

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Williamsburg County

Honorable R. Knox McMahon, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TERRY WILLIAMS,

APPELLANT

APPELLATE CASE NO 2015-001727

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA)
COUNTY OF WILLIAMSBURG) COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA)

STATE,)

TRANSCRIPT OF RECORD
14-GS-45-0001

v.)

TERRY WILLIAMS,)

DEFENDANT.)

July 27, 2015
Kingstree, South Carolina

B E F O R E :

THE HONORABLE R. KNOX MCMAHON, JUDGE;
AND JURY

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1 THE COURT: All right, Solicitor.

2 MS. BARR: May it please the Court, Your
3 Honor, the first matter before you is the State of
4 South Carolina versus Terry Williams. This is
5 indictment number 2014-GS-45-1. We are here before
6 the Court pursuant to the Defense's motion under
7 State versus Duncan, and Shaun Kent is here on
8 behalf of the defendant Terry Williams. Judge, I'll
9 turn the matter over to defense counsel at this
10 time.

11 THE COURT: All right, thank you. Thank
12 you, Solicitor.

13 Mr. Kent.

14 MR. KENT: Thank you, Your Honor. May it
15 please the Court, just housekeeping for the record,
16 as the Solicitor properly stated this is a murder
17 case. Sitting with me during this trial will be
18 Ryan Schwartz of the Charleston County bar. He'll
19 be assisting in doing the line share of this hearing
20 today. We represent Terry Williams in the case,
21 Your Honor, this extreme line process just for the
22 record we'll be bringing immunity hearing pursuant
23 to code section 16-11-450. As the Court is aware,
24 that code section has several parts; however, to
25 streamline, we will only be arguing one part; that

1 will be subsection C of that statute. Specifically,
2 for the record, a person who is not engaged in
3 unlawful activity and who is attacked in another
4 place where he has a right to be including but not
5 limiting to his place of business, has no duty to
6 retreat and has a right to stand his ground and meet
7 force with force, including deadly force, if he
8 reasonably believes it is necessary for death or
9 great bodily injury between himself or another
10 person or to prevent commission of a violent crime
11 as defined in the section 16-1-60.

12 Your Honor, I anticipate during the course
13 of this hearing on behalf of Mr. Williams we will be
14 calling further witnesses. The four witnesses would
15 include one as housekeeping to set the scene as what
16 happened will be Juan Ballard, investigator from
17 Kingstree Police Department, Williamsburg County
18 Sheriff's Department. I apologize, two would be one
19 of the witnesses who were out there that day, Reva
20 McFadden, three additional witnesses who
21 tangentially saw what happened however did not
22 specifically witness the shooting, Tabitha Greene.
23 And at the conclusion I will be calling my client
24 Terry Williams for the limited purpose of testifying
25 during the course of the hearing.

J. BALLARD - DUNCAN HEARING

1 By way of background, Your Honor, this
2 occurred in 2013 November 10 of the date, correct?
3 This is a shooting that occurred outside of a bar
4 located here in town. I'll let Investigator Ballard
5 specifically go through and set the scene as to what
6 happened at that point in time. And so for the
7 purpose of the hearing that will be the first
8 witness that I would call, Your Honor.

9 THE COURT: All right, thank you. Thank
10 you very much, Mr. Kent. Mr. Kent, Ms. Barr, you
11 may call your first witness.

12 MR. KENT: Your Honor, at this point in
13 time I understand the burden will be on the Defense.
14 We will call Juan Ballard to the stand.

15 THE COURT: If you'd come around Deputy
16 Ballard to be sworn.

17 WHEREUPON,

18 **JUAN BALLARD,**
19 having been duly sworn by the Clerk, testified
20 as follows:

21 THE CLERK: You may take a seat in the
22 witness stand.

DIRECT EXAMINATION

24 BY MR. KENT:

25 Q Investigator Ballard, if you'll state your name

J. BALLARD - DUNCAN HEARING

1 for the record and spell your last name for the
2 court reporter please.

3 A Juan Ballard, B-A-L-L-A-R-D.

4 Q Okay. And as you understand, the purpose of this
5 hearing, there's no jury, so let me somewhat inform
6 you and I just want you to explain just to the judge
7 when I ask you questions.

8 A Yes, sir.

9 Q You understand? Still understanding that, madam
10 court reporter is taking down every word that you're
11 saying so make sure there's no head nods or shakes,
12 or things of that nature. Make sure everything is
13 answered in the affirmative or negative or yes or
14 no.

15 A All right.

16 Q Do you understand?

17 A Yeah.

18 Q And if there's any question that I don't state
19 clearly -- and I will speak very fast -- you can ask
20 me to repeat my question, okay?

21 A I got you.

22 Q And I'll try to slow down as much as much as I
23 can.

24 Q For the Court, understanding that the judge was
25 not out there that day, can you paint the scene,

J. BALLARD - DUNCAN HEARING

1 describe where this occurred, where this happened in
2 Williamsburg County?

3 A Well, Your Honor, this incident took place on
4 November 13, November 10 to be exact. I happened at
5 a little club called Viola's in the Greeleyville
6 section of Williamsburg County right parallel of the
7 railroad tracks. Actually, you access it down a
8 dirt road around a curve, and you had a mobile home
9 on the left and then a block building known as
10 Violas. I responded to the house initially; but
11 when I responded to the scene, from what I was told,
12 what happened was there was a brief altercation --
13 well, exchange of words between the victim and the
14 suspect, Ms. McFadden, Reva McFadden, advised that
15 when the victim went outside and ---

16 Q Mr. Ballard, I'm gonna stop you there, and I
17 don't mean to interrupt you. Ms. McFadden, she'll
18 be allowed to come and testify to her point of view.
19 Just paint the scene, was it day time or nighttime
20 when this occurred?

21 A It was ten minutes after 12 when the incident
22 took place, 12 midnight.

23 Q 12 midnight. As far as witnesses occurred, how
24 many potential witnesses were out there for
25 interview, talk to law enforcement?

J. BALLARD - DUNCAN HEARING

1 A One.

2 Q One. And the one witness who interviewed was
3 talked to law enforcement will be who?

4 A That actually witnessed the actual shooting?

5 Q Yeah.

6 A Reva McFadden, one.

7 Q And she gave y'all a specific statement?

8 A She did.

9 Q And if I'm not mistaken we had a preliminary
10 hearing which I asked you questions and that was
11 your response to the question, there was only one
12 witness to the actual shooting and that would be
13 Reva McFadden?

14 A Correct.

15 Q Okay. The relations of the party, could you
16 explain to the Court how everybody is related to
17 enter relation of everybody who was involved in this
18 case, meaning the defendant, the victim, and Ms.
19 McFadden?

20 A The defendant, Mr. Terry Williams, was the
21 estranged husband of Reva McFadden. The victim Mr.
22 Larry Moore, Jr., was the boyfriend of Reva
23 McFadden. She was dating the victim at the time.

24 Q And so to make sure I understand the scene
25 correctly, this happened at about 12:10?

J. BALLARD - DUNCAN HEARING

1 A About 12:10.

2 Q Tell me about the scene out there when you went
3 out there. Is it a well lit area, is it a dark
4 area, were there any lights out there?

5 A It's one street, it's a street lamp.

6 Q Yes, sir.

7 A Appears to be from the power company, one of the
8 big bright night light out there.

9 Q When you went out there was it dark out there?
10 And if you don't remember don't let me put words in
11 your mouth.

12 A No, sir, I didn't go to the scene. Investigator
13 Whack processed the scene. I went straight to the
14 hospital from the hospital straight to trying to
15 locate Mr. Williams. I didn't go out till next
16 morning, the first thing next morning.

17 Q When was Mr. Williams subsequently finally
18 located, or did he turn himself in?

19 A He turned himself in the next day, probably about
20 I think about 4:00 the next day.

21 Q 4:00 the next day?

22 A Yes, sir, with our attorney.

23 Q With an attorney?

24 A Yes, sir.

25 Q Wasn't he who turned children?

J. BALLARD - DUNCAN HEARING

1 A He came in with Mr. Sam Floyd.

2 Q Okay. And again, just stating, the only
3 statement, did you get a statement from the
4 defendant in this situation?

5 A No.

6 Q No. So the only statement that we have inside of
7 the case would be the statement that you got from
8 Reva McFadden?

9 A That particular, yeah.

10 Q Okay. Was Reva McFadden, again, I know this --
11 well, I'm not gonna get into this. That would be
12 all the questions I have. Answer any questions from
13 the State of South Carolina.

14 THE COURT: All right, Solicitor.

15 **CROSS-EXAMINATION**

16 BY MS. BARR:

17 Q Investigator Ballard, just a couple of
18 preliminary questions, if I may. You indicated that
19 the defendant turned himself in at approximately
20 4 p.m. later that day. I guess, in other words, the
21 shooting would have happened shortly after midnight;
22 is that correct?

23 A Yeah, sort of later in the day.

24 Q So 4 p.m. would have been later on that day, not
25 the following day, correct?

J. BALLARD - DUNCAN HEARING

1 A Correct.

2 Q It would be about 4 p.m. on November 10th of
3 2013; is that correct?

4 A Correct?

5 Q Now that leaves a window of about 16 hours if my
6 math is right?

7 A Correct.

8 Q Between the time of the shooting and the time the
9 defendant turned himself in; is that correct?

10 A Correct.

11 Q And you all were looking for him; weren't you?

12 A Yes, ma'am.

13 Q And in fact, you all had contacted his sister,
14 correct?

15 A Yes, ma'am.

16 Q You contacted his -- tried to go contact his
17 momma; is that right?

18 A We went by the house, yes, ma'am.

19 Q And you told them that you were looking for
20 Terry, correct?

21 A Yes, ma'am.

22 Q And you were looking for Terry based upon your
23 conversation that you had with Reva McFadden?

24 A Yes, ma'am.

25 Q That's Ms. McFadden seated there in the black; is

J. BALLARD - DUNCAN HEARING

1 that correct?

2 A It is, yes, ma'am.

3 Q Now you went to the hospital?

4 A I did.

5 Q Okay. And Ms. McFadden was at the hospital
6 Williamsburg Regional Hospital being treated?

7 A She was.

8 Q Did she sustain an injury during this shooting?

9 A She sustained a minor injury to her right foot.
10 It was not even categorized as a flesh wound.

11 Q And of course, we know that the deceased Larry
12 Moore sustained a fatal injury, correct?

13 A He did.

14 Q All right. Now we're dealing with a homicide,
15 wouldn't it be your normal practice to collect any
16 items belonging to the victim once -- and I'm
17 assuming he's pronounced dead at the scene, at the
18 hospital scene, the victim?

19 A Shortly after arrival.

20 Q All right. It would be your normal practice to
21 collect any clothing or any personal items from a
22 victim of a shooting; is that correct?

23 A That is correct.

24 Q As a part of collecting the clothing items from
25 the victim Larry Moore at the time of the shooting,

J. BALLARD - DUNCAN HEARING

1 did you recover any handguns or any weapons of any
2 type?

3 A No.

4 Q Okay. Now you also, your agency participated in
5 issuing a search warrant of the vehicle in which the
6 victim was a passenger; is that correct? Reva
7 McFadden's vehicle, in other words?

8 A Yes, we did.

9 Q Because Reva is the individual who drove the
10 victim to the hospital; is that correct?

11 A She did.

12 Q All right. And members of the Sheriff's
13 Department took photographs of Ms. McFadden's
14 vehicle?

15 A We did.

16 Q No weapon was recovered from that vehicle, was
17 there?

18 A No, ma'am.

19 Q And subsequently, tell me, you were able to
20 actually find Terry Williams' vehicle, correct?

21 A It was found the next morning.

22 Q Okay. Where?

23 A It was behind a residence in the Salters area.

24 Q Okay. Was behind a residence?

25 A It was. To my understanding it was jam up behind

J. BALLARD - DUNCAN HEARING

1 the house and the residents didn't know the vehicle
2 was back there.

3 Q And the residence belonged to a relative of
4 Mr. Williams; didn't it?

5 A That part I'm not sure.

6 Q Okay. Now got a search warrant for that
7 particular vehicle as well, correct?

8 A We did.

9 Q All right. No weapon was ever found, correct?

10 A No, ma'am.

11 Q To this day no weapon has ever been recovered,
12 correct?

13 A No, ma'am.

14 MS. BARR: Beg the Court's indulgence.

15 THE COURT: Yes, ma'am.

16 BY MS. BARR:

17 Q The location, Celestine, it's kind of like a
18 night spot, nightclub; is that correct?

19 A Yes, ma'am.

20 Q All right. And you actually went out to the
21 scene?

22 A I did the next morning, well, earlier that
23 morning.

24 Q All right. And you could still see blood on the
25 ground. You went out there the next morning, or

J. BALLARD - DUNCAN HEARING

1 earlier that same morning, correct?

2 A Yes, ma'am.

3 Q It was pretty bloody scene outside where the
4 shooting happened, you agree with me?

5 A It was.

6 Q Okay, all right. Now let me mark this as an
7 exhibit.

8 (Court's Exhibits Numbers 1 and 2 were
9 marked and made a part of the record.)

10 BY MS. BARR:

11 Q I'm going to hand you what's marked for
12 identification purposes only 1 and 2. Are those
13 photographs depicting the defendant and the clothing
14 that he was wearing at the time he turned himself in
15 to Williamsburg County Sheriff's Office?

16 A It is.

17 Q Did he appear to be injured in any way?

18 A No, ma'am.

19 Q All right. Did it appear -- I notice he has on
20 black sneakers; is that correct?

21 A Correct.

22 Q There appears to be a white sole to those
23 sneakers; is that correct?

24 A Correct.

25 Q Does it appear to be any red marks on those

J. BALLARD - DUNCAN HEARING

1 sneakers that would be indicative of blood based on
2 what you see in the picture?

3 A Oh, no, ma'am.

4 Q Now you told me that you all photographed the
5 defendant's vehicle, didn't find any bullet holes or
6 anything in that vehicle, or did you?

7 A No, ma'am.

8 Q Now we have intermittently used the word Violas
9 and Celestines. Are we talking about the same
10 place?

11 A It's the same place, I apologize. It's the same
12 place.

13 Q Violas is what it used to be called?

14 A The original name, yes, ma'am.

15 Q And then somebody else took it over and renamed
16 it Celestines, right?

17 A I think it's her daughter; I'm not sure.

18 Q But again, the same place, correct?

19 A The same exact place.

20 Q That place serves alcohol?

21 A Yes, ma'am.

22 Q Okay. That's all the questions I have, sir.

23 Thank you.

24 THE COURT: Thank you.

25 Redirect, Mr. Kent?

1 MR. KENT: No, Your Honor. No further
2 questions of this witness.

3 THE COURT: Thank you very much,
4 Detective. You may step down.

5 MR. KENT: Beg the Court's indulgence one
6 moment, Your Honor. I need to ask the Solicitor one
7 question.

8 THE COURT: Okay.

9 (Pause.)

10 THE COURT: All right.

11 MS. BARR: Judge, if we can go on the
12 record regarding one matter just so the testimony is
13 clear. The investigating officer Juan Ballard in
14 hindsight confused a certain part of this case with
15 a part of another case. It was not this attorney
16 that accompanied Mr. Williams when he turned him in;
17 it was his brother and sister. He was confused just
18 as that portion of the facts of the case, it's
19 another portion. So I wanted to correct the record
20 to reflect that the defendant was turned in along
21 with his brother and sister, rather than attorney
22 Sam Floyd.

23 THE COURT: All right. Is that correct,
24 Mr. Kent?

25 MR. KENT: That is correct from my

1 understanding. And Your Honor, just candidly for
2 the record to make sure it was clear at that point
3 in time I was going to call Elizabeth Brewster, his
4 sister, in here in the courtroom would testify
5 separately, distinctly, and differently.

6 THE COURT: Turned himself in with he,
7 Mr. Williams' own brother, and he, Mr. Williams'
8 sister.

9 MR. KENT: It was just his sister
10 Elizabeth and she'll testify.

11 THE COURT: Just his sister and what?

12 MR. KENT: Just Elizabeth, I will have her
13 testify.

14 THE COURT: Not the brother?

15 MR. KENT: No, Your Honor.

16 THE COURT: All right.

17 MR. KENT: Your Honor, at this point in
18 time the second witness we'll be calling for
19 purposes of this Duncan hearing will be Reva
20 McFadden.

21 THE COURT: Ms. McFadden, if you will come
22 around please and be sworn.

23 THE CLERK: Place your left hand on the
24 Bible, raise your right hand.

25 WHEREUPON,

R. MCFADDEN - DUNCAN HEARING

1 **REVA MCFADDEN,**
2 having been duly sworn by the Clerk, testified
3 as follows:

4 THE CLERK: Come around to the witness
5 box.

6 **DIRECT EXAMINATION**

7 BY MR. KENT:

8 Q Ms. McFadden, you were just in here when I was
9 just asking questions of Mr. Ballard, and we're just
10 gonna go through the same admonitions as I just did
11 through with him. Madam court reporter can only
12 take down words that you actually say, and she can't
13 take down when you shake your head or when you go up
14 and down so make sure you answer every question with
15 a yes or no or explain however you want. Okay?

16 A Yes.

17 Q And you're very soft spoken so make sure you
18 speak loud enough so the judge can hear you and
19 everybody at this table can hear you as well. Okay?

20 A Yes.

21 Q And of course, if there's a question that you do
22 not understand, simply tell me you do not understand
23 or if we're speaking too fast, simply tell us we're
24 speaking too fast, okay?

25 A Yes.

R. MCFADDEN - DUNCAN HEARING

1 Q Now if you'll state your first name and last name
2 and spell your last name for the record please?

3 A Reva McFadden, M-C-F-A-D-D-E-N.

4 Q Ms. McFadden, again, you understand what you're
5 here for today; is that correct?

6 A Yes.

7 Q Are you here under subpoena?

8 A Yes.

9 Q Who has subpoenaed you to be here today?

10 A Kimberly Barr.

11 Q The State of South Carolina sent you subpoena a
12 to be here today?

13 A Yes.

14 Q Is it your desire to be here today? Do you want
15 to be here today?

16 A No.

17 Q Okay. I want to go through some of the things
18 that happened on November 10th, 2013, okay?

19 A Yes.

20 Q I'm gonna start at the beginning. Could you
21 explain for the judge who Larry Moore was?

22 A My boyfriend.

23 Q How long had you and Larry Moore been dating?

24 A Repeat that.

25 Q How long had you and Larry Moore been dating

R. MCFADDEN - DUNCAN HEARING

1 before November 10th, 2013?

2 A Maybe about nine months.

3 Q Who is Terry Williams to you?

4 A He was my husband.

5 Q Is he still your husband currently to this day?

6 A Yes.

7 Q How long have you and Mr. Williams been married?

8 A Seven years.

9 Q Okay. Do the two of you have any children
10 together?

11 A Yes.

12 Q How many children do you have together?

13 A Five.

14 Q Five children together?

15 A Yes.

16 Q For the Court — and we're just gonna get right
17 into the case. For the Court, and I want to start
18 right about an hour before the shooting took place.
19 If you can just explain to the judge what happened
20 that day right about an hour before the shooting
21 took place, where you were, where you were coming
22 from, just everything so the judge understands what
23 happened.

24 A Well, we had spent all day basically at his mom
25 and dad's house.

R. MCFADDEN - DUNCAN HEARING

1 Q Let me stop you real quick. The judge doesn't
2 understand who the "We's" are and the "they's are."

3 A Me and Larry.

4 Q Go ahead, I'm sorry.

5 A Me and Larry spent all day at his mom and dad
6 house until midnight. His dad actually wanted us to
7 stay, you know, but he actually wanted to go home so
8 to my house. So we went home and right about mid
9 night, I'd say around about 10, 10:30, maybe close
10 to midnight, we went home, got dressed 'cause we
11 wanted to go shoot some pool 'cause we didn't have
12 the kids. And we went out into a little shop,
13 Celestine right down the road, where we usually go
14 shoot some pool. And we were shooting pool, we got
15 a drink, we were shooting pool maybe for 30 minutes.
16 And Terry must have came inside. My back was turned
17 to the door so I couldn't see anybody entering, but
18 Larry could see because he was facing the door. So
19 it must be when Terry came inside, that's when
20 Larry, expression on his face changed, so I looked
21 back. When I looked back —

22 Q Let me stop you right quick and I'm sorry to
23 interrupt you. What do you mean by his facial
24 expression changed?

25 A He just stopped playing pool and he just looked

R. MCFADDEN - DUNCAN HEARING

1 like, like something was wrong.

2 Q Okay.

3 A So I asked him, you know, what was wrong. And he
4 said he was tired of Terry mean mugging him, seeing
5 him everywhere we go.

6 THE COURT: And I'm sorry, I'm didn't
7 quite understand, he was what? Tired of what?

8 THE WITNESS: He was ---

9 THE COURT: You need to explain.

10 THE WITNESS: He was tired of Terry
11 looking at him in some type of way.

12 BY MR. KENT:

13 Q And so we're clear for the record, the phrase
14 that you just used is mean mugging?

15 A Mean mugging, yes, 'cause that's the phrase he
16 used.

17 Q That was a phrase that Larry used that day?

18 A Yes.

19 Q What did mean mugging mean?

20 A Looking at someone in some type of way.

21 Q Okay. And the response you had just said, Larry
22 told you he was tired of Terry mean mugging him?

23 A Yes.

24 Q Go on from there.

25 A So I was saying, I said, don't worry about it. I

R. MCFADDEN - DUNCAN HEARING

1 say he didn't say nothing to you, leave it alone, we
2 playing pool. You know, we was actually playing
3 pool. So he said, I'm tired, I'm tired, you know,
4 I'm tired of him looking at him, I'm going outside.
5 I asked him what he wanted to do. I said —

6 Q Let me stop you again, I'm sorry to keep
7 interrupting. You said the phrase, he said what do
8 you want me to do? Explain that again.

9 A He said, I'm gonna see what he wants to do.

10 Q What does that mean? Or what did you take that
11 to mean?

12 A That he wanted to approach him, I guess, I don't
13 know.

14 Q Okay. If you don't know you don't know. Go on.

15 A So I said, don't walk outside, leave it alone.
16 You know, he ain't said nothing to you, we playing
17 pool. So he said, I'm going outside, you know, I'm
18 tired of him looking at me.

19 Q And Reva, let me stop you again there. Why were
20 you telling him not to go outside?

21 A Because Terry had already walked outside and not
22 even said anything; it was nothing.

23 Q Okay, go on.

24 A And you know, I didn't want him to go outside. I
25 didn't want no trouble.

R. MCFADDEN - DUNCAN HEARING

1. Q Okay.

2 A So he said, I'm going outside. I said, well, if
3 you go outside I'm going outside. He said, no, you
4 ain't going outside. I said, yes, I am. And he
5 said — I said, no. He said, no, yeah, you're not;
6 I said, yes, I am. So we was arguing over, you
7 know, him not going outside to the point where
8 Jerome Miller heard me, overheard me telling him not
9 to go outside so he said also, man, leave that
10 alone, don't go outside, you know, he got people out
11 there, you know, leave it alone; but you know, you
12 get into something I got your back. So —

13 Q Let me stop you again and I keep interrupting and
14 just to make sure we're clear. What was that
15 statement, "he got people out there," what does that
16 mean?

17 A I'm taking it as he maybe had some family out
18 there or some friends out there. I mean, he said
19 people out there. That's what Jerome said.

20 Q Jerome was basically saying leave it alone.
21 Terry may have people out there?

22 A Yeah.

23 Q Okay, go on.

24 A So he was like, I don't care, you know, I ain't
25 scared, I don't care, I'm going outside. So he

R. MCFADDEN - DUNCAN HEARING

1 walked outside. So I stood there. I stood maybe
2 about three minutes 'cause he wouldn't, he wouldn't
3 let me walk outside. I said to myself as soon as he
4 walk outside I'm gonna walk right behind him so
5 that's what I did. When I walked right behind him,
6 you know, I saw, I saw him, you know, at the truck
7 saying, you know, I'm tired of you, what you gonna
8 do, you know, you looking at me, you know. And all
9 I could hear is Terry saying, you know, back up,
10 man, just leave it alone, back up, back up, but
11 that's what Terry was saying, back up, you know. I
12 could have seen, you know, a gun — the back of the
13 gun, you know, 'cause the gun was — the door, it
14 was the driver's door was kind of hiding Terry, you
15 know, his body. You can just see him standing up in
16 the door.

17 Q Okay, and before you go any further, when you
18 walked outside you heard an argument between Larry
19 Moore and Terry Williams?

20 A Yeah.

21 Q And is your testimony today you specifically
22 heard Terry telling Larry, back up, leave me alone?

23 A Yes.

24 Q Or something of that nature?

25 A Yes.

R. MCFADDEN - DUNCAN HEARING

1 Q Something of that nature.

2 A He was saying back up. That's all he was saying.

3 Q And as he was saying back up your testimony Larry
4 was continuing to walk towards him?

5 A Larry was right there in front of the truck
6 'cause I was standing right there beside Larry. I
7 was right beside Larry.

8 Q Okay, go on.

9 A So when I saw a gun I immediately crossed him
10 saying, you know, why, you know, why you got a gun,
11 why, what's going on 'cause I never figured out what
12 had happened —

13 Q Okay.

14 A —you know, what had went wrong. So as I was
15 crossing them that's when the fire, the shots went
16 off as soon as I was crossing Larry because I
17 thought if I were to cross, you know, then they —
18 he wouldn't have shot, but I think I crossed in the
19 midst of everything when it was going on.

20 Q We're gonna back up and go through some of the
21 things you just testified to and let's start from
22 the beginning. When Terry came inside did he say
23 anything whatsoever to Larry?

24 A Not that I know of.

25 Q Did you see him say anything to Larry at all when

R. MCFADDEN - DUNCAN HEARING

1 he walked inside?

2 A No.

3 Q Did he yell at Larry in any way when he walked
4 inside?

5 A No.

6 Q Next you testified that Larry began, that his
7 expression changed on his face. Is this an
8 expression that ever seen on Larry's face before?

9 A Yeah, when he mad.

10 Q It was an expression he utilized when he was mad?
11 So at that point in time you could tell he was
12 angry. Okay. He was very specific, according to
13 your testimony, that he did not want you to come
14 outside. Why was that? To the best of your
15 knowledge.

16 A I don't know. I don't know.

17 Q How did that make you feel that he did not want
18 you to come outside? Do you think something was
19 going to happen?

20 MS. BARR: Objection as to leading.

21 THE WITNESS: I didn't know why. I didn't
22 know why he was ---

23 MS. BARR: Judge, we'd object to the
24 leading nature of the question.

25 THE COURT: I will sustain the objection.

R. MCFADDEN - DUNCAN HEARING

1 BY MR. KENT:

2 Q What did you think was going to happen or did you
3 think was going to happen?

4 A I knew if he would have gone outside something
5 would have happened. I knew something would have
6 happened.

7 Q Talk to me about Larry, his personality, how he
8 carries himself, his reputation. Tell me about —

9 A Real nice person, sweet person, everybody loved
10 him.

11 Q To the best of your knowledge did Larry ever
12 carry a gun?

13 A Yes, Larry had a handgun.

14 Q To the best of your knowledge did Larry, before
15 the shooting happened did Larry handle a gun earlier
16 that day; do you know that specifically? Or did he
17 have a gun earlier that day?

18 A Earlier, earlier, earlier that day, but I didn't
19 see nothing that night.

20 Q Okay, you did not see him with a gun?

21 A Not that night.

22 Q Do you know possibly if he would have gone to —
23 you wouldn't have known what he did when he went
24 outside?

25 A No, I wouldn't have known.

R. MCFADDEN - DUNCAN HEARING

1 Q Does Larry often have a gun? And if you know,
2 you know; if you don't, you don't.

3 A I don't know.

4 Q But that day you knew he had carried a gun
5 earlier that day?

6 A Earlier, earlier.

7 Q Was it dark out there that day?

8 A Very dark.

9 Q Was it hard to see?

10 A Very hard to see.

11 Q Now you had described Larry. Talk to me about
12 Terry now.

13 A Terry is a nice person, you know, quiet person,
14 real quiet person, a self person, don't bother
15 nobody really.

16 Q Tell me about -- you had talked about the
17 expression that Larry had on his face. What was the
18 expression that Larry had on his face when this was
19 taking place?

20 A I couldn't really see.

21 Q You couldn't see?

22 A (No verbal response.)

23 Q Were there any hand gestures or yelling or
24 anything going on while you were out there by Larry?

25 A By Larry?

R. MCFADDEN - DUNCAN HEARING

1 Q Yes.

2 A Yeah.

3 Q With his hands up or his —

4 A Yeah.

5 Q —hands down?

6 A Yeah.

7 Q Or tell the Court about that.

8 A There was a lot of expression. It was very, very
9 furious, very mad.

10 Q Where was Larry? Was Larry directly in front or
11 the trunk when this happened or to the side of the
12 truck, or do you know?

13 A I can't remember. It was close to the truck, you
14 know, close by or right in front. I know it was in
15 front of the truck, but can't really remember if it
16 was directly in front of the truck or not.

17 Q Okay. Do you know what type of gun Terry pulled
18 out the car that night?

19 A I couldn't see. I know it was a brown, black
20 gun.

21 Q You have any clue what — did you ever remember
22 telling anyone specifically what type of gun it was
23 that he used that evening?

24 A No.

25 Q Okay. You talked about Larry known to carry a

R. MCFADDEN - DUNCAN HEARING

1 gun; what about Terry?

2 A Terry known to have his gun too.

3 Q Do you remember giving a statement to law
4 enforcement a couple of nights after this happened?

5 A A couple of nights ---

6 Q I think it was the day after this happened,
7 giving a statement to law enforcement?

8 A Yeah.

9 Q Do you remember that?

10 A Yeah.

11 Q Now the statement to law enforcement, did you
12 give them a reason why you thought the shooting
13 happened?

14 A Yes.

15 Q What was the reason you gave the law enforcement
16 why you thought this shooting had happened?

17 A I told him, I told him, you know, that Terry was
18 mad, you know, 'cause I was with Larry and I didn't
19 want to see him no more, you know, 'cause I was mad,
20 you know.

21 Q And you told law enforcement that. You gave them
22 a rationale reason for why that happened ---

23 A I say 'cause he was mad 'cause I didn't want him
24 no more.

25 Q Is that true?

R. MCFADDEN - DUNCAN HEARING

1 A That ain't what happened.

2 Q Then why would you have told law enforcement
3 that?

4 A Because I was mad because ---

5 Q Explain.

6 A I felt like, you know, at that time I felt like I
7 just was still so angry with him, you know; but
8 that's, that wasn't the case. That didn't happen
9 that night. That wasn't, that ain't what happened
10 that night.

11 Q You have talked to Terry since this entire matter
12 has happened; is that right?

13 A Yes.

14 Q You've talked to him several times?

15 A Yes.

16 Q You actually visited him -- well, let's talk
17 about that. You visited him at the jail?

18 A Yes.

19 Q Why did you visit him at the jail?

20 A I took my kids.

21 Q You took his kids. You have five children?

22 A Yes.

23 Q Did you ever go visit him without your children
24 present?

25 A No.

R. MCFADDEN - DUNCAN HEARING

1 Q Do you remember coming to my office and
2 discussing this case with me?

3 A Yes.

4 Q The first time you came and discussed this case
5 with me was Terry in jail or out of jail?

6 A In jail.

7 Q Did Terry force you or tell you in any way that
8 you needed to come to my office and discuss this
9 case with me?

10 A No?

11 Q Did you come on your own?

12 A Yes.

13 Q Did you come — where did you come from?

14 A Myrtle Beach.

15 Q So you came all the way. How did you get to my
16 office from Myrtle Beach.

17 A I drove.

18 Q And you discussed this case with me in detail at
19 that point?

20 A Yes.

21 Q And you remember us discussing the case, and what
22 were you specifically told about the case?

23 A I tell the truth.

24 Q No matter what?

25 A Yes.

R. MCFADDEN - DUNCAN HEARING

1 Q Do you remember my discussing I was going to tell
2 the State every word you just told me?

3 A Yes.

4 Q You remember us discussing this case and talking
5 about the legal ramifications that you may have said
6 a lie to law enforcement?

7 A Yes.

8 Q And what did I tell you about that?

9 A Tell the truth.

10 Q And we talked about the fact that that might be a
11 criminal charge if you lied to law enforcement about
12 what happened that day?

13 A Yes.

14 Q And what did you say?

15 A To tell the truth.

16 Q Briefly, I'm almost done, did Terry do anything
17 to bring about the difficulty that happened that
18 night? Did he do anything to start this?

19 A Not that I know of.

20 Q Did Terry have a right to be at that club? Was
21 he at a place he had a right to be?

22 A Yes.

23 Q And knowing your husband the way you know him,
24 was he afraid for his life?

25 A Most likely.

R. MCFADDEN - DUNCAN HEARING

1 Q Why do you say most likely? What makes you think
2 your husband was afraid for his life?

3 A Because he kept saying back up, you know, leave
4 me alone. He was ---

5 MS. BARR: Judge, I'm going to object to
6 that. That's speculation.

7 THE COURT: Well, the part of what he says
8 would be speculation. The other would be, Solicitor
9 and I will sustain it. As to the other she can
10 certainly testify as to what she observed.

11 MS. BARR: Yes, sir.

12 THE COURT: You may rephrase the question,
13 Mr. Kent.

14 BY MR. KENT:

15 Q You've known your husband for how long?

16 A Fifteen years.

17 Q Do you know his moods? Do you know when he's
18 happy, when he's sad?

19 A (No verbal response.)

20 Q You're shaking your head. Remember, we talked
21 about that?

22 A Yes.

23 Q Can you read his body language when he's scared
24 or when --- do you know your husband basically?

25 A Yes.

R. MCFADDEN - DUNCAN HEARING

1 Q That evening watching your husband, could you
2 make a determination on his body language, the way
3 he was acting, if he was happy, if he was sad, or if
4 he was scared?

5 A At that point in time?

6 Q Yes, ma'am.

7 A He was scared.

8 Q And that was based upon knowing him for 15 years,
9 knowing your husband?

10 A Yes.

11 Q Knowing when he is happy in the past, when he is
12 sad, and how he acts?

13 A Yes.

14 Q Have you and your husband discussed this case in
15 detail since he's been released in incarceration?

16 A No.

17 Q Has he ever told you what to say or how to
18 testify or anything of that nature?

19 A No.

20 Q Has anyone ever told or threatened you, told you
21 how to testify, anything of that nature?

22 A No.

23 MR. KENT: Beg the Court's indulgence for
24 one moment, Your Honor.

25 THE COURT: Certainly.

R. MCFADDEN - DUNCAN HEARING

1 BY MR. KENT:

2 Q Whose vehicle were y'all in that evening?

3 A Repeat that.

4 Q Whose vehicle were you and Larry when y'all got
5 to the club?

6 A Mines.

7 Q You were in your vehicle?

8 A Yes.

9 Q Thank you.

10 MR. KENT: That will be all the questions
11 I have of this witness.

12 THE COURT: Thank you, Mr. Kent.
13 Solicitor.

14 **CROSS-EXAMINATION**

15 BY MS. BARR:

16 Q Ms. McFadden, you described your husband, the
17 defendant, as quiet, right?

18 A Yes.

19 Q Loving?

20 A Yes.

21 Q Sweet?

22 A Yes.

23 Q And you've known him to be quiet and loving and
24 sweet for 15 years, right?

25 A Yes.

R. MCFADDEN - DUNCAN HEARING

1 Q Now let's talk about this quiet, loving, sweet
2 person that you described to the Court. This quiet,
3 loving, sweet person pulled a AK-47 on you 11 months
4 before this murder; didn't he?

5 A Yes.

6 Q And as a matter of fact -- I'll mark this as
7 Court's 3.

8 (Court's Exhibit Number 3 was marked
9 and made a part of the record.)

10 BY MS. BARR:

11 Q As a matter of fact, on December 22nd of 2012 you
12 called the police on this nice, loving, sweet, quiet
13 person, right?

14 A Yes.

15 Q And you said you were tired of him fighting you;
16 didn't you?

17 A Yes.

18 Q And you gave a written statement or you gave an
19 oral statement to the police saying that he grabbed
20 an AK-47 and pointed at you and you were tired of
21 that, right?

22 A Yes.

23 Q All right. And you admitted at that time that
24 you purchased an AK-47 for him, for the defendant;
25 is that correct?

R. MCFADDEN - DUNCAN HEARING

1 A Yes.

2 Q And ma'am, I'm going to show you what's marked as
3 Court Exhibit Number 3. Is that the AK-47 that I am
4 talking about as a result of that December 22nd,
5 2012 incident?

6 A Yes.

7 Q That's the one you bought for him?

8 A That's the one I bought.

9 Q For the defendant, right?

10 A I bought it.

11 Q Say again.

12 A I bought it for me.

13 Q I understand you bought it, but didn't you tell
14 law enforcement that you bought it for your husband?

15 A I bought it. I was charged with it.

16 Q Wait a minute now. My question is a simple one.
17 Didn't you tell Sergeant Sherill Presley that that
18 was your gun, but you bought it for your husband?

19 A No.

20 Q You deny that?

21 A No.

22 Q So if Sergeant Sherill Presley created an
23 incident report —

24 MR. KENT: Your Honor, I'm gonna object.
25 I don't think that's the proper way to impeach a

R. MCFADDEN - DUNCAN HEARING

1 witness. That's not a copy of the statement. It's
2 an incident report. And additionally, it appears as
3 though that Ms. Barr is trying to impeach her with a
4 statement an officer has written inside the incident
5 report.

6 MS. BARR: Well, Judge, let me ask her to
7 read—

8 MR. KENT: And she's denying she said it.

9 MS. BARR: Let me rephrase it.

10 THE COURT: Thank you, Solicitor, that's
11 the best ruling I've made all morning.

12 BY MS. BARR:

13 Q Do you deny telling Sergeant Sherill Presley of
14 the Williamsburg County Sheriff's Department on
15 December 22nd of 2012 that you owned the gun and
16 that you bought the gun for Mr. Williams and that
17 the gun was clean? You deny using those words?

18 A That's not true.

19 Q Okay. You deny using those words to her? You
20 deny telling her that?

21 A I did not tell her that.

22 Q Okay. And you say that because Mr. Williams
23 can't possess a firearm legally, can he?

24 A Exactly.

25 Q Right. He's a convicted felon —

R. MCFADDEN - DUNCAN HEARING

1 A Exactly.

2 Q Right? Now let's again talk about this quiet,
3 loving, peaceful person. There was a separate
4 incident of domestic violence with you and
5 Mr. Williams, correct, before the murder, right?

6 A On what date?

7 Q May, 2013?

8 A Yes.

9 Q You called the police again on your husband for
10 domestic violence in May of 2013, correct?

11 A Yes.

12 Q And on that day you said that your husband pulled
13 a 22-caliber pistol on you, correct?

14 A On that night.

15 Q Yeah? Right?

16 A Yes.

17 Q And of course, again, he was not supposed to be
18 in possession of weapon, was he, not a firearm,
19 right?

20 A Yes.

21 Q Okay, and you admit that you told the police
22 that?

23 A Yes.

24 Q And you still want this Court to believe that the
25 defendant is a peaceful, loving, quiet person,

R. MCFADDEN - DUNCAN HEARING

1 correct?

2 A The Court believes what he wants to. I tell the
3 truth.

4 Q Now you told Larry about all those incidents of
5 domestic violence that Terry inflicted upon you;
6 didn't you?

7 A Yes.

8 Q He knew that he, he pulled guns and he carried
9 guns; didn't he?

10 A Yes.

11 Q Because you told him, right?

12 A Yes.

13 Q And you've indicated that you didn't know what
14 type of gun was used that night. Was that your
15 testimony, the night of the shooting?

16 A Repeat it.

17 Q Did you testify that you did not know what kind
18 of gun that your husband used to kill your
19 boyfriend?

20 A Yes.

21 Q Is that your testimony?

22 A Yes.

23 Q Do you deny telling the ER doctor that your
24 husband with whom you are separated killed your
25 boyfriend with an AK-47? You deny saying that?

R. MCFADDEN - DUNCAN HEARING

1 A I deny saying that.

2 Q That didn't happen?

3 A That did not happen.

4 Q Is there anything like a medical record that I
5 can give you to refresh your memory?

6 A No.

7 Q Is it possible that you said that, but because
8 you were so emotional that day that you don't
9 remember; is that possible?

10 A No.

11 Q Not possible at all?

12 A (No response.)

13 Q Now the Court's 1 and 2, were these the same
14 clothes that Terry was wearing that night?

15 A I'm not sure.

16 Q Okay. You don't remember?

17 A I couldn't see them.

18 Q Even when he came into the nightclub?

19 A I couldn't see it. I didn't look at him.

20 Q All right. Didn't you describe his clothing as
21 having like military insignia on it? Do you
22 remember telling the police that?

23 A I'm not sure; I may have. I'm not sure though.

24 Q Okay. If I let you look at your statement would
25 that refresh your memory?

R. MCFADDEN - DUNCAN HEARING

1 A No.

2 Q It wouldn't refresh your memory to look at your
3 statement?

4 A (No verbal response.)

5 Q I need you to say yes or no for the clerk.

6 A No.

7 Q Well, do you want to even try to look at your
8 statement to see if that will refresh your memory?

9 MR. KENT: Your Honor, I'm gonna object.
10 The witness said it's not gonna refresh her memory.
11 You can't force her to ---

12 THE COURT: You can ---

13 MR. KENT: ---refresh or not.

14 THE COURT: Well, you can show her the
15 statement. She can read the statement and you can
16 ask if her if that does or does not refresh her
17 memory.

18 BY MS. BARR:

19 Q For the record I'm gonna -- well, let's establish
20 some things first. Later on that day about 12 hours
21 after the shooting you gave a statement to Sergeant
22 Justin Whack and Lieutenant Debra Collins of
23 Williamsburg County Sheriff's Office regarding this
24 shooting; is that correct?

25 A Yes.

R. MCFADDEN - DUNCAN HEARING

1 Q And Debra Collins, the deputy that's seated over
2 there, right? Can you see her from where you are?

3 A Who, Di?

4 Q Di?

5 A Yes.

6 Q Sorry. You talked to her that night, right?

7 A Yes.

8 Q And she asked you a series of questions about
9 what happened and that sort of thing?

10 A Yes.

11 Q All right. Have you had opportunity to read this
12 statement that you gave to her?

13 A (No verbal response.)

14 Q Is that a yes?

15 A Yes.

16 Q And you read it because you got it from your
17 husband's lawyer, right?

18 A No.

19 Q You got it from your husband?

20 A No.

21 Q How did you get it?

22 A I read it.

23 Q How did you get it to read it?

24 A I read it. I read my statement.

25 Q What do you mean you read your statement?

R. MCFADDEN - DUNCAN HEARING

1 A The statement I did gave them.

2 Q You gave a handwritten statement to them?

3 A I don't know. I didn't give them a handwritten
4 statement; it was a verbal statement.

5 Q Okay. Is this what you read?

6 A I'm not sure.

7 Q Is there any other statements you gave them other
8 than this?

9 A No.

10 Q So this would have been the statement?

11 A It had to have been, yeah.

12 Q Okay, all right, very good. On page 15 of that
13 particular statement, are you with me? Are you on
14 page 15?

15 A Uh-huh.

16 Q Line 8, Justin Whack, the deputy from the
17 Sheriff's Office asked you what was Terry wearing
18 that night. You see that?

19 A Uh-huh.

20 Q Is that a yes? What was Terry wearing that
21 night, question?

22 A Yes.

23 Q Do you see that?

24 A Yes.

25 Q And of course, this is your statement, correct?

R. MCFADDEN - DUNCAN HEARING

1 You don't recall telling him if I'm not mistaken I
2 think ---

3 MR. KENT: Your Honor, I would object.
4 That is improper way to refresh a witness'
5 testimony. If she wants to testify, that's fine.
6 If she wants to refresh, I think she's to allow her
7 to read it and see and ask if it, properly,
8 refreshes her memory. The witness has a right to
9 say it does or doesn't, then she can ask the
10 question.

11 THE COURT: You can let her read. Read
12 that portion to yourself, Ms. McFadden.

13 THE WITNESS: What question?

14 BY MS. BARR:

15 Q We've established, line 8, you were asked a
16 question: What was Terry wearing that night, right?

17 A Yes.

18 Q And you gave a response, right?

19 A Yes.

20 Q Okay. Read lines 9 through 14.

21 A If I'm not mistaken ---

22 Q Read it to yourself first and let me know when
23 you're finished, okay. Just read those lines, let
24 me know when you're finished.

25 (Pause.)

R. MCFADDEN - DUNCAN HEARING

1 BY MS. BARR:

2 Q Okay. Now does that refresh your memory about
3 what he was wearing that night?

4 A I could have been mistaken; I don't know.

5 Q That's fine. I'll accept whatever answer comes
6 out of your mouth.

7 A Can I read it out loud?

8 Q Yeah, tell me what you told them.

9 A The question was: What was Terry wearing that
10 night? I answered, "If I'm not mistaken I think
11 Terry had on a black shirt that had patches on it
12 like one of the military shirts that had patches and
13 stuff on it. I don't know what kind of pants he had
14 on and I don't know what kind of shoes he had on
15 either."

16 Q Okay, all right. So you were able to see his
17 clothing?

18 A I might have been guessing, I don't know.

19 Q Okay. But the photograph of your husband,
20 Court's Exhibit Number 1, he's not wearing a shirt

21 ---

22 A He wasn't wearing a shirt.

23 Q Hold on, hold on, hold on. He's not wearing a
24 shirt with military insignia, is he?

25 A No.

R. MCFADDEN - DUNCAN HEARING

1 Q Okay. All right. So you talked about how that
2 little Larry was known to carry a gun, correct?

3 A I said that.

4 Q Ma'am?

5 A I said that.

6 Q Okay. Of course, in the entire statement that
7 you gave to the police you never mentioned Larry
8 carrying a gun ever?

9 A No.

10 Q Right?

11 A No, I didn't.

12 Q So the moment in which you went to talk with
13 Mr. Kent you said your husband was incarcerated at
14 that time, correct?

15 A Yes.

16 Q All right. But the time that you went to go talk
17 with Mr. Kent was after you had that visit to see
18 your husband, right?

19 A No.

20 Q It wasn't?

21 A No.

22 Q You don't recall going to see — well, tell me
23 this, when did you go see Mr. Kent for the first
24 time?

25 A Maybe about three months ago maybe.

R. MCFADDEN - DUNCAN HEARING

1 Q Okay. And you don't recall going to visit your
2 husband at the Florence County Detention Center in
3 February of 15?

4 A Not before I went to him.

5 Q How many times have you told Mr. Kent about this
6 case?

7 A Maybe three, four times.

8 Q All right. And again, I'm going to ask you this
9 question about your statement because I'm curious.
10 You said you read this before, right?

11 A My statement?

12 Q Yes.

13 A Yes.

14 Q Okay. Did Investigator Collins give it to you?

15 A No.

16 Q Ms. McFadden, you either got it from your husband
17 or his lawyer, right?

18 A I didn't get it from my husband, nor his lawyer.

19 Q Well, just tell me where you got it from.

20 A I read it. That's my statement.

21 Q Where?

22 A It's my statement.

23 THE COURT: That's not the question.

24 She's asking. The question is not whether you read
25 or didn't read the statement. The question is where

R. MCFADDEN - DUNCAN HEARING

1 did you get a copy of the statement?

2 THE WITNESS: I didn't say I had a
3 document.

4 THE COURT: Don't interrupt me.

5 THE WITNESS: I never said I had ---

6 THE COURT: Ma'am, don't interrupt me.
7 Don't interrupt me again. The question is where did
8 you get a copy of the statement to read?

9 THE WITNESS: I never had got a copy.

10 BY MS. BARR:

11 Q Who gave it to you to read it?

12 A I, what I'm saying I read my statement is 'cause
13 I know what I said.

14 Q Okay. Where were you at when you read it?

15 A What I'm saying, I read it, I will have know what
16 it says.

17 Q Ms. McFadden ---

18 A You don't understand what I'm saying. You, maybe
19 you don't understand. I already know what it say
20 because it says the truth of what happened, that's
21 what I'm saying. I already know what it says.

22 Q Where were you at, ma'am, when you read your
23 statement?

24 A I never read it; I know what I said.

25 Q You weren't at Mr. Kent's office when you read

R. MCFADDEN — DUNCAN HEARING

1 it?

2 A No, ma'am.

3 Q You weren't at the jail with your husband when
4 you read it?

5 A No, ma'am.

6 Q So now you're telling the Court you hadn't read
7 it at all?

8 A I know what I said in my statement.

9 Q So — it's an important question. Are you now
10 telling the Court that you have never read your
11 statement?

12 A Never read a statement until that, but I know
13 what I said.

14 Q You never read your statement?

15 A I know what mine — the one you just showed me,
16 the one you just showed me is my statement?

17 Q Yes, ma'am.

18 A Yeah.

19 Q You have read it?

20 A I know what my statement is; I just read it.

21 Q I'm not asking you that.

22 A I never read it. No one give it to me. I never
23 had a copy of it. That's what you asking me?

24 Q Whether you actually had a copy of it is not my
25 question. I'm asking the question, did you read it

R. MCFADDEN - DUNCAN HEARING

1 before your testimony today?

2 A No, I did not.

3 Q Never seen it before today?

4 A No, I did not.

5 Q Where did you and Terry go after he got out of
6 jail?

7 A We didn't went anywhere. I don't know where he
8 went. We didn't went anywhere.

9 Q Y'all hadn't been down to the beach together? He
10 didn't come down to see you?

11 A I live there.

12 Q I know you live there. He's come down to see you
13 and his kids since he's been out; hadn't he? How
14 many times?

15 A Twice.

16 Q All right. And he spent the night; hadn't he?

17 A No.

18 Q He hadn't spent the night?

19 A No.

20 Q You sure?

21 A Yes.

22 Q Did you love Larry?

23 A Yes, I did.

24 Q Are you aware he was shot many, many, many times?

25 A Oh, yeah.

R. MCFADDEN - DUNCAN HEARING

1 Q Have you seen the pictures?

2 A I seen the actual body.

3 MR. KENT: I'm gonna object to relevancy,
4 Your Honor. This purpose of this intimidates the
5 witness. What's the relevancy of asking have you
6 seen a picture of for a Duncan hearing.

7 THE COURT: I overrule that objection.

8 BY MS. BARR:

9 Q You were there that night and you're the only —
10 well, maybe you are not, but you're the eyewitness,
11 you're an eyewitness to what happened, right?

12 A One.

13 Q Who were the other ones?

14 A Lots of people was out there.

15 Q Tell me who are the other ones.

16 A A couple of people, I mean, maybe other
17 witnesses.

18 Q Speak up for me. What about Damien, Wolfman?

19 A I don't know.

20 Q Wasn't Damien the one in the car with Terry?

21 A Yeah, I mean, but I don't know if he actually
22 seen the shooting.

23 Q And Terry drove away from the scene that night,
24 correct?

25 A Yes.

R. MCFADDEN - DUNCAN HEARING

1 Q He got in the car after he shot Larry and he
2 drove away from the scene?

3 A Yes.

4 Q And Damien McClorin is known as Wolfman, right?

5 A Yes.

6 Q And Damien was in the car with Terry, correct?

7 A Damien was standing on the side of the passenger,
8 the other side. I didn't know ---

9 Q I'm talking about after the shooting.

10 A I don't know what happened after the shooting.

11 Q Okay, all right. Damien McClorin and Terry are
12 cousins, correct?

13 A Yes.

14 Q You also identified a Andre Moyd being out there
15 as well, correct?

16 A No.

17 Q Andre Moyd wasn't out there?

18 A I don't even know who Andre Moyd is?

19 Q You were freaking out after this shooting;
20 weren't you?

21 A Yes.

22 Q You were screaming to the top of your lungs,
23 right?

24 A Yes.

25 Q You started banging on the door to the club and

R. MCFADDEN - DUNCAN HEARING

1 nobody would open the door for you?

2 A Yes.

3 Q And you were trying to get little, I call him
4 little Larry, you were trying to get your boyfriend
5 in the car; weren't you?

6 A Yes.

7 Q Because you knew he was seriously injured?

8 A I didn't know, but I knew when he fell that he
9 was shot.

10 Q And as a matter of fact, you told Larry not to go
11 outside because you saw your husband walking to his
12 truck, right?

13 A That's not true.

14 Q Didn't you tell the police that?

15 A That's not true.

16 Q Didn't you tell the police that you know how your
17 husband rolls and that's why you told Little Larry
18 to come back inside?

19 A Tell Larry not to walk outside.

20 Q Right, because you told him because you knew how
21 your husband rolls?

22 A I said Larry, don't walk outside, leave it alone.

23 Q I understand you said all that.

24 A That's all I said.

25 Q Didn't you say leave it alone because —

R. MCFADDEN - DUNCAN HEARING

1 A Oh.

2 Q —you told the police that you know how your
3 husband rolls?

4 A I just said Larry, I was begging Larry not to
5 walk outside, period.

6 Q Well, I mean, you already told me that, you know,
7 your husband is known to carry —

8 A Yes, yes.

9 Q —weapons.

10 A So I didn't have to say that.

11 Q This your boyfriend?

12 A Yes.

13 MR. KENT: May I see what you're showing
14 the witness before you show the Court. I may have
15 an objection.

16 Your Honor, again, this would be one of my
17 objections. I object to not show the picture of the
18 deceased to try to intimidate the witness, and
19 that's what the State is trying to do.

20 THE COURT: Well, I don't see it as
21 intimidation, attempt to intimidate the witness.
22 The witness has been presented as the only
23 eyewitness at this time. She ought to be able to
24 corroborate or not corroborate the photographs and
25 the injuries that were inflicted to the victim so I

R. MCFADDEN - DUNCAN HEARING

1 would overruled that objection.

2 MR. KENT: Thank you, Your Honor.

3 MS. BARR: All right.

4 THE COURT: You may continue.

5 MS. BARR: Thank you.

6 BY MS. BARR:

7 Q And Reva, this is a picture of Little Larry lying
8 in a hospital bed, right?

9 A Yes.

10 Q He was bleeding profusely; wasn't he?

11 A I didn't ---

12 Q The back of your truck was covered in his blood;
13 wasn't it?

14 A Yes.

15 Q That's him as well?

16 A Uh-huh.

17 Q Yes?

18 A Yes.

19 Q That's him as well?

20 A Yes.

21 Q That's him as well?

22 A Yes.

23 Q That's him as well?

24 A Yes.

25 Q That's him as well?

R. MCFADDEN - DUNCAN HEARING

1 A Yes.

2 Q You never seen anything like that before; have
3 you?

4 A Yes, well...

5 Q You have?

6 A I'm a nurse.

7 Q So you've seen gunshot wounds like that before?

8 A Gunshot wounds, all kind of wounds.

9 Q Like this?

10 A Probably worse.

11 Q Now you said that you lied to the police about
12 the motive that Larry — that Terry would have had
13 for shooting Larry. You said that you lied, you
14 admitted that you lied to the police about that,
15 right?

16 A I'm admitting that that wasn't what happened that
17 night.

18 Q All right. But you didn't tell the police that
19 Terry was mad, did you?

20 A About what?

21 Q Ma'am?

22 A Mad about what?

23 Q No, your testimony on direct was that you told
24 the police that that night or later that day, that
25 the reason why Terry did that was because he was mad

R. MCFADDEN - DUNCAN HEARING

1 that you were breaking up with him?

2 A Yes.

3 Q But you didn't use those terms to the police, did
4 you?

5 A I can't remember what I said.

6 Q Okay. Don't you recall telling Investigator
7 Whack and Investigator Collins that when they asked
8 you why did you do that, why do you think he did it,
9 didn't you tell them that because you believed it
10 because Terry was obsessed with you?

11 A Yes, I told them that, yes, I did.

12 Q And didn't you tell them also that Terry was a
13 weak person —

14 A Yes.

15 Q —right? And you said that he was very
16 possessive of you?

17 A Yes, I told them that.

18 Q And you told them that a week before he had
19 threatened to kill himself, correct?

20 A Yes, I told them that.

21 Q And you said that he later changed his mind
22 because he wouldn't want you to live with the fact
23 that you caused him to kill himself; didn't you tell
24 the police that?

25 A I can't recall that part.

R. MCFADDEN - DUNCAN HEARING

1 Q Let me show you this statement that you admitted
2 is yours to see if it refreshes your memory, okay.
3 Look at page 13. We're gonna start at line 13 on
4 page 13, and I want you to read all the way 25 to
5 yourself first and see if those answers refresh your
6 memory.

7 A Well, I just read all that and I just said yes to
8 that. That's just the last thing you said.

9 Q Okay.

10 A I don't know. Yes, I guess, yes.

11 Q You acknowledge that you told the police that he
12 threatened to kill himself a week before the murder
13 —

14 A Yes.

15 Q —because you were ending the relationship?

16 A Reason we all be there, a bunch of years.

17 Q And I'm talking specifically about what you told
18 the police.

19 A Oh.

20 Q Yes. You told them that he had threatened to
21 kill himself a week before, that it was finally
22 sinking in that his relationship with you is over?

23 A Yes.

24 Q But that he wouldn't want to kill himself because
25 he wouldn't want to leave that burden on you,

R. MCFADDEN - DUNCAN HEARING

1 correct? That's what you told the police that
2 night.

3 A No, I can't say that. I can't remember. I mean,
4 it's in the statement but.

5 Q Okay. Now you mentioned that you and Larry
6 decided to go shoot pool because you all didn't have
7 the kids. Where were the kids?

8 A My kids were at my mom's. And we — his, one of
9 his, I think both of his sons was at his mom house
10 with us.

11 Q Okay. And tell me again where was, was Terry at
12 the time of the shooting?

13 A Repeat that.

14 Q Where was Terry physically located at the time of
15 the shooting? Tell me that again.

16 A In the driver door of his truck.

17 Q Driver door of his truck?

18 A Yes.

19 Q And where was the victim?

20 A Standing in front of the truck.

21 Q Okay. Now when we talk about the driver's door,
22 Terry's vehicle would have actually been facing the
23 entrance of the club, correct?

24 A Yes.

25 Q All right. So pretend I'm a passenger in a

R. MCFADDEN - DUNCAN HEARING

1 vehicle. If I'm looking straight at you, the front
2 of my vehicle would be right in front of you as we
3 are now, right?

4 A Uh-huh.

5 Q Is that a yes?

6 A Yes.

7 Q Okay, all right. And you indicated to the police
8 that night that Terry was at the back of his
9 vehicle; didn't you?

10 A No.

11 Q All right. Let's turn to page 10 of your
12 statement to see if we can help you with your memory
13 again. Let's start with line 11. The end of line
14 11 when it says when I walk, okay. I want you to
15 read that to yourself and finish for me, if you
16 will, at line 16 and see if that refreshes your
17 memory.

18 (Pause.)

19 THE WITNESS: Uh-huh.

20 BY MS. BARR:

21 Q It does now?

22 A Yep, but I was wrong.

23 Q But you told the police that night that Terry was
24 at the back of the truck?

25 A Uh-huh.

R. MCFADDEN - DUNCAN HEARING

1 Q Is that a yes?

2 A I mean, that's what the paper said, yes.

3 Q That's what you told the police though?

4 A Obviously, yeah.

5 Q All right. And you also told the police that
6 Larry and Terry never even got that close to each
7 other; didn't you?

8 A Not that close, not up on each other, no.

9 Q Right.

10 A They were about 10 feet away.

11 Q And in your mind, 'cause I'm horrible with
12 distances, in your mind what's ten feet look like?

13 A Ten feet should probably be a little bit further
14 than ---

15 Q From where the court reporter is?

16 A Yes.

17 Q From where you are now?

18 A Yes.

19 Q So maybe like here to the end of this bar?
20 That's 10 feet?

21 A No, that's more than 10 feet.

22 Q Okay. I am ---

23 A That's about 10 feet.

24 Q Hold on for a minute. I am right next to the
25 court reporter. Is that about 10 feet?

R. MCFADDEN - DUNCAN HEARING

1 A Uh-huh.

2 Q Is that a yes?

3 A Yes.

4 Q And that's about how far you say the victim was
5 from the deceased at the time?

6 A Yes.

7 Q Now you have told the police over and over and
8 over that you never saw a weapon on Larry that night
9 ---

10 A No.

11 Q ---at the club. And of course, you rushed him to
12 the hospital in order to try to get him medical
13 treatment, right?

14 A Yes.

15 Q You never saw a gun in your vehicle, correct?

16 A No.

17 Q And you said that you described Larry as kind of
18 throwing himself, his hands up in the air?

19 A Like he talks in gestures.

20 Q Yeah. And at no point in time did you ever see a
21 gun in either one of his hands?

22 A No.

23 Q Now Larry is right handed, correct?

24 A Yes.

25 Q Or he was right handed, correct?

R. MCFADDEN - DUNCAN HEARING

1 A Yes.

2 Q And of course — beg the Court's indulgence.

3 THE COURT: Yes, ma'am.

4 BY MS. BARR:

5 Q Now as Terry walking out of the car, I mean, I'm
6 sorry, walking out of the club and he's walking to
7 his vehicle, that driver's door is already open,
8 right?

9 A When I got outside, yes.

10 Q Yeah, it was already open?

11 A Yes.

12 Q Okay. And earlier that night when you saw Terry
13 come in the club Terry didn't have a gun with him,
14 right?

15 A I ain't know —

16 Q You didn't see the gun that you described to the
17 police? You didn't see him —

18 A When he came in —

19 Q —with it?

20 A —at Celestine's?

21 Q Right.

22 A When he walked inside the door?

23 Q Right.

24 A No.

25 Q Okay, all right. Now you said that when you and

R. MCFADDEN - DUNCAN HEARING

1 Larry walked out of the club, the next thing you
2 know you see a gun pointed down towards the ground,
3 right? Remember telling the Court that?

4 A I said when I walked outside it was exchange of
5 words.

6 Q Okay, and after the exchange ---

7 A I didn't see a gun till we was up on, till me and
8 Larry was standing right there and I saw the back of
9 the gun but I couldn't see the other part.

10 Q Describe it for me.

11 A It was brown. I could see a brown part, you
12 know, but the door was open, driver door.

13 Q Was it, was it a handgun or a long gun like a
14 rifle?

15 A I don't know, long gun.

16 Q Okay. Kind of look like what's in Court's
17 Exhibit Number 3? That AK-47? Kind of look a
18 little bit like that?

19 A Same color.

20 Q Yeah.

21 A Same model.

22 Q And the same length?

23 A Same length too.

24 Q Same length too and same color?

25 A Uh-huh.

R. MCFADDEN - DUNCAN HEARING

1 Q Is that a yes?

2 A Yes.

3 Q Now you told us earlier that you kind of knew
4 that something bad with was gonna happen.

5 A Yeah, kind of felt the feeling, kind of had a
6 feeling.

7 Q But before when you gave your statement to the
8 police you said you were shocked that something bad
9 happened because it really wasn't that serious,
10 right?

11 A Well, I thought it wasn't.

12 Q Right, but now you're saying that you now believe
13 that it was that serious, that you actually offered
14 testimony that your husbanded had a reason to be
15 fearful?

16 A I'm not saying that it wasn't serious. I didn't
17 even know what had happened.

18 Q You didn't tell the people that you, it wasn't
19 even that serious?

20 A I thought it was —

21 Q Hold on, let me finish my question. Let me do
22 this, Ms. McFadden. I don't want to talk over you
23 and don't talk over me because it makes it horrible
24 for court reporter to transcribe what's being said,
25 okay? So if you'll let me finish my question I'll

R. MCFADDEN - DUNCAN HEARING

1 let you finish your answer. Fair enough?

2 A Uh-huh.

3 Q And I need you to make sure you say yes instead
4 of uh-huh. Okay. Didn't you tell the police 12
5 hours after your boyfriend was killed that this
6 verbal exchange between the two of them was really
7 not that serious, right?

8 A Yes.

9 Q Okay. And you don't understand why this
10 happened, right?

11 A Yes.

12 Q And now you offered testimony to the Court that
13 your husband had a reason to fear for his life, is
14 that what you're saying?

15 A I ain't saying that. I ain't saying nothing.

16 Q So you're not -- so really, Terry really didn't
17 have a reason to fear for his life at that moment?

18 A I don't know.

19 Q Ma'am?

20 A I don't know.

21 Q Well, you didn't see Larry do anything that would
22 make your husband fear for his life?

23 A I mean, it's...

24 Q Ma'am, just ---

25 A I mean, if I was present and someone come

R. MCFADDEN - DUNCAN HEARING

1 following me outside I don't know what, you don't
2 know what a person will do. That's all I'm saying.

3 Q All right. At the moment —

4 A I felt like it wasn't that serious.

5 Q You felt like it was that serious?

6 A I felt like that, I did.

7 Q You feel like that it was not that serious?

8 A Yes.

9 Q Okay. And of course you were right there in the
10 middle of it, right?

11 A I came out in the middle of it, yes.

12 Q And as a matter of fact, you didn't just come
13 out. Didn't you deliberately get in between the two
14 of them so that your husband would not shoot your
15 boyfriend?

16 A Yes.

17 Q 'Cause you didn't think that your boyfriend would
18 shoot with you being in the middle, right?

19 A Yes.

20 Q I'm sorry, you didn't believe your husband would
21 shoot —

22 A Yes.

23 Q —Larry with you being in the middle, and a
24 possibility exists that you would get hurt? You
25 didn't think he would do that? You never thought he

R. MCFADDEN - DUNCAN HEARING

1 would do that?

2 A Huh-uh.

3 Q Right?

4 A Right.

5 Q That's why you got between him and Larry?

6 A Yeah, after I saw the gun. Yeah.

7 Q How old is your husband?

8 A 33.

9 Q I'm sorry?

10 A 33.

11 Q And your boyfriend Larry was 27 years old at the
12 time?

13 A Yes.

14 Q He helps you financially, your boyfriend?

15 A Oh, yes.

16 Q Helped take care of the kids —

17 A Yes.

18 Q —that you have with this defendant?

19 A Yes.

20 Q And you would agree with me in terms of their
21 size, your husband is a little bigger than Little
22 Larry was, than the victim was?

23 A Yes.

24 Q Now a couple of questions and I'll be done. You
25 said, told the police that you saw your husband

R. MCFADDEN - DUNCAN HEARING

1 drive away from the scene, right, after the
2 shooting?

3 A Jumped into the truck.

4 Q Yeah. He jumped into the truck and he drove away
5 from the scene?

6 A Yes.

7 Q And as he -- before the shooting happened, as
8 your husband is walking along and saying to Larry,
9 as you say, back up, he certainly had the option
10 then to continue to walk, get inside his vehicle and
11 drive away from the scene; didn't he?

12 A I didn't see that part.

13 Q Ma'am?

14 A I didn't see that part.

15 Q I'm not asking you what you saw.

16 A Oh, you asking me did he have chance to?

17 Q Yeah?

18 A I don't know.

19 Q You don't know if he had a chance to get in his
20 car and drive away?

21 A I don't know.

22 Q Is that really your answer?

23 A Yes.

24 Q That you don't know whether or not your husband
25 could have simply to avoid this, gotten into his car

R. MCFADDEN - DUNCAN HEARING

1 and drove away? You don't know whether he could
2 have done that or not?

3 A I do not know.

4 Q But didn't he do it after he killed the man?

5 A Yes, I mean, I suppose I don't know. I don't
6 know what he could have done.

7 Q But we all agree that this shouldn't have never
8 happened?

9 A Of course.

10 MS. BARR: That's all the questions that I
11 have, Your Honor.

12 THE COURT: Redirect, Mr. Kent?

13 MR. KENT: Very briefly, Your Honor.

14 **REDIRECT EXAMINATION**

15 BY MR. KENT:

16 Q Ms. McFadden, I'm almost done with my questions.
17 I'm gonna go through a couple of things, okay. I
18 got to get this microphone I guess. The statement,
19 I think there's a question on, and I just want to
20 make sure I'm clear and if I'm wrong just tell me
21 I'm wrong. The solicitor was asking you if you
22 actually had a written copy of your statement. Is
23 it your testimony you never had a copy in your
24 possession?

25 A I never had a copy.

R. MCFADDEN - DUNCAN HEARING

1 Q I actually read a copy to you; is that correct?
2 Do you remember me — and I think that might where
3 the confusion comes through. I, myself, read your
4 statement to you; is that correct?

5 A Yes.

6 Q Is that a yes?

7 A Yes.

8 Q Did I ever give you a copy of your statement?

9 A No.

10 Q And the first time you were pretty clear that the
11 first time I heard my statement?

12 A Yes.

13 Q So no one had given you a copy?

14 A No.

15 Q You didn't have copy with you when you came and
16 met with me?

17 A No.

18 Q At any point in time did I suggest that you
19 change your statement or something is different with
20 your statement or anything wrong of that nature?

21 A No.

22 Q Did anyone ever force you or threaten you and
23 tell you that you can't testify that way?

24 A No.

25 Q Okay. Is the testimony that you gave today going

R. MCFADDEN - DUNCAN HEARING

1 to be substantially the same if asked as given at
2 trial?

3 A Yes.

4 Q Is your testimony gonna be any different than the
5 testimony you gave today, will it be substantially
6 the same at trial in front of a jury?

7 A Yes.

8 Q Okay. So your testimony is not going to change
9 no matter what the Solicitor has suggested about
10 statements or otherwise?

11 A No.

12 Q The testimony that you gave during direct
13 examination will be your testimony during trial?

14 A Thank you so much. That's all the questions I
15 have.

16 THE COURT: Recross, Solicitor.

17 **RECROSS-EXAMINATION**

18 BY MS. BARR:

19 Q Ma'am, why couldn't you just tell me that
20 Mr. Kent read the statement to you? Why couldn't
21 you just -- we -- hold on. We had a ten minute
22 exchange about how you knew about your statement;
23 did we not?

24 A You said that I had a copy and I'm telling you I
25 didn't have a copy.

R. MCFADDEN - DUNCAN HEARING

1 Q Let's talk about the time. When I was asking you
2 on cross-examination it took us about ten minutes
3 going back and forth of how you knew what was in
4 your statement?

5 A Uh-huh.

6 Q Didn't we?

7 A Uh-huh.

8 Q Is that a yes?

9 A Yes, ma'am.

10 Q I asked you, did you get it from Di; you said no.
11 Correct?

12 A Yes.

13 Q I asked you did you get it from your husband; you
14 said no. Correct?

15 A Yes.

16 Q Why couldn't you just tell me that Mr. Kent read
17 the statement to you?

18 A I had already knew what my statement said. That
19 was the second time basically because I already knew
20 what my statement said.

21 Q Where were you when he read it to you?

22 A When I went to see him.

23 Q In his office?

24 A Uh-huh.

25 Q Well, ma'am, when I asked you where were you when

R. MCFADDEN - DUNCAN HEARING

1 you read the statement why couldn't you just simply
2 say, I didn't read it, Mr. Kent read it to me in his
3 office?

4 A He wasn't basically asking me. He was telling me
5 basically that I had had a copy.

6 Q And you didn't feel the need to be truthful and
7 accurate and tell ever part of the answer? You
8 didn't feel that need?

9 MR. KENT: I'm gonna object, Your Honor.
10 I don't know if that's a question or testimony.

11 THE COURT: I overrule it. You may
12 answer.

13 BY MS. BARR:

14 Q You didn't feel the need to give a complete
15 response when I asked you where were you when you
16 read the statement, or how did you get a hold of it?

17 A You asked me and I told you I already knew what
18 my statement was.

19 Q You're trying to help your husband.

20 A I'm not trying to help no one. I'm trying to
21 tell the truth.

22 Q You don't want to see him get convicted of
23 murder?

24 A I don't want to see no one get convicted of
25 something that didn't happen. I want to tell the

T. WILLIAMS - DUNCAN HEARING

1 truth of what happened.

2 Q You don't want to see anybody get convicted of
3 something that didn't happen?

4 A I don't want to see nothing, nobody.

5 Q It's no dispute that your husband killed Larry?

6 A None at all.

7 THE COURT: Thank you. Thank you very
8 much, Ms. McFadden. You may step down.

9 You may call your next witness,
10 Mr. Schwartz.

11 MR. SCHWARTZ: Thank you, Your Honor. The
12 Defense calls Mr. Terry Williams.

13 THE COURT: All right. If you'll come
14 around to be sworn please.

15 THE CLERK: Place your left hand on the
16 Bible, raise your right.

17 WHEREUPON,

18 **TERRY WILLIAMS,**
19 having been duly sworn by the Clerk, testified
20 as follows:

21 THE CLERK: Sit in the witness box up here
22 please.

23 **DIRECT EXAMINATION**

24 BY MR. SCHWARTZ:

25 Q Why are we here today?

T. WILLIAMS - DUNCAN HEARING

1 A We're here about this case that we right now.

2 Q Okay. And what case is that?

3 A Case of me charged with murder.

4 Q Okay. Why don't you tell us what happened that
5 night?

6 A Well, when I first got there, when he and my
7 cousin, when we first got, got to the club, went
8 inside, me and him. And I got a beer and I bought
9 him a beer. And I went back outside to drink the
10 beer outside. Everybody was outside; the club was
11 so small. And I went outside. And we drank the
12 beer; and all of a sudden a girl came up to me, she
13 was looking for marijuana, something like that, you
14 know.

15 MS. BARR: I'm sorry, Judge, can I just
16 ask the witness to speak up. I can barely hear.

17 THE COURT: All right. You do that for
18 us, concerning you, Mr. Williams.

19 THE WITNESS: Yes, sir. So me and my
20 cousin were just sitting outside and Tabitha Greene
21 had came up to me, she wanted to buy some marijuana,
22 something like that. We was just smoking marijuana.
23 I told she could get some of what I had. We was
24 just talking to her. And what happened next, I went
25 back inside and after I went back inside to get

T. WILLIAMS - DUNCAN HEARING

1 another beer, at that point in time I went back
2 inside to get another beer.

3 Q Can you speak a little louder for us please.
4 It's kind of hard to hear.

5 A I went back inside to get another beer, and at
6 that point in time I got the beer and I went
7 outside. I got the last beer and I went outside,
8 and I was just outside talking to the few people
9 outside. And Larry and Jerome came outside and they
10 went to the truck, and they went in the truck and
11 they came back and they stop right there in front of
12 me. And he just was looking at me, him and the
13 other guy, just looking at me. And I was just
14 standing there. And everybody else was stay there
15 just looking at me like, you know, they just —
16 everybody looked at me. And I asked him, I asked
17 him what's wrong, I said what's wrong. And he was
18 like F you, you know, N word or whatever, F you
19 nigger, and I could look where I want to look, these
20 my eyes, and stuff like that. So I was like, you
21 know, what's wrong man, you know, I don't want no
22 problems with you, whatever. I said, I don't want
23 no problems, let's go on, what's wrong. He was like
24 F-U. Every time I, everywhere I go I see you, I'm
25 tired of seeing you everywhere I go. And I was

T. WILLIAMS - DUNCAN HEARING

1 like, man, I got no problems with you, I don't want
2 nothing, you know, I don't want no problems, I ain't
3 say nothing to you, I don't want no problems. So I
4 started backing up 'cause I thought one of the guys
5 was gonna sucker punch me so I backed up off him.
6 And I just started walking away, you know, walked
7 away from him. I said, I'm about to get out, you
8 know, I said I'm about to go, I don't want no
9 problems. So I walk going to the truck; and as I
10 was, going turning around walking to the truck, he
11 started coming behind me. And that's when I
12 stopped, you know, and he stopped. And I was like,
13 man, don't follow me, you know what I'm saying, back
14 up, leave me alone. So at that point in time I
15 turned around; he started coming again. So I ran
16 like a jog to the truck. I jog like real quick, run
17 to the truck. And when I got to the truck I cranked
18 the truck up, put one leg in, one leg out. And I
19 was about to leave, but he's all in front of the
20 truck screaming and hollering, beating on the hood;
21 and you know, I'm saying get out the truck, we're
22 gonna do this now, whatnot. So I'm tell him we
23 ain't gonna do nothing, I ain't got no problem with
24 you, and then go ahead and leave me alone, back up,
25 back away from me. I keep telling him back up away

T. WILLIAMS - DUNCAN HEARING

1 from me. And at that current time Ms. McFadden,
2 Reva came out. She came out. She was trying to
3 stop him, whatever, tell help come on, whatever. He
4 push at her away, tell her, no, we ain't gonna do
5 this. She ain't scared. All I'm telling him back,
6 back up, still telling him, you know, just go ahead,
7 and that I ain't want no problems with him. And he
8 wouldn't stop. And I had already saw the gun in his
9 waistband. I had already seen the gun. That's my
10 reason for, you know, trying to get away from him.
11 I saw he had a pistol in his waist, and I was just
12 telling him, just, back up, I didn't want nothing to
13 happen. I hate to the day that it happened; but you
14 know, I told him that. I was keep telling him back
15 up away from me, I don't want no problem. And Reva
16 went to cross and he went to pull the gun out his
17 waist. And I, I fired, you know, I fired at the
18 ground. I shot, you know, 'cause I was shooting at
19 the ground just trying to back him up, you know. I
20 was just scared, you know. I was, I never been that
21 scared in my life. I'm sorry for everything.

22 Q Okay. Now I'm gonna go back over a little bit of
23 testimony with you. Now you stated that you went,
24 you went into the bar twice to get beer?

25 A Yes.

T. WILLIAMS - DUNCAN HEARING

1 Q When you were inside the bar did you see Larry?

2 A Yes, I seen him.

3 Q Did he say anything to you?

4 A No, he didn't.

5 Q Did you say anything to him?

6 A No, I did not.

7 Q And you testified that you walked out of the bar
8 and Larry followed you out. What did he -- where
9 did he first initially make contact with you
10 verbally?

11 A Right there on the outside of Ms. Celestine door.

12 Q Where was that? I couldn't hear you.

13 A Right on the outside of her door.

14 Q Okay.

15 A Of the club.

16 Q How did that make you feel when he first came up
17 and said something to you?

18 A I just got kind of, I was nervous, scared at the
19 same time. It was two guys. It wasn't just him, it
20 was him and a guy named Jerome Miller.

21 Q Who is Jerome Miller?

22 A His friend I guess.

23 Q Okay. Now you also testified that he went to the
24 truck. What do you mean? Whose truck did they go
25 to?

T. WILLIAMS - DUNCAN HEARING

1 A Reva McFadden's truck.

2 Q Did you see what they were doing in that truck?

3 A Couldn't see.

4 Q Okay. Did you — how'd that make you feel when
5 they went to the truck?

6 A Nervous. I got nervous.

7 Q Why did that make you nervous?

8 A 'Cause I just was, you know, I got nervous. When
9 he came back and stand in front of me, that's when I
10 got nervous.

11 Q You also testified that after you had the
12 exchange of words with Larry that you went, you
13 jogged back to your truck and then you actually
14 cranked it up, correct?

15 A Yes, yes, sir.

16 Q Why didn't you just leave?

17 A I couldn't. He was in front of the truck and
18 hitting on the hood screaming and hollering. He was
19 in front of the truck. He was beating on my hood.

20 Q Why didn't you run immediately? Why didn't you
21 just back up?

22 A I couldn't because of the trees, the tree line.
23 The woods was right there. We were backed up to the
24 woods.

25 Q Okay so, if I'm — let's say that I'm in your

T. WILLIAMS - DUNCAN HEARING

1 truck at that point and the driver's side, the tree
2 is behind you?

3 A Yeah, yes, sir.

4 Q Why don't you just go outright?

5 A Can't go right 'cause there's woods all the woods
6 right there to your car. It was a car, another car
7 right here. That's woods, woods, it's only one way
8 in, one way out. I had to go frontwards and that
9 way.

10 Q What happens if you would have gone forward with
11 Larry's in front of your truck beating on your hood?

12 A I would have probably run him over or something.

13 Q Okay, so that's why you couldn't leave?

14 A I couldn't.

15 Q How'd that make you feel when Larry was beating
16 on your hood?

17 A Scared. I didn't know, I just, I didn't know, I
18 never had nothing like this in my life. No, I never
19 had nothing like this to even happen to me in my
20 life, never. I was scared.

21 Q You also testified that you saw a gun in his
22 waistband. How'd that make you feel?

23 A That's, that's what made me, you know, run. I
24 was scared. That's what made me ran to my truck
25 'cause I'd already saw the gun.

T. WILLIAMS - DUNCAN HEARING

1 Q Now you testified earlier also that you had sold
2 some marijuana when you were at the bar. Did you go
3 to the bar specifically to sell marijuana?

4 A No, sir, I just smoke marijuana. I had a little
5 sack on me and I basically was gave it to her. It
6 really wasn't no sale.

7 Q Okay. Have you ever been on trespass notice at
8 Viola's?

9 A No sir. I go there and get my drink and buy food
10 and stuff. She's a nice lady. I, you know, I never
11 had a problem out of her.

12 Q But you had a right to be there?

13 A Yes, sir.

14 Q Okay.

15 MR. SCHWARTZ: Beg the Court's indulgence,
16 Your Honor.

17 THE COURT: Yes, sir, certainly.

18 BY MR. SCHWARTZ:

19 Q Larry, why don't you tell us what you believe
20 would have happened had you not shot first?

21 A If I wouldn't have shoot he was gonna shoot me.
22 I couldn't let him kill me. I'm sorry, I'm sorry
23 for what happened.

24 MR. SCHWARTZ: No further questions, Your
25 Honor.

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1 THE COURT: Thank you, Mr. Schwartz.
2 Solicitor.

3 **REDIRECT EXAMINATION**

4 BY MS. BARR:

5 Q When did you put the gun in the car, Terry?

6 A Ma'am?

7 Q When did you put the gun in the car that day?

8 A I don't remember.

9 Q You don't remember at what point you put the gun
10 in the car?

11 A No, I didn't put it in the car. It wasn't my
12 truck. You know, I wasn't occupying the truck day
13 by day.

14 Q Whose truck was it?

15 A It was my sister truck.

16 Q And you often drove that truck, right?

17 A Yes, ma'am. I often drove it a little bit, but I
18 wasn't really driving it. I don't have no driver's
19 license.

20 Q It's a Chevy Suburban I believe?

21 A Yes, ma'am.

22 Q You're not suggesting to this Court that your
23 sister put the ---

24 A No, ma'am.

25 Q ---assault rifle in the truck?

T. WILLIAMS - DUNCAN HEARING

1 A No, ma'am.

2 Q And it a was AK-47; wasn't it?

3 A I think. I don't know what —

4 Q You remember that incident that happened back in
5 2012 between you and Reva when the police got the
6 AK-47?

7 A Yes, ma'am.

8 Q I'm gonna show you Court's Exhibit Number 3. The
9 gun that you had that day that you killed Larry with
10 kind of looked like that; didn't it?

11 A I don't know, something like that, yes, ma'am.

12 Q Okay, all right. In other words, it can cause a
13 lot of damage to a body, right?

14 A I have no idea.

15 Q Okay. Who else was with you in the truck that
16 day?

17 A One of my cousin came out there.

18 Q What's your, what's your cousin's name?

19 A Damien.

20 Q Did you see Damien put the AK, the 47 in the
21 truck?

22 A No.

23 Q All right. Your sister didn't put it in the
24 truck, right?

25 A No.

T. WILLIAMS - DUNCAN HEARING

1 Q So you did it, right?

2 A I put it in there.

3 Q Okay.

4 A Yes, ma'am.

5 Q The shooting happened shortly after midnight?

6 A Yes.

7 Q Okay. How many hours, minutes, seconds before
8 the shooting happened did you put that assault rifle
9 in the truck?

10 A It'd been in there.

11 Q Okay. It was in there the whole time?

12 A It'd been, it'd been in there for a long time.

13 Q What's a long time?

14 A Days probably.

15 Q For days?

16 A Yes, ma'am.

17 Q It belonged to you?

18 A Yes, ma'am.

19 Q Okay. And you know you can't have a gun, right?

20 A Yes, ma'am.

21 Q Okay. As a matter of fact, you were convicted in
22 2006 for selling marijuana, correct?

23 A Yes, ma'am.

24 Q As a matte of fact you were convicted in this
25 court in 2006 for selling crack cocaine?

T. WILLIAMS - DUNCAN HEARING

1 A Yes, ma'am.

2 Q All right. And as result of those convictions
3 you were deemed a convicted felon and could not
4 lawfully possess a firearm?

5 A Yes, ma'am.

6 Q And you said that despite that you owned an AK --
7 isn't that a AK-47 that was used that night?

8 A I don't know.

9 Q Sir --

10 A I don't know, ma'am.

11 Q Did it look like an AK-47?

12 A It looked like --

13 Q And that's what you called an AK-47; didn't it?
14 Isn't that what you called it?

15 A I never call it that.

16 Q How'd you get it?

17 A I got it from one of my partners.

18 Q Say again?

19 A From one of my friends.

20 Q Who?

21 A He's not in front of it.

22 Q What's his name?

23 A Call him Buck or something.

24 Q You don't know his real name?

25 A No, ma'am.

T. WILLIAMS - DUNCAN HEARING

1 Q Where is it at now?

2 A I dropped it right there at the scene.

3 Q Excuse me?

4 A I dropped it right there at the scene that night.

5 Q Where?

6 A Right there at the scene.

7 Q Where specifically at the scene?

8 A At Viola club.

9 Q Say again.

10 A At Viola club that night.

11 Q Where? Where at the club?

12 A Right back of the truck. I just dropped it. I
13 panicked. I jumped in the truck and I left.

14 Q You just dropped it?

15 A Yes, ma'am.

16 Q Okay. Don't know whatever happened to it after
17 that?

18 A No, ma'am, I panicked.

19 Q Where'd you go?

20 A I went. I went to the railroad tracks. I went
21 to the railroad tracks. I was just sitting on the
22 railroad track just hiding out just in case somebody
23 tried to come and try to kill me 'cause I didn't
24 mean to do — what happened, just happened, I knew,
25 you know, that this was a big mistake, you know. If

T. WILLIAMS - DUNCAN HEARING

1 he never would have, you know.

2 Q Let me ask you this, why were you toting
3 around -- let's just assume for argument sake that
4 it's a AK-47. Why were you toting that around for
5 days anyway?

6 A Honestly, I always have a gun to be honest. I
7 always, you know, for protection.

8 Q For protection?

9 A Yes, ma'am.

10 Q And also because you sell drugs, right?

11 A No, ma'am, I don't sell drugs.

12 Q You said you sold drugs to Tabitha that night?

13 A Not to her, but to another person.

14 Q Who?

15 A Von, whatever his name was.

16 Q Well, if you're selling drugs probably good idea
17 to have a weapon on you too, right?

18 A Yes, ma'am, but it wasn't no selling drugs. I
19 smoked marijuana just for some -- I had smoke so
20 sold a little to somebody.

21 Q You sold a little. You got money for it, right?

22 A Yes, ma'am.

23 Q You gave somebody marijuana. You got money for
24 it, right?

25 A Yes, ma'am.

T. WILLIAMS - DUNCAN HEARING

1 Q So we can agree that's selling drugs, right?

2 A Yes, ma'am.

3 Q All right. So it's a good idea to have a gun
4 around if you're gonna be selling drugs, right?

5 A I don't know.

6 Q All right. And you say that you then panicked,
7 you left, you were afraid that somebody was gonna
8 come after you, right?

9 A Yes, ma'am.

10 Q Did you have any other AK-47s in the vehicle?

11 A No, ma'am.

12 Q Did you have any other firearms in the vehicle?

13 A No, ma'am.

14 Q Did Damien have any other firearms in the
15 vehicle?

16 A No, ma'am.

17 Q Any firearms at all?

18 A No, ma'am.

19 Q So the most powerful weapon that you could have
20 had at your disposal when you were afraid that
21 somebody is gonna come shoot you, you just drop it
22 at the murder scene and leave it there. Is that
23 your testimony?

24 A Yes, ma'am.

25 Q Okay. Where'd you go?

T. WILLIAMS - DUNCAN HEARING

1 A I went to, in the woods on the railroad tracks
2 just sitting.

3 Q How long did you sit there?

4 A Basically all night.

5 Q Sat there all night?

6 A Yes, ma'am.

7 Q When did you turn yourself in to the police?

8 A My sister, I called my sister right after it
9 happened.

10 Q Okay, what's your sister's number?

11 A My sister number?

12 Q Yes, sir.

13 A Her number at that current time was

14 [REDACTED]-6263.

15 Q I'm sorry, give me that number again.

16 A [REDACTED]-6263.

17 Q Okay. You called her right after it happened?

18 A Yes, ma'am.

19 Q So if your cell phone records indicate that you
20 called her at 12:16 a.m. that would be, correct?

21 A If someone — if that, yes, ma'am.

22 Q Okay, all right. And how long after the shooting
23 did you call her?

24 A How long?

25 Q Yes.

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1 A Right after, right after. Right after. She the
2 first person I thought about, someone who could help
3 me out with what just occurred.

4 Q So less than five minutes after for sure?

5 A Yes, less than five minutes, somewhere around. I
6 don't know the time issue. I tell you I don't know
7 exactly.

8 Q All right. And where were you at physically when
9 you called her?

10 A I was on the railroad tracks.

11 Q Okay, where was Damien?

12 A Damien, I don't know where Damien was at.

13 Q Okay. Who was the next person you called?

14 A My brother.

15 Q Okay. When you called your sister did you get an
16 answer?

17 A No, I had to call about five times, something
18 like that.

19 Q Okay. And the next person you called was who?

20 A My brother.

21 Q What's your brother's name?

22 A Ernie Williams.

23 Q Okay, all right. And what's his telephone number
24 at that time?

25 A [REDACTED]-8602.

T. WILLIAMS - DUNCAN HEARING

1 Q All right. And this is after you couldn't reach
2 your sister?

3 A Yes, ma'am.

4 Q Did you reach your brother?

5 A Yes, ma'am.

6 Q What did you tell your brother?

7 A I said basically the same thing I told my sister.

8 Q All right. And who was the next person you
9 called?

10 A I have no idea.

11 Q All right. Have you reviewed your cell phone
12 records that were provided to your lawyer as a
13 result of this discovery, exchange of discovery?

14 A Yes, I think I read a little bit of it.

15 Q Okay. Do you dispute any of the times or numbers
16 associated with your cell phone after the shooting?
17 Let me have you take a look at it and see if you
18 agree that that's probably an indication of who you
19 called, the numbers that you called, and the times
20 that you called.

21 A Yeah, most of them all my cousins and my family,
22 my sister.

23 Q Let me do this so that I don't publish in open
24 record everybody's cell phone number. Let's just go
25 from, use the last four digits, okay? Would that

T. WILLIAMS - DUNCAN HEARING

1 work?

2 A All right. I can't remember. That was a long
3 time ago.

4 Q If you can't remember just tell me that, all
5 right? You've indicated that your sister's number
6 ends in 6263; is that correct?

7 A Yes, ma'am.

8 Q All right. And you called her at 12:16 a.m.; is
9 that correct?

10 A I guess so.

11 Q You've indicated that your brother's number ends
12 in 8602; is that correct?

13 A Yes, ma'am.

14 Q You called him at 12:18, right?

15 A Yes, ma'am.

16 Q Two minutes after you call your sister?

17 A Yes, ma'am.

18 Q All right. Then you tried to call your sister
19 back at 12:18, didn't speak to her, correct?

20 A That's correct.

21 Q Tried to call her again at 12:19, couldn't get
22 her, correct?

23 A Correct.

24 Q All right. And whose number ends in 0816?

25 A I don't -- that's supposed to be my number.

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1 Q Okay. All right, were you checking your voice
2 mail at 12:21?

3 A Honestly I don't know.

4 Q Okay. Whose cell number ends in 8481?

5 A 8481?

6 Q Yes, sir, this number here?

7 A I don't know. I have no idea.

8 Q Do you deny you placed a phone call to a number
9 ending in 8481 at 12:21?

10 A I just don't know.

11 Q Okay. Do you deny placing another call at 12:22?

12 A To what number?

13 Q Ending in 0816?

14 A That's supposed to be mine, I reckon.

15 Q All right. Now do you deny placing another call
16 that same minute 12:22?

17 A I don't know.

18 Q Okay.

19 A I mean, it's been so long.

20 Q I understand. Do you deny calling, trying to
21 reach your sister again at 12:23 a.m.; is that
22 correct?

23 A Yes, ma'am. I talked to her about after the
24 fifth call, something like that.

25 Q All right. And you made approximately 35 phone

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1 calls between the time of the shooting and 1:26 a.m.

2 You agree with me on that?

3 A Yes, ma'am, I mean, it's right there.

4 Q Okay, all right. And none of those calls were to
5 9-1-1, were they?

6 A No, ma'am.

7 Q None of those calls were to Williamsburg County
8 Sheriff's Office, were they?

9 A No, ma'am.

10 Q You continue to make calls even after 1:26 a.m.,
11 correct?

12 A I honestly don't know.

13 Q Who do you know with an area code 864? That's in
14 the upstate. Does that number ring a bell that ends
15 in 5010?

16 A Honestly I don't even understand this because
17 that number on the phone, I've been got rid of this
18 phone a long time ago.

19 Q Okay.

20 A So I honestly don't understand how, you know, I
21 don't know, you know. Might not even be me 'cause
22 that number there, I've been got rid of that phone.

23 Q Well, let me ask you this, we can agree that you
24 called a whole bunch of people after that shooting,
25 right?

T. WILLIAMS - DUNCAN HEARING

1 A I don't know. I called my brother, my sister.

2 Q Who else? Who else?

3 A That's who I talked to.

4 Q And you called them at least 30 times, right?

5 A I called my brother. I called my sister at least
6 like five, six times.

7 Q And again, you've established you never called
8 law enforcement?

9 A No.

10 Q And you said that Larry was pounding on the hood
11 of your vehicle, right?

12 A Yes, ma'am.

13 Q And this is -- and you had a Chevy Suburban that
14 sits up pretty high; doesn't it?

15 A Yes, ma'am, it's --

16 Q And you describe him pounding on your vehicle,
17 right?

18 A Yes, ma'am.

19 Q And you are fearful at that point, right?

20 A I was fearful when I saw the pistol in his waist.

21 Q So when he's pounding on the hood of the car
22 you're not fearful at that point?

23 A Fearful every moment once I saw the pistol; I was
24 scared for my life.

25 Q Okay. But when he's pounding on the hood of the

T. WILLIAMS - DUNCAN HEARING

1 car as you allege, you don't see a pistol there; is
2 that correct?

3 A Yes, ma'am, I already seen that when he first
4 walked over when Jerome walked up on me.

5 Q Oh, you saw the pistol then?

6 A I been saw the pistol. That's why I went and got
7 ---

8 Q And this is when you first got to the club?

9 A No. No, ma'am. That's when he came out, first
10 initiated, first approached me with Jerome.

11 Q Okay. And you said you, as a result of seeing
12 the pistol you then get in the car, you crank up the
13 car and you're getting ready to leave?

14 A Yes, I'm trying to get away.

15 Q All right. And after you cranked up the car, is
16 that when you tell the Court that Larry then comes
17 in front of your vehicle and starts pounding on the
18 hood?

19 A Yes, ma'am, he was following me to the truck. I
20 ran to the truck.

21 Q So this fellow who purportedly -- when I say this
22 fellow, I mean Larry -- you're telling this Court he
23 has a gun at this point. He sees you in the
24 driver's seat with your vehicle cranked; and rather
25 than present the gun at that time, you want the

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1 Court to believe he comes then while armed with the
2 pistol in his waistband, and starts pounding on the
3 hood of the vehicle. That's your testimony?

4 A Yeah, he tells me to get out, want to fight.
5 That's what he had wanted I guess. That I don't
6 know what he wanted to do. I don't know what he
7 wanted to do.

8 Q And of course, when he's doing that you don't
9 call 9-1-1, you don't blow the horn, you don't do
10 anything, right?

11 A Everything is going so fast.

12 Q All right. So you've been in court, you heard
13 testimony from Investigator Ballard that you did not
14 turn yourself in until about 4 p.m. later on that
15 day, right?

16 A It was earlier than that.

17 Q What time you think it was?

18 A It was noon.

19 Q About noon?

20 A About 11.

21 Q So you turned yourself in about 12 hours after
22 the shooting?

23 A Yes, ma'am, I had, you know, my sister, I got
24 with them and they made sure, you know, that I was,
25 you know, straight and secure and everything, you

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1 know.

2 Q Did your sister tell you that the police were
3 looking for you?

4 A I mean, I knew that, you know, but I just had to
5 wait till I get everything legally straight with
6 myself. You know, my sister and I called them.
7 That's why I called them because I knew they would
8 give me better guidance on this.

9 Q What you mean wait till you get everything
10 legally straight? What does that mean?

11 A Try to get, you know, a better lawyer to come in
12 or whatnot because I knew what had just occurred so
13 I was just, I was dumbfounded. I didn't really know
14 what to do at that point so.

15 Q Okay. So you were seeking guidance from them?

16 A Yes, ma'am.

17 Q About a lawyer?

18 A About trying to get myself together with what had
19 just happened.

20 Q Okay. All right, what'd you do with the clothes
21 you were wearing that night?

22 A The police have them.

23 Q The clothes in these pictures are the ones you
24 were wearing at the time of the shooting?

25 A Yes, ma'am.

T. WILLIAMS - DUNCAN HEARING

1 Q You sure?

2 A Where is this?

3 Q That's your picture at the Sheriff's Office when
4 you turned yourself in.

5 A Okay, yes, ma'am, that's the same.

6 Q Same outfit?

7 A Same thing.

8 Q Okay, all right. So where did your sister, your
9 brother or whoever your family member who
10 accompanied you to the jail, where did they meet you
11 at?

12 A My sister, they picked me up.

13 Q From where?

14 A I came out of the woods.

15 Q They pick you up from out of the woods. Where
16 was your vehicle?

17 A The vehicle was parked at my cousin, you know,
18 house, whatnot.

19 Q What's your cousin's name?

20 A Wright, Wright.

21 Q Say again?

22 A Derrick Wright.

23 Q Derrick?

24 A Wright.

25 Q Bright?

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1 A Yes, ma'am.

2 Q What's his momma's name?

3 A I don't know.

4 Q Okay. You parked the vehicle there?

5 A Yes, ma'am.

6 Q Why?

7 A I just parked it, got out. I was ready to just
8 get out of it, you know, then.

9 Q Was that before or after you talked to your
10 sister and your brother?

11 A That was, that was after.

12 Q After you talk—

13 A No, that before I talked to my sister and
14 brother. I parked it there and I called my sister
15 and brother.

16 Q How far is that place where you parked your
17 vehicle from the Celestine's Nightclub?

18 A Probably like four or five miles, something like
19 that.

20 Q Okay. So you went straight there and parked the
21 vehicle there?

22 A Yes, ma'am.

23 Q You were trying to hide it, weren't you?

24 A No, ma'am, I mean, hide from someone trying to
25 hurt me, kill me, yes, ma'am.

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1 Q Oh, I see, I see. You didn't let anybody at the
2 house know you were putting the vehicle back there
3 though, did you?

4 A No one was home.

5 Q Okay. And then you then -- well, where was
6 Damien during all this?

7 A He had already gone. He was going.

8 Q Say again.

9 A He was already gone.

10 Q Gone where?

11 A I don't know.

12 Q Well, I mean, did he go with you when you went to
13 the cousin's house to put the vehicle --

14 A I honest--

15 Q Hold on, let me finish my question.

16 A Sorry.

17 Q So Damien was with you when you went to your
18 cousin's house, put the vehicle behind the house, he
19 was there with you?

20 A No, ma'am.

21 Q Where'd you take him?

22 A Where did I take him?

23 Q Yeah. I mean, you drove away from the scene,
24 right?

25 A Yes.

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1 Q Where'd you take Damien?

2 A Damien, I don't know where Damien went.

3 Q Where'd you take him?

4 A I took him home.

5 Q I thought you just said you didn't know where he
6 went?

7 A I'm saying I don't know where he went after that.

8 Q Okay.

9 A He went home.

10 Q So in which order did it happen? Did you take
11 Damien home first, or did you go try to hide the
12 vehicle first?

13 A Damien went home. I took him home.

14 Q Okay. Where does Damien live?

15 A In Lane.

16 Q Say again?

17 A In Lane.

18 Q And how far is that from the nightclub?

19 A Same, about four or five miles.

20 Q All right, you drop him off, right?

21 A Yes, ma'am.

22 Q And then you go and you put the vehicle behind
23 somebody's driveway, or behind somebody's house,
24 right?

25 A Yes, ma'am.

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1 Q The house that you drove to, did the owner of
2 that vehicle live there?

3 A The owner of the vehicle?

4 Q Yeah.

5 A No, ma'am.

6 Q Why would you take the car then if that's not who
7 owns the vehicle? Why would you take it there?

8 A That was someone, my friend, cousin who, you
9 know, that someone down the line cousin, but we were
10 close. It was someone who I knew I could have been
11 took it to. I always be took to the house to the
12 house?

13 Q But nobody was home when you went there?

14 A Home, either sleeping.

15 Q And then what, about what time was it that you
16 took that vehicle there?

17 A Probably — I don't know exactly, you know, I
18 don't know.

19 Q Was it minutes or hours after the shooting?

20 A Right after, right after.

21 Q And then your testimony is you stayed in the
22 woods for how long?

23 A All night.

24 Q And you had your cell phone the whole time,
25 right?

T. WILLIAMS - DUNCAN HEARING

1 A No, ma'am.

2 Q What happened to your cell phone?

3 A I threw my cell phone away after -- I just was
4 out of my mind at that point. I didn't even have my
5 cell phone for about probably after -- after I
6 talked to my sister and stuff I threw my cell ph one
7 away.

8 Q After you had a conversation ---

9 A Threw it in a ditch.

10 Q You threw your cell phone away in a ditch?

11 A Yes, ma'am.

12 Q Why do you do that?

13 A 'Cause I was, I just told -- the man just made me
14 shoot him, you understand? I never ever done
15 nothing like that in my life; my whole world was
16 turning.

17 Q Mr. Williams, here's what I'm trying to
18 understand. You have just told this Court, if this
19 Court were to believe you, that you shot Larry Moore
20 because you thought that he was going to shoot and
21 kill you, right? Right?

22 A Yes, ma'am, that's the truth.

23 Q And you agree with me that if that is true and if
24 the Court accepts that you have the right to defend
25 yourself, don't you? Don't you agree with me?

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1 A Yes, ma'am.

2 Q All right. And so when you are doing these
3 things after you have been forced to shoot this guy
4 as you've told us, you don't call the police, right?

5 A Right.

6 Q Right?

7 A Yes, ma'am.

8 Q You put the vehicle that you're driving behind
9 somebody's house so it couldn't be seen, correct?

10 A Yes, ma'am.

11 Q You throw away your cell phone, correct?

12 A Yes, ma'am.

13 Q And you purportedly again, if you want us to
14 believe it, you leave the murder weapon there at the
15 scene of the club?

16 A That's the first thing I did. I was in awe. I
17 was in panic state.

18 Q Okay. And in your panic state you're more
19 concerned with covering up your actions than
20 anything, right?

21 A No, ma'am, I'm just was concerned for my life.

22 Q Okay. But if you — if you don't call the police
23 and you throw away evidence that's covering up;
24 isn't it?

25 A I didn't throw it away. I left it right there,

T. WILLIAMS - DUNCAN HEARING

1 right there on the spot.

2 Q Okay.

3 A Right there.

4 Q And of course you can't even suggest to the judge
5 that you have any knowledge of where that gun is now
6 or why it was never recovered from the scene?

7 A It's probably where his went.

8 Q Probably where his went, okay. And where do you
9 think his went?

10 A One of his probably -- one of them boys probably
11 took it.

12 Q And of course you shared that with the police,
13 right?

14 A What?

15 Q All that information about you leaving the gun at
16 the scene, you shared all that with the police?

17 A I never spoke with law enforcement.

18 MR. KENT: Your Honor, I'm gonna object to
19 that Fifth Amendment.

20 THE COURT: Restate the question,
21 Ms. Solicitor.

22 MS. BARR: Judge, I'll withdraw the
23 question. I withdraw the question?

24 THE COURT: Thank you.

25

T. WILLIAMS - DUNCAN HEARING

1 BY MS. BARR:

2 Q So when you turn yourself in to the police, you
3 already had your bondsman and everything lined up?

4 A No, ma'am.

5 Q You got, spoke with a lawyer by then?

6 A No, ma'am, I don't know what my sister and them
7 had done. I just left everything up to them.

8 Q But you wanted them to make sure all that was
9 taken care of before you turned yourself in, right?

10 A I want to make sure that the truth get out, that
11 nothing, you know, what people might have thought
12 happened didn't happen, the truth.

13 Q All right. Let me ask you this, when you told me
14 that you sold weed to, I don't know if you said Tab
15 or Vaughn or whomever — of course that was before
16 the shooting happened, right?

17 A Yes, ma'am.

18 Q How far before the shooting did that happen?

19 A About 15, 20 minutes before the shooting. It was
20 the little weed —

21 Q The little exchange of the little weed, yeah.

22 A That happened kind of like when I first got
23 there, almost like when I got first got there.

24 Q How much time had gone by between you doing that
25 and the shooting?

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1 A Probably about 20, 30 minutes, I don't know.

2 Q About 20 or 30 minutes?

3 A Just a guess.

4 Q Okay. That's all the questions that I have.

5 Thank you.

6 THE COURT: Redirect, Mr. Schwartz.

7 MR. SCHWARTZ: Yes, Your Honor, briefly.

8 **REDIRECT EXAMINATION**

9 BY MR. SCHWARTZ:

10 Q Terry, who started this confrontation?

11 A Excuse me, sir?

12 Q Who started this fight?

13 A Larry and Jerome.

14 Q What would have happened had you not protected
15 yourself that night?

16 A I know I'd probably get killed.

17 Q Did you have a right to be at Viola's that night?

18 A Yes, sir.

19 Q Did you go to Viola's specifically to sell
20 marijuana to Tab or one of Tab's friends?

21 MS. BARR: Objection, that's been asked
22 and answered already, Judge.

23 THE COURT: I'll allow him to answer the
24 question.

25 THE WITNESS: No, sir, I just smoke

T. WILLIAMS - DUNCAN HEARING

1 marijuana every day.

2 BY MR. SCHWARTZ:

3 Q So you weren't there specifically to sell
4 marijuana?

5 A No, sir.

6 Q Just happened to be there?

7 A Correct.

8 Q You made a lot of mistakes that night; didn't
9 you?

10 A Yes, sir, made some bad ones.

11 Q Is that because everything was happening too
12 fast?

13 MS. BARR: Judge, objection, counsel can't
14 lead his own witness.

15 THE COURT: That's a leading question.
16 You can ask him.

17 BY MR. SCHWARTZ:

18 Q Why did you make a lot of mistakes that night?

19 A A lot of the mistakes because I was in fear of my
20 life; I was scared to death. I didn't know what to
21 do.

22 Q Were you familiar that night with the law of
23 self-defense when all this went down?

24 A I don't know nothing how...

25 MR. SCHWARTZ: No more questions, Your

T. WILLIAMS - DUNCAN HEARING

1 Honor.

2 THE COURT: Recross.

3 **RE CROSS - EXAMINATION**

4 BY MS. BARR:

5 Q Mr. Williams, you didn't have a legal right to be
6 in possession of a firearm, period, right?

7 A Ma'am?

8 Q You didn't have a legal right to be in possession
9 of a firearm, period, right?

10 A No, ma'am.

11 Q You didn't have a legal right to be selling dope,
12 right?

13 A I don't sell dope, ma'am.

14 Q And when you say you were scared to death, you
15 were really scared to death because you knew you had
16 committed a murder, right? That's really why you
17 were scared to death.

18 A Not murder.

19 Q And you weren't hurt in any of this, right?

20 A Yeah, I was hurt mentally.

21 Q I'm talking physical?

22 A Physically?

23 Q Yeah, physically?

24 A No, I didn't get ---

25 Q Didn't get a scratch on you, did you? Didn't get

T. WILLIAMS - DUNCAN HEARING

1 a scratch on your vehicle, did you?

2 A The vehicle? Yeah, that got scratched.

3 Q That got scratched. Where — okay.

4 THE COURT: Thank you. Thank you, Mr.
5 Williams. You may step down.

6 All right, you may call your next witness.

7 MR. KENT: Your Honor, may I have a five
8 minute recess to prepare?

9 THE COURT: Sure, we'll take about a ten
10 minute recess. Thank you. Thank you very much.

11 (WHEREUPON, a recess was taken from the
12 proceedings.)

13 THE COURT: Mr. Kent.

14 MR. KENT: Thank you, Your Honor. Your
15 Honor, I appreciate you giving us a break. At this
16 point in time that will be the extent of the
17 witnesses that Mr. Williams will put on on behalf
18 for his case on behalf of the Duncan hearing.

19 THE COURT: All right, thank you,
20 Mr. Kent.

21 Solicitor, does the State intend to call
22 any witnesses to present any testimony?

23 MS. BARR: Your Honor, just one witness.

24 THE COURT: All right.

25 MS. BARR: We call Ms. Tabitha Greene.

T. GREENE - DUNCAN HEARING

1 THE CLERK: Place your left hand on the
2 Bible, raise your right hand.

3 WHEREUPON,

4 **TABITHA GREENE,**

5 having been duly sworn by the Clerk, testified
6 as follows:

7 THE CLERK: Have a seat up here in the
8 witness box.

9 THE COURT: Solicitor.

10 MS. BARR: May it please the Court, Your
11 Honor.

12 **DIRECT EXAMINATION**

13 BY MS. BARR:

14 Q Ms. Green, state your full name for the record.

15 A Tabitha Lavonne Greene.

16 Q And if you would spell your first, middle and
17 last name..

18 A T-A-B-I-T-H-A, first name; L-A-V-O-N-N-E, middle
19 name; G-R-E-E-N-E, last name.

20 Q Ms. Greene, you were issued a subpoena to be here
21 today?

22 A Yes, ma'am.

23 Q Of course, you know why you're here regarding a
24 shooting that happened back in November 10th of
25 2013, correct? Were you present at club Celestine's

T. GREENE - DUNCAN HEARING

1 when that shooting happened?.

2 A Yes, ma'am.

3 Q All right. Tell us about what time you arrived
4 to the club and who was there when you got there.

5 A I might have got there probably about 9:00, might
6 have been a little before that, maybe bout 8:45,
7 9:00, something like that. And when I got there I
8 sat outside for a minute, and when I went inside I
9 seen Little Larry, Reva, and there was a couple of
10 other people there, Ms. Celestine. Larry and Reva,
11 they were in there shooting pool.

12 Q Okay. When you say Little Larry you're talking
13 about Larry Moore, Jr., the deceased victim in this
14 case?

15 A Yes.

16 Q When you're talking about Reva you're talking
17 about his, we're talking about Reva McFadden?

18 A Yes, ma'am.

19 Q Had you seen the two of them at that club before?

20 A Yes.

21 Q Were they regularly attended there?

22 A Yes.

23 Q All right. Now did you see the defendant Terry
24 Williams at that club that night?

25 A Yes, ma'am.

T. GREENE - DUNCAN HEARING

1 Q Prior to that night had you ever seen the
2 defendant at that club?

3 A No, ma'am.

4 Q Not to say he'd never been there, but you'd never
5 seen him there?

6 A No ---

7 Q Would you go ---

8 A Me, that was some place that we would go every
9 weekend basically.

10 Q Okay.

11 A It would be the same social crowd out there every
12 weekend.

13 Q Okay, all right. And did you routinely see Reva
14 and Larry there together?

15 A Yes, ma'am.

16 Q Now how long have you known Larry?

17 A I've known Larry, I say, at least a good 15
18 years.

19 Q Okay, all right. Had you ever known him to carry
20 a gun?

21 A No, ma'am.

22 Q Have you ever seen him with a gun?

23 A No, ma'am.

24 Q Okay. Larry have any children?

25 A Yes, ma'am.

T. GREENE - DUNCAN HEARING

1 Q How many children does he have?

2 A He has three boys.

3 Q Okay, all right. Now at some point while Reva
4 and Larry are at the club, do you see the defendant
5 come, Mr. Williams?

6 A Well, while I was outside I seen him from a
7 distance so we knew his truck.

8 Q Okay. What kind of truck was it, if you know?

9 A It was a black SUV.

10 Q Okay, all right. And then what happened?

11 A Well, you know, I haven't seen him in a while so,
12 you know, I went over and I spoke with him, you
13 know, asked him how he was doing. And you know, we
14 always have mutual conversation. I didn't see him
15 on a regular basis; but when I did see him, you
16 know, I spoke to him and he, you know, we have
17 mutual conversation. And after that, you know he
18 got out the truck. He came over. He was standing
19 there under the little shed with me holding mutual
20 conversation; that was it.

21 Q Okay. Do you recall where Reva and Larry's
22 vehicle was?

23 A Yes, ma'am.

24 Q Where was it? Let me do this, I'm gonna have
25 this marked Court Exhibit Number 4.

T. GREENE - DUNCAN HEARING

1 (Court's Exhibit Number 4 was marked
2 and made a part of the record.)

3 BY MS. BARR:

4 Q I neglected to put up the projector screen that
5 would enable everybody to see it so what I'm gonna
6 do is have the lawyers approach so you can kind of
7 show the judge where you were and where Larry and
8 Reva were when you first arrived there. Looking at
9 what's been identified as Court's Exhibit Number to
10 in this nightclub that we're talking about.

11 A Yes, ma'am.

12 Q All right. And when you first arrived where did
13 you see Reva and Little Larry?

14 A Reva, when I first arrived Reva and Little Larry
15 were inside.

16 Q Inside, okay. At some point they left and went
17 outside?

18 A When we came out the truck was parked right here.

19 Q Right where?

20 A Right here. You can see this was like the front
21 part of the truck right here. They were parked back
22 in right there.

23 Q Okay. And, okay, is this the front door to the
24 club?

25 A Yes, ma'am.

T. GREENE - DUNCAN HEARING

1 Q And that has a medal bar on it?

2 A Yes, ma'am.

3 Q And this is, it looks like some type of little
4 awning or something, a little porch area?

5 A And that's the picnic table I was sitting on. I
6 was time sitting right there on that corner.

7 Q Is there a doorway out from the club into the
8 club under that porch area?

9 A Yes, ma'am, it's right there.

10 Q Okay, all right.

11 A She had that front door, she kept that front door
12 locked because she had her heater running and that
13 was to keep her heat inside her club.

14 Q And this was in the middle of November?

15 A Yes, I mean, it was — it wasn't like it was that
16 was just night. It was locked for a while.

17 Q Okay. Now when you first observed the defendant
18 you said you went over to his vehicle. Where was
19 his vehicle parked?

20 A It's not in that picture.

21 Q Let's see if we can find one. Before I mark this
22 as an exhibit tell me whether or not it's visible on
23 this particular photograph.

24 A No, he wasn't parked there either.

25 Q Showing you another picture.

T. GREENE - DUNCAN HEARING

1 A No.

2 Q Had you ever seen the defendant driving the type
3 of vehicle he was driving that night?

4 A Yes, he wasn't driving that night.

5 Q Who was driving when you saw him?

6 A I think it was his cousin Wolfman is what they
7 call him on the streets. I don't know him
8 personally by his first name.

9 Q So when you first saw the defendant he was not
10 driving the vehicle?

11 A No.

12 Q And do you see where the vehicle would have been
13 from this photograph?

14 A No.

15 Q And this photograph?

16 A No.

17 Q (Shows witness a photo.)

18 A No.

19 Q (Shows witness a photo.)

20 A No.

21 Q Okay. (Shows witness a photo.)

22 A Yes.

23 Q Okay, all right. Let's have this marked as a
24 Court exhibit.

25 (Court's Exhibit Number 5 was marked

T. GREENE - DUNCAN HEARING

1 and made a part of the record.)

2 BY MS. BARR:

3 Q I'm gonna hand you what's been marked as Exhibit
4 Number 5. Again, be mindful that the judge is right
5 next to you. Point to where you originally saw
6 Mr. Williams park his vehicle when he arrived to the
7 club.

8 A Right here. Right there (indicating) beside the
9 trees 'cause it was, you know, it was winter, it was
10 cold so this right here is probably, you can't
11 really see, you know, the brush done grow up some
12 'cause I was going to talk to him but I couldn't go
13 to his door because the grass was so high on that
14 side.

15 Q Okay. All right, and just for the record we've
16 got on this particular exhibit we've got the
17 nightclub that's on the right of the exhibit; is
18 that correct? The nightclub is to the right and
19 then there's a porch area there?

20 A Uh-huh.

21 Q Is that a yes?

22 A Yes, ma'am.

23 Q And how do you get into the nightclub from that
24 area from this photograph? How would you get into
25 there?

T. GREENE - DUNCAN HEARING

1 A This is the driveway. This is a road that comes
2 into the drive. He was, he was back there then,
3 right there.

4 Q Back there right there?

5 A Yes, ma'am.

6 Q Can you describe this photograph where Reva and
7 Larry's vehicle would have been when he came in and
8 drove in back over there as you describe?

9 A His truck was here and Larry and Reva's truck was
10 right here.

11 Q Okay. And after you spoke to him tell us what
12 happened next.

13 A Well, he -- well, after I spoke to him you know,
14 he sat in the truck for a little while and then,
15 like I said, I was sitting up under the little -- I
16 was sitting up on the picnic table and then he came
17 over, and you know, I was talking to him. I was
18 like, you know, what's going, Terry, how are you
19 doing. He was like, I'm all right, I'm all right.
20 I was like, you want to go inside? He was like,
21 naw, I'm not going in there, I'm not going in there.
22 Then I thought about it and I was like, oh, okay, I
23 understand why you're not going in there. I was
24 like, I understand, you know what I'm saying, what
25 you're going through.

T. GREENE - DUNCAN HEARING

1 Q What did you mean by that, you understand why you
2 wouldn't go in there?

3 A Because, I mean, that was — Reva was his wife.
4 Larry was Reva's boyfriend. I mean, what husband
5 would want to see their wife out in a club with
6 someone else.

7 Q Okay. And just so that we're clear let me just
8 make sure that Court's Exhibit Number 5 kind of
9 reflects, the transcript reflects what we're talking
10 about. If you are standing in front of the club
11 with your back to the club, okay?

12 A Uh-huh.

13 Q And I'm asking you to describe a location of the
14 defendant's vehicle the first time you saw the car,
15 okay. Are you telling us it would have been to the
16 right?

17 A So if I'm standing there like this and the club
18 is right here —

19 Q The club is behind you.

20 A Okay, it would be to my right.

21 Q To your right?

22 A Yes, ma'am.

23 Q Okay, all right. And then tell us what happened
24 from that vantage point?

25 A Well, after that, like I said, we was just

T. GREENE - DUNCAN HEARING

1 sitting there having meaningless conversation and if
2 I'm not mistaken I believe Terry walked into the
3 club. He came back out, he had a bud lite, you
4 know, we were just sitting there just talking. You
5 know, he really didn't say much, you know, and that
6 was basically like the conversation me and Terry had
7 'cause, you know, like I said, I've known Terry,
8 I've known Larry. And it's like, when I see them, I
9 mean, I'm gonna speak. You know, I'm a people
10 person so I talk to everybody.

11 Q Okay. At some point that night did you receive a
12 text message from a friends of yours?

13 A Yes, ma'am.

14 Q All right. What's the friend's name?

15 A Vaughn Croker.

16 Q Okay. Don't tell me what the text message said,
17 okay. As a result of that text message did you have
18 another conversation with Terry Williams after
19 getting that text message?

20 A Yes.

21 Q Okay. Tell us about the conversation. What did
22 you say to Terry, and what did Terry say to you?

23 A Well, I told Terry what they texted me about and

24 —

25 Q What did you tell Terry? You can say what you

T. GREENE - DUNCAN HEARING

1 told Terry.

2 A I told, I asked Terry if he knew anyone that was
3 out there that had some weed, marijuana, whatever.

4 Q Okay.

5 A And he said, yes, he had some loud.

6 Q Had some what?

7 A Loud.

8 Q Loud, like L-O-U-D?

9 A Yes, ma'am.

10 Q What's loud?

11 A It's a phrase they use for a certain type of
12 weed.

13 Q Okay. That's marijuana?

14 A Yes, ma'am.

15 Q All right. And you asked him about that, what
16 did he say?

17 A He said, yeah, he had some.

18 Q Okay, all right.

19 A So I text back. He said my friend said okay, I'm
20 coming, and he came out there, went to Terry's
21 truck.

22 Q Did you see, did you see your friend go to
23 Terry's truck?

24 A Yes, ma'am.

25 Q Okay. Did you see where he was at?

T. GREENE - DUNCAN HEARING

1 A I was, I was — when I went over, after I got the
2 text message and I went because I was unable to
3 share, when I got the text message I went back over
4 to Terry's truck and I was on the driver's side of
5 the truck and I asked him about it. So actually
6 when my friend pulled up I was still actually
7 standing at Terry's truck because I showed him where
8 Terry's truck was.

9 Q Okay. And when you spoke to Terry after you had
10 the text message from your friend, you talked to
11 Terry, he was in which seat?

12 A He was in the passenger seat.

13 Q Still parked where he was originally?

14 A Yes, ma'am.

15 Q All right. How long did it take your friend to
16 get there?

17 A I'd say probably about three, four minutes.

18 Q Okay. All right, he got there. You saw your
19 friend go to Mr. Williams' vehicle?

20 A Uh-huh.

21 Q Is that a yes?

22 A Yes, ma'am.

23 Q Okay, all right. And then what happens after
24 your friend leaves Mr. Williams' vehicle?

25 A Well, then he came and we just sitting up under

T. GREENE - DUNCAN HEARING

1 the car porch. And like I said, when he, we about
2 good maybe like five, could have been like five
3 minutes, maybe seven, eight minutes after that,
4 that's when Terry had walked over. He was just
5 standing under there with us.

6 Q Where was Reva and Larry?

7 A They were inside.

8 Q Okay, all right. What happened next?

9 A After that, like I said, we were just sitting up
10 under the car shed having meaningless conversation.
11 And we might have been out there, I know we wasn't
12 out there 20 minutes.

13 Q Okay.

14 A It couldn't have been 20 minutes we was out
15 there. And like I said, after that we were sitting
16 out there for about 15, 17 minutes something like
17 that; and that's when Terry walked in the club, got
18 him a beer, and he came back outside and he stood on
19 the opposite side. I was sitting on one of the
20 picnic tables and he was standing on the other side.

21 Q Okay.

22 A And he was just, you know, he was just standing,
23 you know, he didn't really have much to say.

24 Q Okay.

25 A But I've never really known Terry to really, you

T. GREENE - DUNCAN HEARING

1 know, say much anyway.

2 Q Okay. Was at some point in time the vehicle that
3 Terry arrived in -- was that vehicle ever moved at
4 some point?

5 A Yes, ma'am.

6 Q Okay. When was that vehicle moved?

7 A I can't say exactly when it was moved but --

8 Q Was it before or after the shooting?

9 A It was before.

10 Q How much before?

11 A I really can't recall 'cause I wasn't really
12 paying the vehicle any attention. I just know that
13 it was not in the same spot that it was in when I
14 had the conversation with Terry. It wasn't there.

15 Q Did you see the vehicle being moved?

16 A I see -- all I seen was when he backed up.

17 Q Okay. When you say -- who backed up?

18 A Wolfman.

19 Q Wolfman, the guy we call Damien, that's when he
20 backed up the vehicle?

21 A Uh-huh.

22 Q Is that a yes?

23 A Yes, ma'am.

24 Q Was that before of after your friend came and --

25 A It was after.

T. GREENE - DUNCAN HEARING

1 Q After your friend came and after the exchange
2 with the defendant?

3 A Uh-huh.

4 Q Is that a yes?

5 A Yes, ma'am.

6 Q And that's when Wolfman backed the vehicle up?

7 A Yeah. I don't think, it didn't happen quite that
8 fast but within I'll say good -- it had to have been
9 at least maybe five, ten minute's time.

10 Q Okay.

11 A It was moved.

12 Q All right. And where did he back the vehicle to?
13 Okay, let's do it this way, you told us that if the
14 club is to your rear behind you.

15 A Uh-huh.

16 Q And you told us that Terry's vehicle was
17 originally to your right and the club is behind you,
18 where did the vehicle move in relation to where you
19 are, where you would have been and you're standing
20 ---

21 A If I'm standing, if I was standing at the front
22 door of the club, Terry's vehicle was not exactly in
23 front but right here.

24 Q Okay.

25 A Backed in.

T. GREENE - DUNCAN HEARING

1 Q Backed in. Was his vehicle facing the front of
2 the club?

3 A Yes.

4 Q Do you know why Wolfman moved the vehicle from
5 what would have been your right to the very front of
6 you?

7 A No, ma'am.

8 Q Is that kind of like a T-bone, a 90 degree angle
9 almost that it was moved to?

10 A Yes, ma'am.

11 Q All right. If, when Wolfman moved — well, let
12 me ask you this, let me ask it this way. I'm gonna
13 show you Court's Exhibit Number 4. This is the
14 Celestine's Nightclub, and this is the little porch
15 area; is that right —

16 A Yes.

17 Q —you're talking about? Now would it have been
18 easy to see who was sitting at the picnic table or
19 who was under this little carport area as you called
20 it, if you were aware the defendant's vehicle was
21 originally parked?

22 A No.

23 Q If when Wolfman moved the vehicle to directly in
24 front of the club, would an individual inside that
25 vehicle be able to see who was underneath this

T. GREENE - DUNCAN HEARING

1 carport?

2 A Yes, ma'am.

3 Q Easily?

4 A Yes, ma'am.

5 Q And you've testified you don't know why that was
6 done?

7 A No, ma'am.

8 Q Tell me what happens when Reva and Larry exited
9 the nightclub.

10 A Well, first they exited the first time and Larry
11 was — I don't know if he was, you can say he was
12 upset or what it was, but he walked past; and he was
13 just like, you know, when I looked at him he just
14 looked aggravated so he walked past and him and Reva
15 went to the truck. And then —

16 Q Which truck are you talking about?

17 A I'm talking about Larry and Reva's truck, the
18 first one that was parked in the front of the...

19 Q Thank you.

20 A And they went to the truck and —

21 Q And do this for me, Ms. Green, tell, be specific.
22 When you say went to the truck, they went to their
23 truck or they went to Reva's truck?

24 A Reva's truck.

25 Q Okay.

T. GREENE - DUNCAN HEARING

1 A And they might have been at the truck for maybe a
2 couple of seconds, and then they went back inside
3 the club.

4 Q Okay.

5 A And Larry went in, he came out, he had a
6 styrofoam cup in his hand. I guess he went to get
7 something to drink. And he was like, he just came
8 outside and he just folded his arms. You know, he
9 stood in front of Terry and folded his arms.

10 Q Okay.

11 A And Terry asked him, Terry say, you know, --
12 excuse me language again -- Terry said, you know
13 what the fuck you looking at.

14 Q Okay.

15 A Larry said, these are my fucking eyes, I can look
16 where I want to look. Terry dropped his head like
17 this. He said -- then he walked away.

18 Q Okay.

19 A After ---

20 Q Let me, let me ask you this, let's stop right
21 there. The first time you saw Larry and Reva in the
22 club that night, the very first time you saw him,
23 did he have a weapon on him?

24 A No.

25 Q Okay. Did he seem to have a bulge or anything in

T. GREENE - DUNCAN HEARING

1 his waist area?

2 A No, ma'am.

3 Q Okay. When he came out of the club the second
4 time with an annoyed look on his face as you
5 describe it, did you see a weapon or what could be a
6 bulge or what could conceivably be a firearm around
7 his waistband or in his hand?

8 A No, ma'am.

9 Q All right, now —

10 A He had — the only thing he had in his hand was
11 his cup when he came out 'cause he sat it right on
12 the corner of the picnic table where I was sitting
13 'cause he folded his hands like this.

14 Q All right. Now when you say holding his hands,
15 for the record you are showing that your hands are
16 folded across the top of your stomach.

17 A Yeah.

18 Q Okay. All right. And you didn't see a weapon or
19 a firearm in his hand?

20 A No, ma'am.

21 Q Okay. Then what happened?

22 A And after that, like I say, Terry had walked off
23 and Larry was telling Reva, he said, Reva, go in the
24 club. And you know, I'm just sitting there and next
25 thing you know he said it again, Reva, go in the

T. GREENE - DUNCAN HEARING

1 club. And she said, no, I'm not going in the club.
2 And he said it, again. He yelled. He basically
3 like, yelled at her like, Reva, go in the club. And
4 when he said it the third time that's when I got up
5 and walked inside 'cause, you know, I'm — my mother
6 ain't raise no fool so I'm not gonna sit there.
7 Three times somebody tell me to do something, I'm
8 gonna do it.

9 Q Where was Terry as Larry was telling Reva to go
10 into the club?

11 A Terry was almost to his truck by then.

12 Q Okay. And about how far — well, let me make
13 sure I understand. Were Reva and Larry underneath
14 the awning or underneath the carport when he was
15 telling her to go into the club?

16 A Yes, ma'am. He was standing basically like right
17 beside me.

18 Q And as you indicated that Terry was almost to his
19 truck?

20 A Uh-huh..

21 Q Now I have no appreciation for distance at all.
22 Do you have an appreciation, do you have any idea
23 about how far apart they were when the statement
24 was made by Larry to Reva to go into the club?

25 A How far?

T. GREENE - DUNCAN HEARING

1 Q How far was Larry from Terry?

2 A Hmm ---

3 Q And let me---

4 A Probably from here from me to the officer right
5 there.

6 Q This officer?

7 A Yes, ma'am.

8 Q All right. This is Officer Ballard. This
9 officer here where I'm standing?

10 A Yes, ma'am.

11 Q They are about that far apart?

12 A Yes, ma'am. And Terry's truck was probably like
13 where the guy is in the gray suit.

14 Q The gentleman here with the bow tie on?

15 A Yes, ma'am.

16 Q Okay. All right, and -- okay, so you said your
17 momma didn't raise no fool and mine didn't either so
18 what did you do?

19 A I got up and I went in the club through the side
20 door.

21 Q Okay. Was Reva still outside?

22 A Yes, ma'am.

23 Q Was Terry still outside as far as you know?

24 A Yes, ma'am.

25 Q Was Larry, of course, still outside?

T. GREENE - DUNCAN HEARING

1 A Yes, ma'am.

2 Q Tell me what happened when you got into the club?

3 A Well, when I got into the club -- well, by the
4 time I could get in the club 'cause it happened so
5 fast I got in -- I opened the door 'cause the door
6 pushes open. When I pushed the door open I'll say
7 maybe a good, maybe 15, 20 seconds after I got
8 inside I heard the shots going off.

9 Q Okay. Now one thing, Tabitha, I want to ask you
10 about. When you described the verbal exchange
11 between Terry and Larry, when Larry tells Terry he
12 can look at whatever he wants to look at?

13 A Uh-huh.

14 Q You said you saw Terry go to Terry's vehicle,
15 correct?

16 A Yes.

17 Q Okay, all right. How would describe his gait? I
18 mean, was he walking, was he running, was he
19 jogging?

20 A He was just, I mean, he was just, he just walked
21 away just like basically just walked away.

22 Q Did he seem to be in a hurry?

23 A No, not really.

24 Q Okay. Now do you know a fellow by the name of
25 Jerome Miller?

T. GREENE - DUNCAN HEARING

1 A Yes, ma'am.

2 Q Do you know if he was there, out there that
3 night?

4 A I don't recall if he was out there or not.

5 Q Okay. Do you know of anyone else who would have
6 been outside at the time of the shooting?

7 A No.

8 Q Okay.

9 A 'Cause I can't, like up under — when you're
10 under the shed you really can't see because it's
11 like, you can see on the picture it has the X
12 things. And you really can't see through who
13 exactly who is out there in the parking lot.

14 Q Okay.

15 A From where I was sitting anyway.

16 Q Okay, all right. And after the gun fire you
17 heard the gun fire?

18 A Umm.

19 Q Everyone in the club -- did the owner lock the
20 doors to the club?

21 A Well, yes, she -- when she heard the shots she --
22 the front door was already locked so she just locked
23 the door that was by her. And then maybe about
24 after we heard the shots, I say maybe about 20
25 seconds after, that's when we heard Reva banging on

T. GREENE - DUNCAN HEARING

1 the door. She banged on the front door first, then
2 she banged on the second door and I told Ms.
3 Celestine, I said, we don't know what's going on out
4 there, don't open the door.

5 Q Okay. Did you hear her say anything?

6 A Who, Reva?

7 Q Uh-huh.

8 A All she kept saying was help me, help me.

9 Q Okay. Did she appear upset?

10 A I don't know if she was upset or scared or what,
11 but she went from the front door to the side door.
12 She was just, you know, banging on the door.

13 Q Okay. At some point in time you exited the club?

14 A Yes, ma'am.

15 Q Okay. How far after the shooting did you exit
16 the club? Did y'all wait on law enforcement? Did
17 y'all look out the window and make sure all the cars
18 were gone, or what?

19 A No, we last for ---

20 Q I'm talking about when you first, when you first
21 exited the club after the shooting, how long did
22 y'all wait after the shooting before you exited the
23 club?

24 A I don't know. It was probably about three or
25 four minutes afterwards.

T. GREENE - DUNCAN HEARING

1 Q Okay. You were relatively for sure that there
2 were, you know, whoever was involved in it was gone,
3 you wanted to wait?

4 A Yes, ma'am.

5 Q Okay. Did you see any AK-47's in the yard?

6 A I didn't see -- I didn't look for no, I didn't
7 look for no shells or anything. Only thing I seen
8 was that same Styrofoam white cup that Larry had.
9 It was sitting on the ground like somebody sat it
10 down there and his blue hat that he had on. It had
11 stars on it, and it was sitting right on the ground
12 like he just took it off his head and just sat it
13 there.

14 Q All right. Where were you parked?

15 A I was parked right on the side of the, on the,
16 where we were sitting.

17 Q Awning?

18 A Yeah, right on the side.

19 Q Next to Reva and Larry's vehicle?

20 A No, ma'am.

21 Q It wasn't next to their vehicle?

22 A No, ma'am.

23 Q But on the same side that their vehicle was?

24 A No, ma'am.

25 Q Explain that to me?

T. GREENE - DUNCAN HEARING

1 A Larry and Reva's vehicle was parked basically
2 parallel to the building, and I was parked this way.

3 Q I see. I see, okay. All right. Thank you,
4 ma'am.

5 MS. BARR: I'm sorry, beg the Court's
6 indulgence.

7 BY MS. BARR:

8 Q When you came back out was Terry's vehicle still
9 there?

10 A No, ma'am.

11 MS. BARR: Judge, that's all the questions
12 that I have.

13 THE COURT: Mr. Kent.

14 MR. KENT: Thank you, Your Honor.

15 **CROSS-EXAMINATION**

16 BY MR. KENT:

17 Q Tabitha, how are you?

18 A Good, how are you?

19 Q I know we haven't met in person but you remember
20 that strange fellow called you and you talked to him
21 on the phone?

22 A Yes.

23 Q That's actually me, okay. So you remember when
24 we had that conversation a couple of weeks ago I
25 think it was?

T. GREENE - DUNCAN HEARING

1 A Yes, sir.

2 Q You remember the crux and the things that we had
3 talked about on the telephone that day?

4 A Yes, sir.

5 Q And I'm just gonna ask you a few questions, some
6 about the conversation that we had and some of the
7 stuff about what the Solicitor talked to you about,
8 okay. And make sure you give answers —

9 A Okay.

10 Q 'Cause that lady right there is taking down every
11 word you say, okay?

12 A Okay.

13 Q And just to make sure I'm clear, you didn't see
14 the shooting? You're not here to testify —

15 A No, sir.

16 Q ---about anything that happened with the
17 shooting?

18 A No, sir.

19 Q You have no evidence that you could offer to this
20 Court about anything that happened with the shooting
21 in and of itself?

22 A No, sir.

23 Q Okay. And you remember when I had contacted you
24 I think I asked you the same question about Larry
25 carrying a weapon or something of that nature. Do

T. GREENE - DUNCAN HEARING

1 you remember that conversation we had?

2 A Yes, sir, uh-huh.

3 Q And I can be wrong. Those are from reviewing my
4 notes. Something in my notes talked about the fact
5 that you had known Larry forever. Larry was a good
6 young man and never carried a gun until he started
7 messing with Reva?

8 A I said he may have started carrying a gun when he
9 started messing with Reva, but I never known Terry
10 to carry a gun.

11 Q Explain what you mean by that, may. And I'm not
12 trying to put words, I'm just trying to make sure I
13 understand what you're saying. He may have carried
14 a gun when he started messing with Reva.

15 A Well, I mean, like I said, word on the street was
16 that Terry was telling everybody he was going to
17 kill Larry when he see him for messing with his
18 wife. So like I said, the only reason that he may
19 have carried a gun was for his own protection
20 because he was dealing with Reva and he already had
21 word on the Street that Terry was going to kill him
22 when he seen him.

23 Q And so the word on the street was Terry was gonna
24 kill him, word on the streets and the word on the
25 street was that Larry was carrying a gun?

T. GREENE - DUNCAN HEARING

1 A Like I said, I've known Larry for a while. Me
2 and Larry went to the same church. I, you know, he
3 never been a violent type kid.

4 Q But that was the word on the streets. And I'm
5 not saying it's true or not true. We all know how
6 street talk ---

7 MS. BARR: And Judge, to the extent we're
8 talking about word on the street, I would have to
9 object; it's hearsay.

10 MR. KENT: I agree one hundred percent. I
11 know she can tell us great stuff. I object too.
12 Strike all that stuff.

13 THE COURT: You're objecting to testimony,
14 Solicitor. Let me make sure I'm tracking you.
15 You're objecting to the testimony and that ---

16 MS. BARR: The word on the ---

17 THE COURT: ---Larry may have, may be
18 carrying a gun since he started messing with Reva
19 because the word on the street is Terry was gonna
20 kill him. That's your objection?

21 MS. BARR: No, no, my objection is that
22 the word on the street was Larry was known to carry
23 a gun. That's my specific objection.

24 THE COURT: I didn't hear her say that.

25 MR. KENT: I don't even mind that coming

T. GREENE - DUNCAN HEARING

1 out. I have no problem. I'm not trying to couch
2 her in any terms or things she didn't have specifics
3 and I'm not asking ---

4 THE COURT: I'll sustain the objection in
5 that regard. I didn't hear it in that regard. But
6 as far as her saying Larry may have been carrying a
7 gun.

8 MR. KENT: And I'll fix that, Judge.

9 THE COURT: That's fine. You may
10 continue.

11 BY MR. KENT:

12 Q And Ms. Tabitha, I'm not, I apologize and I'm not
13 trying to put words in your mouth or anything; but
14 let me ask it a different way. You have no specific
15 knowledge of Larry carrying a weapon, firearm, or
16 anything of that nature?

17 A No, sir.

18 Q And from your testimony, to make sure I'm clear,
19 the testimony that you have offered today was you
20 don't know what was going on out there; but at some
21 point Larry made some explanation towards Reva three
22 times, go back inside, go back inside, and on the
23 third time something was happening to the point that
24 you felt endangered and you left?

25 A Uh-huh.

T. GREENE - DUNCAN HEARING

1 Q Is that a yes?

2 A Yes.

3 Q Okay. And at some point you felt uncomfortable
4 that you felt it was time to get out of that
5 situation?

6 A Yes.

7 Q Why was that? Why did you feel so uncomfortable
8 based upon something Larry had said?

9 A Well because, like I said, the word was Terry was
10 gonna kill Larry when he seen him.

11 Q But if Terry hadn't said anything or hadn't done
12 anything, why would you be uncomfortable based upon
13 what Larry had said?

14 A I mean, you can feel tension in the air. I mean,
15 it doesn't take a rocket scientist to see that
16 something is getting ready to go down.

17 Q .Okay.

18 A And then it's like, from my understanding they
19 never had a face-to-face confrontation until that
20 night so that was like the first time they ever seen
21 each other both face to face so ---

22 Q And then going ---

23 A ---anything, anything could have happened that
24 night.

25 Q And going with what you testified on direct

T. GREENE - DUNCAN HEARING

1 testimony and make sure I'm clear, from your direct
2 testimony Terry hadn't done anything?

3 A No.

4 Q And based upon the tension was in the air, from
5 your testimony tension was in the air, Terry hadn't
6 done anything, the only tension would be from
7 Larry's actions and the things that he said?

8 A Well, I mean ---

9 Q I mean, based upon that night and what you saw?

10 A Well, Larry didn't really -- I mean, Larry came
11 out and all Larry did was he just crossed his hands,
12 just crossed his hands in front of him. He didn't
13 even say anything. He just came out. He just
14 crossed his hands. He never said anything. Terry
15 was the one asking him what the F was he looking at.

16 Q But Tabitha, if I'm not mistaken, based upon
17 Larry's actions and what he said that you felt so
18 uncomfortable you went back inside of ---

19 A No, I felt uncomfortable when he told Reva to go
20 inside.

21 Q And that was Larry who said that, not Terry?

22 A Yeah, that was Larry who said that, Reva go
23 inside.

24 Q And that's when the tension was in the air, you
25 felt uncomfortable, and you went back inside?

T. GREENE - DUNCAN HEARING

1 A And that's when I went back inside.

2 Q And your testimony on direct was Terry hadn't
3 done anything, that he had put his head down and was
4 walking?

5 A Terry did -- Terry shook his head like this.
6 Terry was like, okay, and he walked off.

7 Q Thank you so much.

8 MR. KENT: That's all the questions I
9 have.

10 THE COURT: Redirect, Solicitor.

11 MS. BARR: Yes.

12 **REDIRECT EXAMINATION**

13 BY MS. BARR:

14 Q You were asked whether or not you had any direct
15 knowledge about whether or not the victim ever
16 carried a gun. Did you have any such direct
17 knowledge about whether or not the defendant carried
18 a gun?

19 A Yes.

20 Q Before this shooting?

21 A Yes.

22 Q You've seen him in possession of a gun before
23 this shooting?

24 A Yes.

25 Q What kind of gun?

T. GREENE - DUNCAN HEARING

1 A I'm not sure what kind it was, but I think it was
2 an automatic weapon if I'm -- you know, I'm not too
3 familiar with street guns but it was like an SKS,
4 AKA, something like that 'cause he pulled it on my
5 son one day.

6 Q I'm gonna show you what's been marked Court's
7 Exhibit Number 3. Did it kind of look like what's
8 in that photograph?

9 A Yes, ma'am, that one. I'm not sure if that's the
10 same weapon he used that night, but I know that's
11 one of the -- that's a weapon I seen him pull out
12 because my son, they had a altercation at a
13 nightclub one night and my son jumped on top of the
14 hood of their SUV, him and Reva's white SUV that
15 night.

16 Q They were, he and Reva were together at that
17 time?

18 A Yes, this is before Reva and Larry got together.
19 They were still, Larry and Terry -- I mean, Terry
20 and Reva were still together then.

21 Q Okay. So as I understand your testimony, when
22 Larry comes back outside, tell me again who is the
23 first person between Larry and Terry to utter a
24 word? Who made a comment first?

25 A Terry did.

T. GREENE - DUNCAN HEARING

1 Q Terry did, not Larry?

2 A No.

3 Q And Terry's words were?

4 A What the F are you looking at.

5 Q Okay. That's all the questions I have. Thank
6 you.

7 THE COURT: Recross only, Mr. Kent.

8 MR. KENT: Nothing further, Your Honor.

9 THE COURT: Thank you. Thank you very
10 much, Ms. Green. You may step down.

11 Any other witnesses?

12 MS. BARR: No, Your Honor, the State would
13 rest.

14 THE COURT: Do you have -- I don't even
15 know if there is such a thing, but do you have any
16 witnesses or testimony you would like to offer in
17 motion in reply?

18 MR. KENT: None in reply. I don't know if
19 it would be permissible, but I wouldn't have any
20 either way, Your Honor.

21 THE COURT: Thank you. Mr. Kent, I
22 believe it's your motion. I'll be glad to hear from
23 you, or Mr. Schwartz.

24 MR. KENT: Thank you, Your Honor, and I
25 would not offer lengthy testimony. Looking at, of

1 course, and what is colorfully raised, the stand
2 your ground type argument that we have in this
3 situation as I mentioned to the Court to begin with
4 will be 16-450 subsection A. And specifically all
5 we will be arguing is subsection C of the stand your
6 ground argument. Judge, I'll, very quick argument.
7 And the first, as I understand what the State will
8 specifically be saying will be the first part of the
9 argument, a person who is not engaged in an
10 otherwise unlawful activity. I'm gonna hand the
11 Court, and I've already explained, already given a
12 copy — or I'm gonna hand to your law clerk, Your
13 Honor, a copy of State versus Slater. I anticipate
14 an argument on behalf of the State dealing
15 specifically with the unlawful activity language.
16 As the Court is aware the B, granted immunity from
17 prosecution under the stand your ground analysis,
18 the first thing the defendant must show that he was
19 not engaged in an otherwise unlawful activity. On
20 its face I can see that the Solicitor made two
21 arguments, one would be specifically that — the,
22 first of course, Your Honor, will be specifically
23 that Mr. Williams is a convicted felon, and so
24 therefore, he would not be entitled to be in
25 possession of a firearm. And the second argument I

1 think on behalf of the State would be the fact that
2 he was engaged potentially in the sale of marijuana.
3 They would say that those two would be engaged in an
4 unlawful activity and thus he's engaged in unlawful
5 activity he would not be given the qualified
6 immunity. Your Honor, my reading of State versus
7 Slater actually beguiles that belief. Specifically
8 what State versus Slater — and I can't even say
9 specifically, but in a careful reading of State
10 versus Slater what it actually says is the unlawful
11 activity must be the nexus or must be a precipice
12 for the reason that the shooting happened. And
13 State versus Slater, a case out of north Charleston,
14 what ended up happening is an individual was walking
15 outside. He had a weapon, it was cocked, it was
16 fired, and he was in the air basically firing the
17 weapon. The firing of a weapon is what ended up
18 starting the fight with another group of individuals
19 that he actually knew. This other group of
20 individuals came up to him based upon the fact that
21 he was firing the weapon. He then used and located
22 the weapon and fired and shot and tried to claim
23 stand your ground. What the Court said in that
24 situation is because the weapon was the nexus of the
25 unlawful activity, you can't claim stand your

1 ground. But what they also ended up saying through
2 that analysis and other case laws that are
3 referenced in there is, there is, if the person is
4 not engaged in the unlawful activity and that
5 unlawful activity is what triggers the situation,
6 then you can basically grab a weapon in an effort to
7 defend yourself. The court, if I'm not mistaken,
8 Your Honor, I think it's the blind court also
9 relying on Slater made the same analysis that
10 basically said that cannot deal with situation when
11 an individual is in danger of his life or feels he's
12 in danger of his life whether he's a convicted felon
13 or not can go to a situation, grab a firearm and
14 defend himself. So that would be our first analysis
15 on unlawful activity.

16 As far as the second and third part of the
17 argument, very simple. Mr. Williams is in a place
18 where he has a right to be. And number three, he
19 testified that he had a reasonable fear of safety or
20 something that was gonna happen. I think every
21 witness who has testified today whether they want to
22 actually admit it or not, all testified to the fact
23 that they had a reasonable fear of safety.
24 Mr. Williams first testified that he believed he saw
25 a gun. Whether the State believes him or whether

1 the State does not believe him, he testified under
2 oath that he believed that he saw a gun. He
3 believed the individual was gonna use the weapon on
4 him, and he believed that he had to fire in an
5 effort to save himself. He testified that he kept
6 telling the guy to backup from him and fired towards
7 the ground. Reva McFadden also testified that she
8 knows her husband. She knows when her husband is
9 afraid and that's basically the reason he did it.

10 And Your Honor, the State has finally
11 called Tabitha Greene to the stand; and
12 realistically, Tabitha Greene's testimony also
13 bolsters what these other individuals are saying.
14 Tabitha Greene testified that very clearly Larry
15 started telling Reva at the very minimum, you need
16 to get out of here, you need to get out of here.
17 And on the third time I think her focus her mother
18 raised no fool, she knew there was tension in the
19 air and so she exited. So even Tabitha Greene under
20 the situation had a reasonable fear that something
21 was going to happen, and so that goes to our
22 reasonableness.

23 Your Honor, very clearly by a
24 preponderance of the evidence you heard the witness
25 we called to the stand would be Juan Ballard. His

1 testimony was basically that Reva McFadden is the
2 only actual witness to this actual shooting. She
3 testified and gave statement. What she testified
4 under oath, I asked her directly would that be
5 substantially similar what she would testify in
6 front of the jury. For those rationales, Your
7 Honor, for that reason, looking at the statute,
8 looking at the fact that the defendant has satisfied
9 all elements as required under the statute and
10 proven its case by preponderance of the evidence we
11 ask that you grant immunity in this case.

12 THE COURT: Thank you. Thank you very
13 much, Mr. Kent.

14 Ms. Solicitor.

15 MS. BARR: Your Honor, please the Court,
16 Judge, we would respectfully submit that Defense
17 counsel's reliance on the Slater case is misplaced.
18 Slater deals with the issue of self-defense. We're
19 not talking about immunity. There is a distinction,
20 a very significant distinction. With Slater the
21 issue became one of whether or not a person who is
22 not otherwise in lawful possession of a firearm can
23 then obtain a firearm if it's necessary to defend
24 himself or herself. Judge, that's obviously when
25 we're talking about issues of self-defense that

1 those are matters that must be left to the trier of
2 the fact in a trial. And it very clearly states in
3 Slater, this is the — this finding or this holding
4 or this ruling in the case relates to the issue of
5 self-defense and not immunity.

6 Judge, in support of the State's position
7 we would also cite State versus Curry which is a
8 2013 case. The cite is 752 Southeastern Second 263.
9 Judge, obviously that deals be the protection of
10 person's and property act. Your Honor, what is
11 interesting to note about the Duncan opinion, Slater
12 case as well as the Curry case, is that as the
13 finder of the fact the Court has to not just hear
14 the evidence but find it believable. Simply because
15 the defendant advances testimony or advances a
16 theory that is completely self-serving doesn't mean
17 that the Court has to accept his testimony if the
18 Court does not find it to be credible. And Judge, I
19 would submit to the Court that the Defense's second
20 witness, Ms. Reva McFadden, who has admittedly
21 continues to see the defendant, who is his wife who
22 with whom he has five children, with whom she
23 visited while he was incarcerated, was caught in
24 multiple inconsistent statements during her direct
25 and cross-examination. Judge, I don't see how she

1 can be worthy of belief when she has admittedly,
2 according to her sworn testimony, lied to the
3 police. Your Honor, I would submit to the Court
4 that the defendant is equally not credible. All of
5 his statements are self-serving. All of his
6 statements are inconsistent with a person acting in
7 reasonable fear. Judge, I don't think that the
8 statute was designed to protect an individual who
9 carries around a gun as a matter of habit, who is at
10 a nightclub where his estranged wife and her
11 boyfriend are, who after going into the club and
12 seeing the two of them there, then has the vehicle
13 moved so that he can have direct sight of the victim
14 and the girlfriend coming out of the club, who then
15 uses this particular method of a weapon to inflict
16 horrible fatal injuries upon a victim who from
17 everyone's account, other than the defendant's own,
18 was completely unarmed.

19 It is interesting that the Defense would
20 argue that the defendant was in reasonable fear and
21 that you should believe his wife when his wife said
22 that the victim didn't have a weapon. It is
23 interesting that the Defense argues that you should
24 believe Tabitha Greene when Tabitha Greene says the
25 victim did not have a weapon. The only person who

1 puts a weapon in the victim's possession is the
2 defendant, and it's for purely self-serving reasons.
3 Judge, we would submit that that testimony is not
4 credible and it's not worthy of belief. We submit
5 that given that he is a convicted felon engaged in a
6 drug transaction just thirty minutes prior to the
7 shooting of this victim is a type of illegal,
8 unlawful activity that was perhaps contemplated by
9 the statute. We believe that he had a duty to
10 retreat, had an opportunity to retreat once he moved
11 the vehicle. When Mr. — we call him Damien; I
12 don't know that we ever mentioned his last name.
13 But when Wolfman moved the vehicle, if he didn't
14 want any problems with the victim they could have
15 left at that moment. It was clear that that was an
16 option because as soon as he shot this victim he
17 took off and did nothing, did absolutely nothing
18 after this very fatal shooting to warrant this
19 Court's belief that he acted in reasonable fear of
20 his life. And so for those reasons we would ask
21 that the Court respectfully deny the motion.

22 THE COURT: Thank you, Solicitor.

23 Anything in response, Mr. Kent?

24 MR. KENT: Very briefly, Your Honor.

25 THE COURT: Yes, sir.

1 MR. KENT: Unfortunately, Your Honor, the
2 State's analysis is slightly misplaced as they try
3 to say, which I find funny, they try to say that
4 Castle doctrine and self-defense and all these
5 things are different, when they're actually all the
6 same. The only difference is historically Castle
7 doctrine removed duty to retreat. And the reason I
8 find that hilarious is less than ten seconds ago the
9 prosecutor started arguing he had a duty to retreat,
10 which is not required under the Castle doctrine.
11 These are all the same things so them to say the
12 case law is misplaced because it's talking about
13 self-defense, they're all the same analysis. The
14 only difference is the duty to retreat has actually
15 been removed. And so for the State to then argue,
16 ah-hah, he did not retreat the way he should have,
17 that's not required under the law and not required
18 under analysis. So the State's argument, the
19 State's analysis is slightly misplaced at this point
20 in time. All we can rely on, and I understand the
21 State is relying on conjecture and supposition and
22 assumption, but what we can rely on is what has been
23 testified to and that's all we have in front of us.
24 What we have had testified to is first Detective
25 Ballard who testified very clear there was only one

1 eyewitness. That eyewitness is Reva McFadden. Reva
2 McFadden is the witness to the shooting. Her
3 witness to the shooting is very clear as what she
4 saw and what she testified to. Whether the State
5 enjoyed, does not enjoy her testimony, she is the
6 only witness. And her testimony is clear that her
7 husband was afraid. She has known her husband for
8 15 years, and she would have known when he was
9 afraid. She also testified that Larry had a gun
10 earlier that day. She's not sure if he had one that
11 night. But that's where the State, it's kind of
12 funny this situation, and I want to make sure I
13 argue it the right way. The State is giving
14 Mr. Williams a hard time saying he saw a gun. Well,
15 the problem is, we will be arguing something
16 different. If ten people out there say we saw him
17 had a gun and Mr. Williams did not see him have a
18 gun, well, he couldn't make the argument. It
19 doesn't matter what everybody else sees, whether
20 they saw a gun, whether they didn't see a gun. All
21 that matters is what is in the mind of Terry.
22 Williams at the time. And Terry Williams testified
23 on the stand, I don't care what anyone else saw, I
24 saw a gun, I reasonably, I saw a gun, I reasonably
25 believe that this person was going to kill me. The

1 Solicitor is arguing, well, no one else saw it so it
2 doesn't count. It doesn't matter what anyone else
3 saw or what they didn't see. All that matters is
4 the testimony of Mr. Williams coupled with the
5 testimony of Reva McFadden and even the testimony of
6 Tabitha Greene. You put them all together, the
7 individual in reasonable fear for his safety he used
8 a weapon to protect himself. Thank you.

9 THE COURT: Thank you. Well, by my count
10 there are four witnesses, Detective Ballard,
11 Ms. McFadden, Mr. Williams, and Ms. Green. Of
12 course, if you believe parts of Ms. McFadden's
13 testimony, they were two of the most peaceful, quiet
14 nonviolent men in Williamsburg County, depending on
15 what part of her testimony you wish to believe. But
16 there is the issue of burden being on the defendant
17 to prove by preponderance of the evidence that the
18 defendant is entitled to immunity.

19 Slater is not directly on point. Is there
20 ever a case directly on point because it is the
21 issue of whether or not self-defense should have
22 been involved in Slater. But when you look at the
23 testimony from the credibility issue, Ms. McFadden's
24 testimony is inconsistent with the testimony of Mr.
25 Williams. If I say, well, she's the only eyewitness

1 on the — and it appears that she is, or at least
2 the only known eyewitness, every time she was asked
3 about the position of Mr. Moore she always had her
4 hands up like this (indicating) with nothing in his
5 hands, no gun, no Styrofoam cup, no nothing. So if
6 you go from the subsection, a person who is not
7 engaged in unlawful activity — and clearly he is a
8 felon in possession of an assault, a weapon, and who
9 is attacked in another place where he has a right to
10 be, there's absolutely no testimony in this,
11 credible testimony, in this record that Larry Moore
12 attacked Tre Williams. You have to believe —
13 there's no testimony from Ms. McFadden who was
14 standing right next to Mr. Moore, if you believe her
15 at all, when Mr. Moore is standing in front of
16 Mr. Williams' truck beating on the truck. There's
17 absolutely no testimony whatsoever. Even if you're
18 beating on the truck you might be attacking the
19 truck. That doesn't necessarily mean you're
20 attacking an individual in the truck. For that
21 reason I do not think the defendant has met his
22 burden of proof as far as preponderance of the
23 evidence under Duncan and the underlining cases that
24 now soon follow and I respectfully deny his motion
25 for immunity under the Castle Doctrine section,

1 specifically 16-1-440(c). Anything further?

2 Any other motions, Mr. Kent?

3 MR. KENT: No, Your Honor. Just for the
4 course of trial, I know this is a pre-trial ruling
5 dispositive stuff, I have to re-make this motion
6 during the course of trial to protect him during the
7 course of trial.

8 THE COURT: Certainly. I never know why a
9 defense lawyer has to do to protect.

10 MR. KENT: I never do either so that's why
11 I try to say what I can at the beginning.

12 THE COURT: Y'all do it. There's so much
13 you have to do.

14 MR. KENT: Yes, sir.

15 THE COURT: I certainly understand. You
16 have any pretrial motions, Solicitor?

17 MS. BARR: Judge, I think the only thing
18 that may be an issue is the defendant's bail status
19 once the case is called for trial.

20 THE COURT: I never address that until the
21 jury is drawn and then I'll be delighted to address
22 that at that time.

23 MS. BARR: Yes, sir.

24 THE COURT: Thank you. Thank you very
25 much. You say the jury will be here at 2:30?

1 Your Honor.

2 THE COURT: From the Defense?

3 MR. KENT: One moment, Your Honor. None
4 on behalf of Mr. Williams. Thank you so much.

5 THE COURT: Thank you. Thank you very
6 much.

7 Ladies and gentlemen of the jury panel,
8 momentarily I'm gonna release you from your service
9 also for the remainder of the evening. However,
10 before you do that I must give you certain, I must
11 give you certain instructions that you are required
12 to follow throughout the course of your service on
13 this jury panel. First, you may not discuss this
14 case with others. That includes your fellow jurors,
15 family, friends, or anyone else. A lady asked me
16 recently, does that mean my husband? I said, yes,
17 that's your family. So you may not discuss it with
18 your spouse, family, members, friends, or anyone
19 else. Would not be authorized to discuss the case
20 with anyone until you've heard all the evidence, all
21 the testimony in the trial of this case, the closing
22 arguments by the attorneys, the instruction on the
23 law by the Court, and then directed by the Court to
24 begin your deliberations in your jury room with your
25 fellow jurors. You may not read, watch, or listen

1 to any news reports about the case should there be
2 any. I repeat: You may not read, watch, listen to
3 any news reports about the case should there be any.
4 You may not use your computer, cellular phone, or
5 any other electronic device with communication
6 capabilities while in attendance at trial or during
7 deliberations. These devices may be used during
8 lunch and recesses and overnight recesses, but they
9 may not be used to obtain or disclose information
10 prohibited. Information which is prohibited
11 includes but is not limited to the following:
12 Information about a party, a witness, an attorney,
13 or court officer, news accounts of the case, past or
14 present should there have been any, information
15 collected through juror research on any topics
16 raised or any topics offered or evidence offered by
17 any witness during the trial of this case or any
18 information collected through juror research on any
19 other topic the jury might think would be helpful in
20 deciding the case. You decide the case based on the
21 evidence on the testimony you hear from the
22 witnesses testifying before you under oath from this
23 witness stand, any reasonable inferences you think
24 may properly be drawn, and any items of evidence
25 diagrams, photographs or like, that may be

1 introduced into evidence and the law as I tell you
2 the law is. I would expect you to follow that, to
3 follow that oath you have been sworn to do so.

4 With that being said, I'm gonna release
5 you for the remainder of the day and ask you to
6 please be back promptly at 9:30 in the morning,
7 promptly at 9:30 in the morning. Are there any
8 questions?

9 (There was no response.)

10 THE COURT: Your bailiff, I think, will
11 probably show them now to their temporary home,
12 their jury room, and thereafter show them how to
13 exit the courthouse and return in the morning?

14 THE BAILIFF: Yes, sir.

15 THE COURT: Thank you. Thank you very
16 much. You may go with your bailiff. Hope y'all
17 have a pleasant evening.

18 (WHEREUPON, the jury was removed from the
19 courtroom at 5:26 p.m.)

20 THE COURT: All right, anything further
21 from the State, Solicitor?

22 MS. BARR: Judge, we take the position now
23 that the case has been called for trial that the
24 defendant's bond is up. We believe that it's
25 appropriate that he be taken into custody. Judge,

1 in addition to the simple fact that case has been
2 called for trial, I ask the Court to remember during
3 the testimony pursuant to the Duncan hearing that
4 the defendant did not turn himself in until some 14,
5 12 to 14 hours after this crime was committed. In
6 addition, Judge, he is currently out on bond. The
7 bond was set by Judge Cothran. As a condition of
8 that bond he was required to wear GPS monitoring.
9 As I have no reason to believe that he's not
10 continuing to wear that, but it's a little
11 disturbing to me when Ms. McFadden indicated he'd
12 been down at the beach to see her and I certainly
13 don't believe it was the intent of the court that he
14 be allowed free reign throughout the state. So
15 obviously he's charged with some very serious
16 offenses, most serious of which could carry if he's
17 convicted, a sentence of life imprisonment. We
18 believe that given his history of travel, if you
19 will, that it's appropriate that he be taken into
20 custody.

21 THE COURT: Thank you.

22 Mr. Kent, I'll be glad to hear from you.

23 MR. KENT: Thank you, Your Honor, may it
24 please the Court. I would just offer three
25 positions. Your Honor, whatever the Court of course

1 sees fit. First our first position would be, even
2 though the case has been called, the jury has not
3 been sworn. Technically, the State did not actually
4 have to call until the jury is sworn until they're
5 sworn so that would be our first position that the
6 case technically has not been called yet because the
7 jury has not been sworn. So jeopardy, of course,
8 could not attach and anything can happen and the
9 State can still choose not to call it.

10 Number two, Your Honor, as you may be
11 aware, my office is in Manning, South Carolina. One
12 of the things I was planning on doing is meeting,
13 going over this case as much as I can with my
14 client. It makes it difficult to meet with him and
15 go over the case in jail. It's always difficult.
16 Three, he does have an ankle monitor on him, which
17 makes it not, not like a normal person who is
18 released from bond; but he has an ankle monitor on
19 him so we can see where he's going.

20 Four, Your Honor, he has been out on bond
21 this entire time. He has shown up today for trial.
22 He showed up today after his Duncan hearing so to
23 say that he's a flight risk and he's not going to
24 show up for court is kind of a lie position in light
25 of the fact that he actually showed up for the way a

1 defendant should show up for court and been on time.
2 He has showed up. He's been conscientious. And
3 getting ready for trial with him myself, I've had no
4 problems with him whatsoever coming to my office on
5 Saturday. We met on Sunday. We met on Friday.
6 He's always shown up properly.

7 For the reason one, Your Honor, the case
8 technically has not been called. Two, it puts an
9 onerous burden on me to properly prepare for trial.
10 And three, he has an ankle monitor unlike most of my
11 clients we can assure where he'll be if he shows up.
12 That will be my rationale for the Court, whatever
13 the Court sees fit we will live with it.

14 THE COURT: Thank you. Any other motions,
15 Solicitor, from the State?

16 MS. BARR: No other motions, Judge. Just
17 so the Court will have some concept of time, I
18 believe that he was not released from jail until May
19 the 8th so it's not a situation where he's been out
20 for many months and has always reported to court. I
21 believe there's only been one term of court since
22 his release. I just want to let the Court know that
23 for your information.

24 THE COURT: All right. Any other motions.
25 Any motions from the Defense, Mr. Kent?

1 MR. KENT: Motions as far as what we
2 already discussed, pretrial motions, Your Honor?

3 THE COURT: Yes.

4 MR. KENT: Additional pretrial motions?

5 THE COURT: You have any?

6 MR. KENT: Your Honor, for the record I
7 think there would be, just to make sure I say
8 everything properly. There will be one Lyle motion.
9 I think we had discussed that in chambers, and I
10 think that has been clarified by the State but just
11 for the record, during the pretrial Duncan hearing
12 the State tried to elucidate some facts, tried to
13 get into a prior criminal domestic violence which
14 I'm not sure that would actually be allowed to come
15 in because it's a 30 day offense anyway. But the
16 State is trying to get into the fact of a 30 day
17 criminal domestic violence offense. I understand
18 the State's position was potentially that I may have
19 opened the door when I asked the witness about the,
20 about the defendant's character, whether or not he
21 has a character for violence or anything of that
22 nature. The problem I had, Your Honor, is it might
23 be one thing if he testifies; but if he chose not to
24 testify, I don't think it will be proper to attempt
25 to get in his prior criminal record through a

1 separate witness whether I open the door or not.
2 I'm not planning on opening the door. I tell you
3 very candidly I'm not planning on doing that again.

4 THE COURT: I never planned to open the
5 door either.

6 MR. KENT: But ——

7 THE COURT: Some people just rammed it
8 open, Mr. Kent.

9 MR. KENT: But that being said, Your
10 Honor, I still think that would be something to Lyle
11 evidence. One, I don't think it will come in if the
12 witness — if the defendant testified himself and
13 didn't bring it up. Two, I think it would be Lyle
14 evidence. Additionally, Your Honor, I would ask
15 what other Lyle type evidence the State will be
16 trying to bring into case in chief, I think there
17 was some testimony through Tabitha Greene which she
18 testified about an altercation that might have
19 occurred between the defendant as well as her
20 brother. Just, I'm trying to figure out what Lyle
21 type evidence so we can be prepared. I know there's
22 no specific notice requirement law; but in light of
23 the fact we're in the middle of a murder trial to
24 try to get in I'd like to know what that would be at
25 this point. That would be our only motion.

1 THE COURT: And we did that in chambers,
2 all the attorneys, Assistant Solicitor. And
3 Solicitor, giving notice of any and all the Lyle,
4 and if you intend to bring it up just ask for an
5 camera hearing and I'll be delighted to hear you at
6 that time.

7 MS. BARR: Yes, sir.

8 THE COURT: All right.

9 MR. KENT: Your Honor, there was — and
10 this is not necessarily for pretrial, but I just
11 need to cover myself on the record. We had talked
12 to you about autopsy pictures. My understanding is
13 the pathologist will not be available to testify
14 until Wednesday either way so we'll have plenty of
15 time. That's nothing that needs to be addressed. I
16 don't anticipate a — they're telling me they're not
17 intending on introducing any of those in opening
18 statements or anything of that nature.

19 MS. BARR: That will be correct, Your
20 Honor.

21 MR. KENT: Your Honor, during pretrial,
22 and it may be a slip or a foray, but a couple of
23 times when the Solicitor was discussing things with
24 some of the witnesses she referred to the victim by
25 a nickname of Little Larry. I will oppose to any

1 nicknames or anything of that nature to try to put
2 him in a different light in trying to that with the
3 jury. I'm not gonna make the typical "don't call
4 him victim" so I'm not gonna make that objection;
5 but in nicknames of that sort, referring to him as a
6 Little Larry, and things of that nature, I will make
7 that objection, Your Honor. I think it possibly was
8 an accident.

9 MS. BARR: And Judge, it wasn't.

10 MR. KENT: Okay, well then —

11 MS. BARR: His dad is Larry, Sr., and so
12 folks often, when they talk about the son instead of
13 calling him perhaps Junior they called him Little
14 Larry. Judge, nicknames are used oftentimes in
15 trial. You may have heard the nickname Wolfman.
16 That's Damien McClorin who is listed on the
17 defense's witness list; but it certainly was not
18 used in the sense of trying to humanize the victim
19 or appeal to the passions or prejudices of the Court
20 or the jury. That's just what they call him.
21 Because his dad was Big Larry and the son was Little
22 Larry, but it certainly wasn't for any nefarious
23 intent; it's just how people refer to him.

24 THE COURT: I'm gonna overrule it, that
25 objection. I'm trying to remember the name of the

1 case, death penalty case out of Darlington County, I
2 think, many years ago. Solicitor Dupree Miller, the
3 defendant's nickname was Mad Dog; and of course, he
4 called him Mad Dog 48 times in his closing and the
5 case was reversed because of that. Obviously I
6 think it cuts both ways; but I mean, it's just a
7 name. I mean, it's a little akin refer to father
8 and son. And you know, I know some folks from the
9 little village I'm from we called them little and
10 there were giants. I mean, they're, it's was a
11 misnomer on it so. I just don't think that's any
12 prejudicial affect whatsoever on that regard.

13 MR. KENT: Thank you, Your Honor. And
14 then finally, Your Honor, there had been some
15 mention and I know there's gonna be an issue of
16 proof of the actual murder weapon in this situation,
17 whether or not the State will be able to prove, lay
18 proper foundation AK-47 was actually the murder
19 weapon. I would specifically ask because, of
20 course, as you can understand the connotation of the
21 word AK-47 is damaging in and of itself. I would
22 specifically ask, until the State can lay the proper
23 foundation and prove whether it's through a
24 pathologist, whether it's through a SLED expert or
25 through a witness that it's specifically an AK-47,

1 that they be -- our position is gonna be it's gonna
2 gonna be difficult, it's not possible for the State
3 to be able to prove that. And so if they can just
4 simply say AK-47 without move proving it we have to
5 -- and so they until they lay the proper foundation
6 to be able to prove what type of weapon was actually
7 used in the shooting, we'd ask that that not be
8 mentioned until the foundation has been properly
9 laid.

10 MS. BARR: And Judge, here's what I would
11 say in response to that. Mr. Kent and I had a
12 conversation on last week about this very same
13 issue; and what I shared with him was that
14 Ms. McFadden, while receiving treatment at the
15 emergency room, told the ER doctor that her husband
16 shot her boyfriend with a AK-47. And so we'll have
17 the ER nurse and ER doctor here to testify regarding
18 those statements. The statements were made within
19 two hours of the shooting. There is documentation
20 in the medical records that she was crying at the
21 time. And so I shared with Mr. Kent candidly that I
22 thought that those statements would be admissible as
23 hearsay exceptions either as an excited utterance, a
24 present sense impression, or statements made for
25 medical purposes, diagnosis, and treatment. And so

1 given that and also given the testimony, from the
2 anticipated testimony from our firearms expert that
3 that type of weapon based upon the spent shell
4 casings found at the scene, could have been the one
5 that was used, we believe that it's, wouldn't be an
6 issue. Of course, if Your Honor allows the
7 testimony in from the ER nurse and ER doctor, we
8 believe it will be permissible for me to make
9 comments and references to the type of weapon used.

10 THE COURT: Yes, sir, Mr. Kent.

11 MR. KENT: I thought you were pointing at
12 me, I apologize, Judge.

13 THE COURT: No. From what I'm hearing
14 he's objecting unless you lay the proper foundation.

15 MS. BARR: Yes, sir.

16 THE COURT: And then perhaps, I'm not
17 pre-ruling —

18 MS. BARR: I understand.

19 THE COURT: —I'm just giving
20 anticipatory ruling.

21 MS. BARR: I understand.

22 THE COURT: I think what you're saying is,
23 I think I can show the proper foundation.

24 MS. BARR: Yes, sir. Yes, sir.

25 THE COURT: And if it's properly laid —

1 MS. BARR: Yes, sir.

2 THE COURT: I'll rule at the proper time.

3 MS. BARR: I understand, Your Honor.

4 MR. KENT: And I guess I'm making it as
5 truly a motion in limine because the bell cannot be
6 un-rung if it's mentioned in opening statement is my
7 fear. If they can't lay the foundation the jury has
8 already heard it so I would just ask until that
9 foundation be allowed, laid, the word AK-47 not be
10 allowed to utilize until they can actually prove it.
11 That's my concern here.

12 THE COURT: Okay.

13 MR. KENT: I plan on fighting that
14 introduction.

15 THE COURT: You don't intend on using it
16 in opening, Solicitor?

17 MS. BARR: Well, Judge, I did plan to use
18 it. I certainly did, yes, sir.

19 MR. KENT: And Your Honor —

20 MS. BARR: And Your Honor — I'm sorry.
21 Candidly, Judge, you know, we understand that the
22 Court cannot make an anticipatory ruling regarding
23 admissibility of evidence; we certainly understand
24 that. If the Court tells me not to refer to the
25 weapon, the type of weapon in opening, obviously I

1 won't do that. But we believe we have a good faith
2 basis to believe that that evidence will be
3 admissible. And Judge, typically in my opening
4 statements I will allege that you will hear or you
5 expected the testimony is expected to be. And if
6 that's not the case, then there are certainly
7 remedies that the Court has regarding that if
8 there's no evidence to that effect.

9 MR. KENT: If I may, Your Honor, and just
10 briefly, here is my concern based upon the evidence
11 that we have received. And I understand the State,
12 it is going to be a circumstantial evidence at best
13 evidence case to prove the specific murder weapon.
14 The pathologist will not be able to testify from my
15 review and talking to the pathology department at
16 MUSC, they will not be able to testify that an AK-47
17 was the murder weapon. The evidence that was sent
18 to SLED for their experts to review, SLED evidence
19 ballistics that were sent to SLED, no expert will be
20 able to testify that an AK-47 was responsible for
21 the weaponry that was used that killed the
22 individual on that day. From the testimony of Reva
23 McFadden she specifically said, no, I did not tell
24 the individual that was it was an AK-47. So my
25 concern is they will not be able to allow expert

1 testimony to specifically say that this was a murder
2 weapon so what the State is going to have to do is
3 tangentially prove their case to circumstantial
4 evidence, which they may or may not be able to do.
5 The fear is if they cannot do that based upon what I
6 just told you, then again, I can't un-ring the bell.
7 If they can do it, then they'll be able to
8 successfully do it and then they'll be able to
9 mention it at that point in time. My fear is just
10 being able to say AK-47, AK-47 in opening, because
11 of connotations of that word, and then they can't
12 prove it, then I can't un-ring the bell.

13 MS. BARR: Judge, let me ask you this, if
14 I may.

15 THE COURT: You're asking me?

16 MS. BARR: Yes, sir, and counsel. Would
17 there be an opposition to refer to it as an assault
18 rifle because clearly those were the only, the shell
19 casings were the only type of casings that would
20 have come from an assault rifle. And of course,
21 AK-47 is a specific type of assault rifle. Is there
22 any objection if I use the word assault rifle rather
23 than AK-47?

24 MR. KENT: Yes.

25 THE COURT: What was his answer?

1 MR. KENT: Yes. Judge, if, until we can
2 prove it —

3 THE COURT: I think if an attorney has a
4 good faith reasonable basis they can make the
5 argument. Now, you know, everything can't be proved
6 on opinion, and I tell the jury that, you know, what
7 y'all say is not evidence. And if, quite frankly,
8 it's been my experience if what an attorney said is
9 not later proven, it comes back to haunt their case
10 so to speak in that regard. And the phrase un-ring
11 the bell, I understand that phrase, but I think
12 sometime jurors realize it was never a bell to get
13 rung and it can come back. It cuts both ways, like
14 I say. You know, you're gonna cut my throat left to
15 right or right to left, my throat's still cut. And
16 in that regard, and I do have other remedies. I'll
17 strike it, I'll tell the jury just like I tell them
18 on a case where defendant doesn't testify they can't
19 even discuss that in the jury room. I think given
20 those, that's a fair protection and, you know, an
21 assault rifle, a long gun, I mean, it's just like
22 calling a knife a dagger and assassin tool, what
23 have you. I'll allow her to use the term AK-47 in
24 her opening.

25 MR. KENT: And of course, as you stated,

1 it will be remedied if they can't prove it later
2 during the course of trial.

3 THE COURT: Of course.

4 MR. KENT: Thank you, Judge.

5 THE COURT: I have sat here and studied.
6 I know we discussed — any other motions by the way?

7 MR. KENT: No, sir, that will be the
8 extent of motions that will be before the jury.

9 THE COURT: I have sat here and studied
10 and deserve where Mr. and Ms. Moore are sitting, and
11 we discussed in chambers. The rail is, I don't know
12 the exact measurement, but it's somewhat a high rail
13 around the jury panel. I'm gonna allow them to
14 maintain those seats during the course of the trial.
15 I think the jury's attention will be to the witness
16 stand or to the attorneys or wherever they may be
17 standing, to the question or the answer; and in that
18 regard they're not — I don't think they're sitting
19 there, the State obviously having two prosecutors
20 and then a chief investigating officer next and of
21 course, we also — and the Solicitor is also
22 present. The victim witness lady is also over to
23 the far right so I'm gonna allow them to remain
24 there, Mr. Kent.

25 MR. KENT: Your Honor, not to point — and

1 I'm fine with that, Your Honor. What about the
2 victim's sister sitting directly across from the
3 jury where she's sitting right there?

4 MS. BARR: Judge, we just had her there so
5 it wouldn't be a conflict with the families. And we
6 had the entire jury panel here so there was no way
7 to seat her behind us, but on tomorrow we'll have
8 all of the witnesses behind us.

9 THE COURT: All right. All right. And
10 finally as to his bond, given the nature and
11 circumstances totality of the circumstances, the
12 offense he's charged, the fact that he is facing up
13 to a life without parole sentence, the fact that the
14 case has been called for trial although the jury has
15 not been sworn, he is in custody of the Williamsburg
16 County Sheriff's Department or detention center. I
17 would advise that, I would ask that if the Sheriff's
18 Department would make him available all reasonable
19 hours for Mr. Kent or Mr. Schwartz to see him and
20 make sure — I don't know how y'all deal with his
21 civilian clothes, but make sure that he gets
22 whatever civilian clothes necessary. So his bond is
23 ended and he's in custody.

24 MR. KENT: Thank you, Your Honor.

25 THE COURT: Thank you, Mr. Kent. Thank

1 you, Mr. Schwartz.

2 MR. SCHWARTZ: Thank you, Your Honor.

3 (Attorneys confer.)

4 MR. KENT: Your Honor, and I apologize,
5 last, my client asked cocounsel, just a motion to
6 sequester all witnesses, all fact witnesses who will
7 be utilized during the course of trial.

8 THE COURT: And Solicitor?

9 MS. BARR: Judge, we don't have any
10 objection although as I understand the victim bill
11 of rights the parents of the deceased is entitled to
12 remain and the chief investigator are entitled to
13 remain.

14 THE COURT: I don't — I mean, expert
15 witnesses, your expert, SLED people, pathologist, I
16 mean, people like that, you got an evidence handler.

17 MS. BARR: Yes.

18 THE COURT: Just handling evidence and
19 such, I mean, just for purposes of moving along
20 smoother.

21 MS. BARR: Yes.

22 MR. KENT: It would just be fact
23 witnesses.

24 THE COURT: Of course if Mr. Williams
25 wants a family member here I have no objection to

1 this either; I allow that.

2 MR. KENT: Could they sit at this table?

3 I'm kidding, Your Honor.

4 THE COURT: If y'all want to get a tape
5 measure and measure it, it's gonna be something.
6 One final thing, our fine bailiff just notified me
7 there's a Mr. Snow on the jury that wants to advise
8 us of some information that was bothering him.

9 MR. KENT: This doesn't sound good.

10 THE COURT: So you want me to have
11 Mr. Snow brought out?

12 MS. BARR: Please, Judge.

13 THE COURT: Did the bailiff go get him,
14 Mr. Snow, juror number 166?

15 MR. KENT: Your Honor.

16 MS. BARR: Judge, you want us to bring him
17 out or you know what the issue is?

18 THE CLERK OF COURT: He's coming.

19 (Juror was returned to the courtroom.)

20 THE COURT: The bailiff indicated to me
21 that you had mentioned something to him.

22 THE JUROR: Yeah, yes, sir.

23 THE COURT: Would you share that with us.

24 THE JUROR: Yeah. A few years back I had
25 a niece that got killed and she was dragged in a

1 wooded area and she was burned. And I just can't
2 stand the sitting here and listening at this. She
3 was murdered like that, and it bothers me every time
4 I look back and see him so I can't sit. I thought
5 it went away, but it didn't.

6 THE COURT: So I mean, you feel like based
7 on — and nothing wrong, I mean, I hate that tragedy
8 happened to your and your family. You don't feel
9 like you can be a fair and impartial juror in the
10 trial of this case because of that?

11 THE JUROR: To be honest I couldn't, I
12 couldn't.

13 THE COURT: That's fine. All right, I'm
14 gonna excuse you as a juror in the trial of this
15 case. You did not say anything to any of your
16 fellow jurors?

17 THE POTENTIAL JUROR: Nobody but the
18 bailiff right there.

19 THE COURT: This young man right here?

20 THE POTENTIAL JUROR: Yes, sir.

21 THE COURT: And that was not in the
22 presence of the other jurors?

23 THE POTENTIAL JUROR: Huh-uh, just me and
24 him.

25 THE COURT: All right. I'm gonna excuse

1 Mr. Snow from the trial of this case, okay?

2 MS. BARR: Yes, sir.

3 THE COURT: Thank you. Thank you for
4 letting us know that.

5 THE POTENTIAL JUROR: Thank you.

6 THE COURT: All right, juror number —
7 there wasn't any objection to that from the State or
8 the Defense?

9 MS. BARR: None from the State, Judge.

10 MR. KENT: Nothing at all, Your Honor. I
11 completely understand.

12 THE COURT: All right, let's see, we have
13 alternate juror 72 and 140. Is that correct, Madam
14 Clerk?

15 MR. KENT: I have 72, Ms. Gaskin, and 190,
16 Ms. Williams.

17 THE CLERK OF COURT: 140, Ms. Patterson.

18 MR. KENT: Just forget what I said.

19 THE COURT: So it's 72 and 140. Pick one
20 out of the hat.

21 MR. KENT: Your Honor, realistically our
22 position would be Ms. Gaskin would be put on the
23 jury because that would be the first one.

24 THE COURT: I don't think that's what the
25 law is. I think that's the law in a civil case. I

1 think in a criminal case Ernest Finney said that's
2 not the statute.

3 MR. KENT: He did.

4 THE COURT: I learned a hard lesson on
5 that, Mr. Kent.

6 MR. KENT: Good, I trust you. I wish it
7 would have been easy.

8 THE COURT: Any objection to the civil
9 clerk?

10 MR. KENT: I have no problem if Laura, the
11 civil clerk, pulls the name.

12 THE CLERK: Juror number 72, Melissa
13 Gaskin.

14 THE COURT: Juror number 72 has been
15 promoted. She is now on the primary jury. Thank
16 you. Thank you very much. Anything further from
17 the State?

18 MS. BARR: No, Your Honor.

19 THE COURT: Defense?

20 MR. SCHWARTZ: No, Your Honor.

21 THE COURT: All right. Court will be in
22 recess until 9:30 in the morning.

23 (WHEREUPON, the proceedings were concluded
24 and reconvened on July 28th, 2015.)

25 (WHEREUPON, State Exhibits Nos. 1 through

1 72 were marked for identification only
2 and Court's Exhibits 1 and 2 were
3 re-marked as State Exhibits 73 and 74.)

4 THE COURT: Anything, Solicitor, before we
5 bring in our jury?

6 MS. BARR: No, sir, Judge. The State's
7 ready.

8 MR. KENT: On behalf of Defense we're
9 ready, prepared.

10 THE COURT: Thank you. Bring the jury.
11 I'm gonna appoint juror number 130, Mr. Jason Meyers
12 is our foreperson. Also juror number 72 was
13 promoted last night as our alternate to primary
14 juror; that's Ms. Gaskin. All right, thank you.
15 You can bring us our jury please.

16 (WHEREUPON, the jury was returned to the
17 courtroom at approximately 9:48 a.m., and
18 the following proceedings commenced in
19 open court.)

20 THE COURT: Madam Clerk, if you would
21 place our jury under oath please.

22 THE CLERK OF COURT: Ladies and gentlemen,
23 good morning. If you will please stand at this
24 time, raise your right hand.

25 (WHEREUPON, the jury was sworn.)

1 THE CLERK OF COURT: Okay, you may be
2 seated.

3 THE COURT: Good morning, ladies and
4 gentlemen. Was there any member of the jury panel
5 unable to take the oath, if so, please stand.

6 (There was no response.)

7 THE COURT: Thank you. Thank you very
8 much. I have appointed juror number 130,
9 Mr. Meyers, to serve as the foreperson of our jury.
10 Thank you very much, Mr. Meyers for volunteering.
11 Ladies and gentlemen of the jury, as you've heard
12 the case we are about to try is the case of the
13 State versus Terry Williams to my front left, the
14 defendant. What I will now say is intended to serve
15 as an introduction to the trial of this case. These
16 remarks are not an instruction on the law in this
17 case. I will instruct you on the law applicable to
18 this case at the end of the trial before you retire
19 to begin your deliberations. This is merely an
20 explanation of the procedure that we will follow in
21 the trial so that you will better understand what
22 may be happening.

23 The defendant is charged by an indictment
24 with the offenses of murder, assault and battery of
25 a high and aggravated nature, and possession of a

1 weapon, firearm, during the commission of a violent
2 crime. Again, ladies and gentlemen, the indictment
3 simply the charge by which the case is brought in
4 the court. It is a formal charging document which
5 places an individual on notice to the charges that
6 have been brought against him or her. It is not in
7 any sense evidence of any of the allegations that it
8 contains. The defendant has pled not guilty to the
9 indictment. The State, the party to my front right
10 closest to the jury box, therefore has the burden of
11 proving each of the elements of the charge that's
12 brought beyond a reasonable doubt; and it will be
13 your duty, ladies and gentlemen, to decide whether
14 or not the State has met that burden.

15 Your purpose as jurors is to find and
16 determine the facts. You, ladies and gentlemen, are
17 the sole judge of the facts of this case. If at any
18 time I make any comment regarding the facts, you
19 must disregard it. You are to determine the facts
20 from the evidence you hear in this courtroom and any
21 other evidence that may be introduced in court. It
22 is up to you to determine what inferences you think
23 may properly be drawn from the evidence.

24 It is especially important that you
25 perform your duty in determining the facts

1 diligently and conscientiously because ordinarily
2 there is no way to correct an erroneous
3 determination of the facts by a jury. Now on the
4 other hand and with equal emphasis, the same law
5 that makes you the judges of the facts of the case
6 make me the judge of the law. The law as given by
7 the Court is the only law you may consider. You
8 must accept and follow the law even though you may
9 disagree with it. I cannot tell you what the facts
10 are. You cannot disagree with me about what the law
11 is or should be. Your job is to take the law as I
12 give it to you and apply it to the facts as you find
13 them from the testimony of the witnesses and any
14 other evidence that is introduced. After doing
15 that, you will render your verdict, true and just
16 verdicts, under the solemn oath that you have just
17 taken as jurors.

18 It is important that you keep an open mind
19 and not decide any issue in the case until all of
20 the evidence has been presented, the parties have
21 made their closing arguments to you, and I have
22 instructed you on the law in the case and then
23 advised you to begin your deliberations with your
24 fellow jurors in your jury room. It is your solemn
25 responsibility to determine the guilt or the

1 innocence of the defendant, and your verdict must be
2 based solely on the evidence as it is presented to
3 you in this trial and on the law that I instruct you
4 during and at the close of the trial.

5 Now in just a minute, just a moment, the
6 solicitor will make what is called an opening
7 statement in which the solicitor will explain to you
8 the issues in the case, or at least what the
9 solicitor thinks the issues are in this case.
10 Mr. Kent or Mr. Schwartz, one of the attorneys for
11 the defendant, may also make an opening statement,
12 although he is not required to do so. A criminal
13 defendant in South Carolina is always presumed to be
14 innocent regardless of the seriousness of the
15 offenses charged. The State always has the burden
16 of proving its case beyond a reasonable doubt.

17 Ladies and gentlemen, what the attorneys
18 tell you during their opening statements is not
19 evidence in the case. What the attorneys tell you
20 during their closing arguments is not evidence in
21 the case. The questioning by the attorneys is not
22 evidence in the case. It's the framework by which
23 the testimony is extracted from those witnesses that
24 have been placed under oath and swear before you to
25 tell the truth. That is what the evidence in the

1 case is and also any physical items of evidence,
2 charts, diagrams, photographs, the like. The
3 opening statements are their contention as to what
4 the issues are.

5 From time to time during the trial you may
6 hear one of the attorneys say something like, Your
7 Honor I believe we have a question of law, or a
8 matter of law to discuss with you; or Your Honor,
9 may we approach the Bench. Or sometime I, myself,
10 might find it necessary to excuse you from the jury
11 room for a short while so the attorneys and I can
12 discuss a matter of law. The reason for this is not
13 to hide anything from you. The reason for this is
14 because you are the judges of the facts in this
15 case; and sometimes when I am discussing matters of
16 law with the attorneys, it maybe necessary for me to
17 make some comment as to the facts as to ruling in
18 connection with whether a particular law applies or
19 not. I am not supposed to, and will not tell you,
20 and cannot have an opinion as to the facts so I will
21 excuse you from the courtroom while these
22 discussions take place so that in no way will you be
23 influenced by anything that I might say or do in
24 connection with the facts.

25 In determining what the true facts are in

1 using your individual and collective good judgment
2 and common sense, you must decide whether or not the
3 testimony of the witnesses is believable. It will
4 be my responsibility to rule as a matter of law
5 whether or not certain testimony is admissible at
6 all or not; in other words, whether you get to hear
7 it or not. But once the testimony is admitted,
8 whether or not you believe it is solely on you to
9 decide. In deciding whether to believe a witness
10 you have a right to consider the interest of any
11 witness, the bias of any witness, the prejudice of
12 any witness, the opportunity for the witness to have
13 seen the matters and things about which the witness
14 may testify and the way the witness acts on the
15 witness stand, the demeanor, the appearance. You
16 have the right to consider anything that is in this
17 record that will help you evaluate the testimony of
18 the witness. That means it will be your duty to pay
19 close attention to the witness, to observe, to
20 listen to them, to pay close attention to the
21 attorneys and to the Court. Don't let your thoughts
22 wander. Give strict attention to the testimony in
23 this case so that at the end of all the testimony,
24 after all the arguments by the attorneys, the
25 instruction on the law by the Court, you will then

1 be in that position to determine what the true facts
2 are and to apply the law to those facts, and thus,
3 render those true and just verdict.

4 It will be your added responsibility, Mr.
5 Foreman, to preside in the jury room and to be the
6 jury spokesperson here in court. It will also be
7 your duty to write the verdict, which I will give
8 you further instruction to about that at the
9 conclusion of the trial. Just a few other very
10 brief comments administratively. If you cannot see,
11 if you cannot hear any witness, please get me
12 attention or attention of one of the fine bailiffs
13 or clerk, who will have that witness speak up or
14 move to a position where you can see and hear. From
15 time to time during the course of the trial an item
16 may be offered into evidence. At times it may be
17 handed to the foreperson and passed among members of
18 the jury while you're out here in the courtroom in
19 your jury box. You may look at that item all you
20 wish in the courtroom in your jury box. Please
21 remember, if I allow an item into evidence you will
22 also have it with you in your jury room at the time
23 of your deliberations so that will not be the only
24 opportunity that you will get to observe those items
25 of evidence.

1 From time to time you may see me on my
2 computer. I don't peek, I don't repeat, I don't
3 tweet, I don't know what snapshot, hash tag. I hear
4 those terms; I don't know what anything is. I don't
5 email, text, anything. These are very good trial
6 attorneys. If I see a legal issue which I think may
7 be lurking around the curve on that dusty trail I
8 may do some like research. He does my heavy
9 research. I may do some light research. If me
10 being on the computer from time to time annoys any
11 of you, please, please let me know and I can
12 certainly curtail that. I just tell you that to let
13 you know I stay focused on the case, and that these
14 are very good trial attorneys and I try to keep up
15 with them. I try to keep up with them.

16 Seating, I need 13 people in the
17 courtroom. Of course we promoted Ms. Gaskin.
18 Ms. Gaskin, all right, you're promoted from status
19 of alternate to the primary jury. And then our
20 other alternate, Ms. Patterson, you're alternate.
21 At the first break if you will sit on the back on
22 this backside here. And if that young lady there
23 would switch places with her when you come back.
24 Now beyond that, the other members of the jury you
25 may sit anywhere you like in the jury box. My

1 observations over the years in a courtroom, the
2 jurors can be very territorial. They like to sit in
3 the same place each and every time. I do. I like
4 to sit right here and I can watch the trial from
5 right here; and if you want to sit in the same place
6 you may certainly do so, but I need my foreman, my
7 alternate and 13.

8 With that being said, what am I really
9 when charge of? Tongue and cheek I say I'm in
10 charge of taking breaks. I have a real simple rule
11 about taking breaks. When I want to take a back I
12 take a break. I take a break for everybody. This
13 is not a judicial marathon. This is an important
14 case. This is an important case for Mr. Williams.
15 It's an important case for the State of South
16 Carolina. At any time any of you, if you need a
17 break, if your thoughts s begin to wander, please,
18 please raise your right hand. Y'all take y'all's
19 break; we will take our break. If you're not
20 focused, if you're not attentive, you will not be
21 able to determine what the true facts are and render
22 those verdicts as true and just verdicts in this
23 case so please keep that in mind. Any time any of
24 you need a break, raise your right hand and let me
25 know and we will take our break.

1 Any objections to anything I've told the
2 jury from the State, Solicitor?

3 MS. BARR: No, Your Honor.

4 THE COURT: From the Defense, Mr. Kent?

5 MR. KENT: Nothing on behalf of
6 Mr. Williams, Your Honor.

7 THE COURT: Thank you. Thank you very
8 much.

9 Solicitor, you may address the jury.

10 MS. BARR: Thank you, Your Honor, may it
11 please the Court.

12 THE COURT: Yes, ma'am.

13 MS. BARR: Mr. Foreman, ladies and
14 gentlemen of the jury, good morning. My name is
15 Kimberly Barr. I had the pleasure of meeting you
16 all on yesterday. I want to start by, first of all,
17 thanking you all for being with us this week. Now I
18 recognize when I say that, that you all obviously
19 did not volunteer to be here. I don't think anyone
20 a couple of months ago thought, I think it's a good
21 idea, you know, the last week in July to go and
22 serve on jury duty in a murder case. We know that
23 you were summoned here; but one of the things that
24 makes our jury system the best in the world is that
25 we have citizens who are willing to sacrifice to be

1 here and to serve and this is a form of service to
2 your country so I appreciate that. And I'm sure
3 Mr. Kent and his client share that sentiment.

4 You all may recall that on yesterday when
5 we selected the jury a lot of people got up, stood
6 up, and prosecution had an opportunity to say
7 present them or excuse them, and Defense had the
8 same opportunity. And some time people were not
9 selected. And what happens is, unless a lawyer
10 really knows a juror personally we really have to
11 rely on our gut instinct. And when I select a jury.
12 If I don't know an individual personally I ask
13 myself the question, hum, do I believe this person
14 will be attentive, do I believe this person will be
15 fair, and do I believe that this person will listen
16 to the law and the judge gives to them; and based
17 upon my gut I say present the juror. And so the
18 fact that you all were selected to serve on this
19 jury tells me that we got it right. We got an
20 intelligent jury. We have an attentive jury and we
21 have a jury that will follow the law as instructed.

22 Folks, it's so important when I use the
23 word attentive juror because the part of serving
24 your country by performing jury duty is not just to
25 come here; it's not just to be a body. More

1 important than the time that you give this case is
2 the attention that you give this case for the
3 defendant, for the parents of Larry Moore. This is
4 our only day in court. This is our only day in
5 court. We waited a long time to get here, and so we
6 need for you to pay close attention to the evidence
7 in the case.

8 You know that you all are here on a murder
9 case. You know somebody got killed. You are here
10 today because back on November 10th, 2013, very
11 shortly after midnight, the evidence in this case is
12 gonna show that the defendant Terry Williams shot a
13 27 year old unarmed with an AK-47 rifle. You're
14 gonna hear, because the nurses will testify, the
15 doctor will testify, that Larry Moore, 27 years old,
16 died as a result of that. During the course of that
17 shooting you will also hear testimony that another
18 individual by the name of Reva McFadden was also
19 injured; not nearly, not nearly as significant, but
20 she was, in fact, injured. Now just so you know and
21 so we can put the parties in perspective for you,
22 you will hear testimony that Reva McFadden, who was
23 the girlfriend of the victim Larry Moore, was also
24 separated from the defendant, who was her husband.
25 You will hear evidence that they had — when I say

1 "they," I mean Ms. McFadden, Mr. Williams, have
2 children together.

3 What will make this trial interesting is
4 the evidence that you'll hear regarding Reva
5 McFadden. Folks, a lot of times in jury trials
6 people wonder why things happen. This is obviously
7 a very horrific, very senseless killing. But one of
8 the things that the judge is not going to place on
9 you is the question of why. You will after this
10 case is concluded, after you've heard all of the
11 evidence, have seen and watched and listened to all
12 of the witnesses, and have heard the law from the
13 Court, you'll be called upon to deliberate and
14 render a verdict in this case; and what your verdict
15 should say at the present time is to speak the truth
16 of what happened.

17 Folks, we submit to you that at the
18 conclusion of this trial you will agree that the
19 truth of what happened in this case is that the
20 defendant is guilty as charged. Now with that, I'll
21 leave it alone 'cause I obviously want to get into
22 the trial of the case. I recognize, again, you've
23 made sacrifice to be here, and I want to make sure
24 that we are productive so I thank you all again for
25 your time. I thank you most importantly, each and

1 everyone of you for your attention. Thank you.

2 THE COURT: Thank you, Solicitor.

3 Mr. Kent.

4 MR. KENT: May it please the Court.

5 THE COURT: Yes, sir.

6 MR. KENT: Ms. Barr, Ms. Swilley. How are
7 y'all doing? I guess we got out of here — last
8 night y'all got out of here a little bit earlier
9 than us all, 5:30. So around 6:00 myself and
10 Mr. Schwartz were leaving the courtroom so we're
11 driving and following each other home. He was
12 speeding, I was not, just in case anybody asks. He
13 was speeding so I was trying to keep up with him.
14 And as we were leaving the courtroom I got a phone
15 call from somebody needing representation. I came
16 back to Kingstree and then I started going towards
17 Manning. As I told y'all when we met my law office
18 is in Manning, South Carolina. So I drive to
19 Manning and I do a little bit of work, started
20 getting kind of late and I received a phone call
21 from one of my best friends in the world,
22 Christopher Long (ph). He's a doctor down in
23 Bluffton, South Carolina. So he keeps calling, he
24 keeps calling, he keeps calling. I keep ignoring
25 it. I keep ignoring it, keep ignoring it. You know,

1 you just ignore when friends are calling entirely
2 too many times. It was just getting late, and I was
3 working on this trial. Finally he called about
4 seven times, called again. I picked up the phone
5 and of course I said what we always say, hey, man, I
6 just saw you called. Of course, that's not true, I
7 was ignoring his calls. And so he gets on the phone
8 and we had just played golf the weekend before. We
9 had just played golf and he was at my house Sunday.
10 And to tell you a little bit about Chris, Chris has
11 recently been married and has what I like to refer
12 to as a slightly wandering eye when it comes to the
13 ladies and his wife knows it. So he gets on the
14 phone with me and he's intense, he's upset, he's
15 emotional, oh my God, my wife doesn't believe me,
16 she thinks I'm cheating on him. Which I said, well,
17 you probably are. And he's like, no, no, no, she's
18 convinced I'm cheating on her, I need you to call
19 her for me. I'm like, Chris, I'm not getting
20 involved in this, I'm not messing with this, leave
21 it alone, y'all need to handle this yourself/you
22 probably are Chris, 'cause I know Chris, and I get
23 off the phone. And I start driving, and as I'm
24 driving it just thinks in my mind, what am I doing,
25 why am I making this assumption, let me call him

1 back and see what's going on. So I call him back
2 and I say, Chris, tell me what's going on. Well,
3 apparently when he came up to my house to play golf
4 on Saturday he did not tell her where he was going.
5 He plays golf with me on Saturday night, stays up
6 Sunday morning, he hangs out. My mom is a Baptist
7 member down in Summerville. So she comes over to
8 the house. As she comes over to the house she talks
9 to Chris, she loves Chris. She gives him a big old
10 hug, big old kiss on the cheek and leaves. Well,
11 apparently according to Chris, he goes home and he
12 wreaks of my mom's cheep perfume. My mom wears
13 cheep perfume and he's got a little bit of her
14 makeup on. True story. So he tells me this story
15 and I'm just like, god, Chris, that's kind of
16 strange. And he says to me, call my wife. And I
17 said, hell no, 'cause I know his wife. So I pick up
18 the phone anyway and I call his wife. And I'm
19 talking to her and I'm like, Adrian — and this is
20 late last night, this is like 11:30 last night.
21 Adrian, let me tell you what's going on, Chris did
22 come to my house. She said, I don't believe you, he
23 was with another woman. Adrian, I know for a fact
24 Chris was at my house last night, I can tell you
25 that, I am your witness, I was there. Okay, well

1 where was he Sunday morning? Well, we played golf
2 and then he was with my mom. I don't believe you.
3 Hold on. Doot, doot, doot, doot, doot mom, what do
4 you want? I need you to talk to Adrian, she's on
5 the other line. So I've got my mom, the Baptist
6 minister 2:00 in the morning talking to Chris' wife
7 giving her what happened. So I'm telling this whole
8 story and then I start giggling to myself because
9 it's about assumptions. And what I had to do with
10 those assumptions is give Adrian evidence. I
11 couldn't rely on my assumptions because I made the
12 same assumption that Adrian made when Chris talked
13 to me. I made a big assumption. I assumed my buddy
14 had to be cheating on her. I just assumed it
15 without listening to the evidence, without listening
16 to the facts. I relied on shock value. And that,
17 ladies and gentlemen, is what the State of South
18 Carolina is going to give you throughout the course
19 of this trial. They're going to try to give you
20 shock value and try to avoid giving you evidence.
21 And that scares me 'cause after I got off the phone
22 I continued to drive and I continued to think about
23 my client and my friend Terry Williams because this
24 is a scary trial. This is a trial on which you're
25 gonna hear a catyclave of witnesses, a catyclave of

1 people who the State of South Carolina is gonna put
2 on the stand. And when it boils down to its
3 simplest element, even though they don't want to
4 tell you this in opening statement, there's one
5 eyewitness to everything that happened, just one.
6 I'm interested on what the State is gonna do with
7 that one eyewitness to everything that's happened.
8 I wonder what they're gonna do and put on. But
9 there's one witness to this entire case but you're
10 gonna get an avalanche of witnesses who are put up
11 there and at the end of the case -- and I'm gonna
12 ask each one of them a very simple question, did you
13 actually see what happened? I promise you, 99
14 percent of them are gonna say, no, I did not see
15 what happened that day 'cause that's what this case
16 boils down to, what happened.

17 Mr. Williams is charged with three serious
18 charges: Murder, assault and battery of a high and
19 aggravated nature, and possession of a weapon by a
20 convicted, by a felon. When we talk about the
21 murder charge, when we talk about all these charges
22 there's one thing that we need to be concerned
23 about. There's one thing that the law looks into
24 and I want you to look inside of it and it's
25 something that the State must prove. One word, it's

1 very simple, it's called intent. And it's something
2 that the State must prove. What, in fact, was
3 Mr. Williams' intent on November 10th, 2013. The
4 craziest thing in the world is, it's hard to prove
5 what's inside of a man's mind. And so what the
6 State is going to do is they're gonna do exactly
7 what I did when I talked to my friend on the
8 telephone the very first time; I made an assumption.
9 I said, let me look at the surrounding facts,
10 boyfriend, girlfriend, someone dead, I got it, I
11 proved it, this is the case. But that's not what we
12 do in South Carolina. We rely on evidence. We rely
13 on getting my mom on the phone at 2:00 in the
14 morning. We rely on a best friend saying I can
15 promise you he was with me that night. We rely on,
16 yeah, my mom, he smelled cheap perfume on that, I
17 promise you that's my mom's cheap perfume, she wears
18 it every Sunday to church. But that's the evidence
19 we rely when we try to prove our case. And that's
20 the burden that we need to hold the State of South
21 Carolina to. They try to avoid putting a witness on
22 the stand, ask them why. If they try to say this
23 must be the murder weapon, we know it for a fact.
24 If they told you in opening state it was shot with
25 this weapon, make them prove it and see if they can.

SW - W. COOPER - DIRECT

1 Or see if they're just saying, hey, if we say
2 something scary enough or loud enough that jury will
3 believe us and just convict somebody and that's what
4 they're hoping.

5 I listen to old radio, this old radio
6 host. Some of you may heard of him say, may not
7 have, standing Paul Harvey. Oh, Paul Harvey, I know
8 that sounds crazy but I did. I listen to Paul
9 Harvey and he would always at the end tell you that
10 huge story, looks like the State of South Carolina
11 just did in their opening and then he would say in
12 this great southern voice, he would say, and now
13 you're gonna hear the rest of the story. I'm
14 looking forward to hearing the rest of this story.
15 Thank you so much for your time.

16 THE COURT: Thank you. Thank you very
17 much, Mr. Kent.

18 Solicitor, you may call your first
19 witness.

20 MS. BARR: The State calls Ms. Cooper.

21 THE CLERK OF COURT: Place your left hand
22 on the Bible, raise your right hand.

23 WHEREUPON,

24 **WILLIE MAE COOPER,**
25 having been duly sworn by the Clerk, testified

1 as follows:

2 THE CLERK OF COURT: You can walk around
3 to the witness box.

4 MS. BARR: May it please the Court.

5 THE COURT: Yes, ma'am.

6 **DIRECT EXAMINATION**

7 BY MS. BARR:

8 Q Good morning, Ms. Cooper.

9 A Good morning.

10 Q If you will introduce yourself to the ladies and
11 gentlemen of the jury, tell them your full name and
12 tell them what you do for a living.

13 A Willie Mae Maria Cooper, I work for Williamsburg
14 County E911.

15 Q Okay, and you're a dispatcher?

16 A Yes.

17 Q Tell us kind of what you do on a day to day
18 basis.

19 A We tape and receive calls and dispatch them to
20 the sheriff, EMS, you know.

21 Q Okay. And how long have you worked in that
22 capacity?

23 A Six years.

24 Q Six years, okay. All right. Ms. Cooper, you
25 were working the night of November 9th of 2013,

1 leading up to the morning of November 10th, 2013?

2 A Yes.

3 Q All right. On that particular day did you
4 receive a call regarding a shooting in Greeleyville
5 community of Williamsburg County?

6 A Yes.

7 Q All right. And to be clear, that area where the
8 shooting happened is in Williamsburg County?
9 Greeleyville is in Williamsburg County?

10 A Yes.

11 Q Now as part of the practices of 9-1-1 do you all
12 actually record incoming 9-1-1 calls?

13 A Yes.

14 Q All right. And have you had an opportunity to
15 listen to what has been marked as State's Exhibit
16 Number 1? I show you what that.

17 MS. BARR: May I approach the witness,
18 Judge?

19 THE COURT: Yes, ma'am.

20 BY MS. BARR:

21 Q Thank you.

22 A Yes.

23 Q All right. And is this the 9-1-1 recording of
24 the calls that were made regarding the shooting in
25 Greeleyville?

1 A Yes.

2 Q Okay. And approximately what time was it that
3 calls begin to come in? Well, first of all, how
4 many did you receive?

5 A Two.

6 Q And what time did they begin to come in?

7 A My first initial call came in at 12:09.

8 Q 12:09 a.m.?

9 A Yes.

10 Q All right.

11 MS. BARR: Your Honor, we would move
12 State's Exhibit Number 1 into evidence.

13 MR. KENT: No objection at all, Judge.

14 THE COURT: State's 1 is in evidence
15 without objection.

16 (WHEREUPON, State Exhibit No. 1 was
17 admitted into evidence.)

18 MS. BARR: Move to publish.

19 THE COURT: You may publish.

20 (State's Exhibit No. 1 was played for the jury.)

21 BY MS. BARR:

22 Q Ms. Cooper, the first dispatcher who took the
23 first call from the female who identified herself as
24 Collette, who was that individual?

25 A The first caller that called in.

1 Q The first dispatcher?

2 A Me.

3 Q Dispatcher — I'm sorry, bad question. The
4 dispatcher who took the first call from Collette,
5 who was that?

6 A Me.

7 Q All right. And then there was the second call;
8 is that correct?

9 A Yes.

10 Q All right. And who was the individual who from
11 dispatch to that call?

12 A I took the second call too.

13 Q All right. Now it appeared to be a male's voice?

14 A Yes.

15 Q Okay. Did you recognize that voice?

16 A No.

17 Q Okay. Now when you took the first call from the
18 person who identified herself as Collette, what did
19 you tell her to do? What was the normal practice
20 that you would have an individual to do call in
21 about someone being shot?

22 A Not to move them.

23 Q Okay, all right. And what is the normal practice
24 and what would you have done after you received that
25 call after advising the caller not to move the body?

1 A Dispatch EMS, you know, to get someone out there
2 to help them.

3 Q What about the police?

4 A We dispatch the police. One of the other call
5 takers was dispatching the police at the time.

6 Q Okay. The two calls that we've just heard, were
7 those the only two calls that came in to 9-1-1 as
8 related to this shooting in Greeleyville?

9 A No.

10 Q Okay. All right, was there another call?

11 A It was a lot of calls coming in saying the same
12 thing that a shooting had took place at the club.

13 Q Okay. All right, and I believe that one of the
14 callers, the second lady that we heard from, said it
15 happened Club Viola's?

16 A Yes.

17 Q Have you ever heard of that particular
18 establishment?

19 A No.

20 Q Okay. Ms. Cooper, that's all the questions that
21 I have. Thank you, ma'am. Please answer any --
22 hold on, they get a shot at you and the judge gets
23 ---

24 MR. KENT: My turn.

25 MS. BARR: ---to ask you any questions.

SW - W. COOPER - CROSS

1 Please answer any questions they have, okay?

2 THE COURT: Thank you. Thank you,
3 Solicitor.

4 Mr. Kent.

5 **CROSS-EXAMINATION**

6 BY MR. KENT:

7 Q I'm not that mean, I promise, I'm wearing pink.
8 Ms. Cooper, how are you doing?

9 A I'm fine, and you?

10 Q Good. We haven't had a chance to meet. I don't
11 have many questions for you, okay?

12 A Okay.

13 Q That was your voice that we heard on 9-1-1 tape?

14 A Yes.

15 Q At one point in the tape -- and I'm sorry I'm
16 walking away. I want to make sure I get the
17 language right. You said don't drag him. You were
18 telling them -- and I see you're shaking your head.
19 Madam court reporter is taking down the words you
20 say.

21 A Yes.

22 Q Why would you -- and I just don't know, why would
23 you tell someone not to drag them or take them away
24 from the crime scene?

25 A Because I could hear someone in the background

1 saying they drag him putting him into the car.

2 Q Okay. And medically, why would you not want to
3 drag somebody or take them away from the scene like
4 that?

5 A 'Cause they could bleed out depending on where
6 they're shot.

7 Q Depending on where they're shot?

8 A Uh-huh.

9 Q So the safer practice is to leave somebody right
10 there?

11 A Yes.

12 Q And that's what you told them to do?

13 A Yes.

14 Q Okay. And the last question, you weren't out
15 there that night, were you?

16 A No.

17 Q And you don't know what happened?

18 A I do not. All —

19 Q Thank you. Oh, go ahead, I'm sorry.

20 A Other than what they said when they called in.

21 Q Other than what we just heard and you saying
22 don't drag him, leave him there, because somebody
23 can bleed out if they're taken away from the scene.

24 Thank you so much, Ms. Cooper?

25 THE COURT: Redirect, Solicitor?

SW - J. PHILLIPS - DIRECT

1 MS. BARR: No redirect, Judge. We ask the
2 witness be excused.

3 THE COURT: Thank you. Any objection,
4 Mr. Kent?

5 MR. KENT: None at all.

6 THE COURT: Thank you for being with us
7 this morning, Ms. Cooper. You may step down. You
8 may be excused.

9 Solicitor, you may call your next witness.

10 MS. BARR: We call Joey Phillips.

11 THE CLERK OF COURT: Place your left hand
12 on the Bible, raise your right.

13 WHEREUPON,

14 **JOEY PHILLIPS,**

15 having been duly sworn by the Clerk, testified
16 as follows:

17 THE CLERK OF COURT: You may take your
18 seat in the witness box.

19 **DIRECT EXAMINATION**

20 BY MS. BARR:

21 Q Mr. Phillips, if you'd do us a favor, please
22 state your full name for the record.

23 A Joseph Phillips.

24 Q And you are also employed with —

25 A Williamsburg County 9-1-1 communication officer.

SW - J. PHILLIPS - DIRECT

1 Q All right. And how long have you been there?

2 A Fourteen years.

3 Q All right. Sir, you were present in the
4 courtroom when State's Exhibit Number 1 was
5 published to the jury, the 9-1-1 recording?

6 A Yes, ma'am.

7 Q There is a male voice on that second call
8 regarding a shooting that happened in Greeleyville.
9 Did you hear that, that recording? That we just
10 played in the courtroom?

11 A That would be me.

12 Q That was you on the second call?

13 A Yes, ma'am.

14 Q All right. And did you also hear the testimony
15 from Ms. Cooper that there were several calls that
16 in to 9-1-1 regarding the shooting?

17 A Yes, ma'am.

18 Q Did an individual by the name of Terry Williams
19 ever call in to 9-1-1 ---

20 A No, ma'am.

21 Q Hold on, you're too fast. Did an individual by
22 the name of Terry Williams ever call in to E-9-1-1
23 that night regarding a shooting? Or that morning I
24 guess would be technically.

25 A No, ma'am.

SW - J. PHILLIPS - CROSS

1 Q Thank you, sir. Please answer any questions that
2 Mr. Kent or the Court may have.

3 THE COURT: Thank you, Solicitor.

4 Mr. Kent.

5 **CROSS-EXAMINATION**

6 BY MR. KENT:

7 Q Joey, how are you doing, sir?

8 A I'm fine, sir.

9 Q Again, I don't have very many questions. These
10 are phone conversations that you're getting,
11 correct?

12 A Yes, sir.

13 Q And so you don't know who's on the other line of
14 the phone, whatever name they tell you?

15 A That's right.

16 Q They could say I'm Elmo, and you'd just write
17 down Elmo?

18 A Yes. What they tell me that's what I put in
19 there.

20 Q So when the Solicitor asked you specifically a
21 certain person didn't call you, you really don't
22 know who called in. You just know names are given
23 to you?

24 A It's what they tell me I would put it in.

25 Q Okay. And you weren't out there that night,

SW - F. WHITE - DIRECT

1 correct?

2 A No, sir.

3 Q And you would have no evidence as to what
4 happened that night?

5 A No, sir.

6 Q Thank you so much, Joey.

7 THE COURT: Any redirect, Solicitor?

8 MS. BARR: No, Your Honor.

9 THE COURT: Thank you. Thank you very
10 much, Mr. Phillips for being with us this morning.
11 You may step down.

12 Any objections to this witness being
13 excused?

14 MS. BARR: None from the State, Judge.

15 MR. KENT: None on behalf of Mr. Williams.

16 THE COURT: Thank you again, Mr. Phillips.

17 MS. BARR: At this time the State would
18 call Florence White.

19 THE COURT: All right, Ms. White, come
20 around to be sworn please.

21 THE CLERK OF COURT: Place your left hand
22 on the Bible, raise your right hand.

23 WHEREUPON,

24 **FLORENCE WHITE,**

25 having been duly sworn by the Clerk, testified

SW - F. WHITE - DIRECT

1 as follows:

2 THE CLERK OF COURT: You may take your
3 seat in the witness box.

4 **DIRECT EXAMINATION**

5 BY MS. SWILLEY:

6 Q Good morning, Ms. White. Could you please state
7 your full name for the record.

8 A My name is Florence Celestine White.

9 Q In what area do you live:

10 A Greeleyville.

11 Q I'm sorry?

12 A Greeleyville.

13 Q And that's in Williamsburg County?

14 A Williamsburg County.

15 Q How long have you lived in this area?

16 A Sixty-five years.

17 Q Oh, long time. Do you own a business?

18 A Pardon?

19 Q Do you own a business?

20 A No, I don't own but I do run it.

21 Q Which business do you run?

22 A The name of it is Viola's Place, but a lot of
23 people that don't know the name of the
24 establishment, they call it Celestine's because
25 that's my name. That's my middle name so —

SW - F. WHITE - DIRECT

1 Q Who was ---

2 A Lots of people know me as Celestine.

3 Q And who was Viola?

4 A She was my mother.

5 Q So you run the business your mother used to run?

6 A Exactly.

7 Q Where is this business located, what address?

8 A ■ Mahogany Road, Greeleyville.

9 Q And do you remember the evening of November 9th
10 into early hours of November 10th, 2013?

11 A I do.

12 Q Was it and ordinary evening to begin with?

13 A Yes, it was.

14 Q I want to ask you a few questions about your
15 business and the layout so we can all get an idea
16 what it looks like.

17 A Okay.

18 Q Can you describe the building itself, what's
19 inside?

20 A There are two pool tables. There is a bar. It's
21 tall. There is some tables, I think like six
22 tables, but with six tables with booth.

23 Q Okay. Do you have doors to go in and out of the
24 business?

25 A I do. I have a front door and there's a side

SW - F. WHITE - DIRECT

1 door.

2 Q Okay. On the evening of November 9th and to
3 November 10th, were both doors being used?

4 A No, just one. The front door I normally lock
5 because I have the two air condition up front in the
6 window so I normally keep that locked to keep the
7 air in from the air condition. And I normally use
8 the side door. The people normally come in by the
9 side door.

10 Q So the evening of November 9th into November
11 10th, the customers were coming in and out just one
12 door?

13 A Exactly.

14 Q That's the side door?

15 A The side door.

16 Q Thank you. And excuse me just one second. I'm
17 gonna show you some photos that you should
18 recognize.

19 A Okay.

20 MS. SWILLEY: Your Honor, may I approach?

21 THE COURT: Yes, ma'am, certainly.

22 BY MS. SWILLEY:

23 Q I'm gonna show you a photo; and before you
24 describe it, can you tell me, do you recognize that?

25 A I do.

SW - F. WHITE - DIRECT

1 Q And what do you see in that picture?

2 A A truck parked in front, and I see the
3 establishment with some people under the shed that's
4 sitting on the bench.

5 Q Is that your business? I'm sorry, that's the
6 question I should ask you. Is that your business?

7 A Exactly.

8 Q And I'm gonna show you another photo. Is this
9 also your business?

10 A Exactly.

11 Q Okay.

12 MR. KENT: Your Honor, for the record,
13 State's Exhibit 1 through 16 we have stipulated they
14 can come in. I think it's 1 through 16 that she's
15 showing stipulated in evidence so she can publish as
16 necessary.

17 THE COURT: 2 through 16?

18 MR. KENT: 2 through 16, I apologize, Your
19 Honor. 2 through 16 without objection. She publish
20 however is necessary.

21 THE COURT: All right.

22 (WHEREUPON, State Exhibits Nos. 2
23 through 16 were admitted into
24 evidence.)

25 MS. SWILLEY: Your Honor, may I publish

SW - F. WHITE - DIRECT

1 State's Exhibits 2, 3, and 4 to the jury?

2 THE COURT: Yes, ma'am, certainly.

3 BY MS. SWILLEY:

4 Q Ms. White, that is the front of your building?

5 A Yes.

6 Q Okay. And you were describing two doors?

7 A Yes. There's the door you can see in front; and
8 if you go under the shed, there's a door on the
9 side.

10 Q So you tell me right here. This door right here
11 is the front door?

12 A That's the front door.

13 Q And this door right here is the side door?

14 A Yes.

15 Q And so the night of November 9th to the 10th were
16 people going in this door?

17 A No, that's the door that I had locked because as
18 you can see I have two air condition in the windows.
19 And those air condition, it's heat and air so I
20 was — I had the heat turned on that night because
21 it was cool, and so all the people was going in
22 through the side door from under the shed.

23 Q And this right here is also the front of your
24 building kind of from an angle?

25 A Yes.

SW - F. WHITE - DIRECT

1 Q What is this right here on the screen?

2 A That's just, that's just our — what is it? It's
3 just the side of the shed.

4 Q Okay. So you had an area outside that people
5 would congregate also inside?

6 A Yes.

7 Q And the evening of November 9th and 10th were
8 people outside and inside?

9 A Yes.

10 Q Is that common?

11 A Yes.

12 Q I'm gonna show you State's Exhibit 4 a little bit
13 further out. This view of your building, where
14 would you be standing to looking at this?

15 A Pardon me?

16 Q Where would you be standing to see this? Are you
17 looking at the front still?

18 A Where would I be standing? It would be over
19 there's a little ditch that's there so you would
20 basically be standing over by the ditch.

21 Q You got your back to a ditch?

22 A Exactly.

23 Q Then you're looking at the front of your
24 business?

25 A Yes.

SW - F. WHITE - DIRECT

1 Q How do you come into this business? How do you
2 enter with a vehicle, from what direction?

3 A Oh, from -- you see that truck, you'll come from
4 that direction from where that truck is.

5 Q You come in from this side?

6 A No, the other.

7 Q This truck?

8 A Yeah, that truck.

9 Q Left side?

10 A Yes.

11 Q Thank you. So you're giving a description also
12 of the inside of the building. You said you have
13 pool tables?

14 A Yes.

15 Q And you also have a bar?

16 A Yes.

17 Q How -- can you describe it, when you walk in that
18 side door 'cause that's the only door people are
19 using, what do you see in front of you when you come
20 in that side door?

21 A You can see when you walk in through the door you
22 can see the pool table that's there.

23 Q Is that to your left, your right, or right in
24 front of you? When you walk --

25 A When you walk in, the bar is right here and there

SW - F. WHITE - DIRECT

1 are some stools sitting right here so you really be
2 looking at the stool and the wall, and there's a
3 television that's standing, that's there too.

4 Q So the bar is right in front of you when you come
5 in that side door?

6 A No, that would be on the side. When you walk in,
7 when you walk in the door the bar would be on the
8 side, on the left side.

9 Q Okay.

10 A And the stools would be in the front. And right
11 on the side of the stools, on the other side of the
12 stools there's a television. Then there's a wall
13 and there's the heater. And if you turn to the
14 right like everybody does, then you will see the
15 pool table. There are two pool tables.

16 Q Okay. So if you're going to the bar you don't
17 necessarily have to go to the pool tables, they're
18 separate?

19 A Exactly.

20 Q Okay, thank you. Do you remember Mr. Larry Moore
21 being there that night?

22 A Yes.

23 Q And how do you refer to Larry? What do you call
24 him?

25 A Little Larry.

SW - F. WHITE - DIRECT

1 Q And why do you call him Little Larry?

2 A Because his father name is Larry too so
3 everybody, everyone from Greeleyville that knows him
4 call him Little Larry.

5 Q And you've known Little Larry for a while?

6 A Yes.

7 Q How long had you known him before he died?

8 A Since he was a little boy.

9 Q So you recognized him no problem?

10 A Yes.

11 Q Did he come with anybody that night?

12 A Yes, he came with Reva.

13 Q Reva who?

14 A McFadden.

15 Q Do you see Reva here today?

16 A I do.

17 Q Where is she sitting?

18 A She's sitting there with her hands — that's her
19 with the black.

20 Q Behind the defendant?

21 A Yes.

22 Q Okay. What time did they arrive, do you
23 remember?

24 A I don't know what time it was.

25 Q What — I should ask you, what were you doing

SW - F. WHITE - DIRECT

1 that night?

2 A What was I doing?

3 Q Yes, ma'am.

4 A I was running the bar.

5 Q Okay, so you were busy?

6 A Exactly.

7 Q You had a lot of customers there?

8 A Yes, I had a lot of customers that night. I had
9 a DJ there so I had a dance.

10 Q And you distinctly remember Reva and Larry coming
11 in together?

12 A Yes.

13 Q Okay. What did they do when they came?

14 A They would shoot pool. They would always come
15 in. Every time they come they would come in and go
16 to the back and get their beer and whatnot and shoot
17 pool back there at that last pool table. When I say
18 go to the back, that would be the back from the bar
19 so that would be the front entrance of the door.

20 Q So, just so I'm getting this right, we can all
21 get a good picture 'cause I don't have pictures of
22 the inside right now. You're saying that the pool
23 tables would have been pretty much through this
24 door?

25 A Exactly. That's one pool table would be right

SW - F. WHITE - DIRECT

1 there. As soon as you open that door there's a pool
2 table there.

3 Q And that's the one that Reva and Larry were
4 playing at?

5 A Exactly. Then they would sit to the, to the
6 table, the last table.

7 Q Okay. And so this back door back here, you went
8 through, the bar was closer to that door?

9 A The bar is closer to that door.

10 Q Thank you.

11 MS. SWILLEY: Your Honor, at this time I'd
12 like to move exhibits, State's Exhibit 2, 3, and 4
13 into evidence.

14 MR. KENT: No objection.

15 THE COURT: They're in evidence without
16 objection.

17 MR. KENT: I think they're already in.

18 THE COURT: You may publish. What were
19 the numbers, Solicitor?

20 MS. SWILLEY: 2, 3, and 4.

21 THE COURT: I think 2, 3 and 4 is in
22 without objection.

23 BY MS. BARR:

24 Q So did you notice anything unusual that night
25 about Larry and Reva's interaction or was this just

SW - F. WHITE - DIRECT

1 an ordinary night?

2 A No, I did notice something about them. I thought
3 they had an argument between the two of them.

4 Q Why do you say that?

5 A Because Little Larry, he didn't appear to be as
6 happy as normal as he would normally be.

7 Q Did he start out happy?

8 A Yeah.

9 Q Okay.

10 A He start out happy. And after a while after they
11 was there for a while shooting pool and whatnot,
12 then it looked like I thought they had another
13 argument between the two of them.

14 Q Okay. And you were at the bar tending to other
15 customers?

16 A Yes.

17 Q Did you see the defendant Terry Williams that
18 night?

19 A Yes, I did.

20 Q And did you recognize him from before that
21 evening?

22 A Yes.

23 Q Okay. So what did he do when he arrived at your
24 bar?

25 A He came and he ordered a beer and he went out the

SW - F. WHITE - DIRECT

1 door he came out that side door. And maybe about
2 15, 20 minutes later he came back in and he got
3 another beer, and he went back out the side door.

4 Q Did you notice any interactions between Little
5 Larry and Terry inside your bar that night?

6 A No.

7 Q Okay. At some point did Little Larry leave the
8 inside of your bar?

9 A He did.

10 Q Okay. And did anybody follow him, go with him?

11 A Well, after he went out, then maybe about a
12 minute later Reva went out, she was crying.

13 Q She followed him outside?

14 A Yes. And that's why I thought. I thought that
15 they had a disagreement between the two of them.

16 Q Okay. How long after Little Larry and Reva
17 followed, Reva went outside, did you hear shooting?

18 A Maybe about five minutes, seven minutes.

19 Q You're not exactly ---

20 A Not that long.

21 Q Were you looking at your watch? Do you know the
22 exact time it took place?

23 A When I heard the shooting?

24 Q No, no. Did you time it when Larry walked out
25 the door and then you heard shooting, do you know

SW - F. WHITE - DIRECT

1 the exact time? Was it a short time?

2 A Yeah, it was a short time.

3 Q Okay. What did you do when you heard the
4 shooting?

5 A I ducked down on the floor. I was afraid. I was
6 scared.

7 Q What did you do next?

8 A After I got down on the floor and there was Eric
9 Keels, he was standing at the side of the bar. And
10 I told him, I said, we need to lock the door. You
11 know, I said, I don't know what is going on, but
12 these gun shots, I say, I don't know who is out
13 there shooting or what is really happening out
14 there. I said, let's lock the door, you know. So
15 at that time he tried to lock the door and he
16 couldn't because somebody was pushing on the door
17 and Tim Sabb came. He saw Eric trying to close the
18 door and he couldn't so he ran and he helped Eric to
19 close the door; and at that time it was Teddrick,
20 Teddrick Murray, he said that, open the door, this
21 is me, this is Teddy, this is Teddy -- because we
22 all call him Teddy. So they open the door for him
23 to come in and he ran in the back back there where
24 the petition and there's a bathroom back there. So
25 they closed the door and I put the bar behind the

SW - F. WHITE - DIRECT

1 door like I said —

2 Q So —

3 A During that time there was a lot of shooting
4 that's going on elsewhere, you know, seen on
5 television so I don't know whether the shooter was
6 trying to, might try to come inside so it was my job
7 to try to protect the customers within.

8 Q Did you call 9-1-1?

9 A I did.

10 Q You were that second call that we heard?

11 A I was.

12 Q You called 9-1-1 to tell dispatchers there had
13 been a shooting?

14 A Yes.

15 Q You hadn't been outside yet, had you?

16 A No.

17 Q At what point did you finally go back outside?

18 A After we stopped hearing all the noise outside,
19 maybe about five minutes later. Then Eric said he
20 will check to see whether, you know, see what's
21 going on, so he did. He opened the door and he
22 didn't see any cars, maybe the one that the truck
23 that was in front because that was the DJ's truck.
24 And that's when I opened the door and I saw maybe
25 one or two cars or whatever; and all the people that

SW - F. WHITE - DIRECT

1 was inside behind the petition and in the bathroom,
2 they all ran out and left.

3 Q When you went outside did you notice anything
4 unusual?

5 A Yeah.

6 Q What did you see?

7 A I saw three piles of blood, thick red dark blood.
8 I saw some bullet holes that was in the walls of the
9 establishment.

10 MS. SWILLEY: Your Honor, may I approach
11 the witness?

12 THE COURT: Yes, ma'am.

13 BY MS. SWILLEY:

14 Q Ms. White, I'm gonna show you State's Exhibit 5,
15 6 and 7. Do you recognize what's in those photos?

16 A I do.

17 Q Can you tell me what you see in those photos?

18 A Blood. This was the second day. Some of it
19 dried up.

20 MS. SWILLEY: Your Honor, may I publish
21 this to the jury?

22 THE COURT: Yes, ma'am, you may publish
23 them.

24 BY MS. SWILLEY:

25 Q So Ms. White, this is right outside your

SW - F. WHITE - DIRECT

1 building?

2 A Yes.

3 Q How far would you say from the front door this
4 was, do you remember?

5 A Approximately 25 feet.

6 Q 25 feet?

7 A From my door.

8 Q Okay.

9 A Because it was closer to the ditch.

10 Q When you came outside was Little Larry there?

11 A No.

12 Q He was already gone?

13 A Yes.

14 Q Was the defendant Terry Williams there?

15 A No.

16 Q He was gone too?

17 A Yes.

18 Q Did you tell the police what all you saw?

19 A I did.

20 Q Okay, just one second. Just a few more
21 questions, Ms. White. When you walked outside did
22 you see any bullet casings on the ground?

23 A I -- the next day which, I'm saying the next day
24 but it was really like when the sun came up; then,
25 yes, I was walking. I walked over there and I was

SW - F. WHITE - DIRECT

1 looking around, and yes, I found two bullet cases
2 that was out there.

3 Q Did you show those to police?

4 A I did. I put something beside it so I'll know
5 where, you know, so I can easily find it; and after
6 policemen came then I showed it to them.

7 Q Did you touch those shell casings on the ground?

8 A No, I did not touch them.

9 Q Now you've run this business for a long time;
10 isn't that, right?

11 A I have.

12 Q Had you had a lot of trouble at your business
13 before with shootings?

14 A That was the first time.

15 Q Never had a shooting there?

16 A No.

17 Q Okay. I'm gonna show you a few more pictures.

18 MS. SWILLEY: Your Honor, may I approach.

19 THE COURT: Yes, ma'am.

20 BY MS. SWILLEY:

21 Q Ms. White, I'm gonna show you some pictures.

22 Don't tell me what's in them yet. These are State's
23 Exhibits 35, 36, 37 and 38. Just look at them.

24 MR. KENT: Your Honor, we have no
25 objection with those coming in.

SW - F. WHITE - DIRECT

1 THE COURT: All right.

2 (WHEREUPON, State Exhibits No. 35 through
3 38 were admitted into evidence.)

4 BY MS. SWILLEY:

5 Q And without telling me what they are, do you
6 recognize what's in those photos?

7 A I do.

8 Q Okay. And how would you describe what's in those
9 photos?

10 A Those are bullet holes.

11 Q Bullet holes where?

12 A On my establishment ---

13 Q And you ---

14 A ---in the front.

15 Q I'm gonna put them up there and you can just ---

16 A Oh, okay.

17 Q You said you never had a shooting at your
18 business?

19 A Never.

20 Q Ms. White, looking at this right here can you
21 describe what you see in this picture?

22 A That's a bullet hole that's on the gate of the
23 door when I close up at night, as well as on the
24 wall on the establishment in front.

25 Q Okay. And I'll show you a picture of the front

SW - F. WHITE - DIRECT

1 of your establishment so we can see where on the one
2 I just showed you. I one I showed you is State's
3 Exhibit 35. I'm gonna show you one that you've
4 already seen before that's the outside of the
5 business so you can point out where these came from.
6 You might even be able to see it in this photo. Ms.
7 White, can you describe where the damage the bullet
8 holes were in this photo?

9 A It's right under the window that's on the left
10 inside right below it.

11 Q Am I pointing at the same place you're pointing
12 to?

13 A Yes, exactly.

14 Q I think that might be as close as we can get it,
15 but this is a larger view of the damage. So Ms.
16 White, would you point out on your monitor and then
17 I'll copy where you point.

18 A (Indicating.)

19 Q Right there, okay. So you're indicating that the
20 damage you saw is right here?

21 A Yes.

22 Q To the open grate into the wall?

23 A Yes.

24 Q Okay, thank you very much. I just have two more
25 photos. We saw the larger photos. Now let's look

SW - F. WHITE - DIRECT

1 at the others. This is State's Exhibit 36. This is
2 one of the bars with the bullet hole in it?

3 A Yes.

4 Q State's Exhibit 37, that's kind of hard to see.
5 This photo right here as you saw before -- this
6 would be how you remember it from the next day as
7 the damage to your building?

8 A Yes.

9 Q Okay. Then one last one, State's Exhibit 38.
10 And it's your testimony that none of this damage
11 occurred before the evening of November 9th,
12 November 10th?

13 A No.

14 Q Thank you very much. You've known Little Larry a
15 long time?

16 A Yes, ma'am, I do.

17 Q And you've known Terry Williams a long time?

18 A No, I didn't.

19 Q Or you had seen him before?

20 A I'd seen him before.

21 Q Do you know what the relationship was between
22 Terry, excuse me, between Little Larry and Reva?

23 A They lived together from my understanding.

24 Q Were they romantically involved?

25 A Yes.

SW - F. WHITE - DIRECT

1 Q Boyfriend/girlfriend?

2 A Yes.

3 Q Do you know what Reva's relationship was to the
4 defendant Mr. Terry Williams?

5 A I found out later after I met him that ---

6 MR. KENT: I'm gonna object, Your Honor.
7 May we approach.

8 THE COURT: Yes, you may approach.

9 (WHEREUPON, counsel approached the
10 Bench for an off-the-record discussion.)

11 BY MS. SWILLEY:

12 Q Ms. White?

13 A Yes.

14 Q So you're -- Little Larry and Reva were boyfriend
15 and girlfriend on the night of the 9th and the 10th?

16 A Yes.

17 Q And based upon your knowledge and understanding,
18 what relationship did Terry and Reva have?

19 A Husband and wife.

20 Q Okay, thank you very much. These are all the
21 questions I have right now. Please answer any
22 questions the Defense may have for you please.

23 THE COURT: Thank you, Solicitor.

24 Mr. Kent.

25 **CROSS-EXAMINATION**

SW - F. WHITE - CROSS

1 BY MR. KENT:

2 Q Ms. White, how are you?

3 A Fine.

4 Q We had an opportunity to meet yesterday when you
5 were leaving the courthouse. I think we just talked
6 right out there briefly, okay?

7 A Yes.

8 Q And you're very soft spoken so I just want to
9 make sure we try to speak loud and clear so
10 everybody on the jury can hear everything that we're
11 saying, okay?

12 A Yes, sir.

13 Q First I was to make sure I understand a little
14 bit about the Celestine/Viola's. I think we talked
15 about that a little bit. What type of place is
16 this?

17 A It's an establishment; it's a club. Um ---

18 Q Okay. Go ahead, I'm sorry, I don't want to
19 interrupt you.

20 A You shoot pool there.

21 Q Yes, ma'am. I know this sounds crazy but you
22 also make like a really good pork chop sandwich or
23 something in there also.

24 A I do.

25 Q And that's what I heard. Also you make good food

SW - F. WHITE - CROSS

1 so it's a restaurant also?

2 A No, it's not a restaurant.

3 Q Okay, tell me about the food. I'm just trying to
4 make sure I understand the establishment. Do you
5 just make food inside of there?

6 A I do. Sometimes people might want a pork chop
7 sandwich and I fix them a sandwich.

8 Q And then I want to make sure I understand
9 directly, the night that all this happened on
10 November 10th, 2013, you were working the bar?

11 A Yes.

12 Q And there was a DJ?

13 A Yes.

14 Q And while working the bar with a, DJ at some
15 point Larry and Reva came inside of the restaurant
16 or came inside of the bar, club, whatever you want
17 to call, it they came inside?

18 A Establishment, yes.

19 Q They came in together?

20 A Yes.

21 Q They started shooting pool?

22 A Yes.

23 Q They weren't talking to anybody, messing with
24 anybody, bothering anybody, just shooting pool by
25 themselves?

SW - F. WHITE - CROSS

1 A Right.

2 Q At a later point in time Terry came in?

3 A Yes.

4 Q Got a beer?

5 A Yes, he bought two beers the first time.

6 Q Two beers. The first time he bought two beers?

7 A Yes.

8 Q Walked back out, didn't talk to anybody, didn't
9 bother anybody, didn't look at anybody?

10 A I don't know what he --

11 Q From what you saw?

12 A I don't know if he looked at anybody or not, but
13 no, he didn't bother anybody.

14 Q Bother anybody. And then he came back in another
15 point in time and bought another beer?

16 A Yes.

17 Q And then he left?

18 A Yes.

19 Q And I think you have said before this is what he
20 had done before coming to this place? He had --

21 A Yes.

22 Q He'd done what he had always done, come in there,
23 I think usually bought beers like that and walked
24 back outside?

25 A Yes.

SW - F. WHITE - CROSS

1 Q Was anything un-normal or different than what
2 Terry had done that day than any other time you had
3 seen him inside of Celestine's?

4 A I didn't see anything different.

5 Q Anything different at all that day?

6 A No.

7 Q And then I think from your testimony at some
8 point in time, and of course you don't know exactly,
9 but from looking at Larry and Reva, they looked as
10 though they were in some type of argument or
11 something of that nature from your testimony?

12 A That's what I felt.

13 Q That's what you felt. And I think from your
14 testimony Terry had walked outside the second time
15 he had bought a beer?

16 A Yes.

17 Q And then at some point Larry went out after
18 Terry?

19 A Yes.

20 Q And Reva was crying and then a minute later she
21 went out after Larry?

22 A Yes.

23 Q And that's what you remember and what you saw?

24 A Exactly.

25 Q Okay. And then at some point in time you heard

SW - F. WHITE - CROSS

1 some shooting. At a later right point in time when
2 all three of them went outside you heard some
3 shooting?

4 A I did.

5 Q And we saw some pictures of your — of the
6 establishment. All the shots that I see seem to
7 be — well, how tall is that building? Is it a big
8 building or is it a tall building?

9 A It's just a normal house size.

10 Q Okay, 'cause the — and I don't know how to use
11 all this fancy stuff. I'm going to show you State's
12 Exhibit Number 2 which is just a picture that is the
13 front of your building, correct?

14 A Yes, uh-huh.

15 Q And then you had shown some shots of what you
16 thought were bullet shots or whatever they were?

17 A Yes.

18 Q At the lower part of the building?

19 A Uh-huh.

20 Q Like lower?

21 A Yes.

22 Q So I'm gonna pull my hand, right now I'm standing
23 top of my head. That's the top of my head and I'm
24 about 6'3". I'm gonna start going down where you
25 started seeing the holes in relation to your

SW - F. WHITE - CROSS

1 building. I'm still going down.

2 A Right there.

3 Q So right about there?

4 A Right there, and a little lower.

5 Q A little lower?

6 A Yes.

7 Q So the shots on this building are about two to
8 three feet off the ground?

9 A No, not two to three feet. That's not two or
10 three feet there.

11 Q Okay, we'll, I'm gonna walk like this to you.

12 A I'm talking about your hand. Your hand is
13 not —

14 Q Okay, my hand is not two to three feet.

15 A Exactly.

16 Q You look at this picture. You tell me about how
17 high you think those shots are off the ground. And
18 I don't know. I don't know your building. You tell
19 me about how high they were off the ground.

20 A If this is the ground, for instance, the first,
21 the bottom shots would be like here.

22 Q Okay, so, yes, ma'am.

23 A And then the other shot would be like right
24 approximately like that.

25 Q And I want to make sure I have a real — leave

SW - F. WHITE - CROSS

- 1 your hand up there for me.
- 2 A Okay.
- 3 Q Are you saying this is the ground right here?
- 4 A Exactly.
- 5 Q This is the stand and the shots were about right
- 6 where your hand is pointed right now?
- 7 A Yes.
- 8 Q Okay. Now you've known Larry for a while?
- 9 A Yes, I have.
- 10 Q The way he was acting when he was in there, was
- 11 that different than he had normally acted while he
- 12 was in there? I think that you had said he was
- 13 acting differently?
- 14 A In the end.
- 15 Q What do you mean by that?
- 16 A I mean, when he first came ---
- 17 Q Yes, ma'am.
- 18 A He --- they appeared to be enjoying themselves.
- 19 Q He was in a good mood when he first got to the
- 20 bar?
- 21 A Yes.
- 22 Q And then at some point he started acting
- 23 completely differently?
- 24 A Yes, he looked like he was upset.
- 25 Q He looked like he was upset?

1 A Yes.

2 Q And then finally, you don't know what happened
3 outside?

4 A No.

5 Q You don't know anything that happened outside.
6 All you know is about what you have testified to
7 today?

8 A Exactly.

9 Q You don't know about a shooting — you don't,
10 realistically, all you know is what you heard 'cause
11 you didn't see anything?

12 A True.

13 Q Okay. And then when you went outside there was
14 nobody there, and everybody was gone?

15 A Yes.

16 Q So somebody had dragged or moved the body away
17 from the place, or he had walked or something. You
18 don't know what happened?

19 A I don't know what happened.

20 Q Thank you so much. I appreciate it.

21 THE COURT: Redirect, Solicitor?

22 MS. SWILLEY: Thank you, Your Honor.

23 **REDIRECT EXAMINATION**

24 BY MS. SWILLEY:

25 Q I just have one question to clarify, okay.

SW - F. WHITE - REDIRECT

1 Ms. White?

2 A Yes.

3 Q You testified earlier that it was a short period
4 of time after Little Larry walked out the door and
5 you heard shooting, right?

6 A Yes.

7 Q I've got a stop watch here; I'm gonna time it.
8 So when I say go, you tell me how long after that he
9 walked out did you hear the shooting, okay? Go.

10 (Pause.)

11 Q Ms. White, are we still waiting?

12 A I'm still waiting.

13 Q No, I mean, has the shooting happened by now or
14 has it been longer?

15 A No, it's longer.

16 Q A little longer?

17 A About five minutes. Probably right now.

18 Q Okay. And that was exactly?

19 A Oh, okay.

20 Q Tell me what time it is?

21 A 5:18.

22 Q 5 minutes 18 seconds?

23 A Yeah.

24 Q You're very good with your time. Thank you,
25 Ms. White.

SW - L. CROKER - DIRECT

1 THE COURT: Recross, Mr. Kent?

2 MR. KENT: Now she knows her time.

3 Nothing else.

4 THE COURT: Thank you, Ms. White, you may
5 step down.

6 All right, Solicitor, you may call your
7 next witness.

8 MS. BARR: We call Levonne Croker. Judge,
9 may we approach.

10 THE COURT: Certainly.

11 (WHEREUPON, counsel approached the
12 Bench for an off-the-record discussion.)

13 THE COURT: Sir, if you would just come
14 right around here to the front to be sworn for us
15 please.

16 THE CLERK OF COURT: Place your left hand
17 on the Bible, raise your right hand.

18 WHEREUPON,

19 **LEVONNE CROKER,**
20 having been duly sworn by the Clerk, testified
21 as follows:

22 THE CLERK OF COURT: Have a seat in the
23 witness box back here.

24 **DIRECT EXAMINATION**

25 BY MS. BARR:

SW - L. CROKER - DIRECT

1 Q Sir, state your full name for the record?

2 A Levonne Coker.

3 Q Mr. Coker, how old are you?

4 A Forty years old.

5 Q All right. And sir, you are a resident of

6 Williamsburg County, formerly a resident of

7 Williamsburg County?

8 A Yes, ma'am.

9 Q All right. And do you know the defendant Terry
10 Williams?

11 A I know of him. I don't know him like that.

12 THE COURT: Excuse me just a minute.

13 MR. KENT: Your Honor, I would have a
14 matter I need to take outside the presence of the
15 jury.

16 THE COURT: All right. Mr. Foreman,
17 ladies and gentlemen of the jury, perhaps I'll take
18 this matter up and at the same time I give y'all
19 your morning recess. Please remember during this
20 recess do not discuss this case with anyone. That
21 includes your fellow jurors or anyone else. If you
22 would please go with your bailiff. We'll take
23 hopefully about a 15 minute recess. Thank you.

24 (WHEREUPON, the jury was removed from the
25 courtroom at 11:12 a.m.)

1 THE COURT: All right, Mr. Kent.

2 MR. KENT: Your Honor, at the break
3 yesterday when we had our complete -- one of the
4 motions I made for Lyle motion I think specific gave
5 to the Court, there was some evidence that came out
6 during the course of the Duncan hearing that I will
7 be concerned would be the subject of Lyle type
8 evidence. The State now called this witness. My
9 understanding is they were planning on calling this
10 witness including for the purpose of marijuana sales
11 that may have happened during that day. That's why
12 I made this. At this point in time my concern would
13 be this would be Lyle evidence. This would be prior
14 -- this would be prior bad act evidence which would
15 not be subject of a conviction, specifically if the
16 defendant chose not to testify in this trial.
17 They're attempting to get in the fact there were
18 potential marijuana sales happening down there,
19 would not be exclusive in Lyle type remedy. Before
20 I make my formal argument I'd like to see the
21 purpose of what the Solicitor will be offering and
22 if they any of this would be Lyle; or if that's what
23 they're offering this witness for at all.

24 THE COURT: All right, thank you. Thank
25 you, Mr. Kent.

1 Solicitor.

2 MS. BARR: Your Honor, I expect that the
3 witness will testify that he purchased marijuana
4 from the defendant on the night of the shooting and
5 that he saw an assault rifle inside the defendant's
6 vehicle at the time of that purchase; and so
7 obviously, him seeing what we believe to be the
8 murder weapon inside the defendant's vehicle prior
9 to the shooting is clear evidence and it's probative
10 of the defendant's intent as relates to the
11 shooting.

12 THE COURT: All right.

13 Mr. Kent.

14 MR. KENT: One, as far as marijuana sales
15 that would be information that we would, that would
16 still be Lyle evidence, and I'll make that argument
17 too. This is the first time I heard there'd be a
18 witness offered by the State who will testify that
19 the murder weapon was inside of the weapon (sic) so
20 I think that would be a discovery violation.

21 THE COURT: Well, not the murder weapon

22 ---

23 MR. KENT: Or ---

24 THE COURT: That he observed an assault
25 weapon in the vehicle.

1 MR. KENT: Inside the vehicle.

2 THE COURT: And that is a point that
3 perhaps not can be connected and/or disconnected.

4 MR. KENT: And should be disclosed would
5 be our position. That is discovery and should have
6 been disclosed before this witness taking the stand.

7 MS. BARR: Judge, it's not exculpatory
8 under Rule 5 or Brady. It's not a written report.
9 It's not the defendant's background or wrap sheet.
10 It is not a statement made by the defendant. It is
11 not a medical report or a scientific report. It is
12 nothing under Brady that, under Brady or Rule 5,
13 that requires us to disclose to the Defense what a
14 witness or potential witness may say unless those
15 are statements made to law enforcement. It's not
16 covered by Rule 5 or Brady.

17 THE COURT: All right, Mr. Kent.

18 MR. KENT: Well, the difficulty with that,
19 Your Honor, is realistically we don't know what he's
20 gonna say so it's hard to make that argument when I
21 don't know what he's going to say, when it was
22 given, so I'd ask permission, one, to proffer this
23 witness and that way I can make a better objection.
24 And that's the problem with the Solicitor trying to
25 hide information or hide evidence and try to play

1 unfair surprise. The difficulty is, it's hard to
2 then to say we don't know that it's covered by. To
3 have this witness and simply say, well, we chose not
4 to give them to you, you're not entitled to him,
5 beguiles exactly what discovery does not want. It
6 does not want hide-the-ball type of prosecution, and
7 that's clearly what we have here. A witness, that
8 to be very candid, they have information for it so
9 clearly he was interviewed. Clearly he was
10 interviewed and the Solicitor knew about him; and at
11 best, Your Honor, if it's disingenuous. And
12 additionally, Your Honor, to specifically say -- if
13 you want me to get into the marijuana I'll get into
14 the marijuana first. But first is I just feel it's
15 a discovery violation. At the very minimum it's an
16 ethical violation.

17 MS. BARR: Your Honor, as I read Rule 5 it
18 requires prosecution to disclose statement of the
19 defendant, the defendant's prior record, document,
20 tangible evidence, reports of examinations and
21 tests; and of course, it's inherent that we are
22 required to disclose Brady material which is
23 exculpatory. That was done in this case. What a --
24 this is not a civil case in which interrogatories
25 and requests for production are exchanged where

1 we're required to tell them what our witnesses are
2 gonna say.

3 MR. KENT: Your Honor, the difficulty in
4 that is, and that beguiles the cases such as Kyle
5 versus Whitley and things of that nature. When
6 those cases talk about giving witness statements,
7 it'd be one thing if the Solicitor Office is very
8 clear, we're not giving you any witness statements
9 at all. But the point is that they've given some.
10 They piecemeal them together.

11 THE COURT: The ---

12 MS. BARR: Recorded statements.

13 THE COURT: Go ahead, I'm sorry.

14 MR. KENT: They've given us some witness
15 statements, basically say, these are the witness
16 statements that we're going to be offering inside of
17 this case, this is what you have. And so to give us
18 some witness statements and then not give us other,
19 that is trickery. That is trying, classic trying to
20 hide-the-ball and using the witness statement you're
21 entitled, but then not even saying that other
22 witness is actually exist that they intend on using
23 during the course of their trial. I think that's
24 what Kyle versus Whitley and cases of that progeny
25 say that you can't do, but that would be my

1 argument, whatever the Court sees fit.

2 THE COURT: Well, and of course, we have
3 all have to circle back to actually what rule 5
4 says. You know, it's clearly in my mind not Brady
5 based on what I understand Mr. Coker's testimony
6 will be. Did I pronounce that correct, sir?

7 THE WITNESS: Yes, sir.

8 THE COURT: It's not Brady material and a
9 close reading of Rule 5, it does not fall within
10 Rule 5(a) or any one of those requirements for the
11 solicitor. The — as an observation, the
12 prosecution and defense bar have written their own
13 rules, so to speak, of discovery. You were hearing
14 some of the cases an open file policy and such as
15 that, none of which is required, none of which is
16 required. So I do not see it as a Rule 5 discovery
17 violation.

18 As far as — I'm struggling a little bit
19 though, the nexus us between the purchase of
20 marijuana and the observations at the truck. Why do
21 you need or — not why do you need, perhaps what,
22 what exception under 404(b) is clearly seeing the
23 weapon, a weapon, an assault weapon in the truck of
24 the alleged shooter circumstantial evidence so
25 that's not a 404(b) testimony. But the purchase of

1 the marijuana, you have to, it if that's a prior,
2 prior bad act and you have to have clear convincing
3 evidence and you have to have purpose, identity,
4 motive, accident, lack of mistake, or what -- where
5 does that nexus come in whether he was there to
6 purchase marijuana? That's why he was in close
7 proximity to the vehicle. People can be in close
8 proximity to the vehicle for other purposes of
9 course.

10 MS. BARR: Yes, sir.

11 THE COURT: And just solely to explain his
12 presence?

13 MS. BARR: Yes, sir.

14 MR. KENT: Your Honor, I would just ask
15 can we proffer this testimony just so I am protected
16 for the record. I'm still concerned about the AK-47
17 or assault rifle he's gonna testify to. That might
18 be a different argument if I make an exculpatory
19 argument under Rule 5.

20 MS. BARR: And Judge, we don't believe
21 it's appropriate at this juncture to proffer the
22 testimony. My understanding was the objection was a
23 discovery violation. The Court has determined that
24 it's not a discovery violation. Then I understood
25 the next objection to be that evidence of a

1 marijuana sale is a prior bad act and that testimony
2 to that effect would be unduly prejudicial and
3 which, Judge, I don't know how you're gonna rule.
4 It seems your inclination is to exclude that
5 particular portion of it. Judge, I don't think that
6 it's appropriate and necessary beyond that to
7 proffer any other testimony if the Court is going to
8 exclude the testimony regarding the drug
9 transaction.

10 THE COURT: I didn't say I was going to
11 exclude it.

12 MS. BARR: I understand.

13 THE COURT: His first objection was Lyle.
14 That's — Mr. Kent's first objection was under
15 Lyles, I take it, under 404(b).

16 MR. KENT: Yes, sir.

17 THE COURT: As I recall, then as it
18 developed after the jury,— well, he didn't say
19 Lyles from the front, just as a matter of law after
20 the jury left, and you indicated to the Court what
21 Mr. Coker's testimony involved the purchase of
22 marijuana and then the observation of the assault
23 weapon in the vehicle. His objection then also went
24 to, I don't think he abandoned his Lyle objection,
25 but it then also went to discovery Rule 5 and Brady

1 and kind of melted into that.

2 Your -- typically I would have motion a
3 motion in limine, in-camera hearing, as far as Lyle
4 is concerned. If -- I don't, as I say, I don't
5 think observing a weapon in the suspect's, in the
6 defendant's vehicle is Lyle. I think the purchase
7 of the marijuana is. I don't know which one of the
8 those exceptions or not; I haven't heard it. If you
9 want me to hear the Lyle I'd be delighted to.

10 Solicitor.

11 MS. BARR: And Judge, we would just submit
12 to the Court that under 404(b) we're not seeking to
13 introduce that evidence, again, to prove the
14 defendant's character. You know, we're --

15 THE COURT: That's an entirely different
16 rule, of course, as to character. That's -- I'm
17 gonna say 608, I could be wrong. Sale at the same
18 time, evidence of other crimes, wrong or act, is not
19 admissible to prove the character of a person in
20 order to show action and conformity therewith. It
21 may, however, be admissible to show motive,
22 identity, the existence of a common scheme or plan,
23 the absence of mistake or accident, or intent. So
24 if you're telling me that you're intending to prove
25 one of those with the purchase of marijuana, I'll be

1 glad to hear it in-camera.

2 MS. BARR: That's not my intention, Your
3 Honor. That would not be my intention.

4 THE COURT: So the purchase of marijuana
5 would not fit under 404(b).

6 MS. BARR: It would not, not for purchase
7 of marijuana, Judge, correct. I agree with that.

8 THE COURT: So with that being said, what
9 do you intend to present through this witness?

10 MS. BARR: And Judge, obviously we have to
11 make sure that the witness understands that he has
12 to answer the questions that I ask; but essentially,
13 he would indicate that he had a conversation with
14 the defendant. He got inside the defendant's
15 vehicle and observed an item inside the defendant's
16 vehicle. And I'm not gonna ask him whether or not
17 that was the murder weapon obviously because we
18 don't know, but that would be what my questions
19 would be.

20 THE COURT: Mr. Kent.

21 MR. KENT: Subject to what you have ruled,
22 I think that's the proper way to handle it, yes,
23 sir. Subject to your ruling I abandon my objection,
24 but subject to your ruling, yes, sir.

25 THE COURT: All right. Well then, I don't

1 think you need in-camera hearing in that regard
2 'cause I do not think that testimony, he's, he's an
3 eyewitness to something.

4 MS. BARR: Yes, sir.

5 THE COURT: And his testimony, as I take
6 it, is I was in, had conversation with the
7 defendant. As a result of that conversation I sat
8 in the vehicle, I was seated in the truck with Mr.
9 Williams, this is my observation.

10 MS. BARR: Yes, sir.

11 THE COURT: I think that's correct
12 testimony or circumstantial evidence. It may be
13 linked up later.

14 MS. BARR: Yes, sir.

15 THE COURT: Anything else, Mr. Kent?

16 MR. KENT: No, sir, Your Honor.

17 THE COURT: All right. We'll take us
18 about a ten minute recess. Mr. Croker, you may
19 certainly step down, refresh yourself during this
20 recess. You may not discuss your testimony with
21 anyone during this period. Did you understand my
22 ruling that, make sure you answer the Solicitor's
23 question and Mr. Kent's questions. And as my ruling
24 is right now, we're not going into the purchase of
25 marijuana.

1 THE WITNESS: Okay.

2 THE COURT: Does that suit you?

3 THE WITNESS: Yes, sir.

4 THE COURT: Thank you very much. We'll
5 take a recess. Don't discuss your testimony with
6 anyone.

7 (WHEREUPON, a recess was taken from the
8 proceedings.)

9 THE COURT: Anything from the State before
10 we bring in our jury, Solicitor?

11 MS. BARR: No, Your Honor.

12 THE COURT: Defense, Mr. Kent?

13 MR. KENT: No, Your Honor. Thank you.

14 (WHEREUPON, the jury was returned to the
15 courtroom at approximately 11:44 a.m.,
16 and the following proceedings commenced
17 in open court.)

18 THE COURT: Mr. Foreman, ladies and
19 gentlemen of the jury, welcome back. We're
20 continuing the trial of the case by the presentation
21 of evidence and testimony by the State in its case
22 in chief with the direct examination of Mr. Croker.
23 If you'd please continue to give the parties your
24 complete and undivided attention.
25 Solicitor.

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1 MS. BARR: Thank you.

2 BY MS. BARR:

3 Q Mr. Croker, I believe when you stopped off I
4 asked you whether or not you grew up in Williamsburg
5 County?

6 A Yes, ma'am.

7 Q And ---

8 THE COURT: Make him speak up for me so
9 all the members of the jury ---

10 THE WITNESS: Yes, sir.

11 BY MS. BARR:

12 Q And you were asked earlier if you knew Larry
13 Moore, Jr.?

14 A Yes, ma'am.

15 Q How long have you known him?

16 A I'd say anywhere from 15 to 16 years.

17 Q All right. And also I believe that you indicated
18 to me and to the jury that you knew or knew of the
19 defendant Terry Williams?

20 A Yes, ma'am.

21 Q And how long have you known him?

22 A I don't really know him. I just heard about him.
23 I probably know him about like more than six or
24 seven months.

25 Q Okay. Had you ever seen him driving around in a

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1 SUV type vehicle before?

2 A Yes, ma'am.

3 Q All right. And sir, you were present at club
4 Viola's or Celestine's at the night that Larry Moore
5 was killed?

6 A Yes, ma'am.

7 MS. BARR: Your Honor, for the record I
8 believe that the Defense has stipulated to State's
9 Exhibits 58 — I'm sorry, 56 through 68 which are
10 photographs of defendant's vehicle. Am I correct?

11 MR. KENT: That's right, Your Honor,
12 without objection.

13 MS. BARR: So we would move to introduce
14 and publish.

15 (WHEREUPON, State's Exhibits Nos. 56
16 through 68 were admitted into evidence.)

17 BY MS. BARR:

18 Q Mr. Croker, let me ask you a quick question. I'm
19 going to, first of all, show you what's been
20 admitted as State's 56. Is that the vehicle that
21 you would periodically see Mr. Williams driving
22 before the night of the shooting?

23 A Yes, ma'am.

24 Q Is that the vehicle that you saw him in the night
25 of the shooting?

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1 A Yes, ma'am.

2 Q All right. And I'm gonna publish State's Exhibit
3 Number 56, sir. That vehicle is a Chevy suburban;
4 is that right?

5 A Yes, ma'am.

6 Q All right. Now I'm gonna publish State's Exhibit
7 Number 58. Is that the rear of the vehicle?

8 A Yes, ma'am.

9 Q All right. You can clearly see the words
10 Chevrolet Suburban on that. You can look at your
11 screen too?

12 A Yes, ma'am.

13 Q You see it? All right. Now I'm gonna get back
14 to this in a moment. Tell me, when you first
15 arrived to the club there did you see Tabitha
16 Greene?

17 A Yes, ma'am.

18 Q Okay, all right. And did you see Tabitha Greene
19 before or after you saw Terry Williams?

20 A Before.

21 Q Okay. Did you have a conversation with her?

22 A Yes, I did.

23 Q And as a result of that conversation did you go
24 and talk to Mr. Williams?

25 A Yes, ma'am.

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1 Q All right. And where was Mr. Williams when you
2 first spoke to him?

3 A I walked over to the truck and knocked on the
4 driver's side window and when the window came down
5 it was his cousin Wolfman in the driver's seat and
6 he was in the passenger seat.

7 Q All right. Sir, if I can, let me get you to step
8 down off the witness stand for me.

9 A (Complies.)

10 Q I'm gonna publish State's Exhibit Number 60. Now
11 let me get you to stand in front of me. Hold the
12 marker for me please. Now is that the inside of the
13 defendant's vehicle?

14 A Yes, ma'am.

15 Q All right.

16 THE COURT: Make sure you keep your voice
17 up when you're away from the microphone.

18 BY MS. BARR:

19 Q Make sure you keep your voice up.

20 A Yes, ma'am.

21 Q Do me a favor and kind of scoot over this way a
22 little bit to make sure she can hear you, the judge
23 can hear you, and all the jurors, okay. Tell me
24 where the defendant was seated inside the vehicle
25 when you first approached the vehicle?

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1 A In the passenger seat over here.

2 Q All right. And you are, for the record, pointing
3 to the front passenger seat of the Chevy Suburban?

4 A Yes, ma'am.

5 Q And you said that Wolfman was in the driver's
6 seat?

7 A Yes, ma'am.

8 Q Point where you're talking about in the driver's
9 seat.

10 A Right there under the steering wheel.

11 Q And sir, do you have any idea of the full name of
12 the individual you call Wolfman?

13 A No, ma'am, that's all I know.

14 Q Okay. So you approached from the driver's side
15 or the passenger side?

16 A Driver's side.

17 Q Okay, all right. Did you have a conversation
18 with Mr. Williams?

19 A Yes, I did.

20 Q Okay. And as a result of that conversation where
21 did you then go?

22 A In the back seat of the car.

23 Q Okay. Which side of the back of the vehicle did
24 you enter on the passenger side or the driver's
25 side?

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1 A Driver's side.

2 Q Okay. I'm gonna publish what's been marked and
3 admitted as State's Exhibit Number 64. All right,
4 sir, is that the rear driver's side door?

5 A Yes, ma'am.

6 Q Okay, all right. And so point to how you entered
7 the vehicle for us.

8 A Entered through the door and sat in the seat
9 right here.

10 Q Okay. Such that Wolfman would have been directly
11 in front of you?

12 A Yes, ma'am.

13 Q Okay. Now I'm gonna publish what's been admitted
14 as State's Exhibit Number 65. Does that particular
15 exhibit show the rear of the vehicle in which the
16 defendant was in that night?

17 A Yes, ma'am.

18 Q All right. Now when you got into the vehicle did
19 the light inside the vehicle automatically come on
20 or did somebody take any action to turn on the
21 lights?

22 A Mr. Williams turned the lights on?

23 Q The defendant Mr. Williams?

24 A Yes, ma'am.

25 Q Is that a yes?

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1 A Yes, ma'am.

2 Q Okay. How did he turn the lights on?

3 A In the dash. I mean, the top lit the bottom cut
4 the lights on in the roof.

5 Q Okay. So you get in here?

6 A Yes, ma'am.

7 Q And when you get in do you notice anything
8 unusual?

9 A Yes, ma'am.

10 Q Tell us what you noticed unusual when you got
11 into the rear of the defendant's vehicle.

12 A When I got into the back of the truck I sat down
13 and my feet, the front, the bottom of my foot
14 wouldn't go all the way down. And when he cut light
15 on I looked down and I was standing, my feet were
16 resting on an assault rifle.

17 Q Okay. And the assault rifle I'm assuming as you
18 describe it was in the floorboard of the rear of the
19 vehicle?

20 A Right here in the floorboard across the back
21 right here.

22 Q Okay. And for the record, you are pointing to
23 the area, the floor area behind the driver's seat?

24 A Yes, ma'am.

25 Q If the defendant, Mr. Williams, were in the front

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1 passenger seat, would this assault rifle as you
2 describe it be within arms reach of him if he were
3 to reach back?

4 MR. KENT: Objection, calls for
5 speculation.

6 THE COURT: Well, you can lay the
7 foundation of the various distances and such like
8 that.

9 BY MS. BARR:

10 Q Sir, let me ask you something. When you got into
11 the vehicle and you noticed the, what you call the
12 assault rifle, tell me, why did you believe that
13 that was an assault rifle.

14 A Because of the clip on it and I'm from, I'm
15 military. I already seen ---

16 Q You have military training?

17 A Yes, ma'am.

18 Q You've seen an assault rifle ---

19 A I've seen an assault rifle before.

20 Q Hold on. You're in the military. You've been in
21 the military?

22 A Yes, ma'am.

23 Q You've been in the military?

24 A Yes, ma'am.

25 Q You've seen an assault rifle before?

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1 A Yes, ma'am.

2 Q Many times?

3 A Yes, ma'am.

4 Q Okay. And you said you noticed or you described
5 the weapon as being an assault rifle because of the
6 clip?

7 A Yes, ma'am.

8 Q Explain to the jury what you mean by that.

9 A It's a black rifle with a short stork with a
10 banana clip. The clip, it looked like it holds
11 about anywhere from 30 to 50 rounds.

12 Q Okay, all right. And are you talking about what
13 you generally term an assault rifle to be in terms
14 of what you've seen with the military, or are you
15 talking about what you saw in the vehicle that
16 night?

17 A I'm talking about what I saw in the vehicle.

18 Q Okay. And you described it with a banana clip?

19 A Yes, ma'am.

20 Q Looking like it could hold ---

21 A Thirty to fifty rounds.

22 Q Okay, all right. And based upon where you were
23 positioned in the vehicle, could you reach out and
24 touch Mr. Williams? Was he close enough for you to
25 touch him?

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1 A Yes, ma'am.

2 Q Okay. And based on the distance between you and
3 Mr. — you call him Wolfman, Mr. McClorin, could you
4 reach out and touch him?

5 A Yes, ma'am.

6 Q All right. Were the distances between where
7 Mr. Williams was occupied in the vehicle and where
8 the gun was, were they in close proximity of each
9 other?

10 A Yes, ma'am.

11 Q And based upon where you were seated in the back
12 seat given the distance between Mr. Williams and
13 that gun, do you believe that he could have reached
14 back and pulled and gotten the weapon?

15 A Yes, ma'am.

16 Q All right. Based upon that distance, would he
17 have to get out of the car to do it or could he have
18 done it inside the car?

19 MR. KENT: Again, object, calls for
20 speculation.

21 THE COURT: I would overrule your
22 objection.

23 You may answer the question, Mr. Croker.

24 THE WITNESS: Yes, ma'am.

25

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1 BY MS. BARR:

2 Q He could have done it without getting out of the
3 vehicle?

4 A Yes, ma'am.

5 Q So you've indicated that you had military
6 experience?

7 A Yes, ma'am.

8 Q You see this rifle inside Mr. Williams' vehicle.
9 And again, this is the vehicle you've known him to
10 drive?

11 A Yes, ma'am.

12 Q All right. What was going through your mind when
13 you saw that, that weapon?

14 A I just wondered what he got it in there for.

15 Q Okay.

16 A And I stand on it. I just got out of the truck
17 after that.

18 Q Okay. While you were inside the vehicle after
19 you noticed the, what you call the assault rifle
20 inside of the vehicle, did you have a conversation
21 with the defendant about Larry Moore?

22 A Yes, ma'am.

23 Q All right. Tell us about that conversation. And
24 you can have a seat back there.

25 MR. KENT: Conversation with Larry Moore?

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1 MS. BARR: About Larry Moore.

2 BY MS. BARR:

3 Q Yes, sir, I think we stopped off with you
4 indicating that at some point while you were inside
5 the vehicle that you and the defendant had a
6 conversation about Larry Moore?

7 A Yes, ma'am.

8 Q What did the defendant say about Larry Moore?

9 A He told me, he say, you know, your boy inside the
10 club.

11 Q Did you know who he was talking about when he
12 said your boys?

13 A No. I said, who you talking about. He said,
14 Larry. I said, man, I don't mess with Larry no more
15 because of what happened between me and him.

16 Q Okay.

17 A And his next words were, well, if he mess with me
18 or keep messing with me I'm gonna kill him.

19 Q Okay. And is that how he said it?

20 A That's exactly how he said it.

21 Q Okay. And as a result of that what did you then
22 do?

23 A Got out of the truck.

24 Q Okay. I'm gonna show you a series of
25 photographs. I think they're a little bit out of

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1 order. I want to make sure I've got them
2 enumerated.

3 MS. BARR: Your Honor, I'm showing what's
4 been marked as State's Exhibits 20 through 34. I
5 believe that the Defense has stipulated to their
6 admissibility. We move to admit and publish.

7 MR. KENT: No objection, Your Honor.

8 THE COURT: State's 20 through 34 is in
9 evidence.

10 (WHEREUPON, State Exhibits 20 through 34
11 were admitted into evidence.)

12 BY MS. BARR:

13 Q All right. Sir, I'm gonna show you and publish
14 what's been previously admitted as State's Exhibit
15 Number 20. Is that a side view of the club Viola's?

16 A Yes, ma'am.

17 Q All right. And is that what you would see as you
18 would pull into the lane into the club?

19 A Yes, ma'am.

20 Q All right. Now when you first saw Mr. Williams'
21 vehicle, the place where it was parked, can you see
22 it in that photograph?

23 A No, ma'am.

24 Q Okay. Sir, I'm gonna now publish Exhibit Number
25 21, and can I see the little carport area there from

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1 the club in that photograph?

2 A Yes, ma'am.

3 Q All right. Now in this particular photograph can
4 you see where the defendant's vehicle was parked
5 when you first arrived?

6 A No, ma'am.

7 Q All right. Tell us about State's 22. Can you
8 see where the defendant's vehicle was parked when
9 you saw the assault rifle?

10 A Yes, ma'am.

11 Q Okay. And I'm gonna need you to jump back down
12 off the witness stand. You're going to get your
13 exercise today, okay.

14 A (Complies.)

15 Q All right. Be mindful that you don't have a mic.
16 Keep your voice up.

17 A Yes, ma'am.

18 Q Point to the ladies and gentlemen of the jury
19 where you got inside — where the defendant's
20 vehicle was parked and you got inside and noticed
21 the weapon.

22 A I backed up right beside this pine tree right
23 here.

24 Q Okay. And the front of the vehicle was facing
25 forward?

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1 A Yes, ma'am.

2 Q Okay, all right. And just so we'll have some
3 perspective, if you're looking at the defendant's
4 vehicle, there's the house to the right; is that
5 right?

6 A The house would be on the left-hand side.

7 Q On the left hand side of?

8 A Of the truck. The truck is backed in like this
9 by the pine tree right there.

10 Q Yes, sir.

11 A The driver's side was on this side right here
12 close to the house.

13 Q Okay. Do me a favor, sir. If you will, I'm
14 gonna write Terry's name, TW for Terry Williams on
15 this post-it note. I need you to stick that post-it
16 note on that particular exhibit to show me where
17 that vehicle was parked when you got into it. And
18 put it on the picture there for me.

19 A (Complies.)

20 Q Okay. And obviously it didn't cover going all
21 the way to the carport area, though, right?

22 A No.

23 Q All right. Now as it relates to the actual
24 screen here so we can get the jury's attention, use
25 that same little sticky note and point it on the

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1 monitor where the vehicle was. Put that post-it on
2 the monitor where the vehicle was.

3 A (Complies.)

4 Q After you got out of his truck where did you then
5 go?

6 A Back inside Celestine's Club.

7 Q All right. When the shooting happened, first of
8 all, when you went inside Celestine's Club did you
9 come back out at any point?

10 A Yes, I did.

11 Q Before or after the shooting?

12 A Before.

13 Q Okay, all right. Did you see the shooting
14 itself?

15 A No, ma'am.

16 Q Okay. Never saw it?

17 A No, ma'am.

18 Q You can have a seat, sir.

19 A (Complies.)

20 Q Now when you went inside the club did you see
21 Larry in there?

22 A Yes, ma'am.

23 Q When you first in and saw him what kind of mood
24 was he in?

25 A He came -- as soon as I walked through the door

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1 he came up to me. He grabbed my hand and he hugged
2 me. He told me he was sorry for what had happened
3 between me and him.

4 Q Okay.

5 A And he walked outside and...

6 Q You need a break?

7 (Pause.)

8 MS. BARR: Your Honor, may we have a short
9 recess?

10 THE COURT: Step out momentarily, ladies
11 and gentlemen of the jury. Do not discuss the case.

12 (WHEREUPON, the jury was removed from the
13 courtroom at 12:06 p.m.)

14 THE COURT: All right, we'll be in recess
15 five, ten minutes.

16 Okay, take a few minutes, Mr. Croker.

17 (WHEREUPON, a recess was taken from the
18 proceedings.)

19 THE COURT: Anything before we bring in
20 our jury from the State, Solicitor?

21 MS. BARR: No, Your Honor.

22 THE COURT: Defense, Mr. Kent?

23 MR. KENT: Nothing on behalf of Defense,
24 Your Honor.

25 (WHEREUPON, the jury was returned to the

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1 courtroom at approximately 12:17 p.m.,
2 and the following proceedings commenced
3 in open court.)

4 THE COURT: All right, ladies and
5 gentlemen, if you'd please continue and give the
6 parties your complete undivided attention.

7 Solicitor, you may continue.

8 BY MS. BARR:

9 Q Mr. Croker, I'll wrap up. I wanted to just
10 establish two more points before I'm done. You
11 indicated to us that you did not see the shooting
12 itself, correct?

13 A No, ma'am.

14 Q You were not an eyewitness to the shooting?

15 A No, ma'am.

16 Q When the shooting happened where were you?

17 A Inside the club.

18 Q Okay. Other than the assault rifle as you
19 describe it being in the defendant's vehicle that
20 night, did you see anybody else with a firearm?

21 A No, ma'am.

22 Q Nobody else with a gun at the club that night?

23 A No, ma'am.

24 Q You said Larry came over and gave you a hand
25 shake and hug?

1 A Yes, ma'am.

2 Q Did you see a gun on him at any point in time?

3 A No, ma'am.

4 Q Sir, that's all the questions I have. Please
5 answer any questions that Mr. Kent or the Court may
6 have.

7 THE COURT: Thank you. Thank you,
8 Solicitor.

9 Mr. Kent.

10 MR. KENT: Thank you, Your Honor.

11 **CROSS-EXAMINATION**

12 BY MR. KENT:

13 Q Mr. Croker, how are you doing, sir?

14 A All right, and you, sir.

15 Q We have not had the opportunity to meet. My name
16 is Shaun Kent. I just want to go over a couple of
17 things before we get started, okay. I understand
18 you're a little emotional now, but I want to make
19 sure that we understand, we can get on the same
20 page, okay?

21 A Yes, sir.

22 Q One of the things — and you did a very good job
23 with Ms. Barr. I'll be asking you questions and of
24 course soliciting answers from you. Madam court
25 reporter can only take down affirmatives and

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1 negatives and yes's and no's, and make sure when
2 you talk to her you give direct answers, okay?

3 A Yes, sir.

4 Q All right. And at some point in time if I start
5 speaking entirely too fast or you don't agree or
6 disagree with what I'm saying, just tell me to stop
7 or slow down and I will, okay, 'cause I speak very
8 fast, okay?

9 A Okay.

10 Q I just want to go over a little bit of background
11 to make sure I understand some things directly about
12 you. You understand?

13 A Okay.

14 Q One of the things that you were telling in the
15 middle of telling Ms. Barr about is you were in the
16 military?

17 A Yes, sir.

18 Q What branch in the military were you?

19 A Navy.

20 Q How long were you in the Navy?

21 A Four years.

22 Q When did you go into the military?

23 A 1992.

24 Q 1992 until when?

25 A 1996.

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1 Q Okay. Honorable discharge or how were you
2 discharged?

3 A Honorable.

4 Q And you were in their consistently from '92 to
5 '96?

6 A Yes, sir.

7 Q And I want to talk to you about it. You had
8 discussed the relationship with the Moore's, Larry
9 Moore's family. I think you said you'd known Larry
10 Moore for about 15 years?

11 A Yes, sir.

12 Q Did you date his sister?

13 A No, I didn't.

14 Q Okay, somebody had told me you dated his sister
15 and I apologize. But you and Larry were friends for
16 quite some time?

17 A Yes, sir.

18 Q And then I think during your testimony you —
19 when Ms. Barr was asking you questions you're
20 talking about a conversation in relation with Terry
21 Williams when he was in the back seat of the
22 vehicle. You remember that?

23 A I was in the back seat.

24 Q When you were in the back seat of the vehicle and
25 y'all started talking and at the beginning of the

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1 conversation you said, I don't deal with that dude
2 anymore after the stuff he did.

3 A Yes, sir.

4 Q You remember that?

5 A Yes, sir.

6 Q And then later you got very emotional.

7 MS. BARR: Judge, I'm gonna object to that
8 question. That question is not the substance of the
9 testimony.

10 THE COURT: Step up here a moment,
11 Solicitor. I apologize, I wasn't tracking.

12 (WHEREUPON, counsel approached the
13 Bench for an off-the-record discussion.)

14 THE COURT: Rephrase your question. Thank
15 you, Mr. Kent.

16 BY MR. KENT:

17 Q And I don't want to put words in anybody's mouth.
18 Tell me specifically what you discussed with him
19 about Larry and not wanting to deal with him
20 anymore?

21 A The conversation wasn't really a conversation.
22 He just told me that Larry was inside the club and I
23 told him I don't deal with Larry anymore. And he
24 said, well, if he mess with me I'm gonna kill him.

25 Q Tell me why don't you deal — and you were very

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1 specific about something that happened between you
2 and Larry.

3 A Yes, sir.

4 MS. BARR: Objection. I'm sorry, I
5 withdraw the objection, go ahead.

6 THE COURT: Thank you.

7 BY MR. KENT:

8 Q What -- and you mentioned it twice, what happened
9 between you and Larry that caused you not to want to
10 talk to him?

11 MS. BARR: Objection, relevance.

12 THE COURT: Step up here, Solicitor
13 please, and Mr. Kent.

14 (WHEREUPON, counsel approached the
15 Bench for an off-the-record discussion.)

16 THE COURT: Thank you. Thank you,
17 Solicitor.

18 Thank you, Mr. Kent.

19 BY MR. KENT:

20 Q And again, I'm sorry for jumping back and forth.
21 You were explaining what happened between you and
22 Larry that 'cause you not to want to deal with him
23 anymore. What was that?

24 A Well, I never did talk to Terry about it.

25 Q That's fine. If you could explain it to me.

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1 A Well, it was an incident a couple of months
2 before he got killed where my car was stolen, and
3 some of the stuff out of my car he received it and
4 sell it.

5 Q Larry received some of the stuff that was stolen
6 out of your car and he sold it?

7 A Yes, sir.

8 Q Was there also, I mean, when — and he later
9 apologized for that, correct?

10 A The night he got killed.

11 Q So he was responsible? Was that your assumption?
12 Is that why he apologized to you?

13 A Yes, sir.

14 Q Okay. You have given fairly elaborate testimony
15 today. Would you agree with me that? It's been
16 long testimony, you've been on the stand, you've
17 been emotional, you've given details about something
18 that's happened two or three years ago?

19 A That's right.

20 Q Okay. Is this the first time you ever told this
21 story?

22 A Yes, sir.

23 Q So you've never told this story to anyone else
24 before?

25 A I don't talk to nobody like that.

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1 Q You never told the prosecutor? She seemed to
2 know it when you testified?

3 A They just called me yesterday and tell me to come
4 up here.

5 Q And the first time you've ever told the story to
6 anybody was right here on the stand? You never told
7 the prosecutor, never told law enforcement, never
8 told anybody except for the first time?

9 A Never talked to law enforcement. Nobody never
10 questioned me ever since that day. I don't even
11 know how my name got called in this. I don't even
12 know how they got my phone number.

13 Q Then explain to me -- so you've never met
14 Ms. Barr before she called you to testify today?

15 A I never met Ms. Barr. I just talked to Ms. Barr
16 on the phone.

17 Q So you did talk to her on the phone?

18 A That's it to tell that she needed to see me and
19 they have a subpoena for me to come to court.

20 Q And this was yesterday?

21 A Yesterday.

22 Q That's the first time you ever talked to her?

23 A Yes, sir.

24 Q Did you tell her the story at that point in time?

25 A I told her what I heard, what, I mean, what I

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1 seen.

2 Q You told her what you heard, what you saw,
3 anything of that nature?

4 A Yes, ma'am.

5 Q So you did tell her that story yesterday?

6 A Yes, sir.

7 Q Okay. And you got very emotional about Larry?

8 A My friend.

9 Q Of course, the friend that you had, before this
10 had happened and said you didn't want to talk to
11 anyone because of what he had done to you?

12 A Yes, sir.

13 Q If this is your friend and you were so emotional
14 about everything that happened, how come this is the
15 first time you ever told this story to anybody in
16 the world?

17 A Sir, you being a lawyer —

18 Q I am.

19 A Okay, I don't know if you know they got this
20 little thing in the streets called snitching.

21 Q What is it again?

22 A Snitching.

23 Q Okay. But let me —

24 A I'm a family man, I have kids. I worry about the
25 safety of myself and my kids.

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1 Q But if I'm not mistaken the testimony you just
2 gave just now was you didn't see the shooting,
3 correct?

4 A No, I didn't.

5 Q You don't know what happened?

6 A No, I didn't.

7 Q And you've never told that side of the story to
8 anybody else. And Larry is your friend?

9 A That's my friend.

10 Q You're emotional about what happened?

11 A Yes, I am.

12 Q And you're here to help as much as possible?

13 A I'm here to tell what I saw.

14 Q Have you been promised or given anything for your
15 testimony today?

16 A No, sir.

17 Q Are you expecting to be arrested after you
18 testify at all today?

19 A No, sir.

20 Q Are you aware there's an outstanding warrant for
21 your arrest out of Saint Stevens South Carolina for
22 not showing up in court? Has the Solicitor's office
23 told you that?

24 A No, sir.

25 Q Are you aware of that?

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1 A Not showing up for court?

2 Q Are you aware there's an outstanding warrant for
3 your arrest today?

4 A No, sir.

5 Q Thank you. That's all the questions I have.

6 MS. BARR: Objection. Judge, first of all
7 that question assumes facts not in evidence so we
8 move to strike.

9 THE COURT: Mr. Foreman, ladies and
10 gentlemen, step out please. Do not discuss the case
11 among yourselves.

12 (WHEREUPON, the jury was removed from the
13 courtroom at 12:28 p.m.)

14 THE COURT: All right, Solicitor.

15 MS. BARR: Your Honor, my specific
16 objection is that the Defense's question assumes
17 facts not in evidence; and so we would move, we
18 would object to the question. And we would also
19 move to strike the question and the answer.

20 THE COURT: Thank you, Solicitor.

21 Mr. Kent.

22 MR. KENT: When a witness takes the stand
23 his credibility comes on the stand with him. The
24 fact that the facts not in evidence just because the
25 Solicitor chose not to bring them out, doesn't mean

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1 that they're not facts not in evidence. She's just
2 saying because I didn't bring them out I'm not
3 allowed to. This witness has an outstanding
4 warrant. The only reason I found out about the
5 outstanding warrant was from information that the
6 Solicitor's Office has given me. If they have given
7 it to me it's subject to cross-examination. They
8 have given me, and I can hand a copy to the Court,
9 that this witness has an outstanding arrest warrant
10 out of town.

11 THE COURT: Tell me under what theory is
12 that fodder for cross-examination?

13 MR. KENT: Your Honor, it goes to his
14 credibility, that there's outstanding court, he
15 chose not to show up and he chose not to go to
16 answer to the court and goes with this witness'
17 credibility, and the only court that he seemed to
18 want to come to is this court to help out his buddy.
19 So I have a right, I think, to get into the
20 credibility that he chose not to go to another court
21 session when he's required to go. There's an
22 outstanding warrant that this Solicitor's Office was
23 known about and not contacted the court or not
24 informed this witness that he didn't have to show
25 up.

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1 THE COURT: Well, it can't go to his
2 credibility if he has no knowledge of it whatsoever.

3 MR. KENT: Well, Your Honor, and I
4 apologize for interrupting.

5 THE COURT: Yes, sir.

6 MR. KENT: To say that a witness, to say
7 that an individual didn't have knowledge of a court
8 date, yet specifically court dates are given -- to
9 say every client that I would have would say I
10 didn't have knowledge that I didn't have to go to
11 court, when you were given a court date and you were
12 required to show up. He chose not to go, and he has
13 an outstanding warrant for that. Now we can --

14 THE WITNESS: Your Honor --

15 THE COURT: I'll be glad to listen to you
16 momentarily.

17 THE WITNESS: Yes, sir.

18 MR. KENT: Now the Solicitor's Office
19 wants to get into that, that's fine, says he didn't
20 know about his court date, he didn't know of this
21 nature. But he has taken the stand. I've been
22 given a wrap sheet from the Solicitor's Office, and
23 this is cross-examination. This isn't direct
24 examination. And subject to cross-examination one
25 of the things I was given, and unfortunately, Your

1 Honor, just to go with another purview that goes
2 with my earlier argument, when they were giving me
3 witnesses who are going to testify and gave me wrap
4 sheets, this witness's wrap sheet was not included
5 in the bevy of wrap sheets they gave me. They gave
6 me a couple of seconds to look through it and then
7 they're upset that I actually looked through it and
8 find something to utilize on cross-examination. So
9 in looking through it, he had an outstanding warrant
10 when he chose not to go to court. He has a duty to
11 go to court. However, avoiding that duty to go to a
12 court in another session, he chose to come to this
13 court to testify to help his friend out. That goes
14 to me, that's perfect subject to cross-examination
15 and it goes to his credibility. That will be my
16 argument, Your Honor. Whether the Court or the
17 prosecutor disagrees, that will be my argument and
18 that is the rational reason which I will utilize in
19 that.

20 THE COURT: All right.

21 Solicitor.

22 MS. BARR: Your Honor, obviously when we
23 pull wrap sheets it indicates information that may
24 or may not be associated with individuals.
25 Simultaneously with me getting wrap sheets here in

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1 court, I gave it to Mr. Kent. He actually became
2 aware that a wrap sheet reflected some incident of a
3 witness being wanted out of some county; I guess
4 that would be Berkeley County. Judge, a criminal
5 conviction, certain criminal convictions are not
6 even admissible. The fact that somebody may have
7 been arrested and there may be an outstanding bench
8 warrant is clearly not admissible. And Judge, I
9 would agree with the Court's analysis is that, first
10 of all, how can it be used for impeachment or to
11 attack his credibility when he's not even aware; and
12 that's assuming that it's a legitimate outstanding
13 bench warrant for him. If that's, in fact, the
14 case, the witnesses seems to be genuinely surprised
15 having no idea of what Defense counsel is talking
16 about so we would take the position that that was an
17 improper question, that it was improper for purposes
18 of impeachment or to attack his credibility. And
19 Judge, we'd ask that the Court strike the question
20 and strike the responses.

21 MR. KENT: If I may respond, Your Honor.

22 THE COURT: Certainly.

23 MR. KENT: One called it an improper
24 question to said that I did not have a good faith
25 belief based upon facts upon answering that

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1 question. You notice the warrant that I've been
2 given from the Solicitor's Office specifically says
3 that this warrant had been outstanding for almost a
4 year-and-a-half. That's the information directly on
5 the wrap sheet that was given to me, again, by the
6 Solicitor's Office on a witness that they chose not
7 to give it to me early enough because they wanted to
8 try to hide it and because of the fact that I
9 actually did read it to get a sum of it quickly, and
10 I'm in trouble for that.

11 Number two, Your Honor, I think they're
12 misstating and misunderstanding the rule versus the
13 defendant versus a witness. When a witness goes to
14 the stand, if I'm not mistaken I can attack their
15 credibility with anything that I have a good faith
16 belief sounded in rational fact to utilize. It's
17 not dealing with subjective convictions and other
18 things as long as I had a good faith plea. If I can
19 not trust the information that the Solicitor is
20 giving me, even though they don't want to give it to
21 me in discovery, they want to give it to me later,
22 then one I'm not allowed to utilize. Now to say
23 that I don't have a good faith belief and asking
24 question based upon information given. I don't know
25 what I'm supposed to utilize it for. It's proper

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1 cross-examination, which it is. It's information
2 which the Solicitor's Office themselves gave to me,
3 which we did. I looked at it carefully. And Your
4 Honor, if you want to be candid, there are a couple
5 of other charges that I thought about getting into
6 but I chose not to. Apparently in 1994 that same
7 individual was arrested for kidnapping, a weapons
8 charge, and some other charges. You look at today,
9 this witness testified he was in the Navy from 1992
10 to 1996. In 1994 is when he would have gotten that
11 conviction. I thought about actually getting into
12 the fact that if he was in the Navy for the entire
13 time, how did he pick up charges in Williamsburg
14 County during 1994, also, which will be subject to
15 proper cross-examination which I did not do.
16 They're trying to limit my cross-examination. That
17 is the purpose of cross-examination. It's not a
18 fishing expedition. I'm not guessing this
19 information. This is information provided by the
20 Solicitor's Office. I'm sorry they don't like it;
21 maybe that's why they've been trying to hiding
22 evidence instead of giving it to me 'cause I'll use
23 it.

24 MS. BARR: And Judge, my response would be
25 that anything that is exchanged discovery pursuant

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1 to rules of Court doesn't make it admissible. I
2 think that's the point Defense counsel is missing.
3 It's not that it's helpful them; it has to be
4 relevant. And Judge, contrary to the Defense
5 counsel's assertion, there is no conviction on this
6 man's record. And so it certainly would have been
7 irrelevant to talk about an arrest charge from 20
8 years ago. There's no conviction on his record.

9 THE COURT: Well, I've been handed up a
10 SLED check, LEADS message page 1 through 5. Quite
11 frankly, even if this is our witness as far as
12 kidnapping, unlawful arrest, unlawful possession of
13 a weapon and assault and battery of HAN, 5/17/1994,
14 there is no disposition whatsoever of that charge on
15 this, on this wrap sheet. An arrest, an arrest only
16 is not admissible. When I go to page — on that
17 same page there's an indication of 1/27/2014 an
18 individual by this name was charged by Saint Stevens
19 P.D. with driving under suspension traffic, slash,
20 failure to give or giving an improper signal; three,
21 violation of a town ordinance; and four, failure to
22 stop for a blue light. The only one of which if
23 there were a conviction and it will be impeachment
24 under 609 would perhaps be the failure to stop for a
25 blue light 'cause I think it carries over a year.

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1 I'm not sure if failure to stop for a blue light in
2 my opinion goes to credibility, but it would under
3 the particular rule. When I look at page 2 of this
4 same document it identifies this individual. It's
5 got, caution information, caution warning, confirm
6 that warrant is still outstanding; agency, police
7 department Saint Stephens. It's got NIC, or NCI,
8 excuse me, a name, and it's got traffic offense
9 parenthetically pretext case number A3094F Foxtrot,
10 N, November, date of warrant 9/16/2004. So even the
11 document itself cautions the individuals that may
12 use this, and that's mainly law enforcement pick him
13 up on the NCIC warrant if there was such a thing, to
14 confirm that the failure to appear is still active.
15 Given that, I think there's a reasonable basis for
16 asking the question; however, I don't think that's
17 the proper method in which the foundation was not
18 laid properly. If you look at State versus Dominic
19 you have to confirm first this is the correct
20 individual. You have to confirm his date of birth.
21 And really, an outstanding warrant for a traffic
22 offense, a bench warrant, does not go to
23 credibility. It might go to a failure to appear to
24 be prosecuted if a bond was shown sometime in the
25 future. So I don't — even if all this is correct

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1 and valid information, it would not be admissible.
2 Do you want to go into anything additional, Mr.
3 Kent?

4 MR. KENT: No, sir, Your Honor. I will be
5 done asking that point.

6 THE COURT: Solicitor?

7 MS. BARR: Judge, I would have maybe one
8 or two follow-up questions and that will be it.

9 THE COURT: All right. Mr. Croker, you
10 were going to speak to me momentarily. A few
11 moments ago you went to say something, and I kind
12 of — I didn't ask you not to, but I kind of —

13 THE WITNESS: Yes, sir.

14 THE COURT: I didn't, I asked about the
15 motion. Did you want to say something?

16 THE WITNESS: Yes, sir. About what
17 they're talking about now, it's not for failure to
18 appear. I went to court. I got receipts for the
19 tickets outside in my momma car right now for every
20 ticket you just read off. I owe I think —

21 THE COURT: Failure to pay?

22 THE WITNESS: 170 bucks. I lost my job.
23 When my car got stolen and burn up I had no way to
24 get to work. What they're doing nothing — that's
25 what that's for. I went to court.

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1 THE COURT: All right, thank you. Thank
2 you very much.

3 Anything before I bring in the jury?

4 MS. BARR: No, Your Honor.

5 MR. KENT: Nothing on behalf of
6 Mr. Williams, Your Honor.

7 THE COURT: You had a motion to strike?

8 MS. BARR: Yes, sir, Judge.

9 THE COURT: Yes, ma'am, please, thank you.
10 (WHEREUPON, the jury was returned to the
11 courtroom at approximately 12:42 p.m.,
12 and the following proceedings commenced
13 in open court.)

14 THE COURT: Thank you. Thank you very
15 much, ladies and gentlemen. There was a line of
16 questioning concerning if there was an outstanding
17 warrant for Mr. Croker for failure to appear. I
18 have ruled that that question and that responses to
19 those questions -- perhaps there was no response,
20 perhaps the Solicitor objected before there was any
21 response, but that is not admissible. I'm striking
22 that testimony from the record. When I strike
23 testimony from the record what does it mean? It
24 means that the case is submitted to you for your
25 deliberations. You're not to consider those

1 questions or those answers, if any, stricken from
2 the record, and it should not even be discussed in
3 the jury room.

4 To follow up to that, you're the finders
5 of the facts. I advise what the law is. You follow
6 the law as I tell you it is and you follow my
7 instructions in that regard also. Thank you. Thank
8 you very much. Mr. Kent, you may.

9 MR. KENT: Just very briefly.

10 BY MR. KENT:

11 Q Mr. Croker, I'm almost done with my questions of
12 you. When you were -- I just want to make sure I'm
13 clear; I thought I misheard. When your vehicle was
14 broken into and items were stolen, was your vehicle
15 also burned?

16 A Yes, sir.

17 Q Did anything else happen? Were you hit, pistol
18 whipped or anything of that nature?

19 MS. BARR: Objection, relevance.

20 THE COURT: Anything else what?

21 BY MR. KENT:

22 Q Did anything else happen to you?

23 A No, sir.

24 Q Nothing else happened to you, just your vehicle
25 was broken into?

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1 A It wasn't broken into, it was stolen.

2 Q It was stolen, burned.

3 A Yeah.

4 Q And then items were stolen?

5 A (Shakes head.)

6 Q Is that a yes?

7 A Yes, sir.

8 Q Okay, thank you so much.

9 THE COURT: Solicitor, redirect?

10 MS. BARR: Yes, sir.

11 **REDIRECT EXAMINATION**

12 BY MS. BARR:

13 Q Mr. Croker, I believe you testified on
14 cross-examination that the first time you talked
15 with me about this case was on yesterday; is that
16 right?

17 A Yes, ma'am.

18 Q Okay. And you never talked to law enforcement
19 about it?

20 A No, ma'am.

21 Q Now you told Mr. Kent that, him being a lawyer,
22 there's this thing about snitching, right?

23 A Yes, ma'am.

24 Q I believe you told him that you had a concern
25 about that?

1 A I do.

2 Q What do you mean?

3 A Basically, out in the streets if you get caught
4 talking to the police or providing information for
5 the police, you get labeled as a snitch.

6 Q Okay.

7 A And it's all types of people out there that want
8 to harm me or try to harm my kids. That's what I
9 told him I was worried about.

10 Q Okay. Now you indicated that you told me the
11 same thing that you've told this Court today?

12 A Yes, ma'am.

13 Q All right. But you did not specifically talk to
14 law enforcement because fear of being classified as
15 a snitch; is that right?

16 A Yes, ma'am.

17 Q All right. Did you tell any of your friends
18 about seeing an assault rifle in the defendant's
19 vehicle that night?

20 A No, ma'am.

21 Q What about Ms. Greene, Tab?

22 A She was right there by the truck. When I got out
23 the truck she got in it.

24 Q Those are all the questions I have. Thank you,
25 sir.

1 THE COURT: Recross, Mr. Kent?

2 MR. KENT: No, Your Honor, nothing further
3 of this witness.

4 THE COURT: Thank you. Thank you very
5 much, Mr. Croker, you may step down.

6 Any objections to Mr. Croker being
7 excused, Solicitor?

8 MS. BARR: No, Judge, we ask he be
9 excused.

10 THE COURT: Mr. Kent?

11 MR. KENT: None at all.

12 THE COURT: Thank you. You may be excused
13 Mr. Croker.

14 All right, unless you have about a ten
15 minute witness, Solicitor, between you and Mr. Kent
16 —

17 MS. BARR: I don't think we could do it if
18 we tried, Judge.

19 THE COURT: If any such witness exists,
20 ten minutes? I'll move on, Solicitor. Thank you.

21 MS. BARR: Yes, sir, Judge.

22 THE COURT: Mr. Foreman, ladies and
23 gentlemen of the jury, I apologize y'all been in and
24 out today several times. I thank you for your
25 patience. As I told you, that can occur during the

1 course of the trial. Again, they're very good trial
2 lawyers and there are certain matters I must take
3 outside of your presence. Your time is very
4 valuable to me and to the parties, and of course, I
5 will certainly try to manage it more efficiently.
6 We're gonna take our lunch and recess at this time.
7 I must advise you, again, and you'll be able to
8 repeat this back to me before perhaps the week is
9 out, you may not discuss this case with others.
10 That includes your fellow jurors, lunch mates, or
11 anyone else. If anyone tries to talk with you about
12 the case please report that to me. You may not
13 read, watch, or listen to any news reports about the
14 case should there be any. Please remember you may
15 not use your computer, cellular phone, or any other
16 electronic device with communication capabilities to
17 obtain or disclose any information which is
18 prohibited. Information which is prohibited include
19 but is not limited to information by the party or
20 witness, an attorney, or court officer, news
21 accounts about the case, current or past, if any,
22 information collected through juror research on any
23 topic raised or testimony offered by any witness, or
24 information collected through juror research on any
25 topic a juror might think would be helpful in

1 deciding the case. Remember, you decide the case
2 based on the evidence and the testimony presented in
3 the courtroom and the witnesses testifying under
4 oath and any exhibits and reasonable inferences to
5 be drawn, the law as I tell you the law is. With
6 that being said, we're gonna take our lunch and
7 recess. I would ask you to please be back at 2:15.
8 Please be back promptly at 2:15. Thank you. Thank
9 you very much. Have a pleasant lunch.

10 (WHEREUPON, the jury was removed from the
11 courtroom at 12:49 p.m.)

12 THE COURT: All right, anything further,
13 Solicitor?

14 MS. BARR: No, sir, Your Honor.

15 THE COURT: Anything, Mr. Kent?

16 MR. KENT: Yes, Your Honor, very briefly.

17 In light of the last witness' testimony, what we
18 would request at this point in time since the case
19 has started and pursuant to Kyle versus Whitley as
20 well as discovery and Rule 5 and in an effort to
21 make sure we have all evidence necessary to give a
22 proper defense, I'd ask the Solicitor's Office has
23 all discovery been properly turned over at this
24 point in time, or all, and any statements, known or
25 unknown, at this point in time. I think I have a

1 right to request it; The Court can say no. But just
2 in an effort, I understand the last witness but now
3 that I'm actually specifically asking on the record,
4 all the discovery, if it will turned over at this
5 point in time, statements of witnesses. And Your
6 Honor, I would actually make an oral supplement in
7 my Brady motion. The, all subpoenas sent out on
8 this case. I think there's some case law that says
9 some subpoenas should be given, interchanged; but
10 all subpoenas, as well as the date and return of
11 subpoenas that have been sent out. As the last
12 witness testified, he just got his subpoena
13 yesterday so I would just make those specific Brady
14 motions at this point in time.

15 THE COURT: Well, he — Solicitor, let me
16 hear from you in response.

17 MS. BARR: Judge, I'm not aware of any
18 rule of criminal procedure or of evidence that
19 requires the State to copy the Defense with
20 subpoenas or and/or their returns. Judge, in terms
21 of the State turning over all known and unknown
22 statements, I don't know how we turn over unknown
23 statements. I think the rules provide that if there
24 are any written or recorded statements of witnesses
25 that, specifically under the rule, we are required

1 to turn over those statements to the Defense at the
2 time the witness testifies or after. Now all of the
3 recorded statements that we've had in this case have
4 been provided to the Defense over a month ago. I
5 don't think that we're required under Rule 5 to turn
6 over the substance of any oral statements unless
7 they're exculpatory in nature, which I am aware of
8 none. And so, there are items of physical evidence,
9 GSR kits. There's some shell casings that were
10 recovered; and of course, Mr. Kent is welcome to
11 view those. I have turned over all of the
12 photographs that we have in the case previously to
13 him by way of CD. I'm not -- I turned over the
14 defendant's wrap sheet to him. I'm not aware of
15 anything else under Rule 5 or Brady that's
16 discoverable.

17 MR. KENT: Your Honor, then I would
18 supplement that additionally, if there are witnesses
19 that the State intends on calling that I have an
20 opportunity to, since they haven't been called yet,
21 to interview those witnesses. Specifically I would
22 tender Courtney Greene in the courthouse as well as
23 any other witness that the Solicitor is trying to
24 keep in separate room under locked box so that I
25 won't be able to see them or talk to them. Whether

1 they want to give me the statements or not, I
2 request for permission I be allowed to interview and
3 discuss and talk to any witness that's properly on
4 their witness list.

5 THE COURT: Well, as I — thank you, Mr.
6 Kent.

7 MR. KENT: Thank you, Your Honor.

8 THE COURT: Thank you, Solicitor. As I
9 review the witness list the first 1 through 17 are
10 all either law enforcement, forensic pathology, or
11 medical witnesses. 25, 26, 27 are also, they're all
12 9-1-1 dispatch, two out of the three who have
13 testified. 18 is Mr. McFadden who testified in the
14 hearing yesterday. You're fully advised of her.
15 Number 19 is Larry Moore, Sr. Of course, number 23
16 has already testified, Ms. White. And Mr. Croker
17 has also testified, number 35. Are there any
18 witnesses, Solicitor, that are not listed on the
19 witness list that was published to the jury?

20 MS. BARR: No, sir.

21 THE COURT: Are there any witnesses that
22 are listed on the witness list that have given
23 written or recorded statements that have not been
24 turned over to the Defense?

25 MS. BARR: No, sir.

1 THE COURT: Are there any witnesses that
2 have given what would be Brady or exculpatory
3 statements that have not been turned over to the
4 Defense?

5 MS. BARR: No, sir.

6 THE COURT: As far as ordering the
7 Solicitor to make the witnesses present or available
8 for you, I don't think that she has the, the
9 Solicitor has the responsibility for that. Of
10 course, the witnesses may talk with you if they
11 prefer to talk with you, but that would be entirely,
12 entirely their opinion. All right, so based on what
13 the Solicitor has indicated to me I'm satisfied she
14 has complied with Rule 5 as far as criminal
15 procedure rules and Brady.

16 Anything further, Mr. Kent?

17 MR. KENT: Nothing, Your Honor. Thank you
18 so much.

19 THE COURT: Anything further, Solicitor?

20 MS. BARR: No, Your Honor.

21 THE COURT: We'll be in recess until 2:15.
22 Thank you. Thank you very much.

23 (Whereupon, a lunch break was taken.)

24 THE COURT: Anything before we bring in
25 our jury from the Defense, Mr. Kent, before we bring

1 in our jury?

2 MR. KENT: No, Your Honor.

3 THE COURT: From the State, Solicitor?

4 MS. BARR: Nothing from the State, Your
5 Honor.

6 (WHEREUPON, the jury was returned to the
7 courtroom at approximately 2:22 p.m., and
8 the following proceedings commenced in
9 open court.)

10 THE COURT: All right, welcome back,
11 ladies and gentlemen. Hope y'all had a pleasant
12 lunch. We'll continue in the trial of the case by
13 the presentation of evidence and testimony from the
14 State in its case in chief. If you would please
15 continue to give the parties your complete and
16 undivided attention.

17 Solicitor, you may call your next witness.

18 MS. BARR: We call Reva McFadden.

19 THE COURT: If you'd come around please
20 and be sworn for us, Ms. McFadden.

21 WHEREUPON,

22 **REVA MCFADDEN,**

23 having been duly sworn by the Clerk, testified
24 as follows:

25 THE CLERK OF COURT: Have a seat up here

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1 in the witness box.

2 MS. BARR: May it please the Court, Your
3 Honor.

4 THE COURT: Yes, ma'am.

5 **DIRECT EXAMINATION**

6 BY MS. BARR:

7 Q Ms. McFadden, state your full name for us.

8 A Reva Samantha McFadden.

9 Q And Ms. McFadden, you were subpoenaed to be here
10 this week?

11 A Yes.

12 Q By the State, the Solicitor's Office?

13 A Yes.

14 Q Okay. Where do you live?

15 A In Myrtle Beach, South Carolina.

16 Q How long have you lived there?

17 A Approximately 17 to 18 months.

18 Q At the time that Larry Moore, Jr. passed away
19 where were you living?

20 A On [REDACTED] Guest Road in Greeleyville, South
21 Carolina.

22 Q Okay, all right. Ma'am, tell us what your
23 relationship is to the defendant Terry Williams?

24 A My husband.

25 Q Okay. And how long have the two of you been

1 married?

2 A Seven years.

3 Q All right. How long have you known him?

4 A Fifteen years.

5 Q Okay. You all have children together?

6 A Yes.

7 Q How old are they?

8 A The oldest is 13.

9 Q Okay. Tell me this, how many you have together?

10 A Five.

11 Q And give me their ages.

12 A The oldest is 13. The next oldest is 12. The
13 next oldest is 10 and the next oldest is 8, and the
14 youngest is 4.

15 Q And of course, ma'am, you've been in court during
16 the entirety of the trial so far; is that correct?

17 A Yes.

18 Q And you heard testimony that you at the time of
19 the shooting were in a relationship with Larry
20 Moore, Jr., is that true?

21 A Yes.

22 Q And how long had you known Larry?

23 A For approximately nine months.

24 Q Okay, all right. Was he your boyfriend?

25 A Yes.

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1 Q What was the status of your relationship to the
2 defendant at the time of the shooting?

3 A The status of the relationship of the defendant,
4 we were separated for approximately a year.

5 Q Okay. So the entire time you were dating Larry
6 you had been separated from your husband?

7 A Yes.

8 Q Okay, all right. Ma'am, had you ever filed for
9 divorce?

10 A Yes. Well, I tried, but I had, we had to be
11 separated for a year.

12 Q Okay. When did you try to file for divorce?

13 A Right before we actually separated.

14 Q What year was it?

15 A 2012, maybe end of 2012, near 2013.

16 Q So what happened to that divorce action? Was it
17 dismissed or what happened to it?

18 A Well, we had -- a year hadn't been up yet so and,
19 you know, everything had already happened so.

20 Q What do you mean everything had already happened?

21 A Well, the incident had already occurred, you
22 know, within that year.

23 Q The shooting?

24 A Yeah.

25 Q Have you since filed for divorce against your

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1 husband?

2 A No.

3 Q Okay. When was the last time you spoke with your
4 husband?

5 A Maybe two days ago.

6 Q Two days ago?

7 A Well, I spoke with him on the phone yesterday.

8 Q Okay, all right. And so you spoke with him
9 yesterday on Monday?

10 A Yes.

11 Q Did you speak with him on Sunday?

12 A I spoke with his lawyer on Sunday.

13 Q So that would be Mr. Kent?

14 A Yes.

15 Q All right. Where were you when you spoke with
16 Mr. Kent?

17 A In his office.

18 Q Okay. And his office is where?

19 A In Manning, South Carolina.

20 Q Okay, how did you get there?

21 A I drove.

22 Q From Myrtle Beach?

23 A Yes.

24 Q Okay, all right. Where was Mr. Williams, your
25 husband, at the time you had the conversation with

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1 his lawyer?

2 A He was there, but he asked him to step outside
3 while we spoke.

4 Q He was in the office?

5 A He was in the office — well, not in the office,
6 but he was there. He has some different parts of
7 his office.

8 Q Okay.

9 A Like a conference room, his own personal office,
10 and also another part of it.

11 Q Did you and your husband ride to his lawyer's
12 office together?

13 A No.

14 Q Okay. When you arrived there was your husband
15 already there?

16 A Yes.

17 Q Okay. What was your understanding as to the
18 reason why you were going to your husband's lawyer's
19 office a day before your husband's murder trial was
20 to begin?

21 A Well, I had already spoke with him earlier.

22 Q Okay. So this would have been the second time
23 you spoke —

24 A It probably would have been the third time.

25 Q Remember, we got to wait till we finish, okay,

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1 remember? Okay, this would have been the second
2 time you spoke to his lawyer?

3 A Maybe third time.

4 Q Okay, all right. During all those conversations,
5 were they in person or were they over the telephone?

6 A They were in person.

7 Q Okay, where?

8 A In his office.

9 Q Okay. Each time you drove to his office?

10 A Yes.

11 Q Okay, all right. The first time that you drove
12 to your husband's lawyer's office was when?

13 A I'll say maybe three months maybe, you know.

14 Q All right. When was the second time you drove to
15 your husband's lawyer's office?

16 A I'm not sure, maybe a month after the first time.

17 Q Okay. Where was your husband during the second
18 visit to his lawyer's office?

19 A The second visit I think he was already out.

20 Q Okay, he had been released on bond?

21 A Yes.

22 Q Okay, all right. Since his release from jail has
23 he visited you in Myrtle Beach?

24 A He came to see the kids.

25 Q So that's, yes, he came?

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1 A Yes.

2 Q Okay. He traveled while out on bond to the
3 beach?

4 A Yes.

5 Q Okay. How many times has he done that?

6 A Maybe twice.

7 Q Twice since he's been out?

8 A Yes.

9 Q And while he was incarcerated did you go visit
10 with him and talk to him?

11 A I took my kids.

12 Q So you went and you visited with him and you
13 spoke with him?

14 A Yes.

15 Q Okay. How many times you do that?

16 A Once.

17 Q Now you indicated that at the time of this
18 shooting you were living in Greeleyville?

19 A Yes.

20 Q And shortly after the shooting you moved to
21 Myrtle Beach; is that right?

22 A Yes.

23 Q How would your husband know where you were living
24 in Myrtle Beach?

25 A I don't know.

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1 Q Okay. Now he was arrested within 24 hours of the
2 shooting, your husband was, right?

3 A I don't know.

4 Q You don't know when your husband was arrested for
5 shooting your boyfriend?

6 A I don't know when he was arrested.

7 Q You don't know whether it was days, weeks,
8 months?

9 A I think it was like the next day, but I'm not
10 sure exactly what time, you know.

11 Q All right. When your husband was originally
12 arrested where were you living?

13 A In Greeleyville, South Carolina.

14 Q In Greeleyville, okay. All right. So he's
15 incarcerated for a period of time, correct?

16 A Yes.

17 Q And after he's incarcerated how does he then know
18 where to go to see you and the kids in Myrtle Beach?

19 A I don't know.

20 Q You have no idea?

21 A I have no clue.

22 Q Okay. Did you tell him where you were living in
23 Myrtle Beach?

24 A No.

25 Q Did you write to him while he was incarcerated?

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1 A No.

2 Q Did he write to you while you were incarcerated— while
3 he was incarcerated?

4 A He wrote me.

5 Q Okay. Where did he write you?

6 A He wrote to [REDACTED] Eden (ph) Street.

7 Q And that's your address in Myrtle Beach?

8 A Myrtle Beach.

9 Q And your testimony to the Court and to this jury
10 is you have no idea how he got that information?

11 A No idea.

12 Q Did you give there information to his lawyer, the
13 one of your visits?

14 A No.

15 Q Okay. Did a private investigator come knocking
16 on your door at any point in time looking for you?

17 A No.

18 Q Okay. Now you mentioned that you spoke with Mr.
19 Kent on Sunday at his office.

20 A Yes.

21 Q How long was that visit to his office?

22 A It was brief, maybe 20, 30 minutes at the most.

23 Q Okay. What did you discuss with him when you
24 were at his office?

25 A Just tell the truth.

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1 Q You were asked questions about this case?

2 A No.

3 Q No one asked you any questions about this case?

4 A No.

5 Q Okay. So the fact that the trial was scheduled
6 to start the next day, that didn't come up at all?

7 A I mean, I already knew that, I was subpoenaed.

8 Q Okay, all right. So you drove from Myrtle Beach,
9 South Carolina to Manning. How long did that take
10 you?

11 A I'd say roughly two hours.

12 Q Okay. So you drove from Myrtle Beach to Manning
13 two hours. You stayed for 20 minutes?

14 A 20 minutes, 30 minutes at the most.

15 Q And the only thing that you discussed was just to
16 tell the truth?

17 A Yes.

18 Q All right. You didn't feel like you could have
19 that conversation over the telephone?

20 A I don't like to talk on the telephone.

21 Q Okay. What about the second visit that you had
22 with Mr. Kent, how long did that take?

23 A The second visit, I'm not sure exactly. I'm not
24 going to speculate. I'm not exactly sure. But it
25 wasn't long.

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1 Q Was it longer than the last visit?

2 A Maybe, um, probably about the same, you know.

3 Q Did you talk with Mr. Kent last night?

4 A No.

5 Q During that second visit did you discuss what you
6 would say in court?

7 A No.

8 Q That never came up?

9 A No.

10 Q Did you discuss what you told the police had
11 happened that night?

12 A No.

13 Q Okay. At what point in time did you and Mr. Kent
14 discuss what you told the police happened that
15 night?

16 A At no point in time did we discuss.

17 Q Ma'am, do you recall being in court yesterday
18 testifying?

19 A Uh-huh.

20 Q You do?

21 A Yes.

22 Q Okay. Do you recall telling the Court on
23 yesterday that Mr. Kent read your statement to you?

24 A Yes.

25 Q All right. So at what point in time did that

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1 discussion take place?

2 A Well, it wasn't discussion. He was just
3 basically reading it to me, you know, let me know
4 exactly what my statement said which was the truth,
5 basically what I'm saying today.

6 Q So everything in the statement that you gave to
7 the police on the night of the shooting was the
8 truth?

9 A Not everything.

10 Q Okay. So you lied to the police?

11 A I didn't actually lie; I tried to cover up.

12 Q Okay, all right. But did you come clean then
13 with Mr. Kent?

14 A No, I'm coming now.

15 Q Okay. So everything that you told Mr. Kent was
16 what you testified to on yesterday?

17 A I never told Mr. Kent anything.

18 Q Okay, all right. So in the three visits that you
19 had to Mr. Kent's office, you never told him
20 anything about this case?

21 A I never told him anything about this case.

22 Q Okay. Did he read your statement to you?

23 A Yes.

24 Q Okay. How long did it take for him to read your
25 statement to you?

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1 A I'm not sure, maybe 15 minutes.

2 Q Okay.

3 MS. BARR: Judge, may I approach the
4 witness?

5 THE COURT: Yes, ma'am.

6 BY MS. BARR:

7 Q Ma'am, you've seen, of course, the copy of your
8 transcribed statement to the police. When did you
9 give that statement?

10 A What statement?

11 Q That one right there.

12 A I don't have that statement.

13 Q I said when did you give it to the police? When
14 did you give your oral statement to the police?

15 A Oh, right after. The next day actually. Like,
16 well, it was actually that day.

17 Q About 12 hours later?

18 A Yeah.

19 Q Okay. And your transcript of that the recorded
20 statement is how many pages long?

21 A I'm not sure.

22 Q Look for me.

23 A Transcript, that too?

24 Q Just tell me how many pages are in this
25 transcript.

1 A This is 17.

2 Q Okay, so Mr. Kent read all 17?

3 A Can I count them?

4 Q Yeah, please, absolutely. 17 pages?

5 A Yes, ma'am.

6 Q All right. So Mr. Kent read all 17 of these
7 pages to you?

8 A I'm not gonna speculate; I'm not sure. I wasn't
9 reading along with him.

10 Q Okay, all right. But it took him about 15
11 minutes?

12 A Yeah, roughly.

13 Q And as he read these statement to you did he ask
14 you questions about what was in the statement?

15 MR. KENT: Your Honor, I'm gonna object to
16 the leading. This is still this witness' -- this is
17 still her witness that she's leading.

18 THE COURT: Overruled. You may answer the
19 question.

20 BY MS. BARR:

21 Q Ma'am, as Mr. Kent read your statement to you was
22 he asking you questions about what was contained in
23 your statement?

24 A No, ma'am.

25 Q Now you told me earlier that you were in a

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1 relationship with Mr. Moore for about nine months
2 during your separation from your husband?

3 A Yes.

4 Q Were you in love with him, with Mr. Moore?

5 A Yeah.

6 Q Okay, all right. Was he good to you?

7 A Very good.

8 Q Okay. Did he help with your children?

9 A Oh, yes.

10 Q Okay. And was there an incident that occurred
11 between you and the defendant a week before Mr.
12 Moore was killed?

13 MR. KENT: Your Honor, I'm gonna object.
14 I have a matter.

15 THE COURT: All right. Mr. Foreman,
16 ladies and gentlemen, please step out. Do not
17 discuss the case during this recess.

18 (WHEREUPON, the jury was removed from the
19 courtroom at 2:37 p.m.)

20 THE COURT: Mr. Kent.

21 MR. KENT: Thank you, Your Honor. At this
22 point in time, again, during our pretrial
23 conversation I made several references to the fact
24 that I specifically asked Ms. Davidson to try to
25 introduce Lyle type evidence. I mentioned

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1 specifically the information dealing with criminal
2 domestic violence. My understanding was the
3 instruction that the Court gave to the Solicitor's
4 Office, if you would please notify them before they
5 would try to introduce this Lyle type evidence. The
6 question that the Solicitor was trying to elucidate
7 through this witness would be dealing with what she
8 already testified to, a prior criminal domestic
9 violence, involving essentially an assault rifle in
10 which that wasn't a subject of a conviction or
11 anything of that nature.

12 Your Honor, this is the second time the
13 Solicitor's Office, I think is trying to sneak in
14 some Lyle evidence without giving us notice that
15 they're trying to do it, especially after the Court
16 was very specific and said before trying to get in
17 this Lyle type evidence to give us notice. Now that
18 we're here at this point in time I would object
19 anything dealing with prior bad acts or prior
20 criminal enterprises on behalf of the defendant
21 without a proper showing as required under 404(b)
22 type evidence.

23 MS. BARR: And Judge, I wasn't getting
24 into that. I was just talking about his state of
25 mind. This was an incident that happened a week

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1 prior, not talking with him about any of the CDVs.

2 THE COURT: I was trying to recall the
3 testimony of the incident that had occurred —

4 MS. BARR: And Judge, it was just —

5 THE COURT: —the week before.

6 MS. BARR: The portion where she talks
7 about him being weak and obsessed with her.

8 THE COURT: Being what?

9 MS. BARR: Weak and obsessed with her.
10 That's what I was getting at. It didn't have
11 anything to do with the CDV.

12 MR. KENT: Okay, just for the record,
13 we're clear we're looking not going to get anything
14 in with the criminal domestic violence, anything
15 dealing with prior gun relations, or anything
16 whatsoever with prior bad acts involving this
17 witness and the defendant?

18 THE COURT: Solicitor, you're not getting
19 into criminal domestic violence; is that correct?

20 MS. BARR: Judge, it's not my intent to
21 get to any, to do direct examination with regard to
22 this witness and any domestic violence incidents
23 between her and the defendant.

24 THE COURT: I think it's a different slice
25 of cake as far as a gun is concerned.

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1 MS. BARR: Yes, sir, I agree with that.

2 THE COURT: Because I don't -- you
3 believe -- if you and the Solicitor both would
4 refresh my recollection, I think the testimony about
5 the gun may be or would be very different than Lyles
6 testimony as far as it would be circumstantial
7 evidence that whatever her testimony is going to be
8 about the purchase of the weapon.

9 MR. KENT: If I'm not mistaken, Your
10 Honor, the weapon, and we didn't get into its full
11 effect, the weapon that they're talking about from
12 the prior incident that she was about to testify to
13 is still in custody of the Williamsburg County
14 Sheriff's Office so it could not be the weapon that
15 was utilized in this case at all. In other words,
16 the weapon was never returned.

17 THE COURT: What weapon are you referring
18 to?

19 MR. KENT: I think, if I'm not mistaken,
20 correct me if I'm wrong, I think the testimony that
21 when she testified in our hearing was that a
22 weapon -- make sure I say it right -- that an
23 assault rifle or something of that nature, that she
24 had purchased an assault rifle for the defendant.
25 And I think was the question. And she said, no, I

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1 actually purchased the assault rifle for myself.

2 THE COURT: Correct.

3 MR. KENT: And then the question was, had
4 he ever pointed the assault rifle at her or
5 something of that nature. That's when law
6 enforcement came to the house over a criminal
7 domestic violence and took the assault rifle. And
8 my understanding is that assault rifle is still in
9 the custody and care of the Williamsburg County
10 Sheriff's Office and has never been returned. And
11 so, to try to get that in, I'm trying to figure out
12 what factor that would intend to prove if this
13 witness says, I bought an assault rifle, I bought an
14 assault rifle for myself, and law enforcement still
15 had that assault rifle.

16 THE COURT: That testimony was never
17 offered yesterday. That I recall, was the rifle
18 that she purchased was in the custody of the
19 Williamsburg County.

20 MR. KENT: It was offered and that's why
21 I'm going through this point now. That is my
22 understanding that that rifle is in the custody of
23 the Williamsburg County Sheriff's Office and has
24 never been returned. And the witness is on the
25 stand so can proffer and ask her that directly.

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1 THE COURT: 'Cause the testimony I have,
2 the notes that I have, I apologize, when she was
3 talking about her husband, that he was quiet,
4 loving, sweet, knew him for 15 years, that 11 months
5 before the murder she had purchased an AK-47 and she
6 was asked if she had purchased the AK-47 for the
7 defendant. She said she bought it. So I'm not
8 tracking this weapon right now. Tell me where
9 you're headed, Solicitor.

10 Don't interrupt me please. (speaking to
11 witness.)

12 MS. BARR: Judge, I argued yesterday that
13 the witness, that a medical witness in the case —

14 THE COURT: Hold on just a minute. Have
15 her step out of the courtroom, Sheriff, and please
16 watch her during this brief recess.

17 (Witness was excused from the courtroom.)

18 THE COURT: I apologize for interrupting
19 you, Solicitor. You may continue.

20 MS. BARR: Yes, sir, Judge. I only, I
21 only intend to question the witness about a
22 statement as to whether or not she told a doctor
23 that her husband with whom she separated shot her
24 boyfriend with an AK-47. I would only bring up the
25 notion about her prior knowledge of an AK-47 because

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1 at one point she owned one, and so she had have the
2 ability to know what an AK-47 looks like. And
3 Mr. Kent made a very good point during opening
4 arguments that she's the only eyewitness, and he
5 made a very good point as to the, how we would be
6 able to prove the identification of the weapon. And
7 so I think that Ms. McFadden would be able to help
8 us on that.

9 MR. KENT: Under that purpose if they were
10 offering it that way, then of course I wouldn't have
11 an objection; but my concern would be if they were
12 trying to tie that weapon in to my client. Now if
13 she says, if the Solicitor says, Ms. McFadden, you
14 have purchased an AK-47 in the past for yourself;
15 yes, I am; you are familiar with what an AK-47 is;
16 yes, I do. I can understand that. But then to try
17 to tie it into Mr. Williams is where I would have
18 the problem 'cause I think that would get into the
19 bevy of Lyle conversation; but I can't argue if she
20 just wants to ask that simple nuance of in the past
21 you have purchased an AK-47 for yourself.

22 MS. BARR: But she didn't at that point
23 buy it for herself.

24 THE COURT: I don't think she has to put
25 the qualifier on it for herself.

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1 MR. KENT: As long as she says she
2 purchased an AK-47, but I think she's test— that
3 was her testimony, that she purchased it for
4 herself.

5 THE COURT: I'm not saying her testimony
6 is not, will not come out, Mr. Kent. I'm just
7 saying I don't think the Solicitor has to put that
8 qualifier on her.

9 MR. KENT: I agree.

10 THE COURT: And you know, whether she
11 answers it like that or whether it's answered like
12 that on cross-examination or, I don't know what she
13 might say to that —

14 MR. KENT: Neither do I.

15 THE COURT: —quite frankly. I wasn't
16 sure yesterday.

17 MR. KENT: Me either.

18 THE COURT: Necessarily what direction,
19 what route she was taking so to speak, but...

20 MR. KENT: For the purpose that the
21 Solicitor's Office has offered that testimony, I
22 understand that. My fear is not that, my fear is
23 going further talking about criminal domestic
24 violence anything involving Mr. Williams and that
25 weapon. I think that would cross under Lyle.

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1 They're not offering anything about Mr. Williams.
2 If their only purpose is that to offer she has
3 knowledge what an AK-47 is and has seen one before
4 in the past, I can understand that.

5 THE COURT: It's no different than Mr.
6 Croker.

7 MR. KENT: I understand.

8 THE COURT: He's familiar with assault
9 weapons from being in the American Navy.

10 MR. KENT: I understand. My objection was
11 and I think listening to his testimony was going to
12 try to get into the criminal domestic violence and
13 things that Mr. Williams had done; but now they're
14 saying they're not planning on doing that.

15 THE COURT: All right, then, that's where
16 you're headed, Solicitor?

17 MS. BARR: Yes, sir.

18 THE COURT: Would you have the sheriff
19 bring our witness back in here please.

20 (Witness is returned to the courtroom.)

21 THE COURT: All right, Ms. McFadden, you
22 may re-take the stand.

23 You need something further, Mr. Kent?

24 MR. KENT: Just to make sure, just the
25 ruling for the record, we are not going to be

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1 getting into the criminal domestic violence or Lyle
2 type evidence just for the record so I got that
3 covered.

4 THE COURT: And I think ---

5 MS. BARR: Yes.

6 THE COURT: And I think that is correct
7 and I think not only based on my ruling, but based
8 on the Solicitor's statement as far as its case in
9 chief will not get into criminal domestic violence.

10 MR. KENT: Thank you, Your Honor.

11 THE COURT: Bring us our jury please.
12 Thank you.

13 (WHEREUPON, the jury was returned to the
14 courtroom at approximately 2:47 p.m., and
15 the following proceedings commenced in
16 open court.)

17 THE COURT: All right, the jury is back.
18 Thank you, Mr. Kent.

19 Solicitor, you may continue.

20 BY MS. BARR:

21 Q Ms. McFadden, prior to your separation from your
22 husband I believe that you testified you think it
23 might have been late 2012?

24 A I don't understand the question.

25 Q When specifically did you separate from your

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1 husband?

2 A Around the end of 2012, going on 2013.

3 Q While you were and your husband Mr. Williams were
4 living together as man and wife did you ever
5 purchase an AK-47 assault rifle?

6 A Yes.

7 Q Okay, all right. How much did you pay for it?

8 A Around 750.

9 Q Okay, all right. And where'd you get it from?

10 A Norman's Gun Shop.

11 Q All right. And so you were familiar with what an
12 AK-47 assault rifle looks like?

13 A Yeah.

14 Q Okay, all right.

15 MS. BARR: May I approach the witness?

16 THE COURT: Yes, ma'am.

17 BY MS. BARR:

18 Q Ms. McFadden, I'm going to hand you what's been
19 marked as Court's Exhibit Number 3. Is that an
20 AK-47 assault rifle?

21 A Yeah, it look like it, yeah.

22 Q All right. And so describe it to the jurors.

23 A Describe that one there?

24 Q Yeah, describe that one there.

25 A It's long, has a clip on it.

1 Q Okay.

2 A It looks like a shotgun, you know.

3 Q A shotgun with a clip?

4 A I mean, if you're not seeing a clip it looks like
5 a shotgun.

6 Q Okay.

7 A That's the only distinctive look on it.

8 Q The photograph that I showed you, did that have a
9 clip on it?

10 A Yes.

11 Q Okay. Now you were in court when Mr. Croker
12 testified about a banana clip. Did you understand
13 what he meant when he said that?

14 A Yes.

15 Q Does that particular weapon have a banana clip on
16 it?

17 A Yes.

18 Q Okay. Now shortly or around the time that you
19 and your husband separated in 2012, okay, the
20 assault rifle that you purchased was given to law
21 enforcement, correct?

22 A Yes.

23 Q Did you purchase any other assault rifles?

24 A No.

25 Q Any other AK-47s?

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1 A No.

2 Q Okay. So while you were dating Mr. Moore during
3 that nine month period did you all -- did he ever
4 live with you?

5 A Who, Larry?

6 Q Yes.

7 A Yes.

8 Q So during the time that you were living with
9 Larry you never purchased an AK-47?

10 A No.

11 Q But while you were living with the defendant you
12 did?

13 A Yes.

14 Q Now I think when we left off I was asking you
15 about a week prior to the shooting. You remember me
16 asking you that question?

17 A Yes.

18 Q Describe to me what your husband's state of mind
19 was as relates to your relationship a week before
20 the shooting?

21 A I think his state of mind, I think he was just a
22 wreck, a total wreck.

23 Q And why is that?

24 A 'Cause I had left him and, you know, I took the
25 kids, you know, and --

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1 Q You left him a week before?

2 A A week before what?

3 Q You said that his state of mind a week before the
4 shooting was ---

5 A Oh, I understand now about a week. I was just
6 saying after I broke up with him.

7 Q A week before the shooting specifically, do you
8 recall an incident where you and your husband had
9 exchanged the children for visitation?

10 A A week before?

11 Q Yes.

12 A At my house?

13 Q Yes.

14 A Yeah.

15 Q Okay, all right. And at that time what was his
16 state of mind?

17 A I guess still mad, I mean, you know, mad but he
18 didn't say anything.

19 Q Okay. Did he ever threaten to harm himself?

20 A Yes, to me.

21 Q Tell me what he said.

22 A You know, he just didn't want to be here no more.
23 He, you know, he thought he felt like he lost
24 everything.

25 Q Okay. Did he tell you that he was not going to

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1 hurt himself?

2 A After I talked to him.

3 Q Why did he decide not to hurt himself?

4 A I'm not sure.

5 Q Do you recall giving a statement to law
6 enforcement around noon time on November 10th of
7 2013 when you told them that he didn't want to kill
8 himself because he didn't want to leave you with
9 that burden?

10 A I think I said that's what he said.

11 Q Okay. Do you recall in that statement saying
12 that he was obsessed with you?

13 A Yes, I said that.

14 Q Do you recall in that statement calling your
15 husband weak?

16 A Yes, I said that.

17 Q Now the night that the shooting happened, what's
18 the name of the club where this happened?

19 A Well, I call it Celestine 'cause I know her.

20 Q Okay. Had you and Larry gone there routinely?

21 A Yes.

22 Q Okay. You knew Larry's parents?

23 A Yes.

24 Q All right. And did you and Larry go to family
25 functions at their, his parents' home, together with

1 the kids?

2 A Yes, all the time.

3 Q All right. And when you arrived at the
4 nightclub, you and Larry, who was driving?

5 A Larry was driving.

6 Q Okay, whose vehicle?

7 A My vehicle.

8 Q Okay. And describe your vehicle to me?

9 A It's a black 2002 Durango.

10 Q Okay. How long have you had it?

11 A I just had purchased it not even two weeks.

12 Q Okay. When you arrived at the nightclub was
13 Mr. Williams already there?

14 A I didn't see him.

15 Q Okay. If you had seen him what would you have
16 done?

17 A If I had seen him I'd left.

18 Q You would have left?

19 A Yeah.

20 Q All right. What time did you get there, you and
21 Larry?

22 A Me and Larry left his mom house maybe around, I'm
23 saying, 10:00 at the latest.

24 Q Okay. And then left his mom house and went
25 where?

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1 A To my house.

2 Q Okay. 10:00 at night?

3 A 10:00 at night.

4 Q Okay, all right. And then did you all get
5 dressed or?

6 A At my house?

7 Q Yes. So Larry was wearing different clothes when
8 he went to the club as opposed to what he was
9 wearing earlier?

10 A Yes, totally different clothes.

11 Q All right. Tell me what happened when you get to
12 the club?

13 A Me and Larry got out. You know, we went inside
14 Celestine. First we got us a drink, and then we
15 went over to the pool table like we always do.

16 Q Okay. Y'all were having a good time?

17 A Yeah.

18 Q You were shooting pool?

19 A Me and him were shooting together.

20 Q Okay. Do you know an individual by the name of
21 Tabitha Greene?

22 A Yes.

23 Q Okay. Was Tabitha Greene present that night?

24 A I didn't see her.

25 Q Okay. What about Levonne Croker, did you see

1 him?

2 A Levonne Croker, Levonne Croker. Levonne, I
3 didn't see him either.

4 Q Okay. All right. When did your husband arrive?

5 A I saw the back of my husband walking out the
6 door. That's when I saw him, walking out of
7 Celestine. I don't know when he arrived.

8 Q All right. Then what happened after you saw him
9 walk out?

10 A Well, when I looked when I was — 'cause me and
11 Larry was playing pool, but I didn't look until I
12 saw the stink, the expression on Larry face change.
13 So I looked 'cause when you walk in Celestine
14 through the side door, the pool table is right to
15 your right so if you're playing pool with someone
16 each over like we were playing pool with each other.
17 But I was on the front side of the pool table. My
18 back is, is turned to the door and the bar.

19 Q Okay.

20 A But Larry is on the other side of the pool table
21 which marry could see everything coming in the club.

22 Q Okay.

23 A So when his expression changes and he stopped
24 playing pool and all, I looked back and that's when
25 I saw the back of Terry walking out the door.

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1 Q Okay. Then what happened next?

2 A And I said, what's wrong. He said, tired, I'm
3 tired of him mean mugging me.

4 Q You're tired — he said what now? He's tired —

5 A He said I'm tired of him mean mugging.

6 Q Mean mugging. What does mean mugging mean?

7 A Looking at someone in some type of way.

8 Q For example, if I were to stare at you angrily
9 you — like that, like, that's what you would
10 consider mean mugging, a kind of an angry
11 expression?

12 A Uh-huh.

13 Q Is that a yes?

14 A Yes.

15 Q Okay. And so Larry says that he is tired of
16 Terry mean mugging him?

17 A That's what he told me.

18 Q Okay. All right, then what happened?

19 A (No response.)

20 Q Did you hear my question?

21 A No.

22 Q Then what happened?

23 A I asked him what was wrong. Well, he said after
24 he said I'm tired of him mean mugging me.

25 Q Yeah.

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1 A And I said, don't worry about that, he done gone.
2 He going out the door. He didn't say nothing to
3 you, leave it alone. He said, no, I'm going
4 outside, I'm tired of him, I'm gonna ask him what's
5 up, what do you want to do. That's when the
6 altercation and argument came among us.

7 Q Okay.

8 A We was arguing back and forth.

9 Q Who was — you said among us.

10 A Me and Larry.

11 Q Okay. You were trying to keep Larry in the club?

12 A Uh-huh.

13 Q Is that a yes?

14 A Yes.

15 Q Now you remember to keep doing that, keep saying
16 yes rather than uh-huh.

17 A Yes.

18 Q Did Larry then leave out the club anyway?

19 A Yes.

20 Q Okay. And then what did you do?

21 A I waited maybe a minute because I said in my mind
22 that I wanted to walk outside with him, but he
23 wouldn't let me.

24 Q Okay. Then what happened?

25 A So I said, after we argued about it maybe about

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1 three times back and forth I knew I couldn't stop
2 him from walking out the door so in my mind I said
3 I'm gonna let him walk out the door but I'm gonna
4 walk right out behind him. And that's what I done.
5 When I walked outside I saw him over next to the
6 ditch where Terry truck was parked.

7 Q You saw who over there?

8 A Larry.

9 Q Okay. Ms. McFadden, can I get you to step off
10 the witness stand for me please.

11 A (Complies.)

12 MS. BARR: Your Honor, I'm going to
13 publish what's been previously admitted as State's
14 Exhibit Number 23, if Your Honor please.

15 THE COURT: All right, State's 23?

16 MS. BARR: Yes, sir.

17 BY MS. BARR:

18 Q Ms. McFadden, if you can step over for me please.
19 Can you see the location where Mr. Williams' vehicle
20 was parked at the time that you and Larry exited the
21 club?

22 A No.

23 Q Okay. I'm gonna publish State's Exhibit Number
24 5. Can you see it here?

25 A Can I use that little thing?

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1 Q Absolutely. Yes. And please, ma'am, if you can
2 step over here. Where is the defendant's vehicle
3 parked, your husband's vehicle parked?

4 A Actually, I'm really not sure because I can tell
5 if I look at the picture of the club.

6 Q Okay. Does State's Number 2 help you?

7 A (No verbal response.)

8 Q Is that a no?

9 A No.

10 Q Does State's Exhibit Number 4 help you?

11 A A little bit.

12 Q Okay. Let's see if we can get something to help
13 you better. Does Number 6 help you?

14 A No.

15 Q Let me ask you this while I have you standing
16 here. I'm gonna publish State's Number 4. When you
17 and Larry walked out of the nightclub, which
18 direction was Mr. Williams' vehicle parked?

19 A A little further back there. That's why I say
20 this goes back a little further back where this
21 little white, little paper whatever this is right
22 here.

23 Q Okay. All right, so ---

24 A A little further back.

25 Q So you've identified on State's Exhibit Number 5,

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1 I'm sorry, State's Exhibit Number 4 a piece of white
2 paper there?

3 A Uh-huh.

4 Q Is that a yes?

5 A Yes. You saying that direction? What are you
6 asking me?

7 Q I'm asking you are you calling ---

8 A That's how close I was.

9 Q No, ma'am, hold on for a second, wait for me.
10 Are you calling, you're calling the item that's, the
11 white item that's located in the lower right-hand
12 corner on State's Number 4, you're calling that a
13 piece of paper.

14 A I don't know what that is.

15 Q I don't -- it doesn't matter now what it is, but
16 that's what you're referring to.

17 A Yeah.

18 Q All right. And was Mr. Williams' vehicle behind
19 that piece of paper or in front of it?

20 A Behind it.

21 Q Behind it, okay, all right. So point to the --
22 come on this side for me. Point to the ladies and
23 gentlemen of the jury where you and Larry came out
24 from the club.

25 A (Indicating.)

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1 Q Came out there?

2 A Me and Larry came out together.

3 Q I understand.

4 A But this is inside that, the door was using,
5 nobody was using this door.

6 Q Okay, all right. From this photograph you could
7 not see where Mr. Williams' vehicle was parked?

8 A No.

9 Q Okay, all right. So tell me what happened when
10 Larry comes out of the club, the words are
11 exchanged, tell us what happened then?

12 A All I know is when I came out the club they were
13 already exchanging words. I heard Larry saying
14 what's up, I'm tired of you. I seen him ---

15 Q Now as you are talking you're gesturing with your
16 hands up like a football field, like a goal, not a
17 football field, football goal?

18 A Like this.

19 Q His hands were up like this?

20 A Like this.

21 Q And was there anything in Larry's hands?

22 A I didn't see anything in his hands.

23 Q Okay, all right. And when you told the -- when
24 the police asked you whether or not Larry had a gun
25 or had anything in his hands what was your answer?

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1 A No.

2 Q All right. And was that the truth?

3 A To my knowledge.

4 Q Okay, all right. Now ma'am, hold that again for
5 me. Point on this particular photograph where you
6 saw Terry and Larry when they — when you say that
7 Larry says what's up, where were they at? Were they
8 past this white piece of paper?

9 A I don't think Larry was past this piece of paper.
10 He probably was just above this piece of paper.
11 Terry was behind the piece of paper.

12 Q Okay. Here's what I'm gonna do. I'm gonna put
13 TW for Terry Williams and I'm gonna put LM for Larry
14 Moore, okay. On this diagram I need you to tell me
15 and show me where each of them were, okay?

16 A Uh-huh.

17 Q I'll give you a tab labeled LM for Larry. Put on
18 there where you say Larry was when you saw the hand
19 up movement.

20 A I'm thinking there, this sticker.

21 Q It will stick, yep. Now show me — I'm giving
22 you the label tab for TW. Show me where TW is.

23 A I can't really show you because it's behind.

24 Q Way back?

25 A Yeah.

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1 Q Okay, all right. And so he was, how far was,
2 would you say, Larry was from the front of Terry's
3 vehicle when the motion happened with him raising
4 his hands?

5 A You want to show you?

6 Q No ---

7 A I don't know how far he was from the vehicle.

8 Q Let's do this, I'll give you a tape measure,
9 okay?

10 A Uh-huh.

11 Q What I'm gonna do is pull it out. You pull till
12 you estimate the best distance that Terry and Larry
13 were, okay, and then you tell me when to stop.

14 A Right there. Stop.

15 Q Let's do it this way, you hold that, keep it
16 where you are. Hold it. Hold it. No, hold it with
17 both hands so I don't move it. Hold the taped part
18 of it for me so I don't move it so I don't hold the
19 distance because I'm gonna move around the courtroom
20 a little bit.

21 A I ain't understand nothing you just said.

22 Q Okay. So are we about as far as apart as Terry
23 and Larry were that night?

24 A Yes.

25 Q Okay. Let's turn this way so the jury can have

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1 an idea of that distance. All right, did they ever
2 get any closer than this?

3 A Not that I know of, I didn't see.

4 Q Would you look on the tape measure and tell me
5 how far apart that is?

6 A 10-feet.

7 Q 10-feet, all right. And how far apart was Larry
8 from the front of your husband's vehicle?

9 A Maybe about 10-feet because my husband was right
10 at the vehicle.

11 Q He was -- what part of the vehicle was he at?

12 A The driver door.

13 Q The driver's door or the driver's side door?

14 A The driver's door.

15 Q Not the door behind the driver's door?

16 A No.

17 Q Do you recall telling the police in your November
18 10th statement that Terry was at the driver's back
19 door?

20 A Yeah, I said that.

21 Q Okay.

22 A But I just...

23 Q You just what? Just?

24 A I thought that's what it was but that wasn't
25 'cause he jumped in the truck and he had the

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1 passenger door open, you know.

2 Q He had which door open?

3 A He had the driver door open when he, you know,
4 when they were standing there so he was standing in
5 the driver door.

6 Q Who is Wolfman?

7 A Wolfman?

8 Q Yeah.

9 A I'm thinking probably Damien.

10 Q Okay. You know somebody who you call who is
11 known as Wolfman?

12 A I know a couple of people who named Wolfman.

13 Q Okay, sorry. Was Damien there that night,
14 Wolfman?

15 A I saw him.

16 Q Where was he?

17 A He, I think he came inside the first time. I
18 guess — that — I only saw him came in once. I
19 only saw him walking out once.

20 Q Where was ---

21 A But ---

22 Q ---was Wolfman at the time that Terry and Larry
23 had their little argument?

24 A I think on the other side of the vehicle standing
25 out.

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1 Q On the passenger side?

2 A On — yeah, on the outside of it.

3 Q Okay. All right. When you saw Larry walk toward
4 Terry, did you see the door open at that time?

5 A When I got, when I walked out the door the door
6 was already open.

7 Q Okay, step back. I'm sorry, have a seat.

8 A (Complies.)

9 Q Now when you come out the door is already opened,
10 or is the door already open when you come out behind
11 Larry? Is Terry's driver's door already open when
12 you come out?

13 A Yes.

14 Q So part of his view would have been blocked from
15 you since his door was open?

16 A The driver, yeah. You said part of what view?

17 Q Part of Terry's view would have been blocked —

18 A Yes.

19 Q —from you —

20 A Yes.

21 Q —because his door was open?

22 A Yes.

23 Q Now as Larry is walking out and you notice that
24 Terry's door is open, does that cause you some
25 concern?

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1 MR. KENT: I'm gonna object again to the
2 leading, Your Honor. It continues to be leading
3 questions to own witness. This is direct.

4 THE COURT: I would overrule it. I don't
5 think that's a leading question. I don't think it
6 assumes the answer.

7 BY MS. BARR:

8 Q Did that cause you any concern when you saw Terry
9 at the driver's door and his driver's door open?

10 A It didn't cause me no concern because I thought
11 he was actually about to get in and drive off.

12 Q What did you tell the police when they asked you
13 how you felt when you saw Terry at the door with the
14 door open by his car?

15 A When I came out?

16 Q Yeah.

17 A Well, I felt that before I walk out the club I
18 was -- I already knew something was going to happen.

19 Q That's not my question. My question is what did
20 you tell the police --

21 MR. KENT: Your Honor, I have an
22 objection. Can we take this outside the presence of
23 the jury.

24 THE COURT: No, step up here please.

25 MR. KENT: Thank you.

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1 (WHEREUPON, counsel approached the
2 Bench for an off-the-record discussion.)

3 THE COURT: Thank you. Thank you very
4 much.

5 BY MS. BARR:

6 Q Ms. McFadden, I was asking you what did you tell
7 the police 12 hours after the shooting about how you
8 felt when you saw your husband standing at his car
9 with the car door open?

10 A I can't remember what I told the police.

11 Q If I show you the statement you think that will
12 refresh your memory?

13 A You can show it to me.

14 Q I'm gonna show you page 6 of your statement.
15 Start at line 16, okay. I want you to read to
16 yourself line 16 through 20 and tell me if that
17 refreshes your memory about what you told the police
18 12 hours later about what you thought when you saw
19 Terry at the door of his truck.

20 (Pause.)

21 BY MS. BARR:

22 Q Does that refresh your memory?

23 A Yes.

24 Q Okay. What'd you tell the police when you ---

25 A I told them that I was scared, you know, and I,

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1 you know, 'cause I knew, I know my husband, that was
2 my husband, and he always carry a gun.

3 Q Okay. Now let me get you step off the witness
4 stand again for me. I think I may have misplaced
5 your tab for Terry Williams. I need you to put that
6 back on the screen for me. Step down for me please.

7 A (Complies.)

8 Q You see me, then I'm putting the tape over IM for
9 Larry. And you said that you couldn't see where
10 Terry is on this picture 'cause he was further back?

11 A Uh-huh.

12 Q Okay. So place your best recollection as to
13 where Terry would have been. And I understand you
14 told me they were 10-feet apart; is that correct?

15 A Yes.

16 Q All right. So would he have been somewhere back
17 here off screen?

18 A Off screen.

19 Q And I am, for the record I am specifically
20 putting the tab in the lower right-hand corner of
21 the monitor; is that right?

22 A Yes.

23 Q Okay, all right. Then what happened? Keep your
24 voice up for me.

25 A After what?

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1 Q After you saw them and after your husband had the
2 door open, then what happened?

3 A Well, when I walked out I heard, like I said,
4 Larry was saying, what you want to do, I'm tired of
5 you, I'm tired of seeing you everywhere I go, I'm
6 tired, what you want to do. But my husband was
7 standing in the driver's door with the door open
8 saying, you know, go on, back up, just back up,
9 don't come close to me, back up.

10 Q You can continue. What happened next?

11 A So I was standing directly, I was standing like
12 directly on the left side of Larry.

13 Q All right, let's do it this way. Stand in front
14 of the jury. Let's just assume for argument sake so
15 that we'll have some perspective, okay. I'm gonna
16 use madam court reporter as an exhibit. If she's
17 Terry, all right, and I'm Larry, show me how close
18 were you to Larry, and which side of Larry were you
19 on?

20 A Okay. I got to go from the club.

21 Q Yes.

22 A I say I walk out.

23 Q So you're walking out of the club.

24 A From ---

25 Q Hold on, this is the bench back here where the

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1 judge is, okay. This is Terry's vehicle there,
2 okay, by the judge, okay?

3 A Uh-huh.

4 Q You and me, or you and Larry, are walking out the
5 club?

6 A Me and you.

7 Q Yeah, that's right. Tell me what position you
8 were in as it relates to Larry?

9 A Right here.

10 Q Okay, so you would have been to his left?

11 A Uh-huh.

12 Q Is that a yes?

13 A Yes.

14 Q Tell me what happens next. When Terry says back
15 up, what happens next?

16 A Larry kept saying the same thing over and over:
17 I'm tired, you know, what you gonna do, you know,
18 you ain't gonna do nothing, you know. So when he
19 was saying that, as he was saying that I was paying
20 more attention to my husband; and that's when I saw
21 the back of a brown gun, you know.

22 Q Where did you see the back of the brown gun at?

23 A Like right above the window.

24 Q The window of what?

25 A The driver door.

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1 Q Okay. Who was holding the black gun?

2 A Terry.

3 Q Terry Williams, the defendant?

4 A Yes.

5 Q Then what happened?

6 A So when I saw that and I was saying, I said,
7 what's going on, what's wrong, it ain't even no need
8 for all that. So when I was doing that I was
9 crossing them.

10 Q Okay. So you are walking in front of me and is
11 that the motion you took in front of Larry?

12 A Uh-huh.

13 Q Why did you put yourself in the line of fire in
14 front of Larry? Why did you get in ---

15 A Because ---

16 Q ---front of Larry?

17 A Because I didn't want anything to be, I didn't ---
18 if anything, I didn't want him to be hurt, you know.

19 THE COURT: Let her turn and face the
20 jury.

21 THE WITNESS: If anything, I didn't want
22 him to get hurt. I didn't want him to get hurt
23 'cause he was, he was an innocent person.

24 BY MS. BARR:

25 Q Okay. Now you say that you got in front of

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1 Larry. How far — how close were you to Larry when
2 you got in front of him?

3 A This close.

4 Q About how close you are to me right now?

5 A Uh-huh.

6 Q All right. About this close that we are right
7 now?

8 A Uh-huh.

9 Q Is that a yes?

10 A Yes.

11 Q And tell me how — look down at my ruler. Tell
12 me where I'm holding it at. How far are we apart?

13 A We're in the back like right at a foot.

14 Q A foot apart, okay. So you didn't want them to
15 get hurt?.

16 A No, I didn't want him to get hurt. I didn't want
17 that.

18 Q Okay, all right. And I'm gonna have to get you
19 to get up again. You can have a seat over there.
20 Then what happened, Ms. McFadden?

21 A Then that's when the fire started shooting.

22 Q You got to tell us more than that.

23 A That's when the bullets started shooting, the
24 bullets I started hearing.

25 Q Okay. Who started shooting bullets? I mean,

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1 bullets ---

2 A Terry started shooting.

3 Q Okay. From the gun that he had?

4 A Yes.

5 Q Okay. Then what happened?

6 A I looked to my, you know, I look at Larry after I
7 heard the sound stop, you know, 'cause I didn't know
8 whether he was shot or nothing because he was
9 actually still standing.

10 Q How many times was Larry, how many times did
11 Terry shoot?

12 A I don't even know. I know it was probably ten.
13 I don't know exactly how much.

14 Q About ten times? Ma'am?

15 A I'm not sure.

16 Q Okay, a whole lot?

17 A Sound like it.

18 Q Okay, all right. And you said you turned around
19 and what happened?

20 A I turned to look at Larry, you know, to see if he
21 actually was hit.

22 Q Okay. And then what happened?

23 A And, but he was still standing but he immediately
24 fell to his knees.

25 Q Okay, then what happened?

1 A Then he fell backwards.

2 Q Then what happened?

3 A Then I ran over there and I grabbed him up on his
4 arms.

5 Q Okay. Then?

6 A Then I drag him to my truck.

7 Q Okay, then what happened?

8 A Then I realize that I couldn't lift him. He was
9 too heavy for me to lift in the truck by myself.

10 Q Okay. As you pulled him up off the ground to
11 drag him, as you say, where did your husband go?

12 A Everybody was gone. I don't know where he went.
13 Everybody was gone. He went in the truck and left.

14 Q Say again?

15 A The truck and left.

16 Q Your husband got in the truck and left?

17 A Uh-huh.

18 Q Is that a yes?

19 A Yes.

20 Q All right. After he shot —

21 A Larry.

22 Q —Larry. Okay, did Larry return any fire on
23 him, on your husband?

24 A No.

25 Q Larry didn't have a gun?

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1 A Not that I know of.

2 Q All right. Now was there anybody else in the car
3 with Terry when he left the scene?

4 A I'm not sure.

5 Q What happened to the weapon that was used to kill
6 Larry?

7 A I don't know.

8 Q Okay. While you were dragging him off the ground
9 did you see a weapon on the ground? You see —

10 A No, I didn't see anything.

11 Q Did you see a AK-47, a shotgun, a rifle, a
12 pistol?

13 A I didn't see anything.

14 Q No, no guns?

15 A I didn't see nothing.

16 Q Okay. The only person you saw in possession of a
17 gun that night was who?

18 A Terry.

19 Q Okay. Now you have previously marked for us the
20 location where Larry would have been and where your
21 husband Terry would have been —

22 A Yes.

23 Q ---on this particular exhibit. Is that where
24 they were when Larry was shot?

25 A Yes.

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1 Q That's where he would have been shot?

2 A Yep.

3 Q And he would have fell there?

4 A He would have -- yeah.

5 Q Okay. Now one more time, then I won't have to
6 have you come down anymore. Come down one more time
7 for me.

8 A (Complies.)

9 Q At what point in time did you begin to move
10 Larry's body? Where was Terry when you started
11 moving his body?

12 A Probably already gone.

13 Q He was already gone?

14 A Uh-huh.

15 Q All right. Is that a yes?

16 A Yes.

17 Q So your testimony is that you did not move
18 Larry's body until after Terry drove off?

19 A I immediately moved Larry, immediately.

20 Q But you got to tell me which happened first. Did
21 Terry drive off first and then you moved the body?

22 A I can't, I don't know.

23 Q Okay. So is that --

24 A But I'm thinking that he did but I'm not sure.

25 Q So let me ask you this, do you recall having to

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1 drag Larry's body out of the way as Terry drove off?

2 A No.

3 Q That didn't happen, right? Okay. So after Larry

4 shot where does he land? Show us on the picture

5 where he lands? Where does he fall?

6 A Right where the stand.

7 Q Right there. And you dragged him where?

8 A (Indicating.)

9 Q Why did you drag him in that area?

10 A Because my vehicle is right there.

11 Q So for the record you are pointing to the front

12 of the club Celestine's. Your vehicle was parked in

13 front of that club?

14 A Uh-huh.

15 Q Now obviously this is not your vehicle on this

16 picture, right? Is that right?

17 A Yes.

18 Q Okay, all right. But is that kind of how your

19 vehicle was positioned that night?

20 A Yes, just the opposite way. It was in exactly

21 the same position.

22 Q As if you and Larry drove in front of the club

23 Celestine?

24 A Uh-huh.

25 Q Is that a yes?

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1 A Yes.

2 Q So the back of your vehicle would have been where
3 the front of this vehicle is now; is that correct?

4 A The back of my vehicle would have been probably
5 right here where this gate at.

6 Q The back of your vehicle would have been there?

7 A At the end of this gate.

8 Q Okay. Could you tell as you were dragging Larry
9 how many times he'd been shot?

10 A No, I actually thought he wasn't hurt that bad.

11 Q Okay. When did you come to realize that he was
12 hurt pretty bad?

13 A After the nurse told me what he died from.

14 Q Okay, all right. Have a seat.

15 A (Complies.)

16 Q When you dragged him back to your car, you were
17 not able to get him in your car by yourself, then
18 what happened?

19 A So I laid him back down, him down, 'cause nobody
20 was around, nobody. And I went to Celestine door;
21 but when I pushed the door, it was locked. And as
22 soon as I turned around Tifton was coming up. I saw
23 some car lights.

24 Q Tifton is the fellow that's here in the striped
25 shirt, the gray and black striped shirt —

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1 A Yes.

2 Q ---in the back of the courtroom? Okay, then what
3 happened?

4 A And Tifton got out, and I immediately said, could
5 you please help me put Larry in the car, Terry just
6 shot Larry, please help me, all I want you to do is
7 help me get him in the car. So him and his
8 girlfriend -- his girlfriend went around the driver
9 back door and opened it. Tifton opened the other
10 side of the door and they lift him in and lay him
11 down.

12 Q And they helped you get him in the car?

13 A Yes.

14 Q Now Tifton's girlfriend, she is the young lady
15 who was heard on the first 9-1-1 call collect?

16 A No.

17 Q That was somebody else?

18 A I don't know who that was.

19 Q All right. So you then go where?

20 A Straight to the hospital.

21 Q Okay, all right. Now were you injured as a
22 result of this shooting?

23 A Yes.

24 Q What happened to you?

25 A I got shot in my left feet.

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1 Q Okay. When you got to the hospital nurses
2 assisted you or actually took over the care of Larry
3 to get him out of the vehicle?

4 A When I got to the hospital nurses was already
5 waiting and I pull up in the emergency area and
6 nurses was already waiting at the door outside, I
7 guess, for the arrive 'cause they had already
8 received the call.

9 Q Okay, all right. And just to be clear now, after
10 the shooting the defendant didn't run over Larry's
11 body, did he?

12 A No.

13 Q Okay. Now when you got to the hospital and the
14 doctors and nurses started treating you and started
15 treating Larry, what did you tell them about what
16 happened to Larry and what happened to you?

17 A I never told them what happened. What happened,
18 everything was going, they was working so much on
19 Larry and had us separated and they didn't have time
20 to even discuss anything with me.

21 Q You never had a conversation with a doctor or
22 nurse at ---

23 A I never.

24 Q Hold on, let me finish my question. You never --
25 it's your sworn testimony that you never had a

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1 conversation with a doctor or a nurse at
2 Williamsburg County Regional Hospital about what
3 happened to Larry and how you got the injury to your
4 foot?

5 A I probably said, you know, my husband shot Larry
6 but that's other, that's, nothing other than that.

7 Q Did you say your husband shot Larry with a AK-47?

8 A No.

9 Q You did not say —

10 A Not a AK-47. I said he got shot, he shot him.

11 Q Never used the word AK-47?

12 A Never used the word AK-47.

13 Q Let me ask you, is it possible because of the
14 emotion of everything that was going on that you
15 could have described the weapon as an AK-47 and just
16 don't remember it?

17 A Yes, 'cause it looks alike. I mean, a shot gun
18 and a assault rifle looks alike, you know.

19 Q So to answer my specific question, is it possible
20 that you told medical personnel that your husband
21 shot your boyfriend with an AK-47 and you just don't
22 remember it? The answer to that question is what
23 now?

24 A No.

25 Q That's not even possible that you just—

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1 A That's not possible.

2 Q ---that you could have them that and just simply
3 don't remember?

4 A That's not possible.

5 Q And again, you know what an AK-47 look like,
6 right?

7 A Yes, if I'm looking at it directly in my face.

8 Q And you owned one at one point?

9 A Yes.

10 Q Now -- I'm sorry, one more time.

11 A You're okay.

12 Q Come on down.

13 A (Complies.)

14 Q I'm gonna publish what's been admitted
15 plaintiff's exhibit -- I'm sorry, State's Exhibit
16 Number 5, okay. I want you to pay attention to that
17 little white piece of paper that you've identified,
18 okay. Let me ask you this, in this particular
19 exhibit you see any blood in there?

20 A I can't see any blood.

21 Q All right. I know that that picture is,
22 obviously the screen is white, but I want you to
23 look at the photograph itself. Do you see any blood
24 in that area where you marked that white piece of
25 paper?

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1 A I don't see any.

2 Q All right. Now I'm gonna show you what's been
3 admitted as State's Exhibit Number 5. Do you see
4 that same white piece of paper in that particular
5 exhibit?

6 A I don't know if it's the same.

7 Q Okay, let's publish it. What do these appear to
8 be to you, these lines in the paper in the exhibit?

9 A Look like what I call car tires.

10 Q Tire marks? There's a white piece of paper
11 there. Do you see that white piece of paper there?

12 A Uh-huh.

13 Q Is that a yes?

14 A Yes.

15 Q Does that appear to be the same white of piece of
16 paper that's on State's Exhibit Number 4?

17 A I'm not sure.

18 Q Okay. Does it appear to be in the same general
19 area as what's on State's Number 4?

20 A I'm not sure.

21 Q Okay. You recognize the area that's at the top
22 of State's Exhibit Number 5?

23 A It looks like a ditch.

24 Q It looks like the ditch. If it is the ditch and
25 these are track marks and this is the white piece of

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1 paper you talked about, then where would the
2 defendant's vehicle have been that night on State's
3 5?

4 A Over by the ditch.

5 Q Okay, point, point for me.

6 A It would have been over next to the ditch.

7 Q All right. You know what these little red marks
8 are there along the bottom?

9 A Look like blood.

10 Q Do you see any blood anywhere near that white
11 piece of paper?

12 A No. I mean, I don't see any, no.

13 Q What about on number 4, the one exhibit we just
14 talked about. Did you see any blood near that piece
15 of paper?

16 A I don't see any.

17 Q All right. Now you told me this is where Terry
18 landed, right? I mean, the way Larry landed, right?

19 A Somewhere close by that area. I can't remember
20 exact.

21 Q Do you see any blood in those tire marks there?

22 A I don't see any.

23 Q Okay, have a seat for me.

24 A (Complies.)

25 Q Now ma'am, at some point during one of the visits

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1 that you had with Mr. Kent, you modified a statement
2 that you gave to the police; didn't you?

3 A I don't understand the question.

4 Q You changed your statement?

5 A Yes. Hold on, repeat that question.

6 Q At one of your meetings with Mr. Kent —

7 A Yes.

8 Q —you changed your story from what you told the
9 police 12 hours after the shooting, —

10 A No.

11 Q —right? You didn't change it a little bit?

12 A No.

13 MS. BARR: Beg the Court's indulgence.

14 THE COURT: Yes, ma'am.

15 BY MS. BARR:

16 Q Do you recall receiving a letter from my office
17 in April about a bond hearing related to this case?

18 A Yes.

19 Q Did you appear at that bond hearing?

20 A Yes.

21 Q You did? In April of this year?

22 A I'm not sure. I appeared at one of them but not
23 the first one.

24 Q You didn't come—did you come to the bond hearing
25 in April of this year? That would have been three

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1 months ago?

2 A I came to a bond hearing, but I don't know
3 exactly what day it was.

4 Q You don't recall whether it was last year or this
5 year?

6 A I know it was this year -- let me see. I don't
7 know. I know I came to one. I can't remember exact
8 dates.

9 Q You remember when your husband was released?

10 A Yes.

11 Q When?

12 A Sometime in May.

13 Q How do you know?

14 A Because it was recently.

15 Q How do you know it was sometime in May?

16 A 'Cause it was recently.

17 Q Okay. He called you and let you know he was out?

18 A No, the officers actually did.

19 Q Okay. Did you come to court within a week or two
20 of him being released from jail?

21 A Repeat that.

22 Q Did you come to court within a week or two of him
23 being released from jail on bail?

24 A No.

25 Q Okay, all right. Did you receive a request via

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1 Facebook from our victim advocate for you to contact
2 me?

3 A No.

4 Q Now you've gone to Shaun Kent's office three or
5 four times to talk about this case?

6 A Maybe three times.

7 Q Okay, all right. And other than attending that
8 one bond hearing, have you ever come and talked with
9 me about this case?

10 A You never asked.

11 Q All right. So the answer to my question is?

12 A No.

13 Q All right. What about law enforcement? Have you
14 talked with them since the night —

15 A No, not since that night.

16 MS. BARR: Judge, that's all the questions
17 I have.

18 THE COURT: Mr. Foreman, ladies and
19 gentlemen of the jury, let's take a 15 minute
20 recess. Do not discuss the case.

21 (WHEREUPON, the jury was removed from the
22 courtroom at 3:37 p.m.)

23 THE COURT: All right, Ms. McFadden, I'm
24 gonna have you remain in the presence of one of the
25 female bailiffs during this brief recess given the

1 fact that you are a material and have been
2 identified as the only eyewitness in a homicide
3 case. No one can discuss your testimony with you in
4 any manner whatsoever during this brief recess so to
5 protect that process I'm gonna ask that she may
6 remain escorted by one of the bailiffs. She may
7 certainly refresh herself in any manner whatsoever.
8 Thank you, thank you very much. If you would please
9 stay with one of our bailiffs during this brief
10 recess. Thank you, Ms. McFadden.

11 All right, court will be in recess 15
12 minutes. Thank you. Thank you very much.

13 (WHEREUPON, a recess was taken from the
14 proceedings.)

15 (WHEREUPON, State Exhibit No. 75 was
16 marked for identification only.)

17 THE COURT: Anything before we bring in
18 our jury, Mr. Kent?

19 MR. KENT: Nothing on behalf of
20 Mr. Williams, Your Honor.

21 THE COURT: Madam Solicitor.

22 MS. BARR: No, sir.

23 THE COURT: Thank you. Bring us our
24 witness first.

25 (WHEREUPON, the jury was returned to the

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1 courtroom at approximately 4:04 p.m., and
2 the following proceedings commenced in
3 open court.)

4 THE COURT: Welcome back, ladies and
5 gentlemen. We're continuing the trial of the case,
6 the cross-examination of Ms. McFadden by Mr. Kent.
7 If you'd please continue to give the parties your
8 complete and undivided attention.

9 **CROSS-EXAMINATION**

10 BY MR. KENT:

11 Q Reva, how are you doing?

12 A I'm doing okay.

13 Q And again, I've given the same admonition to
14 everybody, I know you've been in the courthouse but
15 madam court reporter is taking down every word that
16 you say, okay?

17 A Yes.

18 Q And remember to make sure she can take down words
19 and not headshakes or nods and things of that nature
20 so make sure you speak loud and clear enough so she
21 can hear every word that you say.

22 A Yes.

23 Q And if at any point in time I speak too fast and
24 you don't understand something I'm saying, just
25 simply like you did with Ms. Barr, ask me to repeat

1 my question or state it a different way or slow
2 down.

3 A Yes.

4 Q Okay. Reva, the Solicitor has spent a lot of
5 time talking about you coming and visiting my
6 office. I think y'all gave a description of it and
7 the doors in it and the chairs in it, and everything
8 inside of my office. At any point in time did I
9 force you to come to my office?

10 A No.

11 Q Were you threatened to come to my office?

12 A No.

13 Q Did I offer you any money to come to my office?

14 A No.

15 Q Did I tell you you better say this or else in my
16 office?

17 A No.

18 Q At any point in time what was the most that I
19 ever told you when you came to visit me inside of my
20 office?

21 A Tell the truth.

22 MS. BARR: And Judge, I'm gonna object to
23 that unless counsel is going to be a witness.

24 MR. KENT: Sure.

25 THE COURT: I would overrule that

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1 objection.

2 BY MR. KENT:

3 Q So you came to my office several times and all --

4 we just talked, correct?

5 A Yes.

6 Q All right. And I want to go through some of the

7 things we talked about while you were inside of my

8 office, okay? Is that okay?

9 A Yes.

10 Q All right. First I want to go into the

11 relationship between all the parties involved inside

12 of the case. One we've already discussed the fact

13 that you know Terry Williams?

14 A Yes.

15 Q That is your husband?

16 A Yes.

17 Q You have known him for 15 years?

18 A Yes.

19 Q You know his mannerisms? You know when he's

20 happy and when he's sad?

21 A Yes.

22 Q When he's mad and when he's scared?

23 A Yes.

24 Q And you can tell that because of the 15 year

25 relationship the two of you have together?

1 A Yes.

2 Q So you know a lot about your husband?

3 A Yes.

4 Q The night that all of this happened on
5 November 10th, 2013, the two of you were separated,
6 correct?

7 A Yes.

8 Q You were not together?

9 A No.

10 Q You were inside of a bar with your boyfriend?

11 A Yes.

12 Q Larry Moore, how you just testified?

13 A You.

14 Q You and Larry went to a bar and were playing
15 pool?

16 A Yes.

17 Q While you were playing pool at some point in time
18 Terry came inside of the bar?

19 A Yes.

20 Q Terry did not say anything to you, wasn't angry
21 to you, or wasn't mean to anybody when he came into
22 the bar?

23 A No.

24 Q He didn't start a fight with you, didn't start a
25 fight with Larry, didn't point at Larry, didn't do

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1 anything negative when he me walked into the bar?

2 A No.

3 Q As a matter of fact, the first person who became
4 angry when Terry walked into the bar was Larry?

5 A Yes.

6 Q As a matter of fact, the first person who went
7 out after somebody when they came into the bar was
8 Larry, Larry went outside?

9 A Yes.

10 Q Larry actually went outside after Terry after you
11 specifically told him do not go outside?

12 A Yes.

13 Q To the point that somebody else inside of the bar
14 who already testified, the owner of the bar, saw you
15 and saw you emotional having a disagreement with
16 Larry?

17 A Yes.

18 Q And you were saying don't go outside, whatever
19 you do don't go, I don't want you to go outside,
20 leave this whole thing alone?

21 A Yes.

22 Q Yet, he still was gonna go outside?

23 A Yes.

24 Q And as a matter of fact and I think we missed
25 this a couple of times, several times he told you,

1 you stay inside?

2 A Yes.

3 Q He was telling you don't you come outside,
4 whatever you do, you stay in here?

5 A Yes.

6 Q And you didn't want to stay in there?

7 A No.

8 Q Why didn't you want to stay inside?

9 A Because I know once he had walked out the door,
10 you know starting, you know, going on it would have
11 been a confrontation.

12 Q Okay, let me stop right there. Right when he was
13 walking outside starting, starting a confrontation,
14 you knew something was going to go on?

15 A Yes.

16 Q So is it your testimony that the starting of the
17 confrontation was from Larry going outside?

18 A From my knowledge, yes.

19 Q And then you went outside and if I'm not
20 mistaken I think we missed a little bit during your
21 direct testimony, when you went outside at some
22 point you and Larry started talking again and Larry
23 started telling you go back inside?

24 A I don't remember that.

25 Q Is there anything I can show you that could

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1 possibly refresh your memory, like if I show you the
2 statement that the Solicitor was asking you about,
3 maybe if you had opportunity?

4 A You can show me.

5 Q Okay.

6 MR. KENT: Beg the Court's indulgence for
7 one moment.

8 THE COURT: Certainly, yes, sir.

9 BY MR. KENT:

10 Q I'm gonna let him find it because it's a lot of
11 words. If he can find it we'll get back to it I
12 can't read that fast, okay, so we'll get back to
13 that in just a moment once he finds it. But at some
14 point you went outside after the parties went
15 outside?

16 A Yes.

17 Q And you went outside afterwards?

18 A Yes.

19 Q And you saw a disagreement happening. You went
20 outside in the middle of a disagreement happening?

21 A Yes.

22 Q And during this disagreement -- I want to make
23 sure I'm clear. Terry was telling Larry, back up?

24 A I heard him saying that.

25 Q Back away from me?

1 A Yes.

2 Q Leave me alone?

3 A Yes.

4 Q Get away from me?

5 A Yes.

6 Q And when we had talked at one time you had
7 mentioned that Larry kept coming towards him. Am I
8 mistaken on that?

9 A Larry was right there in front of the truck.

10 Q Okay.

11 A Right there.

12 Q As which Terry —

13 A Saying, you know, what you want to do.

14 Q And Terry kept saying, back away?

15 A Yes.

16 Q Now knowing your husband, the man of 15 hears
17 that you know his facial expressions, you know when
18 he's happy, you know when he's sad, you know things
19 about him, how was your husband's facial expression
20 while this was happening? Was he happy?

21 A Couldn't really see his face.

22 Q Okay. Do you remember —

23 A 'Cause it's dark.

24 Q Okay. Do you remember testifying yesterday that
25 your husband appeared to be afraid based upon the 15

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1 years you had known your husband?

2 A Yeah, I'm going off my instincts.

3 Q You're going off your what?

4 A My instincts of what I know about him.

5 Q Well, yesterday you testified very specifically
6 you were going off of seeing his face and

7 understanding your husband and knowing what he
8 looked like and knowing him from 15 year, has that
9 changed?

10 A No. Me, based it on knowing him for 15 years
11 basically, you know, you know, how he felt what was
12 gonna happen.

13 Q Yesterday I was very specific in the questions
14 that I asked you, very specific, and I asked you,
15 looking at your husband, knowing his face, knowing
16 him for 15 years, how did he appear that night.
17 What did you say yesterday when I asked that very
18 specific question?

19 A I'm thinking that I said he, he was scared. I
20 know he was scared; that's what I'm saying.

21 Q And that was just yesterday when I said —

22 A Yes.

23 Q —specifically asked you, that night —

24 A Yes.

25 Q —when Larry was in front of him —

1 A Yes.

2 Q ---hands raised ---

3 A Yes.

4 Q ---Terry saying back away ---

5 A Yes.

6 Q ---I asked you, what was your husband's demeanor,
7 the man you knew, how was he acting that day, was
8 your husband afraid?

9 A He was scared.

10 Q He was scared. Tell me why he was scared based
11 upon the person, you know, for 15 years knowing when
12 he's happy, when he's sad, things of that nature.

13 A Because he, he really never been in a
14 confrontation in his whole entire life with anyone
15 in an argument. He tries to stay away from people
16 'cause he's scared, and that's why when I say he
17 always take his gun because he be scared.

18 Q And then we talked about the gun and we talked
19 about the shooting and you had talked about you saw
20 where the gun was on Terry. Was Terry aimed up, was
21 Terry aimed down when he was shooting, or do you
22 know?

23 A When I saw the back of --- the back of the gun was
24 up so he had it have been down.

25 Q So he was aiming down?

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1 A Had to.

2 Q Towards the ground?

3 A Had to.

4 Q From your direct testimony, you're the only
5 witness who would have seen what was happening, he
6 was aiming down?

7 A I had to. I saw the back of the gun up.

8 Q And at that time he was saying back away, back
9 away from me?

10 A Yes.

11 Q Possible he was firing warning shots?

12 A It's possible.

13 Q Okay. To the person he was saying back away, get
14 away from me, gun pointed down, your husband who you
15 know 15 years, scared, back away, back away?

16 A Yes.

17 Q And the other person is still saying, what you
18 want to do, what you want to do, keep coming towards
19 him?

20 A Yes.

21 Q Back away, back away?

22 A Yes, because I think the gun was so low that he
23 didn't even see the gun.

24 Q And it was dark out there; is that correct?

25 A Yes.

1 Q How dark is dark? I know that sounds crazy.

2 A Very dark. Only one light out there.

3 Q So was it difficult to see at lot of what was
4 going on out there?

5 A Yeah, very difficult to see, you know, exactly
6 what kind of gun it was.

7 Q In your mind, understanding everything you saw
8 out there, did Terry do anything to bring on this
9 difficulty? Did Terry do anything to start this, in
10 your mind from what you saw?

11 A Not that I see.

12 Q Not that you saw?

13 A No.

14 Q And you know Larry?

15 A Yes.

16 Q And you know Terry?

17 A Yes.

18 Q And you're the only witness?

19 A Yes.

20 Q And based upon what you saw, who started this
21 fracas?

22 A Larry.

23 Q Larry, not Terry?

24 A Not Terry.

25 Q Okay. Based upon what you saw as the only

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1 witness, the only person out there, no one
2 individual, you saw someone firing towards the
3 ground?

4 A Terry.

5 Q Terry. And you specifically heard Terry say,
6 back away from me, back away from me?

7 A Yes, sir.

8 Q And you specifically saw Larry continue to go
9 towards him?

10 A I keep hearing him and seeing him, you know,
11 still, you know, his hands up saying, what you want
12 to do, I don't care, you know, when you want to,
13 what you want to do, I'm tired of you, tired of you
14 mean mugging me, tired of seeing you everywhere I
15 go.

16 Q Yes, ma'am. And it was dark out there?

17 A Very dark.

18 Q Okay, very dark out there. And you can't say
19 what Terry saw or what he didn't saw, if he saw a
20 weapon, if he didn't see a weapon, you don't know?

21 A I don't know.

22 Q And you had testified when the Solicitor asked
23 you directly did you see Larry with a gun that
24 night?

25 A Uh-huh.

1 Q Did you see him with a gun that night?

2 A No.

3 Q Did he have a gun earlier that day?

4 A Earlier that day I saw him had, he had a gun. He
5 also has a gun too.

6 Q He also has a gun?

7 A Yes.

8 Q Okay. So earlier that day he had a firearm?

9 A Yes.

10 Q And so let me ask you this, being dark outside,
11 Larry went outside before you came outside. He
12 clearly was outside first?

13 A Yes.

14 Q You had any clue what he did when he walked
15 outside?

16 A No.

17 Q Got any clues he went to a vehicle, didn't go to
18 a vehicle, went ---

19 A No, no clue.

20 Q Got any clue if he went, gotten a gun, stuck a
21 gun, done anything, you have any clue?

22 A No, no.

23 Q You can't testify to that?

24 A I can't.

25 Q 'Cause you don't know?

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1 A I do not know.

2 Q And you don't know what Terry saw?

3 A I do not know what Terry saw.

4 Q Okay. But Larry clearly had a gun earlier that
5 day?

6 A What I saw, yeah.

7 Q Larry clearly was the primary aggressor in this
8 entire matter?

9 A From my knowledge from what I see, yes.

10 Q Larry clearly was going towards Terry?

11 A Yes.

12 Q And knowing Terry the way you know him, he was
13 reasonably fear -- what was he reasonable fearful,
14 for his life?

15 A For his life.

16 Q So knowing Terry the you way you know him, he was
17 in reasonable fear for his safety and/or life?

18 A Yes.

19 Q Let me ask you this, could Terry have gotten
20 away? Could Terry have just drove off? I wasn't
21 out there. Or do you know?

22 A It would have been difficult for him just to
23 drive off.

24 Q Why do you say that? 'Cause the Solicitor is --

25 A Because --

1 Q Go ahead, I'm sorry.

2 A Because where Larry was standing, you know, he
3 couldn't just drive off. Larry would have had to
4 move or he would have had to go around.

5 Q And he was right in front of him the entire time?

6 A Right in front, right in front of the truck
7 standing right there, right there where the truck.
8 Terry was at the driver door. The truck, you know,
9 was right there and Larry standing like right there
10 in front of Terry and the truck at the same time
11 basically.

12 Q Okay. And we have talked about, just so -- and
13 I'm guessing, talked about the fact you saw him
14 firing down. As firing down you got shot in the
15 foot; is that correct?

16 A In the left feet.

17 Q In the left feet?

18 A Yeah.

19 Q Okay. And you are a victim in this case?

20 A Yes.

21 Q Do you want Terry prosecuted for anything that
22 happened to you?

23 THE COURT: That's not a proper question.

24 MS. BARR: Objection.

25 MR. KENT: That's fine.

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1 BY MS. BARR:

2 Q Do you believe he intended to do anything harmful
3 to you that day?

4 A No, no.

5 Q You, Terry, Larry had been in the same place
6 other than just that night. This wasn't the first
7 time y'all had been in the same place?

8 A Not at all.

9 Q And there had never been a problem before that?

10 A Never.

11 Q Never been a disagreement before that?

12 A Never.

13 Q Nothing had ever happened?

14 A Nothing never happened.

15 Q How many times would you say y'all had been at
16 the same place at the same time?

17 A Make seven, eight times.

18 Q And I guess there's been a lot of suggestions
19 what type of firearm or what firearm and things of
20 that nature, and I guess they're trying to make
21 people say things. Do you know what type of firearm
22 was out there that day?

23 A I don't know exactly what type of firearm that it
24 was, but it was a long gun and it was brown.

25 MR. KENT: Beg the Court's indulgence one

1 moment.

2 THE COURT: Yes, sir, certainly.

3 BY MR. KENT:

4 Q Was anybody else inside of the bar that night
5 when you and Larry were telling you don't come
6 outside? Was anyone else trying to stop him from
7 going outside also?

8 A Yes.

9 Q Who was trying to also stop him from going
10 outside?

11 A Jerome Miller.

12 Q Tell me about that.

13 A Jerome Miller actually overheard -- we were
14 arguing about him going outside so Jerome Miller,
15 actually heard me telling him not to go outside.
16 And Jerome knowing him, he was saying, man, don't
17 ---

18 MS. BARR: Object as to hearsay as to what
19 Jerome Miller said.

20 THE COURT: I will sustain that objection.

21 MR. KENT: He was discussing with another
22 party not to go outside.

23 MS. BARR: Same objection, Your Honor.

24 THE COURT: I will sustain the objection.

25 BY MR. KENT:

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1 Q Now I just want to get into some of the stuff
2 that you had told law enforcement over the reasons
3 that all of this had happened. Do you remember, you
4 know where I'm going?

5 A Yes.

6 Q And the Solicitor had asked you directly that the
7 reason -- well, why did you tell law enforcement
8 that night why this happened?

9 A I told law enforcement that because --

10 Q Well, before you do the explanation why you told
11 law enforcement, tell the jury what you told law
12 enforcement that night.

13 A I told law enforcement that my husband had shot
14 Larry because he was mad that I wasn't going to get
15 back with him, and he just, you know, wouldn't
16 accept it, but that wasn't -- that didn't happen
17 that night; that wasn't the case.

18 Q So wait a minute. What you told law enforcement
19 was not true?

20 A No.

21 Q Okay. And that's one of the things we discussed
22 in my office that you told me on your own?

23 A Yes.

24 Q You said this wasn't true. Well then, why did
25 you tell law enforcement something that wasn't true?

1 I don't understand.

2 A Because I didn't want it to look so bad on Larry
3 part.

4 Q So were you trying to protect Larry?

5 A Yes.

6 Q The man you love, —

7 A Yes.

8 Q —who took care of you? You were trying to do
9 anything you could to protect him also?

10 A Yes.

11 Q So what — the truth is what you just testified
12 to as to what happened?

13 A Yes.

14 Q Okay, thank you. That's all the questions I
15 have.

16 THE COURT: Redirect, Solicitor.

17 **REDIRECT EXAMINATION**

18 BY MS. BARR:

19 Q Ms. McFadden, who are you protecting now?

20 A No one.

21 Q You're not protecting your husband?

22 A No.

23 Q Now when I asked you on direct examination what
24 you discussed with Mr. Kent when you went to his
25 office all those times, you told me the only thing

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1 you all talked about was he told you to tell the
2 truth.

3 A Just to tell the truth.

4 Q All right. But now you have on cross-examination
5 admitted that you all discussed the fact that you
6 gave a different story to the police?

7 A We didn't discuss that.

8 Q Didn't he just ask you why did you tell the
9 police something that wasn't true?

10 A He didn't ask me that. We was reading a
11 statement. I said that it wasn't true.

12 Q Did you not tell us earlier, Ms. McFadden, that
13 the only thing you discussed with Mr. Kent was
14 Mr. Kent told you to tell the truth, right?

15 A Yes.

16 Q You said that was a 20 minute conversation where
17 he read your statement to you and told you to tell
18 the truth, right?

19 A Yes.

20 Q Now on cross-examination you've given us extra
21 stuff; haven't you?

22 A About what?

23 Q About all this stuff about Larry carrying a gun,
24 that he had a gun earlier. You never told the
25 police that that night, did you?

1 A No.

2 Q So you discussed that with Mr. Kent before you
3 got on the witness stand yesterday; didn't you?

4 A About what? I never told him —

5 Q About supposedly seeing Larry with a gun earlier
6 that day?

7 A I said that here on the stand.

8 Q No, before you got on that witness stand?

9 A Oh, no.

10 Q You didn't tell Shawn Kent in his office that
11 Larry supposedly had a gun earlier in the day?

12 A No, ma'am.

13 Q Wow. How did you to go to his office? When
14 you — do you have scheduled appointments?

15 A No.

16 Q You just showed up?

17 A I — he called me actually.

18 Q Uh-huh.

19 A He called, you know, asked to speak with me, just
20 to come and speak with me.

21 Q Okay.

22 A Which I didn't have anything to hide so I didn't
23 see why it would be a problem.

24 Q All three times he called —

25 A Yes.

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1 Q —to speak with you and you came voluntarily?

2 A Yes.

3 Q All right. And so you never felt compelled to
4 clarify your statement by telling law enforcement
5 this information, did you?

6 A No.

7 Q But you felt compelled to clarify your original
8 statement by talking to your husband's lawyer,
9 right?

10 A No, I felt to clarify it by here today.

11 Q Now you have described in your direct testimony
12 that Little Larry was an innocent person?

13 A Very nice person and don't bother nobody really.

14 Q And you said on cross-examination that your
15 husband was justified in killing him?

16 A I never said he was justified in killing him.

17 Q Well, you talked about how he had the right to be
18 scared, had the right to fear for his life.

19 A Anyone have the right to be scared.

20 Q You didn't see any reason from Larry that would
21 justify anybody being scared, did you? I'm not
22 talking about him. I'm talking about you. Did you
23 see any reason that night why anyone would have been
24 afraid of Larry?

25 A Yes.

- 1 Q What? What was it?
- 2 A Larry coming after him.
- 3 Q Okay, what else?
- 4 A And would not let, leave him alone.
- 5 Q Larry was mouthing off?
- 6 A Yes.
- 7 Q Anything else?
- 8 A Yes, he was actually already at the vehicle.
- 9 Q Anything else?
- 10 A Yeah, he was not letting -- he wanted to fight.
- 11 He wanted to do something.
- 12 Q Oh, now you've added that he wanted to fight.
- 13 You've added that part that he wanted to fight.
- 14 A What I'm saying is he was be a rage.
- 15 Q Oh, now he's in a rage. Now --
- 16 A He was in a rage by the time he left out the club
- 17 --
- 18 Q He's in a rage.
- 19 A --from the time he left out the club.
- 20 Q Let me see if we can agree on something. Larry
- 21 left out before you did, right?
- 22 A Yes.
- 23 Q You said you waited about a minute, right?
- 24 A Yes.
- 25 Q During that minute of time before you left out of

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1 the club you don't know what he said, do you?

2 A No.

3 Q You don't know what he said to Larry?

4 A I don't know nothing.

5 Q So this whole notion about who started what, you
6 really don't know who started what during that one
7 minute period of time, do you?

8 A I know Larry followed him out the door. I know
9 what Larry told me inside the club.

10 Q I'm talking about the exchange. In that one
11 minute period of time when Larry and Terry were
12 outside alone and you were in the club, you have no
13 idea what was said during that period of time, do
14 you?

15 A No idea.

16 Q Somebody else heard and saw what was said, they
17 would be a better witness about who started what
18 than you? You'd agree with me, right?

19 A No.

20 Q You wouldn't agree with me?

21 A I would not agree with you.

22 Q Okay. Because it helps him?

23 A No, because it's not true.

24 Q Now you gave me a face earlier when I asked you
25 to describe what is mean mugging, right. That's

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1 when you looking at somebody with an attitude like
2 you're angry, right?

3 A Uh-huh.

4 Q So when Terry comes into the club, he's mean
5 mugging Larry, right?

6 A I don't know.

7 Q Well, isn't that what you testified that Larry
8 said?

9 A That's what Larry told me.

10 Q So if Larry perceived that from Terry, wouldn't
11 Terry have been the one who started it?

12 A No.

13 Q You don't agree with that?

14 A I do not agree with that.

15 Q You think somebody got the right to kill somebody
16 just because somebody exchanged words?

17 A No.

18 Q You wouldn't suggest that to us, would you?

19 A No.

20 Q Now you said that he, your husband had the gun
21 facing down with the barrel of the gun down to the
22 ground, right?

23 A I saw, I saw the back of the gun. That's all I
24 believe saw.

25 Q Saw the back to the gun up?

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- 1 A Yes.
- 2 Q Near the shoulder area?
- 3 A Yes.
- 4 Q And SUV, the Chevy Suburban that your husband
- 5 drives, it sits kind of high up; doesn't it?
- 6 A Like a regular truck.
- 7 Q How could you see him pointing it down toward the
- 8 ground if he was behind the door that was open?
- 9 A I never saw him pointing it down. I saw the back
- 10 of the gun up.
- 11 Q Okay.
- 12 A So I just assumed that the front of it was
- 13 pointing down.
- 14 Q No question you know now that Larry was shot
- 15 multiple times, right?
- 16 A Oh, yeah.
- 17 Q Let me ask you this, and you say your husband was
- 18 at the driver's side, right? Right?
- 19 A Yes.
- 20 Q I publish State's Exhibit Number 57. That's your
- 21 husband's truck?
- 22 A Yeah, yes.
- 23 Q And he was standing here at the time shots were
- 24 fired?
- 25 A Yes.

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1 Q And at the rear of the driver's door, not the
2 driver's side door here but here at the driver's
3 door?

4 A Yes, the door was open.

5 Q And the door was open. You see a scratch, dent,
6 mark, anything on that driver's door? And you can
7 step down off the witness stand and go see it
8 closeup. I can zoom it; I can do whatever you want.

9 A I mean, I don't know.

10 Q Come and look and see.

11 A I see a mark here. I'm not sure — I don't know
12 what it is.

13 Q Tell you what, look at the picture itself.

14 A I don't see no scratch.

15 Q No mark?

16 A Nope.

17 Q Bullet holes?

18 A Nope.

19 Q Dents?

20 A Nope.

21 Q Blood?

22 A No.

23 Q Have a seat.

24 A (Complies.)

25 Q Now you said that your husband was not known to

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1 get into any confrontations, right?

2 A Not that I know of, no.

3 Q Is that your sworn testimony that's he's not
4 known to get into any confrontation that you know
5 of?

6 A Yes.

7 Q That's your testimony?

8 A Yes.

9 MS. BARR: Judge, I think we have a matter
10 we need to take up outside the presence of the jury?

11 THE COURT: Step out please. Do not
12 discuss the case during brief recess.

13 (WHEREUPON, the jury was removed from the
14 courtroom at 4:31 p.m.)

15 MS. BARR: Your Honor, we take the
16 position at this time that we would seek to
17 introduce evidence concerning prior domestic
18 violences incidences between the witness and the
19 defendant to impeach her testimony regarding his
20 propensity for or the lack of propensity to
21 violence.

22 THE COURT: Mr. Kent.

23 MR. KENT: Your Honor, candidly that's
24 just concerning to be perfectly honest because it
25 appears as though the Solicitor through their own

1 witness has tried to open the door through testimony
2 to bring something in that would be prejudicial to
3 my client who has not testified yet. So they open
4 the door through their own witness and now say, ha,
5 ha, since we opened the door through our witness
6 through her answer we should now be able to bring in
7 criminal domestic violence charges against
8 Mr. Williams that may not be admissible if he took
9 the stand himself because it's a 30 day misdemeanor
10 charge. They're trying to open the door through
11 their own witness. If solicitors could start doing
12 that, then we would never have to call our own
13 clients so they could just open the door through
14 their own witnesses.

15 THE COURT: Well, again, as far as their
16 own, or whoever witness, under 607 they may impeach
17 their own witness. However, on cross-examination
18 she was asked about Mr. Williams. It was testimony
19 that -- and I paraphrase -- had to do with whether
20 or not he was scared, whether or not he looked
21 scared. Her testimony was, well, I couldn't really
22 see his face, it was dark out there so I said he was
23 scared based off of her instincts about him. But
24 she then went on to testify when asked that -- I
25 wrote down that he does not, he never been in an

1 argument with anyone in his life, that he's scared.
2 I took the Solicitor's cross-examination of that. I
3 guess what would be her redirect examination I
4 should say, asking this witness such questions. She
5 was following up on that testimony and that she had
6 never known him to have an argument with anyone. So
7 I don't think, I don't think she pushed the door
8 open. I don't think you cracked the door open. I
9 think her testimony itself moved the door. She
10 can't have it both ways. She can't have him over
11 there peaceful, never having an argument with
12 anyone, and come in here and testify before a jury
13 and mislead the jury that's the truth when she's
14 been a victim otherwise.

15 MR. KENT: Your Honor, I must disagree
16 respectfully. The charge that they're trying to get
17 into is not the subject of this a conviction.

18 THE COURT: I'm not talking about the
19 charges.

20 MS. BARR: One of them is.

21 THE COURT: I'm not talking about the
22 charges. That's — I'm not saying that has he been
23 convicted of a criminal domestic violence. She has
24 said he has never been in an argument with anyone in
25 his life.

1 MR. KENT: And maybe I misread —

2 THE COURT: If I misunderstand — she's
3 not gonna mislead this jury.

4 MR. KENT: And I don't disagree with that
5 at all, Your Honor. I thought I had — I thought my
6 notes had written down that what she said was he had
7 never been in a situation like this in his life, not
8 that he had never been in an argument with anyone,
9 but he had never been in a situation like this in
10 his life. And if there's a situation like this that
11 the Solicitor wants to introduce, that's fine. But
12 still, Your Honor, this — we're allowing Lyle
13 evidence that would not be admissible against
14 Mr. Williams through a witness that he has not
15 called, not through testimony that I sought to
16 introduce, through testimony that the Solicitor has
17 sought to introduce when he hadn't taken the stand
18 on a charge —

19 THE COURT: I guess my balance is between
20 Lyle testimony and perjury testimony, and I'm not
21 gonna allow her to testimony to go before the jury
22 to make a decision on either Mr. Williams or against
23 Mr. Williams for or against the State.

24 MR. KENT: Well, and let me ask it this
25 way, Your Honor. If she was to say yes, he has been

1 in a situation like this, what happens at that point
2 in time?

3 THE COURT: You know, Mr. Kent,
4 respectfully, very respectfully, when I tell jurors
5 I don't tell them graciatingly or anything that
6 they're good trial lawyers, they're great trial
7 lawyers I should say, just to buff it up from good.
8 But I never tried to make a prediction of what I
9 might do, particularly about the future.

10 MR. KENT: Yes, sir.

11 THE COURT: You understand, sir?

12 MR. KENT: I understand.

13 THE COURT: It's very difficult for me to
14 anticipate what the next step may be.

15 MR. KENT: And I understand respectfully,
16 Your Honor, of course. I guess under dubious
17 distinction for the Solicitor to be able to answer
18 that question and say, are you sure, when the
19 witness knows they're not allowed to get into it,
20 she's been in the courtroom about the prior bad acts
21 and all these other situations. And two, of course,
22 my ready -- and I defer to the Court -- but my
23 understanding was her testimony was he had never
24 been in a situation like this before in the past.

25 THE COURT: Well, I'll have the court

1 reporter review it.

2 MR. KENT: And if I'm wrong, I'm wrong. I
3 think that becomes important.

4 THE COURT: And —

5 MR. KENT: And I understand the Court's
6 concern —

7 THE COURT: I'm not trying to put my
8 memory up against anyone, particularly individuals
9 that are, I don't know, 40, 45 years younger than
10 me. I never try to do that, Mr. Kent.

11 MR. KENT: Oh, I forget everything so I
12 guarantee you I'm wrong. I just want to be sure of
13 it.

14 THE COURT: Well, let's our — if court
15 reporter wouldn't mind let's give her a few witness
16 to see if she can find that part.

17 (WHEREUPON, a recess was taken from the
18 proceedings and portion requested was
19 read for counsel and the Court.)

20 THE COURT: Anything further, Mr. Kent?

21 MR. KENT: Just for the record, Your
22 Honor, I did take the opportunity — Madam Court
23 Reporter let me see, my recollection is incorrect.
24 Your recollection of what was stated was much more
25 accurate. I think what I wrote down, your

1 recollection was much more accurate than mine.

2 THE COURT: I don't believe my
3 recollection would ever be noted as could be gospel
4 or anything; but I did review with Madam Court
5 Reporter part of the testimony of the witness in
6 response to a question by you concerning his state
7 of mind as far as being scared.

8 MR. KENT: Yes, sir.

9 THE COURT: And it was not a direct
10 question by you in that regard and her response was,
11 he was scared and he had never been in a
12 confrontation with anyone in his life. And then she
13 goes on to explain her words -- and I
14 paraphrase again -- that's why he carries a begun.

15 MR. KENT: Yes, sir, Judge.

16 THE COURT: The Solicitor appropriately
17 followed up on that. I think the door was probably
18 crashed by the witness's response, and then the
19 Solicitor followed up on that in redirect. So I
20 think that is proper redirect, all right.

21 MR. KENT: Just so I've covered myself for
22 the record, and I will be very brief, Your Honor.
23 You would agree that this was nothing that
24 Mr. Williams' counsel did to open the door to allow
25 this to come in. This would be something that would

1 be the finding of the Court that the witness in and
2 of itself opened the door.

3 THE COURT: I think that's an appropriate
4 paraphrase of it. It didn't come from a direct —
5 it was responsive but it was not — it goes more to
6 the manner in which this witness asked, answers
7 questions as opposed to the questioning by the
8 attorney whether it you, Mr. Kent, or the Solicitor.
9 It wasn't precisely tracking the target so to speak.

10 MR. KENT: Yes, sir, Judge. And of course
11 in an effort to protect my client because, of
12 course, he has a right not to testify and I
13 understand the Court's decision. I do not want the
14 witness to have an opportunity to basically purger
15 herself or mislead the jury in an effort to whatever
16 her effort was to try to do. That being said, my
17 objection would still be for the record that Mr.
18 Williams is the only one prejudiced in this
19 situation 'cause the state will then be allowed to
20 bring in a criminal charge, one of which was — he
21 had two prior CDV charges, one of which was
22 dismissed. My understanding was this witness
23 herself had a conviction for CDV against
24 Mr. Williams, and then there was one which he pled
25 guilty to. That being said, that in light of the

1 fact it was a 30 day misdemeanor, in light of the
2 fact there is an allegation that a gun charge was
3 used in those — I think you heard that bit of
4 testimony — that they would not be subject if he
5 chose to take the stand, one, because a 30 day
6 misdemeanor is not a crime of dishonesty; and more
7 importantly, because it's nexus and relationship
8 with this being a gun case. Our objection would be
9 that they wouldn't come in even he chose to take the
10 stand himself. And I would ask — and I'm sorry,
11 but I'm thinking on my feet as we go along, Your
12 Honor. I would ask that the Solicitor inform you of
13 the questioning that she would look to bring out of
14 this witness so that we can limit them in some way
15 whatsoever to try to protect my client as much as
16 possible because I don't want, because the point of
17 this is, of course, to impeach this witness for
18 giving inconsistent statements, not point to mislead
19 the jury. It's not to punish Mr. Williams. And so
20 the questioning should be tailored just to impeach
21 this witness for telling something that was not
22 true.

23 THE COURT: Well, I don't, I don't think
24 it prejudices his rights to present a defense. He
25 absolutely has a right to remain silent, and at the

1 appropriate time I would advise him of his rights.
2 Further, I don't know who all is in the courtroom
3 but of the ones I know, of the ones I do know,
4 Mr. Williams probably knows this witness better than
5 anyone else in the courtroom. He, he's had 15 or
6 plus years of knowledge of her, 7 plus years of
7 marriage to her, 5 children by her. He, he's been
8 out on bond. He's had opportunity to meet with his
9 attorneys on numerous occasions as I recall the
10 testimony. She has been characterized as the only
11 eyewitness. She has met with his attorneys on, I
12 believe her testimony is three times, never made any
13 recantations to law enforcement. I think she's kind
14 of a known quantity, so to speak, as far as
15 Mr. Williams is concerned and he would have to
16 evaluate whether or not he wants to exercise his
17 right to remain silent or not at the appropriate
18 time given her testimony.

19 MR. KENT: Finally, Your Honor, my only
20 other request would be if this was a witness taking
21 the stand and some of the prior record was going to
22 come in, the underlying facts and surrounding
23 circumstances would not come in. There are CDV
24 convictions I think getting into the underlying fact
25 that would be impermissible. If a witness were to

1 take the stand and I asked, isn't it true that you
2 have prior a conviction for X, Y, and Z, I think
3 that would be the limit on what the Solicitor would
4 be getting allowed to get into, get into the
5 underlying background facts and scenario. I don't
6 think the Court or, and by the court I mean the
7 supreme court, has allowed the Solicitor's Office to
8 get into the surrounding factors and circumstances
9 under the charges in and of themselves.

10 THE COURT: Well, I take it also as 404(b)
11 testimony where the Solicitor's required to show
12 clear and convincing standard of clear and
13 convincing as to purpose, motive, intent, common
14 plan and scheme. It could be a common plan or
15 scheme when you take assault weapons and point it at
16 an individual when has a, when he has a
17 confrontation with them.

18 MR. KENT: But Judge, that's my, that's my
19 concern. They're not using it against Mr. Williams.
20 Supposedly they're using it to impeach this witness
21 and so they're not trying to go get in 404(b)
22 evidence against him to try to say this is common
23 scheme or plan. They're impeaching her for the
24 testimony she gave on the stand, which was not true,
25 is my understanding. So to bring in 404(b)

1 analysis, that means we are trying to use this
2 against Mr. Williams who hasn't said anything. My
3 understanding is the Solicitor is trying to impeach
4 the witness for the testimony she gave on the stand
5 which she find to be incorrect, but not 404(b)
6 evidence for analysis.

7 THE COURT: I think it's both. I mean, an
8 item can come into evidence for multiple reasons.
9 Y'all know the old saying all evidence is
10 prejudicial or else against the other party or else
11 the party offering it wouldn't be offering it so I
12 think evidence can be admitted for more than one
13 reason.

14 Solicitor, I hadn't heard from you, but
15 for your record also.

16 MS. BARR: Judge, I'm specifically looking
17 at 404(1)— (a) (1), when it takes about evidence of
18 the pertinent character trait offered by the
19 accused. On cross-examination when there is a
20 discussion or testimony by Ms. McFadden, if you
21 would believe her Mr. Williams is the most peaceful
22 person in the world, wouldn't hurt a flea, he was
23 scared that night and that's why he carries a gun
24 all the time because he's so afraid all time. And
25 Judge, there was also testimony that was given on

1 cross-examination that would and believed lead this
2 jury to conclude that the shooting was an accident,
3 that he did it as to warn the victim to stay away,
4 that this was not an intent to kill him; and so
5 Judge, we believe that goes to 404(b), the absence
6 of mistake or accident or to show intent.

7 MR. KENT: Your Honor, my first response
8 would be dealing with 404, the first section the
9 Solicitor has mentioned, that's offered by the
10 accused. We didn't offer that testimony. Just
11 simply put, that was not evidence offered by the
12 accused, this situation; it would be evidence
13 offered by the State's witness.

14 THE COURT: Given the procedure where
15 we're at with this particular witness Ms. McFadden,
16 although the witness was not called by the
17 defendant, by the accused, the witness was very
18 artfully cross-examined by the accused's attorney,
19 not the accused attorney, the attorney for the
20 accused; and during the course of that
21 cross-examination the witness herself being the wife
22 of the accused, in response to a question offered
23 the character of the accused into evidence as far as
24 testifying that he had never been in a confrontation
25 in the past, that she knew him and that he was

1 scared. And I will dare say she knows him as well
2 as anyone in the courtroom. As I have previously
3 stated he knows her as well as anyone else does in
4 the courtroom. That's a 404(a)(1). I realize I
5 make a ruling that's admissible under (a)(1), fully
6 aware that Mr. Williams did not call that witness in
7 his case in chief and the parties have to call any
8 witness in its case in chief.

9 As to 404(b), I think it would go to
10 absence of mistake or accident. There's even some
11 testimony perhaps of warning shots; it goes to the
12 issue of intent. Additionally, it does go to the,
13 all the surrounding facts and circumstances of the
14 offense and to the impeachment of the witness, the
15 witness herself.

16 So with that being said, I believe that it
17 is admissible. I believe she unlocked and cracked
18 the door and then the Solicitor's redirect
19 examination of her and of Ms. McFadden left that
20 door more than just cracked so I think it is
21 admissible. All right, anything further before we
22 bring the jury, Solicitor?

23 MS. BARR: No, sir.

24 THE COURT: Mr. Kent?

25 MR. KENT: Nothing subject to my

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1 objection.

2 THE COURT: Yes, sir.

3 (WHEREUPON, the jury was returned to the
4 courtroom at approximately 5:11 p.m.,
5 and the following proceedings commenced
6 in open court.)

7 THE COURT: All right, welcome back,
8 ladies and gentlemen of the jury. Please continue
9 to give the parties your complete and undivided
10 attention.

11 Solicitor, you may continue. Thank you.

12 BY MS. BARR:

13 Q Ms. McFadden, when we left off I asked you was it
14 your sworn testimony that your husband was never
15 known to get in any kind of confrontation with
16 another person during his entire life in your
17 response to me. Was that your testimony, correct?

18 A When I said that I was meaning with someone else
19 otherwise me.

20 Q Oh, okay. So you want to clarify that again. We
21 want to make further clarification.

22 A Can I?

23 Q Yeah. In fact, he got into a confrontation with
24 you about six months before the shooting, right?

25 Didn't your husband —

1 A Most likely, we always stayed in confrontation,
2 me and him.

3 Q May the 13th of 2013 you got into a confrontation
4 with your husband, correct?

5 A Could have.

6 Q Okay. If I showed you a statement would that
7 help your memory as far as dates?

8 A Yes.

9 Q All right.

10 A Yes.

11 Q May 13th, 2013, you got into a confrontation with
12 your husband?

13 A Yes.

14 Q You called the police as a result of that
15 confrontation, correct?

16 A Yes.

17 Q Your -- you told the police at that time that
18 your husband presented a weapon, a firearm to you,
19 correct?

20 A We had a firearm. We were fighting over it, both
21 of us.

22 Q I'm not talking about that one. I'm talking
23 about this one.

24 A (Reads document.) Yes.

25 Q Okay. And that wasn't an incident where y'all

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1 were fighting over a firearm, was it? That was
2 something else.

3 A This was, this is something else.

4 Q Right. All right. And in this incident that
5 happened in May, this would have been six months, or
6 five months before the shooting of Larry Moore,
7 correct?

8 A Yes, I actually thought it was earlier than that.

9 Q May, June, July, August, September, October,
10 November, right?

11 A Uh-huh.

12 Q Is that right?

13 A Yeah.

14 Q Six months? All right. And your husband had a
15 gun that time, correct?

16 A That's what I said.

17 Q All right. And then there was a separate
18 incident that happened December 22nd 2012 where
19 there was a confrontation between you and your
20 husband?

21 A Maybe that's what I'm talking.

22 Q All right. Let me let you look at the incident
23 report, see if that refreshes your memory.

24 A (Witness reads document.)

25 MR. KENT: Your Honor, may we approach.

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1 THE COURT: Yes, sir, certainly.

2 THE WITNESS: Yes.

3 WHEREUPON, counsel approached the
4 Bench for an off-the-record discussion.)

5 MR. KENT: Thank you.

6 BY MS. BARR:

7 Q Ma'am, I've shown you the incident report from
8 the December 2012 incident that happened between you
9 and your husband.

10 A Yes.

11 Q All right. And you told police that he presented
12 a firearm to you on that occasion?

13 A Yes.

14 Q And that was a different firearm from the thing
15 that happened in May of 2013, correct?

16 A Yes.

17 Q All right, how tall are you?

18 A About 4'10".

19 Q Okay. How much do you weigh?

20 A About 137.

21 Q Okay. And as between Larry and Terry Williams,
22 who's the larger individual?

23 A Terry is.

24 Q Terry is bigger than Larry?

25 A Yes.

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1 Q Terry is bigger than you?

2 A Yes.

3 Q Now you told us that on cross-examination that
4 your husband was fearful, that he was scared at the
5 time he shot Larry, right?

6 A Yes.

7 Q Okay.

8 A That's what I felt.

9 Q That's what you felt. And of course, when you
10 gave your statement to the police back on the day
11 this happened, you testified that he shot about 15
12 times. Your husband shot about 15 times, right?

13 A Yes, that's what I said.

14 Q All right. And you still believe after the first
15 shot he was fearful?

16 A I don't know -- all I know what I felt like he
17 was scared. I mean, I don't know after that why he
18 continued shooting.

19 Q And that's why I'm asking you.

20 A I don't know.

21 Q You didn't know whether he was scared after the
22 first shot?

23 A I didn't know.

24 Q What about the second shot?

25 A I don't know. I heard about -- it was so quick,

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1 it was so fast.

2 Q Like an automatic rifle?

3 A Yeah, sounded like one.

4 Q Yeah, yeah. So after the fourth or fifth shot
5 did you still feel like he was scared?

6 A I don't even know what was going on. I just was
7 trying to, you know, get away. I was trying to
8 like, you know, see what was going on. I couldn't I
9 wasn't thinking of that right then.

10 Q I'm gonna publish State's Exhibit 4 again.

11 Ma'am, you remember how you marked for us on this
12 monitor —

13 A Yes.

14 Q —where Larry was standing when he got shot?

15 A Yes.

16 Q And how you had Terry all the way back here?

17 A Yes.

18 Q You told Mr. Kent on cross-examination that Terry
19 couldn't have just driven off?

20 A That's what I felt like.

21 Q All right.. But isn't all this area over here
22 where he could have drove off over here? Couldn't
23 he just simply — if he's all the way back here,
24 right?

25 A Yes.

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- 1 Q As you stated?
- 2 A Uh-huh.
- 3 Q That's the truth what you stated, right?
- 4 A Yes.
- 5 Q He was in the driver's seat, right?
- 6 A Yes.
- 7 Q The car was cranked, right?
- 8 A Yes — I don't know. Not that I know of.
- 9 Q You don't know?
- 10 A No.
- 11 Q All right. Well, at some point it had to be
- 12 'cause he drove off, right?
- 13 A All I know is past — the driver door was open
- 14 and he was standing up there. That's all I know.
- 15 Q Ms. McFadden, we can't even agree that at some
- 16 point he had to crank the car in order to drive
- 17 off —
- 18 A Of course, at some point.
- 19 Q All right. So at some point he had to have done
- 20 that. There was enough room there, if Larry is here
- 21 as you marked it, right?
- 22 A Yes.
- 23 Q There would have been enough room for Terry to
- 24 simply to get in his car and drive out of that club,
- 25 right?

1 A Yes. It's a whole lot of them out there, but it
2 was so much people out there and so much vehicles
3 out there.

4 Q And can we agree that had Terry Williams just
5 drove off, Larry Moore would be alive today?

6 A I suppose so.

7 MS. BARR: Judge, that's all the questions
8 I have.

9 THE COURT: Thank you, Solicitor.
10 Recross, Mr. Kent.

11 MR. KENT: Briefly, Your Honor.

12 **RECROSS-EXAMINATION**

13 BY MR. KENT:

14 Q The last question the Solicitor asked you was had
15 Terry just driven off, we wouldn't be out here
16 today. Did you hear that question?

17 A Yes.

18 Q Would you agree with me, had Larry not gone out
19 there we wouldn't be here today also?

20 A Yes.

21 Q Thank you so much.

22 THE COURT: Thank you. Thank you very
23 much, Ms. McFadden. You may step down.

24 MS. BARR: Your Honor, we call Meggin
25 Gunn. And Judge, we'd ask the witness stay. She's

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1 still under subpoena.

2 THE COURT: And you're still under
3 subpoena, Ms. McFadden. You must remain.

4 THE WITNESS: I'm staying. Oh, I wasn't
5 going nowhere.

6 THE CLERK OF COURT: Left hand, raise your
7 right hand.

8 WHEREUPON,

9 **MEGGIN GUNN,**

10 having been duly sworn by the Clerk, testified
11 as follows:

12 MS. BARR: May it please the Court.

13 THE COURT: Yes, ma'am.

14 **DIRECT EXAMINATION**

15 BY MS. BARR:

16 Q Ms. Gunn, please state your full name for the
17 record and spell your first and last name for me.

18 A Meggin Camille Gunn, M-E-G-G-I-N G-U-N-N.

19 Q And in the interest of time and lateness of the
20 hour I'm gonna be very quick with my questions.

21 Tell the jury what it is that you do for a living.

22 A I'm a registered nurse in the emergency room of
23 Williamsburg County Regional Hospital.

24 Q Tell us a little bit about your educational
25 background and how it is that you became a nurse.

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1 A I have a associate degree and I've worked with
2 Williamsburg Regional 13-and-a-half years.

3 Q And you've indicated that you've been in the
4 emergency room. Has that been the entire time?

5 A Yes, ma'am.

6 Q Prior to November the 10th of 2013, have you ever
7 had occasion to treat individuals coming to the ER
8 with gunshot wounds?

9 A Yes.

10 Q How many times approximately?

11 A Three or four dozen.

12 Q Okay. Ma'am, on that particular night do you
13 recall Reva McFadden and Larry Moore, Jr., in the
14 Williamsburg Regional Hospital emergency room?

15 A Yes.

16 Q Now there are records associated with that, both
17 of their visits, correct?

18 A Correct.

19 Q All right. Did you -- do you have an independent
20 recollection of this case?

21 A I do.

22 Q Why is it that you have an independent
23 recollection of the case?

24 A I had never taken care of a victim of an AK-47
25 injury.

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1 Q Okay. Now you indicated that you had never taken
2 care of a patient with an AK-47 injury?

3 A Correct.

4 Q I need you to make sure to step up a little close
5 to the mic so we can hear you. How do you know that
6 either one of these patients was the victim of a
7 AK-47 rifle?

8 A When she presented to the emergency room.

9 Q She who?

10 A Reva.

11 Q Okay.

12 A The very first words out of her mouth were he had
13 been shot with an AK-47.

14 Q All right. And how did she present to the
15 emergency room?

16 A She drove her SUV up to the very front and came
17 screaming for help.

18 Q Came in screaming for help.

19 A Uh-huh.

20 Q You were present in the ER?

21 A Yes.

22 Q All right. Did you go back out to the car where
23 Reva was?

24 A Yes.

25 Q And for the record, when we say Reva are we

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1 talking about Reva McFadden?

2 A That's correct.

3 Q She's the young lady who just got through
4 testifying?

5 A Yes, ma'am.

6 Q Did you see Larry Moore?

7 A I did.

8 Q Tell me what it is that you saw about him?

9 A He was in the passenger seat and he was
10 unresponsive.

11 Q Okay. Unresponsive?

12 A Yes.

13 Q Okay, meaning what specifically?

14 A He was not talking to us. He was really blacked
15 out.

16 Q What was his physical state at that time?

17 A Near death, if not already.

18 Q Okay. Now for your purposes, is it important to
19 know what caused an individual's injury when they
20 present to the emergency room?

21 A Yes.

22 Q Tell me why?

23 A We need to know how to treat the injury. We need
24 to know if it was self-inflicted or if it was by
25 someone else. We also need to know if it was by

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1 someone else for safety of our staff and in case
2 someone retaliates.

3 Q Okay. Now you said that Mr. Moore was very
4 seriously injured, near death, if not already dead.
5 Describe his physical injuries to us, if you will.

6 A He had multiple gunshot wounds. There was a
7 large amount of blood. We put him into a wheelchair
8 and we took him to the back. At that time we
9 proceeded to CPR. He had no pulse and he was not
10 breathing.

11 Q Okay. You say you took him into the back. Was
12 that one of the trauma rooms?

13 A Yes, ma'am.

14 Q All right. You assisted in removing him from the
15 wheelchair and putting him, I'm assuming it's on a
16 bed or a gurney type?

17 A On the stretcher, yes, ma'am.

18 Q Tell me what happened after you put his body on
19 the gurney or on the stretcher.

20 A He continued to not respond. He was not
21 breathing and had no pulse.

22 Q Okay. Could you tell where he was bleeding from?

23 A Multiple areas. It was very difficult; he had
24 clothing on.

25 Q Okay, all right. At some point during the course

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1 of his treatment was various parts of his clothing
2 removed so that you can have an idea of where the
3 injuries were and what the extent of the injuries
4 were?

5 A Yes.

6 Q What happened when that was done?

7 A We noticed there was a large amount of blood to
8 the point it had saturated the stretcher almost to a
9 hand depth under the stretcher.

10 Q Almost to a what?

11 A A hand depth into it. There was so much ---

12 Q What do you mean when you say hand depth into it?

13 A It was puddled so much where his body was laying
14 in the stretcher, it was probably two or three
15 inches deep into the stretcher where it had settled.

16 Q All right. What about Ms. McFadden, what was her
17 condition? And I'm assuming that Mr. Moore got most
18 of the attention because his injuries were more
19 serious?

20 A Yes.

21 Q Okay. Were you later involved at all in the care
22 of Ms. McFadden?

23 A Yes.

24 Q Okay, tell us about any injuries that she may
25 have had.

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- 1 A She had gunshot wound in the left foot.
- 2 Q Okay, all right. What was her mental state like
- 3 at the time?
- 4 A Very upset, hysterical.
- 5 Q Okay.
- 6 A Irrational.
- 7 Q What do you mean when you say irrational,
- 8 hysterical?
- 9 A She would not cooperative with the staff.
- 10 Q What does that mean?
- 11 A She was not doing what we needed her to do. We
- 12 kept asking multiple times for her to stay in the
- 13 room and she kept trying to come out.
- 14 Q Why?
- 15 A She wanted to see what was going on.
- 16 Q With?
- 17 A With Larry.
- 18 Q With her fri—
- 19 A Yes.
- 20 Q Okay. With the gentleman who was with her?
- 21 A Yes.
- 22 Q Okay, all right. So when you say she was
- 23 irrational and uncooperative, it was because she
- 24 wanted to check on her boyfriend?
- 25 A Yes.

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1 Q That seemed to be her primary concern?

2 A Yes, ma'am.

3 Q Now I talked about the two separate patients, if
4 you will, that night. You all keep records
5 regarding their care and their treatment while
6 they're with you?

7 A Yes, sir.

8 Q All right. And records were taken, made,
9 regarding the care of Reva McFadden as well as Larry
10 Moore that night?

11 A That's correct.

12 Q I'm gonna hand you what's been marked as, I'm
13 gonna hand you what's been marked as State's Exhibit
14 Number 25. Do you recognize that particular
15 document?

16 A I do.

17 Q Tell the Court how you recognize it.

18 A This is our emergency room physician's T-sheet,
19 how they document their assessments.

20 Q All right. And is that the accurate reflection
21 of the physician's record related to the treatment
22 of Reva McFadden back on November the 10th of 2013?

23 A It is.

24 Q Judge, I need -- well, do you recognize the
25 handwriting on that particular exhibit?

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1 A I do.

2 Q Whose handwriting is listed on that exhibit?

3 A Doctor Francis Hughes.

4 Q Doctor Hughes, here in the courtroom with the
5 ivory and the white shirt on?

6 A Yes.

7 Q Okay.

8 MS. BARR: Judge, we would move State's
9 Exhibit Number 75 in at this time.

10 THE COURT: Mr. Kent?

11 MR. KENT: No objection, subject to
12 understanding Doctor Hughes will be testifying also.

13 THE COURT: All right, thank you. State's
14 75 is in evidence without objection.

15 (WHEREUPON, State Exhibit No. 75 was
16 admitted into evidence.)

17 MS. BARR: Your Honor, for the record, I
18 believe that the Defense has stipulated to the
19 admission of State's Exhibits 69 through 72.

20 MR. KENT: That is correct, Your Honor.

21 THE COURT: 69 through — say again.

22 MS. BARR: 69 through 72.

23 THE COURT: Thank you.

24 (WHEREUPON, State Exhibits Nos. 69 through
25 72 were admitted into evidence.)

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1 BY MS. BARR:

2 Q Ms. Gunn, are these photographs depicting the
3 injury to Reva McFadden's foot?

4 A Yes.

5 Q Okay.

6 MS. BARR: Your Honor, we move to publish.
7 I'm gonna publish State's Exhibit Number 69.

8 BY MS. BARR:

9 Q I think there is a square tab that appears on the
10 photograph. You'll see that that's just the Court's
11 exhibit sticker. You see what I'm talking about?

12 Is that a depiction of the injury to Ms. McFadden's
13 foot?

14 A Yes.

15 Q Okay. Let me publish State's 67. Is that also
16 an injury, also a picture of the different views of
17 the injury to Ms. McFadden's foot?

18 A Yes.

19 Q All right, ma'am, that's all the questions that I
20 have. Please answer any questions that Defense
21 counsel may have for you.

22 THE COURT: Thank you, Solicitor.

23 Mr. Kent.

24 MR. KENT: No questions of this witness,
25 Your Honor.

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1 THE COURT: Thank you. Thank you very
2 much, Ms. Gunn. Thank you for being with us today.
3 You may step down.

4 MS. BARR: Judge, may we call up Frances
5 Hughes.

6 THE COURT: Ma'am.

7 MS. BARR: We call Doctor Frances Hughes.

8 THE COURT: If you'd come around and join
9 us please, Doctor.

10 WHEREUPON,

11 **FRANCES HUGHES,**

12 having been duly sworn by the Clerk, testified
13 as follows:

14 THE CLERK OF COURT: You may take your
15 seat in the witness box.

16 MS. BARR: May it please the Court.

17 THE COURT: Yes, ma'am.

18 **DIRECT EXAMINATION**

19 BY MS. BARR:

20 Q Ma'am, state your full name for the record.

21 A Frances Beth Hughes.

22 Q And you are a physician?

23 A Yes, ma'am.

24 (Attorneys confer.)

25 MR. KENT: No objection at all.

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1 MS. BARR: Judge, in light of the hour, I
2 think Defense counsel will stipulate to Doctor
3 Hughes's credentials and would have no objection to
4 my motion to have her declared an expert witness in
5 the field of emergency medicine.

6 THE COURT: All right. Ladies and
7 gentlemen of the jury panel, normally a individual
8 cannot testify to opinion testimony. Normally when
9 an individual testifies they must testify to what
10 they either saw, heard, sense by smell, or something
11 of that nature. However, there is an exception for
12 witnesses that we qualify as expert witnesses. If
13 they have sufficient training, experience, education
14 in a particular art, craft, profession or calling,
15 they may testify to their opinions and they may give
16 the basis for reasons holding that opinion.

17 This witness, Doctor Beth Hughes, will be
18 qualified as an expert in the field of emergency
19 medicine. She may testify as an expert in that
20 field and give her opinions in that field. You do
21 not have to accept the opinions of an experts, but
22 just because they're labeled as an expert witness
23 that you give them the weight and value, effect that
24 you as the triers of fact deem appropriate. Thank
25 you.

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1 Thank you very much, Solicitor. You may
2 continue.

3 MS. BARR: Yes, sir.

4 BY MS. BARR:

5 Q Doctor Hughes, I'm gonna hand you what's been
6 previously marked and admitted as State's Exhibit
7 Number 75. Do you recognize that exhibit?

8 A Yes, ma'am.

9 Q All right. Tell the Court and jury what it is.

10 A This is a T-sheet. It's a physician's record of
11 a encounter on a patient.

12 Q Okay. The particular patient that we're talking
13 about in State's Exhibit Number 75 is who?

14 A Reva McFadden.

15 Q When was Reva McFadden first triaged into the
16 emergency room that night?

17 A This does not show the triage into the emergency
18 room. This shows the time I went to see the
19 patient.

20 Q All right, let me do this then. I'm not gonna
21 mark this as an exhibit but see if you can tell.

22 A She was triaged at 12:47 a.m.

23 Q Okay. All right, what time did you speak with
24 her?

25 A 2:13 a.m.

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1 Q Okay. So if there is testimony in this record
2 that the shooting incident happened shortly after
3 midnight, you would have seen her within two hours
4 of the shooting?

5 A Yes, ma'am.

6 Q Okay. Describe her demeanor, her mental state at
7 that time?

8 A She was distraught.

9 Q Okay. Did you ask her how she got the injury to
10 her foot?

11 A I did.

12 Q Tell me what she told you.

13 A She told me that her husband from whom she was
14 separated had shot her boyfriend with an AK-47, and
15 she was injured at the same time.

16 Q All right. Is there anything that is contained
17 within her medical records that references a
18 statement by her to you that her boyfriend -- her
19 husband shot her boyfriend with an AK-47?

20 A Yes, it's written right here.

21 Q Okay. And whose handwriting?

22 A Mine.

23 Q Okay. And would you have any reason to make that
24 up, that that's what she told you, that's what she
25 told you?

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1 A No, ma'am, I would not.

2 Q Okay.

3 MS. BARR: Move to publish State's 75.

4 THE COURT: Yes, ma'am.

5 BY MS. BARR:

6 Q Doctor Hughes, can I get you to step down just a
7 moment please.

8 A (Complies.)

9 Q Can you show the ladies and gentlemen of the
10 jury, and make sure you keep your voice up, where it
11 is noted who the patient is?

12 A Here (indicating), Reva McFadden.

13 Q Okay. And tell us where it is noted that where
14 the, when the date of treatment was?

15 A This is the date of treatment 11/10/2013.

16 Q And for the record we're talking about the upper
17 right-hand portion of this exhibit?

18 A Yes, ma'am.

19 Q Okay. And tell me where it is noted on this
20 particular exhibit what time you would have talked
21 with the patient.

22 A Here in the left-hand corner, upper.

23 Q And you indicated, it indicates on the exhibit,
24 it asks the question who is the historian. What do
25 you mean, what does that mean when you say who is

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1 the historian?

2 A Who is telling the story.

3 Q Okay. And so who would have told you the story
4 about how Ms. McFadden got her injury?

5 A I documented patient was the historian.

6 Q And at where the portion of the statement at
7 chief complaint, how do you respond to that on the
8 document?

9 A I indicated that the chief complaint was a left
10 foot gunshot wound.

11 Q GSW here, what does that stand for?

12 A Gunshot wound.

13 Q And it also indicates on the particular form it
14 asks the question onset or duration, assuming that
15 means you're asking when did it happen?

16 A Correct.

17 Q How did you reflect that on her records?

18 A Just prior to arrival.

19 Q Okay. And it goes on to specifically ask the
20 context or mechanism of the injury. Tell us how you
21 reflected what the context mechanism injury was.

22 A I encircled crossfire.

23 Q What does that mean, medically?

24 A That she was not the intended recipient of the
25 gunshot wound, but an accidental injury by stray

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1 bullets or fragments.

2 Q Okay, all right. And there is a note here.

3 There, can you tell me what those letters and
4 numbers represent?

5 A Yes. AK47, it looks scribbled here because I —
6 in my haste I work a/k/a, oh, it's not otherwise
7 known as; it's AK, so I put 4, and that's why it
8 starts at 7, AK47.

9 Q All right. And did the injury to Ms. McFadden's
10 foot enter and exit her foot?

11 A Yes, ma'am, it appeared to.

12 Q Did it — did she indicate whether or not she was
13 in any pain?

14 A Yes, she did. The severity of the pain on a
15 scale of one to ten, it was a four over ten.

16 Q A four out of ten. Zero being no pain, ten being
17 worst possible pain ever?

18 A Correct.

19 Q And in terms of the entry wound, what was the
20 entry wound as reflected on the record?

21 A Her left foot.

22 Q Where was the exit wound reflected?

23 A Her left foot.

24 Q Read to us what you wrote on this particular
25 portion of the medical record.

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1 A Patient's husband from whom she is separated shot
2 her boyfriend with AK-47 — he died.

3 Q He died being the?

4 A Boyfriend.

5 Q The boyfriend. All right. And during the
6 process of your physical examination of Ms. McFadden
7 did you make a notice of what her mental status or
8 mood was at the time?

9 A Yes. I noticed that she had mental stress. She
10 was crying. And then the reason she was crying
11 boyfriend died.

12 Q Okay. Ma'am, you can have a seat, thank you. A
13 couple of quick questions and then I'll be done.

14 A (Complies.)

15 Q Ma'am, did you also participate, Doctor Hughes,
16 in the treatment of Larry Moore?

17 A I did.

18 Q Okay. Have you had opportunity to review the
19 medical records associated with his care?

20 A I have.

21 Q All right. I'm not gonna have these marked, but
22 let me have you have them in case you need them.

23 What time was he triaged?

24 A 12:29 a.m.

25 Q Okay. And in terms of his diagnosis, is it

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1 important to you as a physician to know what —
2 well, before I go into what caused it, what was his
3 diagnosis? What did you observe about his body when
4 you began the treatment?

5 A Multiple gunshot wounds.

6 Q As a physician is it important to you to know how
7 an individual sustained an injury?

8 A Yes, ma'am.

9 Q Tell us why.

10 A Well, I need to know the caliber of the weapon or
11 the type of weapon.

12 Q Why is that important?

13 A Because larger caliber bullets have — may have
14 small entry wounds but very large exit wounds and in
15 between entry and exit they can cause a lot more
16 tissue damage if they're large caliber versus small
17 caliber.

18 Q Okay, all right. Does that notion hold true as
19 relates to Ms. McFadden?

20 A It does.

21 Q Okay. Now you said larger caliber weapons can
22 have small entry wounds and large exit wounds. Did
23 I understand your testimony to be correct?

24 A Correct.

25 Q And in the case of Larry Moore was that also the

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1 case? Did you see evidence in his body, on his
2 body, that he had large, smaller entry wounds and
3 larger exit wounds?

4 A Yes.

5 Q Can you tell us about the wounds that he
6 sustained.

7 A He sustained multiple gunshot wounds to his
8 torso, his chest, with exit wounds at different
9 locations.

10 Q And ---

11 A His elbow.

12 Q You can look at your record.

13 A Yeah. So he had two entry -- well, he had two
14 wounds, gunshot wounds, whether they enter or exit,
15 to the anterior left thigh, one to his left hip, his
16 right elbow, his chest wall on the right side.

17 Q Okay. What type, if any, resuscitative measures
18 did you take?

19 A What type of resuscitative measures?

20 Q Yes.

21 A CPR. We attempted a onoaxis (ph), enterococcus
22 axis. We were unsuccessful

23 Q Hold on, hold on. spell that for me and tell us
24 what it is.

25 A Enterococcus. Entero, Latin for inside, and

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1 coccus for bone.

2 Q Okay.

3 A We try to put a very quick access for fluid and
4 medications by boring directly into the bone, and
5 those attempts were unsuccessful. The needles bent,
6 strong bones, young man. So I placed a triple lumen
7 catheter so that we could begin to give medications
8 and fluid to the victim.

9 Q Okay. We all know we're in a murder case. None
10 of those measures were successful?

11 A Correct.

12 Q Does your record reflect when he was pronounced
13 dead?

14 A 1:18 a.m.

15 Q Okay. Now tell us about the thigh, the injury to
16 the thigh/hip area. What did a gunshot wound --
17 tell us about that particular wound.

18 A The one to his left medial thigh hit his femoral
19 artery.

20 Q Where is the femoral artery? Can you come and
21 show me?

22 A Yeah.

23 Q Okay.

24 A Using you?

25 Q Yes. And I tell you what, I'll give you the

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1 pointer, how about that?

2 A It runs here (indicating on Ms. Barr.)

3 Q Okay. All right. And as a result of the gunshot
4 wound hitting the femoral artery, what happened to
5 him?

6 A He exsanguinated. He bled out.

7 Q Bled out?

8 A That, among other bleeding wounds.

9 Q Okay, all right. Now, of course when you use the
10 diagram to show on me where a femoral artery would
11 be, as it relates to Mr. Moore, did it do any damage
12 to a particular area of his body?

13 A It ruptured his femoral artery.

14 Q Okay. What about his genitalia?

15 A It nicked his left testicle as it was entering
16 the left medial thigh.

17 Q All right. Have a seat for me, Doctor.?

18 A (Complies.)

19 Q Now Doctor Hughes, from the photographs of Reva
20 McFadden's injuries, they appear to be relatively
21 minor, particularly in comparison to Mr. Moore's
22 injuries.

23 A Correct.

24 Q Now if an individual is injured as a result of a
25 crossfire by an AK-47, is that the type of activity

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1 that could cause great bodily injury or death?

2 A She could have died, not from that wound but
3 being in the vicinity of those bullets.

4 Q Okay. And obviously we know that Mr. Moore
5 passed away.

6 A Yes, ma'am.

7 Q Okay. That's all the questions that I have.

8 Thank you, ma'am. Please answer any questions that
9 Mr. Kent or the Court may have for you.

10 THE COURT: Thank you. Thank you,
11 Solicitor.

12 Mr. Kent.

13 MR. KENT: Very briefly.

14 **CROSS-EXAMINATION**

15 BY MR. KENT:

16 Q How are you doing, ma'am?

17 A (No verbal response.)

18 Q You got to say yes's and no's so Madam Court
19 Reporter can —

20 A Yes.

21 Q Or just I'm doing fine or I'm not doing good,
22 just whatever you say so she can take down whatever
23 you're saying, okay?

24 A Thank you.

25 Q And I haven't had the pleasure of meeting you

1 yet, Doctor. My names is Shaun Kent and I have the
2 pleasure of representing Terry Williams. I don't
3 have very many questions for you, okay. Is it safe
4 to assume a lot of what the Solicitor was asking
5 about, what the history of the case, history of
6 course would be what everybody tells you is what
7 happened, correct?

8 A Correct.

9 Q This is not based upon science, what type of
10 weapon was out there, or anything of that nature.
11 This is just based upon what people have told you is
12 what you just right down in the report?

13 A No.

14 Q Okay.

15 A My assessment of those large exit wounds shows it
16 was a large caliber weapon. No one — so. That's a
17 fact.

18 Q But you have no gun expertise?

19 A No.

20 Q You're not a gunshot expert?

21 A No.

22 Q And you couldn't tell what gun was actually
23 utilized in this case is what I was getting at?

24 A No.

25 Q Okay. And so large caliber, non-large caliber,

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1 we know there were bullet shot, or there were wounds
2 that ended up causing the death. But you couldn't
3 say what type of, what caused those wounds, correct?

4 A A large caliber gun.

5 Q But not specific?

6 A No, not, not specific.

7 Q Okay. And again, so going back to my question
8 about history, our history is based upon what
9 somebody has told us is what happened. And that's
10 one of the things we have to do, is it? And I'm not
11 a doctor, but we have to do as doctors make sure we
12 understand, we take a history of what people tell us
13 and that's what we write down in the report?

14 A Correct. I also write down facts as I observe
15 them, medical facts.

16 Q Yes, ma'am.

17 A So the history section of is what someone has
18 told me.

19 Q Okay. And as far as when we're talking about the
20 femoral artery and we're talking about the tracing
21 and the -- well, we weren't talking about, but the
22 femoral artery which was struck, you wouldn't be the
23 individual who would testify about how the injury
24 was tracking or was it going up or down or something
25 of that nature. That would be a pathologist who

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1 would look at the body and determine if the bullet
2 entered upwards, downwards, which way the bullet
3 actually entered into a body, am I correct?

4 A I can give you some information, but a trajectory
5 from a pathologist would be also an expert opinion.

6 Q You're not a pathologist?

7 A I am not a pathologist.

8 Q That's all the questions I have. Thank you so
9 much.

10 THE COURT: Redirect, Solicitor?

11 MS. BARR: No, Your Honor. We'd ask that
12 Doctor Hughes be excused.

13 THE COURT: Thank you. Thank you for
14 being with us this afternoon, Doctor. You may step
15 down. You may be excused.

16 MS. BARR: Judge, may we approach the
17 Bench.

18 THE COURT: Yes, ma'am, certainly.

19 (WHEREUPON, counsel approached the
20 Bench for an off-the-record discussion.)

21 (WHEREUPON, State Exhibit No. 76 was for
22 marked for identification only.)

23 THE COURT: Mr. Foreman, ladies and
24 gentlemen, I have talked to the attorneys. We do
25 have one final witness I would like to move along

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1 they would like to move along with this evening. He
2 has a commitment to be at another courthouse and
3 another courtroom tomorrow morning. They both
4 assured me that not be lengthy. The length of the
5 testimony does not measure the importance of the
6 testimony. But if you would please continue to give
7 the parties your complete and undivided attention as
8 you have done throughout the case.

9 Solicitor, you may call your next witness.

10 MS. SWILLEY: Thank you, Your Honor. We
11 would call SLED agent James Greene.

12 WHEREUPON,

13 **JAMES GREENE,**

14 having been duly sworn by the Clerk, testified
15 as follows:

16 MS. SWILLEY:

17 **DIRECT EXAMINATION**

18 BY MS. SWILLEY:

19 Q Mr. Greene, if you would please state your name
20 and occupation for the jury.

21 A I'm James Greene. I'm a forensic scientist for
22 the South Carolina Law Enforcement Division,
23 commonly referred to as SLED.

24 MS. SWILLEY: And Your Honor, I believe
25 due to the lateness of the hour Defense counsel —

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1 MR. KENT: I'll stipulate to his
2 expertise, Your Honor.

3 THE COURT: And he's an expert in
4 firearm ---

5 MS. SWILLEY: Identification, firearm
6 identification.

7 THE COURT: All right. Again, ladies and
8 gentlemen, you've just heard my explanation to you
9 concerning expert witnesses. They have stipulated.
10 In other words, they have agreed that Agent Greene
11 is an expert in the field of firearm identification.
12 He may give opinion testimony in that area based on
13 you, the jury, being the finders of fact give those
14 opinions the weight and value and credit that you
15 deem appropriate.

16 Thank you, Mr. Kent. Thank you, Ms.
17 Solicitor. You may continue.

18 MS. SWILLEY: Your Honor, may I approach
19 the witness.

20 THE COURT: Yes, ma'am.

21 BY MS. SWILLEY:

22 Q Agent Greene, I'm gonna give you something. I
23 don't know what that package is.

24 A Yes, ma'am, this is the evidence tape sealed
25 envelope for the SLED lab number L13-14696,

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1 container A.

2 Q That's been marked as State's Exhibit 76?

3 A Yes, ma'am. The bottom of the envelope has the
4 SLED evidence tape and my initials and seal that
5 means this is the evidence I worked on.

6 Q And you received this into your custody at SLED,
7 correct?

8 A Yes, ma'am.

9 Q And did the packaging or container which the item
10 was given to you appear to have been tampered with?

11 A No, ma'am. All the seals were intact when I
12 received it.

13 Q And when you received this what did you do with
14 it?

15 A I begin looking -- well, first thing I do is make
16 sure all the seals are intact and then I'll print
17 out the submission documents that come along with
18 each submission. And I'll open up the container
19 taking photographs as I go back and inventorying the
20 evidence and reconciling what the submitting agency
21 says I'm supposed to have versus what's submitted.

22 Q And can you testify today as to whether or not
23 the package has been opened since it left your care
24 and custody?

25 A The seals, as I seal it are intact so it does not

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1 appear anyone has been in here.

2 Q Would you open it now, sir?

3 A Yes, ma'am.

4 MS. SWILLEY: And Your Honor, at this time
5 I'd like to move State's Exhibit Number 76 into
6 evidence.

7 MR. KENT: No objection.

8 THE COURT: 76, thank you. State's 76 in
9 evidence without objection.

10 (WHEREUPON, State Exhibit No. 76
11 was admitted into evidence.)

12 BY MS. SWILLEY:

13 Q Agent Greene, are those items as you remember
14 them?

15 A Yes, ma'am. Each individual item inside State's
16 Exhibit 76 is in a Ziplock bag that's heat sealed
17 and it still has my initials and seal, and no one
18 has been in these items since I sealed the evidence.

19 Q Briefly, sir, we're gonna go through the items
20 one at the time. Item number one contains what?

21 A Item number one right here in my hand is a lead
22 fragment.

23 Q And it was collected from?

24 A According to the evidence intake sheets it's
25 collected from McFadden.

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1 Q Okay. And that item in your hand is it suitable
2 for identification as to any type of bullet?

3 A No, ma'am. It's just a lead fragment and due to
4 the damage I cannot tell you if it was part of the
5 bullet, part of the core from a jacketed bullet or
6 if it came from another source.

7 Q But that was a lead fragment collected from
8 McFadden is what the labeling says?

9 A Yes, ma'am.

10 Q Item number 7, could you tell us what that is?

11 A Yes, ma'am. Item 7 is a fired bullet which the
12 submission document says it's from a Dodge Durango.
13 It so damaged — well, first of all, it's made up of
14 a copper alloy covered steel so it's very hard. I
15 can tell you it's a bullet but it's so damaged I
16 couldn't open it up to see what caliber it was or
17 see if it had any markings on it 'cause doing so may
18 jeopardize or destroy the evidence so all I can tell
19 you is it was a fired bullet at some time. I can't
20 give you the caliber.

21 Q Let's skip to item number and that would be what,
22 sir?

23 A Item 9 is what I call a ferrous metal fragment.
24 I'm not quite sure what this one is either but I
25 know it's magnetic and it's a little small fragment

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1 from the gluteal, right gluteal region from the
2 autopsy of Larry Moore, Jr. It has no marks on it
3 whatsoever so, like I said, I can't tell you if it
4 was part of the bullet, part of the core, or if it
5 came from another source.

6 Q And that ferrous metal fragment was extracted in
7 layman's terms from Mr. Larry Moore, Jr., at his
8 autopsy?

9 A Yes, ma'am.

10 Q And you cannot identify that as to a particular
11 weapon?

12 A Correct.

13 Q Item number 10, sir?

14 A Item 10 is another lead fragment. It's from the
15 left anterior thigh from the autopsy of Larry Moore,
16 Jr., on that sheet. Once again, it's just a lead
17 fragment. I can't tell you what it came from, or I
18 cannot identify that particular firearm.

19 Q And this was extracted from where on Mr. Moore?

20 A The left anterior thigh.

21 Q And items number 10, 9, 7, and 1, all of those
22 were damaged such as identification would be
23 impossible for you?

24 A Yes, ma'am.

25 Q Let's talk specifically about item number 8.

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1 That's the last item you have. Can you identify
2 what that is.

3 A Yes, ma'am. Item 8 is a fired 7.62 by 39
4 millimeter Soulier, or some people call it Russian
5 short caliber cartridge case.

6 Q And that was recovered from the scene?

7 A On the evidence sheet it does not say where it
8 cam from.

9 Q Okay. Sir, I'm going to show you something and
10 ask if you can identify it.

11 MS. SWILLEY: May I approach the witness,
12 Your Honor.

13 THE COURT: Yes, ma'am.

14 BY MS. SWILLEY:

15 Q Can you identify what this is for me for
16 identification purposes.

17 A This is the complete unfired 7.670 by 39
18 millimeter Soulier caliber cartridge. A cartridge
19 is a piece of unfired ammunition and the cartridge
20 case, what we have right here, is what's left after
21 it's fired.

22 Q So that would be the cartridge in its original
23 form before it was fired?

24 A Correct.

25 Q Okay. I have another question for you. As an

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1 expert in firearms identification, when you have a
2 cartridge, a 76.2 by 39 cartridge, where would you
3 expect to see it fire from, what type of weapon?

4 A About 95 percent of the time we see this caliber
5 it's fired out of an SKS or an AK-47.

6 Q Can you describe what an AK-47 is for the jury.

7 A Yes, ma'am. Y'all watch the news, right? And
8 when you see eyesore ISIS and you see the guys out
9 there holding the gun in the air screaming and
10 holding the guns up, that's an AK-47. That's what
11 it looks like. It's about 37 inches long, made up
12 of stamped steel and wood.

13 Q And sir, can you identify what the SKS, that's
14 the other weapon you talked about, what that looks
15 like?

16 A It looks kind of like an AK-47, but it has more
17 wood and they usually have a magazine that's
18 integral to the gun, usually don't have an external
19 box magazine that goes with it. They shoot the same
20 caliber. They look somewhat similar if you don't
21 know the differences, but there are some subtle
22 differences.

23 Q And sir, you and I had a conversation last week
24 about your report, correct?

25 A Yes.

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1 Q And I asked you to bring some photographs with
2 you of the SKS and the AK-47 for demonstrative
3 purposes?

4 A Yes, ma'am.

5 Q Okay.

6 MS. SWILLEY: Your Honor, if I may show
7 this to the witness?

8 THE COURT: Yes, ma'am, you may. Any
9 objection?

10 MR. KENT: For demonstrative purposes.

11 MS. SWILLEY: This is for demonstrative
12 purposes only.

13 THE COURT: Thank you.

14 BY MS. SWILLEY:

15 Q Sir, can you identify what's in those two
16 photographs?

17 A Yes, ma'am. In this first photograph this is an
18 AK-47. Actually, this is a true AK-47 assault
19 rifle, meaning it has a selector switch which can
20 change rates and fire between semiautomatic and full
21 automatic. Most what people own in the United
22 States is a semiautomatic rifle; but people
23 mis-commonly will miss call it or just call it
24 assault rifle, which it's really not. So this is
25 what an AK-47 looks likes. The real fully automatic

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1 versions look like this. The semiautomatic versions
2 look like this as well.

3 Q Sir, can you tell me what type of clip that is
4 attached to the AK-47, if I'm using that terminology
5 right?

6 A It's a magazine.

7 Q Magazine?

8 A People call it a clip. My dad calls it a clip
9 and I try to correct him; it just doesn't work. It
10 is a detachable box magazine. It's a high capacity
11 magazine, but some people actually refer to it as a
12 banana clip. So when you hear banana clip, that's
13 what someone is referring to.

14 Q How many rounds approximately would you expect
15 out of a banana clip?

16 A This one will actually hold 30, but they do make
17 some 10, some 20, some 30, some 40's but most of
18 what we see are 40 round magazines.

19 Q And how long is that weapon based upon the
20 measuring tape?

21 A Right at 37 inches.

22 MS. SWILLEY: Thank you, Your Honor. May
23 I publish this to the jury?

24 THE COURT: Yes, ma'am.

25

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1 BY MS. SWILLEY:

2 Q The second weapon, sir, you have a picture of,
3 the SKS?

4 A Yes, ma'am.

5 Q Can you describe that weapon?

6 A Like I said, it looks kind of like an AK-47 but
7 it's more wood. And if you see -- or you may not be
8 able to see -- there's a little integral magazine
9 right there. You can't actually invert these to use
10 detachable box Fed magazine, but the majority we see
11 do have the internal magazine. It shoots the same
12 caliber and based and designed on the same premise
13 of the AK-47 cartridge. This is Chinese for --
14 these are made Chinese design versus AK-47 which is
15 Russian, excuse me, a Russian design.

16 MS. SWILLEY: May I approach, Your Honor.

17 THE COURT: Yes, ma'am.

18 MS. SWILLEY: Thank you very much.

19 BY MS. SWILLEY:

20 Q Now you said you would expect 95 percent of the
21 time to see this cartridge fired out of one of these
22 two guns.

23 A Yes, ma'am.

24 Q But you cannot say with 100 percent certainty
25 which gun was used, right?

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1 A Correct.

2 Q And is that because you don't have a weapon to
3 compare it to?

4 A Yes, ma'am.

5 Q Was any murder weapon ever turned in for
6 comparison for you?

7 A No, ma'am.

8 Q Okay. Just one moment please. Just one last set
9 of questions. Items 1, 7, 9 and 10, the one that we
10 talked about that were so disintegrated that you
11 can't make an identification, why might that be?

12 A It could have hit an intervening object like
13 State's Exhibit 76, the fired bullet from Durango
14 which was SLED item 7. Durango metal, we get a
15 piece of metal like this bullet flying really fast
16 hitting a stationary piece of metal, the bullet is
17 gonna get damaged. So anything, any hard
18 intervening object can make a bullet or projectile
19 damaged to the point where we cannot tell what it
20 was other than some type of bullet or some time just
21 a fragment of a bullet or sometimes we don't know
22 what it was except for just a lead fragment or piece
23 of metal.

24 Q Is it also your experience when you're examining
25 metal fragments taken from bodies that they would

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1 be disintegrated where you might not be able to make
2 an identification?

3 A Yes, ma'am.

4 Q So — thank you. Those are all the questions I
5 have. Please answer any questions Defense may have.

6 THE COURT: Thank you, Solicitor.

7 MR. SCHWARTZ: Briefly, Your Honor.

8 **CROSS-EXAMINATION**

9 BY MR. SCHWARTZ:

10 Q Good afternoon, Mr. Greene.

11 A Good afternoon.

12 Q We met back there. My name is Ryan Schwartz. If
13 I speak too fast or anything, just let me know?

14 A Yes, sir.

15 Q Now I've got your SLED report here. I'm just
16 gonna go over that briefly. item 1 says, no marks of
17 value, was unsuitable for identification; is that
18 correct?

19 A Yes, sir.

20 Q Item number 7, caliber item number 7 cannot be
21 reliably determined, so we don't really know where
22 that came from?

23 A Yes, sir.

24 Q Item number 9, unsuitable for identification?

25 A Yes.

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1 Q Item number 10, same thing, cannot be determined
2 whether item 10 was or at one time part of a fired
3 bullet. We don't even know if that was fired from a
4 gun?

5 A Correct.

6 Q Item number 8 is a shell casing that you
7 described to the jury. We don't — you don't know
8 where they came from, do you?

9 A No, sir.

10 Q You don't know if item number 1, 7, 9, or 10 came
11 from that shell casing, do you?

12 A No, sir.

13 Q Okay. Now would you agree with me that there are
14 many things that can make a bullet unrecognizable or
15 not suitable for identification. If we're to hit
16 another surface before it hit a body?

17 A Correct.

18 Q Such as maybe bricks?

19 A Yes, sir.

20 Q A car?

21 A Yes, sir.

22 Q What about a ground, the ground?

23 A Depends on what the ground is made up of.

24 Q Asphalt?

25 A Asphalt could damage bullets, yes, sir.

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1 Q Rocks?

2 A Yes, sir.

3 MR. SCHWARTZ: No further questions, Your
4 Honor.

5 THE COURT: Redirect?

6 MS. SWILLEY: No, Your Honor. We ask this
7 witness be released immediately.

8 THE COURT: Thank you. Thank you, Agent
9 Greene. You may step down. You may be excused.

10 Mr. Foreman, ladies and gentlemen of the
11 jury, perhaps this would be a good time to take our
12 evening recess. Again, I remind you, do not discuss
13 this case with anyone, fellow jurors, family,
14 friends, or anyone else. Do not read, watch, or
15 listen to any news reports about the case, should
16 there be any. Do not use your computer, cellular
17 phone, or any other electronic devices with
18 communication capabilities or disclose any
19 prohibited information which includes, but is not
20 limited to the following information about the
21 party, attorney, a witness, a court officer, a news
22 account about the case, present or in the past,
23 information collected through your research on any
24 topic raised or testimony offered by any witness or
25 information any juror might think would be useful in

1 helping deciding the case. Do not do any
2 independent investigation. Do not do any
3 investigation. Thank you. Thank you very much for
4 your focus and attention today, with your patience
5 that you have shown the Court throughout the trial
6 of the case. As I say your time is very valuable to
7 me and to all of the parties, and the parties have
8 worked very long and hard and diligently presenting
9 their cases to you. With that being said, you're
10 excused for the evening. I would ask you to please
11 be back promptly at 9:30 in the morning, 9:30 in the
12 morning. I hope you all have a pleasant evening.
13 Thank you. Thank you very much.

14 (WHEREUPON, the jury was removed from the
15 courtroom at 6:09 p.m.)

16 THE COURT: All right, anything further
17 Mr. Kent?

18 MR. KENT: Yes, sir, briefly. You had
19 given me the opportunity once Reva McFadden had
20 testified, you had given me opportunity, I had made
21 objection contemporaneously with her testimony and I
22 think you said you would give me an opportunity to
23 place that objection properly on the record. Once
24 Ms. McFadden came back in to testify I think
25 immediately what she had said, of course, nobody was

1 there to talk to her, she clearly said, oh, yes, I
2 do remember what you're talking about, something of
3 that nature. I remember what you're talking about,
4 I thought you were talking about other people, but
5 me, and me and Terry Williams had had problems with
6 one another. Nobody was there to interrupt her.
7 Nobody was there to talk to her so that was
8 something she said on her own. At that point in
9 time I wanted to renew my objection to more
10 specifically as that my understanding is now that
11 the witness has given a specific answer, yes, and
12 does not deny what she had said earlier -- and I
13 don't know if it's denial what she had said
14 earlier -- just make sure I don't say it incorrectly
15 -- I don't think it would be proper under the rules
16 to use extrinsic evidence at that point in time to
17 attempt to impeach. The Solicitor introduced
18 through this witness an actual incident report and
19 read it to the jury, basically informed her there
20 was an actual incident report between the two
21 parties. So one, I would renew my objection in
22 light of the fact that, one, this witness very
23 specifically said, yes, I did say that -- and this
24 was not with anyone present because we took the, I
25 think very intelligent precaution having this

1 witness exit the room and sat with the bailiff so
2 she couldn't hear what was being testified to, but
3 on her own very clearly stated, you're right, yes, I
4 thought you were talking about something else, I
5 thought you were talking about situations that
6 happened between other parties, not myself and
7 Larry. For that reason, Your Honor, one, I renew my
8 objection I made during, before she exited the room;
9 and then secondly, I object that extrinsic evidence
10 should not have been allowed to come in. That was
11 just to reaffirm the conversation myself, yourself,
12 and Ms. Barr had at the bar.

13 THE COURT: Thank you.

14 Solicitor.

15 MS. BARR: Your Honor, we would simply
16 take the position, one of the things that is unique
17 in this situation is that we had a victim who has
18 apparently communicated more with defense counsel
19 than with law enforcement and the State. And so the
20 fact that she had an opportunity after having
21 testified under oath emphatically that her husband
22 is peaceful, not just on today but on yesterday,
23 that he's quiet, that he's real scary and that's why
24 he takes a gun. And then we have outside of her
25 presence an exchange with the Court that takes

1 approximately 10 to 15 minutes. It allows her the
2 opportunity to then reflect upon her statement,
3 particularly after the Defense counsel made the
4 motion or objected in her presence about the
5 prejudicial nature of the CDV charges. That's been
6 repeated periodically through the trial while she's
7 been here, and so she knows from testimony on
8 yesterday and today that it would hurt her husband
9 to get in evidence about the CDV charges. And so
10 while there's a break and she has the opportunity to
11 reflect upon her answer, Judge, we believe that it
12 is appropriate for — giving the very specific
13 nature of that very specific witness, that the State
14 be admitted to impeach her. I think this is
15 something certainly within the Court's discretion.
16 The Court has had the opportunity to view the
17 demeanor of this witness, to hear her, what she said
18 on yesterday and what she said today. Judge, she
19 was emphatic in her answer, and I think we've all
20 reviewed it based upon what the court reporter has
21 informed us of, that her husband doesn't get into
22 any confrontations in his entire life. It wasn't
23 qualified at the time with other people. That was
24 only qualified after she had a chance to think about
25 it. And so, Judge, we believe that it was proper

1 for the Court to allow that evidence to be
2 considered by the jury as to her truthfulness and to
3 impeach her.

4 THE COURT: Thank you. Thank you very
5 much, Solicitor. I would renew my previous rulings.
6 As far as extrinsic evidence, the Solicitor did hand
7 her after a response and her response included
8 fighting over the weapon. The Solicitor did hand
9 her an incident report where she then corrected
10 that, oh, that was the other incident I believe, or
11 I paraphrase, the more refreshment of her memory or
12 at least getting the two separate instances separate
13 and distinct in the witness' mind. So I do not
14 think it goes to the issue of specific instances of
15 conduct; nor do I think there was a great deal of
16 testimony offered as to those particular — what do
17 we call it? Prior bad acts or whether we call it
18 404(a)(1) testimony or whether we call it
19 impeachment testimony, it certainly doesn't go, I
20 don't think, to where the Court allowed, if I did
21 allow any forensic evidence which I, extrinsic
22 evidence which I really don't think I did, and I
23 went but s far as the Court has indicated in some
24 cases such as State versus Gilliam. However, that
25 was harmless error so I would renew my previous

1 trial ruling in that regard; and Mr. Kent, I
2 believe, you are adequately protected on the record.

3 MR. KENT: Thank you, Judge.

4 THE COURT: You may not care what I
5 believe when it gets to Columbia; but I believe you
6 are protected, if it gets to Columbia.

7 MR. KENT: Thank you so much.

8 THE COURT: Thank you. Thank you very
9 much. Court will be in recess till 9:30 in the
10 morning.

11 (WHEREUPON, State Exhibits 77-83 were
12 marked for identification only and
13 the proceedings were concluded for the
14 day to be reconvened on October 29th,
15 2015.)

16 THE COURT: Mr. Kent, anything before we
17 bring in our jury?

18 MR. KENT: Nothing, Your Honor.
19 Mr. Schwartz will be coming in just as long as
20 you're not opposed when he shows up and comes and
21 sits at counsel table. I'm ready to go whenever.

22 THE COURT: Anything before we bring in
23 our jury?

24 MS. BARR: No, sir, State's ready.

25 (WHEREUPON, the jury was returned to the

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1 courtroom at approximately 9:35 a.m., and
2 the following proceedings commenced in
3 open court.)

4 THE COURT: Good morning, ladies and
5 gentlemen, hope you all had a pleasant evening. As
6 you know, we're continuing the trial of the case by
7 the presentation of evidence and testimony by the
8 State in its case in chief. As you have done
9 throughout the trial of this case, if you would
10 continue to give the parties your complete and
11 undivided attention.

12 Solicitor, you may call your next witness.

13 MS. BARR: Thank you, Your Honor. Please
14 the Court at this time the State calls Tabitha
15 Greene.

16 WHEREUPON,

17 **TABITHA GREENE,**
18 having been duly sworn by the Clerk, testified
19 as follows:

20 **DIRECT EXAMINATION**

21 BY MS. BARR:

22 Q Good morning, Ms. Greene. If you would, please
23 state your full name for the record. Spell your
24 first name for us and your last name.

25 A Tabitha Greene, T-A-B-I-T-H-A G-R-E-E-N-E.

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1 Q Ma'am, you live here in Williamsburg County?

2 A Not at the moment I don't.

3 Q Okay. Where were you born and raised?

4 A I was born in South Carolina, but I was raised in
5 New York.

6 Q Okay. And ma'am, of course you were subpoenaed
7 to testify in this case; is that correct?

8 A Yes, ma'am.

9 Q Do you know the defendant Terry Williams?

10 A Yes, ma'am.

11 Q Okay. Is he the individual seated in the light
12 blue shirt next to Mr. Kent?

13 A Yes, ma'am.

14 Q Prior to November the 10th of 2013 how long have
15 you known him?

16 A A couple of years. I'd say maybe about five,
17 between five or seven years, something like that.

18 Q Did you know Larry Moore, Jr.?

19 A Yes.

20 Q Okay. And how long have you known him?

21 A I've known Larry for about — well, since I moved
22 down here from New York I met Larry which was in '98
23 so I've known him a little probably over 17 years.

24 Q Okay. Ms. Greene, when you were at the club
25 Viola's/Celestine's the night this shooting

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1 occurred?

2 A Yes, ma'am.

3 Q Now was that your first night there?

4 A No.

5 Q Okay, you been there before?

6 A Yes.

7 Q All right. In terms of the relationships of the
8 parties, have you ever seen Larry Moore and Reva
9 McFadden that particular night club before that
10 night?

11 A Yes.

12 Q Okay. About how many times?

13 A Just about every weekend.

14 Q I'm sorry?

15 A Just about every weekend.

16 Q About every weekend?

17 A Yes, ma'am.

18 Q That was the little local —

19 A Yes, ma'am.

20 Q —juke joint for lack of a better word where
21 folks hung out to have fun?

22 A Yes, ma'am.

23 Q Now prior to that night had you ever seen the
24 defendant Terry Williams at that club?

25 A No, not that I recall.

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1 Q Okay. And the times that you had previously seen
2 Mr. Moore and Reva McFadden at the club together,
3 did they seem to be a happy couple?

4 A Yes, ma'am.

5 Q Okay. Seemed to get long?

6 A Yes, ma'am.

7 Q Now let's go back to the night that this incident
8 happened. When you arrived at the club was Larry
9 and Reva already there?

10 A Yes, ma'am.

11 Q Okay. Where were they?

12 A Inside.

13 Q Inside the club, all right. Ms. Greene, can I
14 get you to come off the witness stand for me?

15 A (Complies.)

16 Q And I ask you as I've asked previous witnesses,
17 be mindful that you don't have a mic. That means
18 keep your voice up for me, okay. I'm gonna publish
19 what's previously been admitted as State's Exhibit
20 number 3. This is the front of club Celestine's.

21 A Yes, ma'am.

22 Q And when you arrived -- I need you to use the
23 pointer for me. You stay over here, come this way.
24 When you arrived where was Reva McFadden's vehicle
25 parked?

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1 A Right here.

2 Q Now when you say right here, for the record you
3 are pointing to the front of club Celestines?

4 A Yes, ma'am.

5 Q And when you arrived was Reva McFadden's vehicle,
6 was it face forward or was the front of the vehicle
7 toward the right side of the building if you're
8 facing the building?

9 A If you're looking —

10 Q If you're looking at the vehicle?

11 A If you're looking at it, it would be the front
12 part right here.

13 Q The front part ---

14 A Right here.

15 Q The front part of the vehicle would have been
16 closer to the carport area?

17 A Yes.

18 Q And just for reference, when I say the carport
19 area I'm talking about this area here that has the
20 awning and the porch and so forth.

21 A Uh-huh.

22 Q Is that — you got me?

23 A Yes.

24 Q Okay, all right. So the back of Reva's vehicle
25 would be —

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1 A It wouldn't, no -- it wasn't as close to awning
2 so it wasn't that long. It didn't even cover the
3 front door. Didn't go past the front door.

4 Q Didn't go past the front, okay. Were they in the
5 vehicle when you arrived?

6 A No, they were inside shooting pool.

7 Q All right. Now you said that you knew of Terry
8 Williams previously to this incident?

9 A Yes.

10 Q All right. When you arrived was he there?

11 A I think he was already there. He was parked over
12 in the cut. It was parked on the side.

13 Q Okay, all right. Before I publish it I'm gonna
14 show you previously been admitted as State's Exhibit
15 Number 22. Does this photograph depict the area
16 that we call the cut?

17 A Yes, ma'am.

18 Q Okay. I'm gonna publish State's 22. Point on
19 this using the stick that I've given you, the area
20 where you observed the defendant's vehicle when you
21 arrived?

22 A He was parked right here because when I walked
23 over to the vehicle to talk to him, I thought he was
24 in the driver's side and he was in the passenger
25 seat, and I couldn't get to the passenger side

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1 because the brush was so high on this side so I
2 couldn't go so I went to the driver's side.

3 Q Okay. All right. Now how do you enter the
4 nightclub if you're com— what's the main road to
5 get to the nightclub?

6 A I think it's Guest Road.

7 Q How would you enter through Guest Road to get to
8 the nightclub?

9 A It's a — as you, it's a vehicle right here.
10 It's a road where you come across the railroad track
11 when you turn backwards this way coming.

12 Q So that the jurors will have an appreciation for
13 what you're saying, you show them there, show them
14 on their monitors where you're talking about, how
15 would you approach.

16 A You would come in in here.

17 Q Okay.

18 A Come around. You come in through here and come
19 around like this.

20 Q Okay. And I'll hold the picture still so we can
21 see what you're talking about. Point to on the
22 picture where you observed the defendant's vehicle
23 parked.

24 A Right here.

25 Q Okay. Now let's go back to Exhibit Number 3.

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1 You indicated, I believe, that when you approached
2 the vehicle, you approached the nightclub, you
3 said — did you have a conversation with
4 Mr. Williams before you went into the nightclub or
5 did you go to speak to him or see his vehicle before
6 you went into the nightclub?

7 A Yes, I spoke with him before I went in because I
8 really didn't even — I went in for a brief second
9 to speak with Ms. Celestine and I came out and I was
10 sitting over here the whole time.

11 Q Where is the first place that you observed Reva
12 and Larry once you arrived at the nightclub that
13 night?

14 A Inside at the first booth. They were shooting
15 pool.

16 Q Okay. All right, I'm going to publish what's
17 been previously admitted as State's Exhibit Number
18 18.

19 MS. BARR: Judge, we would move to
20 introduce State's Exhibit 18. I think it's without
21 objection from the Defense.

22 THE COURT: All right.

23 MR. KENT: No objection, Your Honor.

24 THE COURT: State's 18 is in evidence
25 without objection.

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1 (WHEREUPON, State Exhibit No. 18
2 was admitted into evidence.)

3 BY MS. BARR:

4 Q Ma'am, I'm gonna publish what's been admitted
5 State's Exhibit Number 18. Describe to the jurors
6 what's depicted in this photograph.

7 A Well, this is the entrance way to go underneath
8 the little shed. This is the picnic table and this
9 is the side door.

10 Q Okay, all right. And again, using the photograph
11 that's actually on the projector, show us where you
12 indicated that you went in. Show us the side door
13 that you went into.

14 A Okay, here.

15 Q So you went in and did what now?

16 A Spoke with Ms. Celestine. She was behind the
17 bar.

18 Q And then you said you saw Reva and Terry?

19 A No, Reva and Larry.

20 Q Reva and Larry —

21 A Reva and Larry were shooting pool, yes.

22 Q Okay. Now, where were they shooting pool, if you
23 can kind of depict on this photograph, if you can.

24 A Where would the pool tables be? On one side. It
25 would be, it would be way up here in the front.

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- 1 Q Okay.
- 2 A In the front. They weren't at the back table.
- 3 They were at the front table.
- 4 Q All right. What was the mood between the two of
- 5 them at that time?
- 6 A Well, like I said, I just went for a brief second
- 7 so I didn't see, you know, any animosity or anything
- 8 towards Reva or Larry when I went in there and then
- 9 I went back outside.
- 10 Q Did you have any conversation with either Reva of
- 11 Larry at that point?
- 12 A No.
- 13 Q Okay. Did you have any physical interaction with
- 14 either Reva or Larry? I mean, did you go up and
- 15 shake hand, talk to them ---
- 16 A No.
- 17 Q ---hug them or anything like that? Okay. And
- 18 you went back outside and you did what?
- 19 A I sat right here on the corner of this picnic
- 20 table.
- 21 Q All right, tell us what happened next.
- 22 A Well, I was sitting out there. I was probably
- 23 sitting outside for about, I say, maybe five minutes
- 24 or so, and I received a text message.
- 25 Q Okay. From?

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1 A From Levonne Croker.

2 Q From Levonne Croker?

3 A Yes.

4 Q He was the gentleman who testified yesterday?

5 A Yes.

6 Q And after that text message did Levonne come out

7 —

8 A Yes.

9 Q —to the club?

10 A Yes.

11 Q You have an estimation about how much time it

12 took for him to get to the club?

13 A Probably about three minutes.

14 Q Okay. Once he got to the club did you, did you

15 see him when he arrived?

16 A Yes.

17 Q Okay. all right.

18 A By that time, when I received the text that's

19 when I left from under here and I walked over to Mr.

20 Williams' vehicle.

21 Q Okay. And that is — does State's Exhibit 22

22 reflect at all, can you see the little porch area at

23 all in that particular exhibit?

24 A Yes.

25 Q Point to it on the monitor.

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1 A Right here.

2 Q That's the porch?

3 A Yes.

4 Q All right. And once you saw that you walked from
5 where to where?

6 A I walked from here.

7 Q Okay.

8 A To here.

9 Q Okay, all right. And did you see Von Croker when
10 he arrived?

11 A Yes, I was actually, I was, I was standing on the
12 passenger side of Mr. Williams' vehicle when Levonne
13 pulled up.

14 Q Okay. And so who was in the passenger seat at
15 that point when Levonne pulled up?

16 A Mr. Williams.

17 Q Okay, all right. And after Levonne pulled up did
18 you remain at the passenger side?

19 A Yes, I — yes, I stood at the passenger side just
20 so I can show him where Terry was at. He was in the
21 vehicle he was in.

22 Q Okay.

23 A And then I walked away.

24 Q Okay. Do you recall by any chance what type of
25 vehicle Levonne Croker was driving that day?

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1 A I think it was burgundy. It was a burgundy
2 Chrysler Pacifico? What was it?

3 Q You can't ask anybody.

4 A Pacifico. Whatever model Pacifico is.

5 Q Okay. All right. And then you walked away?

6 A Yes.

7 Q Did you see Von get into Mr. Williams' vehicle?

8 A Yes.

9 Q Okay, you saw that yourself?

10 A Yes.

11 Q Okay. When he got out did you see him get out of
12 the vehicle?

13 A Yes.

14 Q Okay, all right. Where did he go once he got out
15 of the vehicle?

16 A He came back under the shed under here.

17 Q All right. Let's go back to State's 18. All
18 right, once Levonne got out of the vehicle and went
19 back to the shed area, where were you?

20 A I was sitting on the corner.

21 Q Okay, all right. When you went back to the
22 picnic table, where was Reva and Larry, if you may?

23 A He was probably still inside.

24 Q 'Cause you didn't see them outside?

25 A No.

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1 Q Okay. All right. What happened next?

2 A Well, we were sitting outside and then maybe
3 about I say, two, three minutes later, Mr. Williams
4 came over underneath the shed. He was standing like
5 right here.

6 Q Okay.

7 A And we were just all standing there having mutual
8 conversation. I asked him, you know, how he was
9 doing, you know, what you know, what he had going
10 on. He was like, nothing, I'm just out there
11 chilling, you know. And I was like, you know you
12 want to go inside; and he was like, naw, naw, go
13 ahead. And then when he said that I was like, oh,
14 okay, 'cause I remember when I walked in the first
15 time I seen Larry and Reva inside and I was like,
16 oh, okay, I understand why you're not going go in
17 there.

18 Q Okay, all right. Then what happened?

19 A Then we was, I say, we were sitting out. We was
20 also like said sitting out having mutual
21 conversation and maybe about I say five minutes
22 after Mr. Williams was over there wasn't -- we
23 didn't have a long conversation. And maybe about
24 five minutes after he was over there, then Larry and
25 Reva came out the club.

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1 Q Okay.

2 A And the first time he came out the club they
3 walked over to the truck.

4 Q To whose truck?

5 A To Reva's truck.

6 Q All right. And so that would have been the truck
7 that was parked in front of the club Celestine's?

8 A Yes, ma'am.

9 Q So they walked here?

10 A Yes, ma'am.

11 Q Then what happened?

12 A And then they came back, they went to the truck
13 and then they went back inside the club.

14 Q Okay.

15 A And maybe about, I want to say 45, 20, 25 seconds
16 or so Larry came back out. Larry and Reva both came
17 back outside.

18 Q Okay. Let me ask you this, when Larry and Reva
19 came out of the club where was Mr. Williams?

20 A He was still ---

21 Q The first time?

22 A He was still standing over by the, on that
23 picture by the grill.

24 Q Okay. So they would have had to have passed him
25 ---

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1 A Yes.

2 Q ---to get to their vehicles?

3 A Well, he was standing right here.

4 Q Okay.

5 A They came out here.

6 Q Okay.

7 A And they walked straight this way in the front of
8 the club.

9 Q To the front of the club?

10 A Yes, he was still standing right here.

11 Q So he would have seen the two of them come out
12 together?

13 A Yes.

14 Q Now at this time when they come out together
15 where is Mr. Williams' vehicle parked?

16 A It was parked in front of, in front of the club
17 out there.

18 Q Wait a minute, say that again.

19 A It was parked in front of the club. It wasn't
20 parked over by the woods anymore. It was in front
21 of the club.

22 Q Okay. So the vehicle, he moved the vehicle?

23 A He didn't move it 'cause he wasn't -- he was
24 under the shed.

25 Q Okay. So I want to make sure I'm clear, let me

SW - T. GREENE - DIRECT

1 do it this way. I'm gonna publish what's previously
2 been admitted as State's Exhibit Number 20. All
3 right, can you see the front of Club Celestine's as
4 well as the awning and so forth from this exhibit?

5 A Yes.

6 Q Okay, all right. Now you've already described to
7 us where the cut is, where you originally observed
8 Mr. Williams' vehicle?

9 A Yes.

10 Q All right. Based — and you said you got out and
11 you talked to him while he was inside the vehicle
12 parked in the cut as you described it?

13 A Yes.

14 Q Now based upon where Mr. Williams' would have
15 initially have been parked, would he had had a clear
16 view of what was going on underneath that carport
17 area from where he was parked in the cut?

18 A Well, yes and no, because it's a light, there's a
19 light underneath here and you can make out, you
20 know, maybe a figure of who might have been there.
21 You can't really exactly pinpoint exactly who is
22 under there.

23 Q Okay, did you see when the vehicle was moved?

24 A No.

25 Q Okay. All right. Now I'm gonna show you what's