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ORIGINAL

VOLUME I OF II

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenwood County

Honorable Eugene C. Griffith, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

Alphonso Morgan, Jr.

APPELLANT

APPELLATE CASE NO 2016-000269

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

**STATE'S EXHIBIT NO. 4
(RECORDING OF APPELLANT'S STATEMENT)**

1 State of South Carolina)
2 County of Greenwood) Court of General Sessions
3 2015-GS-24-00728
4 2016-GS-24-00079

5 State of South Carolina)
6 vs.) Transcript of Record
7 Alphonso Morgan, Jr.)
8 DEFENDANT)

9 February 1-5, 2016
10 Greenwood, South Carolina

11
12 B E F O R E:

13 Honorable Eugene C. Griffith, Jr., Judge

14
15 A P P E A R A N C E S:

16 David M. Stumbo, Solicitor
17 Yates Brown, Deputy Solicitor
18 Attorneys for the State

19 Townes Jones, Esq.
20 James W. Bannister, Esq.
21 Attorneys for the Defendant

22
23
24 Joy E. Holston
25 Official Court Reporter

1 THE COURT: Folks, I am ready to get started on this
2 Castle Doctrine hearing. What we will do, we will work
3 for about an hour at a time, take ample breaks, try to be
4 as efficient as we can with our time. That thing I had
5 this morning, the Department of Corrections didn't leave
6 the prison, unrelated to this case, they didn't leave the
7 prison when they thought they would. When they get here
8 we may work that in, but other than that I want to focus
9 on this case and try to get as much done as we can. Joy
10 has already gotten the caption, the murder indictment as
11 well as possession of a weapon.

12 MR. STUMBO: Judge, could you give us a minute to get
13 the family, the victim's family from the back. They will
14 be right out.

15 THE COURT: And since this is a hearing out of the
16 presence of the jury just caution everybody to be on their
17 behavior. I know the attorneys will. Maybe some emotions
18 in here we get to deal with and if it becomes an issue we
19 will take a break. And play it that way, because I don't
20 know anything about the facts of the case. I am just
21 ready to listen and we will try to appropriately present
22 this case.

23 MR. JONES: Judge, along the lines the Solicitor
24 mentioned, I have a number of witnesses that we intended
25 to go forward with this morning. And they are currently

1 in my office. If you can give me three minutes to get
2 down there and get my paralegal in here. And then we have,
3 got, I need to locate somebody that isn't available as a
4 witness, I am going to ask Investigator Powers to leave
5 the courtroom to go get them.

6 THE COURT: Sure. That will be fine. We will move
7 and proceed as efficiently as we can. So, while he is
8 doing that you go deal with your paralegal. What do you
9 have, Mr. Bannister, it looks like you want to mark
10 something.

11 MR. BANNISTER: Yes, I want to just hand this up to
12 you, if I could. This is a little presentation I am doing
13 just to kind of lay the roadwork, roadmap of where we are
14 going with this hearing and because there are a couple,
15 maybe questions of law that may be indicated in this case.
16 I thought it would be easy for everybody if we get that.
17 And I have got, it is the same thing we are going to put
18 on the screen.

19 THE COURT: And if something comes up that is a novel
20 issue or an unanswered question in the statute, obviously
21 the State would be given a reasonable amount of time to
22 respond, if they can't respond immediately we will give
23 them appropriate time. We are going to wait on Townes to
24 come back before we start.

25 MR. BANNISTER: I don't think we have to, Judge.

1 THE COURT: Let's do, I have got a phone call from
2 the church I want to make, a memo I want to get out this
3 week, finance committee responsibility.

4 (Whereupon, a short break was taken.)

5 MR. BANNISTER: Okay, Judge.

6 THE COURT: All right, go ahead.

7 MR. BANNISTER: Judge, thank you for giving me just a
8 moment to put on the record a little bit relating to the,
9 our motion for immunity, under the Protection of Persons
10 and Properties Act. One of the things that I want to
11 focus on, just briefly, and I don't want us to lose sight
12 of the fact that the Legislature in this particular act
13 set forth a number of different itemizations of their
14 legislative intent. The three important ones in this case
15 relating to the facts as they are going to be presented to
16 you. The first is that the Protection of Persons and
17 Properties Act was intended to extend the Castle Doctrine
18 to include a vehicle. I think that is important because,
19 until this act came into, was passed, most Courts and
20 Judges and Prosecutors were very familiar with the
21 different way the rules were when it came to, when you are
22 a person inside of your own home and you are being
23 attacked in your own home. So what this is saying is that
24 now we are going to treat the vehicle just like you would
25 your home. So, I think that helps kind of set the

1 backdrop a little bit to how the act should be
2 interpreted. The second thing I wanted to say is that one
3 of the things that legislative intent intended for the
4 Protection of Persons and Properties Act is that a person
5 has the right to remain unmolested and safe within their
6 vehicle. Your Honor, you are going to hear facts that the
7 defendant in this case, Mr. Morgan, was occupying the back
8 seat of a vehicle at all times relevant to the altercation
9 with the deceased. Finally, I would say that, what I
10 think is important relating to legislative intent in this
11 case is that there is no requirement that Mr. Morgan
12 surrender his personal safety or that he retreat. Now, we
13 know that the Protection of Persons and Properties Act
14 eliminates the duty to retrieve when it applies. But it
15 also applies to the idea that we are not going to, and it
16 goes back to the vehicle is just like your home, we are
17 not going to require to surrender your personal safety in
18 any way, shape or form. The subsection of the Protections
19 of Persons and Properties Act, it actually grants
20 immunity, Your Honor, is at 450(a), 16-11-450(a). In that
21 subsection there is a reference to two different sources
22 from which a defendant can request immunity. The language
23 of the act says, that a person who uses deadly force as
24 permitted by the provisions of the article which is
25 referring to the subsections in the Protection of Persons

1 and Properties Act that are prior to 16-11-450(a). Those
2 provisions in this article set out different scenarios
3 where they apply. I have, on this little presentation I
4 have made to you, I have bolded, I have increased the font
5 size of the word, or, because it is a very important word
6 in the statute. Or, as you know from the standards for
7 interpreting a statute indicates that there is an
8 alternative. The alternate provision for granting
9 immunity in this case is, and I am quoting here, another
10 applicable provision of law. So, 450(a) sets out two
11 different sources for the Protection of Persons and
12 Properties Act immunity. Under the act in this case, I
13 think primarily what we are going to be looking at is what
14 I have called the defense of vehicle. Stand your ground
15 is also implicated and I don't want to lose sight of the
16 fact that either one could apply but really defense of
17 vehicle in this case is going to subsume stand your ground
18 and if we have defense of vehicle we are going to
19 automatically have stand your ground in this case. So the
20 other provision of law is common law and that is
21 self-defense. So, 450(a) is giving us two possible
22 sources for a grant of immunity, either the act itself or
23 from the common law which would be another provision of
24 law. And I would say that that interpretation seemed to
25 have been born out in our most recent pronouncement in

1 State versus Curry from the Supreme Court in 2013. In
2 that case the Supreme Court was dealing with homicide that
3 had incurred inside Mr. Curry's home. So there was a lot
4 of discussion about the Castle Doctrine, its application
5 in the act and the grant of immunity. The second thing
6 that Curry said was, and I am going to quote this fully
7 here, the full reach of the act and whether the statutory
8 provisions in the act extend beyond the common law Castle
9 Doctrine are questions for another day. In other words,
10 the Court was able to find what it needed to in the Castle
11 Doctrine without having to look at the other subsections
12 of the Protection of Persons and Properties Act. And so
13 you reconcile Curry to the act, what you have is the Court
14 is acknowledging that the common law is another provision
15 of law. In this situation the Castle Doctrine was what
16 was being used. But the Court is also seeing that the
17 acts language, the subsections that are in the article
18 have some new terminology that has yet, has really been
19 without definition from the Courts. I will just give you
20 one brief example. In the act, under defense of vehicle,
21 you cannot be, "engaged in unlawful conduct." That is a
22 different concept then not being at fault in bringing on
23 the difficulty. There are probably two circles that
24 overlap slightly in the middle but they certainly can have
25 their own application in different places. I would say

1 everything was going well until you get to State versus
2 Douglas. Douglas is a Court of Appeals opinion in 2015
3 and they are grabbing a piece of quote from Curry and I
4 think taking it a little bit out of context. But what
5 they are saying in Douglas is that the Supreme Court has
6 now said that immunity under the act is going to be
7 predicated on the accused demonstrating the elements of
8 self-defense to the satisfaction of the Court, save the
9 duty to retreat. And that then you need to show the
10 requirements of one of the subsections of the Protections
11 of the Persons and Properties Act. Your Honor, if that
12 is, in fact, the interpretation of Douglas then I just
13 want to be clear on the record that we think Douglas is
14 wrong or in 450(a) means or, it is one or the other, not
15 first self-defense, then the subsections of the
16 Protections of Persons and Property Act. As I indicated
17 in the pretrial memorandums in the brief that I filed with
18 the Clerk's office and I have provided both to the
19 Solicitor's office and to Your Honor. We believe that in
20 our case self-defense applies and we will not have
21 difficulty in showing that and that if we have to follow
22 through with the way Douglas is telling us to analyze
23 this, we are also going to fit within defense of vehicle
24 or stand your ground. So, in this case, Judge, the focus
25 on what we think is going to be put in front of you, you

1 will hear testimony that the defendant, Al Morgan, was in
2 the back seat of his friend's car--

3 MR. STUMBO: If I could, before Mr. Bannister goes
4 into the application, it is my understanding that he was
5 going to, I guess, brief the Court on the law to start
6 with. Quite frankly, Judge, I think the facts need to
7 come out through the witnesses first and then we can both
8 argue after all the testimony comes out what the facts are
9 and whether the law applies. I think the rest of this
10 power point, and I am doing, this is in all due respect,
11 Judge, I don't think, we don't need to poison the well
12 with argument interpreting facts that haven't even been
13 testified to yet. And I am perfectly fine with Mr.
14 Bannister arguing this to the Court after we get the
15 witnesses up and I think we are a little bit premature.

16 THE COURT: Tell me, because I haven't reviewed your
17 slide, what have you got left.

18 MR. BANNISTER: I was just going to say that we
19 believe the elements of self-defense are met and what they
20 are met with is facts that we intend to introduce. And
21 the same with the defense of vehicle. But I do want to
22 point to this for a just a moment, Your Honor. You need
23 to be aware that under the defense of vehicle, and this is
24 now, I am into the subsections of the Protections of
25 Persons and Property Act. So this would be the provision

1 under 450(a) that says articles, provisions of this
2 article. Once you get into defense of vehicle there are
3 two presumptions that are very important that you need to
4 be aware of. The first is found in 16-11-440(a) and that
5 says that if somebody is attempting to enter your car or
6 attempting to remove you from the vehicle or if they
7 actually enter your vehicle you get the presumption under
8 the act that you were in reasonable fear of serious bodily
9 injury or death. Further you get the presumption that the
10 deceased in this case had the intent to commit an unlawful
11 act involving force or violent crime. So, when you are
12 talking about defense of vehicle, I don't think there is
13 going to be any question that the vehicle was occupied,
14 applying the two presumptions. What is left, Judge, I
15 believe is going to be the focus of the case is whether or
16 not there was an attempt to enter the vehicle, an entry
17 into the vehicle or an attempt to remove Mr. Morgan from
18 the vehicle. That really is ultimately, I believe, going
19 to be the issue and controversy that we are going to be
20 dealing with because everything else will sort of be
21 handled by virtue of the act itself. Thank you.

22 THE COURT: Okay.

23 MR. STUMBO: Judge, a brief response on the law. I
24 do think the facts are going to be flushed out on the
25 witness stand. There is wide variance of different

1 stories that have been told in this case. That is going
2 to play out on the witness stand, Your Honor will hear
3 that. As to the law, Judge, I have read Curry and I have
4 read Douglas and I have read the cases even preceding
5 that. It is the State's position that the Supreme Court
6 was very clear in Curry that essentially three of the four
7 elements of self-defense are incorporated into an
8 immunity. That is all they said, Judge Kittredge's
9 opinion essentially said you have to prove the first three
10 elements of self-defense in parcel of the immunity
11 argument which appears to be very clear to me. I think
12 the Douglas case just essentially just elaborates on that.
13 It would appear to me, based on Mr. Bannister's
14 presentation, his position is that the word, or, would
15 mean that you kind of take the statute out of it. In
16 other words, you could have immunity based simply on a
17 self-defense argument which I am not sure that is what the
18 Court said. So, all that to say we believe Curry is a
19 very well written opinion and it seems very clear to me.
20 We do believe that immunity statute and self-defense are
21 not mutually exclusive. We think they quite frankly,
22 Castle Doctrine statute based on the Court's opinion in
23 Curry started to dovetail. That is just our comment on
24 the law, Judge, and we are ready to proceed.

25 THE COURT: Okay, very well.

1 MR. BANNISTER: Your Honor, we would call Thomas
2 Gilchrist.

3 THE COURT: Do we need to sequester witnesses, y'all.
4 have not brought that up.

5 MR. STUMBO: Judge, we are not moving to sequester.

6 MR. BANNISTER: Are there any witnesses other than
7 law enforcement that are here.

8 MR. STUMBO: There are, Judge, there are a couple
9 that I believe that Mr. Jones and Mr. Bannister intend to
10 call. It is up to them, we are not moving to sequester.

11 MR. JONES: Your Honor, I asked Solicitor Stumbo
12 earlier this morning if a witness that we were considering
13 calling, a potential witness, Mr. Brent Williams, and in
14 talking with Solicitor Yates Brown on Friday afternoon, he
15 suggested to me that had met with him. We have been
16 unable to get him served with a subpoena. There is
17 another witness that I believe that has been subpoenaed, I
18 believe the State also. Having said that, Your Honor,
19 those are two and I don't know of any other witnesses that
20 are subpoenaed by us that are in that gallery, on the
21 right-hand side of the courtroom. Your Honor, again, this
22 is a motion and Your Honor is in charge of the facts and
23 the application of law so we understand that. But having
24 said that, quite frankly, with the potential inconvenience
25 that might be involved with sequestrations we had

1 anticipated that the State would move for it, they are
2 choosing not to but we would move to sequester the
3 witnesses.

4 THE COURT: We can't start and then sequester them
5 later so, I mean, up or down.

6 MR. STUMBO: That is fine, Judge, we didn't know so
7 at this point we had them in here and we can move them.

8 THE COURT: We will sequester the witnesses, y'all
9 make modifications, I am going to have the witness placed
10 under oath and let him sit down while we get that done.

11 MR. JONES: We need a fairly good size office, we
12 have eight.

13 THE COURT: We can put the defense in the 200 room,
14 we will put the other two in the back area.

15 THOMAS GILCHRIST, being
16 first duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 Q If you will, state your name for the record.

19 A My name is Thomas Lee Gilchrist.

20 Q Mr. Gilchrist, do you go by a nickname?

21 A Yes.

22 Q And what is that nickname?

23 A Bug.

24 Q Is that B-U-G?

25 A B-U-G.

1 Q Mr. Gilchrist, let me start off by asking you this.

2 Do you have some family relationship to Jamaal Aiken, the
3 deceased?

4 A Yeah.

5 Q What is it?

6 A My kids mother is his wife's second cousin.

7 Q Does that make it uncomfortable for you to be up here
8 talking about this case today?

9 A Yeah, it kind of does.

10 Q Now, why is that?

11 A Because I know these people and it's, basically,
12 jeopardized the relationship between me and my family.

13 Q All right. Well, let's go directly to, well, let me
14 ask you this, do you work?

15 A Yes, sir.

16 Q And where do you work?

17 A I work at Sterilite.

18 Q And how far did you go in school?

19 A I went to the ninth grade.

20 Q And how long have you been working at Sterilite?

21 A Two years.

22 Q Do you work 40 hours a week roughly?

23 A Yeah; sometimes 60.

24 Q All right. So let's go to November 14th, 2013.

25 That's the date of the incident, I believe.

- 1 A Yes.
- 2 Q Do you recall that date?
- 3 A Yes, I do.
- 4 Q All right. I want you to go back in time to when,
5 were you with Al Morgan, the defendant, on that particular
6 date?
- 7 A Yes, later on that night.
- 8 Q When did you first come into contact with Mr. Morgan?
- 9 A Around about 8:00 something.
- 10 Q All right. So tell us about that. Where were you?
11 What were you doing?
- 12 A I was at home and he had called, and my kids mother
13 told me he had called and told me to call him. So I.
14 called him, and he asked me do I want to go shoot a game
15 of pool right around the corner from his mom's house.
- 16 Q How well did you know Mr. Morgan?
- 17 A I know him pretty good.
- 18 Q Did you consider him to be a friend?
- 19 A Yes.
- 20 Q Did you agree to go shoot pool with him?
- 21 A Yes, I did.
- 22 Q Was there anybody else that was going with you and
23 Mr. Morgan to shoot pool that you know of?
- 24 A Yeah. Tonya and Nick.
- 25 Q All right. Tonya, who?

1 A I don't know Tonya's last name.

2 Q All right. And who's the other person you mentioned?

3 A Lenwood.

4 Q And what's his last name, Ramsey?

5 A Ramsey, yeah.

6 Q All right. And he goes by the nickname, Nick?

7 A Nick. Yeah.

8 Q So when Mr. Morgan contacts you, it's your

9 understanding that you, Mr. Morgan, Nick and Tonya are

10 going to go shoot some pool?

11 A Yeah.

12 Q Have I got that right?

13 A Yes, sir.

14 Q Anybody else?

15 A No.

16 Q Where were you going to shoot pool?

17 A) It's at the Cabstand right across, right around the

18 corner of East Cambridge and Seaboard.

19 Q And can you just describe a little bit. What does

20 the Cabstand look like?

21 A Just a little small building where people used to run

22 a cab business out of.

23 Q And is it still running a cab business or why is it--

24 A No, not anymore. It had got turned into some type

25 of, I don't want to say old people, but seniors. Some

1 type of seniors spot, senior citizens spot for veterans
2 and stuff like that; older people.

3 Q Is that where you were going to shoot pool?

4 A Yes.

5 Q Did it have pool tables?

6 A Yes.

7 Q Did it have a bar?

8 A Yes.

9 Q And did it have a dance floor?

10 A Yeah, you can say that.

11 Q Did it have any big screen TVs?

12 A It had a TV or two.

13 Q Did you, in fact, go to the Cabstand on November
14 14th, 2013?

15 A Yes. Yes, sir.

16 Q Do you recall roughly what time it was that you got
17 to the Cabstand?

18 A Maybe almost 9:00 or maybe 9:00.

19 Q And how did you get to the Cabstand?

20 A I drove. I drove my car over there.

21 Q Did anyone ride with you?

22 A Yeah. Me and Al rode together.

23 Q Al Morgan?

24 A Al Morgan. Yeah.

25 Q Anybody else in the car other than you and Mr.

1 Morgan?

2 A No. No, sir.

3 Q When you got to the Cabstand, did Tonya and Lenwood
4 Ramsey, Nick, show up?

5 A Yeah. They were already in front of, they was
6 already at Al's house when I got there, because I took a
7 little longer. So he was about to ride with them. But
8 then when I pulled up, he said there I go, so he just
9 walked, jumped in with me and we followed them on around.

10 Q All right. Was there anyone at, which car were Tonya
11 and Nick in?

12 A They were in Nick's black car.

13 Q A black Impala?

14 A Yeah, a black Impala.

15 Q Was anybody else in the car with Nick and Tonya that
16 you know of?

17 A Not that I know of; no, sir.

18 Q So four of you in two cars?

19 A Yes.

20 Q You got to the Cabstand. Did anyone else meet you
21 there?

22 A No one met me. Now, I don't know if Al had somebody
23 to meet him, a female or whatever, but I don't know.

24 Q What day of the week was this; do you remember?

25 A I don't remember.

1 Q Was it a Saturday?

2 A I can't remember.

3 Q That's all right. So did you actually get out and go
4 into the Cabstand?

5 A Yes, sir.

6 Q And were there a lot of people in there? Did you
7 recognize anybody? What was the atmosphere?

8 A It was not crowded at all. You know, there was just
9 a couple of people. And the regulars what they would call
10 it.

11 Q All right. Did you know the regulars?

12 A Yeah, I knew a few of them.

13 Q Which ones did you know that were there on this
14 particular night?

15 A The guy that was at the door, a big guy. I knew my
16 girl's cousin who was behind the bar, his name is, and a
17 couple more of my friends aunts that I know from around
18 Greenwood, older people.

19 Q So what did you do when you all got to the Cabstand?

20 A We got change to shoot some pool and we got some
21 drinks and sat down.

22 Q Okay. And so did anybody else join your group, you,
23 Al Morgan, Nick and Tonya, while you were in there playing
24 pool?

25 A Yeah. After a while Clifton came.

1 Q All right. Was that Clifton Robinson?

2 A Yeah.

3 Q And does he have a nickname also?

4 A Crip.

5 Q So, well, did anybody come with Clifton?

6 A I have no idea.

7 Q And do you remember anybody else being in there kind
8 of before things got started, I guess, would be the best
9 way to put it?

10 A No, not really. Just, just a couple of females like
11 that's here today and, like I say, the regulars who be
12 there.

13 Q All right. So the big guy at the door, if I were to
14 say the name Ernest McCauley, does that ring a bell with
15 you?

16 A Yeah, him.

17 Q Okay.

18 A And what's the other guy's name?

19 Q If I said Tony Thomas, would that ring a bell?

20 A Tony. Yeah.

21 Q All right. Those are two of the regulars that you've
22 referred to?

23 A Yeah. Yes.

24 Q All right. So if you will just take me from there
25 and tell me a little bit about what happened next?

1 A From my recollection, we was just sitting around
2 shooting pool. And Al was sitting down at the table and
3 talking to Nick and Tonya and I was shooting and people
4 started to coming in, you know.

5 Q Did you recognize any of those people?

6 A Yeah, I recognized them.

7 Q Who did you recognize?

8 A There's, a couple of my kids mother's family members.
9 Jamaal and his wife.

10 Q All right. Hang on. Jamaal Aiken?

11 A Yeah.

12 Q All right. And that is the deceased, correct?

13 A Yes.

14 Q His wife?

15 A Yeah. Nicole.

16 Q Nicole. Who else?

17 A Brent.

18 Q And that would be, what's his last name?

19 A Williams.

20 Q And what is his relationship, if any, to Jamaal or
21 Nicole?

22 A That's his brother-in-law.

23 Q Okay. Who else?

24 A And his cousin and his sister, Quetta.

25 Q All right. And do you know her last name?

1 A Spencer.

2 Q So Quetta Spencer?

3 A Yeah.

4 Q Who else?

5 A I think Hazel was with them.

6 Q And what's her--

7 A --I think.

8 Q --what's her last name?

9 A Williams.

10 Q Okay. Anybody else?

11 A No, not that I know of.

12 Q Yeah. Were there other people with Mr. Aiken,

13 Nicole, Brent, Quetta and Hazel that you didn't know?

14 A No. Not that I remember.

15 Q So they walk into the bar. What happens next?

16 A They spoke to everybody.

17 Q How did they speak to everybody?

18 A I mean, they spoke to me, you know.

19 Q Okay.

20 A I'm really not sure about how they approach anyone

21 else, but I know they spoke to me, because they know me,

22 you know.

23 Q All right. So what do you remember next that

24 happened?

25 A I went back to shooting pool.

1 Q Now, who were you shooting pool with?

2 A Just some typical guy who had the pool table. I was

3 trying to take it from him.

4 Q Okay. Where was Al?

5 A He was sitting at the table.

6 Q So Mr. Morgan is at the table. You're playing pool

7 with somebody else. This other group is in there. What

8 happens next?

9 A I think he used the restroom. Then, I lost the game.

10 Then, I came back.

11 REPORTER: Wait a minute.

12 THE COURT: She's taking down everything you're

13 saying.

14 MR. GILCHRIST: Okay.

15 REPORTER: All right. Go ahead.

16 A I think he went to use the restroom, and then I lost

17 so I was sitting back at the table when he came out.

18 Q I'm sorry. When who came out of the restroom?

19 A When Al came out the bathroom.

20 Q Okay.

21 A And he told me, you know, he wanted to leave before

22 anyone get in trouble.

23 Q And had you seen anything that indicated there was

24 going to be trouble?

25 A No, you know, once a man say that, you know, I feel

1 like his comfortability is the most important thing. So
2 if we together, if he don't feel comfortable we leaving.

3 Q Did he say anything specific about why?

4 A He say they was, he say they was fucking with them.

5 Q Who is--

6 A He say somebody, he say somebody hit him on top of
7 the hat, tapped him on top of the head. He say Brent
8 tapped him on top of his hat.

9 Q And did Brent say anything when he tapped him on top
10 of the head?

11 A He say he said, gets some balls. So, you know, he
12 told me that he wanted to leave, so we left.

13 Q Did you actually see Brent hit Al Morgan's cap?

14 A No.

15 Q Did you--

16 A No, I didn't.

17 Q Did you, was that while you were in the restroom?

18 A I don't, well, I didn't even go to the restroom. Al
19 went to the restroom.

20 Q I'm sorry. Is that while you were playing pool?

21 A Yeah, it probably was.

22 Q Okay. So what did you do after Al says, I don't want
23 to get in any trouble, let's leave?

24 A I said come on, let's go home.

25 Q All right. At this point, had anything changed in

1 the bar, either the way people were acting, the atmosphere
2 around the place?

3 A Yeah, it had got a little younger. When I say that,
4 I mean, it got a little more, you know, young. Well, you
5 know, the music changed and the atmosphere was real young.

6 Q And when you say a little young, was that because
7 Nicole, Quetta Spencer, Hazel Williams or were more people
8 arriving?

9 A No, and just because maybe more people arrived. I
10 mean, you know, the music changed and the whole
11 environment, you know.

12 Q Okay. So did you leave?

13 A Yeah, we left.

14 Q And who left with you?

15 A Al left with me.

16 Q Did anybody else leave?

17 A Yeah. Nick and Tonya left, too.

18 Q All right. And where did you, well, first off, which
19 car did you and Mr. Morgan go to?

20 A We got in my car.

21 Q All right. And how about Nick and Tonya?

22 A And they got in their car.

23 Q And then where did y'all go?

24 A We was going to Nick's house, but we stopped at the
25 Lil' Cricket and got some beer on the way to Nick's house.

1 It's right there.

2 Q Okay.

3 A And then they was at the red light, so when we came
4 out the store, we jumped right behind them still.

5 Q And then where did you go next?

6 A To Nick's house on Reynolds Street.

7 Q And how long, well, did you go into Nick's house on
8 Reynolds Street?

9 A Yeah. Yes, sir.

10 Q Did everybody go into Nick's house on Reynold's
11 house?

12 A Everybody.

13 Q Was there anybody else in Nick's house when y'all
14 went in?

15 A No one.

16 Q How long did you stay at Nick's house?

17 A Probably about 15 to 20 minutes. About 15 minutes.

18 Q And so tell me what happened that led to you leaving
19 Nick's house?

20 A Somebody called Al's phone and told him that one of
21 his partners had, they jumped on him and he needed a ride.

22 Q And how do you know that?

23 A Because that's what Al told me after he was talking
24 on the phone. And he asked me would I take him to go pick
25 up whoever the individual was.

1 Q Did you know who it was that Al wanted to go pick up?

2 A Yeah. Once he told me who it was yeah, I knew.

3 Q Okay. Who was that?

4 A It was Clifton and Shay, the girl Shay or whatever.

5 Q All right. Is that Shay Simon?

6 A Yeah. Yeah.

7 Q What is Shay Simon's relationship to Mr. Morgan, if

8 you know?

9 A Just a lady, a good friend.

10 Q All right. So a phone call comes in at Nick's house.

11 Mr. Morgan asked you if you can go with him to go pick up

12 Clifton Robinson, because somebody has jumped Clifton, is

13 that correct?

14 A Yeah, that's what the girl said.

15 Q All right. Did you know who it was that had jumped

16 Clifton, any information about that?

17 A No, I didn't know who it was.

18 Q So what did you do next?

19 A I told them that I couldn't put those girls in my

20 girl's car.

21 Q So what happened?

22 A So Nick told him he'll give him a ride to go get him.

23 Q And did you, in fact, did Nick leave?

24 A Yes.

25 Q Who went with Nick?

1 A Me, Al and Nick.

2 Q And which car were you in?

3 A We was in Nick's car.

4 Q What kind of car is that?

5 A It's a black Impala.

6 Q Other than your belief you were going there to pick
7 up Clifton Robinson, was there anything else that had been
8 discussed or talked about that y'all were going to do at
9 the Cabstand?

10 A No, not at all. Everyone was on the way home.

11 Q All right. So tell me what you, Nick, and, well,
12 first off, was Nick driving the Impala?

13 A Yes.

14 Q Where were you sitting?

15 A I was on the passenger side.

16 Q In the front seat?

17 A In the front seat.

18 Q And where was Mr. Morgan?

19 A He was on the passenger side on the back, in the back
20 seat behind me.

21 Q Okay. And where did you go?

22 A We went straight back to the Cabstand.

23 Q And how long does that take?

24 A Two minutes.

25 Q Tell me what happened when you got to the Cabstand?

1 A We pulled up. There was some commotion going on out
2 front. And we sat there and waited to see if Clifton was
3 going to come out or was he anywhere walking or asking
4 someone had they seen which way he go.

5 Q All right. Let me stop you right there. When you
6 said there was a commotion going on, can you describe
7 that?

8 A Yeah. It was like a commotion going on at the door
9 like something had happened in the inside or that someone
10 was trying, and people was trying to get back in or people
11 was trying to get out or people trying to keep people out.
12 I know there was a commotion right there at the door.

13 Q Was it a group of people?

14 A Yeah.

15 Q Were they, what were they doing that gave you the
16 indication there was some commotion? Were they loud?

17 A Yeah, there was a lot of pushing on the door and they
18 were loud also.

19 Q So you could see that?

20 A Yeah.

21 Q And the car, when y'all parked in front of the
22 Cabstand, about how far was it from the front door of the
23 Cab, or was this the front door of the Cabstand? I guess
24 I need to ask that first.

25 A Directly at the front door.

1 Q Okay. And so how far away from the front door were
2 you parked, do you think?

3 A About from this wall right here to the back of that
4 bannister right there.

5 Q So if I were to say 30 to 40 feet, would that sound
6 roughly correct?

7 A Yes.

8 Q Okay. Did you have a pretty good view of the front
9 door?

10 A Yeah, I had a pretty good view.

11 Q Did you recognize anybody that was in the commotion
12 at the front door when you first got up there?

13 A Yeah, I recognized some people.

14 Q Who?

15 A I seen the dude Tony like trying to push, pull the
16 door. And I seen Jamaal.

17 Q All right. Tony's the guy that was the regular that
18 had been inside--

19 A Yeah.

20 Q --the Cabstand?

21 A Yes.

22 Q You say he was trying to pull the door?

23 A Closed.

24 Q Okay. Go ahead. Who else did you recognize?

25 A I recognized Brent and Jamaal and a couple of more

1 people out there.

2 Q We're talking about Brent Williams and Jamaal Aiken,
3 correct?

4 A Yes.

5 Q And so was it kind of the same crowd that had been
6 inside the Cabstand when you had left?

7 A Yeah, and more. There was a couple of more people
8 out there by then, too.

9 Q Okay. Men and women?

10 A Yes.

11 Q So what then happened?

12 A Well, I seen Jamaal walking towards the car..

13 Q Was he walking, how was he walking?

14 A He was walking in a, he was walking in a frenzy like,
15 you know, like something was the matter, you know.

16 Q Okay. And did he veer off to the left or the right
17 or was he coming straight for the car?

18 A He came straight to the car.

19 Q What did he do as he got to the car?

20 A He opened up the back door and he, he opened it up
21 and he seen that it was Al and he said, what's up pussy
22 boy?

23 Q And then what happened?

24 A Then, he tried to reach in the car.

25 Q And what happened next?

1 A Then a gun went off.

2 Q Where was Mr. Morgan when the gun went off?

3 A Still in the backseat.

4 Q Was he sitting straight up on the passenger side or
5 was he in some other position?

6 A He was leaning like away from the door, away from the
7 guy who was reaching inside the car.

8 Q So he was, the way you're describing it, would it be
9 fair to say that he was leaning towards the driver's side
10 back door?

11 A Yeah.

12 Q And away from the passenger side back door?

13 A Right.

14 Q So based on where you were sitting, was this fairly
15 close to you?

16 A And very, very close.

17 Q Were you turned around watching what was happening
18 behind you?

19 A Yeah.

20 Q Had you had any information or indication that there
21 was some problem between Jamaal Aiken and Al Morgan?

22 A Not at all.

23 Q Did this come as a kind of complete surprise to you?

24 A Surprise; yes, sir.

25 Q What happened next?

1 A Like I say once he reached in and they were, there's
2 a little commotion like, and then a gun went off. The gun
3 went off.

4 Q Is there a, do you know where the gun went off?
5 Where was the gun located when it went off, if you saw it?

6 A It was almost like directly step in the car, almost.
7 You know what I'm saying? I know the flash went by my
8 face, because I was looking like what's going on? You
9 know, I could see it and smell it right there.

10 Q Yeah. And you were still inside the car?

11 A Yes.

12 Q What happened next?

13 A And then the guy pulled back and grabbed his stomach
14 and--

15 Q This is Mr. Aiken?

16 A Yeah. Yeah. He grabbed his stomach and Al slammed
17 the door and told Nick to get out of here.

18 Q And then what happened?

19 A And then me and Nick were like in awe, like didn't
20 know what was going on, you know. We thought somebody, I
21 know I did. I thought somebody was shooting in the car.
22 I didn't think anybody was shooting out the car. That's
23 how close it was, you know. So we pulled over into the
24 Li'l Cricket.

25 Q All right. Well, hang on. Before y'all get out of

1 the parking lot, what was the crowd doing that had been at
2 the door after the shot, if you remember?

3 A I didn't see nobody running.

4 Q Okay.

5 A You know. I know it was probably mass hysteria. I
6 know I was just focusing on what just happened. Trying to
7 figure out what happened. You know, I'm checking myself
8 like, you know, I don't know if I'm shot, you know. So
9 we, when we pulled out, we went by and stopped in the
10 Cricket parking lot. And Lenwood wanted, he was talking
11 to Al and, you know, and then pulled off and Al was like
12 just let's go. And when we left, as we left, there was
13 more gunshots, you know what I'm saying, so somebody else
14 out there was shooting. I don't know if they was shooting
15 at the car or what, you know. So when we left, you want
16 me to keep going?

17 Q Yeah, keep going. What happened next?

18 A Okay. When we left there, we made it back to
19 Lenwood's house, everybody went their separate ways.

20 Q What did you do?

21 A I got back in my car and went back to the scene to
22 check on the guy and let the law enforcement know what had
23 happened. That it was, it wasn't nothing like anybody had
24 to tell me to do it. I did the right thing which I felt.

25 Q And did you, when you got back to the scene there,

1 did you know it was, and you knew it was Jamaal Aiken that
2 had been shot?

3 A Yeah.

4 Q When you got back to the scene, who is the first
5 person that you got a chance to speak with about what you
6 knew?

7 A It was a officer.

8 Q Do you remember the officer's name?

9 A No. No, I don't. Well, I pulled up on him and got
10 out my car.

11 Q And then what'd you do?

12 A And I told him that I just got out of that vehicle
13 and I'm saying and I seen what happened and if I can help,
14 I would.

15 Q And you're talking about, when you say, that vehicle,
16 you're talking about--

17 A The black Impala.

18 Q --the Lenwood Ramsey, Nick's black Impala?

19 A Right.

20 Q Okay. And so then what happened, did you talk to
21 him?

22 A Yeah.

23 Q Where did you talk to him?

24 A I talked to him right there at that time, and then I
25 was on the way to the hospital, because Nicole called my

1 girl to come to the hospital with her. So when I went
2 back to check on Jamaal and they said they already took
3 him to the hospital, I went down there to see what, how
4 was he.

5 Q At some point, did you meet with an officer and give
6 a recorded statement?

7 A Yes.

8 Q Was that after you'd been to the hospital?

9 A That was after I was in the hospital.

10 Q All right. And your purpose in going to the hospital
11 was because of your relationship to Mr. Aiken?

12 A Yes.

13 Q And the family relationship--

14 A Yes.

15 Q --between you and your girlfriend and him?

16 A Yes.

17 Q Okay. So in your statement, do you remember telling
18 the officer that you were outside of the vehicle?

19 A Yes, I did.

20 Q All right. Was that factually accurate?

21 A No.

22 Q Why did you tell the officer you were outside of the
23 vehicle?

24 A For a whole lot of reasons, but the main two was I
25 was afraid. I never been around nothing like that before.

1 And for the second thing, you know, I'd never had any good
2 relationships with the judicial system. You know, I
3 didn't want to get tied up in something that I had nothing
4 to do with. And, you know, I look at the news a lot and
5 there's a whole lot of things that young black men can't,
6 aren't allowed to make mistakes.

7 Q Was there something about being in the car that gave
8 you particular concern, especially on the street?

9 A Yeah.

10 Q Okay.

11 A I didn't want to be a victim to affiliation, being
12 affiliated with someone, you know, having someone try to
13 hurt me and my family behind something that I had no
14 knowledge of.

15 Q Okay. Explain that a little bit. Why would being in
16 the car create an affiliation that might put you in
17 danger?

18 A I mean, growing up in the streets, it's a certain
19 different way of living when you come up the way we did,
20 you know. You got these gangs and you got people who
21 don't like you because of you're affiliated with this
22 person, type of person, you know. Or it might be somebody
23 who want to do something to somebody else but can't get
24 them and just feel like they'll get satisfaction by
25 approaching you or hurting you thinking that it's going to

1 get back to them, you know. I didn't want to be that
2 victim.

3 Q And does being in the car put you in that place, that
4 affiliation?

5 A Yeah. Anytime I feel like a violent crime or violent
6 stuff like that or gunshots or stuff like that, that
7 that's a whole other level of beef, you know. And when
8 the guns come out and someone get killed, people can't
9 handle that and they choose to do things that they
10 shouldn't do to people that don't deserve it.

11 Q So when you told the officer that you were not in the
12 car, was what you've described what you were trying to
13 avoid?

14 A Yes. I was trying to take myself out of the
15 situation but at the same, help and tell the truth about
16 what happened.

17 Q Was anything else in your statement other than the
18 fact that you were in the car and not outside the car
19 that's different, that was inaccurate when you talked to
20 the police?

21 A No, sir. That's the only thing.

22 Q So to the best of your knowledge, did you relay the
23 facts otherwise as accurately as you could about what you
24 saw at the scene?

25 A One-hundred percent.

1 Q Okay.

2 MR. BANNISTER: Your Honor, if I can, I want to get
3 this marked just quickly.

4 (Whereupon, Defendant's Exhibit Number 1 was marked
5 for identification.)

6 Q Mr. Gilchrist, if you can just take a look at
7 defendant's exhibit number 1. Is that a picture of the
8 parking lot and the Cabstand?

9 A Yes.

10 MR. BANNISTER: Your Honor, I move this into evidence
11 as defendant's exhibit number 1.

12 THE COURT: Any objection to that photograph?

13 MR. BROWN: No objection, Your Honor.

14 MR. BANNISTER: Okay.

15 THE COURT: All right. It's admitted without
16 objection.

17 (Whereupon, Defendant's Exhibit Number 1 was admitted
18 into evidence.)

19 Q So looking at this photograph, Mr. Gilchrist,
20 Defendant's Exhibit 1, can you just kind of describe, is
21 that showing the front door of the Cabstand?

22 A Yes, it is.

23 Q All right. And on there if you can use the sidewalk
24 as a reference in the picture, where were you parked?

25 A Right here by the fence over here, right here like on

1 the way out right there. Where that turn is right here, I
2 was right there. Oh, you talking about when I came up or
3 you talking about when we was all together?

4 Q Yeah. I'm sorry. A bad, bad, bad question.

5 A Yeah.

6 Q When you were in Nick or Lenwood Ramsey's car--

7 A Okay.

8 Q --in the front passenger seat just before the
9 shooting, where were you parked and you can use the
10 sidewalk as an example.

11 A Right here.

12 THE COURT: Do we have a pointer, come down and stand
13 by that television and answer the question.

14 Q All right. Go ahead. Now, show us where the point
15 of where were you parked at the time of the shooting?

16 A Oh, right in front of this door right here.

17 Q All right.

18 A Right here.

19 Q Okay. So were you closer to the sidewalk or closer
20 to the front door?

21 A Closer to the front door. I was right here.

22 Q Where that, I guess, dark spot in the parking lot is?

23 A Yeah, right here, sir.

24 Q All right. You can take your seat. And the way that
25 Mr. Ramsey's car was parked, did that put you so that you

1 were actually facing the front door, not facing, but it
2 was to your right?

3 A Yes.

4 Q Okay. All right. So you didn't have to look over
5 Mr. Ramsey's steering wheel to see the front door?

6 A No.

7 Q Okay.

8 MR. BANNISTER: No further questions, Your Honor.

9 THE COURT: All right. About time for a break and
10 you can step down. You can't talk about your testimony
11 with anybody.

12 (Whereupon, a break was taken.)

13 THE COURT: All right. Back on the record. Mr.
14 Gilchrist is back in the witness stand. The State's
15 witness now.

16 MR. BROWN: Thank you, Judge.

17 CROSS-EXAMINATION

18 By Mr. Brown:

19 Q Mr. Gilchrist?

20 A Yes, sir.

21 Q Your nickname again is what, Bug?

22 A Yes.

23 Q Okay. And how long did you know Al Morgan?

24 A I've known him a couple of years. I specifically
25 can't pinpoint how many years, but it's been more than

1 ten.

2 Q Before this incident took place?

3 A Yes.

4 Q Now, how long did you know Jamaal?

5 A I knew Jamaal like when we both came into the same
6 family, each side of our female friends.

7 Q And did Jamaal Aiken, did he have a nickname?

8 A Smooth.

9 Q Do you know how he got that nickname?

10 A No, I don't.

11 Q Now, going to that night of November 14, 2013, you
12 said that you and Al got together or communicated on the
13 phone about going to the Cabstand and shooting pool?

14 A Yes.

15 Q And Tonya and Nick, who also goes by Lenwood,--

16 A Yes.

17 Q --met you up there? Was there any female that came
18 up there with Al or met him up there when you were there?

19 A I'm thinking that Shay and them was up there to meet
20 him.

21 Q And who's Shay?

22 A Shay Simon.

23 Q And what's her relationship to Al?

24 A They were friends.

25 Q Were they dating? Were they seeing each other that

1 you know of?

2 A I couldn't be sure. I mean, I can assume, but I'm
3 not sure.

4 Q Now, when y'all got up to Cabstand, what time, well,
5 you said you got there around, what, 9:00, somewhere
6 around that time?

7 A Yeah, somewhere around there.

8 Q And while at the Cabstand, you were shooting pool?

9 A Yes.

10 Q And y'all were kind of taking turns, whoever would
11 win would stay on the table and somebody else would come
12 on after that?

13 A Yes, sir.

14 Q And you said, how is everybody acting at that time?
15 What's everybody's demeanor?

16 A At that time it was everybody was having a good time
17 from my knowledge and what I could tell.

18 Q And who was all there when y'all were shooting pool?

19 A It was me, Al, Tonya, Nick, Quetta, Jamaal, Brent,
20 Nicole, Hazel and some more individuals who was already
21 there.

22 Q So everybody was having a good time?

23 A Yeah.

24 Q Did you see anybody getting out of sorts in there at
25 that time?

1 A No, I didn't see anything like that going on.

2 Q You didn't?

3 A No, I didn't.

4 Q And everybody kind of, when Jamaal and Brent, Hazel
5 and Quetta and Nicole, all those got there, did you
6 interact with them?

7 A Yeah. I spoke to them. Shook hands. How you doing.

8 Q So everybody is getting along fine then?

9 A From my knowledge, everybody was all right.

10 Q And did you ever see Brent go up and say anything to
11 Al?

12 A No, I didn't see it.

13 Q That's just what Al's telling you?

14 A That's what he told me.

15 Q But you didn't see it?

16 A Nah, I didn't see it.

17 Q But everything you're saying, though, everybody was
18 cordial, everybody was dapping up and all that?

19 A Yeah, with, yeah, with each other and with me. I
20 didn't see, no time.

21 Q What's dab mean?

22 A Fist to fist, how you doing, handshake.

23 Q And what does that mean, kind of mean that
24 everybody's cool with each other when somebody daps up,
25 they cool with them?

- 1 A Yeah. Greetings.
- 2 Q Greetings?
- 3 A Right.
- 4 Q We're all here to have a good time and shoot pool and
- 5 listen to music?
- 6 A Yes.
- 7 Q Now, how long were you there at the club, you and Al
- 8 and Nick and Tonya, Shay and all the group with Jamaal?
- 9 How long were y'all there together, at the same time
- 10 before you left?
- 11 A Around about 20 minutes.
- 12 Q About 20 minutes. And there was nothing going on
- 13 there?
- 14 A I mean, nothing that I had knowledge of. Like I
- 15 said, I was on the pool table.
- 16 Q Tell me, though, how big is the Cabstand inside, is
- 17 it a big area or kind of small?
- 18 A Nah, it ain't no big area. No, it's a small area.
- 19 Q So if it's a small area and somebody got out of line,
- 20 you'd see it?
- 21 A Yeah.
- 22 Q And when y'all decided to leave or, again, what
- 23 prompted you and Nick and Tonya and Al to leave that
- 24 night?
- 25 A Al told me that they was messing with him and Brent

1 tapped him on the top of the hat and he ain't want to get
2 in no trouble. He wanted to leave.

3 Q And he didn't want to get in no trouble and he wanted
4 to leave?

5 A Yeah.

6 Q Did Al's demeanor change when that happened?

7 A Yeah, I could tell he wasn't having a good time
8 anymore.

9 Q Did he have a different look on his face?

10 A Yeah. Like somebody who been irritated.

11 Q Somebody had irritated him? Somebody might be pissed
12 off?

13 A I wouldn't necessarily say pissed, but I would say he
14 wasn't comfortable with the environment anymore.

15 Q Even with everybody in there dapping up and shooting
16 pool and getting along for twenty minutes, he kind of
17 changed his complexion?

18 A Yeah.

19 Q But after he changed his mind, you decided to go
20 along with him; you felt, well, if you ready to go, I'll
21 go with you?

22 A Yeah, because he came with me.

23 Q When y'all left, Al rode with you back to, you're on
24 your way back to Nick's house?

25 A Right.

- 1 Q And you stopped by a Li'l Cricket?
- 2 A Right.
- 3 Q To get some more beer?
- 4 A Right.
- 5 Q Tell me how long were y'all up there before everybody
- 6 got there that night? Y'all were there how long before
- 7 you left?
- 8 A Probably about, we probably was there about a hour or
- 9 so, a little over a hour.
- 10 Q And while y'all were there, you stopped, you said you
- 11 stopped by Li'l Cricket to get some more beer. Were y'all
- 12 drinking while y'all are up there at the Cabstand?
- 13 A Yeah.
- 14 Q Kind of socializing, drinking?
- 15 A Socializing.
- 16 Q And then you get back to Lenwood's house and drink
- 17 some more beer at his house?
- 18 A Right.
- 19 Q Now, earlier in the day before y'all, what time did
- 20 you meet up with Al earlier in the day?
- 21 A It was nightfall. It was probably about 8:30.
- 22 Q And did you see Al do any other kind of illicit drugs
- 23 or illegal drugs when you were with him?
- 24 A No. Al just liked to drink.
- 25 Q Do you know for certain he didn't, he wasn't also on

1 some type of drug?

2 A I didn't see him do any.

3 Q But you don't know for sure?

4 A No, I don't know for sure.

5 Q Now, once you get back to Lenwood's house, how long
6 were you there before you heard Al get a phone call?

7 A Probably about fifteen minutes.

8 Q Before y'all got in the car, did you know of any kind
9 of run-in Al had a couple of months before this that he
10 got his lip busted?

11 A Yeah. He told me about it.

12 Q Did anybody, Brent or Jamaal, were they the ones that
13 busted Al's lip?

14 A Not from what, not from my understanding, no.

15 Q Who'd you hear busted his lip?

16 A Some other little, some other guy.

17 Q Just some other dude?

18 A Yeah.

19 Q After Al got his lip busted in September of 2013,
20 what did Al start doing or what did you know that Al had
21 on him for the last, at least a week or so?

22 A And he say he had got him some protection.

23 Q And he got him some protection. He's not throwing
24 in, he didn't put on boxing gloves, did he?

25 A No.

- 1 Q What kind of protection did he have?
- 2 A He said he had got him a piece.
- 3 Q And a piece is a what?
- 4 A It's a gun.
- 5 Q So he, after he got his lip busted by somebody not
- 6 associated with Jamaal or Brent, he started packing a
- 7 pistol with him?
- 8 A He said that--
- 9 Q -- and you know he had it on him for at least a week?
- 10 A I knew he had it, but I never seen him with it. I
- 11 know he had, he had got in possession of it, but I never
- 12 seen him with it.
- 13 Q Do you remember telling law enforcement that he
- 14 seemed like he was on edge ever since that happened?
- 15 A Yeah.
- 16 Q Did he seem like he was always nervous?
- 17 A Yes.
- 18 Q And once y'all, once Al got that phone call that
- 19 night from, who you guess it is, his girlfriend or friend,
- 20 Shay?
- 21 A Yeah.
- 22 Q And that'd be Shay Simon, right?
- 23 A Right.
- 24 Q He asked you if you'd take him back up there?
- 25 A Yeah.

1 Q And you didn't take him back up there, did you?

2 A No.

3 Q Why didn't you want to take him back up there?

4 A Because I couldn't allow no female in the vehicle, to
5 get in my old lady's car.

6 Q Why is that?

7 A It's disrespectful. And, you know, then my girl
8 people was up there at the club, too, so that wouldn't
9 look right at all.

10 Q Now, did you notice anybody else up at that club that
11 Al had a relationship with prior to this? You know, you
12 said he had some kind of, you don't know his relationship
13 with Shay. Did you ever know him to date Quetta Spencer?

14 A Yeah.

15 Q What was Quetta and Shay's relationship with one
16 another?

17 A I really couldn't tell. That's my first time being
18 around both of them at the same time.

19 Q If you don't know that's fine.

20 A I don't know.

21 Q Now, after you got that, after you told Al that you
22 were not going to take him back up there, did you, in
23 fact, ride back with him and Nick?

24 A Yeah.

25 Q So Nick or say Lenwood's driving his black Impala?

- 1 A Right.
- 2 Q You're in the front passenger seat?
- 3 A Right.
- 4 Q And Al is in the back passenger seat?
- 5 A Right.
- 6 Q Takes you roughly you think two minutes to get back
- 7 up there?
- 8 A Yeah.
- 9 Q Once this call came from Shay calling Al, how quickly
- 10 did y'all get in the car to go back up there?
- 11 A It took a little minute, because we had to decide how
- 12 they were going to get a ride, you know. I told them I
- 13 wasn't going there because we had left, ain't no need in
- 14 going back and not to pick up no girls. And you know what
- 15 I mean, giving them no ride, because they ain't coming
- 16 with us anyway. So I wasn't going to go.
- 17 Q Now, once y'all pulled back up to the Cabstand, so
- 18 y'all had left and now you coming back.
- 19 A Yeah.
- 20 Q And Mr. Bannister showed you a photo, defendant's
- 21 exhibit number 1 and that's a picture of the Cabstand?
- 22 A Correct.
- 23 Q On the corner of Seaboard and East Cambridge. You
- 24 said you pulled into the parking lot or Nick pulled into
- 25 the parking lot, and you were parked pretty close to that

1 door about right there where that blue part is on the pen?

2 A Right.

3 Q Were there cars parked in front of that Cabstand?

4 A Yeah, there's cars parked in front of there.

5 Q So they're kind of facing forward?

6 A Right.

7 Q Now, when you get up there you see everybody looks
8 like they've been put out or they're outside of the club,
9 right?

10 A Right.

11 Q And you mentioned that Jamaal started walking towards
12 the car?

13 A Yeah.

14 Q Was there anybody else right there with Jamaal
15 walking towards the car?

16 A No. He was by himself walking towards the car.

17 Q By himself. Did it look like everybody else was
18 following suit like they were charging the car?

19 A No.

20 Q With Jamaal walking towards the car, were you fearful
21 of Jamaal walking towards the car?

22 A No, I wasn't.

23 Q Now, why were you not fearful of Jamaal walking
24 towards the car?

25 A Because I had never had a problem with Jamaal before.

- 1 Q You never had a problem with him?
- 2 A No.
- 3 Q And also when you're at the club that night before
- 4 y'all left and you didn't have a problem with Jamaal, did
- 5 you ever see anybody in that club that night pull out a
- 6 pistol?
- 7 A No.
- 8 Q Did you even know that Jamaal, did you think Jamaal
- 9 had a pistol on him?
- 10 A No.
- 11 Q As Jamaal is walking towards the car and you say he's
- 12 walking, he's not running, right?
- 13 A Yeah, but he's not walking like that. He walking
- 14 like he got something to say.
- 15 Q He's got something to say?
- 16 A Yeah.
- 17 Q But he didn't have any pistol pulled out, does he?
- 18 A No, sir.
- 19 Q He doesn't have any, one hand behind his back, does
- 20 he?
- 21 A No, I didn't see nothing like that either.
- 22 Q So he comes up to the car and where is your attention
- 23 looking?
- 24 A I'm looking at him walk towards the car.
- 25 Q Are you looking in the back seat?

1 A No, I'm looking out my window.

2 Q And how far, how long did you watch Jamaal coming up
3 towards the car until he's all the way up on the car?

4 A Till he all the way up to the car.

5 Q And what happened next?

6 A And he snatched the door open in the back. ,

7 Q How fast with him snatching that door did that pistol
8 fire?

9 A It took about eight seconds. Enough for him to open
10 the door and say what he said and trying to reach in.

11 Q Eight seconds? Do you remember giving a statement to
12 law enforcement that night, you said it was like a
13 bang-bang, the door opened and it was a bang-bang kind of
14 situation?

15 A No. No.

16 Q And during this eight seconds, eight seconds you
17 agree is kind of a long time for something to transpire,
18 right? A lot can happen in eight seconds?

19 A A whole lot can happen in eight seconds. Yeah, you
20 right.

21 Q Did Jamaal pull Al out of the car in that eight
22 seconds?

23 A No. He was trying.

24 Q He was trying?

25 A He reached in the car and was trying to pull him out.

1 Q Now, again, when you talked to law enforcement that
2 night or that night of this incident--

3 A Yes, sir.

4 Q --you said the door jerked opened, and then you heard
5 a bang?

6 A Yeah.

7 Q Right off-the-bat? Now, you changing your story now
8 to say it was eight seconds?

9 A No, no, no.

10 MR. BANNISTER: Judge, let me just--

11 A Things were moving fast.

12 MR. BANNISTER: Let me interpose an objection here,
13 because he's making it sound like he said it right
14 off-the-bat. I don't believe that's his statement. I
15 would object to that as being without basis.

16 THE COURT: All right. Continue and I'm going to
17 sustain that objection. You can use the words in his
18 statement, but don't editorialize his words, because I
19 don't know what his words are. I haven't read any
20 statements.

21 Q Now, after you say Jamaal opened up the door, Al
22 shot? At some point, Al shot?

23 A At some point.

24 Q Now, when Al shot and what happened to Jamaal; what
25 did Jamaal do after that?

1 A He grabbed his stomach and leaned back out the door,
2 and then he fell down on the ground.

3 Q He fell on the ground?

4 A Yeah.

5 Q Once Jamaal was shot, did Jamaal reach for anything
6 in his pocket? Did he pull out a pistol or anything?

7 A Now, I couldn't tell. I couldn't hear or see. I saw
8 a flame, couldn't hear or nothing, man, I was just leaning
9 over.

10 Q Now, you're sitting in the front seat, right?

11 A Yeah.

12 Q And you said you saw the flame coming out of the
13 pistol?

14 A Yeah. I was looking back over to see, trying to see.

15 Q And did you see the, was it pretty much parallel to
16 your head, that pistol or that flame?

17 A Nah, it was like it came down from the floor. You
18 know, it came down. It was low. Well, when the fire came
19 out, it's like boom, you know.

20 Q It kind of blinded you, right?

21 A Excuse me?

22 Q Did it kind of blind you and just get in your eye?

23 A Yeah, it's like it lit up real, real, real, real
24 bright and loud, you know. So I leaned back over in the
25 front seat, because I didn't know where the shot was

1 coming from.

2 Q Now, did you get out of the car then?

3 A No, not at that point.

4 Q Had you ever said that you got out of the car at that
5 point to anybody before?

6 A Excuse me?

7 Q Did you ever tell anybody that you'd gotten out of
8 the car at the Cabstand right after this happened or you
9 were outside the car?

10 A I told the officer that I was outside of the car in
11 my first statement, you know what I'm saying. Only
12 because of I was afraid of what had just occurred. And I
13 didn't know what was going on, I just know that I didn't
14 want to be involved in something like that and had nothing
15 to do with it, you know what I'm saying. That's the only
16 time I said I was outside.

17 Q But, in fact, you were actually, you stayed in the
18 front of the car?

19 A Yeah, I was actually in the car.

20 Q And drove, once Jamaal was shot, Lenwood or Nick
21 drove off. Who prompted Nick to drive off?

22 A Al told him to drive off.

23 Q Al told him to drive off?

24 A He told him to go, because he didn't know, we don't,
25 I don't know, like I said, people were shooting after

1 that. Somebody shot at least once. So I started feeling
2 like yeah we probably should've, I probably should have,
3 jumped out then. But who's to say I would have got shot,
4 too, because of getting out like that and people not know
5 that I ain't the one who did that.

6 Q Now, saying somebody shot, another shot after Al did,
7 when did you remember that; have you ever told that
8 before?

9 A No, I didn't tell nobody.

10 Q You didn't, you didn't think that was important to
11 tell anybody somebody shot after that?

12 A I mean, I didn't know who it was. I knew it wasn't
13 the people with us. And I didn't want to put it on them,
14 on Jamaal and them, because I didn't see them do that.
15 But I know I heard another shot. It was more than me
16 heard another shot.

17 Q But you didn't say that that night that somebody else
18 shot?

19 A No, because I couldn't pinpoint who did that. I can
20 only say what I know.

21 Q And, again, you never saw Jamaal pull out a gun?

22 A No.

23 Q After you, after Nick pulled off and Al's in the
24 backseat and you're in the passenger seat, you said y'all
25 pulled off in the Li'l Cricket parking lot?

- 1 A Yeah.
- 2 Q Which is actually, you pull out of Cabstand and go
3 down East Cambridge and it's down on the left?
- 4 A Yeah.
- 5 Q What happened when y'all got to the Li'l Cricket
6 parking lot?
- 7 A Well, Lenwood had started saying that he wanted to
8 get out, he wanted us to get out. He said he wanted, he
9 told Al he could keep the car, just let us out.
- 10 Q What happened after that?
- 11 A And he told him to just to pull off, just take me
12 home.
- 13 Q Al told him to go on, keep driving?
- 14 A Just keep going, yeah.
- 15 Q Once y'all got back to Lenwood's, which is, you agree
16 Lenwood's right down the road from Li'l Cricket?
- 17 A Right.
- 18 Q Once y'all got back to Lenwood's house what did you
19 do?
- 20 A I got out and got in my car and went back to the
21 scene to check on Jamaal.
- 22 Q Is that when you spoke with Captain Futch?
- 23 A Yeah. The officer that I was there that I pulled up
24 on, yeah.
- 25 Q You gave a statement to him then?

1 A Yeah. Yes, sir.

2 Q And then after you spoke with him, where did you go
3 after that?

4 A Then I went to the hospital.

5 Q You went to check on Jamaal?

6 A Right.

7 Q Now, Mr. Gilchrist, some of the statements you gave
8 to law enforcement that night weren't entirely true, is
9 that right?

10 A Right.

11 Q And you did that or you tried to, said to Mr.
12 Bannister you really didn't want to get, you didn't want
13 to be pitting two families to each other or show sides or
14 anything like that?

15 A I didn't want to be in the middle of none of that,
16 and I never been in a position like seeing no stuff like
17 that before ever, so.

18 Q Now, today, are you afraid of retribution, somebody's
19 going to come back at you today?

20 A Always.

21 Q That doesn't have an effect on your testimony here
22 today, does it?

23 A No, it don't.

24 Q And going back to when Jamaal came up towards your
25 car, you weren't in fear?

1 A I didn't think I had no reason to be.

2 Q You had no reason to be in fear, because you, y'all
3 had all been around Jamaal and his group prior to leaving
4 the Cabstand, right?

5 A Nah, that wasn't the reason. The reason was I didn't
6 think that I had a reason to be, he's not, he ain't never
7 been that type of person.

8 Q You've never known Jamaal to be a--

9 A -- I've never known him to be that type of person.
10 So, you know, from my knowledge, I had no reason, I wasn't
11 supposed to fear him. He never hurt me. I never tried to
12 hurt him.

13 Q Did you know him to, if you known him not to be that
14 type of person, you never knew he'd do that to anybody,
15 did you?

16 A Nah, I never known him to act like that before.

17 MR. BROWN: I have no further questions.

18 THE COURT: Any redirect?

19 MR. BANNISTER: Just briefly, Your Honor.

20 REDIRECT EXAMINATION

21 By Mr. Bannister:

22 Q So when he was, when Jamaal was walking from the door
23 of the Cabstand toward the car, you described him as
24 being, at least when we were talking initially, as being
25 in a frenzy, acting different.

1 A Right.

2 Q Was that the first time you'd seen him act, Jamaal
3 act that way?

4 A That's my first time ever seeing him act like that.

5 Q Did he appear to be, could you tell whether he was,
6 just from looking at him, whether he was intoxicated,
7 whether he looked like he was on something? I mean, was
8 it that different?

9 A I couldn't be accurate and say that, but I really
10 don't know.

11 Q Well, but it caught your attention?

12 A Yeah, and it caught my attention.

13 Q And it was different than the way you'd seen him
14 before?

15 A Yeah.

16 Q And I want to just, if I can--

17 MR. BANNISTER: Judge, may I approach just briefly?

18 THE COURT: You may.

19 Q All right. So you got asked a couple of questions
20 about your statement that you had given to Mr. Futch. Let
21 me let you just read to yourself for a second your
22 question and answer and see if that refreshes your
23 recollection. If you will, just kind of start right here.
24 You don't need to read it out loud. Just read it to
25 yourself.

1 A (Witness reads statement.) Okay.

2 Q All right. And let me ask you if you can just follow
3 through with another portion of the transcript of that
4 recording that I got marked, just to refresh your
5 recollection?

6 A Okay.

7 Q Having looked at a transcript of your recording with
8 Mr. Futch, let me ask you did you tell Captain, I'm sorry,
9 Captain Futch that Jamaal Aiken had said something when,
10 before the shot had occurred?

11 A Right.

12 Q And what was it that he said?

13 A What's up pussy boy.

14 Q Okay. And that happened at the door, did that happen
15 at the door before the shooting?

16 A After he opened the door and he was able to see Al.

17 Q And so is that, that's the sequence of events that
18 you told Captain Futch about originally?

19 A Yeah.

20 Q Okay.

21 A Yes, sir.

22 Q I have one other question. So just back to when you
23 decided to leave Lenwood Ramsey's home to go with Nick,
24 Lenwood Ramsey, and Al Morgan, if you can just tell me why
25 you agreed to ride with them when you had refused to drive

1 Mr. Morgan there yourself. In other words, why not just
2 stay? What was it about staying that was a problem?

3 A I didn't want to stay with his wife. It would have
4 been disrespectful for me to just sit there with her and
5 wait for them. But then I thought maybe we, I thought we
6 were just going to pick the girls up and we was coming
7 right back. I just couldn't have them in my car.

8 MR. BANNISTER: Okay. All right. No further
9 questions.

10 THE COURT: Anything else?

11 MR. BROWN: No, sir.

12 THE COURT: All right. You're done. You can step
13 down.

14 MR. GILCHRIST: Thank you.

15 THE COURT: I want five minutes, but we probably can
16 do one more witness before lunch, going to last an hour?

17 MR. JONES: Your Honor, the next witness should not
18 take an hour. It should be more like an half-hour with
19 direct and cross. It's Ernest McCauley.

20 THE COURT: Okay. I want a couple of minutes, and
21 we'll call him. This won't be a long break, and I just
22 want to step off here.

23 MR. JONES: Certainly. I didn't know that's what you
24 were asking about.

25 THE COURT: Oh, yeah.

1 MR. JONES: I thought you wanted to know the length
2 of the witness.

3 THE COURT: Yeah, and it was, but I'm going to take
4 five minutes, and then do that thirty minute witness.

5 (Whereupon, a short break was taken.)

6 MR. JONES: Call Ernest McCauley.

7 ERNEST MCCAULEY, being
8 first duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 By Mr. Jones:

11 Q Mr. McCauley, please state your name for the record.

12 A Ernest McCauley, III.

13 Q And how old are you today, Mr. McCauley.

14 A 67.

15 Q Mr. McCauley, how far did you go in high school?

16 A I got a GED and I got a high school diploma in the
17 Marine Corp.

18 Q And where did you live and grow up?

19 A In Promise Land.

20 Q Now, where do you live now, today?

21 A South University, [REDACTED].

22 Q Is that out Reynolds Street, and then you turn onto
23 University Avenue off of Reynolds, I mean, Cambridge?

24 A Off East Cambridge.

25 Q Yes.

1 A Yes, sir.

2 Q Were you living at that location on, you recall on or
3 about November the 14th, 2013?

4 A Yes, sir.

5 Q Okay. And were you familiar at that time with a
6 local night spot that you would frequent and hang out at
7 called the Cabstand?

8 A Yes, sir.

9 Q About how far was it from your home?

10 A I'll say about six blocks, seven blocks.

11 Q Okay. Do you remember being there on the evening of
12 November the 14th, 2013?

13 A Yes, sir.

14 Q And do you remember what time you arrived and who you
15 were there with or what you were doing the first part of
16 your time there?

17 A We was at the restaurant, the S&S. We left from the
18 S&S about, around about 8:30 or 9:00.

19 Q Who is we?

20 A Me, Tony, Paramour and there was four or five of us
21 went.

22 Q Tony, Tony who?

23 A I don't know what this, Tony's last name.

24 Q Tony Thomas?

25 A Thomas; yeah, I believe that's his name.

1 Q All right. Now, what did you go over there for after
2 you'd eaten at S&S Cafeteria?

3 A Oh, we went down there to play a little pool and play
4 some spades and drink some beer.

5 Q Okay. Now, Ernest, I want to ask you, I was handed a
6 copy of what's stated a SLED criminal history report
7 listed Ernest Randolph McCauley as the person whose
8 criminal history report was run.

9 A May I see that?

10 Q Yes, sir. I'm going to hand it to you. I was
11 looking to see if you recognize the first charge and
12 conviction contained on that sheet that I'm referring to,
13 if that's you, Ernest Randolph McCauley?

14 A No, sir. That's not me. I don't have a middle name.
15 My name is Ernest McCauley, III. I don't have a middle
16 name. Now, I met that fellow there in prison, when I was
17 in prison.

18 Q Oh, really?

19 A Yeah, there was two of us there.

20 Q Okay. Right. This charge on here is out of Anderson
21 City, isn't it?

22 A Anderson--

23 Q -- you see that? And then there's another charge on
24 here for Ernest Randolph McCauley. Where does it say that
25 charge originated from?

1 A Greenville.

2 Q You ever been in any trouble in Greenville or
3 Anderson?

4 A No, sir.

5 Q And let me go back to my line of questioning when I
6 was asking you about your reason for going to the
7 Cabstand, who you remember being with you. Do you
8 remember that evening? Do you recall that evening
9 specifically, November the 14th of 2013?

10 A Yes, sir.

11 Q All right. And what do you remember about the club
12 and the general environment for the first 10 or 15 minutes
13 that you were there?

14 A For the first 10 or 15 minutes, we was just there
15 shooting pool and playing cards and drinking beer and
16 certain, some more peoples came in.

17 Q Well, how would you describe for the Judge what it
18 was that you most liked about that particular club?

19 A Well, it was mostly for just for old folks. It was
20 mostly just for the old folks. You know, we just, you
21 know, go down there and chill, play pool, play cards,
22 drink beer and that was it.

23 Q Well, on this particular evening would you, did
24 anybody other than the usual crowd show up and come in
25 there?

1 A Yeah, they started to come in about 10:00. There was
2 a group of girls come in there first, and then there was
3 another group of girls come in there with a couple of
4 fellows with them.

5 Q Okay. Did you know any of the girls by name or
6 sight?

7 A No. That was the first time I had seen them there.

8 Q And what group would you put them in, regulars or
9 newcomers?

10 A Regulars. The first people that come in there they
11 was regulars. And then these other group that come in
12 there and, like I said, I hadn't never seen them before.

13 Q What about the two men you mentioned, had you seen
14 them?

15 A Yeah, I have seen them up there before.

16 Q Do you know who they were?

17 A Yeah. Well, I knew one of them. One of them was,
18 they call him Smooth.

19 Q Jamaal Aiken?

20 A Right. Yeah. He was a regular.

21 Q And he was in there that night?

22 A Yes, sir.

23 Q At some point in time after the people had got in
24 there for the most part, do you remember there being any
25 kind of, well, let me ask you this before I go there. Do

1 you remember seeing Al Morgan in the club?

2 A Well, he came in a little later.

3 Q Do you remember recalling whether or not he stayed or
4 left?

5 A Well, he left. He didn't stay.

6 Q All right. And was there a sequence of events that
7 occurred after he left?

8 A He got in a fight.

9 Q A fight?

10 A Right.

11 Q Did you observe the fight?

12 A No, not, just, I seen it was a bunch of them
13 fighting.

14 Q Okay. Whereabouts was the fight in the club taking
15 place?

16 A Well, right there by the pool table. Right in front
17 of the pool table there.

18 Q That would have been towards the back of the club and
19 not the front?

20 A Right. In the back, right.

21 Q In the back of the club. And where were you situated
22 when you observed the fight break out?

23 A I was on this side of the piccolo right there where
24 the table's at where you play cards.

25 Q Is that closer to the front or the back of the club?

1 A It is close to the front.

2 Q And who was there with you while the fight was going
3 on?

4 A Weed, Tony, about seven of them.

5 Q And at some point in time how did y'all feel about
6 that type of behavior going on in the club?

7 A Well, we got up to break it up when they got in the
8 fight. We broke it up, we got some of them to go outside
9 and some of them stayed in there.

10 Q Before you broke it up and put any of them outside,
11 did you see anybody, any man that you recognized involved
12 in that fight, that altercation?

13 A Well, all of them looked like they were fighting. I
14 can't exactly say who all it was, it was about ten or
15 twelve of them.

16 Q All right. And so who began to help you get them out
17 of the club?

18 A Well, Tony Thomas and I.

19 Q All right. Were they ready to leave?

20 A No, sir. They weren't ready to go. We got the girls
21 to go first.

22 Q All right.

23 A We got them. And then Smooth, we got him to go out.
24 And then the fellow, they have had jumped on, he stayed in
25 there. They let him out.

1 Q Okay. So did the people that you got out of the club
2 want to be gotten out of the club?

3 A No, sir. They was still arguing back and forth.

4 Q Okay. What about while they were out in the parking
5 lot?

6 A Now, I don't know about the parking lot, but he was
7 trying to get back in and that's when we was closing the
8 door on him.

9 Q All right. I'd like you to step down please, Ernest,
10 and speak up so the lady taking down all these recordings
11 can hear you when you answer my questions.

12 A Yeah.

13 Q If you don't mind, step around here to where this
14 photograph is, this defense exhibit number 1. Can you see
15 it okay from there?

16 A Yes.

17 Q All right. What is depicted from a building
18 standpoint, blue building standpoint that you see in that
19 exhibit; what is it?

20 A Looking at the picture?

21 Q Yes, sir.

22 A It's the Cabstand.

23 Q All right. And the parking lot in front of the
24 Cabstand?

25 A Right.

- 1 Q All right. There are two doors there, is that
2 correct?
- 3 A Yes, sir.
- 4 Q Which door was the door that people would come in and
5 go out of on the night of November the 14th, 2013?
- 6 A This one right here. That's the only one would be
7 open.
- 8 Q The one closer to the center of the building?
- 9 A Right.
- 10 Q And that's the only one that was open?
- 11 A Right. That's the only one we would open.
- 12 Q All right. Now, when that door would open, try to
13 show the Court which side as you are facing, the left side
14 or the right side, would swing out to the street?
- 15 A Well, it's in the screen door part of it.
- 16 Q Okay.
- 17 A The other door swing out this way.
- 18 Q Swing out towards the street?
- 19 A It swing out towards the street.
- 20 Q From as you're facing it, the left side swings out--
- 21 A Right.
- 22 Q --as you're facing it?
- 23 A Right.
- 24 Q Is that correct?
- 25 A Yes.

1 Q And then say there was a screen door over the front
2 of it, too?

3 A It's not a screen door. It's a, what is it?

4 Q A cage door?

5 A A cage door, right. A cage door.

6 Q Like to protect somebody from kicking that door in
7 and getting in.

8 A Right.

9 Q It's like metal cage.

10 A The cage door go this way.

11 Q Right.

12 A And that door going in there swings back this way.

13 Q Okay. All right. Come back around to the stand
14 then. I just wanted you to point that out, please. Now,
15 you said you got most everybody out that you and Tony felt
16 like were causing a problem in there and some of them were
17 trying to get back in, is that correct?

18 A Right.

19 Q All right. Were you trying to close that door to
20 keep them from getting back in?

21 A Yes, sir. Tony and I were trying to pull it up.

22 Q All right. And how would you try to close that door
23 to pull it back into the inside of the club to close it?
24 How would you do that? What mechanism would help you get
25 that door closed if somebody was trying to stay out or

- 1 trying to get in?
- 2 A All we had to do is grab ahold to the handle of the
- 3 door and pull it back around this way.
- 4 Q Well, describe to the Judge how the handle was on the
- 5 door.
- 6 A Kind of like right across the middle of the door.
- 7 Q So it's one of those bar handles that went from side
- 8 to side on the door?
- 9 A Right.
- 10 Q And you had a hold on it?
- 11 A Right.
- 12 Q And you were trying to pull it shut?
- 13 A Right.
- 14 Q Were you having a easy time or a tough time pulling
- 15 it shut?
- 16 A Well, I had a tough time because all of them that we
- 17 had just put out.
- 18 Q Yeah.
- 19 A All of them were right there at the door trying to
- 20 get back in.
- 21 Q Now, what else were they doing besides trying to get
- 22 back in?
- 23 A Cussing.
- 24 Q So they weren't, they weren't in a good mood?
- 25 A No, sir.

1 Q All right. Did you ultimately get that door shut and
2 locked?

3 A Yes, sir.

4 Q Before you got the door shut and locked, did anything
5 happen that you remember today?

6 A Yes, sir. I got hit right there with--

7 Q You got hit?

8 A Right here right below my eye there.

9 Q Do you remember who hit you?

10 A Yes, sir.

11 Q Who?

12 A Smooth.

13 Q Jamaal Aiken?

14 A Right, because we tried to keep him out of, out of
15 there.

16 Q All right. And you say you got hit in the eye?

17 A Right.

18 Q How did it feel?

19 A Well, I been hit before, but it didn't feel like no
20 fist.

21 Q You have been hit in the face before?

22 A (Witness nods head.)

23 Q More than once?

24 A (Witness nods head.)

25 Q You had your share of fights?

- 1 A Yes.
- 2 Q Yes, sir. But you have to answer.
- 3 A Oh, yes, sir. Yes, sir.
- 4 Q More than once?
- 5 A Yes, sir.
- 6 Q You've been hit in the face?
- 7 A Yes, sir.
- 8 Q With a fist?
- 9 A Yes, sir.
- 10 Q And you got a pretty good idea how that feels?
- 11 A I know how that feels.
- 12 Q Well, when you got hit this night trying to close
- 13 that door at the Cabstand, did it feel like a fist that
- 14 Smooth hit you with?
- 15 A No, sir.
- 16 Q And would you demonstrate to the Judge, me being you
- 17 trying to close the door and you being Smooth trying to
- 18 get back in, how he hit you when you got hit to the best
- 19 of your recollection?
- 20 A He hit, he hit down like this here.
- 21 Q And hit you on the right eye?
- 22 A Right. Well, I was on this side here pulling it back
- 23 like this here. I mean, that's when he, see, there's some
- 24 more people's in front of him. He had to hit over them.
- 25 Q To hit you?

1 A Yes.

2 Q And you got the door shut?

3 A Yes, sir.

4 Q And you got the door locked?

5 A Right.

6 Q And what was the mood and demeanor of the crowd at
7 that point once you got the door locked? What was the
8 mood?

9 A They was still upset. You know, they was calming
10 down, but they was still upset, because we wouldn't let
11 them go, let the ones that in the club and we let them go
12 out, then we let the ones on the outside come in.

13 Q Do you remember before you got the door locked when
14 the fight broke out, you were back from the fight, but do
15 you remember at any point in time during the fight anybody
16 being on the floor of the Cabstand?

17 A Just them girls had some fellow on the floor.

18 Q Do you remember whether it was a man or a woman on
19 the floor?

20 A A man.

21 Q All right. And did you see any assaultive behavior;
22 any blows or being, being administered to the man on the
23 floor?

24 A Yes, sir. They was hitting him.

25 Q With what?

- 1 A I guess, that with their fists.
- 2 Q Okay. Did you see any other kind of blows being
3 struck?
- 4 A No.
- 5 Q Okay. After that night or while you say that the
6 noise kind of quieted down a little bit later what, if
7 anything, did you and Tony do?
- 8 A We didn't do nothing.
- 9 Q Did you let anybody go out the front door?
- 10 A No, sir. I stayed at the front door, and I didn't,
11 never did open the door until the officer got there.
- 12 Q All right. Do you remember anything happening after
13 you got the door shut that you can tell the Court that
14 was, that got your attention, any noises or anything else?
- 15 A No, sir. Not when I was at the front door.
- 16 Q So did at some point in time the crowd that was
17 outside get less? In your opinion, did they settle down
18 any?
- 19 A No, sir. Not till the officer got there.
- 20 Q Okay.
- 21 A They seen all the police lights.
- 22 Q Before the officer got there, did you hear any noise
23 like a shot?
- 24 A No, sir. I didn't hear no shot.
- 25 Q Did you hear a gunshot?

1 A No, sir. I didn't hear the shot.

2 Q Okay. At some point after the incident occurred and
3 you got home that night, what condition was your eye in?

4 A It was red and hurting.

5 Q Did it swell any?

6 A It swelled.

7 Q Did it swell shut?

8 A Not all the way shut. It just swelled. It didn't
9 shut, swell all the way shut.

10 Q Did you try to get through the injury on your own?
11 Did you, or did you go to the hospital?

12 A Well, it was about a couple of weeks before I went to
13 the hospital, because it kept on hurting and kept on
14 getting bloodshot.

15 Q I want to hand you a copy of a Self Memorial
16 Emergency Department chart. I want to refer you down to
17 Patient Problems. I want to see if your name is listed on
18 this emergency chart and see if you can identify it as
19 being a visit that you made to Self Memorial Hospital
20 after November 14th, 2013. What date does it say you went
21 down there to them? Can you see it on here?

22 A The 12th, yeah.

23 Q Arrival date?

24 A Oh, the arrival date is the 12th, 2013 at 14:45.

25 Q The 12th day of December, 2013?

1 A Yes, sir.

2 Q So you waited about a month before you, about three
3 weeks before you went to the hospital?

4 A Right.

5 Q Where it says here, summary. Can you read pretty
6 much what that says? I know it's hospital/nurse kind of
7 notes and language, but can you read it?

8 A I got a PT with right eye. Pain and, three weeks ago
9 when he was hit with brick, below the eye. Dull and, I
10 don't know what that is there.

11 Q Throbbing?

12 A Throbbing pain. I don't know what that is there
13 either.

14 Q All right. How did this nurse figure out you got hit
15 with a brick or did you tell her that?

16 A Yes, sir.

17 Q And why'd you tell her you got hit with a brick?

18 A Well, I didn't want to get him in no trouble.

19 MR. JONES: Your Honor, we would offer this Self
20 Memorial Emergency Department Chart of his as a Court's
21 exhibit at this time, please?

22 THE COURT: I can't make it a Court's exhibit.

23 MR. JONES: Defense exhibit. I'm sorry. Defense
24 exhibit.

25 MR. STUMBO: I'm not going to object to that.

1 THE COURT: Okay. Defense number 2 will be admitted
2 without objection.

3 (Whereupon, Defendant's Exhibit 2 was admitted into
4 evidence.)

5 Q Ernest, do you recall when the police did get there
6 did anybody that was with the police try to interview you
7 or get a statement from you about what you had seen on the
8 inside or outside or anything like that?

9 A No, sir. They just asked me what happened, and we
10 told them we was on the inside.

11 Q Okay. And did they ask you about what happened on
12 the inside?

13 A No more than I, well, they asked about it.

14 Q Who did?

15 A I don't know what the officers were named.

16 Q Did they ask you to come down to the station and give
17 a statement about what had happened on the inside?

18 A No, sir. They ain't said nothing about that.

19 Q Did they ask you to come sit out in the car where
20 they had a recorder and let you give a statement about
21 what happened on the inside?

22 A No, sir.

23 Q Did they ask you to tell them what was wrong with
24 your eye?

25 A No, sir.

1 MR. JONES: Answer any questions for the Judge, I
2 mean, for the Solicitor, please.

3 MR. STUMBO: Thank you, may it please the Court.

4 CROSS-EXAMINATION

5 By Mr. Stumbo:

6 Q Good afternoon, Mr. McCauley.

7 A Good afternoon.

8 Q I believe it's past noon here and we hadn't met
9 before. I'm David Stumbo. I'm the Solicitor, and you
10 hadn't met with me before, have you?

11 A No, sir.

12 Q And, in fact, we've never met; we've never talked?

13 A No, sir.

14 Q And you've never met with anybody from my office
15 either, have you?

16 A No, sir.

17 Q Okay. But you have met with Mr. Jones or and/or Mr.
18 Bannister?

19 A Yes, sir.

20 Q Okay. Now, let's get this straight. Obviously,
21 you've got a name-double out there somewhere. What is
22 your birthday?

23 A [REDACTED]/48.

24 Q Okay. This date [REDACTED]/1948, that's your birthday,
25 correct?

1 A Yes, sir.

2 Q All right. So this sheet would refer assuming to
3 you. Now, you weren't convicted of murder in 1972, but
4 what, you said you were in prison. What were you in
5 prison for?

6 A Manslaughter.

7 Q Okay. So you caught a manslaughter charge in 1972?

8 A Yes, sir.

9 Q And then when did you get out? How much time did you
10 do?

11 A I did eight years and some months.

12 Q Okay. You got a burglary first charge in 1986
13 conviction, is that correct?

14 A Yes, sir.

15 Q Did that send you back to prison?

16 A Yes, sir.

17 Q How much time did you do on that one?

18 A About five years I believe it was. I can't remember
19 how much it was.

20 Q And you had a failure to stop for law enforcement--

21 A Yes, sir.

22 Q --at some point? And you did time on that, too,
23 didn't you?

24 A Yes, sir.

25 Q Okay. Well, how long you been out of prison?

- 1 A Since 2010.
- 2 Q Okay. What were you in for that time?
- 3 A Assault and battery with intent to kill.
- 4 Q All right. Pointing and presenting a firearm, too,
- 5 you have one of those charges?
- 6 A Right.
- 7 Q Unlawful possession of a pistol?
- 8 A Yes, sir.
- 9 Q You got five years on that?
- 10 A Yes, sir.
- 11 Q So between 1972 and 2010, you spent a significant
- 12 amount of time in the Department of Corrections, correct?
- 13 A Yes, sir.
- 14 Q And would you agree with me that is violent offenses?
- 15 A Yes, sir.
- 16 Q And some involving firearms?
- 17 A Yes, sir.
- 18 Q Let's go to the night of November 14th when you were
- 19 at the Cabstand. You were there with some of your
- 20 friends, correct?
- 21 A Yes, sir.
- 22 Q Y'all had just eaten dinner down at the S&S?
- 23 A Yes, sir.
- 24 Q And came down to the Cabstand to shoot pool and play
- 25 cards, that sort of thing?

1 A Yes, sir.

2 Q And is the Cabstand where you went fairly regularly?

3 A Yes, sir.

4 Q All right. So you know the owner of the Cabstand who
5 runs the place, right?

6 A Well, who was running it then was Mr. Carter.

7 Q Okay. Well, how about Calvin Wells, you know him?

8 A That's, well, that's who I'm talking about.

9 Q That's who you talking about?

10 A Right.

11 Q So Mr. Wells is the owner, Calvin Wells is the owner
12 of the Cabstand?

13 A I don't know where he, no, sir. He didn't own it.
14 He was renting it.

15 Q He was renting the building but he was--

16 A Right.

17 Q --running the club?

18 A Oh, yeah. Oh, yeah.

19 Q The bar and that sort of thing?

20 A Right, right, right.

21 Q And he was there that night, correct?

22 A Yes, sir. I believe he was.

23 Q And he was inside the bar?

24 A Yes, sir. He, he was about the only one who can go
25 behind the bar.

1 Q Okay. And when this fight broke out, Calvin Wells,
2 the guy running this place, he was in the middle of that
3 trying to break them up, correct?

4 A I don't think he was that close to it, because Tony
5 and I was there trying to break it up.

6 Q Okay. You said earlier, and I may have misheard you
7 when Mr. Jones is asking you questions. You said I
8 thought the owner was back there fighting with them in the
9 middle of that. Did I mishear that?

10 A Well, yes, you did. I didn't say nothing about the
11 owner was fighting.

12 Q So the owner, so where was Calvin Wells, the owner,
13 during this time; can you tell me? You were there.

14 A The only place he could be was behind the counter
15 because I got to say, that's all he do behind the counter.

16 Q Okay. Was he saying anything to these people that
17 were fighting in his club?

18 A I really don't know because we was at the door when
19 the fight broke out and we came back. That is where he
20 was.

21 Q Okay.

22 A Well, he might have been saying something to them,
23 but it was directly on the corner by the bar.

24 Q Far as you know, he was just standing behind the bar
25 not getting in the middle of it, though, is that what you

1 are saying?

2 A As far as I know.

3 Q Okay. And he's just watching it?

4 A I guess, he was.

5 Q All right. You said that you are a regular at the
6 Cabstand and there was one group that came in that were
7 regulars, correct?

8 A Right.

9 Q And there was another group came in that were kind of
10 the first time you seen them in there?

11 A Yeah.

12 Q So there was one group that were regulars, correct?

13 A Right, right, right.

14 Q The second group you said the first time you'd ever
15 seen them?

16 A Right.

17 Q All right. Now, I believe you said that Smooth,
18 what's Smooth's real name? Do you know his full name?

19 A Jamaal.

20 Q Jamaal. Okay. And he's the one that got shot and
21 killed that night, right?

22 A Right.

23 Q And you said Jamaal was a regular I believe earlier
24 when Mr. Jones was asking you questions, correct?

25 A I say I had seen him out a couple of times. I didn't

- 1 say he was a regular.
- 2 Q Okay.
- 3 A He used to be there Thursday, Friday and Saturday.
- 4 Q Okay. So I'm assuming that by that Jamaal is in the
5 group, you were calling those that you had seen before?
- 6 A Right.
- 7 Q There was a second group that you really hadn't seen
8 in there before, correct?
- 9 A Right.
- 10 Q And did that group include, who did that include, you
11 tell us?
- 12 A That include, well, Jamaal was with that group.
- 13 Q You just said--
- 14 A The group that I hadn't seen before.
- 15 Q Now, hold on. I'm confused. You just said Jamaal
16 was with the group that had been in there before.
- 17 A I said Jamaal had been in there before, but not with
18 the group that is regular. But Jamaal had come in there
19 two or three time his self.
- 20 Q Okay. So when you say he's with a group and that's
21 the first time I'd ever seen him, you had seen him before
22 according to what you just said?
- 23 A Yeah, Jamaal yeah, but not the group that he was
24 with.
- 25 Q Okay.

1 A The girls that he was with, I hadn't seen them
2 before.

3 Q I was just trying to clarify that. Now, who is the
4 other group?

5 A It was three or four girls. I don't know their
6 names.

7 Q Did you know any of them?

8 A No more than just seeing them.

9 Q But they are the girls.

10 A I seen them, but I don't know their names. I done
11 seen them two or three times before then.

12 Q And they are the group that you would consider more
13 regular that they had been in there, right?

14 A Right. Right.

15 Q But you didn't know who they were?

16 A Not by name.

17 Q Okay.

18 A I know them by faces.

19 Q You say you didn't know the girls. Are any males in
20 that group that you knew?

21 A No, sir.

22 Q Okay.

23 A Not by name. I know them by face but, again, I don't
24 know them by name.

25 Q Okay. Can you describe what those, what this group

1 looked like, how many men, how many girls, how many guys?

2 A I think there was about three girls and one guy I
3 know that came in there first.

4 Q Okay. You didn't know who the guy was?

5 A Not by name, no.

6 Q And you didn't know who the three girls were?

7 A No.

8 Q All right. What did the one guy look like?

9 A He was about, I don't know, about five-five and had a
10 scar on his face.

11 Q Five-five with a scar on his face?

12 A Well, he was coming in with the girls every week.

13 Q Okay. And was this part of the group that ended up
14 getting in the fight? Describe to me how these two groups
15 ended up in that altercation that Mr. Jones was asking you
16 about?

17 A Well, they was all, they was back up by the pool
18 table, and I was in the front over there by the piccolo
19 table that we play cards at. Now, what the fight started
20 about, I don't know. The only thing I know is everybody
21 started hollering and going on.

22 Q Do you know who started the fight?

23 A I don't know who started the fight.

24 Q Do you know who was involved with the fight?

25 A I know some of them that was involved in it, but I

1 don't know them all.

2 Q Which ones?

3 A Well, the guy with the first group, he was involved
4 in it, because he was on the floor and the girls come in
5 last that I hadn't never seen before, they the ones was
6 beating on him.

7 Q Okay. But you don't know who any of these people are
8 by name?

9 A Not by name; no, sir. I don't know them by name.

10 Q All right. And you did know Smooth by name, correct?
11 So he, you said the ones involved with the fight, you
12 didn't know who they were, correct?

13 A No, I didn't.

14 Q I'm assuming by you saying that Smooth wasn't
15 involved in the fight, because you didn't know the people
16 involved with the fight?

17 A No, I didn't know the people involved in the fight,
18 but I know Smooth, I done seen him down there, two or
19 three times.

20 Q All right. So I just wanted to clarify. Smooth's
21 not involved with this fight, this altercation?

22 A Not when we got over there to break it up. I don't
23 know where he got, was in it when it started or not.

24 Q Okay. Well, when did Smooth get involved?

25 A I don't really know. I guess he got involved when he

1 got mad, I guess he did get angry, because we got him out
2 there with the girls.

3 Q Well, tell me the first time you saw Smooth after
4 this fight; describe him to me.

5 A The first time I saw him?

6 Q After the fight occurred.

7 A Oh.

8 Q Yeah, we're talking about from the fight. When is
9 the first time you see Smooth?

10 A Well, the first time I seen him is when we broke the
11 fight up getting him out the door, because Smooth was in
12 there with them. We pushed them to the door--

13 Q Okay.

14 A --and got them out the door. But he was angry with
15 somebody that was still in there. Him and the girls, they
16 was angry with somebody because they was steady passing
17 words back and forth like this.

18 Q Okay. So Smooth was not involved with the fight, but
19 he was hollering something about the people involved in
20 the fight?

21 MR. JONES: Objection, Your Honor. He didn't say
22 Smooth was not involved in the fight. He said he was
23 angry along with these girls and they were trying to get
24 back in there, because he was angry at somebody.

25 MR. STUMBO: I'll back up, Your Honor.

1 Q Was Smooth involved with the fight? Was he in the
2 fight on the floor?

3 MR. JONES: He answered that. He said he wasn't
4 sure.

5 A No, not that I know of.

6 Q Okay.

7 A He wasn't involved in it.

8 MR. STUMBO: Well, I didn't mischaracterize that,
9 Judge, just for the record.

10 THE COURT: I've been listening. I hear what he's
11 saying.

12 Q So tell me what, the first time you see him, he's
13 hollering at somebody that was involved in the fight?

14 A Yeah, they was passing words back and forth. He was
15 doing, they was doing that, him and the girls was doing
16 that when we was actually trying to get them to go out the
17 door.

18 Q Well, what's he saying?

19 A I don't have the slightest idea what he was saying.
20 I wasn't trying to listen at what they were saying. I was
21 just trying to help Tony get them out the door.

22 Q Okay. Was Smooth trying to fight with you?

23 A No, he wasn't trying to fight with me.

24 Q Why are you trying to push him out the door, then?
25 I'm trying to understand.

1 A We were trying, we were breaking up a fight. That's
2 what we was doing.

3 Q That Smooth was not involved in?

4 A Not to my knowledge he wasn't.

5 Q All right. We'll move on. So as you're trying to
6 get Smooth and you said Smooth, trying to get him out and
7 trying to get some girls out, is that correct?

8 A Yeah.

9 Q You don't know their names?

10 A No.

11 Q Another male you trying to get out, too?

12 A No. The male was, the one on the floor where he got
13 the girls all over him.

14 Q Okay. So it was a second male, not Smooth, but
15 another one who you don't know?

16 A Right.

17 Q And you and Tony trying to get him out, too?

18 A No, we left him in there. We were trying to get
19 Smooth and the girls what were jumping on him out, because
20 they had him on the floor.

21 Q Well, who was trying to get the other guy that was on
22 the floor fighting?

23 A Nobody.

24 Q Okay. So he didn't, the guy fighting on the floor
25 they just left him, but you got the other people out?

1 A Yeah. We kept him in there.

2 Q Okay. A little bit confusing here. Wouldn't it make
3 sense to try to get the guys out that are fighting first
4 to try to calm everything down?

5 A That's what we did.

6 THE COURT: Wait a minute. Wait a minute. Y'all
7 come up.

8 (Whereupon, a bench conference was held.)

9 Q All right. I'm sorry, Mr. McCauley, and I may be
10 confusing which guy we're talking about on the floor.
11 Who's fighting on the floor? Can you tell us, tell the
12 Court that for the record?

13 A The guy with the cut on his jaw. I don't know his
14 name.

15 Q You said the guy but, and he's being jumped by a
16 bunch of girls, is that what's going on?

17 A That's right.

18 Q Okay. Is there any other guy involved with this
19 altercation?

20 A I didn't see another one.

21 Q Okay. So it's one guy on the floor and I'm sorry I'm
22 rehashing this, but I'm trying, I just want to make sure
23 we get a clear picture of what happened. There's one guy
24 on the floor getting beat up by how many girls?

25 A : At least four or five.

1 Q But you didn't know who any of those girls were or
2 the guy getting beat up on the floor?

3 A I had seen the guy before. He used to come in there
4 all the time.

5 Q You just don't know him by name?

6 A No, don't know him by name.

7 Q He had a scar on his cheek and he's about five-five?

8 A Yeah.

9 Q Okay. Didn't know the names of any of the girls that
10 are beating him up?

11 A No, sir.

12 Q So who did you try to get out first, the girls?

13 A Yeah. We pulled them off of them, off of him.

14 Q Okay. And were you able to get these four girls that
15 are beating up this one guy out the door?

16 A Right. We got them out the building.

17 Q And then who else did you run, push out the door or
18 kick out of the club that night?

19 A Smooth. We didn't kick them out. We just got them
20 out, pushed them out, you know.

21 Q And who else, four girls, Smooth. You got anybody
22 else you kicked out?

23 A No.

24 Q Okay.

25 MR. STUMBO: All right. Thank you, Your Honor. I

1 think I get a better, I got a better picture of your
2 testimony now.

3 THE COURT: Okay. All right.

4 Q Did you ever see what happened to the guy on the
5 floor with the scar or the five-five guy on the floor that
6 got beat up by these guys, what happened to him?

7 A No, we kept him in there. We didn't let him go out.

8 Q Okay. Did he stay the rest of the night?

9 A No, as soon as the officer got there.

10 Q Okay. He stayed in there till the officers got
11 there?

12 A As far as I know of, because I was at the front door.
13 Now, whether he went out the back door or not, I don't
14 know.

15 Q You didn't see him go out the front?

16 A No, he didn't go out the front. Not while I was at
17 the door until the officers got there.

18 Q All right. And you indicated when y'all are getting
19 these guys out the door, there's some push back and you're
20 trying to pull this bar closed, right?

21 A We were trying to pull the door closed.

22 Q Okay. And it's one of those that has the bar on the
23 inside of the door and you're--

24 A Right.

25 Q --pulling back on it like so?

- 1 A Right.
- 2 Q And before you're able to get it closed, your
3 testimony, I believe, is somebody hit you in the eye?
- 4 A Right.
- 5 Q Okay. And it's this that you got checked out, what,
6 three weeks later, is that right?
- 7 A Right, and somewhere along in there.
- 8 Q And when you went to the doctor's office you told him
9 you got hit by a brick?
- 10 A Yeah.
- 11 Q Did you tell them who hit you?
- 12 A No.
- 13 Q All right. Now, that night you said you did have
14 some kind of interaction with police. Did they ask you
15 what happened?
- 16 A No. They just asked me what happened in the place,
17 and we told them that a fight broke out.
- 18 Q So they did ask you what happened, what happened in
19 the place? Did you tell them what happened in the place?
- 20 A I told them a fight broke out.
- 21 Q Okay. Did you tell them who was, who was involved
22 with the fight?
- 23 A No.
- 24 Q Did you tell them you got hit in the eye?
- 25 A No.

1 Q Did you know the guy who got shot outside?

2 A Yeah.

3 Q At that point?

4 A I didn't know he had got shot.

5 Q Okay. You said earlier you didn't even hear a
6 gunshot?

7 A No, I didn't.

8 Q Okay. And you're sitting by the front door when the
9 police get there?

10 A No, I was sitting at the table, back at the table
11 where the cards are at.

12 Q Okay. By that time you had moved from the front door
13 back. How long before, from the time you pushed these
14 guys out the front door and get hit in the head, how long
15 did it take for the police to get there, just estimate.

16 A I don't know, about 20 minutes, 15 minutes.

17 Q Okay.

18 A If it was that long.

19 Q And by that time was there anybody guarding the door
20 to make sure that nobody got back in?

21 A No, the door was locked then.

22 Q You had locked it?

23 A Yeah.

24 Q So you let, the people could get out, but they
25 couldn't get back in?

- 1 A They couldn't go out of it nor in.
- 2 Q Okay. What if somebody in the club, was there
- 3 anybody that wanted to leave during that time?
- 4 A No, they ain't nobody say nothing about leaving.
- 5 Q Okay. So they weren't being held against their will
- 6 in there; if they had wanted to leave, somebody would have
- 7 let them out?
- 8 A Yeah.
- 9 Q Okay. And the next thing you know after 15, 20
- 10 minutes you got blue lights and law enforcement in front
- 11 of the club?
- 12 A Yes, sir. Yeah, if it was that long.
- 13 Q And you told them there was a fight in the club and
- 14 that's about the extent of what you told them. Did you
- 15 tell them anything else?
- 16 A No, sir. They didn't ask nothing else.
- 17 Q Were they, but tell me what they asked you, they
- 18 asked you what happened, correct?
- 19 A Yeah, they asked me what happened. All I told them
- 20 was that a fight broke out and we broke it up.
- 21 Q All right. Didn't give them any names?
- 22 A No.
- 23 Q Okay. Didn't tell them you'd kicked Smooth out of
- 24 the club?
- 25 A I didn't tell them nobody's name.

1 Q You didn't tell them you pushed some girls out the
2 front door?

3 A Just told them that we broke the fight up and half of
4 them out the door and the other was left in there.

5 Q Didn't tell them that somebody hit you in the eye?

6 A No, sir.

7 Q Didn't tell them Smooth hit you in the eye?

8 A No, sir.

9 Q Now, when the police got there, at what point did
10 you, did you ever become aware of that night that somebody
11 had been shot out in the parking lot?

12 A No, sir.

13 Q When is the first time you found that out?

14 A When the police come and bam on the door to open the
15 door, for us to open the door.

16 Q In the club?

17 A Right.

18 Q Okay.

19 A We was in the club.

20 Q And they passed on the information that there had
21 been a shooting out in the parking lot?

22 A Yes, sir.

23 Q Okay. When's the first time you told anybody other
24 than your doctors that you'd been hit that night?

25 A That same night right there at the door.

1 Q Who did you tell, who did you tell that to?

2 A I believe it was about four or five people in there
3 saw it.

4 Q Okay. Who would have seen that other than the people
5 you were pushing out?

6 A Well, Tony were there. He saw it. And this fellow
7 that got the scar on his face. He had done got up off the
8 floor then. He saw it.

9 Q Okay. And now did you tell anyone that night that
10 Smooth was the one that hit you?

11 A I can't, the only thing I remember. I believe I did;
12 Tony.

13 Q You told Tony that it was Smooth?

14 A Right.

15 Q Did you tell anybody else?

16 A No, I can't think of nobody else.

17 Q Did you ever tell that to law enforcement that Smooth
18 had hit you that night?

19 A He ain't asked me nothing about it.

20 Q But you told Mr. Jones or someone from his office
21 that that had happened?

22 A Right.

23 Q And the only other people that would have seen that
24 were Tony, the guy with the scar that was on the floor and
25 who else?

1 A Just a couple of more peoples in there standing up
2 there at the door. After we opened the door for the
3 police.

4 Q And you don't know who their names are, though?

5 A No, sir. I don't know their names.

6 Q How about Calvin Wells, the owner, he see that?

7 A I don't even know where he is, where he was at that
8 time. I don't even know where he was at the time we were
9 closing the door.

10 Q Okay.

11 A I don't know if he is still behind the bar or what.

12 Q Is he the one that told you to lock the door?

13 A No, we had done locked the door because of the fight.
14 We got them out to separate them.

15 Q But you don't run the club, do you?

16 A Oh, no.

17 Q Okay. And the owner of the club or the guy that runs
18 the club, let's say Mr. Wells. He didn't have any problem
19 with you locking the door?

20 A Not when a fight break out like that.

21 Q Okay. But he didn't tell you to lock it, though?

22 A No. Well, Tony was there with me at the door. I
23 think he was next in line with Mr. Wells.

24 Q Okay. So Mr. Wells was close to the door there--

25 A No.

1 Q --and you just said you didn't know where he was?

2 A No. I say Tony is next in line.

3 THE COURT: Tony is there.

4 MR. STUMBO: No. I understand, Judge. Tony's there,
5 but where is Mr. Wells?

6 THE COURT: No. No. Tony was working for Mr. Wells.
7 He was next in charge.

8 MR. STUMBO: I got you. Okay.

9 THE COURT: Now, ask your next question.

10 Q Now, but here's the point. Did Tony lock the door?

11 A Yes, sir.

12 Q Okay. You don't work for Mr. Wells, but Tony does?

13 A Right.

14 Q And Tony's the one that locked the door?

15 A Right.

16 Q Okay. That's all I was asking, who locked the door
17 and who had the authority to do that.

18 A Right.

19 Q Thank you. You've now answered those questions. Mr.
20 Wells, though, never made any comment about unlocking the
21 door at any point after that, did he?

22 A Not to me he didn't.

23 Q Okay. So he was okay with the rest of the night
24 nobody coming in to buy liquor and pay money for pool and
25 all that. That's cutting in on his business, right?

1 A I guess so.

2 Q But he was all right with that?

3 A I guess he was. He didn't say nothing about it.

4 Q Okay. During this entire time this fight situation,
5 I believe you testified earlier, Alphonso Morgan, the
6 defendant, who's here in the courtroom, he wasn't in
7 there?

8 A No, sir.

9 Q Okay. All the fights started after he left--

10 A Right.

11 Q --and went out the door?

12 A Right.

13 Q Do you know if Alphonso Morgan, the defendant, had
14 any association with the people involved with that fight?

15 A I don't know.

16 Q Okay. So another way to put it, you never saw him
17 hanging out with any of those folks involved with this
18 fight?

19 A No, sir.

20 MR. STUMBO: Beg the Court's indulgence.

21 THE COURT: You may.

22 Q Before that night, had you ever seen Alphonso Morgan
23 in that bar?

24 A Yes.

25 Q Was he a regular?

- 1 A Yes, sir.
- 2 Q Okay. Had he ever been in a fight in the bar before?
- 3 A No, sir.
- 4 Q And had never gotten in any altercation to your
5 knowledge?
- 6 A Not to my knowledge he hadn't.
- 7 Q Okay. I believe you testified earlier that you were
8 asked, I believe, by Mr. Jones, was everybody, what was
9 the situation outside in the parking lot? I believe you
10 testified that everybody had kind of settled down. Could
11 you even see out there? Could you see out in the parking
12 lot?
- 13 A No, sir.
- 14 Q All right. So you can't really say whether it was
15 settled down or not settled down if you were sitting
16 inside the bar, right?
- 17 A Right.
- 18 Q Is that correct?
- 19 A Right.
- 20 Q So is that just an assumption you're making that it
21 had settled down out in the parking lot?
- 22 A Well, it had done settled down from the door. They
23 had done stopped knocking on the door and pushing on the
24 door.
- 25 Q Nobody was pushing trying to get in?

1 A Trying to get back in.

2 Q And during this entire night that you're in the bar
3 in the Cabstand, did you ever see anybody pull a gun out?

4 A No, sir. I never seen a gun.

5 Q Okay. You never saw a gun in Smooth's hand that
6 night?

7 A Not exactly. I don't know what he had in his hand
8 when he hit me now. What he had.

9 Q Okay. So you can't say what it was?

10 A All I know it was black on the bottom, because he was
11 hitting down like this. What it was, now I don't.

12 Q Okay. Anybody else in the bar got a, you ever see a
13 gun? You say you think you saw something black and hard,
14 but did you see any gun in anybody's hand that night?

15 A No, sir. I can't say I did.

16 Q Anybody pull a gun and start waving it around at any
17 time?

18 A I didn't see one.

19 Q Anybody threaten to shoot anybody that you could
20 hear?

21 A I didn't hear nothing like that either.

22 Q And this altercation that happens on the floor is a
23 fist fight, is that the way you would describe it?

24 A Yes.

25 Q And there's girls, a bunch of girls beating up a guy.

1 But no guns ever come out during the course of that, is
2 that correct?

3 A Not in my eyesight it didn't.

4 Q Okay. Did you ever hear Jamaal Aiken threaten
5 anybody, Smooth?

6 A No, sir.

7 Q And you don't remember what he was saying when he was
8 shouting back or hollering back at this fight?

9 A This was six or seven people saying things, and I
10 didn't hear none of it. I don't, I heard it, but I didn't
11 understand it.

12 Q But and did, and did it sound like he was threatening
13 or threatening to assault somebody or shoot somebody?

14 A I didn't hear nothing like that.

15 Q Okay.

16 MR. STUMBO: I beg the Court's indulgence, Your
17 Honor. That's all we have at this time, Your Honor.

18 MR. JONES: No redirect, Judge.

19 THE COURT: You can step down. All right. It's a
20 good time for a lunch break for me.

21 MR. JONES: Your Honor, if I could briefly before we
22 break, though, let the Court know that the first witness
23 that testified, Mr. Bug, Thomas Gilchrist. He was excused
24 by Solicitor Stumbo and myself. He's still under
25 subpoena, but he went to work.

1 THE COURT: Isn't he right there?

2 MR. JONES: Oh, I thought he left.

3 THE COURT: Yeah.

4 MR. STUMBO: Your Honor, we may recall Mr. Gilchrist,
5 I don't know that yet or not. Just as long as he's on
6 standby and knows he's still under subpoena.

7 THE COURT: As long as you know we can get in touch
8 with him. All right. Good deal. All right. An hour and
9 15 minutes a long enough lunch break or do y'all want all
10 the way to 2:00 o'clock, an hour and 15 minutes is enough
11 for us. We can start shortly before 2:00.

12 (Whereupon, a lunch break was taken.)

13 THE COURT: Are we ready.

14 MR. JONES: Yes, Your Honor, we call Courtney
15 Lockhart to the stand.

16 COURTNEY LOCKHART, being
17 first duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 By Mr. Jones:

20 Q Please state your name for the record.

21 A Courtney Briana Lockhart.

22 Q Ms. Lockhart, where did you grow up?

23 A In Greenwood.

24 Q And did you attend schools here?

25 A Yes, sir.

1 Q How far did you go in school?

2 A I complete to the tenth.

3 Q Have you worked in Greenwood since you finished
4 school?

5 A Yes, I am currently working now.

6 Q Where?

7 A At Greenwood Packing.

8 Q What do you do there?

9 A I am in the banking department.

10 Q Ms. Lockhart, do you recall where you were and what
11 you were doing on the evening hours, around 9:00 o'clock
12 in the evening on November the 14th of 2013?

13 A Yes.

14 Q Where were you?

15 A I was at a nightclub.

16 Q Do you remember the name of it?

17 A I don't want to say the wrong name, but I can't
18 remember.

19 Q Can you remember where it was located?

20 A East Cambridge off of Seaboard.

21 Q And about what time did you get there and who did you
22 go there with?

23 A I probably got there probably a little after 8:00,
24 but I went down there with Shay Simon.

25 Q Okay. Anybody else?

1 A No, just them.

2 Q What did you go there for?

3 A Just to have a couple of drinks, you know.

4 Q Do you remember what day of the week it was?

5 A I can't recall the date.

6 Q All right. Do you remember during the course of your
7 arriving there and during most of the time that you were
8 there, did anybody come in that you know that you can
9 recall their names?

10 A What you mean by come in?

11 Q Come in the club and began, and stayed there. I
12 mean, come and, in between 8:00 and 9:00 did you, besides
13 Shay Simon, did you see anybody else that you knew?

14 A Yeah.

15 Q Who?

16 A I seen a couple of people that I knew.

17 Q Who?

18 A I seen Drina Morgan. I seen, what was that guy's
19 name, Brent Williams. I seen, I seen Shanina, I seen a
20 couple of people down there.

21 Q Did you see Al Morgan?

22 A Yes, sir.

23 Q Did you see who he was with?

24 A No, sir.

25 Q Did you see any interaction between Al Morgan and

1 Brent Williams while you were there?

2 A You could see like a little tension, yeah.

3 Q Did you see Jamaal Aiken?

4 A Yes, sir.

5 Q All right. Let me ask you if at some point in time

6 after 9:00 o'clock and if you remember about what time,

7 there was an actual physical altercation that occurred in

8 the club?

9 A Yes, sir.

10 Q Did you see it?

11 A Yes, sir.

12 Q Do you remember what the first physical altercation

13 and who the first physical altercation was between?

14 A A guy named Demond Brown and Brent Williams.

15 Q Okay. Did you have an opportunity and a vantage

16 point to see, in your opinion, who initiated the physical

17 assault between those two?

18 A Yes.

19 Q Who?

20 A Brent.

21 Q And do, were you close enough to Mr. Demond Brown?

22 A Yes, I was right there beside him.

23 Q Well, what do you think, in your opinion, or what did

24 you hear that could have precipitated the aggression that

25 Brent Williams enacted against Mr. Demond Brown?

1 A He came in the club and he was like, you know, nobody
2 better mess with Shay.

3 Q Who said that?

4 A Demond.

5 Q Shay Simon?

6 A Yes, sir.

7 Q And as a result of him making that comment, what
8 happened?

9 A That's when Brent punched him in the face.

10 Q All right. Did Demond end up on the floor?

11 A Yes.

12 Q Did Brent end up on the floor?

13 A No.

14 Q Okay. Did other people end up on the floor with
15 Demond?

16 A Yes.

17 Q All right. As that was occurring, do you recall
18 seeing Clifton Robinson in the club?

19 A Yes.

20 Q Do you recall seeing what, if anything, happened
21 during the fight between Brent Williams and Demond Brown
22 as it relates to Clifton Robinson?

23 A He also got into a fight as well.

24 Q Do you have an opinion about who started the fight he
25 was in?

- 1 A Yes.
- 2 Q Who?
- 3 A Jamaal.
- 4 Q How did, Jamaal Aiken?
- 5 A Yes, sir.
- 6 Q Did you see him start that?
- 7 A Yes, sir.
- 8 Q What did you see Jamaal Aiken do to Clifton Robinson
- 9 that would have initiated what you believed to be a fight
- 10 or an assault?
- 11 A He punched him in the face.
- 12 Q What else did you see happen after that?
- 13 A They was fighting.
- 14 Q Was anybody else engaged in the fight besides those
- 15 four men?
- 16 A A couple of those girls.
- 17 Q Do you remember, if any, which girls they were
- 18 engaged in that?
- 19 A I don't remember. It was really fast, so I couldn't
- 20 really say, you know, what was going on, but the girls was
- 21 in it.
- 22 Q Approximately, how many girls did you see involved in
- 23 it?
- 24 A Probably like three or four, probably.
- 25 Q At any point in time, did you get involved in the

1 fight?

2 A No, sir.

3 Q At any point in time, did Shay Simon get involved in
4 the fight?

5 A No, sir.

6 Q Do you recall how the fight ended?

7 A When those people were trying to break it up like
8 they, the club owners. They was trying to break it up or
9 at least separate them outside and keeping the rest of the
10 people inside.

11 Q Do you know the names of any of the people that you
12 refer to club owners that tried to separate the fight or
13 break it up?

14 A I don't know their actual names, no.

15 Q Do you know any nicknames?

16 A Yeah, one of them was Mr. Cocky, I think.

17 Q Does the name Tony Thomas mean anything to you?

18 A Yeah, and he was the other one.

19 Q What about the name Ernest McCauley?

20 A Yes, I think that's the, was his name, yeah. Yes.

21 Yes, I know him.

22 Q You do?

23 A Yes, sir.

24 Q You said the people that were trying to break up the
25 fight did what when they were breaking up the fight?

1 A They was separating people and putting some people
2 outside and some people, you know, inside the club.

3 Q Do you remember the people that they put outside the
4 club?

5 A Yeah, it was like Brent, Shonda, Shanina, Dori and
6 Drina. He put all them outside.

7 Q Do you know whether Jamaal was put outside or not?

8 A Yes, he was also.

9 Q And where were you when that took place in the club?

10 A Sitting at a table.

11 Q Was it easy for whoever was putting them out to shut
12 the place up?

13 A No, it was not.

14 Q How would you describe the efforts that you observed
15 on the part of those that put them out and shut the club
16 down, what were they trying to do?

17 A Fight their way back in the club.

18 Q And do you remember who was at the door?

19 A I think it was Tony and the older man, Mr. Cocky I
20 was talking about.

21 Q Okay. But nobody tried to force Demond Brown out who
22 was the first one to get assaulted, correct?

23 A No.

24 Q And nobody tried to get Crip out, correct?

25 A No.

1 Q Crip being Clifton Robinson?

2 A Yes.

3 Q Do you know whether Clifton has a scar on his face or
4 not?

5 A Yes.

6 Q He does?

7 A Yes.

8 Q So they were allowed to stay in; the others were told
9 to get out. They were trying to get back in, and they
10 weren't allowed back in, is that correct?

11 A Yes.

12 Q What did you see or hear that caused you to tell the
13 Court that those folks that were trying to get back,
14 fighting to get back in?

15 A They hit the gentleman in the face.

16 Q Did you see that?

17 A Yes.

18 Q What else?

19 A And just everybody just pulling on the door trying to
20 get back in, and I see the gentleman getting hit in the
21 face.

22 Q After the door was shut, do you recall hearing
23 anything that happened outside or anything else within the
24 next five minutes or so?

25 A No.

1 MR. JONES: Answer any questions that the lawyers has
2 for you, please.

3 CROSS-EXAMINATION

4 By Mr. Brown:

5 Q Ms. Lockhart, have you ever talked with law
6 enforcement about what you saw that night?

7 A No, sir.

8 Q Did law enforcement come that night to the location?

9 A Yes, sir.

10 Q Where were you when they got there?

11 A I had gotten home.

12 Q You left?

13 A Yes, sir.

14 Q Why'd you leave so earlier?

15 A Because my family came and got me and I went home.

16 Q Now, how far away do you live from the Cabstand?

17 A Right up the street.

18 Q But you left before talking to law enforcement?

19 A Yes, sir.

20 Q Now, when you're going to the Cabstand, did you have
21 to sign in your name and tell them that you're there or
22 not?

23 A No, sir.

24 Q And after that night when did you find out that
25 Jamaal Aiken was shot?

1 A Probably like 45 minutes after we'd gone home, I had
2 got a call.

3 Q Who'd you get a call from?

4 A My little girl's grandmother.

5 Q And even after finding out that Jamaal got shot, you
6 didn't reach out to law enforcement?

7 A What was the question again?

8 Q Did you reach out to law enforcement after you
9 learned that Jamaal had been shot?

10 A No. She just called me and said that did I hear
11 that, and I told her no I haven't heard anybody got shot.
12 The call that I had got, it really wasn't confirmed that
13 he was shot. She was really asking me questions and
14 worried about me.

15 Q So in the over two years since this happened, you've
16 never told anybody about the fight inside?

17 A No, sir.

18 Q Did you feel it wasn't important?

19 A No, sir. I didn't feel it wasn't important. Nobody
20 never asked me.

21 Q But you didn't feel the compelling need to go tell
22 anybody what you saw that night?

23 A No, sir.

24 Q Now, you said on November 14th, 2013, and that was a
25 Thursday night, right? Do you remember?

- 1 A I don't remember the day.
- 2 Q You don't remember?
- 3 A No.
- 4 Q But you said you got out there a little after 9:00
- 5 o'clock?
- 6 A No, it was a little after 8:00.
- 7 Q A little after 8:00. What time of night do you
- 8 think, do you remember all this fighting starting to take
- 9 place?
- 10 A Probably like a little after 9:00, I think.
- 11 Q A little after 9:00? You're sure it's a little after
- 12 9:00?
- 13 A Yes.
- 14 Q It wasn't a little after 10:00?
- 15 A It was a little after 9:00, because I hadn't been too
- 16 long gotten to the club.
- 17 Q Were you drinking at the club that night?
- 18 A No, sir. I probably had like one beer.
- 19 Q Does one beer make you forget and lose track of time?
- 20 A No, sir.
- 21 Q It doesn't make you so tipsy where you lose track of
- 22 what's going on?
- 23 A No, sir.
- 24 Q But you're saying on the record today it was a little
- 25 after 9:00 that the fight started?

1 A Well, yes.

2 Q All right. Now, you said you went down there with
3 Shay Simon, right?

4 A Yes.

5 Q Now, how do you know Shay Simon?

6 A She's a mutual friend.

7 Q How long have you known Shay?

8 A A couple of years.

9 Q You say you pretty good friends with her?

10 A Yes, sir.

11 Q What's Shay's relationship to Al?

12 A Friends.

13 Q They just friends?

14 A Yes.

15 Q They weren't seeing each other?

16 A Yes, I mean, friends.

17 Q They were seeing each other?

18 A Yes.

19 Q Do you know, how well do you know Al?

20 A How well do I know him?

21 Q How well do you know him?

22 A Real good.

23 Q You know him real good?

24 A Yes, sir.

25 Q Who was Al seeing before he started seeing Shay?

- 1 A I couldn't tell you that.
- 2 Q Does Quetta Spencer ring a bell?
- 3 A Yes, sir.
- 4 Q Now, was Quetta Spencer there that night?
- 5 A Yes, sir.
- 6 Q And being good friends with Shay and knowing who
- 7 Quetta Spencer is, has Shay and Quetta gotten in a fight
- 8 before?
- 9 A Not that I know of.
- 10 Q They didn't get in a fight in September before this
- 11 happened?
- 12 A Not that I know of.
- 13 Q And had you heard of any event where Al got his lip
- 14 busted?
- 15 A Yes, I have.
- 16 Q What was the reason he got his lip busted?
- 17 A I don't know.
- 18 Q You don't know, is it something between Quetta and
- 19 Shay?
- 20 A I don't know.
- 21 Q Now, you said you got there a little after 8:00 to
- 22 the Cabstand, right?
- 23 A Yes, sir.
- 24 Q You and Shay Simon went up there. What time did Al
- 25 and his buddies come rolling in there?

1 A They was already in there.

2 Q They were already up there by the time you got there?

3 A Yes, sir.

4 Q What were they doing when you got there?

5 A Sitting at the table.

6 Q How long were all of y'all there together before

7 Jamaal Aiken, what's his nickname?

8 A Whose nickname?

9 Q Jamaal Aiken?

10 A Smooth.

11 Q How long were y'all sitting there before Smooth and

12 you said Brent and Drina and Shanina? What's Shanina's,

13 has she got another name?

14 A I guess, Nicole.

15 Q How long were y'all sitting there before Jamaal and

16 his friends got there?

17 A I was there probably like 35-45 minutes.

18 Q And once Jamaal and Brent and Drina and Nicole got

19 there, was Al still there?

20 A Yes.

21 Q And once everybody was in the club together,

22 including Al, what was everybody doing?

23 A Sitting down drinking, you know, mingling with

24 everybody. Everybody is mingling together.

25 Q Did you see anybody ever go over and mess with Al?

- 1 A Somebody kept brushing up against him or whatever,
2 you know.
- 3 Q You mean like walking by him or what?
- 4 A Yeah.
- 5 Q All right. Was anybody just harassing him?
- 6 A You could pretty much say that, picking.
- 7 Q By walking by him and brushing up against him?
- 8 A Yeah.
- 9 Q Did anybody get in a fight during that time?
- 10 A No, sir.
- 11 Q Did Jamaal go over and have words with him?
- 12 A No, sir.
- 13 Q Did you even see Jamaal and Al talk to each other at
14 that time?
- 15 A No, sir.
- 16 Q So the time while Al and Nick or Lenwood, do you know
17 Lenwood?
- 18 A Yes, sir.
- 19 Q And Bug and Tonya Fuller were all still at the club,
20 nothing got out of hand, right?
- 21 A No, sir.
- 22 Q Did you ever see a gun presented anytime that night
23 while you're there at the club?
- 24 A Yes, sir.
- 25 Q Oh, you did?

1 A Yes, sir.

2 Q Who'd you see a gun presented by?

3 A It was a guy that was with Smooth and his friends.

4 Q Who is the guy with Smooth and his friends that had a
5 gun?

6 A I don't know.

7 Q Well, that's the first time anybody's ever said they
8 heard about a gun in there that night and you didn't think
9 that was important to go talk to the cops?

10 A No, sir.

11 Q Mr. Jones was asking you questions and you said you
12 saw Al Morgan which you didn't quite know who he was with,
13 but you do know who he was with that night, right?

14 A No, sir.

15 Q You don't?

16 A When I seen, when I seen Al, he was sitting at the
17 table by himself.

18 Q Well, what was he doing at the table by himself?

19 A Having a beer.

20 Q Well, what did he look like; what was he doing?

21 A Just drinking a beer when I got there.

22 Q What kind of clothes did Al have on?

23 A I can't remember.

24 Q He was just keeping to himself?

25 A Yes.

1 Q Was he being unsociable?

2 A No, sir.

3 Q But he was just sitting there at the table by
4 himself?

5 A Yes, sir.

6 Q When did you notice that, when did you see Al leave
7 or did you see Al leave that night?

8 A Yes, I seen him leave.

9 Q Who did he leave with?

10 A I seen him get up and go by himself.

11 Q You don't know who he left with?

12 A No, sir. I just soon keep my eyes, you know, direct.
13 I don't know, but I seen him get up and leave from the
14 table where I was and go towards the door.

15 Q You never saw him talk to anybody while he's sitting
16 at that table?

17 A No, sir. But me.

18 Q Except who?

19 A He was talking to me.

20 Q Talking to you. What was he like talking to you?

21 A What you mean what was he like?

22 Q How did he talk to you, was he, how did the
23 conversation go?

24 A We brought up together. We just was having like a
25 long conversation.

1 Q Did he seem all right right then?

2 A Yes, sir. He seemed kind of agitated, but yeah.

3 Q He seemed agitated?

4 A Yes.

5 Q He tell you why?

6 A No.

7 Q It was just he seemed agitated?

8 A Yes.

9 Q You could tell on his face?

10 A Yes.

11 Q Now, when did that physical, you said physical
12 altercation break out. When did that happen, was it while
13 Al was still there or after he had gone?

14 A He was gone.

15 Q You said between, it started out between Demond Brown
16 and Brent Williams?

17 A Yes.

18 Q Now, what'd you say, how'd that get started? What
19 was, what was the start of that fight?

20 A Demond said that ain't nobody going to mess with
21 somebody.

22 Q And nobody's going to mess with who?

23 A Shay.

24 Q Was Brent trying to mess with Shay?

25 A No.

- 1 Q Well, then why would he say, who was he saying
2 nobody's going to mess with somebody; who was he talking
3 about?
- 4 A Because it's a girl wanted to fight Shay that night.
- 5 Q What girl wanted to fight Shay?
- 6 A Dori.
- 7 Q Who?
- 8 A Dori.
- 9 Q Dori?
- 10 A Yes.
- 11 Q What's her last name?
- 12 A Green.
- 13 Q And Demond was sticking up for Shay?
- 14 A Yes.
- 15 Q And you said Shay was seeing Al?
- 16 A Yes.
- 17 Q Okay. So you could say Shay and Demond and Al were
18 all buddies, right?
- 19 A I ain't going to say that. I don't know about that.
- 20 Q But Shay was going with Al?
- 21 A Yes.
- 22 Q And Demond was backing up Shay?
- 23 A Yes.
- 24 Q All right. So Demond said something to Brent?
- 25 A No. He just said it out loud like ain't nobody going

1 to mess with Shay and he was walking towards me and Shay
2 when he was saying it.

3 Q But he just, but you said that he was saying that to
4 a girl, in response to a girl, Dori?

5 A Yeah.

6 Q Okay. Then what happened between Demond and Brent?
7 What got Brent involved with it?

8 A He said something to him and he just started fighting
9 Demond.

10 Q Who said something to who?

11 A Brent said something to Demond and they just started
12 fighting.

13 Q And you said Brent punched Demond in the head or in
14 the face?

15 A And jumped on him, yeah.

16 Q And Demond went on the ground?

17 A Yes.

18 Q And you said you were right there next to Demond?

19 A Yes.

20 Q You said shortly thereafter that Clifton, what's
21 Clifton's full name again?

22 A Is it, I don't know, Spencer? Is it Spencer?

23 Q Clifton Robinson?

24 A I guess, yes.

25 Q You just know him as Clifton--

- 1 A Yes.
- 2 Q --or Crip?
- 3 A Yes.
- 4 Q Okay. And you said Crip got in a fight?
- 5 A Yes.
- 6 Q Now, who did he get in a fight with?
- 7 A Jamaal.
- 8 Q Jamaal?
- 9 A Yes.
- 10 Q And where is Jamaal in all this? Why did Crip get in
- 11 a fight with Jamaal?
- 12 A I couldn't tell you why.
- 13 Q Can you tell who started that fight or did you just
- 14 look over there and see they were fighting?
- 15 A I guess, Jamaal.
- 16 Q Well, why do you say Jamaal started that fight;
- 17 what'd he do?
- 18 A He hit Clifton.
- 19 Q He just sucker-punched him?
- 20 A Yeah.
- 21 Q Just out of the blue just sucker-punched him?
- 22 A No, he brought him down actually from the back.
- 23 Q So he came up behind him and jerked him down on the
- 24 ground and started punching on him?
- 25 A Yes.

1 Q And again you never told this to anybody else?

2 A No, sir. That's the first time I'm ever speaking
3 about it.

4 Q Now, after Brent's handling Demond, apparently Jamaal
5 is handling Crip, when did these girls get involved in the
6 fight?

7 A When it, when that fight started.

8 Q And during this whole fight where are you?

9 A Sitting right here at another little table.

10 Q You just sitting there taking it all in?

11 A Yes.

12 Q And drinking your beer?

13 A Yeah, but I had done put it down by then when the
14 fight started.

15 Q What'd you put it down for?

16 A Because I was looking at the fight.

17 Q Were you getting ready to get in it also?

18 A No, sir.

19 Q But you say that you stayed out of the fight?

20 A Yes, sir.

21 Q You and Shay stayed out of the fight?

22 A Yes, sir. We was sitting at the table together
23 looking.

24 Q Then you said the club owners or the people that were
25 in charge of the club started breaking it up?

- 1 A Yes, sir.
- 2 Q And you said Mr. Cocky, right, or something--
- 3 A Yes, sir.
- 4 Q --right, or something like that?
- 5 A Yes, sir.
- 6 Q Is Mr. Cocky Calvin Wells?
- 7 A I don't know his real name.
- 8 Q But that's who you referred to?
- 9 A I know him by Cocky.
- 10 Q Kind of taller man, older fellow?
- 11 A Yes, sir.
- 12 Q Was he the one that kind of ran the club?
- 13 A Yes, sir.
- 14 Q The one behind the bar a lot of times?
- 15 A Yes, sir.
- 16 Q He was the one that started breaking it up?
- 17 A Yes, sir.
- 18 Q Do you know for a fact that Mr. Cocky was helping
- 19 break this fight up?
- 20 A Yes, sir.
- 21 Q And Mr. Cocky was helping get everybody out of the
- 22 club?
- 23 A Yes, sir.
- 24 Q And the people that are getting separated and put out
- 25 of the club you said were Drina, Brent, Jamaal, Shanina,

1 Dori or what'd you say?

2 A Yes, sir.

3 Q And then what happened to you and Shay, where were
4 y'all?

5 A Still in the inside sitting down.

6 Q So y'all were sitting down. So all of the people
7 with Jamaal got booted out and everybody else got to stay
8 in?

9 A Yes, sir.

10 Q So you don't know what happened outside, do you?

11 A No, sir.

12 Q And you don't know what happened once it got to the,
13 when Jamaal got shot by Al, do you?

14 A No, sir.

15 Q And you said Mr. Cocky is the one that was closing
16 that door?

17 A Yes, sir.

18 Q Now, you said who got, well, who got hit going out
19 the door?

20 A The older guy.

21 Q Did you see any girls getting hit in the face going
22 out the door?

23 A No, sir.

24 Q Would you dispute that the other girl got hit in the
25 face going out the door?

- 1 A I didn't see no girls, no, sir.
- 2 Q You didn't see Drina Morgan get hit in the face?
- 3 A No, sir.
- 4 Q Who's Drina Morgan, do you know her?
- 5 A Yes, sir.
- 6 Q How do you know her?
- 7 A I used to be friends with her.
- 8 Q Is she related to Al Morgan?
- 9 A Yes, sir.
- 10 Q How is she related to Al?
- 11 A I think through her grandmother.
- 12 Q So really everybody in that club knows everybody,
- 13 right?
- 14 A Yes, sir.
- 15 Q Had y'all been around each other before?
- 16 A Yes, sir.
- 17 Q And everybody get along fine?
- 18 A Yes, sir.
- 19 Q Nobody had pulled out guns before?
- 20 A No, sir.
- 21 Q Was this the first thing that ever happened was
- 22 somebody getting in a fist fight inside?
- 23 A Yes, sir.
- 24 Q And it all started, because Demond said nobody's
- 25 going to mess with Shay?

1 A Yes, sir.

2 Q And again, how long have you known Al?

3 A Well, kind of all my life.

4 Q All your life?

5 A Yes, sir.

6 Q And you coming forward now with this information?

7 A Yes, sir.

8 Q Not two years ago, but now?

9 A Yes.

10 THE COURT: That's been asked and answered. This
11 isn't a jury trial.

12 MR. BROWN: I beg the Court's indulgence.

13 Q Ms. Lockhart?

14 A Yes, sir.

15 Q Would you say you got a squeaky clean record,
16 criminal history?

17 A My record?

18 Q Yeah.

19 A No, sir.

20 Q What have you been convicted of?

21 MR. JONES: Your Honor, I think if he's going to
22 question her about that, he could ask her if she's been
23 convicted of a certain crime and give her the date and
24 time and give her a copy of any criminal history and let
25 her respond to it.

1 THE COURT: That's true. I mean, we're not doing it
2 in front of a jury. We can do it a little quicker.

3 Q You got a shoplifting in '98?

4 A Yes, sir.

5 Q And you got a couple of simple assaults on your
6 record?

7 A Yes, sir.

8 Q Disorderly conduct?

9 A Yes, sir.

10 Q Malicious injury to property?

11 A Yes, sir.

12 Q What were, you said public disorderly conducts, what
13 were those about?

14 MR. JONES: Your Honor, that's information that's not
15 relevant to this situation at all. As a matter of fact,
16 these aren't even impeachable offenses.

17 THE COURT: Yeah, I didn't hear a single one. It
18 doesn't matter. I mean, her record is what her record is
19 and I can consider that. I understand she didn't want to
20 talk to police. She left there before they got there.

21 MR. JONES: The facts of the case are introduced
22 because they deny that they were convicted of it. Judge,
23 I have a brief redirect.

24 THE COURT: Wait a minute. Let's make sure Mr. Brown
25 is finished.

1 MR. JONES: Oh.

2 THE COURT: And I think I interrupted him.

3 MR. JONES: Yes, sir.

4 THE COURT: You done?

5 MR. BROWN: I think I am.

6 THE COURT: Okay. Good deal. Go ahead.

7 MR. JONES: Thank you.

8 REDIRECT EXAMINATION

9 By Mr. Jones:

10 Q Ms. Lockhart?

11 A Yes, sir.

12 Q The Solicitor asked you a couple of times why you
13 didn't go, I think one times he said to the cops. Why you
14 didn't go to the cops, is that right?

15 A Yes, sir.

16 Q Okay. Now, the first time you spoke to me about this
17 case was this weekend, wasn't it?

18 A Yes, sir.

19 Q Saturday?

20 A Yes, sir.

21 Q Do you remember getting a call or trying to be
22 contacted by Jimmy Powers, an investigator working for me
23 and Al Morgan in this case, within about the last year on
24 a number of occasions?

25 A Yes, sir.

1 Q And you didn't respond to those efforts on his part,
2 did you?

3 A No, sir.

4 Q Is the reason you didn't come to cops or come meet
5 with the investigator is because Jamaal Aiken's family and
6 friends had threatened you prior to this about coming
7 forward with any information?

8 A Yes, sir.

9 Q And you received threats from individuals how?

10 A Once I was at a party. I was approached by them.

11 Q Who?

12 A I was.

13 Q Who approached you?

14 A Nicole.

15 Q Nicole who?

16 A Williams, I think.

17 Q Nicole, Shanina Williams?

18 A Yes, sir.

19 Q Okay. All right. And what was the nature of that
20 advice that she wanted to give you?

21 A She just told me like I was fake or whatever like
22 that. She felt like, I guess, I betrayed her or whatever
23 or something. She was hurt.

24 Q So there was word on the street that you had
25 knowledge about what happened. And your position was

1 different, than say some of the other people's positions
2 who were in the club like Brent Williams who said he
3 didn't get in a fight. And any of the other girls who
4 said they didn't get in a fight, correct?

5 A Yes, sir.

6 Q Did you feel threatened by the family or friends of
7 Jamaal Aiken, is that the reason that you decided not to
8 come forward?

9 A No, sir.

10 Q What was the reason?

11 A My family.

12 Q Your family?

13 A They didn't want me involved in nothing.

14 Q All right. And then this weekend you changed your
15 mind?

16 A Yes, sir. I was contacted again.

17 Q Okay. And you came in and talked to me about it?

18 A Yes, sir.

19 Q And we just had a question and answer period about
20 what you knew and what you saw and what you remembered, is
21 that correct?

22 A Yes, sir.

23 MR. JONES: No further questions.

24 RECROSS-EXAMINATION

25 By Mr. Brown:

1 Q Ms. Lockhart, you said you were approached by Nicole
2 Williams at a party?

3 A Yes, sir.

4 Q Can you describe, well, how did you describe the way
5 she approached you?

6 A She was angry, mad.

7 Q And what'd she say to you again?

8 A She felt like I was betraying her.

9 Q So you, she felt like she, you were betraying her,
10 but how is that a threat?

11 A Because she wanted to fight with me also.

12 Q But you also said she felt like you betrayed her, but
13 you didn't want to say anything about the case or about
14 what happened that night?

15 A Yes, sir.

16 Q Did y'all fight that night?

17 A No, sir.

18 Q What happened, did y'all go your separate ways?

19 A Yes. I walked off from her.

20 Q And she didn't attack you?

21 A No, sir.

22 MR. BROWN: No further questions.

23 THE COURT: Okay. You can step down.

24 MR. BANNISTER: Your Honor, we would call Clifton
25 Robinson.

1 THE COURT: Mr. Robinson.

2 CLIFTON ROBINSON, being
3 first duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 By Mr. Bannister:

6 Q All right. If you will, state your name for the
7 record, please?

8 A I'm Clifton Robinson.

9 Q And do you have a nickname?

10 A Crip.

11 Q So, Crip, Clifton Robinson, that's you?

12 A Yes, sir.

13 Q And where do you live?

14 A [REDACTED], (inaudible), Greenwood.

15 Q Is that here?

16 A Greenwood.

17 Q Thank you. And do you work?

18 A Yes, sir.

19 Q Where do you work?

20 A Timken.

21 Q And how far did you go in school?

22 A I went eleventh grade.

23 Q Okay. All right. So I want to, if I can, take you
24 back to November 14th of 2013. I believe I've got that
25 date right. I'm sorry, November 14th of 2013. And if you

1 will just kind of run me through how you ended up at the
2 Cabstand that day?

3 A I really go up there every now and then to shoot
4 pool. But this night, I went up there and just I met up
5 with Al.

6 Q All right. Did you know he was going up to shoot
7 pool or did y'all have some conversations over the phone?

8 A He stays shooting pool up there. He's shooting pool
9 up there all the time, so I kind of figured he be up
10 there.

11 Q Did you know he was going to be up there this night?

12 A Yes, sir.

13 Q All right. How did you know that?

14 A Because I had talked to him earlier that day. He say
15 he might go up there.

16 Q Okay. Were you planning on meeting anybody else up
17 there?

18 A No, sir.

19 Q What time do you think, what time do you think it was
20 roughly when you got to the Cabstand?

21 A It was right before dark. Probably about 5:00, well
22 no, probably about 6:00 or 7:00, something like that. I
23 really can't remember.

24 Q Okay. Well, if you don't know that's all right.

25 Don't guess. When you got there, do you remember who was

1 at the Cabstand?

2 A Well, it was, no, sir. But there was a couple of
3 people in there. There was a couple of people standing
4 around. It haven't got crowded yet.

5 Q So was Al Morgan one of the ones that was there?

6 A Yes, sir.

7 Q Was he there with some folks?

8 A He was there by his self at first. I think he might,
9 I really don't remember, but he was there.

10 Q All right. Well, let me run you through a list of
11 names and see if you remember whether they were there when
12 you got there or not, okay?

13 A Okay.

14 Q Do you know, do you know Nick?

15 A Yes, sir.

16 Q Okay. Was he there?

17 A I don't think so, but I really can't remember.

18 Q All right. How about Thomas Gilchrist, Bug?

19 A Yes, sir. He was, I really don't know. I mean, it
20 been so long, but he was, eventually he was there.

21 Q Okay. And, I guess, maybe that would be a little bit
22 easier to say. At some point, well, did you see Nick
23 there?

24 A Yeah. Yes, sir.

25 Q All right. And at some point was Thomas Gilchrist

1 there?

2 A Yes, sir.

3 Q And were there a couple of regulars in the bar that

4 were there pretty much every night?

5 A Pretty much.

6 Q All right. Do you remember their names or what you

7 called them?

8 A Let's see.

9 Q Were they older gentlemen?

10 A Yeah, they're older gentlemen. I mean, I think, I

11 think his name is Mike Thompson, he was there.

12 Q All right. And was Tony Thompson there?

13 A Tony Thompson.

14 Q Okay. How about Ernest McCauley?

15 A Yes, sir. He was in there.

16 Q Anybody else you remember in particular being there?

17 Did you play some pool?

18 A I stood around. They played pool. I stood around.

19 Q And did you talk with anybody in particular?

20 A No. No, sir. Nobody but Al. I was talking to Al a

21 little bit.

22 Q Okay. At some point did a younger crowd come into

23 the bar?

24 A Yes, sir.

25 Q Do you know who any of those individuals were?

1 A Well, at first it was like Dori, Shay and Courtney,
2 all them came in, and then later on, Brent and the people
3 he was with came in.

4 Q All right. When you say Brent, you talking about
5 Brent Williams?

6 A Yes, sir.

7 Q And when Brent Williams came in, how many people did
8 he come in with roughly?

9 A Really, I really can't tell you that, but it was a
10 couple of people with him.

11 Q All right. At some point was Demond Brown in the
12 club, Cabstand?

13 A Yes, sir.

14 Q Do you know Shay Simon?

15 A Yes, sir.

16 Q Was she in the Cabstand?

17 A Yes, sir.

18 Q Do you know Courtney Lockhart?

19 A Yes, sir.

20 Q Was she in the Cabstand?

21 A Yes, sir.

22 Q All right. How about Jamaal Aiken?

23 A I really don't, I really didn't know him like that.

24 I think he came with, I don't know who he come with, but
25 he come up in with, I think some girls. There was some

1 girls and some old people had come up in there.

2 Q All right. When was the first moment, and well let
3 me ask you this. Did you see Al Morgan leave?

4 A Well, he was like he come from the bathroom and he
5 tell me somebody hit his hat and I'm like, who hit your
6 hat. And he was like, Brent. And I'm like, you ain't got
7 to worry about that because Brent my cousin. I wouldn't
8 let that happen like that. So he was like watching my
9 back. So I don't know who was standing back there. There
10 was a bunch of people, so really trying to figure what
11 really was going on. But he said he felt uncomfortable
12 and he said he was about to go, because everybody started
13 jumping around in the club and he said he about to go. He
14 didn't feel comfortable, so he pulled his shirt up and he
15 had a gun and he be like, I ain't trying to hurt nobody.
16 And he, I walked him to the car. He got in the car and he
17 left.

18 Q Who did he leave with?

19 A I think it was Tommy, Tommy Gilchrist.

20 Q Okay.

21 A All right.

22 Q All right. Can I back up for just a second. When
23 you said people started jumping around in the club, what
24 did you mean by that?

25 A Just dancing like and, I guess, he felt tension and

1 he felt uncomfortable and he said he was fixing to go and
2 he lifted his shirt up. He had a gun right there. He
3 said he wasn't trying to hurt nobody, so I walked outside
4 with him. We went to the car and they left, and I went
5 back in the club, and then a little confrontation went on.

6 Q All right.

7 A A fight broke out in there.

8 Q Okay.

9 A And then as I was going like through the crowd,
10 somebody grabbed me behind me, grabbed me by my shirt and
11 pulled me to the floor and they just started kicking and
12 beating on me. And that is how I wind up on the floor and
13 they like broke it up.

14 Q Who broke it up?

15 A I think it was Mr. McCauley, Ernest, and Thomas dude.

16 Q Tony Thompson?

17 A Yes, sir.

18 Q Okay.

19 A They broke it up.

20 Q All right. Now, how did they break it up?

21 A They pulled us apart. They pulled them off of me.
22 They were pushing them out, they pushed them out, really
23 basically pushing them toward the door.

24 Q All right. Who did they pull off of you if you know?

25 A I don't really know. I mean, I'm being stomped, I

1 don't know when I got up because Shay was telling me that
2 all them had--

3 Q Well, don't go into what somebody else was telling
4 you.

5 A Okay.

6 Q Only if you saw it. Were you getting kicked? Were
7 you getting hit?

8 A Yes, I was getting, they was kicking me so.

9 Q And was it more than one person?

10 A Yeah.

11 Q And was there anything that you felt like you had
12 done to start a fight?

13 A No, because I really, I mean, I don't bother nobody,
14 and I got in no confrontation with nobody.

15 Q Okay. So as Mr. McCauley and Mr. Thompson get these
16 people off of you, were you able to kind of get up and see
17 what was going on at that point?

18 A Well, when they pulled us up, I seem them pushing
19 everybody towards the door, you know, and as they got them
20 out the door, some, just Darshay called Al and told them
21 that they had jumped on me and Al--

22 Q Hang on. So Darshay?

23 A Yeah. Simon.

24 Q Is it, oh, Shay Simon?

25 A Shay. Shay.

1 Q Okay. You're still in the club and Shay Simon is
2 still in the club?

3 A Yes, sir.

4 Q Is Demond Brown still in the club or do you know?

5 A I don't remember.

6 Q Okay. And at this moment that we're getting ready to
7 talk about, the crowd that had jumped on you and Demond,
8 Mr. McCauley and Mr. Thompson had got them heading out the
9 door?

10 A Yes, sir.

11 Q All right. Are they out the door at this point?

12 A Well, he got them out the door and locked the door.

13 Q Okay. And so at that point did you get on a cell
14 phone call?

15 A Yeah.

16 Q Whose phone was it?

17 A Shay.

18 Q Shay Simon's cell phone?

19 A Yes, sir.

20 Q And did you talk to somebody on the other end?

21 A Yes, sir.

22 Q Who did you talk to?

23 A Al.

24 Q And what did you tell Al?

25 A He asked me was I all right? I was like, yeah, I

1 ain't do nothing to them people. Like, all right. He
2 said put Shay back on the phone, and I put Shay back on
3 the phone.

4 Q All right. And we're talking about Al Morgan, right?

5 A Yes, sir.

6 Q Did you ask him to come get you?

7 A No, sir. He said he was, Shay asked him to come get
8 us. When he put me back on the phone he was like, come on
9 outside, I'm going to take you home. Well, before I got
10 to the door is just when I heard the gunshot and they
11 locked the door.

12 Q Okay. So just so I got the sequence of events,
13 right. Everybody gets pushed out the door. You're still
14 inside?

15 A Yes, sir.

16 Q Is that right so far?

17 A Yes, sir; it is.

18 Q Then, Shay Simon calls Al Morgan because you got on
19 the phone and talked to him?

20 A Yes, sir.

21 Q Either you or Shay or both of you told that you had
22 been in a fight?

23 A Yes, sir.

24 Q And then either Shay or you asked him to come get
25 you?

1 A Yes, sir.

2 Q And then is there another phone call where he's
3 saying, all right, come outside, I'm here now?

4 A Yes, sir. He was like, you know, like come on out
5 front. He said, come on outside. We come to take you
6 home.

7 Q Okay. So there was some time between the two phone
8 calls, correct?

9 A Not, not too much apart but yes, sir.

10 Q Okay. And it was, was it shortly after the second
11 phone call that then there was the gunshot outside?

12 A No. After the second phone call about, I walked
13 about from here to you going towards the door.

14 Q Right.

15 A I got to the door, I heard the gunshot. He pushed
16 everybody back in and locked, pushed everybody back and
17 locked the door.

18 Q Were you headed to the front door or the back?

19 A The front door.

20 Q All right. Were you there when the officers arrived?

21 A No, sir. I've never talked to a officer.

22 Q Okay. Were you there, though, at the scene when
23 police got there?

24 A Well, actually, we went out the back door, I still
25 haven't seen the police.

1 Q All right. Did you know what happened out the front
2 door?

3 A I did hear a gunshot. They ain't nobody said nobody
4 had got shot or nothing like that. I just heard the
5 gunshot and like the next day, my cousin called me and
6 told me look on the news and that's how I found out.

7 Q Do you know what Brent Williams relationship is with
8 Jamaal Aiken?

9 A No, sir.

10 MR. BANNISTER: I don't think I have any further
11 questions, Judge.

12 CROSS-EXAMINATION

13 By Mr. Stumbo:

14 Q Mr. Robinson, you -- we hadn't met before. I'm David
15 Stumbo. Nice to meet you. You go by a nickname? Your
16 full name is what, Clifton Robinson?

17 A Yes, sir.

18 Q What's your nickname?

19 A Crip.

20 Q Crip?

21 A Yes, sir.

22 Q Are you and the Defendant, Al Morgan, have known each
23 other for how long?

24 A Since like teenagers.

25 Q Okay. You consider yourself friends?

1 A Yes, sir.

2 Q And you'd hung out with him up at the Cabstand
3 several times, correct?

4 A Yes, sir; I have.

5 Q Now, your response to several of Mr. Bannister's
6 questions when he asked who was there when you got there,
7 you couldn't really remember.

8 A No, sir. I mean, I know who was in there, but I
9 don't know how they came to the club, you know, how, you
10 know, like everybody gathered up, like by me just looking
11 around like, yeah, after it got crowded, I knew who was in
12 there then.

13 Q All right. Did you know who Al was there with? When
14 you got there, Al was already there, correct?

15 A He was shooting pool.

16 Q All right. Who was he there with?

17 A I really can't recall.

18 Q Okay. You also responded you didn't really know
19 Jamaal, is that right?

20 A I really don't.

21 Q Had you ever seen him before that night?

22 A I saw him around, but I never did have conversation
23 with him or, you know, I really didn't, don't know him.

24 Q Okay. You know what his nickname was if he had one?

25 A Yes, sir.

1 Q What was that?

2 A They call, they say Smooth.

3 Q Okay. Called him Smooth?

4 A Yes, sir.

5 Q All right. Who did he come, who did Smooth come in

6 with that night?

7 A Like I say he, they, it was just a group of people

8 just come in and they was like standing around the

9 jukebox. They were dancing around the jukebox and stuff

10 like that and walking around the club.

11 Q Okay. Were they interacting with the other people

12 that were already there when they came in?

13 A Well, he had a couple of like, like I said, they was

14 talking to people. Everybody was talking to people.

15 Q They were socializing, is that a good way to put it?

16 A Yes, sir. They were socializing.

17 Q All right. Can you describe the gun that Alphonso

18 Morgan had on him when he pulled his shirt up and showed

19 it to you?

20 A Just like a grayish-black with brown handle.

21 Q Okay.

22 A Gray and black and it had a brown handle.

23 Q And why did he show you that gun again?

24 A He said he wasn't trying to get in no trouble. He

25 had his gun on him and he pulled his shirt up and he said,

1 I'm fixing to go. And I walked him out the door.

2 Q Okay. And this was all in reaction to him saying
3 that Brent hit him on the hat?

4 A Yes, sir.

5 Q Okay. Did you see Brent ever have any interaction
6 with Alphonso?

7 A No, sir. Because we, me and him start to go. He
8 went to the bathroom. Wherever he went over there, when
9 he come back, I'm like, man, he just, he caught my head,
10 caught my cap. I'm like, who, and he went like Brent.
11 I'm like that's my cousin. I said I don't, I ain't going
12 to let that go down like that. That is when he was like,
13 well, look behind me man. And, now, make sure nobody run
14 into me. So I'm still wondering what was going on. So
15 that's when he was like, man, I'm fixing to get out of
16 here, man. He said, I got this. I ain't trying to get in
17 trouble. So I walked him to the car.

18 Q All right. Who did he get in the car with, do you
19 know?

20 A Tommy Gilchrist.

21 Q All right. Bug?

22 A Bug.

23 Q Did you see him again that night, Al?

24 A No, sir.

25 Q You go back inside the club, correct?

- 1 A Yes, \sir.
- 2 Q All right. Then a fight breaks out?
- 3 A Yes, sir.
- 4 Q You said you don't really know who was hitting and
5 kicking you?
- 6 A I think that it was Brent and Demond fighting.
- 7 Q Okay.
- 8 A They were fighting.
- 9 Q So you saw Brent and Demond get in a fight?
- 10 A Yes, sir. Because I was walking past them and both,
11 they was like closer to the door. I was walking past
12 them. When I walked past them going, and when I walked
13 through somebody grabbed me and pulled me down and they
14 just started stomping on me.
- 15 Q You didn't see who it was?
- 16 A No, sir.
- 17 Q Male/female?
- 18 A It was a bunch of girls and someone else. Well, he
19 say don't go on what somebody else say, but it was girls
20 and boys kicking on me and stuff.
- 21 Q Okay. But you couldn't see faces; you didn't know
22 who it was?
- 23 A No, sir.
- 24 Q Do you know what started the fight in the first place
25 between Demond and Brent?

1 A No, sir.

2 Q Did you see that go down?

3 A No, sir. I didn't even really, you know, they was
4 just like at the jukebox. We was sitting like in the
5 middle of the floor and there is tables right there and
6 when, this table I went back to and they had broke out
7 trying to get out the club.

8 Q Who were you sitting with in the middle?

9 A And before Al left?

10 Q No.

11 A Oh, after Al left?

12 Q Right before this fight broke out?

13 A Well, Dorshay was standing over with me for a minute
14 and then somehow, they went over that way and--

15 Q Dorshay?

16 A Shay.

17 Q Shay?

18 A Yeah.

19 Q Shay Simon?

20 A Yeah. So they had went over there by the jukebox and
21 it just broke out.

22 Q At the time, what was Shay's relationship with Al, do
23 you know?

24 A I don't, no, sir. I can't get into that, because I
25 don't know.

- 1 Q But you were friends with Al?
- 2 A Yes, sir.
- 3 Q Who was he going out with at the time, do you know,
- 4 or who was he seeing?
- 5 A He had a wife, I guess.
- 6 Q Okay.
- 7 A I don't get into nobody's personal business.
- 8 Q All right. Who ended up getting pushed out of the
- 9 front of the club?
- 10 A I think it was--
- 11 Q Just give me a list of names.
- 12 A It was Brent and Saquetta. Like I say, I don't know
- 13 all the people who was with him, but it was just everybody
- 14 right there by that jukebox got pushed out.
- 15 Q So Brent, Shaquitta, you got those two. You got any
- 16 other people that got pushed out that you knew?
- 17 A A girl named Dori Greene.
- 18 Q Dori Greene?
- 19 A Yes, sir.
- 20 Q Anybody else?
- 21 A Like I say, I can't remember. I mean, they picking
- 22 me off the floor when they pushing them out the door, but
- 23 I know who was at that jukebox. I know, you know, a few
- 24 people that was at the jukebox.
- 25 Q Who was at the jukebox?

1 A It was Demond, Brent, Shay went over there, Saquetta,
2 Dori Greene. All of them was over there.

3 Q Where's Jamaal in all of this?

4 A I think that they pushed him out the door, too.

5 Q Okay. But you didn't see him at the jukebox?

6 A No, sir.

7 Q You didn't see him in the middle of this fight?

8 A No, sir. I mean, that confrontation was going on. I
9 really wasn't looking for nobody. I was trying to get out
10 the club.

11 Q All right. You get on the phone after this fight,
12 but it's Shay Simon's phone, not yours?

13 A Yes, sir.

14 Q And you're talking with the defendant, Alphonso
15 Morgan?

16 A Yes, sir.

17 Q You tell him what happened?

18 A He asked me. He was like, you okay? I'm like, yeah,
19 they just jumped on me. You know, like who? I said, a
20 bunch of people. He said, you straight? I'm like, yeah,
21 I'm straight. So that's when I give it back, he said, let
22 me speak to Shay. I give the phone back to Shay, and then
23 a couple of minutes later he was calling back. He was
24 like come on outside, I'll take you home. That's when I
25 started towards the door again. When I got to the door, a

1 gunshot went off and he locked the door and told nobody to
2 go out the door.

3 Q Okay. When did you leave the club that night?

4 A When he opened the back door. He opened the back
5 door so everybody could leave.

6 Q You went out the back door and not the front door?

7 A Yes, sir.

8 Q Did they keep the front door locked?

9 A They left, they had to have, because they was trying
10 to get back in the club. Somebody was shaking the door
11 before like when he got everybody out the club, somebody
12 was shaking the, they were shaking the door trying to get
13 back in, I guess. So and he let everybody out of the back
14 door after the door, after that gunshot and everything, he
15 left everybody out the back door.

16 Q Did you leave before or after law enforcement?

17 A When I had went out the door, I ain't seen no police
18 nowhere.

19 Q You didn't see any blue lights at that time?

20 A No, sir.

21 Q And I'm not going to go through all of them. Would
22 it be fair to say you got a long criminal history,
23 domestic violence in 2004? You had a drug charge that you
24 did some time for, is that correct?

25 A Can I ask a question?

1 MR. BANNISTER: Judge, just let me interpose--

2 A What that got to do with it?

3 MR. BANNISTER: Interpose an objection.

4 MR. STUMBO: Okay.

5 Q Is it fair to say you got a record?

6 A Yeah, but a lot of people do.

7 Q Had you ever been in a fight before that night?

8 A No, sir. You say you got my record right there?

9 Q No, I'm just asking. Did you, had you ever been in a
10 fight before that or was this the first time you'd ever
11 been--

12 MR. BANNISTER: Your Honor, I'd object to the
13 relevance of that and maybe I'm missing something.

14 MR. STUMBO: I can ask him a couple of more questions
15 in follow-up to that, Judge.

16 THE COURT: Well, we're not in front of a jury.

17 MR. STUMBO: Well, I understand.

18 Q Being there that night and getting in a fight, you
19 don't have any idea who was hitting you and kicking you?

20 A No, sir.

21 Q Okay. Have you ever had that situation before when
22 you had gotten into a fight?

23 A No, sir.

24 Q Did you have any concerns about the fact that Al had
25 a gun on him?

1 A Did I have concerns?

2 Q Yeah.

3 A He is trying to get out of the club with it and take
4 it, I guess, take it home. I mean, he was leaving and
5 when he showed it to me, he left. It ain't like knew he
6 had it from the whole time. He just say he wasn't trying
7 to get in trouble.

8 Q Okay. Fair enough.

9 MR. STUMBO: No further questions, Your Honor.

10 REDIRECT EXAMINATION

11 By Mr. Bannister:

12 Q Just a little clean-up question. So if there's been a
13 description of an individual who had a scar on his face
14 that was on the ground, do you have a scar on your face?

15 A Yes, sir.

16 Q Okay. And you were the guy that was on the ground?

17 A Yes, sir.

18 Q So that was probably you, I'm guessing?

19 A Yes, sir.

20 MR. BANNISTER: Okay. I don't have any further
21 questions.

22 THE COURT: You can step down. Let's take our lunch
23 break. We've been going for about an hour.

24 (Whereupon, a lunch break was taken.)

25 THE COURT: Go ahead.

1 MR. JONES: Call Brett Woodard to the stand.

2 BRETT WOODARD, being

3 first duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 By Mr. Jones

6 Q Please state your name for the record?

7 A Brett Outen Woodard, W-O-O-D-A-R-D.

8 Q And your current profession, please?

9 A I'm a medical doctor and biologist. By specialty
10 training, and I am a forensic pathologist by additional
11 specialty training.

12 MR. JONES: Your Honor, the Solicitor's Office, the
13 State has just agreed to stipulate that Dr. Woodard would
14 be qualified as a expert in the field of Forensic
15 Pathology for the purposes of his testimony here today.

16 THE COURT: All right. ~~For the purposes of this~~
17 hearing, you stipulate that he's an expert--

18 MR. STUMBO: Yes, sir.

19 THE COURT: --in Forensic Pathology.

20 MR. JONES: Thank you.

21 Q Dr. Woodard, I want to ask you do you recall meeting
22 with me in Anderson a couple of weeks ago. I arrived
23 there with a couple of people with me, an investigator,
24 and a couple of people that were used as people that we
25 attempted to present to you, a 1991 black Impala

1 automobile and had you come outside and observed the
2 vehicle, how the back rear passenger door opened and
3 closed, how far down the back rear passenger window would
4 go when it was down, as far as it would go under this make
5 and model. And to demonstrate some other positions that
6 one of the individuals took in the backseat of the
7 vehicle. Do you recall that?

8 A Yes, I do.

9 Q And did what I just say transpire and take place?

10 A Yes, it did.

11 Q Dr. Woodard, you did a forensic examination during
12 the course of an autopsy on the body of Jamaal Aiken back
13 on November of 2013, did you not?

14 A This is correct.

15 Q And during the course of that your purpose was to
16 determine the exact cause of death, whether it was
17 exsanguination or some other means?

18 A That's correct.

19 Q And if it was exsanguination, bleeding to death, then
20 what the source of that blood was, where the major artery
21 or arteries or organs that caused Jamaal to bleed to death
22 were located, is that correct?

23 A That's correct.

24 Q And was your purpose also to attempt to locate if a
25 bullet wound would have caused an injury to an organ or an

1 artery within his body to determine the entry point of
2 that bullet, the path and trajectory of that bullet
3 through his body and what, if any, organs or arteries were
4 damaged by the projectile, the bullet, is that correct?

5 A That's correct.

6 Q All right. Dr. Woodard, I'd like to ask you a
7 hypothetical as it relates to not only your forensic
8 examination of Jamaal Aiken's body when you conducted the
9 autopsy, but in conjunction with the demonstrations that
10 were presented to you in the parking lot of your office in
11 Anderson a couple of weeks ago. And these are the facts
12 that I would like for you to assume in the hypothetical,
13 all right?

14 A All right.

15 Q Number one, assume that the defendant is in the
16 backseat of the Impala automobile. Okay? Number two,
17 assume that the defendant is in a prone position in the
18 backseat of the Impala, right, or semi-prone.

19 A Okay.

20 Q Then assume the defendant is semi-prone with his left
21 side down and his right side up, the individual in the
22 backseat. Assume that the defendant's head is pointed
23 towards the driver's side back door while he's in that
24 semi-prone position, okay?

25 A Okay.

1 Q And then assume that the deceased has just opened the
2 back passenger's door to that Impala, all right?

3 A All right.

4 Q And then assume that the deceased has bent over
5 roughly at the waist after opening the door and assume
6 that the deceased is reaching into the car with his left
7 hand as he's bent over after having opened the door. And
8 then I'd like you to assume that the deceased has his
9 right hand slightly behind him in the area of the open
10 door when he reaches in, all right?

11 A All right.

12 Q Is this hypothetical that I just mentioned to you
13 and, again, the position assuming that you're in the
14 backseat of the Impala, the defendant would be slightly
15 bent over at the waist, having opened the back door,
16 reaching in with the left hand, the right hand behind him
17 basically in this position. All right?

18 A All right.

19 Q Is that position consistent with the trajectory of
20 the projectile that caused Jamaal Aiken's death having
21 been fired from a weapon from the inside of the vehicle?

22 A It would be consistent with it.

23 Q All right.

24 MR. JONES: Your Honor, the State has not objected to
25 me offering this photograph as a defense exhibit, I

1 believe, number 3 at this time for Dr. Woodard's
2 consideration.

3 THE COURT: So defense 3 is okay?

4 MR. YATES: No objection.

5 THE COURT: With no objection, it'll be admitted.

6 (Whereupon, Defendant's Exhibit number 3 was admitted
7 into evidence.)

8 Q Dr. Woodard, I'd like for you to observe this
9 photograph marked Defense Exhibit number 3 and just look
10 over it for a second there, a minute.

11 A Okay.

12 Q Depicted in that photograph, do you recall having one
13 of the people with me get in that position in the backseat
14 and demonstrate with a finger pointing in the direction of
15 a gunshot, do you remember that?

16 A Yes.

17 Q And is what's depicted in that photograph consistent
18 with your opinion here today that if the person who was
19 shot was on the outside of the vehicle reaching in and
20 bending over that the trajectory of the gunshot wound, as
21 you found it, would be consistent with your opinion given
22 here today with regard to the position of the victim,
23 Jamaal Aiken?

24 A Yes, it would be.

25 Q All right. And is that a photograph of something you

1 were presented in the parking lot in Anderson?

2 A Yes, either this demonstration or a similar one was
3 done in my presence with at least the person who is in the
4 backseat. I can't tell who the person holding the ruler
5 is.

6 Q All right, sir. Dr. Woodard, if you would please,
7 and you can refer to the notes of the, your exam. I'd
8 like you to tell the Court the approximate location of the
9 entry wound and the size of it and the path of it both
10 from left to right and up or down.

11 A Okay. The entry wound was in the left pelvis area.
12 You reach forward below your belt until you feel a bony
13 bump and which is called your anterior wing of your pelvis
14 and it was two-and-a-half inches away from the centerline
15 pretty much in line with that bony lump and it was three
16 eighths of an inch in dimension, the actual wound itself.
17 There was no powder or stippling on the wound and I did
18 receive him unclothed, and I don't think he was unclothed
19 at the time he was shot. He had some clothing on, but I
20 don't know how much clothing he had on. So I have no
21 distance measurements from the end of the gun to this
22 wound. The wound goes down, it drops, let's see,
23 two-and-a-half inches as it goes into the body about, at
24 about a fifteen-degree angle downward and it goes more
25 toward the centerline which is about three-fourths of an

1 inch away from the centerline in the back just where the
2 left buttocks begins to form. The bullet did strike the
3 sacrum which is a large flat bone and that's why it
4 decelerated and made no exit wound.

5 Q Dr. Woodard, I'd ask you to step down and use this
6 little dowel stick here to please point out for the Judge,
7 the Court, if you can with this the direction that and the
8 location that the bullet entered.

9 A Here is his anterior iliac crest that I can feel, and
10 it's approximately at this height. It's about
11 two-and-a-half inches, over approximately here. It's going
12 to go through his body and come into the center left
13 buttocks. So now, I'm aiming at that area and it's
14 approximately this angle and going from the victim's left,
15 toward the victim's right, though it always stays on the
16 left side.

17 Q And what would you approximate the angle being from
18 entry to positioning, twenty degrees?

19 A Fifteen, twenty degrees.

20 Q As you were conducting the examination during or
21 prior or during or at some point in time, did you attempt,
22 you mentioned there was no evidence for you there to
23 examine in an effort to determine the proximity of the
24 barrel from the entry wound, if possible. But you
25 understand he was clothed probably when he was shot.

1 There was no evidence or stippling or gun powder on the
2 wound, but you didn't have clothes there for you to
3 examine?

4 A That's correct.

5 Q And you did attempt to retrieve other evidence during
6 the course of the autopsy. Did you retrieve ocular fluid?

7 A Yes, we did.

8 Q And the purpose of that was for what?

9 A For the potential of doing toxicology examinations.

10 Q All right. I want to hand you a report from SLED;
11 ask you to review it. Does that appear to be an analysis
12 conducted by the State Law Enforcement Division Toxicology
13 Department that analyzed the ocular fluid that was sent to
14 them and it came back for Jamaal Aiken?

15 A That is correct.

16 Q And what was the blood/alcohol that was derived from
17 that exam?

18 A .1999, excuse me. 119.

19 Q .119?

20 A That's correct.

21 Q Just shy of .12?

22 A No. Just, .08 is statutory--

23 Q Shy of--

24 A --it, it's in excess of the usual DUI measurement, it
25 indicates inebriation, but it's not a .12.

1 Q Just shy?

2 A Just shy of .12.

3 Q Yes, sir.

4 A Okay.

5 Q Yes, sir. All right, sir.

6 MR. JONES: Defense four.

7 MR. YATES: No objection.

8 THE COURT: Four without objection.

9 (Whereupon, Defendant's Exhibit number 4 was admitted
10 into evidence.)

11 Q And, Dr. Woodard, again, in an effort to collect as
12 much evidence as possible, you collected urine from Jamaal
13 Aiken; you retrieved that and sent it to, for it to be
14 examined?

15 A You know, we collected urine and sent for toxicology.
16 We collected vitreous humor. We take what we call
17 exemplar hairs which would be some head hairs. We do a
18 DNA card in case any kind of DNA testing is going to be
19 conducted on any blood spatter or drops or what have you.
20 We take photographs. We take the fingernails to see if
21 there's been any transfer of evidence between the
22 deceased's hands to someone else, and then we obviously
23 got the projectile which was also sent to SLED.

24 Q Yes, sir. I believe you noted in your report that
25 Jamaal Aiken had an abrasion between his knuckles on his

1 left hand and an abrasion on his left forearm or somewhere
2 up on the arm.

3 A Yes, sir. There was an abrasion between his, on his
4 left hand between the fourth and fifth digits of your
5 little finger and the ring finger. And then along the
6 forearm on the little finger side of the forearm, there
7 was an abrasion or a scrape.

8 Q So they had not scabbed up yet?

9 A That's correct.

10 Q They were fresh?

11 A They were fresh.

12 Q Dr. Woodard, when you conducted this autopsy, weren't
13 there individuals both from the Coroner's Office in
14 Greenwood and the Sheriff's Office in Greenwood present,
15 the City police department, not Sheriff. I apologize.

16 A Yeah, there was, in addition to my personnel, there
17 was Greenwood City investigators, and then investigators
18 from the Greenwood Coroner's Office.

19 Q And were you provided by those individuals a history
20 prior to, in an effort to determine whether or not your
21 findings resulted in you being able to classify this as a
22 homicide or not?

23 A I was given a narrative history from the Coroner's
24 Office that's in my comments section in the first
25 paragraph.

1 Q Would you please read that for the Court?

2 A This 31-year-old male was at a local club in
3 Greenwood area. He and another male allegedly had an
4 argument. He allegedly left the club and went to the car
5 in which the other male was sitting in the backseat. He
6 allegedly opened the door of the car. He was shot a
7 single time. He was taken to Self Memorial Hospital by a
8 female companion. In spite of advanced trauma
9 life-support, he exsanguinated and died.

10 MR. JONES: Thank you, Doctor, and answer any
11 questions the Solicitor has for you.

12 CROSS-EXAMINATION

13 By Mr. Brown:

14 Q Good afternoon, Dr. Woodard. Dr. Woodard, he showed
15 you, Mr. Jones showed you Defendant's Exhibit number 4,
16 the toxicology report.

17 A That's correct.

18 Q And he asked you about the ethanol, the .119, alcohol
19 percentage?

20 A Correct.

21 Q What else, is there any other positives on there from
22 the toxicology report?

23 A I know everything else that SLED tested for was
24 negative.

25 Q And what all do they test for in that?

1 A Amphetamines, Benzodiazepines, Carisoprodol, cocaine
2 metabolized methadone, methamphetamine, opiates, oxycodone
3 and tramadol, Zolvadine, cannabinoids.

4 Q And cannabinoids would be what?

5 A Marijuana.

6 Q And what does that say?

7 A It says negative.

8 Q Dr. Woodard, Mr. Jones showed you defense Exhibit
9 number 3, a picture, and gave you a rather lengthy
10 hypothetical on how a gunshot wound to Jamaal Aiken could
11 occur. Now, is that the only possibility for how that
12 bullet entered into Jamaal Aiken?

13 A No, it would not be. It would just be one
14 possibility.

15 (Whereupon, State's Exhibit Number 1 was admitted
16 into evidence.)

17 Q Dr. Woodard, I want to show you State's Exhibit
18 number 1. Do you recognize this photo?

19 A This, again, is next to my office in a parking lot on
20 the car that they brought up from Greenwood.

21 Q And what does that picture show?

22 A It shows somebody sitting in the backseat of the car
23 on the passenger side. There's somebody on the driver's
24 side. The back passenger window is down.

25 Q And, Dr. Woodard, I want to give you a hypothetical.

1 And going back to your, actually your notes on autopsy.

2 How tall was Jamaal Aiken?

3 A Seventy-four and a half inches.

4 Q Roughly, how tall is that in feet?

5 A Six-two and a half.

6 Q Now, hypothetical, if the defendant is sitting in
7 this, Mr. Jones says a 1991 Impala or is it, it might be a
8 2001 Impala. If he's sitting in the back of this black
9 Impala as he's sitting in State's Exhibit 1 with the
10 window rolled down to that length or, I guess, to that
11 level, and Mr. Aiken, the victim in this case was walking
12 towards the car roughly four or five feet away from that
13 car, handgun comes out over the top of window and it's
14 fired, could that scenario cause the same entry wound and
15 the downward direction of 15 degrees into Jamaal Aiken?

16 A That's assuming that the parking lot is essentially
17 flat, it could.

18 Q It could?

19 A Yeah.

20 Q And so, actually, both scenarios or hypothetical that
21 Mr. Jones provided you and also the hypothetical that I
22 proposed to you now, both of those are logical and could
23 have happened?

24 A They could have happened.

25 Q One is not more probable than the other based on just

1 with you doing your autopsy on Mr. Aiken?

2 A And not without additional forensic evidence.

3 Q Now, Mr. Jones asked you about during your exam, and
4 I'm not going to go back over what the cause of death was.
5 You said that the gunshot went in and hit his iliac
6 artery. It went in at a 15-degree angle. He ended up
7 bleeding to death, correct?

8 A That is correct.

9 Q Mr. Jones then asked you about an abrasion that is
10 observed between the fourth and fifth digits of the left
11 hand and also an abrasion on the left forearm?

12 A That is correct.

13 Q Is there any way to know how those got there?

14 A No, only that they hadn't had a chance to start any
15 kind of healing process.

16 Q Would it make, could it be a possible explanation
17 that once he was shot, he fell back on his pavement to
18 break his fall and that could be how he gets abrasions
19 like that?

20 A Absolutely.

21 Q And again, Dr. Woodard, I'm wrapping up. Both of
22 those hypothetical's could have been possibilities, right?

23 A That's correct.

24 Q And really all we know is, just really all we know is
25 down, it was a little down angle 15 degrees and we know

1 his cause of death?

2 A That's correct.

3 Q Okay.

4 THE COURT: Anything else?

5 MR. JONES: Yes, sir.

6 REDIRECT EXAMINATION

7 By Mr. Jones:

8 Q Dr. Woodard, we left out something in the
9 hypothetical. We also know that it went left-to-right,
10 three quarters of an inch?

11 A That's correct.

12 Q And he didn't mention anything in his hypothetical to
13 you about walking towards the car, towards the window. He
14 had him coming face-on and if he's coming face-on, you
15 don't get that left-to-right three quarters of an inch
16 passage from front to back, do you? On the hypothetical,
17 he gave you, he didn't mention that?

18 A On the hypothetical he gave you, it would be less
19 likely to occur.

20 Q Right. It wasn't addressed, was it?

21 A No.

22 Q All right. And on the hypothetical that he gave you,
23 to take it one step further, at some point in time because
24 of the angle as he approaches the car, he's going to get
25 too close to the car for that angle to have been able to

1 be perpetrated by a gunshot wound when he wasn't bending
2 at the waist and leaning over, correct?

3 A That's correct.

4 Q Would you say three feet is too close?

5 A Yes, I would think three feet was too close.

6 Q All right. So within three feet of that door, he
7 closed at an angle to been able to be accomplished based
8 on the height of the window as you saw it, correct?

9 A That's correct.

10 Q All right. Doctor, based on the forensic evidence
11 you had, and I understand you were limited with regard to
12 what you would have liked to have had, but given a choice
13 between the two scenarios based on the information you
14 had, which is more consistent with the path and trajectory
15 of the bullet through the deceased's body, him leaning
16 over, reaching in, turn, keeping in mind what you saw the
17 door or him standing back five feet and being shot from
18 the inside of the car. Which is more consistent with,
19 more consistent and more probably the way it happened?

20 A I don't think you can say which one is more
21 consistent, that one is more consistent than the other.
22 They're both possible scenarios. During the action of
23 walking, our pelvises tilt one way or the other and that
24 could easily accomplish that inch and---

25 Q -- left to right.

1 A ---yeah.

2 Q Three quarters.

3 A Inch and three quarters. A shift and the bullet went
4 straight back. So I'm not offended by that, that the
5 Solicitor said that he was back five or six feet. I think
6 it's possible on a trajectory string could assist in
7 determining which is most possible. I would think that he
8 would have to be back more than five to six feet in order
9 to get the terminal ballistics that we see in the body.

10 Q Thank you, Doctor. One brief second.

11 MR. JONES: Beg the Court's indulgence. Nothing
12 further.

13 THE COURT: All right, step down.

14 MR. JONES: And, obviously, Your Honor, we release
15 Dr. Woodard.

16 THE COURT: Sure. No problem. He's got things to
17 do.

18 MR. JONES: Yes, sir. I'm sure he does. Call Tonya
19 Fuller.

20 TONYA FULLER, being
21 first duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 By Mr. Jones:

24 Q Ms. Fuller, state your name for the record, please?

25 A Tonya Fuller.

- 1 Q Grow up in Greenwood?
- 2 A No.
- 3 Q Where'd you grow up?
- 4 A Clinton.
- 5 Q All right. Where are you currently living?
- 6 A In Greenville.
- 7 Q In Greenville?
- 8 A Yes, sir.
- 9 Q And working?
- 10 A Yes, sir.
- 11 Q In Greenville?
- 12 A Yes, sir.
- 13 Q Back on November the 14th of 2013, where were you
- 14 staying?
- 15 A In Greenwood.
- 16 Q And where were you living?
- 17 A On Reynolds.
- 18 Q [REDACTED] Reynolds Avenue?
- 19 A Yes, sir.
- 20 Q Who lived there with you?
- 21 A Lenwood Ramsey.
- 22 Q And?
- 23 A Ariel Fuller, my daughter.
- 24 Q Your daughter.
- 25 A Yes.

1 Q All right. On this particular day, do you recall
2 November the 14th, 2013?

3 A Somewhat; yes, sir.

4 Q Okay. Well, do you recall going to a little club not
5 far from your home, maybe a mile and a half, two miles
6 called the Cabstand?

7 A Yes, sir.

8 Q And if you left your home, how would you get to the
9 Cabstand?

10 A Pulling out of our driveway, taking a left, go down
11 Cokesbury Road and come up to East Cambridge.

12 Q You got to come over the railroad track?

13 A Go over the railroad track and get up to East
14 Cambridge and take a right.

15 Q What's on the corner there at the right that you take
16 the right?

17 A Li'l Cricket.

18 Q Okay. Then, you go through that right there at the
19 light, and what do you do next?

20 A Take a left, and I'm not sure what the name of that
21 street is.

22 Q About a block away, you take a left onto?

23 A Seaboard.

24 Q Seaboard, correct.

25 A Yes.

- 1 Q And then the Cabstand is right there on your left?
- 2 A Yes, sir.
- 3 Q And did you go there that evening?
- 4 A Yes, sir.
- 5 Q Who did you go with?
- 6 A Lenwood.
- 7 Q Lenwood, who?
- 8 A Ramsey.
- 9 Q And about what time do you recall y'all going there?
- 10 A 7:00, 6:30-7:00 o'clock. Yeah.
- 11 Q Did you have plans to meet anybody there?
- 12 A Yeah. We were going to meet Al and Bug.
- 13 Q And were they there when you got there or did they
- 14 come after you got there?
- 15 A They were there when we got there.
- 16 Q Okay. And when you got there, what were y'all doing?
- 17 A They were shooting pool. I was sitting at the table
- 18 drinking beer.
- 19 Q Okay. And over the course of the evening, did you
- 20 continue to drink beer and socialize with Lenwood?
- 21 A Yes, sir.
- 22 Q Anybody else in the club during your stay there that
- 23 you knew besides the three people you were with, three men
- 24 you were there with?
- 25 A Just knowing about, yeah, out socially, yeah.

1 Q Who?

2 A Crip, who else was there, Bird, Brent.

3 Q Who is Brent?

4 A I'm not sure what Brent's last name is.

5 Q Okay. Tony?

6 A Tony Thomas.

7 Q Okay.

8 A And there was a lot of other people in there, but I
9 don't know their names.

10 Q All right. And you remember about how long you
11 stayed there that evening?

12 A A hour-and-a-half, maybe two.

13 Q Do you remember approximately what time it was that
14 you decided to leave?

15 A It was after 9:00 o'clock.

16 Q Okay. Do you have any idea how long after 9:00
17 o'clock?

18 A No, sir.

19 Q Okay. When you decided to leave, who did you leave
20 with?

21 A With Lenwood Ramsey.

22 Q Did anybody else accompany the two of you about that
23 time?

24 A Not left with us and not in our vehicle, no sir.

25 Q Right. But did they, did anybody leave about the

1 same time you left?

2 A Al and Bug left behind us.

3 Q Al and Bug?

4 A Yes.

5 Q Do you know Bug's real name?

6 A Thomas Gilchrist.

7 Q Okay. / And they left about the same time that you
8 were leaving?

9 A Yes.

10 Q Just they got in a different car?

11 A Yes, sir.

12 Q Were your cars parked near each other in the parking
13 lot of the Cabstand?

14 A Yes, sir. When we pulled out, they pulled out behind
15 us.

16 Q All right. Before you left, I want to take you back.
17 Before you left, did you notice any kind of altercation
18 going on between anybody in the club?

19 A The only thing I saw was Brent walked up to Lenwood
20 and stood up and shook his hand and reached across the
21 table and tapped Al across the hat and was like, what's up
22 motherfucker, like that. And Al was like, go ahead. I
23 ain't got time for that. I ain't trying to, you know, get
24 in no trouble. So he reached across and hit him on top of
25 the head again, and then kind of laughed and walked off.

1 Q Okay. So you didn't see that then as a friendly
2 social gesture?

3 A Not tapping nobody on top of their hat and cursing at
4 them.

5 Q Okay. I just wanted to ask you how you perceived it,
6 okay? Did you notice a change in Al's demeanor
7 afterwards?

8 A Yeah. He got a frown on his face. He was like he
9 was ready to go because he wasn't trying to get in no
10 trouble.

11 Q Is that part of the reason y'all decided to go?

12 A Yes.

13 Q As you left the club, you said they got in behind
14 y'all. Did they stay behind you or did they make a brief
15 stop on the way back?

16 A They came behind us.

17 Q Did they stop along the way on the way home?

18 A At the store, at the L'l Cricket and got beer and
19 came but by the time we got to our house and was going in
20 the house, they were pulling in our driveway.

21 Q All right. So 30 seconds to 45 seconds they took to
22 go and buy the beer and bring it to your house?

23 A Yeah.

24 Q What'd y'all do when the four of you got back to your
25 house?

- 1 A We was sitting there drinking beer, laughing,
2 talking, listening to some music for about 15-20 minutes,
3 and then Al got a phone call.
- 4 Q You were in where in your house?
- 5 A Me and Al was sitting on the loveseat right beside
6 each other. Thomas was sitting in the recliner and Lenwood
7 was sitting on the couch.
- 8 Q Where was your daughter?
- 9 A Back in her bedroom.
- 10 Q Okay. You are absolutely certain you were in that
11 room when a phone call came into Al?
- 12 A Yes, sir. And I was sitting right beside him.
- 13 Q Do you know who called him?
- 14 A Shay.
- 15 Q Could you hear her on the other end of the phone?
- 16 A I heard her on the phones screaming to the top of her
17 lungs, you need to come back and pick us up. They done
18 jumped Crip. Please hurry up and come back and pick us
19 up. And he was like, I ain't got no car. And he was
20 like, hold on. So he looked at Lenwood. He was like,
21 will you take me back up there to pick them up. And
22 Lenwood was like, yeah, come on. So they left.
- 23 Q Who is they?
- 24 A Lenwood, Al and Thomas.
- 25 Q Bug?

1 A Yeah, Bug.

2 Q Did you walk them out to the car or see who got where
3 in the car?

4 A No, did not want to go outside.

5 Q Okay.

6 A I cleaned up my coffee table and turned my lamp off
7 in my living room and went in my bedroom and put my
8 nightclothes on, because I was about to go to bed.

9 Q All right. And as you were preparing to go to bed,
10 what happened next?

11 A About 10-15 minutes later, I heard somebody just real
12 fast pull up in my driveway, so I went to the front door
13 and I opened the front door. I was like, that was quick.
14 And he was, Baby, well, Lenwood. Baby, Al done shot
15 somebody. I was like, what. Al done shot somebody. I
16 was like, who? He was like, I don't know. And like I
17 said, he was in a state of panic. And by that time, Al
18 came around the side of the house and just walked past me
19 and walked in the house and sat down on the couch.

20 Q All right. And did you have any conversation with Al
21 before the police arrived?

22 A He ain't say nothing.

23 Q Did you have any conversation with Lenwood before the
24 police arrived?

25 A No. He was just like, Al shot somebody. And I kept

1 asking him who, so he didn't know. So and by that time,
2 all I saw was blue lights coming in the road, pulling up
3 in the yard and everything. So I told my daughter, I
4 hollered, Baby, come on, let's go. And we came out of the
5 house with our hands up and they put me in handcuffs. And
6 I was laying down on the ground in the front yard, and
7 they put my daughter in handcuffs and put her in a police
8 car.

9 Q How were you clothed?

10 A I had on a t-shirt and shorts and barefoot.

11 Q Okay. And your daughter?

12 A A gown and no shoes, but they made us come out of the
13 house and I was asking them can I get my shoes and stuff
14 and a coat. He was like no, I couldn't go back in the
15 house.

16 Q Okay. And how long did you stay handcuffed outside
17 for approximately?

18 A Over a hour.

19 Q Okay.

20 A It was over an hour. They had us, they put us in a
21 police car and stuff.

22 Q Did you see them handcuff Al?

23 A Yeah.

24 Q Did you see them put Al in a police car?

25 A Yes, sir.

1 Q Did you see them take Al away from the scene?

2 A I wasn't paying attention when they drove away, no,
3 sir.

4 Q Did they take you away from the scene?

5 A No, sir.

6 Q Did you talk to a police officer at some point in
7 time, though, about what you had seen and heard and what
8 you recall happening early in the evening?

9 A Yes, sir. And they kept asking me if I knew who
10 Jamaal was. And I was, they was like, you sure you don't
11 know him. Like, I don't know who that person is, and I
12 asked him if he had a nickname and they were like I don't
13 know. So the officer walked away and, I guess, he was
14 talking to another officer and he came back and he was
15 like they say his nickname is Smooth. And I was like, the
16 only Smooth I know is from one of my friend guy's, Hot.
17 So that is how I knew Smooth and that was it. He was
18 like, well, he's passed away. He was like that's the
19 person that got shot and he died.

20 Q Okay. Did they take you to the station to get a
21 recorded statement from you?

22 A No, sir.

23 Q Did they take Lenwood to the station?

24 A Yes, sir.

25 Q Answer any questions the Solicitor has for you,

1 please.

2 CROSS-EXAMINATION

3 By Mr. Stumbo:

4 Q All right. And it's not Ms. Fuller now. What's your
5 last name again?

6 A Fuller.

7 Q It is Fuller. Okay.

8 A Yeah.

9 Q Ms. Fuller, thank you. I'm David Stumbo. I know we
10 hadn't met before today. I just got a couple of questions
11 for you. You went back up, you went to the Cabstand with
12 Lenwood, correct?

13 A Yes.

14 Q You met up with Al Morgan, the defendant who's here
15 in the courtroom, and Thomas Gilchrist that day, correct?

16 A Yes, sir.

17 Q Now, do you remember or you said you saw Brent, you
18 don't know what his last name is, and some other people
19 that night. Any other people you recognize?

20 A No, I don't think so.

21 Q Okay. And Brent approached y'all's table at some
22 point, correct?

23 A Yeah. I was sitting on the end and Lenwood was like,
24 I was sitting on like the corner and Lenwood was sitting
25 on one side. And then Al was across from Lenwood on the

1 other side.

2 Q Okay. And Brent, you said he shook Lenwood's hand,
3 your boyfriend, right?

4 A Yeah.

5 Q And they seemed to be---

6 A I don't know how they know each other but yeah, he
7 spoke to him.

8 Q He was friendly with him?

9 A Yeah.

10 Q All right. And you'd said something about a tap on
11 Al's hat by Brent?

12 A Yes.

13 Q Did he say anything when he tapped him on the hat?

14 A Did Brent say anything?

15 Q Yeah.

16 A What's up motherfucker.

17 Q Okay. Did you take that as an insult? How did you
18 take it?

19 A I took it as an insult.

20 Q Okay.

21 A I'm pretty sure if somebody called you'd that, you
22 would lose it.

23 Q And Al's demeanor changed as well?

24 A No, he just, you know, just looked like and he did it
25 again and he was like, you know, go ahead and I ain't with

1 no junk tonight. You know, just leave me alone. I ain't
2 trying to start no trouble.

3 Q Okay. After that, what did Brent do?

4 A He just humph and walked off.

5 Q Okay. And that was the end of the interchange
6 between Brent and Al?

7 A Yes.

8 Q Did Al say anything after Brent walked away about
9 that incident?

10 A No. He was like I'm just ready to go.

11 Q All right. And when y'all left, y'all left shortly
12 thereafter. How long after the tapping of the hat did
13 y'all leave?

14 A About 10 minutes. It wasn't long at all.

15 Q And you and Lenwood leave in the Impala and go back
16 to the house, correct?

17 A Yes.

18 Q And Al and Bug get in the other car and follow y'all
19 over there?

20 A They pulled out right behind us. They pulled into
21 Li'l Cricket. We proceeded to go on home. By the time we
22 got in our yard and was walking in our house, they were
23 pulling in the yard, in our yard.

24 Q Okay. What did y'all do when you got inside?

25 A In there drinking beer, talking, laughing, listening

1 to music.

2 Q Okay. No more conversation about what had happened
3 at the club earlier?

4 A Not that I can recall; no, sir.

5 Q How long before, after y'all got back inside did that
6 call come in from Shay?

7 A About 15 to 20 minutes after that.

8 Q All right. And you said you heard her from the other
9 end?

10 A Yeah. She was like screaming, and I was sitting
11 right beside Al. She was like screaming in the phone.

12 Q Okay. You didn't go back up to the club with them?

13 A No, sir.

14 Q You heard them say something about jumping on Crip,
15 they jumped on Crip?

16 A Yeah, that's what she was saying.

17 Q Okay. Did you hear her say who jumped on Crip?

18 A Yes.

19 Q Just they jumped on Crip?

20 A Yes.

21 Q And you said 15 or 20 minutes later, Lenwood gets
22 back to the house, correct, after they left?

23 A Yeah. They were not gone long at all.

24 Q Could it have been shorter than 15 or 20 minutes?

25 A It may have been.

1 Q Okay. And he immediately said when they come in;
2 what was his demeanor like? Can you describe it for the
3 Court?

4 A He didn't even get in the house, because I went to
5 the front door. Once I heard him like, I guess, driving
6 in the yard real fast because we have gravels in the front
7 yard, so it was like real, real fast. So I went to the
8 front door and opened it and he couldn't even hardly put
9 the car in park. He was like, I was like, what's wrong
10 with you? Baby, Al done shot somebody. I was like, what?
11 He was like, Al done shot somebody. I was like, who? He
12 was like, I don't know.

13 Q And Al got out and came in the house?

14 A I didn't even see Al get out of the car. I saw
15 Thomas get out of the car and got in his car, and then
16 pulled off. Al came from the side of my house and came up
17 on the porch and walked past me and went in the house.

18 Q Okay. You say police officers showed up pretty
19 quickly after that?

20 A Instant.

21 Q How long, two minutes, five minutes?

22 A Five minutes.

23 Q I'm about done, Ms. Fuller. This goes without saying
24 I think, obviously, you weren't at the club when this
25 shooting happened, correct?

1 A No, sir.

2 Q You weren't there when any altercations or fights
3 occurred were you?

4 A No, sir.

5 Q Okay. All you witnessed was this tapping on the
6 hat--

7 A Yes, sir.

8 Q --by Brent towards Al?

9 A Yes, sir.

10 Q And then after that, Al's demeanor changed and he was
11 upset, correct?

12 A Yes, sir.

13 Q Ms. Fuller, did you ever see that night Al with a
14 gun?

15 A No, sir.

16 Q Okay. Never saw him pull a gun out or show it to
17 anybody?

18 A No, sir.

19 MR. STUMBO: No further questions.

20 THE COURT: Anything else?

21 MR. JONES: No, Your Honor.

22 THE COURT: All right. You can step down.

23 MR. BANNISTER: Your Honor, the defense would call
24 Lenwood Ramsey.

25 LENWOOD RAMSEY, being

1 first duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 By Mr. Bannister:

4 Q Mr. Ramsey, would you state your name for the record,
5 please?

6 A Lenwood Lenshaw Ramsey.

7 Q Mr. Ramsey, where do you live?

8 A [REDACTED] Ridge Road, Hodges.

9 Q And how far did you go in school?

10 A I graduated.

11 Q And do you work?

12 A Yes, sir.

13 Q Where do you work?

14 A CTS Construction.

15 Q And how long have you worked there?

16 A About three years.

17 Q All right. Mr. Ramsey, I want to take you to
18 November the 14th of 2013. Now, is that a date you're
19 familiar with?

20 A Yes, sir.

21 Q If you would, just kind of tell me how you ended up
22 initially, the first time, at the Cabstand?

23 A Well, we usually go up there and shoot pool.

24 Q And who is we?

25 A Me and Al and some of the other guys and my

1 girlfriend.

2 Q Okay. We're talking about Al Morgan?

3 A Yes, sir.

4 Q And girlfriend is Tonya Fuller?

5 A Yes, sir.

6 Q And did you do, did you head up there to play pool on
7 this particular occasion?

8 A Yes, sir.

9 Q And where did you leave from?

10 A I left from my house and came over there.

11 Q And who was with you?

12 A Me and Tonya Fuller.

13 Q And when you say came over there, you're going to the
14 Cabstand?

15 A Yes, sir.

16 Q Who met you over at the Cabstand?

17 A Al and Thomas Gilchrist.

18 Q All right. And he goes by the nickname, Bug?

19 A Bug.

20 Q And did they follow you over there in their car?

21 A No, we met up at the club.

22 Q What kind of car do you drive?

23 A I was driving a black Impala then.

24 Q All right. When you got in the club and you went
25 inside the club, do you remember roughly who was in the

1 club that you knew by name?

2 A Not really.

3 Q Okay. Were there some old guys in there, regulars?

4 A Yeah.

5 Q Okay. Are there two of them, at least?

6 A Yeah. One of them, Ernest McCauley, I knew he was in
7 there.

8 Q If I said Tony Thompson, would that be the other one?

9 A Yeah, he was up there, too.

10 Q Okay. At some point, did Clifton Robinson come in?

11 A Yes, sir.

12 Q And were y'all playing pool?

13 A Yeah, we were taking turns.

14 Q And so kind of tell me how things transpired from
15 that point forward?

16 A Well, we just were sitting there drinking a few beers
17 and stuff, taking turns shooting pool. That's when Brent
18 Williams came over and slapped Al on the hat.

19 Q Did you see that?

20 A Yeah, I was sitting at the table.

21 MR. STUMBO: Judge, may we approach?

22 THE COURT: Yes.

23 (Whereupon, a bench conference was held.)

24 Q Mr. Ramsey, so y'all were playing pool. Just kind of
25 take us from there as to what the events that transpired.

1 What happened next?

2 A That's when Brent came over there and slapped Al on
3 the hat.

4 Q Was Al sitting down when that happened?

5 A Yeah, we were sitting at the table.

6 Q And so you saw it?

7 A Yeah. I was sitting right in front of Al.

8 Q And did you hear Brent say anything to Al?

9 A Yeah.

10 Q What did he say?

11 A Grow some balls, MF.

12 Q Okay. Did he use the real MF word?

13 A Yeah. Yeah.

14 Q What was Al's response?

15 A Gone with that mess, man, I'm too grown for that. I
16 ain't got time to get in no trouble with you.

17 Q And then what happened next?

18 A Then, I left and went to the bathroom. Then, I was
19 talking to Ernest McCauley for a short second. Then, when
20 I went back there, they said they was ready to go.

21 Q All right. Who said they were ready to go?

22 A Al and my old lady said they were ready to go.

23 Q What was your understanding of why Al was ready to
24 go?

25 A Because the stuff between Brent and he just wanted to

- 1 leave, because he didn't want to get in no trouble. /
- 2 Q Now, had Brent come in by himself, Brent Williams?
- 3 A No.
- 4 Q Who did he come in with, if you know, to the
- 5 Cabstand?
- 6 A I know two of his sisters, and then because all of
- 7 them, they talked to me when they came in.
- 8 Q How about any other guys?
- 9 A It was so many had came in, I don't know all of them.
- 10 Q So was it a group of people that came in?
- 11 A It was a group of them that came in.
- 12 Q And they came in with Brent Williams?
- 13 A Yeah.
- 14 Q Was Jamaal Aiken in the group?
- 15 A I can't recall.
- 16 Q Was he there?
- 17 A Yeah, he was there.
- 18 Q Was there a guy who had a nickname, Ant Man? Do you
- 19 know anything about that?
- 20 A No, sir.
- 21 Q All right. Do you know any other of the, either by
- 22 nickname or otherwise, any other men that came in with
- 23 Brent Williams and Jamaal Aiken?
- 24 A No, sir.
- 25 Q Were there other men that came in with Brent Williams

1 and Jamaal Aiken?

2 A I can't recall.

3 Q So it's time to go?

4 A Yeah.

5 Q And that's coming from Al Morgan and your girlfriend?

6 A Yes, sir.

7 Q What did Mr. Gilchrist say? Was he okay with going,
8 too?

9 A Yeah.

10 Q So the four of y'all left?

11 A Yes, sir.

12 Q All right. And I may have asked you this, but
13 Clifton Robinson was there?

14 A He was at the club.

15 Q Do you remember him walking out with Mr. Morgan?

16 A With Al.

17 Q And then you went to where?

18 A To my house.

19 Q How long, well, did you stop by and get beer?

20 A Al and them.

21 Q I'm sorry. Did somebody stop to get beer?

22 A Al and them stopped and got some beer.

23 Q Then, everybody ended up back at your house?

24 A At my house.

25 Q And how long were you there before you left again?

1 A Probably about 15 or 20 minutes at the most.

2 Q Had anybody really had time to even open a beer at
3 that point?

4 A No.

5 Q Did you hear or see the phone call that came in to Al
6 Morgan?

7 A I heard him on the phone, but, you know, I wasn't
8 really paying no attention.

9 Q So what was your understanding about why it was
10 necessary to go back up to the Cabstand after you'd just
11 come from it?

12 A Because they had jumped on Crip and Shay.

13 Q And in your mind, who was the, they, that had jumped
14 on Crip and Shay?

15 A Well, I ain't know at first time this had come about.

16 Q That's fair enough. So how is it that you ended up
17 driving back and with Mr. Gilchrist and Mr. Morgan in your
18 car?

19 A Because I was the only one had a license.

20 Q You're the only one that had a license?

21 A Yeah.

22 Q Okay. Obviously, your girlfriend stayed?

23 A Yeah, she stayed at home.

24 Q All right. And you were driving, correct?

25 A Yes, sir.

1 Q And it was your car?

2 A Yes, sir.

3 Q And at that time that was the black Impala?

4 A Yes, sir.

5 Q And in the backseat was Al Morgan?

6 A Yes, sir.

7 Q And in the front seat was Thomas Gilchrist?

8 A Yes, sir.

9 Q Tell us how you pulled into the Cabstand?

10 A Right when I was pulling in, there was a white
11 automobile backing up, so I was stopped so that car could
12 back up. And by that time, I heard my door pop open and
13 when I turned, that's when I seen all this had happened.
14 The gunshot went off and I was trying to pay attention on
15 what was going around because that door, they opened the
16 door, I was trying to make sure wasn't nobody coming to my
17 door, too.

18 Q Did you see who opened the door?

19 A At first I couldn't see.

20 Q Who was standing at the door?

21 A Jamaal was standing at the door.

22 Q Did you recognize him?

23 A No.

24 Q Did you know who it was at that time?

25 A No.

- 1 Q So you said you were looking around to see if anybody
2 was coming at your door, is that correct?
- 3 A Yeah.
- 4 Q So is it fair to say your attention was not entirely
5 on what was going on back there the whole time?
- 6 A No, because it happened so quick.
- 7 Q Did you see Mr. Aiken walk across the parking lot?
- 8 A I don't remember.
- 9 Q Did anybody call to ask Clifton to come out and meet
10 y'all?
- 11 A Al had told him when we got there to come outside,
12 because we wasn't getting out to come in the club.
- 13 Q How far away was your car parked roughly from the
14 front door of the Cabstand?
- 15 A I would say about from here to Mr.--
- 16 Q Powers?
- 17 A Yes, sir.
- 18 Q So 30, 40 feet, would that sound fair?
- 19 A Yes, sir.
- 20 Q And the way the car was positioned, as I understand
21 it, the car was sideways to the Cabstand, is that correct?
- 22 A Yes, sir.
- 23 Q And that you would have been on the far side from the
24 front door of the Cabstand?
- 25 A Yes, sir.

1 Q So it's you, you look right, there's Thomas
2 Gilchrist, and then there is the parking lot, and there is
3 the front door. Have I got that correct?

4 A Yes, sir.

5 Q So after the door gets opened, what happened next?

6 A All I heard was the yelling in the car and the gun
7 just went off then.

8 Q Do you know who was doing the yelling?

9 A Jamaal.

10 Q And do you remember what he said?

11 A Not exactly.

12 Q All right. Were they nice words or were they angry
13 words?

14 A Angry words.

15 Q Did Al say anything, Morgan?

16 A No. No, sir.

17 Q What happened next?

18 A I just heard the gunshot went off.

19 Q Is there any question in your mind that the gunshot
20 went off inside the car?

21 A Yeah, because when, it seemed like, you know, how
22 when you opened a door, that whole light, it just light up
23 the car. That's how I am, that's how it was.

24 Q So did the gunshot light up the inside of the car?

25 A Yeah.

1 Q Was it your impression the gunshot went off inside
2 the car?

3 A Yeah.

4 Q What happened next?

5 A Al closed the door and say, man, let's go. Get out,
6 before they come. And I'm like, you know what just
7 happened? And I like, man, we going to have to go. So I
8 just left, because somebody had probably got shot up
9 there, too, so I just pulled off and I pulled into the
10 parking lot of Li'l Cricket. And I told Al, man, you can
11 just have the car. Man, I just want to get out of this
12 car, so I won't get in no trouble. He was like, man,
13 let's go. Let's drive on up the road. So we drove on up
14 and as we pulled in my yard and by that time when we got
15 out the car and everything.

16 Q What did you do when you got to your house?

17 A Went inside.

18 Q All right. What did Al do, did you see where he
19 went?

20 A He had went around to the side of the house.

21 Q Did you see what he was doing around the side of the
22 house?

23 A Sir?

24 Q Did you see what he was doing around the side of the
25 house?

1 A No, because I was in the front.

2 Q All right. Did you then go inside?

3 A Yes, sir.

4 Q And that's when you told Tonya that Al had shot
5 somebody?

6 A Yes, sir.

7 Q Did you ultimately have a chance to speak with law
8 enforcement? Did law enforcement take you downtown to
9 talk to you that night?

10 A Yeah, they came. Then, when they got there, they
11 handcuffed all of us and put them out, put us outside in
12 the car.

13 Q And did they take you to the police station?

14 A Yes, sir.

15 Q And when you went to the police station, did you give
16 a statement?

17 A Yes, sir.

18 Q Is the statement basically what you've said here
19 today?

20 A Yes, sir.

21 Q Anything you want to change about it?

22 A No, sir.

23 MR. BANNISTER: I don't have any further questions,
24 Your Honor.

25 CROSS-EXAMINATION

- 1 By Mr. Brown:
- 2 Q Good afternoon, Mr. Ramsey.
- 3 A Good afternoon.
- 4 Q Mr. Ramsey, how long have you known Al?
- 5 A I've known Al for quite a while now.
- 6 Q And did you know Jamaal Aiken?
- 7 A No, sir.
- 8 Q You didn't know Jamaal?
- 9 A No, sir.
- 10 Q Did you know his nickname?
- 11 A No, sir.
- 12 Q Now, you're saying that night, to kind of put it all
13 together real quick. You and Al, Tonya and Bug decided to
14 go to the Cabstand, shoot pool and have some drinks?
- 15 A Yes, sir.
- 16 Q And you got there at what time?
- 17 A Probably around 7:30 or 8:00 o'clock.
- 18 Q 7:30 or 8:00 o'clock?
- 19 A Yeah.
- 20 Q So how long does that put you at the club before you
21 leave the first time?
- 22 A I don't really know.
- 23 Q What time did you leave the club the first time?
- 24 A I don't know, remember exactly.
- 25 Q Would it be after 9:00 o'clock you think?

1 A It was somewhere along in there.

2 Q And you were only gone for what 15 or 20 minutes
3 before you came back to the club?

4 A Yes, sir.

5 Q Now, you just don't know when you left, right?

6 A No, not exactly.

7 Q You don't have a clue?

8 A Not exactly what time it was.

9 Q But you know what time you got there?

10 A Yeah.

11 Q It was between 7:30 and 8:00. And while you're there
12 at the club, y'all were just drinking beer. Are y'all
13 drinking anything else?

14 A I was drinking beer.

15 Q How many beers do you think you had that night?

16 A Maybe three or four. Something like that.

17 Q Now, how long were y'all there before that other
18 group got there with Brent?

19 A Probably about a hour or so if that long.

20 Q And you don't know if Jamaal got there with him or
21 not, he was just, he was there?

22 A Yeah.

23 Q Had you ever seen him before?

24 A No.

25 Q While you were there at the club, did Jamaal get into

1 it with Al any?

2 A No.

3 Q Did Jamaal get into it with anybody?

4 A Not when I was there.

5 Q And did you ever see Jamaal pull out a gun or
6 anything?

7 A No, not while I was there.

8 Q Did anybody pull out a gun while you're there?

9 A No.

10 Q Now, you gave a statement to law enforcement that
11 night, right?

12 A Yeah.

13 Q And where did that statement take place?

14 A In the police department.

15 Q And today you said that, where were you sitting when
16 Brent Williams came up, and you said you were at the table
17 with Tonya?

18 A We all sitting, yeah. Me and Tonya was sitting on
19 this side. And me and Bug is on this side and Tonya and
20 Al was on the other side. Because when Brent came up, he
21 came up and hugged me and dapped me and him and, that's
22 when he slapped Al on the hat.

23 Q What do you mean by dap?

24 A Shook hands.

25 Q And how well did you know Brent?

1 A I used to go with his mama back in the day.

2 Q Did you feel threatened by Brent in any ways?

3 A No.

4 Q And what did Brent do, you said he went up and tapped
5 Al on the bill of his baseball cap?

6 A Yeah, he slapped him on the top of the bill of the
7 cap.

8 Q And why do you think he did that?

9 A I don't know, picking I guess.

10 Q Had Brent been up there before at the Cabstand with
11 y'all?

12 A No.

13 Q And did Brent get up in Al's face and try to fight
14 him then?

15 A No, because he was on opposite sides of the table.

16 Q Brent just kind of tapped him on the hat and said
17 what's up, blankety-blank and then walked on, walked on to
18 the bathroom?

19 A He walked somewhere.

20 Q After that, did Al's demeanor change?

21 A He was like, he was kind of, about to Brent, but it
22 wasn't nothing.

23 Q Did he have a frown on his face or a mean look on his
24 face?

25 A Not necessarily.

1 Q You don't remember saying that to the police when you
2 were questioned that he had a mean look on his face?

3 A Well, quite frankly, if somebody hit you on the head,
4 you going to have a ugly look on your face some kind of
5 way.

6 Q Now, how long after the kind of brush-up with Brent,
7 did Al come forward to you and say he wanted to leave?

8 A It wasn't that long after that.

9 Q He said let's get out of here?

10 A Yeah.

11 Q I don't want to be here anymore? Did y'all leave
12 pretty close right after he asked to go?

13 A Yeah, we went on and left then.

14 Q And after you left, you don't really know what
15 happened at the club?

16 A No.

17 Q Okay. So I think we've gone over Tonya left with
18 you, Al left with Bug.

19 A Yeah.

20 Q Al and Bug get beer on the, at the Li'l Cricket on
21 the way home and get there about the same you do with
22 Tonya to your place, to your house?

23 A Yes, sir.

24 Q There is 15 or 20 minutes and Al gets a phone call?

25 A Yeah.

1 Q And then shortly thereafter you go back up there; you
2 drive him back up there?

3 A Yeah.

4 Q All right. Now, once you get back up to the
5 Cabstand, you come up, you come down the road from your
6 house and turn on Cokesbury Road, turn right onto East
7 Cambridge.

8 A East Cambridge.

9 Q You turn left at Seaboard?

10 A Then a left on Seaboard.

11 Q And then into that top driveway at the Cabstand.

12 A Yeah.

13 Q And you're in your black Impala?

14 A Yeah.

15 Q When you pull in, where is everybody standing? Were
16 there cars in the parking lot?

17 A Yeah.

18 Q And you said there was actually a white car backing
19 out, right?

20 A Yeah.

21 Q That was the reason why you stopped your car there?

22 A Yeah.

23 Q Were other cars stopped in front of the Cabstand?

24 A Yeah, some already there.

25 Q Let me show you Defense exhibit number 1.

1 THE COURT: He can come down and point like the
2 others have.

3 MR. BROWN: Yes, sir.

4 THE COURT: Walk over to the TV and point, ask him
5 questions and walk over and answer the questions the best
6 you can.

7 Q Mr. Ramsey, you agree that parking lot is not very
8 big, correct?

9 A No, sir.

10 Q Is that correct?

11 A Yeah.

12 Q A small parking lot. Is that the top driveway there
13 in that picture?

14 A Yes, sir.

15 Q So you pull into that driveway?

16 A Yes, sir.

17 Q And your front of your car, you pull in, your front
18 of your car is kind of pointing that way?

19 A Yes, sir.

20 Q So you being the driver, you're going to be the
21 farthest person away from the actual front door of that
22 Cabstand, right?

23 A Yes, sir.

24 Q And Bug's in the front passenger seat?

25 A Yes, sir.

1 Q And make sure you speak up. And Al is in the
2 backseat?

3 A Yes, sir.

4 Q Are there any windows down in the car?

5 A No.

6 Q Not that you, can you remember?

7 A There wasn't no windows down in my car.

8 Q Are you sure?

9 A Yeah.

10 Q How was Al sitting?

11 A Just sitting in the backseat like he usually sit.

12 Q Sitting up?

13 A Yeah.

14 Q Now, how long was it from the time you pulled into
15 that parking till the time the door got snatched open as
16 what you've said and the gunshot went off?

17 A Man, it happened so quick and like it was in seconds.

18 Q Seconds. You can take your seat. From the time you
19 pulled into that parking lot, how fast did it happen from
20 when you pulled into that parking lot till when you
21 remember hearing that door open up?

22 A It was like it happened in seconds. Just that quick.

23 Q And when the time you heard the door open up, that
24 back door, how fast did that gunshot go off?

25 A And like bam.

1 Q It was like bam-bam?

2 A Yeah.

3 Q It wasn't any eight seconds or anything like that?

4 A Something like that.

5 Q Yeah, eight seconds or is it like--

6 A -- probably about like two to three seconds.

7 Q Two to three seconds. But fast?

8 A Yeah.

9 Q The door opened; gunshot?

10 A Yeah.

11 THE COURT: All right. Don't put words in his mouth.

12 Ask the question and let him answer it and you're rapidly
13 firing those at him.

14 Q How fast did it happen?

15 A It happened pretty fast.

16 Q Pretty fast?

17 A Yeah.

18 Q And as before you knew it, how fast was it after the
19 door opened, the gunshot went off, and then Al asking you
20 to leave?

21 A It just all happened so, just right behind each other
22 so quick.

23 Q So it was rapid fire, would you characterize that?

24 A What you mean by that?

25 Q It was just, I mean, just right, one right after the

1 other?

2 A Yeah.

3 Q All right. After that happened, what happened to the
4 door?

5 A Al closed the door and just told me, let's go.

6 Q Do you see what happened, the person that got shot,
7 where he went?

8 A No.

9 Q And you were sitting in the front seat of that car,
10 did you see the person coming up to the car? Do you
11 remember seeing anybody coming up to the car?

12 A I can't recall.

13 Q Being in that parking lot in the front seat when you
14 pulled up there, were you in any kind of fear for your
15 safety?

16 A No. I thought we just going to pick him up and
17 leave.

18 Q Now, once all this happened and you're driving off,
19 you said you pulled into a Li'l Cricket parking lot?

20 A Yeah.

21 Q What happened? What'd you say to Al then?

22 A I told him he could just let me out and he can have
23 the car. I just wanted to get out. I don't want to be
24 involved in it.

25 Q And what'd Al say?

1 A He told me just drive on up the road, because he had
2 no license, so he wanted to get on up the road.

3 Q Why did you drive then?

4 A Want to go on home, because the police was coming
5 anyway.

6 Q Were you nervous that since Al had just shot somebody
7 back there that you might be, somebody might get shot,
8 too, if you don't listen to what he's saying?

9 A No. I ain't felt like nothing like that.

10 Q And I want to back up just a second. When that door
11 opened up, from what you're saying the door opened up and
12 the gunshot went off, did you see Al, Al where he was
13 sitting, how he was sitting?

14 A Leaned over in the backseat.

15 Q Was he leaned over or was he sitting up?

16 A He was kind of leaned over.

17 Q Like all the way down like parallel to the seat or
18 was he kind of just--

19 A -- kind of leaned over.

20 Q Just barely leaned over?

21 A Yeah.

22 Q Okay. Now, after you get to that Li'l Cricket, after
23 we've already gone through that and you get back to the
24 house, right?

25 A Yeah.

- 1 Q And everybody jumps out of the car?
- 2 A Yeah.
- 3 Q Where does Bug go?
- 4 A He got in his car and left.
- 5 Q Where do you go?
- 6 A In my house.
- 7 Q Where did Al go?
- 8 A He had went around the side of my house.
- 9 Q Was he gone for a few minutes outside your sight?
- 10 A Yeah.
- 11 Q You don't know why, what he did then, do you?
- 12 A No.
- 13 Q And then he came back in the back door?
- 14 A No, he came in the front door.
- 15 Q He came in the front door?
- 16 A Yeah.
- 17 Q Now, how many doors do you have on that house?
- 18 A Two.
- 19 Q Two, you have one back door and one front door?
- 20 A Yeah.
- 21 Q And you say he came in the front door?
- 22 A Yeah.
- 23 Q Do you remember telling Al on the way back to your
- 24 house that you shot that man for no reason?
- 25 A I don't recall that.

1 Q You don't recall that?

2 A No.

3 Q Could you have said that to law enforcement that

4 night?

5 A It been so long, I don't recall that.

6 Q How many shots did you hear?

7 A One.

8 Q One. And you didn't see anybody else with a gun that

9 night?

10 A No.

11 Q After y'all got back to the house, law enforcement

12 got there, you ultimately did give a statement that night?

13 A Yes, sir.

14 Q Do you remember which officer you talked to?

15 A No.

16 Q You talked to a law enforcement officer, though?

17 A Yeah.

18 Q Where did that take place?

19 A At the police department.

20 Q I want to touch on this briefly again. Do you

21 remember, again, if you can show me if you can, how was Al

22 seated in the back of that car when that gun went off?

23 Can you show me?

24 A Not exactly, because I'm trying to watch everything

25 going on around us.

1 Q Again, tell me in words what you saw or if you saw
2 him in that backseat, Al.

3 A He was sitting up in the backseat when we got there.

4 Q Sitting up?

5 A Yeah.

6 Q Okay. And from your, from what you saw at night, he
7 was still, he was sitting up when the gunshot went off?

8 A No.

9 Q How was he sitting?

10 A He was leaning over.

11 Q How far?

12 A I don't recall. I just, over in the car because all
13 that stuff happened so fast.

14 Q Okay.

15 MR. BROWN: No further questions.

16 THE COURT: Okay.

17 REDIRECT EXAMINATION

18 By Mr. Bannister:

19 Q All right. And just following up on the Solicitor's
20 question about him leaning over. Al was leaning towards
21 the driver's side backseat door, correct?

22 A Yeah.

23 Q All right. The Solicitor asked you a question about
24 whether or not you saw the individual that ran and
25 snatched the door open. Let me let you take a look at a

1 transcript of your interview just to refresh your
2 recollection, okay? If you will, just read, right here,
3 just read it to yourself and see if that helps you
4 remember what you told the detective initially.

5 A (Witness reads transcript.)

6 Q Does that help you remember?

7 A Yeah.

8 Q Okay. And so did you see a black dude running to
9 your car? At least is that what you, is that something
10 you told the detective?

11 A Yeah.

12 Q And that was the same dude that snatched the car door
13 open?

14 A Yeah.

15 Q Okay. And so instead of talking about how long all
16 this transpired, let me just run through the sequence of
17 events and see if I've got this right. So you saw the
18 dude running towards the car and snatch the door open
19 first?

20 A Yeah.

21 Q Then, as I understand it, there were some angry
22 words, although you don't remember what was said exactly
23 by the dude who snatched the door open, is that right?

24 A Yeah.

25 Q Then, there was a shot inside the car?

1 A Yeah.

2 Q And that was when you saw Al leaning over to the side
3 towards the opposite?

4 A Yeah.

5 Q Okay. Then, the door shut. The back door shut?

6 A Yeah.

7 Q And then Al said let's go or words to that effect?

8 A Yeah.

9 Q Have I got that sequence correct?

10 A Yes, sir.

11 Q And whatever amount of time it took for all that to
12 happen is how much time it took?

13 A Yeah.

14 Q Okay. Thank you. I don't have any further
15 questions.

16 THE COURT: You can step down. All right. Let's
17 take a couple of minutes and y'all tell me how much more
18 y'all got, y'all want to try to get done today?

19 MR. JONES: Your Honor, I've got one fairly brief
20 witness. We'd like to get him up this afternoon. He's
21 got two jobs he's working, Demond Brown would be next.
22 And then we were going to introduce the 911 call which is
23 approximately nine or ten minutes. But we don't have to
24 listen to it, we just want to put it in at the end of
25 case.

1 THE COURT: Okay.

2 MR. JONES: I mean, at the end of the case today and
3 that's it.

4 THE COURT: Y'all trying to get to the end of the
5 case today?

6 MR. JONES: No, the end of our case that we're going,
7 the end of whatever portion of our case we're going to put
8 up today.

9 THE COURT: Okay.

10 MR. JONES: That's what I meant to say.

11 THE COURT: Get Mr. Brown here. That way when I come
12 back we don't have to send for him, but you know he is
13 next. He can sit in here and we can be ready to go.

14 (Whereupon, a short break was taken.)

15 THE COURT: All right.

16 MR. JONES: Your Honor, Demond Brown.

17 DEMOND BROWN, being
18 first duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 By Mr. Jones:

21 Q Yes, sir. Please state your name for the record.

22 A Demond Brown.

23 Q Demond, are you from Greenwood?

24 A Yes, sir.

25 Q Did you go to school here?

- 1 A Yes, sir.
- 2 Q How far did you go in school?
- 3 A I graduated.
- 4 Q Okay. Where are you currently working?
- 5 A Self Regional Healthcare in Wesley Commons.
- 6 Q What do you do for Self Regional Healthcare?
- 7 A I'm in the Food and Nutrition Department.
- 8 Q And what do you do at Wesley Commons?
- 9 A Food and nutrition.
- 10 Q You do have to go into work this afternoon, tonight?
- 11 A Yes, sir.
- 12 Q Demond, I want to bring your attention to November
- 13 the 14th of 2014, a little over two years ago at the
- 14 Cabstand nightclub around 9:30-10:00 o'clock at night.
- 15 Were you there?
- 16 A Yes, sir.
- 17 Q Who were you there with?
- 18 A I had a friend I was with. His name is Tony.
- 19 Q Tony, who?
- 20 A Frazier.
- 21 Q Frazier?
- 22 A Yes.
- 23 Q Are y'all still friends?
- 24 A Yes, sir.
- 25 Q And y'all went there together?

1 A Yes, sir.

2 Q Do you remember about what time you got there?

3 A Not right off.

4 Q Okay. What were you doing there?

5 A Just to have a good time.

6 Q Do you think that you were there as late as

7 9:30-10:00 o'clock?

8 A And maybe so. Yeah, I think so.

9 Q Who was there that you saw and knew?

10 A I saw Shay.

11 Q Shay, who?

12 A Shay Simon.

13 Q Okay. Who else?

14 A And I remember seeing Al.

15 Q Al?

16 A Morgan.

17 Q Who else?

18 A Brent Williams.

19 Q Who else?

20 A That's about it.

21 Q Who are you closer to as far as friendship is

22 concerned, Shay Simon or Al Morgan?

23 A Shay Simon.

24 Q Do you know Al that well at all?

25 A I just know him.

1 Q So y'all aren't friends?

2 A I mean, I just know of him.

3 Q Okay. What about you and Shay?

4 A I know her more, because we done been around each
5 other.

6 Q Y'all are friends?

7 A Yeah.

8 Q Right?

9 A Yes, sir.

10 Q You know Courtney Lockhart?

11 A I know of her.

12 Q Okay. But you're closer to Shay than Courtney?

13 A Yes, sir.

14 Q What about Drina Morgan, do you know her?

15 A No, sir. I don't, I know her by face.

16 Q During the course of your being in there on November
17 the 14th, 2013, at any point in time during the evening,
18 did somebody get in a physical altercation with you?

19 A Yes, sir.

20 Q Who is that?

21 A Brent Williams.

22 Q And what happened when he got in a physical
23 altercation with you?

24 A We both fell to the ground and after that, there was
25 just a crowd of people around and I was just covering my

1 head.

2 Q Where was that, was it inside the Cabstand club?

3 A It was in the inside; yes, sir.

4 Q And do you remember where from the standpoint of the
5 club, were you near the pool tables, near the piccolo,
6 near the bar; do you know?

7 A The piccolo and one of the tables.

8 Q One of the tables?

9 A Yes.

10 Q Do you remember who you were standing next to when he
11 assaulted you, Brent Williams?

12 A I really don't remember.

13 Q Okay. And you went to the ground on the floor, both
14 of you?

15 A Yeah.

16 Q And people are all around and you remember covering
17 up?

18 A Yes, sir.

19 Q All right. And do you remember during that
20 altercation your friend Tony--

21 A Yes, sir.

22 Q --trying to pull you out from underneath everybody by
23 your leg?

24 A Yes, sir.

25 Q So he was trying to assist you?

1 A Yes, sir.

2 Q Your friend?

3 A Yes, sir.

4 Q All right. At some point in time did the fight end?

5 A Yes, sir.

6 Q What happened when the fight ended?

7 A Well, after me and Brent got into it, they put him
8 out and some other people, but I don't remember who it
9 was.

10 Q They put Brent out and some other people, but you
11 don't remember who the other people were?

12 A No, sir.

13 Q All right. And you stayed on the inside?

14 A Yes, sir.

15 Q After they put them out, what happened next?

16 A I really don't know how long it was, but we heard the
17 shot.

18 Q Who was it that put them out?

19 A I don't know.

20 Q All right. When you heard the shot what did you do,
21 what did people on the inside do?

22 A And they turned the music down. They just told
23 everyone to just calm down and just wait around and we'll
24 wait and see what was going on outside.

25 Q At some point in time did the police arrive?

1 A Yes, sir.

2 Q Were you there when they arrived?

3 A Yes, sir.

4 Q Did anybody approach you about giving a statement
5 with regard to what had happened on the inside or the
6 outside?

7 A No, sir.

8 Q Did anybody from the police department approach you
9 about anything?

10 A No, sir.

11 Q If they had would you have talked to them about what
12 you knew?

13 A Yes, sir.

14 Q Thank you, Demond. Answer any questions the
15 Solicitor has for you.

16 CROSS-EXAMINATION

17 By Mr. Stumbo:

18 Q How you doing, Demond. I'm David Stumbo. I don't
19 believe we've met before today. So you've never talked to
20 me about this case at all, have you?

21 A No, sir.

22 Q Have you ever talked to anybody in my office about
23 this case? Anybody in law enforcement?

24 A No, sir.

25 Q When did you, did you find out at any point someone

1 had been shot outside?

2 A I heard about it the next day.

3 Q Okay. The next day. At that point, did you feel
4 like you had information that would be helpful in the
5 case?

6 A No, sir.

7 Q You know Jamaal Aiken?

8 A No, sir. Just Smooth.

9 Q Smooth?

10 A Knew of him, but I didn't know him.

11 Q Okay. You knew of Smooth?

12 A Yeah.

13 Q Smooth ever threaten you that night, ever hit you
14 that night?

15 A That was something I don't know, like when I was on
16 the ground, I don't know if he was part of them jumping on
17 me or whatever, that he kicked or whatever, but I don't
18 think so.

19 Q As far as you knew, Brent's the only one that you
20 were fighting with at that point, right?

21 A Yes, sir.

22 Q But there were people surrounding the fight?

23 A Yes, sir.

24 Q Is that, do I get that picture right, you and Brent
25 on the ground?

- 1 A Yes, sir.
- 2 Q People surrounding y'all?
- 3 A Yes, sir.
- 4 Q And your friend Tony ends up pulling you out at some
5 point?
- 6 A Yes, sir.
- 7 Q Okay. Jamaal Aiken, was he in that crowd of people
8 surrounding you to your recollection?
- 9 A Yeah.
- 10 Q At this point, was Al still up there?
- 11 A I don't remember seeing him.
- 12 Q Okay. Was there anybody else involved with that
13 fight when you, when Brent attacked you?
- 14 A No, sir.
- 15 Q Maybe you can clarify this as well. Why did this
16 fight with Brent start again?
- 17 A I don't know. You know, he's, you know, I really
18 don't.
- 19 Q Did you exchange any words with him before y'all
20 fought?
- 21 A I don't remember.
- 22 Q He just came up and hit you?
- 23 A I was just, I must have been talking to someone, but
24 I don't remember. But I, the next thing I know, I'm just
25 getting it.

1 Q He just suckered-punched you?

2 A Yes, sir.

3 Q Okay. You never said anything to him; he never said
4 anything to you?

5 A No, sir.

6 Q And you were clear, you were definitely inside the
7 club when the shot went off?

8 A Yes, sir.

9 Q You ever see anybody with a gun that night, Demond?

10 A No, sir.

11 Q Anybody threaten you at all and say they had a gun?

12 A No, sir.

13 Q Would it be fair to say this was kind of a fist
14 fight?

15 A Yes.

16 Q Guns never came out, never were shown?

17 A I didn't see.

18 Q Just one last question. Who did you leave with that
19 not?

20 A Tony.

21 Q Okay. Did y'all leave out the front door or the back
22 door?

23 A Out the back door.

24 Q Who was driving?

25 A Tony.

1 Q Was law enforcement there when y'all left, you saw
2 the blue lights?

3 A Yes, sir.

4 MR. STUMBO: No further questions, Your Honor.

5 THE COURT: Anything else?

6 MR. JONES: No, Your Honor.

7 THE COURT: All right. You're free to go to work.

8 All right. Go.

9 MR. JONES: Judge, again, we want to stipulate that
10 the foundation for the 911, we'd like to put into evidence
11 as a defense exhibit. There were approximately four calls
12 that I received on a CD from dispatch that came in from
13 the Cabstand, and we would like the Court to be able to
14 listen to them at some point in time. We can do it this
15 afternoon, because we're pretty close to being at a
16 convenient time to break depending on what the Court wants
17 to do. There are a couple of more witnesses.

18 THE COURT: All right. And, normally, when I hear
19 those CDs, I like to listen to them in-chambers because I
20 can hear better. And it's easier to turn the volume up
21 leaning down when I don't have 25 people looking at me
22 going, wonder what he's hearing.

23 MR. JONES: Well, I have a transcript of it prepared
24 as well, and we can provide that to the Court.

25 THE COURT: All right.

1 MR. JONES: Of all four of them.

2 MR. STUMBO: If we can get a copy of them.

3 THE COURT: Okay. Let's accept it as defense
4 exhibit, whatever the next number is. I think it's six.

5 REPORTER: It'd be number five.

6 THE COURT: Number five without objection?

7 MR. STUMBO: Without objection.

8 THE COURT: And then the transcript, y'all get a copy
9 of it this afternoon?

10 MR. JONES: Yes, sir.

11 MR. STUMBO: And, Judge, I know you mentioned you
12 want to listen to some of these in chambers. We would
13 intend to offer when we give our response, but it may be
14 more expeditious to handle it now if you want to, a
15 housekeeping matter. Lenwood Ramsey and Thomas Gilchrist,
16 the Bug, who was the first witness and then one of the
17 last witness has gave audio statements to law enforcement,
18 some of which are inconsistent with what they've testified
19 here to today on questions we've asked. We intend to
20 offer those, introduce the foundation of those as prior
21 inconsistent statements which I think would be admissible
22 under the rules through the officers that took them. I
23 don't know if Mr. Bannister or Mr. Jones are going to
24 object to the foundation of those statements or we can go
25 ahead and stipulate the foundation and put them in now. I

1 just wanted to maybe flush that issue out. That way if
2 you're going to listen to stuff in chambers, you know,
3 obviously, this is a Castle Doctrine and we're not in
4 front a jury. The more you can hear in chambers as part
5 of the file in this case probably the better off we are.

6 THE COURT: You mentioned y'all had the oral
7 statements given, the interviews. You have any issue with
8 those?

9 MR. BANNISTER: Judge, the position I would take,
10 Judge, is that we would object to just wholesale entering
11 the statements. A prior inconsistent statement requires
12 that the witness be on the stand and being given the
13 opportunity to deny having made the statement. They have
14 to be informed of when they gave a statement, who they
15 gave it to, then you can bring in whoever it is to offer
16 the prior inconsistent statement. So if that's the basis,
17 then I haven't heard anybody say I didn't say that to law
18 enforcement. I mean, maybe Mr. Ramsey said I don't
19 remember making the comment about whatever it was we were
20 talking about. But just to go give you all of the
21 statements that were recorded and say here you go, I don't
22 think that's proper.

23 THE COURT: Okay.

24 MR. STUMBO: Judge, there are statements that he
25 denied giving the law enforcement that are on the

1 recording that I think are prior inconsistent statements
2 that he denied with Mr. Brown. Particular, Mr. Ramsey, he
3 specifically asked him, you don't remember telling law
4 enforcement this. And he said, no, I don't remember. And
5 I do think that would be grounds to put it in under the
6 rules as a prior inconsistent statement as being
7 non-hearsay.

8 THE COURT: Okay. Well, we're not there yet so.

9 MR. STUMBO: So, I mean, yeah, I mean certainly, like
10 I said, we can put them up in our case, Judge. That's
11 fine. I just, since you're going to go ahead and be
12 listening to audio in chambers, which I don't have a
13 problem with.

14 THE COURT: All right.

15 MR. STUMBO: We can put it in and play it in court if
16 you need us to.

17 THE COURT: We'll do that when it comes up. I mean,
18 I don't want to get things out of order. So if y'all
19 intend to do it, y'all do it then. I'll listen to that
20 first thing in the morning before we start back and that's
21 defendant's 5 without objection. And the transcript,
22 y'all are going to provide a copy to me.

23 (Whereupon, Defendant's Exhibit 5 was admitted into
24 evidence.)

25 MR. STUMBO: We don't object to that, Judge., And

1 I'll be glad to make this official as we can make it and
2 let you listen to that in chambers.

3 THE COURT: Okay. What time you want to start in the
4 morning?

5 MR. BANNISTER: Your Honor, and just for me getting
6 down the road, if I could have at least till 9:30 and I, I
7 can get my kids to school.

8 THE COURT: 9:30 helps me.

9 MR. STUMBO: That's fine, Judge. We'll be ready.

10 THE COURT: Okay. All right.

11 MR. STUMBO: And am I hearing that y'all have maybe
12 two witnesses?

13 MR. JONES: Yeah, if you going to have Futch here,
14 you probably need to have him here by 11:30 or 12:00.

15 THE COURT: Okay. We'll see y'all and be ready to
16 roll at 9:30.

17 (Whereupon, the trial will resume the next morning at
18 9:30.)

19 THE COURT: I caught wind yesterday afternoon late
20 through my Court Reporter, the families, and I want to put
21 this on the record but I don't want to announce this, some
22 of the families had some words outside, out in the parking
23 lot. Joy heard yesterday afternoon, she called me about
24 it and said what do you want to do. What do y'all want to
25 do.

1 MR. JONES: Let me say this. I have instructed my
2 family that if they feel like they are being intimidated
3 by anybody associated with Jamaal Aiken's family, his
4 father, Greg Aiken, Brent Williams, any of the women
5 involved in this to let me know what they did and if they
6 are concerned about leaving this courtroom to go back to
7 my office and let Mr. Powers know and we will escort and
8 walk with them.

9 MR. STUMBO: We can get the deputies to help with
10 that too. Listen, if there is any intimidation I want to
11 hear about it too.

12 THE COURT: There is no question that the witnesses
13 that have testified have not been huge volunteers. Nobody
14 wanted to get involved in this thing on either side.

15 MR. JONES: I didn't see anything combative but when
16 I left there was a group of defense people because the
17 girl, Shay Simon, said that is them. Well, ahead of me is
18 Al, his brother, and another family member. And as they
19 walked by, we didn't say anything to them but they said
20 something before I arrived and they started laughing and
21 pointing and talking in a kind of, not in an aggressive
22 fashion but an unnecessarily picking. That is what she
23 said, they are picking again.

24 THE COURT: The emotions are going to run high in
25 this thing, somebody lost their life over, apparently a

1 tap on the hat is what initiated a cross look and one
2 thing to led to another and then we have a guy dead on the
3 ground. It is ashamed.

4 MR. BROWN: I told them, I don't know who all is
5 involved, I said, if you see somebody from the other side
6 and you don't get along with just go the other way or wait
7 and let them clear out and then you walk.

8 MR. JONES: Let me mention one thing that my client's
9 brother told us midday or right after lunch and he got
10 upset about it. And I said, look, don't worry about that.
11 Somebody in a gray charger was taking photographs as they
12 were coming and going from lunch. Didn't know who it was,
13 got upset about it. Bannister said, look, that may work
14 to our advantage, it is not anything confrontational. But
15 it may be something we can use later.

16 THE COURT: Okay. Well, let's just continue to
17 encourage both sides to walk the other way and leave it at
18 that and if something else happens and let's talk again
19 and I will make an announcement on the bench, I am going
20 to discourage any communication.

21 MR. JONES: Let me mention, a few of our witnesses
22 are back here and the juvenile court is going on, the
23 child support court is going on. And they got a lot of
24 people in the room that we had our witnesses.

25 THE COURT: Is county council chambers available.

1 Let's do that, get them in there and that will take care
2 of that.

3 (Whereupon, a short break was taken.)

4 THE COURT: All right, Mr. Jones.

5 MR. JONES: We call Victoria Meek.

6 DIRECT EXAMINATION

7 By Mr. Jones:

8 Q Please state your name for the record.

9 A Victoria Meek.

10 Q And where are you employed?

11 A Accurate Diagnostics.

12 Q And your location with Accurate Diagnostics is where?

13 A In Anderson, South Carolina.

14 Q And what is your, what are your duties at Accurate
15 Diagnostics?

16 A Office manager, examiner, custodian of the records.

17 Q Examiner of what?

18 A We examine, you know, we collect drug and DNA
19 samples, alcohol samples.

20 Q And perform examinations and report back analysis on
21 it?

22 A Yes, sir.

23 Q I want to hand you a document and ask you if you
24 recognize this?

25 A Yes, sir.

1 Q What is it?

2 A That is an order of the Court to deliver evidence, to
3 offer evidence for testing.

4 Q Just read the body of the order, please, briefly.

5 And you brought it with you today, didn't you, the order?

6 A Yes, sir.

7 Q And you stapled that card to the top of it?

8 A I did not.

9 Q Okay. Go ahead.

10 A Number one is, Thou shall state the, that the State
11 shall produce and make available to the defense for
12 examination and testing the urine sample of the victim,
13 Jamaal Aiken, taken at the hospital. That the
14 aforementioned testing and examination shall take place
15 between the date of this order and January 29, 2016. That
16 the Greenwood Police Department, Greenwood City Police
17 Department evidence technician maintain custody of the
18 urine sample delivered to Accurate Diagnostics located at
19 125 Capitol Street in Greenwood, South Carolina.

20 Q All right. But it was brought to you, was it not?

21 A It was delivered to Greenwood to the owner of the
22 company who delivered it to me for processing.

23 Q And whose card is that attached to the order?

24 A That is Kenya D. Griffin, Sergeant of Crime Scene
25 Evidence.

1 Q And who signed the order; can you read the Judge's
2 signature there.

3 A Eugene C. Griffith, Jr.

4 Q All right. Now, did you receive a urine sample from
5 the Greenwood Police Department?

6 A Yes, sir.

7 Q And would you explain to the Court, if you can, what
8 condition it was when you received, what condition it was
9 in when you received it?

10 A Yes, sir. I noticed that the bag was sealed and
11 there was no individual seal on top of the two tubes,
12 either of the two tubes.

13 Q All right. Would you show, did you bring those with
14 you today?

15 A Yes, sir; I did.

16 Q Would you just show that for the Court's review how
17 you received it? Did you receive it in that bag?

18 A Yes, sir.

19 Q All right. Was that bag open?

20 A Yes, sir.

21 Q All right. And then take out of that bag what was in
22 it that you received.

23 A There are two separated tubes with urine samples.

24 Q All right. Now, what was, what intention did you
25 have with regard to an examination of what you had

1 received? Initially, what was your intention to have that
2 examination conducted?

3 A To send it to Clinical Records Laboratory so they
4 could perform a test, and then a confirmatory test.

5 Q Where is that?

6 A I believe that's in Kansas. Yes. Lexington, Kansas.

7 Q All right. And did you consult with those folks
8 there?

9 A I did.

10 Q And would they perform the analysis that you wanted
11 them to perform?

12 A Initially, they thought that they would be able to
13 but after I saw that the sample was not sealed and we were
14 under the impression it wasn't kept frozen and the fact
15 that the person was deceased and unable to consent and
16 there was no chain of custody, they decided not to accept
17 the sample.

18 Q But and you relayed that to me?

19 A I did, sir.

20 Q And you presented me with another option and that was
21 that you perform a test there in Anderson to see if, in
22 fact, it contained any substances that would show up on
23 your test?

24 A Yes, sir.

25 Q And tell the Judge what type of test that I agreed

1 for you to perform?

2 A We did an instant screen urine drug screen.

3 Q Did you conduct that test?

4 A Yes, sir. I did it myself.

5 Q And do you have the results of that test with you?

6 A Yes, sir.

7 Q And what was the result?

8 A It was negative for everything except for THC or
9 marijuana.

10 Q All right. And do you actually have the panel that
11 depicted how you would determine that it showed positive
12 for THC?

13 A Yes, sir. I did bring that with me.

14 Q Would you allow the Court, the Judge, to look at it
15 and show him which panel indicates THC and why you read it
16 as indicated THC?

17 A Yes, sir. It was dipped in urine, so I wouldn't
18 touch it without gloves. But it says here that it's
19 negative. There's two lines positive. If there's one
20 line, you could clearly see the one that's stated THC.
21 That second one there just has the one line. And I did
22 bring the pouch it came in that has the lot expiration on
23 it.

24 MR. JONES: If you would answer any questions the
25 Solicitor might have, well, before, we'd offer that packet

1 as a defense exhibit at this point, please. The test.

2 MR. STUMBO: The urine or just the results?

3 MR. JONES: The test.

4 THE COURT: Can we accept just the written report?

5 MR. JONES: Yes, sir.

6 MR. STUMBO: I don't have any problems with letting
7 the report in.

8 MR. JONES: All right.. That's fine.

9 MR. STUMBO: But I would like to ask some questions.

10 MR. JONES: Sure. All right. The written report is
11 in.

12 MR. STUMBO: Yeah. No objection.

13 THE COURT: It'll be six?

14 REPORTER: Yes, sir.

15 (Whereupon, Defendant's Exhibit 6 was admitted into
16 evidence.)

17 CROSS-EXAMINATION

18 By Mr. Stumbo:

19 Q Good morning, Ms. Meek.

20 A Good morning.

21 Q I'm David Stumbo. I don't believe we've met before,
22 but thank you for being here this morning. Just looking
23 at the report assuming your location of Accurate
24 Diagnostics is much like the one in Greenwood; y'all do
25 drug tests quite regularly? That's primarily what you do,

1 correct?

2 A Yes, sir. Or custom DNA.

3 Q And when you're doing the 10-panel screening, if you
4 have a result that is positive for marijuana or THC, is
5 there any way to tell whether that's active THC or the THC
6 metabolite which is inactive?

7 A That would only be possible with a lab comfort mist,
8 not with an instant screen.

9 Q So you can't do that with a 10-panel test?

10 A Not on an instant test, no.

11 Q And based on your training and experience doing drug
12 testing, how long does THC generally stay active in a
13 person after they ingest it or consume marijuana?

14 A On average, it's one to three days for most
15 substances. In a urine sample, THC, if there's heavy
16 constant usage, can remain for up to 30 days.

17 Q Okay. But that would be the inactive form, right?
18 I'm trying to distinguish between inactive THC and active?

19 A Well, the metabolite can be active up, you know, can
20 be found up to 30 days.

21 Q Right. You can find the metabolite for--

22 A --just having constant usage.

23 Q Right.

24 A Correct.

25 Q So the metabolite could show up for up to 30 days

1 after a person smokes a joint?

2 A If it's heavy, constant usage.

3 Q Okay.

4 A If not and that would be incorrect, sir, if it was
5 just one joint.

6 Q Okay. But if they smoke a joint, it could show up a
7 week later, you could see THC?

8 A About one to three days.

9 Q Okay. So based on your findings here, there is no
10 way to know when Jamaal Aiken consumed marijuana?

11 A No.

12 Q Or how recently he had consumed it?

13 A No, sir.

14 Q Before the urine was taken. Okay. And you say the
15 Kansas lab that you sent this to wouldn't even test it,
16 because of the, there was a lack of the chain of custody
17 and they didn't believe it was reliable?

18 A I never sent it, that's correct. I called them and
19 spoke to the lab director because of the sensitivity of
20 the situation in the case.

21 Q Okay. So you don't know for sure whether this was
22 even Jamaal Aiken's urine just based on the information
23 that was given to you?

24 A Correct. Yeah, based on the fact that the evidence
25 bag was opened.

1 Q Normally, if you were to do a drug test it's you know
2 who the person is, they show you their driver's license
3 and they come in, you could confirm the identity of the
4 urine which you're testing?

5 A Yes, sir.

6 MR. STUMBO: No further questions.

7 REDIRECT EXAMINATION

8 By Mr. Jones:

9 Q And, again, that urine, whose ever it was, was
10 brought to you by the Greenwood City Police Department in
11 an effort to conduct an examination that had not been
12 conducted of it two years and three months after Mr. Aiken
13 is deceased, correct?

14 A Yes.

15 Q Thank you.

16 THE COURT: All right. You can step down.

17 MR. BANNISTER: Your Honor, I think at this point I
18 think what we would intend to introduce was a picture of
19 the gun that was found on the deceased, Jamaal Aiken, in
20 lieu of the gun itself. So along with the picture, there
21 will be a stipulation, one, that the gun was found on the
22 deceased and, two, that the gun was stolen. We know that
23 from the NCIC and, I guess, we just need to see if we need
24 to call the officer or whether we can have an agreement to
25 that.

1 MR. STUMBO: I mean, we would agree, Judge, I think
2 to stipulate this is the gun that was taken into evidence
3 by Officer Brandon White from the Greenwood Police
4 Department and if we want to elaborate on the stipulation.
5 Judge, this was found in the clothing of and, there again,
6 Mr. Bannister and Mr. Jones can correct me if I misstate
7 anything, but according to the facts and the reports,
8 Officer White's response to the ER, the clothes had been
9 removed from Mr. Aiken and he was taken immediately to the
10 operating room, because it was obviously a critical
11 situation and he actually passed away in the operating
12 room. The clothes were set aside by the medical staff,
13 and then they were handed over to Officer White. In the
14 pants pocket of the clothes was this .380 pistol, so and I
15 believe that would be the accurate stipulation here that
16 it was found in the clothing by Officer White. He
17 immediately cleared that weapon and put it into evidence
18 and transported it back to the Police Department and put
19 it into evidence.

20 THE COURT: Defendant's Exhibit 7 is a photograph of
21 that .380?

22 MR. BANNISTER: Correct, Your Honor.

23 MR. STUMBO: Correct.

24 THE COURT: And that will be admitted without
25 objection?

1 MR. STUMBO: No objection.

2 THE COURT: Oh, so as I understand the stipulation,
3 it was found in the clothing. This .380 was found in the
4 pocket of the pants which was clothing worn by the
5 deceased and Brandon White, the police detective or
6 investigator retrieved it. The clothes had already been
7 removed from the decedent because he was receiving a
8 medical procedure. So it was not found while he was
9 dressed. It was clothes removed.

10 MR. STUMBO: The medical staff indicated to Officer
11 White, those are the clothes we took off of him and he's
12 back in the operating room.

13 THE COURT: Right.

14 MR. STUMBO: He immediately secured the weapon when
15 he felt it in the pants pocket.

16 THE COURT: I understand your stipulation.

17 MR. BANNISTER: Are we also going to stipulate that
18 it's stolen?

19 MR. STUMBO: Yeah, we can stipulate that, Judge. For
20 purposes of, you know, this hearing, I think we can do
21 that. Obviously, if we get past this hearing and we try
22 this case, we will be calling Officer White in our
23 case-in-chief.

24 THE COURT: Yeah.

25 (Whereupon, Defendant's Exhibit Number 7 was marked

1 for identification.)

2 MR. BANNISTER: And then there was also a little more
3 than 28 grams of marijuana found in the same clothes. We
4 have a picture of that if we could just, the same
5 stipulation as related to how it was retrieved and placed
6 into evidence.

7 MR. STUMBO: And, Judge, we don't have a problem with
8 that neither. We can stipulate to that. The only
9 difference is I believe Officer White noted that he felt
10 the gun and was able to clear that and secure it at the
11 hospital, and then transported it. He didn't find the
12 marijuana in the pants until he actually got it back to
13 the evidence room and started inventorying.

14 THE COURT: The same result came from the same pair
15 of pants?

16 MR. STUMBO: Yes, sir.

17 THE COURT: Okay. I understand that.

18 MR. STUMBO: For purposes of this hearing, we would
19 stipulate to that.

20 THE COURT: And so the photograph would be admitted
21 as defense 8, by agreement?

22 MR. BANNISTER: Yes, Your Honor.

23 THE COURT: Okay.

24 REPORTER: This.

25 (Whereupon, Defendant's Exhibit number 8 was admitted

1 (into evidence.)

2 MR. BANNISTER: Your Honor, then the next witness we
3 would call would be Brent Williams.

4 MR. STUMBO: While we're bringing Mr. Williams
5 around, Judge. Officer White has actually been here for
6 two days now. I kind of wish we had, I don't know, are
7 you planning to call him?

8 MR. BANNISTER: I do not believe we are going to call
9 Officer White.

10 MR. STUMBO: And so now that we've stipulated.

11 MR. BANNISTER: Now, that we've stipulated yes,
12 correct.

13 MR. STUMBO: And so we would like to release him at
14 this time if we could, and we'll let him know he can go.
15 He's back in the back.

16 THE COURT: Let him know it was y'all's fault and not
17 mine. I mean, y'all, I mean, the lawyers. I tried to
18 release him yesterday. Y'all just didn't know it.

19 BRENT WILLIAMS, being
20 first duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 By Mr. Bannister:

23 Q Mr. Williams, can you state your name for the record,
24 please.

25 A Brent L. Williams.

1 Q Okay. And is this the first time you and I have had
2 a chance to speak together?

3 A Yes.

4 Q All right. My name is Mr. Bannister in case you need
5 to ask me something. Mr. Williams, on the night of
6 November 13, 2014, do you remember that night?

7 A Yes.

8 Q Okay. And that's the night that you ended up going
9 to the hospital with Jamaal Aiken, correct?

10 A Yes.

11 Q And at the hospital, is it correct that you were
12 interviewed by one of the detectives that was working on
13 the case?

14 A Yes.

15 Q And that interview was recorded, was it not?

16 A Yes.

17 Q He asked you questions, you gave him answers and that
18 was put on tape?

19 A Yes.

20 Q Okay. So because we're about two years since then,
21 what we've done is we've had that interview transcribed.
22 I'm going to be referring you to some of the things that
23 you said in that interview to refresh your recollection.
24 I'll be doing that by the page and the line number.
25 That's what you have up there with you. So if I ask you

1 to take a look at a particular page and line number,
2 you'll know what I'm talking about, and then I'm going to
3 ask you some questions about it, is that fair?

4 A Okay.

5 Q Okay. All right. So as I understand it on November
6 13, 2014, you had been with Jamaal Aiken, basically, since
7 he got off of work?

8 A Yes.

9 Q And so during that time, were you with him when he
10 had some alcohol that day?

11 A Later on when we went to the bar and we started
12 drinking.

13 Q At the Cabstand?

14 A No. We went to a party for, a house party for like
15 30 minutes and went to the Cabstand.

16 Q All right. So how long, and you said you were at the
17 house party for about 30 minutes. Had there been any
18 drinking before that?

19 A No.

20 Q Had y'all smoked any marijuana?

21 A No.

22 Q Did Jamaal smoke a blunt?

23 A I didn't see him smoke then.

24 Q Okay. Did you know that he had marijuana in his
25 pocket?

1 A No.

2 Q He didn't show you a bag of marijuana?

3 A No.

4 Q Let me show you what's been marked as defendant's

5 exhibit number 7 and 8 and ask you, well, let me ask you

6 about defendant's exhibit number 8. Did you ever see that

7 bag of marijuana on Jamaal that night?

8 A No, sir.

9 Q He didn't ever pull it out?

10 A No, sir.

11 Q How about the gun that was in his pocket, defendant's

12 exhibit number 7, had you seen that?

13 A No, sir.

14 Q Had you ever seen that before?

15 A No.

16 Q Did he tell you that he had a gun?

17 A No, sir.

18 Q So you're at a party for about 30 minutes. Did you

19 go straight from the party with Jamaal over to the

20 Cabstand?

21 A Yes, sir.

22 Q How long would you say you were at the Cabstand

23 before y'all got put out?

24 A Probably about 45 to a hour; about 45 minutes to a

25 hour.

1 Q And did you see, was Jamaal drinking liquor during
2 that time period?

3 A No, we was just drinking beer, Bud Lite's.

4 Q Bud Lite's?

5 A Yeah.

6 Q Okay. Who else rode with you and Jamaal to the
7 Cabstand?

8 A It was me, Mario, Hazel, Shanina, Drina, Quetta. No,
9 Quetta didn't ride with us. And I think that was it. I
10 think that was it. Now, it was just me, me, Hazel, Drina,
11 Smooth, Shanina and Mario. Yeah.

12 Q Now, who is Mario?

13 A Mario Lewis.

14 Q He's male, I'm assuming?

15 A Yeah.

16 Q How old is he?

17 A Mario about 28, 29.

18 Q Okay. And how tall is he?

19 A Probably about five-seven, five-eight.

20 Q How much does he weigh you think, just roughly?

21 A Probably about 220, 230.

22 Q So kind of a short, stocky guy?

23 A Yeah.

24 Q All right. While I'm on that, how tall is Jamaal?

25 A About six-two.

- 1 Q And what does he weigh?
- 2 A Probably 140 pounds..
- 3 Q 140?
- 4 A 140-155. He was a little man.
- 5 Q Skinny?
- 6 A Yeah.
- 7 Q All right. Was Brent Williams with you?
- 8 A I am Brent Williams.
- 9 Q I'm sorry. Brent Williams. How tall are you?
- 10 A I'm about six-foot even. About five-11 or something,
- 11 five-nine.
- 12 Q And how much do you weigh?
- 13 A Like 240.
- 14 Q Okay. So y'all go to the Cabstand. You said that
- 15 Quetta did not come?
- 16 A I can't remember if she was with us. I know she was,
- 17 yeah, she was with us, I think. But I don't, see, I was
- 18 in the car with Mario. Well, me and Mario rode together.
- 19 Q Because I was going to ask you who was in which cars.
- 20 You and Mario rode together?
- 21 A Yeah. Everybody else was in a different car. They
- 22 had my sister's car, Shanina's car.
- 23 Q And so everybody else was in that car?
- 24 A Yeah.
- 25 Q So at some point Quetta got there, whether she rode

1 in the other car or not, we're not sure?

2 A Right.

3 Q You're not sure, I guess.

4 A Well, me, matter of fact, when we left the party, it
5 was me, Drina and Mario that had rode to the Cabstand
6 together, and everybody else was in Shanina's car.

7 Q All right. Was there any other people that ended up
8 meeting you at the Cabstand after y'all had gotten there?

9 A Well, nobody, ain't nobody meet us out there. If
10 Quetta went there, I think she probably, that's when she
11 met us or something. I can't recall where Quetta was. I
12 just know when we got to the Cabstand, all of us was
13 together, and but I don't remember seeing Quetta at the
14 party.

15 Q Yeah. I was going to ask you. So Quetta, you don't
16 remember seeing Quetta at the party before you got to the
17 Cabstand?

18 A No, I don't recall seeing Quetta at the party.

19 Q All right. But everybody else was at the party
20 before you got to the Cabstand?

21 A All of us went to the party together.

22 Q Was that where everybody met up was at the party?

23 A No. All us left from, if I'm not mistaken Drina's
24 house. We all was at Drina's house and we left and went
25 to the party--

1 Q Okay.

2 A --and then went to the Cabstand.

3 Q All right. Had there been any drinking at Drina's
4 house?

5 A No, because like I say, Jamaal had really just got
6 out of work, Shanina had just got off work and we was just
7 meeting up. Everybody was just getting together, the
8 first time we went towards the party.

9 Q Did any conversation come up that you were part of
10 involving Al Morgan, Saquetta, Shay Simon, anything of
11 that nature?

12 A I didn't even know about Shay Simon and Al Morgan and
13 none of that until we got to the party and they got in the
14 argument. That's when I found out about the Quetta
15 situation with Al and Shay Morgan and that's when I found
16 out about it.

17 Q Okay. Who was arguing at the party?

18 A Shay and Quetta. That's how me and the boy got in
19 the fight, because he jumped in my cousin, Quetta, face.

20 Q All right.

21 A They were arguing about Al, and I didn't know
22 anything about that. I didn't find out till later on like
23 that they, later what they really was arguing about,
24 because I thought it was some girl-girl beef, but when it
25 comes to be, they was arguing about Al.

1 Q The argument and the fight that you're talking about
2 with Demond Brown, did that happen at the party or did
3 that happen at the Cabstand?

4 A Cabstand.

5 Q All right. Was Al Morgan there when that fight
6 happened?

7 A No. Al had already left. He just had left from
8 talking to him, Lenwood, and Tommy's, Bug. They had just
9 left from talking to us. He told us he'll be back. And
10 he left and that's when the fight broke out. I was going,
11 me and my cousin, Bird, was at the jukebox and Quetta and
12 Shay arguing and I see Demond jump up in my cousin's face,
13 and then when me and him got into it.

14 Q Okay. Did you hit Demond in the face?

15 A Yes.

16 Q Because of what he had said?

17 A He jumped up in my cousin's face like he was fixing
18 to hit her, so I'm going to defend my cousin.

19 Q So did you see what happened between, do you know
20 Clifton Robinson?

21 A Yeah, that's my cousin.

22 Q Okay. Did you see him get in a fight?

23 A No. I don't even recall him fighting nobody.

24 Q Okay.

25 A I didn't never see him fighting nobody.

1 Q Okay. All right. So you were involved with the
2 fight with Demond, right?

3 A Yes.

4 Q And y'all actually ended up down on the floor, did
5 you not?

6 A He ended up on the floor. I was still standing up.

7 Q Okay. And were some of the girls jumping in at this
8 point?

9 A No. They was pulling me, they were trying to pull me
10 back off of Demond and nobody never jumped Demond, when me
11 and Demond got in the fight. They was breaking the fight
12 up.

13 Q Did Demond ever get any licks in on you?

14 A I don't recall.

15 Q Okay. So other than the girls trying to break you
16 and Demond up, were there some other folks in the Cabstand
17 that were trying to break up the argument?

18 A And Jamaal was one of them. Jamaal is the one that
19 tried to keep the peace between Shay and Quetta from
20 arguing, because he telling Quetta to go ahead, like
21 don't, I guess he was like that's when they was talking
22 about Al like you in here arguing about a man. But they
23 never said his name until the last, later on that night, I
24 think, like the next day that it was Al that they were
25 arguing about.

1 Q Did you tell the detective when he interviewed you
2 that you had gotten in a fight with Demond?

3 A I don't think I did.

4 Q Yeah.

5 A I don't think I had no reason to. He came for a
6 murder. He ain't asked me about the fight.

7 Q He didn't. All right. Well, let me ask you if you
8 can just real quick turn to page 11, I'm sorry, not page
9 11 but page 12 and go down to line five through seven and
10 just read that to yourself for a second; page 12, line
11 five through seven.

12 A Line what, now?

13 Q Line five through seven.

14 A Okay.

15 Q Have you had a chance to look at that?

16 A Yes.

17 Q All right. And have you had a chance to read that?

18 A Yes.

19 Q Yeah. So let me ask you again did you have some
20 conversations with the detective--

21 A Yeah.

22 Q --about there being an argument inside?

23 A Yeah.

24 Q And you weren't really calling it a fight at that
25 time, correct?

1 A Nah, not really.

2 Q You just kept saying an argument broke out, right?

3 A Yeah.

4 Q Okay. So you also told the detective, I believe,

5 that some people were talking about gunplay. Do you

6 remember talking about that?

7 A Gunplay?

8 Q Gunplay; yes.

9 A I don't, not understanding about no gunplay.

10 Q All right. Turn to page 10.

11 A Okay.

12 Q All right. And then look at lines 10 through 11.

13 A Yeah.

14 Q Okay. So did you talk to the detectives; that

15 refresh your recollection?

16 A Yeah.

17 Q And so when you were talking to the detective about

18 gunplay, you were talking about people arguing. That

19 wasn't you, though, arguing, was it?

20 A Nah. That was when, man, it really was me trying to

21 cover up myself from the fight and that's what that was

22 about. Because it, when he said about the arguing and he

23 said, I said people in general, because they is people in

24 general, but like I really didn't know what was going on.

25 I know of them. I don't know them like that, but I know

1 of them. I done seen them, so they is people in general
2 to me and, yeah, it was a argument. But it was, that was
3 just me really covering myself from the fight, because I
4 thought I was going to go to jail for fighting.

5 Q Okay. So when you said they were talking about
6 gunplay, you're saying that was you talking about gunplay?

7 A No,--

8 MR. STUMBO: Judge.

9 A --it was me talking about gunplay. He just thinks
10 that.

11 MR. STUMBO: I think that--

12 A I say we was arguing.

13 MR. STUMBO: Judge.

14 THE COURT: Hold on.

15 MR. STUMBO: I do have just an objection here. It's
16 that we have an audio recording of these things--

17 A And I don't remember saying that.

18 THE COURT: Hold. No.

19 MR. STUMBO: We have an audio recording of the
20 statement and quite frankly, Judge, I've listened to it
21 several times. I don't remember hearing anything about
22 gunplay in there. I know Mr. Bannister is referring to a
23 transcript that they produced from the audio. I think
24 under the Best Evidence Rule and the Rule of Completeness,
25 if he's going to be confronted with a prior audio

1 statement, let's just play the statement, Judge. I think
2 that's the fair way to do it under the rules. The best
3 evidence would be the audio; not the transcript from it.
4 Because just in fairness, I may be wrong. I listened to
5 that statement several times as I have all the others. I
6 don't remember being anything in that audio about gunplay.
7 I think the best evidence here would be just to--

8 THE COURT: I know. But isn't it the way Mr.
9 Bannister asked him, did you say something to the
10 detective about gunplay. He denies it.

11 MR. STUMBO: He said he didn't remember.

12 THE COURT: Right. He didn't remember, but he showed
13 it to him and he answered the question next and given an
14 explanation.

15 A I mean, I don't recall--

16 THE COURT: Hang on, you don't have to answer yet.

17 A Okay.

18 THE COURT: I'm trying to decide how to let them
19 present this to me.

20 MR. STUMBO: I'm saying it was what Rule 106
21 addresses and the Best Evidence Rule. You know,
22 ultimately here, we never had this statement reduced to
23 writing other than, obviously, the defense paid for
24 somebody to transcribe it. I've never seen the
25 transcription, Judge, but I don't recall there being

1 anything in the original evidence about gunplay and I'm
2 just a little bit concerned about that. I think if there
3 is an issue to that he's going to be confronted with the
4 prior statement, let's just play the statement.

5 THE COURT: That's not how you do it.

6 MR. STUMBO: Well, if he denies making the statement
7 and the allegation by Mr. Bannister is that he did make a
8 statement about gunplay, then I would say we need to hear
9 what the prior inconsistent statement is via the audio to
10 ensure that's what he said if he's being confronted with a
11 prior inconsistent statement.

12 THE COURT: And thus far he's agreed after he's read
13 the transcription as to what he said and provided an
14 explanation to it. I don't mind listening to the tape,
15 but I don't know why Mr. Bannister's transcriptionist
16 heard that, those words used and you didn't. I don't
17 understand that because that would seem odd.

18 MR. STUMBO: Well, and there again, we can play the
19 tape and I may have missed it, Judge. I took notes on it.
20 I didn't spend money to have it transcribed, but he's
21 going to be confronted with that.

22 THE COURT: All right. If you want to play the tape
23 and when you cross-examine him, I think you're allowed
24 that.

25 MR. STUMBO: Okay.

1 THE COURT: Mr. Bannister can proceed to present it
2 like he wants on his side.

3 MR. STUMBO: And then when we cross, we'll play it?

4 THE COURT: Sure.

5 MR. STUMBO: Yes, sir. That'll be fine. Proceed.

6 MR. BANNISTER: Thank you, Your Honor.

7 Q Okay. So we were talking about your conversation
8 with the detective where you told the detective that you
9 had heard talk about gunplay. That I think what you were
10 telling me was you were trying to cover up your fight with
11 Demond and maybe I'm not using your words exactly, so
12 correct me if I'm wrong there.

13 A I mean, you know, if I did say, but I don't even
14 recall saying half of this stuff that you got on this
15 paper. Like I probably did, but like this stuff with this
16 gun, I don't even remember that being a subject that we
17 did talk about, I don't even remember him asking me that.

18 Q Yeah, I don't think he asked you. I think you told
19 him there was talk about gunplay?

20 A I don't remember.

21 Q Okay. So who had a gun?

22 A We never seen nobody with a gun at the club. Nobody
23 was never seen with a gun at the club from my
24 understanding.

25 Q Okay. So just so we're clear, because there are

1 different things that have to happen. Are you denying
2 that you had a conversation with detective about gunplay
3 on November the 3rd?

4 A I don't recall. I can't say. That been two years
5 ago, man.

6 Q Okay. So there is a difference between saying it
7 didn't happen and saying I just don't remember it?

8 A I don't recall having that conversation about that.
9 I remember talking to him, but I never recall talking
10 about no gunplay to him.

11 Q All right. Do you remember talking to the detective
12 about when everybody was forced out of the club?

13 A Yes.

14 Q Okay. And well, there were a number of people, two
15 maybe three, that took the group you came with and kind of
16 herded them out the door. Is that a fair way to say it?

17 A I wouldn't say they did it like that. They was
18 helping. Jamaal was helping get us out the door.

19 Q Okay.

20 A It was like two older men, I think, and Jamaal.
21 That's who helped get, clear the crowd out.

22 Q Okay. Did you see Jamaal hit Clifton Robinson?

23 A Man, Cliff never got hit. He told, he went and told
24 my Aunt Lois that I hit him. That I had jumped on him.
25 And my aunt calling me talking about--

1 Q All right. Hang on. Don't go into what other people
2 said. I'm just asking you did you see Jamaal hit Clifton
3 Robinson?
4 A No.
5 Q Okay.
6 A Jamaal never hit nobody.
7 Q All right. Hang on. We agree that you and Demond
8 were on the ground at some point?
9 A That was way before we got put out; yes.
10 Q Yes or no, do you agree that you and Demond were on
11 the ground?
12 A Yes..
13 Q Okay. And y'all were fighting on the ground?
14 A Yes, well, no. Demond was on the ground. I never
15 fell on the ground.
16 Q Well, I thought you went to the ground with him?
17 A No. I said, when you said it the first time--
18 Q All right.
19 A --I told you he was on the ground, not me.
20 Q Okay. And then the girls were trying to keep you off
21 of him, is what you said?
22 A Yeah. Them, Jamaal, everybody was trying to pull me
23 off of him.
24 Q Okay. So as you get moved out of the club, is it
25 fair to say that you and other members of the group you

1 had come with, the ones you've already named did not want
2 to go out of the club?

3 A They still arguing. It's like not, no, don't want to
4 go out the club, but they just arguing.

5 Q Yeah.

6 A Standing there arguing, but like you arguing, random
7 arguing. You know how people feels. You not just fixing
8 to leave. But as they kept trying to get us out, well,
9 they really wasn't trying. They was pushing us on and we
10 was going on, just slowly going on back out the door. It
11 was Jamaal and two older dudes.

12 Q When you got outside the door, do you remember there
13 being a struggle about the door closing behind y'all?

14 A No. Because I walked to, I just walked off. I was
15 almost at Mario's car. I just walked off.

16 Q As you came out the front door you--

17 A Yeah. I mean, what happened up there, that was still
18 Quetta and them, all them, they was still arguing, the
19 girls.

20 Q All right.

21 A And Quetta and them. Quetta and the Shay Simon girl.
22 Demond and them never came out the door.

23 Q So as you exit the Cabstand, you're walking towards
24 Mario's car, is that correct?

25 A Yes, sir.

1 Q Would your back have been to the front door of the
2 Cabstand?

3 A Yeah, I think so until I turned around and then was
4 looking and see Mario and Jamaal start leaving, like
5 walking off, and then that was, I walked to the end of, it
6 was the car. I walked to the end of the car and turned
7 around, and I was still looking at them. They was still
8 up their arguing.

9 Q So did you see Jamaal hit Mr. McCauley in the head
10 with something in his hand?

11 A What he had in the hand?

12 Q Well, let me ask you if you can take a look at
13 exhibit number 7. All right. Does that have a black
14 handle on it?

15 A Yes.

16 Q Okay. So the gun had a black handle, correct?

17 A Yes.

18 Q You did not see Jamaal take that and swing overhead
19 and hit Mr. McCauley just above his right eye?

20 A No, sir. Jamaal was trying to break it up.

21 Q Did you turn around and walk back towards Jamaal and
22 Mario?

23 A No, I did not. Jamaal and Mario was walking towards
24 me which was the end of going towards the cars like the
25 end of the road.

1 Q So if I walk out of the Cabstand, the front door.

2 A Straight.

3 Q You're walking straight?

4 A Yes. There was cars in front of the Cabstand. I
5 walked to the back of the first car and turned around and
6 looked at them arguing and they, everybody just
7 eventually, was fixing to walk off. They had closed the
8 door back on the Cabstand.

9 Q Was Jamaal with you as you walked straight away from
10 the front door of the Cabstand?

11 A No. He was not with me. Not at the time.

12 Q All right. So I want to ask you a couple of
13 questions related to when Jamaal opened the door to the
14 back Impala, okay.

15 A Yes.

16 Q So I want you to focus on that for a minute. Do you
17 agree with me that you saw Jamaal open the back door of
18 the black Impala?

19 A At the time it looked like he had opened up the door.

20 Q Okay. So is that a yes, I agree with that?

21 A I ain't going to say I agree with it. I said it
22 looked like he opened up the door.

23 Q Okay. Do you deny telling the detective--

24 A I do not deny.

25 Q So you told the detective that Jamaal opened the door

1 to the black Impala?

2 A Yes.

3 Q All right. In fact, you told him that several times,
4 correct?

5 A Yes, sir.

6 Q Okay. So at least two-and-a-half years ago when your
7 memory was fresher, that was your recollection?

8 A Yeah.

9 Q Okay. Didn't you also tell the detective that you
10 were standing pretty close to Jamaal?

11 A Yeah. I was probably about, say about five, six, I
12 was almost at the front of Lenwood's car. I told you,
13 like I say, Lenwood was parked. He came in behind, he
14 came in. So he was, the nose of the car was facing Li'l
15 Cricket and I was at the back of the other car that was
16 parked in front of the Cabstand. So when they got ready
17 to walk off and Jamaal was walking going to talk to Al, I
18 started walking toward Mario's car, because Mario's car
19 was on the other side like across from the nose of Lenwood
20 car over here to the right. So I was like in the front,
21 almost in the front bumper by the front, not front bumper
22 but front beside like the passenger side.

23 Q Okay. Will you take a look at page four, and then I
24 want you to go look at lines one through six, sorry, lines
25 one through nine and just read those to yourself for a

1 second.

2 A Okay.

3 Q You finished?

4 A Yes, sir.

5 Q Okay. So isn't it true that you told the detective
6 that you were standing next to Jamaal Aiken in
7 relationship to the black Impala?

8 A Yes, sir. But, I mean, that is next to him. If he
9 is right here and I'm right here, like it's next to him.

10 Q Okay. So if the door to the back of the Impala, if
11 Jamaal opens it, where was he standing in relationship to
12 the edge of the open door, was he there next to it? In
13 other words, the door is open. Is he standing, is Jamaal
14 standing next to the edge of the opened door. Does that
15 make sense?

16 A The door never opened all the way.

17 Q Okay. How far, use your hands and show us how far
18 the door got opened?

19 A This is the door. It probably, it like about like
20 that.

21 THE COURT: Do me a favor. Use that rope right there
22 and act like it's the door.

23 A Okay.

24 THE COURT: No. You don't have to come further,
25 where it is open.

1 A Right here?

2 THE COURT: Yeah.

3 A It's like, about like this.

4 THE COURT: Just wait a minute.

5 A It's about like this.

6 THE COURT: So y'all understand what I'm asking you.

7 This is the inside of the car and that's the back door.

8 MR. BANNISTER: I got you.

9 THE COURT: And demonstrate so I can see what you are
10 talking about. If you've seen, my perspective is it
11 looked like the backseat of the car.

12 MR. BANNISTER: That's good.

13 A It was probably like right here.

14 Q Okay. So you're showing with your hand how far the
15 door was opened. Now, I'm looking at it.

16 A Probably right there.

17 Q About a foot-and-a-half, almost two feet?

18 A Yeah.

19 MR. BANNISTER: Is that, we got any argument from
20 anybody on that? Okay.

21 Q So as the door is opened a couple of feet, where is
22 Jamaal standing in relationship to that partially opened
23 door?

24 A To me where Jamaal was standing, Jamaal, when the
25 door came on, Jamaal was like still walking to the car.

1 When he got to right here like to turn, that's when you
2 heard the pow and he fell back.

3 Q All right. And I think you said that Jamaal asked Al
4 a question?

5 A Yeah, he was like, hey, Al. You know, they was just
6 talking in the club and they was talking about something.
7 They was talking. Me and Lenwood and Mario was talking.
8 Bug finally walked up and Bug said what he said to them.
9 And they was like, we'll be back. And he told Jamaal, he
10 said, Jamaal, like, boy, you for real, you coming back.
11 He was like, no, he was like, well, you lying, he ain't
12 coming back. And Al was like, yeah, I'm coming back for
13 real, bro. We fixing, I'm fixing to go handle a little
14 business and he was like I'll be back and he left.

15 Q Did you tell the detective any of that?

16 A The detective didn't ask all that. It was not, to me
17 it was not a professional statement, because he told me he
18 was going to call me a day or two later to make the, to do
19 it the right way, but he never did.

20 Q So you did not tell the detective about this
21 conversation between Al and Jamaal and coming back?

22 A I don't, I probably did. I don't know if he asked or
23 not. I don't know. I probably did. I think I did tell
24 him that he, well, yeah. Because I told him all us was
25 just talking at the table, so I probably did tell him.

1 Q Did you tell him about popping Al on the hat?

2 A I never touched Al. The only time I touched Al when
3 we first walked in the club we was out there by the, all
4 the women. We dapped all of them up and we started
5 talking. Al tried to give us beer. We told him, no, bro,
6 we got our own beer which we brought in the club, because
7 we had to pay three dollars to bring our own beer in the
8 club.

9 Q Do you agree that you and Jamaal had to, to get to
10 the black Impala, y'all had to walk from the open door of
11 the Cabstand, cross the parking lot to Lenwood Ramsey's
12 vehicle?

13 A I mean, the parking lot is not that big.

14 Q All right.

15 A I mean, it's not that big from the end of the car
16 where I'm at. Probably Lenwood's car wasn't, that wasn't
17 probably about 10 feet from me. Where I'm at it's, the
18 parking lot is not big.

19 Q Okay. Well, however big it was, y'all had to walk
20 from the front door over to Ramsey's vehicle, correct?

21 A I mean, I was already standing out there, though,
22 when they pulled in and they pulled in. Then, well, Al
23 had the back window cracked.

24 Q Do you agree with me that the gunfire that you saw
25 came from inside the backseat of Ramsey's vehicle?

1 A Yes, sir.

2 Q That the flash that you saw was actually in the car?

3 A Yes, it was like right there at the door. It was at
4 the door. You seen it. Like it was bright. You didn't
5 have no choice, it was a bright like pow, right there at
6 the door and slammed the door back.

7 Q All right. So when you told the detective that Al
8 asked, sorry, that Jamaal asked Al a question, you did not
9 tell the detective that the question Al asked was what the
10 F you going to do MF'er or words to that effect, did you?

11 A Say that again.

12 Q Didn't Jamaal say to Al as he opened the door what
13 the F you going to do MF'er?

14 A No.

15 Q And I'm sorry to using--

16 A No. Jamaal never had a problem with Al. Nobody had
17 a problem with Al. Al was involved in, the situation in
18 the club, he ain't had nothing to do with, so why would we
19 be mad at Al. And you had just left talking to us telling
20 us you going to be back. So, I mean, I never heard Smooth
21 say, all I heard was him say, hey, Bro. When he said,
22 hey, Bro, the gunshot, pow! He fell and Al shut the door,
23 and they pulled back. Jamaal jumped up. I never heard
24 that. I never recall him saying nothing to Al but, hey,
25 Bro. And by the time he can say what he said, Al shot

1 him.

2 Q When he fell, did he fall backwards?

3 A He fell backwards. When he got shot, I can
4 demonstrate it for you if you want me to. I can
5 demonstrate it for you. He got shot. He got shot. Like
6 I say, the door is probably like that. He got shot. He
7 fell back. He fell back like this. He never actually
8 like hit all the way to the ground. He jumped right back
9 up and he was like, he said, I said, Bro, you all right.
10 And he was like, No, Al just shot me.

11 Q Okay.

12 A And he went and got in the car.

13 Q Which?

14 A My sister's car.

15 Q And she is?

16 A Shanina Williams.

17 Q And then y'all took him to the hospital?

18 A She took him to the hospital.

19 Q Did you go with her?

20 A No. I drove Mario's car, because Mario got hit by
21 Lenwood's car.

22 MR. BANNISTER: Judge, just give me one moment.

23 Q Do you know where Shanina was parked?

24 A She was parked over there in, this is the front of
25 the Cabstand. They had like, you know, you park straight

1 in a building, in front of the building and it probably
2 like four or five parking spaces. She was parked, it was
3 a car, a big van right here, the car was behind her right
4 here. This is the door, so there is no cars parked right
5 there. Shanina was parked right here in front of the
6 door.

7 THE COURT: The first car to the right?

8 A Yeah. The first car to the right.

9 Q As you walk out of the Cabstand?

10 A Yeah, soon as you walk out of the Cabstand.

11 Q The first car to the right?

12 A Yeah.

13 THE COURT: Look in the Cabstand. She's on the right
14 side. Looking at the Cabstand, she's on the left.

15 A Yeah.

16 Q Okay. Thank you.

17 THE COURT: All right. There was two cars. Walking
18 out the front door to his right and one to left and that's
19 hers.

20 A I mean, it was more than hers, but she was like the
21 first one right there.

22 Q All right.

23 MR. BANNISTER: Judge, the Court's indulgence for
24 just one second.

25 Q Mr. Williams, let me show you what's been marked for

1 a moment just for identification purposes as defendant's
2 exhibit number 9 and ask you if you recognize the
3 individuals in that picture?

4 A Yes.

5 Q Okay. And is that a picture that you or one of these
6 individuals posted on Facebook or do you remember?

7 A Yes.

8 Q All right. Is it you the one that posted it on
9 Facebook?

10 A Yes.

11 Q Okay. And is the copy I'm giving you accurate as far
12 as that picture is concerned?

13 A Yes.

14 Q Okay.

15 MR. BANNISTER: So, Your Honor, at this time I'd move
16 into evidence defendant's exhibit number 9.

17 (Whereupon, Defendant's Exhibit 9 was admitted into
18 evidence.)

19 MR. STUMBO: Judge, I, still there hasn't been any
20 identification of who's in the picture. I mean, I think
21 we need to have more foundation on that. I don't know if
22 it is relevant.

23 MR. BANNISTER: I can ask--

24 MR. STUMBO: I don't know if it's relevant.

25 Q Who else is in, the, well, first off, which one are

1 you in the picture?

2 A The one with the red on.

3 Q Okay. And who else is in the picture?

4 A My homeboy, George, and my brother-in-law, Smooth.

5 Q All right. And was George there that night at the
6 Cabstand?

7 A Man, that picture right there is from a
8 month-and-a-half before this happened at a party in
9 Laurens.

10 Q Okay. So he was not there?

11 A That was the last picture me and my brother took
12 together. Me and my brother-in-law took together. That's
13 why I posted it on Facebook. This was a
14 month-and-something before this even happened.

15 Q Okay.

16 A George was staying in Greenville when Smooth got
17 killed.

18 Q All right. Don't get mad at me. I'm just asking--

19 A Oh, I'm not getting mad.

20 Q --because I don't know.

21 A Yeah, this is not a accurate picture. This picture
22 was a month-and-a-half before this even happened.

23 Q So all I asked you was whether George was in the
24 Cabstand.

25 A No. George was not even in Greenwood. George stays

1 in Greenville, South Carolina.

2 Q All right. Down here at the bottom, what does the
3 hand that you've got showing four fingers pointing down,
4 what does that mean?

5 A It don't mean nothing. I got a tattoo right there.

6 Q Okay. So have you ever heard of a term called the
7 Country Home clique?

8 A No. I ain't even stayed in Country Home. I don't
9 know nothing about no Country Home Clique.

10 Q You're not a member of that clique?

11 A I'm not a member of nothing. I was not born to
12 gang-bang. I was not raised to gang-bang.

13 Q Is that a gang?

14 A I don't know, but I haven't heard of no Country Home
15 clique.

16 Q Okay.

17 MR. BANNISTER: Judge, I think I am, well, I would
18 move defendant's exhibit number 9 into evidence at this
19 point.

20 MR. STUMBO: Judge, I don't know if it's relevant but
21 for purposes of this hearing, we can let it in.

22 THE COURT: We'll let it in. A picture is a picture,
23 right?

24 MR. STUMBO: What's that?

25 THE COURT: A picture is a picture. This is, well,

1 it's his brother-in-law.

2 MR. BANNISTER: It is.

3 MR. STUMBO: That's correct. And I have another
4 picture I might put just to show a little more.

5 THE COURT: That's fine. All right. Before y'all do
6 your cross-examination, let's take a break.

7 MR. STUMBO: Yes, sir.

8 THE COURT: I'm due one.

9 MR. BANNISTER: Can I just ask George's last name
10 right quick just to.

11 A Hughley.

12 MR. BANNISTER: Hughley?

13 A Yes.

14 MR. BANNISTER: Okay. Thank you.

15 THE COURT: All right. So we'll take a few minutes,
16 and you can step down. You can't talk to these guys about
17 your testimony. The State's got to ask you some
18 questions, too, when we come back, okay?

19 MR. WILLIAMS: Yes, sir.

20 (Whereupon, a break was taken.)

21 THE COURT: Mr. Stumbo.

22 MR. STUMBO: Thank you, Judge.

23 CROSS-EXAMINATION

24 By Mr. Stumbo:

25 Q Good morning, Brent.

1 A Good morning.

2 MR. STUMBO: If I may approach the witness, Your
3 Honor.

4 Q Brent, I'm going to show you a picture. Do you
5 recognize that?

6 A Yes, sir.

7 Q And who's in that picture?

8 A Jamaal and Ms. Tracy.

9 Q Ms. Tracy is Jamaal's mama?

10 A Yes.

11 Q All right. And is this is a pretty accurate picture
12 of Jamaal, his size and build?

13 A Yeah.

14 Q And how you remember him?

15 A Yes, sir.

16 Q Okay.

17 MR. STUMBO: Judge, if I could put this in at this
18 time. I believe, have we put any exhibits in yet?

19 REPORTER: You put one in, the photo of the car.

20 (Whereupon, State's Exhibit Number 2 was admitted
21 into evidence.)

22 THE COURT: Okay.

23 MR. BANNISTER: For purposes of the, hearing, we
24 don't have any objection.

25 THE COURT: Okay.

1 Q Now, Brent, Mr. Bannister asked you some questions
2 about this gun, this picture. I believe it was
3 Defendant's 7, a .380 pistol. Did you ever see a gun like
4 that that night?

5 A No. I never seen any, I never seen a gun that night
6 or before that night.

7 Q Okay. And Jamaal never pulled a gun out at any time
8 during that night?

9 A No, sir.

10 Q And he never, did he ever say anything about I got a
11 gun or I got a piece or anything to that effect?

12 A No, sir.

13 Q Okay. Let's talk a little bit about this fight you
14 and Demond had. Can you explain again to the Court how
15 did that start? Tell us how that started.

16 A Okay. Well, we was at the table and by this time, Al
17 and them was already gone. They had told us they'll be
18 back. So it was me, Drina, Hazel, Shanina, Mario, and
19 Quetta. Well, Quetta was still arguing with, over there
20 arguing with Shay at the time. And I told Bird, well,
21 Drina. I told Drina, I said I don't want to hear the,
22 hear all that arguing. I said let me go get, let me go
23 put something in the jukebox, and then I went to the
24 jukebox. So Quetta and Shay still arguing back and forth,
25 but they like to the left of us on the jukebox. Like the

1 jukebox right here. They to the left of us arguing.

2 Q How far away, a few feet maybe?

3 A A few, yeah, a few feet. It wasn't that far. They
4 were still arguing back and forth. So by this time me and
5 Drina at the jukebox fixing to play songs. And I hear
6 Demond like he jumped up in my cousin's face like I
7 couldn't really make out what he was saying, but I know he
8 was yelling at her and point in her face. So that's when
9 I went over there to him and like, you still a boy? And
10 then he got to argue, he said something to me. And I just
11 hit him and me and him, when I hit him, he fell.

12 Q Okay.

13 A So I never, like I just stood over him and me and him
14 was going back and forth. Well, he really was balled up.

15 Q So Demond stepped in on behalf of Shay?

16 A Yeah, and I stepped in.

17 Q And you stepped in on behalf of Quetta?

18 A Quetta.

19 Q Who is your cousin?

20 A Yes.

21 Q And you say Demond was up in her face?

22 A Yeah.

23 Q Okay. And that, because of that you punched him?

24 A Yeah. Well, I said something to him like hey, hey, I
25 was like, hey, man, now you still a boy. Like he ain't

1 got nothing to do with this, these girls. And he said
2 something to me, and I just hit him.

3 Q Do you know why Quetta and Shay were fighting? Did
4 you know why they were fighting?

5 A Not at the time I didn't know what it was about
6 because, like I say, when Jamaal said, told Quetta,
7 because he was like, man, let that go. Y'all in here
8 arguing about a man. He never said who it was about. I
9 didn't know it was about Al till like after everything had
10 happened.

11 Q Okay. Now, after that fight breaks out, you made a
12 statement to Mr. Bannister that Jamaal was trying to keep
13 the peace.

14 A Yes.

15 Q Can you describe to the Judge what Jamaal was doing
16 to enforce that?

17 A Trying to, basically, he was helping the club get us,
18 trying to calm the other side down, and he was trying to
19 get us out the door. Like he wasn't choosing no side. It
20 was him, I think the man, Mr., the president, Mr. Cocky,
21 Mr. Cocky, and there was another older fellow. He was
22 helping them get us out the club and trying to like tell
23 Demond, he even told Demond and them to stay in the club
24 and don't come out and he helped get us on out the club
25 and we got on out the club.

1 Q And so, Mr. Cocky, the owner, he was kind of up 'in
2 the midst of this, too?

3 A Yeah. Yeah. He was like, yeah, y'all just go. He
4 said just don't worry about it. The party over. Turn the
5 lights on. So he just killed the whole club, and then he
6 was like he already had the police on the way, so that's
7 why, I guess, like him and the other dude and Jamaal was
8 like y'all just go, everybody just said go. Police on the
9 way, everybody let's just go.

10 Q Did you ever see Jamaal take a swing at anybody?

11 A Jamaal never swung at nobody. He never would have
12 had, he never had a altercation with nobody that night.

13 Q Okay. And that would include any of the other
14 gentlemen, the owner, Mr. Cocky?

15 A I never seen him do nothing to not one of them. He
16 was with them trying to clear it out.

17 Q When y'all get outside, you go out first, is that
18 correct?

19 A Yeah.

20 Q I believe that's your testimony. And Jamaal and
21 Mario were behind you?

22 A Yeah, they came on up behind me and I was already at
23 the back of the car that was done in the front of the
24 Cabstand.

25 Q Okay. And y'all were walking, I'm going to put

1 defendant's number one on here. Can you see that?

2 A Yeah.

3 Q Is that the front of the Cabstand?

4 A Yes, sir.

5 Q Okay. Now, which door did y'all walk out?

6 A That door to the left always, I mean, yeah. All the
7 way to over this. That one there don't even open up. He
8 had that like closed off.

9 Q The one on the way to the left was the one covered
10 up?

11 A Yeah, that one, that one didn't even open. He used
12 that, just that main front door right there.

13 Q Okay. And you walked, so y'all got out that front
14 door?

15 A Yeah, and came straight across the parking lot.

16 Q And you say you walked straight out into kind of the
17 middle of this parking lot here?

18 A Yeah, because the cars would be parked going like
19 the, with the tip of the car towards the Cabstand.

20 Q Okay. Now, you remember the black Impala pulling in?

21 A Yes, sir.

22 Q All right. Did you know Lenwood Ramsey?

23 A Yeah.

24 Q And y'all call him Nick?

25 A Yeah.

1 Q Okay. So you see Nick's car pull back in. If you
2 could and if you need to step down and show us on the
3 screen there where did he, when he pulled in where was
4 that black Impala?

5 A He came from off of East Cambridge and turned in. He
6 pulled in this way. The car was like slanted like right
7 here.

8 Q Okay. So he came from East Cambridge, took a left
9 into the driveway.

10 A Came around and slanted, like his nose of his car was
11 still pointed back towards Li'l Cricket.

12 Q Okay. It was painted back towards where the road
13 intersects.

14 A Yeah.

15 Q Seaboard and East Cambridge?

16 A Yeah.

17 Q Okay.

18 A And I was right here.

19 Q And you're standing behind the car?

20 A Yeah, behind the car.

21 Q I guess closer to the door?

22 A Yeah. Right here, because he ain't had no cars right
23 here in front of the door. There was no cars. There was
24 cars over here and there was a van and another car. The
25 van was over here and there was another car right here.

1 Q Okay. You can return to the stand. So about how
2 long, well, let me back up and ask a different question.
3 Who was the first person to approach the black Impala?

4 A Mario was already really in front of Smooth. Mario
5 was already at the back of the car.

6 Q Okay. The two of them were walking?

7 A Yeah, they were just walking.

8 Q Towards the back, I guess, passenger side of the car?

9 A Yeah.

10 Q Okay. I believe you testified earlier you were about
11 five feet away from where they were at that point walking
12 over towards Mario's car?

13 A Yeah.

14 Q So y'all could leave, right?

15 A Yes, sir.

16 Q And describe again what does, what does Smooth say to
17 Al as he approaches the door?

18 A He was like hey, bro, well, he was like hey, Al.
19 Like I say, Al had the window up like halfway cracked.
20 So, you know, he's saying. He heard him. He was coming
21 to you. He was walking towards you like hey, bro. I
22 don't know if he was fixing to tell them that the club was
23 over or what he was going to. He was like hey, bro. That
24 how he was, he talked to him when he walked in in the
25 club. He walked up to him the same way like hey, bro.

1 There was no aggression. No running to the car like no,
2 none of that. He walked to the car like hey, bro. But
3 when he got to the car, Al opened the door and shot him.

4 Q Okay. You say it looked like Jamaal reached down and
5 opened the door?

6 A Yeah. It looked like it but from the angle like the
7 door, nothing really came all the way open. It was
8 slanted and he just pow and slammed the door back and they
9 took off. Well, Bug jumped out and they took off.

10 Q The door opens. How long does it take for the, from
11 when the door opens that couple of feet that you just
12 described earlier before that gun goes off?

13 A Man, it was as soon as, like as soon as he opened the
14 door it's pow and slammed it.

15 Q Okay. So there's not really a delay?

16 A No.

17 Q I mean, the door opens the way you're describing it--

18 A Yeah.

19 Q --the gunshot and you see Jamaal fall back?

20 A Fall back.

21 Q And brace himself?

22 A Because he was really still shocked. When he jumped
23 up, he was like Al just shot me, you know, Al just shot
24 and he couldn't believe it.

25 Q And when this all happened you said you were about

1 five feet away which you indicated to the police to you
2 that was, you were next to him?

3 A Yeah, to me. Like, I mean, like I say, I was like
4 right here by the front of the car, by the front of the
5 car. Jamaal and them right there at the back door. You
6 know, it's a Impala. So that's why I say it was like
7 right there and right there next to them like a couple of
8 feet and a few feet from him.

9 Q Okay. Now, Mr. Bannister asked you earlier about why
10 didn't you tell the police about the fight inside. In
11 your mind, was there any connection between the fight
12 inside and what, and Jamaal getting shot?

13 A Not to me because like I say, we was just talking to
14 them. Everything was, Al, Lenwood, Bug, we just talking
15 to them. The fight, I didn't even think the fight had
16 anything to do with what me and Dixon was talking about
17 like the fight. Because I didn't even know about the
18 phone calls and that being made. I didn't even know, so
19 that's why it really still liked shocked me like why? So,
20 I mean, I never thought this fight had anything to do with
21 the shooting.

22 Q Now, you gave the statement to Dixon and we've
23 discussed that. You've had a chance to listen to that at
24 some point?

25 A Yes.

1 Q Okay. And you did that where; where did you talk to
2 Dixon?

3 A Still at the hospital in the car, in his car.

4 Q Okay. He recorded it with a handheld device?

5 A Yeah. iPhone, I think.

6 Q All right. And that was not a long conversation, was
7 it?

8 A A couple of minutes. Yeah, it was a few minutes. It
9 wasn't that long.

10 MR. STUMBO: Judge, at this time and I, certainly, we
11 can call Lieutenant or Investigator Dixon to the stand in
12 regards to laying the foundation for the audio. But we've
13 shared it in discovery, Your Honor. I think under the
14 Rule of Completeness, 106, and the fact that there's been
15 some questioning as to the prior statement and
16 allegations, I guess, that it's inconsistent by his
17 answers, we would like to just play the audio. I think
18 for purposes of this hearing it's appropriate.

19 THE COURT: Any objection?

20 MR. BANNISTER: Only for the purposes of this hearing
21 and only for this witness. But yes, go ahead. That's
22 fine. If he wants to play it, I don't have an objection
23 to it.

24 THE COURT: All right. How do you propose to play
25 it?

1 MR. STUMBO: We can play it through the computer up
2 here, Judge.

3 MR. JONES: And, Your Honor, I have a transcript that
4 was prepared by Pat Simpson on February 23rd of this year.
5 It states, The undersigned does hereby certify that the
6 foregoing is a true, accurate and complete transcript of
7 the interview of Brent Williams on November the 14th, 2013
8 by a detective with the Greenwood City Police Department
9 regarding State vs. Alphonso Morgan, Jr. I do further
10 certify that I am not of kin, counsel or interest to any
11 party hereto. Pat Simpson. She works with the Greenville
12 County Clerk of Court's Office and it was notarized on the
13 same date. I'd offer this for, Your Honor, to the extent
14 that Your Honor sees any assistance it may give the Court
15 in following the playing of the audio recording of the
16 statement.

17 THE COURT: Okay. I understand.

18 MR. STUMBO: For purposes of the hearing, Judge, we
19 don't have any problem with that. In fact, since it's
20 already been referred to, and I think we're playing the
21 original evidence.

22 THE COURT: All right. Let's play it. I don't want
23 to broadcast it through the speakers. I want to hear it
24 through the computer.

25 MR. BANNISTER: Okay.

1 THE COURT: I mean, when it goes from computer into
2 the loud speakers it gets worse for me. That secondary
3 broadcast just screws it up. I just want to play it and
4 let me try to hear it.

5 (Whereupon, an audio recording was played for the
6 Court starting at 11:05 a.m. and ended at 11:15 a.m.)

7 MR. STUMBO: And, Judge, this is a housekeeping
8 matter. We would offer the statement as State's 3 for
9 purposes of this hearing only.

10 THE COURT: I'm going to mark the transcript that I
11 was handed as a Court's exhibit because I followed along,
12 and it seemed to be consistent with what was being, the
13 questions asked and the answers given. It seemed very
14 consistent.

15 MR. STUMBO: Okay.

16 THE COURT: So the tapes will be or the CD will be
17 admitted as a State's exhibit, and the transcript will be
18 marked as a Court's exhibit.

19 MR. STUMBO: Okay. Thank you, Judge. Just a couple
20 of follow-up questions and I'm done.

21 (Whereupon, State's Exhibit 3 was admitted into
22 evidence.)

23 (Whereupon, Court's Exhibit Number 1 and 2 marked for
24 identification.)

25 THE COURT: All right, now.

1 MR. STUMBO: Okay. Thank you, Judge.

2 Q Just to follow-up on this. You've mentioned
3 something about guns coming into the club that night.
4 Were any of the owners, anyone there checking for guns or
5 patting people down or anything like that?

6 A No, sir. They had no security whatsoever.

7 Q Okay. So you mentioning this to Officer Dixon, you
8 thought maybe they should have been doing that?

9 A Yes.

10 Q How did Jamaal get his nickname of Smooth?

11 A He was just easy going. He was just a cool person.
12 He never had no arguments, no beef, no nothing. That's
13 why we called him Smooth. His mama and them didn't even
14 know why we called him Smooth. All right. That's him
15 like he never had a conflict with nobody. He never just
16 ran around starting with nobody. You never heard his
17 name, like he was just calm, cool and collected. Like
18 that's him, Smooth.

19 MR. STUMBO: No further questions, Your Honor.

20 THE COURT: Anything else?

21 MR. BANNISTER: Just briefly.

22 REDIRECT EXAMINATION

23 By Mr. Bannister:

24 Q Did you recognize that he was intoxicated on the
25 night of November the 14th, 2013?

1 A Yeah. He probably, yeah, he drunk a beer or two,
2 yeah.

3 Q Just beer?

4 A Yeah. We never drunk, we never had no liquor.

5 Q All right. I'm sorry. Do you know what I mean when
6 I say intoxicated?

7 A Just beer, yeah, and no drugs. He never smoked no
8 drugs, no nothing, just beer.

9 Q By looking at him, could you tell he had had a lot to
10 drink and just alcohol?

11 A No, he hadn't, no, not by looking at him, he hadn't
12 had no whole lot to drink.

13 Q All right. Were you able to hear the playback of
14 your interview?

15 A Yes.

16 Q Okay. So can we agree now that you did talk about
17 gunplay; that was words you used in describing to the
18 detective some of the conversation you heard inside the
19 club?

20 A I didn't recall saying that on no audio. That audio
21 didn't just say nothing about no gunplay in the club. I
22 talked about him letting the gun, letting them in with
23 guns.

24 Q Right. And, then you said that they were arguing and
25 that's when there was talk about gunplay?

1 A I ain't hear that part, no.

2 Q All right. Okay. Have you still got your copy of
3 the transcript up there?

4 A Yes.

5 Q All right. Let's go back to page 10, line 10 through
6 11. Didn't you tell the detective, that's when they were
7 arguing; was talking about gunplay?

8 A Okay. At the top of it, line through six, it'll say,
9 No, but I felt like the man from the Cabstand let them in
10 with that pistol. And he say, okay. I say, because of
11 the simple fact when they was arguing, it was the same
12 thing. I don't know what that mean it was blocked off,
13 but I was talking to him about the Cabstand. I felt like
14 they let them in and there probably wouldn't, there
15 wouldn't have been no gunplay if you would have checked
16 it. If you would have been checking people, you would
17 have knew, there wouldn't have been no guns in your club.

18 Q So I just want to know who it was that was talking
19 about the gunplay inside the Cabstand.

20 A Nobody was never talking about no gunplay.

21 Q Okay. Because if Jamaal had been talking about
22 gunplay, that would be bad for your case, right?

23 A Jamaal was never talking about no gunplay. Jamaal
24 was never arguing. Jamaal never had a conflict.

25 MR. BANNISTER: I don't have any further questions

1 for him.

2 THE COURT: Okay. You?

3 MR. STUMBO: Just one redirect, Judge, or recross.

4 RE CROSS-EXAMINATION

5 By Mr. Stumbo:

6 Q You said that y'all were drinking, I believe earlier,
7 you said Bud Lights, specifically?

8 A Yeah, Bud Lights.

9 Q How many Bud Lights did y'all have that night?

10 A We had, we bought a case. Remind you it's like how
11 many of us. There's like five or six of us. We bought a
12 case.

13 Q And you can bring that case in with you?

14 A We brought the case in with us.

15 Q Okay. And that's what y'all were drinking?

16 A Yes, sir. We had just opened the case when we got
17 there.

18 MR. STUMBO: Thank you. Nothing further.

19 THE COURT: You can step down. Call your next one.

20 MR. JONES: Yes, sir. I believe he's in custody as
21 far as the sequestration is concerned. Captain Hugh
22 Butler of the Greenwood Police Department.

23 HUGH BUTLER, being
24 first duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 By Mr. Jones:

2 Q Good morning. How you doing?

3 A All right.

4 Q Please state your name for the record?

5 A Hugh Butler.

6 Q And you are currently a captain with the Greenwood
7 Police Department?

8 A Yes, sir; I am.

9 Q And on November the 14th of 2013, were you also a
10 captain of the Greenwood Police Department and the shift
11 supervisor on that date?

12 A Yes, sir; I was.

13 Q All right. Captain Butler, I called you as a
14 witness, but we spoke about your participation in the City
15 Policy Department's initial investigation of a crime or
16 crimes that occurred at the Cabstand nightclub on November
17 the 14th, 2013, this past weekend, didn't we?

18 A Yes, sir.

19 Q All right. On the telephone?

20 A Right.

21 Q We had a conversation. And that's what I want to ask
22 you about now is that, and I'm going to ask you if you
23 recall some things that you did in response to whatever
24 you did that night based on a call that you received from
25 your dispatcher about the need for you to be at the

1 Cabstand. Okay?

2 A Okay, sir.

3 Q Do you remember getting a call and leaving wherever
4 you were to go to that location?

5 A Yes, sir. We got a call to go there.

6 Q Were you familiar with where the Cabstand was
7 located?

8 A It's right there in front of Seaboard and Cambridge.

9 Q Okay.

10 A Right at Oakland.

11 Q Were you familiar with the club itself?

12 A No, sir. I knew there was a club there, but I'd
13 never been in it.

14 Q Okay. Well, that's what I meant about that there was
15 a club located there.

16 A Yeah.

17 Q And that location and the parking lot, and the fact
18 that this is actually three roads, two roads that
19 intersect there and they kind of, you've got Seaboard and
20 you've got East Cambridge.

21 A Right.

22 Q Okay. And it's kind of at that location, correct?

23 A Yes, sir.

24 Q And you said, we got a call. Was anybody with you in
25 your car when you--

1 A Not in my car; no, sir.

2 Q All right.

3 A And when I say, we, I meant my shift got a call.

4 Q Were you in a marked or unmarked vehicle?

5 A Marked.

6 Q And when you got the call, do you recall where you
7 might have been?

8 A No, sir; I don't.

9 Q Okay. Do you recall the nature of the call that you
10 got?

11 A I believe, I'd have to look at the report, but I
12 believe it first came out as a fight call, a 10, what
13 would be a 1083. And I think that, as we were in route or
14 as I was in route and other officers were in route, it
15 came out as someone had been shot.

16 Q Yes, sir. I want to hand you this piece of paper and
17 ask you if that will assist you in refreshing your memory
18 about the nature of the call and at any point in time
19 whether there was additional information provided to you
20 by 911 about the call.

21 A Yes, sir. It says here we responded to the fight and
22 then while in route, dispatch advised that shots had been
23 fired and possibly one person had been shot.

24 Q And what else is stated there and you made that
25 report, correct?

1 A Yes, sir. I wrote the report.

2 Q All right.

3 A Upon arriving on the scene, officers found several
4 people running in and out of the parking lot, some
5 screaming, and it just says officers approached.

6 Q Yes. So based on your arrival, it was a pretty
7 hectic frantic situation you entered in, right?

8 A Yes, sir; it was.

9 Q People are screaming, running, and you were there to
10 address the fact that you knew that or you'd been told
11 there was a fight and that somebody had been shot?

12 A Yes, sir.

13 Q Okay. And I hand you that and ask you if you can
14 recognize that?

15 A It's the second page or third page of the report,
16 third page.

17 Q And did you prepare that; did you write that?

18 A Yes, sir; I did.

19 Q What did you say starting at the top?

20 A Okay. This says, Officer approached, several people
21 to ask what happened. Several unknown persons stated that
22 J. Aiken had been shot.

23 Q Okay. Go ahead.

24 A And had left the scene by private vehicle to go to
25 Self Regional Healthcare.

1 Q So you knew somebody had been shot then?

2 A Yes, sir.

3 Q A person?

4 A Or believe somebody had been shot; yes, sir.

5 Q Not just shots fired, but somebody told you somebody
6 had been shot?

7 A Yes, sir.

8 Q And what happens next according to your report?

9 A Okay. PFC White and I were standing there and an
10 unknown person approached and spoke to Officer White.

11 Q All right. Do you recall that unknown person being
12 pretty nervous and being pretty upset like the rest of
13 them?

14 A I don't recall him at all, Mr. Jones.

15 Q Well, you put it in your report.

16 A I said unknown black male was in the, who was in the
17 back. He stated, excuse me. Parking lot, he saw an
18 argument between victim and an unknown black male.

19 Q Okay.

20 A That's what the unknown witness said he saw.

21 Q But an argument between a victim and an unknown black
22 male?

23 A Yes.

24 Q Where was the unknown black male?

25 A Who was in a backseat of a black Chevy Impala.

1 Q Okay. So he saw an argument between them, that's
2 what he told you?

3 A That's what he told us.

4 Q Okay.

5 A Or told Officer White.

6 Q And you were standing there listening?

7 A I was standing behind him; yes, sir.

8 Q And what else?

9 A He said, during the argument the back door swung open
10 and--

11 MR. STUMBO: Judge, I would object to this being
12 hearsay. Well, for purposes of this hearing, we can allow
13 that.

14 A Go ahead.

15 Q Go ahead.

16 A Okay. During this argument the back door swings open
17 and the suspect in the backseat fired a shot. When the
18 shot was fired, he saw the victim fall to the ground. The
19 suspect vehicle sped out of the parking lot toward East
20 Cambridge Avenue. As the suspect then was leaving the
21 parking lot, he was able to get a tag number of the
22 suspect vehicle. He gave the tag number as South Carolina
23 tag, JFF 866. After giving this information, a BOLO was
24 given out to both City and County units.

25 Q So it's almost within a minute of your arrival on the

1 scene you had the tag number of the car from a witness
2 that came to you and gave you that information?

3 A I couldn't tell you exactly how long, but we was
4 there a short period of time.

5 Q From a witness that came to you and gave you that tag
6 number?

7 A Yes, sir.

8 Q The same witness has told you he had witnessed an
9 argument between the victim and a person in the backseat
10 of the car?

11 A Yes, sir.

12 Q And he described it as an argument; not a question
13 being asked, but an argument, correct?

14 A That's the way he described it.

15 Q All right. Now, once you received that information,
16 you advised all units that were assisting in the, as law
17 enforcement personnel in the City of Greenwood of the
18 vehicle that you were looking for?

19 A A BOLO was given out by Officer White; yes, sir.

20 Q Yes, sir. And what did you do next?

21 A If I can remember right the sequence of events, I
22 called Captain Futch, who was commander of the Violent
23 Crimes Taskforce, at the time to inform him of what we
24 had.

25 Q Was Captain Futch also in charge, in addition to

1 being, having oversight of the Violent Crime Taskforce,
2 was he the, as captain the head of the Detectives Unit?

3 A Yes, sir.

4 Q So you wanted to get him involved to assist you on
5 the shift. He's a steady detective who's got a lot of men
6 working for him that are trained in investigating crime
7 scenes, homicides, and other processes questioning
8 witnesses, etc., correct?

9 A Yes, sir.

10 Q All right. And did you speak to him personally?

11 A I did.

12 Q Do you remember what you told him you had?

13 A Basically, what I, I'm sure what I wrote in the
14 report, but I couldn't tell you verbatim what I told him;
15 no, sir.

16 Q And during the course of that process, you were not
17 able to get the name of this unknown witness who gave you
18 the information, that is the tag number of the vehicle,
19 what was going on between the shooter and the person that
20 was shot and how the door swung open before the shot was
21 fired?

22 A No, sir.

23 Q You didn't have a chance to get his name or his
24 telephone number or anything like that, correct?

25 A No, sir.

1 Q But you did look for other witnesses?

2 A Yes, sir.

3 Q And you didn't really find any out there right then,
4 did you?

5 A No, sir; I did not.

6 Q Okay. Do you recall what you decided to do and did
7 you look around the parking lot for any evidence it might
8 offer?

9 A Officer Turner and I searched the parking lot
10 ourselves looking for shell casings or blood or anything
11 we could find as evidence.

12 Q And?

13 A I didn't find anything.

14 Q All right. And having done that, did you then
15 interview or talk to anybody else other than law
16 enforcement personnel?

17 A I believe I talked to Tony Thompson inside the club.

18 Q Okay. So Tony was inside the club?

19 A Yes, sir. I walked inside.

20 Q And did he, did you have, did he have any information
21 about the shooting that happened outside?

22 A I asked him if he saw the shooting. I believe he
23 said he didn't see the shooting. He saw an argument
24 between the victim and someone inside the club.

25 Q All right. And he did not know who it was between?

1 A No, sir.

2 Q Okay. What'd you do next?

3 A After that I cleared the scene, I went to the
4 hospital to check on the two officers that were in the
5 hospital to make sure they were all right.

6 Q All right. And then?

7 A I went down there and I was informed that the victim
8 had died, that the investigators were working the scene,
9 and I went back to answering calls and eventually wrote
10 the report.

11 Q Okay. And so prior to your getting off of this shift
12 and this was close to midnight and your shift ended at
13 6:00 a.m., correct, 7:00?

14 A 7:00.

15 Q 7:00. Prior to getting off of your shift, did you
16 turn this investigation over to a specific individual?

17 A Once I made the phone call to Captain Futch, the
18 investigation was his.

19 Q So your follow-up at the hospital was out of--

20 A -- my follow-up at the hospital was I knew I had two
21 officers down there. And I went down to check on my
22 officers to see what they were doing to make sure they
23 were doing what they were supposed to do as best we could.
24 When I walked in the door, I was informed that the victim
25 had passed away and there was a, Lieutenant Dixon was

1 there, that he was working the investigation. And I told
2 my officer as soon as they cleared, they needed to go back
3 to work.

4 Q And so, basically, with Futch having been notified,
5 he's in charge. Dixon's there. You have responsibilities
6 as shift supervisor that you have to tend to in the event
7 other incidents occur during the course of the night so
8 that's where you went to maintain your control position at
9 the station, is that correct?

10 A I went to answering calls.

11 Q All right.

12 MR. JONES: No further questions.

13 THE COURT: All right, sir.

14 CROSS-EXAMINATION

15 By Mr. Stumbo:

16 Q Captain Butler, could you describe for the Judge this
17 scene?

18 A Well, when we pull in there's, I would say, Your
19 Honor, it's a typical bar; a shooting at the bar, people
20 running, screaming. You get out of the car. You got blue
21 lights everywhere. You trying to find out from people
22 what's going on. Some people will tell you something, but
23 they'll keep going as they telling you and others will
24 tell you nothing. And several even said, you the law.
25 You figure it out. And we trying to get the scene secure

1 so nobody else gets hurt. We don't know if the suspect is
2 going to come back. We don't know anything. So we're
3 trying to clear it up. Trying to find witnesses. And
4 some people won't, most people won't talk to you at that
5 scene. They'll talk to you later.

6 Q Okay. One of the few people that did talk to y'all
7 was an unknown black male who gives you a tag number
8 that's, is that correct? And he also says something about
9 the victim being in an argument, and then there is a
10 shooting, correct?

11 A Yes, sir.

12 Q All right. And y'all weren't able to get that
13 individual's name and information?

14 A No, sir.

15 Q So you don't know who that is?

16 A No, sir. I don't have a idea who it was.

17 Q Okay. And is this because it's chaotic out there;
18 did he leave?

19 A Part of it's got to do with the chaos and I turned to
20 make a phone call to call Captain Futch. And I believe
21 Officer White was trying to give out the BOLO, because you
22 want to get that out as soon as you possibly can and in
23 the chaos, he just walked off. We don't know if he drove
24 off; walked off.

25 Q Okay. The Tony Thomas fellow inside, he had talked

1 to you. What did he tell you about this?

2 A Well, I walked in. I have known Tony for years and I
3 asked him if he saw anything. He said there was an
4 argument inside the club and nothing happened, but he
5 never went outside and saw anything outside.

6 Q So he didn't see anything that happened in the course
7 of the shooting in the parking lot?

8 A No, sir. He said he didn't see a thing out there.

9 Q And he didn't give you a lot of details about what
10 had happened inside the club either?

11 A No, sir.

12 MR. STUMBO: No further questions.

13 THE COURT: Anything else?

14 MR. JONES: No. I'm sorry. Captain Butler, as far
15 as I'm concerned, you can be excused. I appreciate your
16 putting up with the subpoena yesterday and today.

17 CAPTAIN BUTLER: Thank you, sir.

18 MR. JONES: Your Honor, I beg the Court's indulgence
19 for a minute. If we could have five minutes to make a
20 decision about the next witness?

21 THE COURT: Well, sure.

22 MR. JONES: Appreciate it.

23 THE COURT: All right.

24 (Whereupon, a short break was taken.)

25 THE COURT: Mr. Jones.

1 MR. JONES: Call Tony Thomas to the stand.

2 TONY THOMAS, being
3 first duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 By Mr. Jones:

6 Q Please state your name for the record?

7 A Tony Thomas.

8 Q Mr. Thomas, you grew up in Greenwood or nearby?

9 A Yes, I grew up in Greenwood.

10 Q Greenwood?

11 A Yes.

12 Q What age are you?

13 A Forty-seven.

14 Q And where are you employed?

15 A I'm self-employed.

16 Q What type of business are you currently in?

17 A Home remodeling.

18 Q Home remodeling?

19 A Yes.

20 Q Do you have multiple projects going on right now?

21 A Yes, I do.

22 Q And did I try to get with you on, I believe, Saturday
23 afternoon and our times just didn't work out. So we
24 didn't get to meet, did we?

25 A No.

1 Q You were working then?

2 A Yes.

3 Q And you did comply with a subpoena and come in
4 Monday. But I told you I didn't think we'd need you, so
5 you went on to your job, I believe, up in Rock Hill?

6 A Yes.

7 Q And then I called you this morning before you got out
8 of town and told you I felt like I was going to need you
9 today, right?

10 A Right.

11 Q You're not interested in being up here; you got other
12 things to do, don't you?

13 A Yeah. I'm working now.

14 Q Do you know Al Morgan?

15 A Yeah.

16 Q How well do you know him?

17 A I'd seen him a couple of times in the Cabstand down
18 there.

19 Q What about Brent Williams?

20 A No, I don't know him.

21 Q Do you know whether or not on November the 14th, 2013
22 he was in the Cabstand club at any point in time?

23 A Well, yeah, he was in there.

24 Q When you say you don't know him, you never really
25 spent time speaking to him and talking to him or getting

1 to know him?

2 A Right.

3 Q But you know what he looks like?

4 A Yeah.

5 Q All right. What about Jamaal Aiken?

6 A Jamaal Aiken. Yeah, that's the boy that, well, I
7 seen him for the first time. I don't remember him either.

8 Q The one they call what?

9 A They call him, I think they called him Smooth or
10 something like that.

11 Q And the first time you saw him was November the 14th,
12 2013 at the club?

13 A Exactly.

14 Q Do you have any idea about what time of night on
15 November the 14th, 2013 you got to the Cabstand club?

16 A Not the exact time, but I remember estimating
17 probably about 6:00 or 7:30, something like that maybe.

18 Q What were you doing there?

19 A Oh, we were sitting there. A couple of the older
20 guys were sitting there playing spades.

21 Q Who?

22 A Calvin, Calvin Wells. A name, a guy name Johnny, a
23 older guy named Johnny. Ernest McCauley and a couple of
24 other guys.

25 Q All right. And you mentioned Calvin Wells. Was he

1 actually the, what we call the proprietor of the Cabstand
2 at that time?

3 A Yes.

4 Q He was operating the club?

5 A Yes.

6 Q And did he have somebody there that night that was
7 working for him in the club?

8 A Yes. Darnell Holloway.

9 Q Darnell Holloway?

10 A Yes.

11 Q All right. And he was in there that night?

12 A Yes.

13 Q And he was there when the club was locked up before
14 the police got there as well, wasn't he?

15 A Yes.

16 Q Okay. Now, were you any type of an employee at this
17 time at the club?

18 A No.

19 Q But you were a regular?

20 A Yeah.

21 Q Did you know anybody that you would see there when
22 you would go that was any more regular than you as part of
23 the older crowd?

24 A The older crowd? Well, the guys at the table, I knew
25 all of them. They was like regulars, like I said, you

1 know, Calvin Williams and Johnny, Ernest McCauley.

2 Q All right. And that's what y'all are doing playing
3 spades.

4 A Right.

5 Q Do you recall seeing Al Morgan and anybody else with
6 them come in that evening?

7 A I never seen Al.

8 Q Okay. During the course of the evening when y'all
9 were enjoying your club, do you recall there being
10 arguments that erupted at some point in time?

11 A Well, there was some girls. There were some girls
12 that kept feuding back and forth, going back and forth the
13 entire time I was there.

14 Q All right. Well, did it escalate to a point where at
15 least one man or more got involved in it?

16 A Yeah. It got to a point where, I guess, the guy,
17 Brent, and another guy, some speaking on the girls or
18 whatever and they got in a argument and they was like,
19 well, this is my cousin, that's my cousin and that's kind
20 of when the fight took place. It started with the girls
21 first.

22 Q Okay.

23 A And, I guess, the girls, both sides, both girls had
24 relatives in there. That's what kind of got it to the
25 point where they went to fighting or whatever.

1 Q And who went to fighting?

2 A That's when, I think it was Brent.

3 Q Brent Williams?

4 A Yeah, a kind of tall guy, dark-skinned. He got in a
5 fight and they was jumping on the guy. They call him
6 Demond.

7 Q Demond Brown?

8 A Yeah. And it got to the point where everything got a
9 little wild and they just got to fighting and everything.

10 Q Who was jumping on him, if you remember?

11 A I remember the guy, Brent. He did, fight, he jumped
12 on him.

13 Q Anybody else? What about the girls?

14 A The girls, I mean, it kind of escalated so fast till,
15 you know, you couldn't actually see. It was crowded, but
16 you couldn't actually see what was taking place. It's a
17 bunch of them in there, you know, fighting. And I know,
18 like I see Brent. And I see Demond down on the floor, he
19 was kicking him or whatever.

20 Q At any point in time did Mr. Holloway think well, you
21 know, we need to stop this or did he make an effort to
22 stop it?

23 A I didn't see him until, you know, it got from over by
24 the jukebox, whatever, they got like headed back towards
25 the door, then he said he was trying to call the police or

1 whatever.

2 Q All right. And so he told people he was calling the
3 police?

4 A No, he kept hollering, call the police, call the
5 police, but he didn't call them at that time.

6 Q Do you remember who did call the police?

7 A Darnell did. He did call them.

8 Q Darnell Holloway?

9 A Holloway, yeah.

10 Q Okay. 911?

11 A 911; yeah.

12 Q Before any shots were fired?

13 A Yes. Yes, before.

14 Q So at least Darnell Holloway felt like the fight was
15 bad enough for the police to come to the club?

16 A Right. I mean, it did get out of hand, the fight
17 did.

18 Q And did you take measures to try to subdue the
19 combatants, combatants, the fighters, and the participants
20 in that altercation?

21 A Well, when it was over, I mean, the guy, Calvin
22 Wells, was trying to get there to stop it, but I mean
23 there was so much, you know, going on, I mean, and I
24 stopped him. I was like, because these are older guys.
25 You know, you get over there and you get in the middle of

1 something, you going to get hurt or whatever. I told them
2 just let it stop.

3 Q What words did you use exactly?

4 A Well, I told them, I'm saying they going to get tired
5 eventually anyway. I mean, you know, just leave them
6 alone, you know, versus you all be getting hurt, I was
7 like just leave them alone, you know.

8 Q Yeah.

9 A And during that time, like I say, you know, they did
10 get tired, you know, but they was still going at it kind
11 of even slower.

12 Q Was one of the men continuing to be verbally
13 aggressive and physically combative even after the blows
14 are being thrown?

15 A Yeah, Brent.

16 Q Brent?

17 A Yeah.

18 Q And who was it that you saw attempt to get Brent back
19 from continuing his verbal assaults and his physical
20 manifestations?

21 A Jamaal; he was trying to stop it.

22 Q All right. And so Jamaal was having to pull Brent
23 out of the club?

24 A Right. Exactly.

25 Q All right. But before that time, you didn't see what

1 contact or interaction Jamaal had had before the fight
2 ended in the club?

3 A No. The only thing I know even at that time, he was
4 trying to help us stop the fight.

5 Q Get Brent out?

6 A Yeah, get out of there. Get him out.

7 Q Was that his major role was to get Brent out?

8 A Yeah. He was trying to get him out. I mean, he was
9 just telling him let's, you know, come on. He tried to
10 stop it, to get him out of there.

11 Q Well, did y'all accomplish what you were trying to do
12 and that is before the police arrived, get the people who
13 were continuing to argue and fight out of the club?

14 A Yeah, we did.

15 Q Who helped you do that besides Jamaal with Brent?

16 A It was--

17 Q -- who?

18 A Yeah. It was McCauley, Calvin Wells, Jamaal, and I
19 think it was, might have been one other person. I can't
20 recall who it was, but we eventually got them, you know,
21 out of the club.

22 Q Well, once they were out, were any of them trying to
23 get back in?

24 A Yeah. You know, they was coming back in. It was
25 Brent and I think it was like about two or three girls and

1 Jamaal trying to get back in. I mean, we was actually
2 holding the door and they was pulling the door and they
3 was trying to get back in or whatever..

4 Q During the course of your attempting to close the
5 door, did anybody helping you, did you see anybody helping
6 you get hit?

7 A Yeah. Ernest got hit.

8 Q Did you see who hit him?

9 A Jamaal hit him.

10 Q You're positive?

11 A Yeah. I'm positive.

12 Q How would you describe Jamaal's demeanor from the
13 time he was trying to get Brent out of the club till the
14 time he hit Ernest McCauley in the head?

15 A Well, he hit him.

16 Q Was there a change in his behavior?

17 A Well, when we was there at the door or whatever with
18 the pushing and the shoving and everything, I guess, kind
19 of changed. I guess it might have changed with everybody,
20 you know, really. But it changed and when he kind of
21 reached over and he hit Ernest in his face and kind of got
22 everybody pushing him back out the door.

23 Q How would you describe Jamaal's behavior when he hit
24 Ernest in the face?

25 A Well, he hit him and, I mean, he just, he hit him.

1 Q Was he trying to get in the club?

2 A Yeah, all of them was trying to get in there, you
3 know.

4 Q Did you see him have to reach over somebody to hit
5 Ernest?

6 A The girls. Yeah, it was the girls was in the, in
7 front of the guys.

8 Q And you saw Jamaal do this?

9 A Yeah, he just reached over and hit Ernest in the
10 face.

11 Q Okay. Were you able to get the door shut?

12 A Yeah, we got the door shut.

13 Q And once you got it shut, who locked it?

14 A Calvin locked it, because he was on the inside.

15 Q All right. And once it was locked, was the group
16 outside continuing to try to get in?

17 A Well, once he got it locked, I mean, and once the
18 door is locked, you couldn't actually tell whether they
19 was actually trying to get in.

20 Q But were they being loud and aggressive outside?

21 A It was real loud outside.

22 Q And were they pulling on the door or yanking on the
23 door?

24 A Well, after a couple of minutes, you know, pulling on
25 it, I mean, we got back in.

1 Q After a couple of minutes?

2 A Yeah.

3 Q Now, and do you remember either seeing the injury to
4 Ernest McCauley or him showing you the injury to his eye?

5 A Yeah. It was kind of blood shot.

6 Q And you saw it that night?

7 A Yeah. It was kind of blood shot that night.

8 Q His eye?

9 A Yeah.

10 Q And did you see it the next day?

11 A Yeah.

12 Q Was it still blood shot?

13 A Yeah.

14 Q Was it swollen?

15 A Yeah. It was swelling. He had a little swelling I
16 think.

17 MR. JONES: Answer any questions the Solicitor has
18 for you, please.

19 CROSS-EXAMINATION

20 By Mr. Brown:

21 Q Mr. Thomas, how are you?

22 A Fine. How are you?

23 Q Mr. Thomas, you said you were there that night,
24 November 14, 2013?

25 A Excuse me?

1 Q You were there that night when this all happened?

2 A Yes.

3 Q And what time did you say you got there?

4 A I'm thinking, yeah, but I'm not positive, but I'm
5 thinking between 7:00, 7:00 to 7:30, something like that.

6 Q And then you ended up leaving what time?

7 A After everything was over.

8 Q So getting closer to 11:00 o'clock?

9 A I think, and everything, so the police had came and
10 they had left. Well, they had talked to us and then left
11 or whatever.

12 Q Now, you said that night, you know Al Morgan?

13 A Yeah.

14 Q And how do you know Al?

15 A He was a regular. About like, he came in there
16 pretty regular.

17 Q And he came up there a good bit?

18 A Yeah.

19 Q Had you ever seen him get in any trouble up there
20 before?

21 A And not to my knowledge.

22 Q Did he ever get in a fight up there?

23 A Not while I was, you know, while I was there.

24 Q Not while you were there?

25 A No.

1 Q Now, you said you didn't know Brent Williams?

2 A No. No.

3 Q And you did not know Jamaal Aiken?

4 A No.

5 Q And had he ever been up there when you were there?

6 A That was the first time I seen him was that night.

7 Q The first time you saw him was that night?

8 A Yeah.

9 Q And you said you know him, knew his nickname was
10 Smooth?

11 A Yeah, that's what a lot of people called him.

12 Q Now, you said you got there between 7:00 and 7:30 and
13 you're playing spades with Calvin Wells, Johnny.

14 A Yeah. Johnny. Johnny; I can't remember Johnny's
15 last name.

16 Q And Ernest McCauley?

17 A Ernest McCauley; yeah.

18 Q And then you said you never saw Al that night?

19 A I didn't see him that night.

20 Q How big is the Cabstand?

21 A It's I think what, probably 12 x 40 or something like
22 that, 12 x 45.

23 Q 12 x 45?

24 A Yeah. Because it's, I mean, you got about 12 foot
25 coming in and wide and it's probably about 25 feet deep.

1 Q Do you see Al here today?

2 A Yeah.

3 Q And you never saw him in that Cabstand that night?

4 A Not that night. Not that night. When I come in, I

5 didn't see him.

6 Q And you were there the entire time. When you got

7 there between 7:00 to 7:30, you were there until the cops

8 got there?

9 A I'm thinking about 7:00-7:30 when I got there. I'm

10 not positive.

11 Q And not to hit a dead horse, but you never saw him

12 there?

13 A I didn't see him.

14 Q Okay.

15 A I didn't see him out there that night, no.

16 Q All right. Now, I'll move on. So moving ahead to

17 when Jamaal and Brent and all these other folks got there,

18 you said girls got into a back and forth?

19 A Yeah. The girls, the ones that actually started the

20 confusion.

21 Q Do you know who those girls were?

22 A One of them was Quetta I think. Saquetta, I think,

23 and I think the other one was, I ain't sure who these are,

24 but I know Shay was in it. But I ain't sure who them two

25 girls was that was arguing. I know Quetta was steady

1 arguing.

2 Q And you don't know if it was Shay or somebody else?

3 A I don't know whether it was Shay or not.

4 Q Now, once they started going back and forth, before
5 all that, had there been any arguments in the club?

6 A No, it was the girls. I mean, that's exactly who it
7 was, the girls.

8 Q Okay. And then after that, you saw Brent?

9 A Well, I say Brent and there was another guy. I don't
10 know who he was.

11 Q I think you mentioned earlier Demond or Mond?

12 A Yeah, Mond was over there. I know Mond. Mond is a
13 regular too.

14 Q One guy was, basically, one was with one girl and the
15 other was with the other girl and they were cousins or
16 something like that?

17 A Yeah, they said they was related to the girls.
18 That's how it kind of got from the girls arguing to the
19 guys, you know.

20 Q Okay. And Demond ended up on the ground?

21 A Yeah.

22 Q Brent on top of him?

23 A Yeah. Demond was on the ground and they was stomping
24 and kicking him and stuff.

25 Q Now, once that fight started escalating you said

1 Darnell started hollering he was going to call 911?

2 A Yeah, said he was going to call 911.

3 Q And, eventually, he did call 911?

4 A Eventually, he did. Yes.

5 Q And at that time, people started trying to break up
6 the fight?

7 A No, he got in the fight. Me and Cocky, which was
8 Calvin Wells, once the fight commenced or whatever, he
9 went over and as Jamaal was trying to stop the fight.

10 Q And Jamaal stopped, tried to stop the fight?

11 A He was trying to stop it. He was trying to get Brent
12 from fighting.

13 Q Okay. And you never saw Jamaal actually taking part
14 in the fight?

15 A Not in the club, no.

16 Q So once everybody got outside, then Jamaal decided to
17 swing and hit Ernest McCauley?

18 A Well, he, once he got outside, the door it's a
19 rigged-up contraption or whatever, but they was pulling,
20 we was pulling, they was pulling, we was pulling, so they
21 finally got the door open and once they got the door open,
22 then the girls in front, Brent on one side, Jamaal on the
23 other side. Once we got, like I said, we had the people
24 opened the doors and everything, everybody was trying to
25 go straight, you know, and when they got there right there

1 closer to each other and whatever, he reached over and hit
2 Ernest. Some other people probably got hit, too. I mean,
3 you got to think they on this side, we on this side, they
4 trying to get in and trying to keep them out, you know,
5 so. Ernest got hit. I seen Ernest got hit, because I was
6 standing beside him at that time.

7 Q Now, did you see, did any of the girls get hit in the
8 face?

9 A No, I didn't see them get hit.

10 Q Could they have got hit in the face?

11 A Oh, yeah. They could have.

12 Q Okay.

13 A It was a lot going on right there at the door.

14 Q Now, it's kind of, just based on what you're saying,
15 it's kind of inconsistent with the way that Jamaal was
16 acting inside a club. And then he gets outside a club and
17 he just changes his whole--

18 A -- yeah. That's what I was really, I mean, I seen,
19 the whole time in the club.

20 Q Do you know why he might have changed his demeanor?

21 A No. No. Unless one of the girls got hit at the
22 door. I don't, you know, I can't say that they didn't.

23 Q That one of the girls could have got hit at the door?

24 A They could have got hit. I mean, it was a lot going
25 on, you know.

1 Q So that could have happened that one of the girls got
2 hit at the door?

3 A Now, maybe. Yeah.

4 Q All right. Now, after the door was locked and shut,
5 you said they were still kind of pulling on the door but
6 then it kind of got stopped?

7 A It just stopped, yeah.

8 Q And after that you don't know what really happened
9 out in the parking lot?

10 A No. No.

11 Q Did you ever see anything in Jamaal's hand?

12 A No.

13 Q When he popped Mr. McCauley?

14 A No.

15 Q So you didn't see any other, anything other than his
16 fists?

17 A No.

18 Q Okay. And the whole time you're in the club that
19 night, did you see anybody pull out a pistol?

20 A No.

21 Q No?

22 A No.

23 Q Did anybody, did you hear anybody talk about pistols
24 in the club that night?

25 A No.

1 Q Anybody threaten anybody with a pistol that night?

2 A No.

3 Q And that was a no?

4 A No.

5 MR. BROWN: No further questions.

6 THE COURT: Anything else?

7 MR. JONES: Just one.

8 REDIRECT EXAMINATION

9 By Mr. Jones:

10 Q This is defendant's exhibit number 9. It's a
11 photograph. I want to ask you to look at it. Do you
12 recognize any of the people in that?

13 A Yes.

14 Q Speak up.

15 A Yes. Yes.

16 Q Who?

17 A This one.

18 Q Who is the one you referred to, the first one at the
19 top?

20 A That's the guy--

21 Q -- Jamaal?

22 A Yeah.

23 Q All right. Who is this?

24 A That's the guy that was fighting.

25 Q Brent?

1 A Yes.

2 Q Okay. You don't know who this third guy is?

3 A No.

4 Q You didn't see him in there that night?

5 A He could have been in there. I mean it was two guys

6 fighting. I couldn't say for sure that that was him. I

7 remember that guy. I seen him.

8 Q Two guys other than Brent and Demond. There was

9 another guy fighting?

10 A Yeah.

11 Q Right.

12 A Yeah.

13 Q Other than Demond or Brent, there was another guy

14 fighting?

15 A Yeah, yeah. There was another guy.

16 Q Okay. Could it have been Crip?

17 A I don't know. I can't say. I can't say.

18 MR. JONES: Okay. That's all.

19 THE COURT: All right. You can step down. Y'all got

20 a short witness or a long one?

21 MR. JONES: Probably medium. We might be able to

22 finish with the next witness by 12:30 or, Judge, it may go

23 on.

24 THE COURT: Okay. We will go 30 more minutes.

25 MR. JONES: Shay Simon.

1 SHAY SIMON, being
2 first duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 By Mr. Jones:

5 Q Shay, state your name for the record, please.

6 A My name is Kimeshia Simon. I go by Shay.

7 Q I'm going to refer to you as Shay, all right? Most
8 people do, right?

9 A Yes, sir.

10 Q Did you grow up in Greenwood?

11 A Yes, sir.

12 Q Did you go to school in Greenwood?

13 A Yes, sir.

14 Q How far?

15 A Ninth grade.

16 Q Do you know Al Morgan?

17 A Yes, sir.

18 Q Have you ever dated him in the past?

19 A Yes, sir. You can call it that.

20 Q Okay. Is he your boyfriend today?

21 A No, sir.

22 Q Do you have a boyfriend?

23 A Yes, sir.

24 Q And how long have you and this man, your current
25 boyfriend, been seeing each other?

- 1 A A little over a year.
- 2 Q All right. Back on November the 14th of 2013, were
- 3 you at the Cabstand club?
- 4 A Yes, sir.
- 5 Q Who were you there with?
- 6 A With Courtney Lockhart, Tammy Rapp. Who I went with,
- 7 like exactly who I came with?
- 8 Q Yes, ma'am.
- 9 A With Courtney Lockhart and Tammy Rapp.
- 10 Q All right. And when you got there, did you see some
- 11 people that you knew?
- 12 A Yes, sir.
- 13 Q Who?
- 14 A Alphonso Morgan, Tiffany Robertson. A few, a couple
- 15 of people.
- 16 Q Can you name anybody else?
- 17 A Demond.
- 18 Q Do you know his last name?
- 19 A Demond Brown. There's a Tommy Gilchrist. I think
- 20 that's his name.
- 21 Q Who was in charge of the club? Who kind of was the
- 22 proprietor at the time; do you know his name?
- 23 A I'm not quite sure of his name, but I know him.
- 24 Q Was he there?
- 25 A Mr. Ernest. Yeah, Mr. Ernest, Ernest McCauley. He

1 was there.

2 Q All right. Well, let me ask you when you got there
3 and say during the first little while that you were there,
4 did you see Al, was he there?

5 A Yes. We was going to meet each other there. He was
6 there before I got there.

7 Q What was the mood of the club while you were there?

8 A It was calm. It was just more older people at the
9 time when I got there. It was just old people.

10 Q At some point in time during the course of your being
11 there, did another group arrive?

12 A Yes, sir.

13 Q And who was in that group?

14 A That was Brent Williams, the deceased, Dora Greene,
15 Shonda Williams, Nicole, and Saquetta Spencer and I think
16 that's about it.

17 Q Did you know Saquetta Spencer?

18 A Yes, sir; I do.

19 Q How did you know her?

20 A We grew up together. We used to be friends.

21 Q At the time, November the 14th, 2013, that night, did
22 you know anything about a relationship between Saquetta
23 and Al?

24 A Yes, sir.

25 Q And what did you know about that?

1 A They used to date and they stopped talking, and me
2 and him started talking.

3 Q Okay. So do you know how she felt about that?

4 A Yes, sir; I did.

5 Q How?

6 A She didn't like it.

7 Q Okay. And during the course of the evening when
8 Saquetta Spencer came in and who again was with her?

9 A It was Dora Greene, Shonda Williams, Nicole and I
10 call her Bird, but I guess her name is Drina Morgan.

11 Q And did they come in with, in the company of any men?

12 A The men came right after them and went behind them.
13 Nicole came in behind them, too. All of them didn't come
14 in together.

15 Q Who were the men that you--

16 A -- there was the deceased and Brent and the deceased
17 girlfriend, they came in together.

18 Q What's her name?

19 A Nicole.

20 Q When they came in, what did you observe about any of
21 those people do as they entered or interacting with you or
22 anybody else you knew there at the club, Al, or anybody
23 else?

24 A It's first like when they came in, they came by. You
25 could tell the, you could feel the tension in the room

1 between them, it's like they come to start with me. The
2 girls come for me, so you could just feel the tension in
3 the room.

4 Q Well, at some point in time did the tension rise to
5 the level of there being outright arguments and
6 accusations being presented by anybody?

7 A Yes, sir.

8 Q Whom to whom?

9 A Me and my friend, Demond. Demond Brown was standing
10 at the table and Brent, he had made a comment to me and
11 after he said the comment, Brent hit him and that's when
12 Jamaal hit Clifton and the other girls had jumped in the
13 fight.

14 Q Well, what did Demond say about you and who was he
15 was talking to when he said it?

16 A He was talking to me and he said he wasn't going to
17 let nobody bother me, as in the other girls.

18 Q Well, who was bothering you at that time?

19 A Just Saquetta and the group of girls that she was
20 with.

21 Q How were they bothering you?

22 A Just making comments and just making little comments.
23 We had already stepped outside to talk, because we thought
24 we was going to end up fighting. We shook hands and we
25 came back inside.

1 Q We being who?

2 A Me and Dora Greene and Bird. We all went outside.

3 Q Bird is Drina Morgan?

4 A Yeah, Drina Morgan.

5 Q Okay.

6 A We go outside. We talk. Me and Dora Greene shake

7 hands and go back in.

8 Q The understanding you thought you had with Dora

9 Greene began to erode when you were back inside?

10 A Yes, sir.

11 Q And comments were being made?

12 A Yes, sir.

13 Q Were they threatening?

14 A Drina Morgan kept wanting her to fight me.

15 Q What was your relationship with Demond Brown?

16 A Just knew him from around the neighborhood.

17 Q Did he have a friend with him there that night?

18 A Yes, sir.

19 Q Who was that?

20 A I think his name is Tony.

21 Q Do you have any knowledge of their relationship?

22 A No, not really. I just know they are good friends.

23 Q All right. Well, who was Demond closer to, you or Al

24 Morgan?

25 A I would say me.

1 Q Okay. And was there anybody else in the club from a
2 female standpoint that he was close to?

3 A Courtney. He was also close to them, but he was, to
4 Drina Morgan and them, but he was more closer to me.

5 Q Okay. Would you say he was closer, other than the
6 friend that was with him in there, to the women in the
7 club than any of the men?

8 A Yes, sir.

9 Q So other than the male friend that accompanied him to
10 the club, you would characterize him to being closer to
11 the women in there than any of the other men?

12 A Yes, sir.

13 Q From Al to Brent to Jamaal or anybody else?

14 A Yes, sir.

15 Q Okay. Now, once the fight started between Demond
16 Brown and Brent Williams, what did you observe about that
17 fight?

18 A Clifton Robinson was walking past and while he was
19 walking past us when Brent, not Brent but Jamaal had
20 grabbed him and once Clifton was on the ground, that's
21 when all the girls just started stomping on him and I was
22 trying to get Demond up.

23 Q Okay. So you were down on the floor trying to get
24 him up?

25 A Yeah.

1 Q All right. At any point in time during the
2 altercation or shortly thereafter, did you do anything
3 with your phone?

4 A Yes. I called Alphonso to come and get me.

5 Q At what point in time was that during the
6 altercation?

7 A That was after the fight had broke out and they was
8 trying to get the people outside.

9 Q So the fight had broken up and they were trying to
10 get the people involved on the other side out the door?

11 A Yes, sir.

12 Q And you called Al?

13 A Yes, sir.

14 Q Do you remember what you said to him?

15 A I was telling him that they had jumped on Clifton and
16 then we was trying to leave and even then, I knew that
17 they was outside, if we went outside, we was going to have
18 to fight next.

19 Q So did you tell, ask Al if he would come get you?

20 A Yes, sir.

21 Q Did you ever at any point in time give the phone to
22 Clifton?

23 A Yes, sir.

24 Q Why?

25 A Because he wanted to tell Al that, you know, what had

1 happened, what went on in the inside and then he was like
2 he was ready to go.

3 Q Okay. Were you upset when you made the call?

4 A Somewhat.

5 Q And when Clifton gave the phone back to you, did you
6 have an additional conversation with Al?

7 A I'm not quite sure.

8 Q Okay. Well, was it your understanding that he was
9 coming to get you and Cliff?

10 A Yes, sir.

11 Q Did he manage to come in and get you?

12 A No, sir.

13 Q After you got off the phone with him was there a
14 period of time, and then you heard something happen
15 outside?

16 A Yes, sir.

17 Q What did you hear happen outside?

18 A I heard gunshots.

19 Q Okay. And after you heard that, who were you with?

20 A I was still with Clifton and Courtney and Demond.

21 Q Okay. And did you and Courtney and Clifton, did
22 y'all leave out the front or the back?

23 A We went out the back. They wouldn't let us out the
24 front.

25 Q Okay. And did you leave before the police or at the

1 same time the police were getting there?

2 A I think after, because I went behind the club, so I
3 could just see the lights. I never did go to the front.

4 Q And from there behind the club, where did you go?

5 A I proceeded to walk home.

6 Q Did you live near there?

7 A Yes, sir.

8 Q And, approximately, how far away from there did you
9 live?

10 A Maybe five minutes.

11 Q Okay. And who went with you?

12 A Me, Clifton and Courtney.

13 Q At any time while you're in the club, did you ever
14 see anybody with a gun?

15 A No, sir.

16 Q Did you not see Jamaal with a gun?

17 A No, sir.

18 Q Did you see Al with a gun?

19 A No, sir.

20 MR. JONES: Answer any questions the Solicitor has
21 for you, please.

22 CROSS-EXAMINATION

23 By Mr. Stumbo:

24 Q Good afternoon, Shay.

25 A Good afternoon.

1 Q I'm David Stumbo. I'm the solicitor. I know we've
2 never met or talked before have we?

3 A No, sir.

4 Q And just to set the record straight, and I don't want
5 you to say anything about this, but you do have, my office
6 is prosecuting you right now for an attempted murder
7 charge, correct?

8 A Yes, sir.

9 Q Okay. And you're out on bond for that?

10 A Yes, sir.

11 Q And we're not going to talk about that, but you're
12 represented on that charge. Does that attorney know
13 you're here today?

14 A I'm not sure.

15 Q Okay. You said there were not, you saw no guns that
16 night from anybody in the club, right?

17 A No, sir.

18 Q Jamaal didn't have a gun; Brent didn't have a gun?

19 A Not that I know of.

20 Q Okay. Well, let me just for the record. Jamaal
21 didn't have a gun, correct?

22 A No.

23 Q Brent didn't have a gun, correct?

24 THE COURT: She didn't see a gun.

25 MR. STUMBO: Right.

1 A Yeah, I didn't see a gun.

2 THE COURT: And we've already stipulated to something
3 that she's not aware of.

4 MR. STUMBO: Well, that's what I'm getting at, Judge.

5 THE COURT: All right. Well, ask the question that
6 way.

7 Q Well, how about Al?

8 A I didn't see him with a gun. I didn't see nobody
9 with a gun.

10 Q Okay. Well, good. I'm glad we got that clear. You
11 said the girls were causing the tension, right, when they,
12 that group came in?

13 A Yeah.

14 Q And was Jamaal part of that group?

15 A The girls came in first and like the groups were
16 coming in one at a time. Eventually, all, the whole group
17 had been together and once everybody's in the club, that's
18 when the whole group had gotten together.

19 Q Okay. And did you ever see Jamaal or Smooth, you
20 know him by Smooth?

21 A Yes, sir.

22 Q Did you ever see Smooth make any kind of aggressive
23 movement toward anybody?

24 A They was just, not really, but they was just bouncing
25 around and no, not really.

1 Q Okay. And this fight, who were the first, who was
2 the first person to throw a punch in this fight?

3 A Brent Williams.

4 Q Okay. And who did he hit?

5 A He hit Demond, Demond Brown.

6 Q Okay. Was Demond on your side?

7 A Yes, sir.

8 Q All right. And who was Brent, what girl was Brent
9 coming in to fight, to defend?

10 A Saquetta Spender, I'm guessing.

11 Q Okay. And so the fight was really between you and
12 Quetta, right?

13 A I didn't have a problem with her but it was,
14 basically, because I was dating, talking to Mr. Morgan.

15 Q Okay. And Quetta had dated Mr. Morgan at one point,
16 too?

17 A Yeah, they used to date.

18 Q At what point does Jamaal get involved with this
19 situation, if at all?

20 A After Brent made the first punch, that's when Jamaal
21 made a punch, too.

22 Q Okay. Jamaal jumped in and punched somebody?

23 A Yes, sir.

24 Q Who did he punch?

25 A He punched Clifton Robinson.

1 Q So if I understand your testimony correctly, Jamaal
2 went from not being involved with this situation at all to
3 coming in and just punching Clifton Robinson?

4 A Yes, sir. They was together.

5 Q Who was together?

6 A Him and Brent Williams.

7 Q Okay. Now, is it correct to say that Brent and the
8 girls that were with Brent and Jamaal all ended up outside
9 after this?

10 A Yes, sir.

11 Q All right. How did they get outside, describe that.

12 A Because after the fight, the club owner is trying to
13 break everybody up and they got put outside the club.

14 Q Okay. So the fight, the club owner, who is that, Mr.
15 Wells?

16 A Mr. McCauley. I call him Ernest.

17 Q Okay.

18 A That's--

19 Q You saw, what did he do?

20 A They was pushing them outside the club and that's
21 when they kept shaking on the door and stuff and reaching
22 in and throwing punches.

23 Q Did any of the girls ever get hit?

24 A No, they was doing the fighting. They was stomping
25 Clifton Robinson while he was on the ground.

1 Q All right. You stayed inside the club and called Al,
2 correct?

3 A Yes, sir.

4 Q What'd you say to him?

5 A That they had jumped on Clifton and we needed to
6 leave and they wanted us outside.

7 Q Okay. Did you ask him to come pick you up?

8 A Yes, sir.

9 Q Were you angry?

10 A Not really. I was just ready to go.

11 Q Okay! Did you ever hear a gunshot after this?

12 A Yes, sir.

13 Q Okay. It came from somewhere outside?

14 A Yes, sir.

15 Q About how long between the time you call Al on the
16 phone until that gunshot?

17 A I'm not quite sure.

18 Q Two minutes, three minutes, five minutes?

19 A Maybe five, ten.

20 Q Five to ten minutes?

21 A Yes, sir.

22 Q Have you ever talked to law enforcement about any of
23 this that you've told us today?

24 A No, sir.

25 Q You ever talked to anybody in my office about what

1 happened that day?

2 A No, sir.

3 Q Did you ever find out after that night when you left
4 that someone had been killed?

5 A I found out the next morning.

6 Q The first time you've talked to anybody officially is
7 here today in court about this case?

8 A To your side?

9 Q Okay. To my side.

10 A Yes, sir.

11 Q Did you talk to Al and his lawyer?

12 A I talked to his lawyer.

13 MR. STUMBO: No further questions, Judge.

14 THE COURT: Anything else?

15 REDIRECT EXAMINATION

16 By Mr. Jones:

17 Q Did you refuse to meet with anybody from the
18 Solicitor's Office?

19 A No, sir.

20 Q Did you refuse to meet with anybody from the
21 Greenwood City Police Department?

22 A No, sir.

23 Q Did anybody attempt to contact you--

24 A No, sir.

25 Q --from either one of those agencies?

1 A No, sir.

2 Q Thank you.

3 THE COURT: All right. You can step down. Y'all
4 want to break till 1:30 or so for lunch?

5 MR. JONES: Yes, sir.

6 (Whereupon, a lunch break was taken.)

7 THE COURT: All right, call your next witness.

8 ALPHONSO MORGAN, being first duly sworn, testified as
9 follows:

10 DIRECT EXAMINATION

11 By Mr. Jones:

12 Q State your name for the record.

13 A Alphonso Morgan, Jr.

14 Q Okay. Do you go by Al?

15 A Yes.

16 Q Al, I'm going to ask you some questions about where
17 you grew up and where you went to school. Where'd you
18 grow up?

19 A Greenwood, South Carolina.

20 Q And where did you go to school?

21 A Greenwood High.

22 Q How far did you go in school?

23 A Eleventh grade.

24 Q Once you finished the 11th grade?

25 A I started working.

- 1 Q Do you remember the first job you had?
- 2 A My first job I worked at Sweet Pea's restaurant.
- 3 Q What'd you do up there?
- 4 A I was a dishwasher.
- 5 Q Okay. And do you recall during leaving school in the
- 6 11th grade and where you sit today, how old are you?
- 7 A I'm 37.
- 8 Q Okay. Do you recall the longest period of time you
- 9 worked at one location and where that was?
- 10 A Yes, sir.
- 11 Q How long?
- 12 A Six years.
- 13 Q Where?
- 14 A In Greenwood Packing Plant.
- 15 Q What did you do at the packing plant?
- 16 A I was lowering boxing arms.
- 17 Q Okay. Do you recall the evening of November the
- 18 14th, 2013, don't you?
- 19 A Yes, sir.
- 20 Q Were you employed at that time?
- 21 A Yes, sir.
- 22 Q Where were you working?
- 23 A At the Smokehouse Barbecue.
- 24 Q And where is that located, in Greenwood?
- 25 A Yes, sir.

- 1 Q What were you doing at the Smokehouse Barbecue?
- 2 A I was a dishwasher and prepped food.
- 3 Q Okay. Now, Al, I want to ask you a couple of more
- 4 questions. Do you have children?
- 5 A Yes, sir.
- 6 Q How many?
- 7 A Five.
- 8 Q What are their ages?
- 9 A Ranges from 8, 10, 14 and 15.
- 10 Q You have one younger than 8?
- 11 A Yeah, one year's old, and but that's my baby one.
- 12 Q Are you currently married?
- 13 A No, sir.
- 14 Q Back on November the 14th of 2014, where were you
- 15 living; who were you living with?
- 16 A My mother.
- 17 Q What's her name?
- 18 A Willa Morgan.
- 19 Q Okay. And who stayed there at the home with you?
- 20 A My father, Al Morgan; Alphonso Morgan, Sr.
- 21 Q Now, at that time, you went somewhere on the evening
- 22 of November the 14th, 2014, is that correct?
- 23 A Correct.
- 24 Q Do you recall whether or not you worked that day?
- 25 A Yes, I did.

1 Q At where?

2 A The Smokehouse Barbecue.

3 Q What time would you normally get off of work?

4 A Probably from, I worked from like 11:00 to like 3:00

5 or 4:00 o'clock that afternoon.

6 Q Okay. And when you got off work, what did you do?

7 A I went to my mom's house.

8 Q Okay. Did you prepare to make plans to go out that

9 evening?

10 A Basically, somewhat; yes, sir.

11 Q Do you remember what day of the week it was?

12 A It was on a Thursday..

13 Q All right. And where did you plan to go?

14 A To the Cabstand.

15 Q Okay. Did you go there?

16 A Yes, sir.

17 Q And did you stay there for a while and leave?

18 A Yes, sir.

19 Q And when you left, who did you leave with?

20 A With a guy named, well, Thomas Gilchrist, Bug.

21 Q And where did y'all go?

22 A We went back to Lenwood's house.

23 Q Okay. And where does Lenwood live?

24 A Reynolds Street, the house right on the corner of

25 Reynolds Street.

1 Q Okay. And you left and went to his house. Did you
2 have occasion to go back to the club that same night?

3 A Yes, sir. I did.

4 Q And why did you go back?

5 A Because a friend of mine, Shay, Shay and my friend
6 Crip had got into a, she called me and told me that Crip
7 had got jumped on.

8 Q And?

9 A And so we went back to go pick them up.

10 Q Why?

11 A Because that's the type of friend I am.

12 Q Did anybody ask you to come back and pick them up?

13 A Yeah, she asked me.

14 Q Okay. Well, and while you were back there in the
15 parking lot, was there an incident?

16 A Yes, sir.

17 Q All right. As a result of the incident, did you
18 leave the parking lot and drive back to Lenwood's place?

19 A Yes, sir; I did.

20 Q All right. And when you went back to Lenwood's
21 place, did you have a gun on you?

22 A Yes, I did.

23 Q And had you used the gun in the parking lot when the
24 incident took place just prior to getting back there?

25 A Yes, I did.

- 1 Q How many shots had you fired from the gun?
- 2 A One shot.
- 3 Q When you went back to Lenwood's, did you get out of
- 4 his car?
- 5 A Yes, sir.
- 6 Q Where did he park his car when you got out?
- 7 A He parked, the car beside of the house.
- 8 Q Okay. And where did you go when you got out?
- 9 A I went to the back of the yard.
- 10 Q What did you do in the back of the yard?
- 11 A I just got, put the gun down.
- 12 Q Why did you take the gun back there?
- 13 A Because I was scared. I had shot somebody and I
- 14 panicked.
- 15 Q All right. When you put the gun back there what did
- 16 you do?
- 17 A I ran back and ran back in the house.
- 18 Q Okay. Were you still scared?
- 19 A Yes, sir.
- 20 Q Did you speak to anybody in the house about what had
- 21 happened?
- 22 A No, sir. I just sat down on the couch and fired a
- 23 cigarette up.
- 24 Q A few minutes later did the police arrive there?
- 25 A Yes, sir.

1 Q Were you placed in handcuffs by the police?

2 A Yes, sir.

3 Q And where did they place you once you're in
4 handcuffs?

5 A I was on the ground for a while, and then they put me
6 in the car.

7 Q During that period of time, did any police officer
8 come up and ask you any questions?

9 A No, sir.

10 Q After you were in the car for a while, did the police
11 transport you to the Greenwood Police Department?

12 A Yes, sir.

13 Q Do you recall who transported you to the police
14 department?

15 A No, I can't recall a name.

16 Q Did anybody during the course of transporting you to,
17 from Lenwood's house at [REDACTED] Reynolds Avenue to the
18 Greenwood Police Department ask you anything about what
19 had happened?

20 A No, sir. Not at that time.

21 Q All right. Well, on the way is what I'm asking, do
22 you understand what--

23 A Yeah. No, sir.

24 Q All right. When you got to the police department
25 where do you remember going?

- 1 A I went to the detective office.
- 2 Q Okay. Did you know where the detective's office was
- 3 in the police department?
- 4 A Yes, sir. I know where it is.
- 5 Q And what did it look like in there?
- 6 A It was just a long table with chairs right there and
- 7 that was basically it. It was like, well, we got like a
- 8 video camera where you can see it in there like to record
- 9 something.
- 10 Q Was there computers in there and things like that?
- 11 A Not that I know of.
- 12 Q At some point in time did a detective come in and sit
- 13 down and ask you a question?
- 14 A Yes, he did.
- 15 Q Do you know who it was?
- 16 A Yes, sir.
- 17 Q Who?
- 18 A Mr. Dixon.
- 19 Q Is he seated in the courtroom here today?
- 20 A Yes, sir.
- 21 Q With the pink tie on?
- 22 A Yes, sir.
- 23 Q Behind the Solicitor?
- 24 A Yes, sir.
- 25 Q You remember him coming in and asking you a question?

1 A Yes. Yes, sir.

2 Q Was there anybody else in the room with you?

3 A Yes, sir. There was.

4 Q Okay. When he asked you a question, do you recall
5 what your answer was to him?

6 A I asked for counsel. I said I wanted to talk to my
7 lawyer.

8 Q What'd you say about that?

9 A I told that, and he asked me, he said, who's your
10 lawyer. And I said, Townes Jones. I said, because I know
11 he told me if I ever get into contact with the police or
12 anything to get in touch with him.

13 Q All right. And what happened after you said that?

14 A And he just kept asking me questions about, you know,
15 what happened. He had wrote some stuff up on the board
16 asking me about do I have any kids or anything.

17 Q Well, all right. And did he at any point in time
18 leave the room?

19 A Yes, he did.

20 Q How long after he wrote some stuff on the board did
21 he leave the room?

22 A It was in seconds.

23 Q And then what happened when he came back in the room?

24 A He told me I, he told me that the guy that I had shot
25 was dead, and I was being charged with a murder. He said,

1 he dead. He dead. Don't try to, you don't even worry
2 about it.

3 Q And what happened next?

4 A They took me back to my holding cell and he was like
5 if you want to talk to me, you just write me.

6 Q Okay. During the time you were there with him, did
7 you discuss anything about what had happened earlier or
8 did you tell him you wanted to talk to a lawyer?

9 A That what he was asking me about it, but I just say I
10 want to talk to a lawyer.

11 Q How long would you say you had known me before
12 November the 14th, 2013; how many years had you known me
13 before that?

14 A About 10, 15.

15 Q Okay. And does your family have any connection with
16 me?

17 A Yes, sir.

18 Q To what extent?

19 A To the extent to where my mom had kept your mom
20 before she passed away.

21 Q And?

22 A And present for little things I had got myself into,
23 too.

24 Q Okay. Well, as far as this evening is concerned, I'm
25 going to go back to, before I do again, you were arrested

1 and you stayed in jail and I came and talked to you a
2 couple of times, correct?

3 A Correct.

4 Q And you did not move for a bond, for several months,
5 did you?

6 A Nine months to be exact.

7 Q Okay. And during a course of a period of two or
8 three months, I arranged for you to meet again with
9 Detective Dixon, didn't I?

10 A Correct.

11 Q And prior to that meeting, you told me where the gun
12 was, didn't you?

13 A Correct.

14 Q And you wanted me to tell them where the gun was,
15 didn't you?

16 A Correct.

17 Q All right. And you went and had another meeting with
18 Detective Dixon in his office again in the same office,
19 didn't you?

20 A Correct.

21 Q He came and got you from the jail and took you down
22 there and had a meeting?

23 A Correct.

24 Q And took a statement from you?

25 A Correct.

- 1 Q About what happened that night?
- 2 A Correct.
- 3 Q All right. Now, let me get back to what happened
- 4 that night. I'm going to go back to November the 14th,
- 5 2013. You said you were making plans to go to the
- 6 Cabstand?
- 7 A Correct.
- 8 Q How'd you get there?
- 9 A I left with Tommy Gilchrist, Bug.
- 10 Q How long had you known Bug?
- 11 A I known Bug for several years.
- 12 Q And how did y'all get to the Cabstand?
- 13 A He came and picked me up from my mom's house.
- 14 Q In what kind of car?
- 15 A It's a goldish like Toyota Camry.
- 16 Q Was it his car?
- 17 A Yes, sir.
- 18 Q Was it his girlfriend's car?
- 19 A It was his car.
- 20 Q Okay.
- 21 A Far as I know.
- 22 Q Okay. Well, what did y'all do when you got to the
- 23 Cabstand?
- 24 A We went in and shot some pool and got a couple of
- 25 beers. Well, I got him one and had got me one.

1 Q Did it, were you joined there by anybody?

2 A Yes, I was.

3 Q Who?

4 A Tonya and Lenwood, Nick.

5 Q Okay. Lenwood, what's his last name, do you know?

6 A Ramsey.

7 Q And what about Tonya's last name?

8 A Tonya Fuller.

9 Q Had you known them prior to this?

10 A Oh, yes sir.

11 Q Okay. Were y'all socializing with each other at the
12 club?

13 A Yes, sir. When they, once they came in.

14 Q Had you been somebody that would frequent the club
15 from time to time?

16 A You said that, and could you repeat the question,
17 sir?

18 Q Would you prior to this date go to the club from time
19 to time?

20 A Oh, yes sir.

21 Q Okay. And describe the Cabstand at the times you
22 went to it the year before November the 14th, 2013, what
23 type of crowd would normally be in there?

24 A Older people.

25 Q When you say older, what age does it start to get?

1 Some of us can't figure out what's old and what's not so.

2 A Okay. When I say old, in between like, I guess, like
3 50, 60.

4 Q All right. So older than 19, 20, 21, 22?

5 A Yes, sir. Correct.

6 Q And you at the time were how old?

7 A At the time when this accident and when this
8 happened?

9 Q Yes, sir.

10 A I was 36.

11 Q Okay.

12 THE COURT: Almost old.

13 Q In between?

14 A In between.

15 Q All right. On the hill, headed up. Al, let me ask
16 you this question.

17 A Yes, sir.

18 Q How was the, when you were in there, who else do you
19 recall being in there besides you and Bug, Lenwood Ramsey
20 and Tonya Fuller; did you see anybody else in there that
21 you knew when you first arrived within the first five or
22 ten minutes of your being in there?

23 A Correct. I did. Tony Thomas, Mr. Cocky, the one
24 that ran the club. That's who ran the club. And there
25 was a couple of older guys that sit over in the corner of

1 the club over there by the tables, because they always be
2 in there.

3 Q Okay. Well, do you recall during the course of the
4 evening or some other people coming in, and coming into
5 the club?

6 A Yes, sir.

7 Q How long had you been there when that happened?

8 A Basically, give or take about 15. It wasn't that
9 long. About 15, 20 minutes, in between.

10 Q Who did you recall came in a kind of a group that
11 were not with y'all and that you did not consider part of
12 the older crowd?

13 A Okay. It was Quetta Spencer, Bird, Dora Greene, a
14 guy named Travis, a guy named Ant Man and my, who else
15 were, I know I remember them people at that time, that
16 group.

17 Q Who is Bird?

18 A Bird is my cousin.

19 Q What's Bird's real name, if you know it?

20 A I don't really know. Drina, but I ain't never know'd
21 her by no first name like that, I mean.

22 Q Drina Morgan?

23 A Drina Morgan.

24 Q How is she related to you, do you know?

25 A She is my, her grandmother and my father is, are

1 brother and sister, so her mother is really my first
2 cousin.

3 Q So she's a second or third cousin?

4 A Yes, sir. Correct.

5 Q Do y'all have much to do with one another?

6 A I can't really say. But, you know, we see each
7 other, cousin, hey, how you doing and, you know, other
8 than that. Not like close, close cousins like that.

9 Q Okay.

10 A Part of the family, though.

11 Q Okay. Who would you say she was closest to, Saquetta
12 Spencer or Shay Simon?

13 A I guess, I could say Sequetta. That what I say. I
14 don't know, know Shay like that. I haven't never seen her
15 around Shay.

16 Q Okay. Now, when this other group came in, did
17 anything begin to occur with regard to interaction between
18 you and anybody else in there, any of those people that
19 came in?

20 A No, sir. I was sitting at the table.

21 Q Okay. Well, at any point in time did you see Brent
22 Williams?

23 A Yes, I did.

24 Q And what occurred between you and Brent Williams, if
25 anything?

1 A He had slapped me on my hat and told me I need to get
2 some balls.

3 Q And how, when did he do that?

4 A This currently after that group of people that I just
5 named came in, and then Brent, Smooth and, I guess,
6 Nicole, whatever her name is, they had came a second, they
7 came in right behind them really..

8 Q What kind of hat did you have on? Do you remember
9 the type of hat you had on that day?

10 A I had a Grizzly hat on. A basketball team, a Grizzly
11 hat. It was a black with a gray and greenish writing in
12 the inside of it.

13 Q You have a lot of hats like that, don't you?

14 A Correct.

15 Q That's part of your--

16 A That's my MO.

17 Q Your MO as to what you wear, a basketball hat?

18 A Yes, sir.

19 Q All right. And you remember the one you had on that
20 night?

21 A Yes, sir.

22 Q A Grizzly?

23 A Grizzly.

24 Q Okay. So he tapped you on the bill or the top of the
25 hat, do you remember?

1 A Yes, I do. He tapped like all the way down on the
2 top of my bill of my hat. He smacked down on it.

3 Q Okay. So how did you feel about him doing that?

4 A I didn't feel bad about it, because we had just, me
5 and her had just shook hands and before and by the
6 bathroom. I had went to the bathroom. Well, as I was
7 coming out, he was going in.

8 Q Okay.

9 A So we shook hands. I know him. I know him.

10 Q Okay. So what happened after that?

11 A After he had smacked my hat, you know, I just had a
12 funny feeling because there was a lot of commotion. Well,
13 it really wasn't the girls and all of them was in there
14 together. The guys and once all came in there, it was all
15 that basically they came here and went to the bar. As
16 they was at the bar, you know, they was drinking a couple
17 of beers and the music was playing and the girls separated
18 their self and went back to the middle of the floor. They
19 was in the floor dancing. The guys was up at the front of
20 the bar and just when, at this time when Brent came and
21 smacked me on my hat.

22 Q Okay. Did you make a decision about whether you
23 wanted to stay or leave after that?

24 A Yes, I did. I decided to leave.

25 Q Why?

1 A Because I just had a funny feeling, because this man
2 we had just spoke in the bathroom, you know, shook hands,
3 and then all of the sudden he come up to me and smacked me
4 across my hat.

5 Q Did you see him hanging around with any of the girls?

6 A With the girls that he was with?

7 Q Yeah.

8 A Well, they, no, really they was like right up by the
9 bar, and then they go back, they separated and really the
10 girls was more, mostly in the floor, the middle of the
11 floor.

12 Q What girls was he with that you saw?

13 A You talking about in the floor?

14 Q In the club?

15 A Oh, in the club? The girl Bird, Dora Green, Nicole,
16 whatever he name, Shanina. There was some other girls,
17 but I really didn't know them like that.

18 Q And what about Saquetta?

19 A Yeah, Quetta, she was in there. She was on, she was
20 in the middle of the dance floor.

21 Q So you refer to Saquetta Spencer as Quetta, correct?

22 A Correct. Quetta.

23 Q All right. Now, had you dated Quetta prior to
24 November the 14th, 2014?

25 A Before that day?

1 Q Yes.

2 A Yes, sir. We had, yeah, we were going out about like
3 for almost a little over a year.

4 Q Okay. And when did that relationship end?

5 A It ended around September, I think, right around
6 September.

7 Q Of 2014?

8 A Yes, sir.

9 Q And did you begin to see somebody other than her
10 then?

11 A Yes, I did.

12 Q Who?

13 A Shay Simon.

14 Q Okay. That was in September of 2014?

15 A Yes, sir.

16 Q In October of 2014, did you have an occasion to speak
17 to Quetta about personal belongings that you had left at
18 her house when y'all broke up?

19 A Yes, I did.

20 Q Where were you when that happened?

21 A The same place, the Cabstand.

22 Q Was it the same night?

23 A The same night, what?

24 Q It was a different, it was in October?

25 A Yeah, it's in October. Yes, sir.

1 Q All right. Who was with her when you spoke to her
2 about that?

3 A A guy named Qualo, (phonetic), when I found out what
4 his name was.

5 Q Qualo?

6 A Qualo, yeah.

7 Q He was with her?

8 A Yes, sir.

9 Q Where were you when you were asking her about your
10 personal belongings?

11 A I had, I was in the club. But one of my friends had
12 came in and I asked her had she talked to her and she was
13 like she was outside.

14 Q Who was outside?

15 A Saquetta, Quetta.

16 Q Okay. So you went out?

17 A Yes.

18 Q And you were talking to her about what?

19 A About some belongings that she had of mine, some
20 coats and stuff.

21 Q Well, what happened?

22 A And at that time we, I was saying stuff to her, you
23 know, and we, you know, I was causal. We were talking and
24 the guy, Qualo, intervened in the conversation.

25 Q What'd he do?

1 A He hit me in my mouth.

2 Q He hit you in the mouth?

3 A Yes, sir.

4 Q What did you do?

5 A I walked away.

6 Q And after you walked away where did you go?

7 A I went back to my mom's house.

8 Q And after you, did you see her at the house?

9 A See who at the house?

10 Q Your mom?

11 A Yes, sir.

12 Q What did y'all decide to do?

13 A We went to Self Memorial Hospital.

14 Q And what happened at Self Memorial?

15 A I had to get stitches in my mouth.

16 Q Okay. Did you ever attempt to take out a warrant

17 against Qualo?

18 A No, I didn't, because I felt like I was in the wrong

19 by even going out there and lowering my standard by going

20 out there and even bring it up about the coats. So I went

21 out there and, you know, you know, a friend helped out, so

22 really I didn't even, it wasn't nothing to me. I was a

23 bigger man by walking away, because that's what I do.

24 Q Well, but at some point in time after that did you

25 make a change of habit as far as when you would go out?

1 A Yes, sir.

2 Q What did you make a change of habit of?

3 A Because I had got information that Qualo was so
4 called considered as being in a gang and I didn't know who
5 I had ran or who ran all together, so I just, I started
6 getting paranoid, because I'm not a fighter.

7 Q What did you do?

8 A I started carrying a pistol that I had bought earlier
9 part in December 2014 and like I think around the '13 or
10 no, '14 year, sir.

11 Q You had the gun in 2013?

12 A '13; yes, sir. It was the earlier part before the
13 relationship between me and Quetta was together. I had
14 bought it. I had to go through like 45 days, and I had
15 bought it from someone.

16 Q Okay. What'd you do the 45 days for?

17 A A ticket for driving.

18 Q Failure to stop?

19 A Yes, sir. Failure to stop.

20 Q Did I represent you on that?

21 A Yes, sir; you did.

22 Q And that was back in 2012, wasn't it?

23 A I think '12. Somewhere up in there; yes, sir.

24 Q Okay.

25 A I can't recall from the date, you know, that's been a

1 while ago.

2 Q But it was after that that you, before you broke up
3 with Quetta or before you started dating Quetta that you
4 got the gun?

5 A No, what you said, again, sir?

6 Q When did you get the gun?

7 A I got the gun before then. I had been here and I
8 bought it from someone out on the street.

9 Q What type of gun was it?

10 A It was a .44.

11 Q Okay. A revolver?

12 A Revolver, yes, sir.

13 Q Now, the altercation that you had with Qualo where he
14 hit you in the lip, was it in October of 2014, correct?

15 A '14.

16 Q I mean, '13. October 2013?

17 A '13, yeah.

18 Q November the 14th, October the, in October of 2014?

19 A Yeah. 2014; yes, sir.

20 Q All right. Let me bring you back to the evening of
21 November the 14th, 2013.

22 A Yes, sir.

23 Q You said you decided to leave the club?

24 A Yes, I did.

25 Q Tell me who you left with and where you went?

1 A I left with Thomas Gilchrist. Well, Bug.

2 Q Where were you going?

3 A Going back to Lenwood's house.

4 Q Okay. What's at Lenwood's house?

5 A And we was just going over there to sit over there
6 and talk and drink a couple of beers is what we did. We
7 left the club. Me and, well, Lenwood and Tonya was in one
8 car. Me and Bug was in the other car. We stopped by the
9 store. I went in the store and got a 12-pack, and we went
10 over to Lenwood's and them house.

11 Q What were you doing over there?

12 A We just sitting over there talking like we always
13 done, conversating. Basically, if I ain't, if I'm not at
14 the club, I'm over there. You know, we get together and
15 sit over at his house and drink a couple of beers and
16 talk, you know, and what not.

17 Q Were you, so you were drinking over at Tonya's and
18 Lenwood's?

19 A Yes, sir. I had opened a beer up.

20 Q At some point in time did you receive a call?

21 A I did.

22 Q And who was the call from?

23 A From Shay Simon.

24 Q And, again, you testified a minute ago, but what did
25 she want you to do?

1 A She had wanted me to come pick her up. Her and Crip
2 had got into it with, Crip had got in a fight.. Somebody
3 had jumped on Crip, so she was just ready to go.

4 Q How were you going to go pick her up?

5 A I wasn't driving, so I asked one of, I asked Nick to
6 go get her, would he go to take me over there to get her
7 and he said yeah.

8 Q Okay. Who went over there to get her then?

9 A Me, Lenwood and Bug.

10 Q Okay. And did you, do you recall how Lenwood drove
11 over there and what his pace of driving was?

12 A Well, he was driving regular. We was just going to
13 pick them up.

14 Q Okay. I want you to tell the Court what happened
15 when he pulled in, back into the parking lot of the
16 Cabstand club?

17 A As we pull in the parking lot, there was a white car.
18 We had to wait until the white car backed up and pulled
19 out. So as the white car backed up and pulled out, there
20 was a group of people. Our window was partially cracked
21 down and a group of people.

22 Q Your window was rolled down some?

23 A You know, it was partially cracked. You know, not
24 all the way down. It was partially cracked.

25 Q All right.

1 A And somebody say there go Al right, somebody said,
2 there go Al right there, out of that crowd of people that
3 was in front of the door.

4 Q How was the crowd acting?

5 A They was hyped up.

6 Q Okay. And once that's said, what happened next?

7 What did you next see or observe?

8 A At the time, well, Ramsey had pulled in the driveway.
9 When he pulled in the driveway, that's when I seen Smooth
10 come towards the car.

11 Q And what did you notice about him, if anything?

12 A I just seen him, looking like he was coming towards
13 the car, you know, with a mean look on his face.

14 Q And tell the Judge what he did and what you did.

15 A Okay. As he came to, came towards the car, he looked
16 in the car. I was in the backseat. I was sitting up like
17 this and he looked in the backseat. I leaned over in the
18 seat looking at him. A couple of seconds later, he yanked
19 the door open, yanked it open. As he yanked the door
20 opened, he, I leaned over in the car like this and he
21 said, what you going to do motherfucker. And that when I
22 leaned over and pulled it out and I shot him, and I was
23 scared. The only thing running through my head is this
24 man is going to yank me out this car and beat my brains
25 out. That's the only thing because as we was coming up

1 there to pick my friends up. They was in the club. They
2 just had got in a fight. That's the only thing was
3 running through my head. I ain't never had no altercation
4 with this man or anything. We never been in a situation.
5 I don't know him like that, but I know his name, and I
6 know I was scared for my life. The only thing that
7 running through my head this man going to come and drag me
8 out this car and beat my brains out.

9 Q How tall are you?

10 A About five-eight.

11 Q How much do you weigh?

12 A About 163 pounds.

13 Q At the time that you fired the shot, what was in your
14 mind at that time?

15 A When I fired that shot, I was scared. I was so
16 scared that them people over in that crowd going to come
17 over there. So that's why I told Lenwood to just go, man,
18 just go.

19 Q What position was Smooth in when you fired the shot?
20 Where was he as far as you recall?

21 A When he, when I fired the shot, he was in the vehicle
22 reaching in, reaching in the car.

23 Q You told Lenwood to go?

24 A Yes, sir.

25 Q And he did?

1 A Yes, he did.

2 Q Did he try to stop at the Li'l Cricket?

3 A Yes, he did.

4 Q And what did you say?

5 A I told him just go, because I thought that group of
6 people going to come behind us, and I was scared.

7 Q All right. Well, at some point in time during this
8 evening, how did you feel about what had happened?

9 A I felt remorse and I, even though I apologized, I
10 felt bad, but he gave me no choice. It was his life or
11 mine, and I was scared, you know, and I hate that it
12 happened like where I had to do it. I had no choice.

13 Q At the time you fired the shot, did anything else
14 cross your mind that you could have done besides that?

15 A Sir, there's nothing I could have did. I'm trapped
16 in a car.

17 Q You didn't aim the gun at his head, did you?

18 A No, sir; I didn't.

19 Q And you didn't aim the gun at his heart, did you?

20 A No, sir; I didn't.

21 Q As you leaned back, where was the gun that you got?

22 A This gun? The gun was between my pants. It was a
23 revolver and the only way you can get that revolver out,
24 you have to lean over and pull out. You can't, it's not
25 like the .45 or anything that you just pull out like that.

1 The revolver around to where the back, where you put the
2 bullets with the click, so you got to pull over. That's
3 the way it sat between my belt and my pants.

4 MR. JONES: Al, answer any questions the Solicitor
5 has for you, please.

6 MR. MORGAN: Yes, sir.

7 CROSS-EXAMINATION

8 By Mr. Brown:

9 Q Mr. Morgan?

10 A Yes, sir.

11 Q You said you're how old now?

12 A Thirty-seven.

13 Q Thirty-seven. And we should go on and get this out
14 of the way, off the get-go. That night you're at the club
15 on November 14th, 2013, were you carrying that pistol with
16 you at the club?

17 A Yes, sir. I had it on me.

18 Q And you'd been carrying it pretty much, you got off
19 of work and every time you went to the club, you been
20 carrying that pistol, right?

21 A Yes, sir; I did.

22 Q And you started carrying that pistol after you had a
23 run in with Qualo?

24 A Yes, sir.

25 Q And that all stemmed from Quetta and Shay kind of

1 battling over you?

2 A You talking about, may I speak?

3 Q Yeah.

4 A You talking about me carrying the pistol?

5 Q Yeah. Didn't you start carrying the pistol after
6 Qualo busted your lip?

7 A No. That's not correct. I had started carrying a
8 pistol after I got information, that I had got
9 information.

10 Q Got information.

11 THE COURT: Hold on. Let's stop real quick. Let's
12 let him get that straightened up.

13 (Whereupon, a short break was taken.)

14 THE COURT: All right. Mr. Brown, go back and ask
15 that last question. I think it was how long you been
16 carrying that pistol. Something along those lines.

17 Q What prompted you to start carrying that pistol?

18 A Why I started carrying that pistol, because I had got
19 information, well, I know that he was running around with
20 a group of people, a gang.

21 Q That who was running around?

22 A Qualo.

23 Q That Qualo was?

24 A Yes, sir.

25 Q And you started carrying that gun, because you

1 thought Qualo might try to hurt you again?

2 A I didn't say Qualo. I said a group of people. I
3 didn't know who he was involved in.

4 Q So you just heard Qualo was a part of some kind of
5 group?

6 A Yes, sir.

7 Q And this was a month or two before Jamaal, before you
8 shot and killed Jamaal?

9 A Yes, sir.

10 Q And so you had a .44.?

11 A Revolver.

12 Q Now, just kind of going through the chronological
13 order of what Mr. Jones was asking you. That night when
14 you got there to the club, you and Nick, also who goes by
15 Lenwood, right?

16 A Yes.

17 Q And Bug.

18 A Bug; he's Thomas Gilchrist.

19 Q So Tonya, Nick and Bug, all four of y'all, went over
20 to the club that night?

21 A Correct.

22 Q And you went to the club that night you had a pistol
23 on you?

24 A Yes, I did.

25 Q Okay. And you're sitting in the club and how long

1 were you at the club before Brent and Jamaal and all those
2 folks got there?

3 A It wasn't long. Between like 15 minutes or something
4 like that. It wasn't long at all.

5 Q How long were you at the club in total with Brent and
6 Jamaal and Shanina or she also goes by Nicole, right?

7 A Yeah, I guess. I don't know.

8 Q Bird.

9 A My cousin. Yeah, Bird.

10 Q How long was everybody there at the club together?

11 A Approximately, in between the time, from the time we
12 left it was basically about like a hour or so. Something
13 like that. It was about a hour.

14 Q So you're at the club with them for an hour?

15 A And, basically, give or take. Because all, when they
16 came in, that's that group, like I said, we was already
17 there. We was already in the club and that's when that
18 group or the girls and them came in, and then that's when
19 Shanina or, I guess, Shanina, whatever her name is and
20 Smooth and them came in after them.

21 Q And so everybody, both groups were at the club for
22 how long together while you were there?

23 A I can't say give or take. I say I can't really say
24 was it between, when we was there all together, all
25 together, I'll say about a hour, so I can't really say.

1 Q Okay.

2 A I can't recall on it.

3 Q And during that hour y'all are all there, give or
4 take, did Jamaal ever come up and do anything to you?

5 A No. I, and that's what I said. I don't, and we
6 hadn't never had no, you know, conversation, because I
7 don't know him like that. I know him by associated people
8 that I be around. I done been places. I done been in his
9 parents when I was where a cookout where she had a
10 birthday party because of this person I socialize with,
11 but I don't know him like that. Not saying no friends
12 with him.

13 Q But you didn't know him to be kind of an aggressive
14 person?

15 A I can't say that, because I don't know him.

16 Q Well, that night he wasn't in the club with y'all,
17 y'all are there for about an hour? All there, all in the
18 club together, did he come up and threaten or was
19 aggressive towards you then?

20 A Not in the club.

21 Q No. All right. And why you're there in the club,
22 you said you went to the bathroom or you actually passed
23 Brent coming out of the bathroom and y'all dapped up?

24 A Yeah. We shook like that and said, bro, what's up
25 and that was it, me and Brent, a couple of times since I

1 been in the Cabstand and he don't regular like me. I'm a
2 regular. I go on Thursdays, Fridays and Saturday. That's
3 what you call a regular.

4 Q And when you been up there with Brent before, did you
5 ever have any interaction with him where y'all got into a
6 fight?

7 A No, because it shocked me when he came and smacked me
8 across my hat and told me to get balls. It's throwing me
9 off.

10 Q If he, if you never had any problem with him before
11 and y'all had just dapped coming out of the bathroom a
12 couple of minutes before, what set you off with that hat?
13 Did you think, was he not playing with you?

14 A Playing with me? And you don't play with nobody like
15 that. I'm a grown man. You know, grown men don't play
16 like that. If you going to shake somebody's hand or give
17 them love, but, you know, you don't smack nobody. It's
18 just like he smack a person in the back of the head. You
19 don't do that.

20 Q So you took offense to it?

21 A I didn't take offense to it. I just felt funny about
22 it, you know.

23 Q You didn't like?

24 A No, I didn't like it.

25 Q Did it make you mad?

- 1 A No, sir. It didn't make me mad.
- 2 Q But it gave you enough funny feeling to get up and
3 want to leave, right?
- 4 A That's the best thing to do, sir. Yes, sir.
- 5 Q So after you got popped on the hat by Brent, where
6 was Jamaal during all of this? Was he even in the club?
7 Did you see him in the club when Brent did this?
- 8 A No, because he had left back out the club.
- 9 Q So Jamaal had no, had nothing to do with this
10 whatsoever, right?
- 11 A Nothing doing by the way he hit me on my hat?
- 12 Q Yeah.
- 13 A No, he didn't.
- 14 Q Did anybody break out in a fight right then?
- 15 A No. No, sir. Not at that time, because I had a
16 funny feeling in my stomach after this man hit me on my
17 hat. I just felt like I needed to leave.
- 18 Q Now, how did the question come up or who'd you talk
19 to after you said I'm ready to get out of here. Who'd you
20 talk to?
- 21 A I had talked to Tonya and Nick and Lenwood and Bug.
22 They was all just right there, well, we was at that table.
23 Excuse me.
- 24 Q Was Crip there with you?
- 25 A Yeah, Crip were there.

1 Q Did Crip walk out of the club with you?

2 A Yeah, he walked out of the club with me.

3 Q When you walking out of the club, did you raise up
4 your shirt and show Crip that pistol?

5 A No, I showed it to him when we was in the club.

6 Q Oh, you showed him the gun in the club?

7 A Yes, sir.

8 Q What was the point in doing that?

9 A Because I told him I wanted to get out of there,
10 because I had a funny feeling in my stomach. When you're
11 in a situation and you feel like something ain't right,
12 you know, I just wanted to get out of there, because I
13 ain't no troublemaker. Which I could've stayed in the
14 club, but I had a funny feeling the best thing for me to
15 do is just get out the club so that's why I left.

16 Q So the funny feeling you had while at the club
17 prompted you to lift up your shirt and show a pistol to
18 your buddy?

19 A No. I told him, when I did like that and pulled it
20 up, I told him I was fixing to leave, because I ain't
21 wanting to get no trouble, because I had this pistol on my
22 side. And I said I got this thing on my side. That's
23 what I told him.

24 Q So then you leave the club?

25 A Yes, sir; I did.

1 Q And Crip goes out the door with you?

2 A Yes, sir.

3 Q But he comes back in the club?

4 A Yes, sir.

5 Q And you and Bug ride in Bug's car?

6 A Correct. Yes, sir.

7 Q And Lenwood or Nick rides with Tonya in their car?

8 A Yes, sir.

9 Q You stop by the Li'l Cricket and get some more beer?

10 A Yes, sir.

11 Q And then you get to Lenwood's house?

12 A Yes, sir; we did.

13 Q How long were you sitting there at Lenwood's house

14 before you got that phone call?

15 A Give or take about 15, 20 minutes.

16 Q And while at Lenwood's house, did y'all talk about

17 Brent popping you on the bill of the cap?

18 A Well, Lenwood say we was talking about what was going

19 on and how I had that funny feeling in my stomach and we

20 talking about other things, too, and like conversation

21 this, conversation that.

22 Q Well, what's conversation this, conversation that?

23 A Basically, we just focused on him smacking on my, we

24 wasn't talking about this, him smacking me on my hat. We

25 was conversating about, you know, how we just sit around

1 and mingle.

2 Q But you were talking about it once you got back to
3 Lenwood's house about him popping you on the hat?

4 A Yes, sir. Can I explain?

5 Q Go ahead.

6 A Okay. Basically, we was, they had the same feeling
7 that I had, you know. Well, Tonya and them did. You
8 know, Tonya did and Lenwood's girlfriend that something
9 just weren't right.

10 Q And then shortly thereafter you decided to ride back
11 up there to the club?

12 A No, sir. After I got the phone call from Shay, she
13 said that Crip had just got in a fight, won't I come back
14 and get them.

15 Q And you went back?

16 A Well, me, Lenwood and Nick went back.

17 Q Now, once you get back up the club, you said there is
18 a white car pulling out in front of y'all's car, right?

19 A Yes, sir. And right before we pulled in.

20 Q Did the car kind of clear out of the way rather
21 quickly or was it there the entire time? Did it move on
22 out of the way after it backed up?

23 A Yes, sir. It moved out.

24 Q So after that car backed out, could y'all, if you
25 wanted to, could Lenwood have driven on out of the parking

1 lot? Was anything blocking your way after that car got
2 out of the way?

3 A No, we just pulled on in.

4 Q Now, how long do you anticipate or how long do you
5 think you were sitting in the parking lot once you got
6 back to the Cabstand?

7 A It wasn't long.

8 Q It wasn't long?

9 A No, sir.

10 Q So you're sitting in the back of the car. You said
11 your window was down?

12 A Partially cracked.

13 Q Partially cracked?

14 A Yes, sir.

15 Q And you could hear people talking?

16 A Yeah, you could.

17 Q How many people were outside that door?

18 A Sir, I couldn't tell you that. That'd be telling a
19 lie there if I tell you that. I couldn't tell you. I
20 know there was a group of people, a group. It was more
21 than three. It was more than five. I could tell you
22 that.

23 Q When you said that Smooth came towards the car--

24 A Yes, sir.

25 Q --was he running towards the car or how did he come

1 up towards the car?

2 A Oh, he wasn't running towards the car. He was
3 walking towards the car pretty fast.

4 Q But he's walking towards the car?

5 A Yes, sir.

6 Q Was there people behind him coming with him or was it
7 just him?

8 A No, sir. He'd separated himself, from the crowd.

9 Q And he got up to the door, what you just said he got
10 up to the door and kind of looked in the car?

11 A Yeah. He was looking right, and he said, what's up?
12 That how he was looking, I just say he was just looking in
13 the car; yes, sir.

14 Q And he said, what's up?

15 A He was looking like that, what's up?

16 Q And then you said he snatched the car door open and
17 you in response leaned over, pulled the gun out and fired?

18 A No, sir. As he snatched the door open, snatched it
19 open, I reached, he reached in like this. I was leaning,
20 I was sitting straight up. As he snatched the door and
21 reached all the way in the car, that's when I leaned over.
22 I was all the way over in the driver backseat. That's how
23 far I had to lean over and that's when I pulled out and I
24 shot him.

25 Q Do you remember giving a statement to Mike Dixon back

1 in March of 2014?

2 A Yes, sir.

3 Q You ever remember telling him that Jamaal reached
4 into the car?

5 A No, sir. I just saw a hand movement.

6 Q But you didn't say that he reached into that car, did
7 you?

8 A He didn't ask me.

9 Q So you didn't think it was important enough to tell
10 him?

11 A I was showing him.

12 Q But you didn't tell him, did you?

13 A I was showing him, sir.

14 Q Did you know that this, did you know your statement
15 was being recorded then?

16 A My statement was recorded?

17 Q Did you know it was being recorded?

18 A I know it was recorded. I was telling him. I was
19 showing him.

20 Q But yes or no, did you tell him that Jamaal reached
21 into that car?

22 A Yes, I did.

23 Q You told him that?

24 A I say I was really leaning in, sir. That what I
25 said. Not saying that, he didn't ask me did Jamaal reach

1 into the car. He asked me what happened. That's what he
2 said. As he asked me what happened, that's when I was
3 showing him what was happening when he reached into the
4 car. He didn't ask me did Jamaal do this, do that. He
5 said what happened? What happened next?

6 Q Now, after you said opened up the door and reached
7 into the car and you pulled that pistol and shot him, how
8 fast are you saying that happened now in the timeframe?

9 A It was a split second. It happened real fast.

10 Q A split second.

11 A I can't really recall. I'm telling you how fast it
12 happened. It happened fast, so I can't tell you it,
13 happened in three seconds, four seconds, five seconds.
14 That'd be telling a lie.

15 Q Well, I don't want you to tell a lie.

16 A That's right. I can't tell you that, sir. No, I
17 might not have seem that accurate on the time the frame
18 went, how many seconds it were.

19 Q Now, after you fired the shot that hit Jamaal, what
20 happened next?

21 A After I fired the shot?

22 Q Yeah.

23 A He fell back. I looked over. I shut, I slammed the
24 door.

25 Q Did Jamaal come back at your door?

- 1 A Did he come back at my door?
- 2 Q Did he try to come back in the car?
- 3 A No, sir.
- 4 Q Did Jamaal start shooting into your car?
- 5 A No, he didn't.
- 6 Q What did he do?
- 7 A He fell back.
- 8 Q And then what'd he did?
- 9 A I don't know what he did. I shut the door, and I
- 10 just told Lenwood to just go.
- 11 Q And then y'all drove off. And then Lenwood, after
- 12 you got down the road, you told Lenwood to drive off and
- 13 Lenwood pulled into Li'l Cricket?
- 14 A Yes, sir; he did.
- 15 Q Did Lenwood want out of the car then?
- 16 A Yes, sir. He just told me to drive. He told me to
- 17 drive. I told him to just go. Just go.
- 18 Q He wanted to get out of the car and let you just have
- 19 the car?
- 20 A Yes, sir.
- 21 Q And you told him to just drive?
- 22 A I told him just drive, just go, because I was scared
- 23 them people going to come behind us.
- 24 Q After you shot Jamaal did you see anybody just
- 25 running towards the car?

1 A People, they was in front of it. They was coming. I
2 didn't know what they were going to do. I just slammed
3 the door and told him to go because I was scared.

4 Q Do you think it's an odd response for people to be
5 frantic once somebody has been shot in the parking lot?

6 A Yes, sir. I guess so. Yes, sir. But you still
7 don't know how they going to react neither. If you have a
8 group of people together and someone, and they see them
9 and you shoot them, you think they just going to sit there
10 and just look at me like it's okay? I don't think so.

11 Q Once you got back to Lenwood's house, you ran around
12 and hid the gun?

13 A Yes, sir; I did.

14 Q And then later on that night, you said you, law
15 enforcement got there actually pretty quickly after you
16 got back to the house, to Lenwood's house, law enforcement
17 showed up?

18 A Yes, sir. They did.

19 Q And then, ultimately, you were arrested?

20 A Well, I was on the ground with handcuffs on, yeah.

21 Q And then they took you to the police department,
22 right?

23 A Yes, sir.

24 Q At that time once you were back at the police
25 department, you talked to Mike Dixon?

1 A Yes, sir; I did.

2 Q And did Mr. Dixon advise you of your Miranda rights
3 then?

4 A No, sir; he didn't.

5 Q He didn't remind, he didn't read you his rights?

6 A No.

7 Q And you never, what you're saying here today is you
8 never stated that you didn't understand why you're
9 arrested?

10 A I told him, he were asking me just like what you
11 said. I told him I wanted to talk to a lawyer. That's
12 when he said who your lawyer is. I said Townes Jones, and
13 that's when he started writing stuff up on the board and
14 asking me questions about my kids, asking me do I have a
15 girlfriend. And he was like, well, you know, I'm just
16 asking you questions. So you don't have to worry about
17 this and that. If you shot him this and that, you can
18 just go ahead and tell me. That what he said, and I said
19 I want to talk to a lawyer.

20 Q So you're saying here today, you said that it's not
21 possible due to the fact that I had nothing to do with it
22 or I didn't do anything?

23 A Sir, he was asking me questions, and I advised for a
24 lawyer, you know.

25 Q Well, that day you didn't give an audio statement or

1 anything like that; he didn't ask you any more questions,
2 did he?

3 A Sir, he didn't ask me no more questions, period,
4 until he left out the room and one of the officers knocked
5 on the door. That's when he left himself from the room
6 and he came back in and he told me don't even worry about
7 it. He said he dead. He just died on the operating
8 table. He dead. So that's when the guy took me up and
9 took me back to the holding cell and he was like if any
10 questions you got to ask me, you write me a letter and
11 that's what he did.

12 Q And then, ultimately, you did give an audio statement
13 or an oral statement to law enforcement?

14 A Yes, sir; I did.

15 Q And you were Mirandized then?

16 A Yes, sir.

17 Q And you waved those rights?

18 A Yes, sir.

19 Q And at that time when you gave that statement was
20 that a true and accurate what happened that night?

21 A Yes, sir. The frame between the time, you know, like
22 when he was asking me questions, I was scared, you know,
23 and I still, no matter what, I just wanted to get it off
24 my chest, you know.

25 Q And, again, just to wrap up. How many other times

1 have you been around Jamaal or had you been around Jamaal
2 before that night?

3 A No, sir. I have I, first time I ever been around
4 him. No this night hadn't been the first time. I said
5 there been numerous of times when I had seen him at this
6 little club, little bar called Lucky's. But I never, I
7 don't know him like that as a person that I knew. I was
8 dealing with a friend of mine that was a friend of his,
9 you know. And like I said, I been to his parents and them
10 houses at a birthday party his girlfriend had for him, but
11 I never seeing him and dapped up or nothing like that.

12 Q You been to Smooth's parents house?

13 A Yes, sir. With a friend of mine at a birthday party.

14 Q But you've been to his parents house and you said you
15 didn't know him like that. What do you mean you didn't
16 know him like that?

17 A Okay. A person that I know and, well, a friend of,
18 mine, me and him hang around close around each other. One
19 time and then that what I say about the birthday party.
20 Me and him talked on the party. He talking about like
21 man, what's up? We talking like I'm out here at a little
22 birthday party. Nicole had for Smooth out there. Because
23 a friend of my cousin, Clara, the girl that she used to
24 talk to, her friend, I guess, they was out there DJ-ing or
25 what not and I was out there at the party. This is right

1 there not too far away from a friend of mine named
2 Thomasina.

3 Q Everything go cool that night?

4 A Yeah, because I, I was out there, but really,
5 basically, with my friend. Because they was all out there
6 in the yard.

7 Q And Smooth was pretty laid out and chill that day?

8 A Yeah. And, you know, I done know of him, but, you
9 know, that ain't the first time I seeing him.

10 Q And you don't, and that night and even before when
11 you're at the Cabstand with him the night of his death,
12 the night he was shot, you had no other problem with him?

13 A None whatsoever.

14 THE COURT: Anything else?

15 MR. JONES: Briefly, Judge.

16 REDIRECT EXAMINATION

17 By Mr. Jones:

18 Q Al, on cross-examination, the Solicitor was asking
19 you about when Jamaal Aiken, Smooth, when you'd pulled
20 back in the parking lot the last time you were there when
21 he approaches your door, okay?

22 A Yes, sir.

23 Q You said your window was cracked and he asked you,
24 well, what'd he say and you said he came up like he was
25 saying what's up. But what did he actually say to you as

1 he was opening the door?

2 A As he snatched my door open, snatched it open
3 reaching in and said, what's up motherfucker? That's what
4 he said.

5 Q Okay.

6 MR. JONES: No further questions.

7 THE COURT: All right. Step down.

8 MR. JONES: Your Honor, we would conclude our
9 case-in-chief.

10 THE COURT: All right.

11 MR. JONES: That's our last witness.

12 THE COURT: Let's take a short break, then. We've
13 been going a little over an hour.

14 (Whereupon, a short break was taken.)

15 THE COURT: All right. Mr. Morgan has put up what
16 he's going to put up and now it's the State's opportunity
17 to put up what they'd like to present.

18 MR. BROWN: The State calls Mr. Calvin Wells.

19 CALVIN WELLS, being
20 first duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 By Mr. Brown:

23 Q Mr. Wells, state your full name?

24 A Calvin Wells, Jr.

25 Q And, Mr. Wells, where are you from? Do you live here

1 in Greenwood?

2 A Yes, I was born and raised here.

3 Q And, Mr. Wells, did you have an opportunity to be the
4 owner or the president of the Triangle Social and Senior
5 Citizens Club?

6 A Yes, I was the president of the Triangle Social and
7 Senior Citizens Club.

8 Q And does that have another name for it?

9 A They had other names they called it.

10 Q Cabstand one of them?

11 A Well, that was one of them.

12 Q All right. The Cabstand we are talking about tonight
13 or today referring to, an incident occurred there back on
14 November 14, 2013, is that the same Cabstand that you're
15 associated with?

16 A Well, we was the Triangle Social and Senior Citizens
17 Club.

18 Q What's the location of that?

19 A It's 610 Seaboard.

20 Q That the corner of East Cambridge and Seaboard?

21 A Yes.

22 Q Okay. Now, Mr. Wells, do you have another, do you
23 have a nickname people call you?

24 A Well, when I was in the Army I was Wells. When I was
25 working on the Railroad, I was Big C and that was

1 Railroad, and when I was raised up on Greenwood, they
2 called me Cocky.

3 Q So when some people called you Mr. Cocky, they're
4 referring to you?

5 A Yeah. Most of the youngsters there.

6 Q Okay. Now, Mr. Wells, were you working or do you
7 have, I'm going to refer to the Triangle Social and Senior
8 Citizens Club as Cabstand. Is that okay with you?

9 A That's okay with me.

10 Q All right. I want to refer to that as the Cabstand.
11 Were you working there at the Cabstand on November 14th,
12 2013?

13 A Yes, I was there.

14 Q And that night was a young man by the name of Jamaal
15 Aiken shot in the parking lot?

16 A Yes. I didn't know Jamaal Aiken and the only, I was
17 inside when they said somebody had got shot in the parking
18 lot.

19 Q Now, with you being inside, were you inside when some
20 commotion occurred inside the Cabstand?

21 A Yes.

22 Q Tell me what happened.

23 A They was over by the, they were playing records and
24 there was, actually, I don't know what started it. So we
25 was trying to get them out, but Jamaal, he did, he was

1 trying to say they was my friends, you know, he'd get them
2 out. So they went to the door and they went outside, so
3 we locked the door.

4 Q So Jamaal was helping to get his friend outside the
5 door?

6 A Yes.

7 Q And so with your experience with Jamaal that night,
8 how did you characterize Jamaal's, you know, what, what,
9 well, how did you characterize Jamaal that night?

10 A What you mean, his demeanor?

11 Q Well, his demeanor but just how he, what he did while
12 he was in the Cabstand helping you?

13 A He seemed like a nice guy.

14 Q And he was helping you kind of get people out the
15 door?

16 A Yes, his friend.

17 Q Once they're outside the door, did you see Jamaal or
18 anybody throw a punch?

19 A Well, they was a, they had a fisticuff there at the
20 door and so we was still trying to get the door fastened,
21 so once we got the door fastened, and then from there, I
22 didn't see anything else.

23 Q Did you see Jamaal throw a punch or anything?

24 A Well, I saw them out there. I think he was still
25 trying to get his partner, get his friend.

1 Q Get his friend out the door?

2 A Yeah.

3 Q But you can't say for certain if you saw him throw a
4 punch or if he didn't throw a punch?

5 A No.

6 Q Mr. Wells, who else was working there that night?

7 A It was Thomas, Tony Thomas. Well, he was a club
8 member. And it was Greene, JD, it was all club members.

9 Q And being at the club that night, were there, was
10 Jamaal a regular there? Did you see him there ever?

11 A No. No.

12 Q And what about Al Morgan, do you know Al Morgan?

13 A Yes.

14 Q And is he a regular there at the club?

15 A Yes.

16 Q During all this commotion, did you see Al there?

17 A I never did see Al.

18 Q Did you see him there at all that whole night?

19 A I didn't see him.

20 Q And you never saw, if you didn't see Al there that
21 night, you didn't see Al get in any kind of argument with
22 anybody inside the club, did you?

23 A No.

24 Q That night while you were in the club, did you see
25 anybody pull out a gun or anything?

1 A No, no gun.

2 Q Nobody threatened anybody with a gun?

3 A No.

4 Q So the only kind of commotion that was going in there
5 was what, a fist fight?

6 A A fist fight. Well, it started over there at the
7 jukebox. So for what reason, I don't know.

8 MR. BROWN: No further questions.

9 CROSS-EXAMINATION

10 By Mr. Bannister:

11 Q Were you one of the ones that was playing cards with
12 Ernest McCauley and Tony Thomas?

13 A Yes, and we play spades.

14 Q Is another name for the Triangle Senior Citizens and
15 Socials Club called The Old Folks Home?

16 A Yes, sir.

17 Q Does that refer to the age of the people that are
18 usually in there?

19 A Yeah, because most of the members, well, myself is
20 going on 72 and we have some 76, and we was senior
21 citizens. But some of the younger guys wanted to you, and
22 so we changed it from Triangle Social to, from the
23 Triangle Senior Citizens Club to Triangle Social and
24 Senior Citizens.

25 Q Okay. And did I hear you say that y'all actually

1 still have the old records that played in there as opposed
2 to like a digital format or something like that?

3 A Yes. When we first started, we had old records.

4 Q And would I be correct if my impression was that at
5 the Triangle Social and Senior Citizens Club that you
6 don't normally have such a large group of young folks in
7 there at one time like you did on this particular night?

8 A Well, Al is, I think that's his uncle. He was the
9 secretary. So members and guests. So any time a member
10 was there, you need family members because a lot of our
11 children, like my children come up from Florida and
12 Georgia and they'll work them in, and so the rest of them
13 did the same. They let their, you know, their family
14 members in.

15 Q Who is Garnell Holloway?

16 A It's Garnell Holloway, Jr. Yes.

17 Q And who is he? In fact, does he work with you or for
18 you at the Cabstand?

19 A Yeah. Well, his daddy. I was raised up with his
20 daddy, Garnell Holloway, Sr. So we, and he's, what, 80
21 years old I think. And then his son was out of a job, so
22 we let him, you know, piddle around and make a few
23 dollars.

24 Q All right. So if we've got a 911 call from somebody
25 named a Mr. Holloway, is that most likely who it is?

1 A Yes. Garnell Holloway, Jr. That wouldn't be the
2 senior.

3 Q All right. After you had the struggle at the door,
4 y'all are getting everybody out and you had the struggle
5 at the door and it got shut, did Ernest McCauley show you
6 a place on his head where he had gotten hit?

7 A Ray had said that he got hit in the eye, but I never
8 did actually see the hit.

9 Q I know, but did you see where he was, where he was
10 pointing to on his head?

11 A No, I didn't.

12 MR. BANNISTER: All right. No further questions.

13 THE COURT: Anything else? All right.

14 MR. STUMBO: Your Honor, we'd call Demecus Sayles.

15 DEMECUS SAYLES, being
16 first duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 By Mr. Stumbo:

19 Q Good afternoon, Mr. Sayles.

20 A How you doing, sir?

21 Q I'm doing fine. Thank you. I'm David Stumbo. I
22 don't know if we've met before. You have talked to
23 somebody in my office, though, at the Solicitor's Office,
24 right?

25 A Yes, sir.

1 Q And that'd be Investigator Smith that came to talk to
2 you? You live here in Greenwood?

3 A Yes, sir.

4 Q And you familiar with a little club down on Seaboard
5 close to where it comes into East Cambridge there called
6 the Cabstand?

7 A Yes, sir.

8 Q Okay. You ever go to the Cabstand?

9 A I've went there several times, but when I went on the
10 night that the incident happened, I was sitting in a Jeep.

11 Q Well, hold on a second. I have a couple of more
12 questions about that.

13 A Okay.

14 Q You said the night of the incident. Was this, be
15 fair to say it's back in November of 2013 a couple of
16 years ago?

17 A Yes, sir.

18 Q Okay. And it involved a gunshot being fired there in
19 the parking lot at the Cabstand?

20 A Yes, sir.

21 Q All right. And were you in the, did you ever go
22 inside the club that night?

23 A No, sir. Because the victim was in a altercation
24 with somebody.

25 Q You say the victim. Who are you talking about? Do

1 you know who that person is?

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

3 Q All right. Well, you talking about the guy that got
4 shot?

5 A Yes, sir.

6 Q That you saw get shot?

7 A Yes, sir.

8 Q Okay. And back up for me a little bit. You say
9 you're in the parking lot. Where are you in the parking
10 lot?

11 A If you come in the parking lot, I'm facing the club
12 on the left-hand side.

13 Q I want to show you a picture and see if you recognize
14 it. This is Defendant's Exhibit number 1 on the sticker
15 there, but this picture, do you recognize this place?

16 A Yes, sir.

17 Q Okay. What is this kind of grayish-looking building
18 with the two doors on the front?

19 A I want to say it was a Mexican restaurant or Mexican
20 place but the actual club, I was parked, we were parked on
21 this side in the front.

22 Q Okay. The club's, this parking lot and the building
23 behind it is the club, that's what you talking about
24 basically?

25 A No, sir. That's the actual club.

1 Q Right.

2 A And we was parked on this side.

3 Q Okay.

4 MR. STUMBO: If I could, Your Honor, he could step

5 down and point for us.

6 THE COURT: Sure.

7 MR. STUMBO: Just to give us some clarity on this.

8 A Okay.

9 Q Okay.

10 A Now, we was parked on this side facing the club. We

11 were facing it.

12 Q Okay. You were in your Jeep?

13 A No. I was in, with a friend.

14 Q All right.

15 A A friend of mine and I was parked, we were parked

16 right there and I was sitting in the Jeep, because they

17 wouldn't let me go in the club, because of the altercation

18 between the victim and whoever.

19 Q Okay. You tried to go in the club and couldn't get

20 in and then--

21 A Yes, sir. And they wouldn't let me in.

22 Q Went back to the Jeep to sit in the car?

23 A Yes, sir.

24 Q Okay. And you say that the Jeep you're sitting in is

25 backed in facing the building?

1 A Yes, sir.

2 Q Okay. And it's on that, if you're facing the
3 building, the far left side of the parking lot?

4 A Yeah. It's on the left-hand side.

5 Q Okay. Now, how close to the road are you, are you
6 closer to the road or closer to the building?

7 A Well, we were closer to the club, the actual building
8 and then when that Impala came up, it came up on the right
9 side and it came around like that. I just seen the back
10 window roll down and somebody shot.

11 Q Okay.

12 A And then I saw the victim, I mean the, yeah, the
13 victim. He ran around the building on the right-hand
14 side.

15 Q All right. Did you know and could you make out
16 faces?

17 A I couldn't see nobody. I can't tell you who did the
18 shooting. The only thing I just saw the shot come out the
19 back window on the right-hand side in the passenger seat.

20 Q Okay.

21 A And that's all I saw and they drove off, and I got
22 the tag number and I gave it to the police officer.

23 Q All right. Did you know who the guy that shot, did
24 you know who he was?

25 A No, sir. I never seen neither one of them. I never

1 knew either one of them.

2 Q Okay. Now, the guy that got shot, well, how did he
3 approach the car? Did you see him when he approached the
4 Impala?

5 A He just came out the club. He didn't even approach
6 the car. He didn't even have time enough to approach the
7 car. They just rolled down the window, shot, and the
8 victim ran around on the right side of the club, and I
9 thought he was all right. I thought he probably got shot
10 in the stomach until I found out he was dead the next day.

11 Q Now, from where you were positioned, what was your
12 view of the Impala? I mean, if you're looking out the
13 window of your Jeep, what is your view of the black
14 Impala?

15 A Okay. So the Impala was on, okay. When I was
16 looking, I was looking, the Impala came in on the right
17 side and it came around and went around. It didn't park.
18 It just pulled up and they fired the shot out the back
19 right side window and they just drove off, and I just got
20 the tag number and I gave it to the police officer.

21 Q Now, were you looking at the right passenger side of
22 the car or were you looking at the front or the, or which
23 side were you looking at?

24 A I was looking at the actual club, because I was
25 waiting on my friends and them to come out of the club,

1 because they wasn't going to be there. That what they
2 told me they wouldn't be in there long, because the guy
3 that got shot, he had got into a altercation. They pulled
4 him out, and then they let him back in, and then they had
5 to put him back out and that is when, that's when he got
6 shot.

7 Q Okay. And was the Impala, were the headlights facing
8 towards your Jeep?

9 A Yeah. It was facing toward me, yes.

10 Q So you were looking kind of almost dead-on into the
11 car?

12 A Yes, sir. But I couldn't make out who did what. I
13 don't know who did what.

14 Q Okay. So are you sure and do you know if the door
15 came open or didn't come open?

16 A No. The window rolled down. They rolled the window
17 down and shot.

18 Q Okay.

19 A One shot and the guy went around, the guy went around
20 -- the guy that got shot ran around the right side of the
21 building and I thought that was it. You know what I'm
22 saying, I thought he was all right, until I found out the
23 next day that he was dead.

24 Q Okay. And from you looking head-on into that car, it
25 didn't appear, it didn't look like the car door came open

1 to you?

2 A No. The car door did not come open. They rolled the
3 window down.

4 Q Okay. And you saw a blast come, I believe you said,
5 from inside the car?

6 A Yes, sir. And I thought, when he grabbed his
7 stomach, I thought he had got shot in the stomach. But
8 then he, you know, later I found out he was dead, you know
9 what I'm saying, that he had died, but they shot him one
10 shot.

11 Q Okay. Were you able, you close enough to hear
12 anything, any words exchanged at that point?

13 A There wasn't no words exchanged. The guy just came
14 running out the club. As soon as he, it seemed like soon
15 as he walked out the door, pow. He didn't say nothing to
16 nobody in no car, in that Impala. He didn't say nothing.
17 They just shot him.

18 Q And, there again, you don't know either of the people
19 in this case, the defendant, Alphonso Morgan?

20 A No, sir.

21 Q You know him?

22 A Who?

23 Q You know the guy that's on trial in this case and
24 what this case is about?

25 A No, but I know his daddy. I used to work with his

1 dad, but I don't, I didn't never know him.

2 Q Okay. And you refer to the guy that got shot as the
3 victim. That night, did you know who it was that got
4 shot?

5 A I didn't, I can't tell you that. I didn't know his
6 name. I don't even know, I don't even know his name. I
7 don't even, you know what I'm saying, I don't know
8 nobody's name. I just happen to be a witness.

9 Q Okay. One last question, Mr. Sayles.

10 A Yes, sir.

11 Q You said that the guy that got shot came out, and
12 then he gets shot in the stomach or the midsection. About
13 how far was he from that car when he got shot?

14 A About from here, from me to you.

15 Q Okay.

16 A Because he had just came out the door. He didn't
17 even say nothing to nobody, honestly, when the shot got
18 fired and the guy took off, the victim took, you know, I
19 mean, yeah, the victim took off around the building on the
20 right-hand side. And I thought he was all right till I
21 found out later.

22 Q All right. And he was facing the vehicle, because he
23 got shot in the stomach?

24 A Yeah, he had just came out the door.

25 Q Okay. All right.

1 A Yeah.

2 Q Walking towards the Impala?

3 A Yeah. Well, yeah. He was coming that way.

4 MR. STUMBO: No further questions of Mr. Sayles.

5 CROSS-EXAMINATION

6 By Mr. Jones:

7 Q Mr. Sayles, I have a few questions I need to ask you.

8 A Okay.

9 Q This is about the distance you say he was from the
10 car when he was shot?

11 A Yeah, because he was just coming out the club.

12 Q Right. Just came right out of the door of the club?

13 A Yeah. He just came out the door and he went, pow.

14 Q So it was at least 10 feet away from the club?

15 A Well, I wouldn't say 10 feet.

16 Q I mean from, let me show you this. Step down please,
17 sir.

18 A Yes, sir.

19 Q And you can bring that. I'm going to, go ahead.

20 A We was parked right here.

21 Q You're parked right there?

22 A Right there.

23 Q And the front of your car was facing which direction? ^L

24 A That way towards the door.

25 Q Towards the door?

1 A Yes, sir.

2 Q And the black Impala pulled up and faced what?

3 A It came this way.

4 Q Yeah.

5 A And as soon as the victim came out the door.

6 Q Now, I want to know which way the black Impala was
7 pointing?

8 A It was going this way.

9 Q Straight towards you?

10 A Yes, sir.

11 Q Like if you're parked looking at the club, the
12 headlights of the black Impala are straight at you?

13 A Yeah.

14 Q Right?

15 A Well, no. No, it's up on the side. It's not in,
16 straight in front of me. It's facing this way. The
17 lights going this way. I'm parked right here and it
18 parked right here. And then what happened when I looked,
19 because they had, the guy that got shot, he was in a
20 altercation with somebody.

21 Q All right. Let me let you go back to the stand,
22 please, we'll continue. I'll let you finish your answer.
23 You say the guy that got shot had an altercation with
24 somebody?

25 A Yeah.

- 1 Q How do you know that?
- 2 A Because I was there.
- 3 Q Who did, you were in the club?
- 4 A I was not in the club. They would not let me in the
5 club, because of the altercation.
- 6 Q Who would not let you in the club?
- 7 A The bouncer, Tony Thompson.
- 8 Q You tried to get in the club?
- 9 A Yes, sir.
- 10 Q With who?
- 11 A With my friend there, Sherris English.
- 12 Q Is that who you went there with?
- 13 A Yeah, and her daughter.
- 14 Q Was her daughter with you?
- 15 A Yeah.
- 16 Q Sherris English, and what's her daughter's name?
- 17 A Marquesha.
- 18 Q Marquesha?
- 19 A Yeah.
- 20 Q And so you went to the club with them?
- 21 A Yes, sir.
- 22 Q Do you have any idea how old her daughter is?
- 23 A Marquesha I believe about 22. About 22.
- 24 Q Where had y'all been before you got to the club?
- 25 A At her house, at Sherris English house.

1 Q What were you doing there?

2 A Sherris Proffit house. Excuse me. English is her
3 maiden name.

4 Q Okay. And, I believe, that Ms. English is related to
5 the victim's family?

6 A Yeah. I later found that out; yes, sir.

7 Q Well, I mean, she's related to Jamaal Aiken's family?

8 A Yes, sir.

9 Q When did you find that out?

10 A After the incident had happened the next day.

11 Q The next day?

12 A Yes, sir.

13 Q You found out that she was related to Jamaal?

14 A Yes, sir.

15 Q You didn't find out that night before you--

16 A No, sir. I used to live in Greenville and
17 Spartanburg.

18 Q Yes, sir.

19 A I just recently moved back down here, and I don't
20 know everybody.

21 Q Well, then, I apologize. Before you left that
22 parking lot did Ms. English leave with you?

23 A Yes, sir.

24 Q Was she in the car when you observed what you
25 observed?

- 1 A No, sir. She was in the club.
- 2 Q In the club?
- 3 A Yes, sir.
- 4 Q They didn't make her come out of the club?
- 5 A No, sir.
- 6 Q And her daughter didn't come out the club?
- 7 A No, sir.
- 8 Q Okay. How'd they get in the club and you didn't?
- 9 A Because they knew the bouncer. They know Tony. They
- 10 know Tony Thompson, and he just let them in there. But
- 11 when I got ready to go in the club, that's when the fight
- 12 broke out.
- 13 Q Oh, so you sat out in the car by yourself?
- 14 A Yes, sir.
- 15 Q While Ms. English and her daughter went in the club?
- 16 A Yes, sir.
- 17 Q Do you mind sharing with us what you were doing in
- 18 the car by yourself?
- 19 A Just sitting there.
- 20 Q Sitting there?
- 21 A Yes, sir. Waiting on them, because I knew they
- 22 wasn't going to be in there long, because they knew I
- 23 couldn't get in the club.
- 24 Q Well, why'd you try to get in the club?
- 25 A Because I wanted to go in the club.

1 Q Well, you knew you couldn't get in the club. They
2 told you you couldn't get in the club.

3 A Look, I tried to get in the club, to get in the club.
4 But he told me I couldn't get in the club, so I went back
5 to the vehicle.

6 Q Okay. So there was an altercation at the door?

7 A I saw Tony Thompson bringing this guy out. The
8 victim, he was bringing him out. He brought him out.

9 Q By himself?

10 A Yes, by himself.

11 Q You didn't see Brent Williams?

12 A I don't know Brent Williams.

13 Q Did you see anybody else with the victim when Tony
14 Thomas brought him out?

15 A No, sir.

16 Q Nobody?

17 A Nobody. Nobody. Not that I could know.

18 Q Well, you had a clear view of that front door,
19 correct?

20 A Yes, sir.

21 Q And, and you're saying that the victim and we now
22 know his name is Jamaal Aiken, was escorted out by Tony
23 Thomas?

24 A And then they let him back in, and then he got back
25 into another or I guess the same altercation and then he

1 came back.

2 Q Okay.

3 A And when he came out that door, that's when that guy
4 shot him.

5 Q The second time is when he came out the door?

6 A Yeah.

7 Q Okay. Who did he come out with the second time he
8 came out the door?

9 A Tony Thompson.

10 Q Anybody else?

11 A Not that I can recall.

12 Q Well, I mean, if there had been anybody with him, you
13 would have seen him coming out?

14 A But I still wouldn't, I still can't tell you who they
15 was.

16 Q I'm not asking you who it was. I said anybody else
17 with him?

18 A Yeah.

19 Q Who?

20 A I don't know.

21 Q So there was somebody else with him?

22 A They had to escort him out. It couldn't take one
23 person with this man fighting and he in the club fighting
24 and they got a disturbance in there. You know it going to
25 take more than one person.

1 Q More than one person to escort him out? Excuse me.

2 I'm sorry.

3 A Huh?

4 Q Tony Thomas escorted him out?

5 A Yes, sir. He's the bouncer.

6 Q Okay. Was anybody else escorted out with the victim
7 besides Tony Thomas?

8 A NO.

9 Q No? The second time?

10 A Now, the second time he was out there that he got, he
11 came out by, on his own. He came out, Tony just open the
12 door and he came out the door.

13 Q He walked straight out?

14 A He walked straight out. Soon as he walked, soon as
15 he hit the door, that when he got shot.

16 Q Okay. But he was by himself?

17 A Yeah, with Tony.

18 Q Tony opened the door and let him out. Did the door
19 stay, did the door stay open or did the door close?

20 A I don't know. I can't recall that.

21 Q So as I recall my question was, Mr. Sayles, the
22 second time the victim was let out of the club or escorted
23 out of the club, other than Tony Thomas, did you see
24 anybody with him?

25 A There was somebody, it was, it was a whole lot of

1 people. You know, people ripping and rumbling. They
2 fighting in the club. So I can't tell you who else was
3 with him. I don't know. But I'm just saying what I saw.
4 I saw them come out the door and that man shot him. That
5 just it. He rolled down the back right side of that
6 passenger window and he shot him and that guy ran around
7 the corner. That's all I can tell you. I don't know who
8 is who. I'm just giving you what the, what I seen.

9 Q I'm asking you when he came out of the club the
10 second time, how many people came out with him?

11 A Man, it was people everywhere.

12 Q In the parking lot?

13 A No, coming out the club, because of the altercation
14 they had inside the club. I don't know.

15 Q Okay. How many people was walking with him as he
16 approached the car?

17 A I can't give you that number. I don't know exactly
18 what number it was for the people that came out that club.
19 What the only thing I can tell you is that the suspect was
20 not in the club. It was like somebody called him and he
21 pulled up and he rolled down the window and he shot him.
22 That's it.

23 Q All right. All right. Let me ask you this. You say
24 that you learned the next day that the victim had died?

25 A Yes, sir.

1 Q And were you still friends with Ms. English and her
2 daughter?

3 A Yeah.

4 Q And were you still having communications with them
5 that next week?

6 A Yeah.

7 Q All right. And did you tell them what you had seen?

8 A Yes, I told them.

9 Q That was in the week of November the 14th, 15th,
10 16th, somewhere in there?

11 A Yes, sir.

12 Q Correct?

13 A Yes, sir.

14 Q And so you waited until July of 2014 to contact the
15 Solicitor's Office to offer a statement to tell them what
16 you saw?

17 A No, sir. No. The night that incident happened, I
18 wrote the tag number down and I called the police.

19 Q Called them?

20 A Yeah, I called them.

21 Q 911?

22 A Yeah.

23 Q And did you speak to them when they got to the
24 parking lot?

25 A I want to say Hugh Butler, if I ain't mistaken,

1 that's who I talked to, and I told him what I seen.

2 Q Did you give him your name?

3 A No, because I ain't want, I didn't really want to be
4 involved in this situation, but he know me. He know my
5 name. He asked me for my address, and I told him I wasn't
6 going to give it to him, because I ain't wanting to get
7 involved in this.

8 Q Well, when did you decide to get involved in it?

9 A When the victim's mother called me.

10 Q In July?

11 A I think it might have been in July.

12 Q That's about the time that Al Morgan got out of jail
13 on bond, wasn't it?

14 A I don't know.

15 Q Did you tell Ms. English what you had seen?

16 A Of course.

17 Q And how old is Sherrie English?

18 A Sherrie English is, I'm 45. She ought to be 42, 43.

19 Q Did she tell you I'm going to have to tell Jamaal's
20 daddy, Greg, and his mama about this and you going to have
21 to tell them, we got to go tell him about this right now?

22 A No. She never mentioned a Greg. She told me Tracy.
23 I just know the victim's mama, Tracy.

24 Q And back in November when you told her what you had
25 seen, did she say we got to go tell the family about what

1 you know, what you saw, we got to go tell them?

2 A Of course.

3 Q And you went and told them?

4 A Of course.

5 Q In November?

6 A In November. I told the officer that showed up. I
7 told them the tag number and everything.

8 Q No. I'm asking after the next day when you found out
9 he had died?

10 A Well, it was like a couple of days later that I
11 talked to her.

12 Q To who?

13 A Sherris English.

14 Q Okay.

15 A Because I just found out that she was related to the
16 victim.

17 Q Right. And that's when y'all decided to go tell the
18 victim's family about what you knew?

19 A I mean, they contacted me. I didn't contact them.

20 Q In July?

21 A In July. In June. I did not contact them. They
22 contacted me.

23 Q Do you recall what you said when you called 911?

24 A Yeah. I seen a shooting and I gave them the tag
25 number, and I told them which way they went. When they

1 left out, when they left out the Cabstand, they went to
2 the right, and I just told them which way they went.

3 Q On a 911 call that you made to the police department,
4 911?

5 A Yeah.

6 Q Okay. And what phone did you use to make that call?

7 A My cell phone.

8 Q And did you call that number before you left the
9 parking lot?

10 A I was there the whole time. And then when I told,
11 when the police got there, I told him. He asked me where
12 did I stay at. I said, no, sir. I won't give you that
13 information, because he knew me. He was supposed to know
14 me, and then I was like I done tell you what I saw with
15 the tag number and which way they went.

16 Q So he knew your name?

17 A Who knew my name?

18 Q Hugh Butler.

19 A He know of me. He might not remember my name, but he
20 know me. Because he was asking me where was I staying at.
21 He said where you been, I ain't seen you in a long time. I
22 said I just wanted to give you a tag number and tell you
23 which way they went and that's all I did.

24 Q You said you'd been in the parking lot when you saw
25 an argument between the victim and an unknown black male.

1 Did you tell Hugh Butler that?

2 A Run that by me again.

3 Q That you had been in the parking lot parked when you
4 saw the victim and an unknown black male who was in the
5 backseat of a Chevy Impala?

6 A They did not argue. I did not see no argument.

7 Q You didn't tell him that on November the 14th, 2013?

8 A No, sir. There was no argument.

9 Q And you didn't tell him that during this argument,
10 the back door swung open and the suspect in the backseat
11 fired a shot?

12 A No, sir.

13 Q You didn't tell Captain Butler that on November the
14 14th, 2013?

15 A No, sir. They rolled, the back window rolled down.
16 Didn't nobody, didn't no door open.

17 Q But then seven months later in July of 2015, you come
18 in to meet with a representative of the Solicitor's office
19 with a version that's very similar to this, except there
20 is no door being pulled open--

21 A -- there was no door pulled open. The window was
22 rolled down.

23 Q --and no argument going on between the victim and the
24 person in the back seat of the black Impala?

25 A There was not.

1 MR. STUMBO: I'm going to object to this. I think
2 he's asked and he's been asked the question and he's
3 answered the questions and now we're pitting some incident
4 report, which I'm assuming Mr. Jones is reading off of,
5 and rehashing it.

6 THE COURT: We're not in front of a jury. Go ahead.

7 MR. STUMBO: That's fine. Okay.

8 Q So if Hugh Butler walked in this courtroom today, he
9 would know you?

10 A Yeah.

11 Q Have you been sequestered for a while today?

12 A Have I been what?

13 Q Back in a back room sequestered from being in the
14 courtroom today?

15 A No, sir.

16 Q Not at all?

17 A Not at all.

18 Q And not yesterday?

19 A Not yesterday.

20 Q So you haven't seen Hugh Butler today?

21 A No, sir.

22 Q When is the last time you've saw Hugh Butler?

23 A The day of that incident.

24 Q Okay. How long did you know Hugh Butler before this
25 incident?

1 A Shoot, all my life.

2 Q All your life.

3 A Ever since I been getting in trouble. I'll put it
4 like that.

5 Q When you were telling Hugh Butler about what you saw
6 in the parking lot, who was there?

7 A I don't know.

8 Q Well, did you see another police officer standing
9 next to him while you were talking to him?

10 A There were several officers out there, sir. There
11 was a shooting.

12 Q My question was did you see another officer as you
13 were relating to Mr. Butler the information you had about
14 the shooting standing next to Captain Butler?

15 A I can't remember all that. I don't know. It had to
16 been. You know, he wasn't going to, go to the scene like
17 that by his self, so there apparently had to been another
18 officer.

19 Q I need to understand who decided that it was
20 important that you contact the Solicitor's Office with the
21 information you had in July of 2015?

22 A The detective.

23 Q What detective?

24 A I don't know his name.

25 Q I mean, they contacted you or you contacted them?

1 A They contacted me.

2 Q So had they not contacted you, you weren't going to
3 come forward with the information that you had?

4 A Oh, yes, sir. I would. I mean, I'm just saying I'm
5 tired of them kids killing kids.

6 Q Well, why did you wait until July and still hadn't
7 come forward with your information?

8 A I came forward with the information when the incident
9 occurred. I talked to the arresting officer. I talked to
10 him. So I don't understand what your question is.

11 Q When you talked to him, you didn't know that somebody
12 had died?

13 A I didn't find out till the next morning that the kid
14 had died.

15 Q I heard you say that and that's the reason I'm
16 attempting to ask you if it wasn't a little bit different
17 perspective in your mind about how important it was for
18 you to provide not only the information that you had about
19 what you saw down there but your name to Detective Captain
20 Hugh Butler and to anybody else. Why didn't you feel that
21 way then when you realized what you're tired of seeing
22 happen? Somebody had died. Why didn't you go to Butler
23 then?

24 A I talked to Butler at the scene. I mean, brother,
25 what you mean?

1 Q That's before anybody had died you gave him a brief
2 recitation without your name, without him knowing who,
3 that you existed. He probably knew who you were. You're
4 not sure. Correct?

5 A He knew who I were. He knew me. I'm just saying,
6 man, look, I did tell the truth. I told what I seen.
7 What the problem is?

8 Q There's not a problem. I want to ask you what made
9 you decide to come forward in July of 2015 with your
10 information.

11 A Because that's when the people got in touch with me.

12 Q What people?

13 A The detectives.

14 Q So they called you at home?

15 A Yeah.

16 Q And said what?

17 A Because Ms. Tracy gave him my phone number and they
18 got in touch with me.

19 Q Ms. Tracy, who?

20 A Ms. Tracy, the victim's mother.

21 Q Did you tell her that you had already talked to a
22 police officer and give them the tag number of the car?

23 A Yes. Yes.

24 Q You did?

25 A Apparently, she found it out. Yes.

1 Q Okay.

2 A I told them.

3 Q All right. Well, you gave a statement to the
4 Solicitor's Office investigator on July the 14th.

5 A Yes.

6 Q It says 2014, but that's got to be incorrect. Don't
7 you think? I'm going to, it couldn't have been, was it
8 2014? July 2014, that's when it was?

9 MR. STUMBO: That's correct.

10 Q Okay. All right. And during the course of giving
11 that statement did you tell the investigator with the
12 Solicitor's office that you had taken down the tag number
13 of the charcoal gray or black car that pulled up? Did you
14 tell him you had taken down the tag number of that car?

15 A Yes, sir.

16 Q You told him that?

17 A Yes, sir.

18 Q Did you tell him you had provided that tag number to
19 law enforcement, to Greenwood Police Department, when he
20 interviewed you at that point in time?

21 A Yes, sir.

22 Q You told him that?

23 A Yes, sir.

24 Q That you had given a Greenwood City Police Department
25 detective the tag number of the vehicle, is that correct?

1 A Yes, sir.

2 Q You told the investigator that?

3 A Yes, sir.

4 Q Is it this man right there that is sitting between
5 the Solicitor?

6 A Yes, sir.

7 Q That's who you gave that information to?

8 A Yes, sir.

9 Q All right. I want to hand you this piece of paper
10 and ask you if you would please read over it.

11 A Read it out loud?

12 Q Yeah.

13 MR. JONES: Your Honor?

14 THE COURT: Just read it to yourself.

15 Q No, just read it.

16 A Okay.

17 Q Okay. And, of course, you knew that this man here in
18 the middle was an investigator with the Solicitor's Office
19 when you talked to him, correct?

20 A Yes, sir. He had identified his self.

21 Q Okay. And you told him you'd gotten a tag number
22 down and given it to a police officer and you not only
23 told him you'd given the tag number to a police officer,
24 but you told him it was Captain Hugh Butler, didn't you?

25 A Yes, sir. Yeah, Hugh Butler, yeah.

1 Q Okay. So he knew in July of 2014 that you had told
2 Hugh Butler all of this information and provided it to
3 Captain Hugh Butler, correct?

4 A Yes, sir.

5 Q Did he include it anywhere in the synopsis that I
6 handed you that is in, that you just reviewed it over
7 there? Did he include anywhere in there that you told him
8 you gave this information to Captain Hugh Butler on the
9 night it happened?

10 A Well, it don't mention Hugh Butler, but that who I
11 talked to.

12 Q And that's what you told the investigator with the
13 Solicitor's Office?

14 A I did not tell him exactly who it was, Hugh Butler.
15 I didn't tell him Hugh Butler.

16 Q Wait a minute, man.

17 MR. STUMBO: Your Honor, objection. He's crossing
18 him with a summary that he's probably never even seen
19 before. I mean, these questions would be probably more
20 proper for whoever prepared that summary, Investigator
21 Smith, not Mr. Sayles.

22 A I did not mention no name.

23 THE COURT: Wait.

24 MR. STUMBO: He's asking if he's asked the questions
25 or I don't think he's asking him questions about what he

1 said and what he didn't say but to pit his statement with
2 a summary.

3 THE COURT: No, no, no, no. I think Mr. Jones was
4 well within his cross-examination rights to ask who he
5 told, because there was two different conversations.

6 MR. STUMBO: Yeah, that's correct. Yeah, I don't
7 think that's inadmissible. I think what is inadmissible
8 is him after he answers the questions confronting him with
9 a summary that he didn't--

10 THE COURT: Okay. I'm not worried about that
11 summary. I've been listening to his questions.

12 Q So I may have misunderstood the answer to the last
13 question before the objection from the Solicitor. But if
14 I didn't misunderstand it, I think you had changed within
15 a matter of minutes on the witness stand in the way you
16 were going to answer my question by saying no, I probably
17 didn't tell him that Captain Hugh Butler was the one I
18 gave the statement to.

19 A Sir, excuse me. That been two years ago. Now, I
20 can't remember everything I said or everything I done in
21 two years. Can you?

22 Q I just asked you if you told him, Mr. Sayles, and the
23 first time you said yes, I did tell him it was Captain
24 Butler?

25 A I might have did. I don't know. That been two years

1 ago. The only thing I know that guy got killed and there
2 was a black Impala or gray Impala and the shooter was in
3 the backseat. That's all I know.

4 Q Right. But you also know that you gave information
5 to Captain Butler that night, correct?

6 A Yeah.

7 Q And you also know that approximately nine months
8 after that, you were called and contacted by the
9 Solicitor's Office to find out what you knew that night,
10 what you saw that night.

11 A And I told them exactly what I'm telling you.

12 Q And that you told the police that night about it.

13 A Yes, sir. I'm telling you exactly what I said the
14 night when I talked to that police and I talked to
15 whoever, the detective or solicitor, whoever it was.

16 Q That's right. And that's what I'm asking you. When
17 you met with Courtney Smith, you told him that you had
18 given this information to the police the night that it
19 happened, didn't you?

20 A Yes, sir.

21 Q And you told him that you took down the tag number
22 and gave him the tag of the vehicle that pulled off. You
23 told Courtney Smith that in July of 2014, didn't you?

24 A Yes, sir.

25 Q And you told him that you gave that tag number to

1 detective, Captain Hugh Butler?

2 A Yes, sir.

3 Q Didn't you?

4 A Yes, sir.

5 Q Thank you.

6 REDIRECT EXAMINATION

7 By Mr. Stumbo:

8 Q Mr. Sayles, I believe you said right before that
9 series of questions it's been two years since you've
10 talked to Investigator Smith, right?

11 A Well, I talked to him recently because the case was
12 coming up.

13 Q Do you remember everything you told him at that time
14 to a word?

15 A Pretty much, because I told the truth. I told what I
16 saw.

17 Q And it's your testimony today that you told him that
18 you gave the tab number to Captain Butler that night?

19 A Yes, sir.

20 Q Okay. You're here under subpoena today, correct?

21 A Yes, sir.

22 Q Are you here to, on anybody's side on this case or
23 you're here under my subpoena?

24 A No, sir. Like I said, I know the suspect daddy,
25 because I used to work with him at Magnolia Manor, but I

1 don't know, I didn't know neither one of them.

2 Q Okay. You're here because we put a subpoena in your
3 hand and told you you had to be here, right?

4 A Yes, sir.

5 Q All right. So it's your testimony here today you're
6 not here to help one side or the other?

7 A No, sir. I'm just here to tell the truth.

8 Q Okay. You were there that night in the parking lot?

9 A Yes, sir. I couldn't even tell you if he was the
10 shooter. I don't know.

11 Q And you're telling the Court under oath to the best
12 of your recollection what you remember seeing, is that
13 correct?

14 A Yes, sir.

15 Q Okay. And you did provide Captain, indeed provide,
16 whether you said it to Investigator Smith or not, it's
17 your testimony that you did tell him--

18 MR. JONES: He's leading him on redirect, Your Honor.

19 THE COURT: But that question has been asked and
20 answered. I understand his position.

21 Q You talked to Captain Butler that night, right?

22 A Yes, sir.

23 Q You gave him the tag number?

24 A Yes, sir. I gave him the tag number.

25 MR. STUMBO: No further questions.

1 THE COURT: I got one question.

2 MR. STUMBO: Yes, sir.

3 EXAMINATION

4 By The Court:

5 Q Mr. Sayles, you saw the victim fall down that night?

6 A I saw when he got shot, he went around the building.

7 He went around on the right side of the building, and I
8 thought he was all right until I heard the next day he was
9 dead.

10 Q He didn't fall down?

11 A He didn't fall down when I seen him.

12 THE COURT: Okay. That's all I got. You can step
13 down. Let's take a short break.

14 (Whereupon, a short break was taken.)

15 THE COURT: Ready?

16 MR. STUMBO: The State calls Courtney Smith.

17 COURTNEY SMITH, being
18 first duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 By Mr. Stumbo:

21 Q Investigator Smith, you work for our office
22 currently?

23 A Yes, sir; that's correct.

24 Q And formerly, you were with the Sheriff's Department
25 in Greenwood, correct?

- 1 A Yes, sir; that's correct.
- 2 Q Before that, you were with the Sheriff's Department
3 in Abbeville?
- 4 A The City in Abbeville.
- 5 Q The City of Abbeville.
- 6 A Yes, sir.
- 7 Q And you're a certified Class I law enforcement
8 officer through the Criminal Justice Academy, correct?
- 9 A Yes, sir.
- 10 Q Carry a badge and a gun for our office just like you
11 did in law enforcement?
- 12 A Yes, sir.
- 13 Q You've had a chance to work on this case with Deputy
14 Solicitor Brown and myself on the Alphonso Morgan homicide
15 case?
- 16 A Yes, sir.
- 17 Q And as part of your responsibilities in this case,
18 you went out and interviewed, did some follow-up
19 interviews with potential witnesses?
- 20 A Yes, sir.
- 21 Q Okay. And these are ones not only that had given
22 statements to law enforcement previously that we knew
23 about, but names that had come in from different sources
24 of people that might have been there that night, correct?
- 25 A Yes, sir.

1 Q You had an opportunity in July 2014 to meet with
2 Demecus Sayles?

3 A Yes, sir.

4 Q Okay. You take a, do an interview with him?

5 A Yes, sir.

6 Q Did you take notes?

7 A Yes, sir.

8 Q Okay. And at some point, did you type up a summary
9 of what your interaction with Mr. Sayles was?

10 A Yes, sir.

11 Q Okay. And after Mr. Sayles gave you this statement,
12 you typed up the summary, and then we provided that to the
13 defense attorneys through discovery, correct?

14 A That's correct.

15 Q Okay. During this interview, do you have a
16 recollection at all of Mr. Sayles saying anything about
17 him talking to Captain Butler on the scene that night?

18 A No, sir.

19 Q Okay. So did he indicate in any way, shape or form
20 that he had previously talked to law enforcement?

21 A No, sir.

22 Q And did he tell you in any way shape or form that he
23 had provided the tag number of the vehicle that left the
24 scene that night to law enforcement?

25 A No, sir. If he had, it would have been in my

1 summary.

2 Q Okay. And you're sure of that, he didn't pass that
3 information along to you?

4 A I'm positive.

5 Q Okay. And the summary that you took and we provided
6 in discovery to Mr. Jones and Mr. Bannister, it's a
7 summary of everything that was said by Mr. Sayles to you
8 at that point?

9 A Yes, sir.

10 Q Okay.

11 MR. STUMBO: That's all I have, Your Honor.

12 CROSS-EXAMINATION

13 By Mr. Bannister:

14 Q And, Detective Smith, isn't it true that prior to
15 interviewing Mr. Sayles, were you familiar with this case?
16 Had you looked at the case file at some point prior to
17 your interview?

18 A Yes, sir.

19 Q Okay. And so would it be fair to say that if
20 somebody had mentioned I'm the guy that told Hugh Butler
21 about the license tag, that that would, you would have
22 known that would have been pretty important, because Hugh
23 Butler had a witness that was on-scene that gave him a tag
24 number and we didn't know who he was, a name at least?

25 A It's very important.

1 Q And that's the same witness who had said there'd been
2 an argument at the car, the door had come open, shots had
3 been fired?

4 A He did not say the door came open. He said the
5 window was down.

6 Q Can you review, let me just hand you the Detective
7 Butler's report if I can just to refresh your
8 recollection. In your review of the file, the witness
9 that was unidentified that Mr. Butler talked to, am I
10 correct it was that there'd been an argument, the back
11 door came open, and then shots were fired?

12 A That's what the report says, but Mr. Sayles said just
13 moments ago the window was down. The door did not come
14 open.

15 Q Right. And I know what he said a minute ago, but I'm
16 just saying. And the only other witness that Hugh Butler
17 actually talked to other than the individual who gave him
18 the tag number was Tony Thomas on the scene, at least
19 according to your review of the case file, correct?

20 A Yes, sir.

21 Q Okay. So, again, back to your summary, the reason
22 it's not in there is because this guy never told you?

23 A He did not tell me that information.

24 Q Because if he had, he would have most likely been
25 this unknown witness, right?

1 A Possibly.

2 Q Yeah.

3 MR. BANNISTER: Thank you. No further questions.

4 MR. STUMBO: Nothing further.

5 THE COURT: You can step down.

6 MR. BROWN: Call Drina Morgan.

7 THE COURT: Would that be, Bird?

8 MR. BROWN: That's right.

9 DRINA MORGAN, being
10 first duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 By Mr. Brown:

13 Q Good afternoon, Ms. Morgan.

14 A Good afternoon.

15 Q Tell me your full name?

16 A Drina Yuitkl Morgan.

17 Q Spell--

18 THE COURT: Just speak a little bit slower.

19 Q Spell your name and say it kind of slow.

20 A D-R-I-N-A, Drina, and Y-U-I-T-K-L, Morgan,

21 M-O-R-G-A-N.

22 Q And, Ms. Morgan, we got you here today because, were
23 you there at night, the Cabstand the night of November 14,
24 2013?

25 A Yes, sir.

1 Q Okay. And just to kind of go, want to get going. Do
2 you know Al Morgan?

3 A Yes, sir.

4 Q How do you know him?

5 A That's my cousin.

6 Q And is it distant cousin or how are y'all related?

7 A My grandma and his dad are sister and brother.

8 Q All right. And Jamaal Aiken, how do you know Jamaal
9 Aiken?

10 A I been hanging around for like 17 years.

11 Q And that night on November 14, 2013, did you go to
12 the Cabstand?

13 A Yes, sir.

14 Q Who all, where were you before you went to the
15 Cabstand?

16 A We went to a birthday party in Wheatfield.

17 Q Who's all we?

18 A Me, Brent Williams, Mario, I think his last name
19 Lewis, Shanina Williams and Jamaal Aiken.

20 Q And what kind of party was that?

21 A It was a birthday party. Like a little get-together.
22 It was the person who stayed there birthday party.

23 Q How long were y'all at that location?

24 A Probably about 30 minutes. They was getting to go,
25 too, so went up there with them. We had never been to the

1 Cabstand.

2 Q What time did y'all get to the Cabstand?

3 A I really couldn't tell the exact time. I don't know
4 the exact time that we got to the Cabstand.

5 Q And who all went to the Cabstand?

6 A Me, Brent Williams and Mario went in the Cabstand.

7 Q And then Jamaal and Shanina?

8 A They arrived and they called and I went outside, and
9 then me and Jamaal and Shanina walked back in.

10 Q And how many times you been to the Cabstand?

11 A That was my first time going in the Cabstand like to
12 just be there. I had been once before to pick up someone
13 from up there. My cousin aunt had been in there one
14 night, and we went and gave her a ride home, but just like
15 partying there, that was my first time.

16 Q And when y'all went in there, did you bring your own
17 drinks?

18 A Yes, sir.

19 Q What'd y'all take in there?

20 A Some Bud Light.

21 Q And did y'all just have a community kind of box of
22 beer that you were going to drink off of that night?

23 A Yes, sir. They just charge you \$3 to bring it in if
24 you got your own beer, and so we brought our own beer in
25 for \$3.

1 Q And tell me what'd y'all do once you went in the
2 club?

3 A Well, we went in. We walked back to the back by the
4 bar. We see Alphonso, Lenwood Ramsey, and Thomas
5 Gilchrist. We spoke to them, because I know Al, that's my
6 cousin. So they spoke. I spoke to him and I gave him a
7 hug, he gave me a hug. Him and Jamaal started talking
8 'cause they had another mutual friend. He spoke to
9 Jamaal. I don't know what they said. We stood over off
10 to our little side. They was at their table, and we was
11 at our table. They end up leaving, and they stated that
12 they was coming back. They was talking to the fellows.
13 They wasn't talking to us. So they said they was coming
14 back and before they even got back or whatever, Brent
15 Williams and Demond end up getting into a altercation.

16 Q So let's go back a little bit. You said that you
17 talked to Al, gave him a hug. Y'all cousins, y'all get
18 along fine.

19 A Yeah.

20 Q You said you saw Jamaal and Al talk for a second?

21 A Yeah, they talked.

22 Q How is their conversation?

23 A Very brief. They got a mutual friend and they asked
24 about him. He asked him when the last time he seen him,
25 and they spoke on that. I'm talking over here. They

1 spoke on that and it was over. It wasn't like, you know,
2 they just stood there and hung together all night.

3 Q But they appeared to get along fine then?

4 A Yes, sir.

5 Q And how long was everybody at the club together?
6 Like how long was Al there while y'all were there?

7 A We had probably get in there about 30, 40 minutes
8 before they left. Probably about 40 minutes. Yeah,
9 probably that long.

10 Q And during that 30 or 45 or 30 to 40 minutes--

11 A -- I really wasn't even timing it, but it was, yeah,
12 and like a minute.

13 Q Well, during that time y'all are there together,
14 nothing got out of control?

15 A No, sir. Not that I seen.

16 Q Everybody was getting along?

17 A And to my knowledge.

18 Q Did you see anything between Brent and Al?

19 A No, sir.

20 Q And how big is the Cabstand inside?

21 A It ain't real big. It's probably from that end of
22 the little rail to, it's a kind of small, yeah, a little
23 small building. It ain't big.

24 Q So regardless of where you are in the Cabstand, you
25 can probably see pretty much everywhere in there?

1 A Yeah, you could see pretty much everywhere in there.
2 It's a open room.

3 Q You said Al, once he was leaving, you heard him say
4 they were coming back?

5 A Yeah. He said something and talked to them and they
6 said they was coming back and we all, like we know Al, we
7 know Bug, we know them. That was like Al my family,
8 Lenwood being in our family and Bug in our family. So it
9 wasn't no argument type thing, because Lenwood was engaged
10 to my aunt which is Brent's step, well, you know, Brent's
11 mother and Thomas goes with our cousin. So we ain't think
12 there was no problem, and Al my cousin. So I didn't see
13 no problem.

14 Q And then at that time you said Al ended up leaving?

15 A Yeah, they ended up leaving.

16 Q Who did Al leave with?

17 A Him, Lenwood and Bug left and Tonya.

18 Q Tonya Fuller?

19 A Yes.

20 Q Now, once they left, what happened in the club?

21 A We stayed there for a little, a few little longer,
22 you know, a little while longer, and Brent Williams and
23 Demond end up getting into a altercation at the jukebox
24 machine. And then Jamaal was trying to get him out of
25 there so by now, it's like all of them, we trying to get

1 him out. A security or the man who owned it or whoever,
2 one of the people came and was trying to help us get him
3 out. We was taking him out the door, him and Brent end up
4 getting into a, like a little altercation. He ended up
5 hitting me as soon we got out the door.

6 Q Who ended up hitting you? You said Brent and Demond
7 got in an altercation?

8 A Yes, sir.

9 Q And Jamaal and one of the guys that owned the club,
10 that worked at the club?

11 A We was getting Brent out the door, because he was--

12 REPORTER: Wait, wait, wait.

13 THE COURT: You understand she's taking down
14 everything you're saying.

15 A Yes.

16 THE COURT: She's typing it up as you going. The
17 faster you go, the harder it is.

18 A Oh, okay.

19 Q Slow it down a little and come down from a 100 miles
20 an hour to about 50 miles an hour.

21 A Okay.

22 Q So Brent and Demond get in a fight.

23 A Yes, sir.

24 Q What happened next?

25 A Me and Jamaal and one of the other men who place the

1 business it is was getting Brent out the door. He was
2 telling the other dude to stay in the door and Brent was
3 still trying to get to him. So we trying to get Brent out
4 and the old man and Brent kind of got into like a little
5 thing where he was trying to push him back out the club,
6 so Brent swung at him. He swung back but instead of him
7 hitting Brent, he hit me because I was in front of Brent
8 trying to get him out. Soon as we stepped out the door,
9 everybody was leaving. He already stated the police are
10 on the way, so I'm telling Brent to go to the car, go to
11 the car, Brent. You know, I'm trying to get him to go
12 onto the car, and by that time, the car that Ramsey was
13 driving pull in. The car ain't have no lights on. It had
14 only the parking lights on on his car. It pulled in.
15 People noticed the car pulling in. So once I seen who the
16 car was, I didn't think nothing of it, because I knew the
17 person. So Jamaal kind of like going behind Brent. The
18 shot came out and he fell.

19 Q Where was Jamaal in relation to this car?

20 A Like the car come in like right here. The car go
21 over to the side by the sidewalk. Jamaal is like in front
22 of the club because we just came out and the car we in is
23 over here up closer to the Mexican store.

24 Q All right.

25 A So the car that me and Brent riding in is like over

1 this way, so he's still telling Brent, too, to go onto the
2 car and he got shot and the car sped out of there.

3 Q Do you know, could you see a lot of the specifics on
4 him going up to the car or did you hear the shot and turn
5 around?

6 A Yeah, I ain't see him go to no car at all. I seen
7 the car pull in. Wasn't nobody at the car. When I seen
8 the car, the car, after the shot came out and the car was
9 leaving out and Mario was still walking and going to his
10 car, his feet got ran over. That how quick it happened
11 and they went out of there, so they ran him over walking
12 to his car on the other side of the little parking lot
13 where they had to go out at.

14 Q But during this whole time that Lenwood's car came in
15 the parking lot, were you, did you see everything that
16 happened leading up to the time that Jamaal got shot or
17 were you also looking at Brent?

18 A I was looking at Brent.

19 Q So you, you don't know, do you know a whole lot of
20 the dynamics of the car, of actually the shot?

21 A How was the car when the car, when the shot came?

22 Q Yeah.

23 A It was going, it came in here and it was here and it
24 shot and it went out.

25 Q And when you heard the shot you saw Jamaal?

1 A At first when I heard the shot, when he got shot, I
2 went down. That's when we see Smooth, he getting up.

3 Q He's getting up?

4 A Yeah.

5 Q And where was he?

6 A At first and we didn't even think he was shot. We
7 thought, you know, he did the same thing just like really,
8 you know, somebody shooting so that's like the normal
9 thing, you going to go for cover. You don't know, you
10 know.

11 Q Him getting up off the ground, how far away from the
12 car was he when he was getting up off the ground or do you
13 remember?

14 A The car were leaving out. The car was going out.

15 Q When he was getting up off the ground?

16 A Yeah. The car end up going out while he going back
17 to his car. I don't, he wasn't even close to the car like
18 that. He was coming from the club fixing to walk with
19 Brent. He wasn't going on no car. He wasn't on no car.
20 He ain't even grabbed no door or none of that.

21 Q Well, what did Jamaal do, once you saw him getting up
22 off the ground, what did he do?

23 A Started talking to Shanina and that's when she say he
24 shot, and then they get in, she get him in the car and
25 they get in the car and he get, they go to the hospital.

1 The police was already in route, so we flagged the police
2 down and I knew where Lenwood stays. So I said they went
3 that away that he stay at the top over by Reynolds Street
4 across from the store and we left and went to the hospital
5 and while we was there and when after we was talking to
6 the police, Bug was right there, too, and he was like Al
7 didn't have to shoot him. Al shot him and Al didn't have
8 to do that and he ain't fixing to go to jail, because I
9 got kids and I ain't fixing to lose my kids, and we all
10 went to the hospital.

11 Q And that's what you heard Bug saying?

12 A Yeah. He told us that. He stood up there with us.
13 He came to the hospital with us.

14 Q Well, don't tell me what Bug said. But you ended up
15 going to the hospital after Jamaal got shot.

16 A Yes.

17 Q Did you ever give any kind of audio statement to law
18 enforcement that night?

19 A No, not that night. I talked to the police, but I
20 didn't give no statement. We came up here that morning
21 and talked to them and they came, but I was in the back
22 when they came to the hospital. The only thing I did was
23 open up the car so that they can do whatever they had to
24 do to Shanina's car because by him being there, that been
25 how he got there, they wanted to go in her car so that's

1 why I took them to her car.

2 Q But you never gave any kind of written statement or
3 anything like that wrote down?

4 A No, sir.

5 Q In that club that night did you see Jamaal attack
6 anybody?

7 A No, sir.

8 Q Did you see Jamaal pull out a pistol or anything like
9 that?

10 A No, sir.

11 Q Did you see anybody for that matter pull any kind of
12 gun out?

13 A No, sir.

14 THE COURT: All right. Your turn.

15 CROSS-EXAMINATION

16 By Mr. Bannister:

17 Q Ms. Morgan?

18 A Yes, sir.

19 Q Is another name for the Cabstand the Old Folks Home?

20 A I don't know.

21 Q You ever heard of it referred to like that?

22 A Yeah.

23 Q Okay. And have you ever heard of it referred to as
24 the Triangle Senior Citizens Club and Social Club or
25 something like that?

1 A No, sir.

2 Q Okay. When y'all walked in there, were there some
3 old men playing cards?

4 A No, sir. There was a man at the door taking money if
5 you bringing beer in for \$3.

6 Q Okay. And you didn't see three or four guys off to
7 one side playing cards, spades maybe, keeping score?

8 A No, sir.

9 Q Okay. Have you ever heard of a placed called The
10 Last Ride?

11 A Yes, sir.

12 Q All right. And isn't that pretty close to the
13 Cabstand also? It's over near Cokesbury Road.

14 A Excuse me. What?

15 Q The Last Ride, isn't that kind of another place that
16 young people go to hangout?

17 A Yes. I wouldn't know, because it's closed down.

18 Q I know it's closed down now but back then, it was
19 open, was it not?

20 A Yeah, I guess.

21 Q So I'm just curious. Was there a reason that y'all
22 chose the Cabstand over some other place like The Last
23 Ride where maybe it was a younger crowd?

24 A We basically didn't choose. We went with a party and
25 that's where they was going. The person who was occupying

1 a gathering in their home, that's where they wanted to go.
2 So yes, we went with them.

3 Q Okay. And the reason that everybody was headed over
4 there, did it have anything with Quetta and you wanting to
5 confront Shay?

6 A What I'm confront Shay for?

7 Q Well, let me ask it two ways. Had you heard anything
8 about Quetta wanting to confront Shay?

9 A No, sir.

10 Q That didn't come up at the party?

11 A I didn't know anything about no Quetta and no Shay.
12 First off, I don't hang with Quetta or no Shay.

13 Q Okay.

14 A Quetta is my cousin, but I don't hang with no Quetta
15 or be around Quetta. So whatever was going on with her, I
16 wouldn't, I couldn't tell you.

17 Q So if that was the reason that everybody was going to
18 go to the Cabstand that night, you wouldn't have known
19 about it?

20 A No, sir. But that's not what reason, you know,
21 everybody was going. This is a old man who was like 50
22 years old birthday party. Who care about what's going on
23 with Quetta.

24 Q Okay. Well, I'm just, I'm trying to figure out why a
25 bunch of younger folks are going to an older folks

1 hangout. All right. Let's see, let me just jump to some
2 of the issues that we've got that are still outstanding.

3 You may have answered this already. But inside the
4 Cabstand, did you see Brent Williams hit Al Morgan's hat?

5 A No, sir.

6 Q Did you know where Al was the whole time you were in
7 the club while Al was there?

8 A When I was there, Al was sitting over here at a table
9 across from the bar, and we was standing over here close
10 to the bar. I wasn't just tagging along with him.

11 Q So you weren't following him around watching what he
12 was doing?

13 A What I'm following him around for?

14 Q If you'll just say yes or no.

15 A No.

16 Q We'll get through this a lot quicker. I promise.

17 A No, I wasn't.

18 Q Okay. So is it fair to say that there were times
19 when you didn't know what Al was doing. You didn't know
20 what Brent was doing, you were focused on other things?

21 A Of course.

22 Q So it's possible then that Brent did something to Al,
23 but you just didn't see it?

24 A It's possible.

25 Q Okay.

1 A But I ain't see it, so how I can tell you. I seen
2 that he shot out that car. I can tell you that.

3 Q Okay. And we'll get to there in just a minute, okay.
4 So who was the other guy that was fighting Demond with
5 Brent Williams?

6 A It wasn't no other guy. Brent and Demond is
7 fighting. I don't know why all this other stuff here I
8 got, but Brent and Demond was fighting. There wasn't no
9 other person.

10 Q Okay. And were you one of the girls that also
11 started beating--

12 A I ain't been in nothing. No, I, no, I wasn't.

13 THE COURT: All right. You interrupted him. Let him
14 ask the question, and then you can answer it. Okay?

15 Q You're going to have to let me finish.

16 A Okay.

17 Q So I asked you if you knew who the other guy was
18 other than Brent Williams that was fighting with Demond
19 Brown?

20 A No, because there wasn't no other guy.

21 Q Okay. And then I asked you were you one of the girls
22 that was beating and kicking on Demond Brown when he was
23 on the ground?

24 A No, sir.

25 Q Okay.

1 A How I'm kicking him when I'm getting Brent off of
2 him?

3 Q Did you hear Jamaal ever talk about gunplay in the
4 club?

5 A No, because Jamaal is not violent.

6 Q All right. Did you see any, do you know who' Clifton
7 Robinson is?

8 A Yes, sir. I know who he is.

9 Q Okay. Got a little scar on his face?

10 A I know you talking about.

11 Q Okay.

12 A He be at my house. He was just at my house last
13 week.

14 Q Okay. Did you see who got in a fight with him in the
15 Cabstand?

16 A No, sir.

17 Q Okay. Did you see him go to the ground in the
18 Cabstand?

19 A No, sir.

20 Q So I can assume from that that you were also one of
21 the girls that was kicking or hitting on Clifton Robinson,
22 correct?

23 A Yes, sir. I'm not one of the people.

24 Q Okay.

25 A I ain't know he got, nobody hit on him.

1 Q Okay. Did you see Jamaal hit Clifton Robinson?

2 A No, sir.

3 Q All right. Did you see Jamaal grab Clifton Robinson
4 and take him to the ground?

5 A No, sir.

6 Q Okay. So at the front door of the Cabstand, did you
7 see Jamaal hit Ernest McCauley in the head?

8 A No, sir.

9 Q Okay. But you did see Brent try to hit Mr. McCauley
10 in the head?

11 A And him and Mr. McCauley was hitting each other.

12 Q Okay. And you got hit by Brent, correct?

13 A I got hit by Mr. McCauley, because we was trying to
14 get Brent out. No, I didn't get hit by Brent.

15 Q Okay. I thought when you said when Brent was
16 swinging at Mr. McCauley that he swung and missed but hit
17 you?

18 A No. I say Brent swung at him, he swung back, and the
19 man hit me and I told him he hit me. And, about and he
20 told Smooth thank you.

21 Q When you got outside of the club, were you the
22 individual that said, there he goes when Mr. Ramsey's
23 vehicle pulled in and Al was in the back seat?

24 A No, sir.

25 Q Okay. Who did say that?

1 A I don't even know what you talking about.

2 Q Okay. Is there any question that Jamaal was walking
3 at some point from the front door towards Mr. Ramsey's
4 vehicle, isn't that the direction he was headed?

5 A No. He was heading to the direction of Mario's car
6 where we was putting Brent at.

7 Q 'Okay.

8 A Right here, in the car over here. So how they going
9 to his door back here.

10 Q So you disagree that Jamaal was headed towards the
11 black Impala.

12 A I disagree. Yes, I do.

13 Q Okay. He was headed in a completely different
14 direction than the black Impala?

15 A He ain't headed in no different direction, but he
16 ain't headed to no car. He going to the car that we
17 trying to get Brent in that's over here off from this car.
18 They ain't nobody been going to no car and in the process
19 of walking, Mario feet was ran over with them speeding out
20 of there after the shot came out.

21 Q Yeah, I'm not there yet. So did you see Jamaal open
22 the back door of the Impala?

23 A Jamaal weren't at no back door, ain't opened no back
24 door. No.

25 Q Okay. And you say you were how far away from them?

1 A From who?

2 Q From Jamaal and Brent?

3 A I was behind Jamaal until we got, when we got at the
4 door, I was behind Jamaal. So it couldn't have, it didn't
5 have to be Jamaal. It could have been me. It could have
6 been anybody else that was out there and, I opened the
7 back door too, when that back door opened, sir.

8 Q So I'm just trying to be clear. When the shot went
9 off, I thought you said you were not as close to Jamaal--

10 A -- I'm behind Jamaal.

11 Q Right.

12 A When we came out the door, I'm behind him. So if he
13 walking on, I ain't stake out a distance how far I was. I
14 was behind him. That's what I said. Well, not far behind
15 him.

16 Q Well, use me. Am I as close to you as?

17 A Yeah.

18 Q Okay.

19 A You probably about the distance.

20 Q Okay. And I thought I heard you say, correct me if
21 I'm wrong, that you weren't--

22 A You probably about the distance.

23 Q --that you weren't completely the whole time focused
24 on Jamaal; you were looking at other things.

25 A I'm looking at Brent and Jamaal is walking with Brent

1 to the car to get him. Jamaal is behind Brent telling
2 Brent to go. And so am I, so, you know, I'm focusing on
3 my little cousin that just been in here fighting to keep
4 from him going to jail.

5 Q Again, just let me finish my question. I talk slower
6 than you. I can't help it. I mean, I'm just slow. I
7 mean, what can I say? Did you hear Jamaal say anything
8 before he got shot?

9 A No, sir. Besides telling Brent to get on in the car.
10 That's what we all was saying.

11 Q So I can assume that you did not hear an argument at
12 the car?

13 A It wasn't no argument, sir.

14 Q All right. What is the Country Home Clique?

15 A I don't know. How would I know?

16 Q I'm just asking.

17 A I don't know, sir.

18 Q Okay. Did you hear any additional shots get fired
19 after the one that came from the backseat of Mr. Ramsey's
20 vehicle?

21 A No, sir.

22 Q There wasn't like a second one or somewhere else, a
23 third one maybe?

24 A And not that I heard.

25 Q Okay. All right.

1 A I couldn't tell you.

2 MR. BANNISTER: I don't have any more questions.

3 MR. BROWN: Just briefly, Your Honor.

4 REDIRECT EXAMINATION

5 By Mr. Brown:

6 Q Now, Drina, you see the picture up on the screen?

7 A Yes, sir.

8 Q Describe how the cars were parked on that--

9 A Can I get over there?

10 Q Yes, that's fine. Were there cars parked in front of
11 the Cabstand?

12 A Yeah. Shanina car was here. The car came in this,
13 from this side and went out on this side. We was parked
14 over here by this fence and this where Brent was walking
15 to and that's where we was trying to get Brent to go.
16 They came in from this exit right here. They pulled right
17 here. The shot came out. This car swerved out this way.
18 Ain't nobody had no time to argue or none of that.

19 Q And that parking lot is pretty small, right?

20 A Yes.

21 Q Especially, with cars parked--

22 A -- so you going to be, extremely close to other
23 people.

24 Q So y'all were pretty close to the Impala when you
25 walked by?

- 1 A I recall it's close. You see that parking lot?
- 2 Q I see it. It's small. But when you walking by,
- 3 you're pretty tight quarters?
- 4 A Yes, sir.
- 5 Q So you're actually kind of pretty close to the
- 6 Impala?
- 7 A Actually, if another car pulled too close up off that
- 8 side while, you wouldn't even be able to back up really,
- 9 kind of back from that door.
- 10 Q Now, again, you, you're actually related to Al?
- 11 A Yes, sir.
- 12 Q And y'all are cousins?
- 13 A Yes, sir.
- 14 Q And before this you had a good relationship with him?
- 15 A That's what I stated. I mean, he go around my
- 16 grandma and they do little stuff, him and my grandma and
- 17 them. But whenever I see him, he always say, I spoke and
- 18 talked and stuff like that.
- 19 Q And what you're saying today, though, is when y'all
- 20 are all there together in the club even when Al was there,
- 21 everything was fine from what you could see?
- 22 A Yes, sir.
- 23 Q And one of the main person's you're trying to get out
- 24 of that club when the fight started was Brent?
- 25 A Yes, sir.

1 Q And Jamaal's helping you get him out?

2 A Yes, sir.

3 Q And then was what you're saying even getting Brent
4 towards the car, the parking lot is pretty small?

5 A We had to walk, we had to come out to walk and not
6 only that, it was a, you could, you could have went out
7 through that yard and went through there from the door,
8 you know, go where we were parked at. Well, you couldn't
9 get through there, because they had a big white and blue
10 van pulled all the way up on it, so you can't help but
11 walk out towards to get over to that side.

12 Q Towards where the car was?

13 A Yeah, and towards where we was parked at. That's the
14 only way you could get there. You couldn't walk through
15 the front and just go around where them trees at, because
16 they had a van parked all the way up to the door.

17 Q So you had to come out pretty much straight out the
18 door?

19 A You had to come, yeah, you had to come from, to the
20 front, out the front door.

21 Q Into the parking lot?

22 A Yes, sir.

23 Q And it's when y'all came out the parking lot is when
24 you were also having your attention on Brent is when you
25 heard the shot and turned around and saw Jamaal getting up

1 off the ground?

2 A Yes, sir.

3 MR. BROWN: No further questions.

4 THE COURT: Will you spell your nickname for me?

5 MS. MORGAN: Bird. B-I-R-D.

6 THE COURT: Told you. That's all I wanted to know.

7 SHANINA WILLIAMS, being

8 first duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 By Mr. Brown.

11 Q Good afternoon.

12 A Good afternoon.

13 Q Ms. Williams, what's your full name?

14 A Shanina Nicole Williams.

15 Q So do some people call you Shanina?

16 A Some.

17 Q And some people call you Nicole?

18 A Yes, sir.

19 Q Do you answer to both of them?

20 A Yes, sir.

21 Q Spell Shanina for the court reporter?

22 A S-H-A-N-I-N-A.

23 Q Now, Ms. Williams, do you know or did you know Jamaal

24 Aiken?

25 A Sir?

1 Q Did you know Jamaal Aiken?

2 A Yes, sir.

3 Q And how'd you know Jamaal?

4 A He was my fiancé.

5 Q How long were you with Jamaal?

6 A Thirteen and a half years.

7 Q Did Jamaal go, have a nickname?

8 A Yes, sir.

9 Q What was that?

10 A Smooth.

11 Q And how did he get that nickname?

12 A From his best-friend, because he was always quiet and
13 laid back and didn't bother anybody.

14 Q How long had you called him Smooth?

15 A The whole thirteen and a half years.

16 Q Now, are you related to Drina Morgan?

17 A Yes, sir.

18 Q How are you related to Drina?

19 A Drina's father and my mother are brothers and
20 sisters.

21 Q What about Brent?

22 A That's my brother.

23 Q What about Hazel?

24 A My sister.

25 Q Now, on November 14th, 2013, what were y'all doing

1 that night?

2 A We went to the pool hall or whatever they call it.

3 Q The Cabstand?

4 A Yeah.

5 Q Were you anywhere else before that?

6 A Drina's house, and then we left Drina's house and

7 went to an older friend's surprise party.

8 Q Who was that friend's surprise party?

9 A Art Dunbar.

10 Q How long were y'all at that surprise party?

11 A Maybe 45 minutes.

12 Q And then you left that party and went to the

13 Cabstand?

14 A Yes, sir.

15 Q And what time, do you remember what time you got to

16 the Cabstand that night?

17 A Maybe a little after 9:00.

18 Q And when you got there, who was with you?

19 A Jamaal.

20 Q Just you and Jamaal rode in your car?

21 A Yes, sir.

22 Q And were y'all with anybody else that got to the

23 Cabstand that night?

24 A No, we was the onliest one in my car, but we met up

25 with Drina and Shonda and Brent, Quetta, Shannon.

1 Q Who's Shannon?

2 A Shannon Carroll; she's a friend of ours.

3 Q Once y'all got to the Cabstand, did you notice
4 anybody else or recognize anybody else that was in the
5 Cabstand?

6 A Alphonso Morgan was there. Thomas Gilchrist was
7 there. Lenwood Ramsey was there.

8 Q Do you know those three?

9 A Yes, sir.

10 Q How do you know them?

11 A Just around the way. Lenwood Ramsey was, at one
12 point in time, my stepfather.

13 Q And you've known Bug for a while?

14 A Yes, sir. He dates my cousin.

15 Q And then Al, how'd you know Al?

16 A He's Drina's cousin.

17 Q So all of you've known each other; you've been around
18 them before?

19 A Yes, sir.

20 Q You've been around Al before?

21 A Yes, sir.

22 Q How many times you think?

23 A Not too many, but if I'm not mistaken, he attended my
24 birthday party in Five Point.

25 Q Was there any problem at the birthday party?

1 A No, sir; there wasn't.

2 Q Now, once y'all got to the club, when all y'all
3 showed up, what'd y'all do?

4 A We all was just in the club just listening to music.
5 Just hanging out.

6 Q Did you go talk to anybody outside your group?

7 A No, sir.

8 Q Did you see Jamaal or Brent go talk to anybody else?

9 A No, sir.

10 Q When did Al and Bug and Lenwood leave?

11 A They left maybe 20 minutes maybe before the fight
12 broke out with Brent and Demond. Maybe 20 or 30 minutes
13 before then.

14 Q How long were they at the club when all of y'all were
15 at the club?

16 A I don't know. They was already there when I got
17 there.

18 Q And you don't know quite when they left?

19 A I just know they probably had been gone 20 or 30
20 minutes before the fight broke out.

21 Q And while everybody is at the club, nobody had any
22 problems?

23 A No, sir.

24 Q That you saw?

25 A No, sir.

1 Q Well, tell me about the fight? What happened? How'd
2 this fight break out?

3 A With Brent and Demond?

4 Q If that's the fight you're referring to?

5 A I just know that Quetta Spencer and Shay Simon had
6 words about Al, - Alphonso Morgan. And I guess Demond was
7 defending Shay and Brent kind of got upset and let Demond
8 know like nobody's going to touch my cousin.

9 Q And Quetta's?

10 A Yes, sir. Quetta's our cousin.

11 Q Okay.

12 A And from that the fight broke out, I don't know what
13 else was said when they got in the fight.

14 Q Brent and Demond?

15 A Yes, sir.

16 Q And was there any other fight that you saw in there
17 other than that one?

18 A No, sir. There wasn't.

19 Q How'd that fight get broken up?

20 A Me and Jamaal and Hazel.

21 Q Did anybody that was working there at the Cabstand,
22 any of the older fellows, come over and try to help, too?

23 A Yeah, they was breaking it up.

24 Q Do you know any of those fellows?

25 A I don't personally know them.

1 Q Do you know their names?

2 A No, sir.

3 Q You just know some other fellows were helping break
4 it up?

5 A That was my first time ever in there that night.

6 Q Now, did you notice or what was Shay doing during
7 this time?

8 A Before a fuss, before they left, Alphonso and them
9 left, I remember Shay approaching him very angry, fussing
10 at him, going off. I couldn't make out what she was
11 saying. But as she walked away, that's when they got up
12 and left, and then, you know, the fight broke out. And
13 then we breaking the fight up, she's calling someone
14 telling them that Demond is fighting, get back up here.

15 Q And you heard her say that?

16 A I'm standing right in front of her.

17 Q And but you don't know who she called?

18 A I don't know who it was but that's what she said.

19 Q Now, how long did that fight last in there?

20 A Maybe two or three minutes and we was breaking it up.

21 Q And, again, was Jamaal involved in the fight?

22 A No, sir.

23 Q He was helping to try to get Brent out of there?

24 A Yes, sir.

25 Q Once Jamaal had gotten Brent and everybody got out of

1 the club, did you leave the club the same time Brent and
2 Jamaal?

3 A No. Once Jamaal was shot, he got up saying get me--

4 Q Before we get there, y'all are still in the Cabstand
5 right now, right?

6 A Yes.

7 Q With the fight going on?

8 A Yes.

9 Q Tell me how everybody got outside?

10 A I guess that you would call them security guards or
11 the older men was kind of like pushing us one way and
12 pushing that other crowd the other way because we was
13 going--

14 Q To separate?

15 A Yes, sir. We was going towards the door.

16 Q And y'all were going towards the front door?

17 A Yes, sir.

18 Q Did all of y'all, all of y'all ultimately get outside
19 the door of the Cabstand? And they locked the door behind
20 you?

21 A No, sir. The door never closed until, I guess, once
22 we left after Jamaal was shot. But before I left, the
23 door never locked. I didn't see it locked.

24 Q You didn't see it locked?

25 A No, sir.

1 Q Could it have locked and you just didn't see it?

2 A Maybe.

3 Q All right. Where were you parked? Where was your
4 car parked in relation to Cabstand, and if you need to,
5 you can step down and point at it on the screen.

6 A I was down on this end parked right in front of the
7 door, but not in front of the door, but right up in here.

8 Q And you're, the front of your car is facing the
9 building?

10 A Yes, sir.

11 Q Now, was the parking lot pretty well packed?

12 A Yes, sir; it was.

13 Q When you came out of the door, what happened in the
14 parking lot?

15 A We was steady trying to get Brent away from the door,
16 and I calmed Jamaal down and told him to stand here by
17 the, by my car at the back of my car and that's where he
18 was. And by the time I was approaching back to the front
19 door to get Brent and tell him let's go before the police
20 get here, the car came in the parking, window down, lights
21 off, the next thing you know, you heard a gunshot.

22 Q Did you see what happened or where Jamaal was when
23 this--

24 A -- once the gun went off, Jamaal went down. So I was
25 thinking that he was ducking, because there was gun

1 shooting. And I got closer to him and I said is someone
2 shooting and he said yes and the way he responded, I knew
3 something was wrong and I asked him was he hit and he said
4 yeah.

5 Q Now, again, you said your car is parked right here?

6 A Just about on that end down that way. It wasn't in
7 front of the door.

8 Q But it was over off towards the end here?

9 A Yes, somewhere down up in that way.

10 Q And would you agree that that parking lot is pretty
11 small?

12 A Yes, it's very small.

13 Q So if he's at the trunk of your car or the end of
14 your car, is there much space between the end of that car
15 and the car, Mr. Ramsey's car when it pulls in?

16 A Not much space.

17 Q Did you see what led up to the gun firing from that
18 car?

19 A No, sir. I didn't.

20 Q What'd you see, once you heard the gunshot, what'd
21 you see?

22 A Jamaal going down.

23 Q On the ground?

24 A Yes, sir.

25 Q How far away was he from the car when he went down on

1 the ground?

2 A And maybe, it wasn't, like the parking lot is very
3 small, so like it's tight, so he wasn't that far away from
4 him.

5 Q He wasn't that far away from the car?

6 A No, sir.

7 Q After Jamaal, once you turned around and saw Jamaal
8 on the ground and getting up, what did he do?

9 A Well, he didn't get up right away until I asked him
10 was he shot. And once he told me yeah and he got up and
11 said get me to the hospital.

12 Q Who all, how'd you get to the hospital?

13 A Once he got up, he had came out one shoe. Quetta
14 grabbed one shoe and put it in the car and he got in the
15 passenger side. And I got in the driver's seat and me and
16 him left.

17 Q You drove him straight to the hospital?

18 A Yes, sir; I did.

19 Q Once you got to the hospital, was he unconscious or?

20 A Yes, he wasn't responding. The last thing he said, I
21 asked him who shot you and he didn't say nothing for a
22 minute. And I asked him again, and he said Al and I went
23 to say why, and he didn't respond. And I said why again,
24 and he never said anything else.

25 Q Did you ever see Jamaal with a gun that night?

1 A No, sir; I didn't.

2 Q Did you ever see anybody pull a gun in that club?

3 A No, sir; I didn't.

4 Q After Jamaal was shot in that parking lot, did Jamaal
5 pull out a gun and start shooting back into the car?

6 A No, sir.

7 MR. BROWN: I don't have any further questions.

8 CROSS-EXAMINATION

9 By Mr. Bannister:

10 Q My name is Jim Bannister. Let me ask you a couple of
11 questions. You said this is the first time you had been
12 to the Cabstand?

13 A Yes, sir; it was.

14 Q Whose idea was it to go to the Cabstand?

15 A Drina and Brent, Shonda and Jamaal.

16 Q Okay. Did Quetta have anything to say about going to
17 the Cabstand?

18 A Quetta wasn't with us.

19 Q Okay. She hadn't been at the party prior to coming
20 to the Cabstand?

21 A No, sir.

22 Q Okay. Did you know anything about the Cabstand?

23 A Yeah, I knew it was a little pool hall or whatever.

24 Q Did you know it was called the Old Folks Home by some
25 people?

- 1 A I heard that before, too.
- 2 Q Had you heard it called the Triangle Senior Citizens
3 Club?
- 4 A Never heard that.
- 5 Q Okay. When you got in there, did you see some old
6 men playing cards over in the corner?
- 7 A Maybe to the left. I think they was some guys to the
8 left.
- 9 Q So was there some reason y'all chose the Cabstand
10 over some other places that you could have gone where
11 maybe a younger crowd was hanging out?
- 12 A No, sir.
- 13 Q How did you know Drina had, going to the Cabstand or
14 she wanted to go over there?
- 15 A Because we all was at the same party and they all
16 left from there to go to the Cabstand.
- 17 Q I see. So Drina was part of the crowd that said this
18 is or that led y'all to the Cabstand?
- 19 A Yes, sir.
- 20 Q When did Quetta show up?
- 21 A When me and Jamaal got there, everybody was already
22 there, so I don't know was Quetta already there before
23 they got there or what.
- 24 Q All right. Did you call Quetta and tell her to come
25 to the Cabstand?

1 A No, sir; I didn't.

2 Q Okay. So it would have had to been somebody else?

3 A Maybe Shonda or somebody, but it wasn't me.

4 Q Inside the Cabstand, did you see Brent Williams have
5 any words with Al Morgan?

6 A No, sir; I didn't.

7 Q Did you see Brent Williams pop him on the cap?

8 A No, sir.

9 Q Did you see, and well you said there was a fight
10 broke out between Demond and Brent, correct?

11 A Yes, sir.

12 Q And, I believe, you said that Quetta was part of what
13 kind of got that started?

14 A Yes, sir.

15 Q Did you see, other than Brent Williams, who was the
16 other guy that was in the fight with Demond?

17 A I don't know anything about that.

18 Q All right. Were you one of the girls that was
19 kicking or hitting on Demond when he was on the ground?

20 A No, sir. I was breaking the fight up and asking
21 Brent why is you fighting Demond.

22 Q All right. Who were the girls that were hitting
23 Demond?

24 A I didn't see no girls hit Demond.

25 Q How about do you know Clifton Robinson?

1 A No, sir.

2 Q Did you see another fight break out?

3 A No, sir.

4 Q Did you see Jamaal hit somebody else?

5 A No, sir.

6 Q Did you see Jamaal pull somebody to the ground?

7 A No, sir.

8 Q Did you see some girls kicking and hitting on another

9 guy that was on the ground other than Demond Brown?

10 A No, sir.

11 Q At the front door of the Cabstand, did you see Jamaal

12 hit Mr. McCauley in the head?

13 A No, sir.

14 Q Is it possible he did hit Mr. McCauley in the head

15 and you just didn't see it?

16 A No, he didn't hit anyone.

17 Q Jamaal hit no one?

18 A No one.

19 Q Was Jamaal upset about being put out of the Cabstand?

20 A No, sir; because he wasn't put out.

21 Q Okay. Was he upset about not being able to get back

22 into the Cabstand?

23 A He was never put out.

24 Q Okay. Different question. Once he's outside,

25 however he got there, was he upset about wanting to get

1 back in and not being able to?

2 A No, because made it on the outside, we was trying to
3 get Brent away from the door.

4 Q Did you see Mr. Ramsey's vehicle pull into the
5 parking lot?

6 A Yes, sir; I did.

7 Q Okay. Are you the one that said there he goes
8 referring to Al?

9 A No, sir. I didn't even know whose car that was.

10 Q Okay. Who did say that?

11 A I didn't never heard that.

12 Q You didn't hear that?

13 A No, sir.

14 Q Did you hear Jamaal say anything to Al before he got
15 shot?

16 A No, sir.

17 Q And to your knowledge and from what you heard, was
18 there only one shot that was fired?

19 A One gunshot.

20 Q You didn't hear a subsequent one later?

21 A No, sir. One gunshot.

22 Q Today is not the first time that you've talked about
23 what happened out at the Cabstand, is it?

24 A Excuse me?

25 Q Well, you've told the story kind of what happened,

1 what you saw?

2 A Yes, sir.

3 Q And I'm asking today in court is not the first time
4 you've had a conversation about that. I realize this is a
5 more formal one, but this has been a topic of conversation
6 for some period of time, has it not?

7 A Yes, for two years.

8 Q Yeah. And those conversations have been with some of
9 the family members, right?

10 A Yes, sir.

11 Q And it's been with some of the other people that you
12 were there at the Cabstand with, hasn't it?

13 A Yes, sir.

14 Q Would that include Quetta?

15 A No, sir.

16 Q Have you had any discussions with Quetta about what
17 happened at the Cabstand?

18 A No, sir. I haven't even talked to Quetta about none
19 of this.

20 Q Okay. Have you had any communications with her; if
21 you didn't talk to her face to face, did you talk to her
22 on the phone?

23 A No, sir.

24 Q Did you send her any email messages?

25 A No, we talked on Facebook maybe a few days ago.

1 Q Okay.

2 A She made a post about this case, and I called her to
3 ask her to remove it and she didn't answer.

4 Q Did you make a post to Quetta where you said, let's
5 be real. It's your MFing fault my man dead, because you
6 want to fight over a creek head, but FU?

7 A Yes, sir; I did.

8 Q All right. And so you blame Quetta partly for the
9 fact that Jamaal is not with us?

10 A Yes, sir.

11 Q And the reason for that, I assume, so you tell me if
12 I'm wrong, is that Quetta is the one that kind of got
13 things started inside the club?

14 A Yes, sir.

15 Q And, ultimately, that's what led to whatever happened
16 out in the parking lot?

17 A Yes, sir.

18 Q So how did, I haven't heard that Jamaal had any
19 connection with Al Morgan?

20 A None whatsoever.

21 Q Was there any reason for Jamaal to have left the club
22 and to have gone to Mr. Ramsey's vehicle?

23 A No, sir.

24 Q All right. At some point, did you approach Quetta
25 about getting her to testify favorably for Jamaal at this

1 hearing?

2 A No, sir; I did not. I called Quetta about the
3 Facebook status that she posted on Facebook about this
4 case, which I thought was very disrespectful and wrong.
5 And I called her to take it down, and she didn't answer
6 the phone.

7 Q All right.

8 MR. BANNISTER: Judge, may I approach just a second?

9 THE COURT: Sure.

10 MR. BANNISTER: All right.

11 Q So I have a copy of what I think is the Facebook post
12 I, I'm trying to refer to and, in particular, I want to
13 show you, let's see, these two. Maybe I'm doing it
14 backwards. Anyway, this is the one I want to, I want to
15 ask you about.

16 A Okay.

17 Q I don't want you to read it out loud. I'm just
18 asking you does that--

19 A These are inboxes.

20 Q I'm sorry. What?

21 A Those are inboxes.

22 Q Okay. Is there something different about an inbox?

23 A Yes, than a post. A post is a post that you just,
24 something you write and post, but inbox is a message that
25 everyone can't see, only you.

1 Q Okay. So this is just between you and Quetta?

2 A That's not even my name on there. My name is
3 Shanina, S-H-A-N-I-N-A.

4 Q Okay. That's your Facebook post. So then let me ask
5 you this.

6 A That's Hazel.

7 Q That's Hazel Williams?

8 A Yes, sir.

9 Q Thank you.

10 MR. BANNISTER: Okay. No further questions, Judge.

11 THE COURT: Anything else?

12 MR. BROWN: Beg the Court's indulgence. Just one
13 real quick question.

14 REDIRECT EXAMINATION

15 By Mr. Brown:

16 Q Nicole, in your time that night being there at the
17 club, did you observe Jamaal do anything that in your mind
18 would have prompted Al to shoot him?

19 A No, sir; I didn't.

20 MR. BROWN: No further questions.

21 MS. WILLIAMS: Thank you.

22 MR. STUMBO: Judge, we have one, maybe two left and
23 we're done. Do you need to take or anybody need to take a
24 quick break or you want us to go on? Both of them will be
25 law enforcement witnesses. Maybe just one.

1 THE COURT: How long are they going to be? You said
2 they going to be quick?

3 MR. STUMBO: We're going to play, there, again, we're
4 going to put up Lieutenant Dixon to put in the audio
5 statement of the Defendant, which we believe based on
6 cross-examination and his denial of certain things would
7 be appropriate. So that's probably all we're going to do,
8 and then we're going to rest.

9 THE COURT: And y'all just not introducing it and
10 just listening to it?

11 MR. STUMBO: We don't have to put him up. We can
12 play it.

13 MR. JONES: I have no problem with that, Your Honor.

14 THE COURT: Agree that was a statement given to the
15 detective.

16 MR. STUMBO: Correct. It would basically be for
17 foundation purposes.

18 THE COURT: Okay. Will y'all stipulate to foundation
19 of the interview of the defendant?

20 MR. BANNISTER: Yes.

21 THE COURT: Okay. For purposes of this hearing.
22 Okay. All right. If that's all you going to call, let's
23 come over here and talk.

24 (Whereupon, a bench conference was held.)

25 THE COURT: All right. So let's mark this tape for

1 Joy's record, and then we'll listen to it in the morning.

2 They stipulated.

3 (Whereupon, State's Exhibit Number 4 was admitted
4 into evidence.)

5 THE COURT: We will see y'all in the morning at 9:30.
6 We will have arguments at that time.

7 (Whereupon, the trial will resume the next morning at
8 9:30.)

9 February 3, 2016

10 THE COURT: Are y'all ready to deal with this?

11 MR. BROWN: Yes, sir. Judge, one thing before we get
12 done doing ours. We had our investigator to call down to
13 SLED just to double-check to make sure that Alphonso here
14 did not have a CWP. And SLED has sent back a letter
15 saying he does not, so I just wanted to add that in. For
16 the purpose of this hearing.

17 THE COURT: I don't believe he testified he had one.

18 MR. BROWN: Sir?

19 THE COURT: I don't think he ever testified he had
20 one.

21 MR. BROWN: No, sir.

22 THE COURT: All right.

23 MR. STUMBO: If we could just mark that, Judge.

24 THE COURT: Sure.

25 MR. STUMBO: This will be State's number 5.

1 (Whereupon, State's Exhibit Number 5 was admitted
2 into evidence.)

3 THE COURT: All right. And we're back on the record
4 with State vs. Alphonso Morgan. We recessed last night
5 and this morning early I listened to all the 911 calls. I
6 don't know if there were six or eight. There was numerous
7 ones. All the calls were very frantic and urgent, please
8 get here, we need help, by different people. And then I
9 also am, oral statement provided by Mr. Morgan sometime
10 several months after his arrest when he was still
11 incarcerated by detectives, so I listened to that also.
12 All right. All the evidence is in. We ready to hear from
13 defense counsel as to y'all's motion.

14 MR. BANNISTER: That's great, Judge, and I promise
15 not to take too much time. Let me start first with,
16 obviously, in this case right now, we have the burden of
17 proof according to Duncan and that is a preponderance of
18 the evidence burden. I won't go into great detail about
19 this other than to say, obviously, as you know from your
20 civil trials that is tipping the scales just slightly in
21 our favor would require the grant of immunity in this
22 case. Duncan set that preponderance of the evidence
23 standard and I want to say for the record that while
24 that's the current status of the law, there's been some
25 significant changes in how those immunity hearings have

1 been handled since Duncan came out with that standard,
2 with that burden of proof. There used to be an immediate
3 appeal. That was ultimately the Supreme Court reversed
4 itself and said there is no more immediate appeal. Some
5 trial Judges believe that the immunity statute would or
6 the Protection of Persons and Property Act will give you
7 the right to a jury charge on like, for instance, in this
8 case defense of vehicle. But we now have a decision
9 saying, no, we're not going to charge the immunity statute
10 to juries. Then we have Douglas which I have argued at
11 the very beginning of this that I think is incorrect. But
12 it is the law currently saying that a prerequisite to
13 establishing immunity is proving self-defense. Then you
14 look at the provisions inside of the Protection of Persons
15 and Property Act. And then finally I would say, because
16 we have the burden of proof a defendant is often at the
17 mercy of law enforcement's investigation, because we're
18 relying on what was there on the scene and we couldn't be
19 involved in that until much later after the crime has, the
20 alleged crime has already been committed. I say all that
21 to say that while it is preponderance of evidence at the
22 moment, I would like it to be preserved on the record to
23 argue for something different assuming that we were unable
24 to get past this motion which, obviously, we believe we
25 will. So if you'll permit me, the way I sort of divided

1 this up, Judge, was into four quarters. I see the first
2 quarter as being sort of what got everybody to the
3 Cabstand; the second quarter is while the defendant is
4 there at the Cabstand; the third quarter is what happens
5 while Mr. Morgan is not there at the Cabstand; and then
6 the fourth quarter is what happens after everybody's out
7 in the front door. I also divided this up into facts that
8 I believe were all in essence in agreement on versus where
9 are we, where do we actually have dispute. The facts that
10 we all agree on is that Jamaal Aiken, Brent Williams,
11 Mario, and maybe some other black males but, certainly, a
12 host of women, decided to go to the Cabstand. That was
13 the first time that most of those individuals had ever
14 been to the Cabstand; also known as the Old Folks Home and
15 the Senior Citizens Social Club where older gentlemen
16 played spades and we still had vinyl records. The
17 Cabstand was the third gathering spot, based on what we
18 heard from State's witnesses of where this group had been.
19 We also know that Al Morgan was a regular in the Cabstand
20 which means that if you were looking for him on a
21 Thursday, Friday or Saturday, that's most likely where he
22 would be. Al Morgan also was already there and, in fact,
23 had no idea that any of the rest of this group was coming
24 to the Cabstand that night. The disputed facts that we
25 have in the first quarter, and I point these out, because

1 I think they should give Your Honor a way to view the
2 credibility of the State's witnesses that are coming from
3 the deceased family. First off, Jamaal Aiken had a
4 blood/alcohol level of .119 and that's not necessarily
5 disputed, but what we heard from the witnesses on the
6 stand was that he only had a couple of Bud Lights. There
7 was just one box of beer that we took to the Cabstand. We
8 didn't stay long at these parties. Jamaal Aiken had THC
9 in his urinalysis. Nobody says that they saw Mr. Aiken
10 either with marijuana or using marijuana. Jamaal Aiken
11 was armed with a stolen pistol. Well, the guy talking
12 about gunplay was certainly not Jamaal, although we're not
13 given a name as to who it was and nobody ever saw Jamaal
14 with a gun. Mr. Aiken possessed more than an ounce of
15 marijuana which would be, in this court, a presumption of
16 an intent to distribute and, again, none of the State's
17 witnesses ever saw him with any marijuana. So that takes
18 us into the second part which is Al Morgan is at the
19 Cabstand and so is Mr. Aiken and his group. We know that
20 Al Morgan left the Cabstand shortly after Aiken, Brent
21 Williams and their company arrive. We know that Al Morgan
22 went to Ramsey's home. We know that while Mr. Morgan was
23 at Ramsey's home that a fight broke out in the Cabstand.
24 We also know that Brent Williams is related closely to
25 Quetta Jenkins and that there appeared to be some beef

1 between Quetta Jenkins and Shay Simon. In fact, if you'll
2 recall, Mr. Aiken's girlfriend blames Quetta Jenkins for
3 the fact that Jamaal is deceased. So what are the
4 disputed facts in this small portion of the overall story?
5 This is a big one. Brent Williams popped Al Morgan's hat
6 and tried to provoke him with words like grow some balls
7 or something of that nature. Well, Lenwood Ramsey saw
8 Brent Williams do that. Al Morgan told Bug about it and
9 asked to leave. Al Morgan told Tonya about it, Bug's
10 girlfriend. And the fact that it had happened was
11 discussed back at Ramsey's house after Al Morgan left with
12 Thomas Gilchrist, Bug, Lenwood Ramsey, and Tonya. Moving
13 into what happens inside the Cabstand after Al Morgan is
14 gone. Well, there is an argument that is started relating
15 to Shay Simon and Quetta Jenkins. Al Morgan is really the
16 only common denominator between these two women that we've
17 heard from either side. Brent Williams threw the first
18 punch. He told us that. He threw that punch with nothing
19 more than the provocation of words directed at Quetta
20 Jenkins and Drina Morgan from Demond Brown simply saying
21 I'm not going to let y'all mess with her. The fight,
22 well, Demond Brown went to the ground and balled up. That
23 also came from Brent Williams after he was punched in the
24 face, and the fight clearly escalated beyond just Brent
25 Williams and Demond Brown. If it had just stayed as Brent

1 Williams and Demond Brown, then this whole let's get
2 everybody out and broken up just would not have been
3 necessary as it turned out later on. And one of the
4 important things about the fact that Brent Williams hits
5 Demond Brown is it shows his level of animosity for
6 anything related to the women that he is there with. In
7 other words, it didn't take a lot to get him involved in
8 an altercation. So what else do we agree on? McCauley,
9 that's Ernest McCauley, Tommy Thomas, Mr. Cocky, they
10 begin trying to break up the fight by moving Brent
11 Williams, Jamaal Aiken, everybody that they were with to
12 the front door of the Cabstand. There doesn't seem to
13 really be any dispute over that. There was an altercation
14 at the door between, I'm just saying the old guys and
15 Aiken's crowd. We heard Drina Morgan say, yeah, there was
16 fighting going on at the door. Blows were passing at the
17 door. May be some dispute about who was throwing them,
18 but there was some stuff going on at the door. McCauley
19 got hit in the head. Nobody really denies that he got hit
20 in the head. There's some dispute over who did it and
21 whether they saw it or not, but he basically has the mark,
22 Tony sees it, and he goes to the hospital over it, and he
23 refers to it to Mr. Cocky just after it had happened.
24 Aiken and everyone with him ends up outside the front
25 door. So Shay Simon, Demond Brown and Clifton Robinson

1 are now all on the inside which makes it seem as if
2 Clifton Robinson, Demond Brown and Shay Simon were on one
3 side of this altercation and the rest of the crowd was on
4 the other side of the altercation. So here are the
5 disputed facts about what happened while Al Morgan was
6 gone. Clifton Robinson got beat up. None of the State's
7 witnesses will admit that Clifton Robinson got beat up;
8 Crip. However, he testified, he said he got hit from
9 behind, pulled down to the ground and that they were
10 beating on him. Shay Simon saw it. Shay Simon and Crip
11 told Al on the phone that Crip had been jumped. Courtney
12 Lockhart was a witness to this and if you got to take a
13 third party who doesn't seem to really be on one side or
14 the other, if you'll recall Ernest McCauley saw the guy
15 with the scar on his face on the ground getting beaten.
16 Well, that's Crip, because he's the only one that's got
17 the scar on his face. Disputed fact in this portion
18 that's important is that Jamaal Aiken was the one who hit
19 or pulled Crip to the ground. If it hadn't been Jamaal,
20 we would have heard a name from some of the State's
21 witnesses who are related to the Aiken's, because they
22 could have said no, it wasn't him, it was somebody else.
23 The absence, the fact that they won't even admit that an
24 altercation occurred with Clifton Robinson, I think, is a
25 clear indication that it was Jamaal Aiken that got in that

1 fight. That it was Jamaal Aiken who hit Ernest in the
2 head. If it wasn't, we wouldn't have got, we would have
3 gotten a name from some of the State's witnesses as to who
4 it was. It is just like the, being intoxicated, having
5 the stolen pistol, the marijuana, the facts that we should
6 all be in agreement on but which are detracting somewhat
7 from the memory of Mr. Aiken are simply either unknown by
8 the State's witnesses or denied outright. I think that's
9 a significant fact for the Judge, for Your Honor to
10 consider in looking at the overall credibility. And
11 here's my point, because I'm getting to move into where
12 the facts that are consistent. When something comes from
13 the State's witnesses that supports our version of what
14 happened and our request for immunity, then you got to
15 know that that is something that actually happened. What
16 does that lead us to? So now we're to that critical,
17 critical, critical time-period. Everybody's outside the
18 front door. Al Morgan is pulling up. What do we agree
19 on? We agree that Al Morgan came back, because he was
20 going to pick up Shay Simon and Crip. That was the phone
21 call. We heard that even from Mr. Aiken's girlfriend. Al
22 Morgan was in the backseat of Ramsey's Impala and he never
23 got out. There hadn't been a single witness that said he
24 got out of the car. Jamaal Aiken left the front door and
25 regardless of how far it was, he walked to the Impala's

1 back door. Brent Williams was close with him. That comes
2 from Brent and from Drina Morgan. Mr. Aiken is the one
3 that opened the back door. I don't believe there's really
4 any inconsistency in that. Drina Morgan right now is the
5 only witness who has said that the back door didn't come
6 open. Brent Williams said that Mr. Aiken opened the back
7 door and the unknown witness that we now know is the
8 discredited Mr. Sayles that talked to Hugh Butler on the
9 scene and gave the license tag said initially on-scene
10 that there was an argument, that the guy who got shot
11 opened the door, and then there was a shot that followed
12 or it was door opened, argument, then there was a shot.
13 So the door was opened by Mr. Aiken which puts him within
14 a few feet of Al Morgan. We also know that Mr. Aiken was
15 armed with a stolen pistol. Brent Williams said in his
16 initial interview with the investigator, this is at the
17 hospital before he's had any time to talk with other
18 family members really and come up with any different
19 scenario than maybe what happened, admitted at least that
20 Mr. Aiken asked Al, quote, a question. Al Morgan did not
21 say anything. Brent Williams says, and so does everybody
22 else frankly, the shot came from inside the vehicle's
23 backseat. The bullet wound is consistent, according to
24 the pathologist with Mr. Aiken being bent over having
25 opened the door and reaching in with his left hand. Mr.

1 Aiken fell down close to the car. Mr. Morgan shut the
2 door and told Ramsey to drive off, which they did. Ramsey
3 drove off, ultimately ending up back at the house and he
4 was arrested. So where really is the dispute about what
5 happened in the parking lot just before shots? Really, if
6 we got it down to just what is the essence of this case?
7 It is after Jamaal Aiken has opened the door, what is the
8 question that he asked and did he bend over into the car.
9 So Al says somebody at the door to the Cabstand said there
10 he goes, referring to him which is what brought Mr.
11 Aiken's attention to the black Impala to begin with.
12 Aiken had to come to Ramsey's vehicle and he did it acting
13 highly agitated. That is testimony from Mr. Gilchrist.
14 That is testimony from Al Morgan. That is testimony from
15 Mr. Ramsey. He was highly agitated. He was acting
16 consistent with someone who had been in a couple of
17 fights, three altercations inside, intoxicated on a
18 combination of alcohol and marijuana. The other disputed
19 fact would be what was Aiken's question, that Brent
20 Williams said he asked Al? Well, you've got Thomas
21 Gilchrist, Ramsey, and Al Morgan all saying it was words
22 to the effect of what the F you going to do now? Most
23 importantly, I think, is to consider that Mr. Gilchrist
24 who was interviewed within a short period of time by law
25 enforcement after the shot had been fired said the same

1 thing. He was consistent. What the F you going to do?
2 That was the words that were said and that's in the
3 initial statement that comes from Mr. Gilchrist. Hugh
4 Butler's unknown witness who, again, I say would be the
5 now discredited Mr. Sayles says that there was an argument
6 prior to the shot being fired. And so I guess the final
7 disputed fact would be that Aiken was, in fact, bending
8 over and reaching into the back seat to get at Mr. Morgan.
9 However, while I'm on that, it's not necessary for us to
10 prove that that was, in fact, the position he occupied in
11 order to trigger self-defense or the Protection of Persons
12 and Property Act, defense of vehicle. All we've really
13 got to have is that there is a threat that is presenting
14 itself and that there is an attempted entry into the
15 vehicle. The other point I would make is that the State's
16 hypothetical to the pathologist on this issue had Mr.
17 Aiken back five, maybe six feet from the vehicle. That's
18 inconsistent with any of the testimony that we heard from
19 the witnesses about where Mr. Aiken was standing, in
20 particular Brent Williams who has him right at the door.
21 Morgan was prone in the backseat. To me, I'm sure that's
22 going to be a disputed fact, but that seems like an easy
23 one. He couldn't get at the pistol in his waistband while
24 he's sitting straight up. He had to lean over in order to
25 pull it out from and do, extricate it from underneath the

1 waistband. Furthermore if he hadn't done that, if he
2 hadn't been leaning over, if he's where the State wants
3 him to be which is sitting straight up in the backseat,
4 the gunshot should have come from outside the back door
5 where it was opened. In other words, to hold the gun and
6 to put it at the angle that was necessary to shoot, to be
7 consistent with the bullet wound, the trajectory, the gun
8 has to be held up a little bit and that puts it outside
9 the edge of the car. When you got pretty much everybody
10 saying no, the gunshot occurred inside the car. You also
11 have Bug and Ramsey both saying that he was leaned over in
12 the backseat. Al Morgan was in fear of serious bodily
13 injury or death. Here, I want to remind the Court that we
14 get certain statutory presumptions. Once there is an
15 attempted entry, then Mr. Morgan is entitled statutorily
16 to the presumption that he is in fear of serious bodily
17 injury or death and that the deceased has as his intent
18 the object of committing a violent crime on this
19 individual. So statutory presumptions aside, here's what
20 Al Morgan knew. He knew that Crip had been jumped by this
21 group inside the Cabstand. Thus, demonstrating that they
22 were already in a mood for violence. He also knew that
23 all of Mr. Aiken's crowd is still there at the door and he
24 believed, that is Mr. Morgan believed, that this animosity
25 was gang-related. Defendant's Exhibit number 9, we have

1 Brent Williams with his thumb over his hand and four
2 fingers pointed down. As he told us, he was showing off
3 his tattoo on his wrist. So with that summary of the
4 facts, just touching back on where are we in the law.
5 According to the Douglas, the first thing we got to do is
6 show Your Honor that we're entitled to self-defense, then
7 do we get defense of vehicle under the act and, of course,
8 stand your group which is assumed by that. Self-defense,
9 was Mr. Morgan at fault in bringing on the difficulty?
10 There is absolutely nothing that he did that was unlawful
11 and designed to provoke an attack. There was nothing that
12 happened in the parking lot. He's got a, even if he
13 potentially did something in the bar, he has withdrawn by
14 going home. The fact that he never came out of the back
15 of the vehicle, never said anything, it's just not an
16 issue in the case. So the next element can be proved two
17 different ways. Was he actually in danger or did he
18 reasonably believe that he was in danger? He was actually
19 in danger, because he was being accosted by a person who
20 was drunk, had marijuana in his system and was armed with
21 a stolen pistol. He believed that he was in danger,
22 because he knew that Mr. Aiken had, and his group and
23 already engaged in a prior altercation with Crip, that is
24 that they had jumped him. We now know that there were a
25 couple of melees that were going on inside the bar, not

1 just Crip, but also Demond Brown, and Ernest McCauley at
2 the door. Finally, did he have a duty to retreat? Well,
3 in self-defense he would, but only if there is somewhere
4 to go. He's stuck in the car, so no retreat is available.
5 The fact that he's leaning over is as far as he can go
6 anyway. So when it comes to the elements of self-defense,
7 it is our position that we certainly have proved these by
8 a preponderance of the evidence. Again, our legal
9 position would be at that point we're entitled to immunity
10 under the statute itself but following with Douglas and
11 moving into, okay, what does the act say about what we
12 also have to prove. Under the act for defense of vehicle,
13 he could not be engaged, that is Mr. Morgan, in unlawful
14 conduct. There must be an occupied vehicle. An attempt
15 to enter or actual entry. An attempt to remove or actual
16 removal. The attempt must be unlawful and forceful and he
17 must have reasonable fear of bodily injury. I'll start
18 with not engaged in unlawful conduct and I point Your
19 Honor to two sources. I anticipate that what you will
20 hear is that Mr. Morgan was engaged in unlawful conduct,
21 because he was carrying a pistol on his person without a
22 concealed weapons permit. The law is that pointing and
23 presenting a firearm shall not be construed to bridge the
24 right of self-defense. At the moment when self-defense
25 was necessary for Mr. Morgan, by presenting the pistol, he

1 is not violating the law. And then State vs. Crosby, this
2 is a 2003 case. This was actually dealing with, I
3 believe, a felon who was in possession of a firearm, who
4 had had to pull it out in order to defend himself. And
5 the law in our state is that even if you are in unlawful
6 possession of a weapon, once you pull it out for
7 self-defense, you are now deemed to be lawful in having to
8 respond that way. And that does make sense. If you will
9 look back just briefly at the legislative intent that
10 we're supposed to expand the Castle Doctrine to include
11 your vehicle. If the vehicle is your home in this
12 situation, then you don't have to have a concealed weapons
13 permit to carry around a pistol in your own home for
14 purposes of self-protection. A small point, but one I
15 wanted to make. So back to the act and this is my last
16 slide. So occupied vehicle, I think that's without
17 dispute. Was there an attempt to enter? Well, there's
18 nobody, no competent evidence that Jamaal Aiken was not
19 the one that opened the door. Was the attempt unlawful
20 and forceful and did Mr. Morgan have a reasonable fear of
21 serious bodily injury? The statute provides those in the
22 presumptions. Once you've got an illegal entry, you get
23 these two automatically. And then I've already talked
24 about not being engaged in unlawful conduct. The final
25 thing I will say is that there was one shot, Judge. As

1 close as they were, if Mr. Morgan was bent on taking Mr.
2 Aiken's life, I suggest that the waste is not where you
3 get shot and you don't stop shooting after one. This
4 bullet path and where Mr. Aiken could have been shot are
5 all indicative of a defensive measure on behalf of Mr.
6 Aiken. Thank you. That's it.

7 THE COURT: All right.

8 MR. STUMBO: Judge, I'll try to remain brief, and I
9 don't have a PowerPoint slide, but I would like to raise
10 some points related in response to what Mr. Bannister
11 discussed. Judge, our position is very clearly here that
12 immunity under the statute does not apply. It certainly
13 doesn't under the facts. It doesn't apply under the law
14 in this case. And the third argument I'm going to make is
15 one of public policy, Judge. First of all and the facts,
16 Mr. Bannister and Mr. Jones are fine lawyers, fine
17 advocates for their client. But as hard as they've tried
18 in the pretrial brief and during this case to spin the
19 facts to make Jamaal Aiken look like he's this guy this
20 night running around a mob of people looking to get in
21 fights with people, pistol-whipping, just mayhem coming
22 from Jamaal Aiken. It's just not consistent with what
23 we've heard this week, Judge, from many of the witnesses.
24 I believe that Mr. Bannister even somewhat admitted that
25 putting Jamaal in this fight inside the bar is really,

1 it's speculating that he was involved in this fight. In
2 fact, the most unbiased witnesses I think in this case,
3 there's a reason why Mr. Calvin Wells, who's the owner of
4 this bar, wasn't put up by the defense. And one of the
5 reasons is he's one of the most unbiased people there and
6 he describes Jamaal during this altercation in the club as
7 being one of the ones that was helping them, helping them
8 keep the peace, helping get Brent away from there and
9 getting him out of there. And Jamaal was never described
10 by anybody, other than by a couple of defense witnesses in
11 being aggressive in any manner the entire night,
12 particularly inside the bar. So just taking a big picture
13 view of this spinning of the facts that our victim in this
14 case, Jamaal Aiken or Smooth, was somehow provoking folks
15 that night and being violent and aggressive is just not
16 accurate, just not true and not consistent with the
17 testimony we've heard, Judge. Judge, on the facts, I'll
18 start with that. The very fact that we have so many
19 disputed facts in this case and all the orange slides that
20 Mr. Bannister put up highlighted disputed facts that are
21 really at the heart of this case. And, Judge, honestly,
22 the fact that there's that many disputed facts on very
23 critical issues is a reason why immunity shouldn't be
24 granted here. These are ultimately issues that if
25 self-defense is raised, it should be raised at trial in

1 front of a jury. And I know, Your Honor, has to sit
2 somewhat as a Judge in the facts in an immunity hearing
3 and that's your role here. But because we have so many
4 disputed facts as to several questions and I'm just going
5 to throw a few of these out here. First of all, there's
6 discrepancies as to what happened inside the club and the
7 altercations inside the club. There's some witnesses that
8 talk about this popping on the hat. Al Morgan talks about
9 that. The only other person that apparently sees that is
10 Lenwood Ramsey. But there's other witnesses, including
11 Brent and those that were around them that said that never
12 even happened. Judge, as to what started the fight and
13 who was involved in the fight, we know that Brent Williams
14 and Demond Brown were involved with this fight, and
15 everyone was consistent as to that. But even Mr. McCauley
16 who the defense called says he remembers one guy on the
17 ground and four girls on top of him, which seems to be
18 very inconsistent with the other testimony we've heard.
19 So, Judge, there's great discrepancies as to the
20 altercation inside the club. One thing I would say is
21 consistent is that there's only speculation that even puts
22 Jamaal in those altercations. And the most credible
23 witnesses we heard from the witness stand actually have
24 him as the peacemaker. Let's break this fight up. Let's
25 try to get Brent out of here and to his car. To me,

1 Judge, this Johnny-come-lately testimony from Mr. McCauley
2 about Jamaal hitting him with a pistol to me was not
3 credible, Judge, and not consistent with the other
4 witnesses we heard, including Calvin Wells. If he was hit
5 and, ultimately, had to go get medical treatment for that
6 which he didn't do until three weeks later, Judge, I would
7 say based on the testimony I've heard, that was more
8 likely Brent still fighting and hyped up after his fight
9 with them trying to get him out the door. There's nothing
10 really credible that says that Jamaal is the one that hit
11 him. Judge, the second issue that is, needs to be
12 decided, I believe by a jury here, because we have varying
13 accounts is what happened as Jamaal gets outside, Smooth,
14 how he approaches the black Impala. The black Impala
15 clearly, according to witnesses, pulls in the parking lot,
16 turns back towards facing the road here, right in front of
17 the Cabstand. And as you can tell, Judge, from
18 Defendant's Exhibit 1, this is tight quarters in here.
19 This is a small parking lot. It's full of cars. There's
20 not really a whole lot of room to go. In fact, Lynwood
21 says I got to wait for this car to back out before I can
22 even get in. So when he pulls in and Jamaal and Brent and
23 some of the girls that had come outside are right there by
24 the car. So, Judge, there is varied testimony as to how
25 Jamaal walked to the car and the manner in which he did

1 so. Most of the witnesses, Judge, described him as
2 walking, not running towards the car and not necessarily
3 doing so in an aggressive manner which leads to the next
4 discrepancy, which Mr. Bannister admitted. What did
5 Jamaal say, if anything? You know, Drina Morgan and
6 Shanina, Nicole and Brent, all three of those witnesses
7 testified that Jamaal really didn't say anything
8 aggressive, to their recollection. It was simply he was
9 walking towards the car. The third discrepancy as I
10 believe is as to who necessarily opened the door. Now,
11 their witnesses say Jamaal opens the door. Brent says he
12 thinks Jamaal opens the door, but he's standing several
13 feet away. What's consistent is the door came open. We
14 have one witness who came much later on, Mr. Sayles, who
15 we think doesn't have a real good memory of what happened
16 and we certainly didn't put him up on the basis of we
17 thought that he was completely accurate. That's not our
18 theory of the case, Judge. We do believe the door came
19 open. But there are discrepancies in the testimony as to
20 who opened the door and how it was opened. Was it opened
21 in an aggressive manner. It's quite possible, Judge, that
22 Jamaal Aiken, our victim here, wasn't going to the car to
23 start a fight. There's some testimony that knew Al was
24 coming back. And Brent said Al told us before he left,
25 he's coming back up here. It's entirely possible, Judge,

1 that Jamaal is approaching the car to let him know what
2 was going on inside and hey, there's some talk the cops
3 are coming. There are several witnesses that are right
4 there by the car that do not describe Jamaal going
5 aggressively to that black Impala. And we think that's a
6 huge issue in this case, Judge, that, quite frankly is
7 unclear. It's certainly not enough to reach a
8 preponderance of the evidence to grant immunity here.
9 And, certainly, they can argue to a jury at trial. Judge,
10 the last discrepancy and I think this is the major one
11 here is the only real witness that describes Jamaal as
12 reaching in, trying to drag this defendant out of the car
13 is the defendant himself. And, Judge, if you listen to
14 his statement to law enforcement this morning which is
15 part of the record in this case now, he doesn't really
16 describe it that way. Now, he did on the stand this week.
17 He said, well, it was either him or me. That's how dire
18 this was. You know, that I had to do it. I didn't have
19 any choice but to kill him, to shoot him. Judge, that's
20 not what I heard in his statement to Lieutenant Dixon that
21 he gave in March 2014. In fact, he seems to say in that
22 case that he really doesn't give an explanation as to why
23 he shot Jamaal. And, in fact, he says I guess it's
24 something I'll have to live with. And, I guess, it's
25 something his family will have to live with. He almost

1 sounds in his statement to law enforcement, he never says
2 the words him or me, I was in fear for my life, any of
3 that, to my recollection in his statement to law
4 enforcement, Judge. The first time we've heard that from
5 Al Morgan is here this week on the stand all of a sudden
6 when it becomes convenient to need that in a Castle
7 Doctrine motion. But his statement to Lieutenant Dixon,
8 essentially said, you know, I'm not sure why I did it.
9 And, in fact, this is where we're going to transition,
10 Judge, from the facts into the law here. There's a couple
11 of issues here that I think are very important. The act
12 itself requires a reasonable belief on the behalf of the
13 person trying to assert immunity that he had a reasonable
14 fear of imminent threat, of death or bodily injury.
15 Judge, I think it's very interesting that the two other
16 witnesses that we've heard from this week that were in the
17 car with him which would be Thomas Gilchrist or Bug and
18 Lenwood Ramsey, who was driving the car, both of those
19 witnesses have not testified in any way, shape, or form
20 that they were in fear. So if the two other occupants of
21 the car don't have that sort of fear, then I'm not sure
22 that under the statute, ultimately, you go to not only an
23 actual belief but does a reasonably prudent man of
24 ordinary firmness or courage, would that, kind of a
25 reasonable man standard. And, Judge, I think you look to

1 the two other people in the car with this defendant who do
2 not indicate that they had any fear of Jamaal Aiken. And,
3 in fact, in Al Morgan's own statement to law enforcement,
4 he said he didn't have a problem with Jamaal. He had
5 never had any confrontation with him and didn't have a
6 problem with him. And so, Judge, I didn't think we're
7 anywhere close to a preponderance of the evidence on the
8 issue of whether there's a reasonable fear of imminent
9 threat. Judge, the big question here for them to get the
10 presumption of reasonable fear in a vehicle is this, did
11 Jamaal Aiken, was he in the process of unlawfully and
12 forcefully entering that vehicle. And that's straight out
13 of the statute in §440, 16-11-440 (A)(1). Was Jamaal Aiken
14 in the process of unlawfully and forcefully entering that
15 vehicle. And I think really the only person that's
16 testified to that effect that there is an unlawful and
17 forceful, which I would interpret, Judge, the threatening
18 entry is Al Morgan himself on the witness stand this week.
19 He doesn't describe it that way, even in his statement to
20 Lieutenant Dixon. Judge, the other issue and I'm not
21 going to spend a lot of time on this is was Jamaal or was
22 Alphonso Morgan, one, under a self-defense, common law
23 self-defense theory? Was he at fault at bringing on the
24 difficulty, one. And, secondly, was he engaged in
25 unlawful behavior? And I respect Mr. Bannister greatly.

1 He's a fine lawyer and the way I think he argues this and
2 he cited the Crosby case that says, well, if you're acting
3 in self-defense even if you're unlawfully carrying a
4 pistol, well, it's okay. No harm, no foul. Judge, I
5 don't necessarily think that that's imported here to, in
6 an immunity setting and here's why. Judge, and this is
7 where we're going to into kind of overlapping into a
8 public policy argument. The legislature passed this
9 statute, Judge, not for people like Alphonso Morgan. And,
10 Judge, the very fact that he flashed that gun to Crip, his
11 buddy in the bar before he left, shows an intent on his
12 behalf. To me, it shows before he even left what was on
13 his mind, that if there was another fist fight that night,
14 if there was any more threat to him or threat to his
15 friends, that he was going to jerk that pistol and he was
16 going to use it which is what he ultimately did a few
17 minutes later when he came back. Judge, there is no
18 question that if Mr. Morgan had been caught by law
19 enforcement in that bar with that pistol tucked in his
20 waistband that night that he could have been arrested for
21 unlawful carrying of a pistol. No question about that
22 that he was engaged in unlawful activity when he was in
23 the bar before this happened. And, Judge, I would submit
24 to you while he was in the car without a concealed weapons
25 permit and we've had cases to this effect. There again,

1 Judge, when I, you know, when those traveling cars with
2 guns and they are transporting a gun, where is it supposed
3 to be? It's supposed to be in the glove box. That wasn't
4 where it was. It was in his waistband, because he was
5 ready to roll that night. He was ready to use it. And,
6 Judge, so I would submit to you that the very fact that
7 after the call he knew what was going on in that bar.
8 It's clear even from Shay Simon's testimony that she told
9 him what was going on. There was a fight up there and
10 there had been people jumped and there was a fistfight
11 going on. That's the way she described it. You need to
12 come pick us up. So when he asked Lenwood Ramsey to take
13 him back up there, he knew what situation he was walking
14 back into and he was walking back into that situation with
15 a gun.

16 THE COURT: Well, he didn't walk. That's a
17 mischaracterization of what happened.

18 MR. STUMBO: Well, he drove. Right. But he went, he
19 entered back into that situation. I'm using walking back
20 into it as a term of art here, Judge, not literally. When
21 he went back to that club that night, he knew what was up
22 there. He knew that there was a fight going on. He had a
23 gun tucked in his waistband and he was ready to use it,
24 Judge. And it is absolutely incomprehensible to me, based
25 on everything we've heard before this week, until now all

1 of the sudden we have a story of Jamaal Aiken or Smooth
2 trying to get at him in the car. There is no question,
3 Judge, that Jamaal Aiken should still be alive today. And
4 I think most of the witnesses would testify that that
5 night, he didn't act in any way to provoke the response
6 that he got. Quite frankly, Judge, those, and this is my,
7 I think the legislative intent is not, is clear based on
8 what I've seen in the case law. But, Judge, the
9 legislature did not pass the Protection of Persons and
10 Property Act to protect people who bring pistols to
11 gunfights and that's what Alphonso Morgan did that night,
12 ultimately. He came back to a situation where he knew his
13 friends had been in a fight and he brought a gun to it and
14 unprovoked, as Jamaal Aiken approaches the car, he pulls
15 that pistol and shoots and kills him. And, Judge, quite
16 frankly, we believe that's an unjustified killing. That
17 the legislature if, their intent and it says this in the
18 opening subsection of the act. This is in 16-11-420(b)
19 and it uses the term that it's proper for law abiding
20 citizens to avail themselves of the protections of this
21 act.

22 THE COURT: Well, don't they both come in there with
23 unclean hands. They both got guns on them. Nobody sees
24 them, but they both got guns. They shouldn't have had
25 them.

1 MR. STUMBO: Yes. But I'll say another
2 uncontroverted fact and I left this out earlier, Judge.
3 Nobody, the only testimony I've heard of anybody
4 presenting a gun that night was Crip saying that Al showed
5 the gun. No one knew that Jamaal had a gun. He never
6 presented a gun.

7 THE COURT: But everybody else has that same benefit.

8 MR. STUMBO: Right. You're right. Nobody knew
9 nobody had a gun except Crip knew the defendant had one.
10 That's correct. But the only one that's dead here is
11 Jamaal; a man who never pulled a gun out who was acting as
12 a peacemaker that night. And he's the one that got shot
13 and killed. And so, Judge, you know, these are the very
14 critical issues of fact that Mr. Bannister had in his
15 orange slides are issues that, quite frankly, need to be
16 decided by a jury, Judge. And because they are disputed,
17 I think, you know, the most credible witnesses we heard
18 this week were these guys in the bar that talk about how
19 peaceful Jamaal was and he was the guy trying to get
20 everybody out. And to me, that shows his state of mind as
21 opposed to the state of mind to a guy who had already
22 flashed the gun before he even left the bar.

23 THE COURT: Well, you keep saying that. He flashed
24 it to his friend.

25 MR. STUMBO: That's correct.

1 THE COURT: As a friend. You, you, that's not an
2 aggressive move. That's, I want to get out of here,
3 that's mischaracterizing how they testified. Everybody
4 else knew nothing of that. That's not an aggressive move.
5 You keep saying that.

6 MR. STUMBO: I understand.

7 THE COURT: Explain this to me.

8 MR. STUMBO: Yes, sir.

9 THE COURT: The prior trouble with Qualo and he got
10 punched by Qualo and caught eight stitches. Why was the
11 relationship between Qualo and the decedent not presented
12 to the Court.

13 MR. STUMBO: Well, Judge, I could put his parents up
14 and tell you that he doesn't have a brother. Jamaal's an
15 only child. So the fact that Al is under the impression
16 that Qualo is Smooth's brother is just not accurate.

17 THE COURT: He's convinced of it. He said it twice.
18 Why wasn't that presented to me?

19 MR. STUMBO: Judge, quite frankly, right now I'm not
20 even sure we know exactly who Qualo is. That's why it's
21 not presented.

22 THE COURT: Well, I don't understand you not knowing.

23 MR. STUMBO: And I don't know if I could present to
24 you to tell you the guy that punched him that night. And
25 I don't want to put something in front of you that's

1 misleading, but we do know that Jamaal is an only child or
2 did not have a brother, Judge. I mean, he, whoever this
3 Qualo fellow is is not his brother. He wasn't there at
4 the bar that night. We know that. He wasn't at the club
5 that evening. I don't believe we've heard any testimony
6 to that effect.

7 THE COURT: Yeah. I remember it. But that fact and
8 belief was held by the defendant.

9 MR. STUMBO: Correct. But, Judge, and here's another
10 thing. One reason why we didn't go real deeply into that
11 prior incident is, Judge, that was a fistfight that
12 didn't, there again, didn't involve a gun.

13 THE COURT: I'm just asking. He had an understanding
14 or belief that they were kin, and that wasn't presented.

15 MR. STUMBO: Well, it was presented in the statement
16 that we gave.

17 THE COURT: Yeah. Right.

18 MR. STUMBO: That's the only reason we know about it
19 is because he said that--

20 THE COURT: All right. I understand both of your
21 arguments.

22 MR. STUMBO: Quite frank, I believe bringing Qualo
23 into the equation here based on how little we know about
24 him, Judge, would just add to the confusion. I guess,
25 that's my answer to your question if your question is why

1 I didn't bring him.

2 THE COURT: I guess I'm surprised y'all didn't answer
3 that in the negative if that was presented in that tape
4 that it was.

5 MR. STUMBO: Judge, I think the witnesses that would
6 have been brought to do that would be his mother and
7 father who've been here all week.

8 THE COURT: I understand. But the fact that nobody
9 said anything about it is shocking. It just wasn't
10 mentioned but the investigator heard him say it twice.

11 MR. STUMBO: Right.

12 THE COURT: It was never explained.

13 MR. STUMBO: Well, we didn't put the investigator up
14 yesterday, we were trying to save time. We probably could
15 have gone back into more of the background, Judge, in
16 brief or we could have done that. I think we wanted to
17 put the statement in. We could have put the investigator
18 up and exposed him to cross and had all that fleshed out.
19 But I think, you know, at that point, you know, we think
20 that the facts in dispute here are enough in and of
21 themselves to deny immunity. And, quite frankly, give
22 Your Honor a basis for denying it because there is such a
23 discrepancy as to exactly what happened outside that bar
24 when he approached the car. And I would hope that that's
25 been at least, you know, clear that that's been our

1 position in this case. There are multiple witnesses that
2 describe Jamaal's behavior that night, Judge, and multiple
3 ones that describe his behavior as being that of, one of a
4 man of peace and not a man of aggression.

5 THE COURT: And that man, the same man had a pistol
6 in his pocket.

7 MR. STUMBO: That's correct. That he never pulled
8 out and showed to anybody, Judge. So he could have been
9 probably charged with unlawful carrying that night, too.
10 Both ways, and we would agree to that. But right now,
11 Jamaal Aiken is six feet under. He's not the one trying
12 to assert that he's immune from prosecution under the
13 Persons and Protection and Privacy Act; Al Morgan is.

14 THE COURT: I think that it is consistent that the
15 two people involved in the actual incident had very little
16 involvement with one another.

17 MR. STUMBO: Correct.

18 THE COURT: They really didn't. Very little.

19 MR. STUMBO: Which makes this even more tragic,
20 ridiculous. Yeah. Judge, it's ridiculous that Jamaal
21 Aiken is dead.

22 THE COURT: All right. I've heard enough.

23 MR. BANNISTER: I keep hearing that there's been no
24 evidence that Jamaal Aiken pulled out his pistol and
25 that's simply inaccurate. You have to take the logical

1 step and the only hard object Mr. Aiken had on his person
2 was a pistol and that Mr. McCauley got hit in the head
3 with something he described as very hard. A man who has
4 been in prison and presumably has enough experience with
5 getting hit with a fist to know the difference and saw a
6 black handle or a black object pointing only out from the
7 fist. There is evidence that that happened. And I want
8 to make myself available if there are any questions you've
9 got that I hadn't covered, in particular, and maybe about
10 how the stature procedurally works.

11 THE COURT: I understand how the stature works and
12 procedure. But I'm comfortable that, I don't think or I
13 am going to rule that the immunity under the statute is a
14 question. It has not been proven by a preponderance and
15 that this case needs go on and let a jury hear it and sort
16 it out. There's some disputed facts here that the Court
17 would be uncomfortable saying that's what happened. I
18 think twelve people can hear this thing. And so that's
19 what we are going to do. This is definitely an unusual
20 case and it's a tragedy that two people had so very little
21 involvement with one another beforehand. I find that's
22 just remarkable to me. So I'm not going to grant immunity
23 under the statute.

24 MR. BANNISTER: Thank you.

25 MR. STUMBO: Thank you, Judge. And I'm not going to

1 go any further, but I would say, you know, I remember when
2 I was coming up and we had fistfights. People would go
3 out in the field, they'd settle it and everybody would go
4 home and end up having long prosperous lives at the end of
5 it. And to me, the tragedy for me as Solicitor is we have
6 these situations now where people don't walk away and
7 because of guys carrying guns at fistfights. So just as a
8 matter of public policy, we're going to continue to pursue
9 relief. Thank you, Your Honor.

10 THE COURT: All right.

11 MR. STUMBO: And it is up first on the trial docket
12 for next week.

13 THE COURT: Don't go Judge shopping. I'll be here.

14 MR. STUMBO: Yes, sir.

15 February 5, 2016.

16 MR. STUMBO: Your Honor, I think we're ready to call
17 the defendant, Alphonso Morgan. Judge, let me know when
18 you're ready.

19 THE COURT: Oh, I'm ready now.

20 MR. STUMBO: Thank you, Your Honor. If it please the
21 Court, before you stands Alphonso Morgan. I know we've
22 already been in court already this week a good bit on this
23 case with his attorneys, Mr. Townes Jones and Mr. Jim
24 Bannister. Mr. Morgan is before you this morning, Your
25 Honor, to plead on the murder indictment that's in your

1 hand. But he's pleading to a voluntary manslaughter as a
2 lesser-included offense. He is pleading straight up to
3 that charge, Judge, and the State's ready to proceed.

4 THE COURT: Okay. Your name is Alphonso Morgan, Jr.?

5 MR. MORGAN: Yes, sir.

6 THE COURT: I have an indictment number,
7 15-GS-24-728. It's for murder and it reads in part that
8 you while in Greenwood County on the 14th day of November
9 of 2013 did kill one Jamaal Aiken by means of shooting, in
10 Greenwood County. As a proximate result passed away on
11 November 15th of 2013 and this is in violation of Code
12 Section 16-3-10. It is my understanding that you are
13 going to enter or tender a plea to the lesser-included
14 offense of voluntary manslaughter under that same code
15 section. Is that correct?

16 MR. MORGAN: Yes, sir.

17 THE COURT: Mr. Jones, you and Mr. Bannister
18 represent Mr. Morgan?

19 MR. JONES: Yes, Your Honor.

20 THE COURT: And y'all have apprized him of the
21 elements of voluntary manslaughter and the potential
22 punishment he faces?

23 MR. JONES: Yes, Your Honor.

24 THE COURT: And y'all have presented a very thorough
25 case on the Castle Doctrine and have thoroughly reviewed

1 and, investigated, interviewed numerous witnesses and are
2 very aware of all the facts, circumstances involving this
3 incident?

4 MR. JONES: Your Honor, we have conducted an
5 extensive investigation and effort at assessing what we
6 believe to be evidence, facts, truth. I would like to say
7 to the Court at this point in time that in explaining to
8 Al Morgan, you know, this charge, you know, he understands
9 that it is reduced from murder and that murder requires
10 malice. It requires the element of ill-will and malicious
11 intent and devoid, a heart that is devoid of the right of
12 another human being to live and he's not having to plead
13 to that element of murder; that this is manslaughter.
14 It's still an intentional killing but one done so,
15 primarily in this case we believe, in a sudden heat of
16 passion brought on by a sufficient legal provocation by
17 the victim in this case. And I have talked to him about
18 that and that this is a case where we have gone over the
19 elements of manslaughter; it being still intentional.
20 That it carries from two to thirty years. That it's a
21 most serious offense and it's a violent offense which
22 would require him, whatever sentence Your Honor imposes
23 today to not be eligible for parole until he's served
24 eighty-five percent of whatever you sentence him to today.
25 But to answer your question about having prepared, Mr.

1 Bannister and I, along with Al and his family, his
2 brother, Greg, his mom and dad have been instrumental in
3 assisting us in preparing that motion, along with a
4 private investigator, Jimmy Powers. And it has involved,
5 needless to say, a lot of effort, a lot of ups and downs,
6 you know, he was with me the entire time during the
7 process of the motion this week, Monday, Tuesday, and
8 Wednesday. And he saw what the testimony was, what the
9 evidence was and how the Court viewed it and as a result
10 of that and some other facts that we took into
11 consideration, he decided that he wanted to go forward
12 with this plea today.

13 THE COURT: Okay. And you and Mr. Bannister agree
14 with his decision to enter this plea to this offense?

15 MR. BANNISTER: We do, Your Honor.

16 THE COURT: Okay.

17 MR. JONES: I do, Your Honor.

18 THE COURT: All right. Mr. Morgan, I'm going to have
19 you placed under oath.

20 ALPHONSO MORGAN, being
21 first duly sworn, testified as follows:

22 THE COURT: All right. Mr. Morgan, in the last 24
23 hours or the last 48 hours, did you take any alcohol,
24 drugs or medications?

25 MR. MORGAN: No, sir.

1 THE COURT: Are you clear-headed right now?

2 MR. MORGAN: Yes, sir.

3 THE COURT: Do you suffer from any disabilities
4 whether either mental, physical or emotional ones which
5 would affect your understanding of why you're here today
6 and the questions that I am asking you right now? You
7 okay?

8 MR. MORGAN: Yes, sir.

9 THE COURT: Now, as you know, the lawyers have
10 explained to you and we've partially been through the
11 process on a preliminary motion, which was basically a
12 two-day hearing.

13 MR. MORGAN: Yes, sir.

14 THE COURT: But you have the right to plead not
15 guilty and have a jury trial on the actual charge that
16 you're facing, and you understand that?

17 MR. MORGAN: Yes, sir.

18 THE COURT: During a trial, the State bears the
19 burden of proving your guilt beyond a reasonable doubt.
20 That's a different burden than the issues that we were
21 presenting this week.

22 MR. MORGAN: Yes, sir.

23 THE COURT: The State must call its witnesses and
24 present its evidence first and you don't have to disprove
25 anything, nor can you be forced to testify in your own

1 defense. The State would not be allowed to call you as a
2 witness, nor is the State allowed to comment on your
3 silence if you choose to not testify. Now, if you wish to
4 enter this plea, you must give up or waive your rights to
5 defend this voluntary manslaughter at trial. You
6 understand that?

7 MR. MORGAN: Yes, sir.

8 THE COURT: Understanding your rights to defend
9 yourself at trial, are you waiving those rights here today
10 in order to enter this plea before me?

11 MR. MORGAN: Yes, sir.

12 THE COURT: And are you giving up your rights to
13 defend yourself at trial freely and voluntarily?

14 MR. MORGAN: Yes, sir.

15 THE COURT: All right. Solicitor, normally I come
16 and ask for a factual basis for this and seeing I've heard
17 two days of testimony, if you'll just hit the highlights
18 just for the record.

19 MR. STUMBO: I will, Judge.

20 THE COURT: We got a very sufficient record from the
21 stand your ground Castle Doctrine hearing we've had.

22 MR. STUMBO: Will do, Judge, and I'll be brief. I
23 know you've heard many witnesses this week who filled you
24 in what happened that night. But it was on November the
25 13th or, excuse me, November the 14th, in the evening,

1 2013. It happened down at the Cabstand or what's
2 officially called, I think, the Triangle Senior Club and
3 Social Club, sometimes often called the Senior Club, I
4 believe, too, we heard. Judge, Jamaal Aiken is the victim
5 in this case or Smooth, as he was known to his friends.
6 Smooth went to the Cabstand that night with his fiancé,
7 Nicole Williams, who's here behind me, amongst a host of
8 other friends. They went to the bar or the club. By all
9 accounts, Your Honor, Jamaal was very calm, dapping up as
10 they say when he comes in even with the defendant and
11 everyone was getting along just fine inside the bar that
12 night or in the club. At some point, his fiancé's brother
13 ends up getting in a fight with another individual in the
14 club who was not directly connected to the case but
15 testified this week, Demond Brown. As a result of this
16 altercation, a number of the individuals, including Brent
17 Williams who's Nicole's brother, and Jamaal and others
18 ended up out in the parking lot. The defendant had been
19 there earlier but left; when he came back in a black
20 Impala with Lenwood Ramsey and Thomas Gilchrist, also
21 known as Bug. They pull into the parking lot. As we've
22 heard this week, Judge, there has been a number of
23 disputed facts about what happened in that very short few
24 seconds in the parking lot. But in any case, Jamaal Aiken
25 was shot and killed by Alphonso Morgan right there outside

1 of the black Impala or there at the doorway of the rear
2 passenger part of the car where Alphonso Morgan was
3 sitting. Very quickly after that, the vehicle left and
4 went several blocks away to Lenwood Ramsey's house. The
5 tag was taken down by someone in the parking lot, who we
6 believe now to be the individual by the name of Demecus
7 Sayles. Police end up descending on the house and put Mr.
8 Morgan in custody. At that time, take statements from
9 Lenwood Ramsey and Bug or Thomas Gilchrist and several of
10 the other people that were involved that night. Jamaal was
11 able to get away and get into the car of Nicole and Brent
12 Williams. And Nicole, his fiancé, took him to the
13 hospital where he, Jamaal Aiken, who we do have a picture
14 of him here today, Your Honor, I believe one was put into
15 evidence earlier this week, Jamaal died on the operating
16 table right here at Self Hospital that night. Judge,
17 that's a brief recitation of the facts. So we, obviously,
18 have some family members that want to address Your Honor
19 at the appropriate time.

20 THE COURT: All right.

21 MR. STUMBO: If you want to come back to us and thank
22 you for hearing from us, Judge.

23 THE COURT: All right. And the court record as to
24 those facts are consistent with the facts presented at the
25 Castle Doctrine hearing except we left out the other

1 challenged facts that the defense put forward. Those are
2 the facts consistent with the facts that was heard earlier
3 this week. Mr. Morgan, the only negotiations in this case
4 to get you to plead guilty after the hearing this week
5 were a reduction from murder to voluntary manslaughter.
6 Other than that negotiation of the charge was stepped
7 down, and I think you're pleading just to that one charge.
8 Anything, any other charges will be dismissed. Were any
9 promises made to you to get you to plead guilty other than
10 change murder down to voluntary manslaughter?

11 MR. MORGAN: No, sir.

12 THE COURT: Now, you understand if I accept your plea
13 on voluntary manslaughter, you'll be classified at the
14 Department of Corrections as a violent offender. And as a
15 violent offender, you're not entitled to the, all the
16 programs that nonviolent offenders are entitled to. Do
17 you understand that?

18 MR. MORGAN: Yes, sir.

19 THE COURT: You also understand as a violent
20 offender, you're not entitled to parole. You'll have to
21 serve eighty-five percent of the sentence the Court gives.
22 And after you've served eighty-five percent, you could be
23 eligible for a community release at that time. Do you
24 understand that?

25 MR. MORGAN: Yes, sir.

1 THE COURT: You also understand that if I accept your
2 plea, you will have a big strike or most serious
3 conviction on your record that the State can use against
4 you if any future serious offenses or most serious
5 offenses or you're accused of, in that you could be
6 subject to the State asking for a life without parole for
7 a second most serious conviction or two small serious
8 convictions if they, if that comes to pass in the future.
9 Do you understand that?

10 MR. MORGAN: Yes, sir.

11 THE COURT: So this big strike can be used against
12 you from now on by the State to enhance future punishment.
13 Do you understand?

14 MR. MORGAN: Yes, sir.

15 THE COURT: Now, have you had enough time to discuss
16 the ramifications of being declared a most serious
17 conviction on your record and be classified as a violent
18 offender; did you go over this plea with your lawyers?

19 MR. MORGAN: Yes, sir.

20 THE COURT: And you've had enough time to discuss
21 with them your defenses you may have if the case went to
22 trial and what could be presented because, arguably, their
23 posture is to present a self-defense type argument to a
24 jury for a jury to consider. You understand that?

25 MR. MORGAN: Yes, sir.

1 THE COURT: And understanding everything your lawyers
2 have told you and advised you on the law and as you
3 understand the facts, has it been your decision, after
4 having enough to talk with them, to enter this plea of
5 voluntary manslaughter?

6 MR. MORGAN: Yes, sir.

7 THE COURT: Do you need any further time to speak to
8 them now?

9 MR. MORGAN: No.

10 THE COURT: And it appears to me that your parents
11 have also been involved in some of those conversations,
12 perhaps not all of them but enough of them. Is that true?

13 MS. MORGAN: I'm his mother. That's his aunt.

14 MR. MORGAN: Yeah.

15 THE COURT: So are you comfortable that you've had
16 sufficient time to talk to your lawyers and your folks
17 about entering this plea?

18 MR. MORGAN: Yes, sir.

19 THE COURT: Do you understand if I accept this plea,
20 you're going to have limited number of days in which to
21 file a notice of intent to appeal if you believe something
22 procedurally has been done improperly?

23 MR. MORGAN: Yes, sir.

24 THE COURT: Are you pleading guilty to voluntary
25 manslaughter, freely and voluntarily?

1 MR. MORGAN: Yes, sir.

2 THE COURT: And you're pleading guilty to voluntary
3 manslaughter, because you did, in fact, commit that
4 offense as described by the State?

5 MR. MORGAN: Yes, sir.

6 THE COURT: Regarding indictment 15-GS-24, indictment
7 728, I find Alphonso Morgan, Jr., has made a free, knowing
8 and intelligent plea of guilt to the offense of voluntary
9 manslaughter. He's entered that plea with advice of
10 counsel of two very competent lawyers who has had ample
11 time to speak with him. Are you satisfied with the advice
12 of counsel your attorneys have given you thus far?

13 MR. MORGAN: Yes, sir.

14 THE COURT: He's entered his plea with advice of
15 counsel of attorney of whom he states he's satisfied and
16 the State has provided a factual basis to support this
17 plea. All right. I think what I want to do, I want to
18 hear from the victims. And then I want to hear from Mr.
19 Bannister and Mr. Morgan, in whichever order y'all deem
20 appropriate. So, Solicitor, hear from your side first.

21 MR. STUMBO: Yes, sir. And I'll introduce them to
22 you here now. Just before I do, Judge, I think the
23 witnesses that we heard from this week bore this out, even
24 ones that the defense brought that Jamaal Aiken was a
25 fairly, a very peaceful guy even that night. He was one

1 of the ones trying to get people out of the bar, which
2 makes what happened in the parking lot almost
3 inexplicable, I think, to our side as to why Jamaal was
4 shot.

5 THE COURT: It seemed to me that the two least likely
6 people to get involved in something like this are the ones
7 that end up involved with it on both sides.

8 MR. STUMBO: Correct.

9 THE COURT: More aggressive behavior by friends of
10 both sides.

11 MR. STUMBO: Right.

12 THE COURT: If you were to gauge it ahead of time
13 who'd be involved in somebody shot somebody, they'd be the
14 last two picked on both sides.

15 MR. STUMBO: That's correct, Judge, and I think
16 that's a great point and we're still trying to figure out
17 exactly why Jamaal Aiken or was known as Smooth, and that
18 is the kind of guy he was, Smooth is no longer with us
19 here today but his family members are here and they loved
20 Jamaal very much. And they are here today, and it has
21 been a long week for them hearing all of these facts and
22 they have been very patient with me and with the Court and
23 the system here this week. And I just commend them for
24 that and they have been very patient with us and we are
25 thankful for the relationships that my office has been

1 able to build. First, Judge, I'm just going to go kind of
2 right to left here. I'm going to introduce Tracy Aiken,
3 who is Jamaal's mother. At this time, Judge, she'd like
4 to say something to you.

5 MS. AIKEN: I just want to say to the defendant that
6 did not know Jamaal. He wasn't that type of person that
7 they painted him to be this week. And, Al, you knew this
8 and when you took Jamaal's life, you also took our life.
9 That was our only child, our only child, and if you would
10 have come forth and admit maybe I made a mistake, I'm
11 sorry, I could have forgiven you. But to stand up and
12 tell some of the stuff that we heard this week, you know
13 it's not true. You know it's not true. And right now, I
14 cannot find in my heart to forgive you. I cannot for what
15 you did, you know.

16 THE COURT: And, pardon me, Ms. Aiken. I'm sorry. I
17 don't, I understand your sentiments, but I need you to
18 tell me more than you, opportunity to speak with him.

19 MS. AIKEN: To speak with him.

20 THE COURT: He's accepting responsibility by entering
21 that plea up to a large degree to a lot of this saying I'm
22 at fault by saying what he just said to me. I don't have
23 any idea how bad it hurts.

24 MS. AIKEN: It hurts.

25 THE COURT: Being a mother and a father, I have three

1 children of my own. I understand it must be a tremendous
2 pain, but tell me anything you'd like for me to consider
3 also.

4 MS. AIKEN: Your Honor, it hurts. It hurts so bad to
5 know, to know that we have lost our only child for no
6 reason. And I could see if Jamaal had have been a bad
7 person or the person they painted him to be this week. He
8 was not that type of person. He was not. He didn't
9 deserve to go the way he left us. He didn't, and I just
10 want the Court to know he's not a bad person. He wasn't.
11 He wasn't.

12 THE COURT: Now, what's been presented to me in the
13 case, he was a good person. I mean, he was very peaceful,
14 so I don't think that's a question for me to, I'm not
15 challenged by that. I find that very easy to believe.

16 MR. STUMBO: Next, Your Honor, is Greg Aiken,
17 Jamaal's father.

18 MR. AIKEN: I have fought for two years and almost
19 three months to seek justice for my son leaving us
20 November 2013. From day-one, the picture was painted that
21 Jamaal was a criminal. Day-one, police gave information
22 to the index journal a deceased black young man got
23 killed. Everything was put in the paper that Jamaal had
24 this, Jamaal had that. We never saw anything about what
25 Jamaal was shot with in the index journal. Didn't come

1 out till court time and from day-one, I have fought with
2 Greenwood Police Department. I have fought with the
3 Greenwood justice system. And today, we may get a little
4 relief, but we won't get enough justice for losing our
5 child, because if you give him fifty years today, it's not
6 going to bring Jamaal back. If you give him a hundred
7 years today, it's not going to bring Jamaal back. But,
8 Judge, what I would like for you to do and this just
9 coming from my heart, you just said you had three
10 children. Just put yourself in our position. We are
11 law-abiding citizens. My wife and I have no record ever
12 in Greenwood County as far as criminals. We raised our
13 son to be the same way, peaceful, get along with
14 everybody, and try to do the right thing. He was
15 peaceful, and I certainly believe that that night,
16 although the picture been painted that he was a criminal,
17 he was angry, he was aggressive, I would go to my grave
18 today saying that Jamaal got shot out of that car and that
19 door never came open. I would go to my grave saying that
20 our son did not open the car door, the door of that car
21 and get shot. I don't care what the picture been painted.
22 You see the smile. You see the smile. That was all the
23 time. Everybody knew him as Smooth, easy going, didn't
24 talk that much, and I just do not believe today that he
25 deserved to die that way. And I want you to find it in

1 your heart to give this man as much time as you can,
2 because no matter what you give him, we're not going to be
3 satisfied. We're not going to be, we got to live with
4 this the rest of our lives losing our only child, and I've
5 cried. I've been in the hospital. I've almost lost my
6 job behind all of this since my son got killed. I mean,
7 it's just, it's just been a rough go at it and I just want
8 you to find in your heart to give him as much time as you
9 can give him. Because I feel like what he getting now, he
10 should have gotten years ago, but it came to this so he
11 could get time and go to jail. And also, Your Honor, I
12 want to think, I mean, I don't want to think, but two days
13 after we buried Jamaal, his brother and father came to our
14 house. We opened up our house to them for them to come in
15 and sit down and they talked about him. I mean, they kind
16 of throwed him under the bus. You know, he's been in
17 trouble. You know, he been making bad decisions. Well,
18 if you know this why uphold him in a situation like this.
19 I mean, we, they caught us at our most vulnerable time in
20 our life and we kind of opened up to them. And then they
21 turned around and they going to do what they have to do to
22 do it, but they turned around and like a stab in the back,
23 because they come in and we opened up to them, and then
24 this is what we get. We got to come face them in the
25 courtroom standing behind him when they know he done

1 wrong. And that's all, pretty much all I got to say.

2 MR. STUMBO: Your Honor, lastly, we have Nicole
3 Williams. Her first name is Shanina, but she goes by
4 Nicole. You've heard from her this week, and she'd like
5 to address, Your Honor.

6 MS. WILLIAMS: I just want to let you know Jamaal was
7 a great guy. I met him when I was 14 and he was my
8 best-friend, and he took him from me unnecessary, and I
9 have to deal with it every day. Some nights I don't get
10 no sleep. Some mornings, I don't want to go to work. I
11 just want to give up, but I know that's not what he
12 wanted. So all for him, I keep moving. But it's going to
13 forever hurt, and I'll never forgive him long as I live
14 and that's all I got to say.

15 MR. STUMBO: Your Honor, you have on your sheet, and
16 I didn't bring this up earlier. Mr. Morgan does have
17 several prior convictions, the last one in 2012 which was
18 years ago for failure to stop. There's possession of
19 cocaine. There's two of those. Simple assault and
20 battery on his record, as well Judge, but you have those
21 before you. We thank you for hearing from us, Judge, and
22 I mentioned this at the end of the Castle Doctrine motion
23 the other day and, quite frankly, our position and my
24 office, we got to stop this in Greenwood. We had a year
25 in 2013 where there is just all these guys, young guys

1 bringing guns to fistfights. And, you know, back when we
2 were coming up, Judge, if two guys had a problem with each
3 other, they'd have it out in a field somewhere and
4 everybody'd walk away and they'd have long prosperous
5 lives. Because these guys are bringing guns to these
6 situations now, there's people like Jamaal Aiken who go to
7 their grave way too early. And we're going to keep in our
8 office, along with law enforcement doing everything we can
9 to try to turn that around in this town and in this
10 circuit, Judge. Thank you for hearing from us and the
11 family.

12 THE COURT: Unfortunately, it's too common of a
13 problem in all communities across the state with people
14 carrying guns and they shouldn't be. They really
15 shouldn't be. I'd like to say this is the first time I've
16 seen something like this, but it's not. It's a common
17 problem, an awfully common problem. All of us as a state
18 need to work together to try to prevent this from
19 happening to other families. This is tragic. I mean,
20 these, this family over here is not a winner. I mean,
21 everybody's losing. So, all right, Mr. Bannister, I'll
22 hear from you now.

23 MR. BANNISTER: Yes, Your Honor, and I will be brief.
24 I think that the first thing I'd like to say that the
25 effort that we made in the courtroom throughout this week

1 was not to paint Mr. Aiken in a bad light. It was simply
2 to bring to the Court some of the facts that were
3 pertinent and those facts are often tragically like a lot
4 of the people that we see in here, are good people that
5 made bad decisions under the influence of drugs, alcohol
6 and some cases it's mental illness. I'd say that's 95
7 percent of the people you see in here that are tendering a
8 plea to a crime is they're good people, but once you've
9 got a blood/alcohol level of .12 and you mix in marijuana
10 with it, good people are capable of making poor decisions.
11 We have always seen this case as one that involved
12 self-defense, obviously, as we presented. And I think the
13 plea here is a recognition that in this case there was a
14 threat at the door and that the plea is a recognition that
15 maybe it was an overreaction to the threat that was there.
16 You know, he did have a gun and they both were armed and
17 there had been prior altercations but at the end of the
18 day, what I think fits voluntary manslaughter is a legal
19 provocation of self-defense. But in this case it just got
20 a little bit of an overreaction. Had it been another
21 second or two to find out what was going on, maybe things
22 turn out differently. But don't forget that while there
23 are maybe two dozen different places where things could
24 have, just a small change would have resulted in there
25 being maybe no altercation or being no shot fired. The

1 big one was walking to the car and opening the back door
2 and that was not our client's choice. That's all I have
3 to say about the aspects of the self-defense side.

4 MR. JONES: Your Honor, if you would allow me to
5 briefly address some mitigating factors in addition to
6 that. And before I do, I'd like this Court to know that
7 I've known Al for probably 15 years. I've known his mom
8 for over 20 years and his dad. His mom and his dad, like
9 Jamaal's parents are pillars of this community who are
10 people you can count on, who do good for others, who are
11 church-going, law-abiding, hardworking productive members
12 of the Greenwood community. His brother is also in that
13 same type of person, Greg Morgan, military, hardworking,
14 conscientious member of the community. And, Al, you heard
15 the convictions that Solicitor Stumbo presented to you,
16 but in spite of those, he is known in this community not
17 as a gang banger, if you will, you know, a gang member or
18 as a drug dealer or as a, you know, somebody that's
19 looking for trouble. He's just the opposite. He has five
20 children. In the club that night, there were two women
21 arguing over his affection or lack thereof. He would much
22 rather spend his time in the evening with friends or a
23 girlfriend. He was really not the kind of person that
24 would pursue this type of activity and action. Testimony
25 was clear that when he saw things getting a little bit

1 tense there, whether it was between the women or one of
2 the men and the women, he got up with his group and left,
3 Judge. Testimony was presented and it was not
4 contradicted that about a month-and-a-half prior to this
5 incident, he was hit in the face receiving eight stitches
6 and walked away from that altercation and assault. So I'm
7 confident and this plea reflects that he did not return to
8 the Cabstand to harm someone, much less kill someone. He
9 came there to pick up somebody. And the fear that had
10 become heightened in his mind and emotional state over the
11 previous couple of months and during the course of that
12 evening, and given the phone call from Shay Simon talking
13 about, you know, an assault taking place in the club.
14 This fear was heightened and, unfortunately, you know, it
15 was part of what Mr. Bannister said was a quick reaction,
16 a slightly overreaction to a threat that he truly
17 perceived was at him. So, Judge, we mention these things
18 to you so that you won't lose sight of a lot of the facts
19 that came in during the Castle Doctrine hearing, the stand
20 your ground hearing in an effort to try to mitigate this
21 as what it was, not premeditated, not desirous of it, but
22 a reaction. And like the Solicitor and you have
23 commented, you know, guns are part of the problem and they
24 are. Unfortunately, United States Congress, Senate, South
25 Carolina Senate and a lot of solicitors don't want to

1 change the gun laws in this state, all right? I'm not
2 saying this one is one of those, but I'm just saying there
3 are a lot of that, you know. We can start by telling the
4 young people don't arm yourselves, but when the people in
5 charge making the laws and running the country are saying
6 you not only can carry a gun, but you can take it into a
7 church, or a school, or a nightclub or anywhere you want
8 to, is a little bit of an inconsistent bit of preaching
9 that we're doing. Not anybody here today, but just
10 overall, Judge, to give you kind of the mindset. But back
11 to a couple of quick points and I'll be closing up. On
12 Al's behalf, he comes from very good people. Judge, I'd
13 like you briefly, I have a piece of art that Al himself
14 fashioned. That is of his five children, and then a
15 photograph of his three youngest, his 10-year-old
16 daughter, his eight-year-old daughter, and his
17 one-year-old son.

18 THE COURT: He drew this?

19 MR. JONES: Yes, sir. He did.

20 THE COURT: Amazing.

21 MR. JONES: And he's an artist, I think. I mean,
22 anybody who can do that's got artist, I put artist by
23 their name.

24 THE COURT: I would say you're right. He's an
25 artist.

1 MR. JONES: Judge, back to briefly the facts of this
2 case. Unfortunately, it is my belief and I believe that
3 the facts during the hearing bore out that there was a lot
4 of blame to go around the evening of November the 14th,
5 2013, that resulted in the tragic loss of life, the tragic
6 death of Jamaal Aiken, a lot of blame to go around.
7 Without naming parties, you heard the testimony. You
8 heard some of the activity. You know, maybe Shay Simon
9 should fall in there. Maybe Brent Williams should fall in
10 there. There are a number of people that we couldn't
11 figure out and still haven't figured out why Brent and
12 Jamaal and the four or five women accompanying them
13 decided to go the Old Folks Home that night, the first
14 time they'd ever been. But having said that, Judge, with
15 the blame to go around, the one person as you pointed out
16 earlier that is willing to accept responsibility for his
17 part in that tragedy is standing before you here today
18 facing a significant sentence. What we're going to ask
19 you to do is to take into consideration the mitigation
20 that we've presented and the circumstances that we've
21 presented that would posture this. Judge, one of the
22 difficulties we had in making our decision when Mr. Aiken,
23 Sr., mentioned, you know, I'll never believe that my son
24 opened the door or that it even came open. Well, law
25 enforcement, Greenwood City Police Department had seized

1 that vehicle within 15 minutes of this incident. That
2 door knob was never tested for DNA or fingerprints. The
3 inside of the backseat of that vehicle was never tested
4 for gunshot residue to see the positioning of where that
5 gun was when it was fired, unfortunately. Because just as
6 it may have shed some light in Mr. Aiken, it also could
7 have shed some positive light for Al Morgan and his
8 version of what took place, and we never had it. For
9 whatever reason, we couldn't get it. So in closing,
10 Judge, I'd like you to know this as well and to the Aiken
11 family. When I first met with Al in early December of
12 2013, we talked and he agreed with me completely that
13 unlike most of the people, I go to the jail and talk to
14 who wants to get out, who wants a bond, that this would
15 not be anything to do any time soon. Give this family
16 time to go through the grieving process. Don't be selfish
17 about that. Judge, I want you also to know, because the
18 family didn't get a chance to hear this, I don't think.
19 It was in the possession of the State. I don't know if
20 they've heard it. But you listened to it Tuesday evening
21 and that was a statement that Jamaal, while still in
22 prison, went back to Detective Dixon and gave him, I mean,
23 Al, while still in prison. Went back to Detective Dixon
24 and gave him, and I, you listened to it and so if what I
25 say does not fall in line with your recollection, use your

1 recollection in deciding, but this is Detective Dixon.

2 All right. I don't have any further questions. This
3 is your time. I'll give you a chance. Whatever you'd
4 like to say at the end of the statement if you'll give me
5 one. And Al said, I just, it hurt. Was just the way, you
6 know, it happened and it's something I've got to live with
7 for the rest of my life, you know. The family's got to
8 deal with it, too. I've got to deal with it. My family's
9 got to deal with it. I just hate that it happened the way
10 that it happened.

11 THE COURT: And his tone of his voice was very much
12 remorseful in my listening to it. It was, that was
13 sincerely said.

14 MR. JONES: And he and his family have wanted me to
15 convey that to Jamaal's parents and family from the
16 beginning, and so, you know, tragedy. Responsibility.
17 We're asking for measured and tempered justice in this
18 case in Your Honor's wisdom.

19 THE COURT: I recognize that had, it's just a
20 tragedy. With no guns, it may not have happened.

21 MR. JONES: In closing, Your Honor, if I might, Ms.
22 Morgan wanted me to let the Court know that this is
23 directed to the family of Jamaal Aiken that she prays
24 every single day for that family, for his parents, loved
25 ones and she has since this and it's not a false

1 presentation on her part. She truly wishes that this had
2 never happened.

3 THE COURT: Anything from you, Mr. Morgan?

4 MR. MORGAN: I want to apologize and say I'm sorry.

5 THE COURT: All right. I will accept the plea as
6 freely and voluntarily given. Considering everything,
7 there's nothing I can give them that's going to bring
8 that, your son back. And I'm sorry for that. But
9 considering everything I have been told, the sentence of
10 the Court is that Mr. Morgan will be confined for an
11 active term of twenty-five years and that's suspended upon
12 the service of twelve and a half years. Cost and
13 assessment imposed. Probation, thirty-six months after
14 his community supervision ends. And he gets credit for
15 his pretrial confinement before this case became a plea.
16 Good luck to everybody and I'm sorry. I can't fix a
17 tragedy, I hope this brings closure for you.

18 *** END OF REQUESTED TRANSCRIPT OF RECORD ***
19
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21
22
23
24
25

STATE OF SOUTH CAROLINA)

COUNTY OF LAURENS)

The State of South Carolina,)

Plaintiff,)

v.)

Alfonso Morgan, Jr.,)

Defendant.)

IN THE COURT OF GENERAL SESSIONS
EIGHTH JUDICIAL CIRCUIT

INDICTMENT NOS.:

2013A2420101159, -60-

2015G52400728

2016G52400079

MOTION ASSERTING STATUTORY
IMMUNITY FROM PROSECUTION
S.C. CODE § 16-11-450 AND
DEMAND FOR PRE-TRIAL HEARING

2016 JAN 26 AM 8:57

FILED GENERAL SESSIONS
8TH JUDICIAL CIRCUIT
GREENWOOD, SCTO: EUGENE C. GRIFFITH, JR., CIRCUIT COURT JUDGE 8TH CIRCUIT, AND
YATES BROWN, ASSISTANT SOLICITOR FOR THE 8TH CIRCUIT

The Defendant, by and through the undersigned attorney, moves the Court at a time convenient to be heard, but prior to trial, for an Order granting the Defendant immunity from prosecution for the above-referenced charges.

This Motion is based on S.C. Code § 16-11-450(A), which states in pertinent part that:

"A person who uses deadly force as permitted by the provisions of this article or another applicable provision of law is justified in using deadly force and is immune from criminal prosecution and civil action for the use of deadly force."

The facts of this case indicate that the Defendant was within his right to use deadly force pursuant to the common-law of self-defense, (*State v. Davis*, 282 S.C. 45, 317 S.E.2d 452 (1984)), and the statutory right to use deadly force pursuant to S.C. Code §16-11-440(A) and (C). *State v. Duncan*, 392 S.C. 404, 709 S.E.2d 662 (2011); *State v. Curry*, 406 S.C. 364, 752 S.E.2d 263 (S.C. 2013); and *State v. Douglas*, 411 S.C. 307, 318, 768 S.E.2d 232, 238-239 (Ct. App. 2014).

As such, the Defendant is entitled to a hearing on this issue of immunity and the grant of immunity from prosecution.

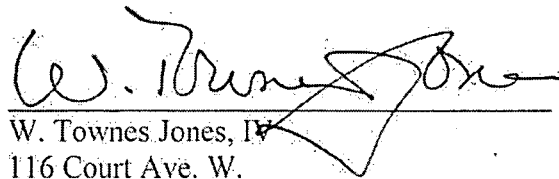
WHEREFORE the Defendant demands a hearing pre-trial to determine the applicability of immunity from prosecution pursuant to S.C. Code § 16-11-450(A).

BANNISTER, WYATT & STALVEY, L.L.C.



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-and-



W. Townes Jones, IV
116 Court Ave. W.
Greenwood, SC 29646

ATTORNEYS FOR THE DEFENDANT

January 25, 2016

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	EIGHTH JUDICIAL CIRCUIT
COUNTY OF LAURENS	)	
	)	INDICTMENT NOS.:
The State of South Carolina,	)	2013A2420101159, -60
	)	2015G 52400728
Plaintiff,	)	2016G 52400079
	)	
v.	)	IMMUNITY HEARING
	)	MEMORANDUM
	)	AND
Alfonso Morgan, Jr.,	)	PRE-HEARING BRIEF
	)	
Defendant.	)	

TO: EUGENE C. GRIFFITH, JR., CIRCUIT COURT JUDGE 8TH CIRCUIT, AND
DAVID STUMBO, SOLICITOR FOR THE 8TH CIRCUIT

The Defendant, Alfonso Morgan, by and through the undersigned Attorneys, submit this Immunity Hearing Memorandum and Pre-Hearing Brief pursuant to both Rule 4(a), S.C.R. Crim. P. and the previously filed Motion Asserting Statutory Immunity From Prosecution filed on January 26, 2016.

PROCEDURAL HISTORY/ISSUES IN CONTROVERSY

On the night of November 14, 2013, Alfonso Morgan (hereinafter "Morgan"), was attacked in the backseat of a vehicle by an armed man named Jamall Aiken (alias "Smooth") (hereinafter "Aiken" or "the Deceased"). Morgan shot the deceased once to stop the attack. The shot proved to be fatal. On that same night, Morgan was arrested for Murder and Possession of a Weapon During the Commission of a Violent Crime. On January 26, 2016, Morgan filed his "Motion Asserting Statutory Immunity From Prosecution." As required, a pre-trial hearing is set for the week of February 1, 2016. *See, State v. Duncan*, 392 S.C. 404, 709 S.E.2d 662 (2011).

In this case, Morgan's conduct on the night of November 14, 2013, meets the elements of common-law self-defense. *State v. Davis*, 282 S.C. 45, 317 S.E.2d 452 (1984) (self-defense elements). In addition, Morgan's conduct on the night of November 14, 2013, meets the

FILED GENERAL SESSIONS
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provisions of "Defense of Vehicle" and "Stand Your Ground" contained in the Protection of Persons and Property Act. *S.C. Code Ann.* §16-11-440(A) and (C). As a result, Morgan asserts that he is entitled to immunity from prosecution pursuant to the Protection of Persons and Property Act. *S.C. Code Ann.* § 16-11-450(A).

UNANSWERED QUESTIONS OF LAW

South Carolina Code § 16-11-450(A) states in pertinent part that:

"A person who uses deadly force as permitted by the provisions of this article or another applicable provision of law is justified in using deadly force and is immune from criminal prosecution and civil action for the use of deadly force."

(Emphasis added). The term "or" indicates that there are two different sources of immunity for a person who uses deadly force.

First, the language "**as permitted by the provisions of this article,**" includes the factual scenarios described in S.C. Code § 16-11-440.

South Carolina Code § 16-11-440 has two separate provisions, found in sub-section (A) and sub-section (C), describing scenarios where deadly force is permitted. These sub-sections overlap to some extent, but ultimately describe two different types of confrontations. Sub-section (A) can best be described as the "Defense of Vehicle" immunity whereas sub-section (C) can best be described as the "Stand Your Ground" immunity.

Second, "**as permitted by . . . another applicable provision of law**" includes the common-law concept of self-defense. The common-law provision of self-defense permits the use of deadly force, and is, therefore, included in the statutory grant of immunity.

These two separate sources for potential immunity should, according to statutory interpretation, be applicable independently.

However, the Supreme Court's latest opinion on the legislative intent of the Protection of Persons and Property Act seems to indicate that immunity from prosecution is predicated on an accused demonstrating the elements of self-defense first. *See, e.g., State v. Curry*, 406 S.C. 364, 752 S.E.2d 263 (S.C. 2013).

The Court of Appeals, following up on the language of *Curry*, has held that a defendant must first demonstrate the elements of self-defense. Statutory immunity then requires an additional showing based on the statutory subsections contained in the Protection of Persons and Property Act. *State v. Douglas*, 411 S.C. 307, 318, 768 S.E.2d 232, 238-239 (Ct. App. 2014).

On the other hand, the Supreme Court has left open the question of whether the Protection of Person's and Property Act extends beyond the Castle Doctrine. "The full reach of the Act and whether the statutory provisions in the Act extend beyond the common law Castle Doctrine are questions for another day." *Curry*, 406 S.E.2d at 374, 752 S.E.2d at 267. It is Morgan's legal position that the Act does, in fact, extend beyond the Castle Doctrine. And, while he is entitled to immunity based alternatively on Defense of Vehicle, Stand Your Ground or self-defense, the analysis below will follow the current interpretation espoused in *Douglas*.

Morgan was acting in self-defense. Additionally, Morgan's conduct also falls squarely into the act's immunity provisions for "Defense of Vehicle" and/or "Stand Your Ground."

FACTS

On the night of November 14, 2013, Alphonso Morgan was the backseat passenger in a car belonging to Linwood Ramsey. Thomas Gilchrist occupied the front passenger seat. They were parked at a local bar/club, called "The Cab Stand", to pick up Clifton Robinson. This was Morgan's second time coming to the Cab Stand that night. He had left previously when a group of people, including Jamaal Aiken had come into the club trying to start trouble with him and his

friends. At this time, Morgan told his friend, Clifton Robinson, that he wanted to leave because he didn't want any problems. Morgan then left with all but three of his friends

Ultimately, Aiken's group did, in fact, start several altercations inside the Cab Stand.

The members of the group that started the fight were:

1. Sequeta Spencer
2. Brent Williams
3. Adrenna Morgan
4. Hazel Williams
5. Shanina Nichole Williams
6. Jamal Aiken
7. B/M nicknamed "Ant Man"
8. Travis LNU and
9. Unknown B/M

One of the members of this group, Jamaal Aiken, is the deceased. On this particular night, the Deceased had been drinking. Based on the toxicology of the vitreous fluid, his blood alcohol at the time of the altercation was .119% ng/ml (1.5 x presumption of intoxication). A post mortem urine sample tested positive for marijuana. Aiken was 6 feet 2.5 inches tall and weighed 165 lbs. Aiken was carrying 28 grams of marijuana and a stolen .38 cal. Ruger pistol.

The individuals that were assaulted inside the Cab Stand included Morgan's friends Shay Simon, Clifton Robinson, Demond Brown, and Courtney Lockhart. Shay Simon and Courtney Lockhart were assaulted primarily as a result of attempting to help Demond Brown and Clifton Robinson.

Two older gentlemen, and regulars at the Cab Stand, Earnest McCauley and Tony Thomas, were inside the club during the fight. They observed Demond Brown on the floor being attacked by Brent Williams. While this was happening, someone in the group grabbed Clifton Brown by the shirt and pulled him to the floor. At one point, Clifton Robinson was on the floor being kicked and beaten. McCauley and Thomas eventually began moving Aiken's group

towards the front door to get them outside. This gave Brown the chance to escape out of the back door and Robinson the chance to get up.

Shay Simon and Clifton Robinson each made separate calls Morgan on his cell phone from inside the club. They each told him about being jumped by Aiken's group and Clifton Robinson asked Morgan to please come get him. It was this phone call that brought Morgan back to the Cab Stand in the back of Ramsey's vehicle.

Once Aiken's group was through the threshold of the door, McCauley and Tony Thomas attempted to pull the front door shut so that they could lock the group outside. As McCauley's hands were engaged in getting the door completely shut, Aiken took his pistol and, with the pistol in his fist, hit McCauley on the side of the head.¹ McCauley was able to get the door shut and locked, but later went to the hospital for the blow to his head.

Once the door was pulled shut, McCauley and Tony could hear the group yelling and banging on the other side of the door. McCauley heard the group suddenly go silent. A very short time later, he heard a gunshot.

With one exception, all the witnesses in the parking lot agree on the sequence of events that unfolded after Aiken hit McCauley in the head at the door to the club. While attempting to force their way back into the club, Aiken's group turned their attention to Ramsey's car, and, specifically, to Al Morgan in the back seat. Someone in the group said: "There he goes!" Almost immediately, Aiken left the front door of the club and, with his crew behind him, ran 30-40 feet across the parking lot to Ramsey's car. All witnesses describe Aiken as agitated, "acting a fool", "jumping around" as he approached Ramsey's car. Aiken went straight to the back door and snatched it open. As he bent over and began leaning into the backseat, Morgan moved away

¹ McCauley can only say that he was hit in the head with "something harder than a fist", however, the pistol was the only hard object found on the Deceased.

from Aiken and flattened himself on the seat putting his head as far from Aiken as possible.

Aiken had his body turned slightly and was holding his right hand behind him. He reached into the car with his left hand to hit or grab Morgan. While entering the vehicle, Aiken was heard to say: "What you gonna do now pussy motherfucker?" or words to that affect. As Aiken continued moving into the backseat in a threatening manner, Morgan pulled out a pistol he had been carrying. Knowing what had already happened inside the club, Morgan shot once to protect himself.

The bullet hit Aiken in the front just below his waist-line. And, consistent with his position of being turned slightly to the side and bending over into the backseat of the car, the bullet traveled slightly from left to right and at an angle into Aiken's lower left buttock.

Aiken fell back onto the ground and Ramsey drove Morgan from the scene. Morgan was later picked up by police at Ramsey's home. Aiken passed away some time later.

APPLICABLE LAW

I. SELF-DEFENSE

Morgan is entitled to immunity from prosecution pursuant to the application of the common-law self-defense.

A. Elements

The four elements to self-defense under the common law are as follows:

First, the defendant must be without fault in bringing on the difficulty.

Second, the defendant must have actually believed he was in imminent danger of losing his life or sustaining serious bodily injury, or he actually was in such imminent danger.

Third, if his defense is based upon his belief of imminent danger, a reasonably prudent man of ordinary firmness and courage would have entertained the same belief. If the defendant actually was in imminent danger, the circumstances were such as would warrant a man of ordinary prudence, firmness and courage to strike the fatal blow in order to save himself from serious bodily harm or losing his own life.

Fourth, the defendant had no other probable means of avoiding the danger of losing his own life or sustaining serious bodily injury than to act as he did in this particular instance.

State v. Davis, 284 S.C. 45, 317 S.E.2d 452 (1984).

1. Defendant was not at fault in bringing on the difficulty.

The first element of self-defense is that Morgan was not at fault in bringing on the difficulty. To be denied self-defense, Morgan must have engaged in conduct with the Deceased that constituted a violation of law reasonably calculated to provoke a confrontation. *State v. Bryant*, 336 S.C. 340, 520 S.E.2d 319 (1999).

Morgan's conduct is undisputed. He was sitting in the backseat of his friend's car minding his own business. Morgan was in the back seat of Ramsey's car from the moment he arrived at the Cab Stand until after the Deceased was shot.

The facts in *State v. Dickey*, 394 S.C. 491, 716 S.E.2d 97 (2011), are illustrative:

It is uncontroverted that Boot was highly intoxicated, acted aggressively over the course of the conflict, that he began advancing toward Petitioner quickly with the purpose of assaulting him, that he continued advancing toward Petitioner after Petitioner pulled the gun, and there was great disparity in the physical stature and capabilities of Boot and Petitioner.

Id. at 501, 102.

In contrast, and by way of explaining the type of provocation that would eliminate self-defense, consider *State v. Brown*, 113 S.C. 513, 101 S.E. 847 (1920). In that case, the defendant sought out the decedent at his home because of past difficulties and started a fight. *Id.* at 518, at 848. In *Brown*, the defendant was not entitled to self-defense.

Morgan had virtually no interaction with the Deceased and, therefore, was not at-fault in bringing on the difficulty.

2. Belief in imminent danger or actual danger: Either is sufficient.

The second element of self-defense can be satisfied in one of two ways.

The first alternative is that Morgan believed he was in imminent danger and his belief was reasonable under the circumstances. *State v. Hendrix*, 270 S.C. 653, 657 n.1, 244 S.E.2d 503, 505 n.2 (1978). “As an alternative to showing his belief, the accused may rely upon the circumstances of the case to demonstrate that he actually was in imminent danger of losing his life or suffering serious bodily injury.” *Id.*; *State v. Davis*, 282 S.C. 45, 317 S.E.2d 452 (1984) (Self-defense applies where, inter alia, defendant “actually was in such imminent danger.”)

a. Morgan believed he was in imminent danger of violent physical assault from the Deceased.

Morgan believed he was in imminent danger of violent physical assault from the Deceased. Morgan had left the Cab Stand to avoid being jumped by Aiken’s group. He became aware of the fight that had occurred inside the Cab Stand after he left. Morgan saw the Deceased

walk across the parking lot in a threatening manner and, he could still see the crowd backing up the Deceased at the entrance to the Cab Stand. The implication was clear. Aiken meant to attack Morgan in the car or pull him out so the group could help in the assault.

b. Defendant actually was in imminent danger of violent physical assault from the Deceased and his brother.

Morgan actually was in mortal danger.

In summary, the Deceased was intoxicated. The Deceased's prior acts of violence, both the fight inside and hitting McCauley, involved substantial physical force and resulted in serious bodily injury to his victims. The Deceased was armed with a pistol. The Deceased was acting and speaking in a manner entirely consistent with the fact that he was hell bent on beating Morgan up.

3. Defendant's Belief in imminent danger was reasonable because the Defendant actually was in imminent danger.

The third element of self-defense is that the reasonableness of Morgan's belief in imminent danger or the reasonableness of the assertion of actual danger. Morgan is legally entitled to his perception of the events as they unfolded. *State v. Nichols*, 325 S.C. 111, 481 S.E.2d 118 (1996); *Battle v. State*, 305 S.C. 460, 490 S.E.2d 400 (1991); *State v. Fuller*, 297 S.C. 440, 377 S.E.2d 328, 331 (S.C. 1989); *State v. Rash*, 182 S.C. 42, 48-49, 188 S.E. 435 (1936). Certain facts perceived by Morgan and already discussed in this memorandum have specific support in the case law.

The prior threats from the group with Deceased inside the Cab Stand support reasonableness. "[The Defendant] was entitled to a charge on the relevance of prior difficulties." *State v. Nichols*, 325 S.C. 111, 117, 481 S.E.2d 118, 121 (1997).

The number of people present at the scene would indicate hostile intentions. *State v. Pearson*, 288 N.C. 34, 215 S.E.2d 598, 603 (1975) (number of assailants); *see also*, *State v. Fuller*, 297 S.C. 440, 377 S.E.2d 328 (1989) (defendant entitled to act on appearances). The surprise factor that accompanied the unexpected number of people present would also cause a reasonable person apprehension about the purpose of the encounter. *Id.*

The hostile words and tone used by the individuals present constituted a reasonable apprehension of violence. *See State v. Fuller*, 297 S.C. 440, 377 S.E.2d 328 (1989) (words accompanied by hostile acts may be sufficient to constitute a threat of physical attack).

Particularly significant is the fact that the Deceased did not retreat in the face of Morgan's presentation of his firearm. By displaying the pistol, Morgan manifested a clear indication that he felt threatened. The Deceased ignored this warning. *See, State v. Hendrix*, 270 S.C. 653, 244 S.E.2d 503 (1978) (continuing nature of threat despite action by the defendant).

According to the autopsy report, the Deceased was 31 years of age, 6 feet 1 inch tall, and 165 lbs. Morgan was 35 years old, 5 feet 8 inches tall and weighed approximately 135 lbs. at the time of the incident. The relative size, weight, and age of the individuals objectively puts Morgan at a disadvantage given the close quarters of the back seat. The visible effects of alcohol on the Deceased would also have made it clear that this individual was potentially capable of anything.

The Deceased intention to "confront" Morgan manifested by his approach across the parking lot would constitute an uncommunicated threat that is relevant to the reasonableness of an assertion of actual danger. *State v. Griffin*, 277 S.C. 193, 196, 285 S.E.2d 631, 633 (1981) ("Uncommunicated threats are admissible to show the mental attitude of the deceased and are

relevant in the question of who was probably the aggressor.”); *see also*, *State v. Bellamy*, 293 S.C. 103, 359 S.E.2d 63 (1987).

The Deceased’s physical assault of Morgan, without any provocation, makes the Deceased’s intentions crystal clear. *See*, *State v. Davis*, 282 S.C. 45, 46, 317 S.E.2d 452, 453 (1984) (unprovoked aggression and violence by the assailant threatening defendant is relevant to reasonableness of belief of danger).

In addition, the Court must consider the fact that Morgan is entitled to act on appearances. Morgan did not have to wait for the Deceased to strike first. *State v. Nichols*, 325 S.C. 111, 117, 481 S.E.2d 118, 121 (1997) (Defendant “did not have to wait before acting in self-defense.”); *State v. Rash*, 182 S.C. 42, 50, 188 S.E. 435 (1936) (defendant need not “wait until his assailant gets the drop on him” in order to exercise right of self-defense by use of deadly force); *State v. Sales*, 285 S.C. 113, 328 S.E.2d 619 (1985).

Furthermore, “[t]he defendant was not limited to use the same force and no more than that with which he was threatened. The defendant, if without fault, had the right to use as much force as required for his complete protection from loss of life or serious bodily harm, and could not be limited to the degree or quantity of attacking opposing force.” *State v. Campbell*, 111 S.C. 112, 113, 96 S.E. 543, 544 (1918) (cited approvingly in *Douglas v. State*, 332 S.C. 67, 72, 504 S.E.2d 307, 309 (1998)).

The reasonableness of Morgan’ belief that he was in imminent danger and the reasonableness of the assertion of actual danger are established by the above.

4. Defendant had no duty to retreat.

The fourth element of self-defense, i.e. the duty to retreat, is satisfied by the fact that Morgan had retreated as far as he was able across the back seat of the vehicle. No further retreat was possible.

II. INTRODUCTION TO NEGATIVE AND AFFIRMATIVE STATUTORY REQUIREMENTS OF DEFENSE OF VEHICLE / STAND YOUR GROUND

Both the Defense of Vehicle and the Stand Your Ground immunity have negative requirements that must be met for the application of immunity. In other words, certain facts must not be present for the grant of immunity. In addition, both "Defense of Vehicle" immunity and "Stand Your Ground" immunity have affirmative requirements that must be met for the application of immunity. In other words, certain facts must exist to complete the immunity.

The negative requirements of Defense of Vehicle and Stand Your Ground, (i.e. "not engaged in unlawful activity"), are virtually identical and will be dealt with simultaneously. The affirmative requirements of Defense of Vehicle and Stand Your Ground, however, are different and will be addressed separately.

V. NEGATIVE REQUIREMENTS OF § 440(A) AND §440(C)

Certain facts must not be present in order for the statutory Defense of Vehicle and Stand Your Ground immunities to apply. Section 440(A) and 440(C) are deemed inapplicable if the person using deadly force was engaged in "unlawful activity" at the time of the use of deadly force. *S.C. Code §§ 440(B) and 440(C)*.

A. Al Morgan Lawfully Presented Firearm

There is no evidence that Morgan was engaged in any activity that could be considered "unlawful" at the time of the shooting. *S.C. Code § 16-11-420(B)* states that, "The General Assembly finds it proper for *law-abiding citizens* to protect themselves...from intruders and

attackers without fear of prosecution...for acting in defense of themselves.” *S.C. Code* § 16-11-420(B) (emphasis added). The exclusion of those “engaged in unlawful activity” from the immunity provided by *S.C. Code* § 16-11-440(C) was designed to prevent individuals from asserting this defense while they were actively involved in the furtherance of some type of criminal enterprise.

Clear examples would include shootings that occurred while individuals were involved in a drug transaction or were the participants in a burglary, armed robbery, etc. These examples are far different from the facts of this case.

About the only matter in controversy would be whether Morgan lawfully presented his firearm just before he fired. That determination flows from his right to self-defense. Morgan was authorized under State law to present his firearm once his right to self-defense was triggered.

Lest there be any doubt, the law against pointing and presenting a firearm specifically states that it should not abridge the right to self-defense. *See S.C. Code Ann.* § 16-23-410 (Supp.1996) (“It is unlawful for a person to present or point at another person a loaded or unloaded firearm” but this provision should not be “construed to abridge the right of self-defense.”).

B. Al Morgan Lawfully Possessed Firearm

Al Morgan is not prohibited from possessing a firearm. Even if he was, “[a] person can be acting lawfully, even if he is in unlawful possession of a weapon, if he was entitled to arm himself in self-defense at the time of the shooting.” *State v. Crosby*, 355 S.C. 47, 52, 584 S.E.2d 110, 112 (2003). *State v. Davis*, 309 S.C. 56, 419 S.E.2d 820 (Ct. App. 1992) (Self-defense applies to pointing and presenting when the evidence is presented as to self-defense); *See e.g.*,

Therefore, the only two remaining elements to Defense of Vehicle are: (1) the vehicle is occupied; and (2_a) entry into the vehicle or an attempt to enter /or (2_b) removal of an occupant or attempted removal. Since it would be hard to imagine a scenario where the attempt to remove a vehicle's occupant does not also involve an attempt to enter, this memo will focus on Aiken's attempt or actual entry into the vehicle.

B. Two Remaining Elements: Occupied Vehicle and Entry

The vehicle was occupied.

The only potential fact in controversy is whether the Deceased entered the vehicle or was attempting to enter the vehicle. The testimony as to this issue starts with the fact that the Deceased was the one who snatched open the back door. As stated previously, the Deceased was part of the group of seven that had initially tried to instigate a fight with Morgan before he left the first time. The Deceased had already been involved in multiple assaults inside the Cab Stand. The Deceased had already hit McCauley in the head with a pistol in his hand. The Deceased ran across the parking lot at Morgan. The Deceased opened the back door. The Deceased either was in the back seat or was attempting to get at Morgan in the backseat when he was shot.

Whether it is actual entry or an attempt to enter, the Deceased's actions indicated he was after Morgan in the back seat and did not mean to let anything stand in his way.

As a result, the witnesses confirm that the Deceased was unlawfully and forcefully attempting to enter or had actually entered the occupied vehicle at the time Morgan fired the fatal shot. It is no stretch to say that the crowd gathered behind the Deceased was there to help remove Morgan from the vehicle and to assault him like they had done to Demond Brown and Clifton Robinson inside the Cab Stand.

State v. Goodson, 312 S.C. 278, 280 n.1, 440 S.E.2d 370, 372 n.1 (1994) (citing *State v. Brown*, 205 S.C. 514, 32 S.E.2d 825 (1945)).

As a result, Morgan's possession and presentation of his firearm are both lawful at the moment self-defense is triggered.

IV. AFFIRMATIVE REQUIREMENTS FOR §440(A) IMMUNITY -DEFENSE OF VEHICLE-

A. Statutory Language

In order for §440(A) immunity to apply, certain affirmative requirements must be met.

South Carolina Code §16-11-440(A) states in pertinent part that:

A person is presumed to have a reasonable fear of imminent peril of death or great bodily injury to himself or another person when using deadly force that is intended or likely to cause death or great bodily injury to another person if the person:

(1) against whom the deadly force is used is in the process of unlawfully and forcefully entering, or has unlawfully and forcibly entered a[n] . . . occupied vehicle, or if he removes or is attempting to remove another person against his will from the . . . occupied vehicle; and

(2) . . . knows or has reason to believe that an unlawful and forcible entry or unlawful and forcible act is occurring.

B. Statutory Presumptions

Under Defense of Vehicle, statutory presumptions supply almost all of the traditional elements for using deadly force. Because the Deceased attempted to enter the vehicle, section 16-11-440(A) presumes that Morgan had a reasonable fear of imminent peril of death or great bodily injury. Because the Deceased attempted to enter the vehicle, the Deceased is statutorily presumed to be doing so with the intent to commit an unlawful act involving force. "[A] person who unlawfully and by force enters or attempts to enter a person's . . . occupied vehicle" is "doing so with the intent to commit an unlawful act involving force or a violent crime as defined in Section 16-1-60." *S.C. Code* § 16-11-440(D).

**V. AFFIRMATIVE REQUIREMENTS FOR §440(C) IMMUNITY
-STAND YOUR GROUND-**

A. Statutory Language

In order for §440(C) immunity to apply, certain affirmative requirements must be met.

South Carolina Code § 16-11-440(C) states in pertinent part:

A person who . . . is attacked in another place where he has a right to be . . . has no duty to retreat and has the right to stand his ground and meet force with force, including deadly force, if he reasonably believes it is necessary to . . . prevent the commission of a violent crime as defined in Section 16-1-60.

Therefore, Stand Your Ground immunity is available to a Defendant who: (1) is attacked; (2) while legally occupying his space; and (3) reasonably believes the commission of a violent crime is occurring or about to occur.

B. Morgan Was Physically Attacked

The plain meaning of the word “attack” means “to move against with more or less violent intent, implying aggressiveness in any sense and the initiative in the onset.” *Webster's Third New Int'l Dictionary* at p. 140 (1971); *see also, Lewellin on Behalf of Heirs of Lewellin v. Huber*, 465 N.W.2d 62, 64 (Minn. 1991) (approving this definition as applicable to Minnesota dog-bite statute). Another useful definition of “attack” is “to launch a physical assault (against) with or without weapons; begin hostilities (with)”. *WordReference.com Dictionaries*, www.wordreference.com/definition/attack (2013). The definition of “attack” is “to launch a physical assault (against) with or without weapons; begin hostilities (with)”.

Based on the Deceased's previous altercations recited above, there is sufficient evidence to show that the Deceased was moving against Morgan with violent intent. During the moments prior to the fatal shots, the Deceased told Morgan: “What the fuck you gonna do now nigga?” A clear threat showing he meant Morgan harm.

C. Al Morgan Lawfully Occupied Area Where He Was Attacked

At the time prior to the fatal shot and at the moment of the fatal shot, Morgan had a right to be in the back seat of Ramsey's vehicle. All parties agree Morgan never left the interior of the back seat of Ramsey's vehicle.

D. Morgan Held A Reasonable Belief Deadly Force Was Necessary To Prevent A Violent Crime.

Once again, the statutory presumption that is applicable in Section 16-11-440(D) provides the necessary showing for this element. "[A] person who unlawfully and by force enters or attempts to enter a person's . . . occupied vehicle" is "doing so with the intent to commit an unlawful act involving force or a violent crime as defined in Section 16-1-60." S.C. Code § 16-11-440(D).

Having established that the Deceased was trying to and/or actually entering the vehicle unlawfully and by force, the Deceased's intent is presumed to be "with the intent to commit an unlawful act involving force or a violent crime as defined in Section 16-1-60." S.C. Code § 16-11-440(D).

Even if this presumption were not applicable, the Deceased's intent to remove Morgan from the vehicle is clear from his past actions. The Deceased wanted to get to Morgan so that he and his group could beat Morgan at least as bad as they had Demond Brown and Clifton Robinson. The fact that the Deceased was armed with a pistol implicates the following violent felonies: Kidnapping (16-3-910); ABHAN (16-3-600(B)) and Assault by Mob 1st Degree (16-3-210(B)).

Based on the Deceased's intoxication, threats of violence, and prior physical altercations, Morgan had a reasonable belief that deadly force was necessary to prevent a violent

crime. As such, Morgan was well within his statutory right to stand his ground and meet force with force.

CONCLUSION

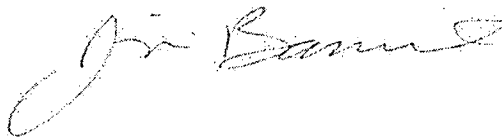
Morgan is entitled to immunity pursuant to provisions of S.C. Code § 16-11-450(A).

First, Morgan's right to self-defense was triggered when he was attacked in the backseat of a vehicle by a man armed with a pistol. Because he was not engaged in unlawful conduct, and the Deceased was attempting to enter the vehicle, Morgan satisfies the requirements of "Defense of Vehicle" and "Stand Your Ground" immunity in S.C. Code § 16-11-440(A) and (C).

WHEREFORE, Morgan seeks an Order from the Court granting the Defendant, Alfonso Morgan, immunity from prosecution and civil suit pursuant to S.C. Code § 16-11-450(A).

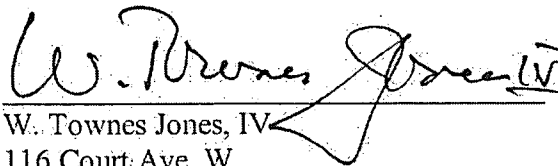
Morgan also seeks an Order from the Court dismissing with prejudice Greenwood County Indictment Nos. 2013A2420101159; -60.

BANNISTER, WYATT & STALVEY, L.L.C.



James W. Bannister
P.O. Box 10007
Greenville, SC 29603
Ph: (864) 298-0084
Fax: (864) 298-0146

-and-



W. Townes Jones, IV
116 Court Ave. W.
Greenwood, SC 29646

ATTORNEYS FOR THE DEFENDANT

February 1, 2016

RECEIVED

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

FEB 16 2016

SC Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Court of General Sessions

Eugene C. Griffith, Jr., Circuit Court Judge

Case No.: 2015GS2400728

2016 FEB 10 PM 3:44

FILED GENERAL SESSIONS
8th JUDICIAL CIRCUIT
GREENWOOD, SC

The State, ... Respondent.

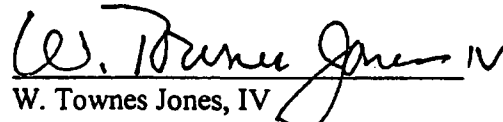
v.

Alphonso Morgan, Jr. Appellant.

NOTICE OF APPEAL

Alphonso Morgan, Jr. appeals: 1) the ruling issued on February 3, 2016 denying statutory immunity, pursuant to SC Code §16-11-450 of the South Carolina Code of Laws, 1976, as amended; and 2) the guilty plea entered on February 5, 2016. This appeal is taken from the ruling of the Honorable Eugene C. Griffith, Jr. dated February 3, 2016, which denied appellant's motion for immunity from prosecution pursuant to Section 16-11-450 of the South Carolina Code of Laws, 1976, as amended. Appellant received notice of entry of this order on February 3, 2016.

February 10, 2016


W. Townes Jones, IV
116 Court Ave. W.
Greenwood, SC 29646

Other Counsel of Record:
David Stumbo
Solicitor for the 8th Judicial Circuit
P.O. Box 516
Greenwood, SC 29648
864-942-8802
Attorney for Respondent

And

James W. Bannister
Bannister, Wyatt & Stalvey, LLC
P.O. Box 10007
Greenville, SC 29603
Attorneys for Appellant

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

FEB 16 2016
SC Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Court of General Sessions

Eugene C. Griffith, Jr., Circuit Court Judge

Case No.: 2015GS2400728

FILED GENERAL SESSIONS
8th JUDICIAL CIRCUIT
GREENWOOD, SC
2016 FEB 10 PM 3:44

The State, ... Respondent.
v.
Alphonso Morgan, Jr. Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on David Stumbo by depositing a copy of it in the United States Mail, postage prepaid, on February 10, 2016, addressed to David Stumbo, 8th Circuit Solicitor's Office, P.O. Box 516, Greenwood, South Carolina, 29648.

February 10, 2016

W. Townes Jones IV
W. Townes Jones, IV
116 Court Ave. W.
Greenwood, SC 29646

And

James W. Bannister
Bannister, Wyatt & Stalvey, LLC
P.O. Box 10007
Greenville, SC 29603
Attorneys for Appellant

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Court of General Sessions

Eugene C. Griffith, Jr., Circuit Court Judge

Case No.: 2015GS2400728

RECEIVED

MAR 01 2016

R SC Court of Appeals

MAR 1 2016

SC OFFICE OF
APPELLATE DEFENSE

The State, ... Respondent.

v.

Alphonso Morgan, Jr. Appellant.

**SUPPLEMENTAL STATEMENT OF APPELLATE DEFENSE
PURSUANT TO RULE 203(d)(1)(B)(iv)**

Appellant was granted an immunity hearing pursuant to the Protection of Persons and Property Act. The hearing was held between February 1, 2016 and February 3, 2016. Immunity was denied on February 3, 2016. Appellant pled guilty to a reduced charge on February 5, 2016. Counsel W. Townes Jones, IV, filed this appeal, and correctly informed this Court that appellant has an issue arising from his immunity hearing. In addition, Appellate Defense is aware of this appeal and, ultimately, will be handling the matter.

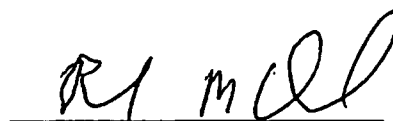
The Assigned Appellate Defender will argue that Appellant Morgan was entitled to immunity under S.C. Code § 16-11-440(A) and (C) as argued by trial counsel at the pre-trial immunity hearing. Undersigned counsel understands the testimony was virtually undisputed that appellant was attacked inside of the backseat of the vehicle. The Defendant's assertion of immunity under 440(A) had significant evidentiary support for each element. Proof of self-defense by a preponderance of the evidence, on the other hand, was made difficult by deficiencies in the investigation. In other words, the Defendant had the necessary proof under S.C. Code § 16-11-440(A) and (C), but the elements of self-defense were more difficult.

In *State v. Duncan*, 392 S.C. 404, 410, 709 S.E.2d 662, 665 ((2011), the Supreme Court held that "by using the words 'immune from criminal prosecution,' the legislature intended to create a **true immunity**, and not simply an affirmative defense." Appellant's position is that he was immune from further prosecution after the immunity hearing. Therefore, any proceeding subsequent to the immunity hearing, including the guilty plea, was *void ab initio*.

WHEREFORE, an appeal should be permitted to allow full briefing on these important legal immunity from prosecution arguments.

Respectfully submitted:

March 1, 2016



ROBERT M. DUDEK
Chief Appellate Defender

Other Counsel of Record:

W. Townes Jones, IV
116 Court Ave. W.
Greenwood, SC 29646

And

David Stumbo
Solicitor for the 8th Judicial Circuit
P.O. Box 516
Greenwood, SC 29648
864-942-8802
Attorney for Respondent

James W. Bannister
Bannister, Wyatt & Stalvey, LLC
P.O. Box 10007
Greenville, SC 29603
Attorneys for Appellant

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenwood County
Eugene C. Griffith, Jr., Circuit Court Judge

RECEIVED

MAR 01 2016

SC Court of Appeals

THE STATE,

RESPONDENT,

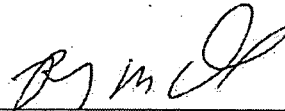
V.

ALPHONSO MORGAN, JR.,

APPELLANT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Supplemental Statement of Appellate Defense Pursuant to Rule 203(d)(1)(B)(iv) in the above referenced case has been served upon Donald J. Zelenka, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 and David Matthew Stumbo, at Eighth Circuit Solicitor's Office, PO Box 516, Greenwood, SC 29648, this 1st day of March, 2016.



Robert M. Dudek

Chief Appellate Defender

ATTORNEY FOR APPELLANT.

SUBSCRIBED AND SWORN TO before me
this 1st day of March, 2016.



(L.S.)

Notary Public for South Carolina
My Commission Expires: July 3, 2023.

CC: W. Townes Jones, IV, Esquire
James W. Bannister, Esquire
Alphonso Morgan, Jr, 257372

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenwood County
Honorable Eugene C. Griffith, Jr., Circuit Court Judge
Appellate Case No. 2016-000269

RECEIVED

MAR 03 2016

SC Court of Appeals

THE STATE,

Respondent,

vs.

ALPHONSO MORGAN, JR.,

Appellant.

**RESPONSE TO APPELLANT'S SUPPLEMENTAL STATEMENT
OF APPELLATE DEFENSE PURSUANT
TO RULE 203(d)(1)(B)(iv)**

Respondent ("the State"), through its undersigned counsel, would respectfully show unto the Court as follows:

I.

In November of 2013, Appellant Alphonso Morgan, Jr. was arrested following an investigation into a shooting that resulted in a death. In May of 2015, the Greenwood County Grand Jury indicted Appellant for one count of murder. Prior to trial, Appellant sought immunity from criminal prosecution pursuant to S.C. Code Ann. § 16-11-450, and a hearing on the immunity issue was commenced in the Greenwood County Court of General Sessions in February of 2016 with the Honorable Eugene C. Griffith, Jr., circuit court judge, presiding. At the conclusion of the hearing, Judge Griffith denied Appellant's request for immunity.

Thereafter, on February 5, 2016, Appellant entered a guilty plea to the lesser offense of voluntary manslaughter. Appellant then filed a timely notice of appeal.

II.

On February 17, 2016, this Court sent a letter to Appellant requesting a written explanation demonstrating an issue exists that can properly be reviewed on appeal in light of the fact Appellant entered a guilty plea. Thereafter, on March 1, 2016, Appellant filed a supplemental statement of appellate defense pursuant to Rule 203(d)(1)(B)(iv), SCACR. In his supplemental statement, Appellant acknowledged he entered a guilty plea following the denial of his pre-trial request for immunity from prosecution. Nonetheless, Appellant contends his guilty plea was void ab initio based on his claim of immunity from prosecution and, for that reason, maintains his appeal should be permitted despite the fact he pled guilty subsequent to the issuance of the pre-trial ruling he is now seeking to challenge on appeal.

III.

As our Supreme Court has stated, “[a] plea of guilty is a confession of guilt, made in a formal manner and has the same effect in law as a verdict of guilty and authorizes the imposition of the punishment prescribed by law.” Sanders v. Leake, 254 S.C. 444, 447, 175 S.E.2d 796, 797 (1970); see Boykin v. Alabama, 395 U.S. 238, 242 (1969) (“A plea of guilty is more than a confession which admits that the accused did various acts; it is itself a conviction; nothing remains but to give judgment and determine punishment.”). Significantly, a knowing and voluntary guilty plea has been recognized in our state to constitute a waiver of all non-jurisdictional defects and defenses, including claims of constitutional violations.¹ State v.

¹ Notably, guilty pleas in South Carolina cannot be conditioned to preserve potential defenses for appellate review. See In re Johnny Lee W., 371 S.C. 217, 220, 638 S.E.2d 682, 684 (2006) (“A trial court may not accept a conditional guilty plea.”); see also State v. Truesdale, 278 S.C. 368, 370, 296 S.E.2d 528, 529 (1982) (“Pleas of guilty are unconditional, and if an accused attempts to attach any condition or qualification thereto, the trial court

Snowdon, 371 S.C. 331, 333, 638 S.E.2d 91, 92 (Ct. App. 2006); see Rivers v. Strickland, 264 S.C. 121, 124, 213 S.E.2d 97, 98 (1975) (finding entry of a guilty plea generally constitutes a waiver of non-jurisdictional defects and defenses). Thus, by entering a guilty plea, a criminal defendant in South Carolina admits all the elements of the charged offense, waives any defenses that defendant may have had, and leaves only issues related to the sufficiency of the indictment open for review. State v. Thomason, 341 S.C. 524, 526, 534 S.E.2d 708, 710 (Ct. App. 2000).

IV.

In the case sub judice, Appellant admittedly and without contest pled guilty following the denial of his pre-trial motion seeking immunity from prosecution. By doing so, Appellant admitted his guilt for the crime of voluntary manslaughter and waived any defenses he may have had, including his claim of immunity from prosecution. See Snowdon, 371 S.C. at 333, 638 S.E.2d at 92 ("Generally, a knowing and voluntary guilty plea waives all non-jurisdictional defects and defenses, including claims of constitutional violations. . . . Having pled guilty to breach of peace, Snowdon has waived any objection he may have had, and cannot, therefore, assert constitutionally based violations attendant to his initial arrest and the legal consequences flowing therefrom."). As a result, there is no legal basis upon which Appellant can pursue an appeal in his case, and he has failed to identify any authority in his supplemental statement to this Court that would permit his appeal to go forward under the circumstances. See Rule 203 (d)(1)(B)(iv), SCACR ("If the appeal is from a guilty plea, an Alford plea or a plea of nolo contendere, a written explanation showing that there is an issue which can be reviewed on appeal. This explanation should identify the issue(s) to be raised on appeal and the factual basis for the issue(s) including how the issue(s) was raised below and the ruling of the lower court on

should direct a plea of not guilty. The basis for this rule is, of course, the settled doctrine that a guilty plea constitutes *waiver* of all prior claims of constitutional rights or deprivations thereof." (citations omitted))

that issue(s). If an issue was not raised to and ruled on by the lower court, the explanation shall include argument and citation to legal authority showing how this issue can be reviewed on appeal. **If the appellant fails to make a sufficient showing, the notice of appeal may be dismissed.**" (emphasis added and footnote omitted)). Accordingly, Appellant's notice of appeal should be dismissed.

WHEREFORE, Respondent prays that this Court will dismiss Appellant's notice of appeal seeking to appeal the denial of a pre-trial ruling after Appellant subsequently entered a guilty plea; and grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

MARK R. FARTHING
Assistant Attorney General

By: 

Mark R. Farthing

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

March 3, 2016

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenwood County
Honorable Eugene C. Griffith, Jr., Circuit Court Judge
Appellate Case No. 2016-000269

RECEIVED
MAR 03 2016
SC Court of Appeals

THE STATE,

Respondent,

vs.

ALPHONSO MORGAN, JR.,

Appellant.

PROOF OF SERVICE

I, Anne A. Mueller, certify that I have served the within Response to Appellant's Supplemental Statement of Appellate Defense Pursuant to Rule 203(d)(1)(B)(iv) on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

W. Townes Jones, IV, Esquire
116 Court Ave. W.
Greenwood, SC 29646

James W. Bannister, Esquire
Bannister, Wyatt & Stalvey, LLC
Post Office Box 10007
Greenwood, SC 29603

Robert M. Dudek, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

I further certify that all parties required by Rule to be served have been served.
This 3rd day of March, 2016.



ANNE A. MUELLER
Legal Assistant
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211

COUNTY OF Greenwood
 STATE VS.
Alphonso Morgan Jr.

AKA: _____
 Race: _____ Sex: M Age: 37
 DOB: 1978 SS#:
 Address:
 City, State, Zip:
 DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO: Voluntary Manslaughter; 2 - 30 years

INDICTMENT/CASE#: 15GS24-0728

A/W#: 2015D2400100008

Date of Offense: 11/14/2013

S.C. Code §: 16-03-0010

CDR Code #: 0116

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0050 of the S.C. Code of Laws; bearing CDR Code # 0217

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Brown, C. Yates 78607 Defendant W. Ramsey Jr. 3216
 SC Bar# SC Bar# Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 25 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ 1000.00; provided that upon the service of 12.5 days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 36

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 812 days

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def/Prob)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCCJA Surcharge)	\$5
3% to County (if paid in installments)	\$ 3.90
TOTAL	\$ 133.90

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
 § 47.12 requires \$500 be paid to Clerk
 during probation.

Clerk of Court/ Deputy Clerk

Court Reporter: Joy Holston

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2154

Sentence Date: 2-5-16

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

INDICTMENT FOR

MURDER
§ 16-03-0010

At a Court of General Sessions, convened on the 8th day of May, 2015, the Grand Jurors of Greenwood County present upon their oath:

That Alphonso Morgan Jr., on or about November 14, 2013, in Greenwood County, willfully, feloniously, and with malice aforethought kill one Jamal Anton Aiken by means of shooting and that the said Jamal Anton Aiken did die in Greenwood County as a proximate result thereof on or about November 15, 2013, in violation of Section 16-3-10 of the South Carolina Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.



Assistant Solicitor

WITNESSES

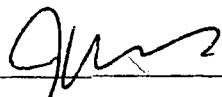
Jeremy Adams
Greenwood Police Department

WARRANT NUMBER

DIRECT INDICTMENT

2015D2400100008

True Bill



Foreman of the Grand Jury

Date:

5/8/15

VERDICT

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

COURT OF GENERAL SESSIONS

May Term, 2015

Indictment # 15GS24-

0728

THE STATE

vs.

Alphonso Morgan Jr.

INDICTMENT FOR

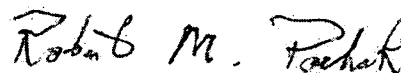
MURDER
§ 16-03-0010

CDR: 0116

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Robert M. Pachak
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

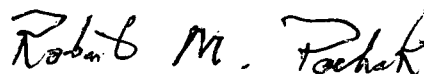
ATTORNEY FOR APPELLANT

This 18th day of May, 2017.

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Robert M. Pachak
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 18th day of May, 2017.

RECEIVED
MAY 18 2017
SC Court of Appeals