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STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

S.C. Supreme Court

Appeal from Darlington County

Eugene C. Griffith, Jr., Circuit Court Judge

ANTHONY EDWARDS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-000892

A P P E N D I X

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ATTORNEYS FOR RESPONDENT

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THE STATE OF SOUTH CAROLINA	)	IN THE COURT OF
	)	GENERAL SESSIONS
COUNTY OF DARLINGTON	)	
	)	
THE STATE OF SOUTH CAROLINA	)	
	)	
PLAINTIFF	)	
	)	
VERSUS	)	OCTOBER 10, 2011
	)	
ANTHONY EDWARDS	)	2009-GS-16-0064
	)	
DEFENDANT	)	

BEFORE

THE HONORABLE HOWARD P. KING

APPEARANCES

John Holt, Esquire
Patti McKenzie-Parker, Esquire
Mia Davis, Esquire
ATTORNEYS FOR THE STATE

Richard Jones, Esquire
Daniel Jordan, Esquire
ATTORNEY FOR THE DEFENDANT

Pamela Ozment-Cartee
Circuit Court Reporter

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STATE WITNESSES

NAME	VOIR DIRE	DIRECT	CROSS	REDIRECT	RE-CROSS
Clay S. Tedder, Sr.		071	078	097	099
Perry Wilds		101	113	126	---
Cleveland Keith		129	135	---	---
Patrick Smith		142	153	165	167
Julius Lucky		168	None	---	---
James Lee Lucky		172	None	---	---
Harold Marcus McPhail		179	None	---	---
Nelson LeRoy Jackson		181	---	---	---
Cleveland Howard		189	192	---	---
William Anthony Baird		197	202	---	---
Charles Wesley Wright		202	None	---	---
William E. Locklair		205	None	---	---
Janice Ross, M.D. Proffered		220			
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Ken Lui		234	None	---	---
Russ Harrell		236	243	---	---
Daniel DeFeese	244	247	254	---	---
Janna Carter		258	None	---	---

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George Wilks		274	None	---	---

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VOIR DIRE

Case No.: 2009-GS-16-00644 Date: October 10, 2011
 Plaintiff: The State Attorney: John Holt
 Defendant: Anthony Edwards Attorney: Richard Jones
 Presiding Judge: Howard P. King Reporter: Pamela Ozment-Cartee

*****			***** Strikes *****			
JUROR #	JUROR NAME	RACE	SEX	STATE	DEFF	COURT
.077	Cornelius E. Johnson	B	M	✓	✓	
095	William C. McCollough	B	M	✓	✓	
058	Shakia A. Gray	B	F	X	--	
134	Timothy L. Watford	W	M	✓	✓	
136	Brittany T. Wheeler	B	F	✓	✓	
062	Melissa A. Harman	W	F	✓	X	
030	Sandra R. Childers	W	F	✓	X	
012	Antwonette D. Bess	B	F	✓	✓	
028	Ann F. Chapman	W	F	✓	X	
066	Faye Howell	W	F	✓	✓	
093	Samantha Lyles	W	F	✓	X	
118	Cecil E. Sligh, Jr.	W	M	✓	✓	
120	Johnny M. Stephens	W	M	X	---	
117	Denise J. Skinner	W	F	✓	✓	
088	Cathy B. Kemmerlin	W	F	✓	✓	
145	Richard Zackowski	W	M	✓	X	
123	Tona L. Tedder	W	F	✓	X	
150	Chasity N. McElveen	W	F	✓	✓	
127	S. G. Tomlinson, Jr.	W	M	✓	X	
101	Jason D. Norris	W	M	✓	✓	
	ALTERNATE 1					
109	Connie M. Raines	W	F	✓	✓	
	ALTERNATE 2					
105	Delors Phillips	B	F	✓	✓	

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NO DEFENSE EXHIBITS

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1 (Whereupon, this trial commenced at 11:04 a.m.
2 on Monday, October 10, 2011.)

3 -- DAY ONE OF TRIAL --

4 THE COURT: All right. Mr. Holt.

5 MR. HOLT: Yes, sir, Your Honor. The State would like
6 to call the following four indictments, Judge. 2009-GS-16-
7 0644, The State versus Anthony Edwards. He is charged with
8 murder. 2009-G-16-0646, The State versus Anthony Edwards. He
9 is charged with carrying a weapon on the premises that serve
10 alcohol. 2009-GS-16-0645, possession of a pistol by a person
11 convicted of a crime of violence. 2009-GS-16-0643, possession
12 of a weapon during the commission of certain crimes, Judge.

13 The defendant is represented today by Rick Jones.

14 THE COURT: All right. Ladies and gentlemen of the
15 jury panel, if you would give me your attention. What I am
16 going to tell you now is not evidence in this case. It is
17 simply the charges against the defendant. But I am going to
18 summarize those charges based on the allegations of the
19 indictment, so you can determine if you know anything about
20 this case that would prevent you from serving as a juror, or
21 would be a conflict of interest. But in these indictments the
22 state alleges that Anthony Edwards did in Darlington County,
23 on or about September 27, 2008, feloniously and wilfully, and
24 with malice aforethought, kill one Roosevelt Patterson by
25 means of shooting the victim, and that Mr. Patterson died as a

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1 result of that gunshot wound. And the charge is one of
2 murder.

3 Also, he is charged with possession on that date of
4 possessing --- a separate crime, that is on September 27,
5 2008, that he was in possession of and did viably display a
6 firearm during the commission of a violent crime.

7 Also, he is charged with possession of a pistol.
8 Unlawful possession of a pistol. And we will get into the
9 details of that at another time.

10 And in Indictment Number 646, of carrying a weapon onto
11 or into a premises where alcohol is served. Also, in
12 violation of South Carolina law.

13 Now those are simply the charges against the defendant.
14 To these charges Mr. Edwards, has plead not guilty, and is
15 asking for a jury trial. The defendant, Mr. Anthony Edwards
16 is represented by Mr. Rick Jones. Mr. Jones, would you stand
17 and introduce yourself to the jury, and have Mr. Edwards
18 stand, and introduce him to the jury. And, also introduce any
19 counsel that will be working with you.

20 MR. JONES: Yes, sir. Again, my name is Rick Jones.
21 I work for the Fourth Circuit Public Defender's Office. I
22 will be assisting Mr. Edwards. And this is Mr. Anthony
23 Edwards.

24 THE COURT: Thank you. You may be seated. Before we
25 select a jury, I need to ask you a number of questions.

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1 Please give your attention to these questions. And if any of
2 them apply to you, then respond accordingly.

3 Is any member of the jury panel related by blood, or
4 connected by marriage to the defendant, Anthony Edwards, if
5 so, please stand? Thank you.

6 The following individuals may appear as witnesses in this
7 case. If any of the witnesses are present in the courtroom
8 now, I would ask that they stand when their name is called.
9 Jim Goins, of the Darlington County Sheriff's Office. Andy
10 Locklair, of the Darlington County Sheriff's Office. Russ
11 Harrell, of the Darlington County Sheriff's Office. Cleveland
12 Howard, of the Darlington County Sheriff's Office. Tony
13 Baird, of the Darlington County Sheriff's Office. George
14 Wilks, of the Darlington County Sheriff's Office. Perry Wise,
15 Cleveland Keith, Clay Tedder, Sr., Patrick Smith, Dan Defreese
16 of SLED. Janice Ross, that is Doctor Janice Ross of Newberry
17 Pathology. Ken Lui, L-U-I, of the Darlington County Police
18 Department. Charles Wright, of the Darlington County Sheriff's
19 Office. Julius Lucky, James Lucky, Nelson Jackson, Harold
20 McPhail, Patrick Smith, Victoria Smith, I think I have already
21 given the name of Detective Cleveland Howard. I have given
22 the name of Jim Goins. If there is any repetition, I have
23 given the name of George Wilks, Deputy H. B. Reese, Clay
24 Tedder, Jr., I think I gave Clay Tedder, Sr., but Clay Tedder,
25 Jr., as well, and Cleveland Keith, whose name I may have also

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1 given. Is there any member of the jury panel related by
2 blood, connected by marriage to any of the proposed witnesses?
3 If so, please stand? Thank you.

4 The State of South Carolina is represented by Mr. John
5 Holt. Mr. Holt, if you would stand and introduce yourself to
6 the jury, and give the names of any lawyers with whom you may
7 be working with on this case.

8 MR. HOLT: Thank you very much, Judge. My name is John
9 Holt. I work for the Fourth Circuit Solicitor here in
10 Darlington. Beside me is Ms. Patti Parker, she use to be
11 Patti McKenzie. She is Patti Parker now, I have to get use to
12 saying that. She is kind of my boss. And this young lady is
13 Mia Davis, she has the unfortunate honor of trying to learn
14 how to do this from me today. Thank you, very much.

15 THE COURT: As I have already told you, the defendant
16 of course, is represented by the Public Defender's Office, and
17 they have introduced themselves to you.

18 Is there any member of the jury panel represented now, or
19 has been represented in the last five-years by any member of
20 the Fourth Circuit Solicitor's Office, Mr. Holt, Ms. Parker,
21 or any other member of the Fourth Circuit Solicitor's Office,
22 or by Mr. Jones, or any member of the Fourth Circuit Public
23 Defender's Office? If so, please stand?

24 Is there any member of the jury panel close personal
25 friends of any of the parties, their lawyers, or any of the

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1 witnesses whom I have read off to you? If so, please stand?

2 Does any member of the jury panel know anything about the
3 facts of this case as I have briefly recited them to you? If
4 so, please stand?

5 Has any member of the jury panel or a member of your
6 immediate family, and I define immediate family as spouse,
7 parent, brother, sister, or child. Any member of the jury
8 panel, or a member of your immediate family been the victim of
9 a violent crime? That is, a crime upon your person. If so,
10 please stand?

11 Is there any member of the jury panel, or a member of
12 your immediate family employed now, or been employed within
13 the last ten years with any law enforcement agency? If so,
14 please stand? All right. We have a few. Let me see if we
15 can find out exactly what it is. This gentleman right here.
16 Give me your name, number.

17 JUROR: William Hall, Juror Number 59. I am kin to
18 Michael H. Hall..

19 THE COURT: All right, sir. Mr. Hall. Is it you or a
20 member of your family?

21 JUROR: My brother.

22 THE COURT: Your brother. And what agency?

23 JUROR: Darlington County Sheriff's Department.

24 THE COURT: Is he currently employed there?

25 JUROR: Yes, sir.

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1 THE COURT: Okay. All right, sir. Mr. Hall, would the
2 fact that your brother is employed with the Darlington County
3 Sheriff's Office prevent you from giving to both the state and
4 the defendant a fair and impartial trial based on the
5 evidence?

6 JUROR: No, it would not.

7 THE COURT: Would you be able to put this aside, and
8 decide this case based on the evidence you hear in this
9 courtroom?

10 JUROR: Yes, sir.

11 THE COURT: And would you do that?

12 JUROR: Yes, sir.

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

14 JUROR: Antwonette Bess.

15 THE COURT: Wait just one minute, please. All right.
16 Yes, ma'am, your name?

17 JUROR: My name is Antwonette Bess.

18 THE COURT: Do you recall your number?

19 CLERK OF COURT: Ten.

20 THE COURT: Ten. All right. Ms. Bess, what is your
21 situation?

22 JUROR: My brother is a policeman.

23 THE COURT: A policeman where?

24 JUROR: Here in Darlington.

25 THE COURT: Here in Darlington. City police?

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1 JUROR: Yes, sir.

2 THE COURT: And that is your brother?

3 JUROR: Yes, sir.

4 THE COURT: Would that fact prevent you from giving to
5 both the state and the defendant a fair and impartial trial
6 based on the evidence?

7 JUROR: No, sir.

8 THE COURT: Would you be able to put that aside and
9 decide this case based on the evidence that you hear in this
10 courtroom?

11 JUROR: Yes, sir.

12 THE COURT: And would you do that?

13 JUROR: Yes, sir.

14 THE COURT: All right. Thank you, ma'am. All right.
15 And, the other lady, your name please?

16 JUROR: Belinda Dixon.

17 THE COURT: Wait just a moment.

18 CLERK OF COURT: Thirty-seven.

19 THE COURT: Ms. Dixon. Okay, Ms. Dixon, what is your
20 situation?

21 JUROR: My sister is a victim's advocate.

22 THE COURT: You have to speak up.

23 JUROR: My sister is a victim's advocate for the
24 Darlington County Sheriff's Department,

25 THE COURT: And, is she currently employed in that

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1 position?

2 JUROR: Yes, sir.

3 THE COURT: Thank you. Other than what has already
4 been disclosed to me, has any member of the jury panel or a
5 member of your immediate family, as I have defined that term,
6 worked for the Solicitor's Office in the Fourth Judicial
7 Circuit? If so, please stand?

8 Is any member of the jury panel a member of a victim's
9 rights group such as MADD, SADD, CADV, South Carolina
10 Sheriff's Association, or any of the type of victims' rights
11 group whose primary purpose is the advocacy of the victim's
12 rights? If so, please stand? Thank you.

13 Has any member of the jury panel formed or expressed an
14 opinion as to the guilt or innocence of the defendant, Anthony
15 Edwards; if so, please stand?

16 Is there any member of the jury panel aware of any
17 interest, any bias, or any prejudice for or against the
18 defendant Anthony Edwards, other than what has already been
19 disclosed to me; if so, please stand?

20 Again, other than what has already been disclosed to me,
21 can each member of the jury panel give to the state and to the
22 defendant Anthony Edwards, a fair and impartial trial. If
23 not, please stand.

24 Again, other than what has been disclosed to me, does any
25 member of the jury panel know of any reason whatsoever why he

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1 or she should not serve as a juror in this case? If so,
2 please stand?

3 Are there additional questions on behalf of the state,
4 Mr. Holt?

5 MR. HOLT: There are none, Your Honor.

6 THE COURT: On behalf of the Defense, Mr. Jones?

7 MR. JONES: No, sir.

8 THE COURT: All right. Counsel, approach just a moment
9 please.

10 (Whereupon, a bench conference was held in the
11 presence of the jury panel, but out of their hearing range.)

12 THE COURT: All right. Mr. Clerk, if you would give us
13 a jury, we will draw twelve jurors and two alternates. On the
14 alternates the defense will have two strikes for each
15 alternate. The state will have. And we will draw two
16 alternates.

17 Ladies and gentlemen, as I said, the process now is that
18 the computer selects these names randomly. And your name will
19 be called out individually, one at a time. When your name is
20 called, please come through the right side of the courtroom,
21 or my right, your left, to the rail. Turn around with your
22 back toward me, and face the back of the courtroom. If you
23 are acceptable to the state, the state will indicate, present
24 the juror. If you are acceptable to the Defense, the
25 defendant will state, accept or seat the juror. And you will

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1 have a seat in the jury box to my right. If either side
2 excuses you, you will have a seat back out with the remainder
3 of the jury panel. And we will go through that process until
4 we have the jury selected. All right, Mr. Clerk.

5 CLERK OF COURT: If your name is called, if you would
6 bring whatever you brought with you today, umbrella, whatever
7 you have with you. If you would come forward and stand over
8 here facing back out this way.

9 Juror Number 77, Cornelius Johnson. What saith the
10 state?

11 MR. HOLT: Please present, Mr. Johnson.

12 CLERK OF COURT: What saith the defense?

13 MR. JONES: Please seat the juror.

14 CLERK OF COURT: Please have a seat in the jury box
15 for me please, Mr. Johnson.

16 Juror Number 95, William McCollough. What saith the
17 state?

18 MR. HOLT: Please present, Mr. McCollough.

19 CLERK OF COURT: What saith the defense?

20 MR. JONES: Please seat the juror.

21 CLERK OF COURT: Please have a seat in the jury box
22 for me, Mr. McCollough.

23 Juror Number 58, Shakia Gray. What saith The State?

24 MR. HOLT: Please excuse Ms. Gray.

25 CLERK OF COURT: You have been excused in this

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1 particular case, Ms. Gray. If you would just go back and have
2 a seat back out in the audience for me please.

3 Juror Number 134, Timothy Watford. What saith The State?

4 MR. HOLT: Please present Mr. Watford.

5 CLERK OF COURT: What saith the defense?

6 MR. JONES: Please seat the juror.

7 CLERK OF COURT: Please have a seat in the jury box
8 for me please, Mr. Watford.

9 Juror Number 136, Brittany Wheeler. What saith The
10 State?

11 MR. HOLT: Please present Ms. Wheeler.

12 CLERK OF COURT: What saith the defense?

13 MR. JONES: Please seat the juror.

14 CLERK OF COURT: Please have a seat in the jury box
15 for me please, Ms. Wheeler.

16 Juror Number 62, Melissa Harman. What saith The State?

17 MR. HOLT: Please present Ms. Harman.

18 CLERK OF COURT: What saith the defense?

19 MR. JONES: Please seat the juror.

20 CLERK OF COURT: Please have a seat in the jury box
21 for me please, Ms. Harman.

22 Juror Number 30, Sandra Childers. What saith The State?

23 MR. HOLT: Please present Ms. Childers.

24 CLERK OF COURT: What saith the defense?

25 MR. JONES: Please excuse the juror.

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1. CLERK OF COURT: You have been excused in this
2 particular case, Ms. Childers. If you would go back and have
3 a seat in the audience for me, please.

4 Juror Number 12, Antwonette Bess. What saith The State?

5 MR. HOLT: Please present Ms. Bess.

6 CLERK OF COURT: What saith the defense?

7 MR. JONES: Please seat the juror.

8 CLERK OF COURT: Please have a seat in the jury box
9 for me please, Ms. Bess. Thank you.

10 Juror Number 28, Ann Chapman. What saith The State?

11 MR. HOLT: Please seat Ms. Chapman.

12 CLERK OF COURT: What saith the defense?

13 MR. JONES: Please excuse the juror.

14 CLERK OF COURT: You have been excused in this
15 particular case, Ms. Chapman. Thank you.

16 Juror Number 66, Faye Howell. What saith The State?

17 MR. HOLT: Please seat Ms. Howell.

18 THE COURT: What saith the defense?

19 MR. JONES: Please seat the juror.

20 CLERK OF COURT: Please have a seat in the jury box for
21 me please, Ms. Howell. Thank you.

22 Juror Number 93, Samantha Lyles. What saith The State?

23 MR. HOLT: Please seat Ms. Lyles.

24 CLERK OF COURT: What saith the defense?

25 MR. JONES: Please excuse the juror.

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1 CLERK OF COURT: You have been excused in this
2 particular case, Ms. Lyles. Thank you.

3 Juror Number 118, Cecil Sligh. What saith The State?

4 MR. HOLT: Please seat Mr. Sligh.

5 CLERK OF COURT: What saith the defense?

6 MR. JONES: Please seat the juror.

7 CLERK OF COURT: Have a seat in the jury box for me
8 please, Mr. Sligh. Thank you.

9 Juror Number 120, Johnny Stephens. What saith The State?

10 MR. HOLT: Please excuse Mr. Stephens.

11 CLERK OF COURT: You have been excused in this
12 particular case, Mr. Stephens. Thank you.

13 Juror Number 117, Denise Skinner. What saith The State?

14 MR. HOLT: Please seat Ms. Skinner.

15 CLERK OF COURT: What saith the defense?

16 MR. JONES: Please seat the juror.

17 CLERK OF COURT: Have a seat in the jury box for me
18 please, Ms. Skinner.

19 Juror Number 88, Cathy Kemmerlin. What saith The State?

20 MR. HOLT: Please seat Ms. Kemmerlin.

21 CLERK OF COURT: What saith the defense?

22 MR. JONES: Please seat the juror.

23 CLERK OF COURT: Have a seat in the jury box for me
24 please, Ms. Kemmerlin.

25 Juror Number 145, Richard Zackowski. What saith The

THE STATE VERSUS ANTHONY EDWARDS

22

1 State?

2 MR. HOLT: Please seat Mr. Zackowski.

3 CLERK OF COURT: What saith the defense?

4 MR. JONES: Please excuse the juror.

5 CLERK OF COURT: You have been excused in this
6 particular case, Mr. Zackowski.

7 Juror Number 123, Tona Tedder. What saith The State?

8 MR. HOLT: Please seat Ms. Tedder.

9 CLERK OF COURT: What saith the defense?

10 MR. JONES: Please excuse the juror.

11 CLERK OF COURT: You have been excused in this
12 particular case, Ms. Tedder. Thank you.

13 Juror Number 150, Chasity McElveen. What saith The
14 State?

15 MR. HOLT: Please seat Ms. McElveen.

16 CLERK OF COURT: What saith the defense?

17 MR. JONES: Please seat the juror.

18 CLERK OF COURT: Please have seat in the jury box for
19 me please, Ms. McElveen. Thank you.

20 Juror Number 127, S. G. Tomlinson. What saith The State?

21 MR. HOLT: Please seat the juror.

22 CLERK OF COURT: What saith the defense?

23 MR. HOLT: Please excuse the juror.

24 CLERK OF COURT: You have been excused in this
25 particular case, Mr. Tomlinson. Thank you.

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1 Juror number 101, Jason Norris. What saith The State?

2 MR. HOLT: Please seat Mr. Norris.

3 CLERK OF COURT: What saith the defense?

4 MR. JONES: Please seat the juror.

5 CLERK OF COURT: Have a seat in the jury box for me
6 please, Mr. Norris. Thank you.

7 THE COURT: Alternates, please, counsel. Two
8 alternates. Two and one on each.

9 CLERK OF COURT: Juror Number 109, Connie Raines.
10 What saith The State?

11 MR. HOLT: Please seat Ms. Raines.

12 CLERK OF COURT: What saith the defense?

13 MR. JONES: Please seat the juror.

14 CLERK OF COURT: Please have a seat in the first chair
15 outside the jury box for me please, Ms. Raines.

16 Juror Number 105, Delors Phillips. What saith The State?

17 MR. HOLT: Please seat Ms. Phillips.

18 CLERK OF COURT: What saith the defense?

19 MR. JONES: Please seat the juror.

20 CLERK OF COURT: Please have a seat in the second
21 chair outside the jury box for me please, Ms. Phillips.

22 THE COURT: All right. Anything with regard to the
23 selection of the jury on behalf of the state, Mr. Holt?

24 MR. HOLT: There is not, Judge.

25 THE COURT: On behalf of the defense, Mr. Jones?

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24.

1 MR. JONES: No, sir.

2 THE COURT: All right. Ladies and gentlemen of the
3 jury panel selected in the trial of this case, I have been
4 conferring with the lawyers ahead of time, and I know that we
5 have some matters that we need to take care of this morning --
6 - that I have to take care of outside of your presence, and on
7 the record. I have also been talking with the other assistant
8 solicitors, and we have some matters this afternoon that we
9 are going to have to take care of on the record. We are not
10 taking the afternoon off, but we have some work that we are
11 going to do. So, we are not going to actually start the trial
12 of this case until in the morning. So, I am going to excuse
13 you now, and allow you to go about your business for the rest
14 of the day. But, there are several things that I want to tell
15 you before you leave.

16 First of all. Later on in this trial either I will
17 appoint or I will allow you to select from your members the
18 twelve of you a foreperson for this jury. When that
19 foreperson is selected either by you or appointed by me, that
20 person will sit in the first seat on the front row. The two
21 alternates will always sit in the seats where they are seated.
22 The rest of the seats in the jury box are not reserved. And
23 it does not matter what order you come and go from the
24 courtroom. I will simply ask that you go all the way down so
25 that it would not be a situation of crawling over one another,

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25

1 reserving the first seat on the front row for the foreperson
2 when that foreperson is selected. And the two seats outside
3 for the alternates, where they will sit throughout the trial
4 of this case.

5 I will also tell you that it would be improper for you to
6 discuss this case with anyone when you are away from the
7 courthouse. When you see your family or friends, I know you
8 don't know anything about the case except for what I have told
9 you the basic allegations were. But it would improper for you
10 to discuss the case with them at this --- at any time today,
11 or anytime throughout the trial of this case until you have
12 been excused by me as jurors. The reasons for that are pretty
13 apparent. You have got to decide this case based upon what
14 you hear in this courtroom, and not on the basis of what
15 anyone might say. Similarly, do not allow anyone to talk to
16 you about the case. Should anyone try to approach you or try
17 to talk with you about the case, get their name, or their
18 description, and report it to the bailiffs, and they will
19 report it to me, and I will deal with them.

20 Also, do not read any news stories or listen to any media
21 broadcast about this case. Again, you have got to decide this
22 case based upon what you hear in this courtroom, and not on
23 the basis of what might be reported in the newspaper, or might
24 be broadcasted on the broadcast media. So, if there are any
25 news stories, simply put that paper aside. Or, if there is

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1 anything on television simply turn it off, or mute the sound,
2 and do not again listen to any media broadcast or media
3 service about this case. Because again, you have got to
4 decide this case based upon what you hear in this courtroom.

5 And, finally, do not do any research about this matter on
6 your own. Do not do any research at all. Do not go on the
7 internet or do any research at all about this matter. You
8 have got to decide this case solely on the basis of what you
9 hear in this courtroom, both evidence and law, and it would be
10 improper for you to do any research or try to learn any facts
11 about this matter on your own.

12 With those admonitions, then I am going to excuse now.
13 Allow you to go with the bailiff. He will show you where your
14 jury room is. And I am going to ask you to be back in your
15 jury room tomorrow morning at 9:30. We will be ready to start
16 promptly at 9:30 tomorrow morning. But don't come to the
17 courtroom, but come to your jury room. And I will see you at
18 9:30 tomorrow morning.

19 Thank you, and have a pleasant rest of the day, and I
20 will see you tomorrow.

21 (Whereupon, the jury exits the courtroom for
22 the day at 11:45 a.m..)

23 THE COURT: All right. The clerk has just told you
24 that the number that you have is an answering machine. It is
25 very much like the one you have at home. It is a system that

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1 all of the courts have gone to, that make it unnecessary for
2 us to bring jurors back and forth to the courtroom more than
3 is absolutely necessary. It is often very difficult for us to
4 tell exactly how long a case is going to take. So, what I am
5 going to do is ask you call that number that you have tomorrow
6 after six o'clock. You do not have to call it tonight, and
7 you will be clear all day tomorrow. But that number that you
8 have, please call after six tomorrow evening. And you can
9 call it anytime all night long, and there will be a message on
10 that machine that will give you your reporting instructions
11 for Wednesday. So, with those admonitions, then I am going
12 to excuse you for the rest of the day and tomorrow, and ask
13 that you call that number after six o'clock tomorrow night,
14 and we will let you know about what your reporting
15 instructions will be for Wednesday.

16 Thank you, you are free to go.

17 (Whereupon, the jury panel is released from the
18 courtroom at 11:47 a.m..)

JACKSON VERSUS DENNO HEARING

19
20 THE COURT: All right. Back on the record then with
21 regard to the matter of Anthony Edwards. The jurors have been
22 excused. The panel has been excused as well as the jurors on
23 this case. I understand that on this matter that there is a
24 statement that was made, and I think in pretrial conferences
25 in chambers that the court was advised that it was a video

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1 statement that was made, that the defendant made prior to
2 trial, or shortly after his arrest. Maybe the next day or
3 something like that. And that the defendant wishes to
4 challenge the voluntariness of this, under Jackson versus
5 Denno; is that correct?

6 MR. JONES: It is, Your Honor.

7 THE COURT: All right. The defendant, having made a
8 motion to suppress the video statement on the voluntariness.
9 The burden shifts to the state to show that the statement was
10 freely and voluntarily given.

11 Mr. Holt, you may call whatever witnesses you wish to
12 call in that regard.

13 MR. HOLT: Thank you very much, Judge. At this time
14 the state would call --- May we approach real quick, Judge?

15 THE COURT: Sure.

16 (Whereupon, a bench conference was held.)

17 THE COURT: When you get ready to do it for trial, Mr.
18 Holt, if it is admitted --- if it is admitted, you can make
19 arrangements for playing it for the jury, if that becomes an
20 issue at a later time. But, I am really the only one that
21 really needs to look at it now.

22 MR. HOLT: Yes, sir, Your Honor. At this time state
23 would like to call Captain Andy Locklair to the stand.

24 WHEREUPON, WILLIAM E. LOCKLAIR

25 FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

WILLIAM E. LOCKLAIR -- DIRECT EXAMINATION

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1 CAPTAIN LOCKLAIR: I do.

2 DIRECT EXAMINATION BY MR. HOLT

3 Q. Please state your name for the record.

4 A. William E. Locklair.

5 Q. And, where are you employed, Captain Locklair?

6 A. Darlington County Sheriff's Office.

7 Q. How long have you been there? How many years do you have
8 in law enforcement?

9 A. Approximately twenty-years.

10 Q. And in what capacity are you employed there now?

11 A. I am a Captain over administration.

12 Q. Captain Locklair, are you familiar with the defendant
13 Anthony Edwards?

14 A. Yes, I am.

15 Q. In what capacity are you familiar with him?

16 A. Worked a case back in 2008 with Investigator Jim Goins in
17 Darlington.

18 Q. And what duties do you recall doing that day?

19 A. I assisted the lead investigator --- excuse me,
20 Investigator Jim Goins with the case.

21 Q. And Investigator Locklair, I am going to pass you what
22 has been pre-marked as State's Exhibit 1, what I believe
23 defense counsel has stipulated to. Can you tell me what
24 that is?

25 A. This is a Darlington County Detention Center Inmate

WILLIAM E. LOCKLAIR - DIRECT EXAMINATION

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1 Request Form from Mr. Edwards, on the date of 9/29/2008.
2 It indicates what cell he was in at a particular time.
3 It also indicates any specific information concerning the
4 narrative. "Could somebody get the investigator over my
5 case here to see me?" And I will read it as it was
6 wrote. "I asked that --

7 THE COURT: Wait just a minute. Is there any objection
8 to that being admitted for the purposes of the Jackson v Denno
9 Hearing, as State's Number 1?

10 MR. JONES: No, sir.

11 THE COURT: So admitted.

12 WHEREUPON, STATE'S EXHIBIT NUMBER

13 1 IS MARKED AND ADMITTED INTO

14 EVIDENCE WITHOUT OBJECTION.

15 A. "I acts [sic] that took place are clear and fresh, and I
16 would like to make a statement now. Could you get someone
17 down here ASAP?" It has a staff response, and it is
18 signed by the staff officer, Mr. Wright.

19 Q. And, what is that Inmate Request Forms used for?

20 A. It is a system in which inmates can request to speak with
21 investigators who are working a particular case. They
22 fill out these particular forms, and those forms are
23 delivered to the sheriff's staff over at the Sheriff's
24 office, and then that is handed to the investigator to let
25 them know that there is a person who wishes to speak with

WILLIAM E. LOCKLAIR - DIRECT EXAMINATION

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1 them.

2 Q. Now, Investigator Locklair --

3 MR. HOLT: Permission to approach, Judge?

4 THE COURT: Yes, sir.

5 Q. I am going to hand you a copy of your case file. And I am
6 also going to hand you what has been previously marked as
7 State's Exhibit 3.

8 A. Okay.

9 Q. Now, Investigator Locklair, did you have an opportunity to
10 participate in a video interview of the suspect?

11 A. I did.

12 Q. And during that interview, did he confess?

13 A. He did.

14 Q. And, looking at State's Exhibit 3, what has been marked
15 for identification purposes as State's Exhibit 3. Can you
16 open that up and tell us what is contained inside?

17 A. Inside is a DVR re-writable disc; with case number 2008-
18 09-0535, which is a case number assigned to this articular
19 case. It also has on here Edward's statement.

20 Q. Now, since that time have you had an opportunity to
21 examine that?

22 A. I have.

23 MR. HOLT: Your Honor, at this time, the state would ask
24 to play State's pre-marked Exhibit 3, for Your Honor.

25 THE COURT: All right. It has been marked as State's

WILLIAM E. LOCKLAIR - DIRECT EXAMINATION

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1 Exhibit Number 3. Is there any objection for it being admitted
2 for the purpose of the Jackson v Denno Hearing, Mr. Jones?

3 MR. JONES: No, sir.

4 THE COURT: All right. So, admitted. State's 3 is
5 admitted. And I will be glad to view it.

6 WHEREUPON, STATE'S EXHIBIT NUMBER
7 3 IS MARKED AND ADMITTED INTO
8 EVIDENCE WITHOUT OBJECTION.

9 MR. HOLT: If, I could, just that from you, Investigator
10 Locklair.

11 THE COURT: Just preliminarily, while Mr. Holt is
12 setting that up, let me ask the officer a couple of things.
13 How long is the part of the statement dealing with the
14 voluntariness before you get into evidence?

15 Investigator Locklair: Probably about four minutes.

16 THE COURT: All right. All we need to do now Mr. Holt,
17 is to stop it at the point where he actually gets into the
18 statement, because that is not the issue before the court now.
19 The issue now is whether or not the statement, whatever it
20 says, is voluntarily given in accordance with his
21 constitutional rights, and that is the part that we need to
22 focus on.

23 MR. HOLT: Yes, sir, Your Honor. And it is actually

24 ---

25 (Whereupon, a portion of State's Exhibit 3 is

WILLIAM E. LOCKLAIR - DIRECT EXAMINATION

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1 published to the court.)

2 Q. Investigator Locklair, if you would look at State's
3 Exhibit Number 1, which is in evidence. Is that the
4 Inmate Request Form, that you went over the details with
5 pending in this case?

6 A. It is.

7 Q. And if I can hand you what has been previously marked as
8 State's Exhibit 2 for the court purposes. Without telling
9 me what it is, do you know what that is?

10 A. I do.

11 Q. And, has there been any changes, alterations, or deletions
12 made to that since you last saw it?

13 A. There has not.

14 Q. And can you tell us what it is?

15 A. It is Darlington County Sheriff's office Stand Statement
16 of Rights and Miranda Warning Form.

17 Q. And, is that the same one used that the court and everyone
18 else in here just heard you speak of in that interview?

19 A. Yes, it is.

20 MR. HOLT: Your Honor, at this time the state would like
21 to move both exhibits two and three into evidence.

22 THE COURT: All right. I think we have already admitted
23 three. That was the disc. Any objection to number two being
24 admitted for purposes of the Jackson v Denno Hearing?

25 MR. JONES: No, sir.

WILLIAM E. LOCKLAIR - DIRECT EXAMINATION

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1 THE COURT: All right state's number 2 is also admitted.
2 So, the state's numbers one, two, and three have been admitted
3 for the purposes of this hearing.

4 WHEREUPON, STATE'S EXHIBIT NUMBER
5 2 IS MARKED AND ADMITTED INTO
6 EVIDENCE WITHOUT OBJECTION.

7 Q. Now, Investigator Locklair, we just saw part of that
8 video. And, if we were to guess how much of that video
9 was taken up, just percentage wise, with the individual's
10 rights, and how much is the actual meat of the story.
11 What would you say those percentages would be?

12 A. I would say nearly half. Maybe forty percent.

13 Q. And once you got in the room, did you go over every single
14 right again with the defendant?

15 A. Yes, I did.

16 Q. And were you party to any kind of, I guess you could say
17 coercion, or back door jail, to get the defendant to
18 confess?

19 A. No, I was not.

20 Q. And did you use any trickery such as keeping the defendant
21 from beverages, or lights, or any other psychological
22 tricks to get a confession?

23 A. No, we did not.

24 Q. And were you party, or did you know about any kind of deal
25 that may have happened to get the defendant to confess?

WILLIAM E. LOCKLAIR - DIRECT EXAMINATION

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1 A. No, I am not.

2 MR. HOLT: Beg the Court's indulgence.

3 THE COURT: All right.

4 (PAUSE.)

5 Q. Investigator Locklair, did the defendant appear to be
6 deprived of any sleep?

7 A. No, sir.

8 Q. Did you take part in any activity to deprive him of
9 sleep?

10 A. No, sir.

11 Q. Did the defendant appear to be under any influence of
12 drugs and alcohol?

13 A. No, sir.

14 Q. Did you give him any drugs or alcohol?

15 A. No, sir.

16 Q. And, how long was the defendant questioned, do you think,
17 after the Miranda Warning?

18 A. I would say approximately ten to fifteen minutes.

19 Q. Ten to fifteen minutes, that's all?

20 A. That's about it, yes.

21 Q. And, was he denied access to a telephone, or a bathroom,
22 or food, or drink?

23 A. No, he was not.

24 Q. And were there any threats or promises made in exchange
25 for the statement?

WILLIAM E. LOCKLAIR - CROSS EXAMINATION

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1 A. No. As a matter of fact we asked him in the Miranda
2 Warning had anybody promised or threatened you, or
3 anything, has any pressure or coercion of any kind been
4 used against you. And he indicated in the video no.

5 Q. And what was his indication to that?

6 A. No, he had not.

7 MR. HOLT: Thank you very much Investigator Locklair,
8 please answer any questions Mr. Jones might have.

9 THE COURT: Cross examination, Mr. Jones?

10 MR. JONES: Yes, sir.

11 CROSS EXAMINATION BY MR. JONES

12 Q. Captain, prior to walking into the room, had you seen Mr.
13 Edwards at all?

14 A. Yes, at the very beginning of the tape, you hear me
15 leaving the room. I actually started the video before I
16 left the room for Jim to Mirandize him.

17 Q. Okay. Let me back up. Prior to starting that tape, had
18 you had any conversation whatsoever with Mr. Edwards?

19 A. I do not reflect or recall any conversations I had with
20 Mr. Edwards.

21 Q. And, are you familiar --- I think you are familiar. But
22 are you familiar with any other negotiations, or
23 statements, or deals made by anyone else on Mr. Edward's
24 behalf?

25 A. Early in that investigation --- even later on the

WILLIAM E. LOCKLAIR - REDIRECT EXAMINATION

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1 investigation, all that was done through the Solicitor's
2 Office.

3 MR. JONES: Thank you, that is all I have for this
4 witness.

5 THE COURT: Redirect?

6 MR. HOLT: Just briefly, Your Honor.

7 REDIRECT EXAMINATION BY MR. HOLT

8 Q. Is it the department or anyone's policy to promise
9 anything to get statements?

10 A. This is why we have the standard form. So, that the
11 inmate or the defendant is well informed that there are no
12 promises, or threats, pressure, or coercion of any kind
13 that has been used. Case law documents, as long as I have
14 been law enforcement for the past twenty-years. And it is
15 common practice that we don't promise anything. We don't
16 threaten in any kind of way. We don't coerce any kind of
17 statements. And we certainly don't want to pressure
18 anybody into giving a confession.

19 MR. HOLT: Thank you very much, Captain Locklair. No
20 more questions.

21 THE COURT: Anything further, Mr. Jones?

22 MR. JONES: Not for this witness.

23 THE COURT: Thank you, sir. You may step down. All
24 right. Is there anything else from the state with regard to
25 the voluntariness matter, Mr. Holt?

ANTHONY EDWARDS - DIRECT EXAMINATION

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1 MR. HOLT: There is not, Your Honor.

2 THE COURT: All right. Mr. Jones. A defendant in a
3 criminal case such as this, has the right to present any
4 testimony, including testifying himself regarding the
5 voluntariness issue without waiving his fifth amendment rights.
6 So, if there is anything that the defendant would like to
7 present from any witnesses or from himself, I will be glad to
8 hear from him.

9 MR. HOLT: He would like to take some testimony.

10 THE COURT: All right. Come around please, Mr. Edwards.

11 MR. EDWARDS: I don't swear.

12 THE COURT: What?

13 CLERK OF COURT: He doesn't swear.

14 THE COURT: All right. Affirm.

15 WHEREUPON, ANTHONY EDWARDS

16 FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

17 MR. EDWARDS: I affirm.

18 DIRECT EXAMINATION BY MR. JONES

19 Q. Mr. Edwards, do you recall the statement that was done
20 that day?

21 A. Yes, sir. I do.

22 Q. Can you tell the court why you gave that statement?

23 A. At the time, Lataya and I had one child, ten months old.
24 And our second son was about to be born. And under the
25 circumstances they could charge me in previous cases that

ANTHONY EDWARDS - CROSS EXAMINATION

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1 people in that position sit for a long time with no bond.

2 So I made an attempt within myself to try to accommodate a
3 bond.

4 Q. Anybody promise you bond in return for that statement?

5 A. When I first talked to Investigator Goins, he --- the
6 thing that he told me --- well I can't assure you a bond.
7 I can assure you we won't fight against you, which took
8 place once given the statement when I came up for bond.

9 Q. Based on that statement that Investigator Goins made, did
10 you make that statement?

11 A. Completely.

12 Q. If he had not made that statement, would you have given
13 that video?

14 A. No, sir. I would have backed out of the whole request.

15 Q. Is there any other reason why you gave that statement?

16 A. No, sir.

17 MR. JONES: That's all I have.

18 THE COURT: Cross examination.

19 CROSS EXAMINATION BY MR. HOLT

20 Q. Mr. Edwards, we only watched the part where you were
21 marandized. What went on to happen in the rest of that
22 statement?

23 A. We talked about the story line that I gave them.

24 Q. And did you confess to shooting the victim in this case?

25 MR. JONES: Your Honor, I object to that question.

ANTHONY EDWARDS - CROSS EXAMINATION

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1 THE COURT: Well, that is not the issue here. We are
2 talking about voluntariness.

3 MR. HOLT: All right.

4 Q. Let me understand this. Are you saying that you made a
5 false statement to police in exchange for this deal?

6 A. I made a statement in exchange for help on a bond.

7 Q. Was it the truth?

8 MR. JONES: Again, objection, Your Honor.

9 THE COURT: I'm going to overrule that. I think that
10 that does have something to do with the voluntariness. What
11 was the answer?

12 MR. HOLT: There was no answer, Your Honor. I asked him
13 was the statement he gave the truth.

14 THE COURT: All right. Answer that question please, Mr.
15 Edwards?

16 A. No, sir. Not completely.

17 THE COURT: All right. That is as far as that can go.

18 Q. All right. Now, Mr. Edwards, have you ever --- have you
19 ever been arrested for a shooting before?

20 A. Yes, I have.

21 Q. And when you were arrested for it the last time, were you
22 ever convicted of it?

23 A. Through a plea bargain, yes, sir.

24 Q. All right. And did you give a statement in that case?

25 A. No, sir. I didn't.

ANTHONY EDWARDS - CROSS EXAMINATION

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1 Q. Okay. Now, did they deprive you of any food or drinks?

2 A. No, I was being housed at the Darlington County Detention
3 Center.

4 Q. How long do you think the entire statement took from the
5 time they went over your rights?

6 A. Maybe about forty-five minutes.

7 Q. All right.

8 MR. HOLT: Permission to approach, Your Honor?

9 THE COURT: Yes, sir.

10 Q. Now, I am going to show you, and I don't know where they
11 are. Can you please tell me what has been entered into
12 evidence as State's Exhibit 1, Mr. Edwards?

13 A. A Inmate Request Form.

14 Q. And what is an Inmate Request Form?

15 A. What is used at the County Detention Center to basically
16 correspond with any administration, personnel, or anyone
17 else you need to make contact with.

18 Q. And have you ever seen that one before?

19 A. Yes, I have.

20 Q. And can you please read to the court where you wrote on
21 it?

22 A. Could somebody please get the investigator over my case
23 here to see me. I asked that --- it should be the acts
24 that took place are clear and fresh, and I would like to
25 make a statement now. Could you all get someone down here

ANTHONY EDWARDS - CROSS EXAMINATION

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1. ASAP?

2. Q. Now, would it be fair to say that you initiated contact
3. with the Police Department?

4. A. Very fair.

5. Q. Now, I want to show you what has been marked as State's
6. Exhibit 2. If you could, just read aloud to the court
7. what that is?

8. A. Darlington County Sheriff's Office, State of Rights
9. Miranda Warning.

10. Q. Now, can you tell us what the first Statement of Rights
11. is?

12. A. You have the right to remain silent.

13. Q. And did you initial beside that your initial?

14. A. Yes, I did.

15. Q. And what did you think that meant when you initialed
16. beside those?

17. A. If I didn't want to say anything, I didn't have to.

18. Q. But you did initial beside it?

19. A. Yes, sir.

20. Q. All right. And can you tell to the court what the second
21. one is?

22. A. Anything you say can be used against you in court.

23. Q. And did you initial that one?

24. A. Yes, I did.

25. Q. Okay. And can you tell us what the third one is?

ANTHONY EDWARDS - CROSS EXAMINATION

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1 A. You have the right to talk to a lawyer for advice before
2 we ask you any questions, and to have him with you during
3 questioning.

4 Q. And do you remember on the video that we just all saw,
5 where you said you didn't want a lawyer?

6 A. Yes, sir.

7 Q. All right, sir. And can you tell us what the fourth one
8 is?

9 A. If you cannot afford a lawyer, one will be appointed for
10 you before questioning if you wish.

11 Q. And did you initial beside that one?

12 A. As well I did.

13 Q. Okay. And can you tell us what the next one is?

14 A. If you decide to answer questions now without having a
15 lawyer present, you will still have the right to stop
16 answering at any time. You also have a right to stop
17 answering at any time until you talk to a lawyer.

18 Q. All right. Did you initial that one?

19 A. Yes, sir.

20 Q. All right. And can you tell us what the next one is?

21 A. That is the last one.

22 Q. All right. Can I see it real quick?

23 (PAUSE.)

24 Q. All right. Now, Mr. Edwards, whose signature is that at
25 the bottom?

ANTHONY EDWARDS - CROSS EXAMINATION

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1 A. That's mine.

2 Q. Okay. And did you sign that when you agreed to talk after
3 doing the Miranda warnings?

4 A. After, yes.

5 Q. All right. And do you remember several times, but
6 specifically the time where Investigator Locklair was
7 speaking to you, he asked you if anyone coerced you, or
8 promised you anything, or done anything for you to get
9 your statement. Do you remember that?

10 A. Yes.

11 Q. And do you remember what you told them?

12 A. At the time I told them no. Because, it would defeat the
13 purpose of what my intent was to tell them.

14 Q. But you told him on video?

15 A. Yes.

16 Q. And you signed paperwork to that effect?

17 A. Yes.

18 MR. HOLT: Okay. Thank you very much, Mr. Edwards.

19 THE COURT: Mr. Jones?

20 MR. JONES: I have nothing further, Your Honor.

21 THE COURT: All right. Thank you. You may step down.

22 MR. JONES: And no other witnesses.

23 THE COURT: And no other witnesses. Anything in reply,

24 Mr. Holt, by the way of testimony?

25 MR. HOLT: There is not, Your Honor.

THE STATE VERSUS ANTHONY EDWARDS

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1 **THE COURT:** All right. Mr. Jones and Mr. Holt, that
2 concludes all the testimony with regard to the voluntariness
3 issue. However, the defense needs to present the reasons why
4 they think the statement was not freely and voluntarily given.

5 **MR. HOLT:** Your Honor, based on the testimony of Mr.
6 Edwards, we feel that it was not freely and voluntarily given.
7 There was at least in his mind a belief that if he gave a
8 statement, he could receive a bond so that he could get out to
9 be with his wife during the birth of their second child. Based
10 on that, Your Honor, we do not feel that it was freely and
11 voluntarily given.

12 **THE COURT:** All right. Mr. Holt.

13 **MR. HOLT:** Thank you very much, Your Honor. I think,
14 Judge, there is almost a super-redundant system that the
15 Sheriff's Office has. One investigator goes over it. Then
16 before he questions it, the second investigator goes over
17 everything as well. And they both ask the same question, has
18 anyone promised or asked you, or promised you anything to get
19 you to testify or confess here today? I think the defendant
20 himself agreed that it was the truth that he gave. And, Judge,
21 I think they ask those questions for a very specific reason, to
22 fight something just like this.

23 I think we watched about thirteen minutes of video. I
24 think there is about thirteen more. They were never keeping
25 him from any type of food. He initiated the contact. And now

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1 that he is unable with the contact, he is just throwing a blank
2 allegation at us. And viewing it in the light most favorable
3 to the nonmoving party, I don't see where they have established
4 anything, Your Honor, except for his belief.

5 THE COURT: Okay. All right. Thank you. All right.
6 It is axiomatic that a defendant in a criminal case is entitled
7 to an independent evidentiary hearing to determine the
8 voluntariness of statements made prior to the submission of
9 such statements to the jury. Thus, where there is conflicting
10 evidence about a statement, the court must first make a finding
11 as to the validity of the statement, and if the statement is
12 found to be valid, it should be submitted to the jury.

13 In making this determination, the trial judge should
14 examine the totality of the circumstances, including the
15 background, experience, and conduct of the accused, surrounding
16 the utterance to determine whether the state has met its burden
17 of proof so as to warrant the admission of the confession.

18 The test of admissibility of a statement is whether it was
19 knowingly, intelligently, and voluntarily given. A confession
20 may not be extracted by any sort of threats or violence, or
21 obtained by any direct or implied promises however slight, or
22 by the exertion of improper influence.

23 Part of the state's burden during this hearing is to prove
24 by preponderance of the evidence, that the statement was
25 voluntarily made, and taken in compliance with Miranda versus

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1 Arizona. The state bears the burden of proof, even where the
2 defendant has signed a Waiver of Rights Form. Although custody
3 is a factor to be considered in determining voluntariness. The
4 defendant need not show he was in custody at the time the
5 statement was made to request a Jackson versus Denno hearing on
6 the voluntariness of the statement. But there is no question
7 that he was in custody in this situation. And, of course, the
8 Miranda warnings would apply.

9 The court has carefully considered all of the evidence
10 that has been offered by the state and by the defendant. And I
11 will find that before the alleged incriminating statement or
12 confession was obtained from the defendant, the defendant was
13 fully advised of his rights under the fifth and sixth
14 amendments of the Constitution of the United States. And that
15 the defendant was advised of his constitutional safeguard
16 required by Miranda versus Arizona, which is cited as 384 US
17 426. He was specifically advised as follows. That the
18 defendant was advised prior to any interrogation that he had
19 the right to remain silent. And further the defendant was
20 advised prior to any interrogation that if he waived his right
21 to remain silent and made a statement, that such statement
22 could and would be used against him in a court of law. The
23 third thing is that the defendant was advised prior to any
24 interrogation that he had the right to employ or select an
25 attorney of his own choice, and if he did not have the money,

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1 funds, or resources to employ an attorney, that the court would
2 appoint and provide one for him if he desired. And that he had
3 the right to have his attorney present with him at all times
4 during the interviews and interrogations. He was further
5 advised that prior to any interrogations that he had the right
6 to consult with a lawyer before interrogation. And he was
7 further advised that prior to any interrogation that he had the
8 right to interrupt and terminate the interrogation at any time.
9 And that he had the further right to stop answering questions
10 at any time during the interrogation. Finally, he was further
11 advised prior to any interrogation that if during the
12 interrogation if he desired an attorney, the interrogation
13 would cease until an attorney was provided for him. And he
14 would be given an opportunity to consult with his attorney
15 prior to further interrogation.

16 In this case, I find that the defendant's statement that
17 Officer Goins, I believe it was said, that he would not oppose
18 bond, was what he said, was the reason that he gave the
19 statement. But, he did not express that to anybody. And when
20 specifically asked the question whether anyone had promised him
21 anything his answer was, no.

22 I therefore find that based on the totality of the
23 circumstances, including the credibility of the witnesses in
24 this case, and the credibility of the defendant who testified,
25 that that statement is not credible. That the court is

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1 convinced that he was given his Miranda Warnings as required by
2 law. That he knowingly and intelligently waived his rights
3 under the fifth and sixth amendments to the constitution, and
4 the constitutional safeguards required by Miranda versus
5 Arizona. And that the alleged incriminating statement or
6 confession was obtained from the defendant was freely and
7 voluntarily given without duress, and without coercion, and
8 without undue influence, and without any reward, or promise, or
9 hope of reward. I don't think that the statement about they
10 would not oppose bond was a promise of reward, if it was made.
11 But I find that statement not to be credible. Without promise
12 of leniency, without threat or injury, and without compulsion
13 or inducement of any kind, and that such incriminating
14 statement of confession was the voluntary produce of a free and
15 unconstrained will of the defendant. He testified in the video
16 as well as today that it was his statement, and that he made
17 it. And I think that he is intelligent enough to know that he
18 could have stopped. He understood his Miranda Warnings, and
19 could have stopped at anytime.

20 I therefore find that the statement was knowingly,
21 intelligently, and voluntarily made. And that it was given in
22 accordance with the warnings of Miranda versus Arizona. The
23 statement is therefore valid and admissible into evidence.

24 All right. That will conclude the matters on Jackson
25 versus Denno Hearing. Now, are there any other motions or

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1 matters that the court needs to consider at this time, before
2 we go forward with this matter in the morning, on behalf of the
3 state, Mr. Holt?

4 MR. HOLT: There are none, Your Honor.

5 THE COURT: Mr. Jones?

6 MR. JONES: No, sir.

7 THE COURT: All right. We will then be in recess, then
8 begin on this case until 9:30 in the morning. Please be ready
9 to go forward at that time, counsel. In the meantime, we will
10 take up the other matters that the state needs to consider.

11 Is the defendant incarcerated?

12 MR. JONES: Yes, sir.

13 THE COURT: Okay. So the issue of bond is not one that
14 we need to consider at this time.

15 All right. Counsel, I'll be ready to go forward tomorrow
16 morning at 9:30. Thank you.

17 (Whereupon, this trial stands down at 12:37 p.m.
18 for the day.)

19 -- END OF DAY ONE OF TRIAL --

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1 (Whereupon, court comes to order at 9:07 a.m. on
2 Tuesday, October 11, 2011.)

-- DAY TWO OF TRIAL --

3
4 THE COURT: All right. We are back on the record in the
5 case of The State versus Anthony Edwards. Mr. Edwards is
6 present in the courtroom with his counsel, Mr. Jones. The
7 state is present and represented by Mr. Holt. I have been
8 advised that all the jurors are here, and we will be ready to
9 go forward in just a moment.

10 But, before we do that, let me ask counsel, I understand
11 that some exhibits have been marked already; is that correct?
12 Can you tell us what the situation is on any exhibits?

13 MR. HOLT: It is, Judge. I think we just about got
14 everything marked. There was some confusion earlier, and I
15 don't think anything is going to be stipulated to at this time.

16 THE COURT: You don't think what?

17 MR. HOLT: I don't think anything is going to be
18 stipulated to. I think I am going to have to move it all ---
19 but it is marked.

20 THE COURT: Do you have an objection to some of the
21 exhibits, Mr. Jones?

22 MR. JONES: I haven't seen them quite yet, Judge.

23 MR. HOLT: Judge, I just got through marking all of
24 them. I can show them.

25 THE COURT: Well, let's take a minute and do that,

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1 because it will save us some time even though it might take us
2 five minutes to do that. And, I hate to keep the jury waiting.
3 I would like to start right with them. But, I would like to go
4 ahead and admit into evidence everything that can be admitted,
5 that can be without objection. And, everything that is there
6 an objection to will have been marked as an exhibit, and will
7 move at the time. So, let's go through what we've got.

8 (PAUSE.)

9 THE COURT: All right. Let's get on the record and see
10 where we are with the exhibits. How many exhibits have been
11 marked? What are the numbers?

12 MADAME COURT REPORTER: One through fifty-one.

13 THE COURT: One through fifty-one. All right. Mr.
14 Jones, do you object to any of the exhibits?

15 MR. JONES: The only one I have an objection to, I think
16 is Number 41, it is a parking lot scene with blood on a cement
17 block, a newspaper with blood on it.

18 THE COURT: All right. Exhibit Number 41 is a photo?

19 MR. JONES: Yes, sir.

20 THE COURT: All right. Other than that, one through
21 fifty-one, you don't have any objection to?

22 MR. JONES: One second.

23 (PAUSE.)

24 MR. JONES: Judge, I have a problem with some of them,
25 yes, sir.

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1 THE COURT: All right. If we can just take care of the
2 matters then that you expect to get to this morning, and let's
3 get started with the jury. If you have matters that are going
4 to be dealing with the experts, that will be this afternoon,
5 and we can take that up over lunch recess.

6 (PAUSE.)

7 THE COURT: Twenty-seven through fifty-one or fifty,
8 except --

9 MR. HOLT: Yes, 27 though 51, judge, except for 41.

10 THE COURT: Except for 41.

11 MR. HOLT: Yes, sir.

12 THE COURT: All right. That being the case, the court
13 will enter into evidence those exhibits which have been marked
14 27 - 51, with the exception of Exhibit Number 41, to which the
15 defendant has an objection. The other exhibits, that is, 21
16 through 40, and 42 through 51 are admitted without objection
17 and without further authentication.

18 WHEREUPON, STATE'S EXHIBIT NUMBER
19 21 THROUGH 40 AND 42 THROUGH 51
20 ARE MARKED AND ADMITTED INTO
21 EVIDENCE WITHOUT OBJECTION.

22 THE COURT: When we get to the point when you want to
23 introduce Exhibit Number 41, let me see it just now so that I
24 will be a little bit familiar with it as to what it is, Mr.
25 Holt, Number 41.

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1 (PAUSE.)

2 MR. HOLT: Judge, it is a photograph --

3 THE COURT: Just hand them all to me, and I'll look
4 through it.

5 (PAUSE.)

6 THE COURT: All right. Assuming it is authentic as to
7 what it says it is, or whatever that might be, Mr. Jones, what
8 is your objection to Number 41?

9 MR. JONES: The bloody scene, judge. I would just
10 object that the prejudicial effect outweighs the probative
11 value. There are certain witnesses that can testify as to the
12 location of the body. Starting when David Young was on the
13 scene. I think there are other witnesses who will be called to
14 testify that they were in the parking lot.

15 THE COURT: And what do you believe that this is
16 relevant to, Mr. Holt?

17 MR. HOLT: I believe judge the amount of blood and the
18 color of the blood shows that that is where the victim died. I
19 think it is important to the time frame in my case.

20 THE COURT: All right. I will rule upon it when it is
21 authenticated.

22 All right. That being the case then, I believe that we
23 are now ready to go forward. Anything before we bring the jury
24 in, and the jury is sworn, Mr. Holt?

25 MR. HOLT: Nothing from the state, Your Honor.

INTRODUCTION TO THE CASE

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1 THE COURT: Mr. Jones?

2 MR. JONES: Nothing further.

3 THE COURT: All right. Bring the jury in, please.

4 (Whereupon, the jury enters the courtroom at
5 9:37 a.m..)

6 THE COURT: All right. Good morning ladies and
7 gentlemen. And thank you for your promptness in being back
8 here. I apologize for keeping you waiting for just a few
9 minutes in your jury room. But, we have been in the courtroom
10 since about 9:30 attending to some administrative matters that
11 would help expedite the case and make it go a little bit
12 faster, and I thought it was important that we do those before
13 we got started, so we would not have to send you out, or
14 perhaps delay moving forward with this matter while we attended
15 to those administrative matters. But we are now ready to go
16 forward, and I would ask the clerk to swear the jury for me,
17 please.

18 WHEREUPON, THE JURY WAS SWORN AT

19 9:52 A.M. ON TUESDAY, OCTOBER 11, 2011

20 INTRODUCTION TO THE CASE

21 THE COURT: All right. Before we get started, I do need
22 to ask you a couple of questions. First of all. If anyone has
23 approached you or tried to talk with you about this case, in
24 any manner whatsoever over the evening process, I would need to
25 know about that now. Again, negative response, and that is

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1 good. The other thing that I would ask you. Has anyone read
2 any news stories, heard any broadcast media or reports about
3 this matter over the evening recess, I would also need to know
4 about that now. Again, negative response, and that is good.

5 Before we begin the actual trial of this case, I thought
6 it might be helpful if I explained to you basically how a trial
7 proceeds. I know all of you have seen trials on television.
8 But, I think that you will find that it is a great deal
9 different in real life.

10 First of all, the state will make an opening statement.
11 An opening statement is not evidence. It is simply an outline
12 to help you understand what the state expects the evidence will
13 show. The defendant may, if he wishes to, present an opening
14 statement, but he doesn't have to, for reasons I will explain
15 later. Following the opening statement, you will hear the
16 testimony and evidence in this case. This will consist of
17 testimony from the state's witnesses as well as any physical
18 exhibits that may be introduced into evidence. And I will tell
19 you that I know that there are going to be some physical
20 exhibits, because I have already admitted some into evidence.
21 And the lawyers may ask for permission to publish those
22 exhibits to you. Publish is simply a legalistic term that is
23 used in the courtroom, meaning to show the jury those exhibits.
24 And I will grant that permission, and give them an opportunity
25 to pass those exhibits to you as you sit there in the jury box.

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1 Do not worry that you do not have as long to look at the
2 exhibits while you are sitting there in the jury box as you
3 might like to. Anything that is admitted into evidence will go
4 with you to the jury room when you retire to reach a verdict,
5 and you will have as much time as you might like to study that
6 exhibit.

7 Now, following the completion of the testimony, the
8 attorneys will again have an opportunity to make what is called
9 a closing statement, or a summation to you. This is an
10 opportunity for the attorneys to summarize the case from their
11 respective points of view. Again, these arguments are not
12 evidence.

13 Following the closing statements by the attorneys, I will
14 instruct you on the law in South Carolina as it pertains to the
15 issues that have arisen in this case, and when I have completed
16 my instructions to you, you will be permitted to begin your
17 deliberations in order to reach a verdict.

18 Now, ladies and gentlemen, you are now the jury in this
19 case. And I want to take a few minutes to tell you something
20 about your duty as jurors, and to give you some basic
21 instructions. At the end of this trial, I will give you more
22 detailed instructions and those instructions will control your
23 deliberations. It will be your duty to decide from the
24 evidence what the facts are. You and you alone are the judges
25 of the facts. You will hear the evidence, decide what the

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1 facts are, and then apply those facts to the law which I will
2 give to you. That is how you will reach a verdict. In doing
3 so, you must follow the law whether you agree with it or not.
4 The evidence will consist of testimony, documents, and other
5 things received into evidence as exhibits, and any facts on
6 which the lawyers agree, or which I may instruct you to accept.
7 Now, you should not take anything that I may say or do during
8 this trial as indicating what I think of the evidence, or what
9 your verdict should be. The law does not permit me to have an
10 opinion about the evidence. The same law that makes you the
11 judge of the facts, makes me the judge of the law. You must
12 take the law as I give it to you, regardless of what you think
13 the law is, or the law ought to be. If I am wrong on the law,
14 there is another time and place for that error to be corrected.
15 But for this case, you must accept the law as I charge it to
16 you.

17 Now, this is a criminal case brought by The State of South
18 Carolina. The State of South Carolina charges the defendant in
19 four different indictments. The first of which is for murder,
20 and the others are weapon charges. One is carrying a weapon
21 onto a premises that sells alcohol. Another is possession of a
22 weapon during the commission of certain crimes. And another is
23 possession of a pistol by a person convicted of a crime of
24 violence. The charges against the defendant are contained in
25 these four indictments. The indictments are not evidence of

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1 anything. They are simply the description of the charges made
2 by the state against the defendant. The defendant has plead
3 not guilty to these charges, and is presumed innocent unless
4 and until proven guilty beyond a reasonable doubt. A
5 reasonable doubt is the kind of doubt that would cause a
6 reasonable person to hesitate to act. A defendant has the
7 right not to testify, and never has to prove innocence or
8 present any evidence. The burden of proof is always on The
9 State of South Carolina.

10 Now, there are certain things that are not evidence, and
11 you must not consider them as evidence in deciding the facts of
12 this case. Statements and arguments of the attorneys are not
13 evidence. Questions and objections of the attorneys are not
14 evidence. And testimony that I instruct you to disregard is
15 not evidence. Evidence may be direct or circumstantial.
16 Direct evidence is testimony by a witness about what that
17 witness personally saw, or heard, or did. Circumstantial
18 evidence is indirect evidence. The law permits you to give
19 equal weight to both. But it is for you to decide how much
20 weight to give to any of the evidence. There are rules of
21 evidence which control what can be received into court. When a
22 lawyer asks a question, or offers an exhibit into evidence, and
23 the lawyer on the other side thinks that it is not permitted by
24 the rules, that lawyer may object. If I overrule the
25 objection, the question may be answered or the exhibit may be

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1 received. If I sustain the objection, the question cannot be
2 answered, or the exhibit cannot be received.

3 Whenever I sustain an objection to a question, or deny a
4 motion to admit an exhibit into evidence, you must ignore the
5 question or the existence of the exhibit, and you must not
6 guess what the answer would have been or what the exhibit would
7 have shown. Sometime it may be necessary for me to request
8 that you leave the courtroom while I discuss with the attorneys
9 legal questions that come up during the trial. If this occurs,
10 you should not speculate about our discussions or the reasons
11 that you were asked to leave the room. This is simply a
12 procedure that the law requires when certain legal issues
13 arise. There also may be occasions when I ask the attorneys to
14 approach the bench, so that I can discuss a legal issue with
15 them in private. I will do this as often as possible so that
16 you will not be required to leave the courtroom more than is
17 absolutely necessary. Again, if I ask the attorneys to step up
18 to the bench, or I ask you to leave the courtroom, please don't
19 think that anybody is trying to hide anything from you, or keep
20 any evidence from you. This is simply a procedure used by all
21 lawyers, and by all courts to determine and decide legal
22 questions.

23 Now, in deciding the facts of this case, you may have to
24 decide which witnesses to believe, and which witnesses not to
25 believe. You may believe everything a witness says, or only

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1 part of it, or none of it. In deciding what to believe, you
2 may consider a number of factors, including the witness'
3 ability to know or hear what the witness testified to. The
4 quality of the witness' memory. The witness' manner while
5 testifying. Whether the witness has an interest in the outcome
6 of the case, or any motive, bias, or prejudice. Whether the
7 witness was contradicted by anything the witness said or wrote
8 before the trial, or by any other evidence. And how reasonable
9 was the witness' testimony when considered in the light of
10 other evidence which you do believe.

11 Now, just a few words to you about your conduct as jurors.
12 Some of these I have already mentioned to you yesterday, but
13 they are important enough that they bear repeating.

14 First of all, do not talk to each other about this case
15 until the end of the case when you go to the jury room to
16 decide on your verdict. So, whenever you are there in the jury
17 room prior to the time when I tell you to begin your
18 deliberations, you can talk about anything you want to except
19 this case; children, grandchildren, sports, weather, anything
20 except this case, until I tell you it is time to begin your
21 deliberations. Do not talk with anyone else about the case
22 until the case is over, and the trial is ended following your
23 verdict, and you have been discharged as jurors. This means,
24 do not discuss the case with members of your family or friends,
25 or with anyone else. You may tell them that you are a jurors,

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1 but do not tell them anything about the case until you have
2 been discharged by me. Do not let anyone talk to you about the
3 case. If anyone should try to talk with you about it, please
4 get their name, or their description, report it to the
5 bailiffs, they will report it to me, and I will deal with them.
6 Do not read any news stories or articles, or listen to any
7 radio or television reports about the case. You are not to
8 consider as evidence anything that you may see or hear when
9 court is not in session. Do not do any research, such as,
10 consult a dictionary or other reference materials, or the
11 internet. And do not do any investigation into the case on
12 your own. You will be instructed when to begin your
13 deliberations by either me or the bailiff.

14 Now, finally, I will also tell you, and probably more
15 important than anything I have said is, do not make up your
16 mind about what your verdict will be until you have heard all
17 of the testimony and evidence in this case, arguments of
18 counsel, and the instructions on the law by the court. As I
19 said, you will be instructed when the begin your deliberations
20 by either me or the bailiff.

21 Any objections to my opening remarks to the jury on behalf
22 to he state, Mr. Holt?

23 MR. HOLT: There are none, Your Honor.

24 THE COURT: On behalf on the defense, Mr. Jones?

25 MR. JONES: No, sir.

OPENING STATEMENT BY THE STATE

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1 THE COURT: All right. The first order of business
2 ladies and gentlemen, will be the matter of opening statements.
3 And for that purpose, I will recognize the Assistant Solicitor,
4 Mr. Holt.

OPENING STATEMENT BY THE STATE

6 MR. HOLT: Thank you very much, Your Honor, may it
7 please the court?

8 THE COURT: Yes, sir.

9 MR. HOLT: Ladies and gentlemen, Saturday afternoon,
10 September 27, 2008, was supposed to be the wedding of Roosevelt
11 Randy Patterson and Ms. Cecilia Williams. And that wedding
12 never got to happen. It never got to happen because in the
13 early morning hours of September 27, 2008, the defendant in
14 this case, Mr. Anthony Edwards, shot Roosevelt Patterson in the
15 back. Killing him within a few minutes, and he bled out right
16 there in front of Gold Rush Lounge, here on North Governor's
17 Highway, in the county of Darlington. See, like the custom
18 does, Mr. Patterson went out for one last night with all of his
19 friends as a single man. He didn't drive down to Myrtle Beach
20 and go see some kind of routy dancing show. And he didn't do
21 anything that crazy. He had a cook out with his friends and
22 his family, and then they drug him out to the Gold Rush Lounge
23 for one last night as a single man. Never knowing that he
24 would not going to be able to see the end of his bachelor
25 party.

OPENING STATEMENT BY THE STATE

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1 Ladies and gentlemen, real life murder trials are not like
2 the hours on the episodes of CSI or Law and Order.. It is not
3 fun, it is not very entertaining. Undoubtedly most of you took
4 off from your job today to be here. But believe me when I tell
5 you, you will not be able to take off from work. This will be
6 an exercise in consideration, common sense, and paying
7 attention to what might be one of the most important things
8 that you do in your life.

9 Most of the evidence that you are going to hear is going
10 to come from right there, the witness stand. And you are going
11 to hear testimonial evidence --- there will be some other
12 stuff. It is not completely without CSI or interesting type of
13 things. But it is mostly dry. It is certainly sad.

14 To know something absolutely is a rare thing. And when
15 the people that formed this judicial system looked back on how
16 they had always been treated by the British, they were
17 convicted with nothing, or not allowed to defend themselves.
18 They were not allowed to put stuff in evidence. So, when they
19 did that, when our founders created this system, they did so
20 with the intention in mind that the state bears a very high
21 burden. And you are going to hear a lot about that in this
22 trial. And you are going to learn exactly what reasonable
23 doubt means, and how it is going to affect what you decide.
24 But believe me when I tell you, the system is one of checks and
25 balances. And when those people created this system, they gave

OPENING STATEMENT BY THE STATE

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1 the power to decide to the people. To twelve non-bias, honest
2 people from Darlington County. People that live and breath in
3 this county. People that work here day after day. They didn't
4 give it to the clerk, the reporter, or the police officers.
5 People who see trial, after trial, after trial and know what is
6 going on. They gave it to the people. And ask yourself, how
7 are we, twelve people, who don't know each other, capable of
8 making such an important decision. And what are we going to
9 use to do that? And I tell you what you are going to use is
10 your common sense. The collective common sense of all twelve
11 jurors. You are going to hear testimony about a fight. You
12 are going to hear testimony about the shot, and the people who
13 saw it. You are going to hear a confession. You are going to
14 see testimony broken down from every angle of what happened.
15 And then at the end you are going to go back there and decide.

16 Ladies and gentlemen, an opening statement is not a place
17 to plead your case, or to talk for very long. So, I am going
18 to sit down here briefly. But I ask, and I beg you to just pay
19 attention to everything you see and hear, and I want you to be
20 always thinking, what is my common sense tell me? What really
21 happened here? Why did this person behave the way they are
22 behaving? And is this witness non-bias? What does this
23 witness think? What do I think he thinks? I want you to use
24 your common sense, ladies and gentlemen. Thank you very much.

25 THE COURT: Mr. Jones, does the defendant wish to make

OPENING STATEMENT BY MR. JONES

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1 an opening statement?

2 MR. JONES: Yes, sir.

3 THE COURT: You may.

4 MR. JONES: Thank you, Your Honor.

5 OPENING STATEMENT BY MR. JONES

6 MR. JONES: Thank you, Your Honor, Mr. Holt, ladies and
7 gentlemen of the jury. I introduced myself a couple of times
8 yesterday, but I am going to do it one more time. My name is
9 Rick Jones, and Daniel Jordan and I are representing Mr.
10 Anthony Edwards.

11 I want to be a little bit repetitive also. And, I am
12 going to do that several times, every time I get an opportunity
13 to talk to you. I always tell everyone that has an opportunity
14 to hear me, when we talk about jury trials, that I agree with a
15 lot of things Mr. Holt says, and I will agree with a lot of
16 things Mr. Holt says throughout the course of this trial. But
17 there are three main things on behalf of Mr. Edwards that I
18 would like for each of you to start with, keep with you during
19 whatever evidence is presented by way of testimony on the stand
20 and physical evidence, and take that back with you to your jury
21 room when the trial is over, the evidence part of it when the
22 trial is over, and you go back to do your part. Those three
23 things, number one. Mr. Anthony Edwards walked into this
24 courtroom this morning innocent of any charge for which he may
25 be accused of. Very, very important. It is called the

OPENING STATEMENT BY MR. JONES

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1 presumption of innocence. He walked in here with it. He's got
2 it right now. And he will keep it throughout the course of
3 this trial. The law says he is presumed to be innocent, number
4 one. Mr. Holt told you a little bit about the burden. The
5 state, in this case, The State of South Carolina has the burden
6 of proof. Mr. Edwards has no burden. No criminal defendant in
7 South Carolina, in North Carolina, I don't care what state it
8 is in the United States, no criminal defendant has a burden to
9 prove anything. That burden rests on the state. That is
10 number two. Number three. The standard of proof that his
11 honor is going to tell you about, that the state must reach in
12 order to find any criminal defendant guilty, is that they must
13 prove that in this case Mr. Edwards, is guilty of whatever
14 charge he is charged with, beyond a reasonable doubt. And you
15 are going to hear that an awful lot too.

16 Now, you have heard all of those things. You have read
17 them in books. You have seen them on television. But I want
18 you to remember those three things. Number one. Mr. Edwards,
19 is presumed by each one of the twelve or fourteen of you right
20 now, and everybody in this courtroom, he is presumed to be
21 innocent of any of these charges. Number two. Mr. Edwards,
22 has no burden. The state has the burden of proof to prove him
23 guilty of anything. And the standard you use to judge whether
24 or not they met that burden is, have they proven that Mr.
25 Edwards, is guilty of anything beyond a reasonable doubt.

OPENING STATEMENT BY MR. JONES

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1 Please remember those three things, and every time I get a
2 chance to talk to you, I am going to tell you about them. All
3 right.

4 All right. I will agree with a couple of other things
5 that Mr. Holt says. Number one. September 08, actually Friday
6 night, Saturday morning, September 27, 28, 2008 was a very
7 tragic day. Mr. Roosevelt Patterson, who I understand was to
8 be married the next day, for whatever reason, left where ever
9 he was, and ended up on North Governor Williams Highway, I
10 think it is 2009 North Governor Williams Highway, at a little
11 place called the Golden Rush Club. All right. I have never
12 been. I don't know if you have ever been. But a lot of people
13 have been. And that night there was a crowd there. That was
14 not the place where Mr. Patterson and his group had their
15 bachelor party if you will. I think they had it someplace
16 else, but they ended up there. And they ended up there fairly
17 late in the evening. As my mother and my grandmother use to
18 say, nothing much good happens after midnight. Sometime after
19 midnight, I don't know if I would say all hell broke loose, but
20 basically all hell broke loose. At the end of the melee, or
21 whatever trouble there was that evening, Mr. Roosevelt
22 Patterson laid dead, and Mr. Anthony Edwards was accused of
23 murder. Ladies and gentlemen, there was plenty of trouble
24 there that night. But, I think, you are going to find as you
25 listen to the evidence, that the main problem that evening was

OPENING STATEMENT BY MR. JONES

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1 not Mr. Anthony Edwards. The main problem that evening was Mr.
2 Roosevelt Patterson and the people that were with him. You are
3 going to hear testimony from numerous witnesses, that at some
4 point in time, in the back room of the Gold Rush, or the dance
5 floor area, which is apparently at the far end of the club, Mr.
6 Roosevelt Patterson has an altercation with several people. He
7 had been in a fight. As a result of that situation, they
8 called security. Friends of his, they go get him, and they
9 pulled him away from that place. You are going to hear
10 testimony concerning all of those events. Trying to remove the
11 problem from the situation. Get Mr. Patterson and the problem
12 out of the way. The next place Mr. Patterson ends up in
13 another room and trouble breaks out in the Gold Rush Club. Did
14 he calm down, get control of the situation? No. Go grab your
15 knife, we are arming ourselves, we are escalating the
16 situation. Mr. Patterson, he gets removed once off of the
17 dance floor, once out of that second room, and there is a
18 little bit of controversy that I think we are going to hear,
19 about exactly how many times he got removed from the situation.
20 It might be two, it might be three. But, the problem got
21 removed again, and put out. And that, ladies and gentlemen,
22 should have ended that situation, but it didn't. The problem
23 comes back in, neither once or twice. The last time he came
24 back in, he was shot. That, ladies and gentlemen, is the
25 reason Mr. Patterson did not make his wedding the next day, and

OPENING STATEMENT BY MR. JONES

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1 is not here today. And I hope you will pay very close
2 attention to all of the witnesses, and to the evidence that is
3 presented. Because, when this trial is over I am going to come
4 back, and we are going to review that. First, we are going to
5 review those three principals of criminal law in South Carolina
6 as they relate to Mr. Edwards. And then we are going to review
7 the evidence. And Mr. Holt and I are not going to have a major
8 confrontation over what the evidence in this trial is. Where
9 we are going to have our confrontation is over the
10 interpretation of that evidence.

11 And the last thing that I want to tell you, and his honor
12 has already said, we all have jobs that we do. Mr. Holt is
13 representing The State of South Carolina, and presenting the
14 evidence against Mr. Edwards. Mr. Jordan and I represent Mr.
15 Edwards. He has again no burden whatsoever. He has nothing to
16 prove here. His honor is in charge of the law. He makes sure
17 that this courtroom operates the way the law of South Carolina
18 says he is suppose to operate. But y'all have the biggest job
19 in the courtroom. Because, you are the deciders of the facts.
20 After you hear everything, and see everything what is
21 presented, you go back and determine what happened. Mr. Holt
22 said, you are going to work hard. And the first thing that I
23 hope you will do is pay very close attention, because I am
24 going to come back and talk to you at the end of this case
25 about what you heard and perhaps didn't hear. Thank you very

CLAY S. TEDDER, SR. - DIRECT EXAMINATION

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1 much.

2 THE COURT: All right. Mr. Holt, you may call your
3 first witness.

4 MR. HOLT: Thank you very much, Your Honor. At this
5 time, the state would like to call Clay Tedder, Sr., to the
6 stand, please.

7 CLERK OF COURT: Come forward and take the oath of a
8 witness, please.

9 WHEREUPON, CLAY S. TEDDER, SR.

10 FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

11 MR. TEDDER: Yes, sir.

12 DIRECT EXAMINATION BY MR. HOLT

13 Q. Mr. Tedder, would you please state your whole name for the
14 jury please?

15 A. My name is Clay Stevenson Tedder.

16 Q. How old are you, Mr. Tedder?

17 A. Thirty-eight.

18 Q. Where do you currently reside, just in what county?

19 A. Down from the Gold Rush.

20 Q. All right. And where are you currently employed?

21 A. Georgia Pacific.

22 Q. And on the night in question, September 27th, it was
23 actually a Friday night, but it was Saturday morning.

24 Where were you employed then?

25 A. Aluminum Ladders, on Ebenezer Road.

CLAY S. TEDDER, SR. - DIRECT EXAMINATION

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1 Q. And, on that specific night, where were you working?

2 A. At Gold Rush.

3 Q. And when you worked at Gold Rush, what were your main
4 responsibilities?

5 A. Mostly searching people in the club, and getting between
6 altercations so they won't happen, or whatever. Just like
7 security.

8 Q. All right. And were you searching people that night?
9 What time did you get there?

10 A. I got there after twelve.

11 Q. All right. And, Mr. Tedder --

12 MR. HOLT: Permission to approach, Your Honor?

13 THE COURT: Yes, sir.

14 Q. If I can show you what has been entered into evidence as
15 State's Exhibit 51. Mr. Tedder, you will recognize that
16 that is outline or a diagram of The Gold Rush.

17 THE COURT: Can you see it? You can step up there to
18 see it.

19 A. Yeah.

20 Q. And Mr. Tedder, if you could please show on the diagram,
21 whoever you were telling the story about, where you were,
22 I would appreciate it.

23 A. On the night that it happened?

24 Q. Yes, sir. Now, Mr. Tedder, you say you got there around
25 twelve?

CLAY S. TEDDER, SR. - DIRECT EXAMINATION

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- 1 A. Around twelve, 12:30, yeah.
- 2 Q. Had you been drinking?
- 3 A. Oh, I don't drink.
- 4 Q. Okay. And what were you doing when you got there?
- 5 A. I'm going to stop at the front door searching people
- 6 coming in.
- 7 Q. Okay.
- 8 A. That was it.
- 9 Q. And, at what point did you become aware that there was an
- 10 altercation on the night in question?
- 11 A. It was later on in the night. I will still up front, and
- 12 somebody came up front and said they got a fight in the
- 13 back of the club on the dance floor.
- 14 Q. What did you do then?
- 15 A. I got up, went to the back. The guy that Roosevelt was
- 16 originally fighting --
- 17 Q. -- And hold on just a second. When you say Roosevelt, who
- 18 do you mean?
- 19 A. Roosevelt Patterson, Randy. I call him Randy.
- 20 Q. You call him Randy?
- 21 A. Yeah.
- 22 Q. Okay. Go ahead, I didn't mean to interrupt you.
- 23 A. Oh, okay. The guy who was originally fighting, they were
- 24 put out. Everything was broken up. And then him and the
- 25 other guy got into it. Anthony got into it.

CLAY S. TEDDER, SR. - DIRECT EXAMINATION

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1 Q. And when you say Anthony, who do you mean?

2 A. Both of them left.

3 Q. All right. If you can show us on there on the diagram,
4 where is the dance floor at?

5 A. The dance floor is in the back of the club.

6 THE COURT: All right. You are going to have to keep
7 your voice up when you move away from the microphone, so
8 everybody can hear you. And this lady has to hear everything
9 that you say. Go ahead.

10 A. The dance floor is in the back of the club.

11 THE COURT: You can stand up there and point to it, but
12 just keep your voice up.

13 A. The dance floor is at the back of the club, and I came
14 from up front by the front door to get to the back.

15 Q. Yes, sir.

16 A. And when I got there, that is when Roosevelt and Anthony
17 were arguing. So, we ended up in the kitchen.

18 Q. Did the crowd go into the kitchen?

19 A. Trying to separate a lot of people pushing and shoving, so
20 we ended up through the spring door in the kitchen.

21 Q. What happened next?

22 A. That when I was like, standing chest-to-chest with
23 Anthony. Roosevelt and his family member, or whatever,
24 friend, they were behind me, and they just started word-
25 for-word, talking and that is when Anthony pulled a gun

CLAY S. TEDDER, SR. - DIRECT EXAMINATION

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1 out in the kitchen.

2 Q. So, you saw Anthony pull a gun out?

3 A. Yeah.

4 Q. And who did Anthony point the gun at?

5 A. He didn't really point it directly, he had it up over his
6 head like showing it to them.

7 Q. Yes, sir.

8 A. And that when Roosevelt had a butter knife, and his cousin
9 had a like, a little steak knife. And they were like, you
10 got a gun, shoot me, shoot me, or whatever. And he ain't
11 even shot at them or nothing. But he still had the gun
12 out. And when we got --- Roosevelt, and his friend, and
13 his party member that when we got them to leave. I came
14 out and I think Anthony was still in the kitchen.

15 Q. Yes, sir.

16 A. Roosevelt and them left. He came back about, I say, two
17 or three times.

18 Q. So you are not sure --

19 A. -- He wasn't --- He wasn't scared.

20 Q. You are not exactly sure when he came back. It could have
21 been two or it could have been three times?

22 A. Two or three, yeah.

23 Q. All right. What happened on the last time that he came?

24 A. The last time I was up front. Anthony was like, in arm
25 reach in me. Roosevelt pushed the door open and the door

CLAY S. TEDDER, SR. - DIRECT EXAMINATION

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1 hit a little bouncer beside the door. And when he hit it,
2 that is when Anthony shot him in the left side. Roosevelt
3 --- when Roosevelt hit the door, Roosevelt turned to run.
4 Oh, shit he got a gun.

5 Q. So, Roosevelt saw the gun?

6 A. Yeah.

7 Q. And went to run?

8 A. Yeah.

9 Q. And then what happened?

10 A. That when he got shot in the left side or back, I think.

11 Q. And after --

12 A. -- After he got shot, that when Anthony locked the door.
13 And we had all of Roosevelt friend out of there except for
14 one. So, I just throw Anthony and them other men out.
15 That when he let him out and locked the door again. And
16 then when they came out they said, Clay come on out, my
17 cousin been shot. So, I went out and I checked on him.
18 And he had family from the liquor store over by the Gold
19 Rush, he fell probably about ten step from where he was
20 shot.

21 Q. Now, after you locked the door, what happened the rest of
22 the night.

23 A. I mean, we pretty much calmly inside, because we was on
24 the inside, and the family was on the outside, so we just
25 wait for the police to get there. And when the police got

CLAY S. TEDDER, SR. - DIRECT EXAMINATION

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1 there, I unlocked the door to let them in.

2 Q. And do you remember what the police came in and did?

3 A. No. But when they came in, that when I left out. They
4 really didn't know who did the shooting. They didn't
5 know, but I did.

6 Q. And who did you tell them had shot him?

7 A. Anthony, the dude sitting inside with the white tank top
8 on.

9 Q. And when the police arrived, Anthony had a white tank top
10 on?

11 A. Yeah. He had removed the upper shirt.

12 Q. Okay. And when they arrested him --

13 A. -- I didn't see them handcuff him. Because when they did
14 that they told us to go to the Detention Center to give
15 our statement.

16 Q. And you gave a statement?

17 A. Yeah.

18 Q. All right. Now, Mr. Tedder, is there anything that you
19 remember that night that is important?

20 A. I've pretty much told the same story every since that
21 night. I gave them the same story I gave you today.

22 MR. HOLT: Beg the Court's indulgence, Your Honor.

23 (PAUSE.)

24 MR. HOLT: Mr. Tedder, please answer any questions that
25 defense counsel might have for you.

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1 THE COURT: Cross examination, Mr. Jones?

2 MR. JONES: Yes, sir.

3 CROSS EXAMINATION BY MR. JONES

4 Q. Good morning, Mr. Tedder.

5 A. Good morning.

6 Q. All right. September 27, 08; is that correct?

7 A. Yes, sir.

8 Q. How long had you been working at the club? Not just in
9 hours, but how long had you been at the club as a security
10 guard?

11 A. I can't recall the exact time there, but I been there
12 about since they started up. Two or three months.

13 Q. So, it was a fairly new club?

14 A. Yeah, to them. Yeah.

15 Q. Okay. And that is a couple of miles up North Governor
16 Williams Highway; is that right?

17 A. Yes, sir.

18 Q. It doesn't operate now?

19 A. No, it doesn't.

20 Q. The building that you were just talking about, this
21 diagram right here, can you describe where it is in
22 relationship to the other buildings that are right in that
23 area?

24 A. Where the Gold Rush is now?

25 Q. Yeah.

CLAY S. TEDDER, SR. - CROSS EXAMINATION

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- 1 A. It's like, right beside the junk yard, right beside --- it
2 has a brick house in front of it, a field on the side of
3 it.
- 4 Q. You mentioned something about a liquor store, where is the
5 liquor store in regard to that diagram?
- 6 A. The liquor store is --- if this is the front of the Gold
7 Rush, the liquor store is like, a building adjoin to the
8 Gold Rush.
- 9 Q. Okay. And what is on the other side?
- 10 A. Athea. Like a little old hide away club.
- 11 Q. Another building?
- 12 A. Yeah.
- 13 Q. Was it operational? Was there anything going on in it?
- 14 A. No, just the Gold Rush.
- 15 Q. All right. That was the only thing open that night?
- 16 A. Yeah.
- 17 Q. Where did everybody park that usually came to the Gold
18 Rush?
- 19 A. Up front or down the side.
- 20 Q. Again, pointing to your diagram, show me about where they
21 would park?
- 22 A. Probably mostly up from the Gold Rush, or like, you know,
23 probably like on the side.
- 24 Q. All right. And would that be by the liquor store?
- 25 A. Yes, sir.

CLAY S. TEDDER, SR. - CROSS EXAMINATION

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1 Q. Okay. The time period we are talking about, can you
2 estimate how many vehicles were out in the parking lot?

3 A. I'd say about maybe, twenty plus, give or take.

4 Q. And, any idea how many people were in the club when all
5 these goings on took place?

6 A. I would say about fifty, it wasn't jammed packed.

7 Q. So about fifty, fifty customers if you will?

8 A. Fifty.

9 Q. All right. Now, go back and tell me, you were at the club
10 from about midnight on; is that right?

11 A. About 12:30 or one.

12 Q. Twelve-thirty or one?

13 A. Yeah.

14 Q. About how long had you been at the club when all the
15 incidents started to take place?

16 A. How long had I been there before the altercation start?

17 Q. Yeah.

18 A. Maybe an hour or so.

19 Q. All right. Were you familiar with most --- did you know
20 most of the people who were at the club?

21 A. Pretty much all of them.

22 Q. All right.

23 THE COURT: Let me stop you just one minute, Mr. Jones.
24 I just noticed that the second alternate over here can't see
25 the diagram, nor can she see the witness with the diagram

CLAY S. TEDDER, SR. - CROSS EXAMINATION

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1 sitting up there. If you have a couple of things that you want
2 to make sure all of them see, how about asking him again, hold
3 up that diagram. Let him show where the parking lot is, and
4 show where some of the things are. Features on that diagram,
5 and then put the diagram down so that that juror can see the
6 witness.

7 MR. JONES: Your Honor, if I can pull it down and put it
8 here so that I can show both you and them?

9 THE COURT: Yes, sir. I can see it, but she can't. She
10 can't see anything over there in the corner.

11 MR. JONES: Let me try to move it and see what happens.

12 THE COURT: All right. That's good.

13 Q. Mr. Patterson, this may not work either. Okay?

14 A. I'm Mr. Tedder.

15 Q. Excuse me, Mr. Tedder. Tell me, where the first
16 altercation happened.

17 THE COURT: You can step down. Just keep your voice up
18 so that everyone can hear and see you.

19 A. That night back here on the dance floor in the back of the
20 club.

21 Q. All right. And I believe you said you were up here by the
22 door.

23 A. Up by the front door.

24 Q. How far is it from the door to the dance floor?

25 A. I'd say about a good --- one minute --- a couple of second

CLAY S. TEDDER, SR. - CROSS EXAMINATION

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1 walk.

2 Q. Can you estimate this --- is it further than --

3 A. -- About from here to the wall.

4 Q. All right. To the back wall?

5 A. Yes, sir.

6 Q. Okay. Now, did someone come running up and tell you that
7 there was a fight in the back?

8 A. By word of mouth.

9 Q. Okay.

10 A. When a fight breaks out --- you come get 'um and somebody
11 in the back fighting.

12 THE COURT: Hold on just a minute. Watch that
13 microphone right there. Step back one step so that we can pick
14 him up on that microphone.

15 Q. All right. Mr. Tedder, from here to here, is the distance
16 that you traveled you say, about from here to the wall
17 back there?

18 A. Yes, sir.

19 Q. All right. Did you pass any people along the way?

20 A. I passed a lot of people.

21 Q. All right. Where were those people?

22 A. To my left, to my right, in the hallway, in the little
23 middle section.

24 Q. What were they doing?

25 A. Standing there.

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- 1 Q. Were they running to get out of the way?
- 2 A. Not really running, but moving to avoid altercation.
- 3 Q. Mostly from the back area towards the front?
- 4 A. Yeah.
- 5 Q. Okay. So, when you got back here, what did you find?
- 6 A. I find the fight was already been separated by a couple of
- 7 guys. So I just kind of went in to help out.
- 8 Q. All right. Stop right there and tell me if you know who
- 9 was involved in the fight?
- 10 A. I didn't know Michael Roosevelt. The other guys I didn't
- 11 know them.
- 12 Q. All right. You said that you knew most everybody in there
- 13 were these people --
- 14 A. -- I mean I know --
- 15 THE COURT: Hold on.
- 16 A. Not by name. You would know a person by face but not
- 17 really take all their names.
- 18 Q. And you had seen those people in the club before?
- 19 A. Yes.
- 20 Q. All right. Do you know how many people beside Mr.
- 21 Patterson were involved in the fight in the back?
- 22 A. No, sir.
- 23 Q. All right. When you got back there you said it was mostly
- 24 over?
- 25 A. The fight between Roosevelt and the first crew, yeah.

CLAY S. TEDDER, SR. - CROSS EXAMINATION

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1. THE COURT: Repeat your answer.

2 A. Oh, the guy between the first --- The fight between
3 Roosevelt and his first party, they was pretty much over.
4 They left.

5 Q. Okay. Who is they?

6 A. The one in the first altercation.

7 Q. The people that were fighting with Roosevelt?

8 A. Yeah. I can't say fighting because they throw --- but it
9 could have been pushing and shoving.

10 Q. The altercation.

11 THE COURT: Unless you are going to use the diagram,
12 just going to ask him questions, let him come back up here.

13 MR. JONES: I am going to use the diagram a little bit
14 more, but I'll try to do something else.

15 THE COURT: Now she can't see that, Mr. Jones.

16 MR. JONES: I'll pick it back up when I need it, Judge.

17 THE COURT: No, she can't see. She can't see the
18 witness.

19 MR. JONES: Oh, I'm sorry. Is that better?

20 THE COURT: That's better.

21 Q. All right. Mr. Tedder, when you are back in the back,
22 what you call the first altercation is over.

23 A. Yeah.

24 Q. The participants in the altercation beside Mr. Patterson,
25 they were leaving, or they had left?

CLAY S. TEDDER, SR. - CROSS EXAMINATION

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- 1 A. They had left.
- 2 Q. How did they get out? Did they walk past you?
- 3 A. Through the front door, yeah.
- 4 Q. Did you know them when they walked past, other than just
- 5 to recognize people you had seen before?
- 6 A. Just people I'd seen before.
- 7 Q. Okay. How did you know they were involved in an
- 8 altercation?
- 9 A. How did I know?
- 10 Q. Yeah.
- 11 A. Because when you go out in a club, and you are walking
- 12 back with them talking, transfer to other person, you can
- 13 kind of figure they was involved.
- 14 Q. All right. How many of those people were doing that?
- 15 A. I just seen two. Probably like two.
- 16 Q. All right. And then Mr. Patterson is in the back?
- 17 A. Yeah. Still back on the dance floor.
- 18 Q. Were any of Mr. Patterson's friends with him in the back?
- 19 A. I'd say, yes, sir.
- 20 Q. And do you know who that was?
- 21 A. I seen --- I remember seeing one of his cousins named
- 22 Ronnie back there with him. And I think Bay Bay.
- 23 Q. All right. And do you know Bay Bay's name?
- 24 A. No, sir. Just nickname.
- 25 Q. All right. So, we have Mr. Patterson, and perhaps two of

CLAY S. TEDDER, SR. - CROSS EXAMINATION

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1 his --

2 A. -- It could have been more.

3 Q. All right. Crew or whatever. And then we have two or
4 three people backing up, jawing at each other?

5 A. Yeah.

6 Q. How did Mr. Patterson and his crowd get into the kitchen,
7 or the area that you describe as the kitchen?

8 A. Well, they got into an altercation with Anthony. That
9 when I move back there. When they got in altercation with
10 Anthony, it was pretty much in between all of that.
11 Ending up pushing back into the kitchen.

12 Q. Do you have any idea what that --- I'll call that the
13 second altercation. Do you have any idea what that
14 altercation was about?

15 A. I have none, what that was about.

16 Q. Did you hear words back and forth between Mr. Edwards and
17 the three --

18 A. -- No, I didn't really hear Mr. Edwards say anything. I
19 just heard Roosevelt and Ronnie just talking about, you
20 got a gun, shoot me, or stuff like that.

21 Q. When did that conversation start? Was that on the dance
22 floor or in the kitchen?

23 A. In the kitchen.

24 Q. All right. Was that before or after Mr. Patterson and his

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1 crowd started picking up knives out of the kitchen?

2 A. After he pulled the gun out. They started picking up
3 knives after they seen the gun.

4 Q. All right. Now, how many of them had knives?

5 A. Two of them.

6 Q. Who are they?

7 A. Roosevelt and Ronnie.

8 Q. All right. And Mr. Patterson --- excuse me. Mr. Edwards
9 had the gun up in the air? Is that your testimony?

10 A. Pointing mostly not up --- pointing mostly like for them
11 to see you.

12 Q. Pointed at who?

13 A. Over the crowd.

14 Q. All right. Who is the crowd beside Mr. Patterson and his
15 two people, yourself, and --

16 A. -- I couldn't call everybody by name who been in the
17 kitchen.

18 Q. How many people?

19 A. I say a good maybe ten.

20 Q. All right. Of the ten, Patterson and his two people.

21 A. Uh'huh.

22 Q. Mr. Edwards, were the rest of them on either side? Either
23 Mr. Edwards' side or Mr. Patterson's side?

24 A. I didn't know who Mr. Edwards had with him. But mostly
25 they were on Roosevelt's side.

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- 1 Q. All right. So, in addition to the two people with Mr.
2 Patterson in the first altercation, now you have almost
3 ten people on his side back in the kitchen. Is that your
4 testimony?
- 5 A. Well, you could have ten people, but four or five of them
6 trying to stop the fight who know exactly what they doing.
- 7 Q. All right. Who were they?
- 8 A. It was me, my other partner named Cleve, and I remember a
9 Perry, he was trying to help stop everything.
- 10 Q. All right. So, of the ten --
- 11 A. -- Yeah --
- 12 Q. One is you, one is Cleve?
- 13 A. Yeah.
- 14 Q. One is Perry, one is Roosevelt, two others with Mr.
15 Roosevelt, so we are up to six --
- 16 A. -- Uh'huh --
- 17 Q. Mr. Edwards. Is there anybody else back there?
- 18 A. Could have been, but I couldn't call.
- 19 Q. Was Mr. Patrick Smith, back there with you?
- 20 A. I can't say.
- 21 Q. Okay. So, we have at least seven identified back in that
22 kitchen?
- 23 A. Yeah.
- 24 Q. All right. How did that situation resolve itself? How
25 did it stop?

CLAY S. TEDDER, SR. - CROSS EXAMINATION

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1 A. Roosevelt party ended up going out the front door. Got
2 most of them out.

3 Q. Who got most of them out?

4 A. Me and some of his friends.

5 Q. All right. So, y'all basically herded Mr. Patterson and
6 his crowd out of the lounge. Is that your testimony?

7 A. Yes, sir.

8 Q. How about Mr. Edwards. What did you do with Mr. Edwards?

9 A. I be --- he was in the kitchen. When we have altercation,
10 we try to keep one in and put one out.

11 Q. All right. But instead you put five or six out instead of
12 Mr. Edwards. Is that right?

13 A. Yeah. Yes, sir. We didn't try to put him out, because
14 when I seen his gun I really didn't try to hold him. I
15 got a wife and four kids, so I not trying to get in front
16 of a gun.

17 Q. Did you tell him to put the gun away?

18 A. No, sir.

19 Q. All right, sir. Did he put the gun down?

20 A. For a brief moment, yes, sir. I seen the gun in the
21 kitchen. And the next time I seen the gun was up front
22 when he shot Roosevelt.

23 Q. Okay. But before we get there, I want to walk you through
24 the rest of the events that you testified about. All
25 right? So, you have Mr. Patterson and his crew out.

CLAY S. TEDDER, SR. - CROSS EXAMINATION

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1 A. They out.

2 Q. All right. You got Mr. Edwards in the kitchen.

3 A. Yeah, he still inside.

4 Q. Who is inside the kitchen area with Mr. Edwards after the
5 Patterson crowd left?

6 A. I have no idea, because I was up --- out up front of the
7 club too.

8 Q. Okay. Did Mr. --- Did you see Mr. Patterson come back in
9 after his group left?

10 A. I seen Roosevelt come back in at least two or three times.

11 Q. All right. What happened each time he came in?

12 A. He was still --- like I said, he wasn't scared that night.
13 He was still talking junk. He got a gun. Shoot me. And
14 then like the third time --- about the second time he came
15 in he brushed all the beer off the bar. And then the
16 third time, I think that when he shoved door open and he
17 must have cleared up some, because Anthony had the gun for
18 a minute. He showed it twice and went on. Roosevelt
19 pushed the door, and the door hit the banister. Roosevelt
20 turned and said, oh, shit, he got a gun and turned to run.
21 And I was just thinking why?

22 Q. All right. During this time that Mr. Patterson is rushing
23 back and forth, from I assume, the parking lot area back
24 into the club, were you working the door? Had you gotten
25 back to the door?

CLAY S. TEDDER, SR. - CROSS EXAMINATION

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- 1 A. I was just stand there.
- 2 Q. Standing where?
- 3 A. On the --- up front.
- 4 Q. By the door?
- 5 A. By the door.
- 6 Q. During this whole situation until where we are right now,
- 7 could you tell if Mr. Patterson had been drinking?
- 8 A. I mean, he wasn't stumbling or nothing like that.
- 9 Q. Okay.
- 10 A. He was just Roosevelt to me.
- 11 Q. Okay. Now, describe to me. How was he acting?
- 12 A. What to me in general?
- 13 Q. Well, you just said he was Roosevelt to me. Is this
- 14 Roosevelt scraping all the beer off the bar --
- 15 A. -- No, he was kind of angry --
- 16 Q. -- and running back --
- 17 THE COURT: Wait a minute. Wait a minute. Wait until
- 18 he finishes his question.
- 19 A. Okay.
- 20 THE COURT: Go ahead, Mr. Jones.
- 21 Q. Is the Roosevelt that you were talking about, he was
- 22 Roosevelt to me, the same guy you just described raking
- 23 all the beer off the bar, and running back and forth from
- 24 the parking lot to the inside, screaming at Mr. Edwards to
- 25 shoot --

CLAY S. TEDDER, SR. - CROSS EXAMINATION

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1 A. -- That was angry Roosevelt.

2 Q. That was angry Roosevelt --

3 A. -- From being in a altercation.

4 Q. Okay.

5 A. Not being scared of Anthony with a gun.

6 Q. Okay. What was Mr. Edwards doing there?

7 A. During those times I seen Roosevelt do that, I didn't see
8 him. But the final time, the last time he came in through
9 the door, I believe Anthony had came out of the kitchen
10 and was up front.

11 Q. All right. And the fact of the matter, weren't you
12 escorting Mr. Edwards out of the club by that time?

13 A. No, sir. Because once we left the kitchen, I didn't see
14 Anthony --- I didn't bother with him no more.

15 Q. All right. Who all was left in the club besides, I am
16 assuming yourself, Mr. Edwards, who else was left in the
17 club at this point in time?

18 A. I could recall Mr. Edwards, me, Cleve --- I don't know
19 about Cleve, I mean, one of my cousin was in there.
20 Packman, Patrick Smith.

21 Q. Packman, is Patrick Smith?

22 A. Yes, sir.

23 Q. And who is he?

24 A. He my cousin.

25 Q. And what relationship does he have to the club?

CLAY S. TEDDER, SR. - CROSS EXAMINATION

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- 1 A. He like a co-owner, I think.
- 2 Q. Okay. Where was he?
- 3 A. I think he was behind the bar.
- 4 Q. All right. Is that the same bar that Mr. Patterson came
- 5 by and raked all of the beer off of?
- 6 A. Yes, sir. And Victoria Smith, she was behind the bar
- 7 too.
- 8 Q. Did anybody that you saw escort Mr. Edwards anywhere?
- 9 A. We was pretty much trying to wait for him to leave,
- 10 because a man with a gun, you never know.
- 11 Q. Did he have the gun out waiving it all around this whole
- 12 time?
- 13 A. Not the whole time, no, sir.
- 14 Q. Where was it?
- 15 A. It might be in his back pocket or front pocket, I don't
- 16 recall.
- 17 Q. Okay. All right. So, now we are up to the point where
- 18 Mr. Patterson comes back in for either the second or third
- 19 time?
- 20 A. Yes, sir.
- 21 Q. And I think you said that the door flew opened?
- 22 A. Yeah.
- 23 Q. Now, describe the noise that the door makes?
- 24 A. When the door flew open and hit the banister, it sounded
- 25 like a door hit a banister. Like a boom sound.

CLAY S. TEDDER, SR. - CROSS EXAMINATION

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1 Q. Is the banister a wooden banister?

2 A. A wooden banister.

3 Q. Did it make a loud noise?

4 A. Yes, it did.

5 Q. Did it startle you?

6 A. Kinda, sort of, yeah.

7 Q. Okay. And that is when you said Mr. Patterson then at
8 that point in time --

9 A. -- He never came all the way in. Anthony was kind of at
10 the front door. When the door flew open and hit the
11 banister, Roosevelt kind of came to the front door and
12 that's when he seen Anthony with the gun and said, oh,
13 shit he got a gun, and turned and run. That is when
14 Anthony shot him.

15 Q. Were you watching Mr. Edwards during that period of time?

16 A. No, sir.

17 Q. All right. Do you have any idea where the gun was or when
18 it got pulled?

19 A. I have no idea. I know he just --- like he nudged me and
20 just shot cross in front of me.

21 Q. Okay. Can you estimate how much time passed when the door
22 banged opened?

23 A. Like a bang bang.

24 Q. Immediately after the door banged opened?

25 A. Yeah.

CLAY S. TEDDER, SR. - CROSS EXAMINATION

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- 1 Q. All right. Right before that, did you hear anything in
2 the parking lot?
- 3 A. No, sir.
- 4 Q. Did you have any idea what was going on in the parking
5 lot?
- 6 A. No, sir.
- 7 Q. Were any of the security people you know of in the parking
8 lot?
- 9 A. I think one of them was.
- 10 Q. Who would that be?
- 11 A. Cleve.
- 12 Q. That would be Mr. Cleveland Keith?
- 13 A. Yes, sir.
- 14 Q. All right. And I think I have asked this, but tell me
15 again. Was Mr. Patrick Smith in the bar area at that
16 point in time?
- 17 A. Yes, sir. I think he was. I heard Packman say one time,
18 Darman, what you do, you done shot my cousin?
- 19 Q. All right. Let me get the diagram one more time if I can.
20 Can you tell me --- If you will step down here for me one
21 more time. All right. This is the front door, correct?
- 22 A. Yes, sir.
- 23 Q. All right. This is a hallway?
- 24 A. Hallway.
- 25 Q. All right. This is a doorway?

CLAY S. TEDDER, SR. - CROSS EXAMINATION

96

1 A. That just by the club, like right here.

2 Q. Where did Mr. Patterson rake the beer off? Did he run
3 through this room and rake beer off?

4 A. He just bear down --- when you are going in down the left
5 side of the bar.

6 Q. So, there were empties and fulls?

7 A. Yeah. Once they started fighting everybody pretty much
8 getting up and leaving.

9 Q. Got yah. So, they may have placed beer along that rail?

10 A. Yeah. On that side of the bar.

11 Q. And at one point in time, one of the three times he came
12 in, he raked them all off?

13 A. Yes, sir.

14 Q. Got yah. That is what I wanted to know. Thank you. Now,
15 let me ask you again, Mr. Tedder. From the time that Mr.
16 Patterson started running in and out of the club, did you
17 hear any gunshots at all?

18 A. Not like I can recall.

19 Q. Pardon me?

20 A. Not that I can recall, no, sir.

21 Q. Okay. Did you hear anyone in the parking lot making any
22 noise or commotion before Mr. Patterson came in the last
23 time?

24 A. During all of that time I was in on the inside.

25 Q. So, whatever was going on outside, you are not aware of?

CLAY S. TEDDER, SR. - REDIRECT EXAMINATION

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1 A. No, sir.

2 Q. Very good.

3 MR. JONES: One second please, Your Honor.

4 THE COURT: All right.

5 (PAUSE.)

6 MR. JONES: That's all I have. Thank you.

7 THE COURT: Redirect, Mr. Holt?

8 MR. HOLT: Please, Your Honor.

9 REDIRECT EXAMINATION BY MR. HOLT

10 Q. Mr. Tedder.

11 A. Yeah.

12 Q. You said that on the dance floor Anthony was yelling at
13 Roosevelt?

14 A. No, I did not say that.

15 Q. Okay. When you got to the kitchen, and Mr. Edwards pulled
16 the gun out.

17 A. Yes, sir.

18 Q. Was everyone going after Mr. Edwards, trying to fight him?
19 What were they trying to do?

20 A. It was just pretty much two of them talking junk to
21 Anthony. And everybody else was pretty much trying to
22 keep them from fighting.

23 Q. But all of those people who were in the kitchen, weren't
24 there to gang up on Anthony were they?

25 A. No, because I couldn't hold no four or five people back.

CLAY S. TEDDER, SR. - REDIRECT EXAMINATION

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1 Q. And did you see anybody else with a gun?

2 A. No, sir. I didn't even have a gun.

3 Q. Did Anthony pull the gun out?

4 A. Yes, he did.

5 Q. And as a result of him pulling that gun out, did Roosevelt
6 become angry?

7 A. Yes, he did.

8 Q. So, when you say you saw a angry Roosevelt, it was after
9 the gun came out?

10 A. After the altercations, yes.

11 Q. Okay. Now, when Roosevelt was running back in, we don't
12 know; maybe it was one, two, or three times?

13 A. Yeah.

14 Q. Okay. Was any of his anger directed at Anthony Edwards?

15 A. He was --

16 Q. -- Or was he just mad?

17 A. He was mad.

18 Q. Did you hear him threaten Anthony Edwards during any of
19 that time he was running back in?

20 A. He just said, you got a gun. Shoot me.

21 Q. But no direct threats toward Anthony?

22 A. None.

23 Q. And when he came walking back in that door, Mr. Jones went
24 like this, and said there was a bang.

25 A. Yeah.

CLAY S. TEDDER, SR. - RE-CROSS EXAMINATION

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1 Q. So, there was a bam, and then you hear Roosevelt
2 Patterson say, oh, shit, he's got a gun.

3 A. Yeah. Yes, sir.

4 Q. So, there is that long in between there. Time for
5 everybody to realize what's going on?

6 A. That's right.

7 Q. Did Roosevelt have a gun?

8 A. No, he didn't.

9 Q. Did, he have a knife on him?

10 A. Not at that time, no, sir.

11 Q. So, he had nothing on him when he was shot and killed?

12 A. No, sir.

13 Q. And there was enough time between what Mr. Jones --- bam,
14 there was enough time between that for everybody to
15 realize that Roosevelt had nothing on him?

16 A. I mean, not Anthony. Anthony was mostly in the back. He
17 was in club, in the kitchen.

18 MR. HOLT: Thank you very much, Mr. Tedder. I
19 appreciate it.

20 A. All right.

21 THE COURT: Re-cross?

22 MR. JONES: Judge, I just have one or two..

23 RE-CROSS EXAMINATION BY MR. JONES

24 Q. Mr. Tedder, what you just said right then about Anthony
25 being in the back of the club.

CLAY S. TEDDER, SR. - RE-CROSS EXAMINATION

100

1 A. In the kitchen.

2 Q. During the whole time Mr. Patterson was running back in,
3 back out, scraping beer off, hollering, you kill me, you
4 got a gun; did you ever see Mr. Edwards?

5 A. No, sir. Like I said before, he was still in the kitchen,
6 I think.

7 Q. Did Mr. Patterson ever get back to the kitchen?

8 A. No, sir.

9 Q. How did he get turned around and get sent back out of the
10 club?

11 A. By his own will.

12 Q. He just ran in, ran out two or three times?

13 A. He just walked in a couple of times, walked back out like
14 he wasn't scared, he was mad.

15 Q. To your knowledge, there was never any additional
16 confrontation between Mr. Edwards by Mr. Patterson?

17 A. No, sir, because they didn't see each other.

18 MR. JONES: Thank you.

19 THE COURT: All right. Thank you, sir. You may step
20 down. All right, Mr. Holt, you may call your next witness.

21 MR. HOLT: Thank you very much, Your Honor. At this
22 time the state would like to call Perry Wilds.

23 THE COURT: All right. Mr. Wilds, come around please.

24 WHEREUPON, PERRY WILDS, JR

25 FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

PERRY WILDS JR. - DIRECT EXAMINATION

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1 MR. WILDS: I do.

2 DIRECT EXAMINATION BY MR. HOLT

3 Q. Mr. Wilds, would you please state your whole name for the
4 jury.

5 A. Perry Wilds, Jr.

6 Q. How old are you, Mr. Wilds?

7 A. Forty.

8 Q. And how did you know the victim in this case, Roosevelt
9 Patterson?

10 A. He's my cousin. We grew up together.

11 Q. Where did y'all grow up?

12 A. Right there on Dovesville Highway.

13 Q. Did you spend your whole life there?

14 A. Yes.

15 Q. Where was the Gold Rush Pub in relation to where y'all
16 grew up?

17 A. It was about maybe four or five miles down the road.

18 Q. That is in Darlington County?

19 A. Yeah, Darlington County.

20 Q. Let me ask you this. These events occurred on the day in
21 question, September 27th, it was really in the morning
22 time, early. So, on Friday the 26th what had you, and
23 your friends and family plan to do, and what did y'all do?

24 A. Well, I'm a truck driver, and he called me and ask me
25 where I was. And, I said, I probably get in probably

PERRY WILDS JR. - DIRECT EXAMINATION

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1 maybe seven or eight o'clock that night, p.m., and he told
2 me we ain't going to go out, we just going to have a cook
3 out and chill out around the house. Well, I said that's
4 cool, cause I didn't want to go anywhere nowhere. So, I
5 got in and brought a couple of drinks to the house. And
6 he had one of his friends doing a hog, you know, cooking a
7 hog for Saturday. So, we played cards, and having a good
8 time. So, he said, probably about --- I can't remember
9 the time frame, but later on that night he said, you know,
10 do you want to ride out. And you know I said, it's up to
11 you, you know, it's your night. Do you know what I'm
12 saying? You know, if you want to ride out and have a good
13 time, we can do that. And he wanted to drive, but I said,
14 no I'll drive, because you know, I wasn't --- I was
15 feeling pretty good where I could drive, you know. I
16 wasn't drunk or anything like that. So, we went down to
17 Gold Rush --

18 A. -- Who rode in the car with you?

19 A. It was me, James, Lucky, Ronnie Lucky, and Nelson, and
20 Jackson. So, we got there and he was looking for Shawn
21 Tedder, because that is a guy that I know that usually run
22 the club. So, Shawn Tedder wasn't there that night. So,
23 they said this guy --- I don't know his name. I don't
24 know the dude, but they call him Packman. They said he
25 was running the club, so we went in anyway. So, we got in

PERRY WILDS JR. - DIRECT EXAMINATION

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1 and I saw Roosevelt talking to, you know, everybody and
2 enjoying himself. So, you know, we shoot pool, and having
3 a good time, and Roosevelt went on the dance floor, so I
4 went back there to where he was. I was on like, one
5 corner of the dance floor, and he was on the other corner.
6 So, all of a sudden --- We had probably been there about
7 forty-five minutes. You know, everything was going good,
8 you know. There wasn't nobody fussing, or arguing, or
9 anything. So, all of a sudden a fight broke out. And I
10 know Roosevelt was in that area over there. So, I ran
11 over there and I saw three or four guys had my cousin ---
12 had Roosevelt on his knees, you know, punching him in the
13 head and all of that. So, I ran in and wrap um up, you
14 know, I didn't try to fight. But you know, they were
15 hitting me and everything. But I got him up. And that is
16 when some other guys were coming. I know Cleve was one of
17 them. We was --

18 Q. What happened after the fight on the dance floor, Mr.
19 Wilds?

20 A. I'm sorry. We was trying --- Me and some other guys, we
21 was trying --- everybody said, get him in the kitchen.
22 So, I got --- we got him in the kitchen, and I remember
23 Cleve being right there, and as we was getting him into
24 the kitchen, them guys that was fighting, they was still
25 trying to hit him, hit me, and that is when, you know, we

PERRY WILDS JR. - DIRECT EXAMINATION

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1 got right at the kitchen door, and you know, they push us
2 in. And these guys was still trying to come at us. So, I
3 picked up a kitchen knife, and I said, even though they
4 weren't going to come in and help me and my cousin, I'm
5 going to defend us. So, they finally stopped. And right
6 after that, that's when this dude Anthony came in waving
7 his gun. And he stuck the gun --- I mean, he came in
8 waving the gun, but he had the gun right here. That's
9 where the gun end up at. So, the other guy came in that
10 was running the club that night said, Pack man I guess,
11 you know, he is telling me to put the knife down, but you
12 know, this guy here had a gun and I mean, it didn't make
13 sense to me why he telling me to put a knife down when
14 this guy got a gun. You know, instead of him trying to
15 talk to both of us. So, I'm telling this dude, you know,
16 why you got a gun? So, he is telling me to put the knife
17 down. And I said well, you put the gun down. So
18 meanwhile, they were separating him from me. So, they got
19 him on the other side of the kitchen, and I'm on this side
20 of the kitchen, and he is still pointing the gun. It
21 wasn't no way --- you still pointing a gun like this at
22 me. So, that is why Cut --

23 Q. -- Hold on just a second, when you say Cut, who do you
24 mean?

25 A. I mean, Roosevelt. It was a table in the middle of the

PERRY WILDS JR. - DIRECT EXAMINATION

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1 kitchen, and Roosevelt was behind. And he was behind me,
2 and he came from around the table, and you know, he
3 charged and rushed Anthony to try to take the gun. So, in
4 the meanwhile, they was wrestling for the gun --

5 Q. -- Let me stop you right there. Before Anthony pulled out
6 that gun, was Cut trying to get to him at all?

7 A. I don't know where this guy --- The first time I seen
8 Anthony was, he came in the kitchen with the gun.

9 Q. Did you have any words with Anthony Edwards before this?

10 A. I ain't never seen him before.

11 Q. And for the record, the man that pulled the gun on you and
12 Roosevelt, is he in the courtroom today?

13 A. Yeah.

14 Q. And where is he located?

15 A. Right there.

16 MR. HOLT: Let the record indicate that he pointed out
17 the defendant.

18 Q. And what happened then?

19 A. That is when Randy Rushing was try to take the gun from
20 him. At that time nobody tried --

21 MR. HOLT: -- Mr. Wilds, the court reporter is looking
22 at me, and I think she wants me to ask you to please slow down.

23 MR. WILDS: I'm sorry.

24 Q. I realize that you are excited, but if you can take us
25 from when Roosevelt tries to take the gun from Anthony

PERRY WILDS JR. - DIRECT EXAMINATION

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1 Edwards..

2 A. Yeah, he rushed him and he can't get the gun away. So,
3 that is when Cut --- Roosevelt back up and I think he was
4 going to shoot Cut, I mean Roosevelt then, but he didn't.
5 So, one of Roosevelt cousin, it is another entrance around
6 the bar through the kitchen. And his cousin came in on
7 that side and got Roosevelt out of the kitchen. So, at
8 that time, that is when I put the knife down.

9 Q. All right. Let me stop you right there. At any time
10 during any of the fighting in the kitchen, were a crowd of
11 people trying to attack Anthony Edwards?

12 A. Everybody that was in the kitchen from what I can remember
13 was trying to break the fight up. They was separating him
14 from me. And I was just trying to --

15 Q. -- And when you say separate him from me, who do you mean?

16 A. From myself.

17 Q. And who do mean by him?

18 A. Anthony. So, that is when Anthony --- like I said, they
19 got Roosevelt out of the kitchen, his cousin. That is
20 when I put the knife down and I made my way out of the
21 kitchen, back up front. And I said, where is the other
22 guys that, you know, Cut was fighting, and they said he
23 was gone. The people --- the guys in this fight earlier
24 they was gone. So, that's when I said, where Roosevelt
25 at? And they said he's outside. So, that is when I went

PERRY WILDS JR. - DIRECT EXAMINATION

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1 outside. . And his cousin was trying to put him in my car.
2 And at that time I wonder where he was, and I was trying
3 to calm him down. And I said, man, you are getting
4 married tomorrow. You know, just chill out. And he asked
5 me where was Randy --- I mean, Ronnie and James had left.
6 And he said, where are the guys at, and I said, man, they
7 are in the club.

8 Q. When you say other guys, who do you mean?

9 A. James, Ronnie, and Nelson.

10 Q. And were those the guys that rode with y'all?

11 A. Yeah. And I said, I'll go get them. You know, you just
12 stay in the car. So, we still hadn't gotten our way to
13 the car yet. As we was trying to put him in the car, he
14 heard a gun --- we heard a gun shot.

15 Q. And where was the gunshot located that y'all heard?

16 A. I don't know --- it was out --- it had to be outside, I
17 guess.

18 Q. Was it far off, was it close up?

19 A. It was --- We was by the liquor store park, so that is
20 where he was.

21 Q. All right.

22 A. And when he heard a gunshot, he was like, you know, he was
23 thinking I guess, one of our other friends got shot or
24 something was going down again. So he say no, I going
25 back in and I said no, we ain't wrestling, and tussling,

PERRY WILDS JR. - DIRECT EXAMINATION

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1 and I was trying to get him in the car, and he just got
2 away from me.

3 Q. And anytime that you were wresting or tussling with him,
4 did he have a knife on him?

5 A. No. He couldn't have a knife cause we was really going at
6 it at the car.

7 Q. And did he have a gun on him?

8 A. Nope.

9 Q. Was there any blood anywhere? Did you have any blood on
10 you after you wrestled with him?

11 A. No.

12 Q. And what happened after he entered the store?

13 A. So, once he got away from me I went running behind him,
14 but there are a lot of people outside. You know, I had to
15 try to get through them to try to get back to my man. And
16 as soon as he got to the door --- he got to the door
17 before me. As soon as he got to the door, I came behind
18 him and I heard a shot. Then when I got a shot, you know,
19 by, I was so close that I Pat myself down to see if I was
20 hit. And when --- as I was doing that, Roosevelt came
21 running back to me and he said, I got hit. And I said,
22 you got hit? And that is when he said he was burning.
23 So, I went running behind him, and as soon as he got to
24 the front of my car, his arm hit my car and he fell down
25 on the front.

PERRY WILDS JR. - DIRECT EXAMINATION

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1 Q. And what happened after he fell down in front of you?

2 A. I was trying to wake him up. I was trying to wake him up,
3 and he didn't get up.

4 Q. Mr. Edwards at any time that night --- Mr. Wilds, I
5 apologize. At any time that night did Roosevelt Patterson
6 express malice or anger toward the defendant before the
7 defendant drew that gun out on him?

8 A. I didn't see it.

9 Q. How did Roosevelt act toward the defendant after the
10 defendant pulled a gun out on him?

11 A. Well actually the guy never pulled a gun on him. I mean,
12 when he saw the guy, I guess, pointing the gun at him or
13 whatever, he like, I say he tried to rush the guy to get
14 the gun.

15 Q. The entire reason Roosevelt was going after Mr. Edwards
16 was because Mr. Edwards pulled a gun on you and Roosevelt?

17 MR. JONES: Objection, speculation.

18 THE COURT: Sustained.

19 Q. Did he try to go after Roosevelt before he pulled a gun on
20 y'all?

21 A. (Negative response.)

22 THE COURT: Answer out, please.

23 Q. I mean, after he pulled the gun on y'all?

24 A. (Negative response.)

25 THE COURT: You have to answer out please. You can't

PERRY WILDS JR. - DIRECT EXAMINATION

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1 shake your head.

2 A. I'm sorry, sir. No.

3 Q. How about after the defendant pulled a gun on you, did
4 Roosevelt get angry?

5 A. Yes.

6 Q. You said that you heard a gunshot, and then Roosevelt ran
7 back in the club to check on y'all's friend?

8 A. Yes, sir.

9 Q. And in between hearing that gunshot and him getting to the
10 front door, y'all had time to wrestle?

11 A. Yeap.

12 Q. And when you say wrestle, what do you mean?

13 A. He was trying to go back in, and I was trying to stop him.
14 And we was, you know, like, get off and stuff, and I was
15 like, get in the car, and he just kept going at it. It
16 got away from him.

17 Q. And when you say he ran in the door, do you mean the front
18 door of the Gold Rush?

19 A. Yeah, the front door of the Gold Rush.

20 Q. And about how long after he got to that front door until
21 you heard that shot?

22 A. It was like a matter of seconds.

23 Q. And where was Roosevelt shot? On his person, what part
24 please?

25 A. Actually I didn't see the blood until he was on the

PERRY WILDS JR. - DIRECT EXAMINATION

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1 ground.

2 Q. And at this time I would like to show you what has been
3 previously identified as State's Exhibit 41.

4 (PAUSE.)

5 Q. Could you --- Please don't say anything about that to the
6 jury. Does that what you are holding fairly and
7 accurately depict what you saw on the ground that night
8 outside of the Gold Rush Lounge?

9 A. Yes.

10 MR. HOLT: Your Honor, at this time the state would move
11 State's Exhibit 41 into evidence.

12 THE COURT: Mr. Jones, what is your position?

13 MR. JONES: Your Honor, I would object to that. The
14 description has been verified by the witnesses testimony, and I
15 think that would --- any probative value might have --- would
16 be substantially outweighed by the prejudicial effect.

17 THE COURT: All right. I do believe that the evidence
18 is relevant. And apparently you see the relevance as well, but
19 your objection is under 403, that the probative value is
20 substantially outweighed by the danger of unfair prejudice.

21 I disagree. I think that it is relevant. I do not think
22 that the probative value is substantially outweighed by the
23 danger of unfair prejudice. There is a lustrative of the
24 testimony, and I think that makes it admissible. The objection
25 will be overruled.

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1 Please give it to the court reporter and have her remove
2 the I.D. number.

3 So, it is admitted into evidence as State's Exhibit Number
4 41, subject to the objection of the defendant.

5 WHEREUPON, STATE'S EXHIBIT NUMBER
6 41 IS MARKED AND ADMITTED INTO
7 EVIDENCE OVER OBJECTION.

8 Q. After the victim in this case, you cousin, Roosevelt
9 Patterson laid down and died outside of the Gold Rush,
10 what happened next, and what did you try to do?

11 A. Well, after we realized --- I thought everybody --- I
12 mean, everybody was upset out there. Some of us was
13 trying to get back in and get to Anthony, but the door was
14 locked.

15 Q. Did law enforcement later arrive?

16 A. Yes.

17 Q. Did you give a statement in this case?

18 A. I'm sorry. Say that again.

19 Q. Did you give a statement in this case?

20 A. I did not that night.

21 Q. Did you not write out a written statement for the police
22 later on?

23 A. I think I did later on. A couple of days later. I can't
24 remember.

25 Q. That's fine.

PERRY WILDS JR. - CROSS EXAMINATION

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1 MR. HOLT: Mr. Wilds, please answer any questions that
2 Mr. Jones might have.

3 THE COURT: Cross examination Mr. Jones?

4 MR. JONES: Yes, sir.

5 CROSS EXAMINATION BY MR. JONES

6 Q. Mr. Wilds, you started that night around seven or a little
7 later after you got in from your truck driving; is that
8 right?

9 A. Yes, sir. After I got off work.

10 Q. Where did you go?

11 A. To Roosevelt house.

12 Q. All right. And how many people would you say were there
13 at that gathering?

14 A. Maybe ten to fifteen people.

15 Q. Thank you. Cooking a hog, playing cards, drinking liquor,
16 I think you said. What were y'all drinking?

17 A. Say what?

18 Q. What were you drinking?

19 A. Bud Light.

20 Q. All right. Did you notice what Mr. Patterson was
21 drinking?

22 A. I think he had a couple of beers.

23 Q. Okay. At some point in time you testified that y'all,
24 either as a group or someone said let's go out. What time
25 was that?

PERRY WILDS JR. - CROSS EXAMINATION

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1 A. I think it was maybe, I can't remember, eleven, twelve, or
2 one o'clock, somewhere in there.

3 Q. All right. Sometime around midnight or around there?

4 A. Yes.

5 Q. Any ideas how many beers you had had that --- at that
6 stage?

7 A. I probably had three, three or four.

8 Q. Okay. Do you have any idea how many Mr. Patterson had
9 had?

10 A. Don't know.

11 Q. I believe on direct examination you said that you felt
12 okay, so you felt that you could drive safely. Is that
13 your testimony?

14 A. That's correct.

15 Q. Did you feel that Roosevelt could not drive safely?

16 A. I didn't want him to.

17 Q. Why?

18 A. I mean, it is his night, so I chauffeur him around.

19 Q. All right. So, you didn't want him to get into any kind
20 of difficulty driving and drinking, or any of that kind of
21 situation?

22 A. Yes, sir.

23 Q. All right. Did you go directly from Mr. Patterson's house
24 to the Gold Rush?

25 A. Yes.

PERRY WILDS JR. - CROSS EXAMINATION

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1 Q. Was the Gold Rush a place that y'all frequently regularly?

2 A. We might get together maybe once, twice a month and go out
3 there.

4 Q. I'm a little bit confused. How long had the Gold Rush
5 been in operation at that time? We are talking about
6 September of 08.

7 A. Maybe three or four months, I not exact.

8 Q. Okay. So, it is relatively a new place?

9 A. Right before --- It was open before that to a previous
10 owner. And I think it was closed for a little while and
11 then it re-opened.

12 Q. Very good. All right. And while you are talking about
13 owners, you said that you knew someone, or that your group
14 knew someone who was a owner of that place. Who was that?

15 A. We knew Shawn Tedder.

16 Q. Who?

17 A. Shawn Tedder.

18 Q. All right. But Shawn was not there that evening?

19 A. No, sir.

20 Q. All right. You say Packman was there?

21 A. That is who they said --- I didn't know him.

22 Q. Didn't know him at all?

23 A. Uh'huh.

24 Q. Did you recognize him as a owner or a person with
25 authority at the club?

PERRY WILDS JR. - CROSS EXAMINATION

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1 A. Not really.

2 Q. Did any of your party to your knowledge recognize him as
3 the owner?

4 A. I think they knew him.

5 Q. Okay. If I remember, you specified that y'all had been
6 there maybe forty-five minutes before what I will call the
7 first altercation happened on the dance floor?

8 A. Somewhere in that time frame.

9 Q. All right. Again, did you continue to drink Bud Light?

10 A. I might have had one --- Yeah, I had one when I got there.

11 Q. Any idea how many Mr. Patterson had?

12 A. No, he was walking around and he knew a lot of people, so
13 he was walking around having, you know -- he might have
14 had one, I'm not sure.

15 Q. Okay. All right. Sometime, forty-five minutes after you
16 got there something happened back on the dance floor?

17 A. Yes, sir.

18 Q. Do you have any idea what it was about?

19 A. No, sir.

20 Q. All right. Do you have any idea who, beside Mr.
21 Patterson was involved in that first altercation?

22 A. I didn't know none of the guys.

23 Q. How many people were involved?

24 A. I think I seen about at least three guys hitting him when
25 he was on his knees.

PERRY WILDS JR. - CROSS EXAMINATION

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- 1 Q. All right. Was anybody beside Mr. Patterson --- what I
2 will call on his side. All right. So, you have Mr.
3 Patterson versus about three guys.
- 4 A. I was the first one that got to him.
- 5 Q. All right. And I believe that you testified that you
6 basically covered him up and kind of got him out of there?
- 7 A. Yeah. I picked him up.
- 8 Q. As you --- I am going to point and you tell me. Fight
9 here on the dance floor?
- 10 A. Uh'huh.
- 11 THE COURT: Yes?
- 12 A. Yes, sir.
- 13 Q. All right. From the dance floor to this, that looks like
14 swinging doors. Did you take Mr. Patterson into that
15 area?
- 16 A. No, sir. We had passed the doors into the kitchen.
- 17 Q. All right. I don't see any doors, but I assume --- are
18 there more doors leading into the kitchen, or is it just
19 one set of doors?
- 20 A. It's a storage door --
- 21 THE COURT: I'm sorry, I didn't get that either? Repeat
22 your answer.
- 23 A. I said, it must have gone through the storage door, but we
24 end up in the kitchen.
- 25 Q. All right. When you say we, who is we?

PERRY WILDS JR. - CROSS EXAMINATION

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- 1 A. Some more guys, some security guys, and other guys was
2 trying to help me get Roosevelt into the kitchen. But
3 everybody was hollering, get him in the kitchen.
- 4 Q. All right. Was Roosevelt resisting going into the
5 kitchen?
- 6 A. I mean, he was still trying to fight back.
- 7 Q. He was still trying to fight these three guys over here,
8 wasn't he?
- 9 A. Yeah, because they was still trying to come at us. He was
10 --- it was like, he was fighting back. There wasn't no
11 way I could get to him, because I was in front of him, you
12 know, holding him like this, and there were guys behind
13 me. But the other guys were like, coming over still
14 trying to hit him.
- 15 Q. And it was three on one in the back, back there when you
16 got there; is that right?
- 17 A. Yes, sir.
- 18 Q. But he was still trying to fight?
- 19 A. He was still trying to fight.
- 20 Q. Okay. Now, as you get into the kitchen you said there was
21 some security. Was Mr. Tedder one of them?
- 22 A. I don't recall seeing him but I know Cleve was there.
- 23 Q. And we are talking about Cleveland --
- 24 A. -- Cleve.
- 25 Q. You don't remember seeing Mr. Tedder back there at all?

PERRY WILDS JR. - CROSS EXAMINATION

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- 1 A. I can't recall.
- 2 Q. All right. Cleveland was security that night also?
- 3 A. Yes.
- 4 Q. How about Mr. Packman, did you see him back there?
- 5 A. He came in when the guy with the gun --- when Anthony came
- 6 in with a gun, he came in.
- 7 Q. Okay. How about the three guys that were beating on Mr.
- 8 Patterson. Did they come into the kitchen?
- 9 A. They was trying.
- 10 Q. All right. Who was keeping them away?
- 11 A. The crowd. The guy that was trying to break --- there was
- 12 a lot of guys trying to break the fight up that night.
- 13 But they was the ones keeping the other guys from trying
- 14 to get him.
- 15 Q. Of that crowd, were there any of your party other than you
- 16 trying to keep that crowd away?
- 17 A. I didn't see them.
- 18 Q. At what point in time did y'all start grabbing knives?
- 19 A. When I got into the kitchen, I saw they were still trying
- 20 to get into the kitchen, that's when I grabbed a knife.
- 21 Q. Who else had a knife?
- 22 A. Just me.
- 23 Q. What kind of knife did you bring?
- 24 A. I think it was a kitchen knife.
- 25 Q. Okay. And where did you get it?

PERRY WILDS JR. - CROSS EXAMINATION

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1 A. It was right there on the counter.

2 Q. You didn't reach into the drawer, it was just laying on
3 the counter?

4 A. It was laying out.

5 Q. Okay. You grabbed it, and basically held it in your hand?

6 A. Yes.

7 Q. And was that to protect yourself against the three guys
8 who were trying to get in?

9 A. Yes.

10 Q. From the dance floor?

11 A. Yes.

12 Q. Very good. When you were in the kitchen area, did you
13 have a hold of Mr. Patterson at that time?

14 A. No, he was behind me.

15 Q. All right. Was he trying to get away from you at that
16 stage?

17 A. No, there was some more guys behind us and they were
18 trying to talk to him and calm him down.

19 Q. All right. And let me ask again. Were any of those
20 people trying to calm him down part of your group?

21 A. I don't --- no. I can't recall who it was. I mean, I
22 just get a flash and I saw the guys --- I don't think they
23 was my guys though.

24 Q. It was a pretty big altercation?

25 A. It was fast.

PERRY WILDS JR. - CROSS EXAMINATION

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- 1 Q. It all happened pretty quickly? From the dance floor ---
2 let me back up. At the dance floor with the three guys
3 beating on Mr. Patterson, was Mr. Edwards one of those
4 people?
- 5 A. No.
- 6 Q. All right. When was the first time you saw Mr. Edwards,
7 involved in any of this situation?
- 8 A. When he came into the kitchen.
- 9 Q. At that point in time he had a gun and said, put the
10 knives down.
- 11 A. Yes.
- 12 Q. And y'all didn't put the knives down right then?
- 13 A. I mean, when he had the gun to my --- I was the only one
14 who had a knife. And I put the knife down after Roosevelt
15 got out of the kitchen. I put the knife down.
- 16 Q. But before that, didn't you testify that Roosevelt ran
17 around behind you and behind the table, and tried to
18 tackle Mr. Edwards with a gun?
- 19 A. I say he rush in there.
- 20 Q. Okay. And what did Mr. Edwards do?
- 21 A. They wrestled with the gun, and Roosevelt couldn't get the
22 gun from Anthony, and Roosevelt backed up. But Anthony
23 didn't shoot him then.
- 24 Q. There wasn't any aggression on the part of Mr. Edwards
25 against Mr. Patterson at that point in time?

PERRY WILDS JR. - CROSS EXAMINATION

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1 A. No..

2 Q. All right. Who all got Mr. Patterson out of the kitchen
3 and out of the Gold Rush?

4 A. It was --- well it was one of his cousins, and they are
5 twins. And, I can't tell them apart.

6 Q. Okay.

7 A. But it was one of them, and he got Cut out of the back
8 part of the kitchen and went through the bar. I guess he
9 --- he had to go through the bar to get back outside.

10 Q. Was he already in the kitchen, or did he come running in
11 the kitchen after --

12 A. -- He came into the kitchen through the bar. It had to
13 been.

14 Q. And the bar area leads into the kitchen?

15 A. Yes.

16 Q. So, Mr. Patterson gets pulled out through the bar area,
17 out the front door?

18 A. Had to, yeah.

19 Q. Did you see that?

20 A. No, I can't say it. I can't say that, no.

21 Q. What were you doing?

22 A. I was still in the kitchen.

23 Q. All right. Doing what?

24 A. Trying to see if the guy was going to shoot me, or what
25 was going to take place next.

PERRY WILDS JR. - CROSS EXAMINATION

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- 1 Q. All right. And did anything take place?
- 2 A. No.
- 3 Q. Did you ever see Packman?
- 4 A. Yeah, when he came in with the guy with the gun.
- 5 Q. Okay.
- 6 MR. JONES: One second please, Your Honor.
- 7 THE COURT: All right, sir.
- 8 (PAUSE.)
- 9 Q. Mr. Wilds, when you got outside after being in the
- 10 kitchen, is that when you were describing the others
- 11 wrestling with Mr. Patterson?
- 12 A. When I got outside, there was just this one cousin.
- 13 Q. Do you know his name?
- 14 A. Rick --- I think it was Rick. They are twins, and I can't
- 15 tell them apart. It is Rick, I think.
- 16 Q. Was it Lucky?
- 17 A. No.
- 18 Q. Who is that?
- 19 A. Pattersons.
- 20 Q. They are Pattersons?
- 21 A. Yes.
- 22 Q. Did you see Mr. Roosevelt Patterson running back and forth
- 23 inside sweeping beers off --
- 24 A. -- No, I didn't see that. I didn't see that.
- 25 Q. Do you have any direct knowledge of how many times Mr.

PERRY WILDS JR. - CROSS EXAMINATION

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1 Patterson went back and forth between the parking lot and
2 the interior of the door?

3 A. No, because after he got out of the kitchen, it took me
4 maybe --- it took me maybe a minute to get through the
5 crowd. I mean, I put the knife down. I got through the
6 crowd and got back out front. And I asked everybody where
7 Roosevelt was, and they say he was outside. So, between
8 me getting out of the kitchen and up front, he just came
9 in at one time.

10 Q. That you know of?

11 A. That I know of.

12 Q. Very good. All right. Did Mr. Clay Tedder escort you
13 out of the club?

14 A. No, I walked out.

15 Q. Was he anywhere in your path or near your path as you
16 exited the Gold Rush?

17 A. I think --- Yeah, I think I seen him. I mean, I really --

18 Q. -- I understand. I understand. When you mentioned Mr.
19 Cleve --- Cleveland Keith, did you go past him on the way
20 out? Do you recall passing him?

21 A. I can't recall. I just walked out and was trying to get
22 back out to Roosevelt.

23 Q. Other than those two people, do you know of any other
24 people that were acting as security in the club that
25 evening?

PERRY WILDS JR. - CROSS EXAMINATION

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- 1 A. No.
- 2 Q. Very good. Now, when you get outside of the club and
- 3 Mr. Patterson is with his cousin, did you immediately go
- 4 up to him and try to get him in the car to leave?
- 5 A. Immediately.
- 6 Q. That is when you were testifying that you said, let's go?
- 7 A. I told him to get in the car, and I would go back and get
- 8 the rest of the guys that came with us.
- 9 Q. He didn't do that?
- 10 A. I mean, he was until he heard a gunshot.
- 11 Q. The gunshot --- Tell me, in your opinion, where that
- 12 gunshot came from?
- 13 A. It could have been outside.
- 14 Q. Parking lot?
- 15 A. Could of have. I mean, it was outside or inside. I mean,
- 16 it could have been either one.
- 17 Q. How many people in your estimation were outside in the
- 18 parking lot as you were doing what you just described?
- 19 A. Maybe ten or fifteen people.
- 20 Q. Did you know most of them?
- 21 A. I didn't pay them no attention.
- 22 Q. Do you know if any of them were among the three people who
- 23 were fighting Mr. Patterson on the dance floor? Did you
- 24 ever see any of those people again?
- 25 A. No, I ain't never seen them.

PERRY WILDS JR. - REDIRECT EXAMINATION

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1 Q. You heard the gunshot. Mr. Patterson breaks away from
2 you and heads back inside; is that correct?

3 A. Yes, sir.

4 Q. And you went running after him?

5 A. Yes, sir.

6 Q. Door opens, gunshot?

7 A. Yes, sir.

8 Q. You felt to see if you had been hit. Mr. Patterson
9 running past you saying, I'm hit?

10 A. Yes, sir.

11 Q. And then fell down?

12 A. Yes, sir.

13 MR. JONES: Thank you, that's all I have.

14 THE COURT: Redirect?

15 MR. HOLT: Briefly, Your Honor.

16 REDIRECT EXAMINATION BY MR. HOLT

17 Q. Mr. Wilds, there was a lot going on, wasn't it?

18 A. Yes, sir.

19 MR. HOLT: Permission to approach, Your Honor?

20 THE COURT: Yes, sir.

21 Q. Here is the kitchen area, correct?

22 A. Yes.

23 Q. And this is where --- Why did y'all get into the kitchen?
24 Just say that one more time so everybody knows why you are
25 in there?

PERRY WILDS JR. - REDIRECT EXAMINATION

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- 1 A. I was just --- that is where he was yelling out, get him
2 in the kitchen, and I was trying to get him in the
3 kitchen. That is where I was taking him, and there was
4 some guys behind us pushing us, you know, trying to get us
5 in the kitchen.
- 6 Q. Is that the first place you saw the defendant?
- 7 A. When he came into the kitchen.
- 8 Q. And what did he have on when he came in the kitchen?
- 9 A. He had on ---
- 10 Q. -- Not what he had on. Did he display anything when he
11 came into the kitchen?
- 12 A. His gun.
- 13 Q. You testified that Roosevelt left through the backdoor
14 entrance of the kitchen. You were still in there?
- 15 A. Yeah, I was still inside.
- 16 Q. Who was in the kitchen with you?
- 17 A. It been Anthony was still in there. There was a lot of
18 guys.
- 19 Q. Anthony was still in the kitchen with you?
- 20 A. Yeah, he was still in the kitchen with me.
- 21 Q. So Roosevelt --- how could Roosevelt threaten Anthony if
22 he was still in the kitchen with you?
- 23 A. He didn't. I mean, he tried to take the gun --
- 24 MR. HOLT: Thank you very much, Mr. Wilds.
- 25 Q. Now, could it have been possible that when he left the

PERRY WILDS JR. - REDIRECT EXAMINATION

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1 kitchen, Roosevelt --- that is when he threw the stuff off
2 the bar?

3 A. Could have.

4 Q. He would have walked right by the bar, wouldn't he?

5 A. Sure.

6 MR. HOLT: Thank you very much. No further questions,
7 Your Honor.

8 THE COURT: Re-cross?

9 MR. JONES: No, sir.

10 THE COURT: All right. Thank you. You may step down.

11 MR. WILDS: Thanks.

12 THE COURT: All right. Ladies and gentlemen, you have
13 been in the courtroom now for almost two hours. A hour and
14 forty-five minutes, and I think it is time for us to take our
15 mid-morning break, and we are going to do that at this time. I
16 am going to let you go to your jury room for about ten or
17 fifteen minutes and relax. Do not discuss the case among
18 yourselves. It is still premature for you to have any
19 discussion about this case. You can talk about anything you
20 want to, but just relax for a few minutes, stretch, and we will
21 send for you in about ten or fifteen minutes.

22 Thank you. You may go with the bailiff.

23 (Whereupon, the jury exits the courtroom at
24 11:24 a.m. for a morning recess.)

25 THE COURT: All right. We will take fifteen minutes,

CLEVELAND KEITH - DIRECT EXAMINATION

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1 and be ready to start back at twenty minutes till. Thank you.

2 (Whereupon, a morning recess was taken from
3 11:24 a.m. until 11:44 a.m..)

4 THE COURT: All right. Back on the record with regard
5 to the matter of The State versus Anthony Edwards. Mr.
6 Edwards, is present in court with his counsel. The state is
7 present and represented by Mr. Holt, and Ms. Parker, and
8 others. Anything before we bring the jury in, Mr. Holt?

9 MR. HOLT: There is not, Your Honor.

10 THE COURT: Mr. Jones?

11 MR. JONES: No, sir.

12 THE COURT: All right. Bring the jury in please.

13 (Whereupon, the jury enters the courtroom at
14 1:44 a.m..)

15 THE COURT: All right. Thank you very much, ladies and
16 gentlemen. We are now ready to resume. Mr. Holt, you may now
17 call your next witness.

18 MR. HOLT: Your Honor, at this time the state would like
19 to call Cleveland Keith to the stand.

20 THE COURT: Mr. Keith, come around please.

21 WHEREUPON, CLEVELAND KEITH

22 FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

23 MR. KEITH: I do.

24 DIRECT EXAMINATION BY MR. HOLT

25 Q. Mr. Keith, would you please give your entire name to the

CLEVELAND KEITH - DIRECT EXAMINATION

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1 jury?

2 A. Cleveland Keith.

3 Q. And how old are you?

4 A. Twenty-nine.

5 Q. Where are you from?

6 A. Darlington.

7 Q. And, Mr. Keith, are you familiar with the Gold Rush
8 Lounge?

9 A. Yes, sir.

10 Q. Where is that located?

11 A. On Highway 52.

12 Q. Here in Darlington County?

13 A. Yes, sir.

14 Q. And were you employed there in 2008?

15 A. Yes, sir.

16 Q. And specifically speaking, Friday night September 27,
17 2008, and into the early morning of September 28th, which
18 would have been early Saturday morning; were you working
19 there?

20 A. Yes, sir.

21 Q. And what did your job consist of when you worked at the
22 Gold Rush?

23 A. I was taking up money that night. I had a little box at
24 the door.

25 Q. Money for what?

CLEVELAND KEITH - DIRECT EXAMINATION

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- 1 A. It was just like five dollars to enter.
- 2 Q. To enter?
- 3 A. Yeah.
- 4 Q. And, when you say the door, which door do you mean?
- 5 A. The front door.
- 6 Q. And, is that the front door there?
- 7 A. Yes, sir.
- 8 Q. Okay. And can you tell us what happened that night?
- 9 Anything out of the ordinary? Was there a fight in the
- 10 back?
- 11 A. Yes, sir.
- 12 Q. And walk me through step-by-step, what happened and what
- 13 you witnessed that night.
- 14 A. Okay. I was sitting at the front door and people started
- 15 hollering they was fighting. So, by the time I got to the
- 16 back, it was about over. So, it was three guys coming
- 17 out, and somehow everybody got into the kitchen. And when
- 18 we got in the kitchen, I seen with my eyes, and then I
- 19 seen a gun.
- 20 Q. Who did you see with a gun?
- 21 A. Anthony Edwards.
- 22 Q. And is he in the courtroom today?
- 23 A. Yes, sir.
- 24 Q. And can you point him out to me?
- 25 A. Over --

CLEVELAND KEITH - DIRECT EXAMINATION

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- 1 MR. HOLT: Let the record reflect that he showed the
2 defendant.
- 3 Q. What happened next?
- 4 A. When I seen the gun, I be honest, I kind of got out and I
5 end up back outside.
- 6 Q. All right. And let me ask you this. When you were in
7 there, who do you remember being in --- when you say in
8 there, you mean in the kitchen?
- 9 A. Yeah, it was a bunch of people.
- 10 Q. Okay. Was anybody in the kitchen trying to attack Anthony
11 Edwards before he pulled the gun out?
- 12 A. I'm not sure. I can't remember.
- 13 Q. All right. Tell me what you saw.
- 14 A. Like I said, when I seen the gun --- I didn't see him
15 point the gun, I just seen the gun in the air. And I took
16 caution, cause it might go off. So, I decided to get out
17 of the way.
- 18 Q. Were you scared when you saw the gun?
- 19 A. Yeah.
- 20 Q. Why were you scared?
- 21 A. I mean, a gun could went off and hit anybody.
- 22 Q. All right. And when you saw the gun, where did you go
23 next?
- 24 A. I end up like, outside. That when everybody start coming
25 outside.

CLEVELAND KEITH - DIRECT EXAMINATION

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- 1 Q. And what did you see happen after that?
- 2 A. After that I just ran into Lucky --- it is like the liquor
- 3 store, it is a little alley and the front door.
- 4 Q. And is the liquor on this side or this side?
- 5 A. The liquor store be on this side.
- 6 Q. This side right here?
- 7 A. Yeah, and it's a little split like between that, and then
- 8 the front door. I grabbed Ronnie --
- 9 Q. -- And you mean the split is right here in the building?
- 10 A. Like between us, splitting them. So, when I grabbed
- 11 Ronnie, Lucky, I was trying to calm him down. We was in
- 12 the corner. And a lot of commotion was still outside.
- 13 And all I remember was Mr. Roosevelt ran past me and say
- 14 he was hit.
- 15 Q. Okay. Before he ran past you, did you hear a gunshot?
- 16 A. Can't remember. I mean, there was so much going on. I
- 17 knew people was already shooting outside. Previous to
- 18 that like, shooting in the air.
- 19 Q. Yeah. So, people were just outside shooting in the air?
- 20 A. Yeah. People shooting in the air.
- 21 Q. And when --- say we are right here in the front door.
- 22 What is directly out in front of the Gold Rush?
- 23 A. The parking lot.
- 24 Q. Okay. And were there cars parked here?
- 25 A. On both sides.

CLEVELAND KEITH - DIRECT EXAMINATION

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1 Q. All right. If that is the front door, can you come show
2 me where you were, and where you saw Mr. Roosevelt fall
3 past you and pass away?

4 A. I was in like, a little step down part.

5 THE COURT: Keep your voice up so that everyone can hear
6 you.

7 MR. KEITH: Yes, sir.

8 A. It was like, the liquor store be right here, and a little
9 split will be right here and the front door. Me, Ronnie,
10 and Lucky was in the split.

11 Q. Outside of the club.

12 A. Yeah. He ran past us, about five or six steps. All I
13 know is he say he was hit. And he just collapsed.

14 Q. So, in between the time you heard he was hit, and he ran
15 past you, and he collapsed, about how long was that?

16 A. I say probably like, five, six seconds.

17 Q. All right. And what happened next. Did you go back in
18 the club?

19 A. No, I got locked outside.

20 Q. So, they locked the door right after that?

21 A. Yeah, they locked the door, cause it was still like, you
22 know, his family and everybody was with us outside, was
23 still outside. So, they locked the door.

24 Q. So, when Roosevelt got shot, every single person that was
25 with him was outside?

CLEVELAND KEITH - CROSS EXAMINATION

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- 1 A. I can't say that because I don't remember that.
- 2 Q. But that is why they locked the door?
- 3 A. Yeah, I guess for caution, you know, so nothing else
- 4 happened.
- 5 Q. And then what happened after that?
- 6 A. The police arrived. And they were talking to people
- 7 outside and that was it. You know, coming down town to
- 8 the Police Department to make a statement.
- 9 Q. Okay. What did you tell the police that night?
- 10 A. I was scared that night. I didn't say much. And I end up
- 11 like, coming back two days later to give a better
- 12 statement.
- 13 Q. And is that statement consistent with what you are telling
- 14 us now?
- 15 A. Yeah, what I'm telling you now.
- 16 MR. HOLT: Mr. Keith, thank you very much.
- 17 MR. KEITH: All right.
- 18 THE COURT: Cross examination, Mr. Jones.
- 19 CROSS EXAMINATION BY MR. JONES
- 20 Q. Good morning, Mr. Keith.
- 21 A. Good morning.
- 22 Q. Just a couple of questions. It started inside?
- 23 A. Yes, sir.
- 24 Q. And ended outside?
- 25 A. I ended outside.

CLEVELAND KEITH - CROSS EXAMINATION

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- 1 Q. Okay. While you were inside, in the kitchen, tell me who
2 you saw --- who you remember seeing in the kitchen?
- 3 A. I remember seeing Cleve. I remember seeing Anthony. I
4 remember seeing, I want to say, Ronnie, because he ended
5 up outside with me. And I seen Perry for a split second.
- 6 Q. Now, Clay and yourself were working?
- 7 A. Yeah.
- 8 Q. Ronnie was with the Patterson group?
- 9 A. Yes, sir.
- 10 Q. And Perry was with the Patterson group?
- 11 A. Yes, sir.
- 12 Q. And I am sorry, I went to get my pen. Anyone else that
13 you remember from the Patterson group?
- 14 A. It was just a bunch of people. It was like ten, fifteen
15 people in the kitchen. It happened so fast.
- 16 Q. All right. Was your boss that night Patrick Smith?
- 17 A. Yes, sir.
- 18 Q. And they call him Packman?
- 19 A. Yes, sir.
- 20 Q. All right. Packman, Perry is the same person?
- 21 A. Yes, sir.
- 22 Q. Did you see him in the kitchen?
- 23 A. I can't recall.
- 24 Q. Did you see Mr. Edwards in the kitchen at any time?
- 25 A. Yeah, when everybody got in the kitchen.

CLEVELAND KEITH - CROSS EXAMINATION

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- 1 Q. Did he come in after everyone else was in?
- 2 A. I can't remember all of that. It just happened so quick.
- 3 There was a bunch of commotion.
- 4 Q. I understand. Do you have any recollection of when you
- 5 saw the gun?
- 6 A. Nope. I just seen a gun and I was trying to get out.
- 7 Q. Okay. Now, you also mentioned that you saw people with
- 8 knives. How many people do you think you saw with knives?
- 9 A. I think it was like, two or three.
- 10 Q. Okay. And can you describe the knives at all?
- 11 A. Nope.
- 12 Q. Silver?
- 13 A. Well silver, yeah.
- 14 Q. You don't know if they were big knives, little knives,
- 15 they were silver knives?
- 16 A. I wasn't trying to find out.
- 17 Q. Okay. You didn't wait around to find out.
- 18 A. Nope.
- 19 Q. Could they have been huge steak knives, or silverware
- 20 knives?
- 21 A. I didn't pay them that much attention.
- 22 Q. All right. A knife is a knife.
- 23 A. Yeap.
- 24 Q. All right. Now, as you got outside, did you go with Mr.
- 25 Luck or is it Lucky?

CLEVELAND KEITH - CROSS EXAMINATION

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1 A. It is Lucky.

2 Q. Did you go with him or did you just end up talking with
3 him?

4 A. I end up grabbing him. Then all I remember --- and I push
5 him off in the corner, and I say Ronnie, please calm down,
6 and y'all just leave. And like I say, I remember Mr.
7 Roosevelt running past me, say he was hit.

8 Q. Now before we get to that point, did you see any of the
9 altercation going on in the parking lot between Mr. Wilds
10 and Roosevelt Patterson?

11 A. No, sir.

12 Q. Did you see anybody trying to get Mr. Patterson into a
13 vehicle?

14 A. Where I was --- I was at, I couldn't see nothing. In a
15 little cut. Couldn't see nothing. In a little alley.

16 Q. Okay. And the only two people there are yourself --

17 A. -- And Ronnie.

18 Q. All right. Now, and Mr. Lucky was one of the people that
19 had been in the kitchen area?

20 A. Yeah.

21 Q. All right. And so, on your way out, do I take it that you
22 just kind of --

23 A. -- You go to the left or the right. We went to the left.

24 Q. You and Mr. Lucky?

25 A. Yeah.

CLEVELAND KEITH - CROSS EXAMINATION

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- 1 Q. Y'all kind of hustled out together?
- 2 A. It was a bunch of people leaving out. Everybody ---
- 3 mostly everybody with him was leaving out.
- 4 Q. Now outside, before the point where you said Mr.
- 5 Patterson went running by and said I'm hit, how many
- 6 gunshots did you hear?
- 7 A. I couldn't remember. Like I said, it was so much
- 8 happening.
- 9 Q. More than once?
- 10 A. Earlier, yeah.
- 11 Q. More than two?
- 12 A. Can't remember how many.
- 13 Q. Let me go back to the first altercation.
- 14 A. All right.
- 15 Q. On the dance floor. Did you know any of those other ---
- 16 what has been described as two, three, or four people in
- 17 the back with Mr. Patterson?
- 18 A. I knew Kevin Scott.
- 19 Q. Who?
- 20 A. Kevin Scott.
- 21 Q. Okay. What happened to him? Did you see him leave or end
- 22 up in the kitchen or --
- 23 A. -- He wasn't never in the kitchen. I think after the
- 24 little altercation, they went outside.
- 25 Q. Did you see anybody trying to push their way into the

CLEVELAND KEITH - CROSS EXAMINATION

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1 kitchen to Mr. Patterson?

2 A. I can't remember.

3 Q. Okay. All right. And I interrupted you. And you said
4 Mr. Scott, anybody else that you recognize as being in
5 that first fight?

6 A. No, I just figure he was fighting because he was all routy
7 up.

8 Q. Okay. And you recall him leaving?

9 A. Yes.

10 Q. Before you left or as you were leaving?

11 A. Well, he went out a little bit in front of me, out the
12 door.

13 Q. Did you see anybody go with him?

14 A. Can't remember.

15 Q. I know you are describing a pretty chaotic scene, just
16 everything happening all at one time. But let me ask you
17 again. Do you remember seeing Mr. Patrick Smith in the
18 kitchen area?

19 A. I can't recall where Pat was. Cause, like I say, once I
20 seen the gun I just lost it. I was trying to get out.

21 Q. And you were out?

22 A. Yeah.

23 MR. JONES: Thank you, that's all I have.

24 THE COURT: Redirect, Mr. Holt?

25 MR. HOLT: None, Your Honor.

PATRICK SMITH - DIRECT EXAMINATION

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1 THE COURT: All right. Thank you, sir. You may step
2 down.

3 All right. You may call your next witness.

4 MR. HOLT: Your Honor, at this time the state would call
5 Patrick Smith to the stand, please.

6 THE COURT: All right.

7 WHEREUPON, PATRICK SMITH

8 FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

9 MR. SMITH: Yes.

10 DIRECT EXAMINATION BY MR. HOLT

11 Q. Mr. Smith, would you please give your entire name to the
12 jury.

13 A. Patrick Smith.

14 Q. And how old are you?

15 A. Twenty-eight.

16 Q. And where do you live now, just the county?

17 A. Darlington.

18 Q. And where did you grow up?

19 A. Darlington, Dovesville.

20 Q. And, is that the same area, the victim in this case grew
21 up? And, did you and him grow up together?

22 A. Yes, sir. He's a little older than me, but yes.

23 Q. All right. So, did you know the victim?

24 A. Yes, sir.

25 Q. And, did you know the defendant in this case?

PATRICK SMITH - DIRECT EXAMINATION

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1 A. Yes, sir.

2 Q. And would you consider yourself friends with both of them?

3 A. Yes, sir.

4 Q. All right. I want to ask you a little bit about the night
5 in question. Who is Shawn Tedder?

6 A. He's my cousin. He's the original owner of the club.

7 Q. And what was your position? When you say club, do you
8 mean Gold Rush Lounge?

9 A. Yes. Gold Rush Lounge.

10 Q. And if you would just slide that chair up, and pull that
11 microphone down it would help you out. Make you more
12 comfortable.

13 What was your position at the Gold Rush Lounge?

14 A. He had to go out of town that weekend. He wanted me to be
15 like, in charge. And when he wasn't there I was always
16 like, in charge when he wasn't there.

17 Q. All right. And, the night in question, it would have been
18 Friday, September 27, 2008, and into the early morning
19 hours of September 28. Do you remember that night?

20 A. Yes, sir.

21 Q. Who did you have working security that night?

22 A. Cleve, Clay Tedder, and Cleve Keith.

23 Q. All right. And that night, was there a disturbance on the
24 dance floor?

25 A. Yes, sir.

PATRICK SMITH - DIRECT EXAMINATION

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- 1 Q. And before that, did you see Roosevelt Patterson enter the
2 lounge?
- 3 A. Yeah, I seen him earlier. I seen him earlier when he
4 first came in, because he had spoke to me.
- 5 Q. He spoke to you? All right. Well, let me ask you this.
6 In regard to the dance floor, are you aware of the fight
7 that broke out that night?
- 8 A. Yeah. Yes, sir. I seen the altercation.
- 9 Q. Where were you when it started, and what did you witness?
- 10 A. I'm thinking I was like --- I'm thinking I was like, close
11 to the D.J. Booth at the time, I think the D.J. Booth.
- 12 Q. Is this the D. J. Booth here?
- 13 A. Yes, sir.
- 14 Q. And is this the dance floor?
- 15 A. Yes, sir.
- 16 Q. All right. What happened?
- 17 A. I seen a bunch of commotion, and like, when I come around
18 that corner I seen a bunch of commotion. And when I came
19 around the corner I noticed like, somebody --- I noticed
20 that Cut was like, on the ground.
- 21 Q. When you say Cut, who do you mean?
- 22 A. Roosevelt, was on the ground.. And some guys were over
23 him. So like, --
- 24 Q. Was Anthony Edwards one of those guys?
- 25 A. No, sir.

PATRICK SMITH - DIRECT EXAMINATION

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1 Q. Thank you.

2 A. Once I seen that, I kind of like, since in know him I
3 like, --- I usually don't get in between it. But like, I
4 kind of got between it and tried to break it up. And that
5 is how he got in the kitchen.

6 Q. All right. And is this the kitchen here?

7 A. Yes, but you have to go through them storage doors to get
8 through there.

9 Q. And that is the storage room above the kitchen?

10 A. Yes.

11 Q. And that is the dance floor?

12 A. Yes, sir.

13 Q. And you had to go through here like that?

14 A. Yes, sir.

15 Q. And, when the altercation started on the dance floor,
16 calmed down when you witnessed it, what happened in so far
17 as it got to the kitchen. How did that occur? And then
18 what happened inside of the kitchen?

19 A. Me and Roosevelt was the first to be in the kitchen. And
20 like seconds later, that is when like, everybody started
21 coming into the kitchen.

22 Q. So, you got Roosevelt in the kitchen?

23 A. Yeah.

24 Q. And what were you trying to do?

25 A. Basically, I was telling him like, to calm down. But

PATRICK SMITH - DIRECT EXAMINATION

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1 like, he was already like, kind of calmed down a little
2 bit. He was like --- somebody --- people had jumped on
3 him and he was a little angry because they jumped on him.
4 But I was like, trying to tell him like, it's over. Like
5 they getting them, like they are gone. And that was when
6 people like, rushing the kitchen like, the door --- It is
7 like, little push doors and the doors bust open, and I
8 guess that was like --- is like when the people that was
9 with him came in. And they was like, concerned about what
10 happened to him. They was upset. And I guess like, they
11 must have thought that the people was still there and
12 that's why they grabbed the knives.

13 Q. And did the people that was fighting Roosevelt earlier try
14 to get in the kitchen?

15 A. I thought they was gone. I didn't see.

16 Q. But Anthony Edwards did come into the kitchen?

17 A. Anthony Edwards came into the kitchen like, behind Clay.
18 Clay Tedder.

19 Q. And when he came into the kitchen, what was the first
20 thing that he did?

21 A. The first thing he did was like, he pulled a gun --- he
22 seen the knives and he pulled a gun.

23 Q. He pulled a gun, and Roosevelt was in the process of
24 calming down. How did Roosevelt react when the gun was
25 pulled on him?

PATRICK SMITH - DIRECT EXAMINATION

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- 1 A. It wasn't --- well he got mad.
- 2 Q. He got mad. And what happened after that?
- 3 A. I guess he was thinking like, Anthony was one of them guys
- 4 or something, I don't know.
- 5 Q. Okay. And what happened next?
- 6 A. Once I seen --- basically, once I seen the gun like, I was
- 7 trying to tell them to put the knives down. And once I
- 8 seen the gun like, I did basically the same thing Cleve
- 9 did. I left out through --- I can show you the entrance I
- 10 left out of. I went --- you can go through the kitchen
- 11 and go straight to the bar.
- 12 Q. All right. Here is the kitchen --
- 13 A. -- Yes.
- 14 Q. How did you leave the kitchen?
- 15 A. Through that little entrance right there.
- 16 Q. Right here?
- 17 A. Yeah, to the bar.
- 18 Q. And that connects to the bar?
- 19 A. Yes, sir.
- 20 Q. All right. When you were at the bar, what did you see?
- 21 A. It was still like, going on back there in the kitchen, but
- 22 I was like, getting that money out of the cash register in
- 23 the box, putting it up. I was getting that out. And I
- 24 seen Cut --- I seen Roosevelt come through and they were
- 25 escorting him out. And I guess Anthony was still in the

PATRICK SMITH - DIRECT EXAMINATION

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1 back in the kitchen.

2 Q. So, Anthony was still in the back?

3 A. Yeah, I'm thinking --- I'm not sure, but I'm thinking ---
4 I didn't see him at the time when they were escorting Cut.

5 Q. They got Roosevelt out the door?

6 A. I'm thinking --- I don't know if it was security or the
7 people that was with him, so much was going on. But I
8 know he was removed.

9 Q. Was it like four people holding him and dragging him, or
10 were they just escorting him out?

11 A. Like, kind of escorting him out.

12 Q. And at that time Anthony was still in the kitchen?

13 A. Could have been, yeah.

14 Q. All right. When Roosevelt was leaving, did you see any
15 knives on him then?

16 A. Not then.

17 Q. All right. Now, when Roosevelt walked out the front door,
18 did he ever come back in?

19 A. Yes, sir.

20 Q. What happened when he came back in?

21 A. Thinking the first time he came back in that when --- I
22 can't remember what he was saying or whatever. But like,
23 that when like --- I think that's when the stuff got
24 knocked off the counter.

25 Q. All right. Is it possible that he knocked the stuff out

PATRICK SMITH - DIRECT EXAMINATION

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1 of the counter from his way through the kitchen to the
2 front door?

3 A. Hu'huh.

4 Q. All right. When you got to the bar, what did you do?

5 A. I basically, standing behind him and I was telling him ---
6 I was basically standing behind him and I was like telling
7 him to go ahead and leave. And I happened to have come
8 from around that bar. I came from around the bar. And
9 when I was coming from around the bar, I was like, telling
10 him to leave. He was out the door. And that when ---
11 that when Anthony, the next time he came in I'm thinking --

12 -

13 Q. -- What happened the next time he came in?

14 A. I heard --- I actually heard --- I heard a commotion
15 outside. I heard a shot outside too. But the door had
16 flew open and hit that --- that's like a little wood thing
17 right there that door flew open.

18 Q. Right here?

19 A. Yeah. And the last shot fired.

20 Q. The last shot fired. Who fired the last shot?

21 A. I didn't see who fired it. I only hear him fire it. I
22 heard it was Anthony.

23 Q. Was it fired from inside the club?

24 A. Yes. Yes.

25 Q. Who was the only person you saw inside of the club with a

PATRICK SMITH - DIRECT EXAMINATION

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1 gun?

2 A. Anthony.

3 Q. And he had the gun on him every since the kitchen?

4 A. Yes.

5 Q. And did anybody instigate anything with Anthony before he
6 had the gun?

7 A. No, sir.

8 Q. No, sir. All right. So, when Roosevelt came in this last
9 time, what happened?

10 A. When he came in like, I heard the shot outside, and I
11 heard the door bust open and hit the thing, and that when
12 I heard the inside --- when I heard --- somebody was
13 outside saying a bunch of crazy stuff. And I heard a shot
14 outside, so I went to run back behind the bar.

15 Q. Which way were you running?

16 A. Yeah, through there.

17 Q. So, you were out here in this hallway?

18 A. I was like, yeah --- right up in --- somewhere in that
19 area up in there. But when I heard the shot outside, that
20 when I took off to run behind the bar. I think that why
21 Clay say I was behind the bar. And that when the shot
22 went off. And I didn't actually knew who been shot then.
23 I kind of found out who was shot.

24 Q. And what did you say when you found out who was shot?

25 A. Mick --- Mick Jackson called me and told me Cut was

PATRICK SMITH - DIRECT EXAMINATION

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1 outside shot. And I was like, my cousin shot --- well I
2 call him my cousin.

3 Q. You call who your cousin?

4 A. Roosevelt.

5 Q. And, what did y'all do after Anthony shot out there?

6 A. Anthony was concerned about people coming in there. He
7 wanted us to lock the door because like, he kept telling
8 us to like, keep the door locked. Don't let nobody else
9 in.

10 Q. Did you see Clay Tedder lock the door?

11 A. Yeah.

12 Q. And what did y'all do next?

13 A. We was waiting for the police to get there.

14 Q. Why were y'all waiting for the police?

15 A. I ain't wanting nobody else to get hurt.

16 Q. At any point during that night, as the owner of the club
17 or the guy running the club, did you tell anybody to pull
18 the gun out?

19 A. Say that again?

20 Q. At anytime during that night did you advise security to
21 pull a gun out?

22 A. No.

23 Q. Would you allow security to carry?

24 A. No.

25 Q. Would you allow somebody into the club or the lounge with

PATRICK SMITH - DIRECT EXAMINATION

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- 1 a gun?
- 2 A. No, sir.
- 3 Q. They would not have been able to come in?
- 4 A. No, sir.
- 5 Q. All right. And, did you see anybody with a gun before you
- 6 saw Anthony Edwards with a gun?
- 7 A. No, sir. Just heard the gunshots outside.
- 8 Q. And when you got --- when you saw the gun, what did you
- 9 do?
- 10 A. Well, when I seen the gun in the kitchen?
- 11 Q. Yes, sir.
- 12 A. I can't really remember. I just know like, when I seen
- 13 the gun --- I think I asked him. I'm not sure. I'm
- 14 thinking like, I asked him --- I was surprised to see the
- 15 gun. I just remember like, I think I asked him like, what
- 16 you doing with a gun? I'm not sure. I can't really
- 17 remember.
- 18 Q. Did it surprise you to see the gun?
- 19 A. Yes. Because I was wondering how the gun got in the club.
- 20 I was thinking the only gun was in there was the one
- 21 behind the bar.
- 22 Q. And the original altercation on the dance floor, were you
- 23 calming that down when the gun popped up?
- 24 A. Say that again.
- 25 Q. The original altercation on the dance floor, you went back

PATRICK SMITH - DIRECT EXAMINATION

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1 there to handle that because you knew Roosevelt?

2 A. Yeah.

3 Q. Were you calming that down when the gun came into the
4 picture?

5 A. Yes. But, I don't know if he knows --- I don't know if he
6 knows that.

7 Q. All right. Well, I want to show you --

8 MR. HOLT: Permission to approach, Your Honor?

9 THE COURT: Yes, sir.

10 Q. I want to show you some photographs that have been marked
11 27 through 50, and I want to ask you, do these photographs
12 clearly and accurately depict your club that night?

13 A. Do you want me to look through them?

14 Q. Please, sir.

15 (PAUSE.)

16 Q. Do those pictures fairly and accurately depict the Gold
17 Rush Lounge on the night in question?

18 A. Yeah. Yes, sir.

19 MR. HOLT: Your Honor, I believe these are already in
20 evidence.

21 THE COURT: They are in evidence.

22 MR. HOLT: Beg the court's indulgence. I need to get
23 one out of here.

24 Q. Now, this is State's Exhibit Number 35. Can you tell me
25 if you can identify what that is?

PATRICK SMITH - CROSS EXAMINATION

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1 A. This is my weapon that I had behind the bar.

2 Q. And why did you have a weapon behind the bar?

3 A. I bring it back there because sometime I be there by
4 myself, so I like, use to keep that in the glove box ---
5 not the glove box but the drawer beside the cash register.

6 Q. And, if I can get you to take second and open this up.

7 A. All right.

8 Q. I want you to examine the contents of what has been marked
9 for identification purposes only as State's Exhibit 15.
10 Marked just for I.D.

11 (PAUSE.)

12 A. It don't even look the same. What do you want me to
13 answer about this?

14 Q. Does that appear to be the gun that you had behind the bar
15 that night?

16 A. I'm thinking --- it don't even look the same. But, I kind
17 of had one --- yeah.

18 MR. HOLT: All right. Let's put it back in the box.

19 Mr. Smith, please answer any questions the defense counsel may
20 have.

21 MR. SMITH: All right.

22 THE COURT: Cross examination, Mr. Jones?

23 MR. JONES: Thank you, sir.

24 CROSS EXAMINATION BY MR. JONES

25 Q. Mr. Smith, I know you said that you and Mr. Edwards were

PATRICK SMITH - CROSS EXAMINATION

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1 pretty good friends; is that correct?

2 A. Yes, sir..

3 Q. You and Mr. Patterson were actually related?

4 A. We not actually related, I just know his family all my
5 life.

6 Q. Okay. You kind of grew up together?

7 A. Yes, sir..

8 Q. That evening, when you first saw Mr. Patterson, was it
9 before what I call, the first altercation on the dance
10 floor?

11 A. Yes. I actually seen him when he first came in. Not like
12 when he first --- I seem him when they first came in
13 though.

14 Q. Could you tell if he had been drinking or not?

15 A. I don't know. I can't tell. I don't know.

16 Q. All right. Was he agitated? Was he angry? Was he having
17 a problem when he first came in?

18 A. No. No, sir.

19 Q. When you saw him on the dance floor, on the dance floor
20 area with three or four guys on top of him, was it your
21 testimony that you got him away from those three or four
22 guys?

23 A. Yeah. It was me.

24 Q. Did you see Mr. Wilds?

25 A. I don't know, who is Wilds?

PATRICK SMITH - CROSS EXAMINATION

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- 1 Q. Perry Wilds, do you remember Perry Wilds?
- 2 A. He looked different now. I thought he had hair.
- 3 Q. Did you see him --- did you see anybody else grabbing a
- 4 hold of Mr. Patterson, trying to help get him off the
- 5 floor?
- 6 A. I was the first person that got him out of that floor.
- 7 Q. Okay. Did you also push him into the kitchen area, or
- 8 just herd him into the kitchen area?
- 9 A. Nobody would have been able to go into the kitchen unless
- 10 I want them in the kitchen.
- 11 Q. Okay. Now, when you got Mr. Patterson in the kitchen, did
- 12 I hear you say that you kind of had him calmed down?
- 13 A. He was --- he wasn't as routy as he was after that. After
- 14 like, when everybody came in there.
- 15 Q. All right. And what period of time are we talking about?
- 16 A. Seconds. It was fast.
- 17 Q. Okay. All right. So, you got Mr. Patterson in the
- 18 kitchen fairly calm?
- 19 A. Uh'huh.
- 20 Q. Other people started come in. Were they people who had
- 21 been fighting with him, or were they people that you
- 22 associated with him, with Mr. Patterson?
- 23 A. I didn't --- I didn't know who all was fighting him, but I
- 24 didn't see the person who I seen fighting him. I didn't
- 25 see him trying to get in the kitchen. I just seen --- I

PATRICK SMITH - CROSS EXAMINATION

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1 think he said his name was Perry, but he had longer hair
2 then. And some more people come into the kitchen.

3 Q. Did they appear to be with Mr. Patterson?

4 A. Yeah.

5 Q. Very good. Now, at what point in time did people start
6 grabbing knives?

7 A. The knives came out as soon as they came in there. I
8 guess they noticed them because like, it's the kitchen and
9 the knives be staying right up in there, so I guess they
10 grabbed them once they came in there.

11 Q. This is the other crowd that started come in that
12 everybody started grabbing knives?

13 A. Yes, sir. Well not everybody was. A couple of them.

14 Q. Okay. Did anybody appear to be pushing their way in to
15 attack Mr. Patterson?

16 A. I don't know. But I don't think so. I think most people
17 was concerned about him. I think they was kind of like --
18 - they just now found out he got in altercation, so they
19 just like --- they knew he was back in the kitchen. And
20 they coming in like, rushing in.

21 Q. All right. And was it at that point in time that Mr.
22 Edwards came in?

23 A. Well when Mr. Edwards came in, the knives were already
24 out.

25 Q. All right. Did you see Mr. Edwards pull a gun out?

PATRICK SMITH - CROSS EXAMINATION

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1 A. I seen him with the gun in the air.

2 Q. All right. Do you have an opinion as to what Mr. Edwards
3 was doing when he pulled that gun?

4 MR. HOLT: Objection, Your Honor. Calls for
5 speculation.

6 THE COURT: Yes, sir. I will sustain the objection as
7 asked.

8 MR. JONES: Yes, sir. All right.

9 Q. Mr. Edwards came into the kitchen?

10 A. Yes, sir.

11 Q. You were there?

12 A. Yes, sir.

13 Q. With or without a knife, did you have a knife?

14 A. No, sir.

15 Q. Mr. Patterson was there?

16 A. Yes, sir.

17 Q. With or without a knife?

18 A. I think he with a knife. With a knife, yeah.

19 Q. Did Mr. Wilds have a knife at that point in time?

20 A. That's Perry, right?

21 Q. Yes.

22 A. Yes, sir.

23 Q. Anybody else have a knife?

24 A. Can't really --- No. There was about two or three of
25 them, but I can't really recall where everything.

PATRICK SMITH - CROSS EXAMINATION

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1 Q. All right. But again, more than Mr. Patterson --

2 A. -- But I know I seen --

3 Q. -- and Mr. Wilds, or Perry?

4 A. I'm thinking I know --- I know I seen them two there.

5 Q. Very good. When Mr. Edwards came into that situation
6 that existed in the kitchen --

7 A. -- Yeah --

8 Q. -- you without a knife and several people with knives?

9 A. Yes, sir.

10 Q. Was that the point in time the gun was drawn?

11 A. Yes, sir.

12 Q. All right. Thank you. Did you leave immediately?

13 A. Once the gun came up like, all kind of stuff ran through
14 my head. And I just like --- I walked into the kitchen.
15 I was thinking about my cousin, she was working around the
16 bar, Victoria. And I was like, really --- you could hear
17 like, shots outside. So, I was really like concerned, so
18 I just like, walked out of the kitchen, and walked
19 straight toward the bar where she was. And --

20 Q. -- All right. Please go ahead.

21 A. And like, it was happening so fast like, I end up seeing
22 Roosevelt like, being escorted out, so I kind of thought
23 everything was over.

24 Q. Again. Tell me who was escorting Roosevelt out?

25 A. I can't remember who I seen.

PATRICK SMITH - CROSS EXAMINATION

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- 1 Q. All right. Was he --- did he appear to be agitated or
2 upset at that point in time?
- 3 A. Yeah, he was angry still.
- 4 Q. Okay.
- 5 A. He was angry, I think he was more angry about Anthony then
6 though.
- 7 Q. He was roulled-up at that point in time?
- 8 A. A little, yeah.
- 9 Q. So, he gets hustled out of the lounge.
- 10 A. Yes, sir.
- 11 Q. Are you still in the bar area at that point in time?
- 12 A. Yes, sir.
- 13 Q. Okay. But you could see him getting --
- 14 A. -- Yes, sir.
- 15 Q. Did you remain in the bar area at that point in time?
- 16 A. I think I was like, back and forth. I was back and forth
17 a little bit like, going around. I was kind of back and
18 forth from the bar to the like --- I never went to the
19 door I don't think. But like, close by in that area ---
20 walking area.
- 21 Q. Was Mr. Tedder at the door? Did he go back to his
22 position at the door at that point in time?
- 23 A. I can't remember. I just know he locked the door the last
24 time.
- 25 Q. Okay. Well, before we get there, when you were near the

PATRICK SMITH - CROSS EXAMINATION

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1 door, I believe on your direct testimony you said that you
2 could hear some shots outside.

3 A. Yes, sir.

4 Q. Do you recall how many?

5 A. Well at first I could hear like, shots when I was like,
6 when the other people left when they was leaving I think I
7 heard shots like then. I heard shots around every time.
8 And when Roosevelt got escorted out the building and
9 before the last time he came back in, I heard one shot
10 went off outside, and I heard the door --- and the door
11 kind of swung open and hit the railing, and a shot been
12 fired again.

13 Q. All right. Let me back you up just another minute. Had
14 your hearing the shot fired at least one shot?

15 A. Yes.

16 Q. Fired outside. You said you also heard a commotion.

17 A. Huh --

18 Q. And I think you said all kind of things were being said.

19 A. Huh --

20 Q. Did you hear anything being said?

21 THE COURT: You have to say yes.

22 A. Yes, sir.

23 Q. What?

24 A. I heard somebody say they was about to shoot the club up.

25 Q. All right. And did that come from outside?

PATRICK SMITH - CROSS EXAMINATION

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- 1 A. It come from outside, but I don't --- it wasn't him
2 though. I know it wasn't his voice that said it.
- 3 Q. You are talking about Roosevelt?
- 4 A. Yeah. But I heard it though.
- 5 Q. You just heard a voice say, I'm about to shoot the club
6 up?
- 7 A. Yeah.
- 8 Q. What did you do then?
- 9 A. Hauled tail behind that bar.
- 10 Q. Got away from the front door?
- 11 A. Yeah.
- 12 Q. All right. I think you testified that Mr. Patterson came
13 in at least one other time that you saw; is that correct?
- 14 A. Like -- thinking twice or three, two or three times.
- 15 Q. All right. Are you aware of any other altercation between
16 Mr. Patterson and Mr. Edwards? Did they ever get to each
17 other again to your knowledge?
- 18 A. I never seen them get to each other like that.
- 19 Q. Okay. On one of those occasions, you witnessed Mr.
20 Patterson sweeping all the bottles or glasses, or whatever
21 was on the bar?
- 22 A. Well, I kind of forgot about that until you said it just
23 now, and I remembered. Yeah.
- 24 Q. Did that happen?
- 25 A. Yes, sir.

PATRICK SMITH - CROSS EXAMINATION

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- 1 Q. Okay. Did you hear Mr. Patterson say anything? And let
2 me rephrase that. During any of the times when he was
3 running back and forth, did you hear Mr. Patterson say
4 something?
- 5 A. I can't remember what he was saying. But I know like, he
6 be saying stuff.
- 7 Q. Okay. In your opinion, was he agitated at that point in
8 time?
- 9 A. When you say agitate, do you mean upset?
- 10 Q. Excuse me. Upset.
- 11 A. Yes.
- 12 Q. All right. Did he appear to be mad?
- 13 A. Yes, sir.
- 14 Q. Could you tell his state of intoxication?
- 15 A. No.
- 16 Q. You are just not sure?
- 17 A. Not sure. Really ain't even knowing.
- 18 Q. But as far as you saw, he was upset?
- 19 A. Yeah.
- 20 Q. The last time that Mr. Patterson attempted to enter the
21 Gold Rush, where were you?
- 22 A. It happened so fast that when he was entering I was like -
23 -- that when I told you I heard the gunshot.
- 24 Q. Right.
- 25 A. And I went to running. And he entered like, after that.

PATRICK SMITH - CROSS EXAMINATION

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- 1 Q. All right. Did you see Mr. Edwards near the front door?
- 2 A. I can't remember where Mr. Edwards was.
- 3 Q. Was anyone escorting him to the front door? Do you
- 4 remember that?
- 5 A. I can't remember, sir.
- 6 Q. As you are moving away, I believe you said that the door
- 7 burst opened, and there was --- did you call it a
- 8 bannister?
- 9 A. It is something like this right here. It is like a little
- 10 walkway thing. It is like two arms, one on each side.
- 11 Q. All right. And the door hit the banister?
- 12 A. Yes.
- 13 Q. Was it a metal door or a wooden door?
- 14 A. Glass and a little metal around it, yeah. It was a glass
- 15 door.
- 16 Q. Did it make a pretty good racket when it hit?
- 17 A. Yes, sir.
- 18 Q. And how soon was it after you heard the door hit the
- 19 banister that you heard the shot?
- 20 A. Seem like right the time I heard it was right behind me.
- 21 Q. After you heard the shot, Mr. Tedder locked the front
- 22 door?
- 23 A. Yes.
- 24 Q. Did you see Mr. Edwards after that?
- 25 A. Yes.

PATRICK SMITH - CROSS EXAMINATION

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1 Q. And did you see what he did?

2 A. I didn't actually see what he did. I just like heard him
3 saying like, keep the door locked. Don't let nobody else
4 in here.

5 Q. In your opinion was he frightened?

6 A. He was loved at the time.

7 MR. JONES: One second, please, Your Honor?

8 THE COURT: Yes.

9 (PAUSE.)

10 Q. Just so I am clear. When you were at the front door area.

11 A. Yes, sir.

12 Q. And you heard a shot. You also said that you heard
13 someone say I'm going to shoot the place up.

14 A. I mean, that is like, out of all the commotion I heard
15 like, I heard, --- I heard that.

16 Q. Okay. I understand. But my question is, what was your
17 state of mind at that point in time?

18 A. I was frightened, sir. I was like took off.

19 Q. Absolutely. You were getting out of the way.

20 A. Because the front is made of glass, so like --

21 Q. And that was my next question. The door had glass in it.
22 Did the walls also have some glass in it?

23 A. It got windows. All like a bunch of windows was in front.
24 Like big long windows.

25 Q. Very good. Okay. And again, if I have asked this I

PATRICK SMITH - REDIRECT EXAMINATION

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1 apologize. Do you know Mr. Edwards --- could you tell his
2 demeanor, or was he frightened at that point?

3 A. I couldn't really --- I don't really remember seeing him
4 during like, that time. Kind of. I just remember seeing
5 him like, after it happened. I kind of see his face
6 expression then.

7 Q. Very good.

8 MR. JONES: Thank you, that is all I have.

9 THE COURT: Redirect.

10 MR. HOLT: Thank you, Your Honor.

11 REDIRECT EXAMINATION BY MR. JONES

12 Q. Mr. Jones was asking you about Anthony Edwards's facial
13 expressions, and the final shot. Did you see his facial
14 expressions when he pulled the gun out for the first time?
15 Did he appear angry, scared at that time?

16 A. Talk about when he was in the kitchen?

17 Q. Yes, sir.

18 A. Not really. I mean like, no.

19 Q. So, he wasn't frightened then was he?

20 A. I thinking he was concerned or something. I don't know.

21 Q. Okay. Let me ask you this. If you could come down here
22 and go over this with me real quick.

23 What I am concerned about is the time line from
24 the time of the shooting. This is the front door.

25 Okay?

PATRICK SMITH - REDIRECT EXAMINATION

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1 A. Yes, sir.

2 Q. And you are saying that you were unsure if this was second
3 or third time that Roosevelt runs back in.

4 A. Uh'huh --

5 THE COURT: All right. Now wait just a minute. You
6 can't answer uh'huh, uh'huh. You have got to keep your voice
7 up. And the jury has got to hear you as well as this lady
8 right here.

9 MR. SMITH: All right.

10 Q. Where were you when Roosevelt came in the last time?

11 A. I thinking I was like, up in this area going toward the
12 bar.

13 Q. All right. When you heard that gunshot outside, where
14 were you?

15 A. This area right here.

16 Q. And then when you heard the door open, had you moved?

17 A. I pretty much was gone before that door opened.

18 Q. So, you had time between the gunshot and the door opening
19 to move around?

20 A. Close.

21 THE COURT: Speak up.

22 Q. That you were running away?

23 A. Yes, sir.

24 Q. Now you were saying that you could hear outside. Did you
25 hear Roosevelt Patterson say, oh bleep he's got a gun?

PATRICK SMITH - REDIRECT EXAMINATION

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1 A. No, sir.

2 Q. All right. How soon in between the gunshot outside and
3 Mr. Roosevelt running in. What I want to ask you, was
4 your back turned to that?

5 A. I don't remember.

6 Q. Did you see Roosevelt coming in for the last time?

7 A. No.

8 THE COURT: Speak up.

9 A. No, I didn't see him.

10 Q. But, you had time to get away. You had already started
11 your getaway process when you heard --- When exactly did
12 you start running behind the bar, when you heard we're
13 going to shoot this club up, or you heard the gunshot?

14 A. When I heard the gunshot.

15 Q. And that is when you started running?

16 A. Yes, sir.

17 Q. So, it is hard to pay attention to what was happening at
18 the front door when your back is turned?

19 A. Yes, sir.

20 Q. All right.

21 MR. HOLT: That's all, Mr. Smith. Thank you.

22 MR. JONES: Your Honor, I do have one or two followup
23 questions.

24 THE COURT: Yes, sir. Re-cross.

25 MR. JONES: Are you finished?

PATRICK SMITH - RE-CROSS EXAMINATION

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1 MR. HOLT: Yes.

2 RE-CROSS EXAMINATION BY MR. JONES

3 Q. Mr. Smith, you were asked just now, when Mr. Edwards was
4 in the --- came into the kitchen area, was he angry ---
5 you said he was concerned. What do you mean by that?
6 What do you mean by that statement?

7 A. Cuz like, he's not --- you don't really know --- he don't
8 really know people was in the club that night. The only
9 person he really know was me.

10 Q. All right.

11 A. And I guess like, when I was in the kitchen, I don't know
12 why people say they didn't see me in the kitchen, but I
13 was in the kitchen. And when he seen the knives I'm
14 thinking that is why he pulled out the gun --- why he
15 pulled out the gun.

16 Q. Because people had knives on you?

17 A. Well, he was probably thinking. But it wasn't ok --- but
18 they had them, and I was like, in the middle of it. I was
19 like --- well I was standing right beside Roosevelt at the
20 time.

21 Q. And that is why you believe Mr. Edwards pulled the gun
22 out, because you were the only one without a knife?

23 A. Yeah.

24 MR. JONES: Thank you.

25 THE COURT: All right. Thank you, sir. You may step

JULIUS LUCKY - DIRECT EXAMINATION

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1 down.

2 All right. You may call your next witness.

3 MS. DAVIS: The state would like to call Julius Lucky.

4 THE COURT: All right. Mr. Lucky, come around please.

5 WHEREUPON, JULIUS LUCKY

6 FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

7 MR. LUCKY: So help me God.

8 DIRECT EXAMINATION BY MS. DAVIS

9 Q. Mr. Lucky, would you please give your full name for the
10 record.

11 A. Julius Lucky.

12 Q. And how do you know the victim Roosevelt Patterson in this
13 case?

14 A. Well we grew up together, and he's my cousin, and I call
15 him my little brother. I use to call him my little
16 brother.

17 Q. Are you from here in Darlington?

18 A. Yes.

19 Q. Have you spent your whole life here?

20 A. Yes, ma'am.

21 Q. What did you all have planned on the day of September 27,
22 2008?

23 A. Well, he was getting married the next day, so, you know,
24 we was just going to have a good time and whatever. So,
25 we was at his house, you know.

JULIUS LUCKY - DIRECT EXAMINATION

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1 Q. What did you all do after you left his house?

2 A. We went down to the place called the Gold Rush, and walked
3 in, you know, and stood in the front for a little while
4 and then we went in the back, you know. Just like, back
5 and forth.

6 Q. Okay. Can you walk me through step-by-step what exactly
7 happened at the Gold Rush on the night in question?

8 A. Well like I say, we was in the back. And I wasn't exactly
9 where Roosevelt was at.

10 Q. What do you mean by you were in the back?

11 A. In the back like, where the D.J. Booth.

12 Q. Okay.

13 A. Well over there, you know --- the dance floor.

14 Q. So, the back meaning, you were back here?

15 A. Yes. On the dance floor.

16 Q. Go ahead.

17 A. Okay. And after that we was in there chilling for a
18 minute, you know, listening to music, you know, this and
19 that. Like, I walk back out in the front and get a beer,
20 and then I walk back, and then at that time, you know.
21 And like I say, I was exactly where he was at, so when the
22 fight broke out, you know, I was like, you know -- exact
23 like, I didn't know who it was at first and I was checking
24 to see, but before I could get there, you know, they was
25 like, gone out to go in the kitchen part. And I never did

JULIUS LUCKY - DIRECT EXAMINATION

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1 made it in the kitchen cause, I mean, I didn't know they
2 went in the kitchen, so I was really like, going to go out
3 to see where everybody was at or whatever. But I was ---
4 when I went out and I was turning back around to come in
5 since I didn't see him, and I was thinking on that time,
6 that when Cleve, you know, he got me and took me back out.

7 Q. After the fight, the other guys went over here to the
8 kitchen and you went outside?

9 A. By them saying that today, yeah. I didn't know exactly
10 where they went to.

11 Q. Okay. So then, you went outside and --

12 A. -- That's when Cleveland Keith took me outside. He was
13 holding me, you know, because he know how me and Roosevelt
14 was.

15 Q. So, what happened after you were outside?

16 A. Me and him went in the little cut like he was talking
17 about, and since then, you know, before that I heard the
18 shots and stuff outside. But the way Roosevelt was I
19 couldn't tell you, you know.

20 Q. Did you ever get back in the Gold Rush?

21 A. No, I did never get back in. The last time I saw him,
22 Roosevelt was laying on the ground, you know.

23 Q. Okay. So, you saw Roosevelt come out of the club that
24 night?

25 A. No, I did not.

JULIUS LUCKY - DIRECT EXAMINATION

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1 Q. No. You just saw him on the ground?

2 A. I saw him on the ground.

3 Q. Did he say anything to you?

4 A. No. He was dead at that time.

5 Q. And what did you do at that point?

6 A. Well, I'm going to tell the truth. I lost it. Yeap.

7 MS. DAVIS: Beg the Court's indulgence.

8 (PAUSE.)

9 Q. Mr. Lucky, what do you mean by you lost it?

10 A. I mean, I knew --- well I didn't know exactly he was dead,
11 but I figured he was, you know, know what I mean?

12 Q. Were you trying to get back into the club? Or did you
13 know what was going on?

14 A. Yeah, because I understand I heard somebody said that the
15 guy who shot him was still inside. But I didn't never
16 make it back to the door. So, I mean --

17 Q. So you were outside?

18 A. Just outside.

19 MS. DAVIS: Thank you. Please answer any questions
20 defense counsel may have.

21 THE COURT: Cross examination, Mr. Jones?

22 MR. JONES: No, sir.

23 THE COURT: All right. Thank you, sir. You may step
24 down.

25 MS. DAVIS: The state would like to call James Lucky.

JAMES LEE LUCKY - DIRECT EXAMINATION

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1 THE COURT: All right. Mr. James Lucky, come around
2 please.

3 WHEREUPON, JAMES LEE LUCKY

4 FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

5 MR. LUCKY: Yes, ma'am.

6 DIRECT EXAMINATION BY MS. DAVIS

7 Q. Mr. Lucky, would you please state your full name for the
8 record?

9 A. James Lee Lucky.

10 Q. And how did you know Mr. Roosevelt Patterson?

11 A. We all grewed up together.

12 Q. Right here in Darlington?

13 A. Yes, ma'am.

14 Q. Are you related to him?

15 A. Well, we always called him our little brother.

16 Q. Okay. So, you have known him your whole life?

17 A. Yes, ma'am.

18 Q. Would you please tell me what you had planned on the night
19 of September 27, 2008?

20 A. Well, we was at his house. And then they decided to go to
21 the Gold Rush, so all of us got in the car and went down
22 there. And as we went in, I went to the bar and got me a
23 beer. And then I went to the pool table. Where the pool
24 table was. We start shooting pool.

25 Q. Okay. So, on this particular night, when you first

JAMES LEE LUCKY - DIRECT EXAMINATION

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1 arrived at the club you had a drink and then you walked
2 back here to the pool table?

3 A. No, the pool table is over there.

4 Q. Okay. Over here?

5 A. Yeah.

6 Q. Okay. And then what did you do next?

7 A. And then, after I shot a game of pool with one of the guys
8 that I knew down there, I went to the back.

9 Q. Back on the dance floor?

10 A. Yeah. Then I was on the other end and he was on another
11 side like, over this side. I was over this way. He was
12 kind of like over there.

13 Q. What do you mean by who; he?

14 A. Roosevelt.

15 Q. Roosevelt was over --

16 A. -- Yeah, he was kind of like over this side.

17 Q. Okay.

18 A. By the kitchen door. He was kind of like over there when
19 I was on the other side. Then I seen the commotion
20 through the --- how the lights be flashing. I seen the
21 commotion through the lights, and I run over there. But
22 by the time I got over there they had disappeared.

23 Q. Did you know anybody that was over there?

24 A. Only when I seen him with my little brother over there.
25 But I ain't seen no more.

JAMES LEE LUCKY - DIRECT EXAMINATION

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- 1 Q. Okay. And what happened after this altercation on the
2 dance floor, where did you go next?
- 3 A. I went out. And then I come back in, then I got locked
4 inside after everything went down. I got locked inside.
- 5 Q. Would you explain, what do you mean you went out after the
6 altercation, you went back outside of the club?
- 7 A. Went back outside to see where they was. At that time I
8 didn't see nobody but one of the little Jackson boys. I
9 seen him outside. I asked him where they was, and he
10 said he didn't know. So I went back in. And by that
11 time, while I going back in to go back to the back to see
12 where everybody at, they was coming out the other way.
- 13 Q. They were coming --
- 14 A. -- From the kitchen --
- 15 Q. -- So, you were going to the kitchen?
- 16 A. I didn't never go through the kitchen. But when I came
17 back to come back out, I seen Mr. Edwards in the kitchen
18 with the gun in his hand.
- 19 Q. When you went back into the kitchen, you saw --
- 20 A. -- I didn't go in the kitchen. They got them swinging
21 door --
- 22 Q. -- Uh'huh --
- 23 A. -- And you can see.
- 24 Q. And you saw Mr. Edwards standing there?
- 25 A. Yeah. With the gun in his hand.

JAMES LEE LUCKY - DIRECT EXAMINATION

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1 Q. What was he doing with it?

2 A. He just standing there.

3 Q. And then what happened after you saw Mr. Edwards standing
4 there?

5 A. I went on --- went back to the front to get out, but they
6 had locked the door. And when I got on the outside, that
7 when they told me Roosevelt was shot. So, I ran over
8 there where he was.

9 Q. Did you hear any gunshot?

10 A. Nah. I heard one. That's all I heard.

11 Q. Did you ever --- Were you still inside of the club when
12 the police arrived?

13 A. Nah, I was sitting right there in front of the door when
14 they arrived.

15 Q. Okay.

16 MS. DAVIS: Beg the Court's indulgence for a moment.

17 (PAUSE.)

18 Q. Mr. Lucky, when you were still inside of the club, and you
19 saw Anthony Edwards in the kitchen, did you ever see Mr.
20 Roosevelt running back and forth inside or outside of the
21 club?

22 A. No, ma'am.

23 Q. So, you never saw Mr. Roosevelt threaten Anthony?

24 A. No, ma'am.

25 MS. DAVIS: Thank you. Would you please answer any

JAMES LEE LUCKY - DIRECT EXAMINATION

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1 questions the defense may have.

2 THE COURT: All right, sir.

3 MR. JONES: No questions, Your Honor.

4 THE COURT: All right. Thank you, sir. You may step
5 down. You may call your next witness.

6 MS. DAVIS: The state would like to call Harold McPhail.

7 THE COURT: All right. Mr. McPhail.

8 WHEREUPON, HAROLD MARCUS MCPHAIL

9 FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

10 MR. MCPHAIL: Yes, ma'am.

11 DIRECT EXAMINATION BY MS. DAVIS

12 Q. Mr. McPhail, would you please state your full name for the
13 record?

14 A. Harold Marcus McPhail.

15 Q. And, did you know the victim, Mr. Roosevelt Patterson?

16 A. Yes, I did.

17 Q. How long have you known him?

18 A. Since I was a little boy.

19 Q. Did you all grow up together, or did you just know him
20 through affiliation?

21 A. Well, I probably didn't know him until I got to like,
22 middle school. But I always heard about him.

23 Q. And were you a part of this bachelor party on September
24 27, 2008?

25 A. No, I wasn't part of it. Once I knew what was going on I

JAMES LEE LUCKY - DIRECT EXAMINATION

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1 stopped through to speak to him.

2 Q. So, you stopped by the Gold Rush on that evening of
3 September 27, 2008?

4 A. Yes, ma'am.

5 Q. And did you see anything on that day while you were there?

6 A. What did I do when I was there? Just talk with him. Talk
7 with a couple of people. Shot pool. Had a couple of
8 drinks. I mean, just laughing and having a good time.

9 Q. And did you stay the entire evening?

10 A. Well, I stayed up until --- I was standing the entire
11 time. Mostly it was mostly guys there, you know, a good
12 bit of girls. So, at that time I talked to Cut, and he
13 was happy to be getting ready to get married. You know,
14 he was in a real good mood. And told me he was, you know,
15 asking about me and heard I was doing good. He was doing
16 good. And had a lot of plans. We sat and talked. And
17 while we was talking somebody came between us and kept
18 talking to him, because he kept turning. He was like, man
19 we will talk later. Like, okay we'll talk later. And I
20 mean, basically the only reason I was there, you know, was
21 to see Cut. So, at the same time I walk outside and was
22 talking to a girl. Basically was getting ready to go.
23 And --

24 Q. After you talked to Cut, you left the club?

25 A. I left --- I didn't leave the club, I went outside. I was

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1 outside of the club.

2 Q. Okay.

3 A. And while I was outside sitting on the club, like I guess,
4 like, right there at the door, this little bouncer was
5 sitting there talking to a little lady. And I just saw
6 people come out of the club. You know, I see guys go out
7 of the club. So, when they went out the club, you know,
8 I'll got get this out of there. So, I saw he went in the
9 club, so I went in the club. So, I went in the club right
10 by the bar. So, I was sitting in there looking like, and
11 I could hear a bunch of commotion in the dance floor. So,
12 I'm looking like, okay, somebody is back there but they
13 went out there. So, the people that was in there, you
14 know what I'm saying, they walk back --- came back in. So
15 when they came back in, I went out. I left out of the
16 club. And I got in my car -- Oh, excuse me.

17 Q. Oh, please go on.

18 A. Okay. So, I went and got in my car. When I got in my
19 car, I saw somebody was out by the road and they was shot
20 --- they were shooting up in the air. So, I still didn't
21 know what was going on, so I got in the car and I went
22 down to the track. I went to the track and maybe ten or
23 fifteen minutes sat in the car, and I remember it was
24 still cold. It was cold that night.

25 Q. So, you saw somebody shooting in the air?

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1 A. They was shooting in the air outside. Yes, ma'am.

2 Q. And then you went to the track?

3 A. Yes, ma'am.

4 Q. And then what happened when you came back to the club?

5 A. When I came back it was a lot of people just out in the
6 parking lot. People were in the parking lot and they was
7 just running around. So, I just still sitting in the car,
8 so I look and I see somebody on the ground. So, I was
9 like, who was that on the ground? Do y'all see somebody
10 on the ground? And they like yeah, you know, a girl like
11 Speed, that's Cut. I like, Cut? So, I, you know, got in
12 the car. I went to him. He was still breathing. And I
13 like, Cut, you know what I'm saying? What? I never knew
14 he was knocked out. I didn't know what it was. And I
15 looked around --- I looked around. And y'all give me
16 something. Give me something, cause I was going to pull
17 him over, and I saw he was bleeding. And still today I
18 don't know --- I just didn't know why, you know, I didn't
19 take my coat off. I don't know. But he just sit there
20 and he died. But, he wasn't ready to go. He wasn't ready
21 to go. And it bothered me. I looked at him and I like,
22 Cut man, Cut man. He was fighting. I mean, he was
23 fighting. He didn't want to die.

24 Q. Did he say anything to you?

25 A. He couldn't say nothing. He was just looking. He just

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1 had that look like --- he just looked like, man I don't
2 want to go. I don't want to go.

3 Q. Did you say anything to him?

4 A. I didn't --- I just kept telling him Cut man, Cut. You
5 know what I'm saying? Come back. Don't go man. Don't
6 go. Just don't go. You know. But he had to go. And
7 then, man he died. He died right there in my arms. And
8 when I seen, I looked around to everybody and they was
9 still mad. They was still I'm going to kill him. I'm
10 going to do something. Do this. And I say, hold up man.
11 This man --- Cut just died. And his twin asked me said,
12 man Cut, is he dead? Yeah, man he's dead. And I got in
13 my car. And I just went down the road, you know, and
14 pulled this game behind me and they locked me up. So I
15 don't understand. I don't understand.

16 Q. So, at that point you left and was later arrested?

17 A. Yes, I was.

18 MS. DAVIS: Beg the Court's indulgence for a moment.

19 THE COURT: Okay.

20 (PAUSE.)

21 MS. DAVIS: Thank you, Mr. McPhail. Please answer any
22 questions defense counsel may have for you.

23 THE COURT: Mr. Jones?

24 MR. JONES: We have none.

25 THE COURT: All right. No questions. Thank you. You

NELSON LEROY JACKSON - DIRECT EXAMINATION

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1 may step down. Thank you. Please call your next witness.

2 MS. DAVIS: The state would like to call Nelson Jackson.

3 THE COURT: Come around please, Mr. Jackson.

4 WHEREUPON, NELSON LEROY JACKSON

5 FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

6 MR. JACKSON: Yes, ma'am.

7 DIRECT EXAMINATION BY MS DAVIS

8 Q. Mr. Jackson, would you please state your whole name for
9 the record.

10 A. Nelson Leroy Jackson.

11 Q. And did you know Mr. Roosevelt Patterson?

12 A. Yes. We grew up together.

13 Q. Right here in Darlington?

14 A. Yes, in Darlington.

15 Q. Have you known him your whole life?

16 A. Yes.

17 Q. And, what did you all have planned on the day of September
18 27, 2008?

19 A. To have a bachelor party for him. And I guess we was
20 going to send him out and have a good time with him on his
21 last night as a free man.

22 Q. Now, were you at the house with him before you all went
23 over the Gold Rush?

24 A. Yes.

25 Q. Okay. And about what time did you all go over there?

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- 1 A. Probably around midnight.
- 2 Q. Around midnight you all got in the car and rode over to
- 3 the Gold Rush? Can you walk me through step-by-step what
- 4 happened when you arrived at the Gold Rush?
- 5 A. When I first got there everybody was drinking, playing
- 6 pool, talking to everybody that was in there. It was
- 7 right there in the bar area.
- 8 Q. So, when you all arrived you were in this area?
- 9 A. Yes.
- 10 Q. Okay.
- 11 A. And some people were in the game room playing pool.
- 12 Q. Okay.
- 13 A. And about thirty or forty-five minutes some of them went
- 14 to the back to the dance floor.
- 15 Q. After about thirty minutes you all went back here to the
- 16 dance floor?
- 17 A. Yes.
- 18 Q. Okay.
- 19 A. I was in and out, because they were doing a lot of smoking
- 20 in there, and I just really stay right there. And I came
- 21 up to the front and I was talking to Cleveland Keith.
- 22 Q. Okay.
- 23 A. Yes. Up around the door.
- 24 Q. And then what happened? Did you ever --
- 25 A. -- I heard somebody say like, a fight broke out. You

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1 heard a lot commotion.

2 Q. Okay. Did you see this fight?

3 A. No.

4 Q. Okay.

5 A. When I got to the back Randy was on top of somebody, and
6 people were hitting him and kicking him.

7 Q. Now by Randy, you mean?

8 A. Roosevelt. Yes.

9 Q. Okay.

10 A. And everybody got him up and some kind of way the crowd
11 got pushed into the kitchen.

12 Q. Okay. And they came up in the kitchen.

13 A. Yes.

14 Q. And then what happened? Where were you at this time?

15 A. I'm behind the crowd coming in.

16 Q. Into the kitchen?

17 A. Yes.

18 Q. Okay. Did you ever go in the kitchen?

19 A. Yes. I was in the kitchen.

20 Q. What did you see while you were in that kitchen?

21 A. Some kind of way Randy got in the kitchen, some kind of
22 way..

23 Q. So, you saw Roosevelt leave the kitchen?

24 A. Yes. No, I didn't see him leave, but he wasn't in there
25 when I first got in there.

NELSON LEROY JACKSON - DIRECT EXAMINATION

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- 1 Q.. Okay.
- 2 A. Perry had a knife. They say people were hitting him and
- 3 stuff. They were trying to keep people off of him. And
- 4 Mr. Edwards --- when I came in, Mr. Edwards had his gun
- 5 pointed at Perry.
- 6 Q. So, you saw Perry holding the knife, and you saw Mr.
- 7 Edwards pointing the gun at Perry?
- 8 A. Yes.
- 9 Q. Okay. And then what happened at that point?
- 10 A. Randy came back in through the side door and seen him with
- 11 the gun, and was tussling with him with the gun. He
- 12 couldn't get the gun from him, so he just let him back
- 13 off. And the twin got Randy back out. Took him back out
- 14 through the same door he came in. And went out and Perry
- 15 dropped the knife. Then everybody ended up back outside.
- 16 They were trying to get Randy in the car. And he heard a
- 17 shot and he looked around, and he didn't see everybody
- 18 that was with us. He went back over there and Perry was
- 19 behind him. Then I went behind him. And by the time I
- 20 got that way, we heard another shot and he came back
- 21 running by and said I'm hit, and he fell right there
- 22 beside the car.
- 23 Q. So, you were outside --
- 24 A. -- By Perry's car.
- 25 Q: And you saw Mr. Roosevelt go to go back into the club?

NELSON LEROY JACKSON - DIRECT EXAMINATION

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1 A. Yes. Go back that way.

2 Q. You heard a shot and he came back out; is that correct?

3 A. Yes.

4 Q. Okay. And what did you see when he came out?

5 A. When he came out he said, I'm hit. And he fell right
6 there by the car.

7 Q. Did you say anything to him? Did you talk to him?

8 A. I was down there with him holding his hand. Until Speedy
9 came up, and Speedy got and was like, hitting him in the
10 face, saying, Randy, Randy, I mean, he was saying, Cut,
11 Cut, doing like this.

12 MS. DAVIS: Beg the Court's indulgence.

13 THE COURT: Yes, ma'am.

14 (PAUSE.)

15 MS. DAVIS: No further questions. Would you please
16 answer any questions defense counsel may have for you.

17 THE COURT: Cross examination, Mr. Jones?

18 MR. JONES: There is none, Your Honor.

19 THE COURT: All right. Thank you, sir. You may step
20 down. Counsel, come up a moment, please?

21 (Whereupon, a bench conference was held in the
22 presence of the jury, but out of their hearing range.)

23 THE COURT: All right. Ladies and gentlemen, in
24 conferring with counsel, I believe this is a good time for us
25 to break for lunch. And we are going to do that at this time,

NELSON LEROY JACKSON - DIRECT EXAMINATION

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1 and I am going to allow you to go and get your lunch. I would
2 ask that you be back in your jury room please, at two o'clock.
3 That is about an hour and five minutes. And that should give
4 everyone sufficient time to get your lunch.

5 Over the lunch recess, do not discuss the case with
6 anyone. Do not allow anyone to discuss it with you. And, be
7 back in your jury room please, at two o'clock.

8 When you are reassembling in the jury room, do not discuss
9 the case among yourselves. It is still premature for you to
10 begin any discussion of this matter.

11 With those admonitions, then I am going to excuse you now,
12 ask you to be back in your jury room please, at two o'clock.
13 Thank you, you may be excused. Everyone else keep your seats.

14 (Whereupon, the jury exits the courtroom for
15 lunch at 12:55 p.m..)

16 **THE COURT:** All right. Everyone keep your seats, and
17 let me know when the jury is down the elevator.

18 (PAUSE.)

19 **THE COURT:** All right. The jury is cleared the
20 elevator, and we will be in recess until two o'clock. Be ready
21 to start back at that time please, counsel. Thank you.

22 **MR. HOLT:** Thank you very much, Judge.

23 (Whereupon, a lunch recess was taken from 12:56
24 p.m. until 2:12 p.m..)

25 **THE COURT:** All right. We need to get the defendant in

NELSON LEROY JACKSON - DIRECT EXAMINATION

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1 the courtroom, please.

2 (PAUSE.)

3 THE COURT: All right. While we are getting the
4 defendant in the courtroom. Mr. Holt, Mr. Jones, if the two of
5 you would come up here just a moment, please.

6 (Whereupon, a bench conference was held.)

7 THE COURT: All right. Back on the record with regard
8 to the matter of The State versus Edwards. Mr. Edwards is
9 present in the court with his counsel, Mr. Jones and Mr.
10 Jordan. The state is present and represented by the Solicitor.

11 I understand the jurors are back now, and we are ready to
12 resume. Anything before we bring the jury in, Mr. Holt?

13 MR. HOLT: None from the state, Your Honor.

14 THE COURT: From the defense?

15 MR. JONES: No, sir.

16 THE COURT: All right. Bring the jury in, please.

17 BAILIFF: All right, sir.

18 (Whereupon, the jury enters the courtroom at
19 12:56 p.m..)

20 THE COURT: All right. Good afternoon ladies and
21 gentlemen. And we are now ready to resume. I do want to make
22 this comment before start, because we had a little bit of a
23 delay this morning. We had a little bit of a delay at lunch.
24 I am going to ask you please to try to be back in your jury
25 room a couple of minutes or maybe even five minutes before we

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1 are suppose to resume. I believe that we can move forward, but
2 we can't do a thing if we are even missing one juror. So, if
3 you would, whenever we are recessed and you are coming back up
4 here, I would ask that you please try to be on time, or a
5 little bit early. Thank you.

6 All right. We are now ready to resume. Mr. Holt, you may
7 call your next witness.

8 MR. HOLT: Your Honor, at this time the state would like
9 to call Cleveland Howard.

WHEREUPON, CLEVELAND O'NEAL HOWARD

FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

12 MR. HOWARD: I do.

13 DIRECT EXAMINATION BY MR. HOLT

14 Q. Deputy, could you please give your whole name for the
15 jury?

16 A. Cleveland O'Neal Howard.

17 Q. And where are you currently employed?

18 A. Darlington County Sheriff's Department.

19 Q. And in what capacity are you employed?

20 A. Patrol lieutenant.

21 Q. And how long have you been in law enforcement?

22 A. Twenty-two and a half years.

23 Q. All here in Darlington County?

24 A. All here in Darlington County.

25 Q. And are you familiar with the Gold Rush on North Governor

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1 Williams Highway?

2 A. I am.

3 Q. And what position did you hold in the Sheriff's office the
4 night of September 27th, it would have been early
5 September 28th morning?

6 A. I was the patrol supervisor for night shift that night.

7 Q. And, did you have an occurrence to visit the Gold Rush
8 Lounge that night?

9 A. I did.

10 Q. And what did you bear witness to there?

11 A. I responded to a shooting incident at that location.

12 Q. And when you first rolled up on the scene, and I guess
13 that is how you phrase the question: Rolled up on the
14 scene, I'm not sure. But when you first got to the
15 location, what did you witness and what did you do?

16 A. When I first arrived at the scene, I saw a big crowd
17 standing in front of the liquor store which is beside the
18 Gold Rush Nightclub. There was a large crowd, and there
19 was a victim laying on the ground that had been shot. EMS
20 was working on him at the time. There was a crowd around
21 him, and was kind of violently trying to get into the
22 club, and a lot of chaos was going on at the time.

23 Q. And were you able to ascertain what had happened?

24 A. Yes. Someone said that the victim that was lying on the
25 ground had got shot. And the person that shot him was

CLEVELAND O'NEAL HOWARD - DIRECT EXAMINATION

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1 still in the nightclub.

2 Q. What actions did you take once you learned that?

3 A. I assisted in getting the crowd back, and we then asked an
4 officer --- one of the officers that was there on the
5 scene to go back with me into the club to find out who was
6 the person who had did the shooting.

7 Q. And did you locate a suspect?

8 A. When we walked in the club, I didn't have enough
9 information on the shooter at that time. So, the first
10 time I walked in, I did not locate a shooter. We just did
11 a walk through for anyone with a weapon, or hiding at that
12 time.

13 Q. And did you eventually locate a suspect?

14 A. Yes. I came back out and I talked with one of the
15 witnesses, who stated that the shooter was a tall light
16 skinned black male wearing a gray tee shirt. A gray
17 shirt. And I located two people that fit that description
18 and handcuffed both of them. Sat them down.

19 Q. And how were you able to ascertain which one was the
20 correct one?

21 A. I went back out and talked with the witness --- I think a
22 Mr. Tedder, that told me that the suspect was not the
23 person that was DJing that night. And, when I went back
24 in, I identified the D.J., and released him, and we kept
25 Mr. Anthony Edwards.

CLEVELAND O'NEAL HOWARD - DIRECT EXAMINATION

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1 Q. Did he tell you his name that night?

2 A. Yes. After I approached him he identified himself as Mr.
3 Edwards, Anthony Edwards.

4 Q. All right.

5 MR. HOLT: Permission to approach, Your Honor?

6 THE COURT: Yes, sir.

7 Q. Officer Howard, I am just going to show you some photos,
8 and I am going to ask you if you can tell me if these
9 photos are accurate to what you bore witness to that
10 night? Then I want to talk to you specifically about the
11 last three photos. If you would take a second and look
12 these over.

13 A. Yes, sir.

14 (PAUSE.)

15 Q. Now, Officer Howard, I believe those three photos are
16 State's Exhibit 48, 49 and 50; is that correct?

17 A. Yes, it is.

18 Q. And do you recognize what those are photos of? And can
19 you tell me what those are photos are?

20 A. Yes. Through our search of the building for a weapon,
21 myself, along with Officer Baird, located the weapon about
22 the same time behind the bar area, and one is a picture of
23 Officer Baird with the gun, being in the location that it
24 was found behind the bar --- between the bar and the wall.
25 And the other two are just closer shots of the weapon

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1 behind the --- on the floor.

2 Q. And who --- Can you explain the difference to the jury who
3 might not know the difference between an officer that
4 would respond to the situation, such as yourself and then
5 an investigator. Would you tell us who the investigator
6 was on the scene that night?

7 A. The responding officer would be if you get a call to a
8 location about any type of problem, that person --- the
9 first officer that arrived on a scene are officers that
10 arrived on the scene are responding officers. They are in
11 charge of control, handling any incident, the situations
12 that arise. And the investigator is someone who helps do
13 the followup, put the pieces together, do a lot of the leg
14 work for finding out the details of what happened.

15 Q. All right. Officer Howard, who was the lead investigator
16 in the scene that night at the Gold Rush?

17 A. Investigator Goins was the investigator that was called
18 out. I was the patrol supervisor at that time.

19 Q. And who did you turn the weapon over to?

20 A. The weapon was secured by Officer Goins, Investigator
21 Goins.

22 MR. HOLT: Beg the Court's indulgence.

23 THE COURT: Yes, sir.

24 (PAUSE.)

25 MR. HOLT: Please answer any questions the defense might

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1 have.

2 THE COURT: Cross examination, Mr. Jones.

3 CROSS EXAMINATION BY MR. JONES

4 Q. I'm sorry, I didn't catch your rank.

5 A. I am a Lieutenant now. I was a Sergeant at the time of
6 this incident.

7 Q. Very good. Lieutenant, let me ask you just a couple of
8 questions. Were you the very first officer on the scene?

9 A. No, I was not.

10 Q. Do you know what number you were?

11 A. I am thinking I was at least the second to third officer
12 that arrived on the scene.

13 Q. And do you recall how many officers --- responding
14 officers actually appeared that night?

15 A. We called all officers that were in the --- that were
16 working to respond to the scene. So, I think I had about
17 five to six officers on my shift at that time.

18 Q. So, why were all officers called?

19 A. Because the crowd --- for crowd control. And we had
20 information that the suspect was still on location.

21 Q. And I think earlier you called the scene fairly chaotic?

22 A. Very chaotic.

23 Q. Was the chaos all outside?

24 A. Yes. When we arrived, everything was outside at that
25 point.

CLEVELAND O'NEAL HOWARD - CROSS EXAMINATION

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1 Q. Okay. And did it take all of the officers to basically
2 get control of the situation?

3 A. Yes.

4 Q. Okay. Lieutenant, when you entered the building, and I am
5 assuming you went inside the building to do a walk
6 through?

7 A. Yes. Myself, along with two other officers.

8 Q. And I assume everybody was patted down at that time just
9 to see if anybody had weapons?

10 A. Well I don't think we Pat everybody down, because there
11 were several women at the location. The men, I think we
12 pretty much checked them, all the men that were on the
13 scene.

14 Q. Very good. And did you find a weapon on Mr. Edwards?

15 A. No, I did not find a weapon on Mr. Edwards.

16 Q. Did you have any difficulty whatsoever with Mr. Edwards?

17 A. No, Mr. Edwards cooperated fully.

18 Q. Very good. And I think that you said that both you and --
19 - and I did not catch --

20 A. It was Corporal Baird at the time.

21 Q. Okay. Well how about right now?

22 A. It's Sergeant Baird.

23 Q. Okay. I want to call y'all right. You and Sergeant Baird
24 arrived at the location where a gun was located about the
25 same time?

CLEVELAND O'NEAL HOWARD - CROSS EXAMINATION

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1 A. Yes. Yeah.

2 Q. Can you describe the condition of that gun?

3 A. It was in a --- between the wall and the bar, in a area
4 bout that far. And it had to be about four feet from the
5 end of the bar --- from the end of the little bar area.
6 It was thrown back there. You could tell it was tossed.
7 It was lying on --- appeared to be on the butt of the gun
8 leaning up against the wall and bar area.

9 Q. Could you tell anything about the physical condition? Was
10 it damp? Was it dry? Was it --- anything specific about
11 the weapon itself?

12 A. It appeared that the clip was not in the gun at that time.
13 Other than that, no.

14 Q. All right. And let me move right back outside for just a
15 minute. During the crowd control if you will, was there
16 any incidences of violence outside?

17 A. Someone was trying --- had removed part of the rain gutter
18 and was trying to beat the door, and we had to restrain
19 them. I think we detained them for a while until we found
20 out that it was some of the family of the person who got
21 shot.

22 Q. But it took all the officers to get the situation under
23 control?

24 A. Yes.

25 MR. JONES: One second, please, Your Honor.

WILLIAM ANTHONY BAIRD - DIRECT EXAMINATION

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1 THE COURT: All right.

2 (PAUSE.)

3 MR. JONES: That's all I have, Your Honor.

4 THE COURT: Redirect?

5 MR. HOLT: There is none, Your Honor.

6 THE COURT: All right. Thank you, Lieutenant. You may
7 step down. You may call your next witness.

8 MR. HOLT: Judge, the state would call Tony Baird to the
9 stand.

10 WHEREUPON, WILLIAM ANTHONY BAIRD

11 FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

12 MR. BAIRD: I do.

13 DIRECT EXAMINATION BY MR. HOLT

14 Q. Deputy, could you please give your whole name for the
15 jury?

16 A. William Anthony Baird. Everyone calls me Tony for short.

17 Q. Where are you currently employed?

18 A. I am employed with the Darlington County Sheriff's Office.

19 Q. And are you familiar with what used to be Gold Rush Lounge
20 on 2009 North Governor Williams Highway?

21 A. Yes, sir. I am.

22 Q. Let me ask you, what capacity are you employed in now?

23 A. Now at the Sheriff's Office, I am now a first Sergeant
24 over our special enforcement unit. We go into a lot of
25 the problem areas and stuff that the sheriff sees fit.

WILLIAM ANTHONY BAIRD - DIRECT EXAMINATION

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1 High crime areas.

2 Q. Okay. And how about on September 27, early morning hours.
3 of September 28, where were you --- what position, were
4 you employed with the Sheriff's Office then?

5 A. I was a corporal with routine road patrol at that time.
6 At that time the county was actually broken up into two
7 zones. We had a Hartsville side and a Darlington side.
8 Sergeant Howard was the supervisor over the shift, but he
9 was also the supervisor over the Darlington side of the
10 county. And I was the supervisor over the Hartsville
11 side. When the call came out about the shots fired, that
12 there was someone down at the club, Sergeant Howard asked
13 for us to come over, because of the crowd control there,
14 to come over and assist him.

15 Q. And how about right now, 2011, how many years experience
16 do you have in law enforcement?

17 A. Right at twenty.

18 Q. And before you were in law enforcement, what were you
19 doing?

20 A. I served eight years in the Marine Corp.

21 Q. Now, Officer Baird, when you arrived on the scene there
22 that night, what did you bear witness to?

23 A. When we got there that night, I could tell while we were
24 in route from just radio conversation with officers with
25 dispatch, with them trying to talk with EMS, that they had

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1 a mess on the scene. You could hear the background noise
2 with people yelling and screaming. When I pulled up, we
3 could barely get our patrol units off of Highway 52 into
4 the parking area, out front there were so many folks
5 outside. I actually, when I exited my patrol vehicle, I
6 intentionally left my sirens and blue lights and
7 everything running in an attempt to kind of just disburse
8 some of the crowd to get them, you know, back away from
9 the club.

10 Q. Were you eventually able to enter the club?

11 A. Yes, I was.

12 Q. And when you got to the club, and I meant to say the Gold
13 Rush Lounge.

14 MR. HOLT: Permission to approach, Your Honor.

15 THE COURT: Yes, sir.

16 Q. What side of the club did you find the defendant Anthony
17 Edwards, on in this case?

18 A. When I came into the club, right inside the door there was
19 an open area there, and he was actually sitting in a chair
20 there. He was handcuffed when I got there. And I went
21 and continued to do a sweep of the building, looking for
22 any additional evidence, weapons, etc., or persons. And
23 when we got back towards the dance floor area of the club,
24 is where the --- when I got back in this area here, the
25 dance floor area of the club, this is where we located the

WILLIAM ANTHONY BAIRD - DIRECT EXAMINATION

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1 handgun. This is a bar here with another little tail
2 section that runs off of.

3 Q. If I was to show you State's Exhibit 48, 49, and 50, could
4 you tell the jury what those are?

5 A. Yes, I could.

6 Q. What are those?

7 A. Forty-eight is actually picture of myself standing there,
8 showing me from about the waist down. It is showing the
9 relationship to the bar with the area behind the bar where
10 the handgun is laying. Forty-nine is, an actual a little
11 closer shot of that same weapon. And fifty is yet another
12 closer picture of that same weapon.

13 Q. And do you remember specifically --- was it you or was it
14 Sergeant Howard that found the gun first?

15 A. I think I found the location. I found the gun. And he
16 was like, to my left. And I showed him where the weapon
17 was at.

18 Q. Now, if you were to look at that gun, can you identify any
19 of the characteristics of the weapon?

20 A. Yes, I can.

21 Q. And what are those characteristics?

22 A. With this particular weapon, you can tell that it is ---
23 it has grooved handles on it. It has some grooved slots
24 running around it. It has what you call a tail section,
25 or a pentail section at the rear. And it also has got a

WILLIAM ANTHONY BAIRD - DIRECT EXAMINATION

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1 linear loop on the butt --- on the actual butt of the
2 weapon to where just outside magazine well.

3 Q. When you say magazine well, what do you mean?

4 A. That is the section of the weapon that the magazine or
5 what some folks call a clip, where it actually goes into a
6 semi-automatic weapon.

7 Q. Was there a clip discovered?

8 A. There was not one in the weapon.

9 Q. And officer, I am going to show you what has been
10 previously marked for identification purposes only,
11 State's Exhibit 14. It has been marked for
12 identification. Can you tell me --- and that box has
13 obviously been opened. Do you remember who opened it?

14 A. Yes, I did.

15 Q. And, who was with you when you opened it with Darlington
16 County Sheriff's Office?

17 A. Yourself and the evidence tech, Russ Harrell.

18 Q. And, those specific characteristics that you mentioned
19 earlier, can you point them out?

20 A. Yes, I can.

21 Q. Okay. And Officer Baird, do you believe that is the gun
22 you found in the place that night?

23 A. Yes, I do.

24 Q. All right. Officer --

25 MR. HOLT: Beg the Court's indulgence..

WILLIAM ANTHONY BAIRD - CROSS EXAMINATION

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1 (PAUSE.)

2 Q. Officer, Deputy --- who did you turn the weapon in to?

3 A. I stood in place with the weapon. Sergeant Howard left to
4 go take care of some other business there. I stayed in
5 place with the weapon until the Investigator, Jim Goins
6 arrived on scene, and I turned it over to him.

7 MR. HOLT: Thank you very much, Deputy. Please answer
8 any questions defense counsel might have.

9 THE COURT: Cross examination, Mr. Jones.

10 CROSS EXAMINATION BY MR. JONES

11 Q. Sergeant Baird, did you actually pick the weapon up?

12 A. No, sir. I did not.

13 MR. JONES: Thank you, that's all the question I have.

14 THE COURT: Anything further?

15 MR. HOLT: There is not, Your Honor.

16 THE COURT: All right. Thank you. You may step down.
17 All right. Call your next witness.

18 MR. HOLT: Your Honor, at this time the state would call
19 Charles Wright to the stand.

20 THE COURT: How about moving this exhibit.

21 WHEREUPON, CHARLES WESLEY WRIGHT

22 FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

23 MR. WRIGHT: Yes, sir. I do.

24 DIRECT EXAMINATION BY MR. HOLT

25 Q. Deputy, could you please state your whole name for the

CHARLES WESLEY WRIGHT - DIRECT EXAMINATION

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1 jury?

2 A. Charles Wesley Wright.

3 Q. And where are you currently employed?

4 A. Darlington County Sheriff's Office.

5 Q. And how long have you been employed there?

6 A. About thirteen years.

7 Q. Were you employed in law enforcement before that thirteen?

8 A. Five-years with the Darlington City Police Department.

9 Q. So, and my math may be off, but that is eighteen years
10 total law enforcement experience?

11 A. Yes.

12 Q. And how about in September 2008, in what capacity were you
13 employed?

14 A. Criminal investigator.

15 MR. HOLT: Permission to approach, Your Honor?

16 THE COURT: Yes, sir.

17 Q. Officer Wright, I am going to show you what has been
18 marked as State's Exhibit 1 in this matter. And without
19 revealing to the jury what it is, I am going to ask you if
20 you can identify it?

21 A. Yes.

22 Q. And do you know what it is?

23 A. Yes.

24 Q. And, since you last saw it, has there been any changes,
25 alterations, or deletions been made?

CHARLES WESLEY WRIGHT - DIRECT EXAMINATION

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1 A. No.

2 Q. Can you tell us what it is?

3 A. This is an Inmate Request Form.

4 MR. HOLT: That's it. Your Honor, at this time the
5 state would move State's Exhibit 1 into evidence.

6 THE COURT: Any objection, Mr. Jones?

7 MR. JONES: One second, please?

8 (PAUSE.)

9 MR. JONES: Your Honor, I think I would object to this,
10 based upon the motion previously made.

11 THE COURT: All right. Subject to the objections
12 previously made, it will be admitted into evidence as State's
13 Exhibit Number 1, subject to the objections previously made at
14 the in camera hearing.

15 MR. JONES: Thank you.

16 WHEREUPON, STATE'S EXHIBIT NUMBER

17 1 IS MARKED AND ADMITTED INTO

18 EVIDENCE OVER OBJECTION.

19 Q. Investigator Wright, I'm sure the jury doesn't know what a
20 Inmate Request Form is. Can you explain to them how the
21 Inmate Request Form works?

22 A. Once someone is currently in the Detention Center, they
23 have no way of contacting them outside of there unless
24 they fill out this Inmate Request Form, where they put who
25 they are, what cell they are in, a date on it, and any

CHARLES WESLEY WRIGHT - DIRECT EXAMINATION

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1 information they wanted, and the name they wanted it to go
2 to.

3 Q. And, can you tell us where your name appears on that
4 Inmate Request Form?

5 A. My names appears --- as I walked through I picked them up,
6 and would deliver them to whoever they are requesting to
7 see. This particular form here I put --- I relayed the
8 message to Lieutenant Bryant and Investigator Goins, a
9 date, and also this --- you know, I signed it and put the
10 date I picked it up.

11 Q. And what date did you pick it up?

12 A. September 29, 08.

13 Q. And can you read to us what the form is filled in as?

14 A. It is from Anthony Edwards. And it is out of A-Pod, 230.
15 On September 29th of the same year. Could somebody
16 please get the investigator over my case here to see me.
17 The acts that took place are clear and fresh, and I would
18 like to make a statement now. Could you please get
19 someone down here ASAP.

20 MR. HOLT: Investigator Wright, thank you very much for
21 coming today. No further question, Your Honor.

22 THE COURT: Cross examination?

23 MR. JONES: No, sir.

24 THE COURT: All right. Thank you. You may step down.

25 MR. HOLT: Your Honor, at this time the state would like

WILLIAM E. LOCKLAIR - DIRECT EXAMINATION

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1. to call Captain Andy Locklair to the stand.

2. WHEREUPON, WILLIAM EMMIT LOCKLAIR

3. FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

4. MR. LOCKLAIR: I do.

5. DIRECT EXAMINATION BY MR. HOLT

6. Q. Captain, could you please say your entire name for the
7. jury?

8. A. Yes. My name is William Emmitt Locklair. Commonly known
9. as Andy locklair.

10. Q. And what is your current occupation?

11. A. I am a captain over administration for Darlington County
12. Sheriff's Office.

13. Q. And, how long have you been with the Sheriff's Office?

14. A. Approximately twenty-years.

15. Q. And all total in law enforcement?

16. A. Twenty-one years, almost.

17. Q. So, where did you work before this?

18. A. Darlington Police Department for about nine months.

19. Q. And what are your present duties?

20. A. Now I am over administration. I handle all of the
21. courtroom security, warrant service, the day-to-day
22. operations of the Sheriff's Office, budget, procurement,
23. public information, and public relations for the Sheriff's
24. Office.

25. Q. And how about September 27th -- September 28, 2008, what

WILLIAM E. LOCKLAIR - DIRECT EXAMINATION

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1 were your duties then?

2 A. I was an investigator with the Sheriff's Office and had
3 been for the previous ten years.

4 Q. And how did you become involved in the case at hand here
5 today, The State versus Anthony Edwards?

6 A. I had just finished working a week of call. We work call
7 for a week at the time. And when you just come off of a
8 week of call, then you had a week of backup call. And
9 anytime a call comes out of a severe crime like this one,
10 you normally have a backup unit come out, or an
11 investigator come out, and I was summoned to respond to
12 the area at the hospital, Carolina Pines in order to do
13 GSR, gunshot residue on the victim, the deceased in this
14 particular case. Anytime you have a major crime like
15 this, you are always asked to have more than one person
16 work that case, so that you don't have to work it by
17 yourself. Just in case --- Like this situation, the
18 unfortunate thing with the lead investigator was actually
19 in the hospital and had had some heart surgery. That you
20 have someone else who can work the case and is familiar
21 with the case as well.

22 Q. Now, you say you were looking for GSR on the victim. Did
23 you find any?

24 A. No. I think those results came back negative.

25 Q. Okay. Now, in all your law enforcement career, are you

WILLIAM E. LOCKLAIR - DIRECT EXAMINATION

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1 familiar with the so called Miranda Warnings on a suspects
2 constitutional rights?

3 A. Yes. Under the fifth and sixth amendment of the
4 constitution of the United States, there is the Miranda
5 Warning, or The State versus Miranda, which is a case law
6 from 1965 involving a person that was questioned about a
7 crime in 1963, I believe it was.

8 Q. And in this case --

9 MR. HOLT: Permission to approach, Your Honor?

10 THE COURT: Yes, sir.

11 Q. Investigator Locklair, I am going to show you --- Captain
12 Locklair, I am going to show you what has been previously
13 marked as State's Exhibit 2, as well as State's Exhibit 3.

14 THE COURT: All right. Before we go any further with
15 that, let me talk with the jury for just a minute.

16 Ladies and gentlemen of the jury, there has been admitted
17 into the record of this case a statement alleged to have been
18 made by the defendant. Before you may consider this statement
19 as evidence for any purpose, you must consider four questions.

20 First. Did the defendant make the statement? Second.
21 Was the defendant warned of his constitutional rights? Third.
22 Did the defendant knowingly and intelligently waive his
23 constitutional rights? And, fourth. Was the statement given
24 voluntarily?

25 The fact that the court has admitted this statement into

WILLIAM E. LOCKLAIR - DIRECT EXAMINATION

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1 evidence should not be considered by you as evidence
2 whatsoever, that the defendant made such statement, or that the
3 required constitutional safeguards were in fact provided, and
4 waived by the defendant. Or that the statement was voluntarily
5 given. Because these issues are for you the jury, to
6 determine. The state must prove beyond a reasonable doubt each
7 of the four requirements that I have just stated to you, before
8 you may consider the statement as evidence for any purpose
9 whatsoever.

10 Now, as to the first requirement. Did the defendant make
11 the statement? If, you conclude, that the defendant did not
12 make the statement, you must then completely and totally
13 disregard the statement. Was the defendant warned of his
14 constitutional rights? When an individual is taken into
15 custody, or otherwise deprived of his freedom of action in any
16 significant way by a police or law enforcement officer, he must
17 be warned of his constitutional rights prior to and before any
18 custodial interrogation or custodial questioning.

19 These rights are. That he has the right to remain silent.
20 That any statement that he does make can and will be used
21 against him in a court of law. That he has the right to select
22 a lawyer of his choice. But, if he does not have the money or
23 resources to employ a lawyer, the court will appoint, provide a
24 lawyer to represent him without cost or expense, if he so
25 desires. And he has the right to consult a lawyer before

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1 answering any questions or make any statements. And finally
2 that he has a right, to have his lawyer present with him at all
3 times, during all interviews, and during all interrogations.
4 If you determine these constitutional warnings were not given
5 to the defendant prior to the interrogation in the taking of
6 the statement, or that the defendant was not afforded the
7 opportunity to exercise these rights, you must completely
8 disregard the statement, and in that event you cannot consider
9 the statement as evidence for any matter whatsoever.

10 The next question that you will have to decide is, did the
11 defendant knowingly and intelligently waive his constitutional
12 rights. Before you can consider the statement in evidence ---
13 as evidence in this case, the state must prove beyond a
14 reasonable doubt that the defendant, after having been given
15 his constitutional warnings, knowingly and intelligently waived
16 his constitutional rights, and agreed to answer questions and
17 to make a statement. Was the statement given voluntarily? The
18 word voluntarily means, the statement was the expression of the
19 defendants own free will, and was not induced by any pressure,
20 force or fear, or the influence, or hope of promise, or of some
21 benefit or reward. Nor was it extracted by threats, coercion,
22 or intimidation. The ultimate question to be resolved by you
23 with respect of the alleged statement of the defendant, in
24 addition to the question of whether or not the defendant in
25 fact made the statement, and whether or not his constitutional

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1 rights were observed, and knowingly and intelligently waived by
2 him is this. Was the statement the expression of the
3 defendants own free will, made without compulsion or
4 inducement, but representing an essentially free and
5 unconstrained choice by the defendant? Or was it the product
6 of the over born will of the defendant? With regard to the
7 alleged statement of the defendant, the state must prove by
8 evidence each and every requirement which I have instructed you
9 beyond a reasonable doubt, before you may consider the alleged
10 statement as evidence in this case.

11 All right. Mr. Holt, you may proceed.

12 MR. HOLT: Your Honor, Mr. Jones just reminded me that
13 we need to approach with you. Is that okay?

14 THE COURT: Okay.

15 (Whereupon, a bench conference was held in
16 the presence of the jury, but out of their hearing range.)

17 Q. Now, Investigator Locklair, talking about two and three,
18 both together; have you seen these items before?

19 A. Yes, I have.

20 Q. And do you recognize them?

21 A. Yes, I do.

22 Q. And since the last time you have viewed them, have there
23 been any material alterations or deletions made?

24 A. No, sir. Other than the exhibit mark on the item, that's
25 it.

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1 Q. And that is very astute. What are they, Captain Locklair?

2 A. State's Exhibit Number 2, is a Darlington County Sheriff's
3 Office Statement of Rights Miranda Waiver. It is a
4 standardized form that we have at Darlington County
5 Sheriff's Office. Which on here is listed the standard
6 Miranda Waiver or the Miranda Rights. And at the bottom,
7 a waiver of rights.

8 Q. And before we get into talking about them, and you
9 explaining them to us. What is State's Exhibit 3?

10 A. State's Exhibit 3, is a video statement, or a CDR, which
11 is a video statement marked 2008-09-0535, which is a case
12 number in reference to this particular case. And also on
13 the bottom it says, Edwards' statement.

14 MR. HOLT: And, Your Honor, at this time the state would
15 move items 2 and 3 into evidence.

16 THE COURT: All right. They will be admitted into
17 evidence, and are hereby admitted into evidence, subject to the
18 previous matters put on the record by the defendant, and
19 subject to the defendant's record --- The defendant's
20 objections. The jury will recall that I gave you the
21 instructions the determinations that you have to make with
22 regard to this statement. All right. You may proceed..

23 Q. All right. Investigator Locklair, that is how you are
24 known on my favorites. Does your office --- When you were
25 an investigator, have policies or a common way in which

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1 you give warnings to a suspect before you interview them?

2 A. Yes.

3 Q. What are those policies and procedures?

4 A. The policies and procedures --- Anytime you sit down with
5 anybody, whether it be a witness, a suspect in a case, you
6 advise them of the Miranda Rights. We do so with this
7 form, which is a standard form throughout the Darlington
8 County Sheriff's Office.

9 Q. Do you mean you memorialize it on that form?

10 A. That's right.

11 Q. And explain to the jury just exactly what that form is?

12 A. This form is a standard form that we use at the Sheriff's
13 office to keep record that a person has been read their
14 rights. They understand their rights. And they have
15 actually signed and initialed each one of the rights so
16 that they understand it. But at the bottom is a waiver of
17 rights, and then an initial or signing at the bottom of
18 the page. And it is also signed by the investigator who
19 is in the room as well.

20 **MR. HOLT:** And, Your Honor, at this time the state would
21 ask that we could publish to the jury that very interview that
22 we are talking about. State's Exhibit 3.

23 **THE COURT:** Permission granted. Let me ask the bailiffs
24 if they would let the two alternates move down here in front so
25 that they can see this. And, if the bailiffs would get their

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1 chairs and help them move right down where they can see the
2 screen. Give them room where they can move back and forth ---
3 you might stagger them or do a little bit so they can get
4 around a little bit. That's good. That's good.

5 (Whereupon, State's Exhibit Number 3 was
6 published to the jury.)

7 THE COURT: All right. Go ahead and move the chairs.

8 Q. Investigator Locklair, just to be clear, there was some
9 times when I paused it. When I had to mute it. Why was
10 there no GSR found on the defendant?

11 A. Why was there no GSR found on the defendant?

12 Q. Yes.

13 A. As stated in his statement, he had taken and washed his
14 hands after the incident to take away gunshot residue,
15 which is GSR, to take any gunshot residue off the hands.

16 Q. Investigator Locklair, at the end of the video, would you
17 say the evidence has the inability to lie. Why did you
18 say that?

19 A. Well, people can lie. Anybody can lie. Evidence has the
20 inability to lie. If you have a fingerprint, it is a
21 fingerprint. It belongs to that particular person. DNA
22 evidence belongs to that particular person. Bullet
23 projectory, there is no way of changing that. Evidence
24 has the inability to lie.

25 Q. That in no way meant that you believe everything that was

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1 told to you?

2 A. No. You never do. I've been doing this long enough that
3 you can never take on face value from witnesses, or from
4 defendants, that what they are telling you is the absolute
5 truth. That is why you have to corroborate that
6 information with the evidence. Because the evidence has
7 the inability to do any falsehoods.

8 Q. Investigator Locklair, I am going to.--

9 MR. HOLT: Permission to approach, Your Honor?

10 THE COURT: Yes, sir.

11 Q. I am going to show you what has been previously marked as
12 State's Exhibits 55 through 60. And without telling the
13 jury, or showing the jury what they are. Can you tell me
14 if you recognize them?

15 A. These are photographs that I took the night of the
16 incident, or the morning of the incident which I was
17 dispatched to do the GSR kit on the victim. These are
18 photographs of the victim at the hospital.

19 Q. And, since last you took those photographs, do there
20 appear to be any changes, alterations, or deletions made?

21 A. The only deletions or alterations are state's exhibit
22 markers that are at the bottom of the photographs.

23 MR. HOLT: And Your Honor, the state would move to put
24 State's Exhibit 55 through 60 into evidence.

25 THE COURT: Mr. Jones?

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1 MR. JONES: Objection, Your Honor.

2 THE COURT: All right. Okay. Ladies and gentlemen, you
3 have been in the courtroom for about an hour and a half. And I
4 think it is appropriate to go ahead and take our afternoon
5 recess at this time while I address the objections that have
6 been put forth. So, I am going to ask that you go to your jury
7 room. Please do not discuss this matter among yourself. We
8 will send for you very shortly just as soon as we take care of
9 these, and take a little brief recess ourselves. So, if you
10 would go with the bailiff to the jury room. We will send for
11 you very shortly. Thank you.

12 (Whereupon, the jury exits the courtroom at 3:30
13 p.m..)

14 THE COURT: All right. The photographs have been
15 offered into evidence. The jury is out. What is your
16 objection, Mr. Jones?

17 MR. JONES: One is on relevance, Your Honor. I don't
18 see that the photographs tend to prove any element that has not
19 been addressed by a witness. And, again the fact that my
20 previous objection, I think 41 is prejudicial value. The
21 effect of those greatly outweigh the probative value.

22 THE COURT: All right. So the objection first is under
23 401, that they are not relevant. And under 403, if they are
24 relevant, the prejudicial effect substantially outweighs the
25 probative value.

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1 MR. JONES: Yes, sir.

2 THE COURT: All right. Mr. Holt, what is the probative
3 value?

4 MR. HOLT: The probative value --

5 THE COURT: -- First, what is the relevance and the
6 probative value?

7 MR. HOLT: The relevance is obviously the murder
8 occurred. There was a victim. And this victim could have
9 possibly had gunshot residue on his hands. I think that part
10 of --- the part of the investigation needs to be documented. I
11 think --

12 THE COURT: -- Say that again?

13 MR. HOLT: When then Investigator Locklair took those
14 photographs, he was looking for GSR on the hands of the victim.

15 THE COURT: Right.

16 MR. HOLT: I think his portion of the investigation
17 needs to be documented. I think one of the things that I have
18 to prove here in this case is that someone was killed. I think
19 those photos go toward --

20 THE COURT: -- He admits in his statement that he killed
21 him.

22 MR. HOLT: Yes, sir. He did do that.

23 THE COURT: So, what does it prove?

24 MR. HOLT: It helps me prove that he killed him, Judge.

25 THE COURT: Sir?

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1 MR. HOLT: It further proves that there was a victim.
2 That somebody died.

3 THE COURT: You know, you've got the doctor here who is
4 going to testify. That I am sure that she did the autopsy, and
5 then that the victim in this case died of a gunshot wound. You
6 have got the written or the statement --- video tape statement
7 of the defendant himself, who says he shot this victim. I am
8 just not sure what these --- I haven't looked at the
9 photographs, but I'm not sure what the relevance of these
10 photographs are to any fact that is not admitted. I guess
11 that is what my questions is. What is the relevance to any
12 fact that is not admitted. They are all admitted. Except, of
13 course, at this point the matter of the death of the victim as
14 a result of a homicide is not admitted. But I understand that
15 you --- and I see Doctor Ross here, and I am sure she is going
16 to testify that he died as a result of the gunshot wound. And,
17 in fact, in a pretrial conference indicated that that was what
18 you were calling her for. And to describe how he was shot and
19 so forth. So, you know, I am just not sure that these
20 photographs are relevant to any issue that is not admitted.

21 MR. HOLT: And, to tell you the truth Judge, I was just
22 getting them in to further backup the facts that are admitted.
23 And I don't think --- I don't think --

24 THE COURT: -- All right. I am going to sustain the
25 objection, and keep out exhibits 55 through 60. I don't

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1 believe that they are relevant to any issue that is in the case
2 that is not admitted. But, even if relevant, in view of the
3 testimony in this case, I don't know that they are probative of
4 any issue. And, if they have any probative value whatsoever,
5 it is slight, and it is substantially outweighed by the
6 prejudicial effect. So, the photographs will be excluded.
7 These five.

8 All right. How much additional do you have of this
9 witness, Mr. Holt?

10 MR. HOLT: That's it, Judge.

11 THE COURT: All right. Do you have cross examination?

12 MR. JONES: I don't think so, Judge.

13 THE COURT: All right. We will do that when we come
14 back. Let's go ahead and take our break at this time. This is
15 a good time to take it, because we already have the jury out.
16 So, let's take about ten minutes, and be ready to start back at
17 quarter till four.

18 (Whereupon, a recess was taken from 3:35 p.m.
19 until 3:46 p.m..)

20 THE COURT: All right. Get the defendant back in the
21 courtroom please.

22 All right. Back on the record with regard to the matter
23 of The State versus Anthony Edwards. Mr. Edwards is present
24 in court with his counsel. And the state is present and
25 represented by the Solicitor's Office.

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1 Mr. Jones, I understood you to say that you had no cross
2 examination of this witness; is that correct?

3 MR. JONES: I do not, Your Honor.

4 THE COURT: All right. I am going to go ahead and have
5 him stand down at this time. We will announce that to the jury
6 when they come in. And then we will allow the state to call
7 another witness. But in the mean time I would like to go ahead
8 and call --- I believe Ms. Parker advised me that her intention
9 was to call Doctor Ross, and there were some photographs that
10 perhaps there would be some objection to. That maybe we needed
11 to do that before we bring the jury in.

12 MR. JONES: Yes, sir. Actually, I've not even shown
13 those to the defendant.

14 THE COURT: Go ahead and step down. You may step down.

15 MR. LOCKLAIR: Thank you, Your Honor..

16 THE COURT: All right. Fifty-four and 61 for I.D. at
17 this time?

18 MS. PARKER: Yes, sir.

19 THE COURT: All right. You object to those, Mr. Jones?

20 MR. JONES: Yes, sir. On relevance and prejudicial
21 effect outweighs the probative.

22 THE COURT: These have been identified as State's 54 and
23 61. Go ahead and call the witness that you intend to use for
24 these photographs, in an in camera hearing outside of the
25 presence of the jury. I know you will probably call this

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1 witness in the presence of the jury. But let's go ahead and do
2 that Ms. Parker.

3 MS. PARKER: All right. Your Honor, at this time the
4 state calls Dr. Janice Ross.

5 THE COURT: All right. Dr. Ross.

6 WHEREUPON, JANET ROSS, M.D.

7 PROFFERED

8 FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

9 DR. ROSS: I do.

10 MS. PARKER: Your Honor, I just want to go ahead and lay
11 a foundation for these pictures. Do you just want to hear
12 about those instead of her whole testimony?

13 THE COURT: Yes. Just the photographs. And you don't -
14 -- for purposes of establishing the foundation for the
15 photographs, you don't think it is necessary do you, Mr. Jones,
16 to go into Dr. Ross' qualifications and under what
17 circumstances they were taken. And we will do that in front of
18 the jury.

19 MR. JONES: No, sir.

20 THE COURT: All right. Go ahead. And just establish
21 the relevance, and what you are attempting to prove by these
22 photographs, identified as State's Exhibit Number 54, and 61
23 for identification only.

24 MS. PARKER: Yes, sir.

25 DIRECT EXAMINATION BY MS. PARKER

1 Q. Dr. Ross, did you have an opportunity to perform an
2 autopsy on a Roosevelt Patterson?

3 A. Yes.

4 Q. And what date was that on?

5 A. That was on September 27, 2008.

6 Q. And just real briefly, tell the court what were his
7 injuries that you noticed, and what was the cause of
8 death?

9 A. We found a single gunshot wound that went into the mid-
10 back on the left --- towards the left side. It went from
11 back to front, slightly upward and slight to the right.
12 We found a bullet in the muscle right next to the sternum
13 on the left side. We retrieved that bullet.

14 Q. Okay. I am going to show you what has been marked, just
15 for I.D. purposes, State's Exhibits 54 and 61. And what
16 are those items?

17 A. Those are photographs from the autopsy of the entrance
18 wound in the back.

19 Q. Okay. And what is the difference between the two photos?

20 A. Just how close they are. Exhibit Number 54 shows the
21 entrance wound. And it includes, some of the left arm.
22 Exhibit 61 is a closer view of the entrance wound.

23 Q. Okay. And who took those photographs?

24 A. I did.

25 Q. Have they been altered or changed in any way since the

JANET ROSS, M.D. - PROFFERED TESTIMONY BY MS. PARKER

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1 last time you saw them?

2 A. No, they have not.

3 Q. They clearly depict the decedent's body at the time you
4 photographed him?

5 A. Yes.

6 MS. PARKER: Your Honor, at this time we would move
7 those two pictures, 54 and 61 into evidence.

8 THE COURT: Any questions of the doctor regarding those
9 photographs, before I hear from you, Mr. Jones?

10 MR. JONES: May I look at those one more time?

11 (PAUSE.)

12 MR. JONES: No, sir. I have no questions.

13 THE COURT: All right. Thank you, doctor. You may step
14 down. Now I will hear from you with regard to the --- to your
15 objection, Mr. Jones. I assume you object to the --- She has
16 offered them into evidence, and I assume you object to them.
17 What is the grounds?

18 MR. JONES: Prejudice outweighing probative value. She
19 is going to testify concerning the wounds, and the distance of
20 the proximate location on the body. The exact location on the
21 body. There are two photos, and the reason I wanted to look at
22 them, one appeared to be an entrance wound and one an exit.
23 But, I understand that they are just the blowup of one. And I
24 am not sure --

25 THE COURT: -- There was no exit wound, is what she

1 testified to. She testified that --

2 MR. JONES: -- When I looked at them, one was big and
3 one was little. So, I just assumed --- I would object that the
4 prejudicial outweighs the probative value. And certainly they
5 would be cumulative, because you have a small one and you have
6 a large one. And I don't know why you would need one versus
7 the other.

8 THE COURT: All right. I will respectfully overrule
9 that objection. Under The State versus Nance, 466 SE2d 349,
10 that is the leading case in South Carolina regarding the
11 admissibility of photographs. And that case held that the
12 relevancy, materiality, and admissibility of photographs as
13 evidence are matters left to the sound discretion of the trial
14 court. If the offered photograph serves to corroborate
15 testimony, it is not an abusive discretion to admit it.
16 Neither do I find that the probative value is substantially
17 outweighed by the prejudicial effect. If it does corroborate
18 testimony, and I believe it is going to corroborate the
19 testimony of Dr. Ross as to the cause of death. And the fact
20 that her testimony will be to the effect that the bullet wound
21 entered the deceased body from the rear. And that is a issue
22 in this case, as a result of the matters that have been raised
23 by the defense in the form of self-defense.

24 So, after reviewing the photographs in question, I would
25 find that they are relevant. And that the probative value of

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1 the evidence outweighs the prejudicial effect. And those two
2 photographs are admitted. Since they are just two of them, one
3 of them is a little closer than the other, I don't think that
4 the objection of cumulativeness is well taken as well. So, the
5 photographs will be admitted.

6 WHEREUPON, STATE'S EXHIBIT NUMBER

7 54 AND 61 ARE MARKED AND ADMITTED

8 INTO EVIDENCE OVER OBJECTION.

9 THE COURT: All right. Now, that being the case, let's
10 bring the jury in. And let me tell them that Mr. Jones had no
11 questions of Captain Locklair, and he has been excused. And we
12 will call the next witness, which will be Dr. Ross.

13 BAILIFF: All right, sir.

14 (Whereupon, the jury enters the courtroom at
15 3:55 p.m..)

16 THE COURT: All right. Thank you very much, ladies and
17 gentlemen. We have taken care of these legal matters that we
18 needed to take care of, as well as another additional legal
19 matter that took us a little bit of time, but it will save us
20 some time in the long run. And we are now ready to go forward.

21 The state had concluded their examination of Captain
22 Locklair. The state has concluded their examination of Captain
23 Andy Locklair, and the defense indicated that they had no cross
24 examination of this witness. So, I have excused Captain
25 Locklair from the witness stand. And the state may move

JANET E. ROSS, M.D. - VOIR DIRE EXAMINATION

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1 forward with your next witness.

2 MS. PARKER: Thank you, Your Honor. At this time the
3 state calls Dr. Janice Ross.

4 THE COURT: All right. Dr. Ross, come around please.

5 WHEREUPON, JANET E. ROSS, M.D.

6 FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

7 DR. ROSS: I do.

8 VOIR DIRE EXAMINATION BY MS. PARKER

9 Q. Dr. Ross, please state your full name for the court's
10 record.

11 A. Janet Edwards Ross.

12 Q. And please tell the jury what your occupation is?

13 A. I am a forensic pathologist.

14 Q. And, where are you employed?

15 A. In Newberry, South Carolina. With Newberry Pathology
16 Associates.

17 Q. And how long have you been a pathologist?

18 A. Thirty-five years.

19 Q. And tell us a little bit about your education, your
20 training, and what one has to do to become a pathologist?

21 A. Yes. I have a bachelor's degree from The University of
22 South Carolina. And I received my M.D. from Upstate
23 Medical Center in Syracuse, New York. I further trained
24 in the field of pathology, which is the study of disease.
25 As a pathologist, we learn how to identify and diagnose

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1 tumors under the microscope. Infections, we use the
2 laboratory in the hospital to help get a diagnosis of what
3 is wrong with people. We also train to do an autopsy, to
4 find a cause of death. I am further trained as a forensic
5 pathologist. The word forensic means, legal. And a
6 forensic pathologist uses the pathology knowledge for its
7 forensic matters, legal matters, such as homicide,
8 suicide, accidents, and rapes. We do autopsies and
9 document patterns of injury, and collect evidence for
10 legal matters.

11 Q. And, how many autopsies would you say you have performed
12 over the course of your career?

13 A. Over six thousand.

14 Q. And how many times have you been qualified as an expert in
15 the circuit courts of South Carolina? How many times
16 would you say?

17 A. Over sixty.

18 MS. PARKER: Your Honor, at this time the state would
19 offer Dr. Ross as an expert in the field of forensic pathology.

20 THE COURT: Any questions of voir dire regarding
21 qualifications, Mr. Jones?

22 MR. JONES: None whatsoever, and no objection.

23 THE COURT: All right. The state will qualify Dr. Ross
24 as an expert in the field of forensic pathology.

25 Ladies and gentlemen of the jury, let me tell you what

JANET ROSS, M.D. - DIRECT EXAMINATION

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1 that means. Ordinarily if a witness is not testifying as an
2 expert, the witness' testimony is limited to those opinions and
3 inferences which are basically or rationally based on the
4 perception of the witness. And they are helpful to a clear
5 understanding of the facts, and to the witness' testimony. And
6 do not require special knowledge, skill, experience, or
7 training. However, if scientific, technical, or other
8 specialized knowledge will assist the trier of fact, and that
9 is you, in this case, to understand the evidence, or to
10 determine a fact in issue, a witness qualified as an expert by
11 knowledge, skill, experience, training, or education, may
12 testify in the form of an opinion. So, basically the
13 difference between an expert witness and a non expert witness,
14 is that an expert witness is allowed to give an opinion. And I
15 have qualified Dr. Ross as an expert in the field of forensic
16 pathology. All right.

17 MS. PARKER: Thank you, Your Honor.

18 DIRECT EXAMINATION BY MS. PARKER

19 Q. Dr. Ross, did you have an opportunity to perform an
20 autopsy on the victim in this case, Roosevelt Patterson?

21 A. Yes, I did.

22 Q. And what date did you receive his body?

23 A. September 27, 2008.

24 Q. Okay. And what date did you perform the autopsy?

25 A. That date.

JANET ROSS, M.D. - DIRECT EXAMINATION

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1 Q. And, where was the autopsy performed?

2 A. In the morgue at Newberry County Memorial Hospital.

3 Q. Okay. And, in performing that autopsy, did you initially
4 observe any injury to the decedent's body?

5 A. We found a entrance gunshot wound in his back.

6 Q. Okay. And, in performing the autopsy, did you determine a
7 cause of death?

8 A. Yes.

9 Q. Please tell the jury about that?

10 A. The gunshot wound went from back to front, slightly to the
11 right and slightly upward, and entered the back --- mid-
12 back toward the left side. And went into the left side of
13 the chest --- left chest. Went through the lung and
14 through the heart. It came out of the chest wall, but
15 stayed underneath the skin, and was found in the muscle
16 just to the left of the breast bone. So, we photographed
17 and sealed the bullet for evidence. That caused a lot of
18 bleeding inside of the chest cavity. And so the cause of
19 death is bleeding from the laceration of the heart and
20 lung from the gunshot wound.

21 Q. Dr. Ross, would it be correct to say that the victim died
22 from a loss of blood, or from bleeding out?

23 A. Yes.

24 Q. I am going to show you what has been marked, and is
25 already in evidence, Exhibit 54. What does that picture

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1 show?

2 A. This is a picture that I took at the time of the autopsy.
3 It depicts --- the little number it looks like a white
4 tag, the measuring --- it is mounted on a measuring stick.
5 It is underneath the entrance wound. And you can see to
6 the left, the left arm pit, the left arm.

7 Q. Does that picture show where that bullet --- that gunshot
8 wound was on the decedent's body?

9 A. Yes.

10 Q. And, also State's Exhibit, already in evidence, 61.

11 A. This is the entrance wound just at a closer view. The
12 same wound.

13 Q. And Dr. Ross, would you mind demonstrating to the jury
14 exactly where that gunshot wound was located. I will use
15 my back to show the approximately location?

16 A. Yes. The entrance wound was approximately here in the
17 left back. And it was going slightly upward, slightly
18 toward the right from back to front. So, we found the
19 bullet in the muscle just left to the breast plate. Right
20 about here. So, it did not come out all the way, it was
21 underneath the skin in the muscle.

22 Q. Okay. Thank you, Dr. Ross. I have a few additional
23 questions. This has been marked for I.D. purposes,
24 State's Exhibit 13. I am going to show you this item, it
25 is in the bag. And I want to see if you recognize that.

JANET ROSS, M.D. - DIRECT EXAMINATION

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1 State's Exhibit 13.

2 A. Yes. This is how we packaged the bullet. I signed the
3 bottle, and the labels. This would have the bullet in it
4 from the body and sealed in the plastic bag from the
5 autopsy.

6 Q. And, do you have a record --- explain a little about the
7 procedure when you collect evidence from an autopsy?

8 A. Yes. Russ Harrell, in law enforcement was at the autopsy.
9 And when we take the evidence out, we photograph it. And
10 as I say, we seal it --- heat seal it, sign off on the
11 seal. And, it was taken by Russ Harrell, he signed the
12 evidence form.

13 MS. PARKER: Thank you, Dr. Ross. Beg the Court's
14 indulgence just a second.

15 (PAUSE.)

16 Q. Dr. Ross, I am going to show you a form that has been
17 marked just for I.D. purposes, State's Exhibit 53. Do you
18 recognize that?

19 A. Yes, I do.

20 Q. Please tell the court what that is?

21 A. This is our evidence transfer form of materials from the
22 autopsy on Roosevelt Patterson. And what was picked up
23 and signed for by Russ Harrell.

24 MS. PARKER: At this time, Your Honor, we would move
25 State's Exhibit 53 into evidence.

JANET ROSS, M.D. - CROSS EXAMINATION

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1 THE COURT: Any objection?

2 MR. JONES: No, sir.

3 THE COURT: State's Number 53 will be admitted into
4 evidence without objection.

5 WHEREUPON, STATE'S EXHIBIT NUMBER
6 53 IS MARKED AND ADMITTED INTO
7 EVIDENCE WITHOUT OBJECTION.

8 Q. Dr. Ross, that is just a form that shows that the
9 documents were picked up?

10 A. Correct.

11 MS. PARKER: Thank you, Dr. Ross. Please answer any
12 questions that the defense may have.

13 THE COURT: Mr. Jones.

14 CROSS EXAMINATION BY MR. JONES

15 Q. Dr. Ross, just a few questions. Number one. When you
16 were explaining what I call the projectory of the bullet?

17 A. Yes.

18 Q. My understanding was that it entered from the left side,
19 traveled towards the right side; is that correct?

20 A. Correct.

21 Q. Do you have an opinion as to what position the body was in
22 --- excuse me --- Mr. Patterson was in when that bullet
23 entered his body?

24 A. The bullets go straight. So, the gun would have to be
25 behind and to the left of Mr. Patterson's back.

JANET ROSS, M.D. - CROSS EXAMINATION

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- 1 Q. Do you have an opinion as to whether or not Mr. Patterson
2 was moving at the time? Would that be something that your
3 examination could tell?
- 4 A. No, sir.
- 5 Q. Was any blood alcohol level tested on Mr. Patterson?
- 6 A. Yes.
- 7 Q. Could you give me the results of that?
- 8 A. Yes. His blood alcohol level was .22 percent.
- 9 Q. Can you explain to me what that means? What .22 means?
- 10 A. Well, the legal limit in South Carolina is .08. So, this
11 is almost three times that.
- 12 Q. Now, in your experience --- Do I understand that you have
13 done over six thousand autopsies?
- 14 A. Yes.
- 15 Q. And you have seen some interesting weapons out there I am
16 sure?
- 17 A. Yes.
- 18 Q. Let me ask you, if you have an opinion about something.
19 May I show you Exhibit Number 27, and ask if you can
20 identify that silver object? Do you have any idea what
21 that is?
- 22 A. It looks like a knife, but it is difficult to identify.
- 23 Q. And if I tell you it is what I call a silverware knife, I
24 think it has been described as a butter knife, or just a
25 regular knife and fork that you would get in a restaurant.

JANET ROSS, M.D. - CROSS EXAMINATION

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1 If I tell you that that is a silverware knife, would you
2 have an opinion as to whether or not that instrument could
3 cause a fatal wound?

4 A. Potentially, yes.

5 MR. JONES: One second, Your Honor?

6 THE COURT: Yes.

7 MR. JONES: That's all. Thank you.

8 THE COURT: Redirect, Ms. Parker?

9 MS. PARKER: None, Your Honor.

10 THE COURT: All right. Thank you, Dr. Ross. You may
11 step down. Would you like to have this witness excused, Ms.
12 Parker?

13 MS. PARKER: Yes.

14 THE COURT: Any objection, Mr. Jones?

15 MR. JONES: No, sir.

16 THE COURT: All right. Thank you, for coming, Dr.
17 Ross. You are excused.

18 DR. ROSS: Thank you.

19 THE COURT: All right. You may call your next witness.

20 MR. HOLT: Thank you very much. Your Honor, at this
21 time the state would like to call Ken Lui to the stand.

22 WHEREUPON, KEN LUI

23 FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

24 MR. LUI: I do.

25 DIRECT EXAMINATION BY MR. HOLT

KEN LUI - DIRECT EXAMINATION

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1 Q. Mr. Lui, September 27, 2008, where were you employed?

2 A. Darlington County Sheriff's Office.

3 Q. And in what capacity were you employed?

4 A. A patrol deputy.

5 Q. And as a patrol deputy, what would be some of your routine
6 duties?

7 A. Enforce the laws of state and county. Pretty much
8 anything the Sheriff's office wanted me to do.

9 MR. HOLT: All right. Permission to approach, Your
10 Honor?

11 THE COURT: Yes, sir.

12 Q. Mr. Lui, if you would look at this, what has been marked
13 as State's Exhibit 53. And, without telling the jury what
14 it is, can you just explain to the jury; do you recognize
15 it?

16 A. I do.

17 Q. Have you seen it before?

18 A. I have.

19 Q. And since the last time you have seen it, has there been
20 any material alterations or deletions made?

21 A. No, sir.

22 Q. Manipulated in any way?

23 A. No, sir.

24 Q. And can you tell me what it is?

25 A. It is a list of evidence that I have taken from the

KEN LUI - DIRECT EXAMINATION

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1 Sheriff's office down to SLED.

2 MR. HOLT: And, Your Honor, at this time that state
3 would ask that we move State's Exhibit 53 into evidence.

4 MR. JONES: May I see it?

5 THE COURT: Yes, sir.

6 (PAUSE.)

7 MR. JONES: No objection.

8 THE COURT: Admitted into evidence as State's Exhibit
9 53, without objection.

10 WHEREUPON, STATE'S EXHIBIT NUMBER

11 53 IS MARKED AND ADMITTED INTO

12 EVIDENCE WITHOUT OBJECTION.

13 Q. And was it uncommon for Russ Harrell to get you to drive
14 things to SLED from the Sheriff's office?

15 A. No, sir.

16 Q. And did you do that on the day in question?

17 A. I did, sir.

18 MR. HOLT: Thank you very much, Officer Lui. Please
19 answer any questions Mr. Jones might have?

20 THE COURT: Any questions?

21 MR. JONES: No, sir.

22 THE COURT: All right. Thank you, sir. You may step
23 down. All right. Please call your next witness.

24 MR. HOLT: Thank you very much, Judge. At this time the
25 state would call Deputy Russ Harrell to the stand.

RUSS HARRELL - DIRECT EXAMINATION

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1 WHEREUPON, RUSS HARRELL

2 FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

3 MR. HARRELL: I do.

4 DIRECT EXAMINATION BY MR. HOLT

5 Q. Officer Harrell, where are you currently employed?

6 A. Darlington County Sheriff's Office.

7 Q. And in what position?

8 A. I am a forensic investigator.

9 Q. And, are those all your duties?

10 A. I am also in charge of evidence.

11 Q. How long have you been with the Darlington County
12 Sheriff's Office?

13 A. Eleven years.

14 Q. Is that how long you have been in law enforcement?

15 A. Correct.

16 Q. And on the date in question, September 27, 2008, what were
17 your duties that day?

18 A. I was in charge of the evidence room at that time.

19 Q. And, how did you become involved in the case in hand?

20 A. The items were taken from the scene and brought to me by
21 Investigator Jim Goins.

22 Q. And can you explain to the jury, and I am sure it is very
23 interesting how a evidence room works? And who is allowed
24 in, and certain procedures that go into that?

25 A. Sure. When an item at a location --- incident location,

RUSS HARRELL - DIRECT EXAMINATION

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1 crime scene, what have you is taken by an officer or a
2 deputy, the same, or an investigator, an individual
3 perhaps. They will write down the information, document
4 where they found it. Where they got it from on an item
5 called an evidence sheet. And a lot of times that is
6 witnessed by somebody that is willing, as you heard,
7 Investigator Locklair was with the responding investigator
8 and other people. And there are two ways that a person
9 can drop evidence into our office. Evidence can be given
10 to me directly if it is a lot of items. And we also have
11 a drop box that is behind a --- it is about a eighteen
12 inch concrete wall. The door that goes into evidence is
13 about a three inch steel jail door. Our evidence room is
14 a jail cell. And it has one lock and one key only. And
15 there is a second door with two locks on it. And during
16 that time there are only two people with access to it at
17 that time, myself and the Chief Deputy. But in order for
18 the Chief to get in he had to get the key from me. So,
19 that would be under an incident where I wouldn't be
20 present, or I was going to be on vacation or something
21 like that.

22 Q. So, is it safe to assume that once it gets locked behind
23 your walls it is pretty secure?

24 A. That is very correct.

25 Q. Now, Officer Harrell --

RUSS HARRELL - DIRECT EXAMINATION

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1 MR. HOLT: Permission to approach, Your Honor?

2 THE COURT: Yes.

3 Q. Let me show you what has been marked as State's Exhibit 4.
4 Without telling the jury exactly what it is, can you tell
5 me if you recognize that piece of evidence?

6 A. I do.

7 Q. And, since the last time you have seen it, has there been
8 any material altercations or deletions made?

9 A. Just the addition of the State's Exhibit 4 sticker.

10 Q. And can you tell me what that form is?

11 A. This is a Darlington County Sheriff's Office Evidence
12 Property Report.

13 Q. Hold on just a second.

14 MR. HOLT: Your Honor, at this time, the state would
15 move State's Exhibit 4 into evidence.

16 THE COURT: All right. Show it to Mr. Jones.

17 MR. JONES: No objection.

18 THE COURT: All right. Admitted without objection.

19 WHEREUPON, STATE'S EXHIBIT NUMBER

20 4 IS MARKED AND ADMITTED INTO

21 EVIDENCE WITHOUT OBJECTION.

22 Q. And Deputy Harrell, can you now tell the jury what exactly
23 that form represents?

24 A. All right. This is a Darlington County Sheriff's Office
25 Evidence Property Report. In the top left hand corner it

RUSS HARRELL - DIRECT EXAMINATION

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1 has the name of the investigating officer, which is the
2 person that is dropping the evidence or is assigned to the
3 case. It has the date and time of recovery for each item.
4 This was on 9/27/2008 at three a.m.. It has a complaint
5 number, which is also referred to as a case number, which
6 reads 2008-09-0535. Which that is how we keep track of
7 all of the thousands of cases that we have throughout the
8 year, and assign it an individualized number. It gives
9 the exact location of recovery, which was the Gold Rush
10 Lounge in Darlington, South Carolina. And the person that
11 recovered it, which was J. F. Goins, who is also known as
12 Jim Goins. He was the lead investigator. And it gives a
13 list of items that was taken from that location. And at
14 the bottom is where I received it and actually logged it
15 in.

16 Q. Can you tell me what is on that evidence form?

17 A. Yes. We have a Interarms 9 mm.

18 Q. I want to show you now what has been marked as State's
19 Exhibit 14 for identification purposes only. Can you
20 examine the contents of that box, and without telling the
21 jury what is in it, state if you recognize it?

22 A. I do.

23 Q. And how are you able to recognize it, and what makes it
24 important to you?

25 A. This box was initially given to me by Investigator Goins.

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1 And, besides the evidence sheet that is accompanying it,
2 he is the only one in our office who actually prints
3 labels out on his computer. It is a very, very orderly
4 way, and you can tell what is in the box in case the sheet
5 gets separated from it. And it just makes it a whole lot
6 neater and easier to follow whenever you have to store it
7 along with a bunch of other items.

8 Q. Did he label a serial number on either the form or the
9 box?

10 A. He did both.

11 Q. Does that correspond with the contents therein?

12 A. Yes, it does.

13 Q. Deputy Harrell, I am going to show you what has been
14 marked as State's Exhibit 52. And we both just heard from
15 Deputy Ken Lui, and I think the jury is probably wondering
16 why? But, can you tell us what that is, and how it
17 corresponds to the evidence in this case?

18 A. Sure. This is a SLED laboratory forensic service request.
19 Whenever an item comes into evidence from out in the
20 field, from an individual, certain items may be required
21 to be tested at our state lab. And some things we can't
22 do back in Darlington County, because we don't have the
23 equipment. So, you will fill out a request with all the
24 information, with the investigating officer, your agency,
25 the type of crime, that incident number again, the date

RUSS HARRELL - DIRECT EXAMINATION

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1 and so on, and list of all the items, and the analysis
2 request that you want done. Whether it be laments or a
3 firearm inspection, or DNA, or whatnot.

4 Q. And how do those things that are collected at the crime
5 scene get from your secure facility at the Sheriff's
6 office to SLED?

7 A. They have to be transported by an individual, in person.

8 Q. Who transported these to SLED?

9 A. Ken Lui.

10 MR. HOLT: Thank you very much, Deputy. Permission to
11 approach once more, Your Honor?

12 THE COURT: Yes.

13 Q. This is --- I am going to show you what has been
14 previously identified as State's Exhibit 13, and Dr. Ross
15 just testified. That was the bullet that she pulled from
16 the body of the victim in this case. Now, can you tell
17 me, how you would be able to recognize that, as well as
18 who picked that bullet up. And let me show you State's
19 Exhibit 53 as well.

20 A. State's Exhibit 13 is labeled the bullet from body. It
21 has the name of the victim in this case, Roosevelt
22 Patterson. It also has a F.A. number that is assigned by
23 Newberry, which is FA-08-0528.

24 Q. And when you say Newberry, what do you mean?

25 A. The pathologist, Dr. Ross. Her --- The company that she

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1 works for. And it can also further be identified by the
2 lab number that is assigned whenever it goes to the state
3 lab, SLED. That is L08-14697, and it is given an item
4 number and in this case it is item 12.

5 Q. And what does State's Exhibit 53, how does it correspond
6 to item 12, and how are you involved in this process?

7 A. State's Exhibit 53 is an itemized list of all the items
8 that are picked up from the pathologist, in this case Dr.
9 Ross. And, a individual representative from law
10 enforcement, or an agency, in this case, Darlington County
11 Sheriff's Office, will drive to Newberry and meet with the
12 pathologist that is doing the autopsy. And upon
13 completion of the autopsy, the person will sign for all
14 items that has been collected by that pathologist. And
15 either return it back to evidence or take it to SLED,
16 whichever one --- This happened to be on a weekend, so
17 SLED wasn't open. So, it had to come back to the
18 sheriff's office, and then go at a later date when they
19 were open. And, in this case I collected it myself from
20 her.

21 Q. Other than your name being on that list, is there anything
22 else that sticks out in your mind about the day you
23 collected that from Newberry?

24 A. Signed 9/27/2008.

25 MR. HOLT: Thank you very much. Officer Harrell --- Beg

RUSS HARRELL - CROSS EXAMINATION

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1 the Court's indulgence, Judge?

2 THE COURT: Yes, sir.

3 MR. HOLT: Deputy, would you please answer any questions
4 Mr. Jones might have for you?

5 THE COURT: Mr. Jones.

6 MR. JONES: One second, Your Honor.

7 (PAUSE.)

8 MR. JONES: Just one or two.

9 CROSS EXAMINATION BY MR. JONES

10 Q. Tell me your rank again?

11 A. Sergeant.

12 Q. May I see this for a moment?

13 A. Yes.

14 Q. This is State's Exhibit 4-A, can you tell me who recovered
15 the property and who witnessed the property recovery?

16 A. Yes. The person that recovered the property is J. F.
17 Goins, or Investigator Jim Goins.

18 Q. And the person that transferred the recovery?

19 A. Lieutenant Wilks.

20 Q. And would it be a fair assumption that one or both of
21 those people were present when the item was dropped in the
22 drawer that you talked about?

23 A. I can't recall if it was actually dropped or handed to me,
24 but yes, at three o'clock in the morning, I probably would
25 not be there, so it would have been dropped in the box,

DANIEL DEFEESE - VOIR DIRE EXAMINATION

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1 yes.

2 MR. HOLT: Thank you, that's all I have.

3 THE COURT: Redirect?

4 MR. HOLT: None, Your Honor.

5 THE COURT: All right. Thank you, sir. You may step
6 down. Mr. Holt, you may call your next witness.

7 MR. HOLT: Your Honor, at this time the state would call
8 Dan Defeese, from SLED. And I hope I am pronouncing it
9 correctly.

10 THE COURT: All right.

11 WHEREUPON, DANIEL DEFEESE

12 FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

13 MR. DEFEESE: I do.

14 VOIR DIRE EXAMINATION BY MR. HOLT

15 Q. Mr. Defeese, am I pronouncing your name correctly?

16 A. Yes, sir.

17 Q. Would you tell me where you are currently employed?

18 A. I work for The South Carolina Law Enforcement Division. I
19 am assigned to the Forensic Services Laboratory in
20 Columbia.

21 Q. And just a vague version for myself, as well as the jury,
22 what does your job really entail?

23 A. Within the laboratory, I am assigned to the department
24 where we do the examination of firearm and tool mark
25 evidence. So, I am a firearm and tool mark examiner.

DANIEL DEFEESE - VOIR DIRE EXAMINATION

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1 Q. And do you have --- What is your education and background
2 in that field?

3 A. Well, I completed a bachelor's degree at the University of
4 South Carolina in Columbia. But my main training in
5 firearm and tool mark identification I received at SLED.
6 That after my employment I was assigned to the Firearms
7 Laboratory, and I began a course of study that lasted for
8 almost three years. I studied the techniques of firearm
9 and tool mark identification under Lieutenant Millard
10 Kate. (Phonetic) Mr. Kate established the SLED
11 laboratory when SLED itself was established in 1947. I
12 also studied under Lieutenant Carl Stokes, who was an
13 examiner at that time. And after studying the techniques,
14 and working case work under their direct supervision, I
15 began accepting cases on my own, and testifying as to my
16 results.

17 Q. And let me just interrupt you. I don't mean to stop you
18 at all. I apologize. How many times do you think you
19 have testified in court as an expert witness?

20 A. I don't actually know. I estimate it between six hundred
21 and seven hundred times.

22 Q. How long have you been doing this?

23 A. I first testified in September of 1969.

24 Q. That was before me. But, could you go into more of your
25 education, please?

DANIEL DEFEESE - VOIR DIRE EXAMINATION

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1 A. Well, after my training was essentially complete in
2 firearm and tool mark identification, but I have also
3 received training from the FBI National Academy in
4 Quantico, Virginia. From the South Carolina Criminal
5 Justice Academy, where I have both received and given
6 training. I am a member of an organization called the
7 Association of Firearm and Tool Mark Examiners, or AFTE.
8 I have been a member there since 1975. Mostly, I have a
9 great deal of experience in the identification of firearm
10 and tool mark evidence.

11 Q. So, aside from taking classes, you actually teach those
12 classes?

13 A. Yes. When the Police Academy was first being established,
14 I taught a number of scientific related classes having to
15 do with evidence collection and preservation.

16 MR. HOLT: Your Honor, at this time the state would move
17 to have Mr. Defeese classified as an expert in the field of
18 ballistics and firearm testing.

19 THE COURT: Any voir dire with regard to qualification,
20 Mr. Jones?

21 MR. JONES: No objection.

22 THE COURT: All right. The court will qualify Mr.
23 Defeese as an expert in the field of firearm and tool mark ---
24 as a firearm expert and a tool mark examiner.

25 Ladies and gentlemen, you will recall that when we had a

DANIEL DEFENSE - DIRECT EXAMINATION

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1 previous expert testify, I advised you that the basic
2 difference between a witness qualified as a expert is that an
3 expert is allowed to give an opinion, whereas a non-expert is
4 not. And I have qualified this witness as an expert in his
5 field. And he will be allowed to give his opinion.

6 All right. Mr. Holt, you may proceed.

7 DIRECT EXAMINATION BY MR. HOLT

8 Q. Mr. Defeese, can you tell me how usually something would
9 work? Your job at SLED, how do you get cases? How do you
10 work on them? Can you just walk me through the basic
11 process by an example?

12 A. Well, the overwhelming majority of all evidence that we
13 receive is received in person from officers that bring it
14 to us from police departments, and Sheriff's Departments
15 throughout the entire state. They will bring us evidence
16 which we accept normally in a sealed container. We don't
17 usually accept loose evidence, except directly from person
18 to person. They will seal the container, and the
19 containers are routed through the various departments
20 within the laboratory, and then routed back to our
21 evidence control section for return. But, principally,
22 all the evidence is literally hand carried to us in
23 person.

24 MR. HOLT: Permission to approach, Your Honor?

25 THE COURT: Yes, sir.

DANIEL DEFENSE - DIRECT EXAMINATION

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1 Q. Now, Mr. Defeese, I want to show you what has been marked
2 as State's Exhibit 52. And I am going to ask you if you
3 can explain to the jury what that is, and how it relates
4 to you?

5 A. State's Exhibit 52 is an evidence receipt. It is a
6 printed document that lists all the items of evidence in a
7 particular case. In this case, it is the one we refer to
8 as L08-14697. It lists the items starting ---
9 essentially with item number one up to how ever many items
10 there, with a very brief description. And then with a
11 list of the various different analyses that were requested
12 on that particular item.

13 Q. And who dropped that off to your office? Can you read it?

14 A. It says Lance Corporal Ken Lui.

15 Q. Yes, sir. That is correct.

16 A. Who I know as Ken Lui.

17 Q. One more time, and I am going to ask you, what is State's
18 Exhibit 13? And how do the markings relate to the work
19 that you did on it, and why is it in so many bags? And I
20 am sure the jury doesn't know why?

21 A. State's Exhibit 13, is my item 12 on my report. And it is
22 a fired bullet. For instance when bullets are retrieved
23 at autopsy, they are placed in a container at that
24 location. And that container may be placed in another
25 container. So, it is not uncommon for us to end up having

DANIEL DEFENSE - DIRECT EXAMINATION

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1 within any given outer container a number of inner
2 packaging that may be significant to the people through
3 whose hands it passed on its way to SLED.

4 Q. And did you observe or work on that bullet in any
5 capacity?

6 A. I did. In fact, it is still in the sealed container in
7 which I returned it. And the container has my initials,
8 and my dates on it.

9 Q. And if I could ask you to look at the box right beside of
10 it. I believe that is item number 14.

11 A. Yes, sir.

12 Q. Did you examine that? And do the markings of the numbers
13 anywhere on that mean anything to you?

14 A. They do. State's Exhibit 14 is the item I call item
15 number 4, which is a Helwan 9 millimeter Luger caliber
16 pistol. And it is still also in the same sealed container
17 bearing my initials, and the date that I sealed it.

18 Q. Did you have an opportunity to work on what you call item
19 number --

20 A. -- My item 4, State's Exhibit 14?

21 Q. Yes, sir.

22 A. Yes, I did. I had an opportunity to examine it, to test
23 fire it, and to compare test specimens that I knew this
24 pistol had fired with other evidence.

25 Q. And what did your comparison yield?

DANIEL DEFENSE - DIRECT EXAMINATION

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1 A. Between these two items, between State's Exhibit 13 and
2 State's Exhibit 14, after collecting certain data about
3 the pistol, I loaded this firearm, State's Exhibit 14, and
4 test fired it in our water recovery tank, to obtain
5 bullets that I knew this pistol had fired. Because in
6 doing a firearms identification on a bullet, you don't
7 literally compare the pistol with the bullet, you compare
8 test bullets or test cartridge cases, if you are looking
9 at a cartridge case, because that is what the markings are
10 deposited on. When a bullet is fired in a rifled firearm
11 such as a pistol, like State's Exhibit 14, certain marks
12 are imparted on the bullet as it passes down the barrel
13 and out of the gun. These marks are in many cases unique
14 and identifiable to a particular pistol. And essentially
15 only that pistol. When a bullet is recovered, if the
16 bullet is in sufficiently undamaged condition so that
17 marks still remain on the bullet, it is possible to
18 identify the individual bullet, or the individual marks on
19 the bullet. In essence, the signature of the firearm, so
20 that you can identify a particular bullet as being fired
21 in a particular firearm. And that is what I did in this
22 case. I obtained test bullets. First compared the test
23 bullets with each other. And then compared one test with
24 the bullet in State's Exhibit 13. I found the same class
25 characteristics, and I found matching individual

DANIEL DEFENSE - DIRECT EXAMINATION

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1 characteristics from which I concluded that the bullet in
2 State's Exhibit 13 was fired by this pistol, State's
3 Exhibit 14.

4 Q. And if I could ask you one more question. State's Exhibit
5 --- this one right here. Could you explain the difference
6 between --- you call something by an evidence number, I
7 call something by an evidence number, can you explain ---
8 First, can you tell me if you recognize this?

9 A. I do. State's Exhibit 12 is a copy of my report in this
10 case.

11 Q. And have there been any material alterations or deletions
12 since you have last seen it?

13 A. Other than affixing the exhibit number.

14 MR. HOLT: Your Honor, at this time the state that we be
15 allowed to move State's Exhibit 12 into evidence.

16 THE COURT: Any objection?

17 MR. JONES: May I see it?

18 THE COURT: Yes, sir.

19 (PAUSE.)

20 MR. JONES: No objection.

21 THE COURT: All right. State's Exhibit Number 12 is
22 admitted into evidence without objection.

23 WHEREUPON, STATE'S EXHIBIT NUMBER

24 12 IS MARKED AND ADMITTED INTO

25 EVIDENCE WITHOUT OBJECTION.

DANIEL DEFENSE - DIRECT EXAMINATION

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1 Q. Mr. Defeese, can you explain to me and the jury just
2 briefly how that report indicates how the bullet found in
3 Roosevelt Patterson matches the bullet found at the crime
4 scene?

5 A. Well, in our reports we listed the description of our
6 evidence item number, which is just a sequential item
7 number that we assign to the evidence when it is received.
8 A brief description of it, and then the results of
9 examination for that particular item number. And with
10 regard to State's Exhibit 13, which is my item 12. Item
11 12 is listed as one bullet removed from body of victim.
12 And my result states that item 12 was examined and found
13 to be most consistent with jacketed hollow point bullets
14 loaded in some 9 millimeter Luger caliber cartridges.
15 State's Exhibit 13 is a 9 millimeter Luger caliber pistol.
16 The report continues to read item 12 was microscopically
17 compared with test bullets fired by items 4 and 5. From
18 these comparisons it was determined that the item 12
19 bullet was fired by the item four pistol. So, this is the
20 item 4 pistol, as I call it. And this is the item 12
21 bullet.

22 MR. HOLT: Your Honor, at this time the state would
23 kindly ask to enter State's Exhibit 14 and State's Exhibit 13
24 into evidence.

25 THE COURT: Any objection?

DANIEL DEFENSE - DIRECT EXAMINATION

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1 MR. JONES: Fourteen is?

2 THE COURT: One is the pistol and one is the bullet.

3 MR. JONES: Your Honor, I have an objection on the
4 pistol. I do not think a proper foundation has been laid. It
5 is my understanding the testimony of the evidence officer was
6 that Investigator Goins, witnessed by Investigator Wilks
7 actually recovered that property, neither of which has been
8 identified as being deposited into the evidence locker.

9 THE COURT: All right. At this time I will deny the
10 motion to admit the weapon into evidence, but will admit the
11 bullet into evidence, which I believe --- which is which?

12 MR. DEFESE: The bullet is item 13.

13 THE COURT: All right. Item 13 is admitted without
14 objection, Mr. Jones?

15 MR. JONES: Yes, sir.

16 THE COURT: All right. Item 14 is not admitted at this
17 time, but subjected to being linked up, Mr. Holt.

18 MR. HOLT: Thank you very much, Your Honor.

19 WHEREUPON, STATE'S EXHIBIT NUMBER

20 13 IS MARKED AND ADMITTED INTO

21 EVIDENCE WITHOUT OBJECTION.

22 Q. And, did you --

23 MR. HOLT: Beg the Court's indulgence.

24 (PAUSE.)

25 MR. HOLT: Mr. Defeese, please answer any questions

DANIEL DEFENSE - CROSS EXAMINATION

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1 defense counsel may have for you. Thank you very much.

2 THE COURT: Mr. Jones, cross examination?

3 MR. JONES: Yes, sir.

4 CROSS EXAMINATION BY MR. JONES

5 Q. Is it doctor, or is it mister?

6 A. No, it is just mister.

7 Q. Several questions. One. Your report, and I don't
8 remember what the number was. Twelve. Do you have that
9 in your hands?

10 A. Yes, sir.

11 Q. All right. Let me ask you a couple of questions. My
12 understanding that item 4, your item 4 is the gun?

13 A. Yes, sir.

14 Q. And it is my understanding that the bullet found in Mr.
15 Patterson is in your opinion fired by that gun?

16 A. Yes, sir.

17 Q. What is the significance of the note that says the unfired
18 cartridge not listed on the evidence report form?

19 A. The evidence inventory lists just the Inter Arms 9
20 millimeter pistol, and it lists the serial number. And it
21 doesn't list the unfired cartridge. When I opened and
22 examined the evidence, I found a single unfired 9
23 millimeter Luger caliber cartridge that they had failed to
24 list as being submitted. So, I notified them in the
25 report, that there was also an unfired cartridge received

DANIEL DEFENSE - CROSS EXAMINATION

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1 with it.

2 Q. So, the inventory list that you received does not match
3 the items you got?

4 A. What we refer to as our said to contain inventory, because
5 we operate under what I refer to as the said container
6 rule, which you bring the evidence in, with a list of what
7 you say is in the evidence. And we go by that list until
8 the first examiner opens the evidence and actually sees
9 what is there. And then we very frequently make notations
10 of this frequently --- ammunition is included with a gun
11 that is not listed. It is not at all uncommon for this to
12 happen.

13 Q. Was it just listed in the evidence?

14 A. Yeah, it was in the container with the pistol. And there
15 was no magazine received with the pistol either.

16 Q. All right. My understanding in that report, also there
17 was another pistol received?

18 A. That's correct.

19 Q. And there were numerous fired and unfired cartridges?

20 A. That's correct.

21 Q. Specifically, let's go down if we can. Item 6, one
22 unfired 45 caliber cartridge that's been recovered
23 roadside?

24 A. Yes, sir.

25 Q. Is that item 6?

DANIEL DEFENSE - CROSS EXAMINATION

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- 1 A. Yes, sir.
- 2 Q. But no matching gun?
- 3 A. There was no 45 caliber firearm submitted in this case.
- 4 Q. Very good. Item 7 is one fired auto caliber cartridge?
- 5 A. Correct.
- 6 Q. And it was recovered from roadside?
- 7 A. Yes, sir.
- 8 Q. Eight is the same?
- 9 A. That's correct.
- 10 Q. And it is my understanding in reading your report that
- 11 items 7 and 8, and those two fired 45 cartridges, in your
- 12 opinion were fired by the same gun?
- 13 A. Yes, sir. That's correct.
- 14 Q. Item 9, one fired 9 mm?
- 15 A. Yes, sir.
- 16 Q. Ten, one fired 9 mm?
- 17 A. Yes, sir.
- 18 Q. My understanding is that those items were fired by one
- 19 gun?
- 20 A. Correct.
- 21 Q. But not item 4?
- 22 A. That's correct.
- 23 Q. So, if I am reading your report right, we've gotten all of
- 24 those I believe, are marked as being found on the
- 25 roadside?

DANIEL DEFENSE - CROSS EXAMINATION

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1 A. Yes, sir.

2 Q. From reading your report, it is my understanding that we
3 have got at least two guns firing at least two bullets
4 outside, or by the roadside?

5 A. Well, you have no less than three guns accounted for with
6 the evidence listed in my report.

7 Q. Yes, sir.

8 MR. JONES: And that is all I have. Thank you very
9 much.

10 THE COURT: Redirect, Mr. Holt?

11 MR. HOLT: No thank you, Your Honor.

12 THE COURT: Thank you, Mr. Defeese. You are free to go.

13 MR. DEFEESE: Thank you, sir. It's good to see you.

14 THE COURT: Would you like to have the witness excused,
15 Mr. Holt?

16 MR. HOLT: Yes, sir, Your Honor.

17 THE COURT: Any objection, Mr. Jones?

18 MR. JONES: No, I don't have any objection.

19 THE COURT: All right. You are free to go. Thank you,
20 sir.

21 Counsel, come up for just a moment, please. Let's talk
22 about scheduling.

23 (Whereupon, a bench conference was held in the
24 presence of the jury, but out of their hearing range.)

25 THE COURT: All right. Mr. Holt, please call your next

JANNA CARTER - DIRECT EXAMINATION

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1 witness.

2 MS. PARKER: Your Honor, at this time the state calls
3 Ms. Janna Carter.

4 THE COURT: All right. Is there any objection to the
5 calling of Ms. Carter?

6 MR. JONES: No, sir.

7 THE COURT: Okay. Well, the reason I asked is that she
8 was not listed on the original witness list.

9 MR. JONES: Yes, sir.

10 THE COURT: All right. Would you put your left hand on
11 the Bible and raise your right?

12 WHEREUPON, JANNA CARTER

13 FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

14 MS. CARTER: I do.

15 THE COURT: Have a seat please ma'am.

16 DIRECT EXAMINATION BY MS. PARKER

17 Q. Ms. Carter, please state your full name for the court?

18 A. Janna Carter.

19 Q. And where are you employed?

20 A. Clerk of Court, Darlington County.

21 Q. And how long have you worked with the Clerk of Court's
22 Office?

23 A. Fourteen years.

24 Q. What is your official title there?

25 A. Chief Deputy, Clerk of Court.

JANNA CARTER - DIRECT EXAMINATION

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1 Q. And as Chief Deputy Clerk, what are some of your job
2 duties?

3 A. Maintain records, criminal records, civil records, family
4 court records, deeds and mortgages.

5 Q. All right. I believe you have answered my next question.
6 Are the criminal records for Darlington County maintained
7 in the Clerk's Office?

8 A. They are.

9 Q. And are you a custodian over those records?

10 A. Yes, ma'am.

11 Q. I am going to show you what has been marked State's
12 Exhibit 62. It has been marked for I.D. purposes only.
13 And what is that item?

14 A. This is a sentencing sheet from general sessions court.

15 Q. Okay. And does that item have your signature on it?

16 A. It does.

17 Q. And, is that a true certified copy, bearing the clerk's
18 seal?

19 A. Yes, ma'am.

20 Q. Who is the defendant listed on that sentencing sheet?

21 A. Anthony Edwards.

22 Q. And, on that particular sentencing sheet, does it show a
23 conviction for a crime?

24 A. Yes, ma'am.

25 Q. And what is that conviction?

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1 A. Assault and battery with intent to kill.

2 Q. And what is the date of that conviction?

3 A. 7/24/2003.

4 MS. PARKER: Please answer any questions Mr. Jones may
5 have?

6 MR. JONES: No questions.

7 THE COURT: All right. Thank you. You may step down.

8 WHEREUPON, STATE'S EXHIBIT NUMBER

9 62 WAS MARKED FOR IDENTIFICATION

10 PURPOSES ONLY.

11 THE COURT: All right. Ladies and gentlemen, we are
12 approaching the five o'clock hour. We have a couple more
13 things that we need to do. And I think it is appropriate that
14 we adjourn for the afternoon. You have been very diligent to
15 your duties this afternoon, and we have made very good progress
16 on this matter, so we are going to recess for today.

17 Again, I will tell you that over the evening recess do not
18 discuss the case with anyone. Do not allow anyone to discuss
19 it with you. And, do not discuss it among yourselves when you
20 are reassembling in the jury room tomorrow morning. It is
21 still premature for you to discuss this matter in anyway
22 whatsoever. Also, do not read any news reports, either printed
23 media or listen to any broadcast media reports about this case,
24 because you have got to decide it based upon the evidence that
25 you hear in this courtroom.

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1 We are going to start back tomorrow morning at 9:30, but I
2 would ask if you would please be here about 9:15, and what I
3 would ask is that the twelve of you who make up the principle
4 jury select from your group, the twelve of you, a person to be
5 the foreperson of your jury. I am going to allow you to select
6 your foreperson in this case. So, if you will --- as soon as
7 everybody is assembled, do not discuss it or decide anything
8 until everybody is there, but once everybody is assembled if
9 you would then select one of the twelve members of the
10 principle jury to be the foreperson of the jury, and that
11 foreperson will sit in this first seat here on the front row.
12 Also, if you would inform the bailiff of the person you have
13 selected. Of course, the alternates will not participate in
14 this process, but will also sit where they are seated now.

15 With those admonitions and those instructions then I am
16 going to excuse you now. Allow you to go about your business
17 for the evening. Just forget about this case over the evening,
18 enjoy your family, and I will see you tomorrow morning about
19 9:30. If you would be here by 9:15. Thank you.

20 (Whereupon, the jury exits the courtroom for the
21 day at 4:44 p.m..)

22 THE COURT: All right. Mr. Holt, from a scheduling
23 standing, and Mr. Jones, you may participate in this as well.
24 The clerk needs to put a message, a message on the machine for
25 the jury after six tonight. What are your thoughts in that

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1 regard?

2 MR. HOLT: Your Honor, aside from this trial, the only
3 other one I have is with a private attorney. I do believe that
4 his individual is going to plea. I have been so caught up in
5 this that I haven't had time to call him today. But, when we
6 last talked, we were pretty solid in a plea.

7 THE COURT: Well, do you want the message to be then
8 that the jury is to call back tomorrow afternoon after six; and
9 that way if he doesn't plea, we will still have the jury where
10 we can bring them in if necessary on Thursday.

11 MR. HOLT: Yes, sir, Your Honor.

12 THE COURT: All right. Ms. Carter that would be the
13 message to go on the machine for the jury.

14 Now, Mr. Jones, what I would like to do at this time,
15 although I will not require him to answer until in the morning.
16 But I would like to go over the fifth amendment rights with Mr.
17 Edwards. And at least let me advise him about his fifth
18 amendment rights. As I say, I will not require an answer at
19 this time, but will require an answer tomorrow at the
20 appropriate time.

21 MR. JONES: Yes, sir.

22 FIFTH AMENDMENT EXAMINATION BY THE COURT

23 THE COURT: If you would have Mr. Edwards stand. Mr.
24 Edwards, you may be called as a witness to testify in your own
25 behalf. I now advise you that you have the right to invoke the

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1 protections given to you by the fifth amendment to the
2 constitution of the United States, and a similar counterpart
3 provision of the constitution of the state of South Carolina.
4 The fifth to the constitution of the United States provides in
5 part that no person shall be compelled in any criminal case to
6 be a witness against himself. This provision of constitutional
7 law means that you cannot be compelled or required to testify
8 in this case. This is a right and a privilege which the law
9 extends to you, and it is a personal privilege, and no one can
10 waive this right except you. You have the right not to
11 testify, but you also have the right to testify. The court
12 will grant you the right to consult with your lawyer before you
13 make a decision. If you elect not to testify, your failure to
14 testify or your election not to testify cannot be used by the
15 state as an inference of guilt, and your failure to testify
16 cannot be considered by the jury in its deliberations, and I
17 would so instruct them. If you elect to testify and waive the
18 privileges extended to you by the constitution, I advise you
19 that you would then assume the rule of a witness in this case,
20 and you would waive or give up your constitutional privilege
21 against self-incrimination. This means if you voluntarily take
22 the witness stand and testify, you will then subject yourself
23 to the same rules that govern other witnesses, and you may be
24 examined and cross examined on any relevant issue in this case.
25 And you may be impeached to the same extent as any other

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1 witness all of which are subject to the rules of law and the
2 rules of evidence. I would further advise you that if you
3 elect to take the witness stand and testify, that this decision
4 on your part must be made freely, voluntarily, intelligent, and
5 with knowledge of the protections given to you by the
6 constitution, and with knowledge of the consequences of your
7 election to testify. Have you understood what I have explained
8 to you?

9 MR. EDWARDS: Yes, sir.

10 THE COURT: Do you have any questions that you would
11 like to ask me about your fifth amendment rights?

12 MR. EDWARDS: No, sir.

13 THE COURT: All right. I will give you an opportunity
14 to consult with your lawyer before you make a decision. But I
15 would advise you over this evening recess to go ahead and
16 consult with Mr. Jones, and Mr. Jordan as to whether you should
17 or should not testify in this matter. And I will get a
18 decision from you tomorrow at the appropriate time. Do you
19 understand?

20 MR. EDWARDS: Yes, sir.

21 THE COURT: Thank you. You may be seated. All right.
22 Do you anticipate maybe one more witness, Mr. Holt?

23 MR. HOLT: That's all, Your Honor.

24 THE COURT: Okay. While we are doing it, just so I can
25 make preparations and prepare verdict forms and everything.

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1 Let's talk for a few minutes about potential charges, or
2 potential instructions to the jury. Of course, my general
3 felony charge will be involved with the presumption of
4 innocence, burden of proof, credibility, reasonable doubt.
5 There will be a charge also on direct and circumstantial
6 evidence. There will be a charge also on expert witnesses, as
7 we have had two expert witnesses in this case. And, depending
8 Mr. Jones, on the defendant's decision, possibly a charge about
9 his not testify. And, incidently while we are talking about
10 that. I think that one of the factors that enters into a
11 defendant's decision as to whether or not to testify is what
12 the state considers as impeachable offenses under 609, Mr.
13 Holt. So, have you furnished that information to him?

14 MR. HOLT: I have, judge. And we have talked about it.
15 And the majority of it has already come out. The assault and
16 battery with intent to kill, which was just discussed. I
17 believe I can get that in, Your Honor.

18 THE COURT: Are there others?

19 MR. HOLT: There are, Judge. There is a contraband
20 charge that he received in prison in 2006. A contraband
21 possession or furnishing which is more than one year crime. I
22 think he did receive one more year.

23 THE COURT: Okay. So the ABIK and the contraband are
24 the two that you consider impeachable offenses?

25 MR. HOLT: Yes, sir. Your Honor, he has a possession of

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1 crack cocaine, but that was in 2003, and that would be -- Well,
2 it is in the ten-year time frame, so I could get that in too,
3 Judge.

4 THE COURT: Doesn't require moral turpitude. That is
5 the old rule.

6 MR. HOLT: I was thinking it was 2014 for a second. I
7 thought I was outside of the time frame. I don't know why.

8 THE COURT: So, you have a possession of crack, a
9 contraband, and the ABIK?

10 MR. HOLT: Yes, sir.

11 THE COURT: All within the ten-year period under 609.
12 Do you disagree that those are the impeachable offenses, Mr.
13 Jones?

14 MR. JONES: I do not.

15 THE COURT: Okay. Those are the --- the state would be
16 allowed to use those as impeachment, if the defendant elects to
17 testify.

18 All right. Now, I gave you what I thought would be the
19 charges. Of course we have the --- I have a charge on
20 possession of a weapon during the commission of a violent
21 crime. The possession of a pistol by person convicted ---
22 Well, we've got the possession of a weapon on the premises to
23 sell alcohol. I would just charge the relevant portion of 16-
24 23-465. And then I would also charge possession of a pistol of
25 a person convicted of a violent crime. But I would also charge

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1 section A and E, of 16-23-30. That is the statutory section on
2 that. And then the possession of a weapon during the
3 commission of a violent crime. I have a separate charge on
4 that. And murder. I have a charge on that. And, I'm
5 anticipating, Mr. Jones, but I'll let you tell me what you
6 think I should charge?

7 MR. JONES: Judge, we would like to have a charge on
8 voluntary. We would also like to have a charge on self-
9 defense, but I have been reading the State versus Dickey case
10 that you mentioned earlier today concerning the exclusivity,
11 if you will of self-defense, and voluntary. I find that to be
12 a concurring opinion, not as a body --

13 THE COURT: What decision is that?

14 MR. JONES: The State versus Dickey, the most recent
15 case concerning self-defense.

16 THE COURT: Give me the cite?

17 MR. JONES: I've got that opinion, Judge. It came out
18 as 27047. I have a copy which I would be glad to hand up.

19 THE COURT: That would be fine. Yeah, I would like to
20 look at it. What do you think it stands for?

21 MR. JONES: Judge, I think that it is --

22 THE COURT: I believe Justice Toal, decented?

23 MR. JONES: No, she wrote the opinion, and Justice
24 Pleicones --

25 THE COURT: That sounds right.

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1 MR. JONES: And then there was a concurring from one of
2 the other justices.

3 My understanding that it was basically a self-defense
4 case. But, Justice Pleicones talks about in this particular
5 case, the fact that there was not testimony about heat of
6 passion, or being excited, or being in fear of his life as a
7 security guard in Columbia. He was asked to put out some routy
8 eager fellow out of a girl's apartment. He put him out, he
9 followed him down. Stood outside of the hotel. And when they
10 continued to jaw at him, they turned around and one of them
11 reached in his pocket, and the guard obviously thought he was
12 about to get shot, stabbed or something, and he pulled out his
13 gun and shot him. And they found that self-defense was there.
14 That Pleicones decent, as I reading it basically says that the
15 guard was very calm, cool, collective, and there wasn't any
16 heat, passion, or anything. He wasn't excited or anything. He
17 was under control. So, it was more of a self-defense issue.

18 THE COURT: Well, my question is this. Where do you
19 feel that voluntary manslaughter falls with self-defense? In
20 other words are they mutually exclusive, or can they both be
21 charged?

22 MR. JONES: I would certainly think they both can be
23 charged.

24 THE COURT: How do you feel Mr. Holt?

25 MR. HOLT: Charging both of them doesn't bother me at

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1 all, Judge.

2 THE COURT: What?

3 MR. HOLT: It doesn't bother me at all.

4 THE COURT: All right. Voluntary manslaughter and self-
5 defense?

6 MR. HOLT: Yes, sir. That doesn't bother me.

7 THE COURT: All right. I think the basic voluntary
8 manslaughter charge says, heat of passion without legal
9 provocation, and then that becomes a jury question as to what
10 was the provocation. So, I think that is where the self-
11 defense comes in.

12 MR. JONES: Yes, sir.

13 THE COURT: So, that is the way I feel about it too.
14 All right. Now, I have one other thing. It is another recent
15 case, counsel. And I would like to get your views on this.
16 What do you feel about the inference of malice, Mr. Jones, from
17 the use of a deadly weapon?

18 MR. JONES: Your Honor, it is my understanding that the
19 law says we can't infer --

20 THE COURT: Under what circumstances?

21 MR. JONES: I may not be correct on that.

22 THE COURT: Under what circumstances?

23 MR. JONES: That the use of a deadly weapon does not
24 automatically infer malice.

25 THE COURT: Well, I think it automatically infers malice

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1 in a murder case. I think where it does not automatically
2 infer malice is under the Belcher case, which is a recent case.
3 It was Judge Keesley's case, and went to the Supreme Court this
4 year, and was decided this year. I don't have the cite right
5 in front of me, but I think it is State versus Belcher, and I
6 have it on the computer in there. But what it says is, when
7 there is a dispute concerning the circumstances such as heat of
8 passion, or self-defense, or any of those, then there is no
9 inferences raised by the use of a deadly weapon. Now you
10 should still use it in a regular murder case if you don't have
11 voluntary manslaughter or if you don't have self-defense. The
12 inference of malice is still there. But under the Belcher
13 case, I guess it is the Belcher case, I don't think it is
14 there. So, I don't think the inference of malice is
15 appropriate in this case.

16 All right. That kind of tells what I plan on charging.
17 If any of you come up with anything else --- But I do think
18 that the verdict form will reflect murder, lesser included
19 voluntary manslaughter, and then of course not guilty on that
20 indictment. The other three indictments will be just either
21 guilty or not guilty on each of the three.

22 Anything else we need to put on the record before in the
23 morning?

24 All right. Counsel, we will be in recess. Let's try to
25 be here about 9:15, since I asked the jury to be here at 9:15,

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1 just to see if there is anything that we need to take up and
2 clarify before we start with the jury at 9:30. Otherwise we
3 will be ready to start with the jury at 9:30. Thank you. We
4 will be in recess until tomorrow morning.

5 MR. HOLT: Thank you, Judge.

6 (Whereupon, this trial stands down at 5:17 p.m.
7 for the day.)

8 -- END OF DAY TWO OF TRIAL --

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1 (Whereupon, court comes to order at 9:30 a.m. on
2 Wednesday, October 12, 2011.)

3 -- DAY THREE OF TRIAL --

4 THE COURT: All right. We are back on the record in the
5 matter of The State versus Anthony Edwards. The state is
6 present and represented by the Solicitors. The defendant is
7 present with his counsel. I have been advised that all of the
8 jurors are back here, and we are ready to go forward.

9 Anything from the state before we bring the jury in, Mr.
10 Holt?

11 MR. HOLT: Your Honor, at this time the state would ask
12 to move what has been previously marked for identification
13 purposes only as State's Exhibit 62 into evidence. Yesterday
14 Ms. Janna Carter was questioned. She I.D. the document. The
15 only thing lacking was the state failed to say the words, can
16 we move this into evidence.

17 THE COURT: All right. Sixty-two is the sentencing
18 sheet of a previous crime?

19 MR. HOLT: Yes, sir, Your Honor. Any objection, Mr.
20 Jones?

21 MR. JONES: No, sir.

22 THE COURT: All right. It will be admitted into
23 evidence as State's Exhibit Number 62 without objection.

24 WHEREUPON, STATE'S EXHIBIT NUMBER

25 62 IS MARKED AND ADMITTED INTO

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EVIDENCE WITHOUT OBJECTION.

1
2 THE COURT: Anything before we bring the jury in, Mr.
3 Jones?

4 MR. JONES: No, sir.

5 THE COURT: All right. Bring the jury in please.

6 (Whereupon, the jury enters the courtroom at
7 9:30 a.m..)

8 THE COURT: All right. Good morning, ladies and
9 gentlemen. And thank you for your promptness in being back
10 here. And I have been advised that Ms. Bess, your fellow
11 jurors have elected you as foreperson of this jury. So, if you
12 throughout the remainder of this trial sit in that front seat
13 on the front row. Of course, the alternates will sit back
14 where they are seated. And you will serve as the foreperson.

15 I do need to ask you now as I did yesterday, has anyone
16 read any news stories, or seen anything on the broadcast media
17 regarding this case over the evening recess, I would need to
18 know about it now. Negative response, and that is good.

19 Also, I will need to ask you if anyone has contacted you,
20 or tried to contact you in any manner about this case
21 whatsoever over the evening recess, I will also need to know
22 about that now. Again, negative response, and that is good.

23 All right. We are now ready to continue. The state is
24 continuing to present their evidence to you. And, Mr. Holt,
25 you may call your next witness.

GEORGE WILKS - DIRECT EXAMINATION

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1 MR. HOLT: Thank you very much, Your Honor. At this
2 time the state would like to call George Wilks to the stand.

3 WHEREUPON, GEORGE WILKS

4 FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

5 MR. WILKS: I do.

6 DIRECT EXAMINATION BY MR. HOLT

7 Q. How are you doing, Deputy Wilks?

8 A. Doing good, sir.

9 Q. Would you please state your whole name for the jury?

10 A. George Wilks.

11 Q. And where are you currently employed?

12 A. Darlington County Sheriff's Office.

13 Q. And what is your current rank?

14 A. Deputy.

15 Q. And how long have you been with Darlington County
16 Sheriff's Office?

17 A. Twenty-six years.

18 Q. And in what capacity have you served in those twenty-six
19 years?

20 A. I have served from a deputy, to a lieutenant, to staff.

21 Q. And Deputy Wilks, when you say staff, what does that mean?
22 And specifically, what specifically does it mean in
23 relation to a crime scene?

24 A. Basically, I was a lieutenant at the time, and part of
25 that is being a staff officer. Each lieutenant has to

GEORGE WILKS - DIRECT EXAMINATION

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1 take staff call. And when they take staff call, they go
2 out to major crime scenes. And what they do there is they
3 support the investigators in making decision if SLED
4 needed to be called, then the staff officer would do it.
5 Any assistance he needed, the staff officer would give it
6 to him. It is just a little higher authority to go
7 straight to stuff and get it.

8 Q. So, if we were to day that an investigator would be in
9 charge of investigating a crime, you would actually be his
10 boss at the crime scene; is that correct?

11 A. Yes, sir.

12 MR. HOLT: Permission to approach, Your Honor?

13 THE COURT: Yes, sir.

14 Q. Deputy Wilks, I am going to show you what has been
15 previously marked and admitted into evidence as State's
16 Exhibit 4-A. Can you please tell the jury what type of
17 sheet that is before we get into the specifics of it?

18 A. That is an evidence sheet. All the property that is
19 collected at that crime scene goes onto an evidence sheet.
20 And I was there when he did that, because he asked me to
21 witness what property he recovered and put on this sheet.

22 Q. And did you do that?

23 A. Yes, sir.

24 Q. And did you sign your name?

25 A. Yes, sir.

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1 Q. And what is the first piece of evidence on that sheet that
2 was collected that day that you witnessed?
3 A. An Interarms 9 millimeter.
4 Q. And what is the serial number on there?
5 A. 1116618.
6 MR. HOLT: Your Honor, at this time the state would move
7 State's Exhibit 14 into evidence, an Interarms 9 millimeter.
8 THE COURT: Any objection?
9 MR. JONES: No, sir.
10 THE COURT: Admitted into evidence, State's Exhibit
11 Number 14, admitted without objection.
12 WHEREUPON, STATE'S EXHIBIT NUMBER
13 14 IS MARKED AND ADMITTED INTO
14 EVIDENCE WITHOUT OBJECTION.
15 MR. HOLT: Deputy Wilks, thank you very much for coming
16 here today, and please answer any questions Mr. Jones might
17 have.
18 THE COURT: Cross examination, Mr. Jones?
19 MR. JONES: I have none, Your Honor.
20 THE COURT: All right. Thank you, sir. You may step
21 down. All right. Mr. Holt, you may call your next witness.
22 MR. HOLT: Your Honor, at this time the state would
23 rest.
24 THE COURT: All right. Ladies and gentlemen, you have
25 heard that the state has announced that they have rested, and

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1 that means that they have presented all of the testimony to you
2 that you will hear from the state at this time. I do have
3 matters of law that I now need to take up with the attorneys
4 that are involved, and this will take us about ten minutes.
5 So, I am going to take those up. I am going to ask you to go
6 to your jury room. I hate to bring you in and send you right
7 back out, but that is the way these things go.

8 Do not discuss the case among yourselves. It is still
9 premature for you to begin any discussions of this case among
10 yourselves. But I will send for you very shortly. But, if you
11 would, go to your jury room and just relax for just few
12 minutes. Thank you.

13 (Whereupon, the jury exits the courtroom at 9:39
14 a.m..)

15 THE COURT: Motions on behalf of the defendant, Mr.
16 Jones?

17 MR. JONES: Your Honor, we would just make a motion for
18 a Directed Verdict as to all charges. Due to a lack of --- I
19 know His Honor's position on --- but I believe that is what the
20 rule says. That there is a lack of competent evidence to prove
21 all the charges, specifically as to murder. I know there is
22 some question about malice that we talked about yesterday. But
23 we feel that the element of malice has not been proven.

24 THE COURT: All right, sir. Mr. Holt, I will be glad to
25 hear from you. Of course, with that regard under the Belcher

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1 case, I believe it is Belcher. I want to say the right name.
2 But, I think that under the facts of this case, as they have
3 unfolded as the testimony has gone forth, it does strongly
4 falls within that category of that case regarding no inference
5 of malice. But, I will be glad to hear from you with regard to
6 whether his motion for Directed Verdict.

7 MR. HOLT: Your Honor, I think --- and I am not also an
8 expert on the law. I am very familiar with Your Honor's policy
9 on competent evidence. And, I feel like malice can be brought
10 in through several reasons. Intent to kill, intent to inflict
11 serious bodily harm. It can also be brought in under extreme
12 reckless indifference to the value of human life. I think
13 firing a gun off in a crowded place can definitely constitute
14 malice, and I think the state has proven that beyond a
15 reasonable doubt. I think there is evidence in the record.
16 There is also the fact that the victim was shot in the back.

17 THE COURT: Okay. All right. Do you agree that under
18 the law as it stands now though that the inference of malice is
19 not raised by the fact that a deadly weapon was used?

20 MR. HOLT: I do agree that that is the current law,
21 Judge.

22 THE COURT: Okay.

23 MR. HOLT: And my argument is simply that it can
24 absolutely be implied from the evidence that I have supplied.

25 THE COURT: All right. And I agree with that. I will

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1 respectfully deny the Motion for a Directed Verdict.

2 Rule 19, under the South Carolina Rules of Criminal
3 Procedure to which Mr. Jones has alluded, does say that I may
4 direct a verdict if there is a failure of competent evidence
5 tending to prove the charges in the indictment. But, again I
6 disagree with the --- I think that the use of the word
7 competent in that rule is unfortunate in that it does imply
8 believable. That is not the test at all. The test is whether
9 or not there is evidence in the record, competent meaning
10 evidence that was admitted as opposed to believable evidence.
11 In fact the rule goes on to say the trial judge should only
12 consider the existence or nonexistence of the evidence and not
13 its weight. And I do think there is evidence in the record
14 including evidence of malice, when you see the definition of
15 word of malice is used in the statute is, well there is no
16 expressed malice, but there very well could be implied malice,
17 is when circumstances demonstrate a wonton or wreckless
18 disregard for human life, or a reasonably prudent man would
19 have known that according to common experience there was a
20 plain and strong likelihood that death would follow the
21 contemplated act. And I think there is circumstantial evidence
22 of that in the record which would require the jury to make that
23 determination as to whether malice existed, although I will not
24 charge the inference that arises from the use of a deadly
25 weapon in view of the defendant's position that this was a

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1 self-defense, and under the case out of Lexington county that
2 that mitigates or prevents --- eliminates the inference of
3 malice.

4 All right. Mr. Jones, I think we now need to talk about
5 his fifth amendment rights. Mr. Edwards, would you stand
6 again, please?

7 Mr. Edwards, yesterday before we broke, I advised you of
8 your rights under the fifth amendment to the constitution of
9 the United States, and the similar counterpart provision of the
10 constitution of the state of South Carolina that you had a
11 constitutional privileged against self-incrimination and that
12 you could never be required to testify against yourself. But
13 that you had the right to testify. Yesterday I indicated to
14 you that I would not require an answer from you yesterday, but
15 would give you an opportunity to consult with your lawyer.
16 Have you had a chance to talk with Mr. Jones about your fifth
17 amendment rights?

18 MR. EDWARDS: Yes, sir.

19 THE COURT: Have you understood your discussions with
20 Mr. Jones?

21 MR. EDWARDS: Yes, sir.

22 THE COURT: Do you have any questions that you want to
23 ask me or Mr. Jones about your fifth amendment rights?

24 MR. EDWARDS: No, sir.

25 THE COURT: Have you made a decision --- and you have

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1 understood both what he has explained to you and what I have
2 explained to you; is that right?

3 MR. EDWARDS: Yes, sir.

4 THE COURT: Have you made a decision as to whether you
5 do or do not wish to testify in this matter?

6 MR. EDWARDS: Yes, sir. I have.

7 THE COURT: And what is that decision?

8 MR. EDWARDS: That I do not wish to testify.

9 THE COURT: And is that decision by you made freely and
10 voluntarily?

11 MR. EDWARDS: Yes, sir.

12 THE COURT: All right. The court will find that the
13 defendant has made a free voluntary and intelligent, and
14 knowing decision after having been advised by the court and his
15 attorney of his constitutional rights. Has made a decision to
16 exercise that right to not testify in this case. And the court
17 will recognize and acknowledge that decision. Thank you, sir.

18 All right. Counsel, the verdict forms I have prepared.
19 And, of course, the primary case to charge even though it is
20 not the number one sequentially the earliest indictment number
21 on verdict --- I mean, on the murder charge, would be guilty of
22 murder, or guilty of voluntary manslaughter, or not guilty. I
23 would charge of course murder and voluntary manslaughter as
24 lesser included. Any objection to that on behalf of the state?

25 MR. HOLT: There is none at all, Your Honor.

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1 THE COURT: All right. On behalf of the defense, Mr.
2 Jones?

3 MR. JONES: No, sir.

4 THE COURT: All right. And on the other charges 643,
5 possession of a weapon during the commission of a violent
6 crime, guilty or not guilty. 645, possession of a pistol by a
7 person convicted of a crime guilty or not guilty. And
8 possession of carrying on the premises to sell alcohol,
9 carrying a firearm where they sell alcohol, guilty or not
10 guilty. I don't think there is anything complicated about any
11 of those. Is there problem with that Mr. Holt?

12 MR. HOLT: No, sir.

13 MR. JONES: No, sir.

14 THE COURT: All right. Now, from the standpoint of my
15 charges, I would charge the general felony charge presumption
16 of innocence, burden of proof, reasonable doubt, and
17 credibility. Then the substantive charges that I have just
18 outlined, I'm going to charge murder, voluntary manslaughter,
19 possession of a weapon, and then the code sections. On the
20 other two, the two weapon charges, possession other than on the
21 premises to sell alcohol, possession of a weapon by a person
22 convicted of a violent crime. I will charge the statute on
23 those. I will charge self-defense, and I will charge direct
24 and circumstantial evidence, expert witness, and, of course,
25 the defendant not testifying. Anything else you know of?

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1 MR. HOLT: Judge, if I could just briefly look at your
2 self-defense charge --

3 THE COURT: -- No, I am not going to do that. Every
4 time I do that you put it up there on the board, and I am not
5 going to let you argue my charge.

6 MR. HOLT: I am definitely not going to argue your
7 charge. I am going to argue the four factors. And I just want
8 to make sure that is how you are going to charge it. Because I
9 don't want to appear to be ignorant of the law. Not because I
10 want a copy. But while we are on that topic, I do have part of
11 the reasonable doubt charge in here. Will you be charging
12 Judge Baxley's charge?

13 THE COURT: That is what you always put up on the board,
14 and I am going to charge my reasonable doubt charge, and I am
15 not going to tell you exactly what it is going to say, because
16 I think it is the court's duty to charge the law, and not the
17 lawyers duty to get up there and say this is exactly what the
18 judge is going to charge you.

19 MR. HOLT: I'm certainly not going to say this is
20 exactly what the judge is going to charge you. I am going to
21 say, if he says something different, he's right.

22 THE COURT: Right.

23 MR. HOLT: I just don't want to appear foolish.

24 THE COURT: Well, you know what I charge as far as
25 reasonable doubt is concerned. And, that is what I'm going to

THE STATE VERSUS ANTHONY EDWARDS

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1 charge. I'm not going to tell you exactly the language is.
2 And what was the other thing that you were asking about?

3 MR. HOLT: I was going to ask if your self-defense
4 charge entail the four factors of self-defense?

5 THE COURT: Obviously, it does.

6 MR. HOLT: Thank you.

7 THE COURT: Okay. All right. Mr. Holt, you will argue
8 first. Mr. Jones will have the right to argue last. How much
9 time do you need?

10 MR. HOLT: Thirty-five, forty minutes, judge.

11 THE COURT: Mr. Jones?

12 MR. JONES: That sounds fair.

13 THE COURT: All right. Are y'all ready, or do you want
14 to take five minutes to get your exhibits and things organized
15 up here that you are going to use?

16 MR. HOLT: Yes, sir, Your Honor. I will need to get the
17 exhibits organized.

18 THE COURT: All right. Let's take ten minutes and start
19 --- be ready to start arguments at ten o'clock.

20 (Whereupon, a recess was taken from 9:52 a.m.
21 until 10:02 a.m..)

22 THE COURT: All right. We are back on the record in
23 regard to the matter of The State versus Edwards. Mr. Edwards
24 is present in the courtroom with his counsel. The state is
25 present and represented by the Solicitor's Office. We have now

THE STATE VERSUS ANTHONY EDWARDS

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1 concluded all of the testimony in this case. Counsel, what I
2 will do, Mr. Jones, I will call on you when the jury comes in,
3 and you can announce that the defense has rested. And then I
4 will say a few preliminary remarks, and then call on you, Mr.
5 Holt, for your closing argument.

6 All right. Bring the jury in, please.

7 (Whereupon, the jury enters the courtroom at
8 10:03 a.m..)

9 THE COURT: All right. Thank you, ladies and gentlemen.
10 And thank you for your patience. We have completed the legal
11 matters that we needed to finish, and we are now ready to go
12 forward. Mr. Jones, the defense would have the right to
13 present any testimony or evidence you wish to present at this
14 time.

15 MR. JONES: Your Honor, the defense would rest.

16 THE COURT: All right. Thank you, sir. You have heard
17 the defense announce that they have rested. That means that
18 you have heard all of the testimony and evidence that you will
19 hear in this case, and there are only two things that remain to
20 be done. Those are the closing arguments of counsel, and the
21 instructions on the law by the court. I will tell you now as I
22 did at the first of this case, that the closing arguments are
23 summations of counsel are not evidence in this case. They are
24 simply the lawyers' views of what they think the evidence
25 shows. You will decide this case based upon the evidence that

CLOSING ARGUMENTS BY MR. HOLT

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1 you have heard from this witness stand, and from any exhibits
2 that have been introduced into evidence. But the lawyers do
3 have the right, and not only the right, but the duty on behalf
4 of their clients to address you now, and to give you their
5 views of what they think the evidence shows. After they have
6 concluded their summations to you, I will then give you the
7 instructions on the law in this case, and you will be allowed
8 to go to your jury room to deliberate your verdict. You will
9 hear first from Mr. Holt on behalf of the state, and then from
10 Mr. Jones on behalf of the defendant. Mr. Holt.

11 MR. HOLT: Thank you very much, Your Honor. If it
12 please, the court.

13 THE COURT: Yes, sir.

CLOSING ARGUMENTS BY MR. HOLT

14
15 MR. HOLT: Ladies and gentlemen, in the early afternoon
16 hours of September 26, Anthony Edwards was in his house. By
17 his own admission he started drinking. He had a few drinks.
18 He interacted with a lady friend. And then he got ready to go
19 to the Gold Rush Lounge. But the one thing that he did that he
20 didn't talk about in his confession was the thing that brought
21 us all here today. Because sometime in between leaving his
22 home and getting to the Gold Rush, he concealed on his person
23 that 9 millimeter handgun that you are going to take back there
24 with you. And that is the single act that brought us here
25 today.

CLOSING ARGUMENTS BY MR. HOLT

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1 The other part of this story that I talked about in my
2 opening, we all know how the night ends. The night ends with
3 Roosevelt Patterson, leaving out from in front of the Gold
4 Rush, shot in the back as he tried to flee the scene. But one
5 of the many things that we know beyond a reasonable doubt is
6 that he was shot in the back, and that Anthony Edwards did it.
7 And if you have been paying attention you realize that what we
8 are really fighting about here today are not the facts.

9 One of the things that I think are important is that when
10 Andy Locklair was doing that confession, he said something
11 along the lines of, well, Mr. Edwards the evidence has the
12 inability to lie. And knowing Andy like I do, I asked him ---
13 I knew he was being sarcastic. I asked him what he meant. And
14 he said, you are going to take part of what you know, and you
15 are going to take part of what the guy confesses to, and
16 somewhere in the middle is where you are going to find the
17 truth. Well, ladies and gentlemen, I told you we were going to
18 use our common sense throughout the course of this trial.
19 There are two other things that I left off. We are going to
20 start in that middle. Things that we proved beyond a
21 reasonable doubt. We are going to combine them with our God
22 given common sense, and then we are going to talk about the law
23 a little bit. And when you go back there to deliberate, once
24 you take all three of these things into account, there will be
25 no question as to the guilt or innocence of Anthony Edwards.

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1 So, what do we know beyond a reasonable doubt? Well, most
2 of the testimony that we have heard, and you have heard, and
3 talked about up there has been about murder. But there were
4 three other crimes there that night. Possession of a weapon on
5 premises that sell alcohol, that is illegal. Think about why?
6 Think about what you have heard the proof of that. You are
7 going to have the pictures that show the Gold Rush Lounge, as a
8 lounge. You are going to have his own confession that he had
9 the gun on him. What is the second thing that we know?
10 Possession of a weapon during the crime of violence. A crime
11 of violence was committed, but you and I will talk about that
12 in a little bit. But, unlawful possession of a weapon by an
13 individual convicted of a violent crime. In South Carolina it
14 is unlawful for certain individuals to own handguns. And once
15 you have been convicted of a crime of violence, you are no
16 longer allowed to own a handgun. Do you remember when Ms.
17 Janna Carter got up here, and she said he plead guilty a number
18 of years ago. You will have the sentencing sheet. I don't
19 know the details. To assault and battery with intent to kill.
20 Okay? People who have been convicted of that do not get to own
21 handguns. They certainly do not get to carry them in
22 nightclubs where you and other people are drinking. And what I
23 want to stress to y'all is that these are significant parts of
24 my case. These are things that we didn't talk about, but
25 should be evident. And they factor into the reason that this

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1 was legally a murder. Let's talk about the witnesses. All
2 right? A large number of witnesses, and we powered through
3 them in a day. Something that we don't normally do. But you
4 had three groups of witnesses. You had fact witnesses. You
5 had law enforcement witnesses. And you had expert testimony.
6 And those fact witnesses can really be broken down into two
7 parts. You have got your first group of people right here.
8 Perry Wilds, Harold McPhail, Nelson Jackson, Julius Lucky,
9 James Lucky, these people were with Roosevelt Patterson the
10 night that he died. I want you to think about that. Then I
11 want you to think about what I will call the disinterested
12 witnesses. They were also at the Gold Rush Lounge. They
13 didn't have a dog in this fight. They don't care what. They
14 just testified to what they saw. Now, I want you to remember
15 that these two were dead sober. They testified to that. Then
16 you have your law enforcement witnesses. I'm not going to
17 spend a lot of time talking to y'all about law enforcement, and
18 about the expert witnesses, because I think pretty much all of
19 that is taken, and really not argued about. They found the gun
20 there. That gun tested to the bullet that was found in the
21 body. Mr. Edwards admitted himself in his confession, that he
22 shot the young man. There is no doubt through the chain of
23 evidence that we have put up, all the officers who have had the
24 gun since it was found that day are on a piece of paper. Well
25 it is several and you would have to put it all together, but

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1 you heard the testimony. That is not really in doubt. Expert
2 witnesses, Dan Defeese, the gentleman from SLED. Probably the
3 classiest witness I have ever had. And what he talked about
4 was how he tested the bullet that came from Dr. Janice Ross,
5 who did the autopsy. Pulled the bullet out of the bag. You
6 are going to have the pictures where he was shot in the back.
7 You had Janice Ross testified that he was doing like this. You
8 have got your common sense to tell you when somebody is doing
9 like this, what are they getting ready to do? And you shoot at
10 them from right here. You shoot them in the back, they ain't
11 coming at you to fight you. All right? But it is common
12 sense, and we can talk about that later. What I want to talk
13 about right now is the murder.

14 Mr. Jones won't lose his place as much as I will, but I
15 will tend to lose my place. All right. I want to talk about
16 the specific facts that night. Our fact witnesses, and how it
17 ties into murder. You can concern yourself with the
18 intricacies of everybody's testimony. You can concern yourself
19 with what happened when, with who, what, and where. But what I
20 am here to tell you is, don't. Concern yourself with what we
21 know absolutely in middle. We know that people with a history
22 of violence should not have a handgun. We know that guns and
23 liquor don't mix. And you know why? Because when you pull a
24 gun on somebody that is drunk, they don't behave like a normal
25 person. They get mad. And when you pull that weapon, and you

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1 have been drinking, then it is that much easier to pop it off
2 and shoot it. It is that much easier to pull your gun to begin
3 with. That stupid pointless decision to pull it in that chaos
4 ridden kitchen that night was the impetus for why we are here
5 tonight. Now, I am going to show you what else you are going
6 to have in here, and I am sure Mr. Jones is going to use this
7 in his closing. But basically what we know is, that a fight
8 broke out on the dance floor, here. The victim, Roosevelt
9 Patterson, was somehow involved in the fight. Okay? I don't
10 care. It doesn't matter. The fight comes to the kitchen. And
11 at some point in that kitchen, Anthony Edwards pulls out his
12 gun. You heard testimony from several people including Patrick
13 Smith, who is one of those disinterested witnesses. But, also
14 from Perry Wilds, that they were in the process of calming
15 Roosevelt Patterson down. But Anthony Edwards, who had been
16 drinking all night, and who decided to bring a handgun with
17 him, basically threw fire on the situation. He came in, I'm
18 the big bad bouncer. I'm going to calm everything down. Y'all
19 sit down. Okay? Now, there was some discrepancy over where
20 it was pointed. But, I can assure you, at one time it was
21 pointed at Roosevelt Patterson, because it hit him. And I am
22 inclined to believe that it was pointed at him all in the
23 kitchen. Perry Wilds testified tearfully that it was pointed
24 at his head. But, when Mr. Jones got up here he made it sound
25 like there was a pile of people in the kitchen, and they were

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1 all backing Anthony Edwards in the corner.

2 Here is another common sense thing that I want you to
3 learn. And this applies to two things. Anthony Edwards is
4 easily the largest man in this courtroom today, if not in this
5 courthouse. Do you think he was forced in by those tiny
6 bouncers? Not tiny guys, but bigger than me. Do you think
7 that he was forced in by a crowd of women, and scared people
8 into that kitchen? Or do you think he plowed his way into that
9 kitchen. Angry about whatever, because people were fighting in
10 his club. I don't know. And that is one of the things that
11 you can debate about, and one of the facts that Mr. Jones is
12 going to bring up when he tries to jumble all of the facts up.
13 And it is not important. What is important is that he did do
14 it. That we know he pulled that weapon out. That we know that
15 beyond a reasonable doubt. Each and every single person except
16 Julius Lucky, who was outside, said he saw him with that gun in
17 the kitchen. Even Julius' brother James, who was walking by to
18 get his hat saw Anthony Edwards in there with the gun. Even
19 the three bouncers. Do you realize that the people who were
20 sober, the disinterested witnesses, I want you to think about
21 what they did when that gun came out? What a reasonably
22 prudent person would have done. Okay? Because, what did they
23 say? I don't get paid to handle no guns. They left. They got
24 up and walked away. And at that time when he had the gun out,
25 Anthony Edwards could have got up and walked away. He could

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1 have got up and walked to the back of the bar, and just sat
2 until all of this was over and done with. Or do you know what
3 else he could have done? He could have not pulled the weapon
4 out to begin with. He could have not thrown himself into that
5 fight.

6 We are talking about Roosevelt. He is getting calmed
7 down. He is in the kitchen. What happens when they pull the
8 gun on him? Do you know what happens when you pull a gun on a
9 man whose got a .22 percent blood alcohol level? Not to say
10 that is outrageous, or that is crazy, but the man is a grown
11 man of legal drinking age in a bar. And he is going to get
12 married the next day. He is not going to be sober. He didn't
13 go out with his friends to play Chess. He didn't go out with
14 his friends to study for class. He went out for his bachelor's
15 party. And I don't think he should have to apologize for that.
16 I think it is America. If you want to go out and get rip
17 snorting drunk the night before you get married, that is almost
18 a tradition. But, anyway, he tries to take the gun. And what
19 I want you to remember about that is, if the gun had not been
20 pulled out, he would not have tried to take it. If the gun had
21 not been pulled out, the situation would have died. Don't
22 concern yourself with the dance club --- with the dance party
23 fight. Don't concern yourself with the facts that happened
24 outside of the bar. The imputes to the nexus between these two
25 individuals started in that kitchen when Anthony Edwards pulled

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1 out the gun. And that is going to be the most important thing
2 in this trial. Because, even if you believe each other was
3 partly to blame, it doesn't matter. As long as you assign some
4 fault to Anthony Edwards for pulling that gun out in the
5 bathroom. And that is something that we know beyond a
6 reasonable doubt. And the common sense and the law is what you
7 are going to run through it. And I will explain to everybody
8 that in a minute. But that is the reason we are here today on
9 murder charges.

10 So what happens next? Well, there is some dispute. Two
11 or three times he came in, and nobody knows. It was crazy.
12 Does it matter? He left through this back bar and went
13 outside. Maybe he trashed the bar on the way to. Maybe a
14 couple of times came back in. Instead of concerning yourself
15 with the second or the third time he came in, concern yourself
16 with what was the final time that he came in. But in between
17 him going out to the club and Perry Wilds seeing him outside,
18 what happened? Perry Wilds was in the kitchen with Anthony
19 Edwards. Everybody agrees to that. So, how is Roosevelt
20 Patterson going to express threats to a man separated by three
21 walls? How is Anthony Edwards going to feel threatened by this
22 man whose is nowhere near him, and Anthony Edwards had a gun?
23 And at most all you can believe is Roosevelt Patterson had a
24 butter knife. Two or three people said they saw it. Two or
25 three people said they don't remember. Two or three people

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1 said it is not true. What I am telling you is, it don't
2 matter. That is what I want you to know. Okay? Do not get
3 bogged down in the facts that do not matter. Perry Wilds
4 leaves the club. Outside in the parking lot he finds Roosevelt
5 Patterson. What is going on? Well, we've got him and Nelson
6 Jackson. They are talking about they are trying to calm the
7 man down. What is he mad about? Is he mad about the fight on
8 the dance floor? Is he mad about the price he paid to get into
9 the bar that night? No. He is mad about the gun that was
10 pulled on him. The impetus for his anger. Which is partially
11 ascribed to Anthony Edwards having and pulling the gun out.
12 That is what he is mad about. Needless to say, they calm him
13 down, and a shot goes off. A shot in the parking lot. And
14 everybody testified to some extent that there is some shooting
15 going on. I don't care. When a fight happens in a club,
16 everybody piles out of the club. You are talking to two or
17 three people. Okay? But then you realize that you rode with
18 three other people. So, you are milling around the parking
19 lot wondering where your ride is. Where your friends are? Who
20 are the people you got here with, and are they safe?
21 Roosevelt, .22 percent alcohol level, which he is entitled to
22 at a bar, runs back in to get his friend. Now, there is some
23 discrepancy in this testimony. Because, Clay Tedder says, he
24 is sober as a judge, that when he opened up that door, even
25 after there was a bang, and Mr. Jones was banging like this,

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1 and I tried to make sure that y'all remembered it, by copying
2 it. Banging like this. Bang, bang, bang. All three things
3 happened like that. Clay Tedder says the bang went off, the
4 door opened, Anthony Edwards brushed Clay Tedder aside.
5 Roosevelt Patterson had enough time to go, oh, shit, he's got a
6 gun and turned. Okay? If this bang, bang, bang, and you are
7 scared for your life, and you've got the gun pointed, and you
8 just shoot. Somebody doesn't have enough time to go, oh, shit,
9 he's got a gun. Another person to witness it. And then for
10 you to brush Clay Tedder off to the side. Okay? Pushing him
11 out of the way to shoot the fellow. Okay? In the back. That
12 is not self-defense as the law defines it. But we will get to
13 that in a minute. But what I want you to know, beyond a
14 reasonable doubt is, the facts can line up however you want to
15 see them. Okay? But they all revolve around that one impetus
16 of him pulling that weapon out.

17 Let's think about what the sober people did all night.
18 Sober people are reasonable prudent people. They use what I
19 like to call common sense, Patrick Smith, Clay Tedder,
20 Cleveland Keith. Anthony Edwards pulled that gun out. Okay?
21 Maybe he was drunk. Maybe he was just mean. But when he
22 pulled that gun out, and those three people got up and left.
23 Now think about this. There was another gun there that night.
24 Patrick Smith, remember he had the picture, and he testified to
25 having his own gun there. If somebody needed a gun, don't you

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1 think that a sober person would have went and got his gun?
2 Don't you think that is what would have happened? If it had
3 been reasonably prudent --- okay. Which is what I want you to
4 remember, reasonably prudent to have a gun, one was available
5 to the owner. All right. But do you know what the sober
6 people did? They got up and left. But do you know what this
7 man did? He pulled out a gun, when nobody was trying to fight
8 him to begin with, because he is the big bad bouncer of the
9 club. And it is going to be his way in there.

10 Now, let's talk about the crime, okay, murder. The other
11 three crimes, I am not really concerned with. They are self-
12 evident. It was a bar, he had a gun. Guns and alcohol don't
13 mix. That is why the legislature defines it that way. And, by
14 the way, I'm a hundred percent believer in self-defense. Okay.
15 If somebody comes at you in your house, you shoot them quick,
16 and I throw that paperwork away. If somebody comes at you on
17 the street three or four times, and you shoot them in the
18 front, then I'm going to say, well, you know, it's self-
19 defense. But you can't come in here and shoot somebody in the
20 back after you have pulled out a weapon to start the entire
21 thing and claim self-defense. We know that beyond a reasonable
22 doubt.

23 Murder, the killing of a human being with malice
24 aforethought. Malice aforethought took three weeks in my law
25 school to learn. I am going to try to explain it to you, but

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1 here are the things that you need. Killing. We've got that
2 right on. You have pictures of the bullet. You've got ---
3 every witness agrees that the young man is dead. Every witness
4 agrees that Anthony Edwards shot him. You ain't here to argue
5 about that. All right. We are here to argue about the law.
6 And here it is, malice aforethought. Malice aforethought can
7 be any one of these four things. Intent to kill. Maybe he had
8 it. He intended to shoot. Okay. Intent to inflict bodily
9 injury. Also equally likely, this guy is pestering me, I'll
10 shoot him. But look at this third one. Extreme reckless
11 indifference to the value of human life. When you fire a gun
12 in a crowded area. And when the defense was making such a big
13 deal about the crowd outside, I didn't fight that at all. It
14 was my witnesses that put that in. I stayed quiet. I wanted
15 you to hear it. Because, think about it. Nobody really
16 testified that Anthony Edwards saw anybody when Roosevelt was
17 running in for the final time. Maybe it happened, and maybe it
18 didn't. Don't concern yourself with it. What you can be
19 concerned with, beyond a reasonable doubt, is that he fired a
20 bullet into a crowd of people. What do you think is going to
21 happen? Extreme reckless indifference. It can't be no more
22 simpler. That is malice. Malice, as common people use it, is
23 meanness, anger, out to get that person. Malice as in malice
24 aforethought is extreme reckless indifference to the value of
25 human life. And it is simple. Okay. And it is murder y'all.

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1 You have what we know for certain. You've got your common
2 sense. And you have the basic law. And there it is. Now,
3 before I say anything else about it I want y'all to know that
4 after I talk, Mr. Jones gets to talk. The judge is going to
5 talk for a long time, and he is going to give you the law. If
6 what I say is any different, side with what he says. But I am
7 telling you, this is what I understand it to be. He might use
8 some different words, but this is it. Extreme reckless
9 indifference. And I don't know if you caught this, let's go
10 back real quick, Aforethought. That is similar to, there is
11 no particular length of time necessary for aforethought to
12 exist. That is case law. If he pulls a gun up and shoots it
13 in that amount time, he can develop the aforethought. He
14 intended to shoot that bullet. He didn't do it by accident.
15 And in his confession, his very qualified confession, that is
16 why Andy was being sarcastic at the end. Because the evidence
17 doesn't match up with what he was saying. That is why Andy was
18 being sarcastic. He said he blanked out. And I want you to
19 remember Anthony Edwards' confession before I get away from
20 this. Leading up to it, all he talks about is everybody
21 instigating him. Did he ever once bring out the fact that he
22 had the bullet --- the gun out for fifteen minutes before he
23 shot the fellow? He didn't. He said they were in the kitchen
24 after me. He leaves out the part about the gun. And then what
25 else did he admit to? Well, after he killed the young man, he

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1 washed his hands to get rid of the GSR. And I want y'all to
2 watch the confession one more time to see if you think he is
3 being truthful. He is crying about his children, but the
4 entire Friday he is with another woman, interacting, and
5 drinking, and then he is at the club at two o'clock in the
6 morning shooting people. I don't think he really had his sons
7 on his mind the entire time. But if you take that on face
8 value, it is one of those things that we can't know about. It
9 is like Mr. Jones has some things that he is going to try to
10 say. But I'm saying we don't know, and I am not arguing
11 against it. But then he said that he threw the gun in the
12 toilet. The gun wasn't found in the toilet, and the gun has
13 been proven that it was his. At the end of the confession, he
14 even names the gun. It is a Howard 9 millimeter. It is
15 Egyptian made. It is not a common gun. He names it. Okay.
16 That was my gun. There were only two guns there. The SLED
17 officer testified that he tested them both. And that the gun
18 that Anthony Edwards owned, was the gun that killed the fellow.
19 So, don't get confused about any science stuff. That is
20 simple. Voluntary manslaughter. The killing of a person in
21 sudden heat of passion with legal provocation, without malice
22 aforethought. There are four elements. Killing of a person
23 we've got hands down. And sudden heat of passion, let me
24 explain that. Renders the mind of an ordinary person incapable
25 of cool reflection. And an uncontrollable impulse to do

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1 violence. When I say, do violence, I don't mean beat a woman,
2 y'all. I don't mean, beat a man up. Shooting a pistol is a
3 violent act. If you find that they had heat of passion, which
4 you can find here, okay. He is an ordinary person capable of
5 cool reflection. Maybe so. Maybe that is what it is. But it
6 is here. Legal provocation, and the law defines this, and
7 there is case law on it, and I looked it up last night. For
8 the provocation by the victim must be which would naturally and
9 intricately produces in the mind of a reasonable person the
10 highest degree of exasperation. Examples include, rage,
11 anger, terror, fear, or fighting. Okay? Maybe Mr. Edwards was
12 filled with terror, maybe rage or anger. I can't prove it. It
13 is one of those things that is out there for you to decide. But
14 what I do know is that I have two of them easy. And it can be
15 either one. It doesn't have to be all. I'm just saying it has
16 to be one. Here is the meat of this case. Here is what I have
17 been building up to. To get self-defense you have got to have
18 four elements. You have got to have all four, and they have
19 got to tie up. And when you went home last night, you might
20 have been thinking maybe it was self-defense, maybe this, maybe
21 it was self-defense as you understand it. But when you swore
22 that oath, you are going to do what this law understands it.
23 And the law says we need all four. The defendant without fault
24 in bringing on the difficulty. Don't think about that dance
25 floor. That is not what got us here. Mr. Roosevelt didn't

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1 get killed by one of those people. He got into an argument
2 with Anthony Edwards because Anthony Edwards pulled a gun out
3 on him. At any time a reasonably prudent person would have
4 walked away, just like the three sober people did. But
5 surprise, surprise, the drunk man in the club with a gun keeps
6 pushing it. So, what do you got? If you find that he was
7 anything at fault for brining that gun in, pulling that gun
8 out, which is common sense that he was, he ain't got self-
9 defense y'all. You ain't got it. The defendant in actual
10 emanate danger of losing his life, or sustaining serious bodily
11 injury, or believed he was. Okay. Here is the crux. Even if
12 you believe the worst thing about Roosevelt, that he had a
13 butter knife. Some people say he did and some people say he
14 didn't. Nobody knows. All right. I don't care, because that
15 is the worse that it can be. And I'll make my argument about
16 what could be the worst. Even if you believe that he had a
17 butter knife, maybe you get number two. All right. But check
18 out number three. If based on belief of emanate danger, the
19 defendant must show a reasonably prudent person would have done
20 the same thing. Shot somebody in the back? Would a reasonably
21 prudent person have done that to defend himself against a
22 butter knife, who by his own admission, Clay Tedder was in
23 front of him. He had to get Clay Tedder out of the way to
24 shoot him. But in the kitchen, Clay Tedder was enough to keep
25 them apart. So I don't understand it. You are scared he is

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1 coming at you with a butter knife, at the worst. Perry Wilds
2 fought him on the way in. Harold Nelson admitted to it,
3 because he saw it, and they both tried to stop it. They said
4 they fought him to get in. They tried to keep Roosevelt from
5 running in that last time. So, even if you believe the worse
6 that he did have something, you don't have this, because a
7 reasonably prudent person would not have shot another person
8 from a considerable distance. Especially the biggest man in
9 the room, y'all. What is the fourth one? The defendant had no
10 other probable means of avoiding danger, and it is almost
11 laughable. Here is the door where he shot the man. He was
12 somewhere in here when he shot him. Here is the D.J. booth.
13 The club is empty. How about everybody is outside and there is
14 trouble, go this way. What did Patrick Smith say he had? He
15 said he had his own gun. But what did he say he did when he
16 was scared of the trouble out here. He said he went running to
17 hide behind the bar. Hey, Anthony, why not run and hide behind
18 the bar? Why not walk and hide behind the bar? There wasn't
19 no bullets fired in the club. Why not just get out of the way?
20 Why not just walk away from the beginning? That is all that
21 had to happen here y'all. But when you take what we know for
22 certain, and you take your common sense, and you take the law
23 as I have outlined it to you. There is no way you are going to
24 get self-defense. It just is not possible. You have got to
25 consider this. And what I want you to do --- what I want you

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1 to think about is this. If Mr. Patterson had been trying to
2 get in the defendant's home, we would not be here. If Mr.
3 Patterson had attacked the defendant without provocation on the
4 street, we would not be here. Quite possibly, if Mr. Patterson
5 had been shot in the front, with these set of facts, with a
6 knife in his hand, we would not be here. Okay? And Anthony
7 Edwards hadn't pulled the gun out and started the whole mess.
8 Okay?

9 But, the right of self-defense, the right to bear arms, a
10 person should be able in America to carry a gun. Okay? Not
11 somebody who has been drinking. Not somebody who is convicted
12 of a crime of violence. Because, as a society, we have to set
13 limits. We have to set limits on the law. They construct
14 these laws for a reason. Because in the back, shooting at
15 nightclubs are going to be chaos, and they are going to be a
16 jungle of facts. And you are never going to be able to get up
17 here three years later and say what happened, exactly. And
18 what I want you to be certain of is that I don't have to. I
19 just have to say, if you believe anywhere at all that Anthony
20 Edwards was somewhat at fault for pulling that gun out, he
21 doesn't have self-defense in this case, because we are here
22 about murder and voluntary manslaughter. And regardless of
23 what you thought before you took your oath, it doesn't matter,
24 because you took that oath.

25 Now, Mr. Jones is going to come up here, and he is going

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1 to be a lot more confident that I am. He is going to talk
2 about the facts a lot. And what Mr. Jones has is age and
3 experience. He is going to talk to y'all like a Sunday School
4 teacher would. He is going to be the nicest guy in the room,
5 because he is the nicest. Anthony is the biggest guy in the
6 room, Rick Jones is the nicest guy in the room. Hands down.
7 Okay? He is the lawyer I want to be when I am older. All
8 right. But what he is not going to have on his side in this
9 case is the law. You can think whatever you want to think
10 about the facts. Okay? This side, this side, I'm telling you
11 it doesn't matter. What matters is here. The middle. What we
12 know absolutely. We know absolutely he pulled a gun out in
13 that club when there was no need to. We know absolutely that
14 Roosevelt Patterson was drunk. I am telling you that backs up
15 my side of the story. That is why the law says you don't take
16 a gun to a nightclub. That is why the law says you don't
17 carry a weapon on you when you have a propensity and a
18 conviction for committing violent acts. Do you know why?
19 Because a gun makes it that much easier to do violence. You
20 can do violence from a distance, which was done here today.
21 All right. Where was the testimony that Roosevelt ever got up
22 in his face and threatened him? Where was the testimony that
23 Roosevelt was viciously after him? You heard Roosevelt was
24 drunk, and Roosevelt was angry, but let me ask you why?
25 Because if you poke a bear, he is going to get up and start

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1 fighting. And if you pull a gun on a drunk man, he ain't going
2 to walk away.

3 Rick is going to get up here and he is going to talk to
4 you about reasonable doubt. And this is what I want to tell
5 you reasonable doubt is. And we have surpassed it in every
6 element that matters. Reasonable doubt is not an imaginary or
7 fanciful doubt, or a weak doubt. It is a doubt with which the
8 words can imply. A doubt for which you can give or assign a
9 reason based on the testimony and evidence you have heard. Not
10 what you feel. The testimony and evidence that you heard. A
11 reasonable doubt is not any sort of doubt. We can have any
12 sort of doubt about anything. We aren't going to know a
13 hundred percent of whatever happened there. Everything. Do
14 you remember a hundred percent of what you have done today?
15 You can't. I don't have to overcome across any sort of doubt.
16 I have to overcome a reasonable doubt.

17 Ladies and gentlemen, the biggest thing that I want to
18 leave you with is that there won't be any winners in this
19 trial. September 27, around two o'clock, Anthony Edwards shot
20 Roosevelt Patterson in the back dead. And Rick can come up
21 here and he can talk about put yourself in the defendant's
22 shoes. And that is called empathy. And I can point out
23 Cecilia Williams, who was supposed to be married to him today.
24 And I can point out Roosevelt's mamma. But that is called
25 sympathy. And I am here to tell you that the law says you

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1 don't take your emotions into that room. There is no place for
2 emotion in this. You swore an oath to America for two things.
3 Listen, judge the facts and apply the law. And you might not
4 have known it when you walked in here today, but the law and
5 the facts say homicide. And that is the only option you've
6 got. I don't want you to be evil robots. But there is a
7 certain amount of cool, calm reflection that you must have that
8 could not be present in a bar room at two o'clock in the
9 morning.

10 Thank you very much, ladies and gentlemen.

11 THE COURT: Mr. Jones.

12 MR. JONES: Thank you, sir.

CLOSING ARGUMENTS BY MR. JONES

14 MR. JONES: Ladies and gentlemen, I told you yesterday
15 that we weren't going to have much trouble with the facts. It
16 wasn't quite right. I still have some trouble with the facts,
17 because they came out a little different than I thought they
18 would. What I told you though was that we were going to have
19 trouble with the interpretation of those facts. And that is
20 exactly what we have here. And I am not going to tell you what
21 to believe, what not to believe. I am going to tell you as
22 everyone who ever comes up and talks to a jury who is in charge
23 of determining what the facts are. And you heard it. You saw
24 it. You take it back there and you figure out what happened.

25 What I want to do for the next few minutes, I want to tell

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1 you a story of September 27, 2008. And if at any time during
2 the time period from about midnight until about two o'clock,
3 this situation could have been resolved, and none of us would
4 be here this afternoon. Particularly, Mr. Anthony Edwards, and
5 I don't know if you can see back there behind the television,
6 sitting with Mr. Jordan.

7 September 26, I guess it got started, Friday afternoon.
8 You heard Mr. Edwards, who said he was doing some things, got
9 ready, went to the club. What club? Gold Rush. Why did he
10 go? Always go on Friday night, that is kind of my thing. That
11 is what I did. Patrick Smith was his friend. He went to the
12 club every Friday night to support the club. A lot of people
13 do that. There is nothing wrong. I don't do that, I am way
14 too --- I'll agree with Mr. Holt on thing. I am way older than
15 he. All right. I don't go to the clubs every Friday and
16 Saturday night. A lot of people do. Okay. It suits me.

17 This night, Anthony Edwards went --- he went every Friday
18 night. He got out there. Nobody was there. He kind of hung
19 out. He talked to the folks that he knew, most of whom you
20 talked to or you heard from as they were addressing you as
21 witnesses. Patrick Smith, who for all practical purposes that
22 evening, he was in charge. I don't know if he was the owner or
23 not. But that night he was. He was in charge. His two people
24 that were working for him, Mr. Tedder and Mr. Keith, they were
25 there. One earlier and one a little bit later. Everything

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1 rocked along pretty well until -- and I will call them the
2 wedding party. Because, that is who showed up. The bachelor
3 party crowd showed up. And, as Mr. Edwards said it went to not
4 many people, to all of a sudden there was a huge crowd. And
5 everything was going on. Well, I heard everybody say around
6 midnight that is when they decided to go. If they had stayed
7 home that night --- but again, they have a perfect right to go
8 do where ever they want to. It was interesting when Mr. Wilds
9 was talking about who was driving that night. He said, well, I
10 was. I felt pretty good. I was driving. Well, we know why
11 Mr. Patterson wasn't driving. And I think Mr. Holt just told
12 you why Mr. Patterson wasn't driving. He was in the process of
13 getting rip-roaring drunk, because he was getting married the
14 next day. And again, that is fine too. But if that had not
15 happened, we would not be here today either.

16 Anyway, we are back at the club, well after midnight
17 sometime. There are all kinds of rooms in the club. There is
18 a bar area up front. There is a game room on the other side.
19 And then there is the dance floor in the back. I call them
20 first fight, second fight, third fight, whatever it was, let's
21 start with the dance floor fight.

22 I think that I heard most everyone say, including Mr.
23 Edwards in his statement, that Mr. Patterson was back there.
24 There was another large group of people back there. And I
25 think I heard Mr. Edwards say he was actually back there when

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1 all of that started. Didn't know why it started, but it
2 started. But the dance floor fight began. Before anybody knew
3 it, Mr. Patterson was on the ground getting beat up by two or
4 three guys. Why? Nobody knew. Not really important. You
5 have a guy who is getting rip-roaring drunk, and now he is
6 getting beat up on the floor. What happens? Well, according
7 to Mr. Wilds, Mr. Wilds went over there and rescued him. But
8 according to, as Mr. Holt calls him, one of the stone-cold
9 sober people, Mr. Patrick Smith. Mr. Patrick Smith went over
10 as the owner should, and got the situation semi under control.
11 And gets Mr. Patterson back in the --- it is called storage ---
12 goes through these double doors from the dance floor, through
13 these double doors, and eventually ends up in the kitchen. And
14 he's got him under control. Or as he said, about under control
15 when the rest of the wedding party, or the bachelor party, or
16 whatever it is comes running in. Were the guys fighting on the
17 floor with Mr. Patterson then? Nobody testified to my
18 recollection that those guys were anywhere around. I assume
19 that they had taken off. They got out of the club. They were
20 done. But here comes the rest of the bachelor party gang, and
21 there are in, and all of a sudden it is all stirred up again.
22 We've got the dance floor altercation. Now we have the kitchen
23 altercation. And who is right in the middle of it? Well, Mr.
24 Patterson, who for a minute seemed to be under control, until
25 the rest of the gang comes in. And what are they doing? Well,

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1 I don't know. They are grabbing knives for some reason. And
2 they are steak knives, butter knives, I don't know what kind of
3 knives they are. They are knives. Like Mr. Keith, I asked
4 him, I said, what kind of knives were they? He said, I don't
5 know. They were knives. And that is all he remembered. So
6 now you get the gang in here arming themselves. And you've got
7 Mr. Smith, who said for a minute he had things under control.
8 He had Mr. Patterson kind of calmed down. Well then here comes
9 Anthony, who said, he kind of got pushed in, in the melee, he
10 ends up in the kitchen. And what does he see? Remember what
11 Patrick said that he saw, and why he thinks that Anthony did
12 what he did. He sees his friend Patrick in the middle of an
13 angry crowd of drunk folks, of whom --- several of whom are
14 holding knives. Mr. Holt calls him the semi bouncer. Well,
15 maybe that is what he thought he might ought to be. So, what
16 does he do? Well, maybe not wisely, but he pulls a gun out.
17 And does this, this, this, and Mr. Wilds says he pointed it at
18 him. Well, that is not Mr. Patterson, that is Mr. Wilds.
19 Everybody else says well, I think it was up here in the air.
20 It was up here. It was down here. He pulls it out to get
21 control of the situation to help his friend Patrick, who is
22 surrounded by these guys with knives. Was it a wise thing to
23 do? Probably not. Did he do it in good faith? Your decision.
24 But that is one explanation of what happened during the second
25 altercation, the kitchen altercation. Mr. Keith, Mr. Tedder

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1 both said, hey, gun, I'm not paid to be around a gun, so they
2 are removing themselves. But at some point in time, here comes
3 Mr. Patterson, who I think I heard one witness say, he thought
4 he was kind of moving out through the kitchen into the bar.
5 Well, here he comes back to tackle Mr. Edwards. If there was a
6 time to get shot, that would have been the time to get shot.
7 If I have a room full of people, several of whom have got
8 knives. I'm trying to rescue my friend, Mr. Patrick Smith, who
9 is in the middle of all of this. And here comes some guy
10 charging me. Well, it didn't happen. It just didn't happen.
11 Semi-control got restored. Was Mr. Edwards asked to leave?
12 No, no. Mr. Edwards isn't asked to leave. Who is asked to
13 leave? The guy who is causing the trouble is asked to leave.
14 And sure enough, Mr. Patterson, drunk, whatever he was, mad, I
15 don't know what he was, but he was removed. He's out. I don't
16 really recall who removed him. Whether it was his group, or
17 whether it was one of the bouncers. Y'all remember that. I
18 don't really remember. I just know that trouble was removed.
19 The problem got removed. And if it had stopped right then,
20 none of us would be here. Unfortunately, it didn't. What
21 happened? You get to the parking lot, and the parking lot
22 obviously, according to all law enforcement, when they got
23 there it was chaos. Well, according to the witnesses that I
24 heard, it was pretty much chaos during the whole evening during
25 this set of events, because out in the parking lot we have

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1 people shooting, we have people screaming, we've got people
2 yelling, we've got people doing all kinds of things except
3 getting themselves into the car and removing themselves from
4 the problem. So, we've got the parking lot going on. Remember
5 where Mr. Edwards was during this time. I remember people
6 saying, well, we never saw Mr. Edwards. So, he is back there
7 in the kitchen area. I don't know if y'all can see that. He
8 is back there in the kitchen from what I remember. He stays
9 there. Everybody else gets removed. The problems get removed.
10 The bouncers go back to the door. And probably the most
11 prudent thing to do at that point in time is to shut the place
12 down. Let's lock the doors, and let's call the police if we
13 need to, if there is that much trouble going on. But we've got
14 a problem out here in the parking lot. We've got a problem.
15 Remember what Mr. Edwards said in his statement? Okay. What
16 was he doing? I just wanted to get in my car and leave.
17 Period. I want to get to my car. Was he being removed from
18 the club by anyone? No. And I think that is very significant.
19 The folks who are there taking care of the club, did they
20 remove Mr. Edwards? No. They removed the problem. Well,
21 guess what? Here comes the problem. Now whether or not you
22 believe the problem came back two or three times, it doesn't
23 make any difference. The problem kept running in. And I
24 remember testimony that he got through the door, Mr. Patterson,
25 and he was over here in this area, and he is screaming. Go

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1 ahead and kill me if you want to. You've got a gun. Did
2 anyone ever say he was face to face with anyone? No. I
3 believe Mr. Edwards was back here in this room. Out of the
4 way, out of sight, not doing anything. Is he sticking his head
5 around the corner pointing guns at people? No. He didn't have
6 a gun, he was back here. While this wild man is running in and
7 out of the club, hollering, screaming, threatening, knocking
8 bottles over, just being a royal, royal pain. Being a problem.
9 I don't recall who ends up taking him in, taking out. I do
10 know that a third altercation, if you want to call that running
11 back and forth the third altercation. Where does the fourth
12 altercation happen? Well, it happens in the parking lot. And
13 who does it happen with? Mr. Wilds. And to be honest, I don't
14 remember the other bachelor party member, but they are
15 wrestling with him. They are fighting in the parking lot among
16 themselves. And what are they fighting about? We are trying
17 to get him out of there. He's a problem. We all know he is a
18 problem. We are trying to get him gone. What happened? He
19 gets away. He absolutely gets away and heads right back into
20 the Gold Rush Lounge. Again, would it have been prudent to
21 have locked the door? Yes. But we've got I think, Mr. Tedder
22 back at the door. I don't --- I apologize for not asking him.
23 I don't remember if the club was going to continue to operate.
24 I don't remember what was going to happen. But obviously, they
25 had to get rid of this altercation in the parking lot, before

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1 anything could happen.

2 Well, the fourth altercation. Mr. Patterson wrestles with
3 his own people, and jumps up and breaks away, and what does he
4 do? He heads back into the club. Now, at that point in time I
5 believe we have testimony that Mr. Edwards --- I believe Mr.
6 Tedder was up here. I believe Mr. Smith was somewhere in this
7 vicinity by the front door. And I believe he said that Mr.
8 Edwards was over here by the front.

9 A couple of other facts. And remember, and I didn't know
10 this until I heard it. We have countless windows all in it.
11 And we have a door with a glass in it. I asked him if it was a
12 solid door. No, it wasn't a solid door, it had glass in it.
13 Why is that important? Well, it is important because Mr. Stone
14 Cold Sober Smith, who is the operator of the club that evening,
15 and Mr. Stone Cold Sober Tedder, who were standing at the door,
16 heard what was going on. And what did Mr. Smith say that he
17 heard? Gunshots out in the parking lot. People shooting. Do
18 we know what is going on out there? No, they are inside. We
19 don't have a clue what is going on out there. We know we have
20 a raging drunk man running in and out of the club screaming and
21 hollering. But we have problems in the parking lot. And we've
22 got bullets going off. And we've got somebody who is
23 hollering. Remember what Mr. Smith said? I heard somebody
24 say, let's shoot the club up. Or, I'm about to shoot this club
25 up. So, what does he do? He is by the door. He hears that.

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1 He takes off this way. Mr. Holt is absolutely right. His gun
2 is back here. I don't recall if he said --- he was just
3 getting out of the way. Why is he getting out of the way?
4 Because we've got bullets. We've got people saying, I'm going
5 to shoot the club up. So we are getting out of the way.
6 Except Mr. Edwards, who is trying to get to his car. He is out
7 of there. He wants to get out of there. If he had been
8 removed from the club, if he had been the problem, the big
9 problem, if he had been removed from that club, the drunk crowd
10 could have stayed in there. They could have torn the place up.
11 And probably everybody would still be here today. But, no, the
12 problem got removed and now Mr. Edwards is just trying to get
13 out of there. Is he walking around waiving a gun at anybody?
14 Let me out? Didn't hear anything. Didn't hear anything close
15 to that. So, we have this melee going on in the parking lot.
16 We've got people shooting up in the air. We've got Mr. Edwards
17 standing by the door. We have Mr. Tedder standing by the door.
18 We have Patrick saying I heard somebody say let's shoot up the
19 place. And then what happens? All of a sudden the door flies
20 open. The banister door, wham. Then what happens? Bam. All
21 right. Was it reasonable under the circumstances? That is
22 yours to decide. Did he get shot in the back? Yes, no
23 question about that. Did he --- Mr. Wilds, if I understood
24 him, he was chasing them. And he is hitting the door. He is
25 running for the door. How did he get shoved? I don't know. I

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1 really don't. To make the door fly open like that, I have a
2 thought, and I have a theory. Yeah, he came crashing through
3 the door. When he crashed through the door, bam. There he
4 was. Did he turn around, oops, you got a gun, bye, and then
5 get shot? I don't believe that for a minute. I don't think I
6 believe him. This is the same guy that three or four times
7 ran in there saying, you've got a gun, go ahead and shoot me.
8 Now you have people shooting. Shooting up the club. Let's get
9 them. Is it reasonable under the circumstances? I submit to
10 you that if Mr. Edwards had not done what he had done, or what
11 he did, we probably would not be here. And I want y'all to
12 take that back to your jury room with you.

13 Ladies and gentlemen, I told you the other day, and I
14 would be remiss if I didn't do it. We have three things that I
15 told you about yesterday. We've got them all. The judge is
16 going to tell you what the law is. You have the facts up here.
17 You go back and you talk about the facts. And you decide what
18 happened. Was that reasonable under the circumstances for
19 those acts to happen? Your choice. Your decision. Was it
20 self-defense what Mr. Edwards did? I submit to you if it was
21 not self-defense or self-preservation, we would not be here
22 today. But you have three things to please remember as the
23 tries of the facts.

24 Number one. Mr. Edwards walked in here yesterday presumed
25 to be innocent. That presumption has stayed with him through

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1 every witness that was put up. That presumption stays with him
2 throughout the course of the trial. Right this minute he is
3 presumed to be innocent. That is the law. Can't do anything
4 about that.

5 Does he have to prove anything? No. He has no burden.
6 The burden of proof rests with the state. The standard that
7 they must meet in order for Mr. Edwards to be found guilty, is
8 they have to prove to you beyond a reasonable doubt that Mr.
9 Edwards committed the crimes as Mr. Holt said.

10 Murder, I don't think so. Voluntary manslaughter, I
11 don't think so. Self-defense, beyond a reasonable doubt in my
12 mind. And that is your task right now. We have done all of
13 our work. The judge is going to tell you what you have to take
14 back there as the law. You figure out what the facts are, and
15 you apply that law to it.

16 But I will submit, ladies and gentlemen, that there is one
17 conclusion and one conclusion only. And that is that Mr.
18 Edwards is not guilty beyond a reasonable doubt. And that is
19 what I hope you will find when you go back to your jury room.
20 Thank you.

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21
22 **THE COURT:** All right. Madame Forelady, and ladies and
23 gentlemen of the jury. If you would give me your attention.
24 You have followed very patiently, and listened very attentively
25 to the presentation of the evidence in this case. And also to

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1 the able arguments made by the Solicitor Mr. Holt, on behalf of
2 the state, and Mr. Jones on behalf of the defendant, and I
3 thank you for that.

4 It now becomes the duty of the trial judge under the
5 constitution of this state to charge and instruct you the law
6 applicable to this case. And, it is your duty as jurors to
7 accept and apply the law as the court will now state it to you.
8 And as jurors, it is your exclusive duty to decide on all of
9 the issues of fact in this case. And for that purpose to
10 determine the effect, the value, the weight, and the truth of
11 the evidence presented. Both the state and the defendant have
12 the right to expect that you will consciously consider and
13 evaluate the evidence, and apply the law of the case thereto to
14 the end, that both the state of South Carolina and the
15 defendant will receive and obtain a fair and impartial trial.

16 Now, when I use the word defendant, I refer, of course, to
17 Mr. Anthony Edwards. The state of South Carolina by the
18 various bills of indictment, and there are four of them in this
19 case, charge the defendant with four different offenses, and I
20 am going to summarize the charges of the indictments.

21 Indictment Number 0646 charges --- let's start with 0644.
22 That indictment charges that Mr. Edwards did, in Darlington
23 County on or about September 27, 2008, feloniously, willfully
24 and with malice aforethought, kill one Roosevelt Patterson by
25 means of shooting the victim, and he died as a result of those

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1 injuries.

2 Indictment number 645 charges that Mr. Edwards, did on
3 that date, September 27, 2008, violated South Carolina law in
4 that he did possess a pistol after having been convicted of a
5 crime of violence in Darlington County, on July 24, 2003, for
6 the crime of assault and battery with intent to kill.

7 Indictment Number 646 charges that the defendant did on
8 September 27, did willfully and unlawfully carry a pistol into
9 the premises of a business which sell alcoholic liquors, beers,
10 or wines for purpose of consumption, and that is the offense of
11 carrying weapon on the premise of business that sells alcohol.

12 And finally, he is charged in Indictment Number 643, with
13 the crime of possession of a weapon during the commission of a
14 violent crime, specifically the crime of murder.

15 To these charges, and to these indictments, the defendant
16 has entered a plea of not guilty. This plea of not guilty by
17 the defendant places the burden of proof on the state to prove
18 by evidence the guilt of the defendant on each and every charge
19 beyond a reasonable doubt, before you can find the defendant
20 guilty of any charge.

21 The defendant, Mr. Edwards, is presumed in the law
22 innocent of the charges contained in these indictments. It is
23 a cardinal and fundamental rule of the law of evidence that a
24 defendant irrespective of the enormity of the charges against
25 him, will always be presumed innocent of the crimes for which

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1 he is indictment, unless and until the guilt of the defendant
2 has been proven by evidence which satisfies you the jury, of
3 his guilt beyond a reasonable doubt. The presumption of
4 innocence is not a mere legal theory. It is not just a legal
5 phrase. The presumption of innocence is a substantial right to
6 which every accused is entitled. Our Supreme Court has
7 declared that the presumption of innocence is like a robe of
8 righteousness placed about the shoulders of this defendant, and
9 it remains with him and assigns to him that class, the
10 innocent, until that presumptive robe of righteousness has been
11 stripped from his person by evidence satisfying you the jury,
12 of the guilt of the defendant beyond a reasonable doubt. The
13 presumption of innocence accompanies the defendant from the
14 time of his arraignment and appearance in this court, and
15 continues with the defendant after you have retired to the jury
16 room to deliberate your verdict. The presumption of innocence
17 continues in existence to the benefit of the defendant until
18 you the jury, reach the conclusion that the state has proven
19 the guilt of the defendant beyond a reasonable doubt. The
20 state is not required to prove the guilt of a defendant beyond
21 all doubt, or beyond every doubt. But beyond a reasonable
22 doubt.

23 What is a reasonable doubt? It is not an imaginary or
24 fanciful doubt, or a weak doubt. It is a substantial doubt.
25 It is a doubt for which the words imply. A doubt for which you

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1 can give or assign a reason based on the testimony and evidence
2 in the case. A reasonable doubt is not any sort of a doubt.
3 You and I know from everyday life experiences that you may have
4 a sort of a doubt about any matter that arises, no matter how
5 trivial it may be, or how serious it may be. A reasonable
6 doubt is a doubt which makes an honest, sincere, conscious
7 juror in search of the truth, hesitate to act. Proof beyond a
8 reasonable doubt is proof which leaves your firmly convinced of
9 the defendant's guilt. If you have a doubt for which you can
10 give or assign a reason as to the guilt of the defendant, then
11 he is entitled to a verdict of not guilty. Reasonable doubt
12 may arise from evidence which is in the case, or from the lack
13 or absence of evidence in the case. You the jury, must make
14 the determination of whether or not reasonable doubt exist as
15 to the guilt of this defendant.

16 The very fact however that the jury engages in a full and
17 free discussion of the issues of guilt or non guilt in this
18 case, with the normal conversational ebb and flow on these
19 issues does not normally mean that reasonable doubt exist in
20 this case or in any other case.

21 I charge you that the defendant is entitled to every
22 reasonable doubt arising in the whole case, or arising in any
23 defenses asserted by the defendant. If, upon any issue of fact
24 essential to conviction and a verdict of guilty, you have a
25 reasonable doubt as to how that issue should be resolved, it

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1 would be your duty to resolve that doubt in favor of the
2 defendant. A defendant, ladies and gentlemen, is not required
3 to prove his innocence. But the state is required by law to
4 prove essential element of the offense charged against the
5 defendant by evidence which satisfies you the jury, of the
6 guilt of the defendant beyond a reasonable doubt, before you
7 can convict the defendant and find him guilty.

8 If then, upon the whole case you have a reasonable doubt
9 as to the guilt or innocence of the defendant, he is entitled
10 to that reasonable doubt, and would be entitled to an acquittal
11 and a verdict of not guilty. But on the other hand, if upon
12 the whole case you have found that the state has proven by
13 evidence which satisfies you the jury, of the guilt of the
14 defendant beyond a reasonable doubt, then in such circumstances
15 it would be equally your duty to convict the defendant and find
16 him guilty.

17 Now, if you find the defendant guilty, but you have a
18 reasonable doubt as to whether the defendant be guilty of a
19 greater crime charged or a lesser crime charged, then you would
20 resolve that reasonable doubt in favor of the defendant and
21 write a verdict of guilty only as to the lesser crime charged.
22 But, of course, you could not write a verdict of guilty to any
23 charge unless you find the elements of the charge have been
24 proven by the state beyond a reasonable doubt.

25 Now I instruct you that the indictments in this case which

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1 I hold in my hand are not evidence, and cannot be considered by
2 the jury as evidence in this case. The indictments are simply
3 the formal written instruments which contain the charges
4 against the defendant, and they serve as the formal documents
5 by which this case is brought to trial.

6 During this trial each of us, you and I have certain
7 duties to perform. As the trial judge it is my responsibility
8 to preside over the trial of this case. And I also have the
9 duty to rule upon, or pass upon, the admissibility of evidence
10 offered during the course of the trial. You are to consider
11 only the evidence which has been admitted into the record. And
12 you are to disregard and disabuse from your mind any testimony
13 ordered stricken from the record of this case during the
14 progress of the trial, if there be any. And you are to
15 consider only the testimony which has been presented from this
16 witness stand together with any exhibits admitted into
17 evidence, and the stipulations of counsel, if there be any.

18 I have the additional duty to charge you on the applicable
19 law of the case. As the presiding judge, I am the sole judge
20 of the law in this case. And it is your duty to accept and
21 apply the law as I now state it to you. If you have a
22 preconceived idea on what the law is, or what the law ought to
23 be, and it does not agree with what I tell you the law is, you
24 are obligated under your oath to abandon this preconception on
25 your part, because you are sworn to accept the law precisely as

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1 I now state it to you. In every case tried before this court
2 or in this court before a jury, the jury becomes the sole and
3 exclusive judge of the facts. You the jury, are the judge of
4 the facts in this case. The court is the judge of the law.

5 The constitution of this state has declared that the trial
6 judge shall not intimate, state, comment upon, or make any
7 statement to a trial jury about the facts in a case. Since you
8 are the sole judge of the facts, you are not to infer from
9 anything that I have said during the progress of this trial or
10 anything that I say to you now during the course of this charge
11 to you that I have an opinion about the facts in this case. I
12 do not. The law does not permit me to have an opinion about
13 the facts in this case. This is a matter solely for the jury
14 to determine. As jurors, then it is your duty as I have
15 stated, to determine the effect, the value, the weight, and the
16 truth of the evidence presented during the course of the trial.
17 Necessarily then, you must assess the credibility of the
18 witnesses who have testified in this case. Credibility is
19 simply a legalistic term meaning believability. It becomes
20 your duty then to analyze and evaluate the evidence, and to
21 determine that evidence which convinces you of its truth. I
22 charge you that in determining the question of credibility or
23 believability of the witnesses, you may believe one witness as
24 against several witnesses; or several witnesses as against one
25 witness. You may believe a part of the testimony of a witness,

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1 and reject the remaining part of the testimony of that same
2 witness. You may believe the testimony of a witness in its
3 entirety, or you may reject the testimony of a witness in its
4 entirety. You may consider whether any witness has exhibited
5 any interest, any bias, or any prejudice of the case. You may
6 consider the demeanor of a witness, that is, the appearance of
7 a witness from the witness stand. And you may consider the
8 opportunity for knowledge concerning those things about which a
9 witness testified. These considerations you do not exercise
10 arbitrarily, but if in your good judgment there is sound reason
11 for so doing. Because your objective, ladies and gentlemen, is
12 to find the truth. Whether it comes from one or more
13 witnesses. And in exercising your mental processes, and in
14 determining what you consider to be true, the law simply
15 requires that you exercise your good judgment, your common
16 sense, your sense of logic and reason, and your experiences in
17 life. You then apply these attributes and ability to the
18 evidence, and determine what you consider to be the truthful
19 evidence. And to these true state of facts as determined by
20 you the jury, you take and apply the law as I now state it to
21 you, and thus arrive at a true verdict in this case.

22 Now, as I said, the defendant in this case is charged with
23 four offenses. I am going to define those offenses for you.
24 The first offense that he is charged with is the crime of
25 murder. What is murder? Murder is defined as the wilful

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1 felonious killing of a human being by a human being with malice
2 aforethought, that malice being either expressed or implied
3 malice. Section 16-3-10 of the Code of Laws in South Carolina
4 provides: Murder is, "the killing of any person with malice
5 aforethought, either expressed or implied." The state must
6 prove beyond a reasonable doubt that the defendant killed
7 another person with malice aforethought.

8 The presence of malice is a required element of murder.
9 Malice is defined as being hatred or ill will. Malice in its
10 legal sense does not necessarily import ill will toward the
11 individual injured, but signifies rather a general malignant
12 recklessness of the lives and safety of others. Or a condition
13 of the mind which shows a heart regardless of social duty, and
14 fatally bent on mischief. Malice is the wrongful intent to
15 injure another person. It indicates a wicked or depraved
16 spirit intent on doing wrong. Malice is a legal term implying
17 wickedness and excluding a just cause or excuse. It is the
18 doing of a wrongful act intentionally, and without just cause
19 or excuse. The term malice indicates a formed purpose and
20 design to do a wrongful act under the circumstances that
21 exclude any legal right to do it. Malice may be either
22 expressed or implied. The words expressed or implied add
23 nothing to the meaning of the word malice. They do not imply
24 different kinds of malice, but merely show the manner in which
25 the only kind known to the law may be shown to exist. That is,

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1 either by positive evidence or by inference.

2 Expressed malice is where there is a deliberate intention
3 to unlawfully take the life of another. Implied malice is when
4 circumstances demonstrate a wonton or reckless disregard for
5 human life, or a reasonably prudent man would have known that
6 according to common experience there was a plain and strong
7 likelihood that death would follow the contemplated act.

8 Although malice must be aforethought, there is no
9 requirement that it must exist for any appreciable length of
10 time before the commission of the act. It may be conceived at
11 the very moment the act occurs. There must be a combination of
12 the evil intent and the act producing the result.

13 Now on the legal principle that the greater offense
14 includes the lesser offense, what we call lesser included
15 offense, even though the defendant was indicted for murder, a
16 lesser included offense is the offense of voluntary
17 manslaughter. What is voluntary manslaughter? Section 16-3-50
18 of The Code of Laws defines manslaughter as the unlawful
19 killing of another without malice expressed or implied.
20 Voluntary manslaughter is the unlawful killing of a human being
21 without malice in sudden heat of passion upon sufficient legal
22 provocation. To prove voluntary manslaughter, the state must
23 demonstrate beyond a reasonable doubt that the defendant
24 unlawfully killed another, without malice, in sudden heat of
25 passion, based on sufficient legal provocation. Heat of

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1 passion alone will not suffice. Both heat of passion and
2 sufficient legal provocation must be present at the time of the
3 killing to constitute voluntary manslaughter..

4 The sudden heat of passion upon sufficient legal
5 provocation, while it need not dethrone reason entirely, or
6 shut out knowledge and volition, must be such as would
7 naturally disturb the sway of reason, and render the mind of an
8 ordinary person incapable of cool reflection, and produce what
9 according to human experience may be called an uncontrollable
10 impulse to do violence. The passion need not be so
11 overpowering as for the time to shut out knowledge and destroy
12 volition. To constitute legal provocation, the provocation
13 must come from some act of or related to the victim. The
14 provocation of the deceased must be such as naturally and
15 instantly produces in the mind of a person ordinarily
16 constituted the highest degree of exasperation, rage, anger,
17 sudden resentment, or terror, rendering the mind incapable of
18 cool reflection. If sufficient legal provocation does not
19 exist, even if committed during the heat of passion, it is not
20 voluntary manslaughter. The provocation must deprive one of
21 the power of self-control, but it need not dethrone reason
22 entirely.

23 In determining whether the act that caused death was
24 impelled by heat of passion, all the surrounding circumstances
25 and conditions are to be taken into consideration including any

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1 previous relations and conditions connected with the tragedy,
2 as well as those existing at the time of the killing. In order
3 for an intentional and unlawful killing to constitute voluntary
4 manslaughter, the killing must occur during the heat of
5 passion, aroused by adequate provocation, and before the
6 passion has cooled or has had time to cool. Even if sufficient
7 legal provocation has aroused a defendant's passion, if at the
8 time of the killing those passions had cooled, or if sufficient
9 reasonable time has elapsed so that the passions of an ordinary
10 reasonable person would have cooled, the killing is not
11 voluntary manslaughter. If sufficient time has elapsed under
12 all of the circumstances of the case for the defendant to cool,
13 that is to say time within which an ordinary man under the
14 circumstances would have cooled, before the fatal blow is
15 struck, then the killing is not voluntary manslaughter.

16 In determining whether reasonable time for cooling off has
17 elapsed, you should consider all of the circumstances
18 surrounding the event. The nature of the provocation. The
19 defendant's physical and mental condition. The defendant's
20 condition in life. The defendant's education, habits, conduct,
21 manner, and conversations throughout the entire incident, and
22 the circumstances and relationship between the parties.

23 Now, the defendant is also charged with possession of a
24 weapon during the commission of a crime of violence. Section
25 16-23-490 of The Code of Laws of South Carolina provides that .

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1 if a person is in possession of a firearm, or visibly displays
2 what appears to be a firearm during the commission of a violent
3 crime, and is convicted of or attempting to commit a violent
4 crime, he is guilty of the crime of possession of a weapon
5 during the commission of a violent crime.

6 A firearm is defined as any machine gun, automatic rifle,
7 revolver, pistol, or other weapon which will or is designed to,
8 or may readily be converted to expel a projectile. And I would
9 also tell you that the crimes of murder and the crimes of
10 voluntary manslaughter in our state are defined as violent
11 crimes.

12 The defendant is also charged with the crime of possession
13 of a pistol. Let me read to you Section 16-23-30, which makes
14 it a crime in South Carolina for --- it is unlawful for any
15 person to knowingly sell, offer or sell, deliver, lease, rent,
16 barter, exchange, or transport for the sale into this state any
17 pistol to any person who has been convicted of a crime of
18 violence, and that subsection of the Code which is 16-23(a)
19 Section 16-23-30(e) provides: It shall be unlawful for any
20 person covered in A to be in possession of or acquire a pistol
21 within this state. So, section E makes it unlawful to acquire
22 a pistol, or be in possession of a pistol by anyone who has
23 been convicted of a crime of violence.

24 And, the last indictment which the defendant is charged
25 with is under §16-24-465, which makes it unlawful in this state

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1 for any person to carry a pistol or firearm upon the premises
2 of a business which sells alcoholic, liquor, beer, or wine for
3 consumption on the premises. And that is the fourth charge.

4 Now, ladies and gentlemen, one of the defenses in this
5 matter is the defense of self-defense. Self-defense is a
6 complete defense. If established, you must find the defendant
7 not guilty. There are four elements required by law to
8 establish self-defense.

9 First, the defendant must be without fault in bringing on
10 the difficulty. Second, the defendant must have been in actual
11 emanate danger of losing his life, or sustaining serious bodily
12 injury. Or he must have actually believed he was in emanate
13 danger of losing his life or sustaining actual serious bodily
14 injury. Third, if the defense is based upon the belief of
15 emanate danger, a reasonably prudent person of ordinary
16 firmness and courage would have entertained the same belief.
17 If the defendant actually was in emanate danger, then the
18 circumstances were such as would warrant a person of ordinary
19 prudence, firmness and courage to shoot the fatal shots in
20 order to save himself from serious bodily harm, or losing his
21 own life. Fourth, the defendant had no other probable means of
22 avoiding the danger of losing his own life, or sustaining
23 serious bodily injury than to act as he did in this particular
24 circumstance. These are the elements of self-defense. A
25 defendant in a self-defense case has the right to act on

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1 appearances. If the defendant --- a defendant must believe
2 that he was in emanate danger. Not that he was actually in
3 such danger, because he had the right to act on appearances,
4 and under the circumstances as they appeared to him. He
5 believed he was in such danger, and a reasonable prudent man of
6 ordinary firmness and courage would have entertained the same
7 belief.

8 Words accompanied by hostile acts may, depending on the
9 circumstances, establish a plea of self-defense. But self-
10 defense is not available to one who uses language so
11 appropriate that a reasonable person would expect it to bring
12 on a physical encounter. And which did actually contribute to
13 bring it on.

14 Now, there is no burden on the defendant to prove self-
15 defense. The defendant is not required to prove any element of
16 self-defense. The burden is on the state to disprove self-
17 defense beyond a reasonable doubt. If you have a reasonable
18 doubt of the defendant's guilt, after considering all of the
19 circumstances, including the elements of self-defense, then you
20 would find the defendant not guilty. If on the other hand, you
21 have no reasonable doubt of the defendant's guilt after
22 considering all of the evidence, including the evidence of
23 self-defense, then you must find the defendant guilty.

24 Now, ladies and gentlemen, there are generally two types
25 of evidence that are presented in any case, direct evidence and

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1 circumstantial evidence. Direct evidence is the testimony of a
2 person who asserts or claims to have actual knowledge of a
3 fact, such as an eye witness. Circumstantial evidence, is
4 proof of a chain of facts and circumstances indicating the
5 existence of a fact. The law makes absolutely no distinction
6 between the weight or value to be given to either direct or
7 circumstantial evidence. Nor is a greater degree of certainty
8 required of circumstantial evidence than of direct evidence.
9 You should weigh all of the evidence in this case. After
10 weighing all of the evidence, if you are not convinced of the
11 guilt of the defendant beyond a reasonable doubt, you must find
12 the defendant not guilty. If, on the other hand, after
13 weighing all of the evidence, if you are convinced of the guilt
14 of the defendant beyond a reasonable doubt, it would be your
15 duty to find the defendant guilty.

16 Now there has been testimony in this case of expert
17 witnesses. Although lay witnesses are limited to testifying
18 about facts within their knowledge, and are not allowed to give
19 opinions, certain witnesses, who by their training, education,
20 or experience, are considered experts in a particular field may
21 give their opinions in that field based on the facts of the
22 matter and their conclusions. These opinions constitute
23 evidence to be considered by you in connection with all of the
24 other testimony and evidence in this case. You may consider
25 the expert's opinion just as you do all of the other evidence

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1 in this case. And, it is for you to determine what weight it
2 should be given. The testimony of experts is to aid and assist
3 you as jurors, not to dominate or control you in the decision
4 of questions of fact. You should consider experts' opinions
5 received in evidence in this case and give it such weight you
6 feel it deserves.

7 Now, I would also tell you that there has been admitted
8 into evidence in this case certain statements of the
9 defendants. While the court determines the admissibility of
10 the evidence, you the jury, must determine the existence,
11 voluntariness, and weight of any statements made by the
12 defendant. You must make the ultimate determination of whether
13 or not the defendant in fact made the statement. If you
14 determine the defendant made the statement, you must then
15 determine whether the statement was made voluntarily. Finally,
16 you will decide what weight if any, should be given to any
17 alleged statement. You must determine whether the alleged
18 statement was a product of essentially free and unconstrained
19 choice of its maker. The state must prove the voluntariness of
20 the statement beyond a reasonable doubt. If you determine
21 beyond a reasonable doubt that the statement was given freely
22 and voluntarily, then you may give the statement such further
23 consideration as you deemed proper. If you determine that the
24 alleged statement was not the free and voluntary willed
25 expression of the defendant, then you should not consider the

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1 statement as evidence. In determining whether the defendant's
2 will was overcome in obtaining a statement, the law requires
3 you to consider what is known as the totality of the
4 circumstances. You should consider both the characteristics of
5 the defendant and the circumstances surrounding any question of
6 interrogation. Some of the factors that you may consider are
7 the age of the defendant, the defendant's educational
8 background, mental ability or capacity, and all of the other
9 facts and circumstances surrounding the making of the
10 statement.

11 Now, in determining the voluntariness of any statement,
12 you should consider whether the defendant was advised of and
13 understood his constitutional rights. The law requires that
14 before interrogation or questioning of a person in custody may
15 begin, law enforcement must advise the accused of his Miranda
16 rights. This means that the authorities advised the accused,
17 and I am sure that all of you have seen these on television,
18 that the accused has the right to remain silent. That the
19 statement could be used against the accused in a court of law.
20 That the accused has the right to have a lawyer present. That
21 if the accused cannot afford a lawyer, then a lawyer would be
22 appointed to represent him without any cost. That the accused
23 could stop making a statement at any time. You must carefully
24 scrutinize all of the surrounding circumstances before you give
25 any weight to an alleged statement. You must be satisfied

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1 beyond a reasonable doubt, that the statement was made by the
2 defendant, uninfluenced by promise of reward, or threat of
3 harm. If you find beyond a reasonable doubt, that the alleged
4 statement was given voluntarily, then you must decide what
5 weight if any, should be given to the statement. If you find
6 that the statement was not voluntary, then in that event you
7 must not consider the statement as evidence for any purpose.

8 Now, ladies and gentlemen, the defendant in this case has
9 not testified. This is his constitutional right. It is not a
10 circumstance that you can take into consideration, or even
11 allow to enter into your discussion into the jury room. Under
12 the constitution of South Carolina, and the United States
13 constitution, it is the defendant's constitutional right not to
14 testify. The burden of proof is on The State of South Carolina
15 to establish his guilt by competent evidence beyond a
16 reasonable doubt. The fact that the defendant did not take the
17 witness stand and testify in his own behalf, does not create
18 any inference against him. You must not permit this fact to
19 weigh in the slightest degree against this defendant, nor
20 should this fact enter into your discussions in the jury room.

21 Now, ladies and gentlemen, I have about finished my
22 instructions to you. And I will tell you that you have been
23 selected by both the state and this defendant as fair and
24 impartial jurors. It is often been said that you do not serve
25 on the jury to reward your friends or punish your enemies.

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1 Obviously, such a perverted system of justice would be
2 intolerable. You have been selected by both the state and the
3 defendant as fair and impartial jurors, and it is your duty by
4 your joint deliberations to determine the truth in this case;
5 giving to the defendant the benefit of each and every
6 reasonable doubt on each and every issue, and then to the facts
7 which you determine to be true, you then take and apply the law
8 which has been given to you by this court, and thus arrive at a
9 verdict which does speak the truth. Because the word verdict,
10 ladies and gentlemen, comes from the Latin phrase veredicto,
11 meaning to speak the truth. And when you have accomplished
12 these responsibilities, you will have satisfied your oath as
13 jurors, and you will have discharged your duty to this court.

14 Now, I want to instruct you on the forms of verdict in
15 this case. In once instance there are three possible verdicts,
16 and that is on the crime of murder. Those three possible
17 verdicts are: Guilty of murder, or guilty of voluntary
18 manslaughter, or not guilty. On the other charges, which are
19 the possession of a weapon during the commission of a violent
20 crime, or possession of a pistol by person who has been
21 previously convicted of a crime of violence, or the offense of
22 carrying a weapon on premises that sells alcohol, the possible
23 verdict on each one of those are just guilty or not guilty.

24 So, if the state has failed to prove the guilt of the
25 defendant beyond a reasonable doubt, your verdicts would be two

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1 words, not guilty. And if the state has proven the guilt of
2 the defendant beyond a reasonable doubt, it will be guilty.
3 Now the verdict that you render in this case must be the
4 verdict of each and every juror. It must be your unanimous
5 verdict. All twelve jurors must agree on the verdict, which
6 you authorize the foreperson to write.

7 Now, Madame Forelady, I have prepared for your use certain
8 verdict forms, one on each charge. And I will tell you that
9 the order in which I have put the possible verdict forms on
10 these papers has no significance whatsoever. And you should
11 not infer from the order in which I have put them on here that
12 I have any opinion as to what your verdict should be. I do
13 not. The law does not allow me to have an opinion. But,
14 obviously in putting something down on paper, I had to put
15 something first and put something second. But first of all
16 with regard to the charge of murder, and that is indictment
17 number 2009-GS-16-644, there are three possible verdicts. Of
18 course across the top up here we simply have the state, the
19 county, the case name, and number, and verdict form. We the
20 jury by unanimous decision, find the defendant Anthony Edwards,
21 guilty of murder, or guilty of voluntary manslaughter, or not
22 guilty. So, you would select one of those three, and sign your
23 name here, date it, and that will be your verdict on that.

24 Now, if you find the defendant guilty of one of these two
25 offense; that is, either murder or voluntary manslaughter, you

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1. would consider the offense of whether the defendant is guilty
2. of possession of a weapon during the commission of a violent
3. crime. Obviously, the violent crime being either murder or
4. voluntary manslaughter. So, obviously if you find him not
5. guilty of that, then the possession of a weapon during the
6. commission of a violent crime could not be found guilty to
7. that. So, you would go to this only if this 643, only if you
8. find him guilty of murder or voluntary manslaughter. And
9. again, what you would do is make a finding of guilty or not
10. guilty. You would then go to the other two indictments, and
11. again one is the charge of possession of a pistol by person
12. convicted of a crime of violence. If the defendant had a
13. previous conviction, and he was in possession of a weapon, and
14. you found him guilty of those facts, then you would find him
15. either guilty or not guilty of that crime. And finally the
16. last one would be the carrying of a weapon onto a premises that
17. sells alcohol, again guilty or not guilty.

18. When you have reached a verdict on each one of these
19. indictments, if you will notify the bailiffs by knocking on the
20. door, and we will bring you back to the courtroom as quickly as
21. possible.

22. Now, I am going to ask you to go to your jury room. I am
23. going to ask that you not begin your deliberations just yet.
24. The law does require that I take up certain matters of law with
25. the attorneys. If it is not necessary for me to bring you back

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1 into the courtroom for additional instructions, the bailiffs
2 will bring you the verdict forms. They will also bring you the
3 exhibits. And you will be able to consider those as well. And
4 I will tell you that one of the exhibits of course is a CD-rom,
5 that requires some technical skills to operate. If you wish to
6 view that CD-rom, Madame Forelady, if you would just write us a
7 note, we will make arrangements where the proper equipment can
8 be brought to you, and you can view as much or as little, or
9 all of that CD-rom and that statement or alleged statement as
10 you would want to. So, that will be made available to you if
11 you wish, just simply give us a note to that effect and we will
12 take care of that.

13 Now, with the exception of the two alternates, I am going
14 to ask that the principle jury go to the jury room. And I am
15 going to ask that the alternates to remain where you are
16 please. Thank you. You may go, but do not begin your
17 deliberations just yet.

18 (Whereupon, the jury exits the courtroom at
19 11:38 a.m..)

20 THE COURT: Additions or exceptions on behalf of the
21 state, Mr. Holt?

22 MR. HOLT: Just briefly, Judge. I have a very small
23 concern. When you read in the law on possession of a weapon by
24 a handgun treated as a violent crime, and you said, and I might
25 have heard wrong that murder and voluntary manslaughter were

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1 both violent crimes. I was just worried that the jury might
2 think they are the only two violent crimes. I know it is
3 impossible to innumerate what I believe are the fifteen crimes
4 that our state classifies as violent. But until we tell them
5 that assault and battery with intent to kill is violent, or is
6 the fact that the sentencing sheets are -

7 THE COURT: -- No, because he can't be found guilty of
8 assault and battery with intent to kill. He has got to be
9 convicted of one of those two; either murder or voluntary
10 manslaughter, before they can even consider that charge.

11 MR. HOLT: No, sir. I think I may have mis-spoken, and
12 said the wrong charge. Possession of a handgun by somebody
13 convicted of a violent crime. He is charged with that.

14 THE COURT: Yeah.

15 MR. HOLT: Violent crime that he was convicted of was
16 assault and battery with intent to kill.

17 THE COURT: Oh, I didn't charge them on that at all. I
18 just charged them on a possession of a firearm during the
19 commission of a violent crime. And I said that is murder and
20 voluntary manslaughter. With regard to the other charge, if a
21 person of a possession of a weapon by a person convicted of a
22 violent crime, I didn't define violent crime in that instance
23 at all.

24 MR. HOLT: Okay. And the only thing that I am worried
25 about is that there is some criminal justice major on the

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1 juror. I am just scared that they might contaminate the jury
2 and say, well, we don't know if this is a violent crime. We
3 haven't been told that. And I don't know if it was my job to
4 get that out during testimony, that it was a violent crime. I
5 just assumed the law defines what a violent crime is.

6 **THE COURT:** Well, it doesn't in the statute. What the
7 statute says is. It just simply says, it should be unlawful
8 for any person to -- and then it goes through -- to knowingly
9 sell, offer for sale, any person who has been convicted of a
10 crime of violence in any court of the United States, and so on
11 and so forth. And then it has possession. But it doesn't
12 define crime of violence.

13 **MR. HOLT:** And that is fine, Judge. I wasn't that
14 worried about it.

15 **THE COURT:** All right. I am going to let it go.
16 Anything you have Mr. Jones?

17 **MR. JONES:** No, sir.

18 **THE COURT:** All right. Counsel, what I want you to do
19 is to check these exhibits. I want the weapon to go, but the
20 bullet shall not. And while they are looking at those
21 exhibits, here Mr. Clerk.

22 Now, ladies, the two alternates in this case. The law
23 does not permit me to have but twelve jurors. The purpose of
24 drawing alternates is in the event that somebody gets ill, or
25 is unable to serve for some reason. Has an emergency or

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1 something, so that we would not have a mistrial. You have
2 heard all the testimony in this case, but you are not going to
3 participate in the decision. So, I am going to excuse you from
4 any further participation in this case. I will tell you that
5 once you have been excused as an juror, it is not illegal if
6 you talk to anyone about your service on this case. It is not
7 illegal if anyone talks to you about your service. It is a
8 practice of which I strongly disapprove, and I strongly
9 discourage, but it is not illegal. You have the right to talk
10 with anyone. And you have the right to not talk with anyone.
11 And if anyone should continue to harass you or bother you about
12 your service on this case and you don't want to talk to them
13 about it, you let the court personnel know, and I will deal
14 with them. I would ask that you not talk with anyone about
15 your service on this case until after this jury has returned a
16 verdict, and you won't know when that is exactly. So, I would
17 ask that you not talk with anyone about it until sometime after
18 tonight. But after that, it will be your call. The other
19 thing is, I am going to excuse you now. I am going to ask you
20 to call that number that you have, and if you don't have the
21 number get it from the bailiff before you leave. After six
22 o'clock tonight, all night long if we are going to need you and
23 the rest of the jury panel for the rest of the week, there will
24 be instructions on that. That is an answering machine just
25 like the one you have got at home. So, if you would call that

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1 number after six o'clock tonight, and get your reporting
2 instructions for tomorrow. With those admonitions, and those
3 comments, then I am going to excuse you from any further
4 service on this case. And you may go with the bailiff. But
5 please call that number after tonight.

6 (Whereupon, the alternate jurors are excused at
7 11:44 a.m..)

8 **THE COURT:** All right. Counsel, let's take about ten
9 minutes or fifteen minutes. And if the Solicitor has something
10 for us to do we will do it while we wait on the jury.

11 (Whereupon, the jury begins deliberation at
12 11:45 a.m..)

13 **THE COURT:** All right. Back on the record with regard
14 to The State versus Edwards. Mr. Edwards is present with his
15 counsel. The state is present and represented by the Solicitor
16 Office. The jury has given us a note which has been marked as
17 Court's Exhibit Number 1. "We would like to see the
18 defendant's statement again." The court reporter has already
19 marked it. I will give it back to the clerk. I have conferred
20 with counsel. We will set it up, and play that statement for
21 the jury. And I think the best way to do that so as to not run
22 into any problem with who goes in the jury room, nor with what
23 else might be on that CD-rom, would be to bring the jury in
24 here and play it for them while they sit there in the jury box.
25 But after conferring with counsel, I think the best thing to do

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1 is for me to let them go to lunch and come back at 1:15, and
2 then we can play that statement, and they can immediately
3 resume deliberations. Is that agreeable with the state, Mr.
4 Holt?

5 MR. HOLT: Yes, sir, your honor.

6 THE COURT: With the defense?

7 MR. JONES: Yes, sir.

8 THE COURT: All right. Bring the jury in.

9 BAILIFF: All right, sir.

10 (Whereupon, the jury enters the courtroom at
11 12:12 p.m.)

12 THE COURT: All right. Madame Foreman, and ladies and
13 gentlemen of the jury, I have your note. And have talked with
14 the lawyers about it. And we are going to set up the statement
15 so that it can be played for you again. But we feel that the
16 best way to do it, because of the time right now, at 12:15, it
17 would be better for me to let you go ahead and go to lunch.
18 And I am going to do that at this time. And then ask you to
19 come back, and as soon as you get back we will play the
20 statement for you. And I will also tell you that I don't know,
21 and we don't know what you want on the statement. If you want
22 to hear it all, that's fine. We will be glad to play it for
23 you from the very beginning. Or if there is some particular
24 part of it that you want heard, and you get to that point and
25 you have heard that, and you have heard enough, then we can

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1 stop it at any time. So, it will be up to you at that time.
2 But we will just wait and see. But in the mean time, I am
3 going to let you go and get your lunch. I am going to ask you
4 to be back in your jury room at 1:15, that is an hour from now.
5 And we will be ready to go forward. We will have everything
6 set up, and we will have the statement keyed, and ready to play
7 for you at that time.

8 Over this lunch recess, do not discuss the case with
9 anyone. Do not allow anyone to discuss it with you. And do
10 not discuss it among yourselves when you are reassembling in
11 the jury room until everyone is there. Once everyone gets
12 there, you can talk about it all you want. But don't talk
13 about it when you have two, or three, or five, or nine, or
14 eleven. But when everybody gets there you can talk about it.
15 But when everybody gets there we are going to bring you back in
16 here and we will play the statement for you.

17 With that, I am going to give you those admonitions, allow
18 you to go to lunch, and ask you to be back in your jury room
19 please, at 1:15. Thank you.

20 (Whereupon, the jury exits the courtroom at
21 12:16 p.m.)

22 THE COURT: Any objection to the procedure used for
23 sending the jury to lunch, Mr. Holt?

24 MR. HOLT: No, sir, your honor.

25 THE COURT: Mr. Jones?

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1 MR. JONES: No, sir.

2 THE COURT: All right. Counsel, we will be at ease on
3 this matter until 1:15, when we are ready to play the tape for
4 the jury. Mr. Holt, if you would take care of making sure that
5 everything is ready to punch the button, play it at the right
6 time, we will be ready to go.

7 MR. HOLT: I think Ms. Parker got her computer working
8 while we were back there talking, judge.

9 (Whereupon, a lunch recess was taken from 12:16
10 p.m. until 1:19 p.m.)

11 THE COURT: All right. Back on the record with regard
12 to The State versus Edwards. Mr. Edwards is present with his
13 counsel. The state is present and represented by the Solicitor
14 Office. The jury wanted to hear the video tape of the
15 defendant's interview, and I think we are prepared to play that
16 for them, is that right, Mr. Holt?

17 MR. HOLT: Yes, sir.

18 THE COURT: Are you ready, Mr. Jones?

19 MR. JONES: Yes, sir.

20 THE COURT: Is there anything before we bring the jury
21 in?

22 MR. JONES: No, sir.

23 THE COURT: All right. Bring the jury in, please.

24 (Whereupon, the jury enters the courtroom at
25 1:19 p.m.)

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1 **THE COURT:** All right. Thank you, ladies and gentlemen
2 for your promptness in being back here. And I do need to ask
3 you before we get started if anyone has tried to contact you in
4 any way about this case over the lunch recess, I would need to
5 know about it now. Negative response, and that is good.

6 All right. We are prepared to play for you the video tape
7 of the interview of the defendant in this case. We will start
8 it at the beginning, Madame Forelady, and if at any time, or if
9 y'all have discussed it, or at anytime that you wish for us to
10 stop, and you have heard all you want to hear we will stop it,
11 or we will play it all the way through.

12 All right. Mr. Holt.

13 (Whereupon, the video statement of the defendant
14 State's Exhibit 3 was published to the jury.)

15 **THE COURT:** All right. Ladies and gentlemen, that is
16 the complete tape of the interview, and that is for your
17 consideration. I am going to ask that you go back to your jury
18 room, and resume your deliberations. If there is anything that
19 I can help you with on the law, I will be glad to do so.
20 Certainly, I cannot make any comment with regard to the facts.
21 Those are matters that you have to determine. But, I would ask
22 that you resume your deliberations, and let us know when you
23 have reached a verdict. Thank you, you may go with the
24 bailiff.

25 (Whereupon, the jury exits the courtroom at 1:54

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1 p.m.)

2 THE COURT: All right. Is there anything from the state
3 with regard to the way that the playing of the statement was
4 taken care of at the jury's request, Mr. Holt?

5 MR. HOLT: No, sir, your honor.

6 THE COURT: Mr. Jones?

7 MR. JONES: No, sir.

8 THE COURT: All right. We will be at ease until we hear
9 from the jury. It is about seven minutes till two. We will
10 take about five to seven minutes. We will be back here at two
11 o'clock to take up any matters which the Solicitor has. Thank
12 you.

13 BAILIFF: They have a question.

14 THE COURT: Wait a minute. I'm informed they have a
15 question. Let's wait on that.

16 (PAUSE.)

17 THE COURT: All right. Counsel, we have an inquiry from
18 the jury. The note says: Define manslaughter --- Define the
19 number one manslaughter, two murder. The elements of
20 manslaughter. I am assuming from what they say define the, and
21 they have manslaughter, murder, and then they have the elements
22 of manslaughter. I think what they are asking for is the
23 recharging of the law of murder and manslaughter. I believe
24 that would be the appropriate thing. Is there any problems
25 with me giving them re-instructions on that, Mr. Holt?

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1 MR. HOLT: No, sir, your honor.

2 THE COURT: Mr. Jones?

3 MR. JONES: No, sir.

4 THE COURT: All right. Give me just a minute to look at
5 it. It is marked as Court's Exhibit Number 2, and is made a
6 part of the record.

7 (PAUSE.)

8 THE COURT: All right. While I have this in my hand,
9 let's get this taken care of as well. Mr. Holt, it appears ---
10 the court reporter has given me these, and I want to make sure
11 that this is clear on the record. Five through eleven were
12 apparently not offered, exhibits 5 through 11. Exhibits 16
13 through 26, and exhibit 52. Those are not in. And then 56
14 through 60 were apparently marked for identification, but I
15 don't believe I let those in. If I recall those were the
16 photographs of the defendant.

17 All right. I am prepared to re-instruct the jury on the
18 law of murder, and the law of voluntary manslaughter. Bring
19 the jury in please.

20 BAILIFF: All right, sir.

21 (Whereupon, the jury enters the courtroom at
22 1:56 p.m.)

23 THE COURT: All right. Thank you, ladies and gentlemen.
24 And I do have your inquiry, asking for some further legal
25 definitions on murder and manslaughter, and I will try to

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1 clarify those for you.

2 The Code of Laws in South Carolina provides as far as
3 murder as follows. Murder is, the killing of any person with
4 malice aforethought, either expressed or implied. The state
5 must prove beyond a reasonable doubt that the defendant killed
6 another person with malice aforethought.

7 The presence of malice is a required element of murder.
8 Malice is defined as being hatred or ill will. Malice in its
9 legal sense does not necessarily import ill will toward the
10 individual injured, but signifies rather a general malignant
11 recklessness of the lives and safety of others. Or a condition
12 of the mind which shows a heart regardless of social duty, and
13 fatally bent on mischief. Malice is the wrongful intent to
14 injure another person. It indicates a wicked or depraved
15 spirit intent on doing wrong. It is the doing of a wrongful
16 act intentionally, and without just cause or excuse. The term
17 malice indicates a formed purpose and design to do a wrongful
18 act under the circumstances that exclude any legal right to do
19 so. Malice may be either expressed or implied. The words
20 expressed or implied add nothing to the meaning of the word
21 malice. They do not imply different kinds of malice, but
22 merely the manner in which the only kind known to the law may
23 be shown to exist. That is, by positive evidence or by
24 inference.

25 Expressed malice is where there is a deliberate intention

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1 to unlawfully take the life of another, such as lying in wait.
2 Implied malice is when circumstances demonstrate a wonton or
3 reckless disregard for human life, or a reasonably prudent
4 person would have known that according to common experience,
5 there was a plain and strong likelihood that death would follow
6 the contemplated act.

7 Although malice must be aforethought, there is no
8 requirement that it must exist for any appreciable length of
9 time before the commission of the act. It may be conceived at
10 the very moment the act occurs. There must be a combination of
11 the evil intent and the act producing the result. Now that is
12 the definition of murder. And, again as I said under the
13 theory that the greater offense includes the lesser offense,
14 you could and should consider also whether the defendant is
15 guilty or not guilty of voluntary manslaughter. And South
16 Carolina law defines voluntary manslaughter as the unlawful
17 killing of another without malice, expressed or implied.

18 Voluntary manslaughter is the unlawful killing of a human being
19 without malice in sudden heat of passion upon sufficient legal
20 provocation. So, the first thing that occurs to you, to one
21 when comparing these two definitions is that murder requires
22 malice and voluntary manslaughter does not require malice. But
23 in order to find someone guilty of voluntary manslaughter, the
24 state must demonstrate beyond a reasonable doubt, that the
25 defendant unlawfully killed another, without malice, in sudden

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1 heat of passion, on sufficient legal provocation. Heat of
2 passion alone will not suffice. Both heat of passion and
3 sufficient legal provocation must be present at the time of the
4 killing to constitute voluntary manslaughter.

5 The sudden heat of passion upon sufficient legal
6 provocation, while it need not dethrone reason entirely, it
7 must be such as would naturally disturb the sway of reason, and
8 render the mind of an ordinary person incapable of cool
9 reflection, and produce what according to human experience may
10 be called an uncontrollable influence. To constitute
11 sufficient legal provocation, the provocation must come from
12 some act of or related to the victim. The provocation of the
13 deceased must be such as naturally and instantly produces in
14 the mind of a person ordinarily constituted the highest degree
15 of exasperation, rage, anger, sudden resentment, or terror,
16 rendering the mind incapable of cool reflection. If sufficient
17 legal provocation does not exist, the killing, even if
18 committed during the heat of passion, it is not voluntary
19 manslaughter. The provocation must deprive one of the power of
20 self-control, but it need not dethrone reason entirely.

21 So, in order for an intentional and unlawful killing to
22 constitute voluntary manslaughter, the killing must occur
23 during the heat of passion, aroused by adequate provocation,
24 and before the passion has cooled or has had time to cool. And
25 again, in determining whether or not these elements exists and

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1 whether reasonable time for cooling has elapsed, you should
2 consider all of the circumstances throughout the entire
3 instance and the entire circumstances surrounding the killing.
4 So, again I will tell you that basically in a nutshell, murder
5 is defined as the unlawful killing of another person with
6 malice aforethought. Voluntary manslaughter is the unlawful
7 killing of another person without malice. But it must be in
8 sudden heat of passion upon sufficient legal provocation. So,
9 let me say that again. Murder is the unlawful killing of
10 another person with malice aforethought, either expressed or
11 implied. Voluntary manslaughter is the unlawful killing of a
12 human being without malice, in sudden heat of passion upon
13 sufficient legal provocation.

14 That is about the best that I can do as far as defining
15 those terms for you, and I hope that helps you. And I will ask
16 that you go back to your jury room and let me know how you are
17 doing. Thank you.

18 (Whereupon, the jury exits the courtroom at 2:04
19 p.m.)

20 **THE COURT:** Any objections or exceptions, Mr. Holt?

21 **MR. HOLT:** None, your honor.

22 **THE COURT:** Mr. Jones?

23 **MR. JONES:** No, sir.

24 **THE COURT:** All right. We will be at ease until we hear
25 from the jury. We will take about ten minutes and be back in

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1 to do whatever the Solicitor has for us to do.

2 (Whereupon, a recess was taken from 2:05 p.m.
3 until 3:09 p.m.)

4 (Whereupon, the jury announced they had reached
5 a verdict at 3:09 p.m.)

6 THE COURT: All right. The jury has reached a verdict.
7 Let's get the lawyers in and the defendant in the case of Mr.
8 Edwards in the courtroom, please.

9 (PAUSE.)

10 THE COURT: All right. We are back on the record in the
11 matter of The State versus Edwards. The defendant is present
12 in the courtroom with his attorney, Mr. Jones and Ms. Jordan.
13 The state is present and represented by Mr. Holt. I have been
14 informed that the jury has reached a verdict. Let me make a
15 statement to those in the audience before I bring the jury in.
16 I know there are members of the victims family present. There
17 are also members of the family of the defendant who are also
18 present. I want to say that I am going to require that order
19 and decorum in the courtroom be maintained when the verdict is
20 published. I do not know what the verdict is going to be, and
21 I know this is important to everyone here. But I must require
22 that order and decorum be maintained. And I am going to order
23 that there not be any shows of emotion, or any expressions of
24 emotion; any clapping, any shouting, any shows of any kind of

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1 emotion whatsoever. And if there is anyone in the courtroom
2 that thinks they cannot sit quietly when the verdict is
3 published, I would ask that you leave now, because if there are
4 shows of emotion, I will deal with them as being in contempt of
5 court. So, this would be your opportunity to leave if you do
6 not think that you can sit quietly during the publication of
7 the verdict.

8 All right. Bring the jury in please.

9 (Whereupon, the jury enters the courtroom at
10 3:21 p.m.)

11 THE COURT: All right. Madame Forelady, I have been
12 informed that you have reached a verdict; is that correct?

13 MADAME FORELADY: Yes, sir.

14 THE COURT: Would you hand it up to the clerk, please.
15 All right. From the standpoint of form, the verdict appears to
16 be correct. Mr. Jones, would you and the defendant stand
17 please. Mr. Clerk, you may publish the verdict.

18 CLERK OF COURT: Yes, sir, Your Honor. This is case
19 number 2009-GS-16-0644, The State of South Carolina versus
20 Anthony Edwards. We the jury by unanimous decision, find the
21 defendant Anthony Edwards, guilty of voluntary manslaughter.
22 Signed Foreperson Antwonette Bess, October 12, 2011. If this
23 is your verdict, would you so signify by raising your right
24 hand, please.

25 Case Number 2009-GS-16-643, The State of South Carolina

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1 versus Anthony Edwards. We the jury by unanimous decision, on
2 the charge of possession of a weapon during the commission of a
3 certain crime find the defendant Anthony Edwards, guilty.

4 Signed Foreperson Antwonette Bess. Signed October 12, 2011.

5 If this is your verdict, would you so signify by raising your
6 right hand please.

7 Your Honor, this is case number 2009-GS-16-0645. The
8 State of South Carolina versus Anthony Edwards. We the jury by
9 unanimous decision, on the charge of possession of a pistol by
10 a person convicted of a crime of violence, find the defendant
11 Anthony Edwards, guilty. Signed Foreperson Antwonette Bess,
12 October 12, 2011. If this is your verdict, would you so
13 signify by raising your right hand please.

14 Your Honor, this is case number 2009-GS-16-0646. The
15 State of South Carolina versus Anthony Edwards. We the jury by
16 unanimous decision, on the charge of weapon carrying on the
17 premises that sell or serve alcohol find the defendant Anthony
18 Edwards, guilty. Signed Foreperson Antwonette Bess, October
19 12, 2011. If this is your verdict, would you so signify by
20 raising your right hand please.

21 **THE COURT:** Thank you. Mr. Clerk. Mr. Jones, anything
22 before the jury is excused?

23 **MR. JONES:** We would like for you to poll the jury,
24 please.

25 **THE COURT:** All right. If you would Mr. Clerk, if you

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1 would poll the jury. Y'all may be seated.

2 Mr. Jones, you and Mr. Holt come up for just a moment.

3 (Whereupon, a bench conference was held in the
4 presence of the jury, but out of their hearing range.)

5 CLERK OF COURT: Madame Forelady, members of the jury,
6 the verdict that I just published was the verdict you reached
7 in the jury room. When I call your name, if you would please
8 stand and respond to two questions. The first one will be.
9 Was this your verdict then? And is it your verdict now?

10 THE COURT: Let's make it pleural. Were these your
11 verdicts then? And were these your verdicts now?

12 CLERK OF COURT: Pertaining to all four charges. Is it
13 your verdict in the jury room, and is it your verdict now on
14 all four charges.

15 Foreperson, Antwonette Bess, was it your verdict then? Is
16 it your verdict now?

17 JUROR: Yes.

18 CLERK OF COURT: Melissa Harman, was it your verdict
19 then?

20 JUROR: Yes, sir.

21 CLERK OF COURT: And is it your verdict now?

22 JUROR: Yes, sir.

23 CLERK OF COURT: Okay. Thank you. Faye Howell, was it
24 your verdict then?

25 JUROR: Yes.

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1 CLERK OF COURT: Is it your verdict now?

2 JUROR: Yes.

3 CLERK OF COURT: Cornelius Johnson, was it your verdict
4 then?

5 JUROR: Yes, sir.

6 CLERK OF COURT: Is it your verdict now?

7 JUROR: Yes, sir.

8 CLERK OF COURT: Thank you. Cathy Kemmerlin, was it
9 your verdict then?

10 JUROR: Yes, sir.

11 CLERK OF COURT: And is it your verdict now?

12 JUROR: Yes, sir.

13 CLERK OF COURT: Thank you. William McCollough, is it
14 your verdict then?

15 JUROR: Yes, sir.

16 CLERK OF COURT: Is it your verdict now?

17 JUROR: Yes, sir.

18 CLERK OF COURT: Chasity McElveen, is it your verdict
19 then?

20 JUROR: Yes, sir.

21 CLERK OF COURT: Is it your verdict now?

22 JUROR: Yes, sir.

23 CLERK OF COURT: Jason Norris, is it your verdict now?

24 JUROR: Yes.

25 CLERK OF COURT: Is it your verdict now?

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1 JUROR: Yes.

2 CLERK OF COURT: Denise Skinner, was it your verdict
3 then?

4 JUROR: Yes.

5 CLERK OF COURT: Is it your verdict now?

6 JUROR: Yes, sir.

7 CLERK OF COURT: Cecil Sligh, was it your verdict then?

8 JUROR: Yes.

9 CLERK OF COURT: Is it your verdict now?

10 JUROR: Yes.

11 CLERK OF COURT: Timothy Watford, was it your verdict
12 then?

13 JUROR: Yes, sir.

14 CLERK OF COURT: Is it your verdict now?

15 JUROR: Yes, sir.

16 CLERK OF COURT: Brittany Wheeler, was it your verdict
17 then?

18 JUROR: Yes.

19 CLERK OF COURT: Is it your verdict now?

20 JUROR: Yes.

21 CLERK OF COURT: My records reflect that all twelve
22 jurors have responded. If your name was not called would you
23 please stand. Thank you.

24 THE COURT: All right. The jury has been polled, and
25 the verdict stands. Is there anything before I excuse the

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1 jury, Mr. Jones?

2 MR. JONES: No, sir.

3 THE COURT: All right. Ladies and gentlemen of the
4 jury, I am going to excuse you from any further service in this
5 case. And before I do, I want to thank you first of all for
6 your service. I do not thank the jury for their verdict. That
7 is the matter that is solely up to the jury. And in my view
8 the jury's role in the fact finding process is so important
9 that the trial judge should not comment on the verdict of the
10 jury, even after a jury has reached a verdict, and I make it a
11 practice to never comment on the verdict of the jury. But I
12 will tell you that there was evidence in the record by which
13 you could have reached the verdict that you did.

14 But I am going to excuse you from any further service on
15 this case, and I will tell you that once you have been
16 discharged by me as jurors in this case, there is nothing
17 illegal about you talking with anyone about your service. It
18 is nothing illegal about anyone talking with you about your
19 service. It is a practice of which I strongly disapprove, and
20 I strongly discourage. But it is not illegal. You can talk
21 with anyone or not talk with anyone, but if anyone wants to
22 talk with you about your service on this case and you do not
23 wish to talk with them, and then continue to harass you or
24 bother you, you let the court personnel know, and we will deal
25 with them. But it is your call as to whether you wish to speak

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1 with anyone about it or not speak with anyone about it.

2 Now, I will also tell you that in a few minutes we are
3 going to go into the sentencing phase of this case. I know
4 that jurors sometimes like to know what the ultimate outcome of
5 a matter is, and we are going to go into the sentencing phase
6 in just a minute. And when I do discharge you, if you would
7 like to stay for the sentencing phase you can go out this way,
8 the way you have been coming in, go around and have a seat at
9 the back of the courtroom back where the bailiff is. And I
10 will tell you, you can sit there during the sentencing phase if
11 you would like. And I will tell you that I will excuse you
12 before anyone else will be excused from the courtroom, if you
13 would like to stay for the sentencing phase. But it is up to
14 you if you would like to go ahead and leave, you can certainly
15 do that as well. But if you would like to stay once I have
16 excused you, if you will come back in the back of the courtroom
17 and have a seat, I will make sure that you are excused and
18 cleared the building before anyone else is excused.

19 I will also tell you that this is the last case that we
20 are going to need a jury for this week. So, I am going to
21 excuse you from any further service this week. It will not be
22 necessary that you call back in. It will not be necessary that
23 you report back tomorrow or Friday. We've got some more
24 matters that we are going to need to do, and we are not
25 adjourning court at this time. But, they are not matters that

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1 will require the services of the jury.

2 I want to thank you on behalf of the state and on behalf
3 of the county for your service this week. I know that it is
4 never convenient to serve on a jury. But it is an important
5 citizenship responsibility, and I appreciate your willingness
6 to come forward and serve when you were summoned to do so; even
7 though I know you didn't have a lot of choice about whether to
8 be here. It is an important citizenship responsibility, and I
9 appreciate your service.

10 I will also tell you that by serving on the jury this
11 week, you have met your citizenship responsibilities for jury
12 service in the circuit court, that is, up here in this
13 courtroom, either the court of common pleas or the court of
14 general sessions for the next three years. If you were to get
15 a summons from the clerk in the next year, we couldn't take you
16 even if you wanted to serve. You are actually disqualified
17 from serving. The second and third years you have an
18 exemption, which means that you would not have to serve but you
19 could serve if you wanted to. But you cannot be required to
20 serve as a juror in the circuit court more than once every
21 three years. Now, I can't help you with federal court or
22 magistrate court, if you get summoned for those courts you will
23 just have to take that up with the officials of those two
24 courts.

25 When you leave, and I am going to excuse you in just a few

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1 minutes, the clerk, I believe already has the checks; is that
2 correct?

3 CLERK OF COURT: Yes, sir.

4 THE COURT: Has a small check. It will in no way pay
5 you or compensate you for the time that you have spent up here
6 this week. But it is a small token of appreciation on behalf
7 of the county to show their appreciation for your service.
8 Also, if any of you need a certificate, I don't know if the
9 bailiffs will have those certificates, or they would want you
10 to stop by the first floor -- he has those as well to show that
11 you served on the jury this week, so that you can take those to
12 your employer, and show that you did serve on a jury.

13 I hope that you have a better appreciation of our criminal
14 justice system as a result of having served on the jury this
15 week. I know that it is a great deal different from
16 television. And as I said at the beginning, our system is far
17 from perfect, but it is by far the best system that has ever
18 been devised by man for solving controversies of this fact ---
19 this nature, and it is largely because we have the citizen
20 participation in the judicial system. And I do appreciate your
21 service.

22 Thank you. You are free to go. If you would like to stay
23 you can come back around. Otherwise, you are free to go. And
24 I hope you have a pleasant weekend. Thank you.

25 (Whereupon, the jury is excused at 3:32 p.m. on

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1 Wednesday, October 12, 2011.)

2 THE COURT: All right. Mr. Jones, are there motions on
3 behalf of the defendant?

4 MR. JONES: Yes, sir. On behalf of the defendant, we
5 make a motion for a new trial. We do not feel that there was
6 sufficient evidence in the record to justify the verdict.

7 THE COURT: All right. I didn't get all of that, there
8 was a little confusion. A motion on behalf of the defendant
9 what? For a new trial?

10 MR. JONES: For a new trial, Your Honor.

11 THE COURT: And what were the grounds?

12 MR. JONES: We do not feel that there was sufficient
13 evidence in the record to justify the verdict.

14 THE COURT: All right. I will respectfully deny that
15 motion. I feel that there was evidence in the record for the
16 jury to have reached the conclusion that they did. Obviously,
17 they considered this matter very carefully by wanting to view
18 the statement made by the defendant. We gave them an
19 opportunity to do that. We gave them that opportunity. They
20 also considered very carefully, I think, the difference between
21 murder and manslaughter. And in fact asking that the court
22 redefine those offenses for them. And the court did so. And
23 they found the defendant guilty of the lesser included offense
24 of voluntary manslaughter rather than murder. I do feel that
25 there was evidence in the record by which the jury could reach

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1 the decision. And, if I were to substitute my judgment by
2 granting a new trial, then I would be interfering with the
3 providence of the jury, and this I cannot do. So the motion
4 for a new trial is respectfully denied.

5 All right. Mr. Holt, do we have the sentencing sheets?

6 MR. HOLT: I do, Your Honor, I just need to sign them.

7 THE COURT: All right. And, what I would like to have
8 would be --- I think I know, but I think we need to put in the
9 record at this time --- do two things from the state's
10 standpoint. The defendant's criminal record, and then I will
11 hear from any representatives of the victim's family.

12 (PAUSE.)

13 THE COURT: Your Honor, we talked about the record some
14 during the trial in a preliminary hearing. I have it right
15 here. If you would give me just a moment, I can find it.
16 There were three crimes on there. In 2003 he had a possession
17 of crack cocaine. And in 2001 he was convicted of assault and
18 battery with intent to kill. Your Honor, what the state feels
19 is so important about that is, when he was a younger man he
20 shot a man three times and paralyzed him. He did do some
21 prison time for it, and yet just a few, a few years from
22 getting out, he is still carrying a gun. He is still shooting
23 people. Only this time somebody dies.

24 THE COURT: All right. I am going to let you argue in
25 just a minute. I am just asking for the facts at this point.

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1 And, in 03 he had a possession of crack. In 01, assault and
2 battery with intent to kill, and that was where, Mr. Holt? Was
3 it here in Darlington?

4 MR. HOLT: Yes, sir. Your Honor, it looks like it was
5 here in Darlington. And then while he was at The Department of
6 Corrections he furnished or possess contraband, and received a
7 year for that.

8 THE COURT: All right. And that would be consecutive to
9 whatever he was serving. What did he get on the assault and
10 battery with intent to kill? What was the sentence?

11 MR. HOLT: It looks like he got three and a half years,
12 Judge.

13 THE COURT: All right. Possession of crack in 03. In
14 01 assault and battery with intent to kill. And then a
15 possession of contraband while at The South Carolina Department
16 of Corrections.

17 Mr. Jones, do you agree that that is his criminal record?

18 MR. JONES: Yes, sir.

19 THE COURT: All right. Mr. Holt, do you have
20 representatives of the victim's family here?

21 MR. JONES: Yes, sir, Your Honor. And since they are
22 over there, I'll just let my victims come right here to this
23 microphone.

24 THE COURT: Come right up, please.

25 MR. HOLT: And, Your Honor, to be honest with you judge,

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1 we had not gotten to the point yet where I talked with them
2 about whether they wanted to be heard.

3 THE COURT: All right. I'll talk to them. Just give me
4 a minute.

5 Several years ago the South Carolina voters passed the
6 Victim's Rights Amendment to the Constitution, and then there
7 was implementing legislation from our General Assembly, which
8 grants certain rights to members of the victim's family. Among
9 those rights are the right to be kept informed of everything
10 that is going on. The right to be present whenever there is
11 anything in court. And also the right to address the court.
12 So, I will be glad to hear from either or both of you in this
13 matter. If you would identify yourself for the court reporter,
14 I will be glad to hear from.

15 STATEMENT BY MS. SHERRIE EDWARDS

16 MS. EDWARDS: My name is Sherrie Edwards, and I am
17 Roosevelt mother. And by the time Anthony was out he didn't
18 seem concerned about what he did. And he always bring up his
19 kids, Randy had kids too. My son had kids, and he was going to
20 get married. But I was at the hospital and they pronounced him
21 dead on his wedding day. And this boy right here act like he
22 ain't did nothing. And he needs to be punished for it.

23 THE COURT: Thank you, ma'am. Anything you would like
24 to say?

25 All right. Now, I will hear from you Mr. Holt with regard

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1 to the state's position.

2 MR. HOLT: Again, Your Honor, I didn't need to assert
3 the state's position earlier. But the state just feels like
4 somebody who keeps carrying a gun, and you first jump right
5 into the deep end and paralyze someone in the assault and
6 battery with intent to kill, and then you get out, and then low
7 and behold you are in another nightclub shooting another person
8 and this time he just happens to die. The state feels that the
9 previous record is more than ample reason to seek the max on
10 all charges, Judge.

11 THE COURT: All right. Mr. Jones, if you and Mr.
12 Edwards will come up please.

13 MR. JONES: Yes, sir.

14 THE COURT: And if you have any members of his family
15 that want to come up Mr. Jones, I will be glad to hear from
16 them.

17 MR. JONES: Your Honor, I just have the step-father and
18 his mother, I believe.

19 THE COURT: All right. Mr. Jones, go ahead.

20 STATEMENT BY MR. JONES

21 MR. JONES: Your Honor, I worked fairly extensively with
22 Anthony. He is twenty-eight. He is from Darlington. He
23 actually grew up in the Darlington area. He had a Hartsville
24 address at the time of this situation. He is a hard working
25 young man. He's got three children, ages four, three, and two.

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1 He provided for the children. He had a steady job. I think
2 what Mr. Patterson's mother spoke about, he was granted a bond.
3 Served a considerable amount of time at the Detention Center
4 awaiting the trial. He was granted a bond, and I think that
5 bond was --- he was placed on electronic monitoring, and he did
6 not keep up with the payments, nor the charges on the monitor,
7 and that bond was revoked December 30th, and he has been at the
8 Detention Center since then.

9 I think it is a fair statement to say that Anthony, I
10 believe his statement the day afterwards actually showed that
11 he has had a great deal of remorse. He and I have had long
12 conversations concerning self-defense. He, from the very
13 start, there wasn't any question about what happened as his
14 honor saw, based on the testimony. Mr. Edwards felt all the
15 time that he was in a situation where he did not have any
16 choice. Obviously, the jury thought differently. I have
17 spoken with him. I have spoken with the Solicitor. As I said
18 in my opening, my mother and grandmother both said, nothing
19 much good happens after midnight. Mr. Edwards is just of the
20 group of young men that they go out at night, and they stay out
21 at night. He, I think, had a fairly tough neighborhood. Gun
22 carrying was not adverse to his group of young men that he hung
23 out with. And that is not a good thing, but it is a fact of
24 life in some areas that people feel that they need to carry
25 protection. Unfortunately, in Mr. Edwards situation, he had

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1 two problems. Number one, he had a charge which prevented him
2 from doing it legally. And number two, he was at a place where
3 he should have never had a weapon.

4 THE COURT: Where did he get the weapon from? Where did
5 you get the weapon from? On the street?

6 MR. EDWARDS: Yes, sir.

7 THE COURT: That is what I figured. It was a street
8 gun.

9 MR. JONES: Judge, he comes from a very good family.
10 His uncle is a pastor. I have worked for him for years and
11 years. I did not know the connection until about a week or so
12 ago. He has a very supportive family. His wife has been on
13 constant contact with my office. He has three young children.
14 His mom would certainly like to address you, Your Honor.

15 THE COURT: All right. Yes ma'am. Just give me your
16 name, and I will be glad to hear from you.

17 STATEMENT OF JOANNE DAVIS

18 MS. DAVIS: My name is Joanne Davis, and I am his
19 mother, Your Honor. And I am very sorry for the family's
20 loss, the victim's loss. I have kept them in prayer from the
21 very beginning of this incident, because I am a woman of faith.
22 I kept them in prayer. I kept the young man's children in
23 prayer. But there is also another culprit involved in this
24 situation, which is called Satan. His job that night was to
25 destroy two lives in one. And I am so sorry for the incident.

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1 But, my son does have three children. And I am sorry that the
2 victim's children does not have their father. But, just for
3 the other three children who are one, two, and three, to be
4 without their father for a long time is detrimental. The
5 middle --- the oldest son who is three, he is actually going
6 through some problem and situations now where he just blurts
7 out and cry, and just really can't explain what is going on.
8 He hasn't really told them the situation with their dad yet.
9 But there are being some effects and things going on with them,
10 because of the situation.

11 Anthony has shown remorse. Once he was released and was
12 home, just because it wasn't shown out to the outside world, we
13 had to deal with it at home, the remorse. I am pleading for
14 mercy on his behalf, because in some form or fashion we all
15 have done something that first of all was displeasing to God.
16 And He, who is the righteous judge makes his decision, then
17 where shall we stand? So, I know that God is pleading his
18 case. And I ask you, the human judge, to have mercy on him,
19 because the scriptures let us know that in order to obtain
20 mercy from God, we are in one way or fashion, we will all need
21 one day that you first show mercy to somebody else. So I just
22 plead for mercy on my son. And I will continue to pray for the
23 family. And on their behalf I just ask that they find
24 forgiveness in their heart, because the scripture let us know
25 that if we have unforgiveness in our heart that we won't be

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1 able to enter the Kingdom of God. That you have to forgive,
2 and it has to be true forgiveness. No, we don't like what
3 happened. I'm hurting. They are hurting. So, no one actually
4 wins in this situation. So, I am just asking you please, and
5 continue to pray for the family that they do find forgiveness
6 in their heart, so they won't be separated from Christ in the
7 last day. I do ask that they forgive them. That is what I
8 plea to the family. Not for my sake, so to speak, but for
9 their sake. So, I do plead for mercy for him today. Thank
10 you.

11 THE COURT: All right. Thank you.

12 MR. JONES: Your Honor, the only other thing, and I
13 believe his step-father would like to speak.

14 THE COURT: Yes, sir. Give me your name.

15 STATEMENT BY MITCHELL DAVIS

16 MR. DAVIS: My name is Mitchell Davis. Also, I would
17 like the victim's family to forgive us. I know this is a
18 tragedy. And my son was portrayed like he was such a gentle
19 person. And I just stand here Your Honor, asking for mercy
20 from the court for my son. And once again to the victim's
21 family, my family we reach out to y'all, and ask for your
22 forgiveness for this tragedy.

23 THE COURT: Okay.

24 MR. JONES: Your Honor, just a couple of other things
25 that I wanted to say. Mr. Holt and I actually had fairly

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1 extensive negotiations concerning this situation, and were just
2 not able to resolve it. I think that his honor can see from
3 the evidence that this certainly was just a real bad situation
4 that evening at that club. That doesn't excuse Anthony from
5 being there. That doesn't keep him from carrying the gun. But
6 it certainly doesn't excuse him from feeling like he had to use
7 that gun in order to protect himself.

8 We would ask that you consider a sentence in the lower
9 range of the allowable sentence, Judge.

10 THE COURT: All right.

11 MR. JONES: Mr. Edwards would also like to say
12 something.

13 THE COURT: I'll be glad to hear from him. You may, of
14 course, I am sure you have already told him, Mr. Jones, that
15 this is a record proceeding. And, I don't know what the -

16 MR. JONES: -- Yes, sir.

17 THE COURT: And, of course, he has made a statement
18 already. But I will be glad to hear from you, Mr. Edwards.

19 STATEMENT BY MR. EDWARDS

20 MR. EDWARDS: Yes, sir. Your Honor, first of all I would
21 like to apologize to yourself as I stated in my voluntary
22 statement that I have been very remorseful for this situation.
23 And I would like the record to know to the family that by law I
24 couldn't contact them personally. I sent two messages by
25 friends of their family -

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1 THE COURT: -- I understand that. And I don't hold that
2 against you. It would be entirely inappropriate for you to
3 contact them while the charges are pending. And, that is true
4 of any defendant. And being in the law I understand that, and
5 I understand why you would not have contacted them until now,
6 and I would not hold that against you.

7 MR. EDWARDS: Thank you, Your Honor. And as I said in
8 the voluntary statement, I thinking for a way out. Yes, I was
9 wrong for having a firearm, but as in my prior charges I was
10 the victim of a robbery then. And every since then I have just
11 been fearful for myself and my family. The neighborhood that
12 we could afford to stay in at the time was a very high crime
13 area. And, law enforcement, to you personally, and to the
14 Solicitor Office, everyone they know. But Red Fox Circle is
15 right around the corner from Alphabet Hill. A lot of times
16 before my son moved out I trafficked them in at 2:30 in the
17 morning, 3:00 in the morning, because she got off of work at
18 2:30 in the morning. And that is why I originally purchased a
19 gun.

20 THE COURT: Well, I understand that, Mr. Edwards. And I
21 can certainly appreciate it. But that doesn't --- high crime
22 area, where you live and all that sort of stuff, but you know
23 here you are going out a convicted felon with a previous
24 knowledge of what can happen when you are going out with a gun,
25 going into the clubs where there is drinking going on. And, I

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1 mean, what do you expect to happen?

2 MR. EDWARDS: Yes, sir. But mostly I just want to say to
3 the family that I do apologize. I have been apologetic, and I
4 am sorry if the messages have never made it to you all. But I
5 apologize from the bottom of my heart. This has nothing to do
6 with courthouse. Who is in this courtroom. But, I have sent
7 messages apologizing. And that is all I want to say to them.

8 THE COURT: All right. Thank you, sir. Let me get
9 these sentencing sheets straight, Mr. Holt, before we go
10 further. Of course, the voluntary manslaughter is zero to
11 thirty, and I understand that. And that is indictment number
12 644. Indictment number 643 is possession of a weapon during
13 the commission of a violent crime, and that is up to five
14 years. I understand that. 646, is carrying a weapon on the
15 premises that sell alcohol. And according to the statute, I
16 believe that is up to three years. Do you agree with that, Mr.
17 Jones?

18 MR. JONES: Yes, sir.

19 THE COURT: Okay. And 645 for the other pistol charge,
20 a person convicted of a felon in possession; is that up to five
21 as well, Mr. Holt?

22 MR. JONES: Yes, sir.

23 MR. HOLT: Yes, sir.

24 THE COURT: That is what I thought.

25 MR. HOLT: Your Honor.

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1 THE COURT: Just a minute. Mr. Jones, anything else?

2 MR. JONES: No, sir. Your Honor, we would ask and I
3 don't know --- I don't think there is any requirement of
4 consecutive sentences. But we would ask that you consider
5 concurrent sentences.

6 THE COURT: I don't think there is a requirement of
7 consecutive, even with the one that is that is possession of a
8 weapon during the commission of a violent crime. It just says
9 that it is a separate crime, but I don't think there is any
10 requirement of that. Yes, sir.

11 MR. HOLT: Judge, was that last one we just talked
12 about, was it five years instead of up to five?

13 THE COURT: I haven't looked it up.

14 MR. HOLT: Not more than five, Judge. You were correct.

15 THE COURT: Okay. All of them --- You have two that are
16 up to five, and one that is up to three. And then the zero to
17 thirty.

18 SENTENCE OF THE COURT

19 THE COURT: All right. I, obviously was going to give
20 him credit for time served. I just checked the block. But
21 sometimes the defendant prefer that we put it on the sentencing
22 sheet, because of the miscalculations by The Department of
23 Corrections. How much time?

24 MR. JONES: Six hundred and sixty-two.

25 THE COURT: Six sixty-two.

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1 CLERK OF COURT: Yes, sir.

2 THE COURT: Okay. The statement has been made, and I
3 think it is very true, and I believe it was made by the
4 defendant's mother in this case that there are no winners here,
5 only victims.

6 Over fifteen years ago when I got this job, my colleagues
7 told me that the most difficult thing that we would have to do
8 is criminal sentencing. Nothing has happened in those fifteen
9 and a half years that have changed that at all. It is the most
10 difficult thing that we have to do. We judges have no crystal
11 balls. We cannot predict the future. We don't know what the
12 future bring for any of the people, except that we do know that
13 we have a death in this case. This is a tragedy for everyone
14 involved. But all we can do is, based upon the evidence that
15 we have heard in the case, and the facts as we know them. And
16 the experience that we have had in the law as promulgated by
17 the legislature, we have the duty to impose the punishment that
18 we think is appropriate. Very often, it does not satisfy
19 everyone. Sometimes it doesn't satisfy anyone. Nonetheless we
20 are charged with the responsibility of imposing punishment as
21 we think the facts justify. And the jury in this case has
22 found the defendant guilty of voluntary manslaughter in the
23 death of another human being. And, a substantial punishment is
24 appropriate for that.

25 I try to look at aggravating factors, and mitigating

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1 factors when trying to determine what the appropriate sentence
2 is when I have a range as it is in this case, from zero to
3 thirty years. And I see as the aggravating factors the
4 defendant's prior record of violent crime, having been involved
5 about ten years ago, in assault and battery with intent to
6 kill, where an individual was shot and he received a prison
7 term for that. That is a felony of course, and he owned a
8 pistol as was found by the jury. He is not even suppose to
9 have a pistol, Mr. Edwards, as a convicted felon. But, I have
10 always heard, and Mr. Jones, and all of the other folks here in
11 the court have heard me talk many times about these street
12 guns. If it wasn't for a street gun, and if you had been at
13 that club that night with no gun this would not have happened.
14 And it is a gun that you purchased off of the street. Bad
15 neighborhood or no bad neighborhood, that is no excuse for
16 being in a nightclub after midnight. You didn't have to be
17 there. Regardless of what your neighborhood is that you live
18 in, or whether it is a crime area or not, you voluntarily took
19 yourself to this nightclub on this night, with a weapon, and
20 engaged in pulling that weapon, whether you were justified in
21 doing so or not.

22 The mitigating factors would be, I think you have shown
23 remorse. In fact, you did it before the apology in court
24 today. I heard your testimony, or your statement in the video
25 statement, and you were obviously upset at the time, and you

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1 volunteered to give that statement to the police. And, you of
2 course have shown remorse today, and expressed that remorse to
3 the family.

4 I think also you probably sincerely felt like you were in
5 a trapped situation that night. But, the facts don't justify
6 feeling that way. And, of course, I have taken into
7 consideration the fact that the victim, even though he did not
8 deserve to be killed, bears some responsibility for this, in
9 that his condition was he was intoxicated three times over the
10 legal limit. These are all factors that I have taken into
11 consideration in deciding what the appropriate sentence is.
12 And I am going to go through the lighter matters first.

13 With regard to indictment number 645, for the unlawful
14 weapon, which is CDR Code 044, the sentence of the court there
15 is five years concurrent with the voluntary manslaughter
16 sentence, and I am going to pronounce it in just a minute.
17 Give him credit for six hundred and sixty-two days.

18 The sentence on the possession of a weapon during the
19 commission of a violent crime is five years, concurrent with
20 09-644, and the other charges. Again given credit for time
21 served. All of these are concurrent with each other and with
22 the principle charge.

23 And on the carrying a weapon into premises where alcohol
24 is sold, the sentence is three years; again concurrent with 09-
25 644, and the other charges. And given credit for six sixty-two

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1 days.

2 Obviously the most important matter here is the taking of
3 the life of the victim in this case; and I have given my
4 reasons for arriving at the sentence that I have arrived at.
5 So, the sentence of the court is that the defendant is
6 committed to The State Department of Corrections for a term of
7 eighteen years. Given credit for the six hundred and sixty-two
8 days that he has served.

9 I hope that you will get this time behind you. And when
10 you get out of prison you will be able to live a productive
11 life. But, I cannot discount the fact that a life was
12 unnecessarily snuffed out as a result of your actions that
13 night.

14 MR. JONES: Thank you, sir.

15 MR. HOLT: Thank you very much, Judge.

16 THE COURT: All right. No one else leave but the jury.
17 The jurors are excused. Let me know when the jurors have
18 cleared the elevator, please.

19 (PAUSE.)

20 THE COURT: All right. The next matter is that the
21 members of the victim's family are excused. Everyone else stay
22 put please. But the members of the victim's family are
23 excused. And I would ask that you not only leave the building
24 but leave the area, not be hanging out in the courtyard
25 outside. All right. Members of the defendant are also

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1 excused. And we will take a ten minute recess.

2 (Whereupon, this trial was concluded at 4:08
3 p.m. on Wednesday, October 12, 2011.)

4 -- END OF TRANSCRIPT --

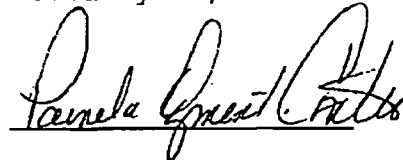
CERTIFICATE OF REPORTER

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I, the undersigned, Pamela Ozment-Cartee, official Court Reporter for the Fourth Judicial Circuit of South Carolina, do hereby certify, that the foregoing is a true, accurate and complete Transcript of Record in the above captioned case, relative to appeal, in The Court of Common Pleas in Darlington County, South Carolina, on the 10TH, 11TH, and 12TH days of October 2011.

I do further certify that am neither, of kin, counsel, nor interest of any party hereto.

February 29, 2012

A handwritten signature in cursive script, appearing to read "Pamela Ozment-Cartee", is written over a horizontal line.

Pamela Ozment-Cartee
Circuit Court Reporter

FORM 5

STATE OF SOUTH CAROLINA)

County of Darlington)Anthony Edwards #295387)

Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

13CP160528

APPLICATION FOR

POST-CONVICTION RELIEF

FILED
JUN 25 AM 11:43
CLERK OF COURT/RMC
DARLINGTON COUNTY, S.C.
SCOTT B. SUGGER

INSTRUCTIONS B READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Lee Correctional Institution, 990 Wilsack Highway Bishopville, SC 29010

2. Name and location of Court which imposed sentence Darlington County Court Of General Sessions

3. Name(s) of co-defendant(s) (if any) None

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:

(a) 2009-GS-0664 Not guilty of Murder, but guilty on lesser included offense of
Voluntary Manslaughter.

TRUE CERTIFIED COPY

Scott B. Suggs
CLERK OF COURT/RMC
DARLINGTON COUNTY, SC

- (b) 2009-GS-16-0646 Carrying a weapon on premises that serve alcohol
- (c) 2009-GS-16-0643 Possession Of A Weapon During Commission Of A Violent Crime
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) October 12, 2011 18 years for Voluntary Manslaughter must serve 85% of sentence
- (b) October 12, 2011 3 year For Carrying Weapon On Premise That Sells Alcohol (concurrent)
- (c) October 12, 2011 5 years For Possession Of Weapon During Commission Of Violent Crime.
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty Yes
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes
8. If you answered Ayes@ to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina's State Court Of Appeals
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Appeal Dismissed
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. February 1, 2013-Filed March 13, 2013
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. Unpublished Opinion No. 2013-UP-106
- ii. _____
- iii. _____
9. If you answered Ano@ to (7), state your reasons for not so appealing:
- (a) _____

- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective Assistance Of Trial Counsel (see Attached Page)
- (b) Ineffective Assistance Of Appellate Counsel (See Attached Page)
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) See Attached Pages----
- (b) See Attached Pages----
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? (No)
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? (No)
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? (No)
- (d) any other petitions, motions or applications in this or any other Court? (No)
13. If you answered Ayes® to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
- ii. _____
- iii. _____

iv. _____

(c) the disposition thereof:

i. _____

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

(No)

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. _____

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) Ineffective Assistance Of Counsel can (only) be brought in PCR Proceedings.
 - (b) Ineffective Appellate Counsel can (only) be brought in PCR Proceedings.
 - (c) _____
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? (Yes)
 - (b) your trial, if any? (Yes)
 - (c) your sentencing? (Yes)
 - (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? (Yes)
 - (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? (No)
18. If you answered Ayes@ to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
 - i. Richard Jones, Esquire 300 Russell Street, Suite 113 Darlington, SC 29532 (Trial)
 - ii. Robert M. Pachak, Appellate Defense PO Box 11589 Columbia, SC 29211-1589 (Appeal)
 - iii. _____
 - (b) the proceedings at which each such attorney represented you:
 - i. Pre-Trial Proceedings, Trial, and Sentencing
 - ii. Direct Appeal To State's Court Of Appeals
 - iii. _____

19. State clearly the relief you seek in filing this application:

The applicant Request a (New Trial) on the charges listed on question (5)
of this PCR Application., However for the record, The applicant is willing
to discuss the possibility of entering a plea on a Involuntary Manslaughter Charge?

20. Are you now under sentence from any other court that you have not challenged?

(NO)

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of Darlington)

VERIFICATION

I, Anthony Edwards 295387, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Anthony Edwards 295387

SWORN to and subscribed before me this 20
 day of June, 2013.

Dina Sures (L.S.)
 Notary Public

My Commission Expires: 11-4-2015

FILED
 2013 JUN 25 AM 11:44
 SCOTT B. SUGGS
 CLERK OF COURT / R.D.O.
 DARLINGTON COUNTY, S.C.

APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

I, Anthony Edwards 295387, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Anthony Edwards 295387
Applicant

SWORN or affirmed to and subscribed before me this

20 day of June, 2013.

Dale Suss
Notary Public

My Commission Expires: 11-4-2015

FILED
2013 JUN 25 AM 11:44
SCOTT B. SUGGS
CLERK OF COURT/R.O.D.
DARLINGTON COUNTY, S.C.

Continued from:

(ATTACHMENT ONE)

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
 - (A) Ineffective Assistance Of Trial Counsel
 - (B) Ineffective Assistance Of Appellate Counsel
11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(A)(1) Failure To Investigate:

Trial Counsel's failure to conduct an investigation of the crime scene prejudiced Applicant's case, in that, had Trial Counsel visited crime scene (the club), He would have discovered that the club's lighting system consisted of (Strobe lights)

Had the jury been told about the (strobe lighting system), which would explain how the Applicant did not know that the victim had turned his body completely around, thereby allowing him to be shot in the back. Strobe lights blink on and off, they don't catch a dancers or a person lunging forwards every move. (See ROA p.174, lines 18-22). Considering that along with numerous witnesses who all testified that the victim violently burst into the club door knocking glasses and other items over startling everyone, giving applicant only seconds to act, believing victims aggression was directed towards him. The jury would have very likely believed applicant did not intend to shoot victim in the back, but thought he was shooting victim in the front to stop him.

This failure denied applicant his constitutional right to a fair trial and with all certainty resulted in applicant being found guilty, which is evidenced by the solicitor's own comments, stating, 'We would not be here having this trial if the victim had been shot in the front., (See ROA page 305, lines 4-6) Therefore, the jury needed to here an explanation that would explain why applicant shot victim in the back or how, was it that, applicant did not know victim had turned around, Had the jury been told about the strobe lighting system and how it works, it is certain that the jury would have reached a different verdict and or believing the solicitors comment, there never would have been a trial, or charge would have been dismissed on motion by Defense counsel.

But, it is clear from the record, Defense Counsel never visited crime scene as is evident. (See ROA page 316, lines 9-11).

Final Note: The enormous importance of this argument is clearly supported by the testimony of James Lee Lucky who testified that an entire group of people could disappear in a few flashes of light. (See ROA p.174, lines 18-22), at the club.

(A)(2) Failure To Investigate And Prepare For Denno Hearing:

It is evident that the state and law enforcement initially opposed bond, but something changed their decision to no longer oppose bond., That was what Defense Counsel should have focused on, period. And, at least, asked what was it that made them change their mind about opposing bond??? Trial counsel also should have questioned someone from the solicitors office to find out why they changed their initial position and no longer opposed bond, since it is evident from the record (ROA p.36, lines 21-25 and continued on p.37, lines 1-2) that their was some- thing state was negotiating for, and was that thing his confession, and if it was, then his confession was involuntary. Trial Counsel was ineffective for not attempting to discover what it was that changed their position to no longer oppose bond, and for failing to call someone from the solicitor's office to find the answer., Had Trial attorney done so, the result

(ATTACHMENT TWO)

-of the Jackson v. Denno Hearing would likely have been different, which is evident from the fact, that the jury ask to hear the confession again, which demonstrates the jury may have based its decision on the confession., The Denno Hearing was a critical stage, entitling applicant to effective assistance of counsel at this stage.

(A)(3) Failure To Object To Introduction of Prior ABWIK Or Offer To Stipulate To It

Trial Counsel was ineffective for failing to object to witness Jana Carter's testimony concerning my prior conviction for ABWIK. Although, she, it was not being introduce for impeachment purposes, but to establish that applicant had, in fact, been convicted of a prior offense., Trial counsel should have objected, arguing, that its or any, probative value of introducing it, is substantially outweighed by its prejudicial effect. (See: Old Chief v. US 117 S.Ct. 644 and State v. Colf 525 S.E. 2d 246)..... In this case, the jury could have resolved any questions about wheither applicant actually thought he was acting in self defense or was just a bad guy, who if anyone challenged him, he shot them., and or in the alternative, Trial counsel should have offered to stitpulate to the fact that applicant did, in fact, have a conviction for a prior violent offense and was convicted of a felony to meet the elements of the possession of a weapon by a convicted felon. Under the facts of this case, Counsel's failure to object and or to offer to stipulate was prejudicial to applicant and deprived him of his constitutional right to a fair trial and effective assistance of counsel. Had counsel objected or offered to stipulate, the outcome of these proceedings may very well have been different.

Note: See: State v. Broadnax 736 SE2d 688, concerning identical prior introduction at trial.

(A)(4) Trial Counsel's failure to Request For A Charge Of Involuntary Manslaughter, instead or along with manslaughter charge.

Trial Counsel was ineffective for failing to request a charge for involuntary manslaughter. The Judge apparently believed there was sufficient facts to allow applicant to present a defense of self defense. Therefore, It is substantially reasonable to believe a Request For a charge of involuntary manslaughter would have been granted. It is evident from the record, That the solicitor, witnesses, and jury believed that the victim was more than responsible by his own action of causing his death, However, the jury apparently could not get over the fact that victim was shot in the back., and because of such, the jury likely believed applicant needed to be punished for something and only having murder and voluntary manslaughter to choose from, the jury chose manslaughter., where as if the jury had involuntary manslaughter to choose from, they very well, may have chose involuntary manslaughter, being that victim had been in fight with others earlier in the night, victim had 3 times the legal limit of alcohol in his system and was taunting applicant urging him to shoot him, and victim was taken outside and then forced his way back into club, which resulted in the shooting.

Had the Trial Counsel Requested Involuntary Manslaughter charge, the results of the proceedings would more than likely have been different.

(ATTACHMENT THREE OF THREE)

(A)(5) Counsel's failure To Consult With Client Concerning His Decision To Request A Charge On Voluntary Manslaughter.

Although it could be considered a matter of trial strategy to request the charge on voluntary manslaughter, applicant believes under the unique facts of this case, counsel should have consulted with applicant to see whether he approved of a strategy of requesting the voluntary manslaughter charge.

The prejudice is that had the jury only had the choice of guilty or not guilty of murder, under the facts of this case, the jury would not have returned a verdict of guilty where the victim repeatedly taunted the applicant to shoot him, and his (victim's) blood alcohol level was 3 times legal limit, and the victim had provoked a fight with others earlier that night, and had burst through the club's door knocking objects over, startling everyone in the club.

The applicant believes the decision was a critical one and counsel should have at least consulted with him to determine if it was okay with him.

Whereas, applicant can say with surety that he would have consented to a request for a charge on involuntary manslaughter, applicant is with more surety, he would not have consented to a request for a charge on voluntary manslaughter and had counsel consulted with applicant and followed his wish not to request on voluntary manslaughter, the results of the proceedings would likely have been different.

Note: The applicant contends that he is a layman and unlearned in matters of the law, that there are (two) other allegations concerning Ineffective Assistance Of Trial Counsel that need to be amended by Appointed PCR Counsel. Therefore, Applicant prays that PCR Counsel be appointed to amend other (two) allegations and to develop and perfect the already included allegations of Ineffective Assistance Of Trial Counsel.

*Leave PCR Application Open

*

Ineffective Assistance Of Appellate Counsel

(B)(1) Counsel's failure to challenge insufficiency of the evidence and elements to support the charge of voluntary manslaughter.

Appellate Counsel was ineffective for failing to challenge the insufficient evidence and element that are necessary to support a conviction for voluntary manslaughter... This question, whether or not, the necessary elements are present and whether the evidence was sufficient could have best been decided by our State's Court Of Appeals. The Trial Counsel's Motion for a Directed Verdict, which touched on these issues, provided the basis for such an argument on appeal or an Abuse Of Discretion Error.

Note: This is a complex issue that needs to be developed and perfected by court appointed PCR Counsel. Therefore, applicant Request that this allegation and ground be left open for PCR Counsel to Amend And Perfect, along with (one) other ground of Ineffective Assistance Of Appellate Counsel.

396.

June 11, 2013

Anthony Edwards #295387
Lee Correctional Institution
990 Wisacky Highway
Bishopville, South Carolina
29010.

COPY

13CP160528

Dear Darlington County Clerk Of Court,

Please find enclosed my Original PCR Application for your processing
and a extra copy, which I ask that your Office clock stamp recieved,
and then return it to me via US Postal mail.

'Thank You Very Much!'

Anthony Edwards #295387
Anthony Edwards #295387

2013 JUN 25 AM 11:43
SCOTT B. SUGGS
CLERK OF COURT/R.C.D.
DARLINGTON COUNTY, S.C.

FILED

TRUE CERTIFIED COPY,

Scott B. Suggs
CLERK OF COURT/RMC
DARLINGTON COUNTY, SC

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF DARLINGTON	)	FOR THE FOURTH JUDICIAL CIRCUIT
Anthony Edwards, #295387,	)	Case No. 2013-CP-16-528
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent:	)	
_____	)	

Respondent, making its Return to the Application for Post-Conviction Relief filed January 25, 2013, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Darlington County Clerk of Court. In April 2009, the Darlington County Grand Jury indicted Applicant for murder (2009-GS-16-644), possession of a weapon during commission of a violent crime (2009-GS-16-643), possession of a pistol by a person convicted of a crime of violence (2009-GS-16-645), and carrying a pistol on premises that sell or serve alcohol (2009-GS-16-646). J. Richard Jones, Esquire, and Daniel T. Jordan, Esquire, represented Applicant. On October 10, 2011, Applicant proceeded to trial before the Honorable Howard P. King and a jury. On October 12, 2011, the jury found Applicant guilty voluntary manslaughter, possession of a weapon during commission of a violent crime, possession of a pistol by a person convicted of a crime of violence, and carrying a pistol on premises that sell or serve alcohol. Judge King sentenced Applicant to concurrent terms of eighteen (18) years for voluntary manslaughter, five (5) years for possession of a weapon during commission of a violent crime, five (5) years for possession of a

pistol by a person convicted of a crime of violence, and three (3) years for carrying a pistol on premises that sell or serve alcohol.

Applicant filed a timely notice of appeal. Robert M. Dudek, Esquire, of the Office of Appellate Defense perfected the appeal with the filing of an Anders¹ brief. The South Carolina Court of Appeals Dismissed Applicant's appeal on March 12, 2013. State v. Edwards, Op. No. 2013-UP-106 (S.C. Ct. App. filed March 12, 2013). The Court of Appeals returned the remittitur on April 3, 2013.

II.

In his Application, Applicant alleges he is being held in custody unlawfully for the following reasons:

1. "Ineffective Assistance of Trial Counsel"
 - a. "Failure to Investigate"
 - b. "Failure to Investigate and Prepare for Denno Hearing"
 - c. "Failure To Object To Introduction of Prior ABWIK Or Offer To Stipulate To It"
 - d. "Trial Counsel's failure to Request For a Charge Of Involuntary Manslaughter, instead or along with manslaughter charge"
 - e. "Counsel's failure to Consult With Client Concerning His Decision To Request A Charge On Voluntary Manslaughter"
2. "Ineffective Assistance of Appellate Counsel"
 - a. "Counsel's failure to challenge insufficiency of the evidence and elements to support the charge of voluntary manslaughter"

Any claims not specifically enumerated in the Application or amendments thereto will be opposed by Respondent at the evidentiary hearing. All amendments should be made well in advance of hearing and should be filed in compliance with Rule 11, SCRCP.

¹ Anders v. California, 386 U.S. 738 (1967).

Attached to this Return and incorporated herein are the records of the Darlington County Clerk of Court regarding the subject conviction(s), Applicant's records from the South Carolina Department of Corrections, the trial transcript, and Applicant's appellate records. Any records not attached will be forwarded upon receipt. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III.

Respondent submits Applicant's allegation of ineffective assistance of trial counsel is without merit. In a post-conviction relief action, the applicant bears the burden of proving the allegations in the application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)). Where the application alleges ineffective assistance of trial counsel as a ground for relief, the applicant must prove "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Id. (citing Strickland v. Washington, 466 U.S. 668, 686 (1984)).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Id. (citing Strickland, 466 U.S. at 687; Turner v. Bass, 753 F.2d 342 (4th Cir. 1985); Marzullo v. Maryland, 561 F.2d 540 (4th Cir. 1977)). The court strongly presumes trial counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Id. (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of trial counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove trial

counsel's performance was deficient. Id. Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, trial counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625.

Respondent submits Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Respondent further submits Applicant's allegation of ineffective appellate counsel is without merit. A defendant is constitutionally entitled to effective assistance of appellate counsel. Evitts v. Lucey, 469 U.S. 387, 396 (1985). "However, appellate counsel is not required to raise every non-frivolous issue that is presented by the record." Thrift v. State, 302 S.C. 535, 539, 397 S.E.2d 523, 526 (1990) (citing Jones v. Barnes, 463 U.S. 745 (1983)). Appellate counsel has a professional duty to choose among potential issues according to their merit. Jones, 463 U.S. at 753. Where the strategic decision to exclude certain issues on appeal is based on reasonable professional judgment, the failure to appeal all trial errors is not ineffective assistance of counsel. Griffin v. Aiken, 775 F.2d 1226, 1235 (4th Cir. 1985).

The applicant must show that appellate counsel's performance was deficient and that he was prejudiced by the deficiency. Thrift, 302 S.C. at 537, 397 S.E.2d at 526; Strickland, 466 U.S. at 687. When a claim of ineffective assistance of counsel is based upon failure to raise viable issues, the

court must examine the record to determine "whether appellate counsel failed to present significant and obvious issues on appeal." Gray v. Greer, 800 F.2d 644, 646 (7th Cir. 1986). Generally, the presumption of effective assistance of counsel will be overcome only when the alleged ignored issues are clearly stronger than those actually raised on appeal. Id.

Respondent submits Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of appellate counsel probably raises questions of fact the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. Sharper, 279 S.C. 264, 305 S.E.2d 247.

V.

Respondent denies each and every allegation not hereinbefore expressly admitted, qualified, or explained.

VI.

WHEREFORE, having made its return, Respondent requests an evidentiary hearing be held.

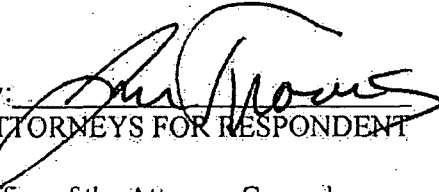
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

JOSHUA L. THOMAS
Assistant Attorney General
S.C. Bar No. 100777

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
Telephone: (803) 734-3737

May 29, 2014

STATE OF SOUTH CAROLINA

COUNTY OF DARLINGTON

IN THE COURT OF COMMON PLEAS

2013-CP-16-528

ANTHONY EDWARDS, #295387

Applicant,

vs

AFFIDAVIT OF SERVICE BY MAIL

STATE OF SOUTH CAROLINA,

Respondent.

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Tristan M. Shaffer, Esquire
 Shaffer Law Firm
 140 Gibson Road
 Lexington, South Carolina 29072

DATED this 29th day of May, 2014.


 Kelly Oppenheimer, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS

COUNTY OF DARLINGTON) 2013-CP-16-0528

Anthony Edwards,	)	
	)	
Plaintiff,	)	Transcript of Record
	)	
vs.	)	January 20, 1015
	)	
The State,	)	PCR Hearing
	)	
Defendant.	)	

B E F O R E :

Honorable Eugene C. Griffith, Jr.
Darlington County Courthouse
Darlington, South Carolina

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

Tristan M. Shaffer, Esquire
Attorney for Plaintiff

Joshua L. Thomas, Esquire
Attorney for Defendant

Grace L. Hurley, CVR-CM-M
Circuit Court Reporter

State v. Edwards, Jr.

2

1	I N D E X	
2	(January 20, 2015.)	
3	J. Richard Jones	
4	Direct by Mr. Shaffer.	5
5	Cross by Mr. Thomas.	11
6	Redirect by Mr. Shaffer.	14
7	Anthony Edwards	
8	Direct by Mr. Shaffer.	15
9	Cross by Mr. Thomas.	20
10	J. Richard Jones	
11	Direct by Mr. Thomas	24
12	Cross by Mr. Shaffer	25
13	Certificate.	32
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E X H I B I T S

(There were no exhibits marked during the hearing.)

State v. Edwards, Jr.

4

1 (On the record, January 20, 2015. Defendant is sworn by
2 the bailiff.)

3 MR. THOMAS: May it please the Court?

4 THE COURT: Yes, sir.

5 MR. THOMAS: This is Anthony Edwards versus State of
6 South Carolina. It's case number 2013-CP-16-528. It is an
7 April 2009 indictment for murder, possession of a weapon
8 during the commission of a violent crime, possession of a
9 pistol by a person convicted of a violent crime and possession
10 of a pistol where alcohol is served. He went to trial October
11 10th through 12th of 2011, was convicted of voluntary
12 manslaughter as a lesser included of the murder, and on the --
13 and also as indicted on the possession of a weapon charge, so
14 all three of those. Judge King sentenced him to 18 years on
15 the voluntary with concurrent terms of five years for
16 possession of a weapon during a violent crime, five years for
17 possession of a pistol by a person convicted of a violent
18 crime and three years for possession of a pistol where -- on
19 premises where alcohol is sold. He did file an appeal. Bob
20 Dudek of the Appellate Defense, Division of Appellate Defense
21 perfected that with an Anders brief. The Court of Appeals
22 dismissed it in -- on an unpublished opinion number 2013-UP-
23 106. The remittitur was sent in April 2013. This PCR was
24 filed shortly thereafter, June of 2013. He is represented by
25 Tristan Shaffer and the State's ready to proceed.

1 THE COURT: All right. Mr. Shaffer, are you all ready?

2 MR. SHAFFER: Yes, Your Honor.

3 THE COURT: All right. Call your witness.

4 MR. SHAFFER: The Applicant would call Rick Jones.

5 THE COURT: Come right on up here. We'll play musical
6 chairs.

7 Whereupon, J. Richard Jones was called to the stand, duly
8 sworn by the clerk and testified as follows:

9 DIRECT EXAMINATION

10 BY MR. SHAFFER:

11 Q Mr. Jones, you represented Anthony Gregg [sic] at trial;
12 correct?

13 A Anthony Edwards.

14 Q Anthony Edwards. I'm sorry.

15 A I did.

16 Q Do you have a copy of the transcript?

17 A Not with me, but I have reviewed it.

18 Q Okay. I'm going to show you page 329. I want you to
19 read the voluntary charge for the Court.

20 A Beginning with where you start your underlining?

21 Q That's correct.

22 A [As read] "What is voluntary manslaughter? Section 16-
23 3-50 of the Code of Laws defines manslaughter as the unlawful
24 killing of another without malice, express or implied.

25 Voluntary manslaughter is the unlawful killing of a human

J. Richard Jones - Direct by Mr. Shaffer

6

1 being without malice in sudden heat of passion upon sufficient
2 legal provocation." Tell me when to stop. "To prove
3 voluntary manslaughter the State must demonstrate beyond a
4 reasonable doubt that the Defendant unlawfully killed another
5 without malice in sudden heat of passion based on sufficient
6 legal provocation. Heat of passion alone will not suffice.
7 Both heat of passion and sufficient legal provocation must be
8 present at the time of the killing to constitute voluntary
9 manslaughter."

10 Q That's sufficient. Mr. Jones, what is the -- where in
11 the record is evidence that would support a charge of
12 voluntary manslaughter?

13 A Well, I assume when the door burst open and the victim
14 came in.

15 Q Okay.

16 A I think that was the second or third time he had done
17 something like that.

18 Q All right. He -- and we'll go through the facts for the
19 Court.

20 A Sure.

21 Q Am I correct to say that my client was working as a
22 bouncer at a club?

23 A You are not correct. He was a patron.

24 Q He was a patron at the club.

25 A Correct.

1 Q Okay. But he, he helped the bouncers in the club;
2 correct?

3 A I think in his mind, not in their mind.

4 Q Okay. Initially, they had -- they -- initially, the
5 victim in this case got into a fight with people other than my
6 client; correct?

7 A Correct.

8 Q And that was on the dance floor?

9 A Correct.

10 Q They then -- store -- I mean, the bar staff moved them
11 into the kitchen area, the victim --

12 A Either the staff did or they kind of migrated towards the
13 kitchen.

14 Q Okay.

15 A And ended up in the kitchen. Correct.

16 Q And my client came in, into the kitchen; correct?

17 A Correct.

18 Q And he pulled out a gun; correct?

19 A Correct.

20 Q And at that point the people there pulled out knives;
21 correct?

22 A I, I think the testimony and the evidence was that they
23 all reached for something and a couple of them ended up with
24 --

25 Q Grabbing knives off the counter?

J. Richard Jones - Direct by Mr. Shaffer

8

1 A -- like, like butter knives. Yes. Correct. Correct.

2 Q Yeah. Because there were knives on the counter?

3 A Correct.

4 Q Okay. At that point the victim tried to get the gun away
5 from my client; correct?

6 A I think there was a struggle. I think at, at that point
7 as I remember the, the point of the conflict turned from
8 whoever was in the conflict to the victim and Mr. Edwards.

9 Q Okay. And when they -- I apologize. At that point he
10 couldn't get the gun away; right?

11 A I, I don't think the gun ever left Mr. Edwards'
12 possession.

13 Q And then they weren't -- they managed, between the bar
14 staff and my client, they managed to get the people outside;
15 right?

16 A Yes.

17 Q Okay. And then they left? Right?

18 A I, I don't think they ever left.

19 Q Well, they, they left the building.

20 A I think they were in the parking lot.

21 Q Yes.

22 A Correct. Yes.

23 Q They left the building?

24 A Yes.

25 Q Okay. Then the victim attempted to get in several times;

1 right?

2 A He came in at least once, and then I think he was put
3 back out and he, he may have come in twice. I don't really
4 recall that, but I do remember one time he came in, raked his
5 hand across the bar and threw off all the beer bottles and
6 whatever else was on the bar. They put him out again, and
7 either the second or third time that he came in is when Mr.
8 Edwards shot him.

9 Q And you, you pointed out -- your defense was self defense
10 in this case; right?

11 A Yes.

12 Q Your theory? You pointed out the fact that in the
13 initial scuffle, if you would call it that, my client was
14 completely calm; right?

15 A Except for the fact that he had a gun.

16 Q Yes.

17 A Yes.

18 Q But he was calmly pointing the gun. He wasn't mad about
19 anything. There's testimony in the record, you would agree;
20 right?

21 A Yeah. As I said, he inserted himself into the situation
22 that didn't, didn't concern him.

23 Q Yes.

24 A But I don't think he ever lost his temper, if that's what
25 you're asking me. Yes.

J. Richard Jones - Direct by Mr. Shaffer

10

1 Q Okay. Okay. And then the final time that the victim
2 attempted to enter the bar he shoved the door open; correct?

3 A Yes.

4 Q The door went swinging open and made a banging sound;
5 right?

6 A Correct.

7 Q And then the Defendant or my client immediately pointed
8 the gun and shot it supposedly maybe while he was running,
9 turning to run.

10 A I think, I think the testimony was that there was a --
11 one of the real bouncers at the club was at the front door
12 also, and Mr. Edwards kind of pushed him out of the way, and
13 then the victim said, "Oh, my God, he's got a gun," or, "Oh,
14 hell, he's got a gun," or whatever, and then the shot was
15 fired, and by that time he turned around. Yes.

16 Q Okay. Other than the fact that a shot was fired, is
17 there any evidence in the record that he was mad about
18 shooting him?

19 A He being Mr. Edwards?

20 Q Yes, sir. Mr. Edwards, yes.

21 A No. I think in his statement, if I recall, he was, he
22 was not mad particularly. He was frightened.

23 Q Okay.

24 MR. SHAFFER: No further questions.

25 MR. THOMAS: May it please the Court?

1 THE COURT: Yes, sir.

2 CROSS EXAMINATION

3 BY MR. THOMAS:

4 Q Mr. Jones, just some background information, how long
5 have you been practicing law when you tried this case?

6 A And tell me -- it was in '11?

7 Q Yes, sir.

8 A Well, math is not my strongpoint, but I was admitted in
9 November of 1976.

10 Q And did you have an opportunity to meet with Mr. Edwards
11 before trial?

12 A Many times.

13 Q Did you go over with him State's evidence, basically his
14 defense to any, you know, the indictments, things like that?

15 A I did.

16 Q What was -- based on those meetings sort of what was your
17 theory of the case that you developed your defense theory on?

18 A Well, it, it basically was a self defense because the
19 victim had gotten very unruly. He was unruly I think when he
20 got there. As I recall he was -- it was the night before he
21 was to get married. He and his either groomsmen or wedding
22 party or whatever had been drinking. They went to the bar.
23 They got there, and then he and/or others got in a fight on
24 the dance floor.

25 Q And so basically the chronology of events was Mr. Edwards

J. Richard Jones - Cross by Mr. Thomas

12.

1 somehow ended up in the kitchen with the victim?

2 A If I can go back a little bit farther, Mr. Edwards knew
3 the people at the bar. He -- I don't recall if he was working
4 that day. Anyway, he came very early, and he was there for a
5 good long while. I don't think it was the owner. I think it
6 was the guy that was just running the place that night, and he
7 and Mr. Edwards knew each other. So he had been there quite
8 some time. I guess the place got crowded, seems to me like it
9 was after midnight, a good crowd of people. Event happened on
10 the dance floor, and as I said earlier, either the, the
11 security people and/or the fight itself migrated from the
12 dance floor to the kitchen and then that's where Mr. Edwards
13 inserted himself.

14 Q And there was some evidence that there was a struggle in
15 the kitchen between the victim and Mr. Edwards?

16 A There was a confrontation and the, the struggle, I think,
17 I'm not sure if it was a struggle or just people trying to get
18 out of the way because he's the only one with a gun. He
19 pulled the gun and everybody kind of panicked is the
20 impression I got.

21 Q And, okay, so but there was -- and from your discussions
22 with him did he tell you sort of that same version of events?

23 A Yes. I mean, that's where I got the information from.

24 Q And so he basically had a struggle over the gun in the
25 kitchen with the victim?

1 A Yes.

2 Q Okay. So based on that I guess sort of walk me through
3 your, your theory behind asking for the voluntary charge.

4 A Since the victim was the person causing the trouble, the
5 security people ushered either him and his group out of the
6 bar. They ended up in the parking lot, continued to cause a
7 ruckus. As I said earlier, the victim rushed back into the
8 place at least once, maybe twice. They ushered him back out,
9 and I think the last time, I'm not so sure there was any other
10 customers in the bar other than the security people and Mr.
11 Edwards and the group was outside.

12 Q So in your mind was there some evidence of a provocation
13 by the victim on Mr. Edwards' part?

14 A Yes. Again, I think the, the confrontation initially did
15 not involve Mr. Edwards at all. He, he became involved in
16 the kitchen, and as I remember, the victim got so mad at the
17 sight of the gun then the confrontation became the victim and
18 Mr. Edwards.

19 Q Any other reason you would ask for a voluntary? I mean,
20 that gives you another out with the jury?

21 A And that's exactly what we did. As I recall, we had the
22 discussion, and even though they, they are kind of mutually
23 exclusive, the Solicitor did not have an objection; and so we
24 asked for both.

25 Q Thank you, Mr. Jones. That's all I have.

J. Richard Jones - Redirect by Mr. Shaffer

14

1 REDIRECT EXAMINATION

2 BY MR. SHAFFER:

3 Q Point to me the evidence in the record that demonstrates
4 that Mr. Edwards was mad during the initial scuffle?

5 A The initial scuffle I don't think he was mad.

6 Q Can you point to me any evidence in the record that would
7 suggest that he was mad whenever the victim was outside?

8 A Again, the only evidence would be the fear and/or
9 apprehension that was caused by the victim running in and out
10 and being mad at Mr. Edwards.

11 Q Do you have any -- can you point to me in the record any
12 evidence that he was mad at the time of the shooting, that he
13 was angry, that he was acting under an uncontrollable impulse
14 to do violence?

15 A Other than what I just said, the apprehension and/or fear
16 and/or whatever he happened to be experiencing because this
17 man kept running in hollering at him.

18 Q So he was scared; is that right?

19 A Yeah. I know he was scared.

20 Q Okay. And there's plenty of evidence that he was scared
21 throughout this; right?

22 A No question.

23 Q Okay. And that's why you went with the self defense
24 theory?

25 A Yes. Well, and the fact that he had -- the knives were

1 described a lot more vicious than they turned out to be.

2 Q Okay.

3 A They turned out to be just kind of butter knives or
4 silverware knives.

5 MR. SHAFFER: No further questions.

6 THE COURT: Anything else?

7 MR. THOMAS: None from this witness.

8 THE COURT: All right. You may step down.

9 A Thank you.

10 MR. SHAFFER: The Applicant would call Mr. Edwards.

11 THE COURT: All right. Mr. Edwards, you've been placed
12 under oath. You want to leave him -- you want to examine him
13 there?

14 MR. SHAFFER: That's fine.

15 THE COURT: Or you want to bring him up?

16 MR. SHAFFER: That's fine.

17 THE COURT: All right.

18 MR. THOMAS: I'm fine with that, Your Honor.

19 THE COURT: While you all were out, the bailiff placed
20 him under oath, and the court reporter and I observed it. So
21 we'll note that for the record. He is under oath.

22 Whereupon, Anthony Edwards, upon being duly sworn,
23 testified as follows:

24 DIRECT EXAMINATION

25 BY MR. SHAFFER:

Anthony Edwards - Direct by Mr. Shaffer

16

1 Q All right, Mr. Edwards. What's your current sentence?

2 A My current sentence is 18 years for voluntary
3 manslaughter.

4 Q Okay. You were represented by Mr. Jones; right?

5 A Yes. I was.

6 Q Okay. During the course of his representation of you,
7 did -- was there any plea offers in your case?

8 A Yes. There was. There was a 20-year plea for voluntary
9 manslaughter, which I denied, and I told Mr. Jones that we
10 were dealing with the issues of murder or self defense, and
11 which I only fired a shot in my own self defense.

12 Q Okay. And did he explain to you what voluntary
13 manslaughter was?

14 A Yes. He did.

15 Q Okay. And did you want to plead guilty to voluntary
16 manslaughter?

17 A No, sir. Because from what he told me voluntary
18 manslaughter was, and the research that I did on my own,
19 voluntary manslaughter wasn't constituted in my situation at
20 that time.

21 Q Okay. Now, you had also raised the issue involving
22 involuntary manslaughter. You had wanted that charge; is that
23 correct?

24 A Yes.

25 Q Okay. And what was that based off of?

1 A The solicitor's closing arguments, well, arguments at
2 some point in time. I don't remember if it was closing
3 arguments, but the solicitor's arguments about my reckless
4 disregard for human life and the situation that I was in, and
5 also due to the fact that our initial defense was self
6 defense. So I felt the, the lesser included most favorable to
7 me would have been the involuntary manslaughter versus the
8 voluntary manslaughter.

9 Q Okay. Now, do you feel that there was evidence that
10 would support an involuntary manslaughter charge other than
11 just the solicitor's comment?

12 A From testimony, yes. There is more than -- just by every
13 witness that testified spoke upon my cool reflection, my
14 calmness. There's one testimony, one witness saying that I
15 pushed them out of the way to fire the shot, I mean, which
16 would have been a reckless act.

17 Q Okay. And I didn't mean to cut you off. Is there
18 anything else?

19 A No, sir.

20 Q Okay. Mr., Mr. Jones actually pointed out the fact you
21 were cool throughout the entire thing.

22 A Yes, sir.

23 Q And he pointed out that you weren't angry; right?

24 A There was no anger. I don't recall his testimony or
25 statement of fear as well. I, I felt my life was in danger,

Anthony Edwards - Direct by Mr. Shaffer

18

1 but I never testified or made a statement concerning fear.

2 Q But it would be fair to say that, that Mr. Jones might be
3 saying that you were afraid because of that; right?

4 A Yes. Yes. Yes. Yes.

5 Q Okay. And you said you're currently doing 18 years for
6 voluntary; right?

7 A Yes, sir.

8 Q Do you think that there's any evidence in the record that
9 would support a charge for voluntary manslaughter or a
10 conviction for voluntary manslaughter?

11 A No, sir. There's not. When it comes to voluntary
12 manslaughter, I, I, until this day, I don't see where the
13 sufficient legal provocation existed. I, I -- and studies
14 show that heat of passion alone won't suffice.

15 Q Do you think that there was any evidence of heat of
16 passion in this or --

17 A No, sir. Every witness --

18 Q And you weren't acting because you were mad at him; were
19 you?

20 A No.

21 Q Were you acting under an uncontrollable impulse to do
22 violence?

23 A No, sir.

24 Q Okay.

25 A Every witness that took the stand even relayed that in

1 their testimony.

2 Q Okay. And given the fact that you're currently serving
3 18 years for a crime that you said that there's no evidence
4 of, do you think your, your rights, your due process rights
5 were violated?

6 MR. THOMAS: Objection, Your Honor. That call -- that's
7 argumentative, calls for a legal conclusion. That's your
8 province.

9 THE COURT: It is a legal conclusion.

10 MR. SHAFFER: Okay.

11 THE COURT: So rephrase your question. I'll sustain that
12 objection.

13 BY MR. SHAFFER:

14 Q Do you feel that it's unfair?

15 A Very unfair. He was supposed to be representing me in a
16 legal aptitude that was very unfavorable, and he basically --
17 and in testimony it proved in the transcript he relayed State
18 v. Belcher to the Courts that couldn't infer malice due to my
19 possession of a firearm.

20 Q And why didn't you, why didn't you plead guilty to the
21 voluntary manslaughter charge?

22 A Because never once in my mind I felt I was guilty of
23 voluntary manslaughter.

24 Q Okay. No further questions.

25 THE COURT: All right.

Anthony Edwards - Cross by Mr. Thomas

20

1 MR. THOMAS: May it please the Court?

2 THE COURT: Sure.

3 CROSS EXAMINATION

4 BY MR. THOMAS:

5 Q Mr. Edwards, how many meetings did you have with Mr.
6 Jones before trial?

7 A I would say two because one meeting with the Solicitor I
8 didn't even have any representation.

9 Q Do you feel like you had a pretty good opportunity to
10 discuss those -- that night's events with Mr. Jones before
11 trial though?

12 A With his case load when he came into the county jail, no,
13 sir, not really.

14 Q But you did tell him basically what happened that night?
15 You told him that there was a fight and all the other stuff
16 that happened after that?

17 A Yes.

18 Q And during those meetings you all discussed basically the
19 theory of this was self defense? You were defending yourself
20 and you shot him?

21 A Yes, sir.

22 Q So walk me through what happened that night. There was a
23 fight on the dance floor.

24 A That night it was a fight on the dance floor. I had a
25 friend that was operating as manager over the facility. He

1 was in a dirt bike accident a couple of years prior, and I
2 knew he had a bad leg. So I went to the fight to make sure he
3 was fine. When I went to the fight, he was actually at the
4 bottom of the fight trying to retrieve the victim in this
5 case. We all somehow got pushed into the kitchen, but they
6 were pushed into the kitchen first, and when I -- when the
7 crowd that I was pushed in with, the same friend of mine was
8 in the middle of the crowd with knives drawn.

9 Q So you are in the, in the kitchen and there was a group
10 of people, the victim was one of them, and they had knives?

11 A Yes.

12 Q And you pulled out the gun?

13 A Yes.

14 Q And then the victim tried to take the gun from you?

15 A Yes.

16 Q So you all basically got into a fight over the gun, a
17 struggle for the gun?

18 A A struggle, which also he grabbed it, I pulled it back
19 because I had no intentions of firing it. So I pulled it
20 back. I just wanted to calm the situation and get my friend
21 out of the situation.

22 Q So you're, you're breaking up a fight with your friend.
23 You're pulling a gun out and somebody's struggling with you
24 over the gun. Are you telling me that didn't upset you a
25 little bit?

Anthony Edwards - Cross by Mr. Thomas

22

1 A No. My whole demeanor was cool as testimony proved by
2 all witnesses that I never became hostile, waving the gun,
3 making arguments or threats.

4 Q And then the victim goes outside and he comes back in and
5 that's when you, you shot him?

6 A No. He made a couple of entrances back in, about two,
7 and the third one when he then came in, the door banged open,
8 a shot was fired outside, and I turned around and fired upon
9 him.

10 Q All right. So you're here, you're taking it upon
11 yourself to sort of help your friend police the club a little
12 bit?

13 A Right.

14 Q And this guy keeps coming in and coming back out? Even
15 though he's been kicked out, he kept coming back in?

16 A Right.

17 Q And he -- at one point he comes in and he knocks the beer
18 bottles off the bar?

19 A Yes, sir.

20 Q He's angry; right?

21 A Yes, sir.

22 Q He's in a bad mood? Okay. And through all of that
23 you're still telling me that that didn't upset you even a
24 little bit?

25 A No, sir. I'm not easily upset.

1 Q Okay. You discussed voluntary with Mr. Jones though;
2 right? You all discussed that?

3 A We discussed it and I declined. To me upon each time we
4 discussed it, one of our meetings the solicitor, Mr. Holt,
5 actually came in and we all spoke together, and I told him
6 there would be no pleas to voluntary manslaughter because I
7 did not feel from what Mr. Jones related to me and from what I
8 researched myself that voluntary manslaughter existed.

9 Q When you all were at trial and the Judge said he was
10 going to charge that, did you tell Mr. Jones that, "No, no,
11 no. I don't want him to charge that?"

12 A I didn't have the opportunity to. He stayed on his feet
13 and at the bench, and when he asked for it, I didn't really
14 understand why.

15 Q Thank you, Mr. Edwards. That's all I have.

16 THE COURT: Anything else?

17 MR. SHAFFER: Your Honor, no further questions.

18 THE COURT: Okay. Was it -- so I -- I haven't looked
19 through the record, was there any request made at trial for an
20 involuntary charge, also?

21 MR. SHAFFER: No, Your Honor. There was not.

22 THE COURT: Didn't figure it was, but just curious.

23 MR. SHAFFER: The Applicant rests, but I would have a
24 brief argument unless he wants to recall Mr. Jones.

25 MR. THOMAS: I would, just in the State's case, I'd like

J. Richard Jones - Direct by Mr. Thomas

24

1 to put Mr. Jones up for a brief questioning.

2 THE COURT: Okay.

3 Whereupon, J. Richard Jones was recalled to the stand and
4 testified as follows:

5 DIRECT EXAMINATION

6 BY MR. THOMAS:

7 Q Mr. Jones, why didn't you ask for an involuntary charge?

8 A I, I did not think there was any evidence in -- that was
9 presented that would support an involuntary charge. It
10 certainly wasn't a mistake. It certainly -- anyway, I, I did
11 not think -- I, I was pushing it for a voluntary, and we had
12 talked about a voluntary as an alternative.

13 Q And is that something you discussed with Mr. Edwards at
14 trial was the possibility of voluntary?

15 A Absolutely.

16 Q And he never told -- did he ever tell you that he didn't
17 want that?

18 A He, he did tell me that he did not want to plea a -- he
19 didn't, he didn't want any, any plea at all. It was, it was
20 always a trial once he got put back at the detention center.
21 He -- and he's -- he is correct. We, we have a procedure
22 where the solicitor on occasion will come out, we'll bring
23 clients in, we'll discuss the case. He made an offer of -- I
24 can't remember if, if it was 20 or a cap of 20. Mr. Edwards
25 did not want any part of that plea.

1 Q But as far as the charge goes at trial, did he ever tell
2 you he didn't want voluntary as a charge?

3 A No. In fact, we, we discussed it as I recall.

4 Q Thank you, Mr. Jones. I'll let you answer any questions
5 Mr. Shaffer may have.

6 MR. SHAFFER: The Court's indulgence.

7 THE COURT: Sure.

8 CROSS EXAMINATION

9 BY MR. SHAFFER:

10 Q Mr. Jones.

11 A Yes.

12 Q And I want you to not think about the result of 18.

13 A Okay.

14 Q Okay? Do you think that the 20 year, cap of 20 was a
15 good offer for him?

16 A Under the circumstance, the man was shot in the back.
17 That, that was, I think, everybody's big problem with the
18 case, and I think the solicitor even said if he'd been shot in
19 the front we would probably not have been there, but because
20 the man got shot in the back, I was very afraid that Mr.
21 Edwards was going to be convicted of murder.

22 Q Okay. So you thought then -- at the time that the offer
23 was made did you think it was in his best interest to accept
24 the offer?

25 A Yes.

1 Q Okay. Why didn't you force him to plea?

2 A I don't force anybody to do anything.

3 Q Okay.

4 A I mean, I, I laid it out. Mr. Edwards had -- he had been
5 out of jail for some time and then was reincarcerated because
6 he didn't comply with the terms of his bond.

7 Q Okay.

8 A During the time that he was out, he had done a good deal
9 of, of, of, of research, if you will. He had a book on the
10 law. He -- we talked specifically about several things. The
11 book was, was a general book, and it wasn't a South Carolina
12 book. So we, we had to come to terms with several facts that,
13 that would not happen at our trial, but he was very prepared
14 for a trial.

15 Q But why didn't you force him into a trial? I mean, force
16 him into a plea if you thought it was in his best interest?

17 A And again I, I don't force anybody to do anything against
18 their will.

19 Q Can you?

20 A Can I? I encourage people strongly if I think it's in
21 their --

22 Q Can you force them?

23 A No. I can't.

24 Q You can't make the decision for them?

25 A Not at all.

1 Q You can't waive their right to a trial by a jury?

2 A No.

3 Q Okay.

4 MR. SHAFFER: No further questions.

5 MR. THOMAS: No redirect, Your Honor.

6 THE COURT: All right. You can step down.

7 MR. THOMAS: And that's all from the State.

8 MR. SHAFFER: Your Honor, I do have a brief argument if
9 the State rests.

10 THE COURT: Okay. I got a -- I guess I got a question is
11 if Mr. Jones didn't ask for a voluntary charge what should he
12 have done?

13 MR. SHAFFER: Your Honor, at this time I actually have a
14 motion as well.

15 THE COURT: Okay.

16 MR. SHAFFER: You know, I think that the evidence
17 presented, if you wouldn't mind me making it before I answer
18 your question?

19 THE COURT: Okay.

20 MR. SHAFFER: I think the evidence presented indicates
21 that, that obviously he had a right to a trial, he had a right
22 to a trial and in a case that there was evidence of and that
23 there was no evidence of it, and that he's doing time for it,
24 I think that constitutes a due process violation. I would
25 just ask that the PCR application be amended to indicate a due

1 process violation on those grounds.

2 MR. THOMAS: A rose by any other name, Judge. I have no
3 objection to it. It's the same thing.

4 THE COURT: Sure. Okay.

5 MR. SHAFFER: Thank you, Your Honor.

6 THE COURT: Grant, that motion is granted.

7 MR. SHAFFER: Thank you, Your Honor. Your Honor, I guess
8 I, I -- to answer your, your question, you had asked that what
9 should he have done. Your Honor, I think there's no evidence
10 in the record and he wants murder or nothing, you should have
11 given him murder or nothing. He, he turned down voluntary.
12 He also -- if there's no evidence in the record, I think that
13 what you're supposed to do under the law --

14 THE COURT: All right. How you say there's no evidence
15 in the record? I mean, is not shot in the back evidence of
16 something?

17 MR. SHAFFER: And I think there's evidence of murder
18 maybe. There's enough evidence to get past, I mean, directed
19 verdict on murder, Your Honor. I will, I will state that. I
20 think that if he's saying it's self defense or murder, you
21 shouldn't ask for a compromise verdict whenever there's no
22 evidence to support that compromise verdict. So I think that
23 that's our basis for the ineffective ground. The other side
24 of the coin there, even if it was proper trial strategy to do
25 it, you know, the -- there's due process law saying that if

1 there's, if, if there's no evidence, if it's, you know, a
2 charge is devoid of evidence, it's a due process violation to
3 allow him to stay in jail, Your Honor, and I guess that that
4 would be the basis of our due process argument is that here
5 there's no evidence that would support voluntary. There's no
6 heat of passion here. You know, I don't think there's
7 sufficient legal provocation, but even if there was, there's
8 absolutely no evidence of heat of passion in this case. Under
9 South Carolina Law you just -- the facts just don't fit what
10 he was convicted of, and as, as a result, I think his due
11 process, due process rights were violated by asking for that
12 compromise verdict.

13 THE COURT: The converse would be if he was convicted of
14 murder and you came here on PCR and said, "Well, he should
15 have asked for a voluntary charge and that was a deficiency."
16 I mean, that's kind of where you're putting him is, is heads I
17 win, tails you lose. I mean, it's an awkward position but the
18 position he put himself.

19 MR. SHAFFER: Well, and Your Honor, I think that if I
20 would have came in here and asked for a voluntary and he had
21 gotten convicted of murder, didn't ask for the voluntary, and
22 I said, "Well, you were ineffective for doing that," you would
23 have looked at the record and said there's no evidence to
24 support it, therefore he's not ineffective.

25 THE COURT: I don't know. All right. I understand your

1 argument. That's tricky.

2 MR. THOMAS: And Your Honor, just briefly in reply,
3 obviously, Mr. Jones testified that they discussed the issue
4 about voluntary. You know, first off, he said it was
5 strategic. He gave the jury another out, and secondly, you
6 know, the evidence in the record is that the Defendant here
7 was in a fight with the victim at some point over a gun. You
8 know, he said himself that he was policing. His friend was
9 getting into a fight, and he was trying to help his friend
10 out, and this guy kept coming in, you know. You know, there's
11 evidence in the record that he could have -- that the jury
12 could reasonably infer that he was under the heat of passion.
13 I mean, he got into a fight about a gun. I think that's,
14 that's textbook. You know, if you get into a fight about
15 something, I think that's sufficient legal provocation. You
16 know, viewing the light -- viewing the evidence in the light
17 most favorable to, to the Defendant at trial, when they asked
18 for that charge, I think the Judge was, was well within his
19 means to give that, and I think Mr. Jones articulated a
20 strategic reason in asking for it, and as far as the due
21 process goes, that's the same analysis. So that should be the
22 State's position.

23 MR. SHAFFER: Your Honor, there's, there's a case that
24 came out I guess it was around 2011, 2012. It was State v.
25 Smith. In that case, Your Honor, basically it would have been

1 early in the year. It was right around Christmas. So it was
2 either before or after, but in that case it defined voluntary,
3 and you know, that case sort of affirmed that South Carolina
4 takes this hard approach that if you're going to ask for
5 voluntary, if you're entitled to it, you have to have evidence
6 of both legal provocation and heat of passion and you have to
7 have evidence that he was acting under heat of passion. It's
8 not, you know, okay, well, one, one element's there, so let's
9 just give them to them. There has to be evidence of both, and
10 in this case there's just not any evidence that he was acting
11 under heat of passion, Your Honor.

12 THE COURT: Yeah, but I mean, he argued that a lot. "I
13 was calm. I wasn't upset. I wasn't mad because I really
14 didn't know him, have an emotional tie to it, but I was afraid
15 because he was violent in front of me with a knife, coming in
16 and out of the door, heard a gunshot," all those other facts.
17 So let me read the record, and I'll let you all know what I'm
18 -- I'll do.

19 MR. SHAFFER: Thank you, Your Honor. Thank you, Your
20 Honor.

21 MR. THOMAS: Thank you, Your Honor.

22 (Adjourned.)

23

24

25

C E R T I F I C A T E

I, the undersigned, Grace L. Hurley, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the PCR Hearing held in the case of Anthony Edwards v. State, held in the Court of Common Pleas for Darlington County, Darlington County Courthouse, Darlington, South Carolina, on January 20, 2015.

I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto.

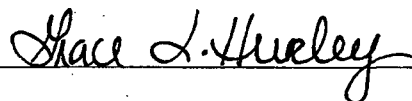
Grace L. Hurley, CVR-CM-M
Official Reporter

July 1, 2015.

C E R T I F I C A T E

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I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto.



Grace L. Hurley, CVR-CM-M

Official Reporter

July 1, 2015.

COPY

STATE OF SOUTH CAROLINA)
COUNTY OF DARLINGTON) IN THE COURT OF COMMON PLEAS
FOR THE FOURTH JUDICIAL CIRCUIT

Anthony Edwards, #295387,) Case No. 2013-CP-16-528
)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

ORDER OF DISMISSAL

FILED
2015 APR -6 PM 3:48
SCOTT B. SUGGS
CLERK OF COURT
DARLINGTON COUNTY, SC

This matter comes before the Court by way of an Application for Post-Conviction Relief filed January 25, 2013. Respondent made a timely Return on or about May 29, 2014. The Court convened an evidentiary hearing into the matter on January 20, 2015, at the Darlington County Courthouse. Applicant was present at the hearing and represented by Tristan M. Shaffer, Esquire. Joshua L. Thomas, Esquire, of the South Carolina Attorney General's Office, represented Respondent.

Applicant testified on his own behalf at the evidentiary hearing. Applicant's trial counsel, J. Richard Jones, Esquire, also testified. The Court had before it a copy of the trial transcript, the records of the Darlington County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, and the pleadings in this matter. The Court finds as follows:

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Darlington County Clerk of Court. In April 2009, the Darlington County Grand Jury indicted Applicant for murder (2009-GS-16-644), possession of a weapon during the commission of a violent crime (2009-GS-16-643), possession of a pistol by a person

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DARLINGTON COUNTY, SC

convicted of a crime of violence (2009-GS-16-645), and carrying a pistol on premises that sell or serve alcohol (2009-GS-16-646). J. Richard Jones, Esquire ("trial counsel"), and Daniel T. Jordan, Esquire, represented Applicant. On October 10, 2011, Applicant proceeded to trial before the Honorable Howard P. King and a jury. On October 12, 2011, the jury found Applicant guilty of voluntary manslaughter, possession of a weapon during the commission of a violent crime, possession of a pistol by a person convicted of a crime of violence, and carrying a pistol on premises that sell or serve alcohol. Judge King sentenced Applicant to concurrent terms of eighteen years for voluntary manslaughter, five years for possession of a weapon during the commission of a violent crime, five years for possession of a pistol by a person convicted of a crime of violence, and three years for carrying a pistol on premises that sell or serve alcohol.

Applicant filed a timely notice of appeal. Robert M. Dudek, Esquire, of the Office of Appellate Defense, perfected the appeal with the filing of an Anders¹ brief. The South Carolina Court of Appeals dismissed Applicant's appeal on March 12, 2013. State v. Edwards, Op. No. 2013-UP-106 (S.C. Ct. App. filed March 12, 2013). The Court of Appeals returned the remittitur to the circuit court on April 3, 2013.

II. ALLEGATIONS

In his application, Applicant alleged he is being held in custody unlawfully for the following reasons:

1. "Ineffective Assistance of Trial Counsel"
 - a. "Failure to Investigate"
 - b. "Failure to Investigate and Prepare for Denno Hearing"
 - c. "Failure To Object To Introduction of Prior ABWIK Or Offer To Stipulate To It"
 - d. "Trial Counsel's failure to Request For a Charge Of Involuntary Manslaughter, instead or along with

¹ Anders v. California, 386 U.S. 738 (1967).

- manslaughter charge"
- e. "Counsel's failure to Consult With Client Concerning His Decision To Request A Charge On Voluntary Manslaughter"
- 2. "Ineffective Assistance of Appellate Counsel"
 - a. "Counsel's failure to challenge insufficiency of the evidence and elements to support the charge of voluntary manslaughter"

At the evidentiary hearing, Applicant proceeded on the following allegations:

- 1. Ineffective assistance of trial counsel for requesting a voluntary manslaughter charge.
- 2. Due Process Clause violation because no evidence supports his voluntary manslaughter conviction.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

~~The Court has reviewed the record in its entirety and has heard the testimony and~~
arguments presented at the evidentiary hearing. The Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. The Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

A. Summary of Testimony

Trial counsel testified he was appointed to represent Applicant in his role as a public defender. He recalled meeting with Applicant on several occasions. Trial counsel testified he shared the State's discovery response with Applicant and discussed Applicant's version of events. Trial counsel recalled Applicant was friends with the owner of the nightclub where the shooting occurred, and was attempting to assist the owner in removing the victim from the club. Trial counsel testified Applicant alleged the victim pulled a knife on him and fought him in the club's kitchen shortly before the shooting. Trial counsel testified he believed the facts of the case entitled Applicant to a voluntary manslaughter instruction. He recalled Applicant giving a

statement that he was acting in self-defense. However, he believed the evidence of the fight in the kitchen and of the victim returning to the club supported a voluntary manslaughter instruction. He testified he was concerned with the possibility of the jury convicting Applicant of murder, and the voluntary manslaughter instruction gave the jury "an out" to find Applicant not guilty of murder even if they did not believe he was acting in self-defense. Trial counsel also testified he discussed the voluntary manslaughter option with Applicant at trial.

Applicant testified he only met with trial counsel twice. He did recall trial counsel explaining the elements of voluntary manslaughter to him. Applicant testified he did not think voluntary manslaughter was appropriate because he was not upset at the time he shot. However, he admitted he did not tell trial counsel to decline the voluntary manslaughter charge.

B. Ineffective Assistance of Trial Counsel

In a post-conviction relief action, Applicant bears the burden of proving the allegations in the application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)). Where the application alleges ineffective assistance of trial counsel as a ground for relief, Applicant must prove trial counsel's "conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Id. (citing Strickland v. Washington, 466 U.S. 668, 686 (1984)).

The proper measure of performance is whether trial counsel provided representation within the range of competence required in criminal cases. Id. (citing Strickland, 466 U.S. at 687; Turner v. Bass, 753 F.2d 342 (4th Cir. 1985); Marzullo v. Maryland, 561 F.2d 540 (4th Cir. 1977)). The Court strongly presumes trial counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Id. (citing Strickland,

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466 U.S. at 690). Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The Court applies a two-pronged test in evaluating allegations of ineffective assistance of trial counsel. Id. at 117, 386 S.E.2d at 625. First, Applicant must prove trial counsel's performance was deficient. Id. Under this prong, the Court measures trial counsel's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, trial counsel's deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625.

~~The Court finds Applicant failed to meet his burden to prove trial counsel ineffective for~~ requesting a voluntary manslaughter charge. Regarding this allegation, the Court finds trial counsel's testimony credible, and Applicant's not credible. Trial counsel testified he believed the evidence at trial supported the voluntary manslaughter instruction. "Voluntary manslaughter is the unlawful killing of a human being in sudden heat of passion upon sufficient legal provocation." State v. Starnes, 388 S.C. 590, 596, 698 S.E.2d 604, 608 (2010) (citing State v. Wharton, 381 S.C. 209, 672 S.E.2d 786 (2009)). A trial court must charge the lesser included offense of voluntary manslaughter where there is any evidence to support the charge. Id.

Here, Applicant and the victim engaged in a fight shortly before the shooting. (Trial Tr. p. 104, lines 25-p. 106, line 18). Applicant gave a statement to police where he indicated the victim "instigat[ed] him" and he "blanked out" prior to the shooting. (Trial Tr. p. 300, lines 18-

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21).² This evidence supports trial counsel's opinion that voluntary manslaughter was appropriate under the facts of this case. See State v. Knoten, 347 S.C. 296, 304-07, 555 S.E.2d 391, 395-97 (2001). Furthermore, trial counsel testified he chose to request the voluntary manslaughter instruction to give the jury an alternative verdict if they believed Applicant did not act in self-defense, but also did not act with malice, when shooting the victim. Cf. Abney v. State, 408 S.C. 41, 47, 757 S.E.2d 544, 547 (Ct. App. 2014), cert. denied (Jan. 15, 2015) (acknowledging counsel should make strategic decisions regarding lesser-included offenses that are in client's best interest). Accordingly, the Court finds trial counsel was not deficient in requesting a jury instruction on the lesser included offense of voluntary manslaughter.

Furthermore, the Court finds trial counsel's decision to request the lesser-included offense did not prejudice Applicant. Self-defense is an absolute defense to either murder or voluntary manslaughter. The jury clearly did not accept Applicant's self-defense theory in this case. Thus, the jury would have convicted Applicant of murder had trial counsel not requested the voluntary manslaughter instruction. Because trial counsel's request resulted in Applicant being convicted of a lesser offense, he cannot demonstrate prejudice from counsel's actions.

C. Due Process Violation

The Court finds Applicant failed to prove his allegation that his conviction for voluntary manslaughter violates due process because there is no evidence to support the conviction. Initially, the Court finds this issue is not properly addressed in post-conviction relief. "[T]he Uniform Post-conviction Procedure Act 'shall not be construed to permit collateral attack on the

² The Court notes Applicant gave a recorded statement, which was played for the jury but not transcribed in the record. (Trial Tr. p. 214, lines 5-6). The substance of the statement was repeated by the State in closing arguments, and Applicant has not taken issue with the State's characterization of Applicant's statements about being instigated and blanking out.

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ground that the evidence was insufficient to support a conviction.” Simmons v. State, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1975) (quoting Ashley v. State, 260 S.C. 436, 196 S.E.2d 501 (1973)). Here, trial counsel made a motion for a new trial after the verdict, arguing there was insufficient evidence to support the verdict. (Trial Tr. p. 367, lines 4-13). Accordingly, this issue was more appropriately addressed in Applicant’s direct appeal, and cannot be raised in collateral review. S.C. Code Ann. § 17-27-20(b) (post-conviction relief “is not a substitute for nor does it affect any remedy incident to the proceedings in the trial court, or of direct review of the sentence or conviction.”); see also Simmons, 264 S.C. at 423, 215 S.E.2d at 885 (“It is uniformly held that an application for post-conviction relief is not a substitute for an appeal.”).

~~Nevertheless, the Court would find Applicant has not demonstrated a due process~~
violation in this case. A conviction may be unconstitutional when it rests upon no evidence at all. Thompson v. City of Louisville, 362 U.S. 199, 206 (1960). However, as noted above, the record supports the charge of voluntary manslaughter in this case. Accordingly, Applicant’s conviction is supported by the evidence adduced at trial.

D. All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this order, the Court finds Applicant failed to present any evidence regarding such allegations. Accordingly, the Court finds Applicant has abandoned any such allegations.

IV. CONCLUSION

Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application.

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Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

The Court notes Applicant must file and serve a notice of appeal within thirty (30) days from his attorney's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRPC, provides that if Applicant wishes to seek appellate review, his attorney must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED THAT:

1. The Application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant must be remanded to the custody of the Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 30th day of March, 2015.


 EUGENE C. GRIFFITH JR.
 Presiding Judge

Newberry, South Carolina

FILED
 2015 APR -6 PM 3:04
 SCOTT B. SUGGS
 CLERK OF COURT/R.O.
 DARLINGTON COUNTY, SC



STATE OF SOUTH CAROLINA)
County of Darlington) INDICTMENT #09GS16-0644

At a Court of General Sessions, convened on April 27, 2009
the Grand Jurors of Darlington County present upon their oath:

COUNT: MURDER
16-3-10

That Anthony Edwards in the County of Darlington on or about September 27,
2008, feloniously, wilfully and with malice and aforethought, kill one Roosevelt
Patterson by means of shooting the victim, and that the said Roosevelt Patterson
did die in Darlington County as a proximate result thereof.

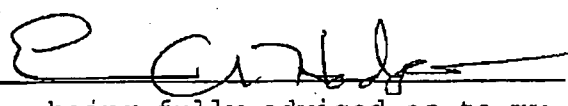
Against the peace and dignity of the State, and contrary to the statute
in such cases made and provided.

SOLICITOR: William B. Reed

TRUE CERTIFIED COPY,
Scott B. Suggs
CLERK OF COURT/RMC
DARLINGTON COUNTY, SC

WITNESSES

Goins
DCSD


After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead guilty to the within indictment or to:

Defendant

WITNESS:

C.C.C. PLS. AND G.S.

ARREST WARRANT #:

J661986

Arrested on September 27, 2008

ACTION OF GRAND JURY

TRUE BILL

Foreman:

Grand Jury

VERDICT

Foreman:

Petit Jury

Date:

APR 23 2009

DOCKET #: 09GS16-0644

THE STATE OF SOUTH CAROLINA

County of Darlington

COURT OF GENERAL SESSIONS

Term: April, 2009

THE STATE

vs.

Anthony Edwards

INDICTMENT FOR

0116

MURDER

16-3-10

TRUE CERTIFIED COPY.
CLERK OF COURT/IMC
DARLINGTON COUNTY, SC

STATE OF SOUTH CAROLINA)
) INDICTMENT #09GS16-0643
County of Darlington)

At a Court of General Sessions, convened on April 27, 2009
the Grand Jurors of Darlington County present upon their oath:

COUNT: POSSESSION OF WEAPON DURING THE
COMMISSION OF CERTAIN CRIMES 16-23-490

That Anthony Edwards in the County of Darlington on or about September 27,
2008, was in possession of and did visibly display a firearm during the
commission of a violent crime, to wit: Murder, in violation of Section
16-23-490, Code of Laws of South Carolina (1976), as amended.

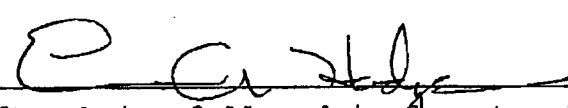
Against the peace and dignity of the State, and contrary to the statute
in such cases made and provided.

SOLICITOR: William B. Breyer

TRUE CERTIFIED COPY,
Scott B. Breyer
CLERK OF COURT/PMC
DARLINGTON COUNTY, SC

WITNESSES

Goins
DCSD


After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead guilty to the within indictment or to:

Defendant

WITNESS:

C.C.C. PLS. AND G.S.

ARREST WARRANT #:

J661988

Arrested on September 27, 2008

ACTION OF GRAND JURY

TRUE BILL

Foreman:

Grand Jury

VERDICT

Foreman:

Petit Jury

Date:

APR 22 2009

DOCKET #: 09GS16-0643

THE STATE OF SOUTH CAROLINA

County of Darlington

COURT OF GENERAL SESSIONS

Term: April, 2009

THE STATE

vs.

Anthony Edwards

I N D I C T M E N T F O R

0549

POSSESSION OF WEAPON DURING THE

COMMISSION OF CERTAIN CRIMES 16-23-490

TRUE CERTIFIED COPY, 1
J. S. S. J.
CLERK OF COURTHOUSE
DARLINGTON COUNTY, SC