

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Beaufort County
The Honorable R. Markley Dennis, Circuit Court Judge

Appellate Case No: 2014-002176

RECEIVED

JUL 13 2015

SC Court of Appeals

THE STATE,

Respondent,

vs.

JOSEPH BOWERS

Appellant.

**RETURN TO AMENDED MOTION TO SUSPEND APPEAL AND GRANT
LEAVE TO FILE A RULE 29(b) MOTION FOR NEW TRIAL**

Respondent, by and through undersigned counsel, making Return to Appellant's Amended Motion to Suspend Appeal and Grant Leave to File a Rule 29(b) Motion for New Trial, would respectfully show this Court:

I.

Appellant was indicted in Beaufort County for the murder, attempted murder and possession of a weapon during the commission of a violent crime. He proceeded to a jury trial September 29, 2014 – October 1, 2014, with the Honorable R. Markley Dennis, Jr., presiding. Appellant was convicted of voluntary manslaughter, assault and battery of a high and aggravated nature and possession of a weapon during the commission of a violent crime and was sentenced to fifteen years, fifteen years, and five years, concurrent. Appellant filed and served notice of

appeal and the appeal is currently pending before this Court. Appellant moves this Court to suspend the appeal and remand the matter to the court of general sessions so that he can pursue a Rule 29(b), SCRCrimP, motion for new trial based upon newly-discovered evidence. See Rule 29(b), SCRCrimP (stating that “[a] motion for a new trial based upon after-discovered evidence may not be made while the case is on appeal unless the appellate court, upon motion, has suspended the appeal and granted leave to make the motion.”).

II.

Appellant states in his motion that the primary evidence against him at trial was “a recorded call from the Defendant to his girlfriend made during pre-trial incarceration” which the State contended at trial was a confession that Appellant fired the gunshots at issue. Appellant argued at trial that the content of the recorded call was not clear. Appellant offers the jury’s inquiry about the contents of the recording, the fact that he was convicted of the lesser-included charge of manslaughter, and a moderate sentence as support for his contention the evidence was less than conclusive. In the earlier motion, Appellant conceded the recording he offers to this Court in support for the remand request was obtained from a family friend who surreptitiously recorded a conversation she has with Terry “T-Dog” Thornton, one of the individuals present during the incident.

III.

To prevail on his request to suspend the appeal and have the matter remanded to the circuit court to proceed on a motion for a new trial based on after-discovered evidence, Appellant must show (1) the evidence in question is such as will probably change the results if a new trial is granted; (2) the evidence has been discovered since the trial; (3) the evidence could not have been discovered prior to trial by the exercise due diligence; (4) the evidence is material to the

issue of guilt or innocence; and (5) the evidence is not merely cumulative or impeaching. Hayden v. State, 278 S.C. 610, 299 S.E.2d 854 (1983); State v DeAngelis, 256 S.C. 364, 182 S.E.2d 732 (1971). A *prima facie* showing of these factors is necessary before a remand to the circuit court can be granted. State v. Butler, 261 S.C. 355, 200 S.E.2d 70 (1973); State v DeAngelis, 256 S.C. 364, 182 S.E.2d 732 (1971); State v. Farris, 51 S.C. 176, 28 S.E. 370 (1897); State v. Green, 46 S.C. 566, 27 S.E.2d 663 (1896).

IV.

The State submits that Appellant fails to make a *prima facie* showing of the factors necessary to support a remand to the circuit court for a motion for new trial based upon newly-discovered evidence.

First, the surreptitious recording is not material evidence that would change the result of the trial. The State submits the recording offered is mostly garbled, is unclear, and, contrary to Appellant's claim, is devoid of a confession to the crimes for which Appellant was convicted. The "admission" Appellant argues can be heard on the recording and that he characterizes as Terry "T-Dog" Thornton's confession, "Yea, squeezing at the top of the roof is on me now," is not an admission that Thornton was the shooter and not Appellant. What is clear from the recording is that the only responsibility expressed on the secret recording is Terry Thornton's regret in failing to convince his friends not to go to the Midnight Soul Patrol or Poot Club (hereinafter "club") that night and in not making his friends leave the club before the altercation began which led to the gunfight. Thornton felt "set up" by the opposing neighborhood group and was reluctant to assist the State in convicting his other friend, Appellant. The video recording is simply not an admission by Thornton of being the shooter instead of Appellant and would not be admissible at trial.

Moreover, the secret recording would not change the result at trial even if the confession upon which Appellant relies is actually contained on the recording he offers as newly-discovered evidence based upon the pretrial investigatory deposition of Terry Thornton and evidence presented at trial.

The evidence presented at trial reflects that the prosecution's theory of the case was mutual combat. The State characterized the two shooters involved as coming from two different neighborhoods and that the members of the two neighborhoods had a history of violence and animosity toward each other. (Trial Tr. pp. 113 – 121; 410 - 427). Witness testimony indicating Dante Bailey, Stanley Humphries, Appellant, and other friends went to the Midnight Soul Patrol or Poot Club [hereinafter "club"] in Humphries' green van. (Trial Tr. p. 163 – 165). Appellant and his friends were standing outside the club smoking when Dante was approached by Arthur "Krum" Chaplain from the other neighborhood group. Krum engaged Dante in a verbal altercation. (Trial Tr. p. 165; 173 – 177; 200; 220). After guns were flashed, Derrick Grant diffused the altercation and walked the two men away from the crowd of patrons standing outside. (Trial Tr. p. 222; 232). Dante and his friends were attempting to leave when a gun was fired while Dante was still outside the van. (Trial Tr. p. 166- 167). Passengers of the group in the van exited and found Dante dead on the ground. (Trial Tr. 167). Gunfire continued. (Tr. p. 170 – 171). One witness testified that Michael Morgan fired a flare gun and everyone started shooting, including Lucas Morgan and Appellant. (Trial Tr. p. 222-224).

After Dante was shot, Appellant was seen by a witness assisting with Dante and then standing near Dante holding Dante's Glock pistol. (Trial Tr. pp. 225-229). The witness also saw Melvin Johnson, Dante, Krum, Derrick Grant, Terry Thornton, Lucas Morgan, Lucas Johnson, and Stanley Humphries with guns. (Trial Tr. p. 232). The witness also specifically saw Krum and

Lucas Morgan firing into the parking lot and Appellant standing over Dante holding Dante's Glock. (Trial Tr. p. 234).

First responders found the deceased victim Dante Bailey in the back of a vehicle. (Trial Tr. p. 146- 148; 159-160). Responders also found victim Michael Morgan on the back steps of a residence on the club property and victim Richard Green on the ground outside the side door to the club. Both men were critically injured by gunshot wounds. Officers also found a Glock at the wood line of the parking lot, a flare gun and discharged flare near a propane tank, and multiple shell casings in distinct groupings by ammunition type in two areas outside the club. (Trial Tr. pp. 126-127; 131-132; 134; 137-139; 143; 159-160; 241).

Appellant and Lucas Morgan were identified by witnesses as the two shooters in the gunfight that erupted between the opposing groups and the majority of the rounds at the scene belonged to a Glock being fired by Appellant and a 9 mm Luger fired by opposing group member, Lucas Morgan, near the steps to the house. (Trial Tr. pp. 127; 129; 180 - 185; 188-192; 197; 200-209; 231; 241 – 249-254; 271-279; 283; 286; 297; 366 - 375). The casings were clustered in separate, distinct locations.

Testimony indicates that after Dante was shot, Appellant took Dante's Glock and unloaded it into the crowd of patrons standing outside the club. Other physical evidence linking Appellant to the shootings included components of gunshot residue on the clothing Appellant was wearing that night. (Trial Tr. pp. 349 – 350; 359-360).

In a statement given to authorities and testified to at trial, Appellant indicated that he went to the club with Dante and that Dante got into an argument. Appellant stated he pulled Dante toward the van when shots were fired toward them, that Dante pulled out his pistol and stepped out from behind the van, and was shot. (Trial Tr. p. 288). Appellant also stated that

Terry Thornton was with them at the club and accused Thornton of being the shooter. (Tr. p. 290 – 291). Essentially, in Appellant’s version, he and Thornton traded places. However, Appellant admitted that he shot the boy but denied killing him in a recorded jail telephone conversation. (Trial Tr. p.302 - 304). In addition to the death of Dante Bailey, Richard Green suffered a spinal cord injury, Michael Morgan died from a gunshot wound to the stomach, and Robert Goodwine was shot in the leg. (Trial Tr. pp. 328 – 336).

Thornton did not testify at trial but did testify at an investigatory deposition taken pursuant to S.C. Code Ann. § 16-3-210 (Supp. 2014), which authorizes the solicitor to conduct any investigation deemed necessary in order to apprehend the members of a mob, including issuing subpoenas to witnesses and taking testimony under oath. (See State’s Memorandum attached as Attachment A). The pretrial investigatory deposition of Terry “T-Dog” Thornton is attached. (See Attachment B - Deposition Transcript [hereinafter Dep. Tr.]). Thornton testified at the deposition that he routinely frequented the club where the incident occurred and went there on the night in question because his friend, victim Dante Bailey, was going. (Dep. Tr. pp.16 - 17). Thornton stated that Dante had been told not to go to the club and Thornton had not planned to go but changed his mind to go with his friend. (Dep. Tr. p. 20) Thornton testified that neither he nor Dante got along with Lucas Morgan or any of the Morgan family. (Dep. Tr. p. 22).

Thornton recounted at the deposition that as he, Stanley Humphries, and Dante Bailey were leaving the club, Arthur “Krum” Chaplain approached from a group standing by the tree. (Dep. Tr. p. 30) Dante and Krum got into an argument. (Dep. Tr. pp. 30, 32). Thompson said he interceded and that he and Dante walked toward the van in which they arrived. (Dep. Tr. p. 33). Thompson testified that he did not have a gun, he did not see Dante or Krum with a gun, and a gun “did not come out.” (Dep. Tr. p. 34). Thompson stated that as they then walked toward the

van, someone in the van fired a weapon and then numerous shots were fired from that side of the building near a house and trees located on the property and from the location where Krum and his confederates were standing. (Dep. Tr. pp. 35-36). Stanley Humphries was backing the van up and he and Dante tried to get everyone in the van because the shooting continued. (Dep. Tr. p. 36). Dante came to the edge of the van while Stanley backed up and was shot. (Dep. Tr. pp. 36-37). Thompson was standing behind Dante when Dante was hit. (Dep. Tr. p. 36). Thompson stated that Appellant was in front of the van at the time. (Dep. Tr. p. 37). After realizing that Dante had been shot, Thompson covered Dante with his body while the shooting continued. (Dep. Tr. p. 38) Thompson denied that he saw Appellant with a gun. (Dep. Tr. p. 39). Thompson denied that he returned gunfire and stated that he did not see anyone in their group return fire. (Dep. Tr. p. 38). Thornton was confronted with an earlier statement in which he indicated that while on the ground covering Dante, Appellant was standing over him and Thornton could hear gunshots being fired over him. Thornton left the deposition. (Dep. Tr. pp. 39-40). The statement given to officers by Thornton indicated that Appellant rushed to Dante after Dante fell holding a gun in his hand, that Thornton covered Dante with his body as gunfire continued, that Appellant stood over the gun that had been in Dante's hand, and Thornton heard return gunfire over him. Thornton did not see Appellant shooting but stated Appellant was the only person present and was standing right over Dante's gun. (See Attachment C - Supplemental Incident Report).

Even assuming arguendo the recording Appellant now offers constitutes some type of admission, which Respondent denies, the content of the recording would not change the result of the trial, is not material to the issue of guilt or innocence, and, at most, is merely cumulative to Appellant's statement which identified Thornton as the shooter or merely impeaching to the

witnesses who testified they saw Appellant standing over Dante holding Dante's gun. The identity of the shooter was fully explored at trial as was the fact that Thornton and Appellant were together at the location of Dante's body and gun and that Thornton was seen with a gun. The newly-discovered evidence claim is not material, is not credible and would not have changed the result if a new trial was granted.

B.

Second, the date the recording was made has not been identified but it appears to have been made before trial because the female in the recording encourages Thornton to provide a written statement telling authorities what he knows. It appears the female, who has been characterized by Appellant as a family friend either waited until Appellant's conviction to make the recording known or made it known and Appellant did not use it. The State submits that Appellant has not shown that the recording has been discovered since trial and could not have been discovered for use at trial from his family friend through the exercise of due diligence.

C.

"As a rule the courts do not look with favor upon motions of this character, as there must be an end to litigation in any case." State v. Clamp, 225 S.C. 89, 95, 80 S.E.2d 918, 921 (1954). Granting a motion on after-discovered evidence is not favored. State v. Needs, 333 S.C. 134, 158, 508 S.E.2d 857, 869 (1998). Respondent submits that an appropriate *prima facie* showing has not been made to satisfy the factors required for establishing newly-discovered evidence as set forth in Hayden, 278 S.C. 610, 299 S.E.2d 854 (1983), and that a remand is not warranted at this time.

V.

Respondent submits Appellant's motion for a remand to the circuit court must be denied because the after-discovered evidence offered by Appellant fails to meet the criteria for granting a new trial and for remand by this Court.

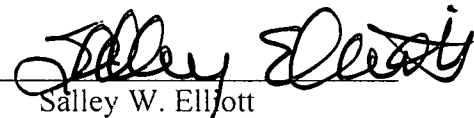
Respectfully submitted,

ALAN WILSON
Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

ISSAC MCDUFFIE STONE, III
Solicitor, Fourteenth Judicial Circuit

BY:


Salley W. Elliott
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ATTORNEYS FOR RESPONDENT

July 13, 2015

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Beaufort County
The Honorable R. Markley Dennis, Circuit Court Judge

Appellate Case No: 2014-002176

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SC Court of Appeals

THE STATE,

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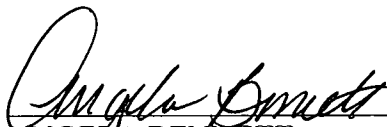
Appellant.

PROOF OF SERVICE

I, Angela Bennett, certify that I have served the Return to Amended Motion to Suspend Appeal and Grant Leave to File a Rule 29(b) Motion for New Trial on appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to his attorney Jim Brown, Esquire P.O. Box 592, Beaufort, South Carolina 29901.

I further certify that all parties required by Rule to be served have been served.

This 13th day of July, 2015.


ANGELA BENNETT
Administrative Assistant

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ATTACHMENT A

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SC Court of Appeals

STATE'S MEMORANDUM

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)
STATE OF SOUTH CAROLINA)

vs.)

Joseph Bowers,)
Defendant.)

IN THE COURT OF GENERAL SESSIONS
14TH JUDICIAL CIRCUIT
INDICT. NOS.: 2012-GS-07-1419, 1548
2013-GS-07-905 to 907

STATE'S MEMORANDUM

COMES NOW, the State of South Carolina, by the Fourteenth Circuit Solicitor and through the undersigned Assistant, hereby asks this Court to allow the evidence of prior disputes, ill feelings, and hostile acts between the Defendant, Joseph Bowers, and the Victim, Michael Morgan to show that animus existed between the parties at the time of the homicide. The State also seeks to introduce testimony that refers to the 'bad blood' between their two neighborhoods upon the theory of *Res Gestae*. Additionally, the evidence the State seeks to admit tends to prove the identity of the perpetrators as well as motive for the legal theory of 'Mutual Combat,' which the State is proceeding under.

THE STATE also intends to introduce the 'Dying Declaration' of one of the Victims, Michael Morgan and the basis for which is set forth below.

ISSUES

1: Whether evidence of prior disputes, ill feelings, and hostile acts is admissible in the current trial for homicide as relevant evidence to establish the turbulent nature of the relationship between the Defendant and the Victim(s).

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2: Whether the 'Dying Declaration' of Victim Michael Morgan is admissible against Joseph Bowers.

PROCEDURAL POSTURE

Defendant Joseph Bowers is charged with murder in the deaths of Victims Dante 'Colyone' Bailey and Michael Morgan as well as the attempted murders of Richard Green and Robert Goodwine upon a theory of 'Mutual Combat' and 'Felony Murder.'¹

Another Defendant, Lucas Morgan, was charged as a Co-Felon and tried the week of September 15th, 2014, before The Honorable Doyet A. Early, III. The State intended to try the two Defendants together; however, the Court, over the State's objection, severed the case in a hearing on July 24th, 2014. A jury returned Not Guilty verdicts on four of the five indictments against Mr. Morgan and the Court declared a mistrial on fifth indictment for the Murder of Victim Dante Bailey. The jury was deadlocked six to six after deliberating for seven hours.

Chief Administrative Judge Carmen Mullen has ordered Mr. Bowers' case to go forward beginning September 29th, 2014.

The Court should note that an investigation was done pursuant to the 'Mob Statute' South Carolina Code Section 16-3-210 wherein a series of depositions were taken. The State does not intend to reference the 'Mob Statute' or gang activity in the presentation of its' case but would seek to use the depositions for impeachment purposes should it prove necessary.

FACTS

On June 21st, 2012 around 1:30 AM, Lucas Morgan and Joseph Bowers engaged in a deadly shoot-out at the Midnight Soul Patrol ('Poot Shop') located at 56 Toomer Road on St. Helena

¹ See *State v. Brown*, 108 S.C.490, 95 S.E. 61 (1918) and *State v. Taylor* 356 S.C. 227, 589 S.E.2d 1(2003) regarding the theory of 'Mutual Combat' as well as *Gore v. Leeke*, 261 S.C. 308, 199 S.E.2d 755 (1973) regarding the theory of 'Felony Murder.'

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Island. Witnesses as well as Defendants' own statements place them at the incident location at the time of the shootings. These two shooters come from different neighborhoods that have historically harbored animosity toward each other. Lucas Morgan is from Lands End which is also where the 'Poot Shop' is located. Joseph Bowers is from the Dulamo Road area of St. Helena.

In the years leading up to this incident, local law enforcement investigated numerous club shootings and other violent crimes featuring various individuals from the Dulamo and Lands End neighborhoods on St. Helena. The history of animosity and violence between members of these two neighborhoods was the spark that set the Poot Shop ablaze that June summer night. Being from Lands End, the Morgan brothers were regular patrons of the club. Until the night of the incident, Dante Bailey had not been out to the Poot Shop in close to a year since a prior shooting occurred back in June of 2011.

Shortly after he arrived with his group from Dulamo Road, Dante Bailey was approached by Arthur 'Krum' Chaplin, of Lands End, and the two engaged in a verbal altercation that ended when a third party interceded, pulling the two away from each other. A few minutes after the verbal altercation had been 'squashed,' Lucas Morgan opened fire in the direction of the Dulamo crowd who was in the parking lot area of the club and a shoot-out ensued.

Dante Bailey was hit in the chest and killed almost instantly, dying on scene. Richard Green was caught in the cross-fire and is now paralyzed from the waist down. Robert Goodwine was shot in the back of the leg as he ran toward the main road away from the gunfire. Michael Morgan was shot in the right buttock by a bullet that nicked his iliac vein and he bled out internally.

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Witness testimony, as well as physical evidence, including GSR, links the defendants to these shootings. The majority of the gunfire appears to have come from two firearms—a Glock belonging to Dante Bailey that was fired by Joseph Bowers and another 9mm Luger caliber semi-automatic that Lucas Morgan was firing. No projectiles were recovered from any of the victims.

Additionally, during his initial pre-trial incarceration, Joseph Bowers tells his girlfriend, Megan Stone, in recorded jail phone call made on August 13th, 2012, that ‘I ain’t kill the boy, I only shoot the boy,’ thereby admitting to being involved in the shoot-out.

LAW

ISSUE 1:

South Carolina Courts have held on multiple occasions that evidence of prior disputes, ill feelings and hostile acts is admissible in subsequent homicide trials to show that animosity probably existed between the two parties at the time of the homicide. *State v. Braxton*, 343 S.C. 629, 636, 541 S.E.2d 833, 2001 S.C. LEXIS 24 (S.C. 2001) (Citing *State v. Williams*, 321 S.C. 327, 468 S.E.2d 626 (1996); *State v. Clinkscales*, 231 S.C. 650, 99 S.E.2d 663 (1957); *State v. Brooks*, 79 S.C. 144, 60 S.E. 518 (1908)). These actions are admissible, not as prior bad acts by the defendant, but rather as evidence relevant to establish the Defendant’s motive to commit the crime and his identity as the perpetrator. *Id.* (Citing *State v. Atkins*, 303 S.C. 214, 399 S.E.2d 760 (1990)).

In *Braxton*, the Court found that evidence of a previous argument between the Victim and the Defendant was properly admitted as relevant evidence of the homicide. On that occasion, the Victim’s husband was helping at the store and witnessed the altercation between the two

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when the Victim refused to sell cigarettes to the Defendant. The Victim was later abducted from the store and murdered. The murder took place approximately one month after the argument. The Court found that the evidence of the argument "was properly admitted as evidence of a prior dispute and ill feelings between the victim and appellant and was relevant to establish appellant's motive to commit the crime and his identity as the perpetrator." *Id. at 637.*

In *State v. Williams*, 321 S.C. 327, 336, 468 S.E.2d 626 (1996), the Court held that evidence of marital discord was admissible in the husband's trial for the murder of his wife. There was evidence that the Defendant and his wife were experiencing significant financial difficulties, they had recently declared bankruptcy and foreclosure proceedings had begun on their home. *Id. at 331.* The Court stated that while evidence of the marital discord was allowed, the details of the difficulties should be excluded. *Id. at 336.* Evidence that a neighbor heard a loud thump during an argument and believed that something was knocked over in the house was allowed as the court found that it did not qualify as a detailed description of a marital problem. *Id.*

In *State v. Brooks*, 79 S.C. 144, 146, 60 S.E. 518, 1908 S.C. LEXIS 37 (S.C. 1908), the court found that evidence of an argument that occurred eight months prior to the murder was admissible. In that argument, the Defendant threatened to kill the Victim after a verbal altercation. *Id.* "The evidence was properly admitted under the well-settled rules admitting evidence of previous quarrels, ill-feeling or hostile acts between the parties, to show the animus probably existing between them at the time of the homicide." *Id.*

Additionally, under the theory of *Res Gestae*, reference to prior bad acts by the members of the Lands End and Dulamo neighborhoods is necessary to help the fact finder understand the

context in which this shoot-out occurred. Our Supreme Court discussed the theory in detail in *State v. Adams*, 322 S.C. 114, 470 S.E.2d 366 (1996). There, the Court stated:

One of the accepted bases for the admissibility of evidence of other crimes arises when such evidence "furnishes part of the context of the crime" or is necessary to a "full presentation" of the case, or is so intimately connected with and explanatory of the crime charged against the defendant and is so much a part of the setting of the case and its "environment" that its proof is appropriate in order to "complete the story of the crime on trial by proving its immediate context or the 'res gestae'" or the "uncharged offense is so linked together in point of time and circumstances with the crime charged that one cannot be fully shown without proving the other ... and is thus part of the res gestae of the crime charged.

Id. at 122 (quoting *United States v. Masters*, 622 F.2d 83, 86 (4th Cir. 1980)).

In comparing the above cases to the instant case, evidence of prior altercations and hostile feelings should be allowed into evidence. The State intends to offer the testimony of a Beaufort County Sherriff's Deputy who witnessed an altercation between Michael Morgan and Joseph Bowers weeks before the incident. In addition, the State intends to refer to the general history of violence and discord between members of the Lands End and Dulamo neighborhoods. The admittance of such evidence is far more probative in a circumstantial case than prejudicial and has been widely held as admissible evidence. It also provides a necessary context in which the jury can view the facts presented.

ISSUE 2:

The State intends to introduce the 'Dying Declaration' of Michael Morgan who points to Joseph Bowers as the perpetrator who shot him through SCRCP Rule 804(b)(2). In reviewing the standard by South Carolina courts for what falls under this hearsay exception, it appears the test is clearly laid out by *State v. Hall*, 134 S.C. 361, 133 S.E. 24 (1926): 1) That death was imminent 2) The Victim was fully aware thereof and 3) The circumstances of death were the subject of the declarations. It is then up to the Circuit Court to determine whether these conditions exist and in

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doing so, the Court may look towards the facts and circumstances surrounding the declaration. In *State v. McHoney*, 344 S.C. 85, 544 S.E.2d 30 (2001)², the South Carolina Supreme Court noted that a declarant does not have to express his condition in direct terms, the state of mind can be inferred from the surrounding circumstances. Additionally, the Court pointed to a Louisiana case where a victim's gunshot wound, pain and his impending surgery provided enough of an inference that the victim was aware of his imminent death. *See Louisiana v. Lucas*, 762 So. 2d 717 (La. Ct. App. 1st Cir. 2000).

In the instant case, the State intends to produce evidence from medical personnel that the victim's injuries were critical. A timeline of events put together from medical records follows:

1. Victim Michael Morgan was shot at about 1:30 AM on June 21st, 2012.
2. Transported to BMH ER and seen around 2:30 AM
3. Triage Assessment occurred at 3:20 AM where Dr noted Vic appeared distressed and was 10 out of 10 on the pain scale, laceration bleeding profusely, Vic is actively vomiting (pg 1 dictated by Dr. Rehman)
4. 3:28 AM Pg 3 noted 'Police to see patient'
5. At 3:48 AM, Vic was noted to be in obvious distress and appeared lethargic.
6. Victim underwent a CAT scan which showed a large pelvic hematoma and went into surgery
7. Morgan at some point experienced bleeding from a major artery, the iliac vein, which could not be controlled.
8. 4:01 AM noted to be in critical condition
9. Airlifted to MUSC and arrived at 7:35 AM and proceeded straight to the OR.
10. Pronounced dead at 8:15 AM.

Testimony will show that Investigator Fraser spoke to Michael Morgan twice while he was in Beaufort Memorial Hospital, prior to being airlifted to MUSC. Morgan said 'Opie' shot me and clarified that it was 'Joey Bowers, a white guy from Tom Fripp,' prior to being taken for a CT scan. Investigator Fraser spoke to him again afterward whereupon he confirmed the

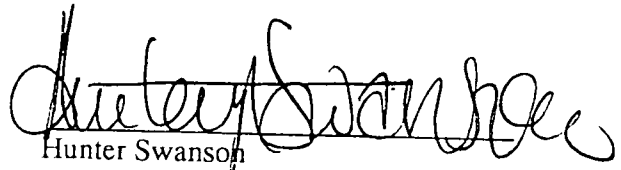
² Note that this case was distinguished by the SC Court of Appeals in 2014 on other grounds involving Excited Utterances.

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[Signature]

original information. Michael Morgan's condition was documented and photographed. (See **EXHIBITS 1 and 2**) In viewing all of the circumstances surrounding Michael Morgan's condition, it becomes clear that the statement is 'competent' evidence for the jury to consider.

CONCLUSION

For the foregoing reasons, the State respectfully requests that evidence of the ill feelings and hostile acts between the Defendant and the Victim, Michael Morgan, as well as the history of violence between their two neighborhoods, be admitted into the current trial for homicide. Additionally, the State asks that the Court deem Michael Morgan's 'Dying Declaration' competent evidence for the jury to consider at the appropriate juncture.


Hunter Swanson
Assistant Solicitor
14th Judicial Circuit

September 25th 2014

9/25/14
JRS

EXHIBIT 1



EXHIBIT 2





ATTACHMENT B

DEPOSITION TRANSCRIPT

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

TESTIMONY OF TERRY THORNTON

BLUFFTON, SOUTH CAROLINA

BEAUFORT COUNTY

January 16, 2013

9:42 a.m. to 10:23 a.m.

Testimony on oral examination of TERRY THORNTON,
reported by Deborah E. Everett, Court Reporter and
Notary Public in the State of South Carolina; said
testimony taken pursuant to Rule 16-3-120 of the South
Carolina Rules of Civil Procedure, at Office of
Solicitor, 39 Sheridan Park Circle, Suite 2, Bluffton,
South Carolina, on the 16th day of January, 2013,
commencing at the hour of 9 a. m.

 COPY

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

MEREDITH BANNON, Attorney at Law
Assistant Solicitor for State of South Carolina

Court Reporter's note:

- indicates incomplete phrases
- indicates interruption
- ... indicates trailing off; unfinished sentences

I N D E X

Testimony of TERRY THORNTON

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1 Wednesday, January 16, 2013:

2 (Whereupon testimony of **TERRY THORNTON** began at 9:42
3 a.m. on January 16, 2013)

4 Being first duly sworn, **TERRY**
5 **THORNTON** testified as follows:

6 **MS. BANNON:**

7 Mr. Thornton, I have a couple of things I need
8 to read to you. Just bear with me.

9 Mr. Thornton, my name is Meredith Bannon. I'm
10 the Assistant Solicitor for the 14th Circuit. We
11 are here today pursuant to 16-3-210 of our laws,
12 which requires me to conduct an investigation into
13 the violence that has been taking place on St.
14 Helena Island.

15 The court reporter is here to take down
16 everything you say. The court reporter has sworn
17 you in, which means this is the same as you
18 appearing in a court of law. You have sworn to
19 tell the truth, the whole truth, and nothing but
20 the truth and failure to do that means you could
21 be charged with perjury.

22 I'll be asking you questions concerning your
23 knowledge of events taking place on St. Helena
24 Island. If at any point you do not understand the
25 question that I ask, please let me know and I'll

1 rephrase it and I'll be happy to do so. If you
2 answer the question, I will assume you understood
3 the question.

4 If you need a break at anytime please let me
5 know and I'll be glad to take it. The restrooms
6 are right down the hall and we also have water,
7 coffee and soft drinks. If there is anything you
8 need please let me know and I'll be glad to get it
9 for you.

10 Do you have any questions for me before we
11 start?

12 **WITNESS:** No.

13 **MS. BANNON:** Just as a side note, Ms. Everett is taking
14 down everything we say and I know in normal
15 conversation, uh huh, un uh, shaking heads and
16 nodding heads is very normal. We normally
17 understand what it means, but that doesn't come
18 across in the record so we have to make sure that
19 we clearly say yes or no.

20 And umm, I have another letter that I'd like
21 to read to you now.

22 Dear Mr. Thornton, This letter is supplied to
23 a witness scheduled to appear before the summary
24 hearing regarding the mob violence on St. Helena
25 Island, SC in order to provide helpful background

1 information about the summary hearing. The
2 summary hearing is being conducted pursuant to
3 S.C.R.S 16-3-210 which requires the Solicitor's
4 Office to conduct an investigation into the
5 violence that has been taking place on St. Helena
6 Island.

7 As a summary hearing witness you will be asked
8 to testify and answer questions. Only the
9 attorneys for the Solicitor's Office and a
10 stenographer are permitted in the summary hearing
11 room while you testify.

12 We advise you that the 14th Circuit
13 Solicitor's Office is conducting an investigation
14 of possible violations of state criminal laws
15 involving, but not necessarily limited to Murder,
16 Attempted Murder, Assault by Mob and drug
17 activity.

18 You are advised that you are a target of the
19 summary hearing's investigation. You may refuse
20 to answer any questions if a truthful answer to
21 that question would tend to incriminate you.
22 Anything that you do or say may be used against
23 you in a subsequent legal proceeding. If you have
24 retained counsel, who represents you personally,
25 the summary hearing will permit you a reasonable

1 opportunity to step outside the summary hearing
2 room and confer with counsel if you desire.
3 Cordially, Meredith A. Bannon, Assistant
4 Solicitor.

5 Do you have any questions about that?

6 **WITNESS:** (nodded negatively)

7 **COURT REPORTER:** Yes or no.

8 **WITNESS:** No.

9 **COURT REPORTER:** You are going to have to say it loud
10 enough where I can hear you.

11 **WITNESS:** No.

12 **MS. BANNON:** And we are marking that Exhibit number 94.

13 **BY MEREDITH BANNON:**

14 Q All right, Mr. Thornton, what's your full name?

15 A Terry Charles Thornton.

16 Q And how old are you?

17 A Thirty-seven.

18 Q When is your birthday?

19 A 1-24-75.

20 Q So your birthday is coming up?

21 A Yeah.

22 Q Where are you currently living?

23 A 198 Ballpark.

24 Q Who lives with you there?

25 A My mother and my step-father.

1 Q What is your mom's name?

2 A Delores Thomas.

3 Q Holmes?

4 A Thomas.

5 Q Thomas. And how about your step-dad?

6 A Roland Thomas.

7 Q And do you have any brothers or sisters?

8 A Yes.

9 Q How many?

10 A Two. Two sisters and one brother.

11 Q Are they older or younger?

12 A Older.

13 Q What is your brother's name?

14 A Curtis Thornton.

15 Q And does he live on St. Helena?

16 A No, he's incarcerated.

17 Q What's he incarcerated for?

18 A Manslaughter.

19 Q Is he in South Carolina or...

20 A South Carolina.

21 Q Wow. How long has he been incarcerated?

22 A Sixteen, seventeen years.

23 Q Wow. How about your sisters?

24 A My sister is Joanne Campbell.

25 Q Does she live on St. Helena?

- 1 A No, she stays on Lady's Island.
- 2 Q And does she work?
- 3 A She work -- she's retired but she work -- the
- 4 Naval Hospital, I think.
- 5 Q How about your other sister?
- 6 A She don't work.
- 7 Q What's her name?
- 8 A Beverly Thornton.
- 9 Q And does Beverly live on St. Helena?
- 10 A Yes.
- 11 Q And umm, you have two sisters or three sisters?
- 12 A Two.
- 13 Q Umm, so none of them live with you, right?
- 14 A No.
- 15 Q Umm, do you work?
- 16 A No.
- 17 Q You were in Florida, weren't you?
- 18 A Yes.
- 19 Q Where were you in Florida?
- 20 A Fort Meyers.
- 21 Q What were you doing in Fort Meyers?
- 22 A Working.
- 23 Q Where at?
- 24 A At umm, MBT.
- 25 Q What's that?

- 1 A It's umm, like a label company.
- 2 Q Umm, how long did you work there?
- 3 A From like the first day I got there until I left.
- 4 Q When did you come back to St. Helena?
- 5 A The 19th.
- 6 Q Of December?
- 7 A Um hum.
- 8 COURT REPORTER: Yes or no.
- 9 A Yes.
- 10 Q Umm, why did you come back?
- 11 A Huh?
- 12 Q Why did you come back?
- 13 A My mother and my sister are sick.
- 14 Q Umm, so you are taking care of them or...
- 15 A Yeah, basically.
- 16 Q So you gonna go back to Fort Meyers or...
- 17 A No, not until they well.
- 18 Q Do you expect that to be soon or...
- 19 A No. I don't know. She got cancer.
- 20 Q Sorry to hear that. Has she started treatment?
- 21 A Yeah, she's in the hospital.
- 22 Q What's her prognosis?
- 23 A I don't know. I was there yesterday, I don't
- 24 really know.
- 25 Q Which sister?

1 A Beverly.

2 Q And how old is Beverly?

3 A Thirty-eight.

4 Q Oh, I'm sorry to hear that. And umm, who were you
5 living with in Fort Meyers?

6 A My sister.

7 Q What's her name?

8 A Martha Ward.

9 Q Ward?

10 A Um huh.

11 Q And she lives in Fort Meyers?

12 A Yes.

13 Q Does she work?

14 A Yes.

15 Q What does she do?

16 A She work at the Rec. At the Rec.

17 Q Like the Rec Center?

18 A Yeah.

19 Q And is she married?

20 A Yes.

21 Q So did you live with her and her husband?

22 A Yes.

23 Q What is her husband's name?

24 A Courtney Ward.

25 Q Did you like it in Fort Meyers?

- 1 A It was great.
- 2 Q Umm, why did you leave St. Helena?
- 3 A Just to leave.
- 4 Q Why?
- 5 A Huh?
- 6 Q Why?
- 7 A Why?
- 8 Q Um huh.
- 9 A I had stress, you know what I mean? And I just
- 10 left. Stressed out.
- 11 Q Were you born in Beaufort?
- 12 A No.
- 13 Q Where were you born?
- 14 A Florida.
- 15 Q Where?
- 16 A Naples.
- 17 Q When did you move to St. Helena?
- 18 A (laughter) I don't really know.
- 19 Q (laughter)
- 20 A I know it's been over twenty years.
- 21 Q So you were raised on St. Helena?
- 22 A Yes.
- 23 Q What area of St. Helena is 198 Ballpark?
- 24 A Saxonville.
- 25 Q Okay.

1 A Ballpark really. That's Ballpark. It's not
2 Saxonville. (laughter)

3 Q (laughter) When -- when you were living here, did
4 you work?

5 A Yeah.

6 Q What did you do?

7 A I was a cook, a dishwasher, did framing work.

8 Q Did you graduate high school?

9 A No.

10 Q What was the highest grade you completed?

11 A Eleventh.

12 Q And umm, did you have a girlfriend when you lived
13 here?

14 A Huh?

15 Q A girlfriend? A Wife?

16 A Yeah.

17 Q Who is that?

18 A Andrea Smalls.

19 Q Does Andrea Smalls go by a nickname?

20 A Yes, Pumpkin.

21 Q When you are together what do you call her, Andrea
22 or Pumpkin?

23 A Pumpkin.

24 Q Are y'all still together?

25 A No.

- 1 Q Why not?
- 2 A Huh?
- 3 Q Why not?
- 4 A I don't know.
- 5 Q When did y'all break up?
- 6 A When I was in Florida.
- 7 Q How long had y'all been together?
- 8 A Like two years.
- 9 Q Do you have a girlfriend currently?
- 10 A No.
- 11 Q Ever been married?
- 12 A No.
- 13 Q Do you have any kids?
- 14 A Yeah.
- 15 Q How many?
- 16 A Two.
- 17 Q How old are they?
- 18 A Eleven and -- no. My oldest is -- Tyrese is
- 19 thirteen, Tyreka is twelve.
- 20 Q Are their last names Thornton?
- 21 A No, Smith.
- 22 Q Smith?
- 23 A Uh huh.
- 24 Q Do they both have the same mom?
- 25 A Yes.

1 Q Who is that?

2 A Tameeka Smith.

3 Q Do they live with Tameeka?

4 A Yes.

5 Q Is that on St. Helena or is that...

6 A Jasper County.

7 Q Jasper County. Do you have people in Jasper?

8 A No. Just my kids.

9 Q Does Tameeka have family in Jasper?

10 A Yes.

11 Q And were you ever married to Tameeka?

12 A No.

13 Q Okay. But Tyrese and Tyreka are they both boys?

14 A Yes.

15 Q Do you get to see them?

16 A Yes, every now and then. I didn't them since last
17 year, Thanksgiving.

18 Q Hmmm. But now that you are back from Florida,
19 hopefully?

20 A Yeah.

21 Q Umm, how did you start going to the Poot Shop?

22 A That was like a, basically, a hang out spot every
23 Wednesday, you know what I mean? We started going
24 out there.

25 Q And now, umm, do you remember when you started

1 going?

2 A Nah.

3 Q Just always gone?

4 A Yeah. I used to go out there in the 90's, you
5 know.

6 Q And umm, who do you go with?

7 A Huh?

8 Q Who would you usually go with?

9 A Me and my friend.

10 Q Who is your friend?

11 A Dante Bailey.

12 Q How did you meet Dante?

13 A I met him on the Island.

14 Q Just...

15 A Yeah, I met him on the Island.

16 Q When did you meet Dante?

17 A Nineties.

18 Q All right, so y'all have been friends for a while?

19 A (nodded affirmative)

20 Q I'm sorry, you have to answer yes or no.

21 A Yes.

22 Q And umm, how did y'all wind up going to the Poot
23 Shop the night that Dante was killed?

24 A He just -- he came to the house and talk about he
25 was going up there, you know.

- 1 Q What time did he come -- he came to your house?
- 2 A Nah. I was (inaudible)
- 3 Q I'm sorry?
- 4 A I was at his friend house.
- 5 Q What friend?
- 6 A Michael Bailey.
- 7 Q And where does Michael Bailey live?
- 8 A He was staying on Seaside.
- 9 Q So you were at Michael Bailey's house?
- 10 A Yeah.
- 11 Q And Dante showed up?
- 12 A Yeah.
- 13 Q Do you remember what time it was?
- 14 A No.
- 15 Q How do you know Michael Bailey?
- 16 A That's umm, Dante's cousin.
- 17 Q And umm, who else was there at Michael Bailey's
- 18 house?
- 19 A That was it.
- 20 Q Do you remember what time it was?
- 21 A No.
- 22 Q Umm, where did y'all go from Michael Bailey's
- 23 house?
- 24 A We went to the Poot Shop.
- 25 Q Did y'all go anywhere else before that?

1 A No.

2 Q Umm, how did y'all get to the Poot Shop?

3 A Stanley.

4 Q Stanley?

5 A Yes.

6 Q How did y'all meet up with Stanley?

7 A Them two was together, I met up with them when
8 they came to pick me up.

9 Q Dante and Stanley was together?

10 A Yeah.

11 Q And you met up with them later?

12 A Yeah.

13 Q Where did you meet up with them?

14 A At Mike's house.

15 Q Okay, so they had been out and then they came over
16 to Mike's house and then the four of y'all went to
17 the Poot Shop?

18 A Yeah.

19 Q Who's car?

20 A Stanley's.

21 Q What kind of car was it?

22 A A van.

23 Q Do you know what color the van was?

24 A Green.

25 Q How do you know Stanley?

1 A I know Stanley since high school.

2 Q Y'all went to school together?

3 A Yes.

4 Q What does Stanley do?

5 A Crabber.

6 Q And umm, does he live on St. Helena?

7 A No, I think he stay in Port Royal.

8 Q And umm, does Stanley usually go out with y'all?

9 A Uhh, uhh, not that -- not like that, you know what

10 I mean, he probably go to a couple of bars and

11 stuff but just that night he was -- I guess they

12 was shooting pool and then he came by the house.

13 Q Did you expect to go to the Poot Shop that night?

14 A Nah.

15 Q Why not?

16 A I wasn't really going, you know what I mean? And

17 he was just like, You going? And I was like,

18 Yeah, I'll go.

19 Q Now, Dulamo had kinda been told not to go to the

20 Poot Shop, right?

21 A Yep.

22 Q So why go to the Poot Shop?

23 A I don't know.

24 Q I mean did y'all talk about it? Like, Oh man, we

25 know the Morgan's are gonna be there or anything

1 like that?

2 A No.

3 Q Why -- why was Dulamo not welcome at the Poot
4 Shop?

5 A I don't know.

6 Q When was the last time you had been to the Poot
7 Shop before that night?

8 A Hmmm, about a couple of weeks.

9 Q Had you been with Dante?

10 A Yeah.

11 Q And was there trouble when you went?

12 A No.

13 Q Were you with Dante when he and Lucas got into a
14 shoot out last year?

15 A No.

16 Q Like the year before Dante was killed?

17 A No.

18 Q Did you know about it?

19 A Yep.

20 Q What do you know about it?

21 A I don't really know too much about it. Just, just
22 that they had conversation, you know.

23 Q And so did Dante kind of avoid the Poot Shop after
24 that or would he still go?

25 A Not really.

1 Q Do you know why Dante and Lucas didn't get along?

2 A No.

3 Q Did you know that they didn't get along?

4 A Yeah.

5 Q Do you know Lucas Morgan?

6 A Yeah.

7 Q How do you know Lucas?

8 A Cause I used to go down there and back in the
9 days. I used to talk to one of his cousins.

10 Q Did you get along with Lucas?

11 A No.

12 Q How come?

13 A We just don't get along.

14 Q How about Mikey?

15 A Who?

16 Q Mikey Morgan?

17 A No, I don't mess with none of them Morgan's.

18 Q So y'all get in Stanley's van and you head to --
19 straight to the Poot Shop or do you stop somewhere
20 else?

21 A The Poot Shop.

22 Q What are y'all talking about on the way there?

23 A Nothing.

24 Q Just quiet? Y'all aren't saying anything?

25 A Just listening to music.

- 1 Q What were y'all listening to?
- 2 A Huh?
- 3 Q What were y'all listening to?
- 4 A Rap music.
- 5 Q What kind of rap music?
- 6 A Rap music. Ain't no gangster rap music, just rap
- 7 music.
- 8 Q Like local rap music or...
- 9 A Local.
- 10 Q And umm, so you get there; what do you do when
- 11 y'all get there?
- 12 A Go in the club. Buy a couple of drinks and that
- 13 was basically it.
- 14 Q All right. I have a map. (State's Exhibit 95)
- 15 This is the road in front of the club, this is the
- 16 club. This is the house, you know how there is a
- 17 house behind the club? This is the tree. That's
- 18 the propane tank. Does that make sense to you?
- 19 A The house in front of the club.
- 20 Q Yeah, there's a house in front of the club.
- 21 A House on the side of the club.
- 22 Q Yeah, like here is just -- you can go straight to
- 23 the road but there's a -- like a brick house...
- 24 A Yeah, on the front.
- 25 Q Does this make sense to you?

1 A Um hum.

2 Q Where did y'all park?

3 A Right there in front of the door.

4 Q In front of where?

5 A Right here in front of the door.

6 Q Where?

7 A In front of the Poot Shop door.

8 Q Can you write on here where you parked?

9 A No.

10 Q Why not?

11 A Cause. I said right in front of the door.

12 Q Why don't you want to write on it?

13 A Cause.

14 Q Okay, so you are saying that you parked right
15 here?

16 A Um hum.

17 COURT REPORTER: Yes or no.

18 A Yes.

19 Q All right. So were you facing with the front of
20 the car pointing at the club or to the side?

21 A On the front.

22 Q So if I draw Stanley's van there, that's where
23 y'all are parked?

24 A Um hum.

25 COURT REPORTER: Yes or no.

1 A Yeah.

2 Q All right, so I'm writing 'van'. Umm, where were
3 you sitting in the van?

4 A I was sitting in the back.

5 Q All right. Who was riding shotgun?

6 A Cole.

7 Q And umm, ---

8 (interruption with someone coming in the room)

9 Q Umm, it was Stanley driving, Cole next to him.
10 You in the back. Anybody else in the van with
11 y'all?

12 A No.

13 Q So you said that you get out?

14 A Um hum.

15 Q What door do you go in?

16 A The side door.

17 Q This door or that door?

18 A The side door on the side.

19 Q So you go in this door, not the door you park
20 right in front of, not the one on the side?

21 A Um huh.

22 COURT REPORTER: Yes or no.

23 A Yes.

24 Q All right. And you said you bought a couple of
25 drinks?

1 A Um hum.

2 Q What were you drinking?

3 A Heineken.

4 Q Did Dante buy something?

5 A Um hum.

6 COURT REPORTER: Yes or no.

7 A Heineken.

8 Q He was drinking Heineken's? How about Stanley?

9 A Umm, he didn't drink nothing.

10 Q Is Stanley a drinker?

11 A No.

12 Q And umm, you ordered those from the bar?

13 A Yes.

14 Q What do you do after you order?

15 A Walk right outside.

16 Q Walk back outside?

17 A Um hum.

18 Q Where do you go outside?

19 A By the van.

20 Q Are you on the side that's looking towards the
21 house or the side that's looking away from the
22 house?

23 A The side looking towards the house.

24 Q All right. And who is there with you?

25 A Me, Stanley, and him.

- 1 Q Okay. How are y'all standing?
- 2 A We just standing right there by the van.
- 3 Q Are you talking to people?
- 4 A Nope.
- 5 Q Why not?
- 6 A We ain't talking to nobody. Just came outside to
7 smoke a cigarette and then went back in the club.
- 8 Q So you smoke a cigarette and then you go back
9 inside the club; where did you go back inside the
10 club?
- 11 A We was just standing up way over there by the
12 door.
- 13 Q Over here or over here?
- 14 A Over there by the door.
- 15 Q Did you have a table or were you standing?
- 16 A We were just standing up.
- 17 Q So y'all are like here?
- 18 A Um hum.
- 19 Q All right. And what are you doing there?
- 20 A Just standing up.
- 21 Q Are y'all talking?
- 22 A Yeah, just standing there, talking, drinking our
23 beer.
- 24 Q Hittin' on women?
- 25 A Nope.

1 Q Okay. What happened -- do you meet up with
2 friends while you are there?

3 A Yep.

4 Q All right, when did they get there?

5 A They got there after us.

6 Q Did they get there before or after y'all went
7 outside to smoke a cigarette?

8 A After.

9 Q Did y'all meet them outside or did y'all meet them
10 inside?

11 A We met them inside.

12 Q Who, umm, came and met y'all?

13 A Hum?

14 Q Who did you meet?

15 A I can't remember. I knowed it was a couple of
16 guys. A couple of friends from Tom Fripp. I
17 can't remember who they were.

18 Q Okay. And after you met with them outside, what
19 did y'all do?

20 A All of us went back in the club.

21 Q Did you go back in the same spot in the club or
22 did you go somewhere else?

23 A I just went back to the same spot.

24 Q All right. And what were y'all doing in the club?

25 A Just sitting there, standing up, drinking.

- 1 Q Did y'all talk to anybody?
- 2 A Nah.
- 3 Q Why not?
- 4 A (inaudible)
- 5 Q I'm sorry?
- 6 A We didn't talk to nobody.
- 7 Q Why not?
- 8 A Huh?
- 9 Q Why not?
- 10 A Cause we don't talk to nobody from around there so
- 11 why talk to somebody.
- 12 Q So why go to the club that you know you don't talk
- 13 to anybody at?
- 14 A Ain't nothing else to do.
- 15 Q Okay. Umm, so y'all are inside, you're hanging
- 16 out and then what happens?
- 17 A We go outside.
- 18 Q Where do y'all go outside?
- 19 A Back outside to smoke?
- 20 Q And where do you go?
- 21 A By the van.
- 22 Q Same spot y'all stood before?
- 23 A Um hum.
- 24 Q And what happens then?
- 25 A Then we walk back in the club again.

1 Q You go to the same spot?

2 A Yep.

3 Q And what do y'all do?

4 A Stand right there.

5 Q Okay, and then what happens?

6 A Then we got ready to leave.

7 Q Why did y'all decide to leave?

8 A Huh?

9 Q Why did you decide to leave?

10 A We just got ready to leave. Gettin' late and we
11 just said we was leaving.

12 Q Okay, then what do y'all do?

13 A Walk outside. Then him and umm, Krum had a little
14 argument so I diffused that, you know, and then we
15 walk off.

16 Q Who is 'he and Krum'?

17 A Cole.

18 Q Cole and Krum; where did they have this argument?

19 A Like on the corner of the -- like coming around
20 the building, you know what I mean?

21 Q Do you want to write on the map where it happened?

22 A Nope.

23 Q Okay, was it here?

24 A No.

25 Q Was it here?

- 1 A No, it was like ---
- 2 Q Was it here?
- 3 A Yeah, it was someplace in that area right there.
- 4 Q Right here?
- 5 A Um huh.
- 6 Q How did Krum and Cole come to have an argument?
- 7 A I don't know.
- 8 Q C'mon. You have to know. If you were able to
- 9 diffuse it ---
- 10 A I just -- they was just arguing and I came in the
- 11 middle of it and I was like ---
- 12 Q Okay, so was it like Cole walking away and Krum
- 13 like said something to him ---
- 14 A Yeah ---
- 15 Q Or does Krum just come up to him, like Hey, man --
- 16 -
- 17 A Yeah, he came up to him like ---
- 18 Q Like in his face?
- 19 A Yeah.
- 20 Q Umm, where did Krum come from?
- 21 A All of them was standing like -- over there by the
- 22 tree or someplace and then ---
- 23 Q The big tree?
- 24 A Yeah.
- 25 Q This tree?

1 A That's in the front.

2 Q Um hum.

3 A That was over there by the house. Someplace over
4 there by the house...

5 Q So Krum was over here?

6 A Yeah.

7 Q So Krum came from this area over to there?

8 A Yeah.

9 Q Okay. So he was over here and he came over here.

10 A Um hum.

11 Q What did he say to Dante?

12 A He was like -- about something. I can't remember
13 cause he said something about his little home boys
14 or something like that, you know. And then I was
15 like, Man, we ain't got time for that, you know.

16 Q What about his home boys?

17 A Huh? I can't remember. He was like -- he
18 hollered -- he got beef with my home boys. He was
19 like, man, I ain't got time for it. And I saw how
20 he -- he was like -- Cole was like, Man, I ain't
21 with that. So they started arguing and I mean I
22 broke it up and we started walking to the van.

23 Q What are they arguing about?

24 A About what he said to Cole, you know what I mean,
25 about what he said about his little home boys.

1 And Cole was like, he wasn't feeling it. And I
2 broke them up so we started to walking to the van.

3 Q What beef did he have with his home boys?

4 A I don't know. I don't know. I just diffused it
5 before it started, you know what I mean.

6 Q Where is Stanley when this happens?

7 A Stanley was right there by him.

8 Q And umm, how about Michael Bailey?

9 A I don't know where he was at. He wasn't right
10 there.

11 Q He was not?

12 A No, he wasn't there.

13 Q Where was -- were there other people? Did people
14 come and look at those -- did others notice it?

15 A He had -- he had little friends around him, you
16 know. It ain't been nobody but me and Cole, you
17 know. Stanley done started walking to the van.

18 Q What, umm, what people did Krum have around him?

19 A People from Lands End, you know.

20 Q Like who?

21 A I don't know but the Morgan people from down
22 there. Ain't none of them was down there so I
23 don't know other people and so everybody around
24 him. So I was like, Y'all boys diffuse and we
25 started walking towards the van.

1 Q How did you calm Cole down?

2 A I just grabbed him, you know what I mean. I just
3 grabbed him like, Come on, man. We just walk off.

4 Q Did a gun come out at any point?

5 A Huh?

6 Q A gun?

7 A No.

8 Q Did you see Krum with a gun?

9 A No.

10 Q Did you see Cole with a gun?

11 A No.

12 Q Did you have a gun?

13 A No.

14 Q So did Krum follow you when you and Cole walked
15 off?

16 A No.

17 Q Did he yell anything after you?

18 A No.

19 Q Did any of the other people with Krum follow?

20 A No.

21 Q All right. So y'all walk off, where do you head?

22 A We head to the van. I was like, when we started
23 walking to the van I was like, Somebody shot the
24 window out.

25 Q What window?

- 1 A Stanley window; back window.
- 2 Q Like the rear ---
- 3 A Yeah, like the rear. And I started walking -- we
- 4 started walking. Then we got to the van that's
- 5 when all the shots started ringing out.
- 6 Q Where did the shots come from?
- 7 A That side of the building.
- 8 Q What side of the building?
- 9 A The side like where Krum and all them was
- 10 standing.
- 11 Q They were coming from this side of the building?
- 12 A Un uh.
- 13 Q This side of the building, this side of the
- 14 building, that side of the building?
- 15 A The table and the trees and all that. You know
- 16 like the table and stuff over here on this side.
- 17 It was over there by the house where them trees
- 18 were.
- 19 Q So they are coming from this area?
- 20 A Um huh.
- 21 COURT REPORTER: Yes or no.
- 22 A Yes.
- 23 Q So you heard gunshots from right here?
- 24 A Yes.
- 25 Q Okay. A lot of gunshots or just one?

1 A A lot. A lot of shots.

2 Q So y'all hear these gunshots and then what do
3 y'all do?

4 A He was like, Man, he's like, Everybody get in the
5 van. Cole was like, Everybody get in the van. It
6 was like, Man, I ain't leaving you.

7 Q Why would you have to leave Cole?

8 A Huh?

9 Q Why would you have to leave Cole?

10 A We wasn't going. Stanley was backing up --
11 backing out, you know what I mean. He was going
12 like, Y'all get to the right side of the van, so
13 he was like, Everybody get in the van. Everybody
14 was still shooting. We get in ---

15 Q Who was everyone getting in the van?

16 A Me, Stanley, and him.

17 Q Um hum.

18 A Getting in the van and he came around the corner,
19 like the edge of the van and that's when he got
20 hit.

21 Q Why did he come around the edge of the van?

22 A Hum? He was standing there cause Stanley was
23 backing up, you know what I mean? And he was --
24 came to the edge of the van and he got hit.

25 Q So he's over here?

- 1 A Um hum.
- 2 Q Where are you when Dante got hit?
- 3 A Right there, beside him.
- 4 Q Like here or here?
- 5 A Behind him.
- 6 Q Here?
- 7 A Yeah.
- 8 Q Who is next to y'all?
- 9 A Nobody.
- 10 Q Where is Opie?
- 11 A Opie was in front of the van.
- 12 Q When did Opie come?
- 13 A I think Opie came after us.
- 14 Q Was he part of the people that y'all met outside
- 15 when y'all were smoking a cigarette?
- 16 A Yeah.
- 17 Q Okay, you remember he came. Who else came with
- 18 Opie?
- 19 A Uhh, I think Opie, Mike and all them came
- 20 together.
- 21 Q Mike who?
- 22 A Mike Bailey.
- 23 Q So Mike Bailey did not leave with you, Dante, and
- 24 Stanley?
- 25 A No.

1 Q Why not?

2 A I don't know. I don't know.

3 Q Okay, so you are standing next to Dante and he
4 gets hit ---

5 A Um hum.

6 Q What do you do?

7 A He fall in my arm. It was just seeing -- when I
8 saw him do like this and he fell, I was like, Oh
9 man. So I'm looking -- I didn't see no blood so
10 I'm looking for a hole or something. That's when
11 I open his shirt. I know he's been hit.

12 Q And where was he hit?

13 A Huh?

14 Q Where was he hit?

15 A In his chest.

16 Q Then what do you do?

17 A Nothing. I just laid on top of him cause they
18 kept on shooting.

19 Q Okay. Umm, do you shoot back?

20 A Nope.

21 Q Does Dante shoot back?

22 A How can you shoot back when you been hit already;
23 you dead already?

24 Q So who from your group shoots back?

25 A Nobody. I didn't see nobody shooting.

1 Q You've already been interviewed by Sergeant
2 Frazier, haven't you?

3 A Yep.

4 Q Do you want an opportunity to review that
5 statement?

6 A I told him I didn't see Opie with no gun. That's
7 exactly what I told him. I didn't see Opie with
8 no gun.

9 Q You also said that you were laying on Dante and
10 the person standing over you was firing back.

11 A No, I didn't. No I didn't.

12 Q Umm, let me go get a copy of your statement, okay.

13 A No, I didn't. I know what I said.

14 (Whereupon at 10:12 a.m. a break was taken)

15 (Whereupon Witness walks out of room cursing at 10:14
16 a.m.) (Whereupon witness comes back in room at 10:15)

17

18 (Whereupon back on record at 10:23)

19 Q Are you ready to go again?

20 A Nope, I ain't gonna do it.

21 Q Okay, you aren't doing what?

22 A I'm not doing this no more. You can call my
23 lawyer.

24 Q All right, so you are invoking your right to
25 counsel?

1 A Yep. I'm gonna get my lawyer. I don't want to
2 talk about this.

3 Q All right, so your next date would be February
4 12th ---

5 A Bye ---

6 Q At 9 a.m. _

7 (Whereupon Witness left the conference room and the
8 building)

9 ----- END OF TESTIMONY OF TRANSCRIPT -----

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1 CERTIFICATE OF REPORTER

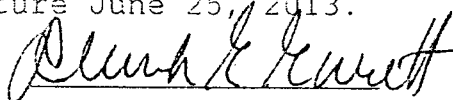
2 I, Deborah E. Everett, Court Reporter and
3 Notary Public for the State of South Carolina at large,
4 do hereby certify:

5 That the foregoing testimony/dialogue was
6 taken before me on the date at the time and location
7 stated on page 1 of this transcript; and that the
8 foregoing transcript of that testimony/dialogue is a
9 true, accurate, and complete record to the best of my
10 ability.

11 I further certify that I am neither related to
12 nor counsel for, nor employed by any party to the
13 investigation, nor am I financially interested in the
14 investigation.

15 The original of this transcript and any copy
16 of same is not certified, nor authorized for use by me,
17 to be true, accurate, and complete without my original
18 signature and stamp affixed hereto.

19 Witness my signature June 25, 2013.

20 

21 **DEBORAH E. EVERETT**
22 **Notary Public, State of South Carolina**
23 **My Commission Expires 8/9/2022**

24 Deborah E. Everett
25 Court Reporter and Notary Public
State of South Carolina at Large
My Commission Expires:
August 9, 2022

**COPY**

ATTACHMENT C

SUPPLEMENTAL INCIDENT
REPORT

AGENCY I.D.
SCO 070000

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER

NCIC

20120621-048

INQ

ENTD

ORIGINAL
REPORT
MODIFIES
ORIGINAL

SUPPLEMENTAL
REPORT
CASE STATUS
CHANGE

ADDITIONAL
VICTIMS
ADDITIONAL
OFFENDERS

ADDITIONAL
STOLEN PROPERTY
ADDITIONAL
RECOVERED PROPERTY

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Interview with Irvin Smalls:

12. Irvin stated he was in fact at the club last night. Irvin stated he got there around 2230 hours with Olivia Smalls. Irvin stated he was already drunk at the time he arrived. He had been drinking Gin the whole day. Irvin stated when he arrived the boys from Dulamo were not there, and Irvin was sitting by the DJ booth. Irvin stated there were no problems inside the club. He shot pool with Rufus Smalls and hung out with Sherita and Shana (Green).

Irvin went on to say he decided to leave around 0130. Irvin stated as he was walking out of the club he fell, or was pushed off the steps. He stood up and brushed himself off. As he was walking toward the car he heard the shots start. Irvin stated he took off running toward Lands End. Irvin stated he believes he was pushed out of the club, but he does not know who pushed him. Irvin stated he never had words with Lucas or Mikey Morgan. Irvin stated he never saw anyone with a gun, specifically he never saw Lucas with a gun. Irvin was not looking for the Morgan's and would not have seen if they did have a gun.

Irvin stated after the shooting he went to Cole's house. He was with the people from Dulamo drinking. Irvin stated he does not recall seeing Dollar at the club that night. Irvin stated there was around 100 people out there that night. Irvin stated he does not know who was shooting at the club, and he did not see anyone else arguing either.

Investigation:

13. At the conclusion of my interview with Smalls we attempted to located Lewis Melvin Johnson (Dollar), Arthur Chaplin Jr. (Crum), and Joey Chaplin. We were not able to locate any of them. I also attempted to talk to Terry Thornton. Thornton was in the Hospital at Beaufort Memorial. He was still under anesthesia and not able to speak

On 06-23-12, I was able to make contact with Terry Thornton at Beaufort Memorial ER. I found that he had been moved out of the ICU and was now in a recovery room. I conducted a recorded interview with Terry regarding this case.

Interview with Terry Thornton:

14. Terry stated he arrived at the club that night around 2300 hours. He was with Humphries (Stanley Humphries), Opie (Joseph Bowers), Cole (Dante Bailey), and Joey Chaplin. Terry stated there were no problems inside the club that night. Terry stated after the club was closing they were in front of the club. Terry stated they were approached from behind by Crum (Arthur Chaplin Jr). Terry stated Crum was confronting Cole about an altercation he had with one of Crum's friends.

SUBJECT IDENTIFIED ☒ YES ☐ NO		SUBJECT LOCATED ☒ YES ☐ NO		ACTIVE ADM CLOSED UNFOUNDED	ARRESTED UNDER 18 ☒ ARRESTED 18 AND OVER	EX-CLEAR UNDER 18 EX-CLEAR 18 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE: 1. OFFENDER DEATH 2. NO PROSECUTION 3. EXTRADITION DENIED 4. VICTIM DECLINES COOPERATION 5. JUVENILE-NOCUSOTDY						
REPORTING OFFICER(S)		DATE	UNIT NUMBER	APPROVING OFFICER		DATE
SSgt Fraser, J.L.		06-29-12	F8569			
				FOLLOW-UP INVESTIGATION OFFICER YES NO		

AGENCY I.D.
SCO 070000

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER

NCIC

20120621-048

INQ ENTD

ORIGINAL
REPORT
MODIFIES
ORIGINAL

☒ SUPPLEMENTAL
REPORT
CASE STATUS
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ADDITIONAL
VICTIMS
ADDITIONAL
OFFENDERS

ADDITIONAL
STOLEN PROPERTY
ADDITIONAL
RECOVERED PROPERTY

PAGE 9 OF 15 PAGES

During the verbal altercation Crum lifted his shirt and Terry observed a gun in his waist band. Terry stated that Opie and D-Grant (Derrick Grant) started pulling Cole back to the van. When they got to the van shots began. Initially they were all behind the van. Terry stated he observed bullets hit the van. Cole was carrying his gun in his right hand while they were behind the van. Terry stated he did not see Cole shoot the gun; he was just walking behind the van with the gun in his right hand. He had a black semi auto Terry is not sure what caliber. When Cole stepped out from behind the van he was hit. Terry stated he grabbed his chest and fell backwards and landed on his back. Terry noticed that Cole's gun was still in his right hand. Terry stated he and Opie ran to Cole. Terry was looking for a bullet wound on Cole's head but did not see one. Opie lifted up Cole's shirt and Terry observed the bullet hole right over his heart. Terry stated another volley of gunshots began and Terry lay over the top of Cole to protect him. Opie was standing beside them on Cole's right side where Cole's gun was. Terry stated that he heard gunshots being fired right above him where Opie was. Terry stated he never saw Opie shoot, but he was the only one there and he was standing right over Cole's gun.

Terry stated that after they dragged Cole away from the argument with Crum he observed Lucas Morgan. Terry stated the shots that were being fired at them were coming from the area Lucas Morgan was (beside the propane tank near the side door). Terry stated he never saw Lucas shooting, and he did not observe Opie shooting. Terry stated the only people he observed with guns that night were Cole, Lucas and Crum. After the shooting ended Terry and Opie carried Cole to a car that belonged to Cole's aunt. Cole then left the scene with Katrice Alexander. After everyone returned to Dulamo Rd., Magnum (either Warren or Smalls) arrived and told them that he wrestled the gun away from Lucas while he was shooting.

Investigation:

15. It should be noted that both Stanley Humphries and Alvin Williams say that a black male was covering Cole as he lay on the ground. Terry is identified as the person who lying on Cole. It would appear that in Bowers statement he changed places with Terry Thornton making him the person covering Cole and Terry as the person shooting.

After speaking with Terry I made contact with Freddy Wilson who lives directly behind the club. Freddy was at home at the time of the shooting and did not see anything transpire. I then made contact with Alvin Wilson who had been identified as the DJ the night of the shooting and he was also identified by Lucas Morgan as Big D, the individual who carried Lucas home and told him the incident was his fault. The interview with Wilson was recorded and will be submitted as evidence in the case.

SUBJECT IDENTIFIED ☒ YES ☐ NO		SUBJECT LOCATED ☒ YES ☐ NO		ACTIVE UNFOUNDED	ADM CLOSED	ARRESTED UNDER 18 ARRESTED 18 AND OVER	EX-CLEAR UNDER 18 EX-CLEAR 18 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE: 1. OFFENDER DEATH 2. NO PROSECUTION 3. EXTRADITION DENIED 4. VICTIM DECLINES COOPERATION 5. JUVENILE-NOCUSOTDV							
REPORTING OFFICER(S)		DATE	UNIT NUMBER	APPROVING OFFICER		DATE	UNIT NUMBER
SSgt. Fraser, J.L.		06-29-12	F8569				
				FOLLOW-UP INVESTIGATION		YES NO	

1 I'm confident that you will find those remarks
2 again helpful when you begin the process of analyzing
3 this case. And then following that, I will give you
4 the law. But at that time, we'll talk about each of
5 the elements, and I will give you the various elements
6 and list them for you. And then the last thing will
7 be, you will retire and be instructed to decide this
8 case.

9 It's an honor and a privilege to serve with you as
10 a judge, and I thank you very much for your attention
11 to my remarks. I ask you to give that same attention
12 now to the attorneys as they give their opening
13 statements on behalf of their clients.

14 Solicitor.

15 MS. SWANSON: Thank you, Your Honor.

16 THE COURT: Yes, ma'am.

17 MS. SWANSON: May it please the Court?

18 THE COURT: Yes, ma'am.

19 STATE'S OPENING

20 MS. SWANSON: Good morning. I'm going to go
21 ahead and cut to the chase.

22 This is actually quite a simple case. What
23 you are going to hear about is a gunfight at the Midnight
24 Soul Patrol. It's a local nightclub on St. Helena Island.

25 We've got two primary shooters. We've got

STATE'S OPENING

1 Lucas Morgan over here, armed with a Glock. We've got Joseph
2 Bowers over here, armed with a Glock.

3 You're going to come to know Joseph Bowers as
4 Opie, or Joey. Both unload their clips into crowds of
5 people. This is a melee. This is chaos. This is a gun
6 battle.

7 You're going to hear from witnesses in the
8 community. Those witnesses saw different things. They were
9 in different places, ducking and dodging the bullets. This
10 was chaos.

11 But what's going to be clear is that they were
12 all witnesses to an act of senseless violence, senseless
13 violence that left four people, four victims, in its wake.

14 It's also going to be clear that Joseph Bowers
15 was one of the gunmen. In fact, he tells us he's one of the
16 gunmen in a phone call to his girlfriend.

17 At the end of this case, I'm going to ask you
18 to speak the truth, follow the law, and hold Joseph Bowers
19 responsible for the choices that he made that night. I'm
20 going to ask you to return guilty verdicts on all charges.
21 Thank you.

22 THE COURT: Ms. Campbell.

23 MS. CAMPBELL: May it please the Court?

24 THE COURT: Yes.

25 DEFENDANT'S OPENING

DEFENDANT'S OPENING

1 MS. CAMPBELL: Thank you.

2 Good morning. I introduced myself to you
3 yesterday. And I'm Trasi Campbell. I represent Joseph
4 Bowers.

5 You know, as long as I can remember, from the time
6 I was a little girl until the day my dad died, he
7 watched a show on TV called the Andy Griffith Show, and
8 there were some primary characters in that show. There
9 was the dad, Andy Taylor, and then the little Opie
10 Taylor. Aunt Bee, and Barney Fife. And that show was
11 always on.

12 And if I take you back here to St. Helena to 30
13 years ago, when little Joseph Bowers was born -- his
14 mama is here with him, his family is here with him.
15 His mama has been sick his whole life.

16 MS. SWANSON: Objection, Your Honor. These are
17 not facts that are going to be in evidence.

18 THE COURT: I appreciate it. I've already told
19 the jury that your statements and Ms. Campbell's
20 statements are not evidence. Thank you very much.

21 Overruled.

22 MS. SWANSON: Thank you.

23 MS. CAMPBELL: If you go out on St. Helena, some
24 of you may have been there, there's a lot of dirt
25 roads. There's a lot of trailers. And down one

DEFENDANT'S OPENING

1 particular dirt road, in one particular trailer is
2 where little Opie Bowers grew up.

3 You know, if you look at that Andy Griffith show
4 at the end, they're walking down that dirt road. And
5 for this little boy, take him out of here in his place
6 you put the people and friends that he met and made on
7 that dirt road.

8 And one of those friends is Dante Bailey. You may
9 hear him called Cole or Corleon. He was a little older
10 than Opie, nicknamed him Opie. If you take a daddy and
11 a best friend and a big brother and you roll them all
12 into one,, that's what Dante Bailey was to our Opie. To
13 this Opie.

14 Now, you know, that's some hard ground out there,
15 but this tree, where it was planted, it grew. Opie
16 grew up. He is in love, getting ready to get married.
17 Starting a family. And on 30 years forward, June 21st,
18 2012, he went out with his friends, Dante Bailey being
19 one of them. You may hear from some of those other
20 friends that he was there with that night.

21 It was a summer night. It was hot. You know, if
22 you've been on St. Helena, the breeze comes in off the
23 sound. The boys had been out cracking crabs at the
24 Crab Shack, drinking beer, and then they decided to go
25 down to a place called the Midnight Soul Patrol. It's

DEFENDANT'S OPENING

1 the only place to go out there.

2 There's a little old lady who runs it, Ms. Thelma
3 Wilson. And I've been told, and I think the evidence,
4 some of the witnesses has said, if you knock just right
5 on the back door you might get a shot of gin, too,
6 along with the fried chicken. Which is supposed to be
7 the best fried chicken in the county.

8 Now, when the boys went out there that night,
9 young men, friends, drinking beer, eating fried
10 chicken, they were out there in their summer clothes.
11 They hadn't come there for some gun battle.

12 One of the witnesses said something like this --
13 I'm not sure if we'll hear from him or not, from the
14 State -- you know, you don't -- who wears flip flops to
15 a gun battle? You don't do that. It doesn't happen.
16 They were relaxed. It was summertime in St. Helena.

17 But I will tell you what you will hear, if he's
18 called to testify from the State. The first officer on
19 the scene, Beaufort County sheriff's officer Will Black
20 will tell you when he gets there he's hearing the
21 Morgan boys are spraying the parking lot with gunfire.
22 And that would be Michael Morgan, who would be standing
23 about over here, and Lucas Morgan, his brother,
24 standing right back here, catty-corner to him.
25 Gunfire, across the parking lot. And who is across the

DEFENDANT'S OPENING

1 parking lot? Opie and Dante Bailey.

2 Now, black as night. There's no lights. If I cut
3 the lights off in here, you might have somebody smoke a
4 cigarette, have a little bit of light from that. Maybe
5 a dim street light. And in that pitch darkness, I want
6 you to imagine what happened. Michael Morgan, one of
7 the individuals who was killed that night, fires off
8 from his hand a flare gun across the parking lot into
9 the air. And immediately upon him firing off this
10 flare gun, his brother, Lucas Morgan, opens fire on the
11 parking lot.

12 And when he does so, he hits and kills Dante
13 Bailey. I don't think there's going to be any question
14 about that. Dante Bailey died from Lucas Morgan's
15 gunshot.

16 Now, Joe Pope, you may hear from him, old Joe Pope
17 out there on St. Helena, I think -- I'm going to say
18 he's in his 60s or 70s. Been there a long time. He
19 knows everybody. And I believe he'll tell you that
20 when that happened, a hush fell. Cries in the night.
21 Women screaming, Oh, my God, Cole is dead.

22 And then he sees four men run across the parking
23 lot towards the shooters with a rifle, shooting at
24 them. Not little Opie Bowers, he's not one of them.
25 Never saw him shooting a gun.

DEFENDANT'S OPENING

1 Now, forensics, keep this in mind. The location
2 of where Michael Morgan is, Lucas Morgan, the parking
3 lot way over there, and when the ballistics -- I hope
4 they bring the ballistics expert from SLED that they
5 used to analyze the shell casings that were found.
6 You'll find that there's three shooters over here.
7 Somebody shooting out the doorway, Lucas Morgan
8 shooting from here, and there's another shooter by the
9 tree line. Two, possibly three people, are behind
10 Michael Morgan.

11 Why would that be significant? Because Michael
12 Morgan is shot in the rear. One shot exiting the iliac
13 fold through and through. And where is Joey Bowers?
14 Across the parking lot in front -- not behind.

15 The other piece of forensic evidence I believe
16 you'll hear is that Lucas Morgan's gun that they found,
17 and they got from him, from his hands, when SLED
18 analyzed it from him, it misfires four out of six
19 times. So he might be aiming and hit Dante with one,
20 but a side shot to Michael, because there are some
21 witnesses, Stan Blackman being one of them, who, when
22 the cops get there, Oh, my God, Lucas Morgan killed his
23 own brother.

24 Now, His Honor, I won't repeat what he told you.
25 He did such a beautiful job of explaining the burden of

DEFENDANT'S OPENING

1 proof and presumption of innocence. And I'll close by
2 saying two things to you. Each one of you is picked by
3 Joseph Bowers for a reason. There was something about
4 you during the jury selection process that promised to
5 him the hope and faith that each one of you will remain
6 true to your individuality, to your own one mind, as
7 you go through this process.

8 And remember this, and I'm sure His Honor will
9 tell you, no man must give up a firmly held belief just
10 to reach an agreement.

11 I will ask you to remember that as we proceed
12 through this trial that Joey Bowers' life is in your
13 hands, that in this courtroom, which is a long way from
14 those solitary dirt roads in St. Helena, but on those
15 dirt roads, as he grew up from a young man to where he
16 is today in this courtroom, out there he found friends,
17 he found love, he found good times. And what I'm
18 asking you to remember today is that we ask you, as His
19 Honor did, to listen to the evidence. And when I talk
20 to you again, I'm firmly convinced that I will ask you,
21 and you will find that Joey Bowers is not guilty. That
22 the State will not present you with the evidence
23 necessary to prove that he's guilty of five
24 indictments. Two murders.

25 The murder for Dante Bailey, which we already hear

DEFENDANT'S OPENING

1 from the State, he didn't shoot. And two attempted
2 murders, Richard Green and Robert Goodwine.

3 Thank you.

4 THE COURT: Thank you, Ms. Campbell.

5 MS. CAMPBELL: Thank you, Your Honor.

6 THE COURT: You may call your first witness.

7 MS. SWANSON: Thank your Honor. The State calls
8 Melanie Smith to the stand.

9 (The Witness was sworn.)

10 THE WITNESS: I do.

11 THE CLERK: Thank you.

12 Thereupon,

13 MELANIE SMITH

14 was called as a witness, having been first duly sworn,
15 was examined and testified as follows:

16 THE WITNESS: My name is Melanie Smith,

17 M-E-L-A-N-I-E, S-M-I-T-H.

18 DIRECT EXAMINATION

19 BY MS. SWANSON:

20 Q Good morning, Ms. Smith.

21 A Good morning.

22 Q Tell us who you work for, please.

23 A Beaufort County Sheriff's Office, 911 center.

24 Q Okay. And back in June of 2012, were you the
25 records custodian for emergency communications?

EXAMINATION OF MELANIE SMITH

1 Honor.

2 THE COURT: Without objection, State's 61 is
3 admitted.

4 *(Whereupon, State's Exhibit No(s). 61 marked for*
5 *identification and received in evidence.)*

6 MS. SWANSON: Thank you, Your Honor.

7 BY MS. SWANSON:

8 Q Ms. Smith, I'm going to hand you this report and
9 ask you to refer to it. I have a couple of questions.

10 When did the initial calls come in that
11 night?

12 A 0121 in the morning.

13 Q Okay. I'm sorry, can you repeat that?

14 A 0121 a.m.

15 Q 1:21 a.m. And was Adam Paul dispatched to the
16 incident location, Officer Adam Paul?

17 A Yes.

18 Q And what time was he dispatched?

19 A 0124 a.m.

20 Q And what time did he get to the scene?

21 A He arrived at 0134 a.m.

22 Q What sort of information was coming from law
23 enforcement regarding the scene?

24 A Is it all right just to read through?

25 Q Sure.

EXAMINATION OF MELANIE SMITH

1 A Two black males, gunshot wounds to the chest.
2 Also, no pulse on one victim. Large group of people, they
3 are not cooperating. Officers are with EMS, they need more
4 officers.

5 Q Was there any suspect information that was coming
6 out?

7 A One person stated, Lewis Morgan is the shooter,
8 he's not on scene. And also, possible second shooter, Joey
9 Chaplin, Opie, white male on time Fred (phonetic).

10 Q Thank you. I have nothing further for this
11 witness at this time.

12 THE COURT: May she step down?

13 MS. CAMPBELL: Your Honor, may we approach
14 briefly?

15 THE COURT: Ladies and gentlemen, what just
16 transpired, there are a number of ways to take up
17 matters of law out of your presence. One is to excuse
18 you from the courtroom, go back to your jury rooms and
19 we will do that.

20 Another is to do what we just had. It is called a
21 sidebar, where I discuss matters of law. They are for
22 my purposes, not for yours. The fact we have those
23 periodically, you shouldn't read anything into that or
24 wonder what was going on. And that's just the way the
25 process works.

EXAMINATION OF MELANIE SMITH

1 And really, it's to try to accommodate you having
2 to get up and go out and come back again. So thank
3 you.

4 You may continue your cross-examination.

5 MS. CAMPBELL: Thank you, Your Honor.

6 CROSS EXAMINATION

7 BY MS. CAMPBELL:

8 Q Good morning.

9 The CAPS report -- is that the correct
10 terminology, right, that you have?

11 A Correct.

12 Q There were many of those generated that night,
13 correct? That's just one of them, correct?

14 A That's right.

15 Q Okay. And so you don't have all of them that were
16 generated from the calls that night with you, right?

17 A Correct. Just this one.

18 Q And so what you have from the State there is one
19 of many reports, correct?

20 A Correct.

21 Q All right. And within the one report that you
22 have, there are names I think that you answered the
23 Solicitor on, as being suspects. Now, you said Lewis
24 Morgan, but I think the CAPS report says Lucas Morgan,
25 correct?

EXAMINATION OF MELANIE SMITH

1 A Let me double check that.

2 Q Please do. Thanks.

3 A Yes. It is Lucas Morgan, not Lewis.

4 Q Okay. And the other name that you responded to
5 the solicitor with was a Joey Chaplin, correct?

6 A Right. It says, Joey Chaplin, Opie.

7 Q Joey Chaplin, correct?

8 A Correct.

9 Q Thank you.

10 MS. CAMPBELL: That's all I have for this witness.

11 THE COURT: Any redirect?

12 MS. SWANSON: No, sir.

13 THE COURT: Thank you. You may come down. Thank
14 you.

15 MS. SWANSON: Thank you. I would ask that

16 Ms. Smith be allowed to be excused.

17 THE COURT: Any objection?

18 MS. CAMPBELL: No.

19 THE COURT: You are free to leave. Thank you very
20 much.

21 Call your next witness, please.

22 MS. SWANSON: Thank you. The State calls Adam
23 Paul.

24 Thereupon,

25 PAUL ADAM

EXAMINATION OF PAUL ADAM

1 was called as a witness, having been first duly sworn,
2 was examined and testified as follows:

3 THE CLERK: Please state and spell your name for
4 us.

5 THE WITNESS: Adam Paul. A-D-A-M, P-A-U-L.

6 THE CLERK: Thank you.

7 DIRECT EXAMINATION

8 BY MS. SWANSON:

9 Q Good morning.

10 A Good morning.

11 Q Deputy Paul, can you please tell the Court who you
12 work for?

13 A Beaufort County Sheriff's Office.

14 Q Okay. And what do you do for Beaufort County
15 Sheriff's Office?

16 A Road patrol.

17 Q All right. And back in June of 2012, were you on
18 road patrol the night of the 21st?

19 A Yes, I was.

20 Q All right. And where were you dispatched that
21 night?

22 A We were dispatched to, I believe the address, 56
23 Toomer Road. The club on Lands End, St. Helena.

24 Q Okay. Is that within Beaufort County?

25 A Yes, ma'am, it is.

EXAMINATION OF PAUL ADAM

1 Q About what time did you arrive at the club?

2 A It was about 1:34 in the morning.

3 Q Can you tell us what you found when you got to the
4 club.

5 A There were -- there were many people outside
6 yelling, saying they needed help. They were pointing us to
7 a couple of different people that had been shot.

8 Q All right.

9 MS. SWANSON: Beg the Court's indulgence?

10 THE COURT: Sure.

11 I had mentioned that the last row is for those --
12 for the alternate jurors. Apparently -- can everybody
13 see the screen? Those of you that are sitting on this,
14 can you see it okay? If you can't at any point, feel
15 free to step back to the back, any juror that needs to
16 do that. So you have that degree of flexibility and
17 alternate jurors will be kind enough to share their row
18 for that. Thank you.

19 MS. SWANSON: Thank you, Your Honor.

20 May I approach the witness?

21 THE COURT: Yes.

22 BY MS. SWANSON:

23 Q I want to show you what's been marked as State's
24 Exhibit 44, Deputy Paul. And can you please describe what's
25 in that picture.

EXAMINATION OF PAUL ADAM

1 A It appears to be the Midnight Soul Patrol.

2 Q Okay. And realizing that it's daylight in this
3 picture, is that a fair and accurate depiction of how it
4 appeared that night other than the daylight?

5 A Yes, ma'am.

6 MS. SWANSON: State moves 44 into evidence.

7 THE COURT: Any objection?

8 MS. CAMPBELL: No objection.

9 THE COURT: Without objection, it's admitted.

10 MS. SWANSON: Okay. I ask to publish this to the
11 jury.

12 THE COURT: You may.

13 *(Whereupon, State's Exhibit No(s). 44 marked for*
14 *identification and received in evidence.)*

15 THE COURT: Ladies and gentlemen, from time to
16 time, the exhibits will be published to you. When an
17 exhibit is admitted into evidence, it means simply
18 this, that that exhibit will accompany you to your jury
19 room. So if you need to study it, know that you have
20 an opportunity to study it in greater detail when you
21 do begin your deliberations. But it's not uncommon for
22 them to show it to you from time to time during the
23 trial.

24 Thank you. Excuse me. You may continue.

25 MS. SWANSON: Thank you.

EXAMINATION OF PAUL ADAM

1 BY MS. SWANSON:

2 Q Deputy Paul, what are we looking at in this
3 picture?

4 A That's the front door of the Midnight Soul Patrol.
5 We're looking from the roadway.

6 Q Okay. And is that the parking lot area?

7 A Yes, ma'am.

8 Q Is that where you pulled up that night?

9 A Yes, ma'am.

10 Q All right. And please describe what's to the left
11 of the -- now, let's go back.

12 Is the red barn like structure the Midnight
13 Soul Patrol?

14 A Yes, ma'am.

15 Q Okay. And then to the left of it, what is located
16 to the left?

17 A There's a house to the left of that.

18 Q Whose house is that?

19 A The club's owner. I don't recall her name.

20 Q Okay.

21 Q I'm going to show you what's been marked as
22 State's 46, and can ask for you to describe what you see in
23 this picture.

24 A This is another view of the parking lot, looking
25 from the opposite direction, between the club and the

EXAMINATION OF PAUL ADAM

1 residence.

2 Q Is that a fair and accurate depiction of how the
3 parking lot appeared that night?

4 A Yes, ma'am.

5 MS. SWANSON: The State moves 46 into evidence.

6 MS. CAMPBELL: Without objection.

7 THE COURT: Without objection, State's 46 is
8 admitted.

9 *(Whereupon, State's Exhibit No(s). 46 marked for*
10 *identification and received in evidence.)*

11 MS. SWANSON: May I publish to the jury?

12 THE COURT: You may.

13 BY MS. SWANSON:

14 Q Okay. And if you can just tell us what we're
15 looking at here, Deputy Paul.

16 A Again, this would be from between the residence
17 and the club. You're looking back out towards the roadway
18 and the parking lot to where we pulled up and where most of
19 the people were.

20 Q Okay. What did you find when you got to the club?
21 Besides the victims, what physical evidence did you find?

22 A We found a -- multiple shell casings, found a
23 handgun.

24 Q What kind of handgun?

25 A It was a Glock.

EXAMINATION OF PAUL ADAM

1 MS. SWANSON: I apologize, Your Honor. We need to
2 get a gun lock.

3 THE COURT: Is it an automatic?

4 MS. SWANSON: Yes, sir.

5 THE COURT: Is it breached over?

6 MS. SWANSON: Yes, sir.

7 THE COURT: As long as it's breached over, we can
8 go ahead and show it to him. There's no -- no -- and
9 the fact this witness, you're familiar with firearms;
10 are you not?

11 WITNESS: Yes, sir.

12 THE COURT: Okay. We can go ahead so we don't
13 have to wait much longer. We'll have it before --

14 What we do, ladies and gentlemen, simply as a
15 precaution, and it's a good precaution, we make sure
16 that all weapons introduced have a lock. We're
17 obtaining that, but we will move forward with this
18 witness. It's unloaded, and if it's open, then
19 obviously it's safe.

20 MS. SWANSON: Yes, sir. It does have an empty
21 clip that's separated from --

22 THE COURT: The clip is not in the file.

23 MS. SWANSON: Thank you.

24 BY MS. SWANSON:

25 Q I'm going to show you what's been marked as

EXAMINATION OF PAUL ADAM

1 State's Exhibit 3 and ask that you identify this item.

2 A It appears to be the same Glock located that
3 night.

4 Q Okay. And you can pull out just the -- just the
5 Glock, not the clip, please.

6 Okay. And is that the same -- is that how
7 you found that item that night?

8 A Yes, ma'am. It had the magazine still inside of
9 it.

10 Q Okay.

11 A It was breached open like this.

12 Q Breached open. Okay. Thank you. You can put it
13 back in.

14 MS. SWANSON: And, Judge, this is just for
15 identification purposes at this point.

16 THE COURT: Sure. That's fine. State's what?

17 MS. SWANSON: State's 3.

18 THE COURT: State's 3. ID only.

19 MS. SWANSON: Yes.

20 THE COURT: Okay.

21 *(Whereupon, State's Exhibit No(s). 3 marked for*
22 *identification.)*

23 BY MS. SWANSON:

24 Q Let me show you what's been marked as State's 47
25 and ask for you to identify this picture.

EXAMINATION OF PAUL ADAM

1 A That would be the location where the Glock handgun
2 was found.

3 Q Okay. Is that a fair and accurate depiction of
4 it?

5 A Yes, ma'am.

6 MS. SWANSON: The State moves 47 into evidence.

7 THE COURT: Any objection?

8 MS. CAMPBELL: No objection.

9 MS. SWANSON: Ask to publish to the jury.

10 THE COURT: You may do so. It's admitted without
11 objection.

12 *(Whereupon, State's Exhibit No(s). 47 marked for*
13 *identification and received in evidence.)*

14 BY MS. SWANSON:

15 Q Okay. So is this the parking lot area?

16 A Yes, ma'am.

17 Q And you found the gun in the wood line right
18 there?

19 A Yes, ma'am, right against the wood line.

20 Q Okay. Do you recall what placard it was? It's
21 okay if you don't.

22 A I don't recall. I believe it's No. 2.

23 Q Okay. What else did you find out there that
24 night?

25 A I found a flare gun, a spent flare, and a flare

EXAMINATION OF PAUL ADAM

1 that had not been shot yet.

2 Q I'm going to show you what's been marked as
3 State's 4 and ask that you identify this item.

4 A It appears to be the flare gun located that night.

5 Q Okay. And is that how it appeared that night when
6 you found it?

7 A Yes, ma'am.

8 Q All right.

9 MS. SWANSON: And this is for identification only,
10 Your Honor, item four.

11 Can you just please hold that up so the jury can
12 see it?

13 Thank you.

14 *(Whereupon, State's Exhibit No(s). 30 marked for*
15 *identification.)*

16 BY MS. SWANSON:

17 Q Deputy, I'm also going to hand you what's been
18 marked as State's 30, which is listed as the Orion
19 discharged red flare, and ask if this is what you collected
20 at the scene?

21 A Yes, ma'am.

22 Q Okay. And then the Orion red flare 631. Did you
23 collect that at the scene?

24 A Yes, ma'am.

25 Q And when you collected all of these items, what

EXAMINATION OF PAUL ADAM

1 did you then do with them?

2 A I put them in the trunk of my patrol car.

3 Q All four items?

4 A I put the handgun and the flare gun. I don't
5 recall which -- which -- I put the spent flare, the gun
6 spent flare in there.

7 Q Okay. And who did you turn them over to?

8 A Investigator Zsamar.

9 Q Okay. About how long after you collected them did
10 you turn them over to Investigator Zsamar? When he got to
11 the scene or later?

12 A Shortly after he got to the scene.

13 Q Okay. You also testified that you observed shell
14 casings at the scene?

15 A Yes, ma'am.

16 Q And what did you do; did you mark those areas?

17 A Yes, ma'am.

18 Q Or did you collect them?

19 A We just marked the areas after we had everybody
20 leave the area and secured it. We marked it with tissues
21 and paper cups and stuff that was laying around.

22 Q Okay. So you didn't actually collect any of those
23 casings, but you just marked it. And who did you show that
24 to?

25 A I showed them to Investigator Zsamar when he

EXAMINATION OF PAUL ADAM

1 A Absolutely.

2 MS. CAMPBELL: May I?

3 THE COURT: You may. You can mark it for
4 identification so that -- we don't have to put it in
5 the record what he's looking at. Okay?

6 MS. CAMPBELL: Thank you. We would mark that
7 Defendant's 1 for identification.

8 THE COURT: For identification only.

9 *(Whereupon, Defendant's Exhibit No(s). 1 marked*
10 *for identification.)*

11 BY MS. CAMPBELL:

12 Q Lance Corporal Paul, I'll show you what's been
13 marked Defendant's Exhibit 1 in an effort to refresh your
14 recollection.

15 Would you take a look at this and see if you
16 can discern where you located the spent flare shell casing?

17 A Yes, ma'am. The discharged flare was on the
18 ground near the silver propane tank.

19 Q Thank you.

20 And as a first responder, Lance Corporal
21 Paul, you provide information gathered from the scene to
22 Investigator Zsamar, who was there, in the back of the
23 courtroom. That's correct?

24 A Yes, ma'am.

25 Q Okay. And some of the information you provide to

EXAMINATION OF PAUL ADAM

1 him is where you found the flare gun, where you found the
2 Glock, correct?

3 A Yes, ma'am.

4 Q Okay. Other pieces of information that were
5 important that you provide to him contained in Defendant's
6 Exhibit 1 were that Lewis Johnson had a gun, Dante Bailey
7 had a gun, and Lucas Morgan had a gun, correct?

8 A That's what I was told, yes, ma'am.

9 Q Correct.

10 MS. CAMPBELL: That is all I have.

11 THE COURT: Redirect?

12 MS. SWANSON: No, sir.

13 THE COURT: Thank you. You may come down.

14 MS. SWANSON: May Deputy Paul be excused?

15 THE COURT: Any objection, Counselor?

16 MS. CAMPBELL: Your Honor, I have no objection. I
17 believe he's still under my subpoena. And I'll let --

18 THE COURT: All right. Deputy Paul, you are free
19 to leave, but you need to maintain contact with defense
20 counsel until you are released from that subpoena as
21 well. Thank you so much.

22 THE WITNESS: Thank you, sir.

23 THE COURT: Who's your next witness?

24 MS. SWANSON: EMT.

25 THE COURT: Short?

EXAMINATION OF PAUL ADAM

1 MS. SWANSON: Yes, sir.

2 THE COURT: Let's go ahead and do that one, too.

3 MS. SWANSON: Shayna Orsen.

4 THE COURT: While she's coming forward, ladies and
5 gentlemen, let me use this opportunity. You've heard
6 several times that we say, for identification. For
7 identification only, that means that exhibit may not
8 necessarily come -- sometimes it was later introduced,
9 but that doesn't mean that it's coming to you unless
10 it's ultimately introduced. But the testimony of --
11 concerning exhibits, that certainly is for you, but the
12 exhibit itself will not come to you.

13 Thereupon,

14 SHAYNA ORSEN

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

17 THE CLERK: Okay. Please state and spell your
18 name for the Court.

19 THE WITNESS: It's Shayna Orsen, S-H-A-Y-N-A,
20 O-R-S-E-N.

21 THE CLERK: Thank you.

22 DIRECT EXAMINATION

23 BY MS. SWANSON:

24 Q Good morning, Ms. Orsen. Can you please tell us
25 who you work for and what your position is?

EXAMINATION OF SHAYNA ORSEN

1 A I work for Beaufort County EMS as a paramedic.

2 Q Were you on duty the night of June 21st, 2012?

3 A Yes, ma'am.

4 Q And were you dispatched to respond to a scene?

5 A Yes, ma'am.

6 Q Tell us where you responded and what the scene was
7 like?

8 A We responded to the shooting on Toomer. And
9 initially, the scene that we first ended up encountering was
10 the one with the green vehicle, with a gentleman that we
11 pronounced in the back of the car. And then we moved on to
12 the secondary scene.

13 Q Okay. And when you say the first scene, was that
14 on Old Ben Road?

15 A Yes, ma'am.

16 Q Okay. And it was a Chevy HHR?

17 A Just dark green vehicle, yes, ma'am.

18 Q Okay. Who was in that car?

19 A There was a gentleman laid across the back seat of
20 the car with injuries, a GSW to the chest. We pronounced
21 him dead in that position on scene and moved forward to the
22 other scene on Toomer.

23 Q Okay. And when you say GSW, I know what you're
24 talking about, but what is that, for the jury?

25 A That's a gunshot wound to the chest.

EXAMINATION OF SHAYNA ORSEN

1 Q Okay. And you pronounced him dead?

2 A Yes, ma'am.

3 Q Were you able to identify that person?

4 A At the time, no, we didn't have identification.

5 We just moved forward to the other victims.

6 Q All right. Were you later able to identify that
7 person?

8 A Later I was given a name so that I could write the
9 report that I pronounced him deceased, yes.

10 Q And do you need to see that report?

11 Okay. Do you know who it was?

12 A I don't recall his name at this time, no, ma'am.

13 Q Okay.

14 MS. SWANSON: Your Honor, I'm marking this 62 only
15 for identification purposes so that the witness may
16 refer to it.

17 THE COURT: Certainly. ID only, State's 62.

18 *(Whereupon, State's Exhibit No(s). 62 marked for*
19 *identification.)*

20 BY MS. SWANSON:

21 Q And, Ms. Orsen, can you please tell us who the
22 victim was that you pronounced dead in the back of that car?

23 A The victim in the back of the car from this report
24 is Dante Bailey.

25 Q Thank you. And -- I'll take that back from you.

EXAMINATION OF SHAYNA ORSEN

1 Where did you head after you pronounced him
2 dead?

3 A We moved forward onto Toomer to the actual scene
4 of the -- the club.

5 Q Okay.

6 A We parked on Toomer, we staged our truck on Toomer
7 for easy exit and walked around buildings into the back, to
8 the secondary scene.

9 Q Okay. And what did you find when you got to the
10 nightclub?

11 A There were a lot of people running around, a lot
12 of vehicles. We ended up carrying our equipment around a
13 bunch of vehicles to the other side of the building we
14 parked in front of and found our two patients were on the
15 ground on that particular scene.

16 Q Do you recall who those two patients were?

17 A Not by name, ma'am, no.

18 MS. SWANSON: Your Honor, I've marked Exhibit 63
19 and 64 for the witness to refer to, just to refresh
20 memory.

21 THE COURT: Very well. Sixty-three and 64,
22 identification only.

23 *(Whereupon, State's Exhibit No(s). 63 marked for*
24 *identification.)*

25 *(Whereupon, State's Exhibit No(s). 64 marked for*

EXAMINATION OF JOE GARVIN

1 A There was a shooting at a club, the Soul Patrol.

2 Q Okay. And did you go straight to the Soul Patrol?

3 A I did not. On the way to the Soul Patrol, they --
4 my engine company was in the middle of the road, and so I
5 stopped to assist them there. Thought -- thinking that that
6 was the actual scene. That person was deceased, and so I
7 was informed by the engine company that the actual shooting
8 was at a club. So I went to the club.

9 Q All right. So you proceeded on to the club?

10 A I did.

11 Q And were you one of the first people on scene?

12 A For medical, yes.

13 Q Okay. Tell us what you encountered once you got
14 to the scene?

15 A We got on scene, it was pretty much chaotic.
16 There was pointing towards the back of the business. So I
17 went back there as the incident commander for the scene. I
18 had two male patients down on the ground.

19 Q Okay. What did you do when you got to the scene?

20 A Well, my job then is not to render aid or
21 assistance, it's to bring equipment and personnel to the
22 scene. As the incident commander, it's -- it's very
23 important that I make sure the scene is secure, meaning safe
24 to be there for my guys. So that's what I did.

25 Q Okay. And how did you do that?

EXAMINATION OF JOE GARVIN

1 A Well, first of all, the sheriff's department had a
2 perimeter set up. They had a stringer. You know, I don't
3 cross the line.

4 Q Yellow tape?

5 A Yellow tape.

6 Q Okay. And everyone else that was not an emergency
7 service or a police officer had to stay behind that line.

8 The other thing I needed was, what was the
9 shape of the victims, or the patients, we call them. I had
10 one that was -- had no feelings, and the other one had
11 gotten shot in the stomach area. And so I -- for me, that
12 is a critical, so I put Life Star on standby.

13 Q Okay. So you have Life Star on standby and you're
14 assessing the scene to make sure it's safe for your guys.

15 A Yes.

16 Q And so what did you do as a result of that
17 assessment?

18 A Okay. So once -- once I deemed that, hey, guess
19 what, we got a critical, let's get these guys loaded and go,
20 the engine company that was at the other scene came. Also,
21 EMS came. We divided up personnel for each victim.

22 Okay. Then I wanted to know, hey, was the
23 shooter still here? So I was asking questions. I asked the
24 one guy that I was talking with on the ground. I believe his
25 name was Lucas, what had happened.

EXAMINATION OF JOE GARVIN

1 Q But could it have been Michael?

2 A I'm not -- I'm not sure.

3 Q Was his last name Morgan?

4 A It was Morgan, yes. Yes. Okay. I'm sorry.

5 Q Okay.

6 A What had happened. He didn't say anything, so I
7 was asking the crowd. There was probably about 80 people or
8 so out there, what happened.

9 Q I'm sorry, 80?

10 A About 80 people. There was a lot of people out
11 there that night. What had happened. There were one - one
12 gentleman that was really irate, yelling, you know. He
13 named names. I don't know these people at all. He said
14 Lucas and he said --

15 MS. CAMPBELL: Your Honor, objection. Hearsay.

16 THE COURT: Sustained.

17 THE WITNESS: Okay.

18 MS. SWANSON: Your Honor, if I may.

19 THE COURT: I sustained the objection. If you
20 want to excuse the jury to be heard as a matter of law,
21 be happy to do so.

22 Do you want to continue?

23 MS. SWANSON: No, sir. We'll continue.

24 THE COURT: Okay.

25 BY MR. SWANSON:

EXAMINATION OF JOE GARVIN

1 Q Mr. Garvin, did you hear the crowd screaming
2 names, yes or no?

3 A I did.

4 Q Thank you. And how many names did you hear?

5 A I heard two.

6 Q Thank you.

7 Did you provide any treatment to the victims
8 that were on the ground?

9 A I assisted with the Morgan victim.

10 Q Okay. And what kind of shape was he in?

11 A He was in bad shape. He had gotten shot, his
12 blood pressure was decreasing. So . . .

13 Q Okay. Do you recall seeing Shayna Orsen out
14 there?

15 A Yes.

16 Q All right.

17 MS. SWANSON: I have nothing further at this time.

18 THE COURT: Cross-examine.

19 MS. CAMPBELL: I have no questions for this
20 witness.

21 THE COURT: You may come down.

22 Do you wish the witness to be excused, Solicitor?

23 MS. SWANSON: Yes, please.

24 THE COURT: Any objection?

25 MS. CAMPBELL: No objection.

EXAMINATION OF JOE GARVIN

1 THE COURT: You're also free to leave, sir.

2 WITNESS: Thank you.

3 THE COURT: Call your next witness.

4 MS. SWANSON: The State calls Stanley Humphries.

5 THE CLERK: Please be seated. State and spell
6 your name for the Court.

7 THE WITNESS: My name is Stanley Humphries,
8 Junior. S-T-A-N-L-E-Y, H-U-M-P-H-R-I-E-S.

9 Thereupon,

10 STANLEY HUMPHRIES

11 was called as a witness, having been first duly sworn,
12 was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MS. SWANSON:

15 Q Good morning, Mr. Humphries.

16 A Good morning.

17 Q Do people call -- do you have a nickname?

18 A Hump.

19 Q Hump. Tell us about the events of June 21st, 2012
20 from the time that you recall being with Dante Bailey.

21 A Well, earlier that night me and Dante Bailey and
22 Janey (phonetic) had went to --

23 Q Let me stop you right there. Does Dante Bailey
24 have a nickname?

25 A Cole.

EXAMINATION OF STANLEY HUMPHRIES

1 Q Cole? Okay.

2 A We went to the Sand Dollar, shot pool for a little
3 while. They closed. We left there, went by Dante's house
4 to get a pack of cigarettes. Some other people got in the
5 van with us, and we went to Soul Patrol, I believe is the
6 name of it.

7 Q Okay. You were driving that night?

8 A Yes, ma'am.

9 Q And what were you driving?

10 A A mini-van.

11 Q What color was it?

12 A Green.

13 Q All right. How long have you known Dante Bailey?

14 A Since I was 14, 15. I'm 37 now.

15 Q And where did you -- where did you go pick up the
16 other guys?

17 A From his house.

18 Q Where is his house?

19 A Dulamo Road.

20 Q All right. And you guys went to the Soul Patrol?

21 A Yes, ma'am. First, we went to the Sand Dollar.

22 Q Right.

23 A And then after that, we went back to his house.

24 Some other people got in the van with us, and we went to

25 Soul Patrol.

EXAMINATION OF STANLEY HUMPHRIES

1 Q Okay. And what other people got in the van with
2 you?

3 A I'm not really sure, to be honest with you. I
4 don't want to say the wrong name.

5 Q Okay. Did Joseph Bowers get in the van with you?

6 A Yeah, he rode there with us.

7 Q Okay. Do you see Joseph Bowers in the courtroom?

8 A Yes, ma'am.

9 Q Can you point him out, please?

10 A (Pointing.)

11 MS. SWANSON: Okay. And let the record reflect
12 that he's pointing to the Defense table.

13 THE COURT: So reflected.

14 BY MS. SWANSON:

15 Q Does Joseph Bowers have a nickname?

16 A Opie.

17 Q Opie. Is that how you know him?

18 A Yes, ma'am.

19 Q Okay. So you go pick up Opie at Dulamo Road and
20 -- after the Sand Dollar, and then you guys go to the Soul
21 Patrol?

22 A Yes, ma'am.

23 Q Had you ever been out to the Soul Patrol?

24 A No, ma'am.

25 Q Did you even know where it was?

EXAMINATION OF STANLEY HUMPHRIES

1 A No, ma'am.

2 Q Did you have to get directions?

3 A Yes, ma'am.

4 Q Tell us what happened when you got to the club.

5 A We went inside. Some people got some drinks. I
6 got a bottle of water. Asked where the pool table was, they
7 said it was off in the side room. Stood around and talked
8 for a little while, walked outside, and this whole incident
9 started. We never even got to shoot pool that night.

10 Q All right. And is that why you went there?

11 A Yes, ma'am.

12 Q And when you say this whole incident started, tell
13 us exactly what started.

14 A We were outside smoking, and this guy Krum, they
15 call him Krum, came over there and started some trouble with
16 Dante. And somebody said, Come on, let's go. And as we
17 went to leave the gunshots rang out.

18 Q Do you actually get in your van?

19 A Yes, ma'am.

20 Q All right. Did Dante get in the van?

21 A No, ma'am. He was backing us out. There was cars
22 parked real close to us. There was a telephone pole beside
23 us, and he was actually directing us out. He was standing
24 at the back passenger side of the van.

25 Q Did Opie get in the van?

EXAMINATION OF STANLEY HUMPHRIES

1 A Yes, ma'am.

2 Q Did he get out of the -- did he stay in the van?

3 A We all got out of the van once we realize that

4 Cole had been shot.

5 Q All right. What did you see after Cole had been

6 shot?

7 A I actually went over there to him and pulled his

8 shirt up, and he had a bullet hole on his right side.

9 Q Did you see anyone tending to him?

10 A No, ma'am. He was -- he was -- he was already

11 dead.

12 Q Did you see anyone take him away from the scene?

13 A No, ma'am.

14 Q Did Opie leave with you?

15 A I told investigators, yes, that I thought Opie

16 left with us, but I was wrong about that. He did not leave

17 with us.

18 Q Okay. And so you actually gave another sworn

19 statement, and so you're saying he did not leave with you?

20 A No, ma'am.

21 Q But he did get into your car at one time and then

22 got out?

23 A Yes, ma'am.

24 Q Did you take anyone to the hospital that night?

25 A Yes. I took -- I don't know his name, ma'am, I

EXAMINATION OF STANLEY HUMPHRIES

1 not pulling out his gun shooting it at anybody, is he?

2 A No, ma'am.

3 Q In fact, you said before, I think, and I guess
4 today, that Dante Bailey, you didn't never saw a gun with
5 him, right?

6 A No, ma'am.

7 Q Okay. Did you have a gun that night?

8 A No, ma'am.

9 Q Did Joseph Bowers have a gun?

10 A Not that I know of.

11 Q Okay. And so Dante Bailey, you all are trying to
12 leave, he's backing your van out; is that right?

13 A Yes, ma'am.

14 Q Okay. And trying to back your van out so y'all
15 can leave, somebody fires on him and kills him; is that
16 correct?

17 A Yes, ma'am.

18 Q Do you know where those shots came from?

19 A I don't, ma'am.

20 Q Dante dropped to the ground dead, correct?

21 A Yes, ma'am.

22 Q Okay. And in trying to get yourself out of there,
23 were you fearing for your life then?

24 A Yes, ma'am. But I -- I just can't leave somebody
25 laying there like that. It's -- it's just not possible for

EXAMINATION OF STANLEY HUMPHRIES

1 me.

2 Q Did you help try and get him into a car to get him
3 to safety and to the hospital?

4 A No, ma'am. Once I went over there and his shirt
5 was up and I seen a bullet hole and there was no response
6 for him, no movement, no pulse, no nothing, there was
7 nothing I could do, ma'am.

8 Q You tried to save your life?

9 A Yes, ma'am.

10 Q The shots were still coming, weren't they?

11 A Yes, ma'am.

12 Q Okay. You're under fire, Joseph Bowers right
13 there with you under fire, and y'all are trying to get out
14 of there to save your lives, right?

15 A Yes, ma'am.

16 MS. CAMPBELL: That's all I have.

17 THE COURT: Redirect.

18 MS. SWANSON: No, sir.

19 THE COURT: Okay. You may step down.

20 Do you wish Mr. Humphries to be excused?

21 THE WITNESS: Thank you.

22 MS. SWANSON: Yes, please.

23 THE COURT: Any objection?

24 (No verbal response.)

25 THE COURT: You are free to leave, sir.

EXAMINATION OF STANLEY HUMPHRIES

1 THE WITNESS: Thank you.

2 MS. SWANSON: The State calls Joe Nathan Pope.

3 Thereupon,

4 JOE NATHAN POPE

5 was called as a witness, having been first duly sworn,

6 was examined and testified as follows:

7 THE CLERK: Please be seated. State your -- state
8 and spell your name for the Court.

9 DIRECT EXAMINATION

10 BY MS. SWANSON:

11 Q Good morning, Mr. Pope.

12 A Good morning.

13 Q Were you at the Midnight Soul Patrol the night of
14 June 21st, 2012?

15 A Yes, ma'am.

16 Q Okay. I'm going to show you what's been marked as
17 State's Exhibit 43, and ask that you identify this.

18 A Well, to tell you the truth, I ain't never see it
19 from this angle. Okay?

20 Q Okay.

21 A Okay. But it look like it.

22 Q It looks like what?

23 A The Midnight Soul Patrol.

24 Q Okay. And do you see Ms. Thelma Wilson's house in
25 there?

EXAMINATION OF JOE NATHAN POPE

1 A Yes, ma'am.

2 Q Okay. Does that look like Land's End in the
3 scene?

4 A Yes, ma'am.

5 Q Okay.

6 MS. SWANSON: At this time, the State would move
7 43 into evidence.

8 MS. CAMPBELL: No objection.

9 THE COURT: Without objection, State's 43 is
10 admitted.

11 *(Whereupon, State's Exhibit No(s). 43 marked for*
12 *identification and received in evidence.)*

13 MS. SWANSON: Thank you. I ask to publish to the
14 jury.

15 THE COURT: You may.

16 BY MS. SWANSON:

17 Q All right. And, Mr. Pope, you can refer to this
18 exhibit as you tell us what went on that night.

19 A Well, it happened so fast. When -- when I first
20 got there it -- the first four person I seen was Opie,
21 Stanley, Mike G., and Corleon.

22 Q Okay. And do you see Opie in the courtroom today?

23 A Yes, ma'am.

24 Q Can you please point him out for me?

25 A Right there.

EXAMINATION OF JOE NATHAN POPE

1 Q All right. And where do you see those people?

2 A Ma'am?

3 Q Where did you see those people?

4 A In the parking lot.

5 Q In the parking lot.

6 A Yes, ma'am.

7 Q I'm going to show you what's been entered as

8 State's 46 and ask if that's your car, your white car?

9 A Yes, ma'am.

10 Q Is that where you parked that night?

11 A Yes, ma'am.

12 Q And where did you park? Describe it for me.

13 A Under the streetlight.

14 Q Was that streetlight on that night?

15 A Yes, ma'am.

16 Q All right.

17 THE COURT: You can move that into evidence

18 as well.

19 MS. SWANSON: I did already, Your Honor.

20 THE COURT: Oh, that's right. Thank you very

21 much.

22 BY MS. SWANSON:

23 Q This is State's 46 that I'm referring to. And,

24 Mr. Pope, the white car that we see, is that your car?

25 A The white car? Yes, ma'am.

EXAMINATION OF JOE NATHAN POPE

1 Q Tell us what your car looks like. What kind of
2 car do you have?

3 A A Mercury Mountaineer.

4 Q Mountaineer.

5 A Yes, ma'am.

6 Q Okay. And so in this picture, it's the white SUV
7 under the light pole?

8 A Yes, ma'am.

9 Q Okay. All right. So that's where you pulled up
10 initially?

11 A Yes, ma'am.

12 Q And you see the guys that you just told us about?

13 A Yes, ma'am.

14 Q Okay. And then what did you do?

15 A What did I do?

16 Q Yes, sir.

17 A Well, when I -- when I pulled up, the first
18 somebody asked calling him Opie. He came up to me because
19 he know I was looking for him, because I had animosity in my
20 heart against him.

21 MS. CAMPBELL: Objection, Your Honor.

22 MS. SWANSON: Okay. Let's just move on from --

23 THE COURT: I'll sustain the objection as to that.
24 Jury, disregard the witness' last statement.

25

EXAMINATION OF JOE NATHAN POPE

1 BY MS. SWANSON:

2 Q Yes, sir. Let's move on past that.

3 Who did you go to the Midnight Soul Patrol
4 with?

5 A Ms. Jenkins.

6 Q Okay. And about what time did you guys get there?

7 A I can't really say.

8 Q Was it late?

9 A Yes, ma'am.

10 Q Okay. About how long were you there before an
11 argument broke out?

12 A I don't think I was there ten minutes.

13 Q All right. Did you ever go inside the club?

14 A Yes, ma'am.

15 Q And who did you go inside the club with?

16 A Well, I went there by myself, but Corleon followed
17 me in the club.

18 Q Okay. And you're talking about Corleon. Does he
19 also go by Cole?

20 A Yes, ma'am.

21 Q And that's Dante Bailey?

22 A Well, I don't know his real name.

23 Q Okay. Cole?

24 A Yes, ma'am.

25 Q What happened when you came outside of the club?

EXAMINATION OF JOE NATHAN POPE

1 A Well, when I came outside of the club the only two
2 persons I see was Mikey Morgan and Mike G.

3 Q All right. Did you see an argument that night?

4 A Yes, ma'am.

5 Q Tell us about that.

6 A Well, I seen this guy walk up to Corleon with a
7 bunch of guys behind him. And him and Corleon had a little
8 argument before, about six week before. And --

9 Q I'm sorry. About what?

10 MS. CAMPBELL: Your Honor, objection.

11 THE COURT: At this time you'll have to connect it
12 if you want to ask him more questions about explaining
13 that. I don't know where you're going with that
14 concerning the prior. If you need to connect that,
15 I'll sustain the objection on relevance at this point.

16 MS. SWANSON: I didn't hear the response. I
17 wasn't sure what Mr. Pope said, but --

18 THE COURT: He said there was some altercation.

19 Jury, disregard this -- that part of it. I'll
20 sustain the objection.

21 MS. SWANSON: Oh, okay. Yes. Yes, sir.

22 BY MS. SWANSON:

23 Q All right. We're just talking about an argument
24 that you witnessed that night.

25 A Yes, ma'am.

EXAMINATION OF JOE NATHAN POPE

1 it?

2 A No, ma'am.

3 Q All right. So what happened then?

4 A When I turned to walk away, because I see all
5 these guys, and I know something is going to happen. I
6 turned to go back toward the club, try to go in the club,
7 because I didn't want to be in the parking lot.

8 Q Why not?

9 A Because I didn't -- I know something was going to
10 go down between all of them guys. I know how they operate,
11 you know.

12 Q All right. Were you in fear?

13 A Yes, ma'am.

14 Q What did you see happen after the argument was
15 diffused?

16 A Okay. When I turned to go toward the club I seen
17 Lucas Morgan in an altercation.

18 Q Okay. Do you recall who he was fighting with?

19 A But they wasn't fighting.

20 Q All right.

21 A Somebody was pushing him back, but Irvin was
22 trying to get to -- to Lucas, but Lucas had a gun. And I
23 don't know if Irvin had seen the gun or not.

24 Q All right. Were you there when gunshots were
25 fired?

EXAMINATION OF JOE NATHAN POPE

- 1 A Yes, ma'am.
- 2 Q And where were the gunshots coming from; do you
- 3 even know?
- 4 A In front of me.
- 5 Q Okay. Were multiple people firing?
- 6 A Well, I only seen one.
- 7 Q Okay. You only saw one?
- 8 A Yes, ma'am.
- 9 Q Okay. Who did you see firing?
- 10 A Lucas.
- 11 Q Okay. And that's Lucas Morgan?
- 12 A Yes, ma'am.
- 13 Q All right. And what were most people doing when
- 14 Lucas was firing?
- 15 A They was just running for cover. They just
- 16 dissipate.
- 17 Q Okay. After everything stopped, after the gunfire
- 18 stopped --
- 19 A Yes, ma'am.
- 20 Q -- and law enforcement got there --
- 21 A Yes, ma'am.
- 22 Q -- were you still on the scene?
- 23 A Yes, ma'am.
- 24 Q Was Lucas there?
- 25 A No, ma'am.

EXAMINATION OF JOE NATHAN POPE

1 Q Was Opie still there?

2 A No, ma'am.

3 Q All right.

4 MS. SWANSON: Beg the Court's indulgence?

5 THE COURT: Okay.

6 MS. SWANSON: Nothing further at this time. Thank
7 you, Your Honor.

8 THE COURT: Cross-examine.

9 CROSS EXAMINATION

10 BY MS. CAMPBELL:

11 Q Mr. Pope, can you hear me?

12 A Ma'am?

13 Q Can you hear me?

14 A Yes, ma'am.

15 Q Do you want me to come a little bit closer? Will
16 that help?

17 A Yes, ma'am.

18 Q Okay. Mr. Pope, isn't it true that Lucas Morgan
19 was the only person you saw with a gun on June 21st, 2012?

20 A Yes, ma'am.

21 Q Okay. And Lucas Morgan is the person you saw
22 shooting his gun --

23 A Yes, ma'am.

24 Q -- when Richard Green got shot, right?

25 A Yes, ma'am.

EXAMINATION OF JOE NATHAN POPE

1 Q And Lucas Morgan is the person shooting his gun
2 when Robert Goodwine was shot, right?

3 A I don't know. I can't --

4 Q Isn't it true that Irvin Smalls was having an
5 argument with Lucas Morgan?

6 A Yes, ma'am.

7 Q Okay. And isn't it true that Lucas Morgan, as he
8 began to fire into the parking lot, crouched down by the
9 propane tank, firing down like this?

10 A Yeah. He was -- he was -- he was shooting in a
11 lower angle.

12 Q Right. And he pretty much emptied that clip,
13 didn't he?

14 A I'm pretty sure he did.

15 Q Right. Isn't it true, Mr. Pope, that you never
16 saw Joseph Bowers with a gun, right?

17 A No, ma'am.

18 Q Okay. And you never saw Joseph Bowers in an
19 argument with anybody that night, right?

20 A I don't -- I don't think I know to about.

21 Q Okay. Well, that's helpful. Thank you.

22 And isn't it true, Mr. Pope, that you called
23 911?

24 A Yes, ma'am.

25 Q And you told 911, Hey, look, Lucas Morgan's out

EXAMINATION OF JOE NATHAN POPE

- 1 here shooting this place up, right?
- 2 A Yes, ma'am.
- 3 Q Okay. And you told them, Richard Green's been
- 4 hit, right?
- 5 A Yes, ma'am.
- 6 Q Okay. And you said, Michael Morgan's been hit,
- 7 too?
- 8 A Yes, ma'am.
- 9 Q Right. And did you see Michael get shot?
- 10 A No, ma'am.
- 11 Q Did not. And you didn't see Robert Goodwine get
- 12 shot, correct?
- 13 A No, ma'am.
- 14 Q Do you know when Michael Morgan got shot? Was it
- 15 while Lucas was firing? Do you have any idea?
- 16 A Well, when them guys came running through the
- 17 parking lot, Mikey was standing over Richard with a flare
- 18 gun, holding it like this, and he didn't see them guys
- 19 coming.
- 20 Q Right. Michael had a flare gun, right?
- 21 A Yes, ma'am.
- 22 Q You saw that flare gun in his hand?
- 23 A Yes.
- 24 Q Did you actually see the flare go off?
- 25 A No, ma'am.

EXAMINATION OF JOE NATHAN POPE

1 Q Okay. But you saw the flare gun in his hand,
2 right?

3 A Yes, ma'am.

4 Q And Michael is standing over Richard?

5 A Yes, ma'am.

6 Q And four men come across the parking lot shooting
7 towards Michael; is that right?

8 A It was four or five. I can't say how many it was.

9 Q And when those four or five men came across the
10 parking lot shooting towards Michael, were they heads up,
11 head down?

12 A Heads down.

13 Q What posture were they in?

14 A Then, when I see them coming with the gun, they
15 was running low with the head down.

16 Q Do you know if they are white, black? Any idea?

17 A Black.

18 MS. CAMPBELL: Thank you very much.

19 THE COURT: Redirect.

20 MS. SWANSON: Just briefly.

21 REDIRECT EXAMINATION

22 BY MS. SWANSON:

23 Q Mr. Pope, you're not sure how many people you saw
24 running through the parking lot?

25 A No. I know it was four or five, at least.

EXAMINATION OF JOE NATHAN POPE

1 Q Okay. And did you identify that there were four
2 black men?

3 A Well, all of them was black. It might be four or
4 five or whatever, but all of them black.

5 Q Okay. Thank you.

6 MS. SWANSON: Can Mr. Pope be excused -- I'm
7 sorry.

8 THE COURT: Recross.

9 MS. CAMPBELL: No, Your Honor.

10 THE COURT: Okay. Any objection to him being
11 excused?

12 MS. CAMPBELL: No, Your Honor.

13 THE COURT: You may step down. You're free to
14 leave, sir.

15 THE WITNESS: All right. Thank you.

16 THE COURT: Call your next witness, please.

17 MS. SWANSON: Robert Goodwine.

18 Thereupon,

19 ROBERT GOODWINE

20 was called as a witness, having been first duly sworn,
21 was examined and testified as follows:

22 THE CLERK: Please be seated. State and spell the
23 name for the Court.

24 THE WITNESS: Robert Goodwine. R-O-B-E-R-T,
25 G-O-O-D-W-I-N-E.

EXAMINATION OF ROBERT GOODWINE

1 DIRECT EXAMINATION

2 BY MS. SWANSON:

3 Q Thank you, Mr. Goodwine.

4 We see that you're in custody. Can you tell
5 us what you're in custody for, please?

6 A Family court, child support.

7 Q Family court. Okay.

8 Were you at the Soul Patrol the night of June
9 21st, 2012?

10 A Yes, ma'am.

11 Q Okay. Tell us what happened that night. Who did
12 you go there with?

13 A Sam Blackman.

14 Q Okay. And about what time did you arrive?

15 A About 12:00, 11:30.

16 Q All right. Where were you when -- were you there
17 when an argument broke out?

18 A No, ma'am. I was in the club.

19 Q Okay. You were at the Soul Patrol, but you were
20 inside the club?

21 A (Nods in the affirmative.)

22 Q Did you end up going outside of the club?

23 A Yes, ma'am.

24 Q Okay. Tell us what you saw when you went outside
25 of the club.

EXAMINATION OF ROBERT GOODWINE

1 A I seen an argument. When I went out there, I seen
2 Richard laying on the ground.

3 Q You saw Richard laying on the ground?

4 A Yes, ma'am.

5 Q Okay. Can you speak up a little for me, please?

6 A Yes, ma'am.

7 Q Thank you.

8 Did you see anyone shooting inside the club?

9 A No, ma'am.

10 Q Did you see anyone shooting outside of the club?

11 A Yes, ma'am.

12 Q Who did you see shooting outside of the club?

13 A Lucas Morgan and Dante.

14 Q And Dante?

15 A Bailey.

16 Q Bailey. Did you get injured that night?

17 A Yes, ma'am.

18 Q I'm going to show you what's been marked as

19 State's Exhibit 65. Can you identify this for me?

20 A Yes, ma'am.

21 Q Okay. What is it?

22 A A bullet wound. Mine.

23 Q All right. Is it your --

24 A Yes, ma'am.

25 Q Okay. Is that what it looked like that night in

EXAMINATION OF ROBERT GOODWINE

1 the ER?

2 A Yes, ma'am.

3 Q All right. The State moves 65 into evidence.

4 MS. CAMPBELL: No objection.

5 THE COURT: Without objection, it's admitted.

6 *(Whereupon, State's Exhibit No(s). 65 marked for*
7 *identification and received in evidence.)*

8 BY MS. SWANSON:

9 Q All right. And so tell us how you sustained that
10 gunshot wound.

11 A Ma'am?

12 Q Tell us how that happened?

13 A After Cole got shot, I backed out, and then he
14 came around the corner and started shooting.

15 Q Who is he?

16 A Lucas Morgan.

17 Q Okay. Was he the only one shooting that night?

18 A That I seen. I seen a flare gun.

19 Q Okay. You saw a flare gun. Do you know who shot
20 the flare gun?

21 A No, ma'am.

22 Q All right. So you saw a flare gun, and you saw
23 Lucas shooting?

24 A Yes, ma'am.

25 Q Do you know who shot you?

EXAMINATION OF ROBERT GOODWINE

- 1 A Yes, I do.
- 2 Q Okay. Tell us who that is.
- 3 A Lucas Morgan.
- 4 Q And where -- did he shoot you from behind or from
- 5 the front?
- 6 A He shot at me from the front, but he hit me from
- 7 the back.
- 8 Q Hit you from the back?
- 9 A Yes, ma'am.
- 10 Q And what were you doing when he shot you?
- 11 A Running.
- 12 Q Running where?
- 13 A To the main road.
- 14 Q Why?
- 15 A Because he was shooting at me.
- 16 Q So you were running from the gunfire?
- 17 A Yes, ma'am.
- 18 Q You didn't see everyone who got shot, right?
- 19 A No, ma'am.
- 20 Q Eventually, did you get in a car with someone?
- 21 A Yes, ma'am.
- 22 Q Who did you get in a car with?
- 23 A Hump.
- 24 Q Okay.
- 25 A Stanley.

EXAMINATION OF ROBERT GOODWINE

1 Q All right. Where did he take you?

2 A To the hospital.

3 Q Did you all make any stops before that?

4 A I wouldn't know. I was laying down in the back

5 seat.

6 Q Okay. Did you see Opie that night?

7 A No, ma'am. Well, I seen him at the club, but I

8 didn't see him after.

9 Q Do you remember giving a sworn deposition in this

10 case?

11 A How do you mean by that?

12 Q Do you remember giving a sworn statement?

13 A To who, detective?

14 Q To a solicitor.

15 A I don't think so.

16 Q You don't remember sitting down and giving a sworn

17 statement?

18 A Oh, yes, ma'am. I did get a subpoena.

19 Q Right. Right.

20 A Yes, ma'am.

21 Q Okay. Did you see Opie standing over Dante?

22 A Yes, ma'am.

23 Q Okay. Thank you.

24 MS. SWANSON: Nothing further.

25 THE COURT: Cross-examine.

EXAMINATION OF ROBERT GOODWINE

1 CROSS EXAMINATION

2 BY MS. CAMPBELL:

3 Q Mr. Goodwine, not only did you give a deposition,
4 but you testified previously about these matters, correct,
5 in a courtroom, right?

6 A Yes, ma'am.

7 Q Okay. Now, do you remember telling earlier that
8 it was clear to you that Lucas Morgan was shooting, correct?

9 A Yes, ma'am.

10 Q And Dante Bailey was shooting, correct?

11 A Yes, ma'am.

12 Q And that Lucas Morgan shot you, right?

13 A Yes, ma'am.

14 Q Okay. And do you remember stating that you were
15 there at the club with Dante Bailey, right?

16 A Yes, ma'am.

17 Q And with someone you called your home boy, Joey
18 Chaplin, correct?

19 A Yes, ma'am.

20 Q And his name was Joey Chaplin?

21 A Yes, ma'am.

22 Q And those are the people that you remember being
23 with and being around when you were at the club, right?

24 A Yes, ma'am.

25 Q Okay.

EXAMINATION OF RICHARD GREEN

1 Just a couple of things. To be clear, Lucas
2 Morgan is your family; is that right?

3 A Correct.

4 Q Okay. And you're no family to Dante Bailey,
5 right?

6 A No.

7 Q Okay. And when you were coming, if I might --
8 let's see.

9

10 MS. CAMPBELL: May I approach, Your Honor?

11 THE COURT: You may.

12 BY MS. CAMPBELL:

13 Q When you were coming from the back of Ms. Poot's
14 house, right?

15 A Yes.

16 Q Were you walking back over towards the club?

17 A Yes. Not -- not that way; I came in over here.

18 Q Right. Right here by the side door, right?

19 A Yes.

20 Q Okay. And I believe you answered the Solicitor's
21 question that you were shot in your right side; is that
22 correct?

23 A Yes. In the back.

24 Q In the back, on your right side?

25 A (Nods in the affirmative.)

EXAMINATION OF RICHARD GREEN

1 MS. CAMPBELL: Okay. That's all I have. Thank
2 you.

3 THE COURT: Recross?

4 MS. SWANSON: No, sir.

5 THE COURT: The witness may be excused.

6 MS. SWANSON: Thank you, Your Honor.

7 THE COURT: Next witness.

8 MS. SWANSON: The State calls Alvin Wilson.

9 Thereupon,

10 ALVIN WILSON

11 was called as a witness, having been first duly sworn,
12 was examined and testified as follows:

13 THE CLERK: Please be seated. State and spell
14 your name for the Court.

15 THE WITNESS: Alvin Wilson. A-L-V-I-N,
16 W-I-L-S-O-N.

17 DIRECT EXAMINATION

18 BY MS. SWANSON:

19 Q Thank you.

20 Mr. Wilson, do you have a nickname?

21 A Yes.

22 Q What do people call you?

23 A Big D.

24 Q All right. And do you work at the Midnight Soul
25 Patrol?

EXAMINATION OF ALVIN WILSON

- 1 A Yes.
- 2 Q How are you related to Thelma Wilson?
- 3 A That's my grandma.
- 4 Q All right. So you're Ms. Poot's grandson?
- 5 A Yes, ma'am.
- 6 Q All right. And were you DJ'ing the night of the
- 7 shooting on June 21st, 2012?
- 8 A Yes, ma'am.
- 9 Q All right. About what time did you arrive that
- 10 night?
- 11 A About 9 o'clock, I believe it was.
- 12 Q Okay. What do you recall from that night?
- 13 A I recall it was -- it was kind of crowded that
- 14 night.
- 15 Q It was crowded?
- 16 A Yes.
- 17 Q About how many people would you say were there?
- 18 A I don't know. That night, probably 75 people,
- 19 something like that.
- 20 Q About 75?
- 21 A I'm not sure.
- 22 Q Is that a large crowd for you guys?
- 23 A Yes.
- 24 Q What night of the week was it?
- 25 A Wednesday night.

EXAMINATION OF ALVIN WILSON

1 Q Is that your big night?

2 A Yes.

3 Q All right. Were the majority of the people inside
4 the club or outside of the club?

5 A At one point in time, it was inside the club.

6 Q Okay. And at some point did that change?

7 A Yes.

8 Q Do you know why it changed?

9 A A couple of guys came in.

10 Q Okay. Do you know Joseph Bowers?

11 A No.

12 Q All right. Do you know Opie?

13 A No.

14 Q All right. How many white people did you see
15 there that night?

16 A Two.

17 Q Two. I'm going to show you what's been entered as
18 State's Exhibit 43. And is that big red structure the Soul
19 Patrol?

20 A Yes, ma'am.

21 Q All right. And can you please point to the
22 entrance that people use?

23 A This side door right here.

24 Q Okay. On the side door. All right.

25 And I'm going to put this up on the

EXAMINATION OF ALVIN WILSON

1 projector.

2 So people weren't really using that front
3 door, they're using the side door?

4 A Yes, ma'am.

5 Q That's closest to the propane tank and the
6 satellite dish?

7 A Yes, ma'am.

8 Q All right. And where is the DJ booth located, to
9 the right or the left of the side door?

10 A To the right.

11 Q Okay. So like right here?

12 A Yes, ma'am.

13 Q All right. And is that where you were that night?

14 A Yes, ma'am.

15 Q Okay. Were you playing music all night long?

16 A Yes. Until the club got empty.

17 Q Okay. And what did you do when the club got
18 empty?

19 A I stepped outside and looked around, and an
20 altercation was going on outside.

21 Q Did you shut the music down?

22 A Yes.

23 Q And why is that?

24 A Because an altercation was going on, like I said,
25 and I said, The party is over.

EXAMINATION OF ALVIN WILSON

- 1 Q All right. So, you said party is over?
- 2 A Yes.
- 3 Q Okay. Were you inside or outside when the gunfire
- 4 started?
- 5 A I was inside.
- 6 Q Did you see anyone shooting?
- 7 A No, ma'am.
- 8 Q By the time you get outside, what did you see?
- 9 A A couple of my cousins laying on the ground.
- 10 Q And who were your cousins?
- 11 A Michael Morgan and Richard Green.
- 12 Q Where was Michael Morgan laying?
- 13 A He was laying pretty much close to my grandma's
- 14 steps.
- 15 Q Okay. I'm going to put State's 43 up again.
- 16 And so your grandma's house, is that this
- 17 structure right here?
- 18 A Yes.
- 19 Q All right. And then she has some back steps?
- 20 A On that -- where the trees are.
- 21 Q Right back here?
- 22 A Yeah, back there.
- 23 Q All right. Now, do people hang out in this area
- 24 right here?
- 25 A Yes.

EXAMINATION OF ALVIN WILSON

1 Q All right. So by the time you get outside,
2 Michael Morgan's already down by the steps?

3 A Yes.

4 Q All right.

5 MS. SWANSON: Beg the Court's indulgence?

6 THE COURT: Certainly.

7 BY MS. SWANSON:

8 Q Now, when I asked you how many white people you
9 saw, were they male or female?

10 A Male.

11 Q Thank you.

12 MS. SWANSON: That's all I have.

13 THE COURT: Cross.

14 MS. CAMPBELL: May it please the Court.

15 THE COURT: Yes.

16 CROSS EXAMINATION

17 BY MS. CAMPBELL:

18 Q Good afternoon.

19 A How you doing?

20 Q I'm good.

21 Mr. Wilson did I -- did I hear you right,
22 your nickname is Big D?

23 A Yes.

24 Q Okay. And you are cousins with Lucas Morgan and
25 with Michael Morgan and with Richard Green?

EXAMINATION OF ALVIN WILSON

1 A Yes.

2 Q Okay. Do you remember giving some statements in
3 this case?

4 A Yes.

5 Q Okay. Do you remember saying that you took a
6 rifle out of the hands of a -- of a fellow named Kantrell
7 Rivers?

8 A Yes.

9 Q Okay. After the initial round of shots fired, and
10 you came out of the club, Richard Green, your cousin, he had
11 been shot, right?

12 A Yes.

13 Q Okay. And is that when you took Kantrell Rivers'
14 gun from him?

15 A Yes. When I got to the club he was walking to the
16 trunk of his car, and he got it out of his car and gave it
17 to me.

18 Q Do you remember feeling like after you had seen
19 Richard get shot that you might fire that gun, too, you
20 were so angry?

21 A Yeah. But I put it on the craps table. The fact
22 that it was a little caliber gun. There was a lot of heavy
23 shooting going on. I didn't want it.

24 Q You didn't have enough heat for what you -- for
25 the fire you were taking?

EXAMINATION OF ALVIN WILSON

1 A Yes.

2 Q Okay. Do you remember talking about the fact
3 that -- well, first off, let me ask you this. You do know
4 Lewis Melvin Johnson, right?

5 A I heard of him.

6 Q Okay. And he's got a nick name of Dolla --

7 A Yes.

8 Q -- or Dollar, or something like that?

9 A (Nods in the affirmative.)

10 THE COURT: Was that a yes?

11 A Yes.

12 MS. CAMPBELL: Thank you.

13 BY MS. CAMPBELL:

14 Q And when you were in the club, and the first shots
15 were going off, were you down behind the bar?

16 A Down, yes.

17 Q So if you're tucked down behind the bar, you're
18 taking cover?

19 A Yes.

20 Q You can't see the doorway, right?

21 A No.

22 Q That side door?

23 A No.

24 Q Okay. So you can't tell us whether or not
25 somebody was shooting out that doorway, right?

EXAMINATION OF ALVIN WILSON

1 A No.

2 Q You couldn't see it?

3 A No.

4 Q Okay. Do you remember having -- well, first off,
5 do you know who Arthur Chaplin is?

6 A Arthur Chaplin?

7 Q Uh-huh.

8 A I heard of him.

9 Q Okay. Does he have a nickname, do you know?

10 A What they call him, Krum.

11 Q They do. Okay. Right, yeah. They call him Krum.
12 Okay.

13 A Yes.

14 Q And do you know who Joey Chaplin is?

15 A No.

16 MS. CAMPBELL: That's all I have. Thanks.

17 THE COURT: Redirect.

18 MS. SWANSON: Just briefly.

19 REDIRECT EXAMINATION

20 BY MS. SWANSON:

21 Q The side door that the DJ booth is located next
22 to, you're crouched down in the DJ booth?

23 A Yes.

24 Q Did you hear any gunfire right next to you?

25 A I'm not sure how it was, it was so much. And then

EXAMINATION OF ALVIN WILSON

1 I heard a shot come in the window, and I don't know how
2 close it was.

3 Q Okay. So, you did hear shots come through the
4 window?

5 A Yeah.

6 Q Okay. I'll show you what's been marked as State's
7 45 and ask for you to identify this.

8 A That's the side.

9 Q The side of the Soul Patrol?

10 A Yes, ma'am.

11 Q Okay. And is that the window that's next to the
12 DJ booth?

13 A Yes, ma'am.

14 Q Is that how it appeared that night?

15 A Yes, ma'am.

16 MS. SWANSON: The State moves 45 into evidence.

17 THE COURT: Without objection?

18 MS. CAMPBELL: No objection.

19 THE COURT: Without objection, State's 45 is
20 admitted.

21 *(Whereupon, State's Exhibit No(s). 45 marked for*
22 *identification and received in evidence.)*

23 BY MS. SWANSON:

24 Q Okay. And you saw a hole in the window?

25 A I heard some glass break some.

EXAMINATION OF ALVIN WILSON

1 Q Okay.

2 A Because I was standing here.

3 Q Okay. Do you see that hole in the window in this
4 picture?

5 A Yes.

6 Q Okay.

7 MS. SWANSON: I'd like to publish this to the
8 jury.

9 THE COURT: Okay.

10 BY MS. SWANSON:

11 Q And so we're looking right about here?

12 A Yes, ma'am.

13 Q All right. And that's the hole that you're
14 referring to.

15 You say that Kantrell Rivers went to his car.
16 Was that before or after the gunfire started -- I mean,
17 stopped?

18 A It was after.

19 Q Okay. And he grabbed a rifle?

20 A Yes.

21 Q And you had that rifle for a time?

22 A For a second.

23 Q Did you ever fire that rifle?

24 A No, ma'am.

25 Q Did Kantrell ever fire that rifle?

EXAMINATION OF ALVIN WILSON

1 A No, ma'am.

2 MS. SWANSON: Thank you. Nothing further.

3 THE COURT: Recross.

4 MS. CAMPBELL: Just briefly.

5 RE-CROSS EXAMINATION

6 BY MS. CAMPBELL:

7 Q So we're clear, Mr. Wilson, you did see Lucas
8 Morgan with a gun that night, right?

9 A Yes.

10 Q I mean, Joe Pope's telling you, Put that gun down.
11 Is he talking about Kantrell Rivers' gun, or are you taking
12 Lucas' gun from him?

13 A He's talking about Kantrell's gun.

14 Q Okay. But you did see Lucas with a gun?

15 A Yes.

16 MS. CAMPBELL: That's all.

17 THE COURT: Okay. You may step down.

18 At this point, ladies and gentlemen, we'll take
19 our recess for lunch. As you go out to lunch, do not
20 begin to deliberate. You can't discuss the case among
21 yourself. And while you're out to lunch, certainly do
22 not allow anybody to talk to you about the case or talk
23 about it in your presence.

24 Have a good lunch. And I'll ask you to return to
25 your jury room, please, by 2 o'clock, and we'll resume

EXAMINATION OF MAGNUM SMALLS

1 Q Okay.

2 A Maybe -- maybe 30 or more.

3 Q All right. So, you're a regular there?

4 A Yes.

5 Q All right. And were you there the night of this
6 shooting on June 21st, 2012?

7 A Yes, I was.

8 Q All right. Tell us what you remember.

9 A Well, I remember arriving at the club, going to
10 get a few drinks. Came back outside, was standing outside
11 when Mr. Bailey and another group of guys came up to the
12 club. You know, he spoke, shook hands, he asked, you know,
13 how -- how was I doing, or how was I. I told him I was
14 okay, you know, everything was fine.

15 He went inside. Maybe about ten, 15 minutes
16 later I noticed everybody coming outside of the club, and it
17 was him and another guy, Arthur, that was getting in this
18 kind of little altercation, having words.

19 Q And when you say him and Arthur, who is him?

20 A Colyone.

21 Q Colyone, and that's Dante Bailey?

22 A Yes.

23 Q Okay. All right. So, Dante Bailey and Arthur are
24 having words?

25 A Yes.

EXAMINATION OF MAGNUM SMALLS

1 Q Okay. Describe what you saw.

2 A Okay. It was pretty much a heated argument. Guns
3 was fired at each other. D Grant came in, in between, got
4 both of them and was pretty much walking away from everybody
5 else, like diffusing the problem.

6 Q Okay. So, D Grant gets in between them?

7 A Yes. One person under the right arm, the other
8 under the left arm. And was pretty much like getting them
9 away from like the crowd. Pretty much to diffuse whatever
10 altercation or the problem that was between the two.

11 Q Did you see who was in the parking lot area at the
12 time?

13 A It was -- yes. It was -- it was a lot of people
14 there, but I saw a few folks that I can remember that I saw.

15 Q Okay. Who did you remember seeing over there?

16 A Colyone, the defendant.

17 Q Who's -- and who are you talking about?

18 A Joseph.

19 Q Joseph Bowers?

20 A Yes.

21 Q Do you know him by Opie?

22 A Yes.

23 Q Okay. Can you point him out, please?

24 A He's sitting to my right.

25 Q Okay. So, Cole, Opie, who else was in the parking

EXAMINATION OF MAGNUM SMALLS

1 lot area?

2 A It's another guy, white guy, long beard, long
3 hair.

4 Q Okay. Another white guy with long beard and long
5 hair?

6 A Yes.

7 Q Hump, does that ring a bell? Or you don't know
8 his name?

9 A I don't know his name.

10 Q Fair enough.

11 Okay. After guns are flashed, what happens?

12 A Like I said, they walked away pretty much from
13 like everybody else, and they were talking -- D Grant was
14 talking to the both of them. And then flare gun went off.
15 After the flare gun went off, all chaos broke loose.
16 Everybody pretty much started shooting.

17 Q Do you know who shot the flare gun?

18 A Michael Morgan, yeah.

19 Q Okay. And then when you say everything broke
20 loose -- all right. If you can please be specific for us.

21 A Everybody pretty much who -- who had a gun started
22 shooting.

23 Q Okay. Who all did you actually see shooting?

24 A Lucas, Opie, Dante didn't get a chance to shoot,
25 Arthur -- who else. There was -- there was a few other

EXAMINATION OF MAGNUM SMALLS

1 folks, but that's all I can actually recall seeing --
2 actually I actually saw shooting from the position where I
3 was at.

4 Q Okay. And where were you?

5 A Behind this big oak tree, like trying to take
6 cover.

7 Q And why were you trying to take cover?

8 A Because everybody was shooting, and it was either
9 take cover or I -- I figured if I tried to run somewhere,
10 either left or right, I would have ended up getting shot,
11 too.

12 Q Okay. I'm going to show you what's entered as
13 State's 46, and ask you if this is the oak tree that you're
14 referring to?

15 A Yes, it is.

16 Q Okay. And I'm just going to put this up so that
17 the jury may see the oak tree.

18 So, you're in the parking lot area?

19 A More -- yes. That's where I was, yes.

20 Q And you said at some point you take cover behind
21 this oak tree?

22 A Yes.

23 Q Okay. I just want to make sure we're clear about
24 the area that you were in.

25 Do you remember when the gunfire stopped?

EXAMINATION OF MAGNUM SMALLS

1 A Yes.

2 Q Okay. And what happened when the gunfire stopped?

3 A Well, I noticed Dante on the ground, not moving,
4 not responding. I noticed Richard Green on the ground,
5 Michael Morgan on the ground. That's pretty much about it,
6 you know. Everybody was crowded around Richard trying to
7 check on him to make sure that he was okay. A few folks by
8 Mikey, relatives or so, Michael Morgan.

9 Q Right.

10 A Trying to make sure that he was okay. A few
11 people were trying to get Dante inside of a vehicle, I
12 guess, so they could leave at that time also.

13 Q Okay. So you saw people trying to get him in a
14 vehicle to take him away?

15 A Yes.

16 Q Where -- where do you remember seeing Dante
17 laying? And -- and I'm going to show you State's 46 again,
18 if you can point it out.

19 A Right -- right here. Like in between -- right
20 where this police car is here, these two cars here. He was
21 more in that area, like in between them.

22 Q Okay. So, in the dirt parking lot area, in this
23 general area?

24 A Yes, correct.

25 Q Okay. Did you see anyone standing by Cole?

EXAMINATION OF MAGNUM SMALLS

1 A When he got shot, no.

2 Q What about after he got shot?

3 A Yes.

4 Q Who was that?

5 A It was a few females, and Opie was there, too.

6 Q Did you see Opie with a gun?

7 A Yes, but I'm -- yes.

8 Q Okay. Do you recall what gun?

9 A I want to say it was Dante's weapon.

10 Q Was it a revolver or a semi-automatic?

11 A Semi-automatic.

12 Q Okay. And you didn't -- did you see Opie with a

13 gun prior to when he was over standing by Cole?

14 A Yes.

15 Q You did see a gun prior to?

16 A Yes, I did.

17 Q Okay. Do you remember giving a sworn statement to

18 the Solicitor's office in this case?

19 A Yes, I do.

20 Q A deposition?

21 A Yes, I do.

22 Q Okay. And -- and if I refreshed your memory --

23 I'm going to show you --

24 MS. SWANSON: May I show the witness, Your Honor?

25 THE COURT: Any objection to using a copy of a

EXAMINATION OF MAGNUM SMALLS

1 deposition for refreshing the recollection?

2 MS. CAMPBELL: No, Your Honor. I have the same
3 copy. If the Solicitor could direct me to a page
4 number.

5 THE COURT: Well, what we need to do is, we need
6 to make the original a Court's exhibit. Do we have the
7 original deposition?

8 MS. SWANSON: Your Honor, actually we --

9 THE COURT: Then if you all will by agreement
10 stipulate that one will become a Court's exhibit that
11 has to remain a part of the record, if you're going to
12 show it to the witness, and you're going to ask him
13 questions about what's contained in that document.

14 MS. SWANSON: If I can --

15 THE COURT: Solicitor, that's the way that I'm
16 going to do it.

17 MS. SWANSON: I apologize.

18 THE COURT: If we do that, it's not uncommon in a
19 civil trial. We'll make it a Court's exhibit. But if
20 you don't want to show it to him, that's fine. You
21 don't have to.

22 MS. SWANSON: Yes, sir. We had agreed prior to
23 trial that we would be using copies --

24 THE COURT: Excuse me. Excuse me.

25 MS. SWANSON: I'm sorry. I apologize.

EXAMINATION OF MAGNUM SMALLS

1 THE COURT: That's no problem. We're going to
2 mark that Court's Exhibit No. 1, I think. Is that
3 correct?

4 MS. SWANSON: Thank you, Your Honor.

5 THE COURT: Let me just state on the record what
6 that is.

7 *(Whereupon, Court's Exhibit No(s). 1 marked for*
8 *identification.)*

9 THE COURT: Can I borrow it from you just a
10 second?

11 MS. SWANSON: Yes, sir.

12 THE COURT: Ladies and gentlemen, what is now
13 Court's Exhibit No. 1, it's called deposition. And
14 this deposition was taken pursuant to the law, and it
15 was taken on January 15th, 2013, commencing about 2:00.
16 Court's -- now Court's Exhibit No. 1.

17 It's not uncommon in trials for there -- for a
18 jury to hear testimony which is deposition testimony,
19 and that's simply a term used to describe testimony
20 taken at a place other than this courtroom. When you
21 deliberate, you consider deposition testimony the same
22 as live testimony. You'll evaluate and assess that
23 testimony ultimately when you're instructed to begin
24 your deliberations.

25 In fact, if it deals with deposition or testimony

EXAMINATION OF MAGNUM SMALLS

1 taken outside -- it shouldn't enter your discussion.

2 It's still appropriate for you to consider that.

3 Thank you, Solicitor. You may continue.

4 MS. SWANSON: Thank Your Honor.

5 BY MS. SWANSON:

6 Q Okay. Mr. Smalls, we're just going to look at
7 Page 66 of your deposition.

8 THE COURT: Line what?

9 BY MS. SWANSON:

10 Q Line four, when you were asked, What happened to
11 Dante's gun? Can you please read your answer?

12 A Highlighted?

13 Q Yes, sir.

14 A No one ever saw him with a gun prior to that
15 until --

16 Q I'm sorry?

17 THE COURT: Speak up louder.

18 Q Right -- right here, What happened to Dante's gun,
19 and then your answer?

20 A The white guy, Opie, had it.

21 Q Okay. But you never saw him shoot a gun, and what
22 was your answer?

23 A No, I never -- no, I never -- never saw him with a
24 gun prior to that until -- until, you know, when he was
25 trying to get, get Cole up to get him in the car. That's

EXAMINATION OF MAGNUM SMALLS

1 when he had Cole's gun.

2 Q Okay. Thank you, sir. And do you recall that?

3 A Yes.

4 Q Does that sound right?

5 A Yes.

6 Q Does that sound like your words?

7 A Yes.

8 MS. SWANSON: MS. SWANSON: That's all I have.

9 Thank you, Your Honor.

10 THE COURT: Okay. Cross-examine?

11 MS. CAMPBELL: May it please the Court.

12 THE COURT: Yes.

13 CROSS EXAMINATION

14 BY MS. CAMPBELL:

15 Q Mr. Smalls, you've actually given a couple of
16 different statements in this case, haven't you?

17 A Well, it was --

18 Q Where you --

19 A It was a lot to remember and to recall all that
20 happened that night. This was two, almost three years ago.

21 Q I understand. And you were interviewed by law
22 enforcement, correct?

23 A Yes, I was.

24 Q And then you were sworn to tell the truth when you
25 were deposed, correct?

EXAMINATION OF MAGNUM SMALLS

1 you to your deposition, I will, that you just kind of heard
2 a lot of shots, right?

3 A Yes.

4 Q And you don't remember a break in the shots,
5 right?

6 A No, not until they stopped completely.

7 Q But you've also -- but, you know, you actually saw
8 the first shot go off, and that was Mikey Morgan, right?

9 A Right.

10 Q Okay. And that was him firing his flare gun?

11 A Yes.

12 Q So, that's one shot right there?

13 A Right.

14 Q And then you saw Lewis Melvin Johnson, Dolla,
15 shooting out the side door of the club, right?

16 A Yes.

17 Q Okay. So that's two. And they're not firing at
18 the same time, right?

19 A Right.

20 Q Okay. So, it's the flare gun, and then Dolla, and
21 then Lucas firing, correct?

22 A Correct.

23 Q Okay. And then I think also you would say that
24 you saw Arthur Chaplin firing his gun across the parking
25 lot, right?

EXAMINATION OF MAGNUM SMALLS

1 A Correct.

2 Q Okay. Would it also be fair to say that you saw
3 Joseph Bowers trying to assist Cole while Cole was on the
4 ground and had been shot?

5 A Yes.

6 Q Now, you, I guess, would also agree with me that
7 you saw people with guns that night, at that Midnight Soul
8 Patrol?

9 A (Nods in the affirmative.)

10 Q And the people that you saw were Arthur Chaplin?

11 A Yes.

12 Q Also known as Krum?

13 A Correct.

14 Q Okay. Dante Bailey?

15 A Yes.

16 Q Also known as Cole?

17 A Yes.

18 Q And these are the two gentlemen that you say were
19 in a little verbal altercation over something?

20 A Yes.

21 Q How about, didn't you see Derrick Grant with a gun
22 that night?

23 A Yes, I did.

24 Q And is that the man you say kind of separated
25 those two?

EXAMINATION OF MAGNUM SMALLS

- 1 A Yes.
- 2 Q And you saw Terry Thornton with a gun that night,
- 3 T Dog?
- 4 A Yes.
- 5 Q And, of course, you -- we established that you saw
- 6 Lucas Morgan with a gun?
- 7 A Correct.
- 8 Q And you saw Mikey with a gun?
- 9 A Correct.
- 10 Q And you saw Dolla, Lucas Melvin Johnson, with a
- 11 gun?
- 12 A Correct.
- 13 Q And you also saw Stanley Humphries, the other
- 14 white fellow, with a gun, didn't you?
- 15 A Yes.
- 16 Q And you saw Kantrell Rivers with his rifle, right?
- 17 A But this was after all the shooting had already
- 18 stopped. He went home and came back with his rifle.
- 19 Q Okay. Would it also be fair to say that Mikey,
- 20 after he shot the first round, and Lucas shooting, Mikey's
- 21 on Ms. Poot's porch; is that right?
- 22 A Yes.
- 23 Q And reloading his flare gun probably?
- 24 A Correct.
- 25 Q Uh-huh. And then Mikey fell, right?

EXAMINATION OF MAGNUM SMALLS

1 A On his way coming back off of Ms. Poot's porch.

2 Q Coming off the porch he fell?

3 A Yes.

4 Q Correct. And that was just after Arthur Chaplin
5 and Lucas Morgan were firing, correct?

6 A Correct.

7 MS. CAMPBELL: I think that's all I have.

8 THE COURT: Okay. Redirect, Solicitor?

9 MS. SWANSON: Just briefly.

10 THE COURT: Sure.

11 REDIRECT EXAMINATION

12 BY MS. SWANSON:

13 Q What -- what direction were Arthur Chaplin and
14 Lucas Morgan firing?

15 A Into the parking lot.

16 Q Into the parking lot area?

17 A Yes.

18 Q So, not where Mikey was standing?

19 A No.

20 Q Okay. And you actually saw Cole's semi automatic
21 gun in Opie's hand?

22 A Yes.

23 Q Standing over him?

24 A Yes.

25 Q Thank you.

EXAMINATION OF ADAM ZSAMAR

1 seen.

2 Then we go about marking those items with
3 little triangular placards with numbers on them, just to
4 designate them with a specific number.

5 Q And so is this a diagram of where each of those
6 placards were?

7 A Yes.

8 Q And it notes where you found each item?

9 A Correct.

10 Q And is that a key on the right-hand side?

11 A It is. It's an item with a placard number along
12 with a brief description of what the item is.

13 Q Okay. And we're going to -- you can go have a
14 seat.

15 We're going to go through these items. But
16 we can -- we can again refer to this.

17 A Okay.

18 Q I'll leave that right here.

19 Let's start with State's 3. And if you can
20 please tell me what this item is.

21 A This is the Glock firearm located by Deputy Paul.

22 Q Okay. The Glock firearm located by Deputy Paul,
23 and that is placard two?

24 A Correct.

25 Q Okay. Where was that found?

EXAMINATION OF ADAM ZSAMAR

1 A It was located on the wood line of the parking
2 lot.

3 Q All right. And you took possession of that
4 from --

5 A I did. Deputy Paul signed it over to my custody,
6 yes.

7 Q Okay. State's 4, if you can tell us what that is,
8 where you got it, and where it was found?

9 A This is the flare gun. It was located -- trying
10 to find it on my list.

11 It's marked item No. 19. It was found by the
12 steps of Ms. Thelma Wilson's house, the back steps.

13 Q Okay. What else was located by the back steps of
14 Ms. Wilson's house?

15 A Some clothing items.

16 Q Okay.

17 A There was a ball cap and a shirt. And I believe,
18 possibly a -- I believe flare cartridge, the live cartridge.

19 Q Okay. And I'm going to show you what's been
20 marked as Exhibit 51 and ask for you to describe what's in
21 that picture.

22 A In this picture, these are the back steps of
23 Ms. Thelma Wilson's house, and there are the placards 17 and
24 18. Seventeen is a marking of a pool of blood, and 18 would
25 mark where the flare cartridge was located by Deputy Paul.

EXAMINATION OF ADAM ZSAMAR

1 Q Okay. And when you say flare cartridge, that's
2 the undischarged flare?

3 A Correct.

4 Q Okay. Is this a fair and accurate depiction of
5 placard 17 and 18?

6 A It is.

7 MS. SWANSON: State moves 51 into evidence.

8 THE COURT: Any objection?

9 MS. CAMPBELL: No.

10 THE COURT: Without objection, State's 51 is
11 admitted.

12 *(Whereupon, State's Exhibit No(s). 51 marked for*
13 *identification and received in evidence.)*

14 BY MS. SWANSON:

15 Q And can you identify 31, please?

16 A This is the Orion red flare cartridge.

17 Q Okay. And so that was placard number --

18 A No. 18.

19 Q Eighteen, by the pool of blood?

20 A Yes.

21 Q And you received that from Deputy Paul?

22 A Correct. He secured that.

23 Q Okay. And then the State's 30?

24 A This is the discharge cartridge from the flare
25 gun.

EXAMINATION OF ADAM ZSAMAR

1 Q Where did -- where was that found?

2 A That is placard number -- No. 9.

3 Q Okay. And who did you receive that from?

4 A Again, Deputy Paul.

5 Q All right. Thank you.

6 All right. While we're in that same area
7 behind Ms. Poot's house, I'm going to show you State's 49
8 and 50, and ask that you identify these, please.

9 A These are pictures taken of the scene. If one
10 were standing by the club or between the club and the large
11 oak tree, or Ms. Thelma Wilson's house, facing the propane
12 tank area.

13 Q Is that a fair and -- are those both fair and
14 accurate depictions of how this scene appeared?

15 A Yes.

16 Q And were those photographs taken when y'all were
17 processing the scene?

18 A They were. They're photographs of all the various
19 placards that located evidence.

20 MS. SWANSON: Thank you.

21 The State moves 49 and 50 into evidence.

22 MS. CAMPBELL: No objection.

23 THE COURT: Without objection, State's 49 and 50
24 are admitted.

25 *(Whereupon, State's Exhibit No(s). 49 marked for*

EXAMINATION OF ADAM ZSAMAR

1 *identification and received in evidence.)*

2 *(Whereupon, State's Exhibit No(s). 50 marked for*

3 *identification and received in evidence.)*

4 BY MS. SWANSON:

5 Q Thank you. I'm going to put State's 49 up.

6 Since we were just talking about the back
7 steps to Ms. Poot's house, let's talk about what else was
8 found in this area. I think we've covered the stairs.

9 A Yes.

10 Q What else was found in this area?

11 A Numerous spent bullet casings. Specifically, Wynn
12 nine millimeter Luger. Those would have been tags 10, 11,
13 12, 13 -- 14 and 15 are in view, but they're kind of in the
14 glare. You can't see them, along with 16 as well.

15 Placard No. 9, you can see where the one
16 cartridge was spent, Orion flare cartridge was found.

17 Q Okay. And you said those were Wynn nine
18 millimeter Luger casings?

19 A Yes.

20 Q Okay. I'm going to publish State's 50 now. Is
21 this a more complete view of where those Wynn nine
22 millimeter casings were found?

23 A Yes. Because it also includes placards 5, 6, and
24 7, which are in view. Those are also Wynn nine millimeter
25 Luger rounds, or casings.

EXAMINATION OF ADAM ZSAMAR

1 Q Okay. And can you explain to the jury what a
2 shell casing is?

3 A It's generally a metallic cartridge that contains
4 the gunpowder, and along with the bullet, before it's
5 expelled out of the firearm. And generally it's the semi
6 automatic firearm that's expelled out of the gun upon
7 discharging.

8 Q Okay. And just in your experience in dealing with
9 firearms, how far is it expelled?

10 A Not very far, except for the semi automatic.
11 Depending on the surface of the ground, it'll expel around
12 the area where the person was shooting.

13 Q Okay. And probably obvious, but can you tell us
14 what -- what kind of ground cover was here?

15 A Dirt and grass.

16 Q Okay. Were all of the nine millimeter shell
17 casings found in the same general area?

18 A The Wynn nine millimeter Luger --

19 Q The Wynn.

20 A -- were found in this general area by the propane
21 tank.

22 Q Okay. I'm going to show you what's been marked as
23 State's 18, 19, 20, 21, 22, 23, 24, 25, 26, and 27. These
24 are all labeled as Wynn nine millimeter Luger casings. If
25 you can please tell the jury if these are all casings that

EXAMINATION OF ADAM ZSAMAR

1 you collected from this area, and how you noted where you
2 found those casings.

3 A These are all items located in that general -- in
4 that area. They are noted -- one noted location of the
5 Toomer Road and Midnight Soul Patrol. Along with marking
6 the top left corner a P with a dash and a placard number.
7 For instance, on the bag it will say P-5, indicating placard
8 No. 5 is where the location would have been.

9 Q And so that corresponds with your diagram?

10 A Correct.

11 Q Okay. And can you just show the jury where on the
12 bag that is?

13 A I'm sorry. Top left corner, just underneath the
14 red tape.

15 Q Okay. Are there a -- are there a lot of different
16 numbers on those bags?

17 A Yes.

18 Q Okay. And so these are all ones that you
19 collected. And what did you do once you collected them?

20 A Upon collecting them I submitted it -- submitted
21 them to our evidence division.

22 Q Okay. And who did you submit them to?

23 A Jennifer Snyder.

24 Q And did you also submit the flare gun, the Glock,
25 and the discharged and undischarged flare at the same time?

EXAMINATION OF ADAM ZSAMAR

1 A Yes. All items of evidence were submitted into
2 evidence.

3 Q Okay. To Ms. Snyder?

4 A Yes.

5 Q All right.

6 All right. Let's talk about the parking lot
7 area. I'm going to show you what's been marked as State's
8 48 and ask that you describe this picture.

9 A This is a picture taken if one was standing in the
10 dirt parking lot facing the club.

11 Q Okay. Is that a fair and accurate depiction of
12 what you saw when you arrived at the scene?

13 A It does. And also notes the placards that we set
14 down marking pieces of evidence.

15 MS. SWANSON: Okay.

16 At this time, State moves 48 into evidence.

17 MS. CAMPBELL: No objection.

18 THE COURT: Without objection, State's 48 is
19 admitted.

20 MS. SWANSON: Thank you.

21 *(Whereupon, State's Exhibit No(s). 48 marked for*
22 *identification and received in evidence.)*

23 BY MS. SWANSON:

24 Q And. Let's talk about what you found in the
25 parking lot area.

EXAMINATION OF ADAM ZSAMAR

1 A All those placards indicate additional shell
2 casings that were located. All the shell casings located in
3 the parking lot were Sphere nine millimeter brand.

4 Q Okay. And were they all clustered in one area?

5 A Yes, they were.

6 Q And is that noted on your diagram?

7 A It is.

8 Q Okay. And do the Sphere nine millimeter casings
9 appear any different than the Wynn nine millimeters?

10 A The only difference between the two, besides the
11 brand, the Wynn nine millimeters are brass casing; the
12 Sphere are silver in color.

13 Q Okay. I'm going to show you what's been marked as
14 State's 10, 11, 12, 13, 14, 15, 16, and 17. These are all
15 labeled as Sphere nine millimeter casings, and I'm going to
16 ask if these are the casings that you collected from the
17 parking lot area.

18 A They are.

19 Q Okay. And what did you do once you collected
20 those?

21 A They were submitted to evidence.

22 Q And who did you submit them to?

23 A They were all submitted to Jennifer Snyder. One
24 was submitted to temporary storage, which is a secured area
25 for evidence overnight, and Jennifer Snyder collected those

EXAMINATION OF ADAM ZSAMAR

1 items afterward.

2 Q Okay. And why was that?

3 A Because I found an additional casing, Sphere,
4 again in the dirt parking lot the day after. Sergeant
5 Wilson and I went back out just to go over the scene one
6 more time. We found an additional shell casing.

7 Q Okay. You guys went out there to make sure you
8 got everything?

9 A Yes, and I believe we also made contact with a
10 witness that day as well.

11 Q Okay. I'm going to show you State's 52 and ask
12 that you identify that, please.

13 A This is a picture of the dirt parking lot. Again,
14 with items of evidence marked with placards.

15 Q All right. Is that how it looked that -- when you
16 were conducting your investigation?

17 A Yes, it was.

18 Q Okay.

19 MS. SWANSON: State moves 52 into evidence.

20 THE COURT: Any objection?

21 MS. CAMPBELL: No.

22 THE COURT: Without objection, State's 52 is
23 admitted.

24 *(Whereupon, State's Exhibit No(s). 52 marked for*
25 *identification and received in evidence.)*

EXAMINATION OF ADAM ZSAMAR

1 BY MS. SWANSON:

2 Q Okay. And these are just additional placards a
3 little bit closer in to the parking lot. And what exactly
4 do those depict, Investigator?

5 A Item No. 1 depicts a Sphere nine millimeter casing
6 found. Twenty-one, again, is another casing, Sphere nine
7 millimeter, and 22 is another Sphere nine millimeter casing.

8 Q Okay. Did you -- did you recover anything from
9 any cars in that parking lot that night?

10 A Yes. I recovered a spent projectile from Joe
11 Pope's vehicle.

12 Q All right. I'll hand you what's been marked as
13 State's 32 and ask if that's the projectile that you
14 recovered?

15 A Yes, it is.

16 Q Okay. And what did you do with it once you
17 recovered it?

18 A It was submitted into evidence.

19 Q All right. To Jennifer Snyder?

20 A Yes.

21 Q Okay. Was that the only projectile that you
22 recovered from a car?

23 A No. The day after, when we went back to go over
24 the scene again, we made contact with a witness. A Shana
25 Green made contact with us and informed us her vehicle was

EXAMINATION OF ADAM ZSAMAR

1 struck with a bullet.

2 Q And were you able to recover a bullet from her
3 vehicle?

4 A A bullet -- we pulled a bullet fragment from her
5 front right headlight.

6 Q Okay. I'm going to show you what's been marked as
7 State's 33, and ask for you to identify that.

8 A Yes. This is the fragment, bullet fragment we
9 pulled from her vehicle..

10 Q And once you recovered it, what did you do with
11 it?

12 A Evidence again.

13 Q To Jennifer Snyder?

14 A Yes, ma'am.

15 Q Thank you.

16 Okay. After you recovered all of the
17 physical evidence from the scene, what was the next step in
18 the investigation?

19 A We interviewed as many people as possible. I also
20 forgot to mention, the night of the incident, my first
21 interview was with Joe Pope. Then we went on collecting
22 evidence at the crime scene, and then through the
23 investigation, in speaking with witnesses, we were able to
24 identify numerous people who were at the scene. Attempted
25 to make contact with them for to interview them.

EXAMINATION OF ADAM ZSAMAR

1 Q Okay. About how many people would you say you
2 interviewed or were interviewed as a part of the
3 investigation?

4 A As a total, as part of the investigation, just
5 under 80 people were interviewed.

6 Q Okay. And most of those people were there that
7 night?

8 A Yes.

9 Q How many were able to -- about how many were able
10 to provide you useful details in the investigation?

11 A A very small percentage.

12 Q As a part of your investigation were you able to
13 have an ATF trace run on the Glock that was recovered?

14 A Yes. The ATF trace revealed that it was
15 registered to Dante Bailey.

16 Q At some point did you obtain a search warrant for
17 Lucas Morgan's residence?

18 A Yes. I believe it was either the day of the
19 incident or the day after.

20 Q And did you, in fact, execute that search warrant?

21 A Yes.

22 Q And what did you find?

23 A We found a small revolver, .22 caliber. We also
24 found two boxes of ammunition on the roof of his house.

25 Q What kind of ammunition?

EXAMINATION OF ADAM ZSAMAR

1 A One was nine millimeter ammunition. I believe the
2 other type was Federal.

3 Q Okay. And so the Wynn nine millimeter that was
4 found on the roof of this house, is that the same type that
5 was recovered around the propane tank area of the scene?

6 A Yes, it was. It was the same brand, Wynn, the
7 same caliber, nine millimeter Luger, and it was the same
8 brass color.

9 Q Okay. How long did this entire investigation
10 last?

11 A I believe I interviewed the last person, or spoke
12 with the last person, February of this year.

13 Q Okay. And so in total?

14 A Almost two years.

15 Q All right. How many suspects did you have at the
16 end of the night on June 21st?

17 A Two.

18 Q And at the end of the investigation, close to two
19 years later, who did you have?

20 A Two suspects.

21 Q And who were those suspects?

22 A Lucas Morgan and Joseph Opie Bowers.

23 Q Based on your investigation, do you believe that
24 those two suspects were the primary shooters?

25 MS. CAMPBELL: Objection, Your Honor.

EXAMINATION OF ANDREW RICE

1 A This is the actual club, the Midnight Soul Patrol.
2 This is the road in front, Toomer Road. Old Ben Road, where
3 I was earlier with that vehicle, would come out in this
4 area. The inside portion of the club is a legend which
5 describes the stars and the items that are within.

6 The stars are actually pieces of evidence
7 that were collected, either projectiles or shell casings,
8 spent shell casings. And the circular objects are small
9 tables or lounge tables, where people were inside of the
10 club that night.

11 There's a kitchen area here in the back, some
12 bathrooms in the middle, the pool table, and the DJ booth.

13 Now, this is the front door, but this is the
14 door that's most commonly used that seemed to be the main
15 entrance and exit on the side, near the DJ booth.

16 Q What do these long lines depict?

17 A The long lines depict the trajectory at that time,
18 where we believe were projectiles or bullets that entered
19 the club. As you can tell, like one came through the front
20 door, it lodged inside the ceiling fan. There were some
21 that came into the club, fell on the floor. Some were stuck
22 in the wall. There was also one that traveled all the way
23 through and kept going, and was unable to be recovered.

24 Q Okay. And to the best of your ability, were you
25 able to determine what direction they were coming from?

EXAMINATION OF ANDREW RICE

1 A Yes, ma'am. I believe that they were coming from
2 this direction in, based on the damage it caused to the
3 building, as you can see to the entrance and the exits.

4 Q Okay. And as we're looking at the scene, what is
5 located to the right of the Poot shop?

6 A To the right over here is a parking area. It's a
7 dirt parking lot where the majority of the patrons that
8 arrived in vehicles parked that evening.

9 Q Okay. You can have a seat, Investigator. Thank
10 you.

11 All right. I'm going to show you items that
12 have been marked State's Exhibit 5, 7, 8, and 9, and ask
13 that you identify these items, please.

14 A Yes, ma'am. Exhibit No. 5 is a projectile that I
15 collected there from the club. I initialed the back.

16 Exhibit No. 7 is also a projectile that was
17 collected from the club.

18 No. 8, Exhibit 8, is a projectile that was
19 collected from the club.

20 And Exhibit 9 was also a projectile.

21 Q Okay. And did you note where you found those
22 projectiles on those brown paper bags?

23 A Yes, ma'am, I did. I labeled them by numbers
24 corresponding with the legend as on that sketch.

25 Q Okay. And where did you label them? Can you just

EXAMINATION OF ANDREW RICE

1 show the jury for me?

2 A I labeled them on the description portion of the
3 bag.

4 Q Okay. And what did you do with those projectiles
5 once you sealed them up?

6 A I submitted them to our evidence section, to
7 Jennifer Snyder.

8 Q Okay.

9 Okay. Let's stay on the inside. I'm going
10 to show you three pictures, State's 57, 58, and 59 and ask
11 for you to identify these.

12 A Yes, ma'am. These are photographs from the
13 interior portion of the club. Number 57 is a picture of a
14 trajectory rod as it tries to show the way the projectile
15 came through the wall.

16 Number 1, or Exhibit No. 58, shows a
17 projectile recovered from the floor of the interior portion
18 of the club. And then No. 59 is actually the ceiling fan,
19 where it shows where the projectile entered the fan.

20 Q Okay. Are these all fair and accurate depictions
21 of the way the scene was processed that night and how it
22 appeared?

23 A Yes, ma'am.

24 MS. SWANSON: State moves 57, 58, and 59 into
25 evidence.

EXAMINATION OF ANDREW RICE

1 MS. CAMPBELL: No objection.

2 THE COURT: Without objection, 57, 58, and 59 were
3 admitted.

4 *(Whereupon, State's Exhibit No(s). 57 marked for*
5 *identification and received in evidence.)*

6 *(Whereupon, State's Exhibit No(s). 58 marked for*
7 *identification and received in evidence.)*

8 *(Whereupon, State's Exhibit No(s). 59 marked for*
9 *identification and received in evidence.)*

10 BY MS. SWANSON:

11 Q Okay. So, I'm just going to publish 57. And
12 we're looking at -- that's the DJ booth?

13 A Yes, ma'am.

14 Q Okay. And tell us what the orange thing is.

15 A The orange object is what's called a trajectory
16 rod. When we work a shooting scene, sometimes different
17 areas, it helps to get an overall picture. And we use the
18 rods to show the way the projectile came through the wall,
19 be a bullet, since it was a bullet that came through the
20 wall. It kind of shows you the path that that bullet took,
21 where it came from.

22 Q Okay. And then 58, where is this?

23 A That's also there. It's right behind the DJ booth
24 on the floor. It is a projectile that came through and
25 landed on the floor.

EXAMINATION OF ANDREW RICE

1 Q Okay. And 59, I think I put the sticker on upside
2 down.

3 A Fifty-nine is the ceiling fan. The round that
4 came through the front door and lodged inside of the ceiling
5 fan. We had to take the ceiling fan apart to get the --
6 recover the projectile.

7 Q Okay. Did you also process or examine the outside
8 of the club?

9 A Yes, ma'am, I did.

10 Q All right. I'm going to show you State's 53 and
11 ask if that's a fair and accurate depiction of --

12 A It is.

13 Q -- the club. Okay.

14 MS. SWANSON: Move 53 into evidence, please?

15 MS. CAMPBELL: No objection.

16 THE COURT: Without objection, 53 is admitted.

17 *(Whereupon, State's Exhibit No(s). 53 marked for*
18 *identification and received in evidence.)*

19 BY MS. SWANSON:

20 Q Okay. I'm going to put this up, and if you can
21 please describe what we're are looking at in this picture.

22 A This is the front side of the club. You're
23 looking at the large parking area where the majority of the
24 patrons entered. And it's the -- the northern facing side
25 of the building where the trajectory rods are placed on the

EXAMINATION OF ANDREW RICE

1 building, and it shows the path of the bullets that struck
2 the building.

3 Q All right. And State's 56, is this a fair and
4 accurate depiction of the door of the club?

5 A Yes, ma'am.

6 MS. SWANSON: Move 56 into evidence.

7 MS. CAMPBELL: No objection.

8 THE COURT: Without objection, 56 is admitted.

9 *(Whereupon, State's Exhibit No(s). 56 marked for*
10 *identification and received in evidence.)*

11 BY MS. SWANSON:

12 Q All right. So, what -- what door is this?

13 A This is the front door for that northern facing
14 wall of the -- of the Midnight Soul Patrol, and this is the
15 trajectory rod that shows the way the bullet entered the
16 door.

17 Q Okay.

18 After you were finished processing the HHR
19 scene and then the scene at the Midnight Soul Patrol, what
20 other involvement did you have in the case?

21 A While we were there processing the parking lot
22 area, there was some broken glass. It was obviously auto
23 glass. Based on some interviews by other investigators that
24 had happened we determined that Stanley Humphries, or Hump,
25 had been at the establishment location that evening with

EXAMINATION OF ANDREW RICE

1 some other people and his window had been shot out. So I
2 left from there and went to search for Mr. Humphries.

3 Q Okay. Did you make contact with Mr. Humphries?

4 A I did. I was able to find him in the city of
5 Beaufort at 1117 Old Trail Road, which is his mother's
6 house.

7 Q And did you locate his car?

8 A I did. It was parked out front. Just as we had
9 heard, the side window, the passenger side rear window, had
10 been broken out.

11 Q Okay. And did you collect a GSR kit from
12 Mr. Humphries or his car?

13 A I did. I collected Mr. Humphries' clothing that
14 he had worn to the establishment earlier, the Midnight Soul
15 Patrol earlier. I processed the interior portion of the
16 car. I used a GSR kit on the vehicle itself, or gunshot
17 residue kit, to try and collect any evidence of gunshot
18 residue from within the vehicle.

19 Q Okay. I'm going to hand you what's been marked as
20 State's 34 and ask you to identify this package, please.

21 A It's the orange shirt and the khaki pants that I
22 collected from Mr. Humphries that morning.

23 Q Okay. And then that was the clothing that he was
24 wearing that night?

25 A Yes, ma'am.

EXAMINATION OF ANDREW RICE

1 Q Okay. And what did you do with that clothing?

2 A I submitted it to evidence, our evidence section
3 at the Sheriff's Office, to Jennifer Snyder.

4 Q All right.

5 MS. SWANSON: Beg the Court's indulgence?

6 THE COURT: Yes, ma'am.

7 MS. SWANSON: I think that's all that I have for
8 you at this time. Thank you.

9 THE WITNESS: Thank you.

10 THE COURT: You may cross examination.

11 MS. CAMPBELL: Just a couple of questions.

12 THE COURT: Sure.

13 CROSS EXAMINATION

14 BY MS. CAMPBELL:

15 Q Investigator Rice, the clothes that Stanley
16 Humphries gave you are just that, they're what he gave you,
17 correct? You weren't at the Midnight Soul Patrol, right?

18 A I wasn't there. Those are the clothes that he
19 gave me, right.

20 Q So, you don't know if those were the clothes he
21 was wearing at the Midnight Soul Patrol the night when the
22 shooting took place?

23 A No, ma'am, other than what he told me.

24 Q Okay. And your diagram that you did, you have
25 starred 3, 4, and 5, correct?

EXAMINATION OF ANDREW RICE

1 A Yes, ma'am.

2 Q You don't need to come down.

3 A Okay.

4 Q And those are shell casings, correct?

5 A I believe so.

6 Q And were they submitted into evidence?

7 A Yes, ma'am, they were.

8 Q Okay. And based on your experience, shell casings
9 being in that location would indicate someone had fired a
10 gun by the side door, correct?

11 A Yes, ma'am.

12 MS. CAMPBELL: That's all that I have.

13 THE COURT: Redirect?

14 MS. SWANSON: No, sir.

15 THE COURT: You may come down.

16 WITNESS: Thank you, Your Honor.

17 THE COURT: All right. At this point, ladies and
18 gentlemen, let's take a recess for about ten, 15
19 minutes. Do not begin your deliberations or discuss
20 the case. Thank you.

21 THE BAILIFF: The jury is clear, Your Honor.

22 THE COURT: Thank you.

23 Anything from the State before recessing?

24 MS. SWANSON: No, sir.

25 THE COURT: Anything from the Defendant?

EXAMINATION OF JEREMIAH FRASER

1 Q Okay. And then who did you talk to next?

2 A I spoke to Michael Morgan next.

3 MS. CAMPBELL: Objection, Your Honor.

4 THE COURT: What's the objection? He said he
5 spoke to him. Overrule objection.

6 MS. CAMPBELL: Thank you.

7 BY MS. SWANSON:

8 Q And what was Mr. Morgan's physical condition like
9 when you spoke to him?

10 A I observed that he had been shot in the pelvis
11 area. It appeared to me, at the time, that there was two
12 puncture wounds, one in his buttock and one in his -- right
13 beside his genitals. He was in obvious pain. He was
14 conscious, he was able to answer questions, but he was
15 having a hard time.

16 Q Okay. And how many times did you talk to him?

17 A Twice.

18 Q And was he able to provide you with a name of who
19 shot him?

20 A He was.

21 MS. CAMPBELL: Objection, Your Honor.

22 THE COURT: I'll allow him to testify to that
23 portion. It's not hearsay. So thank you.

24 MS. SWANSON: Thank you.

25 BY MS. SWANSON:

EXAMINATION OF JEREMIAH FRASER

1 Q And did you relay that name to Investigator
2 Zsamar?

3 A I did. Yes, ma'am.

4 Q Okay. Did you interview Robert Goodwine?

5 A I did.

6 Q Okay. And what was his condition?

7 A Robert Goodwine had been shot, I believe it was in
8 the -- it was in the calf. I believe it was his left leg.
9 Let me refer to my notes real quick.

10 Q Yes, sir.

11 A Yep, it was his left calf. I'm sorry. It
12 appeared to me to be a through and through shot, entering
13 one side and exiting the other.

14 Q Okay. Do you recall if all of the gunshot wounds
15 were what you just termed through and through shots?

16 A From what I understand, all of them were through
17 and through shots, yes.

18 Q Okay. And what does that mean?

19 A What it essentially means is that somebody was
20 struck by a projectile. The projectile passed completely
21 through the body. It wasn't stopped by bone, muscle,
22 tissue, things of that nature. It exited out.

23 Q And so there was no projectile stuck in any of
24 these victims?

25 A That's correct. They were all -- they were all

EXAMINATION OF JEREMIAH FRASER

1 penetrated all the way through, yes.

2 Q Okay. After you got the information from the
3 hospital, what did you do next?

4 A We returned to the investigations office to
5 debrief and to determine what our next course of action was
6 going to be. I made contact with the investigators that
7 were still on scene. It was quite an extensive scene,
8 several of them were out there.

9 I relayed the information that I had learned
10 from the interviews at the hospital. And that -- that's
11 where I got a phone call that one of the people wanted to
12 talk to me.

13 Q Okay. And who wanted to talk to you?

14 A Lucas Morgan called in and asked to speak with me.

15 Q And did you speak with him?

16 A I did.

17 Q All right. And did you collect GSR from him?

18 A I did. Yes, ma'am.

19 Q And did you collect a buccal swab from him?

20 A I did. Yes, ma'am.

21 Q Okay. How many times did you talk to Mr. Morgan?

22 A I talked to Lucas Morgan two times.

23 Q Did he know who shot his brother, Michael?

24 MS. CAMPBELL: Objection, Your Honor. Hearsay.

25 THE COURT: I'll allow him to answer the question,

EXAMINATION OF JEREMIAH FRASER

1 did he know who shot his brother.

2 A Yes, he did.

3 BY MS. SWANSON:

4 Q And did you relay that information to Investigator
5 Zsamar?

6 A Yes, I did.

7 Q In fact, during your second interview with Lucas
8 Morgan, was Investigator Zsamar present?

9 A He was. We conducted the second interview
10 together, yes.

11 Q Okay. And at some point did you come into contact
12 with Joey Bowers?

13 A I did, the same day.

14 Q Okay. And can you describe that for you us,
15 please?

16 A We located Joey Bowers on Delamo Road near where
17 he lived. He was taken into custody and brought to the
18 investigations office for an interview.

19 Q Okay. I'm going to show you what's been marked as
20 State's Exhibit 1 and ask that you identify this form,
21 please.

22 A This is the Miranda form that I utilized to give
23 Joseph Bowers his Miranda rights.

24 Q All right. Can you go over that form, just the
25 way you did with Mr. Bowers, I believe it was that morning?

EXAMINATION OF JEREMIAH FRASER

1 A Yes, ma'am.

2 Q Okay. And Mr. Bowers understood all of his
3 rights?

4 A Yes, ma'am.

5 Q Never asked for an attorney?

6 A No, ma'am.

7 Q Okay. Thank you.

8 MS. SWANSON: State moves No. 2 into evidence.

9 THE COURT: Any objection?

10 MS. CAMPBELL: No objection.

11 THE COURT: Without objection, State's 2 is
12 admitted.

13 *(Whereupon, State's Exhibit No(s). 2 marked for*
14 *identification and received in evidence.)*

15 BY MS. SWANSON:

16 Q What did Joey tell you the second time?

17 A The second time, once we were at -- once I began
18 the interview -- I'm trying to flip through my notes, excuse
19 me.

20 Q Sure. Take your time.

21 A The second time he added who he had gone out to
22 the club with. He started naming the people that were there
23 with him, and he identified who was shooting. He said that
24 it was not him that was shooting, it was T Dog that was
25 shooting, and T Dog would be Terry Thornton.

EXAMINATION OF JEREMIAH FRASER

1 Q And are you familiar with Terry Thornton?

2 A I am. He's a black male from St. Helena Island.

3 Q Okay. Did you -- did you talk to Terry Thornton
4 as a result of the investigation?

5 A We did. Yes, ma'am.

6 Q Okay. Did you ever arrest Terry Thornton?

7 A No, we did not.

8 Q When Joseph Bowers was at the investigations
9 office, did you collect anything from him?

10 A I believe we collected GSR kits as well as
11 clothing.

12 Q Okay. I'm going to show you what's been marked as
13 State's 29 and ask that you identify this item, please.

14 A Yes, ma'am. This is a gunshot residue kit for
15 Joseph Bowers.

16 Q Okay. And that's the kit that you sealed up?

17 A Yes, ma'am.

18 Q And what did you do once you sealed it up?

19 A Turned it into evidence.

20 Q Okay. Can you describe for the jury how you
21 obtain GSR and -- and just, what is GSR? What does that
22 stand for?

23 A GSR is gunshot residue. Gunshot residue is -- I'm
24 not a scientist, but it's the particles that leave the
25 chamber of a gun when a gun is fired. You collect that by

EXAMINATION OF JEREMIAH FRASER

1 Q Okay. And Unit D-10 puts out, possible second
2 shooter, Joey Chaplin?

3 A Followed by Opie, white male from Tom Fripp.

4 Q I get the overlay of white male, Tom Fripp, over
5 Joey Chaplin. I mean, I get that. But what I'm asking you
6 is, are you not D-10, and did you not put out, possible
7 second shooter, Joey Chaplin?

8 A I don't know that I did. Joey Chaplin is also
9 from the same general area of St. Helena. He is a shorter
10 black male. He's definitely not a white male that goes by
11 Opie.

12 Q So are you saying then that this Nicole Slaussen,
13 who works for dispatch, when you say Joey Bowers, she hears
14 Joey Chaplin, and so she's telling all of law enforcement
15 that night to be on the lookout for the wrong guy, it's not
16 your fault, it's her fault?

17 MS. SWANSON: Objection, Your Honor. There's no
18 way that he can know that.

19 THE COURT: Well, I'll allow him to answer the
20 question. He can explain it if we wants to.

21 THE WITNESS: Sure. Thank you, Judge.

22 I would -- I'll say that Joey -- Joey Bowers is
23 known predominantly by Opie, which is what's in this
24 CAP report along with Joe Chaplin.

25 Now, if I said Joey Chaplin or she recorded Joey

EXAMINATION OF JEFF VORTISCH

1 phone call relates to?

2 A When a person is processed into the facility, they
3 are assigned a unique identifying number. This same number
4 is then entered into the phone system, and it activates that
5 person's phone account in the phone system. When that
6 person wants to make a phone call the phone instructs them
7 to enter that five-digit number into the phone, and then the
8 person states their first and last name.

9 Q Okay. And did you turn over two discs of Joseph
10 Bowers' phone calls to Investigator Zsamar as a result of
11 being served those subpoenas?

12 A I did.

13 Q Okay. And are those recordings kept in the
14 regular course of business?

15 A They are.

16 Q Okay.

17 MS. SWANSON: Your Honor, at this time I'd like to
18 play a phone call from Mr. Bowers. I have the complete
19 phone call that I'd like to enter as Exhibit 39;
20 however, I'd like to just play a three-minute portion.

21 THE COURT: Is there any objection?

22 MS. CAMPBELL: Subject to some previous rulings,
23 Your Honor.

24 THE COURT: Very well. Subject to the objection
25 that has been argued and briefed and rulings entered in

EXAMINATION OF JEFF VORTISCH

1 the record in this proceeding, you may publish that
2 portion.

3 As I understand the disc contains other calls as
4 well, but you're not publishing those at this point.

5 MS. SWANSON: I made a copy that contains just
6 this phone call, but I'm only publishing a portion.

7 THE COURT: Okay. Let's -- we agree for purposes
8 of the record that we're publishing a portion, but the
9 disc does not reflect the response to the subpoena.
10 But you don't have any objection to having the original
11 disc in that has all the phone calls?

12 MS. CAMPBELL: Correct. As long as it's clear
13 that the only portion that's admitted into evidence is
14 the one section.

15 THE COURT: Yeah, that she's going to publish to
16 which you object.

17 MS. CAMPBELL: Okay.

18 THE COURT: But so that we're clear on the record,
19 you accept that this copy is a duplication of what's on
20 the original?

21 MS. CAMPBELL: I do. Yes, sir.

22 THE COURT: Okay.

23 MS. SWANSON: Thank Your Honor.

24 THE COURT: Has it been marked and entered into
25 the record as yet, that disc?

EXAMINATION OF JEFF VORTISCH

1 MS. SWANSON: Yes, sir. It's State's 39. And
2 I've got the portion on my computer so I'm going to
3 play it.

4 THE COURT: State's 39 is admitted subject to
5 objection of counsel.

6 MS. SWANSON: Thank you.

7 *(Whereupon, State's Exhibit No(s). 39 marked for*
8 *identification and received in evidence.)*

9 (Audio playing.)

10 MS. SWANSON: Thank you, Lieutenant Vortisch.
11 That's all I have for you.

12 THE COURT: Cross examination.

13 MS. CAMPBELL: Thank you, Your Honor.

14 CROSS EXAMINATION

15 BY MS. CAMPBELL:

16 Q Lieutenant Vortisch, good afternoon.

17 A Good afternoon.

18 Q You're the telecommunications guru at the
19 detention center, correct? You know all about phone calls
20 and how it all works, right?

21 A Okay. Yes, ma'am.

22 Q Yes, you do. You're in charge of it, aren't you?

23 A Yes, ma'am.

24 Q Okay. And, in fact, when -- when -- when I set up
25 calls from my office, like to an attorney, we establish that

1 A When he arrived he was shot on his back, his
2 abdomen. He was in a great deal of pain. He wasn't able to
3 move his lower extremity. He sustained a spinal cord
4 injury.

5 Q A spinal cord injury?

6 A That's correct.

7 Q Okay. And was this a through and through shot?

8 A Yes, ma'am.

9 Q Okay. And was he sent to another facility to
10 receive more treatment?

11 A Yes, ma'am.

12 Q Okay. Let's move on to Michael Morgan. What was
13 his condition when you first saw him?

14 A When he arrived he had been shot in his abdomen,
15 and it went through his abdomen as well. And he was --
16 initially he was talking, but eventually deteriorated, which
17 prompted a visit to the operating room in the hospital.

18 Q Okay. So, this condition deteriorated, and you
19 all took him to the OR?

20 A That's correct, ma'am.

21 Q And what did you find when he was opened up?

22 A What I was told by Dr. Crookes, the bullet had
23 perforated one of the main arteries in his extremities. He
24 had blood in his abdomen.

25 Q Okay. So, he was hemorrhaging internally?

1 A That's correct.

2 Q All right. And was he eventually transferred to
3 another facility?

4 A Yes, ma'am. He was transferred from the operating
5 room to Medical University.

6 Q Okay. Was he actually life flighted to the
7 Medical University?

8 A That's correct, ma'am.

9 Q Robert Goodwine, what was his condition?

10 A He was shot in his leg. He had a through and
11 through wound, which spared his bones. So, he was treated
12 and released that day.

13 Q Okay. So, also a through and through?

14 A That's correct.

15 Q Okay.

16 MS. SWANSON: Thank you, Dr. Rehman. Nothing
17 further.

18 THE COURT: Cross examination.

19 MS. CAMPBELL: May I mark this for identification?

20 THE COURT: Sure. Absolutely.

21 MS. CAMPBELL: Defendant's 3.

22 *(Whereupon, Defendant's Exhibit No(s). 3 marked*
23 *for identification and received in evidence.)*

24 CROSS EXAMINATION

25

1 BY MS. CAMPBELL:

2 Q Dr. Rehman, on 6/21/2012, you were the ER
3 physician attending to the victims who were brought to
4 Beaufort Memorial, right?

5 A That's correct.

6 Q Okay. And your emergency department keeps records
7 of your treatment of patients as they come into the ER,
8 correct?

9 A That's correct.

10 Q Your records for the care of your patients are
11 critical to preserving what happened, who was there, and
12 what you did for that patient, right?

13 A That's correct.

14 Q Okay. Some of the things that you note in those
15 records are whether or not a patient had an MRI or an x-ray,
16 correct?

17 A Yes, ma'am.

18 Q Okay. Some of the records that you've provided in
19 this case -- I'll hand you what's been marked Defendant's
20 Exhibit 3 for identification purposes, Page 3 of 5 of the
21 emergency room notes.

22 Could you indicate at the time that is
23 highlighted what was occurring with patient Michael Morgan?
24 Give us the time and what was occurring.

25 A This is the nurse's note. At 3:28 it says, ED

1 physician to see patient. Surgeon on call is Dr. Cisco to
2 see the patient.

3 Q And?

4 A That is where the line ends that you asked me to
5 read, the highlighted area.

6 Q There's an additional sentence, Dr. Rehman. What
7 does that say?

8 A Dr. Cisco is pleased to see patient.

9 Q Is pleased to see patient at 3:28 a.m.?

10 A I don't know. It's the nurse's note; it's not my
11 note.

12 Q Okay. And we've established that these are the
13 notes from Beaufort Memorial Hospital emergency room, that
14 are critical that they be correct, right?

15 A Yes, ma'am.

16 Q And it says that the emergency department
17 physician, which would be you --

18 A That's correct.

19 Q -- in to see the patient, Michael Morgan. Surgeon
20 on call, Dr. Cisco, in to see the patient, Michael Morgan,
21 correct? And then the police in to see the patient at
22 3:28 a.m., correct?

23 A Correct. It could be a typo, either/or.

24 Q A typo?

25 A It wasn't me, I didn't do it, so I can't speak for

1 the other person.

2 Q Okay. But that's what your records say, correct,
3 Dr. Rehman?

4 A It is in there, yes, ma'am.

5 Q Thank you so much.

6 THE COURT: Redirect.

7 MS. SWANSON: Thank you, Your Honor.

8 REDIRECT EXAMINATION

9 BY MS. SWANSON:

10 Q I'm sorry. Where did Defense -- does Dr. Rehman
11 have it? Okay. Thank you.

12 I'm going to show you the same document that
13 Ms. Campbell showed you, Defendant's Exhibit 3, and ask for
14 you to read the note from 4:01. So, at 3:28 the police
15 come, and then at 4:01 what does it say?

16 A It was 3:39 -- 4:01, to OR, critical condition.

17 Q To OR --

18 A Operating room.

19 Q -- critical condition?

20 A That's correct.

21 Q And that's is in reference to Michael Morgan?

22 A That's correct.

23 Q Thank you.

24 THE COURT: Recross?

25 MS. CAMPBELL: We are done.

1 THE COURT: You wish the witness to be excused?

2 MS. SWANSON: Please.

3 THE COURT: Any objection?

4 MS. CAMPBELL: No objection.

5 THE COURT: You're released and free to leave.

6 Have a good day.

7 MS. CAMPBELL: And, Your Honor, just for
8 clarification, I believe Dr. Rehman is here under my
9 subpoena as well, and I would release him from that as
10 well.

11 THE WITNESS: Thank you.

12 THE COURT: Okay. Call your next witness, please.

13 MS. SWANSON: Thank you. State calls Dr. Bruce
14 Crookes.

15 Your Honor, for the record, I did hand Dr. Rehman
16 State's Exhibit 70, 71, and 72, the notes from the ER
17 on all three victims just so that he can refer to
18 those. I'm going to just leave them here for the
19 Court.

20 THE COURT: They were not admitted then.

21 MS. SWANSON: They were not, just for
22 identification.

23 *(Whereupon, State's Exhibit No(s). 70-72 marked*
24 *for identification.)*

25 Thereupon,

1 DR. BRUCE CROOKES

2 was called as a witness, having been first duly sworn,
3 was examined and testified as follows:

4 THE CLERK: Please be seated, state and spell your
5 name for the Court.

6 THE WITNESS: I'm Dr. Bruce, B-R-U-C-E, Crookes,
7 C-R-O-O-K-E-S.

8 DIRECT EXAMINATION

9 BY MS. SWANSON:

10 Q Good morning, Dr. Crookes.

11 A Good morning.

12 Q Can you tell us where you work, please?

13 A I am a trauma surgeon and the trauma medical
14 director at the Medical University of South Carolina in
15 Charleston.

16 Q Okay. And do you also teach?

17 A I do.

18 Q And what is your area of expertise?

19 A I'm a general surgeon. I did a fellowship in
20 trauma surgery, and one in surgical critical care.

21 Q Okay. Did you treat Michael Morgan on June 21st
22 of 2012?

23 A I did, yes.

24 Q All right. And I can hand you what I have marked
25 as State's 73 for identification.

1 *(Whereupon, State's Exhibit No(s). 73 marked for*
2 *identification.)*

3 BY MS. SWANSON:

4 Q Which are your surgery notes, should you need to
5 refer to them.

6 A Thank you.

7 Q Please tell us how Michael Morgan arrived at MUSC.

8 A So, he -- my partner who was on that morning, who
9 was Dr. Stephanie Montgomery, received a phone call from
10 surgeons at Beaufort that they had a gunshot wound victim
11 who they felt had an injury to either his iliac artery or
12 his iliac vein. Those are two large blood vessels that are
13 down in your pelvis, and they are typically very difficult
14 to access and control. They felt that they could not
15 control the bleeding from this area and requested he be
16 transferred to us. We're the level one trauma center in the
17 region, so we gladly accepted the patient.

18 Q Okay. And how was he transported from Beaufort
19 Memorial?

20 A He was transferred to us by air.

21 Q And when did he arrive?

22 A He arrived at approximately 8 o'clock in the
23 morning. My partner and I are well familiar with both --
24 with this type of an injury and know that frequently these
25 are lethal. What we arrange to do is to bypass the

1 emergency room and have the patient go straight from the
2 helipad directly through the emergency room straight up to
3 the operating room where we -- and we met him at the door
4 and transported him up ourselves.

5 Q And what happened once you got into the operating
6 room?

7 A When we moved him over from the gurney to the
8 operating table, the patient was in cardiac arrest. So,
9 what we tried to do is, we tried to -- we did CPR on the
10 patient. Opened his abdomen very quickly, and got control
11 of what we call the aorta, which is the largest blood vessel
12 in your body, to try to prevent any further hemorrhage from
13 the area. And despite our attempts the patient could not be
14 revived, and he died in the operating room.

15 Q Okay. What time did he expire?

16 A I believe he arrived at 7:35 in the morning, and I
17 pronounced him deceased at 7:43. So, he was literally at
18 our trauma center for about eight minutes.

19 Q And in your practice are you familiar with
20 injuries or penetrating wounds to the iliac?

21 A Yes.

22 Q All right. Talk a little bit about how serious of
23 an injury those are.

24 A So, at baseline, if you have a penetrating wound
25 to this area, a gunshot or a stab wound, these are in the

1 analyzed.

2 Q Okay. And what piece of evidence is that?

3 A This is item 29, which was a white shirt collected
4 from Joseph Bowers.

5 Q All right. And did you analyze that piece of
6 evidence?

7 A I did.

8 Q Okay. And I'm going to show you -- I'm sorry.

9 MS. SWANSON: At this time, the State would move
10 35 into evidence.

11 MS. CAMPBELL: No objection.

12 THE COURT: Without objection, State's 35 is
13 admitted.

14 *(Whereupon, State's Exhibit No(s). 35 marked for*
15 *identification and received in evidence.)*

16 BY MS. SWANSON:

17 Q Okay. I'm going to hand you what's been marked as
18 State's 36 and ask that you identify these items.

19 A This is a container that we use to place evidence
20 in that we collect off of clothing. In this case, I have
21 the samples that I collected from item 29, which was the
22 T-shirt from Joseph Bowers. And it also has the seal on the
23 top, where I sealed it, dated it, and initialed it.

24 Q Okay. Let me go ahead and also hand you SLED item
25 30, State's Exhibit 38, and ask that you identify this item.

1 A This is item No. 30 from our lab number L128587.
2 Item 30 was a paper bag containing black shorts collected
3 from Joseph Bowers, and it also has the evidence tape across
4 the bag, which I sealed and initialed.

5 Q And did you analyze that item?

6 A I did.

7 MS. SWANSON: State moves 38 into evidence.

8 MS. CAMPBELL: No objection.

9 THE COURT: Without objection, State's 38 is
10 admitted.

11 *(Whereupon, State's Exhibit No(s). 38 marked for*
12 *identification and received in evidence.)*

13 BY MS. SWANSON:

14 Q Agent Stoner, can you tell us how you analyzed
15 those two items?

16 A When we have a request for gunshot residue to be
17 collected from clothing, we open the clothing, we document
18 anything on the clothing -- if it's dirty, if there's blood
19 present, and what type of clothing it is. We then take what
20 we call a particle lift, and that's what these are in this
21 bag. It's a small round surface that has carbon tape on it,
22 so it's sticky. Kind of like a bandaid adhesive, and we dab
23 it over certain areas of that clothing in order to collect
24 any potential evidence. In this case, for item 29, I
25 collected four particle lifts from the T-shirt.

1 analyze that, right?

2 A Yes.

3 Q So you didn't?

4 A No.

5 Q Okay. So, as we stand here today, Michael
6 Morgan's clothing is somewhere, either in your custody or
7 the State, and it's never been analyzed, correct?

8 A Not by a trace evidence examiner. I do not know
9 if it had another request for a different part of the lab.

10 Q Okay. Now, you did analyze Stanley Hump -- the
11 van. You got some evidence from inside the van, correct?

12 A Yes, I did.

13 Q Okay. Someone at the scene took some, as you call
14 them, lifts from the interior of a green van, right?

15 A Yes.

16 Q And inside the green van, you're finding particles
17 that are one of the components of gunshot, correct?

18 A Inside the van?

19 Q Correct.

20 A I found round lead particles, which are a
21 component of gunshot residue.

22 Q Right. That's item 6.2 and 6.3, correct? Page 2
23 of 5?

24 A Six-point one and 6.2, and 6.3 and 6.4.

25 Q Okay. So, the four items there. And as we've

1 established, gunshot residue, a component of it, would
2 indicate inside the van that perhaps someone was inside the
3 van shooting, or had shot a gun and then touched the inside
4 of the van, correct?

5 A It could be from transfer or from shooting, yes.

6 Q Okay. And that's what you're calling transfer
7 when they, you know, have a gun in their hand that shot, and
8 then they touch something else?

9 A Yeah.

10 Q Okay. Now, you testified that the sheriff's
11 department gave you a gunshot residue kit from Joseph
12 Bowers, right?

13 A Yes.

14 Q And they gave you a gunshot residue kit from Lucas
15 Morgan, correct?

16 A Yes, they did.

17 Q And it's clear from your analysis of the gunshot
18 residue kit from Lucas Morgan that Lucas Morgan had gunshot
19 residue on his hands, correct?

20 A Lucas Morgan had round lead particles on his
21 hands, which are a component of gunshot residue.

22 Q Okay. And now, you told us that you didn't
23 analyze Joseph Bowers' gunshot residue kit because it was
24 outside that six-hour time frame?

25 A Yes.

1 Q All right. Thank you. Agent DeFreese.

2 Did you have occasion to analyze evidence
3 submitted in the case against Lucas Morgan and Joseph
4 Bowers?

5 A I did.

6 Q All right. And did you, in fact, look at some of
7 that evidence earlier this morning?

8 A I did.

9 Q Okay. And we didn't get through all of it, but I
10 am going to hand you State's Exhibits 10 through 17, which
11 are all of the items listed as Sphere nine millimeter Luger
12 casings. And if you can please confirm that these are the
13 items that you analyzed. I understand that you would like
14 to take a peek inside and make sure that the item is
15 actually in there.

16 A Yes, ma'am.

17 Q Thank you.

18 A All right. I've examined State's 10 through 17,
19 and they do have the correct cartridge cases in them. And
20 they are all fired nine millimeter Luger caliber cartridge
21 cases that bear the Sphere brand head stamp.

22 Q Thank you.

23 MS. SWANSON: At this time, State moves Exhibits
24 10 through 17 into evidence.

25 THE COURT: Any objection?

1 MS. CAMPBELL: No.

2 THE COURT: Without objection, they are admitted.

3 *(Whereupon, State's Exhibit No(s). 10-17 marked*
4 *for identification and received in evidence.)*

5 BY MS. SWANSON:

6 Q And Agent DeFreese, were you able to tell if all
7 of these casings came from the same firearm?

8 A I was.

9 Q Okay. I'm going to show you State's Exhibit 3,
10 and this is SLED item 28 and ask if you examined this item.

11 A Yes, ma'am, I did.

12 Q And what is that?

13 A Exhibit 3 is a Glock model 26, nine millimeter
14 Luger caliber semi automatic pistol.

15 Q And were you able to determine if the shell
16 casings that we were just discussing, the Sphere nine
17 millimeter lugers, came from that pistol?

18 A I was.

19 Q And did they?

20 A They did. This -- this pistol, State's Exhibit 3,
21 fired the cartridge cases in State's Exhibits 10 through 17.

22 Q Okay. Thank you.

23 MS. SWANSON: State moves Exhibit 3 into evidence.

24 MS. CAMPBELL: No objection.

25 THE COURT: Without objection, it's admitted.

1 *(Whereupon, State's Exhibit No(s). 3 marked for*
2 *identification and received in evidence.)*

3 BY MS. SWANSON:

4 Q I'm going to hand you a series of items that you
5 were able to view this morning. These are State's Exhibits
6 5, 7, 8, and 9. They are all listed as projectiles from the
7 club.

8 Did you analyze these items?

9 A I did.

10 Q And could you tell if those projectiles could have
11 been fired by the Glock 26, SLED item 28, State's 3?

12 A Yes.

13 Q They could have been fired by that?

14 A Yes. All of the bullet specimens in State's
15 Exhibits 9, 5, 7, and 8 are consistent with nine millimeter
16 Luger caliber, and they bear rifling impressions that are
17 like the rifling impressions produced by a Glock nine
18 millimeter Luger caliber pistol. That's a six land and
19 groove right-hand twist with what we refer to as polygonal,
20 or polygonal, P-O-L-Y-G-O-N-A-L, rifling. It's a rifling
21 that has smooth edges to it.

22 They're not really well defined in terms of
23 their dimensions, but these are perfectly consistent with
24 having been fired by either State's Exhibit 3 or by another
25 Glock nine millimeter pistol. The bullets contained in

1 these exhibits are consistent with Speer brand bullets of
2 the type loaded into what is known as Gold Dot ammunition.
3 That's a trade name.

4 Q Okay.

5 MS. SWANSON: State moves 5, 7, 8, and 9 into
6 evidence at this time.

7 MS. CAMPBELL: No objection.

8 THE COURT: Without objection, they are admitted.

9 *(Whereupon, State's Exhibit No(s). 5, 7-9 marked*
10 *for identification and received in evidence.)*

11 BY MS. SWANSON:

12 Q All right. Were you asked to analyze some other
13 casings?

14 A I was.

15 Q Okay. And were those a different type of nine
16 millimeter casings?

17 A They were a different brand. They were all
18 Winchester brand nine millimeter Luger caliber cartridge
19 cases.

20 Q And did any of those casings come from State's 3,
21 the Glock 26 that we just saw?

22 A No, they did not. They were all fired by the same
23 firearm, but not State's Exhibit 3.

24 Q And what kind of firearm do you think that was?

25 A It was likely a Glock. There's a chance it could

1 have been an early production Smith and Wesson Sigma pistol,
2 because a Glock has a rather unusually shaped firing pin,
3 and firing pin aperture. And those marks were present on
4 the other nine millimeter, on the Winchester nine millimeter
5 cartridge cases. So, they could have been fired by a either
6 Glock or a Smith and Wesson, based on the cartridge cases.

7 Q Okay. And did you look at evidence that came from
8 other firearms in this case?

9 A I did.

10 Q Okay. And in your opinion, and in analyzing all
11 the evidence that was submitted, did the majority of it come
12 from two Glockes?

13 A Yes. The greater number of them came from two
14 Glock pistols, based on the other recovered bullet and
15 bullet fragments, and on the fired Winchester cartridge
16 cases. They're certainly consistent with that.

17 MS. SWANSON: Thank you, Agent DeFreese. I have
18 nothing further.

19 THE COURT: You may cross-examine.

20 CROSS EXAMINATION

21 BY MS. CAMPBELL:

22 Q Good morning.

23 A Good morning.

24 Q Have you been referring to your report?

25 A I have.

1 Q Okay. Wonderful. Thank you.

2 I'm going to take you to that report, if I
3 might, to -- I guess it's Page 5 of 6.

4 A The report, or the supplemental report?

5 Q I've got 5 of 6 from November 29th, 2012.

6 A Okay.

7 Q All right. I'm trying to understand, and I'm sure
8 that you can help me with this. There were items 2, 3, and
9 4 that were submitted to you, and you have that noted as
10 fired .45 auto caliber cartridge case with a head stamp of
11 Federal .45 auto?

12 A Correct.

13 Q So, items 2, 3, and 4 are the same type of
14 cartridge case?

15 A They're the same caliber brand and type cartridge
16 case, and they were all three fired by the same firearm.

17 Q Thank you. That was my next question.

18 So, 2, 3, and 4 are fired by the same
19 firearm. Do you know what kind of firearm fired them?

20 A No, I don't.

21 Q Okay. But those three items are fired from the
22 same gun?

23 A Correct.

24 Q Okay.

25 A And not by State's Exhibit 3.

1 Q Okay. Thank you very much. Because that's what
2 we need. We need some clarification.

3 A Sure.

4 Q And that's what I'm trying to get to.

5 So, you've got, now, also in your report
6 items 38, which is a revolver?

7 A Correct.

8 Q And, of course, we don't have a revolver up here,
9 we just have the Glock, right? Right now.

10 A To my knowledge.

11 Q Right. And item 38 you got listed as an Imperial
12 Metal Products model 17, .22 short caliber revolver,
13 correct?

14 A Correct.

15 Q And you analyze evidence relating to that
16 revolver, and one of the things that you determine is that
17 it fired item 46, I guess?

18 A That's correct.

19 Q Okay. And item 46 was what?

20 A It's a fired .22 short caliber cartridge case.

21 Q Okay. So, at the Midnight Soul Patrol, what
22 you're analyzing, we have now got one gun firing two, three,
23 and four?

24 A Correct.

25 Q We've got one gun firing 46?

1 A Correct. My item 46.

2 Q We've got one gun, as you previously testified for
3 the Solicitor, firing, for lack of a better, I guess,
4 terminology, let's call them Win and Speer?

5 A Right.

6 Q Okay. You've got gun firing Win?

7 A The Winchester cartridge cases.

8 Q And you've got one gun firing the Speers.

9 A We got item 3 firing the Speers.

10 Q The Glock, right?

11 A The Glock, yes.

12 Q So, I count four guns right now.

13 A So far we're up to four.

14 Q Okay. But we have more, don't we?

15 A We do.

16 Q Okay. Why don't you tell us what else we have.

17 A We have a fired .40 Smith and Wesson caliber
18 bullet. And we have a fired .40 Smith and Wesson caliber
19 cartridge case.

20 Now, the -- I can't say that the bullet and
21 the cartridge case were fired by the same firearm, but they
22 could have been fired by the same firearm. So, we got
23 either one or two .40 caliber firearms involved.

24 Q Okay. So, that puts us at either five or six
25 guns, possibly.

1 A I haven't been doing the math up to now, but I
2 think that's right.

3 Q I think that's about right.

4 So -- and lastly, of course, we have item 10,
5 which was the, I guess, fired flare?

6 A Right. There was a fired flare cartridge that was
7 fired by the item 8 flare pistol.

8 Q Which is the flare gun?

9 A Right.

10 Q Correct. And so that puts us up to four, five,
11 six -- six to seven different guns firing?

12 A Right.

13 Q Based upon the evidence that you reviewed in this
14 case?

15 A Correct.

16 Q Okay. That revolver that you looked at, item 38?

17 A Yes, ma'am.

18 Q When you tested it, would it be fair to say that
19 it misfired 50 percent of the time?

20 A During my testing it did.

21 THE COURT: Okay. Redirect?

22 MS. SWANSON: Just briefly.

23 REDIRECT EXAMINATION

24 BY MS. SWANSON:

25 Q Agent DeFreese, the revolver that Ms. Campbell is

1 asking you about, did you analyze any projectiles that came
2 from that revolver?

3 A None of the projectiles submitted in this case
4 were consistent with .22 short caliber projectiles. There
5 was a .22 Magnum caliber projectile submitted, but it could
6 not have been fired by the .22 short caliber revolver.

7 Q Okay. And you don't know where that revolver was
8 found, do you?

9 A No. And I don't know when it was fired. You
10 know, it could have been fired then, or it could have been
11 fired at some other time, because a revolver keeps its
12 cartridge case in it even after it's fired.

13 Q So, you don't know if it was at the club that
14 night?

15 A I don't.

16 MS. CAMPBELL: Thank you. Nothing further.

17 THE COURT: Recross.

18 RE-CROSS EXAMINATION

19 BY MS. CAMPBELL:

20 Q Just to clarify, item 46 cartridge case was fired
21 by item 38 revolver, correct?

22 A Yes, ma'am, it was.

23 MS. CAMPBELL: Thank you. That's all I have.

24 THE COURT: You wish this witness to be excused?

25 MS. SWANSON: Yes, please, Your Honor.

1 opportunity to speak to you. Please give them your
2 attention. Their remarks will be helpful, but remember
3 that there will be nothing that you hear now until you
4 begin your deliberations that should be considered
5 evidence. Attorney's remarks on my remarks?

6 Thank you very much, Solicitor.

7 MS. SWANSON: Thank you. May it please the Court,
8 Your Honor.

9 THE COURT: Yes.

10 STATE'S CLOSING ARGUMENT

11 MS. SWANSON: In Ms. Campbell's opening statement
12 we heard the heartwarming story of the little Opie
13 Bowers who grew up on the picturesque back roads of St.
14 Helena. Warm breeze ruffling his hair.

15 Today in this courtroom, little Opie Bowers is not
16 big little, and this is a far cry from the innocence of
17 childhood. This is not child's play, this is extremely
18 serious.

19 Now, that Opie has grown up, his story is the stuff
20 of nightmares, and this was a nightmare for the
21 community of St. Helena. Little Opie is now armed with
22 a Glock 26, Dante Bailey's Glock. He is unloading it
23 into a crowd of people at the Midnight Soul Patrol.
24 Dropping shell casings where he's shooting. Engaging in
25 deadly combat in a residential area. Engaging in mutual

STATE'S CLOSING ARGUMENT

1 combat.

2 Dante Bailey dies. Opie doesn't leave. Remember
3 Stanley Humphries told you they were all leaving.
4 Stanley Humphries may have been the only one in that van
5 that wanted to go play pool that night. The rest of
6 them, armed to the nines, were looking for trouble.
7 This was not their hangout, they are not from Land's
8 End, nobody wanted them there. It was about 15 minutes
9 before trouble started and it got bad.

10 You heard there were four victims. The State has
11 withdrawn the murder charge against Mr. Bowers, reason
12 being because Dante was dead when Joey decided to engage
13 in mutual combat. He leapt out of that car, goes over
14 to Dante, grabs his Glock 26, and unloads.

15 All of those 911 calls that you heard from people
16 asleep in their bed, scared, wanting the protection of
17 law enforcement but not wanting to give their names,
18 they were all impacted by this senseless violence, too.
19 In addition to the victims, the victims' children, the
20 victims' family members, everyone in this community.
21 Everyone in this community knew people on both sides.
22 They're the friends, family members, and neighbors of
23 the victims and the defendants in this case. You heard
24 how uncooperative this community was in this
25 investigation.

STATE'S CLOSING ARGUMENT

1 It should be clear that nobody wanted any part of
2 this violence, nor did they want any part of the
3 investigation or the trial of this case. But the State
4 has trudged along, law enforcement trudged along, and
5 here we are about two years later, after trying to get
6 every lead, following up on every lead, Investigator
7 Zsamar, all the investigation folks who interviewed at
8 least 80 witnesses to find out what happened that night.
9 And at the end of the day we're left with the same two
10 suspects that were developed within minutes of the
11 shooting, Lucas Morgan and Joey Bowers.

12 The two names that keep coming from the scene,
13 Lucas Morgan and Joey, white male, Tom Fripp. You heard
14 that over and over again, not Joey Chaplin, black male.
15 Maybe Joey Chaplin's name was in there. That's a red
16 herring. Nobody is confusing this Joey for Joey
17 Chaplin, little black male.

18 Joe Garden, the firefighter, confirmed there were
19 two names being called at the scene that night.

20 Joe Nathan spoke to you, and although I had to drag
21 it out of him he gave us some insight into how the
22 events played out. Again, I told you in the beginning,
23 different people saw different things because this was
24 chaos. A gun battle. This was a melee. People were
25 ducking, dodging bullets. People saw different things.

STATE'S CLOSING ARGUMENT

1 They may have been behind the oak tree, they may have
2 been behind the satellite dish, they may have not been
3 behind the propane tank, although, I'm not sure I would
4 have wanted to have been there when the Glock 26 is
5 aimed that way.

6 He also told you after the argument between
7 Arthur Chaplin, Krum, and Dante Bailey, Cole, he saw
8 four to five black males run up through the parking lot
9 with guns with their heads down. Well, guess who wasn't
10 running with his head down because he was standing over
11 Dante Bailey's body with the gun unloading it? And that
12 was Opie.

13 Who tells us that? There are a couple of witnesses
14 that tell us that.

15 Magnum Smalls tells us that he saw Opie standing
16 over Dante's body with Dante's gun. Robert Goodwine
17 also tells us that he saw Opie standing over Dante's
18 body.

19 Did you see anyone with guns? No, not really,
20 besides Lucas Morgan. Okay, well, everyone saw Lucas
21 with a gun. Do you know why everyone saw Lucas with a
22 gun? Probably because he was shooting first. He killed
23 Dante. All right? He killed Dante.

24 Meanwhile, everyone is scurrying about, because
25 they're not trying to be witnesses in a murder case

STATE'S CLOSING ARGUMENT

1 later, they're trying to save their lives.

2 The people that were shot were shot outside of
3 the club. Nobody was shot inside of the club. There
4 are some shell casings that were found in the club,
5 there was some evidence of some other gunfire, other
6 people that had guns, I understand that. But today
7 we're here to talk about Joseph Bowers and his
8 responsibility and the choices he made that night.

9 Are other people responsible for this? Absolutely.
10 You heard Dan DeFreese tell you -- he's the ballistics
11 expert from SLED -- that there were two major areas of
12 gunfire, or two major -- I'm sorry. Two primary guns
13 that created most of the evidence of gunfire, likely two
14 Glockes. We know one of them was a Glock, because that's
15 Dante's Glock, and we know that the Sphere nine
16 millimeter shell casings that were found in that dirt
17 parking lot area came from that exact gun.

18 And it's just as I told you when we started this
19 case, we've got Lucas Morgan over here firing this way,
20 we've got Joseph Bowers right here firing this way.
21 Bullets are flying.

22 Bullets also flying into the club, bullets that are
23 consistent with being fired from the Glock 26 that Opie
24 had. Pretty clear that they came from the parking lot
25 area, don't you think? Little bit amazed that Big D,

STATE'S CLOSING ARGUMENT

1 who is rather big, you saw, did not get hit by any of
2 those bullets as he crouched down in his DJ booth. And,
3 of course, that's where Opie stood as he unloaded.

4 Each of the victims in this case, Richard, unarmed
5 Richard Green, who hopes to recover from his paralysis,
6 doesn't know who shot him. Well, I mean, he was shot in
7 the back, it was a through and through shot. We cannot
8 definitively tell you whose bullet hit him, but does
9 that mean that the shooter should go free? That they
10 should get lucky because their bullet tore through
11 somebody's flesh, that it went straight through a human
12 being? Absolutely not. And so that's why the law
13 allows for theories like mutual combat, which I'm going
14 to ask you to listen as Judge Dennis charges you on the
15 law. It holds those people responsible for any death or
16 injury that occurs while they engage in mutual combat
17 with a deadly weapon.

18 Unarmed Robert Goodwine also shot, through and
19 through shot, while Lucas and Opie were engaged in
20 mutual combat. Michael, Michael Morgan, Lucas' brother,
21 he knew who shot him. Lucas didn't shoot him. He was
22 armed with a flare gun. Okay? There was testimony that
23 he shot up the flare in the air. Do we know why? No.
24 Was it stupid? Yes. He wasn't the only one out there
25 without any sense that night.

STATE'S CLOSING ARGUMENT

1 Did he deserve to die? No. Do we know where he
2 was standing when he got shot? No, we don't. Was he
3 standing over by those steps? Probably not. You heard
4 he got shot in the right buttock and it exited the iliac
5 fold, which is right about here. Okay? He bled out
6 slowly internally. He was able to take a few steps
7 before he collapsed on the back of the porch of
8 Ms. Poot's steps. We don't know exactly where he was
9 standing, what position he was in when he was shot.

10 You heard Dr. ****, trajectory -- you need a lot
11 more information. You need the information of exactly
12 where the shooter is standing, if he's standing like
13 this holding the weapon like this, is he standing like
14 this, is he crouched down?

15 How is Michael Morgan standing? Who knows? He may
16 have been running. Does that make sense? He's running
17 like this and he gets shot? We know he was over in this
18 area, and we know that Joey is over in this area and he
19 gets hit. And he bleeds out.

20 Just so we're clear. I want to make sure that
21 nobody thinks that Stanley Humphries could somehow be
22 mistaken for Opie, because Stanley didn't know anyone
23 out there that night. He was with Dante, his buddy,
24 earlier in the night at the Sand Dollar. They were
25 playing pool. They go back to Dante's to get some

STATE'S CLOSING ARGUMENT

1 smokes, and they pick up some guys. Guys that
2 apparently were not wanted at the Midnight Soul Patrol.
3 Stanley said, We didn't even get to play pool. They
4 were there for 15 minutes before gunfire broke out.
5 These guys were looking for trouble.

6 Who goes to play a laid back game of pool armed
7 with a Glock?

8 Scruffy, Salty Stanley -- very different than
9 Opie. Stanley tries to get everyone to leave. Stanley
10 doesn't want any part of this. Stanley is like, oh,
11 man, I'm driving, I got a mini van, let's go. Dante is
12 helping them back out, Dante gets shot, Joey gets out,
13 everyone gets out to check on Dante. Once they realize
14 he's dead, Hump gets back in the car, along with someone
15 else, and picks up another gunshot wound victim, Robert
16 Goodwine, takes him to the hospital. But who doesn't
17 get back in that car? Opie.

18 Instead, Opie grabs Dante's gun and unloads it.
19 Was it a retaliatory gunshot? Maybe. But it was mutual
20 combat. Gunfire everywhere.

21 We also know that Opie was shooting because not
22 only do we have a lot of circumstantial evidence,
23 witnesses that place him over Cole's body, witnesses
24 that place him with Dante's gun, but -- oh -- oh, and
25 GSR also. Particles on the front of his clothing, not

STATE'S CLOSING ARGUMENT

1 particles that he could have gotten, you know, if he got
2 into Hump's van, you know, brushed up against the
3 fabric, something like that. These are -- these are
4 particles that were lifted from small spots on his
5 clothing that were consistent with having fired a gun.
6 Well, why? Because he did fire a gun, and he told us
7 that. He told us that he fired a gun.

8 He told us he fired a gun in his recorded jail
9 phone call to his girlfriend.

10 (Playing audio.)

11 MS. SWANSON: God has got a plan for him. St.
12 Opie has faith in the detention center. I'm pretty
13 sure that it was not in God's plan for him to leave
14 three victims at the Midnight Soul Patrol because he
15 unloaded a Glock 26.

16 As human beings we have something called freewill,
17 and he made choices that night. And no matter what
18 faith you are, you should understand that.

19 This is the same Opie, he was adamant when talking
20 to Investigator Fraser that he had nothing to do with a
21 gun. He did not handle a gun, he did not touch a
22 weapon, he did not fire a gun. That was a lie. It was
23 also a lie when he told Investigator Fraser that Terry
24 Thornton, a black male, stood over Opie and unloaded his
25 Glock 26.

STATE'S CLOSING ARGUMENT

1 Do you honestly think that the witnesses that
2 testified about Opie standing over Cole with Dante's gun
3 mistook him for a black male named T dog? No. That was
4 Opie firing over and over and over again. And he made
5 that choice. He made his bed. In his words, he did it
6 to himself.

7 I'm asking you, I'm asking you to speak the truth,
8 I'm asking you to follow the law that Judge Dennis
9 charges you with. I'm asking you to get this right.
10 Law enforcement got this right, and I ask that you do,
11 too. Find Joseph Bowers guilty in the murders of
12 Michael Morgan, the attempted murders of Robert Goodwine
13 and Richard Green.

14 And I thank you for your attention.

15 MS. CAMPBELL: I apologize, Your Honor.

16 THE COURT: Go ahead, take your time.

17 DEFENDANT'S CLOSING ARGUMENT

18 MS. CAMPBELL: Thank you.

19 Good afternoon. You know, the Solicitor, when she
20 talked to you at the beginning of this the case, she
21 said this is a simple case. It's not a simple case.

22 I remember, you know, I talked to you earlier about
23 my dad and how he used to watch the Andy Griffith Show,
24 and the other favorite show that he watched a lot was a
25 show called Matlock. You get the theme here, because

DEFENDANT'S CLOSING ARGUMENT

1 his favorites for those shows was for that particular
2 actor and his stories.

3 But he was a small town lawyer defending the people
4 in his community that had been charged with committing
5 criminal offenses. And there's one particular scene
6 where he gets up at the end of the case and he's doing
7 his closing, and he looks at the jury and says, Now,
8 what would you do? What would you do if that had been
9 you?

10 And one of the jurors gets up and says, Well, I'd
11 have done what he did. And Mr. Matlock just sits down.
12 I'm not able to do that. I'm going to have to walk you
13 through everything we have.

14 My dad was also a scientist, an engineer, and a
15 couple things he did manage to teach me about science is
16 that a right angle is always 90 degrees. A plus B plus
17 C, and one plus one equals two. And why is that so
18 important? Why is the science of that so important?
19 I'll tell you why. It's the key to this case.

20 If you look at, and I don't think the Solicitor
21 showed you these, but they are in evidence and you will
22 have them during your deliberations, if you look at the
23 State's Exhibit 48. And you'll recall that I asked
24 Investigator Zsamar about this particular photograph.
25 It is absolutely impossible for the Sphere shell casing

DEFENDANT'S CLOSING ARGUMENT

1 from this angle to go around the corner and to hit
2 Michael Morgan and to kill Michael Morgan. It is also
3 inconsistent that Michael Morgan, as you can look at 49
4 and see how far around the back of that house is where
5 he was, it's a physical scientific impossibility. Look
6 at State's Exhibit 45. All of the shells -- excuse me,
7 all of the projectiles that were coming from the parking
8 lot were hitting the corner of the Midnight Soul Patrol.

9 And who told you that Lucas Morgan on his second
10 clip had positioned himself right there up against the
11 side of the Midnight Soul Patrol, firing around the
12 corner from a position of cover himself. Magnum Smalls
13 told you that.

14 The Solicitor's talked to you about mutual combat.
15 I don't think there's any question that Dante Bailey and
16 Arthur Chaplin were in some sort of disagreement that
17 night. Dante Bailey, Joseph Bowers, and Stanley
18 Humphries withdraw from whatever was going on between
19 those boys. They withdraw to the point that they break
20 it off, and Magnum said it might have been Joey that
21 said, come on, let's go. And they do. They break it
22 off.

23 Why is that important? That's important because
24 Your Honor's going to tell you, when you break it off,
25 when you try to leave, all your self-defense rights are

DEFENDANT'S CLOSING ARGUMENT

1 back in play. They got into that van, and they tried to
2 leave, and Dante -- they can't get out. They're blocked
3 in or something's happening. Dante is trying to get
4 them backed out, and that is when Michael Morgan from a
5 position of over here behind the house lights it up.
6 And he lights it up so Lucas can see what he's doing,
7 and he sprays the parking lot. And when he does, the
8 Solicitor has admitted, Lucas Morgan shot and killed
9 Dante Bailey at basically the feet of Stanley Humphries
10 and Joseph Bowers.

11 She's right. If we've heard it once, we've heard
12 it 15, 20 times. It was chaos. When Lucas Morgan
13 emptied his first clip, you can imagine, you can put
14 yourselves there, the chaos and the fear and the
15 absolute terror that you're going to die, that you are
16 going to be hit by one of those bullets that he's
17 spraying across the parking lot.

18 Self-defense enters play right here. Self-defense,
19 Judge Dennis will tell you is an absolute complete
20 defense. And if it's established you have to find Joey
21 Bowers not guilty on all the indictments.

22 And here's the further thing, the State of South
23 Carolina must prove to you beyond a reasonable doubt
24 that Joey Bowers in no way acted in self-defense because
25 there's never any burden in this country on an innocent

DEFENDANT'S CLOSING ARGUMENT

1 man to prove himself not guilty.

2 Elements of self-defense: Number one, you have to
3 be without fault in bringing about the disturbance. So,
4 Joseph Bowers was leaving, absolutely no question, it's
5 in the evidence, leaving the Midnight Soul Patrol. And
6 there's no evidence that he himself acted in any
7 argumentative or hostile manner to anyone. There's
8 nothing in the record, nothing in the testimony to say
9 that he did anything provocative.

10 Now, number two, you have to find that he was in
11 imminent danger of losing his life. Now, you can put
12 yourself in his shoes, a reasonable person. If you are
13 taking fire, do you think you're are in fear of losing
14 your life? Absolutely.

15 Now, you can also respond to that taking fire,
16 being under fire, and strike a fatal blow in order to
17 prevent the loss of your own life or others around you.

18 And third, no other way to avoid the danger, no
19 other way to avoid it.

20 Now, the evidence is clear, if you were running, if
21 you were moving about, as Robert Goodwine says he was,
22 you were going to get shot. And it's not as if at that
23 moment, after Dante Bailey is shot dead, that -- and
24 Stanley Humphries is clearly backing out, trying to
25 leave, what do you do? Do you drop to the ground?

DEFENDANT'S CLOSING ARGUMENT

1 There's no cover in the parking lot, and you have an
2 active shooter at the corner of the Midnight Soul Patrol
3 still firing on you. And he, Joseph Bowers, is
4 justified in shooting and continuing to shoot until the
5 danger or the threat to his life is over.

6 A couple of pieces of evidence, Joe Pope is clear,
7 Lucas Morgan opened fire on the parking lot on Dante
8 Bailey. The Sphere shell casings, Zsamar testified, he
9 even admitted, no, you can't hit that area behind
10 Ms. Poot's house from that location. You heard
11 testimony that the casings drop where you fire. They
12 don't eject 50 feet away. If you're standing here,
13 they're dropping here. So, we have a point. We have a
14 location for Joey. And from that location, bullets
15 don't curve. They went into the side of that building,
16 not to where Michael Morgan was.

17 And even, if you want to say, like Solicitor said,
18 well, he's running to Ms. Poot's back porch, he gets hit
19 in the right buttock, not from the parking lot. And
20 I'll tell you why that's significant in just a minute.

21 Clearly, Robert Goodwine says, I know Lucas Morgan
22 shot me. We got no forensic evidence to tie Joey to any
23 of the evidence found at the scene.

24 Stanley Humphries told me, yeah, I was afraid for
25 my life. Trying to leave, trying to get to some safety.

DEFENDANT'S CLOSING ARGUMENT

1 The ER doctors told you that law enforcement came
2 to see Michael Morgan about an hour and a half, two
3 hours after this Joey Chaplin name was called out. And
4 I don't know how that happened. But you needed to know
5 that. I'm not doing my job if I don't tell you that and
6 bring that out. I know the State is not going to bring
7 it out, but I've got to do what I have to do. I don't
8 know how it happened. I don't know if information was
9 laid over other information. But that's for you to
10 decide. But I've got to bring it to you.

11 Now, the jail phone calls. Hundreds of phone
12 calls. Every time, your call is being recorded. Every
13 single time. Moore testified to that. It's an
14 emotional conversation. They're speaking about their
15 relationship.

16 You know, and regardless of whether you're able to
17 understand what's being said in what is clearly in what
18 is clearly in anguish spoken between Joey and Megan, the
19 forensic evidence, the medical evidence, the ballistic
20 evidence and all the other evidence simply -- well, they
21 simply tell a different story.

22 So, where are we? During the first round of shots,
23 who is shooting? Lucas Morgan is shooting from the
24 propane tank. It's clear.

25 Lewis Melvin Johnson is shooting out the side door,

DEFENDANT'S CLOSING ARGUMENT

1 State's 43. Out the side door, right here. Right in
2 here. And from the ballistics and firearms expert, we
3 have placard 23, the .45 shell casing, it's over there
4 in the same area by the wood line, the single shot.
5 Those three shooters had a clear shot to Michael Morgan.

6 Was that .45 shell casing Arthur Chaplin? I don't
7 know. Arthur is not here today.

8 I'll close by saying what does not require
9 guessing? What does not require you to take leaps that
10 are extraordinary or unreasonable?

11 The State told you they dismissed the charge today,
12 the murder indictment against Joey for the killing of
13 Dante Bailey. Today. Joey Bowers could not have shot
14 and killed Michael Morgan. He had no clear shot. The
15 bullet, the laws of physics, don't allow that.

16 Lucas Morgan shot and injured Robert Goodwine, and
17 Lucas Morgan -- Lewis Melvin Johnson had a clear shot to
18 injure Richard Green. And if Joey adopted the belief,
19 if Joey said something about saying, you know, I didn't
20 kill anybody, that part's clear. That we can hear. And
21 you'll have to make a determination of what you hear.
22 But even if you hear and you determine the rest of that
23 statement is, I only shot the boy, then he shot the boy
24 to save his life. And the Judge will tell you that is
25 absolutely permissible. And you must find then that he

DEFENDANT'S CLOSING ARGUMENT

1 is not guilty.

2 You know, I believe an innocent man has sat next to
3 me the last three days. I believe I've worked with an
4 innocent man for two years. He was not a participant in
5 whatever was going on between Dante Bailey and Arthur
6 Chaplin. He withdrew from the Midnight Soul Patrol,
7 trying to get in the car. He said, let's go, let's
8 leave. And if he fired the Glock, if he fired the
9 Glock, he did it at Lucas Morgan, as Lucas Morgan stood
10 right there taking cover on the side of that building,
11 shooting at Joey. And when he did that, if Joey fired
12 back, then he had every right to do it. And I'll say to
13 you as I finish and return to my chair, what would you
14 do?

15 JURY CHARGE

16 THE COURT: Thank you very much. Ladies and
17 gentlemen, now it becomes my responsibility, of course,
18 as the trial judge to give you the law which you have
19 promised to duly accept and apply fairly and
20 impartially to those facts that you will determine very
21 shortly when you begin your deliberations in this case.

22 And it is your duty as the jurors to accept this
23 law as I state it to you, and your exclusive duty to
24 determine the effect, the value, and weight and the
25 truth of the evidence. Both the State and Mr. Bowers