

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas
Post Conviction Relief

S.C. SUPREME COURT

Honorable Walton J. McLeod, IV, Circuit Court Judge

App. Case No: 2019-001060

Andrew E. Torrence,

Petitioner,

vs.

State of South Carolina,

Respondent.

APPENDIX
VOLUME I OF IV

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF LEXINGTON) COURT OF GENERAL SESSIONS
3) No. 2010 GS 32 2318;
2011 GS 32 1440; 1444

4 STATE OF SOUTH CAROLINA)
5)
6 versus) TRANSCRIPT OF RECORD
7)
8 ANDREW EARL TORRENCE, JR.)
9 Defendant)

10 Lexington, South Carolina
11 May 31/June 3, 2011

12 B E F O R E :

13 HONORABLE KNOX McMAHON, Judge, and a Jury

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

15 For the State: D. SHAWN GRAHAM, Esq.
16 ALTON H. EARGLE, Esq.
17 Assistant Solicitors
Eleventh Judicial Circuit

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COURT'S EXHIBITS

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2 1 Note from Jury

3 2 Note from jury

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1 (The within matter came before the Court on May
2 31, 2011)

3 THE COURT: Solicitor, you may call your first
4 case for trial.

5 MR. GRAHAM: The State calls for trial Indictment
6 2010 GS 32 2318, the State of South Carolina versus
7 Andrew E. Torrence, Junior, Indictment for murder; In-
8 dictment 2011 GS 32 1440, State versus Andrew E. Torrence,
9 Junior, Indictment for possession of a weapon during a
10 violent crime; Indictment 2011 GS 32 1444, State versus
11 Andrew E. Torrence, Junior, Indictment for carrying a
12 pistol or firearm onto premises of a business which sells
13 alcoholic beverages for on-premises consumption.

14 THE COURT: Thank you, Solicitor.

15 Ladies and gentlemen of the jury panel, if you would
16 please give me your complete and undivided attention?

17 We are now going to conduct a process by which we
18 select a jury for the first case that has been called for
19 trial.

20 I would advise you and remind you that you are under
21 oath, and I consider you to still be under oath in this
22 regard.

23 As a part of this process, I will ask you a number
24 of questions to determine your eligibility and your
25 qualification to serve as a fair and impartial juror

1 in the trial of this case.

2 As part of that, I will read or publish the Indict-
3 ments to you. The Indictments are not evidence. The
4 Indictments are the formal charging documents by which
5 an individual is placed on notice of the charges that
6 have been brought against him or her.

7 They contain mere allegations and are in no way evi-
8 dence of the allegations made therein.

9 I read or publish these Indictments to you because
10 I will ask you certain questions about whether or not
11 you have any knowledge of the facts of this case.

12 | The first Indictment is Indictment Number 2010 GS 32
13 02318. The Indictment reads that Andrew E. Torrence did
14 in Lexington County on or about September 28th, 2008, wil-
15 fully, feloniously and with malice aforethought, kill
16 one Zachariah Chaplin by shooting him in the neck and
17 right arm with a semi-automatic handgun, and the victim
18 died as a proximate result thereof, in violation of 16 3
19 10 of the Code of Laws of South Carolina, 1976, as amended,
20 and that is an Indictment for murder.

21 The next Indictment, 2011 GS 32 01440, reads that
22 Andrew E. Torrence did in Lexington County, South Carolina,
23 on or about September 28, 2008, the same date as on the
24 first Indictment, did knowingly and wilfully possess a
25 firearm during the commission of a violent crime, or

1 attempt to commit a violent crime; to wit, murder, such
2 weapon described as a handgun, in violation of Section
3 16 23 490 of the Code of Laws of South Carolina, 1976,
4 as amended.

5 And Indictment 2011 GS 32 01444 reads that Andrew
6 E. Torrence, Junior, in Lexington County on or about
7 September 28, 2008, the date alleged in both the two
8 previous Indictments, did knowingly and wilfully carry
9 a pistol or firearm without the proper authority to do
10 so onto the premises of a business which sells alcoholic
11 liquor, beer or wine for consumption on the premises; to
12 wit, Shaggy's Bar, in violation of 16 3 465 of the Code
13 of Laws of South Carolina, 1976, as amended.

14 That is an Indictment for carrying a pistol or fire-
15 arm onto the premises of a business selling alcoholic
16 liquors, beer or wine, for on-premises consumption.

17 Ladies and gentlemen, the Indictments are not evi-
18 dence. They are the formal charging documents which
19 place an individual on notice of the charges that have
20 been brought against him or her.

21 The State is represented by Solicitors Shawn Graham
22 and Alton Eargle. If you would please stand and intro-
23 duce yourselves to the jury panel and any other members
24 of the Solicitor's staff that are going to assist you
25 in the prosecution of this case?

1 (Solicitors standing)

2 MR. GRAHAM: Your Honor, my name is Shawn Graham,
3 and I'm Deputy Solicitor to Solicitor Myers.

4 MR. EARGLE: Your Honor, I'm Al Eargle, and I'm
5 a Senior Assistant Solicitor. I work for Solicitor
6 Donald V. Myers.

7 There are three members of Mr. Myers' staff who
8 will be assisting us. Rhonda Robinson -- she is my
9 paralegal. Jill Smith, an investigator with Solicitor
10 Myers, and Pam Dukes, Victim Advocate in the case.

11 THE COURT: Thank you. Thank you very much.

12 Mr. Torrence, the Defendant, is represented by Mr.
13 Wayne Floyd.

14 Mr. Floyd, if you would please stand and intro-
15 duce yourself to the jury panel as well as your client?

16 MR. FLOYD: Thank you, Your Honor.

17 My name is Wayne Floyd, and I am a lawyer in West
18 Columbia. It is just me.

19 This is Andrew Torrence, Junior. He is the De-
20 fendant in this case, and my client.

21 (Mr. Floyd and Defendant standing for introduction
22 and being seated)

23 THE COURT: Thank you, Mr. Floyd, Mr. Torrence.

24 Is there any member of the jury panel related by
25 blood or marriage, or have any business, professional

1 or social relationship with Solicitors Graham or Eargle,
2 or any employee of the Lexington County Solicitor's
3 Office?

4 If so, please stand.

5 (Juror standing)

6 THE COURT: Yes, sir, your number and name?

7 JUROR: Bryan Stuckey. I'm Juror Number 166.

8 THE COURT: All right. Step down front for me,
9 please.

10 (Juror coming forward to the bench with counsel)

11 Mr. Stuckey, tell me your relationship.

12 JUROR: Well, Andrew Torrence is a close family
13 friend of mine. I've known them since grade school,
14 I believe.

15 THE COURT: And how long has he been a close fam-
16 ily friend?

17 JUROR: More than ten years.

18 THE COURT: And how old are you?

19 JUROR: Twenty-three.

20 THE COURT: So you've known him since you were a
21 teenager?

22 JUROR: Yes, sir, some of the family.

23 THE COURT: You knew some of his family?

24 JUROR: Exactly, exactly.

25 THE COURT: The fact that you are a friend of his

1 family, could you still be a fair and impartial juror
2 in the trial of this case to both the State and to the
3 Defendant?

4 JUROR: I'm not sure about that.

5 THE COURT: I'm going to set you aside in the trial
6 of this case, Mr. Stuckey.

7 I appreciate your coming forward, and do not say
8 anything to any of your fellow jurors.

9 You can return to your seat in the Courtroom.

10 (Juror returning to seat in Courtroom)

11 (Another Juror standing)

12 JUROR: Michael Chavis, Number 38.

13 THE COURT: All right. Juror Number 38, Mr. Chavis,
14 please come forward.

15 (Juror coming forward with counsel)

16 JUROR: I know Ms. Roberts who works for the
17 Solicitor's Office.

18 THE COURT: How do you know her?

19 JUROR: That's my wife's cousin.

20 THE COURT: Okay. About how long have you known
21 her?

22 JUROR: Six or seven years. I also know some of the
23 Defendant's family members, his parents.

24 THE COURT: The fact that you know Ms. Roberts and
25 the Defendant's parents, could you still be a fair and

1 impartial juror in the trial of this case to both the
2 State and the Defendant?

3 JUROR: To be perfectly honest with you, I might be
4 able to but I want to be honest.

5 THE COURT: I'm going to set you aside in the trial
6 of the case.

7 You can return to your seat, and please do not talk
8 about anything with the other jurors. Thank you.

9 (Juror returning to seat in Courtroom)

10 THE COURT: Is any member of the jury panel re-
11 lated by blood or marriage, a close personal friend, or
12 have any social, business or professional relationship
13 with Mr. Wayne Floyd, the Attorney for the Defendant in
14 this matter?

15 If so, please stand.

16 (No response from jury members)

17 Is any member of the jury panel or any member of
18 your immediate family or close personal friends, who has
19 ever been prosecuted by or represented by either Solicitor
20 Graham or Solicitor Eargle or Mr. Floyd?

21 If so, please stand.

22 (Juror standing)

23 THE COURT: Yes, sir, your name and number?

24 JUROR: Scott Kirkland, 88.

25 THE COURT: Step forward for me, please.

1 (Another juror standing)
2 THE COURT: Yes, maam, your name.
3 JUROR: My name is Priest, number 136.
4 THE COURT: Come forward for me, please.
5 (Juror Kirkland coming forward with counsel)
6 THE COURT: Yes, sir. Number 88.
7 JUROR: Yes, sir.
8 THE COURT: You are Mr. Kirkland?
9 JUROR: Yes.
10 THE COURT: Tell me about your situation.
11 JUROR: Mr. Floyd represented me a couple of years
12 ago in a situation.
13 THE COURT: What type of situation?
14 JUROR: CDV.
15 THE COURT: The fact that Mr. Floyd represented you in
16 a matter such as that, could you still be a fair and im-
17 partial juror in the trial of this case to both the State
18 and the Defendant?
19 JUROR: Yes, sir.
20 THE COURT: Thank you. Return to your seat and do not
21 say anything about this to your fellow jurors. Thank you.
22 (Juror returning to seat in Courtroom)
23 THE COURT: Yes, maam.
24 (Juror Priest coming forward)
25 THE COURT: Ms. Priest, right?

1 JUROR: Yes, sir.

2 THE COURT: What is your situation?

3 JUROR: Mr. Floyd represented my ex-husband six
4 years ago. It was regarding a business.

5 THE COURT: Let me ask you this question. Was he
6 your ex-husband six years ago?

7 JUROR: No, sir. We divorced five years ago.

8 THE COURT: So Mr. Floyd represented the gentleman
9 while you were still married?

10 JUROR: Yes, Your Honor.

11 THE COURT: The fact that Mr. Floyd represented your
12 ex-husband when you were married, could you still be a
13 fair and impartial juror in the trial of this case to both
14 the State and to the Defendant?

15 JUROR: Yes, sir.

16 THE COURT: You may return to your seat. Do not say
17 anything about this to any of your fellow jurors. You
18 may stay with us.

19 (Juror returning to seat in Courtroom)

20 (Conference off the record between counsel and the
21 Court off the record)

22 THE COURT: To make sure my question is clear concern-
23 ing the attorneys, I want to know if you or any member of
24 your immediate family or close personal friends not only
25 were represented by either Solicitor Graham, Solicitor

1 Eargle or Mr. Floyd, but if they may have represented an
2 opposing party.

3 If so, please stand.

4 So, if you or they have been a party to a lawsuit
5 where Mr. Graham or Mr. Eargle were prosecuting the case
6 or where Mr. Floyd was defending the case -- if so, please
7 stand.

8 Thank you.

9 (No response)

10 Is any member of the jury panel related by blood or
11 marriage, or a close personal friend, or have any social,
12 business or professional relationship with Andrew Earl
13 Torrence, Jr., the Defendant in this matter?

14 If so, please stand.

15 (Juror standing)

16 THE COURT: Yes, maam. Your number and name, please?

17 JUROR: Deborah Hammond.

18 THE COURT: Yes, maam, and next to Ms. Hammond? I
19 don't know if it's quite next to her. My eyes aren't that
20 good. Your name and number?

21 JUROR: Number 32, Cartin.

22 THE COURT: Would you all come forward?

23 (Juror Cartin coming to the bench with counsel)

24 THE COURT: Tell me your name.

25 JUROR: Lucius Cartin.

1 THE COURT: Tell me your situation.

2 JUROR: My son and Mr. Torrence used to play ball to-
3 gether.

4 THE COURT: How far back do you think it was?

5 JUROR: Probably -- when he was eight years old.

6 THE COURT: How old is your son now?

7 JUROR: Thirty-seven, I think.

8 THE COURT: So that's been twenty years ago?

9 JUROR: Yes, sir.

10 THE COURT: And have you had a continuing relation-
11 ship with his mother and father?

12 JUROR: Yes, sir.

13 THE COURT: Has that been social?

14 JUROR: Social and business kind of thing.

15 THE COURT: The fact that you have a history like that
16 with Mr. Torrence, and a history with Mr. Torrence's father,
17 could you still be a fair and impartial juror in this case
18 to both the State and the Defendant?

19 JUROR: I don't know.

20 THE COURT: Well, there is no correct answer but it
21 is just your answer. Do you understand?

22 JUROR: Yes, sir. I don't know if I can be fair and
23 impartial.

24 THE COURT: I'm going to set you aside in this case.
25 Please do not say anything to the other jurors.

1 JUROR: Yes, sir.
2 THE COURT: Thank you very much.
3 (Juror returning to seat in Courtroom)
4 THE COURT: All right.
5 (Juror Hammond coming forward with counsel)
6 THE COURT: Tell me your name.
7 JUROR: Debbie Hammond. I know his father.
8 THE COURT: You know Mr. Torrence's father?
9 JUROR: Yes, sir, through work.
10 THE COURT: What type of business is that?
11 JUROR: Plumbing.
12 THE COURT: How long have you known Mr. Torrence?
13 JUROR: Fifteen years.
14 THE COURT: So you have a business relationship with
15 the Defendant's father?
16 JUROR: Yes, sir.
17 THE COURT: The fact that you know his father in that
18 way, could you still be a fair and impartial juror in the
19 trial of this case to both the State and to the Defendant?
20 JUROR: I don't know.
21 THE COURT: You say you don't know?
22 JUROR: Right.
23 THE COURT: Well, if you were selected as a juror
24 in the trial of this case, it would be your responsibility
25 to be fair and impartial, and to make a decision based

1 on what you hear in this Courtroom from witnesses who
2 testify from this witness stand and on the law as I will
3 give it to you.

4 Can you set aside that personal relationship and
5 reach a decision based upon what I have just explained
6 to you?

7 JUROR: Possibly I can.

8 THE COURT: We're talking semantics a little here.
9 You need to answer yes or no to that.

10 JUROR: My heart says I can but my head says I can-
11 not.

12 THE COURT: All right. I'm going to set you aside
13 in this case. Thank you very much, and you can return
14 to your seat.

15 JUROR: Thank you.

16 THE COURT: Yes, sir, and do not say anything to the
17 fellow jurors.

18 (Juror returning to seat in Courtroom)

19 (Discussion between counsel and the Court off the
20 record at the bench)

21 THE COURT: All right. As you recall, ladies and
22 gentlemen, when I read the Indictments to you, it was al-
23 leged the incident occurred on September 28, 2008, in
24 Lexington County, at a place known as Shaggy's Bar --
25 S H A G G Y apostrophe S -- Shaggy's Bar, with a victim

1 or individual named in the Indictment as Zachariah Chaplin,
2 involving a semi-automatic handgun.

3 Does any member of the jury panel have any knowledge
4 about the case?

5 If so, please stand.

6 (No response from jury)

7 Does any member of the jury panel have any bias or
8 prejudice toward the parties or the subject matter that is
9 involved in the case?

10 If so, please stand.

11 (No response)

12 Has any member of the jury panel heard or know anything
13 about the case from any source whatsoever?

14 If so, please stand.

15 (No response)

16 THE COURT: I have a potential witness list from the
17 State. Mr. Floyd?

18 (Brief pause)

19 THE COURT: Ladies and gentlemen of the jury panel,
20 I'm going to call out a list of names, a rather lengthy
21 list of names, of potential witnesses in the trial of this
22 case.

23 I would ask the individual whose name I call if you
24 would please stand and face the jury panel when I call
25 your name.

1 I would advise the jury panel that witnesses are not
2 required to be present during this proceeding. Therefore,
3 if a name is called and no one stands there is nothing
4 whatsoever wrong with that. As I say, witnesses are not
5 required to be present at this time.

6 The question, of course, is if any member of the jury
7 panel is related by blood or marriage, close personal
8 friends, or have any social, business or professional re-
9 lationship with any of these individuals whose names I
10 call.

11 If you do, please stand.

12 I will call these names in groups of five. Officer
13 Thomas Griffin, West Columbia Police Department; Investi-
14 gator Leah Sugarman-Smith, to my front right, West
15 Columbia Police Department; Investigator Chuck Bramlett,
16 West Columbia Police Department; Investigator Bruce Wade,
17 West Columbia Police Department; Investigator Mark Jones,
18 West Columbia Police Department.

19 Is any member of the jury panel related by blood or
20 marriage or have a social, business or professional rela-
21 tionship with any of those individuals whose names I have
22 called?

23 If so, please stand.

24 (Juror standing)

25 THE COURT: Yes, your name and number, please.

1 JUROR: Number 127. My name is Barbara Paul.
2 THE COURT: All right, if you would come forward for
3 me, please.
4 (Juror coming forward with counsel)
5 THE COURT: Yes, maam. Juror 127, Barbara Paul.
6 JUROR: I know Leah Smith.
7 THE COURT: How do you know her?
8 JUROR: We have mutual friends. I've known her a
9 number of years. I don't see her often though.
10 THE COURT: The fact that you say a number of years
11 -- tell me how long you've known her.
12 JUROR: I'd say maybe ten years.
13 THE COURT: The fact that you have known Investiga-
14 tor Smith for that length of time and you have mutual
15 friends, even though you don't see her regularly, could
16 you still be a fair and impartial juror in the trial of
17 this case to both the State and the Defense?
18 JUROR: Yes.
19 THE COURT: You could?
20 JUROR: Yes, sir.
21 THE COURT: All right, you can stay with us. Return
22 to your seat and please don't talk about anything with
23 your fellow jurors.
24 JUROR : Yes, sir.
25 (Juror returning to seat)

1 THE COURT: Thank you very much.

2 The next five names: Lieutenant Mat Edwards of
3 the West Columbia Police Department, over to my right;
4 Sergeant Johnny Dollar, West Columbia Police Department;
5 Debra Knotts, West Columbia Nine One One Communi-
6 cations; Lieutenant Mike Gearson, Cayce Public Safety
7 Nine One One; Ms. Nikki Rodgers, Lexington County Nine
8 One One Communications.

9 Is any member of the jury panel related by blood or
10 marriage, close personal friends, to any of those in-
11 dividuals whose names I just called?

12 If so, please stand.

13 (No response from jurors)

14 The next five: Kimberly Gathers, Columbia Police
15 Department Nine One One Communications; Julie Mosser,
16 M O S S E R, Lexington County EMS; Troy Crump, Lexington
17 County Sheriff's Department; Michael Phipps, P H I P P
18 S, Lexington County Sheriff's Department; George Moore,
19 Securus.

20 Any member of the jury panel related by blood or
21 marriage, close personal friends, with any of those in-
22 dividuals whose names I just called; or have any social,
23 business or professional relationship?

24 If so, please stand.

25 (Juror standing)

1 THE COURT: Your name and number, please?
2 JUROR: Phillips, 131.
3 THE COURT: Come forward, please.
4 (Juror coming to bench with counsel)
5 THE COURT: You're Robert Phillips, 131?
6 JUROR: Yes, sir.
7 THE COURT: Who is it? Tell me your situation.
8 JUROR: I work with Ms. Gathers, and I work for
9 (inaudible)
10 THE COURT: You are a co-worker of Ms. Gathers?
11 JUROR: Yes, sir.
12 THE COURT: Is that right?
13 JUROR: Yes, sir. I'm Assistant Superintendent.
14 THE COURT: How long you done that?
15 JUROR: Thirty-two years.
16 THE COURT: How long has Ms. Gathers been there?
17 JUROR: I've known her probably six, seven, eight
18 years.
19 THE COURT: Since you have that relationship with
20 Ms. Gathers, could you still be a fair and impartial
21 juror to both the State and the Defendant?
22 JUROR: Yes, sir.
23 THE COURT: I believe you can stay with us. You
24 can return to your seat.
25 (Juror returning to seat)

1 THE COURT: The next five names are Judge Scott
2 Whittle; Agent Joe West with SLED, to my right -- thank
3 you -- Megan M. Fletcher with SLED; Tracy J. Thrower,
4 SLED; and Dr. Janice Ross with Newberry Pathology.

5 Is any member of the jury panel related by blood
6 or marriage, or close personal friends, or have any so-
7 cial, business or professional relationship with any
8 of those individuals?

9 If so, please stand.

10 (Juror standing)

11 THE COURT: Yes, sir. Your name and number, sir?

12 JUROR: Number 92, Blake Kyzer.

13 THE COURT: Step up for me, please.

14 (Juror coming forward)

15 THE COURT: Number 92?

16 JUROR: Yes, sir.

17 THE COURT: And your relationship and the name of
18 the person?

19 JUROR: I have had some training classes with some
20 of them.

21 THE COURT: And that is what type of training?

22 JUROR: Medical.

23 THE COURT: The fact that you were classmates with
24 them, could you still be a fair and impartial juror in
25 the trial of this case to both the State and to the

1 Defendant?

2 JUROR: Yes, sir.

3 THE COURT: You can return to your seat. Thank
4 you, sir.

5 (Juror returning to seat in Courtroom)

6 THE COURT: The next five names appear to be med-
7 ical personnel, and the question would be, is any mem-
8 ber of the jury panel related by blood or marriage, a
9 close personal friend with any of these individuals,
10 or have any social, business or professional relation-
11 ship between you or any member of your immediate family
12 or have been treated by any of these physicians or medi-
13 cal personnel.

14 If so, please stand.

15 Dr. Raymond P. Bynoe; Dr. Stephen C. Stanfield;
16 Dr. John Brice; Dr. Kevin Murrell; Sarah Walker, Lex-
17 ington Medical Center.

18 (No response)

19 The next five names -- oh, excuse me.

20 (Juror standing)

21 THE COURT: Yes, sir. Your name again? I just
22 saw you.

23 JUROR: Blake Kyzer.

24 THE COURT: Come forward, please.

25 (Juror coming forward with counsel)

1 THE COURT: Which name is it, Mr. Kyzer?
2 JUROR: Drs. Bynoe, Stanfield -- really, all of
3 them.
4 THE COURT: How long have you been doing that
5 work?
6 JUROR: About four years.
7 THE COURT: So basically you are a co-worker,
8 and could you still be a fair and impartial juror in
9 the trial of this case to both the State and the Defen-
10 dant?
11 JUROR: Yes, sir.
12 (Juror returning to seat. Another juror standing.)
13 THE COURT: Come forward, please, maam.
14 (Juror coming forward with counsel)
15 THE COURT: Tell me your name, please, maam.
16 JUROR: Julia McCrae, 106.
17 THE COURT: Tell me your situation.
18 JUROR: I worked at the hospital with Dr. Bynoe.
19 THE COURT: For what period of time?
20 JUROR: For four years while he was in training.
21 THE COURT: And the fact that you worked with him
22 in that regard, would that prevent you from being a
23 fair and impartial juror in this case for both the
24 State and the Defense?
25 JUROR: No, sir.

1 THE COURT: Thank you. You can return to your seat.

2 (Juror returning to seat in Courtroom)

3 THE COURT: The next five names: Tonya Mozenko --
4 did I pronounce that correctly? Steven Smith; Jennifer
5 Reynolds; Lee Ann Stovall; Donna Muszynski.

6 Is any member of the jury panel related by blood
7 or marriage, close personal friends, have any social,
8 business or professional relationship with any of the
9 persons whose names I just called?

10 If so, please stand.

11 (No response)

12 The next five names: Robert L. Buchanan, Third;
13 Orlando Boyd; Torehejar Boyd; Sanjiv Narang -- N A R
14 A N G; Andrew E. Torrence, Senior.

15 Mr. Torrence is to my front right. You may be
16 seated.

17 Any member of the jury panel related by blood or
18 marriage, close personal friends, have any social, bus-
19 iness or professional relationship with any of those
20 individuals whose names I just called, please stand.

21 (Juror standing)

22 THE COURT: You may be seated. This is Mr. Chavis?

23 JUROR: Yes.

24 THE COURT: You may be seated.

25 (Another juror standing)

1 THE COURT: Mr. Cartin?
2 JUROR: Yes, sir.
3 THE COURT: You may also be seated.
4 Anyone else?
5 (No response)
6 THE COURT: The next five names are Brenda S.
7 Torrence -- this is Ms. Torrence to my right -- thank
8 you. You may be seated.
9 Coleman J. Sullivan, Junior; Daniel Cameron; Ken
10 Robison with Hawkeye Security; Chris Robinson, Hawkeye
11 Security.
12 (No response)
13 The next five names: Lyle Brite, B R I T E;
14 Magnolia Thomas; Shaun Salters; Scott Shull; and Ted
15 Neeley.
16 Are you related by blood or marriage, close per-
17 sonal friends, have any social, business or profes-
18 sional relationship with any of those persons whose
19 names I have called?
20 If so, please stand.
21 (Juror standing)
22 THE COURT: Yes, maam. Your number and name?
23 JUROR: Number 138, Grace Rader.
24 THE COURT: Step forward for me, please, maam.
25 (Juror coming forward with counsel)

1 THE COURT: Yes, maam. Who is it?
2 JUROR: Scott Shull.
3 THE COURT: Scott Shull?
4 JUROR: Yes.
5 THE COURT: How do you know Scott Shull?
6 JUROR: He used to come in where I worked, and I
7 worked with him for a while.
8 THE COURT: And when was the last time you saw him?
9 JUROR: It's been years.
10 THE COURT: The fact that you knew him and that he
11 at one time was a co-worker, could you still be a fair
12 and impartial juror in the trial of this case to both
13 the State and the Defense?
14 JUROR: I could.
15 THE COURT: Thank you.
16 (Juror returned to seat)
17 THE COURT: The next five names: Nick Burr, B U R
18 R; Troy Seybt, S E Y B T; Chris Abram; Raymond Chavis;
19 Cathy Burr, B U R R.
20 Any member of the jury panel related by blood or
21 marriage, have any business, social or professional re-
22 lationship with any of those individuals?
23 If so, please stand.
24 (No response)
25 THE COURT: Mr. Chavis, you may be seated.

1 If any of you would have an affirmative answer who
2 has been excused, you do not have to stand. You are set
3 aside from the trial of this case. Thank you.

4 The next five names: Dr. Donna Schwartz-Watts; Dr.
5 James Torreson; Mai Yang, Y A N G; Doug Manos, M A N O S;
6 Chip Johnson.

7 If any member of the jury panel related by blood or
8 marriage, close personal friend, or has any social, bus-
9 iness or professional relationship with any of those names,
10 please stand.

11 (Juror standing)

12 THE COURT: Down on my left. Yes, sir, if you would
13 please stand again?

14 This is Mr. Kyzer?

15 JUROR: Yes, sir.

16 THE COURT: Who is it?

17 JUROR: I have worked with Dr. Torreson and I know
18 Doug Manos.

19 THE COURT: And could you still be a fair and im-
20 partial juror in the trial of this case to both the
21 State and the Defendant?

22 JUROR: Yes, sir.

23 THE COURT: Thank you very much. You may be seated,
24 sir.

25 (Juror being seated)

1 THE COURT: The next five names: Shawn Salters; Dr.
2 Edward W. Catalano; Pat Simons or Simons -- S I M O N S;
3 Ryan Carature, C A R A T U R E ; Sarah Walker.

4 Is any member of the jury panel related by blood
5 or marriage, close personal friend, or have any social,
6 business or professional relationship with any of those
7 individuals?

8 If so, please stand.

9 (No response)

10 THE COURT: The last name, Dr. Stephen Schwab,
11 S C H W A B.

12 If any member of the jury panel is related by blood
13 or marriage, a close personal friend, or have any social,
14 business or professional relationship with Dr. Stephen
15 Schwab, please stand.

16 (No response)

17 THE COURT: Any additional witnesses for the State,
18 Solicitor?

19 MR. GRAHAM: No, Your Honor.

20 THE COURT: For the Defense, Mr. Floyd?

21 MR. FLOYD: No, Your Honor.

22 THE COURT: Please check behind me and make sure I
23 did not miss anyone on the potential witness list, Mr.
24 Floyd. I tried not to do that, but did I miss any?

25 MR. FLOYD: No, sir.

1 THE COURT: Thank you very much.
2 Did you have any other specific voir dire, Solicitor?
3 MR. GRAHAM: No, sir, Your Honor.
4 THE COURT: Did you, Mr. Floyd?
5 MR. FLOYD: I did, Your Honor.
6 THE COURT: Any objections?
7 MR. FLOYD: No, Your Honor.
8 THE COURT: Is any member of the jury panel or any
9 member of your immediate family, or close personal friend,
10 currently or formerly employed in law enforcement?
11 If so, please stand.
12 (Juror standing)
13 THE COURT: All right, let's see. I believe your
14 father is a retired law enforcement officer, is that
15 correct?
16 JUROR: Yes, sir.
17 THE COURT: I apologize, but let me get your number
18 and name again, please.
19 JUROR: Number 114, Carlos Martanez. In Newark, New
20 Jersey.
21 THE COURT: And could you be a fair and impartial
22 juror in the trial of this case to both the State and
23 the Defendant?
24 JUROR: No, sir, I can't.
25 THE COURT: All right, I'll set you aside in this

1 case. You may be seated.

2 (Another juror standing)

3 THE COURT: Yes, sir, your name and number?

4 JUROR: Number 79, Michael Huffstetter.

5 THE COURT: All right, sir.

6 JUROR: My wife has worked for the U. S. Marshal's
7 Service.

8 THE COURT: Given the fact that your wife was em-
9 ployed with the U. S. Marshal's Service, could you still
10 be a fair and impartial juror in the trial of this case
11 to both the State and the Defense?

12 JUROR: Yes, sir.

13 THE COURT: You may be seated.

14 (Another juror standing)

15 THE COURT: Yes, maam, your name and number.

16 JUROR: Miller, and my number is 112.

17 THE COURT: All right.

18 JUROR: And my dad was in law enforcement.

19 THE COURT: Given that relationship, could you
20 still be a fair and impartial juror in the trial of the
21 case to both the State and to the Defense?

22 JUROR: Yes, sir.

23 THE COURT: Thank you. You may be seated.

24 (Juror returning to seat. Another juror standing)

25 THE COURT: Yes, sir, your name and number, please.

1 JUROR: Number 123, William D. Overton. I am a re-
2 tired law enforcement officer.

3 THE COURT: The fact that you are a retired law
4 enforcement officer, could you still be a fair and
5 impartial juror in the trial of this case to both the
6 State and the Defense?

7 JUROR: Yes, sir.

8 THE COURT: Thank you, you may be seated.

9 (Juror returning to seat)

10 THE COURT: Any others.

11 (No further response)

12 THE COURT: Thank you. Is any member of the jury
13 panel or any member of your immediate family, or a
14 close personal friend, ever been a victim of a crime
15 of personal violence?

16 If so, please stand.

17 (Juror standing)

18 THE COURT: Yes, maam. Your number and name,
19 please?

20 JUROR: Julia McCrae, 106.

21 THE COURT: Come forward for me, please.

22 (Juror coming forward with counsel)

23 (Another juror standing)

24 THE COURT: Yes, sir, your name and number, please?

25 JUROR: Bryan Stuckey, 166.

1 THE COURT: You can be seated, Mr. Stuckey. I be-
2 lieve I excused you.
3 (Juror seated)
4 THE COURT: This is Ms. McCrae.
5 JUROR: Yes, sir.
6 THE COURT: Try to speak so my Court Reporter can
7 get what you say.
8 What is your situation?
9 JUROR: My house was broken into several years
10 ago. (Difficult to hear)
11 THE COURT: Given that fact, could you still be a
12 fair and impartial juror in the trial of this case to
13 both the State and the Defendant?
14 JUROR: Yes, sir.
15 THE COURT: You can return to your seat.
16 (Juror returning to seat)
17 THE COURT: I believe I have already asked question
18 number three, and I decline to ask four.
19 Any additional requested voir dire from the
20 State?
21 MR. GRAHAM: None from the State, Your Honor.
22 THE COURT: From the Defense?
23 MR. FLOYD: Nothing further, Your Honor.
24 THE COURT: All right. Finally, ladies and gen-
25 tlemen, each of you know yourselves best. You have

1 heard the allegations made in the Indictments, and you
2 have heard the names of potential witnesses in the trial
3 of this case.

4 The purpose in conducting this procedure is to
5 select fair and impartial jurors for the trial of the
6 case for both the parties, both for the State and for
7 Mr. Torrence.

8 So I ask you, does any member of the jury panel
9 know of any reason whatsoever why you feel like you
10 could not be a fair and impartial juror in the trial
11 of this case?

12 If so, please stand.

13 (No response from jurors)

14 THE COURT: All right, there being no response, I
15 find that the jury is qualified with the exception of
16 those I have set aside.

17 If you would prepare us a list, Madam Clerk?

18 (Brief pause in the proceeding)

19 THE COURT: All right, then. The number of the
20 strikes, Solicitor?

21 MR. GRAHAM: Ten for the defense. Five for the
22 State, Your Honor.

23 THE COURT: Mr. Floyd, you agree?

24 MR. GRAHAM: I agree, Your Honor.

25 THE COURT: Ten strikes for the Defense and five

1 strikes for the State.

2 Madam Clerk, would you explain the procedure to
3 our panel?

4 CLERK: Yes, sir. As I call your name, bring
5 your personal items with you. You need to come up front
6 here, right to middle of the podium just like I am right
7 now, and face back that way.

8 Then you will follow instructions whether to have
9 a seat in the jury box or to return to your seat.

10 THE COURT: Give us a panel, please, Madam Clerk.

11 CLERK: Number 30, Michelle Cantrell.

12 (Juror Cantrell coming forward)

13 CLERK: What say you for the State?

14 MR. EARGLE: Please present Ms. Cantrell.

15 CLERK: What say you for the Defense?

16 MR. FLOYD: Seat Ms. Cantrell, please.

17 CLERK: Have a seat in the jury box.

18 (Juror seated in jury box)

19 CLERK: Number 49, Lisette Dawson.

20 (Juror Dawson coming forward)

21 CLERK: What say you for the State?

22 MR. EARGLE: Please present Ms. Dawson.

23 CLERK: What say you for the Defense?

24 MR. FLOYD: Seat Ms. Dawson.

25 CLERK: Have a seat in the jury box, ma'am.

1 (Juror being seated in jury box)
2 CLERK: Number 134, William Poss.
3 (Juror Poss coming forward)
4 CLERK: What say you for the State?
5 MR. EARGLE: Please present Mr. Poss.
6 CLERK: What say you for the Defense?
7 MR. FLOYD: Present Mr. Poss.
8 CLERK: Have a seat in the jury box, sir.
9 (Juror seated in jury box)
10 CLERK: Number 26, James Callicott.
11 (Juror Callicott coming forward)
12 CLERK: What say you for the State?
13 MR. EARGLE: Please excuse Mr. Callicott.
14 CLERK: Please return to your seat, sir.
15 (Juror returning to seat in Courtroom)
16 CLERK: Number 124, Joe Ozbolt.
17 (Juror Ozbolt coming forward)
18 CLERK: What say you for the State?
19 MR. EARGLE: Please present Mr. Ozbolt.
20 CLERK: What say you for the Defense?
21 MR. FLOYD: Excuse Mr. Ozbolt, please.
22 CLERK: Please return to your seat, sir.
23 (Juror returning to seat in Courtroom)
24 CLERK: Number 54, Sasha Eckert Diaz.
25 (Juror Diaz coming forward)

1 CLERK: What say you for the State?
2 MR. EARGLE: Please Ms. Eckert Diaz.
3 CLERK: What say you for the Defense?
4 MR. FLOYD: Excuse Ms. Eckert Diaz.
5 CLERK: Please return to your seat.
6 (Juror returning to seat in Courtroom)
7 CLERK: Number 127, Barbara Paul.
8 (Juror Paul coming forward)
9 CLERK: What say you for the State?
10 MR. EARGLE: Please present Ms. Paul.
11 CLERK: What say you for the Defense?
12 MR. FLOYD: Excuse Ms. Paul, please.
13 CLERK: Return to your seat, maam.
14 (Juror returning to seat in Courtroom)
15 CLERK: Number 53, Michael Dunn.
16 (Juror Dunn coming forward)
17 CLERK: What say you for the State?
18 MR. EARGLE: Please excuse Mr. Dunn.
19 CLERK: Please return to your seat, please, sir.
20 (Juror returning to seat in Courtroom)
21 CLERK: Number 57, Shannon Evans.
22 (Juror Evans coming forward)
23 CLERK: What say you for the State?
24 MR. EARGLE: Please present Ms. Evans.
25 CLERK: What say you for the Defense?

1 MR. FLOYD: Excuse Ms. Evans, please.
2 CLERK: Return to your seat, please, maam.
3 (Juror returning to seat in Courtroom)
4 CLERK: Number 10, Stephanie Aulds.
5 (Juror Aulds coming forward)
6 CLERK: What say you for the State?
7 MR. EARGLE: Please present Ms. Aulds.
8 CLERK: What say you for the Defense?
9 MR. FLOYD: Present Ms. Aulds.
10 CLERK: Have a seat in the jury box.
11 (Juror seated in jury box)
12 CLERK: Number 16, Nancy Bennett.
13 (Juror Bennett coming forward)
14 CLERK: What say you for the State?
15 MR. EARGLE: Please present Ms. Bennett.
16 CLERK: What say you for the Defense?
17 MR. FLOYD: Excuse Ms. Bennett, please.
18 CLERK: Return to your seat, please, maam.
19 (Juror returning to seat in Courtroom)
20 CLERK: Number 112, Naomi L. Miller.
21 (Juror Miller coming forward)
22 CLERK: What say you for the State?
23 MR. EARGLE: Please present Ms. Miller.
24 CLERK: What say you for the Defense?
25 MR. FLOYD: Present Ms. Miller.

1 CLERK: Have a seat in the jury box.
2 (Juror seated in jury box)
3 CLERK: Number 143, Glenn Richardson.
4 (Juror Richardson coming forward)
5 CLERK: What say you for the State?
6 MR. EARGLE: Please present Mr. Richardson.
7 CLERK: What say you for the Defense?
8 MR. FLOYD: Present Mr. Richardson.
9 CLERK: Have a seat in the jury box.
10 (Juror being seated in jury box)
11 CLERK: Number 66, Finley Green.
12 (Juror Green coming forward)
13 CLERK: What say you for the State?
14 MR. EARGLE: Please excuse the juror.
15 CLERK: Please return to your seat, sir.
16 (Juror returning to seat in Courtroom)
17 CLERK: Number 131, Robert Phillips.
18 (Juror Phillips coming forward)
19 CLERK: What say you for the State?
20 MR. EARGLE: Please present Mr. Phillips.
21 CLERK: What say you for the Defense?
22 MR. FLOYD: Please seat the juror.
23 CLERK: Have a seat in the jury box.
24 (Juror seated in jury box)
25 CLERK: Number 12, Steven Backman.

1 (Juror Backman coming forward)
2 CLERK: What say you for the State?
3 MR. EARGLE: Please excuse Mr. Backman.
4 CLERK: Please return to your seat, sir.
5 (Juror returning to seat in Courtroom)
6 CLERK: Number 159, Donald Snipes.
7 (Juror Snipes coming forward)
8 CLERK: What say you for the State?
9 MR. EARGLE: Please present Mr. Snipes.
10 CLERK: What say you for the Defense?
11 MR. FLOYD: Present Mr. Snipes.
12 CLERK: Have a seat in the jury box, sir.
13 (Juror seated in jury box)
14 CLERK: Number 132, Kenneth Pittman.
15 (Juror Pittman coming forward)
16 CLERK: What say you for the State?
17 MR. EARGLE: Please present Mr. Pittman.
18 CLERK: What say you for the Defense?
19 MR. FLOYD: Present Mr. Pittman.
20 CLERK: Have a seat in the jury box, sir.
21 (Juror seated in jury box)
22 CLERK: Juror Number 130, Erin Phillips.
23 (Juror Phillips coming forward)
24 CLERK: What say you for the State?
25 MR. EARGLE: Present Ms. Phillips.

1 CLERK: What say you for the Defense?
2 MR. FLOYD: Please excuse Ms. Phillips.
3 CLERK: Please return to your seat, maam.
4 (Juror returning to seat in Courtroom)
5 CLERK: Number 141, Edgar Redmond.
6 (Juror Redmond coming forward)
7 CLERK: What say you for the State?
8 MR. EARGLE: Please present Mr. Redmond.
9 CLERK: What say you for the Defense?
10 MR. FLOYD: Present Mr. Redmond.
11 CLERK: Have a seat in the jury box.
12 (Juror seated in jury box)
13 CLERK: Number 136, Janet Priest.
14 (Juror Priest coming forward)
15 CLERK: What say you for the State?
16 MR. EARGLE: Please present Ms. Priest.
17 CLERK: What say you for the Defense?
18 MR. FLOYD: Excuse Ms. Priest, please.
19 CLERK: Please return to your seat, maam.
20 (Juror returning to seat in Courtroom)
21 CLERK: Number 84, Freddie Johnson.
22 (Juror Johnson coming forward)
23 CLERK: What say you for the State?
24 MR. EARGLE: Present Mr. Johnson.
25 CLERK: What say you for the Defense?

1 MR. FLOYD: Present Mr. Johnson.
2 CLERK: Have a seat in the jury box, sir.
3 (Juror seated in jury box)
4 CLERK: Number 182, Gabrielle Wright.
5 (Juror Wright coming forward)
6 CLERK: What say you for the State?
7 MR. EARGLE: Present Ms. Wright.
8 CLERK: What say you for the Defense?
9 MR. FLOYD: Present Ms. Wright.
10 CLERK: Have a seat in the jury box.
11 (Juror seated in jury box)
12 CLERK: Alternates, Your Honor?
13 THE COURT: Yes, maam, two alternates.
14 CLERK: Number 4, Dwight Amick.
15 (Juror Amick coming forward)
16 CLERK: What say you for the State?
17 MR. EARGLE: Please present Mr. Amick.
18 CLERK: What say you for the Defense?
19 MR. FLOYD: Excuse Mr. Amick, please.
20 CLERK: Return to your seat, sir.
21 (Juror returning to seat in Courtroom)
22 CLERK: Number 163, Jean Spillman.
23 (Juror Spillman coming forward)
24 CLERK: What say you for the State?
25 MR. EARGLE: Present Ms. Spillman.

1 CLERK: What say you for the Defense?
2 MR. FLOYD: Present Ms. Spillman.
3 CLERK: Have a seat in the jury box, maam, as al-
4 ternate number one.
5 (Juror Spillman seated as Alternate Number 1)
6 CLERK: Number 11, Randy Autrey.
7 (Juror Autrey coming forward)
8 CLERK: What say you for the State?
9 MR. EARGLE: Please excuse Mr. Autrey.
10 CLERK: Please return to your seat, please, sir.
11 (Juror returning to seat in Courtroom)
12 CLERK: Number 15, Donna Bellotti.
13 (Juror Bellotti coming forward)
14 CLERK: What say you for the State?
15 MR. EARGLE: Present the juror.
16 CLERK: What say you for the Defense?
17 MR. FLOYD: Please present Ms. Bellotti.
18 CLERK: Please have a seat in the jury box, maam.
19 Alternate Number two.
20 THE COURT: Any motions regarding the jury selec-
21 tion process, from the State?
22 MR. EARGLE: No, Your Honor.
23 THE COURT: From the Defense?
24 MR. FLOYD: No, Your Honor.
25 THE COURT: All right, ladies and gentlemen who

1 were selected as the trial jury for the trial of this
2 case, momentarily I'm going to have you step to your
3 new temporary home, your jury room, while I give some
4 instructions to your colleagues concerning their con-
5 tinued jury service for the remainder of the day and
6 the remainder of the week.

7 Upon your return, I will give you some further in-
8 structions concerning your responsibilities as jurors
9 during the trial of this case and throughout the week.

10 I will advise you now that you are not to discuss
11 this case with anyone, and that includes your fellow
12 jurors or anyone else.

13 You would not be authorized to discuss this case
14 until you have heard all the evidence, all the testimony,
15 the closing arguments by the attorneys, and the charge
16 or the instructions on the law by the Court.

17 You will then be directed by the Court to begin
18 your deliberations with your fellow jurors in your jury
19 room.

20 So those instructions will be in force and effect
21 throughout the entire trial of the -- during the entire
22 case. You may not discuss the case with anyone during
23 the course of this trial until you are instructed to
24 do so.

25 If anyone begins to talk with you about the case,

1 please let me know immediately.

2 I will ask if you would please go to your left
3 with your bailiff. I will have you back out momentar-
4 ily after I give your colleagues some instructions.

5 Thank you.

6 (Jury excused from Courtroom at 12:45 P.M.)

7 THE COURT: All right. Ladies and gentlemen of
8 the jury panel who have not been fortunate enough to be
9 selected as jurors in the trial of this case, do not
10 give up hope.

11 The Judge is going to select a trial jury for a
12 civil case downstairs, so when you leave here you will
13 report down there.

14 Is that correct?

15 CLERK: Yes, sir.

16 THE COURT: The bailiff back in the back there
17 will direct you down to Courtroom 3-C, three charlie,
18 and the Judge will select a jury for a civil case.

19 It's been my pleasure and privilege to be with
20 you here this morning, and Judge Cochoran after selec-
21 tion of that jury will give you instructions concern-
22 ing your jury service for the remainder of the week.

23 It's been my pleasure and privilege to serve with
24 you this morning, and if you would follow the bailiff
25 now to Courtroom 3-C.

1 Thank you.

2 (Jurors not selected for the trial of the within
3 matter excused from the Courtroom)

4 THE COURT: All right. Are there any pre-trial
5 motions, Solicitor?

6 MR. GRAHAM: Yes, Your Honor.

7 THE COURT: All right.

8 MR. GRAHAM: The State has a couple of motions in
9 limine. We have two officers involved in Jackson v.
10 Deno hearings. We have some stipulations and something
11 on Rule Five, Your Honor.

12 THE COURT: How long do you think those will take,
13 Solicitor?

14 MR. GRAHAM: The only ones that have testimony,
15 Your Honor, will be the two Jackson v. Deno hearings,
16 and one is very short.

17 I don't know Your Honor's preference, but we have
18 a video from an in-car camera. I believe it's about
19 forty minutes to watch the tape from the camera.

20 I'm not sure whether you would rather just hear
21 the testimony, or would you rather actually hear what
22 the Defendant says.

23 THE COURT: All right, Solicitor. Do you have ad-
24 dition pre-trial motions, Mr. Floyd?

25 MR. FLOYD: No, Your Honor. We don't have any

1 motions at this time.

2 THE COURT: Well, . .

3 MR. FLOYD: I take that back. We do have one mo-
4 tion to take up.

5 THE COURT: How long will that take?

6 MR. FLOYD: Ten minutes.

7 THE COURT: All right. I think what I will do is
8 release the jury panel for their lunch and bring them
9 back at three o'clock. We will report back at two to
10 hear the motions at that time.

11 Would that give enough time, Solicitor?

12 MR. GRAHAM: I think so, Your Honor.

13 THE COURT: And do you think that will give enough
14 time, Mr. Floyd?

15 MR. FLOYD: I think so, Your Honor.

16 THE COURT: All right. We will try to hear the
17 motions between two and three o'clock.

18 MR. GRAHAM: Thank you, Your Honor.

19 THE COURT: All right, bring us our jury panel,
20 please.

21 Mr. Garrett, I have appointed Juror Number 159 as
22 the Foreperson. That is Mr. Donald W. Snipes. If you
23 would seat him in the appropriate spot?

24 BAILIFF: Yes, Your Honor.

25 THE COURT: Thank you.

1 (Whereupon, the jury panel was excused for the
2 lunch period, to return at three o'clock P.M.)

3 THE COURT: All right, the Court will be in recess
4 until two o'clock.

5 (Court stood in recess as to this matter until two
6 o'clock P.M.)

7 THE COURT: All right, Solicitor. I believe you
8 have motions?

9 MR. GRAHAM: I do have some motions and some stip-
10 ulations, however you would like us to proceed.

11 THE COURT: However you would like to do it.

12 MR. GRAHAM: The stipulations that pertain to Mr.
13 Floyd -- he is stipulating to the chain of custody with
14 regard to the bullets recovered from the victim's body.
15 There were two recovered from the body.

16 We will be able to go from Dr. Ross to the analyst
17 at SLED.

18 It is also my understanding that he has stipulated
19 to Chuck Bramlett, crime scene investigator of the West
20 Columbia Police Department, recovering the firearms,
21 the magazine, the bullets that were in the magazine, and
22 shell casings found inside the bar.

23 The stipulation that he found them and those are
24 the same ones that went to Tracy Thrower with SLED.

25 THE COURT: All right, and are those stipulations

1 correct, Mr. Floyd?

2 MR. FLOYD: That's correct, Your Honor. Also they
3 have some clothing items as well.

4 MR. GRAHAM: Yes, Your Honor.

5 THE COURT: All right.

6 MR. GRAHAM: Additionally, Your Honor, there is a
7 voluminous record -- medical record both from Palmetto
8 Richland and also from the V. A. Hospital.

9 We had obtained those for Mr. Floyd as part of
10 discovery. Mr. Floyd has them.

11 We don't have the record keeper here, and I believe
12 he will stipulate to the records that we have; that
13 they are the actual records; and that they will be ad-
14 mitted into evidence without objection.

15 MR. FLOYD: That's correct.

16 THE COURT: All right.

17 MR. GRAHAM: The State has filed a reciprocal Rule
18 Five motion, Your Honor. At this time we have not re-
19 ceived anything from Mr. Floyd, and I just want to make
20 sure that in the status of where we are right now there
21 is nothing he will bring in.

22 THE COURT: Mr. Floyd?

23 MR. FLOYD: That's correct, Your Honor.

24 THE COURT: All right, Solicitor.

25 MR. GRAHAM: Your Honor, we have two motions in

1 limine. One is related to the victim, Mr. Chaplin.

2 There was some material found during the investi-
3 gation of the case, I think by West Columbia and by our
4 office, that had to do with potential drug use both
5 then and in the past.

6 I was unable to find any evidence that he was us-
7 ing drugs that night, but we would ask that before Mr.
8 Floyd goes into that that we have a hearing to under-
9 stand where he's going and whether it is admissible.

10 THE COURT: All right, Mr. Floyd?

11 MR. FLOYD: I'm not sure I understand that, Your
12 Honor.

13 THE COURT: All right.

14 MR. FLOYD: I mean, his drug use may come up, but
15 I don't understand why I would have to show it is ad-
16 missible.

17 THE COURT: Solicitor?

18 MR. GRAHAM: To show it would be relevant, Your
19 Honor. To say he had a drug problem or that he had
20 used drugs in the past -- I don't think unless Mr. Floyd
21 can show it is relevant to the events of that night --
22 I don't see the admissibility of it.

23 That's my motion. That we address the admissibil-
24 ity or relevance of it before any questions are posed
25 regarding this character information.

1 MR. FLOYD: I've got no problem with that, Judge.

2 THE COURT: Does that satisfy you, Solicitor?

3 MR. GRAHAM: Yes, sir, Your Honor. Thank you.

4 THE COURT: So before you bring it up, then, Mr.
5 Floyd, I'll be glad to hear from you again. So don't
6 bring it up before the jury until I've had an opportu-
7 nity to hear you and rule on it.

8 All right.

9 MR. GRAHAM: Additionally, Your Honor, one of the
10 State's witnesses is a lady named Donna Muszynski.

11 After giving a statement at the police station,
12 she went back to the bar . .

13 THE COURT: Was this West Columbia or . .

14 MR. GRAHAM: I don't know without looking at the
15 records, but she went back -- she was taken right from
16 the bar to give a statement, and she went back to the
17 bar and she was getting her purse to leave when Inves-
18 tigator Franklin was identifying persons who were in-
19 side the crime scene and processing when he discovered
20 what was believed to be cocaine.

21 She was not arrested. West Columbia did not charge
22 her at that time, but in speaking with her later she
23 told me that it was indeed cocaine but that she was not
24 using that night.

25 Again, before Mr. Floyd goes into questioning of

1 anyone regarding the cocaine found in her purse, we
2 would ask that we make sure it is admissible in regard
3 to the case.

4 THE COURT: All right. Has Ms. Muszynski in the
5 past been a victim of a crime?

6 MR. GRAHAM: She has, Your Honor.

7 THE COURT: The reason I bring that up is that
8 probably twenty years ago I prosecuted a case with Mr.
9 Floyd but I have not seen Ms. Muszynski for many, many
10 years.

11 I did see her father since I've been a Judge only
12 because he was on jury duty.

13 So I want you to be aware of that. I would prob-
14 ably recognize her in the Courtroom but I'm not certain
15 of it.

16 But I did want you aware of that. Do you have a
17 position on his motion?

18 MR. FLOYD: Yes, Your Honor. I think it is rele-
19 vant.

20 We can show that the victim did have cocaine in
21 his system that night and the fact that she was spend-
22 ing time with him and came to the bar with him, had
23 cocaine in her purse.

24 THE COURT: All right. Solicitor?

25 MR. GRAHAM: I don't know -- I know he, being the

1 victim, admitted to the hospital staff that he had used
2 cocaine before, but I don't know that I've seen toxi-
3 cology to show it was in his system or that he had used
4 it that night, and I don't think he had.

5 Ms. Muszynski stated that she didn't use cocaine
6 that night or had given any cocaine to the victim.

7 THE COURT: You all seem to have a difference of
8 opinion as to whether or not there was cocaine in the
9 victim's system on the night of the event. Is there any
10 evidence that there was?

11 MR. FLOYD: Yes, Your Honor.

12 THE COURT: In the medical records?

13 MR. FLOYD: Yes, Your Honor.

14 THE COURT: Can you show me that?

15 MR. FLOYD: I didn't bring the records in with
16 me but I can . .

17 THE COURT: Do you have the medical records, Soli-
18 citor?

19 MR. GRAHAM: I haven't seen that, Your Honor.
20 The only thing I'm aware of is that he admitted to us-
21 ing cocaine before. I didn't see anything to show he
22 was actively using cocaine that night.

23 THE COURT: Well, show me what -- I can't rule on
24 it until I've seen it.

25 That's a different issue, of course, as to whether

1 or not -- you can get into the cocaine in Ms. Muszynski's
2 pocketbook, I think. I think that's a different issue.

3 I will hear further on that issue, Mr. Floyd.

4 MR. FLOYD: Yes, sir.

5 THE COURT: I see or I would assume I know where
6 you are going.

7 MR. FLOYD: Your Honor, a stipulation we have is
8 that the records be produced. We both subpoenaed the
9 medical records. The Solicitor subpoenaed the medical
10 records and I subpoenaed them.

11 They asked me if they needed to reproduce all of
12 those documents a second time or could we just use what
13 the Solicitor had, so they've got a copy of that.

14 THE COURT: All right.

15 MR. GRAHAM: Your Honor, . .

16 THE COURT: I would have to look at the medical
17 records to rule on that.

18 Sorry, Solicitor. I didn't mean to cut you off.

19 MR. GRAHAM: Your Honor, the only thing I was
20 going to say was that as far as having the records in
21 Court, our plan was to have them all on a disc. We
22 can put it on a computer, blow it up, and read what's
23 on there.

24 THE COURT: Sure. It will make it easier than hav-
25 ing Mr. Floyd read all those pages or you reading all

1 those pages tonight.

2 I'll be glad to rule on it at the appropriate time,
3 Mr. Floyd.

4 The admissibility of Ms. Muszynski's testimony from
5 the Defendant's point of view is that the victim was
6 using cocaine that night, and that Ms. Muszynski had
7 cocaine in her purse and she came to the bar with him.

8 I'll be glad to rule on that. Don't bring that up,
9 Mr. Floyd, until such time we I've had the opportunity
10 to rule on that.

11 MR. FLOYD: I understand, Your Honor.

12 THE COURT: All right. Solicitor?

13 MR. GRAHAM: Your Honor, the only other two mat-
14 ters we have are regarding two different statements
15 that he made.

16 One is a verbal statement to an officer that is
17 very brief, and the other is statements that were re-
18 corded on camera.

19 THE COURT: All right. Do you want to call your
20 first witness?

21 MR. EARGLE: Your Honor, the State calls Detective
22 Leah Smith.

23 THE COURT: All right. If you would come around
24 and be sworn, please?

25 (Witness coming forward)

1 LEAH SMITH, being duly sworn, tes-
2 tified as follows, out of the presence of the jury:

3 CLERK: Have a seat, please, and once you are
4 seated state your full name on the record, spelling
5 your last name.

6 WITNESS: Detective Leah Rachel Smith, S M I T H.

7 DIRECT EXAMINATION

8 BY MR. EARGLE:

9 Q. Detective Smith, where are you employed?

10 A. West Columbia Police Department.

11 Q. And how long have you been employed there?

12 A. Since 2007.

13 Q. What are your primary duties?

14 A. I'M assigned to the narcotics division.

15 Q. Let me take you back to the early morning hours
16 of September 28, 2008.

17 Did you have an opportunity to respond to a call
18 at Shaggy's Bar on Sunset Boulevard, West Columbia?

19 A. Yes, sir.

20 Q. And can you tell the Court when you arrived what
21 you saw?

22 A. Sure. When I arrived, I saw the Defendant by the
23 side door.

24 Q. And when you say the Defendant, who are you refer-
25 ring to?

1 A. Mr. Torrence.

2 Q. Is he here in Court today?

3 A. Yes, sir. He's sitting right there with the blue
4 shirt on.

5 Q. And once you saw the Defendant, was he in custody
6 or . .

7 A. No, sir.

8 Q. He was not in custody?

9 A. No, sir.

10 Q. Okay. Tell the Court exactly what he was doing?

11 A. He was just standing by the side of Shaggy's Bar,
12 leaning against the wall.

13 Q. All right, and did you notice anything else . .

14 MR. FLOYD: Objection.

15 THE COURT: You're leading, Solicitor.

16 MR. EARGLE: Yes, sir.

17 BY SOLICITOR:

18 Q. Would you tell the Court what you observed when
19 you saw Mr. Torrence?

20 A. Well, as soon as he saw me, he put his hands by
21 his head and . .

22 Q. Okay.

23 A. . . you know, yelled.

24 Q. Did you ask him questions?

25 A. No, sir.

DETECTIVE SMITH IN CAMERA

1 Q. Did you make any promises to him?

2 A. No, sir.

3 Q. What, if anything, did he say at that time?

4 A. He said, I shot him; I did it; I shot him.

5 SOLICITOR: That's all I have, Your Honor.

6 THE COURT: Thank you.

7 Mr. Floyd?

8 MR. FLOYD: Just a couple of questions, Your Honor.

9 CROSS EXAMINATION

10 BY MR. FLOYD:

11 Q. Were you the only officer on the scene at that
12 time?

13 A. No, sir.

14 Q. Who else was there?

15 A. Officer Shuck and Officer Griffin.

16 Q. And when you saw him he put his hands up to his
17 head so that he was aware . . .

18 A. He was doing it -- as he was saying I shot him, he
19 was putting his hands up.

20 I shot him; I did it.

21 Q. No further questions.

22 THE COURT: Redirect, Solicitor?

23 SOLICITOR: No, sir.

24 THE COURT: Detective, you may step down.

25 (Witness excused from stand)

1 THE COURT: Any other witnesses as to this state-
2 ment?

3 SOLICITOR: No, sir, Your Honor.

4 THE COURT: All right. Does the Defendant intend
5 to put up any witnesses as to this statement, Mr.
6 Floyd?

7 MR. FLOYD: No, sir, Your Honor.

8 THE COURT: I'll be glad to hear from you in this
9 regard, Solicitor.

10 SOLICITOR: Yes, sir, Your Honor.

11 The witness testified that she arrived at the
12 scene and to her knowledge the Defendant was not in
13 custody.

14 She did not ask him any questions. It was a free
15 and voluntary statement.

16 She did not make any threats or promises towards
17 him, and he said what he said.

18 It should be admissible.

19 THE COURT: All right, Mr. Floyd.

20 MR. FLOYD: I have no argument to make at this
21 time, Your Honor.

22 THE COURT: Thank you very much.

23 I will admit the statement as testified to by Of-
24 ficer Smith made on September 28th of '08. It was
25 voluntarily made, and there was no custodial interrogation,

1 there were no threats, no promises made, and it was
2 a spontaneous statement made by the Defendant, and it
3 would therefore be admissible during the trial.

4 All right, Solicitor, you may call your first
5 witness as to the second statement.

6 MR. EARGLE: I would call Officer Thomas Griffin.

7 THE COURT: All right. If you'd come around and
8 be sworn, please?

9 THOMAS GRIFFIN, being duly sworn,
10 testified as follows, out of the presence of the jury:

11 CLERK: Please have a seat on the witness stand,
12 and once you are seated state your full name and spell
13 your last.

14 WITNESS: Thomas Munsinger Griffin, G R I F F I N.

15 DIRECT EXAMINATION

16 BY MR. EARGLE:

17 Q. Officer Griffin, where are you employed?

18 A. The City of West Columbia Police Department.

19 Q. And how long have you been employed there?

20 A. A little over three years.

21 Q. What do you do for the West Columbia Police Depart-
22 ment?

23 A. I'm currently a shift supervisor.

24 Q. Back in September of 2008, what were you doing?

25 A. I was actually just reporting for duty.

OFFICER GRIFFIN IN CAMERA

1 Q. All right.

2 A. I was just coming on duty at that time.

3 Q. And at that time you were a road officer?

4 A. Yes, sir.

5 Q. Did you respond to Shaggy's Bar following the
6 shooting?

7 A. I did.

8 Q. And when you got on the scene, what did you see?

9 A. I saw the Defendant, Mr. Torrence, standing at
10 the side door of Shaggy's.

11 Q. What role, if any, did you have in taking Mr.
12 Torrence into custody?

13 A. In seeing Mr. Torrence, I also observed a handgun
14 with the magazine ejected out, lying beside the hand-
15 gun. It was a black handgun.

16 Given what we were dispatched on the radio that
17 a shooting had occurred, he was then detained and
18 placed in handcuffs.

19 Q. Did you do that or did somebody else do it?

20 A. I did that.

21 Q. Once you placed him in handcuffs, what did you
22 do?

23 A. I then checked him for any other weapons he might
24 have had. I then escorted him back to my vehicle and
25 placed him in my vehicle.

OFFICER GRIFFIN IN CAMERA

1 Q. Did you mirandize him?

2 A. No, sir.

3 Q. Did you put him in the front or back seat?

4 A. I put him in the back seat.

5 Q. And did you have in your car at that time an in-
6 car video? In your car on that date?

7 A. Yes, sir, I did.

8 Q. And what, if anything, did you do regarding the
9 in-car video?

10 A. It was already recording due to me runnings lights
11 and siren at the actual location.

12 I then advised Mr. Torrence the video was record-
13 ing.

14 Q. And did you turn the camera on him seated in the
15 back seat?

16 A. Yes, sir, I did.

17 Q. And you did not mirandize him?

18 A. No, sir, I did not.

19 Q. Did anybody mirandize him?

20 A. No, sir.

21 Q. When he was in custody seated in the back seat of
22 your car, did you or did anyone else question him?

23 A. No, sir.

24 Q. You had a conversation with him, is that correct?

25 A. Correct.

1 Q. How would you characterize your conversation with
2 him?

3 A. More just being as far as the temperature of the
4 vehicle and pretty much if he was okay back there.

5 Q. Let me show you a disc and ask if you recognize
6 it?

7 A. Yes, sir.

8 Q. And how do you recognize it?

9 A. Those are my initials there.

10 Q. Have you had an opportunity to watch the contents
11 of this disc?

12 A. I have.

13 Q. And does it fairly and accurately depict a tape
14 of what occurred there when Mr. Torrence was in your
15 patrol car?

16 A. Yes, sir.

17 SOLICITOR: Your Honor, for purposes of this hear-
18 ing, the State would offer this as Exhibit Number 1.

19 REPORTER: I will mark it as State's for ID Num-
20 ber 1.

21 THE COURT: That will be fine.

22 (Disc marked State's Exhibit 1 for identification
23 for purposes of the in camera hearing)

24 SOLICITOR: Your Honor, at this time I don't --
25 would you want to watch the video or just have

1 me characterize the statements?

2 THE COURT: I think my only role at this point
3 is to determine if the statement was freely and volun-
4 tarily given.

5 Unless it is relevant to that issue, I don't think
6 I need to hear it at this point, unless you want me
7 to, or there are particular areas you want to have me
8 hear.

9 BY SOLICITOR:

10 Q. Going back to Mr. Torrence on that morning, did
11 you in the course of your contact with Mr. Torrence --
12 did you make him any promises or threats to get him to
13 make any statements at all?

14 A. No, sir.

15 Q. Did you notice whether he was on -- do you have
16 an opinion about his alcohol or drug use?

17 A. I believe that he had been drinking. As far as
18 his intoxication level, I couldn't testify. I don't
19 believe he was falling down drunk, for lack of a bet-
20 ter term, but I believe that he was intoxicated.

21 Q. And you didn't -- did you interrogate him or ask
22 any questions of him to get an incriminating response
23 from him?

24 A. No, sir.

25 SOLICITOR: Your Honor, I think that is all the

1 questions the State has.

2 THE COURT: Thank you.

3 Mr. Floyd?

4 MR. FLOYD: I have no questions, Your Honor.

5 THE COURT: All right, thank you.

6 Officer, you may step down.

7 (Witness excused from stand)

8 THE COURT: Solicitor, you may call your next wit-
9 ness.

10 SOLICITOR: Your Honor, I have no further witnes-
11 ses on this issue.

12 THE COURT: All right.

13 Mr. Floyd?

14 MR. FLOYD: We have no witnesses.

15 THE COURT: All right. Of course, I'll be glad
16 to hear from you.

17 SOLICITOR: Your Honor, although Mr. Torrence was
18 in custody, he was not interrogated, and I think that
19 any of the statements he made that can be heard on the
20 video are spontaneous statements that he made of his
21 own volition.

22 I believe they would be admissible.

23 THE COURT: Thank you.

24 Mr. Floyd?

25 MR. FLOYD: Your Honor, we have no objection to

1 the video coming in.

2 THE COURT: All right. Thank you, Mr. Floyd.

3 I would find that although he was in custody, it
4 appears from the testimony there was no custodial inter-
5 rogation, which is a requirement prior to Miranda.

6 If they are as characterized, and Mr. Floyd has
7 not questioned that they are as characterized, they're
8 spontaneous and not a result of police interrogation or
9 undue compulsion, they would be admissible.

10 In addition, there were no objections to their
11 admissibility.

12 All right, any other motions, Solicitor?

13 SOLICITOR: Not at this time from the State, Your
14 Honor.

15 THE COURT: All right, Mr. Floyd. You had some
16 motions?

17 MR. FLOYD: Your Honor, my motions are premature
18 probably.

19 THE COURT: I did say I would address the issue
20 of any parts of the hidden camera spontaneous state-
21 ments by Mr. Torrence as to relevance.

22 Do you have any issues in that regard?

23 MR. FLOYD: No, Your Honor.

24 THE COURT: So you have no motions?

25 MR. FLOYD: No motions at this time.

1 THE COURT: All right. Do you have any others?
2 SOLICITOR: No, Your Honor.
3 THE COURT: Then we await the jury.
4 (Brief pause in the proceeding)
5 THE COURT: Anything before we bring in our jury?
6 SOLICITOR: No, Your Honor.
7 THE COURT: From the Defendant?
8 MR. FLOYD: No, Your Honor.
9 THE COURT: Bring us our jury then, please.
10 (Jury returned to Courtroom)
11 THE COURT: All right. Welcome back, ladies and
12 gentlemen. I hope you all had a pleasant lunch.
13 Madam Clerk, would you swear our jury, please?
14 CLERK: Please stand and raise your right hands.
15 (Whereupon, the jury was sworn for the trial of
16 the within case)
17 THE COURT: Thank you very much, Madam Clerk.
18 Ladies and gentlemen of the jury, the case we are
19 about to try is the case of the State versus Andrew
20 Torrence, Junior.
21 What I will now say is intended to serve as an
22 introduction to the trial of this case. These remarks
23 are not a charge or instruction on the law.
24 I will give instructions to you completely on the
25 law as it applies to this case at the end of the trial

1 before you retire to consider your verdict.

2 This is merely an explanation of the procedure
3 that we will follow in the trial of this case so that
4 you may better understand what may be happening.

5 The bailiff has brought it to my attention that
6 a number of you have asked about note-taking. You are
7 certainly authorized to take notes during the course
8 of this trial.

9 I have several remarks to make in that regard.
10 The notes of one juror are no better than the recollec-
11 tion of another juror. So you will please keep that
12 in mind.

13 Also, you may use demeanor, the way a witness
14 acts on the witness stand, to determine that person's
15 credibility.

16 So while you are jotting down a note, you may
17 miss that particular nuance of a witness' testimony.
18 So you will also keep that in mind.

19 Further, what I say is not evidence. What the at-
20 torneys say is not evidence. The evidence is the an-
21 swers to questions by the witnesses and any documentary
22 physical evidence that is introduced to you in the Court-
23 room.

24 As far as your notes are concerned, you would not
25 be authorized to have those notes in the jury room

1 until the time that you begin your deliberations.

2 Each and every time we take a break, I will hope-
3 fully remember to remind you to leave them upside down
4 on your juror seats. During the evening recess, they
5 will be collected by the Clerk's Office and secured.

6 So please keep that in mind. As I say, you are
7 welcome to take notes but please understand that one
8 juror's notes is no better than another juror's recol-
9 lections.

10 The Defendant is charged by Indictments filed
11 with this Court with the crimes of murder, possession
12 of a weapon during the commission of a violent crime,
13 carrying a pistol or firearm onto premises of a busi-
14 ness selling alcoholic liquors, beers or wines for on-
15 premise consumption.

16 Each and every element of these offenses will be
17 explained to you later.

18 Again, these indictments, ladies and gentlemen,
19 are simply the charges by which this case is brought
20 into this Court, and they are not in any sense any evi-
21 dence of the allegations that they contain.

22 The Defendant has pled not guilty to these Indict-
23 ments, and the State therefore has the burden of prov-
24 ing every element of each Indictment beyond a reasonable
25 doubt.

1 And it will be your duty, ladies and gentlemen,
2 to decide whether the State has met that burden.

3 Your purpose as jurors is to find and determine
4 the facts. You ladies and gentlemen are the sole judge
5 of the facts of the case.

6 If at any time I make any comment regarding the
7 facts, you must disregard it. You are to determine the
8 facts from the testimony you hear and the other evidence
9 introduced in the Court.

10 It is up to you to determine what inferences you
11 feel may properly be drawn from the evidence.

12 Ladies and gentlemen, it is especially important
13 that you perform your duty of determining the facts
14 diligently and conscientiously because ordinarily there
15 is no way to correct an erroneous determination of the
16 facts by a jury.

17 On the other hand, and with equal emphasis, the
18 same law that makes you the judges of the facts makes
19 me the judge of the law.

20 The law as given by this Court is the only law
21 you can consider. You must accept and follow it even
22 though you may disapprove of it.

23 I cannot tell you what the facts are, and you can-
24 not disagree with me about what the law is or should
25 be.

1 Your job is to take the law as I give it to you
2 and apply it to the facts as you find them from the
3 testimony of witnesses and any other evidence that is
4 introduced.

5 After doing that, you will render your verdict,
6 true and just verdict, under the solemn oath you have
7 just taken as jurors.

8 It is important, ladies and gentlemen, that you
9 keep an open mind and not decide any issue in the case
10 until all the evidence has been presented, the parties
11 have made arguments to you, and I have instructed you
12 on the law in this case.

13 It is your solemn responsibility to determine the
14 guilt or innocence of the Defendant, and your verdict
15 must be based solely on the evidence as it is presented
16 to you in this trial and on the law as I instruct you
17 during and at the end of the trial.

18 Now, in just a moment, the Solicitor will make
19 what is known as an opening statement, in which the
20 Solicitor will explain to you the issues in the case,
21 or at least what the Solicitor claims the issues are
22 in this case.

23 Mr. Floyd, the attorney for the Defendant, may
24 also make an opening statement, although he is not re-
25 quired to do so.

1 A criminal defendant in South Carolina is presumed
2 to be innocent, regardless of the seriousness of the
3 charges.

4 He is never required to prove his innocence.

5 What the attorneys tell you in their opening
6 statements is not evidence in the case. It is only
7 their contention as to what the issues are.

8 Again, the evidence in this case will be presented
9 to you from the testimony of sworn witnesses from the
10 witness stand and/or by any exhibits that may be intro-
11 duced into evidence.

12 From time to time during the trial, you may hear
13 one of the lawyers say something like, Your Honor, I
14 believe we have a question of law, or a matter of law,
15 to discuss with you, or, Your Honor, may we approach
16 the bench, or sometimes I myself might find it neces-
17 sary to excuse you from the Courtroom for a short while
18 while I and the attorneys can discuss a matter of law.

19 I don't really like bench conferences, but some-
20 times, with a hope of being more efficient and rather
21 than having you go to your jury room, if there is some-
22 thing I think I can resolve at the bench to save us time
23 I will do that.

24 In the particular event of a bench conference,
25 the reason we do that is not to hide anything from you

1 but simply because you are the judges of the facts in
2 the case and sometimes when I am discussing matters
3 of law with the attorneys it may be necessary for me
4 to make some comment as to the facts in connection with
5 ruling whether or not a particular law applies.

6 I am not supposed to tell you what I think the
7 facts are, so I will excuse you from the Courtroom
8 while these discussions take place, so that in no way
9 will you be influence by anything that I might say or
10 do in connection with the facts.

11 In determining what the true facts are in this
12 case, you must decide whether or not the testimony of
13 the witnesses is believable.

14 It will be my responsibility to rule as a matter
15 of law as to whether certain testimony is admissible
16 at all or not, whether or not you can hear it, whether
17 or not you can see it.

18 Once the testimony is admitted, whether or not
19 you believe it is solely for you to determine.

20 In deciding whether to believe a witness against
21 the backdrop of your good judgment and your common sense,
22 you have the right to consider the interest of any wit-
23 ness, the bias of any witness, the prejudice of any
24 witness, the opportunity of the witness to have seen
25 the matter or thing about which the witness may testify

1 and the demeanor or the way the witness acts on the
2 witness stand.

3 You have the right to consider anything that is
4 in the record that will help you in evaluating the tes-
5 timony of the witness.

6 That means that it is your duty to pay close at-
7 tention to these witnesses, to observe and look at,
8 listen to, pay close attention to the attorneys and the
9 Court.

10 Don't let your thoughts wander but give strict at-
11 tention to the testimony in this case so that at the
12 end of all the testimony, after the arguments of counsel
13 and the charge on the law by the Court, you will then
14 be in a position to determine what the true facts are,
15 apply the law to those facts, and render a true and just
16 verdict as to each Indictment.

17 It will be your added duty, Mr. Foreman, to pre-
18 side in the jury room. You will be the jury spokes-
19 person here in the Courtroom, and it will also be your
20 duty to write the verdict, but I will give you further
21 instructions about that at the conclusion of the case.

22 One thing I know I'm in charge of is taking breaks.
23 Sometimes I think that may be the only thing I'm in
24 charge of. In other words, if I want to take a break,
25 you will hear me say that we'll take a break.

1 Well, this is not some type of judicial marathon.
2 If you sit out here too long, your thoughts may begin
3 to wander.

4 If you need to take a break, raise your hand and
5 you will take you all's break and we will take our
6 break.

7 As I say, this is not some type of judicial mara-
8 thon. The parties will have plenty of time to ask their
9 questions and receive responses or answers to those
10 questions in this trial.

11 So at any time any of you need a break, please
12 raise your hands and we will take a break.

13 Also, from time to time, some document may be
14 presented into evidence, a photograph, and sometimes
15 they are shown on the screen. Sometimes they may be
16 handed to the Foreperson to pass among the members of
17 the jury while you are out here in the Courtroom in the
18 jury box.

19 You can look at those items all you wish to look
20 at them, but please keep in mind that while they are
21 in evidence, whether it is shown on the screen or handed
22 to the Foreperson and passed around among members of
23 the jury, it will be with you at the time of your de-
24 liberations in your jury room.

25 So that will not be the only time you will get the

1 -- it will not be the only opportunity you will get to
2 see any of those items of evidence, whether it be some
3 photograph or document or physical evidence, or what not.

4 You can look at them all you want to here in the
5 Courtroom, but keep in mind that will not be your only
6 opportunity to see them.

7 Mr. Foreman, during the course of the trial if any
8 of the jurors has any administrative issues, as you heard
9 me tell the jury panel earlier, as far as commitments on
10 the evening hours, if you will write that out for me
11 and just give me the note. I will respond to any ques-
12 tion from Juror 131, but I don't believe that will be a
13 concern. I don't think that won't be something I won't
14 be able to address for that particular juror.

15 From time to time also, ladies and gentlemen, and
16 it was brought to my attention one time -- you will
17 see me on my computer.

18 I don't read Emails. I don't play games. I may
19 see a particular legal issue coming around the bend, so
20 to speak, so I do do some -- I guess you might say light
21 research. The heavy research is done by Ms. Parker.

22 I will do some light research but please don't
23 think I am not being attentive.

24 This is a very important case. It's important to
25 the State of South Carolina and an important case to

1 the Defendant. So I will give it my complete and undi-
2 vided attention, and I know you will.

3 If you cannot hear a particular witness, please
4 raise your hands and give my attention. I will have
5 that witness speak up. If you can't hear the evidence
6 you won't be able to determine what the true facts of
7 the case are.

8 Any objections to anything I have addressed with
9 the jury, from the State?

10 MR. GRAHAM: No, Your Honor.

11 THE COURT: From the Defense?

12 MR. FLOYD: No, Your Honor.

13 THE COURT: We will now begin the trial, ladies
14 and gentlemen. Please give the parties your complete
15 and undivided attention.

16 Mr. Solicitor, you may address the jury.

17 MR. GRAHAM: Thank you, Your Honor.

18 To be the man, you've got to beat the man. Sep-
19 tember 28, 2008, at a bar in West Columbia called
20 Shaggy's, at approximately three to three thirty A.M.,
21 a Sunday morning/Saturday night, Andrew Earl Torrence,
22 Junior, decided he was going to be the man.

23 He was at that bar, ladies and gentlemen, talking
24 to a lady by the name of Donna Muszynski.

25 While he was talking to her, in walked the victim

1 in this case, Zachary or Zach Chaplin.

2 At that moment, ladies and gentlemen, Donna
3 Muszynski turned her attention to Zach, ignoring Andrew
4 Torrence.

5 That started the Defendant's ratchet. He was
6 being ignored by the woman he was giving his attention
7 to, because of Zach Chaplin.

8 Shortly thereafter, two acquaintances of Andrew
9 Torrence came in the bar, Tonya Mozenko and Steven Smith.
10 They sat down, and Mr. Torrence sat down with them.
11 They engaged or tried to engage in conversation, and
12 you will hear testimony that Andrew Torrence's atten-
13 tion was toward Zach Chaplin, calling him names.

14 He was upset, and the ratchet was getting tighter.
15 That first step toward the ultimate act of murder took
16 place.

17 During these conversations with Tonya and Steve
18 not once, not twice, but multiple times he made the
19 statement, I should go to my truck, get my gun, and
20 shoot him.

21 I should go to my truck and get my gun and shoot
22 him.

23 Tonya and Steve basically have enough of hearing that
24 talk. They left. They went their separate ways.

25 Zach is going back to the bar and getting drinks

1 with his lady friend, Donna, and another individual comes
2 in that bar, a gentleman by the name of Lee Buchanan.

3 Lee, you're going to learn, is gay. That's his sex-
4 uality, and Andrew Torrence decides to ratchet it up a
5 little bit more, because, you see, Zach and Lee were friends,
6 and comments were made by Andrew Torrence, hey, faggot;
7 faggot-guy, or something to that effect.

8 It wasn't enough that he's on one side of the bar but
9 on the other side of the bar sat Zach and Donna and Lee.
10 Andrew Torrence had to get up, go around the bar, and sit
11 beside Lee Buchanan.

12 Another step closer to murder, tightening up that
13 ratchet, and he whispers in Lee's ear, do you want to kiss
14 my ass, and he's being told, that's enough; go back where
15 you came from; we don't want to hear that talk.

16 So what does he do? He says it again. Hey, faggot-
17 guy or faggot-- and that's when Zach goes towards Andrew
18 Torrence and punches him.

19 They get into a scuffle but Lee stands up between
20 them. Lee is acting as the peace-maker. He's trying to
21 separate them. He's trying to keep Andrew and Zach sep-
22 arated, and eventually he is successful in doing that.

23 Zach does knock Andrew Torrence's glasses off, and
24 what does Lee do, once they are separated? Lee helps Andrew
25 Torrence.

1 He reaches down, grabs his glasses, gives them to
2 him, and he escorts him out the back door of Shaggy's. He
3 pretty much tells him, go on home; it's over. Let it go,
4 and Andrew Torrence -- he leaves.

5 He goes to his car or his truck. Remember what he
6 told Tonya and Steve earlier? I should go to my truck
7 and get my gun and shoot Zach Chaplin.

8 Approximately seven minutes -- seven minutes passes,
9 and there is a knock (demonstrating knock) on that back
10 door.

11 It is not uncommon for patrons that go to Shaggy's
12 to knock on the door. Lee gets up, opens the door, and
13 sees Andrew Torrence and tells him, go on home; we're get-
14 ting ready to close up here. It's over.

15 The next thing he sees is the barrel of a Glock twenty-
16 three semi-automatic pistol. Lee runs back on this side
17 of the bar to a corner next to the wall.

18 Andrew Torrence walks in. Zach is pushing a female
19 out of the way, and people are fleeing the bar because it
20 is yelled out, he's got a gun.

21 Torrence holds up that gun and then addresses his
22 attention back over to Lee Buchanan; tells him, put your
23 hands up on the bar. Well, he does it. The man's got a
24 gun.

25 Zach realizes that Donna and Lee are still in there

1 with Andrew Torrence, the man with the gun.

2 He grabs a bar stool and tosses it over and charges
3 Andrew Torrence. That ratchet, that step toward murder,
4 is coming, and it's coming quick.

5 Zach comes around the bar. He's down low. The gun
6 comes up and (sound of gun firing). Zach falls. He's been
7 hit and he's fallen down.

8 Andrew Torrence follows him with that gun (sound of
9 gun firing) and backs up. Two shots.

10 One shot enters his arm right here, breaks this bone,
11 and lodges in Zach Chaplin's armpit area.

12 The other shot enters right there to the back of his
13 head and lodges into his spine, immediately paralyzing him,
14 and as a result of those two gunshots, approximately six
15 weeks later, Zach Chaplin dies.

16 To be the man, you've got to beat the man. Andrew
17 Torrence defines beat as kill the man.

18 THE COURT: Thank you very much, Solicitor.

19 MR. FLOYD: Thank you, Your Honor.

20 Ladies and gentlemen of the jury, this man is Andrew
21 Torrence, Junior.

22 He's the man you are about to make one of the most
23 important decisions about that you have ever made about
24 anybody, if you're just now getting it.

25 You are going to decide this week, based upon the

1 evidence you hear in this Courtroom whether or not he should
2 be branded a criminal.

3 If you've never served on a criminal jury before, you
4 almost have to set aside human nature. Some of you may
5 have a thought in your mind that because Drew was arrested,
6 which he was; because he was charged with a crime of murder,
7 which he was; was sent before you to be judged, which he
8 was; then he must be guilty.

9 Well, if you've got that kind of thoughts, you'd bet-
10 ter release it. You've got to release it.

11 Drew has got the same rights we all have. One of the
12 most important rights is what we call the presumption of
13 innocence.

14 What that means is that you must look at Drew Torrence
15 right now and you must say in your mind and in your heart
16 Drew Torrence is innocent. Drew Torrence is innocent.

17 It doesn't matter that he's been arrested. It doesn't
18 matter that he's been charged. It doesn't matter that he
19 sits before you to be judged. He is innocent in the eyes
20 of the law and he must be innocent in the eyes of the jury
21 until and unless the State proves his guilt beyond a reason-
22 able doubt.

23 So we welcome your presence here.

24 Now, we heard this this morning, what the State is
25 trying to weave about this night in question. We say this,

1 thank God for the video, because, you see, this is what hap-
2 pened.

3 The State is trying to put together some kind of story
4 that will justify a charge of murder. All we ask is that
5 you listen closely and look at this video tape.

6 What you will see right from the start is that Drew
7 Torrence didn't have intention to hurt anybody.

8 They talk about a fight. Look at it. You will see
9 Drew Torrence sitting at the bar. You will see this man,
10 Zach Chaplin, attack him. You will see Lee Buchanan hold-
11 ing Drew Torrence, and you will see him hitting Drew
12 Torrence -- Zach Chaplin does -- twelve times, in the face.

13 He doesn't attack and retaliate. Drew Torrence does
14 not retaliate.

15 He's a security guard, so he has a gun in his car,
16 and he goes out and gets it.

17 Now, you watch him when he comes in the bar. He does
18 not have that gun pointed at anybody. He doesn't come in
19 that bar shooting, like he's out to kill people.

20 He does get the one guy on the bar. He's detaining
21 him. He's making a citizen's arrest. They've attacked
22 him.

23 He put his hands on the bar and the other guy -- he
24 goes toward him. Never before that was there a weapon
25 raised. It ends like this.

1 So we ask you to look at it. You know, they can put
2 together a story and try to make it look like Drew Torrence
3 is a killer, a man out to murder, and may God forgive
4 him.

5 But you can look at that and see that that is a story
6 they're trying to sell. Don't buy it.

7 We thank you for being here and for your attention.
8 It's a important day in the life of this young man, Drew
9 Torrence.

10 You know, the police can arrest you and charge you.
11 You can go to jail, and the only time you get your day as
12 a defendant is when you come to Court and get to tell
13 your story; to have twelve people consider what went on,
14 and they make a decision about you.

15 This is Drew Torrence's day in Court. He's thankful
16 for it, and in his behalf I'd like to thank you very much.

17 The way the system works is that the State gets to
18 go first. The Defendant doesn't even have to present any
19 evidence because the State must prove the Defendant's guilt
20 beyond a reasonable doubt.

21 The State gets to go first, and all we can ask is
22 that you keep an open mind. Don't make your mind up until
23 you hear everything you're going to hear in this case.

24 I would suggest to you that you will then determine
25 that the only fair and just verdict in connection with

1 this incident is not guilty of the charge of murder. .
2 Thank you very much.
3 THE COURT: Thank you, Mr. Floyd.
4 Now, Solicitor, you may call your first witness.
5 SOLICITOR: Thank you, Your Honor.
6 The State calls Johnny Dollar.
7 THE COURT: Come around and be sworn, please.
8 JOHNNY DOLLAR, being duly sworn,
9 testified as follows:
10 CLERK: Please have a seat on the witness stand,
11 and when you are seated state your full name, spelling
12 your last name.
13 WITNESS: John V. Dollar, D O L L A R.
14 DIRECT EXAMINATION
15 BY SOLICITOR GRAHAM:
16 Q. Sergeant Dollar, is that correct?
17 A. That's correct. Yes, sir.
18 Q. Where are you employed, sir?
19 A. The City of West Columbia Police Department.
20 Q. How long have you worked at the West Columbia Police
21 Department?
22 A. Twenty and a half years..
23 Q. And in what capacity are you currently serving, Ser-
24 geant Dollar?
25 A. My official job title is court liaison officer, but

1 my primary function is custodian of records.

2 Q. Talking about some of the records that you keep, what
3 kind of records are you referring to?

4 A. Paper records, and they are generated by our Records
5 Division. Police incident reports, arrest records, book-
6 ing reports.

7 I'm also responsible for the recording device in the
8 Communications Center which records nine one one calls,
9 telephone calls, radio traffic and fire radio.

10 Q. In addition to that, tell us about something called
11 CAD. What is that?

12 A. It's a program sometimes referred to as Computer As-
13 sisted Dispatch.

14 Q. What is that?

15 A. Essentially what it does is -- the computer did away
16 with the whole handwritten logs, or the old time clock
17 function that we used to use every time we'd dispatch a
18 call.

19 The device is set up where the dispatcher creates a
20 call unless it comes in on nine one one. The dispatcher
21 creates a call, assigns units, and as she is doing so they
22 record -- the system keeps up with what units went, when
23 they were dispatched, what time they were dispatched, what
24 time a call was received, what time they arrived on the
25 scene or left the scene.

1 It is all maintained on the server in another part
2 of the building.

3 Q. Let me show you a document and ask if you recognize
4 this document.

5 A. Yeah. This is what's called a CAD operation report.
6 These are generated for multiple purposes, for various
7 reasons, and at the request of different people for dif-
8 ferent purposes.

9 Q. And is that CAD report specific to the call in this
10 case that occurred on September 28, 2008, at Shaggy's
11 Bar?

12 A. Yes, it is.

13 Q. And as part of your job as records custodian, is it
14 made in the regular course of your business?

15 A. Yeah. The information is digital. It is stored on
16 a server, and then when these are requested it is just
17 simply pulling a report.

18 It pulls out information, and this is the format it
19 prints out in.

20 Q. And the information on that report is made at the time
21 the incident occurs?

22 A. Yes.

23 Q. And the information is entered by somebody with the
24 knowledge of what is happening?

25 A. The actual dispatcher. The person working at that

1 particular work station would be the person entering that
2 information.

3 SOLICITOR: Your Honor, the State would offer the CAD
4 report in evidence.

5 THE COURT: Any objection, Mr. Floyd?

6 MR. FLOYD: Let me look at it.

7 (Brief pause in proceeding)

8 MR. FLOYD: I have no objection.

9 THE COURT: All right. What number?

10 REPORTER: Number 2, Your Honor.

11 THE COURT: State's Exhibit 2 is entered in evidence
12 without objection.

13 (CAD report admitted in evidence without objection
14 as State's Exhibit 2)

15 BY SOLICITOR:

16 Q. Looking at State's Exhibit, the CAD report, would
17 you tell the jury what time the call came in, Sergeant
18 Dollar?

19 A. The call came in at six forty-four A.M.

20 Q. And what was the phone number it came from?

21 A. It came from area code 803, 796 2441.

22 Q. And are you able to tell from the CAD report whether
23 that number is a land line?

24 A. Yeah. The trigger for that is, it's -- when a nine
25 one one call comes in from a land line, it pulls in the

1 caller's name or business name, if it came from a busi-
2 ness. It pulls in the address where the call came from.

3 In this case it shows a physical street address of
4 746 Sunset, and it shows a caller name, Grog Shop.

5 So that tells me that it was a land line.

6 Q. Let me show you another item, and I would ask if you
7 recognize this?

8 A. Yeah, it's a map of part of the City of West Columbia.

9 Q. And does that fairly and accurately represent the
10 streets and roads of that particular area of West Columbia?

11 A. Yes, it does.

12 Q. And do you see the address for the Grog Shop?

13 A. Yeah, that's it right here at the top, 746 Sunset
14 Boulevard.

15 Q. Approximately how far from the West Columbia Police
16 Department is Shaggy's Bar?

17 A. Maybe two and a half miles -- something like that.

18 SOLICITOR: Your Honor, the State would offer into
19 evidence that map at this time.

20 THE COURT: Mr. Floyd?

21 MR. FLOYD: No objection to the map.

22 THE COURT: State's 3 is in evidence without objec-
23 tion then.

24 (Map admitted in evidence without objection as State's
25 Exhibit 3)

1 BY SOLICITOR:

2 Q. In general terms, Sergeant, would you tell the jury
3 where Shaggy's is located?

4 A. Show them or tell them?

5 Q. However -- if you want to show them you can step down.

6 A. Yes, sir.

7 SOLICITOR: Your Honor?

8 THE COURT: You may step down but keep your voice
9 up since you don't have a microphone there.

10 A. Shaggy's would be located right here, off Highway 378
11 near North Locust.

12 Q. Sergeant Dollar, are you aware of whether that loca-
13 tion is in Lexington County?

14 A. Yes, it is in Lexington County.

15 Q. And in addition to CAD information, are you also re-
16 sponsible for maintaining the actual recordings of the
17 nine one one calls?

18 A. Yes.

19 Q. And, again, you are the custodian of those records?

20 A. Yes. I am the only person who can actually pull that
21 information.

22 Q. Let me show you a disc and ask if you recognize this
23 disc?

24 A. Yes, I do.

25 Q. And how do you recognize that?

1 A. I recognize it because I listened to it not more than
2 a couple of hours ago, and my initials are right here.

3 Q. Is that the JD on the side of the disc?

4 A. Well, it's actually JVD, but . .

5 Q. Those are the nine one one calls that are related to
6 this case?

7 A. Yes.

8 Q. How do you go about finding that on your system?

9 A. I take the time the call came in. In this case, it
10 was at six forty-four in the morning.

11 When I do this, what I do to make sure I cover every-
12 thing is start my search at six o'clock and run it through
13 to seven o'clock.

14 So in this case, I would have checked every nine one
15 one call that came in between six A.M. and seven A.M. on
16 that morning.

17 Q. And how many calls did you find that were related to
18 this case?

19 A. I found these three.

20 Q. Did you find any hang-ups that were unexplained?

21 A. No.

22 Q. You found no other nine one one calls that were re-
23 lated to an incident at Shaggy's or an assault for Mr.
24 Torrence?

25 A. Those were the only ones you found?

1 A. No, just the three that I found.

2 Q. Those three calls, did you record on that disc?

3 A. Calls on this disc?

4 Q. Are the calls that are on that disc the ones that you
5 recorded?

6 A. Yes, they are.

7 Q. And are they fairly and accurately the same as what
8 you pulled from your system?

9 A. Yes, they are.

10 SOLICITOR: Your Honor, the State would offer that
11 into evidence at this time.

12 THE COURT: They are in evidence without objection.

13 (State's Exhibit 4, CD containing nine one one calls,
14 admitted in evidence with no objection noted)

15 BY SOLICITOR:

16 Q. Thank you, Sergeant. Please answer any questions
17 the Defense has for you.

18 A. Yes, sir.

19 THE COURT: Thank you, Solicitor.

20 Mr. Floyd.

21 CROSS EXAMINATION

22 BY MR. FLOYD:

23 Q. Good afternoon, Sergeant Dollar.

24 A. Good morning -- afternoon.

25 Q. May I look at your Exhibit?

1 A. Sure.

2 (Brief pause in the proceeding)

3 BY MR. FLOYD:

4 Q. Are these supposed to be in chronological order?

5 A. I'm sorry?

6 Q. Are the entries on there from the log -- are they in
7 chronological order?

8 A. I assume you are referring to this?

9 Q. Yes, I am. The disc you were talking about.

10 A. Okay. Not necessarily. This is basically a dis-
11 patcher comment log.

12 Depending on the dispatcher and depending on what is
13 going on, the severity of the situation, how many other
14 calls she has coming in, or whatever.

15 The dispatchers will enter the information as they
16 have time, but it is not necessarily in chronological or-
17 der.

18 Q. What was the first call that was received? What time
19 was the first called received?

20 A. The first nine one one call we got that was generated
21 on this report was at six forty-four A.M.

22 Q. Let me ask you about it. Would you agree that the
23 entry that goes between eight ten forty-three and eight
24 thirty-eight forty-four -- there's an entry that it says
25 came at six forty-three in the morning?

1 A. What you're looking at there is you're looking at
2 dispatcher's notes, and the time you are referring to,
3 the eight thirty-eight right there, is just the time she
4 got around to putting that note in there.

5 It does say six thirty-three A.M., but that is the
6 dispatcher's note, and that is not -- that is not the time
7 generated by the system. It would be what the dispatcher
8 actually typed.

9 Q. When she wrote down she got the call?

10 A. I don't know. You'd have to ask her.

11 Q. Is it true that in that document there is an entry
12 that says at six thirty-three A.M. a call was received
13 about this incident?

14 A. Yes.

15 Q. It says there had been a shooting, does it not?

16 A. Actually it says I think someone -- shots have been
17 fired at Shaggy's on 378.

18 Q. That was six thirty-three A.M., according to that
19 entry, is that correct?

20 A. That is what she typed.

21 Q. You only have in West Columbia nine one one calls --
22 calls starting at six forty-five?

23 A. The first nine one one call was at six forty-four
24 fifty-seven. Right there at six forty-five.

25 Q. Okay.

1 (Brief pause in proceeding)

2 BY MR. FLOYD:

3 Q. Sergeant Dollar, you are not the person yourself
4 who makes those entries, are you?

5 A. No.

6 Q. And that is a document that was generated by some-
7 one in your department?

8 A. Yes.

9 Q. And there is no question but that there is one entry
10 that says at six thirty-three there was a call received
11 about a shooting at Shaggy's?

12 A. That is what it says, yes.

13 Q. And then the nine one one call was copied and every-
14 thing though began at six forty-five or six forty-six?

15 A. Are you referring to the ones that are on the CD?

16 Q. Yes.

17 A. Those three calls on there are the only three calls
18 that occurred between six and seven in the morning, and
19 according to the time on the CAD report the first one
20 would have been about six forty-four in the morning and
21 fifty-seven seconds.

22 Q. Well, there was one at six thirty-three that was re-
23 ceived, is that correct?

24 A. There is a difference. Six forty-four is a computer-
25 generated time. When nine one one rings, it automatically

101

1 connects to the CAD server. The CAD server automatically
2 connects to the CAD position, which is where the dispatcher
3 is sitting.

4 That is where that time comes from. That is not an
5 entry made by the dispatcher, nor can it be changed.

6 So the first nine one one call was at six forty-four
7 A.M. and fifty-seven seconds.

8 Q. What if somebody calls up not nine one one but the
9 794 0731?

10 A. I don't understand the question.

11 Q. What if a call came in to the --not the nine one one
12 number, but the police department number?

13 A. Well, that wouldn't automatically populate CAD. That
14 would have to be done manually.

15 Q. And can you tell whether or not there is a nine one
16 one call corresponding to the note from six thirty-three?

17 A. The only nine one one calls are the ones that are on
18 that CD. There are only those three wave files.

19 Q. Okay.

20 A. On the old system that we used, a recording back then
21 did not date and time-stamp calls. So according to this,
22 the first one was at six forty-four.

23 I have no reason to believe that that's not accurate.

24 Q. Would you agree with me that the nine one one calls
25 that are captured on this disc are different than the entry

1 for six thirty-three?

2 A. Wayne, I'm not sure I understand the question.

3 Q. Okay. You see the information that is contained in
4 the entry that's supposed to be six thirty-three there?

5 A. I see where the dispatcher made a note that at six
6 thirty-three A.M. a male called. That does not coincide
7 with the six forty-four.

8 Q. Okay, and the information contained with that does
9 not coincide with the information that is on the nine one
10 one call, does it?

11 A. Well, keep in mind that on those nine one one calls
12 on the disc there is no date and time-stamp.

13 So when you play the call, it doesn't say six forty-
14 four.

15 Q. Yes, sir, but it has the information as to what the
16 person says. Right?

17 A. The communication part of the call, yes.

18 Q. The words between the two speakers?

19 A. Yes.

20 Q. Okay.

21 A. Yes.

22 Q. Thank you.

23 MR. FLOYD: I have no further questions, Your Honor.

24 THE COURT: Redirect.

25 SOLICITOR: Briefly, Your Honor.

1 REDIRECT EXAMINATION

2 BY SOLICITOR:

3 Q. Sergeant Dollar, your testimony is that there are no
4 other nine one one calls related to Shaggy's or Andrew
5 Torrence or this case other than the three that you have
6 recorded for us?

7 A. Only the three that are on that disc.

8 Q. So the six thirty-three entry was typed in by the
9 dispatcher, is that correct?

10 A. Yes.

11 Q. Would you read exactly what that is, what it actually
12 says?

13 A. All right. It's 9 28 2008, zero eight thirty-eight
14 forty-four hours, which would be eight thirty-eight in the
15 morning, at position two which is our main terminal, D.
16 Knotts was the person who was logged in.

17 And what it says is that at six thirty-three A.M.,
18 male called in nine one one from Horizon cel phone 803 543
19 8376, stating I think someone -- I think some shot been
20 fired at Shaggy's on 378. We just left. Cops on the
21 way.

22 A guy that was in there and somebody was talking
23 trash about him, and, um, then he left and then he came
24 back and started popping off.

25 Right below that it says part of conversation with

1 possible witness.

2 Q. Thank you, sir.

3 SOLICITOR: No other questions, Your Honor.

4 THE COURT: Mr. Floyd?

5 MR. FLOYD: No further questions, Your Honor.

6 THE COURT: Thank you very much. You may step down,
7 sir.

8 WITNESS: Thank you.

9 (Witness excused from stand)

10 THE COURT: All right, you may call your next witness,
11 Solicitor.

12 SOLICITOR: Your Honor, the State calls Debra Knotts.

13 THE COURT: All right, if you'd come around and be
14 sworn, please.

15 (Witness coming forward)

16 DEBRA KNOTTS, being duly sworn,
17 testified as follows:

18 CLERK: Have a seat, please. State your full name
19 and spell your last name.

20 WITNESS: Debra Knotts, K N O T T S.

21 THE COURT: All right, Solicitor.

22 DIRECT EXAMINATION

23 BY MR. GRAHAM:

24 Q. Good afternoon, Ms. Knotts.

25 A. Hi.

1 Q. Would you tell the jury where you're employed?

2 A. For the West Columbia Police Department.

3 Q. And what are your job duties there?

4 A. I'm a dispatcher.

5 Q. You're a dispatcher. Does that -- can you tell the
6 jury what that encompasses?

7 A. A lot. Yes, sir. I receive phone calls, whether it
8 be regular phone, nine one one. I got the information as
9 much as possible and dispatch it to the other officers as
10 they're assigned.

11 Q. Let me take you back to September 28, the morning
12 hours. Were you working that day?

13 A. Yes, sir.

14 Q. What time did you come to work?

15 A. I usually get there at six twenty, six twenty-five.

16 Q. That's when you would have gone to the dispatch room,
17 is that correct?

18 A. Yes.

19 Q. And did you receive any nine one one calls?

20 A. Yes, sir.

21 Q. Can you tell us what calls you received?

22 A. The first one I received was from Shaggy's on 746
23 Sunset. The lady on the line -- it was really hard to un-
24 derstand, to hear her.

25 It was as if she had a cordless phone and she was

1 fading out real bad. I could hear her say ambulance, or
2 what I thought was ambulance.

3 So after several times -- and in the meantime we were
4 disconnected.

5 Q. Okay. As a result of that call, what did you do?

6 A. I got my units en route, stating unknown problem at
7 that address, at Shaggy's; that it sounded like she was
8 requesting ambulance or something along that line, and I
9 called Shaggy's back.

10 Q. You said units en route. What type of units?

11 A. Police officers.

12 Q. Police officers?

13 A. Yes.

14 Q. Okay, and you said that you called back, is that cor-
15 rect?

16 A. Yes sir.

17 Q. When you called back, what happened?

18 A. A male answered the phone. I told him who I was. He
19 stated that -- I'm paraphrasing here, but that a man had
20 been -- a man was down. He had been shot, and to let the
21 officers that were responding know that someone had a gun,
22 and that's pretty much what I remember of that phone call.

23 Q. Okay, and after that phone call, did you receive
24 another phone call?

25 A. Yes, sir. I got one more phone call . .

1 Q. Was that a nine one one call?

2 A. Yes, sir.

3 Q. Okay.

4 A. It's on the log, and it was another male, stating
5 some -- stating that -- in reference to a shooting at
6 Shaggy's as well.

7 And he was trying to leave, and I was trying to get
8 more information from him, and he said, the cops are right
9 here now.

10 Q. Okay. Once you received information that there was
11 in fact a shooting at Shaggy's, did you notify your offi-
12 cers of that information?

13 A. Yes.

14 SOLICITOR: May I approach, Your Honor?

15 THE COURT: Yes, sir.

16 BY SOLICITOR:

17 Q. Ms. Knotts, do you recognize what has been marked
18 as State's Exhibit 4?

19 A. Yes.

20 Q. And what is that?

21 A. Those are my initials on the DVD of the nine one one
22 calls.

23 Q. Have you had an opportunity to listen to the con-
24 tents of this DVD?

25 A. Yes.

1 Q. And does it fairly and accurately describe the calls
2 that you either received or made on September 28th of 2008?

3 A. Yes, sir.

4 SOLICITOR: At this time, Your Honor, I would ask per-
5 mission to publish this for the jury.

6 THE COURT: You may publish.

7 (Whereupon, State's Exhibit 4, CD of nine one one
8 calls, was played for the jury)

9 BY SOLICITOR:

10 Q. Ms. Knotts, what you just heard were the calls you
11 told the jury about. Is that correct?

12 A. Yes, sir.

13 Q. And I believe you say on the second call, when you
14 called back, is it -- explain to the jury.

15 When you get a nine one one call and you are not sure
16 what is going on, what, if any, actions do you take?

17 A. I try to call them right back, and if I've got a
18 land line and I don't get an answer I can send the officer
19 to that address.

20 Many times even if I do make contact with somebody,
21 and they sound like things are okay, there are times I
22 still send someone to confirm that everything is okay.

23 That's what I did.

24 Q. Okay. Let me show you . .

25 SOLICITOR: May I approach, Your Honor?

1 THE COURT: Yes, you may.

2 BY SOLICITOR:

3 Q. I show you State's Exhibit 2, and on page three of
4 six, where it references the -- at six thirty-three A.M.

5 Would you read that to the jury, please?

6 A. At six thirty-three A.M. male called in nine one one
7 from Horizon cel phone, stating I think
8 some shots been fired at Shaggy's on 378.

9 We just left. Cops on the way.

10 A guy that was in there and somebody was talking
11 trash about him. Then he left. Then he came back in and
12 started popping off.

13 A part of the conversation with the witness.

14 Q. All right. On the DVD recording, is that what you
15 are referencing? Did you enter that?

16 A. Yes, I did.

17 Q. Is that what you are referencing, is that call?

18 A. Yes, sir.

19 Q. Okay. Did that call occur at six thirty-three A.M.?

20 A. No, sir, it did not.

21 Q. Can you explain to the jury why you entered it as six
22 thirty-three?

23 A. I made a typo.

24 Q. Thank you.

25 SOLICITOR: Your Honor, that's all the questions I

1 would have of this witness.

2 THE COURT: Thank you, Solicitor.

3 Mr. Floyd?

4 MR. FLOYD: Thank you, Your Honor.

5 CROSS EXAMINATION

6 BY MR. FLOYD:

7 Q. Ms. Knotts, what time did you come on duty that morn-
8 ing?

9 A. Six twenty, six twenty-five.

10 Q. Six twenty, six twenty-five?

11 A. Yes, sir.

12 Q. Would there have been somebody there before you?

13 A. Yes, sir.

14 Q. So it is manned twenty-four hours?

15 A. Yes, sir.

16 Q. Now, I refer you back to State's Exhibit 2. You can
17 see this, okay, because it's kind of difficult to see.

18 A. Okay.

19 Q. Was there not a dropped call or hang-up call?

20 A. I don't understand what you're asking me.

21 Q. Okay. Can you see through the line? I know it's dif-
22 ficult to see..

23 A. Okay, that would have been it.

24 Q. This says nine one one hang-up?

25 A. Right, and then I changed it.

111

1 Q. I'm sorry. You changed that to what?

2 A. It would have been to the shooting or shots fired.

3 Q. How many nine one one calls were there?

4 A. I received two and I dialed out one.

5 Q. And what numbers did you receive two from?

6 A. The first one I received from -- the nine one one
7 calls from Shaggy's at 746 Sunset Boulevard. That's the
8 first nine one one call.

9 Then the second call came from a witness.

10 Q. And at what time was that hang-up call?

11 A. At six forty-six twenty-five.

12 Q. And does it say down here a call from a witness came
13 at six fifty?

14 A. . .

15 Q. Isn't that right above that?

16 A. Where are you?

17 Q. Here.

18 A. Oh, right here?

19 Q. Uh hm.

20 A. Okay, what was your question?

21 Q. Doesn't that say the call by the witness or from a
22 witness was at six fifty?

23 A. It's the same call from the witness that we just
24 heard on the -- heard from the witness on the nine one
25 one tape.

1 Q. What time was the initial call from Shaggy's?

2 A. The initial call came in at -- okay, I received it
3 at six forty-six. I received at six forty-five the in-
4 formation.

5 Q. Six forty-five?

6 A. Six forty-five, six forty-six.

7 Q. I mean, which one?

8 A. Well, call received six forty-five O six and it has
9 X mint O six forty-six thirteen. Dispatched six forty-six
10 thirteen.

11 Q. But you also got a hang-up call, did you not, at six
12 forty-six twenty-five?

13 A. Right there? Well, that's what it has on there but
14 this is all one call.

15 It's the only one I received.

16 Q. So you are saying that this document may not be a
17 hundred percent accurate?

18 A. I'm not telling you that.

19 Q. You say you received two calls, is that right?

20 A. Yes.

21 Q. And you made one?

22 A. Yes.

23 Q. Yet three calls are on here, plus your call to
24 Shaggy's?

25 A. . .

1 Q. Counting the hang-up call, the initial call from
2 Shaggy's, and then the call from the additional wit-
3 ness?

4 A. (Pause) The only calls I received from -- only calls
5 I received is the one from Shaggy's and then the possible
6 witness.

7 Those are the only two calls I received on nine one
8 one, and however this was taken care of or how this was
9 printed out I do not know. I do not understand.

10 Q. Got you. So you don't have personal memory of every
11 call you got on September 28, 2008?

12 A. On that morning those three, I do.

13 Q. You personally remember that from 2008?

14 A. Yes, the first phone call I received that morning.

15 Q. And you recall you received three?

16 A. No, I received two and I called back on one.

17 Q. And, of course, the documents seem to say there was
18 at least three received?

19 A. Well, it's not so much -- to me, I don't understand
20 that, because to me it was like it was within seconds.
21 So I don't know what that one is, if it -- to me it's the
22 same thing as when I got this.

23 Q. Do you know, for example -- you're saying now that
24 was an error when you said you got the call at six thirty-
25 three? That's a typographical error?

- 1 A. That's one of my typos.
- 2 Q. And what time should that have been?
- 3 A. It should have been after -- right around six -- on
- 4 page four of six, close to the bottom -- it has six fifty,
- 5 and in that area I have another nine one one call came in
- 6 after initial call and it has a cel phone number.
- 7 Q. Okay.
- 8 A. And it shows that.
- 9 Q. Got you, and your first call, the one you see on the
- 10 first page, the one from Shaggy's?
- 11 A. That's mine.
- 12 Q. Your first call?
- 13 A. Yes, my first call.
- 14 Q. Your records?
- 15 A. Yes, sir.
- 16 Q. What is the entry for six forty-six twenty-one on
- 17 there?
- 18 A. . .
- 19 Q. Where it says cross streets -- there on page four?
- 20 Do you see down there at the bottom?
- 21 A. Uh hm.
- 22 Q. Cross streets for Lucas Street . .
- 23 A. Uh hm.
- 24 Q. What does that have to do with this?
- 25 A. It helps give the location -- like the address. It

1 gives us kind of the area that it's in.

2 Q. All right, so who puts that entry in there?

3 A. It's automatic.

4 Q. From where?

5 A. I don't know.

6 Q. Does it have like -- if somebody calls, a cel phone, can
7 it tell you the location of the cel phone?

8 A. No, sir, not on my system.

9 Q. What is a GEO comma two A? What does that mean?

10 A. Where is that at?

11 Q. Right there where it says cross streets.

12 A. That's -- we have areas from a map. We have differ-
13 ent areas like if you are in a specific area in that way
14 we are able to assign officers in those particular areas.

15 Q. And when you called the bar, someone answered and
16 said . . .

17 A. Yes, sir.

18 Q. . . there had been a shooting?

19 A. Yes.

20 Q. That somebody had attacked him and there had been
21 a shooting?

22 A. (witness nodding)

23 Q. You have to state your answer.

24 A. I apologize. Yes.

25 Q. And they needed EMS? Do you recall that being said

1 too?

2 A. No. I don't recall that.

3 Q. You don't recall that being said?

4 A. No.

5 Q. Thank you.

6 MR. FLOYD: Your Honor, no further questions.

7 THE COURT: Redirect?

8 SOLICITOR: Yes, sir, Your Honor.

9 REDIRECT EXAMINATION

10 BY SOLICITOR:

11 Q. Ms. Knotts, I'm going to attempt to clarify maybe
12 some of these questions Mr. Floyd had.

13 If you will look at page one of six.

14 A. Okay.

15 Q. And right above the typing, it has zero six forty--
16 four fifty-seven. You see that?

17 A. No.

18 Q. Right there.

19 A. Okay.

20 Q. What does that indicate?

21 A. I believe that's when the person is calling in on
22 number one.

23 Q. That would have been the first call?

24 A. That would have been the first call.

25 Q. Okay, and after that if you will scan over to your

1 right.

2 A. Uh hm.

3 Q. It has the word dispatch.

4 A. Yes, sir.

5 Q. At zero six four six one three. Is that correct?

6 A. Yes, sir.

7 Q. What does that mean?

8 A. Dispatching them out.

9 Q. You dispatched them to . .

10 A. My officers.

11 Q. Okay, and then it says en route or in route zero six
12 forty-six thirteen.

13 What does that tell you?

14 A. That officers are responding.

15 Q. Okay, and finally there it has on scene six four eight
16 O five?

17 A. Yes.

18 Q. What does that indicate to you?

19 A. They were on the scene at that time.

20 Q. Okay. If you will look at page four of six, down to
21 the bottom right.

22 A. Yes.

23 Q. Complaints zero six four six two five -- complaint
24 nine one one hang-up.

25 A. Yes, sir.

1 Q. What does that mean?

2 A. Like a -- that is -- that is a call -- a call coming
3 in, I guess.

4 Q. Would that have been the first call?

5 A. . .

6 Q. Would you have considered that as a dispatcher a hang-
7 up based on the fact that you called back to that line
8 at Shaggy's? Called back to that land line at Shaggy's?

9 A. Could have been.

10 Q. All right. Once you came to work, did you get any
11 calls that referenced Andrew Torrence being assaulted?

12 A. Repeat that one more time.

13 Q. Once you got to work, . .

14 A. Uh hm.

15 Q. . . and you're at dispatch, . .

16 A. Yes.

17 Q. . . did you receive any calls, whether nine one one
18 or the general 794 0721 number, about Andrew Torrence
19 being assaulted?

20 A. No. I did not.

21 Q. That's all I have.

22 THE COURT: Recross, Mr. Floyd?

23 MR. FLOYD: Yes, sir.

24 RECROSS EXAMINATION

25 BY MR. FLOYD:

- 1 Q. What time was your first call from Shaggy's that you
2 answered?
- 3 A. I got it at 0 six forty-four fifty-seven.
- 4 Q. So that has nothing to do with this six forty-six
5 twenty-five hang-up, does it?
- 6 A. I don't know.
- 7 Q. You don't know?
- 8 A. No. That's the only call I -- that's the first call
9 I got, was from Shaggy's.
- 10 Q. That's the first call you remember?
- 11 A. That's the first call I received from Shaggy's, the
12 first call of the morning.
- 13 Q. You remember that?
- 14 A. Yes, sir, I do remember that.
- 15 Q. You don't recall receiving a call from somebody say-
16 ing they had been assaulted at Shaggy's?
- 17 A. When I called back.
- 18 Q. When you called back?
- 19 A. That's when I called back. That was with the male
20 subject at that time. The male subject said that.
- 21 Q. Now, is the system supposed to capture all of the
22 calls?
- 23 A. Sir?
- 24 Q. Is the system supposed to capture all the calls?
- 25 A. Yes, sir.

1 Q. Does it tell you where they came from?

2 A. I'm not understanding your question.

3 Q. Does it tell you what number the call came from?

4 A. Um, it will -- like from cel phones?

5 Q. Uh hm.

6 A. For the most part, yes.

7 Q. Yes. You show a hang-up at six forty-six, and it
8 doesn't tell us what number that was from, does it?

9 A. Okay.

10 Q. Right here.

11 A. No, it doesn't say that.

12 Q. So it doesn't tell us where that phone call came from,
13 does it?

14 A. No.

15 Q. What number that was from?

16 A. Okay.

17 Q. Thank you.

18 MR. FLOYD: No further questions, Your Honor.

19 THE COURT: Thank you very much, Ms. Knotts. You
20 may step down.

21 (Witness excused from stand)

22 THE COURT: Ladies and gentlemen, I believe we'll take
23 about a fifteen minute recess.

24 Please remember to leave your notes upside down on
25 your chairs.

1 Do not discuss this case with anyone during the brief
2 recess. Remember to keep an open mind and do not begin
3 your deliberations until you've heard all the evidence and
4 testimony in the case.

5 With that being said, you can go to your jury room
6 with the bailiff.

7 (Jury excused from Courtroom)

8 THE COURT: All right, we'll take a fifteen minute
9 recess and about thirty more minutes of testimony after that.

10 Thank you very much.

11 (Whereupon, the Court took a recess, after which
12 the matter resumed)

13 THE COURT: Anything from the State before we bring
14 in our jury?

15 SOLICITOR: No, Your Honor.

16 THE COURT: From the Defense, Mr. Floyd?

17 MR. FLOYD: No, Your Honor.

18 THE COURT: All right. Bring them in.

19 (Jury returned to the Courtroom)

20 THE COURT: All right. Welcome back, ladies and gen-
21 tlemen.

22 We will continue with the trial of the case and the
23 presentation of testimony by the State.

24 Please continue to give the parties your complete
25 attention. The next witness will be our last for the

1 day.

2 Solicitor, you may call your next witness.

3 SOLICITOR: Thank you, Your Honor.

4 The State calls Dr. Janice Ross.

5 THE COURT: All right, Doctor. If you would come
6 around and be sworn, please.

7 JANICE ROSS, being duly sworn,
8 testified as follows:

9 CLERK: Please be seated, Doctor, and once you are
10 seated state your full name, spelling your last name.

11 WITNESS: Janice Edwards Ross, R O S S.

12 DIRECT EXAMINATION

13 BY SOLICITOR

14 Q. Dr. Ross, are you a forensic pathologist?

15 A. Yes.

16 Q. What is a forensic pathologist?

17 A. A forensic pathologist -- we -- I have a medical de-
18 gree, my M.D., from State Medical Center in Syracuse,
19 New York.

20 I've done further, four plus years, of pathology
21 training. A physician who is a pathologist learns how
22 to identify cancers in tissue samples, and how to use a
23 laboratory for diagnosis of diseases like leukemias and
24 anemias.

25 We also are trained in how to do an autopsy to find

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1 a cause of death.

2 A forensic pathologist has further training. The
3 word forensic means legal, so we use our pathology train-
4 ing for legal matters, such as homicides, suicides, ac-
5 cidents, for rape victims.

6 So we use that knowledge in order to do an autopsy,
7 to find out causes of death and to identify patterns of injury

8 Q. How many forensic autopsies have you done?

9 A. Over five hundred.

10 Q. And how many times have you been qualified as an ex-
11 pert in forensic pathology in the State of South Carolina?

12 A. Over sixty.

13 SOLICITOR: Your Honor, at this time the State would
14 offer Dr. Janice Ross as an expert in the field of for-
15 ensic pathology.

16 THE COURT: Mr. Floyd?

17 MR. FLOYD: No inquiry is necessary, Your Honor.

18 THE COURT: Ladies and gentlemen of the jury, nor-
19 mally a person cannot give opinion testimony.

20 Normally when a person testifies they must testify
21 to what they saw or heard or sensed by smell or something
22 of that nature.

23 However, there is an exception when someone quali-
24 fies in a particular art, science or profession because
25 of education or experience or training.

1 They are permitted to give their opinion in certain
2 areas if the Court qualifies them that way.

3 Dr. Janice Ross would be qualified in the area of
4 forensic pathology to give opinion testimony in that re-
5 gard.

6 That does not mean that you must accept the opinion
7 but it is evidence for you, the jury, to use in any way
8 that you see fit.

9 Thank you, Solicitor.

10 BY SOLICITOR:

11 Q. Dr. Ross, would you describe for the jury how you
12 do a forensic autopsy?

13 A. Yes. The body is sent to us. We do it in the morgue
14 at Newberry County Memorial Hospital under authorization
15 and request by the County Coroner.

16 The body comes to us in a body bag, and we open it
17 up and do an inventory of clothing, take photographs,
18 take the clothing off and do photographs externally, and
19 then we do a methodical routine of autopsy, looking for
20 injuries externally and, by looking at each organ, intern-
21 ally, to further identify any kind of injuries.

22 Also to take samples for toxicology.

23 Q. And did you in this case do an autopsy of Zachariah
24 Chaplin?

25 A. Yes.

1 Q. What day was your autopsy performed?

2 A. On November 14, 2008.

3 Q. And when did Mr. Chaplin die?

4 A. He died on November 12, 2008.

5 Q. In addition to doing the autopsy, did you also review
6 approximately eighteen hundred pages of medical records?

7 A. I didn't have those at the time of the autopsy, but
8 I have since reviewed those medical records, yes.

9 Q. I want to show you a disc. All the medical records
10 are on this disc. I would ask if you recognize that?

11 A. Yes, these are the medical records on the disc.

12 SOLICITOR: Your Honor, I think by stipulation with
13 Mr. Floyd these will be introduced in evidence at this
14 time. .

15 MR. FLOYD: That's correct, Your Honor.

16 THE COURT: All right. State's Exhibit 5?

17 REPORTER: Yes, sir.

18 THE COURT: In evidence without objection.

19 (Medical records on disc admitted in evidence pursuant
20 to stipulation as State's Exhibit 5)

21 BY SOLICITOR:

22 Q. Dr. Ross, would you describe the autopsy that you
23 performed on Mr. Chaplin?

24 A. Yes. We found -- we did x-rays, knowing that he
25 had been shot.

1 As I said, we looked at all of his injuries extern-
2 ally. He had some surgical scars and wounds, especially
3 one on the outside of his right arm, and he had some
4 other scars.

5 We saw by x-ray the bullet in the upper right arm,
6 and there was also a bullet in the upper chest, which we
7 were able to retrieve.

8 Q. After you do an external examination, what do you
9 do next?

10 A. We do internally. We open up the body and look at
11 each organ internally.

12 Q. What did you find when you went inside Mr. Chaplin's
13 body?

14 A. We found a lot of blood and blood clot in the abdo-
15 men. He had fifty-five hundred CCs of blood, which is
16 approximately eleven units of blood, which is a signifi-
17 cant amount.

18 Q. Were you able to determine the approximate height
19 and weight of Mr. Chaplin?

20 A. He was seventy-eight inches in length, which is
21 five feet ten inches, and we estimate the weight to be
22 a hundred and forty-five pounds.

23 Q. What, if anything, did you find remarkable -- remark-
24 able as far as his history and his records?

25 A. Well, that he was quadraplegic. We could see that

1 he had some muscle waste of especially his legs.

2 We could see that he had a tube in his stomach to
3 feed him. He did have a little decubitus ulcer on his
4 sacral area, the rear.

5 He had an enlarged liver and spleen, and we retrieved
6 the bullets from the body.

7 Q. In reviewing the -- in reviewing Mr. Chaplin's body
8 during the external examination, as well as the medical
9 records, were you able to determine where Mr. Chaplin
10 was shot?

11 A. After I reviewed the records, we knew that the bul-
12 let ended up in the spine where the neck and the chest-
13 spine segments connect or right in that area, but we
14 weren't exactly sure where it came from.

15 There were so many little scars -- when someone is
16 shot and they have an open entrance wound, the gunshot
17 wound is very often closed up with sutures and leaves an
18 oval scar or a linear scar.

19 I didn't have the medical records at the time to tell
20 me where the entrance wound was.

21 There was some evidence on the x-rays which showed
22 a partial track of pieces of metal from a bullet to show
23 us that it was coming down to this area of the neck.

24 Q. So were you able to -- regarding the wound to the
25 neck area, roughly where was the entrance wound?

1 A. The medical records showed that the entrance wound
2 was behind the right ear.

3 Q. If you describe the mastoid bone to the skull, where
4 would that be?

5 A. It's behind the right ear. You can almost feel it
6 right behind the ear.

7 Q. Let me show you a diagram if that will assist you in
8 explaining to the jury the mastoid bone.

9 A. Yes.

10 SOLICITOR: Your Honor, the State would offer that
11 in evidence at this time.

12 THE COURT: Mr. Floyd?

13 MR. FLOYD: Is that -- (examining proposed exhibit)
14 -- no objection.

15 THE COURT: State's 6 in evidence without objection.

16 (Diagram of skull admitted in evidence without objec-
17 tion as State's Exhibit 6)

18 BY SOLICITOR:

19 Q. Doctor, you stated that you performed x-rays?

20 A. Yes.

21 Q. What did you discover on the x-rays regarding or re-
22 lating to the entrance below the mastoid bone?

23 A. There is -- the x-ray showed some trail of metal
24 coming down towards where the bullet ended up.

25 Q. Let me show you another Exhibit and ask if you

1 recognize this?

2 A. Yes.

3 Q. Does that fairly and accurately depict what you were
4 just describing?

5 A. Yes.

6 Q. Would it assist you in explaining that to the jury?

7 A. Yes.

8 SOLICITOR: Your Honor, we'd offer the photograph
9 of that x-ray in evidence.

10 MR. FLOYD: No objection.

11 THE COURT: State's 7 in evidence without objection.
12 (Photograph of x-ray admitted in evidence without objec-
13 tion)

14 BY SOLICITOR:

15 Q. The other gunshot wound, were you able to confirm
16 --- were you able to determine from the medical records
17 that you reviewed where the wound entered Mr. Chaplin's
18 body?

19 A. The entrance wound was not exact. There was, as I
20 said, a large open wound from the surgery. They had to
21 go in and pin the fractured bone, and in that area there
22 were a few scars that were --- one of which was probably
23 the entrance wound.

24 Q. Let me show you a photograph and ask if you recog-
25 nize that?

1 A. Yes.

2 Q. And does that depict what you're describing right
3 now?

4 A. Yes.

5 SOLICITOR: Your Honor, the State would offer this
6 photograph in evidence.

7 MR. FLOYD: Your Honor, may we approach?

8 THE COURT: Yes, sir.

9 (Conference at the bench between counsel and the
10 Court off the record)

11 THE COURT: State's 8 and 9 are allowed, subject to
12 objection.

13 Without commenting on the facts, ladies and gentlemen,
14 it appears that there may have been surgical intervention
15 prior to the photographs that are referenced being taken.

16 That would not be for your consideration that there
17 was surgical intervention. It does not depict the wounds
18 as they would appear on the early morning hours of 28 Sep-
19 tember 2008, but at the time of autopsy, which, of course,
20 would have been post-surgery.

21 REPORTER: Just one second, Your Honor.

22 (Photos of arm of victim admitted over objection in
23 evidence as State's Exhibits 8 and 9)

24 THE COURT: Solicitor, you may continue.

25 BY SOLICITOR:

1 Q. I show you two more photos and ask if you recognize
2 those?

3 A. Yes.

4 Q. And do they fairly and accurately depict the projec-
5 tile bullets that you recovered from Mr. Chaplin's body?

6 A. Yes.

7 SOLICITOR: We would offer these two photographs in
8 evidence.

9 MR. FLOYD: No objection.

10 THE COURT: All right, State's 10 and 11 are in evi-
11 dence.

12 (Photos of bullets admitted in evidence without
13 objection as State's Exhibits 10 and 11)

14 BY SOLICITOR:

15 SOLICITOR: Your Honor, if I could have Dr. Ross to
16 step down?

17 THE COURT: Yes, sir. Dr. Ross, if you'd keep your
18 voice up, please, since you will be away from the micro-
19 phone.

20 WITNESS: Yes, sir.

21 Q. Doctor, if you would stand up here.

22 A. Yes.

23 Q. Discussing the wound in the arm, referring to State's
24 Exhibit Number 8, in looking for the entrance wound there
25 had obviously been some surgery.

1 A. Yes.

2 Q. What does that depict?

3 A. This is the right arm, the outer right arm, and you
4 can see a cut through the skin, which is from surgery,
5 where they went in and pinned the bone.

6 The bullet fractured the bone. The bullet ended up
7 inside the -- almost in the arm pit, so the direction
8 would be going from outside into inside. Exactly where
9 in that surgical wound I cannot tell.

10 Q. Referring to State's Exhibit Number 9, what does it
11 depict, Doctor?

12 A. This shows the arm pit, the right arm pit, and it
13 shows where we had cut into the skin to expose the bullet.
14 You can see it's on the inside of the right arm.

15 Q. Referring to State's Exhibit Number 10, are you able
16 to recognize that, related to State's Exhibit 9?

17 A. Yes. This is a bullet we got out of this area at
18 autopsy.

19 Q. State's Exhibit 7, do you recognize that as the
20 x-ray you were discussing?

21 A. Yes.

22 Q. Tell the jury what that x-ray is?

23 A. This is a part of the chest. You can see ribs and
24 you can see the backbone.

25 The metal object here is the bullet. It is very

1 faint and you have to kind of look closely.

2 But there is some little debris, little pieces of
3 metal, coming down that way. Just to show you a little
4 bit about the direction of the bullet.

5 THE COURT: Doctor, would you show that down at this
6 end also.

7 BY SOLICITOR:

8 Q. Would you step down here and explain that at this
9 end here?

10 A. Sure. This is the bullet, and the little, tiny bits
11 of metal coming down this way. It shows the track of the
12 bullet. As the bullet came down, it fragmented off in
13 little pieces of metal.

14 Q. Referring to State's Exhibit Number 11, related to
15 what we are looking at on x-ray in State's Exhibit 7?

16 A. That is the bullet we got out of that area, in the
17 backbone and the bottom of the cervical spine, the neck
18 spine and beginning of the chest spine.

19 Q. Showing you another item, I would ask if you recog-
20 nize this item, or these items, I should say, Doctor?

21 A. Yes, these are the bullets that you just saw a pic-
22 ture of. We sealed them in plastic and signed them. They
23 were put in a sealable package that goes to SLED for ballis-
24 tics.

25 SOLICITOR: Your Honor, the State would offer these

1 in evidence at this time.

2 I believe this is without objection.

3 MR. FLOYD: No objection.

4 THE COURT: All right, Number 12 is in evidence,
5 without objection, or by stipulation.

6 (Two spent bullets admitted in evidence without ob-
7 jection as State's Exhibit 12)

8 BY SOLICITOR:

9 Q. Doctor, discussing the angle of the wounds, using
10 me as Mr. Chaplin, would you show the jury where you be-
11 lieve the first wound is and where you recovered the bul-
12 let and so forth; the pathway through Mr. Chaplin's body
13 visavis the wound in the arm?

14 A. The wound in the arm depends on how high it was.

15 The bullet ended up in here so it may have come in
16 here, if you have your arms up high, and gone through.

17 Or it could have been a little further up. You
18 have two people.

19 Q. You have the gun itself and then you have the big
20 entrance wound and then where the bullet ended up, is that
21 correct?

22 A. Yes.

23 Q. If you line those up, you should have a straight
24 line?

25 A. Yes.

1 Q. Okay.

2 A. Bullets go straight.

3 Q. The projectile that was the second bullet, the one
4 that went in Mr. Chaplin's mastoid bone near the ear
5 there, using me, explain to the jury where the entrance
6 wound roughly was?

7 A. The entrance wound was here, and the bullet would
8 have ended up right in here in the spine.

9 Q. And were you able to determine between those two
10 points the approximate path of how that would be?

11 A. Bullets go straight so you would most likely be in
12 the bent-over position. Further down.

13 Or even on the ground where the shooter was in a
14 standing position. In a standing position it goes down-
15 ward.

16 Q. Again, you have the muzzle, the approximate entrance,
17 and then where the bullet was recovered, and that is a
18 straight line?

19 A. Yes.

20 Q. Please have a seat, Dr. Ross. Thank you.

21 A. (Resuming witness stand)

22 Q. Did you have an opportunity to view the video that
23 is involved in this case at all?

24 A. Yes.

25 Q. Looking at that and knowing the wounds and where

1 the bullets ended up, did you come to an opinion as to
2 which -- obviously Mr. Chaplin was shot twice. Were you
3 able to determine which was first and second?

4 A. Yes.

5 Q. What is your medical opinion as to which one was
6 first?

7 A. The first wound would be to the arm. A shot to the
8 spinal cord causes immediate paralysis of the lower ex-
9 tremities so the person would just drop.

10 If there was any -- a little bit of momentum going,
11 he may go a little further, but that injury to the spinal
12 cord would cause basically your legs to go out from un-
13 derneath you.

14 So it is my best opinion that the arm wound was the
15 first one.

16 Q. And the wound to the spinal cord was the second
17 one?

18 A. Correct.

19 Q. Now, Mr. Chaplin didn't die right away?

20 A. No.

21 Q. You testified he was paralyzed. Approximately what
22 part of his body was paralyzed?

23 A. Well, from the chest down. I guess he did have
24 some use of his arms.

25 Q. He lived for approximately six weeks before dieing?

1 A. Yes.

2 Q. You discussed in your autopsy that there was a large
3 amount of blood inside Mr. Chaplin's chest area or stomach
4 area?

5 A. Yes.

6 Q. And that is what you told the jury?

7 A. Yes. When somebody is paralyzed like that, they
8 lose control of their bowels and their urine, and they
9 are not able to move their diaphragm to breathe well.

10 And all these organs start failing because of that,
11 and the fact that there is -- you've lost control of your
12 urine and your bowels, then you have catheters in, and
13 you have access for bacteria to get into the body and to
14 cause an infection and what we call sepsis.

15 That is an infection that is blood-borne and goes
16 through the whole body through the blood system.

17 And it causes secondary problems in other organs.

18 Q. More problems then were caused for Mr. Chaplin?

19 A. For Mr. Chaplin, the bleeding was caused after the
20 infection and the sepsis. That causes liver failure and
21 other organ failure.

22 The liver makes factors that causes or helps your
23 blood to clot. You cut yourself and the blood clots and
24 bleeding stops.

25 When you don't have those clotting factors, you are

1 just able to bleed without any hesitation, without any
2 stopping.

3 That was a complication that he suffered in the end.
4 He had a sudden drop in hemoglobin which is a measurement
5 of how much blood you have in your system.

6 At that sudden drop on the 11th, they did transfuse
7 him. They tried to give him more clotting factors, but
8 it was just overwhelming with the sepsis and the bleeding,
9 and he was -- he basically bled out from shock.

10 Q. There was some references in the medical records to
11 Mr. Chaplin refusing respiratory therapy. Were you aware
12 of that?

13 A. Yes.

14 Q. And do you know what they were referring to when
15 they were talking about respiratory therapy?

16 A. . .

17 Q. How would that relate to somebody that was para-
18 lyzed?

19 A. Well, when you have lost a lot of muscle control,
20 you can't open your chest up and you don't have your dia-
21 phragm to help bring air in and get rid of old air --
22 you don't have that exchange of air and the respiratory
23 therapists come and they do some pressure treatments,
24 breathing treatments, to help clear out the airways.

25 They suck out any kind of mucus and they help your

1 breathing so that you don't build up bacteria and other
2 things to cause pneumonia.

3 Q. Were you able to determine whether Mr. Chaplin had
4 pneumonia at his death?

5 A. I was able to test it, yes.

6 Q. What did you find?

7 A. That he didn't have pneumonia. He did not have
8 pneumonia.

9 Q. Were you able to determine which gunshot wound was
10 responsible for Mr. Chaplin's death?

11 A. Yes.

12 Q. Which gunshot wound?

13 A. The gunshot wound to the head and neck that caused
14 the paralysis.

15 Q. And so the paralysis led -- you took us from the gun-
16 shot wound to him being paralyzed to him dieing, because
17 it took six weeks for him to die?

18 A. Yes.

19 Q. Explain to the jury why the gunshot wound is the
20 proximate cause of Mr. Chaplin's death?

21 A. Yes, the paralysis causes the loss of control of
22 urine and bowels, so that you have to be catheterized.

23 There is also problems with getting air in and out
24 due to paralysis of the chest and diaphragm, but the in-
25 fections that can occur when you have to be constantly

1 catheterized to relieve your bladder of urine, and when
2 you have basically an opening of the bowel in and out,
3 you get infection, secondary infection as a complication
4 of the paralysis, and it can get into the bloodstream and
5 further cause organ failure.

6 In this case, there is evidence of lack of clotting
7 factors. The person was -- the gentleman was bleeding,
8 and it was not -- his body was unable to control the
9 bleeding through clotting factors.

10 Q. Thank you.

11 SOLICITOR: I don't have any further questions for
12 Dr. Ross.

13 THE COURT: Thank you, Solicitor.

14 Mr. Floyd.

15 MR. FLOYD: Thank you, Your Honor.

16 CROSS EXAMINATION

17 BY MR. FLOYD:

18 Q. Dr. Ross, you say that the bullet always travels in
19 a straight line? Is that what you're saying?

20 A. Yes.

21 Q. That is not what the Warren Commission found in the
22 Kennedy assassination, was it?

23 A. That's a complicated story, because the surgeons
24 cut through the gunshot wound, so it was quite -- kind
25 of inexact.

1 But bullets go straight.

2 Q. Now, you can't really tell us where the entry or en-
3 tries were of these bullets with medical certainty, can
4 you?

5 A. No, sir. Just through the chart.

6 Q. And in fact, it is speculation, is it not, as to
7 which one of these gunshot wounds occurred first?

8 A. Well, with the video that I saw, I didn't see any
9 evidence of immediate paralysis. When you can see the
10 first shot that went off -- as I say, when you shoot
11 through the spine cord, there is immediate paralysis, so
12 the legs become limp.

13 Q. Would you say you could see what happened after the
14 first shot on that video?

15 A. You could see get an idea of the positioning of the
16 people and what they were doing, yes.

17 Q. Did he have movement in his arms, even after being
18 shot?

19 A. Well, after the second shot he was going down behind
20 the counter so it's hard to know exactly how much he was
21 moving.

22 Q. He wasn't quadriplegic, was he?

23 A. He had some use of his arms, yes.

24 Q. That's what I mean. He still had use of the arms?

25 A. But he . . .

1 Q. He still had use of his arms, did he not?

2 A. Some, yes.

3 Q. So are you saying you are basing your opinion on
4 which gunshot wound was first from the video?

5 A. And the facts and where the injuries were.

6 Q. Did you have the video at the time you did this re-
7 port?

8 A. Not when I did this report, but I have since then
9 reviewed it along with the report.

10 Q. In fact, you didn't even have the hospital records
11 at that time, did you?

12 A. No, I did not.

13 Q. And when was he released from the Richland Memorial
14 Hospital?

15 A. I don't recall the exact date. It was -- I think
16 it was the end of October. Around there.

17 Q. Wasn't he in fact released to the Veterans Adminis-
18 tration Hospital in Augusta, Georgia, for rehabilitation?

19 A. Yes.

20 Q. Your records don't reflect that?

21 A. No.

22 Q. In fact, you talked about a steady downward course,
23 but that's not accurate, is it?

24 A. Well, I think it is.

25 Q. He was released to rehab, was he not?

1 A. Yes.

2 Q. He was out of danger and he was released to rehab
3 at the Veteran's Medical Center, is that correct?

4 A. Yes, and he kept getting . .

5 Q. He was sent not for medical treatment, but for rehab,
6 is that correct?

7 A. Yes.

8 Q. His medical treatment had ended when the Richland
9 County Memorial Hospital released him, as far as his
10 emergency situation?

11 A. Well, he still had medical treatment for wounds,
12 for gastroscopies, and . .

13 Q. Well, if they think a man is about to die, they
14 don't send him to rehab?

15 A. Oh, no.

16 Q. That's what I was getting at.

17 Now, the bleeding you saw, that was intra-abdominal
18 bleeding, I think you said?

19 A. Yes.

20 Q. Now, that didn't come from the gunshot wound to
21 the arm?

22 A. No.

23 Q. Was there any bleeding from the gunshot wound to the
24 neck?

25 A. No.

1 Q. And so the bleeding is not connected at all with
2 the sites of the gunshot wounds?

3 A. It's connected to the injury of the gunshot wound
4 but not to a site of the gunshot wounds.

5 Q. All right, we'll get to all that, but not to the
6 sites of the gunshot wounds, correct?

7 A. Correct.

8 Q. And so you have got -- your theory is that bleeding
9 occurred when his liver broke down and the blood did
10 not clot any more. Is that correct?

11 A. Correct.

12 Q. Well, you opened his liver, did you not?

13 A. Correct.

14 Q. The liver was perfect, was it not?

15 A. No, it was twice as large as it should be.

16 Q. Was it smooth and glistening?

17 A. Yes.

18 Q. Do you know of any type of problem with the liver?

19 A. No. Microscopically, you'd see something.

20 Q. But you didn't see anything, did you?

21 A. Just that it was enlarged.

22 Q. Well, you don't know whether it was enlarged because
23 he was shot or whatever?

24 A. It could be everything overall failing. When the
25 heart fails and it's not pumping blood forward, so the

1 blood backs up and enlarges the liver and spleen.

2 Other factors can cause it, including infection.

3 Q. Was there indeed infection present at autopsy?

4 A. We did not take any blood cultures because the per-
5 son -- he was on so many antibiotics that a post-mortem
6 blood culture after death wouldn't tell anything.

7 Q. Did you review any records other than the Richland
8 Memorial Hospital records?

9 A. Yes.

10 Q. What other records did you review?

11 A. The VA Hospital.

12 Q. And was -- the gunshot wounds occurred on September
13 28th?

14 A. Right.

15 Q. And the actual date of death was November the 12th?

16 A. Yes.

17 Q. So he lived some forty-five days or something like
18 that?

19 A. Yes.

20 Q. And in fact didn't you say in your report that he
21 was in and out of the hospital since his injury?

22 A. . .

23 Q. Do you have a copy of it there?

24 A. I said that he was hospitalized Palmetto Richland
25 Hospital and then in Augusta, Georgia.

1 Q. I ask if you can -- does this have anything to do
2 with Georgia?

3 A. That would be it. This is the information that we
4 got from the coroner, an initial phone call asking us to
5 do the autopsy.

6 Q. And they told you he had been in another hospital?

7 A. Yes. We subsequently found out more -- a little
8 more.

9 Q. So basically he was treated for a while at Richland
10 Memorial Hospital?

11 A. Yes, sir.

12 Q. Until they -- until they felt he was out of danger,
13 and they transferred him to the VA Medical Center for
14 rehabilitation. Is that correct?

15 A. Yes.

16 Q. And he was down there for about two weeks before he
17 died?

18 A. Yes.

19 Q. Now, there is no question that he was not bleeding
20 from the sites of the gunshot wounds?

21 A. Correct.

22 Q. And did you notice how many times he refused treat-
23 ment?

24 A. I didn't write them down, but there were several
25 times he refused respiratory therapy.

1 Q. Didn't he also refuse treatment at the Richland
2 Memorial Hospital?

3 A. I believe so.

4 Q. And did you see the notation of any illegal drugs
5 in his system at Richland Memorial Hospital?

6 A. Yes.

7 Q. And what kind of drugs did he have?

8 A. As I recall, there was some cocaine.

9 Q. So he had cocaine in his system?

10 A. On admission.

11 Q. On admission?

12 A. Yes.

13 Q. The cocaine use can create some problems with the
14 organs?

15 A. It can cause some spasms of arteries and some heart
16 problems.

17 Q. So it can cause problems in the organs?

18 A. Yes.

19 Q. Would the long-term use of cocaine cause any addi-
20 tional problems?

21 A. Yes. Mostly in the heart.

22 Q. Now, did you see that one gunshot wound entered be-
23 hind the ear?

24 A. Yes.

25 Q. And lodged in the neck area?

1 A. Yes.

2 Q. Is that correct?

3 A. Yes.

4 Q. And you are not sure, are you, where -- what the --
5 the way the victim was positioned when he received that
6 wound?

7 A. No, except for what's on the video.

8 Q. Except for what's on the video?

9 A. Yes.

10 Q. And that was -- and the second gunshot wound, what
11 you call number two, is in the arm or outside of the
12 arm, correct?

13 A. Yes.

14 Q. But you are not sure exactly where on the outside
15 arm?

16 A. Correct.

17 Q. And you are not sure exactly the angle of the wound?

18 A. Correct.

19 Q. And any opinion you have given us today as to which
20 gunshot wound was first and which gunshot wound was sec-
21 ond is based on your interpretation of the video?

22 A. Based on my knowledge of what happens when you hit
23 the spinal cord, as well as the video. Yes.

24 Q. Well, if you get a blow to the spinal cord, it does-
25 n't immobilize your limbs? You can still move them, can

1 you not?

2 A. When you -- well, sometimes just the shock of the
3 bullet going near the spinal cord will cause interruption
4 of the relay of information from the brain to the feet
5 to tell the feet to stay underneath him.

6 When you go through the spinal cord itself, the in-
7 terruption is like electrical. It is like a wire with
8 electricity. When you cut that, then you don't have the
9 brain telling the feet to move or the legs to stay under-
10 neath you.

11 Q. Now, Dr. Ross, in the video, isn't it true that Mr.
12 Chaplin is actually diving toward Mr. Torrence?

13 A. Yes, and once you -- once he gets under the counter
14 you can't see what he's doing, but, as I say, you can
15 have a loss of muscle control, and if you are going in a
16 certain direction the force is going to continue -- to
17 continue that until he falls.

18 Q. That's what I'm getting at. He's going forward, so
19 his momentum is going to take him to the floor?

20 A. Yes.

21 Q. No matter whether he's shot or not?

22 A. Yes, sir.

23 Q. So to suggest that the first shot would be in the
24 neck because he was on the floor, that is just speculation,
25 correct?

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1 A. . .

2 Q. Because his momentum could have taken him to the
3 floor?

4 A. Well, when you see the first shot, it doesn't show
5 that he pretty much collapsed at that time.

6 Q. Did you say it does or does not?

7 A. It does not.

8 Q. Okay, that's -- what I meant was that his momentum
9 just carried him forward, not that he was shot and col-
10 lapsed. Isn't that true?

11 A. If his first shot was in the cervical spine, accord-
12 ing to what I saw in the video, I would expect him to have
13 dropped very quickly before the second shot went off.

14 Q. But his momentum would have carried him down?

15 A. He was going down but he didn't just drop.

16 I mean, when your legs become limp, it just -- you
17 would drop to the floor.

18 Q. But your body would continue to go forward? Your
19 upper body would continue to go forward?

20 A. I'm sorry.

21 Q. I say, your upper body would continue to go forward
22 in the path in which it has started, would it not?

23 A. Yes.

24 Q. A bullet is not going to stop that?

25 A. No.

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1 Q. If you got shot with a bullet, your momentum is
2 going to carry you forward, isn't that right?

3 A. Yes.

4 Q. And you cannot point out any specific thing, can you,
5 that relates the gunshot wound to the bleeding in the ab-
6 domen, can you?

7 A. Yes, I can relate it. Paralysis causes all of these
8 other complications. Without this paralysis, he would be
9 fine.

10 He wouldn't have the clotting problems or the organ
11 problems that he did.

12 Q. How do you know that?

13 A. From medicine. I mean, this is what happens with
14 people who have spinal cord injuries. We have all of the
15 secondary complications of organ failure, infection.

16 You may end up with this coagulation or clotting
17 problem.

18 Q But a spinal cord injury doesn't always result in
19 death, does it?

20 A. No. No, it does not.

21 Q. In fact, you have people with spinal cord injuries
22 that do not die, don't you, but live a long time?

23 A. Correct.

24 Q. In fact, this man did respond to treatment and was
25 released by Richland Memorial?

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1 A. Well, at that time, yes, but his problems continued
2 on.

3 Q. And no question that there was no bleeding from the
4 site of either gunshot wound?

5 A. Correct.

6 Q. Thank you.

7 MR. FLOYD: No more questions.

8 THE COURT: Redirect, Solicitor?

9 SOLICITOR: Just one.

10 THE COURT: All right.

11 REDIRECT EXAMINATION

12 BY SOLICITOR:

13 Q. Doctor, is it your opinion that if Zach Chaplin had
14 not been shot in the neck, he would not have received the
15 spinal cord paralysis or anything else, so that he would
16 be alive today?

17 A. Yes.

18 Q. Thank you.

19 THE COURT: Recross, Mr. Floyd?

20 MR. FLOYD: Thank you, Your Honor.

21 RECROSS EXAMINATION

22 BY MR. FLOYD:

23 Q. Dr. Ross, the Solicitor asked you if Zach Chaplin
24 had not been shot in the neck . .

25 THE COURT: I can't quite understand you. I'm sorry.

1 BY MR.FLOYD:

2 Q. Dr. Ross, have you read Zach Chaplin's hospital
3 notes from September 27th or 28th?

4 A. I have read the chart, and that tells you pretty
5 much what happened but not a hundred percent.

6 Q. And in fact, the chart might cover two hours every
7 day. Is that right?

8 A. Yes.

9 Q. And the other twenty-two hours, you don't know what
10 went on as far as his care, do you?

11 A. No.

12 Q. Can you tell us the specific thing, a specific
13 thing, that caused him to bleed, other than speculation
14 about, well, this can happen, or might happen?

15 A. . .

16 Q. You cannot say with certainty but you have to resort
17 to speculation?

18 A. Complications of spinal cord injury.

19 Q. What complication caused the bleeding, if you can
20 tell us?

21 A. Organ failures that caused the liver not to be able
22 to make the clotting factors which caused the bleeding.

23 Q. Would you say that liver failure and clotting prob-
24 lems is the only thing that can cause bleeding?

25 A. No. Sometimes you are born with problems like

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1 hemophilia. Sometimes you can have this problem imme-
2 diately after an injury. .

3 Q. So there are other things that can -- organ failure
4 can cause bleeding problems?

5 A. Yes.

6 Q. Thank you. No further questions.

7 THE COURT: Thank you.

8 Thank you very much for being with us this after-
9 noon, Dr. Ross. You may step down.

10 (Witness excused from stand)

11 SOLICITOR: Your Honor, may we excuse Dr. Ross at
12 this time.

13 MR. FLOYD: No objection, Your Honor.

14 THE COURT: Dr. Ross, you may leave.

15 (Witness excused)

16 THE COURT: All right, I believe now would be an
17 appropriate time for us to take our evening recess.

18 Please remember my instructions to you. Do not
19 discuss this case with anyone, and that includes your
20 fellow jurors, your family members, or anyone else.

21 If anyone tries to talk with you about the case,
22 please let me know.

23 Do not read, watch or listen to any news accounts,
24 should there be any, about the case.

25 Do not use your computer, cellular phone or any

1 electronic device with communication capabilities to ob-
2 tain or disclose any information about the case, which
3 is prohibited.

4 Information about the case which is prohibited in-
5 cludes, but is not limited to, the following:

6 Information about a party, a witness, an attorney
7 or a court officer.

8 News accounts of the case.

9 Information collected through research on any topic
10 raised or testimony offered by any witness, or informa-
11 tion collected through your own research on any topic
12 that the juror might think would be helpful in deciding
13 the case.

14 Remember my instructions that you are to base your
15 decision solely on the testimony you hear in the Court-
16 room, from the witnesses testifying under oath, and any
17 photographs, diagrams or exhibits, and any inferences
18 that you draw therefrom.

19 Keep an open mind. Do not begin your deliberations
20 until you are instructed to do so by the Court.

21 Leave your notes upside down on your chairs, and
22 please be back promptly at nine thirty in the morning.
23 Nine thirty in the morning.

24 Hope you all have a pleasant evening. Thank you
25 very much.

1 (Whereupon, the jury was excused for the evening)

2 THE COURT: I thought we were going to discuss prior

3 drug use by the victim in-camera only. Did that change?

4 SOLICITOR: No, Your Honor.

5 THE COURT: Well, we did not discuss it in camera,

6 and there was no objection.

7 What am I missing here?

8 MR. FLOYD: Your Honor, I didn't accuse him of it.

9 THE COURT: My daddy would say that's fine as a frog

10 hair, Mr. Floyd. A frog hair is so fine you can't see

11 them. I don't think I've ever seen it.

12 What about the issue with Ms. Muszynski? I realize

13 we held in camera motions in limine, and that is not

14 a final ruling.

15 Is that issue still on the table as far as the

16 State is concerned?

17 SOLICITOR: Yes, sir.

18 THE COURT: Again, I have a note that that is an

19 in-camera issue.

20 So we need to take that up before Ms. Muszynski's

21 testimony.

22 Anything further from the State, Solicitor?

23 SOLICITOR: No, Your Honor.

24 THE COURT: From the Defense, Mr. Floyd?

25 MR. FLOYD: No, Your Honor.

1 THE COURT: Thank you very much.

2 Court will be in recess until nine thirty in the
3 morning.

4 (Whereupon, the Court stood in recess until June 1,
5 2011)

6 Anything from the State before we bring in our
7 jury?

8 SOLICITOR: No, Your Honor.

9 THE COURT: From the Defense?

10 MR. FLOYD: No, Your Honor.

11 THE COURT: Bring us our jury, please.

12 (Jury returned to the Courtroom)

13 THE COURT: You may be seated. Thank you.

14 If you would give the pads to the jurors, please.

15 They can recognize their own handwriting, I believe,
16 but if they're like me they won't be able to read it.
17 Thank you.

18 Everybody have their own pads? Do you recognize
19 your own handwriting?

20 Good morning. I hope you all had a pleasant even-
21 ing.

22 Has any member of the jury panel read, watched or
23 listened to any news reports about the case? If so,
24 please stand.

25 (No response from jurors)

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1 Has any member of the jury panel discussed the
2 case with anyone? If so, please stand.

3 (No response)

4 Thank you very much, and please remember my instruc-
5 tions in that regard, not to read, watch or listen to
6 any news reports about the case, and, further, you are
7 not authorized to discuss the case with anyone until
8 such time as you have heard all the evidence and testi-
9 mony, the closing statements by the attorneys, and my
10 instructions on the law by the Court. You will then be
11 directed to begin your deliberations with your fellow
12 jurors in your jury room.

13 We are continuing the trial of the case. The State
14 is still presenting evidence and testimony in its case in
15 chief.

16 You will continue to give the parties your complete
17 and undivided attention. Recall my instruction that if
18 at any time you need to take a break raise your hand,
19 and we can take our break and you can take your break.

20 With that being said, Solicitor, you may call your
21 next witness.

22 SOLICITOR: State calls Ms. Tonya Mozenko.

23 THE COURT: All right, if you would come around,
24 please, Ms. Mozenko, and be sworn.

25 TONYA MOZENKO, being duly sworn,

1 testified as follows:

2 CLERK: Have a seat on the witness stand, and once
3 you are seated speak up loud and clear and state your
4 full name, spelling your last name.

5 WITNESS: Tonya Crawford Mozenko, M O Z E N K O.

6 CLERK: Is Tonya T A N?

7 WITNESS: T O N Y A.

8 THE COURT: All right, Solicitor.

9 DIRECT EXAMINATION

10 BY SOLICITOR.

11 Q. Tonya, where are you employed?

12 A. Allegiance Industries. I'm director of security.

13 Q. And what is Allegiance Industries?

14 A. It's a facilities management for janitorial and
15 for security.

16 Q. What position do you hold?

17 A. Director.

18 Q. And tell the jury what your job duties include?

19 A. I have around twenty sites that go from North
20 Carolina, South Carolina, Georgia and Florida. There are
21 around may be a hundred and twenty-five employees that
22 are employed by me, that I take care of.

23 I license them, I train them, I schedule them. I
24 basically run the entire company, from paper work to
25 hiring, to firing. Everything.

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1 Q. And does Allegiance provide janitorial service as
2 well as on site security service?

3 A. Right.

4 Q. How long have you been doing that?

5 A. I've been with Allegiance for four years.

6 Q. How long have you been in the security field?

7 A. Nine years.

8 Q. Do you know Drew Torrence, the Defendant?

9 A. Yes.

10 Q. When did you first meet him? How long ago?

11 A. Approximately around seven years ago I met him.

12 Q. And where? Would you tell the jury how that came
13 about?

14 A. I had went to a football game, and I had stopped
15 by and had a drink at the bar that was close to my home.
16 He was sitting at the bar, and in the time I sat there
17 and had a couple of drinks I had met him.

18 He'd asked me if I would take him to his home or
19 give him a ride, and I told him I'd give him a ride.

20 I told him once he got in the car that I was not going
21 to take him to his house; that I would just take him to
22 another bar.

23 So I ended up dropping him to a bar that was right
24 down the street.

25 Q. And after that first time, did you see Mr. Torrence

1 again?

2 A. Off and on, around.

3 Q. And at some time did you begin to see him more
4 often?

5 A. Yes.

6 Q. What were the circumstances of that?

7 A. He actually was the roommate to a guy that I was
8 dating, and so once we started dating I saw him a lot
9 more because they lived together.

10 So when I went over there he was there, and we hung
11 out a lot more at that time because we would all go out
12 together.

13 And so I saw him a good bit at that time.

14 Q. At that time, how would you describe your relation-
15 ship with Mr. Torrence?

16 A. Acquaintances.

17 Q. Did it change from an acquaintance relationship
18 to some other kind of relationship?

19 A. Yes. I actually hired him. He had needed a job
20 and he had prior military experience. He wanted a
21 full time job but I could only offer him a part-time
22 job when he started for me.

23 And so I hired him and our relationship at that
24 time strictly became that he was my employee.

25 Q. What did he do for you?

1 A. He was a part-time security guard at PVR, which is
2 located in West Columbia. He manned the gate.

3 He worked on the weekends, Saturday and Sunday,
4 and he basically just checked trucks in.

5 They had to check all the temperatures. They had
6 to circle the premises, walk around every hour. Just
7 basic security work.

8 Q. What is PVR?

9 A. They produce RPM gauges.

10 Q. What kind of training did he have to have to be
11 a security guard?

12 A. Well, he had to go through -- in order to be a
13 security guard you have to go through SLED training,
14 and then once you finish that training he gets trained
15 on site, which is not a very difficult training.

16 He just basically is told about the paperwork,
17 told how to handle any issues, and when he was trained
18 he went on site and started.

19 Q. Did he have to have training on making arrests?

20 A. No.

21 Q. What authority did you tell him he would have with
22 his SLED training when he was working on site?

23 A. I myself do not cover anything on arrests on the
24 site. Because of the position that my guards are in,
25 I don't cover anything about that, but just let them

1 know that you are a security guard and you do have the
2 power on site you are working at -- do have arrest
3 power, but I encourage all of my officers not to do
4 that.

5 We are basically there to be eyes and ears, and
6 if there is a problem call the police. Get all the
7 information you can. You could detain somebody, but
8 if it starts a ruckus or anything call the police.

9 Q. And that was the authority he had on site when he
10 was working?

11 A. Correct, and it states on the back of the SLED
12 card that they are issued.

13 Q. Did he carry a gun working for you?

14 A. No.

15 Q. How long did he work for you?

16 A. Around three months.

17 Q. And at some point did he stop working for you?

18 A. He was terminated. I had to fire him.

19 Q. Do you remember approximately when that was?

20 A. It was at the end of May, maybe the beginning of
21 June. He had . .

22 Q. When you fired him, what was his reaction?

23 A. He didn't act like he cared.

24 Q. Did you get a feeling there was any personal ani-
25 mosity between you and him?

1 A. No, absolutely not. I mean, I have a relationship
2 with my employees that is just cut and dry. I mean,
3 if he didn't do the job then I could find somebody else.
4 It was nothing personal.

5 Q. Approximately how long did he work for you?

6 A. Around three months.

7 Q. And that was the -- did you say the end of June or July?

8 A. May.

9 Q. May of 2008?

10 A. Yes.

11 Q. And after May of '08, did you continue to have any
12 contact at all with Mr. Torrence?

13 A. I would see him around. I mean, I go out -- we
14 live around the same area and I'd see him around sporadi-
15 cally.

16 Q. Did he ever talk to you when you saw him after
17 that?

18 A. Oh, yeah, we spoke. Yeah, we spoke and there
19 was no animosity there. He just couldn't do the job
20 that I needed him to do. It was nothing personal.

21 Q. The night of September 27, 2008, do you remember
22 that night?

23 A. Yes, sir.

24 Q. At some point, did you end up at the State Street
25 Pub?

1 A. I did.

2 Q. Before you went to the State Street Pub, what were
3 you doing?

4 A. I was baby-sitting my Godson. He -- his father
5 works at a restaurant and they needed me to keep him
6 because he was very young.

7 So I babysat him up until around eleven forty-five.

8 Q. After you baby-sat your Godson, where did you go?

9 A. I went to the State Street Pub to meet a friend be-
10 cause it was about to be my birthday, and he was going
11 to take me out for a birthday drink since it was Satur-
12 day Night.

13 I had been baby-sitting all night long, so he had
14 said, let's meet up for a drink. So I met him.

15 Q. The person you were meeting, what's his name?

16 A. Stephen Smith.

17 Q. And did you in fact meet him at State Street?

18 A. Yes, I did.

19 Q. Do you remember roughly what time that was?

20 A. I left my house at around eleven forty-seven, and
21 I got there probably around twelve o'clock.

22 Q. Where is the State Street Pub?

23 A. On State Street in West Columbia, right off Gervais.

24 Q. Down by the river?

25 A. Uh hm.

1 Q. Did you -- when you got there, was Stephen already
2 there, or did you have to wait for Stephen?

3 A. We arrived around the same. He had been coming
4 from somewhere else and I was closer, so we got there
5 around the same time.

6 Q. When you got there -- had you been drinking before
7 you got there?

8 A. No.

9 Q. You were baby-sitting?

10 A. Correct.

11 Q. At some point, did you see Drew Torrence?

12 A. I saw him as soon as we got into the bar. The bar
13 at that time didn't have a whole lot of people in it,
14 and he was sitting at the bar.

15 And so, of course, when I got there he recognized
16 me. He always referred to me as boss-lady, so he be-
17 gan talking to me immediately.

18 Q. And he came over and sat down with you and Steve?

19 A. Uh hm.

20 Q. Were you at a table or at the bar?

21 A. We were at the bar.

22 Q. Did he sit next to you or sit next to Stephen?

23 A. He sat next to me.

24 Q. What kind of things was he saying to me?

25 A. He was telling me about how he had gotten a new

1 job, and that he was getting paid more money than I was
2 able to pay him because it was an armed position, which
3 automatically means it pays more.

4 And he told me that he was getting more hours than
5 forty hours a week, so he was getting overtime as well.
6 He wanted to buy me a couple of shots because he was
7 doing well and that he could at that time.

8 Q. Did he buy you those?

9 A. He did.

10 Q. So when you say an armed guard, what's the differ-
11 ence between the job he had with you and being an armed
12 guard?

13 A. In the State of South Carolina, an unarmed guard
14 can work at any site with six hours of SLED training.
15 An armed guard has to have not only the SLED training
16 but also has to have training at a range and then they
17 can often be armed.

18 I don't have any armed positions in South Carolina.

19 Q. And what was his attitude about becoming an armed
20 security guard?

21 A. He was very excited about it.

22 Q. Do you remember him saying anything?

23 A. When I hired him, he made the comment that he
24 wanted me to arm him, to be an armed guard. So he had
25 said he would take the job in security and unarmed should

1 not be in the same sentence.

2 But he continued to accept the position, and he
3 started working for me.

4 Q. During your conversation at State Street, did he say
5 anything to you about now that he'd become an armed
6 guard what his future plans were going to be?

7 A. He had mentioned several times that he had wanted
8 to be an officer; that that was his ultimate goal; that
9 he would like to be a police officer.

10 Q. At some point at State Street, did Mr. Torrence seem
11 to be over the top?

12 A. Yes.

13 Q. That was the phrase you had used earlier when we
14 had talked. What does that mean?

15 A. He was sitting beside me, and you could tell he
16 was getting a little intoxicated. He was getting louder,
17 getting closer, right over my shoulder, right on top of
18 me.

19 I told him a couple of times to sit back down, and
20 he was proceeding to get more and more, so we ended up
21 having to walk out. We walked out of the bar to go to
22 another bar to get away.

23 Q. What kind of things was he saying at that point
24 to make you feel uncomfortable?

25 A. He said some pretty inappropriate things. He had

1 mentioned, you know, me being his boss-lady; how he
2 enjoyed that; that he thought I was a very attractive
3 woman, and that he was proud to say that I was his boss-
4 lady.

5 He had taken it to a different level, being a lit-
6 tle bit over the top with flirting, and it just -- it
7 was too much.

8 Q. Do you remember any particular statements or words
9 he used at the time?

10 A. I do but I don't feel comfortable repeating that
11 in a Court of Law.

12 THE COURT: Gentlemen, approach.

13 (Conference at the bench between counsel and the
14 Court off the record)

15 THE COURT: Solicitor, ask your next question.

16 BY SOLICITOR:

17 Q. Tonya, at some point did you decide that you wanted
18 to leave?

19 A. I had my friend with me. We were trying to -- he
20 was taking me out for my birthday. We were trying to
21 have a casual drink together, you know. We hadn't seen
22 each other for a while.

23 So I was trying to celebrate my birthday, and he
24 was just being too much. So at that time we decided
25 that we were going to try to leave, to go out of the

1 front door of the bar to the next bar down because we
2 had known somebody that was down there on the outside
3 -- playing in a band outside.

4 Q. At that time, do you remember -- do you remember
5 how much you had had to drink?

6 A. I had definitely had six shots that we both had
7 together, and I probably had two beers over that.

8 Q. You had six shots or you and Drew split six shots?

9 A. Drew and I split six shots.

10 Q. Do you know if you saw him drink anything else?

11 A. He was drinking also along with those shots, but I
12 did not pay attention to what he was drinking.

13 Q. What time do you think that you and your friend,
14 Stephen, left the State Street Bar?

15 A. It was around an hour and fifteen minutes. I can't
16 tell you the exact time but we were there around an
17 hour and fifteen minutes before it just got too much and
18 then we tried to leave.

19 Q. Did you have any conversations with Mr. Torrence
20 when you were trying to leave?

21 A. Actually we slipped out the front door so he
22 wouldn't see and know we were leaving and follow us.

23 Q. Did he -- did Mr. Torrence say anything to you
24 about where were you going?

25 A. No, we didn't speak about that.

1 Q. After you and Stephen left State Street, where
2 did you go?

3 A. We walked down State Street and down the sidewalk
4 because we were going to go to a bar a little bit down
5 because, like I said, our friends were playing out
6 there.

7 When we arrived they had finished up, so we had
8 to -- to get to your vehicle -- we were parked behind
9 the bar and we had to go back through State Street to
10 get back to our car.

11 When we came back through State Street he was gone
12 so we ended up staying.

13 Q. Roughly what time would that have been if you know?

14 A. That we came back through?

15 Q. Yes.

16 A. It was around -- it was only maybe twenty minutes
17 that it took us to walk down and come back.

18 Q. How much longer did you stay at the State Street
19 Pub?

20 A. We stayed there for about three and a half hours
21 in all.

22 Q. At some point did you leave State Street and go
23 somewhere else?

24 A. Yes. The bar had closed. They will keep the bar
25 open -- if you know the bartenders they will keep the

1 bar open, and you can stay in there and drink while
2 they are cleaning up and counting everything down.

3 And so we stayed there until the very last time
4 that we could, and we had to leave, so on the way home
5 we stopped at another bar.

6 Q. Was the bar you stopped at Shaggy's?

7 A. Correct.

8 Q. When you went into Shaggy's, tell me what the bar
9 looked like? How many people were there?

10 A. It was -- I mean, it wasn't packed. There were
11 a good many people there. There were two seats for us
12 to go sit at the bar, but it was busy.

13 Q. And is the bar where you and Steve went?

14 A. Uh hm.

15 Q. Who did you run into?

16 A. Drew was actually back at the bar -- I mean, at
17 the pool tables, so when we came in and sat down we
18 didn't notice he was there.

19 But once we sat down, he recognized it was us, so
20 he came and sat down right beside me.

21 Q. Did you see any other people in the bar that you
22 knew?

23 A. Yes.

24 Q. Name some of the people that you saw.

25 A. Lynn -- I'm not sure what her last name is -- she

1 was there, and Donna Muszynski. There is a regular
2 that is called by O.B. I think his name is Orlando, and
3 that's the only ones I paid attention to because I was
4 there to hang out with Steve.

5 That is just all I saw at that time.

6 Q. You stayed there -- well, you said Mr. Torrence
7 came over to you, and what did he say to you when he
8 came up?

9 A. I don't recall his words right when he came up,
10 but he started -- you know, he just started talking.

11 Q. And what was his demeanor?

12 A. He seemed exactly the same way he was at State
13 Street.

14 Q. At some point then did Zach come in?

15 A. Yes.

16 Q. Prior to Zach coming in, did you see Mr. Torrence
17 have any contact or conversations with Donna?

18 A. No, I did not see it.

19 Q. Prior to Zach coming in, did Mr. Torrence say any-
20 thing to you about Donna?

21 A. He did. He had told me how he was upset because
22 he said that once he got there that he was speaking
23 with Donna and he was trying to buy her a drink, and
24 as he was talking to her I guess Zach had arrived, and
25 she gave all of her attention to him.

1 Once he arrived, she didn't pay attention to Drew
2 any more and he was upset about that.

3 Q. What did he say to you at that time?

4 A. He called Zach several names. Um, . .

5 Q. What names did he call him?

6 A. Faggot. He called him Wolverine because Zach had
7 his hair -- it was very spikey. It looked like Wolver-
8 ine in the movie, so he called him Wolverine - just very
9 aggravated.

10 Q. Were those things Mr. Torrence was saying to you,
11 or was he saying those to Zach?

12 A. Saying them to me and Zach.

13 Q. Okay.

14 A. Sometimes when we would be sitting there, we would
15 be talking and if they came up to the bar -- whether
16 they came up to get a drink or change for the juke box
17 or whatever, he would speak his mind to him.

18 He called him names and would be very aggravated
19 towards him.

20 Q. Did Zach respond?

21 A. No.

22 Q. What, if anything, did you say to Torrence about
23 his behavior?

24 A. I told him he needed to stop. I told him right
25 away, you need to stop. You don't have any chance with

1 this girl, so there's no reason for you to get all upset
2 about it.

3 I told him to relax and let's have some drinks,
4 and don't worry about that. I mean, he wouldn't have
5 a chance with her, so why get upset because she's talk-
6 ing to another gentleman.

7 Q. Was Mr. Torrence continuing to drink at that time?

8 A. Yes.

9 Q. Do you have any idea how much he had to drink while
10 you were there?

11 A. No, I do not.

12 Q. How would you describe his -- had you drank with
13 him before that night?

14 A. Yes.

15 Q. Been out with him before that night?

16 A. Uh hm.

17 Q. How would you describe him when he was having his
18 conversation with you as far as his judgment, his speech,
19 things like that, regarding his alcohol consumption?

20 A. You could tell he was getting very, very intoxi-
21 cated. He was not to that limit yet, but you could tell.
22 He also had proceeded to take shots there too, so he
23 was getting very intoxicated.

24 Q. At some point -- how many times do you think that
25 he called Zach names?

1 A. We were there -- we were there probably around two
2 hours, and he mentioned -- I mean, sticking with him,
3 right to him?

4 Where I saw him, around five or six times, prob-
5 ably.

6 Q. Other than calling Zach faggot and wolverine, did
7 he make any other statements?

8 A. You mean to Zach or to me?

9 Q. To you?

10 A. Yes, he did. After a while -- after, I'd say,
11 the second or third time that he was getting upset when
12 they would come up to the bar, he leaned over to me and
13 said, I should go to my truck and get my gun and shoot
14 him.

15 Q. When he said that, what did you say?

16 A. I told him, don't be stupid. I felt like he was
17 just being intoxicated and riled up, and just basically
18 talking words. I didn't believe him and I told him
19 not to say that.

20 Q. Did you ask him specifically about the gun?

21 A. Yes.

22 Q. What was his response to you when you told him to
23 not say that?

24 A. He listened to me, and after saying that to him,
25 don't be stupid, I calmed him down, and they walked

1 away then and he wouldn't talk about it.

2 Q. What would happen the next time Zach and Donna came
3 up to the bar?

4 A. He would get riled up again and say how he took
5 his woman; he mentioned that he was going to go get his
6 gun several times and shoot him.

7 He said it in several different ways. I should
8 go get my gun and come in and shoot him. I need to go
9 to my truck and get my gun and shoot him -- several
10 different ways.

11 Q. At some point, did you decide to leave?

12 A. It got to be a bit much. He was getting intoxi-
13 cated. I was trying to be rational with him and he just
14 wasn't listening to me, and I felt like -- I had seen
15 him very intoxicated before, so I just felt like it
16 was something I didn't want to deal with.

17 I was trying to relax and have birthday drinks,
18 and I'd rather just go home than have to baby him.

19 Q. Let me show you a photograph and ask you if you
20 recognize it?

21 A. Yes.

22 Q. Is that a photograph of the security camera in the
23 bar?

24 A. Yes.

25 Q. And do you recognize the people in there?

1 A. I do.

2 Q. And did you in fact label for identification with
3 arrows pointing to all the people that were in the bar?

4 A. Uh hm.

5 SOLICITOR: Your Honor, at this time the State would
6 offer this photograph in evidence.

7 MR. FLOYD: No objection.

8 THE COURT: State's 13 in evidence without objec-
9 tion.

10 (Photograph from security camera admitted in evi-
11 dence without objection as State's Exhibit 13)

12 SOLICITOR: May I have Ms. Mozenko step down?

13 THE COURT: Yes. If you would, please keep your
14 voice up.

15 BY SOLICITOR:

16 Q. Just identify it -- it's not the best quality, but
17 if you could identify for the jury the names of persons
18 in the bar.

19 A. This right here is Jen Reynolds. She's the bar-
20 tender who was bartending that evening.

21 Right here is Lee Ann Stovall. She was playing
22 a game -- there's a game right here, and next to Orlando
23 Boyd.

24 Here is -- she is referred to as Tee, and she is
25 married to Orlando. That's his wife.

1 Here is Zach. This one is Donna. Here is Lee, and
2 then here is Drew.

3 Q. Tonya, do you remember roughly what time you and
4 Steve left that morning?

5 A. Give or take -- five, five thirty.

6 Q. The next morning did you have occasion to drive
7 by Shaggy's?

8 A. I did. We left the bar and since it was my birth-
9 day my friend, Stephen, had quit drinking when he met
10 me at the first bar. That way I could drink since it
11 was my birthday.

12 So when we left the first bar, we left my vehicle
13 there. He drove us -- he was going to drive us home,
14 and we just ended up stopping at that next bar.

15 Well, the next morning we got up and he had to
16 take me to my car. So we got up around nine o'clock,
17 and when we went past Shaggy's we saw that they had all
18 of the security tape around.

19 Q. And who, if anybody, did you call?

20 A. At that time I telephoned Sonny Narang, the owner
21 of the bar. I telephoned him and asked him if Drew
22 had shot Zach.

23 And also I texted Lee Ann because she was there
24 at the bar and asked her the same thing, did this hap-
25 pen.

1 Q. And had anybody told you that?

2 A. No.

3 Q. Why did you ask that question?

4 A. Because of what he had said before we left.

5 Q. Have you had an opportunity to listen -- I want
6 to show you -- let me show you State's Exhibit Number
7 4, Tonya.

8 Tell me if you recognize that?

9 A. Yes.

10 Q. And have you had an opportunity to listen to it?

11 A. Yes.

12 Q. The second call on there has the female dispatcher
13 calling back to the bar. Did you hear that call?

14 A. Yes, sir.

15 Q. The male who answered the phone, whose voice was
16 that?

17 A. It was Drew.

18 Q. And in listening to that call, what, if anything,
19 do you have as far as an opinion about his sobriety at
20 that time?

21 A. He sounded inebriated.

22 Q. Thank you. Please answer any questions Mr. Floyd
23 may have.

24 THE COURT: Cross examine, Mr. Floyd.

25 MR. FLOYD: Thank you, Your Honor.

1 CROSS EXAMINATION

2 BY MR. FLOYD:

3 Q. Ms. Mozenko, your testimony is you arrived at the
4 State Street Pub around midnight?

5 A. Correct.

6 Q. And that Drew was already there?

7 A. Correct.

8 Q. Is that correct?

9 A. Yes.

10 Q. Are you sure you have the right night?

11 A. I'm sure I have the right night.

12 Q. You say you terminated Drew, is that correct?

13 A. I can't hear you.

14 Q. You say you terminated Drew's employment?

15 A. Correct.

16 Q. When was that?

17 A. That was in either the end of May or the beginning
18 of June. I don't know the exact date.

19 He had been scheduled to work on a Saturday, and
20 he did not get up for work, so I had to call his room-
21 mates to try to wake him up but he wouldn't get out
22 of bed. So I had to terminate him.

23 Q. In fact, he was already working for Allegiance --
24 I mean for Hawkeye?

25 A. I do not know that.

1 Q. And your termination form is dated June 15th?

2 A. That is the date it was filled out.

3 Q. In fact, you filled this out after the incident,
4 didn't you?

5 A. After the incident?

6 Q. The incident at Shaggy's.

7 A. No, the incident at Shaggy's was in September.

8 Q You say his last date of work was in June -- June
9 of '08?

10 A. I'm not sure of the date. It was either the end
11 of May or beginning of June.

12 Q. Do you have a copy of this?

13 A. Yes, I have a copy of this. It was filled out on
14 June 15th, as I told you. That is when I put in the
15 termination through HR. That doesn't mean it's the last
16 day he worked. This is the month and year.

17 Q. In fact, he had already gone to work at Hawkeye in
18 May, had he not?

19 A. Like I say, I did not know that.

20 Q. You did not know that?

21 A. No.

22 Q. Now, you gave a statement to the police in December
23 of '08, did you not?

24 A. Yes, sir, I did.

25 Q. In fact, you've got it right there in front of

1 you, do you not?

2 A. Yes, sir, I do.

3 Q. Isn't it true that in that statement you didn't
4 say anything involving calling Sonny the next day and
5 asking him who shot Zach?

6 A. No, I did not put that in my statement. I tried
7 to remember everything when I was there.

8 Q. So in December of '08, just a couple of months
9 after this, you didn't say anything about calling anyone?

10 A. When they told me to come in and make a statement,
11 they told me to say everything from the time that I had
12 known him up to when this happened.

13 So I didn't put that in there.

14 Q. That wasn't the question. Did you say that you
15 called Sonny and told or asked him if Drew shot Zach?

16 A. No.

17 Q. Did you say that in your statement?

18 A. No, I did not.

19 Q. Thank you. Now, in fact, isn't it true that they
20 got to you because Drew gave them your name as a poten-
21 tial witness?

22 A. No, it's not.

23 Q. Now, you said you had had three shots but in your
24 statement you don't say anything about baby-sitting on
25 that night?

1 A. I didn't think that was a relevant.

2 Q. And you say you got there about midnight, and you
3 left at first around one fifteen?

4 A. I was there about an hour and fifteen minutes. I
5 don't know exactly what time I left, but I was there
6 about an hour and fifteen minutes before we left.

7 Q: And you had three shots and two beers.

8 A. Six shots.

9 Q. Six shots and two beers?

10 A. That's right. They were shared, which basically
11 comes down to three shots.

12 Q. And then you went back into State Street, and how
13 long did you stay a second time?

14 A. We left around three thirty.

15 Q. So you were back in for another couple of hours?

16 A. Uh hm.

17 Q. And how many shots and beers did you have in that
18 couple of hours?

19 A. I did not have any shots at that time. I was only
20 drinking beers because the shots we were taking were
21 basically all purchased by Drew at both the different
22 places.

23 I was drinking beer, and then I was mixing it up
24 and maybe having a liquor drink, but not really.

25 Q. How many beers did you have the second time you

1 were there?

2 A. Three -- three or four.

3 Q. And how many mixed alcohol drinks?

4 A. One.

5 Q. And then you went from there to Shaggy's?

6 A. We were on the way home and we decided to stop in
7 there because it's right on the way.

8 Q. What time did you get to Shaggy's?

9 A. I don't know exactly what time but I'd say probably
10 around three thirty.

11 Q. And what time did you leave Shaggy's?

12 A. Five or five thirty.

13 Q. . And in those two hours, how many beers did you
14 have?

15 A. Where? Which two hours?

16 Q. Shaggy's.

17 A. Maybe only like two beers. I didn't drink much
18 there. I had had a couple of shots with Drew there
19 but I didn't drink many beers because I had been drink-
20 ing and it was later.

21 We were conversating a lot so when you are talk-
22 ing you don't drink as much as you do if you're playing
23 pool or getting up.

24 Q. So two beers, two shots there. So that night you
25 consumed approximately seven beers and five or six shots,

1 is that right?

2 A. More like five beers. Around --- if you want to
3 count it as a full shot, maybe four or five shots, and
4 one liquor drink.

5 Q. Well, now, didn't you say that you first had six
6 shots and two beers?

7 A. I first had . .

8 Q. You said six?

9 A. Correct.

10 Q. And then you went back in and you had three beers
11 and a mixed drink, is that correct?

12 A. Right.

13 Q. Then at Shaggy's you had two more beers and two
14 shots?

15 A. Correct.

16 Q. So wouldn't it be seven beers and five or six shots?

17 A. In a shot, when you take a shot and order a full
18 shot, you split it. So if you call it -- I would have
19 one shot two waves, and technically it is not a full
20 shot. It's a half shot.

21 So if you want to ask me the shots, then you have
22 to half it, in the amount I've told you.

23 Q. Okay, so you had six, eight -- eight half shots,
24 four full shots?

25 A. Uh hm.

- 1 Q. One alcohol drink?
- 2 A. Uh hm.
- 3 Q. And I assume you didn't take a half drink there
- 4 but it was a full alcohol drink?
- 5 A. It was a full shot -- I mean, a full drink.
- 6 Q. So seven beers, four shots, one alcohol drink, is
- 7 that correct?
- 8 A. Uh hm.
- 9 Q. And that's from -- in five and a half hours?
- 10 A. Correct.
- 11 Q. So you were intoxicated?
- 12 A. I wouldn't say I was intoxicated, but I had a buzz.
- 13 Q. In fact, you couldn't drive home?
- 14 A. I wasn't planning on driving. If I'm drinking al-
- 15 cohol I have a driver with me. I'm not even going to
- 16 take a chance.
- 17 Q. And that just gave you a buzz, that much alcohol?
- 18 A. Yeah, I was -- I had a buzz.
- 19 Q. And in the conversations you had with Drew about
- 20 his gun, did you tell anybody about them?
- 21 A. I was sitting -- when he mentioned it on several
- 22 occasions, Stephen Smith was sitting beside me, and I
- 23 brought it to his attention and told him to listen to
- 24 what he was saying.
- 25 He heard him say it also.

1 Q. And did you go and tell Zach?
2 A. No.
3 Q. Because you didn't think it was real?
4 A. Yeah, I didn't believe it. I didn't first think
5 he had a gun and then I thought he was talking smack.
6 Q. Barroom talking?
7 A. Right.
8 Q. A lot of that goes on in a bar, does it not?
9 A. No. Talking about getting a gun is not barroom
10 talk. I was talking to him, barroom talk, and then he
11 brought that up.
12 Q. Now, did you not say -- maybe I misunderstood you
13 -- you did not see him with Donna that night? Did you
14 not say that?
15 A. Uh hm.
16 Q. Did you say it or did you not say it?
17 A. Did I see him talking with Donna?
18 Q. Yes.
19 A. No, I did not.
20 Q. So when you got there at Shaggy's, was Zach already
21 there?
22 A. When we arrived at Shaggy's, was Zach already there?
23 Yes, he was.
24 Q. What was Zach doing at that time?
25 A. When we arrived in, Zach and Donna were at the
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1 juke box in the very back of the bar, and they were
2 putting music in the bar -- I mean, in the juke box.

3 Q. And I believe you testified Drew was at the pool
4 tables?

5 A. He was back near the pool tables. When we sat
6 down, he came from behind me. So I don't know exactly
7 where he was at, but he came from behind me.

8 Q. And no question in your memory that Drew was at the
9 State Street bar when you got there that night at mid-
10 night?

11 A. He was at the State Street bar when we got other
12 at midnight, yes.

13 Q. And in your mind, are you sure that Drew was at the
14 State Street bar when you got there?

15 A. Yes, I am positive. I had had no alcholic bever-
16 ages. I was very clear-minded.

17 Q. Thank you.

18 MR. FLOYD: Your Honor, I have no further questions.

19 THE COURT: Thank you.

20 Redirect, Solicitor?

21 SOLICITOR: Yes, Your Honor.

22 REDIRECT EXAMINATION

23 BY SOLICITOR:

24 Q. Tonya, had you been drinking so much that you don't
25 remember the conversation between you and Drew Torrence

1 that evening?

2 A. Absolutely not.

3 Q. Did he make those statements to you about getting
4 his gun and shooting Zach?

5 A. Several times.

6 Q. Do you have any reason to make this up?

7 A. Absolutely not.

8 Q. You're telling the truth?

9 A. Yes, sir.

10 Q. No further questions.

11 THE COURT: Recross?

12 MR. FLOYD: Yes, sir, Your Honor.

13 RECROSS EXAMINATION

14 BY MR. FLOYD:

15 Q. Are you saying your abilities to observe, remember
16 and comprehend were not at all affected by consuming seven
17 beers, four shots and an alcohol beverage over a five
18 hour period?

19 A. I am.

20 SOLICITOR: Objection, Your Honor, as beyond the
21 scope of Redirect.

22 THE COURT: Overruled. Read Rule 611.

23 WITNESS: Can he repeat the question?

24 BY MR. FLOYD:

25 Q. Are you saying that your ability to observe, to

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1 remember and comprehend were in no way affected by your
2 consumption of four shots and seven beers and one alco-
3 hol drink, over a five hour period?

4 A. I will tell you that I am sure it impaired my
5 ability to remember every single thing that happened,
6 but I work for a security company and it is my profes-
7 sion to know what's going on.

8 I was paying attention and I knew what was going
9 on, and I spoke of everything that was remembered.

10 If I didn't put it in my statement, it is just be-
11 cause it was time after that I had to put my statement
12 in, but, yes, I was able to remember and know exactly
13 what was going on.

14 Q. Just like you remember that Drew was at the State
15 Street Pub when you arrived there?

16 A. Correct.

17 Q. And that is a good test of your memory, is it not?

18 A. I'm telling you what happened.

19 Q. Nothing further.

20 THE COURT: Thank you very much, Ms. Mozenko. You
21 may step down.

22 (Witness excused from stand)

23 THE COURT: You may call your next witness, Solic-
24 itor.

25 SOLICITOR: Sonny Narang.

1 THE COURT: All right, if you would come around
2 and be sworn, please.
3 SONNY NARANG, being duly sworn,
4 testified as follows:
5 CLERK: Have a seat, sir. Once you are seated,
6 speak up loud and clear and state your full name,
7 spelling your last.
8 WITNESS: Sanjiv Sonny Narang. N A R A N G.
9 CLERK: Spell your first name.
10 WITNESS: S A N J I V.
11 CLERK: And when you say Sonny, is it S O N N Y?
12 WITNESS: S O N N Y.
13 THE COURT: All right, Solicitor.
14 SOLICITOR: Thank you, Your Honor.
15 DIRECT EXAMINATION
16 BY SOLICITOR
17 Q. Sonny, tell the jury a little bit about Shaggy's.
18 Where is it, and what is your relationship to it?
19 A. I am the owner of Shaggy's Backroom. It is a pri-
20 vate club located on Sunset Boulevard, Highway 378.
21 It is behind a liquor store and a convenience
22 store.
23 Q. What's the name of the liquor store?
24 A. Grog Shop.
25 Q. So it is the Grog Shop in front and then it is in
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1 the back?

2 A. At that time it was a party shop next to the liquor
3 store, and a restaurant next to that.

4 Q. When -- how long have you been involved with the
5 Grog Shop?

6 A. The Grog Shop is actually a family business. My
7 parents purchased it in '87, in 1987, and I purchased
8 it from them in 1998.

9 Q. When did Shaggy's open?

10 A. Shaggy's opened in 2000.

11 Q. You say it is a private club. What is a private
12 club?

13 A. Um, a private club is -- it is basically three
14 stages of bar. It has members and it has some benefits
15 of being a private bar by not having to serve food,
16 not having to have a special license to open on Sundays.
17 Presently in a private bar -- you can smoke in private
18 bars in West Columbia right now, so that is another
19 benefit.

20 Q. What kind of drinks do you usually serve there?

21 A. We serve liquor drinks, beers and wine.

22 Q. And that is on premises that you can drink those
23 drinks?

24 A. On-premises consumption, yes.

25 Q. Do you remember the night of November 27th between
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1 the late hours and November 28th?

2 A. Yes.

3 Q. Being the owner, do you actually work at the bar
4 sometimes as well?

5 A. Yeah, being the owner of a business, you can have
6 employee problems and, yes, sometimes I have to work.

7 Q. Did you have to work the night of November 27th --
8 I'm sorry, of September 27th?

9 A. Yes.

10 Q. Why did you -- why were you there that night?

11 A. I was there because I had to fire one of our bar-
12 tenders, and so I needed -- since I had to fire I had to
13 cover the shift.

14 Q. Do you remember approximately what time you would
15 have gotten there?

16 A. Well, I had to get there at eight. I had to be
17 there before eight because our shift changes occur at
18 eight o'clock.

19 The afternoon shift bartender works from four to
20 eight, and the next shift starts at eight.

21 Q. And the next shift, is that broken into two times?

22 A. Yes.

23 Q. At some point did you actually tend the bar your-
24 self?

25 A. Yes. I actually had the happy hour bartender stay

1 a bit longer so that I could talk to the bartender I was
2 going to fire and get her key. So I had the happy hour
3 bartender stay a little bit longer, and then after I
4 fired her I went back and relieved the happy hour bar-
5 tender and started to work myself.

6 Q. At some point -- do you remember approximately what
7 time that you went home?

8 A. I had to be at home before five o'clock because my
9 wife and mother in law were going ^{to Mississippi} to a funeral, and
10 so I had to -- I had to be home before five, so I got
11 there about four thirty, actually.

12 Q. Do you remember seeing Drew Torrence?

13 A. Yes.

14 Q. Do you see him in the Courtroom today?

15 A. Yes.

16 Q. The man sitting with a blue shirt on by Mr. Floyd?

17 A. Yes.

18 Q. What do you remember about him from that night or
19 that morning?

20 A. Well, I remember him -- the reason he stands out
21 is he kept using the employee entrance behind the bar,
22 which I didn't want him doing because it gives access
23 to the bar. So . .

24 Q. While you were there, how busy was the bar?

25 A. Um, it was pretty busy. It was a good night, I

- 1 mean, as far as business-wise.
- 2 Q. Do you remember seeing Donna there?
- 3 A. Yes.
- 4 Q. How about Zach?
- 5 A. No.
- 6 Q. At some point after going home, did you get a phone
- 7 call telling you that something had happened in your
- 8 bar?
- 9 A. Yes.
- 10 Q. And based on that, where did you go?
- 11 A. Straight to the bar.
- 12 Q. When you got to the bar were the police there?
- 13 A. Yes.
- 14 Q. And what, if anything, did they have to say?
- 15 A. They asked me about my cameras, and that's the main
- 16 thing I remember, them asking about the cameras, and
- 17 they asked me to make them copies of the videos.
- 18 Q. Let me show you three different videos and ask you
- 19 if you recognize these?
- 20 A. Yes, these are the CDs or DVDs I burned for them.
- 21 SOLICITOR: Your Honor, at this time the State
- 22 would offer these three CDs into evidence.
- 23 THE COURT: Mr. Floyd?
- 24 MR. FLOYD: Just a moment.
- 25 (Brief pause in the proceeding)

1 MR. FLOYD: No objection.

2 THE COURT: All right, this will be 14, 15 and 16,
3 without objection.

4 REPORTER: Yes, sir.

5 (CDs admitted into evidence without objection as
6 State's Exhibits 14, 15 and 16)

7 BY SOLICITOR:

8 Q. Sonny, tell the jury a little bit about the secur-
9 ity cam system which you had set up at the time on that
10 night?

11 A. It is a security system I bought from Sam's Whole-
12 sale. It has four cameras -- yeah, four cameras, and
13 it records to a computer hard-drive.

14 Q. How many cameras were inside?

15 A. There are two cameras inside Shaggy's and two in-
16 side the liquor store.

17 Q. And they recorded what is on the exhibits we are
18 discussing here but there wasn't any reason to take any-
19 thing out of the liquor store?

20 A. Correct.

21 Q. So the information on there is from inside Shaggy's
22 then?

23 A. Correct. One camera is behind the bar facing to-
24 ward the customers, and the other camera is at the back
25 of the bar facing toward the bar.

1 Q. And did you go through there yourself and pull
2 out what you felt was relevant to give to the police?

3 A. Actually, my -- the way it works is when you record
4 it records into segments. So you can go to one -- you
5 can go, you know, to the thirty-fifth minute of the
6 hour or thirty-ninth minute.

7 Q. And this is exactly what you recorded and gave to
8 the police?

9 A. Yes.

10 Q. Did you give consent to the West Columbia Police
11 Department to come in and process your building?

12 A. Yes. In fact, they have an open invitation. I
13 let them know that they can come in at any time.

14 Q. Did you also get a call from Tonya that morning?

15 A. Yes, I did.

16 Q. Do you remember anything Tonya said to you?

17 A. When I said hello, the first thing she asked me
18 was did Drew shoot Zach.

19 Q. Thank you, Sonny. Please answer any questions Mr.
20 Floyd may have.

21 THE COURT: Thank you, Solicitor.

22 Mr. Floyd?

23 MR. FLOYD: Thank you, Your Honor.

24 CROSS EXAMINATION

25 BY MR. FLOYD:

1 Q. What time did you leave the bar to go to your home,
2 sir?

3 A. I think it was around four twenty or four thirty.

4 Q. And you say you had not seen Zach in all that time?

5 A. No.

6 Q. So Zach didn't come into the bar until sometime
7 after four thirty?

8 A. Correct.

9 Q. You knew Zach, did you not?

10 A. Yes, I knew Zach.

11 Q. I don't have any further questions at this time.
12 Thank you.

13 THE COURT: Any Redirect?

14 SOLICITOR: No, sir.

15 THE COURT: All right. If you would please step
16 down, sir. Thank you.

17 (Witness excused from stand)

18 THE COURT: I'm going to give you all a fifteen min-
19 ute recess at this time. It will probably be a little
20 longer than that because I need to take up a matter, and
21 we need to take our break as well.

22 Please leave your notes upside down on your chair.
23 Do not discuss the case.

24 (Jury excused from Courtroom)

25 THE COURT: We'll be in recess briefly.

1 (Whereupon, the Court stood in recess for a brief
2 period, after which the matter was resumed)

3 THE COURT: All right, Mr. Floyd.

4 I want to get this on the record. What is it you
5 want to ask Mr. Narang in regards to the victim in
6 this matter?

7 MR. FLOYD: Your Honor, according to a summary of
8 the information the Solicitor's Office has from Mr.
9 Narang, there are a couple of statements there that I'd
10 like to explore.

11 One of them being Mr. Narang's assertion that
12 Zach was aggressive, and that Zach would swing and then
13 talk, swing and then talk.

14 THE COURT: Swing and what?

15 MR. FLOYD: Swing and then talk.

16 THE COURT: All right, Solicitor.

17 SOLICITOR: Your Honor, I don't see the relevance
18 there. The jury is going to see the video that shows
19 that Zach got up and threw the first punch.

20 THE COURT: All right.

21 SOLICITOR: No question, and I don't see how what
22 Zach's temperament in the past has anything to do with
23 it.

24 Sort of the Defendant saying that he knew it and it
25 somehow relates to self defense, I don't think it's

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1 relevant.

2 THE COURT: Would you care to respond to that, Mr.
3 Floyd?

4 MR. FLOYD: I don't, Your Honor. I think that it
5 goes to -- this case is one of, among other things, self
6 defense, and I think it is relevant, sir.

7 As well it's cross examination.

8 (Brief pause in proceeding)

9 SOLICITOR: I'm sorry, Your Honor. I've got . .

10 THE COURT: Go right ahead. That's fine.

11 SOLICITOR: Your Honor, I don't have the case site,
12 but I remember a case where somebody was carrying a gun
13 or was known to carry a gun, and it was a self defense
14 case, but unless the Defendant knew the person carried
15 a gun it was not relevant.

16 We believe the same reasoning would apply here.

17 THE COURT: The only -- the area I'm looking at is
18 Rule 404 A two, on character of victim.

19 Evidence of a permanent trait of character of the
20 victim of the crime offered by an accused or by the prose-
21 cution to rebut the same or evidence of a character trait
22 of peacefulness of the victim offered by the prosecution
23 in a homicide case to rebut evidence that the victim was
24 the first aggressor -- that rule, of course, Solicitor,
25 is character evidence not admissible to prove conduct but

1 that is an exception.

2 I was trying to remember an older case that is called
3 Clinkscates but it is so old it can't be picked up on the
4 computer probably.

5 That was the only area I was focused on. The issue
6 now you all wound up on at the bench is that the State's
7 position is that the victim was the aggressor.

8 That doesn't mean that Mr. Torrence was entitled to
9 -- that doesn't mean that Mr. Torrence will meet all the
10 required elements of self defense at all, but as far as
11 that first prong, if that's the position of the parties,
12 it might be in a little bit different posture.

13 In that regard, I'm not sure I understood so I need
14 a little more or maybe a little research on it, or maybe
15 more argument.

16 SOLICITOR: Your Honor, it is the State's opinion
17 that he was not only the originator but he did leave the
18 bar and come back.

19 THE COURT: That's what I understood your position
20 to be.

21 SOLICITOR: I mean, we are conceding that the Defen-
22 dant provoked the violence and we are conceding that the
23 first physical contact was by our victim.

24 THE COURT: There was one other area that Mr. Floyd
25 brought up where he wanted to -- I guess the -- you know,

1 the area he wanted to cross examine Mr. Narang based on
2 your summary . . .

3 MR. FLOYD: Correct, Your Honor.

4 THE COURT: . . do you have -- on that issue, do you
5 have objection to that?

6 SOLICITOR: Your Honor, I didn't understand the area
7 he wanted to go into with Mr. Narang.

8 MR. FLOYD: Your Honor, I wanted to ask about conver-
9 sation -- about that conversation between he and Mr. Narang
10 that doesn't appear anywhere else. It is in the summary
11 which they produced.

12 THE COURT: Did you have objection to that, Solici-
13 tor?

14 SOLICITOR: I mean, I'm not saying this is everything
15 that -- it is not a written statement he signed and he re-
16 viewed. It is something we prepared.

17 So I can't say it's complete, and I don't know it is
18 fair to tell them that -- I mean, he didn't sign this.
19 He didn't review it.

20 THE COURT: I understand it is not a written state-
21 ment signed by the witness.

22 SOLICITOR: So I don't think it is really fair for
23 him to say, you didn't tell me earlier -- you know, I'm
24 not sure how the question would be phrased.

25 THE COURT: Well, I think an attorney, Solicitor, or

1 a defense attorney can ask the question, in prior conver-
2 sation did you say X, whether it's about a phone call he
3 received from Ms. Mozenko or what have you, and continue
4 to allege that that is Mr. Narang's written statement be-
5 cause it's not.

6 SOLICITOR: Right.

7 THE COURT: Does that answer that issue, Mr. Floyd?

8 MR. FLOYD: It is kind of an important statement,
9 Judge, if made by the witness.

10 THE COURT: It could be the Solicitor summarizing
11 his conversation with Mr. Narang, not Mr. Narang's fail-
12 ure to fully and completely discuss all the facts that he
13 knew with the Solicitor.

14 You are holding this witness to not only his own
15 standard but somebody else's standards, that he has no
16 control over. He doesn't have control over what the Soli-
17 citor wrote down or what the police officer wrote down.

18 He has control over what he said. Mr. Narang, you
19 can step down. Do not discuss your testimony with any-
20 one during this time, but you are subject to having to
21 continue on the stand, perhaps on Redirect or Recross.

22 Anything further at this time?

23 SOLICITOR: Yes, Your Honor. After Mr. Narang we have
24 one witness and after that witness we plan on showing the
25 video.

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1 Just technology-wise, what we plan to do is have a
2 TV screen in front of the jury and we're also going to
3 have a TV screen in front of Your Honor so that you can
4 see.

5 We'll need five or ten minutes or we can have it
6 out and ready to play at that time.

7 THE COURT: Pull it out now.

8 SOLICITOR: We can put it out here in the middle so
9 it will be here when we're ready.

10 THE COURT: Sure, or you can hook it up now so we
11 won't have to take another recess.

12 All right, we'll take a brief recess.

13 You may step down.

14 (Whereupon, the Court took a brief recess, and the
15 matter was resumed)

16 THE COURT: All right. As to the testimony concern-
17 ing the victim's -- I don't know really how to phrase it.
18 I don't want to say the victim's character -- swing and
19 talk.

20 I find at this juncture that that is not admissible.
21 I have read several cases, most of which are accounts back
22 to testimony such as the Solicitor spoke of, concerning
23 whether or not a Defendant in a case had knowledge of the
24 presence of a weapon.

25 State versus Washington, 623 Southeast Second 836,

1 is one, as to the second prong of self defense.

2 As to whether or not Mr. Torrence would have a rea-
3 sonable belief of imminent death or serious bodily harm,
4 I also reviewed State versus Hendry, which is a 1906 case.
5 It talks about particular acts of violence on the part of
6 the deceased cannot be shown in a trial for murder unless
7 there is something connected with the fatal rencontre --
8 R E N C O N T R E, although I'm sure my Court Reporter
9 knows how to spell that word.

10 There are various definitions and origins. It means
11 as to produce reasonable apprehension of bodily harm and
12 create a necessity to slay in self-defense.

13 I also looked at State versus Hallman, which, of
14 course, is that narrative traits may be admissible but
15 that really goes to the issue of reputation of a person,
16 which is very akin to the issue of character.

17 So, with that being said, at this point it would not
18 be admissible.

19 Anything further you'd like to be heard about at this
20 time, Mr. Floyd?

21 MR. FLOYD: No, Your Honor, but if I could just ask
22 the question for the record.

23 THE COURT: Yes, you may place it on the record,
24 Mr. Floyd.

25 MR. FLOYD: Thank you, Your Honor.

1 (Mr. Narang having returned to witness stand)

2 CROSS EXAMINATION out of the presence of the jury

3 BY MR. FLOYD:

4 Q. Mr. Narang, in your opinion, was Mr. Zach or Zachariah
5 Chaplin an aggressive individual?

6 A. I mean, I wouldn't say aggressive, no. He had a
7 short temper, I would say.

8 Q. And did you tell the Solicitor's Office that he was
9 aggressive -- that he was aggressive?

10 A. I don't recall saying aggressive, no.

11 Q. Did you tell them that he would swing first, then talk?

12 A. I think I did, yes. I think I did say that.

13 Q. Is that an accurate statement?

14 A. Well, I would say he had a short temper.

15 Q. Thank you.

16 MR. FLOYD: Your Honor, that would be the information
17 I would seek to present to the jury.

18 THE COURT: In that regard after listening to that
19 testimony, I would still reaffirm my ruling as to that
20 evidence at this juncture.

21 Anything further, Mr. Floyd?

22 MR. FLOYD: Not on this point, Your Honor.

23 THE COURT: Solicitor?

24 SOLICITOR: No, Your Honor.

25 THE COURT: Thank you, and bring our jury, please.

1 (Jury returned to Courtroom)

2 THE COURT: Well, I did warn you it might be a little
3 longer than fifteen minutes, didn't I?

4 Your time is very important to me, and I don't manage
5 it well sometimes. I apologize for that.

6 We will move along and continue with the cross exam-
7 ination of Mr. Narang by Mr. Floyd.

8 Mr. Floyd, you may proceed.

9 MR. FLOYD: Thank you, Your Honor.

10 CROSS EXAMINATION CONTINUED

11 BY MR. FLOYD:

12 Q. Mr. Narang, you say you were there until about four
13 thirty that morning?

14 A. Yes, sir.

15 Q. And were you tending the bar during that time you
16 were there?

17 A. Um, I was tending bar until another bartender came
18 in to cover for me.

19 Q. Do you know what time that would have been?

20 A. I believe about two o'clock.

21 Q. About two?

22 A. Yeah.

23 Q. And you were just around from then on but you not
24 tending bar?

25 A. Right. I was attending bar some, and I was checking

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1 on things, you know. You know, drinks on tables and that
2 sort of stuff.

3 Q. Now, you personally made copies of the videos?

4 A. Yes.

5 Q. And were the police with you when you did that?

6 A. Um, I believe there was an officer there most of the
7 time period.

8 Q. And who decided where to stop and where to start?

9 A. I guess I did. What it was is, like I said before,
10 when you record it records into it and prints, so I guess
11 the main thing I did was go onto the film where what oc-
12 curred occurred and recorded that part.

13 I recorded, yeah, the closest the machine recorded
14 to the occurrence, to the event that occurred.

15 Q. So did you go to the point where there was some ini-
16 tial interaction between Zach and Drew? At whatever time
17 that started between Drew and Zach?

18 A. I'm sorry.

19 Q. Did you go to the point where there was initial in-
20 teraction between Zach and Drew?

21 A. Right.

22 Q. At whatever ten minute frame this started, is that
23 what you recorded?

24 A. Right.

25 Q. And did you record in ten minute increments before

1 that?

2 A. No.

3 Q. Did the police ever ask for them?

4 A. No.

5 Q. Was that available if they wanted them?

6 A. Uh, up to a certain point because it's a hard drive.
7 It basically records on its primary bank hard drive, and
8 then when it reaches the end it loops back and starts re-
9 cording over that.

10 Q. Do you know how many days it would record or how
11 many days would be available?

12 A. At that time, it was probably about seven or eight
13 days.

14 Q. Thank you, Mr. Narang.

15 MR. FLOYD: I have no further questions, Your Honor.

16 THE COURT: Thank you very much, Mr. Floyd.

17 Any Redirect from the State?

18 SOLICITOR: No, Your Honor.

19 THE COURT: Thank you very much. You may step down,
20 sir.

21 WITNESS: Thank you.

22 THE COURT: Yes, sir.

23 (Witness Narang was excused from the witness stand)

24

25

1 THE COURT: Solicitor, you may call your next
2 witness.

3 SOLICITOR: We would call Steve Smith.

4 THE COURT: All right. If you'd come around and
5 be sworn, please?

6 STEPHEN SMITH, being duly sworn,
7 testified as follows:

8 CLERK: Please have a seat on the witness stand,
9 and when you are seated state your name on the record,
10 spelling your last name.

11 WITNESS: Stephen Edward Smith, S M I T H.

12 CLERK: How do you spell Stephen?

13 WITNESS: S T E P H E N.

14 DIRECT EXAMINATION

15 BY SOLICITOR:

16 Q. Good morning, Mr. Smith.

17 A. Good morning.

18 Q. Do you know Andrew Torrence?

19 A. Yes, I do.

20 Q. And would you tell the jury how you know him?

21 A. He became a friend of someone I grew up with and
22 that was when I was younger. I met him probably in my
23 senior year of high school, his freshman year of high
24 school.

25 Q. All right. Let me take you to September 27, 2008.

1 A. Okay.

2 Q. That night what were you doing?

3 A. On September 27th, I went with one of my friends
4 to watch a Carolina football game while I was waiting
5 on Tonya to get through baby-sitting so I could buy
6 her a couple of drinks for her birthday at State Street.

7 Q. All right, and how much did you have to drink while
8 you were watching the game?

9 A. Approximately three beers.

10 Q. All right, and do you know what time Tonya left
11 from baby-sitting?

12 A. She called me around eleven forty-five, and I went
13 to meet her at the State Street Pub.

14 Q. And approximately what time did you meet her?

15 A. Somewhere around twelve or a little after.

16 Q. Was she there when you got there?

17 A. Yes, she was.

18 Q. And was anyone else there when you got there?

19 A. Drew was there.

20 Q. Drew Torrence was there at the bar?

21 A. Yes.

22 Q. What time was that?

23 A. I'd say it was around twelve. She was kind of
24 walking in as I was pulling in.

25 Q. All right, and did you and Tonya have an opportunity

1 to interact with Drew Torrence?

2 A. At the State Street bar?

3 Q. Yes.

4 A. Yes, we did.

5 Q. Okay, could you tell the jury the content of the
6 interaction?

7 A. He was intoxicated. He said he had been drinking
8 since six o'clock that afternoon or that evening.

9 He was all over Tonya and Zachary -- he said a
10 few derogatory remarks. I don't really recall what
11 they were, but they kind of aggravated her.

12 Q. As a result of that, did you all do anything?

13 A. After hearing it for a little while, we walked out
14 front of the State Street Pub to take a break, and we
15 were going to go down to the New Brooklyn Tavern.

16 Q. And did you all do that?

17 A. We walked on down to the Brooklyn, but the fellow we
18 were going to see, his van was gone, so we walked on
19 back.

20 Q. After that, what did you do?

21 A. We went back to the State Street Pub.

22 Q. Was Mr. Torrence still there?

23 A. No, he wasn't.

24 Q. About what time was that? Do you recall?

25 A. I want to say we were inside there about an hour

1 and fifteen minutes -- maybe an hour -- and we walked
2 out and smoked a cigarette; walked down to the Brooklyn;
3 turned around and walked back -- it took maybe fifteen
4 minutes or so.

5 So it would be approximately one thirty.

6 Q. While on State Street, how much did you have to
7 drink?

8 A. One beer.

9 Q. And did you observe Tonya drink?

10 A. Yes, I did.

11 Q. How about Mr. Torrence?

12 A. Yes.

13 Q. Do you recall how much he had to drink?

14 A. I don't recall -- I recall him doing shots, but I
15 don't recall how many shots, and I recall Tonya drink-
16 ing beer because I was paying for it. How many I don't
17 exactly remember.

18 Q. What time did you all leave State Street the last
19 time?

20 A. The last time, it had to be around three thirty.

21 Q. And where did you all go?

22 A. We went to Shaggy's.

23 Q. And when you got to Shaggy's, who was there?

24 A. When we walked in Shaggy's, there was a few people
25 there. I didn't know everybody that was there.

1 Donna was there and Zach was there. Drew was walk-
2 ing from the pool table area as we were sitting down.

3 Q. And did you all go in the side door or the back
4 door into Shaggy's?

5 A. In the back door.

6 Q. And as you walked in, could you describe for the
7 jury how the bar is set up? As you walk in that back
8 door?

9 A. The bar is set up sort of like in a U, and then
10 the back door is over here, and when we walked in we
11 walked past the bar and sat on the corner on this side
12 over here.

13 Q. Now, when you all sat down, did you have any action
14 or interaction with Mr. Torrence?

15 A. Mr. Torrence come up and spoke with Tonya, and he
16 was talking loud enough I could hear and he said a couple
17 of things.

18 He was more drunk than he was previously on State
19 Street. It was more or less -- he was hitting on her
20 again.

21 Q. What was the content of his conversation with you
22 all?

23 A. He was also upset about Donna choosing Zach over
24 him, which he referred to Zach as the wolverine or faggot,
25 is what he referred to.

1 Q. He referred to him as . .

2 A. Wolverine or faggot.

3 Q. And did you hear him say anything else in reference
4 to Zach?

5 A. He was -- he said that he should go get his gun
6 from his car, is what I heard, and shoot him. More than
7 once.

8 Q. More than once?

9 A. More than once.

10 Q. Do you recall specifically how many times?

11 A. At least three. No more than five.

12 Q. At the time he said it, did you take it seriously?

13 A. No, I did not.

14 Q. In regard to him being upset about Donna, what,
15 if anything, did you say?

16 A. I told him to be a man and go talk to her; if you
17 get nowhere, let it go.

18 Q. And what time did you and Tonya leave Shaggy's?

19 A. Around five thirty.

20 Q. Why did you all choose to leave at that time?

21 A. It was -- I was tired of hearing it. I had heard
22 it all night.

23 Q. Tired of hearing what?

24 A. Him talk about he didn't like Zach hitting on Tonya.
25 It was getting old and we couldn't have a good time any

1 more.

2 Q. What, if anything, did you and Tonya do the next
3 morning?

4 A. We got up the next morning and I took her to the
5 State Street Pub to get her car.

6 Q. And what route did you take to get to the State
7 Street Pub?

8 A. Tonya lives on Mohawk Drive. I made a left onto
9 378, went down 378 past Shaggy's, and we saw the police
10 tape around Shaggy's.

11 Q. Okay.

12 A. The yellow . .

13 Q. When you saw the police tape, did you observe Tonya
14 do anything?

15 A. Yes. She called -- she said she called someone.

16 Q. She said she called someone.

17 Q. What, if anything, from that conversation did she
18 relate to you?

19 A. I heard her say, did Drew shoot that guy -- is
20 what I heard.

21 Q. So whoever she called, . .

22 A. Uh hm.

23 Q. . . you heard her ask, did Drew shoot that guy?

24 A. Right.

25 SOLICITOR: Beg the Court's indulgence.

1 THE COURT: Yes, sir.

2 BY SOLICITOR:

3 Q. Mr. Smith, that's all I have. Answer any questions
4 Mr. Floyd may have.

5 A. All right.

6 THE COURT: Thank you, Solicitor.

7 Mr. Floyd?

8 MR. FLOYD: Thank you, Your Honor.

9 CROSS EXAMINATION

10 BY MR. FLOYD:

11 Q. Mr. Smith, you said you got to the State Street
12 Pub around midnight?

13 A. Yes, sir.

14 Q. And your testimony is that Andrew Torrence was al-
15 ready there, and he already was drinking?

16 A. Yes, sir.

17 Q. And you said he hit on your girlfriend?

18 A. No, sir. She was not my girlfriend. She was my
19 friend.

20 Q. So he hit on her?

21 A. He hit on her, yes.

22 Q. Now, Mr. Smith, were you the one driving?

23 A. Excuse me?

24 Q. Driving -- were you driving this night?

25 A. Yes, sir.

1 Q. And what time did you arrive at Shaggy's?

2 A. Approximately three forty-five.

3 Q. Your testimony is that Drew was already there?

4 A. Yes, sir.

5 Q. Did you know Zach?

6 A. No, sir.

7 Q. And did Tonya know Zach?

8 A. Not that I know of.

9 Q. Now, you first talked to the police about this
10 in December?

11 A. Yes, sir.

12 Q. So from September 27th or 28th until early Decem-
13 ber, you had no contact with the police about this
14 incident?

15 A. No, sir.

16 Q. And Tonya didn't either, did she?

17 A. Not that I know of.

18 Q. So you didn't think anything that you saw or you
19 heard on that night was important enough to talk to the
20 police about?

21 A. No, sir.

22 Q. I have no further questions.

23 THE COURT: Thank you, Mr. Floyd.

24 Redirect, Solicitor?

25 REDIRECT EXAMINATION

1 BY SOLICITOR:

2 Q. One question, Mr. Smith.

3 During that time period from the incident until
4 you gave your statement to law enforcement were you
5 worried that you may have done something wrong by not
6 speaking up before?

7 A. Yes, I was, and I can explain to you how it come
8 about that I gave a statement.

9 Q. Okay.

10 A. I walked in to the West Columbia Police Department
11 to speak with a man about an unrelated incident. So I
12 spoke with him and I told him that I was there that
13 night and asked if I needed to give a statement, and
14 he told me, yes, that I needed to give a statement.

15 Q. And that was the first time you gave your state-
16 ment?

17 A. Yes.

18 SOLICITOR: That's all I have, Your Honor.

19 THE COURT: Any Recross?

20 MR. FLOYD: Yes, sir.

21 RECROSS EXAMINATION

22 BY MR. FLOYD:

23 Q. So when you talked to the police, it was when you
24 were there on an unrelated matter?

25 A. Yes, sir.

1 Q. In December?

2 A. Yes, sir. It was in December.

3 Q. And you just testified that you didn't think any-
4 thing you saw or heard was important enough to go and
5 talk to them?

6 A. I was concerned but I did not come forward until
7 after I spoke with the man on an unrelated incident.

8 Q. But you just testified that you didn't think it
9 was important enough, isn't that correct?

10 A. That's correct.

11 Q. That's all I have.

12 THE COURT: Thank you very much, Mr. Smith. You
13 may step down.

14 (Witness excused from stand)

15 THE COURT: All right, Solicitor.

16 SOLICITOR: We would call Agent Joe West to the
17 stand.

18 THE COURT: All right. Come around and be sworn
19 for me, please.

20 JOE WEST, being duly sworn, tes-
21 tified as follows:

22 CLERK: Please have a seat on the witness stand,
23 and when you are seated state your full name on the re-
24 cord, spelling your last, please.

25 WITNESS: My name is Joe West, W E S T.

1 DIRECT EXAMINATION

2 BY SOLICITOR:

3 Q. Agent West, where are you employed, please?

4 A. At the State Law Enforcement Division, which is
5 commonly known as SLED.

6 Q. How long have you been in law enforcement?

7 A. Over twenty years.

8 Q. How long have you been with SLED?

9 A. Twenty years.

10 Q. Over the course of your career, what have you
11 done with SLED?

12 A. I spent fifteen years in narcotics. I guess for
13 the past five, going on six, I have been in a unit that
14 is called Special Operations which is SWAT, blood-hounds,
15 technical services. Some days I work on what is called
16 a running dog call.

17 My primary responsibility is in the audio-visual
18 area. Agencies bring in video content, audio content,
19 to have us take pictures from the video or to enhance
20 the photographs or enhance the audio-video.

21 Q. How long have you been doing that?

22 A. Almost six years.

23 Q. You said you were involved also with SWAT and with
24 blood-hounds. What do you do in your involvement with
25 SWAT?

1 A. On the SWAT team, we handle State-wide SWAT calls
2 from state, local, federal and county agencies. We may
3 have everything from a hostage call to a suspected boys
4 with guns -- just a variety of things you do on the SWAT
5 calls.

6 Blood-hounds would be the same way. If there is
7 a blood-hound call and it's a violent suspect, I will
8 send more than two trackers which would involve me.

9 In the aviation aspect, if we're going to arrest
10 you call operations out and we would assist there.

11 As part of the SWAT team, you train a lot. We do
12 training two days a month, and each individual team
13 you're on would train further through the month.

14 I've been on the team probably ten years and I've
15 been through numerous violent situations involving gun-
16 fire, involving negative outcome of the suspect, of an
17 officer shooting of weapons, and especially violent sit-
18 uations.

19 Q. Were you in the Courtroom when Sonjiv testified?

20 A. Yes, sir.

21 Q. There were three discs that were put in through
22 Mr. Narang. Do you recognize these three discs, State's
23 14, 15 and 16?

24 A. Yes, sir. State's 14, 15 and 16.

25 Q. In fact, did he go out to SLED with you yesterday

1 with those discs?

2 A. Yes, sir.

3 Q. And he watched them with you?

4 A. Yes, sir.

5 Q. And taking the information that was on those discs,
6 were you able to put them in a format that will be easier
7 to view here in the Courtroom?

8 A. Yes, sir.

9 Q. Let me show you a disc and ask you if you recognize
10 that?

11 A. I do.

12 Q. And what is that disc?

13 A. This is a disc containing the content of -- the
14 video content of Shaggy's bar, and the date was Septem-
15 ber 28th, 2008, and there were essentially two blocks of
16 time on there.

17 One from six thirty to six forty, and one from six
18 forty to six fifty.

19 Q. Okay.

20 A. Within those blocks are two camera views. One I
21 recall is the pool camera view that shows the pool tables,
22 and the other would be the bar view showing the bar area
23 of Shaggy's.

24 SOLICITOR: Your Honor, the State would offer this
25 disc in evidence.

1 THE COURT: Mr. Floyd?

2 MR. FLOYD: No objection, Your Honor.

3 THE COURT: State's Exhibit -- is it 17?

4 REPORTER: Yes, sir. I thought I had already marked
5 it.

6 (Video content of bar on disc admitted in evidence
7 without objection as State's Exhibit 17.)

8 SOLICITOR: Judge, the original videos are marked
9 State's Exhibit 14, 15 and 16.

10 THE COURT: Thank you.

11 (State's Exhibits 14, 15 and 16 previously admitted
12 in evidence)

13 DIRECT EXAMINATION CONTINUED

14 BY SOLICITOR:

15 Q. What is on 17? Would you explain what you did and
16 how you did it?

17 A. The bar, as stated, has a security system. Basic-
18 ally it's like a computer, and you have the cameras that
19 are attached to that.

20 It has a hard drive that records the videos and in
21 some cases audio, but not in this case.

22 It is like a DVR in your house, if you will, so
23 that this allows you to go back and review the video on
24 the various systems that you have in the one central
25 station.

1 So maybe you need to download the contents of the
2 video in some cases, just like you will see here, and
3 sometime you have to go to the establishment and tap
4 in the back of the video feed and record it to your de-
5 vice, so that is your evidence.

6 And some devices have the ability to create CDs or
7 DVDs that have the video content on there.

8 Within that, there are many ways it can copy the
9 content onto a disc. One of which is the raw video like
10 it were something you would play in most media or like
11 you can play in most any machines.

12 But often you have -- the computer installs its
13 own software onto the disc, and you have to use that
14 software to get the content on that disc.

15 You will see that this is the case on the videos
16 we've got from the bar.

17 The software sometimes is very easy to use, or is
18 very user-prone, and we have seen over the years that
19 it has become more user friendly for police officers as
20 well as civilians.

21 In this case, it was a software called black box,
22 and it was very problematic that the software might change
23 the resolution on the screen. So that instead of hav-
24 ing a full screen with all the content on there, you would
25 have like a portion of it.

1 And we worked on it many days to try to get the de-
2 vice to play properly. We found that the best way to
3 view the video was to take that content and to place it
4 onto a DVD, something that is playable and that you'd
5 be able to play on a device like you would have in your
6 house.

7 Q. Is there any difference other than the ability to
8 play it and manipulate it frame by frame or reverse and
9 forward -- easier . .

10 A. . . .

11 Q. Is what is on the original three discs, is that
12 the same, the ones in evidence, or is there a difference
13 in the content of what's on the DVD disc and the origi-
14 nal discs?

15 A. There is a difference in the content. Essentially
16 it is the same video that you would see on the computer.
17 It is just that it is put in a full screen format and is
18 able to be played on a DVD player.

19 Q. But as far as what the cameras have captured, the
20 footage itself, is there any difference?

21 A. No, sir.

22 Q. Did you do anything to manipulate or change the ac-
23 tual footage of what happened or what the camera is cap-
24 turing from those original videos and what you put on
25 the DVD?

A. Not in this case.

1 In some videos, when you enhance them, there is
2 things you can do to brighten it and darken it, and add
3 contrast -- a different tool you can use.

4 In many case it is for identifying tags.

5 In this case, it was pretty good video so we didn't
6 need to really enhance it any. In fact, we didn't enhance
7 it at all.

8 Q. How does pixelation come into play, and what does
9 that mean?

10 A. It is like -- if you think of your digital cameras
11 many years ago, when you took a picture and you zoomed
12 in, when it was the smallest picture it looked pretty
13 good to you.

14 But when you zoomed in, all those little pixels
15 became big, fat pixels, so you lose that visual image
16 or quality, if you will.

17 Here we see some pixelation where the nature of how
18 these recorders work is basically just from pressing the
19 data or is from compressing the video, so you would lose
20 some.

21 It is not like you would use your home HD camera
22 or anything. It is compressing the data just for stor-
23 age of it.

24 You will see some pixelation, and by that I mean
25 you will see like little blocks on the screen. If you

1 -- everything is in little blocks, and if you were to
2 zoom in you would see the big, fat blocks there.

3 Q. Are you familiar with the TV show, CSI?

4 A. Yes, sir.

5 Q. And is it possible in this kind of footage to be
6 able to zoom in and expand and see when something is hap-
7 pening?

8 A. Again, we didn't see the need to enhance this video
9 because when you did zoom into it it lost the resolu-
10 tion. It didn't look like a good picture any more.

11 In some cases, we do need to zoom in to get tag
12 numbers or to get positions of people^{or items}, but in this case
13 the video in its full screen, without enhancement, is
14 pretty good.

15 Q. So the only thing you did was to put it in a better
16 format to watch?

17 A. Yes, sir.

18 Q. Thank you.

19 SOLICITOR: Your Honor, at this time, the State
20 would like to publish State's 17 to the jury.

21 THE COURT: All right. You may publish it, Soli-
22 citor.

23 SOLICITOR: I may need Agent West to step down.

24 THE COURT: All right, he may step down.

25 (Witness leaving stand)

1 (Whereupon, State's Exhibit 17 was published to
2 the jury)

3 SOLICITOR: Your Honor, if you could ask the jury
4 whether they are able to see the video, as well as the
5 Defense?

6 THE COURT: All right. Mr. Foreman, ladies and gen-
7 tlemen of the jury, you see how the Solicitor has the
8 monitors set up now. If there is a better position as
9 it comes on, raise your hands and direct him back and
10 forth, where you can see it better.

11 BY SOLICITOR:

12 Q. Agent West, would you describe what we are watch-
13 ing now?

14 A. Essentially each box is like a segment. There are
15 four ten minute segments.

16 Q. Okay.

17 A. The first two are of the bar area. The first one
18 being at six thirty according to the clock time, and six
19 forty. From six forty to six fifty. Then the same
20 thing, six thirty, six forty, six fifty.

21 Q. As far as what you believe to be relevant, was there
22 one camera that you felt showed more of what happened
23 than the others?

24 A. The first two, which is the bar cameras, has the
25 best video of what happened. The second two, which is

1 the pool camera in back of the bar, is kind of far away.
2 You can see some movement there, but you can't really
3 see what is going on as you could from the bar cameras.

4 Q. Go ahead and start the camera from the bar angle
5 that shows a better showing of action, starting with
6 the first time at six thirty?

7 A. Yes, sir.

8 (Counsel and witness speaking as video is running
9 for the jury)

10 BY SOLICITOR:

11 Q. As you watch at this time, are you able to tell
12 what time the Defendant left? What time the Defendant
13 left the bar?

14 A. There is on the computer -- when you play the con-
15 tent on the computer, on the top left-hand portion there
16 is actually a clock or where the time appears.

17 It lets us know what time he left and when he came
18 back as far as the relation of time, the duration.

19 Q. From the time he left the bar until later when he
20 comes back, can you determine how long a period that
21 was?

22 A. Yes, sir.

23 Q. What was it?

24 A. Four forty, four forty-two -- depending on when
25 you start to count. I counted when he walked through

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1 the threshold door or went through the first time,
2 and I stopped my stop watch when he came through.

3 Q. Four minutes and forty seconds, or four minutes,
4 forty-two seconds -- somewhere around there?

5 A. Yes, sir.

6 Q. Thank you. If you would, continue with the second
7 -- the first video, and would you cue it up to right
8 where we were when Mr. Torrence comes back in?

9 A. Yes, sir.

10 (Video running)

11 BY SOLICITOR:

12 Q. Agent West, how long have you -- how many years
13 have you been doing this?

14 A. Twenty years.

15 Q. And how many times have you been asked to do this
16 type of work over the last five years?

17 A. At least four times a year as an agent, and then
18 I've worked as a SWAT team agent and team person, as
19 a tracking person.

20 I have qualified with a handgun and rifle as well
21 over the years.

22 Q. Is there a term that is used when a gun is fired,
23 as far as to the sound waves at that time?

24 A. When a gun goes off it is like a small explosion
25 is contained in the barrel and then the bullet comes

1 out. There is a body of air that is disturbed, and if
2 you were near a firearm when it was fired you would
3 know it. The percussion is pretty significant.

4 Q. Okay.

5 A. So, yes, a handgun, you know, produces percussion
6 or a disturbance in the air which can be felt.

7 Q. Have you fired a handgun in a small space, like
8 inside where we're looking at?

9 A. Yes, sir, I have.

10 Q. And what effect, if any, does the percussion have
11 when it is fired as far as dust or other items?

12 A. It has been my experience that it is more signifi-
13 cant if you are outside. Essentially the gases have
14 somewhere to go or the air has somewhere to go.

15 When you are inside, it's going to go somewhere
16 or reflect back and disturb something else.

17 Q. Do you have an opinion as to what, if anything,
18 is shown to be disturbed on the video during the shoot-
19 ing?

20 A. It has been my experience with gunfire involved in
21 shootings that there will be a disturbance of dust that
22 may fly from a nearby object toward the floor and the
23 ceiling.

24 Q. Would you go ahead and slow this down to show it
25 frame by frame?

1 A. Yes, sir.

2 (Video continuing to play)

3 BY SOLICITOR:

4 Q. Agent West, you were talking about the percussion
5 from firing a weapon a little earlier?

6 A. Yes.

7 Q. Is it fair to say that the larger the caliber of
8 the gun the bigger the percussion?

9 A. Yes, sir.

10 Q. Would you go through from the small to large hand-
11 gun, starting off with a twenty-two handgun?

12 A. . .

13 Q. Is that something you . .

14 A. I am qualified with anything from a thirty-two
15 caliber up to a forty caliber, and even up to a forty
16 milimeter round, which is a pretty large bullet.

17 When you go from a thirty-two to the thirty-
18 eight, and from the three fifty-seven to the forty-five,
19 and the forty milimeter, the bigger the round.

20 Depending upon what kind of ammunition you have
21 in there, there may or may not be more percussion, and
22 every weapon is different, but all weapons will produce
23 some concussion or disturbance of air.

24 Q. And the forty caliber, is that considered a small
25 handgun or a large handgun?

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1 A. That's a large caliber.

2 Q. Are you familiar with bullets that are hollow
3 point?

4 A. Yes, sir.

5 Q. Tell the jury what those are.

6 A. Essentially it is -- some reasons for it -- I know
7 that we use a hollow point if you don't want to over-
8 penetrate your target, talking about what we're doing
9 when we're doing our jobs. You want to shoot through a
10 person.

11 So in essence the bullet is going to expend more
12 energy when it enters a substance, either body tissue
13 or a wall.

14 The round is going to form almost like a mushroom,
15 and it loses energy. That might also -- if there is a
16 bigger round, it is inviting more force to a target.

17 Q. In addition to -- you were talking about the term
18 percussion. When a firearm fires, the shock waves
19 would go out or through . .

20 A. It's usually from the front of the barrel. You
21 can detect it in the back when it is fired.

22 Q. Is there a term called recoil?

23 A. Yes, sir.

24 Q. What is recoil?

25 A. It's just the gas from the round coming back on

1 you when you fire a gun. There is a ballistic item com-
2 ing out the front and you have that explosion of air or
3 the gases coming out, so it is like kind of a physics
4 thing.

5 When there is pressure going from the front it is
6 going to force pressure to the back which is -- if it's
7 a revolver, that is not really a consideration.

8 It is just going to cycle round and leave a trail.
9 If it is an auto pistol or semi-auto, that recoil ejects
10 a shell and throws the next round in the chamber.

11 Q. So if you were firing a forty caliber, . .

12 A. That's what we carry at SLED, yes, sir.

13 Q. Would you describe the recoil on your arm as you
14 fire a forty caliber?

15 A. All right. I carry two kind of weapons, a twenty-
16 two and forty caliber. The ought twenty-two is a bigger
17 handgun, and you can put more of your hand on the grip.
18 It has a longer handle.

19 It is pretty significant if you are not used to
20 firing a weapon on how to control your hand and body
21 position. If you're not used to recoil and someone sur-
22 prises you, it can affect you in the way you stand and
23 the way your arms will move during a shot.

24 The mult twenty-seven, which is a smaller gun --
25 it's not as long as a twenty-two -- has a much smaller

1 barrel.

2 In many ways, although it's the same round, and
3 it's a shorter barrel, it is harder to hang onto that
4 gun because you don't have much handle there.

5 Q. How does the recoil transmit to your body? From
6 your hand to your body?

7 What happens to your hand, what happens to your
8 arm, your body, when you fire?

9 A. I mean, if you were in a shooting position and if
10 your arms were straight out, and you had a good firm
11 stance, it shouldn't affect you that much.

12 You know, we're trained essentially to neutralize
13 the recoil. That way you don't have -- you are in a
14 pretty good position for that next shot, if you have
15 to shoot.

16 If you don't have a good stance, if you have kind
17 of a weak arm position, the recoil is going to come back
18 from your hand and your arm more significantly than if
19 you were in a good body position, good fighting posi-
20 tion.

21 Q. With regard to a twenty-two, is that a full size
22 gun?

23 A. It's one of them. Yes, sir.

24 Q. And that's what you carry?

25 A. Yes, sir.

1 Q. And the twenty-seven, is that called a compact or a
2 sub-compact?

3 A. It's a compact, but it's called a baby glock.

4 It is much smaller and it holds less rounds. I
5 keep nine in my magazines, and the twenty-two holds fif-
6 teen.

7 Q. And are you familiar with the term hollow-point
8 frame?

9 A. I know what it is, yes, sir.

10 Q. And where does that fit in between the twenty-two
11 and the twenty-seven?

12 A. I couldn't say. I mean, there are different models.

13 It is going to be smaller than the twenty-two, but
14 the twenty-two is one of your bigger frames.

15 Q. That's all the questions I have. Please answer
16 any questions Mr. Floyd has for you.

17 A. Yes, sir.

18 THE COURT: Thank you, Solicitor.

19 All right, you may step down.

20 WITNESS: Yes, sir.

21 (Witness excused from stand)

22 THE COURT: We're going to take our luncheon re-
23 cess at this time.

24 Ladies and gentlemen, I would remind you again
25 that you are not to discuss this case with anybody, and

1 that includes your fellow jurors during the lunch break
2 or with family or friends or with anyone else.

3 If anyone tries to talk with you about the case,
4 please make it known immediately.

5 Remember my instructions. Do not watch or read or
6 listen to any news reports about the case, should there
7 be any.

8 Do not do any independent investigation on the in-
9 ternet or anywhere else.

10 With that being said, if you would leave your notes
11 upside down on your chairs, I will have the Clerk's Office
12 secure them during the recess.

13 I would ask you to please be back -- I keep looking
14 for my clock back there -- be back at two o'clock.

15 Please be back promptly at two o'clock. Thank you.
16 I hope you all have a pleasant lunch.

17 (Jury excused for the lunch recess)

18 THE COURT: All right, sir. During this luncheon re-
19 cess you may not discuss the case with anyone. You may not
20 discuss your testimony with anyone.

21 AGENT WEST: Yes, sir.

22 THE COURT: Anything from the State before we recess,
23 Solicitor?

24 SOLICITOR: Yes, Your Honor. I would want to know if
25 it is possible for the State to have access to the

1 Courtroom during the lunch break, out of the presence of
2 the Defense?

3 We need to show the video to some of our witnesses
4 who are coming in.

5 THE COURT: I don't have any objection. Mr. Floyd,
6 do you have any objection?

7 MR. FLOYD: I have no objection to it, Your Honor.

8 THE COURT: All right. I guess the answer is affirm-
9 ative since no one objects, Solicitor.

10 Anything to take up, Mr. Floyd, before we take our
11 recess?

12 MR. FLOYD: No, Your Honor.

13 THE COURT: Thank you very much. We'll be in recess
14 then. Have a pleasant lunch.

15 (Whereupon, the Court took a lunch recess, after which
16 the matter was resumed)

17 THE COURT: All right. Anything from the State be-
18 fore we bring in our jury?

19 SOLICITOR: No, Your Honor.

20 THE COURT: From the Defense?

21 MR. FLOYD: No, Your Honor.

22 THE COURT: Thank you.

23 (Witness Floyd resumed the witness stand)

24 (Jury returned to the Courtroom)

25 THE COURT: Welcome back, ladies and gentlemen.

1 I hope you all had a pleasant lunch.

2 We are continuing with the trial of the case and with
3 the Cross Examination of Agent West by Mr. Floyd.

4 Please give Mr. Floyd your complete and undivided at-
5 tention.

6 MR. FLOYD: Thank you, Your Honor.

7 CROSS EXAMINATION

8 BY MR. FLOYD:

9 Q. Agent West, did you count how many times Zach struck
10 Drew in the face?

11 A. No, sir, but it was several times.

12 Q. Could you get us to that point in the video?

13 A. Yes, sir.

14 Q. If you would step down over here.

15 A. Yes, sir.

16 THE COURT: You may step down.

17 (Portion of video began to play)

18 BY MR. FLOYD:

19 Q. Can you go over that point again where Mr. Torrence
20 comes back in the bar?

21 A. Yes, sir.

22 (Tape continuing to play)

23 Q. If you would stop it there?

24 A. Yes, sir.

25 Q. Now, as a law enforcement officer, is it reasonable

1 to detain someone -- is that appropriate action to have
2 them place their hands on . .

3 SOLICITOR: Objection, Your Honor.

4 THE COURT: Go ahead with your question.

5 BY MR. FLOYD:

6 Q. Is that appropriate action to have them place their
7 hands where they can watch their hands . .

8 REPORTER: I'm sorry. I can't hear.

9 Q. Are you trained to watch their hands in some fashion
10 or another?

11 A. You have to watch their hands since that is where any
12 weapons would be coming from.

13 Q. Thank you.

14 (Brief pause in proceeding)

15 THE COURT: Are you finished with the tape?

16 MR. FLOYD: Yes, Your Honor. I'm sorry.

17 Q. Now, Officer West, did you see an object flying through
18 the air?

19 A. Yes, sir.

20 Q. Were you able to determine what that object was?

21 A. A bar stool, sir.

22 Q. And is it thrown into the direction of Mr. Torrence?

23 A. Yes, sir.

24 Q. And then after the bar stool is thrown, there is a
25 charge?

1 A. In that direction, yes, sir.

2 Q. And where was he heading?

3 A. He went around the bar.

4 Q. Which is where Mr. Torrence was?

5 A. Yes, sir.

6 Q. You testified that you've investigated officer shoot-
7 ings?

8 A. We go to many areas of officer shootings, actual field
9 investigations. That's what I do.

10 Q. Are you familiar that officers have rules they are
11 supposed to follow when they have any problems?

12 A. Yes, sir.

13 Q. Are you familiar with those rules?

14 A. Yes, sir.

15 Q. When an officer has his weapon drawn and someone is
16 charging the officer, can the officer use the weapon in
17 his defense?

18 A. You can use the weapon but training would dictate that
19 you guard your weapon to keep that weapon from getting in
20 the hands of others.

21 There's ways to do that. There is training that will
22 teach you to do that, but that is an option.

23 Q. Because if they get your weapon from you, they can
24 kill you, shoot you, or any bystanders?

25 A. As a police officer, if you take my weapon, that is

1 justifying use of force.

2 Q. All right. Did you do any calculations or
3 did anyone else do any calculations of the approximately
4 four minutes and forty-two seconds from his exiting the
5 bar to his re-entry?

6 A. Yes, sir.

7 Q. What calculations did you do?

8 A. Not other than the length of the video, each one
9 being approximately ten minutes long.

10 That was the only thing that time-wise we looked at,
11 sir.

12 Q. No calculations, for example, on the time from the
13 throwing of the bar stool until the shooting?

14 A. It would be within seconds if you watch the video.

15 Q. Did you actually go out to the scene?

16 A. No, sir.

17 Q. Now, are you aware of the type of weapon that Mr.
18 Torrence was using?

19 A. No, sir.

20 Q. Are you aware of the type of ammunition that he was
21 using?

22 A. I believe it was forty caliber.

23 Q. You don't know what type of ammunition other than it
24 was forty caliber?

25 A. No, sir.

1 Q. Are you at all familiar with the licensing of armed
2 security guards?

3 A. Very little. That is handled by the department at
4 SLED called regulatory. They are the ones who license the
5 security companies and the security officers for their job.
6 I am not that familiar with it.

7 Q. Thank you.

8 A. Yes, sir.

9 MR. FLOYD: No further questions.

10 THE COURT: Solicitor?

11 SOLICITOR: Yes, sir.

12 REDIRECT EXAMINATION

13 BY SOLICITOR:

14 Q. Do you remember when Mr. Floyd asked you the ques-
15 tion -- it's not your testimony, is it, that you can shoot
16 an unarmed person who is charging you with . .

17 A. It is my testimony that that is certainly an option.
18 I'm not saying it's justified, but as far as if you're
19 being attacked by someone, that is something you can do.

20 Our training would dictate that unless your weapon
21 is removed from you or you believe it is basically removed
22 that you won't have that justification.

23 But that is a possibility.

24 Q. You are not telling the jury it's legal or not legal,
25 but you are just saying it's an option?

1 A. As a person, if you're holding a weapon, that is one
2 of the things you may end up doing, discharging your fire-
3 arm toward a suspect or someone trying to attack you.

4 Q. Do you need to know who the maker is?

5 A. No, sir.

6 Q. What does your training tell you about displaying a
7 firearm?

8 A. . . .

9 Q. When you do that.

10 A. We have very, very strict protocols as far as fire-
11 arms. Essentially, if you are in uniform you may display
12 them.

13 On top of that, if you are on a SWAT mission, you wear
14 it and hold it as you would as a regular agent or a regu-
15 lar officer.

16 If you are in plain clothes, it should be concealed
17 at all times. People generally don't want to see a gun,
18 even if it can be used against a bad person, if you will.
19 They may not see your badge if it's on your belt, but
20 typically you want to conceal your gun.

21 In fact, if you look at it, those would have CWPs,
22 or concealed weapons permit.

23 You don't display your weapon. You just don't do
24 that.

25 Q. Does displaying a weapon have -- in your opinion,

1 happen in a particular situation or an escalated situation?

2 A. An extremely escalated situation.

3 Q. Are you familiar with the term use of force contin-
4 uum?

5 A. Yes, sir.

6 Q. Describe for the jury what that is.

7 A. Essentially it is like a ladder, if you will, and
8 without it you're just in a circle. There are certain
9 steps in a continuum. Officer presence, the verbal, plac-
10 ing your hand on someone to use as an impact weapon upon
11 them, and then, ultimately, using your firearm against
12 them, deadly force.

13 It allows the officer to justify his actions, if you
14 will.

15 He may be in the presence or verbal stage and it can
16 jump to a deadly force stage just in seconds. So he has
17 to be aware of where he is in the continuum, knowing that
18 if he reaches that point of deadly force that's what he has
19 to do.

20 Q. So the first -- in the use of force continuum, what
21 is the least -- what is the very first thing you would try
22 to do?

23 A. You know, as a police officer and as a narcotics
24 agent, you just don't wear uniforms. That's not the whole
25 idea. If you were to make an arrest, you don't want to do

1 it by yourself.

2 You can become involved in a conflict. If you have
3 your weapon and you are overtaken by a subject or subjects
4 there is your gun -- it's gone.

5 So typically we never want to see a plain-clothes
6 person make an arrest. If there was something that I did
7 in an investigation, whether under-cover or whether off
8 duty I would involve the police as much as possible,
9 short of a person's life being placed in jeopardy where
10 I had to act upon that deadly force.

11 If I were at a mall, for instance, and someone were
12 shooting, you know, I would have to then not wait for the
13 police but start shooting myself to try to take out the
14 suspect.

15 If I was doing an investigation and there is no imme-
16 diate threatening of life, and the suspect is not running
17 in the street, I'm not going to use that gun.

18 I'm not going to do violence but I would wait for a
19 uniform guy to show up. That's why they wear uniforms, is
20 to be the police to provide a presence of, hey, this is
21 the law and you need to calm down.

22 Q. What would you do until a police officer came?

23 A. Essentially there is the ability for a police offi-
24 cer to de-escalate a situation if someone is anxious, if
25 someone is angry or violent.

1 Oftentimes you can, through your experience, talk
2 them down, get them to a different plane, until either, A,
3 they are calm and rational and you can affect an arrest,
4 or, B, you have backup on the scene to assist you.

5 Q. Softer hand techniques?

6 A. Soft hand techniques are those techniques that you
7 are trained to use when affecting an arrest of someone.
8 It may be a strike, it may be a grab, or some form of that,
9 on the arm. You know, generally not pushing someone, but
10 it is just the ability of trying to restrain and arrest
11 them.

12 Q. Does that include to use your hands to disengage or
13 keep a distance?

14 A. That's right.

15 Q. What are hard hand techniques?

16 A. Hard hand techniques is going up in the scale of your
17 level of violence, if you will. You either want to grasp
18 that person or hurt them so you can arrest that person.

19 So it is raising the scale. You're going to go for
20 different strikes and different techniques and at differ-
21 ent points on their body to affect the arrest.

22 Q. And gas line?

23 A. That is something that is rarely used any more. It
24 is like pepper spray or a kind of mace that was popular
25 before pepper spray came into effect.

1 We now -- most police officers now carry pepper spray.

2 Q. And use of batons?

3 A. Yes, sir. We used to use it as a weapon. It was
4 essentially years ago when police officers had a baton or
5 a stick with a side handle on it.

6 Now it is essentially the small baton, if you will,
7 and when you provide a motion to a mass, at the time it
8 will extend out. It is a metal baton, and you learn dif-
9 ferent strike techniques when you use this weapon.

10 Q. So do you have an opinion as to if an unarmed suspect
11 is charging you and you have already chosen to display
12 your weapon -- does that mean that you get to shoot?

13 A. I say this from experience that I have had. As a
14 narcotic agent I had someone grab my gun one time when I
15 was trying to affect an arrest on them.

16 It was potentially a lethal situation where I thought
17 the suspect had a weapon. I presented my weapon to the
18 suspect. He then grabbed it.

19 He had my gun in his hand, and there are techniques
20 that you use to remove yourself from that situation.

21 So I've had my gun grabbed, and I would control my
22 weapon without shooting the suspect.

23 Q. So on this video, did it appear to you that the vic-
24 tim -- did there appear to be a struggle over the weapon,
25 or was there a charge?

1 A. You know, I didn't see him grab the gun. There was
2 a lot going on behind that bar counter back there. I did
3 not see the struggle over the weapon.

4 He seemed to maintain control over the weapon. He
5 pulled it back a couple of times, trying to bring the wea-
6 pon close to his body.

7 Short of that, as you will see in the video, he was
8 presenting the weapon, ready for -- coming up on the tar-
9 get.

10 Q. Thank you.

11 SOLICITOR: Nothing further.

12 THE COURT: Mr. Floyd.

13 RECROSS EXAMINATION

14 BY MR. FLOYD:

15 Q. When a policeman is on the beat, he has his gun on,
16 doesn't he, and it's in full view?

17 A. Yes, sir.

18 Q. As opposed to someone working undercover or in that
19 type operation?

20 A. Yes, sir.

21 Q. So in that situation when the policeman goes to arrest
22 someone, they see the gun. Is that right?

23 A. That's correct.

24 Q. And if the gun had been dropped, would you agree --
25 would you agree with me the gun was in Mr. Torrence's hand

1 in this video and was pointed to the ground?

2 A. He was. He was pointing the weapon toward the
3 ground prior to the incident, with the exception of the
4 time that he shot the subject.

5 Q. And that is when he was charged? That's when the bar-
6 rel came up?

7 A. You know, I don't know. I don't know what he was
8 thinking at that point in time.

9 Q. But if a policeman has a gun and the suspect charges
10 the policeman, the policeman is authorized to use that
11 weapon?

12 A. If the officer has reason to believe that there is deadly
13 force or his life is in imminent danger, that he's going
14 to die -- if there is something there -- does the guy have
15 a knife in his hand?

16 Does he have a weapon? Is there a weapon in front of
17 you? Did he get a weapon from you or did he carry a second
18 weapon? Then you can explore those deadly force options.

19 But, again, if someone is charging for your weapon
20 and not getting your weapon, it does not present something
21 that is a dangerous -- it's not a life situation. I must
22 have control of my weapon at all times.

23 Q. Are you trying -- are you saying that you don't have to
24 shoot him until he takes your weapon?

25 A. What I'm saying, sir, is that it has been my experience

1 in situations that I've been involved with -- again, I
2 mentioned the one where a suspect grabbed my weapon --
3 but I could have shot people plenty of times.

4 Just because you can shoot someone does not mean you
5 should.

6 Q. I'm not asking you if you should shoot someone. The
7 question is, as a law enforcement officer, if a suspect
8 were to charge you and you've got a weapon in your hand
9 and they charge you, and you perceive it as a threat, as
10 an officer of the law would it authorize you to shoot,
11 once you were in danger -- to shoot a suspect?

12 A. I would not . . .

13 SOLICITOR: Your Honor, . . .

14 THE COURT: Ladies and gentlemen, please go to your
15 jury room. Please leave your pads on your chairs during
16 this time.

17 Do not discuss the case, and we will bring you back
18 in fairly quickly.

19 (Whereupon, the jury was excused from the Courtroom)

20 THE COURT: All right, Solicitor. Your objection?

21 SOLICITOR: Yes, Your Honor. First as to relevancy,
22 and multiple grounds really.

23 He has already answered this question, and, secondly,
24 Mr. Torrence is not a law enforcement officer, and what
25 this officer or any other officer would do in the regular

1 course of business in upholding the law. That has nothing
2 to do with what Mr. Torrence was doing.

3 It is a jury question to answer as to whether he was
4 acting properly or not properly in what happened here.

5 THE COURT: If that was the case, why was there even
6 any Redirect?

7 I mean, I don't understand why you would continue
8 with it.

9 SOLICITOR: I was trying, Your Honor -- the way I was
10 trying to do this, Your Honor, was that this had nothing
11 to do with him being a law enforcement officer, and Mr.
12 Floyd continued to go down that road.

13 I didn't know where I was on it, and I felt like I
14 had to address it.

15 THE COURT: You did go down that road. He asked one
16 question, I believe, and you had this officer on the stand
17 and qualified him as -- you had him talk about SWAT calls
18 and a barricaded subject, and also firearms.

19 You know, the question is, even if he was a law en-
20 forcement officer, as a law enforcement officer he had
21 been drinking for twelve and a half hours in at least two
22 bars; then go outside and get a deadly weapon, go back in
23 the bar, does that lead to deadly force?

24 I mean, that's the whole thing. It is not like the
25 cop on the beat who goes into a bar with a weapon displayed

1 on his side, in uniform. That is something different.
2 I mean, that is not apples and oranges. That's fruits
3 and vegetables, a lot different from apples and oranges.
4 But now it's -- I mean, I have a lot of respect for what
5 this officer is saying.

6 He has been in his field and being an undercover nar-
7 cotics officer for -- I believe he said fifteen years, al-
8 though maybe not all of that was undercover.

9 Maybe it was. Maybe they were trying to punish him
10 for some reason. Fifteen years -- I don't know, but be
11 that as it may, my overruling your objection was on
12 the point of not whether or not Mr. Torrence is an offi-
13 cer. We all know that he is not.

14 He may be a -- he may be -- I don't know if he's a
15 certified SLED security officer or not. I don't have any
16 idea of that.

17 I don't know, but whether or not he thinks he's mak-
18 ing a citizen's arrest, that ability to control a person's
19 hands whom he is attempting to make a citizen's arrest on,
20 but to my knowledge he clearly would not have the author-
21 ity to arrest as an officer on the law.

22 I would agree with you in that regard, Solicitor, but
23 it appears I'm -- maybe he felt trapped, and now I feel
24 trapped in this regard.

25 What's your question, Mr. Floyd?

1 MR. FLOYD: Well, Judge, I was going back in -- I was
2 just on Recross after Mr. Graham had asked him questions
3 to guide him kind of back on what I thought was the answer
4 he gave on Cross Examination.

5 THE COURT: What question do you want to ask?

6 MR. FLOYD: Just on whether or not an officer has a
7 weapon out and a suspect charges him if he is authorized
8 to discharge his weapon.

9 THE COURT: It seems to me that this whole line of
10 questioning in a sense causes this witness to have to make
11 so many mental calculations that are not a part of the
12 question in this particular scenario.

13 He could be thinking one thing in his mind and -- I
14 mean, he has testified that as an undercover officer I had
15 a suspect get control of my weapon, and even in that situ-
16 ation I did not have to use deadly force.

17 To me, that doesn't bode well for the Defendant, so,
18 I mean, you know, just the answer to that question. Some-
19 one else had my weapon and I still did not have to use
20 deadly force. I could have.

21 But he has to do all sorts of mental calculations
22 that are not a part of this case.

23 I mean, you can ask him can an officer go into or
24 stay in a bar all night, and then go out to his vehicle
25 and get a loaded gun and go back in, to make a citizen's

1 arrest.

2 MR. FLOYD: Your Honor, I am asking for an opinion
3 on this case, and I asked him about just what . .

4 THE COURT: You were referring him back to the video.
5 You were referring him back to the bar stool, referring
6 back to being charged.

7 I mean, it's almost like State versus Alice Postell
8 Wilkins, when an expert witness, which he had not been
9 qualified as an expert, testified as to the ultimate issue
10 for the jury's determination.

11 What are you asking me to do, Solicitor? Sustain
12 the objection?

13 SOLICITOR: Yes, Your Honor.

14 THE COURT: Anything else?

15 SOLICITOR: Only my explanation, if you want to hear
16 it, Your Honor.

17 THE COURT: I do want to hear it. Yes, sir.

18 SOLICITOR: This doesn't have anything to do with
19 him as an officer. I just wanted to point out all the
20 different options he had if he's in a situation to con-
21 trol a suspect.

22 Mr. Floyd is implying that he has some knowledge of
23 what the police do, and I was going to try to get at other
24 options where you don't have to arrest or say you are going
25 to arrest somebody.

1 You can use your voice to arrest somebody, but you
2 have other options. Using your hands, or assault tech-
3 niques. You can use pepper spray.

4 You can call law enforcement to come and arrest some-
5 body, to assist.

6 THE COURT: Well, he knows that as a law enforcement
7 officer. I mean, that's the foundation for that knowledge
8 he has.

9 SOLICITOR: And I know for myself that Mr. Torrence
10 has received the same training.

11 I know that you don't know that.

12 THE COURT: I don't know what you all know about your
13 case.

14 SOLICITOR: That's why I brought that out, Your
15 Honor.

16 THE COURT: I'm not fussing at you or Mr. Floyd. I
17 don't mean it like that. In that regard you all are too
18 good of trial lawyers. I'm not telling you how to try your
19 case.

20 I just feel like we're down the road that we've gone
21 down, and the witness is being asked -- tell me what ques-
22 tion you want to ask him.

23 MR. FLOYD: Your Honor, I withdraw that last ques-
24 tion.

25 THE COURT: Anything else to take up before we bring

AGENT WEST ON RECROSS

1 the jury back in?

2 SOLICITOR: No, Your Honor.

3 THE COURT: Thank you, Mr. Floyd. Thank you,
4 Solicitor.

5 (Jury returned to the Courtroom)

6 THE COURT: All right. Welcome back, ladies and gen-
7 tlemen. Thank you for your patience with the Court.

8 We were on Recross Examination. Please give the
9 parties your complete and undivided attention.

10 Mr. Floyd, you may ask your next question.

11 MR. FLOYD: Thank you, Your Honor.

12 RECROSS EXAMINATION CONTINUED

13 BY MR. FLOYD:

14 Q. Agent West, did you try to secure any audio on this
15 tape?

16 A. No, sir.

17 Q. Is there any audio?

18 A. I don't believe there was, sir.

19 Q. Now, I think you testified this wasn't your area of
20 SLED, but to your knowledge does SLED authorize armed se-
21 curity guards?

22 A. They license the security companies and, therefore,
23 they license security guards for different firms.

24 You know, there are different sites that require dif-
25 ferent needs. Some are armed and some are unarmed. SLED

260.

1 would have information on who was an armed officer and who
2 was not.

3 Q. And is it a fact that to be an armed security guard
4 there are regulations you would have had to have been li-
5 censed by SLED?

6 A. A license is essentially -- it's not like a police
7 officer who has training for twelve weeks. It was eight
8 when I went through.

9 I'm not sure what kind of training they have, but it
10 certainly is not as intensive as a police officer's train-
11 ing would be.

12 Q. But there is some type of training and testing that
13 they go through?

14 A. I would imagine so, yes, sir.

15 Q. I have no further questions.

16 THE COURT: Thank you very much.

17 Thank you, Agent West. You may step down.

18 WITNESS: Yes, sir.

19 (Witness excused from stand)

20 THE COURT: All right, Solicitor. You may call your
21 next witness.

22 SOLICITOR: The State calls Lee Buchanan.

23 THE COURT: All right. Mr. Buchanan, if you'd come
24 around and be sworn?

25 WITNESS: Yes, sir.

1 LEE BUCHANAN, being duly sworn,
2 testified as follows:

3 CLERK: Please have a seat. Once you're seated, speak
4 up loud and clear and state your full name on the record,
5 spelling your last name.

6 WITNESS: Lee Buchanan, Third. B U C H A N A N.

7 DIRECT EXAMINATION

8 BY SOLICITOR GRAHAM:

9 Q. Mr. Buchanan, where do you live or what state are
10 you in?

11 A. Georgia.

12 Q. Back in September of 2008, where were you living?

13 A. Here. In West Columbia, actually.

14 Q. You are familiar with Shaggy's Bar?

15 A. Yes.

16 Q. How many times have you been to Shaggy's Bar?

17 A. Um, quite a few times. Off and on.

18 Q. Do you know the Defendant, Drew Torrence?

19 A. No, I do not.

20 Q. Did you know Zach Chaplin?

21 A. Yes, I did.

22 Q. How did you know Zach?

23 A. Through some mutual friends, and just hanging out
24 with him at Shaggy's occasionally.

25 Q. How long do you think you knew Zach?

- 1 A. Some months.
- 2 Q. Did you know Donna Muszynski?
- 3 A. No, I did not.
- 4 Q. Tonya Mozenko?
- 5 A. No.
- 6 Q. Stephen Smith?
- 7 A. No.
- 8 Q. Lee Ann Stovall?
- 9 A. Yes.
- 10 Q. Do you remember being in Shaggy's in the early morn-
11 ing hours of September 28, 2008?
- 12 A. I do.
- 13 Q. And what brought you to Shaggy's that morning?
- 14 A. Just to shoot pool and hang out before I went home.
- 15 Q. And do you remember who you went there with?
- 16 A. Some friends of mine.
- 17 Q. Do you remember about what time you got there?
- 18 A. No, I do not.
- 19 Q. When you got there, who do you remember seeing?
- 20 A. Zach and Donna and Lee Ann and the bartender.
- 21 Q. Did you know Donna before then?
- 22 A. I met her that night.
- 23 Q. Do you remember the bartender's name?
- 24 A. Jennifer.
- 25 Q. Did your friends stay or did they leave at some

1 point?

2 A. They left.

3 Q. When they left, were you there by yourself?

4 A. By myself and hanging out with Zach and Donna.

5 Q. At some point -- I know you don't know the name Drew

6 Torrence, but do you recognize -- at some point did some-

7 body begin to say things to you that bothered you?

8 A. They did.

9 Q. Do you see that person in the Courtroom today?

10 A. Yes, I do.

11 Q. Would you point him out for me, please?

12 A. (Gesturing)

13 Q. Is that the person in the blue shirt sitting next to

14 Mr. Floyd?

15 A. It is.

16 Q. Tell me about what you heard or noticed -- what you

17 heard first that made you begin to be uncomfortable?

18 A. In reference to being gay. Derogatory remarks in

19 reference to being gay.

20 Q. Those were said by who?

21 A. By Drew Torrence.

22 Q. Do you remember where in the bar you were when that

23 happened?

24 A. I believe he was sitting across the bar, and then he

25 got up and came and sat next to me and continued to

1 comment -- to talk to me.

2 Q. When he came over and sat next to you, do you remem-
3 ber what he was saying?

4 A. I don't remember what he was saying. I just remem-
5 ber telling him to leave me alone, and I used a few choice
6 words.

7 That I was over it, I was tired of it and hearing it;
8 to leave me alone. I turned my back to him.

9 That was basically it.

10 Q. You don't remember his exact words, but you remember
11 what he was talking about?

12 A. Yeah, me being gay, and things like that.

13 Q. Do you remember anything he said or do you remember
14 him asking a question?

15 A. He -- can I speak frankly? I don't . .

16 Q. I would like you to say what he said.

17 A. Okay, he asked if I wanted to kiss his ass.

18 Q. And where was that comment made?

19 A. In Shaggy's.

20 Q. Where in Shaggy's, if you remember?

21 A. I don't remember if it was when I first got there or
22 as he sat next to me. I would like to think it was as he
23 sat next to me.

24 Q. How many times or how long did the conversation go
25 on?

1 A. . .

2 Q. Him talking to you about your sexuality?

3 A. Throughout the night when I was there, off and on.

4 Q. Did you hear him make any comments that you consid-
5 ered to be derogatory toward Donna?

6 A. Yes, I did. In reference to her dancing, her what-
7 have-you.

8 Q. When Mr. Torrence was sitting next to you at the bar
9 who was right next to you?

10 A. Donna was to my right. Donna and Zach both were to
11 my right, and he came and sat next to me, to my left.

12 Q. And as he was sitting by you, that's when he was mak-
13 ing comments to you, is that right?

14 A. That's correct.

15 Q. Did you talk to him?

16 A. I asked him to leave me alone.

17 Q. Did he?

18 A. No. He sat right there and continued to talk.

19 Q. Did Zach ever say anything about his comments to you
20 and Donna?

21 A. I believe Zach told him to leave us alone. I don't
22 really remember any details of what was said.

23 SOLICITOR: Your Honor, at this time I would ask if
24 Mr. Buchanan can step down. I would like him to look at
25 the video as we go on.

1 THE COURT: All right, you may step down, Mr.

2 Buchanan.

3 Please keep your voice up as you will be away from
4 the microphone and the Court Reporter.

5 (Witness leaving witness stand)

6 BY SOLICITOR:

7 (Solicitor speaking to someone operating video)

8 SOLICITOR: If you could go to right before Zach
9 comes out of his chair, and after they are over on this
10 side.

11 OPERATOR: Yes, sir.

12 SOLICITOR: Right before the comment where Mr. Chaplin
13 gets up and there is a fight.

14 MR. FLOYD: Your Honor, I object to him calling it a
15 fight.

16 He can call it a meeting but I object to him call-
17 ing it a fight.

18 Q. Right before there is contact between the parties,
19 tell the jury what was going on?

20 A. . .

21 THE COURT: You know what they're talking about?

22 WITNESS: Yes, sir, I do.

23 THE COURT: All right.

24 Q. What is Mr. Torrence doing at this point to cause
25 things to change?

1 A. It is all in reference to me being gay. You can
2 clearly see that I'm kind of ignoring him, and he is ag-
3 gravated. I mean, it is all in reference to me being
4 gay.

5 (Video still running)

6 Q. What are you doing at this point?

7 A. Me?

8 Q. Yes. What are you . . .

9 A. I'm trying to subdue the situation, to try to get
10 him to straighten up, to stop the fight.

11 Q. Were you attacking Mr. Torrence at any point?

12 A. No, I'm not.

13 Q. Can you describe what you're doing here?

14 A. I'm trying to get in between the two of them, to
15 stop the fight.

16 Q. Okay.

17 A. I'm trying to pull Drew in this direction.

18 Q. And what is Mr. Torrence doing while you are trying
19 to do that?

20 A. Pushing against me. Like he's using his body
21 against me to go toward Zach. As we move along -- see,
22 I'm right in front of him, and Zach is clearly hitting
23 him and I'm being pushed toward Zach.

24 Q. Are you pulling yourself?

25 A. No, I'm not. I'm trying to push him away in one

1 direction. What I'm doing there is putting my arms back
2 to keep Zach from coming up behind me.

3 Q. Are you saying anything at this point?

4 A. I can't recall.

5 Q. Okay.

6 A. So it's like he is charging as I'm trying to push
7 him away.

8 There I go to push Zach away.

9 Q. Did you ever throw any punches?

10 A. No, I did not.

11 Q. Were you actually hit with any punches that were
12 thrown?

13 A. I was struck a couple of times.

14 Q. Were you a fighter?

15 A. Not particularly, no. No, I'm not. I'm trying to
16 get Zach to back off. That's what I'm trying to do, to
17 get him to back off.

18 Q. And at this point were you talking? Talking to Zach?

19 A. I believe I was saying that everything was okay; so
20 let's chill out. Let's all go home. It's over and done
21 with. It's late, and then you'll see him back off.

22 Drew's glasses got knocked off, and he says he can't
23 see, he can't see. So I eventually helped him find his
24 glasses and put them on for him.

25 And I'm saying, let's just go home. It's time for me

1 to go home. Let's go home.

2 Q. And did he again ask you if you wanted to kiss his
3 ass while you were helping him?

4 A. That's while I was helping him. Putting his glasses
5 on him.

6 (Video still running)

7 BY SOLICITOR:

8 Q. What are you saying there?

9 A. Telling him to back away, back away. I'm trying to
10 have him leave, telling him it's best just to go home.
11 Pat him on the back and go home. See?

12 Q. What's going on now?

13 A. I'm kind of angry still but I'm trying to calm down
14 the situation.

15 Q. Was anybody celebrating about what happened?

16 A. We were discussing what happened, but I don't recall
17 what we talked about, but I don't believe . .

18 Q. Why did you open the door there?

19 A. I heard someone banging on the door.

20 Q. And what's happening right now?

21 A. I'm talking. It's Drew at the door wanting to come
22 back in. I said, no, you all just got into a fight. It's
23 late, go home.

24 Q. What was he saying?

25 A. Talking about wanting to come in.

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1 Q. As he was talking about wanting to come in, what was
2 he saying?

3 A. I don't know if it was at that point that he said
4 this has nothing to do with you, this doesn't involve you,
5 or whether it was a few moments later where he was tell-
6 ing me to get up off the ground and get my hands on the
7 bar.

8 But he told me this has nothing to do with you; it
9 isn't about you.

10 Q. What does he have in his hand when he comes in the
11 door?

12 A. A gun.

13 Q. What does he do with it?

14 A. As I'm standing in the door, he points it at me.

15 Q. Okay.

16 A. Now he's not pointing at me here, but I'm still
17 trying to subdue the situation, saying, don't do this and
18 calm down, and he tells me to put my hands on the bar.

19 Q. Did he ever say anything about shooting anyone?

20 A. He did not.

21 Q. He told you when he was holding the weapon that it
22 doesn't have anything to do with you?

23 A. Exactly.

24 Q. Did he say what having the gun had to do with?

25 A. He didn't say anything that I remember.

1 Q. At this point Drew Torrence was between you and the
2 door, is that correct?

3 A. That's correct.

4 Q. Did you have any other means of getting out?

5 A. No, I did not.

6 Q. If you had continued to walk out of the bar there,
7 what would be there?

8 A. This stops right here. It's just a little hall with
9 nothing there. It's the end of the bar and then the wall.

10 Q. What are you doing at this point?

11 A. I think that is when I jumped over the counter.

12 Q. Why did you do that?

13 A. To get away. I was in fear for my life. I didn't
14 know what to do, so I just jumped over the bar.

15 Q. Are you okay?

16 A. I'm fine.

17 (Video continuing to run)

18 BY SOLICITOR:

19 Q. Would you describe for the jury the gunshots as you
20 heard them?

21 A. I'm sorry?

22 Q. Would you describe for the jury the gunshots as you
23 heard them?

24 A. It was -- it wasn't like bam-bam, but it was like bam
25 (pause) bam, or pop pop.

1 Does that make sense?

2 Q. And what did you do after that?

3 A. I stepped back into safety.

4 Q. Did anyone else come over the bar or where you were?

5 A. Several.

6 Q. Several?

7 A. Yes.

8 Q. You may take your seat again.

9 A. (Witness resuming witness stand)

10 Q. Thank you, Mr. Buchanan. Please answer any questions
11 Mr. Floyd may have for you.

12 THE COURT: Mr. Floyd?

13 MR. FLOYD: Thank you, Your Honor.

14 CROSS EXAMINATION

15 BY MR. FLOYD:

16 Q. Mr. Buchanan, did you discuss your testimony with any-
17 body at the Solicitor's Office?

18 A. What do you mean?

19 Q. Did you discuss what you were going to say with any-
20 one from the Solicitor's Office?

21 A. No.

22 Q. You never have?

23 A. Like have I discussed it with the Solicitor's Office?
24 I talked about what happened.

25 Q. Did you talk about what you were going to testify to?

1 A. I don't understand the question.

2 Q. Did you talk with them about what you were going to
3 testify to?

4 A. I talked with them about what happened.

5 Q. Did you see the video?

6 A. Yes, I did.

7 Q. When did you see the video?

8 A. Yesterday.

9 Q. Okay, did you discuss with them then what you were
10 going to testify about today?

11 A. You can say that.

12 Q. You gave your statement to the police department in
13 West Columbia in September of 2008, did you not?

14 A. Yes, sir.

15 Q. You gave a statement to the police officers in Decem-
16 ber of '08?

17 A. That's right.

18 Q. And isn't it true that at that time you say, I heard
19 one shot? Did you say that?

20 A. I don't know.

21 Q. Would you like me to show you the statement?

22 A. Sure.

23 (Brief pause)

24 Q. Did you say I heard one shot?

25 A. I did.

1 Q. And today you're telling us you heard two -- two
2 shots?

3 A. I did.

4 Q. Is that correct?

5 A. That's correct.

6 Q. Today you've seen the video and you have talked with
7 the Solicitor's Office?

8 A. Okay.

9 Q. But back then you said, I only heard one shot, is
10 that correct?

11 A. Yes.

12 Q. Thank you. Isn't it true that while you were hold-
13 ing Drew that Zach was striking him in the face numerous
14 times?

15 A. When Zach was striking Drew in the face numerous
16 times I wasn't holding Drew.

17 Q. Doesn't the video show your arms around him?

18 A. I am trying to push him in one direction.

19 Q. While Zach is hitting him?

20 A. I couldn't control what was going on behind me.

21 Q. Well, you were helping Zach out, weren't you?

22 A. I don't know.

23 Q. I thought you saw the video yesterday?

24 A. What I'm trying to say is . .

25 SOLICITOR: Your Honor, I think the video will speak

1 for itself, and it is for the jury to decide what is hap-
2 pening.

3 He said he didn't see what was . .

4 WITNESS: I was punched myself in the video, and don't
5 recall . .

6 BY MR. FLOYD:

7 Q. But we just spent five or ten minutes with you ex-
8 plaining the video.

9 THE COURT: Ask him a question.

10 Q. When looking at this video we see your arms around
11 Drew, and we see Zach punching Drew in the face, don't we?

12 A. We do.

13 Q. And when Mr. Torrence comes back in the bar, he did-
14 n't point the gun at you, did he?

15 A. He put -- see, I thought the gun -- he had the gun
16 pointed toward me, yes.

17 Q. And you said you gave a statement to the West
18 Columbia Police Department?

19 A. I just read the statement.

20 Q. Do you say he pointed the gun at you?

21 A. Not in the statement.

22 Q. But these are things you told the police right after
23 it happened?

24 A. Correct.

25 Q. And you never told them he pointed the gun at you?

1 A. Correct.

2 Q. That's correct, isn't it?

3 A. Yes.

4 Q. Now, when he came back in the bar from what we see
5 in the video, he doesn't point the gun at you in the video,
6 does he?

7 A. You can't even see him with the gun in the doorway.

8 Q. But he gets inside?

9 A. Right.

10 Q. And he's pointing the gun at the ground?

11 A. That's correct.

12 Q. And he tells you to put your hands on the bar?

13 A. Correct.

14 Q. And after you put your hands on the bar, that's when
15 the barstool comes flying. Is that correct?

16 A. Yes.

17 Q. Who threw the barstool?

18 A. Zach.

19 Q. You didn't tell the cops that, did you?

20 A. . .

21 Q. In your statement, you didn't say Zach threw the bar-
22 stool, did you?

23 A. No, I did not.

24 Q. You didn't say in your statement Zach came out swing-
25 ing, hitting him in the face?

1 A. No, I did not.

2 Q. You said it was a fight?

3 A. That's what it really was, was a fight.

4 Q. Who threw the first blow?

5 A. Zach.

6 Q. He never threw the first blow at all, did he?

7 A. . .

8 SOLICITOR: Objection, Your Honor. Again, that's
9 for the jury to decide.

10 BY MR. FLOYD:

11 Q. You never saw Drew throw any punch, did you?

12 A. Repeat the question.

13 Q. You never saw Drew throw any punch, did you?

14 A. No, I did not. I didn't see Zach throw even the
15 first punch. I had my back to Zach when it happened. I
16 was speaking to Drew, and Zach come around and started
17 punching Drew.

18 I got in the middle to defuse the situation, and in
19 the middle of it I got hit. Okay?

20 Q. You then saw Zach throw several punches, didn't you?

21 A. Of course.

22 Q. Zach -- you had your arms around Drew and Zach was
23 punching . .

24 A. I was trying to push Drew in one direction to keep
25 them from fighting.

1 Q. Okay, but isn't it true that you had your arms around
2 Drew . . .

3 A. If you want to put it like that.

4 Q. . . and Zach came around . . .

5 A. If you want to put it like that.

6 Q. Isn't that true?

7 A. If you want to put it like that.

8 THE COURT: That answer is not however he wants to
9 put it. The answer is -- if you don't recall, that can
10 be the answer.

11 Do you understand what I'm saying.

12 WITNESS: Yes, sir.

13 THE COURT: All right, so you can answer the question.
14 Did he do so or not? That's the answer. I don't know.

15 Restate your question, Mr. Floyd.

16 BY MR. FLOYD:

17 Q. Isn't it true that you had your arms around
18 Drew and Zach is punching Drew in the face?

19 A. That's correct.

20 Q. No further questions.

21 THE COURT: Mr. Solicitor or Solicitor?

22 REDIRECT EXAMINATION

23 BY SOLICITOR:

24 Q. Mr. Buchanan, do you have a copy of your statement
25 in front of you?

1 A. I do not.

2 Q. Let me show you your statement. Do you recognize that
3 as your statement?

4 A. That's correct.

5 Q. And that's the statement you gave to Investigator
6 Wade of the West Columbia Police Department?

7 A. Yes.

8 Q. Did you write down everything that happened in there?

9 A. That I recalled.

10 Q. And there is no reference in there about you being
11 gay, anywhere in there, is there?

12 A. In my statement?

13 Q. Yes. I'll strike that question. My question is
14 more -- my question is does the statement say that Mr.
15 Torrence was calling you names?

16 A. Yes.

17 Q. Does it . . .

18 A. In my statement -- let me read it.

19 Q. Okay.

20 A. Okay, I've got it -- I worded it that there were
21 things that were being said to myself and to everyone
22 else.

23 I didn't write that down.

24 Q. Is it fair to say that because you didn't write it
25 down that it didn't happen?

1 A. It happened. It is fair to say that it happened.

2 Q. You testified . .

3 A. Everything I've just said happened, and those com-
4 ments that were made in reference to me being
5 gay.

6 Q. Thank you.

7 THE COURT: Recross, Mr. Floyd?

8 MR. FLOYD: I have no further questions of this wit-
9 ness.

10 THE COURT: Thank you. Thank you very much, Mr.
11 Buchanan. You can step down.

12 (Witness excused from stand)

13 THE COURT: Call your next witness, Solicitor. How
14 long will your next witness be?

15 SOLICITOR: Probably ten minutes.

16 THE COURT: All right, you may call your witness.

17 SOLICITOR: Call Lee Ann Stovall.

18 THE COURT: All right. If you'd come around to be
19 sworn, please?

20 LEE ANN STOVALL, being duly sworn,
21 testified as follows:

22 CLERK: Please have a seat on the witness stand, and
23 once you are seated, speaking up loud and clear, state
24 your full name, spelling your last name.

25 WITNESS: Lee Ann Stovall, S T O V A L L.

1 CLERK: How do you spell Lee Ann?
2 WITNESS: L E E A N N, middle name.
3 DIRECT EXAMINATION
4 BY SOLICITOR GRAHAM:
5 Q. Ms. Stovall, where do you live?
6 A. Greenville.
7 Q. And where are you employed?
8 A. Carolina Elm House.
9 Q. How long have you been employed at Carolina Elm House?
10 A. Three years.
11 Q. Three years?
12 A. Yes, sir.
13 Q. Did you work for Carolina Elm House somewhere other
14 than prior there in Greenville?
15 A. I worked for Carolina Elm House for three years, but
16 Greenville just opened recently and I transferred there
17 in June.
18 Q. Let me take you back to September of 2008. Were you
19 familiar with a club called Shaggy's in West Columbia?
20 A. Yes, sir.
21 Q. How were you familiar with that club?
22 A. I used to be employed there.
23 Q. You were employed there?
24 A. Yes.
25 Q. Do you remember when you began your employment?

1 A. It was Halloween of '07, so October or the beginning
2 of November.

3 Q. And what were your duties there?

4 A. I started out as a bartender and later became a
5 manager as well.

6 Q. On the particular night of September 28, 2008, can
7 you tell me what time you arrived at Shaggy's?

8 A. It was around three in the morning.

9 Q. Three in the morning?

10 A. Yes.

11 Q. And where were you coming from?

12 A. I had just got off work.

13 Q. And when you got to Shaggy's, did you recognize any-
14 one -- any of the patrons inside?

15 A. Yes, sir.

16 Q. Who did you recognize?

17 A. I recognized Jennifer. It was the reason I came, to
18 see her, the bartender. O.B. was there, Tee was there. I
19 don't recall if Drew was there before I got there, but he
20 was there.

21 Q. Andrew Torrence?

22 A. Yes, sir.

23 Q. Is that who you're referring to?

24 A. Yes, sir.

25 Q. And so you knew Andrew Torrence?

1 A. Yes, sir.

2 Q. What was your relationship with him? How would you
3 describe it?

4 A. Acquaintances.

5 Q. Acquaintances?

6 A. Yes, sir.

7 Q. To your knowledge, had he been to Shaggy's before
8 this night?

9 A. Yes, sir. He would come five or six times a month --
10 not too often. Semi-regularly.

11 Q. Zachariah Chaplin, did you know him?

12 A. Yes, sir. We were good friends.

13 Q. And he was also a patron of Shaggy's?

14 A. Yes, sir.

15 Q. On that night, did you see Drew with Donna?

16 A. Yes, sir.

17 Q. And what time was that? Do you know?

18 A. Um, it was after I got there that I seen them
19 talking and walking around the tables.

20 Q. And were they together for a long time?

21 A. Um, I can't recall.

22 Q. At some point in time, did you see Donna with
23 someone else?

24 A. Yes, I saw her with Zach and Lee, talking.

25 Q. And where were they?

1 A. On the opposite side of the bar.

2 Q. So, if you would, the bar is U-shaped. Is that cor-
3 rect?

4 A. Yes, sir.

5 Q. And the back door -- let's assume the back door is
6 over here.

7 A. Okay.

8 Q. Where were you seated on this U-shaped bar?

9 A. I'm seated by the employee entrance. In the video,
10 I'm at the bottom.

11 Q. So you are away from the other side of the bar?

12 A. Yes. I'm facing the main entrance, yes.

13 Q. If I'm understanding you, Donna, Zach and Lee were
14 on the other side of the bar?

15 A. Yes, sir.

16 Q. Do you know where Drew Torrence was at that time?

17 A. Sitting at the bar on the corner to my left.

18 Q. So he was on the same side as you, but down the bar?

19 A. Yes, sir.

20 Q. Just a few feet?

21 A. Yes, sir.

22 Q. Is that accurate?

23 A. Yes, sir.

24 Q. What, if anything, did you hear Drew Torrence say?

25 A. Drew had asked me why I was mean to him previously

1 in the past two months, and I told him it was because I
2 didn't like him.

3 He kept asking me over and over again, and I ignored
4 him.

5 Q. Was there anything else that Drew said to anyone that
6 you heard?

7 A. Not that I can recall.

8 Q. Did you see any type of confrontation that night?

9 A. Oh, I did see Drew talking to Lee and hearing Lee get-
10 ting upset with Drew. I did hear Drew say while Lee was
11 getting upset something along the lines of -- I just heard
12 the words gay man, and then I heard Lee's voice getting
13 extremely irritated, and I hollared over the computer game
14 that I was playing to leave him alone.

15 Q. So that I understand you correctly . .

16 A. Yes, sir.

17 Q. . . you are on the opposite side of the bar playing
18 a video game?

19 A. Yes.

20 Q. On some type of device, and Drew Torrence is on the
21 other side of the bar sitting next to Lee?

22 A. Yes, sir.

23 Q. And Lee is next to Donna, and next to Donna is Zach,
24 is that correct?

25 A. Yes.

1 Q. And you were able to hear comments from Drew
2 Torrence calling or saying, hey, gay man, or something
3 like that?

4 A. That's the only thing I heard.

5 Q. And what did you hear from Lee?

6 A. I could hear his voice get louder and louder with
7 him asking him to leave him alone and to stop.

8 Q. And what did you do?

9 A. I yelled around to leave him alone.

10 Q. And did Drew Torrence respond to you at all?

11 A. No, sir.

12 Q. Okay. After that, was there a confrontation that
13 you observed?

14 A. I heard a fight start, and I looked across and saw
15 the three guys over there in a -- in some kind of commo-
16 tion.

17 Q. Describe that commotion to the jury or your percep-
18 tion -- how you saw it, and what was going on?

19 A. The computer game was in front of me, so looking
20 around it I saw Lee trying to separate the two of them,
21 and then Zach coming back in and hitting Drew.

22 Q. So would it be fair to say that in your opinion Lee
23 was acting as a peace-maker?

24 A. Definitely.

25 Q. Did you see that confrontation end?

1 A. Yes, sir.

2 Q. And what did you see occur after it ended?

3 A. I saw Lee trying to talk to Drew and calm him down,
4 helping him get his glasses off the ground, and help him
5 out the door and Zach away from him.

6 Q. And was Lee successful in doing that?

7 A. Yes.

8 Q. Once Drew Torrence left the premises or inside the
9 bar, what occurred?

10 A. We went back to the normal bar activities, playing
11 the games and hanging out.

12 Q. So everything just went back to normal?

13 A. Yes.

14 Q. Was there any event thereafter that caught your at-
15 tention?

16 A. Um, the knock on the door.

17 Q. And what happened after the knock on the door?

18 A. I was still playing this game with O.B. to my left,
19 and the knocking on the door -- I could hear someone talk-
20 ing over there, and I heard, oh, shit, and when I stood
21 up Drew was coming in.

22 And I heard, he's got a gun, and that's when I ran
23 and ducked down by the back -- by the employee entrance.

24 Q. Do you remember who said, he has a gun?

25 A. No, sir, I do not.

1 Q. And what, again, did you do?

2 A. I crouched down back by the back door, and then
3 Jennifer was hiding on the other side of the beer
4 coolers, down low too, and she was telling me to grab a
5 phone.

6 So I popped back up and I grabbed the cordless tele-
7 phone, and that's when Zach threw a chair over the bar,
8 and I started calling nine one one.

9 When I heard shots being fired I was already dialing
10 nine one one and trying to get out the back door.

11 Q. And were you able to make contact with nine one one?

12 A. I could hear her but she couldn't hear me. I was
13 trying to talk to her but she couldn't hear anything I
14 said.

15 And so then I came back inside and I tracked down my
16 cel phone, and Drew was in there and there was no one else
17 in there.

18 And Drew looked at me and said for me to call them,
19 call them.

20 Q. What did you do in response to that?

21 A. Took off. We went outside and we got in my truck and
22 we fled.

23 Q. When Drew Torrence directed you to call them, call
24 them, could you describe his demeanor to the jury?

25 A. It was a scary kind of eerie calm. Telling me to

1 call them, call them.

2 Q. Was he upset?

3 A. No.

4 Q. Was he hysterical?

5 A. No.

6 Q. Was he screaming?

7 A. No.

8 Q. He was calm?

9 A. Yes, sir.

10 Q. Mainly during this time while you were at Shaggy's,
11 you were there doing what?

12 A. Playing the game.

13 Q. And during that course of time that you were there,
14 did you have any alcoholic beverages?

15 A. I had about three or four. Not much.

16 Q. Beers?

17 A. Cocktails.

18 SOLICITOR: Beg the Court's indulgence.

19 THE COURT: Yes, sir.

20 (Brief pause in the proceeding)

21 BY SOLICITOR:

22 Q. You said that you were employed or began your em-
23 ployment with Shaggy's in 2007?

24 A. Yes, sir.

25 Q. And that continued until when?

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1 A. Around May of '08.

2 Q. May of '08?

3 A. Yes.

4 Q. And what were your job functions?

5 A. Bartender slash manager.

6 Q. And I believe you said that Mr. Torrence was a some-
7 what frequent patron of Shaggy's?

8 A. Yes, sir.

9 Q. Have you had the occasion to see Mr. Torrence, in
10 your opinion, intoxicated?

11 A. Yes, sir.

12 MR. FLOYD: Your Honor, I'm going to object. What
13 is the relevance of that?

14 THE COURT: Restate the question, Solicitor.

15 SOLICITOR: In -- during her time of employment at
16 Shaggy's, had she had the occasion, being a bartender, to
17 see, in her opinion, Mr. Torrence being intoxicated.

18 THE COURT: I would sustain that objection.

19 BY SOLICITOR:

20 Q. Ms. Stovall, do you have an opinion when you spoke
21 to Mr. Torrence in the early morning hours of September 28,
22 the time of the shooting and thereafter, on his intoxica-
23 tion?

24 A. Yes. He was very intoxicated. He was being irri-
25 tating.

1 Q. Thank you very much.

2 SOLICITOR: That's all I have, Your Honor.

3 THE COURT: Mr. Floyd?

4 MR. FLOYD: Thank you, Your Honor.

5 CROSS EXAMINATION

6 BY MR. FLOYD:

7 Q. Ms. Stovall, what time did you arrive at Shaggy's?

8 A. Around three A.M.

9 Q. And from that point on, you had three or four cock-
10 tails?

11 A. Yes, sir.

12 Q. Where had you been before?

13 A. Work.

14 Q. Where did you work?

15 A. The Carolina Elm House in the Vista.

16 Q. And did you have any alcohol while you were there?

17 A. We are not allowed.

18 Q. You didn't have any after you finished work?

19 A. No, sir.

20 Q. Did you give a statement to the police in connection
21 with this?

22 A. Yes, sir.

23 Q. And didn't you tell them back on September 28th that
24 you saw Zach reach across and punch Drew in the head?

25 A. Yes.

1 Q. And Lee tried to keep them apart which made Zach hit
2 him in the head?.

3 A. Yes.

4 Q. So whatever he was doing was causing Lee to get
5 hit in the head?

6 A. Yes, accidentally.

7 Q. Now, when Drew saw you after the shots were fired,
8 he asked you to call the police or call nine one one?

9 A. He didn't say police. He said call them.

10 Q. Speak up a little bit for me, please.

11 A. He just said, call them.

12 Q. Who did you think he was referring to?

13 A. Obviously the police.

14 Q. And did you ever see anybody in shock?

15 A. No, sir.

16 Q. Do you know whether or not Drew could have been in
17 shock?

18 A. No. I do not know whether or not he was in shock.

19 Q. No more questions.

20 THE COURT: Any further questions, Solicitor?

21 SOLICITOR: Just one question, Your Honor.

22 REDIRECT EXAMINATION

23 BY SOLICITOR:

24 Q. In your statement to law enforcement, how did you
25 describe the confrontation between Drew Torrence and Zach

1 Chaplin?

2 A. How did I describe the confrontation?

3 Q. Yes.

4 A. It was a fight.

5 Q. That's all I have, Your Honor.

6 THE COURT: Recross?

7 RECROSS EXAMINATION

8 BY MR. FLOYD:

9 Q. Did you see anything that is not on the video?

10 A. No, sir.

11 Q. A fight is when two people are hitting each other,
12 is that right?

13 A. Yes, sir.

14 Q. Thank you.

15 MR. FLOYD: No further questions.

16 THE COURT: Thank you, Ms. Stovall. You may step
17 down.

18 (Witness excused from stand)

19 THE COURT: All right, ladies and gentlemen, we'll
20 take our afternoon recess. Please leave your notes up-
21 side down on your chairs.

22 Do not discuss this case with anyone during this
23 brief recess.

24 (Jury excused from Courtroom)

25 THE COURT: All right, the Court will be in recess

1 for fifteen minutes.

2 (Whereupon, the Court took a brief recess after which
3 the case was resumed)

4 THE COURT: Anything before we bring in our jury
5 from the State?

6 SOLICITOR: No, sir, Your Honor.

7 THE COURT: Mr. Floyd?

8 MR. FLOYD: No, sir.

9 THE COURT: Let's have our jury.

10 (Jury returned to the Courtroom)

11 THE COURT: All right, Solicitor. You may call your
12 next witness.

13 SOLICITOR: Your Honor, the State calls Jennifer
14 Reynolds.

15 THE COURT: All right, come around, please, and be
16 sworn.

17 JENNIFER REYNOLDS, being duly
18 sworn, testified as follows:

19 CLERK: Please have a seat on the witness stand and,
20 speaking up loud and clear, state your full name, spelling
21 your last name.

22 WITNESS: Jennifer Warren Reynolds, R E Y N O L D S.

23 DIRECT EXAMINATION

24 BY SOLICITOR GRAHAM:

25 Q. Ms. Reynolds, how are you today?

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1 A. Great. How are you?

2 Q. Good, thank you.

3 Are you familiar with a club in West Columbia called
4 Shaggy's?

5 A. Yes, sir.

6 Q. How are you familiar with that bar?

7 A. I was an employee there.

8 Q. And when did you start your employment there?

9 A. It was April of '08 -- 2008.

10 Q. Okay. Specifically, let me take you to September
11 28, 2008. Were you working that night?

12 A. I came in at two o'clock that morning.

13 Q. Two o'clock?

14 A. In the morning. Yes, sir.

15 Q. Where were you coming from?

16 A. Coming from my other job. I had closed that place
17 down. I was the manager.

18 Q. And then you would work at Shaggy's?

19 A. Yes, sir.

20 Q. Okay, and your job at Shaggy's was . .

21 A. Bartender.

22 Q. Do you know the Defendant in this case, Andrew
23 Torrence?

24 A. Yes. I don't know him very well, but I do know of
25 him.

1 Q. And how do you know him?

2 A. From Shaggy's.

3 Q. How about Zachariah Chaplin? Did you know him?

4 A. Yes, sir. He was a very good friend of mine.

5 Q. And where do you know him from?

6 A. From Shaggy's also.

7 Q. Let me take you back to that night. Did you have
8 any contact with or do you remember seeing Andrew
9 Torrence?

10 A. Yes, sir. Yes, sir.

11 Q. Okay. Was he drinking?

12 A. Yes, sir.

13 Q. Do you know what he was drinking?

14 A. Southpaw.

15 Q. Softball?

16 A. A Softpaw -- beer.

17 Q. Beer?

18 A. Yes, sir.

19 Q. Did you see him with anyone while you were there?

20 A. I saw him with Donna. I can't -- I don't know her
21 last name. Sorry.

22 But I saw her and him talking around the pool table
23 area.

24 Q. And at that time when you saw him with Donna, do you
25 recall Zachariah -- if he was there?

1 A. I don't remember Zach being there. It was -- I came
2 in and he came in shortly after that. I think he had left
3 and came back.

4 But he arrived shortly after I had gotten there or
5 I saw him shortly after I got there.

6 SOLICITOR: Your Honor, may Mr. Floyd and I approach
7 the bench?

8 THE COURT: Yes, sir.

9 (Conference at the bench between counsel and the Court
10 off the record.

11 SOLICITOR: Thank you very much.

12 BY SOLICITOR:

13 Q. Ms. Reynolds, that night how would you describe Andrew
14 Torrence's demeanor?

15 A. He was very derogatory towards me and Donna at the
16 bar. I never heard what he said to Donna, but she was
17 sitting at the bar and I was cleaning up, trying to get
18 out of there, when I saw Donna -- she just had this look
19 on her face, a disgusting look on her face. He had said
20 something derogatory toward Donna.

21 Q. Who was with Donna after Andrew Torrence and Donna
22 split apart?

23 A. Zach and Lee.

24 Q. Do you recall how many beers you served Mr. Torrence
25 during that morning?

1 A. Somewhere between -- excuse me -- somewhere between
2 six and eight.

3 Q. Somewhere between six and eight?

4 A. Yes, sir.

5 Q. Did you hear Mr. Torrence make any derogatory com-
6 ments to anyone else that night?

7 A. Besides me? No, sir, and Lee. He called Lee gay
8 guy -- that's what I heard him say. Hey, gay guy.

9 Q. And where was Andrew Torrence when he said, hey, gay
10 guy?

11 A. Like if I'm -- this is the bar, and I was here clean-
12 ing off. Lee was sitting at the corner right here, and
13 Zach and Donna and Lee were by the door.

14 Q. And did you hear any response to his comment toward
15 Lee?

16 A. Um, his comment -- Drew's comment towards Lee?

17 Q. No, Lee's response to gay guy.

18 A. Yes. Zach said, don't call him that; do not call
19 him that.

20 Q. After that, what did you observe?

21 A. I was cleaning up and had my back to him the whole
22 time. I just saw bits and pieces.

23 I saw Drew get up and walk around the bar and come
24 sit by Lee, which was right close to the end of the bar
25 -- the other side of him.

1 Q. Okay. Were you in a position to hear anything that
2 was said?

3 A. No, sir. I was stocking beer in the coolers and every-
4 thing.

5 Q. Did you observe any type of confrontation that then
6 occurred?

7 A. No, sir. I saw the last bit of it when they were
8 arguing.

9 Q. They being who?

10 A. Drew and Lee -- I mean, Drew and Zach. Sorry.

11 Q. Drew and Zach?

12 A. Yes.

13 Q. They were arguing when you observed them?

14 A. Yes, sir.

15 Q. Did Andrew Torrence ask you to contact law enforce-
16 ment?

17 A. No, sir. Not one time.

18 Q. He didn't ask you to call the police?

19 A. No, sir.

20 Q. Did he ask you to call nine one one?

21 A. No, sir.

22 Q. What did Andrew Torrence do once there was separa-
23 tion between he and Zach?

24 A. They were looking for something. I don't know what
25 they were looking for, and then I . .

1 Q. Who is they?

2 A. Drew and Lee were looking for something. I don't
3 know what it was but as soon as they found what they were
4 looking for then Drew went out the door, and Lee kind of
5 -- he kind of moved him on out the door. No physical
6 harm or nothing, but . .

7 Q. He escorted him out the door?

8 A. Yes, sir.

9 Q. Business went back to usual?

10 A. Yes, everything was normal. I was cleaning up and
11 I went over there to see if Zach was okay -- to calm down,
12 you know; don't leave yet until Drew leaves. Give him time
13 to leave. Calm down.

14 Then everything went back to normal.

15 Q. What, if anything, happened after that?

16 A. I heard the knocking on the door. I heard that, and
17 I saw Lee go to the door and open the door, and I had my
18 -- I was standing at the game talking to someone, and I
19 had my back toward the door but I turned my head to see
20 who was coming through the door. And it was Drew coming
21 through the door.

22 Also, I heard, he's got a gun, and that's when I
23 went behind the bar.

24 Q. Do you recall who stated, he has a gun?

25 A. I think it was Zach but I'm not sure.

1 Q. You aren't sure?

2 A. No, sir.

3 Q. When that happened, what did you do?

4 A. I ran and I crawled up by the sink behind the bar on
5 the other side.

6 Q. Okay. What -- from the position you were hiding,
7 what, if anything, did you observe or hear?

8 A. All I heard was those two gunshots and the second
9 gunshot I heard I sat there for a minute and looked over
10 toward Drew was standing right there because Zach was
11 right there -- they were literally three feet away from me.

12 I lifted my head up and saw Drew. I never saw the
13 gun, but he was standing over Zach, after the second gun-
14 shot.

15 Then I got back down and that's when I decided to
16 run out the bar.

17 Q. So you heard two gunshots?

18 A. Yes, sir.

19 Q. Would you describe to the jury how the -- how the gun-
20 shots were?

21 A. It was probably twenty seconds apart. There was a
22 first one and then about twenty seconds later the next one.

23 Q. So it wasn't a bam-bam?

24 A. No, sir.

25 Q. More a bam (pause) bam?

1 A. Yes, sir.

2 Q. While you were employed at Shaggy's, to your know-
3 ledge, was Andrew Torrence ever employed as a security
4 guard at Shaggy's?

5 A. No, sir, he was no kind of employee. No bar-back,
6 no security, nothing.

7 Nothing at all. I was all that.

8 Q. Would it be accurate to say Andre Torrence was a
9 beer-drinking patron of Shaggy's?

10 A. Yes, sir.

11 Q. That's all the questions I have, Ms. Reynolds, and
12 would you please answer any questions Mr. Floyd has for
13 you?

14 A. Yes, sir.

15 THE COURT: Okay, Mr. Floyd.

16 MR. FLOYD: Thank you.

17 CROSS EXAMINATION

18 BY MR. FLOYD:

19 Q. Ms. Reynolds, you were the bartender that night?

20 A. Yes, sir.

21 Q. And you came in at three or so in the morning?

22 A. Yes, sir, or maybe a little bit after two.

23 Q. And when you came in, was Mr. Torrence already
24 there?

25 A. I don't think he was. Like I say, I came in to a

1 busy bar and I was trying to clean up, so I really didn't
2 pay attention to who was there and who wasn't.

3 Q. So Mr. Chaplin wasn't there?

4 A. He wasn't in the bar.

5 Q. And what time did you see him?

6 A. It was shortly after I got there. Maybe twenty min-
7 utes but maybe not even that.

8 Q. Mr. Chaplin was a friend of yours?

9 A. Yes, sir.

10 Q. So how long had you known him?

11 A. I would say I met Zach shortly after I started to
12 work at Shaggy's, and that was in April -- like the mid-
13 dle of April I started.

14 So I met him at the end of April.

15 Q. Now, do you recall when Mr. Torrence came in?

16 A. No. I saw him -- I noticed him as he came into the
17 bar, and then he got his beer, and that's when he had
18 started walking around.

19 Q. Was he intoxicated?

20 A. I couldn't tell. Not really. He sat down and said,
21 can I have a beer?

22 Q. So you couldn't tell if he was intoxicated?

23 A. Not until he started walking around. I mean, he
24 wasn't stumbling or anything, but when he started talking
25 the way he was talking to people I could tell that he was,

- 1 Q. And what time was that?
- 2 A. It was -- I can't recall. I might have been there
- 3 thirty minutes, an hour.
- 4 Q. And this incident you described occurred about three
- 5 hours after you got there?
- 6 A. Yes, sir.
- 7 Q. Did you continue to serve him after that?
- 8 A. No, I had to stop actually. I cut him off.
- 9 Q. When did you cut him off?
- 10 A. It was between -- like I said, he had had six or
- 11 eight, and that was when I cut him off.
- 12 Q. How soon did you cut him off?
- 13 A. He had maybe -- he was on his last beer. I don't
- 14 know. I can't recall how long it was.
- 15 Q. So are you saying you had cut him off?
- 16 A. Yes, sir.
- 17 Q. And he still had a beer in his hand, didn't he?
- 18 A. That was his last beer.
- 19 Q. And when had you served him that last beer?
- 20 A. He had it about an hour because I had cut him off.
- 21 So he was pretty much baby-sitting that one, the beer.
- 22 Q. And you don't recall when he came in that night?
- 23 A. No, sir.
- 24 Q. So there was nothing about his coming in the bar that
- 25 caught your attention?

1 A. No, sir.

2 Q. You remember Zach coming in?

3 A. Yes, sir.

4 Q. And you say he came in about a half hour after you?

5 A. Maybe not even that. Say an hour -- I mean, twenty
6 to thirty minutes. Somewhere around there.

7 Q. And when -- did he leave at some point?

8 A. Zach did not leave.

9 Q. Zach never left?

10 A. I don't know if he was in there when I got there,
11 but when he came to the bar is when I knew he was there.

12 Q. And you did not see Zach hitting Drew in the face?

13 A. No, sir. My back was to me -- I mean, my back was
14 to them. I was in and out the back door, cleaning up.

15 Q. Did you hear blows being struck?

16 A. I heard the last blow.

17 Q. The last blow?

18 A. But I still had my back -- I mean, it could have
19 been somebody pushed up against the wall. I don't know
20 for sure, but it could have been, somebody being pushed
21 up against the wall, or somebody's elbow hitting into
22 the wall.

23 MR. FLOYD: May I have just a moment?

24 THE COURT: Yes, sir.

25 (Brief pause in the proceeding)

1 MR. FLOYD: No further questions, Your Honor.

2 THE COURT: Any Redirect?

3 SOLICITOR: Briefly, Your Honor.

4 REDIRECT EXAMINATION

5 BY SOLICITOR:

6 Q. Ms. Reynolds, do you recall how many alcoholic
7 beverages you served Zachariah?

8 A. Yes, sir. It was three. Vodka red boys -- Zach's
9 bar tab was Nine Dollars.

10 SOLICITOR: That's all I have, Your Honor.

11 THE COURT: Recross?

12 MR. FLOYD: Yes, sir.

13 RECROSS EXAMINATION

14 BY MR. FLOYD:

15 Q. How many drinks did you serve Mr. Buchanan?

16 A. It was between six to eight. In fact, I -- the rea-
17 son I know how many I served Zach was because Zach had a
18 tab.

19 Q. You said six to eight for him and six to eight for
20 Mr. Torrence?

21 A. No, I said six to eight for Mr. Torrence. It was
22 three drinks for Zach because he had a tab. I remember
23 when he paid his tab.

24 Q. How about Mr. Buchanan? How many did you serve him?

25 A. Oh, I have no idea.

1 Q. You have no idea?

2 A. He didn't have a tab.

3 Q. And how many did you serve Ms. Mozenko?

4 A. I think -- nobody had a tab. At the time I got there
5 Zach was the only one who had a tab, and I opened his tab
6 for him.

7 Q. How many did you serve Ms. Stovall?

8 A. She -- nobody had a tab. He was the only one with a
9 tab.

10 Q. Mr. Torrence didn't have a tab either, did he?

11 A. No, sir. He was paying cash.

12 Q. So you can't remember how much anybody else had to
13 drink?

14 A. Nobody else had a tab. That's why I remember what
15 he had. It was my only tab when I was there.

16 Q. I understand he had a tab, Ms. Reynolds?

17 A. Right.

18 Q. And nobody else had a tab?

19 A. No, sir.

20 Q. So you have no idea how much anybody else had to
21 drink?

22 A. No, sir.

23 Q. Thank you.

24 MR. FLOYD: Nothing further.

25 THE COURT: Thank you very much. You can step down,

1 Ms. Reynolds.

2 (Witness excused from stand)

3 THE COURT: All right, you may call your next wit-
4 ness, Solicitor.

5 SOLICITOR: The State calls Orlando Boyd.

6 THE COURT: All right. Come around and be sworn,
7 please, sir.

8 ORLANDO BOYD, being duly sworn,
9 testified as follows:

10 CLERK: Have a seat, please, and once you are seated
11 state your full name on the record, spelling your last
12 name.

13 WITNESS: Orlando Boyd, B O Y D.

14 CLERK: Spell Orlando.

15 WITNESS: O R L A N D O.

16 DIRECT EXAMINATION

17 BY SOLICITOR GRAHAM:

18 Q. Mr. Boyd, how you doing this afternoon?

19 A. All right.

20 Q. Are you familiar with a club or nightclub in West
21 Columbia called Shaggy's?

22 A. Yes, I am.

23 Q. Let me take you back to September 28th -- the night
24 of September 27th into the morning hours of September 28th.
25 Were you there?

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- 1 A. Yes, sir.
- 2 Q. What time did you arrive at Shaggy's?
- 3 A. I believe it was around nine o'clock.
- 4 Q. Nine P.M. on the 27th?
- 5 A. Right.
- 6 Q. Saturday night?
- 7 A. Right.
- 8 Q. Okay, and what were you doing there?
- 9 A. Just hanging out, shooting pool.
- 10 Q. Okay, were you there by yourself?
- 11 A. No. Me and my girlfriend, my wife now.
- 12 Q. All right. Who else was there that you knew?
- 13 A. At that particular moment, at nine when we arrived
- 14 at the bar?
- 15 A. I'll tell you what. Let's advance on to around three
- 16 A.M. on the 28th. Who do you recall being in that bar?
- 17 A. Um, I know me and my wife were there, and Zach and
- 18 I guess Drew.
- 19 Zach was there with some other girl. There was some
- 20 other girl who worked there and I believe Jennifer was
- 21 there as well.
- 22 Q. Jennifer? Jennifer being . .
- 23 A. The bartender.
- 24 Q. Okay, and what was going on during that period of
- 25 time?

1 A. I was shooting pool and dancing.

2 Q. Did you have the occasion to interact with Andrew
3 Torrence?

4 A. I believe I probably spoke him at some time but I
5 had no other interaction.

6 Q. All right. Do you recall specifically anything you
7 said or did in relation to Mr. Torrence?

8 A. I believe I was at the bar and bought him a shot. I
9 bought shots a lot because I didn't want to drink by my-
10 self.

11 Q. So it's not uncommon for you to buy shots for people
12 at the bar?

13 A. Right.

14 Q. Shaggy's is one of your hangouts. Is that accurate?

15 A. Yeah.

16 Q. Okay. Did you know Zachariah Chaplin?

17 A. Yes.

18 Q. How long had you known him?

19 A. Approximately about a year.

20 Q. Okay. How would you describe your relationship with
21 Zach?

22 A. We weren't like buddy-buddy, but whenever I'd go
23 and he was there we would talk, go in and shoot pool, and
24 hang out.

25 Q. Okay. Did you know a guy by the name of Lee Buchanan?

- 1 A. Before that night?
- 2 Q. Before that night, did you know Lee Buchanan?
- 3 A. I don't recall knowing him before that night, no.
- 4 Q. Okay. No way, shape or form did you know Lee
- 5 Buchanan?
- 6 A. No, sir.
- 7 Q. Did you hear any type of derogatory comments from
- 8 Drew Torrence towards anyone that night?
- 9 A. At one point, I recall him and Lee getting into it.
- 10 I don't recall what it was about but you could tell it
- 11 was a heated discussion.
- 12 Q. At that point in time, in that U-shaped bar, where
- 13 were you?
- 14 A. I believe I was over by the machine at the time.
- 15 Q. The machine -- let's say that's the back door.
- 16 A. Uh hm.
- 17 Q. You were at the bar and the machine is over here on
- 18 this side?
- 19 A. Yes.
- 20 Q. And you were up here near or at the machine?
- 21 A. Right.
- 22 Q. And when you hear this -- these comments, where is
- 23 Andrew Torrence?
- 24 A. I believe -- I don't recall exactly but I'm pretty
- 25 sure over in that area on the other side.

1 Q. On the other side?

2 A. Near the entrance.

3 Q. Okay. Who all was over there?

4 A. My girlfriend, Zach, the girl he was with, Lee, and
5 I guess Drew.

6 Q. Okay. Were you able to make out what was being said?

7 A. I don't recall. Like I said, all I know is that it
8 was kind of heated.

9 Q. How did you know it was heated?

10 A. Just by the raised voices and that kind of thing.

11 Q. Any physical gesturing from anyone?

12 A. I believe from Zach and Drew primarily had some heated
13 argument or something.

14 Q. Okay. After that, was there any type of confronta-
15 tion that you saw?

16 A. Yeah, there was a fight between Drew and -- you know,
17 some fight, and Drew was asked to leave.

18 Q. Okay. Did you see the fight?

19 A. I knew there was a fight.

20 Q. Okay. Would you describe that to the jury, please?

21 A. As the guys got into it, more or less one thing led
22 to another, and it kind of blew into -- you know, into a
23 physical thing, and Zach was asked to leave.

24 Q. All right. Do you recall Lee Buchanan and what he
25 did during the fight?

- 1 A. As I recall, I remember Lee trying to break it up.
2 It looked like he was trying to break it up.
- 3 Q. You said that after that Andrew Torrence left?
- 4 A. Right.
- 5 Q. After that, what, if anything, happened?
- 6 A. Things kind of settled down and we went back to what
7 we were doing, just -- I mean, it's not uncommon for some-
8 one to get in a fight in Shaggy's.
- 9 Q. So things kind of de-escalated and there were no more
10 problems inside the bar?
- 11 A. Right.
- 12 Q. Subsequently, did anything happen that drew your at-
13 tention?
- 14 A. Um, when Drew came back into the bar, and somebody
15 said something about a gun, and I think everyone was kind
16 of scared. I know I was scared when I heard he had a gun
17 in there.
- 18 And then Drew approached Lee and Zach, and there was
19 a chair thrown, and the next thing I know shots went off,
20 and that's what we heard.
- 21 Q. Okay. How many shots do you recall hearing?
- 22 A. Two shots.
- 23 Q. And could you describe the shots?
- 24 A. Um, there was a shot and there was like a one or two
25 second hesitation, and then another one.

1 Q. So it was actually not bam-bam, but bam (pause) bam?

2 A. Right.

3 Q. What did you do after the gunshots?

4 A. My wife or my girlfriend at the time grabbed me and
5 said, let's get out of here, and we ran. I eventually
6 called nine one one.

7 Q. You called nine one one?

8 A. Yes, sir.

9 Q. Describe that to the jury. Where were you when you
10 called nine one one?

11 A. I believe we were at the gas station, the Little
12 Cricket up the road, and we called nine one one and told
13 them what was going on. Then during the conversation I
14 could see the cops going down toward the bar.

15 Q. Okay. Mr. Boyd, have you had an opportunity to lis-
16 ten to nine one one calls that were made that morning?

17 A. Yes.

18 Q. And were or was your call one of the calls you lis-
19 tened to?

20 A. Yes.

21 Q. And what, if you recall, did you tell the nine one
22 one operator?

23 A. I told her that a guy had got into it with another
24 guy and that he came back in and shots were fired; that
25 somebody needed some help over there.

1 Q. Did you tell them your name?

2 A. No.

3 Q. Was there a reason why you didn't tell them your
4 name?

5 A. At the time, and it's six o'clock in the morning,
6 and we had been drinking all night in the bar.

7 Q. Were you drunk?

8 A. No, sir.

9 Q. Whose phone did you use to call?

10 A. It was my phone or my wife's.

11 Q. I'm sorry.

12 A. We both had phones and it was either mine or my
13 wife's.

14 Q. Your girlfriend at the time?

15 A. Yes, sir.

16 Q. And you spoke to a nine one one dispatcher in West
17 Columbia?

18 A. Yes.

19 Q. Mr. Boyd, you had been there since nine P.M.?

20 A. Roughly, yes.

21 Q. Okay, and it is roughly around six forty-five or so?

22 A. Yes, six something in the morning.

23 Q. What were you drinking that night?

24 A. What didn't I drink? Beer and some shots.

25 Q. That's all the questions I have, Mr. Boyd.

1 Please answer any questions Mr. Floyd may have.

2 A. Yes, sir.

3 THE COURT: All right, thank you.

4 Cross examine, Mr. Floyd.

5 MR. FLOYD: Thank you, Your Honor.

6 CROSS EXAMINATION

7 BY MR. FLOYD:

8 Q. Mr. Boyd, did you overhear some conversation between
9 Drew and Zach during that evening?

10 A. I don't recall anything that was said.

11 Q. Do you recall Mr. Chaplin asking Mr. Torrence how
12 much money he had in his pocket or something like that?

13 A. No, sir.

14 Q. Did you know Mr. Buchanan?

15 A. Before that evening, no, sir.

16 Q. Did you in fact say anything to Mr. Torrence about
17 Mr. Buchanan's sexuality?

18 A. I don't recall saying anything like that. I mean, I
19 am pretty sure that was not said.

20 Q. You gave a statement to the police earlier, did you
21 not?

22 A. Yes, sir.

23 Q. And did you tell them you didn't ever remember see-
24 ing Drew come in?

25 A. Seeing him come in?

1 Q. See him with a gun?

2 A. I don't believe I actually saw a gun.

3 Q. So you didn't actually see the shots?

4 A. No, but I kind of assumed them.

5 Q. Thank you.

6 MR. FLOYD: No further questions, Your Honor.

7 THE COURT: Redirect?

8 SOLICITOR: No sir.

9 THE COURT: Thank you very much, Mr. Boyd. You
10 may step down.

11 (Witness excused from stand)

12 THE COURT: All right, you may call your next wit-
13 ness, Solicitor.

14 SOLICITOR: The State calls Torehejar Boyd.

15 THE COURT: All right, if you'd come around and be
16 sworn, please.

17 TOREHEJAR BOYD, being duly sworn,
18 testified as follows:

19 CLERK: Have a seat and once you are seated speak up
20 loudly and tell us your full name, spelling your first
21 and last name, please.

22 WITNESS: Torehejar Boyd. T O R E H E J A R, Elum,
23 E L U M, Boyd, B O Y D.

24 DIRECT EXAMINATION

25 BY SOLICITOR

1 Q. Ms. Boyd, where are you employed?

2 A. Palmetto Health Richland.

3 Q. And what do you do there?

4 A. I work as a medical laboratory technician.

5 Q. Back in September of 2008 -- your last name is Boyd
6 now, but it wasn't then, was it?

7 A. It was not.

8 Q. What was your relationship with Orlando Boyd that
9 night?

10 A. We were in a boyfriend-girlfriend relationship.

11 Q. And now you're married?

12 A. Yes.

13 Q. How often -- were you a regular at Shaggy's, or how
14 would you describe how often you went there?

15 A. Um, I would consider myself a regular.

16 Q. Do you remember the night hours -- the evening hours
17 of September 27th into the morning hours of September the
18 28th?

19 A. I don't quite remember exact details, but I do remem-
20 ber somewhat of what happened.

21 Q. Were you there with Orlando the whole time?

22 A. I was.

23 Q. How much do you think you had to drink over the course
24 of the night?

25 A. Well, I didn't drink Tequila so it -- I was only

1 drinking beer and not that much of it.

2 I'm not a big drinker like Orlando.

3 Q. Would you consider yourself intoxicated that night
4 or that morning?

5 A. That night, yes, but going into the morning I
6 believe I had sobered up a little bit.

7 Q. Did you know Zach at the time?

8 A. At the time, yes.

9 Q. Who all did you know -- what other people do you re-
10 member seeing in the bar?

11 A. . .

12 Q. Did you know Donna?

13 A. I do not know Donna.

14 Q. Did you know Tonya or Steve?

15 A. Tonya -- not so much Tonya. We had seen her in and
16 out, but I didn't know her.

17 Q. Jennifer, the bartender?

18 A. Yes.

19 Q. Lee Ann?

20 A. Lee Ann -- yes.

21 Q. How about -- does the name Lee Buchanan mean any-
22 thing to you?

23 A. It does not.

24 Q. Do you remember Drew Torrence being there?

25 A. Yes.

320

1 A. Yes.

2 Q. Do you remember him having any conversations -- when
3 is the first time you remember him being there, and I'm
4 not asking for a time, but what was going on the first
5 time you recall him being there?

6 A. I remember being in the middle of the U-shaped bar
7 having a drink because I remember Orlando bought him a
8 drink.

9 Q. What is the next thing that stands out in your mind
10 as far as Drew being there in the bar?

11 A. I remember him being in a conversation with Donna and
12 Zach, me and Lee.

13 Q. You are saying Lee?

14 A. I didn't know him that night. That was my first
15 time seeing him.

16 Q. What part of the bar -- you say the U-shaped bar,
17 but where . .

18 A. Next to the door.

19 Q. In the corner?

20 A. The entrance door.

21 Q. Oh, I'm sorry. The corner of the bar?

22 A. Yes.

23 Q. And you were over there with them?

24 A. Right.

25 Q. What do you hear of the conversation which Mr.

321

1 Torrence said, if he said anything?

2 A. I don't really remember all the conversation, but --

3 I do remember him having a conversation with Donna about

4 menses or PMS. Do you know what menses is?

5 Q. And what did that mean to you?

6 A. Menses is basically are you on the rag or PMSing.

7 Q. How did you take the statement about menses that Mr.

8 Torrence asked Donna?

9 A. I didn't pay really any attention.

10 Q. And what did Donna say?

11 A. Donna was like, I know what it is, but she was cool to

12 him as she said it.

13 Q. What was the body language between the two of them?

14 A. His body language I'm not quite sure, but I do speci-

15 fically remember Donna's body language.

16 Q. What was she doing?

17 A. She was being -- kind of like shrugging him off.

18 Q. Did she continue to talk to him after that?

19 A. No.

20 Q. Do you remember whether Mr. Torrence said anything

21 about Zach at that time?

22 A. No.

23 Q. Do you remember whether Mr. Torrence said anything

24 to the person you are calling Lee, the other person, ask-

25 ing him if he was -- whether he was white or black,

1 or asking Zach if he was white or black?

2 A. What other male? Lee?

3 Q. Lee.

4 A. Lee is a caucasian.

5 Q. Did Mr. Torrence say anything to Lee around that
6 same time?

7 A. Yeah, it was like right after him talking with her
8 -- with Donna.

9 Q. Do you remember what was said?

10 A. He was calling him basically gay and making like
11 gay interjections to Lee.

12 Q. And were you telling from Lee's body language how
13 he was reacting to that?

14 A. He was quite irritated by it, and he wanted him to
15 stop.

16 Q. Do you remember if Zach said anything at that point?

17 A. I don't quite remember what Zach said, but he was
18 getting irritated with it too.

19 Q. What is the next thing you remember happening?

20 A. I guess when it broke into a fight.

21 Q. What did you do when the fight broke out?

22 A. I just backed away.

23 Q. At some point, did that end?

24 A. It did end, and he was asked to leave.

25 Q. Did he leave?

1 A. He did leave.

2 Q. Do you remember him saying anything when he was leav-
3 ing?

4 A. He did not.

5 Q. What's the next thing you remember involving Mr.
6 Torrence?

7 A. I remember going to the juke box and that's when
8 Lee had -- after he left, Lee had opened the door and he
9 said, he's got a gun.

10 Q. When you heard the statement he's got a gun, what did
11 you do?

12 A. I ran to the bathroom.

13 Q. How long did you stay there?

14 A. Not very long. I listened a minute and then I came
15 out.

16 Q. Could you tell what was going on?

17 A. Zach threw a chair. I'm sorry. Zach threw the chair
18 before I went to the bathroom.

19 Then when I went to the bathroom and came out of the
20 bathroom is when I looked over at Orlando and I said, do
21 you believe Drew has a gun?

22 And he said, I don't know but I'm going to stick
23 around to find out, and as we were leaving out the door
24 is when we heard the gunshots.

25 Q. You say gunshots. How many shots did you hear?

1 A. I heard two.

2 Q. Describe for the jury whether they were close to-
3 gether or far apart from what it sounded like to you?

4 A. It seemed like they were close together but as
5 I was running out the door it was just adrenalin. So I
6 . .

7 Q. Can you describe that to the jury? Make the noise
8 of the gunshot?

9 A. Pow pow.

10 Q. When you and Orlando ran out the door, where did you
11 go?

12 A. We went to the convenience store up the street.

13 Q. Did you all walk or drive?

14 A. We drove. Actually, I drove.

15 Q. Why did you drive?

16 A. Because Orlando was intoxicated.

17 Q. Did one of the two of you call nine one one?

18 A. I might have dialed it but he answered the phone.

19 Q. Whose phone was it?

20 A. It was mine.

21 Q. Were you present in the car when Orlando was on the
22 phone?

23 A. Yes, I was.

24 Q. And have you heard that nine one one call?

25 A. Yes.

1 Q. And does that fairly and accurately depict the con-
2 versation Orlando had with nine one one?

3 A. Yes.

4 Q. You never went to the police, is that correct?

5 A. This is correct.

6 Q. At some point later, did you get contacted by the
7 police?

8 A. I did.

9 Q. Do you remember who contacted you?

10 A. Um, it was a black gentleman. I think it was Wade
11 or -- Officer Wade.

12 Q. Was it Detective Wade?

13 A. Yes. There he is.

14 Q. Did he call you or come by and see you, or how was
15 the first contact made?

16 A. He called me.

17 Q. Did he call you on the cel phone that Orlando had
18 used that night to call nine one one?

19 A. He did.

20 Q. Please answer any questions Mr. Floyd may have for
21 you.

22 A. Yes, sir.

23 THE COURT: Thank you, Mr. Solicitor.
24 Mr. Floyd?

25 MR. FLOYD: Thank you, Your Honor.

1 CROSS EXAMINATION

2 BY MR. FLOYD:

3 Q. Did you see Mr. Torrence come into the establishment
4 that evening? Did you see what time he came in?

5 A. No.

6 Q. What time did Mr. Chaplin come in?

7 A. In an hour.

8 Q. Were they there when you first got there?

9 A. I --to be honest, I really don't know that. All I
10 remember is being -- I saw Zach and Donna together, and
11 I remember commenting on them, like I thought they were
12 there together.

13 Q. And did you see Zach get hit?

14 A. He hit Drew. He did.

15 Q. Did you see him hit Drew more than once?

16 A. I don't recall. He might have. He was quite
17 irate with him.

18 Q. Someone had to get him off of Drew?

19 A. Repeat the question.

20 Q. Someone had to pull him off of Drew?

21 A. Yes.

22 Q. Because he was hitting Mr. Torrence because he was
23 irate?

24 A. Yes. He was displaying his feelings.

25 Q. Nothing further.

1 THE COURT: Any Redirect?

2 SOLICITOR: Nothing further.

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

5 (Witness excused from stand)

6 THE COURT: All right, Solicitor. You may call
7 your next witness.

8 SOLICITOR: Your Honor, I expect the next witness
9 to be fairly long and I don't know if you want to con-
10 tinue or not.

11 THE COURT: Well, it depends on what you mean by
12 fairly long.

13 SOLICITOR: Also, we may have a legal matter on that
14 witness.

15 THE COURT: All right. Well, then what I will do
16 is release the jury and take up the legal matter, to save
17 them from waiting, and you can call your witness in the
18 morning.

19 All right. Mr. Foreman and ladies and gentlemen of
20 the jury, Ms. Boyd will be the last witness of the day
21 as far as the jury is concerned.

22 I remind you that during this recess you are not to
23 discuss the case with anyone, and that includes your fel-
24 low jurors, family, friends, or anyone else.

25 Do not watch, listen to or read any reports about

1 the case should there be any. Do not do any investiga-
2 tion on the Internet or on your computers.

3 Remember to keep an open mind and do not begin your
4 deliberations until you are instructed to do so by me.

5 Please be back in your jury room at nine thirty in
6 the morning. Be back in your jury room promptly at nine
7 thirty in the morning.

8 Leave your notes on your chairs upside down, and I
9 will have the Clerk's Office secure them.

10 You are now excused, and I hope you all have a
11 pleasant evening.

12 (Jury excused for the evening)

13 THE COURT: All right. You say we have a legal is-
14 sue to take up?

15 SOLICITOR: Yes, sir, Your Honor.

16 THE COURT: Are you all right, Madam Reporter?

17 COURT REPORTER: Yes, sir.

18 THE COURT: All right.

19 SOLICITOR: Your Honor, this matter involves Donna
20 Muszynski.

21 She had in her purse that night a small quantity of
22 cocaine. It is the State's position that the Defense
23 should not be allowed to question her about that cocaine
24 because it is irrelevant.

25 The Defense through Dr. Ross is able to

1 put before this jury that there are records showing -- or
2 a toxicology report showing that Zach had cocaine in his
3 system, and I'll be happy to put Ms. Muszynski on the wit-
4 ness stand and have her testify as to the things she had
5 in her purse.

6 THE COURT: Mr. Floyd?

7 MR. FLOYD: Your Honor, we think it is admissible,
8 and for these reasons.

9 One, it would be admissible and relevant to the jury
10 on the believability or credibility of the witness who
11 had cocaine in her purse.

12 Two, she lied about the cocaine the night in ques-
13 tion, and, three, she is not being prosecuted for the
14 possession of cocaine.

15 That goes to bias, and we've got bias, credibility,
16 and she lied about the cocaine being hers; we have per-
17 sonal gain, and then we've got the possession, all of
18 which we believe would suggest that it would be admiss-
19 ible.

20 THE COURT: All right, you may call your witness,
21 Solicitor.

22 SOLICITOR: Thank you, Your Honor. The State calls
23 Donna Muszynski.

24 DONNA MUSZYNSKI, being duly
25 sworn, testified as follows out of the presence of the
330

1 jury:

2 CLERK: Have a seat, maam, and once you are
3 seated state your full name, spelling the last for the
4 record, please.

5 WITNESS: Donna Denise Muszynski, M U S Z Y N S K I.

6 DIRECT EXAMINATION

7 BY SOLICITOR:

8 Q. Ms. Muszynski, let me take you back to September 28
9 of 2008.

10 What were you doing?

11 A. That night before I was working at Heartbreakers..

12 Q. And Heartbreakers is what?

13 A. A gentleman's club.

14 Q. And what was your occupation?

15 A. I was a dancer.

16 Q. Prior to you leaving Heartbreakers, did you come
17 into possession of cocaine?

18 A. Yes, sir.

19 Q. Or what you believed to be cocaine?

20 A. Yes, sir.

21 Q. What did you do with it?

22 A. I put it in my purse.

23 Q. And subsequent to that, did you go to Shaggy's?

24 A. Yes.

25 Q. And was the cocaine still in your purse?

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- 1 A. Yes.
- 2 Q. And did you meet the victim in this case, Zach
- 3 Chaplin, at Shaggy's?
- 4 A. Yes.
- 5 Q. How long had you known Zach?
- 6 A. I met him the week before.
- 7 Q. And what was your purpose in going to Shaggy's that
- 8 night?
- 9 A. The week before, I met Zach and his friend, Jay, and
- 10 I went back to see if Jay was there that night.
- 11 Q. So your purpose wasn't to go to meet Zach? It was
- 12 to meet Jay?
- 13 A. Correct.
- 14 Q. Did Zach Chaplin and you discuss cocaine?
- 15 A. No, sir.
- 16 Q. Did you and Zach Chaplin ever do cocaine together?
- 17 A. No, sir.
- 18 Q. Did Zach Chaplin sell you any cocaine?
- 19 A. No.
- 20 Q. Did he have any knowledge whatsoever that you had a
- 21 small quantity of what you believed to be cocaine in your
- 22 purse?
- 23 A. Not that night.
- 24 Q. And where was your purse located?
- 25 A. Primarily behind the bar.

1 Q. Behind the bar?

2 A. Yes.

3 Q. After the shooting, and after the police arrived,
4 where did you go?

5 A. I went to the police station.

6 Q. You were taken to the police station?

7 A. Yes, sir.

8 Q. And what did you do there?

9 A. I gave my statement.

10 Q. And when you gave your statement, did you have any
11 idea that law enforcement had any knowledge that you had
12 cocaine in your purse?

13 A. No, sir.

14 Q. Since that time, have you been charged with the crime
15 of possession of cocaine?

16 A. No, sir.

17 Q. And has anyone in law enforcement made any promises
18 to you in regard to your testimony in this case and the
19 cocaine that was subsequently found in your purse?

20 A. No.

21 Q. Did you have occasion to meet with Solicitor Graham
22 prior to the trial of this case?

23 A. Yes, sir.

24 Q. And when you met with us, did you tell us the facts
25 as you recalled them as to what occurred on September 28

1 of 2008 at Shaggy's prior to the mention of the co-
2 caine?

3 A. Yeah.

4 Q. You gave us your recollection of events prior to the
5 cocaine being mentioned to you?

6 A. We discussed everything that happened in the club,
7 and we discussed the cocaine.

8 Q. And at that point in time, did Deputy Solicitor
9 Graham mention the cocaine that was found in your purse?

10 A. I'm sorry. What did you say?

11 Q. After you discussed what had occurred with regard to
12 Zach Chaplin with Solicitor Graham, did he make any state-
13 ments to you regarding the cocaine?

14 A. Yes.

15 Q. What did he tell you?

16 A. He told me that it was not his intent to charge me
17 with possession.

18 Q. Did you have any contact with law enforcement dur-
19 ing the time of the incident until you met with me and
20 Shawn Graham concerning this case?

21 A. Not specifically about being charged with cocaine.
22 It was an investigator who discussed it with me and he
23 asked me -- brought up questions with me although I de-
24 nied at the time that it was mine.

25 He knew I worked at the club and asked me to let

1 him know if I saw any drug dealing or things like that
2 going on in the club.

3 Q. And outside of that, did you have any more contact
4 with law enforcement?

5 A. No, sir.

6 Q. So to your knowledge, there was still the possibil-
7 ity you could have been charged with possession of the
8 cocaine. Is that correct?

9 A. Yes, sir.

10 Q. Okay.

11 SOLICITOR: That's all the questions I have of this
12 witness, Your Honor.

13 THE COURT: Do you have any questions, Mr. Floyd,
14 at this time?

15 MR. FLOYD: Yes, Your Honor. A couple.

16 CROSS EXAMINATION IN CAMERA

17 BY MR. FLOYD:

18 Q. Ms. Muszynski, on the early morning of September 28,
19 2008, were you confronted by the police about the sub-
20 stance found in your pocketbook?

21 A. Yes, sir.

22 Q. Were you truthful about the substance at that time?

23 A. No, sir.

24 Q. What did you tell them at that time?

25 A. I told them it wasn't mine.

1 Q. And that was not true, was it?

2 A. That's correct.

3 Q. That was the same morning that you gave your state-
4 ment about what happened?

5 A. Yes, sir.

6 Q. On the same morning you were giving this statement,
7 you lied to them about the substance that was found in
8 your pocketbook?

9 A. After I gave my statement, yes.

10 Q. And were you ever charged with the cocaine?

11 A. No, sir.

12 Q. That was about three years ago now or close to
13 three years?

14 A. Close to three years, yes.

15 Q. And since that time, no one has ever brought any
16 charges against you for possession of cocaine?

17 A. No, sir.

18 Q. Did you expect them to still bring charges against
19 you for that?

20 A. Today? No.

21 Q. And were you offered immunity from prosecution on
22 the cocaine if you testified?

23 A. No, sir.

24 Q. Nobody offered you that?

25 A. No.

- 1 Q. The Solicitor's Office never offered you immunity?
- 2 A. No.
- 3 Q. As you testify in this proceeding, do you anticipate
- 4 that you will not be charged with possession of cocaine?
- 5 A. I think I won't be charged with it. He told me that
- 6 already.
- 7 Q. I'm sorry.
- 8 A. I anticipate I will not be charged with it because
- 9 he told me that already.
- 10 Q. Thank you.
- 11 MR. FLOYD: No further questions, Your Honor.
- 12 THE COURT: Any Redirect?
- 13 SOLICITOR: Yes, sir, Your Honor.
- 14 REDIRECT EXAMINATION IN CAMERA
- 15 BY SOLICITOR:
- 16 Q. When you went to the West Columbia Police Depart-
- 17 ment for the statement you gave them, were you concerned
- 18 at all about the cocaine that was in your purse?
- 19 A. The statement I gave about what happened to Zach?
- 20 Q. Right.
- 21 A. No, I was aware that it was there but it didn't in-
- 22 fluence my statement.
- 23 Q. You told them the truth?
- 24 A. Yes.
- 25 Q. That's all I have.

1 MR. FLOYD: Nothing further, Your Honor.
2 THE COURT: Thank you very much, Ms. Muszynski. You
3 may step down.
4 (Witness excused from stand).
5 SOLICITOR: Your Honor, if I could have my witness
6 step out of the Courtroom for a minute.
7 THE COURT: All right.
8 (Witness excused from Courtroom)
9 THE COURT: Yes, sir.
10 SOLICITOR: Your Honor, in meeting with Ms.
11 Muszynski, I didn't tell her that she would be immune
12 from prosecution or inform Mr. Floyd of that. She
13 apparently didn't understand what that meant.
14 I did tell her she would not be prosecuted regard-
15 ing cocaine in this case.
16 THE COURT: I think she testified on cross examina-
17 tion that she was told that, not that you all told her
18 that.
19 SOLICITOR: I agree, but Mr. Floyd asked her a spe-
20 cific question about immunity, and I just wanted to
21 clarify that on the record, Your Honor.
22 THE COURT: Who wants to go first?
23 SOLICITOR: I'm sorry, Your Honor.
24 THE COURT: Who wants to go first?
25 SOLICITOR: Whoever Your Honor wants to hear it, we

1 do have the officer here who found the cocaine.

2 THE COURT: I'll leave that up to you all.

3 SOLICITOR: I mean, if there is any question by
4 Mr. Floyd that she gave her statement prior to the co-
5 caine being found, I want to clarify that.

6 I just need to know if that is relevant to his argu-
7 ment.

8 THE COURT: Mr. Floyd? What do you have to say?

9 MR. FLOYD: I would just ask Mr. Graham the ques-
10 tion, Your Honor.

11 Mr. Graham, the cocaine was not found until after
12 she gave a statement?

13 SOLICITOR: That's correct, Your Honor.

14 MR. FLOYD: I just wanted to ask him and I believe
15 that is dispositive of that.

16 THE COURT: Any reason to call the officer?

17 MR. FLOYD: No, Your Honor. I accept what he has
18 said.

19 THE COURT: All right. So the next question is who
20 wants to argue this issue first.

21 SOLICITOR: I will, Your Honor.

22 THE COURT: All right.

23 SOLICITOR: Your Honor, I just don't see the rele-
24 vancy of the cocaine. She testified it was there prior
25 to her arriving at Shaggy's.

1 She had no conversation with the victim, Zach
2 Chaplin, about the cocaine, and there was no mention
3 that they were going to do cocaine.

4 She had just met him one week prior to the inci-
5 dent, and she gave her statement to law enforcement --
6 she was escorted down to the West Columbia Police De-
7 partment and gave a statement to law enforcement prior
8 to her being escorted back to Shaggy's where she had re-
9 quested her pocketbook and law enforcement detained the
10 cocaine at that time.

11 I just don't see the relevance, Your Honor.

12 THE COURT: Thank you.

13 Yes, sir?

14 MR. FLOYD: Your Honor, we, of course, do think it
15 is relevant. I mean, we can't produce a witness who
16 saw her consume cocaine, but the jury doesn't have to
17 accept her statement that she didn't consume any co-
18 caine.

19 She did have it in her possession, and we think it
20 is relevant for the jury to know that.

21 Secondly, Your Honor, she admitted it was hers to
22 us although she admittedly lied to the police about it.
23 No question about that.

24 I think we should be allowed to explore a possi-
25 ble bias since she hasn't been charged with it.

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1 (Brief pause in the proceeding)

2 THE COURT: If the witness were charged and con-
3 victed or pled guilty to possession of cocaine, what
4 would the punishment be?

5 SOLICITOR: Zero to three years and/or up to a
6 Five Thousand Dollar fine, Your Honor.

7 THE COURT: So I'm remembering the cases, and the
8 prior case law.

9 Under State versus Majors it would have been a
10 different analysis than we went through in 609 A one and
11 two, where it was either the potential punishment of
12 one year or more, or it involved dishonesty, false
13 statements.

14 So they did away with moral turpitude, it seems.
15 Is that correct?

16 SOLICITOR: Yes, sir.

17 MR. FLOYD: That's my understanding of it, Your
18 Honor.

19 THE COURT: And obviously any witness -- excuse me.
20 Any party can attack the credibility of any witness, and
21 even its own witness now.

22 In trying to analyze this testimony, I take it, if
23 it's admissible at all -- if it is admissible at all,
24 looking at Rule 608 B, specific instances of conduct --
25 do I need to look at any other rule in that regard,

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1 Solicitor or Mr. Floyd?

2 In either the Solicitor's opinion or in your opinion,
3 Mr. Floyd?

4 MR. FLOYD: That's what we think, Your Honor.

5 SOLICITOR: But under Rule 609, that would come
6 into play in this situation.

7 THE COURT: Right. That's what I was getting to.
8 In my reading of the 609 -- excuse me, the 608 analysis,
9 if you equate specific instances of conduct offered under
10 608, was whether or not the conduct would be admissible
11 for impeachment purposes under 609.

12 Is the analysis correct that, again, if a witness
13 -- if any witness has a conviction for possession of cocaine,
14 that would be admissible under 609 A One, subject
15 to . . .

16 SOLICITOR: Subject to the time limit.

17 THE COURT: Subject to the time limit, Rule 403..

18 SOLICITOR: Yes, Your Honor. I would agree.

19 THE COURT: So the crux of the issue is -- of
20 course, as the Solicitor said, it's not relevant, and we
21 don't even get to that analysis under the Solicitor's
22 argument.

23 That's the Solicitor's position, as I understand
24 it.

25 SOLICITOR: Yes, sir.

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1 THE COURT: Is the fact -- let's assume it's not
2 relevant as far as the actual conduct. Is it relevant
3 that the witness lied about the conduct to the police
4 on that day?

5 SOLICITOR: We suggest that it's not.

6 THE COURT: I kind of thought I knew your position
7 in that regard.

8 SOLICITOR: Another thing, Your Honor, would be
9 for her, yes, but to the statement she gave to law
10 enforcement in relation to this crime, no.

11 THE COURT: Is that because you believe her?

12 SOLICITOR: She gave the statement to law enforce-
13 ment, Your Honor, prior to having knowledge or in fact
14 prior to law enforcement locating the cocaine.

15 THE COURT: I understand.

16 SOLICITOR: There was no incentive for her to be
17 dishonest about what she said in the statement she gave
18 to Investigator Wade.

19 And as far as -- I'm sorry, Your Honor.

20 THE COURT: Go ahead, Solicitor. Please.

21 SOLICITOR: And far as bias at this point, on Mr.
22 Wayne's argument, she has prosecutorial immunity. So
23 she knows she's not going to get prosecuted. She has
24 no bias to be untruthful.

25 MR. FLOYD: Of course, that's exactly the point,

1 Your Honor. That issue. She has been promised some-
2 thing . .

3 THE COURT: Well, she wasn't -- do you accept the
4 Solicitor's position that she's not been promised any-
5 thing prior to giving her statement concerning that
6 event?

7 Now, whether or not her knowledge -- not what the
8 police may have found, but her knowledge of cocaine in
9 her purse, and then you circumstantially argue, well,
10 according to the medical records or at least there is
11 some evidence in the record there is cocaine in Mr.
12 Chaplin's sytem.

13 Are there dots to connect in that regard? I'm not
14 sure.

15 All right, I'll take it under advisement.

16 SOLICITOR: Thank you.

17 THE COURT: Court will start at nine fifteen in the
18 morning.

19 I will rule on it at that time, and that will give
20 you time to research some more. If you will get it to
21 me early, I'll be glad to look at it.

22 MR. FLOYD: Your Honor, just a little housekeeping
23 matter. Can we find out when the State intends to rest?
24 I have witnesses and I don't know if the Court would ask
25 them . .

1 SOLICITOR: Mid-morning, Your Honor. "

2 THE COURT: Let me ask you a question. How long
3 do you think your case will take, assuming I do not
4 direct an argument, and, of course, I haven't heard that
5 argument.

6 MR. FLOYD: Well, we are hopeful in that regard,
7 Your Honor, but if we are unsuccessful I think we'll fin-
8 ish tomorrow.

9 It depends on how long they cross examine.

10 THE COURT: It is your hope if it goes on further
11 than tomorrow that you all could be arguing and charging
12 Friday?

13 MR. FLOYD: That would be my hope, Your Honor.

14 SOLICITOR: I need at some point schedule reply.
15 Potentially, depending on whether Mr. Torrence testifies.
16 If he doesn't I can exclude some reply witnesses.

17 So we need to check in on that tomorrow and see
18 where we end up.

19 THE COURT: Do you all have any requests to
20 charge?

21 MR. FLOYD: I have a few.

22 THE COURT: Then I'll look at them tomorrow. Give
23 them to my law clerk in the morning.

24 SOLICITOR: The other thing we would ask for is that
25 Mr. Floyd give us the social security numbers of what

1 witnesses he intends to call, so we can run rap sheets
2 on them and be ready to go.

3 THE COURT: All right. Can you do that, Mr. Floyd?

4 MR. FLOYD: On some of them I do and some I don't
5 have.

6 I'll see if I can get those for him.

7 THE COURT: If you don't get them in time, we'll
8 just have to sit and wait, Solicitor. We'll do that

9 Thank you all very much. We'll be in recess until
10 nine fifteen.

11 (Whereupon, the Court stood in recess for the even-
12 ing, and the matter resumed on June 2, 2011)

13 THE COURT: Anything further on the issue with the
14 witness, Ms. Muszynski from the State?

15 SOLICITOR: Yes, Your Honor. After consideration
16 last night, the State has decided to withdraw the objec-
17 tion.

18 I apologize for the inconvenience.

19 THE COURT: So you don't have any objections to it
20 then?

21 SOLICITOR: No, sir.

22 THE COURT: All right. Anything from the State ad-
23 ditionally before we bring in the jury?

24 SOLICITOR: No, sir, Your Honor.

25 THE COURT: From the Defense?

1 MR. FLOYD: No, sir, and I apologize for being late.
2 I had a status conference with some lawyers that I did
3 not have on my calendar. I apologize for that.

4 THE COURT: All right, bring in our jury, please.

5 (Jury returned to Courtroom)

6 THE COURT: All right. Welcome back, ladies and
7 gentlemen.

8 I hope you had a pleasant evening.

9 In an abundance of precaution, I would ask the
10 members of the jury that if you have a computer or cellu-
11 lar phone or any other device with communication capabil-
12 ities, I cannot authorize you to have that item in the
13 jury room.

14 So if you have your cel phone with you or in your
15 pocket or a computer or, as I say, any other electronic
16 device with communication capabilities -- there are many
17 now-days whose names and identification I do not know,
18 but if you have one I'm sure you know the name of it, or
19 what it is.

20 But I would ask you not to bring it in the Courthouse
21 or to relinquish custody of it while you are in the jury
22 room to the bailiff. It will be secured during that per-
23 iod of time. You may have access to it during your lunch
24 break and access to it over the evening hours. I'm not
25 taking your phones from you or taking your computers from

1 you.

2 All right, has anyone read, watched or listened to
3 any news about the case? If so, please stand.

4 (No response from jurors)

5 Has anyone had any conversations or has any-
6 one attempted to have any conversation with any member of
7 the jury about the case? If so, please stand.

8 (No response)

9 All right, everybody doing well? You look well. Mr.
10 Johnson, you doing well?

11 MR. JOHNSON: Yes, sir.

12 THE COURT: Glad to have you with us and the rest of
13 the jury panel, not just Mr. Johnson.

14 With that being said, as you will recall, we are
15 continuing the trial of the case with the presentation of
16 evidence and testimony by the State in its case in chief.

17 Solicitor, you may call your next witness.

18 SOLICITOR: Thank you, Your Honor.

19 The State calls Donna Muszynski.

20 THE COURT: All right. If you would come around,
21 please, and be sworn.

22 DONNA MUSZYNSKI, being duly sworn,
23 testified as follows:

24 CLERK: Have a seat, please, maam. Once you are
25 seated, state your name and spell your last name for the

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1 record, please.

2 WITNESS: Donna Denise Muszynski, M U S Z Y N S I.

3 DIRECT EXAMINATION

4 BY SOLICITOR

5 Q. Good morning, Ms. Muszynski.

6 A. Good morning.

7 Q. Would you introduce yourself to the jury and tell
8 them where you're from?

9 A. I was born and raised in West Columbia. I graduated
10 from USC, so I have lived here all my life.

11 Q. Where are you currently employed?

12 A. I have a small nail salon in Lexington, and I also
13 have a small denim business where I supply an inventory
14 for events like trunk shows.

15 Q. Let me take you back to 2008. September. Where
16 were you employed?

17 A. I still had my real estate license and I was trying
18 to do real estate at the time, but I also danced at a gen-
19 tleman's club, Heartbreakers.

20 Q. Take me to the night -- Saturday night of September
21 27, 2008, into the early morning hours of Sunday, Septem-
22 ber 28.

23 Are you familiar with a club in West Columbia called
24 Shaggy's?

25 A. Yes, sir.

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1 Q. And did you go to Shaggy's?

2 A. Yes, sir.

3 Q. And what time did you arrive there?

4 A. Around two o'clock.

5 Q. Did you stay there?

6 A. No, sir.

7 Q. What was your purpose in going to Shaggy's?

8 A. The week before I had met Zach and his friend, Jay,
9 and spent the majority of the time that night talking to
10 Jay. We exchanged -- he got my number and I realized he
11 didn't store it in his phone, so I went back that night
12 to look for them.

13 Q. When you first arrived there -- and when you say Zach,
14 who are you referring to?

15 A. Zach Chaplin.

16 Q. When you arrived there, was he there or did you see
17 Jay there?

18 A. No, sir.

19 Q. What did you do at that time?

20 A. I got a drink and spoke to Sonny. I've known Sonny
21 for years, and I asked if he had seen Zach. He said no.
22 So I stayed long enough to finish my drink.

23 Q. At any point that night, did you return to Shaggy's?

24 A. Yes.

25 Q. About what time was that?

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1 A. Around three thirty.

2 Q. And at that time when you returned, were either Zach
3 or Jay there?

4 A. No.

5 Q. Did you have occasion to meet Drew Torrence that
6 night?

7 A. Yes, sir.

8 Q. Was that before or after Zach showed up?

9 A. Before.

10 Q. And what do you recall, if anything, from your meet-
11 ing Andrew Torrence?

12 A. When I entered the bar, there was another couple
13 with me, and we sat close to the entrance door, and Zach
14 -- I'm sorry -- Drew came around us to my left shoulder,
15 and I don't recall what he said but it was inappropriate.
16 I almost thought he had me confused with someone else, so
17 I just kind of laughed off what he said, but introduced
18 myself.

19 You know, I said I was Donna, and he told me he was
20 Drew.

21 Q. Being a dancer, were you accustomed to guys making
22 comments similar to that?

23 A. Yes.

24 Q. So is it safe to say it really didn't have the ef-
25 fect that you would recall specifically what he said?

- 1 A. I think that's why I don't recall what he said, but
2 at the time I knew that he -- that something wasn't right;
3 that he was just inappropriate and strange.
- 4 Q. At some point, did Zach show up?
- 5 A. Shortly after that.
- 6 Q. And what did you do at that time?
- 7 A. When Zach got there?
- 8 Q. Yes.
- 9 A. I started talking to Zach.
- 10 Q. And who did you spend the remainder of your time at
11 Shaggy's with?
- 12 A. Zach.
- 13 Q. What were you all doing?
- 14 A. We interacted with some other people that we saw that
15 he knew, and played pool; had some drinks; listened to
16 music, danced.
- 17 Q. Did you have an occasion to be introduced to a gen-
18 tleman by the name of Lee Buchanan?
- 19 A. Yes, sir.
- 20 Q. And who made that introduction?
- 21 A. Zach did.
- 22 Q. And how did that -- do you recall how he made that
23 introduction?
- 24 A. Lee came in shortly after Zach came in. They were
25 friends, and we all just sat at the bar together.

1 Q. During the course of the night, did you hear Andrew
2 Torrence make any comments to either Zach or Lee?

3 A. I heard him making comments to Lee, both when he was
4 standing near us and across the bar.

5 Q. Tell this jury what you heard Andrew Torrence say?

6 A. He called him a faggot and referred -- I guess I
7 felt like he was calling both Zach and Lee together gay
8 boys, implying that they were a couple.

9 Q. Once he made these comments, and going back to how
10 Shaggy's Bar is, where was -- where were you all as com-
11 pared to where Andrew Torrence was?

12 A. The first time I heard him, he was across the bar,
13 yelling it across the bar, and later on he came around
14 and said it directly to Lee, in his vicinity.

15 Q. Using that board as reference to the entrance --
16 the back door entrance to Shaggy's . . .

17 A. The main entrance door.

18 Q. Yes, the main entrance, and this being the bar,
19 where were you and Zach and Lee seated?

20 A. If the bar goes this way, and then this is the en-
21 trance, we were at the corner of the bar here.

22 Q. Where was Andrew Torrence?

23 A. Earlier in the evening on the other side as where
24 you would be standing.

25 Q. Okay, is that where you initially heard him make

1 the faggot comments?

2 A. Yes.

3 Q. At any point in time, what, if anything, did you ob-
4 serve Andrew Torrence do?

5 A. . .

6 Q. In regards to where you all were?

7 A. Well, after he called -- after he came around and
8 again said it to Lee -- is that when you are
9 asking me?

10 Q. Yes.

11 A. He came around where we were seated and went to the
12 other side of Lee, you know, saying some stuff, and then
13 I heard him say faggot again or some implication.

14 I heard Lee say to him, okay, that's enough; I've
15 heard it enough; okay, leave it alone and go back to your
16 side of the bar; I've heard it enough.

17 Q. And was Lee the only person who made a comment to
18 Andrew Torrence?

19 A. Zach told him, he has told you and now I'm telling
20 you, don't say it again.

21 Q. And what, if anything, occurred after Zach said that?

22 A. I think Drew said it again, and the next thing I knew
23 Zach was on that side of the bar, punching him.

24 Q. Did you observe the fight?

25

1 A. Yes, sir.

2 Q. Can you describe to the jury what Lee Buchanan's
3 role in that fight was?

4 A. As Zach was punching Drew, Drew had his hands up
5 around Zach's face and around his neck, and Lee was be-
6 tween them, holding Drew back. You know, trying to get
7 in between them and separate them.

8 He even put his hand back, telling Zach, stop, stop.

9 Q. And what were you doing? Where were you at in re-
10 lation to where they were?

11 A. Well, at first I just kind of moved out of the way,
12 and then as they were getting separated I put my hand out to
13 tell Zach, okay, that's enough; stop, stop, stop.

14 Q. And did he?

15 A. Yes.

16 Q. What happened next?

17 A. Lee said to Drew, sorry it had to come to that; I
18 tried to tell you to leave it alone.

19 Zach had knocked his glasses off of his face, so Lee
20 picked them up and handed them back to him. You
21 know, it was kind of like dusting each other off.

22 He walked Drew to the door and kind of patted him
23 on the back -- you know, let's call it a night.

24 Q. You heard Lee say that?

25 A. Maybe not exactly those words, but something like,

1 good night, have a good night, let's call it a night --
2 something like that.

3 Q. Lee was telling him that?

4 A. Yes, sir.

5 Q. And did Drew Torrence leave the bar?

6 A. Yes, sir.

7 Q. What was the demeanor then of the individuals that
8 were left in the bar once Andrew Torrence left?

9 A. Zach came back and sat down at the bar, and I --
10 where did that come from? You know, I didn't see it com-
11 ing, and it was here and there -- like that.

12 I said, are you okay, Lee and I were both -- it
13 wasn't celebratory or anything like that, and we went
14 back and had our drink.

15 Q. Was Zach bragging about it?

16 A. No, sir.

17 Q. Was he talking about it?

18 A. No.

19 Q. You just went back to as it was prior to the con-
20 frontation?

21 A. Yes.

22 Q. After that, tell the jury what, if anything else,
23 occurred that night at Shaggy's that you saw?

24 A. Before that happened or afterwards?

25 Q. Afterwards.

1 A. I recall that the juke box quit, and we even said,
2 okay, let's call it a night, but somebody put another
3 song on the juke box and another couple that had been
4 there was dancing, and then there was a bang on the door.

5 And I said, I don't think you should answer that or
6 something -- just I didn't have a good feeling about it.

7 Q. What, if anything, did you observe Lee do?

8 A. Lee opened the door.

9 Q. And what happened from there?

10 A. Drew came in with the gun.

11 Q. How do you know he had a gun?

12 A. I saw it.

13 Q. Where -- do you recall where he was holding the gun?

14 A. He pointed it at Lee.

15 Q. What did you do at that point in time?

16 A. In my mind, I have no memory. I don't have a clear
17 picture of some of the things but I recall I tried to
18 leave and I thought the door was locked, and I knew he had
19 the gun at Lee this way.

20 So everybody else had gone out the service entrance,
21 and I knew if he had it this way he could turn this way.

22 So I backed up and ducked down behind the pool table

23 Q. So you were attempting to leave out that back door?

24 A. Yes.

25 Q. And it did not open?

1 A. No.

2 Q. Was it locked?

3 A. Well, I now know that I pushed the wrong side of the
4 door. I pushed the hinge side instead of the opening
5 side.

6 Q. Okay, and what did you do at that point in time?

7 A. Moved backwards.

8 Q. And where did you go?

9 A. Underneath the pool table.

10 Q. You were underneath a pool table?

11 A. Yes.

12 Q. What happened next?

13 A. In all that commotion, that's when Zach got shot.

14 Q. What, if anything, did you observe?

15 A. Let me back up and say, before that, when Drew came
16 in with a gun, there was a chair between he and Drew. I
17 knew that that chair -- I thought or the way I remembered
18 it was that Lee kind of pushed the chair between them.

19 In the video, I know you can see the chair fall, but
20 I thought -- anyway, I do remember seeing that, and, to
21 answer your question about this, when I was underneath
22 the table I could see Drew pacing the floor.

23 He walked back and I was just -- I was terrified he
24 would see me. So I remember, just be quiet so he wouldn't
25 see me under there, and I pulled my feet up close under

1 me so that he wouldn't see my feet sticking out the back
2 of the pool table.

3 Q. Why were you terrified?

4 A. Because I thought he was going to shoot me too.

5 Q. What, if anything, did you hear Andrew Torrence say?

6 A. After he paced around and behind, once he walked over
7 to Zach and said, are you going to get up.

8 Q. Okay, let me take you back. Prior to that, you are
9 under the pool table, and take us from that point where
10 you said that you had -- you had Lee over on that side
11 of the bar and you were under the pool table.

12 What happens from there?

13 A. I'm sorry. Ask me that question again.

14 I apologize.

15 Q. You said Lee is on that side of the bar, and you
16 see Drew Torrence pacing back and forth. What happens
17 then, as you recall?

18 A. Well, he was pacing back and forth after he shot
19 Zach. When I was underneath the pool table was after the
20 shooting, and that's when I could see him pacing around.

21 But in the commotion of him shooting him, that is
22 when I was still moving back and ducking down and getting
23 under the table.

24 Q. Did you hear the gunshots?

25 A. Yes, sir.

- 1 Q. How many did you hear?
- 2 A. Two or three.
- 3 Q. Can you describe to the jury the gunfire, as far as
- 4 the -- was it bam, bam?
- 5 A. Bam -- bam.
- 6 Q. Bam (pause) bam?
- 7 A. Yes, sir.
- 8 Q. What happened after that?
- 9 A. After the gunshots? That's when he was -- I could
- 10 see his feet pacing between the pool table I was under and
- 11 the end of the bar, and he walked back to the side of the
- 12 pool table, and I drew my feet up, and he paced around to
- 13 walk over to Zach and asked if he was going to get up,
- 14 and a short time later the phone rang.
- 15 Q. Okay. When he asked Zach, are you going to get up,
- 16 what, if anything, do you recall Zach saying?
- 17 A. Nothing.
- 18 Q. Zach did not respond?
- 19 A. No.
- 20 Q. Did you say you heard the phone ring?
- 21 A. Yes.
- 22 Q. Do you recall how many times it rang?
- 23 A. I would say five.
- 24 Q. Did anybody pick it up?
- 25 A. Drew walked over and answered the phone.

1 Q. And did you hear what he said?

2 A. Yes.

3 Q. What did he say?

4 A. I heard him say, I just shot somebody; you need to
5 send an ambulance.

6 Q. And what happened next?

7 A. He hung the phone up and sat it down, and he paced
8 around, and I could hear the sirens approaching, and I
9 could hear the officers coming towards the building.

10 I could hear them talking but I didn't understand
11 what they were saying, and then I heard what sounded -- I
12 saw him walk toward that service door, and it sounded
13 like the gun hit the ground.

14 You know, like it hit the ground or like he had
15 dropped it when he got there.

16 Q. Did you stay under the pool table?

17 A. When the officer came in, I crawled out.

18 Q. And where did you go from there?

19 A. I walked over to Zach.

20 Q. And what happened next?

21 A. I asked if he was okay, and he said, no, I can't
22 move, and I told him just to be still, it would be okay;
23 he was going to be all right.

24 Q. Once law enforcement was in there, where did you
25 go?

- 1 A. They escorted me out the main door.
- 2 Q. Let's come back a little bit in time.
- 3 During the time that you were there at the bar with
- 4 Zach, do you recall how many drinks you had, if any?
- 5 A. I had three or four drinks.
- 6 Q. Beers, cocktails?
- 7 A. Cocktails.
- 8 Q. How about Zach?
- 9 A. He was drinking cocktails too.
- 10 Q. Do you recall how many?
- 11 A. I'd say three or four.
- 12 Q. Donna, let me ask you this. When you got to
- 13 Shaggy's, did you have any illegal drugs on you?
- 14 A. In my purse, yes.
- 15 Q. What did you have?
- 16 A. What I thought was cocaine.
- 17 Q. How much?
- 18 A. A little bit. I don't know. A small amount.
- 19 Q. And where did -- what did you do -- when you say it
- 20 was in your purse, did you ever get it out while you were
- 21 at Shaggy's?
- 22 A. No.
- 23 Q. It stayed in your purse?
- 24 A. Yes.
- 25 Q. During your time with Zach, was there any conversation

1 between you and him regarding cocaine or any other type
2 of illicit drugs?

3 A. No, sir.

4 Q. Have you been around people who have taken cocaine?

5 A. Yes.

6 Q. Have you observed their behaviors?

7 A. Yes.

8 Q. Is it a fair statement to say that you would recog-
9 nize someone who might have been hyped up on cocaine?

10 A. Yes.

11 Q. How long were you and Zach together that night at
12 Shaggy's?

13 A. Three hours.

14 Q. Did he exhibit any signs of being hyped up on co-
15 caine?

16 A. No.

17 Q. Did he offer to sell you any cocaine?

18 A. No.

19 Q. Did you mention you had cocaine in your purse?

20 A. No.

21 Q. Did you all ever do any cocaine that night there
22 at Shaggy's?

23 A. No.

24 Q. Once -- moving back forward now. Once law enforce-
25 ment arrived, where did you go?

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1 A. In front of the entrance to the building, and I sat
2 in a police car and gave a statement.

3 Q. You gave a statement in the police car?

4 A. Yes.

5 Q. Did you ever go to the West Columbia Police Depart-
6 ment?

7 A. Yes.

8 Q. What did you do there?

9 A. I continued my statement there.

10 Q. Okay, were you taken back at some point in time to
11 Shaggy's?

12 A. Yes.

13 Q. When you got back, what did you do?

14 A. I was asking for my purse because it was under the
15 bar.

16 Q. Did anyone retrieve your purse for you?

17 A. One of the officers. People who worked with the
18 officers.

19 Q. Were you confronted by law enforcement at Shaggy's
20 about the cocaine in your purse?

21 A. Yes.

22 Q. What, if anything, did law enforcement do at that
23 time concerning the cocaine?

24 A. He asked if it was mine.

25 Q. And what did you tell them?

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1 A. I said no.

2 Q. Why?

3 A. Because I was afraid to get in trouble for it, and
4 I told him that when I had put my purse under the bar it
5 was closed, but when he brought it out to me it was open.

6 Q. So you lied to him?

7 A. I did.

8 Q. And this was after you had given the statement to
9 law enforcement about what had occurred regarding Drew?

10 A. Yes.

11 Q. When you gave the statement to law enforcement,
12 were you aware that law enforcement had the cocaine from
13 your purse?

14 A. When I gave my statement?

15 Q. Yes.

16 A. No.

17 Q. Were you ever charged?

18 A. No.

19 Q. You met -- do you recall meeting with myself and
20 Deputy Solicitor Graham in preparation for this trial?

21 A. Yes, sir.

22 Q. Where did you meet us?

23 A. In this building.

24 Q. And when you met us, can you tell the jury what you
25 told us?

1 A. Well, when I came in, I knew that -- I knew that the
2 cocaine would be an issue -- could be an issue, and that
3 I was going to be completely, one hundred percent, honest
4 about where I got the cocaine, because I knew the levity
5 of me being completely truthful.

6 And I didn't want there to be any question about my
7 honesty.

8 Q. Did we go through the facts in your statement with
9 you prior to the cocaine being mentioned?

10 A. Yes.

11 Q. After we went through that statement, did Deputy
12 Solicitor Graham tell you that you would not be prose-
13 cuted for possession of cocaine?

14 A. Yes.

15 Q. That he would grant you prosecutorial immunity?

16 A. Yes.

17 SOLICITOR: May I approach, Your Honor.

18 (Conference at the bench between counsel and the
19 Court off the record)

20 SOLICITOR: May I approach the witness, Your Honor?

21 THE COURT: Yes, sir.

22 BY SOLICITOR:

23 Q. Ms. Muszynski, I'm going to hand you a photograph
24 and ask you do you recognize it?

25 A. Yes, sir, I do.

1 Q. And would you tell the jury what is on that photo-
2 graph?

3 A. A picture of me and Zach taken with my camera that
4 night, and it's time stamped -- there's a date and time
5 stamp on here.

6 Q. Okay. The date stamp, is that accurate?

7 A. No.

8 Q. Do you know why?

9 A. My son likes to use my camera to take video or pic-
10 tures of himself skateboarding, and I don't know. I don't
11 know.

12 I usually put the day and the month and the year,
13 and this says five ten of 2008, which to me is the fifth
14 of October, which I know is not right.

15 Q. What about the time?

16 A. I think the time is probably close to right.

17 Q. Not a hundred percent but . .

18 A. Right.

19 Q. . . close?

20 A. It says four thirty-three so . .

21 Q. Is there any doubt in your mind that that picture
22 shows you and Zach Chaplin together in the early morning
23 hours at Shaggy's on September 28, 2008?

24 A. I know that's when it was taken.

25 SOLICITOR: Your Honor, the State would move to enter

1 State's Exhibit 18 into evidence at this time.

2 THE COURT: May I see it?

3 SOLICITOR: Yes, sir, Your Honor.

4 THE COURT: All right. Mr. Floyd?

5 MR. FLOYD: I have no objection.

6 THE COURT: State's 18 in evidence without objec-
7 tion then.

8 (Photo of Ms. Muszynski and victim admitted in evi-
9 dence without objection as State's Exhibit Number 18)

10 SOLICITOR: Beg the Court's indulgence.

11 THE COURT: All right.

12 (Brief pause in proceeding)

13 SOLICITOR: The State has nothing further.

14 BY SOLICITOR:

15 Q. Please answer any questions they may have of you.

16 A. Yes, sir.

17 THE COURT: Thank you, Solicitor.

18 MR. FLOYD?

19 MR. FLOYD: Thank you, Your Honor.

20 CROSS EXAMINATION

21 BY MR. FLOYD:

22 Q. Ms. Muszynski, you had cocaine in your purse?

23 A. Yes.

24 Q. The whole time you were there that night?

25 A. Yes.

1 Q. And you lied to the police about it?

2 A. Yes.

3 Q. You gave a statement to the police that morning, did
4 you not?

5 A. Yes.

6 Q. And since that time, you have been promised immunity
7 by the Prosecutor for possession of cocaine, is that
8 right?

9 A. That's right.

10 Q. Now, on this date of September 28, 2008, you did not
11 when you gave your statement say anything about the gun
12 being pointed at Lee, did you?

13 A. I may not have included that in my statement.

14 Q. You may not or you did not?

15 A. . .

16 Q. I'll give you the statement so you can look at it.

17 A. I'll be glad to look at it. If you say it's not in
18 there, then I didn't say it.

19 Q. You're welcome to look at it.

20 A. Thank you.

21 (Brief pause in proceeding)

22 A. No, sir, it does not include that.

23 BY MR. FLOYD:

24 Q. Now, Ms. Muszynski, you say you are an expert on
25 how cocaine affects people?

1 A. I'm aware of how it affects people.

2 Q. Does it sometimes make them aggressive?

3 A. I guess, if that's -- if you want to use that word.

4 Yes, sir.

5 Q. And does it sometimes affect their judgment?

6 A. Yes.

7 Q. Make them do things they might not ordinarily do?

8 A. Yes.

9 Q. And would you agree with me that the -- that when
10 Zach ran over to Drew and punched him in the face he was
11 being aggressive?

12 A. Yes.

13 Q. In fact, you were kind of shocked by it, weren't
14 you?

15 A. Yes.

16 Q. And he continued to pound on him with numerous blows,
17 did he not?

18 A. Yes.

19 Q. And he continued to pound on him while Lee got ahold
20 of Drew, is that correct?

21 A. Yes.

22 Q. Now, when the phone rang, Drew answered it?

23 A. . .

24 Q. And did he say something to the effect of I've just
25 shot somebody; you better send an ambulance?

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1 A. Yes, sir.

2 Q. And he went over at some point and said something to
3 Zach, did he not?

4 A. Yes.

5 Q. And I believe in your statement you said that you
6 saw Zach move?

7 A. I saw his foot twitch.

8 Q. And he certainly did not do anything to harm Zach
9 while he was lying there helpless on the floor, did he?

10 A. No.

11 Q. Now, you then heard the sirens? You heard the police
12 coming?

13 A. Yes.

14 Q. And you heard the gun when he laid it down at that
15 point, did you not?

16 A. I didn't have a clear view of him but it seemed like
17 from the shadow and the -- yes, I would agree with that.

18 Q. Did you not tell the police in your statement that
19 the only contact Drew had before the fight took place
20 was nothing more than an honest mutual disagreement?

21 A. Yes.

22 Q. Thank you, Ms. Muszynski.

23 MR. FLOYD: I have no further questions.

24 THE COURT: Redirect, Solicitor?

25 SOLICITOR: Nothing from the State, Your Honor.

1 THE COURT: Thank you, Ms. Muszynski. You may step
2 down.

3 (Witness excused from stand)

4 THE COURT: All right, Solicitor. You may call your
5 next witness.

6 SOLICITOR: Thank you, Your Honor. The State calls
7 Detective Leah Sugarman-Smith.

8 THE COURT: All right. Come around, please, and be
9 sworn.

10 LEAH SUGARMAN-SMITH, being duly
11 sworn, testified as follows:

12 CLERK: Have a seat, please, ma'am, and once you are
13 seated state your full name, spelling your last for the
14 record.

15 WITNESS: Leah Rachel Smith, S M I T H.

16 DIRECT EXAMINATION

17 BY SOLICITOR:

18 Q. Detective, I apologize for saying your maiden name.

19 A. It's okay.

20 Q. Were you employed by the West Columbia Police De-
21 partment on the 28th of September, 2008?

22 A. Yes, sir.

23 Q. Was that your first job in law enforcement?

24 A. No, sir.

25 Q. Would you tell the jury your background in law

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1 enforcement; please?

2 A. I started at the Richland County Sheriff's Depart-
3 ment in 2004, and I worked in the uniform division.

4 In 2007, I went to the West Columbia Police Depart-
5 ment and started in uniform and am currently a nar-
6 cotics detective.

7 Q. In 2008, what division in the West Columbia Police
8 Department were you in?

9 A. Uniform division.

10 Q. And were you working on September 28, 2008?

11 A. I was.

12 Q. And did you receive a call with reference to some
13 type of altercation or possibly a shooting at Shaggy's
14 Bar that morning?

15 A. Yes, sir.

16 Q. And did you respond to that call?

17 A. Yes, sir.

18 Q. Would you tell the jury, please, what you observed
19 when you first arrived on the scene?

20 A. I parked out in front of the building. The -- out
21 front where the restaurant and liquor store is. The bar
22 is actually in the back.

23 I parked in front and walked around to the side to
24 the service entrance, which is where the Defendant, Mr.
25 Torrence, was standing.

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1 Then Officer Shook and Officer Griffin arrived right
2 around the same time.

3 Mr. Torrence was standing right by the service en-
4 trance.

5 Q. What did you observe about Mr. Torrence?

6 A. He was leaning up against the wall, and as soon as
7 I approached he kind of put his hands out.

8 Q. What, if anything, did he say?

9 A. He said, I shot him; I did it; I shot him.

10 Q. Did you notice anything around Mr. Torrence?

11 A. Yes, sir, a gun.

12 Q. Did you recognize what type of gun it was?

13 A. Yes, sir. It was a Glock forty caliber. It was
14 laying on the cement next to Mr. Torrence, and the
15 magazine, the part that holds bullets, was separated
16 from the gun, and it was laying next to the weapon.

17 Q. And once Andrew Torrence told you, I shot him; I did
18 it, what did you do?

19 A. Officer Shook and Officer Griffin were both stand-
20 ing there with me. Officer Griffin approached Mr.
21 Torrence to handcuff him and I walked on into the service
22 entrance to check on Mr. Chaplin.

23 Q. When you walked in, did you find Zachariah Chaplin?

24 A. Yes, sir.

25 Q. And using that U-shaped bar, you came in the side

1 service center, is that correct?

2 A. Yes, sir.

3 Q. You walked around, and did you find Mr. Chaplin?

4 A. I did. He was on the other side of the U of the bar,
5 closer to where the normal entrance is for coming into
6 the bar.

7 Q. The back door entrance?

8 A. Yes, sir.

9 Q. Along the side of that bar -- let's say the bar
10 starts here -- this side of the bar starts here, and it
11 goes back. Let's say this is the end of that bar.

12 Where was his body positioned?

13 A. Using this as the actual back door, he was -- like
14 here would be the U part or the straight part of the U
15 and the back door.

16 He was in between the bar and the back wall where
17 the door is, all the way as far back as you can get.

18 Q. All the way back as far as you can get?

19 A. At the top of the U part, that's correct.

20 Q. What was his position?

21 A. He was laying on the ground. His head was sort of
22 resting on a barstool that was on the ground, and his
23 hands were kind of up like this.

24 His face was down or his head was down toward his
25 chest. Kind of just laying there.

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1 SOLICITOR: One moment, Your Honor.

2 THE COURT: Yes, sir.

3 (Brief pause in the proceeding)

4 REPORTER: Judge, is this for ID only?

5 THE COURT: I understand that State's 19 will be in
6 evidence without objection, and 20 will be for ID, as I
7 understand.

8 REPORTER: Yes, sir, thank you.

9 (Photo of back door of bar entered in evidence with-
10 out objection as State's Exhibit 19. Photo of victim
11 marked for identification as State's Exhibit 20.)

12 REPORTER: One second, please.

13 Thank you.

14 THE COURT: You may continue.

15 BY SOLICITOR:

16 Q. Detective Smith, let me show you what's been marked
17 State's Exhibit 19 which is in evidence.

18 Do you recognize that?

19 A. Yes, sir.

20 Q. Does that fairly and accurately show the side of the
21 building that you entered and what was there at the time
22 you entered?

23 A. Yes, sir. This is the employee entrance with the
24 weapon and the magazine lying on the ground.

25 Q. Thank you. When you approached Zach Chaplin, did

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1 you say anything to him?

2 A. I said something, I'm sure.

3 Q. Do you recall what you said?

4 A. No, I don't. I tried to calm him down and said
5 ambulance is on the way or EMS is on the way; that
6 everything is going to be okay.

7 Stuff like that.

8 Q. And what was his demeanor?

9 A. He was upset.

10 Q. Did the first responders -- how long did it take the
11 first responders to get there?

12 A. I don't know exactly. Maybe four minutes, five.

13 Q. Did you observe any wounds, gunshot wounds, to Mr.
14 Chaplin?

15 A. Yes, sir.

16 Q. What did you observe?

17 A. I saw two different wounds or what appeared to be
18 gunshot wounds based on my experience. One around his
19 neck area kind of close to his ear, and the other one in
20 his right arm.

21 Q. One the first responders got -- did you touch Mr.
22 Chaplin?

23 A. No, sir.

24 Q. And why was that?

25 A. I'm not EMT certified, but I knew he had been shot

1 twice. There was a possibility of me messing something
2 up or hurting him in some shape or fashion.

3 I didn't want that to happen. The professionals
4 were coming, and I'm not by any means a professional EMT.

5 Q. Did Mr. Chaplin seem to understand that, as you were
6 trying to explain that to him?

7 A. No, sir.

8 Q. Would it be a fair statement to say that he was upset
9 with you?

10 A. Yes, sir.

11 Q. But you continued to try to calm him down?

12 A. Yes, sir.

13 Q. And the emergency personnel did come?

14 A. Yes, sir.

15 Q. What did you observe them do?

16 A. They put the C-spinal on him, a backboard, and they
17 dressed his wounds and put him right in the ambulance.

18 Q. And what did you do?

19 A. While they were doing that, I held a flashlight. I
20 actually sat on top of the bar sort of cross-ways and
21 held a flashlight so they could see what they were doing
22 as they were dressing his wounds and so on.

23 Q. And you were holding a flashlight because of the
24 lighting inside the bar?

25 A. Yes, sir.

DET. SMITH ON DIRECT

1 Q. And when they left with Mr. Chaplin, do you know
2 where they took him?

3 A. Richland Memorial or Palmetto Richland.

4 Q. Palmetto Richland?

5 A. Yes, sir.

6 Q. How do you know that?

7 A. I followed them.

8 Q. So you went to the hospital as well?

9 A. Yes, I did.

10 Q. Were you all running tangent?

11 A. Yes, sir.

12 Q. Did you attempt to speak with Mr. Chaplin while he
13 was at Palmetto Richland?

14 A. Briefly. There's two trauma rooms at Richland Me-
15 morial, and -- trauma one and two, and he was taken to
16 trauma two.

17 You aren't allowed to talk with them when they're
18 in there. Obviously, when they are extremely serious
19 that is where they take them.

20 After he was put in a regular room, I got his
21 mother's phone number, and I talked to him a little bit
22 later on in the morning.

23 SOLICITOR: May I have a moment, Your Honor.

24 THE COURT: Yes, sir.

25 BY SOLICITOR:

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1 Q. That's all the questions I have. Please answer any
2 questions Mr. Floyd has for you.

3 A. Yes, sir.

4 THE COURT: Thank you, Solicitor.

5 MR. FLOYD: Your Honor, I have no questions of this
6 witness.

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

9 MR. FLOYD: Your Honor, may we approach?

10 THE COURT: Yes, sir.

11 (Conference at the bench between counsel and the
12 Court off the record)

13 THE COURT: All right, ladies and gentlemen. We're
14 going to take a brief recess, and please remember do not
15 discuss the case during this brief recess.

16 Please leave your notes upside down on your chair.

17 Remember to keep an open mind and do not begin your
18 deliberations until I direct you to do so.

19 You may leave your notes and go with your bailiff.

20 Thank you.

21 (Jury excused from Courtroom)

22 THE COURT: Are we still on track for the State to
23 rest this morning, Solicitor?

24 SOLICITOR: Yes, Your Honor.

25 THE COURT: Thank you. The Court will take fifteen

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1 minutes.

2 (Whereupon, the Court stood in recess for a brief
3 time and then the case was resumed)

4 THE COURT: Thank you. Please be seated.

5 THE COURT: Anything to take up before we bring in
6 our jury from the State?

7 SOLICITOR: I believe Your Honor was going to ad-
8 dress the jury about the firearm.

9 THE COURT: All right. Defense?

10 MR. FLOYD: Nothing, Your Honor.

11 THE COURT: Do you have any objection to my addres-
12 sing the jury at this time concerning the firearm policy?

13 MR. FLOYD: No, Your Honor.

14 THE COURT: All right, bring our jury.

15 (Jury returned to the Courtroom)

16 THE COURT: Thank you. Please be seated.

17 Welcome back, ladies and gentlemen.

18 It is my understanding that the next witness the
19 State will call will offer for introduction and there
20 will be introduced a firearm in this case.

21 There are firearm policies promulgated by the South
22 Carolina Supreme Court whenever a firearm is introduced
23 in evidence in Court, and procedures the Court will fol-
24 low, certain recommendations from our Supreme Court.

25 I advise the jury about these policies with the

1 consent of the Solicitor and the Defense Attorney in the
2 case.

3 The weapon -- all weapons that are introduced into
4 Court as evidence should be unloaded at all times, and
5 have either gun locks or devices that will go through the
6 barrel and leave the side open. Magazines would be re-
7 moved from semi-automatic weaons.

8 All ammunition, of course, would be removed. The
9 weapon would always been unloaded.

10 If there is introduced both the weapon and/or am-
11 munition, those items will never be in possession of the
12 jury at the same time.

13 In other words, when the jury goes to deliberate,
14 they would have the weapon, and thereafter if they needed
15 to examine the ammunition they would notify the
16 bailiff, who would notify the Court, and the weapon
17 would be removed from the jury room and then the ammuni-
18 tion would come in.

19 So those two items are never together at the same
20 time. Weapons are always unloaded, always secured.

21 Further, there are guidelines that weapons will
22 never be pointed at any individual.

23 First and foremost, that's the jury instruction. It
24 would never be pointed at the jury even though it is un-
25 loaded and even though it is in a safe position, even

1 though there is a gunlock.

2 A gun would never be pointed at a witness or at a
3 party, and I'm assuming not at a judicial officer also,
4 although I have never had that concern in the Court-
5 room.

6 A weapon would always be handled by the barrel of the
7 weapon.

8 There are also guidelines that weapons may be used
9 for demonstrative purposes. If the Solicitor or the De-
10 fense Attorney request to use a look-alike weapon for
11 demonstrative purposes -- I believe there was such a re-
12 quest in this case -- I would grant that request.

13 However, before that demonstration, I would alert
14 the jury that it is a look-alike, an imitation, a fake.
15 It is not a live weapon with ammunition.

16 I would address my next question to Investigator
17 Bramlett of the West Columbia Police Department.

18 Do you now have possession of the firearm?

19 MR. BRAMLETT: Yes, sir, I do.

20 THE COURT: Could you state for the record the con-
21 dition of the firearm at this time?

22 MR. BRAMLETT: The firearm -- the clip has been re-
23 moved. This is a Glock type pistol with a slide on the
24 top, and it slides into a locked and unlock position.

25 The gunlock itself is positioned through the slide

1 and through the clip or handle where the clip goes, and
2 it is locked. The Clerk of Court has the special key.

3 THE COURT: All right, and the ammunition?

4 MR. BRAMLETT: The ammunition is in this box and
5 in a separate, sealed container.

6 THE COURT: All right. Thank you very much, Inves-
7 tigator Bramlett.

8 Anything further the State would like me to advise
9 the jury concerning the weapon or the condition of the
10 weapon, or the policy?

11 SOLICITOR: No, Your Honor.

12 THE COURT: Mr. FLOYD?

13 MR. FLOYD: No, Your Honor.

14 THE COURT: Thank you very much.

15 With that being said, Solicitor, you may call your
16 next witness.

17 SOLICITOR: The State would call Investigator Chuck
18 Bramlett to the stand.

19 THE COURT: All right. Come around and be sworn,
20 please.

21 CHUCK BRAMLETT, being duly sworn,
22 testified as follows:

23 CLERK: Have a seat, please, and once you are seated
24 if you would state your full name for the record, spell-
25 ing your last name.

1 WITNESS: Charles D. Bramlett, Junior, B R A M L E
2 T T.
3 DIRECT EXAMINATION
4 BY SOLICITOR:
5 Q. Investigator Bramlett, where are you employed, sir?
6 A. West Columbia Police Department.
7 Q. And what is your title?
8 A. I'm the evidence custodian and crime scene investiga-
9 tor.
10 Q. As evidence custodian, what do you do?
11 A. I maintain control and custody of all evidence that
12 is collected and placed into evidence.
13 Q. As a crime scene investigator, what do you do?
14 A. We are called out on any scene where there is a
15 crime, whether it has been an auto break or burglary of
16 your home or business, suicide, murder, any type of a
17 crime.
18 The crime scene investigator is called out to pro-
19 cess, photograph and collect evidence.
20 Q. And how long have you been in law enforcement?
21 A. This August will be nineteen years.
22 Q. How long have you been processing crime scenes?
23 A. About ten years, now.
24 Q. Did you have occasion in the early morning hours
25 of September 28th of 2008 to respond to Shaggy's Bar

1 with reference to a shooting?

2 A. Yes, sir, I did.

3 Q. Would you tell the jury generally what you do when
4 you are called to a crime scene?

5 A. Initially when we respond to a crime scene, we find
6 out who is there and we get a brief -- a briefing as to
7 what type of crime scene it is.

8 In this case, being a Sunday morning, Lieutenant
9 Edwards had called me at my house and said that there
10 was a shooting and to respond to process the scene.

11 When I arrived at Shaggy's on Sunset Boulevard, I
12 was briefed by Corporal Fair who was on the scene and
13 given a brief synopsis of what had happened.

14 Q. What were you told about what had happened?

15 A. I was briefed that there was a shooting inside the
16 business. The victim of the shooting had been transported
17 to Richland Memorial Hospital, and the suspect involved
18 had already been transported to the West Columbia Police
19 Department Headquarters.

20 Q. So when you first got to that crime scene and were
21 given that information, what did you do?

22 A. The first thing I do is look around. In this case,
23 I was told that there was a handgun laying on the
24 ground by the building and the clip that was inside of
25 it had been removed and was laying on the ground as well.

1 The first thing I did was I did a walk through, and
2 the purpose of a walk through of a crime scene is to see
3 if there is any evidence that could be destroyed if it is
4 not preserved. Maybe it is running water, or whatever
5 it may be, if it could possibly damage or change the
6 scene we need to take care of it.

7 So initially I do a walk through to determine that
8 the inside of the crime scene is secure and everybody is
9 out.

10 Q. I believe then you got consent to go into the crime
11 scene from the owner, Sonny?

12 A. I did. When I arrived on the scene, he gave us con-
13 sent to search the business, for me to do my processing.

14 Normally, we would get a search warrant without the
15 owner's consent, but in this case here Sonny was on the
16 scene and gave us consent to do what I had to do.

17 Q. After the initial walk through, what is the next
18 thing you would do in processing this crime scene or any
19 crime scene?

20 A. Well, in this case we had security tapes that was
21 -- a security system that was viewing the incident, and
22 Sonny had rewound his computer system to give us an
23 idea of what was going on.

24 I viewed the security tape to see what had happened
25 inside the bar.

1 Q. After doing that, what was the next thing that you
2 did?

3 A. When I went back, I started taking photographs.
4 That's the first thing we do when we start processing.
5 I took a photograph of the building from the front, the
6 side and the back.

7 I went over and I photographed the handgun that was
8 laying on the ground and I photographed the clip beside
9 it.

10 Then I took possession of these two items because
11 I wanted to secure that evidence.

12 Then I went inside the business and started taking
13 photographs of three hundred sixty degrees of the build-
14 ing, of the bar itself, and the evidence that I had
15 found was photographed before it was collected.

16 Q. Let me show you a stack of photographs, Investiga-
17 tor Bramlett, and ask if you recognize them?

18 A. I do.

19 Q. Were those photographs done from the outside of
20 Shaggy's Bar and what you found?

21 A. Yes.

22 Q. And those are pictures that you took?

23 A. Yes.

24 Q. Do they fairly and accurately depict what you saw
25 that morning?

INV. BRAMLETT ON DIRECT

1 A. Yes, they do.

2 SOLICITOR: Your Honor, at this time the State would
3 offer these photographs in evidence.

4 THE COURT: Mr. Floyd?

5 MR. FLOYD: No objection.

6 THE COURT: How many?

7 SOLICITOR: There are five.

8 THE COURT: State's 21, 22, 23, 24, 25 are in evi-
9 dence. Without objection?

10 MR. FLOYD: No objection.

11 (Photographs entered in evidence by the State as
12 follows: Number 21 and 22, photos of building; 23, photo
13 of gun clip; 24, photo of gun; 25, photo of sign of
14 business)

15 BY SOLICITOR:

16 Q. Investigator Bramlett, I show you State's Exhibit
17 Number 19, already in evidence. Do you recognize that
18 photograph?

19 A. Yes, this is a side of the building with the -- you
20 have heard people refer to it as the employee entrance.
21 The door here and, of course, on the ground is going to
22 be the pistol, the handgun I took a picture of.

23 Q. We'll put this on the overhead so the jury can see
24 that.

25 Looking at State's Exhibit Number 19 on the overhead,

1 would you point out for the jury where the gun is?

2 A. The gun is laying right there on the ground.

3 Q. Is the magazine visible in that picture as well?

4 A. I don't see it from here.

5 SOLICITOR: May the witness step down?

6 THE COURT: Yes, sir. You may step down, sir.

7 BY SOLICITOR:

8 Q. On that photograph itself, Number 19, do you see

9 -- are you able to see the magazine in that picture

10 as well?

11 A. Yes, I am.

12 Q. Would you point it out for the jury?

13 A. It's going to be right here in the shadow.

14 Q. You can have a seat.

15 Referring to State's Exhibit Number 24, what is that,
16 Investigator Bramlett?

17 A. That's a Glock twenty-three forty caliber handgun.

18 Q. At this time I will be handing the firearm to you,
19 and I ask if you recognize the firearm?

20 A. Yes, I do.

21 Q. Is that the same firearm depicted in State's Exhibit
22 24 on the overhead projector?

23 A. Yes, it is.

24 Q. The one you found on the ground outside the employee's
25 entrance of Shaggy's that morning?

1 A. Yes, it is.

2 SOLICITOR: Your Honor, the State would offer the
3 firearm in evidence at this time.

4 THE COURT: Mr. Floyd?

5 MR. FLOYD: No objection, Your Honor.

6 THE COURT: State's 24 is in evidence without objec-
7 tion.

8 (Glock handgun admitted in evidence without objec-
9 tion as State's Exhibit 24)

10 BY SOLICITOR:

11 Q. Now, Investigator Bramlett, State's Exhibit 26 that
12 I am holding right now, we have discussed and the Judge
13 has informed the jury that the slide is back to open and
14 there is a cable lock through so it can't be fired?

15 A. Correct.

16 Q. Is that how you found it and as displayed in this
17 picture?

18 A. No, sir, it's not.

19 Q. How did you find it?

20 A. I found it laying on the ground with the clip out of
21 it. The slide was in the closed position.

22 Q. What else did you discover upon taking possession of
23 the weapon?

24 What is the first thing you did when you picked it
25 up?

1 A. The first thing we do on any scene where there is a
2 gun involved is we clear the gun to make sure that it's
3 safe and empty.

4 When I picked the gun up and pulled the slide back,
5 it cleared and one round ejected out of it.

6 That told me that it was still in the loaded posi-
7 tion, and the Glock -- in this type of Glock, when you
8 take the clip out of it, it still has the capacity of
9 firing whatever round is inside the chamber.

10 Q. So is it fair to say that at this moment -- the mo-
11 ment you picked the gun up, it could have fired a bullet
12 and would not be considered safe?

13 A. Yes.

14 Q. Looking at State's Exhibit 23 on the overhead pro-
15 jector, do you recognize that?

16 A. That would have been the clip or the magazine that
17 was laying on the ground beside the gun.

18 Q. And at the top of the magazine, what am I seeing up
19 here?

20 A. The bullet from in the clip. The clip
21 itself -- the clip can hold up to twelve rounds or
22 twelve bullets and then one in the chamber, so the gun
23 has a capacity of holding thirteen bullets.

24 Q. How many bullets did you discover in the magazine
25 at that time?

1 A. When I counted the rounds, there were ten rounds in-
2 side the clip itself.

3 Q. And how many rounds were inside the chamber of the
4 gun?

5 A. There was one.

6 Q. So how many total unfired bullets did you find?

7 A. Eleven bullets.

8 Q. In the magazine?

9 A. Eleven.

10 Q. Looking at the box before you, do you have those
11 bullets with you?

12 A. Yes.

13 Q. Would you open the box up and take out the bullets?

14 A. Yes.

15 Q. Do you recognize those bullets as being the bullets
16 taken from the clip?

17 A. These are -- this is the clip and the bullets that
18 I collected at the scene.

19 What I do is put them in a ziplock -- a plastic
20 evidence bag that has a tamper-proof seal on the top of
21 it, and then I put the information on the front of it
22 as to who collected it and what it is; date, time and
23 pertinent information pertaining to this.

24 Q. In fact, how many bullets are there?

25 A. There are eight bullets in this one now.

1 Q. Why is there only eight?

2 A. The gun was sent to SLED for ballistics testing, and
3 through the testing they will take the actual bullets
4 that came with the gun, fire some of them for testing,
5 and compare a ballistics testing with any bullets from
6 Mr. Chaplin, from Zach.

7 Q. What kind of bullets are those?

8 A. These are forty caliber hollow points.

9 Q. Are those the kind that are used in the gun that
10 you collected, State's Exhibit 26?

11 A. Yes.

12 Q. And what is a hollow point bullet?

13 A. A hollow bullet -- if you are used to seeing in the
14 old western days when the bullet was a solid piece of
15 lead.

16 The hollow point is -- the projectile or bullet part
17 of it is hollow, and when it is fired and makes penetra-
18 tion, as Agent West was explaining yesterday, it will
19 open up and start to slow down the velocity of it.

20 So if it is fired at somebody it won't go through
21 them and strike somebody else. The hollow point is de-
22 signed to open up, spread out, slow down the velocity of
23 the bullet.

24 SOLICITOR: Your Honor, the State would offer the
25 magazine and evidence contained in that bag in evidence.

1 MR. FLOYD: No objection, Your Honor.

2 THE COURT: State's Exhibit 27 in evidence.

3 (Clip and ammunition admitted in evidence without
4 objection as State's Exhibit 27)

5 BY SOLICITOR:

6 Q. Investigator Bramlett, let me show you State's Ex-
7 hibit 25 and ask you to tell the jury what that is?

8 A. That's a sign outside of Shaggy's. That says to
9 the left. Where you saw the employee entrance, this
10 sits across the drive where that entrance was.

11 Q. And looking at State's Exhibit 19, where you are
12 looking into that door, where is this sign in relation
13 to that?

14 A. It would be on this side of the driveway, the right
15 side of it.

16 Q. Okay.

17 A. Well, I guess if you were standing and looking, the
18 sign would be behind you.

19 Q. Does that door open in or out?

20 A. That door opens to the outside.

21 Q. State's Exhibit Number 21 -- do you recognize that
22 photograph?

23 A. This is the front of the building. The front part
24 is the liquor store with a restaurant on the end of it,
25 and then Shaggy's is behind it, all enclosed inside the

1 same building.

2 Q. How do you get to Shaggy's? Do you go around to the
3 right or left?

4 A. You go around to the right of the building, and then
5 behind it.

6 Q. And to the right, is that where the employee en-
7 trance is?

8 A. Yes, sir, it is.

9 Q. And when you continue to circle around the back side,
10 that's where the employee entrance is?

11 A. Yes, it would be.

12 Q. Showing you State's Exhibit Number 22, can you ex-
13 plain to the jury what you see there?

14 A. The door that you see there is at the back of the
15 building. That is considered the entrance and the exit
16 for the patrons that would be coming to the bar.

17 Q. And, again, are you able to tell or are you aware of
18 which way that door opens?

19 A. That door opens to the outside as well.

20 Q. After you photographed the outside, at some point
21 do you prepare a diagram or a sketch?

22 A. At the end of or completion of the crime scene, after
23 I have collected and photographed everything I need to do,
24 I take my notes and go back and write up a crime scene
25 report, and part of that is a diagram of the scene, the

1 building, and the location of the evidence that I found
2 inside the crime scene.

3 Q. I show you a diagram and ask if you recognize this?

4 A. Yes, sir. This is a schematic or the drawing of
5 the crime scene.

6 Q. Did you prepare that yourself?

7 A. Yes, I did. It says drawn by Investigator Charles
8 D. Bramlett, not drawn to scale.

9 Q. Would it assist you in explaining to the jury what
10 you did and what you found?

11 A. It would.

12 SOLICITOR: Your Honor, at this time the State
13 would offer this diagram in evidence.

14 MR. FLOYD: No objection.

15 THE COURT: State's 28 is in evidence without objec-
16 tion.

17 (Drawing of crime scene admitted in evidence without
18 objection as State's Exhibit 28)

19 BY SOLICITOR:

20 Q. Investigator Bramlett, looking at State's 28, and
21 starting on the outside, could you show the jury what the
22 diagram depicts?

23 A. On the side here is the employee entrance, and the
24 lines over here represent the front where the liquor store
25 and restaurant is.

1 I included that in my drawing but it has nothing to
2 do with the crime scene, so I just shaded out with the
3 lines.

4 Inside the bar, of course, this is the bar -- when
5 you're talking about the U-shaped bar, and these were the
6 stools on the left side and in front of the bar, and then
7 this is the right side of the bar.

8 Here is the table that was mentioned earlier. This
9 is the entrance and exit door that the patrons would use
10 to come in and out of the bar.

11 These are just video games, and back here in the
12 back is the juke box and then this is just storage and
13 there is a curtain hanging there for storage. A storage
14 area.

15 Q. On the left side of this diagram, you've got some-
16 thing depicted up here. What is that?

17 A. That is the vehicle that was sitting in front of
18 where the liquor store and the restaurant was.

19 Q. Is that the vehicle that was depicted in State's Num-
20 ber 21?

21 A. Yes, sir.

22 Q. Who did that vehicle belong to?

23 A. That belonged to Mr. Torrence.

24 Q. Looking back at the diagram, explain to the jury
25 what you did once you went inside the crime scene?

1 A. Well, you see numbers -- you will see numbers that
2 are identifying certain items. Item number one was the
3 handgun laying on the ground outside of the employee en-
4 trance, and then when I came in and came around the bar,
5 in looking back up in here that was a -- there was the
6 burgandy shirt and a pair of pants laying on the floor
7 here. There was a pool of blood right there in the cor-
8 ner with some barstools turned over -- overturned on this
9 side.

10 And looking at the video, I knew that Mr. Andrew --
11 I mean, Mr. Torrence was standing, pointing in this direc-
12 tion with the handgun.

13 So the first shot that was fired was fired this-a-way.
14 The Glock -- as explained yesterday, this type gun has a
15 right side ejection on it, so when it's fired the slide
16 that you saw that is locked back will travel backwards.
17 The empty casings will fly out. The spring load -- the
18 clip being spring-loaded will push up and then the slide
19 will inject the second round ready to be fired.

20 So when he fired the first round, pointing in that
21 direction, I looked back in this direction for a casing,
22 because, again, if you pointed this way it would have
23 gone back over his right side.

24 Looking at the area around in here, there is some
25 machines of some type on the bar, and there is a wire

1 bundle up underneath there, and I found one empty casing
2 lodged in this wire bundle.

3 Now, the video shows the second shot was fired fac-
4 ing in this direction, and this meant again the bullet
5 would have flown over his right shoulder, and I found a
6 second casing right near the corner of the bar on the
7 floor, up underneath the foot railing.

8 Now, these numbers here -- this is the distance be-
9 tween the bar and the wall in this area, and the length
10 of the bar.

11 Q. Let me hand you three photographs, and I would ask
12 if they will assist you explaining to the jury what you
13 found as far as the shell casings and the locations?

14 A. Yes, it will.

15 SOLICITOR: Your Honor, we would offer these three
16 photos in evidence at this time.

17 MR. FLOYD: Your Honor, may we approach?

18 THE COURT: Yes, sir.

19 (Conference at the bench between counsel and the
20 Court off the record)

21 THE COURT: State's Exhibits 29 and 30 in evidence.
22 State's 31 -- Madam Court Reporter, the Solicitor
23 will show you which one that will be, for ID only.

24 REPORTER: Yes, sir. One moment, if I may mark
25 them.

1 (State's Exhibits 29 and 30, photos of shell cas-
2 ings, entered in evidence. State's Exhibit 31, photo of
3 clothing of victim, marked for identification purposes
4 only.)

5 BY SOLICITOR:

6 Q. I show you what's been marked as State's Exhibit
7 Number 30. Would you explain to the jury what that shows?

8 A. This is the foot railing around the bottom of the
9 bar, and right in between the two supports is a shell
10 casing that I found.

11 Q. Can you relate that location to the diagram, Exhibit
12 28?

13 A. Yes.

14 Q. Would you show where that casing was found?

15 A. That casing would be right there on the corner.

16 Q. The corner of the bar on the ground?

17 A. Yes, sir.

18 Q. Looking at State's Exhibit Number 29, what does that
19 show?

20 A. That is the casing that was underneath the wire bun-
21 dle on the bar.

22 Q. How many shell casings did you find?

23 A. I found two.

24 Q. Referring back to your diagram again, State's Ex-
25 hibit, the casing that was found -- Exhibit 29 -- in the

401

1 wire bundle, where is that on that diagram?

2 A. That would be right in that area -- like I said there
3 was some type of liquor machine, and there's a wire bun-
4 dle on the back side of the machine. The casing was rest-
5 ing on the bar, up in the wire bundle right there.

6 Q. So what is your opinion as to -- your opinion as to
7 which casing belonged to the first shot and which to the
8 second?

9 A. The first shot that was fired, the casing was lodged
10 here. The second one, the casing would have ended right
11 there.

12 Q. Do you actually have those casings with you?

13 A. Yes, I do.

14 SOLICITOR: Your Honor, at this time the State would
15 offer the two shell casings that Investigator Bramlett
16 recovered into evidence.

17 MR. FLOYD: No objection, Your Honor.

18 THE COURT: State's Exhibits in evidence without ob-
19 jection.

20 SOLICITOR: Marked separately, Your Honor.

21 THE COURT: State's Exhibits 32 and 33 in evidence
22 without objection.

23 Correct, Mr. Floyd?

24 MR. FLOYD: Correct.

25 (Shell casings marked State's Exhibits 32 and 33

1 admitted in evidence without objection.)

2 BY SOLICITOR:

3 Q. I show you State's 27 which contains the unfired
4 bullets as well as the bullets that were fired, as well
5 as the casings that you discovered.

6 Do the casings appear to be consistent with the un-
7 fired bullets?

8 A. Yes, sir, they do.

9 Q. Investigator Bramlett, did you also have occasion
10 to take photographs depicting the injuries sustained by
11 Mr. Torrence that morning as well?

12 A. Yes, sir, I did.

13 Q. Let me show you two photographs and ask if you recog-
14 nize those photographs?

15 A. Yes, sir, these are the two photos that I took.

16 Q. And do they fairly and accurately depict the injur-
17 ies that you observed that morning?

18 A. Yes, they do.

19 SOLICITOR: Your Honor, the State would offer these
20 two photographs in evidence.

21 MR. FLOYD: No objection.

22 THE COURT: All right, State's 34 and 35 in evidence
23 without objection.

24 (Photos of injuries to Defendant entered in evidence
25 as State's Exhibits 34 and 35.)

1 Q. Investigator Bramlett, referring to State's Ex-
2 hibits 34 and 35, would you describe what those depict?

3 A. Those are pictures of Mr. Torrence's face. It
4 shows a little blood on his nose and some swelling
5 across the bridge of his nose.

6 Q. Are you aware of whether he received any medical
7 treatment for those, and what the treatment was?

8 A. I'm not aware if he did or not, sir.

9 Q. Thank you, Investigator Bramlett. Please answer
10 any questions Mr. Floyd may have for you.

11 THE COURT: Thank you.

12 Mr. Floyd.

13 MR. FLOYD: Thank you, Your Honor.

14 CROSS EXAMINATION

15 BY MR. FLOYD:

16 Q. Officer Bramlett, I just have a couple of questions
17 for you

18 A. Yes, sir.

19 Q. Let's go back to your diagram.

20 A. Yes, sir.

21 Q. On the right side over here -- there . .

22 A. Yes, sir.

23 Q. . . is that where Mr. Chaplin was located but he was
24 gone by that time?

25 A. He had already been removed from the scene but there

1 was an area where there was clothes and blood.

2 Q. Now, that area you've got there is only what --
3 four feet three and a half inches wide?

4 A. Yes, sir.

5 Q. And there also were bar stools in there, were there
6 not?

7 A. Yes, sir. There were several bar stools that were
8 -- that had been turned over.

9 Q. And you did not measure the bar stools?

10 A. No, sir, I did not.

11 Q. The bar stools would reduce the amount of space
12 you have in there, wouldn't it?

13 A. It could, yes, sir.

14 Q. And it's also got a railing, does it not, next to
15 the bar?

16 A. It does have a foot railing. Yes, sir.

17 Q. Do you know how far from the bar itself were the
18 railings?

19 A. The railings were up next to the bar.

20 Q. Next to the bar?

21 A. Right up under the bar, against the bar.

22 Q. And so what you've got here is some four feet three
23 and a half inches, reduced by the length of the bar stool
24 would be, and the width of the railing?

25 A. Well, there would be no width of the railing that

1 would interfere with that four foot three and a half
2 inches. It was directly against the bar, underneath the
3 bar. It did not protrude past the bar itself.

4 Q. I got you, so you are measuring from where?

5 A. My measurement is from the bar to the wall.

6 Q. Now, did you also find a shirt of Mr. Torrence's
7 there?

8 A. No, sir. Not Mr. Torrence's -- I did not.

9 Q. Now, when you found the gun there was actually a
10 round in the chamber?

11 A. Yes, sir, there was.

12 Q. And there were actually ten rounds in the magazine?

13 A. Correct.

14 Q. The round in the chamber would basically move for-
15 ward when the trigger was pulled? That would have raised
16 that round, correct?

17 A. Yes, it would have.

18 Q. And all ten in there could easily have been fired
19 also, is that correct?

20 A. As long as the clip was in the gun, yes, but once
21 the clip was removed you only have one left and that's
22 what was in the chamber of the gun.

23 Q. Do you know whether or not the magazine was in the
24 gun at some point?

25 A. My belief is that since the video shows two shots

1 were fired, yes. The bullet had to be inside the gun,
2 because the chamber only has the capacity for the one
3 round.

4 Q. And there were thirteen rounds available and two
5 rounds were shot?

6 A. That is my count, yes.

7 Q. Was the weapon sent to SLED for analysis?

8 A. Yes, the weapon was sent for ballistics. Yes.

9 Q. And were there any fingerprint analyses ran on the
10 weapon?

11 A. No, sir.

12 Q. Thank you, Officer Bramlett.

13 A. Yes, sir.

14 THE COURT: Redirect, Solicitor?

15 SOLICITOR: No questions, Your Honor.

16 THE COURT: Thank you, Detective. You may step
17 down.

18 (Witness excused from stand)

19 THE COURT: All right, Solicitor, you may call your
20 next witness.

21 SOLICITOR: Your Honor, the State would rest.

22 THE COURT: All right, thank you.

23 Mr. Foreman, ladies and gentlemen of the jury, as
24 you have heard the State has rested as far as its case
25 in chief.

1 There is no more testimony to be offered by the State
2 as far as its case in chief.

3 I am required to meet with the attorneys outside of
4 your presence, so I'm going to ask you to leave your notes
5 upside down on your chairs and go with your bailiff to
6 your jury room.

7 Do not discuss the case, and remember to keep an
8 open mind.

9 We will probably take about a twenty minute recess.
10 Please go with your bailiff at this time.

11 Thank you.

12 (Jury excused from Courtroom)

13 THE COURT: All right. Any motions from the State?

14 SOLICITOR: No, Your Honor.

15 THE COURT: From the Defense?

16 MR. FLOYD: Yes, Your Honor.

17 THE COURT: All right. I'll be glad to hear from
18 you.

19 MR. FLOYD: Thank you, Your Honor.

20 Your Honor, at this time the Defense would move for
21 a directed verdict of acquittal on the charge of murder.

22 The basis for the motion is two-fold. First, it
23 is our position that the evidence, even taken in the
24 light most favorable to the State, and as I know is re-
25 quired in this stage of the proceeding -- the evidence

1 still fails to establish that this was an intentional
2 killing with malice aforethought as required by the law.

3 Your Honor has seen a portion of the videotape, and
4 the evidence clearly establishes a certain sequence of
5 events. An attack upon Mr. Torrence by the victim, Mr.
6 Chaplin, in which he struck him repeatedly about the face
7 about a dozen times, with the assistance of Mr. Buchanan
8 who was holding him at the time.

9 With that scenario, Mr. Torrence then goes into the
10 effecting of a citizen's arrest on the victim, and then,
11 of course, before he is able to address Mr. Chaplin, of
12 course, he is attacked by Mr. Chaplin who has cocaine in
13 his system with a bar stool -- throws a bar stool at him
14 and then charges him as if to attack him and take his
15 weapon.

16 There was, on its face, Your Honor, evidence of self-
17 defense and an effort to make a citizen's arrest, not a
18 premeditated murder.

19 Furthermore, Your Honor, it is our position that the
20 evidence fails to establish that the -- that Mr. Chaplin
21 actually died from the wounds by the Defendant.

22 We know that he was released from the hospital in a
23 good, stable condition and sent to the V.A. Medical Cen-
24 ter in Georgia for therapy and rehabilitation.

25 The State has not produced any evidence from the

1 V.A. Medical Center in Georgia, but it is obvious that
2 something must have happened out there that led to the
3 end of progress that he was making and that could not be
4 attributed to Andrew Torrence.

5 For both of these reasons, Your Honor, we would
6 request a direction of a verdict of acquittal for Andrew
7 Torrence as to murder.

8 Of course, Your Honor, for the offenses of possession
9 of a firearm, we would also make these same motions for
10 direction of a verdict of acquittal.

11 Thank you, Your Honor.

12 THE COURT: Thank you, Mr. Floyd.

13 Solicitor?

14 SOLICITOR: Thank you, Your Honor.

15 As to the proximate cause, taking the second before
16 the first, Your Honor, it is the opinion of Dr. Janice
17 Ross, that -- her testimony is that the second bullet
18 shot into the neck caused the spinal injury, the para-
19 plegia, and was the proximate cause of Mr. Chaplin's death.

20 It is a jury question as to whether the death is the
21 result of the shooting.

22 As to the question of the assault, Your Honor, it
23 is the testimony that Mr. Torrence had stated that he was
24 going to get his gun and shoot him prior to the incident
25 happening, showing malice, showing his plan or intent.

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1 Additionally, it is shown throughout the testimony,
2 taken again in the light most favorable to the State,
3 that the Defendant was drunk and obnoxious; that he was
4 crude and lewd in an effort to gain attention.

5 On the video, it is clear that it shows him after
6 the altercation with Mr. Chaplin leaving the club. Then
7 he comes back and he has a gun.

8 The video shows Mr. Buchanan putting his hands on the
9 bar, and there is testimony he said, put your hands on
10 the bar; this has nothing to do with you.

11 There is no evidence that a citizen's arrest was tak-
12 ing place, and no evidence it would be a legal citizen's
13 arrest, even if there was a citizen's arrest.

14 In the light most favorable to the State, the evi-
15 dence is that Mr. Torrence went out while he was drunk,
16 got a gun and came back, and he continued to escalate and
17 provoke the situation.

18 Mr. Chaplin charged, but it is also possible for the
19 jury, in the light most favorable to the State, to de-
20 termine that he was protecting and defending friends.
21 There were three people that he knew who were trapped in
22 the bar, being held by Mr. Torrence at gunpoint.

23 You have Donna under the table, Mr. Buchanan who
24 was trapped in the corner, and you have Jennifer, the bar-
25 tender, under the bar.

1 It is also law in the State of South Carolina that
2 it is the right of individuals to resist an illegal ar-
3 rest. So even if you believe there was an arrest going
4 on, if it was illegal Mr. Chaplin had a right or a cause
5 sufficient that the State of South Carolina gave him to
6 resist that arrest.

7 Given all the facts and the only testimony we have,
8 Mr. Torrence was drunk, intoxicated, and he got beat up;
9 that he went out and got his gun and provoked a fight; that
10 Mr. Chaplin tried to stop him.

11 The testimony is that Mr. Torrence fired one round
12 at him, and there was a time delay between the first and
13 the second shot. The video shows the time frame, and you
14 can look at the dust or insulation coming from the ceil-
15 ing to see the time between the two shots.

16 The jury can infer that the second shot, from the
17 testimony and from the video -- that the second shot oc-
18 curred while Mr. Chaplin was down on the ground, on his
19 hands and knees, where his head was below the barrel of
20 the gun.

21 The video shows from the downward angle that it was
22 an execution. There is plenty of evidence for a jury to
23 find the shooting was the proximate cause of Mr. Chaplin's
24 death, and the jury can find in the light most favorable
25 to the State that Andrew Torrence is guilty of murder.

1 THE COURT: All right. Any response, Mr. Floyd?

2 MR. FLOYD: Your Honor, the State's argument of it
3 being an execution is just not supported by the evidence.
4 He had eleven more bullets, and the man was unable to re-
5 sist if he had wanted to kill him.

6 So if he wanted to kill him, why did he not fire ad-
7 ditional rounds into him? Why not make sure he was dead?
8 That would tend to dispell the intent to murder him in any
9 way, shape or form.

10 THE COURT: Thank you. Well, of course, as Mr. Floyd
11 has pointed out, and the Solicitor would also agree, at
12 this stage of a directed verdict I must look at the evi-
13 dence, both direct and any circumstantial evidence, in
14 the light most favorable to the State, being the non-
15 moving party.

16 Of course, the State is never entitled to move for a
17 directed verdict at any stage of the proceeding.

18 The State must prove beyond a reasonable doubt that
19 the Defendant killed another person with malice afore-
20 thought. Malice is hatred, ill will, hostility
21 to another person.

22 The intentional doing of a wrongful act without just
23 cause or excuse, and with the intent to inflict an injury
24 or under circumstances from which the law would infer an
25 evil intent.

1 Malice aforethought does not require that the malice
2 exist for any particular time before the act is commit-
3 ted, but malice must be possessed in the mind of a Defen-
4 dant just before and at the time of the act being commit-
5 ted.

6 Therefore, there must be a combination of the pre-
7 vious evil intent and the act committed.

8 Malice aforethought may be express or inferred, al-
9 though these are not different types of malice, but is
10 merely the manner in which malice may be shown to exist;
11 that is, either by direct evidence or by inference from
12 facts and circumstances which are proved.

13 Express malice is shown when a person speaks words
14 which express hatred or ill will for another, or when the
15 person prepared beforehand to do the act which was later
16 accomplished.

17 For example, by laying in wait for a person or any
18 other act of preparation going to show that the deed was
19 in the Defendant's mind would be expressed malice.

20 Malice may be inferred from conduct showing a total
21 disregard for human life.

22 I would find that there were -- there is evidence
23 of prior threats and ill will by the Defendant towards
24 the victim, Mr. Chaplin, and that was expressed on numer-
25 ous occasions and heard by numerous other patrons in the

1 establishment known as Shaggy's.

2 I do take into consideration that it appears that
3 Mr. Torrence was assaulted. However, given those facts of
4 those threats, those expressions of malice towards the
5 victim, and then leaving the bar, and not being parked
6 directly behind the bar but taking it circumstantially
7 that he had to walk entirely around the building, go to
8 his vehicle, retrieve his weapon, which I take as an act
9 of preparation, and then return around the building to go
10 back into Shaggy's -- he then points the weapon at Mr.
11 Buchanan, whose testimony is that he tells Mr. Buchanan,
12 this is not about you, or words of similar effect.

13 He has now armed himself, having ingested some amount
14 of alcohol, and goes into the bar and then, after having
15 pointed the deadly weapon at Mr. Buchanan, shoots the vic-
16 tim twice. Once in the arm and the second time entering
17 somewhere behind the mastoid bone in the ear and travel-
18 ing down and lodging in the spine.

19 I think there is substantial direct evidence -- ex-
20 cuse me. I think that there is direct evidence and sub-
21 stantial circumstantial evidence as to the intent of the
22 Defendant.

23 As to the proximate cause issue, I think that is
24 clearly a jury issue.

25 Dr. Ross is a forensic pathologist. She places

1 certain dots along the medical continuum from the inflic-
2 tion of the gunshot wound, whether it is the first or the
3 second.

4 My analysis at this point is irrelevant, but if you
5 connect those dots, they inevitably lead to the death of
6 the victim.

7 Based on the standard I must apply at this time, ul-
8 timately that is a question of fact for the jury.

9 I would observe -- in denying the motion for directed
10 verdict, I would observe, however, I do not characterize
11 this as an execution.

12 It appears to this Court, being the jury's decision,
13 that both rounds would have come from the front, and that
14 there are so many variables between the height of Mr.
15 Torrence and the height of Mr. Chaplin, the position that
16 Mr. Chaplin's body was in versus the position of Mr.
17 Torrence -- the height discrepancies of both of those
18 parties, and, of course, that affects the height of the
19 weapon and affects the entry of the bullet.

20 There had to be mere inches or sub-meters between
21 the balance of life or death. Be that as it may, your
22 motion for directed verdict is denied.

23 THE COURT: Any other motion, Mr. Floyd?

24 MR. FLOYD: Not at this time, Your Honor.

25 THE COURT: Do you intend to produce evidence and

1 testimony?

2 MR. FLOYD: Yes, sir.

3 THE COURT: How long do you think that will take?
4 I'm not holding you to it. I'm just trying to get an
5 idea.

6 MR. FLOYD: Your Honor, I have a couple of short wit-
7 nesses. About five or ten -- about ten minutes apiece,
8 I believe.

9 THE COURT: All right.

10 MR. FLOYD: And we will discuss if the Defendant
11 takes the stand, and if so we will go forward with him.
12 He would be on there for a good while.

13 THE COURT: All right. Why don't we take a few min-
14 utes recess, and then I'll bring them back out and tell
15 them where we're at procedurally.

16 Then you may call your first witness, and we'll
17 see where we are.

18 MR. FLOYD: Thank you.

19 THE COURT: Has the DOBs and social security numbers
20 -- has that been resolved?

21 MR. FLOYD: Yes, sir. At this point, I don't an-
22 ticipate there being any problem.

23 THE COURT: All right, anything else, Solicitor?

24 SOLICITOR: No, Your Honor.

25 THE COURT: Thank you very much. Court will be in

1 recess,

2 (Whereupon, the Court took a brief recess, after
3 which the case was resumed)

4 THE COURT: Anything from the State before we
5 bring in our jury, Solicitor?

6 SOLICITOR: No, Your Honor.

7 THE COURT: Defense?

8 MR. FLOYD: No, Your Honor.

9 THE COURT: All right, bring us our jury, please.

10 (Jury returned to the Courtroom)

11 THE COURT: Welcome back, ladies and gentlemen.

12 As you recall, before we took our recess the State
13 rested as far as its case in chief is concerned.

14 You have heard all the evidence and all the testi-
15 mony you are going to hear from the State in its case in
16 chief.

17 The Defendant now has the opportunity to present wit-
18 nesses, evidence and testimony if the Defendant chooses
19 to do so.

20 As you have heard me say before, a criminal defen-
21 dant in South Carolina is presumed to be innocent, re-
22 gardless of the serious nature of the charges that may
23 have been brought against him.

24 A criminal defendant does not have to prove himself
25 or herself innocent. The State is the party that bears

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1 the burden of proof. They must prove their case, each
2 and every element of each and every offense charged, by
3 the proof beyond a reasonable doubt. There is not burden
4 on the Defendant whatsoever.

5 However, as I have stated, a defendant may present
6 evidence and testimony if he chooses to do so.

7 So now we will direct our attention to Mr. Floyd and
8 ask, does the Defendant intend to offer any evidence, Mr.
9 Floyd?

10 MR. FLOYD: Yes, we do, Your Honor.

11 THE COURT: You may call your first witness.

12 MR. FLOYD: Thank you, Your Honor. We call Dr.
13 Schwab.

14 THE COURT: All right. Come around here, Doctor, and be
15 sworn.

16 MR. FLOYD: Come around and the Clerk will adminis-
17 ter the oath.

18 STEPHEN SCHWAB, being duly sworn,
19 testified as follows:

20 CLERK: Have a seat, please, sir, and once you are
21 seated, Doctor, please speak loud and clear and state your
22 name, spelling your last name for the record.

23 WITNESS: My name is Stephen Schwab, S C H W A B.

24 CLERK: How do you spell Stephen?

25 WITNESS: With a P H.

1 CLERK: Thank you.

2 WITNESS: S T E P H E N.

3 DIRECT EXAMINATION

4 BY MR. FLOYE:

5 Q. Dr. Schwab, what is your occupation?

6 A. Emergency physician.

7 Q. And where do you work?

8 A. Lexington Medical Center, downtown.

9 Q. Where did you receive your medical training?

10 A. I went to medical school in Charleston at MUSC, and
11 I became board certified, trained in emergency medicine
12 in Jacksonville, Florida.

13 Q. How long have you been board certified?

14 A. Since 2003.

15 Q. And how long have you worked at Lexington Medical
16 Center?

17 A. Five years.

18 Q. And were you present or were you working on Septem-
19 ber 28 of 2008?

20 A. That's correct.

21 Q. And during that time, did you have the occasion to
22 see a gentleman by the name of Andrew Torrence?

23 A. That's correct?

24 A. Now, can you tell us what time you saw him?

25 A. Approximately nine A.M.

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1 Q. And where did you see him?

2 A. It was in the emergency department.

3 Q. And what was the reason for the visit, the emergency
4 visit?

5 A. Um, it appeared to be an altercation with some
6 trauma to the nose and facial area.

7 Q. Okay, did you see any signs of trauma?

8 A. Yes, he had some swelling to the bridge of the nose
9 with a small superficial cut.

10 Q. Did you also see some swelling in his lip area?

11 A. I don't recall that but that would not be unusual
12 for this scenario.

13 He also had a small bruise to the left side of his
14 scalp.

15 Q. Did you give him treatment at that time?

16 A. His wounds were cleaned. They were dressed. He had
17 some -- he was given a tetanus shot, and the wound on his
18 nose was approximated, using basically light butterfly
19 bandages.

20 Q. What do you mean by approximated?

21 A. It's when you have a cut and it is pulled apart, and
22 instead of putting stitches in you pull it together, us-
23 ing a special type of bandage.

24 Q. And the injuries you observed, were they consistent
25 with an assault?

1 A. Certainly.

2 Q. Thank you.

3 MR. FLOYD: No further questions, Your Honor.

4 THE COURT: Thank you, Mr. Floyd.

5 Solicitor?

6 CROSS EXAMINATION

7 BY SOLICITOR

8 Q. Dr. Schwab, do you know what time Mr. Torrence was
9 admitted to the E.R.?

10 A. Uh, looking at this record, it looks like it's some-
11 time around 9:11 A.M. That's what this is indicating.

12 Q. Does it say what time he was discharged?

13 A. Discharge -- it looks like about 9:37.

14 Q. So he was there for twenty-six minutes?

15 A. Pretty close, yeah.

16 Q. Is it fair to say that he presented with symptoms
17 of a moderate . .

18 REPORTER: I'm sorry.

19 SOLICITOR: I'm sorry. Would it be fair to say that
20 he presented ..

21 Q. For present illness, it's got down a twenty-eight
22 year old male patient with nasal pain in nose for two
23 hours.

24 This said it was an altercation SPV.

25 A. Status post.

- 1 Q. Symptoms were moderate, acheing, constant. Radiat-
2 ing senses include no radiation. Altercation this A.M.
3 What does that tell us so far?
4 A. That he was involved in an altercation, had a wound
5 that was moderate and achey in quality. It didn't radiate
6 anywhere, didn't shoot anywhere.
7 Q. Clips in the nose, positive -- POS EPOH. What does
8 that mean?
9 A. Positive.
10 Q. Positive -- what's EPOH?
11 A. Alcohol.
12 Q. So he was positive for alcohol?
13 A. Yes, reasonable.
14 Q. Did you write that or did someone else write that?
15 A. I wrote that.
16 Q. You wrote that, so when you wrote that you noted he
17 was positive for alcohol use?
18 A. Correct.
19 Q. In fact, later on in the box for social history,
20 in which EPOH is checked -- bottom on the first page of
21 your medical report, it says no SX -- what does that mean?
22 A. . .
23 Q. Under the repeat or additional . .
24 A. Oh, no symptoms or objective findings that are likely
25 for impairment.

1 Q. So one of the phrases that you have on this page is
2 that it was not likely to impair him?

3 A. No.

4 Q. Medically screened, stable for disposition -- nothing
5 serious?

6 A. Nothing life threatening.

7 Q. On the next page, it looks like the order for an
8 x-ray was cancelled.

9 Why did you cancel it?

10 A. Either the patient declined, or we came to a conclus-
11 ion that it wasn't wished for, so it was cancelled.

12 Q. So your diagnosis on release -- it looks like it was
13 nasal pain, nasal contusion, laceration to the face. Is
14 that correct?

15 A. Correct.

16 Q. No broken nose?

17 A. No. No, sir.

18 Q. No stitches?

19 A. The steri-strips are not stitches. A little more
20 advanced, probably between a bandaid and a stitch.

21 Q. I don't see where in the report they talk about a
22 laceration to his scalp.

23 A. I think it was a contusion to the scalp.

24 Q. Where would that be?

25 A. Under the skin exam, superficial laceration bridge

1 of nose, contusion left parietal scalp.

2 Q. So he had a bruise to the scalp and a small abrasion
3 to the nose?

4 A. Correct.

5 Q. What kind of medicine did you give him, if any?

6 A. Let's see. We gave him a tetanus update and I don't
7 see any prescriptions. We recommended Tylenol or Motrin
8 as needed.

9 Q. Thank you, Doctor.

10 THE COURT: Redirect?

11 MR. FLOYD: Just briefly, Your Honor.

12 REDIRECT EXAMINATION

13 BY MR. FLOYD:

14 Q. Did you smell alcohol on him?

15 A. Yes, sir.

16 Q. And that's not in your report, the smell of alcohol,
17 is it?

18 A. No, sir.

19 Q. Thank you.

20 MR. FLOYD: No further questions, Your Honor.

21 THE COURT: Recross?

22 SOLICITOR: No, sir.

23 THE COURT: Thank you very much, Doctor. You may
24 step down and be excused.

25 (Witness excused)

1 THE COURT: Call your next witness.

2 SOLICITOR: Dr. Catalano.

3 THE COURT: All right, Dr. Catalano, come forward
4 for us, please.

5 EDWARD WILLIAM CATALANO, being
6 duly sworn, testified as follows:

7 CLERK: Doctor, have a seat, and after you're seated
8 give us your full name, spelling your last name, please.

9 WITNESS: Edward William Catalano. Last name is
10 C A T A L A N O.

11 DIRECT EXAMINATION

12 BY MR. FLOYD:

13 Q. Dr. Catalano, what is your profession?

14 A. I'm a pathologist. I'm at -- practicing primarily
15 at Palmetto Health Richland Hospital.

16 Q. What does a pathologist do?

17 A. A pathologist performs autopsies, examines tissue
18 for presence or absence of disease or malignancy, and a
19 pathologist is also responsible for supervising the labor-
20 atory and the various parts of the laboratory, blood bank,
21 hematology, chemistry lab, micro-biology lab.

22 Q. And where did you receive your medical training?

23 A. I graduated from the Medical University of South
24 Carolina in Charleston, and I did an internship and sev-
25 eral years of residency there.

1 Then I did several years of fellowship at Johns
2 Hopkins Hospital in Baltimore.

3 Q. How long have you been specializing in pathology?

4 A. I was board certified in 1978, so that's been about
5 thirty-eight years.

6 MR. FLOYD: Your Honor, we would offer Dr. Catalano
7 as an expert in pathology.

8 THE COURT: Any voir dire, Solicitor?

9 SOLICITOR: No, Your Honor.

10 THE COURT: He is so qualified. Ladies and gentle-
11 men of the jury, you will recall that normally when a per-
12 son testifies they must testify as to what they saw or
13 heard or sensed by smell or something of that nature.

14 However, there is an exception for a witness who can
15 be called an expert witness and is qualified by education
16 or experience in a particular art or science or profes-
17 sion, and they are permitted to give their opinion in
18 some area that the Court qualifies them in that way.

19 This witness, Dr. Edward Catalano, is qualified in
20 the area of pathology and may give his opinion in that
21 area.

22 Now, that does not mean that you must accept the
23 opinion, but it is evidence for you to hear and use in
24 any way you choose.

25 That being said, Mr. Floyd, you may continue.

1 Q. Dr. Catalano, were you working at Palmetto Richland
2 in September of 2008?

3 A. In September of 2008, I was the director of the la-
4 boratory at Palmetto Health Richland.

5 Q. And referring specifically to September 28, 2008,
6 did you have an occasion to do an examination of the bod-
7 ily fluids of Zachariah Chaplin?

8 A. Yes, sir.

9 Q. And what was the purpose in doing that examination
10 at that time?

11 A. The -- when a patient is admitted to the hospital
12 or to the emergency room, typically bodily fluids, blood
13 and urine, are typically removed and sent to the labora-
14 tory for examination to assist the physician in assessing
15 the medical condition of the patient.

16 So it is important not only to look at things like
17 hemaglobin and white blood cells and things like that,
18 but also to look for the presence or absence of any med-
19 ications or drugs that might influence the patient's
20 condition.

21 Q. And did you find the presence of any illegal drugs
22 in his system?

23 A. The drug screen was performed on Mr. Chaplin on
24 September 28th, 2008. The specimen was collected at 7:51
25 in the morning, and it was positive for both amphetamines

1 and cocaine.

2 A drug screen tests for various categories of drugs,
3 which includes amphetamines, methamphetamines, barbitu-
4 ates, benzodiazepines which includes things like valium,
5 librium, and basically marijuana, cocaine, opiates such
6 as heroin and narcotics such as that, and methadone, phen-
7 sychlopene, PCP and alcohol.

8 Q. And in this instance, you found . .

9 A. In this instance out of the screen, we found posi-
10 tive results for amphetamine and for cocaine.

11 Q. Thank you, Doctor.

12 MR. FLOYD: May I have this document marked?

13 THE COURT: Solicitor, have you seen it?

14 SOLICITOR: No, Your Honor, I have not seen it.

15 THE COURT: Mark it Defense Exhibit 1 for ID only.

16 SOLICITOR: Your Honor, if I might look at it very
17 quickly?

18 THE COURT: Yes, sir.

19 (Brief pause)

20 SOLICITOR: No objection, Your Honor.

21 THE COURT: All right. Defense 1, is that correct?

22 REPORTER: Yes, sir.

23 THE COURT: Admitted without objection.

24 (Drug screen report admitted in evidence without
25 objection as Defendant's Exhibit 1)

1 BY MR. FLOYD:

2 Q. Thank you, Dr. Catalano. Please answer any question
3 the Solicitor may have for you.

4 THE COURT: Solicitor.

5 CROSS EXAMINATION

6 BY SOLICITOR:

7 Q. Doctor, how are you?

8 A. Fine, sir.

9 Q. What is the purpose of taking drug screens like this
10 in a hospital?

11 A. When a patient presents, primarily in the emergency
12 room, and they have any significant illness, a drug screen
13 is a typical test that's done for the presence or the ab-
14 sence of drugs for impact of their clinical presentation.

15 It is important to know -- for example, if they are
16 sort of semi-comatose, is that due to a head injury or
17 might that be due to the presence of various drugs.

18 So to help evaluate the patient from a medical per-
19 spective, to help determine what treatment would be appro-
20 priate.

21 Q. It says here this drug screen is only a preliminary
22 screening test. What does that mean?

23 A. It means that this test is a screening test for the
24 presence of those various substances, and the sensitivity
25 of those tests is -- the sensitivity and tenacity is not

1 a hundred percent.

2 It may be ninety-eight, ninety-nine percent, but if
3 you want to be absolutely certain, then you would have to
4 do a reconfirmatory test, and that is typically an AGC
5 mass spec gastromatography, mass spectrometry, and that
6 is a very specialized test.

7 We would send that out to . .

8 Q. Does SLED do that?

9 A. SLED does that.

10 Q. So right now then you are saying there is probably a
11 ninety-eight percent chance -- that this specimen was ana-
12 lyzed for cocaine, and it is ninety-eight percent that
13 it was positive for amphetamine or meth-amphetamine?

14 A. I would say ninety-seven, ninety-eight percent on
15 the amphetamine. Ninety-nine percent on the co-
16 caine.

17 Q. Okay. Can you tell the jury today that this was
18 Zach Chaplin's specimen?

19 Did you all maintain a chain of custody on this?

20 A. Typically, with medical-legal specimens, we initiate
21 a chain of custody.

22 That means from the very moment that specimen was
23 drawn, wherever it goes it has paperwork that follows it,
24 and that's a good chain of custody.

25 With medical specimens, we are not required to do

1 that because typically they are not drawn for legal pur-
2 poses.

3 But we've got a high level of certainty, and, again,
4 we might be wrong one in ten thousand or one in a hundred
5 thousand, but I cannot give you with absolute certainty
6 an assurance that this is his specimen.

7 Q. Doctor, I see that the indications are positive and
8 negative.

9 A. Yes.

10 Q. What are the thresholds? I mean, there are no num-
11 bers here.

12 A. Yes. If you look down at the bottom of that page, it
13 gives you the cut-off for amphetamines which is a thousand,
14 and then on the next page it gives the cut-off levels for
15 the other drugs.

16 And so that tells you at what level that drug has to
17 be in order to be interpreted as a positive in this test.

18 It is not a quantitative analysis, however. It is
19 not giving you an absolute number. It just gives you
20 whether that substance is present or not, and those levels
21 are basically -- those are from the federal guidelines
22 that are set up by the Department of Transportation and
23 others.

24 That is not a quantitative test. I mean, on the co-
25 caine, for example, the cut-off is three hundred, and it

1 could either be at the three hundred level, or it could
2 be at the three thousand level. There is no way to tell
3 from looking at that result.

4 Q. Is it a fair statement to say that the cocaine and
5 amphetamines stay in your system for some time?

6 A. Yes, sir. For example, you could have a positive co-
7 caine reading on the dosage for up to seventy-two hours
8 following ingestion.

9 Q. So I see that this was collected on the morning of
10 September 28, 2008, and the time was seven thirty-five.

11 So is it your testimony that that cocaine could have
12 ingested up to three days before -- as far back as Septem-
13 ber 25, 2008, at seven thirty-five?

14 A. . .

15 Q. That it would still test positive?

16 A. It's possible, yes.

17 Q. The amphetamines would be similar?

18 A. Yes, sir.

19 Q. Have you produced those medical records in this case?

20 A. No, sir.

21 Q. So if I told you that Mr. Chaplin in the social his-
22 tory upon his admission to the ER stated he used cocaine
23 the day before this incident, you are not aware of that,
24 are you?

25 A. No, sir.

1 Q. Hypothetically then, Doctor, if Mr. Chaplin -- this
2 is his sample and he admitted that he used cocaine the
3 day before, it's very possible it would be positive here?

4 A. Yes, sir.

5 Q. So you are not here today to say that Mr. Chaplin
6 had used cocaine right prior to the incident?

7 A. No, sir.

8 Q. Thank you, Doctor.

9 THE COURT: Redirect, Mr. Floyd?

10 MR. FLOYD: Yes, sir. Thank you.

11 REDIRECT EXAMINATION

12 BY MR. FLOYD: .

13 Q. Dr. Catalano, are you sure to a degree of medical
14 certainty that this sample is the sample of Zachariah
15 Chaplin?

16 A. Yes, sir. We have to have a reasonable degree of
17 certainty that the samples that are drawn by the lab and
18 come to the lab actually come from the patients that are
19 identified because we try and provide optimal care for
20 patients and have positive identification.

21 Q. And you can't say the total level of drugs in his
22 system, but just that it was present?

23 A. That's correct.

24 Q. And it is present in an amount to trigger those
25 thresholds that you use?

1 A. Yes, sir.

2 Q. For example, if the threshold for cocaine is three
3 hundred, what does that mean?

4 Three hundred . .

5 A. That is three hundred nanograms per milliliter.

6 Q. Now, you say it could be in the system for
7 up to seventy-two hours?

8 A. Yes, sir.

9 Q. Does its level decrease over time?

10 A. Yes, sir.

11 Q. And what you have here is that it was at least the
12 three hundred NG over ML, whatever those . .

13 A. Yes, sir.

14 Q. It could be as high as five thousand, ten thousand,
15 because you don't go for a ceiling but you just have the
16 threshold.

17 Is that correct?

18 A. Yes.

19 Q. And would it be the same answer for the amphetamine?

20 A. Yes, sir.

21 Q. And amphetamines also decrease over time?

22 A. Yes, sir. The body either eliminates or metabolizes
23 all of those compounds that we test for.

24 Q. Thank you.

25 THE COURT: Recross?

1 MR. FLOYD: No, Your Honor. Thank you, Doctor.

2 THE COURT: Thank you, Dr. Catalano. You may step
3 down and be excused.

4 WITNESS: Thank you, Your Honor.

5 (Witness excused)

6 THE COURT: All right, Mr. Floyd.

7 MR. FLOYD: Thank you, Your Honor. Your Honor, we'd
8 call Officer Griffin of the West Columbia Police Depart-
9 ment.

10 THE COURT: All right, Officer Griffin. If you would
11 come around and be sworn, please.

12 THOMAS GRIFFIN, being duly sworn,
13 testified as follows:

14 CLERK: Please have a seat and once you are seated
15 state your full name, spelling your last name.

16 WITNESS: Thomas Wessinger Griffin, G R I F F I N.

17 DIRECT EXAMINATION

18 BY MR. FLOYD:

19 Q. Officer Griffin, with whom are you employed?

20 A. The West Columbia Police Department.

21 Q. In what position?

22 A. Currently I'm a Corporal with the Police Department.

23 Q. Were you with the West Columbia Police
24 Department back in September of 2008?

25 A. Yes, I was.

1 Q. Did you on September 28 of 2008 have the occasion
2 to be involved in some fashion in the matter of Andrew
3 Torrence?

4 A. Yes, sir, I was.

5 Q. How -- what was your first involvement?

6 A. My first involvement was when we were dispatched to
7 the actual scene.

8 Officer Shook arrived on the scene prior to my ar-
9 rival. I arrived on the scene and observed Mr. Torrence
10 standing outside the employee entrance of the business.
11 I instructed him to turn around, at which time I put on
12 handcuffs.

13 Q. Did he cooperate with you?

14 A. He did.

15 Q. After you placed him in handcuffs, what was done at
16 that time?

17 A. He was escorted to my vehicle and placed in the back
18 seat.

19 Q. And at that time, did you activate any audio-video
20 equipment?

21 A. Yes, sir, I did. When we activate your lights and
22 sirens, it automatically activates our video equipment
23 which does record audio and video inside and outside.

24 Q. And that is recorded?

25 A. Yes, sir, it is.

1 MR. FLOYD: One minute, please.

2 (Brief pause.)

3 BY MR. FLOYD:

4 Q. This has been marked State's Exhibit 1 for ID pur-
5 poses?

6 A. Yes, sir.

7 Q. Is that an in-car video?

8 A. Yes, sir, it is.

9 Q. Thank you.

10 MR. FLOYD: Your Honor, we would like to offer this
11 as a Defense Exhibit.

12 SOLICITOR: Your Honor, I have an objection, and the
13 State would have a matter to take up regarding this.

14 THE COURT: All right, Solicitor.

15 Mr. Foreman, ladies and gentlemen, if you would
16 leave your notes on your chairs and step to your jury
17 room briefly.

18 Do not discuss the testimony during the recess.

19 (Jury excused from Courtroom)

20 (In-car video marked Defense Exhibit 2 for identifi-
21 cation purposes)

22 THE COURT: Okay, Solicitor.

23 SOLICITOR: Your Honor, it is my understanding at
24 this point that Mr. Floyd is intending to introduce the
25 in-car video, and the State would object on the ground

1 of hearsay.

2 THE COURT: All right, Mr. Floyd.

3 MR. FLOYD: I don't think it's self-serving hear-
4 say. It shows Mr. Torrence demeanor at the time of the
5 incident.

6 In addition, we would be offering it to show his state
7 of mind, his demeanor, at the time he was arrested by the
8 West Columbia Police Department. It shows his speech pat-
9 terns, shows his thought processes.

10 Their theory is that he was drunk there on the scene,
11 and this would allow the jury to see his condition, whe-
12 ther he was or wasn't drunk.

13 THE COURT: Do you care to respond, Solicitor?

14 SOLICITOR: Your Honor, if he wishes to show the video
15 without the audio, we wouldn't have any objection to that.
16 The statements that are made on there are self-serving
17 statements, and it is an attempt to prevent the Defendant
18 from having to get up and testify.

19 I don't believe that they are admissible, the state-
20 ments of the Defendant, because they are in his interest.
21 That is why he is attempting to introduce them.

22 THE COURT: Mr. Floyd, I find the cases of the State
23 versus South, State versus Juniper.

24 South -- State versus South happened to be a state-
25 ment that Robert South gave to two officers, Lieutenant

1 Sammy Frierson and myself, concerning a West Columbia po-
2 lice officer, and it was not admissible.

3 Sweet is the seminal case, I think, in the area. I
4 would agree that they have some evidentiary, perhaps,
5 relevancy in the audio if part of your reasoning is to
6 show his level of sobriety or lack of intoxication.

7 I think you could offer the video itself without the
8 audio, and another part though is if it is the speech pat-
9 terns, to show that his speech is not slurred.

10 I think there would be perhaps part of that that
11 would be admissible, Solicitor, Mr. Floyd. If there is a
12 part of it that is not self-serving.

13 If there are statements where he is speaking clearly
14 -- I haven't seen it so I don't know -- we had a Jackson
15 versus Deno regarding the in-camera video.

16 MR. FLOYD: Well, there is nothing like that that
17 is involved in the situation. I don't see why they are
18 objecting to it.

19 THE COURT: They are objecting to it because it is
20 not prejudicial to the Defendant. I think that's why
21 they are objecting to it. It is self-serving to the De-
22 fendant.

23 If it was -- if it was statements against interests,
24 I don't think the Solicitor would be objecting to it. I
25 mean, you know that as a trial tactic.

1 I'm not telling you something you don't know, Mr.
2 Floyd. Perhaps it could be revisited upon the testimony
3 of the Defendant. That prong would not be present then.

4 That having been said, I give no opinion of what my
5 ruling would be at that time.

6 But I do think parts of it may be admissible. Of
7 course, I haven't seen it. You obviously have a video of
8 the man that everybody has characterized as intoxicated,
9 under the influence, and if it shows that he is not then
10 I think there is obviously some evidentiary value there
11 for the Defendant. I don't think that is objectionable
12 and I would not sustain that part of the objection, at
13 least.

14 SOLICITOR: Thank you, Your Honor.

15 MR. FLOYD: In most of the video he is seated in the
16 police car, so it is not like he was being given a field
17 sobriety test.

18 Of course, it would show his demeanor and speech pat-
19 terns.

20 THE COURT: Well, there is some law out there. I
21 can't bring it up right now. Just because something is
22 objectionable on one point doesn't make it objectionable
23 for all problems.

24 But I would have to do further research on it. How-
25 ever, self-serving statements are not admissible. That

1 is a general rule of law as I understand it.

2 You know, if they were, and I make this observation
3 only, every defendant -- what they would do is try to
4 pick out the most articulate police officer in the agency
5 and give that self-serving statement to that particular
6 police officer, and then the defendant could call the
7 police officer, without being subject to cross examina-
8 tion.

9 I think that's the foundation of the rule. In my
10 mind at least that's the foundation of the rule, and ob-
11 viously if they would offer a part of that then you would
12 get into the rule of completeness too.

13 MR. FLOYD: I don't agree that a part of the state-
14 ment is self-serving just because it is his statement.

15 I mean, it is not like . .

16 THE COURT: Well, you bring up a good issue now. I
17 am making my ruling based on the Solicitor's statement
18 that it is self-serving. I haven't seen it.

19 If you are asking me to view it and then make a de-
20 cision as to whether or not it's self serving, I will do
21 that.

22 Are you asking me to view it and then make -- the
23 Court make a decision as to whether or not it is self-
24 serving? I will do that, Mr. Floyd.

25 MR. FLOYD: The Solicitor says it's self-serving and

1 I would disagree.

2 THE COURT: That's why I brought that point up. I
3 mean, I don't disbelieve the Solicitor and I don't dis-
4 believe you. I'm just dealing with the cards you all have
5 dealt to me.

6 I have not viewed the video tape but I am willing
7 to view the video tape, if you'd like me to do that.

8 MR. FLOYD: Well, there will have to be a ruling
9 made on it at some point.

10 THE COURT: Do you have a copy of it, Solicitor?

11 REPORTER: It was marked State's Exhibit 1 for ID
12 first, and then Defense 1 for ID.

13 THE COURT: I'll be glad to look at it, Mr. Floyd.

14 MR. FLOYD: Thank you. We would want at some point
15 in time to publish it to the jury.

16 THE COURT: All right, I will take it under advise-
17 ment until such time as I have viewed the video.

18 Does that satisfy the Defense?

19 MR. FLOYD: Yes, Your Honor. I would like for us to
20 view it at some point.

21 THE COURT: All right, I'll take whether or not the
22 video is admissible under advisement at this time.

23 All right. Anything before we bring the jury back
24 in from the Solicitor?

25 SOLICITOR: No, sir.

1 THE COURT: From the Defendant?

2 MR. FLOYD: No, Your Honor.

3 THE COURT: Bring us our jury then.

4 (Jury returned to the Courtroom)

5 THE COURT: All right, thank you very much for your
6 patience.

7 Thank you, Mr. Floyd.

8 DIRECT EXAMINATION CONTINUED

9 BY MR. FLOYD:

10 Q. Officer Griffin, do you know how long the video ran?

11 A. From the time he was put in the back of the vehicle
12 until he was transported to the police department. I'd
13 say possibly thirty minutes.

14 Q. And was he in fact also taken somewhere else?

15 A. Um, from the bar at Shaggy's we went to the West
16 Columbia Police Department. At that time, EMS was noti-
17 fied and they arrived at the police department and he
18 was escorted by ambulance, and I followed the ambulance
19 to the Lexington Medical Center.

20 Q. So he went to the Lexington Medical Center by am-
21 bulance?

22 A. Correct.

23 Q. But you did return with him to the police department?

24 A. From the Lexington Medical Center, we went to the de-
25 tention center.

1 Q. Do you have an opinion as to whether or not he was
2 intoxicated?

3 A. I knew that he had been drinking. As far as his
4 level of intoxication, I can't say. I just knew he had
5 been drinking.

6 Q. He had been drinking?

7 A. Correct.

8 Q. And he was in your presence almost a hour or so?

9 A. Yes, sir.

10 Q. Thank you, Officer Griffin.

11 MR. FLOYD: I have no further questions of the wit-
12 ness.

13 THE COURT: Solicitor?

14 SOLICITOR: I just have a few questions, Your Honor.

15 CROSS EXAMINATION

16 BY SOLICITOR:

17 Q. Officer Griffin, at some point prior to placing Mr.
18 Torrence in your car, did you pat him down?

19 A. Yes, sir.

20 Q. And at some point did you find some key rings?

21 A. I did.

22 Q. And on those key rings, did you find a handcuff key?

23 A. I did.

24 Q. What is a handcuff key?

25 A. A key only designed as a lock pick and of a kind that

1 is commonly issued to law enforcement officers.

2 Q. Do you have one with you?

3 A. I do.

4 Q. Would you pull it out, please?

5 A. Yes. I have one not similiar to the one that was
6 on his key chain. It's a key that is circular, a piece
7 of metal, that will pick a lock or turn it, as we call
8 it.

9 Q. So he had a handcuff key on his keyring?

10 A. Correct. The one he had just looked like a regular
11 key but with the same ending on it.

12 Q. The same ending as a handcuff key?

13 A. Correct.

14 SOLICITOR: May I have a moment, Your Honor.

15 THE COURT: Yes, sir.

16 BY SOLICITOR:

17 Q. Did you have an opportunity to take the shirt that
18 Mr. Torrence was wearing?

19 A. I did.

20 Q. Let me show you a bag with something inside of it.
21 Do you recognize this item?

22 A. I do.

23 Q. Do you recognize that as being the shirt you took
24 from Mr. Torrence?

25 A. Correct.

MR. GRIFFIN ON CROSS

1 Q. And that's the shirt he had on when he taken and put
2 in the ambulance?

3 A. Yes, sir.

4 SOLICITOR: Your Honor, we would offer this in evi-
5 dence at this time.

6 THE COURT: All right. That would be State's 36?

7 REPORTER: That would be 36.

8 THE COURT: Mr. Floyd?

9 MR. FLOYD: No objection.

10 THE COURT: Received in evidence without objection
11 as State's 36.

12 (Defendant's shirt entered in evidence without ob-
13 jection as State's Exhibit 36)

14 SOLICITOR: No further Cross.

15 THE COURT: Any Redirect?

16 MR. FLOYD: Thank you, Your Honor.

17 REDIRECT EXAMINATION

18 BY MR. FLOYD:

19 Q. Where did you get the shirt?

20 A. The Lexington County Detention Center.

21 Q. From the Detention Center?

22 A. Yes, sir.

23 Q. And did you also find his license and security guard
24 identification?

25 A. If it was contained in his wallet. I'm not really

MR. GRIFFIN ON REDIRECT

1 so sure.

2 Q. You don't recall that?

3 A. No, sir.

4 Q. Thank you, Officer Griffin.

5 THE COURT: Recross?

6 SOLICITOR:

7 RECROSS EXAMINATION

8 BY SOLICITOR:

9 Q. Officer Griffin, were you aware that Mr. Torrence
10 was employed as an armed security guard, licensed by
11 SLED?

12 A. I was not aware of that at that time.

13 Q. Are you aware of it now?

14 A. Yes, sir.

15 Q. Thank you, sir.

16 A. Yes, sir.

17 THE COURT: All right. Mr. Floyd?

18 MR. FLOYD: No further questions.

19 THE COURT: Thank you, Mr. Floyd.

20 Mr. Foreman and ladies and gentlemen of the jury,
21 I realize you have been going back and forth this morn-
22 ing, and I appreciate your patience.

23 At this time, we're going to take our luncheon re-
24 cess. I have some matters to take up with the attorneys,
25 so rather than hold you captive for another twenty or

1 thirty minutes I'm going to release you now.

2 Please remember that you are not to discuss this case
3 with anyone during this lunch break. If anyone tries to
4 talk with you, please report that when you return.

5 Do not do any research on the Internet on your own,
6 and remember to keep an open mind. Do not begin your de-
7 liberations until you have heard all the evidence and tes-
8 timony, the arguments by the attorneys and the charge on
9 the law by the Court.

10 When you are instructed to do so by the Court, you
11 may begin your deliberations with your fellow jurors,
12 but not at this time.

13 Because of the matters I have to take up with the at-
14 torneys at this time, I will ask you to be back at two fif-
15 teen. That will give you a little extra time.

16 I usually take about an hour and fifteen minute you
17 will have a little longer at this point. Please be back
18 promptly at two fifteen in your jury room.

19 I hope you all have a pleasant lunch. Please
20 leave your notes on your chair upside down and the Clerk
21 will secure them.

22 (Jury excused from Courtroom for the lunch recess)

23 THE COURT: All right, Mr. Torrence. If you will
24 step around to the podium with your attorney for me,
25 please.

1 (Mr. Floyd and Defendant coming before the Court)
2 THE COURT: Madam Clerk, would you place Mr. Torrence
3 under oath for me, please.
4 (Whereupon, the Defendant was sworn by the Clerk for
5 his discussion with the Court)
6 THE COURT: Mr. Torrence, I have to go over a few
7 things with you, and I am required to have your responses
8 be under oath. That is why I had the Clerk to adminis-
9 ter the oath.
10 Would you tell me your full name?
11 DEFENDANT: Andrew Earl Torrence, Junior.
12 THE COURT: How old are you, Mr. Torrence?
13 DEFENDANT: Thirty.
14 THE COURT: How much education do you have?
15 DEFENDANT: High school diploma.
16 THE COURT: I'm going to be advising you of certain
17 rights that you have, and perhaps asking you certain ques-
18 tions also.
19 If at any time you do not understand the questions,
20 please let me know and I will try to explain them to you.
21 If at any time you wish to talk to Mr. Floyd, your at-
22 torney standing to your right, please let me know, and
23 I will allow you to do so.
24 Do you understand?
25 DEFENDANT: Yes, sir.

1 THE COURT: At the point we are at in the trial,
2 your side, the Defense, has already offered evidence
3 through testimony in your case.

4 Therefore, the State, the prosecutor, gets to make
5 the final closing argument to the jury.

6 You have a right to testify and a right not to tes-
7 tify. Do you understand that?

8 DEFENDANT: Yes, sir.

9 THE COURT: I would ask does the Defendant have a
10 prior criminal record that would subject the Defendant
11 to impeachment under Rule 609?

12 Solicitor?

13 SOLICITOR: Yes, sir.

14 THE COURT: What is his record?

15 SOLICITOR: He has a conviction -- he pled in front
16 of Your Honor for assault and battery, second degree.

17 MR. FLOYD: Your Honor, we would object.

18 THE COURT: What does assault and battery in the
19 second degree carry?

20 SOLICITOR: Up to three years, Your Honor.

21 THE COURT: What is your objection, Mr. Floyd?

22 MR. FLOYD: I don't expect Your Honor to remember
23 the sequence of events. This is for . .

24 THE COURT: A correctional officer at the Lexington
25 County Detention Center was assaulted as a result of his

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1 being arrested for driving under suspension or perhaps
2 DUI. I believe he was charged with assault on a correc-
3 tional officer.

4 MR. FLOYD: Yes, sir. DUI.

5 THE COURT: DUI.

6 MR. FLOYD: The incident occurred a year or so after
7 this incident for which he is on trial today. It occurred
8 a significant period of time after this incident.

9 At the time of the incident in question, he had no
10 record.

11 Of course, we objected to the Solicitor being allowed
12 to call that later case first to bolster their chances in
13 this trial.

14 We actually made that motion in front of Your Honor,
15 and it's our position that they should not be allowed to
16 use that in this case.

17 Furthermore, Your Honor, although it is an offense
18 which can carry greater than one year, it is certainly
19 not the type of crime that you would use or consider re-
20 lated to credibility.

21 It is our position the prejudicial nature of this
22 offense far outweighs any probative value it might have.

23 THE COURT: Thank you, Mr. Floyd.

24 Do you care to respond, Solicitor?

25 SOLICITOR: Only to the extent, Your Honor, that

1 the crime that he was convicted of for his testimony or
2 potential testimony today -- following the rule, I think
3 because it is not a crime involving honesty that Your
4 Honor does have to consider its value as against its pre-
5 judicial effect. Prejudicial value versus prejudicial effect.

6 We believe the probative value is so important that
7 it would outweigh the prejudicial effect. If it is found
8 that there is prejudicial effect because of the assault,
9 we would ask that Your Honor somehow redact the charge
10 and still allow the State to impeach him with the fact
11 that he has been convicted of a crime that carries over
12 three years.

13 THE COURT: All right. Looking at Rule 609 A One,
14 evidence that an accused has been convicted of such a
15 crime -- such a crime meaning crime punishable by death
16 or imprisonment in excess of one year -- shall be admit-
17 ted, if the Court determines that the probative value of
18 admitting this evidence outweighs the prejudicial effect
19 to the accused.

20 It is clearly prejudicial because if evidence is not
21 prejudicial to one side or the other it's not relevant and
22 shouldn't even be offered.

23 I think its prejudial effect, being assaultive type
24 behavior, outweighs its probative value.

25 I will allow the Solicitor to question the Defendant

1 to the effect that he has been convicted of a crime for
2 which he could have been punished in excess of one year
3 or up to three years, but not name the particular of-
4 fense involved.

5 At that time, I will give some limited instruction
6 that it only goes to the credibility, if at all.
7 The Solicitor could not go into the facts.

8 In other words, what that means, Mr. Torrence, is
9 if you choose to take the witness stand, I am ruling to
10 allow the Prosecutor to ask you in front of the jury whe-
11 ther or not you have been convicted of an offense in the
12 past, whatever date, that carries a sentence of up to
13 three years.

14 They cannot go into the details of the prior offense,
15 nor can they go into the actual title or label of what
16 the offense is, but they can ask you if you have been con-
17 victed.

18 If that happens, I will tell the jury that they
19 can only consider that evidence against you, if at all,
20 on the issue of whether your testimony is believable, and
21 for no other purpose.

22 Do you understand?

23 DEFENDANT: I think so, Your Honor.

24 THE COURT: Is there any question you want to ask me
25 in that regard?

1 DEFENDANT: I -- no, sir, I don't have any questions.

2 THE COURT: And I will note that I recall hearing
3 Mr. Floyd's motion in the past and the Solicitor's re-
4 sponse. However, I would note the Solicitor has control
5 over the docket, so there is not judicial control over
6 the docket.

7 There was no prosecutorial misconduct or anything of
8 that nature, calling the most recent case for trial and
9 Mr. Torrence pleading to it, prior to calling this case
10 for trial.

11 Mr. Torrence's decision -- is there anything further
12 you want to put on the record in that regard, Mr. Floyd,
13 or do you think you are well protected on the record?

14 MR. FLOYD: I think we are protected on that, Your
15 Honor.

16 THE COURT: The decision, Mr. Torrence, about whether
17 you testify or not is your decision and yours alone. I
18 expect you have conferred with your attorneys or others
19 whose opinions you may rely on for important decisions,
20 but the decision about whether you testify is your call
21 to make. It's your decision. Do you understand?

22 DEFENDANT: Yes, sir.

23 THE COURT: Did anyone exercise any undue influence
24 over you to get you to choose to testify or not to testify?

25 DEFENDANT: No, sir.

1 THE COURT: Today, are you under the influence of any
2 drug or alcohol or medication, or anything, that negatively
3 affects your thinking ability?
4 DEFENDANT: No, sir. I'm on Zoloft.
5 THE COURT: Zoloft?
6 DEFENDANT: Yes, sir.
7 THE COURT: All right, and . .
8 DEFENDANT: It's a medication . .
9 REPORTER: I'm sorry. I could not hear, Judge.
10 THE COURT: Is that a prescription?
11 DEFENDANT: Yes, sir.
12 THE COURT: And did you take that medication accord-
13 ing to your prescription?
14 DEFENDANT: Yes.
15 THE COURT: Does it negatively affect your thinking
16 ability?
17 DEFENDANT: I'm not a chemist. I don't know. I do
18 know I take it for anxiety and depression.
19 THE COURT: Do you know what you're doing today?
20 DEFENDANT: Yes, sir.
21 THE COURT: Do you know what you've been doing this
22 week?
23 DEFENDANT: Yes, sir.
24 THE COURT: Thank you. Do you suffer from any phy-
25 sical or mental problem that is affecting your thinking here

1 today?

2 DEFENDANT: No, sir.

3 THE COURT: All right. I'm going to give you the
4 opportunity to additionally discuss your right to testify
5 or not to testify with your attorney over the luncheon
6 recess.

7 I would ask you this. Do you have any question you
8 want to ask me in that regard before we disconnect?

9 DEFENDANT: Your Honor, how could an incident that
10 happened afterwards -- this incident happened long ago,
11 and how could they put that in front and then bring it up
12 today and do it for the reason of bringing it up today?

13 I'm kind of . .

14 THE COURT: Well, you are asking me a question about
15 why somebody would do something, Mr. Torrence, and I am
16 not qualified to or have the knowledge to give you an
17 answer to that question.

18 DEFENDANT: Okay.

19 THE COURT: I mean, it's a decision that they made.
20 The law in South Carolina says that the Solicitor controls
21 the dockets, the criminal dockets, and they placed the
22 most recent one on the trial docket before the older one.

23 I have certainly tried to balance the equities, or,
24 perhaps as you see it, the inequities in that regard,
25 where they cannot ask you the obvious ones.

1 DEFENDANT: Yes, sir.

2 THE COURT: And the time will come out that it oc-
3 curred after this offense. They cannot go into the de-
4 tails of it.

5 I do not know the answer to that question, Mr.
6 Torrence.

7 DEFENDANT: Yes, sir.

8 THE COURT: Do you have any other questions?

9 DEFENDANT: No, sir.

10 THE COURT: I'll give you the luncheon hour to dis-
11 cuss it with your attorney.

12 Mr. Floyd, when the decision is made, let us know.
13 We will be in recess until two fifteen. If they don't
14 have to be prepared and he's not going to testify -- I'll
15 appreciate it.

16 Anything further from the Defense, Mr. Floyd?

17 MR. FLOYD: Nothing at this time.

18 THE COURT: From the State?

19 SOLICITOR: No, Your Honor.

20 THE COURT: The Court will be in recess until two
21 fifteen.

22 (Whereupon, the Court took a lunch recess, after
23 which the matter was resumed)

24 THE COURT: All right, anything before we bring in
25 the jury?

1 MR. FLOYD: No, Your Honor.

2 THE COURT: From the State?

3 SOLICITOR: Not at this time, Your Honor.

4 THE COURT: All right, Mr. Floyd. You can remain
5 at counsel table.

6 Mr. Torrence, have you had occasion over the lunch
7 break to discuss with your attorney your right to tes-
8 tify or not testify?

9 DEFENDANT: Yes, sir.

10 THE COURT: Have you made your decision?

11 DEFENDANT: Yes, sir.

12 THE COURT: And what is your decision?

13 DEFENDANT: I want to testify.

14 THE COURT: You will testify?

15 DEFENDANT: Yes.

16 THE COURT: Thank you very much. You may be
17 seated.

18 Mr. Floyd, I have had the Court Reporter mark State's
19 Exhibit Number 1 for ID, the video cam from the automo-
20 bile, also Defense 1 for ID.

21 REPORTER: Defense 2 for ID.

22 THE COURT: Sorry, 2. I haven't looked at it yet,
23 but do you have that copy, Solicitor?

24 SOLICITOR: Your Honor, I'm sorry. I forgot to do
25 it. I will make a copy for you. I can do it right now.

1 THE COURT: Have somebody do it now and let me have
2 it, so I can look at it.

3 (Brief pause in the proceeding)

4 SOLICITOR: Your Honor, I do have a copy, if I can
5 approach and hand it to Your Honor?

6 THE COURT: Sure. Thank you, Solicitor.

7 All right, bring us our jury.

8 SOLICITOR: Your Honor, I want to be sure how you
9 have ruled. Mr. Torrence can be asked if he was convicted
10 of a crime that carries greater than -- from one to three
11 years. Is that correct?

12 THE COURT: Well, I had two thoughts in my mind with
13 the crime that carried up to three years, because if I say
14 -- if the question becomes if you've been convicted of a
15 crime that carries punishment up to one year, they can
16 think it would carry up to twenty-five years.

17 You see what I'm saying? In an additional attempt
18 to balance the equities under 609 A One, just three years
19 would be sufficient.

20 Did you have a comment, Solicitor?

21 SOLICITOR: No, Your Honor. If it was going to be
22 up to me to question, I was going to ask him whether it
23 is true you have been convicted of a crime that carries
24 up to three years.

25 THE COURT: Rather than just let them graze around

1 over the year.

2 SOLICITOR: That's fine.

3 THE COURT: Anything further?

4 SOLICITOR: No, sir.

5 THE COURT: Mr. Floyd, if you're going to bring it
6 out, I want to give them the limited instruction at that
7 point.

8 MR. FLOYD: I will most likely bring it out.

9 THE COURT: Then I will give that instruction.

10 Rule 609 A One talks about the responsibilities of
11 the Trial Court in its dealing with prior convictions,
12 particularly and specifically prior similar convictions.

13 It states further that the party attempting to in-
14 troduce a prior conviction has the initial burden of
15 establishing the basis for its admission, citing State
16 versus Griffin, 529 Southeast Second 71, and the Federal
17 Rules of Evidence 609 A One is the same as our rule.

18 Solicitor, would you state the purpose of the re-
19 quest by the State to introduce the prior record?

20 SOLICITOR: Your Honor, it's the State's intention
21 or position that Mr. Torrence has been convicted of a
22 crime that carries more than one year, although we agree
23 with Your Honor that the nature of the crime is highly
24 prejudicial.

25 We believe the fact that he has been convicted of

1 a crime is relevant to the jury's decision regarding his
2 credibility.

3 THE COURT: How does the State view the fact that
4 the crime for which he was convicted occurred after the
5 event, and that he had no criminal convictions prior to
6 28 September of 2008?

7 SOLICITOR: Your Honor, it is the State's position,
8 Your Honor, that the only reason it is admissible is for
9 a credibility issue, his testifying after the date of that
10 conviction.

11 THE COURT: What do you see as the centrality of
12 the credibility issue in the case where you have a video?

13 SOLICITOR: He is going to have to explain what he
14 had in mind. His credibility on the video is not dispos-
15 itive of the issue.

16 The video is the evidence and it shows what happened
17 but it doesn't go into why the Defendant said what he
18 did or what he was thinking at the time.

19 It doesn't go into explaining the obvious differences
20 -- and I assume they are going into what the Defendant
21 said, as far as insulting the people in the bar, and to
22 his intoxication level.

23 Those are issues which the jury is going to have to
24 decide. State why he went out to his car, why he got a
25 gun, why he came back.

1 The video shows him coming in, ordering Mr. Buchanan
2 to put his hands up, and I assume Mr. Torrence will tes-
3 tify to something different.

4 The video doesn't necessarily -- I mean, you can't
5 see the projectile coming out from the bullet, so I be-
6 lieve Mr. Torrence will be testifying as to a sequence of
7 events and why he shot.

8 He has stated to different people at different times
9 that it was an accident and they struggled over the gun.
10 The video doesn't show up . .

11 THE COURT: Where are those statements?

12 SOLICITOR: Statements he made to other people that
13 were not called, Your Honor. I'm assuming he will be
14 testifying to something different but I have no idea.

15 I believe his credibility is going to be in question
16 and that it's relevant for the jury to understand he has
17 been convicted of a crime and that it occurred prior to
18 his testimony today.

19 THE COURT: Okay. I will renew my previous ruling
20 in that regard, given those factors that are identified
21 under State versus Collins, 525 Southeast Second 246.

22 Since there is some degree of prejudice, based on
23 the crime to which he pled guilty, what it was, I will
24 not allow that to be before the jury, but just that he
25 was convicted of a crime or pled guilty to a crime having

1 -- and that he received a sentence of up to three years.

2 His testimony is important testimony in this case,
3 and credibility is a seminal issue in the case.

4 All right, anything further, Mr. Floyd?

5 MR. FLOYD: Yes, Your Honor. I would like to be
6 given the opportunity to address that point, just to make
7 sure it is on the record.

8 THE COURT: Sure.

9 MR. FLOYD: Of course, Your Honor, we get the State's
10 use of this conviction and the basis for that.

11 The Solicitor is using his power to handle the trial
12 docket in order to gain an advantage in this case.

13 What has happened here, Your Honor, is that the
14 Solicitor had the video and knows they have a weak murder
15 case, and what they have done is provide themselves with
16 an opportunity to attack Mr. Torrence's credibility in
17 this fashion as he testifies.

18 The fact that he antes up to the bar and admits his
19 guilt, antes up to the bar and pleads guilty for an of-
20 fense that is much later than this offense.

21 It is our position, Your Honor, that his credibility
22 should be based upon what his record was at the time of
23 this incident, not something that happened after the inci-
24 dent.

25 THE COURT: Well, I tried to find a case in that

1 regard, whether or not it went to convictions that had oc-
2 curred after the offense occurred, and I could not find
3 such a case.

4 I find cases about prior records, prior convictions,
5 but I think that language is prior to the Defendant tes-
6 tifying because they gauge his credibility based on what
7 they hear today. It's not based on what may have been
8 known to them.

9 In other words, on the 28th of September, and, of
10 course, you can bring in, Mr. Floyd, that he did not have
11 any record of criminal conviction prior to whatever date.
12 You can make that argument to the jury, not the prosecu-
13 torial misconduct argument. I don't think that is a jury
14 issue.

15 Of course, at the time this incident occurred he had
16 no prior convictions, and you can make that argument.

17 Thank you. Anything further, Mr. Floyd?

18 MR. FLOYD: Nothing further, Your Honor.

19 THE COURT: All right, sir.

20 (Jury returned to Courtroom)

21 THE COURT: Welcome back, ladies and gentlemen.

22 I apologize for the delay. I know you all have never
23 heard that one before. I assure you it was not caused
24 by either of the parties. If you fault anyone for it,
25 please fault me.

1 Do not hold it for or against either of the parties
2 in this matter. They have been working diligently since
3 their return.

4 With that being said, you will recall the Defense
5 was presenting evidence and testimony in its case.

6 Mr. Floyd, you may call your next witness.

7 MR. FLOYD: Thank you, Your Honor.

8 We call Andrew Torrence.

9 THE COURT: All right. Mr. Torrence, if you'd come
10 around and be sworn, please.

11 ANDREW EARL TORRENCE, being duly
12 sworn, testified as follows:

13 CLERK: Please have a seat and state your full name
14 for the record, spelling your last name.

15 WITNESS: Andrew Earl Torrence, Junior. T O R R
16 E N C E.

17 DIRECT EXAMINATION

18 BY MR. FLOYD:

19 Q. What name do you go by?

20 A. Drew, a nickname.

21 Q. And how old are you?

22 A. Thirty-one.

23 Q. How far did you go in school?

24 A. I have a high school diploma.

25 Q. Where did you go to high school?

DEFENDANT ON DIRECT

- 1 A. Airport High School.
- 2 Q. What year did you graduate?
- 3 A. In 1998.
- 4 Q. Are you married or single?
- 5 A. Single.
- 6 Q. Where do you live?
- 7 A. At
- 8 Q. All right, who do you live there with?
- 9 A. Mom and dad.
- 10 Q. Andrew, were you at one time convicted of a crime
- 11 that carried up to three years?
- 12 A. Yes, sir.
- 13 Q. How long have you lived with your mom and dad?
- 14 A. On and off. I mean, I'd move out and come back and
- 15 live, for whatever reason.
- 16 Q. Have you had any military service?
- 17 A. I was in the Marine Corps for approximately eight
- 18 months -- six to eight months.
- 19 Q. What happened then?
- 20 A. I -- a medical discharge. They call it Admin --
- 21 they call it that for administrative, but it is honorable
- 22 under medical conditions.
- 23 Q. What happened? What type of injury was it?
- 24 A. Plantar fascitis or something like that. It's basic-
- 25 ally where -- you know, the bottom of your foot has a

DEFENDANT ON DIRECT

- 1 tendon in it, and it dropped. I'm not flat-footed, but
2 it causes tension and pain, severe pain.
- 3 Q. All right.
- 4 A. It stopped me from doing what they needed me to do
5 to be a Marine.
- 6 Q. What type of work did you last do?
- 7 A. Recently I worked at the Lexington County Recreation
8 Commission as a sub-contractor. I cut grass and did stuff
9 like that for the County.
- 10 Q. Before that, what type of work did you have?
- 11 A. I was an armed security officer, at Hawkeye Indus-
12 tries.
- 13 Q. And did you at one time work for Allegiance?
- 14 A. Yes.
- 15 Q. Why did you leave employment at Allegiance?
- 16 A. When I got the other job, secured the other job --
17 secured the other job, I left there because it was a bet-
18 ter job.
- 19 Q. And was that with Hawkeye?
- 20 A. Yes, sir.
- 21 Q. I show you Defendant's Exhibits 3 and 4, and ask if
22 you can identify these documents?
- 23 A. That's when I was hired.
- 24 Q. That's when you were hired?
- 25 A. Yes. Number 3.

DEFENDANT ON DIRECT

1 Q. All right.

2 A. And that's the same day, the paperwork.

3 Q. That's paperwork from when you first went to work
4 for Hawkeye?

5 A. Yes.

6 Q. And what's the date of that?

7 A. It's 5 13 2008.

8 Q. May 13th?

9 A. Yes.

10 Q. Okay.

11 MR. FLOYD: Your Honor, we'd offer these in evidence
12 at this time.

13 SOLICITOR: No objection.

14 THE COURT: Defendant's 3 in evidence without objec-
15 tion.

16 MR. FLOYD: There's also a 4, Your Honor.

17 THE COURT: And what about 4?

18 SOLICITOR: No objection.

19 THE COURT: Received in evidence without objection.

20 (Defense Exhibit 3, new hire form, and Defense Ex-
21 hibit 4, terms of employment form, admitted in evidence,
22 without objection)

23 THE COURT: Let me stop you a minute, Mr. Floyd.

24 I failed to advise the jury concerning something you have
25 asked.

DEFENDANT ON DIRECT

1 Mr. Foreman, ladies and gentlemen of the jury, you
2 have heard evidence that the Defendant was convicted of a
3 crime other than the one for which he is now on trial.

4 This evidence may be considered by you should you
5 conclude it is true only in deciding whether the Defen-
6 dant's testimony is believable or not, and for no other
7 purpose.

8 You must not consider the fact that the Defendant
9 has one prior conviction as any evidence of the Defendant's
10 guilt of the charge for which he is now being tried.

11 Thank you, Mr. Floyd. You may continue.

12 BY MR. FLOYD:

13 Q. Why did you go to Hawkeye?

14 A. I knew the guy -- what used to be the enforcement
15 agency and turned into Hawkeye -- I knew a guy that worked
16 there in regular security.

17 Q. And were you in fact licensed as a security agent
18 with Hawkeye?

19 A. Yes, sir.

20 Q. I would ask if you can identify this?

21 A. Yes, that's a printout saying I got certified and under-
22 went the training curriculum. It's like a course that
23 you . .

24 THE COURT: I'm going to have to ask you to speak up
25 loud and clear . .

1 WITNESS: I'm sorry.

2 THE COURT: . . . if you want the jury to hear you.

3 A. Yes, sir. It is saying that I completed a 401 train-
4 ing curriculum before being a security officer and it is
5 legal, incident to arrest, and probable cause, stuff like
6 that.

7 Q. Okay.

8 A. That is a blown-up version.

9 Q. And after that one, did you receive an armed secur-
10 ity guard certificate?

11 A. Yes.

12 Q. And is that what is in front of you now?

13 A. That is actually the same thing. It states on the
14 bottom evidence of necessary completion of course for the
15 section of training curriculum as to be an armed security
16 agent.

17 It is saying that I went through the training course
18 to get armed.

19 Q. And did you actually get credentials?

20 A. SLED issues it, I think, and the regulatory or the
21 training officer trained by SLED puts the class on.

22 He -- they take a picture.

23 MR. FLOYD: Your Honor, I'd like to offer these in
24 evidence as Defendant's Exhibits 5, 6 and 8.

25 THE COURT: What says the State?

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1 SOLICITOR: No objection, Your Honor.

2 THE COURT: All right, Defendant's 5, 6 and 8 in evi-
3 dence without objection.

4 (Defendants 5 and 6, certificates, and Defendant's
5 Exhibit 8, security identification, admitted in evidence
6 without objection)

7 BY MR. FLOYD:

8 Q. Were you still employed by Hawkeye on September 27,
9 September 28, 2008?

10 A. Yes, sir.

11 Q. And on the evening of September 27th, were you work-
12 ing for Hawkeye?

13 A. Yes, sir, in Rush's location.

14 Q. And what were your duties at Rush's location?

15 A. Pro-active -- the uniform officers who were there --
16 be pro-active, which is what security does. Being there
17 is an officer there, to be pro-active and show them we're
18 there.

19 It deters people from doing what they might still
20 do. Secure the area. Keep someone from committing some
21 kind of crime.

22 Q. Which of Rush's locations were you working?

23 A. Broad River Road.

24 Q. Now, what were your hours of operation? What
25 hours did you work?

DEFENDANT ON DIRECT

1 What hours did you work on the night of September
2 27th into the morning of September 28th.

3 A. Nine fifteen until five in the morning, or when you
4 are told by the manager.

5 Q. I show you Defendant's Exhibit 7 and ask if you can
6 identify that?

7 A. Yes, sir, it's the clock in and clock out type thing
8 that the manager would do at any location. He signed the
9 statement I arrived and when I left.

10 Q. What time did you arrive?

11 A. On the 28th I was there at nine o'clock P.M.

12 Q. And what time did you get off work?

13 A. At one fifty A.M. is when I signed out.

14 Q. So on the morning of the 28th, you didn't sign out
15 at Rush's on Broad River until one fifty A.M. Is that
16 correct?

17 A. Yes.

18 MR. FLOYD: We would move that in evidence, Your
19 Honor.

20 REPORTER: Judge, that's Exhibit 7.

21 THE COURT: Solicitor?

22 SOLICITOR: No objection, Your Honor.

23 THE COURT: Defendant's 7 admitted in evidence with-
24 out objection.

25 (Time sheet admitted in evidence

1 without objection as Defense Exhibit 7)

2 BY MR. FLOYD:

3 Q. Now, Drew, when you got off work in the A.M. on the
4 morning of the 28th, what did you first do?

5 A. Locked Rush's down and escorted the manager to her
6 vehicle, and then I left. I stopped in -- I forgot the
7 store, but a grocery store I stopped at and took off my
8 duty uniform, my belt and put it in the back of my ve-
9 hicle.

10 I had an undershirt under my uniform, so I stripped
11 down and went to State Street Pub.

12 Q. Now, when you say you took your uniform off, what
13 type of uniform did you wear?

14 A. I was wearing something similar to a sheriff's de-
15 puty, I guess, but it's a security uniform.

16 Q. And what time then did you arrive at the State Street
17 Pub?

18 A. I would say two twenty-five or three o'clock.

19 Q. That's three in the morning, is that correct?

20 A. Yes, A.M.

21 Q. So what you had done is checked out about one fifty?

22 A. Yes.

23 Q. And you escorted the manager out and got her home
24 safe?

25 A. Well, I got her to her car safely and exiting the

1 property safely, to make sure nothing -- just normal rou-
2 tine, I guess.

3 Q. Then you stopped somewhere to change out of your
4 work clothes?

5 A. Yes. I stripped off the uniform top and the belt and
6 put it in the back of the vehicle, and then went to State
7 Street Pub.

8 Q. And when you got to State Street Pub, what did you
9 do then?

10 A. Ordered a beer and I saw some people I had seen
11 around West Columbia and Columbia.

12 Q. How long did you stay at State Street Pub?

13 A. Thirty minutes, maybe.

14 Q. When you were at the State Street Pub, did you have
15 any shots?

16 A. No, not that night.

17 Q. And in fact what did you have? What did you consume
18 alcoholically?

19 A. A beer.

20 Q. A beer?

21 A. Uh hm. You know, it's after two in the morning,
22 and there are not many places that stay open. That
23 is why I was at State Street. Sometimes they will stay
24 open late or whatever.

25 I looked around and decided I didn't want to be there

1 so I decided to go to Shaggy's, and I was more familiar
2 and more comfortable with Shaggy's.

3 Q. Is there any question -- did you get to State Street
4 before midnight?

5 A. No.

6 Q. What time did you ~~get~~ to State Street?

7 A. I want to say two thirty, three o'clock. I don't
8 really know the exact time.

9 Q. What time did you leave State Street?

10 A. Three thirty, maybe three thirty-five.

11 Q. When you left State Street, where did you go?

12 A. Shaggy's.

13 Q. What time would you estimate you arrived at Shaggy's?

14 A. Three thirty, three forty-five. I don't know -- I
15 don't have the exact time. I was trying to unwind and
16 when I get off work I try to unwind.

17 Q. When you were at Shaggy's, did you consume any alco-
18 holic beverage?

19 A. Yes.

20 Q. What alcoholic beverage did you consume?

21 A. I had beer and shots. Total probably five or six
22 beers and maybe three shots, two shots -- some-
23 thing like that.

24 I would say all together I had ten drinks total the
25 whole night from State Street to Shaggy's.

1 Q. Were you drunk?

2 A. I was -- I would say that I was legally intoxicated,
3 yes. Meaning meeting the standard of maybe zero point
4 eight or something like that.

5 Q. So do you think you should have been driving?

6 A. No.

7 Q. Did you understand things that were going on?

8 A. Yes, sir.

9 Q. Do you recall meeting someone named Lee?

10 A. Yes.

11 Q. Do you recall meeting someone named Zach?

12 A. Yes.

13 Q. Now, tell the jury whatever interaction you had with
14 the two of them?

15 A. Um, I was sitting at the bar. Orlando had just bought
16 a shot.

17 Lee came in and Orlando turned to Lee and turned back
18 to me and said, hey, he's gay, and I say, all right, be-
19 cause I'm at the bar and I'm happy when I drink. I'm a
20 happy drunk. You can call it whatever you want.

21 I looked at Lee and said, hey, gay guy, you know.
22 Come over here, you know. I didn't know the guy, you know,
23 but I'm the kind of person that -- hey, I'm Drew, and I
24 want to be comfortable, you know, and make them comfort-
25 able, and that was pretty much the ice breaker.

1 I mean, I know it sounds horrible, but I was trying
2 to make him comfortable, and he said, don't call me that.

3 Then during the course of the night -- I mean, when
4 I'm drinking sometimes I say stuff to people that is arro-
5 gant or obnoxious, I guess, but it is not in any way to
6 hurt. It's to try to make people comfortable because I
7 don't like hanging out with angry drunks.

8 You know, . . .

9 Q. Were you mad at anyone?

10 A. No.

11 Q. Okay.

12 A. I got-- well, I want to take that back. I was upset
13 throughout the night about some of the comments that Zach
14 had made after I had made the comment to Lee.

15 Things like -- you know, disturbing things. I can't
16 recall all the things, but I know one of them was, how
17 much money do you have in your pocket, and Orlando is sit-
18 ting here and Zach was sitting toward the back door, like
19 two people down.

20 I said, I don't know. Why, and he said, because I'm
21 going to beat your ass and take it. Things like that.

22 So, you know, I said, okay, buddy, whatever, you
23 know, and I made a comment like that.

24 Q. You made what comment?

25 A. Okay, buddy.

DEFENDANT ON DIRECT

1 And he said, I'm Mr. Chaplin, and how much money you
2 got in your pocket. You know, he says I'm going to kick
3 your ass and take your money -- take it all.

4 Q. And about what time was that?

5 A. I'd say four thirty, quarter of five. I can't re-
6 call the exact time.

7 Like I say, I don't -- I try to pay attention to the
8 clock when I have to but not as a habit to know the time.

9 Q. You have looked at the video, have you not?

10 A. Yes.

11 Q. You looked at it and saw it?

12 A. Sir?

13 Q. You've looked at the video and saw it?

14 A. Yes.

15 Q. Now, at one point you were seated across the bar,
16 and who were you seated with at that point?

17 A. I was by myself. I was looking at Mr. Buchanan be-
18 cause I felt bad what I said earlier when he came in the
19 bar, so I wanted to apologize to him because I don't like
20 people to take the wrong impression. You know what I mean?

21 Q. So you crossed over the bar to . .

22 A. To apologize to Lee for the comments I made.

23 Q. What happened after you sat there next to him?

24 A. He got upset and I said pretty much, I apologize,
25 and I was about to go, and he went, I don't want to hear

DEFENDANT ON DIRECT

1 that shit and blah, blah, blah. I don't recall exactly,
2 but he was upset and I knew it because I had said comments
3 that obviously hurt him.

4 I said, I want to apologize. I was just messing with
5 you, you know, and don't take it personal, because I was
6 about to leave.

7 Q. What happened then?

8 A. That's when Zach got up. I didn't see Zach until
9 like the last second or split second -- whatever you want
10 to call it -- and I thought I don't know whether he's
11 punched me but he's coming to punch me, and so I tried to
12 post him on the wall.

13 And that's when Mr. Buchanan held me, you know, and
14 I do believe that he was trying to break the fight up, I
15 guess. I mean, now looking at it, but at that time I did-
16 n't know but what he was attacking me and now his buddy is
17 attacking me, you know.

18 So I didn't think. I just did what anybody would do
19 if they're being assaulted, being punched.

20 Q. How many times did you get punched?

21 A. Twelve or thirteen times.

22 Q. Where were you punched?

23 A. In the back of the head when I put my hand down, and
24 across my nose and my glasses, you know, twelve or thir-
25 teen times.

DEFENDANT ON DIRECT

1 Q. Did you do anything threatening toward Zach before
2 he did that?

3 A. Not what you'd consider threatening.

4 Q. Did you move towards him to assault him in any fash-
5 ion?

6 A. No.

7 Q. I'm going to show you what's marked State's Exhibit
8 34, and does that accurately reflect the injuries that
9 you received?

10 A. Yeah. I was shocked.

11 Q. Now, once he stopped hitting you, . .

12 A. Yes, sir.

13 Q. . . what did you do then?

14 A. I -- well, Lee walked me to the door. I made some
15 comment, and he said just go home or some comment like
16 he testified to.

17 I walked outside and I was thinking, okay, whatever,
18 and I'm thinking I'm calling nine one one to say I was
19 assaulted in a bar. I mean, regardless of what is going
20 on.

21 I get my phone, nine one one, and I talked to dis-
22 patch. They say, where are you at, sir, and I said Shaggy's
23 -- incident to an assault -- where is Shaggy's at, and I
24 was thinking to myself, if they don't know where Shaggy's
25 is it, and they've had some car break-ins in the back --

1 so she said -- and my phone then died, because I'd been
2 on it texting all night for different stuff, and the bat-
3 tery went dead in the middle of the call.

4 So I got mad and threw the phone down. I was angry
5 and threw the phone down, and then I went to my vehicle and
6 sat in my car.

7 And I'm recalling it, and I'm thinking, okay, at
8 least they've gotten a phone call at Shaggy's, you know.

9 So I'm waiting for a response, sitting in my car and I'm
10 looking at the visor and all I know is I have blood on my
11 nose.

12 At that point, I'm weighing stuff -- I don't know who
13 these guys are, and I know from experience that if I don't
14 have them then there is nothing -- an incident report
15 would have been taken probably. I don't know, but if I
16 say it was a white male, approximately so and so -- that he
17 assaulted this guy and a white male, this height and color
18 -- and I've learned that through different areas, through
19 experience, and the only way to actually have them there
20 is to hold them until the police arrive.

21 So I went in with intentions to hold him, versus to
22 -- I didn't go into the bar with intentions of some worse
23 things.

24 I mean, in the presence of a firearm, it is presented
25 to detain someone. If you see the video, I went to Mr.

1 Buchanan to make sure he has no weapon, and tell him to
2 put his hands on the bar.

3 He is confined, and that's when Mr. Chaplin threw
4 the chair and rushed me.

5 Q. Let me stop you right there.

6 A. Okay.

7 Q. What was your intention when you went inside the
8 bar?

9 A. To detain Mr. Chaplin or Mr. Buchanan and hold them
10 until the police arrived because I didn't know for a fact
11 -- I knew when I made that call that the one who receives
12 the call -- I mean, I didn't think about it until later,
13 but where is Shaggy's at -- I mean, that is a common-sense
14 question because I could be at a friend's house and his
15 name be Shaggy or something. They don't know.

16 I didn't think about that until later.

17 Q. Why did you take the gun in?

18 A. To use it as a tool, the psychology. Force demands
19 if I tell you to do something and you've just assaulted
20 me, and there is two people that assaulted me -- I knew
21 they were friends, and I learned the hard way that they
22 were friends because I had been assaulted, you know.

23 You know, pretty much the psychology of it was that
24 you are going to do what I tell you to do because I'm
25 going to hold you there with the threat of if you do not

1 do that, in your mind I know that you know that I have a
2 weapon.

3 So you are more likely to do what I say to do if I'm
4 holding a weapon, versus if I come in with nothing, be-
5 cause I have already been -- does that make sense?

6 Q. Did you intend to shoot the weapon?

7 A. No, absolutely not.

8 Q. Now, when you went inside with the weapon, did you
9 point it at anyone?

10 A. I knew from the Marine Corps to be alert. Some peo-
11 ple call it the ready position, you know. It's basically
12 holding the firearm down and out, and not pointing it at
13 anybody.

14 Just showing or brandishing, if you want to use that
15 term.

16 Q. But you did not point the barrel at anyone?

17 A. No, sir. I never pointed a weapon at anybody when I
18 walked into the bar.

19 Q. All right, so you go to Mr. Buchanan and you get his
20 hands on the bar?

21 A. Yes, sir. He complied to a voice command and he --
22 can I say what I said?

23 Q. Yes.

24 A. Put your fucking hands on the bar now, to make sure
25 he does what I tell him to do because I'm going to hold

DEFENDANT ON DIRECT

1 him until the police arrive.

2 Q. And did he put his hands on the bar?

3 A. Right.

4 Q. He did?

5 A. Yes, sir, he complied.

6 Q. And once that was accomplished, what was the next
7 thing that happened?

8 A. That's when I went to go to do a pat down or a
9 search, to make sure he doesn't have any weapons on him,
10 and just to hold him and make sure his hands -- that he
11 was not holding a weapon or a gun.

12 I know, when somebody has a gun, I'm going to get
13 nervous, you know, and I wanted to make sure that they
14 don't have any weapons. So I was going to do a search,
15 and whenever that happened then simultaneously he come
16 with the barstool.

17 In fact, I heard Mr. Buchanan say something and that's
18 when it happened, and he maybe saw it on surveillance --
19 I don't know. That's when Mr. Chaplin threw the bar
20 stool.

21 Q. Did that surprise you?

22 A. Yes.

23 Q. It did?

24 A. Yes, I never thought or I didn't think about somebody
25 throwing a barstool at me.

1 I mean, I knew when I walked in with a weapon, I heard,
2 you know, here's a guy with a weapon; he's got a weapon,
3 you know. That's just common sense, if that makes sense.
4 It's normal to be afraid when somebody has got a weapon,
5 especially in a bar.

6 I -- like I said, it's the worst mistake I ever made
7 in my life, going back in there, but my intentions was to
8 hold them.

9 Q. Tell us what happened after the barstool came at
10 you, Drew.

11 A. Mr. Chaplin ran around the bar and I didn't pick him
12 up until he was about right here, and that's when I went
13 to a defensive position because his friend was behind me
14 and I'm trapped in a corner, and now he's assaulted me,
15 and I don't know if he's got a weapon or whatever, because
16 you wouldn't attack somebody, knowing that they have a
17 firearm.

18 Does that make sense? Because I'm trying to check,
19 you know, and then he's coming at me, and it's dark in
20 there. It is dark in that bar, and I don't know what he
21 has, you know.

22 I had been drinking a little bit and I had to make
23 a very fast decision, and I went with instinct. I don't
24 know how else to explain that.

25 Q. Did you fear that your life was threatened?

1 A. Yes, sir. I was scared. I was afraid he would pull
2 a weapon or his friend would pull a weapon, or somebody
3 would get my weapon.

4 I didn't want to lose control of my weapon because
5 I knew they would probably use it on me. The only reason
6 for taking that pistol in there, like I said, was to --
7 you're going to do this -- the mindset -- you're going to
8 do this because the man is telling you to do it and he's
9 got a pistol. Okay?

10 If somebody points a pistol at me, I'm going to do
11 what they tell me to do, you know.

12 Q. As he comes toward you, is there a point where the
13 pistol is fired?

14 A. Yes, when he's coming towards me.

15 Q. And where is he in relation to you at that point?

16 A. Within a foot maybe. It's on the tape. I mean, I
17 don't know exactly.

18 Q. Let me show you State's Exhibit 28. Let me hold it
19 so the jury can also see.

20 THE COURT: Maybe if you get on the other side, and
21 let your voice carry back toward the Court Reporter.

22 MR. FLOYD: Thank you.

23 BY MR. FLOYD:

24 Q. Would you show me where you were standing -- first,
25 do you recognize this drawing?

DEFENDANT ON DIRECT

1 A. Yes.

2 THE COURT: Keep your voices up, please.

3 Q. Does this represent the interior of Shaggy's Bar?

4 A. Yes.

5 Q. It's not drawn to scale, is it?

6 A. No, it ain't.

7 Q. Would you show the jurors -- point out for them where
8 you were standing at the time that Zach charged you?

9 A. . .

10 Q. Just show the jury where you were standing.

11 A. (Gesturing, no verbal response)

12 Q. Now, is that a closed in area?

13 A. Yes. I see he's coming toward me and Lee is there
14 with no where to go. Mr. Chaplin is coming and there
15 is no where for me to go, and that's when it happened.

16 Q. Were you blocked back or blocked in in that area?

17 A. Yes. Well, after he is coming, I was blocked in
18 here.

19 Q. You can take your seat.

20 A. Yes, sir.

21 Q. So you are in this closed in area, and it's four
22 feet three inches wide, and are there barstools also in
23 that same area?

24 A. Yes.

25 Q. Where is Mr. Buchanan now?

DEFENDANT ON DIRECT

1 A. At that point, he is behind me.

2 Q. And Mr. Chaplin charges you?

3 A. Yes.

4 Q. All right, and did you feel threatened at that point?

5 A. Yes.

6 Q. Did you feel your life was in danger?

7 A. Yes.

8 SOLICITOR: Your Honor, . . .

9 THE COURT: Rephrase the question.

10 BY MR. FLOYD:

11 Q. How did you feel?

12 A. Scared. It was -- I wasn't thinking. I just -- I
13 knew that I was in danger.

14 Q. And did you fire your weapon?

15 A. Yes, sir.

16 Q. How many times did you fire?

17 A. Twice.

18 Q. Over what period of time?

19 A. In a second. Bam, bam, or bam and bam -- something
20 like that. It was as fast as I could get the rounds off.

21 Q. Now, as he came towards you, can you describe for
22 the jury what was going on in your head? As he came to-
23 wards you, how is his body reacting to that?

24 A. It was all so fast.

25 Q. Was he running toward you?

DEFENDANT ON DIRECT

1 A. Yes.

2 Q. Tell the jury how he was running toward you and what
3 happened as he came toward you?

4 A. I'm sorry. I couldn't hear you. I'm picking up what
5 Mr. Graham is saying.

6 Q. When Mr. Chaplin is running toward you . .

7 A. Yes.

8 Q. . . how close did he get to you?

9 A. From this part of the box to the end or closer.

10 Q. How close was he to you when you first fired the wea-
11 pon?

12 A. About a foot.

13 Q. And once you fired the weapon and he was a foot away
14 from you, did his momentum carry him towards you?

15 A. Yes.

16 Q. And what did you do then?

17 A. When I shot I feel like this was all in the same mo-
18 tion. Does that make sense? It's bam, bam, and he was
19 rotating.

20 Q. What do you mean?

21 A. He was stepping out of his . .

22 Q. His path?

23 A. Yes.

24 Q. Now, what happened after that?

25 A. I mean, from what I see in the video -- whatever the

1 video shows. I mean, I knew to call, you know.

2 Q. Were you in shock?

3 A. I don't know. I can't explain it to you. I can't.

4 It's a sick -- it's a sick feeling. You're scared and
5 just -- I hope nobody would have to experience that.

6 Q. What is that sickness like?

7 A. I don't know. It's bad. I had just shot somebody,
8 and I don't know what I'm feeling, you know.

9 Q. And what do you recall next?

10 A. I heard -- I think I answered a phone. I heard a
11 phone ring. I don't know if I -- I know -- I knew he had
12 to get help because it goes from -- EMS calls it the power
13 hour or whatever.

14 The fastest they could get him from where he's at to
15 help-- he's been shot and he needs help. I tell him, don't
16 get up. I make sure he doesn't move or whatever, and
17 I don't know -- there was a phone call at that point, and I
18 don't know if I called out or answered the phone first
19 and then called out, you know.

20 Q. And did . .

21 A. I was trying to get him help. I know I had just shot
22 somebody.

23 Q. Did you intend for him to die?

24 A. No, absolutely not. I shot to get him to stop doing
25 what he was doing. At that point I didn't know, like I

DEFENDANT ON DIRECT

1 said, if he had a weapon, and I wanted to stop him -- no-
2 thing more.

3 Q. Now, did EMS eventually arrive?

4 A. I guess. I don't know. They had to arrive. At
5 that point I wasn't . .

6 Q. Do you remember coming out of the bar?

7 A. I didn't go all the way out of the bar. When I came
8 out the bar was when the officer arrested me.

9 Q. What happened when the police got there?

10 A. An officer pulled up in his cruiser, and I know that
11 -- okay, I know this much, that now it's a shooting call,
12 and I don't want an officer to shoot me, so I eject my
13 magazine out and hold it.

14 The door is here, and this is what they got -- hey,
15 don't kill me, you know. I'm the guy that -- I'm the
16 shooter, you know, and he needs to take me into custody.

17 So that they didn't have to spend more time or kill
18 me, and so they know I'm the shooter, so they can get him
19 help, get EMS, and get him help.

20 Q. And so you showed them your weapon?

21 A. Yes.

22 Q. Took out the round?

23 A. Yes.

24 Q. Cleared the magazine?

25 A. Cleared the magazine. I think I cleared the magazine,

1 took the round out, put the round back in, dropped the
2 slide stop, and I held by the barrel.

3 I cleared the weapon to make sure -- I want the po-
4 lice to know I'm the shooter and that's why I held the
5 weapon out with the magazine to let them know, because
6 he said to drop my gun or something along that line, and
7 I'm holding the gun up and the magazine, saying, pretty
8 much, you know, I'm listening to his voice commands.

9 Q. And were you taken into custody at that time?

10 A. Yes.

11 Q. And you were placed in somebody's car?

12 A. I believe it was -- I can't remember the officer's
13 name.

14 Q. Were you at all upset at Zach because of Donna?

15 A. No. I was upset because I had been assaulted, and I
16 wanted somebody to go to jail, if that makes sense.

17 Like I said, it shouldn't have been me going back
18 in, and I see that now, but I never expected somebody to
19 throw a barstool at me and attack me.

20 So the whole point of going in, like I say, with the
21 weapon was, hey, listen to what I say, you know. Do what
22 I'm telling you to do and to put you in mind of the conse-
23 quences of you not doing that, if that makes sense.

24 It was the whole presentation. I've got a gun, and
25 put your hands -- not to repeat it, but hands on the bar,

DEFENDANT ON DIRECT

1 and do it now, to take control of whoever I could get
2 to faster, which was Mr. Buchanan.

3 Q. Okay, did you have the authority to make that citi-
4 zen's arrest?

5 A. I thought I had the authority to detain them as a
6 citizen, not as a security officer or anything, but . .

7 Q. Just as a citizen?

8 A. Yes. To hold them at least until the police arrived
9 so they can figure out what's going on.

10 Q. Do you go along with what has been said about -- any-
11 thing having to do with Zach and Lee that you said?

12 A. No. Like I said, I go out to have a good time just
13 like anybody else, to relax, unwind, and see a lot of peo-
14 ple, you know, and, I mean, I wasn't . .

15 Q. Okay. Did you ever intend to physically harm Zach
16 in any way?

17 A. I did not. I intended to detain them while they were
18 both there. It wasn't pinpointed toward Zach. It wasn't
19 pinpointed toward Drew. I did not intend to physically
20 harm them in any way, but just to detain them, whichever
21 one I could get to first.

22 I knew what would happen because they were both
23 there. The State has tried to hold every witness to their
24 account of what happened.

25 Q. If you had not felt threatened, that your life was

1 in jeopardy, . .

2 A. Yes.

3 Q. . . would you have fired that gun?

4 A. Absolutely not.

5 SOLICITOR: Objection to leading.

6 THE COURT: Rephrase the question.

7 BY MR. FLOYD:

8 Q. Why did you fire the weapon?

9 A. I didn't want them to get my weapon and kill me with
10 it. I never expected somebody to throw a barstool and
11 to charge me while I was in a corner and there's no way
12 out.

13 There was no way out from the place I was in at that
14 time, unless I jumped the bar, and I don't think I had
15 time to do that when he was coming after me.

16 Q. And when you went into the bar with the gun, did you
17 intend to shoot someone?

18 A. . .

19 SOLICITOR: Objection, leading.

20 THE COURT: Rephrase the question.

21 BY MR. FLOYD:

22 Q. What was your objective in going into the bar with
23 the gun?

24 A. The video could demonstrate it more than I can ex-
25 plain it, but it was to show, A, I had a weapon; do what .

DEFENDANT ON DIRECT

1 I say, as I'm walking back in, and for voice commands.

2 Does that make sense?

3 Put your hands on the bar, do it now. Lee complied,
4 and I never thought in a thousand years Zach would have
5 done what happened that night.

6 I don't know how else to explain it.

7 Q. Thank you. Answer any questions the Solicitor has
8 for you, please.

9 THE COURT: Thank you.

10 Solicitor.

11 CROSS EXAMINATION

12 BY SOLICITOR:

13 Q. Mr. Torrence, how tall are you?

14 A. I'm about five ten.

15 Q. And how much do you weigh?

16 A. Right now I weigh about two seventy, but that is less
17 than I weighed at the time this happened.

18 Q. How much did you weigh then?

19 A. Two ninety, two eighty. Something like that.

20 Q. Do you admit that you told Officer Leah Sugerman-
21 Smith when she came up that I did it; I shot him; I did
22 it?

23 A. Yes, sir.

24 Q. So you are not here talking about this being an acci-
25 dent?