Q. So this was a weapon found in his pocket that you documented out there on the side of the road?

A. Yes, sir.

Q. All right. Let's move on. We've talked about these casings out here and the weapons you found out there. Let's take a look now at these vehicles. Looking at State's 104 through 106, do those denote damage to the exterior of Barry Jones' car?

A. Yes, sir.

Q. Did you take those photographs?

A. Yes, sir.

MR. HUBBARD: Your Honor, I move these into evidence.

THE COURT: Exhibit?

MR. HUBBARD: State's 104 through 106.

MR. L. SHEALEY: No objection.

THE COURT: State's Exhibits 104 through 106 admitted.

BY MR. HUBBARD:

Q. State's 104, you see a little bit of damage. Kind off hard to see the window, but looking at 105 is the window actually shattered?

A. Yes, sir.

Q. Do we see other rounds that hit the door frame?

A. Yes, sir.

Q. And then we have rounds that have gone beyond the door and hit the backside of the vehicle?

A. Yes, sir.

Q. And looking at 106 is that what we'e seeing, damage to that back side of the vehicle?

A. Yes, sir.

Q. Okay. We mentioned an AR-15. I'm going to show you State's 107 and 108. Is this how you documented it and then the serial number?

A. Yes, sir.

MR. HUBBARD: I move these into evidence.

MR. L. SHEALEY: No objection.

THE COURT: State's Exhibit 107, 108 admitted into evidence.

BY MR. HUBBARD:

Q. So this is where you found that AR-15?

A. Yes, sir. That's correct.

Q. Right next to the open door?

A. Yes.

Q. And there are casings there as we11?

A. 31 is a cartridge case.

Q. Okay. And then 108, is that just a c1ose up where you document serial numbers to make sure we've got the same weapon?

A. Yes, sir. That's correct.

Q. I want to show you State's 61. Is that the AR-15 that you found outside his vehic1e?

A. Yes, sir.

Q. And the magazines, were those with that AR-15 at the time?

A. Yes, sir.

MR. HUBBARD: Okay. Your Honor, if I may move State's 61 into evidence.

MR. L. SHEALEY: No objection.

THE COURT: State's Exhibit 61 is admitted into evidence.

BY MR. HUBBARD:

Q. Now, did you document the interior of Mr. Jones' car too, the Mercedes?

A. Yes, sir.

Q. I would like you to look at State's 109 through 116 and see if that is the front seat area of Mr. Jones' vehicle?

A. Yes, sir. It is.

MR. HUBBARD: Your Honor, I move 109 through 116 into evidence.

MR. L. SHEALEY: 114, 115, 116 subject to defense's prior objection.

THE COURT: State's 109 through 113 admitted without objection. State's Exhibits 114, 115, 116 are admitted subject to objection.

MR. HUBBARD: Thank you, Your Honor.

BY MR. HUBBARD:

Q. Looking at 109 is that the front seat area of Mr. Jones' vehicle?

A. Yes, sir. That's the driver's seat.

Q. Okay. He's got a bag here. Are those boxes of rounds?

A. Yes, sir.

Q. Looking at 110, is that a close up of that bag?

A. Yes, sir.

Q. With rounds. What type of rounds are these?

A. Those are .223 rounds.

Q. So these in the front seat, these rounds all go to that AR-15?

A. Yes, sir.

Q. Looking at 111, are these all those boxes removed with three magazines?

A. Yes, sir.

Q. All that was in the bag or with the bag?

A. Yes, sir.

Q. Looking at 112, these are the actual magazines?

A. Yes, sir. They are.

Q. Looking at 113, those magazines, were they fully loaded?

A. I don't know if they were fully loaded, but they do have some unfired rounds in them.

Q. My better question is they were loaded?

A. Yes, sir.
Q. You didn't count how many was in each magazine?
A. No, sir.
Q. Okay. And in the front seat underneath all that looking at State's 114, what is this right here in the seat?
A. That's a handgun and a holster with an additional magazine in the holster as well.
Q. And did you then remove that and recorded it in photograph 115; is that correct?
A. Yes, sir.
Q. Is 116 another view of that?
A. Yes, sir.
Q. What type of weapon is that?
A. It was a Glock.
Q. I want to show you State's 64 and see if you can identify that as the Glock found in the front driver's seat?
A. Yes, sir. That's the same gun.
Q. And it is a .40 caliber?
A. Yes, sir.

MR. HUBBARD: Your Honor, I move State's 64 into evidence.

MR. L. SHEALEY: Subject to prior objection.

THE COURT: State's Exhibit 64 will be admitted subject to objection.

BY MR. HUBBARD:

Q. And you documented the entire interior of his car, did you not?

A. Yes, sir.

Q. And that's just what you do? That's being thorough?

A. Yes, sir.

Q. I want to show you photographs of the console area, 117, 118, 119. Did you make those photographs?

A. Yes, sir.

Q. Does it denote among other things there's a cell phone?

A. Yes, sir.

MR. HUBBARD: Your Honor, I move these into evidence, 117 through 119.

MR. L. SHEALEY: No objection.

THE COURT: State's Exhibits 117 through 119 are admitted into evidence.

BY MR. HUBBARD:

Q. On the console you see a cell phone?

A. Yes, sir.

Q. 118. And then 119, that's your photograph?

A. Yes, sir.

Q. I want to ask you, looking at State's 67, is that the same cell phone?

A. Yes, sir.

MR. HUBBARD: Your Honor, I move this into evidence.

MR. L. SHEALEY: No objection.

THE COURT: So admitted.

BY MR. HUBBARD:

Q. Same cell phone we were looking at in the photograph?

A. Yes, sir.

Q. Okay. Now, looking at the front passenger seat, State's 120, is that how you found it?

A. Yes, sir.

Q. And then looking at State's 121 through, looking at 120, 121, 122, 124, 125, 126, 127, did you document all those photos and take all those photos?

A. Yes, sir.

MR. HUBBARD: Your Honor, I move these into evidence.

MR. L. SHEALEY: Item numbers 125 and 126 will be subject to my prior objection.

THE COURT: 125 and 126?

MR. L. SHEALEY: Yes.

THE COURT: Just let me remember what --

MR. HUBBARD: Yes, sir (proffering.) Kind of got out of order, Your Honor.

THE COURT: All Right. State's Exhibits 124, 125

and 127 are admitted without objection. State's Exhibit 126 is admitted subject to objection.

MR. HUBBARD: And then 120 through 122 admitted without objection.

THE COURT: So admitted.

MR. HUBBARD: Thank you, Your Honor.

BY MR. HUBBARD:

Q. State's 120, this is the front passenger seat?

A. Yes, sir.

Q. So you've got the Clemson bag with the box of beer on top of it in the front seat?

A. Yes, sir.

Q. The closer look, 121 of that Clemson bag, do you now take a look inside that bag?

A. Yes, sir.

Q. Looking inside that bag 122 are these items you found inside that bag?

A. Yes, sir. That's correct.

Q. 124, is that a close up?

A. Yes, sir.

Q. Now, what is this? Is this -- What kind of case is that that we see in 124?

A. It's a gun bag.

Q. Inside that gun bag looking at 125 is that what you found?

A. Yes, sir.
Q. And is that a .357 revolver?
A. Yes, sir.
Q. Then you also took photo 126 showing that it was loaded?
A. Yes, sir. That is correct.
Q. No rounds had been fired?
A. No, sir.
Q. And the boxes of ammo are actually in 127?
A. Yes, sir.
Q. Now, as to 125, this revolver, I want to show you State's 66 and see if you recognize that?
A. Yes, sir. It's the same gun.
MR. HUBBARD: Your Honor, I move State's 66 into evidence.
MR. L. SHEALEY: Subject to my prior objection.
THE COURT: State's Exhibit 66 admitted subject to objection.
MR. HUBBARD: Thank you, Your Honor.
BY MR. HUBBARD:
Q. And then the rounds, you took them out and they were inside the box as well?
A. Yes, sir.
Q. Also in the front seat underneath that Clemson bag did you find what's marked, what you photographed as State's

132 through 134?

A. Yes, sir.

Q. So you took these photographs?

A. Yes, sir. That's correct.

Q. What is that item?

A. It's a safe containing money.

MR. HUBBARD: Your Honor, I move this into evidence.

MR. L. SHEALEY: No objection.

THE COURT: State's Exhibits 132 through 134 admitted into evidence.

MR. HUBBARD: Yes, sir.

BY MR. HUBBARD:

Q. So 132, that's a safe?

A. Yes, sir.

Q. In the front passenger seat?

A. Yes, sir.

Q. And that was under the Clemson bag?

A. Yes, sir. That's correct.

Q. And inside that safe 133?

A. Yes, sir.

Q. And then 134?

A. Yes, sir. That's just the money laid out.

Q. Did you get an approximate amount of how much money?

A. Yes, sir.

Q. How much?

A. It was $10,200.00.

Q. $10,200.00. Looking at the front passenger floorboard of that same side of the vehicle, did you take photographs 135, 136, 137, 138, 139, 140 and 141?

A. Yes, sir. I did.

Q. Did that show the condition of the vehicle and other items you found in his car?

A. Yes, sir.

MR. HUBBARD: Your Honor, I move this into evidence.

MR. L. SHEALEY: No objection.

THE COURT: That would be?

MR. HUBBARD: 135 through 141, Your Honor.

THE COURT: State's Exhibits 135 through 141 admitted into evidence.

MR. HUBBARD: Your Honor, some of these numbers I may start counting them out because I know I may have gotten off at some point just to be careful.

BY MR. HUBBARD:

Q. 135, this again is the floorboard of the passenger seat?

A. Yes, sir.

Q. This orange item we see down here, is that a shirt?

A. Yes, sir.
Q. Okay. And then I see a dog box, a box of like dog food?
A. Yes, sir.
Q. Inside that box, is that what you took in 136?
A. Yes, sir.
Q. Close up 137?
A. Yes, sir.
Q. And it's FMJ ammo. What's FMJ?
A. Full metal jacket.
Q. And then another shot, is that 138?
A. Yes, sir. Those are the same boxes.
Q. This ammo, what does it go to?
A. It's .223 ammo.
Q. So again it goes to the AR-15?
A. Yes, sir.
Q. 139, that's a shot again of everything there?
A. Yes, sir.
Q. Now, looking at that little box down there, the pro box, the red box on the floor, did you find out what was in it?
A. Yes, sir.
Q. And 140, State's 140, are those one, tow, three, four five, six magazines for an AR-15?
A. Yes, sir.

Q. And they're loaded?
A. Yes, sir.
Q. And then it looked like there was some other item on the floor, 141. Is that actually food?
A. Yes, sir.
Q. Now, looking at the back seat of driver's side you took a couple photographs, 142, 143?
A. Yes, sir.
MR. HUBBARD: Your Honor, I offer these into evidence.
MR. L. SHEALEY: No objection.
THE COURT: State's Exhibit 142 and 143 are admitted into evidence.
BY MR. HUBBARD:
Q. These behind that driver's seat 142, what we see here those orange stuff, are those shirts?
A. Yes, sir.
Q. 143 show a better picture of those shirts on hangers?
A. Yes, sir.
Q. Did you find other clothes in the car like pants, shoes, socks, underwear, T-shirts, anything like that?
A. No, sir.
Q. But you found these hanging shirts?
A. Yes, sir.

Q. This box, is that just a car cover?
A. Yes, sir.
Q. Okay. Did you take photos of the trunk?
A. Yes, sir.
Q. State's 144 through 152?
A. Yes, sir.
MR. HUBBARD: Your Honor, I move these into evidence.
MR. L. SHEALEY: No objection.
THE COURT: All right. State's Exhibits 144 through 152 admitted into evidence.
BY MR. HUBBARD:
Q. 144 shows the open trunk; is that right?
A. Yes, sir.
Q. Do we see a gray bag, 145?
A. Yes, sir.
Q. Focusing on that, 146, so you take multiple photos to show how you document; is that correct?
A. Yes, sir.
Q. Opening that bag, 147, do we see looks like a toiletry kit and a white plastic bag?
A. Yes, sir.
Q. Looking in that white plastic bag, 148, is that medicine of some sort?
A. Yes, sir.

Q. 149, is that a better look at the toiletry kit?
A. Yes, sir. It is.
Q. Items found in the toiletry kit, 150?
A. Yes, sir.
Q. All right. Now, that gray bag from 141 is sitting on top of looks like a little black case?
A. Yes, sir.
Q. Looking at 151 is that that black case?
A. Yes, sir. It is.
Q. Again 152, is that that black case?
A. Yes, sir.
Q. What is that black case?
A. It's a long gun case.
Q. So if I wanted to keep a rifle, say an AR-15, I could put it in that?
A. Yes, sir.
Q. Looking at the back passenger area, I'll show you the back passenger photos, 154, 155, 156, see if you recognize those as photos you took.
A. Yes, sir.
MR. HUBBARD: Your Honor, I move these into evidence.
MR. L. SHEALEY: 156 would be subject to my prior objections.
THE COURT: All right. State's, tell me the numbers

again.

MR. HUBBARD: 154, 155, 156.

THE COURT: State's Exhibits 154, 155 are admitted into evidence. Exhibit 156 is admitted subject to objection. Thank you.

BY MR. HUBBARD:

Q. 151, does that show items in the back seat again?

A. Yes, sir.

Q. Looking towards the back floorboard you see like a it looks like a window visor?

A. Yes, sir.

Q. Underneath that do you see this green bag, 158?

A. Yes, sir.

Q. Or 155. Excuse me. 156, you see a weapon inside of there?

A. Yes, sir.

Q. And did you take and document photographs of that weapon, State's 161?

A. Yes, sir.

MR. HUBBARD: Move this into evidence as well.

MR. L. SHEALEY: Subject to my prior objection.

THE COURT: State's Exhibit 161 is admitted into evidence subject to objection.

BY MR. HUBBARD:

Q. Looking at State's 65.

A. Yes, sir. That's the same gun.
Q. What caliber pistol is this?
A. It's a nine millimeter.
Q. Nine millimeter. And do you have the make and model on the front?
A. Yes, sir. It's an S and F nine millimeter handgun.
Q. With rounds?
A. Yes, sir.
MR. HUBBARD: Your Honor, I move this into evidence, State's 65.
MR. L. SHEALEY: Subject to my prior objection.
THE COURT: State's Exhibit 65 admitted subject objection.
BY MR. HUBBARD:
Q. Now, going back to this chart, State's 153, again, that was the position of all the vehicles as you found them, correct?
A. Yes, sir.
Q. And the cartridges?
A. Yes, sir.
Q. Did you find any casings or cartridges in this area right here on the board?
A. No, sir.
Q. So none, all of the, for instance, Sergeant

Florida's vehicle, the .40 caliber rounds, those were all right up on his vehicle?

A. Yes, sir.

Q. None were out here in the open?

A. No, sir.

Q. The shotgun shells were found on this side of his vehicle?

A. Yes, sir.

Q. The .223 round casings were around the Mercedes?

A. Yes, sir.

Q. Along with the AR-15?

A. Yes, sir.

Q. And then Officer Kathmann, all of his .40 caliber rounds were on the right-hand side of his vehicle?

A. Yes, sir. That's correct.

MR. HUBBARD: Your honor, I believe that's all I have at this time.

THE COURT: Cross examination.

MR. L. SHEALEY: May we approach real quick?

THE COURT: Sure.

(Side bar off the record.)

THE COURT: Ladies and gentlemen of the jury, we'll take a five minute break. Refresh yourselves. We'll get you right back out here. Thank you. Please don't discuss the case.

(Whereupon, jury entered jury room at 11:25 a.m.)

MR. HUBBARD: Your Honor, one clerical matter. The court reporter brought to my attention, he did see me introduce 75 through 78. These are photographs that were documented of Officer Kathmann's vehicle and the casings. I thought I had. There's no objection. I'll go ahead and have that done now.

MR. L. SHEALEY: No objection.

THE COURT: Okay. 75 through 78, State's admitted into evidence.

(Short break.)

THE COURT: Let's bring the jury in please.

(Whereupon, jury entered courtroom at 11:36 a.m.)

THE COURT: Welcome back, ladies and gentlemen. Please be seated. We just completed direct examination before the break. We'll continue now with cross examination.

MR. L. SHEALEY: May it please the Court.

THE COURT: Yes, sir.

CROSS EXAMINATION

BY MR. L. SHEALEY:

Q. Hey, good morning.

A. Hey. How are you?

Q. Agent Tankersley, but now you're with Fairfield so what's your title there specifically?

A. Investigator.
Q. Investigator.
A. Yes, sir.
Q. You were an agent at this time because you worked for SLED back when you did this work?
A. Yes, sir.
Q. I want to probably start by just going through some photos. It might be easier to see if we can just get these into evidence so we can talk about them and then we'll talk about your findings. Most of these are your photos. Do you recognize this photo number 39 of Officer Florida's car?
A. Yes, sir.
Q. And number 40 of Officer Kathmann's car?
A. Yes, sir.
Q. There's a defect in Mr. Barry Jones' car, number 41.
A. Yes, sir.
Q. Interior shot of that same of his open door, correct?
A. Yes, sir.
Q. Closer up of that interior shot?
A. Yes, sir.
Q. Front driver's seat of his car?
A. Yes, sir.
Q. This is a projectile you found in his car?
A. Yes, sir.

Q. That's where you pulled it from, his back rear seat?

A. Yes, sir. Mm-hmm.

Q. This is the contents of his safe, some money, number 47?

A. Yes, sir.

Q. You recognize this this is a close up of his shirt that had a hole in it, correct?

A. Yes, sir.

Q. This is a further removed photo of that same Clemson shirt?

A. Yes, sir.

Q. Photo of Officer Florida's passenger side of his vehicle?

A. Yes, sir.

Q. Far away from Barry's car?

A. Yes, sir.

Q. Side, driver's side of Barry's car?

A. Yes, sir.

Q. Recognize open door kind of different angle shattered window?

A. Yes, sir.

Q. Kind of rear to the right passenger side of his car with the gate in view?

A. Yes, sir.

Q. This looks like some blood, another picture of the scene with some items back here?

A. I'm familiar with the items, but yes, there's blood in the grass too.

Q. And do you recognize the back wheel?

A. Yes, sir.

Q. You took this photo?

A. Yes, sir.

Q. There's another front driver's photo of the shirt and other items?

A. Yes, sir.

Q. Driver's floorboard with a magazine there?

A. Yes, sir.

Q. Some of these may be duplicates, but the passenger front with the Mich Ultra box and a duffel bag?

A. Yes, sir.

Q. This would be the back rear of his vehicle, correct?

A. Yes, sir.

Q. Close up of that again with a box of medicines and a bunch of Clemson shirts?

A. Yes, sir.

Q. That's that same box?

A. Yes, sir.

Q. This would be a photo of the gate behind his car?

A. Yes, sir.
Q. Open car with lots of markers?
A. Yes, sir.
Q. And that would be projectile on the ground, looks like item 25, marker 25?
A. Yes, sir. I think we called it a fragment.
Q. Fragment?
A. Yes, sir.
Q. Groupings of markings and shell casings and fragments?
A. Yes, sir.
Q. Close up of that same fragment? Projectile. We'll call that a projectile?
A. A projectile. Yes, sir.
Q. This is a shot you took of a live unfired .223 round, correct?
A. Yes, sir.
Q. Officer Kathmann's markers of his shell casings probably already in evidence?
A. Yes, sir.
Q. You recognize this handwritten document of yours?
A. Yes, sir.
Q. This would be your notations about the condition of Officer Florida's weapons and magazines when they were retrieved by you?

A. Yes, sir. That's our chain of custody.

Q. Chain of custody. And this is a diagram I think you made originally in this case. Do you recognize that?

A. Yes, sir.

Q. It's very similar to that one, but that has some additional notations and is somewhat prettier. You made this, right?

A. Yes, sir.

MR. L. SHEALEY: Your Honor, at this time the defense would move number 39 through 70 into evidence.

MR. HUBBARD: No objection.

THE COURT: Defendant's Exhibit 39 through 70 are admitted into evidence.

BY MR. L. SHEALEY:

Q. Investigator Tankersley, I really appreciate your job. I think it's fascinating recreating a scene. I think we can probably agree on a couple things about why it's important. Sometimes you've investigated very complicated and chaotic shooting scenes, correct?

A. Yes, sir.

Q. And so you have training and some tools at your disposal to try to do the best you can with the help of science to help determine what happened, how this thing may have occurred, correct?

A. Yes, sir.

Q. Because a lot of times in lots of various scenes you have conflicting versions of events, correct?

A. Yes, sir.

Q. But some things cannot lie, right?

A. Yes, sir.

Q. You know, a fired shell casing tells you something, doesn't it?

A. Yes, sir.

Q. A projectile was fired out of that. If it matches the gun, it's very likely it was used in that scene, correct?

A. Yes, sir.

Q. Numbers don't lie. Basic math doesn't lie, right?

A. Yes, sir.

Q. And you've done a lot of measurements about distance. That's just another type of math. That doesn't lie, right?

A. Yes, sir.

Q. People lie or have the capacity to lie, right?

A. Yes, sir.

Q. So that's why it's really important to have a crime scene set up, right?

A. Yes, sir.

Q. So let's talk about some of the things you uncovered and we can use this newer, you can see this, we can use this

newer one, but there's probably some things we can agree on. Firstly, there's a lot of pictures of guns in evidence and actual guns in evidence, right?

A. Yes, sir.

Q. Let's see if we can agree on this. Based on your investigation of this scene, I mean, do you have any belief that any more than just two of those guns possessed by Barry Jones were fired that day?

A. No more than two.

Q. And that would be the rifle with the .223 caliber, right?

A. Yes, sir.

Q. And that would be the .38 revolver?

A. Yes, sir.

Q. Of all the guns we have collected in evidence and presented, you haven't analyzed or assessed that any of those weapons were fired in that shootout scene at that location?

A. No, sir. That's correct.

Q. Okay. Let's talk about some other things I imagine we can certainly agree on. Looking -- Do you have your report with you?

A. Yes, sir. I do.

Q. I'm sure you're very familiar with it in preparing for testimony, but I'm just looking at your notes which is kind of a detailed page by page of what your actions are.

Referring specifically on page 17. So you get a call in at 8:23 by the operations desk saying that SLED is being requested to come out and help investigate this, right?

A. Yes, sir.

Q. And any time there's an officer involved shooting, SLED does frequently get called out, correct?

A. Yes, sir.

Q. SLED has resources, manpower, they're more independent and objective, right?

A. Yes, sir.

Q. It wouldn't make a lot of sense for Aiken County Sheriff's Office to investigate itself potentially on an officer involved shooting involving an officer with Aiken County, or Edgefield County Sheriff's Office, right?

A. Yes, sir.

Q. So I'm looking at your notes. You drive out there and you're being essentially debriefed, I think; is that right?

A. Yes, sir.

Q. And you're meeting with looks like Captain Wash via a phone call. You've got special agent Melinda Worley as well as providing information to you?

A. Yes, sir.

Q. I'm looking at your report. It says that you were, the information you had was that the subject backed his

vehicle into an alcove and fired upon the officers when they stopped, right?

A. Yes, sir.

Q. And you know from this scene that right there is the stopping, resting place of Officer Florida, right?

A. Yes, sir.

Q. Actually, I don't know if the jury can see this, but you know that this is the stopping resting place of Officer Florida?

A. Yes, sir.

Q. And that is the stopping, resting place of Officer Kathmann?

A. Yes, sir.

Q. And this is the position of my client's vehicle, right?

A. Yes, sir.

Q. So you got that information, but then you would be debriefed a little further and the information would change somewhat. I'm referring you to the bottom of that page where you arrive on scene at approximately 11:30 p.m. Are you with me?

A. Yes, sir.

Q. And again, you're talking to Captain Wash, Lieutenant Horton and you've got some additional information and in the very last sentence one of the things you're

learning is that the subject has eventually backed his vehicle into the alcove and it's reported that when the deputy with the Edgefield County Sheriff's Office drove by, the subject began firing, right?

A. Yes, sir.

Q. So that's a little different than what you first heard?

A. Yes, sir.

Q. Not that once he stopped, but as he's driving by, right?

A. Yes, sir.

Q. And throughout your association with this case and being an investigator for the crime scene side of it, did you ever have a chance to review the dashcam footage of this event?

A. No, sir.

Q. Not ever in the entire time of this case?

A. No, sir.

Q. Okay. So, well, if we're looking at this, I'm gonna put up your original diagram just so the jury can see everything, that driving by, you agree that the cars were coming down Log Creek Road from left to right there, right?

A. Yes, sir.

Q. So you're driving, driving, driving, you're driving by and then ultimately that stops, correct?

A. Yes, sir.

Q. I want to talk to you about one of your jobs. First, before you actually went out to the scene, you went to meet with the officers involved and document them, correct?

A. Yes, sir. That's correct.

Q. Took photos of them, kind of what they were wearing, if they had any injuries. You also retrieved any weapons that might have been used in this event, correct?

A. Yes, sir.

Q. So I want to turn your attention to, well, you might not need to look at your report, but tell me if you do. Let's talk about Officer Kathmann. He's the Edgefield officer that was trailing Edgefield town in the white vehicle, right?

A. Yes, sir.

Q. And when you took his gun from him, you had a couple different magazines, but the magazine that was in the gun had two cartridges live in it and one in the chamber, right?

A. Yes, sir.

Q. So that's three, two plus one, three?

A. Yes, sir.

Q. Math, right? Science. And when you went out there to the scene and we looked at all of these casings that were collected right there, those were all .40 caliber casings consistent with his weapon, his service weapon, right?

A. Yes, sir. That's correct.

Q. And you collected 12 shell casings right there, right?

A. Yes, sir.

Q. Markers 7 through 17, correct?

A. Yes, sir.

Q. So 12 plus three equals 15?

A. I'm sorry. It's 7 through 18.

Q. I missed one, but there's 12 out there?

A. Yes, sir.

Q. And we know there's three, one in the chamber and two still is the magazine, right?

A. Yes, sir.

Q. So if we do the math on that, that's 15, correct?

A. That's correct.

Q. So that magazine capacity is 15 of that Glock .40 caliber?

A. Yes, sir.

Q. Okay. So if Mr. Kathmann were to load a fully loaded magazine and starts shooting and shot 12 times out there, that would be consistent with the weapon in the way it was recovered with the magazine evidence?

A. Yes, sir.

Q. Okay. Let's talk about my client Barry. Now, you already told us that the only two weapons really involved in this are the .223, people call it an AR, but I think it's

actually a PA, but it's a high powered rifle that shoots .223, right?

A. Yes, sir.

Q. We know that that rifle fired 12 shell casings out there that day, correct?

A. Yes, sir.

Q. There's nine on the ground identified by markers, right?

A. Yes, sir.

Q. And then Mr. Hubbard showed you three that had kind of gone into the floorboard right next to his driver's side?

A. Yes, sir.

Q. That would be 12?

A. Yes, sir.

Q. Okay. And you know that that magazine and that weapon basically was recovered as well and it had one in the chamber, correct?

A. Yes, sir.

Q. And it also had a total of 17 unfired .223 rounds in the magazine?

A. I never unloaded the magazine. I don't actually know how many were in there.

Q. You don't?

A. No, sir. We wouldn't have -- Crime scene would not have documented the rounds in that magazine. I believe our

firearms department would have done that.

Q. Well, bear with me. Bear with me. I want to show you this SLED document that references the Palmetto State Armory model PA-15.

MR. HUBBARD: Your Honor, I don't know what that is, but it's not something that she generated. If it's from another expert at SLED or whatever, that expert needs to be the one on the stand.

THE COURT: Does she recognize the document first of all? I don't know.

BY MR. L. SHEALEY:

Q. Does this say SLED on the top of it?

A. It does, but that's the firearms department report. I wouldn't have had anything to do with that report. I wouldn't have generated that one.

Q. So you don't feel comfortable referring to this as an expert? You don't feel comfortable referring to another expert, a firearms expert?

A. No, sir. Firearms department is very different than crime scene.

Q. So you would challenge his analysis?

MR. HUBBARD: Your Honor, I object. She's answered.

THE COURT: To the extent she can answer that question, she can answer the question. Does she challenge it?

BY MR. L. SHEALEY:

Q. You wouldn't disagree with those findings, would you?

A. No.

Q. So if he said --

MR. HUBBARD: Your Honor, I object.

THE COURT: Okay. That's fine. I don't think you need to get into what --

MR. L. SHEALEY: Are you precluding me from asking the question?

THE COURT: No, no, no. I'm not trying to do anything. Come on up.

(Side bar off the record.)

THE COURT: Ladies and gentlemen, we'll take a short break. I'll get you right back in here. Please don't discuss the case.

(Whereupon, the jury entered the jury room at 11:58 a.m.)

(Short break.)

THE COURT: We just took a recess. The question I believe from defense counsel to the witness had to do with a separate SLED report done by a separate person at SLED. As I recall, the witness responded that she didn't have any knowledge or that was outside the work she did on the case. I believe defense counsel wants to inquire

Q. And what is his count?

A. There are 17 unfired in the magazine.

THE COURT: All right. Subject to objection.

MR. L. SHEALEY: I don't know if I can do it that good with the jury.

MR. HUBBARD: Your Honor, I understand.

THE COURT: Okay.

MR. L. SHEALEY: That's all I want. I was surprised she didn't know the answer.

THE COURT: That's neither here nor there. We'll get that number. Bring the jury back in?

MR. L. SHEALEY: Yes.

THE COURT: Let's bring them back in.

(Whereupon, the jury entered the courtroom at 12:15 p.m.)

THE COURT: Ladies and gentlemen of the jury, please be seated. We'll pick up where we left off before the break.

MR. L. SHEALEY: Yes, sir.

BY MR. L. SHEALEY:

Q. All right. Agent Tankersley, I believe we were discussing my client's rifle and his magazine and the crime scene, right?

A. Yes, sir.

Q. And you had advised that you had collected and

documented 12 fired shell casings associated with this rifle, right?

A. Yes, sir.

Q. And that when you recovered his rifle, it had one in the chamber, correct?

A. Yes, sir.

Q. All right. Now, I was asking you a question regarding what was remaining in the magazine of his rifle. That was the magazine in his rifle, right?

A. Yes, sir.

Q. And you informed me that you did not actually count those remaining live bullets?

A. Yes, sir. That's correct.

Q. And I was referring you, and I want to show you the SLED report done by analyst Greer that you had a chance to review at the break. Does this document contain a count regarding the live rounds that were left in his magazine?

A. Yes, sir. It does.

Q. And what is that number?

A. 17.

Q. 17. Thank you. So if we're doing math again, we have 17 live rounds in his magazine?

A. Yes, sir.

Q. Plus one in the chamber is 18, correct?

A. Yes, sir.

Q. Plus 12 fired that are on the ground and in the car, correct?

A. Yes, sir.

Q. So if we add 18 plus 12, that's 30, right?

A. Yes, sir.

Q. Do you have information on the capacity of that magazine as holding 30?

A. No, sir.

Q. You don't have any information on that?

A. No, sir.

Q. You didn't do that analysis?

A. No, sir.

Q. Okay. Now, you also, when you met with Officers Florida and Kathmann you documented their clothing, you documented their firearms, you took their firearms, correct?

A. Yes, sir.

Q. All as part of evidence preservation?

A. Yes, sir.

Q. And when you took Officer Florida's weapon, the weapon he used had nine live rounds in it plus still one in the chamber, correct?

A. Yes, sir.

Q. Okay. And when you take these items from them, do you talk to them about how much ammo they kept or whether they kept one in the chamber or not?

A. Yes, sir. We do ask them that.

Q. Okay. So Officer Florida would have told you at that time that he kept his service weapon fully loaded with 15 rounds plus one in the chamber?

A. Yes, sir.

Q. Okay. So what we know from him returning that weapon to you with nine live rounds and one in the chamber, that's 10, right?

A. Yes, sir.

Q. When you have a full magazine of 15 plus one in the chamber, that's 16, right?

A. Yes, sir.

Q. So what we know is that he had the capacity to shoot 16 and he returned the weapon with 10, correct?

A. Yes, sir.

Q. So what you as a crime scene investigator, crime scene analyst understand at that point is that Officer Florida shot six times?

A. Yes, sir.

Q. Okay. But what we also know is that based on markers 3, 4, 5 and 6 that you only recovered four shell casings?

A. Yes, sir. That's correct.

Q. Okay. So it's fair to say that Officer Kathmann's shell casings match what the scene and are consistent with

what was returned to him, to you from him?

A. Yes, sir.

Q. But you know that we're missing two shell casings from Officer Florida?

A. Yes, sir.

Q. And that would be an item of interest to you, would it not?

A. Yes, sir.

Q. We also know that, now, we have this live .223 round out there associated with my client, right?

A. Yes, sir.

Q. But the math we've already done, fired 12 plus 18 in it that would equal 30. We know that, right?

A. Yes, sir.

Q. Although you don't know necessarily what his magazine capacity would be?

A. That's right.

Q. Now, you have looked at Officer Kathmann's car extensively and you noted no defects in that, right?

A. No, sir. Not in Officer Kathmann's.

Q. No bullet holes?

A. Not that we saw.

Q. Okay. No evidence that you could see of, you didn't find any bullets or projectiles in the trees or anything like that?

A. No, sir.

Q. Okay. Now, you noted numerous defects with my client's car?

A. Yes, sir.

Q. You found -- Well, let's look. Also of interest in this, that would be a rather large hole into his driver's door, correct?

A. Yes, sir.

Q. And this defense number 42 would be an interior view of that same door with my little laser pointer that would indicate where that bullet entered and went through that door, correct?

A. Yes, sir.

Q. And this would be an even closer view of that same hole, correct?

A. Yes, sir.

Q. And you have got number 29 is what you call a projectile, correct?

THE WITNESS: Your Honor, my I refer to my notes?

THE COURT: Sure.

BY MR. L. SHEALEY:

Q. Please.

A. Okay. Yes, sir. 29 is a projectile.

Q. Okay. And that's right at his door?

A. Yes, sir.

Q. And this is just a closer up view of that same projectile and it's got red on it?

A. Yes, sir.

Q. Consistent with blood?

A. Yes. That's correct.

Q. And that belongs to a .40 caliber bullet, correct?

A. That I don't know.

Q. You don't know but --

A. No, sir.

Q. -- looking at it, you know, well, tell me if you do know. Can you tell if that's a buckshot pellet or not?

A. No, sir.

Q. You can't do that?

A. No, sir.

Q. Crime scene expert you can't do that?

A. No, sir.

Q. Okay. Now, I want to show you one other thing. You located a projectile in his, Barry's back rear of his vehicle, right?

A. Yes, sir.

Q. And you tore it out and kind of went on a little bit of a fishing hunt there and ultimately pulled that piece of metal out. Can you tell me if that is consistent with buckshot?

A. No, sir.

Q. You don't have the ability to do that?

A. No, sir.

Q. But you know a hole went in the back seat and you thought there might be something, a projectile or some type of metal from a weapon, correct?

A. Yes, sir.

Q. Now, I want to show you what the State entered into evidence yesterday. We've already talked about how you got somewhat evolving information when you first were briefed on the scene, right?

A. Yes, sir.

Q. The first thing you learned was that the shooting, Barry shot at the officer once he stopped his car, right?

A. Yes, sir.

Q. Again, we're talking about that's the stopped location of the car?

A. Yes, sir.

Q. A much more wide angle, correct?

A. Yes, sir.

Q. Then you learned that the shooting started when the Officer Florida was driving by, correct?

A. Yes, sir. That's what I was advised when I was on scene.

Q. And so, you know, that doesn't tell you at what point he's driving by, does it?

A. No, sir.

Q. Okay. But you know it's different information than just being stopped, a resting vehicle?

A. Yes, sir.

Q. Okay. Now, the State introduced some evidence yesterday. Now, you would agree that that is a defect, correct?

A. Yes, sir.

Q. And it looks like the entrance of that bullet, let's assume it's from my client from the .223, that Officer Florida's vehicle went that way and then ripped through that frame of that vehicle, right?

A. Yes, sir. It appears that way.

Q. I think in your report, if you turn with me, you might know the answer, you may not have to refer to your report, but I'm looking kind of specifically at page 20 of your report.

A. Yes, sir.

Q. Where you note defect A perforated rear driver's side door. Is that where you're talking about?

A. Yes, sir.

Q. And you note defect A1 through A3 were observed to the interior side of the rear driver's side door the B pillar. That's the B pillar, right?

A. Yes, sir.

Q. And the steering wheel?
A. Yes, sir.
Q. Here's another example of that more close up and you can see the direction the way that bullet traveled, correct?
A. Yes, sir.
Q. Do you have the knowledge and training to talk about the power of a .223 rifle round or is that outside of your expertise?
A. That's outside my expertise.
Q. Okay. But I guess for right here we can see a big ol' hole that went that way, right?
A. Yes, sir.
Q. And ultimately, here's a closer up. That's part of that same, right?
A. Yes, sir.
Q. And this is an interesting angle where again from a slightly different angle, but you took this photo, correct?
A. Yes, sir.
Q. That hole and it ends up as defects on the steering wheel, right?
A. Yes, sir.
Q. And ultimately that's the defect on the steering wheel?
A. Yes, sir.
Q. Right there. But what you know is that that hole,

that bullet entered and ripped right across the driver's seat of that interceptor?

A. Yes, sir. It appears that way.

Q. I mean, literally from right behind to right to the steering wheel, correct?

A. Yes, sir.

Q. You didn't note any blood in Officer Florida's vehicle, did you?

A. No, sir.

Q. Now, one thing, I want to ask you about this -- Well, let me talk more about what you documented. I'm looking through your report. We have looked a lot at what was in his car. Lots of guns, correct?

A. Yes, sir.

Q. Lots of Clemson shirts, right?

A. Yes, sir.

Q. I think over ten grand in cash in a safe?

A. Yes, sir.

Q. Toiletry items?

A. Yes, sir.

Q. Dog food box?

A. Yes, sir.

Q. Actual food on the front passenger driver area?

A. Yes, sir.

Q. We've got a wallet, correct?

A. That was taken off of him. Yes, sir.
Q. Okay. He had a whole bunch of mail?
A. Yes, sir.
Q. He had insurance cards?
A. I don't recall insurance cards.
Q. Turn to page 22 of your report under additional processing right middle of that paragraph, insurance cards?
A. Yes, sir. That would have been in the wallet that was taken off of him.
Q. Concealed weapons permit?
A. Yes, sir. In the wallet.
Q. Debit cards?
A. Yes, sir.
Q. 794 in cash?
A. Yes, sir.
Q. Now, in talking to you again about this hole that ripped through Officer Florida's vehicle, with your crime scene investigation training one of the tools that you have at your disposal are the use of trajectory rods, right?
A. Yes, sir. That's correct.
Q. Okay. And you did not do that at all in this case, right?
A. No, sir.
Q. And just so that the jury understands what a trajectory rod is, we'll do a crude demonstration. So any

time you have a hole particularly in a vehicle or anything else, there's a path of travel with that bullet, right?

A. Yes, sir.

Q. So in kind of in laymen's terms, a trajectory rod allows you to determine the path of travel of that bullet, right?

A. It can sometimes. Yes.

Q. And so whether it's straight on, whether it's at an angle, whether it's right to left, up to down, you agree with that?

A. Yes, sir.

Q. Okay. And that is, you would agree that's a very basic tool that you have at your disposal to do if you choose?

A. Yes, sir.

Q. Okay. So you could have done that in this case to determine the exact angle from which that bullet entered Officer Florida's vehicle, right?

A. Yes, sir. We could have.

Q. Now, is that your call or is that the lead agent's call?

A. No, sir. That would have been my call.

Q. Okay. You're just being told a guy pulled in a clearing, shot at police officers, you didn't think it was really worth trajectory rods?

A. No, sir. I wouldn't have deemed trajectory rods necessary because you can see the flight path of the bullet through the defect.

Q. Okay. But you would agree that that is not consistent with shooting straight ahead at someone right in front of you, right?

A. That angle is not consistent with 90 degrees. No.

Q. Okay. But if you had entered a trajectory rod really into every defect both in my client's car and Officer Florida's car, we would have a lot more information, right?

A. We wouldn't have been able to use trajectory rods for every defect. There are reasons, there are qualifications where defects can meet whether or not you can use a trajectory rod to get an accurate reading of a bullet path.

Q. But you certainly could have for that?

A. Yes, sir, for that one.

Q. And certainly there were some that were in my client's car that were eligible?

A. At least one right now that I can think of. Yes, sir.

Q. But you can certainly agree that the big ol' hole right in his driver's door would be eligible for a trajectory rod?

A. It would have been eligible, but I chose not to because you can see the path of the bullet through the door.

Q. You don't mention anything in your report about your opinions about the path of the bullet?

A. Not my opinions. No.

Q. At SLED you have lots of tools at your disposal, would you agree?

A. Yes, sir.

Q. Lots of resources. Not only do you have the ability to stick a rod through a hole, but SLED has the ability to make a working three D model off of trajectory rod analysis, right?

A. Yes. We have that option.

Q. Okay. And I've got cases where it's baffling, but it essentially creates a whole diagram with lines of sight and angle especially in a complex crime scene, right?

A. Yes, sir.

Q. I guess there's some kind of camera attached to the rod to create a whole analysis?

A. Yes, sir. It's called Nafara 3D scanner. It is a camera of sorts on a tripod.

Q. Okay. You chose, again, you didn't do anything like that in this case?

A. No, sir. We didn't.

Q. All right. So, okay, just real quick. That's one clear bullet strike, right?

A. Yes, sir.

Q. Right through the B pillar, goes right across the driver's seat and hits the steering wheel, right?

A. Yes, sir.

Q. We also noted a defect to the back of Officer Florida's car, correct?

A. Yes, sir.

Q. That basically shattered his rear window of his vehicle?

A. Yes, sir. That's correct.

Q. And that was another notable defect?

A. Yes, sir.

Q. But you did not note 12 separate and identifiable defects associated with the 12 shell casings, right?

A. No, sir.

Q. So you've got a lot of missed shots, correct?

A. Yes, sir.

Q. And in your opinion two shots that hit that vehicle?

A. Yes, sir.

MR. L. SHEALEY: Nothing else further at this time.

THE COURT: Redirect.

MR. HUBBARD: Just a few.

REDIRECT EXAMINATION

BY MR. HUBBARD:

Q. Officer Tankersley, how many spent casings did you

find in Sergeant Florida's vehicle?

A. In Sergeant Florida's vehicle none.

Q. None. Did you find any casings that would indicate he fired from within his vehicle?

A. No, sir.

Q. Okay. Now, you mentioned I think on cross that Sergeant Florida shot six times?

A. Yes, sir.

Q. That's based on the count of how many rounds remained in his magazine, correct?

A. Yes, sir.

Q. And the live round he had in the chamber. Now, that Glock, that Glock .40 holds 15 in the magazine?

A. Yes, sir.

Q. And one in the chamber?

A. Yes, sir.

Q. The same is true with Kathmann, right?

A. Yes, sir.

Q. Now, with Kathmann you found a total of 15?

A. 12 on scene and three with his gun, yes, sir.

Q. So with Kathmann if we're talking about mystery rounds, we have a mystery round with him as well?

A. Yes, sir.

Q. Okay. So it's not just Sergeant Florida. We have a mystery round with Officer Kathmann. With Florida, though,

that's assuming the information he gave is correct on I had it fully loaded?

A. Yes, sir. That's correct.

Q. And if he did, then we are missing six, right?

A. Yes, sir.

Q. Or that six shots were fired, right?

A. Yes, sir.

Q. You can account for four of them if it's fully loaded?

A. Yes, sir.

Q. If he's down two but thinks he's fully loaded, there's going to be a discrepancy?

A. Yes, sir.

Q. Okay. But it doesn't mean he necessarily fired those rounds. It could be one or the other?

A. That's correct.

Q. Okay. But no alarms for you, no red flags there. You just document, correct?

A. Yes, sir. That's correct.

Q. And we saw the damage to the front seat. You're not in a position to say if someone were sitting in that car they would have been hit or not, would you?

A. No, sir.

Q. That's not something you can make that call on?

A. No, sir.

Q. Even with all your training?
A. Yes, sir.
Q. And then in the back, there was damage to the back. I failed to show you that, but you're the one that took the photographs of the back window of the Explorer with the broken window, correct?
A. Yes, sir. That's correct.
Q. And even without me digging it out, you would agree those were right close, that damage to this Explorer, Sergeant Florida's Explorer was to the back window --
A. Yes, sir.
Q. -- right near where he was standing?
A. Yes, sir. It was on the passenger side I believe.
Q. You would agree with me there was no rounds --
MR. L. SHEALEY: Object to leading at this point. I've let it go a little bit.
MR. HUBBARD: Okay. I'll rephrase.
THE COURT: Very well.
BY MR. HUBBARD:
Q. What, if any, defects or shots did you see in the passenger side, rear passenger side of Sergeant Florida's vehicle?
A. None.
Q. So it was only in the driver's side?
A. The one in the driver's side and the one in the back

window.

Q. Okay. The two places where you would know Sergeant Florida was?

A. Yes, sir.

MR. HUBBARD: I have no further questions.

THE COURT: Recross.

MR. L. SHEALEY: Just briefly.

RECROSS EXAMINATION

BY MR. L. SHEALEY:

Q. We talked about how you document these officers, you take their guns, you take their magazine, they tell you what their practice is to keep loaded, and you agree Florida had 15 plus one, correct?

A. I can't testify to what was in his gun at the time.

Q. No. But that's what he advised you as you're doing your job?

A. Yes, sir.

Q. And Officer Kathmann just had a fully loaded 15 round magazine, right?

A. Yes, sir.

MR. L. SHEALEY: Okay.

THE COURT: Okay. The witness may step down. All right, ladies and gentlemen, we're gonna take our lunch break at this time. It's 12:35. Be back in the jury

Thereupon,

JANICE EDWARDS ROSS, M.D.

after having been first duly sworn, testified as follows,

THE CLERK: Please have a seat. Once you're seated, state your full name spelling your last please.

THE WITNESS: Janice Edwards Ross, R-o-s-s.

DIRECT EXAMINATION

BY MR. HUBBARD:

Q. Dr. Ross, thank you for being here today.

A. You're welcome.

Q. Dr. Ross, what do you do?

A. I'm a forensic pathologist. I do autopsies for the coroners.

Q. And what is a forensic pathologist?

A. A forensic pathologist is a doctor, so I've been through four years of college, four years of medical school, over five years of training in the field of pathology. The field of pathology we learn how to identify and document causes of death by doing an autopsy. We also identify cancers and various diseases using the microscope and using blood work, et cetera. In forensic pathology we further learn more about patterns of injury in gunshot wounds, stab wounds, whatnot and identifying homicides, suicides, accidents and a lot of natural deaths.

Q. And you've had obviously education and extensive

training. How many autopsies have you performed over the years?

A. Approximately 15,000.

Q. 15,000?

A. Yes.

MR. HUBBARD: Your Honor, at this time I offer Dr. Ross as an expert in forensic pathology.

MR. SECORD: No objection.

THE COURT: All right. Ladies and gentlemen, this witness will be qualified in the area of forensic pathology and can give opinion testimony in that area. That does not mean you must accept the opinion, however, it is evidence for you to use in any way you see fit.

MR. HUBBARD: Thank you, Your Honor.

BY MR. HUBBARD:

Q. Dr. Ross, on May 9th of 2018 do you recall doing an autopsy on Milledge Hall?

A. Yes.

Q. And will you tell the jury how you go about, when you're doing an autopsy, how you start, your external review and how you proceed?

A. Yes. At this time I was working in Newberry, South Carolina. We scheduled the autopsy to be done at the hospital morgue. The patient is brought to us in a body bag. We identify the body bag. I open it and look at the patient

externally clothed and unclothed. In this case there were some obvious gunshot wounds so we further did x-ray examination to identify whether or not bullets were still present.

Q. Did you find any present inside?

A. Yes.

Q. Okay. How many?

A. Two.

Q. Okay. How many bullet wounds did you see on Mr. Hall's body?

A. Two entrance wounds.

Q. Two entrance wounds. Were one of those or both of those fatal?

A. One was definitely fatal. The second one was potentially fatal.

Q. Can you talk about the first one? I know in your report you have it listed as number 1. Can you talk about that particular injury and what you found?

A. Yes. We number the bullet wounds according to front and back in order just for our organization. This wound went into the abdomen just to the left of the umbilicus, the belly button, it then continued towards the back and towards the right and downward and on its, in its path it lacerated the aorta which is a big hose filled with blood, the blood coming from the heart down to the different organs so that caused a

lot of hemorrhage.

Q. Okay. Dr. Ross, with the Court's permission would you mind showing the jury where those wounds are and you can use me as an example if the Court permits.

THE COURT: The witness may step down. Just, doctor, if you can just keep your voice up so the court reporter can hear you.

THE WITNESS: Yes, sir.

BY MR. HUBBARD:

Q. Dr. Ross, if you can just show the jury where on the body of Milledge Hall you saw the first entrance wound we're talking about?

A. That one is right here on the left abdomen, stomach, whichever you want to identify with, and it was found underneath the skin in about the waistband area on the right just above the buttocks.

Q. And then there is a second wound?

A. Yes.

Q. Can you show the jury since you're up here where that was?

A. Yes. That was on the back of the left arm right about here and that bullet was found in the shoulder of the left shoulder.

Q. So it traveled upwards?

A. Yes.

Q. Okay. Thank you, doctor. And, doctor, I believe you've always said bullets travel straight?

A. Correct.

Q. But people move and that accounts for angles and things like that?

A. Yes.

Q. That second shot to the elbow where it's going upward, would that be consistent with somebody falling back and somebody shot here?

A. Yes.

Q. All right. And then that first shot also movement maybe stepping back or falling back to account for that angle as well?

A. Yes.

Q. Now, let me ask you this: Just focusing on these two, did you do a diagram of this as well?

A. Yes.

Q. I want to show you State's 162.

A. Yes. That's the diagram I made at the time of the autopsy on Milledge Hall.

MR. HUBBARD: I offer this into evidence.

MR. SECORD: No objection.

THE COURT: State's Exhibit 162 admitted into evidence.

BY MR. HUBBARD:

Q. Is this something you do, Dr. Ross, on all your cases marking injuries you see, scars you see, and then, of course, the obvious wounds?

A. Yes.

Q. And that's part of your external examination?

A. Yes.

Q. And the wound that you pointed out on me, is that this wound right here?

A. Correct.

Q. And then on the backside you say it came out or it's under the skin back around here?

A. That's correct.

Q. And then the elbow wound, entrance wound here?

A. Yes.

Q. And it traveled up the shoulder and lodged in the shoulder?

A. Yes.

Q. Let me ask you this about Mr. Hall. What kind of condition was his heart in?

A. He had bad coronary artery disease, hardening of the arteries. There are three main coronary arteries that serve the heart muscle itself with blood supply and two of those three had severe occlusions. Now, he did have, he had had bypass surgery to help the blood go around those occlusions and those were open, but he also had in his heart muscle

itself he had two areas of scarring indicating that he had two previous small heart attacks.

Q. Okay. Those occlusions that we're talking about that lead to this bypass, I think you noted one is 95 percent blockage and the other 80 percent blockage, does that sound right?

A. Yes.

Q. Okay. And you could see from your internal examination he had had bypass surgery?

A. Yes.

Q. But he also had that evidence of muscle damage from two prior heart attacks?

A. That's correct.

Q. Now, did you, based on your examination of him and specifically as to the gunshot wounds, form an opinion to a reasonable degree of medical certainty as to the cause of his death?

A. Yes.

Q. And what was that?

A. That was the exsanguination which means to bleed out due to laceration of the aorta due to a gunshot wound of the abdomen.

Q. So he bled to death?

A. Correct.

Q. And how did you, or did you also come to a

reasonable degree of medical certainty reach an opinion as to the manner of death?

A. Yes.

Q. And how did you classify the manner of his death?

A. Homicide.

MR. HUBBARD: Homicide. Dr. Ross, I believe that's all I have for you. Thank you so much.

THE COURT: Cross examination.

MR. SECORD: May it please the Court.

THE COURT: Yes, sir.

CROSS EXAMINATION

BY MR. SECORD:

Q. Good afternoon, Dr. Ross.

A. Good afternoon.

Q. I just have a few quick questions for you. Part of the process of conducting an autopsy is measuring and weighing the decedent, correct?

A. Yes.

Q. And do you recall in this case the measurement and weight that you took of Mr. Hall?

A. Yes. He was six feet one inch tall. We didn't have a scale in the morgue so we estimated his weight as approximately 300 pounds.

Q. Okay. And that's a measurement you did on your own based on the fact that you've done 15,000 autopsies in your

career?

A. Correct.

Q. Okay. Another thing that I believe you do as part of the autopsy process is taking samples from the deceased; is that correct?

A. Yes.

Q. Bodily fluids, blood, urine, things like that?

A. Right.

Q. And the purpose of that is that you turn over those samples to a lab who does toxicology testing; is that correct?

A. That's correct.

Q. And is that for purposes of identifying the existence of either drugs or alcohol in the decedent's system at the time they died?

A. Yes.

Q. Okay. And based on the health conditions that you discussed with Solicitor Hubbard that you observed in Mr. Hall during the course of the autopsy, are those conditions that would be exacerbated by the consumption of alcohol?

A. Not necessarily.

Q. Okay. And I think the only other thing I wanted to ask you is the finding of the cause of death was I think you said homicide; is that correct?

A. The manner of death is homicide.

Q. Manner?
A. Yes.
Q. Manner of death is homicide?
A. Yes, sir.
Q. Which in laymen's terms means one person killed another person, right?
A. Yes. Death at the hands or neglect of another. Yes.
Q. But it doesn't indicate anything about the intent of the person who killed the decedent, correct?
A. Correct.
MR. SECORD: Thank you, Dr. Ross. I appreciate it.
MR. HUBBARD: One quick follow up.

REDIRECT EXAMINATION

BY MR. HUBBARD:

Q. You mentioned his height and size, big man, but also his physical condition. Would you as a doctor say this is a man who is no condition to engage in a physical altercation?
A. Unlikely. Yes.
MR. HUBBARD: Okay. Thank you.
THE COURT: Any recross?
MR. SECORD: No, sir.
THE COURT: May the witness be excused?
MR. HUBBARD: May the doctor be excused?

THE COURT: Without objection from defense counsel.

MR. SECORD: No objection.

MR. HUBBARD: Thank you, Dr. Ross.

MR. McNAIR: Your Honor, the State calls Joe Mims.

Thereupon,

JOSEPH A. MIMS, JUNIOR

after having been first duly sworn, testified as follows,

THE CLERK: Please have a seat. Once you're seated, state your full name spelling your last please.

THE WITNESS: Joe A. Mims, Junior.

DIRECT EXAMINATION

BY MR. McNAIR:

Q. Would you spe1l your last name please?

A. Mims, M-i-m-s.

Q. How are you doing today, Mr. Mims?

A. Fine, sir.

Q. Tell the jury were you're from?

A. I'm from Edgefield all my life.

Q. That's where you grew up?

A. Yes, sir.

Q. Tell the jury how you know Barry Jones?

A. I transferred over to Wardlaw, went to school. He and I went to high school together. Played some football, basketball, baseball together, he graduated and I transferred over to Strom Thurmond High School.

Q. So you knew him in high school?
A. Yes, sir.
Q. After high school, did you stay in contact with him?
A. No, sir.
Q. At some point did y'all reconnect?
A. Yes, sir.
Q. Where did y'all reconnect?
A. At a pub on Broad Street probably, I don't know, 25, 30 years later.
Q. Okay. Do you remember approximately what year that was?
A. I'm wanting to say around maybe 2015, 2016, maybe '17. I'm not real sure.
Q. All right. And when y'all reconnected, did y'all exchange phone numbers?
A. Yes, sir. We talked, exchanged phone numbers and, you know, asked about each other. That's the basic conversation.
Q. So after that, after y'all reconnected, did y'all stay in contact or hang out a good bit after that?
A. No, sir. It was not -- To my knowledge we would only run into each other by chance and I saw him, I think, one other time in the pub on Broad Street.
Q. At some point did you see him in Edgefield?

A. Yes, sir.
Q. Where did you first see him back in Edgefield County?
A. at the Johnston Pool Hall.
Q. All right. And did you have a conversation on that occasion?
A. Yeah. He just happened to walk in. I saw him. He and I had a conversation. He just wanted to know did I have the same phone. I said, yeah, I got the same phone number, he looked up his cell phone and he said, damn, I have your number. Excuse the language.
Q. Okay. So he had the same cell phone number?
A. Sir?
Q. He had the same cell phone number?
A. Yes, sir.
Q. Was that in 2018 when you bumped into him at the Johnston Pool Room do you recall?
A. It may have been 2017 or 2018. I'm not real sure. Just whenever Milledge took over.
Q. Okay. Now, let's talk about May 7th of 2018 and that afternoon. Where were you that day?
A. I was at the pub on Broad Street.
Q. And did you receive a text from Mr. Jones?
A. Yes, sir.
Q. And what was his initial text about?

A. I think it, he was asking me where I was at or what I was doing and I told him I was at the pub on Broad Street.

Q. Okay. And did he tell you where he was?

A. I don't think he did to be honest with you.

Q. Okay. Later that afternoon -- Let me back up a little bit. Do you know Milledge Hall?

A. Sir?

Q. Do you know Milledge Hall?

A. Yes, sir.

Q. How do you know Milledge?

A. Well, I've been knowing Milledge through the pool room for 20, 25 years or better at the pool room. That's how he and I met.

Q. Okay. So you've known him a long time?

A. Yes, sir.

Q. Did he have a nickname?

A. Yes, sir.

Q. What was that?

A. Well, I pronounce it B'Boy or Big Boy, I'm not sure, but it's always been B'Boy, I thought.

Q. Okay.

A. But always just called him Milledge.

Q. Okay. Now, on the afternoon of May 7th of 2018, did you receive a text from Mr. Jones about B'Boy?

A. Yes, sir.

Q. And what was his text to you?
A. About what he said about him?
Q. Yes, sir.
A. He text me, he said, I'm gonna kill that B'Boy.
Q. All right. After you received that text, did you later learn what happened to Milledge?
A. Yes, sir. After several hours or an hour or two, I'm not exactly sure what happened, or I mean the time frame.
Q. All right. Okay. On May 7th later that day you learned that Milledge had been shot?
A. Right. I had got a phone call and they said that Barry had shot Milledge at the Johnston Pool Room. That's the first I heard of it.
Q. Okay. And what, if anything, did you do at that point?
A. I really didn't do nothing, you know. I mean, he and I texted a few times back and forth but other than that.
Q. After you got the text from Barry that he was gonna kill B'Boy and after you have learned that B'Boy had been shot by Barry, what did you do?
A. I sent a message later on like an hour later or 30 minutes, I said, what do you mean by that? And then after that I called an investigator for the Edgefield County Sheriff's Office and I told them that I had received a text

message from Barry and it said that he had some kind of problem at the Johnston Pool Room, that he told me that he was gonna kill B'Boy which is Milledge Hall.

Q. All right. So you called somebody in law enforcement?

A. I called an investigator with the Sheriff's Office.

Q. And then did you go and show them the text that you had received from Mr. Jones?

A. Yes, sir. We made an arrangement to meet the next morning and they took all the information then.

Q. Okay. I'm gonna show you State's Exhibit 163 and take a look at this and tell me whether that accurately reflects your communication with Mr. Jones on May 7th of 2018 concerning B'Boy or Milledge Hall?

A. Yes, sir. He asked me, said, can you come calm me down.

MR. McNAIR: Stop right there. Your Honor, we offer State's 163 into evidence at this time.

MR. L. SHEALEY: No objection.

THE COURT: State's 163 admitted into evidence.

BY MR. McNAIR:

Q. Can you see that, Mr. Mims?

A. It's just a little it blurry. That's a little better. Yes, sir.

Q. Okay. So your number, was your number 803-226-5713?

A. Yes, sir.

Q. And look at the bottom. It goes from oldest to newest so look at the very bottom line six on 5/7/2018 at 6:49 p.m. there's a text to you, can you come calm me down; is that correct?

A. Yes, sir.

Q. Who sent that text?

A. Yes, sir.

Q. Mr. Jones sent that text?

A. Yes. It came in and has his name Barry Jones as I have it listed on my phone.

Q. Line 5 at 6:49 p.m. also there's another text, I'm gonna kill that B'Boy?

A. Yes, sir. Same name and number.

Q. That's from Mr. Jones?

A. Yes, sir.

Q. And on line 4, that's a text from you to him and that text reads, yeah. They talked shit the last time me and my brother was in there, but that's all I'm saying. Now, when you're saying they talked trash, are you referring to Milledge Hall?

A. No, sir. And when I said yes, I was answering another question and Milledge never said a cross word to me

ever in his life.

Q. Okay. In all the years you've known Milledge he's never said a cross word to you?

A. Never raised his voice or anything to me or when I've been around him.

Q. Okay. You never even heard him raise his voice to you?

A. No, sir.

Q. Then on line 3, that's the text to you at 6:56 p.m. and who is that from?

A. That's from Barry.

Q. That text is, can you help me? I don't need that b-s, correct?

A. Yes, sir.

Q. And then line 2 is a text from you to Mr. Jones. I'm not sure what you mean?

A. Right. And that was later on after that and I was just basically just looking at my phone and I didn't really understand what he meant by that.

Q. So you had no other communication with Mr. Jones after this?

A. After this night?

Q. Yes, sir.

A. No, sir.

Q. Now, how long did you say you knew Milledge for?

A. At least 20, 25 years or better.
Q. Did you know Milledge to ever carry a gun?
A. No, sir.
Q. Did you know him to be a fighter?
A. No, sir.
Q. Did you have any problems yourself with Milledge?
A. Never had a cross word in my life.
Q. Have you ever seen Milledge drunk or violent?
A. No, sir. We've had a few beers, but neither one of us was ever drunk.
Q. Was he the type of guy that would talk trash?
A. No, sir. He was very quiet. When he came into the pool room, he had his beer sitting at the bar, wouldn't bother nobody.

MR. McNAIR: Thank you, Mr. Mims.

THE COURT: Cross examination.

MR. L. SHEALEY: Yes, sir. May it please the Court.

THE COURT: Yes, sir.

CROSS EXAMINATION

BY MR. L. SHEALEY:

Q. Joe Mims or Jojo?
A. Everybody knows me as Jojo.
Q. Okay.
A. Everybody in this whole town. I'm stuck with that.

Q. All right. We've been talking about some of these text between you and Barry and I think you testified that once Barry moved back to Johnston, you guys kind of caught up again and started being on a text friendly basis?

A. No, sir. I didn't say that.

Q. Okay. Well, you became text friendly?

A. Well, when we first met, I actually did not know he was living back in Johnston. By coincidence he and I met at the Johnston Pool Room and he made sure I had the same number and he looked in his contact and my name and number was still in there and that was it.

Q. But y'all were friendly though, right?

A. That day. Yeah.

Q. I mean in general?

A. When I saw him, yeah.

Q. Yeah. And you made plans to meet up?

A. No. We never made plans.

Q. No?

A. No. Not that I know of.

Q. All right. I want to show you some text messages. It might help your recollection on that.

A. Yeah. That's fine.

Q. This is the same group of text. This is from his phone, all of this is from Barry's phone and let me just hand this to you.

A. Okay.

Q. You see your phone number right there Jojo Mims?

A. Yes, sir.

Q. This is just - what day is this, the 5th of May that same year, right? You agree that you're texting right there actually from Jojo Mims. You're saying, got company. Can get together tomorrow, Monday, whatever is easier, right?

A. Okay. Yeah. Yeah.

Q. Yeah. And you tell him, I'll be in touch soon, right?

A. Well, it says I'll be in touch, not soon.

Q. Okay. I'll be in touch, right?

A. Right.

Q. And from Jojo Mims May 5th, okay, so let me know, right?

A. Right. But I don't know what in reference to what the conversation is.

Q. Jojo Mims, ten four, right?

A. Right.

Q. May 7th, Barry to you, Jojo Mims, you available a little later?

A. Right. That's when I told him I was in Augusta at the pub.

Q. I'm on Broad Street right now?

A. Right. Right.

Q. Let's keep going. Y'all are friendly? Y'all are making plans to meet?

A. I don't know about all that.

Q. But is that not what you see here?

A. Yeah. But, I mean, you can misconstrue it any way you want to.

Q. It's your text messages so I'm just reading it out loud to everybody here. And you say, I'm on Broad Street right now. He says, k. You say at the pub.

A. Right. And he says, s-o-b --

Q. And he says s-o-b you?

A. Yeah.

Q. Right. He wants you to come hang out with him, Right? You remember all that?

A. Right.

Q. And then right here you were texting him about how I'm tired sitting around Edgefield. I'll come here for happy hour and have a couple pitchers. You meant probably pitchers of beer, I assume, and head back, right?

A. Yeah. I said, I know I get tired of sitting around Edgefield so I come down to the pub.

Q. Right. And you put a little emoji there, right?

A. Right. That's the same day.

Q. Smiley face, sunglasses.

A. Yeah.

Q. Y'all are friends, right? You were friends?

A. Yeah. I mean, I can't disagree. We weren't friends in high school, but I hadn't seen him in over 30 years.

Q. Right.

A. So you can --

Q. It's fair to say you were rekindling a friendship after 30 years?

A. If that's what you want to call it.

Q. Now, at some point though do you recall him texting you about his problems with his girlfriend Angie?

A. Yeah. He told me he was getting tired of Angie's shit the night that he was at the pool room.

Q. Right.

A. Excuse my language.

Q. You've seen these texts before testifying today I assume?

A. I mean, I read them myself. He sent them to me.

Q. You remember them from three years or do you remember them from preparing for today's testimony?

A. No. I remember it from when he sent it to me.

Q. And there's that text, right? Do you remember that text to Jojo Mims?

A. Yeah.

Q. 5:27. I'm getting sick of Angie's shit.

A. Right.

Q. And you say, that's why I fly by myself?

A. I mean that when I go out somewhere, I go by myself so I don't have to account for anybody but me.

Q. Right. Right. So he's telling you about his girlfriend problems, right?

A. Right.

Q. And then he asked you, I think we've looked up there, it's in evidence, but he's asking you to come calm him down, right?

A. Right.

Q. And he's asking you to come help him, right?

A. Yeah.

Q. Right. That he doesn't need this b-s?

A. Yes. It says can you come help me. Yes, sir. I see that now.

Q. We've talked a lot about the text which the Solicitor asked you about, I'm gonna kill that B'Boy, right?

A. Yeah. He sent that to me. Yes, sir.

Q. And you actually talked to police looks like on May 9th about this situation, right?

A. It was actually I called that night about the text messages and then I made arrangements to meet with investigators the next morning after the incident.

Q. Right. Okay. So you recognize this statement?

A. Yes, sir.

Q. I, Joe Mims, Junior?
A. Yes, sir.
Q. May 8th?
A. Yes, sir.
Q. Is that your handwriting?
A. Yes, sir.
Q. And you reference him and his girlfriend were not really getting along?
A. Right. That's what he sent me. He sent that to me.
Q. As soon as he sent you -- Right. But when he sent you the text, I guess, that day about I'm gonna kill that B'Boy, I mean, you said later that evening you called police?
A. Yeah. Later on that night on the way home I said - because I had received a phone call saying that something happened at the pool room. Come to find out it ended up being Barry.
Q. Right. So everybody's talking about it?
A. Right. And I got a phone call and that's when I called the Sheriff's Office and told the investigator and told them that he had sent me the text messages that he said he was gonna kill Milledge, B'Boy.
Q. And when you're talking to police about that, obviously that's something of interest to them, right?

A. Yes, sir.

Q. When you're talking to police about that, you said that you didn't think anything about it because people just saying things and not really mean it, right?

A. Right. Because, I mean, how many times, I've said it a hundred times.

Q. Right. And he sent another text asking can you come help him and you told them about that, right?

A. Right.

Q. But you told police that you didn't think he necessarily met I'm gonna literally kill that B'Boy?

A. No.

Q. Right? At the time, right?

A. No. If I did, I would have called them as soon as --

Q. Right. That would have made you accessory to a crime?

A. If you call it that.

Q. Right. So, I mean, that's how we know you didn't think he was serious, right?

A. Right.

Q. But he was calling for your help?

A. Right. I told him I could not make it up there until seven or eight, if then.

Q. Right?

A. You left that out.

Q. Well, he was -- Yeah. He was asking for your help. But I am curious, your response text after he's asking for your help is on May 9th, 2018, right?

A. What's that?

Q. Your response text to Barry where you say I'm not sure what you mean --

A. Yeah.

Q. -- that's on May 9th, right?

A. But I don't think that's correct. I think it's the same night so I'm not sure.

Q. You think this phone record is not correct?

A. Yeah. The phone record is correct, but I'm not sure of the date is what I'm trying to tell you.

Q. And that's two days after this whole thing went down?

A. Right.

Q. You were texting his phone, he's probably in the custody of law enforcement saying I'm not sure what you mean, right?

A. Right.

Q. Okay. And you don't think this is correct or you think it is correct?

A. Yeah.

Q. Okay. One thing I forgot to ask you and I've got to

get some clarity on this because I'm just going by what I read, but you see where you get the text where he's asking can you come calm me down, right?

A. Right.

Q. I'm gonna kill that B'Boy, right?

A. Right.

Q. And you said, yeah. They talked shit the last time me and my brother was in there, but that's all I'm saying. You're saying that has nothing to do with B'Boy?

A. No, because Milledge did not say that.

Q. Well, who are you talking about?

A. I'm talking about one of the employees in there because I can remember specifically it was a Friday when Milledge was having a birthday party for his wife at the pool room and a group of us was at the pool room and they was drinking liquor and playing the jukebox and I looked at Milledge across the bar and I told him he was gonna be leaving soon.

Q. So even though Barry is talking about B'Boy, you're claiming that your direct response, yeah, they talked shit last time me and my brother was in there, it's about some other random employee?

A. Random employee talk, not Milledge. Milledge never said a cross word to anybody.

Q. Okay. That's your testimony here today under

oath?

A. Under oath Milledge never said anything --

Q. All right. That's what this text, you're saying this text response isn't relating to Milledge?

A. It's not Milledge. No. I'm not referring to Milledge when I say that they was talking crap about.

MR. L. SHEALEY: Okay. I don't think I have anything further.

THE COURT: All right. Redirect?

MR. McNAIR: Nothing further.

THE COURT: The witness may step down.

MR. McNAIR: Your Honor, the State calls Farand Wasiak.

Thereupon,

FARAND WASIAK

after having been first duly sworn, testified as follows,

THE CLERK: Please have a seat. Once you're seated, state your full name spelling your last please.

THE WITNESS: Senior Special Investigator Farand Wasiak. Last name is W-a-s-i-a-k.

DIRECT EXAMINATION

BY MR. McNAIR:

Q. Agent Wasiak, where do you work?

A. South Carolina Law Enforcement Division.

Q. How long have you been there?

A. I've been there 16 years.

Q. What division or department are you in?

A. I'm in the computer crimes division.

Q. Now, as part of your job do you regularly analyze digital devices such as cell phones?

A. I do.

Q. And do you perform what's known as cell phone he extractions or cell dumps?

A. I do.

Q. All right. And briefly just what training or education do you have in that regard?

A. Several cell phone mobile device classes as well as basic digital forensic examination classes. I'm also a mobile device instructor for the International Association of Computer Investigation Specialists, sort of like our international trade, I guess you could say, organization.

Q. All right. And is it possible to estimate how many phone extractions you've done in your career?

A. Hundreds.

Q. All right. Have you been qualified as an expert in this field before?

A. I have.

MR. McNAIR: Your Honor, at this time we'd offer Agent Wasiak as an expert in the forensic examination of digital devices.

MR. L. SHEALEY: No objection.

THE COURT: All right. This witness will be qualified in the area of forensic examination of digital devices and can give opinion testimony in that area. That does not mean you have to accept the opinion, but it's evidence for you to use in any way you see fit.

BY MR. McNAIR:

Q. All right. Agent Wasiak, can you explain to the jury what a phone extraction is and how you do it?

A. Yes, sir. A phone extraction basically you get a cable like you would your charging cable and it connects to either a physical hardware or in this case if it was an iPhone it connects directly to a computer much like you would connect your iPhone to a computer. What happens then is the software, the mobile device examination software extracts all the data off that phone and puts it into a program which I can look on so instead of looking at the contents of the phone, I can look at the contents of the phone in a nice little like almost like, looks like a webpage design. It does not add anything to the phone, it does not delete anything to the phone. It's basically copying all the information to software so I can review the contents.

Q. All right. And when you do a phone extraction, does it change the underlying information or data on the phone?

A. It does not.

Q. All right. And after you do a phone extraction, are you able to generate reports from that extraction such as like all the outgoing and incoming calls and all the text messages between two parties, et cetera?

A. Yes. I can.

Q. And did you receive a phone associated with the defendant in this case from the Edgefield County Sheriff's Department?

A. I did.

Q. And did you perform an extraction on it?

A. I did.

Q. Let me show you State's 67 and ask if you can identify this?

A. Yes. I can.

Q. All right. And that's the phone you received associated with the defendant in this case?

A. Yes.

Q. I'm gonna show you what's been marked for ID as State's Exhibit 164. Do you recognize that disk?

A. I do.

Q. Does that contain the full extraction from that phone?

A. It does.

Q. State's 165, do you recognize that photo?

A. Yes. I took that photo.

Q. All right. And it's a photo of the phone that we just looked at, correct?

A. Correct. The home screen.

Q. After you powered it up?

A. Correct.

MR. McNAIR: Your Honor, we offer State's 165 in evidence.

MR. L. SHEALEY: No objection.

THE COURT: State's Exhibit 165 is admitted into evidence.

BY MR. McNAIR:

Q. All right. This is just a photo of the phone that you took after you powered it up, correct?

A. Correct.

Q. And what's the phone number associated with this phone? Do you have that in your report?

A. Yes. I would have to look at that.

Q. We'll get to the next exhibit. I show you State's 163. I'll show you up close first. Do you recognize that as a report that you were able to generate from the extraction?

A. Yes.

Q. All right. Those are text messages between the defendant's phone and somebody that he had saved as a contact as Jojo Mims; is that correct?

A. That is correct, sir.

Q. And when you do a phone extraction, are you able to verify whether the time is correct?

A. Yes.

Q. And was the time associated with this phone correct when you powered it up?

A. Correct.

Q. So when we see a text at 6:49, I'm gonna kill B'Boy, that would have occurred at that time based on your phone extraction, correct?

A. That is correct.

Q. All right. And the name Jojo Mims in this phone was saved as a contact?

A. Correct.

Q. Okay. Based on what we see here on the text messages --

MR. L. SHEALEY: Your Honor, may we approach?

THE COURT: Sure.

(Side bar off the record.)

BY MR. McNAIR:

Q. I'll give you this document, State's Exhibit 163 to refer to. What is the first text that you see at 6:49 p.m.?

A. Can you come calm me down.

Q. Okay. And the second text at 6:49 p.m.?

A. I'm gonna kill that B'Boy.

Q. Right. And does that represent that text?

A. Yeah. It does. Yes.

Q. Lastly at 6:56 p.m. what is the text from the extraction?

A. Can you help me? I don't need that b-s.

Q. Does that accurately reflect that text?

A. It does.

MR. McNAIR: All right. I believe that's all the questions I have. Thank you.

THE COURT: Cross examination.

CROSS EXAMINATION

BY MR. L. SHEALEY:

Q. I don't have a whole lot for you, but you've got all the text messages in front of you, right?

A. I did at one point. Yes.

Q. You don't right now?

A. I do not.

Q. But when you looked at the phone, does this look familiar to you? Is it like your printout of those texts?

A. Correct.

Q. Okay. So I guess if we wanted to add some more in there in terms of timeline --

MR. McNAIR: Your Honor, I'm fine if he wants to put that into evidence.

BY MR. L. SHEALEY:

Q. Do you recognize this text? Who is it from?

A. An Angie Smith, Johnston.
Q. And that's based on a contact?
A. Correct.
Q. And that's incoming?
A. Correct.
Q. Same day, May 7th, 2018?
A. Correct.
Q. 5:22 and 27 seconds?
A. Correct.
Q. You agree it says, if you don't come talk to me, it won't be pretty when you get home?
A. That is correct.
Q. All right. And just after that, a few seconds more, I'm really pissed now?
A. That is correct.
Q. And then at 5:21:34 still from Angie, you agree it says, you told me we weren't going anywhere, all right? I got ready and went with you, right?
A. That's correct.
Q. And at 5:21:15, we're not gonna make it like this. You need to come talk to me. Do you see that?
A. Yes. Correct.
Q. And also, what? I can't believe you.
A. That is correct.
Q. Those are all things that you also pulled from his

phone that same day, right?

A. Correct.

Q. Moving a little closer to this timeline --

MR. McNAIR: Your Honor, if he's gonna refer to a document, he needs to put it in evidence. He can't testify to what is in a document without it being in evidence.

THE COURT: I think he can continue asking about the document review with the witness.

MR. L. SHEALEY: This is a report. He prepared an extraction.

THE COURT: Proceed.

MR. L. SHEALEY: Thank you, Judge.

BY MR. L. SHEALEY:

Q. Do you see another text here at May 7th at 5:24, right?

A. That is correct.

Q. Incoming from Angie Smith?

A. Correct.

Q. Answer me, right?

A. Correct.

Q. You see another text at 5/7, at 5:25, getting closer to this timeline, from who?

A. Angie Smith, Johnston.

Q. What is she saying?

A. I'll come show out.

Q. I'll come show out. And then you see a text from Mr. Jones to this Jojo Mims?

A. That is correct.

Q. And he's telling him that I'm getting sick of Angie's shit, right?

A. That is correct.

Q. Again from Angie. Now we have jumped up to May 7th. Who is it from?

A. Angie Smith, Johnston.

Q. 6:33:29 seconds, right?

A. Correct.

Q. So if we were on this timeline, we might be somewhere like this. Actually 6:33 would be up here, right?

A. Correct.

Q. If this is going down. You agree she says, you couldn't even come and speak?

A. Correct.

Q. And then again at 6:33:49, about 20 seconds later, is that from Angie Smith again?

A. Correct. Yes.

Q. You agree she says, everyone stared at me?

A. Correct.

Q. And then more critical to this timeline at 6:47, right?

A. Correct.

Q. So that's two minutes before that message that they're very interested in, is that from Angie Smith?

A. It is.

Q. Do you agree she says, see you soon. No fighting?

A. That is correct.

MR. L. SHEALEY: Nothing further.

THE COURT: Redirect.

REDIRECT EXAMINATION

BY MR. McNAIR:

Q. I show you State's 166. Is this the document that Mr. Shealey was just showing you that you were referring to?

A. That is correct.

MR. McNAIR: Your Honor, we offer State's 166 into evidence.

THE COURT: That's the extraction?

MR. McNAIR: All the text messages he just read.

THE COURT: From the extraction?

MR. McNAIR: Yes, sir.

THE COURT: Okay.

MR. L. SHEALEY: No objection.

THE COURT: State's Exhibit 166 will be admitted into evidence.

MR. McNAIR: Thank you, Your Honor. That's all the questions I have.

case.

MR. McNAIR: Thank you, Your Honor. The State calls Betty Edwards.

Thereupon,

BETTY EDWARDS

after having been first duly sworn, testified as follows,

THE CLERK: Please have a seat. Once you're seated, state your full name spelling your last please.

THE WITNESS: Betty Edward, E-d-w-a-r-d-s.

DIRECT EXAMINATION

BY MR. McNAIR:

Q. Ms. Edwards, how are you doing today?

A. I am doing fine. Thank you for asking.

Q. Tell the jury a little bit about yourself. Where are you from?

A. Johnston, South Carolina, born and raised all my life.

Q. Okay. What do you do for a career?

A. I'm a school teacher for Edgefield County.

Q. How long have you been --

A. 30 plus.

Q. Congratulations.

A. 30 plus.

Q. Tell the jury, did you know Milledge Hall?

A. Yes. By frequently going to the pool hall.

Q. Okay. Did you ever know a guy named Barry Jones?
A. No. Never. Don't know Barry Jones.
Q. Now, 1ets talk about May 7th of 2018. Do you recall going to the pool hall that day?
A. Yes, sir.
Q. And where were you prior to going to the pool room?
A. I was at the grocery store, the IGA nextdoor to the pool room.
Q. That's right beside the pool room?
A. Yes. It is.
Q. And did you hear or see something while you were at the IGA that was going on at the Johnston Pool Room?
A. Yes. I did.
Q. What did you hear or see?
A. I heard a confrontation between two people and, uhm, and I just listened. Well, I couldn't hear what they was saying, but I knew it was loud. They were arguing with each other.
Q. Okay. And where are you at that point when you're hearing that?
A. I'm outside of my car. I didn't go up to the door of the pool hall, or up to the door of the IGA. I stayed back to get me some steps in to walk. But didn't never left my car. I stayed right there and just listened to the

confrontation.

Q. All right. So you're in the parking lot --

A. I'm in the parking lot.

Q. -- of IGA and you can hear what's going on at the pool hall?

A. Not word for word. I could just hear two people arguing.

Q. Okay. When you say confrontation, you mean arguing?

A. Arguing.

Q. And do you hear one voice yelling or two voices?

A. Two voices.

Q. Two loud voices. Okay.

A. It was not like the person was asking a person to come to lunch.

Q. Okay.

A. They were arguing.

Q. All right. Did you ever see who was talking when you heard those voices?

A. It was Milledge who was talking.

Q. You could see Milledge?

A. Yes. He was standing up.

Q. All right. And who was he talking to?

A. He was talking to a gentleman that was in the car.

Q. All right. Did you ever see the gentleman in the

car?

A. No. Milledge was like a big man and he was in front of that person. I never seen the other person.

Q. But the person in the car was talking loudly too?

A. Yes.

Q. What, if anything, did you see Milledge doing while he was talking?

A. It was his body language, making his gestures. He was like, uhm, doing his hand like he wanted, didn't want nothing to do with the person.

Q. Okay.

A. Or he was making body language gestures like that, you know?

Q. All right. So he was doing stuff with his hands?

A. With his hands.

Q. And his arms?

A. With his arms.

Q. Do you recall what it was exactly or can you demonstrate it?

A. (Indicating.)

Q. Okay.

A. Like get away, you know. That, gestures like that.

Q. Based on your observations what did you perceive Milledge wanted that gentleman to do in the car?

MR. B. SHEALEY: Your Honor, I'm gonna object. Speculation as she's observing this from a parking lot, it's hard to say what is in someone else's mind.

THE COURT: Overruled to the extent that she can testify to what she personally saw or perceived.

BY MR. McNAIR:

Q. So you saw him doing his arms like this (indicating)?

A. Yes.

Q. What did you interpret that to mean?

A. That he was fussing, you know. He was fussing with the person. He didn't want anything to do with the person. He didn't want, you know, no interaction with the person. He just wanted the person to leave.

Q. Okay. Now, at some point after -- Well, what happened after you saw that?

A. After I saw that, you know, I'm standing there, okay, these two guys just fussing, just fussing. Then after a while, I heard something like firecrackers, but it wasn't firecrackers. I heard a pow, pow.

Q. Okay. Did you see the shots?

A. I heard the shots. I saw him when he fell down.

Q. Okay. What is the last thing that you heard prior to those shots?

A. Milledge's name called.

Q. You heard --

MR. B. SHEALEY: Objection to hearsay. Calls for hearsay.

THE COURT: The last thing she heard?

MR. McNAIR: Prior to the shots and she said Milledge's named called.

THE COURT: Okay. Overruled.

BY MR. McNAIR:

Q. And he was by the man in the car?

A. Yes, sir.

Q. After that happened, what did you do?

A. I got in my car and I drove up to see if I could help the person. I didn't know who it was, but I drove up to see if I could help.

Q. Okay. And what did you see? So you drove up to the Johnston Pool Room?

A. Yes, sir.

Q. Did you see Milledge at that point?

A. I did.

Q. And what was Milledge doing?

A. Laying on the ground.

Q. Did you see him with gunshot wounds?

A. He still had on his shirt so I didn't see because when I got there, I was looking like, you know, in the movies and all that, you see blood everywhere and all like that when

someone get shot, but it was nothing like that, so he was just laying on the ground.

Q. All right. What condition was he in at that point?

A. He was moaning, moaning and he had his eyes closed and I asked him, you know, would he open his eyes and talk to me.

Q. Did he ever talk to you?

A. He did.

Q. What did he say?

MR. B. SHEALEY: Objection. Calls for hearsay.

THE COURT: This is when he's on the ground?

MR. McNAIR: He's on the ground.

THE COURT: All right.

MR. McNAIR: He's been shot.

THE COURT: All right. Overruled.

BY MR. McNAIR:

Q. What did he say?

A. He was, uhm, he was asking me why. Why did he shoot me?

Q. Why did he shoot me. What did you tell him?

A. I told him we wasn't gonna concentrate on that right now. We was gonna do everything we could for him. Then I asked could I pray for him, pray for him in prayer.

Q. And did you?

A. Yes. I did.
Q. Now, was the man who shot still on scene when you got up there?
A. No, sir.
Q. When you got to where Milledge was, did you see a gun on Milledge?
A. No, sir.
Q. Did you see a gun on the ground beside Milledge?
A. No, sir.
Q. What was on Milledge? Did you see anything on Milledge?
A. Like a big old phone.
Q. Okay.
A. A big old telephone. A large, large telephone. Not a flip phone. A big phone.
Q. All right. I'm gonna show you State's 169 and just ask you do you recognize this?
A. Yes, sir.
Q. All right. And that's you in that photo with Milledge?
A. That's me.
MR. McNAIR: Your Honor, we'd offer State's 169 into evidence.
MR. B. SHEALEY: No objection.
THE COURT: State's Exhibit 169 admitted into

evidence.

BY MR. McNAIR:

Q. Is this where Milledge was when he asked you why did he shoot me?

A. No. That was - that - he was laying there, but those two people were not in there. Those people came up after, but that's where he was.

Q. That's where - that's the location where he was on his back --

A. Yes, sir.

Q. -- asking --

A. Yes, sir.

THE COURT: For our purpose, counsel and the witness, if y'all could try not to talk over one another. If you could let the question finish and then answer, that way the record will be more clear.

MR. McNAIR: I'm almost done.

BY MR. McNAIR:

Q. So that's the location he was on his back asking why did he shoot me?

A. Yes, sir.

MR. McNAIR: Thank you, Ms. Edwards.

THE COURT: Cross examination.

MR. B. SHEALEY: May it please the Court.

THE COURT: Yes, sir.

CROSS EXAMINATION

BY MR. B. SHEALEY:

Q. How you doing, Ms. Edwards?

A. Good.

Q. Good. So we've had an opportunity to speak before, right? You testified previously?

A. Yes.

Q. That was under oath?

A. Yes.

Q. You're still under oath --

A. Yes.

Q. -- about this incident --

A. Yes, sir.

Q. -- from May 7th of 2018, correct?

A. Mm-hmm.

Q. Now, you lived in Johnston all your life?

A. All my life.

Q. And you're a teacher?

A. Mm-hmm.

Q. And I know because the last time you didn't want to say your age, but let's just say it's safe to say you're of a similar generation of Milledge, correct? I'm not gonna say your age now. I know it.

A. Okay.

Q. But you wouldn't disagree with me?

A. No.
Q. Okay.
A. Nope.
Q. And you knew Milledge from going to the pool hall?
A. Right. Yes.
Q. I think from your last testimony you're not a big drinker, but you like --
A. I don't drink.
Q. You don't drink.
A. Not a big drinker.
Q. You don't drink --
A. I don't drink.
Q. -- but you like to go and get food from the pool hall?
A. Yes.
Q. Then we talked about some cheeseburgers, pretty decent cheeseburgers, right?
A. Exactly.
Q. Okay. So that's how you know Milledge. You know him to go by B'Boy, right?
A. (Witness nodding head.)
Q. Okay.
A. I've, I only known him as Milledge. I respect.
Q. Can you speak up, ma'am? I can't hear you.
A. I was saying, I only know him as Milledge. I

respect --

Q. Okay. I understand.

A. -- the age of people. No B'Boy.

Q. I understand. I'm gonna show you a couple of pictures that are marked as defense 72 through 79 for ID purposes and this should be stuff that you're familiar with. Do you recognize 72 as the IGA, right?

A. That's the IGA.

Q. And this is gonna be where you were observing this initial encounter before you went over to the pool hall parking lot, right?

A. Right.

Q. Now that IGA is closed now, isn't it?

A. It is closed now.

Q. Where y'all going for groceries?

A. To Edgefield or to Aiken or to North Augusta.

Q. Okay. 73, is that the front entrance to that IGA?

A. That's the front entrance.

Q. And that front entrance --

THE COURT: Mr. Shealey, if you could, and I know that you're having a conversation with the witness, but try to ask a question and, ma'am, if you could try to answer after he finishes asking the question. Thank you.

THE WITNESS: Thank you.

BY MR. B. SHEALEY:

Q. Ms. Edwards, is that the front entrance of that IGA?

A. That is the front entrance of the IGA.

Q. Okay. And it's got some windows in the front. That's the only way to go in, right?

A. That's the only way to go in.

Q. That's where you went in that day, right?

A. That's where I went in that day.

Q. Now, I'm gonna show you this picture of an overhead of the parking lot. This is 74 for ID. Does that look like the parking lot from an overhead view and this is gonna be the Johnston Pool Hall which is now the Palmetto Seafood, correct?

A. Correct.

Q. And what this photo shows is just the whole parking lot, right?

A. Right.

Q. It's got the store entrance and it's got, there's two ways of getting into this IGA parking lot, right?

A. Right.

Q. You recognize that?

A. I recognize that.

Q. Okay. Now, this is from a body camera for this case that just kind of generally shows a good angle of both the IGA

and the pool hall. Do you see that?

A. I see it.

Q. And that basically looks how it did on that day, right?

A. Right.

Q. And this picture is not great, but do you even see your blue shirt from where you were over Mr. Hall? Can you identify that? If not, I'll show you another one. How about, let me show you --

A. Show me another one.

Q. I'll show you another. How about this one (Proffering.)

A. Could be.

Q. Do you recognize that nice lady in that blue shirt?

A. Yes. I do.

Q. Who does that look to be?

A. That looks to be me.

Q. Okay. And that's the pool hall parking lot number 76?

A. That's the pool hall parking lot.

Q. And number 77, is that also you?

A. That is also me.

Q. And that's the pool hall parking lot as it was when you went over there, right?

A. Mm-hmm.

Q. This is pretty dark, but that's the ambulance and you were here, but it's so dark, but you remember the ambulance being there?

A. Yes.

Q. Okay. And then again, that's you in that blue shirt talking to people in the pool hall parking lot on that day, right?

A. Yes.

Q. Okay. Milledge would have been down here, right?

A. Right.

Q. Okay. And do all these pictures fairly and accurately represent the pool hall parking lot that day as well as the way IGA looked in that overhead view of the parking lot?

A. Fairly. Yes.

MR. B. SHEALEY: Okay. Your Honor, seek to admit --

MR. McNAIR: May I see them?

MR. B. SHEALEY: -- 72 through 79 and I also seek to admit --

THE COURT: Hold on. One at a time. Without objection?

MR. McNAIR: No objection.

THE COURT: Defendant's Exhibit 72 through 79 are admitted into evidence.

MR. L. SHEALEY: Your Honor, I also seek to admit 71 ID for now, those exact same images. I'm gonna pull them up here.

THE COURT: That is the --

MR. B. SHEALEY: The exact same images we got here, it's just easier to see them up there.

THE COURT: Without objection, Defense Exhibit 71 is admitted into evidence.

BY MR. B. SHEALEY:

Q. All right. Ms. Edwards, we're gonna cover a little bit of ground here. I'm just gonna show you again what I've already showed you for the jury. Ms. Edwards, this is what we discussed. This is gonna be basically the one entrance, the front of the IGA, right?

A. Yes.

Q. That's approximately what you were dealing with on that day, right?

A. Yes, sir.

Q. And this is just a kind of broader picture of the front, right?

A. Yes.

Q. You got some windows and big 'ol parking lot, right?

A. Yes.

Q. Now, this is gonna be an aerial kind of overhead

that you authenticated of what the parking lot would have looked like and this would have been the IGA, right?

A. That's the IGA.

Q. And this would have been the pool hall, right?

A. Yes.

Q. Okay. And that's the general layout of what was going on at that time and in 2018, right? That's still a parking lot, it's still, the pool hall I think it even says that it's now a Seafood Company there or seafood store, but that's basically what you were dealing with when you were in the parking lot, right?

A. Yes.

Q. Now, the store entrance is right there. Tell this Court and this jury where you were parked in this parking lot.

THE COURT: Why don't you hand her the pointer.

BY MR. B. SHEALEY:

Q. Yes. Sorry. Push right there. Or you can come up if you like, because this has never been testified to so we are very curious.

A. As I said, I did not park close to the front. I was parked over in here.

THE COURT: All right. Counsel, ma'am, I just need you to speak up so the court reporter can hear everything you're saying. Thank you.

BY THE WITNESS:

A. I was parked over here towards this way.

BY MR. L. SHEALEY:

Q. Have a seat.

A. (Witness complies.)

Q. So you have identified for the record this road right here is where you were parked closer to this side than closer to the store entrance? Now, the store entrance is right here. Are you telling me you parked away from the store entrance? So this is the store entrance.

A. No. I don't park right up to the door. I don't park right up to where, when I'm driving, I got a trunk in my car, so I don't park right up to the door. I get my steps. So I was not right up to the door. I could hear them. I could hear them through the bushes. There's bushes between there in the corner and in 2018 I was parked where that little right like over there.

Q. Right here?

A. The pool hall is over here.

Q. It's broken.

A. This is broken.

Q. They might have a better one. They definitely have a better one.

A. And I don't recall the top part right here. I'm parked over here.

Q. Okay. You can have a seat. So right there. And

the reason that you parked away from the front entrance is because you want to get your steps; is that right?

A. The reason I parked where I parked is because I don't want anyone bumping my car doors or anything or and I get my extra steps in. Yes, sir.

Q. Okay. It's away from the front door?

A. Away from the front door.

Q. All right. Get your steps. Well, I think we also can recognize that there's a little hill --

A. There's a hill.

Q. -- right here where I've got the mouse going and there's a bunch of shrubbery and trees that separates the two parking lots, right? Correct?

A. Correct.

Q. Now, I'll take my mouse which is probably working better than my pointer at this point, but Mr. Jones' car would have been, or at least the car you saw at the time, the Mercedes, the gray car would have been somewhere around here?

A. Yes. At the corner of the pool hall. Yes.

Q. And B'Boy, or Milledge as you call him out of respect, would have been standing outside of that car, right?

A. Yes.

Q. Now, you testified that B'Boy is big so you couldn't

really see into that window because he was blocking your view?

A. Yes, sir.

Q. He's a big man, right?

A. He's a big man.

Q. Is that his nickname, B'Boy, is that Big Boy?

A. I couldn't tell you about that. I don't know none of that.

Q. You couldn't see into the car so you wouldn't know if the windows were up or down?

A. No.

Q. No idea if they were cracked six inches or all the way down or completely up?

A. But I -- No. But -- No. I wouldn't.

Q. Okay. Now, you testified that when you heard the pow, pow, you were at your car because you had been listening, right?

A. Yes.

Q. Did you know that the pow, pow were gunshots? Did you assume that was gunfire?

A. I knew they wasn't firecrackers. I sure did. Yes.

Q. Right. Right. And so at that point in time you got in your car and you drove over to the parking lot, right?

A. Yes.

Q. Okay. I'll show you some picture that we have introduced into evidence that we've authenticated and there's a lot of people in the parking lot.

MR. L. SHEALEY: Sir, do you mind for this purpose turn off these middle lights like we had done before.

BY MR. L. SHEALEY:

Q. Now, Ms. Edwards, this is the one that I was showing you on the stand. It's a little hard to see, but it's a little bit better here, but you are right there with your purse in the blue shirt talking to some ladies right there, right?

A. Right.

Q. And there's the ambulance, right?

A. Yes.

Q. An EMT that was on the scene?

A. Yes.

Q. And this would be Ms. Eileen Hudson. Do you know her, Ms. Eileen?

A. No.

Q. Okay. But you understand that you're talking to a group of women, right?

A. Yes.

Q. And do you recognize Ms. Renee Kaigler?

A. Not in the dark.

Q. Okay. Do you know who Rene Kaigler is?

A. Renee Taylor?
Q. Kaigler. Kaigler.
A. Renee Taylor. Right here I know people by --
Q. Face?
A. Right.
Q. Okay. I'll keep going. But you're talking to a couple women in the parking lot, right?
A. Yes.
Q. Now, I know it's been a number of years.
A. Yes.
Q. Is it your impression these people were there in the bar at the time of the shooting?
A. I'm not gonna insinuate where those people were. Everybody was coming from everywhere.
Q. Were there a lot of people coming?
A. A lot of people.
Q. Okay. A lot of people. Now, you recognize yourself in this picture?
A. Yes.
Q. Okay. Is that you in the blue shirt again?
A. That's me in the blue shirt.
Q. And do you recognize this woman right here as Nicole Bibbs?
A. I do.
Q. Okay. So you do recognize her. Do you know Ms.

Nicole Bibbs?

A. One of my former students.

Q. Ma'am?

A. She was one of my former students.

Q. Former student. And did you know from going and getting those good cheeseburgers that she actually cooks some of those good cheeseburgers?

A. And she also cooks a good chef salad because I want you to stop accusing me of only eating cheeseburgers .

Q. So she's cooking good salads.

A. Good chef salad.

Q. And she's cooking good cheeseburgers.

A. And good cheeseburgers.

Q. And you're talking to her there in the parking lot clearly, right?

A. Clearly. She's on the phone.

Q. Yes. That's my next question.

A. She's on the phone because I was making sure that 911 had been called. Yes.

Q. Yes, ma'am. So you're aware that she called 911 that day, right?

A. Yes.

Q. And so you were hearing a lot of what she was talking about that had just occurred, right?

A. Yes.

Q. Because you know her because she's a former student of yours, right?

A. Yes. She was.

Q. So it's not like y'all are strangers?

A. No.

Q. And she cooks those good cheeseburger and salads?

A. Yes.

Q. And you knew that she called 911 today because you just brought that up, right?

A. Yes.

Q. Okay. So she's telling you what she saw and what she perceived as well, right?

A. She's not telling me. She's on the phone.

Q. Okay. Are you hearing what she's saying on the phone?

A. Yes.

Q. Okay. So you're getting a lot of information, more information coming through the parking lot than even what you saw in the IGA parking lot, right?

A. Right.

Q. Okay. And do you recognize this other gentleman here, right here, Mr. Bryan? Do you know him at all?

A. No.

Q. Okay. You definitely know Ms. Bibbs. And here you are again and you're over Milledge at this point, right?

A. Yes.

Q. And I think we talked about most of the people in the parking lot. Now, I know the Mercedes is gone, but this approximately is where it would have been at the time you were perceiving things from the parking lot, right?

A. Right.

Q. The other parking lot is gonna be behind this white truck right here. That's the IGA building right there, right?

A. Yes.

Q. So this is where you were perceiving the stuff over here?

A. Yes.

Q. And that's Milledge's truck, that red truck right there. You recognize that?

A. I don't ride with Milledge so I don't know what Milledge drives.

Q. Okay. But there's a big truck here and there's a truck here?

A. Yes.

Q. You see cars. And, you know, that's parking space right there, right?

A. Right.

Q. And we've got that tree line?

A. Mm-hmm.

Q. And then we got a hill, right? I mean, I'm looking

down into a parking lot. I can't even see very much going on right there. There's some trees and a fence, correct? Correct?

A. There's what now?

Q. There's some trees?

A. Oh, yes. There's trees.

Q. There's a fence?

A. There's a fence.

Q. And there's some cars?

A. A chain link fence.

Q. But this is where the Mercedes you saw would have been?

A. Yes.

Q. Again, you would have been perceiving it from this parking lot?

A. Right.

Q. Now, I'm gonna show you some images from a body cam from one of the responding officers. This gets a good view of both parking lots. And so again, based on your representation, I know you're not saying you're right by the front door because you want to get your steps, but maybe you're over here?

A. Yes.

Q. Okay. And we've got some cars over here now, don't we?

A. Oh, yes.
Q. We got this hill. Yes, ma'am?
A. Yes.
Q. And then we got the trees?
A. Yes.
Q. Then we got the trucks?
A. Yes.
Q. And then we've got where you perceived what was happening right here, right?
A. Yes.
Q. And again there you are, correct?
A. Correct.
Q. Talking to maybe Milledge at that time, but also as we discussed you're talking to other people like Ms. Bibbs, right?
A. Right.
Q. Okay. And again, this is just another slightly different image, but generally the same thing, correct?
A. Correct.
Q. Okay. Now, I'm gonna play a video here. Have you seen any videos in this case, ma'am? I know you've met with law enforcement and the Solicitor's Office, but have you actually seen any videos in this case from the pool hall?
A. No. I haven't seen no videos from the pool hall.
Q. Okay. I'm getting ready to show you one that's in

evidence. Now, I'm gonna show you and ask you to identify yourself when you get there, okay? So just bear with me. All right. Ms. Edwards, can you see that all right?

A. I see it.

Q. Okay. Now, you just stop me when you start to see yourself. I'm not suggesting you're here by this red truck, okay?

A. Mm-hmm. That's me.

Q. Okay. So you're coming up. Now, you were driving a white truck that day, right?

A. Was I?

Q. Do you recall driving a white pickup truck that day?

A. Yeah. I own one. Yes.

Q. Okay. Is that yours or is that your family members?

A. That's my husband's.

Q. Your husband's truck. Okay.

A. But that's mine. Both ours.

Q. Your truck to go get some groceries with?

A. Right.

Q. Okay. All right. So that is you. Now, I don't know if you can see this, but there's a time stamp on the very bottom of that. It's not really a time of day, but it shows the time of this video, but it says 5:51. Can you see that?

A. I see. Yes.
Q. The bottom left. Okay.
A. Yes.
Q. So 5:51 is when you enter that parking lot on this video's little time stamp, correct?
A. Yes.
Q. Okay. I'm gonna bring you back a little bit to right after the shooting. I'm gonna do my best to do that. All right. So I'm gonna start playing. Can you see that time stamp right there? This is right after the shooting and you're gonna watch this Mercedes that you've been perceiving leave the parking lot and that is at, basically one. I think the shooting happens later at 1:30, but I'm gonna let it go. Do you see that Mercedes leaving?
A. I see that Mercedes leaving.
Q. And I started you at 1:30 per that time stamp. So now you haven't scene this, but do you recognize Ms. Nicole Bibbs on the phone?
A. I see Ms. Nicole Bibbs on the phone.
Q. Okay. We'll try to cover some ground here. You see a lot of people from the pool hall coming out to the parking lot.
A. Coming out.
Q. Ms. Bibbs still on the phone. You still see Ms. Bibbs?

A. Oh, I see Ms. Bibbs.
Q. You see a lot of people going over to B'Boy, right?
A. Yes.
Q. Now, here comes someone running across the street?
A. Yes.
Q. Do you recognize Ms. Kaigler?
A. Yes.
Q. Okay. Did you know she lived across the street?
A. Yes.
Q. Still see Ms. Bibbs on the phone, right?
A. Still see Ms. Bibbs on the phone.
Q. Now, at 3:45 per the marker, the first law enforcement vehicle enters the parking lot. Do you see that?
A. I see it.
Q. And people are still around Milledge at this point, right?
A. Yes. They are.
Q. Do you know Danny Dowling?
A. Didn't hear you.
Q. I'm sorry. Do you know Danny Dowling?
A. Like I said, not by face, I mean, not by the name, but probably by face.
Q. Do you know that guy in that tan shirt that came

out? He's around the corner now.

A. Yes. I saw the tan shirt go around the corner.

Q. What about this young lady right here?

A. Nope.

Q. You don't recognize her?

A. Nope.

Q. Okay.

A. No, sir.

Q. Okay. Ms. Hudson, do you recognize her helping in the kitchen? All right. Now here comes a second law enforcement vehicle. You see the flashing lights?

A. Yes.

Q. We're at 4:57 per the time stamp.

A. Mm-hmm.

Q. Trucks going by.

A. Yes.

Q. A lot of big trucks go down that road?

A. I don't stand out there to watch the traffic.

Q. Those trucks are loud, right?

A. They sure are, but I don't stand there watching traffic.

Q. How fast do trucks move down that road? Seems too fast. What's the speed limit out there?

A. Probably 35, but I'm not.

Q. They appear to be going faster than 35.

A. Probably so. You missed me because I saw my truck go through.

Q. No. I'm gonna show you your truck. Now, there was a white truck that looked like yours.

A. That wasn't mine? Okay.

Q. I'll show you your truck. Well --

A. That was my truck.

Q. Well, you're right. I did miss it. How did I miss that? How did you let me miss it?

A. Well, I didn't let you miss it. You missed it.

Q. How did you let me miss it. Let me know when you see it?

A. I saw it.

Q. All right. I'm not good at this mouse. Here we go. All right. Because I had you when you arrived. Now I got you. I'm just gonna use my mouse. Now, Ms. Edwards, does that look like your truck right there coming on up? Could that be your truck?

A. That looks like my truck.

Q. Now, it would be coming from -- It would be coming -- So we haven't quite gotten to that second parking lot so you must have come out of that first parking lot over here, correct

A. Might have.

Q. Because I can still see that, I still see the second

entrance right there. Can you see that? Watch my mouse. My mouse is right -- You see that pavement?

A. Right.

Q. So you must have been coming out of the IGA parking lot that first one?

A. Exactly. Do you see how long that truck is that I'm driving?

Q. Yeah.

A. I have to have space so I did, probably did go the other way to come out. Yes.

Q. Okay. Okay. Not that closest entrance to the pool hall, but it would have been that furthest entrance to the pool hall?

A. Right. Mm-hmm.

Q. Okay. Now, let's watch the truck. You came in. See the reflection of this truck after you park? Do you see that reflection?

A. Yes.

Q. I can see you getting out of that big truck and I'm gonna stop it at 5:50. That's where we started from. Come full circle, right?

A. Yes.

Q. Okay. 5:50. Let me play it for a little bit. Now you come and hug this woman, right?

A. Yeah. I didn't know her, but I hugged her.

Q. And you make your way to the rest of the people around Milledge, right?

A. Yes.

Q. 5:50. So as you testified, when you heard the shots, you're watching it, you're perceiving it and the next thing you did was went to the pool hall. We just saw you go into the pool hall?

A. Yes, sir.

Q. So that is from 1:30 when we showed you the shooting right after and Barry leaving at 1:30 on this time stamp and 5:50 when you first arrived, that's four minutes and 15 seconds, right?

A. Yes, sir.

Q. And law enforcement has already arrived. In fact, two cars from law enforcement have arrived, right?

A. Yes, sir.

Q. And you saw Ms. Bibbs calling 911 and your testimony was that as soon as you saw what happened, you got in your truck and went over there?

A. Yes, sir. Now, and you heard me say, too, I heard pow, pow, so I'm not gonna be the second one to get shot so I wasn't gonna rush over there to get shot.

Q. Right.

A. So, yes, I took my time going over there.

Q. Okay. Okay. So you took your time?

A. Yes.
Q. I mean, you took four minutes --
A. Exactly.
Q. -- and 15 seconds?
A. Yes. I heard pow, pow. That means --
Q. Now, you weren't gonna be the second one to get shot?
A. Exactly.
Q. But that was a long time, four minutes and 15 seconds. I mean, law enforcement is already there. Ms. Bibbs is calling 911. She's very upset, right?
A. Yes.
Q. And when you got there, you were talking to everyone who was very upset, right?
A. Yes. Comforting everybody.
Q. And it took you from that parking lot four minutes and 15 seconds to get there?
A. Yes.
Q. Did you make any other stops?
A. I didn't make not one other stop.
Q. Were you in that parking lot?
A. Oh, yes. I was in the parking lot.
Q. Okay. Perceiving things through the trees, through the trucks, up the hill, through the gate, correct?
A. Yes.

Q. Okay. Now, when you didn't want to be the second one to get shot, that probably scared you, right?

A. Instincts.

Q. So you were scared?

A. Not scared, but I heard the pow, pow and like I said, I wasn't gonna be the second one to get shot.

Q. I mean, did you hear it or did you see it?

A. Both.

Q. Both. All right.

A. I heard the shots.

Q. So you're the witness to a shooting?

A. Exactly.

Q. So you called 911?

A. No. I didn't call 911. I don't recall calling 911. No. I don't think I called 911. I asked had 911 been called.

Q. Who did you ask?

A. Uhm, several people. Uhm, several people were out there. Like I said, I do not know names.

Q. When you got to the parking lot, you asked?

A. Yes.

Q. That four minutes and 15 seconds later you asked has anyone called the police?

A. Why would I ask that when the cars are there?

Q. Yes, ma'am. When you were perceiving this shooting

that scared you, you didn't call 911?

A. No. No.

Q. Between the four minutes and 15 seconds you didn't call 911 when you see something like that happen right nextdoor?

A. Right nextdoor.

Q. Now, from inside this store you probably could have heard a lot, right?

A. From inside the store?

Q. Mm-hmm. Yes, ma'am. There's glass windows in that store, right?

A. Yes. Glass windows are at the store.

Q. And gunshots are loud, right?

A. Gunshots are loud, but evidently they weren't loud enough for people to come running out of that store in IGA.

Q. Now, you could have heard that gunshot from inside that store, right, Ms. Edwards?

A. If you have bionic ears.

Q. That would of explained the four minutes and 15 seconds?

A. Oh, no. No. It wouldn't because I was not in the store. I was on the outside in the parking lot. I was not in the store.

Q. Well, let's talk about what else you did between the four minutes and 15 seconds. You didn't call 911. Were your

groceries already in your truck when you were perceiving this? Did you have them in your hands? Did you put them down?

A. Let me think. Where was the groceries. They were in the buggy and I probably threw them in the truck. That might have took up some of that four minutes and something of time.

Q. Loading up your groceries?

A. Mm-hmm.

Q. And just taking your time to see what was gonna happen over there, right?

A. Taking my time not to get shot.

Q. Okay. Well, I'm trying to get that figured out because you said you went right over there.

A. Mm-hmm.

Q. But you're certain you didn't call 911 --

A. No.

Q. -- because you figured -- What did you figure? I'm just asking you. You said you were scared.

A. You said I was scared. I didn't say I was scared.

Q. You weren't scared?

A. Mmm-mmm.

Q. I thought you said you were scared?

A. I said I was not going to be the second one to get shot.

Q. Were you scared? Was this a scary event?

A. Yeah. It was a scary event.

Q. Okay. But you didn't call 911. You know, you and I have discussed this case before under oath?

A. Mm-hmm.

Q. I've got a transcript and you said that this kind of thing doesn't happen in small towns and it made an impact on you, correct?

A. Yes. This type of stuff don't happen in small towns like Johnston, Edgefield, no. We don't see this everyday, every weekend.

Q. Because it's scary, correct? Hearing shots scare you?

MR. McNAIR: Your Honor, I'm going to say asked and answered at this point. He's asked it 10 times.

THE COURT: I'll allow this question, but after that, I think it's been thoroughly --

BY MR. B. SHEALEY:

Q. Yes, ma'am. So again, this is up the hill through the tree line that you would have been perceiving this event, correct?

A. Yes.

Q. You didn't call 911, correct?

A. No.

Q. And that would have been the view from the Mercedes to wherever you were in that parking lot right through the

trees?

A. Yes.

Q. Through the trucks?

A. Yes.

Q. Through the fence?

A. Yes.

Q. And again, it took you four minutes and 15 seconds to get over there and, Ms. Betty, you've got your purse in your hands, right?

A. Yes.

Q. Were you planning on getting some dinner when you came up?

A. Why would I be planning on getting dinner when I had bought groceries?

Q. I don't know. Some people don't like to cook after they've just gone shopping.

A. I like to cook.

Q. But you come out of that truck with your purse in your hand?

A. Oh, yes. That's a very expensive bag.

Q. Does you truck lock?

A. Huh?

Q. Does your truck lock?

A. Oh, it does.

Q. Okay. But you had it with you. Unlock it with your

key?

A. Exactly.

Q. Now, this wasn't one of those days you were gonna get one of those good cheeseburgers and salad, was it?

A. No. It wasn't.

Q. Not like you do on occasion, correct?

A. Not like I do on occasion.

Q. Not this day?

A. Not this day. I was going to help.

MR. B. SHEALEY: Okay. Thank you, ma'am. No further questions.

THE COURT: Redirect.

MR. McNAIR: Real quickly.

REDIRECT EXAMINATION

BY MR. McNAIR:

Q. Ms. Edwards, everything you testified to that I asked you about, that was something you saw or heard, correct?

A. Something I saw or heard. Yes, sir.

Q. That wasn't something you learned by hearing Nicole Bibbs talk to 911?

A. No, sir.

Q. Or heard people talking about on the scene?

A. No, sir.

Q. I'm asking obvious questions. You can see through a

chain link fence, can't you?

A. Through the fence.

Q. And he showed you that picture overhead of the tree tops that's basically a big hedgerow, but there's plenty of gaps there for you to see through, correct?

A. Yes, sir.

Q. One last question. You're not here to lie for anybody including Milledge Hall, are you?

A. No, sir.

MR. McNAIR: Thank you.

THE COURT: Recross.

MR. B. SHEALEY: Just briefly.

RECROSS EXAMINATION

BY MR. B. SHEALEY:

Q. You're not here to lie, right?

A. What's that?

Q. You just answered that question. You're not here to lie?

A. No. I'm not gonna lie.

Q. But this is a small town and you knew a lot of people in that parking lot including Milledge, correct?

A. Yes.

Q. Now, you didn't know what any of that was about, correct? But you just heard stuff and you saw some stuff, correct?

A. When you saying stuff, what stuff?

Q. What you testified that you perceived in that other parking lot down the hill?

A. Yes.

Q. So you didn't know what started anything?

A. Oh, no.

Q. But we've already gone across the number of people that you did talk to when you got to that parking lot?

A. Yes. Comforting people because people were very upset. Yes. So I went over to start working with Milledge.

Q. Correct. And just like that woman that you hugged, you were comforting folks?

A. Yes.

Q. It was traumatic for you and for them, correct?

A. Yes.

Q. And these are people that you knew in your community?

A. That I have seen and know. Yes.

Q. And even some that you have taught like Ms. Bibbs, correct?

A. Yes.

MR. B. SHEALEY: Thank you.

THE COURT: Is that it, Mr. Shealey?

MR. B. SHEALEY: Yes, Your Honor.

THE COURT: Okay. All right. The witness may step

Thereupon,

PHILIP TURNER

after having been first duly sworn, testified as follows,

THE CLERK: Please have a seat. Once you're seated, state your full name spelling your last please.

THE WITNESS: I'm Senior Special Agent Philip Turner. Last name is T-u-r-n-e-r.

DIRECT EXAMINATION

BY MR. HUBBARD:

Q. You're a special agent with who?

A. I'm a Senior Special Agent with the South Carolina Law Enforcement Division.

Q. Known as SLED?

A. Yes, sir.

Q. How long have you been with SLED?

A. Nine years.

Q. How long have you been in law enforcement?

A. Coming up on 20 years.

Q. At some point did law enforcement here, local law enforcement in Edgefield County reach out to SLED to get involved in this matter?

A. Yes, sir.

Q. And why was that?

A. We were called in to investigate the use of force of an officer involved shooting which involved Mr. Kathmann,

Officer Kathmann and Sergeant Florida.

Q. And in doing that job, do you look at everything that happened at Log Creek, but did you also go back to the pool room and look at things that happened there?

A. Yeah. I looked at what took place, the totality of the circumstances from beginning to end and what created the situation or the use of force and then how it was dealt with to its conclusion.

Q. Okay. Who was in charge of the investigation at the pool hall where the shooting occurred involving Milledge Hall?

A. At the pool hall was Investigator Jimmie Smith.

Q. And are you aware of whether Jimmie Smith is still with us or not?

A. No, sir. Jimmie Smith passed away in 2019.

Q. And what about Randy Duran who used to be with Edgefield County. Do you know his status?

A. Yes, sir. Lieutenant Duran has since retired from law enforcement.

Q. Now, I just want to also talk to you a little bit about, when we get to Log Creek, we see someone from your agency, CSI Anna Tankersley, she came out there?

A. Yes, sir.

Q. We see yellow tape put up.

A. Yes, sir.

Q. When you were looking at what occurred at the pool hall or the pool room in Johnston, there's no crime scene tape and there's no CSI folks there. In your review of that, what did you see there at that incident?

A. When law enforcement arrived, what do I see looking at video?

Q. What were your key pieces of evidence there?

A. Oh, my gosh, key pieces of evidence. The body is gone. EMS removed the body. The suspect's vehicle is gone. The suspect's gone. The firearm is gone. He's using a revolver so there's no shell casings on the scene there. He took them with him. So really you have no victim, no vehicle, no victim vehicle, suspect vehicle, it's all gone.

Q. And you do have video?

A. I do have video.

Q. And Edgefield County did get that?

A. Yes, sir.

Q. And there were witnesses?

A. Yes, sir.

Q. And witnesses were talked to?

A. Yes, sir.

Q. But you mentioned a revolver was used so there's no casings, nothing that would show a gun has been fire?

A. Yes, sir. A revolver is the wheel gun you see, a six shooter. Unlike my semi automatic, my semi-automatic

automatically ejects the cartridge casings. Every time I pull the trigger, it leaves one behind. A revolver, they stay inside encapsulated in the wheel of the gun so they go with the gun and until you physically, mechanically open it and dump them, the casings stay with the weapon.

Q. Now, was part of your job to interview both Officer Kathmann and Sergeant Florida?

A. Yes, sir. It was.

Q. Are those typically recorded?

A. Yes, sir.

Q. What, if anything, occurred while you were recording Sergeant Florida's interview?

A. We had a system that's called CaseCracker. We still actually own it now. It looks like this laptop computer. It has a, for lack of a better word, it's got a little IP camera that clips on the top, we hit record, it has software that we paid a lot of money for, you open it up, hit record, it records the interview for you, audio, video. When you're done, you hit stop and download it. On the date of Officer Florida, or Sergeant Florida's interview we were at the North Augusta Public Safety Station Two, I opened it, myself and Agent Russ Padgett were there, set everything up, hit record, the light flashes, all is well, when we get done later after the interview, I go to download it and realize that it had not recorded. I personally made contact with CaseCracker.

They're out of Pikes Peak, and if I remember correctly, Colorado, made contact with them and actually sent the unit back following the failure in that interview to which they replaced the entire unit.

Q. So there was a malfunction with the unit?

A. There was a malfunction with the unit.

Q. It wasn't something that you did?

A. No, sir. I wish it was recorded.

Q. Now, when you go to interview an officer, are they entitled to an attorney?

A. Yes, sir.

Q. And there was mention that Kathmann did not get an attorney?

A. Yes, sir.

Q. Is that unusual?

A. In this day and age it is unusual. Almost every officer, in recent history that I can remember, he is the only officer that I have interviewed in the past I can't remember how many years that has discharged his weapon in the line of duty that has not requested an attorney to be present. I mean, personally I would have an attorney present.

Q. You would?

A. Yes, sir.

Q. And Sergeant Florida did?

A. Yes, sir.

Q. And as law enforcement officers you actually pay for that service?

A. You can elect to. I personally pay for it out of my every pay check I pay into a service with the South Carolina Law Enforcement Officers Association that would provide me an attorney in that situation.

Q. All right. Now, reviewing the incident at Log Creek, I want to specifically focus on Sergeant Florida. There was talk about the fact that some rounds were not accounted for, that his magazine count was off. Were you aware of that when you went through your investigation?

A. Yes, sir.

Q. You do a lot of these investigations with officers?

A. Yes, sir.

Q. Is that unusual, the count off?

A. It's not unusual. You do everything you can to explain it. I spoke with everyone who was willing to speak with me, interview the officers, review the crime scene and everything that our crime scene unit does, they do the best they can at collecting everything that's on the scene. It's not unusual to have a slack magazine, for an officer to think he has a full magazine and not to have a full magazine.

Q. Officer Kathmann didn't have a full magazine?

A. Officer Kathmann is also missing a round. You're a

hundred percent correct. But there is a round -- Me, myself personally last week I left the firearms range and I had a slack magazine. I caught it later on, but I was a round short on my count in my magazine just because when I reloaded it, I didn't find that last round to put back in the magazine after I put one in the chamber so I had a slack magazine last week myself.

Q. So it's not a red flag?

A. It's not necessarily a red flag. No, sir.

Q. Let's see here. I'm gonna show you Defendant's photographs, looks like 50, the interior of Sergeant Florida's vehicle?

A. Yes, sir.

Q. There is a little piece of metal there. Now, let me ask you this: Are you aware, because this was your overall investigation, right?

A. Yes, sir.

Q. Were you aware Anna Tankersley found no casings in Sergeant Florida's vehicle?

A. Yes, sir.

Q. This little piece of metal here, did she follow up to see what that might be?

A. Yes, sir.

Q. This little piece right here that I can barely see?

A. Yes, sir.

Q. I want to show you State's 167 and 168. Does that look like what that object actually is?

A. Yes, sir.

MR. HUBBARD: Offer these into evidence.

MR. B. SHEALEY: Without objection.

THE COURT: State's?

MR. HUBBARD: 168 and 167.

THE COURT: State's 167 and 168 are admitted into evidence.

BY MR. HUBBARD:

Q. So 167 is this metal object?

A. Yes, sir.

Q. And then 168 is that same object?

A. Yes, sir. It's just flipped over.

Q. What is it?

A. It's just flipped over in her hand.

Q. Okay. Is that a casing from a firearm that's been fired?

A. No, sir.

Q. It's not. Okay. I just wanted to clarify that. In working with Anna Tankersley she did this board or assisted. She did a board, State's 153. Were any casings found in this area here?

A. No, sir.

Q. None?
A. No, sir.
Q. All of Sergeant Florida's casings were found right up at his vehicle?
A. Yes, sir.
Q. On the backside of his vehicle?
A. Yes, sir.
Q. None inside?
A. No, sir.
Q. Now, I want to turn to something else that you ended up having to do. By having to look at all this evidence, you had the CAD report?
A. Yes, sir.
Q. You had the 911 call and you had videos?
A. Yes, sir.
Q. Was part of what you were tasked with trying to figure out, what's the correct time on some of these?
A. Yes, sir. We had to look -- The day following or days following the actual incident I met with Investigator Smith here at the Edgefield County Sheriff's Office and we did, I wanted to see what they had for the murder. Not that the murder is my business, I'm not investigating the murder, but I want to see the accused murder, alleged murder, I want to see what they have and what we're looking at, but number 1, do I have the same vehicle, same people, same vehicle, all

this needs to match up. Along with that I need to coincide these times to say when this murder happened, we're talking about officers getting behind someone who is accused of just committing a violent crime. I need the timeline to some extent that I understand to make sure this matches up with the CAD report, 911, all this has to match to make sense to me. So as we looked, the video from the pool room is off by --

Q. How far is it off? How much?

A. In correlation with the 911 call and the CAD report and seeing Ms. Bibbs on the telephone, you heard Ms. Bibbs testify, Ms. Bibbs in on that telephone so we matched that 911 call with this. It's approximately 53 minutes.

Q. 53 minutes off?

A. Approximately. Yes, sir.

Q. Were you able to determine what time Barry Jones left the pool hall the first time he had been there?

A. The first time was approximately 6:25 p.m.

Q. Were you able to determine when he came back?

A. Approximately 7:00 p.m.

Q. And then the 911 call was at what time?

A. Approximately 7:10 p.m.

Q. I want to show you some strips, if I can. So your testimony is at 6:25 p.m. that's when Jones leaves the pool room for the first time?

A. Yes, sir.

Q. And your testimony is that at 7:00 p.m. Jones arrives back at the pool room?

A. Yes, sir.

Q. And then the 911 call was at what time?

A. The 911 call, if I recall correctly, is at 7:10 p.m.

Q. 7:10?

A. Yes, sir. Approximately.

Q. All right. So now looking at this, were you also aware as part of this investigation and getting into Mr. Jones about text messages he had sent?

A. Yes, sir.

Q. And so by your figuring, he left the pool room at 6:25 p.m.?

A. Yes, sir.

Q. And then at 6:49 there's a text message to someone. Can you calm me down.

A. Yes, sir.

Q. Then at 6:49 a message from Jones, I'm gonna kill that B'Boy?

A. Yes, sir.

Q. 6:56, can you help me? I don't need that b-s, from Mr. Jones?

A. Yes, sir.

Q. Then at 7:00, just minutes later, he arrived back at pool room?

A. Yes, sir.
Q. And at 7:10 911 is called?
A. Yes, sir.
Q. That appears to be a correct summary of the time?
A. It does.
MR. HUBBARD: Your Honor, I move that into evidence under Rule 10-06, summary board.
THE COURT: Without objection?
MR. B. SHEALEY: Without objection.
MR. HUBBARD: 170, Your Honor.
THE COURT: State's Exhibit 170 is admitted into evidence.
MR. HUBBARD: Agent Turner, thank you. That's all I have at this time.
THE COURT: Cross examination.
MR. B. SHEALEY: Thank you, Your Honor. Please the Court.
THE COURT: Yes, sir.

CROSS EXAMINATION

BY MR. L. SHEALEY:
Q. I'm gonna pull this out real quick for this one. Agent Turner, can you see that? I would like for you to see it and the jury to see it. It may be too big for this easel. Can you see that?
A. Yes, sir.

Q. Okay. So, Agent Turner, you agree that you are in a very unique position today in this courtroom because you are the only testifying member of law enforcement that has had the privilege to sit throughout this entire trial, correct? You've been right there?

A. I'm the only testifying member --

Q. Yes, sir.

A. -- of law enforcement --

Q. That has been allowed to sit throughout this entire proceeding start to finish, correct?

A. Other than Sergeant Florida, yes.

Q. Well, he's a listed victim in this case, but he's no longer testifying, but as a lead investigating officer?

A. Okay. You said the only member of law enforcement that's been allowed to sit in here.

Q. The lead investigating testifying member of law enforcement that's had the ability to hear all the evidence presented, right?

A. Yes, sir.

Q. Hear witness statements, correct?

A. Yes, sir.

Q. Basically kind of be apprised in realtime of the strengths and weaknesses of this case, correct?

A. Yes, sir. As a lead investigator we are allowed to stay in the courtroom.

Q. Correct. You're able to hear the testimony of CSI Agent Tankersley, correct?

A. Tankersley.

Q. Tankersley, correct?

A. Yes, sir.

Q. So we're all up to speed on the issues, correct?

A. I believe so.

Q. Now, as an investigating officer, a senior agent for SLED being in law enforcement for at least 20 years you understand that you are always seeking the truth, correct?

A. Yes, sir.

Q. And that just because you sign off on a warrant doesn't necessarily mean that your investigation ends, correct?

A. Absolutely.

Q. In fact, in this case once the warrants were signed for murder and attempted murder, you've got lots of work that you're still conducting, correct?

A. Just for clarification, I didn't sign any warrants in this case.

Q. I didn't say you did. I said when they were signed.

A. Okay. You said when you signed the warrants, so just for clarification, I said I did not sign any warrants.

Q. I'm not saying that.

A. Okay.

Q. In fact, Investigator Smith signed off on the murder and attempted murder.

A. Yes. Edgefield County conducted the murder investigation. I only conducted the officer involved shooting portion, the use of force investigation.

Q. Correct. We're speaking the same language. But your work goes on, correct?

A. Yes, sir.

Q. Okay. So you know Jimmy Smith signed off on warrants for murder and attempted murder on the 9th. At least in terms of attempted murder you're working hard, correct? I see you've got your laptop. I'm looking at your case management history. You got that in front of you? Are you familiar with that?

A. Let me see if I have it in here or not. All right.

Q. If I may approach, I'm gonna show you a really poor image, but you probably recognize it of the attempted murder warrant for Officer Florida's case.

A. Okay.

Q. Do you recognize that?

A. No, sir.

Q. You've read warrants before, haven't you?

A. I have read warrants, but I've never seen that warrant before right this second.

Q. Okay. Do you see the investigating officer here? What's his name?

A. James C. Smith.

Q. What's the charge? I know it's small.

A. Gosh, assault for --

Q. Just the charge. Don't read it. Just the charge. Do you see it?

A. The description of offense?

Q. Just right there.

A. That's what I'm reading. Assault/attempted murder.

Q. Okay. And can you, this will be really hard because it's real small, what's the date that Investigator Smith swore that out before a magistrate?

A. It is dated May 9th, 2018.

Q. And that would have been two days after this pool hall allegation and the Log Creek allegation, correct?

A. Yes, sir.

Q. So he's already got the attempted murder warrant before a magistrate two days after this incident, correct?

A. Yes, sir.

Q. Now, Investigator Smith is with Edgefield. He's got nothing to do with your scene, does he?

A. No, sir.

Q. He's not investigating that?

A. No, sir.

Q. And I know Solicitor Hubbard was asking you some questions about the pool hall and some of the review you did. You didn't actually go up to the pool hall, did you?

A. No, sir.

Q. Because that's not your job?

A. I did not go to the pool hall. I went straight to Log Creek Road where I stayed while they were at the pool hall. They were cleared from there a long time before I left.

Q. So you didn't go to his scene and he didn't go to your scene?

A. No, sir.

Q. Okay. But y'all are communicating from time to time?

A. Yes, sir. We met up right here later that night.

Q. Now, you, of course, went to the Log Creek scene?

A. Yes, sir.

Q. And I believe you went there that day, correct?

A. Yes, sir.

Q. Because you recognize that as a lead investigator on this case there's lots of work to be done?

A. Yes, sir. When we get called out, we go to the scene to make sure that everything is handled. It's our scene.

Q. Yeah. There are shell casings to get collected and marked, correct?

A. Yes, sir.

Q. Lots of CSI work to get done?

A. Depending on the scene. If we have shell casings or -- It's all dependent on the scene.

Q. And statements to be taken from anyone that was a witness to the allegation?

A. If I can, yeah, if there are any.

Q. Like Officer Densmore, correct?

A. Yes, sir.

Q. Officer Morgan?

A. Yes, sir. If I can get them that night, I will.

Q. And you were able to get those statements from Densmore, Morgan and Bowman relatively quick. In fact, May 7th of 2018, correct?

A. I would have to look at them to tell you for sure when I did, when I interviewed who. I know I got some that night.

Q. I'll beat you to it, if you don't mind. Do you recognize your case management history?

A. Yes, sir. That's mine.

Q. Okay. So on May 7th the day of this incident you were able to take statements from Densmore, Morgan and Bowman?

A. Yes, sir.

Q. Okay. Now you requested statements from Officer Florida and Officer Kathmann, correct?

A. Yes, sir.

Q. Now, before I get to that, they were some of the main important witnesses in this case because, you know, they were there, correct? They're part of this video that I'm sure you have reviewed at this time from Officer Kathmann's patrol car, correct?

A. Yes, sir.

Q. Now, the whole reason you're here as SLED investigating this situation is because it can be an inherent conflict for an agency to investigate its own use of force on officer shootings, correct?

A. Yes, sir.

Q. Explain, because that would be a conflict, correct?

A. It could be considered as one. Yes.

Q. Explain that to the jury what your purpose was in terms of coming down on a potential conflict like that and why you're here?

A. In South Carolina we don't have a law that says SLED has to investigate officer involved shootings. It's up to the agency. In this case and a lot of cases an agency representative, whoever is in charge, will make a call to us

and request that we take it to clarify this for the public so that it doesn't appear to say that one Edgefield County officer is investigating another Edgefield County officer. We do this not just for use of force, but sometimes if there's a criminal allegation against any officer. In this case Captain Wash originally called us. He was the number 2 man in charge at the Sheriff's Office at the time, he called us and requested us. Chief Carter from Edgefield Police Department was also on Log Creek Road, met us out there and he also conferred with Captain Wash, myself and Lieutenant Horton and they requested we take this over to do and conduct an independent investigation of not only the Edgefield County person, but also the Edgefield city officer so there wouldn't be a visible, you know, any conflict of interest.

Q. Right. It's important not to have a conflict of interest, correct?

A. Yes, sir.

Q. That's why you're here, correct?

A. Yes, sir.

Q. Now, if you come down to this Log Creek scene and realize that you were kin to Officer Florida or kin to Officer Kathmann, you would have to recuse yourself and have another agent come down, correct?

A. That's per my policy. We have policies that tell us and if I see an apparent conflict of interest, a friend or

whatever, that's SLED policy.

Q. Sure.

A. I can speak to only SLED policies.

Q. That's a good policy, correct?

A. I don't judge policy. That would be my opinion.

Q. Sure. Sure. But just like while you're here to do an independent review in a law enforcement shooting so that their bosses aren't reviewing them, similarly you would have to recuse yourself if you were related to or had any personal relationship to any witness or alleged victim in any case, correct?

A. Yes, sir.

Q. Now, back to Florida and Kathmann. So you're taking these statements from Densmore, Morgan, and Bowman on the 7th without any difficulty, correct?

A. Yes, sir.

Q. Now, you try to take a statement from Officer Florida and he's saying I'm gonna be getting Bill Sussman, attorney Bill Sussman, correct?

A. Yes, sir.

Q. And I think Officer Kathmann also says I'm not gonna give you a statement tonight, but I will be giving you one, correct?

A. Yes, sir.

Q. So you don't take Kathmann's statement, Officer

Kathmann's statement until sometime later, looks like May 17th. Does that sound about right?

A. That sounds right.

Q. Okay. So 10 days after this event that you are here for, correct?

A. Yes, sir.

Q. Okay. Now, I'm looking at your case management again. Now, Florida has already said that he needs attorney Sussman by his side, but then on May 8th the very next day you're calling up his lawyer, right?

A. Yes, sir.

Q. Okay. And you're trying to schedule his written statement, correct?

A. Yes, sir.

Q. Okay. Now, when it's a written statement like that, you're allowing him to work with his lawyer and prepare a statement regarding what happened in this particular situation?

A. Yes, sir. I believe Officer Kathmann also prepared a written statement and brought it to me.

Q. And you get scheduled with Florida and his lawyer on June 5th to present to you an already completed statement in this matter, correct?

A. Yes, sir.

Q. Now, he had already had the ability to review the

dashcam footage in this case?

A. No, sir.

Q. Did you show it to him?

A. Yes, sir.

Q. So you showed it to him before he presented the statement or after he presented the statement?

A. When we arrived at the North Augusta Department Station Two that day, his attorney said that they would like to see it before he gives a statement and interview. I set up my computer, because to clarify this, I took the SD card out of Kathmann's camera, SD card source on the video, SLED took that into evidence that night. We maintained possession of that video. Nobody else had a copy of it until we released it back as evidence after we were done with it so at this time I've got it. It's on my computer. I allowed attorney Sussman and his client Mr. Florida, Sergeant Florida to sit down and review it because they had asked to prior to giving a voluntary statement.

Q. So you allowed this person that you are part here to assess to review evidence, video evidence in a case before the statement?

A. Mm-hmm. Per policy I'm allowed to do that and to clarify, this is a voluntary statement. I can't make anybody -- These police officers are citizens of the United States just like each and every other person in this courtroom are,

no better, no worse. They have the same Constitutional Rights as the defendant or as anybody in this courtroom to include myself or the Judge or anyone else. Nobody is any better or worse. Their Constitutional Rights are just as important. They don't have to, no one has to give me a statement. I can't compel them to talk. So this is a voluntary statement. He can say what he wants to say. He doesn't have to say anything and he doesn't have to give that statement to us. His attorney who he's hired to represent him, this is their decision. If I don't show them the video, if I don't show them anything, he can say, we're not gonna give you the statement. Law enforcement officers, myself included, I review my videos on a regular basis before I write a report, not even a report, a memorandum.

Q. So your testimony is that it's your practice of letting people of interest review evidence in a case as a practice review before allowing them to present to you a typed statement, you do that in a murder case, you do that in a larceny case, any kind of case you're investigating, that's what you do?

A. It depends on the situation, but if they ask me to see it and it's something I can reasonably do, it is within policy for us and our protocol for officer involved shootings such as this that they are allowed to see it with their attorney. That's policy. I don't write policy.

Q. So officer involved shootings?

A. I can tell you on this incident they are and anything else I would ask if somebody came to me, if their attorney came to me and said, may I see this before I sit down, before I talk to you, I don't have a problem.

Q. So an officer involved shooting gets to look at the evidence in advance if they want to?

A. The evidence or the video? There's a difference. I'm not gonna take them through - they have not seen the evidence, but the video, their in car video or videos depicting them, yes.

Q. Now, a video is evidence, correct?

A. It is. But it's not -- When you say evidence, it's not all the evidence. We're not gonna run them through, they're not going to the lab to go through everything. They're not gonna see all our crime scene photos, but the in-car videos and body cam videos they are allowed to see. And then this, this one is a little different because I took the video. Most agencies keep the video and they give me a copy so they have full control of the video so they can watch it all they want to. This case bing a little different because I owned the individual at that time or SLED owned the video. If it was, say, let's say the Aiken County Sheriff's Office, their system, they would give me a copy of the video and they would keep it. Those officers can watch it per their

department policy all they want to if their agency allows it. They have it. This one's different because it was an SD card in a camera and I took it so he doesn't have access to it.

Q. I'm gonna refer you back to this video. Look at page 4 of your case summary or your case management history. So you're allowing Florida and his lawyer to look at this information?

A. Which number are you on?

Q. Go to page number 4.

A. I'm on page number 4.

Q. You just testified that you're allowing Florida and his lawyer to look at this information as they're submitting a statement. What was the date of that statement? June 5th?

A. Yeah. June the 5th.

Q. So I'm looking on page 4 trying to figure this out. So on June 5th they're looking at that video. On June 20th you're reviewing that video for your - The first entry I see of you reviewing that video was after they got to review the video?

A. I watched that video -- As soon as computer crimes gave it to me, we have to take it to -- Part of our protocol when we have an officer involved shooting is any video has to be reviewed by our supervisors within 24 hours of us gaining possession of it. Myself and my supervisor watched that video numerous times over and over prior to that. Why I documented

it on that day I'm not sure. June 20th, I probably, in relation to something, sat down and watched it, but I've watched that video prior to that interview. I've seen it. I can tell you Agent Padgett had seen it. Lieutenant Horton had seen it. Captain Bishop had seen it and so on and so forth up to headquarters at SLED, every officer involved shooting gets that type scrutiny that they are seeing. Those videos are watched a lot.

Q. Now, you can see further earlier in your entries that you downloaded and received this video on the 15th, May 15th of 2018, correct?

A. I got it back from computer crimes.

Q. Back it up and I can help you out if you need it.

A. 15, SA Turner traveled to Columbia and met with SA Hoodak at computer crimes to retrieve the disk from Officer Kathmann's in-car video. Yeah. I took them a SD card. I don't plug, we're not allowed to plug SD cards into our computer from unknown sources, unknown source being anything that's not SLED because of spyware and all that kind of stuff nowadays. We take everything to them and especially in this case we took the contents in the consent to search warrant, the captain gave us consent to take it, we did it, we took it, they downloaded it from the SD card, placed it on a disk for me and provided it to me in a format that I could use to review on my computer.

Q. So that's when you essentially received it?

A. That's when I received it. Yes, sir. I received it that night. That's when I had it copied into a format that I could review it.

Q. Okay. Yeah. Correct. So that's the first time you were able to view it is on the 15th?

A. Yes, sir.

Q. Okay. Now as we have already discussed --

A. If you look on 5/15, it says SA Turner reviewed video and case file. You said a minute ago I didn't do that until June 20th. Look on May 15th two lines below SA Turner and Hoodak, the next line down says SA Turner reviewed video and case file.

Q. So you reviewed it on the 15th, correct?

A. The day I got it.

Q. Kathmann gives you a statement May 17th, correct?

A. Yes, sir.

Q. Florida gives you his attorney presented statement on June 5th, correct?

A. Yes, sir.

Q. But old Jimmie Smith had already got that warrant on May 9th for attempted murder?

A. Okay.

Q. And y'all are communicating with each other, right?

A. Yes, sir.

Q. So the video evidence and the statements weren't even really in existence yet and Jimmie Smith had already gotten that warrant, correct? Well in advance of that, just two days after the incident, correct?

A. Okay. Yes, sir.

Q. Without the two main participant's statement and without the video evidence, correct?

A. I hadn't had a statement from them and I didn't have the video evidence.

Q. Correct. So let's talk about videos. Video evidence is extremely important in this case?

A. Yes, sir.

Q. And without it, without Officer Kathmann's personally purchased dash camera, we would have nothing to look at at all regarding that incident on Log Creek, correct?

A. Correct.

Q. Now, Florida, you know -- Before I get to Florida, it's very helpful to have video evidence, right?

A. Yes, sir.

Q. Because video typically doesn't lie, correct?

A. It tells what it shows.

Q. It tells what it shows, but it doesn't have, video doesn't have bias, correct?

A. Correct.
Q. Video doesn't have prejudice?
A. It just tells what it captures.
Q. It just shows what there is so you can see and hear, right?
A. Yes, sir.
Q. It's good for an average citizen, correct?
A. Yes, sir.
Q. It's good for a senior agent?
A. It's nice to have it. Yes, sir.
Q. And again, you've been in here throughout the courtroom and you yourself heard Officer Florida say the video is wrong. I know I shot three times even though there are four shell casings. You were here. You heard him say, I hear it, but that's not the truth, correct?
A. Yes, sir.
Q. You also hear, and you never heard Officer Florida say that he only had a half full magazine in his .40? You didn't hear that, did you?
A. No, sir.
Q. And you are aided by evidence, correct?
A. Yes, sir.
Q. That's why you have a CSI division, correct?
A. Yes, sir.
Q. And that lady is a whole lot smarter than you or I,

right?

A. Yes, sir.

Q. She's good at her job, correct?

A. Yes, sir.

Q. And again, video doesn't lie, correct?

A. It captures what it captures.

Q. People however can lie, correct?

A. People can lie. Videos can miss things.

Q. Now, there's three videos that are missing relative to Officer Florida.

A. Okay.

Q. And you know this because you are the senior agent. His body camera is not part of this case because he was off duty, correct?

A. Yes. It's not missing. It doesn't exit.

Q. It's not available?

A. Okay. There's a difference than missing.

Q. And we've got a lot of body camera information on this case that's very helpful for our analysis, correct?

A. Yes, sir.

Q. Helpful for the jury, helpful for a senior agent, correct?

A. Yes, sir.

Q. And we wear body camera because it's important for evidentiary purposes, it's also important to protect law

enforcement, correct?

A. Yes, sir.

Q. Dash camera. So Officer Kathmann, apparently the policies are different, but he felt it important enough to purchase his own video equipment for his vehicle, right?

A. Yes, sir.

Q. It's a good high quality video footage. We've been looking at it all week, correct?

A. Yes. It's good footage.

Q. And Florida's isn't working, correct?

A. Yes, sir.

Q. Two months out of order per Florida, correct?

A. Yes, sir.

Q. And that's his statement to you, correct?

A. Yes. And I spoke with Captain Wash about it and they were aware that his video system had been broken and hadn't been repaired.

Q. But you agree it would have been extremely helpful to have his video working in this case because we could have seen a lot, correct?

A. Yes, sir.

Q. Now, this CaseCracker, you yourself said it's extremely expensive software?

A. It is.

Q. And it's not working, correct?

A. It worked for Kathmann. It did not work, and this is the first it failed when I was interviewing Florida, it's been sent back and they even found fault and replaced it.

Q. That's good. It's very important to have recorded interviews in a situation like this, correct?

A. Yes, sir.

Q. Because just like we're assessing you on the stand, you know, actually seeing something is important. That's why this jury box, this witness box is close to the jury box, correct?

A. Yes. It is.

Q. So that the jury can see every witness including yourself, correct?

A. Yes, sir.

Q. So that's why it would have been extremely important. As you stated, you wished it was on video yourself --

A. Yes, sir.

Q. -- for this kind of important moment to be captured on video, correct?

A. Yes, sir.

Q. But it was broken and you ordered a new machine, correct?

A. I returned it and they sent me a new machine. I sent it for repair and they sent me a brand new one.

Q. Now, why not just call him back in for another interview? You did some follow up questions with him, correct?

A. Yes, sir.

Q. I mean, it's not like you were having him write contemporaneously his entire statement with you, right? He and his lawyer had already written that, correct?

A. Yes, sir.

Q. So basically you've been asking him these follow up questions and there's not many, right?

A. Yes, sir.

Q. So that potentially we could observe you asking him these questions or you would have just pre-written them and then allowed him to just write them down. Are you asking them? Are you writing these or is there any interaction between you and Florida at all?

A. I'm writing these.

Q. Are you also asking him these questions and you're writing them?

A. I ask them out loud as I write them, he answers verbally and in writing. I make sure the two match.

Q. So that potentially would have been caught on CaseCracker?

A. CaseCracker at the time was brand new. It was a new thing. We never were allowed -- I don't know if you know much

about SLED, but prior to this our policy was that we did not record interviews. At this time is a new program for us to begin recording interviews because SLED wanted to try. This is our first stab at it. We had no body cameras in 2018 when this happened. We didn't have body cameras. I didn't have an in-car video camera at this time. I wasn't allowed to use a digital recorder at this time. This thing is brand new. To us it's a new piece of equipment. Yes. We're a little behind the times maybe, but this is what it is. I'm still conducting that interview the same way I did prior to having a camera which was we would write the question, they would respond in writing on the form, that was we all match and I have it verbally, they've said it aloud and it's their handwriting, their signature at the bottom of the form. That's the way I did it.

Q. Sure. Sure. Sure. I mean, we're all coming to grips with technology. We're all having problems with our equipment. We're getting in terms with the times, but as you've testified, this is helpful for you to have video of this kind of interaction with someone giving a statement, correct?

A. Yes, sir.

Q. And you wished it had worked?

A. Oh, I do.

Q. So again, why not just ask to reschedule it? Sorry

Florida.

A. I didn't know that it had failed for a day or so. I didn't realize it until I went to get it downloaded and then retry, boot off, log on several times to make sure it wasn't there, that it wasn't my error in how to download it before I realized it and to go back and recreate an interview would open a door for you right now that I don't want to be sitting here to answer for because you would be saying that he recreated the interview. He didn't like the way this went. Can't you see Special Agent Turner did this. They have heard this. They would say isn't it true you didn't like the first interview so you -- I don't open that door. It is what it is. The record is complete as it is. It is truthful and honest. I did what I could to give the best thing I could bring forward, but had I went back and tried to recreate an interview, again, we would be sitting here having a completely separate conversation, you and I. So the best thing to do is be honest about it, say it did not work, document it the best I can and move forward with my investigation.

Q. I hear what you're saying. So you in your entire career have never scheduled a follow up interview?

A. I've scheduled follow up interviews --

Q. Of course you have.

A. -- if I had further questions. Not to go back and recreate an interview, because that's what you're saying, to

go back and recreate. If I have further follow up questions to go back with someone on, I'll go back and follow up. I'm not gonna go back and say, let's redo this entire interview on video again.

Q. So like you said, you were concerned about what someone like me would be asking you some day in court?

A. No, sir. I wasn't. But I'm glad I did this the way I did. I would do it again right now.

Q. But so now you're saying you're glad that you didn't reschedule an interview that could have preserved a recording?

A. I couldn't have preserved the recording that had already not existed. I can't preserve what doesn't exist. I would be re-making and manufacturing evidence right there.

Q. And again, you've done tons of follow up interviews in your time?

A. I've done follow up interviews in my time. When I look for further information, I go back and do a follow up interview. I don't go back and ask the same questions again and recreate an interview because that would be shown - we'd be sitting here having that conversation right now.

Q. That would be a difficult conversation.

A. You and I would be having that conversation.

Q. And you don't want that, right?

A. I think what I've got here is a product and I stand

behind it.

Q. Okay. Let's talk about the crime scene. So your agent created this, correct?

A. Yes, sir.

Q. Okay. And even though Florida as you heard disagrees with the video, he's saying he shot four times, but yet he acknowledges that he can only hear himself shooting three times. We've got a situation where there's missing shell casings, correct?

A. I don't know that we have missing shell casings. Missing shell casings would mean --

Q. Missing count?

A. -- there would be two fired shots beyond what you have. We have four shell casings.

Q. We've got a missing count in this case?

A. We have two bullets -- If the gun was full, we don't have those two bullets. If the gun wasn't full to begin with, we're not missing anything.

Q. Again, you guys aren't bad at your jobs in terms of -- I mean, you don't get to be SLED and come out here and just find missing shell casings on the ground, correct? CSI Tankersley as we talked about is a smart lady and she's good at her job, correct?

A. Have we -- I don't even understand or am aware there was a question.

Q. My question to you is, you wouldn't be missing any shell casings here, correct?

A. I don't think --

Q. CSI Tankersley wouldn't have missed any of these shell casings, would she?

A. In my opinion I don't think we missed any shell casings.

Q. Okay. Now do you agree, you're a senior agent on this case. Do you agree with her measurements in this case?

A. Yes, sir.

Q. And so, can everybody see this? You can see this, correct?

A. Yes, sir.

Q. So from the point of the beginning of the Mercedes to the road, the edge of the road here, she has 49 feet, correct?

A. Yes, sir.

Q. And that's just to the edge of the road. That's just a reference point, correct?

A. Yes, sir.

Q. Now, Florida is suggesting that he was shot at as he said right in front of his vehicle as he was driving by, correct? Now, it's his testimony -- You've been in here. You heard that?

A. I heard his testimony.

Q. And that's what he said, correct?
A. Yes, sir.
Q. So he's saying he shot somewhere in here. Now, his vehicle is traveling this line that Agent Tankersley has provided for us. Now, that is closer than the edge of this road here, correct?
A. Yes, sir.
Q. That's more in here, correct?
A. Yes, sir.
Q. Not out this way. That's even closer than 49 feet, correct?
A. Yes, sir.
Q. I mean, there's not a number for this on this illustration, but what's the width of a car?
A. Eight feet.
Q. Eight feet approximately and so this, you know, let's just say 49 minus eight is 41, just say it's 41 feet. That's pretty close, right? Even though we're not out there on the scene, but 41 feet is pretty close proximity to one another, correct?
A. I don't know. If you want my opinion on closeness, it's 41 feet.
Q. Let's do this. Come here. Do this. Do you mind coming off the stand?
A. Absolutely not. (Witness complies.)

Q. Let's see how long this is. 41 feet. If you don't mind standing right there. Let me pull this as far as I can get it. So we're at 17 feet. This is 28 feet. Back up. Keep on going to that wall. Let's see how far we are for this experiment. All right. Stay with me. All right. So we're at 41 feet right here. I'm gonna hold this so you can see when I come back to you, pull it tight, back up a little more. So this is pretty close, correct?

A. It's 41 feet.

Q. So the information coming from Florida is that he was shot at from approximately 41 feet with an AR-15, correct?

A. Yes, sir.

Q. Which is an extremely high powered rifle, correct?

A. It's a rifle. It's a semi-automatic.

Q. Okay. Take a seat.

A. (Witness complies.)

Q. Now, we just basically covered the courtroom, correct? I'm gonna get you back up there. I'm gonna show you this.

A. Okay.

Q. I'm just gonna show you where my thumb is. 41 feet, correct, on this measurement?

A. Okay.

Q. And that's approximately the width of this

courtroom, correct?

A. Yes, sir.

Q. And that would have been the perpendicular area that Agent Florida claimed that he was taking fire from right in front?

A. Yes, sir.

Q. Now, again, you're always looking for the truth, right? Your investigation doesn't stop, correct?

A. Yes, sir.

Q. But yet you'd agree that Investigator Smith swore out this warrant on the 9th, correct?

A. Yes, sir.

Q. You received the video on the 15th, correct?

A. Yes, sir.

Q. And then Florida gave his statement on June 5th, correct?

A. Yes, sir.

Q. Let me ask you this: If you retire, are all your cases going away?

A. Are they going away?

Q. Yeah. Are they just gonna get dismissed?

A. No, sir. They'll either be handed over to someone else most likely or I'll complete them before retirement if I give enough notice.

Q. And if they're important enough, maybe you would

even testify, correct?

A. Yes, sir. We have retired agents to come in from time to time to testify.

Q. Because cases like murder, attempted murder are very important to everyone, correct?

A. They're important cases. Yes, sir.

MR. B. SHEALEY: Thank you. That's all.

THE COURT: Redirect.

REDIRECT EXAMINATION

BY MR. HUBBARD:

Q. One quick question. These cases you do with officer shootings, when you get involved with local agencies, do they ask your permission to get a warrant?

A. No, sir. Actually I won't even have that conversation because we're an independent. I need them to follow their policy while I follow my policy. I have nothing to do with that attempted murder investigation and they have nothing to do with mine. I'm investigating their officer so these two things need to stay on their own, you know, we need to stay on our own island so to speak. We need to communicate, but that's their investigation and I'm gonna conduct my officer involved shooting investigation and into the conduct and what took place with these officers.

Q. And that's what Jimmy Smith did?

A. Yes, sir.

Q. In all your review of all this stuff and going over statements and everything else, any indication that there was any issue with the fact that his divorced wife had been dating the defendant?

A. No, sir. I haven't seen anything still today.

MR. HUBBARD: Okay. No further questions.

THE COURT: Recross.

MR. L. SHEALEY: Just briefly.

RECROSS EXAMINATION

BY MR. L. SHEALEY:

Q. You are here testifying in this courtroom because it was necessary for an independent review of an officer involved shooting, correct?

A. An independent review requested by the agency, yes, sir.

Q. And that's part of SLED's purview is to be that independent investigative review?

A. Yes, sir.

Q. Because it's important not to have conflicts?

A. Yes, sir.

MR. L. SHEALEY: Thank you.

THE COURT: The witness may step down. Counsel, approach briefly please.

(Side bar off the record.)

THE COURT: Ladies and gentlemen, we're gonna break