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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Richland County

Honorable Clifton Newman, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ANTONIO VASHON BARNES, JR.

APPELLANT

APPELLATE CASE NO. 2023-001390

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT: FROM THE DECEMBER 5-13, 2022 TRIAL: STATE'S EXHIBITS #20, 25, 27, 28 (PHOTOGRAPHS), STATE'S EXHIBIT #71 (DVD OF INTERVIEW), AND DEFENDANT'S EXHIBIT #108 (DVD).

regular basis.

THE COURT: All right.

JUROR: To this day I still fire weapons on a regular basis.

THE COURT: Thank you.

Yes, ma'am.

JUROR: Juror number 50. I have a CWP.

THE COURT: All right. Thank you.

JUROR: Juror 160. My dad was in the military. I'm assuming he had firearms training.

THE COURT: All right. Thank you.

JUROR: Juror number 106. I am also active army, and I am a concealed carry permit holder.

THE COURT: Thank you.

JUROR: Juror number 27, CWP training.

THE COURT: All right.

JUROR: 261. I have family members in the military and family members also have CWPs.

THE COURT: Thank you.

JUROR: Juror 104, U.S. Army infantry retired, and also I've done years of firearms training, and I also hold a CWP.

THE COURT: Thank you.

Yes, ma'am.

JUROR: Juror 35, CWP.

Have you or an immediate family member or close friend ever witnessed a violent crime? If so, please stand. You or a close family member or close friend ever been a witness to a violent crime, if so, please stand.

Yes, sir.

JUROR: 153. Saw an action downtown where I testified at the trial.

THE COURT: What kind of crime was that?

JUROR: It was a fight and a guy was run over by a vehicle, and it was a murder trial.

THE COURT: All right. Thank you, sir.

Anyone else?

Are any of you morally or religiously opposed or so morally or religiously opposed to violent crime that you cannot be a fair and impartial juror in this case? If you are so morally or religiously opposed to violent crime that you could not be a fair and impartial juror, please stand.

(NO ONE STANDS.)

THE COURT: The defendant is charged with two counts of murder and possession of a weapon during the commission of a violent crime, the violent crime being murder. If any member of the jury panel would hesitate to vote not guilty simply because the case involves an allegation or allegations of murder and weapon during a violent crime, if you would hesitate to vote not guilty because of that,

please stand.

(NO ONE STANDS.)

THE COURT: If you've ever commented on a news article on social ---

Yes, sir.

JUROR: 93. I don't feel I've got the right to prove somebody guilty of any crime.

THE COURT: I'm sorry, sir. Pull your mask down. I can't hear you.

JUROR: I don't feel I have the right to prove anybody guilty of any crime.

THE COURT: You don't believe you'd feel right to find someone guilty?

JUROR: Yeah. That's correct.

THE COURT: All right. Number 93, any objection to him being excused?

MR. SCOTT: None from the state, Your Honor.

MR. LUKE SHEALEY: No, Your Honor.

THE COURT: All right, we will not use you in this case, 93.

If any has ever commented on any news article on social media, if you comment on news articles on social media such as Facebook, Twitter, et cetera, and the comments you made relate to or are related to a violent crime, if so please stand.

manslaughter case. I think I might have said murder case earlier.

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

If you or any close family member or close friend have ever had a bad experience with a criminal defense attorney or ever filed a grievance against a lawyer, if so, please stand. If you've ever had a bad experience against a solicitor's office, involving the solicitor's office, if so, please stand.

(NO ONE STANDS.)

THE COURT: All right, more questions for you. If any of you believe that a person who shoots and kills another and is charged with murder could potentially be not guilty based on self-defense or defense of their home, if you believe that a person who shoots and kills another could potentially be not guilty based on self-defense or defense of their home.

JUROR: 158. If I'm hearing that correctly, I'm defending my home, I kill somebody?

THE COURT: Yeah, you could potentially be not guilty. Well, let me ask the reverse of that, the reverse of that question. If any of you do not believe that a person who shoots or kills another person and is charged with murder could be not guilty based on self-defense or defense of their home, if you do not believe that, please stand.

serve as the foreperson of the jury. That person will have the responsibility of serving as the spokesperson to the jury, to have responsibility of presiding over the jury deliberations, and completing the verdict form at the end of the process representing the unanimous verdict of the jury.

We will try to keep things moving. I mean, we have a very bad sound problem in this courtroom based on these Covid glass structures and also what seems to be sometimes faulty microphones. I know I have trouble hearing the witnesses sometimes, so I'm going to ask the lawyers to make certain that the witnesses speak into the mic at all times so that you can hear them and that I could hear.

In just a moment, you will hear opening statements by the state. Then the defense will have an opportunity to do so if they desire.

Opening statements by the state. Mr. Walton.

MR. WALTON: May it please the court?

THE COURT: Yes, sir.

MR. WALTON: Senseless, unjustified killings nowadays seems too far common of an occurrence. Unfortunately, that's what this case today is about, two young men needlessly losing their lives: Eric Griffin, twenty-four years old; Antonio Dash, twenty years old. Two men taken away from their families, their friends, and their future.

In February of 2019, the defendant, Antonio Barnes lived at the Willow Runs (sic) apartment complex, apartment 14-G. This is located at 511 Alcott Drive, Columbia, South Carolina, about fifteen minutes from here. At the time, he had two roommates. The first, Sam Thomas. The second a man named Antonio Dash. Now, Antonio Dash wasn't on the lease agreement, but it's uncontested that he'd lived there approximately a year. Eric Griffin, a friend of defendant, Antonio Dash, and Sam Thomas, it was common for him to go and visit, hang out with them. They knew him.

Let's fast forward to the morning of February 7, 2019. Eric Griffin made plans with his wife, Ieasha Washington. The plans for that day were to take their one-year-old daughter, drop her off at the babysitter. They were then going to drop Eric's mother, Wanda Griffin, off at work. Then Eric and Ieasha, they were going to go furniture shopping.

So, the morning of February 7, 2019, things were going according to plan. They dropped their one-year-old daughter off. Now it was time to take Wanda to work. However, the babysitter lived at Hillandale apartment complex, and Hillandale apartment complex is down the street from the Willow Runs apartment complex. So, Eric asked Ieasha to stop by the Willow Runs so he could see his friends. Ieasha didn't think anything of it. Two days

prior, she'd done the exact same thing: took Eric to see his friends. So on this day, she agreed. She pulls into the parking lot of Willow Runs, drove to where the apartment was. Eric got out of the car. He went up the stairs, knocked on the door, and went inside.

At the time Sam Thomas, one of the roommates, he wasn't there. He was at a medical appointment, so it was Antonio Dash inside and the defendant. A few moments went by. The evidence will show that Eric Griffin and Antonio Dash had some form of altercation. The defendant then retrieved a pistol and shot both Eric Griffin and Antonio Dash to death.

In the state of South Carolina, a person is guilty of the crime of murder when they unlawfully kill another person with malice aforethought. What does that mean? When you kill another person with reckless disregard for human life. Additionally, a person is guilty of possession -- possessing a weapon during a violent crime when they use a firearm to commit that murder.

Now, this is a criminal case. You've heard the judge say it: the burden of proof is proof beyond a reasonable doubt. I implore you to understand that. Proof beyond a reasonable doubt does not mean proof beyond all possible doubt. There are few things in this world that we can say with absolute certainty, and the law does not require the

state to meet that level.

Proof beyond a reasonable doubt is proof that leaves you firmly convinced that the defendant is guilty. So in order to do that, we have to call several witnesses. It's your job as a jury to listen to what those witnesses say and assess them for yourselves.

So, today and this week you will hear from several of them. You will hear from Wanda Griffin and Ieasha Washington. Wanda Griffin is Eric Griffin's mother; Ieasha Washington is Eric Griffin's wife. They're going to set the timeline for you for February 7, 2019. They're going to tell you that they dropped off their one-year-old daughter. They stopped by the Willow Runs Apartments. Eric got out of the car. They saw him walk up the stairs. They heard him knock on the door, and then he went inside. Then they're going to tell you moments later they heard several gunshots.

At this point, they were scared; they didn't know what was going on. They both jumped out the car, ran upstairs to the apartment. Wanda's going to tell you that she ran inside, saw the bodies, assessed what was going on, sees the scene. You'll hear her describe it as she saw it. Ieasha ran up as well, but she is going to tell you that she actually interacted with the defendant as he walked outside of the apartment.

You're going to hear from a man named Kevin Archie. Kevin Archie was a maintenance worker at the Willow Runs apartment complex. He also heard gunshots, and he's going to tell you that he went to the apartment complex, knocked on the door, and had an initial interaction with the defendant. He'll describe his demeanor, what the defendant said to him. He's going to tell you all this. He's going to tell you he outright asked the defendant what happened. He was given multiple versions of that morning's occurrences.

You will also hear from members of law enforcement. You'll hear from the responding officer, Officer Dwyer, what he saw when he first got there, what he did, who he spoke to, what the scene looked like, the area, and the steps he took after he saw two dead bodies on the ground.

You'll hear from Investigator McIntyre. He interviewed the defendant. He heard the defendant at that point identify himself as the shooter in this case. You'll hear from Investigator Potash, crime scene investigator. He responded to the scene, processed the scene, looked for bullet holes in the wall, collected shell casings, and submitted them for evidence testing. You'll hear from Investigator Smith. He's going to tell you how and where he recovered the murder weapon in this case.

You will also hear from Paul Greer. Paul Greer is a

firearms analyst. He will tell you that he received the shell casings from Investigator Potash and received the firearm from Investigator Smith, and the shell casings that were fired at that scene matched the gun that he was given.

You'll also hear from Dr. Monroe. Dr. Monroe is the pathologist who performed the autopsy on Eric Griffin and Antonio Dash. He's going to describe to you the nature of their injuries, tell you the cause of death, and I submit to you that Dr. Monroe's testimony will be consistent: unjustified killing resulting from the reckless disregard for the lives of Eric Griffin and Antonio Dash by the defendant.

Now, this is an opening statement, so I'm not going to list everybody that you're going to hear from, but just know there are some more witnesses. Some of them are normal Richland County citizens similar to yourselves, and at that point you'll hear from them and assess them as well.

While listening, I do ask one thing. It's important for you guys to not leave your common sense at the front door of this courthouse. Your common sense is one of the greatest tools that you have as a juror. It's important to listen closely to the evidence, but it's just as important to use your common sense.

I'm confident that after you've heard all the

testimony, after you've seen the evidence in this case, after you apply -- after you've applied your common sense and implemented the law as the judge is going to instruct you, each and every one of you will know and be firmly convinced that the defendant, Antonio Barnes, is guilty of murdering Eric Griffin, guilty of murdering Antonio Dash, and guilty of possessing a weapon while he committed those murders. Thank you.

THE COURT: Mr. Shealey.

MR. LUKE SHEALEY: It's going to be Ms. Young.

MS. YOUNG: I want you to imagine that you're laying in your bed. You're asleep. You stayed up late the night before. You were on the phone with your girlfriend, and you were hanging out with you roommates. You stayed up until 2 or 3 in the morning, and you're in a deep sleep. You didn't have anywhere to be that day. You didn't set your alarm; you didn't have to work that day. You're in a deep sleep. You're in your room in your apartment and boom, you hear a noise and it's loud, and you don't know what it is. Your eyes open, and you have no idea what you've just heard. And that's what happened to Antonio Dash on the morning of February 7, 2019. I call him Tony -- I mean, sorry, Antonio, Antonio Barnes on February 7, 2019. I call him Tony, so that's what you're going to hear me call him.

But he was in his bed, and he was asleep, and he hears this loud boom. His eyes pop open. His heart starts beating. He doesn't know what he's just heard. He didn't know what the noise was, but he knew it was loud and it scared him. And he also expected his apartment to be empty.

You just heard from Mr. Walton that he's got two roommates, Sam Thomas and Antonio Dash. I'll probably refer to them as Sam and Dash. And Dash lived there and Tony and Sam also there. They have one car between the three of them, and they all work. They have one car between the three of them, and so often times they would catch rides with each other so that one person would have the car and go and pick them up, and you'd have access to a car.

He had been up hanging out with Tonio the night before. They had been playing video games, and he knew that Tonio had to go to work at Wendy's that next morning, and he knew that Eric -- I mean, he knew that Sam always took him to work. So, when he woke up to that loud noise, he didn't know what it was, and he thought his apartment was empty.

So, he laid in his bed and he was listening, listening intently, trying to hear anything that sounded familiar. His roommates' voices, any voices at all, anything that

would help explain what he just heard, but instead what he heard was crashing, banging, thudding, rumbling, footsteps everywhere, and that's what he heard, violent noises.

He didn't hear any voices. He didn't hear anyone talking, and as Tony lied in bed in his apartment, panic set in, and then he hears boom, another loud bang, only this time Tony did know what it was. He knew it was his TV crashing to the floor from the table they had it propped on in the living room.

They don't have a lot of furniture. You're going to see crime scene photos from the apartment, and you're going to see how the living room was in disarray, and you're going to see there's not a lot of furniture. So, when you hear noises like that, you know what it is. It's people. There's nothing in there except the television that falls to the floor, and he knew if his roommates were home, that wouldn't have happened because his roommates wouldn't have done it, or Sam would have called out and said something.

But that's not what happened. And that's when he knew, the moment that Tony knew something really wrong was going on outside his bedroom. Someone broke in. Someone's trying to rob me and if they get back here to this bedroom, they're going to kill me. If I lay here for one more second, they're going to get back here and kill me.

So, Tony grabbed his gun, his lawfully owned gun that

he kept next to him for his protection. You're going to hear that Willow Runs (sic) is a high-crime neighborhood, and Tony used a gun for protection like a lot, a lot of people do. So, he grabbed his gun, and he opened his bedroom door, and he walked down the hallway hugging the inside of the wall for cover. And he got to the edge of the hallway, and he turned the corner, and he fired at the threat that was in his apartment until they weren't moving. And as he fired, he moved closer to the people on the ground, and he knew. He saw for the first time he got close.

He sees Antonio Dash's face and he thinks what's just happened? How is he in here? He sees Eric Griffin. They're friends. He loves Tonio like a brother, and he was good friends with Eric. He's known him a long time. He has no reason to want to harm either one of them. He thinks what's Eric doing here? Why is he in my apartment in the morning?

You're going to hear this is about a 8:50 in the morning. What's he doing here? Where is Sam? What isn't Tonio at work? How did they get here? And his mind is racing, and he's trying to wrap his head around what just happened, and before he can, the apartment starts to fill with people.

You're going to hear that -- from Wanda Griffin and

Ieasha Washington, you're going to hear from them that they came running up. As soon as they heard the gunshots, they came running up to check, and they come in. Neighbors come in. Maintenance men come in. Lots of people start entering the apartment, and it was chaotic. People are screaming. People are hysterical. It was a very, very chaotic scene.

At some point, one of Tony's neighbors, Shakihla Smalls, she comes in and she takes the gun from him, and she turns around and she walks out. It's total chaos, and people are screaming, and Tony calls 911. And he walks downstairs and he thinks. How did this happen? What is going on? How, how did they get here? He's going to grab Ieasha and says what are they doing here? Why were they fighting? And the weight of the moment sets in because he realizes he has taken the life of two people that he cared very much about and had no reason to harm.

Now, Tony is going to get on the stand later this week, and he is going to tell you all of this in his own words. He's going to take an oath to tell you the truth, and he is going to tell you how he was scared for his life when he fired that gun, when he shot two people who he thought had broken into his apartment and stolen from him.

He's going to tell you also that the reason he was so surprised to see Eric there is that -- I think Mr. Walton

made reference to this, too -- Ieasha Griffin and -- I mean, Ieasha Washington and Eric Griffin had been over there two days before, and you're going to hear evidence about how Tonio was very upset with Eric because he thought Eric had stolen his gun from him, and he accused him of stealing his gun. And then the day before the incident, you're going to hear that Eric came back over there, and they, they had an altercation and by the time Eric left that apartment, it was clear he wasn't coming back.

Now, when Tony takes the stand to testify later this week, it's not going to be the first time that he's told his story. It is not the first time he's going to tell you and everyone what happened. That same day, that same morning, he's telling everybody. He tells the apartment manager. He tells his family. He tells his friends. He tells the police. He tells City of Columbia investigators. He tells Richland County Sheriff's Department investigators. He tells everyone, and he says the same thing every time.

But for whatever reason, law enforcement in this case has chosen not to believe him. I don't know why. I don't know if it's his background. I don't know if it's because they just don't like Tony. I don't know if it's because he lives in a high-crime neighborhood. But what I can tell you is that from the very beginning, they discounted

everything he said.

I want you to pay close attention this week. I know Mr. Walton asked you to do the same; Judge Newman did, too. I want you to listen to everything that people say and everything that happened. And I think you're going to make up your own mind about why they chose not to believe Tony.

The evidence will show you that investigators failed to follow up on any of the information that Tony provided. All they did was look for stuff to attack him and discredit him. They swabbed Antonio Dash and Eric Griffin; they swabbed their hands for gunshot residue. They didn't do anything with it. They had Tony's phone in their possession when he was arrested. They didn't do anything with it. They didn't collect Tony's clothing even though he told them multiple times I didn't change my clothes. And the evidence is going to show you he didn't change his clothes. They didn't take it; they didn't do anything with it.

And you're going to hear that he told them right away about this conflict between Tonio and Griffin, that there was a missing gun and that Tonio believed that Eric had taken it. They don't do anything with that information. They don't follow up on it; they don't talk to anybody.

But you're also going to hear evidence about what Tony did tell everybody is true. He identified himself to

police immediately. Tells his name, his date of birth, where he lives. I live in the apartment where this just happened. He gave two videotaped statements and a handwritten statement, and each and every time he said I was afraid. I thought I was being broken into. I thought they were going to kill me. He was in his home, and he was afraid, and he said that over and over again.

Sam Thomas, he is the third roommate. He is going to confirm that Tony was asleep that morning. When he left to go to the doctor at 8:15, he was -- he says that Tony was asleep in his room and, and Tonio was up and getting ready to go to work. The reason he didn't get a ride from Sam, because he's gotten a different ride that morning. His manager was going to come pick him up.

You're also going to hear -- I know Mr. Walton mentioned this, too -- that Investigator Smith was able to recover the gun. And the reason that Investigator Smith was able to recover the gun was Tony told him where it was. He immediately said Shakihla Smalls, she came in, she took it, and walked out of my apartment. He pulls up her Facebook page, shows them how to find her, tells her what apartment building she lives in so that they can go and retrieve the gun.

And while the police didn't do anything with Tony's gun -- I mean, with Tony's fun -- phone, we did. We

extracted it and it proved that Tony was asleep until at least 8:49 that morning when he called 911 after this happened.

I can't tell you exactly why they chose not to believe him. I can't tell you why they didn't investigate some of these other leads. But I will tell you that they have the burden to prove to beyond reasonable doubt, guilty beyond a reasonable doubt actually , and Mr. Walton is right. Murder requires malice, and malice, you know, for murder is doing something that is the intentional killing of another, unlawful, intentional killing of another with malice in your heart. It's an evil, malignant, terrible act. They have to prove that Tony was not acting in self-defense on February 7th of 2019. They have the burden to prove to you beyond a reasonable doubt that Tony was acting unreasonably when he fired his gun out of fear for his life. But he did act reasonably.

I ask you to listen carefully. I think I already have. I know that you will. You'll listen to each and every one of the witnesses. I'm just not sure what else the police wanted Tony to do. He called 911. He stayed on scene. He presented himself to the police. Answered every single one of their questions multiple times, provided every bit of information that he could, and cooperated with everything they asked him to do.

Tony shot and killed two men in his home because he feared for his life. That is not murder. That is self-defense. And I think at the end of the week, you will find him not guilty.

THE COURT: Call your first witness.

MR. SCOTT: All right, Your Honor. The state calls Wanda Griffin.

WANDA GRIFFIN, BEING DULY SWORN, TESTIFIES AS FOLLOWS:

CLERK OF COURT: Please have a seat. State your full name for the record.

WITNESS: My name Wanda Griffin.

DIRECT EXAMINATION BY MR. SCOTT:

Q. Wanda, who is Eric Griffin?

A. He's my son.

Q. When was last time you saw Eric Griffin?

A. February 7, 2019, right before 9 o'clock, only after 9 o'clock dead.

Q. How old was Eric Griffin on February 7, 2019?

A. Twenty-four.

Q. What family did Eric Griffin have on February 7th of 2019?

A. What family? Say it again.

Q. Yeah. What family did Eric have?

A. Me, his sister, brother, nieces, nephews, his

girlfriend. Bailey, his baby. He has all kind of family, sir.

Q. Okay. His girlfriend, is that the mother of his child?

A. Yes.

Q. And her name is Ieasha Washington?

A. Yeah.

Q. Okay. His baby's name is what?

A. It's Bailey Marie.

Q. Bailey Marie. That's a little girl?

A. Uh-huh.

Q. How old was Bailey Marie February 7, 2019?

A. One.

Q. One year's old?

A. She was just one.

Q. Okay. The morning of February 7, 2019, what was going on? What was Eric and Ieasha, what were their plans that day in ---

A. They picked me up ---

Q. --- regard to Bailey?

A. --- for work. He picks me up most mornings, take me to work. They came and got me that morning. We took Bailey there to the babysitter. We left out of Hallandale. Pulling up on through Willow Run, he said baby, stop me by my homeboy house.

Q. Okay, let me back you up just a little bit. Was it customary for Eric to take you to work in the mornings?
A. Yes.
Q. Where were you working at the time?
A. I was working on Broad River at Teleperformance. I'm the supervisor of the cleaning crew there, and he was working at the Aloft Hotel at Harbison, so it was on his way to work.
Q. Okay. Do you recall, was he working that particular day?
A. He was supposed to, but he had told me that him and Ieasha had some things to take care of. So, he had took off, and he was telling me that while we was at Willow Run dropping the baby off because he got out of the car, he took off his ---
MS. YOUNG: Objection.
A. --- dirty work shirt and he put on a thermal shirt.
Q. Okay.
MS. YOUNG: Your Honor, sorry. I was just objecting to the hearsay.
THE COURT: Which one?
MS. YOUNG: What Mr. Griffin was telling her.
THE COURT: Objection is overruled.
MR. SCOTT: Thank you, Your Honor.
Q. Was it customary for Eric to take you to work in the

mornings?
A. Yes.
Q. Okay, and what, what time are you supposed to report to work?
A. At that time, I had to be to work at 10.
Q. 10 o'clock?
A. But I always went early.
Q. Okay. Do you remember about what time you all left the house to go take you to work?
A. Between 8:30 and 8:45.
Q. Okay, and so I think, just to be clear, the plan that morning -- who was driving that morning?
A. Ieasha.
Q. Ieasha, and who was the front passenger?
A. Eric.
Q. Eric, okay, and you were in the back of the car?
A. With Bailey, yes.
Q. Okay. So, you testified the first thing you all were doing was you were going to drop Bailey off at Hillandale to be with the babysitter?
A. Uh-huh.
Q. And as far as you know, the next stop would be taking you to work. Is that accurate?
A. That's right.
Q. Okay. Do you remember when you guys got to Hillandale

and dropped Bailey off?
A. Yes.
Q. Okay. Let me see. You may not be able to identify -- this is an aerial. Tell me. Just look at it. Tell me if you recognize kind of what that's showing.
A. Hillandale and Willow Run.
Q. You can see Hillandale and Willow Run in that?
A. Uh-huh.
Q. Okay. All right. Let me, let me show the defense that real quick.
MR. SCOTT: This is State's 64.
(A PAUSE.)
MR. SCOTT: Okay, let me just -- Your Honor, this is an aerial she just identified. State's going to offer it, State's Number 64, for admission into evidence.
THE COURT: Any objection?
MS. YOUNG: No objection, Your Honor.
THE COURT: It's admitted.
(MAP MARKED AS STATE'S EXHIBIT NUMBER 64 RECEIVED INTO EVIDENCE.)
Q. All right, Wanda, just want to kind of orient everybody to what we're looking at here. End part there, do you agree that that would be the house that ---
A. Yes.
Q. --- okay, our incident occurred in, and you said you

dropped Bailey off at Hillandale.
A. Uh-huh.
Q. Where on the map -- you can look at your -- where, where is Hillandale? Is it ---
A. It's behind the red arrow.
Q. Can you see the screen from there?
A. Yes.
Q. All right. So, is this apartment complex over here ---
A. That's Hillandale.
Q. Okay, and this is ---
A. Willow Run.
Q. Okay. Which -- do you remember which one of these apartments you all dropped Bailey off at?
A. I know we turned in that first entrance.
Q. Right here?
A. No. Down.
Q. Down.
A. Further down. Yeah, right there.
Q. Okay.
A. And I think we make the second left into ---
Q. Okay, right here?
A. I'm not sure the first or the second left into Hillandale.
Q. Okay. So, somewhere in this Hallandale section where

you dropped ---
A. Uh-huh.
Q. --- the baby off. Okay. Now, I interrupted you earlier, but you said dropped Bailey off and as far as you understood, y'all were going to take you next to your ---
A. Go to work.
Q. --- work. All right. Well, what happened after you guys left Hillandale?
A. Eric, Eric said to Ieasha, Bae, take me by my homeboy house in building 14 right here. So, we pulled in, parked. He got out. Went upstairs. Knocked on the door.
Q. Okay. Wait. Wait. I'm sorry. I, I hate to keep slowing you down, but I want to just flesh some stuff out. Were you expecting to go to Willow Run after you left Hillandale?
A. Not til I heard Eric say drop me by, take me by my homeboy house.
Q. Okay. So, it wasn't, as far as you knew, part of the plan that morning.
A. Yeah.
Q. And you all turned in to Willow Run like he asked you to do?
A. Uh-huh.
Q. What was Eric's demeanor that morning? What kind of mood was he in?

A. My baby was happy. He was happy go lucky this morning -- that morning. He was bopping to music, as we do every morning while we driving, going in to work listening to music. He was in a good mood. My baby wasn't mad about nothing; he didn't seem to have nothing on his mind.

Q. Okay. There was nothing that concerned you about his attitude or anything ---

A. No.

Q. --- that morning?

A. And I normally picks up on his attitude because it's just like mine, and it was nothing. My baby was happy. My baby ain't had no cares, no problems. He, he wasn't concerned about -- he wasn't stating that he was mad at anybody or he was going to handle anything. He was just -- he was -- he was Eric.

Q. Okay. So, nothing ---

A. He wasn't mad about nothing.

Q. Nothing out of the ordinary?

A. Not -- ordinary. No, sir.

Q. Okay. So, you guys leave Hillandale, and you go up this road right here.

A. Uh-huh.

Q. It's labeled Windman.

A. Uh-huh.

Q. And you turn in to where building 14 ---

A. Building 14 is.

Q. --- is at Willow Run?

A. Yes, sir.

Q. Okay. I'm going to show you a couple other pictures.

(COUNSELORS CONFER.)

Q. Just a series of photos, Wanda. This is State's 3, 4, 5, 7, 74, and 75. Just take a look. Tell me if you recognize what those are.

A. An entranceway to building 14. That's building 14. That's another building -- another picture of building 14, and this is up on the balcony of building 14 at his front door, and everybody else standing around after everything had happened, all of the crime scene people and the police and everybody. That's Ieasha car that we pull up in, the white car.

MR. SCOTT: Your Honor, the state offers State's Number 3, 4, 5, 7, 74, and 75 for admission into evidence.

MS. YOUNG: No objection, Your Honor.

THE COURT: Admitted.

(PHOTOGRAPHS INDIVIDUALLY MARKED AS STATE'S EXHIBIT NUMBERS 3, 4, 5, 7, 74, AND 75 RECEIVED INTO EVIDENCE.)

Q. All right, 74, Wanda, that's just what you talked -- that's building number 14 at Willow Run. That's where you went with Eric that morning after he asked you to go there, State's 74, and this is building 14? All right.

THE COURT: Ma'am, you have to use words.

Q. Yes or no.

THE COURT: You have to use words.

A. Yes.

Q. Wanda, this is State's 75. Again, this is just another angle of building 14 at Willow Run?

A. Yes.

Q. All right.

(A PAUSE.)

Q. This is State's Number 3. Again, this would be what? The stairwell?

A. The stairwell, 14.

Q. Building 14?

A. Yes, sir.

Q. And then finally I show you State's 7 here, and I think you mentioned it before. Again we see building 14. This white car right here.

A. That's Ieasha's car.

Q. That's Ieasha Washington's car?

A. Uh-huh.

Q. And that would be the car you all arrived in?

A. Yes.

Q. Okay. So, is that where you, you guys parked that morning?

A. Yes.

Q. Okay. All right. So, I've kind of cut you off a couple of times, but I want you to go ahead now.
A. Okay.
Q. Pick up from here. After y'all pull in, after he kind of spontaneously tells you go to Willow Run, you all pull in this parking spot. You had already said he was the front seat passenger. What happened next?
A. He got out the car. He looked back at me. He said Ma, I be right back because I know you got to go to work. He went upstairs, and I didn't see him come back down.
(A PAUSE.)
A. We didn't hear no noise until the first gunshot went off. In my mind, when I very heard it, I thought it was a nail gun, and then I heard the next two shots, and I looked at Ieasha. I said was that a gunshot, and she say no. She says hold up. So, we jumped out the car. I asked her, I said what apartment did Eric go in? She say 14-H or G or whatever. So, I went up the stairs. I was up them stairs within ten seconds of that third gunshot. Knocked on the door. I knocked on the door three times before he answered. He took two, three minutes to answer.
Q. Wait, wait one minute. Let me slow you down again. After he went and got out of the car, did you and Ieasha stay in the car, or did you -- did you ever get out?
A. I didn't get out until I heard that last shot. Then I

wanted to know where my baby was because nobody was running from nowhere.

Q. Okay. I remember you saying he, he turned around right before he walked up the steps, but did you -- did you guys hear him go up the steps, or were you able to see him go up the steps from where you were?

A. I was able to see him go toward the steps. I guess he went up because after that, I heard him knock on the door. And after that, we didn't hear nothing else until the gunshots went off.

Q. You never heard anything else ---

A. Never heard anything else til the gunshots went off.

Q. Do you remember, did you have your windows up or down?

A. My window was halfway down because when Bailey got out the car, I lit me a cigarette.

Q. Okay.

A. So, yeah.

Q. So, you had a cigarette at the time.

A. Yeah.

Q. And you smoke inside the car or did you get out of the car?

A. I did smoke inside the car because Bailey was out of the car.

Q. Okay.

A. But I had my window down, yes.

Q. Okay. So, you're there smoking a cigarette, and you're thinking he's going to come back fairly quickly.
A. I'm thinking he was going to come back, yeah.
Q. But you testified that he -- I can't remember. Did you see him go up the stairs or ---
A. I saw him go up the steps, yeah.
Q. Okay, and then you said you heard a knock.
A. Heard him knock.
Q. And do you remember about how long it was that you all were out there before you heard the gunshots?
A. About five, six minutes or so. I'm not sure.
Q. Okay. So, you wait five, six minutes and you don't hear anything. Then all of a sudden, you hear gunshots.
A. Hear gunshots.
Q. Now, let me ask this. Do you remember how many gunshots you heard?
A. I hear one first. Two second pause, I heard two more.
Q. Okay. Well, that's what I was going to ask you. Was it just a constant bam, bam, bam, bam, bam, or was it ---
A. No. It was pow. Then it was pow, pow.
Q. Okay. So, you heard three gunshots or, or you ---
A. I heard three.
Q. Okay, and you're testifying that there was some lag in between the initial gunshot and then the other ones you ---
A. It was, like, a two, three second pause.

Q. Okay. Okay, and so you said you thought it was a nail gun or something at first.
A. That first shot, yeah.
Q. Okay. Did, did you all try to contact Eric or anything after that?
A. Ieasha called his phone.
Q. Okay. Was there any answer?
A. No.
Q. Okay. After you hear the pops, you know, you didn't know what they were. You didn't know if they were gunshots or not, and then he's not answering his phone. What, what do you and Ieasha do next?
A. I went up the stairs after that third shot. I didn't see nobody running from nowhere. I wanted to know where my baby was.
Q. Okay. So, you went up the steps.
A. Uh-huh.
Q. Did Ieasha go up the steps?
A. She did. She come right, right behind me.
Q. All right, going back to State's Number 3, show what you do. You go up these steps, and then you get to the top of the steps.
A. Go all the way around to the right.
Q. Uh-huh, and then you come back towards the front of the building?

A. Uh-huh.
Q. And State's Number 3, that top right window ---
A. That's his window.
Q. That depicts the, the room he went into?
A. Uh-huh.
Q. Okay.
THE COURT: You must use words, ma'am.
Q. So ---
A. Yes.
Q. Yeah. Okay. Thank you. This is State's 4, Wanda, and so is this sort of -- you testified about the angle from upstairs, that balcony.
A. Yes.
Q. And we're kind of looking at the parking lot where you were parked.
A. Yes.
Q. Is that correct, okay, and this door we see to the left of State's Number 4, what is that room?
A. That's Antonio's apartment.
Q. Okay. Is that the door you went to when ---
A. Yes.
Q. --- when you went up the steps? Okay. All right. So, tell me. You go to the top of the steps, and what do you do?
A. I knocked on the door.

Q. Okay. Did you hear anything?
A. I didn't hear nothing, no moving around, no nothing. I knocked again. Nothing. I knocked again. He finally opened up the door, which felt like about maybe couple minutes later. He looked straight past me. Didn't acknowledge me, didn't say nothing to be me. He looked at Ieasha. He said something to Ieasha. He pulled his door closed behind him, so I opened up the door and I went in.
Q. Wait, Wanda. Wait a minute. So, you're knocking on the door. Were you yelling anything through the ---
A. No, I didn't yell nothing.
Q. Did you test it to see if it was locked or ---
A. No.
Q. --- or unlocked?
A. No, I didn't test nothing. I didn't want to get shot.
Q. You said it took about two minutes for him to ---
A. It felt like ---
Q. --- come to the ---
A. --- about two, three minutes.
Q. Okay, and you said he came out. Did you say he closed the door behind him?
A. He closed the door behind him. He looked straight past my -- over my head to Ieasha, and he said Sis something. At that point, I wandering where's my baby and I, I, I want to go in this apartment and see where my baby

at. So, he moved to the side. I open up his door. I saw my baby's feet right there, so I went to his body.

Q. Okay.

A. His pulse was very light. Couple seconds later, his eyes got dark. I knew my baby was gone.

Q. Okay.

A. Antonio Dash was gasping for his air.

Q. Okay. Did you know Antonio Dash when you first saw him?

A. Did I do what?

Q. Did you know Antonio Dash when you ---

A. I don't know who he were. I never seen him before, but come to find out that ---

Q. Well, wait. My question was did you know him?

A. No, I didn't know him.

Q. Okay, and I imagine you probably mainly focused on Eric.

A. Yeah.

Q. Whenever -- did you know Antonio Barnes when he came to the door? You did?

A. I had met him before. He'd been to my house several times pick Eric up. He, he and the children in the yard for a while little with Eric and my god -- my boys and just hanging out.

Q. Okay.

A. I never thought nothing of him. He, he was always nice to me, you know. I never had no ill feeling about him until that.

Q. Did he have a gun in his hand when he came out on the porch?

A. No, I didn't see a gun in his hand.

Q. Okay. You said -- did he walk past you to talk to Ieasha?

A. He looked straight past over my head, and he moved to the right and when -- I moved to, to his right, to my right to get to the doorknob to see where my baby was, and I went in the house.

I opened up the door, and Eric feet was right there. He was laying on his back. Antonio Barnes (sic) was laying on his stomach with his shoulder on top of my boy shoulder. And I was trying to see how was that possible, the way that they got shot.

Q. Okay. So, you say Eric's lying on his back.

A. On his back, uh-huh. You ---

Q. To ---

A. You could see the blood coming from the back of his head.

Q. Okay. All right. All right. Wanda, you said Antonio Dash is face down, but he's kind of laying with his shoulder on top ---

A. On Eric shoulder.
Q. Okay. Where did Antonio Barnes go after you go into the apartment and you're talking with -- or trying to revive Eric?
A. I, I left him. It was too late for Eric. I left him outside on the porch with Ieasha. I went to my baby. I tried -- I took his pulse. It was real light. Antonio was gasping for his air. I put my hand on his leg and told him. I said baby, it's okay. I'm Eric's mama. Somebody's here with y'all, and it's going to be okay. He, he, he gasped for his air about four times, and that was it. He died and I just...
Q. Okay.
A. I know they were gone.
Q. Did you know what to Antonio Barnes was doing during this time?
A. I think he had done left the scene or left, went downstairs in the parking lot, but he wasn't on that porch when I came back out that door.
Q. Did you see what he did with his gun while you in there?
A. Uh-uh. I didn't -- I didn't -- I didn't go searching for nothing or looking. I were just looking around. It was a lot of stuff on the kitchen table.
Q. That's a no, you did not see the gun?

A. No, I did not see the gun, no.
Q. And you remember when the police got there?
A. When the police got there, I was downstairs with my sister because I had to call my sister. She stayed in building 10, and she came up there along with everybody else, and I was with her the rest of the time.
Q. At this point, are you still trying to figure out what happened at the apartment?
A. I was because I didn't know. I was going to ask him what happened, but he was gone. I, I didn't see him no more.
Q. Okay. That was the last you saw of him?
A. That was the last I saw of him, uh-huh.
Q. You don't know where he went.
A. Uh-uh.
Q. And so do you remember what he said when he came out on the balcony after he kind of -- you were knocking on the ---
A. All I remember is I heard him say Sis. I...
Q. That's all you remember?
A. By that time, I saw my baby feet. So, everything else was irrelevant. I wanted to get to my child.
Q. Okay. Okay, Wanda, and you didn't -- you never saw anybody else leave the apartment or go into it while -- after Eric went up there?

A. The girl from across the hall came in as I was in there over my son.
Q. Okay.
A. And she said I'm so sorry, ma'am.
Q. Well, I guess what I meant was when Eric went up there, you're in the car, Eric goes up the steps, goes in, before you heard those shots, did you see anybody leave the apartment?
A. I didn't.
Q. Or go ---
A. No.
Q. --- into the apartment?
A. No, I didn't.
Q. Okay, and you didn't hear anything before you heard the gunshot?
A. No, sir.
Q. Okay.
MR. SCOTT: All right, Wanda, answer any questions Mr. Barnes's attorneys may have for you.
CROSS-EXAMINATION BY MS. YOUNG:
Q. Good afternoon, Ms. Griffin. I'm Laura. I'm one of Tony's attorneys. We've never had a chance to speak, right?
A. No.
Q. You, you met with the investigators in this case.

A. Yes.
Q. You met with the investigators in this case.
A. Yes.
Q. Because you wanted to help them, right?
A. Yeah. Of course. That's my son, my child.
Q. Right, and you wanted to know what happened.
A. Of course.
Q. And so you answered all the questions that they asked of you.
A. As to the best of my abilities, yeah, yeah.
Q. And I think they actually interviewed you twice, right?
A. No, ma'am, just once.
Q. You don't remember going back to them a couple of weeks later?
A. No, ma'am.
Q. Okay. So, you -- the day of the incident, did you -- how did you get to headquarters?
A. My nephew.
Q. Okay. Did -- somebody actually drove you out there?
A. Yes.
Q. And you remember meeting with them that day?
A. Yes.
Q. But you don't have any recollection of your second meeting with them?

A. There's no recollection of a second meeting because there was no second meeting.

Q. Okay. Do you -- did you meet with these guys before you testified today?

A. Yeah. At the -- at the -- at the time of the incident, yeah.

Q. No. I mean, but in preparation for your testimony today, were you able to meet with them?

A. After far as today, meet with them today?

Q. Or in the last couple of weeks.

A. Oh, no.

Q. Okay.

A. No.

Q. You haven't been provided the opportunity to review your videotaped statements?

A. No.

Q. Okay. Would it refresh your recollection to watch your second videotaped interview on February 22nd?

A. It probably will.

MS. YOUNG: Your Honor, I'd like to be able to do that.

THE COURT: Any objection?

MR. SCOTT: No. I mean, with publishing it, if she can somehow refresh her memory with it.

MS. YOUNG: Your Honor, I have headphones on a laptop

if that would work.

THE COURT: What do you want her to do?

MS. YOUNG: Listen to the videotape with headphones.

MR. SCOTT: If I may make a suggestion?

MS. YOUNG: Oh.

MR. SCOTT: If, if she crossed her on whether a statement was made or not, she can endorse it or she can reject it. And if she rejects it, possibly impeach her with the video. That would just be a suggestion.

THE COURT: Do you have specific questions you want to ask her?

MS. YOUNG: I, I do, Your Honor, I do have specific questions, and I guess that's one way to do it. Let's see how that goes, okay?

Q. Do you remember Investigator Gilliam asking you about whether Eric carried guns?

A. Yeah, he asked me that.

Q. And you knew that Eric did carry guns.

A. I knew Eric had carried guns in the past, but Eric didn't have a gun that day.

Q. Right. You knew that he carried guns, just not that day.

A. And he didn't carry guns every day, carry guns. It wasn't a everyday thing for him. I'm not saying he never dealt with guns, but my boy just didn't carry a gun that I

saw every day, no, ma'am.
Q. Okay, but he did carry a gun.
A. He had.
Q. And I think you told investigators that the reason you knew that day he didn't have a gun is he changed his shirt.
A. He changed his shirt at the -- at the babysitter's, in the parking lot at the babysitter at Hillandale, yes, ma'am.
Q. So, you were sitting in the backseat.
A. Yes, ma'am.
Q. And he got -- did he get out of the car to change?
A. Yes, ma'am, and he stood right there by my door.
Q. Okay, but you didn't pat him down.
A. Of course not.
Q. And you didn't search his pockets.
A. I knew he didn't have a gun because I would have saw the bulge in his pocket.
Q. Okay.
A. My baby had on tight jeans.
Q. You didn't pat him down.
A. No.
Q. And you didn't ---
A. Had no reason to.
Q. Okay, and you didn't ask him to turn a 360 when he was ---

A. No.
Q. --- changing his shirt.
A. Had no reason to.
Q. You just didn't notice a gun on him that day.
A. He didn't have a gun on him.
Q. You didn't see a gun.
A. You not going to put a gun on him if he didn't have one on him. He didn't have one on him.
Q. Yes, ma'am. You didn't see a gun on him ---
A. You didn't ---
Q. --- out there.
A. --- see it either. He didn't have a gun on him.
Q. I wasn't there. You didn't see a gun.
A. He didn't have a gun. Baby, trust me. If Eric had a gun, he probably would have shot somebody, too.
Q. I mean, you, you knew he was out on bond, right?
A. Yeah.
Q. For a crime that involved a gun.
A. Yeah, but what that got to do with this case?
Q. And you told us earlier that you were supposed to be at work at 10.
A. That's right.
Q. Okay. Do you remember -- they, they picked you up around 8:30. Does that sound right?
A. 8:30, quarter til, yeah.

Q. And you didn't know why he wanted to stop by there.
A. No.
Q. He didn't tell you anything.
A. No.
Q. He didn't ---
A. I didn't -- I didn't -- I didn't feel, need -- he had to -- because, I mean, he said his homeboy house. That was good enough for me.
Q. He ---
A. I didn't know which homeboy he was referring to.
Q. Sure. He didn't give you a reason why he wanted to go there.
A. No.
Q. He just said ---
A. He just say ---
Q. --- let's go to my ---
A. --- take me to my homeboy house.
Q. And he didn't receive a phone call from anyone that you recall that morning.
A. Not that I recall, no, ma'am.
Q. And I know Mr. Scott went through this in great detail, but you pulled up to the front and parked right by the breezeway.
A. Yes.
Q. And you told him you didn't ---

A. We was more front to the window.
Q. Right.
A. Yeah.
Q. And you said that you, after Eric went up the stairs, you didn't see anybody go up there after him.
A. No.
Q. And you didn't see anybody ---
A. Nobody ---
Q. --- come back down.
A. --- came down.
Q. Okay, and that you, you and Ieasha waited in the car for about five minutes.
A. Yes.
Q. And that's when you heard the gunshots.
A. The gunshots, yes.
Q. And so then you, you went straight up the stairs.
A. I got out the car. I was looking around to see was anybody running from the apartment within the floor of that building. Nobody came out from nowhere, so I went upstairs. I asked Ieasha, I said what apartment Eric went in? She said H right here. So, I went upstairs. I knocked on the door. No answer. I knocked again. No answer. I knocked again. He finally opened the door, looked straight over my head. Didn't say nothing to me. Didn't acknowledge me, nothing.

Q. And so when you heard the gunshots, you went straight upstairs. You didn't know what apartment he had gone to because you didn't know what apartment Tony lived in.

A. Yes.

Q. You had to actually ask Ieasha.

A. Yes.

Q. And you, you said that he looked past you, saw Ieasha, and went to her.

A. Yeah.

Q. And he said they was in there fighting.

A. All I heard was Sis. I don't -- I didn't hear nothing about fighting and none of that. All that was blocked out because I saw my child feet laying there.

Q. Okay.

MS. YOUNG: Beg the court's indulgence.

(A PAUSE.)

Q. You know, it might be easier. I'm going to show you a transcript from your statement, okay? Can you take a look at line 17 through 20?

(A PAUSE.)

Q. Do you recall saying they came in -- do you recall saying that he went to Ieasha and said they came in here fighting?

A. He might have said that to Ieasha, but I didn't hear it. I mean, I was focused on my child laying there in a

pool of blood.

Q. I understand and I know that must've been upsetting, but you told Investigator Gilliam that you heard him say to Ieasha they was in there fighting.

A. I, I don't remember, but okay.

MS. YOUNG: Your Honor, I think at this time I'd like to publish the statement to the jury and admit it as evidence.

THE COURT: Ladies and gentlemen, we're going to have you go to the jury room. Please do not discuss the case.

(THE JURY EXITS AT 4:11 PM.)

THE COURT: How do you publish something to the jury that's not in evidence?

MS. YOUNG: Your Honor, extrinsic evidence. Under Rule 613(c), extrinsic evidence of a prior inconsistent statement of a witness. I asked her multiple times did you say it. She said no, she didn't hear it. I have an interview where she admits that she did hear it. So, yes, I would offer it into evidence.

THE COURT: Says the state.

MR. SCOTT: Judge, I'm just kind of like you. I was trying to figure out how you publish it if it's not introduced into evidence. I, I don't know that the foundation has been laid. I don't know that she's rejected it. I think -- I mean, she said she didn't recall

MS. YOUNG: It's about four lines. This is actually a transcript of the interview that she does recall, the first one.

THE COURT: All right.

Okay, right bring the jury.

(THE JURY ENTERS AT 4:22 PM.)

THE COURT: You may proceed.

MS. YOUNG: Thank you, Your Honor.

Q. I'm sorry, Ms. Griffin. Let me back up and clarify. You recall -- I think we talked about this earlier. You recall giving an interview the day of the incident?

A. Yes.

Q. And you recall talking to Mr. -- or to Investigator Gilliam about happened and what you remembered?

A. Yes.

Q. Okay, and you told him that Tony opened the door after you knocked.

A. Yes.

Q. And looked past you.

A. Yes.

Q. Walked to Ieasha.

A. Yes.

Q. And said man, they came in here fighting. I don't know why they came in here fighting this morning.

A. Yes, I did say that, but you got to remember I done

been through three tragedies since this happened.
Q. And it's been four years.
A. And it's has been four years, you're right. So, I might have forgot a lot of stuff that's in that transcript, but don't hold that against me because so much time has passed, and I'm working three shifts on my job right now, so I'm exhausted.
Q. I understand.
A. I'm exhausted.
Q. And I think you were talking earlier about how you didn't really -- once you went in and you saw Eric, that, you know, you weren't really paying attention to anything else. You were paying attention to Eric.
A. Yeah.
Q. Right? And you called 911.
A. Yeah.
Q. Do you -- do you -- you told Investigator Gilliam that you actually -- you were so out of it that you stopped listening to the 911 operator and hung up the phone.
A. Yeah, because she kept asking me this, that, and the third, and I didn't know what to tell her because I didn't know what happened. All I know is somebody need to get there to my baby that was dying on the floor.
Q. Right, and you were so sort of focused on that that you didn't really pay attention to anything else that was

going on around you.
A. There was nothing that was going on around me.
Q. Okay.
A. Was nobody else in that apartment but me at that time and the two bodies.
Q. And you said -- I think you were the first person in the apartment, right?
A. Yes, ma'am.
Q. You were the first person to see Tony when he opened the door.
A. Yes, ma'am.
Q. And after you walked in, you're saying no one else came into the apartment?
A. No one else but the girl from across the hall -- I'm thinking she came from across the hall -- that hugged me and told me she was sorry that -- you know, for my loss, whatever. That my son was a nice guy, and she hugged me and told me she was sorry.
Q. She was the one wearing the kind of pink house dress, I think.
A. I don't recall.
Q. Okay, but that's the only person you remember ever ---
A. That's the only person I ever ---
Q. --- coming in there.
A. --- saw besides Ieasha when she walked in.

Q. And then you stayed in there until law enforcement arrived.

A. No, ma'am. I left out. I was back and forth up and down the steps, but when law enforcement came, I was downstairs.

Q. Okay. So, your memory here today is that you were already out of the apartment when law enforcement arrived.

A. I think I was, yeah.

Q. Okay, and I think earlier -- I just want to cover one more thing. I know earlier you said that Eric was wearing tight jeans that day.

A. Yes.

MS. YOUNG: Beg the court's indulgence.

(A PAUSE.)

MS. YOUNG: Nothing further.

THE COURT: Any redirect?

REDIRECT EXAMINATION BY MR. SCOTT:

Q. You said Eric, Eric did own a gun in the past?

A. Yes, he has had a gun in the past.

Q. Okay, and he didn't have it on him that day.

A. No, sir.

Q. Did you ever see Mr. Barnes with a gun when he'd come over to your house at times?

A. No, I can't recall. I've never seen him with a gun, no.

Q. You don't know him to carry a gun with him?
A. I've heard ---
Q. Well ---
MS. YOUNG: Objection, Your Honor.
A. But I was fixing to say ---
MS. YOUNG: Objection.
A. I was fixing to say I wasn't for sure.
MS. YOUNG: Your Honor, objection. Relevance. Speculation. Hearsay.
Q. Personally what you have seen, not what you have heard, did ---
A. No, I didn't see a gun.
Q. Okay. Now Eric (sic), when he comes out and he says they were fighting, did he ever say Ms. Wanda, I'm the one who shot him?
A. No. He said nothing to me.
Q. Okay.
A. Not nothing.
Q. You never heard him going around saying ---
A. He never said a word to me.
Q. --- I shot them?
A. Nothing.
Q. Did he tell Ieasha I shot them?
A. I didn't hear that, but I heard him tell Ieasha that they was fighting, yes, that, that was -- took place, but I

was concentrating on my baby.
Q. Okay.
A. Trying to see was he okay with -- she was -- pretty much gone.
Q. But he didn't say the reason they're dead is because I killed them.
A. Not that I heard, no.
Q. And then that was last you saw him. He went down the steps and ---
A. Yes.
MR. SCOTT: All right. Thank you, Ms. Wanda.
THE COURT: Anything further?
MS. YOUNG: No, Your Honor.
THE COURT: You may step down, ma'am.
(THE WITNESS EXITS THE STAND.)
THE COURT: Your next witness.
MR. SCOTT: Ieasha Washington, Your Honor.
IEASHA WASHINGTON, BEING DULY SWORN, TESTIFIES AS FOLLOWS:
CLERK OF COURT: Please have a seat. State your full name for the record.
WITNESS: My name is Ieasha Washington.
DIRECT EXAMINATION BY MR. SCOTT:
Q. Ieasha, who was Eric Griffin to you?
A. He was my man. We lived together.

Q. Speak up.
A. He was my man. He was together, and he was my fiancé.
Q. And your mother-in-law just testified you and Eric had a child together.
A. He helped me raise my daughter. She came into his life when she was, like, four or five months.
Q. Okay. So, and talking about Bailey?
A. Yes.
Q. And, and so is Eric kind of the father to Bailey?
A. Yes.
Q. Okay. How long had you been together before this incident happened?
A. We was together in 2017, from 2017.
Q. About two years?
A. Uh-huh.
THE COURT: You'll have to do a better job with that mic.
Q. Yeah. For some reason -- tap it. Okay, yeah, just speak into so we can all hear you. Y'all been together about two years.
A. Yes.
Q. At the time of this incident.
A. Yes.
Q. And you heard Wanda testify a minute ago.
A. Yes.

Q. Is that your recollection of what was going on that morning, that you and he were going to do some furniture shopping?
A. That is correct.
Q. Okay. Were you working at the time?
A. Yes.
Q. Where were you working?
A. Life Estate off of Farrow Road.
Q. Say again?
A. Life Estate off of Farrow Road.
Q. Okay, and Eric was working where?
A. He was working Harbison, a hotel called Aloft.
Q. Okay, and is that your recollection, that he had the day off on that particular occasion?
A. We did have to work, but that morning we did call off so we could go handle some business and, you know, furniture shopping.
Q. Okay. Were you two living together at the time?
A. Yes.
Q. Okay. So, was that the plan, to drop Bailey off at the babysitter's, and then you all were going to drop Wanda off at work?
A. Yes.
Q. And then you all were going to go furniture shopping?
A. Yes.

Q. Okay. Tell me what you recall as far as after we drop Bailey off at Hillandale. Tell us what happened next.
A. Eric then asked me to pull over to building 14.
Q. Okay. You described this to me before, but was this is something that you were expecting, to go to the Willow, Willow Run Apartments?
A. No. I has to really, like, cut my wheel because I was about to miss the driveway. So, he was, like, pull over right quick.
Q. Okay. So, it was sort of last second. You're testifying that you were kind of driving, proceeding to go to Wanda's work, and he just sort of ---
A. Uh-huh.
Q. --- abruptly says turn in there real quick?
A. Yeah.
Q. And so let me ask you this. Was that -- were you familiar with that particular apartment he directed you to?
A. I haven't been inside, but I knew, yeah, he was going up there.
Q. Okay. Had you taken him there before?
A. I have. Two days prior, I was there.
Q. Okay, and you -- what, what -- tell me. Two days prior to this incident, what happened?
A. Two days prior, Eric was driving and I was the passenger. He did, I believe, went around the back. I'm

not sure exactly what number it was, but it was a number on the back apartment, and then did we did pick up Tonio, and then we brought them to building 14.

Q. Okay. So, February 5th of 2019, you say you went with Eric to Willowbrook?

A. Willow Run.

Q. Willow Run, I'm sorry, and you said you picked up Antonio Barnes?

A. Yeah, from the back building, and we came to building 14.

Q. Okay. So, he was in another building at Willow Run, and you picked him up and then you drive him to his apartment is what you're saying?

A. Yes.

Q. On that occasion, were he and Eric fighting one another?

A. Not that I know of. As I stated, Eric was driving. I was in the passenger seat. Tonio was in the backseat. He never said anything. He just went right up.

Q. Okay. So, you picked Antonio Barnes up from some other building at Willow Run. You take him to his apartment. Did Eric go up into the apartment with him on that occasion?

A. Yes.

Q. Did you drop Eric off at that apartment the day before

this incident, that being February 6th?
A. No, I don't believe I did drop him off. That evening, I was at Mobay's.
Q. You were where?
A. At Mobay's restaurant.
Q. Mulaney's?
A. Mobay, Mobay, the restaurant.
Q. Mobay?
A. Uh-huh.
Q. Where is that?
A. We was at the one off the Ferry.
Q. Okay, Mobay's.
A. Uh-huh.
Q. So, you don't remember being at Antonio Barnes's house February 6, 2019?
A. No, I don't recall going over there.
Q. Okay. Okay. So, how did you know Antonio Barnes? How long had you known him?
A. I can't say that I personally know him, but I've seen him ever since -- I've seen him occasionally, you know, with him being friends with Eric.
Q. They were friends?
A. Uh-huh.
Q. Okay. Did you know how long they had known one another?

A. No. I could tell you how long they knowed each other.
Q. Okay, but, but you had met him before through Eric.
A. I've seen him before, but it wasn't a proper introduction. Eric wasn't too much of me speaking with his friends, and I wasn't too fond of his friends.
Q. You weren't too fond of his friends?
A. No, I wasn't the one to be speaking to his friends. So, when his friends would come around, I wouldn't say nothing.
Q. Okay.
A. I wouldn't speak to them.
Q. Okay, but -- so, it, it wasn't completely unfamiliar or totally out of the ordinary for him to ask you to go to Antonio Barnes's house that morning?
A. Yeah, it wasn't nothing surprising for me.
Q. Okay, and did he say why he wanted to go see him?
A. No. He didn't say why. He just asked me to pull over.
Q. Okay, and you'd just dropped Bailey off.
A. Uh-huh.
Q. You were supposed to be going ---
THE COURT: Ma'am, you must not say uh-huh.
WITNESS: Yes.
THE COURT: Those are not words. You must use words.
WITNESS: Okay.

A. Yes.
Q. Yes? Okay. Describe his mood. Do you remember anything about his mood being out of the ordinary or anything?
A. No. He wasn't out of the ordinary. He was happy. He was singing, you know, bopping, changing his shirt. Got back in the car, and he was ready to go.
Q. He didn't seem angry or anything?
A. No. He wasn't upset.
Q. Did you know Antonio Dash?
A. No, I have not known him.
Q. Okay. All right, tell me what your recollection is after he kind of hey, pull into here real quick. You pull into Willow Run.
A. Uh-huh.
Q. And then you park your car. Do you remember -- this is State's Number 7. Do you remember that to be generally where you positioned the car?
A. Yes.
Q. Okay, and after you parked your car there, tell me what Eric did.
A. Eric hopped out of the car. He told his mom that he was going to be right back, and he proceeded to the upstairs.
Q. Okay. Did you see him go upstairs?

A. I can tell he was going up the stairs because I know he didn't go down the stairs.

Q. Okay. Tell me whatever you remember next.

A. I was on my phone. The radio was playing, and Mama was in the backseat. I do remember telling her, you know, he'll be down in a second. We do know that you need to go to work. So, we're sitting there, and we heard gunshots. She spoke first. She was, like, was those gunshots? As I stated, I was on my phone. So, after realizing those was gunshots, I then got out the car. She got out the car. But as I'm getting out the car, I'm calling Eric and he's not answering. This is approximately 8:54.

I then begin to go up the steps calling again. This is probably now 8:55. I called him twice, and as I get up the steps, I'm taking my last step, I see that Mom then, she's already at the door knocking, and I'm coming up the steps. So, when I take the last step, he opened the door but he closed the door behind him, and she's, like, I can't believe -- remember the exact words she said, but I think she asked where's Eric, and he looked at her, but he didn't say nothing. He came straight over to me.

Q. All right. You're sitting in the car.

A. Uh-huh.

Q. Before you heard the gunshots, did you hear anything else?

A. No, I don't recall.
Q. Did you hear Eric knocking on the door when he went upstairs?
A. I don't recall. I was in my phone.
Q. Okay, but did you hear any crashes or any kind of screaming or anything?
A. No, I did not.
Q. About how long do you think went by before you heard those gunshots?
A. We was there for about five to seven minutes.
Q. Five to seven minutes?
A. Five to seven.
Q. And you hear -- do you remember how many gunshots you heard?
A. No. Didn't say that. We was there for the whole amount of time for about five to seven minutes before we heard the gunshots, so yeah.
Q. Five to seven minutes y'all were there, and then you hear the pop, pop?
A. Uh-huh.
Q. Do you remember how many gunshots you heard?
A. I heard about five to seven.
Q. Okay, and so you said you were calling Eric. You're talking about on the phone, right?
A. Yes.

Q. And you just mentioned 8:54. You called him at 8:55 AM?

A. Yes.

Q. And is it true you know that because you were able to look at your dialed out calls?

A. Yes.

Q. So, we know you called after -- did you call directly after you heard the shots?

A. Yes.

Q. So, we can say the shots were around 8:54.

A. Yes.

Q. Okay, give or take a ---

A. Yeah.

Q. --- few seconds probably.

A. Yeah.

Q. But you're immediately on the phone calling him at 8:54. Nobody answers.

A. Uh-uh.

Q. And then again you try to call him at 8:55 and nobody answers.

A. Correct.

Q. Did you testify that you and Wanda go up the steps? You kind of go up the steps, around the corner, and you go to this particular door ---

A. Yes.

Q. --- here in State's 4?
A. Yes.
Q. Is that true?
A. Yes.
Q. And who was knocking on the door, you or Wanda?
A. Wanda.
Q. Okay, and you knew whose apartment that was?
A. I can't say that I knew who owned it, but I did know pretty much that it was Tonio that he was there for.
Q. Okay. Do you remember you guys trying to see if it was unlocked or not?
A. No. We never shoved at the door. I never shoved the door. I walked in the door because Mama wanted to open the door.
Q. Okay. So, she's knocking. Do you remember about how long it took for anybody to come to the door?
A. It took a few minutes, you know. It could have felt like a few minutes, but with all of that, you know, hearing gunshots, it felt like forever with somebody, you know, checking the door, but it could been -- could have been a few minutes.
Q. Okay. Did it -- did it seem like he was taking a while to come to the door?
A. Yeah, it did take -- it seemed like it took a few -- a few moments to come to the door.

Q. Okay. So, he didn't come to the door immediately ---
A. No.
Q. --- I guess?
A. Correct.
Q. And who comes to the door? You said he earlier, but who opens the door?
A. Antonio.
Q. Who?
A. Antonio.
Q. Now, we, we've got two Antonio ---
A. Antonio Barnes.
Q. All right, Antonio Barnes answered the door. Do you remember what he was wearing?
A. I do recall him wearing a tank top and some basketball shorts. I'm not sure if those is navy blue, black, or gray, but he did had on a tank top for the most part, so I did notice.
Q. Okay. Do you remember -- tell me what you remember when he opens the door. What, what is his demeanor?
A. He pretty much, like, he wasn't expecting us to be there. He was, like, he wasn't expecting us to be at his door. So, as he opened the door, he didn't say anything to Mama Wanda. He came straight to me and as he came to me, he kind of, like, shook me as in, like, you know, what is they doing here? Why they was fighting? He was, who let

him in? How did he get here? And I'm, like, what you talking about? Like, that's your homeboy and I just kind of, like, pushed him off me, and I heard Mama Wanda scream, I wanted to go see what she was screaming about.

Q. Okay. When he opens the door, were you able to look inside and see what was going on, or tell me how he came out of the door.

A. He didn't open to door. Mama Wanda opened the door for me to go in. That's how I got in.

Q. Well, of course he opened the door. How did he come out to talk to you?

A. Okay, yeah. So, for him to come out, yeah. I thought you were meaning for me to go in.

Q. All right, you're knocking ---

A. But he opened the door.

Q. --- on the door.

A. Uh-huh.

Q. Knocking on the door waiting for him to come.

A. Right.

Q. Finally he opens the door. Is he sitting there in the doorway where you can see inside, or what does he do?

A. We can't see in the door. He opens the door and he pulls the door right behind him.

Q. Okay. So, it's -- you're describing he kind of -- looks like he opens it to the inside. He opens it and then

closes it back behind him?
A. Just enough for him to get out the door.
Q. Okay, and you said Wanda was at the door knocking, so he went to you. Is that what you said?
A. That is correct.
Q. Did he put his hands on you?
A. Yeah. He shake me a little bit.
Q. Okay, and he's saying what?
A. He's saying what are they doing here? They were fighting. Who let them in?
Q. Okay, and what did that mean to you?
A. I was a little confused. Then I knew something had happened to Eric.
Q. Okay, and you just testified that Wanda went inside the house or the apartment at that point?
A. Yeah. She was in there.
Q. What happened next?
A. I went in. I cradled his head with my left hand, check his pulse with my right, and I noticed that, you know, he was gone. Dash was laying on top of him, shoulder blade across him. He was gasping for his air, you know. I then see Antonio Barnes go down the hallway, and he left out.
Q. You saw him go down the hallway, and then he left out?
A. The way I was on -- the way I was facing Eric, I was

facing towards the hallway. So, my back was against the door.

Q. Okay. Did -- whenever you go back into the apartment to see what's going on, did Antonio come back in the apartment with you?

A. It was only me, him, Mama at one point, yes.

Q. All right. So, you two, you and Wanda, are kneeling over Eric.

A. Uh-huh. Yes.

Q. Well, what's Antonio Barnes doing back behind y'all?

A. I can't tell you what I'm -- what he's doing behind. My back is turned to him. So by this point, I can see that he was going straight back. Then he come out. I'm with them and their bodies.

Q. Okay.

A. I am on the ground.

Q. Did he have the gun in his hand when you saw him?

A. I did not see a gun.

Q. Okay. Okay. Did you see him again after that?

A. I believe when I did leave, he was with the police.

Q. Okay. He was kind of still down around the bottom of ---

A. Yes.

Q. Okay.

A. Where everyone else was.

Q. And did, did he ever tell you that he was the one who shot Eric and Antonio Dash?

A. No, he never did.

Q. Okay. All right. So, at this point when you were up there, you don't know what had happened. Is that fair?

A. Correct.

(A PAUSE.)

MR. SCOTT: All right, thank you, Ieasha. Please answer any questions Mr. Barnes's attorneys have.

THE COURT: Cross-examination.

MS. YOUNG: Thank you, Your Honor.

CROSS-EXAMINATION BY MS. YOUNG:

Q. Good afternoon, Ms. Washington. I'm not trying to yell at you, but the court reporter keeps telling me she can't hear me, so I'm going to kind of speak loudly to you, okay?

I just kind of want to go back through the order of everything quickly, okay? Do you know what time y'all woke up that morning?

A. I don't remember what time exactly we did wake up, but I do know we was at his mom a little after 8:30, probably 8:30 AM to 8:33.

Q. And you said you had made plans for the day.

A. Yes.

Q. You were going to go furniture shopping.

A. Yes.
Q. And I think you said that Ms. Griffin had to be at work at 9. I think it may have been 10, but anyway, she had to go to work right after.
A. Yes.
Q. And so what -- and I guess you said you had to really quickly, like, all of a sudden turn in ---
A. Uh-huh.
Q. --- to go to Willow Run. Is that right?
A. That is correct.
Q. Okay, and Eric never said to you why he wanted to stop there.
A. That is correct.
Q. And he didn't receive any sort of phone call about stopping by there.
A. No, he did not.
Q. It was just a random pop up I think is what you called it?
A. Yes.
Q. So, he got out of the car and went up the stairs. We've covered that at length, and you said you waited for five to seven minute.
A. We was there for a matter of five the seven minutes, yes.
Q. Before you heard the gunshots?

A. Yes.
Q. And then y'all get out of the car, and you called him. Called him twice, right?
A. Yes.
Q. And you said that was at 8:54.
A. And 8:55.
Q. 55, and you didn't get an answer, correct?
A. That is correct.
Q. And you and Ms. Griffin went straight up the stairs after you heard -- you heard the gunshots.
A. Yes. Well, of course I have to shuffle. Like, we had to see what was going on, but we did proceed right up there.
Q. And you didn't see anybody come down the stairs.
A. No, we did not.
Q. And you didn't see anybody go upstairs.
A. No, we did not.
Q. I'm going to show you State's Exhibit 7. This is the stairwell here where you go up, right?
A. Yes.
Q. That's your car parked right there?
A. Yes.
Q. And I believe Ms. Griffin said her window was down. Was your car parked out there that day for several hours?
A. No. We was only there for a matter of five minutes.

Q. Oh, I'm sorry. I mean, for the whole day.
A. My car was out there. It was out there for a moment. I couldn't get it until they took the tape down.
Q. Okay. I want to talk to you. You went up the stairs. Ms. Griffin was in front of you.
A. That is correct.
Q. And you kind of followed right behind her.
A. Yes.
Q. And she's the one that knocked on the door.
A. Yes.
Q. And, and, I mean, you said it took a couple of minutes. You said a minute and a half when you were first interviewed before he opened the door.
A. Yes.
Q. And then he came out, and the door shut behind him.
A. Yes.
Q. Are you aware that apartment door is spring loaded so the door automatically shuts? Did you know that?
A. The door close behind him.
Q. Okay, and he kind of walked right past Ms. Griffin and saw you and came to you.
A. That is correct. He walked right by her.
Q. You had just seen him a couple of days before.
A. That is correct. He was in the back of my car.
Q. And he is Eric's friend.

A. That is correct.
Q. And you knew he lived there.
A. I assumed he lived there because that's where we -- you know, Eric went to go meet him or whatever they did when they was hanging out.
Q. And he came out yelling oh my F-ing god, right?
A. He came out and he approached me. He shook me.
Q. Right.
A. And he say what are they doing here? They were fighting. How did he get here?
Q. You said he was spazzing.
A. Yeah, he was spazzing It was ---
Q. And you ---
A. --- spaz.
Q. You described him as pacing and pulling his hair.
A. That is correct.
Q. Back and forth, right?
A. Yes.
Q. And he said oh my fucking god.
A. I can't remember his exact words, if he said that, but he was spazzing.
Q. And he said they were in the house fighting. They were in the house fighting. He said that multiple times.
A. He told me one time that they was in the house fighting.

Q. And then he actually shook you, right?
A. That is ---
Q. Put his ---
A. --- correct.
Q. --- hands on you. He was upset.
A. That is correct.
Q. And shook you and said who let him in here.
A. That is correct.
Q. He told you he was in bed asleep.
A. He did say he was asleep.
Q. And then you said a lot of other people came up after that, right?
A. That is correct.
Q. And I believe Mr. Scott just asked you the -- when you went back inside the apartment, Tony came back inside the apartment, too.
A. Yes.
Q. And you saw him go down the hallway. When you say down the hallway, you mean inside the apartment down the hallway toward the bedroom?
A. That is correct.
Q. And then he came back out.
A. Yes.
Q. And he left the apartment.
A. Yes. I don't recall his being in the apartment after

that.
Q. Okay, and then the next time you see him, he ---
A. Is downstairs.
Q. And he's talking to two police officers.
A. Correct.
Q. And you, you didn't stay in there with Ms. Griffin, right? You left the apartment.
A. No. I was there with Ms. Griffin. I stepped out on the balcony.
Q. That's what I mean. Sorry. You exited the, the front door.
A. I was there at the threshold of the door.
Q. And you ran into a guy named Javontae Davis.
A. Yes.
Q. And he was at the top of the stairs there on the breezeway as well.
A. Yes. He was right there in front of the door.
Q. Okay, and so by the time officers arrived, you're also downstairs somewhere?
A. That is correct.
Q. Over by your car.
A. I wasn't by my car.
Q. You were never ---
A. I don't recall being by my car. I was across from the sidewalk that -- I think the sidewalk that was owned by

Hillandale. I was with my father, and then I taken into the investigation.

Q. Okay. So, after you left the apartment, you never went back over to your car.

A. I don't recall ever going to my car. I had no reason to go to my car. I didn't have my keys. My keys was on Eric.

Q. Okay. Eric got out of the car with the keys?

A. No. Something was on Eric that I needed. It wasn't my keys because I was the driver, but I did not go to my car.

Q. Okay. I'm going to show you a picture, okay, see if you recognize this.

A. Uh-huh.

Q. Do you recognize your car?

A. Yes.

Q. And it's -- does that look like the car that was there the day of?

A. Yes.

Q. And is that you standing there?

A. It could be. I can't really tell. I don't even know who is at the back here.

Q. Could that be Javontae Davis?

A. I cannot say that. That can be. I can't see.

Q. Okay, and what's the timestamp on that photo?

A. 9:07.
Q. Now, we talked about this a little bit, but Eric and, and -- and let me clarify something because I think we were getting confused at our table. Earlier you were talking about having visited Willow Run a couple of days before this, I think on the 5th, right?
A. Yes.
Q. And you said Tonio.
A. Antonio Barnes.
Q. Right. I think -- I just wanted to clarify. When you said you went over there on the 5th, you were -- you were talking about having visited or seen Mr. Barnes, not Mr. Dash?
A. That is correct. I never seen Mr. Dash until I seen him ---
Q. Okay.
A. --- with Eric.
Q. Right, and I know with the two Antonios, I know it gets confusing. So, that's why I just wanted to clarify, but Eric and Tony were good friends, right?
A. I guess.
Q. Okay. They'd known each other for a while.
A. Yes.
Q. And they were cool with each other.
A. So far from what I could see.

Q. And you said that a couple of days before this on the 5th, Eric actually picked you up at work.
A. Yes, he did. He had my car.
Q. And that -- right, and then picked you up, and then that's when y'all went to Tony's apartment.
A. Yes. We went -- we didn't go to his apartment. We went to -- we pick him up from the apartment in the back and then went to building 14.
Q. To his apartment.
A. Yes. I did not know he owned it, but that -- yes.
Q. I gotcha, and then -- and then you went back to the other building, or you just stayed at Tony's apartment?
A. We stayed -- I stayed in the car. As I said, him and Eric went upstairs. I stayed in the car, and after that me and Eric left.
Q. Okay, and, and did Tony get in the car behind you? Like, were you in the passenger seat or drive ---
A. I was in the passenger seat and Antonio Barnes was behind me in the passenger seat.
Q. Okay, and you never ---
A. I mean, in my drive -- in the backseat behind me.
Q. During that timeframe while you were in the car together, you never heard Tony ask Eric about a gun that Tonio had said was missing?
A. They never exchanged words.

Q. They never talked to each other the whole time ---
A. I don't believe so. We only went from one building to the next. There couldn't have been much to say.
Q. And then the next day on Wednesday the 6th, Eric was actually back over at that apartment, right?
A. He could have been. I was at work, but, yeah, he been there, from what I recall, every day that week. He'd been chilling with them, yeah.
Q. And you remember talking to investigators in this case.
A. I do.
Q. Do you remember that you gave two interviews?
A. I do.
Q. And you remember that they -- that you actually told them he had been there the day before?
A. Yes.
Q. That Eric had been there the morning before?
A. The morning before? I'm not sure if it was morning or the afternoon, but he had been there that week every day pretty much through when he got killed.
Q. And during your second interview, do you recall telling Investigator Gilliam that you had heard that Eric had taken ---
MR. SCOTT: Objection.
Q. --- a gun off ---

MR. SCOTT: Objection ---

Q. --- Sam ---

MR. SCOTT: --- to hearsay.

THE COURT: Objection sustained.

MS. YOUNG: May I be heard, Your Honor?

THE COURT: No. I've ruled. The objection is sustained. Hearsay.

Q. And you were -- we covered this. You talked to police multiple times, and, you know, I covered this with Ms. Griffin, too. You loved Eric, right?

A. Yes.

Q. And you stayed with him for a couple of years.

A. Yes.

Q. And you'd have done anything for him.

A. No.

Q. You supported each other.

A. I guess we did support each other, but he knew. He would know what I would be against.

Q. And you -- it -- you wanted to help investigators.

A. I told them, as I should, which was my part, my truth, and that would be helping.

Q. Right.

A. Correct. That's helping.

Q. Right, because you wanted to find out what happened.

A. Correct.

Q. And I think same question that I asked Ms. Griffin. They asked you about whether he carried guns, right?
A. I do believe they did ask me that, and as I did respond, he was not allowed to have guns in my house. He just got out on a charge for some type of pointing and presenting.
Q. Right, and so you, you said not around me.
A. That is correct.
Q. We talked earlier about how your car had been there in the parking lot for several -- couple hours, however long it was that day. You couldn't get it until the police cut the tape down, right?
A. Uh-huh.
Q. If investigators had asked to search your car, would you have let them?
A. I would have no problem with that.
Q. Okay. Did they ever ask to search your car?
A. My car wasn't a problem. No.
Q. Did they -- so, they didn't ever ask?
A. No one ever asked to search my car.
MS. YOUNG: Beg the court's indulgence.
(A PAUSE.)
MS. YOUNG: Nothing further, Your Honor.
THE COURT: Any redirect?
REDIRECT EXAMINATION BY MR. SCOTT:

Q. Did you see Mr. Barnes go to your car after he killed Eric and Antonio Dash?

A. I don't recall him going to my car. I don't even remember me going to my car. There was no reason for my car to be involved at all.

Q. Okay. It was not involved in this incident to your knowledge?

A. Absolutely not.

Q. Did Mr. Barnes toss anything into it?

A. No.

Q. That you know of?

A. My ---

MS. YOUNG: Objection. Speculation.

A. That is correct. I would not believe that he would have. I don't remember seeing him by my car.

Q. Okay. Did you put anything in your car after finding Eric Griffin dead and Antonio Dash dead?

A. No. I had nothing on me but my phone and my keys, if I recall correctly, and I did have to wait for my keys. I believe I dropped my keys upstairs in the crime scene, which is why.

Q. Okay. Okay. Did you know personally of any kind of altercation Eric Griffin had had with either Antonio Barnes or Antonio Dash prior to this day, prior to February 7, 2019?

A. I don't recall.
Q. Okay. You never saw him with any kind of physical wounds or anything leading up to this incident?
A. No.
Q. No black eyes?
A. Of course not.
Q. And again, that morning, Eric and you were supposed to drop Eric's mother off at work ---
A. That is correct.
Q. --- at that point, okay. Okay.
MR. SCOTT: Okay, Ieasha, I think that's all the questions I have for you.
THE COURT: Anything rather of this witness?
(A PAUSE.)
THE COURT: You may step down.
MS. YOUNG: Nothing further. Nothing further, Your Honor.
THE COURT: You may step down.
(THE WITNESS EXITS THE STAND.)
THE COURT: Next witness.
MR. FOWLER: State calls Kevin Archie, Your Honor.
THE COURT: Come forward, please, sir.
KEVIN ARCHIE, BEING DULY SWORN, TESTIFIES AS FOLLOWS:
CLERK OF COURT: Please have a seat. State your name

for the record.

WITNESS: Kevin Archie. Kevin Archie.

DIRECT EXAMINATION BY MR. FOWLER:

Q. Mr. Archie, I appreciate you being here this afternoon. We are having some trouble hearing witnesses. So, if you could just speak clearly into that microphone.

Are you familiar with the incident that we're here for today?

A. Yes.

Q. Where were you working February of 2019?

A. Willow Runs (sic) apartment.

Q. What were you doing at Willow Run Apartments?

A. I was HVAC maintenance man.

Q. And what all did you do as a HVAC and maintenance man?

A. Everything. Like, all the HVAC work they had out at the property.

Q. So, specifically on February 7, 2019, the date of the incident, what were you doing?

A. That was around about, what, 8:30, 9:30 that morning. I just got to work. When we get to work, we pick up -- we walk the property and we pick up trash. At that, that morning, I was by building 17 picking up trash.

Q. While you were picking up trash, did you hear anything?

A. Uh-huh. I heard four gunshots.

Q. You heard four gunshots. What did you do when you heard the gunshots?

A. Well, me and the supervisor, we was coming through the breezeway, so, you know, we were laughing and joking, like, hey, they out here shooting early this morning. So, we got by building 15. That when ---

Q. I'm sorry to stop. You were coming through the breezeway of building 17?

A. 17.

Q. Okay.

A. Walking the property going down. So, when we got down -- we got through the breezeway by building 15, it was four ladies said y'all go to building 14. They was over there shooting. So, we went over to building 14.

Q. I'm going to show you what's been admitted into evidence as State's 64. So, you were -- I believe that's building 17 right there. This is building 14.

A. Yeah.

Q. This was 17?

A. Is that that little shop right behind it?

Q. Yes.

A. Yeah.

Q. And so you were coming through the breezeway here?

A. Uh-huh.

Q. When you heard the gunshots?

A. Yes.
Q. Okay, and so where did you go after you heard the gunshots?
A. Where you finger at, keep coming down. That's like walking through the property. We were coming down. Right where you see 14 at?
Q. Uh-huh.
A. We were on the back side of 15. That 15 right there.
Q. Okay.
A. So, we were back there, and that's when ladies say y'all come quick, come kick -- quick. They over there shooting. So, we went to building 14 where they were shooting at.
Q. Do you recall which apartment you went to in building 14?
A. It's either 14-G or 14-H.
Q. What did you do when you got to 14-G?
A. I knocked on the door, and he opened the door and said what, what, what? That's when I seen the -- I seen one guy named Eric Griffin and the other guy named Antonio.
Q. Who opened the door when you knocked?
A. The other guy, the roommate, Antonio.
Q. Do you remember his last name?
A. Be honest, I had just started working there, like, in August, so I didn't really know names or nothing like that.

I learned all their names through the process of all this stuff going on except for Eric because I worked for Eric when we did renovations on the property.

Q. Do you see the man that opened the door when you knocked on the door in the courtroom?

A. Yeah.

Q. Where is he?

A. Right there.

Q. Can you describe what he's wearing?

A. The gray sweater.

Q. And what did -- I'm sorry, what did he say when he opened the door?

A. He just holler out what, what, what? So, when, when he opened the door, holler out what, what, I looked. I said nothing. I just turned around and took off running.

Q. What was his misdemeanor like when he opened the door?

A. I'm not going to say it was kind of like aggressive type, but it was -- he had a tone in his voice.

Q. Was he saying what, what, what very loudly?

A. Yeah.

Q. With some volume?

A. Yeah.

Q. And what did you see when he opened the door?

A. I seen -- I seen Eric laying on the floor and Antonio was on top of him, and he was jerking. I think Eric was

already dead. I'm not sure. I know he looked dead. So, I'm not going to say he was because I ain't a coroner or nothing like that.

Q. And you stated that you knew Eric from working with him.

A. Yes.

Q. I show you what's been premarked as State's 23. Do you recognize that?

A. Uh-huh.

Q. Is that the ---

THE COURT: What kind of word is that you're using, sir?

Q. Just say yes.

A. Oh, yes. Yes. I'm sorry.

Q. Is that the -- I'm sorry. Is that the apartment that you went to that morning?

A. Yes.

Q. Is that about how it looked when you got there?

A. Be honest, no, because when I got there, Antonio was on top of Eric. So, when, when the other Antonio opened the door, I looked in and I seen Eric. He was on -- laying on the floor, and the other Antonio was on top of him and he was jerking.

Q. But that is the apartment?

A. Yeah, that's the apartment.

Q. And that's approximately where their two bodies were appropriately?

A. In that living room, right there in the living room.

MR. FOWLER: Your Honor, I've move to admit State's 23 into evidence.

THE COURT: Any objection?

MS. LATIMER: No objection, Your Honor.

THE COURT: It's admitted.

(PHOTOGRAPH MARKED AS STATE'S EXHIBIT NUMBER 23 RECEIVED INTO EVIDENCE.)

Q. All right, Mr. Archie, now I apologize. I'm going to ask you to look at that picture one more time and just, if you could, describe for the jury how they were situated when you got to the apartment.

A. Eric, that's Eric in the black shirt. That's Eric. Eric, they were like -- Antonio, he was -- I guess they was fighting. I'm not sure, but Antonio was on top of Eric, and he was jerking with his brains coming out of his ---

MS. LATIMER: Objection, Your Honor. It's more prejudicial than probative.

THE COURT: Well, what part of what he said?

MS. LATIMER: I'd rather not repeat it, but it was fairly inflammatory as to how one of the decedents looked. There's no probative value other than to upset and affect the jury.

THE COURT: Solicitor.

MR. FOWLER: Your Honor, he's describing what he saw. He was an eyewitness to this. I don't think that any prejudice is substantially outweighing the probative value of his ---

THE COURT: All right, you're not giving a medical opinion, are you?

WITNESS: No, no, no, sir. Sir, no.

MR. FOWLER: I think he even said he's not qualified.

THE COURT: Okay. Go ahead and pose the question to him.

Q. So, I'm sorry, how were they situated when you -- when you looked in there?

A. When he opened the door, Eric was laid on the floor with his face like same way it was, but Antonio was on top of Eric.

Q. Okay. All right. So, you saw that when he opened the door and he said what, what, what to you.

A. Yeah, and when I looked, I just said ay. I threw my hands up, nothing. I just took off running.

Q. Where did you go after that?

A. Down, back down the stairs. I got on the phone and called to the office and told him they had needed to get over there quick because somebody done got shot over here.

Q. And were you in the parking lot area?

A. Yes, sir.
Q. Outside of the apartment? Did you talk to Mr. Barnes anymore after he opened the door?
A. Yes.
Q. What did you say to him?
A. Me, Hamilton Jacobs, Jaquana ---
Q. Who is Hamilton Jacobs?
A. He was the leasing agent. Jaquana was the secretary. Richard was the supervisor, Richard Charles. When the police were called, we -- he came through and we just stopped and, ay, what happened.
Q. Wait. I'm sorry. You said he. Who are you referring to?
A. Eric -- I mean, Antonio, Antonio.
Q. Okay.
A. So ---
Q. He came up to y'all?
A. Yeah, because we -- when the police came, he came down and we just said, ay, what happened?
Q. And what did he say?
A. First he said I don't know, I don't know, I don't know. Then we're, like, man, what happened? He said all right, I'm'll tell y'all. They was in there fighting. I just came out and started blasting. So, he told me to tell the police that, and he say man, I'm going to change my

shirt and I'm going to turn myself in, and he did that.
Q. Was there another explanation that he gave to y'all? Would your statement maybe help jog your memory? Would your statement help, help you remember?
A. Yeah, because this, this has been a minute. I'm trying to forget all of -- out of this thing.
MR. FOWLER: Your Honor, may I approach the witness?
THE COURT: Yes.
Q. I'll direct your attention to line 23, right there with the star beside it.
(A PAUSE.)
A. Yeah, that's what we say, yeah.
Q. You recall him saying that?
A. Yeah.
Q. Okay. So, first he says I don't know what happened.
A. Yes.
Q. Is that correct? What did he say next?
A. Then he said man, I was in there sleep. I don't know what's going on. I said man, come on. It's two dead bodies in there. He say man, I'm'll tell you what happened. They was back -- they was in there fighting. I came out the back, and I just started blasting. And he said man, ay, just tell them that. I'm going to change my shirt, and I'm going to turn myself in.
Q. I'm going to show you your statement one more time.

So, line 23 right there. Do you remember him saying that to you?

A. He -- yeah, he did mention that at first.

Q. Okay. What did he mention?

A. That they were trying to rob him.

Q. Okay.

A. And he say he was in there. Say they were trying to rob him. He was back there asleep, so when he came -- and then he woke up and he started blasting. But he told me three different things at one time. So, you know, then, you know, I just kept saying ay, man, it's two bodies in there, man. And then he said man, all right. I'm'll tell you. They was in there fighting, and I just -- I came out and I blast. I just started blasting. He said man, let me go change. Ay, let me go get a shirt, change my shirt, and I'm'll change, turn myself in.

Q. All right. So, I just want to be clear for the jury. First he says I don't know what happened. Then he says they were trying to rob me. Is that correct?

A. Uh-huh.

Q. You need to say yes or no.

A. Yes.

Q. Then finally he says I'm going to tell you what happened. They were in there fighting.

A. Yes.

Q. So, he gives you three different stories.
A. Yes.
Q. And the person giving you those stories is again ---
A. Yes.
Q. --- Antonio Barnes.
(A PAUSE.)
MR. FOWLER: I have no further questions at this time, Your Honor.
THE COURT: Cross-examination.
MS. LATIMER: Thank you, Your Honor.
(A PAUSE.)
MS. LATIMER: Your Honor, may it please the court?
THE COURT: Yes.
CROSS-EXAMINATION BY MS. LATIMER:
Q. Hey, Mr. Archie. How are you doing today?
A. Doing fine. You?
Q. Sounds good.
So, I want to go back kind of to the beginning of when this first happened. February 7, 2019, you arrived at work, and I believe you normally arrive at work around 8 AM. Is that right?
A. Yes, ma'am.
Q. And then when you go to work, you meet up with your supervisor, Richard Charles. Is that right, and then y'all start walking around the grounds and picking up some trash?

A. Yes.
Q. So, say around between 8:30 and 8:50, you were near building 7 with Richard Charles, right?
A. 17.
Q. 17, my apologies. You were near building 17 with Richard Charles, correct?
A. Yes.
Q. And was there anyone else with y'all?
A. Yeah. Shakihla, Shakihla Smalls, yeah, it was a girl with her because she stayed in 17, I think 17-E.
Q. Okay, and so all of y'all, you, Richard Charles, and Shakihla Smalls, y'all were talking when you initially heard gunshots?
A. Yes.
Q. Okay, and so when you initially heard gunshots, you heads towards that direction, or someone came to you and told you to go to building 14?
A. When we heard the gunshots, we was -- they got a little breezeway.
Q. Uh-huh.
A. We was -- we was just about coming out the breezeway. We heard the gunshots. So, you know, not knowing this all had happened, laughing I say boy, they out there shooting early this morning. So, if you keep walking down, you got 17, 18, and 15, and you'll have 16 like that. So, we just

walking down, like, right there. As we got in -- halfway across that parking lot, the ladies from building 15 said ay, ay, y'all come. They over there shooting at 14, so.

Q. Okay. So, when they say y'all come, y'all walk over to building 14, go upstairs, you go in 14-G, I believe.

A. Well, I knocked on 14-G.

Q. You knocked on 14-G. Shakihla Smalls and Richard Charles, they were still with you at that time?

A. Yes.

Q. Okay, and that's when Antonio Barnes opened the door, yes?

A. Yes.

Q. And when Antonio Barnes opened the door, did Shakihla Smalls and Richard Charles go into the apartment or stay out on the balcony?

A. The chaos started real fast. I mean, Richard was down there and I thought she was with us.

Q. Okay.

A. But she managed to disappear real fast during the chaos, and she didn't work with us anyway, and we had no business having her with us like that anyway. But she was a resident out there, and we thought she had, like, just -- it's 8:30 in the morning. I thought she was, like, getting up in the morning and just ---

Q. So, you mentioned it's chaos. We know that you're at

least at the apartment door. Richard Charles is at the apartment door. Shakihla Smalls somewhere near the apartment door.

A. She went up there with us. I'm not -- she did ---

Q. So, who else was around at that time? Did you see ---

A. It was ---

Q. --- Ms. Washington at that time?

A. Who? Excuse me.

Q. Did you see two other females in the apartment at that time?

A. In that apartment?

Q. Yes.

A. No.

Q. So when you opened the door, you claim that Barnes said what, what, right? You said it wasn't aggressive, but it ---

A. Nah. It's just like when I knocked on the door, he snatched the door, what, what, what. So when I looked, I threw my hands up. Nothing, and I just took off down the stairs.

Q. And he wasn't -- he wasn't being aggressive. He was just ---

A. No, it wasn't ---

Q. --- startled.

A. Yeah, yeah. It wasn't like he was aggressive or

nothing like -- it was just he had a tone in his voice.
Q. Right, and so, you know, at some point you state that you're with -- let's see, Hamilton Jacobs, and who was the other person you were with?
A. Jaquana. I can't really remember, remember her name, but she was the secretary during that time.
Q. Okay, and Barnes was also with y'all at that time, yes?
A. No.
Q. Well, at some point ---
A. Yeah, he came down and when he came down, we stopped him, right, and asked him what happened.
Q. Okay, and so do you remember giving a statement March 21st of 2022?
A. March?
Q. Yes, March 21st of 2022. It would have been to Investigator David Anatra. Would it refresh your recollection if I showed you the statement?
A. No. Yeah. You talk about -- see, you got me confused with that date of March 22nd. Yeah, it was a lady and a -- some guy. I think they were with the defense, on the ---
Q. So, that's a yes?
A. --- defense. Yes.
Q. Okay, and in that statement, you do say that y'all asked Barnes what happened, right?

A. Yes.
Q. And in that statement, you don't say that Barnes says I don't know, correct?
A. I can't remember. I know ---
Q. I can show it to you.
A. That's fine but I know what he told me.
Q. All right, if you'll just silently read this, and let me know if you see the words I don't know in this statement.
A. Okay. Well, I over -- I overlooked that.
Q. That's okay. That's okay. So, you do say that Barnes states...
(A PAUSE.)
Q. And I apologize. I think I may have shown you the wrong statement. This is actually the statement taken on the day of the incident. My apologies. Do you remember giving a handwritten statement on the day of the incident? And in that statement, you also did not say that Barnes said I don't know when he was asked what happened.
A. Okay, and...
Q. So, you did say that Barnes, when he was asked what happened, he said that they were fighting in the apartment. He came out from the back and just starting spraying. He didn't -- so, he just started spraying, correct?
A. You got me confused. What are you trying to say or

what are you trying to ask?
Q. I'm trying to ask that on the day of the incident, you did, in fact, tell police that when Barnes was asked what happened ---
A. I told the -- excuse me. I told the police what he told me to tell them.
Q. Yeah.
A. Okay.
Q. And what, what he told you and he told you that they were fighting in the apartment, and he came out the back just spraying, right?
A. That was the last thing he told me.
Q. So ---
A. For the very -- excuse me. The very first thing, we asked him what happened, I don't know.
Q. Well, that didn't make it in either of your statements in ---
A. Well ---
Q. --- February 7, 2019, or March 2022, correct?
A. Could be.
Q. So, you saw into the apartment a little bit, and it -- you said it was chaos. The apartment also was ---
A. Not the ---
Q. --- chaos.
A. What I mean, the chaos, it was from the people that --

all right, when that happened right there, when the ladies who told us to go over there, they was in the parking lot. Then, you know, we wasn't the only ones that heard the gunshot. So by that time, when these gunshot ringing, then you start hearing sirens. People just started coming from everywhere and they got -- when I say that parking lot got packed, it got packed bad.

Q. Were you able to see the state of the apartment on February 7, 2019?

A. Yes.

Q. Yes. Were you able to see that there was a hole in the wall?

A. Right there in -- if you look in that picture, you see where -- that little white thing you see at the edge of that picture to the right? That's a socket. On the other side of that socket, there's a hole in that wall.

Q. And there was a TV overturned, right?

A. TV, table, chairs, and all because if you see where the chair at, the table is back right here behind -- the door opens up this way. The table would be to your left.

Q. And you actually had an occasion to be in that apartment, I think it was the week prior, correct? You were doing an inspection in the apartments, I believe.

A. Yeah.

Q. Okay, and when you went into the apartment, there was

no hole in the wall. There weren't tables, TVs overturned, right?

A. It was like a regular apartment where somebody -- you could tell someone was living in, but when I went there that morning, you could tell there were -- they was in there fighting or something.

Q. Okay.

(A PAUSE.)

MS. LATIMER: I don't have any further questions, Your Honor.

THE COURT: Any redirect?

MR. FOWLER: Briefly, Your Honor.

REDIRECT EXAMINATION BY MR. FOWLER:

Q. Just to be clear, on the -- on the day that you saw that in the apartment, Antonio Barnes told you three different things.

A. Yes.

Q. What was the first one?

A. I don't know.

Q. Okay. What was the second one?

A. They were trying to rob me.

Q. And then what was the third and final statement?

A. I'm'll tell y'all the truth. They was in there fighting. I just came out the back and started blasting.

MR. FOWLER: No further questions.

THE COURT: Anything further from this witness?

MS. LATIMER: No, Your Honor.

THE COURT: You may step down.

(THE WITNESS EXITS THE STAND.)

THE COURT: Call your next witness.

MR. WALTON: The state calls Javontae Davis.

(A PAUSE.)

THE COURT: Let's stand for a moment, everybody, while they apparently try to find whomever.

(A PAUSE.)

BAILIFF: They need a break, Your Honor.

THE COURT: All right. We're going to take a break. Please do not discuss the case.

(THE JURY EXITS AT 5:26 PM.)

(A PAUSE.)

THE COURT: All right, who you looking for now?

MR. SCOTT: Javontae Davis, Your Honor. We might have a matter for the court after we break. In the meantime, we can call a witness a little bit out of order. It's going to be a Joseph Dwyer.

THE COURT: We've got a matter of law. Everybody be seated.

(A PAUSE.)

THE COURT: Yes, sir, Mr. Scott, what is the matter of law?

inches from the blood essentially from the video. It's a real visceral, prejudicial moment. Again, you know, it's, it's not probative of really anything other than having a jury experience being almost in the blood themselves. And I would ask the state play it for you.

MR. SCOTT: I believe Your Honor is watching it right now.

THE COURT: The state has provided me with a copy of Exhibit Number 72, and I overrule the motion.

MR. BRIAN SHEALEY: Thank you, Your Honor.

THE COURT: You can bring the jury.

(THE JURY ENTERS AT 5:37 PM.)

THE COURT: Next witness, please.

MR. WALTON: State calls Officer Dwyer.

JOSEPH DWYER, BEING DULY SWORN, TESTIFIES AS FOLLOWS:

CLERK OF COURT: Please have a seat. State your full name for the record.

DIRECT EXAMINATION BY MR. WALTON:

Q. Officer Dwyer, could you please state your full name for the record?

A. Officer Dwyer with the City of Columbia Police Department.

Q. And where do you currently work?

A. City of Columbia Police Department. Sorry.

Q. How long have you been there?
A. About seven years now.
Q. Okay, and just what's your position at the Columbia Police Department?
A. I work in operations of patrol where I patrol North Region where we patrol for crimes in progress and respond to anything that could be criminal action.
Q. Just briefly what kind of training do you have to do? What kind of training to you have to do to become a police officer?
A. A measure of training in enforcing and being proactive in legals and firearms training and responding to calls for service.
Q. What types of call do you respond to?
A. Anything from any measure of crimes in progress to shots fired, property crimes, and any other violent crimes that would be thereof.
Q. Okay. You mentioned shots fired. What steps do you take when responding to a shots fired?
A. When responding to any call for service that involves shots fired, officers would flood the area to try to find any type of action being taken that would cause potential harm to your property or individuals or any signs of distress or previous signs of shots fired to collect anything of evidentiary value.

Q. And you may have said this earlier. Are you assigned to a particular region currently?

A. I am, North region.

Q. Okay. Were you assigned to that in 2019?

A. I was.

Q. Okay, and what area does North Region cover?

A. It covers from Elmwood Avenue north to Wilson Boulevard and 20 over to Broad River Road and all the way east to Farrow road.

Q. Okay. Let's switch gears a little bit the date of February 7, 2019. Were you working that day?

A. I was.

Q. Okay, and did you respond to a call for service at 511 Alcott Drive?

A. I did.

Q. And what city is that in?

A. City of Columbia.

Q. And which county?

A. County of Richland.

Q. Okay, and are you familiar with that apartment complex?

A. Very much so.

Q. And what apartment complex is that?

A. Riverside -- I apologize, the name of the apartments is what you're asking?

Q. Does Willow Run sound familiar?
A. Yeah, Willow Run is the apartments, sorry.
Q. Okay, and about what time did you respond?
A. Call for service came in at approximately 9 AM.
Q. And what was the nature of that call?
A. It was a call for shots fired.
Q. Okay. So, when you arrived on scene, what did you do?
A. When I arrived on scene, I approached from the rear of the apartment to enter the breezeway, which I was -- would -- sweeping the area for protective -- for protection of the public. As I approached the stairwell, I was directed upstairs to apartment golf -- or G, sorry.
Q. Directed by whom?
A. People. It was general public. There was a couple members at the top of the stairs that were saying there were people injured inside.
Q. Okay, and so you were directed upstairs. What did you do next?
A. I then asked very brief questions of what was inside the apartment, and which they stated it was only two individuals who were hurt, and they needed help. So, I then entered the apartment.
Q. All right. Then what happened?
A. Upon entering the apartment, I observed two individuals on the floor gravely injured, multiple gunshot

wounds various places of their upper, upper body. There was one individual -- or they were both pretty much were very close in proximity to each other, so it was hard to tell one from the other. There was one individual who did show some signs of life. However, it was something that would be described as agonal breathing, which would be very, very, very limited sign of life, I guess.

Q. Okay.

A. But -- sorry.

Q. You said you responded around 9 AM. What was the lighting like in that apartment?

A. The lighting of the apartment was mostly of the natural light from, I guess, the windows. It was well enough lit for me to observe the entirety of the apartment, but it wasn't any kind of artificial lighting at all.

Q. So, sunlight.

A. Sunlight, yes.

Q. Okay. All right. So once you got in, you said you kind of observed the bodies on the ground. Did you do anything else?

A. Once I was able to identify there was nothing else in the apartment that would cause anyone harm, I did try to establish the extent of signs of life to -- if I could render any type of aid, and which I described before the only signs of life was agonal breathing, which is pretty

much death.

Q. You said nothing else in the apartment could cause any harm. What do you mean by that?

A. If there would be anything else in the apartment, say another individual that could be hiding or lurking in another room, but it would be just a brief measure to try to listen and observe what would possibly jump out while I was rendering aid.

Q. In rendering aid, checking for vitals, did you call EMS?

A. I did.

Q. You mentioned the two bodies. What position were they in?

A. They were practically on top of each other when I entered. So, one would be -- have been facing upwards, and I believe the other was facing downwards.

Q. I'm showing you what's been previously marked as State's Exhibit 25 and 26. Do you recognize these?

A. Yes.

Q. What are they?

A. Those would be the two individuals that were gravely injured that I responded to.

Q. And is this a photo?

A. It is a photograph.

Q. And does this photo fairly and accurately depict what

you saw on February 7, 2019?

A. Yes.

(A PAUSE.)

MR. BRIAN SHEALEY: Without objection.

MR. WALTON: Your Honor, at this time, the state moves to have what's been previously marked as State's 25 and 26 admitted into evidence.

THE COURT: They're admitted.

(PHOTOGRAPHS INDIVIDUALLY MARKED AS STATE'S EXHIBIT NUMBERS 25 AND 26 RECEIVED INTO EVIDENCE.)

(A PAUSE.)

Q. Officer Dwyer, what are we looking at right here?

A. This, this would be a depiction of the scene which we responded to on that day when the shots were fired.

Q. So when you walked in, is this what you saw when you walked in the apartment?

A. Similar to it. It seems that was -- photograph was taken after EMS had responded where they would have checked for vitals. They were closer together when I entered the room, and that picture's taken slightly from left of where the door is.

Q. And these are the two bodies you observed when you walked in?

A. It is.

Q. How about this one? What are we looking at here?

A. That would be a similar photograph of previously described.

Q. Just from a different angle?

A. Just from a different angle, yes.

Q. Okay. So, after you checked on the bodies, check vitals, EMS arrived, what did you do next?

A. Once EMS arrived, I remained near the door to try to secure, I guess secure the area where EMS was trying to render aid and provide any care that they could and check for vitals. Then as more officers entered the area, I then would go downstairs and tried to set up the scene to where I secure the area with tape and whatnot.

Q. Okay.

A. Proceed with any typical duties.

Q. Okay, and is that the extent of your involvement in this case?

A. It is.

Q. Okay. Officer Dwyer, were you wearing a body camera on February 7, 2019?

A. I was.

Q. Have you had an opportunity to review that body camera before coming to court?

A. I did.

Q. Showing you what's been previously marked as State's Exhibit 72. You recognize this?

A. I do.
Q. What is this?
A. That would be a copy of the body-worn camera.
Q. And does this copy fairly and accurately depict your footage from February 7, 2019?
A. Yes.
MR. WALTON: Your Honor, at this time the state moves to have what's been previously marked as State's Exhibit 72 admitted into evidence.
MR. BRIAN SHEALEY: Subject to prior objection, Your Honor.
THE COURT: It is admitted.
(DVD OF BODY-WORN CAMERA MARKED AS STATE'S EXHIBIT NUMBER 72 RECEIVED INTO EVIDENCE.)
(WHEREUPON, STATE'S EXHIBIT NUMBER 72 IS PLAYED FOR THE JURY. AUDIO IS NOT TRANSCRIBED.)
Q. And this body camera you just wore, is that what you observed when you arrived?
A. It is.
Q. All right, and that is the extent of your involvement?
A. It is.
Q. After, after ---
A. After proceeding on with typical duties.
Q. Right.
MR. WALTON: I have no further questions. Please

answer any questions the defense has.

THE COURT: Cross-examination.

MR. BRIAN SHEALEY: May it please the court?

THE COURT: Yes.

(PHOTOGRAPH MARKED AS DEFENDANT'S EXHIBIT NUMBER 1 FOR IDENTIFICATION.)

CROSS-EXAMINATION BY MR. BRIAN SHEALEY:

Q. Good afternoon. Officer Dwyer, had you had occasion to be out at Willow Run before?

A. I have. I've responded to many calls to that address.

Q. Is that a high-crime area?

A. It is a high-crime area.

Q. Get a lot of calls out there?

A. Yes, sir.

Q. Lots of shots fired kind of stuff?

A. Frequently.

Q. A lot of breaking and entering, burglary charges?

A. It has its fair share of violent crimes and property crimes, yes, sir.

Q. So, you were familiar with that area when you happened to be the first -- one of the first responders on this date and time, right?

A. I was.

Q. Okay. Do you recall giving a narrative? And when you respond to a scene, it's important for you to document

everything, correct?
A. It is.
Q. So, just like you went to the scene and you did what your training told you to do, like clear the scene, look for weapons, make sure there's nothing dangerous around you as you're clearing the scene, and securing the scene, right? Correct?
A. Yes.
Q. It's also important for you to do paperwork, right?
A. It is.
Q. You've got to do your paperwork, right?
A. It is.
Q. So, you, you recall doing a little supplemental narrative regarding the situation?
A. Yes.
Q. Okay. Do you have it in front of you?
A. I do. I believe I do.
Q. Okay. Well, it's not -- it's not that long.
A. Yeah, yeah.
Q. So, it's a paragraph, but you'd agree that you have to write things like the date and time, right?
A. Date and time on initial report if you're taking a report, yes.
Q. Okay, and on your initial narrative, I think you indicate it was 8:55 or 8:56 at the top in terms of when

you, I guess responded.

A. That was the date and time of the initial incident start is what it states, which is the beginning of the call for service.

Q. And we heard and saw your body camera. It was a very chaotic scene, right? I mean, people were screaming and crying.

A. Yes.

Q. Right, and there were a lot of people out there. I mean, even before you got out there, there were a lot of people that had been attracted to that area, right?

A. Yes.

Q. I mean, up in the breezeway, for instance, there were a bunch of people from the time you went into that apartment and then also I imagine when you left, there were a lot of people still gathering around to see what was going on. Is that safe?

A. Yes. There was a large crowd throughout the duration of the call.

Q. And, in fact, on the bottom of your report, you say that you, you know, you needed to secure some more manpower to help secure that scene, right?

A. Yes.

Q. Okay. So, there's no way you can say how many people entered that apartment before you got there.

A. No, there would be no way for me to be able to clarify that. However, it would be just based on what I could observe.

Q. Right, and again you observed a lot of people already out there.

A. Outside of the apartment, yes, but not inside.

Q. Right. So, again, you don't know who would have been in there before you got there, right?

A. No.

Q. I'm going to show you what's been marked as Defense Exhibit 1 for ID. Do you recognize this?

A. That stool, yes.

Q. Okay. Just one second.

(A PAUSE.)

Q. Now, do you recall that this particular apartment had a door that just didn't want to stay open, right?

A. I do recall that exactly.

Q. Okay, and this seemed like it had a spring or something that was keeping it from staying open?

A. Whether it was a spring or by the sway of the door by gravity, I guess.

Q. And you recall positioning a little small table there just to help keep it open so that you could ---

A. To keep it open.

Q. --- have a clear line of sight and keep that door

open. That was helpful for you, right?

A. For EMS, yes.

Q. Okay.

MR. BRIAN SHEALEY: Your Honor, at this time I admit ---

Q. And is this a fair -- did this, this ---

A. I specifically moved that stool to prop the door open at the time of emergency, and it was documented.

Q. Right.

MR. BRIAN SHEALEY: Your Honor, at this time I admit this particular photograph marked as Defense 1 into evidence.

MR. WALTON: No objection.

THE COURT: It's admitted.

(PHOTOGRAPH MARKED AS DEFENDANT'S EXHIBIT NUMBER 1 RECEIVED INTO EVIDENCE.)

Q. So, again, had you ever been in this apartment before?

A. I do not believe I have.

Q. Okay . So, you don't have any personal knowledge of it, but it was your experience that day to recognize that door was closing as soon as you opened it, right?

A. It was.

Q. And again, that's why you put that table there?

A. I did. I did place the table there, yes.

Q. And again, this was a chaotic situation. There were a

lot of folks out there on the scene that day, right?

A. Yes.

Q. Okay.

MR. BRIAN SHEALEY: Beg the court's indulgence.

(A PAUSE.)

MR. BRIAN SHEALEY: Nothing further. Thank you.

THE COURT: Any redirect?

MR. WALTON: No, Your Honor.

THE COURT: Thank you, Your Honor. You may step down. Call your next witness.

MR. WALTON: Javontae Davis.

THE COURT: This will be the last witness for the day. Ladies and gentlemen, we're going to start tomorrow at noon. We'll do this last witness and be done for the day.

JAVONTAE DAVIS, BEING DULY SWORN, TESTIFIES AS FOLLOWS:

CLERK OF COURT: Please have a seat. State your full name for the record.

THE COURT: Move that screen, please.

DIRECT EXAMINATION BY MR. WALTON:

Q. Could you state your name for the record?

A. Javontae Davis.

Q. Are you from Columbia, Mr. Davis?

A. Yes.

Q. Back in 2019, where did you live?

A. Hillandale.
Q. Hillandale. Is that close to Willow Run Apartments?
A. Yes.
Q. Okay, and did you know a man named Antonio Dash?
A. Yes.
Q. Know a name -- man named Eric Griffin?
A. Yes.
Q. How did you know them?
A. Basketball.
Q. Where did you guys play basketball at?
A. Recreation parks.
Q. You know a man named Antonio Barnes?
A. Yes.
Q. Okay. How do you know him?
A. Same place.
Q. Basketball, rec center? What do you do for a living?
A. Warehouse.
Q. Warehouse?
A. Yeah.
Q. All right, Javontae, I want to switch gears to February 7, 2019. Do you remember that day?
A. Somewhat.
Q. So, how about you tell me the parts you do remember.
A. My cousin asked me did I hear gunshots and screaming or whatever, and I told him yeah.

THE COURT: Sir, I can't understand what you're saying.

A. My cousin asked me ---

THE COURT: Talk louder and talk ---

A. My cousin asked me did I hear gunshots. I told him yeah. They started screaming, so I walked over to hear where the screaming was coming from. That's when I seen Tonio, Eric mom, and his girlfriend. I guess Tonio was heated or whatever, saying something about somebody tried to kick his door or something like that. So as I was going upstairs, the mama was crying. I seen her. Then the girlfriend was telling me, beating on my chest telling me Eric was ---

MR. BRIAN SHEALEY: Objection to hearsay.

A. --- was dead or whatever.

MR. BRIAN SHEALEY: Objection.

THE COURT: Objection's overruled.

A. And that was about it. I peeked in. I seen Eric and Dash on the floor, and that was -- that was basically about it.

Q. Okay, and as you were walking up, do you remember the defendant saying anything?

A. Not really besides somebody tried to kick his door, something like that. He was sleep or something like that.

Q. Do you remember him saying anything about people being

dead?
A. I recall saying something like somebody was on the floor or something.
Q. And what -- when he said on the floor or something, do you remember any more detail about that?
A. Not -- just saying they was on the floor dead. He didn't know what was going on or something like that.
Q. Okay. Earlier you said that you and your cousin actually walked over. Where were you?
A. No. I just walked over.
Q. You just walked over?
A. Yeah.
Q. Where did you walk over from?
A. From Hillandale.
Q. And about how far is that from Willow Run?
A. Directly across.
Q. Across the street? Okay, and you say you heard the defendant say what again?
A. Something about they was on the floor dead or something like that.
Q. And did he know what happened?
A. Not that I know of.
MR. WALTON: Beg the court's indulgence.
(A PAUSE.)
Q. Just, just for clarification, he told you what again

about the people on the floor dead? Woke up and they were?
A. You say what?
Q. For clarification, what did the defendant say about the people being on the floor?
A. Just said that they was on the floor dead or something.
Q. And did he know anything, have anything to do with it?
A. Not that I know of.
Q. Do you remember giving a statement, providing a statement?
A. Some of it, yeah.
Q. If I show you that statement, would it help refresh your recollection?
A. Probably so.
Q. All right.

MR. BRIAN SHEALEY: Your Honor, I'm not sure he's asked a question he says he doesn't remember. He's answering questions. Mr. Walton's asked the same question about three times now, so I'm not exactly sure why he needs his recollection refreshed at this point.

MR. WALTON: Because in the statement, he specifically says defendant said something, and he is not answering that question affirmatively.

MR. BRIAN SHEALEY: Well, he can ask him that. I mean, if he doesn't remember -- but I can't -- I haven't

heard him say I don't remember anything yet, Your Honor.

Q. Do you remember specifically what the defendant said about how the bodies had come ---

MR. BRIAN SHEALEY: Objection to leading.

THE COURT: Objection is overruled.

Q. Do you, you remember specifically about how the bodies got to the floor?

A. No.

Q. Do you remember what the defendant said he was doing when he found the bodies?

A. No.

Q. If I showed you your statement, would that help refresh your recollection?

A. Probably so.

(A PAUSE.)

A. I said that. I said that.

Q. What did you say?

A. He said they was on the floor dead or something like that.

Q. Specifically, what was the defendant doing before he found them on the floor based on your statement?

A. I don't know. I wasn't in the house.

Q. But in your statement, what did you say?

MR. BRIAN SHEALEY: Objection, Your Honor. He's already said he wasn't in the house, so he's asking for

speculation.

MR. WALTON: I'm not asking for speculation, Your Honor. His ---

THE COURT: Objection is overruled.

Q. I show you your statement one more time, Mr. Davis. This line.

A. I said that, too. I said that he was sleep or something, and they was on the floor dead.

MR. WALTON: Thank you. I have no further questions. Please answer ---

THE COURT: Cross-examination.

(PHOTOGRAPHS INDIVIDUALLY MARKED AS DEFENDANT'S EXHIBIT NUMBERS 2 AND 3 FOR IDENTIFICATION.)

CROSS-EXAMINATION BY MR. BRIAN SHEALEY:

Q. Javontae, did you live at Willow Run, or you live in the neighborhood over?

A. The neighborhood over.

Q. Okay, and did you say you're friends with Eric?

A. Yes.

Q. And you headed in that direction because of the shots fired, or someone said there were shots fired?

A. Yeah. My cousin said it was shots fired. I was really just being nosy. I just heard the screams.

Q. So, you were really just been being nosy because ---

A. Yeah.

Q. --- you heard screaming?
A. I heard female screaming.
Q. Now when you got there, Javontae, were there a lot of folks up there, or were you one of the first ones there?
A. No, I wasn't -- I wasn't the first one.
Q. Okay. So, there were already people that had been in that apartment?
A. I don't know that they was in that apartment, but it was people already up there.
Q. Okay. I'm going to show you a couple of pictures, see if you recognize this. I'm going to show you what's marked as Defendant's 2. Do you recognize that person?
A. That's me.
Q. Okay, and I'm going to show you what's marked as Defendant's 3 for ID. It's not as good of a picture because it's body cam, but do you, you recognize who that person is?
A. That's me.
Q. Okay.

MR. BRIAN SHEALEY: Your Honor, at this time I'd move Defendant's 2 and 3 into evidence.

MR. WALTON: No objection.

THE COURT: They're admitted.

(PHOTOGRAPHS INDIVIDUALLY MARKED AS DEFENDANT'S EXHIBIT NUMBER 2 AND 3 RECEIVED INTO EVIDENCE.)

Q. Javontae, in this image that's admitted into evidence, looking at Defendant's 2, was that basically what you were wearing that day?

A. Yes.

Q. And is that a white tank top and -- sir?

A. Yes.

Q. Okay. Does it have blood on it?

A. Yes.

Q. And is that because -- I believe you testified Ms. Washington had kind of -- was beating on your chest after leaving the apartment.

A. Yes.

Q. Okay, and her hands were bloody at that time?

A. Yes.

Q. Okay, and is this an image of you, and again are you wearing black shorts at that time and I guess you've got some blood kind of going up, up and also down your tank top, right?

A. Yes.

Q. I'm going to show you Defense 3. Is that an image of you? Not a great image but it's an image of you in terms of what you were wearing out on the landing outside of that apartment.

A. Yes.

Q. And again, you've got the white tank top and the black

shorts and the sandals, right?

A. Yes.

Q. Now, you were hearing a lot of stuff, and you testified already, but Tony Barnes, I mean, you were able to see him at this time, right?

A. What? This time right here?

Q. I mean, when y'all -- when you got up there, he was out at the apartment, right?

A. Yes.

Q. In and about the apartment?

A. Yes.

Q. Okay, and he was saying that he was asleep, right?

A. Yes.

Q. And obviously they were dead, right?

A. Yes.

Q. Okay. Do you remember being interviewed by Officer Gilliam at the Columbia Police Department after this incident?

A. Officer Gilliam? Yes.

Q. I mean, this guy right here with the glasses on his head and he's ---

A. Yes.

Q. --- wearing the black suit, and he would have been talking to you about the time that he took this picture of you, right?

A. Yes.
Q. Do you remember telling him -- he was asking you a lot of questions about what you observed, right?
A. Yes.
Q. And that's when you were able to say that Tony was saying that he was asleep, right?
A. Yes.
Q. And that they were dead, right?
A. Yes.
Q. You remember also telling him when he was asking about where, where Tony went after, and you said that he went off with one of the sheriffs, right? Remember that?
A. No, not that I know of.
Q. All right. I'm going to show you a transcript of your question and answer with Gilliam, and he's asking where he went.
A. Where?
Q. Right there where it's highlighted, and you're talking about where he walked off with. You see that line right there? Look at line ---
A. Yeah.
Q. --- number 10. What does that say?
A. He walked off with the sheriff, but I don't recall that, no.
Q. Okay, and then Gilliam's asking questions about that,

and you're saying one of the officers, right?
A. Yes.
Q. So, at that time you were telling Officer -- or, excuse me, Investigator Gilliam that Tony Barnes was walking off with one of the officers, right?
A. Yes.
Q. And then Investigator Gilliam says like one of the uniform officers, right, and you said yes, sir, right?
A. Yes.
Q. And again, that was on the day of this incident, right?
A. Yes.
Q. Now we're three years past the day of this incident, right?
A. Correct.
Q. So, it's safe to say your recollection would be fresher when you're talking the day of than right here in this courtroom, right?
A. Yes.
Q. Okay.
MR. BRIAN SHEALEY: Beg the court's indulgence.
(A PAUSE.)
MR. BRIAN SHEALEY: Nothing further, Judge.
THE COURT: Any redirect?
MR. WALTON: Just one more question, Your Honor, just

for clarification.

REDIRECT EXAMINATION BY MR. WALTON:

Q. Defendant told you he woke up and the bodies were on the floor dead, correct?

A. Yes.

Q. No further questions.

THE COURT: Anything further?

MR. BRIAN SHEALEY: No, Your Honor.

THE COURT: All right. Thank you.

Ladies and gentlemen, that's it for today.

You'll stay right here.

That's it for today. We need you back at noon tomorrow; we start at noon tomorrow. Please do not discuss the case with anyone or be otherwise exposed to any other information about this case. See you tomorrow.

And tomorrow, because we're starting at noon, you need to have lunch before noon so we can get started and keep rolling for a while. So, eat before you come.

(THE JURY EXITS AT 6:09 PM.)

THE COURT: So, Mr. Scott, is this the witness that left?

MR. SCOTT: It is, Your Honor, and obviously we no longer need the bench warrant to be issued.

THE COURT: All right, Mr. Witness, you wandered away and the state was going to get a bench warrant for you for

not sticking around, but you came back. So, all is well. The bench warrant is vacated. You may step down.

(THE WITNESS EXITS THE STAND.)

THE COURT: Anything else before we leave for the day?

MR. SCOTT: You know, it occurred to me after we started talking about stipulations. There had been at least an agreement between the defense of the state, really to make the trial run more efficiently, we've all kind of stipulated to any kind of chain witnesses. Fungible evidence would be associated with firearms testing. Perhaps they might want some DNA testing, but we, we have, both sides, stipulated to in terms of chain of custody.

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

THE COURT: So, the chain witnesses -- chain of custody has been stipulated to with various ones?

MR. SCOTT: Yes, Your Honor.

THE COURT: Is that right, Ms. Young?

MS. YOUNG: Yes, Your Honor.

THE COURT: Okay. That's part of the record.

MR. SCOTT: And that -- that's all from the state.

THE COURT: Anything from the defense?

MR. LUKE SHEALEY: No, Your Honor.

THE COURT: All right. See y'all at noon tomorrow.

(WHEREUPON, THE CASE IS AT EASE.)

TUESDAY, DECEMBER 6, 2022

(COURT RESUMES AT 12:12 PM.)

(PHOTOGRAPHS INDIVIDUALLY MARKED AS DEFENDANT'S EXHIBIT NUMBERS 4 THROUGH 90 FOR IDENTIFICATION.)

THE COURT: Anything before the jury comes?

MR. LUKE SHEALEY: Not from defense.

THE COURT: Bring the jury.

(THE JURY ENTERS AT 12:13 PM.)

THE COURT: Welcome back now, ladies and gentlemen. The State may call your next witness.

MR. SCOTT: All righty, Judge. We call Ryan McIntyre as our first witness of the day.

RYAN McINTYRE, BEING FIRST DULY SWORN, TESTIFIES AS FOLLOWS:

CLERK OF COURT: Please have a seat. State your full name for the record.

WITNESS: Okay. Ryan McIntyre with Columbia Police Department.

DIRECT EXAMINATION BY MR. SCOTT:

Q. Okay, Officer McIntyre, were you at the Willow, Willow Run Apartments on February 7, 2019?

A. Yes, I was.

Q. Okay. You were employed with the Columbia Police Department at that time?

A. Yes, I was.

Q. What was the purpose -- what, what unit are you in?

A. I'm sorry?
Q. What, what division or what unit are you in?
A. At the time I was an investigator on the Midlands Gang Task Force.
Q. Okay, and what was your purpose for being at the scene on that particular occasion?
A. We responded out in reference to a shooting incident with two individuals being shot. Any time, especially whenever we're working, if we have a scene like that, we normally get notified and go out there and assist our violent crime investigators.
Q. Okay. So, to -- your role was just kind of as an assisting unit?
A. Yes.
Q. What time did you get there? Do you know?
A. I believe I got there around 9:12 in the morning.
Q. Okay. Do you remember seeing Mr. Barnes walking around the apartment complex?
A. I never saw him until a little bit later.
Q. Okay.
A. But walking around, no, sir.
Q. And a little bit later, what happened?
A. I was approached by another member of the task force, Officer Cantrell from USC, advising that she was out with the person that was inside the apartment or

claiming to be inside the apartment. So, then I went to where they were, which was inside the manager's office of Willow Run, and had a conversation with, with that individual.

Q. Okay. What time was that?

A. She came to me around 10:47 in the morning.

Q. Okay. So to your knowledge, this was immediately upon this person approaching her that he was brought to you?

A. Yes.

Q. At 10:47 when you first made contact with Antonio Barnes?

A. Yes, sir, around 10:47, yes, sir.

Q. And your initial assessment of Mr. Barnes is what? You're thinking he is a suspect, a witness, a bystander, what?

A. The way it was approached to me, I thought he was just a witness because it was approached that he was inside the apartment at the time. So, I, I went to talk to him as a witness.

Q. Okay. So, to your knowledge of -- then what does he tell you once you get speaking with him?

A. Once I go in there and start talking with him, he informs me that he was asleep in the back bedroom, that he does stay at the apartment, and he was awoken up by a

loud bang. He said he woke up, listened for a minute, heard some type of commotion outside. He was listening for his roommate Sam's voice. Then, all of a sudden he heard a bang, which, if I remember correctly, he said he thought was his TV, at which time he got up with his firearm and went out there into the living room area and discharged rounds.

Q. Okay, and so is this the first time you're learning this isn't just a witness, this is the shooter?

A. Yes.

Q. Okay. So, at 10:47 is the first time Mr. Barnes says everybody, I'm the one who, who shot the two victims?

A. Yes.

Q. Okay, and did he give -- what was his explanation of why he thought somebody would come and try to break into his apartment?

MS. LATIMER: Objection, Your Honor. Rule 402, 403, and 404 and I would like to direct your attention to *State v. Lyle*, and I have the cite for that.

THE COURT: Mr. Scott.

MR. SCOTT: Your Honor, I think -- he gave an explanation of why he thought that somebody'd be breaking into his house. I think it'd be relevant to describe his explanation of events, his state of mind.

I, I find it to be admissible. I don't find it to be any, any kind of prior bad act or anything like that.

MS. LATIMER: If I may be heard, Your Honor? You got ---

THE COURT: Ladies and gentlemen, you'll have to step out just for a short time. Please do not discuss the case.

(THE JURY EXITS AT 12:19 PM.)

THE COURT: Yes, ma'am.

MS. LATIMER: Yes, Your Honor. The state is offering the testimony that Mr. Barnes admitted to being a drug dealer in his home. And so specifically, per *State v. Lyles* and as to 402 and 403, and I'll talk about those, but for 404(b), this evidence is just going to be submitted to prove that, you know, Mr. Barnes acted as a bad guy in that instance just because he does sell weed out of the apartment. He admitted to selling weed out of the apartment. There's no evidence that he was awake. There's no evidence he was participating in any kind of drug deal.

The state has presented no evidence that there's any drug deal going on. Ieasha Washington, Wanda Griffin, neither of them stated that Eric Griffin said I'm going to go up there to buy some weed. This is purely improper character evidence because they're going

to argue that ---

THE COURT: If it was clear, we wouldn't be talking about it.

MS. LATIMER: Yes, Your Honor. So, I submit that it is going to be improper evidence because they're going to argue that since he does sell drugs, you know, he doesn't get the benefit of listening and hearing that we think he's going to be robbed and he, therefore, had to have acted as a bad person.

THE COURT: I missed the last thing you said about being robbed. What did you say?

MS. LATIMER: That just because he sells, you know, weed, that he doesn't have the benefit of, you know, being in his apartment, not participating in any drug selling. There's no evidence he's participated in any drug deal. The only evidence is that he's consistently said that he was asleep and they're going to say just because he deals drugs.

THE COURT: Well, we had a witness yesterday saying that he first told him that he was -- thought he was about to be robbed.

MS. LATIMER: Correct, Your Honor. But he wasn't participating in any drug deal at that point. So, it's not like a drug deal gone bad. This is just going to be improper character evidence.

THE COURT: All right. What says the state?

MR. SCOTT: Judge, the, the gist of the statement, when he's explaining why he acted the way he did, he says I ain't going to lie to you. I sell weed. We always have a lot of traffic in and out of the house. Thought someone had come to rob me of my weed. This is him giving an explanation for what we'll characterize a very unreasonable reaction.

THE COURT: Was he under arrest at the time or, or just -- or no? What was the status? What was his situation, the defendant? Was he -- had he been arrested by then or, or just ---

MR. SCOTT: No, no. This, this is him. He goes into -- at this point they don't really -- they have two victims. At some point they were thinking is this a murder/suicide and there's some chatter. They don't know anything as far as a suspect. The people, Ms. Washington and Ms. Griffin yesterday ---

THE COURT: I remember them.

MR. SCOTT: --- they hear him come out. But he doesn't tell them I'm the one who shot them. He's just kind of, like, why are they in there fighting? So, people are kind of trying to investigate and everything.

And, finally, what we just heard, at 10:47, after kind of milling around the apartment complex and then

maybe disappearing for some time, finally Mr. Barnes comes forward and says okay, I live in the apartment up there and they say okay. Well, give us some information. What did you witness? And that's when he says no, I'm the one who shot them. And then he began to explain I'm laying in the bed. I hear the boom. I hear the TV. I'm not going to lie to you. I sell weed. That ---

THE COURT: Well, is that the statement you're trying to introduce?

MR. SCOTT: Yeah, just that's what he tells Mr. McIntyre as far as explaining why he reacted.

THE COURT: All right.

MS. LATIMER: And respectfully, Your Honor, as to ---

THE COURT: Are you through?

I'm speaking to Mr. Scott.

MR. SCOTT: Yes, sir.

THE COURT: All right.

Yes, ma'am.

MS. LATIMER: So as to testimony, too, I mean, we would submit you heard witnesses say that Barnes told him that he came out spraying. I mean, he came out shooting. He admitted to being the shooter way before this. But when he did tell law enforcement in that room

that he was the shooter, that was within a minute of being in that room. When he left that room, he was placed in a cop car.

He not only talked about being a drug dealer, he talked about the neighborhood being bad. He talks about his roommates being robbed a couple of weeks prior. This evidence does not have any bearing. It's mere speculation on his point. It's improper character evidence. It's not relevant where there's no evidence that Barnes was participating in any kind of drug transaction at that time.

THE COURT: All right. I overrule the objection. I find that this is a -- is relative, relevant, and it is not in -- not inadmissible.

MR. SCOTT: Thank you, Your Honor.

THE COURT: If you'd bring the jury.

(THE JURY ENTERS AT 12:27 PM.)

THE COURT: All right. The objection is overruled. You may proceed.

MR. SCOTT: Thank you, Your Honor.

Q. You were saying the first time Mr. Barnes approached law enforcement and said I'm the one who shot was 10:47. Is that right?

A. Yes, sir.

Q. And then you began kind of getting his story.

Repeat what you were just told the jury what he was saying to you.

A. He was saying that he was asleep in the back bedroom. He was woken up by a loud bang. He said he started listening for his roommate Sam's voice, at which time he then started -- he heard what he told us was -- it sounded like his TV was being broken or, or thrown. He got up with his firearm, went out towards the living room, and then fired. In my notes I've got where he said he fired three rounds.

Q. Three rounds. Okay, and what, if anything -- did he say the reason why he thought he was getting his home broken into?

A. He, he talked to us shortly after and said that he admitted that he sold marijuana and that there was a, a -- if I remember correctly, I think his roommate or his friends were robbed not too long before.

Q. So the gist of it, he thought somebody was breaking in to steal his weed.

A. I believe so, yes.

Q. Okay, and approximately how long did you speak with him? This was in the manager's office at Willow Run?

A. Yes, sir.

Q. Okay, and did, did you make a decision, after you spoke with him there, to take him somewhere else?

A. Yes, I spoke to him maybe two, three minutes or so, if that. I then went outside, made contact with the violent crime investigator's supervisor, Sergeant Moore, at the time. Explained to her what I had, at which time she requested he be transported to headquarters for Investigator Gilliam to speak with. I then went back and we escorted him over to my unmarked vehicle, put him in the front seat, no handcuffs, and escorted him to headquarters.

Q. So he could speak further with investigators?

A. Yes.

Q. All right. That's 10:47 AM. Okay, and is that pretty much the gist of your involvement with the case?

A. Yes.

Q. Okay. Do you see Mr. Barnes here, the guy who identified himself as the shooter?

A. Yes, I do.

Q. Where is he?

A. He's sitting over there with the, the blue sweater type shirt.

Q. Okay.

MR. SCOTT: Thank you, Mr. McIntyre.

WITNESS: All right.

MR. SCOTT: Please answer any questions his defense attorneys have for you.

(DVD OF INTERVIEW MARKED AS DEFENDANT'S EXHIBIT NUMBER 91 FOR IDENTIFICATION.)

CROSS-EXAMINATION BY MS. LATIMER:

Q. All right. Good afternoon. Invest -- Investigator?

A. Sergeant now.

Q. Sergeant now.

A. Yes.

Q. All right. So, you're discussing an interview you were conducting with a couple of officers and Mr. Barnes in the apartment's kind of management office, right?

A. Yes.

Q. Who were the other officers with you at that time?

A. The, the USC officer was Officer Cantrell. She was the one that was recording the interview. The male officer that was in there is John Brayboy, who was part of our fugitive team at the time, and then the other officer was Investigator Morris with Richland County.

Q. Okay, and how long do you remember this conversation lasting?

A. Just a couple minutes. I think my extent with him was just a handful of minutes. Like I said, maybe roughly two, three, maybe four.

Q. All right. I am going to show you just kind of the beginning of this video and see if you can identify it

for me, okay?

MR. SCOTT: Judge, it looks like they're trying to publish some evidence that's not admitted yet.

MS. LATIMER: No, Your -- or sorry. No, Solicitor. No, Your Honor. It's not plugged on to the screen over here. I'm going to walk the laptop over to the sergeant to view the evidence so that he can identify it before we offer it and lay the proper foundation.

THE COURT: Okay.

Q. Sorry for the way I'm walking, but I don't want to publish on accident.

(A PAUSE.)

Q. Okay. So, the video's playing right now. Do you recognize this room?

A. Yes, that's inside the Willow Run manager's office.

Q. Okay, and do you recognize this individual?

A. Yes.

Q. Okay. Who is this individual?

A. Antonio Barnes.

Q. All right, and is this, you know, the way the room looked and where Mr. Barnes was on February 7th?

A. Yes.

Q. And this accurately depicts that scene?

A. Yes.

Q. Has it been substantially changed or altered in any

way?

A. No.

Q. Okay. Thank you.

A. Uh-huh.

MS. LATIMER: So, Your Honor, I would like to introduce this body camera footage of the interview. It's marked as Defendant's Exhibit 91 for ID purposes.

THE COURT: What says the State?

MR. SCOTT: Your Honor, I think there'd be a hearsay objection here unless there's a -- an exception that they know of.

MS. LATIMER: Yes, Your Honor. So, it would be admission against interest. He's clearly talking about this incident that he's on trial for. Additionally, it's present sense impression because he just, you know, witnessed this incident occur ---

THE COURT: You said ---

MS. LATIMER: --- and he is talking about it.

THE COURT: --- an admission against interest by who?

MS. LATIMER: By the defendant, Your Honor.

MR. SCOTT: I'm unfamiliar with that exception. I do see admission by party opponent, but I don't believe this is a party opponent of theirs. I do know three other officers who were in there who may have speaking

roles. If this is an admission by a party opponent, I, I don't see this being a party opponent of theirs.

MS. LATIMER: Additionally, Your Honor, it should be entered under the Rule of Completeness. They're picking and choosing the statements of Mr. Barnes during this interview. We have a right to present the full entirety picture of the statement.

MR. SCOTT: Of course, they have already indicated in opening he would testify. That, that would be the proper avenue to get the defendant's statement out.

MS. LATIMER: Your Honor, the opening isn't evidence.

THE COURT: This is not a debate. You don't speak out of turn. Wait for the court to recognize you.

MR. SCOTT: Thank you, Your Honor. The, the statement against interest would be if a party's unavailable. However, that is not the case and, again, I, I do not see this being an admission by a party opponent.

THE COURT: Anything further?

MS. LATIMER: Your Honor, I'd submit, under the Rule of Completeness, we have the right to present this video. Again, they're picking and choosing the statements. Mr. Barnes has not taken the stand and opening statements are not -- it's not evidence, just

statements by the attorneys.

THE COURT: You said just statements?

MS. LATIMER: Well, it's not ---

THE COURT: You did say opening statements ---

MS. LATIMER: --- admitted ---

THE COURT: All right.

MS. LATIMER: --- as evidence essentially.

THE COURT: All right. Well, I totally dis -- disagree with the last portion of what you said. Despite that, however, the -- I am admitting the document into evidence under the Rules of Completeness.

MS. LATIMER: Thank you, Your Honor.

(DVD OF INTERVIEW RECEIVED INTO EVIDENCE AS DEFENDANT'S EXHIBIT NUMBER 91.)

Q. So, Mr. McIntyre, I want to talk about the beginning of this interview. So, within the first minute, and I mean, literally under a minute, Mr. Barnes tells you exactly what he's been saying all day. He told you he was asleep.

A. Yes.

Q. He told you he heard a loud boom that woke him up.

A. Yes.

Q. Then he heard a loud crash he believed to be his TV falling down.

A. Yes.

Q. Then he thought he was going to be robbed.
A. Yes.
Q. And he came out with a gun and he told you verbatim I am the shooter, correct?
A. Yes.
Q. And that was within a minute of talking to you in this interview.
A. Yes.
Q. Okay, and so, you know, Mr. Barnes did go on to speculate as to why he may have been robbed. Is that right?
A. Yes.
Q. And you said that one of his speculations is that he does sell marijuana, right?
A. Correct.
Q. He also speculated that he lives in a bad neighborhood, correct?
A. Yes.
Q. All right, and he also talked about, you know, a gun that had gone missing that was his roommate's, right?
A. Yes.
Q. So, I want to play this video, this portion of the video for you.

(WHEREUPON, DEFENDANT'S EXHIBIT NUMBER 91 IS PLAYED

FOR THE JURY. AUDIO IS NOT TRANSCRIBED.)

MS. LATIMER: I'm going to replay this. It's a little low.

(PLAY RESUMES.)

Q. So, Mr. Barnes told you he was asleep. He was woken up by a loud noise. Then he heard a TV crashing. He believed he was being robbed and he admitted to you that he was the shooter, correct?

A. Correct.

Q. And he does go on to speculate as to why he could have been, you know, being robbed or search -- speculating, guessing what happened, right?

A. Correct. Yes.

Q. He does that because he's upset, isn't he?

A. He appears to be, yes.

Q. And he talked about a missing gun of one of the decedents.

A. Yes.

Q. Talked about the neighborhood being bad.

A. Yes.

Q. He talked about his roommates being robbed a couple of weeks ago.

A. Yes.

Q. Thank you.

MS. LATIMER: Your Honor, beg your court's

indulgence.

(A PAUSE.)

Q. And I want to back up a little bit from, you know, when this clip in these statements happened. So, right before he tells you what happened and y'all asked about the gun, right?

A. Yes.

Q. And he tells you where the gun is, doesn't he?

A. Correct. He's ---

Q. So ---

A. I'm sorry. Go ahead.

Q. All right. So, he states that an individual named Shakihla Smalls snatches the gun out of his hand, right?

A. I believe that was the name that was given, yes.

Q. And he starts trying to point out which apartment building she lives in.

A. Yes.

Q. He tells you that he's trying to get the gun for y'all. He's trying to get it back to give it to y'all.

A. Yes.

Q. And he shows you -- he doesn't have Ms. Smalls's phone number but he has her Facebook, and he shows you her Facebook ---

A. Correct.

Q. --- right?

A. Yes.
Q. And so because of these statements, y'all were able to recover the gun that Mr. Barnes used, right?
A. Yes. Well, it's my understanding, yes.
MS. LATIMER: Beg the court's indulgence for a moment.
(A PAUSE.)
MS. LATIMER: Thank you ---
WITNESS: Yeah.
MS. LATIMER: --- Sergeant McIntyre. That's all I have.
WITNESS: Okay. Thank you.
THE COURT: Redirect.
REDIRECT EXAMINATION BY MR. SCOTT:
Q. Okay. There, there's more of that video than just that. They have -- they cut out a little piece of the video to show you just now.
A. Yes.
Q. Because he also says that he just shot at the ground. The two guys were on top of each other.
A. Yes, sir.
Q. So, he didn't see anybody's face.
A. If I remember correctly, no, I think that's how I have it worded in my ---
Q. Okay, and, and he talks about somebody stole a gun

out of his apartment a couple days before?
A. Yes.
Q. All right. He says that house had never been broken into before though?
A. I -- honestly, I don't recall that.
Q. All right.
A. It ---
Q. But you agree the defense ---
MR. SCOTT: What number is that?
MS. LATIMER: 91.
Q. Defense Exhibit 91 is only a portion of your interview.
A. Yes. It's actually -- I was not present when that was happening. That's when I was having the conversation with Sergeant Moore.
Q. Okay. So, this video they actually introduced, you're not even involved in that?
A. No.
Q. Okay, but the entire video has some of your involvement in it?
A. Yes.
MR. SCOTT: Judge, what I would ask to do is have a State's Exhibit -- we'll assign a number to it. I'll just need to burn it to a disk. But I have it -- oh, we already have it on disk? We already have it, Judge.

I'm sorry.

This is State's 71.

Q. This would be your entire or the entire video footage from inside the office ---

A. Yes, that's the one off the ---

Q. --- the office of the Willow Run Apartments?

MR. SCOTT: Your Honor, the State, as far as Rule of Completeness, would offer 71 for admission into evidence, that being the entire interview.

THE COURT: What says the defense?

MS. LATIMER: We have absolutely no objection, Your Honor.

THE COURT: It's admitted.

(DVD OF INTERVIEW MARKED AS STATE'S EXHIBIT NUMBER 71 RECEIVED INTO EVIDENCE.)

(WHEREUPON, STATE'S EXHIBIT NUMBER 71 IS PLAYED FOR THE JURY. AUDIO IS NOT TRANSCRIBED.)

Q. All right. So, he just says he shoots at the ground. He didn't see anybody's face. Did you hear that?

A. Yes.

Q. Do you remember that statement? This is you right here?

A. Yes, that's me standing to his left.

Q. That's Brayboy?

A. Yes, Brayboy's in the other red shirt.
Q. Okay.
(PLAY RESUMES.)
Q. Didn't he say he thought that Sam was there? Did you hear that?
A. Yes.
Q. Okay. All right. The jury's going to have the entire video, but it looks like it's about seven minutes long.
A. Yes.
Q. That, that was you conducting the interview?
A. Yes.
Q. Okay.
MR. SCOTT: Thank you, Investigator or Officer McIntyre.
THE COURT: Anything further of this witness?
MS. LATIMER: Just a moment, Your Honor.
(A PAUSE.)
MS. LATIMER: Nothing further, Your Honor.
THE COURT: You may step down.
(THE WITNESS EXITS THE STAND.)
THE COURT: You may call your next witness.
MR. FOWLER: The State calls Samuel Thomas.
BAILIFF: Watch your step. Can y'all move this?
MS. LATIMER: Yes, ma'am.

SAMUEL THOMAS, BEING FIRST DULY SWORN, TESTIFIES AS FOLLOWS:

CLERK OF COURT: Please have a seat. State your full name for the record.

WITNESS: Samuel Thomas.

DIRECT EXAMINATION BY MR. FOWLER:

Q. Sam, where'd you live February 7, 2019?

A. Willow Runs (sic) Apartment.

Q. If you would speak up? We're having some trouble ---

A. Willow Runs Apartments.

Q. What, what apartment number?

A. 14-G.

Q. Who did you live with?

A. Antonio Barnes and Antonio Dash.

Q. Do you see Antonio Barnes in this courtroom right now?

A. Yes.

Q. Is he sitting at that table over there?

A. Yes.

Q. That morning of the 7th -- I'm sorry. Let me back up. What did you normally do in the mornings?

A. Normal routine. Get up, brush my teeth, take Tonio Dash and Barnes to work.

Q. So, normally you would take Antonio Dash and

Antonio Barnes to work?
A. If need be.
Q. Did you take Antonio Dash or Antonio Barnes to work that morning?
A. No.
Q. Why didn't you take either of them to work?
A. Dash say he had a ride. So, I just neverminded it.
Q. But normally Dash doesn't have a ride?
A. No, I always take him.
Q. What did you do that morning?
A. I was sleep. I went to the doctor. That's about it.
Q. What -- about what time did you go to the doctor?
A. Around maybe 8:15.
Q. Did you tell Antonio Barnes or Antonio Dash that you were going to the doctor?
A. No.
Q. So, they had no idea you were going?
A. No.
Q. Were you off that day?
A. Yes.
Q. Did you tell them that you were off that day?
A. No.
Q. So by all accounts, they had no idea that you were going to be gone that morning?

A. Right.
Q. Sam, I'm going to show you what's been marked as State's Number 9. Do you recognize that?
A. Yes.
Q. Tell me -- can you tell me what it is?
A. That's the hallway.
Q. To your apartment?
A. Yes.
Q. So, that's the hallway for 14-G?
A. Right.
Q. Is that how it looked?
A. Yes.
Q. Okay.
MR. FOWLER: Your Honor, at this time I'd move to have State's 9 admitted into evidence.
MR. BRIAN SHEALEY: Without objection.
THE COURT: Admitted.
(PHOTOGRAPH MARKED AS STATE'S EXHIBIT NUMBER 9 RECEIVED INTO EVIDENCE.)
Q. So, you said you lived in 14-G with Antonio Barnes and Antonio Dash?
A. Yes.
Q. Who were the two leaseholders of the apartment?
A. Me and Barnes, Tonio Barnes.
Q. And Dash just stayed with y'all?

A. Yes.
Q. How many bedrooms were in the apartment?
A. Two.
Q. Okay. Can you tell me which bedroom was yours?
A. The first door on the right.
Q. This one right here?
A. Yes.
Q. Okay. Which one was Barnes?
A. Next door on the right. The second one.
Q. So, all the way back there on the ---
A. The second one on the right. It's the next one. It's kind of hard to see it, but the next frame you see it.
Q. Yeah.
A. Yeah.
Q. All the way in the back by that closet back there?
A. Yes.
Q. So, if there were only two bedrooms, where did Dash sleep?
A. In the closet straight ahead.
Q. So, that's where Antonio Dash slept?
A. Yes.
Q. Is that how you remember that -- the hallway looking ---
A. Yes.

Q. --- that morning? Is that door open where Dash sleeps?

A. I don't really remember if it was opened, but, yeah, that's how it looked.

Q. You knew Eric Griffin, didn't you?

A. Yes.

Q. How did you know Eric?

A. Just prior. Going to school.

Q. So, y'all were friends.

A. Yes.

Q. Was he friends with everybody in that apartment?

A. Yes.

Q. Did he come over often?

A. Yes.

Q. How often would you say he came over?

A. Not every day, but it wasn't out of the normal for him to come. I say that.

Q. And were you aware of any, any conflict or beef going on with anyone in that apartment and Eric?

A. I mean, yeah, it was a little situation going on.

Q. What was that situation?

A. Of a gun coming up missing.

THE COURT: I can't understand what you're saying.

WITNESS: Oh, a gun coming up missing.

Q. What, what was Antonio Dash doing on that morning

when you left?
A. He was sitting in the living room just on his phone.
Q. Was he about to go to work?
A. Yes, he had his uniform on.
Q. Okay. Are you generally the first one up in that apartment?
A. No, really Dash is. It's like he never sleeps sometime.
Q. Right, and so next would be -- you would get up next?
A. Yes.
Q. So, you two would usually be up ---
A. Yeah.
Q. --- in the mornings?
A. Correct.
MR. FOWLER: No further questions at this time, Your Honor.
THE COURT: By the defense.
MR. BRIAN SHEALEY: May it please the Court?
(PHOTOGRAPHS INDIVIDUALLY MARKED AS DEFENDANT'S EXHIBIT NUMBERS 92, 93, 94, 95, 96, 97, 98, AND 99 FOR IDENTIFICATION.)
CROSS-EXAMINATION BY MR. BRIAN SHEALEY:
Q. Good morning, Sam. How are you doing?

A. Doing good. How you doing?
Q. Good. I'm going to show you a couple photographs briefly and we'll see if you recognize them. I'm going to show you Defense 92. Do you recognize who that is?
A. Yes.
Q. Who's that?
A. Me.
Q. Okay. That's 93. Do you recognize who that is?
A. Also me.
Q. 94, do you recognize who that is?
A. Yes.
Q. Okay. Is that -- who is that?
A. That should be Officer Gilliam.
Q. Okay, and is that the day of the incident?
A. Yes.
Q. And again?
A. The same.
Q. Hold a second. This one's not marked.
(PHOTOGRAPH MARKED AS DEFENDANT'S EXHIBIT NUMBER 100 FOR IDENTIFICATION.)
Q. Okay. Again, you and Investigator Gilliam that day?
A. Yes.
Q. 95?
A. The same.

Q. One more missing exhibit.

(PHOTOGRAPH MARKED AS DEFENDANT'S EXHIBIT NUMBER 101 FOR IDENTIFICATION.)

Q. All right, I show you Defense 101. Who is that ---

A. That's ---

Q. --- that lady?

A. My sister.

Q. Okay, and is that, again, the day of the incident?

A. Yes.

Q. 96 again?

A. My sister.

Q. Okay, and that was 96. Got one more.

(PHOTOGRAPH MARKED AS DEFENDANT'S EXHIBIT NUMBER 102 FOR IDENTIFICATION.)

Q. 102, again is that your sister holding a phone?

A. Yes.

Q. And, again, I'm going to show you 97. Your apartment?

A. Yes.

Q. 98?

A. Yes.

Q. 99?

A. Yes.

Q. Okay. Is that all the day of the incident, either

the crime scene or your apartment?

A. Can you say that again?

Q. Were all of those pictures of the crime scene, you at the crime scene, or your apartment, right?

A. Yes.

MR. BRIAN SHEALEY: Your Honor, at this time I'd seek to introduce 92, 93, 94, 100, 95, 101, 96, 102, 97, 98, and 99.

THE COURT: What says the -- what, what says the State?

MR. FOWLER: No objection, Your Honor.

THE COURT: They're admitted.

(PHOTOGRAPHS INDIVIDUALLY MARKED AS DEFENDANT'S EXHIBIT NUMBERS 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, AND 102 RECEIVED INTO EVIDENCE.)

Q. All right. Sam, I want to ask you some questions about these photographs in a little bit. But you were on the lease with, with Tony, right?

A. Right.

Q. And y'all, y'all were good friends, right?

A. Right.

Q. And you still are good friends, right?

A. Right.

Q. And you were really good friends with Tonio Dash ---

A. Right.
Q. --- as well, right? I mean, he had been living with y'all for about a year, right?
A. Right.
Q. And even though it's a two bedroom apartment, you were -- y'all took him in, right?
A. Right.
Q. And we saw a picture of that hallway. I mean, basically he would sleep in that hallway on some -- on a blow-up mattress or some bedding or something frequently?
A. Yes.
Q. And does that little hallway closet have a door?
A. Yes.
Q. And it's a little bit bigger what the state showed you there, right?
A. Right.
Q. I mean, it's a -- enough to ---
A. Like a walk-in.
Q. --- for a, a walk-in closet for a full grown man to put, put stuff in, right?
A. Right.
Q. Now, Antonio Dash didn't stay in your room, right?
A. No.
Q. He didn't stay in Tony's room, right?

A. No.
Q. Okay. So, he was always at the end of the hallway?
A. Right.
Q. Okay. Now Willow Run, is this a safe neighborhood?
A. It's not the safest, but it's better than most. I'd say that.
Q. Okay, but, you know, living there, it was, it was cheap rent?
A. Right. That's -- yeah.
Q. It was hardly any rent ---
A. That's ---
Q. --- right?
A. Yeah, that was the interest.
Q. Okay. So, that was one of the reasons you lived there with friends?
A. Right.
Q. Okay. Now Eric Griffin, had he been kind of just recently coming around?
A. Yeah, just recently because, before then, I guess he was in jail or something like that. So, I haven't been seeing him. But once we moved out, start seeing him more, things like that.
Q. And you and Eric had no tension, right?
A. Not really tension. But, like I said, something came up missing and didn't know who did what or, you

know.

Q. Right. We'll talk about that. But the -- other than that, you guys have never had any problems, right?

A. No.

Q. And Tony Barnes and Eric never had any problems, right?

A. No.

Q. Okay. Now, recently, though, your roommate, Mr. Dash, and Eric Griffin did have some problems though, right?

A. Yeah.

Q. Okay. Now let's talk about this for a little bit because it's important for the jury to get the full picture of what was happening. Do you recall about two days prior to this incident this, this whole situation about the gun ---

A. Uh-huh.

Q. --- coming missing?

A. Yes.

Q. Okay. Now when the gun came missing, who initially was possessing Antonio Dash's gun that day?

A. Can you say that again?

Q. When, when the gun came missing at ---

A. Right.

Q. --- the apartment, basically meaning that it became

known that Antonio Dash's gun was not anywhere to be found, who had the gun earlier in the day?

A. I did.

Q. Okay. Now, you had been -- recently been robbed at The Corner Store, right?

A. Yes.

Q. Okay, because again, I mean, y'all felt the need to have to carry a firearm to make sure you weren't hurt on the way to the store, right?

A. Right.

Q. And again, that's a consequence of you -- where you live, right?

A. Yeah.

Q. Because people try to rob you, right?

A. Yeah.

Q. Kill you.

A. Yeah.

Q. Take, take stuff from you.

A. Right.

Q. Okay, and you had, in fact, been robbed at the store.

A. Right.

Q. And Mr. Dash had been robbed with you, right?

A. Right. We were together.

Q. And so you'd been robbed with a gun and he'd been

robbed with a gun, right?
A. Yes.
Q. And so that was how many weeks prior?
A. I want ---
Q. How many months prior?
A. It wasn't that far away.
Q. Okay.
A. It was really recent, yeah.
Q. But Tonio Dash had, had acquired another, another firearm, right?
A. Yes.
Q. Okay. Got that from his brother?
A. Yes.
Q. Okay. Now, the day that I'm talking about, that's going to be February -- approximately February 5th, you had Antonio Dash's gun, right?
A. Yes.
Q. Is that because you felt you needed it to walk to the, like, the leasing management office?
A. Yes.
Q. Okay, because it's -- it'd be safer for you to have a firearm on you while you're walking to the management building then just walking without it in your neighborhood, right?
A. Because you never know.

Q. Okay. Now, the, the day that this gun came up missing, were you in the apartment with Tony Barnes and Eric Griffin?

A. Yes.

Q. Were you also in the apartment with a woman named Katerra Harper?

A. Yes.

Q. Okay, and what were y'all doing?

A. Just chilling like we always do.

Q. Were y'all ---

A. Playing a game.

Q. Playing a game?

A. Yeah.

Q. What did y'all play?

A. I was maybe playing Rings of Fire or something or basketball.

Q. Okay. Do you remember taking a gun off your person and putting it on a table?

A. Yes.

Q. And why did you do that?

A. Because I'm in the house around friends. I didn't feel the need to have it on me, you know. So, I just sat it down ---

Q. Okay.

A. --- because it's ---

Q. You just sat it down while you're playing the game.
A. Right.
Q. And were you playing the game with Tony Barnes?
A. I mean, I was playing by myself but he was sitting there.
Q. Okay.
A. Yeah.
Q. So, y'all were sitting there playing the game?
A. We was chilling.
Q. And you didn't have eyes on Mr. Dash's gun at the time, did you?
A. No.
Q. Now, where was Mr. Dash? Was he at work?
A. Yeah, he had went to work.
Q. Okay. So, you were holding his gun while he was at work.
A. Right.
Q. For your protection.
A. Right.
Q. Now, do you even know -- were you even thinking about the gun by the time you were done with the game?
A. No.
Q. Okay.
A. I wasn't.
Q. But again, Eric Griffin was in there with you,

right?
A. Right.
Q. He was just hanging out?
A. Right.
Q. Now at some point, do y'all have to leave pretty quickly to go give someone a ride?
A. No, not really, but we were just getting ready to wrap things up and, you know, just ---
Q. Okay.
A. --- get started with our day.
Q. But y'all were, y'all were getting ready to leave ---
A. Right.
Q. --- and is that when you realized that the -- Mr. Dash's gun ---
A. Yeah.
Q. --- was not anywhere around ---
A. Right.
Q. --- the apartment?
A. I didn't notice it, right.
Q. Okay. Now, did -- now, obviously Mr. Dash was not there ---
A. Right.
Q. --- to, to learn that his gun was no longer in the apartment.

A. Right.
Q. But were you aware of people generally trying to figure out where that gun went?
A. I mean, yeah.
Q. Okay. Do you recall Eric Griffin denying taking the gun?
A. Yes.
Q. Okay. Now, do you recall Tony Barnes trying to help figure out where the gun went, talking to Eric about it?
A. Yes.
Q. Okay, and, again, he was -- he would generally deny taking the gun, right?
A. Right.
Q. But again, he had been in jail. And so he was just coming back around the apartment, right?
A. Right.
Q. And you and Tony had, had known each other forever, right?
A. Right.
Q. And you and, and Antonio Dash had known each other forever, right?
A. Right.
Q. So, I guess -- is it safe to say that when Mr. Dash learned about this, who did he believe took the gun?

A. I mean, it was up in air.

MR. FOWLER: Objection.

THE COURT: The objection is sustained.

Q. Based on what was going on in the apartment, who did he believe took the gun?

A. I don't know, to be honest.

Q. Okay. Now, when Tony Dash, Antonio Dash learned that his gun was taken, was he upset about that?

A. Very.

Q. Okay. Did he let Eric know he was upset about that?

A. He let everyone know.

Q. He let everybody know. Okay.

A. Yeah.

Q. Now, the next day, did Eric Griffin come back to the apartment?

A. Yeah.

Q. And was there a confrontation that you personally observed between him and Eric Griffin about the gun?

A. Yes.

Q. And so now Antonio was not at work?

A. Right.

Q. He was at the apartment.

A. Uh-huh.

Q. And was he confronting Eric about taking the

weapon.
A. Yes.
Q. Okay, and was it getting, getting heated?
A. Yes, it was.
Q. And was this in the, the living room of that apartment?
A. Yes.
Q. Okay, and where was Tony Barnes when this confrontation was happening? Was he in his room?
A. He was either in his room or the bathroom. He wasn't in the living room.
Q. Okay, but voices were getting raised?
A. Yeah.
Q. And ---
A. Getting closer into the face, turning ---
Q. Getting ---
A. --- in this ---
Q. --- in Tony's face?
A. Yeah.
Q. And was it all about this gun?
A. Yeah.
Q. Okay. Now, did ---
THE COURT: Now, hold on, Mr. Shealey.
MR. BRIAN SHEALEY: Yes, sir.
THE COURT: The court reporter cannot hear and

understand what the witness is saying. I can't hear or understand what he's saying.

MR. BRIAN SHEALEY: Okay.

THE COURT: So the jury can -- may not be either.

Q. All right, Sam.

THE COURT: You must talk louder and into the mic.

Q. So, no one's used to testifying. It's not an ---

THE COURT: Talk louder and into the mic.

Q. Definitely into the mic. Okay. At the time when Mr. Dash was confronting Mr. Griffin about the weapon, was Mr. Dash actually holding another weapon?

A. Yes.

Q. And whose weapon was that?

A. Barnes.

Q. And did, did that concern you?

A. Yes.

Q. Okay, because their confrontation was getting so upset that Mr. Dash actually had a weapon when he was confronting Eric Griffin in the living room, right?

A. Right.

Q. Now, who ultimately diffused that situation?

A. Barnes.

Q. Mr. Barnes did?

A. Yes.

Q. Did he actually come out of his room and, and

actually take his own weapon out of Mr. Dash's hand?
A. Yes.
Q. Now, did Mr. Griffin stay at the apartment after that, or did he leave pretty quickly after that?
A. He left.
Q. And again, that was the day before this terrible incident, right?
A. Right.
Q. So, you hadn't seen Eric Griffin come back by the house since that day because the next day was when this happened, right?
A. Right.
Q. Now, I want to talk about your doctor's appointment and, you know, you testified that no one knew you had this doctor's appointment.
A. Uh-huh.
Q. But tell the jury. It was -- y'all had one car ---
A. Right.
Q. --- between everybody, right?
A. Right.
Q. It was your car, right?
A. Correct.
Q. But you would give your friends rides.
A. Every day.
Q. And so it was your habit and your routine, routine

every day to give Mr. Dash a ride to work ---

A. Right.

Q. --- in the morning.

A. Right.

Q. And you worked, too.

A. Right.

Q. So, at that time of the morning when this incident happened, your friend and roommate, Mr. Barnes, would not have been expecting anyone to be in his apartment that day.

MR. FOWLER: Objection, Your Honor.

MR. BRIAN SHEALEY: Your Honor, he's already answered it's his habit. I mean, it's ---

MR. FOWLER: It's pretty ---

MR. BRIAN SHEALEY: It's not speculation because it's his habit and routine.

THE COURT: Do you want to make an objection or do you just want to make a record?

MR. FOWLER: He ---

THE COURT: Yes, sir, the objection.

MR. FOWLER: He's asking him to speculate what Mr. Barnes was thinking.

THE COURT: All right. I sustain that objection.

Q. So, based on your personal knowledge, it was always your routine to take your roommate, Mr. Dash, to work

early in the morning?
A. Yes.
Q. Okay. So, it was normal for no one to be in the apartment that morning, right?
A. Yes.
Q. Okay. That wasn't anything out of the ordinary?
A. No.
Q. Now, that morning, though, Mr. Dash said that he had a -- another way to get to work that day, right?
A. Yes.
Q. Okay. So, he wasn't doing what he normally did, right?
A. Right.
Q. Okay. Now, you went to the doctor's office ---
A. Yes.
Q. --- right? And when you got back, you had learned something had happened, right?
A. Yes.
Q. And you had learned that something tragic had happened at your apartment, right?
A. Yes.
Q. And is this image that's marked as Defense 92 basically a body cam image of you walking up to the crime scene of your apartment building?
A. Yes.

Q. And are you trying to get the attention of an officer who's wearing that body-worn camera?
A. Right.
Q. Okay, and are you letting him know that you live there?
A. Right.
Q. And -- but you were not there at the time?
A. Right.
Q. Now, you told Investigator Gilliam exactly what happened, right, that you, you know, were normally gone that time of day. You had a doctor's visit, right?
A. Yes.
Q. Okay, and this is you -- again, Defense 93 -- talking more to the initial officer, right, that was at the, at the tape, right?
A. Yes.
Q. And I'm just going to mark, for timestamp purposes so the jury can understand this in terms of the morning, what does that timestamp say right there? Can you see that?
A. 9:31.
Q. And, again, we're at 9:31, but some further seconds, right?
A. Yes.
Q. Now, at 9:32, you then kind of usher over to

Investigator Gilliam. You -- now you're on his side of the tape and you're telling him everything you know, right?

A. Right.

Q. Okay. Now, at this point in time you've not heard anything from your living roommate and friend, Mr. Barnes, right?

A. Right.

Q. So, when you're telling him about, you know, what you know about this situation, you have not spoken to your friend yet, right?

A. Right.

Q. Okay, and, again, it's 9:32 and, again, at 9:34, you're still talking to Investigator Gilliam and another investigator, correct?

A. Yes.

Q. And you're still telling everything you know at 9:35.

A. Yes.

Q. Correct?

A. Yes.

Q. Now, here -- so we're at 9:35 here. The timestamp on this is 9:58. So, who, who is that in that picture?

A. My sister.

Q. And at 9:58 and 18 seconds, do you see her on the

phone?

A. Yes.

Q. And at 9:58 and 19 seconds, is that her with a phone in her hand walking over to you?

A. Yes.

Q. Now, who has called her on the phone?

A. Barnes.

Q. Now, that -- is that the first time -- now after you've already spoken to the investigators, but that's the first time you've heard from your friend Tony Barnes about what happened?

A. Yes.

Q. And did he tell you what happened, that he was asleep?

A. Yeah, he was just apologizing ---

MR. FOWLER: Objection, Your Honor.

A. --- saying he didn't mean for anything to happen.

THE COURT: Yes, sir.

MR. FOWLER: He's asking him what Mr. Barnes said. It's hearsay.

MR. BRIAN SHEALEY: Your Honor, it's a statement by a defendant. We would ---

THE COURT: Sir, I don't need help deciding it. The objection's overruled.

Q. So, he told you that he was asleep, right?

A. Yes.
Q. Was he upset?
A. Yes.
Q. Did he tell you he thought he was getting robbed?
A. Yes.
Q. And that he thought he was getting ready to get killed?
A. Yes.
Q. And that he didn't know it was Antonio Dash and Mr. Griffin that he killed until afterwards, right?
A. Right.
Q. Did he tell you he heard a, a, a boom that startled him awake?
A. Yes.
Q. And was he remorseful about this entire thing?
A. Yeah, he was crying.
Q. And again, that was the first time that you had to ---
A. Spoke to him all day.
Q. Okay. Now, you eventually go down to Columbia Police Department headquarters and you give a written statement to Investigator Gilliam, right?
A. Yes.
Q. Basically saying everything that we talked about right here ---

A. Right.
Q. --- right? About your routine of taking Mr. Dash to work.
A. Right.
Q. About how you were robbed earlier.
A. Right.
Q. Now, does he necessarily believe what you're saying? Does he act like he wants to believe it?
A. He doesn't give me that feeling. He didn't.
Q. And you were clear with him that, when you left that apartment, your roommate, Tony Barnes's, door was closed.
A. Yes.
Q. And that you assumed he was asleep.
A. Yes.
Q. And you hadn't seen him up that morning, right?
A. No.
Q. The only person you had seen was Mr. Dash up?
A. Right.
Q. And when you left the apartment, Eric Griffin was not there, right?
A. Yeah.
Q. And you told him that in your first interview, right?
A. Right.

Q. And that was in the morning somewhat after they took you down, right?
A. Yes.
Q. And then he reinterviews you again, right?
A. Yes.
Q. And you tell him about how -- Tony saying he heard loud rumbling and he thought that they were breaking into the crib, right?
A. Right.
Q. And then he's challenging you. Just doesn't believe you on your word and you, you recall him saying that he's got to make sure you're not covering for Tony Barnes or making up anything, right?
A. Right.
Q. And you, and you recall saying I promise you I didn't?
A. Promise you, right.
Q. And you hadn't even spoken to Mr. Barnes until after you're -- already told Mr. Gilliam everything you knew on the crime scene, right?
A. Right.
Q. But he doesn't believe you.
A. No.
Q. And, in fact, he goes back out to where you -- where you were staying after this incident on

March 11th and challenges you again, asking you if you were trying to cover things up for Mr. Barnes, right?

A. Right.

Q. Not realizing that you told him everything from the get ---

A. Right.

Q. And did you recall telling him I'm just speaking facts?

A. Yes.

Q. And that Tony Barnes didn't have any tension or beef with one of his best friends, Mr. Dash or Eric Griffin?

A. Right.

Q. That he thought he was being robbed?

A. That's correct.

Q. How does that make you feel when Mr. -- Investigator Gilliam just didn't believe you about this situation that led to the tragic death of your friend, Mr. Dash, and Mr. Griffin?

A. I mean, I understand he has a job to do. But with someone coming -- so forthcoming with information and telling you this and that, trying to cooperate and help in the way that they can, I expected him to believe me. I mean -- but, like I say, he got a job to do. So, you got to follow it through.

Q. Speaking of jobs, you, you work, right?
A. Right.
Q. Okay. Where do you work, sir?
A. Toyota.
Q. Okay. Now, the -- now, Tony Barnes's gun that he took off Mr. Dash when Mr. Dash was getting into a confrontation with Mr. Griffin and the gun that was used in this case, the -- I mean, that was the only gun that Tony Barnes possessed at that time, right?
A. Right.
Q. Now, Tony Barnes is not friends with who you -- well, you haven't heard because you've been out of the courtroom, but do you know who Shakihla Smalls is?
A. Yeah.
Q. Tony Barnes is not friends with her, is he?
A. No.
Q. Now, again, when you left your apartment, was it normal looking?
A. Yes.
Q. Did it look like that?
A. No.
Q. Was that television on the floor?
A. No.
Q. And was that hole, that giant hole in the wall, there when you left the apartment that morning?

A. No.

MR. BRIAN SHEALEY: Beg the court's indulgence.

(A PAUSE.)

MR. BRIAN SHEALEY: All right. Thank you, Sam. Please answer any questions the state has for you.

REDIRECT EXAMINATION BY MR. FOWLER:

Q. You lived in the same apartment as Antonio Barnes, correct?

A. Correct.

Q. You ever almost shot both of your roommates?

A. Excuse me?

Q. Have you ever almost shot both of your roommates that you lived with?

A. Did I ever what?

Q. Have you ever almost shot both of your roommates?

MR. BRIAN SHEALEY: Objection.

A. No.

MR. BRIAN SHEALEY: Your Honor, this would be relevance. This would be kind of a speculative kind of out-of-the-box question that has no bearing on this matter other than, I guess, shock value.

THE COURT: What was the question again?

MR. FOWLER: I asked him if he's ever, ever come out of his room and almost shot both of his roommates.

MR. BRIAN SHEALEY: It's also burden shifting, Your

Honor.

THE COURT: I overrule the objection.

Q. You can answer the question.

A. No.

Q. Did you file a police report when you were robbed up at The Corner Store?

A. No.

Q. Did anybody file a police report when Antonio Dash's gun went missing, missing?

A. No.

Q. Did you ever talk to police about the confrontation between Eric and Antonio Dash?

A. No.

Q. How many times have you talked to Mr. Barnes since the shooting incident?

A. I can count on one hand. Maybe five.

Q. And you, you talked to Barnes before you talked to police, correct?

A. No.

Q. You talked to police.

A. First.

Q. Then you talked to Barnes.

A. Yes.

Q. And then you talked to police again after you talked to Barnes.

A. Yes.
Q. And you weren't actually in the apartment.
A. No, I wasn't.
Q. So, the only way that you had any knowledge of what happened in that apartment is because Mr. Barnes told you his story.
A. Right.
Q. Did you tell him to turn himself in?
A. I mean, I thought he was already on the way to do that.
Q. How many times have you met with Mr. Barnes's lawyers?
A. A few times. They came to the house just like Investigator Gilliam. Questioned me, things like that.
Q. Three, four?
A. Yeah, around the same. About three.
Q. So, you talked to police at 9:30, right?
MR. BRIAN SHEALEY: Objection to leading, Your Honor.
THE COURT: The objection's overruled.
Q. So, you talked to police at 9:30, right?
A. Yes.
Q. And then you talked to Antonio Barnes subsequent to that?
A. Right.

Q. But he didn't turn himself in until 10:47, correct?

MR. BRIAN SHEALEY: Objection, Your Honor.

A. I don't know.

MR. BRIAN SHEALEY: That's beyond the scope of this witness's knowledge.

THE COURT: The objection's overruled.

You testify to what you know.

A. I don't know.

Q. You were off that day of the incident, correct?

A. Right.

Q. And everybody in the apartment knew that you were going to be off that day?

A. I don't think they knew.

Q. You didn't tell them? You didn't tell anybody?

A. I didn't say anything.

Q. But you were the only one with the car, correct?

A. Right.

Q. So, it was -- their transportation was mostly through you, correct?

A. Yes.

Q. You testified earlier that it's not safe in this neighborhood ---

A. Right.

Q. --- that you live in. You guys lock your door when you leave?

A. Yeah.
Q. Has that apartment ever been robbed?
A. No.
MR. FOWLER: No further questions, Your Honor.
THE COURT: Anything further?
MR. BRIAN SHEALEY: Just a few questions, Your Honor.
RECROSS-EXAMINATION BY MR. BRIAN SHEALEY:
Q. Sam, if something bad happened in your neighborhood, would it be uncommon to not necessarily file a police report?
MR. FOWLER: Objection, Your Honor. He's asking about what the community at large does.
MR. BRIAN SHEALEY: I'm asking about Sam and it was brought up in redirect about you didn't call the police when you arrived.
WITNESS: Right.
MR. BRIAN SHEALEY: Hold on. Hold a second, Sam. Let the judge rule.
THE COURT: Rule on what? Your, your speech or, or what?
MR. BRIAN SHEALEY: I think the state made an objection.
MR. FOWLER: I objected to his question about it being uncommon for people to file police reports where

Sam lived.

THE COURT: I overrule the objection.

Q. Is it uncommon for people in that neighborhood to not file a police report when they get robbed?

A. Yeah.

Q. So that, that wouldn't be like a natural reaction all of a sudden?

A. I mean, yeah.

Q. Is that because the police don't necessarily always ---

A. Follow through.

Q. --- help, help you?

A. Yeah.

Q. Okay, and again, your routine that your roommates would, would know because you have one car ---

A. Right.

Q. --- is that you would take Mr. Dash to work every day?

A. Right.

MR. BRIAN SHEALEY: Thank you.

THE COURT: You may, you may step down.

(THE WITNESS EXITS THE STAND.)

THE COURT: Call your next witness.

MR. SCOTT: The state calls George Potash.

THE COURT: Y'all stand for a moment as we wait.

(A PAUSE.)

THE COURT: Okay.

GEORGE D. POTASH, BEING FIRST DULY SWORN, TESTIFIES AS FOLLOWS:

CLERK OF COURT: If you'd have a seat and state your full name for the record.

WITNESS: My name is George Daniel Potash.

DIRECT EXAMINATION BY MR. SCOTT:

Q. So, Mr. Potash, where are you employed?

A. I am currently employed with the City of Columbia Police Department in Columbia, South Carolina.

Q. And what are your duties with the police department?

A. I am a patrolman assigned to the Criminal Investigative Division, crime scene investigations.

Q. Okay. Is that what you were doing in November of 2019?

A. Yes, sir.

Q. All right. Did you do crime scene investigation, too?

A. Sir?

Q. Do you do crime scene investigations?

A. Yes, sir. Crime scene is a, is a, a unit that's assigned to the criminal investigations.

Q. Okay, and did you have occasion to work the crime

scene at the Willow Run Apartments on November 7, 2019?

A. That'd be 511 Alcott, yes, sir.

Q. Okay, and tell me general -- what time did you get there? Do you remember?

A. We were notified at 9:20 in the morning and I arrived at about 9:57 in the morning.

Q. Okay. All right, and so what are the first things when you're -- when you're working a crime scene, what are the first things you do?

A. Well, the first thing I do is I generally meet with the officers that are present, find out what's going on, and in a case such as this, we wait to obtain a search warrant and then we would begin by photographing the incident.

Q. Okay, and so did you take a number of photographs?

A. Yes.

Q. All right. I show you -- this is State's 10, 11, 13, 14, 15, 16, and 21.

A. Yes, sir, these are photographs that were taken.

Q. Do you recognize those?

A. Yes, sir. Photographs of the scene at 511 Alcott, apartment G.

Q. Let me show you State's 17 and 22.

A. Yes.

Q. Those are also ---

A. Yes.

Q. --- pictures you took?

A. Yes, the same location.

Q. Okay.

MR. SCOTT: Beg the court's indulgence.

(A PAUSE.)

Q. All right. Thank you. So, you, you recognize these and these are pictures that you took ---

A. Yes.

Q. --- I guess at the scene?

A. Yes, sir.

Q. Okay. Let, let me put these in order.

MR. SCOTT: Your Honor, I'm going to ask for these to be admitted and -- okay. Your Honor, state offers State's 10, State's 11, State's 13, State's 14, 15, 16, 17, 21, and 22 for admission into evidence.

MR. LUKE SHEALEY: Without objection, Your Honor.

THE COURT: They're admitted.

(PHOTOGRAPHS INDIVIDUALLY MARKED AS STATE'S EXHIBIT NUMBERS 10, 11, 13, 14, 15, 16, 17, 21, AND 22 RECEIVED INTO EVIDENCE.)

Q. Okay. So, first thing you said you, you document the crime scene.

A. Yes, sir.

Q. And could you tell the jury some of your general observations when you first walked into the apartment?

A. I'd have to refer to my report a little bit. But basically it was a -- an upstairs, two bedroom apartment. The, the building, it's a standard apartment building but it's two floors, the first floor and second floor. This apartment G was located on the second floor.

As you entered into the apartment through the front door, on the right was a large living area. There's a table with a broken leg on it. On the left-hand side was what would be a -- kind of a dining area leading into a kitchen area. Pretty much across from the entry point was a hallway that led down to two bedrooms on the right-hand side. There was a walk-in closet all the way at the back, an entryway to the kitchen on the left, and then I believe a bathroom.

Q. Okay. So, that -- was that a big apartment, small apartment? How would you characterize it?

A. I would say it, it was a -- kind of an averaged sized apartment. I mean, not, not large but about the normal size for a two bedroom.

Q. Okay, and State's Number 9, does that depict kind of a hallway you were talking about?

A. Yes.

Q. And you say, when you go down that hallway, if you're looking at State's 9, to the right are the two bedrooms?

A. Yes.

Q. And then directly straight back, what is that?

A. All the way at the back is the entry to a walk-in closet.

Q. Okay. This is State's Number 10. Did you take this picture?

A. Yes, I did.

Q. Why did you take that?

A. Just to show any possible damage to doorways. Damage to doorways, when they're forced open, is rather obvious because you'll see splintering and breaking and that's just a, a normal photo for us to take.

Q. Okay. Did you observe any damage that would indicate, I guess, somebody forcing a door open?

A. No, I didn't indicate anything ---

Q. Okay.

A. --- or I didn't see anything that indicated that it had been forced.

Q. Likewise State's 11, why did you take that picture?

A. The same reason. Just to show the entirety of the doorframe ---

Q. Okay.

A. --- around the locking area.
Q. This is State's 13. What are we looking at here?
A. I believe some of those are shell casings and then a white rag in the doorway.
Q. If you zoom in, you got Markers 9 and 10 on State's Number 13.
A. Yes, sir. Let me see. Marker Number, Marker Number 9 was collected at 11:59 hours. It's a shell casing head stamped Hornady .9 millimeter Luger and Item Number 10 was a shell casing head stamped Win .9 millimeter Luger, Winchester manufacturer. And then the, the white towel was just a white towel.
Q. Okay. So, those casings are right at the entryway to the apartment?
A. Yes, they are.
Q. If we look at State's 26, can you see that now?
A. Yes.
Q. This would be ---
A. That would be the door. That'd be the front door ---
Q. The door at ---
A. --- entryway.
Q. You can kind of see the casings down here in the bottom left.
A. Yes, sir.

Q. That's what you were marking?
A. Yes, sir.
Q. Okay. Where else did you observe casings? What, what is a casing?
A. A shell casing is basically the brass, the brass or steel portion of a cartridge that is left behind after a round is fired. It's basically what holds the primer, the powder, and the bullet and it's often, in a case of a semiautomatic weapon, it would be ejected as the next rounds would be chambered.
Q. Okay. So, when you, you fire the weapon, the casing ---
A. It's ---
Q. --- is ejected out?
A. It's basically what's left over.
MR. LUKE SHEALEY: And just a point of clarification real quick, I, I don't believe he's been offered as an expert. I'm sure he probably does have some expert qualifications, but before we do go down that kind of nuance road of fire patterns and shell casings, I just -- if we could see if he's qualified? That'd probably be appropriate.
Q. All right. Let's see. Moving on to State's 14.
MR. SCOTT: I'm sorry, Your Honor. Was there a ruling? I'm, I'm not going to offer ---

THE COURT: Did you offer something into evidence?

MR. SCOTT: No, Your Honor.

MR. LUKE SHEALEY: Well, it was the testimony that seemed to be kind of borderline expert. I don't know if he is or not. But if, if it's going to be expert testimony, we should try to see if he's qualified.

THE COURT: Okay. You'll have the opportunity.

You may proceed.

MR. SCOTT: Thank you, Your Honor.

Q. This is State's Number 14. Okay. Can you see that, Mr. Potash, from where you are?

A. Yes.

Q. What are we looking at in State's Number 14?

A. The markers that you see there, I believe also shell casings and, I believe, a projectile. I can't quite see. If you'd enlarge it?

Q. Hang on. Let's see State's 14.

A. Let me see. Item Number 7, which is right between the -- right between the victim's legs is going to be -- it's collected at 1157 hours, a projectile from the floor.

Q. Okay, and how's that different from a casing?

A. Well, the projectile is actually what comes out of the bore of the round or the bore of the weapon.

Q. Okay. It's ---

MR. LUKE SHEALEY: Your Honor, I'm going to object again because he's being asked to testify to things that are beyond a lay person's opinion. If he is an expert, I'd ask that he be qualified as an expert. Otherwise, I don't think he should be asked to answer questions regarding expert testimony.

THE COURT: Objection sustained as to form of the question.

Q. Okay. What is a gun?

A. A gun is generally considered to be a physical item that fires a projectile through a chemical process initiated through a mechanical action. Basically you pull the trigger. Depending on the type of action that's used, be it a striker or a hammer and pin, it strikes the primer which ignites powder inside of the casing.

MR. LUKE SHEALEY: Objection again to the -- same objection, Your Honor.

THE COURT: Objection's overruled.

Q. Okay. Continue please.

A. And it forces a projectile down the barrel and it expels the projectile in a defined direction.

Q. Okay. What are those little metal things I put in the gun before I fire it?

A. The cartridge would be, again as I explained

earlier, would be a shell casing containing a primer, powder, and projectile.

Q. Okay. So, a bullet is the entire piece, a jacket ---

A. Well, I would call ---

Q. --- the casing?

A. I would prefer -- I would refer to the entire piece as a cartridge. A bullet would actually be the projectile.

Q. Okay. A projectile and bullet are interchangeable?

A. Yes.

Q. Okay. So, when I take the cartridge and I put it in the firearm, you said a firearm is a, a weapon ---

A. It's a mechanical device that ---

Q. A mechanical device. Okay, and when I put the cartridge in that mechanical device that we call a gun ---

A. Uh-huh.

Q. --- and I pull the trigger, what happens?

A. The, the action, be it a, a hammer and firing pin or striker assembly, strikes the primer, ignites the primer, which ignites the powder. The pressure builds inside of the cartridge and expels the projectile or bullet down the bore.

Q. Okay, and when I take that gun and I aim it at

people in the ground and I pull the trigger, what is it that hits them and kills them?

A. It's going to be the, the bullet, the projectile.

Q. Okay, and then what's the thing that flies out the side of my gun after I shoot those two people on the ground?

A. That's going to be the shell casing.

Q. Okay. Thank you. We're -- now we're clear on that. So, what is Number 7 right here in between these victims' legs?

A. That is a projectile, a bullet.

Q. Okay. That's what is fired out of the mechanical device, sometimes we call a gun?

A. Yes, sir.

Q. Okay, and then the markers up here near the victims' legs, what are those?

A. I believe those are shell casings.

Q. So, when I take the mechanical device some people call a gun and I pull the trigger, that's was a -- that's what shoots out the side of the gun after the bullet is ---

A. Yes, that is what is ---

Q. --- fired?

A. --- ejected. That's the -- the spent shell casing is, is what's ejected out after the firing.

Q. Okay. Thank you for explaining that for us.
State's 16, do you recognize what that is?
A. This is a bullet, a projectile.
Q. And this is what you've marked as State's Number 16 as beside one of the victim's legs?
A. Yes.
Q. And State's 17, is that just the same kind of picture of the projectile ---
A. Yes.
Q. --- the bullet and then again ---
A. We, we make it a point to take a picture both with and without markers ---
Q. Okay.
A. --- so the people can see as we see it in situ versus with the markings.
Q. Okay. This is State's 20. Once I -- that, that would be the earliest exhibit ---
A. Yes.
Q. --- near the threshold before you put the markers down?
A. Yes.
Q. And those, again, are two casings? Is that what you ---
A. Yes.
Q. State's 22, do you recognize what, what those are?

A. Those are shell casings as well.
Q. Okay, and this on the rug is ---
A. Is also a shell casing.
Q. Okay. Okay. Those shell casings, were you able to collect those?
A. Yes, I was.
Q. And what did you do with them after you collected them?
A. After they were collected, they were logged into the report and then they were submitted to the property room directly.
Q. This is State's 65. Do you recognize what that is?
A. Evidence bag and with the reception marked for the property unit.
Q. Okay. Do you recognize what's in that, that bag?
A. I mean, I'd have to open it up.
Q. Okay. Do you need some scissors?
A. Yeah, I need -- okay. Okay. It contains a number of items, projectiles, and shell casings, along with our original packaging with my name on it.
Q. Okay. Those would have been the items we looked at in the pictures?
A. Yes.
Q. Okay. So, those casings and projectiles would be collected at the scene?

A. Yes, two -- seven shell casings, one intact projectile, and then one partial grayish metal that appears to be from a projectile. So, all seven shell casings are accounted for here.

Q. Okay.

A. They're actually in SLED packaging from where they were sent to SLED.

Q. Okay.

MR. SCOTT: Your Honor, State offers State's 65 for admission into evidence.

THE COURT: What says the defense?

MR. LUKE SHEALEY: No objection.

THE COURT: Admitted.

(CASINGS MARKED AS STATE'S EXHIBIT NUMBER 65 RECEIVED INTO EVIDENCE.)

Q. I wanted to ask you. Did you look around -- for instance, State's 25, let me show you this. Did you take a look at State's 25? Just take a look at this particular wall.

A. Yes, I did.

Q. And we see the indentation in the sheetrock here. Did you notice anything to you that looked like a bullet hole in that wall?

A. No, we didn't see anything.

Q. All right. The wall where the window is, did you

notice anything that looked like a bullet hole in the wall?

A. No, we didn't. We looked and if, if we had located something, we would have marked it and photoed it.

Q. Okay. Did you -- do you remember noticing any bullet holes in the laminate flooring?

A. We didn't see any.

Q. All right. Any bullet holes in any other walls did you notice?

A. No, sir.

Q. You would have marked it if you had?

A. Yeah, if, if we had seen it, we would have marked it and documented it.

Q. Okay, and -- okay. Did -- this is State's Number 8. Do you recognize this?

A. Yes, sir. It's a sketch that was produced by Officer Smith.

Q. Okay.

A. He's also in crime scene.

Q. Is, is that -- does that fairly replicate the scene, not, not to scale, but that ---

A. It's, it's, it's, it's not to an exact scale, but it gives you an idea of the, the layout of the, of the apartment and where things were located.

Q. Okay, and, and it shows generally where you

observed the casings and the ---

A. Yes.

Q. --- where you observed the bodies?

A. Yes.

Q. And where you observed the projectiles?

A. Yes.

Q. Okay. All right.

MR. SCOTT: Your Honor, this is State's Number 8. We'd offer that for admission into evidence.

MR. LUKE SHEALEY: No objection.

THE COURT: They're admitted.

(DIAGRAM MARKED AS STATE'S EXHIBIT NUMBER 8 RECEIVED INTO EVIDENCE.)

Q. All right. Let's see. All right, Investigator Potash, can you, can you see that, that -- can you also see on the screen here my State's Number 8?

A. Yes, sir.

Q. This right here would be the entryway into the apartment?

A. Yes, sir.

Q. Okay, and then you've noted there were how many shell casings right behind the door?

A. Two shell casings.

Q. Okay, and then, again, obviously this is where the two victims would have been ---

A. Uh-huh.
Q. --- in the center of the -- what would you call that room?
A. That's kind of a living area.
Q. Okay.
A. It's -- and the, the area towards the top of the screen is, is what's commonly used as a dining area in these kinds of apartments.
Q. Okay, and then this would be ---
A. That would be the entry to the kitchen and then you can see the entry to the kitchen from the hallway.
Q. Okay. Two entries to the kitchen. You can go in -- the, the dining room or the hallway. Is that right?
A. Yes.
Q. That will be -- all right, and then what is this right here after we ---
A. That would be ---
Q. --- on that side of the ---
A. --- a bedroom.
Q. Okay, and that would indicate a doorway?
A. Yes.
Q. And then this is what?
A. A hallway.
Q. This -- the hallway. Okay. Back here would be ---

A. Another bedroom.
Q. Okay, and then this is a ---
A. Bathroom.
Q. Bathroom. A single bathroom in the apartment?
A. Yeah.
Q. This doorway at the end of the hall leads to ---
A. It leads to the walk-in closet.
Q. Okay. Have you any idea how long this hallway is?
A. No. I would, I would estimate 15 feet.
Q. Okay.
A. 15 to 20 feet.
Q. Okay. Okay. How many shell casings did you find in this hallway?
A. We did not find any in the hallway.
Q. No, no casings in the hallway?
A. No.
Q. Okay, and all of the casings that you're testifying to are either at the door or right in and around the two victims' bodies?
A. Yes.
Q. Okay. What else did you find? Did you find anything of note back in the back hallway?
A. Well, we found a number of items that, that are indicated on my report that were collected. We found ammunition.

MR. LUKE SHEALEY: Objection, Your Honor. Subject to 402, Rule 403, Rule 404(b) and our extensive pretrial motion regarding this matter.

THE COURT: Ladies and gentlemen, we're going to have you go to the jury room for a few moments. Please don't discuss the case.

(THE JURY EXITS AT 1:52 PM.)

IN-CAMERA EXAMINATION

THE COURT: Can you restate the question, please?

Q. What else was located in the home?

A. I'm going through my report right now. Let me see. Okay, the -- from the first bedroom, there was, of course, a quantity of green plant, green plant residue from atop of a footlocker, a sleeve of small plastic bags, and then an identification card. Moved to the second bedroom and we located a, a plastic container containing a quantity of green plant material from the top drawer of a dresser in the second bedroom.

MR. SCOTT: I think at that point I would offer State's 28.

Q. Is this ---

A. Yeah.

Q. That's what you're talking about?

A. Yes, sir.

Q. Okay.

THE COURT: And the, the search of the apartment, was this pursuant to a search warrant or, or under what theory was it?

MR. SCOTT: It was a search warrant, yes, sir.

THE COURT: I, I couldn't see you. I could hear some of what you were asking.

WITNESS: I'm sorry.

MR. SCOTT: I know. I'd, I'd asked to close the screen. I was kind of ---

WITNESS: Yeah.

MR. SCOTT: --- trying to see, too, Your Honor, but ---

WITNESS: If I may, Your Honor?

THE COURT: Yes.

WITNESS: The search warrant was S19-102.

THE COURT: Okay.

Q. Okay. You, you said some green plant material and various baggies. State's Number 27, is that what you're talking about?

A. Not -- well, I'd just gotten off of the container. There was a black rifle scope, driver's license bearing the name of, of Antonio Barnes. Then we went -- when we moved to the walk-in closet, we located nine small clear plastic bags containing green plant material, unused small clear plastic bags, and ammunition to include one

round of .40 caliber Smith & Wesson, one .380 auto round, a small silver colored grinder, more un -- unused plastic bags, and a substantial -- six rounds of .380 auto in a bag, eleven rounds of Speer .40 S&W in a foil cigar pack. Excuse me. There were documents located in the shoebox bearing the name Antonio Dash, including a tax document.

In the kitchen area we found a copy of a firearms purchase receipt for a Smith & Wesson SD40 VE pistol, a digital scale, and a partial box of CCI .22 long rifle ammunition, and there was also a .22 rifle that was in the, in a -- leaning in a corner in the dining area.

THE COURT: All right, and tell me about the objection.

MR. LUKE SHEALEY: Yes, Your Honor. We've heard testimony so far that the only shell casings that were collected were a .9 millimeter variety. This gun in evidence is .9 millimeter. This is a shooting about a .9 millimeter case.

With our motion that we filed which you were holding off on ruling, it goes direct -- directly to the heart of the matter. What we're hearing, you have allowed in some testimony from my client's own mouth during the course of being interviewed, some evidence of drug dealing in the home. This is evidence of drug

possession. He's not charged with drug possession.

But regarding the firearms, we're talking about unrelated evidence of firearm ownership. You've heard about .40 caliber Smith & Wesson project -- bullets recovered but no gun. There's no .40 -- evidence of any .40 caliber fired on the scene. You've only heard about .9 millimeter projectiles. You hear about a long rifle in the corner, a .22 caliber long rifle which shoots an itsy bitty, tiny, long little bullet. We haven't heard about any of that. You will not hear any evidence in this trial of .22 caliber long rifle gun being fired, of a .40 caliber being fired, a .380 being fired. You will not hear any of that.

So, number one, it's not relevant under Rule 402. It should be properly excluded. Even if it were, even if it were, the, the prejudicial effect substantially outweighs any probative value that it may have, and, under 404(b), the simple point of this evidence, in my humble opinion, is to say that this is a gun-toting thug who has guns, likes guns, shoots people. It has nothing to do with the case. So that, that is the genesis of my motion. It's also -- it's filed in writing before Your Honor.

THE COURT: Response by the state?

MR. SCOTT: Your Honor, it, it -- I, I -- every

time I call a crime scene investigator, I ask him what they collected at the scene and I'm simply giving the jury the facts.

THE COURT: Is this witness a crime scene investigator?

MR. SCOTT: He is.

THE COURT: Okay. So, has he, has he been qualified as a crime scene investigator?

MR. SCOTT: No. I -- and I don't intend to offer any kind of expert testimony. I'm, I'm simply asking your job is to -- I think that's what he said. He's a -- my first job as a crime scene investigator is to observe and then take extensive pictures, then mark the items, and then collect them, and document the whole time.

THE COURT: All right.

MR. SCOTT: I'm simply asking what did you collect from the scene.

THE COURT: All right.

MR. SCOTT: I, I probably could qualify him as an expert, but I don't intend on offering any kind of opinion-type evidence. Just what I -- he -- what I see, hear, smell, taste, observe.

THE COURT: I understand.

Your response to the objection?

MR. SCOTT: The objection is he's already said I'm a weed dealer. That's why I did what I did.

He goes in there and he finds a large quantity of marijuana. He finds marijuana packaged in a lot of small individual baggies. He finds a lot of loose baggies in the apartment.

I'm, I'm trying to look at this case, trying to read the writing on the wall. Yesterday there was extensive insinuation through cross-examination with one of my victims' mother's about him carrying a gun. Don't be surprised if somehow a mysterious other gun is mentioned at some point. They've already been talking about one that went missing.

Okay. That was what they just got out through cross-examination through Sam Thomas. Tell me about this gun that went missing. They got him to describe it. They went -- and we asked did you file a report? No. But they've already let the cat out of the bag that there's more than one gun associated with that home. He's talking about collecting various pieces of ammunition. I, I find it relevant because this is what's in this man's apartment.

Now, he's got two other roommates. They might have a perfectly good reason for that. But -- okay. I, I don't see how it's not relevant what a crime scene

investigator collects from a scene pursuant to a search warrant.

THE COURT: Yes, sir.

MR. LUKE SHEALEY: Respectfully, we had to bring up the evidence of the other gun that went missing to show that a conflict that was there right before the incident between the roommate Antonio Dash and the other victim, Mr. Griffin. We -- you know, the statement that I'm -- just have to show everything that was collected, I mean, there's tons of things that potentially, in a crime scene, could be collected. But they're not admissible for a jury. I mean, he could have some letter saying I'm a follower of Osama bin Laden. Of course that would not be appropriate for the jury. So, that, that argument falls short.

But Your Honor's not going to hear any ballistic, forensic evidence that a .40 caliber weapon was involved in this crime, that a .380 ---

THE COURT: I don't know what evidence will be presented.

MR. LUKE SHEALEY: All right. Well ---

THE COURT: Y'all gave me about fifty or sixty witnesses listed. I don't know ---

MR. LUKE SHEALEY: I understand.

THE COURT: --- what the testimony will be.

MR. LUKE SHEALEY: But the solicitor took the opportunity to forecast some things for you. So, I'm going to do the same and forecast that you will not hear that from anybody, firearms, pathologist. So, it -- it's just simply to show him there's a guy who has a lot of guns because he's bad and violent.

THE COURT: All right. Well, one witness testified that the defendant had no other guns. The -- a number of them said the defendant gave three separate versions of, of what happened, one of which included that fact that he thought he was being robbed and that he's a drug dealer.

The state has to prove motive. The state has to prove malice. The state has to prove criminal intent. I find that all of this is more probative than prejudicial, given the nature of the scene, the nature of the, the killings, and what was in the mind of the defendant at the time he killed these people.

So I'm allowing it all in.

And we're going to take a ten minute break.

(OFF THE RECORD.)

THE COURT: Anything before the jury comes in?

MR. SCOTT: No, Your Honor.

THE COURT: All right. Bring them on.

(THE JURY ENTERS AT 2:22 PM.)

THE COURT: The objection's overruled.

You may proceed.

MR. SCOTT: Thank you, Your Honor.

Q. I, I was asking you before the break about the back of the house. We talked about the casings and the projectiles in the front. But towards the back, you said you collected some other items. What were those?

A. Just in general or itemized?

Q. The -- just in general. Some -- what ---

A. Ammunition, green plant-like material in bags and in a plastic container.

Q. Okay. This is State's 27. Is that ---

A. Yes.

Q. What is that?

A. Um.

Q. This is what you're talking ---

A. This is, this is what we found in the, in the back walk-in closet.

Q. Okay, and then State's 28?

A. And that was from one of the bedrooms.

Q. Okay. State's 20?

A. And this was, I believe, from one of the bedrooms.

Q. Okay, or is that the front living room area?

A. Yeah. I'm not sure. Let me see.

Q. 25?

A. Which -- I'm not quite sure because I'd need to, I'd need to see a number on it ---

Q. Okay.

A. --- or an overview photo. If you can enlarge that Number 20? That would have been in the -- I believe in the front room.

Q. Okay.

A. Because that door right there, I think they used that to prop open the door.

Q. Right. Okay.

MR. SCOTT: Your Honor, the state offers 20, 27, and 28 for admission into evidence.

MR. LUKE SHEALEY: Subject to my prior objection.

THE COURT: They're admitted.

(PHOTOGRAPHS INDIVIDUALLY MARKED AS STATE'S EXHIBIT NUMBERS 20, 27, AND 28 RECEIVED INTO EVIDENCE.)

Q. All right, and what do we see here?

A. A quantity of -- what looks like a quantity of green plant material, small bags, and what looks like the interior of a, a cigar.

Q. And that's State's 20 and then we got -- we talked about 27. That is what?

A. Green plant material in small plastic bags and a round of ammunition.

Q. Okay. State's 28.

A. It's a plastic container containing a quantity of green plant material.
Q. Okay. Or that -- that's pretty much the gist of what you did? You observe and then you collect evidence. Is that ---
A. Yes.
Q. --- safe to characterize? And again, no bullet defects in the walls ---
A. Not that ---
Q. --- right?
A. There were, there were three of us in the room looking and we didn't observe any.
Q. Okay, and no bullet defects in the ground, the, the laminate flooring, right?
A. Not that we could see.
Q. And no shell casings in that hallway.
A. We did not see any in the, the hallway at all.
Q. Okay. So, all the casings were right around the bodies but also two by the door.
A. And then in the door. The shell casings, you know, at -- can be moved through being kicked or bouncing off of something when they're eject -- ejected. A specific location does not mean that's where it was fired from.
Q. Okay. They can be picked up and carried off, too?
A. Yes.

Q. Just to be clear, I'm looking at State's 9. You, you looked all through this hallway here ---

A. Yes, we did.

Q. --- and you didn't find any shell casings.

A. Yes, we did.

Q. Okay. All right.

MR. SCOTT: Thank you, Investigator Potash. Answer any questions Mr. Barnes's defense attorneys has for you.

THE COURT: Cross-examination.

CROSS-EXAMINATION BY MR. LUKE SHEALEY:

Q. How you doing?

A. Sir.

Q. I'm going to ask you to look at some photos, some of which, I apologize, might be somewhat similar, perhaps duplicates, some you talked about already. But generally -- and you got your report in front of you?

A. Yes, sir.

Q. And you were called out there to document and essentially preserve this crime scene.

A. Yes, sir.

Q. And I think in your report you say you arrived at 9:57. Is that right?

A. Yes, sir, 9:20.

Q. Well, that's when the call ---

A. Or 9:20 came in and 9:57 is when I arrived.
Q. Right, and were you aware the actual incident time per investigation?
A. No, sir.
Q. So, you're unaware that it was 8:56?
A. No, sir.
Q. Okay. You just get the call. Know what time you get there?
A. Right.
Q. It's your job to document, preserve, pick up, bag, tag.
A. Right.
Q. All that, right?
A. Right.
Q. All right. So -- and you prepare a very de -- you prepare a very detailed report after the fact, correct?
A. Yes, sir.
Q. Okay.
A. I try.
Q. And that's important for today when it's over three years later and you might be asked some pretty specific questions about what occurred back -- way back then, right?
A. Yes, sir.
Q. I'm going to show you some photos that start as

Defendant 4 for ID and go up to 53 for ID. Tell me if you recognize these and if those are photos that you took or diagrams associated with your crime scene ---

A. Okay.

Q. --- investigation.

A. The diagrams appear to be the -- what was produced by Officer Smith. Some I recognize. I'm sorry. I think I do remember some of this.

Q. And you recognize that as your photo, what's marked ---

A. Yes. Yes, I stand ---

Q. --- ID 24?

A. Yeah, I'll stand corrected. I, I think there were some marks that were in question.

Q. Okay, and you're referring to a, a mark on the floor ---

A. Possibly from ---

Q. --- we'll talk about?

A. Yeah.

Q. Okay.

A. So, I think I do -- I, I do stand corrected. Okay. Sorry.

Q. So, you do recognize all the photos I've just ---

A. Yes.

Q. --- showed you as photos that you took the day of

this incident?

A. Yes.

Q. Is there a crime scene photos that you then turned over through the discovery process and that's why I have them, right?

A. Yes.

Q. And they fairly and accurately depict what happened and what you documented that day?

A. Yes.

MR. LUKE SHEALEY: Your Honor, at this time I would seek to introduce Defendant's 4 and I did omit some. So, it's essentially 4 numerically all the way to 19 and then 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37. Hold on. I'm sorry. I took some out the very last second. 38, 39, 40, 41, 43, 44, 45, 46, 47, 48, 55 and I think that 42 fell off this one, but I would seek to admit this.

THE COURT: What says the state?

MR. SCOTT: Without objection, Your Honor.

THE COURT: They're admitted without objection.

(PHOTOGRAPHS INDIVIDUALLY MARKED AS DEFENDANT'S EXHIBIT NUMBERS 4 THROUGH 19, 21 THROUGH 48, AND 55 RECEIVED INTO EVIDENCE.)

Q. All right. Now, you go -- at the very end of your report, that by -- it's obvious that by the time you get

there, that this crime scene has been disturbed in your words, right?

A. Yes, sir.

Q. We're talking about EMS arriving trying to do what they could do for these gentlemen.

A. Yes, sir.

Q. Were you aware of other individuals being there on scene, people with ---

A. Officers, investigators, EMS, fire.

Q. Okay, and you're aware that, as part of your job, is to document and you did note evidence of what was seem to be an obvious physical altercation, correct?

A. Yes.

Q. And part of your job in documenting it is to try to help other members of your team figure out what transpired down the road, right?

A. Yes.

Q. That's not necessarily your job, right?

A. Right.

Q. Your job is to document and preserve.

A. Right.

Q. Okay, and I want to talk to you, talk to you through -- about some of those -- so, I don't think Mr. Scott introduced this particular one, but this is Defendant's Number 4. That does have your measurements

associated with it, correct?
A. Yes.
Q. And you're talking about some diagonal measurements to the wall and of that room and getting it all, right? And that just, that just helps people down the road identify how big the room might be, correct?
A. Yes.
Q. And the position of the bodies, correct?
A. Yes.
Q. And here's the diagram that we've already looked at and discussed, but again, as part of your team, you know where shell casings are, correct?
A. Yes.
Q. Projectiles, correct?
A. Yes.
Q. You go through these rooms one by one and photograph as you're going along your way, right?
A. Yes.
Q. You noted a few things that's of evidentiary value you note and take a photo of, right?
A. Yes.
Q. You noted some possible blood on the wall, correct?
A. Yes, sir.
Q. That's why you took that photo.
A. Yes, sir.

Q. You noted this, what appears to be a cable hookup damage, correct?
A. Yes.
Q. So, you thought that might be evidence of physical altercation, right?
A. Yes.
Q. You noted even the condition of the window blinds, one open, one not open, right?
A. Yes.
Q. You noted the general area of the kitchen and the fact that there was a chair by the trashcan that appeared to have a broken leg, right?
A. Yes.
Q. Trashcan still in the trash?
A. Sir?
Q. The trashcan was still in the trash, not taken out?
A. Yeah.
Q. You did note this, what's possible, probably impact point or scuff on the ground.
A. Uh-huh.
Q. Was it evidentiary value to you?
A. Yes, I -- anything that looked like it might have been from an altercation.
Q. Right, and you did, I think you said, right, as you're going through it, that you amended kind of your

testimony to Mr. Scott about that there weren't any possible impact points on the floor, right?

A. Well, I can't say that that came from a projectile or not. That looks actually more like a, a solid object. Almost like a, a -- I mean, it doesn't look like a projectile strike.

Q. But you don't know. You document it. That's part of your job.

A. Right.

Q. You did note a -- an earring that appeared to be loosely lying on the floor as, as Marker Number 1, correct?

A. Yes.

Q. Just kind of ---

A. Hold on.

Q. This stud right here.

A. Yes, yellow colored metal.

Q. And here's another photo of it that doesn't have the marker, but you recognize that as well as kind of ---

A. Yes.

Q. --- kind of lying out there, and as you've already testified to, evidence of a physical altercation, that, that would be of evidentiary value to you, correct?

A. Yes.

Q. And you note in your report that it appears to match an identical stud that is in the ear of Mr. Eric Griffin, right?

A. Yes.

Q. Because you thought it was evidentiary value, you noted this photo of Mr. Griffin's ear as he's lying on the floor that does appear to have a torn ear ---

A. Yes, sir.

Q. --- where a stud might have been, correct?

A. Yes, sir.

Q. And we've gone over the various placement of shell casings but they're -- you know that you collected seven .9 millimeter shell casings on that scene that day.

A. Yes.

Q. And you also know -- and you list, literally at those items, even what their -- the make of the ammunition is, correct?

A. Yes.

Q. And you agree, from having your report in front of you, that they were not a consistent brand, right?

A. No.

Q. Some were Hornady, right?

A. Right. There's was one Winchester.

Q. Right. You documented this blood droplet there of evidentiary value, right?

A. Yes.
Q. And, again, here's the, the photo you took of the stud still in the, in the other ear of the decedent Mr. Eric Griffin, correct?
A. Yes.
Q. You documented the gentlemen's feet being kind of intertwined and over the top of each other because you found that to be perhaps important in the case.
A. Yes.
Q. Their proximity to each other in an entanglement.
A. Yes.
Q. Again, here is a picture that really goes with the photo we looked at of the cable jack, and it gives you a larger idea of how big that hole in the wall is in relation to that jack, correct?
A. Yes.
Q. You noted this broken leg right here at this table.
A. Yes.
Q. You found it of value to document that this table is swept over with this TV lying next to it on the ground, correct?
A. Yes.
Q. There's that projectile, that nice, kind of, well, not too mangled projectile that you talked about with Mr. Scott, right?

A. Yes.
Q. And then that is a closer up really nice closeup photo of that, right?
A. Yes.
Q. Again, the condition of the living room, you note this rug is askew and appears to be pushed. It -- it's messed up. We'll say that. You don't know what actually happened but you, you found that view of evidentiary value, correct?
A. Yes.
Q. It's a different angle of the TV on the ground and the flipped over table, right?
A. Yes.
Q. We got this table that you noted was using -- used to prop open the door, right?
A. I believe the patrol officers -- I believe, I believe somebody on patrol stated that they had propped open the door using that table.
Q. Okay. Now, I'll point your attention to the, to the back bedroom. I mean, what you did is you went in and you do a, a nice job of photographing kind of where you're going through a room, what you might have opened. If you're going to go to a closet, you take a photograph, right?
A. Yes.

Q. If you're going to then go through the contents of something in that closet, you take a photograph, right?
A. Yes.
Q. So kind of logically we can follow you, as the viewers, down the road, right?
A. Yes.
Q. And do you recognize this as the bedding in the far back right bedroom?
A. I'm not sure which bedroom it came out of.
Q. Okay. Maybe there's ---
A. I'd have to see the, the, the overview photo.
Q. Well, maybe -- here. Here's the entryway into that bedroom where you recognize that same comforter ---
A. Okay. Yeah.
Q. --- and TV, dresser drawer?
A. Yeah.
Q. You recognize it now?
A. Yeah.
Q. And you recall that as the back right bedroom?
A. I believe so, yes.
Q. So, I guess this would be the view of you entering it. This would be the view of kind of you turning into it.
A. Uh-huh.
Q. And you see a comforter there, right?

A. Yes.
Q. A box spring, a mattress, correct?
A. Yes.
Q. And it's in that room that you would find some jeans with the ID of Mr. Tony Barnes, right?
A. Yes.
Q. You would then take a photo and kind of turn in to his closet.
A. Yes.
Q. Now, I want to take your attention a little bit more to the hallway. You've already testified that there was a, a hallway with a closet with some shelves in it that then opened up to a kind of walk-in closet to the left, right?
A. Yeah.
Q. And that would really be for the jury. If you go here to this door, the closet and then this particular area would be that walk-in closet, right?
A. Yes.
Q. And so that closet with the shelves, you took a photo as you begin to kind of look and catalog what's in boxes and shoeboxes and things of that nature, right?
A. Yes, sir.
Q. And at that particular closet, you found some identifying paperwork of Mr. Antonio Dash ---

A. Yes, sir.
Q. --- right there. Appears to be a tax document.
A. I'm sorry. Yes, sir.
Q. Appears to be a tax document.
A. Yes, sir.
Q. It's a closeup of the tax document, you agree?
A. Yes, sir.
Q. Within that same box, you found what appears to be a OSHA compliance document.
A. Yes, sir.
Q. Identification card with Mr. Antonio Dash's name on it.
A. Yes, sir.
Q. And that's all within that same closet at the end of the hall, correct?
A. Yes, sir.
Q. You start turning your attention to then what would be the walk-in closet kind of to the left of that, right?
A. Yes, sir.
Q. We see some shoes, right?
A. Uh-huh. Yes, sir.
Q. The next photo actually is where you document entering -- Defendant's Number 45 -- that closet.
A. Yes, sir.

Q. And there appeared to be clothing items. Is that correct?
A. Yes, sir.
Q. Some type of a foam carton or blankets or some description in the corner.
A. I believe so.
Q. Laundry hamper.
A. Yes, sir.
Q. And then you also make your way and do some photo documentation of the kitchen, right?
A. Yes, sir.
Q. And that just shows going, going through the drawers, the microwave, all of those things and you put all of these items into bags and sent them on their way for various departments to do certain things with them, right?
A. Yes, sir. Everything goes to the property room and then it's...
Q. You know that DNA is noted in your report as being collected from the decedents in this case.
A. Well, due to a possible physical altercation, samples for possible DNA were taken from hands of victims Dash and Griffin. There's no guarantee that it's going to come back as anything, but the attempt is made just to show if there's a possible altercation.

Q. And DNA is not your department. You are not a DNA analyst, right?
A. No, sir.
Q. But when you believe to find what is a physical altercation, you know that's the prudent thing to see if there's evidence of DNA, particularly under peoples' fingernails, right?
A. Fingernails, but a lot of times in the grasping areas of the hands is much more productive.
Q. Right, and, again, you're not qualified as to what contact DNA versus other types of DNA. But you know you're supposed to do that.
A. Uh-huh.
Q. And again, we talked about the earring being ripped out of an ear. Very likely?
A. Yes.
Q. You were shown some photos of some green plant like material for Mr. Scott, but you have no idea whether that's tested positive for marijuana or not.
A. Well, actually, we have the positive testing here.
Q. All right, but you didn't do that test.
A. No, that was SLED.
Q. You're not part of ---
A. But I have the results.
Q. Right. You have the results that -- good for you.

You do have some results.
A. Yes.
Q. But you, you didn't test it. You bagged it. You tagged it. You sent it to SLED ---
A. Right.
Q. --- for that green plant-like material. Do you have the DNA results with you?
A. I do not.
Q. Okay. So, you don't know whether there was a match or not.
A. No. They would have been sent to the investigator.
Q. Okay. You just happen, happen to have the DNA results with you?
A. Well, the reason for the -- the reason for the marijuana testing results coming to me is because I actually did the paperwork on the BEST kit, which is how drugs are submitted for testing. Since my name was actually on that kit, it came back to me. The samples would have been taken from the property room by the investigator to SLED, and then SLED would have transmitted the results of those tests to them.
Q. I, I want to ask you about your camera.
A. Yes.
Q. I imagine you're probably not taking these photos with your iPhone camera.

A. No.
Q. I imagine you probably have a more high quality kind of professional grade photo camera.
A. Yeah, I believe that was a Nikon D-7100.
Q. Okay. I assume it has a flash with it?
A. Yes.
Q. Frequently I imagine you're called into dark places at nighttime where you're asked to collect evidence potentially in the dark ---
A. Yes.
Q. --- right? So, that's the point of flash because we know it flashes and allows you to take a clear picture in a bright way to -- allows you to see what's going on, right?
A. Yes.
Q. And that camera you had that day?
A. Nikon D-7100.
Q. Okay.
MR. LUKE SHEALEY: Beg the court's indulgence.
A. I believe it was a 7100.
(A PAUSE.)
Q. Real, real quick. Regarding the, the things you would want to test such as DNA when, when you believe there's a physical altercation, and you're also aware that gunshot residue was tested on these individuals or

collected?
A. I believe so, yes.
Q. Okay. Okay, and that would be done by basically bagging their hands and looking for particles of, of metal essentially, right?
A. Yes.
Q. Okay. Are you aware of the results?
A. I am not.
Q. Okay, but that was something that was done in this case?
A. I would -- I am not sure about it. I don't know if I did it or not or if it was done at the autopsy.
Q. Right, but it was done in this case?
A. I would expect it would have been.
Q. Okay. All right.

MR. LUKE SHEALEY: Thank you, sir.

THE COURT: Any redirect?

MR. SCOTT: No, Your Honor.

THE COURT: You may step down.

(THE WITNESS EXITS THE STAND.)

THE COURT: Next witness.

MR. FOWLER: The state calls George Smith, Your Honor.

GEORGE R. SMITH, II, BEING FIRST DULY SWORN, TESTIFIES AS FOLLOWS:

CLERK OF COURT: Have a seat and state your full name for the record.

DIRECT EXAMINATION BY MR. FOWLER:

Q. State your name for the record.

A. My name is George Robert Smith, II.

Q. Mr. Smith, what do you do?

A. I am a crime scene investigator for the City of Columbia Police Department.

Q. Is that what you were doing on February 7, 2019?

A. Yes, sir.

Q. What specifically were you doing on that day?

A. I was assisting lead CSI Potash at the scene.

Q. And where did you go on that day? At -- I'm sorry. After you finished at the main scene, did you go anywhere else?

A. Yes, I went to a, a search warrant in a building 17, apartment E.

Q. Oh. Could you slide closer to the microphone?

A. My apologies.

Q. Could you -- full address? You said apartment 17-G. What was the, the street address that goes along with that?

A. 511 Alcott.

Q. Okay, and did you find anything in that apartment?

A. Yes, sir, I did. I found a, a .9 millimeter up

under a mattress in one of the bedrooms.
Q. You said it was under the mattress?
A. Yes, sir.
Q. All right. I'm going to show you what's been marked as State's Exhibit 1 and State's Exhibit 2. Can you tell me what that is?
A. That will be the handgun I found up under the mattress in one of the bedrooms.
Q. Okay, and that?
A. That would be the photo of the serial number that was on the weapon.
MR. FOWLER: Your Honor, at this time I'd move State's 1 and 2 into evidence.
MR. BRIAN SHEALEY: Without objection.
THE COURT: They're admitted.
(PHOTOGRAPHS INDIVIDUALLY MARKED AS STATE'S EXHIBIT NUMBERS 1 AND 2 RECEIVED INTO EVIDENCE.)
Q. Okay, and just, again, this is the gun that you found in apartment, I believe, 17-E?
A. That's correct.
Q. And it was under the mattress?
A. That's correct.
Q. Okay. All right. I am going to show you what's been marked as State's 70. Can you tell me what is in State's -- the box labeled State's 70?

A. That is a FN .9 millimeter, the weapon that I did find under the mattress in the apartment.

Q. So, that is the gun that you found in, in that apartment?

A. That is correct.

Q. Under the mattress?

A. Yes, sir.

Q. And it's the same gun in those photos?

A. That's correct.

MR. FOWLER: Your Honor, at this time I would move State's 70 into evidence.

MR. BRIAN SHEALEY: Without objection.

THE COURT: Admitted.

(GUN MARKED AS STATE'S EXHIBIT NUMBER 70 RECEIVED INTO EVIDENCE.)

Q. And just, once again, that is the gun that you found under the mattress?

A. That is correct.

Q. Okay, and this was the clip that was in it?

A. Yes, sir, what -- it is.

Q. Would you mind telling me how many rounds that clip can hold?

A. Seventeen rounds.

Q. Thank you. Do you recall if there were any live rounds in the ---

A. Yes.
Q. --- the gun?
A. Yes, sir, there were seven live rounds and there was one in the chamber and six in the magazine.
Q. What became of those live rounds? Do you know?
A. I turned them in to the evidence property room.
Q. But there were six in the clip and one in the chamber?
A. That's correct.
MR. FOWLER: No further questions, Your Honor.
THE COURT: By the defense.
(PHOTOGRAPHS INDIVIDUALLY MARKED AS DEFENDANT'S EXHIBIT NUMBERS 103, 104, 105, AND 106 FOR IDENTIFICATION.)
CROSS-EXAMINATION BY MR. BRIAN SHEALEY:
Q. So, Investigator -- you're an investigator, right?
A. A crime scene investigator ---
Q. Crime scene.
A. --- yes, sir.
Q. CSI investigator. So, where you found this gun was not at the crime scene, right?
A. No, sir.
Q. And 17-E was a, a little bit -- well, a couple, couple houses -- buildings away from 14-G, right?
A. I don't remember how many buildings it was away.

Q. Okay, but you discovered what's marked as 103. This is essentially on top of a box spring where you found this weapon, right?

A. Yes, sir.

Q. And so what is not shown is, I guess, the attempt to conceal it with the mattress on top, right?

A. The mattress was on top of it.

Q. That's what, that's what I'm saying.

A. Yes.

Q. I mean, you're not, you're not photographing the mattress first. You're just photographing what you found ---

A. Correct. Yes, sir.

Q. --- which is a weapon that was hidden under the mattress.

A. Correct. Yes, sir.

Q. And again, it's just Defense 104 is a closer shot of that, correct? You took that picture?

A. That is correct.

Q. And again, 105 and 106 are what was found in the weapon, right?

A. Correct. Yes, sir.

Q. Okay. In this apartment was a Shakihla Smalls? Does that ring a bell who, who the occupant was?

A. I, I cannot remember.

Q. Okay, but you're operating off a search warrant.
A. Right.
Q. So ---
A. Yes, sir.
Q. Okay, but you knew it wasn't the, the incident location, right?
A. Yes, sir.
MR. BRIAN SHEALEY: At this time I'd seek to admit 103, 104, 105, and 106.
MR. FOWLER: No objection.
THE COURT: They're admitted.
(PHOTOGRAPHS INDIVIDUALLY MARKED AS DEFENDANT'S EXHIBIT NUMBERS 103, 104, 105, AND 106 RECEIVED INTO EVIDENCE.)
MR. BRIAN SHEALEY: Beg the court's indulgence.
(A PAUSE.)
MR. BRIAN SHEALEY: Thank you, sir.
THE COURT: Any redirect?
MR. FOWLER: None, Your Honor.
THE COURT: You may step down.
WITNESS: Sorry, Judge.
(THE WITNESS EXITS THE STAND.)
THE COURT: Call your next witness.
MR. SCOTT: Your Honor, the state calls Paul Greer.
THE COURT: Let's all stand a moment while the next

witness is coming in.

BAILIFF: Your Honor, we need a break.

THE COURT: Okay. We'll take a break for the jury.

(THE JURY EXITS AT 2:58 PM.)

THE COURT: Okay.

(OFF THE RECORD.)

THE COURT: All right. So, we ready with this jury?

MR. SCOTT: Yes, sir.

(A PAUSE.)

THE COURT: Well, who -- who's your next witness?

MR. SCOTT: Paul Greer with SLED.

THE COURT: Where is he?

MR. SCOTT: Back of the courtroom.

Raise your hand, Paul.

THE COURT: All right. You can bring the jury.

(THE JURY ENTERS AT 3:05 PM.)

THE COURT: Next witness.

MR. SCOTT: Paul Greer, Your Honor.

PAUL GREER, BEING FIRST DULY SWORN, TESTIFIES AS FOLLOWS:

CLERK OF COURT: Please have a seat and state your full name for the record.

WITNESS: My name is Paul Greer. G-R-E-E-R.

VOIR DIRE EXAMINATION BY MR. SCOTT:

Q. Paul, you are employed with SLED?
A. Yes, sir, I'm employed in SLED.
Q. How long have you been employed at SLED?
A. I've been employed at SLED for approximately eight and a half years.
Q. Okay, and what department are you in?
A. At SLED, I am a forensic scientist in the Firearms Department of our Forensic Services Laboratory.
Q. Okay, and what do you do? What kind of things do you do day to day in the Firearms Department at SLED?
A. Sure. My day-to-day routine is to examine firearms and firearm-related components, ammunition components, tool marks and tool mark components. I conduct general rifling characteristics exams on fired bullets. I conduct serial number restorations on firearms, and also help with the destruction of weapons for agencies across the state of South Carolina.
Q. Okay. Sometimes are you asked to compare a firearm with spent shell casings?
A. Yes, sir. I would say that is the majority of, of my work day.
Q. Okay, and describe that. Is it, is it kind of like a fingerprint? Does a, does a gun, at least the pin when it hits the casings, does it leave a mark sort of specific to that firearm?

A. When a cartridge is fired in a firearm, you have a bullet, which is the projectile that travels towards the target, and also a cartridge case or shell that contains that bullet and the, the primer and the gunpowder. And when that goes through the ---

MR. LUKE SHEALEY: Your Honor, I object at this moment. I -- I'm absolutely certain that Mr. Greer is a qualified expert in this matter. In fact, he has been qualified before in this case and I haven't objected. I just think before he gets into the technical gun data, he should be offered as an expert ---

THE COURT: So ---

MR. LUKE SHEALEY: --- for the record.

MR. SCOTT: I can qualify him now.

THE COURT: All right.

MR. LUKE SHEALEY: Your Honor, I'll stip ---

THE COURT: Can you see if the mic's on?

MR. LUKE SHEALEY: I'll stipulate.

THE COURT: Sir, if you'll speak into the mic.

WITNESS: Yes, sir.

THE COURT: Test the mic because I can barely hear you.

MR. SCOTT: It sounded like the defense attorney was about to stipulate to his qualifications.

MR. LUKE SHEALEY: Yeah. What you, what you want

to offer him in?

MR. SCOTT: Well ---

MR. LUKE SHEALEY: ID and firearms?

MR. SCOTT: Yeah, firearms identification, Your Honor, is what we offer in investigating -- or Special Agent Greer as an expert in.

MR. LUKE SHEALEY: I will stipulate to that.

THE COURT: He's so qualified.

Ladies and gentlemen, when a witness is, is qualified as an expert, they're offered -- they're, they're able to give opinion in areas where lay witnesses cannot.

DIRECT EXAMINATION BY MR. SCOTT:

Q. Okay. All right. So, continuing with that line of questioning earlier, we're talking about, you know, if I, if I got a gun like State's Number 70, and I say Paul, I've got this gun and I've got a bunch of these casings that I found at a crime scene, is, is that something that people ask you to do? Can you tell me, Paul, whether that gun fired these casings? Is that kind of like something you're asked to do from time to time?

A. Yes, sir, that's correct.

Q. And tell us. You were explaining how that works. Tell us. Tell us how you perform those analyses.

A. Yes, sir. So, when a, a cartridge case -- and that's the cylindrical component that holds the bullet, the gunpowder, and the primer -- is fired, and when a bullet travels down a barrel, it may be marked by that firearm. And when I say marked, we're talking about tiny microscopic scratches and impressions that are placed onto those surfaces of that bullet and that fired cartridge case.

At SLED in our department, we use a comparison microscope, which is -- it can be a high powered microscope. If you think back to taking a lab course, you look through the microscope to look at some specimen. We're able to look at two things at one time through this comparison microscope and compare those tiny striations and impressions to see if, in fact, cartridge cases were fired by the same firearm or fired by a particular firearm to -- in order to match it back to that. And we do the same with the fired projectiles as well.

Q. Okay. This particular case that we're here for today, were you asked to perform tests on, on that particular firearm I was talking about, State's Number 70, and also a series of shell casings and projectiles that are included in State's Number 65?

A. This firearm is unloaded. I'm just going to look

for a few identifying marks that would have been placed on the firearm during my examination. Each item of evidence, if possible, we're able to place our SLED lab number that's given to it as well as the item number and my initials. I do see some of that information on the firearm.

This was SLED Item 1, which is been marked State's Exhibit 70. I was asked to examine this firearm. It was -- and State's Exhibit 65. Again, I'm looking for that information with our SLED item number, lab number, and my initials as well.

Yes, sir. So, inside State's Exhibit 69 I have SLED Items 14, 27, 28, 29, 30, and 32, which were all fired cartridge cases. You can see those small cylindrical items in the Ziploc pouch there. I also have -- excuse me, and item -- SLED Item 31. So, fired cartridge cases. There's also SLED Items 15 and SLED Item 16, which were projectiles ---

Q. Okay.

A. --- and I was asked to examine these.

Q. Okay. So, the casings you examined, what, what caliber were there? What's your description of those casings?

A. Yes, sir. The fired cartridge case that are -- was submitted to examine were SLED Items 14 and SLED Items

27 through 32. Those were all determined to be fired .9 millimeter Luger caliber cartridge cases.

Q. How many, in all, casings did you exam, seven?

A. Yes, sir, there were seven fired cartridge cases.

Q. Can you tell, are they different name and brands or can you tell?

A. Yes, sir. So, stamped on the top of those cartridge cases are what we refer to as the head stamp information. That gives insight into the brand or the manufacturer of those cartridge cases as well as the caliber. I refer to my notes.

SLED Items 14, 27, and 29 through 32 were all marked with the Hornady manufacturer name and SLED Item 28, which was another, another fired cartridge case, was marked with Winchester.

Q. Is that uncommon for somebody to be shooting different brands of the same caliber bullet out of the same gun?

A. No, sir, it's not.

Q. Okay, but when you examine all seven of those casings -- well, have you, have you described to them test firing?

A. No, sir.

Q. Okay. Would you describe how that process works?

A. Sure. When we're submitted evidence to the

laboratory, we examine it. We write up many departmental worksheets, takes notes on the items. In this case we received multiple cartridge cases and projectiles.

So, I would examine each of those items to determine and look at the characteristics of them such as their caliber, the weight of those projectiles, the -- look at the rifling that's on those projectiles, the -- write down the, the head stamp information as we just discussed, and then we would look at it on the microscope as we talked about the microscope.

Another thing we'll do is we're submitted a firearm, we will examine it, determine that it's safe to fire, and we'll test fire it in our laboratory. We have a water tank that we're able to test fire to recover our cartridge cases and projectiles in and we also look at those under the microscope. So, once I test fired this Item 1, State's Exhibit pistol, I compared those test fires to the evidence that I was submitted under the microscope.

Q. Okay. So, you take your own live round ---

A. Uh-huh.

Q. --- at, at SLED and then you take the firearm. You put the live round in there and then you shoot down into a water tank. Is that -- am I ---

A. Yes, sir, that's correct.
Q. --- describing it ---
A. Uh-huh.
Q. And you take that casing that you just fired yourself that it was ejected from that pistol, and that's what you used to compare to the casings that may have been found at the crime scene?
A. That's correct.
Q. Okay, and, likewise, do you do that with a projectile that you fire down in the water? Are you able to test that against other known projectiles?
A. Yes, sir, that's correct as well.
Q. Okay, and what were your findings as far as those seven casings that were found at the crime scene in relation to the pistol, which is SLED Item Number 1? What were your findings?
A. Yes, sir, it was determined that SLED Items 14 and 27 through 32, those were all of the fired .9 millimeter Luger caliber cartridge cases, were fired by the item -- SLED Item 1 pistol. So, those cartridge cases were fired by the Item 1, state's exhibit pistol.
Q. Okay. So, every one of the shell casings that was collected and submitted to you were, in fact, your expert opinion, fired by that pistol that you're -- have up there, State's Number 70?

A. Yes, sir, that's correct.
Q. Okay. I'm looking at your report. You've got SLED Item Number 16, one fired bullet. You have SLED Items 24 through 26. Those are fired bullets listed as from Griffin's body.
A. Yes, sir.
Q. And then you have a Number 5, which is listed as a fired bullet jacket from Griffin's body.
A. Yes, sir, SLED Item 5 was a fired bullet jacket and one bullet core listed as from Griffin body.
Q. Okay. I want to, first of all, focus on SLED Item Number 16 and also 24 through 26, those being fired bullets, three of them listed as fired from Griffin -- fired bullets pulled from Griffin's body and the other one is just listed as fired bullet.
A. Yes, sir.
Q. What were your findings on those four fired bullets?
A. Yes, sir. Based on their observable, observable physical characteristics, and comparing them microscopically, I determined that SLED Items 16 and 24 through 26 were most consistent with bullets that are loaded into other .9 millimeter Luger caliber cartridges.
Q. Okay. So, consistent with, all right. Let me ask

you this.
A. Uh-huh.
Q. To cover this. We were talking about projectiles and whatnot earlier and casings. Tell the jury what the projectile is, portion of the ---
A. Sure.
Q. --- cartridge.
A. Let's see here. This is an example of what we refer to as a fired bullet. That is the projectile, if you will. This is what's loaded into the cartridge case, the cylindrical component. We have a cartridge case here. You can see it in this Ziploc pouch. So, this is the cartridge case and this is the filed bullet. This is what travels down the barrel of the firearm towards the target.
Q. Okay, and sometimes you can match the, in the rifling and the, the grooves and everything, on the projectile to a gun. Is that fair to say?
A. A firearm or pistol in this case is riff -- has a rifled barrel. So, the land and grooves that make up that rifling can mark that fired bullet as it's traveling down the barrel.
Q. Were those projectiles you tested suitable to test as, as far as whether they were fired from that particular gun?

A. Yes, sir, they were suitable.
Q. Okay, and did you make -- did you have an opinion on those projectiles, whether they were fired from Item 1?
A. Yes, sir.
Q. Okay, and what was your opinion?
A. Those SLED Item 16 and 24 through 26 were fired by SLED Item, state's exhibit pistol.
Q. All right.
A. State's Exhibit Number 71.
Q. Okay. So, three of the bullets listed as from victim Griffin's body and Number 16 just listed as fired bullet, your opinion is they were fired from that pistol, which is State's 70, SLED Item Number 1?
A. That's correct.
Q. All right. Is it, is it fair to say that sometimes these projectiles are, are badly damaged or fragmented into pieces?
A. Yes, sir, we did receive them in various conditions.
Q. Okay, and is, is, is that the case sometimes, they're damaged to the extent that they're unable to be tested or at least compared conclusively to a firearm?
A. Yes, sir. When we are examining this evidence, and looking at it under a microscope, we'll look for any

features on it or marks that we may be able to use for an identification. Sometimes, due to the damage that these projectiles have sustained traveling to a target, there's just nothing left for us to look at. So, sometimes the evidence may be what we say unsuitable to examine. So, there's just nothing there that we can use to help identify it to a particular firearm.

Q. Okay. Look at SLED Number 5 and SLED Number 19. Number 5 is listed again as a fired bullet jacket from Griffin's body. Number 19 is a fired bullet jacket fragment from Dash's body. Tell us what we're talking about when we're talking about a bullet jacket.

A. Yes, sir. So, the bullet jacket is the -- typically a metal surface that encompasses the, the bullet. If you think of kind of like an M&M, it has that harder outside layer, that chocolate layer, and inside it's got another layer. That's kind of like a, a projectile, if you will. It has a hard, a lot of times, copper jacket that surrounds the bullet and the inside material may be another type of metal. It could be -- lead is what we typically see. The jacket portion is just that metallic surface around the bullet.

Q. Okay. So, tell me what your findings are with Number 5 listed as fired bullet jacket from Griffin's body.

A. Yes, sir. Based on the physical characteristics and with microscopic comparisons of the Item 5 fired bullet jacket, it was determined that it's most consistent with being the jacket portion of a jacketed bullet loaded into some .9 millimeter Luger caliber cartridges.

Q. Okay. Were you able to match a jacket in this case to that specific pistol?

A. Yes, sir, I was able to determine that the Item 5 fired bullet jacket had been fired by the Item 1 pistol.

Q. Okay. Tell me about Item Number 19.

A. Similarly, Item 19 -- the Item 19 fired bullet jacket fragment, it was determined that it was most consistent with being the jacket portion of jacketed bullets again loaded into some .9 millimeter Luger caliber cartridges.

Q. Any other findings?

A. Yes, sir.

Q. What was that?

A. It was determined that the Item 19 fired bullet jacket fragment was also fired by the Item 1 pistol.

Q. Okay. Moving onto SLED Item Number 22 is a -- one fired bullet jacket fragment, one bullet jacket fragment, two pieces of lead listed as from victim Dash's body. What were your findings on Number 22?

A. Yes, sir. Based on its observable physical characteristics, the Item 22 fired bullet jacket fragment component was most consistent with being the jacket portion of jacketed bullets loaded into some nominal .38 caliber cartridges. The nominal .38 caliber family includes .9 millimeter Luger, .38 Special, and .357 Magnum among other calibers.

Q. Okay. So, that, that one is, is just enough that -- now, was that one more, more badly damaged than some of the other bullet jackets you tested?

A. When we're examining that specific item, I just did not have enough measurements to help determine that it was specifically a .9 millimeter Luger like others. Based on the evidence that I have, I was able to just say it was consistent with being a nominal .38. Nominal .38 is kind of the umbrella family, if you will, that encompasses other calibers such as the .9 millimeter Luger, .380 auto, .357 Magnum, .38 Special. I just did not have enough of that item or, excuse me, that projectile to, to determine exactly what it may have been.

Q. Okay, and I, I just kind of -- I'm about to conclude but that brings me to -- I'm looking at page 3, page 3 of your report.

A. Yes, sir.

Q. You're talking about Items 4, 5, 15, 17, 18, 19, 20, 21, and 22. Describe that there. You, you kind of described some of that earlier.

A. Sure. Some of the other items, those all projectiles that were submitted to the laboratory. Sometimes, like we were talking, the items are just too small or too damaged that we're unable to determine their caliber based on their size and weight like we typically would. Out of the items I was submitted, due to damage and/or their small limited size, I could not determine the caliber or calibers of Item 4, Item -- the Item 5 bullet core, Item 15, Item 17, Item 18, the Item 19 bullet core, and piece of lead, Item 20, Item 21, the Item 22 bullet jacket fragment, and piece of lead -- and pieces of lead.

Additionally, out of those items, Item 17, fired bullet jacket, was suitable -- or, excuse me, may not be suitable for identification. So, that means it just did not have a lot of marks left on it for us to look at under the microscope.

The other items were SLED Item 4, the five bullet core; Item 15; the Item 17 pieces of lead; Item 18; Item 19, bullet core and pieces of lead; Item 20; Item 21; the Item 22, bullet jacket fragment pieces of lead. They were unsuitable. So, when I looked at all of those

items, those were all projectiles found at the scene. I was unable to do anything with them. There was just no markings there that I could use for any type of identification.

Q. Okay. So, did -- you test what you can but some things are just too damaged or too fragmented for you to do a proper examination?

A. That's correct.

Q. But just, just to conclude, you, you did find that Item 16 was fired by -- which is a fired bullet, was fired by Item 1, the pistol?

A. Yes, sir.

Q. All right. Items 24 through 26 were fired bullets from Griffin's body and you testified that that was fired by SLED Item 1, which is State's Number 70?

A. Yes, sir.

Q. You said item -- SLED Item Number 5, which is a fired bullet jacket from Griffin's body, was fired by SLED Item 1, which is State's Number 70?

A. Yes, sir.

Q. You tested Number 19, which you list as a fired bullet jacket fragment from Antonio Dash's body, and, likewise, you determined, in your expert opinion, that was fired by SLED Item 1, which is State's Number 70.

A. Yes, sir, that's correct.

Q. Okay, and then finally you determined that shell casings, which is SLED Item Number 14 and then SLED Items 27 through 32, those were all fired casings, you determined that they were all fired by SLED Item 1, which, again, would you hold it up for the jury to see?

A. Yes, sir.

Q. That is State's Number 70, which is an olive green .9 millimeter pistol?

A. Yes, sir.

Q. Okay. All right. Okay.

MR. SCOTT: Thank you, Special Agent Greer. Please answer any questions defense has for you.

THE COURT: Cross-examination.

MR. LUKE SHEALEY: May it please the Court?

THE COURT: Yes, sir.

CROSS-EXAMINATION BY MR. LUKE SHEALEY:

Q. Hey, Agent Greer. How you doing?

A. Good afternoon. I'm well. Thank you.

Q. Now, you and I have talked before about these exact topics in this exact case in a prior hearing around March. You remember that?

A. Yes, sir, I do remember the hearing.

Q. And you came in this courthouse and testified under oath, just like you're doing today, about your analysis of the firearms, the shell casings, and projectiles in

this case, right?
A. Yes, sir.
Q. And you may not know this but I, I have obtained a transcript from that hearing. I don't think you're going to need it. But, if you do, I've got it, okay?
A. Okay.
Q. There's not any reason why your testimony would change, right?
A. No, sir.
Q. Because you're a scientist fundamentally, correct?
A. I'm a forensic scientist in our laboratory.
Q. And science is science. It doesn't have bias or anything else. It's just it's data. It's analysis based on your training and experience, correct?
A. I examine the items of evidence that are submitted. Based on my training and experience, I arrive at those conclusions, yes, sir.
Q. Okay. I would like to show you photographs as part of your case file in this case and let me know if you do recognize them. You did probably review your file prior to coming into court today.
A. Yes, sir.
(A PAUSE.)
A. So, these thumbnails are so small.
Q. It's not a trick. I promise.

A. I know. It's just ---

THE COURT: How many more of those does he have to review?

MR. LUKE SHEALEY: One?

WITNESS: I'm on the last one, Judge.

A. Yes, sir, I do recognize these photos. Some of them do appear to have been zoomed in farther than my thumbnail has. But I do seem to recognize the material that's in the photographs.

Q. Okay. Do these fairly and accurately depict the items of evidence that you were dealing with that -- for your analysis in this case?

A. It appears so.

Q. Do you recognize your P.S.G. signature?

A. Yes, sir, I do.

Q. Paul, something middle name S., Greer, right?

A. Yes, sir.

Q. You recognize your lab number and everything else, correct?

A. Yes, sir, in that photo.

Q. And, and you did, I assume, with all of these that came, correct?

A. Yes, sir. If I could see that? And some of those appear to be from our case file that we issue through our coordinator that releases documents from the lab.

Q. Right.
A. Okay.
MR. LUKE SHEALEY: Your Honor, at this time I would seek to admit ---
MR. SCOTT: I have no objection, Your Honor.
MR. LUKE SHEALEY: All right. I would be admitting, for the record, Items 78 through 90 into evidence.
THE COURT: Admitted without objection.
(PHOTOGRAPHS INDIVIDUALLY MARKED AS DEFENDANT'S EXHIBIT NUMBERS 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, AND 90 RECEIVED INTO EVIDENCE.)
Q. And, Mr. Greer, I want to introduce these photos because I find this important to show where things come from and, and you just, so the jury understands, you receive packages of documents in manila envelopes quite often, right?
A. Yes, sir.
Q. Documented evidence, evidence with chains of custody so that you know it's coming from a certain agency, right?
A. Yes, sir.
Q. And, and, in this instance, let's say these, these projectiles were recovered from the bodies of two young men and then they were shipped by the coroner's office

or pathologist's office to your department basically, right?

A. When items are submitted to the SLED laboratory, they can be submitted from any of our agencies across the state. So, they come from coroner's offices, from local sheriffs, local police and into our laboratory.

Q. So, I want to show you what's probably -- you looked at perhaps with a gun. But I think Item Number 2 in your case file would be the magazine for the firearm that you tested, correct?

A. Yes, sir.

Q. And you could see that it holds seventeen rounds of ammunition at least in the magazine, right?

A. Yes, sir, according to the witness holes on the back of the magazines, it is marked seventeen.

Q. Right. It will be physically incapable of holding more, that particular magazine?

A. During my testing, I also was able to load it with seventeen cartridges.

Q. Right, but you know, being an expert in guns, that a magazine, even if it's full, you can rack the slide, which would cycle a live round into the chamber, and then you could eject the magazine and top it off having eighteen, correct?

A. That would be a total count to include the one in

the chamber of the firearm as well as seventeen additionally in the magazine.

Q. Right, and that's a common practice actually with law enforcement, correct?

A. It could be.

Q. But that would be, in terms of the number count, that could be -- that is what the maximum capacity of a gun with seventeen would hold if it's a semiautomatic pistol with one in the chamber, right?

A. Yeah, a firearm using that magazine could load seventeen .9 millimeter Luger cal -- caliber cartridges in it and then one -- with one cartridge in the chamber, that would total eighteen.

Q. And are you aware that this gun was recovered with six rounds in the magazine and one in the chamber holding seven?

A. No, sir.

Q. Okay. Now let's talk about Mr. Dash. So, you received these photos from the coroner's office or the pathology department and they are labeled with handwriting that is not yours, right?

A. That's correct.

Q. In some instances?

A. That's correct.

Q. So, you can see that you've got your case numbers

and like an I-4 means that's your Item 4 that you tested and identified as Number 4, right?

A. That's correct.

Q. Item 17 and so on. All these are associated with projectile, projectile fragments coming from Mr. Dash's body, right?

A. I would have to check or review that to know. When the items are submitted to SLED, things are submitted to our Evidence Control Department. I typically do not know anything about the location other than what's listed on our submission paperwork or that something written on this package. But I do not know anything about its time before it arrived to the lab.

Q. And you don't have personal knowledge, but you can read and what, what you see on each of these envelopes is the words Antonio Dash, correct?

A. Yes, sir.

Q. And you see they have contents listed, correct? For example, we've got projectile fragment from L upper arm, right? You can read that, correct?

A. Yes, sir.

Q. Fragment there from ear, correct?

A. Yes, sir.

Q. Temporal parietal, temporal nasopharyngeal, right? You can read all that.

A. Yes, sir.
Q. You don't know where they're exactly pulled but that was written on these envelopes that you tested, correct?
A. Yeah. Yes, sir, the things written on there from their recovery location or from the submitter.
Q. Now, I want to talk to you about Items Number 17 in your report and Items Number 2 and these are concerning, as we know, Mr. Dash. You agree with that? At least as labeled as what you just described. Here is Item 17 and the name Antonio Dash, jacket fragment from ear, correct?
A. Yes, sir, and that's listed in our submission paperwork. How I, I received it was from victim Dash body.
Q. Right, but what you have written, although you didn't write it, has a little more information than that, correct?
A. There is more information.
Q. Okay, and Item 22 down here, fragments from nasopharynx, correct?
A. Yes, sir, and submitted to the SLED laboratory. It was, again, listed as from victim Dash body.
Q. So, I want to show you, when you opened up that envelope, and you see that you have your Item 22 marker,

these are the contents that you pulled out and tested for projectile comparison analysis, right?

A. Yes, sir. Item 22 was comprised of one fired bullet jacket fragment, one bullet jacket fragment, and two pieces of lead.

Q. Okay, and that's consistent with one, one bullet contents there potentially?

A. It's possible.

Q. Right, and you testified regarding this, too, that the Items 22 and Item 17 are consistent with -- and here's 17 -- two bullets that are fragmented and are pulled out of Mr. Dash's head. You agree that you testified to that before?

A. It was determined that Item 17 was a fired bullet jacket fragment and two pieces of lead, and those were listed as from victim Dash body.

Q. All right, and I can get the transcript but you agree that's generally consistent with contents from Item 17 and Item 22 coming from Mr. Dash's temporal lobe and nasopharynx as being consistent with two prior projectiles although they're fragmented, right? You testified to that in the hearing on this case?

A. It's possible when those are recovered from locations -- again, I don't know anything about the location in which they were recovered from. That would

be answered by the pathologist who performed the autopsy. But it's possible that those are components of one or, or two or however many projectiles. Those are just components.

Q. Right. Just based on materials we're looking at.

A. Yes, sir.

Q. And Items 22 and Item 17 are specially significant in your case because you list, on page 4 of your report, that those items are -- basically they're inconclusive in this case, correct?

A. Yes, sir, the Item 17 fired bullet jacket fragment and the Item 22 fired bullet jacket fragment, when I compared that with our test fires from the Item 1 pistol and those other projectiles that we confirmed were fired by the pistol, the results of those comparisons were inconclusive. What that basically means is, due to the damage that those items sustained, again, we were unable to determine if they were, Item 17 of the .22 fired bullet jacket fragments, were fired by Item 1 or by another firearm that had similar characteristics. There just wasn't enough for us to identify it or negate it. So, that's how we ended up at the inconclusive conclusion. It's just I, I don't know. Based on what we have available, we cannot tell if those were fired by Item 1 or by another firearm.

Q. And Item 1 is the gun in evidence, correct?
A. Yes, sir, that's State's Exhibit 70, Item -- SLED Item 1.
Q. And looking at that page 4 of your report, cannot be determined whether 17 or 22 were fired by Item 1 pistol or some other firearm or firearms, correct?
A. Yes, sir, it's possible that those were fired by two other firearms that were not Item 1. But, again, they also could have both been fired by Item 1.
Q. Now, you -- you and I have had phone calls before, right?
A. Yes, sir. It's been a while.
Q. And it was -- it has and we've testified just like this except without a jury. But you gave me some very helpful information. Tell me if you recall this. We talked about four different categories of certainty as you're doing a match. Do you recall that?
A. At SLED, we issue four conclusions on our results.
Q. Would one be a positive match?
A. Yes, sir, that's correct.
Q. And that, for layman's terms, means that the stars aligned. You're getting tons of good data in forms of markings that identify a projectile or a shell casing to some item in evidence that you're testing against, right?

A. Yes, sir. If we issue a positive conclusion, that means we are able to identify the items to each other to a part -- particular firearm as having been fired by that -- a certain firearm.

Q. And you're using a microscope, right?

A. Yes, sir.

Q. The other thing is the opposite on the spectrum would be a negative match, correct?

A. Yes, sir.

Q. And that means that you've got plenty of data to look at. It's nice and clean. You're able to pull characteristics off it. But guess what? This does not match what you have to compare it to, right?

A. That's correct. If we issue a negative conclusion, that means that some of the characteristics on those items did not align. They were -- they did not match. They were not in agreement. So, we can determine that they were fired by separate firearms.

Q. Okay, and the third type that you testified to before is something called unsuitable, right?

A. Yes, sir.

Q. And this, this is your, your realm of having just a lot of damage or tearing and not being able to really get data out of it. It's either too damaged. Just for reasons unknown, you -- you're not able to pull enough

data out of it to say -- to have it really be useful in any way. Is that fair?

A. If we issue an unsuit -- unsuitable at the conclusion, that means, based on our examinations, whether that be looking at it with our naked eye or looking at it under the microscope, there's no material or markings there that we're able to use to help identify it to another particular firearm or another group of items.

Q. And the last one, which is where we are with Item 17 and 22 in this case from Mr. Dash's head, is inconclusive, right?

A. Yes, sir.

Q. And that, you have told me a direct quote before, is a fancy way for saying I don't know, right?

A. That's correct.

Q. And that isn't -- it's, it's you don't know because, yes, you might not be drawing the right data off of it. But, in this case, like with Item 22, you are able to get class characteristics out of that particular item. So, it's not that you're not getting data, right?

A. Right. If we issue a inconclusive, it means that, based on what we have, we're able to compare it because it does share some similar characteristics. But based

on the remaining markings there, we're not able to determine if those cartridge cases or those fired bullets were -- excuse me -- the markings on those fired bullets or cartridge cases were made by the same firearm or by a different firearm.

Q. Okay. The same firearm or a different firearm?

A. Yes, sir.

Q. And, again, tell this jury what the class characteristics you were able to pull out Item 22, which came from Mr. Dash's head.

A. When we're talking about class characteristics, those are overall large features that are determined by the manufacturer. For the Item 22 fired bullet jacket fragment, we're talking about the caliber, the, the rifling type. Whether it has conventional lands and grooves or polygonal lands and grooves, and that's something we haven't discussed, but those were all class characteristics. And when we're doing our examination, we're going to look at things kind of like we're climbing a ladder.

They share similar class characteristics or the same class characteristics, we're going to continue with our examination. In this case, it was determined that all these were similar, had the same class characteristics. So, we were able to keep taking our

examinations a step further in order to determine if they were all fired by the same gun or by the Item 1 pistol or by another firearm.

The Item 22 fired bullet jacket fragment, I was able to determine just that it was a nominal .38 caliber. Again, that included the .9 millimeter Luger caliber, .38 Special, .357 Magnum. And that also includes others that were not listed.

As far as the rifling, the -- that small fragment had six lands and grooves on it and its direction of twists was to the right and its rifling type was conventional. And those are all features that are in the barrel of the firearm that help comprise the rifling. That gives the bullet the rotary spin and twists so it can travel towards a target. And all of those were consistent with the Item 1 pistol. So, that's why I compared it to the test fires from that pistol.

Q. Okay. So, listed as inconclusive were 17 and Number 22. You just gave us a lot of information about Number 22. But you agree it could have fired a .9 millimeter, correct?

A. I'm sorry. Can you repeat the question?

Q. .22 could have been a .9 millimeter based on the class characteristics, correct?

A. Yes. The Item 22 fired bullet jacket fragment is consistent with being -- with nominal .38, which includes .9 millimeter Luger.

Q. Okay. It also includes a .38, right?

A. That's possible.

Q. A .38 Special?

A. .38 Special caliber, yes, sir.

Q. And a .357 Magnum, correct?

A. Yes, sir, those are three calibers that fall into that nominal .38 family.

Q. And you testified before that those could also be fired by a gun that is, in fact, a revolver based on those class characteristics.

A. Some of those calibers are typically associated with a revolver type caliber. However, again, the class characteristics of the Item 22 fired bullet jacket fragment were consistent with those of the Item 1 pistol. So, that's why we compared it there.

Q. And it could have been fired by a revolver is your testimony?

A. It could have been fired by another firearm with similar characteristics.

Q. Such as a revolver?

A. It's possible if it shared those same characteristics.

Q. It would not be precluded from being fired out of a revolver?
A. It's possible that it could have.
Q. All right. So, we got -- we talked about Mr. Dash and the contents of what you analyzed from him. I want to talk to you about some other photos that are in evidence. Again, we're moving onto Mr. Griffin and this is Number 82. Just like Mr. Dash, these envelopes are coming to you from another agency with writing on it that you didn't write, correct?
A. That's correct.
Q. But you can see that it says Eric Griffin, correct? We've got your Item Number 5 that you wrote, which is P.S.G., your initials, right?
A. Yes, sir.
Q. And it's -- Item 5 is a projectile coming from the T-4 area of Mr. Griffin, correct?
A. As submitted to the laboratory, it was from victim Griffin body.
Q. Right, but this has more information than what is -- as submitted to the laboratory, correct?
A. There is more information. Again, I do not know the accuracy or anything ---
Q. All right.
A. --- about those locations.

Q. You weren't there; you weren't at the autopsy. You just know what's written on the contents that are coming to you to open and analyze, correct?

A. Yes, sir. I can just see what's written on there, again, and how it was submitted to the laboratory based on submission procedures.

Q. And you got your Item 24, which lists Eric Griffin, contents from projectile from back, correct?

A. Yes, sir, it says that there on the envelope and again on the submission paperwork from Griffin body.

Q. You got your Item 25, projectile from neck. You agree?

A. That's what's on the envelope there, yes, sir, and, again on the submission paperwork from victim Griffin body.

Q. And then you got your Item 27, projectile from right arm, correct?

A. Oh, that's Item 26.

Q. 26.

A. Your ---

Q. Correct.

A. And from victim Griffin body.

Q. Okay. So, let's open up those items. You can see Item 5 here with your lab number, and that's where you open it up and you're photographing as part of your,

your duties, correct?
A. Yes, sir.
Q. And you agree you got a fairly intact jacket and this would be called a core, right, that purple -- that grayish part?
A. Yes, sir, that is the jacket component there and the bullet core.
Q. Right here where I'm -- my finger is?
A. Yes, sir.
Q. And you're not really able to get all these class characteristics and all that out of a core, right?
A. Not typically. Sometimes. But those identifying features, those tiny scratches, we typically would not see there on the core. Those would be on that jacket material from the copper colored component there on the left side because that, that covers that core. So, it's not -- the core's not making contact with the barrel.
Q. And the core is typically inside the projectile. Like if a Tootsie Roll lollipop, it's, it's the ---
A. It's the center.
Q. It's the Tootsie center, right?
A. That's correct.
Q. Okay. We've got Item 24. Do you recognize that? This -- you would agree that this is a fairly mushroom -- mushroomed out projectile and intact?

A. Yes, sir, that is a fired bullet.
Q. Okay, and you've already testified for Mr. Scott that all of those projectiles coming from Mr. Griffin did match Item 1 gun, correct?
A. Yes, sir, the Item 5 fired bullet jacket and Items 24 through 26, which were listed as from victim Griffin body, were fired by SLED Item 1, the State's Exhibit 70 pistol.
Q. There's Number 25, right, another mushroomed out, intact jacket and core?
A. Yes, sir, which was determined to be one fired bullet.
Q. Right. Item 26, fair -- fairly consistent mushroomed out jacket item with the core, right?
A. Yes, sir. Again, one fired bullet.
Q. And so also produced to me through your work were some of these items of evidence that came from a crime scene that you then wrote your own lab numbers on. Do you agree with that? For instance, down here you recognize your handiwork. That would be Item 28. You see your initials that you're seeing that document, that bag with whatever item of evidence that is, right?
A. Those are actually one of our DNA serologist handwriting. I would have initialed by that after she had completed her examination.

Q. Okay, and you see your initials there as well?
A. Yes, sir.
Q. Okay, but that's regarding shell casings. You can see that, right?
A. Yes, sir, and I believe that's SLED Item 28. Is that correct?
Q. Yes, and items of -- let's see. You have all these bags to talk about shell casings. But let's talk about Item Number 15, which you recognize as a, a core. Do you agree with that?
A. It was determined that SLED Item 15 was one bullet core.
Q. Okay, and you could see here that it's written that it's found on the floor in front -- in -- from floor of room. You didn't write that, but that's what you see on the envelope?
A. Yes, sir, I did not write that. But that is -- appears what's written on the envelope.
Q. And there is that core, correct?
A. Yes, sir.
Q. And if we go back to our bags of evidence coming to you from the crime scene, we can also see Item 16, your SLED Item 16, which lists one fired projectile, right?
A. Yes, sir, Item 16 was one fired bullet.
Q. Uh-huh, and then you recall that ---

A. Yes, sir.
Q. --- as being that item? And I want to do some basic math and we've been counting a little bit as I've been walking you through these projectiles and where they're coming from on the two, two decedents' bodies. You agree with that?
A. Yes, sir, we've been discussing these projectiles recovered.
Q. And we went through the four as we easily identified mushroomed out, intact bullets with cores from Eric Griffin body that you would have, right? You agree with that number of four intact bullets?
A. Yes, sir. We had three that I determined to be a fired bullet and then the last one was SLED Item 5, which was submitted as one fired bullet jacket and one bullet core, which could have potentially been the same projectile at one time.
Q. And you add those up and that's four, right?
A. Yes, sir, if that came from -- those cores and jackets were one projectile, that would be a total of four.
Q. Okay. Contributed to Mr. Griffin for your documentation, right?
A. Yes, sir, that's correct.
Q. And now it gets a little harder when we start

talking about Mr. Dash because you and I have had a conversation about this before and you, you have agreed, and we talked about it, that the Items 17 and 22 are consistent with being associated with two fragmented projectiles, right?

A. Yes, sir, that's possible.

Q. And you recall testifying about that same thing before in our prior hearing?

A. Yes, sir, those items that submitted -- those could have been from two, two bullets that fragmented out.

Q. And you -- you're not aware what comes from the -- are you privy to the information that Mr. Dash had two entry wounds to his head but no exit wounds? Are you privy to that?

A. No, sir, I knew nothing about the details of this case.

Q. So, you identified four from Mr. Griffin's body, consistent with two from Mr. Dash from his head area. You identified this pristine projectile, which we have already determined came to you in a bag saying from the floor, right? Your Item Number 16?

A. Yes, sir, it was -- there was no location on our submission paperwork. Just based on what was written on that -- the envelope there.

Q. It just said it was on the floor, right?

A. Yes, sir.
Q. So, that's one. That's clear. That's intact. There's really no discussion about that being one projectile fired.
A. Yes. Yes, sir, that's correct. That's one projectile.
Q. And then we've talked about this core and that is definitely the Tootsie Roll from a projectile in this case that came to you from the floor and you've already testified about that. Do you agree with that?
A. Yes, that's SLED Item 15, one bullet core.
Q. And that was -- that was found on the floor. And you, you know that that is associated with a fired projectile, right?
A. Yes, sir.
Q. And the ones from Mr. Griffin are, are in -- fairly intact and pretty easy to kind of play around with, right?
A. Yes, sir, I was able to, to compare those.
Q. And again, the core is what is in the middle of the projectile?
A. Yes, sir.
Q. And I'm a lawyer, so I'm not very good at math, but four plus two plus one plus one, four, five six, that's eight, right?

A. Yes, sir.
Q. Okay, and you -- and I'd asked you this very same question before. Do you recall that?
A. I do remember us discussing some of this at the hearing.
Q. And you agree with me that this -- the possibility of eight projectiles in this case is a fair possibility?
A. It's possible. There were other fragments that were submitted from the autopsy and I...
Q. Now, I want to talk to you about guns since you, you are definitely an expert in the -- in -- regarding the guns, which is why I stipulated to that, and I'm going to ask you again to do some basic math with me and I'll ask you some hypotheticals and I can do that because you're an expert. So -- all right. We've already talked about this magazine that came to you as part of this case and you testified holds seventeen, right?
A. Yes, sir.
Q. And has the capacity to even -- well, a, a firearm would have the capacity to hold one more if you chambered a round, right? Right?
A. Yes, sir.
Q. So that's eighteen and you said -- I think you said that you had no information regarding this weapon being

returned with seven live rounds of ammunition then, right?

A. That's correct. I have no information regarding that.

Q. But if I were, if I were in law enforcement, and I were to provide you that magazine and tell you that I found a .9 millimeter gun with a round in the chamber, and I tell you I've got a case where it was shot thirteen times, we had thirteen distinct bullet wounds, how many, how many would I have left -- should have had left in that, in that magazine?

A. I mean, eighteen minus thirteen is five.

Q. Okay. Now let's do it the opposite way. If I had a magazine such as the one in evidence, and I told you that, that that magazine had six and the gun associated had one in the chamber, so we're talking about seven, correct?

A. Uh-huh.

Q. And I told you that I got a crime scene with thirteen distinct bullet wounds, what's thirteen plus seven?

A. Thirteen plus seven is twenty.

Q. Okay, and I told you this was the gun. You would tell me that's impossible because this magazine only holds seventeen, right?

A. The magazine that was submitted, I was able to load seventeen cartridges in.

Q. Right. So, if this gun had seven in the magazine and I told you we had a crime scene with thirteen distinct bullet wounds, even with -- topped with one in the chamber, you'd be at twenty and you'd know that magazine plus one couldn't -- that would be too much capacity, right?

A. Can you repeat the question?

Q. If I have that magazine provided to you with seven -- six, six -- well, I told you it was -- had six in the, in the magazine and one was found in the chamber of that weapon, right?

A. Uh-huh. Yes, sir.

Q. You with me?

A. Yes, sir.

Q. Total of seven?

A. Uh-huh.

Q. And I told you I had information from the crime scene that thirteen distinct bullet wounds occurred to some, some decedents, and I told you I want to know if it's from that firearm, without reloading, that would be impossible, correct?

A. I'm, I'm not sure I understand the question.

Q. The maximum capacity of that magazine is what?

A. With that magazine, it's seventeen. If that's loaded into the firearm, that would be an additional. So, that would be eighteen.

Q. Okay, and if it was returned with seven ---

A. Uh-huh.

Q. --- and I told you there were thirteen distinct bullet wounds from that gun firing, thirteen plus seven is what?

A. That's twenty.

Q. That magazine, even plus one chambered, would not allow that weapon to hold twenty, would it not?

A. Yes, sir, you cannot put twenty cartridges in at one time.

Q. Even with this hypothesis, let's say there's only twelve distinct gunshot wounds, and I want you to tell me: With a magazine with seven returned to you for testing and has been fired twelve times, that would equal nineteen, correct?

A. Yes.

Q. Eighteen plus one ---

A. Yes, sir.

Q. --- or seventeen plus one?

A. Yes, sir, you would need eighteen cartridges.

Q. Right. So, nineteen would be too much for that magazine, even chambered a round, under that hypothesis,

correct?
A. Yes, sir.
Q. Okay.
MR. LUKE SHEALEY: Nothing further at this point.
THE COURT: Any redirect?
REDIRECT EXAMINATION BY MR. SCOTT:
Q. We -- do you know if those rounds were full metal jacket rounds? Can you tell?
A. Oh, which rounds were, were you speaking of?
Q. The .9 millimeter that you've tested in this case. Were any of them full metal jacketed?
A. The fired bullets -- let's see here. I was able to determine that Item 16, a fired bullet, was a full metal jacket round nose.
Q. 16?
A. Yes, sir.
Q. Okay.
A. And based on my examination, that's the only one that I could determine for sure that it was a full metal jacketed projectile.
Q. Okay, but like some of these other examinations, some of those could have been full metal jacket. Maybe you just didn't have enough to test?
A. It's possible, especially with those fragments when we just don't have enough of that material to make a

determination. We just know that it was from some type of jacketed projectile at some point.

Q. Tell me about the .9 millimeter round, specifically a full metal jacketed .9 millimeter round. Is that a powerful round?

A. Yes, sir, it's a .9 millimeter Luger caliber. The full metal jacket, that just refers to the way the jacket wraps around that projectile and that's fairly -- a fairly common caliber and projectile type.

Q. Okay. That's a powerful round and can pass through solid items?

A. Yes, sir, it could.

Q. Since -- you said you were qualified to do hypotheticals earlier. The defense attorney was asking you that.

A. He was going to ask me hypothetical questions.

Q. Okay. Well, let's say for the sake of hypotheticals, we have two watermelons lined up. Okay. They were side by side, okay?

A. Uh-huh.

Q. Why don't we make it three? One watermelon, another watermelon, and a third watermelon. And I took a .9 millimeter and I fired straight through that first watermelon, would you expect it to pass through that watermelon, a ---

A. It ---
Q. --- .9 millimeter round?
A. That's not something I've ever participated in. However, you know, based on shooting with ballistic gel or seeing demonstrations with that, I would expect it, it could pass through those watermelons.
Q. Okay. It's a big round. So, that .9 millimeter could pass through that first watermelon and then pass through the second watermelon and then pass through the third watermelon. We fired how many rounds?
A. Just one.
Q. Just one. How many bullet holes do we have in my hype -- hypo -- hypothetical?
A. Yes, sir, you would have six there.
Q. Okay, and we have one fired round but we have six holes, right?
A. Correct.
Q. Because that's a big round. And if I have two people who were scuffling, maybe they're laying on top of each other, maybe they're nearby, and I shoot one ---
MR. LUKE SHEALEY: Objection, Your Honor. I think he's qualified to discuss hypotheticals with his expertise on firearms. But I don't know about crime scene investigation or forensic medical examining in which he's talking about people on the ground. So, I, I

don't think ---

THE COURT: The objection's overruled.

Q. Okay. So, again, before I was interrupted, we're talking about two people sitting down on top of one another ---

A. Uh-huh.

Q. --- and I shoot right up close to them with that .9 millimeter full metal jacket bullet, and it goes through the first guy, and then it goes into the second guy, in that hypothetical, I've got one round accounting for one entry, one exit, and at least one other entry, right?

A. That's correct.

Q. So we can, we can do all the mathematics and hypotheticals we want. Bullets do crazy things, don't they?

A. They can.

Q. Okay, and they don't always even travel in a straight path, do they, once they hit an object?

A. An object in the path of that bullet could -- can reroute it, yes, sir.

Q. Okay. In my hypothetical, it hits bone. Does it scatter, sometimes ---

A. Now ---

Q. --- fragment?

A. I do receive and did receive in this case fragments

from autopsy that have come from a, a solid projectile and have fragmented off, yes, sir.

Q. Well, so that was a fun mathematical exercise he did with you. But we can't really determine anything other than we have seven casings at the scene, at least that we recovered, and we have a number of fragmented bullets. Is that correct?

A. That's correct.

MR. LUKE SHEALEY: Objection to leading.

THE COURT: Don't lead the witness.

Q. Okay. Do you have any evidence whatsoever of a, a revolver being used in this particular case?

A. When I issued the inconclusive on the Item 17 fired bullet jacket fragment and the Item 22 fired bullet jacket fragment, I was able to compare those with the test bullets from the Item 1 pistol because those characteristics were similar or the same. And so that's why I kept climbing that ladder to compare it.

With the results being inconclusive, again, that means those two items could have been fired by Item 1 or by another firearm or firearms. However, I -- they did share similar characteristics, which is why I compare them, meaning it could have been fired by Item 1 or it could have been fired by another gun that had those similar class characteristics.

Q. Okay, but if I told you, hey, 17 and 22 were fired from an unknown gun, that would be speculation?
A. It's possible they could have been fired by an unknown gun. Again, it, it -- that could have been fired by Item 1.
Q. But it would be speculation for me to say that as a known?
A. Can you repeat the question?
Q. If I told you 17 and 22, it was fired from some unknown gun, that would be speculation, would it not?
A. Yes, sir.
Q. Okay, and if I said there's an unknown revolver used in this case, you're never going to see it, but I'm just here to tell you there was a revolver, that, too, would be speculation?
A. Yes, sir. Again, those Item 17 bullet jacket and Item 22 could have been fired by Item 1 or by another firearm. But it would have to share those similar class characteristics that Item 1 had.
Q. So, if somebody later on said that a revolver was used, that would be speculative?
MR. LUKE SHEALEY: Objection. Asked and answered.
Q. And your answer was?
THE COURT: Overruled.
A. Yes.

Q. Okay.

MR. SCOTT: Thank you.

RECROSS-EXAMINATION BY MR. LUKE SHEALEY:

Q. Mr. Greer, we don't have to speculate, right? You've testified. You're under oath. Do you agree with that?

A. Yes, sir.

Q. Talk about Item 22. You gave me a class of characteristics that you were able to pull out of that based on your data, right?

A. Yes, sir.

Q. Nominal .38, right?

A. Yes, sir.

Q. Which would include being fired by a .9 millimeter, right?

A. Yes, sir.

Q. Could have been fired by a .38 Special, right?

A. It's possible.

Q. .357 Magnum, right?

A. It's possible.

Q. And you've testified scientifically that, based on that class characteristic, that would also include being possible to being fired, fired by a revolver?

A. It's possible if that re -- if a revolver were to have those same class characteristics. But, again,

those, those two items shared the same as Item 1 pistol. So, it could have been fired. There just wasn't enough for us to determine if it was or wasn't, yes, sir.

Q. And there are plenty of revolvers on the market today that would share those class characteristics?

A. Yes, sir, there are some that may share it.

MR. LUKE SHEALEY: Nothing further.

THE COURT: You may step down.

(THE WITNESS EXITS THE STAND.)

THE COURT: Okay. We'll take another little break. If you'll go to the jury room. Please do not discuss the case.

(THE JURY EXITS AT 4:17 PM.)

THE COURT: We'll take a break. About ten minutes.

(OFF THE RECORD.)

THE COURT: You ready for the jury?

MR. SCOTT: We are, Your Honor.

THE COURT: Bring them on.

(THE JURY ENTERS AT 4:39 PM.)

THE COURT: Next witness.

MR. SCOTT: Your Honor, the state calls Dr. Darren Monroe.

DARREN MONROE, BEING FIRST DULY SWORN, TESTIFIES AS FOLLOWS:

CLERK OF COURT: Please have a seat. State your

full name for the record.

WITNESS: Darren Monroe.

VOIR DIRE EXAMINATION BY MR. SCOTT:

Q. All right, Dr. Monroe, where are you employed?

A. I'm employed by a private physician group here in Columbia called Professional Pathology Services.

Q. Okay, and what is your profession?

A. I'm a forensic pathologist.

Q. And what is forensic pathology?

A. Forensic pathology is the branch of medicine that uses our knowledge of science and medicine to diagnose diseases and injuries of the human body.

Q. Okay.

A. And we do that by performing autopsies.

Q. Okay. So -- but you are doctor?

A. Yes, a medical doctor.

Q. Okay. So, of course you've had to get an undergraduate degree and you went to med school, and then any -- what other further training do you have to go to be a forensic pathologist?

A. After medical school, there's four years of residency in pathology, and then after pathology there's another year of fellowship in forensic pathology specifically.

Q. Okay, and did you answer already how, how long have

you been practicing as a pathologist?

A. I've been out of training for eight and a half years.

Q. Okay. Any clue how many autopsies you've performed?

A. Several thousand.

Q. Okay, and have you been qualified as an expert before?

A. Yes, I have.

Q. Do you know how many times?

A. Twenty or so.

Q. Okay. Expert in forensic pathology?

A. Yes.

MR. SCOTT: Your Honor, the state offers Dr. Monroe as an expert in forensic pathology.

MR. LUKE SHEALEY: Just brief voir dire.

VOIR DIRE BY MR. LUKE SHEALEY:

Q. What, what year did you graduate from medical school?

A. 2009.

Q. How old are you, sir?

A. Forty-two.

Q. And how long have you been at Professional Pathology Services?

A. Eight and a half years.

Q. Okay. So, you, you did say you've been working since your training for eight and a half years. So, has that been the job the whole time at that location?

A. Yes.

MR. LUKE SHEALEY: Okay. I don't, I don't object to his qualifications.

THE COURT: He's qualified as an, an expert in forensic pathology.

MR. SCOTT: Thank you, Your Honor.

DIRECT EXAMINATION BY MR. SCOTT:

Q. How many autopsies did you say?

A. Several thousand.

Q. Okay, and did you have an occasion to perform autopsies on Antonio Dash and Eric Griffin?

A. Yes, I did.

Q. Okay. My notes show it looks like that you performed Mr. Dash's autopsy first on February 7, 2019. Is that accurate?

A. Yes, it is. Mr. Dash was first.

Q. Okay. What were your findings with Mr. Dash?

A. Mr. Dash had been shot seven times and also had two blunt force injuries on his head.

Q. Okay. Of the seven times he was shot, how many projectiles were recovered?

A. Of the seven times he was shot, two projectiles

were recovered as we recovered the bullets from inside the body.

Q. Okay. How many through and through wounds did Mr. Dash have?

A. Five.

Q. Okay. Could you describe, I guess, his gunshot wounds? You have them labeled as one through seven. Let's see. I'll try to -- you, you, you per -- you've drawn a diagram showing the location of some of these wounds. Is that correct?

A. Yes, I have.

Q. Okay. Is that what State's 36 is?

A. Yes, that's him.

MR. SCOTT: Okay. Your Honor, the state offers State's 36 for admission into evidence.

MR. LUKE SHEALEY: No objection from defense.

THE COURT: It's admitted.

(DIAGRAM MARKED AS STATE'S EXHIBIT NUMBER 36 RECEIVED INTO EVIDENCE.)

Q. Okay. Would you just begin with, on your report, with gunshot wound number 1?

A. Is that Roman Numeral I?

Q. Yeah.

A. I -- this is gunshot wound -- I, I label them with the letters of the alphabet. So, A, B, C, et cetera.

This is gunshot wound A. It was to the left temple. So, about right here on the scalp right above the ear.

Q. All right. Was the projectile recovered in that injury?

A. Yes, several projectile fragments were recovered as well. Projectile core fragments and jacket fragments were recovered, yes.

Q. Okay. So, Roman Numeral 1 is the left side?

A. Yes.

Q. Okay. Would that have been a fatal wound in your opinion?

A. Yes, it is.

Q. Okay. That's State's Number 49. Does that depict gunshot wound number 1?

A. Yes, it does.

Q. Okay, and then Roman Number II, the second gunshot wound?

A. This is gunshot wound C and that was of the right scalp about right here.

Q. Okay, and is that depicted in State's Number 47?

A. Yes, it is.

MR. SCOTT: Okay, and, Your Honor, the state offers State's Number 47 and 49 for admission into evidence.

MR. LUKE SHEALEY: No objection.

THE COURT: They're admitted.

(PHOTOGRAPHS INDIVIDUALLY MARKED AS STATE'S EXHIBIT NUMBERS 47 AND 49 RECEIVED INTO EVIDENCE.)

Q. Let's see. Okay. So, this is State's Number 49. This depicts the gunshot wound to Mr. Dash's left temple ---

A. Yes, it does.

Q. --- that you observed? 47, what are we looking at here?

A. Towards the left of the picture is the actual gunshot wound ---

Q. Okay.

A. --- and then below it and to the right in the picture is a blunt force injury.

Q. Okay. So, right side of his head is a bullet wound but also some sort of blunt force injury?

A. Yes.

Q. Okay. Moving onto, you labeled it F, but it's also Roman Number III, gunshot wound. Oh.

A. Did ---

Q. Describe that one. I'm sorry.

A. So, gunshot wound F was of the right upper arm about right here.

Q. So, kind of in the elbow?

A. Close to the elbow.

Q. Okay. I show you State's Number 43. Is that

depicting that wound?
A. Yes, it is.
Q. Okay. The -- was that -- and then also State's Number 45. Does that depict the same wound?
A. Yes, it does.
Q. Okay. Did that wound exit?
A. That wound -- that projectile did exit through gunshot wound E also of the right upper arm.
MR. SCOTT: Okay. The state offers 43 and 45 for admission into evidence.
MR. LUKE SHEALEY: No objection.
THE COURT: Admitted.
(PHOTOGRAPHS INDIVIDUALLY MARKED AS STATE'S EXHIBIT NUMBERS 43 AND 45 RECEIVED INTO EVIDENCE.)
Q. Okay. This is the third -- this is the Number F or Letter F and Roman Numeral III on your chart?
A. Yes.
Q. And that's his right arm?
A. Correct.
Q. Okay. Moving onto Roman Numeral IV. Would you describe that?
A. Roman Numeral IV corresponds to gunshot wound G, which is of the left upper arm about right here.
Q. Okay, but it's described as an anterior left upper arm. Is that the inside of your arm?

A. It's kind of anterior medial.
Q. Okay. Does State's Number 42 depict that wound?
A. No. It's the other side.
Q. Okay. So, looking at State's 37, 38, and 39, it does depict that particular wound?
A. Yes, they do.
Q. Okay.
MR. SCOTT: Your Honor, the state offers State's 37, 38, and 39 for admission into evidence.
MR. LUKE SHEALEY: Without objection.
THE COURT: Admitted evidence.
(PHOTOGRAPHS INDIVIDUALLY MARKED AS STATE'S EXHIBIT NUMBERS 37, 38, AND 39 RECEIVED INTO EVIDENCE.)
Q. All right. This is State's 37. I see, correct me if I'm wrong, four defects?
A. Correct.
Q. Okay. So, when we're talking about Roman Numeral IV, which is -- you've got it marked as G, which one of these wounds is wound G?
A. G is inside of the tattoo.
Q. Right here?
A. Yes.
Q. Okay. That's G. Well, while we're on this picture, No. 37, does it depict any of the other wounds?
A. Yes, the three other wounds in that picture are H

and H is directly below G in this picture.

Q. This is H?

A. Yes.

Q. Okay. Any other ones?

A. And then I and J, Gunshot wounds I and J, are progressively more leftward in the picture.

Q. So, that would be I?

A. Yes.

Q. And then on State's 37 to the far left is J?

A. Correct.

Q. Okay. Any of these through and through or any of these bullets recovered?

A. These were all through and through.

Q. Okay.

A. A partial recovery was made from gunshot wound J.

Q. Okay. So, if, if we lifted up Mr. Dash's arm, you would see exit wounds on the inside of his left arm?

A. Yes, we would.

Q. Is that what we're looking at in State's 42?

A. Yes.

MR. SCOTT: Okay. The state offers 42 for admission into evidence.

MR. LUKE SHEALEY: No objection.

THE COURT: Admitted.

(PHOTOGRAPH MARKED AS STATE'S EXHIBIT NUMBER 42

RECEIVED INTO EVIDENCE.)

Q. If you take 37, and then when you're -- lift Mr. Dash's arm up, we would be looking at what's depicted in State's 42?

A. Those are four more gunshot wounds.

Q. Okay. Would those be entry wounds or exit wounds?

A. These are all exit wounds depicted in this picture.

Q. Okay. So, if it's his left arm, all four bullets are going in through the outside left arm and exiting through the inside of his left arm?

A. That is correct.

Q. Okay. I want to go back to State's 39. All right. You, you described these bullet wounds. What else do you note that is relevant in State's 39?

A. So, this picture also shows what's called stippling, and in the picture it's the little, tiny dots that you can see all over the skin.

Q. Okay. I'm kind of zooming in. You talking about these little kind of ---

A. Yes.

Q. --- splotches?

A. All of those.

Q. I guess dots that are ---

A. Yes.

Q. And that's called what?

A. That's called stippling.
Q. Okay. Would you describe what, what stippling is?
A. Stippling is what happens when -- after the gun is fired and the projectile leaves the barrel, it's followed by all the gas which is propelling it, making it go fast, and it's also followed by partially an unburned little granules of gunpowder, and they're also going very fast. And when they impact the skin, they cause all of those little abrasions and we just call that stippling.
Q. Okay. Why is stippling noteworthy to you as a pathologist?
A. Stippling helps us determine an approximate range, and for stippling we call that intermediate range.
Q. Okay. For stippling to occur, how, how close to a fired pistol do you need to be?
A. Anywhere from about 6 inches to 3 and a half feet.
Q. Okay. So, for stippling to occur on -- it could be if I shoot you from that distance up to, say, that distance?
A. Approximately, yes.
Q. Okay. Would you expect to see stippling from somewhere over here?
A. No.
Q. Okay. So, I keep forgetting. You say 6 inches

to -- 6 inches up to what?

A. 3 and a half feet.

Q. Okay, and you label that as indeterminate range, though?

A. Intermediate.

Q. Intermediate. Okay. Because you can't say whether it was 6 inches or 3 and a half feet?

A. That's right.

Q. But in your expert opinion, for Mr. Dash to have this stippling, was shot from anywhere -- could have been as close as 6 inches or only as far as 3 and a half feet?

A. Correct.

Q. Okay, and have we covered all seven of his wounds or bullet wounds A, C, F, G, H, I, J?

A. I believe we have.

Q. Okay, and your testimony was Mr. Dash was shot seven times. Five of those wounds were through and through. Is that correct?

A. Yes.

Q. And two, two of the bullets, or at least fragments, were recovered?

A. Two -- a, a collection of projectile core fragments and jacket fragments were recovered from the head. And then one core fragment was recovered from the left upper

arm as well.

Q. Okay. Did you form an opinion as to his manner of death?

A. His manner of death is homicide.

Q. Okay. Did you form an opinion as to his cause of death?

A. Yes.

Q. What was the cause of death for Mr. Antonio Dash?

A. My cause of death was two gunshot wounds of the head.

Q. Okay, and did you perform next an autopsy on Eric Griffith -- Griffin rather?

A. Yes, I did.

Q. What time did you perform that autopsy?

A. It's about 4:45.

Q. Okay. What were your observations for Mr. Eric Griffin?

A. Mr. Griffin was shot six times.

Q. Okay. Gosh. Did you diagram his injuries as well?

A. Yes, I did.

Q. Okay. I show you State's Number, Number 53. Do you recognize that?

A. Yes, I do.

Q. Okay, and that's just a, a diagram where you attempt to sort of label where the injuries are on his

body?

A. That's correct.

Q. Okay.

MR. SCOTT: Your Honor, the state offers 53 for admission into evidence.

MR. LUKE SHEALEY: No objection.

THE COURT: Admitted.

(DIAGRAM MARKED AS STATE'S EXHIBIT NUMBER 53 RECEIVED INTO EVIDENCE.)

Q. Okay. Let -- let's begin with -- I think this first wound is Number E, Roman Numeral I.

A. So, gunshot wound E was to the back of the head on the right side about right here.

Q. Okay. I show you State's 57. Do you recognize that?

A. Yes, I do.

Q. Okay, and State's 60, do you recognize that?

A. Yes, I do.

Q. Okay. Do those depict the wound you just described?

A. Yes.

Q. Okay.

MR. SCOTT: Your Honor, the state offers State's 57 and 60 for admission into evidence.

MR. LUKE SHEALEY: No objection.

THE COURT: They're admitted.

(PHOTOGRAPHS INDIVIDUALLY MARKED AS STATE'S EXHIBIT NUMBERS 57 AND 60 RECEIVED INTO EVIDENCE.)

Q. I said 57 and ---

A. 57 and 60.

Q. Okay. Does 57 depict the wound you just described as a gunshot wound to the back of Mr. Griffin's head?

A. Yes.

Q. Okay, and then 60, is that just kind of where you shaved and clean the wound a little bit to get a better look at it?

A. That's right.

Q. Okay. All right. I want to go to C, gunshot wound -- Roman Numeral II.

A. So, gunshot wound C was on the inner aspect of the left upper arm about right here.

Q. Okay. So, show me again. On the inside? This is State's 44. Does that depict that wound?

A. Yes, it does.

Q. Okay. All right. Was that -- anything recovered or is that through and through?

A. There were no recoveries ---

Q. So, through and through?

A. --- on that wound.

Q. Okay.

MR. SCOTT: The state offers State's 44 for admission into evidence.

MR. LUKE SHEALEY: No objection.

THE COURT: So admitted.

(PHOTOGRAPH MARKED AS STATE'S EXHIBIT NUMBER 44 RECEIVED INTO EVIDENCE.)

Q. Okay. I don't think I have it on my screen, but we're just sort of looking at a wound again to his left elbow area.

A. Left elbow, yes.

Q. Okay, and that was a through and through shot?

A. Yes.

Q. Okay. That -- I guess I'm looking at the -- is that an entry and an exit?

A. Both entry and exit are on -- are in this picture.

Q. Okay, and we don't know -- you can't -- you don't know -- when a bullet goes in Mr. Griffin's left elbow and comes out the other side, you don't know where it ultimately goes, do you?

A. No.

Q. Or, you know, when four bullets go into Mr. Dash's arm and they exit out the inside of his arm, you don't know where they go, do you?

A. No.

Q. What about D, which is gunshot or gunshot wound,

wound -- Roman Numeral III?

A. So, gunshot wound D was of the outer right upper arm about ---

Q. Okay.

A. --- right here.

Q. Okay. State's 61, does that depict that wound?

A. Yes, it does.

MR. SCOTT: All right, Your Honor, the state offers State's 61 for admission into evidence.

MR. LUKE SHEALEY: No objection.

THE COURT: It's admitted.

(PHOTOGRAPH MARKED AS STATE'S EXHIBIT NUMBER 61 RECEIVED INTO EVIDENCE.)

Q. If -- was that a through and through or was that recovered?

A. The projectile of gunshot wound D was recovered.

Q. Okay. Thank you. What about Roman Numeral IV, which is gunshot wound F?

A. Gunshot wound F was of the right upper back.

Q. Okay, and then while we're at it, what about G?

A. And gunshot wound G was very close to gunshot wound F in the right upper back.

Q. Okay. Does State's Number 63 depict those two wounds?

A. Yes, it does.

MR. SCOTT: Your Honor, the state offers State's 63 for admission into evidence.

MR. LUKE SHEALEY: No objection.

THE COURT: They're admitted.

(PHOTOGRAPH MARKED AS STATE'S EXHIBIT NUMBER 63 RECEIVED INTO EVIDENCE.)

Q. Okay. Was -- were either one of those recovered?

A. Both F and G were recovered, yes.

Q. Okay. All right. Did that cover pretty much all of Mr. Griffin's wounds?

A. I believe so, yes.

Q. All right.

A. No, gunshot wound A.

Q. Gunshot wound A?

A. Yes.

Q. Where's that?

A. Gunshot wound A was a graze of the right upper shoulder.

Q. Okay. So, somewhere on his right upper shoulder -- I guess we don't have a picture of that one. That was just a graze though. So, certainly not fatal.

A. Correct.

Q. But just another wound. Okay. Can you see it in that picture?

A. No.

Q. Okay, but it shows -- show the jury he had a graze wound where?

A. About right here.

Q. And you don't know where that bullet ultimately ended up, do you?

A. No.

Q. All right. I want to go back to the wound to the back of the head. Did you form any opinions as to that particular wound?

A. Yes, the gunshot wound, this is gunshot wound E that was to the back of the head. That was a contact gunshot wound.

Q. Well, let me ask you, though. Would that have been a -- did you, did you form any opinion as to manner of death of Mr. Eric Griffin?

A. His manner of death is homicide.

Q. Okay, and cause of death for Mr. Griffin?

A. His cause of death was gunshot wound of the neck.

Q. Okay. Is that what we're looking at in State's 57 there?

A. Yes.

Q. All right, and, and again, that -- that's how he was presented to you, and then you kind of cut some of the hair away so you could examine the wound a little bit better. Tell me what you were looking for in

State's 60 to trim his hair and clean it up a little bit. What, what do you see there?

A. So, shaving the skin in that area reveals a lot more characteristics of the gunshot wound. I guess to start with, you can see a surrounding dark area on the skin.

Q. Let me ask the court's permission for you to step down and maybe just kind of show the jury what you're talking about. Would you be able to do that?

A. I'm sorry?

MR. SCOTT: Your Honor, with the court's permission, I'm going to have Dr. Monroe step down ---

THE COURT: Sure.

MR. SCOTT: --- just to show a couple things.

(A PAUSE.)

Q. All right, and I ask you -- the court reporter's telling me to make sure we speak up so she can hear. Maybe on this side, too. Yeah, she can see you. I think you touched the screen. Don't touch it.

Okay, what, what do you observe in State's Number 60?

A. So this is the defect, the gunshot wound itself, where the projectile went through. What you're seeing around it here, the pink red coloration, that's what we call an abrasion border, and that's simply where the

projectile scrapes the skin as it goes in and pushes its way in. You can see around here. There's darker coloring of the skin and the surrounding area such as up here. That's contusion. So, that's just hemorrhage in the skin. It's a bruise.

Right here and right here we have some partial muzzle imprints. And so that's the, the barrel of the gun and the whole face of it are pressed up against the skin when the gun is fired. And when the gun is fired, all of those gases that I described earlier have nowhere to go because it's pressed up in the skin except inside. And when they do that, it basically expands the skin like a balloon and it slaps really hard, very quickly around the muzzle of the gun, and it causes these abrasions that you see here as well as the contusion that you see here.

Q. All right. Wait a minute. What are you telling me? You're, you're saying that that -- a pistol was pressed against Mr. Griffin's head?

A. Yes.

Q. Okay. So, you, you -- a contact wound is what you call it?

A. Yes.

Q. And, and you're saying that's what it sounds like.

A. Yes.

Q. Tell the jury. Your, your expert opinion is how far away was this gun to Mr. Griffin's head when it was fired?

A. The muzzle of the gun, the end of the barrel was in contact with the skin when it was fired.

Q. Okay, and, and that's what you're saying produces this discoloration and this, again, in your professional opinion, is the muzzle ---

A. Yes.

Q. --- slamming against the skin?

A. Yes.

Q. Okay, and that's what killed Mr. Griffin?

A. Yes.

Q. Okay. All right. I think you -- well. So, one, one of our guys is shot six times and the other's shot seven. Do, do you think, if, if I had a, a -- if I had a mannequin that you could put stickers where the wounds were so we could see them?

A. Yes.

Q. And we just went through a bunch of different ones. But if we could see it all together, could you do that?

A. Yes.

Q. Okay. Here's your report. All right. Can you, can you start with Antonio Dash and generally -- I, I know it's not going to be exact. But generally where

would gunshot wound A have been on Mr. Dash, Mr. Dash?
A. Gunshot wound A is right here above the left ear.
Q. Okay. Could you put -- and that would -- that had no exit wound. Is that right?
A. Correct.
Q. Okay. Okay. Gunshot Wound 2, which is also C, where is that one?
A. C is on the right side of the head.
Q. I believe you testified that, too, did not have an exit wound.
A. That is correct.
Q. Okay. Okay. What about F?
A. F is the inner right upper arm.
Q. Does that have a -- that's an entry?
A. Yes.
Q. Did that have an exit?
A. Yes.
Q. Entry, okay, and where was the exit on here?
A. The exit's kind of real close to the elbow about right here.
Q. Okay. What's the next wound you have?
A. G.
Q. Did that have a -- is the entry here?
A. Yes.
Q. Does this have an exit?

A. Yes.
Q. Where was that?
A. G exited through L, which was on the inner aspect of the arm.
Q. Okay. All right. We have an H now?
A. H was towards the back of the left upper arm.
Q. Did that have a exit?
A. Yes, it did.
Q. And, and just generally where would that be?
A. Inside the left upper arm. Right there.
Q. What do we got next?
A. Gunshot wound I was also the left upper arm. It's about right here.
Q. Okay, and did that have an exit?
A. Yes, it did.
Q. Okay. Do you remember around about where that'd be? That was H or which one's that?
A. That was I.
Q. Okay. So, we're down to J now?
A. Yes. J was right above the left elbow basically.
Q. J have a exit wound?
A. Yes.
Q. Where was that?
A. About right there.
Q. And show the jury. Correct me if I'm wrong. This

is not a fatal -- his left -- his right arm, that's not a fatal gunshot wound.

A. Yeah.

Q. Okay. None of the four gunshot wounds to his left arm were fatal. Is that fair?

A. Correct.

Q. Okay. The gunshot wound to his upper left scalp or left temple, that's going to be A, Roman Numeral I, and your opinion as to this particular wound would be ---

A. That's a fatal gunshot wound.

Q. Okay, and then gunshot wound 2, which is C for you, right scalp, your opinion as to that wound?

A. That's also a fatal wound.

Q. Okay. So, the two head shots, either one of them could have killed Antonio Dash is your opinion?

A. Yes.

Q. All right. Would you be willing to do sort of the same thing on, on what we have for Mr. Griffin now?

A. Sure.

Q. The one you describe as a contact wound is E, that's your Number 1. Could you place this generally where that, that wound was?

A. Gunshot wound E is still on the screen over there. It's the contact wound to the back of the head.

Q. Okay, and there was no exit wound for E. Is that

right?
A. Correct.
Q. Okay. You, you talked earlier about C, which is gunshot wound 2. Where was that?
A. It's close to the left elbow on the inside.
Q. This is entry?
A. Yes.
Q. Okay. Exit would be -- did it have an exit?
A. Yes, it did.
Q. Where would that be?
A. Just above the left elbow.
Q. Okay. Your report has a D, which is Roman Numeral III. I think you got to be careful with his right arm. It seems to fall off.
A. Gunshot wound D was just the outside of the right upper arm.
Q. Okay. Did that have an exit?
A. No.
Q. Okay. F, I think F we talked about in conjunction with G, I believe, because those were, those were two that were fairly close to one another.
A. Correct.
Q. And did either one of those have exits?
A. No.
Q. All right. If you could, would you mark where F

would be? And one of those had a different color, too.
A. Again, F and G were of the right upper back area very close.
Q. Okay. So, these, these were your observations, and again, we were -- we're not able to identify and pinpoint exactly where these wounds were. But these depict the general locations where these wounds were observed on Mr. Dash and Mr. Griffin?
A. Yes, they do.
Q. And I've got four entry wounds to the left arm on Mr. Dash. I've got four corresponding exit wounds on the inside of his arm. I've got the fatal shot to the left scalp or left temple. I've got the fatal shot to the right scalp, and then we have another fairly superficial wound that goes through his right elbow and out the back side of his right arm?
A. Yes.
Q. Okay, and for Mr. Griffin, of course, we have -- I got turned -- two gunshot wounds to the back, upper right back?
A. Yes.
Q. He had an entry wound to the upper right arm. He had an entry wound, wound to the left elbow that exited out the back of his left elbow.
A. Yes.

Q. And then your professional opinion, as far as the wound to the back of his right, I guess, upper neck, lower head?

A. In that area, yeah.

Q. Okay.

A. Very top of the neck. Very bottom of the head.

Q. What, what was your opinion as to this wound?

A. That's a fatal gunshot wound as well.

Q. If, if, if you hold your finger like a gun, show the jury what a contact wound looks like to Mr. Griffin.

A. (WITNESS COMPLIES.)

Q. All right. So, you -- you're pressing your fingers up against his -- the back of his head ---

A. Yes.

Q. --- to achieve that kind of wound?

A. Yes.

Q. Okay. Did you note any kind of trajectory as far as that wound?

A. Yes, the trajectory was back to front and right to left.

Q. Okay. His right to left? Is it something like that?

A. Yes.

Q. Okay. Okay, and your cause of death for both of them was a homicide and really both of them we can --

you talk about the head shots being what killed them. Is that your opinion?

A. Yes.

MR. SCOTT: All right. I think that's all the questions I have for you, Dr. Monroe. Please answer any questions the defense might have for you.

THE COURT: Cross.

CROSS-EXAMINATION BY MR. LUKE SHEALEY:

Q. Dr. Monroe, we missed one and I want for us to be fully accurate. In looking at Mr. Griffin, you have the two wounds to the back, correct?

A. Yes.

Q. Higher up neck wound but -- you agree with that?

A. Yes.

Q. But what we forgot to identify was the graze wound over his shoulder, right?

A. Yes.

Q. Okay. So, that -- was that more accurate?

A. That's approximately where it was.

Q. Okay. Now, you and I have talked before, right?

A. Yes.

Q. You met me in my office. You agree with that?

A. Yes.

Q. We have -- you've testified on this case before under oath in this same courthouse. You agree with

that?
A. Yes.
Q. And you were under oath then, and there's no reason that your testimony would substantially differ today than it did then, right?
A. Correct.
Q. You are -- is it fair to call you a scientist, a medical scientist?
A. Sure.
Q. Okay. You have tons of training, right?
A. Yes.
Q. You have a very important job at Professional Pathology Services. You would agree?
A. Yes.
Q. And one of those jobs is that we're mandated by state law to try to figure out why someone may have died, right?
A. Correct.
Q. We've got accidental deaths. You agree with that?
A. Yes.
Q. We've got intentional deaths, right?
A. Yes.
Q. Just, just so we're clear with the jury, you've listed in your report that this is a homicide, right?
A. I don't put manner of death in my reports.

Q. Okay. You were asked that question.
A. Yes.
Q. And you answered that question as this -- your, your opinion is this is a homicide, right?
A. Yes.
Q. I mean, it's clear that these were killings due to gunshot wounds, right?
A. Yes.
Q. This was not a drowning or a burning or falling down an elevator shaft, correct?
A. Correct.
Q. So you're not a lawyer, correct?
A. Correct.
Q. You were not trying to cast any, any mental state aspersion on what happened during this, right? That's not your job.
A. No.
Q. Okay. So, let me be clear. So, we've -- you've testified before and you testified today we have six distinct gunshot wounds to Mr. Eric Griffin, correct?
A. Yes.
Q. And you have seven distinct gunshot wounds to Mr. Antonio Dash, right?
A. Yes.
Q. And we've got the mannequin. But I, I don't want

to -- I don't want to resubmit things that are too duplicate. But I will have some things that have not been admitted and I want to talk to you about those very quickly.

I don't believe you were asked to look at any photos that are of the actual projectiles that you pulled from these gentlemen. Do you mind looking at these photos and tell me if you recognize those that are labeled Eric Griffin?

A. Yes.

Q. Okay, and part of your job is to document and collect evidence, right?

A. Yes.

Q. So once -- if you can recover a projectile from an autopsy you're doing, you will try to preserve it, label where you got it from, and send it on its way to other agencies to do their work, right?

A. That's correct.

Q. And you've testified before that your number one job isn't necessarily always to recover it. It's recover it if you can. But you're not going to go on a fishing expedition, right?

A. We recover as much as we can within reason, yes.

Q. Whatever's prudent, right?

A. Yes.

Q. And you recognize these. Do you also recognize these similar but for Mr. Dash in the same manner of projectile, fragment recovery?

A. Yes.

Q. Okay.

MR. LUKE SHEALEY: Your Honor, at this time I would seek to introduce Defendant's 57, 58, 59, 60, as well as Defendant's 71 through -- so sorry. 71, 72, 73, 74, 75, 76, 77, yes.

MR. SCOTT: Without objection, Your Honor.

THE COURT: They're admitted.

(PHOTOGRAPHS INDIVIDUALLY MARKED AS DEFENDANT'S EXHIBIT NUMBERS 57, 58, 59, 60 RECEIVED INTO EVIDENCE.)

(PHOTOGRAPHS INDIVIDUALLY MARKED AS DEFENDANT'S EXHIBIT NUMBERS 71, 72, 73, 74, 75, 76, AND 77 RECEIVED INTO EVIDENCE.)

Q. All right. Now, I want to talk to you a little bit, a little bit about this. I know we've gone over this somewhat, but I think it's important to note kind of what is being pulled from where.

All right, there's some handwriting on these. You've got a -- this looks like a projectile you'd agree you pulled from T-4.

A. Yes.

Q. Okay, on Mr. Griffin, and that, that is what you

would call a recovery, right?
A. Yes.
Q. And that's one of the shots to his back?
A. Yes.
Q. This is another shot from his back with a very distinct mushroomed projectile. You'd agree with that?
A. Yes.
Q. This is the projectile from his neck, which you've identified would be the fatal wound for Mr. Griffin, right? Fairly mushroomed, intact projectile?
A. Yes.
Q. And this would be the one from his right arm. Again, it's fairly intact, mushroom projectile, correct?
A. Yes.
Q. So, that right -- that last shot -- right arm shot would be right there, correct, on Mr. Griffin?
A. Yes.
Q. Okay, and what we know about those -- now, Mr. Griffin has six total gunshot wounds that you've identified, correct?
A. Yes.
Q. And what we know is that you were able to recover four identifiable, intact mushroom projectiles from his body, correct?
A. They were not all intact.

Q. Well, readily identifiable?
A. Large -- the majority of the projectile, yes.
Q. Okay. From that wound site?
A. From the projectile pathways.
Q. Right, and he had one graze wound that came over his shoulder that we just corrected that diagram, right?
A. Correct.
Q. No projectile. You don't have any information where that might have gone, right?
A. No.
Q. And then you had one arm wound on his left arm you would agree that was through and through that you did not recover, recover an intact projectile. Okay. Right?
A. Correct.
Q. So, that's four projectiles from Mr. Griffin that you were able to recover with six identical -- identifiable gunshot wounds?
A. Yes.
Q. I'm looking at Mr. Dash and the fragments that you recovered and so really clear. I mean, we -- we've looked at the stickers on his head. Just, just so we can talk about this. He has two fatal gunshot wounds to his head, correct?
A. Yes, he does.

Q. One is to his left temple, you'd agree?
A. Correct.
Q. And one is kind of further back on the right side of his scalp on this opposite direction, right?
A. Not really further back but further up.
Q. This right here?
A. Yes.
Q. And so either one of those would have been immediately incapacitating, a, a, a killing shot for Mr. Dash, right?
A. Essentially, yes.
Q. And being a medical doctor, if someone was involved in a fight and received this shot, he is going to not be able to function, movement-wise, all kinds of ways, right?
A. Correct.
Q. And the same for the other side on the left temple. That would be immediately incapacitating shot where he would not be able to move, function, walk, talk, anything, right?
A. That one it's possible. Pretty unlikely. But he could have consciousness for a very brief time.
Q. But you've testified before they're both incapacitating.
A. But, yes, eventually incapacitating, yes.

Q. And, and neither of those wounds exit his, his head, right?
A. Correct.
Q. So that whatever you recover is inside his head, right ---
A. Yeah.
Q. --- from this -- those head wounds? So, I want to point to you what you did recover. You recognize some fragments you list from left ear, right, on Mr. Dash?
A. Yes.
Q. Another one from frontal lobe, right? You recognize that? Do you recognize that?
A. It should be labeled ---
Q. I'm not trying to ---
A. It should be labeled parietal lobes.
Q. Okay.
A. But ---
Q. So, do you recognize this one from temporal lobe from Mr. Dash?
A. Yes.
Q. And I think maybe the one you're thinking about is this parietal lobe for Mr. Dash.
A. That was another, yes.
Q. And so on. But the only fragment you got that wasn't from the head cavity was this fragment from his

left upper arm, right?
A. Yes.
Q. And so on Mr. Dash, again, we're talking about seven distinct wounds, correct?
A. Yes.
Q. You testified six distinct wounds for Mr. Griffin, right?
A. Yes.
Q. That would total to thirteen distinct gunshot wounds, correct?
A. Yes.
Q. Now, you -- and I want to make this distinction because you -- Mr. Scott asked you some questions about through and through. But you, you recovered when -- let's talk about Mr. Griffin. Four distinct mushroomed projectiles from Mr. Griffin. Two from the back, one from the neck, and one from the right arm, right?
A. Four were recovered, yes.
Q. Four, and then you've got two sets of recovered fragments in Mr. Dash's head that had no exit wound, right?
A. Correct.
Q. Okay. So, four and two and that's six. So, six kind of what you know are essentially complete, without exit wounds, projectiles that you have collected to then

send on to SLED.
A. For that person, yes.
Q. Right. When we first talked about this case, you told me that when you receive these autopsies in this case, that you were provided no crime scene photos, right?
A. Not to my knowledge, yeah.
Q. You were provided very little information on the scene other than please do an autopsy on these two gentlemen, right?
A. That's pretty much it.
Q. And then you document and you send it on to various agencies, right?
A. Yes.
Q. Because of the importance of the case, and the fact that we're in trial, you've had several conversations with myself, right?
A. Yes.
Q. We've had several conversations and testimony answering questions for Mr. Scott, right?
A. Yes.
Q. You kind of have a, a general idea at this point of what we're interested as it relates to your work in this case, right?
A. They're generally always interested in the same

sorts of things.
Q. Right. In this case, gunshot wounds.
A. Gunshot wounds.
Q. So, throughout your, your learning more about this case from, Doctor, myself and Mr. Scott, you would have learned from the scene that seven shell casings were recovered with, with this crime scene, right?
A. I believe I've heard that number.
Q. Okay. Wouldn't dispute that?
A. I would have no way of disputing that.
Q. I believe you've heard that number?
A. I've heard that number, yeah.
Q. And, again, we've got thirteen distinct gunshot wounds, correct?
A. Yes.
Q. Okay. Now, I want to talk about some other wounds. You, you mentioned -- you referenced blunt force trauma to Mr. Dash, correct?
A. Yes.
Q. That would mean an injury that, in your opinion, is not a gunshot wound in this case?
A. A blunt force injury is not a gunshot wound, no.
Q. Okay, and you note that distinction in your autopsy report.
A. Yes, they're different categories of injuries.

Q. The blunt pro -- force trauma that you've noted to Mr. Dash on the right side of his scalp you call a stellate wound. Tell the jury what a stellate wound is, if I'm pronouncing that correctly.

A. It's stellate.

Q. Stellate? Stellate?

A. Stellate. And it just means star shaped.

Q. Okay, and that is a wound that you have testified before is indicative of being hit with something hard, correct?

A. Yes.

Q. It is not indicative of being slapped in the head, right?

A. A slap of a hand would not produce that.

Q. And I know Mr. Scott has entered this. But just so I can show you what we're talking about, we are talking about this wound right here, correct?

A. Correct.

Q. That is the bullet wound to Mr. Dash's kind of rear, right scalp. This is the stellate wound?

A. Correct.

Q. You testified that this could be done by being hit with a hard object such as the butt of a pistol?

A. That's a possibility.

Q. Okay. Such as a, a wooden table leg? That could

do it?
A. That's also a possibility.
Q. But what we know is it's not a slap. It's not a, a closed hand impact, correct?
A. Very unlikely for a fist to, to do that.
Q. Okay. You also have this photo, which I believe is in evidence, of this wound to Mr. Dash's left eyebrow. That was the other blunt force trauma?
A. Yes.
Q. Again, that is not from a gunshot, right?
A. No.
Q. There's some kind of, for lack of a better word, hitting with a hard object type trauma?
A. That's about it.
Q. Okay. Now, with these thirteen distinct wounds, you provide a lot of information in your autopsy report about them, correct?
A. Yes.
Q. And one thing that you and I talked about before specifically concerning this wound, the fatal injury to Mr. Griffin, you've talked a lot about it being a contact wound.
A. Yes.
Q. All right, and what that means. But one thing that you've testified before is that you cannot tell, in the

course of that contact wound, whether Mr. Griffin was standing when it occurred or whether he was lying down when that occurred, right?

A. The only thing I can tell you about the position of his body is the relative position of the muzzle of the gun to the point on the body where it entered at the time the gun was fired. I can't tell any other directionality or anything like that, whatever position they were in.

Q. Right. You only -- you can't tell. You just know the basic trajectory. But you don't know whether that means on the ground, standing, any, any in between as long as, as long as the muzzle is in the position that would be consistent with that shot?

A. Correct. We put our trajectory descriptions in terms of anatomic position, which is a person standing up with their palms forward.

Q. Now, we talked a lot as well at our last hearing about the possibility, and knowing that we have thirteen distinct gunshot wounds, and knowing that you only have a certain amount of recoveries, six, about whether any of these could be through and through, correct?

A. Yes, we did.

Q. And so just to help the jury out, what you expect to see if a bullet is fired, it's, for lack -- for

layman's terms, it's kind of like a, a very nicely spiraled football, right, due to rifling and grooves on the barrel?

A. That is correct.

Q. So, if it's firing cleanly, it spirals nicely until it hits something, right?

A. Yes.

Q. And once it hits something, that spiral kind of gets taken out of its orbit and it can be tumbling and not spiraling, right?

A. It depends on what it hits. But, yes, it can stop flying in a nice spin and start tumbling, like you said.

Q. Okay, and, and, and you have seen in your thousands of autopsies -- I imagine you've seen numerous entry wounds that are from clean spirals, right?

A. Yes.

Q. And you identify those by descriptors such as circular or regular, right?

A. Generally.

Q. Okay, and I'm not a doctor. I'm doing the best I can.

A. Yeah.

Q. Indicating that clean spiral hold, correct?

A. Yes.

Q. And you've seen numerous, maybe not quite as many,

but, but wounds, bullets wounds that have either passed through an object or a body but it's still hitting a person, right?

A. Yes.

Q. And because of that tumbling out of their, their orbit, so to speak, they create a wound that is what I think we would call irregular, right?

A. Yes.

Q. I think I used the word atypical before and you corrected me, but you like to say the word a regular -- irregular, right?

A. Yes.

Q. Okay. Meaning that the entry wound will not be that nice clean hole. It could be different. Not so smooth, not so round, not so circular. Agreed?

A. Correct.

Q. Now your autopsy report, you'd agree it's highly detailed, highly specific to indicate an immense amount of data for a trial such as this, right?

A. Yes.

Q. Roman numerals, correct?

A. Yes.

Q. Weights, correct?

A. Yes.

Q. Measurements, correct?

A. Yes.
Q. You note whether a bullet has had a recovery or not, right?
A. Yes.
Q. Whether there's an entrance or exit wound, right?
A. Yes.
Q. You even weigh things, correct?
A. Yes.
Q. So -- and this is all so that you can do your job and help us all down the road perhaps three years later, right?
A. Correct.
Q. And we've talked about this before, but I, I ask you the same question again. Nowhere in this report do you list that any of these wounds are pass-through wounds, slam dunk that you can identify in your report as coming through another body or object, right?
A. That's correct.
Q. Okay.
MR. LUKE SHEALEY: Beg the court's indulgence.
(A PAUSE.)
Q. Do you -- did -- do you recall being present when gunshot residue testing was done on the gentlemen that you had, Mr. Griffin and Mr. Dash?
A. Yes, I was there.

Q. Okay. So, you were aware that that occurred?
A. Yes.
Q. Okay. You don't have any information regarding results?
A. No.
MR. LUKE SHEALEY: Beg the court's indulgence.
(A PAUSE.)
MR. LUKE SHEALEY: Nothing further at this moment.
THE COURT: Any redirect?
REDIRECT EXAMINATION BY MR. SCOTT:
Q. All right, Dr. Monroe, can you say with any degree of certainty that there were no pass-through bullets? In other words, a bullet that went through one body and into a second individual's body?
A. These were all very regular wounds. I, I believe, going back through the photos, I identified one wound, one entrance wound on each person that I cannot completely exclude the bullet having traveled through something else before hitting them.
Q. Okay. So, so you are saying that is the potential that at least two bullets could have gone through one individual and into another?
A. That is a possibility.
Q. Okay. We can say with great degree of medical certainty that stippling occurs within 6 inches to 3 and

a half feet?
A. Yes.
Q. And we can say that Eric Griffin was killed when somebody pressed a gun right against his scalp and pulled the trigger?
A. Yes.
Q. Close range right up -- right up against his head?
A. Yes.
MR. SCOTT: All right. Thank you.
THE COURT: All right.
MR. LUKE SHEALEY: Briefly.
RECROSS-EXAMINATION BY MR. LUKE SHEALEY:
Q. Just to touch on the, the reentry because this is a very important factor in this case ---
MR. SCOTT: Objection to ---
Q. --- your ---
MR. SCOTT: --- editorial. Editorializing.
THE COURT: It's sustained.
MR. SCOTT: Thank you.
THE COURT: You may pose questions, not make statements.
MR. LUKE SHEALEY: My apologies, Judge.
Q. We talked about this before, and I asked you specifically because it wasn't noted in your report, that you did not agree that any of these wounds, at the

time of your autopsy, there was any reentry wound. You agree with that.

A. At the time of my autopsy, I did not think so.

Q. Right, and you also agreed that had it been a, quote, home run reentry wound, unquote, you would have indicated it in your report, right?

A. Yes.

Q. That's your testimony under oath in a prior hearing?

A. I believe so.

Q. But yet it is not in your report, right?

A. What is not in my report?

Q. The fact that there's an in -- indication from you of a home run reentry, pass-through wound in this case.

A. There were no home run reentries.

Q. Okay.

MR. L. SHEALEY: Thank you.

THE COURT: You may step down.

(THE WITNESS EXITS THE STAND.)

THE COURT: Ladies and gentlemen, that's it for today, and we'll start back at 9:30 tomorrow morning. Do not discuss the case, and we'll see you at that time at 9:30.

(THE JURY EXITS AT 5:52 PM.)

THE COURT: Okay. The state, who's your next

all of that having been said, it's totally up to you whether or not you want to take notes.

I'm not encouraging it or discouraging it. I'm just pointing out the -- those facts to you. If you want to take notes, the bailiffs will give you notepads to take your notes and we will proceed.

Next witness, please.

MR. SCOTT: Thank you, Your Honor, and at this point the state rests.

THE COURT: All right, ladies and gentlemen, the state rests.

Is that correct?

MR. SCOTT: This is correct, Your Honor.

THE COURT: All right. Ladies and gentlemen, it means this is the state's case. That is the state's case. We need to take up some matters outside of your presence and you can deal with the note-taking issue if you want to during this break. Please go to the jury room. Please do not discuss the case.

One moment before you go. The vexing question always is who am I going to name as be -- to be the foreperson of a jury, and the court appoints juror number 156 to be the foreperson of the jury.

As foreperson, it will be your responsibility to serve now and from now and then as the spokesperson for

DEFENDANT: No.

THE COURT: Have you made a decision of -- on whether or not you're going to testify?

DEFENDANT: Yes.

THE COURT: Are you prepared to tell me at this time whether or not you're going to testify?

DEFENDANT: Yes.

THE COURT: Do you plan to testify?

DEFENDANT: Yes.

THE COURT: All right. Thank you.

Okay. You can bring the jury.

(THE JURY ENTERS AT 10:33 AM.)

THE COURT: Madame Forelady, how's the jury doing?

FOREPERSON: We're good.

THE COURT: Very good.

You have heard the state's case. It's now the defense's turn.

You may call your first witness.

MS. YOUNG: Thank you, Your Honor. May it please the court? The defense calls Steven Harper.

STEVEN HARPER, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

CLERK OF COURT: Please have a seat. State your full name for the record.

WITNESS: Steven Harper.

DIRECT EXAMINATION BY MS. YOUNG:

Q. Steven, where do you work?

A. I work for the Shealey Law Firm.

Q. Okay, and what do you -- what do you do for the Shealey Law Firm?

A. I'm an investigator.

Q. Okay, and where did you work before you were working at the Shealey Law Firm?

A. The Richland County Public Defender's Office.

Q. And how long ago was that?

A. Like, a month and a half ago.

Q. So, you're new over there at the Shealey Law Firm?

A. Yes.

Q. In 2019, were you my paralegal?

A. I was.

Q. And did -- I'm going to hand you a public document and see if you can identify that just in case you need to refer to them, okay?

A. Okay.

Q. Do you know what those are?

A. I do.

Q. What are they?

A. This is the evidence that I picked up from the detention center and then the -- I then transferred that to Chris Watkins. This is ---

Q. Okay.
A. --- stating that I gave -- I picked it up and then gave it to him.
Q. Okay, and so ---
THE COURT: I couldn't understand his answer.
WITNESS: It's just -- the papers are stating I picked up -- this up from the detention center and then I signed it out and then I signed it over to Christopher Watkins.
Q. So, basically a property log sheet?
A. Yes.
Q. And in February 2019, did I go and ask you to pick up Mr. Barnes's telephone from the jail property room?
A. You did.
Q. And did you go and retrieve it?
A. I did. On February 27, 2019.
Q. And did you -- what did you do with it after that?
A. I put it in like a sealed envelope and had it in a drawer in my desk until we could get it to Mr. Watkins.
Q. Okay, and did you keep it secure?
A. I did, and I wrote the date on the back when I picked it up and taped it closed.
Q. Okay. Did you do anything with the phone while you had it in your possession?
A. I did not.

Q. Okay, and then did you alter it in any way?
A. I did not.
Q. And then, in March, did I ask you to take that telephone and deliver it to Chris Watkins?
A. You did. I got it to Mr. Watkins on March 6, 2019.
Q. Okay.
MS. YOUNG: I don't think I have anything further for you but Mr. -- some -- somebody from the prosecutor's office ---
THE COURT: By the state.
MR. SCOTT: Thank you, Your Honor.
CROSS-EXAMINATION BY MR. SCOTT:
Q. Did you review the contents of that phone?
A. I did not.
Q. You did not look in it?
A. Nope.
Q. Okay. Did you tell the investigator that you took that phone?
A. For the city?
Q. Yeah.
A. I did not. I was not asked by them if I had the phone.
Q. Did you tell them that you took the phone out of ---
A. No.

Q. Okay.

MR. SCOTT: Thank you.

THE COURT: Anything further?

MS. YOUNG: Nothing further, Your Honor.

THE COURT: You may step down.

(THE WITNESS EXITS THE STAND.)

THE COURT: You may call your next witness.

MS. YOUNG: The defense calls Chris Watkins, who I believe is outside of the courtroom.

(A PAUSE.)

CHRISTOPHER J. WATKINS, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

CLERK OF COURT: Please have a seat and state your full name for the record.

WITNESS: My name is Christopher James Watkins. Last name W-A-T-K-I-N-S.

VOIR DIRE EXAMINATION BY MS. YOUNG:

Q. Good morning, Mr. Watkins.

A. Good morning.

Q. Where are you currently employed?

A. I am currently employed at Certified Computer Forensics, which is located here in Columbia at 1416 Park Street.

Q. And what is your current title and position there?

A. So, I am a co-owner, cofounder, and operator of a

practitioner in the field of digital forensic science.

Q. And how long have you been working in digital forensic science?

A. It's been almost thirteen years now. I began my career back in 2010. I became licensed as a private investigator through SLED in February of 2010; I began working in the field of digital forensic science that year.

I've worked for a private investigation firm, Soldier Investigations, which is headquartered at the address I just stated as well. Left there around 2016. Started my own company, Watkins Digital Forensics and Investigations, and then in 2019 I dissolved that company. Started Certified Computer Forensics and moved back into the, the old office. So, we're, we're operating out of that same place.

Q. Do you have any certifications or qualifications in the field of digital forensic science?

A. Yes, I do. I've -- have been certified by the International Association of Computer Investigative Specialists as a certified forensic computer examiner and a certified mobile device examiner.

MS. YOUNG: Your Honor, at this time the -- I would submit Mr. Watkins as an expert in the field of digital forensic science and cell phone analytics.

THE COURT: What says the state?

MR. SCOTT: Without objection.

THE COURT: So qualified.

DIRECT EXAMINATION BY MS. YOUNG:

Q. Mr. Watkins, what is digital forensic science?

A. Digital forensic science is the branch of forensic science that encompasses the acquisition, preservation, recovery, investigation, examination, and analysis of material found in digital devices most often related to mobile devices and computer-related crime. And I've been qualified in this field twenty-six times in South Carolina General Sessions Court, Court of Common Pleas, South Carolina Family Court, and the United States District Court.

Q. And who do you -- who, who hires you? Who do you typically, typically work for?

A. So I'm, I'm hired by private attorneys, public defenders, the general public depending what the need is. I, I work cases that are civil related as well as criminal related.

My services are available to the state as well. I have testified in the past for the state on two occasions. However, it's generally rare that I -- that that would happen. My understanding is the state has their own investigators that they would contract or, or

that they have hired. So, it would be very rare for me to be contracted though my, my services would be available to the state had -- if the need ever arised.

Q. And how did you become involved with this case?

A. How, how did I become involved?

Q. Uh-huh.

A. So, on March 6, 2019, I received a cellular device belonging to Mr. Antonio Barnes from Steven Harper with the Richland County Public Defender's Office. Now, this device was an Apple iPhone 6 Plus. The serial identifier for that device is F9CRH1E9G5QV and the telephone number for that device is (803)569-8986. At that time I was asked to secure that device until a service contract could be obtained.

So, what I did is I placed that device in our evidence locker at our -- at, at my company's headquarters until June 15, 2020. On June 20 -- June 15, 2020, I was contracted by the Richland County Public Defender's Office and I was asked to acquire the data from that device and to preserve that data until I received further instructions. The forensic acquisition of that device, so the retrieval of data from that device, occurred on June 15, 2020.

Now, on or about March 11, 2021, I was asked to provide a forensic examination and analysis of the data

that was required from that device that was contained on that phone pursuant to developing a timeline of events specifically concerning the historical use and activity on the date of incident, February 7, 2019. I was also asked to review additional discovery related to other digital evidence collected by law enforcement. Specifically, the mobile devices associated with the decedents, Antonio Dash and Eric Griffin. The initial discovery that I received from Attorney Young was on March 11, 2021, and the discovery, discovery that I received related to Mr. Dash and Mr. Griffin's devices was on December 17, 2021.

Q. Did you forensically process Mr. Barnes's Apple iPhone?

A. Yes, I did.

Q. And what -- how do you do that? What is it? What do you do?

A. So, I'll describe for you the forensic process for an Apple iPhone 6 Plus device. That's what I had received.

So, when I was asked to perform this operation, what I did is I removed the device from our evidence locker. I, I removed it from the packaging that it was in, connect the device to a charger, charge it until the battery was full. Once that was done, I powered it on

and input the password to unlock the device. Once that was done, I navigated to the settings of the device to engage airplane mode to make sure that while the forensic interactions were going on that there were -- there would be no new data writing to the device or for it to be able to communicate out. I also navigated to the settings that would allow the screen time to stay on so that the phone would not automatically lock during the forensic acquisition process. I then utilized a forensic software called Cellebrite UFED 4PC to forensically acquire the data to the device. So, the device was then connected to a forensic machine, running that software, and two forensic extraction methods were utilized for this process.

One was called a logical extraction method. The other was an advanced logical extraction method, excuse me, an advanced logical file system extraction method. And as of June 15, 2020, which is when this is taking place, these were the only two recommended extraction methods available for this device based on the make, model, and operating system version.

Q. And when you say it was the only recommended extraction method available, are there other ones?

A. Yes. So at this time, the IOS version or operating system version for Mr. Barnes's device was 11.2.2. Now,

had it been updated to at least ISO version 12.0, we would have had the ability to perform more advanced extraction method. At this time, the, the time that the device was given to me, that -- that's the device IOS that was on it, 11.2.2.

Now at the time, the ISO version 12.1.13 was available for that device and could have been updated to that device as that version was released in January 22nd of 2019. However, it had not been, and as a practitioner, I cannot make changes to a device. It's -- if, if I were to update this device, there could be some consequences to doing that. There could be some data loss, and so to avoid doing that would -- losing anything that was not done. So, I was limited to performing that extraction.

Now, had an advanced extraction been done, I could have used a particular exploit that would have allowed me to gain access to areas of the user partition that would not otherwise be seen by our forensic software and I could have acquired additional application data, additional user data, deleted data, and other data based on files and system files.

Q. So, basically I'm hearing you say because it wasn't updated to whatever the newest operating system for Apple iPhones were at the time, you were limited in what

you could get, and had it been updated, there might have been more?

A. That's correct.

Q. But you got all that you could?

A. Yes. So, with the two methods that were done -- so, mind you, I'm running two different extraction methods for the purposes of trying to maximize the amount of data that, that I can receive from the device. When these interactions are done, when I'm connecting a device to forensic software through, through a USB cable, the process is essentially asking the computer may I have the data that's on the device. And, of course, this being an Apple device, it's essentially communicating back, well, this is the amount of data I'm going to allow you to have. And so an advanced extraction method would bypass that so that that request isn't even there and we would be able to get more data.

Q. Okay. So, what did you do -- you -- what did you do with Mr. Barnes's phone after you acquired the data off it?

A. So, once the data was acquired from the device, I returned the device to the evidence locker, and it was sealed until it was later signed out by a Marilyn Chisholm on July 8, 2020, and Ms. Chisholm is, my understanding -- that is Mr. Barnes's grandmother.

Q. And after forensically getting all the data off of his phone, what did you do with the resulting data? How do you -- what do you do with that -- it?

A. So, the data that was extracted from the device, that was stored on our secure server at our office. That -- that's maintained until I received further instructions to process this, this data. That request came on March 11, 2020, and at that time I utilized a forensic software called Oxygen Forensic Detective to parse out that data and began examining the contents.

Q. And I specifically asked you to look at a specific day, right, a timeline for a specific day.

A. Yes, we were interested in the date of incident, February 7, 2019.

Q. And what did you find?

A. So, a few things. So, what I did, when I'm, when I'm examining this is the data is naturally going to be written in UTC. So, that would be GMT or Zulu time as it might be called. And so I adjusted it to local time so that we're seeing our, our local, you, you know, the time that, that would have been used in eastern time. And when I filtered out the data and began looking for our date of interest, I noticed or observed that there's a gap in the timeline between 2:50AM and 8:49AM on the date of incident, February 7, 2019.

An outgoing Facetime video call was initiated at 12:25 and 22 seconds AM with telephone number (803)479-8007, and this was stored as a contact in Mr. Barnes's phone under the name Santonia. This call lasted for two hours, 33 minutes, and 39 seconds. This call would have concluded at 2:59:01 AM on that date. There's an incoming SMS text message at 8:22 and 28 seconds AM from telephone number (803)339-3224, and this number is not stored as a contact in Mr. Barnes's phone. The message read status for this particular message. The metadata associated with this indicates that the message was not read until March 5, 2019, at 4:47:43 PM. That would have been the day before I received the device.

The next outgoing activity did not occur until 8:55 and 24 seconds AM at 8:55:24 AM. An outgoing call was made from Mr. Barnes's phone to 911. That call lasted 7 seconds, and, additionally, there are -- there were two records that were logged in the Apple Health App activity database that occurred beginning at 8:49 and 11 seconds AM and ending at 8:59 and 01 seconds AM. The records indicate that 121 steps were taken covering a distance of 76.36 meters, which is approximately 250 feet, within a timeframe of about ten minutes.

Q. Okay. Well, you said that the Apple Health Data

shows some movement of the telephone starting at 8:49. And so what are the implications of that?

A. So, that tells me that the phone was moved as early as 8:49 and 11 seconds AM. The Apple Health Activity is determined by the accelerometer and gyroscopic sensor of the device. The app is designed to gather data regarding the movement of that device as it would relate to someone's activity. That's what it's tracking. The accuracy of this data is going to be determined by various factors. Generally, to increase that accuracy, you would want to pair it with an Apple watch that can better acquire this particular data. But if we're just looking at the phone itself, and there are no biometric parameters set, then there's, there's no way for me to look at this data and give an accurate, an accurate -- I can't determine the accuracy of the records by looking at them.

I can just tell you that at 8:49 or from 8:49 A -- 8:49 11 seconds AM to 8:59 and 01 seconds AM, about a ten minute period, we see this activity that's showing that a, a -- approximately 121 steps were taken over a distance of 250 feet. And the take away from that is not necessarily the accuracy of whether 121 steps were actually taken or whether that distance was traversed. But the fact that -- the phone was not moved until 8:49

and 11 seconds AM.

Q. Okay. I'm going to back you up to the 911 call. You said that went out at 8:54, 8:55?

A. 8:55 and 24 seconds AM.

Q. Okay, and can you tell whether that call connected?

A. So on an iPhone, whenever you dial out, the time for that call begins to increment as soon as a connection is made on the network. So, by my understanding of how that functionality works, it is my opinion that the outgoing call to 911 would have connected.

Q. Okay, and in addition to looking at the extraction from Tony's phone -- and I also asked you to take a look at some records that had been provided to me by the -- from the state on Antonio Dash and Eric Griffin, right?

A. That's correct.

Q. Okay, and, you know, did you do that?

A. I did.

Q. Okay, and what did you find?

A. So in relation to that, according to the reports, I've received reports that were processed by law enforcement, and what I observed is that the last time that Mr. Dash and Mr. Griffin communicated with each other occurred at 9:43 and 25 seconds AM and 9:45 and 02 seconds AM on February 6, 2019. That call or, or the

call that observed or, or -- I'm sorry. The call that I observed at 9:43 and 02 seconds AM was from Mr. Dash to Mr. Griffin, which lasted 52 seconds according to Mr. Dash's records. When looking at Mr. Griffin's records, that call indicated that it was a 53 second call. So, it's being interpreted differently on two different devices and that's just based on the -- on how the phone is registering a call time.

The call that occurred at 9:05 and 02 seconds AM was from Mr. Griffin to Mr. Dash, which lasted 9 seconds, according to Mr. Griffin's record, and zero seconds according to Mr. Dash's records.

Q. Okay. I think you just said there 9:05. Did you mean 9:45?

A. Yes, my mistake. 9:45 and 02 seconds AM.

Q. Okay. So, the last communication that you could find on Mr. Griffin and Antonio Dash's phone between the two of them is the morning before on February 6th?

A. It's the morning before, yes.

MS. YOUNG: Beg the court's indulgence.

(A PAUSE.)

MS. YOUNG: Nothing further, Your Honor.

THE COURT: By the state.

CROSS-EXAMINATION BY MR. SCOTT:

Q. Good morning, Mr. Watkins.

A. Good morning.
Q. Okay. 8:49 to 8:59 you noted some movement on Mr. Barnes's phone.
A. Yes, sir, that's correct.
Q. Okay. Can you tell me what kind of movement there was between 8:49 and 8:55? Are you able to do that for me?
A. No, sir. So, the, the record is indicating a ten minute span. So, it, it will only give us information between that time. It's not going to break it down minute per minute, second per second.
Q. Okay. So, ten minutes is all we can do? And as far as, like, if we know a shooting happened at 8:55 or thereabouts, and you're saying the first movement is six minutes earlier, can you tell me what kind of movement he did in those six minutes?
A. I, I can't. What I can say is that the fact that that record exists tells us that the phone was moved and it wasn't a simple nudge or being dropped or -- for, for it to have that much time registered or that much -- that many steps registered and that distance registered, you'd have to be moving more than just a nudge.
Q. Okay. So, he's moving a good bit in and around that apartment in ten minutes?
A. That would be my understanding of how that works,

yes.

Q. Well, in your opinion, is he moving around it quite a bit in that ten minute span in that little apartment?

A. I would agree.

Q. Okay.

A. I would agree with that.

Q. Well, you, you don't know what he was doing if he took all those steps all in and around that apartment because it's a small apartment. Have you seen the pictures?

A. I have, yes.

Q. Okay. That's a whole lot of moving around in ten minutes in a little apartment. Wouldn't you agree?

A. It's a lot of movement, yes.

Q. Okay. Do you have any clue what he was doing?

A. I couldn't say based on these records.

Q. And you're not here to testify when Mr. Barnes woke up because you can't do that, can you?

A. I can't do that. What I did is I did look at the past activity concerning the Apple Health App, and I did look at the entire data for the -- across the entire device. It did date back all the way to November of 2017.

So, I had looked at the activity to, to see patterns within that period of time and then I broke

down a four month period of time, a four week period of time, a one week period of time, and then a few days before the incident, and then the date of the incident. And what I found was there's a pattern that that device begins to move around the 8 o'clock or 9 o'clock hour.

Q. Okay. Some of those 7 o'clock I think you've testified before, you got some activity at 7 o'clock AM?

A. There, there is also some dates where that does occur, too, yes.

Q. Right. So, it's kind of hard -- like me sometimes, depending on what's going on, I might wake up at 3 o'clock AM, fall right back to sleep. Sometimes I'm up the rest of the night and I hate when that happens. But does that happen with you?

A. It does.

Q. Yeah.

A. Sure. Yeah.

Q. So, so, you can't really testify with any degree of certainty when somebody wakes up. Now, I understand you, you want to talk about patterns. I get that. But on this specific date, tell me exactly when Mr. Barnes woke up.

A. Right. I can't do that.

Q. Okay.

A. I can only tell you what the device -- what, what -

-- the data that's on the device. The device does not track when a person sleeps or wakes up. The whole purpose of that particular, particular artifact is to show that was the time that the device began moving that morning.

Q. All right. How bout this? Do you sleep with your phone in your pocket?

A. No.

Q. Where do you put your phone?

A. On a nightstand.

Q. Me, too. So, when I wake up, and my phone's sitting on the nightstand, I get up and I don't -- you don't take it in the shower, do you?

A. No, that'd be odd.

Q. I don't either. I leave it on the nightstand. I go take a shower. Then I get out and I brush my teeth. All the while, the phone's still on the nightstand. Is that kind of how you work, too ---

A. Sure.

Q. --- or do you carry it when you brush your teeth?

A. Depends on what I'm going -- what I got going on.

Q. All right. I, I leave mine on the nightstand while I'm getting ready. Then that -- I, I got to wear a suit every day. So, I got to go through that. I got to put the shirt on and then I got to put the suit on and tie

my tie. All the while that cell phone's sitting on the nightstand. Okay, I've been awake for an hour. What's my phone showing, though? Is it showing any movement in this ---

A. If ---

Q. --- scenario?

A. If your device is stationary, the -- there's not going to register, and you got an iPhone, it's not going to register anything on the Apple Health App. As soon as that thing gets picked up and you start moving around with it ---

Q. Then ---

A. --- it will register.

Q. Right. Okay. So, if I'm asleep and I hear something and it surprises me and I get my gun and I run out and I, I leave my phone on the nightstand, is it going to be tracking my movement?

A. If you leave the phone on the nightstand, no.

Q. That's what I said.

A. No.

Q. Okay. I'm asleep. My phone's on the nightstand because I don't sleep with it on me. Nobody does that, right? Do you know anybody who sleeps with their phone in their pocket?

A. Not ---

MS. YOUNG: Objection.

A. --- in their pocket.

MS. YOUNG: Speculation, Your Honor.

THE COURT: Objection's overruled.

Q. Do you know anybody that sleeps with their phone in their pocket?

A. I don't know anybody that sleeps with their phone in their pocket.

Q. Okay. Well, if you and me, we leave our phone on the nightstand, and we hear a boom or something, just something going on, and we grab our gun and we run out there, and we're doing God knows what. We're running, running around 120 steps all around and the phone's sitting on the nightstand, is it registering movement?

A. No.

Q. Okay, but the first time Mr. Barnes's phone starts moving, and then he's logging all those steps in that little apartment, is 8:49.

A. That's correct.

Q. Okay, and now what else did you -- what else did they tell you to do with the phone? Did you look at any pictures? Did you look at any text messages?

A. I recall looking at media. I recall looking at text messages, yes.

Q. All right.

(CALL LOG MARKED AS STATE'S EXHIBIT NUMBER 83 FOR IDENTIFICATION.)

MR. SCOTT: Thank you.

Q. This is State's 83. Do you recall that particular text exchange?

A. Yes, I recall this text thread, yes.

Q. Okay, and this is a text message involving Mr. Barnes's phone that you were asked to dump?

A. That did come from Mr. Barnes's phone, yes.

Q. Okay, and he, he is, he is trying to identify somebody who, who took something from his apartment, isn't he?

A. Yes.

Q. Okay, and he's talking to somebody and he's very concerned about figuring out who took something from him, isn't he?

A. That's correct.

Q. So, what, what was the date when that was so in -- that was on his mind?

A. The 5th of February ---

Q. February 5th?

A. --- of 2019.

Q. Okay, and what is it that he's so concerned somebody took from him?

A. The item that was taken was a gun, firearm.

Q. Okay. So, that, that was something that was very on his mind through several texts that you found?

A. Yes, there's a thread about that.

Q. Okay. Let me...

(CALL LOG MARKED AS STATE'S EXHIBIT NUMBER 84 FOR IDENTIFICATION.)

Q. This is State's 84. What, what is that?

A. This is a call log between Mr. Barnes and Ms. Shakihla Janay Smalls.

Q. Okay, and, and how many calls do you see there in that exhibit?

A. About fifteen.

Q. All right, and what, what were the time period that you see the activity between Mr. Barnes and Ms. Shakihla Smalls? Again, what's the first one, I guess, if you can tell me -- do that.

A. The first call is dated February 7, 2019, at 10:10 AM.

Q. 10:10 AM.

A. The last call in this list is dated February 7, 2019, 10:29 AM.

Q. Okay. So, within nineteen minutes there are fifteen calls going, I guess, back and forth between he and a Shakihla Smalls?

A. Yes.

Q. Is that what you testified? What else did you find when you -- they asked you to examine this phone?

A. Pertaining to what?

Q. Just generally. What did you find? Did you go through pictures?

MS. YOUNG: Objection to relevance under 402.

THE COURT: Pardon?

MS. YOUNG: Under 402.

THE COURT: Any response?

MR. SCOTT: Pertaining to this phone dump and the time period around this February 7th date.

THE WITNESS: Um.

THE COURT: Just a moment.

The response to the objection is what?

MR. SCOTT: Oh, my response to the objection is they asked him to perform a phone dump. I was asking the general findings.

THE COURT: Any response?

MS. YOUNG: Your Honor, general findings of a phone that lasted -- that could go back years. It's -- has to be relevant to what we're here for today.

THE COURT: All right.

MR. SCOTT: Okay. I, I do, I do have an answer to that.

THE COURT: All right.

Q. There was testimony regarding guns being missing. You said that was a, a big concern of his. Is that correct?

A. We just talked about a text thread, thread involving that, yes.

Q. We just did. You're right. Did, did you find anything image wise to indicate that, that he did, in fact, have pistols or guns that may have gone missing?

MS. YOUNG: Your Honor, at this time we have a matter of law.

THE COURT: All right, ladies and gentlemen, we'll have you go to the jury room for a moment. Please do not discuss the case.

(THE JURY EXITS AT 11:11 AM.)

THE COURT: Yes. What is your matter of law?

MS. YOUNG: Thank you, Your Honor. I believe that Mr. Scott was about to elicit testimony about pictures on Mr. Barnes's phone that may depict him or other people holding weapons or holding other guns. There's no evidence in this case whatsoever at all that anything was taken from Mr. Barnes or that he had a phone -- I mean, a gun that was stolen.

You know, this goes back to our pretrial motion about, you know, it's not, it's not admissible under 402 because it's not relevant to anything that happened in

this case. Mr. Barnes didn't have a gun stolen. Mr. Dash did and that's all the evidence that there is. He's going to try to put in pictures of Mr. Barnes potentially and some other people, I'm not sure, who are holding or possessing guns, which is not unlawful. It's just going in to try to make him ---

THE COURT: You, you are -- you, you know that's what he's planning to do?

MS. YOUNG: I -- based on the plea -- based on the stand your ground at the prior hearing, yes, Your Honor, I believe that's what he's going to do.

THE COURT: All right. Mr. ---

MR. SCOTT: Thank you, Your Honor. It's not -- it's been ID'd. I'm going to go ahead and put it in evidence probably when the jury comes back in. But the gist of the text message that their expert just testified, tell me why somebody stole one of our guns today, that is what the defendant said. I don't know who, though, and still trying to figure out who took the gun. But this is our gun. He -- he's claiming ownership of it.

I've got a series of pictures, Your Honor, and I don't even know that I need to really introduce the pictures. But, Your Honor, it is the defendant posed with a number of different guns. Any one of them could

have been the gun that he's worried that people took from his apartment.

THE COURT: You indicate you do not intend to offer these photographs at this time?

MR. SCOTT: No, Your Honor. I'm, I -- just the substance of -- I -- probably what I'll do is say what did you observe. I might show them to him and I, I would ask did you observe different types of guns in the possession of Mr. Barnes in these -- this photo or the picture data that you retrieved from the phone.

THE COURT: All right. Any, any response?

MS. YOUNG: Your Honor, I don't believe that it's relevant under Rule 402; I don't think it's admissible under 403 or 404. It's not relevant to what Mr. Watkins testified about. It just makes him look like a bad guy.

THE COURT: Now, you've introduced the -- you had him to testify about examining the phones and text messages and the like.

MS. YOUNG: Yes, Your Honor. He did review the phone. I did not elicit any test -- any testimony about text messages. So ---

THE COURT: But the -- what the solicitor says the text messages indicate is contrary to what you just told me, which was that the evidence is that Mr. Dash's gun was stolen and not this defendant.

MS. YOUNG: I, I believe that he said our guns. He lives in the apartment. So, he's probably ---

THE COURT: Yeah.

MS. YOUNG: You know ---

THE COURT: Yeah, we know the difference between my and our.

MS. YOUNG: Certainly, but Mr. Thomas came in here, their witness, and testified that he was holding the gun and it belonged to Tonio.

THE COURT: Right. I know.

MS. YOUNG: Then what Mr. -- Mr. Barnes's use of language is not in our gun. He says later in those text messages ---

THE COURT: Yeah.

MS. YOUNG: --- it's Tonio's gun.

THE COURT: Later in whose messages?

MS. YOUNG: The same text messages, Your Honor.

THE COURT: Well, Mr. -- defendant's text messages?

MS. YOUNG: Yes, Your Honor.

THE COURT: All right. I overrule the objection. You may bring the jury.

(THE JURY ENTERS AT 11:18 AM.)

THE COURT: All right, the objection's overruled.

MR. SCOTT: Okay. Your Honor, the state does offer State's 83 for admission into evidence and ---

THE COURT: What says the defense?

MS. YOUNG: Over our prior objection.

THE COURT: And what is it? Tell me what that exhibit is again.

MR. SCOTT: This, this was a text thread that was identified by the expert.

THE COURT: All right. Admitted over objection.

MR. SCOTT: Okay. I'm going to get her to...

(CALL LOG RECEIVED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 83.)

Q. Okay. You were talking earlier, February 5th of 2019, 18:03. What's -- 6:03 PM. Is that right?

A. Yes.

Q. What does Mr. Barnes, what does he text?

A. There are two text messages dated at this time. The first reads: Tell me why somebody stole one of our guns today. The second message at that time reads: I don't know or IDK who though.

Q. I don't know who though?

A. Yes.

Q. Okay. So -- and then you testified earlier it looked like he was concerned about somebody stealing one of his guns. Our guns I think is what he texted. So, that would be a shared gun perhaps?

A. Or a misspelling.

Q. What do you think he meant to say?
A. I have no idea what he meant to say. I'm just saying a -- I don't know what he said.
Q. You don't know what he said? You just read it.
A. Well, let me finish. It says ours.
Q. Okay.
A. If that's a misspelling of your, I don't know if that's our. That's not for me to answer.
Q. No, it's not.
A. No, it's not.
Q. How do you spell our? What ---
A. Well, he didn't misspell our.
Q. Okay.
A. But there -- I just noticed there are words here that are not spelled correctly.
Q. Okay. You would ---
A. I'm just saying it, it -- I don't know the answer to the question you're asking me.
Q. I just asked you to read it: Tell me why somebody stole one of our guns today. Is that what it says?
A. It does say that, yes.
Q. Okay. Thank you. And I asked you, as part of your examination of the phone, you, you did kind of like a phone dump. You looked at videos. You looked at text messages. We already talked about that. You looked at

phone calls. We talked about the fifteen calls between he and Shakihla Smalls in the nineteen minutes after the shooting.

A. That's correct, yeah.

Q. And then I, I assume you looked at some pictures.

A. I did look at the data on the device. So, there's lots of records on this device ranging from media, to communication data, to browsing history, application data, a lot of data. But, yes, it is a fact or it's true that I did -- the, the assignment was to perform a timeline analysis respective to this date. Now, that's not -- that, that was the main focus. But, yes, there were other data that I looked at, yes.

Q. Okay. That was a long way of saying yes, you did look at pictures, right?

A. Yeah.

Q. Okay.

A. They were involved in the, in the scope, yes.

Q. Okay. Now let me show you some of these. Did you -- is that what you extracted from Mr. Barnes's phone? Don't -- just look at them to yourself. I'm just asking if you recognize those as being pictures that you extracted from Mr. Barnes's phone.

A. Some of these do look familiar, yes.

Q. Okay, and, and do you remember seeing a number of

different types of guns in your extraction?
A. Yes.
Q. Okay, and do you recognize Mr. Barnes in those pictures?
A. I, I do, yes.
Q. Okay. So, he -- he's posing with several different types of guns?
A. Yes.
Q. Okay. Can you tell how many different ones there are?
A. I didn't count, but there were a few, yes.
Q. Okay, and we don't know which one of those guns went missing, do we?
A. I have no idea, no.
Q. And we don't know which one of those guns or, or if the gun that went missing is in those pictures. But you, you did note that he had various pistols that he was posing with and taking pictures with.
A. Say that again.
Q. You did note that he had various and different pistols and guns that he was posing with.
A. Yeah, I did, I did see a few of them, yes.
Q. Okay. Okay.
MR. SCOTT: I think that's all I have for you, Mr. Watkins. Thank you very much.

THE COURT: Any redirect?

MS. YOUNG: Briefly, Your Honor.

REDIRECT EXAMINATION BY MS. YOUNG:

Q. Mr. Scott talked to you a little bit about, I guess, his routine in the morning, and, you know, I -- you put your phone down, it doesn't move, and then the Apple Health App wouldn't be registering that, right?

A. Correct.

Q. And so once movement starts at 8:49, there's no way to tell if those steps were taken, like, in a continuous fashion, right?

A. Right.

Q. So, the phone could get moved at 8:49 and be still for a while and then get picked up again and get -- in that ten minute increment, the phone moved some amount, depending on the accuracy, this 121 steps that it showed, right?

A. That's correct.

Q. Not just, not just a continuous from 8:49 moving around.

A. Right. I, I can't testify to where those steps or that distance was traversed within that ten minute time span.

Q. Okay. I believe Mr. Scott asked you about the calls from Mr. Barnes to a woman named Shakihla Smalls,

right?
A. Yes.
Q. And when did you say the first call was made? Was it 10:10?
A. That was 10:10 AM on the 7th.
Q. And then the last one was on 10:29?
A. That's my recollection.
Q. And were any of them answered?
A. I, I didn't look at that. I'd have to look at it again.
Q. You don't have that up there?
A. No, I don't. Sorry.
Q. And one last thing, Mr. Watkins. He called 911 at 8:55 ---
A. Yes.
Q. -- right? And that call connected?
A. It did.
Q. Okay.
MS. YOUNG: I don't think I have anything further. Thank you.
RECROSS EXAMINATION BY MR. SCOTT:
Q. Do you know if he spoke with an operator during that call?
A. I, I don't know.
Q. Okay. You don't have a recording of him speaking

with 911 dispatch, do you?

A. Not that I received.

MR. SCOTT: Thank you.

THE COURT: You may step down.

(THE WITNESS EXITS THE STAND.)

THE COURT: Your next witness.

MS. YOUNG: Your Honor, at this time we ask for a short five minute recess.

THE COURT: All right. We'll take a short five minute recess. Please do not discuss the case.

If everyone will ---

BAILIFF: Remain seated, please.

THE COURT: If everyone will stay in place. The jury's leaving.

(THE JURY EXITS AT 11:28 AM.)

THE COURT: First, speaking concerning the SLED officer, Ms. Goodman, and she's available to be here this afternoon. What time do you want her?

MS. YOUNG: Well, Your Honor, Mr., Mr. Barnes will be our next witness. I don't know how long that might take.

THE COURT: Okay. You want her here at 2:30?

MS. YOUNG: That works fine with me, Your Honor.

THE COURT: Okay. We'll notify her to be here at 2:30. We'll take five minutes.

(OFF THE RECORD.)

(PHOTOGRAPHS INDIVIDUALLY MARKED AS DEFENDANT'S EXHIBIT NUMBERS 124 AND 125 FOR IDENTIFICATION.)

(LEASE MARKED AS DEFENDANT'S EXHIBIT NUMBER 126 FOR IDENTIFICATION.)

(PHOTOGRAPH MARKED AS DEFENDANT'S EXHIBIT NUMBER 127 FOR IDENTIFICATION.)

(PHOTOGRAPHS INDIVIDUALLY MARKED AS STATE'S EXHIBIT NUMBERS 85 AND 86 FOR IDENTIFICATION.)

THE COURT: Anything before the jury comes?

MR. SCOTT: Nothing from the State, Your Honor.

MS. YOUNG: I don't think so, Your Honor.

THE COURT: Okay. If you'll bring the jury.

(THE JURY ENTERS AT 11:41 AM.)

THE COURT: Okay. Next witness.

MS. YOUNG: Thank you, Your Honor.

The defense calls Antonio Barnes to that stand.

ANTONIO BARNES, JR., BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

CLERK OF COURT: Please have a seat. State your full name.

WITNESS: Antonio Barnes, Jr.

DIRECT EXAMINATION BY MS. YOUNG:

Q. Good morning, Antonio.

A. Good morning.

Q. Did you murder Eric Griffin and Antonio Dash?
A. No, ma'am.
Q. Did you shoot them?
A. Yes, but I ain't -- I thought somebody was breaking into my crib. I never knew who was around me.
Q. Were you scared?
A. Yes, ma'am.
Q. We're going to talk a lot more about that in just a second, okay, but I want to go ahead and get something out right off the bat. Do, do you sell marijuana at the time of this incident?
A. Yes, ma'am, but I been smoking since I was eleven. So, I like to smoke weed a lot. That has nothing to do with this.
Q. And did you start selling weed to support -- basically to, to break even on your habit?
A. Yes, ma'am.
Q. Have you always had jobs?
A. Yes, ma'am.
Q. Did you make a lot of money selling weed?
A. No.
Q. Do you have fancy stuff in your apartment?
A. Yes, and I like ---
Q. You do have fancy stuff ---
A. Yeah.

Q. --- in your apartment?
A. I like fancy stuff like clothes and jewelry.
Q. I ---
A. That's just my regular style.
Q. How about furniture?
A. No.
Q. Electronics?
A. Yeah.
Q. How many TVs did you have?
A. Two.
Q. And do you know how much marijuana was found in your room?
A. No, but they say about 3 ounces.
Q. Okay. You learned that after the fact?
A. Yes.
Q. And did marijuana have anything to do with what happened on the morning of February 7th?
A. No, ma'am.
Q. Okay. Now, some of this came out when we talked about Sam yesterday or we talked to Sam yesterday. But were you friends with both Antonio Dash and Eric Griffin?
A. Yeah, I was cool with both of them. Antonio was like my brother. I been knowing brec for ten years. That's the whole reason why he ended up staying with me

in the first place. You feel me? All his peoples put him out. That's why he was staying with me. So, now that we passed that, I been knowing Eric about seven years. Been playing basketball. I never went to school with him personally, but all my homeboys went to school with him except Tonio.

Q. Okay. So, you'd known both Antonio Dash and Eric Griffin for a really long time?

A. Correct.

Q. For at least ten years and seven for Mr. Griffin?

A. Uh-huh.

Q. And, in fact -- so, so you and -- where were you living before you moved into this apartment?

A. Well, I was staying with Sam grandma for, like, the past two years.

Q. Okay, but you and Samuel Thomas were living with his grandmother?

A. Correct.

Q. Okay. How did you find this apartment?

A. Well, through another one our mutual friends name Wesley Wright, who's also friends with all us. His baby mom worked -- his baby mom's mother worked at Willow Runs (sic) Apartments. And when they moved from building 14, they moved to building 26, and she let us move into building 14.

Q. Okay. So, you actually moved into an empty ap -- that apartment where somebody had moved out ---

A. Yeah.

Q. --- and you were moving ---

A. Uh-huh.

Q. --- in there?

A. Correct.

Q. Did you pay a lot in rent?

A. No.

Q. Was that the first time you ever had your own place to live?

A. Yeah, that's my first own spot. But it was me, Sam, and Tonio house.

Q. Okay, and when did -- I know that you and Sam sort of moved in first.

A. Correct.

Q. When did Tonio move in?

A. Probably like the third day after we moved in.

Q. Okay. Antonio, I'm going to show you what's been marked Defendant's Exhibit 126. Do you recognize that?

A. Yes, ma'am.

Q. And what is that?

A. That's my lease.

Q. Okay.

MR. SCOTT: Without objection, Your Honor.

MS. YOUNG: Your Honor ---

THE COURT: Sir?

MS. YOUNG: --- at this time I'd move Defendant's 126 ---

THE COURT: Admitted.

(LEASE MARKED AS DEFENDANT'S EXHIBIT NUMBER 126 RECEIVED INTO EVIDENCE.)

Q. All right. So, you're the one actually listed on the lease for the apartment?

A. Correct.

Q. And Samuel Thomas was also -- was he also listed?

A. Yes.

Q. Okay, and then at -- I think, you referenced it a second ago, but why did Antonio Dash move in with you?

A. Well, because all his peoples had kicked him out. He originally first stayed with his brother. He kicked him out because he was charging extra on rent for no reason. Then his mom, he stay with his mom. But he couldn't stay there no more because his sister put sex charges on him and lied and said that he was trying to touch her. Then, on top of that, he stayed with Amanda, his oldest sister. She put him out as well. He was sleeping on the floor. He was paying the most rent to everybody and all the other sisters stayed as well. And so he left and he had nowhere to go.

Q. So, he didn't have anywhere else to go ---
A. No.
Q. --- and you and Eric let -- I mean, you and Sam let him -- moved in?
A. Correct.
Q. Okay, and we covered this, I think, at least and I don't want to belabor the point, but there were two bedrooms in this apartment?
A. Correct.
Q. And you slept in the, the back bedroom?
A. Uh-huh. All the way to the right.
Q. Okay, and Sam slept in the front bedroom?
A. Uh-huh. The first one on the right.
Q. Also on the right. And then, if you walked straight down the hallway, you kind of run right into --
A. Uh-huh. It's a closet ---
Q. --- that ---
A. Yeah, it's like a closet. But it was big enough to be a room, like a walk-in.
Q. Okay.
A. Uh-huh.
Q. And what did Antonio sleep on?
A. An air mattress.
Q. And did he keep all his stuff in that closet?

A. Yes.
Q. Okay, and you told us this already but you -- how did you know Eric Griffin? I know you said you knew him for about seven years.
A. I ---
Q. How did you know him?
A. I met him through his best friend, James, James Wilson. They used to stay next door to my grandmother's house in the back of Byrneswood. So, that's how I met him. We went to school with my little brother. He went to school with Sam, Wesley. He went to school with a lot of our mutual friends, but I didn't go to school with him. I had already graduated.
Q. Okay.
A. Uh-huh.
Q. And you said did -- who lived at Byrneswood?
A. Well, my grandmother.
Q. Okay. Did you grow up with your grandmother?
A. Yes.
Q. Who else lived in there with you?
A. Well, my little brother stayed for a little bit, but he always went to schools at Lower Richland with his other grandmother. So, just me and my grandma.
Q. Okay. Did your grandfather live there, too?
A. No.

Q. And have you always lived in Columbia?
A. Yes.
Q. Did you -- what neighborhood did you spend time in?
A. Well, I originally growed up on Kings Street and I didn't -- stayed on Broad River. I stayed in Hollywood Hills, also the neighborhood that Eric from. But I didn't know him from that neighborhood. And I stayed in Byrneswood. They was off Monticello Road.
Q. Did you move around a lot?
A. Uh-huh.
Q. Why?
A. Just a lot of family issues. So, that caused me to have to move around a lot.
Q. Did you grow up with a lot, Tony?
A. No.
Q. Did you have any family here today?
A. Yeah, I believe my mom over there.
Q. Is your mom here?
A. Uh-huh.
Q. And are you working right now?
A. Yes.
Q. Where do you work?
A. At AutoZone on North Main.
Q. Okay. What do you do for AutoZone?
A. I'm a delivery driver.

Q. Okay, and do you have a girlfriend right now?
A. Yes.
Q. Okay. Do you have how any children?
A. Yeah, I'm about to have ---
MR. SCOTT: Your Honor, the objection I guess at this point would be relevance. I, I -- just trying to move the case and testimony along. We're talking about his girlfriend and his mom being in the courtroom and whatnot. Interested in getting to the gist of what we're here for today. So, relevance would be the objection, Your Honor.
THE COURT: All right. Objection's overruled.
Q. Do you have any children?
A. Yes. Well, I'm about to have my first one March 5th.
Q. What are you having?
A. I'm having a little girl and I'm going to name her Amelia.
Q. Now, Tony, I'm going to turn your attention to an incident that happened a couple of days before the shooting. Mr. Thomas talked about it yesterday.
A. Correct.
Q. What happened between Eric Griffin and Antonio a couple of days before this?
A. Well, Antonio wasn't there. Tonio was at work and

E came over there, which was a normal day. He just had started coming back over there. I haven't seen him that much since he had got out of jail ---

Q. Tony.

A. --- which I helped ---

Q. Sorry. I'm going to interrupt you.

A. Uh-huh.

Q. I apologize.

A. Uh-huh.

Q. When you say E, who are you talking about?

A. I'm going to talk about Eric Griffin. That was the nickname that I call him. I call Tonio Dash T.O. and I call Eric E.

Okay. With that being said, E had just originally got out of jail, which I helped bond him out. You feel me? And he started coming over to the house that day. When I woke up, I looked out my front window and just so happened he was, he was pulling up in a white car and he was outside. So, I came to the front door and I let him in.

So, he came upstairs and we just was in there chilling. It was me, him, Katerra, and Sam. We had done been chilling for about an hour, thirty minutes. Katerra left. Then ---

Q. What were y'all doing?

A. We was just in there chilling, playing a game.
Q. When you say a game, do you mean a video game?
A. Yeah, a video game.
Q. What kind of video games did you guys play?
A. We had a PlayStation 4 and we use to play *2K* and *Call of Duty*. Yeah, but with that being said, we was all in there chilling. Katerra left first. Sam left and went to take the -- do something in the office, fill some paperwork out for the office people.

So, it was originally just me and E left in the house. E left. Say he had to go pick his girlfriend up. So, we -- after all them left, Sam came back first. Then Katerra came back. Then E came back. So, we all was in there chilling again.

So, this -- Sam, I guess, when he went -- before he walked to the office, he went and grabbed Tonio's gun out the back room, which I don't know why Tonio didn't take it to work. But I guess he left it home that day and Sam end up going to the back and get it so he can walk to the office.

So, he comes back, and everybody links back up at the house. E came in. Katerra came in. We all in there chilling. Sam, Sam said originally he had the gun in his back -- on his hip or on his -- he, he put his guns in the back, like, in the back part of his pants.

So, he was sitting in the corner on the chick -- on the table that we had that we used as a seat, which was in the corner, and it had a table, a table leg missing because that's why we had it sitting against the wall because that's the only way you could sit on it.

So, with that being said, we was all in there chilling. Sam got up from the -- that table where he was originally sitting and moved in front of the TV so we both could be playing the game because it was another foldup chair right there. So, when -- Katerra moved into his seat where he was sitting at and E was still on the ground sitting beside the plug charging his phone.

So, as we continued chilling, probably about ten, fifteen minutes go past. Another one of our friends come in named Hezekiah. He walked in. He was only in for thirty seconds. He gave everybody dap. He never sat down and he left out. So, after he left, Katerra left.

Q. Tony.

A. Uh-huh.

Q. When you say he gave everybody dap, what do you mean?

A. Oh, gave them handshakes. He gave everybody handshakes. He never sat down. He low out -- walk back out. He was coming there to grab something from me. I

can't remember exactly what it was, but he got it. After he left out, it was, once again, just me, Katerra, E, and Sam. So, Katerra leaves next, which if -- she was sitting in the same spot that Sam was sitting at where he left the gun, which I didn't know. Sam had set the gun on the table that was sitting in the corner because he said it was hurting his hip, and he got up and moved to play the game, and we was sitting in front of the TV. E and Katerra is sitting behind us on both sides of the room. You feel me?

So, Katerra got, got a phonecall and she said she had to leave. So, she got up, took her shirt from off the top of the gun, and put it on -- that's what she said. She took it from off the gun, put her shirt on, and she went back to work or wherever she had to go.

So, after she moved from there, Eric moved to the same spot that she was sitting in. But that's my dawg, too. So, I never thought nothing of it. I never was paying him no attention. I never looked at him no type of way because I wouldn't think he would be trying to steal. You feel me?

So with that being said, my little brother called. His name is DaQuan. He stay right next door in building 15. I stay in building 14. Building 15's right across the street. He called at, like, 2:30. Kind of want to

say 2:45 as he had to be to work at 3 o'clock. He asked Sam could he give him a ride to work.

Q. Tony.

A. We ---

Q. I'm going to stop you real quick and just back up. I want to make sure everybody can understand what's happening here. Okay. So, you say that Katerra, Sam, Eric, and you were all in the apartment together?

A. Correct.

Q. And then another guy comes in, kind of high fives everybody, and then leaves?

A. Yes.

Q. Okay, and then you and Sam move over and just start playing video games?

A. Correct.

Q. And that's when Katerra and, and Eric are kind of behind you?

A. Uh-huh.

Q. And then who left first?

A. Katerra.

Q. Okay. Oh, and where was everyone sitting? There's nothing -- there's nowhere to sit in your apartment? Is that right?

A. Yeah, Katerra was sitting on the table that's in the corner. We only had two foldup chairs. So, me and

Sam was sitting in those and E was sitting on the floor beside the charger cord charging his phone.

Q. I see. So when Katerra left, he actually got up and moved to that spot?

A. Got up and moved to exactly where she was sitting at, which was a table in the corner with one leg missing.

Q. Okay. So, start -- move forward. Your brother had called for a ride to work.

A. Yeah. So, my brother called for a ride. Sam said -- agreed. So, he walked to the back to brush his teeth. I got up as he came from the back. Me -- well, he, he walked out of the house first. Eric walked out behind him and I walked out. I locked the door. Sam walked to his car. Eric walked to his car and I walked to Wesley house.

Q. And where, where does Wesley live?

A. Wesley stay in building 26.

Q. Okay.

A. Like, the two parking lots back.

Q. Okay.

A. Uh-huh.

Q. And so what happened after that?

A. Well, after that, probably, like, I been at Wesley house for probably, like, two, three minutes, Sam called

me and told me that a gun was missing, which originally had me confused because I never knew that he had Tonio's gun. I would have thought he would have took it to work with him. But he said that it was missing. So, I asked him about, like, who, who he thought took it or what he thought happened. He said the only thing he could think of is he think E took it.

So, I immediately got on the phone where I was at Wesley house and called Eric and asked him did he take it and he said -- he denied it, which I didn't think he took it because I was giving him the benefit of the doubt because that was my friend. So, like I was saying ---

Q. Tony, let me stop you for a second.

A. Uh-huh.

Q. And so I know you said you didn't know that Tonio was holding ---

A. That Sam was holding Tonio's gun.

Q. --- that Sam, Sam was holding Tonio's gun.

A. Correct.

Q. Right, but is there a reason that Sam might have been holding Tonio's gun?

MR. SCOTT: Objection. Unless he knows from personal knowledge.

Q. Tony, do you know about a robbery that happened a

few weeks before this?

A. Yes.

Q. And what happened during that robbery?

A. Well ---

MR. SCOTT: Objection unless he was there, Your Honor, unless he was involved with the robbery and I don't think he can testify to that.

THE COURT: Response?

MS. YOUNG: Well, Your Honor, Mr. Thomas testified about it yesterday.

THE COURT: About what?

MS. YOUNG: About the robbery and I believe Tony does have personal knowledge of it. He lived with the two of them. He has personal knowledge.

THE COURT: I overrule the objection.

Q. So, what happened at the robbery?

A. Well, Sam and Tonio left the house. Probably it was about -- I can't remember the time but I know it was dark, and they was going on the way to Pizza Hut to go pick up a pizza. So, Sam and Tonio walked downstairs and get in the car. They went to the store.
Sam said they had to stop at the orange store right outside the neighborhood. It's blue now. I don't know if y'all been over that way but it's a blue store now. But it was orange. It's a air pump on the side of the

store. Sam pulled up to in front of the air pump to put air in the tire. It just so happened he pulled beside guys that didn't like them.

So, as Sam walked in -- well, they really didn't like Tonio or him. But, regardless, Tonio was the last one in the car. Sam went inside to go get change to put air in the tire. As he came back out, they had ---

THE COURT: Is he now testifying to something that he witnessed? Was he present?

MS. YOUNG: No, Your Honor.

MR. SCOTT: That's my objection. I think he's, he's talking about something -- I don't know where he has this knowledge, but he wasn't there.

THE COURT: I sustain the objection.

Q. Tony, did -- are you aware that ---

A. Yes.

Q. --- Antonio Dash and Samuel Thomas were robbed at that orange store ---

A. Yes.

Q. --- you mentioned before and was a gun stolen ---

A. Yes.

Q. --- from each of them?

A. Yes.

Q. And so at that point in time -- at the time of the gun was missing when Tonio believed Eric had taken it

from him, is that -- but Sam was in possession of it that day?

A. Correct.

Q. And Sam didn't have a gun at that point?

A. Correct.

Q. Okay. Tony, in your neighborhood, does everybody carry a gun?

A. Most -- for the most part.

MR. SCOTT: Objection to that, does everybody carry a gun.

THE COURT: Objection's sustained.

Q. Tony, is your neighborhood dangerous?

A. For the most part.

Q. Is -- does it -- does it have a lot of crime?

A. Yeah.

Q. Did you feel the need to protect yourself?

A. Yes.

Q. Now, on the day before the shooting incident on February 6th, was there another incident that occurred over this gun that Tonio believed Eric had taken?

A. Yes.

Q. What happened?

A. Well, basically when I woke up and I came to the living room, Tonio and Eric was around there arguing. Tonio was staying closer to the hallway. Eric was

standing close to the door and Katerra and Sam was sitting in both sides of the room. Sam was sitting close to the TV on that side of the room. Katerra was sitting in the corner where the table the other day -- the same table she was sitting the day before.

Q. So, you mean, like, a table that's propped up against the wall?

A. Correct.

Q. And what happened?

A. Well, when I came out the room ---

Q. Why did you come out of your room?

A. Because I heard arguing and I just heard them boys getting aggressive.

Q. Could you tell that it was Antonio Dash?

A. I could tell it was T.O., yes.

Q. And could you hear Eric Griffin?

A. No.

Q. Okay. Could you hear Samuel Thomas talking?

A. Yes.

Q. Go ahead. So, you heard arguing.

A. So ---

Q. And then what?

A. So, as I came out the room and I got to the living room where I -- as soon as I opened the door, I could see them standing right there arguing. So, as I got to

the living room, I had noticed that T.O. had my gun still in his hand from where he had it from the night before because I let him hold it to go to the store. So -- and as they was arguing, I just seen it was getting a little heated. It wasn't fully there yet but it was getting there. So, I just snatched my gun out Antonio hand. And, after I did that, I let everybody explain they story because they was originally arguing about the gun, which did not belong to me. Didn't have nothing to do with it. But these all my friends. So, I was trying to be a mediator.

Q. You're trying to make peace between Tonio and Eric?

A. Correct.

Q. And did Eric deny taking the gun?

A. Yes.

MR. SCOTT: Objection to hearsay.

THE COURT: He's answered the question.

Q. Did Eric leave at that point?

A. Yes.

Q. Did he -- did you believe that he would be coming back over to that apartment any time soon?

A. No.

Q. Now, we're going to talk more about this later, too, but you were interviewed by police. We saw one of them yesterday, I think. Did you tell them about this

incident?

A. Yes, multiple times.

Q. Tony, I'm going to go ahead and ask you to take a look at some photos just to see if you recognize them. You don't need to ---

A. Uh-huh.

Q. --- talk about them quite yet. I just want to see if you recognize them. Okay, they're, for the record, Defendant's Exhibit 118, -19, -20, -21, 1 -- okay. Sorry about that. It is Defendant's Exhibit 118, 119, 120, 121, 124, 125, and 127. Do you recognize all those?

A. Yes.

Q. And what are they of?

A. A picture of my house.

Q. On the day of the incident?

A. Some on, on the day of the in -- incident.

Q. And then some after the incident?

A. Correct.

MR. SCOTT: No objection, Your Honor.

MS. YOUNG: At this time, Your Honor, I'd move 118, 119, 120, 124, 125, and 127, and 121.

THE COURT: They're admitted.

(PHOTOGRAPHS INDIVIDUALLY MARKED AS DEFENDANT'S EXHIBIT NUMBERS 118, 119, 120, 121, 124, 125, AND 127

RECEIVED INTO EVIDENCE.)

Q. Okay, Tony, I'm going to move you forward, okay? Let's talk about what happened on the morning of February 7, 2019, okay?

A. Yes, ma'am.

Q. Were you working that day?

A. No.

Q. Were you working at all at that time?

A. Well, yeah. I had recently quitted a job probably, like, a week prior to this happening.

Q. And where had you been working?

A. For a company called Teph Seal and they worked for BMW.

Q. Did -- what, what did you do?

A. Detailing cars.

Q. But you didn't have to work on that date?

A. No.

Q. And what were you, what were you doing that morning?

A. I was in my room sleep.

Q. And do you remember what time you had gone to bed the morning before?

A. I say about 2:30, 3 o'clock.

Q. What were you doing?

A. Me and Tonio was up chilling playing a game.

Q. Okay. Did you talk to anybody on the phone?
A. Yeah, and I was on the phone with Pud, with Santonia.
Q. Did you say Pud?
A. Uh-huh.
Q. And who is that?
A. That's my girlfriend.
Q. And what is her name?
A. Santonia.
Q. I'm sorry. I was just trying to -- clarity for the court reporter. Okay, and I believe you heard Mr. Watkins testify that you talked -- you had a Facetime call with her, I think?
A. Correct.
Q. After you went to sleep, sleep that morning, what's the very next thing that you remember?
A. Well, the next thing I remember is hearing the loud -- a loud noise coming from the front room, like a boom or a bang.
Q. Can you describe it?
A. Like a loud boom like that.
Q. Did you know what it was at the time?
A. No. Any time you jump up out your sleep, you in a -- it's kind of impossible. So, no.
Q. What did you ---

A. Immediate ---
Q. What did you think it might be?
A. Well, immediately, I just was thinking like -- I sat for a second, like probably about a minute or two, and tried to listen and see what was happening. And all I heard was feets moving, like somebody -- they was in the house running or something or I can't really explain. I just heard feets moving. I heard things turning over, and then the next thing I heard was my TV fall.
Q. Okay. So, when you, when you heard the loud boom, did you think it could be a door getting kicked in?
A. Correct.
Q. Did you know that for sure?
A. No.
Q. Did you use that language when you described it to police later?
A. Correct.
Q. And did you immediately jump out of bed when you heard that?
A. No.
Q. So, what did you do?
A. I sat and listened because when it first started happening, I didn't -- was -- didn't know what was happening. So, I sat and listened to see if I could

hear some voices that I recognize, like Sam voice or T.O. voice, but I didn't hear nobody.

Q. You didn't hear anybody talking?

A. No.

Q. Did you think that Sam and Antonio were home?

A. No.

Q. Why is that?

A. Because I was just up with Tonio the night before and I knew exactly what time he went, he went to work. You feel me?

Q. Okay, and you heard Sam say it, too, but -- and did Sam usually drive you guys to work?

A. Correct.

Q. And did you -- you said earlier you also listened for their voices.

A. Correct.

Q. And you didn't hear them?

A. I didn't.

Q. What did you hear, Tony?

A. Well, the next thing I heard was, like, scuffling and I heard the TV fall. So, once I heard the TV fall, I just -- it was basically a fight or flight. I didn't know what was happening. I didn't want to let them get to my room because I thought I was going to die.

So, I grabbed my gun, which was sitting next to me,

and I ran out the room, hugging the wall. And as I got to the front room, I shot to the area where I seen -- where, where I heard the commotion from.

Q. Okay. So, you had heard some footsteps, I think you said?

A. Well, like rumbling footsteps sound like. You feel me?

Q. Okay.

A. Like people was running.

Q. And a commotion. When you say commotion, what do you mean?

A. Like just rumbling and you could hear it, like -- you could tell when a scuffle or something is ensuing. You can just tell, like, from the front, the hearing. I didn't have no furniture in my house. Nothing but a table in the front room, two church foldup chairs, and a broken table in the corner that we sit on with one table -- with one, one leg missing. So, that's not going to move. You feel me? It stay like that all the time. So, I just knew something bad was happening.

Q. What did you think was happening?

A. I thought I was getting home invaded and thought I was about to get killed.

Q. Were you scared?

A. Yes.

Q. And I think you said earlier you got your gun.
A. Correct.
Q. Where do you keep your gun?
A. Right next to me.
Q. I think the jury saw some pictures yesterday. Does your box springs sort of stick out from underneath your mattress?
A. Yeah. I had a queen sized mattress and I had a king -- well, king size box springs. It's two twins. So, when you put them together, it's not going to be the same size as the queen. So, it's about this much space on the side of my bed and that's where it was sitting at.
Q. And then you -- did you always sleep with your gun there?
A. Yes.
Q. Why?
A. That's just -- I felt like that's the safest way to be.
Q. So, you picked up your gun and then you moved down the hallway?
A. Correct.
Q. How long is your hallway?
A. I say you can take about ten steps and be down it or less. Anywhere between five and ten.

Q. Okay. Were you moving fast?
A. Yes.
Q. And I think you said earlier you were hugging the wall.
A. Correct. It's like -- it's a corner right here. So, as I was walk -- as I was coming down the hall, I was hugging the corner as close because I didn't want to get shot.
Q. So, Tony, this is your room right here? That's the doorway?
A. Correct.
Q. And then this is the hallway that you're referring to.
A. Yeah.
Q. Right?
A. Yes.
Q. And so you're saying you kind of hugged this part of the wall?
A. Correct, as I was moving quickly to get to the end of the hallway.
Q. And this is a -- like a kind of closer-up version of that. State's 1 -- I mean, Defendant's 125. This is the corner again, right?
A. Correct.
Q. Okay, and when you got to the corner, what did you

do?

A. I start shooting to the area where I heard the sounds.

Q. Okay, and could -- was it -- could you see anyone when you were moving down the hallway?

A. No.

Q. Could you hear anything?

A. Yes.

Q. And when you got to the corner, what did you see then?

A. Well, I had -- as I got to the corner and I start shooting, my body was still moving forward. So, as I got closer, I seen exactly what was happening.

Q. So, so, you're saying that, as you were shooting your gun, you were moving forward?

A. Correct.

Q. And did you see two people on the ground?

A. After I made it all the way around the corner, yes.

Q. Okay, and did you recognize them?

A. Well, not really at first. Our -- first face I seen was Tonio. That's because he was on his back. And so, as I really snapped back into reality from what was happening and I looked, Tonio was on the ground on his back and that's how I knew that it was him. I didn't know who the person on the top was at first.

Q. And so I'm going to back up a little bit. As you're moving down the hall, what's going through your head?

A. I just was scared. I wasn't trying to get shot or killed. So, I ---

Q. Was your heart racing?

A. Yes, I was trying to protect my life at all costs and I thought my house was empty.

Q. Do you remember how many times you fired your gun?

A. No, ma'am.

Q. Do you remember telling the police it was three?

A. I told them it was three or four, correct.

Q. But sitting here today, you don't know?

A. I don't remember.

Q. And it could have been more?

A. Correct.

Q. It could have been less?

A. Correct.

Q. So, at some point though you realized, right as you turned the corner, and you realized because you see Antonio Dash?

A. Uh-huh.

Q. I think you said -- describe how they were positioned when you first saw them.

A. Well, Tonio was on his back like this. Like, they

feet was going that way towards, like, where the -- wherever the part of the chair that you can't see.

Q. Like out this ---

A. They feet was going that way and they heads was at the edge of that corner. It had to be right there.

Q. Okay.

A. You feel me? And Eric was laying on top of him like they was kissing.

Q. And was it kind of close up against the wall?

A. Correct.

Q. And then what happened after you fired those shots, Tony?

A. After I fired those shots and I realized what happened, I just start panicking because at the end of the day, regardless of what people think, Tonio was my best friend. Me, him, and Sam, we always be together. So, I don't have to prove none of that to nobody. Everybody know that that know me. So, that's my dawg. So when that I seen that, that just immediately crushed me. I didn't even really pay attention to what was -- whoever the other person was. I really wasn't paying that attention because once I seen my dawg on the ground, that's all that had mattered.

Q. How did you feel?

A. Man, I just -- I ain't -- man, Tonio was my dawg.

I had -- I was cool with E. I was cool with both of them boys. I ain't had nothing to do with this but Tonio was like my brother.

Q. And then what happened after that, Tony?

A. Let's see. I opened the door. I went to the door and I opened it, and his mama and his girlfriend was walking up the steps.

Q. Were you surprised to see them?

A. Yeah.

Q. What did you do? Did you go out to Ieasha?

A. No, I let them in immediately. I held the door for them.

Q. Okay, and do you remember talking to Ieasha?

A. No.

Q. Okay, and did you actually ever see them fighting?

A. No.

Q. Did that -- when did you, when did you realize or think that that's what was going on?

A. After I seen the whole scene on the ground and I seen what's ex -- exactly what's going on, and that's just what came to my mind. I don't know for sure what was happening, but that's just my educated guess.

Q. And did you tell lots of people that day I don't know what happened?

A. Correct.

Q. So, after Ieasha and, and -- Ms. Washington and Ms. Griffin came inside, what were they doing?
A. As soon as they walked to the door, they start screaming and yelling and they went and came inside and took E off the top of Antonio.
Q. And were they -- were they crying?
A. Yes.
Q. And they were upset? What did you do?
A. I went to the back to grab my phone to call the police.
Q. So, you called 911?
A. Yes, ma'am.
Q. Did you do -- do you remember talking to anyone?
A. No.
Q. Did you -- what else did you do while you were back in the bedroom?
A. I put on a jacket and I put my shoes on because I still had no clothes on, the clothes that I went to sleep in, which was a tank top and gray shorts.
Q. So, you were wearing a white tank top?
A. Correct.
Q. And what color shorts?
A. Gray.
Q. And what -- sorry. You probably said this already but was it a black jacket?

A. Correct.
Q. And what kind of shoes?
A. Some non slide shoes like you wear to work. Slip resistant.
Q. I'm sorry. Say that again, Antonio. I didn't ---
A. Slip resistant.
Q. Slip resistant. Okay. Did you get your wallet?
A. No.
Q. After you came out of your room, what -- did anybody else come into the apartment?
A. No, but as I came out the room and I walked to the front, the girl, Shakihla, walked in.
Q. And when you say Shakihla, do you mean Shakihla Smalls ---
A. Shakihla Smalls.
Q. We heard about her some, right? And where did she live? Do you know?
A. In building 17.
Q. When she came walking in and what did she do?
A. When she walked in, she seen them on the ground, which nobody knew what was going on at the time, and she seen me standing, like, over there by the kitchen still holding, holding my gun in my hand. So, she walked up to me and she snatched it out of my hand.
Q. And what did she do?

A. She put it inside her pants and walked out.
Q. Did you ask her to take the gun?
A. No, ma'am.
Q. Did you stop her from taking the gun?
A. No.
Q. Why?
A. I wasn't in the right state of mind at that time. I just -- it was just so much going on. His mom crying. His girlfriend crying. My dawg's on the ground. I'm crying. So, I didn't have no chance to stop her from taking it. I -- we didn't even know what she was doing.
Q. And at some point, did more people start coming inside?
A. Correct.
Q. How many more people do you think came inside?
A. My guess, I'm say anywhere between five and six.
Q. So, what did you do?
A. Well, most of the people that was coming inside was Eric people or people who I knew specifically through Eric. So, I didn't really know what was going on. So, I stepped outside and waited for the police to get there.
Q. So, you walked down the stairs?
A. Correct.
Q. Did you see anybody?

A. No, but I believe I remember talking to Hamilton.
Q. All right. Tony, sorry, before we move too much further, I'm going to ask to go ahead and show what -- is that -- oh, sorry. Is that what your room looked like ---
A. Correct.
Q. --- Antonio? And when you talked about some box spring sticking out, is that it right there?
A. Correct.
Q. And so that's where you had your gun?
A. Yes.
Q. And is that your living room that morning?
A. Yes.
Q. And that broken chair over there in the corner, was that already there that morning?
A. Yes.
Q. It had broken before this ever happened?
A. Correct.
Q. I'm directionally challenged. Okay. So -- and that's also a picture of your living room. This is the table with -- that, was it not the three-legged table, right?
A. Nah, the three-legged table is overturned right there. But that look like the table that my TV was on and the three-legged table over -- lay behind that black

chair.

Q. Okay. Over, over here in the corner?

A. Uh-huh.

Q. And this is the TV that overturned. That is the one that the TV was on?

A. Correct.

Q. All right. So, you said you walked downstairs and then out to the parking lot out here after your apartment started filling up with people, right?

A. Correct.

Q. Do you know -- I'm going to show you what's been marked or admitted as Defense Exhibit 112. Do you know whose car that is?

A. Well, that's E girlfriend car.

Q. Okay, and is that that same car but just from the other direction?

A. Correct.

Q. And do you recognize these people standing here?

A. That's Vontae and Easha. I don't, I don't think it's ---

Q. I'm sorry. When you say Vontae, who do you mean?

A. Javontae Davis.

Q. Okay, and that's Ieasha right there?

A. Correct.

Q. And what's the timestamp on that?

A. 9:07.
Q. Tony, did you talk to anybody when you got downstairs to the parking lot?
A. Only Hamilton.
Q. I'm sorry. Who?
A. Hamilton. His name is Hamilton Jacobs.
Q. Hamilton Jacobs, and who is he?
A. He was the apartment manager at the time.
Q. Okay, and did you tell him what happened?
A. Correct.
Q. Did you tell him I don't know what happened?
A. No, I told him exactly what happened.
Q. Okay, and as far as what was happening between Tonio and Eric?
A. Oh, no. I just told him I didn't know.
Q. Okay, and were you crying?
A. Correct.
Q. Were you upset?
A. Correct.
Q. And when the police got there, what did you do?
A. I immediately identified myself to the police and told them it was my house and gave them my name and my phone number and my date of birth. And when I told them that, they told me to step outside of the tape.
Q. To step outside of the yellow tape?

A. Correct.
Q. Because they were kind of, I guess, roping off the crime scene?
A. Yes.
Q. Did anyone detain you at that point?
A. No.
Q. And did anyone tell you, like, hey, don't leave, don't go anywhere?
A. No.
Q. So, what did you do?
A. When -- I tried to call my grandma. She ain't answer. So, I called my mama and I just was pacing on the phone talking to my mama and I -- then I needed some cigarettes. So, I end up walking two parking lots up to go to my friend Wesley house, which is also a mutual friend, and I told him what happened. So ---
Q. So, you walked to -- and, and you talked about Wesley earlier. He was, he was the one in building 26?
A. In 26, yeah, that's correct.
Q. And you went to him and, and said hey, man, you got a cigarette and then you told him what happened?
A. Correct.
Q. And did he have any cigarettes?
A. No.
Q. So, then what did you do?

A. I ---
Q. How -- let me ask you this. How long were you at Wesley's house?
A. About forty-five minutes.
Q. Okay, and then what did you do?
A. Well, as I was making phone calls, I called another one of my family members and I got them to pull up to -- on -- to Wesley house to see if he had some cigarettes.
Q. And did he?
A. No.
Q. So, what did y'all do?
A. We went to the store.
Q. Which store?
A. The Exxon.
Q. Okay, and so did you buy some cigarettes?
A. Yes, I bought four of them.
Q. You bought four cigarettes?
A. Correct.
Q. Okay, and what did you do after that?
A. Well, we drove around probably about two, three minutes and took the long way from the store and we went back to Willow Runs.
Q. And when you got back to Willow Run, what did you do?
A. I got cuz to get out the car and go find the head

investigator so I can turn myself in.
Q. Do you have one of your family members actually go and find whoever it was ---
A. Correct.
Q. --- and said hey, this guy wants to talk to you?
A. Correct.
Q. Why did you do that, Antonio?
A. Because it was the right thing to do. I ain't have nothing to hide.
Q. All right. You may -- I want to talk to you a little bit about the two sort of interviews that you had with police, okay? They were both on the day of the incident, right?
A. Correct.
Q. And where was the first one?
A. The first one I gave in the, in the manager's office in Willow Runs.
Q. And that's, that's the one we saw yesterday that we watched the video of?
A. Yes.
Q. Do you know how many officers were in there?
A. About four or five.
Q. Did you tell them about the missing gun? Did you tell them that Tonio believed Eric had taken his gun?
A. Yes, I told them multiple times.

Q. And did you tell them you had been asleep that morning?
A. Yes.
Q. Did you tell them about waking up to a loud boom?
A. Yes.
Q. And that you thought your house was being broken into?
A. Correct.
Q. And you told them about selling weed, right?
A. Uh-huh.
Q. Were you just trying to be really honest?
A. Yeah, and I was just trying to figure out what was going on. So, I just was speculating multiple things while I was in front of the officers trying to figure out why this took place.
Q. And did you tell them immediately what happened to the gun?
A. Correct.
Q. What did you tell them?
A. I told them that Shakihla took it from me.
Q. And did they ask you who -- how do I find her?
A. Yes.
Q. What did you tell them?
A. Well, I pulled up -- I didn't know her number or nothing because we wasn't friends, but I pulled up her

Facebook picture and I showed in to them.

Q. And did you tell them what building she lived in?

A. Yes.

Q. Now, after, after that, we heard from Sergeant McIntyre that you actually went to the headquarters.

A. Uh-huh.

Q. And did they -- where did they take you once you got to headquarters?

A. When I got to headquarters, they took me inside an interrogation room.

Q. And how long were you in there?

A. A long time. I'll say about seven, eight hours.

Q. And do you remember at the beginning they read you any sort of warning?

A. I believe Investigator Gilliam did.

Q. What did he tell you?

A. I think he had told me I had the right to an attorney and I ain't had to say nothing to them.

Q. Okay, and what did you do?

A. I still talked to them.

Q. Did you agree to let them take your DNA?

A. Yes.

Q. Did you agree to let him swab your hands for gunshot residue?

A. Yes.

Q. Did you answer every single one of their questions?
A. Yes, ma'am.
Q. Did they ask you about changing your clothes that day?
A. Yes.
Q. Did you change your clothes?
A. No.
Q. Tony, do you recognize who those people are?
A. I think that's Hamilton standing right directly behind me. That's me in the white tank top and I think that's Mr. Richard.
Q. Mr. Richard, do you know who he -- that's the ---
A. He, he one of the maintenance mans.
Q. Okay, and is this the same sort of angle but just sideways now?
A. Yes.
Q. And who is this?
A. That's me.
Q. And who's that?
A. Mr. Charles. Ah, no, that's Hamilton talking to me and that's Mr. Charles right there.
Q. Okay, and what's the timestamp on that?
A. 9:02.
Q. And what, what are you wearing?
A. Black jacket, gray sweat pant. Well, gray shorts,

white tank top, and black work shoes.
Q. Okay. Who's in this picture?
A. That's me again. I think that's me with the, yeah, with the black jacket on. I think that's Lando right there.
Q. Orlando is his name?
A. Uh-huh. I can't remember his last name and I don't know who that is.
Q. Okay, and what's the timestamp on that one?
A. 9:05.
Q. And then what about that? Do you recognize the people in that picture?
A. Yeah, that look like me and Lando again.
Q. Okay. This is you here in the white tank top?
A. Correct, with the black jacket on.
Q. And what's the timestamp on that?
A. 9:06.
Q. And the last, Tony, do you know where you are in this picture?
A. I'm in investigation room.
Q. Okay, and what are you wearing in that picture?
A. The same thing I just had on.
Q. Did you tell Kevin Archie that you were going to go change clothes?
A. No, I never had a conversation with him at all.

Q. And what happened to your clothing after you left headquarters?
A. Those are the same clothes I went to jail in.
Q. Now, that -- when you were in, in the interview room and you talked to police, was that video and audio recorded as well?
A. Well, I didn't know at the time but I know now. Yes, it was.
Q. Have you reviewed that video?
A. Yes.
Q. With me, right?
A. Yes.
Q. Did you also give a handwritten statement?
A. Well, yeah, I didn't handwrite it myself, but Gilliam told me he was doing it.
Q. So, Investigator Gilliam wrote a handwritten statement?
A. He handwrite it. He got it. He handwrite it for me as I was talking.
Q. Okay, and then you signed it?
A. Yeah, and then I signed it at the end.
Q. Did it include all of the information that you told him throughout the course of being in that interview room ---
A. No, ma'am.

Q. --- for seven hours or whatever it was?
A. No, ma'am.
Q. How long was the -- how long is the written statement? Do you know?
A. I'm going to say a page and a half or two pages max.
Q. Did you hear -- did you tell him about hearing a big commotion?
A. Yes.
Q. Did you tell him about hearing the big boom?
A. Yes.
Q. Did you tell him you thought someone was breaking into your house?
A. Yes.
Q. And did you tell him that you were lying in bed trying to figure out what was going on and listening for your roommates' voices?
A. Yes.
Q. Did you tell Investigator Gilliam that you thought a whole beast of shit was going on in your living room?
A. Yes, I remember saying that.
Q. Did you lie that ---
A. And that word is beastie. He didn't write it correctly. It's beastie.
Q. What does that mean?

A. That just mean a lot of -- just a lot of stuff going on. That's just how I talk. A lot of beastie shit. That's what I had told him. I ---

WITNESS: Excuse me, sir.

A. But a lot of beastie stuff happening. That's what I said.

Q. And when you were lying in bed and all that stuff was going on ---

A. Correct.

Q. --- what was going through your head?

A. That I was about to die.

Q. And did you tell them that when you heard the TV fall over ---

MR. SCOTT: Objection to leading on this witness Your, Honor.

THE COURT: Don't lead the witness.

Q. Tony, what was the moment that you knew something was really wrong?

A. When I heard the TV fall.

Q. Did you tell Investigator Gilliam that?

A. Yes.

Q. Now, at some point did Investigator Gilliam also ask about Shakihla Smalls?

A. Yes.

Q. And what did he do?

A. He asked me to pull up her phone -- pull up her Facebook information.
Q. Did you have your phone with you at first?
A. Yes.
Q. At first in the interview room did you have your phone with you?
A. Uh-huh.
Q. And did he take it from you at some point?
A. Yeah. When he got me to pull her information up, he took it out the room with him.
Q. Okay. You sure about that?
A. Uh-huh.
Q. Are you sure you didn't have your phone in there with you the whole time that you were in, in the interview room?
A. If I'm remembering correctly, he brought it back to me ---
Q. Okay.
A. --- after he looked and seen, I guess, seen her information. He came back in the interview room and brought me my phone back.
Q. Okay. So, you, you had your phone then and was he in and out of the room?
A. Yes.
Q. And so at some point you were in the room by

yourself?
A. Uh-huh.
Q. And did you make some phone calls?
A. Yeah, I made most of the phone calls. People was calling me and I was calling people.
Q. Who did you call?
A. The first person I do remember calling is my mom.
Q. Okay, and what did you tell your mom?
A. I just was telling her what happened, and I just knew that people weren't going to believe what I'm saying.
Q. And did you break down sobbing?
A. Correct.
Q. Did you tell her that you loved Antonio like a brother?
A. Yes, because I do.
Q. Tony, do you have nightmares about this?
A. Yes, I did at first. Not no more.
Q. Okay, and do you think about this every day?
A. Yeah, I think about bruh everyday. That's my dawg.
Q. And do you think about Eric, too?
A. Yeah, I had no problems with him.
Q. Are you sorry for what happened?
A. I'm very sorry for what happened.
Q. And what were you thinking when you pulled the

trigger that morning?

A. I just was trying to protect my life when I pulled the trigger. That's the only thing I was thinking. I wasn't -- it's nightmares to keep thinking at that moment. It's either you going to live or die.

Q. Okay. Hold on one, one second.

MS. YOUNG: Beg the Court's indulgence.

(A PAUSE.)

Q. Sorry. Just a couple more things, Tony.

A. Uh-huh.

Q. That's why you have other people paying attention. So, I want to clarify one thing with you. When you talked about going down the hallway and hearing this commotion and walking closer, did you see who you were shooting at when you first pulled the trigger?

A. No.

Q. When did you first see Antonio Dash's face?

A. After I was already done shooting.

Q. All right. We heard about some text messages earlier right, about ---

A. Uh-huh.

Q. --- a missing gun. What is -- whose phone number is that? Can you tell? I know the writing's really small.

A. That's my phone number.

Q. And do you know whose phone number that is?
A. That's Pud phone number.
Q. So, you're sending a text message from your phone --
A. Uh-huh.
Q. -- to Pud, who is Santonia, your girlfriend?
A. Uh-huh.
Q. How long have you and Santonia been together?
A. Probably about almost five years now.
Q. Okay, and do you say in that text message that a gun went missing? Do you talk about someone taking a gun?
A. Yes.
Q. And do you say it's not my gun?
A. Correct.
Q. Okay.

MS. YOUNG: I don't think I have anything further right now, Tony. If you'd answer Mr. Scott's questions.

MR. SCOTT: Can I ask the defense to move these apparati?

THE COURT: How about stand for a moment, everybody.

(A PAUSE.)

THE COURT: All right.

CROSS-EXAMINATION BY MR. SCOTT:

Q. Okay, you -- what is Big Hood Lyfe?
A. Say what is that?
Q. Who is that?
A. That's my rap name.
Q. Okay. You been thinking about this a lot. You been -- you said you had some nightmares.
A. Yes, sir, when I was in jail, yes, sir, I did have nightmares about this.
Q. Not anymore?
A. Hu-huh.
Q. Do you lay awake and think about it sometimes?
A. Yeah, sometime.
Q. And is that when you come up with lyrics for your rap songs?
A. No.
Q. When do you come up with lyrics for your rap songs?
A. At any time. I could be at work. I could be driving in the car.
Q. Okay, and you, you made a rap song about killing these two, did you not?
A. No, sir.
MS. YOUNG: Objection, Your Honor. Rule 5, Rule 402, Rule 403, Rule 404, and First Amendment.
THE COURT: Ladies and gentlemen, we're going to have you step to the jury room for a break. Please do

not discuss the case.

(THE JURY EXITS AT 12:42 PM.)

THE COURT: Will you repeat those rules for me, please?

MS. YOUNG: Yes, Your Honor. Based on what Mr. Scott just ---

THE COURT: Well, you cited some rules. Would you repeat the rules, please?

MS. YOUNG: Rule 5.

THE COURT: Rule 5?

MS. YOUNG: Yes.

THE COURT: All right.

MS. YOUNG: Rule 402.

THE COURT: 402.

MS. YOUNG: And 403.

THE COURT: 403.

MS. YOUNG: And 404.

THE COURT: And 404.

MS. YOUNG: And I threw in the First Amendment, Your Honor, because I believe that Mr. Scott is going to try to use Mr. Barnes rap lyrics to somehow indicate guilt in this case.

THE COURT: All right, Mr. Scott.

MR. SCOTT: Your Honor, this particular one I was asking about comes from the phone dump that they

provided us. I asked him -- there's a lot of testimony elicited about his feelings and was he emotional about it, was he sorry about it, this and that. There is a song coming from his phone that he produced where he says:

> T.O. was like my brother. When the time comes, everybody freeze but I'm cold with that cut.

Seems to be celebrating the killing of these people. Publishing on YouTube. I have before me twenty-two songs that he has published between December 16th of 2018 -- so, about a month and a half before it. The last one, *Dead On Arrival*, August 31, 2022, to include one that was December 21, 2018. So, about a month and a half before.

He said:

> I heard you trying to jack. I heard you trying to rob me. I'm scared to take a loss. I'm a business thread your cross.

That's what he says. Then January 20, 2019, maybe two weeks before this: I'll kill you; I'll kill if you steal from me. This is what he's thinking about the time. These are lyrics he's creating and posting to YouTube. If, if anybody has telegraphed what they're thinking, then that seems to be what he's doing here.

He is also -- malice is an important element here. He describes himself as having a heart:

> My heart is as black as a kettle. No, I'm not a grave digger. Grave filler, that's my name.

If malice is one of the elements we have to prove, he has put those lyrics out there for the world to hear. Seems to celebrate having guns and being willing to use them, specifically T.O.'s death, which is Antonio Dash. He just mentioned that's what he calls him. I, I find those to be highly relevant.

Of course they're prejudicial. But I think the relevancy overweighs any prejudice. I mean, if he wants to deny them, he can. But it came from his phone. And, of course, he does have a First Amendment right and freedom of speech. He has that right, but he can also explain what he's thinking and why, why he's celebrating these things, and he has the right to say these things, of course. He's not being prosecuted for making these songs. But I find it to be highly relevant.

I thought, I thought about it this way. If he was an armed robber, he was on trial for armed robbery and I said Judge, I've got thirty songs of him rapping about robbing banks and being an armed robber, that seems highly relevant. I don't know why a murder would be any different. If -- he's got twenty-two YouTube videos

about murdering people and using guns to do it, and if anybody comes to rob him, he's going to kill them, I find that to be highly relevant.

THE COURT: Ms. Young.

MS. YOUNG: Thank you, Your Honor. I know that Mr. Scott said that the -- the first song he referenced about him writing a song about killing these two people came from our phone dump. But that's literally impossible because we haven't had that phone since he was arrested. So, it'd be very hard to write a song and put it on your phone prior to the crime happening.

This is a Rule 5 violation because if he intends to use rap lyrics or any other documents or evidence for impeachment, he should have turned that over before certifying on Monday that discovery was complete.

Your Honor, under *State v. Lawton* and under Rule 5 of our rules, everything that is material to the defense has to be turned over even if it's just for impeachment, and this wasn't turned over to us. We're aware of one rap song that was on his phone ---

THE COURT: And which one?

MS. YOUNG: --- that he provided.

THE COURT: Which one?

MS. YOUNG: I do not know the name of it, Your Honor.

THE COURT: What's -- what was the ---

MS. YOUNG: It was not ---

THE COURT: What was the contents of it, whatever it is you were aware of?

MS. YOUNG: It's the one that Mr. Scott references that was made on January 20th, or not made. It was downloaded to his phone on January 20th. It is a video that was on Instagram. And I believe there's a line about if you steal from me I kill you, something like that, I believe, is what Mr. Scott and what we listened to and heard. Your Honor ---

THE COURT: So, you're not claiming a Rule 5 violation as to ---

MS. YOUNG: That ---

THE COURT: --- that particular one?

MS. YOUNG: Correct.

THE COURT: All right.

MS. YOUNG: But a Rule 5 violation as it relates to any additional videos that they found somewhere on the Internet that they intend to impeach him with, we're entitled to have that under Rule 5 and under *State v.* ---

THE COURT: You're entitled to re ---

MS. YOUNG: --- *Lawton*.

THE COURT: Under Rule 5, you're entitled to have

copies of statements made by your client ---

MS. YOUNG: Certainly.

THE COURT: --- to law enforcement.

MS. YOUNG: Well, Your -- Your Honor, anything. We're, we're entitled to any reports or documents or written material or any information that they intend to use against him in trial that says -- that's material to the defense or something they intend to introduce in their case in chief.

THE COURT: Well, we're not in -- they're not in their case in chief at this point.

MS. YOUNG: Right, but it is material to our defense, Your Honor, and under *State v. Lawton*, which is 382 SC 122 -- I have a copy if Your Honor ---

THE COURT: Well, tell me, tell me about that case.

MS. YOUNG: Well, in that case, it was a -- sorry. It said that the defendant had been prejudiced by the state's failure to turn over a letter that had been written by the defendant and they didn't turn it over prior to his, his -- or prior to the case. He testified they tried to use it. They allowed that and then he said that that was not okay. That even if they were going to use it just for impeachment, it had to be turned over.

THE COURT: So, that's a Rule 5 case?

MS. YOUNG: Yes, correct. I have a copy if Your Honor would like it.

THE COURT: Okay.

MS. YOUNG: Additionally, Your Honor, if we move on to the next one, I mean, the idea that an artist is auto -- is always being autobiograph -- biographical is absurd. That means that every time an ---

THE COURT: When did he become an artist?

MS. YOUNG: Rap musicians are artists, Your Honor. They make ---

THE COURT: And you're ---

MS. YOUNG: --- music.

THE COURT: I mean, you didn't, you didn't ask him anything about being an artist. He's now ---

MS. YOUNG: I would argue that music is art and he's trying to ask him about lyrics to songs he wrote. And that's like saying that every time someone paints something, writes a poem, writes a book, writes a song, that it's somehow autobiographical and you can attribute those lyrics and those beliefs to be personal, which isn't what artists do and it's certainly not what rap musicians do.

Every kid who wants to be a rap star raps about killing people or robbing people, and we can judge that all day long, but it's just true. And they have a right

to do that, and it can't be used as somehow part of their mental state.

THE COURT: You said every kid wants to be a rapper ---

MS. YOUNG: I said every kid that does want to be a rapper, Your Honor.

THE COURT: Okay.

MS. YOUNG: It's not relevant to anything under 402.

THE COURT: But what do you have regarding this whole notion that rappers and lyrics that, that sometime -- somehow some kind of protected speech that cannot be used in a criminal trial? That's what I thought you started out mentioning on Monday in the pretrial.

MS. YOUNG: I, I did. Ms. Latimer did argue that.

THE COURT: Okay.

MS. YOUNG: And did file a ---

THE COURT: Well, you're part of the team. What authority do you have on that, on that issue?

MS. YOUNG: Well, Your Honor, there's *State v. Cheeseboro*. If you can allow me to lo -- locate my motion or ---

THE COURT: Yeah, that seems to be cited in every trial for every proposition, *Cheeseboro*, the barber shop

killing down the street. And, and what about *State v. Cheeseboro*?

MS. YOUNG: Your Honor, in *State v. Cheeseboro*, the South Carolina Supreme Court considered whether the following rap lyrics were properly admitted by a trial court and it goes on about I believe they're a perpetrator. Bold and platinum hater and the whole lengthy paragraph on I -- it says:

> Fools leave clues. All I leave is the blood cooled. Ten murder cases. Why the sad faces?

The trial court admitted those as admissions against interest.

THE COURT: Was the concern in the specific case that Cheeseboro was accused of murder, that he was accused of doing or, or just a general song?

MS. YOUNG: I think it was attempted murder and armed robbery, Your Honor.

THE COURT: Many, many people were killed in that case, I'd say.

MS. YOUNG: Oh, was it -- oh, three. I think it was three, Your Honor.

THE COURT: Okay. Well, that's ---

MS. YOUNG: Yeah. Sorry.

THE COURT: --- a lot different than an attempted murder.

MS. YOUNG: Yes.

THE COURT: All right. Go ahead.

MS. YOUNG: And they said that that was error and that it was prejudicial. I mean, you know, Your Honor, it has to be relevant first and foremost.

THE COURT: Yeah, we know that.

MS. YOUNG: Right. And under 402. And, in this case, when someone makes music, there is no determining -- there's no way to determine whether they're -- it's something they're pulling out of the air, completely made up, something they'd never do. You can't be held to -- you can't say that your mental state or that your intent or what's in your mind ---

THE COURT: You got into asking him about his nightmares and what he's thinking and what he's feeling.

MS. YOUNG: And that's specific to the case, Your Honor.

THE COURT: Well, I understand. Is -- the solicitor is saying that these -- some of these songs are specific to the case.

Is that true, Mr. Scott?

MR. SCOTT: So, the lyric he just testified he, he don't -- he doesn't call Dash Antonio. He calls him T.O.

T.O. was like my brother. When the time

comes, everybody freeze. I'm cold with that cutter.

He might be able to tell me he's talking about a pizza cutter, but I think I can ask him the question. They asked was he remorseful. I've got songs where he is singing about the murder.

THE COURT: About this murder?

MR. SCOTT: That's what I believe. I'm -- T.O. is Antonio Dash.

THE COURT: All right, and the solicitor -- I mean, Ms. Young says that these were things remote in time ---

MR. SCOTT: So, Judge ---

THE COURT: --- or not taken from his ---

MR. SCOTT: If ---

THE COURT: --- from his text messages or can't -- or phone or ---

MR. SCOTT: We have one that was taken from the phone. The rest of them, as early as last week, we typed in Big Hood Lyfe in Google, and if Gabby has Internet up, Big Hood Lyfe, Lyfe spelled with a Y, you're going to see all of his videos on there. That's all we did. It wasn't that we had a database that law enforcement provided me. We got on the Google and we typed in his rap name and, lo and behold, they're still there today.

THE COURT: And what's ---

MR. SCOTT: I've got one where I referenced earlier. Remember our date is February 7th. Okay. So, January 20th, what is that? That is -- how many days are in January?

THE COURT: Thirty-one.

MR. SCOTT: Thirty-one. So, eleven plus seven. Eighteen days before:

> No, I ain't aiming at legs. I only shoot above the collar. I'll kill if you steal from me. I ain't with all that friend shit because N words be making me nervous. I really be chilling. But don't make me turn to a villain. Demons keep calling my spirit.

Eighteen days before this is I'll kill you if you steal from me. We got texts where he's very concerned about somebody taking our gun. He believes Eric Griffin took his gun. Eric Griffin winds up with a bullet hole in the head nineteen days after he posted that lyric. It, it, it seems probative to me.

MS. YOUNG: May I -- may I respond, Your Honor?

THE COURT: Yes.

MS. YOUNG: Because a video is downloaded onto a phone on January 20th of 2019 goes to show nothing about when it was made, when it was written, when it was

produced. Nothing. The fact that he downloaded it onto his phone on his Instagram on 20 -- on January 20th of 2021 doesn't have anything to do with when this was made in time or in relation to this situation.

Plus, Mr. Scott just said he looked at these and found these last week and he didn't produce them to us. And under Rule 5, it is material to the defense and it goes to whether Mr. Barnes will take the stand and testify. Then we're entitled to have it beforehand. This isn't trial by ambush.

In addition ---

THE COURT: Well, you raised it prior to trial, these -- trying to preclude -- exclude these, these lyrics.

MS. YOUNG: We knew about one, Your Honor, and that was because of -- it was on a phone that we provided to them and it was not admitted at the immunity hearing. And, Your Honor, just for the record, I don't know -- I, I want to make my record clear that I don't think it's relevant under 402. I also think that, you know, it's overly prejudicial. It's bad if -- you know, even if it is probative, it's not more probative than it is prejudicial, and all it's going to do is confuse the jury.

We don't know. He hasn't -- we don't even know

what the lyrics are. It's very hard to know whether he's talking about this crime or talking about nothing. No crime had ever happened and it's completely made up. It's bad character evidence. They're just trying to make him look bad because he raps. All rappers rap about this.

MR. SCOTT: All rappers rap about killing people?

MS. YOUNG: I would say it's a common thread in rap music, Your Honor. And, Your Honor, if you'd let me, let me just respond again?

THE COURT: Yeah, you need to give, give a complete response. I mean, talk to your -- just piecemeal, yeah, I think I'm going to say that ---

MS. YOUNG: I know.

THE COURT: --- or do I want to say this. You have the floor. Go ahead.

MS. YOUNG: Your Honor, as Ms. Latimer points out, a song that was on his phone that Mr. Scott has referenced was clearly made prior to Tonio believing that Eric's gun had been stolen. So, it's very hard to say that when he wrote those rap lyrics, he would have had any -- it, it hadn't happened yet. You can't be writing rap lyrics about something in the future.

THE COURT: Is that it?

MS. YOUNG: Your Honor, additionally under 404(b),

bad character evidence -- and this literally just goes to show he raps about these things. And so, therefore, he'll -- he'll do it. It's propensity. It's, it's, it's just inadmissible.

THE COURT: All right.

Mr. Scott.

MR. SCOTT: Thank you, Your Honor. I -- *Cheeseboro* looks like, just a cursory review, looks like a statement introduced that -- in their case in chief. I simply want to respond and I didn't object about it. Well, I did a couple times. But the -- are you remorseful? Do you lay awake at night and think about these things? Are you, are you sorry you did it? All these questions and I'm, I'm simply trying to ask him well, you know, I'm very sorry about it. But you also have, have written about it a little bit before and after. He can say that. He can say it is just art, Mr. Scott. You are to take nothing from it. I, I didn't really mean it when I said I'll kill you if you rob from me. But I, I feel like I'm entitled to ask him about his own words.

THE COURT: I think we're going to take lunch at -- it's now 1 o'clock and we'll come back at 2 o'clock. I'll rule on this motion and we'll continue at that, at that time.

If you'll bring the jury.

(THE JURY ENTERS AT 1:02 PM.)

THE COURT: Now, ladies and gentlemen, we're going to break now for lunch and resume at 2:15. Please do not discuss the case, and we'll break for lunch.

(THE JURY EXITS AT 1:03 PM.)

THE COURT: All right. Anything else before we break?

MR. SCOTT: Your Honor, the defendant, being midway through cross-examination on a double homicide case, we ask for him to be taken into custody during the break so as not to taint any, any testimony he may have. And I make that request not lightly. But we are in the middle of a double homicide and we are breaking midway through cross-examination.

MR. BRIAN SHEALEY: Your Honor, I'm, I'm speaking for our team. We're officers of the court. We're not going to speak to him. We're going to have our private investigator take him separately from us so as Mr. Scott doesn't have to worry about anything. But putting him in a holding cell at this point because of Mr. Scott's concerns would not only probably affect his mental state right now, but we would like to get him some lunch. Let him go sit with our private investigator, and we won't be around him. Obviously we know better than to try to

speak to him while he's on the stand even if we are on a break.

THE COURT: All right, Mr. Barnes, you're not allowed to discuss your testimony with anyone. You're on the witness stand being cross-examined by the prosecutor. You cannot discuss this case at all or have any conversations with your lawyers during lunch or any other human being. You cannot discuss your testimony with anyone, including the witness that you had on the witness stand earlier, the, the investigator.

It's, it's a very, very close question. But I'm going to give you the benefit of the doubt for the moment and, and not put you in their custody.

We'll be back at 2:15.

(OFF THE RECORD.)

THE COURT: Where is the defendant?

MS. LATIMER: Right here, Your Honor.

THE COURT: Right where?

The defense filed a, a, a memorandum contesting the admission of the rap lyrics. Well written and quite informative and highlighted the problems the courts have with admitting rap lyrics, and then they cited the particular case of *State v. Cheeseboro* that addressed the issues of some music industry lyrics and find -- found in *Cheeseboro* that the, the references in the

lyrics were too vague in context to support the admission of the evidence, that the minimal probative value is far outweighed by its unfair prejudicial impact, as evidence of bad character, as showing propensity for violence in general. Then indicating that, unlike the letters that Cheeseboro had written to Virgil Howard, which contained identifying details of the crimes committed, those letters were admitted and lyrics contain only general references glorifying violence. Then the state also complained about -- I mean, defense complained about Rule 5 violation involving the others.

As I understand it, in *Cheeseboro* these lyrics were admitted as part of the state's case in chief. Is that correct?

MS. YOUNG: I believe so, Your Honor.

THE COURT: Yes, and, in this case, the -- they're being offered as part of impeachment.

I, I find that the, the lyrics and, and -- that were disclosed to the defense is admissible. The defense saw fit to explore the defendant's mind and thinking before, during, and after, including his dreaming, hallucinations -- not hallucinations, but what was it? Nightmares. Nightmares, et al. So, I believe that the -- that particular lyrics/song involving the --

one of the victims in the case is relevant for impeachment purposes, and I'll allow that one at this stage of this case.

Anything else before the jury comes in?

MR. SCOTT: Not from the state, Your Honor.

MS. YOUNG: Your Honor, just very quickly. Can we clarify what the lyrics are? We still haven't been provided them.

MR. SCOTT: Well, Your Honor, that -- that's just untrue. We talked about this during the stand your ground. I've got the transcript right there. We talked about it.

MS. YOUNG: Well, my understanding is what you were going to allow in is the one where he specifically named T.O.

MR. SCOTT: Okay.

MS. YOUNG: That.

MR. SCOTT: That's the one.

MS. YOUNG: Right. That, that, Your Honor, we did not discuss at the stand your ground and we've never been provided. It's not the song that's on his phone. He should not be able to discuss killing two people on his phone prior to the murder or the killings happening.

MR. SCOTT: This is the, this is the -- if I may, I'll tell you the lyrics, Your Honor.

THE COURT: I thought you told it to me before we broke.

MR. SCOTT: Well, yeah, that, and I was going to tell you specifically ---

THE COURT: Okay.

MR. SCOTT: --- what the -- how it contained two ---

THE COURT: All right.

MR. SCOTT: --- specific occasions:

Nobody know what happened. But everybody got something to say. But if the shoe was on the other foot, would you feel the same way? An N word talking about robbing me. An N word run into my house and try to harm me. You know I fuck with both of y'all. But T.O. is like a brother to me. Everybody say what they going to do but they freeze. I'm cold with that cutter. Watch him fall. It don't matter if it's T.O. I'm going to stand on business forever and always. That gangster shit be making me shoot these N words. I swear to God ---

Well, I might not mention this, but he says:

I swear to God I'll beat the trial. I'm a soldier. I don't mean no truces. It's me

against the rest of y'all. I'm an barber with a cutter. Watch me burn like alcohol.

I, I should say that's pretty spot on to what's going to -- we're talking about here and if the -- the name of the song is *Let Me Explain*.

MS. YOUNG: Your Honor, if they had these lyrics last week, why didn't they produce them? The -- it can't have been on the phone dump that we provided. He hadn't had the phone since the shooting happened. These are clearly lyrics that he's saying happened after the fact. That's impossible. So, we haven't been provided this. It is a Rule 5 violation.

MR. SCOTT: Let me -- which one of the Shealeys asked me which rap song we were going to be talking about?

MR. LUKE SHEALEY: That was me. I was trying to get you to disclose some evidence and you were generally pretty vague about it.

MR. SCOTT: I told you it was on Google, right?

MR. LUKE SHEALEY: You just said something about the Google machine.

THE COURT: All right.

MR. LUKE SHEALEY: But you refused to answer my direct question ---

THE COURT: All right.

MR. LUKE SHEALEY: --- on the matter.

THE COURT: The court has ruled.

Bring the jury.

(THE JURY ENTERS AT 2:27 PM.)

THE COURT: You may proceed.

MR. SCOTT: Thank you, Your Honor.

Q. All right, I was asking you before the break. What is Big Hood Lyfe?

A. That's my rap name.

Q. All right. How many -- do, do you write a lot of rap songs?

A. Yeah. Some recorded. Some not recorded.

Q. And you, what, put them on YouTube or ---

A. Yeah, if I shoot a video or if I make a video clip for it, yeah, I put it on YouTube.

Q. Okay, and just do you put what you're thinking about when you write a song?

A. I mean, it's just lyrics.

Q. It's just lyrics. Okay.

A. Correct.

Q. And you were talking about the remorse you felt with your defense attorney.

A. Correct.

Q. The nightmares you had.

A. Yeah. When I was in jail, correct.

Q. And, and you think about these two guys a lot, don't you?
A. Yeah, I think about T.O. a lot, yeah. That's like my brother.
Q. All right. What about Eric, though?
A. Yeah, Eric was cool.
Q. At some point did you, did you put out a rap song talking about killing these two guys?
A. No.
MS. YOUNG: Objection subject to your prior ruling.
THE COURT: You may proceed.
Q. Did you say no?
A. Yes, sir. I just heard you read what I was saying, what you thought I was saying on the paper, and that was incorrect.
Q. Okay. What did you say?
A. Well, can you read it?
Q. All right. So, I mean, you -- I, I can play it if you want me to, but here's ---
A. Nah, you can read it.
Q. What's the name of the song?
A. It's called *Let Me Explain*.
Q. All right:
Nobody know what happened but everybody got something to say.

A. Correct.
Q. But if the shoe was on the other foot, would you feel the same way?
A. Correct.
Q. An N word.
A. No, hu-huh. No. What does the next line say?
Q. An N word talking about ---
A. No.
Q. --- robbing me.
A. No, it said:
My life was on the line. People plotting and talking to rob me.
That's what it says.
Q. Say again?
A. My life was on the line. People plotting, talking to rob me.
What you said, I didn't say.
Q. Should we play the song for everybody?
A. I mean, you reading it. You can, yes, sir.
Q. Okay: An N word run into my house and try to harm me.
A. Yeah.
Q. Who did that?
A. That's not what I said.
Q. What did you say?

A. I said:

People plotting and talking to rob me. Can't let nobody run into my house and try to harm me.

That's what I said.

Q. Who' ever run into your house and harmed you?

A. I didn't give no name. I said I can't let nobody run into my house and try to harm me.

Q. You knew I fuck with both of y'all. But T.O. is like a brother to me.

A. T.O. is like my brother.

Q. All right.

A. Correct.

Q. Everybody say what they going to do but they freeze.

A. Correct.

Q. Right?

A. That's it. Hold on. Before, before it says that. You skipped a line.

Q. What, what comes next?

A. I said:

You know I have fucked with both of them. But T.O. like my brother.

You feel me? And then, after that, I said:

Once my dawg says it's up, they ain't no

picking sides.

Q. Once what?

A. Once my dawg, as in one of my friends, says up ---

Q. Stays up?

A. Says it's up.

Q. What's that mean?

A. If they say they have a problem with you, any one of my friends, if they say they have a problem with you, it's not going to pick a side. That's what I said.

Q. All right:

I'm cold with that cutter. Watch him fall.

A. That -- no. You skipped a line again.

Q. What comes after that or before that?

A. Before that ---

Q. Everybody say they going to -- what they going to do but they do ---

A. Yeah, everybody -- I said:

Everybody say what they going to do. But, when it's time, they freeze.

That's what I said.

Q. What's that mean?

A. What that mean? People say what they going to do. But when the time comes, they do nothing.

Q. You do something though, don't you?

A. No, sir.

Q. You did something here.
A. Yes, sir, I was protecting my household.
Q. Maybe you should have frozen and taken a step back.
A. Well, I did tell the investigator that I sat in the bed for at least a minute or two and listened to see if I heard my roommates. So, that will be freezing if you ask me, sir.
Q. I'm cold with that cutter. Watch him fall.
What's that mean?
A. I said:
I'm cold with that cutter. Watch him fall.
I'm not talking leaves.
When -- in fall times, leaves fall. Correct?
Q. I'm not talking leaves though, right?
A. Yes. Correct. But ---
Q. What are you talking about?
A. That's the punch line. That's what people do in music. You getting that cold -- when it's fall time, does leaves fall off the tree?
Q. Yeah.
A. Okay.
Q. But what are you talking about?
A. That's exactly what I'm talking about.
Q. Tell me the lyric again.
A. I'm cold with that cutter. Watch them fall.

I'm not talking leaves.

Q. I'm not talking leaves?

A. Correct.

Q. What are you talking?

A. I'm talking about the leaves. That's the punch line. It's the music.

Q. Okay.

A. That's what people do.

Q. All right:

I'm cold with that cutter. Watch them fall.

A. Yes.

Q. I'm not talking about leaves.

A. Yes, sir.

Q. I'm talking about people.

A. But it's also a punch line, which is in music. It's a rap song.

Q. A double entendre?

A. Well, I don't know what that word means, sir.

Q. All right: It don't matter if it's T.O.

A. No, that's not what I said.

Q. We can play it.

A. Well, play it.

Q. Okay: I'm going to stand on business forever and always.

A. Yeah.

Q. That's what it ---

A. That's, that's what -- yeah, that's what I said:

I'm going to stand on business forever and always.

And I said: Long live T.O.

And I also said: They don't know what's going on.

Q. All right.

A. Uh-huh.

Q. That gangsta shit be making me shoot these N words.

A. I never said that.

Q. I -- okay:

I'm a soldier. I don't need no truces. It's me against the rest of y'all.

A. Uh-huh. That -- but you just skipped most of the lines. So, you made it to that part. But, yeah, that's correct.

Q. Well, you want to tell me what you say in between?

A. Yes, sir.

Q. All right.

A. I thought you was going to play it.

Q. Tell me ---

A. Okay.

Q. Tell me what I missed there.

A. Yeah, see, this, this is not all the lyrics to the

song. This is something that you put together yourself that you thought was what I said. But this is not the lyrics to the song. Well, if you ---

Q. You want me to play ---

A. --- would like, would like to know the beginning of the second verse is -- let's see. So, I said something like they got -- I said: That gangsta shit you make believe. That -- after that I said:

You shoot a nigga, he going to call the twelves. That shit not real to me.

That's what I said. You don't have that part on here at all.

Q. Okay.

A. Uh-huh.

Q. All right. Well, we'll play that. I, I might have to do it outside the presence of the jury so we make sure we get it right but ---

A. Correct.

Q. Tell me how -- tell me what I got right here.

A. What y'all -- just only about the first line. You left most of the lines out. You just -- and you added your own stuff in as well.

Q. You think I put something in there?

A. Yes, sir.

Q. Okay. We'll check on that. But you, you wrote a

song kind of talking about killing these two?
A. Well, actually my little brother wrote that song. I didn't write it.
Q. But you sang it?
A. You said in my, in my phone, in my phone -- that you had got it from my phone, but you did not.
Q. Where ---
A. I didn't have no lyrics. You got that off of YouTube.
Q. You put it on YouTube ---
A. Uh-huh.
Q. -- for the world to see?
A. Correct. After I recorded the song, I took a picture of myself, cropped it a little bit so it can only have the name so I could put the video on YouTube.
Q. Okay.
A. Correct.
Q. You thought it was important to put that you killed these two people to the world?
A. No, sir.
Q. But you did. I mean, YouTube is worldwide, isn't it?
A. Well, yeah, I put songs on YouTube, yes, sir.
Q. All right, and did you tell Eric's family you were going to do that?

A. No, I haven't had any contact with any of them.
Q. Did you tell T.O.'s family you were going to put a song about that on YouTube?
A. No, sir, I haven't talked to any of them since this case have started.
Q. Okay. All right. So, November of 2019 you lived there and you described as dangerous.
A. Correct.
Q. And you sold weed in 2019, correct?
A. Yes, sir.
Q. I'm sorry?
A. Yes.
Q. You sold weed in a dangerous area in 2019, correct?
A. Well, yeah.
Q. Answer me.
A. Yes, sir.
Q. Okay, and when you sell weed, you have a lot of people in and out of the apartment, correct?
A. Yes, that's what I said.
Q. Okay. Is selling weed in a dangerous area with people coming and going out of your apartment a very smart choice?
A. No, sir, but I wasn't the only one selling weed.
Q. All right. When you sell weed in a dangerous area with a lot of people coming in and out of your

apartment, is that a dangerous proposition?
A. It's possible, yes.
Q. Did you take to engage in a dangerous activity?
A. No, next -- not necessarily. I sell weed only because I have -- I smoke a lot of weed.
Q. Uh-huh.
A. So, I have a lot of quantity of it. So, people who know me going to come and try to get some. But, no, I'm not a big drug dealer.
Q. When you were in the manager's office, you said I got a lot of people in and out of the place. I ain't going to lie to you. I sell weed.
A. Yeah, and also, when they looked -- when they did the investigation on the house, they only found 3 ounces of weed in my room. So ---
Q. What did you do with all the rest of it?
A. I didn't have no rest of it. That was all that I had.
Q. What were you doing while Ieasha and Wanda were knocking on your door?
A. What I was doing was going to get my phone to call the police.
Q. Okay. Going to get your phone.
A. They never knocked on the door. I let them in.
Q. So, you did leave it on your -- I've always thought

that. You did leave it on your nightstand?
A. No. It was on my bed.
Q. Okay. Okay. That's what I thought. All right. Now, did -- when you sell weed in a dangerous area and you got a lot of people coming in and out or your apartment ---
A. Uh-huh.
Q. --- I guess you feel the need to have a lot of guns. Is that, is that safe to say?
A. No, I only owned -- I have owned two to three guns max.
Q. Okay.
A. Two of them was from purchases at Academy, a .9 millimeter and a, a nine that's a Smith & Wesson SDD and the gun that was retrieved in this case.
Q. Okay, and -- but, but you need to have that when you have a dangerous job like selling weed in a dangerous area.
A. Well, I -- selling weed is not a job, sir. I have a job. I had a job.
Q. I thought you said you were unemployed when she asked you.
A. Yeah, but I also said I just had recently quit ---
Q. Okay.
A. --- the week before.

Q. Why did you quit?
A. Because I didn't want to work no more.
Q. You were going to sell weed.
A. No. I just ain't want to go.
Q. You said you had a lot of nice things in your apartment.
A. Yeah.
Q. How do you afford those?
A. Because I could pay for them. That's what you have a job for. You save money.
Q. Yeah, and that's why you sell weed, too, to make some money, right?
A. No.
Q. No?
A. No, sir.
Q. You just ---
A. I just told you ---
Q. --- do it because it's a fun activity?
A. And because I like to smoke weed. So, I always have a lot.
Q. How do you get a lot of weed?
A. I go buy it.
Q. Okay, and then you sell it?
A. No, I smoke it.
Q. Okay. Why did you tell those officers in the, in

the manager's office that you sold weed and you always have people in and out of there and now you're telling me you don't sell weed?

A. Well, I never told you that I didn't sell weed or not. I told you that I buy weed to have and people who know me come buy it.

Q. Do you give it to them for free?

A. No, I didn't -- is buying free, sir?

Q. So, you do sell it?

A. No, sir.

Q. Okay. All right. Let's move on. Now, you got all these firearms in the house.

A. Uh-huh.

Q. Tell me about ---

A. Nah, I had one. I had one firearm. I'm not the only one that lived there. So, you can't say that I had firearms.

Q. Okay. Well, let me ask you. What's the purpose of posing for pictures, like, with guns? Is that just to kind of let people know don't come in here?

A. That's just the way young people do, sir.

Q. Young people?

A. We all do that, yes, sir.

Q. And ---

A. Young, Black, African-American, we all post

pictures with guns. It's not nothing new. Everybody post pictures with guns.

Q. What's the purpose of that?

A. Just to do it. Your friend got a new gun, you going to take a picture with it hanging out your pocket or having it in your hand. That's just how it go.

Q. Okay.

A. Uh-huh.

Q. But, I mean, is it to let people know like hey, if you come over here ---

A. No, that's not what I said.

Q. It's just -- it's something cool?

A. Yes, sir. Yes, sir.

Q. All right, and so when you get these guns, tell me about the firearm training you've had that you -- you've taken.

A. I had no firearm training.

Q. Okay. Who taught you how to use a gun?

A. That's just stuff I don't -- can't really answer that question, sir.

Q. All right. Do you ever -- ever practice shooting guns?

A. I been to the shooting range a few times, yeah.

Q. Okay, but no training and nobody taught you? You just taught yourself?

A. Yes, sir.
Q. A few times at the range?
A. Uh-huh.
Q. But would you consider yourself to be paranoid about people breaking in and coming for your weed?
A. No, I can be -- tell you that I'm paranoid about people breaking in and coming for nice stuff that's in your house. When you have nice things, people will take it. TVs, electronics. It don't have to be drugs.
Q. Okay. So, you, you kind of paranoid about people breaking in?
A. Yes, sir.
Q. All right. Have you put any deadlocks on your doors or anything like that?
A. No, sir. I stayed in an apartment. Every lock that was on the door was just how it was when I moved in. You know, I don't believe that you allowed to put stuff like that on the door.
Q. Did you ever ask the manager like hey, I am paranoid about somebody breaking in. Would you give me some deadbolts or chains or something?
A. No, sir.
Q. You didn't? Well, has anybody ever broken into that apartment before?
A. No, sir.

Q. Now, why were you paranoid about it?
A. Because this could happen at any time.
Q. Okay. So, that's something that you think about a lot?
A. Well, everybody who -- I'm pretty sure, I'm pretty sure everybody who stays in a dangerous neighborhood or stays in the hood in general is worried about that because this can happen at any time.
Q. Okay, and did you ever think about what you would do if somebody broke in?
A. Well, when your life is on the line, if you scared -- you just feel me -- if somebody break in your house, you going to protect yourself at all costs, I would hope.
Q. Yeah. What if there's no danger? What's if it's your friend and roommate who are in the living room and you ---
A. Well, at the time you wouldn't be able to know if it was no danger. I was all the way in the back room sleep. So, I wouldn't even know, know if danger was imminent or not. It would be impossible for me to know.
Q. Okay. Impossible?
A. Yes, sir.
Q. Now, are there normally guns out in the open in your apartment?

A. Well, that .22 rifle that was in the front. But everybody usually have they own firearms. So, I can't say.

Q. Why was that gun left out in the open on February 5th of 2019?

A. It been sitting right there since he purchased it.

Q. Who?

A. Antonio Dash.

Q. Y'all just left it on the table in the living room?

A. Well, it wasn't on the table. It was sitting in the corner. You talking about the .22 rifle, correct?

Q. No, no, no. You talked about earlier with the defense two days before this.

A. Correct.

Q. All right. Katerra was there?

A. Yes, sir.

Q. You were there?

A. Yeah.

Q. Sam was there?

A. Yes.

Q. Antonio was there?

A. No.

Q. No. But for some reason I think you said Sam used T.O., Antonio Dash's gun.

A. Correct.

Q. And it, it gets left out on the table.
A. Yes, that's correct.
Q. All right. Is, is that something that normally happens over there, a pistol just laying out in the open on a table?
A. Yeah. Well, every -- everybody sitting in the living room and he takes it out his pocket, yeah. That's like a phone or money. Anything could be sitting on the table once it comes off the person's body. Correct.
Q. Okay, and do you know who took that gun?
A. No, I don't know who took it.
Q. Do you know if Katerra took the gun?
A. No.
Q. Huh?
A. No, but I know for a fact she didn't take it.
Q. Okay. So, she didn't take it?
A. No.
Q. You know for a fact?
A. I know for a fact.
Q. Did Eric or did Sam take it?
A. No.
Q. Okay. You, you, you know that for sure?
A. Yes. We stay in the same house. All of us, me, Tonio, and Sam. So, how would he be able to steal a gun

and we all stay in the same house? Where would he have hid it?

Q. I see what you're saying. You know everything each one of your roommates does and has in their rooms?

A. No, I didn't say that.

Q. Okay. Well, how you know he didn't keep it?

A. Because Tonio is our friend. Why would he steal his gun?

Q. Eric's your friend, too, right?

A. Yeah, but he also not that cool with Tonio. That's my friend. He -- we, we know him but that's my friend.

Q. You know him ---

A. He didn't go to school with Tonio. He went to school with Sam. He went to school with Katerra. He don't know Tonio except through me.

Q. Okay.

A. Uh-huh.

Q. Do you know that Eric took the gun?

A. No, I didn't see him take it.

Q. Tell me -- well, why would Katerra put a shirt over the gun?

A. Because that's just what she do. She don't even pick up guns with her hands at all. If she touches a gun at all, she picks it up with her shirt. So, I -- when Sam left it on the table right there, I'm guessing

she put her shirt right there over the top of it because she was about to sit right there, and she didn't want it to be touched.

Q. You're guessing she put it on there?

A. Yes, sir. I never seen with my own eyes. So, I can't say.

Q. Why did you testify to that earlier if you never saw it?

A. I never seen a gun right there. I been saying this from the beginning. I never seen the gun.

Q. Okay. So, you really don't know anything about the gun?

A. Yeah, I don't. I didn't ---

Q. All right.

A. --- see the gun come up missing, no, sir.

Q. I got you. And then when the gun did come up missing, you called the police to report that the pistol was stolen, right?

A. No, sir.

Q. Were you concerned it might be used in a crime and then it gets pinned on y'all?

A. No, sir. It was a stolen gun, so it wasn't in nobody's name. So, I can't say for certain. I didn't report it, what didn't belong to me. If it was my gun that I had in my name, I would have reported it stolen

just like I have done previous times before.
Q. Okay. So, the gun was stolen ---
A. Uh-huh.
Q. --- when y'all had it.
A. Correct.
Q. Do y'all know where y'all stole it from?
A. No, I didn't steal nothing.
Q. Why do you call it our gun in those text messages?
A. Because these my friends and this is my house.
Q. Okay.
A. So ---
Q. So, it is your gun?
A. No. My gun was used in the crime.
Q. All right, but when you say somebody stole our gun, you're talking about the stolen pistol in your house ---
A. Correct.
Q. --- right?
A. Because it came missing in our house.
Q. And you don't know who, who y'all stole it from?
A. I didn't steal nothing.
Q. You just told me it was a stolen pistol.
A. I did. I did tell you that, but I didn't steal it.
Q. And you don't know ---
A. That's why we didn't report it stolen. That's all I'm telling you. That's all I can vouch for, sir.

Q. All right, but we don't know who got their pistol stolen that ends up in y'all's apartment?
A. No, sir.
Q. Okay. On the night before the incident, you were up how long?
A. About 3 o'clock.
Q. And you were smoking weed?
A. Nah, I didn't say that.
Q. All right. Well, if I played the portion of the interview ---
A. Uh-huh.
Q. --- when you're with Gilliam, he leaves you in there with the phone. You made a bunch of phone calls.
A. Probably.
Q. You don't think you're going to hear yourself telling buddy, you know how I am staying up, smoking weed, getting high?
A. Yeah, but that, that doesn't necessarily mean I was up all night getting blow. I had previously testified that I smoke weed. So -- and I didn't go to sleep til 3 o'clock. So, I could have smoked weed any time between 10 o'clock to 12 o'clock, 8 o'clock. I never gave no specific time. I just said it was nighttime.
Q. Okay. So, you, you not going to disagree you're telling one of your friends you were up smoking weed.

A. Uh-huh.
Q. You are disagreeing ---
A. I'm not ---
Q. --- or ---
A. I'm not disagreeing that I was smoking weed, but I have no specific time.
Q. Okay.
A. Okay.
Q. I didn't ask you for a specific time.
A. Uh-huh.
Q. That night you were smoking weed before you went to bed?
A. Probably around like 8 o'clock to 12 o'clock AM. Maybe between 8 o'clock to 12 o'clock I could have smoked.
Q. I thought you didn't have specific times.
A. Yeah, I just gave you a -- specific times.
Q. Sometime between 8 o'clock and 12 o'clock ---
A. Uh-huh.
Q. --- you were smoking weed?
A. Right.
Q. Okay, and we, we know that, though, correct?
A. Uh-huh.
Q. You sure of that?
A. No, I'm not 100 percent sure.

Q. All right. So, you were unemployed at the time?
A. Just recently. I had literally just quit my job.
Q. And that's why you can stay up til 3 o'clock smoking weed?
A. Nah, I stay up that time any day. A work day, it don't matter. That's just my regular sleep schedule.
Q. Just a night owl?
A. Huh?
Q. You're a night owl?
A. Yeah, if you want to call it that.
Q. What do you call it?
A. Staying up.
Q. You testified you hear a boom, correct?
A. Correct.
Q. And did you get up at that point to see what made that noise?
A. No.
Q. Why?
A. Because at that -- why would I get up at that time to see what that noise was? When you get up, when you hear a loud noise at night and you in the bed and you don't know what happened, do you get up immediately and run out your room?
Q. That would be a resounding yes, I do.
A. Yes, sir.

Q. Okay. Well, if I hear something in the front of my house, I'm getting up to check on it.
A. With, with what?
Q. With what?
A. Uh-huh.
Q. I'm walking up there to see if maybe a lamp fell over.
A. You're not ---
Q. A dog jumped off the couch.
A. You ---
Q. I want to see what the boom is that came from my house.
A. So ---
Q. Okay.
A. --- a lamp falling off -- which, mind you, we didn't have a lamp. But -- so, a lamp falling off the table sounds like a door, a door -- a loud boom? That sound -- it makes the same sound? If you drop a lamp in your house ---
Q. What are we talking about?
A. --- that sound like ---
Q. So, describe what ---
A. --- a boom?
Q. --- the boom is. What does it sound like to you?
A. The boom to me sound like either somebody could

have been kicking the door down or anything. That's the first thing that came to my mind.

Q. Kicking the door down?

A. Correct.

Q. Or somebody was beating on the door?

A. No, because the way -- why would you be beating on the door unless it was the police?

Q. You'd get up and check on that, would you not?

A. Yeah, but you would know the difference between a knock and the beat, you know.

Q. Okay. Did you call 911 when you heard the boom?

A. No, sir.

Q. Did you try to call out to one of your roommates?

A. No, but I listened to see if I could hear Sam's voice or T.O.'s voice, though.

Q. You didn't crack the door and say Sam, T.O., is that y'all?

A. No, sir.

Q. All right. So, you stayed in the bed about how long?

A. About one or two minutes.

Q. All right.

A. Can't really say.

Q. Did you immediately at that time think you were being robbed?

A. Yes, sir.
Q. Okay. You hear a boom, the first thing that ---
A. And ---
Q. --- Antonio Barnes thinks ---
A. No.
Q. --- is I'm getting robbed?
A. Yeah, because immediately after the boom I, like I testified to earlier, I heard rumbling in the front room. Like not just the boom by itself. That's what you making it seem like. When I heard the boom, I immediately heard feets and stuff moving around in the house frantically and panicking, like they was panicking or something. So, I don't know what was happening.
Q. Okay, and, and so when you heard the boom, you thought immediately you were the victim of a home invasion?
A. Correct.
Q. And you didn't call 911 why?
A. No, because I felt like if I would have waited to call the police, they probably would have made it back to my room by that time. So, I just acted.
Q. Okay. Did you try to lock your door on your bedroom?
A. No, sir.
Q. Did you -- okay. I -- did you think about maybe, I

don't know -- and I'm, I'm hindsight here. But did, did you think about maybe getting behind your mattress with the gun aimed at the door in case somebody came or anything like that?

A. No, sir. Do you -- if you seen the pictures, you would see how hard that would have been able to do at that time in the timeframe that you was saying. By that time they would have made it back to the room and shot through the door, I could have been dead, sir.

Q. Okay. That's what you're imagining happening?

A. Yes, sir.

Q. But nobody ever came back to your room.

A. No.

Q. And you did not know Sam had gone to the doctor, correct?

A. No, I did not.

Q. Okay. You did not know if Antonio may be there, correct?

A. Well, I knew he was suppose to be at work.

Q. Okay. So -- but you didn't know that maybe he called in sick that day, did you?

A. No, but I was up with him that night before, and he would have called out that night if he was sick.

Q. And you didn't know if maybe he had slept in that particular day?

A. No.
Q. Okay. Would it -- would you say it is a fair statement that you should be 1,000 percent sure that you're shooting at a deadly threat before pulling the trigger and killing somebody?
A. Well, since I have been doing a lot of reading on this situation and over the past couple of weeks, I know now that the law doesn't require that. So, I -- at the time, yeah, I would agree with that but now, no.
Q. Oh, you been doing a lot of reading on the law?
A. Yes, sir.
Q. And had you been trying to figure out how to testify so it will fit the law?
A. No.
Q. No. So, let me ask again. Is it a fair statement to say you should be 1,000 percent certain that it's a deadly threat before pulling that trigger and killing your roommates?
A. No, sir, that is not a fair statement.
Q. Okay. What percent should you be certain in your opinion? 10 percent?
A. I can't answer that.
Q. You don't think you should be absolutely certain that you're being threatened before you pull the trigger and take people's lives?

A. Well, if you think that your apartment empty, the people that be in the front room, if you're thinking a threat, you don't have to ask questions, you know, if you believe that they're a threat.

Q. That's right. You think it's empty, right?

A. Uh-huh.

Q. Okay. So, would it have been impossible for Sam to have been up there and T.O. to been up there? Would it be -- have been impossible?

A. Yes, because they ---

Q. It would have been impossible?

A. Yes, that would have never happened if they was in there. If T.O. and Sam was there together, that would have never happened.

Q. How do you know with 100 percent certainty?

A. Because these my friends. I been knowing them for ten-plus years.

Q. And you killed one of them.

A. If Sam or T.O. was in -- like, T.O. was there but he didn't yell out. If Sam was there, he definitely would have yelled out immediately. So ---

Q. You been inside their heads before?

A. Well, I know them. These -- they think the same way as me.

Q. You know Eric, too, though, right?

A. Uh-huh.
Q. All right. So, let me give you a scenario. Antonio Dash wakes up that morning.
A. Correct.
Q. All right, and he asks Sam Thomas for a ride.
MS. YOUNG: Objection. Speculation.
THE COURT: Haven't heard the question.
Q. Okay. Sam -- they wake up that morning. All right. You're, you're asleep.
A. Correct.
Q. Sam Thomas says I just went out there to start the car. It won't start. Okay.
A. He would have ---
MS. YOUNG: Objection. Speculation.
THE COURT: Overruled.
A. Uh-huh.
Q. They ride together in the mornings?
A. Correct.
Q. Tell me if this is an impossible, just way out there scenario.
A. Uh-huh.
Q. Sam says hey, my car ain't starting, all right, and Antonio and he are in the living room. Okay. In your mind, they're supposed to be at work, right?
A. Uh-huh.

Q. Okay. Is it so hard to imagine that something could have kept them from going to work that day?
A. No, sir.
Q. Okay. So, what made you 1,000 percent certain that wasn't the case on that occasion?
A. Because he would have came and knocked on my door and woke me up.
Q. Why?
A. That's just what ---
Q. Why would he have done that?
A. That's just what he would have did. Oh, the car not working. He would have came in and let me know.
Q. And you knew that with 100 percent ---
A. 100 percent. 1000 percent ---
Q. Okay.
A. --- yes, since you was asking me that.
Q. And I was asking you how certain you need to be before you killed two people.
A. Uh-huh.
Q. And you said ---
A. Yeah.
Q. --- not 1000 percent.
A. Yeah. Well, I'm telling you this time it's 1000 percent due to that question that you just asked.
Q. All right. Well, let's get back to that one since

you bring it back up.
A. Uh-huh.
Q. In your opinion, how certain do you have to be before you aim a gun at somebody and pull the trigger that they are threatening your life?
A. I can't answer that question, sir.
Q. Just kind of certain?
A. Yeah. Kind of. Once you scared, you ain't really paying that attention.
Q. All right. So, that's your testimony. You only have to be a little bit scared to kill somebody?
A. Uh-huh.
Q. Okay. I want to write that down.
MS. YOUNG: Objection. Mischaracterization. That's not what he testified to.
Q. I just asked you do you have to be a little bit scared before you killed somebody and you said yes.
A. Yes, sir. I agreed to what you said.
Q. Okay. A little bit scared before you kill someone. And how long have you had that opinion? I mean, did you grow up thinking that, that you only have to be a little bit scared just to kill somebody and be cool with it?
A. Just due to the situations that I seen over life experience, yes, sir. If you scared, and you don't know what's happening, especially if you think your life

about to be tooken, you act on it.
Q. Do, do you think -- do you find that to be incredibly dangerous to have that kind of thought?
A. Do I find it dangerous?
Q. Yeah.
A. I find it dangerous to not have that type of thought because you -- I could have been dead.
Q. Huh. But when you look back, you were never in any danger.
A. Well, I, I don't know that. I -- it would have been have possible -- impossible for me to know that from the back room ---
Q. It would have been impossible ---
A. --- due to what I heard, correct.
Q. Huh. All right. Now, when you go down the hallway --
A. Uh-huh.
Q. --- how long do you take to assess the situation before you, before you shot at these people?
A. I didn't take -- I was taking my time to assess the situation when I was in the room.
Q. Okay, and then when you decided to go towards where the sound was ---
A. Uh-huh.
Q. --- you decided to put yourself in there. You felt